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Barney S. Heath  
Director

**MEMORANDUM**

**DATE:** April 7, 2023

**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 Department of Planning and Development  
Zachery LeMel, Chief of Long Range Planning

**RE:** **#38-22 Discussion and review relative to the draft Zoning Ordinance regarding village centers**  
ZONING & PLANNING COMMITTEE requesting review, discussion and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to Mixed Use, business districts and village districts relative to the draft Zoning Ordinance. (formerly #88-20)

**MEETING:** April 10, 2023

**CC:** City Council  
Planning Board  
Jonathan Yeo, Chief Operating Officer

**Village Center Zoning**

Since the beginning of 2023, the Zoning and Planning Committee (ZAP) has been workshopping potential updates to the Village Center Overlay District (VCOD) based on community feedback, City Council input, and staff research and analysis. These updates will be organized into a village center version 2.0 zoning and maps to be shared and discussed at the end of this month. For the upcoming ZAP meeting, Planning staff is seeking additional guidance on the [affordability bonus proposal](#) and respond to items brought up in Councilor Wright’s March 12 Design Standard Questions memo (Attachment A).

**Affordability Bonus**

ZAP had a productive discussion on a proposal to include a by-right increase in building height and massing if providing additional affordable units within the proposed VC2 and VC3 districts. The proposal is summarized in the table below:

Village Center 3 (VC3) & Village Center 2 (VC2) Districts			
	Base Condition	Option 1	Option 2
Height Bonus (stories)	N/A	+ 1	+ 2
Building Footprint Bonus (sq ft)	N/A	+ 2,500	+ 2,500
Required Affordable Units (min)	17.5%	25%	30%
Required AMI for Bonus Affordable Units (average)	65%		

A full review of the Committee deliberation can be found in the [March 27, 2023 ZAP Report](#). Planning staff took away that there was generally more support for incorporating Option 1 into the village center version 2.0 zoning, but more definitive guidance would help staff with the revised drafting.

### Design Standards Questions

Councilor Wright submitted a memo on March 12 (Attachment A) with a list of questions pertaining to standard special permit conditions and how and if they would be captured for by-right development under the VCOD zoning. In order to comply with the MBTA Communities Law, Newton must allow for at least 8,330 units of housing as of right. The VCOD zoning was designed to balance this goal with the need to ensure new development is appropriate for village centers and is constructed in a way that is safe and minimizes disturbances. Most of the standard special permit conditions are already accounted for in zoning or other ordinances, the permitting process, or the VCOD design standards. There are several items however that can be added to Version 2.0 of the VCOD. See below for specific responses:

1. Process to ensure building applicants are in good standing regarding unpaid taxes

The Inspectional Services Department (ISD) has the ability to withhold a building permit on a by-right project on the basis of unpaid taxes. ISD would be required to hold a public hearing. Planning staff will work with the Commissioner of ISD as well as the treasury department to develop a process for review and this can be built into the building permit workflow in NewGov. This can also be reviewed as part of the Site Plan Review process.

2. Construction Management Plan

The Commissioner of ISD is planning to create a standardized Construction Management Plan (CMP) template and application for all building permits. Planning staff will work with the Commissioner as well as other relevant departments on the creation of a standardized CMP.

3. Construction hours and rules including material delivery and placement on site

Construction and demolition activity hours and days are already restricted by the Noise Ordinance Section 20-13. General construction information, including material delivery and placement is required to be included in the CMP and will be part of a new standardized CMP.

4. Undergrounding utilities to the development

The Village Center Overlay District (VCOD) design standards can be updated to require the undergrounding of utilities from the street to the building and between buildings within the site.

5. Electrification of all appliances and utilities, including heating and cooling

All electric is the simplest pathway to compliance under the updated stretch/specialized code. As of January 2024, Passive House will also be required for all multifamily buildings over 12,000 square feet. Newton is also one of ten communities included in the state pilot to adopt an ordinance requiring electrification of new buildings.

