

**Rules Pertaining to Special Permit and Site Plan Approval Petitions**  
**Effective June 7, 2004**

Pursuant to G.L. c. 40A, §9, the Board of Aldermen acting as a special permit granting authority adopts the following rules relative to the submission of applications for special permits and site plan approvals.

**Section 1. Contents of Applications for Special Permits or Site Plan Approvals**

All applications for special permits or site plan approvals shall contain the information required by §§ 30-23 and 30-24 of the Newton Zoning Ordinance. The Director of Planning and Development, or his/her designee, (hereafter the "Director") shall have the discretion to waive the requirement for a landscape plan in instances where the type of approval sought does not raise issues involving screening or buffering. In addition, the Director shall have the authority to require more information (hereafter "Additional Information") relating to a proposed project beyond the requirements of §§ 30-23 and 30-24 of the Newton Zoning Ordinance where the Director determines that the project is likely to raise significant questions requiring more extensive review of relevant information beyond that required by ordinance. The Director may require this Additional Information in order to assess the potential impact of the proposed project on its neighborhood, on the roads serving such project, and on other City resources in light of the criteria set out in the Newton Zoning Ordinance for such special permit or site plan approval. Applications for special permits or site plan approvals must include all information required either by ordinance or by the Director in order to be complete and ready for filing as provided below.

The Director shall develop guidelines or criteria to be used in determining what kinds of projects may require Additional Information, and shall have the discretion to waive all or part of such Additional Information in a particular case where the circumstances indicate that such information will not be needed for the review anticipated. The Director shall consult with the Land Use Committee from time to time regarding such guidelines/criteria. The Director may require more information beyond that specified in such guidelines/criteria if the Director deems it necessary for an appropriate review of the project. The Land Use Committee may also require more information beyond that required by the Director during its review of a request for a special permit or site plan approval.

**Section 2. Preapplication information, scoping, and review.**

The Director shall prepare a standard checklist form based upon the guidelines/criteria to help applicants understand what information and reviews by various City agencies might be needed to file an application for a special permit or site plan approval. Applicants shall meet with a staff member of the Planning and Development Department (hereinafter "Department") to complete a checklist for their project prior to submitting plans and supporting information for a zoning determination, as set forth below. At the request of either the applicant or the Director, the Department will schedule a pre-zoning determination meeting to discuss issues that may be

raised by the proposed project and to identify any need to coordinate review of the proposed project by other City agencies or departments. The Director shall request that staff with relevant experience from other City departments or agencies and the Chief Zoning Code Official (hereafter the "CZCO") attend the pre-zoning determination meeting. In the event that the CZCO does not attend the pre-zoning determination meeting scheduled by the Department, promptly after such meeting the applicant shall meet with the CZCO to determine what materials and information the CZCO requires from the applicant for a zoning review and determination of what zoning permits, if any, are required for the applicant's proposed project.

### **Section 3. Determination of what zoning relief is required.**

In order to determine the zoning relief that may be required for a proposed use or structure, prior to filing an application for a special permit or site plan approval, an applicant shall submit plans, a completed checklist and such information as is necessary to the CZCO for a zoning review of the proposed project. If the CZCO makes a preliminary determination that such plans and information are incomplete, the CZCO shall notify the applicant in writing within twenty-one (21) days of receipt of such a request for determination so that the omission(s) can be corrected in a timely manner. The CZCO shall make a final written determination of the zoning permits that are required for the proposed project within forty-five (45) days from receipt of all plans and information needed for such zoning review. If the final written zoning determination is not completed within 45 days, an applicant may file an application for a special permit/site plan approval without the written determination.

During the CZCO's review, the Director shall review the checklist submitted by the applicant and determine what Additional Information beyond that required by ordinance must be submitted with the special permit or site plan approval application or whether the proposed project should be classified as a Major Project and subject to the time restrictions set out in Section 5 below. As part of the written zoning determination, the CZCO shall transmit to the applicant the Director's determination regarding the Additional Information that must be included with the application for a special permit or site plan approval and whether the proposed project has been classified as a Major Project.

### **Section 4. Pre-filing Review of Applications for Completeness**

An application for a special permit or site plan approval shall not be deemed complete and ready for filing with the City Clerk in accordance with the provisions of the Revised Ordinances of Newton and the Rules of the Board of Aldermen unless the application and supporting materials have been reviewed by the Director and found to include all the required information as provided above.

