

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MAY 24, 2010

7:45 pm - Room 202

Chairman's Note: The Floor Area Ratio Working Group will be presenting their findings to the Committee.

ITEMS SCHEDULED FOR DISCUSSION:

- #142-09(3) ZONING & PLANNING COMMITTEE proposing that subsection 30-15(u) of Chapter 30 relative to floor area ratio, as established by Ordinance Z-51, dated August 10, 2009, be amended by extending the provisions of paragraph nos. 1. 2. and 3. from July 30, 2010 to October 31, 2010. [05/11/11 @ 10:10 AM]
- #142-09(4) INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT requesting discussion of findings of Floor Area Ratio Working Group and consideration of recommended revisions to Chapter 30 regarding FAR limits tied to lot sizes and definitions of "gross floor area", "carport", "mass below first story", "porch", "enclosed porch", and "floor area ratio" as well as phasing of ongoing changes. [05/11/10 @ 7:07 PM]
- #141-10 INTERIM DIRECTOR OF PLANNING AND DEVELOPMENT requesting revision of **Section 22-22 Floodplain/watershed protection provisions** of the City of Newton Ordinances in order to comply with updated FEMA (Federal Emergency Management Agency) requirements. [05/11/10 @ 10 39 AM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

- #142-10 THE PLANNING AND DEVELOPMENT BOARD requesting adoption of an amendment to **Chapter 20, Offenses and Miscellaneous Provisions**, of the City of Newton Ordinances relative to regulation of scenic roads. [05/10/10 @ 5:18 PM]
- #114-10 ALD. YATES AND RICE requesting reports from the Conservation Commission and Board of Survey on compliance with condition of

permits given to allow the development of the Laura Road subdivision.
[04/07/10 @ 10:59 PM]

#93-10 ALD. JOHNSON AND SANGIOLO requesting revision of **Section 30-27** of the City of Newton Ordinances governing membership of the Zoning Board of Appeals by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:31 PM]

#92-10 ALD. JOHNSON AND SANGIOLO requesting revision of **Section 22-3(a)** of the City of Newton Ordinances governing membership of the Planning Board by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:29 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]

#60-10 ALD. HESS-MAHAN proposing that sections 30-15(s)(10) and 30-24(b) of the City of Newton Ordinances be amended to substitute a 3-dimensional computer model for the scaled massing model in order to facilitate compliance with recent amendments to the Open Meeting Law and that sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen. [02/23/10 @ 3:24 PM]

#30-10(2) POST AUDIT & OVERSIGHT COMMITTEE requesting a discussion with the Planning & Development Department relative to the governance process of the Newton Community Development Authority (NCDA), including recommendations and potential changes to the NCDA. [01/26/09 @ 9:00 PM]

#411-09 ALD. DANBERG, MANSFIELD, PARKER requesting that §30-19(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based

on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.

- #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.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #391-09(2) ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting the establishment of a municipal parking mitigation fund whose proceeds, derived from payments-in-lieu of providing off-street parking spaces associated with special permits, will be used solely for expenses related to adding to the supply of municipal parking spaces, improving existing municipal parking spaces, or reducing the demand for parking spaces.
- #207-09(2) ALD. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants. [07/07/09 @ 12:42 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]
- #122-09 ALD. SANGIOLO on behalf of Armando Rossi requesting a discussion of the proliferation of signage in the city.
- #475-08 ALD. HESS-MAHAN, DANBERG, JOHNSON, SWISTON, & PARKER proposing that the City of Newton accept the provisions of GL chapter 43D, a local option that allows municipalities to provide an expedited permitting process and promote targeted economic development. [12/09/08 @ 9:41 AM]
- #474-08 ALD. HESS-MAHAN & VANCE proposing that Chapter 30 be amended to transfer from the Board of Aldermen to the Zoning Board of Appeals and/or the Planning & Development Board the special permit granting authority for special permit/site plan petitions not classified as Major Projects pursuant to Article X of the Board Rules. [12/09/08 @ 3:26 PM]
- #336-08 ALD. LAPPIN requesting a discussion re the creation of an index for the zoning ordinances. [9/12/08 @ 10:31 AM]