6. Requiring solar panels or a solar ready roof

The new stretch/specialized code requires buildings to have a solar ready roof.

7. Electric vehicle charging stations

The new stretch/specialized code requires 20% of parking spaces for residential and business uses to be wired for EV charging. There is also an EV working group that has been looking at potential updates to EV charging requirements in the zoning ordinance.

8. Transportation plan

Planning is currently testing an internal transportation demand management (TDM) policy, which could ultimately become an ordinance, however more refinement is still needed. Larger projects in the VCOD will trigger Site Plan Review or a Special Permit, which would allow for transportation review. However, the intent of TDM strategies is to reduce the reliance on single occupancy vehicles and the VCOD zoning is focused on locating new housing in walkable village centers and near transit. The proposal also reduces or eliminates minimum parking requirements and allows for smaller units. One of the most effective ways to reduce congestion and reliance on single-occupancy vehicles is to allow for more housing, particularly smaller units with less parking, in walkable areas and near transit.

9. Limiting curb cuts

Curb cuts are limited in the VCOD design standards. Section 2.6 C.4. of the Version 1.0 VCOD draft limits the number, location, and design of curb cuts.

10. Bicycle storage

Section 5.1.11 of the existing zoning ordinance requires bicycle storage as part of the design and construction of parking facilities containing at least 20 stalls. This section should be updated to require bicycle parking based on the number of units or commercial space, rather than the number of vehicle parking stalls and to provide updated standards for short-term and long-term bicycle storage. The VCOD could also supersede this section and provide different bicycle storage requirements.

11. Vibration control plan, including mitigating and reducing significant vibration impacts

A vibration control plan would be required as part of CMPs for by-right projects. A standard vibration control condition could also be required as part of Site Plan Review.

12. Rodent and pest control plan, including neighboring properties

Rodent and pest control plans would be required as part of CMPs for by-right projects. A standard rodent and pest control condition could also be required as part of Site Plan Review.

13. Operations and Maintenance plan for stormwater management

The stormwater ordinance requires Operations and Maintenance Plans.

14. Landscaping plans and enforcement

Version 1.0 of the VCOD includes some landscaping requirements, particularly for surface parking lots. Landscaping plans will be required as part of the building permit to confirm compliance. Landscaping required through zoning must be maintained to avoid a zoning violation. For larger projects Site Plan Review or a Special Permit will be required and as part of that review a landscape plan may be required.

15. Trash and recycling disposal plan

The Version 1.0 VCOD includes design standards for the location and screening of trash and recycling collection. Currently DPW provides trash and recycling pick up for residential buildings unless the Special Permit requires private pick up. Planning and Law staff have been working with the Director of Sustainable Materials Management in DPW to standardize when private pick up would be required. The proposed policy is at five or more residential units, which will be added directly to the VCOD zoning.

16. Repairing any damage to public property and ways caused by construction activities

Damage to public property and ways must be repaired whether the construction was the result of a by-right building permit or a special permit. The CMP can also state that any damage must be repaired.

17. Paying for police details

Police details are handled outside of zoning and are at the discretion of the Chief of Police and are required as necessary for safety purposes whether construction is a result of a by-right building permit or a special permit. The current Special Permit standard condition also defers to the Chief of Police for when a detail is required.

18. Mitigation contributions and fees

Most mitigation contributions on Special Permits are a result of the inflow & infiltration (I&I) ordinance. The I&I mitigation payment is calculated based on the existing and proposed uses and is applied to by-right as well as Special Permit projects. The I&I ordinance allows the Commissioner of Public Works to determine that up to 75% of the required I&I fee be directed to other infrastructure needs if the full amount is not needed for I&I. It is this 75% that typically gets directed to other improvements such as intersection, pedestrian, or park upgrades. The Commissioner may still make this determination as part of a by-right project and the money would go into a fund until a project is identified, and the City Council approves the appropriation.

