

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, JUNE 22, 2015

**7:45 PM**  
**Room 205**

**ITEMS SCHEDULED FOR DISCUSSION:**

#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]

#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]

*Zoning & Planning and Finance Committees will meet jointly on the following item:*

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

#161-15 HIS HONOR THE MAYOR requesting authorization to transfer the sum of two hundred ten thousand dollars (\$210,000) from the Planning & Development Department Salaries Account to the Planning & Development Department Consultants Account for the purpose of funding \$10,000 for the Newton Center Parking Study with the remaining amount to be available for consultants in Fiscal Year 2016. [06/15/15 @ 3:30 PM]

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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 Jini Fairley, at least two days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov), or 617-796-1253. For Telecommunications Relay Service dial 711.*

**ITEMS NOT SCHEDULED FOR DISCUSSION:**

**REFERRED TO ZONING & PLANNING, LAND USE AND FINANCE COMMITTEES**

- #104-15 ALD. JOHNSON, LAREDO, AND GENTILE requesting a report from the Planning Department with the following information: How many of the affordable units developed at Commonwealth Avenue, Pearl Street, and Eddy Street qualify to be included on the State's Subsidized Housing Inventory List. If a property is not currently on the list, what can be done to make it eligible. [04/09/15 @ 12:00PM]

**REFERRED TO PROG. & SERVICES AND ZONING & PLANNING COMMITTEES**

- #127-15 ALD. SANGIOLO requesting discussion with Health Department, Inspectional Services Department and the Economic Development Commission regarding the policy of food truck operations in the City of Newton. [05/11/15 @ 10:22AM]
- #80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]
- #107-15 HIS HONOR THE MAYOR requesting discussion of approaches to create middle income housing as a means of allowing City of Newton employees the opportunity to live in the community in which they work. [04/24/15 @ 2:38PM]
- #108-15 HIS HONOR THE MAYOR requesting consideration of changes to the Zoning Ordinance that would facilitate the creation of accessory apartment units, supportive of Newton's seniors. [04/24/15 @ 2:38PM]
- #109-15 HIS HONOR THE MAYOR requesting consideration of changes to the inclusionary housing provisions of the Zoning Ordinance to increase the required percentage of affordable units to 20% with the additional 5% set aside for middle income households. [04/24/15 @ 2:38PM]
- #110-15 HIS HONOR THE MAYOR requesting discussion of The Smart Growth Zoning Overlay District Act M.G.L. Chapter 40R and its potential application in Newton. [04/24/15 @ 2:38PM]
- #95-15 ALD. CROSSLEY, JOHNSON, LEARY, HESS-MAHAN, DANBERG, ALBRIGHT AND BLAZAR requesting a discussion with the Planning Department to consider the mix of uses in the Wells Avenue Office Park, with and without a second egress to the site, pursuant to the recent MAPC study recommending a strategic introduction of retail and restaurant uses to attract and sustain healthy commercial uses, and some number of residential units sufficient to support an economically viable and vibrant mixed use environment. [04/13/15 @ 2:46PM]

- #86-15 ALD. CROSSLEY, ALBRIGHT, HESS-MAHAN, & JOHNSON requesting a review and discussion of Community Development Block Grant expenditures and past years' accounting to assess progress in meeting citywide program goals as adopted in the consolidated plan, including creating and sustaining affordable housing, as well as facilities improvements in approved neighborhood districts. [03/30/15 @ 6:02 PM]
- #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]
- #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]
- #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]
- #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 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]

- #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]
- #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]
- #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]
- #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]
- #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]
- #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]
- #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 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 Intent 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 RECOMMITTAL 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, SCHNIPPER, 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



# DRAFT

## City of Newton Zoning Reform Project

### NARRATIVE DESCRIPTION

The City of Newton, Massachusetts seeks a qualified consultant(s) to provide expertise and assistance to the City of Newton Planning and Development Department and Board of Aldermen in developing a context-based zoning ordinance. The selected consultant(s) must have expertise in the theory and practice of urban/suburban design and zoning.

#### Project Context

A city of approximately 85,000 people adjacent to Boston, Newton benefits from a prime location with good transportation access to the region's job centers in Boston, Cambridge, and the Route 128 corridor and an excellent public school system. The City also represents an ideal mixture of good community design with a number of historic walkable and transit-oriented village centers, attractive neighborhoods, and beautiful parks. These amenities have made Newton a highly desirable community and, coupled with the strong regional economy, there is a high demand for new residential and business development. The fact that the community is changing under these influences, and will continue to do so as the City's demographics, transportation choices, and businesses evolve over time, has led to the understanding that the City needs a detailed planning effort, beyond that of the 2007 Comprehensive Plan, that prepares the City for these changes and results in a new context-based zoning ordinance that provides fair and predictable control to protect Newton's essential character and quality of life.

A context-based zoning ordinance is understood as one that recognizes the current built environment of the City, embodies that in Newton's code, and provides guidance and rules for development, redevelopment, and expansion that is consistent with that existing context, or with the desired context in those areas where more significant change is necessary. Newton's current ordinance is based on a 1953 model and has little relationship to the existing built environment of the City, resulting in development out of context with surrounding neighborhoods and a community that is estimated at being 80% nonconforming. Across the City, large "monster" homes dwarf neighboring homes; large two-family homes are awkwardly squeezed onto narrow lots; hard transitions between areas of different densities or intensities of use mar the quality of neighborhoods, especially where commercial areas meet residential; commercial redevelopment projects present inconsistent design quality; and the decision-making process presents uncertainties and significant expenses for small businesses and residents.

The City has already completed Phase 1 of the Zoning Reform project which was to modernize, clarify, and reorganize the existing Newton Zoning Ordinance. Information on this project can be found at <http://www.newtonma.gov/gov/planning/lrplan/zoning/zoningref.asp>.

#### Project Description

The City envisions a four part process for the completion of Newton's Zoning Ordinance. Ultimately, there will be two major deliverables, a Newton Pattern Book describing the existing patterns of development and building types in the City that make up its urban fabric and the Zoning Ordinance itself, based on the findings of the pattern book.

1. Project Initiation. This project will be led jointly by the Board of Aldermen and Planning Department. Initial meetings will be necessary to identify the specifics of the scope of work, with a particular emphasis on a community engagement program that includes robust online tools, community workshops, and other tools for collecting input. This scope of work and community engagement program will be presented to the Board of Aldermen.
  - a. While the City anticipates this process to move forward expeditiously, there are a number of issues that require immediate attention. The consultant will work with the Board to identify those issues and develop short term strategies to address them. These strategies may be subject to change as the process unfolds and a coherent and consistent new zoning ordinance is developed.
2. Newton Pattern Book. The pattern book serves as the foundation of the context-based zoning ordinance as well as a guide for property owners on appropriate design considerations for Newton's diverse neighborhoods and village centers.

# DRAFT

- a. Beginning at the city-wide scale, it should look at development patterns embodied in land uses (village scales, commercial corridors, neighborhoods with similar lot and building characteristics, etc). The areas identified would form the basis for zoning districts in the ordinance. A transect-based approach may be appropriate.
  - b. The pattern book should also inventory building types present in Newton, describing common characteristics in lot and building dimensions and other pertinent features. This information would form the basis for dimensional regulations assigned to building types in the zoning ordinance. Additional building types potentially appropriate for Newton but not currently present should also be considered.
  - c. This work should include a multi-day workshop or charrette that shares with the community these design ideas and creates an opportunity to explore variations on the City's development patterns. Identifying areas where change to the existing context might be desired should be part of this exercise.
3. Draft Zoning Ordinance. The primary task in this part is to codify the results of the pattern book into a context-based zoning ordinance, incorporating ideas and approaches from Form-Based Codes. Some of the particular issues that will need to be addressed include updating and consolidating the use table, updating the sign regulations, incorporating landscape standards, updating parking requirements, better management of institutional uses as allowed under Massachusetts law, creating better transitions between districts, clarification of review processes, and improved site development and environmental regulations.
  4. Final Zoning Ordinance. The selected consultant will participate in the final adoption process after the draft zoning ordinance is submitted. This process will include a series of meetings with the Zoning and Planning Committee of the Board of Aldermen, a public hearing, and a presentation of the final ordinance to the entire Board of Aldermen.

## Timeline

Subject to negotiation, the City anticipates the Newton Pattern Book to be completed within six months of project initiation. The draft zoning ordinance should be complete within 18 months of project initiation.

