

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MARCH 9, 2009

Business to be discussed:

- #62-09 HIS HONOR THE MAYOR requesting Board of Aldermen approval of a conservation restriction for the Newton Commonwealth Golf Course, which has been given preliminary approval on behalf of the Secretary of Energy and Environmental Affairs, to update the Conservation Restriction executed by the Mayor in 1982 incident to the acquisition of the golf course as public open space.
- #108-07(2) DIRECTOR OF PLANNING & DEVELOPMENT recommending that Chapter 30 of the Revised Zoning Ordinances, 2007, as amended, be further amended by deleting in Section 30-15, Table 1, Footnote 7 in its entirety.
- #109-07(2) DIRECTOR OF PLANNING & DEVELOPMENT recommending that Chapter 30 of the revised Ordinances of Newton, 2007, be amended by deleting in the existing language of §30-5(b)(4) and replacing it with language requiring special permits for retaining walls exceeding four (4) feet in height; by adding in §30-5(c) a requirement for the City Engineer's technical review and approval; and, by adding to §30-1 new definitions for retaining wall and berm, and amending the existing definition for *structure* to include *retaining walls*.

Business not scheduled for discussion

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Public Hearing Assigned for March 23, 2009:

- #46-09 DIRECTOR OF PLANNING & DEVELOPMENT recommending that Chapter 30 of the Revised Ordinances of Newton, Massachusetts, 2007, be amended by allowing the board of aldermen to grant a special permit for a Planned Multi-Use Business Development in any Mixed Use 1 District; by adding to Section 30-1, Definitions, a definition for Overlay Zone; by modifying certain minimum criteria and additional special permit criteria for a Planned Multi-Use Business Development in Section 30-15(s), Planned Multi-Use Business Development; by modifying certain density and dimensional requirements for Planned Multi-Use Business Development in Table A of Section 30-15(s), Planned Multi-Use Business Development; by renumbering, in Section 30-11(d),

subparagraph (12) as (13) and adding a new subparagraph (12); by renumbering, in Section 30-13(b), subparagraph (16) as (17) and adding a new subparagraph (16); by adding to Section 30-13, Mixed Use Districts, a new subsection 30-13(h), special permits for Planned Multi-Use Business Development; and by adding to Section 30-19(l), Off-Street Loading Requirements, a new subsection 30-19(l)(4) and the table of off-street loading requirements new provisions for buildings containing a mix of commercial and residential uses in a Planned Multi-Use Business Development and included as part of this amendment as Exhibit A.

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #70-09 HIS HONOR THE MAYOR submitting the FY10-14 Capital Improvement Program, totaling \$192,908,572, and the FY09 Supplemental Capital budget, which require Board of Aldermen approval to finance new capital projects over the next five years.
- #94-08 PLANNING & DEVELOPMENT BOARD, ALD. JOHNSON & LINSKY recommending the deletion of certain provisions and the addition of new provisions to regulate home businesses by amending Section 30-1, Definitions; Section 30-8, Use Regulations for Single Residence Districts; Section 30-8(b) and (c), Special Permits in Single Residence Districts; Section 30-9(b), Special Permits in Multi Residence Districts; Section 30-19(d), Number of Parking Stalls; and Section 30-20(e), Regulation of Signs in Residence Districts. The proposed amendments would revise or remove specific home occupations in the current definition of home businesses; modify the definition of home business; institute a registration requirement for some home businesses; allow multiple home businesses at the same residence provided that all home businesses combined do not exceed the limitations in the ordinance; revise the number of clients and employees non-resident to the business allowed on site at a given time without a special permit; amend and clarify limitations on storage, signage, and sale of merchandise; revise the list of prohibited neighborhood impacts; allow businesses in accessory apartments under certain circumstances; set a limit on the number of trips that may begin or end at a home business and the number of parking stalls demanded or utilized by the business without a special permit; revise the limit on the percentage of a dwelling unit that may be used for a home business without a special permit; require a special permit for home businesses involving the care and keeping of more than three animals; and revise the number of parking stalls required by a home business.
- #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]

