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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** May 19, 2020

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

**FROM:** Barney Heath, Director, Department of Planning and Development  
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.  
**Zoning & Planning Held 8-0 on 05/07/2020**

**MEETING:** May 19, 2020

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

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The Working Group is nearing completion of its review of the Local Landmark ordinance. Four remaining points of discussion remain. The Group presented a summary of its work at the May 7<sup>th</sup> hearing of ZAP and continues to meet weekly to work on possible revisions to the historic preservation ordinances. The working group is comprised of Councilors Lisle Baker and Andrea Kelley, ZAP Chair Deborah Crossley and President Susan Albright; Doug Cornelius, member of the Newton Historical Commission; and Planning Director Barney Heath, Assistant Solicitor Andrew Lee, and Katy Hax Holmes, Chief of Preservation Planning. The following provisions in the Local Landmark ordinance are presented tonight for discussion and a possible decision:

- **Nominations:** If Councilors are able to nominate properties, should at least one nominating Councilor be from within the ward in which the property is located? (See proposed 22-63 (a)(2) below, purple highlighted section)
- **Nominations:** Should two members of the NHC alone be able to nominate a property, or should the second nomination be from outside that body? (See proposed 22-63(a)(4) below, purple highlighted section)

**Sec. 22-63. Nomination**

(a) Petitions for nomination of buildings, structures, landscapes and places for consideration of designation as a landmark shall only be submitted to the commission, on a form provided by the department of planning and development, by the following:

- (1) all record owners of the nominated property;
- (2) members of the city council elected from the ward in which the property is situated, provided that at least one (1) member of the commission must co-petition the nomination;
- (3) the mayor, the director of planning and development, or the commissioner of inspectional services, provided that at least one (1) member of the commission must co-petition the nomination; or
- (4) any two (2) members of the commission.

- **Criteria:** Should color be included in the ordinance as a required category of review? (See proposed 22-61 below, purple highlighted section)

**Sec. 22-61. Definitions.**

*Exterior architectural feature:* such portion of the exterior of a building or structure as is open to view from a public or private street, way, park, or body of water which is identified for preservation by its designation by the commission as a landmark, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color, and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs, and other appurtenant exterior fixtures.

- **Appeals:** should there be a local administrative body and to what degree should its role be substantive versus procedural? (See 22-70 below; all new section language)

**Sec. 22-70.  
Administrative  
review.**

- (a) There shall be a landmark review commission to review final determinations of the Newton historical commission at the request of any person aggrieved by such determination.
- (b) The landmark review commission shall consist of three (3) members as follows:

- (1) The current chair of the urban design commission, or their designee selected from the current members of the urban design commission;
  - (2) The current chair of the zoning board of appeals, or their designee selected from the current members of the zoning board of appeals; and
  - (3) A current chair of a historic district commission, or their designee selected from the current members of their respective historic district commission.
    - i. The member from a historic district commission shall serve for a single administrative review under this Section 22-70.
    - ii. The historic district commission from which a member shall be selected shall alternate in the following order: Newton Upper Falls historic district commission; Chestnut Hill historic district commission; Newtonville historic district commission; and Auburndale historic district commission.
- (c) A person aggrieved by a final determination of the commission may, within twenty (20) days after the filing of the notice of such determination with the city clerk, file a written request with the commission for a review by the landmark review commission. The review fee of \$500.00 must be paid with the filing of the written request.
- (d) The landmark review commission shall hold a public hearing prior to rendering a finding on the written request for administrative review. The landmark review commission shall give not less than fourteen (14) days' notice of such public hearing by publication in a newspaper of general circulation in Newton and by mailing notice to the record owner(s) of the subject property by certified mail and notice to abutters by regular mail. The term abutters as used in this paragraph shall mean the record owners (each such owner to be determined from the then current records of the assessing department) of those properties within three hundred (300) feet of the property line of the subject property. The commission shall also give not less than fourteen (14) days' notice of such public hearing to the mayor, the planning and development board, and the city clerk.
- (e) After the public hearing and within forty-five (45) days after the request was filed, the landmark review commission shall file with the city clerk its finding, which shall be binding on the requestor of the administrative appeal and the commission, unless a further appeal is sought in the superior court as provided herein. The forty-five (45) day deadline may be extended by written agreement between the Newton historic commission, the landmark review commission and the requestor.
- (f) The landmark review commission shall hear all pertinent evidence and shall uphold the Newton historic commission's decision unless it finds the action to be arbitrary, capricious, or based on legally untenable grounds.