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MEMORANDUM

DATE: October 21, 2022

TO: Councilor Pam Wright
City Council

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: **September 9, 9 2022 Zoning community engagement presentation - questions, comments, and concerns**

On September 9, 2022 Councilor Wright submitted questions and comments regarding the village center zoning framework. This framework was workshopped with the Zoning and Planning Committee (ZAP) February-June 2022 and subsequently presented as part of the latest round of community engagement online and in an exhibit at the Newton Free Library.

The attachment provides responses to these questions and comments **in purple** below each question.

Attachments

Attachment A Planning responses to Councilor Wright regarding village center zoning



To: City Council and Planning Department Personal Jenn Caira, Zachery LeMel, Barney Heath, Catt Kemmett and Nevena Pilpovic-Wengler
 From: Councilor Pam Wright
 Re: Zoning community engagement presentation - questions, comments, and concerns
 Date September 9, 2022

I appreciate the large amount of time and effort designing the zoning community engagement presentation at the library. This memo covers the panels directly tied to our ZAP meetings and not the history of zoning, the introductory panels nor the concluding panels. To be clear, this proposed village center zoning is a major shift from our present zoning. As we are proposing changes, we should ask ourselves “Will this produce a better village?” Below are my questions, comments, and concerns.

Panel 3.1 Development Standards

- **Open Space Requirements:** “Lot configuration location of building and garages... controls on site open space.” I don’t believe open space requirements were discussed in our meetings. Please reference the meeting when open space was discussed among the ZAP councilors? How would this be achieved in practice? I think indirectly with setbacks, FAR and footprint but this may not give useful open space.
The nature of what exists today and what makes Village Centers unique is the closeknit buildings and consistent setbacks. That said, useful open space can be achieved in many ways – as Bram Way Plaza demonstrates.
- **Special permit heights not mentioned:** The panel states “no taller than 4.5 stories and significant space left for light air and gardens.” First, this is by right only and special permit allows up to 6 stories with the top story recessed. This is very different from 4.5 stories.

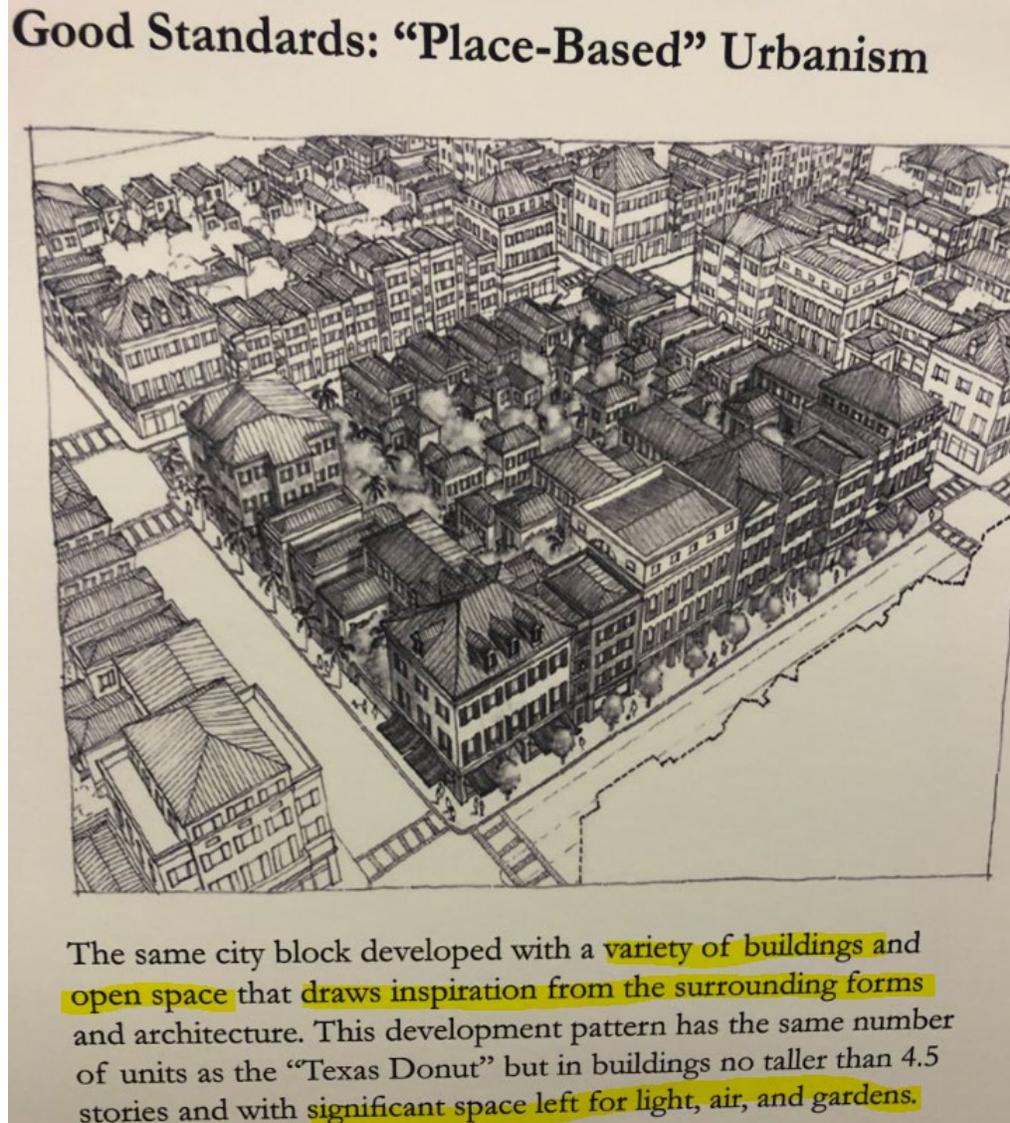
The boards in the library all focus on visualizing the by-right development. One of the backbone principles of the proposed village center zoning is to create a viable by-right development pathway. The current zoning does not, which is why nearly all new development within village centers requires a special permit. Developers right now can and do propose current zoning districts which have Special Permit allowances of 5 stories in MU-4 (Trio) and up to 8 stories in BU-4 (Craft St. and Florence Street). The proposed special permit height allowances are completely at the discretion of the City Council.

