

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MARCH 26, 2007

7:45 PM
ALDERMANIC CHAMBER

PUBLIC HEARINGS WILL BE HELD IN CONJUNCTION WITH THE PLANNING BOARD ON THE FOLLOWING ITEMS, HEARINGS ON NOS. 333-97 AND 391 WERE OPENED JANUARY 22, 2007

#333-97 ALD. YATES proposing to amend the zoning ordinance to require a special permit for the subdivision of property where such subdivision would reduce the level of service for traffic at the intersection of the subdivision with a public way by one level of service or more. **HEARING CONTINUED FROM JANUARY 22, 2007**

#391-06 ALD. VANCE & BAKER proposing that Chapter 30 be amended as follows:
*Amend Zoning Section 30-2 by revising item (c), inserting a new item(d), and re-designating current items (d) through (i) as items (e)through (j) so that it reads as follows **(proposed (d) in bold)**:*

NOTE: Please see memorandum from Alderman Vance dated February 5, 2007 with proposed revisions to text.

1. Sec. 30-2. Purpose of chapter; short title.

The provisions of this chapter are ordained by the city for the purpose of promoting the health, safety, convenience and welfare of its inhabitants by: (a) Encouraging the most appropriate use of land, including the consideration of the comprehensive plan adopted by the planning board and the board of aldermen; (b) Preventing overcrowding of land and undue concentration of population; (c) Conserving the value of land and buildings, including the prevention of blight and pollution of the environment; **(d) Promoting sustainable practices and the conservation of natural resources and energy;** (e) Lessening the congestion of traffic; (f) Assisting in the adequate provision of transportation, water, sewerage, schools, parks, open spaces and other public facilities; (g) Preserving and increasing the amenities and aesthetic qualities of the city; (h) Encouraging housing for persons of all income levels; (i) Reducing hazards from fire and other dangers; and (j) Providing for adequate light and air.

2. *ZONING SECTION 30-24(d) (special permit decision criteria)*

*Amend Section 30-24(d) by adding a new paragraph (5) so that subsection (d) reads as follows **(proposed new (5) in bold)**:*

(d) The board of aldermen may grant a special permit when, in its judgment, the public convenience and welfare will be served, and subject to such conditions, safeguards and limitations as it may

impose. The board of aldermen shall not approve any application for a special permit unless it finds, in its judgment, that the use of the site will be in harmony with the conditions, safeguards and limitations herein set forth, and that the application meets all the following criteria

[statutory language re uses accessory to scientific research omitted for brevity]

- (1) The specific site is an appropriate location for such use, structure;
- (2) The use as developed and operated will not adversely affect the neighborhood;
- (3) There will be no nuisance or serious hazard to vehicles or pedestrians;
- (4) Access to the site over streets is appropriate for the type(s) and number(s) of vehicles involved;
- (5) In cases involving construction, the site planning, building design, construction, maintenance, and long-term operation of the premises will go beyond applicable city, state, and federal standards in achieving efficient use and conservation of natural resources and energy. Evidence of commitment to meeting environmental efficiency criteria and standards such as those articulated in the Leadership in Energy and Environmental Design (LEED), Energy Star, Advanced Buildings, or similar programs are regarded as one means of demonstrating that commitment.**

*3. NEW ZONING SECTION 30-24(g) (Administering special permit
Energy considerations)*

*Re-designate the present Section 30-24(g) as Section 30-24(h), and insert the following as new
Section 30-24(g):*

(g) Natural resources and energy. All applications for a special permit authorizing construction of new building(s) and/or structure(s), or additions to existing building(s) and/or structure(s), if containing individually or in the aggregate 20,000 or more square feet in gross floor area, shall submit evidence that the site planning, building design, construction, maintenance, and long-term operation of the premises will go beyond applicable city, state, and federal standards in achieving efficient use and conservation of natural resources and energy.

- (1) One means of demonstrating compliance would be commitment to meeting environmental efficiency criteria and standards such as those articulated in the Leadership in Energy and Environmental Design (LEED), Energy Star, Advanced Buildings, or similar programs.**

(2) **The following are examples of ways in which such efficient use and conservation might be achieved:**