- #150-08 ALD. GENTILE proposing that Chapter 30 be amended to clarify that for a commercial vehicle to be parked legally at a residential property, it must be registered to the owner/occupant of that residential property. [4/15/08 @ 2:17PM]
- #365-06 ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
- #288-06 ALD. MANSFIELD, DANBERG, PARKER proposing that Sec 30-11(a), (b), and (d) of Chapter 30 be amended to allow banks and other financial institutions only by special permit in Business 1, 2, 3 and 4 districts.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #48-06 ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.
FINANCE VOTED NO ACTION NECESSARY ON 3/8/10
- #10-06 ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in Newton.
- #440-04 ALD. JOHNSON, BAKER & LAPPIN proposing a definition of “accessory structure” which will include mechanical equipment.
- #294-03 ALD. BAKER, YATES, JOHNSON AND MANSFIELD requesting analysis and discussion of possible remedies for demolition of modest housing and replacement with oversized structures out of character with the surrounding neighborhood, including examining the experience of other communities, including those out of state, who have worked to address this problem. **(Recommended by Full Board 8-14-06)**
- #133-03 ALD. YATES proposing an amendment to Chapter 30 requiring a special permit for a so-called "snout house" (one with excessive/intrusive garage on the front) following the example of Fort Collins, Colorado.
- #217-00 ALD. YATES requesting that Chapter 30 be amended to require a special permit for the demolition of a structure aged 100 years or more, containing one or more residential units in any residential district.
- #20-99 ALD. YATES proposing that Chapter 30 be amended by removing radio and television towers as allowed uses in the Mixed Use 1 district.

7-99 ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.

#333-97(2) ALD. YATES proposing that Chapter 30 be amended to prohibit without a special permit in any zoning district the approval of a subdivision that would be accessed by any public way on which the Level of Service at the point of access is already a D, E, or F, for at least one hour per week or if the additional traffic to be generated by the subdivisions would cause the Level of Service at the point of access to a public way to fall to D, E, or F for at least one hour per week. [8-7-07 @2:05 PM]

Respectfully submitted,

Marcia Johnson, Chairman

CITY OF NEWTON
IN BOARD OF ALDERMEN
ORDINANCE NO. Z-51

August 10, 2009

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Zoning Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended as follows:

1. Delete in their entirety Footnotes 5 and 6 in section 30-15 Table 1 *Density & Dimensional Controls in Residence Districts and for Residential Use*; renumber subsequent footnotes.
2. Add, in section 30-15, the following new subsection 30-15(u):
 - (u) The floor area ratio (FAR) contained in section 30-15 Table 1 shall apply to all one and two family structures, whether new or existing, with the following exceptions:
 1. For renovation of or addition to existing one and two family structures, a cumulative increase in FAR of up to .05 above the amount shown in Table 1 shall be allowed, whether such structures are conforming or lawfully nonconforming as to FAR, provided that the certificate of occupancy for the original construction of the existing structure was granted at least ten (10) years prior to the date of application for additional FAR pursuant to this paragraph or, where no such certificate is available, provided that there is other evidence of lawful occupancy of the existing structure for at least ten (10) years prior to the date of application. Any increase in FAR granted through this section may not create or increase nonconformities with respect to lot coverage, open space, or setback requirements and may not be used in conjunction with section 30-21(c). The provisions of this paragraph shall expire on July 30, 2010.
 2. For renovation of or addition to existing one- and two-family structures on pre-1953 lots meeting all of the criteria of section 30-15(u)(1), an additional increase in FAR of up to .02 above the amount shown in Table 1 and the amount available in section 30-15(u)(1) shall be allowed, provided that any renovations or additions proposed using additional FAR granted under this paragraph or section 30-15(u)(1) shall comply with

RECEIVED
SEP 09 2009
MAYOR'S OFFICE

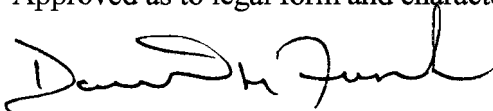
post-1953 setback requirements, or, if the footprint of the existing structure presently extends beyond the post-1953 setback requirements, shall extend no closer to the lot line than the present structure. The provisions of this paragraph shall expire on July 30, 2010.

3. For construction of new one- and two-family structures, an additional FAR of .05 above the amount shown in Table 1 shall be allowed for initial construction on pre-1953 lots when post-1953 lot setback and lot coverage requirements and pre-1953 open space requirements are met. This provision may not be used concurrently with section 30-15(u)1 or 2, nor shall it apply to additions to any structure. The provisions of this paragraph shall expire on July 30, 2010.
4. An increased FAR may be allowed by special permit if the proposed structure is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood.

3. In subsection 30-21(c), delete the word "and" before clause (4) of the first paragraph of this subsection and add the following clause:

, and (5) the *de minimis* relief provided in this section shall not apply to buildings in which the nonconformity is due solely to FAR requirements set out in section 30-15 Table 1, nor shall it be used to increase the FAR beyond that shown in Table 1.

