



Zoning & Planning Committee Report

City of Newton In City Council

Monday, July 24, 2023

Present: Councilors Crossley (Chair), Albright, Danberg, Wright, Krintzman, Leary, Baker, and Ryan

Also Present: Councilors Markiewicz, Kelley, Oliver, Laredo, Bowman, Lipof, Norton, Lucas, Humphrey, Malakie

City Staff: Barney Heath, Director of Planning; Zachary LeMel, Chief of Long Range Planning; Andrew Lee, Senior Assistant City Solicitor; Jonathan Yeo, Chief Operating Officer; and Jaclyn Norton, Committee Clerk

Planning & Development Board: Kelly Brown, Peter Doeringer, Lee Breckenridge, Kevin McCormick, Amy Dain, Jennifer Molinsky

For more information regarding this meeting, a video recording can be found at the following link: [Zoning and Planning Committee - July 24, 2023 \(newtv.org\)](https://www.newtv.org/Zoning-and-Planning-Committee-July-24-2023)

#205-23 Petition to rezone lots on Charles Street

TERRENCE P. MORRIS, ESQ. petitioning to amend the City of Newton's Zoning Map by changing the current zoning of the property known as and numbered 132 Charles Street, Newton, Ma, and shown on the City of Newton Assessor's database as Section 41, Block 06, Lots 14, currently zoned MULTI-RESIDENCE 1 and MANUFACTURING, and Section 41, Block 06, Lot 26, currently zoned MANUFACTURING, to MIXED USE 1.

Action: **Zoning & Planning Held 7-0 (Councilor Baker Not Voting); Public Hearing Closed**

Note: Terrence Morris, Esq. submitted this petition on behalf of his client WZ DNA LLC and described that the current zoning of the two parcels is both Manufacturing and Multi-Residence 1 and the zoning cuts across property lines and an existing building. Attorney Morris stated that rezoning these lots to Mixed Use 1 (MU1) would fully authorize the current use as a life sciences laboratory.

Barney Heath, Director of Planning, described the current zoning of 126 and 132 Charles St along with a description of the surrounding area and abutting properties (see attached slides). The parcels are abutted by a vacant lot to the west, Massachusetts Turnpike to the North, the MBTA Commuter Rail and the Massachusetts Turnpike to the east, and the Charles River Reservation

to the south. The Planning Department's recommendation is that the property should be rezoned to MU1.

The Public Hearing was opened.

Amy Sangiolo, 389 Central St, while understanding the goal of the petitioner to have consistent zoning expressed concern with the petition citing that this should be done in conjunction with a special permit.

Councilors voted 7-0 (Councilor Baker Not Voting) on a motion to close the public hearing from Councilor Krintzman. The Planning and Development Board unanimously voted to close the public hearing.

Multiple Councilors raised questions on the timing of this rezone petition as it does not accompany a special permit and asked if the use of the parcel would change if this petition were approved. Attorney Morris stated that the request was to clean up the zoning in the area and provide his client with the opportunity to expand if they desire in the future. Director Heath during the discussion noted that some industrial uses would not be allowed in the MU1 zone and directed individuals to the use table. This use table was not included in the planning memo and the Department will provide it in advance of a future discussion.

Committee members voted 7-0 (Councilor Baker Not Voting) on a motion to hold from Councilor Krintzman. The Planning & Development Board voted unanimously to hold the item.

Chair's Note: *We will hold up to 1.5 hours of testimony for folks who could not testify at the first night of hearings, then will continue the public hearing to early September. The committee will resume discussion on 38-22 after taking up item 206-23. Please see Chair's memo suggesting a strategy for organizing the next several meetings on this item.*

#38-22 Request for discussion and amendments to the Zoning Ordinance and Zoning Map regarding village center districts

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)

Action: Zoning & Planning Held 8-0; Public Hearing Continued

Note: The Chair repeated that the 1.5 hours allotted tonight is to allow folks who have not yet spoken to testify, that each speaker may have up to three minutes and that if there is time within the 1.5 hours, some may be able to speak again.

The Public Hearing was continued.

Albert Cecchinelli, 224 Chapel St, expressed concern with the MBTA Communities Act saying that it forces communities to over develop. He also urged that Council require an electric vehicle charging station for each unit in every development over 12 units along with increasing the number of affordable units at deeper levels of affordability.