**Karyn Dean**

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**From:** Amy Sangiolo <aldermansangiolo@gmail.com>  
**Sent:** Wednesday, February 18, 2015 8:32 AM  
**To:** Karyn Dean; Ted Hess-Mahan  
**Subject:** Info for Large House Review Docket Item

Cohasset - Large House Review Ordinance:

5.5 LARGE HOUSE PLAN REVIEW (3/27/04 Article 7) 1. Notwithstanding the area requirements set forth in preceding subsections of this Section 5, and any variances obtained from same, the RGFA for any residential building or structure, in any residential district, to be constructed pursuant to a building permit issued on or after 2/18/04 either as new construction or as an alteration, expansion/ extension/ enlargement, reconstruction or replacement of an existing residential building or structure, may not exceed the greater of 3,500 square feet or 10% of the area of the lot up to a maximum of 6,000 square feet, absent review as follows. This threshold does not nullify the applicability of any of the other area regulations set forth in Section 5 that may or may not have an impact upon the calculation of RGFA. 2. Where the RGFA exceeds these limits, the proposed work shall be submitted for a Large House Plan Review by the Planning Board. The Planning Board shall review and discuss the Large House Plan with the applicant and abutters, toward the objective of making the proposed plan harmonious with, and not harmful, injurious or objectionable to existing uses in the area. COHASSET ZONING BYLAWS April 22, 2013 29 3. A person applying for a Large House Plan Review shall file an application with the Planning Board, including copies of a site plan and a filing fee, as required by the Planning Board. The application and site plan shall include the elements to be reviewed by the Planning Board and shall also include such further information as the Planning Board shall reasonably require by rule or regulation. Not less than two permanent survey monuments shall be located on the property in question and shown on the plan, unless waived by the Planning Board. In subsequent applications concerning the same subject matter, the Planning Board may waive the filing of plans and documents to the extent they duplicate those previously filed. Copies of the rules and regulations concerning the Large House Plan Review shall be filed with the Town Clerk. 4. a. The Planning Board shall hold a hearing within 35 days of the filing of an application with the Town Clerk for a Large House Plan Review with respect to a residential building or structure having an RGFA exceeding the threshold established by section 5.5.1. b. The Planning Board shall, within one week of receipt of site plan application, transmit to appropriate town boards and departments, for review, one copy of the application and site plan. c. Notice of such hearing shall be given to the applicant and all abutters in the manner called for in the Planning Board rules and regulations. d. Within 21 days after the conclusion of the public hearing, the Planning Board shall inform the Building Inspector that the hearing has been completed and furnish the Building Inspector, in writing, with any recommendations, which are relevant to the issuance of the building permit.

Link to the Town of Needham - Large House Study Review Committee:

<http://www.needhamma.gov/index.aspx?NID=3680>

Town of Newburyport - Site Plan Review Process includes review of replacement homes and additions by percentage:

[https://www.municode.com/library/ma/newburyport/codes/code\\_of\\_ordinances?nodeId=APXAZOORNE](https://www.municode.com/library/ma/newburyport/codes/code_of_ordinances?nodeId=APXAZOORNE)

• **SECTION XV. - SITE PLAN REVIEW**

FOOTNOTE(S):

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**Editor's note**— An ordinance adopted Oct. 28, 2002, amended § XV in its entirety, in effect repealing and reenacting said section to read as herein set out. The former § XV (XV-A—XV-D) pertained to similar subject matter and derived from the zoning regulations for the city adopted Nov. 30, 1987, and § 11 of an ordinance adopted March 28, 1988.

• **XV-A - Intent.**

These regulations recognize that certain developments of land, though generally suitable for location in a particular zoning district are, because of their nature, size, complexity or other reasons of probable impact, capable of adversely affecting the stated purposes of this ordinance, unless careful consideration is given to certain critical design elements. It is the intent of these regulations to provide a mechanism for the review of an applicant's attention to such critical design elements within developments that are subject to review.

(Ord. of 10-28-02(3))

• **XV-B - Purposes.**

To implement goals, strategies, and actions recommended in the 2001 Master Plan for Land Use, Housing, Natural and Cultural Resources, and Transportation and Circulation, and to otherwise protect and enhance residents' quality of life, these regulations address:

a.

*Community character:* To protect the city's distinct community character and historic and scenic qualities. To revitalize targeted areas for reinvestment and new economic development as well as protect existing investments and property values of the city. To provide for smooth transition between industrial, commercial, and residential areas, to preserve the character of individual city neighborhoods, and to reinforce natural topography by controlling features of development.

b.

*Traffic, parking, and public access:* To promote roadway traffic safety and traffic calming, and to protect the capability of state and local roads to conduct vehicular, bicycle, and pedestrian traffic smoothly, safely, and efficiently. To minimize or prevent adverse impacts to neighborhood character from excessive traffic or on-street parking. To encourage alternatives to single-occupant vehicle travel. To encourage pedestrian access to scenic, historic, recreational, and natural areas.

c.

*Health:* To minimize or prevent adverse impacts in air quality, light and glare, and noise.

d.

*Public services and utilities:* To minimize or prevent adverse impacts to existing public services and facilities, including sewers, storm drains, solid waste disposal systems, parks, schools, streets, and services. To promote energy conservation when feasible.

e.

*Land use planning:* To ensure that proposed uses are reasonably compatible with surrounding uses and are consistent with city zoning and master plan goals. To discourage unlimited commercial "strip development" and curb cuts along highways, to provide for commercial development that is sensitive to Newburyport's distinct community character and diverse but consistent architectural framework, and to provide for industrial growth in nodes and clusters.

f.

*Open space and environmental protection:* To preserve open space, public access, and scenic views to the Merrimack River, and for the protection of natural features and other environmentally sensitive areas. To prevent against erosion and adverse drainage impacts. To minimize the loss of wildlife habitat and other vegetation which have substantial aesthetic, educational, ecological, and/or economic value.

(Ord. of 10-28-02(3))

• **XV-C - Applicability.**

Major and minor projects: site plan review shall be required for any structure intended for residential use which includes five (5) or more residential units on one property and for any and all other new nonresidential uses or structure(s) including, but not limited to, industrial/infrastructure, marine, business or institutional/government/medical use(s).

The following criteria shall be used to determine whether the proposed project is reviewed as a major or minor project.

a.

*Major projects:* Within a two-year period after the date of the most recent application for a building permit for any portion of the property, any project which consists of changing the outside appearance of a building and/or includes one or more of the following is considered a major project subject to site plan approval from the planning board:

1.

Construction of one thousand (1,000) or more square feet of gross floor area;

2.

Exterior remodeling or renovation of an existing structure that exceeds twenty-five (25) percent of the existing gross floor area;

3.

Construction of a drive-through facility;

4.

Construction of ten (10) or more new or additional parking or loading spaces;

b.

*Minor projects:* Any project not included within the definition of a major project which involves one or both of the following is considered a minor project subject to site plan review by the planning board.

1.

Alterations, expansions, additions, or renovations that are less than five thousand (5,000) square feet gross floor area on any properties located within the "I-1" or "I-1B" industrial zoning districts that do not abut a residential zoning district.

2.

Construction of less than ten (10) off-street parking or loading spaces.

(Ord. of 10-28-02(3))

• **XV-D - Review procedure.**

a.

*Building commissioner review:* An applicant shall file a building permit application with the building commissioner. If the commissioner determines that a site plan review or special permit with site plan review is required, the applicant shall submit the appropriate application to the planning board. The building commissioner will make a determination if the proposed project is a major or minor project.

b.

*Pre-application conference:* Prior to submission of an application it is strongly recommended that the applicant confer with the planning board to determine the applicability of the information requirements of this subsection and to obtain other information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data. If the applicant schedules a pre-application conference, the planning board suggests that the information provided by the applicant be designed to assist the planning board to understand the scope and impact of the project. Said information may include a conceptual drawing of the proposed project indicating general building design, potential locations of curb cuts, parking areas, signs, and wetlands, the location and type of surrounding uses and information regarding environmental access or infrastructure issues relevant to the project.

c.

*Application for site plan review—Major projects:* The site plan review process is comprehensive review carried out by many city boards and departments to insure compliance with the zoning ordinance and performance standards of site plan review. The following steps shall be followed for review of a major project:

1.

The current owner of record or an authorized representative shall submit application for site plan review to the planning board that is time-stamped at the city clerk's office. The application shall include an administrative filing fee in accordance with the schedule established by the planning board and one (1) original and ten (10) copies of the site plan and all supporting material. If requested by the planning board, the application shall also include a technical review fee for reviewing specific design or engineering elements of the proposed development subject to M.G.L.A. c. 44 § 53G.

2.

Prior to scheduling a public hearing for the project, the board shall determine if the application is complete, including the requirements in section XV-E, within thirty (30) days of submittal of the application or at the next regularly scheduled planning board meeting, whichever is first. If it is determined that the application is incomplete, the board shall notify the applicant in writing of what areas of the application are incomplete and take no further action on said application. An application, which is determined to be incomplete, may be revised and resubmitted at a subsequent meeting of the board.

- Note, for any additional information required under section XV-E.b., the board shall determine if the application is complete prior to the close of the public hearing.

3. Within seven (7) days of receipt of a complete application, the planning board shall transmit a copy to the planning director, sewer and water department, board of health, building commissioner, fire department, department of public works, police department, conservation commission, and planning office.
4. The boards and departments herein named shall review the application and report their recommendations in writing to the planning board no later than twenty-one (21) days after receipt of the complete application.
5. The planning board shall schedule a public hearing within thirty (30) days of the submission of the completed application. The notification requirements for the public hearing shall conform to the requirements of section X.J of this ordinance.
6. The planning board shall close the public hearing with forty-five (45) days of the public hearing unless the applicant has formally requested an extension of time.
7. The planning board shall render and file a written decision with the city clerk within thirty (30) days of the completion of the public hearing, except where an applicant has formally requested an extension of time. If the board fails to file a written decision with the city clerk and the person submitting the plan of its action within the required time limit, or such further time as is mutually agreed upon by the applicant and the board, the plan shall be deemed approved.
8. Where the zoning boards of appeals (ZBA) is the permit granting authority for special permits or use variances, the planning board may request a joint public hearing be held with the ZBA.
9. Application for special permit or variance: An application for a special permit or a variance to perform work as set forth in a site plan approval shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for such work shall contain the following condition: The work described herein requires the approval of a site plan by the planning board pursuant to section XV of this ordinance. Any conditions imposed in such site plan approval shall also be conditions of the special permit/variance.
10. Where the planning board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the ZBA, the conditions imposed by the planning board shall be incorporated into the issuance, if any, of a special permit or variance by the ZBA.
11. Where the planning board serves as the special permit granting authority for the proposed work, it shall consolidate its site plan review and special permit procedures. The application shall include a written extension of time to follow the procedures and timelines required under the special permit process.

d.