- **Missing “light, air and gardens” discussions:** I don’t remember the discussion “light, air and gardens” and I don’t see it in the zoning documentation and memos. I highly support this but I do not believe the proposed zoning really stipulates these standards.

Providing “light, air, and gardens” will happen both through required design standards and suggested guidelines. Setting the maximum height at a half-story is one such

requirement that will lead to more light and air at the street level. These are all currently being workshopped with Utile, Law, and Current Planning.

- **How to mandate variable heights:** I appreciate the visual example of a building with pitched roofs with individually distinct building forms and high variability in rooflines and building heights under “good standards’: Can you **we** mandate variable heights without zoning each lot differently? When was the last time that something wasn’t built to the highest possible level? Also, I don’t believe the picture below, though, shows “significant space left for light, air, and gardens.”

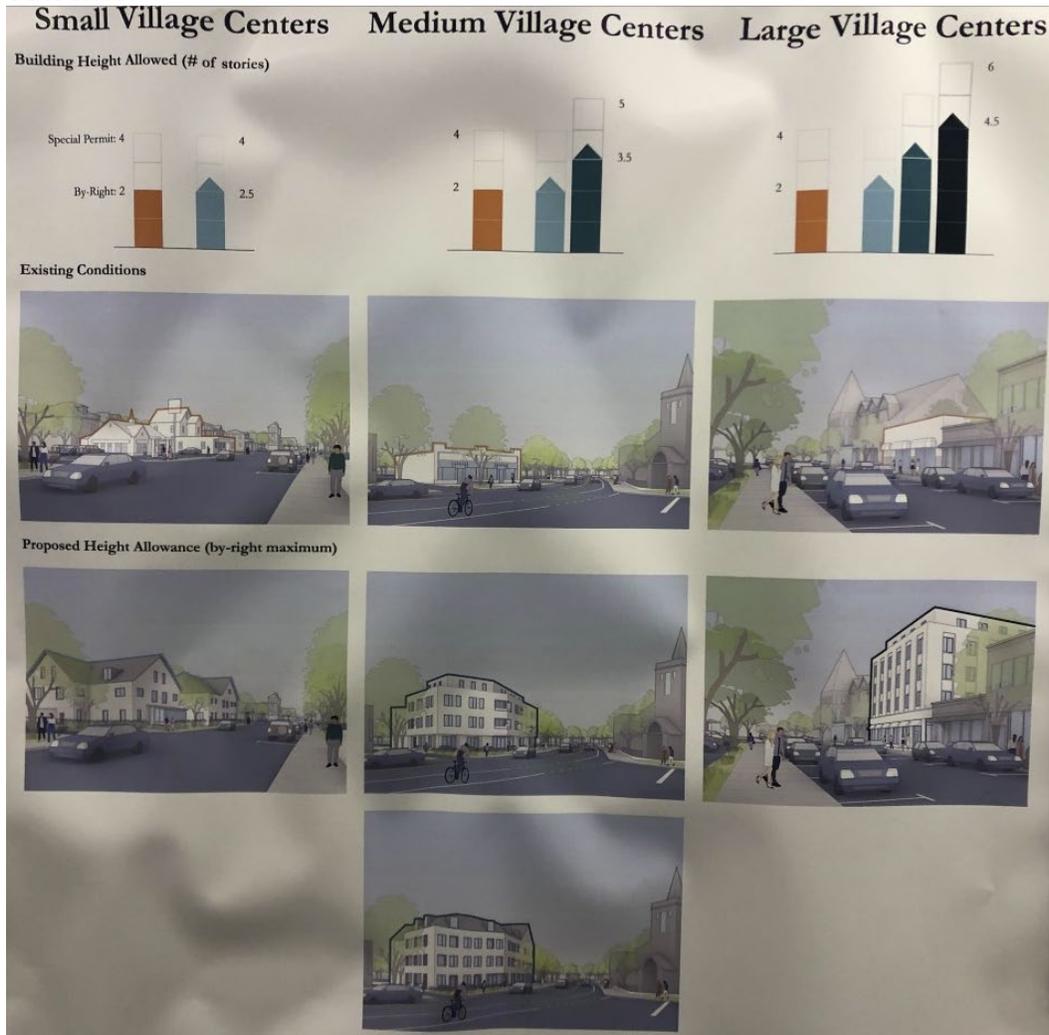


This is something we are researching. However, not all parcels will develop simultaneously. Rather, it will be a process that occurs over many years. The resulting streetscape will then include many different building heights.

The drawing above leaves 38% of the city block “left for light, air, and gardens” vs. the comparison drawing that leaves 0%.

Panel 3.2 Increased Height Proportionate to the Village Center Size

- **Missing special permit heights in the pictures:** This panel only shows by right heights and not special permit heights. They show pitched roofs when Utile has said that flat roofs are cheaper and easier for the developer. Also, more special permit and max height buildings should be shown in the pictures, not one maximum height by right. This is not a likely outcome.



See answers provided above.

Panel 3.3 Set Maximum By-Right Building Height at a half Story

- **Height concerns were brought up in ZAP:** In the ZAP deliberations “specific concerns were not brought up by ZAP members.” I said that a “half story” is really a full story but set back 6’ or it can be a pitched roof. Utile did confirm that developers would build flat roofs since it’s cheaper and easier. I suggest half stories only for pitched roofs. I also brought up concerns that 6 stories does not match the Washington Street Vision Plan and are too tall for West Newton village centers. The Washington Vision Plan stated a maximum of 4 stories in Newtonville and West Newton village centers and more stories outside the villages. Also many residents do not support these heights shown.

Utile did say flat roofs are cheaper and easier. However, Utile also said developers would build pitched roofs so long as they could get viable space below them, which could be accomplished through incentivizing architectural features like dormers and bays. These feature would also lead to a greater diversity of rooflines.