Reverend Cheryl Kerr, 126 Rand Terrace, spoke on behalf of the Newton Interfaith Coalition for Housing Equity (NICHE), who have been studying the proposed zoning. She noted more often our neighbors are being priced out of Newton due to rising costs in part due to insufficient housing supply. The reverend noted and that the greatest loss when housing is insufficient falls always on the less fortunate, and disproportionately on people of color. She spoke of the history of exclusionary zoning practices in Newton being replaced by efforts to prioritize inclusion. The clergy ask does this proposal work toward that end? She spoke of the benefits of living in Newton, but cited the negative effects of high housing costs on providing housing for those whose professions serve the community, like herself, teachers, and other civil servants. Reverend Kerr concluded her testimony by voicing support for the VCOD (Village Center Overlay District) proposal on behalf.

Marcia Johnson, 845 Washington St, spoke from written testimony previously submitted by the Newton League of Women Voters in support of the VCOD, which can be found [here](#). During her testimony, Ms. Johnson outlined the extensive community engagement process the League of Women Voters undertook, in order to participate fully in the city's extensive engagement process to inform the public about this proposal. She also described how the VCOD will promote housing options at various price points along with building upon Newton's unique patterns of development.

Sasha Fine, 80 Dorset Rd, urged support for the VCOD proposal, saying this is a young people's issue and we care. City Councilors you are voting for my future. Multi-family homes near transit will reduce cars and carbon emissions, MF homes are energy efficient and community builders. Ms. Fine noted her experience growing up in multi-family housing and how that has led to many positive memories. She ended with noting how she is sick of excuses and urged adoption. I'm sick of seeing people in power taking away mine, she said.

Wasan Rafat, 8 Long Meadow Rd, also voiced support for the VCOD proposal urged swift and decisive action to do the right thing to protect our climate and community. She wants city leaders to create a more equitable and possible future and a more resilient and sustainable society.

Diane Prunte, 305 Winchester St, advocated against the VCOD proposal, asked the city to slow down the process, and stated that the proposal will result in the city being over built along with not adequately addressing global warming.

Rena Getz, 192 Pine Ridge Rd, stated that while the VCOD proposal and MBTA Communities compliance are interrelated they should be separated and developed as two separate plans. Ms. Getz also expressed concern that the community engagement done by the Planning Department has been insufficient, and advocated for respect for existing context, particularly stronger preservation of historic buildings in village centers.

Daniel Herring, 77 Oak Hill Rd, also expressed concern that the city needs to do a much better job informing the public about the proposal. He does not want to see segregating affordable housing. He also raised concerns regarding the height of the VC3 zone, that existing businesses would be forced out and the mapping of VC1 scale multi-family housing along Route 9, and would like to participate in a planning process to come up with a better design.

Kia Freeman, 871 Beacon St, is concerned that existing infrastructure not being able to support the proposed zoning in Newton Centre and that increased traffic as a result of the new development cannot be accommodated.

Irina Teslyar, 39 Osborne Rd, questioned the validity of the MBTA Communities Guidelines and that new development does not mean that truly affordable units will be built. Government should not be able to force people to change their life.

MaryLee Belleville, 136 Warren St, noted her prior involvement in community engagement regarding this project and described how vibrant the Newton Centre village center is currently. She feels businesses are thriving now and worries that existing businesses will be displaced. Ms. Belleville also raised concern with the proposal stating that it would increase teardowns in village centers and displace existing businesses.

Gerard Slattery, 143 Ridge St, spoke on behalf of Patrick Slattery and advocated for the inclusion of his properties, which are located near the VCOD, to become part of the VCOD. He thinks the VCOD should be expanded.

Ari Zeren, 301 Woodcliffe Rd, who spoke during the June 26, 2023 Public Hearing, reiterated his support for the VCOD proposal, and urged that leaders view this as a first step

Doris Ann Sweet, 281 Lexington St, spoke in favor of the proposal, first recognizing that zoning manifests over a long time and grateful that young people are speaking up. She noted how the VCOD addresses the two crises: a severe and widespread housing shortage and climate change, by making it easier to build multifamily housing, easier to convert existing large homes near transit to 3 or four units.