*Application for site plan review—Minor projects:* Minor projects shall submit an application to the planning board that is time-stamped at the city clerk's office. Submitted plans should be complete but flexible, as the board may recommend changes to the plan. In accordance with section XV-D.c., the board may require a technical review fee in appropriate circumstances subject to M.G.L.A. c. 44 § 53G. A number of meetings with the applicant are sometimes held, often at the applicant's request to resolve design issues.

1. The current owner of record or an authorized representative shall submit application for site plan review to the planning board. The application shall include one (1) original and three (3) copies of the site plan and all supporting material.
2. Prior to reviewing the application for the project, the board shall determine if the application is complete, including the requirements in section XV-E, within thirty (30) days of submittal of the application or at the next regularly scheduled planning board meeting, whichever is first. If it is determined that the application is incomplete, the board shall notify the applicant in writing of what areas of the application are incomplete and take no further action on said application. An application, which is determined to be incomplete, may be revised and resubmitted at the applicant's discretion.
3. The board may designate the planning director to review the plan on its behalf and make a written recommendation to the planning board.
4. Within thirty (30) days of receipt of the complete application, the board or planning director shall utilize sections XV-G and H to review and approve the project. Such action shall take place at a regularly scheduled meeting and no public hearing is required.
5. The planning board shall render and file a written decision with the city clerk within thirty (30) days of reviewing the application, except where an applicant has formally requested an extension of time. A copy of said decision shall be transmitted to the building commissioner forthwith. If the board fails to file a written decision with the city clerk and the person submitting the plan of its action within the required time limit, or such further time as is mutually agreed upon by the applicant and the board, the plan shall be deemed approved.

*(Ord. of 10-28-02(3))*

• **XV-E - Materials for review.**

A registered architect, landscape architect, or professional engineer shall sign and date and place their seal upon all pertinent documents and plans unless the planning board waives this requirement because of unusually simple circumstances pursuant to section XV-F. All original site plans shall be prepared on standard 24" x 36" plan sheets at a minimum scale of 1" = 40'. Elevations, drawings, where required, shall be drawn at a minimum scale of 1" = 8'.

- a. *Submission requirements:* The following information shall be included on the site plan for a major or minor project. Any of the following information submitted to another city board or commission in connection with the proposed project, may be submitted to the board in lieu of the following:
  1. *Location and boundaries:* The location and boundaries of the lot, zoning district, adjacent streets or ways, applicable information from section VI, Dimensional Controls, the location and owners' names of all adjacent properties. Plans shall also show any deeds of easement, right-of-ways, covenants and any other agreements affecting the use of the site.
  - 2.



*Structures:* Existing and proposed structures, including dimensions, footprint, total gross floor area, number of stories, floor elevations, and building height(s). See section II, Definitions.

3.

*Signage:* The location, dimensions, height, lighting, and other characteristics of all proposed signs.

4.

*Landscaping:* Proposed landscape features including the locations and a description of buffer areas, screening, fencing, and a planting plan. A registered landscape architect shall prepare a planting plan, unless the planning board deems a licensed plant nursery person appropriate for small projects such as minor additions or alterations.

5.

*Traffic:* The plan shall show pedestrian, bicycle, and vehicular traffic flow patterns and show adequate access to and from the site and adequate circulation within the site. The planning board encourages accommodation of public transportation and/or private vanpooling arrangements.

6.

*Parking:* The location of parking and loading areas, driveways, access and egress points, bicycle racks, and bus stops or drop-off areas.

7.

*Public access:* The location and description of proposed public access areas, including parks, conservation areas, gardens, bikeways, pathways or sidewalk areas. Riverfront sites shall include indications of compliance with state and federal regulations.

8.

*Lighting:* Existing and proposed exterior lighting, including locations, lighting source, and fixture types. The planning board may require photometric analysis of proposed lighting.

9.

*Topography:* Existing and proposed topography of the site including contours (two foot intervals), the location of wetlands streams, water bodies, aquifers, aquifer recharge areas, drainage swales, areas subject to flooding, and unique natural land features, including all stonewalls, trees over eight (8) inches in caliper, and the general location of the tree line.

10.

*Water and waste disposal, drainage and other utilities:* The locations and description of all existing and proposed septic systems, sanitary sewer water supply, storm drainage systems (including method and calculations for 10- and 100-year storm events), utilities, refuse and other waste disposal methods.

b.

*Narrative submittals—Major projects:* For major projects, the planning board may require the materials or information listed below as it deems necessary. If not requested at the time of the public hearing, this information shall be requested not more than 30 days from the date of commencement of the public hearing and will not extend the review period, unless mutually agreed.

1.

*Surface and ground water pollution:* A report on the impact of storm water runoff on adjacent and downstream water bodies, subsurface ground water, and water tables.

2.

*Soils:* A report on the potential erosion and sedimentation caused by the operation and maintenance of the proposed development and the mitigation efforts proposed. To this end, high intensity soil mapping, i.e., test borings and analysis, may be required.

3.

*Environmental and community impact analysis:* For projects with significant environmental impact to wetlands, floodplains, or other sensitive resources the board may request a report following the submission requirements of section 5.6 of the Newburyport Subdivision Rules and Regulations, including a report on the relationship of the proposed development to the natural and man-made environment, and compatibility of the proposed development with adjacent or surrounding land uses and neighborhoods. This analysis shall be a guide to the planning board in its deliberations and will build into the board's decision-making process consideration of the environment and community impacts of the proposed development. An EIR required through the MEPA process, which addresses the planning board's concerns, may be substituted in lieu of this report.

4.

*Traffic impacts:* A report on existing pedestrian and vehicular traffic volume, composition, peak hour levels, and existing street and sidewalk capabilities, analysis of existing and resulting level of services (LOS) for the following:

i.

The nearest and/or most impacted public roadway intersection.

ii.

The estimated average daily traffic generation, including composition and peak hour levels.

iii.

The directional flows resulting from the proposed development.

iv.

Any proposed methods to mitigate the estimated traffic impact such as promoting the use of public transportation, or other appropriate means.

v.

The methodology and sources used to derive existing data and estimations.

vi.

The feasibility of traffic calming measures such as textured crosswalks, bike lanes, roundabouts, rumble strips, street trees, or bulb-outs.

vii.

A detailed traffic access and impact study may also be required for the project. At the applicant's expense, the planning board may engage a traffic consultant to review said report and make its recommendations to the planning board thirty (30) days before final action is required.

5.

*Architectural style:* Plans and other drawings shall include architectural elevations of all sides of all new buildings and of those sides of existing buildings which are proposed to be altered in any way. A registered architect who shall sign the plan and place his/her seal upon it shall prepare the renderings or elevations. The drawings shall be prepared at a minimum scale of 1/8" = 1' and shall show the following:

i.

Exterior material, including trim, and colors.

- ii. Type, pitch, and material of roofs.
  - iii. Size, type, and spacing of windows, doors and other openings.
  - iv. Size, location, colors, and copy of signs affixed to or hanging from the building.
  - v. The relationship in massing, scale, and height to other existing structures in the immediate vicinity.
  - vi. Elevations or renderings of new construction, renovation or expansions (or model may be provided at the option of the applicant).
  - vii. Cross-sections of the site and buildings.
  - viii. Product literature on proposed light fixtures.
6. *Other permits required:*
- i. All completed or pending actions of the zoning board of appeals relative to the application, including an estimated schedule of application and approval.
  - ii. A listing of state and federal permits, licenses, and approvals necessary, including chapter 91.

*(Ord. of 10-28-02(3))*

• **XV-F - Waiver of submission requirements.**

When reviewing minor or major projects, the planning board may waive any submittal requirements listed in section XV-E, it judges to be unnecessary to the review of small-scale developments or minor additions or expansions to existing facilities that will not have a significant impact both within the site and in relation to adjacent properties and streets on: pedestrian and vehicular traffic patterns; public services and infrastructure; environmental and historic resources; and abutting properties. Said waiver requests shall be made by the applicant in writing with stated reasons for requesting the waiver(s). The planning board shall grant such waivers in writing.

*(Ord. of 10-28-02(3))*

• **XV-G - Site plan review criteria.**

In reviewing and evaluating the site plan, and in making a final determination regarding site plan approval, the planning board shall require that the site plan promote the objectives set forth in sections XV-B and G, and comply with the development and performance standards contained in section XV-H. These standards embrace the following criteria:

- a.

