

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

WEDNESDAY, MAY 29, 2013

7:45 PM
Aldermanic Chamber

ITEMS SCHEDULED FOR DISCUSSION:

A Public Hearing will be held on the following item:

- #77-13 ALD. GENTILE & HARNEY requesting that the Board of Aldermen amend the **City of Newton Zoning Ordinances** so that any properties that have been built and purchased that may now be considered non-compliant due to the recent court decision in the Mauri/Chansky case be considered valid non-conforming properties. [02/27/13 @ 3:06 PM]
- #146-13 THE ZONING & PLANNING COMMITTEE requesting information from the Planning Department concerning the nature and character of vacant lots that were confirmed as unbuildable by the Mauri Appeals Court decision. [04/01/13 @ 9:44 AM]
- #214-12 ALD. DANBERG, BLAZAR, SCHWARTZ proposing an ordinance which would enable the city to respond to properties which are so inadequately cared for, often by absentee owners, as to constitute a nuisance, not only to properties nearby but also to the public at large, with the understanding that timely intervention may help prevent the loss of such properties to severe neglect, excess accumulation of trash or unsightly collectables, inside or out, or even eventual abandonment. [07-09-12]

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Trisha Guditz, 617-796-1156, via email at TGuditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

ITEMS FOR ZONING REFORM DISCUSSIONS WHEN SCHEDULED:

- #80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]
- #220-12 RECODIFICATION COMMITTEE recommending that the table in Sec. 30-8(b)(10)a be clarified with respect to “lot width,” “lot area,” or “lot frontage.”
- #219-12 RECODIFICATION COMMITTEE recommending that Sec. 30-5(b)(4) as most recently amended by Ordinance Z-45, dated March 16, 2009, be amended to reconcile the apparent discrepancy relative to the definition of “structure.”
- #218-12 RECODIFICATION COMMITTEE recommending that Sec. 30-19(g)(1) be amended to clarify “sideline” distance, which is a reference to an undefined concept.
- #217-12 RECODIFICATION COMMITTEE recommending that Secs. 30-19(d)(1) and 30-19(g)(1) relative to the number of tandem parking stalls allowed in the side setback (two) and the number of tandem parking stalls (one) allowed in the setback for parking facilities containing less than five stalls be amended to make the both sections consistent.
- #216-12 RECODIFICATION COMMITTEE recommending that the definition of “Space, usable open” in Sec. 30-1 be amended by removing the exemption for exterior tennis courts as they are now classified as structures.
- #65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms “flat roof” and “sloped roof” be defined in the zoning ordinance.
- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for “lot line” and “structure” for clarity. [04-12-11 @ 11:34AM]
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of “lot area” and revising the “setback line” definition for clarity. [06/01/10 @ 9:25 PM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

- #423-12 ALD. JOHNSON AND SANGIOLO requesting that the Director of Planning & Development and the Commissioner of Inspectional Services review with the Zoning & Planning Committee their analysis of the FAR regulations and assessment of the possible impact on housing construction and renovation in the City. [12/03/12 @ 9:14 AM]
- #406-12 ALD. JOHNSON requesting a discussion to review City of Newton Zoning Ordinances Chapter 30-20(h)(6) regarding campaign signs, and the failure of candidates to comply with current removal requirements. [11/19/12 @ 9:24AM]
- #328-12 DINO ROSSI, 362 Watertown Street, Newton, requesting that the current Table A in Section 30-15 of the City of Newton Ordinances be replaced with the Sliding FAR Scale Table that was presented by the FAR Working Group in their Final Report [10/26/12 @ 11:08 AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #322-12 HIS HONOR THE MAYOR submitting the FY14-FY18 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter. [10/09/12 @ 2:38 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]

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. [09/10/12 @ 1:17 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]
- #128-13 ALD. ALBRIGHT, FULLER, CROSSLEY, LAREDO requesting the creation of a comprehensive, 10-year strategic plan for Newton's conservation lands which would include a multi-year prioritized list of short-term and long-term projects with appropriate estimated budget. This plan should be finished in time to include high priority item(s) in the FY15 Budget, with any project exceeding \$75,000 added to the Capital Improvement Plan. [03/15/13 @ 10:56 AM]

