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Barney S. Heath
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MEMORANDUM

DATE: July 28, 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: July 31, 2023
CC: City Council
Planning Board
Jonathan Yeo, Chief Operating Officer

At the July 24 Zoning and Planning (ZAP) Committee meeting, Councilor Wright provided the City Council with an outline of an alternate proposal she has developed for village center zoning. The July 24, 2023 proposal submitted to the Council makes some high level recommendations and then references a database that was created by Councilors Wright and Oliver support those recommendations. The database allows for changing variables within the Village Center Overlay District (VCOD) proposal and calculates the unit capacity based on those changes. Planning staff have requested a copy of the database but have not yet received it.

Newton is required by the end of this year to provide by-right zoning near transit stations which would allow a minimum zoning capacity of 8,330 units (see Planning Staff and Utile analysis of Version 2.0 of the VCOD as it compares to MBTA Communities requirements [here](#)). While it is important to ensure that village center zoning fulfills our requirements under state law, the future of Newton's village centers cannot be reduced to a spreadsheet. The Zoning and Planning Committee began this effort of rezoning village centers in early 2021 building upon over a decade of city goals related to housing, the environment, and the economy. The MBTA Communities law requirements came about during this process and the Planning Department's recommendation has been to first prioritize what is best for the future of Newton's village centers and then determine how that compares to the MBTA Communities requirements.

The model created by the state is a tool to determine compliance across 177 communities. It measures maximum zoning capacity; it is not a reasonable build out analysis. It assumes every single lot is a blank slate and is developed with the maximum number of housing units, all without any on-site parking. It is

necessary for Planning staff to use this model to ensure the zoning will comply, however it is not recommended that this model or any other measurement of maximum capacity be used for any other planning purposes. Utilizing the maximum zoning capacity to plan for future city services would lead the city to spend unnecessary resources preparing for development that may never come to fruition. The city is well served by existing infrastructure (water demand and wastewater flow are at historic lows and school enrollment continues to decline) and the timeframe from conceptual plan to occupancy of a new building is long, providing city staff sufficient time to coordinate and plan for potential new residents.

This memo does not address each specific recommendation in the July 24 proposal as ZAP will be taking time to discuss amendments to the VCOD at upcoming meetings. However, the proposal generally recommends reducing the amount of potential housing capacity that would be permitted to the minimum required under state law. Village center zoning is an opportunity to address many of the issues facing the city today. Allowing for more housing (including affordable and accessible housing) in walkable areas near restaurants, shops, offices, parks, and transit not only provides more options for all sorts of people to live or stay in Newton, but it does so in a way that supports local businesses, reduces reliance on cars, and overall uses fewer resources.

There are also some potential technical concerns with this alternate database. Without closely reviewing the database it is unclear if it is consistent with the model created by the state to determine MBTA Communities compliance. Planning staff have concerns with using an alternate, unapproved tool for such an important and complex task. Submission of a compliant zoning district requires use of the state's model. The model (available online [here](#)) includes an excel workbook along with GIS files. The GIS files include land maps for each municipality with detailed information that works directly with the excel workbook. The map files also include information about excluded and sensitive land categories, which are important for calculating contiguous land areas and overall densities.

The MBTA Communities regulations are complex and Planning staff along with consultants from Utile have been working closely with the state over the past eight months to understand the modeling requirements and to ensure the latest version of the VCOD fully complies. A compliant district must balance a number of requirements: the overall district must meet the minimum unit capacity and must have an average gross density (including roads, other rights of way, and public land) of 15 units per acre, at least half of the required land area and unit capacity must be contained in one contiguous district, and all sub-areas must be at least 5 contiguous acres. Lots that cannot be developed by-right (such as those that exceed the special permit threshold or are publicly owned) and areas where mixed-use is required (such as the lots along the proposed mixed-use priority streets) cannot be included. Once these lots are excluded many areas do not meet the contiguous area requirement (such as Auburndale in the Version 2.0 VCOD proposal). It is unclear whether the proposal meets the minimum density or how the proposal addresses the contiguous areas while reducing the special permit threshold and excluding more lots. Given the complexity of the regulations, an excel database alone is not sufficient for determining compliance.

Community Engagement

For two years now Planning staff and ZAP have undertaken extensive community engagement around Village Center zoning. For version 1 of the proposed VCOD released back in November of last year the City notified each of the property owners and held seven (7) community information sessions. With the recent release of version 2.0 in March the Planning Department sent over 6,000 mailings to property owners, tenants, abutters and abutters to abutters. Councilor Wright's proposal suggests pretty major changes to the zoning framework without the extensive notification and outreach processes previously requested and undertaken.

Conclusion

It is unclear whether the July 24 proposal and alternate database would result in a MBTA Communities compliant district. Planning staff look forward to discussion at ZAP of various amendments to the zoning, however staff recommends that amendments to the VCOD zoning ordinance and maps be based on policy objectives and be supported by economic analysis and community engagement.