*Community character:* The proposed development:

1. Minimizes obstruction of scenic views from publicly accessible locations;
2. Minimizes impacts to important natural or historical features;
3. Screens objectionable features such as large blank walls, open dumpster, loading or storage areas, from neighboring properties and roadways;
4. Is in harmony with the architectural style of the adjacent buildings and immediate neighborhood;
5. If located within the National Historic District, is consistent with the architectural style, scale, density, massing and setbacks in the district;
6. Promotes a design and architectural consistency regarding the architectural value and significance of the site, building or structure, the general design, arrangement and texture, materials and color of the features involved and the relation of each feature to similar features of building and structures in the immediate neighborhood and surrounding area;
7. Is appropriate in regards to the size and shape of the buildings or structures both in relation to the land area upon which the building or structure is situated and to the adjacent buildings and structures within the neighborhood.

b.

*Traffic, parking, and public access:* The proposed development:

1. Minimizes vehicular traffic and safety impacts of the proposed development on adjacent highways or roads;
2. Maximizes the convenience and safety of vehicular, bicycle, and pedestrian movement within the neighborhood and site;
3. Minimizes adverse impacts on neighborhood on/off-street parking and includes incentives for the use of alternatives to single-occupant vehicles.

c.

*Health:* The proposed development:

1. Minimizes adverse air-quality impacts, noise, glare, and odors;
2. Provides for appropriate handling and disposal of hazardous materials and transmissions.

d.

*Public services and utilities:* The proposed development:

- 1.

Is served with adequate water supply, wastewater systems, and solid waste disposal systems;

2.

Is within the capacity of the city's infrastructure as defined by the water, sewer and DPW departments;

3.

Includes measures to prevent pollution of surface or groundwater, minimizing erosion and sedimentation, as well as measures to prevent changes in groundwater levels, increased run-off, and potential for flooding;

4.

Demonstrates an effort to conserve energy and water.

e.

*Land use planning:* The proposed development:

1.

Is consistent with the land-use goals of the city's master plan.

f.

*Open space and environmental protection:* The proposed development:

1.

Minimizes adverse impacts to open space usage and retention and is integrated into the natural landscape. Minimizes adverse environmental impacts to such features as wetlands, floodplains, and aquifer recharge areas and minimizes tree, vegetation, and soil removal, and grade changes;

2.

Proposes a landscape design that favors native and drought-tolerant species and avoids invasive plants.

(Ord. of 10-28-02(3))

• **XV-H - Development and performance standards.**

In order to receive site plan approval, all projects or uses must demonstrate compliance with the following:

a.

*Pedestrian and vehicular access and traffic impacts:* Applicants must demonstrate that the project will minimize pedestrian and vehicular traffic and safety impacts on city roads. In the case of multi-tenant properties, these requirements are directed at the immediate vicinity of the proposed renovation, addition, expansion, or new building rather than the site as a whole.

1.

One access driveway per lot shall be permitted as a matter of right, except, the planning board may, in certain circumstances, require additional driveways as part of the site plan approval process where the access is shared or the project has frontage on two separate streets. To the extent feasible, access to businesses shall be provided via one of the following:

i.

Access via a common driveway serving adjacent lots or premises;

ii.

Access via an existing side street;

iii.

Access via a cul-de-sac or loop road shared by adjacent lots or premises.

2.

All proposed curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width provided however; the board may require a curb cut to be up to 30 feet in width for commercial or industrial truck traffic. The location of driveway openings in relation to traffic and to adjacent streets must provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

3.

All proposed driveways shall be designed to afford pedestrians, bicyclists, and motorists exiting to public ways with safe sight distance. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.

4.

The proposed development shall assure safe interior circulation by separating pedestrian and vehicular traffic within its site.

5.

All roadways and sidewalk construction within the site shall comply with sections 6.8, 6.9 (except for all I districts), 6.10 and 6.11, of the Newburyport Subdivision Rules and Regulations.

6.

Sidewalks, crosswalks, walkways, bike racks, or other pedestrian access may be required to allow access to adjacent properties and between individual businesses within a development.

7.

If the property abuts a public bikeway/right-of-way, an improved access route to the bikeway may be requested.

8.

Unless a variance is granted by the ZBA pertaining to the requirements of section VII, proposed projects or uses must comply with the parking and off-street loading requirements in section VII.

9.

Where feasible, parking areas shall be located to the side or behind buildings so as to provide an appropriate setting for the building within the context of the site and neighborhood and allow parking areas to be shared with adjacent businesses. The planning board may require alternative parking lot layouts. Except where infeasible or inappropriate, all parking lots shall be accessible by driveways to the parking lots of adjacent nonresidential uses and land zoned for nonresidential uses.

10.

Except where physical constraints, site configuration, or safety considerations preclude strict compliance, no parking or loading shall be permitted within the required front yard setback.

11.

Traffic calming measures such as crosswalks, bike lanes, rumble strips, and landscaped islands may be required.

12.

All off-site construction on state roadways shall comply with the Department of Massachusetts Highway Department (MHD) standards, specifications, or special conditions as applicable as well as

requirements listed under CMR 521 as amended for the Massachusetts Architectural Access Board (MAAB) unless waived by MHD and or MAAB.

b.

*Site plan and architectural design:* The following guidelines are for multi-family residential, institutional, and commercial building design. These guidelines will be used by the board to establish a framework for compatible infill or redevelopment. The purpose of these guidelines are to enhance and strengthen Newburyport's distinct community character as a traditional New England urban village with a diverse architectural heritage that evolved over many historical periods. This heritage includes many distinctive brick industrial-era mill buildings as well as a wide array of Federalist, Colonial, Georgian, Greek Revival, Victorian, and other architectural styles.

Recognizing the historical importance of consistency in basic design elements such as building materials, massing, scale and articulation, applicants are strongly encouraged to incorporate these basic design elements in the design for new construction and renovation of older buildings. In this manner, the unique features of each neighborhood can be enhanced to promote a design and architectural variety that strengthens the overall character of Newburyport.

In determining the appropriateness of buildings, the basic design elements of proposed buildings should be evaluated in relation to existing adjacent or surrounding buildings. In most cases, to be considered appropriate, new buildings shall respect the architectural character of adjacent buildings or, in the case of multi-tenant commercial centers, the overall architectural theme of the center. Importantly, when new buildings or additions are considered compatibility rather than conformity is desired.

The planning board will use the basic design elements listed below when reviewing applications for new developments or renovations for non-industrial buildings:

1.

Height;

2.

Bulk and general massing (footprint, shape, articulation, or detail);

3.

Major divisions or rhythms of the facade (height and width proportions, building lines, etc.). Where appropriate large continuous buildings shall be avoided and massing of buildings should be broken or staggered to reflect the historic scale of existing buildings and traditional development patterns in Newburyport;

4.

Rhythm of openings (i.e. # windows, spacing, window and doors relationships);

5.

Roof treatments (slope, articulation, surface). Rooftop mechanical equipment shall be screened from view by roof forms or other appropriate screening devices;

6.

Materials, colors, and textures of building and signage. In general, natural materials such as stone, brick, wood siding, shingles, slate, etc. are preferred to industrial or artificial materials such as exposed concrete, anodized or galvanized metal, tinted glass, plastics, vinyl, etc.;

7.

General architectural character: The planning board shall not consider interior arrangement or architectural features not subject to public view from a public way or public property. Building design

shall be compatible with the vernacular structure, historic character, and scale of buildings in the surrounding neighborhood including the following design elements:

- i. Horizontal or vertical emphasis of building;
- ii. Scale (height and width proportions);
- iii. Stylistic features and themes (i.e. porches, colonnades, pediments, cupolas, cornices, coins, detail, and other ornamentation);
- iv. Setbacks (relation to neighboring properties and the public way or street). Where feasible buildings shall be located away from sensitive areas so as to preserve open space and natural scenic views;
- v. All proposed structures within a local historic district shall require a certificate of appropriateness from the historical commission.
- vi. The planning board may request dimensional and setback requirements in addition to those required by this ordinance, in order to address the intent and purposes of site plan review if said additional setbacks do not alter the allowed use, diminish the permitted intensity of use, or cause the applicant to seek additional forms of regulatory relief.

c.

*Lighting:* Protection of adjoining premises or open space areas against detrimental off-site glare or spillover light.

1.

The goal of exterior lighting shall be to make development safe and identify and accent key elements in the project's design.

2.

Lighting poles and structures should be appropriately scaled and styled for the project. Pedestrian areas should have poles ten (10) to twelve (12) feet high and parking areas should have poles eighteen (18) to twenty-two (22) feet high. The pole heights should determine the overall spacing of the poles and fixtures shall be of the cutoff luminaire type. Off-site illumination to adjacent properties shall not exceed 0.2-foot candles as measured at the property line. Lamp type should be metal halide to provide a natural uniform quality of light. Parking and pedestrian light fixtures should be compatible with the building lighting to provide for a contiguous appearance of the project.

3.

If requested by the board, a registered engineer or a lighting consultant shall prepare a photometric analysis of site lighting.

d.

*Landscaping:*

1.

Except for zoning districts where the setback requirements are less than 20 feet, a landscaped buffer strip at least twenty (20) feet wide, continuous except for approved driveways, shall be established



adjacent to any public road to visually separate parking and other uses from the road. Unless waived by the board due to safety, pedestrian uses, or lot shape, the buffer strip shall be planted with grass, medium height shrubs, and shade trees having a minimum 3 inches in caliper planted at least every thirty (30) feet along the road frontage. At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present an obstruction to sightlines.

2.

