



Zoning & Planning Committee Agenda

City of Newton In City Council

Monday, August 21, 2023

5:30 pm – PLEASE NOTE EARLY START TIME

Room 204

The Zoning and Planning Committee will hold this meeting as a hybrid meeting on Monday, August 21, 2023 at 5:30 PM that the public may access in-person or virtually via Zoom. To attend this meeting via Zoom use this link: <https://newtonma-gov.zoom.us/j/84779844994> or call 1-646-558-8656 and use the following Meeting ID: 847 7984 4994.

Items Scheduled for Discussion:

Chair's note: The Committee will continue to review and discuss the VCOD text and proposed amendments by substantive section as per the staff outline, and will then review and assess the maps and proposed amendments for each village center. Straw votes will be taken on all items. There will be a brief dinner break at 7:00 pm.

#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)

Zoning & Planning Held 8-0 on 08/15/23

#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)

Zoning & Planning Held 8-0 on 08/15/23

Respectfully Submitted,
Deborah J. Crossley, Chair

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.



Commonwealth of Massachusetts
**EXECUTIVE OFFICE OF HOUSING &
 LIVABLE COMMUNITIES**

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus, Jr., Secretary

TO: Municipal Officials in MBTA Communities
 FROM: Secretary Edward M. Augustus, Jr.
 DATE: August 17, 2023
 RE: Revisions to Section 3A Compliance Guidelines

On August 10, 2022, EOHLIC released Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act (the “Guidelines”). One revision was made in October 2022. This is a summary of the second change. In response to feedback from municipal leaders in several MBTA communities, EOHLIC is revising the Guidelines to offer MBTA communities a path to receive some credit for mixed-use development zoning districts. The revision also specifies how Section 3A compliance may affect certain discretionary grant award decisions. These revisions:

1. Allow an MBTA community to “offset” the minimum multi-family unit capacity requirement in certain multi-family zoning district(s) by up to 25%, based on the unit capacity of a mixed-use zoning district that meets key requirements of Section 3A and the Guidelines, but for requiring a ground floor non-residential component. Such “offset” – only available where existing village-style or downtown development is essential to preserve pedestrian access to amenities – still requires a municipality to demonstrate the same total amount of unit capacity.
2. Protect the financial feasibility of achieving housing goals where mixed-use zoning requires ground-floor non-residential uses by (i) setting forth location criteria for mixed-use development districts and requiring that EOHLIC has pre-approved the location before the MBTA community’s vote on its zoning changes; (ii) capping the percentage floor area of each development that may be required to be non-residential (ground floor only); (iii) requiring a broad mix of non-residential uses allowed as of right; and (iv) prohibiting minimum parking requirements for non-residential uses.
3. Allow MBTA communities to locate more housing in walkable and transit-oriented neighborhoods without jeopardizing existing non-residential resources and amenities. Many MBTA communities expressed a desire to locate districts in village-style or downtown neighborhoods but feared that allowing multi-family housing as of right in those areas could risk a loss of existing businesses and buildings. Many residents expressed a desire to live in village-style, downtown, and transit-oriented neighborhoods.
4. Add a list of thirteen discretionary grants programs to Section 9 to alert MBTA communities of additional grant programs that will consider compliance with Section 3A in making grant awards.

These revisions to the Guidelines are intended to provide greater flexibility to MBTA communities to adopt new zoning districts in mixed-use neighborhoods, and to promote housing opportunities for residents in such neighborhoods. The revisions do not reduce the total unit capacity required by the Guidelines.



Commonwealth of Massachusetts EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus, Jr., Secretary

Issue Date: August 10, 2022

Revised: October 21, 2022

Revised: August 17, 2023

Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act

1. Overview of Section 3A of the Zoning Act

Section 3A of the Zoning Act provides: *An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The purpose of Section 3A is to encourage the production of multi-family housing by requiring MBTA communities to adopt zoning districts where multi-family housing is allowed as of right, and that meet other requirements set forth in the statute.

The Executive Office of Housing and Livable Communities (EOHLC), in consultation with Executive Office of Economic Development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. EOHLC promulgated preliminary guidance on January 29, 2021. EOHLC updated that preliminary guidance on December 15, 2021, and on that same date issued draft guidelines for public comment. These final guidelines supersede all prior guidance and set forth how MBTA communities may achieve compliance with Section 3A.

2. Definitions

“Adjacent community” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) is not an adjacent small town.

“Adjacent small town” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) either has a population density of less than 500 persons per square mile, or a population of not more than 7,000 year-round residents as determined in the most recently published United States Decennial Census of Population and Housing.

“Affordable unit” means a multi-family housing unit that is subject to a restriction in its chain of title limiting the sale price or rent, or limiting occupancy to an individual or household of a specified income, or both. Affordable units may be, but are not required to be, eligible for inclusion on EOHLC’s Subsidized Housing Inventory. Nothing in these Guidelines changes the Subsidized Housing Inventory eligibility criteria, and no affordable unit shall be counted on the Subsidized Housing Inventory unless it satisfies the requirements for inclusion under 760 CMR 56.03(2) or any other regulation or guidance issued by EOHLC.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring a minimum age for some or all occupants.

“As of right” means development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

“Bus station” means a location with a passenger platform and other fixed infrastructure serving as a point of embarkation for the MBTA Silver Line. Upon the request of an MBTA community, EOHLC, in consultation with the MBTA, may determine that other locations qualify as a bus station if (i) such location has a sheltered platform or other fixed infrastructure serving a point of embarkation for a high-capacity MBTA bus line, and (ii) the area around such fixed infrastructure is highly suitable for multi-family housing.

“Commuter rail community” means an MBTA community that (i) does not meet the criteria for a rapid transit community, and (ii) has within its borders at least 100 acres of developable station area associated with one or more commuter rail stations.

“Commuter rail station” means any MBTA commuter rail station with year-round, rather than intermittent, seasonal, or event-based, service, including stations under construction and scheduled to being service before the end of 2023, but not including existing stations at which service will be terminated, or reduced below regular year-round service, before the end of 2023.

“Compliance model” means the model created by EOHLC to determine compliance with Section 3A’s reasonable size, gross density, and location requirements. The compliance model is described in further detail in Appendix 2.

“Determination of compliance” means a determination made by EOHLC as to whether an MBTA community has a multi-family zoning district that complies with the requirements of Section 3A. A determination of compliance may be determination of interim compliance or a determination of district compliance, as described in section 9.

“Developable land” means land on which multi-family housing can be permitted and constructed. For purposes of these guidelines, developable land consists of: (i) all privately-owned land except lots or portions of lots that meet the definition of excluded land, and (ii) developable public land.

“Developable public land” means any publicly-owned land that (i) is used by a local housing authority; (ii) has been identified as a site for housing development in a housing production plan

approved by EOHLC; or (iii) has been designated by the public owner for disposition and redevelopment. Other publicly-owned land may qualify as developable public land if EOHLC determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to multi-family housing, and will be converted to or made available for multi-family housing within a reasonable period of time.

“Developable station area” means developable land that is within 0.5 miles of a transit station.

“EOHLC” means the Executive Office of Housing and Livable Communities.

“EOED” means the Executive Office of Economic Development.

“Excluded land” means land areas on which it is not possible or practical to construct multi-family housing. For purposes of these guidelines, excluded land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (i) All publicly-owned land, except for lots or portions of lots determined to be developable public land.
- (ii) All rivers, streams, lakes, ponds and other surface waterbodies.
- (iii) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code.
- (iv) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).
- (v) All public rights-of-way and private rights-of-way.
- (vi) Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas.
- (vii) Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university.

“Ferry terminal” means the location where passengers embark and disembark from regular, year-round MBTA ferry service.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no zoning restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“Listed funding sources” means (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; and (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

“Lot” means an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

“MassGIS data” means the comprehensive, statewide database of geospatial information and mapping functions maintained by the Commonwealth's Bureau of Geographic Information, within the Executive Office of Technology Services and Security, including the lot boundaries and use codes provided by municipalities.

“MBTA” means the Massachusetts Bay Transportation Authority.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.

“Mixed-use development” means development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Mixed-use development zoning district” means a zoning district where multiple residential units are allowed as of right if, but only if, combined with non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within a multi-family zoning district, made in accordance with the requirements of section 5.b below.

“Multi-family zoning district” means a zoning district, including a base district or an overlay district, in which multi-family housing is allowed as of right; provided that the district shall be in a fixed location or locations, and shown on a map that is part of the zoning ordinance or by-law.

“One Stop Application” means the single application portal for the Community One Stop for Growth through which (i) the Executive Office of Housing and Economic Development considers requests for funding from the MassWorks infrastructure program; (ii) EOHLC considers requests for funding from the Housing Choice Initiative, (iii) EOED, EOHLC and other state agencies consider requests for funding from other discretionary grant programs.

“Private rights-of-way” means land area within which private streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Publicly-owned land” means (i) any land owned by the United States or a federal agency or authority; (ii) any land owned by the Commonwealth of Massachusetts or a state agency or authority; and (iii) any land owned by a municipality or municipal board or authority.

“Public rights-of-way” means land area within which public streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Rapid transit community” means an MBTA community that has within its borders at least 100 acres of developable station area associated with one or more subway stations, or MBTA Silver Line bus rapid transit stations.

“Residential dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Section 3A” means section 3A of the Zoning Act.

“Sensitive land” means developable land that, due to its soils, slope, hydrology, or other physical characteristics, has significant conservation values that could be impaired, or vulnerabilities that could be exacerbated, by the development of multi-family housing. It also includes locations where multi-family housing would be at increased risk of damage caused by flooding. Sensitive land includes, but is not limited to, wetland buffer zones extending beyond the title 5 setback area; land subject to flooding that is not a wetland resource area; priority habitat for rare or threatened species; DEP-approved wellhead protection areas in which development may be restricted, but is not prohibited (Zone II and interim wellhead protection areas); and land areas with prime agricultural soils that are in active agricultural use.

“Site plan review” means a process established by local ordinance or by-law by which a local board reviews, and potentially imposes conditions on, the appearance and layout of a specific project prior to the issuance of a building permit.

“Subway station” means any of the stops along the MBTA Red Line, Green Line, Orange Line, or Blue Line, including any extensions to such lines now under construction and scheduled to begin service before the end of 2023.

“Transit station” means an MBTA subway station, commuter rail station, ferry terminal or bus station.

“Transit station area” means the land area within 0.5 miles of a transit station.

“Zoning Act” means chapter 40A of the Massachusetts General Laws.

3. General Principles of Compliance

These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to allow multi-family housing “as of right.”
- The metrics that determine if a multi-family zoning district is “of reasonable size.”
- How to determine if a multi-family zoning district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code.
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.”
- The extent to which MBTA communities have flexibility to choose the location of a multi-family zoning district.

The following general principles have informed the more specific compliance criteria that follow:

- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries benefit from proximity to transit stations in nearby communities.
- The multi-family zoning districts required by Section 3A should encourage the development of multi-family housing projects of a scale, density and aesthetic that are compatible with existing surrounding uses, and minimize impacts to sensitive land.
- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family zoning district that is “reasonable” in one city or town may not be reasonable in another city or town.
- When possible, multi-family zoning districts should be in areas that have safe, accessible, and convenient access to transit stations for pedestrians and bicyclists.

4. Allowing Multi-Family Housing “As of Right”

To comply with Section 3A, a multi-family zoning district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval. EOHLC will determine whether zoning provisions allow for multi-family housing as of right consistent with the following guidelines.

a. *Site plan review*

The Zoning Act does not establish nor recognize site plan review as an independent method of regulating land use. However, the Massachusetts courts have recognized site plan review as a permissible regulatory tool, including for uses that are permitted as of right. The court decisions establish that when site plan review is required for a use permitted as of right, site plan review involves the regulation of a use and not its outright prohibition. The scope of review is therefore limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law.¹ These guidelines similarly recognize that site plan review may be required for multi-family housing projects that are allowed as of right, within the parameters established by the applicable case law. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right and complies with applicable dimensional regulations.

b. *Affordability requirements*

Section 3A does not include any express requirement or authorization for an MBTA community to require affordable units in a multi-family housing project that is allowed as of right. It is a common practice in many cities and towns to require affordable units in a multi-family project that requires a special permit, or as a condition for building at greater densities than the zoning otherwise would allow. These inclusionary zoning requirements serve the policy goal of increasing affordable housing production. If affordability requirements are excessive, however, they can make it economically infeasible to construct new multi-family housing.

For purposes of making compliance determinations with Section 3A, EOHLC will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. Notwithstanding the foregoing, EOHLC may, in its discretion, approve a greater percentage of affordable units, or deeper affordability for some or all of the affordable units, in either of the following circumstances:

- (i) The affordability requirements applicable in the multi-family zoning district are reviewed and approved by EOHLC as part of a smart growth district under chapter 40R, or under another zoning incentive program administered by EOHLC; or
- (ii) The affordability requirements applicable in the multi-family zoning district are supported by an economic feasibility analysis, prepared for the municipality by a qualified and independent third party acceptable to EOHLC, and using a methodology and format acceptable to EOHLC. The analysis must demonstrate that a reasonable

¹ See, e.g., *Y.D. Dugout, Inc. v. Board of Appeals of Canton*, 357 Mass. 25 (1970); *Prudential Insurance Co. of America v. Board of Appeals of Westwood*, 23 Mass. App. Ct. 278 (1986); *Osberg v. Planning Bd. of Sturbridge*, 44 Mass. App. Ct. 56, 59 (1997) (Planning Board “may impose reasonable terms and conditions on the proposed use, but it does not have discretionary power to deny the use”).

variety of multi-family housing types can be feasibly developed at the proposed affordability levels, taking into account the densities allowed as of right in the district, the dimensional requirements applicable within the district, and the minimum number of parking spaces required.

In no case will EOHLC approve alternative affordability requirements that require more than 20 percent of the units in a project to be affordable units, except in a smart growth zoning district under chapter 40R with a 25 percent affordability requirement approved and adopted prior to the issuance of these guidelines, including any such existing district that is expanded or amended to comply with these guidelines.

c. *Other requirements that do not apply uniformly in the multi-family zoning district*

Zoning will not be deemed compliant with Section 3A’s requirement that multi-family housing be allowed as of right if the zoning imposes requirements on multi-family housing that are not generally applicable to other uses. The following are examples of requirements that would be deemed to be inconsistent with “as of right” use: (i) a requirement that multi-family housing meet higher energy efficiency standards than other uses; (ii) a requirement that a multi-family use achieve a third party certification that is not required for other uses in the district; and (iii) a requirement that multi-family use must be combined with commercial or other uses on the same lot or as part of a single project. Mixed use projects may be allowed as of right in a multi-family zoning district, as long as multi-family housing is separately allowed as of right.

5. Determining “Reasonable Size”

In making determinations of “reasonable size,” EOHLC will take into consideration both the land area of the multi-family zoning district, and the multi-family zoning district’s multi-family unit capacity.

a. *Minimum land area*

A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. For purposes of compliance with Section 3A, a multi-family zoning district should be a neighborhood-scale district, not a single development site on which the municipality is willing to permit a particular multi-family project. EOHLC will certify compliance with Section 3A only if an MBTA community’s multi-family zoning district meets the minimum land area applicable to that MBTA community, if any, as set forth in Appendix 1. The minimum land area for each MBTA community has been determined as follows:

- (i) In rapid transit communities, commuter rail communities, and adjacent communities, the minimum land area of the multi-family zoning district is 50 acres, or 1.5% of the developable land in an MBTA community, whichever is *less*. In certain cases, noted in Appendix 1, a smaller minimum land area applies.
- (ii) In adjacent small towns, there is no minimum land area. In these communities, the multi-family zoning district may comprise as many or as few acres as the community

determines is appropriate, as long as the district meets the applicable minimum multi-family unit capacity and the minimum gross density requirements.

In all cases, at least half of the multi-family zoning district land areas must comprise contiguous lots of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement. If the multi-family unit capacity and gross density requirements can be achieved in a district of fewer than 5 acres, then the district must consist entirely of contiguous lots.

b. *Minimum multi-family unit capacity*

A reasonably sized multi-family zoning district must also be able to accommodate a reasonable number of multi-family housing units as of right. For purposes of determinations of compliance with Section 3A, EOHLC will consider a reasonable multi-family unit capacity for each MBTA community to be a specified percentage of the total number of housing units within the community, with the applicable percentage based on the type of transit service in the community, as shown on Table 1:

Table 1.

Category	Percentage of total housing units
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

To be deemed in compliance with Section 3A, each MBTA community must have a multi-family zoning district with a multi-family unit capacity equal to or greater than the minimum unit capacity shown for it in Appendix 1. The minimum multi-family unit capacity for each MBTA community has been determined as follows:

- (i) First, by multiplying the number of housing units in that community by 0.25, 0.15, 0.10, or .05 depending on the MBTA community category. For example, a rapid transit community with 7,500 housing units is required to have a multi-family zoning district with a multi-family unit capacity of $7,500 \times 0.25 = 1,875$ multi-family units. For purposes of these guidelines, the number of total housing units in each MBTA community has been established by reference to the most recently published United States Decennial Census of Population and Housing.
- (ii) Second, when there is a minimum land area applicable to an MBTA community, by multiplying that minimum land area (up to 50 acres) by Section 3A’s minimum gross density requirement of 15 units per acre. The product of that multiplication creates a floor on multi-family unit capacity. For example, an MBTA community with a minimum land area of 40 acres must have a district with a multi-family unit capacity of at least 600 (40 x 15) units.
- (iii) The minimum unit capacity applicable to each MBTA community is *the greater of* the numbers resulting from steps (i) and (ii) above, but subject to the following limitation: In no case does the minimum multi-family unit capacity exceed 25% of the total housing

units in that MBTA community.

Example: The minimum multi-family unit capacity for an adjacent community with 1,000 housing units and a minimum land area of 50 acres is determined as follows: (i) first, by multiplying $1,000 \times .1 = 100$ units; (ii) second, by multiplying $50 \times 15 = 750$ units; (iii) by taking the larger number, but adjusting that number down, if necessary, so that unit capacity is no more than 25% of 1,000 = 250 units. In this case, the adjustment in step (iii) results in a minimum unit capacity of 250 units.

c. Reasonable Size – Consideration Given to Unit Capacity in Mixed-Use Development Districts

In making determinations of whether an MBTA Community has a multi-family zoning district of “reasonable size” under this section, EOHLC shall also take into consideration the existence and impact of mixed-use development zoning districts, subject to the requirements below.

EOHLC shall take these mixed-use development districts into consideration as reducing the unit capacity needed for a multi-family zoning district to be “reasonable” (as listed in Appendix I) where:

- (i) the mixed-use development zoning district is in an eligible location where existing village-style or downtown development is essential to preserve pedestrian access to amenities;
- (ii) there are no age restrictions or limits on unit size, number of bedrooms, bedroom size or number of occupants and the residential units permitted are suitable for families with children;
- (iii) mixed-used development in the district is allowed “as of right” as that phrase has been interpreted by EOHLC (for example, in section 4(c) with respect to affordability requirements);
- (iv) the requirement for non-residential uses is limited to the ground floor of buildings, and in no case represents a requirement that more than thirty-three percent of the floor area of a building, lot, or project must be for non-residential uses;
- (v) the requirement for non-residential uses does not preclude a minimum of three residential dwelling units per lot;
- (vi) the requirement for non-residential uses allows a broad mix of non-residential uses as-of-right in keeping with the nature of the area; and
- (vii) there are no minimum parking requirements associated with the non-residential uses allowed as of right.

An MBTA community asking to reduce the unit capacity requirement for its multi-family zoning district(s) based on the unit capacity for one or more mixed-use development districts shall submit to EOHLC, on a form to be provided by EOHLC, a request for a determination that the mixed-use development district is in an eligible location meeting the requirements of subparagraph (i). This request must be submitted at least 90 days prior to the vote of the MBTA community’s legislative body.

An MBTA community also may submit a broader inquiry as to Section 3A compliance in accordance with section 9(b). EOHLC shall respond prior to the vote of the MBTA community’s legislative body if the request is timely submitted.

In any community with both a multi-family zoning district and a mixed-use development district that meets these considerations, the unit capacity requirement for the multi-family zoning district listed in Appendix I shall be reduced by the lesser of

- (i) the unit capacity of residential dwelling units in the mixed-use development district or subdistrict (as calculated by EOHLC using a methodology similar to that in section 5(d) which takes into account the impact of non-residential uses), or
- (ii) twenty five percent of the unit capacity requirement listed in Appendix I. This consideration shall not affect the minimum land area acreage or contiguity requirements for a multi-family zoning district otherwise required by these Guidelines.

d. *Methodology for determining a multi-family zoning district’s multi-family unit capacity*

MBTA communities seeking a determination of compliance must use the EOHLC compliance model to provide an estimate of the number of multi-family housing units that can be developed as of right within the multi-family zoning district. The multi-family unit capacity of an existing or proposed district shall be calculated using the unit capacity worksheet described in Appendix 2. This worksheet produces an estimate of a district’s multi-family unit capacity using inputs such as the amount of developable land in the district, the dimensional requirements applicable to lots and buildings (including, for example, height limitations, lot coverage limitations, and maximum floor area ratio), and the parking space requirements applicable to multi-family uses.

Minimum unit capacity is a measure of whether a multi-family zoning district is of a reasonable size, not a requirement to produce housing units. Nothing in Section 3A or these guidelines should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time—even though such additions or replacements may be unlikely to occur soon.

If an MBTA community has two or more zoning districts in which multi-family housing is allowed as of right, then two or more districts may be considered cumulatively to meet the minimum land area and minimum multi-family unit capacity requirements, as long as each district independently complies with Section 3A’s other requirements.

e. *Water and wastewater infrastructure within the multi-family zoning district*

MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new multi-family zoning district. But compliance with Section 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future multi-family housing production within

the multi-family zoning district. In most cases, multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.