The applicant shall submit the completed application form together with a copy of the written zoning determination and one set of all plans and required information to the Department. The applicant shall not be required to include the CZCO's written determination as part of an application for special permit or site plan approval if the CZCO fails to prepare a written determination within the time set out in Section 3. Within ten (10) days from the date of receipt, the Director shall review the application to determine if the same includes all the

required information and is ready for filing. If so, the Director shall indicate that the application is complete by stamping and initialing the application. If not, the Director shall provide the applicant with a written determination of how the application is incomplete so that it can be corrected in a timely manner. If the Director determines that the application is incomplete because the applicant has made a timely request for, but has not received, a document or documents that must be obtained from an agency or department of the City, the Director shall promptly request that such agency or department submit such document or documents to the applicant and the Department. If all such documents have not been so submitted within five (5) business days after the Director has made such request, the Director shall stamp and initial such application as complete and ready for filing notwithstanding the lack of such documents. The Director's stamping and initialing of the application as complete and ready for filing in a case where such documents have not yet been provided shall not waive the requirement for submission of such documents during the post-filing stage of the process. The City Clerk shall not accept an application for a special permit or site plan approval unless the same has been stamped and initialed by the Director as complete and ready for filing, provided, however, that the City Clerk shall accept an application if the Director has not completed his review and either returned the application as incomplete or stamped the same as complete within ten (10) days from the date the application is received by the Director.

For purposes of determining the completeness of an application, the Director's review shall not consider the adequacy of the information submitted, but shall only consider whether the application includes all the types of information required either by the Zoning Ordinance or as Additional Information. However, the Director shall advise the applicant in writing at the time the Director stamps and initials the application as complete of any inadequacies that have been identified in the submitted information. Thereafter, prior to the public hearing with respect to such application, the Director shall advise the applicant and the Land Use Committee of any inadequacies still outstanding in the application materials.

Nothing in this Section shall prevent the Land Use Committee from requesting the submission of additional or supplemental information in connection with a special permit or site plan application. The Land Use Committee may elect to continue the public hearing on applications, where appropriate, to receive such additional or supplemental information. The Land Use Committee may consider the Director's comments on the adequacy of the information submitted in the application for a special permit or site plan approval in deciding whether to continue a public hearing for the receipt of additional or supplemental information.

## **Section 5. Time Restrictions for Filing Special Permits/Site Plan Projects for Major Projects**

### **Purpose**

The purpose of this rule is to avoid scheduling public hearings during the months of July or August, or during the months of November or December in the last year of the Board's term for Major Projects. Major Projects are projects that are likely to require the submission of Additional Information and which may involve significant land use issues either due to the location of the proposed use, the type of proposed use, or the size of the proposed use. Holding public hearings for Major Projects during the aforementioned months may not allow sufficient

opportunity for public comment, review by the Land Use Committee and City departments or agencies, or deliberation by the Board of Aldermen. This rule shall not apply to special permit/site plan projects that are not classified as Major Projects.

### **Criteria for Major Project Classification**

If any of the following criteria apply, the Director shall determine that a proposed project qualifies as a Major Project:

- Projects that require a waiver of more than five (5) parking stalls from the parking ordinance; seek to locate required parking off-site, or seek to locate a parking facility in a residential district that is accessory to business or manufacturing use.
- Projects that involve a multi-level parking structure constructed either above or below ground.
- Projects likely to generate more than 500 cars per day or 50 cars per peak hour.
- Projects that increase average daily traffic or peak hour traffic along the adjacent street(s) by more than 10%.
- Projects where the proposed use(s), principal or accessory, involve(s) activities that include designated pick-up/drop-off times.
- Projects that involve the construction of 20,000 or more square feet in gross floor area, or the renovation of 10,000 or more square feet in gross floor area.
- Projects that involve a non-residential use that immediately abuts a residential zone.
- Projects that exceed six (6) residential units and trigger the Inclusionary Zoning Ordinance (see Section 30-24(f)).
- Projects that involve the construction of a tower associated with a radio or television transmission station.
- Projects that include a Newton Landmark Preservation Site (see Section 22-90 to Section 22-103).
- Projects that involve a use identified in G.L. c. 40A, §3.

### **Time Restrictions**

Due to the Board of Aldermen's reduced summer schedule for meetings as well as the need to afford the public an opportunity to participate at the public hearing, the City Clerk shall not accept for filing a completed application for a proposed project that is classified as a Major Project during the period from June 1st through July 20<sup>th</sup> in any year.

Due to the expiration of the two-year term for aldermen at the end of every odd-numbered calendar year and the need for sufficient time for the Land Use Committee to review proposed projects and the Board to reach a decision regarding such projects, the City Clerk shall not accept for filing a completed application for a proposed project that is classified as a Major

Project after the second Tuesday after the first Monday in September through November 15th during the last year of any term of the Board of Aldermen.

### **Suspension of Time Restrictions**

The time restrictions in this section of these Rules may be suspended by the Board pursuant to Article IX, Section 1 of the Board Rules at the request of a petitioner for a special permit or site plan review. Such requests must be made by filing such a request with the Clerk of the Board by the docketing deadline for the next regular Board meeting. The request must have appended to it the subject application, and provide summary information sufficient to indicate the nature of the Major Project and that the application for a special permit is otherwise complete for filing with the City Clerk under these Rules but for this time restriction. The request shall be presented for decision by the Board at Second Call at the beginning of the Land Use Committee Report, if any, and if this Rule is suspended, the item shall be deemed docketed and accepted by the City Clerk at that time. In such instance, the Chairman of Land Use or his designee may then request an assignment of the item for a public hearing within 65 days of such acceptance. If this Rule is not so suspended then all the provisions of these Rules relating to time restrictions would continue to apply.