

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MARCH 23, 2015

7:45 PM
Room 205

ITEMS SCHEDULED FOR DISCUSSION:

- #266-14 ALD. BLAZAR, YATES AND DANBERG requesting:
1. to amend Section 22-50 to require that in the event there is a transfer of legal or beneficial ownership of a preferably preserved property during the demolition delay period, the full demolition delay period will restart from the date of the transfer of ownership;
 2. and further requesting to amend Section 22-50 to require that in the event a transfer of legal or beneficial ownership of a preferably preserved property occurs after the expiration of a demolition delay period but prior to the issuance of a demolition permit, no demolition permit shall issue until the new owner complies with the procedures of Section 22-50(c)(5). [07/07/14 @ 12:35PM]
- #447-14 ALD. SANGIOLO proposing an ordinance requiring the submission of building plans with applications for full or partial demolitions. [11/13/14 @ 2:03pm]
- #376-14 PLANNING & DEVELOPMENT DEPARTMENT requesting that **Chapter 30 ZONING** be deleted in its entirety and replaced with the Zoning Reform Phase 1 Zoning Ordinance. [10/22/14 @ 7:48PM]
- #80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact John Lojek, at least two days in advance of the meeting: jllojek@newtonma.gov, or 617-796-1064. For Telecommunications Relay Service dial 711.

ITEMS NOT SCHEDULED FOR DISCUSSION:

- #23-15 ACTING DIRECTOR OF PLANNING & DEVELOPMENT requesting amendments to the official zoning map in order to correct discrepancies between Board of Aldermen actions and the boundaries of zoning districts as shown on the map and to better align zoning district boundaries with property lines and other features to reduce the number of split lots and other map anomalies. [01/09/15 @ 10:09AM]
- #448-14 ALD. SANGIOLO requesting a discussion with the Newton Historical Commission regarding their process and policy of reviewing demolition applications. [11/13/14 @ 2:03pm]
- #338-14 ALD. HESS-MAHAN, KALIS, SANGIOLO AND DANBERG proposing a Large House Review ordinance requiring design review and approval of by-right single and multi-residence residential structures exceeding certain dimensional limits to be determined, to expire by December 31, 2015. [09/05/14 @ 9:39AM]
- #265-14 ALD. BLAZAR, YATES AND DANBERG requesting:
1. to amend Section 22-50 to increase the time period for determinations of historical significance to 30 days, and to increase the time period for hearings, rulings and written notice on appeals from historical significance determinations to 60 days;
 2. to amend Section 22-50 to increase the time period to hold a public hearing as to whether or not a historically significant building or structure is preferably preserved to 60 days;
 3. to amend Section 22-50 to increase the demolition delay period for buildings and structures on or eligible for listing in the National Register of Historic Places to 30 months;
 4. and to amend Section 22-50 to increase the demolition delay period for all other preferably preserved buildings or structures to 24 months.
- [07/07/14 @ 12:35PM]
- #6-15 ALD. BAKER, HESS-MAHAN, ALBRIGHT requesting a discussion by the Zoning and Planning Committee with the Acting Director of Planning and Development of how Phase 2 of Zoning Reform might be undertaken, including the contents of the proposed Village and Master Planning and Zoning Reform Request for Proposals, including the planning process and ordinance revision process the RFP anticipates, as well as the staffing and funding needed to enable both in-house and contracted work under the RFP to be both well done and appropriately supervised. [12/29/14@4:00 PM]

- #222-13 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, DANBERG, FISCHMAN & JOHNSON proposing to amend the definitions of "Common roof connector", "Common wall connector", and "Dwelling, two-family" in **Chapter 30, Section 30-1** of the City of Newton Zoning Ordinances. [06/07/13 @ 1:31 PM]
- #278-14 ALD. YATES proposing to amend Chapter 30 of the City of Newton Ordinances to restrict the two-unit structures allowed by-right in the multi-residence districts to structures with the two units side-by-side in a single structure, or one above the other as in double-deckers. [07/31/14 @ 12:03PM]
- #446-14 ALD. SANGIOLO requesting a discussion with the Commission on Disability regarding the status of City compliance with ADA regulations. [11/13/14 @ 2:03pm]
- #445-14 ALD. SANGIOLO requesting an update with members of the Newton Fair Housing Committee on the status of housing opportunities in the City of Newton. [11/13/14 @ 2:03pm]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #375-14 HIS HONOR THE MAYOR submitting the FY16-FY20 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/15/14 @ 3:01 PM]

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #315-14 ALD. HESS-MAHAN, ALBRIGHT, CROSSLEY AND DANBERG proposing an amendment to Chapter 2 of the City of Newton Ordinances setting forth requirements for procurement of materials and services by non-governmental recipients of federal, state or local funds administered by the City, such as CDBG and CPA funds. In order to encourage non-profit and other private organizations to participate in affordable housing, cultural and other public-private collaborations, such procurement requirements should accommodate the needs of non-governmental recipients for flexibility given the multiple public and private sources of funds necessary for any project by not placing undue or unreasonable burdens on them. [08/04/14 @ 5:08PM]
- #238-14 ALD. SANGIOLO requesting the Executive Department and Planning Department work with the Board of Aldermen to develop a Housing Production Plan in accordance with 760 CMR 56.03(4) and guidelines adopted by the Department of Housing and Community Development as soon as possible. [06/09/14 @ 11:55AM]
- #212-14 BOARD OF ALDERMEN requesting a discussion with the Executive and Inspectional Services Departments and the Commission on Disability regarding the creation of full-time positions to address the city's need re 1) ADA

requirements and 2) zoning enforcement, including State building code, Newton's zoning ordinance, and special permits. [05/23/14 @11:03AM]