Approved as to legal form and character:



DANIEL M. FUNK
City Solicitor

Under Suspension of Rules

Readings Waived and Adopted

16 yeas 6 nays (Aldermen Brandel, Gentile, Harney Lappin, Sangiolo, and Schnipper)
absent (Aldermen Merrill and Vance)



(SGD) DAVID A. OLSON
City Clerk



(SGD) DAVID B. COHEN
Mayor

RECEIVED

SEP 09 2009

MAYOR'S OFFICE



Setti D. Warren
Mayor

CITY OF NEWTON, MASSACHUSETTS
Department of Planning and Development

#141-10

Telephone
(617)-796-1120
Telefax
(617) 796-1086
TDD/TTY
(617) 796-1089

May 17, 2010

Honorable Members of the Board of Aldermen

The Federal Emergency Management Agency (FEMA) completed its flood hazard determination for Newton (and surrounding areas) in compliance with Federal Regulations under Title 44, Chapter I, Part 67, Code of Federal Regulations. The Flood Insurance Rate Map (FIRM) effective on June 4, 1990, has been revised. Preliminary copies of the Flood Insurance Study (FIS) report and FIRM were issued on September 28, 2007. **There were minor, if any, changes to the flood zones shown for Newton.** These Preliminary copies of the FIS report and FIRM become effective on June 4, 2010.

Federal Law (National Flood Insurance Act of 1968, as amended) requires municipalities to adopt or show evidence of adoption of floodplain management regulations that meet the standards of the National Flood Insurance Program (NFIP) regulations. This necessitates amending the Watershed/Floodplain Ordinance, Sec. 22-22 of the revised ordinances. The proposed, amended Ordinance, Sec. 22-22, incorporates the effective date of the Preliminary FIS and new FIRM, the new panel identification numbers, and additional language required by FEMA. The modifications as written have been reviewed and approved by Engineering, the Law Department, and the Massachusetts Attorney General's Office. I respectfully request the Board of Aldermen to accept the changes as proposed in order to maintain Newton's standing under the National Flood Insurance Program.

Sincerely,

Anne Phelps, Ph.D.
Sr. Environmental Planner

Cc Mayor Seti Warren
Candace Havens, Interim Planning Director
Eileen McGettigan, Esq., Assistant City Solicitor
Lou Taverna, City Engineer
Maria Rosé, Environmental Engineer

10 MAY 19 AM 10:14
CITY CLERK
NEWTON, MA. 02159



FEMA

APR 20 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Setti D. Warren
Mayor, City of Newton
City Hall
1000 Commonwealth Avenue
Newton, Massachusetts 02459

10 MAY 19 AM 10:14
CITY CLERK
NEWTON, MA, 02159

Dear Mayor Warren:

I am writing this letter as an official reminder that the City of Newton, Massachusetts, has until ~~June 4, 2010~~ to adopt and have the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office approve floodplain management measures that satisfy 44 Code of Federal Regulations (CFR) Section 60.3(d) of the National Flood Insurance Program (NFIP) regulations.

~~The City of Newton must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum NFIP requirements (copy enclosed) by June 4, 2010, to avoid suspension from the NFIP. If suspended, your community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.~~

The provisions of Section 202(a) of Public Law 93-234, as amended prohibits Federal officers or agencies from approving any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or disaster assistance loan or grant, for acquisition or construction purposes within Special Flood Hazard Areas (SFHAs), areas subject to inundation by the base (1-percent-annual-chance) flood. Your community's suspension from the NFIP would prohibit mortgage loans guaranteed by the Department of Veterans Affairs, insured by the Federal Housing Administration, or secured by the Rural Economic and Community Development Services. This prohibition also affects the disaster assistance in connection with a flood under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, as amended.

Furthermore, Section 202(b) of Public Law 93-234, as amended, requires Federally regulated lending institutions to notify the purchaser or lessee of improved real property located in an SFHA, whether Federal disaster assistance will be available when the property is being used to secure a loan that is being made, increased, extended, or renewed.

Your NFIP State Coordinator and FEMA would like to assist the City of Newton to ensure it remains in good standing with the NFIP and avoids suspension from the Program. If your community is suspended, it may regain its eligibility in the NFIP by enacting the floodplain management measures

The Honorable Setti D. Warren

APR 20 2010

Page 2

established in 44 CFR Section 60.3 of the NFIP regulations. As stated in my previous correspondence, I recommend you contact your NFIP State Coordinator or the FEMA Regional Office if the City of Newton is encountering difficulties in enacting its measures.

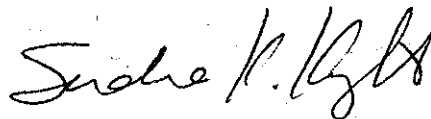
I recognize that your community may be in the final adoption process or may have recently adopted the appropriate floodplain management measures. Please submit these measures to the Floodplain Management Program at the Massachusetts Department of Conservation and Recreation.