19. Provisions for on-site Zipcar type parking if there is reduced or no parking

Site Plan Review or Special Permits could require the applicant to pursue providing a shared car space if appropriate, however it is best to not include this in zoning. Shared cars such as Zipcar have requirements for locating a vehicle that may not be possible to meet.

20. Traffic studies/traffic mitigation measures

Traffic studies and/or traffic mitigation measures could be considered for projects as part of Site Plan Review or a Special Permit, however allowing for smaller units with less parking near transit and amenities is the most effective traffic mitigation measure.

21. Shadow studies

Maximum building heights and minimum setback and stepback requirements in the VCOD have been designed to allow for economically feasible development and to promote new housing, while also maintaining a comfortable street width to building height ratio. Shadow analysis may be appropriate for Special Permit projects that are required to include new public open space.

22. Use of brick face and faux finished or other construction quality materials

Design review can be incorporated into the Site Plan Review and Special Permit process.

**Next Steps**

Planning staff will begin to present Version 2.0 of the VCOD maps and text at the April 24 ZAP meeting.

**Attachments**

**Attachment A**            Design Standard Questions, Councilor Wright, March 12, 2023



## Memorandum

**To:** Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Deputy Director  
Zachery LeMel, Chief of Long Range Planning

**From:** Councilor Pam Wright

**CC:** ZAP Councilors

**Re:** Design Standard Questions

**Date:** March 12, 2023

We are continuing our discussion on design standards at our next ZAP meeting. I have additional questions and do not want to go back and forth on email and instead, want to discuss these items on Monday night. I am providing these questions in advance so that the Planning & Development Department can be prepared to discuss in detail on Monday night. Also, I hope this will pique additional questions from my colleagues.

In ZAP we have been discussing design standards, such as building footprint, height, roof type, architectural features, setbacks, etc. These items address how the “box” would look and where it would sit on the lot. I believe we are not capturing everything, specifically the conditions that are typically in Special Permits found in the Council Orders.

Presently, we list conditions in the Council Orders for Special Permits. In the proposed zoning, lots under 30,000 sf will be By Right and will not require a Special Permit. This will affect most lots in the village centers. Some conditions, such as construction rules, might be handled elsewhere in our ordinances but others, such as undergrounding utilities, should probably be handled in the zoning ordinance. And other items, like mitigation payments and related activities, I believe, will simply disappear for By Right projects.

Here is a list of conditions in many Special Permits. It is not an exhaustive list. I would like to know if these items will be included in the design standards. If not, where (if at all) will they be captured?

- Process to ensure building applicants are in good standing regarding unpaid taxes
- Construction Management Plan
- Construction hours and rules including material delivery and placement on site
- Undergrounding utilities to the development
- Electrification – All appliances and utilities for the building shall be all-electric, including heating and cooling. This will probably be addressed in the Stretch Code and Specialized Code
- Requiring solar panels or solar ready roof
- Electric car charging stations

- Transportation plan
- Limiting curb cuts
- Bicycle storage
- Vibration Control Plan including mitigating and reducing significant vibration impacts
- Rodent and pest control plan including neighboring properties
- Operations and Maintenance Plan for stormwater management
- Landscaping plans and enforcement
- Trash and recycling disposal plan
- Repairing any damage to public property and ways caused by construction activities
- Paying for police details
- Other similar provisions
- Mitigation contributions and fees. I am also requesting that you prepare and present a memo listing by project (and totals) all mitigation payments and actions that have been required in all Special Permits issued in the last five years.

I am not sure these are in the Council Orders for Special Permits, but I would also like to discuss the following:

- Provisions for on-site Zip Car type parking if there are reduced or no parking requirements and/or parking maximums will be applied
- Traffic studies/traffic mitigation measures
- Shadow studies
- Use of brick face and faux finished or other construction quality materials

I also want to continue our discussion from last meeting on historic or significant buildings and on having no parking requirements. I would like to discuss having Newton Historic Commission determining the “significant buildings” to which the Preservation paragraph applies. Also, any building built before 1940 can apply for “significant building” and NHC can determine whether to accept the request.