- 140-14 ALD. CROSSLEY AND HESS-MAHAN requesting to amend **Chapter 30**, City of Newton Zoning Ordinances, to include a "lodging house" ordinance to promulgate rules requiring annual fire, safety and health inspections and licensing of buildings providing single room occupancy and/or congregate living arrangements. [04/04/14 @ 6:29 PM]
- #429-13 ALD. HESS-MAHAN requesting repeal and/or amendment of Zoning Ordinances Section 30-1, Definitions, 30-8(b)(2), Special Permits in Single Family Residential Districts, and 30-10(d)(4), Number of Parking Stalls, concerning "Congregate Living Facility", as required by federal and state anti-discrimination and fair housing laws and regulations. [12/06/13 @ 9:51 AM]
- #428-13 ALD. HESS-MAHAN requesting periodic updates on complaints of discrimination filed against the City of Newton under Section 504 of the 1973 Rehabilitation Act, the Fair Housing Act, and Title II of the Americans with Disabilities Act, based on the City's denial of housing and exclusion from participation by people with disabilities in the Newton HOME and CDBG programs filed with the U.S. Department of Housing and Urban Development. [12/06/13 @ 9:51 AM]
- #427-13 ALD. HESS-MAHAN requesting discussion and periodic updates of steps the City of Newton is taking to ensure that its implementation of the Consolidated Plan, Annual Action Plan and Citizen Participation Plan and use of CDBG, HOME and ESG funds comply with federal and state fair housing and anti-discrimination laws and regulations, and its duty to affirmatively further fair housing. [12/06/13 @ 9:51 AM]
- #426-13 ALD. HESS-MAHAN requesting periodic updates on development of the Consolidated Plan for the City of Newton Housing and Community Development Program and the WestMetro Home Consortium. [12/06/13 @ 9:51 AM]
- #266-13 ALD. YATES requesting that the Law Department provide the Zoning & Planning and Land Use Committees and other interested members of the Board with legal advice on what parties have standing to challenge zoning ordinances and the relevant court cases involving uniformity. [08/05/13 @ 12:28PM]
- #129-13 ALD. HESS-MAHAN proposing to amend and/or clarify definition and provisions for granting a special permit for "attached dwellings" in the City of Newton Zoning Ordinances, **Chapter 30-1, 30-8(b)(13) and 30-9(b)(5)**. [05/25/13 @5:14 PM]

- #128-13 ALD. ALBRIGHT, FULLER, CROSSLEY, LAREDO requesting the creation a comprehensive, 10-year strategic plan for Newton's conservation lands which would include a multi-year prioritized list of short-term and long-term projects with appropriate estimated budget. This plan should be finished in time to include high priority item(s) in the FY15 Budget, with any project exceeding \$75,000 added to the Capital Improvement Plan. [03/15/13 @ 10:56 AM]
- #308-12 ALD. HESS-MAHAN & ALBRIGHT requesting a discussion with the Mayor's office and the Planning & Development Department of policies, procedures, and criteria relating to determinations concerning expenditures of Community Development Block Grant (CDBG) funds. [10/09/12 @3:59 PM]
- #282-12 ALD. JOHNSON, CROSSLEY, DANBERG, SANGIOLO requesting quarterly reports, starting the last month of the quarter beginning December 2012, Re-implementation of *Ramping Up: Planning for a More Accessible Newton*.

REFERRED TO ZONING & PLANNING, LAND USE & FINANCE COMMITTEES

- #273-12 ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer.

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.
- #11-12 ALD. HESS-MAHAN & LINSKY requesting discussion on the implementation and enforcement of the provisions of Section 30-5(c)(1) of the Newton Ordinances which requires that "[w]henver the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of surface water to or from abutting properties." [1/11/12 1:01PM]
- #61-10 ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
- #391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street

parking spaces when parking spaces are waived as part of a special permit application.

ZONING REFORM – PHASE 1

- #220-12 RECODIFICATION COMMITTEE recommending that the table in Sec. 30-8(b)(10)a) be clarified with respect to “lot width,” “lot area,” or “lot frontage.”
- #219-12 RECODIFICATION COMMITTEE recommending that Sec. 30-5(b)(4) as most recently amended by Ordinance Z-45, dated March 16, 2009, be amended to reconcile the apparent discrepancy relative to the definition of “structure.”
- #218-12 RECODIFICATION COMMITTEE recommending that Sec. 30-19(g)(1) be amended to clarify “sideline” distance, which is a reference to an undefined concept.
- #217-12 RECODIFICATION COMMITTEE recommending that Secs. 30-19(d)(1) and 30-19(g)(1) relative to the number of tandem parking stalls allowed in the side setback (two) and the number of tandem parking stalls (one) allowed in the setback for parking facilities containing less than five stalls be amended to make the both sections consistent.
- #216-12 RECODIFICATION COMMITTEE recommending that the definition of “Space, usable open” in Sec. 30-1 be amended by removing the exemption for exterior tennis courts as they are now classified as structures.
- #65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms “flat roof” and “sloped roof” be defined in the zoning ordinance.
- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for “lot line” and “structure” for clarity. [04-12-11 @ 11:34AM]
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of “lot area” and revising the “setback line” definition for clarity. [06/01/10 @ 9:25 PM]

ZONING REFORM – PHASE 2

- #22-15 ALD. YATES requesting that utilization of the Massachusetts Rental Voucher Program be added as an allowable means of complying with the inclusionary zoning provision in Phase II of Zoning Reform. [01/05/15 @ 9:53PM]
- #21-15 ALD. YATES requesting that priority be given to completing the Intents and Purposes of the Zoning Ordinance in Phase II of Zoning Reform. [01/05/15 @ 9:53PM]

#323-14 ALD. YATES, NORTON, COTE AND SANGIOLO proposing to amend Chapter 30 to require that the front doors of single-family homes, two-family homes and other residential structures face the street on which their lots are located. [08/25/14 @ 11:42AM]

