

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, NOVEMBER 26, 2007

7:45 PM  
Room 202

*Item to be Discussed:*

#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. (*Approved 6-1 (Sangiolo) on 10/22; recommitted 11/5/07*)

*New Business:*

#303-07 ALD. JOHNSON, ALBRIGHT, HESS-MAHAN, LINSKY, & SANGIOLO proposing to amend Chapter 30-24(f) to clarify and revise its provisions requiring inclusion of low-income housing units in certain residential developments, by so doing encouraging multi-family developers to seek approval under Newton zoning rather than under Chapter 40B. [10-3-07 @9:29 AM]

Appointment by His Honor the Mayor

#337-07 DANIEL GREEN, 46 Glen Avenue, Newton Centre, appointed as a member of the CONSERVATION COMMISSION for a term to expire April 30, 2009 (60 days 1-4-08). [10-23-07 @10:49 AM]

Re-appointment by His Honor the Mayor

#338-07 DAVID MORTON, 148 Edinboro Street, Newtonville, re-appointed as a *regular* member of the HISTORICAL COMMISSION for a term to expire January 1, 2011 (60 days 1-4-08). [10-29-07 @2:38PM]

Re-appointment by His Honor the Mayor

#339-07 LEONARD SHERMAN, 181 Windsor Road, re-appointed as an *alternate* member of the HISTORICAL COMMISSION for a term to expire January 1, 2011 (60 days 1-4-08). [10-29-07 @2:39 PM]

Re-appointment by His Honor the Mayor

#340-07 WILLIAM ROESNER, 34 Hancock Avenue, Newton Centre, re-appointed as a *regular* member of the HISTORICAL COMMISSION and as the Historical Commission member of the CHESTNUT HILL HISTORIC DISTRICT COMMISSION for terms to expire January 1, 2011 (60 days 1-4-08). [10-29-07 @2:38 PM]

Re-appointment by His Honor the Mayor

#341-07 JOHN MARTIN, 12 Simpson Terrace, Newtonville, re-appointed as a *regular* member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2011 (60 days 1-4-08). [10-29-07 @2:38 PM]

Re-appointment by His Honor the Mayor

#342-07 JIM GROSS, 80 Highland Avenue, Newtonville, re-appointed as a *regular* member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2011 (60 days 1-4-08). [10-29-07 @2:38 PM]

Re-appointment by His Honor the Mayor

#343-07 CAROL WARNER, 26 Lowell Avenue, Newtonville, re-appointed as a *regular* member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2011 (60 days 1-4-08). [10-29-07 @2:38 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]

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

#346-07 HIS HONOR THE MAYOR proposing that §30-18A(d), *Wireless Communication Equipment Allowed As-of-Right.*, be amended by adding a new subparagraph (8) to require a public hearing and board of aldermen approval for wireless communication equipment (WiFi) utilized by the city for its communications systems. [10-30-07 @3:39 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 applies to signs expressing opinions.

*Unfinished Business:*

- #248-07 ALD. YATES proposing to amend the “demolition delay ordinance” to exclude from review the partial demolition of architectural features not visible from a public or private way or a public park or open space. [8-7-07 @2:05 PM]
- #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 closed 3/26/07; 90 days 6/24/07)**
- #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.**(Hearing closed 4/23/07; 90 days 7/22/07)**
- #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.
- #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.

**ITEM RECOMMITTED BY THE FULL BOARD ON DECEMBER 4, 2006**

- #194-06      NEWTON HISTORICAL COMMISSION recommending that the Demolition Delay Ordinance, Section 22-44, be amended in an effort to:
- Reflect actual administrative practices vs. those specified in the current ordinance,
  - Reduce the number of non-historic properties or building elements that the Commission reviews, while re-enforcing the intent of the original ordinance, which is to protect and enhance historically and architecturally significant properties, that are not otherwise protected through local historic districts and local landmark designation, through the creation of additional criteria, beyond just age of the building, based on the Commission's and staff's experiences over the past few years and through the use of building surveys, etc., and
  - Help reduce ambiguities in the ordinance, such that both staff and members of the public have a better understanding of the types of structures and/or elements of structures that would fall under the purview of the Commission.
- #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.
- #376-04      ALD. YATES requesting an amendment to Sec. 22-75 to allow the Economic Development Commission to exercise all the powers of an economic development and industrial corporation under Chapter 121 C of the General Laws upon a finding by the Board of Aldermen that there exists in the city conditions of unemployment or threat of future unemployment.
- #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.
- #50-06      ALD. SAMUELSON proposing that private contractors be required by ordinance to obtain a permit from Inspectional Services prior to installing outdoor lighting on public property.

