

CITY OF NEWTON
PUBLIC HEARING NOTICE
FOR
MONDAY, MARCH 26, 2007

Public Hearings will be held on Monday, March 26, 2007 at 7:45 PM, Second Floor, NEWTON CITY HALL before the ZONING & PLANNING COMMITTEE and the PLANNING & DEVELOPMENT BOARD, for the purpose of hearing the following petitions, at which time all parties interested in these items shall be heard.

Notice will be published Monday, March 12 and Monday, March 19, 2007 in the NEWS TRIBUNE and Wednesday, March 21, 2007 in the NEWTON TAB, with a copy of said notice posted in a conspicuous place at Newton City Hall.

Item nos. 333-97 and 391-06, continued on January 22, 2007 to March 26, 2007 and the following:

#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.