- #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]
- #48-12 ALD. ALBRIGHT requesting a discussion with the Executive Office and the Planning Department on the creation of a housing trust. [02/10/2012 @ 9:13AM]
- #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]
- #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]
- #152-10 ALD. BAKER, FULLER, SCHNIFFER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]
- #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.
- #260-12 ALD. YATES proposing amendments to Sec. 30-19 to increase the vitality of village centers without adverse impacts on the residential neighborhoods around them. [08-17-12 @ 1:01 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*. [09-09-12]
- #215-12 ALD. YATES proposing a RESOLUTION requesting that the Planning Department and the Economic Development Commission develop a Main Streets Program following the model of the National Trust for Historic Preservation to revitalize the Newtonville and Newton Centre business districts. [07-17-12 @ 2:55PM]

- #64-12 ALD. HESS-MAHAN requesting an amendment to Newton Revised Ordinances Sec 30-24(f)(8)b to clarify the inclusionary zoning preference provisions for initial occupancy of units for households displaced by the development thereof and for units to serve households that include persons with disabilities. [03-14-12 @8:54AM]
- #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]
- #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]
- #153-11(2) ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting the map changes necessary to establish certain Retail Overlay Districts around selected village centers. [05-10-11@3:16 PM]

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

- #102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK & CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]
FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

- #95-11 ALD. HESS-MAHAN proposing an ordinance requiring that a notice of conversion to condominium ownership be filed with the Inspectional Services Department and that the property be inspected to determine compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. [03-24-11 @ 9:30AM]
FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012
- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: “(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;” and renumbering existing subsection (5) as (6). [06/07/10 @12:00 PM]

- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]
- #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]
- #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]

Respectfully Submitted,

Marcia T. Johnson, Chairman



Setti D. Warren
Mayor

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Department of Planning and Development
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Candace Havens
Director

PUBLIC HEARING MEMORANDUM

DATE: May 24, 2013

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development 
James Freas, Chief Planner, Long-Range Planning

RE: #77-13: ALD. GENTILE & HARNEY requesting that the Board of Aldermen amend the City of Newton Zoning Ordinances so that any properties that have been built and purchased that may now be considered non-compliant due to the recent court decision in the Mauri/Chansky case, be considered valid non-conforming properties.

MEETING DATE: May 29, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

The purpose of this memorandum is to provide the Board of Aldermen, Planning and Development Board, and the public with technical information and planning analysis which may be useful in the decision making process of the Board. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Zoning and Planning Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

EXECUTIVE SUMMARY

On December 22, 2011 the Massachusetts Land Court issued an opinion on the case *Mauri v. Zoning Board of the City of Newton, et. al.*, 19 LCR 626 finding erroneous the City's interpretation of the City of Newton Zoning Ordinance, section 30-15(c)(3)(b), allowing the construction of a single-family or two-family home on a vacant under-sized lot adjoining another lot, both in common ownership. This finding was upheld by the Massachusetts Appeals Court. Prior to the *Mauri* decision, a number of homes were built and were sold and occupied in reliance on the City's previous interpretation. As a result, these

homes are now considered noncompliant with the potential for the City to require demolition of the homes. The proposed amendment is intended to rectify this situation by narrowly defining this group of homes within the zoning ordinance as a new class of exemption from the current dimensional standards, effectively making them legally nonconforming lots.

BACKGROUND

Section 30-15(c) of the City of Newton Zoning Ordinance identifies exemptions to the dimensional requirements of the ordinance, particularly those of lot size and frontage requirements. The section largely mirrors a similar section in the Massachusetts General Laws Chapter 40A, Section 6 and is intended primarily to protect existing homes and legally -created vacant lots from becoming noncompliant as the ordinance was amended over time to require larger lots. This provision protects a property owner's existing investment in a lot where a lot might otherwise be deprived of value if it were subject to the new dimensional requirements of the ordinance, rendering it unbuildable. Two or more adjoining lots in common ownership (owned by the same people) fronting the same street, where one or more of the lots is vacant, represent a special case in this exemption clause because, taken together the lots form a larger property that might meet the current dimensional requirements of the ordinance and would therefore be buildable without requiring the exemption. In this situation, the lots are considered merged under the law.

Section 30-15(c)(3)(b) was adopted in 2001 to create a new, narrowly-defined exemption. The intent of this 2001 amendment was to allow the owner of two or more such commonly-owned lots where one or more of the lots is vacant, to sell the vacant lot or lots without rendering the lot on which their home is located noncompliant. The sold vacant lot would not be buildable, but could be separately sold to someone else. Following the 2001 amendment creating the current version of section 30-15(c)(3)(b), the City interpreted this section of the ordinance to mean that the vacant lot of a commonly-held and adjacent pair was also exempted and therefore buildable. In the time since, several lots were issued building permits and a number of homes were built on such lots.