- #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) of the Revised Zoning Ordinances 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 of the Revised Zoning Ordinances 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.
- #152-04 ALD. SANGIOLO proposing that Chapter 30 be amended by adding a definition of “kitchen facilities.”
- # 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 and Planning Committee on June 10, 2002 about how to reduce the possibility of further over development in Thompsonville and ways to measure its impact.
- #330-02 ALD. JOHNSON, BULLWINKLE, LINSKY requesting a discussion regarding revamping the home business ordinance to reflect current uses (allowable/not allowable).
- #267-03 ALD. SANGIOLO, JOHNSON, STEWART, & SAMUELSON proposing that Sec 30-5(a)(3) of the Zoning Ordinance be amended to include public safety concerns and a cap on the number of students based on lot size.

- #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.
- #306-04      ALD. SANGIOLO & JOHNSON on behalf of George Foord proposing  
either an amendment or new ordinance re: living fences.
- #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

CITY OF NEWTON  
IN BOARD OF ALDERMEN

ORDINANCE NO. Z-

November, 2007

Deleted: October

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

That the Revised Zoning Ordinances of Newton, Massachusetts, 2001, as amended, be and are hereby further amended as follows:

**1. By adding to the provisions of Section 30-15, Density/dimensional requirements, the following new section:**

Section 30-15(s) *Planned Multi-Use Business Development ("PMBD")*. In any Business 4 District, the Board of Aldermen may give 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 applicable density and dimensional controls set out in Table A of this subsection for a Planned Multi-Use Business Development subject to the criteria and conditions set out below.

- 1) *Purpose*: A Planned Multi-Use Business Development is one which allows development appropriate to the site and its surroundings, that provides enhancements to infrastructure, protection of nearby neighborhoods, and a mix of compatible and complementary commercial and residential uses appropriate for sites located on commercial corridors, and is not inconsistent with the City's Comprehensive Plan in effect at the time of filing an application for a Planned Multi-Use Business Development.
- 2) *Minimum Criteria for Planned Multi-Use Business Developments*. In order to be eligible for any approval under this Section, a PMBD must meet the following threshold criteria:
  - (a) The Development Parcel shall be located in a Business 4 District, and have frontage on a Major Arterial or Minor Arterial, as classified by the City of Newton;
  - (b) The PMBD shall comply with the applicable minimum and maximum density and dimensional controls set out in Table A of this subsection, rather than to those of Section 30-15 Table 3;

- (c) The PMBD shall include a mix of compatible and complementary commercial and residential uses and shall comply with the provisions set forth in Section 30-24(f);
- (d) If the PMDB's mix of commercial and residential uses share parking facilities, the provisions of Section 30-19(d) shall apply, except that in no event shall the required parking for residential units be less than 1.25 per dwelling unit; and
- (e) No off-street parking shall be provided in the front setback of retail, office or commercial buildings.

3) *Additional Special Permit Criteria for a Planned Multi-Use Business Development.* In order to make the findings set forth in Section 30-24(d), and addition to those criteria set forth in Section 30-23(c)(2) and in Section 30-24(d), the Board of Aldermen shall consider whether the application for a Planned Multi-Use Business Development meets all of the following criteria:

- (a) *Adequacy of public facilities.* Transportation, utilities, public safety, schools including capacity, and other public facilities and infrastructure serve the PMBD appropriately and safely without material deterioration in service to other nearby locations;
- (b) *Mitigation of neighborhood impacts.* Mitigation measures have been included to address any material adverse impacts from the PMBD on nearby neighborhoods during construction and, after construction, on traffic, parking, noise, lighting, blocked views, and other impacts associated with the PMBD. Mitigations may take the form of transit improvements, improved access to transit, traffic-calming, or other roadway changes;
- (c) *Housing, public transportation and traffic and parking improvements, and utility infrastructure enhancements.* The PMBD offers long term public benefits to the City and nearby neighborhoods such as affordable housing, substantial parking, public safety, traffic and roadway enhancements, improved access and enhancements to public transportation, and water and sewer infrastructure enhancements;
- (d) *Compatibility and integration with its surroundings.* The PMBD scale, density, and mix of commercial and residential uses have been designed to be compatible with the character and land uses in the surrounding neighborhoods, and the PMBD appropriately integrates building height, streetscape character, and overall PMBD design, as well as provides appropriate setbacks and buffering and screening from nearby properties, especially residential ones, as well as assurance of appropriate street or ground level commercial uses. The integration requirements of this paragraph shall apply to the various elements of the PMBD in relation to each other as well as to the PMBD in relation to its neighbors;
- (e) *Not inconsistent with applicable local plans or general laws.* The PMBD is not inconsistent with the City's Comprehensive Plan in effect at the time