The multi-family unit capacity analysis does not need to take into consideration limitations on development resulting from existing water or wastewater infrastructure within the multi-family zoning district, or, in areas not served by public sewer, any applicable limitations under title 5 of the state environmental code. For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.

6. Minimum Gross Density

Section 3A expressly requires that a multi-family zoning district—not just the individual lots of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

a. *District-wide gross density*

To meet the district-wide gross density requirement, the dimensional restrictions and parking requirements for the multi-family zoning district must allow for a gross density of 15 units per acre of land within the district. By way of example, to meet that requirement for a 40-acre multi-family zoning district, the zoning must allow for at least 15 multi-family units per acre, or a total of at least 600 multi-family units.

For purposes of determining compliance with Section 3A’s gross density requirement, the EOHLIC compliance model will not count in the denominator any excluded land located within the multi-family zoning district, except public rights-of-way, private rights-of-way, and publicly-owned land used for recreational, civic, commercial, and other nonresidential uses. This method of calculating minimum gross density respects the Zoning Act’s definition of gross density—“a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses”—while making it unnecessary to draw patchwork multi-family zoning districts that carve out wetlands and other types of excluded land that are not developed or developable.

b. *Achieving district-wide gross density by sub-districts*

Zoning ordinances and by-laws typically limit the unit density on individual lots. To comply with Section 3A’s gross density requirement, an MBTA community may establish reasonable sub-

districts within a multi-family zoning district, with different density limits for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre. EOHLC will review sub-districts to ensure that the density allowed as of right in each sub-district is reasonable and not intended to frustrate the purpose of Section 3A by allowing projects of a such high density that they are not likely to be constructed.

c. *Wetland and septic considerations relating to density*

Section 3A provides that a district of reasonable size shall have a minimum gross density of 15 units per acre, “subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A.” This directive means that even though the zoning district must permit 15 units per acre as of right, any multi-family housing produced within the district is subject to, and must comply with, the state wetlands protection act and title 5 of the state environmental code—even if such compliance means a proposed project will be less dense than 15 units per acre.

7. Determining Suitability for Families with Children

Section 3A states that a compliant multi-family zoning district must allow multi-family housing as of right, and that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.” EOHLC will deem a multi-family zoning district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions, and does not limit or restrict the size of the units, cap the number of bedrooms, the size of bedrooms, or the number of occupants, or impose a minimum age of occupants. Limits, if any, on the size of units or number of bedrooms established by state law or regulation are not relevant to Section 3A or to determinations of compliance made pursuant to these guidelines.

8. Location of Districts

a. *General rule for determining the applicability of Section 3A’s location requirement*

Section 3A states that a compliant multi-family zoning district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” When an MBTA community has only a small amount of transit station area within its boundaries, it may not be possible or practical to locate all of the multi-family zoning district within 0.5 miles of a transit station. Transit station area may not be a practical location for a multi-family zoning district if it does not include developable land where multi-family housing can actually be constructed. Therefore, for purposes of determining compliance with Section 3A, EOHLC will consider the statute’s location requirement to be “applicable” to a particular MBTA community only if that community has within its borders at least 100 acres of developable station area. EOHLC will require more or less of the multi-family zoning district to be located within transit station areas depending on how much total developable station area is in that community, as shown on Table 2:

Table 2.

<u>Total developable station area within the MBTA community (acres)</u>	<u>Portion of the multi-family zoning district that must be within a transit station area</u>
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

The percentages specified in this table apply to both the minimum land area and the minimum multi-family unit capacity. For example, in an MBTA community that has a total of 500 acres of transit station area within its boundaries, a multi-family zoning district will comply with Section 3A’s location requirement if at least 50 percent of the district’s minimum land area is located within the transit station area, *and* at least 50 percent of the district’s minimum multi-family unit capacity is located within the transit station area.

A community with transit station areas associated with more than one transit station may locate the multi-family zoning district in any of the transit station areas. For example, a rapid transit community with transit station area around a subway station in one part of town, and transit station area around a commuter rail station in another part of town, may locate its multi-family zoning district in either or both transit station areas.

b. MBTA communities with limited or no transit station area

When an MBTA community has less than 100 acres of developable station area within its boundaries, the MBTA community may locate the multi-family zoning district anywhere within its boundaries. To encourage transit-oriented multi-family housing consistent with the general intent of Section 3A, MBTA communities are encouraged to consider locating the multi-family zoning district in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an “eligible location” as defined in Chapter 40A—for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

c. General guidance on district location applicable to all MBTA communities

When choosing the location of a new multi-family zoning district, every MBTA community should consider how much of a proposed district is sensitive land on which permitting requirements and other considerations could make it challenging or inadvisable to construct multi-family housing. For example, an MBTA community may want to avoid including in a multi-family zoning district areas that are subject to flooding, or are known habitat for rare or threatened species, or have prime agricultural soils in active agricultural use.

9. Determinations of Compliance

Section 3A provides that any MBTA community that fails to comply with Section 3A’s requirements will be ineligible for funding from any of the listed funding sources. EOHLC will make determinations of compliance with Section 3A in accordance with these guidelines to inform state agency decisions on which MBTA communities are eligible to receive funding from the listed funding sources. The following discretionary grant programs will take compliance with Section 3A into consideration when making grant award recommendations:

- i. Community Planning Grants, EOHLC,
- ii. Massachusetts Downtown Initiative, EOED,
- iii. Urban Agenda, EOED,
- iv. Rural and Small Town Development Fund, EOED,
- v. Brownfields Redevelopment Fund, MassDevelopment,
- vi. Site Readiness Program, MassDevelopment,
- vii. Underutilized Properties Program, MassDevelopment,
- viii. Collaborative Workspace Program, MassDevelopment,
- ix. Real Estate Services Technical Assistance, MassDevelopment,
- x. Commonwealth Places Programs, MassDevelopment,
- xi. Land Use Planning Grants, EOEEA,
- xii. Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA, and
- xiii. Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA

Determinations of compliance also may inform other funding decisions by EOED, EOHLC, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs or making other discretionary funding decisions.

EOHLC interprets Section 3A as allowing every MBTA community a reasonable opportunity to enact zoning amendments as needed to come into compliance. Accordingly, EOHLC will recognize both *interim* compliance, which means an MBTA community is taking active steps to enact a multi-family zoning district that complies with Section 3A, and *district* compliance, which is achieved when EOHLC determines that an MBTA community has a multi-family zoning district that complies with Section 3A. The requirements for interim and district compliance are described in more detail below.

Table 3.

Transit Category (# of municipalities)	Deadline to Submit Action Plan	Deadline to Submit District Compliance Application
Rapid transit community (12)	January 31, 2023	December 31, 2023
Commuter rail community (71)	January 31, 2023	December 31, 2024
Adjacent community (58)	January 31, 2023	December 31, 2024
Adjacent small town (34)	January 31, 2023	December 31, 2025

a. *Process to achieve interim compliance*

Many MBTA communities do not currently have a multi-family zoning district of reasonable size that complies with the requirements of Section 3A. Prior to achieving district compliance (but no later than the deadlines set forth in Table 3), these MBTA communities can achieve interim compliance by taking the following affirmative steps towards the creation of a compliant multi-family zoning district.

- i. *Creation and submission of an action plan.* An MBTA community seeking to achieve interim compliance must first submit an action plan on a form to be provided by EOHLC. An MBTA community action plan must provide information about current zoning, past planning for multi-family housing, if any, and potential locations for a multi-family zoning district. The action plan also will require the MBTA community to establish a timeline for various actions needed to create a compliant multi-family zoning district.
 - ii. *EOHLC approval of an action plan.* EOHLC will review each submitted action plan for consistency with these guidelines, including but not limited to the timelines in Table 3. If EOHLC determines that the MBTA community's action plan is reasonable and will lead to district compliance in a timely manner, EOHLC will issue a determination of interim compliance. EOHLC may require modifications to a proposed action plan prior to approval.
 - iii. *Implementation of the action plan.* After EOHLC approves an action plan and issues a determination of interim compliance, an MBTA community must diligently implement the action plan. EOHLC may revoke a determination of interim compliance if an MBTA community has not made sufficient progress in implementing an approved action plan. EOHLC and EOED will review an MBTA community's progress in implementing its action plan prior to making an award of funds under the Housing Choice Initiative and Massworks infrastructure program.
 - iv. *Deadlines for submitting action plans.* To achieve interim compliance for grants made through the 2023 One Stop Application, action plans must be submitted by no later than January 31, 2023. An MBTA community that does not submit an action plan by that date may not receive a EOHLC determination of interim compliance in time to receive an award of funds from the listed funding sources in 2023. An MBTA community that does not achieve interim compliance in time for the 2023 One Stop Application may submit an action plan to become eligible for a subsequent round of the One Stop Application, provided that an action plan must be submitted by no later than January 31 of the year in which the MBTA community seeks to establish grant eligibility; and provided further that no action plan may be submitted or approved after the applicable district compliance application deadline set forth in Table 3.
- b. *Assistance for communities implementing an action plan.*

MBTA communities are encouraged to communicate as needed with EOHLC staff throughout the process of implementing an action plan, and may inquire about whether a proposed multi-family zoning district complies with Section 3A prior to a vote by the municipal legislative body to create or

modify such a district. Such requests shall be made on a form to be provided by EOHLIC. If a request is submitted at least 90 days prior to the vote of the legislative body, EOHLIC shall respond prior to the vote.

c. Requests for determination of district compliance

When an MBTA community believes it has a multi-family zoning district that complies with Section 3A, it may request a determination of district compliance from EOHLIC. Such a request may be made for a multi-family zoning district that was in existence on the date that Section 3A became law, or for a multi-family zoning district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on an application form required by EOHLIC and shall include, at a minimum, the following information. Municipalities will need to submit:

- (i) A certified copy of the municipal zoning ordinance or by-law and zoning map, including all provisions that relate to uses and structures in the multi-family zoning district.
- (ii) An estimate of multi-family unit capacity using the compliance model.
- (iii) GIS shapefile for the multi-family zoning district.
- (iv) In the case of a by-law enacted by a town, evidence that the clerk has submitted a copy of the adopted multi-family zoning district to the office of the Attorney General for approval as required by state law, or evidence of the Attorney General's approval.

After receipt of a request for determination of district compliance, EOHLIC will notify the requesting MBTA community within 30 days if additional information is required to process the request. Upon reviewing a complete application, EOHLIC will provide the MBTA community a written determination either stating that the existing multi-family zoning district complies with Section 3A, or identifying the reasons why the multi-family zoning district fails to comply with Section 3A and the steps that must be taken to achieve compliance. An MBTA community that has achieved interim compliance prior to requesting a determination of district compliance shall remain in interim compliance for the period during which a request for determination of district compliance, with all required information, is pending at EOHLIC.

10. Ongoing Obligations; Rescission of a Determination of Compliance

After receiving a determination of compliance, an MBTA community must notify EOHLIC in writing of any zoning amendment or proposed zoning amendment that affects the compliant multi-family zoning district, or any other by-law, ordinance, rule or regulation that limits the development of multi-family housing in the multi-family zoning district. EOHLIC may rescind a determination of district compliance, or require changes to a multi-family zoning district to remain in compliance, if EOHLIC determines that:

- (i) The MBTA community submitted inaccurate information in its application for a determination of compliance;
- (ii) The MBTA community failed to notify EOHLIC of a zoning amendment that affects the multi-family zoning district;

- (iii) The MBTA community enacts or amends any by-law or ordinance, or other rule or regulation, that materially alters the minimum land area and/or the multi-family unit capacity in the multi-family zoning district;
- (iv) A board, authority or official in the MBTA community does not issue permits, or otherwise acts or fails to act, to allow construction of a multi-family housing project that is allowed as of right in the multi-family zoning district (or any mixed-use zoning development district taken into account in determining the required multi-family unit capacity in the multi-family zoning district);
- (v) The MBTA community takes other action that causes the multi-family zoning district to no longer comply with Section 3A; or
- (vi) An MBTA community with an approved multi-family zoning district has changed transit category as a result of a newly opened or decommissioned transit station, or the establishment of permanent, regular service at a transit station where there was formerly intermittent or event-based service.

11. Changes to MBTA Service

Section 3A applies to the 177 MBTA communities identified in section 1A of the Zoning Act and section 1 of chapter 161A of the General Laws. When MBTA service changes, the list of MBTA communities and/or the transit category assignments of those MBTA communities in Appendix 1 may change as well.

The transit category assignments identified in Appendix 1 of these guidelines reflect certain MBTA service changes that will result from new infrastructure now under construction in connection with the South Coast Rail and Green Line Extension projects. These service changes include the opening of new Green Line stations and commuter rail stations, as well as the elimination of regular commuter rail service at the Lakeville station. These changes are scheduled to take effect in all cases a year or more before any municipal district compliance deadline. Affected MBTA communities are noted in Appendix 1.

Municipalities that are not now identified as MBTA communities and may be identified as such in the future are not addressed in these guidelines or included in Appendix 1. New MBTA communities will be addressed with revisions to Appendix 1, and separate compliance timelines, in the future.

Future changes to Silver Line routes or stations may change district location requirements when expanded high-capacity service combined with new facilities creates a bus station where there was not one before. Changes to other bus routes, including the addition or elimination of bus stops or reductions or expansions of bus service levels, do not affect the transit categories assigned to MBTA communities and will not affect location requirements for multi-family zoning districts. Any future changes to MBTA transit service, transit routes and transit service levels are determined by the MBTA Board of Directors consistent with the MBTA's Service Delivery Policy.

List of Appendices:

Appendix 1: MBTA Community Categories and Requirements

Appendix 2: Compliance Methodology/Model



Commonwealth of Massachusetts EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus, Jr., Secretary

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Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act

1. Overview of Section 3A of the Zoning Act

Section 3A of the Zoning Act provides: *An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The purpose of Section 3A is to encourage the production of multi-family housing by requiring MBTA communities to adopt zoning districts where multi-family housing is allowed as of right, and that meet other requirements set forth in the statute.

The ~~Department of Housing and Community Development~~Executive Office of Housing and Livable Communities (EOHLC), in consultation with Executive Office of Economic Development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. ~~DHCDE~~EOHLC promulgated preliminary guidance on January 29, 2021. ~~DHCDE~~EOHLC updated that preliminary guidance on December 15, 2021, and on that same date issued draft guidelines for public comment. These final guidelines supersede all prior guidance and set forth how MBTA communities may achieve compliance with Section 3A.

2. Definitions

“Adjacent community” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) is not an adjacent small town.

“Adjacent small town” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) either has a population density of less than 500 persons per square mile, or a population of not more than 7,000 year-round residents as determined in the most recently published United States Decennial Census of Population and Housing.

“Affordable unit” means a multi-family housing unit that is subject to a restriction in its chain of title limiting the sale price or rent, or limiting occupancy to an individual or household of a specified income, or both. Affordable units may be, but are not required to be, eligible for inclusion on DHCDEOHLC’s Subsidized Housing Inventory. Nothing in these Guidelines changes the Subsidized Housing Inventory eligibility criteria, and no affordable unit shall be counted on the Subsidized Housing Inventory unless it satisfies the requirements for inclusion under 760 CMR 56.03(2) or any other regulation or guidance issued by DHCDEOHLC.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring a minimum age for some or all occupants.

“As of right” means development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

“Bus station” means a location with a passenger platform and other fixed infrastructure serving as a point of embarkation for the MBTA Silver Line. Upon the request of an MBTA community, DHCDEOHLC, in consultation with the MBTA, may determine that other locations qualify as a bus station if (i) such location has a sheltered platform or other fixed infrastructure serving a point of embarkation for a high-capacity MBTA bus line, and (ii) the area around such fixed infrastructure is highly suitable for multi-family housing.

“Commuter rail community” means an MBTA community that (i) does not meet the criteria for a rapid transit community, and (ii) has within its borders at least 100 acres of developable station area associated with one or more commuter rail stations.

“Commuter rail station” means any MBTA commuter rail station with year-round, rather than intermittent, seasonal, or event-based, service, including stations under construction and scheduled to being service before the end of 2023, but not including existing stations at which service will be terminated, or reduced below regular year-round service, before the end of 2023.

“Compliance model” means the model created by DHCDEOHLC to determine compliance with Section 3A’s reasonable size, gross density, and location requirements. The compliance model is described in further detail in Appendix 2.

“Determination of compliance” means a determination made by DHCDEOHLC as to whether an MBTA community has a multi-family zoning district that complies with the requirements of Section 3A. A determination of compliance may be determination of interim compliance or a determination of district compliance, as described in section 9.

“Developable land” means land on which multi-family housing can be permitted and constructed. For purposes of these guidelines, developable land consists of: (i) all privately-owned land except lots or portions of lots that meet the definition of excluded land, and (ii) developable public land.

“Developable public land” means any publicly-owned land that (i) is used by a local housing authority; (ii) has been identified as a site for housing development in a housing production plan

approved by ~~DHCDEOHL~~C; or (iii) has been designated by the public owner for disposition and redevelopment. Other publicly-owned land may qualify as developable public land if ~~DHCDEOHL~~C determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to multi-family housing, and will be converted to or made available for multi-family housing within a reasonable period of time.

“Developable station area” means developable land that is within 0.5 miles of a transit station.

“~~DHCDEOHL~~C” means the ~~Department Executive Office Executive Office~~ of Housing and ~~Community Development~~ Livable Communities.

“~~EOHEDEOED~~” means the Executive Office of ~~Housing and~~ Economic Development.

“Excluded land” means land areas on which it is not possible or practical to construct multi-family housing. For purposes of these guidelines, excluded land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (i) All publicly-owned land, except for lots or portions of lots determined to be developable public land.
- (ii) All rivers, streams, lakes, ponds and other surface waterbodies.
- (iii) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code.
- (iv) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).
- (v) All public rights-of-way and private rights-of-way.
- (vi) Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas.
- (vii) Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university.

“Ferry terminal” means the location where passengers embark and disembark from regular, year-round MBTA ferry service.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no zoning restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“Listed funding sources” means (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; and (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

“Lot” means an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

“MassGIS data” means the comprehensive, statewide database of geospatial information and mapping functions maintained by the Commonwealth's Bureau of Geographic Information, within the Executive Office of Technology Services and Security, including the lot boundaries and use codes provided by municipalities.

“MBTA” means the Massachusetts Bay Transportation Authority.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.

“Mixed-use development” means development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Mixed-use development zoning district” means a zoning district where multiple residential units are allowed as of right if, but only if, combined with non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within a multi-family zoning district, made in accordance with the requirements of section 5.b below.

“Multi-family zoning district” means a zoning district, including a base district or an overlay district, in which multi-family housing is allowed as of right; provided that the district shall be in a fixed location or locations, and shown on a map that is part of the zoning ordinance or by-law.

“One Stop Application” means the single application portal for the Community One Stop for Growth through which (i) the Executive Office of Housing and Economic Development considers requests for funding from the MassWorks infrastructure program; (ii) ~~DHCDEOHL~~ EOED considers requests for funding from the Housing Choice Initiative, (iii) ~~EOED~~ EOED, ~~DHCDEOHL~~ and other state agencies consider requests for funding from other discretionary grant programs.

“Private rights-of-way” means land area within which private streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Publicly-owned land” means (i) any land owned by the United States or a federal agency or authority; (ii) any land owned by the Commonwealth of Massachusetts or a state agency or authority; and (iii) any land owned by a municipality or municipal board or authority.

“Public rights-of-way” means land area within which public streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Rapid transit community” means an MBTA community that has within its borders at least 100 acres of developable station area associated with one or more subway stations, or MBTA Silver Line bus rapid transit stations.

“Residential dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Section 3A” means section 3A of the Zoning Act.

“Sensitive land” means developable land that, due to its soils, slope, hydrology, or other physical characteristics, has significant conservation values that could be impaired, or vulnerabilities that could be exacerbated, by the development of multi-family housing. It also includes locations where multi-family housing would be at increased risk of damage caused by flooding. Sensitive land includes, but is not limited to, wetland buffer zones extending beyond the title 5 setback area; land subject to flooding that is not a wetland resource area; priority habitat for rare or threatened species; DEP-approved wellhead protection areas in which development may be restricted, but is not prohibited (Zone II and interim wellhead protection areas); and land areas with prime agricultural soils that are in active agricultural use.

“Site plan review” means a process established by local ordinance or by-law by which a local board reviews, and potentially imposes conditions on, the appearance and layout of a specific project prior to the issuance of a building permit.

“Subway station” means any of the stops along the MBTA Red Line, Green Line, Orange Line, or Blue Line, including any extensions to such lines now under construction and scheduled to begin service before the end of 2023.

“Transit station” means an MBTA subway station, commuter rail station, ferry terminal or bus station.

“Transit station area” means the land area within 0.5 miles of a transit station.

“Zoning Act” means chapter 40A of the Massachusetts General Laws.

3. General Principles of Compliance

These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to allow multi-family housing “as of right.”
- The metrics that determine if a multi-family zoning district is “of reasonable size.”
- How to determine if a multi-family zoning district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code.
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.”
- The extent to which MBTA communities have flexibility to choose the location of a multi-family zoning district.

The following general principles have informed the more specific compliance criteria that follow:

- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries benefit from proximity to transit stations in nearby communities.
- The multi-family zoning districts required by Section 3A should encourage the development of multi-family housing projects of a scale, density and aesthetic that are compatible with existing surrounding uses, and minimize impacts to sensitive land.
- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family zoning district that is “reasonable” in one city or town may not be reasonable in another city or town.
- When possible, multi-family zoning districts should be in areas that have safe, accessible, and convenient access to transit stations for pedestrians and bicyclists.