- #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.
- #111-07 ZONING TASK FORCE recommending amendments to 30-21(3)(c), referred to as the de minimis rule, by amending the existing language with provisions: (1) clarifying the applicability to and effect of the rule on (a) the minimum distance between buildings; and (b) all applicable dimensional controls; and (2) creating a new procedure for approving a de minimis extension of the nonconforming nature of a structure. [04-10-07 @4:17 PM]
- #336-08 ALD. LAPPIN requesting a discussion re the creation of an index for the zoning ordinances. [9-12-08 @10:31 AM]
- #322-08 Ald. BAKER, YATES, & COMMISSION LOJEK requesting discussion of possible amendments to the City of Newton Ordinances to assist in assuring that properties that appear abandoned or severely dilapidated can be appropriately maintained or restored.
- #346-07(2) ZONING & PLANNING COMMITTEE proposing that subsection 22-40(h), *Exclusions*, of **Chapter 22-40, Historic district; purpose, governance, appointments, officers**, be amended by excluding from historic district commission review (i) Exterior-mounted antennas, with a power source, no higher than ten (10) feet and solely for municipal use on existing municipal structure in public use districts; and (j) elements of wireless mesh networks allowed by the review process under section 30-18(A)(g).
- #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]
- #48-04 ALD. GENTILE requesting that subsection (c) (1) of Chapter 22-44, **Demolition of historically significant buildings or structures**, be amended to affect a building or structure which is in whole or in part 100 or more years old.
- #110-08 ALD. YATES asking the Economic Development Commission why the City of Newton has attracted fewer biotechnology companies than other suburbs despite the existence of an ordinance intended to encourage such development. [3-3-07 @11:01 PM]

- #344-07 ALD. GENTILE, HARNEY & SANGIOLO requesting information from the Commissioner of Inspectional Services as to why a building permit was issued for work at the Marriott Hotel without a special permit amendment and when the mistake was discovered why a stop work order was not issued. [10-30-07 @5:20 PM]
- #354-04 ALD. BAKER AND SANGIOLO proposing that the Zoning Ordinances be amended in order to address building mass and height, better reflect usable floor area in attic and basement spaces, clarify measurement of building height when the roof line is changed, address upper story additions involving dormers and finished attic areas, and address large additions significantly increasing building size and mass, through amending the following provisions including but not limited to Section 30-1 definitions pertaining to “attic”, “height”, “story, half”, floor area, gross”, “space, habitable”, adding new definitions as appropriate pertaining to dormers and roof types, and amending Section 30-15, Table 1, Footnote 7(3) pertaining to calculation of FAR in the case of existing structures and such other related provisions as may apply. **(Item referred to Task Force)**
- #127-07 ALD. BURG, HESS-MAHAN requesting to amend Section 22-38 of the Revised Ordinances by adding a provision to create term limits for members of the Newton Historical Commission. [5-1-07 @2:23 PM]
- #219-06 ALD. PARKER, MANSFIELD, HESS-MAHAN, & FISCHMAN requesting discussion of an ordinance that would require builders of large new structures and/or major expansions of existing structures to use natural plantings to screen the view of those structures from any abutting residences.
- #365-06 ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
- #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)**
- #128-00(3) ZONING & PLANNING COMMITTEE requesting that the Planning, Law and Inspectional Services Departments develop an effective way to prevent in the historic districts the construction of structures that do not require building permits but nonetheless have impact on the historic character of the districts.

#10-06 ALD. JOHNSON, DANBERG, SANGIOLO, BAKER, & HESS-MAHAN requesting the adoption of legislation to enable the establishment of neighborhood conservation districts in Newton.

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.

#334-04 ALD. HESS-MAHAN proposing that Sections 30-1, 30-8(d) and 30-9(h) relative to accessory apartments be amended.

#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.

#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.

#291-95 ALD. PARKER, BALSER, LIPSITT, MANSFIELD, & SAMUELSON requesting that Sec. 30-24 of the City of Newton Rev. Ords., 1995, be amended to require all large commercial development(s) to make a cash payment to be used for affordable/low-income housing. Such payments to be calculated individually for each development on the basis of costs incurred by the city; demands on infrastructure and services; increased need for area affordable housing; and other impositions to the city and community that result from the construction of such projects.