On March 8, 2007 the Commissioner of ISD issued a determination that the lot adjacent to 25 Bradford Road was a buildable lot under the provisions of Section 30-15(c). The resulting building permit was appealed, first to the ZBA, which upheld the Commissioner's determination, and then to the Land Court, where the judge overturned the decision, finding the City's interpretation to have been erroneous. The Appeals Court later upheld the Land Court decision in February, 2013. With the Court decision, those lots that had been built on under the contested section of the ordinance in the intervening years since the 2001 amendment became noncompliant. Noncompliant lots are potentially subject to enforcement action; for those built within the last six years, the City could require demolition of the house. For those older than six years, the homeowner would be unable to receive any form of building permit, interfering with the homeowner's ability to maintain or renovate the home and severely limiting its salability. The proposed amendment is intended to create a new,

narrowly-defined class of exemption for the purpose of protecting these noncompliant homes so that they may be considered legally nonconforming under the Zoning Ordinance.

PROPOSED AMENDMENT

The proposed amendment creates a new section 30-15(c)(3)(c) as shown below:

c) If the lot:

i) did not have on it a single-family or two-family dwelling as of July 7, 2001; and

ii) was held in common ownership at any time after January 1, 1995 with an adjoining lot that had continuous frontage on the same street and the adjoining lot was the site of a single-family or two family dwelling; and

iii) has on it a single-family or two-family dwelling that was constructed in compliance with a building permit and received a certificate of occupancy on or before December 22, 2011.

The amended text is shown in the context of the entire section 30-15(c) in the attachment.

NEXT STEPS

A working session will follow the public hearing and at that time the Zoning and Planning Committee will have an opportunity to discuss the proposed amendment to the Newton Zoning Ordinance. Staff will provide additional analysis as requested to respond to public comments or questions. Staff recommends adoption of the proposed amendment to the Newton Zoning Ordinance.

Attachment

This attachment contains the proposed language for the zoning ordinance amendment to section 30-15(c)(3)(b) of the Newton Zoning Ordinance. The first part below contains a statement of purpose, which is **not** intended to be included as language in the zoning ordinance but is instead meant to accompany the zoning amendment text through the legislative process as a clear statement of legislative intent for the proposed amendment. Part 2 below contains the actual proposed zoning amendment text presented in the context of the complete section 30-15(c). New zoning text is underlined; zoning text to be removed is ~~struck through~~.

Part 1

Purpose Statement

The purposes of the following amendment are:

(1) to memorialize the interpretation of an existing provision of the Newton zoning ordinances by the courts of the Commonwealth, specifically Section 30-15(c)(3)(b). Subsection b was intended to protect certain existing single-family and two-family dwellings on lots that did not conform with applicable zoning density and dimensional requirements, and were in common ownership with an adjoining lot at some time after January 1, 1995. Subsection b, however, was not intended to authorize the construction of a new dwelling on the adjoining lot held in common ownership where the adjoining lot was nonconforming to applicable zoning density and dimensional requirements; and

(2) to avoid a hardship of being found to be legally noncompliant with Newton zoning ordinances for a small number of properties within the City that were constructed on such common ownership adjoining lots incident to building permits issued by the City pursuant to an erroneous interpretation of 30-15(c)(3)(b) during a period of time after the effective date of Section 30-15(c)(3)(b) until the date of the Land Court decision in *Mauri v. Zoning Board of the City of Newton, et. al.*, 19 LCR 626 (Dec. 22, 2011), which presented a legal challenge to the City's erroneous interpretation that such adjoining lots were entitled to a building permit.

Part 2

Proposed text for 30-15(c)

(c) Exceptions Applicable in Residential Districts.

Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall apply to any lot in a residential zoning district except to the extent that either the provisions of Massachusetts General Laws, Chapter 40A, Section 6, as in effect on January 1, 2001, or the following provisions, provide otherwise.

Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall not apply to any lot in a residential district if all of the following requirements are met:

- (1) At the time of recording or endorsement, whichever occurred sooner, or on October 11, 1940 if the recording or endorsement occurred before October 11, 1940, the lot
 - a) conformed to the requirements in effect at the time of recording or endorsement, whichever occurred sooner, but did not conform to the increased requirements, and

- b) had at least five thousand (5,000) square feet of area, and
- c) had at least fifty (50) feet of frontage.