4. Allowing Multi-Family Housing “As of Right”

To comply with Section 3A, a multi-family zoning district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval. ~~DHCDEOHL~~C will determine whether zoning provisions allow for multi-family housing as of right consistent with the following guidelines.

a. *Site plan review*

The Zoning Act does not establish nor recognize site plan review as an independent method of regulating land use. However, the Massachusetts courts have recognized site plan review as a permissible regulatory tool, including for uses that are permitted as of right. The court decisions establish that when site plan review is required for a use permitted as of right, site plan review involves the regulation of a use and not its outright prohibition. The scope of review is therefore limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law.¹ These guidelines similarly recognize that site plan review may be required for multi-family housing projects that are allowed as of right, within the parameters established by the applicable case law. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right and complies with applicable dimensional regulations.

b. *Affordability requirements*

Section 3A does not include any express requirement or authorization for an MBTA community to require affordable units in a multi-family housing project that is allowed as of right. It is a common practice in many cities and towns to require affordable units in a multi-family project that requires a special permit, or as a condition for building at greater densities than the zoning otherwise would allow. These inclusionary zoning requirements serve the policy goal of increasing affordable housing production. If affordability requirements are excessive, however, they can make it economically infeasible to construct new multi-family housing.

For purposes of making compliance determinations with Section 3A, ~~DHCDEOHL~~C will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. Notwithstanding the foregoing, ~~DHCDEOHL~~C may, in its discretion, approve a greater percentage of affordable units, or deeper affordability for some or all of the affordable units, in either of the following circumstances:

- (i) The affordability requirements applicable in the multi-family zoning district are reviewed and approved by ~~DHCDEOHL~~C as part of a smart growth district under chapter 40R, or under another zoning incentive program administered by ~~DHCDEOHL~~C; or
- (ii) The affordability requirements applicable in the multi-family zoning district are supported by an economic feasibility analysis, prepared for the municipality by a qualified and independent third party acceptable to ~~DHCDEOHL~~C, and using a methodology and format acceptable to ~~DHCDEOHL~~C. The analysis must demonstrate

¹ See, e.g., *Y.D. Dugout, Inc. v. Board of Appeals of Canton*, 357 Mass. 25 (1970); *Prudential Insurance Co. of America v. Board of Appeals of Westwood*, 23 Mass. App. Ct. 278 (1986); *Osberg v. Planning Bd. of Sturbridge*, 44 Mass. App. Ct. 56, 59 (1997) (Planning Board “may impose reasonable terms and conditions on the proposed use, but it does not have discretionary power to deny the use”).

that a reasonable variety of multi-family housing types can be feasibly developed at the proposed affordability levels, taking into account the densities allowed as of right in the district, the dimensional requirements applicable within the district, and the minimum number of parking spaces required.

In no case will DHCDEOHLC approve alternative affordability requirements that require more than 20 percent of the units in a project to be affordable units, except in a smart growth zoning district under chapter 40R with a 25 percent affordability requirement approved and adopted prior to the issuance of these guidelines, including any such existing district that is expanded or amended to comply with these guidelines.

c. *Other requirements that do not apply uniformly in the multi-family zoning district*

Zoning will not be deemed compliant with Section 3A’s requirement that multi-family housing be allowed as of right if the zoning imposes requirements on multi-family housing that are not generally applicable to other uses. The following are examples of requirements that would be deemed to be inconsistent with “as of right” use: (i) a requirement that multi-family housing meet higher energy efficiency standards than other uses; (ii) a requirement that a multi-family use achieve a third party certification that is not required for other uses in the district; and (iii) a requirement that multi-family use must be combined with commercial or other uses on the same lot or as part of a single project. Mixed use projects may be allowed as of right in a multi-family zoning district, as long as multi-family housing is separately allowed as of right.

5. Determining “Reasonable Size”

In making determinations of “reasonable size,” DHCDEOHLC will take into consideration both the land area of the multi-family zoning district, and the multi-family zoning district’s multi-family unit capacity.

a. *Minimum land area*

A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. For purposes of compliance with Section 3A, a multi-family zoning district should be a neighborhood-scale district, not a single development site on which the municipality is willing to permit a particular multi-family project.

DHCDEOHLC will certify compliance with Section 3A only if an MBTA community’s multi-family zoning district meets the minimum land area applicable to that MBTA community, if any, as set forth in Appendix 1. The minimum land area for each MBTA community has been determined as follows:

- (i) In rapid transit communities, commuter rail communities, and adjacent communities, the minimum land area of the multi-family zoning district is 50 acres, or 1.5% of the developable land in an MBTA community, whichever is *less*. In certain cases, noted in Appendix 1, a smaller minimum land area applies.
- (ii) In adjacent small towns, there is no minimum land area. In these communities, the multi-family zoning district may comprise as many or as few acres as the community

determines is appropriate, as long as the district meets the applicable minimum multi-family unit capacity and the minimum gross density requirements.

In all cases, at least half of the multi-family zoning district land areas must comprise contiguous lots of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement. If the multi-family unit capacity and gross density requirements can be achieved in a district of fewer than 5 acres, then the district must consist entirely of contiguous lots.

b. *Minimum multi-family unit capacity*

A reasonably sized multi-family zoning district must also be able to accommodate a reasonable number of multi-family housing units as of right. For purposes of determinations of compliance with Section 3A, ~~DHCDEOHL~~C will consider a reasonable multi-family unit capacity for each MBTA community to be a specified percentage of the total number of housing units within the community, with the applicable percentage based on the type of transit service in the community, as shown on Table 1:

Table 1.

<u>Category</u>	<u>Percentage of total housing units</u>
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

To be deemed in compliance with Section 3A, each MBTA community must have a multi-family zoning district with a multi-family unit capacity equal to or greater than the minimum unit capacity shown for it in Appendix 1. The minimum multi-family unit capacity for each MBTA community has been determined as follows:

- (i) First, by multiplying the number of housing units in that community by 0.25, 0.15, 0.10, or .05 depending on the MBTA community category. For example, a rapid transit community with 7,500 housing units is required to have a multi-family zoning district with a multi-family unit capacity of $7,500 \times 0.25 = 1,875$ multi-family units. For purposes of these guidelines, the number of total housing units in each MBTA community has been established by reference to the most recently published United States Decennial Census of Population and Housing.
- (ii) Second, when there is a minimum land area applicable to an MBTA community, by multiplying that minimum land area (up to 50 acres) by Section 3A’s minimum gross density requirement of 15 units per acre. The product of that multiplication creates a floor on multi-family unit capacity. For example, an MBTA community with a minimum land area of 40 acres must have a district with a multi-family unit capacity of at least 600 (40 x 15) units.
- (iii) The minimum unit capacity applicable to each MBTA community is *the greater of* the numbers resulting from steps (i) and (ii) above, but subject to the following limitation: In no case does the minimum multi-family unit capacity exceed 25% of the total housing

units in that MBTA community.

Example: The minimum multi-family unit capacity for an adjacent community with 1,000 housing units and a minimum land area of 50 acres is determined as follows: (i) first, by multiplying $1,000 \times .1 = 100$ units; (ii) second, by multiplying $50 \times 15 = 750$ units; (iii) by taking the larger number, but adjusting that number down, if necessary, so that unit capacity is no more than 25% of 1,000 = 250 units. In this case, the adjustment in step (iii) results in a minimum unit capacity of 250 units.

c. Reasonable Size – Consideration Given to Unit Capacity in Mixed-Use Development Districts

In making determinations of whether an MBTA Community has a multi-family zoning district of “reasonable size” under this section, EOHLC shall also take into consideration the existence and impact of mixed-use development zoning districts, subject to the requirements below.

EOHLC shall take these mixed-use development districts into consideration as reducing the unit capacity needed for a multi-family zoning district to be “reasonable” (as listed in Appendix I) where:

- (i) the mixed-use development zoning district is in an eligible location where existing village-style or downtown development is essential to preserve pedestrian access to amenities;
- (ii) there are no age restrictions or limits on unit size, number of bedrooms, bedroom size or number of occupants and the residential units permitted are suitable for families with children;
- (iii) mixed-used development in the district is allowed “as of right” as that phrase has been interpreted by EOHLC (for example, in section 4(c) with respect to affordability requirements);
- (iv) the requirement for non-residential uses is limited to the ground floor of buildings, and in no case represents a requirement that more than thirty-three percent of the floor area of a building, lot, or project must be for non-residential uses;
- (v) the requirement for non-residential uses does not preclude a minimum of three residential dwelling units per lot;
- (vi) the requirement for non-residential uses allows a broad mix of non-residential uses as-of-right in keeping with the nature of the area; and
- (vii) there are no minimum parking requirements associated with the non-residential uses allowed as of right.

An MBTA community asking to reduce the unit capacity requirement for its multi-family zoning district(s) based on the unit capacity for one or more mixed-use development districts shall submit to EOHLC, on a form to be provided by EOHLC, a request for a determination that the mixed-use development district is in an eligible location meeting the requirements of subparagraph (i). This request must be submitted at least 90 days prior to the vote of the MBTA community’s legislative body.

An MBTA community also may submit a broader inquiry as to Section 3A compliance in accordance with section 9(b). EOHLC shall respond prior to the vote of the MBTA community's legislative body if the request is timely submitted.

In any community with both a multi-family zoning district and a mixed-use development district that meets these considerations, the unit capacity requirement for the multi-family zoning district listed in Appendix I shall be reduced by the lesser of

- (i) the unit capacity of residential dwelling units in the mixed-use development district or subdistrict (as calculated by EOHLC using a methodology similar to that in section 5(d) which takes into account the impact of non-residential uses), or
- (ii) twenty five percent of the unit capacity requirement listed in Appendix I. This consideration shall not affect the minimum land area acreage or contiguity requirements for a multi-family zoning district otherwise required by these Guidelines.

ed. Methodology for determining a multi-family zoning district's multi-family unit capacity

MBTA communities seeking a determination of compliance must use the ~~DHC~~EOHLC compliance model to provide an estimate of the number of multi-family housing units that can be developed as of right within the multi-family zoning district. The multi-family unit capacity of an existing or proposed district shall be calculated using the unit capacity worksheet described in Appendix 2. This worksheet produces an estimate of a district's multi-family unit capacity using inputs such as the amount of developable land in the district, the dimensional requirements applicable to lots and buildings (including, for example, height limitations, lot coverage limitations, and maximum floor area ratio), and the parking space requirements applicable to multi-family uses.

Minimum unit capacity is a measure of whether a multi-family zoning district is of a reasonable size, not a requirement to produce housing units. Nothing in Section 3A or these guidelines should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time—even though such additions or replacements may be unlikely to occur soon.

If an MBTA community has two or more zoning districts in which multi-family housing is allowed as of right, then two or more districts may be considered cumulatively to meet the minimum land area and minimum multi-family unit capacity requirements, as long as each district independently complies with Section 3A's other requirements.

ed. Water and wastewater infrastructure within the multi-family zoning district

MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new multi-family zoning district. But compliance with Section 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future multi-family housing production within

the multi-family zoning district. In most cases, multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.

The multi-family unit capacity analysis does not need to take into consideration limitations on development resulting from existing water or wastewater infrastructure within the multi-family zoning district, or, in areas not served by public sewer, any applicable limitations under title 5 of the state environmental code. For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.

6. Minimum Gross Density

Section 3A expressly requires that a multi-family zoning district—not just the individual lots of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

a. *District-wide gross density*

To meet the district-wide gross density requirement, the dimensional restrictions and parking requirements for the multi-family zoning district must allow for a gross density of 15 units per acre of land within the district. By way of example, to meet that requirement for a 40-acre multi-family zoning district, the zoning must allow for at least 15 multi-family units per acre, or a total of at least 600 multi-family units.

For purposes of determining compliance with Section 3A’s gross density requirement, the ~~DHCDEOHL~~C compliance model will not count in the denominator any excluded land located within the multi-family zoning district, except public rights-of-way, private rights-of-way, and publicly-owned land used for recreational, civic, commercial, and other nonresidential uses. This method of calculating minimum gross density respects the Zoning Act’s definition of gross density—“a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses”—while making it unnecessary to draw patchwork multi-family zoning districts that carve out wetlands and other types of excluded land that are not developed or developable.

b. *Achieving district-wide gross density by sub-districts*

Zoning ordinances and by-laws typically limit the unit density on individual lots. To comply with Section 3A’s gross density requirement, an MBTA community may establish reasonable sub-

districts within a multi-family zoning district, with different density limits for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre. ~~DHCDEOHL~~C will review sub-districts to ensure that the density allowed as of right in each sub-district is reasonable and not intended to frustrate the purpose of Section 3A by allowing projects of a such high density that they are not likely to be constructed.

c. *Wetland and septic considerations relating to density*

Section 3A provides that a district of reasonable size shall have a minimum gross density of 15 units per acre, “subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A.” This directive means that even though the zoning district must permit 15 units per acre as of right, any multi-family housing produced within the district is subject to, and must comply with, the state wetlands protection act and title 5 of the state environmental code—even if such compliance means a proposed project will be less dense than 15 units per acre.

7. **Determining Suitability for Families with Children**

Section 3A states that a compliant multi-family zoning district must allow multi-family housing as of right, and that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.” ~~DHCDEOHL~~C will deem a multi-family zoning district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions, and does not limit or restrict the size of the units, cap the number of bedrooms, the size of bedrooms, or the number of occupants, or impose a minimum age of occupants. Limits, if any, on the size of units or number of bedrooms established by state law or regulation are not relevant to Section 3A or to determinations of compliance made pursuant to these guidelines.

8. **Location of Districts**

a. *General rule for determining the applicability of Section 3A’s location requirement*

Section 3A states that a compliant multi-family zoning district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” When an MBTA community has only a small amount of transit station area within its boundaries, it may not be possible or practical to locate all of the multi-family zoning district within 0.5 miles of a transit station. Transit station area may not be a practical location for a multi-family zoning district if it does not include developable land where multi-family housing can actually be constructed. Therefore, for purposes of determining compliance with Section 3A, ~~DHCDEOHL~~C will consider the statute’s location requirement to be “applicable” to a particular MBTA community only if that community has within its borders at least 100 acres of developable station area. ~~DHCDEOHL~~C will require more or less of the multi-family zoning district to be located within transit station areas depending on how much total developable station area is in that community, as shown on Table 2:

Table 2.

<u>Total developable station area within the MBTA community (acres)</u>	<u>Portion of the multi-family zoning district that must be within a transit station area</u>
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

The percentages specified in this table apply to both the minimum land area and the minimum multi-family unit capacity. For example, in an MBTA community that has a total of 500 acres of transit station area within its boundaries, a multi-family zoning district will comply with Section 3A’s location requirement if at least 50 percent of the district’s minimum land area is located within the transit station area, *and* at least 50 percent of the district’s minimum multi-family unit capacity is located within the transit station area.

A community with transit station areas associated with more than one transit station may locate the multi-family zoning district in any of the transit station areas. For example, a rapid transit community with transit station area around a subway station in one part of town, and transit station area around a commuter rail station in another part of town, may locate its multi-family zoning district in either or both transit station areas.

b. MBTA communities with limited or no transit station area

When an MBTA community has less than 100 acres of developable station area within its boundaries, the MBTA community may locate the multi-family zoning district anywhere within its boundaries. To encourage transit-oriented multi-family housing consistent with the general intent of Section 3A, MBTA communities are encouraged to consider locating the multi-family zoning district in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an “eligible location” as defined in Chapter 40A—for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

c. General guidance on district location applicable to all MBTA communities

When choosing the location of a new multi-family zoning district, every MBTA community should consider how much of a proposed district is sensitive land on which permitting requirements and other considerations could make it challenging or inadvisable to construct multi-family housing. For example, an MBTA community may want to avoid including in a multi-family zoning district areas that are subject to flooding, or are known habitat for rare or threatened species, or have prime agricultural soils in active agricultural use.

9. Determinations of Compliance

Section 3A provides that any MBTA community that fails to comply with Section 3A’s requirements will be ineligible for funding from any of the listed funding sources. ~~DHCDEOHL~~C will make determinations of compliance with Section 3A in accordance with these guidelines to inform state agency decisions on which MBTA communities are eligible to receive funding from the listed funding sources. ~~Determinations of compliance also may inform funding decisions by EOED, DHCD, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs, or making other discretionary funding decisions. The following discretionary grant programs will take compliance with Section 3A into consideration when making grant award recommendations:~~

- ~~i. Community Planning Grants, EOHLC,~~
- ~~ii. Massachusetts Downtown Initiative, EOED,~~
- ~~iii. Urban Agenda, EOED,~~
- ~~iv. Rural and Small Town Development Fund, EOED,~~
- ~~v. Brownfields Redevelopment Fund, MassDevelopment,~~
- ~~vi. Site Readiness Program, MassDevelopment,~~
- ~~vii. Underutilized Properties Program, MassDevelopment,~~
- ~~viii. Collaborative Workspace Program, MassDevelopment,~~
- ~~ix. Real Estate Services Technical Assistance, MassDevelopment,~~
- ~~x. Commonwealth Places Programs, MassDevelopment,~~
- ~~xi. Land Use Planning Grants, EOEEA,~~
- ~~xii. Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA, and~~
- ~~xiii. Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA~~

~~Determinations of compliance also may inform other funding decisions by EOED, EOHL~~C, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs or making other discretionary funding decisions.

~~DHCDEOHL~~C interprets Section 3A as allowing every MBTA community a reasonable opportunity to enact zoning amendments as needed to come into compliance. Accordingly, ~~DHCDEOHL~~C will recognize both *interim* compliance, which means an MBTA community is taking active steps to enact a multi-family zoning district that complies with Section 3A, and *district* compliance, which is achieved when ~~DHCDEOHL~~C determines that an MBTA community has a multi-family zoning district that complies with Section 3A. The requirements for interim and district compliance are described in more detail below.

Table 3.

Transit Category (# of municipalities)	Deadline to Submit Action Plan	Deadline to Submit District Compliance Application
Rapid transit community (12)	January 31, 2023	December 31, 2023
Commuter rail community (71)	January 31, 2023	December 31, 2024

Transit Category (# of municipalities)	Deadline to Submit Action Plan	Deadline to Submit District Compliance Application
Adjacent community (58)	January 31, 2023	December 31, 2024
Adjacent small town (34)	January 31, 2023	December 31, 2025

a. *Process to achieve interim compliance*

Many MBTA communities do not currently have a multi-family zoning district of reasonable size that complies with the requirements of Section 3A. Prior to achieving district compliance (but no later than the deadlines set forth in Table 3), these MBTA communities can achieve interim compliance by taking the following affirmative steps towards the creation of a compliant multi-family zoning district.

- i. *Creation and submission of an action plan.* An MBTA community seeking to achieve interim compliance must first submit an action plan on a form to be provided by ~~DHCDEOHL~~C. An MBTA community action plan must provide information about current zoning, past planning for multi-family housing, if any, and potential locations for a multi-family zoning district. The action plan also will require the MBTA community to establish a timeline for various actions needed to create a compliant multi-family zoning district.
- ii. *~~DHCDEOHL~~C approval of an action plan.* ~~DHCDEOHL~~C will review each submitted action plan for consistency with these guidelines, including but not limited to the timelines in Table 3. If ~~DHCDEOHL~~C determines that the MBTA community’s action plan is reasonable and will lead to district compliance in a timely manner, ~~DHCDEOHL~~C will issue a determination of interim compliance. ~~DHCDEOHL~~C may require modifications to a proposed action plan prior to approval.
- iii. *Implementation of the action plan.* After ~~DHCDEOHL~~C approves an action plan and issues a determination of interim compliance, an MBTA community must diligently implement the action plan. ~~DHCDEOHL~~C may revoke a determination of interim compliance if an MBTA community has not made sufficient progress in implementing an approved action plan. ~~DHCDEOHL~~C and ~~EOHED-EOED~~ will review an MBTA community’s progress in implementing its action plan prior to making an award of funds under the Housing Choice Initiative and Massworks infrastructure program.
- iv. *Deadlines for submitting action plans.* To achieve interim compliance for grants made through the 2023 One Stop Application, action plans must be submitted by no later than January 31, 2023. An MBTA community that does not submit an action plan by that date may not receive a ~~DHCDEOHL~~C determination of interim compliance in time to receive an award of funds from the listed funding sources in 2023. An MBTA community that does not achieve interim compliance in time for the 2023 One Stop Application may submit an action plan to become eligible for a subsequent round of the One Stop Application, provided that an action plan must be submitted by no later than January 31 of the year in which the MBTA community seeks to establish grant eligibility; and

provided further that no action plan may be submitted or approved after the applicable district compliance application deadline set forth in Table 3.

b. *Assistance for communities implementing an action plan.*

MBTA communities are encouraged to communicate as needed with ~~DHCDEOHL~~C staff throughout the process of implementing an action plan, and may ~~- DHCDEOHL~~C ~~will endeavor to respond to inquiries~~ inquire about whether a proposed multi-family zoning district complies with Section 3A prior to a vote by the municipal legislative body to create or modify such a district. Such requests shall be made on a form to be provided by ~~DHCDEOHL~~C. If a request is and should shall be submitted at least 90 days prior to the vote of the legislative body, EOHLC shall respond prior to the vote.

c. *Requests for determination of district compliance*

When an MBTA community believes it has a multi-family zoning district that complies with Section 3A, it may request a determination of district compliance from ~~DHCDEOHL~~C. Such a request may be made for a multi-family zoning district that was in existence on the date that Section 3A became law, or for a multi-family zoning district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on an application form required by ~~DHCDEOHL~~C and shall include, at a minimum, the following information. Municipalities will need to submit:

- (i) A certified copy of the municipal zoning ordinance or by-law and zoning map, including all provisions that relate to uses and structures in the multi-family zoning district.
- (ii) An estimate of multi-family unit capacity using the compliance model.
- (iii) GIS shapefile for the multi-family zoning district.
- (iv) In the case of a by-law enacted by a town, evidence that the clerk has submitted a copy of the adopted multi-family zoning district to the office of the Attorney General for approval as required by state law, or evidence of the Attorney General's approval.