Richard Zingarelli, the NFIP State Coordinator, is accessible by telephone at (617) 626-1406, in writing at 251 Causeway Street, Suite 700, Boston, Massachusetts 02114, or by electronic mail at richard.zingarelli@state.ma.us.

The FEMA Regional staff in Boston, Massachusetts, is also available to assist you with your floodplain management measures. The FEMA Regional Office may be contacted by telephone at (617) 832-4761 or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region I, at 99 High Street, Sixth Floor, Boston, Massachusetts 02110.

In the event your community does not adopt and/or submit the necessary floodplain management measures that meet or exceed the minimum NFIP requirements, I must take the necessary steps to suspend your community from the NFIP. ~~This letter is FEMA's final notification before your community is suspended from the Program.~~

Sincerely,



Sandra K. Knight, PhD, PE
Deputy Federal Insurance and
Mitigation Administrator, Mitigation

Enclosure

cc: Paul Ford, Acting Regional Administrator, FEMA Region I
Richard Zangarelli, NFIP State Coordinator, Massachusetts Department of Conservation and Recreation
Kathleen Cahill, Senior Planner, City of Newton



FEMA

FEB 19 2010

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

The Honorable David Cohen
Mayor, City of Newton
City Hall
1000 Commonwealth Avenue
Newton, Massachusetts 02459

Dear Mayor Cohen:

I commend you for the efforts that have been put forth in implementing the floodplain management measures for the City of Newton, Massachusetts, to participate in the National Flood Insurance Program (NFIP). As you implement these measures, I want to emphasize the following:

- a Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been completed for your community;
- the FIS and FIRM will become effective on June 4, 2010; and
- by the FIS and FIRM effective date, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office is required to approve the legally enforceable floodplain management measures your community adopts in accordance with 44 Code of Federal Regulations Section 60.3(d).

As noted in FEMA's letter dated December 4, 2009, no significant changes have been made to the flood hazard data on the Preliminary and/or revised Preliminary copies of the FIRM for the City of Newton. Therefore, the City of Newton should use the Preliminary and/or revised Preliminary copies of the FIRM as the basis for adopting the required floodplain management measures. Final printed copies of the FIRM for the City of Newton will be sent to you within the next few months.

If you encounter difficulties in enacting the measures, I recommend you contact the Massachusetts Department of Conservation and Recreation. You may contact Richard Zingarelli, the NFIP State Coordinator, by telephone at (617) 626-1406, in writing at 251 Causeway Street, Suite 700, Boston, Massachusetts 02114, or by electronic mail at richard.zingarelli@state.ma.us.

The FEMA Regional staff in Boston, Massachusetts, is also available to provide technical assistance and guidance in the development of floodplain management measures. The adoption of compliant floodplain management measures will provide protection for the City of Newton and will ensure its participation in the NFIP. The Regional Office may be contacted by telephone at (617) 832-4761 or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region I, at 99 High Street, Sixth Floor, Boston, Massachusetts 02110.

The Honorable David Cohen

FEB 19 2010

Page 2

You may have already contacted the NFIP State Coordinator and/or the FEMA Regional Office, and may be in the final adoption process or recently adopted the appropriate measures. However, in the event your community has not adopted the appropriate measures, this letter is FEMA's official notification that you only have until June 4, 2010, to adopt and/or submit a floodplain management ordinance that meets or exceeds the minimum NFIP requirements, and request approval from the FEMA Regional Office by the effective date. Your community's adopted measures will be reviewed upon receipt and the FEMA Regional Office will notify you when the measures are approved.

I appreciate your cooperation to ensure that your community's floodplain management measures are approved by the FEMA Regional Office by the FIRM effective date. Your compliance with these mandatory program requirements will enable your community to avoid suspension from the NFIP.

Sincerely,



Sandra K. Knight, PhD, PE, D.WRE
Deputy Assistant Administrator
for Mitigation

Enclosure

cc: Paul Ford, Acting Regional Administrator, FEMA Region I
Richard Zingarelli, NFIP State Coordinator, Massachusetts Department of Conservation and
Recreation
Anne Phelps, Senior Environmental Planner, City of Newton



#141-10

Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P-N

December 4, 2009

The Honorable David Cohen
Mayor, City of Newton
Newton City Hall
1000 Commonwealth Avenue
Newton, Massachusetts 02459

Community: City of Newton,
Middlesex County, Massachusetts
Community No.: 250208
Map Panels Affected: See FIRM Index

Dear Mayor Cohen:

This is to formally notify you of the final flood hazard determination for your community in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations. On June 4, 1990, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs), the areas subject to inundation by the base (1-percent-annual-chance) flood, in the City of Newton, Middlesex County, Massachusetts. Recently, FEMA completed a re-evaluation of flood hazards in your community. On September 28, 2007, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community.