Sachiko Isihara, 15 Davis St, is the owner of one of the three houses currently zoned business in West Newton and requested that this group of houses be included in future iterations of the VCOD and designated VC2. This request was due to the step down to residential zones not applying to these parcels and allowing for the ability for multi-family housing on these parcels if they were to be redeveloped.

Carol Carroll, 325 Lake Ave, advocated for careful editing of future iterations of the text and maps.

This concluded public testimony for this meeting and committee members voted 8-0 on a motion to continue the public hearing from Councilor Albright.

The Chair noted that the Law Department continues to advise on the open meeting law, stressing that public testimony may not be interrupted for any reason, including clarifications. However, once the public has concluded its testimony clarifications may be made. In that spirit, the Chair noted that EV charger requirements are now part of the updated 2023 state building code and Newton is unable to require more chargers than the state building code. A Councilor not on the Committee called a point of order saying such clarifying statements are inappropriate. The Chair reiterated that guidance from the Law Department says otherwise, and deferred to Mr. LeMel for the remainder of the clarifying statements.

Mr. LeMel clarified that newton's inclusionary zoning ordinance will apply to the VCOD. This ordinance requires that a minimum percentage of units be deed restricted for households earning between 50 and 80 percent of the Average Median Income (AMI) and must achieve an average of 65 percent AMI. The number of units is dependent on the size of the project and individuals in these units cannot be spending more than 30% of their income on housing. Mr. LeMel also described that the community engagement regarding the VCOD has been extensive and ongoing for over 2 years. to date the Planning Department has sent out two rounds of mailings to property owners within and near the proposed VCOD. The first was in November 2022 to all property owners within the VCOD, and the second was in advance of the June 26 opening of the public hearings. The latter went to all property owners in the proposed district, abutters, and abutters to abutters.

A Councilor on the Committee asked when she would be able to present the slides that were sent to the City Council today. Multiple Councilors noted how these slides were submitted at 4:22pm the day of the meeting, not providing adequate time to review the material. The Chair noted multiple attempts to speak with this Councilor regarding scheduling time to discuss this proposal. It was most recently agreed there could be time at the 6/24 meeting if materials were submitted by deadline for the Friday packet. Having received the material only today, this will be discussed at the July 31st meeting. It was also agreed that the tool developed will be shared with planning staff for their review.

The Chair referenced the Planning memo which provide A framework for going through the substantive sections of the proposed text. Amendments will be in order as they relate to each section. The intention is to take straw votes on each amendment and each section. In the August meeting, there will be discussion and possible amendments to the proposed maps. Determining the sense of the Committee in this way will enable staff to create a revised document in advance of the public hearing re-opening in September. Attorney Lee stated that another notice will be published that states that the public hearing is continued and directs people to the updated materials. Councilors raised questions with how to proceed with proposing amendments to the text and maps without violating Open Meeting Law. Text amendments should be submitted in advance of the next meeting to be included with the backup material for the meeting. Map amendments should be submitted in advance of the August 15th meeting. It was proposed that amendments be submitted to both planning staff and the Clerk's office to be compiled. Attorney Lee advised that the Committee wait to implement this process until the Law Department has reviewed this process as consistent with the law. The following day, this process was approved in a memo to the City Council.

Councilors voted 8-0 on a motion to hold from Councilor Leary.

#206-23 Discussion and possible ordinance to allow for breweries, brew pubs, and other craft beverage production

COUNCILOR LIPOF requesting review, discussion, and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to craft beverage production. Possible amendments would remove prohibition on bottling alcoholic beverages and propose opportunities for other craft beverage production and accessory retail.

Action: **Zoning & Planning Held 8-0; Public Hearing Set for 09/11/23**

Note: The Chair outlined that this meeting is to review the proposed ordinance elements with the Planning Department and set a date for the public hearing. Mr. LeMel described that the current zoning ordinance contains a prohibition-era policy that prevents the bottling of alcoholic beverages. He outlined potential benefits of adopting the proposed ordinance including filling vacant retail or manufacturing space, increased employment, increased tax revenue, and fostering a sense of community through charitable and social activities. Multiple communities in the Metro region have enabled this use as shown on the map in the attached presentation.