The Washington Street Vision Plan shows heights of 1- and 4-6 stories for the Village Center areas of West Newton and Newtonville, The recommended by-right building heights are below the maximum envisioned in the plan at 4.5 stories by-right and at 6 for special permit. (

Panel 3.4 Establish a Maximum Building Footprint

- **Definition of building footprint:** “Building footprint is defined as “the area measured as the total gross floor area of the ground floor of the building, including all enclosed space””. I requested this definition and the answer I received from the Planning Department and Councilor Crossley is very different. What is the correct answer? In an email to me from Mr. LeMel on 7/25/22 “ *Building Footprint is regulation being proposed under the zoning framework we have recommended to ZAP. FAR and Building Footprint are two separate zoning regulations that can have two unique definitions. In that regard, the enclosed parking spaces do not fall into what counts as FAR under the current zoning rules, but the enclosed parking would count towards the Building Footprint definition/standards we are currently developing.*” The Austin Street project has open parking on 3 sides. With the first definition, these would not count towards the gross floor area of the ground floor. Also, someone from Planning or Councilor Crossley stated that overhangs from the 2nd floor would be counted in the total gross floor area. This is not captured here.

Thank you. This is something we are fully aware of and are working through the zoning definition to capture this and mitigate unintended consequences.

- **Better examples needed:** Examples should be both building footprint and massing, so that people can better understand the concept. Using Gath Pool I don’t believe is that helpful. Please identify examples of each building with a footprint of 5K/10K/15K in the city for residents to visit and experience.

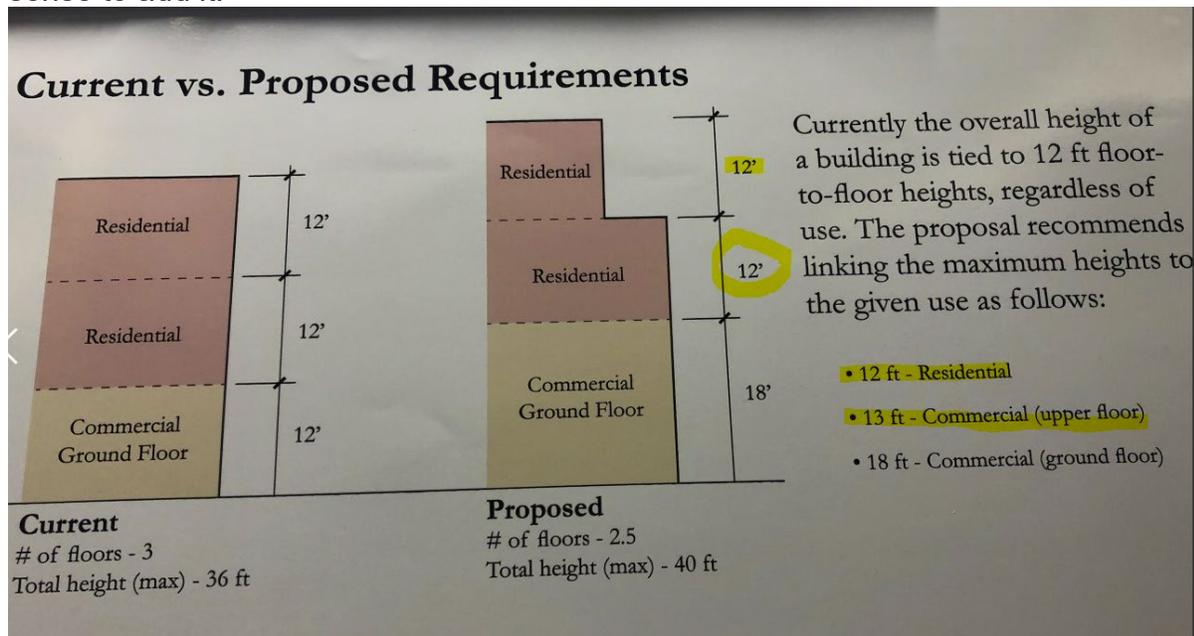
For reference, any building in the City can be found on the [Assessor Database](#) by inputting an address and clicking on the “Property Sketch” that appears along the left. In addition, [Google Earth](#) is a free tool available to look at all Newton buildings in 2D and 3D.

- **Need definition of facade length (in feet):** Panel talks about facade length but the term is not defined
This is something we are fully aware of and are working through the zoning definition to capture this and mitigate unintended consequences.

Panel 3.5 Allow Standard Floor to Floor Heights

- **Incorrect heights on illustration:** The illustration has the incorrect numbers - it should be 11’ residential and the words to the right are incorrect. It should be 11’ residential. Also, did you

mean to have the 2nd floor in the picture be labeled “commercial upper floor”. It would make sense to add it.



