

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, OCTOBER 22, 2007

Present: Ald. Yates (Chairman), Ald. Lappin, Sangiolo, Weisbuch, Baker, Burg, and Danberg; absent: Ald. Johnson

Also present: Ald. Vance, Hess-Mahan, Albright, Parker, Samuelson, and Fishman

City Staff: Michael Kruse (Director of Planning & Development), Marie Lawlor (Assistant City Solicitor), and Linda Finucane (Chief Committee Clerk)

#66-07(2) DIRECTOR OF PLANNING AND DEVELOPMENT proposing to amend Section 30-15 by adding a new subsection entitled **Planned Multi-Use Business Development (PMBD)** which will allow the Board of Aldermen to grant a special permit for a mix of compatible and complementary commercial and residential uses on large tracts of land in any Business 4 District, subject to certain minimum criteria for PMBDs and additional special permit criteria relative to adequacy of public facilities; mitigation of neighborhood impacts; housing, public transportation and traffic and parking improvements, and utility infrastructure enhancements; compatibility and integration with its surroundings; not inconsistent with applicable local plans or general laws; improved access nearby; enhanced open space; excellence in place-making; and a comprehensive signage program. [8-7-07 @3:36PM] (**Hearing closed 9/24/07; 90 days 12/23/07 2007**)

ACTION: APPROVED 6-1 (Sangiolo opposed)

NOTE: The public hearing on this item opened and closed on September 24. The version proposed by the Planning Director in #66-07(2) reflects in part the numerous suggestions of Committee and Board members and comments offered at and subsequent to the public hearing and meetings held on the previous item, #66-07, proposed by New England Development. At the conclusion of the public hearing on September 24, the Committee asked Mr. Kruse to give serious consideration to and review and comment on the alternate version proposed and presented that evening by Srdjan Nedeljkovic and Sean Roche. Their version offers both lower densities in Table 3 and somewhat elaborate language on what the criteria should be for approving a PMBD and how the petitioner should demonstrate compliance for the Committee's review.

Subsequent to the public hearing, Mr. Kruse reviewed with his staff the Nedeljkovic/Roche proposal. The Planning staff consensus was that incorporating all their suggestions would make the proposed ordinance overly detailed and cumbersome. They therefore produced and are recommending to the Committee a version known as

“Attachment C,” which returns to the basic structure and language of the original version with modifications for clarification and simplification,

In the same period, there was also an informal meeting called by Alderman Danberg in the Planning Department. Those present included Alderman Mansfield, who suggested as much detail as possible in the PMBD ordinance to assist the Land Use Committee in implementation of the ordinance if it passes and Comprehensive Planning Group Chairman Phil Herr, as well as Mr. Kruse. At the request of some members of the group, Mr. Herr compiled the comments of the group into a document given to the Committee as “Attachment A.” (It also was referred to as the Herr Document though Mr. Herr disclaimed that title, stressing his role as a compiler only. He supports “Attachment C” version for reasons of practicality).

Alderman Baker moved approval of “Attachment C.” Further discussion focused on the language of both Attachments A and C, with little reference made to the detailed densities of the two Tables 3. Mr. Kruse and Alderman Baker eventually persuaded the majority of the Committee that the extensive language in “Attachment A” would tie the hands of the technical staff of the city in their review and that it prescribed detailed ways of documenting compliance with the suggested criteria of the amendment. Mr. Kruse pointed out there are only four existing criteria for granting a special permit, he suggested that possible ways of complying with provisions of the PMBD Ordinance could be incorporated into guidelines handed out to potential PMBD developers, similar to the process that will bring about compliance with the new “green” zoning provisions. This satisfied some but not all of the qualms of the Committee.

Alderman Sangiolo offered an amendment adopting all of the provisions of Attachments A and C, with “Attachment A” as guidelines, but ultimately withdrew her amendment when it was noted that some of the provisions of Attachments A and C conflict and could not be adopted together.

Alderman Yates expressed his continued ambivalence on this item. Alderman Baker referred to it as “an invitation” to developers to apply under our rules. Alderman Yates is not sure that he wants them to apply for the densities allowed in the item. He thinks the goal of reducing overall traffic to the site by lowering parking requirements very unrealistic, but is intrigued by the provisions for neighborhood integration and pedestrian access. Upon reflection on the number of potential residents in the block where this type of development might be proposed, he found that a development with both daily and weekly shopping needs accessible to residents without driving on public streets would in fact lower the amount of street driving that they would have to do to meet their needs. He found this element of the proposal as refined by the public hearing and written comments very attractive. For the sake of this section, the simplicity of the language, and to move the item out of Committee, he agreed to vote for “Attachment C.”

Alderman Danberg felt that the required affordable housing units should be on-site. Alderman Baker pointed out that flexibility to provide either on- or off-site housing would provide more housing without expensive condominium fees. Mr. Kruse agreed. A

motion by Alderman Danberg to provide all housing on-site failed to carry 3-3-1, with Aldermen Danberg, Sangiolo and Yates in favor; Aldermen Baker, Burg, and Lappin opposed; and Alderman Weisbuch abstaining.

Alderman Parker strenuously objected to most of the discussion and to approval of "Attachment C" without explicit endorsement of most of the standards in "Attachment A." He felt that "Attachment C" is too loose in its characterization of the criteria as mere "considerations" as well as in the language of the criteria themselves. He strongly objects to the possibility of a 14-story building on any site in the city and feels that the language prepared by Mr. Kruse and moved by Alderman Baker would make it a likelihood if not a certainty.

Nevertheless, Committee members Danberg and Berg said that they would vote for Alderman Baker's motion with the expectation that appropriate guidance for would-be PMBD developers would be developed and utilized. The Committee voted 6-1, with Alderman Sangiolo opposed, to approve the item as embodied in "Attachment C." Alderman Sangiolo's objections included the passage of this item before the Comprehensive Plan. The Chair explained that he had taken up this item before the Comprehensive Plan because it 90-day deadline from the close of its second public hearing expires on December 23 and the broader Plan has no specific deadline. Other Committee members agreed with Alderman Sangiolo's position though not enough to vote against the item.

All other items were held without discussion and the meeting was adjourned at approximately 10:00 PM.

Respectfully submitted,

Brian Yates, Chairman

Attachments: October 19 M. Kruse memo w/Attachments A&C
October 22 Parker memo