FEMA has not received any comments on the Preliminary copies of the FIS report and FIRM. Accordingly, the FIS report and FIRM for your community will become effective on June 4, 2010. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to June 4, 2010, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations (44 CFR 59, etc.). These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and the other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish eligibility in the NFIP. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of Paragraph 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the Base Flood Elevations established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment [LOMA]; Letters of Map Revision [LOMR]) that will be superseded when the revised FIRM panels become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based is being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIS report and FIRM for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions has been combined into one FIS report and FIRM. When the FIS report and FIRM are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county will be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our Map Service Center, toll free, at 1-800-358-9616. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures required to continue participation in the NFIP, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA, Region I, in Boston, Massachusetts, at (617) 956-7573 for assistance. If you have any questions concerning mapping issues in general or the enclosed Summary of Map Actions,

3

please call our Map Assistance Center, toll free, at 1-877-FEMA MAP (1-877-336-2627). In addition, the Massachusetts Department of Conservation and Recreation, Flood Hazard Management Program is available to assist your community. For questions regarding the FIRM for your community or the NFIP, you may contact Richard Zingarelli, the NFIP State Coordinator, by telephone at (617) 626-1406, by mail at 251 Causeway Street, Suite 700, Boston, Massachusetts 02114, or by e-mail at richard.zingarelli@state.ma.us.

Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effects that Revised Flood Hazards have on Existing Structure*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfid>. Paper copies of these documents may also be obtained by calling our Map Assistance Center.

Sincerely,



Kevin C. Long, Acting Chief
Engineering Management Branch
Mitigation Directorate

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository
Anne Phelps, Senior Environmental Planner, City of Newton

FINAL SUMMARY OF MAP ACTIONS

Community: NEWTON, CITY OF

Community No: 250208

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on June 4, 2010.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	500019842R01	05/27/1997	30 CANNON STREET	2502080004D	25017C0562E
LOMA	00-01-0372A	05/02/2000	115 ELINOR ROAD	2502080004D	25017C0554E
LOMA	03-01-0010A	11/06/2002	LOT 74 - 148 TRUMAN ROAD	2502080004D	25017C0554E
LOMA	03-01-1704A	08/28/2003	LOT B, WOODCLIFF PARK 30 ALEXANDER ROAD	2502080004D	25017C0554E
LOMA	07-01-0163A	11/28/2006	UNITS A-G, BUILDING 305, UNITS A-E BUILDING 307, UNITS A-D, BUILDING 309, WINCHESTER PARK CONDOMINIUM - 305, 307, AND 309 WINCHESTER STREET	2502080004D	25017C0562E
LOMA	07-01-0964A	11/29/2007	LOT 270, PLAN NO. 14628A 170 WINCHESTER STREET	2502080004D	25017C0554E
LOMA	08-01-0235A	12/31/2007	LOT A - 11 CHARLES RIVER TERRACE	2502080004D	25017C0562E

FINAL SUMMARY OF MAP ACTIONS

#141-10

Community: NEWTON, CITY OF

Community No: 250208

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	195100201D&D	07/10/1992	NOT AVAILABLE	1

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

Sec. 22-22. Floodplain/watershed protection provisions.

(a) There is hereby established a Floodplain/Watershed Protection District, the purpose of which is to:

- (1) assure the continuation of the natural flow patterns of watercourses within the city;
- (2) provide adequate and safe floodwater storage capacity in order to protect persons and property against increase in the hazards of flood inundation;
- (3) protect and preserve the water table and groundwater recharge areas within the city; and
- (4) allow the city to maintain compliance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, and the regulations promulgated pursuant thereto.

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.g, "Flood Resistant Construction and Construction in Coastal Dunes");

Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

Inland Wetland Restriction, DEP (currently 310 CMR 13.00);

Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

The areas of the city included in this district are set forth in subsection (g) of this section.

(b) The provisions of this section shall take precedence over any conflicting city ordinance. Any uses in the Floodplain/Watershed Protection District, whether permitted by right or by special permit or variance, shall be subject to the following:

- (1) Except as provided in subsections (b)(2) and (e) of this section, no building or other structure shall be erected, constructed, altered, enlarged or otherwise created for any residence or other purpose; no dumping of trash, rubbish, garbage or junk or other waste materials shall be permitted; no filling, dumping, excavation, removal or transfer of gravel, sand, loam or other materials which will restrict floodwater flow or reduce floodwater storage capacity shall be permitted.
- (2) Subsection (b)(1) notwithstanding, after a public hearing the conservation commission may issue an order of conditions for the following uses in the Floodplain/Watershed

Protection District:

- a) Any building or structure for which compensatory storage is provided and for which certification is submitted by a registered professional engineer demonstrating that such building or structure shall not result in any increase in flood levels during the 100-year flood.

