

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

MONDAY, NOVEMBER 26, 2001

Present: Ald. Yates (Chairman), Ald. Sangiolo, Merrill, Baker, Johnson, and Gentile

Absent: Ald. Mansfield; 1 vacancy

Also present: Ald. Tattenbaum and Lipsitt

City officials: Lou Mercuri and Martha Horn (Planning Department), Mark Gilroy and Peter Bronson (Inspectional Services)

Planning Board members: David Banash and Glen Vanaman

#397-01 CONSERVATION COMMISSION requesting acceptance of a Conservation Restriction at 180 ELGIN STREET on land located next to the Charles Cohen Conservation Area and an MDC open-space parcel. The Grantor will retain the fee interest in the lot, dividing it into two parts. The restricted portion includes Thompsonville Brook and an adjacent wooded wetland. The remainder of the lot will remain a "limited building site" which may be developed for residential use in the future.

ACTION: APPROVED 6-0

NOTE: Preservation Planner Martha Horn presented the information on the proposed restriction. Donor Alex Wilmerding, who lives next to the subject lot at 180 Elgin Street was present to answer questions. The donor will retain a fee interest in the restricted land and a limited building site next to it. In accordance with the city's *Open Space and Recreation Plan*, a conservation restriction will prohibit a long list of uses (page 6 of the agreement) on the restricted site, which includes a portion of Thompsonville Brook and an adjacent wooded wetland. The Committee was very grateful for the donor's generosity, but Alderman Baker raised concerns about how the limitations would be enforced. Mr. Gilroy and Ms. Horn explained that anyone seeking a permit on the land would be referred to the Conservation Commission, which would implement the Restriction. Alderman Baker asked if a file existed on the parcel in the Inspectional Services Department to flag the restriction. Mr. Gilroy explained that ISD only has jackets for property with addresses and vacant land like this one has no such address. However, the GIS system, which ISD personnel consult before issuing a building permit, clearly indicates the basic conservation restrictions on the site. These restrictions will cause the referral to the Conservation Commission that will then enforce the additional restrictions. Based on past problems when ISD had not referred property owners in the

Chestnut Hill Historic District to the Preservation Planner, Alderman Baker wanted more of a safeguard. Mr. Gilroy eventually agreed to do a jacket for this parcel. The Committee voted 6-0 to approve the acceptance of the Conservation Restriction with thanks to Mr. Wilmerding.

#316-01 ALD. SANGIOLO requesting discussion with the Conservation Commission regarding future plans for 20.2 acres formerly part of the Rumford Avenue Landfill in light of the recommendations of the Mayor’s Flowed Meadow Advisory Group.

ACTION: NO ACTION NECESSARY 6-0

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#395-01 HIS HONOR THE MAYOR submitting the FY03-FY07 CAPITAL IMPROVEMENT PROGRAM, pursuant to Section 5-3 of the NEWTON CITY CHARTER, which requires Board of Aldermen approval of a plan to finance new local capital projects totaling \$164,339,428 over the next several years:

SUMMARY

PUBLIC WORKS (GRANT/FEE FUNDED).....	\$ 51,675,171
PUBLIC WORKS (CITY FUNDED).....	\$ 7,215,000
PUBLIC SAFETY.....	\$ 2,296,000
PUBLIC BUILDINGS.....	\$ 2,260,650
PUBLIC EDUCATION.....	\$ 92,243,907
PARKS & RECREATION.....	\$ 3,951,900
OTHER.....	\$ 4,696,800
TOTAL.....	\$164,339,428

ACTION: CONSERVATION (UNDER OTHER) APPROVED 6-0

NOTE: Martha Horn explained the Capital Improvement Program Conservation items with particular attention on the Flowed Meadow Improvements. In Fiscal Year 2003, and in each of the two following years, \$35,000 will be spent on deferred tree work and pathway resurfacing and stabilization in conservation property at Norumbega, Kennard, Saw Mill Brook, Webster, Goddard, Christina, Oakdale Woods, and Charles River Pathway at Williams Street.