- a) **Facilitation of access by public transportation, car or van-pooling, walking, bicycling, or other form of alternative to drive-alone access;**
- b) **Reduced site disturbance by building footprint and parking, or through resource protection and regenerative restoration;**
- c) **Design of landscape and building exterior to reduce heat islands;**
- d) **Landscaping which is water-efficient;**
- e) **On-site composting of organic wastes;**
- f) **Enhanced building energy performance through location on the site, configuration, and orientation;**
- g) **Enhanced building energy performance through its design, equipment, and specifications;**
- h) **Building reuse or conservative deconstruction;**
- i) **Solar, wind, geothermal or other on-site regenerative energy production;**
- j) **Water use reductions through efficient fixtures and recycling;**
- k) **Diversion of construction waste for recycling;**
- l) **Use of materials and products produced nearby;**
- m) **Use of rapidly renewable materials;**
- n) **Reuse content in building materials.**

(4) *ZONING SECTION 30-23(c)(2) (site plan approval criteria).*

*Amend Section 30-23(c)(2) by adding a new item (h) thereto so that that subsection would read as follows **(proposed new (h) in bold)**:*

(2) When conducting a site plan approval, the board of aldermen shall consider the application in light of the following criteria:

- a) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking. The sharing of access driveways by adjoining sites is to be encouraged wherever feasible;
- b) Adequacy of the methods for disposal of sewage, refuse and other wastes and of the methods of regulating surface water drainage;
- c) Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the site;

- d) Screening of parking areas and structure(s) on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between the street and existing or proposed structures shall be discouraged;
- e) Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with the appearance of neighboring developed areas;
- f) Location of utility service lines underground wherever possible. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines;
- g) Avoidance of the removal or disruption of historic resources on or off-site. Historical resources as used herein include designated historical structures or sites, historical architectural elements or archaeological sites.

h) For projects containing 20,000 or more square feet in gross floor area of new construction of buildings and/or structures, and/or of additions to existing buildings and/or structures, a showing that the site planning, building design, construction, maintenance, and long-term operation of the premises will go beyond applicable city, state and federal standards in achieving efficient use and conservation of natural resources and energy through such means as:

***facilitation of access by public transportation, car or van-pooling, walking, bicycling, or other form of alternative to drive-alone access; *reduced site disturbance by building footprint and parking, or through resource protection and regenerative restoration;* design of landscape and building exterior to reduce heat islands;* landscaping which is water-efficient; * on-site composting of organic wastes; and/or * enhanced building energy performance through its location on the site, configuration, and orientation.**

HEARING CONTINUED FROM JANUARY 22, 2007

#350-06 ALD. HESS-MAHAN requesting that subsections 30-8(d) (4) and 30-9(h)(2) relative to the lawful use pre-existing accessory apartment units be amended by deleting in each the following first sentence relative to the sunset provision for such use:

“The provisions of section 30-8(d)(4), relating to the lawful use of pre-existing accessory apartment units (second dwelling units) as described herein, shall be effective for a limited time period beginning with the date of adoption and ending June 30, 2007.”

“The provisions of section 30-9(h)(2), relating to the lawful use of pre-existing accessory apartment units (second dwelling units) as described herein, shall be

effective for a limited time period beginning with the date of adoption and ending
June 30, 2007.”

#66-07 NEW ENGLAND DEVELOPMENT proposing to amend §30-15 by adding a new subsection entitled **Planned Business Development (PBD)** as follows:

Section 30-15(s) Planned Business Development (PBD)

- (a) *Purpose.* This Section has been enacted to encourage the best use and design of large tracts of land in certain business districts, while promoting the best interests of residents of the City, through the use of Planned Business Developments. The major objectives of this section are to: (a) facilitate development of a mix of uses that will increase the vitality in the Business 4 and Business 5 zoning districts; (b) create new jobs at a variety of income and skill levels; (c) replace vacant or underutilized land with mixed-use development that will contribute to the fiscal health of the City; (d) encourage the development of onsite or offsite affordable housing opportunities in accordance with the City's Inclusionary Housing Ordinance; (e) to the extent feasible, enhance the surrounding neighborhood, and (f) promote consistency with the City's comprehensive planning and Comprehensive Plan.
- (b) *Definitions.* As applied to a Planned Business Development, the following terms shall have the meanings set forth below when used in this ordinance:
 - (1) *Development Parcel* shall mean the real property on which a PBD is located, as shown on a PBD Plan approved by the Board of Aldermen in connection with a special permit under this section 30-15(s).
 - (2) *PBD* shall mean any construction, alteration, enlargement, extension or reconstruction of buildings or structures, together with all facilities, parking, infrastructure and development related thereto, for which approval is sought pursuant to this Section 30-15(s).
- (c) *Minimum Criteria for PBDs.* In order to be eligible for any approval under Section (e) below, a PBD must meet the following threshold criteria:
 - (1) The Development Parcel shall contain a minimum of ten (10) acres;
 - (2) The total Floor Area Ratio of the PBD (excluding surface or structured parking and loading areas) shall not exceed 3.0;
 - (3) The PBD shall include a mix of commercial and residential uses; and
 - (4) The PBD shall provide onsite or offsite affordable housing opportunities in accordance with the City's Inclusionary Housing Ordinance (Section 30-24(f)).
- (d) Prior to granting any approval under Section (e) below, the Board of Aldermen shall first make the following findings with respect to the PBD:
 - (1) As part of the construction and ultimate use of the PBD, conditions have been included to address any material adverse impacts on the immediate or nearby