Compensatory storage shall mean a volume not previously used for flood storage, and shall be incrementally equal to the theoretical volume of flood water at each elevation which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or wetland being affected by the proposed project. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the waterway.

- b) Construction, operation, and maintenance of dams and other water-control devices including temporary alteration of the water level for emergency purposes.
 - c) Bridges and like structures permitting passage between lands of the same owner, except that such bridges and structures shall be constructed, maintained, and used at the expense and risk of such owner, and shall be designed and constructed so as to minimize the effect of such structures on water storage and water flow.
 - d) Parking lots, driveways, and walkways ancillary to permitted or existing uses within the district.
 - e) Recreation, including golf courses, municipal, county or state parks (but not an amusement park), boating, fishing, and any other noncommercial open-air recreation uses and structures ancillary to these uses.
 - f) Ancillary structures for farms, stock farms, truck gardens, nurseries, orchards, and tree farms.
- (3) No order of conditions shall be issued under paragraphs (2)(b)-(2)(f) of this subsection unless it is demonstrated to the satisfaction of the conservation commission that the cumulative effect of the proposed project, when combined with all other existing and anticipated development, will not increase the water surface elevation of the 100-year flood at any point within the city.

(c) The construction, reconstruction or enlargement of any building or structure in the Floodplain/Watershed Protection District shall also be subject to the following provisions:

- (1) All construction of residential structures shall have the lowest floor (including the basement) at or above the pertinent flood elevation established within subsection (g) hereof, and all construction of non-residential structures shall have either the lowest floor (including the basement) at or above the pertinent flood elevation of said subsection (g), or along the attendant utility and sanitary facilities shall be floodproofed, i.e. designed so that below the established flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) Where watertight floodproofing of a structure is permitted, a registered professional

engineer or architect shall certify that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and uplift forces and other factors associated with the pertinent flood levels.

(d) In its discretion, the conservation commission may accept a single notice of intent, conduct a single hearing, and issue a single order of conditions pursuant to its jurisdiction under this section and its jurisdiction under the Wetlands Protection Act, G.L. c. 131, sec. 40; provided, however, that in the event that the provisions of this section are more restrictive than those of the said Wetlands Protection Act and the regulations promulgated pursuant thereto, the provisions of this section shall control.

(e) Nothing in this section shall be deemed to prohibit the reconstruction (but not enlargement) of any building or structure destroyed by fire or natural disaster; provided, however, that such a reconstruction shall be pursuant to an order of conditions issued by the conservation commission.

(f) The boundaries of the Floodplain/Watershed Protection District are intended to correspond with the maximum lateral extent of floodwater which will result from the [one-percent chance flood](#) (100-year flood). [The district includes all special flood hazard areas within the City of Newton designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map \(FIRM\) issued by the Federal Emergency Management Agency \(FEMA\) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the City of Newton are panel numbers 25017C0532E, 25017C0534E, 25017C0551E, 25017C0552E, 25017C0553E, 25017C0554E, 25017C0556E, 25017C0558E, 25017C0561E, 25017C0562E, 25017C0566E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study \(FIS\) report dated September 28, 2007. The FIRM and FIS report are incorporated herein by reference and are on file with the city clerk, planning board, inspectional services, conservation commission and engineering. Said boundaries have been determined by reference to data prepared for the city pursuant to the National Flood Insurance Program, as currently administered by the Federal Emergency Management Agency. Said boundaries, so determined, shall be presumed accurate. ~~This presumption may be overcome only by credible evidence from a registered professional engineer or other professional competent in such matters.~~](#)

(g) The following areas are hereby designated as included in the Floodplain/Watershed Protection District and are subject to the provisions of this section and regulations promulgated by the conservation commission pursuant thereto:

1. Floodplain/Watershed Areas*

Floodplain Elevation (feet)**

Along Charles River from:

- (1) Newton/West Roxbury line to Kendrick
Street bridge ~~100.2—99.9~~ 96.7-96.5
- (2) ~~Kendrick Nahanton~~ Street bridge to
Silk Mill Dam ~~95.7—95.7~~ 95.6-95.5
- (3) Silk Mill Dam (foot) to Metropolitan