After receipt of a request for determination of district compliance, ~~DHCDEOHL~~C will notify the requesting MBTA community within 30 days if additional information is required to process the request. Upon reviewing a complete application, ~~DHCDEOHL~~C will provide the MBTA community a written determination either stating that the existing multi-family zoning district complies with Section 3A, or identifying the reasons why the multi-family zoning district fails to comply with Section 3A and the steps that must be taken to achieve compliance. An MBTA community that has achieved interim compliance prior to requesting a determination of district compliance shall remain in interim compliance for the period during which a request for determination of district compliance, with all required information, is pending at ~~DHCDEOHL~~C.

10. Ongoing Obligations; Rescission of a Determination of Compliance

After receiving a determination of compliance, an MBTA community must notify ~~DHCDEOHL~~C in writing of any zoning amendment or proposed zoning amendment that affects the compliant multi-family zoning district, or any other by-law, ordinance, rule or regulation that limits the development of multi-family housing in the multi-family zoning district. ~~DHCDEOHL~~C may rescind a

determination of district compliance, or require changes to a multi-family zoning district to remain in compliance, if ~~DHCDEO~~HLC determines that:

- (i) The MBTA community submitted inaccurate information in its application for a determination of compliance;
- (ii) The MBTA community failed to notify ~~DHCDEO~~HLC of a zoning amendment that affects the multi-family zoning district;
- (iii) The MBTA community enacts or amends any by-law or ordinance, or other rule or regulation, that materially alters the minimum land area and/or the multi-family unit capacity in the multi-family zoning district;
- (iv) A board, authority or official in the MBTA community does not issue permits, or otherwise acts or fails to act, to allow construction of a multi-family housing project that is allowed as of right in the multi-family zoning district (or any mixed-use zoning development district taken into account in determining the required multi-family unit capacity in the multi-family zoning district);
- (v) The MBTA community takes other action that causes the multi-family zoning district to no longer comply with Section 3A; or
- (vi) An MBTA community with an approved multi-family zoning district has changed transit category as a result of a newly opened or decommissioned transit station, or the establishment of permanent, regular service at a transit station where there was formerly intermittent or event-based service.

11. Changes to MBTA Service

Section 3A applies to the ~~175-177~~ MBTA communities identified in section 1A of the Zoning Act and section 1 of chapter 161A of the General Laws. When MBTA service changes, the list of MBTA communities and/or the transit category assignments of those MBTA communities in Appendix 1 may change as well.

The transit category assignments identified in Appendix 1 of these guidelines reflect certain MBTA service changes that will result from new infrastructure now under construction in connection with the South Coast Rail and Green Line Extension projects. These service changes include the opening of new Green Line stations and commuter rail stations, as well as the elimination of regular commuter rail service at the Lakeville station. These changes are scheduled to take effect in all cases a year or more before any municipal district compliance deadline. Affected MBTA communities are noted in Appendix 1.

Municipalities that are not now identified as MBTA communities and may be identified as such in the future are not addressed in these guidelines or included in Appendix 1. New MBTA communities will be addressed with revisions to Appendix 1, and separate compliance timelines, in the future.

Future changes to Silver Line routes or stations may change district location requirements when expanded high-capacity service combined with new facilities creates a bus station where there was not one before. Changes to other bus routes, including the addition or elimination of bus stops or reductions or expansions of bus service levels, do not affect the transit categories assigned to MBTA communities and will not affect location requirements for multi-family zoning districts. Any future changes to

MBTA transit service, transit routes and transit service levels are determined by the MBTA Board of Directors consistent with the MBTA's Service Delivery Policy.

List of Appendices:

Appendix 1: MBTA Community Categories and Requirements

Appendix 2: Compliance Methodology/Model

Comments and possible amendments for VCOD
Susan. Albright

1. The use of the terms tiers and districts is confusing, sometimes you refer to VC1, VC2, VC3 by itself, sometimes as tiers and sometimes as zoning districts sometimes both. Please sort this out and make it clearer.
2. 2.2 B. uses the term “large-scale” describing VC3. Everything is relative I suppose but I don’t consider Vc3 large-scale. It is larger than VC2 but I wouldn’t call 4.5 stories large-scale. Can you say “Larger-scale”? Please find another descriptor.
3. 2.6 B 6 – Affordable housing options. I want to amend this section by deleting Option 2
4. In the same section there is a chart on inclusionary zoning – Do the tiers referred to in this chart refer to the VC1-3 tiers? Or the inclusionary zoning tiers? Please make this clearer.
5. Same section 8 – Adaptive reuse – I can’t find any reference to allowing 6 units in an MRT- maybe it’s there but I can’t find it. Can we add any qualifiers as to when 6 units is possible?
6. Same section 10.a. Façade articulation – what about changing 100 feet to between 50-80 feet?
7. Same section 12. C – building entrances – is this standard really necessary?

Principal entrances must either be recessed from the plane of the facade, or have a projecting Awning, to signal building entry and provide adequate protection from the elements. I’m thinking about several small stores – that have glass fronts – where would you put the awning – across the whole store? only over the entrance?

8. C2 – bike standards – why are all these bike standards in the VCOD? Way too much. Perhaps the bike standards should live somewhere else?
9. In the use table – L represents allowed with limitations – where are those limitations described? Should we reference some other section?
10. In the use table - why are paint and publishing stores not allowed? There is a paint store in Newton Center and it seems fine – there are printers in some centers (although less now) – but why are they not welcome?

Memorandum

To: Members of the Zoning and Planning Committee
From: Councilor Lisle Baker
Date: July 28, 2023
Subject: Zoning amendments for consideration on Monday the 31st.

The following are my recommendations for some amendments for consideration in preparation for the discussion on the 31st.

As requested, I have ordered these proposals as the Planning Memo suggested. At the Committee meeting on the 31st, I can provide a brief rationale, recognizing that they be modified further as part of the discussion, or if amendments proposed by others help respond to purposes of the amendments more effectively.

1. Approval Process (review thresholds)

Proposal: Have a minimum parcel size of 5,000 square feet for VC or MRT projects.

Proposal: Reduce the VC special permit threshold to 25,000 square feet of lot area.

2. Dimensional Standards for Buildings

Proposal: If possible, clarify that the distance by which height is measured cannot involve alternation of existing grade.

Proposal: Limit the allowed height in VC and MRT projects to the current height limit of abutting residential zones, whichever is lower, if within 50 foot of such zones, unless modified by special permit.

3. Dimensional Standards for Sites

Proposal: Require setbacks of VC and MRT projects to match “new lot” standards of abutting residential zones if within 50 feet of such zones, whichever setback is greater, unless modified by special permit.

4. Design Standards for Sites

Proposal: Allow parking in front setback of VC projects by special permit for commercial uses on site.

5. Parking Requirements (vehicular and bicycle)

Proposal: Restore vehicular parking requirements of 1 space per each VC or MRT unit, waivable by special permit, for properties within 50 feet of residential zones.

Introduction

The City Council Zoning and Planning Committee (ZAP) kicked-off the project to revise Newton’s Zoning Ordinance for village center commercial centers in early 2021. The second draft zoning ordinance below, “version 2.0,” represents the continued collaborative effort with the City Council, City staff, urban design & economic development consultants, and the Newton Community.

Why is this necessary? While Newton has a strong foundation of diverse and dynamic village centers, the current zoning one-size-fits-all format does not recognize this. This draft set of zoning rules, along with the version 1.0 zoning maps, build upon the successes and uniqueness of each village center, while also guiding development that addresses our current and future needs. In other words, the zoning is the technical tool that supports the community vision like helping small businesses thrive, responding to climate change, developing more diverse & affordable housing, and creating more communal & active spaces.

Commented [ML1]: I am assuming that this entire Introduction will be removed from the proposed ordinance since it is opinion, not directive.

How to read this document

Like the draft maps, the draft zoning ordinance is intentionally meant to be reviewed and updated. This is also a working document. Some items may not be fully resolved and other items may require further refinement in advance of a vote to adopt this zoning ordinance.

Commented [ML2]: Again, this section should be removed.

Table of Contents

- 1. Applicability (overlay districts generally)
- 2. Village Center Overlay District (VCOD)
 - 2.1. District Intent
 - 2.2. District Purpose
 - 2.3. Definitions
 - 2.4. Development Review
 - 2.5. Dimensional Standards
 - 2.6. Development and Design Standards (Site, Building, and Parking Design Standards)
 - 2.7. Design Guidelines (Site, Building, and Parking Design Standards)
 - 2.8. Allowed Uses
 - 2.9. Administration

Village Center Overlay District (VCOD)

1. Applicability.

1.1. General

- A. The provisions of Article # shall apply to all real property within a defined Overlay District as shown on the Newton Zoning Map. The provisions of the Overlay District will modify the form, location, and use of buildings by applying special dimensional, use, and other standards in a variety of areas in the City tailored to those specific areas and relevant policy objectives. Compliance with the Overlay District provisions may be voluntary or required based on the following criteria:
 - 1. Where a building permit for development of a lot, or any portion thereof, under the provisions and standards of the Overlay District has not been previously issued by the city, future development on the lot may occur either in accordance with the underlying zoning district or the Overlay District. Submittal for an Overlay District development application shall be voluntary.
 - 2. Where an Overlay District development application has been previously submitted and a building permit has been issued pursuant to such application for development activity for a given lot, or any portion thereof, any future development on the lot shall be subject to the provisions and standards of the Overlay District.
- B. Conflicts. If a site is subject to the provisions and standards of the Overlay District, and where conflicts exist between the Overlay District and any other provision of the City of Newton Zoning Ordinance, the provisions and standards of the Overlay District shall take precedence and apply.

2. Village Center Overlay District (VCOD)

2.1. District Intent.

- A. Allow the development of buildings and uses appropriate to Newton's village centers, areas immediately adjacent to village centers, and transit-rich areas, in a manner that aligns with the vision of the City's Comprehensive Plan and other policy documents.
- B. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
- C. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
- D. Expand the diversity of housing options available in the City.
- E. Promote the health and well-being of the community by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place.

Commented [ML3]: "Transit-rich" is an opinion and does not belong in this document. Nor is it a defined term.

Commented [ML4]: This proposal is not consistent with the current version of the Comprehensive Plan. Either the Plan needs to be amended or this section needs to be deleted.

Village Center Overlay District (VCOD)

- F. Facilitate compliance with the multi-family zoning requirement for MBTA communities pursuant to M.G.L. Chapter 40A, Section 3A.

Commented [ML5]: The MBTA Communities Act and this plan are two distinct items. We can comply with the Act without enacting the Village Center Overlay District. Therefore, this should be removed.

2.2. District Purpose.

The Village Center Overlay District (VCOD) has been divided into four (4) distinct tiers of districts:

- A. Multi Residence Transit (MRT). The MRT District facilitates new, small-scale, multi-family buildings similar in size to the surrounding residential neighborhoods and the preservation of existing homes through conversion to multiple units. This district acts as a transition between the mixed-use cores of village centers and surrounding residential neighborhoods.
- B. Village Center 1 (VC1). The VC1 District facilitates small- to medium-scale multi-family buildings given its location along major corridors and proximity to amenities, mixture of uses, and transit options found in Newton’s village centers. This district acts to link certain village centers and allows for neighborhood serving retail along key corridors and intersections.
- C. Village Center 2 (VC2). The VC2 District facilitates mixed-use and residential development of moderate scale. This district serves as the core of some village centers and as a transition district for other village centers. Buildings are typically set close to the sidewalk to create a defined street wall that supports pedestrian activity and a sense of place. Ground story active uses address the needs of residents and employees in the immediate neighborhood as well as the larger Newton Community.
- D. Village Center 3 (VC3). The VC3 District facilitates mixed-use development of moderate- and large-scale. This district serves as the core commercial zone of certain village centers, particularly those with access to mass transit. Buildings are typically set close to the sidewalk to create a defined street wall that supports pedestrian activity and a sense of place. Ground story active uses address the needs of residents and employees in the immediate neighborhood, the larger Newton Community, and regional visitors.

Commented [ML6]: Community should not be capitalized.

Commented [ML7]: None of these statements of purpose are necessary. Moreover, active uses in VC2 can, and should, be attractive to those outside of Newton. Indeed, it is those types of iconic businesses that we want to foster.

2.3. Definitions

In addition to the definitions found in Article 8 Definition, the following definitions apply.

- A. Awning. A roof-like covering of canvas or other material attached to a metal or other frame and supported entirely from a building or other structure.
- B. Balcony. An unenclosed platform with a railing that provides outdoor amenity space on upper stories.
- C. Basement. See Section 1.5.4.D.
- D. Bay. A Bay is a window assembly extending from the main body of a building to permit increased light, provide multi-direction views, and articulate a building wall. Two Bays can connect around corners.
- E. Bicycle Parking, Long-Term. Accommodations for the parking of a bicycle for two (2) or more hours.

Village Center Overlay District (VCOD)

- F. Bicycle Parking, Short-Term. Accommodations for the parking of a bicycle for less than two (2) hours.
- G. Building Footprint Area. Area of the largest above grade floor of the building as measured to the exterior faces of the walls, including decks that extend more than 8' from the building face.
- H. Development. The construction or modification of any principal building type, accessory building type, or other structure; and the establishment, change, or expansion of any use of any structure or land.
- I. Facade Build Out Ratio. The ratio of the width of the entire Front Elevation to the Lot Width along the Primary Front Lot Line.
- J. Frontage Area. The area of a lot between the building facade(s) and any front lot line(s), extending fully to each side lot line(s).
- K. Front Elevation. The exterior wall of a building oriented in whole or in part toward the public right of way.
- L. Furnishing Zone. The portion of the sidewalk between the curb and the walkway that is used for street trees, landscaping, transit stops, street lights, and site furnishing.
- M. Lot Line. See Section 1.5.2.A.
- N. Lot Line, Front. The lot line abutting a street or right of way.
- O. Lot Line, Side. Any lot line other than a front or rear lot line.
- P. Lot Line, Rear. Any lot line which is parallel to or within forty-five (45 degrees) of being parallel to a front lot line, unless that lot line is a side lot line of an abutting lot.
- Q. Lot Width. The length of the front lot line of a lot.
- R. Mixed-Use Priority Street. A portion of a street that requires ground story active uses within the VCOD tiers as shown on the Newton Zoning Map.
- S. Open Space, Usable. See definition in Article 8.
- T. Party Wall. A wall separating two attached buildings.
- U. Primary Front Lot Line. The lot line abutting a street or right of way. Where there are multiple lot lines abutting streets or rights of way, the Primary Front Lot Line shall be the one the main entrance faces. Where there are multiple lot lines abutting streets or rights of way and the main entrance does not face a street or right of way, the Primary Front Lot Line shall be determined by the Commissioner of Inspectional Services or their designee.
- V. Principal Entrance. The addressed entrance to a building or commercial space.
- W. Residential District. Residential districts include lots located in the Single Residence (SR), Multi Residence (MR), and Multi Residence Transit (MRT) zoning districts.
- X. Retaining Wall. See Sec. 5.4.2.A.
- Y. Screening. See Section #.
- Z. Step-Back. A recess of an upper story façade a set distance behind the façade of the story below.
- AA.Story. See Section 1.5.4.

Commented [ML8]: Eight feet is too big.

Commented [ML9]: Who owns the sidewalk – the city or the landowner (I think it is the former). Can we legally regulate sidewalk uses in this way (and maybe we can but we need to ask the questions).

Village Center Overlay District (VCOD)

BB. Story, Ground. The lowest story of a building with a finished floor at or above the finished ground level next to a building at the facade.

CC. Story, Half. See VCOD Section 2.6.B.3

DD. Story, Upper. Any full story above the ground story of a building.

2.4. Development Review

A. Applicability.

- 1. The density and dimensional controls in Sec. # apply to all buildings, structures and uses in each of the listed VCOD tiers, except as expressly **excepted** in this VCOD ordinance.

Commented [ML10]: I think you need to use another word here.

B. Approval Process.

Development on any lot, by-right or by special permit, requires the submittal of development review materials as required in Article 7, except as modified herein. A pre-submittal discussion or meeting with the Planning Department, who shall consult with the Inspectional Services Department, is **recommended** for all development.

Commented [ML11]: Recommendations have no place in an ordinance. This should be stricken. It can be issued as a matter of guidance.

1. Special Permit is required for:

- i. Any Development in the Village Center 1, 2, and 3 tiers on a lot thirty-thousand (30,000) square feet or larger, except as modified through Adaptive Reuse (see Sec. #).
- ii. The construction of multiple buildings on a single lot in the Multi Residence Transit district (MRT), except as modified through Adaptive Reuse (see Sec. #).
- iii. The City Council is the granting authority for all development that requires a special permit, except as modified in this **ordinance**.

Commented [ML12]: This is too high a threshold. It should be somewhere between 10,000 – 15,000 feet.

2. Site Plan Review is required for:

- i. Any development in the Village Center 1, 2, and 3, and MRT) tiers on a lot twenty-thousand (20,000) square feet or larger but less than thirty-thousand (30,000) square feet, except as modified through Adaptive Reuse (see Sec. #).
- ii. The Planning Board is the granting authority for all development that requires Site Plan Review.

Commented [ML13]: I would eliminate this process entirely.

2.5. Dimensional Standards

A. Site Standards

VCOD	MRT	VC1	VC2	VC3	Definition List Standard ¹
Approval Process					
Special Permit					
–	Multiple buildings on a lot	Development on lots greater than or equal to 30,000 sf			
Site Plan Review					
Lot Size	Development on lots greater than or equal to 20,000 sf but less than 30,000 sf				
Usable Open Space					
Lots greater than 30,000 sf	30%	30%	5%	5%	
Building Setbacks					
Front (min.)					
–	10' or Average	10' or Average	0'	0'	
Side (min.)					
Abutting a Party Wall in a non-Residential District	7.5'	0'	0'	0'	
Abutting a building without a Party Wall in non-Residential District	7.5'	10'	0'	0'	
Abutting a Residential District	7.5'	15'	15'	15'	
Rear (min.)					
Abutting a non-Residential District	15'	15'	5'	5'	
Abutting a Residential District	15'				
Building Separation for Multiple Buildings on a Lot (min.)					

Commented [ML14]: In general, we do not need a VC3 concept, except in perhaps a few places.

Commented [ML15]: See above

Commented [ML16]: See above

Commented [ML17]: I need to have a better understanding of the implications of these dimensions before I can comment on them. Some examples would be helpful.

¹ Section references to be added as needed

VCOD	MRT	VC1	VC2	VC3	Definition / Listed Standard
–	15'	15'	25'	25'	
Facade					
Facade Build Out Ratio (min.)					
Facing a public right-of-way	N/A	75%, or Lot Width within side setbacks minus 15', whichever is less			
Parking Placement					
Parking Setbacks (min.)					
Facing a right of way		12'			
Not facing a right of way		4'			
-- = Not Allowed N/A = Not Applicable					

Commented [ML14]: In general, we do not need a VC3 concept, except in perhaps a few places.

B. Building Standards

VCOD	MRT	VC1	VC2	VC3	Definition / Listed Standard
Building Massing					
Building Footprint (max.)					
–	1,500 sf	4,000 sf	10,000 sf	15,000 sf	
Building Height in Stories (max.)					
–	Pitched Roof: 2.5 Flat Roof: 2.0	2.5	3.5	4.5	
Development within 50' of lot line abutting a Residential District	Pitched Roof: 2.5 Flat Roof: 2.0	2.5	3.5	3.5	
Pitched Roof, Building Height in Feet (max.)					
–	45'	45'	62'	75'	
Development within 50' of lot	45'	45'	62'	62'	

Commented [ML18]: See above regarding the need for a better understanding and examples.

Commented [ML19]: I object to the continued use of the half-story concept. These are not "half stories". They are top stories with slightly smaller dimensions.

VCOD	MRT	VC1	VC2	VC3	Definition / Listed Standard
line abutting Residential District					
Flat Roof, Building Height in Feet (max.)					
–	27'	40'	56'	69'	
Development within 50' of lot line abutting Residential district	27'	40'	56'	56'	
Ground Story Height in Feet (min.)					
Mixed-Use Priority Streets	N/A	15'			
All other Streets	N/A	12'	12'	12'	
Half-Story Height in Feet (max.)					
Flat Roof	12'				
Pitched Roof	18'				
Half-Story Step-Back in Feet (min.)					
Flat Roof	7' along all Lot Lines, see Sec. #				
Pitched Roof	N/A, see figure #				
Facade					
Ground Story Fenestration (min.)					
Mixed-Use Priority Streets	N/A	N/A	70%	70%	Commented [ML20]: How do you define "priority streets"?
All other Streets, non-residential use	N/A	N/A	50%	50%	
All other Streets, residential use	N/A	N/A	15%	15%	
Ground Story Active Use (min.)					
Mixed-Use Priority Streets	N/A	N/A	100%	100%	
Active Use Depth	N/A	N/A	25'	25'	
Articulation					

VCOD	MRT	VC1	VC2	VC3	Definition / Listed Standard
Length of continuous facade (max.)	100', see Sec. #				
Use and Occupancy					
Dwelling Units (min./max.)	3 / 4 except as modified through Adaptive Reuse (see Sec. #)	3 / N/A	3 / N/A	3 / N/A	
-- = Not Allowed N/A = Not Applicable					

Commented [ML21]: Please confirm that if a property is currently zoned SR1, 2 or 3 that there will be no prohibitions in building in that manner.

2.6. Development and Design Standards

A. Site Design Standards

This section provides the dimensional standards for lot improvements within the VCOD tiers, defines how to measure certain standards, and provides other requirements and information.

Commented [ML22]: As noted above, I need a better understanding of the implications of these rules, including examples.