Also in Fiscal Year 2003, \$55,000 will be spent on pathway stabilization and resurfacing, signage, connections to existing pathways, bridgework, re-vegetation of selected areas, and trail work. The proposed improvements will implement the recommendations of the Flowed Meadow Task Force and are consistent with the *Open Space and Recreation Plan*. Discussion of possible additional land acquisitions in the area was postponed until the *Open Space and Recreation Plan* was submitted to the Board. The Chair asked that a copy of the State’s response to the *Open Space Plan and Recreation Plan* submitted to qualify the city for grants be provided to the Board.

\$35,000 will be spent in 2003 for fencing to complete the Houghton Garden project. Private funds will be sought.

The Engineering Department will spend \$15,000 in Fiscal Year 2003 to mitigate drainage/erosion problems in the Madoc Street/Webster Conservation Area. More may be needed in the future.

The Committee voted 6-0 to approve the Conservation section of the C.I.P and No Action Necessary on Item 316-01

#121-01 ALD. O'HALLORAN requesting that Chapter 30, **ARTICLE III. PARKING AND LOADING FACILITIES**, of the Rev Zoning Ordinances, 1995, be amended as follows: Amend Sec. 30-19(d), *Number of Parking Stalls*, to call for an increase in the required number of parking stalls to be provided for each residential dwelling unit depending on the size (gross floor area) of each unit. (Public Hearing 9/24/01)

ACTION: NO ACTION NECESSARY 6-0

NOTE: Before the public hearing on September 24, the Planning Department had pointed out that this item would have unintended consequences far beyond the sponsor's original purposes which could be achieved in other ways. Alderman O'Halloran had agreed that the item could be voted No Action Necessary provided that the issue of overcrowding of neighborhoods with residential parking is dealt with in another way. The Committee voted No Action Necessary 6-0.

#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.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#372-01 ALD. SANGIOLO proposing that the requirement for a special permit for a grade change of more than 3 feet be moved from Section 30-5 to 30-15.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#373-01 ALD. SANGIOLO proposing an ordinance requiring setbacks for athletic fields and structures occupying athletic fields from abutting residential properties.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#315-01 ALD. SANGIOLO requesting that notification to abutters for zone changes and special permits be increased to 600 feet.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#317-01 ALD. JOHNSON, O'HALLORAN, TATTENBAUM proposing that Sec 30-11(d)(9), requiring a special permit for "...businesses of whatever size which hold a Common Victualler-All Alcoholic or Common Victualler-Wine/Malt Beverages license issued by the licensing authority of the city;" be amended by deleting such provision.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#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.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#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.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#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.

ACTION: REFERRED 6-0 TO 02-03 BOARD

#185-01 PLANNING & DEVELOPMENT BOARD proposing that the definitions for "*Dwelling, attached*", "*Dwelling, two-family*", "*Common roof connector*" and "*Common wall connector*" in **Sec.30-1 Definitions.** be amended. (Public Hearing 9/24/01)

ACTION: HELD 6-0

NOTE: Mr. Banash and Mr. Vanaman refreshed the Committee's recollection about this item. Even after extensive discussion, it was not completely clear to some Committee members what problem the item was addressing. The Planning Board members were asked to give examples of by-right attached dwellings that were poorly designed. The only example of the so-called "linguini" attachment was in fact a special permit. Another attached dwelling on Butts Street was questionable because of scale not because of lack of attachment. The Planning Board members cited Tanglewood Road as an example of poorly designed attached dwellings. It became clear that the dwelling

included in the 1987 Zoning Revision was a half-baked remnant of a former special permit use. However some members felt that the issue was better addressed by making it clearer what a structure or building was. The issue of overly large garages was also addressed in the item -- it may need a separate discussion. The item was too complex for resolution at the meeting so the Committee voted 6-0 to hold it for working session after the public hearing on December 10.

