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Barney S. Heath
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MEMORANDUM

DATE: February 21, 2020

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director of Planning & Development
Zachery LeMel, Chief of Long Range Planning

RE: **#31-20 Amend zoning ordinance special permit criteria related to energy conservation**
COUNCILORS CROSSLEY AND ALBRIGHT seeking a review and possible amendments to Section 7.3.3.C.5 of Chapter 30, Newton Zoning Ordinance, to:
a) further inform the objectives of reducing energy consumption and limiting use of natural resources, and b) consider reducing the threshold for compliance to apply the requirement to buildings 10,000 sq. ft. and larger.

MEETING: February 24, 2020

CC: City Council
Planning Board
John Lojek, Commissioner of Inspectional Services
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

Section 7.3.3 of the Zoning Ordinance provides the criteria that must always be met to grant a Special Permit. Section 7.3.3.C.5, also known as the 5th Criterion, currently only applies to projects containing 20,000 square feet or more of floor area and requires that the City Council find that: "In cases involving construction of building or structures or additions to existing buildings or structures, if those proposed buildings or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the site planning, building design, construction, maintenance or long term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy."

The Committee will only be discussing part A of the proposed docket item at this time, which seeks to "further inform the objectives of reducing energy consumption and limiting use of natural resources". The new language originally proposed which was discussed by the Zoning and Planning Committee on January 27th, 2020 states: "In cases involving construction of building or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the site planning, building design, construction, maintenance or long term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy, *including in particular: minimizing*

building operating energy, embodied carbon, the use of fossil fuels and the carbon footprint for transportation to and from the site.”

While the Law Department recommends that the Special Permit criteria be worded broadly to retain discretion in reviewing projects, to the extent the City Council would like to revise this criterion to include more specificity the following language is recommended in place of that which was discussed on January 27th: “In cases involving construction of building or structures or additions to existing buildings or structures, if those proposed buildings or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, **the site and buildings as developed and operated** will contribute significantly to the efficient use and conservation of natural resources and energy **through some or all of the following: (a) minimizing building operating energy; (b) reducing the use of fossil fuels; (c) implementing a transportation plan that will minimize carbon footprint.**

The newly proposed language clarifies the intent of the previous proposal while providing direction to both the City Council and Special Permit applicants regarding the City’s goals. This language also aligns with the language of the recently adopted Climate Action Plan. The Climate Action Plan identifies six areas of action, each aimed towards the long-term goal of a carbon-neutral Newton by 2050.

It is not recommended that this criterion be made any more specific, as specific standards belong in the zoning regulations themselves, rather than in the criteria for granting Special Permits, which is intentionally somewhat broad. The City Council adopted Section 5.12 Sustainable Development Design Standards in December 2019 (**Attachment A**), which contains specific sustainability standards. These standards apply to projects with at least 20,000 square feet of floor area and require electric vehicle charging stations and compliance with a green building rating system (LEED, Passive House, or Enterprise Green Communities). As part of the Special Permit submittal requirements for the rating system, an applicant must also submit an energy narrative discussing the efforts made towards net zero energy status. Section 5.12 was an important step towards implementing the recently adopted Climate Action Plan, however additional regulations are needed to further the Climate Action Plan’s long-term goal of a carbon-neutral Newton by 2050. Additional sections were identified as reserved in Section 5.12: Solar Panels, Embodied Carbon, and Electrification of heating/cooling and residential cooking, domestic water heating, and laundry. While these sections are being developed, this new language for the 5th Criterion will provide direction and will supplement the required energy narrative.

Attachment A: Section 5.12 Sustainable Development Design