Except for zoning districts with no side-yard setback requirements, a continuous landscaped buffer strip between business and industrial districts and any residential districts and/or property lines shall be provided for new development and maintained in perpetuity. In particular, circumstances where said buffer strip may be impractical to apply, given safety, land use, permitted setbacks, lot shape or historic preservation considerations, the planning board may vary the landscape buffer requirements. The landscape buffer strip shall be of a density to substantially screen the development in question from view, along the zoning district line in question. Plantings of various approved evergreen species is encouraged and shall be planted at a minimum height of six (6) feet. Fencing may be allowed in lieu or in conjunction with plantings. Design and height of said fencing shall be subject to the approval of the planning board.

3.

Other than for existing retaining walls, new retaining walls shall be constructed to a maximum height of six (6) feet. If site conditions require elevation changes of greater than six (6) feet, retaining walls shall be terraced and landscaped. New retaining walls facing residential districts shall be solid fieldstone or fieldstone veneer or other similar material. Unless used within the industrial districts, vertical cast in place concrete or concrete blocks shall not be permitted.

4.

Surface parking lots containing over 20 spaces shall have at least one shade tree per ten (10) parking spaces, such trees to be a minimum of 2½ inches in diameter and located either in the parking area or within 10 feet of it. At least 5% of the interior of the parking area shall be maintained with landscaping, including trees, in landscape islands or plots of at least nine (9) feet in width with no more than 20 parking spaces between each island or plot. Trees shall be located to provide visual relief from sun and wind interruption within the parking area and assure safe patterns of internal pedestrian and vehicular traffic. Other traffic calming measures such as crosswalks, bike lanes, rumble-strips, and landscape islands may be required as necessary.

5.

Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings

6.

All landscaped areas shall be properly maintained. Shrubs or trees, which die within the first year, shall be replaced within one growing season as a condition of approval. The board strongly encourages the use of drought resistant native plant species.

e.

*Storm water runoff:* The site plan shows or includes adequate provisions for measures to prevent pollution of surface or groundwater, minimizing erosion and sedimentation, and measures to prevent changes in groundwater levels, increased run-off, and potential for flooding. The plan shall include:

1. A plan consistent with the Massachusetts Storm-Water Management Policy (SWMP), where the rate of surface water run-off from the site shall not be increased after construction. If needed to meet this requirement and maximize groundwater recharge, increased run-off from impervious surfaces shall be recharged on site by being diverted to vegetated surfaces for infiltration or through the use of subsurface infiltration systems, retention or detention ponds. Dry wells shall be used only where other methods are unfeasible and shall require oil, grease, and sediment traps to facilitate removal of contaminants. The plan shall also be consistent with the Phase III National Pollution Discharge Elimination System (NPDES) requirements as adopted by the City of Newburyport.

2. Neighboring properties shall not be adversely affected by excessive run-off.

3. A detailed stormwater management plan will also be required.

f. *Water quality:* Groundwater recharge shall be maximized and groundwater quality shall be protected. Various techniques may be required to maximize recharge, such as perforated drainpipes, reduction of paved areas, and reduction of building coverage. Installing grease traps, and/or gas/oil separators to improve water quality may also be required. Where the groundwater elevation is close to the surface extra site grading precautions may be taken to maintain the protective function of the overburden.

g. *Wetlands:* In order to minimize design and permitting conflicts, when wetland replacement or mitigation is required, the application shall include, if completed, a copy of the plan submitted in accordance with the regulations of the Newburyport Conservation Commission.

h. *Erosion control:* Erosion of soil and sedimentation of streams and water bodies shall be minimized using the following erosion practices:

1. Exposed or disturbed areas due to stripping of vegetation, soil removal, and regrading shall be permanently stabilized within six months of occupancy of a structure.

2. During construction, temporary vegetation and/or mulching shall be used to protect exposed area from erosion. Until a disturbed area is permanently stabilized, sediment in run-off water shall be trapped by using staked hay bales or sedimentation straps.

3. Permanent erosion control and vegetative measures shall be in accordance with the erosion/sedimentation/vegetative practices recommended by the soil conservation service.

4. All slopes exceeding fifteen (15) percent resulting from site grading shall be both covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or to be stabilized by a retaining wall.

5.

Dust control shall be used during grading operations if the grading is to occur within two hundred (200) feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

i.

*Environmental performance standards:* All projects shall conform to the requirements defined under section XI of this ordinance. The storage, use, transportation, and removal of all hazardous materials and explosive materials shall be consistent with the requirements specified by the Newburyport Fire Department and city council plus all relevant state and federal regulations.

j.

*Utilities:*

1.

Except for preexisting overhead connections, all electric, telephone, cable TV and other such utilities shall be underground from the roadway utilities.

2.

In order to minimize design and permitting conflicts, the applicant must demonstrate that the proposed development will be permitted to connect to the public sewer, water, and other service systems. If sewerage is to be treated on site, the application shall include, if completed, a copy of the plan submitted in accordance with the regulations of the board of health.

k.

*Waterfront marine districts:* In order to insure that a project's scale, configuration, siting and overall design is compatible with existing structures in the vicinity of the proposed project and with the historical character of the downtown area in the WMU and the WMD districts, the following conditions shall apply:

1.

Building orientation: Buildings and additions should be sited and configured to maximize visual access to the Merrimac River. In general, the long dimension of a building should be perpendicular to the river and the river view corridor from Merrimac St. and Water St. should be kept open as reasonably possible. An explanation of how the proposed siting enhances and protect river views shall be included in the application. The application shall include photographs of the site showing the existing views to the river as well as a drawing showing the location of the proposed development in relation to existing and proposed views to and from the Merrimack River.

2.

Building height: Building height shall conform to the table of dimensional and density regulations.

3.

General building design: The following building design considerations are strongly encouraged in the WMU district:

i.

Architectural elements such as chimneys, parapets, dormers and cupolas;

ii.

The use of natural materials such as masonry, stone, brick and wood as primary facing or siding material;

iii.

Vertically proportioned double hung sash windows;

iv.

Wood storefronts and entrances.

4.

For marina or docking facilities the application shall include the following additional information:

i.

A plan of the proposed facility and the location of all boats;

ii.

A parking plan for the created off-street parking;

iii.

A plan indicating the shore frontage to be used and any alterations required;

iv.

Any other docking or mooring facility existing or planned with one hundred (100) feet of the outermost edge of the proposed facility;

v.

The upland water storage location of any docks, floats, boats, and associated equipment.

5.

Floodplain: Properties within a floodplain zone must comply with section XIII of this ordinance.

I.

*SPR requirements for the WMU district:* The following conditions shall apply within the WMU district, which shall apply instead of the development and performance standards enumerated in XV-H.k.

i.

*Building orientation:* Buildings should be sited to maximize views of the Merrimack River from Merrimac Street and Water Street, especially along existing and new public rights-of-way and/or pedestrian ways running perpendicular to the water's edge. Views of the Merrimack River from a street parallel to and closest to the water's edge should be encouraged by orienting buildings on the water-side of such street so they are perpendicular to the Merrimack River.

ii.

*Building height:* Building height is measured from the mean grade elevation (average grade around perimeter of building) to the mean roof elevation (one-half the vertical distance from eave to ridge), except that building height for a parking structure with an open roof and parapet design shall be measured to the upper plane of the top floor of the upper parking level. Except for roof decks less than ten (10) percent of the area of the building footprint, a roof dormer located along the public way may not exceed the mean roof elevation for more than thirty (30) percent of the total roof area measured on that side of the roof pitch in which such dormer is located and shall not include more than two ganged windows. Recessed dormers may be permitted along the rear side of the building and the use of skylights along the public way is strongly encouraged to maintain the historic roof patterns of the downtown business districts. Furthermore, the roof heights of buildings and top cornice heights that front on public ways running perpendicular to the water's edge should follow the natural declining slope of the site, in stepped increments, as they approach the water's edge. Each such horizontal stepped increment shall be no longer than sixty (60) feet in length.

iii.

*Building design:* The following design standards are strongly encouraged in the WMU district:

- a. Continuous street facades with firewalls between adjacent buildings;
  - b. The use of pedestrian passageways within and between buildings to provide access and views to and from rear lots similar to State and Inn Streets;
  - c. All buildings should front directly on the public street or on a private street or pedestrian walkway with front doors;
  - d. Service access should be provided to the rear wherever possible;
  - e. Buildings that front on sloping streets should step down the slope and have entrances at grade. Blank walls emerging from the slope should be minimized;
  - f. A traditional pattern of vertically proportioned double-hung sash framed windows and doors facing all public ways is recommended;
  - g. New buildings or additions should be harmonious with the scale, proportion, materials and color of the existing Federalist buildings in downtown Newburyport. They should be compatible in size, scale, material, color, and character of the existing historic buildings downtown. The use of natural materials such as masonry, stone, brick and woods as primary facing or siding is recommended. For additions to existing historic structures, compatibility should be based on the specific style and massing of the original structure and the surrounding neighborhood context;
  - h. Consistent with the historic character of existing buildings within the downtown business district, the roof forms of all buildings, except parking structures, shall be encouraged to be sloped, pitched or mansard. However, limited use of flat roofs may also be permitted by the board;
  - i. Large buildings for residential uses and business uses shall be encouraged to be articulated to create an image of smaller buildings attractively joined together through architectural means such as varied building setbacks, bay treatments or top cornice heights and styles.
  - j. The buildings and top cornice heights that front on public ways running parallel to the water's edge should have varied heights and styles.
- iv. *Public street water vista view termination:* New public streets constructed perpendicular to the water's edge shall terminate in water views.
- v. *Public streets and public pedestrian alleyways:* Proposed public and private ways shall conform to Section 6.8 Street Design Standards in the Newburyport Subdivision Regulations, as amended.
- vi.