1. Building Placement

- a. The Front Elevation must be built out to a percentage of the Lot Width as specified by the Facade Build Out Ratio in the Lot Standards for each VCOD tier.
 - i. The Facade Build Out Ratio may be met cumulatively by multiple buildings on a lot.
 - ii. Usable Open Space with Ground Story Active Uses is considered part of the building for the purpose of calculating the facade build out ratio.
- b. Buildings must be set back from any lot line abutting a sidewalk an additional distance so that at least twelve (12) feet in width is provided between the back of curb and exterior facade of the building, at all points. The area of the lot that is within twelve (12) feet of the curb shall be paved in compliance with the City's sidewalk standards.

2. Number of Buildings

- a. Multiple buildings are permitted on each lot by-right, except;
 - i. A special permit is required in the MRT district for multiple buildings on a lot, except as modified through Adaptive Reuse (see Sec. #).

Commented [ML23]: I do not think multiple buildings should be permitted without a special permit.

3. Building Separation

- a. Multiple buildings on a single lot must comply with the building separation distance at all points as specified in the Building Standards for each VCOD tier.

Village Center Overlay District (VCOD)

- 4. Open Space and Public Realm
 - a. Development on lots 30,000 sf and greater must provide Usable Open Space as specified for each VCOD tier.
 - b. In the VC2 and VC3 districts, the Usable Open Space must be accessible to the public.
 - c. Buildings must provide shared Usable Open Space as exterior spaces (patio, roof deck, roof terrace, yard, forecourt, plaza) that maintain attractive landscaping where it enhances the public realm, environmental sustainability, and/or the appearance of the site.
- 5. Retaining Walls
 - a. The placement of a retaining wall of four (4) feet or more anywhere on a lot requires a special permit.

Commented [ML24]: This threshold should be lower.

Commented [ML25]: Please define how that will be done.

Commented [ML26]: This is a completely subjective term. What is attractive to one person may be unattractive to another.

Commented [ML27]: Who will be deciding if these standards are met?

B. Building Design Standards

This section provides the dimensional standards for buildings within the VCOD tiers, defines how to measure certain standards, and provides other requirements and information.

- 1. Building Height
 - a. Buildings may not exceed the maximum building height specified for each building type. Building height is measured as defined in Section 1.5.4. Height.
- 2. Story Height
 - a. The Ground Story of a building must comply with the minimum story height requirements specified for each VCOD tier.
 - b. The height of the ground story and upper story(ies) of a building is measured vertically from the surface of the finished floor to the surface of the finished floor above, or to the top of the highest roof beam if no finished floor is immediately above, at all points.
 - c. The height of a half story is measured vertically from the surface of the finished floor to the top of the highest roof beam above.
- 3. Number of Stories
 - a. Buildings may not exceed the maximum number of stories as specified in the Building Standards for each VCOD tier.
 - b. The Ground Story is always counted as one (1) story, except that a single Ground Story eighteen (18) feet or greater in height is counted as two (2) stories.
 - c. Any Upper Story is counted as (1) additional story, except that any upper story sixteen (16) feet or greater in height is counted as two (2) stories;
 - d. Space located directly under a pitched roof is counted as a half (0.5)-story, provided the following standards are all met:
 - i. At least two (2) opposite roof planes are pitched toward each other.

Commented [ML28]: Why isn't this twelve feet?

Village Center Overlay District (VCOD)

- ii. A pitched roof may be composed of roof planes with different slopes.
 - iii. The slope of any pitch must be no greater than 14:12 (49.4 degrees); otherwise, this story is counted as a full story.
 - iv. The roof rafters must intersect the wall plate or top of wall frame of the exterior walls at a height no more than two (2) feet above the finished floor of the half (0.5)-story; otherwise, this story is counted as a full story.
 - v. Dormers must comply with the requirements set forth in Sec. 1.5.4.G.
4. Half-Story Step-Back for Flat Roofs
- a. Required Step-Backs must be provided for all stories as specified in the Building Standards for each VCOD tier.
 - b. Buildings on any lot with a Lot Width of seventy (70) feet or less are exempt for the upper story Step-Back requirement along the Side Lot Line(s), except when abutting a Residential District the facade of the building facing the Residential District is not exempt from the upper story Step-Back requirement..
 - c. Buildings on any lot with an average lot depth less than seventy (70) feet are exempt from the upper story Step-Back requirement along the Rear Lot Line, except when the rear lot line abuts a Residential District.
5. Building Footprint
- a. Buildings must comply with the maximum Building Footprint as specified in the Building Standards for each VCOD tier.
 - b. Building Footprint includes all enclosed spaces whether for habitation or storage. Any parking area that is covered by a roof is included in the Building Footprint.
 - c. Portions of the building below the average grade and not visible from any right of way or adjacent lot line do not count towards the Building Footprint.
 - d. Bays, Awnings, and Balconies, do not count towards the Building Footprint. See Sec. # Architectural Features.
6. Affordable Housing
- a. Except as modified herein, the provisions of Section 5.11 Inclusionary Zoning shall apply in the VCOD.
 - b. Bonus. To increase the supply of affordable housing, beyond the requirements within Newton's Inclusionary Zoning Ordinance, the following building height and building footprint increases are allowed within the VC2 and VC3 districts by-right, subject to the requirements of Sec. 2.6.B.6.c.:

Commented [ML29]: Please provide examples so we can better understand the implications of this proposal.

Commented [ML30]: How is roof defined for this purpose?

Commented [ML31]: I do not support Option 2. I need a better understanding of Option 1.

Affordable Housing Bonus

	Option 1		Option 2
	VC2	VC3	VC3
VCOD District	VC2	VC3	VC3
Building Height in Stories, (max.)	4.5	5.5	6.5
Pitched Roof, Building Height in Feet, (max.)	72'	84'	96'
Flat Roof, Height in Feet, (max.)	66'	78'	90'
Building Footprint, (max.)	12,500 sf	17,500 sf	17,500 sf

c. Standards

- i. To utilize the affordable housing bonus in the above table, a development must fully comply with the provisions of Section 5.11, except the number of inclusionary units required shall be as follows:

Number of Inclusionary Units Required				
Project Type	Option 1		Option 2	
	Rental	Ownership	Rental	Ownership
Tier 1 (# of units)	25%	25%	30%	30%
Tier 2 (# of units)	N/A	N/A	N/A	N/A
Area Median Income (AMI)	50-80%	80%	50-80%	80%

- ii. The portion of the building within 50' of a lot line abutting a Residential District may not increase the number of stories or height.
- iii. A VC3 lot adjacent to a VC1 or Residential District may not utilize Option 2.

7. Ground Story Active Uses

- a. Any lot with Mixed Use Priority Street frontage must also provide ground story Active Use space. The active use space must meet the depth requirement specified in each VCOD Tier, measured as the distance from the interior of the wall fronting on the Mixed Use

Priority Street towards the interior of the building, for one hundred percent (100%) of the total width of the building. No more than thirty percent (30%) of the required active use space may be dedicated to semi-active accessory uses, as defined below.

Commented [ML32]: This seems too high. I would want to discuss further.

- b. Active Uses only include:
 - i. Retail
 - ii. Restaurant / bar / specialty food service
 - iii. Place of amusement
 - iv. Personal service
 - v. Gallery / arts studio
 - vi. Live/work space
 - vii. Community use space
- c. Semi-active accessory uses include: lobbies and common areas associated with office, hotel, or residential uses, and access to accessory parking.

8. Adaptive Reuse

- a. The reuse and revitalization of existing buildings, including historically significant buildings, within the VCOD tiers will benefit the general health and welfare of the Newton community by fulfilling stated goals on housing, transportation, sustainability, and historic preservation.
- b. A building on a lot in the VCOD District must meet the following criteria to be eligible to be developed as an adaptive reuse development:
 - i. Buildings within the VC2 and VC3 tiers must have at least two (2) stories in height, and have been constructed prior to 1945 or determined to be historically significant by the Newton Historical Commission.
 - ii. Buildings within the MRT and VC1 tiers must have at least one-and-a-half (1.5) stories in height.
- c. A building on a lot in the VCOD District that meets the foregoing eligibility criteria may be developed as an adaptive reuse development, provided that a pre-development site survey with existing conditions prepared, stamped, and signed by a registered engineer or land surveyor is submitted with the required Overlay District development application.
- d. Notwithstanding anything to the contrary in the zoning ordinance, an existing building on a lot that qualifies as an adaptive reuse development in any of the VCOD tiers may utilize the following building standards:
 - i. Additional height may be added to existing buildings; however the total height may not exceed the overall height or number of stories as specified in each VCOD tier.
 - ii. There are no parking requirements.

Commented [ML33]: This language is not necessary.

Commented [ML34]: I need to better understand the implications of this proposal. Examples would be helpful.

Village Center Overlay District (VCOD)

- iii. There are no open space requirements.
 - iv. New construction must meet minimum sidewalk width requirements; however existing buildings and portions of existing buildings are exempt.
 - v. Existing building side and rear setbacks that do not meet the minimums in Sec. # may remain. Alterations, enlargements, or reconstruction within the side or rear setbacks are not allowed, except as permitted under Section 7.8.
- e. Additional standards for buildings within the VC2 and VC3 tiers utilizing this Section:
- i. A building may exceed the maximum Building Footprint, up to five-thousand (5,000) square feet along the side and rear elevations set back at least twenty (20) feet from the Front Elevation.
 - ii. Development on lots larger than thirty thousand (30,000) square feet is permitted by-right, subject to Site Plan Review.
- f. Additional standards for buildings within the VC1 and MRT tiers utilizing this Section:
- i. A building may exceed the maximum Building Footprint by fifty percent (50%) along the side and rear elevations set back at least twenty (20) feet from the front elevation.
 - ii. Multiple buildings on a lot are permitted, subject to Site Plan Review.
- g. No exterior alterations of the building along the Front Elevation except those necessary to comply with applicable Health, Building, and Fire codes.
9. Architectural Features
- a. The structural and architectural elements which extend outward from a building facade, including Awnings, Canopies, Bays, and Balconies. Architectural features may project into the front setback and/or right of way as shown below:
 - i. Bay.

Commented [ML35]: This threshold should be much lower, as noted above.

Commented [ML36]: I am not comfortable with these provisions without further explanation.

Dimensions	
Width of Each Bay (max.)	Greater of 20% of wall length or 12 ft
Depth (max.)	3 ft
Fenestration (min.)	60%
Front Setback Encroachment at Ground Story (max.)	3 ft

Commented [ML37]: What is the rationale for this provision?

Front Setback Encroachment at Upper Story (max.)	100%
Extension into the right of way (max.)	3 ft
Clearance above Grade within right of way (min.)	Top of the Ground Story

ii. Balcony.

Dimensions	
Width of Each Balcony (min. / max.)	5 ft / Greater of 20% of wall length or 12 ft
Depth (min. / max.)	3 ft / 8 ft
Clearance above Grade (min.)	Top of the Ground Story
Front Setback Encroachment (max.)	100%
Extension into the right of way (max.)	3 ft

iii. Awning.

Dimensions	
Width of Each Awning	–
Depth (min.)	3 ft
Clearance above Grade (min.)	8 ft
Front Setback Encroachment (max.)	100%
Extension into the right of way (max.)	10 ft

10. Facade Articulation

- a. The Front Elevation of any building greater than one hundred (100) feet in width must be divided vertically by a recess or an offset at least seven (7) feet deep and ten (10) feet wide. Modifications to the facade of existing buildings are exempt.

11. Ground Story Fenestration

- a. Fenestration must be provided as specified in the Building Standards for each VCOD tier and is calculated as a percentage of the area of the Front Elevation.

Village Center Overlay District (VCOD)

- b. For buildings with ground story Active Use spaces, ground story fenestration is measured between two (2) feet and ten (10) feet above the finished floor of the ground story.
- c. For ground story fenestration, glazing must have a minimum sixty percent (60%) Visible Light Transmittance (VLT) and no more than fifteen percent (15%) Visible Light Reflectance (VLR) as indicated by the manufacturer.

12. Building Entrances

- a. For lots with Street frontage, buildings must have their main entrance from a right of way on that Street. For parcels without Street frontage, buildings should have their main entrance on the side wall oriented toward the parking lot provided for the building.
- b. Buildings with ground story Active Use spaces must have principal entrances for the Active Uses along the Street frontage.
- c. Principal entrances must either be recessed from the plane of the facade, or have a projecting Awning, to signal building entry and provide adequate protection from the elements.

13. Roof Features

- a. Non-habitable architectural features are permitted on roofs in accordance with Section 1.5.4.A.

14. Mechanical Equipment

- a. Roof-mounted mechanical equipment must be screened and setback at least ten (10) feet from the intersection of the roof and wall plane immediately below. See Section # Screening.
- b. Wall-mounted mechanical and/or electrical equipment such as louvers, exhaust equipment, ducts, alarm devices, cable boxes, utility meters, etc. shall not be mounted on a Front Elevation.
- c. All free standing mechanical and/or electrical equipment are prohibited between any Front Lot Line and Front Elevation.

Commented [ML38]: Don't use "etc." in an ordinance.

C. Parking Design Standards

1. Required Accessory Parking Spaces

- a. There are no motor vehicle parking minimums within the VCOD.
- b. Bicycle parking must be provided as specified in Sec. #.
- c. Motor vehicle parking spaces for persons with disabilities may not be shared and must be provided on-site.
- d. Centralized parking facilities must provide signage identifying the permitted users.
- e. Pedestrian access to motor vehicle parking must be via a paved sidewalk or walkway.
- f. Bicycle parking must be provided at no cost or fee to customers, visitors, employees, tenants, and residents.

Commented [ML39]: If we believe that the market should dictate how much parking to provide, then the same should be true for bicycles. Furthermore, depending on the needs of the residents and businesses, the necessity of bike parking might vary considerably. Shouldn't we let the market decide?

Commented [ML40]: If there are no parking requirements, then I do not understand the need for this provision. Do we want to require a certain amount of parking for persons with disabilities?

2. Required Number of Accessory Bicycle Parking Stalls

Commented [ML41]: See above.

The following standards for accessory bicycle and motor vehicle parking spaces are associated with the use categories permitted in the VCOD tiers:

Use Category	Bicycle Parking	
	Short-term (min.)	Long-term (min.)
Residential Uses		
Multi-family dwelling, ten (10) units or less	None	None
Multi-family dwelling, more than ten (10) units	0.1 per unit	1.0 per unit
Lodging House	1 per 10,000 sf	1 per 5,000 sf
Live/work space	0.5 per unit	0.1 per unit
Convalescent or rest home or other institution devoted to the board, care or treatment of humans	–	–
Elderly housing with services, residential care facility, elderly congregate living facility	–	–
Civic/Institutional Uses		
Dormitory	0.1 per bed	0.5 per bed
Religious Institutions	–	–
School serving children under 14 years of age	1 per classroom	4 per classroom
Commercial Uses		
Bank	1 per 5,000 sf	1 per 2,500 sf
Family child care home, large family child care home, day care center	2	1 per 10,000 sf
Funeral home	1 per 2,500 sf	1 per 10,000 sf
Health club, similar establishment	1 per 2,500 sf	1 per 10,000 sf
Hospital, sanitarium	10 per entrance	1 per 5,000 sf
Hotel, motel	1 per 20 rooms	1 per 10 rooms
Medical office	1 per 2,000 sf	1 per 10,000 sf

Commented [ML42]: Would this include a pre-school or daycare center?

Commented [ML43]: Why aren't city facilities sufficient for this parking?

Office, professional building	1 per 5,000 sf	1 per 2,000 sf
Outdoor or open-air sales space, drive-in establishments, open-air retail business, amusements and other similar uses	–	–
Personal service	1 per 1,000 sf	1 per 2,500 sf
Post Office	1 per 1,000 sf	1 per 2,500 sf
Radio or television broadcasting studio	1 per 2,500 sf	1 per 10,000 sf
Restaurant, food or beverage establishment (for sidewalk and parking space cafe seating, see 12-70)	1 per 2,000 sf	1 per 2,000 sf
Retail store, showroom	1 per 2,500 sf	1 per 10,000 sf
Service establishment	1 per 1,000 sf	1 per 2,500 sf
Theaters, halls, clubs, auditoriums and other places of amusement or assembly	1 per 5,000 sf	1 per 2,500 sf
Industrial Uses		
Manufacturing	–	1 per 10,000 sf
Research, laboratory	1 per 20,000 sf	1 per 5,000 sf
Storage warehouse or business	–	–
Telecommunications and data storage facility	–	–
Wholesale business	–	1 per 40,000 sf

3. Parking Access

- a. Vehicular access to parking lots and structures along the Primary Front Lot Line is prohibited when vehicular access along another lot line is available.
- b. Shared use of parking lots, by multiple uses and/or developments on multiple parcels, is permitted.
- c. The sum of the width of a garage door or doors may be no more than 40% of the Front Elevation along any Primary Front Lot Line.

4. Curb Cuts and Driveways

- a. Curb cuts are prohibited along the Primary Front Lot Line when vehicular access along another lot line is available.
- b. Each lot is limited to one curb cut per Street frontage.
- c. The maximum width of a driveway for vehicular access to parking lots and structures is as follows:

Access Type	Width (max.)
One-way	12 ft
Two-way	24 ft

- d. The interior width of a curb cut (between curb stones) may be no wider than the driveway, vehicular entrance, or loading facility it serves.
 - e. The grade, cross slope, and clear width of the walkway of a sidewalk must be maintained between the driveway apron and the abutting driveway.
 - f. Curb cuts for driveways must be at least 20 feet from an unsignalized intersection and at least forty 40 feet from a signalized intersection.
5. Vehicular Parking Placement
- a. Unless otherwise specified in this Section, all parking spaces must be located at or behind any required parking setback as specified in the Lot Standards for each VCOD tier.
 - b. No parking spaces are allowed between the Front Elevation and the Primary Front Lot Line.
6. Parking Stall Dimensions
- a. For vehicular parking stalls, see Section 5.1.8.B and 5.1.8.C.
 - b. Bicycle parking stalls must meet the following standards:
 - i. Size and Layout. Each bicycle parking stall must be at least two (2) feet by six (6) feet in size or the minimum required by the manufacturer of a bicycle rack or locker, whichever is more.
 - ii. Access.
 - a. Areas designed for bicycle parking stalls must have a hard, stabilized surface.
 - b. Bicycle parking stalls must have at least one (1) access aisle at least five (5) feet wide to allow room for maneuvering. This access aisle must be kept free from obstructions.
 - c. Bicycle parking stalls must be accessible without moving another bicycle or lifting or carrying a bicycle over any steps or stairs.
 - d. Outdoor access routes must be appropriately lighted to allow for safe nighttime use.
 - iii. Weather Protection. When provided, weather protection must be permanent, designed to protect bicycles from rainfall, and provide at least seven (7) feet of clearance above ground level.

- iv. Bicycle racks must meet the following standards:
 - a. Be a fixed-in-place stand that is securely anchored to the ground;
 - b. Provide support to the bicycle frame, allowing for both wheels to rest upon a stable surface and for the bicycle to stand upright and not fall over without the use of a kick-stand;
 - c. Be configured not to block handlebars and baskets and to provide two points of contact for locking the frame and at least one wheel with a user-provided locking device;
 - d. Be constructed of materials that resist cutting, rusting, bending, or deformation; and
 - e. Be arranged in rows (with bicycles parked side-by-side) or in alignment (with bicycles parked end-to-end).
- v. Bicycle lockers must meet the following standards:
 - a. Be securely anchored to the ground;
 - b. Be configured to provide support to the bicycle, allowing it to stand upright without the use of a kick-stand, and
 - c. Be secured by means of a lockable door or, alternatively, configured internally to allow locking of the frame and at least one wheel with a user-provided locking device.
- vi. Signage. If required bicycle parking is not visible from the street or principal entrance(s), a sign must be posted at the principal entrance(s) indicating the location of the parking. Such signage must meet the standards found in Sec. 5.2. Signs.
- vii. Additional standards for Short-Term Bicycle Parking.
 - a. Short-term bicycle parking may be provided in any combination of bicycle racks and bicycle lockers. Racks that are double height or require hanging of a bicycle are prohibited for short-term bicycle parking.
 - b. Short-term bicycle parking must be provided outside of a principal building and within one-hundred (100) feet of the principal entrance of the use served by the parking.
 - c. Short-term bicycle parking must be at the same grade as the abutting sidewalk or at a location that can be reached by an accessible route from the

- sidewalk that is a minimum of five (5) feet wide, with no steps and a six percent (6%) slope or less.
- d. Short-term bicycle parking serving multiple uses on a single lot, or abutting parcels under the same ownership, may be combined into a single area.
 - e. Any required Short-Term Bicycle Parking provided in a structure or under cover must be provided at ground level, free of charge, and clearly marked as bicycle parking.
- viii. Additional standards for Long-Term Bicycle Parking.
- a. Long-term bicycle parking may be provided through any combination of racks or lockers.
 - b. Long-term bicycle parking must be provided in a well lit, secure location within the same building as the use the parking is intended to serve or within an accessory structure located within two-hundred (200) feet of the principal entrance of the building.
 - c. To provide security, long-term bicycle parking must either be:
 - i. In a locked room;
 - ii. In an area that is enclosed by a fence with a locked gate. The fence must be either eight (8) feet high, or be floor-to-ceiling;
 - iii. Within view of an attendant or security guard;
 - iv. In an area that is monitored by a security camera; or
 - v. In an area that is visible from employee work areas.
 - d. All required long-term bicycle parking spaces must be designed to provide continuous shelter from the elements.
 - e. Long-term bicycle parking serving multiple uses may be combined into a single area or accessory structure.
 - f. Where long-term bicycle parking is located adjacent to motor vehicle parking or loading facilities, a physical barrier must be provided to prevent potential damage to bicycles by other vehicles.
 - g. When twenty (20) or more long term bicycle parking spaces are provided, a minimum of ten percent (10%) of the spaces must be three (3) feet by eight (8) feet in size.