(2) The size or shape of the lot has not changed since the lot was created unless such change complied with the provisions of section 30-26.

(3) Either

- a) The lot was not held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the lot in question,

or

- b) If the lot was held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the lot in question, such lot had on it a single-family or two-family dwelling;

or

c) If the lot:

i) did not have on it a single-family or two-family dwelling as of July 7, 2001; and

ii) was held in common ownership at any time after January 1, 1995 with an adjoining lot that had continuous frontage on the same street and the adjoining lot was the site of a single-family or two family dwelling; and

iii) has on it a single-family or two-family dwelling that was constructed in compliance with a building permit and received a certificate of occupancy on or before December 22, 2011.



Setti D. Warren
Mayor

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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: May 24, 2013

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: James Freas, Chief Planner, Long-Range Planning

RE: #146-13: THE ZONING & PLANNING COMMITTEE requesting information from the Planning Department concerning the nature and character of vacant lots that were confirmed as unbuildable by the Mauri Appeals Court decision.

MEETING DATE: May 29, 2013

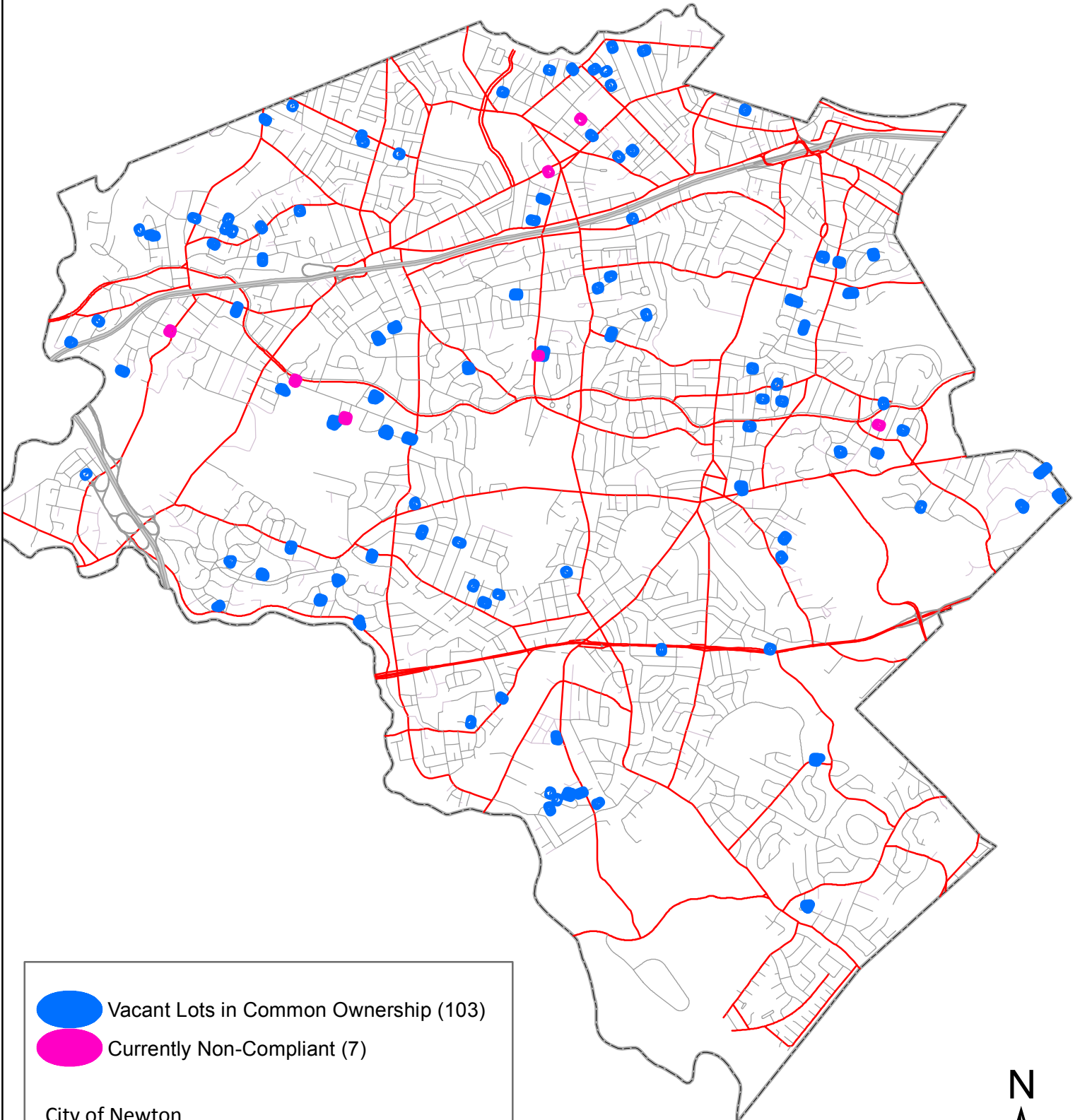
CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor



