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M E M O R A N D U M

DATE: November 1, 2019

TO: Councilor Albright, Chair, Zoning & Planning Committee
Members of the Zoning and Planning Committee

FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development

RE: **#140-19(3) & 187-19 – Proposed Amendments to the Mixed-Use 3/Transit-Oriented Development District**

MEETING DATE: November 7, 2019

CC: Newton City Council
Planning and Development Board
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

The Zoning and Planning Committee is considering two proposed amendments to the Mixed Use 3/Transit Oriented Development District (MU3), the public hearings for which were opened on June 4, 2019. The first of these was submitted as part of a development application for the site, the second by the Lower Falls Improvement Association. At the October 28th Zoning and Planning Committee meeting both zoning amendment petitioners endorsed a set of amendments to the MU3 District. Please note, the attached proposed amendments should be read together, though they are presented separately due to the advertising of each.

The Planning Department recommends adoption of the proposed amendments to the MU3 district as endorsed by both Mark Development and the Lower Falls Improvement Association. As discussed below, these amendments are broadly consistent with the Riverside vision document and uphold good design principles. The Planning Department reviewed the proposed amendments for consistency with the existing ordinance and is suggesting a number of changes. The majority of these changes are not substantive but are instead for clarity and consistency within the overall Zoning Ordinance.

Vision Plan

The proposed zoning amendments are generally consistent with the Riverside vision plan with rules requiring lower scale buildings along Grove Street and allowing for building heights to increase in the back portion of the development area, closer to the railyard and highway. While the proposed setback on Grove Street is greater than was envisioned, with proper design and placement of pedestrian facilities, the intended objective of pedestrian safety and comfort should still be achievable. The changes to the open space rules are strongly supported by the vision plan, which recognizes the importance of well-designed and managed public spaces.

Recommended Changes to the Submitted Draft

The following lists those places where the Planning Department is recommending changes to the zoning amendments submitted by the petitioners that might be viewed as substantive.

1. Section 4.2.4.A referenced a separate submitted plan that showed different zones in which different maximum heights would apply. Planning staff is recommending that instead that plan be incorporated into the ordinance as a figure, simplifying the references. The zones depicted in the petitioner's submitted plan are instead referred to as areas as identifying different zones in a zoning ordinance could be confusing.
2. Section 4.2.4.A.4.a includes, among the things able to encroach into the setback, "pedestrian and bicycle paths." According to section 1.5.3, setbacks apply to any structure. Newton's Zoning Ordinance has never been interpreted to include any form of pavement within that definition of structure – pedestrian paths, driveways, patios and similar have always been allowed within the setback. In fact, separate rules in Article 5 govern parking within the setback, only allowing parking to encroach into a rear setback, thus clearly indicating that the rules of section 1.5.3 must not apply to parking. By including pedestrian and bicycle paths in this section 4.2.4, the ordinance would be creating special rules for such areas for just this district. As such rules would not appear in any other district, it would therefore imply that pedestrian and bicycle paths are not allowed in the setback in any other district. As such is not true, the Planning Department recommends that pedestrian and bicycle paths be removed from the list of allowed encroachments.
3. A similar question is raised by the inclusion on this list of "minor architectural features." Section 1.5.3 of the ordinance already allows "ornamental features" to encroach into the setback up to 2 feet. Are minor architectural features something different that should be specific to the MU3 District? Planning Department recommends that "ornamental" and "minor architectural" are synonymous.
4. In the current Zoning Ordinance, Section 7.3.5 begins with a requirement that a petitioner interested in developing in the MU3/TOD district must first submit a conceptual plan to be presented at a meeting of the Land Use Committee before the special permit application is submitted. Staff is recommending that this section be removed as being unnecessary at this time, given the numerous presentations of the Riverside Plan that have already been given.

Amendment Adoption Procedures

Attached to this memo are two separate sets of zoning amendments representing each of the submitted zoning amendment petitions. Staff is recommending adoption of both sets of amendments, which due to the original differences in the submissions, and the differences in the advertising of each, must be adopted as two separate actions.

Staff advises reviewing the jointly submitted petitioner amendments document from October 25th with both of the attached documents.