- Circular Dam (crest) 80.75—80.75
- (4) Metropolitan Circular Dam (foot) to Route 9 bridge 72.75—72.75
- (5) Route 9 bridge to Route 128 bridge..... 72.75—71.7
- (6) Route 128 bridge to Walnut Street bridge 71.7—70.75
- (7) ~~Walnut~~ Wales Street bridge to Cordingly Dam and Falls (crest) 70.75—69.72
- (8) Cordingly Dam and Falls (foot of falls) to ~~Finlay Dam~~ ~~Newton Lower Falls Dam~~ (crest) ~~53.7~~ 55.5—52.75
- (9) ~~Newton Lower Falls Dam~~ ~~Finlay~~ Dam (foot) to Washington Street Route 16 bridge 49.70—49.70
- (10) Washington Street Route 16 bridge to M.D.C. RR bridge 49.70—~~48.9~~47.5
- (11) M.D.C. bridge to Concord St bridge..... ~~48.9~~47.5—46.745.5
- (12) Concord St bridge to Norumbega bridge-Route 30 ~~46.7~~ 45.5—~~46.2~~ 44.5
- (13) Norumbega bridge-Route 30 to Newton/Waltham boundary (west) ~~46.2~~ 44.5—~~45.7~~ 44.5
- (14) Newton/Waltham boundary (east) to Bridge Street bridge (west)... 27.75—24.75
- (15) Bridge Street bridge (east) to ~~Newton~~ Watertown Dam ~~boundary (west)~~(crest) ~~24.7~~ 23.5—~~21.7~~ 17.5
- (16) ~~Newton~~ Watertown Dam (foot) ~~boundary (east)~~ to Newton/Boston boundary ~~15.7~~ 10.5—~~15.7~~ 10.5

Along Paul Brook from:

- (17) 150 feet south of Route 9 to Hagen Road..... 127.85—125.79
- (18) Hagen Road to Haynes Road (north side of culvert) 125.79—125.65
- (19) Haynes Road (south side of culvert) to

Olde Field Road.... ~~123.7~~ 124.5—~~122.7~~ 122.6

(20) Olde Field Road to Great Meadow Road..... ~~122.76~~—~~121.9~~ 122.0

(21) Great Meadow Road to Parker Street (east side of culvert) ~~121.9~~ 122.0—121.3

(22) Parker Street (west side of culvert) to Mildred Road..... ~~120.6~~—121.0—~~120.4~~—120.5

(23) Mildred Road to the confluence of South Meadow Brook ~~120.4~~ 120.5—~~120.2~~ 120.3

Along South Meadow Brook from:

(24) The confluence of Paul Brook to Dedham Street (east side of culvert) ~~120.2~~ 120.3—~~119.9~~ 119.5

(25) Dedham Street (west side of culvert) to ~~Brierfield Road~~ Upland Ave ~~118.9~~ 119.3—~~118.7~~ 118.8

(26) ~~Brierfield Road~~ Upland Ave to Winchester Street ~~Jaconnet/Kenneth~~ Streets ~~118.7~~ 118.8—~~117.7~~ 118.5

(27) ~~Jaconnet/Kenneth~~ Winchester Streets to Needham Street (east side of culvert to trash ~~t~~rack) ~~117.7~~ 118.5—~~117.3~~ 117.5

(28) Needham Street (west side of culvert) to Tower Road Culvert ~~115.2~~ 116.5—~~115.0~~ 115.5

Along Cheese Cake Brook from:

(29) Watertown Street culvert to Dunstan Street (west side of culvert)..... 46.7—~~45.75~~

(30) Dunstan Street (east side of culvert) to Cross Street (west side of culvert)..... ~~45.1~~ 45.0—~~44.6~~ 44.5

(31) Cross Street (east side of culvert) to Parsons Street (west side of culvert)..... ~~44.1~~ 44.0—43.8

(32) Parsons Street (east side of culvert) to Eddy Street..... ~~42.2~~ 43.5—~~41.8~~ 42.5

*The data figures in this table are to be used in determining the location of the floodplain and represent information obtained from FEMA’s Flood Insurance Study, Preliminary Release dated September 28, 2007 volumes 1,2,3, and 4 and the corresponding Flood Insurance Rate Maps (FIRMs), which were then converted to City of Newton base. No changes

to the Preliminary Release are expected for Newton and thus the FIRMs will become effective on June 4, 2010; if any discrepancies arise, the more conservative of the two shall apply. Plans showing the general location of the floodplain, to be used only as a guide, are available for viewing at the Engineering Division of the Department of Public Works or Inspectional Services Department.

**Includes all lands below the listed elevation in feet, City of Newton Base. The higher elevation applies to the upstream end of the designated area while the lower elevation applies to the downstream end. The floodplain elevation for any land is determined by interpolation between the floodplain elevation figure shown in the above table on the basis of its relative distance in feet from the upstream and downstream ends.