- neighborhood resulting from construction itself, as well as traffic, parking and noise and other impacts associated with the as-built PBD;
- (2) The PBD provides for long term public benefits, such as affordable housing, substantial traffic and roadway enhancements, water and sewer infrastructure enhancements, to the immediate or nearby neighborhood;
 - (3) The PBD has been designed with reference to the existing and currently proposed or planned land uses in the vicinity of the PBD and to include compatible uses, appropriate transitions and access routes between the PBD and abutting parcels and ways, and is in furtherance of the goals and policies of the City's comprehensive planning and Comprehensive Plan; and
 - (4) The PBD is in harmony with the general purpose and intent of this ordinance.
- (e) *Density/Dimensional Bonus and Exceptions.* If a PBD is eligible for approval under Sections (c) and (d) above, the Board of Aldermen may grant site plan approval in accordance with the procedures provided in Section 30-23 and may grant a special permit in accordance with the procedures provided in Section 30-24 for the PBD granting exceptions to any applicable provisions of this ordinance relating to density, bulk or dimensional controls, signage (whether onsite or offsite) and access, and/or permitting any use not expressly allowed in the Business 4 or Business 5 Districts; provided, however, that the following limitations shall apply: (1) Floor Area Ratio shall not exceed 3.0; (2) minimum off-street parking shall not be reduced by more than 1/3 of the parking otherwise required for the PBD under this ordinance; (3) minimum lighting requirements shall not be reduced to less than an average of 0.75 footcandles; and (4) uses not expressly allowed in the Business 4 or Business 5 Districts shall be allowed only if the Board determines that they are compatible with the mix of uses within the PBD.
- (f) *Lots.* In the application of the requirements of this ordinance to a PBD, the same shall not be applied to the individual lots or ownership units comprising a Development Parcel, but shall be applied as if the Development Parcel were a single conforming lot whether or not the Development Parcel is in single or multiple ownership; provided, however, that violation of this ordinance by an owner or occupant of a single lot or ownership unit or demised premises within a PBD shall not be deemed to be a violation by any other owner or occupant within the PBD. Any PBD in multiple ownership shall be required to form a property owners association to coordinate the operation of the PBD among property owners and to facilitate communication with the City regarding the PBD.
- (g) *Phasing.* Any PBD may be built in multiple phases over time. Notwithstanding the provisions of Section 30-24(c)(4) or other provisions of this ordinance, provided that the development of a first phase of the PBD is commenced within two years of the issuance of such approval, exclusive of any period during which an appeal of the same is pending or any period during which events beyond the reasonable control, or otherwise for good cause, of the applicant or its successor delays the exercise of its rights, approvals under this ordinance

for a PBD shall not lapse; provided, however, that such phasing may be specified in the site plan approval.

- (h) *Modifications.* Any material modification to a PBD shall require Site Plan Approval by the Board of Aldermen in accordance with Section 30-23, unless the Inspectional Services Commissioner determines that: (i) such modification is consistent with the intent of the plans approved in a Special Permit/Site Plan Approval under this Section 30-15(s), and (ii) that the mitigation work and community benefits contributions required under the original Special Permit/Site Plan Approval are maintained or exceeded. The following provisions shall apply with respect to any proposed modification of a PBD: (A) a change of use or relocation of a use within the PBD shall not require additional approvals under this ordinance if the total Gross Floor Area within the PBD devoted to such use does not increase by more than five percent (5%), and (B) a change of use that results in a lower net parking requirement for the PBD (pursuant to Section 30-19) shall not require additional approvals under this ordinance.

- (i) *Applicability.* Buildings, structures, lots and uses within or associated with a PBD shall be governed by the applicable regulations for the Business 4 District or the Business 5 District, as applicable, except as modified by the provisions of this section 30-15(s). Where provisions of this Ordinance conflict or are inconsistent with the provisions of this section 30-15(s), the provisions of this section 30-15(s) shall govern.

Respectfully submitted,

Brian Yates, Chairman