- of filing an application for a Planned Multi-Use Business Development, and applicable general laws relating to zoning and land use;
- (f) *Improved access nearby.* Pedestrian and vehicular access routes and driveway widths, which shall be determined by the Board of Aldermen, are appropriately designed between the PMBD and abutting parcels and streets, with consideration to streetscape continuity and an intent to avoid adverse impacts on nearby neighborhoods from such traffic and other activities generated by the PMBD as well as to improve traffic and access in nearby neighborhoods;
  - (g) *Enhanced open space.* Appropriate setbacks as well as buffering and screening are provided from nearby residential properties; the quality and access of beneficial open space and on-site recreation opportunities is appropriate for the number of residents, employees and customers of the PMBD; and the extent of the conservation of natural features on-site, if any. In addition, the PMBD must satisfy the open space requirement in Table A;
  - (h) *Excellence in place-making.* The PMBD provides a high quality architectural design so as to enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the PMBD and its surroundings;
  - (i) *Comprehensive signage program.* All signage for a PMBD shall be in accordance with a comprehensive signage program developed by the applicant and approved by the Board of Aldermen, which shall control for all purposes and shall not be inconsistent with the architectural quality of the PMBD or character of the streetscape.
  - (j) *Pedestrian scale.* The PMBD provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation, includes appropriate provisions for crossing all driveway entrances and internal roadways, and allow appropriate pedestrian access to and through the Development Parcel;
  - (k) *Public Space.* The PMBD creates public spaces as pedestrian oriented destinations that accommodate a variety of uses and promote a vibrant street life making connections to the surrounding neighborhood, as well as to the commercial and residential components of the PMBD, to other commercial activity, and to each other; and
  - (l) *Sustainable Design.* The PMBD will at least meet the energy and sustainability provisions of Zoning Sections 30-24(d)(5), Section 30-24(g), and 30-23(c)(2)(h).
- 4) *Lots.* In the application of the requirements of this Ordinance to a Planned Multi-Use Business Development, 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 leased

premises within a PMBD shall not be deemed to be a violation by any other owner or occupant within the PMBD provided there exists an appropriate organization of owners as described in subsection 5) below.

- 5) *Organization of Owners.* Prior to exercise of a special permit granted under this section, there shall be formed an organization of all owners of land within the development with the authority and obligation to act on their behalf in contact with the city or its representatives. Such organization shall serve as the liaison between the city and any lot owner, lessee, or licensee within the PMBD which may be in violation of the city's zoning ordinance, shall be the primary contact for the city in connection with any dispute regarding violations of this ordinance and, in addition to any joint and several liability of individual owners, shall have legal responsibility for the PMBD's compliance with the terms of its special permit and site plan approval granted hereunder and with this ordinance. In addition, the special permit shall provide for the establishment of an advisory council consisting of representatives of the neighborhoods and this organization to assure continued compatibility of the uses within the PMBD and its neighbors during and after construction.
- 6) *Phasing.* Any development within a Planned Multi-Use Business Development may be built in multiple phases over a period of time, in accordance with the terms of the special permit granted provided that all improvements and enhancements to public transit or public roadways and other amenities are provided contemporaneously with or in advance of occupancy permits for elements of the development that are reliant upon those improvements for access adequacy. The phasing schedule for the PMBD shall be as set forth in the special permit.
- 7) *Post-Construction Traffic Study.* A Planned Multi-Use Business Development special permit granted shall provide for monitoring to determine consistency between the projected and actually experienced number of daily and hourly vehicle trips to and from the site and their distribution onto abutting roads. The special permit shall require a bond or other security satisfactory to the City Traffic Engineer and Director of Planning and Development, in an amount approved by the Board of Aldermen in acting on the special permit, to secure performance as specified below:
  - (a) Monitoring of vehicle trips for this purpose shall begin not earlier than twelve months following the granting of the final certificate of occupancy, and shall continue periodically over the following twelve months. Measurements shall be made at all driveway accesses to the PMBD;
  - (b) The baseline shall be the projected daily and peak hour vehicle trips to and from the PMBD site at full occupancy and their distribution onto abutting roads. The baseline figures shall be those relied upon by the Board of Aldermen in acting on the special permit, having considered the figures determined by the City Traffic Engineer and the Director of Planning and Development following submittals by the applicant's professional engineering firm and following staff and consultant peer review of those figures;
  - (c) The experienced actual number of vehicle trips to and from the PMBD and their distribution onto abutting roads shall be measured by a traffic

engineering firm retained by the City and paid for the applicant or successor in interest; and

- (d) If the actually experienced number of vehicle trips and distribution measured per paragraph 7(c) exceeds the baseline number projected per paragraph 7(b) by more than ten percent (10%), mitigation measures are required. Within six months of notification to do so, the then owner of the PMBD site shall begin mitigation measures in order to reduce the trip generation to one hundred ten percent (110%) or less of baseline, such reduction to be achieved within twelve months after the mitigation is begun. Prior to implementation, any mitigation efforts must be approved by the City Traffic Engineer and the Director of Planning and Development.