Attached to this memo are the addresses to accompany the map and data provided at the May 13, 2013 ZAP working session. As has been stated previously, this is the best available data on the number and location of adjacent lots in common ownership that were potentially affected by the *Mauri* decision. Without far more extensive research, this data can only be considered an estimate. Many of the lots identified here may not be buildable due to issues in the property description of the deed or physical characteristics of the lots. Others may be buildable by virtue of a variance received many years ago and not yet acted upon. This data may also underestimate the impact as it does not capture jointly-owned lots where the identified owners are named differently in the assessor's database.

The estimated number of non-compliant lots has been reduced to six, as shown in the table below.

ADDRESS	STREET	PERMIT ISSUED	CERTIFICATE OF OCCUPANCY ISSUED	LOT SIZE	FRONTAGE	ZONE
7	Churchill Street	1/16/2005	3/14/2007	6242	66	MR1
91	Woodland Road	7/25/2006	3/8/2007	8950	60	SR3
470-472	Lowell Ave	5/16/2011	12/16/2011	7400	65	MR1
1682	Commonwealth Ave	9/13/2006	6/20/2008	9500	85	SR2
101	Manet Road	8/4/2006	4/29/2008	6812	60	MR1
43	Rossmere St	1/14/2003	7/13/2003	6278	61	MR1

Lots Affected by the February 2012 Appeals Court Decision



-  Vacant Lots in Common Ownership (103)
-  Currently Non-Compliant (7)

City of Newton
Planning & Development Department
May 10, 2013



SBL_ID	Add_Num Street	Land_Use	Zoning	Lot_Size	Frontage	Effectd
73026 0021	0 ALDERWOOD RD	132	SR2	6724	95	Y
55040 0025	0 ANNAWAN RD	132	SR2	10280	50	Y
42017 0012	0 ASHEVILLE RD	132	SR3	5000	50	Y
14017 0026A	0 ASHMONT AVE	130	MR2	8265	90	Y
14016 0016	0 ASHMONT AVE	132	MR1	5441	50	Y
53013 0003	0 ASHMONT RD	132	SR2	5551	68	Y
43011 0007	0 AUBURN ST	132	SR2	10800	55	Y
44017 0021	0 AUBURNDALE AVE	132	SR3	6950	62	Y
63029 0011	0 BEACON ST	132	SR1	17593	60	Y
55016 0005	0 BEACON ST	132	SR2	9812	73	Y
61026 0016	0 BEACON ST	132	MR2	6496	65	Y
24028 0009	0 BEAUMONT AVE	132	SR2	8420	65	Y
24028 0011	0 BEAUMONT AVE	132	SR2	7400	62	Y
53016 0038	0 BEETHOVEN AVE	132	SR2	7500	50	Y
32055 0008	0 BONAD RD	132	SR2	9110	100	Y
65014 0002	0 BOYLSTON ST	132	SR3	6175	70	Y
81024 0018	0 BOYLSTON ST	132	SR3	5600	50	Y
73012 0008	0 BRACKETT RD	132	SR2	8400	100	Y
54035 0015	0 BRADFORD RD	132	SR2	8400	60	Y
21016 0009	0 BROOKDALE RD	132	SR3	5790	60	Y
21033 0029	0 BROOKS AVE	132	MR1	7972	57	Y
21032 0011	0 BROOKS AVE	132	MR1	7925	50	Y
21003 0013	0 CALIFORNIA ST	131	SR3	5976	50	Y
83028 0051	0 CARL ST	132	SR3	6408	50	Y
83028 0053	0 CARL ST	132	SR3	6206	50	Y
83029 0001	0 CARL ST	132	SR3	5000	50	Y
51016 0002	0 CHAMPA ST	132	MR1	5675	50	Y
83029 0023	0 CHARLEMONT ST	132	SR3	5000	50	Y
41004 0027	0 CHARLES ST	132	MR1	7382	62	Y
41028 0042	0 CHASKE AVE	132	SR3	5000	50	Y
61026 0003	0 CHESLEY RD	132	MR2	6437	63	Y
63031 0006	0 CHESTNUT HILL RD	132	SR1	10661	90	Y
53037 0036B	0 CHESTNUT ST	132	SR1	16118	80	Y
61003 0021	0 CHESTNUT TER	132	SR2	8326	60	Y
22018 0007	0 CLYDE ST	132	SR2	5831	80	Y
14004 0014	0 COLONIAL AVE	131	MR1	5508	53	Y
61011 0002	0 COMMONWEALTH AVE	132	MR1	6759	50	Y
11007 0045	0 DALBY ST	132	MR2	7800	60	Y
53037 0025	0 DARTMOUTH ST	132	SR1	17852	64	Y
43045 0016	0 DAY ST	132	SR3	8800	55	Y
73043 0006	0 EASTBOURNE RD	132	SR2	6575	60	Y
61018 0013	0 EDGE HILL RD	132	SR1	9647	105	Y
32028 0026	0 ELIZABETH CIR	132	SR1	15800	85	Y
51020 0023	0 ELLIOT ST	132	MR2	5184	50	Y
54036 0007	0 ENDICOTT ST	132	SR2	6569	60	Y
41004 0010	0 EVERGREEN AVE	132	SR3	5666	65	Y