Mr. LeMel described that the proposed ordinance would remove the prohibition on alcoholic bottling and create a new use for craft beverage services. The proposed ordinance would also distinguish between on-premises and off-premises consumption. This use would be allowed by right in Business zones 1-5 and Mixed Use 1-4 for establishments up to 10,000sf, but require a special permit for establishments over 10,000 sf. It would also be permitted in Manufacturing and Limited Manufacturing zones. There is the potential for this use for establishments under 10,000 sf in VC2 and VC3. During the discussion, a Councilor sought clarification regarding the

approval process. Mr. LeMel stated that all projects would need to go before the Licensing Board and establishments over 10,000 sf would also need to seek a special permit. Regarding parking requirements, Mr. LeMel stated that those requirements are proposed similar to the current restaurant and retail use parking requirements.

The presentation concluded with the Planning Department's recommendation that the public hearing be set for the September 11th Zoning & Planning Committee meeting.

Multiple Councilors proposed removing the parking requirement from the proposed ordinance. Another Councilor also noted an interest in discussing the special permit threshold and if it should be decreased. Attorney Lee stated that the legal notice for this item will be written generally so these items can be modified. Committee members voted 8-0 on a motion from Councilor Danberg to hold the item and set the public hearing for September 11, 2023,

#39-22 Requesting discussion on state guidance for implementing the Housing Choice Bill

COUNCILOR CROSSLEY on behalf of the Zoning & Planning Committee requesting discussion on state guidance for implementing the Housing Choice element of the MA Economic Development legislation. (formerly #131-21)

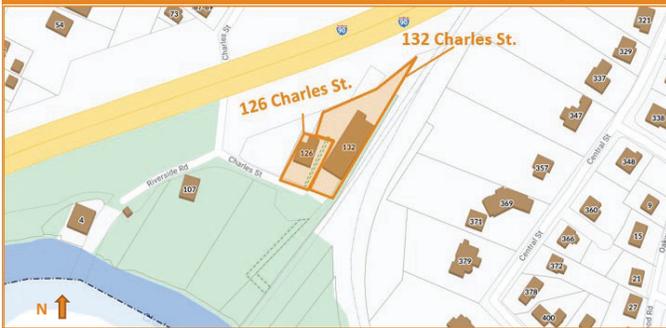
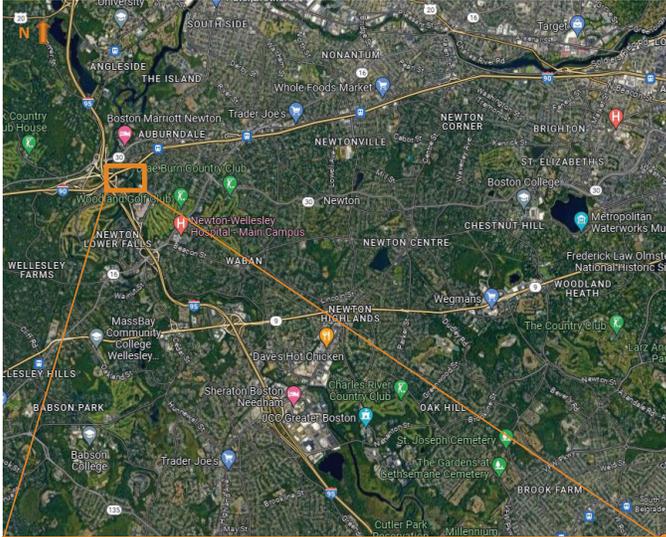
Action: Zoning & Planning Held 8-0

Note: This item was discussed concurrently with item #38-22. A written report can be found with item #38-22.

The meeting adjourned at 10:12pm.

Respectfully Submitted,

Deborah J. Crossley, Chair



126-132 Charles St. Rezoning Request

CITY OF NEWTON

DEPARTMENT OF PLANNING AND DEVELOPMENT

JULY 24, 2023

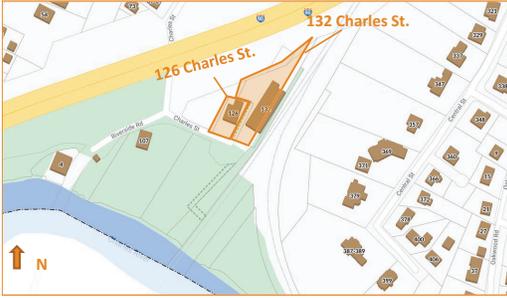
Agenda

Background

Current Zoning

Rezoning Request

Anticipated Impact and Recommendation



Background

126 and 132 Charles St. are both owned by WZ DNA LLC.