*Above grade or underground parking structures or facilities/ground floor use:* Parking Structures, whether above grade or partially below grade, fronting on Merrimac Street, Water Street, Green Street extension, and/or along a street or pedestrian way along the waterfront shall include active ground floor commercial uses along a minimum of fifty (50) percent of the structure's length facing such public right-of-way or street.

vii.

*Ground floor uses:* The ground floor use of all buildings fronting Merrimac Street, Green Street extension, or a street along the water's edge should be devoted to hotel, commercial, retail, or restaurant use and incorporate glazed storefront windows and shop entry doors in keeping with traditional architectural styles found elsewhere in downtown, except that twenty (20) percent of such ground floor area shall be permitted to be accessory to any upper level uses which are not otherwise permitted on the ground floor. Such ground floor uses are desirable, but not required along all other public ways and pedestrian ways.

viii.

*Waivers:* With respect to the requirements of this section XV-H.I, waivers may be authorized by the planning board upon the planning board's finding that the proposed waiver will be consistent with and substantially advance the intent of the Zoning Ordinance.

m.

*SPR requirements for the WWOD-SP:*

1.

Site plan approval for a WWOD-SP shall be subject to the following, which shall apply instead of the development and performance standards enumerated in XV-H.k. The SPR procedure for a WWOD-SP shall consist of SPR review as provided for in section XXIV and this section. Site plan approval for projects within the WMU district shall also be subject to the following where indicated herein and to the extent these requirements and/or standards are inconsistent with section XV-G or XV-H.k.

2.

*WWOD-SP master plan site plan review:* A master plan shall be prepared and submitted for the planning board's SPR under the major project procedures of section XV-D(c) for the development and/or redevelopment of a WWOD-SP area in its entirety, even if such property(ies) is/are developed incrementally over an extended period of time. The master plan shall illustrate both the initial development proposal as well as developments intended to be implemented over time.

The master plan submitted for SPR shall include the submittal requirements in section XV-E(a) and (b), except the requirements listed in section XV-E(a)(3) and a narrative and illustrative submittals on urban design objectives and architectural design standards (including all buildings, open space improvements and proposed signage) shall be submitted instead of the plans and other drawings listed in section XV-E(b)(5). In addition to such, the master plan shall include a context map indicating adjoining properties and streets; the proposed sequence of development; an illustrative timetable for development; the proposed location of all streets, walkways, and open spaces, proposed topography, lot layout, landscaping, signs, lighting and utilities; building locations, design and heights, presented at a level of conceptual design plans; parking locations and amounts, including the manner in which parking requirements will be met prior to full build-out of the development; required easements and deeded areas; view corridors to be fully established and preserved from Merrimac Street toward the water; and a listing of all waivers requested.

3.

WWOD-SP building permit review: The submittals for building permit approval shall include the submittal requirements of section XV-E(a)(3) and section XV-E(b)(5) and certification documenting the manner in which the requirements of the WWOD-SP, including the off-street parking requirements, are met by each application for a building permit.

(Ord. of 10-28-02(3); Ord. of 2-14-05, § A)

• **XV-I - Final action on site plan review.**

Final action of the planning board shall include one of the following:

- a. Approval based on a determination that the proposed project complies with the criteria and design performance standards set forth in this ordinance.
- b. Approval subject to any site plan and design performance conditions, modification, and restrictions the planning board may deem necessary to ensure the health, safety, and general welfare of the community.
- c. A disapproval of the application for the reasons of an incomplete application or determination that the plan, although proper in form, is so intrusive on the interests of the public in one or more aspects regulated by this ordinance, that no reasonable terms or conditions can be devised to adequately protect the interests of the public.

(Ord. of 10-28-02(3))

• **XV-J - Appeals.**

Appeal of the planning board decision shall be made directly to a court of competent jurisdiction in accordance with the provision of M.G.L.A. c. 40A, [§ 17](#).

(Ord. of 10-28-02(3))

• **XV-K - Performance guarantee.**

- a. *Performance guarantee:* The planning board may require that the applicant file with the board, as a condition of approval, a bond, or other such surety acceptable, in form and amount, to the planning board. This surety is to cover costs of non-building construction including, but not limited to, streets, utilities and other site improvements, erosion control measures and off-site environmental impacts, which left incomplete or improperly constructed, present a public health and safety hazard or nuisance. Further, a performance agreement between the applicant and the city will specify the manner in which the on or off-site improvements will be completed and the specific manner and time frame in which the surety will be released.

- b. *Release of performance guarantee:* Upon completion of all or a portion of the improvements required by a performance agreement entered under this ordinance, the applicant may request either partial or full release of his/her bond, or other such surety as has been posted by the applicant pursuant to this ordinance by sending a

statement of completion and request for release by certified mail to the planning board and to the city clerk. If the planning board or its consulting engineer or designated representative, determines that said construction has been completed, it shall release the interest of the city in such bond or other security and return it to the person who furnished it.

c.

*Refusal of release:* If the planning board determines that said site improvements have not been either fully or adequately completed, it shall specify in a notice sent by registered mail to the applicant and to the city clerk the details wherein said site improvements fail to comply with the requirements of this ordinance.

(Ord. of 10-28-02(3))

• **XV-L - Mandatory conditions.**

a.

Prior to the start of construction, an inspection fee may be requested by the board subject to M.G.L.A. c. 44 § 53G.

b.

Record plans stamped by a professional engineer showing new construction, renovation or expansion shall be submitted to the building commissioner and the planning board. Said plans shall contain a certification that what was constructed is consistent with approved plans and conditions set forth by the planning board as part of site plan review.

c.

Prior to the granting of an occupancy permit, the planning board shall require a registered architect or civil engineer to certify in writing to the building commissioner that the project has been constructed in accordance with the approved plans and conditions. To facilitate planning board review, the developer shall be required to complete and submit to the planning board Form K of the subdivision rules and regulations, as applicable.

d.

The planning board may require the developer to submit all drawings and plans in computer aided drafting (CAD) formats. Specific file format shall be .DXF unless otherwise allowed.

e.

Prior to issuance of the building permit, the following shall be submitted to the city solicitor for review:

1.

Any articles of incorporation of a landowner's association and the bylaws of the association;

2.

Any agreements between the applicant and the city regarding public improvements or other matters;

3.

Any deeds of land to be conveyed to the city for streets, parks, or other public purposes.

f.

No building permit shall be issued unless all public utilities have been reviewed and approved by the respective utility departments and that the proposed utilities will be installed in accordance with plans submitted with the application.

g.

Final actions of all permits shall be filed with the planning board as a matter of record.



*(Ord. of 10-28-02(3))*

- **XV-M - Severability.**

The provisions of this section are severable and, in the event that any provision of this section is determine to be invalid for any reason; the remaining provisions shall remain in full force and effect.

*(Ord. of 10-28-02(3))*

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## SECTION XVID. LARGE HOUSE REVIEW

## A. PURPOSE

This Section is adopted by the Town to provide pre-construction and post-construction review of single family dwellings which meet the applicability standards set forth below.

## B. DEFINITIONS

Total Living Area plus Garage Space - This term includes:

- (i) The sum of the horizontal area(s) of the above-grade floors, including portions of attics, in the residential building(s) on a lot, measured from the exterior face of the exterior walls; and
- (ii) Area(s) of attic(s) measured from the floor to the interior roofline if 7 ft. or greater in height, and 5 ft. or greater in height on a sloped interior roofline; and
- (iii) Garage and storage space, whether in principal or accessory structures, in excess of 600 sq ft.; and
- (iv) Basement areas multiplied by a fraction, the numerator of which is the external above ground surface of basement walls and the denominator of which is the total surface (both above and below ground) of external basement walls, provided that if such fraction is less than .25, then the basement areas shall not be included.

Calculations shall be determined in accordance with the Rules and Regulations adopted by the Planning Board.

## C. APPLICABILITY

The provisions of this Section shall apply to all building permits issued after January 1, 2008 for new single family dwellings where the Total Living Area plus Garage Space of the dwelling, after completion, exceeds:

3,600 square feet for dwellings within the Single Residence 10,000 Square Foot Area Regulation District;

4,300 square feet for dwellings within the Single Residence 15,000 Square Foot Area Regulation District;

5,900 square feet for dwellings within the Single Residence 20,000 Square Foot Area Regulation District; and

7,200 square feet for dwellings within the Single Residence 30,000 and 40,000 Square Foot Area Regulation Districts.

The provisions of this section shall also apply to all building permits issued after January 1, 2008 for alteration of single family dwellings where the alteration will increase the Total Living Area Plus Garage Space of the dwelling in question by more than 10%, and the Total Living Area Plus Garage Space of the dwelling, after completion of the project, will exceed the applicable threshold, as listed above.

