

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, DECEMBER 14, 2015

Present: Ald. Danberg (Acting Chairman), Baker, Kalis, Leary, Hess-Mahan, Yates and Sangiolo

Absent: Ald. Johnson

Also Present: Ald. Gentile, Fuller, Lappin, Ciccone, Norton, Rice and Blazar

City Staff Present: James Freas (Acting Director, Planning Dept.), Maura O'Keefe (Assistant City Solicitor), Alice Ingerson (Community Preservation Manager), Maureen Lemieux (Chief Financial Officer), Joe Mulvey (Director, Information Technology), David Wilkinson (Comptroller), Karyn Dean (Committee Clerk), Shawna Sullivan (Committee Clerk)

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#344-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of seventy-two thousand six hundred fifty-two dollars (\$72,652) from the Community Preservation Fund's historic and general reserves to the control of the Planning & Development Department for a grant to the New Art Center at 61 Washington Park ~~for renovations to its~~ to create a renovation plan for their National Register listed building that will comply with federal standards for historic rehabilitation.

ACTION: **FINANCE APPROVED AS AMENDED 7-0**
APPROVED AS AMENDED 7-0

NOTE: The Zoning & Planning and Finance Committees met jointly on this item. Please refer to the December 14, 2015 Finance Committee Report for details of the discussion.

#196-15 TAMMY ARCURI et al. petition to rezone land known as Section 41, Block 6, Lots 11, 12, and Lot 13 1B located at 132 CHARLES STREET, AUBURNDALE, from MULTI RESIDENCE 2 to MANUFACTURING .

ACTION: **WITHDRAWAL WITHOUT PREJUDICE APPROVED 7-0**

NOTE: Ms. Arcuri submitted a letter of withdrawal which was attached to the agenda. The Committee voted to approve the request to withdraw without prejudice.

Clerk's Note: The following items were voted No Action Necessary by the Committee because the issues were either settled sufficiently, the docket item was redundant, or the docket item needed to be updated and re-docketed at a future time:

#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]

ACTION: **NO ACTION NECESSARY 7-0**

#21-15 ALD. YATES requesting that priority be given to completing the Intents and Purposes of the Zoning Ordinance in Phase II of Zoning Reform.

ACTION: **NO ACTION NECESSARY 7-0**

#195-15 ALDERMAN BAKER, FULLER, LAREDO, DANBERG, AND BLAZAR requesting discussion of possible City acquisition of land, or rights therein, located west of Hammond Pond Parkway, which land was formerly owned as public open space by the Metropolitan District Commission until conveyed into private ownership in 1954, and which abuts existing Newton conservation land. [08/31/15 @ 4:50 PM]

ACTION: **NO ACTION NECESSARY 7-0**

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]

ACTION: **NO ACTION NECESSARY 7-0**

#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]

ACTION: **NO ACTION NECESSARY 7-0**

#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]

ACTION: **NO ACTION NECESSARY 7-0**

#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]

ACTION: **NO ACTION NECESSARY 7-0**

#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]

ACTION: **NO ACTION NECESSARY 7-0**

#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*.

ACTION: **NO ACTION NECESSARY 7-0**

#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]

ACTION: **NO ACTION NECESSARY 7-0**

#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.

ACTION: **NO ACTION NECESSARY 7-0**

Clerk's Note: The following items were referred to the 2016-2017 City Council without discussion:

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#288-15 HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/01/15 @ 1:53 PM]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#195-15(3) ALD. ALBRIGHT, BAKER, BLAZAR, BROUSAL-GLASER, CICCONE, COTE, CROSSLEY, DANBERG, FULLER, GENTILE, HESS-MAHAN, JOHNSON, KALIS, LAPPIN, LEARY, LAREDO, LENNON, LIPOF, NORTON, RICE, SANGIOLO, SCHWARTZ, AND YATES requesting that, in order to preserve the conservation and recreation values of the land, and to protect existing adjacent public open spaces, the Board of Aldermen vote to acquire for

the City of Newton either the undeveloped portion of the land at 300 Hammond Pond Parkway or a conservation restriction on such land. [10/23/15 @ 2:55 PM]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#170-15 ALD. HESS-MAHAN, JOHNSON, CROSSLEY AND ALBRIGHT requesting a discussion relative to the HUD Settlement with Supporters of Engine 6, the Fair Housing Center of Greater Boston and the Disability Law Center in conjunction with the Law and Planning Departments, to explain the settlement and possible implications for the Zoning Board of Appeals and the Board of Aldermen in terms of the City's obligation to identify sites and facilitate the creation of, and issue permits for, affordable housing for 9-12 chronically homeless persons in Newton. [07/06/15 @4:18PM]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#169-15 ALD. SANGIOLO requesting a zoning amendment which would require any residential structures in Single Residence or Multi Residence zoning districts built after the demolition of an existing structure conform to new lot standards. [07/02/15 @ 3:20PM]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#168-15 THE NEWTON-NEEDHAM CHAMBER OF COMMERCE requesting a discussion of the Metropolitan Area Planning Council's 2015 Wells Avenue Market Study. [07/06/15 @ 5:34PM]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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.

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]
ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]
ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]
ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#222-13(2) THE ZONING AND PLANNING COMMITTEE proposing to amend **Chapter 30**, City of Newton Zoning Ordinances, to regulate the dimensions and setbacks of front facing garages in residential zoning districts. [08/03/15 @ 10:15AM]
ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]
ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]
ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]
ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

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.

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

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.

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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.

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

ZONING REFORM – PHASE 2 ITEMS

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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.

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: REFERRED TO 2016-2017 CITY COUNCIL 7-0

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

#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]

ACTION: **REFERRED TO 2016-2017 CITY COUNCIL 7-0**

Respectfully Submitted,

Victoria Danberg, Acting Chairman