- 126 Charles St. was a daycare. WZ DNA LLC purchased this property on September 21, 2022. The building is currently vacant.
- 132 Charles St. was owned by Newtron, an electronic parts distributor until WZ DNA purchased the property on December 12, 2021.

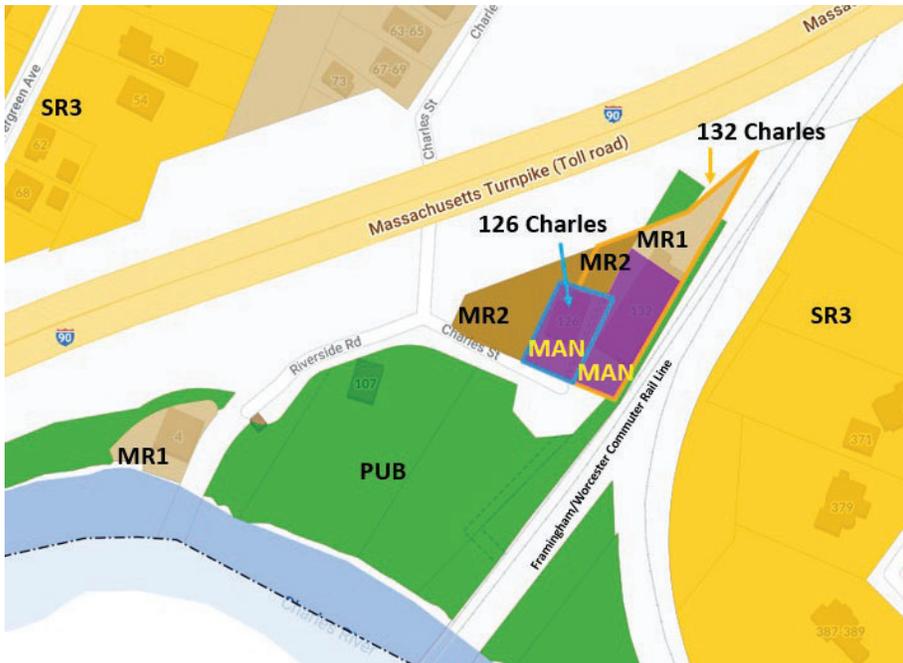
Current use is laboratory, research and development and office which is permitted by right in Manufacturing and Mixed Use 1 districts



Above: 126 Charles St., pictured Aug. 2022



Above: 132 Charles St. pictured Oct. 2021



Current Zoning

The parcel at 126 Charles St. (outlined in blue) is currently zoned Manufacturing

The parcel at 132 Charles St. (outlined in orange) is currently zoned Manufacturing, Multi-Residence 1, and Multi-Residence 2

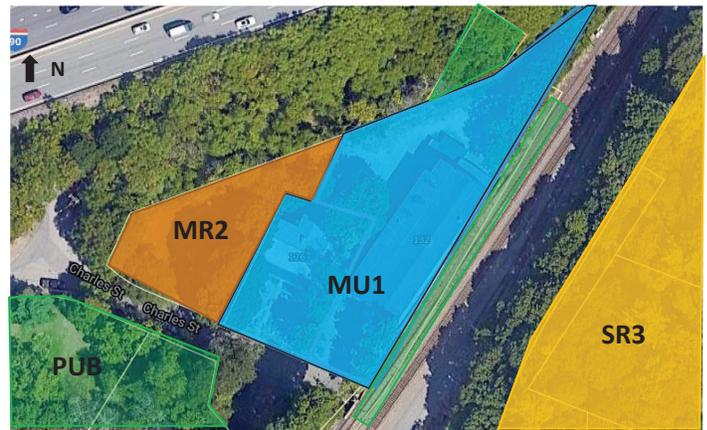


Rezoning Request

Existing Zoning



Proposed Zoning



Surrounding Area and Abutting Properties

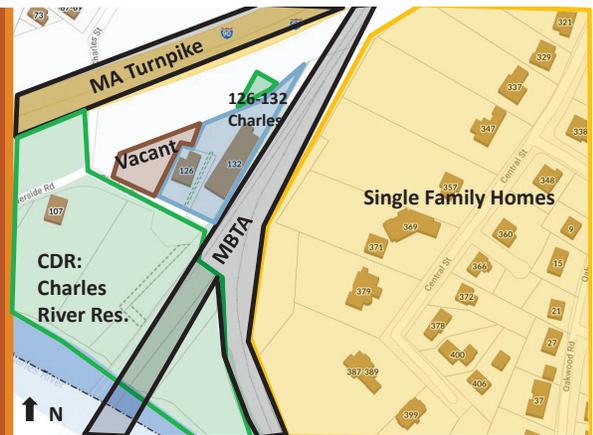
To West: vacant lot

To North: Massachusetts Turnpike

To East: MBTA Commuter Rail Framingham/Worcester Line tracks. Massachusetts Turnpike