#139-14 ALD. ALBRIGHT requesting to amend **Chapter 30**, City of Newton Zoning Ordinances, to clarify rules relative to retaining walls. [04/09/14 @ 8:32 AM]

Public Hearing to be assigned:

#404-13 NATASHA STALLER et al. requesting a revision to the zoning District boundary Lines so as to transfer from Multi-Residence 1 District to a Single Residence 3 District the following properties:

Assessors' parcels SBL nos. 61-037-0004 through 61-037-0013; 61-042-0007 through 61-042-0023; 65-019-0001; 65-019-0007 through 65-019-0012; 65-019-0014 through 65-019-0022; 65-019-0009A; 65-019-0017B and 65-019-0022A. Also requesting transfer from a Single Residence 2 District to a Single Residence 3 District SBL no. 65-019-0015A. [11/01/13 @ 12:57 PM]

A MOTION TO AMEND THE PREVIOUSLY APPROVED POSTPONEMENT OF DOCKET ITEM #404-13 TO APRIL 7, 2014 TO SUBSTITUTE RECOMMITAL OF THE ITEM TO THE ZONING & PLANNING COMMITTEE WAS APPROVED BY VOICE VOTE ON MARCH 17, 2014.

#267-13 LAND USE COMMITTEE proposing to amend Section 30-21(c) to permit de minimis relief for alterations, enlargements, reconstruction of or extensions to lawfully nonconforming structures in which the nonconformity is due to Floor Area Ratio (FAR) requirements set out in section 30-15(u) Table A, subject to administrative review by the Planning Department.

#264-13 ALD. YATES requesting that the Zoning Reform Group or its successor consider amending City of Newton Zoning Ordinances Chapter 30 to develop additional residential districts reflecting the small lots in older sections of the City and map changes to bring the zones of more residential sections of the City into conformity with the existing land uses. [08/05/13 @ 12:28PM]

#81-13 DIRECTOR OF PLANNING & DEVELOPMENT on behalf of the Newton Housing Partnership requesting consideration of naturally affordable compact housing opportunities in MR1 zones. [02/22/13 @ 1:13 PM]

#65-13 ALD. YATES, FISCHMAN, KALIS requesting that Chapter 30 be amended to require a special permit for major topographic changes. [02/12/13 @ 12:30 PM]

#64-13 NEWTON HISTORICAL COMMISSION requesting the creation of an administrative permitting process for converting historic barns and carriage houses into accessory apartments to assist in their preservation. [02/05/13 @ 11:35 AM]

- #153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts. [05/10/11 @3:19 PM]
- #152-10 ALD. BAKER, FULLER, SCHNIFFER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]
- #164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]
- #142-09(7) ALD. HESS-MAHAN AND JOHNSON proposing a Resolution to request that the Director of Planning and Development and the Commissioner of Inspectional Services reconvene a Floor Area Ratio working group to review and analyze the definition of “*Floor area, gross*” for residential structures as it is used in the definition and calculation of “*Floor area ratio*” in **Section 30-1** with respect to actual usage, and, if necessary, make recommendations for amendments thereto and in the dimensional regulations contained in **Section 30-15(u)** and *Table A* of **Section 30-15(u)**, the purpose of which is to regulate the size, density and intensity of use in the construction or renovation of, or additions to a residential structure, to more accurately reflect and be compatible with neighborhood character, and to ensure that a proposed residential structure is consistent with and not in derogation of the size, scale and design of other existing structures in the neighborhood, and is not inconsistent with the City’s Comprehensive Plan. [07/03/14 @ 9:10AM]

Respectfully Submitted,

Marcia T. Johnson, Chairman

Cambridge Code of Ordinances

Article II. - Demolition of Buildings Determined to be Historically Significant

2.78.070 - Purpose.

The ordinance codified in this article is adopted for the purpose of preserving and protecting significant buildings within the City which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the city; to resist and restrain environmental influences adverse to this purpose; to encourage owners of preferably-preserved significant buildings to seek out persons who might be willing to purchase and to preserve, rehabilitate or restore such buildings, rather than demolish them; and by furthering these purposes to promote the public welfare, to preserve the resources of the City and to make the City a more attractive and desirable place in which to live. To achieve these purposes, the Cambridge Historical Commission is empowered to advise the Building Commissioner with respect to the issuance of permits for demolition, and the issuance of demolition permits for significant buildings is regulated as provided in this article.

(Ord. 965 § 1, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

2.78.080 - Definitions for Article II.

The following terms, when used whether or not capitalized in this article, shall have the meanings set forth in this section, unless the context otherwise requires:

- A. "Application" means an application for a permit for the demolition of a building, which application contains the information referred to in Section 2.78.100 of this article.
- B. "Building" means any combination of materials forming a shelter for persons, animals or property.
- C. "Building Commissioner" means the person occupying the office of Commissioner of Buildings or otherwise authorized to issue demolition permits.
- D. "Business day" means a day which is not a legal municipal holiday, Saturday or Sunday.
- E. "Commission" means the Cambridge Historical Commission.
- F. "Commission staff" means the executive director of the Commission, the person performing the functions of such director in the event there is no person with the title of Executive Director as such, or any other person regularly providing staff services for the Commission to whom the Commission has delegated authority to act as Commission staff under this article.
- G. "Demolition" means the act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.
- H. "Historic district" means the Old Cambridge Historic District and any other historic district that may from time to time have been established by ordinance.
- I. "Initial determination" means any determination contemplated in Section 2.78.090C of this chapter made by the Commission or the Commission staff.
- J. "Permit" means a permit issued by the Building Commissioner for demolition of a building pursuant to an application therefor.
- K. "Preferably preserved significant building" means any significant building which the Commission determines, as provided in Section 2.78.090D of this chapter, that it is in the public interest to be preserved or rehabilitated rather than to be demolished.