Upon failure by the owner to achieve the required reduction within one year after notification, the bond or other security cited above may be forfeited and proceeds used by the City for traffic mitigation.

- 8) *Modifications.* Any material modification to a PMBD shall require an amendment to the site Plan or Special Permit as approved by the Board of Aldermen in accordance with Sections 30-23 or 30-24. In addition to any other material modifications which might require an amendment, the following shall be considered material modifications:
  - (a) A change of use to a use not approved in the special permit; or change to an approved use within the PMBD if the total Gross Floor Area within the PMBD devoted to such use would be increased by more than five percent (5%) in the aggregate;
  - (b) A change of use that results in a net increase in required parking for the PMBD (pursuant to Section 30-19);
  - (c) A change of use or an increase in the floor area or unit count, as applicable, of a use within the PMBD unless the applicant demonstrates that the total traffic generation of the PMBD, with the proposed change, will not exceed the total traffic generation of the PMBD set forth in the applicant's pre-development traffic study;
  - (d) Except as provided above, any reduction in beneficial open space; and
  - (e) Modification governed by any condition identified by the board of alderman in the special permit as not subject to modification without additional approval.
- 9) *Applicability.* Buildings, structures, lots and uses within or associated with a PMBD shall be governed by the applicable regulations for the Business 4 District, except as modified by the provisions of this section 30-15(s). Where provisions of this Section 30-15(s) conflict or are inconsistent with other provisions of the zoning ordinance, the provisions of this section 30-15(s) shall govern.

10) *Additional Filing Requirements for PMBDs.* In addition to the provisions of Section 30-23 and 30-24, general application requirements for grant of a special permit for a PMBD are as follows: Applicants must submit in hard copy and by electronic submission (e-filing) compliant with the Mass GIS “Standard for Digital Plan Submittal to Municipalities,” or successor standard, unless the applicant demonstrates to the satisfaction of the Director of Planning and Development that electronic submission is not feasible:

- (a) Scaled massing model or 3D computer model consistent with Section 30-24(b);
- (b) Narrative analysis describing design features intended to integrate the proposed PMBD into the surrounding neighborhood, including the existing landscape, abutting commercial and residential character and other site specific considerations, as well as an explanation of how the proposed PMBD satisfies each criterion in this section;
- (c) Statement describing how the beneficial open space areas, to the extent open to the public, are intended to be used by the public;
- (d) Site plans showing any “by-right” or special permit alternatives within the current zoning district prior to any site specific rezoning or special permit application under this Section 30-15(s); and
- (e) Area plan showing distances from proposed buildings or structures on abutting parcels or parcels across public ways, along with information on the heights and number of stories of these buildings and any buildings used for the purposes calculating of a height bonus.
- (f) A Roadway and Transportation Plan reflecting the “EOEA Guidelines for EIR/EIS Traffic Impact Assessment” with further attention to public transportation and exceptions, subject to review by the City Traffic Engineer and Director of Planning and Development. The Plan should include the following:
  - i. Graphic and narrative description of existing and proposed means of access to and within the site, including motor vehicular, pedestrian, bicycle, and public or private transportation alternatives to single-occupant vehicles;
  - ii. Description of a proposed transportation demand management (TDM) program identifying commitments, if any, to a designated TDM manager, employer contributions to employee public transportation passes, shuttle bus capital contribution, car pool, van pool, guaranteed ride home, flex hours, promotional programs, support for off-site pedestrian and bicycle accommodations, and similar efforts;
  - iii. The anticipated vehicle trip generation reductions resulting from internally captured dual-purpose trips, the TDM program and the means of making change if these reductions are not realized.

iv. Detailed analysis and explanation for the maximum peak hour and daily motor vehicle trips projected to be generated the Development Parcel;

v. Analysis of traffic impacts on surrounding roadways, including secondary roads on which traffic to the Development Parcel may have a negative impact. Results are to be summarized in tabular form to facilitate understanding of change from baseline conditions to the build out conditions in trip volumes, volume/capacity ratios, level of service, delays, and queues.

vi. The assumptions used with regard to the proportion of automobile use for travel related to the site, the scale of development and the proposed mix of uses, and the amount of parking provided; and

vii. Analysis of projected transit use and description of proposed improvements in transit access, frequency and quality of service.