The numbers highlighted above are correct. The original proposal was to reduce allowable residential floor-to-floor heights from 12' to 11' (see [June 1 ZAP Meeting memo](#)). However for the straw vote, “had no clear preference, but would support going back to 12' floor to floor heights” (see [ZAP Report](#)). Given this, the boards show 12' floor to floor heights for residential. It should also be noted that the “Total height (max)” for the right diagram should be 42 ft and has been corrected in the library.

Panel 3.6 Sustainable design (Incorporate Strong Design Standards)

- **Very limited sustainable design allowed in by right developments:** I think this panel is misleading. It talks about all electric, solar on roof, etc but as of this date we cannot control these in by right designs. These can only be addressed through special permits.

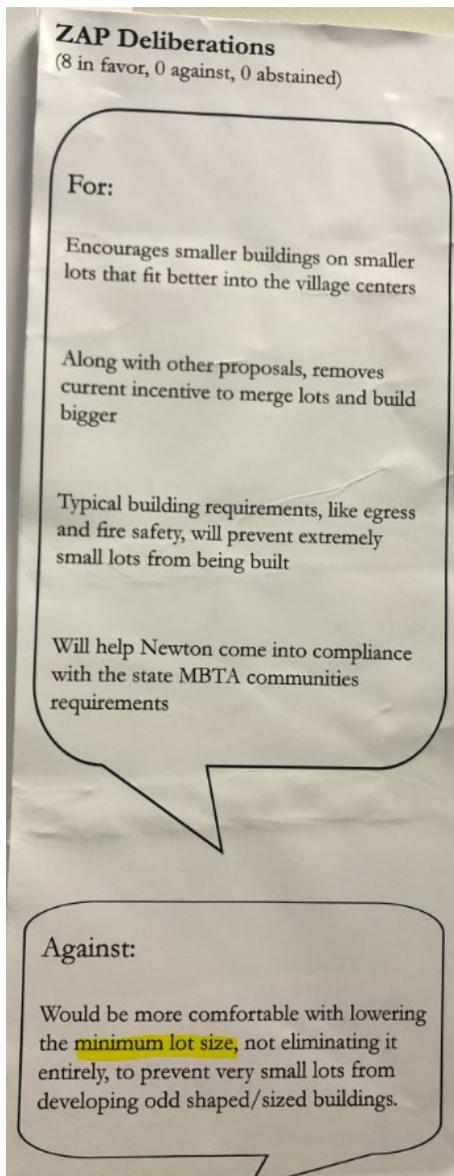
We are currently researching what sustainable design elements can be required in by-right projects. At the very least, zoning can incentivize these things by removing barriers to implementation.

- **Public realm and open space I believe wasn't discussed in ZAP.** The panel has examples from Watertown. I believe these were special permits and not by right builds and not good comparisons.

All examples, which are illustrative, are from Watertown. They are not for specific projects that are by-right or special permit.

Panel 3.7 Eliminate Lot Area per Unit Minimums

- **The ZAP deliberation card was incorrectly placed.** This talks about lot size but the panel talks about lot area minimums.



Thank you for spotting this. These were switched to the corresponding boards.

Panel 3.8 Remove minimum lot size

- **Questions on height per lot.** There's a statement "visual interest and diversity from different lot sizes". Does this mean different heights will be allowed not only based on where the lot is located, but also based on the size of the lot? Can smaller lots only build lower heights? This will be an incentive to combine lots.

The heights allowed are based on the zoning district, not the lot size. The comparison of Main Street Brattleboro, VT and Cronin's Landing on Moody Street in Waltham, MA best highlights what is meant by "visual interest and diversity from different lots sizes." See Panel 3.4 Establish a Maximum Building Footprint for this material.

- **Incorrect ZAP straw vote.** ZAP straw vote was 8-0 and not 5-0-2 as stated on the panel

Thank you for spotting this. These were switched to the corresponding boards.

- **A building can be replaced on a small lot.** "For example, a minimum lot size of 10,000 square feet (the standard in Newton's village center zones today) means that a building can't legally be constructed on any lot smaller than 10K". I believe that's an incorrect statement. If a building exists on a lot <10K sf it is a buildable lot. The original structure can be demolished and a new replacement structure can be built.