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- L. "Significant building" means any building within the City which is in whole or in part fifty years or more old and:
1. Which is within any historic district; or
 2. Which is listed on, or is within an area listed on, the National Register of Historic Places, or which is the subject of a pending application for listing on the National Register; or
 3. Which is or has been designated by the Commission to be a significant building after a finding by the Commission that a building either:
 - a. Is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth, or
 - b. Is historically or architecturally significant (in terms of period, style, method of building construction or association with a famous architect or builder) either by itself or in the context of a group of buildings.

(Ord. 1166 § 6, 1995; Ord. 965 § 2, 1981; Ord. 909 (part), 1978: prior code § 2-147(j) (part))

2.78.090 - Procedures for demolition.

- A. No permit for the demolition of a building which is in whole or in part fifty years or more old shall be issued other than in conformity with the provisions of this article, as well as in conformity with the provisions of other laws and ordinances applicable to the demolition of buildings and the issuance of permits therefor generally. An application for demolition of a building over fifty years in age shall be made only by the person, partnership, corporation or realty trust which is the owner thereof at the time of such application.
- B. The Building Commissioner shall cause a copy of each application for a demolition permit to be forwarded to (or shall satisfy himself that a duplicate of such application has been submitted to) the Commission for determination by the Commission whether the building which is the subject of such application is a preferably preserved significant building.
- C. If the Commission staff shall make an initial determination that the building which is the subject of the application is or may be a significant building, the members of the Commission and the Building Commissioner shall be so advised, and no demolition permit or building permit for new construction or alterations as defined in Ch. 40C §6 shall at that time be issued pending review of the initial determination by the Commission pursuant to subsection D of this section. If the Building Commissioner shall not receive advice of any such initial determination within five business days of the date that a copy of the application is submitted to the Commission staff, then, subject to Section 2.78.130 of this article, the Building Commissioner may grant the permit applied for unless prior to such grant he is advised that such an initial determination has been made.
- D. If the Commission staff shall have made an initial determination that a building which is the subject of the application is or may be a significant building, the Commission shall review the application and such initial determination at a public meeting of the Commission for which the Commission shall cause to be published in a newspaper of general circulation in the City notice that such application will be considered. Such notice, which shall specify the address of the subject building, shall be published in an issue of such newspaper distributed in the week preceding the week in which such meeting is held, or in an earlier week. If requested either by the applicant for the demolition permit or by ten citizens not later than the date of such public meeting, or if at any time the Commission wishes to have the benefit of a public hearing, the Commission shall hold a public hearing prior to making the determination provided for in this section. If the Commission determines, after such a hearing if one has been held or without such hearing if no hearing has so been requested, that the demolition of the subject building would result in the demolition of a significant building whose loss would be detrimental to the historical or architectural heritage or resources of the City, such building

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shall be considered a preferably preserved significant building. The Commission may delegate to the Commission staff authority to determine without any hearing that a building is not a preferably preserved significant building and to so advise the Building Commissioner. Upon determination by the Commission or by the Commission staff that a building is not a preferably preserved significant building or upon failure by the Commission to make any determination within forty-five days of the date that a copy of the application was submitted to the Commission, the Building Commissioner may, subject to Section 2.78.130 of this article, grant the permit applied for.

- E. Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved significant building, it shall so advise the person who submitted the application and the Building Commissioner, and no demolition permit or building permit for new construction or alterations on the premises shall be issued until six months after the date of such determination by the Commission except as may be provided for in subsection I of this section. Notwithstanding the preceding sentence, the Building Commissioner may issue a demolition permit for a preferably preserved significant building at any time after receipt of written advice from the Commission to the effect either (1) that the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group willing to purchase the preferably preserved significant building would be willing to preserve, rehabilitate or restore such building, or (2) that the Commission is satisfied that for at least six months since the owner first sought the advice of the Commission or the Commission staff in locating a person or group that might be willing to purchase such building and to preserve, rehabilitate or restore the same, the owner of the preferably preserved significant building has made continuing, bona fide, reasonable and unsuccessful efforts to locate such a purchaser.
- F. No permit for demolition of a building determined to be a preferably preserved significant building under subsection D of this section shall be granted until all proceedings relating to amendments of the zoning ordinance of the City have been completed, if such proceedings have been initiated prior to the expiration of any period of delay of demolition resulting from such determination, and if such amendments affect the site of the building whose demolition has been thereby delayed.
- G. No permit for erection of a new structure on the site of an existing building over fifty years old may be issued prior to issuance of a permit for demolition of such existing building.
- H. No permit for demolition of a building determined to be a preferably preserved significant building under subsection D of this section shall be granted until plans for use or development of the site after demolition have been filed with the Building Department and found to comply with all laws pertaining to the issuance of a building permit, or if for a parking lot, a certificate of occupancy, for that site. All approvals necessary for the issuance of such a building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.
- I. During the six-month delay of demolition, no application for a building permit for new construction or alterations on the premises of a preferably reserved significant building shall be granted until reviewed by the Commission as though the property were designated as a landmark under Article III of this chapter 2.78. Until the expiration of the six-month delay period, the Commission shall review all construction, demolition, or alteration that affects the exterior architectural features, other than color, of the structures on the premises of a preferably preserved significant building.

(Ord. 1166 §15, 1995; Ord. 965 § 3, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))

2.78.100 - Application—Publication of notice.