- h. Up to twenty five (25%) of long term bicycle parking space may be provided as racks that require bicycles to be hung or lifted off the ground or floor.
- ix. Alternative Compliance. The provisions of this Section # may be modified by special permit to accommodate alternative technologies and methods for providing bicycle parking so long as the Special Permit Granting Authority makes a finding that the alternative bicycle parking provides equal or greater benefits to bicycle users.

7. Screening

- a. Parking lots must be separated from the right of way by a building or screening within the parking setback as specified in the Lot Standards for each VCOD Tier. Screening shall consist of one or a combination of the following:
 - i. A landscape strip at least five (5) feet in width, running the full length of the parking lot perimeter along the right-of-way, excluding curb cuts and driveways (Fig. #).
 - a. The landscape strip must be planted with trees, shrubs, perennials, native grasses, and/or other planting types that provide a buffer from the right-of-way.
 - b. Deciduous shade trees must be planted for every 20 feet of landscape strip length, spaced linearly and parallel to the public right-of-way. Shade trees must be a minimum of two (2) inches in tree caliper when planted.
 - ii. A wall, barrier, or fence of uniform appearance. Such a wall, barrier, or fence may be opaque or perforated provided that not more than fifty (50) percent of the face is open. There shall be a landscaped strip with a minimum width of 3 feet between the base of the wall, barrier, or fence and right of way. The wall, barrier, or fence shall comply with the provisions of the Fence ordinance in Chapter 5, Sections 5-30 - 5-34.
- b. The required screening shall be located so as not to conflict with any corner visibility requirements or any other City ordinances. Such screening may be interrupted by entrances or exits.
- c. The use of stormwater management techniques such as rain gardens and bioswales is encouraged in landscape strips.
- d. Outdoor parking facilities containing 20 stalls or more must comply with the requirements in Sec. 5.1.9.B.
- e. Parking lots in the VC1, VC2, and VC3 districts abutting properties in any Residential Districts along any side or rear lot line must be screened, per the standards above.

Commented [ML44]: The word "encouraged" is not appropriate for an ordinance.

Village Center Overlay District (VCOD)

- f. Parking lot landscape strips, parking lot islands, landscape buffers, and other landscaped areas should utilize Low-Impact-Development (LID) practices consistent with state law to treat and discharge stormwater.
- 8. Lighting. Lighting shall comply with the provisions of the Light Trespass ordinance in Chapter 20 Sections 20-23 - 20-49.
- 9. Loading
 - a. For off-street loading requirements, see Section 5.1.12.
 - b. Access to loading docks and areas along the Primary Front Lot Line is prohibited.
 - c. Outdoor loading facilities, including all docks and areas used for the storage and staging of goods or materials, that are visible from a public street, public space, or abutting properties in any Residential Districts must be screened from view. See Section #.
- 10. Service Areas
 - a. Buildings containing five or more residential units must provide private trash and recycling pick up.
 - b. Trash collection, trash compaction, recycling collection and other similar service areas must be fully enclosed within a building or located to the side or rear of the buildings.
 - c. Outdoor service areas are not permitted along any Primary Front Lot Line.
 - d. Outdoor service areas that are visible from a public street, public space, or abutting properties in any Residential Districts must be fully screened from view. See Section #.
- 11. Parking Relief
 - a. The Planning Board is the Special Permit Granting Authority for all parking relief within the VCOD tiers.
 - b. In particular instances, a special permit may be granted to allow for exceptions to this Sec. # if it is determined that literal compliance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features.

Commented [ML45]: What about delivery vehicles, such as Amazon?

Commented [ML46]: I do not think that the Planning Board should be involved with this.

Commented [ML47]: The Planning Board is not a special permit granting authority. I do not understand this language.

2.7. Design Guidelines

The Director of Planning and Development shall adopt, and periodically amend as deemed necessary, design guidelines. These guidelines provide direction, not requirements, for the design of new development within the VCOD tiers resulting in a cohesive pattern over time. The intent is to define expectations for new development while allowing for flexibility and fostering high quality design.

Commented [ML48]: I think that this section should be deleted. The Director of Planning can issue (or not issue) guidelines but since they are not legally enforceable, they should not be part of an ordinance. Likewise, "expectations" should not be part of an ordinance.

2.8. Allowed Uses

Uses permitted in buildings with the VCOD tiers are described below.

A. Permitted Uses

1. The use of real property is subject to the provisions of Article # Use Regulations.
2. Uses are permitted as specified in Sec. #.
3. Use categories not expressly authorized are prohibited.
4. Uses permitted by special permit require additional development review in accordance with Article #.

B. Permitted Accessory Uses

1. The use of real property is subject to the provisions of Article # Use Regulations.
2. Accessory Uses are permitted as specified in Sec. #.
3. Accessory Uses not expressly authorized are prohibited.
4. Accessory Uses permitted by special permit require additional development review in accordance with Article #.

C. Use Table

Use Category	MRT	VC1	VC2	VC3	Definitions & Use Specific Standards
Residential Uses					
Single-Family, detached	-	-	-	-	Sec. 6.2.1
Two-Family, detached	-	-	-	-	Sec. 6.2.2
Multi-Family Residential use	P	P	P	P	Sec. 6.2.4
Assisted living, nursing home	SP	SP	SP	SP	Sec. 6.2.5
Elderly housing with services	SP	SP	SP	SP	Sec. 6.2.10
Live/work space	P	P	P	P	Sec. 6.2.11
Lodging House	SP	SP	SP	SP	Sec. 7
Civic/Institutional Uses					
Cemetery, private	-	-	-	-	Sec. 6.3.1
Club, clubhouse	SP	P	P	P	Sec. 6.3.2
Community use space	P	P	P	P	Sec. 6.3.3
Family child care home, large family child care home, day care center	L	L	L	L	Sec. 6.3.4

Government offices or services	P	P	P	P	Sec. 6.3.5
Heliport	-	-	-	-	Sec. 6.3.6
Hospital	-	SP	SP	SP	Sec. 6.3.7
Library, museum or similar institution	SP	P	P	P	Sec. 6.3.8
Public use	L	L	L	L	Sec. 6.3.10
Rail/bus station	P	P	P	P	Sec. 6.3.11
Religious institution	L	L	L	L	Sec. 6.3.12
Sanitarium, convalescent or rest home, other like institution	SP	SP	SP	SP	Sec. 6.3.13
School or other educational purposes, non-profit	L	L	L	L	Sec. 6.3.14
School or other educational purposes, for-profit	SP	SP	SP	SP	Sec. 6.3.14
Theater, hall	SP	P	P	P	Sec. 6.3.15
Commercial Uses					
Animal service, excluding overnight boarding	-	P	P	P	Sec. 6.4.1
ATM, standalone	-	P	P	P	Sec. 6.4.2
Bank, ground story	-	SP	SP	-	Sec. 6.4.4
Bank, upper story	-	-	SP	SP	Sec. 6.4.4
Bed & Breakfast	P	P	P	SP	Sec. 6.4.5
Business incubator	-	P	P	P	Sec. 6.4.6
Business services	-	SP	P	P	Sec. 6.4.7
Car-sharing service, car rental, bike rental, electric car-charging station as accessory uses	P	P	P	P	Sec. 6.4.8
Car wash	-	-	-	-	Sec. 6.4.9
Drive-in business	-	-	-	-	Sec. 6.4.11
Dry cleaning or laundry, retail	-	P	P	P	Sec. 6.4.12
Fast food establishment	-	-	-	-	Sec. 6.4.13
Fuel establishment	-	-	-	-	Sec. 6.4.14

Commented [ML49]: I think that this warrants further discussion.

Commented [ML50]: This warrants further discussion. Do we want parking lots of cars for car sharing or rental?

Funeral home	-	-	SP	SP	Sec. 6.4.15
Health club	-	SP	P	P	Sec. 6.4.16
Hotel or lodging establishment	-	SP	P	P	Sec. 6.4.17
Job printing, up to 3,000 square feet (area used for work and storage)	-	P	P	P	Sec. 6.4.18
Job printing, over 3,000 square feet (area used for work and storage)	-	SP	SP	SP	Sec. 6.4.18
Kennel	-	-	-	-	Sec. 6.4.19
Microfulfillment Center	-	-	-	-	Sec. 6.4.47
Office	-	SP	P	P	Sec. 6.4.20
Open-air business	-	SP	P	P	Sec. 6.4.22
Outdoor storage	-	-	-	-	Sec. 6.4.23
Parking facility, accessory, single level	P	P	P	P	Sec. 6.4.24
Parking facility, non-accessory, single level	P	P	P	P	Sec. 6.4.24
Parking facility, accessory, multi-level	-	P	P	P	Sec. 6.4.24
Parking facility, non-accessory, multi-level	-	P	P	P	Sec. 6.4.24
Personal service, up to 5,000 square feet	-	P	P	P	Sec. 6.4.25
Personal service, over 5,000 square feet	-	-	P	P	Sec. 6.4.25
Place of amusement, indoor or outdoor	-	P	P	P	Sec. 6.4.26
Radio or television broadcasting studio	-	P	P	P	Sec. 6.4.27
Radio, or television transmission station	-	-	-	-	Sec. 6.4.27
Restaurant	-	P	P	P	Sec. 6.4.29
Retail sales, under 5,000 square feet	-	P	P	P	Sec. 6.4.30
Retail sales, over 5,000 square feet	-	SP	P	P	Sec. 6.4.30
Service establishment, up to 5,000 sq. feet	-	P	P	P	Sec. 6.4.31
Service establishment, over 5,000 sq. feet	-	SP	P	P	Sec. 6.4.31
Stable, public	-	-	-	-	Sec. 6.4.32

Taxidermist	-	-	-	-	Sec. 6.4.33
Vehicle repair shop, minor	-	-	-	-	Sec. 6.4.34
Vehicle repair shop, major	-	-	-	-	Sec. 6.4.34
Vehicles sales and service facility, indoor -	-	-	-	-	Sec. 6.4.35
Vehicles sales and service facility, outdoor	-	-	-	-	Sec. 6.4.35
Veterinary hospital	-	SP	SP	SP	Sec. 6.4.36
Industrial Uses					
Assembly or fabrication of materials manufactured off premise	-	-	-	-	Sec. 6.5.1
Bakery, wholesale	-	-	-	-	Sec. 6.5.2
Boat building, storage and repair	-	-	-	-	Sec. 6.5.3
Bottling works (except for alcoholic beverages)	-	-	-	-	Sec. 6.5.4
Building materials sales yard and storage building	-	-	-	-	Sec. 6.5.5
Contractor's yard	-	-	-	-	Sec. 6.5.6
Feed and seed store	-	-	-	-	Sec. 6.5.7
Food processing, wholesale	-	-	-	-	Sec. 6.5.8
Laboratory, research and development	-	-	P	P	Sec. 6.5.9
Laundry, cleaning & dyeing establishment	-	-	-	-	Sec. 6.5.10
Manufacturing	-	-	-	-	Sec. 6.5.11
Manufacturing, molding, shaping or assembly from prepared materials (including repairs)	-	-	-	-	Sec. 6.5.11
Paint store	-	-	-	-	Sec. 6.5.12
Printing, publishing and reproduction establishment	-	-	-	-	Sec. 6.5.13
Sign painting shop	-	-	-	-	Sec. 6.5.14
Telecommunications and data storage facility	-	-	-	-	Sec. 6.5.15
Trash or yard waste, collection, storage, transfer-haul or composting	-	-	-	-	Sec. 6.5.16

Vehicle storage	-	-	-	-	Sec. 6.5.17
Wholesale business or storage facility -	-	-	-	-	Sec. 6.5.18
Wholesale distribution plant	-	-	-	-	Sec. 6.5.19
Wireless communication equipment	-	-	-	-	Sec. 6.9
Manufacturing, uses not allowed by right	-	-	-	-	Sec. 6.5.11
Open Space Uses					
Agriculture, on a parcel of 5 or more acres	-	-	-	-	Sec. 6.6.1
Agriculture, on a parcel under 5 acres	-	-	-	-	Sec. 6.6.1
Resource extraction	-	-	-	-	Sec. 6.6.4
Restricted Uses					
Adult business	-	-	-	-	Sec. 6.10.1
Keno	-	-	-	-	Sec. 6.10.2
Medical Marijuana Treatment Center	-	-	-	-	Sec. 6.10.3
Craft Marijuana Cooperative	-	-	-	-	Sec. 6.10.3
Independent Testing Laboratory	-	-	-	-	Sec. 6.10.3
Marijuana Courier	-	-	-	-	Sec. 6.10.3
Marijuana Cultivator	-	-	-	-	Sec. 6.10.3
Marijuana Delivery Operator	-	-	-	-	Sec. 6.10.3
Marijuana Product Manufacturing	-	-	-	-	Sec. 6.10.3
Marijuana Research Facility	-	-	-	-	Sec. 6.10.3
Marijuana Retailer	-	-	-	-	Sec. 6.10.3
Marijuana Transporter	-	-	-	-	Sec. 6.10.3
Microbusiness	-	-	-	-	Sec. 6.10.3
Firearm Business	-	-	-	-	Sec. 6.10.4
Firing Range	-	-	-	-	Sec. 6.10.4
Gunsmith	-	-	-	-	Sec. 6.10.4

Commented [ML51]: Is this intended to include storage facilities such as the one on Newtonville Ave? I would expect that we would not want those to be built without a special permit.

P = Permitted -- = Not Allowed L = Allowed with Limitations SP = Special Permit

2.9. Administration

A. Special Permit Review

1. A special permit application shall be submitted and reviewed in accordance with Section 7.3, except in lieu of the criteria in 7.3.3.C, the City Council shall not approve any application for a special permit in the VCOD unless it finds, in its judgment, that the proposal meets all the following criteria:
 - i. The proposed development is consistent with the City's Comprehensive Plan and existing policies and plans established by the City.
 - ii. The proposed development is consistent with the intent and purposes of the VCOD.

Commented [ML52]: Shouldn't we be including the normal special permit criteria here – I think they are part of state law.

B. Site Plan Review

1. Application. Whenever Site Plan Review is required under the provisions of the VCOD an electronic application shall be submitted in accordance with forms and instructions provided by the Planning and Development Department.
 - i. Fee. [Reserved]
2. Review. Site Plan Review shall be conducted by the Planning and Development Board.
 - i. Timeline. [Reserved]
3. Grant of Permit. Site Plan approval shall be granted upon determination by the Planning and Development Board that the following conditions have been satisfied. The Planning and Development Board may impose reasonable conditions, at the expense of the applicant, to ensure that these conditions have been satisfied.
 - i. The Applicant has submitted the required fees and information as set forth in the City's requirements for Site Plan Review; and
 - ii. The project as described in the application meets the development standards set forth in Section #.
4. Site Plan approval shall be granted by a majority vote of the Planning and Development Board.
5. Site Plan approval under this Section # shall lapse if substantial use thereof or construction thereunder has not begun within 36 months following the grant of the Site Plan approval.

Commented [ML53]: I do not think that there should be any Site Plan Review Process – it should either be by right or by special permit and, as discussed above, the threshold for a special permit should be much lower.

Commented [ML54]: I do not think this works.

Commented [ML55]: Why wouldn't this be part of the ordinary process that Inspectional Services undertakes?

Commented [ML56]: The Director of Planning sits on the Board – the director should not be able to vote on a project.



Memorandum

To: Barney S. Heath, Director of Planning and Development;
Jennifer Caira, Deputy Director

From: Councilor Pam Wright

Re: Proposed amendments to zoning

Date: July 28, 2023

Approval process:

1. 2.4.B.1.i change special permit from 30,000 sf to 15,000 sf and add priority streets special permit to 10,000 sf or larger. *Priority streets are not counted in MBTA Act and we get more control on what our village centers will be.*
2. 2.4.B.1.ii replace “except as modified through Adaptive Reuse” to “except for one additional building as modified through Adaptive Reuse”.
3. 2.4.B.2.i change site plan review from 20,000 sf to 10,000 sf.
4. 2.4.B.2.ii Add public hearing for site plan and design reviews. *Brookline is having public hearings for site plan and design review in their zoning proposal.*

Dimensional Standards Site:

1. 2.5.A special permit: change special permit from 30,000 sf to 15,000 sf and add priority streets special permit to 10,000 sf or larger. *Priority streets are not counted in MBTA Act and we get more control on what our village centers will become. Through my calculations, proposed zoning will allow over 18,300 units by right plus additional units in multiple buildings and lot separation (~2000 units+). Lowering the special permit to 15,000 sf still allows over 14,300+ units by right and over 9000 units in the MBTA communities areas. Lowering special permits on priority streets give us more control over the village centers.*
2. 2.5.A Change site plan review from 20,000 sf to 10,000 sf. And add public comment requirement. Brookline will do this too.

3. Change Usable open space from 30% to 50% for MRT and VC1 on all lot sizes per our present zoning. For adaptive reuse, usable open space for all lots to 40%. *This will allow for trees and green space and not all pavement and parking. Presently our zoning is 50% to 70% usable open space depending on the lot designation. This still doesn't limit the size of the house – FAR does.*
4. Front building setbacks: change from “10’ or average” to “25’ or average”. *Presently zoning is 25’ (MR2), 30’ (SR2 and SR3) to 40’ (SR1).*
5. Change required front setback abutting a residential district in MRT from 7.5’ to 12.5’. *Presently this is one of the biggest complaints – that the new house is too close to the street. Also, this greatly limits trees and green space in side yards.*
6. Add: when abutting a non residential lot used as residential, abutting residential district setbacks will be used. *Some BU lots are used as homes and will not get any protection from zoning when abutting VC districts.*
7. Change VC1, 2, 3 side and rear setbacks to abutting residential districts to present zoning – “½ building height or 15’, whichever is larger”. *The proposed zoning could have a 62’ building only 15’ away from a residential district. In the present zoning it would have to be 31’ away or a 30’ tall building could be 15’ away. Depending on the orientation of buildings, residential yards could be in shadows much of the day.*
8. Change MRT building separation from 15’ to 25’ as in the present zoning. *A building separation of 15’ will present as a bigger mass in the residential neighborhoods.*

Dimensional Standards Building:

1. Limit VC2 and VC3 developments within 50’ of lot line abutting a residential district to 3.5 stories with the present zoning setback of “½ building height or 15’, whichever is larger”
2. Lower maximum MRT pitched roof height to 40’
3. *I would like a discussion on the active use depth minimum. Is 25’ too large? Would 12’ be OK for a pop up?*

Site Design Standards:

1. In 2.6.A.1 add additional setback required to eliminate blocked site lines to landmarked and prominent village center buildings.
2. Add 2.6.A.2.a.ii - additional buildings in public view will be designed in keeping or compatible/compliment original building (**embolden text**). Wording can be something similar to: 6.7.1.E.3 Rules for detached ADU: 3. Exterior alterations to an existing accessory structure or the creation of a new accessory structure are permitted **provided they are in keeping with the architectural integrity of the existing structure and/or the**

principal dwelling on the lot and the residential character of the neighborhood. The exterior finish material should be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site.

3. Add 2.6.A.4.d - Usable open space 50% for MRT and VC1 on all lot. For MRT adaptive reuse, usable open space for all lots 40%. *This will allow for trees and green space and not all pavement and parking. Presently our zoning is 50% to 70% usable open space depending on the lot designation. This still doesn't limit the size of the house – FAR does.*
4. Add 2.6.A.6 – Rear lot definition from previous proposal.
5. Add 2.6.A.7 – MRT and VC1 lot subdivision as per the present zoning. *Presently no restrictions and a 4 unit building could be built on a 3400sf lot. This will increase tear downs, and remove many trees and open space in MRT and VC1.*



Building Design Standards:

1. Add 2.6.B.7.a ground story active uses: if footprint is >9500 sf (negotiable number) than 20% for local, non-chain, non – bank or nail salon (use Trio's wording)
2. Add 2.6.B.7.b.viii brewer/brewpub.
3. Remove 2.6.B.8.b.i “must have at least two (2) stories in height.
4. Remove 2.6.B.8.b.ii “must have at least one-and-a-half (1.5) stories in height.
5. Add 2.6.B.8.d.i – Additional height on existing landmarked buildings are not allowed within 25’ of the front plane of the building
6. Change 2.6.B.8.d.iii to “There are no open space requirements for VC2 and VC3. For MRT and VC1 40% usable space is required.”
7. Add back language on retaining existing trees in 2.6.B.7
8. In 2.6.B.7.f Add back “10% of paved lots must be landscaped”
9. Add in 2.6.B.10.a “Require trash storage enclosed in building footprint or if outdoors in locked enclosures”.