Technically, saying "can't legally be constructed" is incorrect. A more appropriate statement is, "A lot less than 10,000 square feet is unbuildable under the current zoning, which sets a minimum lot size of 10,000 square feet. However, the applicability of Newton's zoning is subject to state rules for legal nonconformities."

Panel 3.9 Lower Parking Requirements

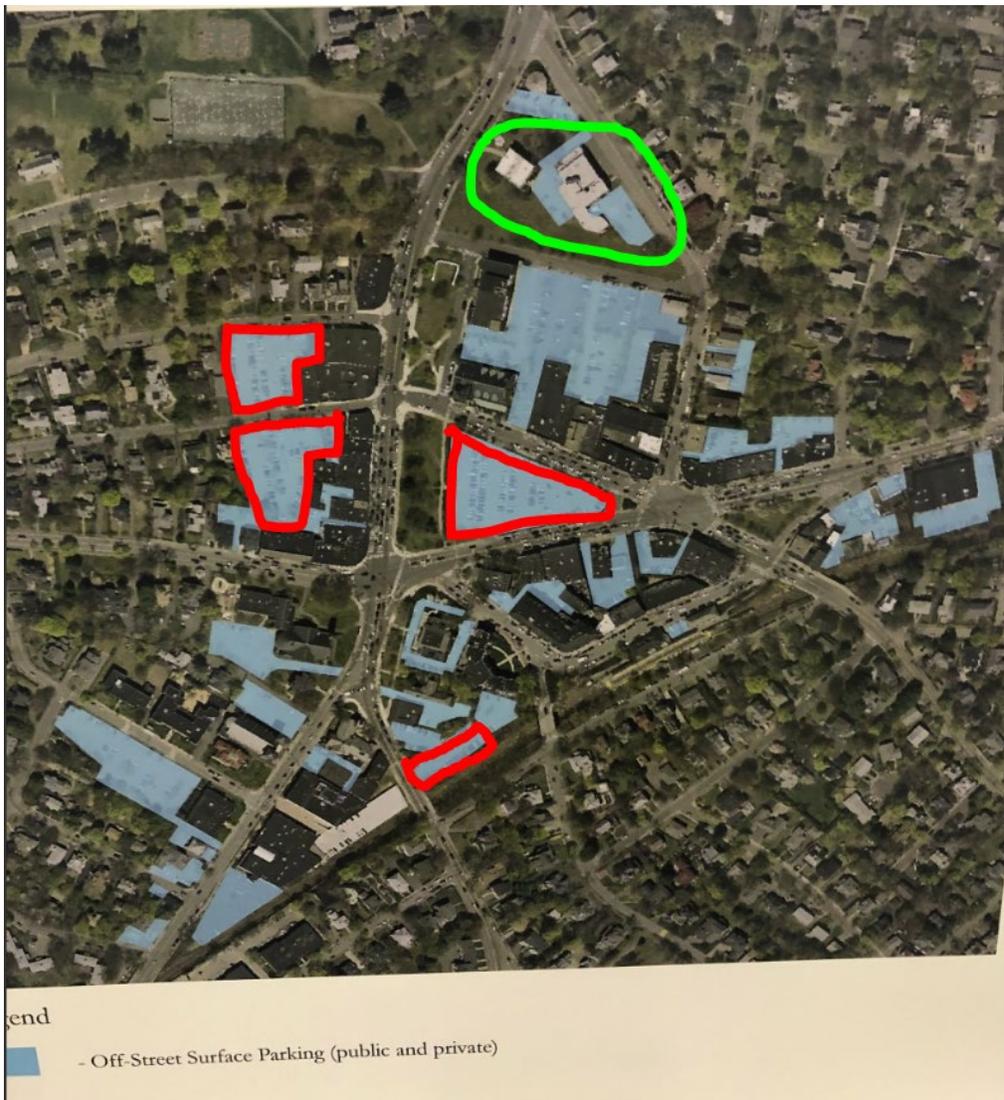
- **Additional data added to Parking Use table and not discussed in ZAP.** I'm glad the Use Types and more definitions of parking requirements were added because I did request it. This is the first time, though, that some of this information has been presented. It was not discussed in ZAP. We have not taken a straw vote on most of the information shown in the chart below. Also, health clubs on the first floor don't require parking but space on the second floor does. How does this make sense?