Notwithstanding the foregoing, the following are exempt from Planning Board review:

1. Changes to non-conforming single-family dwellings which are subject to a Finding in accordance with Section 6 of Chapter 40A M.G.L and SECTION XVII. PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS., of this Zoning Bylaw,
2. The reconstruction of pre-existing, non-conforming buildings, damaged or destroyed by accidental cause, including fire, or otherwise damaged or destroyed without the consent of the owner, in accordance with SECTION XVII. PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS., C. DISASTER REBUILD.
3. Attics that are determined by the Building Inspector to remain unfinished in perpetuity due to the slope or construction of the roof; and
4. The completion or finishing of attics in existing structures where there are no exterior alterations or changes.

#### D. PROCEDURE

1. General. Any applicant for a single family residential dwelling which is subject to this Section shall submit the required information, including plans indicating the delineation of the neighborhood, existing and proposed site conditions, photographs, topography, building elevations, proposed grading and landscape design described in the Rules and Regulations to the Planning Board through the Planning Director and shall not be entitled to the issuance of a building permit unless and until the dwelling is approved in accordance with this Section.
2. Waivers. The Planning Board may, in any particular case where it determines such action to be consistent with the purpose and intent of the Zoning Bylaw and otherwise in the public interest, waive strict compliance with certain application and review requirements contained in this Section and with the Rules and Regulations adopted by it under this Section if it finds that the proposed construction, or certain aspects of the construction are de minimus based on the Standards and Criteria contained in Part E of this Section. Waiver requests must be made in writing and shall be addressed in a preliminary meeting between the Planning Board and the prospective applicant, held not later than 21 days after receipt of the waiver request. An applicant who makes a waiver request shall not submit an application until after meeting with the Planning Board on the waiver request.

3. Review and Timing. The Planning Board and Design Review Board shall each meet separately with the applicant to discuss the applicability of the Standards and Criteria set forth in Part E of this Section after receipt of the submission to discuss the project. Although a public hearing is not required, notice of the Planning Board meeting shall be sent by mail, postage prepaid, to the abutters and abutters to the abutters within 300 feet of the property line of the applicant, as they appear on the most recent applicable tax list at least 10 days prior to the public meeting. Owners of land directly opposite the applicant on any public or private street or way shall be considered abutters under this Section. Written comments from abutters will be received and considered, and oral comments will be considered only at the discretion of the Planning Board. The Design Review Board shall prepare comments and recommendations as it deems appropriate and shall submit these to the Planning Board. The Planning Board shall prepare its decision and provide it to the applicant within 90 days of the submission as well as to the Building Inspector and Zoning Board of Appeals as may be appropriate. The Planning Board may seek the recommendations of other Town Departments depending on the nature of the application. If the Planning Board has not issued its decision within 90 days of receipt of the submission from the applicant, the project, as described in the submission, shall be deemed approved. The 90-day time limit may be extended by written agreement between the Planning Board and the applicant, signed by, or on behalf of, the applicant.
4. Approval. The Planning Board shall determine whether the Standards and Criteria for Review set forth below have been satisfied. In reaching its decision, the Planning Board shall consider the recommendations of the Design Review Board and other applicable Boards and Departments, and all other materials submitted to the Planning Board. If the Planning Board finds that the Standards and Criteria for Review have been satisfied, it shall approve the project as set forth in the submissions, provided that it may approve the project subject to conditions or plan modifications specified by the Planning Board in writing. A construction mitigation plan may be required if the site warrants erosion and sedimentation control measures. If the Planning Board finds that the Standards and Criteria for Review have not been satisfied, it shall disapprove the project, and shall state in writing the basis for its decision.
5. Issuance of Building Permit and Certificate of Occupancy. The Building Inspector shall not issue a building permit unless and until the project is approved by the Planning Board or is deemed approved in accordance with this Section and is filed at the Registry of Deeds. The Building Inspector shall verify compliance with all required conditions or plan modifications prior to the issuance of a Certificate of Occupancy. The Building Inspector shall inform the Planning Director and the applicant of any failure to comply with conditions of plan approval or plan modifications pursuant to this section.
6. Revision and Amendment of Plans. Any revision, amendment or new information relating to an LHR application shall be considered as follows:

- a. Pending LHR Applications. Revision or amendments relating to a pending LHR application that is before the Planning Board for review shall be accepted by the Planning Board as part of the original submission.
- b. Previously Approved LHR Applications. Revisions or amendments to an LHR Application that has previously been approved by the Planning Board must be submitted to the Planning Director who shall make a determination as to whether the revisions are major or minor and shall be processed as follows:
  - i. Minor. If the Planning Director determines the proposed revisions or amendments to be minor, he or she shall determine the consistency of the revisions with the Planning Board's previous findings and the Standards and Criteria for Review, and either approve or deny the revisions accordingly. If denied, the Planning Director shall notify the applicant and the Planning Board within five (5) business days of the applicant's submittal of such revisions. The applicant may submit denied minor revisions to the Planning Board for their consideration; the Board shall either accept or reject the proposed revisions as part of the approved LHR application.
  - ii. Major. If the Planning Director determines the proposed revisions or amendments to be major, the Director shall notify the applicant and Planning Board within five (5) business days of the applicant's submittal to such revisions. The applicant may then submit the proposed revisions to the Planning Board, which shall either accept or reject the proposed revisions as part of the approved LHR application.

#### E. STANDARDS AND CRITERIA FOR REVIEW

1. Preservation of Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing use of wetlands, flood plains, hilltops, any grade changes and vegetation and soil removal. Unique natural areas, topographic features such as ledge outcrops, significant trees and landscaping, and historic features shall be saved or enhanced insofar as practicable.
2. Scale of Buildings. All new construction shall be sited and implemented in a manner that is consistent with the scale of other structures in its vicinity through the use of appropriate massing, screening, lighting and other architectural techniques such as variation in detail, form and siting. Consideration shall be given to the need for vegetated buffers. To the extent practicable this shall be based on the "Intent, Policy and Recommendations" specified in Part II. Design Criteria. of the "Design Guidelines Handbook" adopted by the Design Review Board and otherwise applying good architectural and aesthetic principles. Structures shall be arranged insofar as practicable to avoid casting shadows onto abutting property.

3. Lighting. Exterior lighting shall be only as needed to accomplish safety and design objectives and shall be arranged so as to minimize the impact on neighboring properties.
4. Open Space. Open space shall be as extensive as is practicable and designed so as to add to the visual amenities of the neighborhood for persons passing the site or overlooking it from nearby properties. To the extent practicable this shall be based on the “Intent, Policy and Recommendations” specified in Part II. Design Criteria. of the “Design Guidelines Handbook” adopted by the Design Review Board
5. Drainage. The development shall incorporate measures that are adequate to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes to groundwater levels, increased rates of runoff, and minimize potential for flooding. Drainage shall be designed so that groundwater recharge is maximized, and so that the rate of runoff shall not be increased at the project boundaries.
6. Circulation. Walkways, drives and parking shall be safe and convenient and, insofar as practicable, not detract from the use and enjoyment of adjacent properties and Town streets.

#### F. FEES

Any applicant seeking plan approval under this section shall submit an application and pay such fees as shall be determined by the Planning Board, to cover any expenses connected with public notice and review of plans, including but not limited to the costs of any engineering or planning consulting services necessary for review purposes.

#### G. RULES AND REGULATIONS

The Planning Board may promulgate or amend Rules and Regulations which pertain to the plan approval process under this section, and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and specifications, and the procedure for the submission and approval of such review so long as the Rules and Regulations conform to this SECTION XVID. LARGE HOUSE REVIEW of the Zoning By-law. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

#### H. APPEALS

An applicant, or any person receiving notice under paragraph D., 4. above, may appeal the Planning Board’s approval, denial, conditions or plan modifications to the Zoning Board of Appeals in accordance with SECTION XXIV. PERMIT GRANTING AUTHORITY.

## ARTICLE 4. - NONCONFORMING USES AND STRUCTURES

### Section 4.1. - Purpose.

It is the stated purpose of this Article that nonconforming uses and structures are to be strictly regulated, and that the provisions of this Ordinance will be construed and interpreted in the light most favorable to limiting the continuation and/or expansion of nonconforming uses and structures.

Nothing contained in this Article will be construed to apply to the use of land or structures for religious or educational purposes in the University District or in any other district if doing so would violate the applicable provisions of M.G.L. Chapter 40A, Section 3.

### Section 4.2. - Effective Dates.

This zoning ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing by the Planning Board on such ordinance or ordinance change as provided in Chapter 40A, Section 5. This Ordinance, however, shall apply to:

- 1) any change or substantial extension of any use;
- 2) a building permit or special permit issued after the first notice of said public hearing;
- 3) any reconstruction, extension or structural change of such structure; and,
- 4) any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

### Section 4.3. - Continuation of Nonconforming Uses or Structures.

Any building lawfully existing and any use lawfully being made of land or buildings which does not conform to this Ordinance as adopted or as amended may be continued to the same degree and for the same purpose.

A nonconforming use is limited to the lot on which it is located and cannot be relocated to another lot within the same zoning district where such use would be prohibited unless the relocation will result in a change from one nonconforming use to another nonconforming use, specifically authorized by special permit in Section 4.5.1.