- A. Application Contents. Every application for a demolition permit for a building shall contain the following information:
 1. The applicant's name, address and interest in the property;

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2. The owner's name and address, if different from the applicant's;
 3. The address or location of the building to be demolished;
 4. A brief description of the type of building and the condition requiring issuance of the permit; and
 5. A brief description of the proposed reuse, reconstruction or replacement of the premises upon which the building is located.
- B. Notice. In addition to the publication provided for in Section 2.78.090D of this article, notice of any hearing or determination provided for in this article shall in any event be given by the Commission to the applicant for the demolition permit, and shall also be given to such other persons and in such manner as the Commission may determine. The Commission may among other forms of notice require that the applicant maintain on the building which is the subject of an application a notice, in a form designated by the Commission, visible from the nearest public way, of any hearing upon the subject matter of such applicant; and the applicant shall comply with such requirement.

(Ord. 965 § 4, 1981: Ord. 909 (part), 1978: prior code § 2-147(j) (part))

2.78.110 - Emergency demolition.

- A. In the event that a Board of Survey is convened to consider the condition of a building over fifty years old, the Executive Director of the Cambridge Historical Commission shall be notified to accompany the Board during its inspection. The Commissioner of Inspectional Services shall pursue all reasonable courses of action to prevent emergency demolition of such a building which the Executive Director makes an initial determination is or may be a significant building, including but not limited to requiring the owner to secure it against further danger to the public.
- B. Nothing in this chapter shall prevent the construction, reconstruction, alteration or demolition of any feature which the Commissioner of Inspectional Services shall certify is required for public safety because of an unsafe or dangerous condition.

(Ord. 1166 §1A 1995: Ord. 965 § 5, 1981: Ord. 909 (part), 1978: prior code § 2-147(j) (part))

2.78.120 - Enforcement and remedies.

- A. Enforcement. The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or in equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this article or to prevent a threatened violation thereof.
- B. Building Permit to be Withheld. No building permit shall be issued with respect to any premises upon which a building fifty years or more old has been voluntarily demolished otherwise than pursuant to a demolition permit granted after compliance with the provisions of this article for a period of two years after the date of the completion of such demolition. As used in this article "premises" refers to the parcel of land upon which the demolished building was located and all adjoining parcels of land under common ownership or control.
- C. Securing of Building Required. Upon a determination by the Commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building in compliance with the regulations of the Building Department. Should the owner fail so to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of subsection B of this section.

(Ord. 965 § 7, 1981: Ord. 909 (part), 1978: prior code § 2-147(j) (part))

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2.78.130 - Conflicts with Historic Districts Act.

Nothing in this article shall be deemed to conflict with the provisions of the Historic Districts Act, General Laws Chapter 40C, with respect to requirements as to notice, hearing and issuance by the Commission of a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship prior to demolition of any building in an historic district; provided, however, that any temporary building erected or maintained in an historic district pursuant to a certificate issued by the Commission may be demolished in a manner not inconsistent with the terms of such certificate.

(Ord. 965 § 6, 1981; Ord. 909 (part), 1978; prior code § 2-147(j) (part))



CAMBRIDGE HISTORICAL COMMISSION

831 Massachusetts Avenue, 2nd Fl., Cambridge, Massachusetts 02139
 Telephone: 617 349 4683 Fax: 617 349 3116 TTY: 617 349 6112
 E-mail: histcomm@cambridgema.gov URL: <http://www.cambridgema.gov/Historic>

William B. King, *Chair*, Bruce A. Irving, *Vice Chair*, Charles M. Sullivan, *Executive Director*
 M. Wyllis Bibbins, Robert G. Crocker, Chandra Harrington, Frank Shirley, Jo M. Solet, *Members*
 Shary Page Berg, Joseph V. Ferrara, Susannah Barton Tobin, *Alternates*

Policy Limiting Validity of Permits

It is the policy of this Commission that determinations or findings of the Commission upon which certificates are granted with respect to any Historic District, Neighborhood Conservation District, or Landmark designated under Chapter 2.78 of the Municipal Code, or with respect to the demolition of any other structure more than fifty years old in the city, which is the subject of Chapter 2.78, Article II, should be reviewed *de novo* if the work authorized by such certificate is not commenced within six months of the date of such certificate, if the work authorized by such certificate is suspended in significant part for a period of one year after the time the work is commenced, or if demolition has not been substantially concluded within six months following either (a) the determination that a structure is not a preferably preserved significant structure or (b) the expiration of the demolition delay period with respect to the structure provided for in Paragraphs E and H of Section 2.78.090 (as the case may be);

In implementation of this policy, each certificate granted by this Commission shall, unless specifically determined by the Commission to the contrary with respect to any certificate, be on the condition, which shall be stated therein, that if the work authorized by such certificate is not commenced within six months after the date of issuance of such certificate or if such work is suspended in significant part for a period of one year after the time the work is commenced, such certificate shall expire and be of no further effect; provided that, for cause, one or more extensions of time for periods not exceeding six months each may be allowed in writing by the Chair;

This policy is to be communicated to the Building Commissioner with the request that any demolition permit with respect to any structure as to which any determination by this Commission (or its staff) has been required pursuant to Chapter 2.78, Article II be on the condition that the demolition of such structure be undertaken within a period of six months of the date of the determination that such structure is not a preferably preserved significant structure or within a period of six months of the date of the expiration of any waiting period pursuant to Article II unless the Chair shall have, for cause, granted in writing one or more extensions of time for periods not exceeding six months each during which the building may be demolished without a *de novo* review.