The table below highlights the current and proposed parking requirements for typical uses found in village centers. It is not a comprehensive list, which will include additional allowed uses.

Use Type	Current	Proposed - Ground Floor	Proposed - Upper Floors
Residential, multi-family	2 per unit	1 per unit	1 per unit
Bank	1 per 300 sf + 1 per every 3 employees	Exempt	1.5 per 1,000 sf
Health Club	1 per 150 sf + 1 per every 3 employees	Exempt	1 per 750 sf
Medical Office	1 per 400 sf + 1 per every 3 employees	Exempt	1 per 500 sf
Office, professional	1 per 250 sf up to 20,000 sf	Exempt	1.5 per 1,000 sf
Restaurant	1 per 3 patron seats plus 1 per 3 employees	Exempt	4 per 1,000 sf
Retail Store	1 per 300 sf + 1 per every 3 employees	Exempt	1 per 1,500 sf

The recommendation to exempt ground floor commercial from parking requirements is to further incentivize active uses that bring in people to the village center. The question of whether all of these high activity uses should be exempt, regardless of location within a building, is a good one and staff would recommend it be further discussed in Committee.

- Private parking lots have very limited use:** Showing all the parking lots including mostly private lots in Newton Center is very misleading. Including the fire department parking lots (circled in green) as available for additional parking is not correct. I have received numerous complaints and I personally have seen people getting towed out of the West Newton CVS parking lot. People park there, drop off items at the post office and then walk over to CVS. A man in the corner in a truck calls in the car because the person walked across the street and didn't watch that they returned to CVS. When they come out of CVS, their car is gone. Another councilor has been towed from a Newton Corner commercial private lot for basically the same thing. One cannot park in these private lots unless they are doing business at those specific shops, otherwise, one may be towed. Showing private parking lots as available for public parking is erroneous and should be corrected immediately.



Red - city owned parking lots
 Green - fire department parking

The purpose of this map is not to show private parking “as available for additional parking.” Rather, it is meant to show that surface parking, private and public, make up a significant portion of village centers. The title above the paragraph, above the map, could be adjusted to read “Parking in Village Centers” for further clarification.

Panel 4.2 Revise the Special Permit threshold for New Development

- This is a new paragraph - it talks about the planning board. Who is appointed to Newton’s Planning and Development Board by the state Secretary of Housing and Economic Development?

What is the Planning Board?

The **Planning Board** consists of seven full time members and up to five alternates. Five of the full time members are appointed by the Mayor, **one is appointed by the state Secretary of Housing and Economic Development**, and the Director of Planning serves as an ex-officio (automatic) member of the board. The Planning Board includes professionals with experience in areas such as planning, housing, and economic development. The board is charged with reviewing new subdivision requests, making recommendations on the following: new zoning changes, landmark designations, and community development programs.

See the Planning Board website [here](#) and click on Board Members. Jennifer Molinsky is the state appointee.

- **Proposed Review Process breakdown wasn't discussed in ZAP.** I'm glad there are numbers here, but the specifics were not discussed or a straw vote taken in ZAP.