2. Floodways***

South Meadow Brook

Cross Section	Distance****	Width	(Feet)
A		1,922	50
B		2,865	50
C		4,148	860
D		4,691	480
E		6,060	50

Paul Brook

Cross Section	Distance****	Width	(Feet)
F		6,942	40
G		7,892	60
H		8,655	40
I		9,560	40
J		10,310	40

Cheese Cake Brook

Cross Section	Distance****	Width	(Feet)
A		5,742	30
B		5,892	30
C		6,202	30
D		6,578	30
E		7,158	30

*** The South Meadow Brook, Paul Brook and Cheese Cake Brook Floodways as shown on the Federal Emergency Management Agency Floodway Data Table 2 8 on page 11 of the F.E.M.A. "Flood Insurance Study, City of Newton, Mass., No. 255226CV001A Middlesex County", MA, June 4, 2010.

**** Feet above confluence with the Charles River.

3. Open brooks and streams and their tributaries:

Watershed Brook or Stream	Distance (feet)*****
------------------------------	----------------------

- (1) Brunnen Brook..... 30
- (2) Cheese Cake Brook from Brae Burn Golf Course to end of Oldham Road and from Eddy Street to Charles River30
- (3) Cold Spring Brook 30
- (4) College Brook 30
- (5) Country Club Brook..... 30
- (6) Cranberry Brook 30
- (7) Dolan Brook..... 30
- (8) Edmands Brook..... 30
- (9) Hahn Brook..... 30
- (10) Hammond Brook 30
- (11) Hyde Brook 30
- (12) King Brook..... 30
- (13) Lacey Brook 30
- (14) Laundry Brook 30
- (15) Paul Brook from Route 9 to 150 feet south of Route 9 30
- (16) Runaway Brook..... 30
- (17) Saw Mill Brook 30
- (18) Saw Mill Brook, south branch..... 30
- (19) South Meadow Brook from Newton/Brookline boundary to Brandeis Road; from Tower Road (south side of culvert) to trash rack; from Oak Street to Charles River...30
- (20) Stearns Brook 30
- (21) Strong's Brook 30
- (22) Thompsonville Brook.....30

*****Measured as horizontal distance on both sides of brook or stream from centerline.

4. Wetlands:

Watershed	Elevation (feet)*
(1) Bird Swamp off Hammond Pond Parkway at Chestnut Hill Mall/Towers Entrance	214.0
(2) Webster Conservation Area - East of Hammond Pond Parkway, south of MBTA tracks, Chestnut Hill	173.0
(3) Webster Conservation Area - East of Hammond Pond Parkway, north of MBTA tracks, Chestnut Hill	173.0
(4) Skunk Hollow Swamp	151.6
(5) Kennard Conservation Area Wetland, Chestnut Hill	146.0
(6) Bald Pate Meadow	142.0
(7) Vine Street West Swamp	138.0
(8) Wayne Pond Swamp	130.0
(9) Old Woodlot Swamp	125.0
(10) Waban Kettle Wetland Off Waban Avenue, Carlton Road, Nehoiden Road, Crofton Road, Waban	122.0
(11) Longfellow Pond Wetland	122.0
(12) Great Meadow Swamp	119.0
(13) Winchester Street Swamp	112.0
(14) Cold Spring Swamp	110.0
(15) Goddard Street, Christina Street, Roland Street, Charlemont Street, Newton Highlands	105.0
(16) Nahanton Street Swamp	102.2
(17) Oak Hill Swamp off Saw Mill Brook Parkway	96.0
(18) Cabot Street Meadow	84.0
(19) Dolan Pond Wetland off Webster Park, Auburndale	52.0
(20) Flowed Meadow, Auburndale	46.0
(21) Cranberry Wetland	29.0

*Includes all lands below the listed elevation in feet, City of Newton Base.

5. Ponds

Watershed	Elevation (feet)*
(1) Bare Pond.....	234.0
(2) Cat Pond.....	228.0
(3) Charles River Country Club Pond.....	182.0
(4) Houghton Pond	173.0
(5) Hammond Pond	172.0
(6) Crystal Lake	149.0
(7) Longfellow Pond.....	122.0
(8) Brae Burn Pond.....	98.0
(9) City Hall Pond.....	95.0
(10) Bullough's Pond	92.4
(11) Dresser Pond	82.0
(12) Lasell Pond.....	76.0
(13) Strong's Pond	65.0
(14) Silver Lake	45.0

*Includes all lands below the listed elevation in feet, City of Newton Base.
(Ord. No. S-83, 1-21-85; Ord. No. T-167, 8-12-91; Ord. No. V-289, 3-20-00)

In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In a riverine situation, the planning department shall notify the following of any alteration or relocation of a watercourse:

- Adjacent communities
- NFIP State Coordinator, MA Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700
- NFIP Program Specialist, Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 0210

Other Use Regulations

- 1) In Zones AE, along watercourses that have a regulatory floodway designated on the Middlesex County FIRMs, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) All subdivision proposals must be designed to assure that:
 - a) such proposals minimize flood damage;
 - b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c) adequate drainage is provided to reduce exposure to flood hazards.