January 8, 2009



CAMBRIDGE HISTORICAL COMMISSION

831 Massachusetts Avenue, 2nd Fl., Cambridge, Massachusetts 02139

Telephone: 617 349 4683 Fax: 617 349 3116 TTY: 617 349 6112

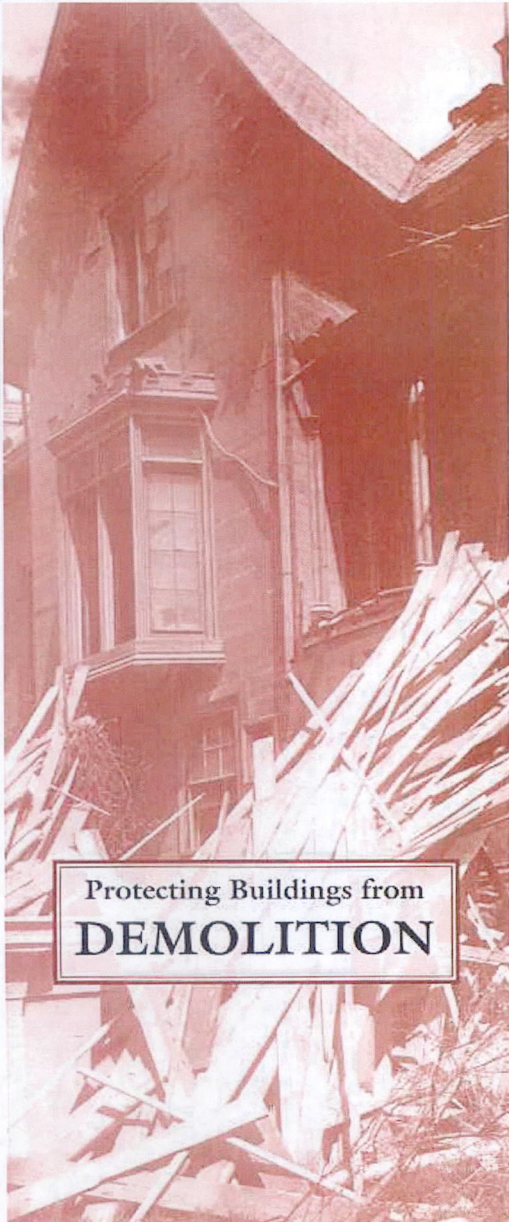
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Policy for Holding Landmark Designation Study Hearings for Preferably Preserved Significant Buildings

Whereas the preservation and protection of significant buildings is among the purposes of the demolition delay ordinance, Article II of Ch. 2.78, and whereas one means of protection available is that of landmark designation, it is therefore the policy of the Cambridge Historical Commission that in demolition review cases where a building has been determined by the Commission to be a preferably preserved significant building, as defined in Article II of Ch. 2.78.080 and the Commission has not theretofore waived the remainder of the delay, the staff shall advertise a public hearing on the matter of whether to initiate a landmark designation study of the building and its site, per the procedures of Article III of Ch.2.78, to occur at the fifth monthly Commission meeting following a decision of the Commission to find the building a preferably preserved significant building and to commence a demolition delay period.

-Adopted on February 7, 2008
by the Cambridge Historical Commission.



Protecting Buildings from
DEMOLITION



**PROTECTING BUILDINGS
FROM DEMOLITION**

**Cambridge's Demolition
Review Ordinance**

Article II of Chapter 2.78 of the Cambridge City Code was adopted by the City Council in 1979 to protect significant buildings from destruction. When the Historical Commission determines that a building is significant and should be preserved, it can delay demolition for up to six months. During this period, the Commission, the owner, and the community can explore ways to preserve the building indefinitely or mitigate the effects of demolition.

Historical Commission Authority

The ordinance enables the Historical Commission to advise the city's building commissioner on the issuance of demolition permits. No demolition permit can be issued for a building over fifty years old until the Commission has reviewed the application.

**Procedures for Reviewing
Demolition Permit Applications**

Demolition permit applications can be obtained from the Inspectional Services Department at 831 Massachusetts Avenue. The completed application will be reviewed at the Historical Commission office to determine the status of the building under Article II. If the Commission staff deter-



mines that the building is fifty or more years old and is "significant," the application is scheduled for a public hearing before the full Commission. If the building is not found to be significant, the application is released for further review by the building commissioner.

Criteria for Determining Significance

A "significant building" is one that is fifty years old or older and that is listed on the National Register of Historic Places, or is determined to be "importantly associated with one or more historic persons or events, or with the broad architectural, cultural, economic, or social history of the City or the Commonwealth" or "historically or architecturally significant . . . either by itself or in the context of a group of buildings." The initial determination of significance must be made by the Executive Director of the Commission within five days after receiving the application.

Public Hearing Procedures

The Historical Commission meets monthly. A report documenting the Director's initial determination of significance is prepared and circulated to the Commission. The hearing is advertised in a newspaper of general circulation and a placard may be placed on the building. At the hearing, the Executive Director describes the significance of the building and the owner is invited to discuss the reasons for the demolition and the nature of the replacement project, if any. The public is also invited to speak.

The Commission's Decision

The Historical Commission votes on two issues: first, whether the building is, in fact, significant, and, second, whether it is in the public interest that it should be preserved in preference to the proposed replacement. Buildings that are found

to be both significant and worthy of preservation, relative to the proposed replacement, are termed "preferably preserved significant buildings," and cannot be demolished for six months from the date of the hearing.

The Effect of the Demolition Delay

The Commission holds demolition permit applications for preferably preserved significant buildings for six months from the time of the hearing. At the end of six months, however, applications will not be released until plans for the use or development of the site after demolition have been found to comply with applicable laws regarding building permits and until all necessary zoning variances and special permits for the new development have been obtained. Therefore, an application may actually be delayed for longer than six months.

All of the Historical Commission's regulatory approvals have a life of six months. This means that once the demolition permit application is released, the owner has six months to demolish the building. If the building is not taken down in that period, the Chair or the Commission may issue a six-month extension, provided the ownership and nature of the replacement project have not changed. If demolition has not occurred by the end of the extension, the owner must resubmit the demolition permit application for Historical Commission review, and the case must be heard again.