10. Add 2.6.B.5 element design standards like Brookline. Objective design standards integrated into dimensional requirements, Architectural Preservation standards, Site Plan and Design Review for as of right. We should review their work. One example below. <https://www.brooklinema.gov/DocumentCenter/View/43167/Harvard-St-Select-Board-0725-2023>

11-4.06 Exterior Finishes and Materials		Missing, Façade Articulation and Architectural Elements Standards																											
<p>Description Material selection impacts sustainability and durability and the way in which materials are selected and applied responds to existing architectural context.</p> <p>Applicability All new buildings and facade modifications.</p> <p>Durability Standards Exterior timber shall be protected from decay by application of a stain and sealant or paint. Exterior ferrous metals shall be protected from corrosion by at least one of the following: a. Painting or other impermeable coating; and/or b. Metallurgical properties, including galvanized steel, stainless steel (matte effect finish only), and/or weathering steel (e.g., COR-TEN)</p>		<p>Allowed Materials (Cont'd)</p> <table border="1"> <tr> <td>Trim or Surround</td> <td>Cast iron, Composite wood, wood, fiber cement</td> </tr> <tr> <td>Entry Door</td> <td>Wood, fiberglass, composite wood, wood-clad aluminum</td> </tr> <tr> <td>Window Frames</td> <td>Wood, fiberglass</td> </tr> <tr> <td>Window Sill</td> <td>Wood, composite wood, fiber cement, cast stone</td> </tr> <tr> <td>Glazing</td> <td>Clear glass; shall not be tinted, mirrored, or colored</td> </tr> </table> <p>Balconies</p> <table border="1"> <tr> <td>Guard/Railing</td> <td>Metal, glass</td> </tr> <tr> <td>Fascia</td> <td>Metal, wood, composite wood</td> </tr> </table> <p>Porches and Galleries</p> <table border="1"> <tr> <td>Columns</td> <td>Wood, composite wood, fiberglass, cast stone</td> </tr> <tr> <td>Guard/Railing</td> <td>Metal, wood, composite wood, metal, glass</td> </tr> </table> <p>Storefronts</p> <table border="1"> <tr> <td>Storefront</td> <td>Brick, wood, composite wood, metal</td> </tr> <tr> <td>Columns</td> <td>Wood, composite wood, fiberglass, metal</td> </tr> <tr> <td>Storefront Base/Bulkhead</td> <td>Wood panels, brick, stone, cast stone, tile, fiber cement, stucco</td> </tr> </table> <p>Change in Façade Color and/or Material Color and/or material change shall occur only at the following locations on a façade: a. At inside corners rather than outside corners. b. At a horizontal articulation such as a string course c. At the boundaries between vertical divisions.</p>		Trim or Surround	Cast iron, Composite wood, wood, fiber cement	Entry Door	Wood, fiberglass, composite wood, wood-clad aluminum	Window Frames	Wood, fiberglass	Window Sill	Wood, composite wood, fiber cement, cast stone	Glazing	Clear glass; shall not be tinted, mirrored, or colored	Guard/Railing	Metal, glass	Fascia	Metal, wood, composite wood	Columns	Wood, composite wood, fiberglass, cast stone	Guard/Railing	Metal, wood, composite wood, metal, glass	Storefront	Brick, wood, composite wood, metal	Columns	Wood, composite wood, fiberglass, metal	Storefront Base/Bulkhead	Wood panels, brick, stone, cast stone, tile, fiber cement, stucco		
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Parking Requirements:

1. Add back in Applicability (2.6.C.1) to Parking Design Standards
2. Change 2.6.C.1.a to “There are no motor vehicle parking minimum within the VCOD” to “There are no motor vehicle parking minimums within the MBTA designated VCOD areas except on priority streets. 0.5 parking space required per unit on non MBTA designated VCOD and on priority streets. *(Since priority streets do not count in the MBTA units, parking requirement will not affect the final unit count required by the state)*
3. Add electric bike parking requirements.

Allowed Uses:

1. Add Brewery/Brewpub to VC2 and VC3
2. Refine VC1 to only allow low car trip businesses in VC1 in 2.2.B. *Limited trips in and out of Rt9 with many driveways on Rt 9 creating unsafe entry*

Affordable Housing Bonus:

1. Option 1 only
2. Add a line under AMI in table for another option – lower AMI and then lower number of units needed to meet that. Need discussion on the right number.

General

1. **Remove references to the Comprehensive Plan** since it states a maximum of 35,995 units for the city (p. 15). VCOD zoning will provide a much higher number of units. We’re near 35,995 with present built and approved units.
2. Please explain the change in 2.4.A.1 from “except as exempted” to “except as expressly exempted”. What does this mean or imply? Was it a typo originally? This appears to be a 180.



Memorandum

To: Barney S. Heath, Director of Planning and Development;
Jennifer Caira, Deputy Director

From: Councilor Pam Wright

Re: Additional proposed amendments to zoning

Date: August 11, 2023

On July 28, I forwarded 30 amendments. Please consider the following additional amendments in our next ZAP meeting.

Dimensional Standards Site:

1. Has the fire department reviewed the setbacks for VC1 and MRT? Are they adequate for their work? Do they have any recommendations to the zoning?

Dimensional Standards Building:

1. I'm concerned the MBTA Act zoned units would not be large enough for families. I would like to add in those zones that the average size for units is 1000 sf. Presently the developer can make any size including very small units which are not conducive to families.
2. Change maximum top floor sloped roof to 14'. The proposed 18-foot height for a half story is very high. Or decrease maximum height and developer can choose where to put the height.
3. Increase top floor setback from 7' to 10'.
4. VC1 4000 sf footprint is greatly out of scale for the areas zoned VC1. I recommend lowering the maximum footprint to 3000 sf footprint.

Allowed Uses:

1. Town homes are excluded from the table of allowable uses. Was this an oversight?

To: Councilor Deborah Crossley, Chair, Zoning and Planning Committee

From: Peter Doeringer, Planning and Development Board Member

cc. Jaelyn Norton, Committee Clerk; Zachery LeMel, Chief of Long Range Planning

Re: Amendments to VCD Zoning

I am in favor of the direction that the most recent version of the VCD Zoning proposal is taking. However, I have concerns about a couple of issues affecting residential neighborhoods that could arise under special circumstances. I would appreciate clarification about how the current zoning proposal applies in these situations and have proposed the following zoning amendments if the current zoning proposal does not adequately address these circumstances.

- Throughout the proposed VCD zoning there are references to special considerations, such as setbacks, stepbacks, and limits on the number of stories and heights for properties using the Affordable Housing Bonus when a VCD zone is “abutting a Residential District”. I understand and endorse these considerations when VCD zones abut a residential zone. But how do these regulations apply when the VCD zones abut a roadway that separates them from residential zones, as is the case on Court Street in Newtonville? If it is legally recognized that the regulations for VCD zones that abut residential zones also apply in situations when there is a roadway separating the two zones, then I am satisfied with the proposed zoning language. If not, I would recommend an amendment to the VCD zoning that would clearly extend the setbacks, stepbacks, and other special considerations to include situations where residential and VCD zones are “adjacent to and separated by roadways, except for wide corridors such as Washington St., Boylston St. and the Mass Pike”.
- Up to 6 units are allowed in the MRT zone when an existing building is reused and Section 2.6.B.8 (g) on “Adaptive Reuse” provides that:

No exterior alterations of the building along the Front Elevation except those necessary to comply with applicable Health, Building, and Fire codes.

I expect Newton’s Fire code will require additional entrances for the additional units created by adaptive reuse. Owners or developers of these properties may elect to meet this requirement by providing entrances with external stairways for units located above the ground floor, rather than locating them within the building. In my experience, external entrance stairways are likely to adversely affect the character of neighborhoods if they are visible from the street and abutters may experience adverse effects as well. The current zoning proposal does not explicitly address this issue, but there are some provisions that may be interpreted as allowing such external stairways. For example, Section 2.6.B.9 (a) (Architectural Features) allows structural and architectural features (possibly including external stairways) to project into front setbacks and Section 2.6.B.12 (Building Entrances) encourages entrances on street frontages and side walls.

I recommend that the following text be added to Section 2.6.B.12 on Building Entrances:

d. Entrances for additional residential units created under Section 2.6.B.8 shall either be located within the building or as external staircases that are fully enclosed and do not encroach on any setback.

- In addition, Section 2.6.B.4 (b) dealing with Half-Story Step-Back for Flat Roofs may need editorial clarification. I think it should read.

b. Buildings on any lot with a Lot Width of seventy (70) feet or less are exempt for the upper story Step-Back requirement along the Side Lot Line(s), except when abutting a Residential District. The facade of the building facing the Residential District is not exempt from the upper story Step-Back requirement.

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Memorandum

To: Barney S. Heath, Director of Planning and Development;
Jennifer Caira, Deputy Director

From: Councilor Pam Wright

Re: Amendments to VCOD maps

Date: August 11, 2023

Change from VC3 to VC2

Village	Number	Street
Auburndale	305-307	AUBURN ST
Auburndale	309-315	AUBURN ST
Auburndale	319	AUBURN ST
Auburndale	327-349	AUBURN ST
Auburndale	451	LEXINGTON ST
Auburndale	278	MELROSE ST
Auburndale	280-282	MELROSE ST
Auburndale	284	MELROSE ST
Auburndale	286	MELROSE ST
Newton Corner	12	Avon Pl
Newton Corner	6477 sf lot	Avon Pl
Newton Corner	249	CENTRE ST
Newton Corner	258	CENTRE ST
Newton Corner	259	CENTRE ST
Newton Corner	261-275	CENTRE ST
Newton Corner	264	CENTRE ST
Newton Corner	270-276	CENTRE ST
Newton Corner	280-292	CENTRE ST
Newton Corner	283-291	CENTRE ST
Newton Corner	400	CENTRE ST
Newton Corner	427-443	CENTRE ST
Newton Corner	430	CENTRE ST

Newton Corner	447	CENTRE ST
Newton Corner	31	CHANNING ST
Newton Corner	32	CHANNING ST
Newton Corner	34	CHANNING ST
Newton Corner	276	CHURCH ST
Newton Corner	278	CHURCH ST
Newton Corner	65	JEFFERSON ST
Newton Corner	65	JEFFERSON ST
Newton Corner	21-23	PEABODY ST
Newton Corner	25-27	PEABODY ST
Newton Corner	19	Pearl
Newton Corner	42	THORNTON ST
Newton Corner	44	THORNTON ST
Newton Corner	9975 sf lot	THORNTON ST
Newton Corner	235-241	WASHINGTON ST
Newton Corner	303-321	WASHINGTON ST
Newton Corner	323-333	WASHINGTON ST
Newton Corner	337	WASHINGTON ST
Newton Corner	341-349	WASHINGTON ST
Newton Corner	351	WASHINGTON ST
Newton Corner	355	WASHINGTON ST
Newton Corner	361-363	WASHINGTON ST
Newton Corner	371	WASHINGTON ST
Newton Corner	399-403	WASHINGTON ST
Newton Corner	405-409	WASHINGTON ST
Newton Corner	431	WASHINGTON ST
Newton Corner	part of 405 Wash	WASHINGTON ST
Newton Corner	part of 405 Wash	WASHINGTON ST
Newton Centre	776	BEACON ST
Newton Centre	780	BEACON ST
Newton Centre	790-794	BEACON ST
Newton Centre	796	BEACON ST
Newton Centre	808	BEACON ST
Newton Centre	left of 848	BEACON ST
Newton Centre	1148	CENTRE ST
Newton Centre	1179-1181	CENTRE ST
Newton Centre	1185-1197	CENTRE ST
Newton Centre	1199-1217	CENTRE ST

Newton Centre	1221-1227	CENTRE ST
Newton Centre	1229-1235	CENTRE ST
Newton Centre	1239-1243	CENTRE ST
Newton Centre	1247-1249	CENTRE ST
Newton Centre	1251-1253	CENTRE ST
Newton Centre	1253-1257	CENTRE ST
Newton Centre	1261-1269	CENTRE ST
Newton Centre	1280	CENTRE ST
Newton Centre	1294	CENTRE ST
Newton Centre	1296-1298	CENTRE ST
Newton Centre	1299	CENTRE ST
Newton Centre	1301	CENTRE ST
Newton Centre	1255	CENTRE ST
Newton Centre	17-31	HERRICK RD
Newton Centre	17-31	HERRICK RD
Newton Centre	47-61	LANGLEY RD
Newton Centre	12	LYMAN ST
Newton Centre	14	LYMAN ST
Newton Centre	12	PELHAM ST
Newton Centre	17	PELHAM ST
Newton Centre	191	SUMNER ST
Newton Centre	195	SUMNER ST
Newton Centre	49-63	UNION ST
Newton Centre	50	UNION ST
Newton Centre	65-73	UNION ST
Newton Centre	70	UNION ST
Newton Centre	93-105	UNION ST
Newton Centre	49	UNION ST
Newton Centre	50	UNION ST
Newton Centre	65	UNION ST
Newton Centre	70	UNION ST
Newton Centre	93	UNION ST
Newton Centre	360 sf lot	UNION ST
Newton Centre	1400 sf lot	UNION ST
Newton Centre	3060 sf lot	UNION ST
Newton Centre	3300 sf lot	UNION ST
Newtonville	12	AUSTIN ST
Newtonville	28	AUSTIN ST
Newtonville	40	AUSTIN ST
Newtonville	46-48	AUSTIN ST

Newtonville	60	AUSTIN ST
Newtonville	66-68	AUSTIN ST
Newtonville	74	BOWERS ST
Newtonville	80-86	BOWERS ST
Newtonville	107	Central
Newtonville	119	Central
Newtonville	90	COURT ST
Newtonville	19	HIGHLAND AVE
Newtonville	162	LOWELL AVE
Newtonville	304	NEWTONVILLE AVE
Newtonville	439	NEWTONVILLE AVE
Newtonville	454	NEWTONVILLE AVE
Newtonville	456	NEWTONVILLE AVE
Newtonville	246-254	WALNUT ST
Newtonville	288	WALNUT ST
Newtonville	303	WALNUT ST
Newtonville	304-306	WALNUT ST
Newtonville	305	WALNUT ST
Newtonville	308-322	WALNUT ST
Newtonville	309-321	WALNUT ST
Newtonville	323-335	WALNUT ST
Newtonville	324	WALNUT ST
Newtonville	330-334	WALNUT ST
Newtonville	309R	WALNUT ST
Newtonville	743	WASHINGTON ST
Newtonville	773	WASHINGTON ST
Newtonville	899	WASHINGTON ST
Newtonville	911	WASHINGTON ST
Thompsonville	325	BOYLSTON ST
Thompsonville	327	BOYLSTON ST
Thompsonville	335-339	BOYLSTON ST
Thompsonville	345	BOYLSTON ST
Thompsonville	373-375	BOYLSTON ST
Thompsonville	379	BOYLSTON ST
Thompsonville	383-387	BOYLSTON ST
Thompsonville	1	JACKSON ST
Thompsonville	7	JACKSON ST
Thompsonville	13	JACKSON ST
Thompsonville	15	JACKSON ST
Thompsonville	17	JACKSON ST

Thompsonville	21	JACKSON ST
Thompsonville	30-34	JACKSON ST
Thompsonville	31	JACKSON ST
Thompsonville	405	LANGLEY RD
Thompsonville	412	LANGLEY RD
Thompsonville	415	LANGLEY RD
Thompsonville	416	LANGLEY RD
Thompsonville	418	LANGLEY RD
Thompsonville	422	LANGLEY RD
West Newton	8	BORDER ST
West Newton	24	BORDER ST
West Newton	30	BORDER ST
West Newton	38	BORDER ST
West Newton	1	CHESTNUT ST REAR
West Newton	12	DAVIS CT
West Newton	15	DAVIS ST
West Newton	19-21	DAVIS ST
West Newton	23	DAVIS ST
West Newton	31	DAVIS ST
West Newton	33	DAVIS ST
West Newton	32	DUNSTAN ST
West Newton	34	DUNSTAN ST
West Newton	12	KEMPTON PL
West Newton	18	KEMPTON PL
West Newton	24	KEMPTON PL
West Newton	25	KEMPTON PL
West Newton	15	Lucas Ct
West Newton	11	Lucas Ct
West Newton	15	Spencer St
West Newton	521	WALTHAM ST
West Newton	527	WALTHAM ST
West Newton	1149	WASHINGTON ST
West Newton	1151	WASHINGTON ST
West Newton	1157	WASHINGTON ST
West Newton	1169	WASHINGTON ST
West Newton	1171-1173	WASHINGTON ST
West Newton	1179	WASHINGTON ST
West Newton	1185	WASHINGTON ST
West Newton	1191	WASHINGTON ST
West Newton	1197	WASHINGTON ST

West Newton	1203	WASHINGTON ST
West Newton	1211	WASHINGTON ST
West Newton	1213-1215	WASHINGTON ST
West Newton	1221	WASHINGTON ST
West Newton	1229	WASHINGTON ST
West Newton	1235	WASHINGTON ST
West Newton	1239-1247	WASHINGTON ST
West Newton	1253	WASHINGTON ST
West Newton	1274-1284	WASHINGTON ST
West Newton	1286-1294	WASHINGTON ST
West Newton	1296	WASHINGTON ST
West Newton	1298-1308	WASHINGTON ST
West Newton	1314	WASHINGTON ST
West Newton	1326	WASHINGTON ST
West Newton	1345-1355	WASHINGTON ST
West Newton	1357-1369	WASHINGTON ST
West Newton	1362	WASHINGTON ST
West Newton	1371-1379	WASHINGTON ST
West Newton	1381	WASHINGTON ST
West Newton	1385-1389	WASHINGTON ST
West Newton	1391-1397	WASHINGTON ST
West Newton	978	WATERTOWN ST
West Newton	979	WATERTOWN ST
West Newton	989-1003	WATERTOWN ST

Add lot as VC3

West Newton	60	Highland St
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Change depth of VC3: up to 100' from Washington St then VC2

Newtonville	787	WASHINGTON ST
Newtonville	793-821	WASHINGTON ST
Newtonville	823-833	WASHINGTON ST
Newtonville	839-853	WASHINGTON ST
Newtonville	885	WASHINGTON ST
Newtonville	891-897	WASHINGTON ST



Memorandum

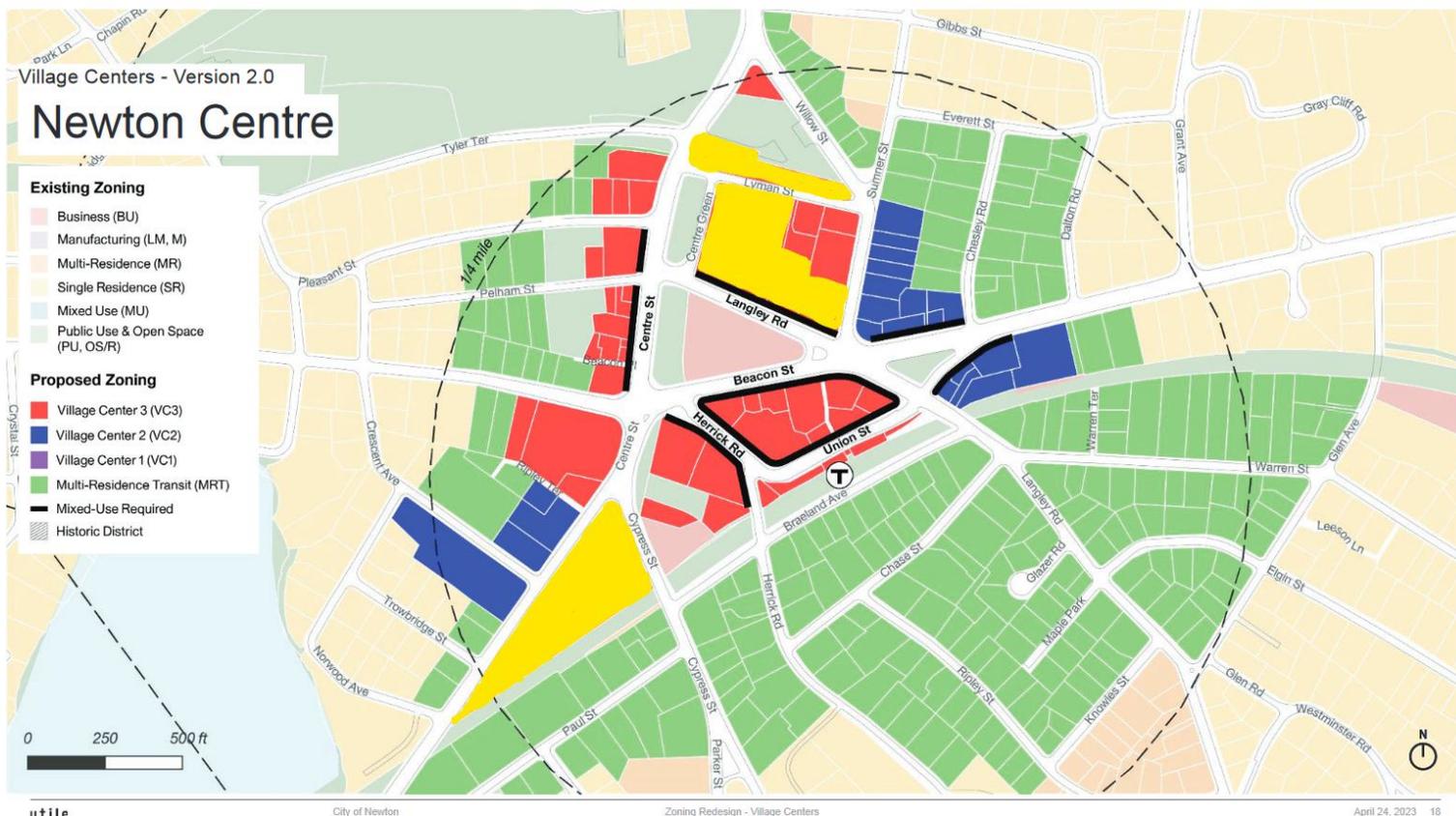
To: Barney S. Heath, Director of Planning and Development;
Jennifer Caira, Deputy Director