(g) Proposed phasing schedule, including infrastructure improvements; and

(h) Shadow study showing shadow impacts on the surroundings for four seasons at early morning, noon, and late afternoon.

**2. By adding to Section 30-1 Definitions, the following three definitions:**

*Open Space, Beneficial:* Areas not covered by buildings or structures, which shall specifically include, but are not limited to: landscaped areas; playgrounds; walkways; plazas, patios, terraces and other hardscaped areas; and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, or (ii) surface parking facilities, or (iii) areas that are accessory to a single housing unit or (iv) areas that are accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public. In calculations of the amount of beneficial open space provided, an offset of ten (10) per cent of the otherwise applicable square footage requirements shall be made for the provision of well-maintained publicly available green planted areas.

*Development Parcel:* The real property on which a Planned Multi-Use Business Development is located, as shown on a Planned Multi-Use Business Development Plan approved by the board of aldermen in connection with a special permit under Section 30-15(s).

*Height, Contextual:* The vertical distance between the elevations of the following: (a) the Newton Base Elevation utilized by the city as implemented by the engineering division of the department of public works and (b) the mid-point between the highest point of the ridge of the roof and the line formed by the intersection of the wall plane and the roof plane. Not included in such measurements are 1) cornices which do not extend more than five (5) feet above the roof line; 2) chimneys, vents, ventilators and enclosures for machinery of elevators which do not exceed fifteen (15) feet in height above the roof

line; 3) enclosures for tanks which do not exceed twenty (20) feet in height above the roof line and do not exceed in aggregate area ten (10) per cent of the area of the roof; and 4) towers, spires, domes and other ornamental features.

**3. *By renumbering, in Section 30-11(d), subparagraph (12) as (13) and adding the following as new subparagraph (12):***

(12) In Business District 4, a Planned Multi-Use Business Development, in accordance with the provisions of Section 30-15(s);

**Table A**

**Density and Dimensional Requirements for Planned Business Developments Pursuant to Section 30-15(s)**

<b>Zoning District</b>	<b>Min. Lot Area</b>	<b>Min. Frontage</b>	<b>Max. # of Stories (1)</b>	<b>Max. Total Floor Area Ratio</b>	<b>Min. Lot Area per Res. Unit</b>	<b>Max. Lot Coverage</b>	<b>Min. Beneficial Open Space</b>
<i>Business 4</i>	10 acres	100 ft.	8	3.0	1,200 sq. ft.	n/a	20%

**Notes:**

(1) Number of stories may be increased up to a maximum of 14 stories, subject to grant of special permit by the Board of Aldermen and subject to such height and setback limits as established in Footnotes 2 and 3, following.

**Notes:**

(2) The Board of Aldermen may grant a special permit to allow building height to be increased up to a maximum of 168 feet, excluding customary rooftop elements, provided the building is placed a minimum of 100 feet from the front and rear lot lines and provided the excess height of any such building does not exceed the following: one (1) foot of excess building height for each 1.5 feet of additional setback, as measured from the front or rear lot line, whichever is less.

(3) Any increase in building height requested pursuant to Fn. 2 may not result in the proposed building at any point exceeding the contextual height of the tallest building located within 2,000 feet of the Development Parcel.

(4) The Board of Aldermen may grant a special permit to allow the front setback to be decreased from 15 feet to the average setback in the immediate area, which shall be the average of the setbacks of the buildings nearest thereto on either side of the Development Parcel. A vacant lot shall be counted as though occupied by a building set back fifteen feet from the front setback.

(5) Side and/or rear setbacks shall be a minimum of 20 feet when such setback abuts any Single Residence District or Multi-Residence District or Public Use District.

(6) Side and/or rear setbacks of non-residential uses shall be a minimum of 100 feet when such setback abuts any Single Residence District or Multi-Residence District or Public Use District.

(7) The front, side and rear setback requirements for any parking facility shall not be less than five feet, or shall not be



not be less than fifteen feet when such setback abuts any Single Residence District or Multi-Residence District or Public Use District.

**(8)** Building height and setbacks shall be measured separately for each building on the site and shall be measured separately for each part of a building which (a) is an architecturally distinctive element, and (b) is setback from the façade of an adjoining or lower building element at least 20 feet, and c) for which there is a change in height of at least one story. Setbacks for all other structures shall be determined by the Board of Aldermen.

**PMBD ZONING**  
VERSION OF JUNE 29, 2007