### Section 4.4. - Nonconforming Structures.

#### *4.4.1. Alteration, Reconstruction, Extension, or Structural Change to a Nonconforming Structure.*

**Note**—§ 4.4.1 was retitled by Ordinance 1991-1 on January 10, 1991.

As provided in M.G.L. c.40A, § 6, as amended, the alteration, reconstruction, extension or structural change to a nonconforming single or two-family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted as a matter of right upon a determination by the building inspector or the Zoning Administrator under the following circumstances:

- (i) Alteration, reconstruction, extension, or structural change to a one- or two-family structure that complies with the dimensional requirements of the zoning ordinance in effect at the time of the application, but is located on a lot with insufficient area, and provided any such alteration, reconstruction, extension or structural change remains in compliance with all current dimensional requirements and does not increase the Gross Floor Area (GFA) of the dwelling by more than twenty-five percent (25%). For the purposes of this definition all percentages of increase shall be cumulative and calculated from square footages existing on the effective date of this ordinance.
- (ii) Alteration, reconstruction, extension or structural change to a nonconforming one- or two-family structure not affecting the nonconforming aspect of the one- or two-family structure and where the alteration, reconstruction, extension, or structural change will comply with all current dimensional requirements of the zoning ordinance, and provided any such alteration, reconstruction, extension or structural change does not increase the Gross Floor Area of the dwelling by more than twenty-five percent (25%). For the purposes of this definition all percentages of increase shall be cumulative and calculated from square footages existing on the effective date of this ordinance.

Lawfully existing one- and two-family dwellings which are used only as residences, which are nonconforming with respect to dimensional requirements, may be enlarged, expanded, renovated, or altered by special permit granted by the SPGA in accordance with the procedures of [Article 5](#), when any such enlargement, extension, renovation or alteration increases the nonconforming nature of the structure or the Gross Floor Area of the dwelling is increased by more than twenty-five percent (25%). For the purposes of this definition all percentages of increase shall be cumulative and calculated from square footages existing on the effective date of this ordinance. The SPGA, as a condition of granting a special permit under this Section must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming structure.

Lawfully existing nonconforming structures other than one- and two-family dwellings may be enlarged, extended, renovated or altered only by special permit authorized by the SPGA in accordance with the procedures of [Article 5](#). The SPGA must find that such extension, enlargement, renovation or alteration is not substantially more detrimental to the neighborhood than the existing nonconforming building. In making the finding that the enlargement, extension, renovation or alteration will not be substantially more detrimental, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, adequacy of municipal water supply and sewer capacity, noise, odor, scale, on-street parking, shading, visual effects and neighborhood character.

For purposes of this Ordinance, normal maintenance, painting, replacement of roof shingles or like sheathing materials, and other improvements judged by the Superintendent to be cosmetic in nature shall not be considered as alterations, reconstructions, extensions or structural changes.

**Note**—§ 4.4.1 amended by Ordinance 1991-1 on January 10, 1991, and by Ordinance 2006-07 on January 26, 2006.

*4.4.2. Reconstruction of a Damaged, Nonconforming Building.* If a lawful nonconforming building or use shall have been damaged by fire, explosion, catastrophe, or an Act of God, such building may be rebuilt or restored by right and used again subject to the following provisions:



- a. no lawful nonconformity shall be increased in area or degree of nonconformity beyond the state existing prior to the fire, explosion, catastrophe or Act of God.
- b. such reconstruction or restoration shall be duly commenced within twenty-four (24) months of the date such damage occurred, and shall be continued in a timely fashion to completion. In the event such reconstruction or restoration is not commenced within twenty-four (24) months, the nonconforming use or structure shall be deemed abandoned and shall not thereafter be returned to said nonconforming use, and any new structure shall be subject to all applicable provisions and standards of this Ordinance.

*4.4.3. Nonconformity with Respect to Parking Requirements. See Section 9.4.*

Section 4.5. - Nonconforming Uses.

*4.5.1. Change of Nonconforming Use.* Land or buildings lawfully being put to a nonconforming use may change to a use permitted as of right as provided in Article 7. Permission for a new use which would require a special permit or special permit with site plan review can be granted, provided there is compliance with the requirements of Article 5. When the prior nonconforming use is changed as of right or by special permit, the land or building may not be used for the prior nonconforming use, or returned to such use except as permitted by this Ordinance.

A nonconforming use may be changed to another nonconforming use only by special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing nonconforming use. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character. Any change from a nonconforming nonresidential use to a nonconforming residential use under this section shall also be subject to Article 7, § 7.3.

**Note**—§ 4.5.1 was amended by Ordinance 2006-07 on January 26, 2006.

*4.5.2. Abandonment of Nonconforming Uses.* A nonconforming use of a building or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when:

- a. the building or use is abandoned or not used for a period of two (2) or more years; or
- b. when the characteristic equipment and the furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within two (2) years.

*4.5.3. Expansion of Nonconforming Uses.* Expansion, alteration, enlargement or extension of a lawfully existing nonconforming use shall be permitted only by the granting of a special permit authorized by the SPGA in accordance with the procedures of Article 5, provided that the SPGA finds that such change is not substantially more detrimental to the neighborhood than the existing degree of nonconformity. In judging detriment, the SPGA may consider, without limitation, impacts upon the following: traffic volumes, traffic congestion, type of traffic, change in traffic patterns and access to the site, adequacy of municipal water supply and sewer capacity, noise, odor, glare, scale, on-street parking, shading, visual effects and neighborhood character.

For purposes of this Ordinance, a nonconforming use shall be considered to be expanded, altered, enlarged or extended based on the following:

- a. An increase in the gross floor area; or
- b. An increase in the number of dwelling units; or
- c. An increase in the total hours of operation, or increase in hours of operation before 8:00 AM or after 6:00 PM; or
- d. A change from seasonal to full-time operation; or
- e. A substantial increase in the number of automobile or truck traffic trips generated by the use.

It is the intent of this Ordinance that the marginal degree of expansion, alteration, enlargement or extension itself comply with all provisions of this Ordinance.

## Summary of Zoning Regulations addressing Larger House construction/addition/renovation

Municipality	Wellesley	Cohasset	Somerville
Applicability	All building permits for new single family dwellings	Any residential building or structure, in any residential district, to be constructed either as new construction or as an alteration, expansion/extension/ enlargement, reconstruction or replacement of an existing residential building or structure. may not exceed the greater of 3,500 square feet or 10% of the area of the lot up to a maximum of 6,000 square feet, absent review as follows	Applies to non-conforming 1 and 2-family structures that wish to perform alterations, reconstruction, extension or structural change located on an undersized lot and wants to increase by more than 25%.
By-right	Must be less than the requirements for each district listed below.x	Less than 3,500 square feet or less than 10% of the area of the lot up to a maximum 6,000 square feet.	<ol style="list-style-type: none"> <li>1) Alteration, reconstruction, extensions, or structural change to a single or two-family non-conforming structures that currently comply with dimensional requirements but on a substandard lot and the alteration, reconstruction, extension or structural change would not increase the Gross Floor Area of the dwelling by more than 25%.</li> <li>2) Alteration, reconstruction, extension or structural change to a single or two-family structure that will not increase the nonconforming nature of the structure and where the alteration, reconstruction, extension, or structural change will comply with all current dimensional requirements and will not increase the Gross Floor Area</li> </ol>

Summary of Zoning Regulations addressing Larger House construction/addition/renovation

			by more than 25%.
Limits	<p>TLAG – Total Living Area plus Garage. Sets specific square foot limit for each of their districts.</p> <p><b>3,600 square feet for dwellings within the Single Residence 10,000 Square Foot Area Regulation District;</b></p> <p><b>4,300 square feet for dwellings within the Single Residence 15,000 Square Foot Area Regulation District;</b></p> <p><b>5,900 square feet for dwellings within the Single Residence 20,000 Square Foot Area Regulation District; and</b></p> <p><b>7,200 square feet for dwellings within the Single Residence 30,000 and 40,000 Square Foot Area Regulation Districts.</b></p> <p>Additional:</p> <ol style="list-style-type: none"> <li><b>1) Any alteration of an existing residence in which the TLAG of the residence following completion</b></li> </ol>	<p>RGFA – Sets specific square foot limit or percentage of the area of the lot up to a maximum square foot limit.</p> <p><b>May not exceed the greater of 3,500 square feet or 10% of the area of the lot up to a maximum of 6,000 square feet, absent review.</b></p>	<p><b>Special Permit required for lawfully existing non-conforming single and two-family dwellings if the planned enlargement, extension, renovation or alteration increases the non-conforming nature of the structure or the Gross Floor Area by more than 25%.</b></p> <p>All percentages of increase shall be cumulative and calculated from square footages existing on the effective date of the ordinance.</p>

Summary of Zoning Regulations addressing Larger House construction/addition/renovation

	<p><b>of the proposed alteration will exceed the applicable threshold is subject to LHR, provided that the alteration will increase the TLAG of the residence by more than 10%.</b></p> <p><b>2) Multiple building permits that increase TLAG at the same location within any three year period shall be collectively considered as one project for the purposes of LHR thresholds.</b></p>		
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\*See attached detailed requirements for Wellesley's LHR application 1



SETTI D. WARREN  
MAYOR

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Office of the Mayor

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June 15, 2015

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer the sum of \$210,000 from Account 0111401-511001 Planning Department Salaries to Acct # 0111401-5301 Consultants. This transfer will cover \$10,000 for the Newton Centre Parking study, with the remaining amount to be carried forward to be available for consultants in FY2016.

Thank you for your consideration of this matter.

Very truly yours,

Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2015 JUN 15 PM 3:30  
DAVID A. OLSON, CMC  
Newton, MA 02459