#9-05 PRESIDENT BAKER & YATES reporting on proposed Massachusetts Land Use Reform Act and discussion of possible aldermanic endorsement.

#440-04 ALD. JOHNSON, BAKER & LAPPIN proposing a definition of "accessory structure" which will include mechanical equipment.

#219-06 ALD. PARKER, MANSFIELD, HESS-MAHAN & FISCHMAN requesting discussion of an ordinance to require builders of large new structures and/or major expansions of existing structures to use natural plantings to screen the view of those structures from any abutting residences.

- #303-07 ALD. JOHNSON, ALBRIGHT, HESS-MAHAN, LINSKY & SANGIOLO proposing to amend Chapter 30-24(f) to revise provisions requiring inclusion of low-income housing units in certain residential developments, by so doing encourage multi-family developers to seek approval under Newton zoning rather than under Chapter 40B. [1-3-07@9:29; AM]

- #345-07 ALD. BURG, VANCE, HESS-MAHAN, SALVUCCI, DANBERG requesting revision of the special permitting process for signs. [10-23-07 @3:19 PM]

- #347-07 ALD. PARKER, SANGIOLO, VANCE requesting an amendment to **§30-20, Signs and other advertising devices.**, to bring the ordinance into compliance with court ruling regarding the protection of free speech as it

- #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] (**Hearing closed September 24, 2007; 90 days 12/23/07**)

- #339-06 ALD. PARKER proposing an amendment to Chapter 30 to require that residential developments over 36 feet in height include a minimum of 25% affordable ('inclusionary') units.

- #193-06 ALD. VANCE proposing an ordinance that would require the owner of any residential property who is not otherwise required to give written notice to abutters and others of proposed modifications of the owner's residential structure to provide such written notice prior to the filing by such owner of an application for the building permit to construct such proposed modifications.

- #10-05 PRESIDENT BAKER recommending discussion and possible recommendations about amendments to historic district state law proposed by the Massachusetts Historical Commission, including suggested enhancement to facilitate local review and effective compliance.

- #237-01 ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 of the Revised Zoning Ordinances to clarify the definitions of and specify the distinctions between restaurants, retail food establishments, fast food establishments, and food processing and preparation as allowed and permissive uses in Business, Manufacturing and Mixed Use Districts.

- #238-01 ALD. MANSFIELD & SAMUELSON proposing to amend Sec. 30-1 and 30-11(g)(5) to clarify the definition of and restrict the permissive use “drive-in food service establishment” to Limited Manufacturing Districts only.
- #239-01 ALD. MANSFIELD proposing to amend Secs. 30-1, 30-11, 30-12, and 30-13 to establish a definition of and to specify appropriate zoning districts in which to conduct food catering businesses.
- # 86-02 ALD. MANSFIELD proposing to amend Secs. 30-11(a)(9) and 30-11(d)(9) to require a special permit for restaurants having not more than 50 seats that are within 300 feet of a Residence District.
- # 7-99 ALD. PARKER requesting discussion of possible zoning amendments to create additional residential districts with different FAR and lot size requirements.
- #231-02 ZONING & PLANNING COMMITTEE requesting that further studies be done by the Planning and Public Works Departments with maximum feasible participation by the neighborhood (using special permit mitigation money to hire consultant(s) if necessary) to answer questions and address issues raised in Zoning & Planning Committee on 6/10/02 about how to reduce the possibility of further over development in Thompsonville and ways to measure its impact.
- #59-03 ALD. SANGIOLO proposing amendments to Chapter 30-19 Section (j), *Lighting, Surfacing, and Maintenance of Parking Facilities*.
- #287-01 ALD. SANGIOLO proposing an ordinance to require a permitting process for the construction of parking lots.
- #371-01 ALD. PARKER, YATES, SANGIOLO, BASHAM, LIPSITT proposing an ordinance to require an appropriate review and approval process to control drainage and other environmental impacts in cases of major excavation or other topographic changes.

Respectfully submitted,
Brian Yates, Chairman