Questions and Answers about Article II

How can preferably preserved significant buildings be preserved?

Properties subject to the demolition delay period can be preserved indefinitely through landmarking or other protective measures, such as placing a preservation easement on the property. Ten registered voters can petition the Commission, or the Commission may itself vote, to consider a property for landmark designation. If the Commission finds the property eligible and the

City Council votes to make it a landmark, then no changes to the exterior can take place without the Commission's review and approval.

A property can also be preserved if the owner is willing to rehabilitate or restore it. The development of a property may be compatible with saving its historic aspects. Development proposals can be reworked to incorporate the preservation of historic buildings. Often, another owner may be willing to maintain an existing historic property rather than redevelop it.

What happens to a preferably preserved significant building after the six-month delay expires?

If no action has been taken to designate the building as a landmark and no one is willing to preserve it, the building can be demolished and the proposed development can go forward. The intent of the delay is not to prevent all demolition but to provide an opportunity for developing preservation solutions for the property. In certain zoning districts, however, preferably preserved significant buildings retain this status indefinitely, and replacement projects may be penalized if such a building is demolished.

Is a hearing required to get a demolition permit for any building?

Not necessarily. If the building is not significant according to the criteria of Article II, the Commission's Executive Director releases the demolition permit application and demolition can go forward. Typically, buildings such as garages and sheds that lack historical or architectural importance can be approved for demolition without a hearing.

What happens if a building that is subject to Commission review is demolished without the Commission's approval?

Article II states that, for a period of two years, no building permit can be issued for premises on which any fifty-year-old building has been demolished in violation of the ordinance. This penalty also applies to preferably preserved significant buildings that have been lost to fire

or other causes due to the failure of the owner to properly secure the building.

Are there any conditions whereby a demolition permit application can be released before the end of the delay period?

Yes. The demolition permit application can be released if the Commission finds that there is no reasonable likelihood that anyone is willing to preserve the building or that the owner has made a "continuing, bona fide, reasonable and unsuccessful effort" for at least six months to locate a buyer willing to preserve the building. The Commission may also shorten the delay period if the project is modified to advance broader community preservation goals.

Can an owner get an informal evaluation of a building's significance?

Yes. The Commission prefers to be consulted early in the development process, and the staff will provide an opinion on the significance of a building. Although such informal opinions are not binding, they may be useful to the property owner.

Cambridge Historical Commission

831 Massachusetts Avenue
Cambridge, Massachusetts 02139
617 349 4683 phone
617 349 3116 facsimile
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www.ci.cambridge.ma.us/~Historic



House at Massachusetts Avenue and Bay Street being demolished for subway construction. Photo, 1909. (Boston Elevated Railway Collection, Cambridge Historical Commission)

Demolition of house at Massachusetts Avenue and Bay Street, looking west toward Harvard Square. Photo, 1909. (Boston Elevated Railway Collection, Cambridge Historical Commission)

Partially demolished house at Massachusetts Avenue and Bay Street, with subway construction in foreground. Photo, 1909. (Boston Elevated Railway Collection, Cambridge Historical Commission)



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CAMBRIDGE
WEB PAGE

Demolition Delay Ordinance

["Protecting Buildings from Demolition"](#) brochure available in pdf format.
See [Staff Reports](#) page for memorandums re: current demolition cases.

Note: The above file can be viewed with Adobe Acrobat Reader
(free software that is available online).

[Click here if you want to download Adobe Acrobat Reader.](#)



DEMOLITION ORDINANCE

WHAT IS THE DEMOLITION ORDINANCE FOR THE CITY OF CAMBRIDGE?

The Demolition Delay Ordinance (Chapter 2.78, Article II of the [Cambridge Municipal Code](#)) was adopted by the City Council in 1979 to afford public review of demolition permit applications for potentially significant buildings. When the Historical Commission determines that a building is significant and should be preserved, demolition will be delayed for up to six months so that solutions can be sought to preserve the building indefinitely. The Ordinance covers all buildings over 50 years old, city-wide. The Historical Commission archives provide dates of construction for all properties in the City.

Demolition is defined in the ordinance as "the act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction with the intent of completing the same." The Inspectional Services Commissioner has provided further guidelines to outline what actions require a demolition permit. In addition to complete demolition of a building, the following actions may require a demolition permit,

- removal of a roof (for example, raising the overall height of a roof, rebuilding the roof to a different pitch, or adding another story to a building),
- removal of one side of a building,
- gutting of a building's interior to the point where exterior features (windows, etc.) are impacted, and
- removal of more than 25% of a structure.

Please contact the building inspector or a staff member of the Historical Commission if you have questions about whether a demolition permit is required for a particular project.

Demolition permit applications can be obtained from the Inspectional Services Department. (See section below: [APPLICATION REQUIREMENTS FOR DEMOLITION PERMIT REVIEW](#):). The completed application should be submitted to the Historical Commission, where the staff will review the application. If the Executive Director of the Historical Commission makes an initial determination that the building is significant, a public hearing will be scheduled with Historical Commission. Review the [Statement of Procedures for Photographic Evidence for CHC hearings](#). If the staff makes an initial determination that the building is not significant, the application is released for further review by the Building

#266-14

Commissioner. Applications to demolish utilitarian structures, such as some residential garages, do not generally require a public hearing, however, they do require a review and sign-off from the Historical Commission staff.

When a demolition application is reviewed at a public hearing, the Historical Commission votes on two issues: first, whether the building is in fact significant, and second, whether it is in the public interest that it should be preserved. During this discussion, the Commission will examine the proposed replacement structure. If the Commission finds that a building is significant and preferably preserved, it cannot be demolished for six months from the date of the hearing. In some cases, further action may be taken to permanently protect a significant and "preferably preserved" building or structure through [landmark designation](#) or donation of a [preservation easement](#).

