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Barney S. Heath
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MEMORANDUM

DATE: May 5, 2020

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

FROM: Barney Heath, Director, Department of Planning and Development
Andrew Lee, Law Department
Katy Hax Holmes, Chief, Preservation Planning

RE: **#29-20 Review and possible amendment of Demolition Delay and Landmark Ordinances**
COUNCILORS KELLEY, ALBRIGHT, AUCHINCLOSS, CROSSLEY, GREENBERG, KALIS, KRINTZMAN, LEARY, LIPOF, MARKIEWICZ, BOWMAN, HUMPHREY, RYAN AND NORTON requesting a review and, if appropriate, an update of Chapter 22, Sections 22-50 to 22-76 that relate to demolition delays, historic designation, and landmarking.

MEETING: May 7, 2020

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

Established in 1993 under City Ordinance Chapter 22, Sections 22-60 through 22-75, Newton's Local Landmark Ordinance was created to serve as a municipal tool to preserve the City's most historically significant buildings. The Landmark Ordinance in the City of Newton provides the highest level of protection for properties determined to be the most architecturally or historically significant. Under the Landmarks program, the Newton Historical Commission identifies buildings, structures, landscapes, and places that define the historic character of the city and have, over time, helped to establish a sense of place.

Under the current ordinance, in addition to the Newton Historical Commission, the Mayor, members of the City Council, the Director of Planning and Development or the Commissioner of Inspectional Services may nominate properties as Landmarks. Landmarks are designated at a public hearing of the Newton Historical Commission by a 3/4 vote of the Commission. In order of be eligible for Landmark status a property must be listed in or eligible for listing in the National Register of Historic Places.

Once a property becomes a local Landmark, the Newton Historical Commission reviews proposed changes to Landmarked properties as though they were included in a local historic district. This means that any alterations to the exterior of the structure, such as demolition, additions, renovations, deterioration by neglect, or new construction, must be reviewed and approved by the Newton Historical Commission. Designation of a local Landmark means that the decision is filed with the Registry of Deeds.

In practice, the Local Landmarks ordinance has been invoked when the city's historically significant buildings become the subjects of applications for full demolition. Newton currently has 23 Local Landmarks.

The Working Group was formed to examine issues City Councilors raised with regards to the City's current Landmark designation process. The Working Group is comprised of President Albright, City Councilors Crossley, Kelley, and Baker, Doug Cornelius from the Newton Historic Commission, and is assisted by Barney Heath and Katy Hax Holmes from the Planning Department, and Andrew Lee for the Law Department. Issues with the current local Landmark Ordinance included concerns that it is poorly organized and difficult to interpret.

The Working Group met weekly over the past three months to review and recommend changes to the Local Landmark Ordinance. In its review of the ordinance the Working Group examined National Landmark practices, undertook comparisons of other communities' local Landmark provisions and sought to incorporate best practices. The Working Group's recommendations include:

- (i) restructuring the organization of the ordinance so that it sequentially sets forth the process including identification of properties that are eligible for nomination, the nomination process, the designation process, and appeals options;
- (ii) setting requirements that provide sufficient notice periods for interested parties, including the owner of a nominated property, through all steps of the Landmarking process; and
- (iii) defining clear and objective criteria for eligibility of properties for nomination, acceptance or rejection of a nominated property, and designation of a property as a local Landmark.

The complete redlined version and clean version of the Working Group's proposed amendments to the Landmark ordinance are attached for your review. Identified below are sections of the ordinance which received the most attention:

Purpose (reorganized)

"This division is enacted pursuant to the authority derived from section 6 of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, and Charter of the City of Newton.

The purpose of this enactment is to promote the educational, cultural, economic and general welfare of the public through:

- (a) the preservation and protection of the distinctive architecture and other characteristics of buildings, structures, landscapes, and places significant in the history and prehistory of the city of Newton, Commonwealth of Massachusetts or the United States of America;

- (b) the maintenance and improvement of settings for such buildings, structures, landscapes, and places; and
- (c) the discouragement of destruction of or damage to such resources and the encouragement of compatible development. (Ord. T-288, 9-9-93)”

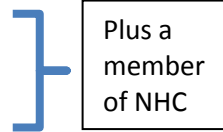
Criteria for Nomination/Designation (Revised)

- Remove Massachusetts Historical Commission from eligibility process
- Adopt National Park Service criteria language used for designating National Landmarks in guiding the Newton Historic Commission for both the nomination and designation phases of the local landmark process.

Nomination (Revised)

- WHO CAN NOMINATE? Owners of property or two members of the NHC
or

City Council members, or Mayor, or Director of Planning and Development, or Commissioner of Inspectional Services



- WHEN? NHC must hold meeting to consider nomination. Meeting must be held 45 to 90 days from date of receipt
- WHAT THEN? NHC must determine to accept or reject any nomination. Additional investigation by NHC will follow

Designation (Revised)

- Public hearing must be held 30 to 90 days from vote to accept nomination.
- Minimum of 14 days’ notice of public hearing
- Notice by publication and certified mail to owner
- Notify Planning and Development Board (PB) upon acceptance of nomination
- PB recommendation in concert with City’s policies and adopted plans
- NHC by 3/4 vote of members present, must be minimum 4 affirmative votes

Notice (Revised)

- Notice sent at least 14 days after NHC receives nomination. Certified mail to owner and regular mail to immediate abutters
- Notice must include petition and date of commission meeting to review nomination

Appeals (Pending)

- Law office waiting to hear from MAPC
- Retain superior court language and provision

This item was originally docketed as #244-30 in July 2019 and was subsequently held by the Council. The item was re-docketed this year as #37-20. The current landmark suspension is slated to expire on June 30, 2020.