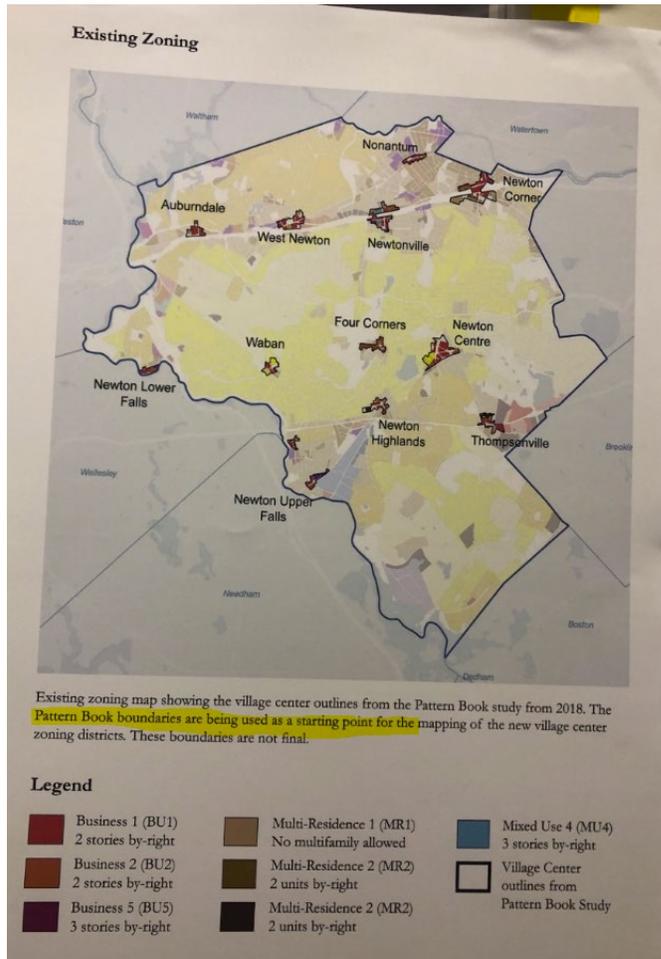
Proposed Review Process

Lot Size up to 1/2 acre (21,780 sq ft)	Lot Size between 1/2 (21,780 sq ft) and 3/4 acre (32,670 sq ft)	Lot Size over 3/4 acre (32,670 sq ft)
By-Right	By-Right with Site Plan Review by Planning Board	Special Permit by City Council

Agreed. Please refer to the introduction, panel 3.1, for the following statement: "City staff and the consultant team are continuing to refine the proposed development standards so that they facilitate desired community outcomes, allow for financially feasible development, and align with overall City policy. In that regard, what follows remains a work in progress."

Panel 5.1 Mapping the Village Center Zoning Districts

- **Question on village center maps.** The draft Village Center boundaries shown in the village map is beyond the historic boundaries. Is that a correct interpretation? When will the maps be available?



The village center boundaries shown are clearly defined as the Pattern Book boundaries. The maps, which will be drafts for further discussion, will be available after the community engagement closes. The first version of draft maps will be presented to ZAP at the end of October.

Panel 5.2 Incorporating State Requirements for Allowing Multi-Family Housing

- **This zoning won't fully comply with MBTA Housing Choice.** It's stated that the proposed village center zoning will not fully comply with the MBTA housing choice. Please provide the calculations to make this conclusion. Do you have a breakdown per village center? Also, what average size apartment is used for this calculation?

We do not have these calculations and there is no break down per village center. Doing a "back-of-the-envelope" calculation we used 1,000 square feet as the average apartment size. As stated at the September ZAP meeting, the State will be providing a compliance model that all communities will be using to determine compliance. That model has not been released yet.

- **Condos vs. apartments:** Ownership is discussed but almost all recent projects are apartments. In the planning dept memo (Table shown below -dated 6/21/22), only 2% of the 2550 multi family units since 2020 are ownership.

City of Newton Housing Snapshot							
Last updated: 06/21/22*							
*Approved and Pending numbers updated							
Housing Units							
Housing Units*							
	Single Family	Condominium Units	Two Family Units	Three Family Units	Apartment Units	Accessory Apts	Total Housing Units
2010	17,210	4,391	5,890	888	3,535	3	31,917
2015	17,214	4,705	5,692	864	3,899	18	32,392
2020	17,184	5,235	5,386	819	4,328	102	33,054
Approved**		58			2,286		
Pending**		0			206		

The state will be providing a compliance model that all MBTA Communities will use to determine if the zoning is compliant. This has not been provided yet. See slides 24-26 from the [DHCD Webinar held on September 8](#).

Panel 6.1 Continue to Help Shape the Village Center Zoning

- **Unrealistic drawing.** The medium village picture below is very unrealistic with only one by right maximum height. A more realistic depiction would add the special permit projects/heights in these pictures.



See previous answers above. Not all development will occur at once. Rather, individual lots will develop differently over many years. This is the case throughout Newton under the current zoning. An unrealistic drawing would be to show every lot built out to the maximum allowed.

Additional questions from later memos related to village center zoning:

Why are BC village center on Comm Ave and Chestnut Hill excluded from the village centers?

If the City Council is interested in adding additional areas than the Planning Department can explore those options.