WHAT ARE THE CRITERIA FOR DETERMINING A BUILDING'S SIGNIFICANCE?

A "significant building" is one that, according to the City Code, is at least 50 years old and is listed on the National Register of Historic Places, or is a designated landmark, or is in a historic district, or is determined to be "importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth, or . . . historically or architecturally significant (in terms of period, style, method of building construction or association with a famous architect or builder) either by itself or in the context of a group of buildings."

A determination that a significant building is "preferably preserved" (relative to the proposed replacement structure) is made if the Commission finds that it is in the public interest that the building should be preserved.

WHAT HAPPENS TO A PREFERABLY PRESERVED SIGNIFICANT BUILDING AFTER THE SIX-MONTH DELAY EXPIRES?

The Commission can initiate a landmark designation study and has passed a policy to consider this action on the fifth month of a demolition delay for all preferably preserved significant buildings. [See policy for details](#). If no action has been taken to designate the building as a landmark and no one is willing to preserve it, then the building can be demolished and the proposed development can proceed, provided that all plans for the use of the site after demolition have been found to comply with applicable laws and all permits and approvals for the development have been obtained. The intent of the delay period is not to prevent demolition but to provide an opportunity for the development of preservation solutions.

All of the Commission's regulatory approvals have a life of six months. This means that once the above conditions have been satisfied, the owner of the property has six months to demolish the building. If the building is not taken down in that period, the Chair of the Commission may issue a six-month extension. If an extension is not issued, the owner must resubmit the demolition permit application for Commission review.

APPLICATION REQUIREMENTS FOR DEMOLITION PERMIT REVIEW:

- 1. Submit a completed *Demolition Permit Application* form to the Cambridge Historical**

#266-14

Commission (CHC) office. Application forms can be obtained from the Inspectional Services Department (ISD), 831 Massachusetts Avenue. The application form must be signed by the record owner and must be accompanied by a site plan that indicates the location of the structure and the extent of demolition. (Information about the contractor and disposal of debris need not be provided in order to initiate CHC review, though the information will be required by ISD before a demolition permit will be issued). Upon receipt of a completed application, the Executive Director will make an initial determination of significance and, if necessary, schedule the case for the next available public hearing. The Commission generally meets on the first Thursday of the month, and applications are due three weeks prior to the meeting date. Please check with the staff for exact dates and deadlines.

2. An application that requires review by the Historical Commission at a public hearing, as determined by the Executive Director, must be accompanied by 12 sets of the following supplemental materials:

- Dimensioned site plan of existing conditions and of the proposed replacement project. The site plan should indicate the relationship to the surrounding structures and properties.
- Schematic elevation drawings of the existing building and the proposed replacement project (can be indicated on the same drawing). Dimensions and construction materials should be indicated. Elevations that demonstrate the relationship to neighboring structures are preferred. (This requirement may be waived at the discretion of the Executive Director).
- Any application for a project that also requires zoning relief (variance or special permit) must include the *Dimensional Form* from the Board of Zoning Appeal application.

The following additional materials may be submitted with the application, but are not required to complete the application:

- Photographs of existing conditions.
- Engineer's report or other report on the condition of the structure.

Supplemental application materials should not exceed 11" x 17" in size. The Historical Commission does not charge an application fee, but we do require that twelve copies of the supplemental materials be submitted with the application.

Cambridge Historical Commission
May 2006

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CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

To: Alderman Johnson, Chairman
Zoning and Planning Committee
From: Maura E. O'Keefe, Assistant City Solicitor
RE: Proposed Definitions for amended Zoning Ordinances
Date: March 20, 2015

ISSUE:

The Law Department has been asked to comment as to how the proposed definitions of "lot" and "site" might affect the zoning code.

The proposed definitions are as follows:

Lot: A parcel of land either vacant or occupied intended as a unit for the purpose, whether immediate or for the future, of transfer of ownership, or possession, or for development.

Site: A site is any lot or group of contiguous lots owned or controlled by the same person or entity, assembled for the purpose of a single development.

SHORT ANSWER:

Incorporating a definition of lot and site may cause existing zoning ordinances to take on new meanings that were not intended upon enactment. There is always an inherent danger of unintentionally altering the existing interpretation or understanding of a particular section when a new definition is instituted.

EXAMPLES:

In particular, the implementation of a new definition for lot may have a direct effect on exemptions to nonconformities found at Section 7.8.1.C.2 (former section 30-15(c)) and the places in the zoning code where there is an existing alternate definition of lot as in Section 7.8.5 (former section 30-26).

As a first example, in section 7.8.1.C.2, exemptions to certain area, frontage and setback requirements have been carved out, in part, to prevent merger of parcels of land from happening. Applying the proposed definition may well have the opposite desired effect, creating merger

where none was intended. This is of particular concern for “through lots”¹ which would fall under c.i of subsection 2 which creates an exception for a lot “not held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the lot in question.” Through lots in common ownership have been protected from merger for many years in the Newton Zoning Ordinances and the proposed definition of lot could confuse, at a minimum, the protections extended to such lots in common ownership.

As a second example, section 7.8.5 creates a facial conflict by defining lot in terms of what is recorded with the Registry of Deeds, without regard to intent or purpose of the parcel of land. With such conflict, a question potentially arises as to which definition supersedes.

CONCLUSION:

Because the City’s zoning code has been amended over a great period of time, creating a patchwork definition from section to section, the meaning of the word lot, and by incorporation, the definition of site, is necessarily contextual and must be determined by the manner in which is it individually used.

Imposing a single definition now in the existing code would alter the meaning of the word from section to section. Until such time as a single definition can be created in conjunction with a comprehensive zoning reform, incorporating a definition at this time would be inadvisable.

¹ Lots that abut each other along their rear lot lines but front on different streets.