#225-01 ALD. LIPSITT requesting that Sec. 30-15(b)(4) of the Zoning Ordinance be amended to require that all rear lot subdivisions have 20' of frontage upon a way. (Public Hearing 9/24/01)

ACTION: APPROVED AS AMENDED 5 –1 (ALD. GENTILE)

NOTE: In contrast to the above item, this item was simple enough to deal with. As Alderman Lipsitt explained, it was generated by the Land Use Committee's experience with a petition that lacked frontage and was rejected on that ground. The Committee felt that no such petition would ever be approved and that Board and landowners alike could be spared a lot of wasted effort by providing a minimum frontage requirement. Alderman Gentile felt that although the case in point may well have deserved to be denied, he didn't want to remove the flexibility to allow owners of very large lots with little or no frontage to use them in a way that would not adversely affect anyone else.

The Committee voted 5-1 (Gentile) to approve the item with the amendments recommended by the Planning Department in its memo. The Committee docketed and referred 6-0 the following item: 225-01 (2) Zoning and Planning Committee requesting discussion of further restrictions on rear lot subdivisions.

REFERRED TO LAND USE AND ZONING & PLANNING COMMITTEES

#139-99 ALD. TATTENBAUM requesting discussion with Commissioner of Inspectional Services re enforcement of zoning ordinances and of special permit conditions.

LAND USE NAN'D 4-0 ON 11/13/01

ACTION: NO ACTION NECESSARY 6-0

NOTE: The Land Use Committee will invite ISD to periodically discuss the implementation of Board Orders. A further discussion may also be held in the Post Audit & Oversight Committee.

#169-00 ALD. YATES proposing an amendment to Chapter 30 to prohibit granting permits for telecommunications and antennae to providers which hold more than 1000 unused telephone numbers or which have not filed a binding agreement to not seek more than 1000 numbers at a time in the future.

ACTION: NO ACTION NECESSARY 6-0

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NOTE: Alderman Yates moved No Action Necessary on this item which he felt was a good idea but the harm in the form of new area codes caused by hogging of phone numbers in the old area codes by companies with no capacity to use them had already occurred. The Committee agreed with him that No Action was Necessary, 6-0.

#326-99 ALD. YATES proposing amendments to Chapter 30 to encourage railroad related uses in Mixed Use Districts land adjacent to railroad.

ACTION: REFERRED 6-0 TO 02-03 BOARD

NOTE: Alderman Yates asked the Economic Development Commission to refer the relevant ordinance from Devens and to discuss the topic with CSX and Bay Colony Railroad which are both trying to encourage railroad-related uses in sites accessible to them. The Committee reluctantly agreed to refer the item with Alderman Lipsitt expressing the wish the EDC could report on its findings soon.

#366-95 ALD. YATES proposing the establishment of a "Recycling Market Development Zone." (REFERRED TO ECONOMIC DEVELOPMENT COMMISSION.)

ACTION: REFERRED 6-0 TO 02-03 BOARD

#367-95 ALD. YATES proposing the establishment of a subzone of the "Foreign Trade Zone of the Port of Boston" within Newton. (REFERRED TO ECONOMIC DEVELOPMENT COMMISSION.)

ACTION: REFERRED 6-0 TO 02-03 BOARD

#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. (**REFERRED TO THE INCLUSIONARY ZONING TASK FORCE.**)

ACTION: REFERRED 6-0 TO 02-03 BOARD

All other items were held without discussion.

Respectfully submitted

Brian Yates, Chairman

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Attachments: ATTACHMENT A: Conservation Restriction backup
ATTACHMENT B: Conservation C.I.P pages
ATTACHMENT C: Memo to EDC re 326-99, with attachments
ATTACHMENT D: Planning memo re #225-01
ATTACHMENT E: #225-01 Draft Ordinance