32010 0011	0 FAIRFAX ST	132 SR1	12557	100 Y
73047 0010	0 FRANCIS ST	132 MR1	5258	50 Y
72035 0007	0 FRANKLIN ST	132 SR1	10700	88 Y
55040 0006	0 GOULD RD	132 SR2	9330	100 Y
81051 0018	0 GREENWOOD ST	132 SR1	13500	100 Y
22002 0013	0 HARVARD ST	132 MR1	5446	78 Y
55015 0002	0 HOMEWOOD RD	130 SR2	10500	176 Y
34036 0014	0 HOWARD ST	132 SR3	6417	70 Y
34035 0004	0 HOWARD ST	132 SR3	5000	100 Y
44029 0004	0 IONIA ST	132 SR3	6409	50 Y
83018 0021	0 JACONNET ST	132 MR1	5000	50 Y
11025 0010	0 JEWETT PL	132 MR2	6000	73 Y
41030 0036	0 LEXINGTON ST	132 SR3	6159	50 Y
44014 0069	0 LEXINGTON ST	132 SR3	5663	55 Y
73009 0006	0 MAGNOLIA AVE	132 SR1	12883	65 Y
63032 0014	0 MALIA TER	132 SR1	13633	100 Y
14003 0013	0 MELBOURNE AVE	132 MR1	5002	51 Y
22026 0008	0 MILL ST	132 SR2	10776	62 Y
55022 0001	0 MOSSFIELD RD	132 SR2	8065	130 Y
44032 0028	0 NEWELL RD	132 SR3	5390	50 Y
44032 0024	0 NEWELL RD	132 SR3	5390	50 Y
43025 0015	0 OAKWOOD RD	132 SR3	8771	60 Y
82020 0010	0 OLD FARM RD	132 SR1	11269	155 Y
41020 0003	0 OWATONNA ST	132 SR3	5000	50 Y
73007 0010	0 PARK AVE	132 SR2	16270	60 Y
22019 0015	0 PHILLIPS LN	132 SR2	5480	90 Y
53037 0005	0 PICKWICK RD	132 SR1	20450	74 Y
53019 0019	0 PINE RIDGE RD	131 SR2	9550	55 Y
54033 0005	0 PLYMOUTH RD	132 SR2	6407	120 Y
55034 0004	0 PONTIAC RD	132 SR2	5900	58 Y
32009 0005	0 PRINCE ST	132 SR1	12130	85 Y
63012 0001	0 PRISCILLA RD	132 SR2	6927	164 Y
55046 0002	0 QUINOBEQUIN RD	132 SR2	6814	200 Y
52011 0014	0 RAEBURN TER	132 SR2	5630	62 Y
34029 0006	0 RANGELEY RD	132 SR3	6626	80 Y
83033 0005	0 ROLAND ST	132 SR3	7500	50 Y
14010 0011	0 SILVER LAKE AVE	132 MR2	5000	52 Y
33020 0012	0 STRATFORD RD	132 SR3	5790	75 Y
63019 0004	0 SUFFOLK RD	132 SR1	5625	50 Y
14001 0030	0 TRAVERSE ST	132 MR1	5488	56 Y
61016 0003	0 TUDOR RD	132 SR1	7442	60 Y
44008 0016	0 UNDERWOOD AVE	132 SR3	5074	60 Y
22028 0009	0 UPLAND RD	132 SR2	6672	53 Y
24013 0020	0 WALDEN ST	132 SR2	9083	72 Y
73035 0003	0 WARD ST	132 SR2	6350	60 Y
44035 0102	0 WASHBURN AVE	132 SR3	6275	58 Y
72028 0008	0 WATERSTON RD	132 SR1	11417	70 Y