To South: MA Department of Conservation and Recreation Charles River Reservation

Nearest residence is approximately 294 ft east and approximately 75 ft higher in altitude than ground level for 132 Charles St, separated by the MBTA train tracks and about 180 feet of unbuildable wooded area.



Recommendation

Rezone to MU1

- The property is highly isolated
- New construction options are limited
- Less industrial uses are permitted by right under MU1, so it is unlikely that any future uses would create any additional risk of noise, odor, or other nuisances



Craft Beverage Establishment Zoning Use Proposal

#206-23

CITY OF NEWTON DEPARTMENT OF PLANNING AND DEVELOPMENT



Agenda

- Purpose of Proposal
 - Current Zoning Issue
 - Comparison to Other Communities
 - Examples
 - Proposed Change
- 



**On the Rise
Community Night**

Thursday
June 29, 2023 @ 6pm

Lampighter Brewery
284 Broadway,

Introduction

Current Zoning

- A prohibition era policy prevents the bottling of alcoholic beverages (Sec. 6.5.4), thus barring breweries and brew pubs in Newton
- At the same time, zoning allows:
 - Restaurants, bars, and liquor stores
 - Manufacturing

Potential Benefits

- Could fill vacant retail or manufacturing space
- Increased employment and traffic to adjacent benefits
- Increased tax revenue
- More inviting spaces for gathering
- Foster a sense of community through charitable and social activities

Metro Boston Alcohol Production: Zoning and Resulting Establishments



Key

● Allowed ● Allowed by SP ● Not Addressed ★ Brewery ★ Distillery ★ Winery ★ Cidery

Examples: Craft Beverage Establishments under 10,000 Square Feet in Mixed Use



Proposed Use Definition and Standards

Definition

- Any properly licensed establishment licensed under M.G.L. Chapter 138 that produces and/or containerizes alcoholic or alcoholic and non-alcoholic beverages for consumption on and/or off premises. This includes but is not limited to breweries, microbreweries, brew pubs, distilleries, wineries, meaderies, cideries, and tap rooms.

Standards for Allowed Uses:

- Craft Beverage Establishments: Off-Premise Consumption.** Establishments may produce and/or containerize and sell alcoholic or alcoholic and non-alcoholic beverages for off-site consumption by retail sale and wholesale. These establishments must occupy a building or portion of a building that has a floor area of no less than 10,000 square feet except in Manufacturing and Limited Manufacturing districts
- Craft Beverage Establishments: On-Premise Consumption Only.** Establishments may produce and/or containerize and sell alcoholic or alcoholic and non-alcoholic beverages for on-premise consumption. Retail sale or wholesale of closed containers for off-premise consumption is also allowed. These establishments must occupy a building or portion of a building that has a floor area of no more than 10,000 square feet except in Manufacturing and Limited Manufacturing districts.
- In all districts, outdoor sidewalk seats are permitted under revised Ordinances Chapter 12, Section 12-70.

Districts and Parking

Districts

- Craft Beverage Establishment: Off-Premise Consumption or On-Premise Consumption
 - Limited (Up to 10,000 Square Feet) and Special Permit (Over 10,000 Square Feet) in Business Use 1-5 and Mixed Use 1-4
 - Permitted in Manufacturing and Limited Manufacturing
 - Potentially: Limited (Up to 10,000 Square Feet) in VC2-3

Parking

- Craft Beverage Establishment: Off-Premise Consumption
 - 1 per every 500 sf plus 1 per every 4 employees
 - Craft Beverage Establishment: On-Premise Consumption
 - 1 per every 5 patron seats excluding outdoor/sidewalk seats
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Next Steps

- Questions and comments
 - Set a public hearing for first meeting in September
- 