23007 0003	0 WATERTOWN ST	132 MR1	6000	50 Y
72030 0003	0 WAVERLEY AVE	132 SR1	6794	80 Y
44023 0012	0 WEBSTER ST	132 SR3	7761	50 Y
65004 0018	0 WESTMINSTER RD	132 SR2	9960	70 Y
65006 0008	0 WESTMINSTER RD	132 SR2	7044	86 Y
83028 0039	0 WINCHESTER ST	130 SR3	8853	50 Y
83027 0001	0 WINCHESTER ST	132 SR3	6204	50 Y
41020 0016	0 WINONA ST	132 SR3	5000	50 Y
53026 0022	0 WOODWARD ST	132 SR2	9785	70 Y
21005 0017	0 WYOMING RD	132 SR3	5000	50 Y

Item # 214-12 DRAFT FOR DISCUSSION PURPOSES 5/21/13:

Add the following new section:

Sec. 5 - 22 Keeping of junk, debris, or overgrown vegetation in public view.

(a) *Purpose:* The purpose of this ordinance is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, and protecting the City's resources by avoiding the creation and maintenance of nuisances on property which are detrimental to neighboring residents, properties or property values.

(b) *Definitions:*

Junk or debris. Any materials or combination of materials including but not limited to scrap, metal, scrap construction materials, rags, plastics, batteries, paper trash, inoperable appliances, inoperable machinery, mattresses, tires, and dilapidated or decayed furniture unusable for its intended purpose.

Overgrown vegetation. Weeds, grass, bushes, or other shrubbery which are untrimmed or unkempt and which may harbor or attract rats and vermin, conceal pools of stagnant water, or are otherwise detrimental to neighboring properties.

Substantial amount. A quantity of junk or debris which occupies more than 375 cubic feet in the aggregate on any one lot in a residential district.

Reasonable amount of time. Sixty (60) days.

Public view. Junk, debris, or overgrown vegetation which may be viewed from public property or ways, or from any location within a direct abutter's residence or property.

Commissioner. The commissioner of inspectional services or his designee.

(c) No owner or occupant of any lot in any residential district shall keep in the public view any substantial amount of junk and debris or a condition of overgrown vegetation for more than a reasonable amount of time. Such keeping of junk and debris or overgrown vegetation is declared a public nuisance.

(d) *Regulatory authority.* The commissioner has the authority to promulgate rules and regulations necessary to implement and enforce this section.

(e) *Enforcement.* The commissioner shall enforce the provisions of this section and shall institute all necessary administrative or legal action to assure compliance.

(f) *Notice of violation.* The commissioner shall issue a written notice of any violation of this section to the owner or occupant of the lot. Said notice shall describe the condition and order that it be remedied within thirty (30) days. If such condition is not remedied within that time, the commissioner may take action to impose the fines described in sec. 5-22 (g) by

criminal disposition or by civil disposition pursuant to authority granted by G.L. c. 40, sec. 21D and by sections 20-20 and 20-21 of these ordinances.

(g) *Penalty.* Any violation of this section, including any rules and regulations promulgated by the commissioner, shall be penalized by a fine of ~~three-one~~ hundred dollars (\$100.00) per day for days one through seven that the violation continues; two hundred dollars per day (\$200.00) for days eight through fourteen that the violation continues; and three hundred dollars (\$300.00) per day for each subsequent day the violation continues. Each day a violation continues shall constitute a separate offense.

(h) Action under this section shall not bar any separate regulation by or action by any other City department for health, fire safety, building code or any other violations.

(i) If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered severable from the remaining provisions, which shall remain in full force and effect.