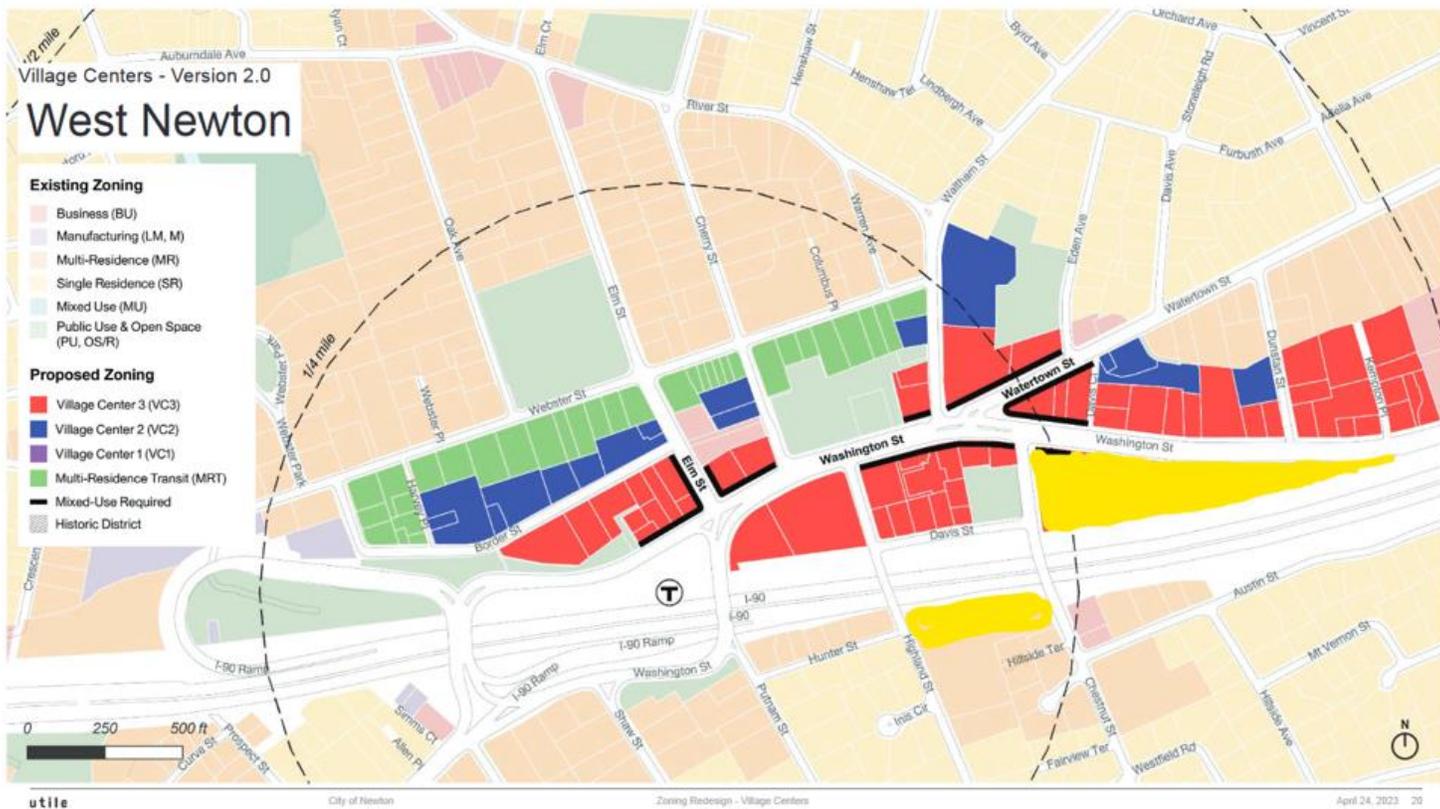
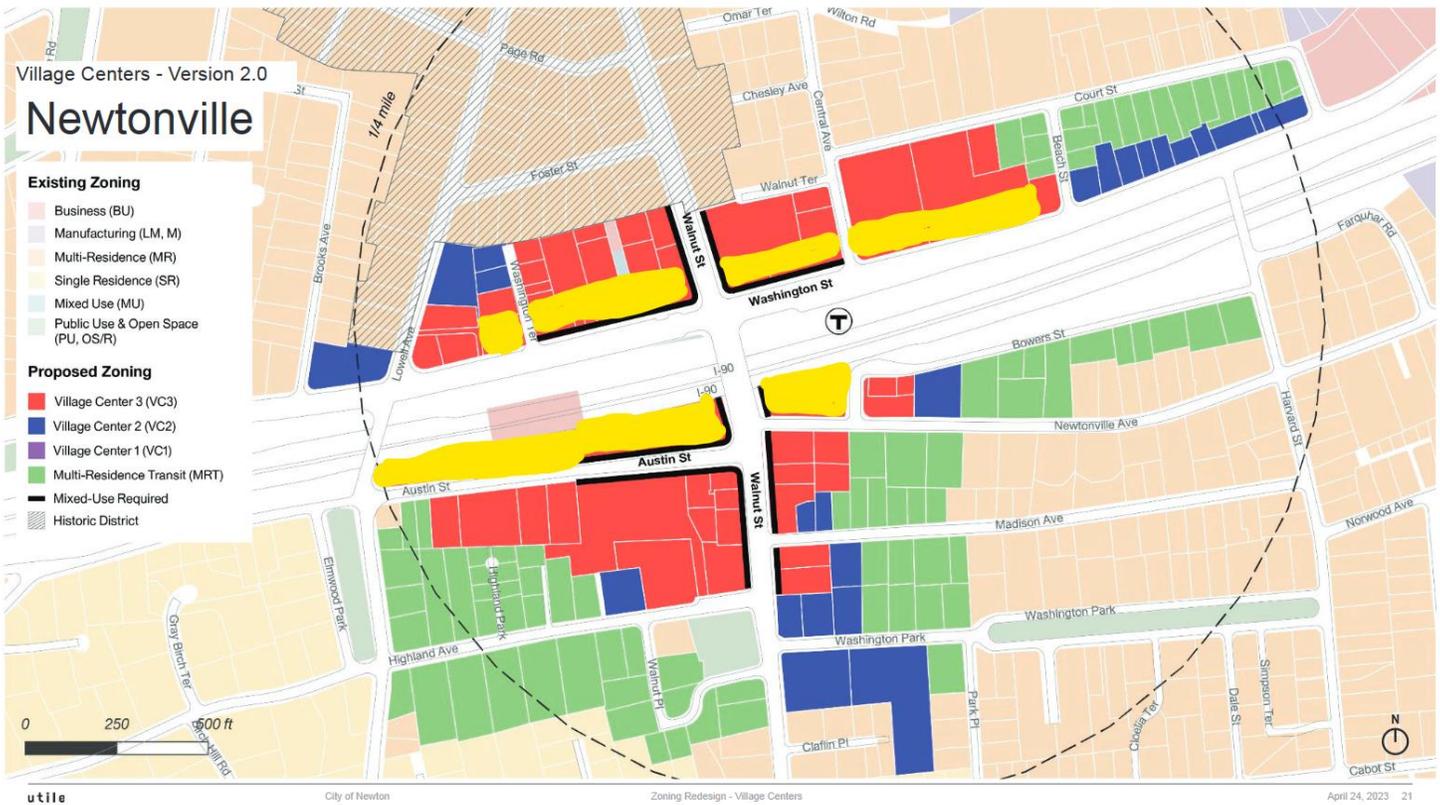
From: Councilor Pam Wright

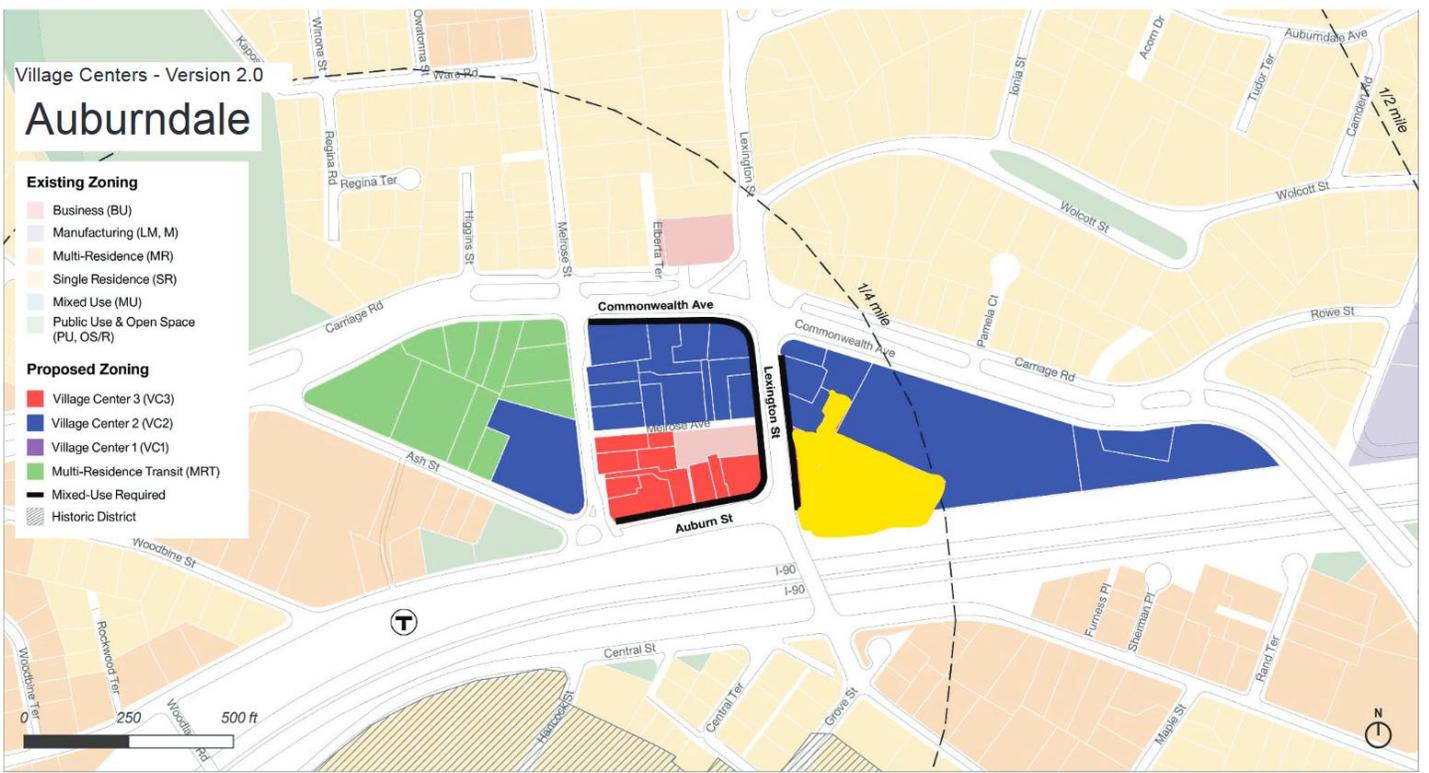
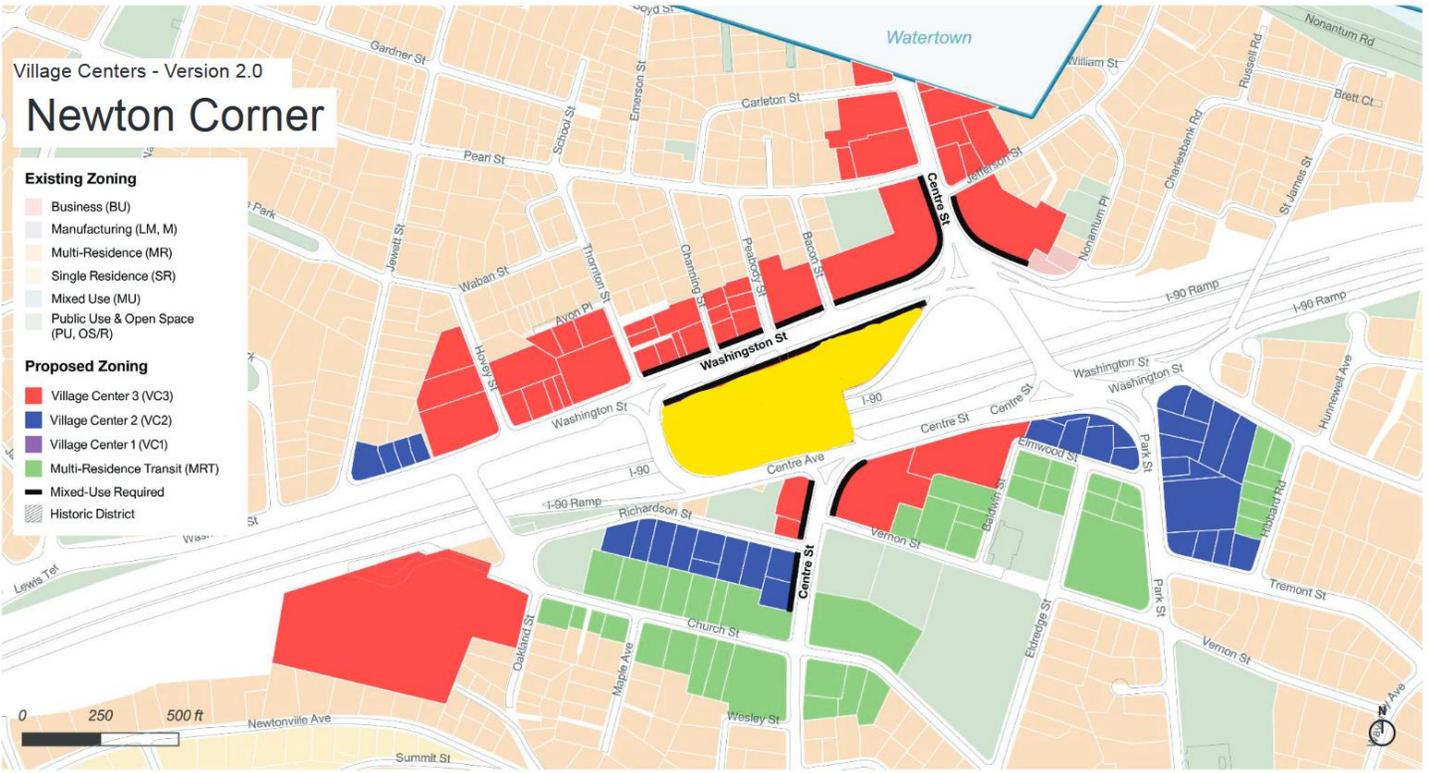
Re: Amendments to VCOD maps updated

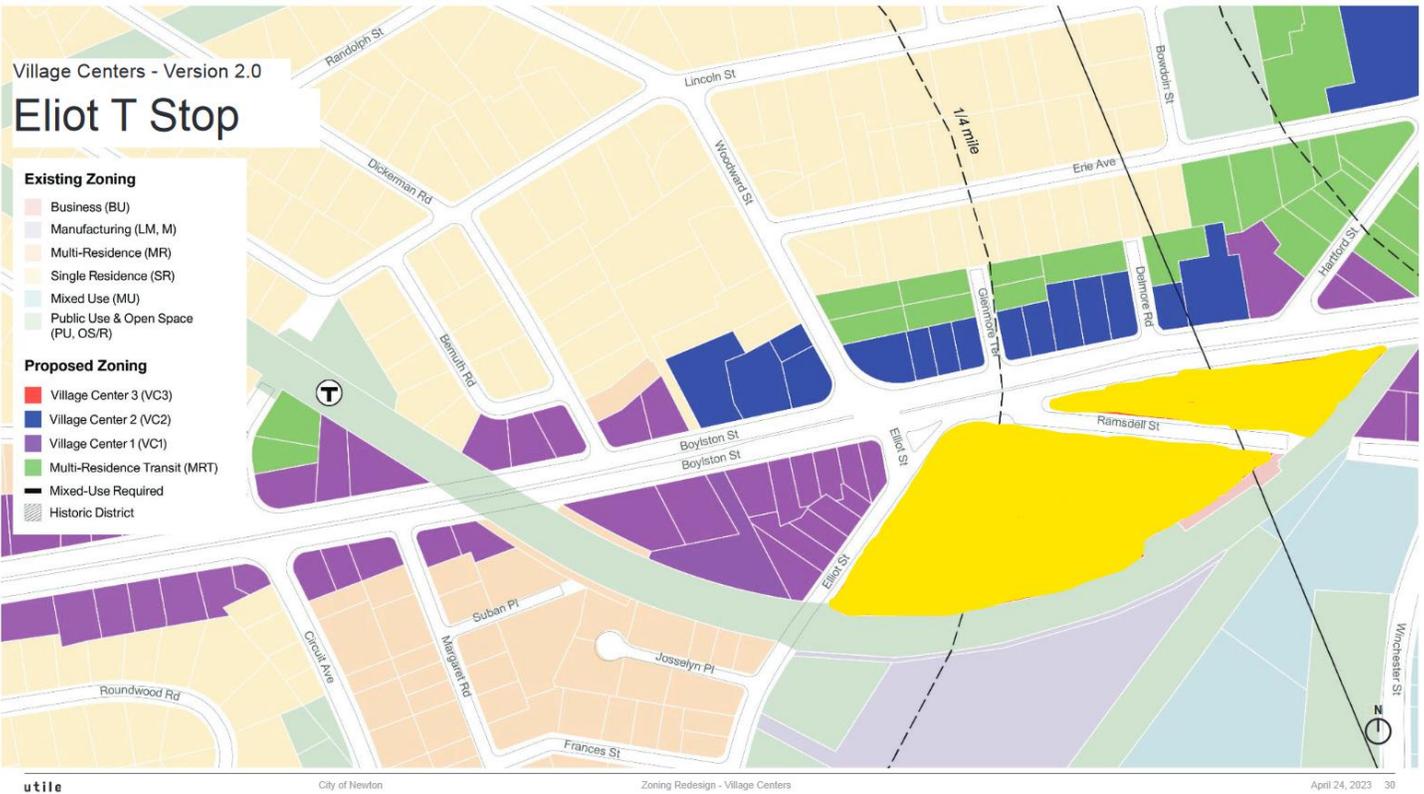
Date: August 18, 2023

I believe we are to discuss the maps lot by lot and I want to include visual maps in my recommendations. I also accidentally excluded Newton Highlands. Yellow areas are the only recommended VC3. All other VC3 (in red) should change to VC2 (blue). My initial list may have excluded a few lots.









Change from VC3 to VC2

Village	Number	Street
Auburndale	305-307	AUBURN ST
Auburndale	309-315	AUBURN ST
Auburndale	319	AUBURN ST
Auburndale	327-349	AUBURN ST
Auburndale	450	LEXINGTON ST
Auburndale	453	LEXINGTON ST
Auburndale	278	MELROSE ST
Auburndale	280-282	MELROSE ST
Auburndale	284	MELROSE ST
Auburndale	286	MELROSE ST
Eliot St T	SBL: 51026 0007A	RAMSDELL ST
Newton Centre	776	BEACON ST
Newton Centre	780	BEACON ST
Newton Centre	790-794	BEACON ST
Newton Centre	796	BEACON ST

Newton Centre	808	BEACON ST
Newton Centre	848L	BEACON ST
Newton Centre	1148	CENTRE ST
Newton Centre	1179-1181	CENTRE ST
Newton Centre	1185-1197	CENTRE ST
Newton Centre	1199-1217	CENTRE ST
Newton Centre	1221-1227	CENTRE ST
Newton Centre	1229-1235	CENTRE ST
Newton Centre	1239-1243	CENTRE ST
Newton Centre	1247-1249	CENTRE ST
Newton Centre	1251-1253	CENTRE ST
Newton Centre	1253-1257	CENTRE ST
Newton Centre	1255	CENTRE ST
Newton Centre	1261-1269	CENTRE ST
Newton Centre	1280	CENTRE ST
Newton Centre	1294	CENTRE ST
Newton Centre	1296-1298	CENTRE ST
Newton Centre	1299	CENTRE ST
Newton Centre	1301	CENTRE ST
Newton Centre	17-31	HERRICK RD
Newton Centre	39	HERRICK RD
Newton Centre	47-61	LANGLEY RD
Newton Centre	14-Dec	LYMAN ST
Newton Centre	14R	LYMAN ST
Newton Centre	12	PELHAM ST
Newton Centre	17	PELHAM ST
Newton Centre	191	SUMNER ST
Newton Centre	195	SUMNER ST
Newton Centre	360 sf lot	UNION ST
Newton Centre	1400 sf lot	UNION ST
Newton Centre	3060 sf lot	UNION ST
Newton Centre	3300 sf lot	UNION ST

Newton Centre	49-63	UNION ST
Newton Centre	50	UNION ST
Newton Centre	65-73	UNION ST
Newton Centre	70	UNION ST
Newton Centre	93-105	UNION ST
Newton Corner	6477 sf LOT	AVON PL
Newton Corner	12	AVON PL
Newton Corner	249	CENTRE ST
Newton Corner	258	CENTRE ST
Newton Corner	259	CENTRE ST
Newton Corner	261-275	CENTRE ST
Newton Corner	268	CENTRE ST
Newton Corner	270-276	CENTRE ST
Newton Corner	280-292	CENTRE ST
Newton Corner	283-291	CENTRE ST
Newton Corner	400	CENTRE ST
Newton Corner	427-443	CENTRE ST
Newton Corner	430	CENTRE ST
Newton Corner	447	CENTRE ST
Newton Corner	31	CHANNING ST
Newton Corner	32	CHANNING ST
Newton Corner	34	CHANNING ST
Newton Corner	276	CHURCH ST
Newton Corner	278	CHURCH ST
Newton Corner	65	JEFFERSON ST
Newton Corner	65	JEFFERSON ST
Newton Corner	21-23	PEABODY ST
Newton Corner	25-27	PEABODY ST
Newton Corner	19	PEARL ST
Newton Corner	42	THORNTON ST
Newton Corner	44	THORNTON ST
Newton Corner	next to 371 Washington	THORNTON ST

Newton Corner	235-241	WASHINGTON ST
Newton Corner	303-321	WASHINGTON ST
Newton Corner	323-333	WASHINGTON ST
Newton Corner	337	WASHINGTON ST
Newton Corner	341-349	WASHINGTON ST
Newton Corner	351	WASHINGTON ST
Newton Corner	355	WASHINGTON ST
Newton Corner	361-363	WASHINGTON ST
Newton Corner	371	WASHINGTON ST
Newton Corner	399-403	WASHINGTON ST
Newton Corner	405-409	WASHINGTON ST
Newton Corner	431	WASHINGTON ST
Newton Corner	next to 371	WASHINGTON ST
Newton Corner	next to 405	WASHINGTON ST
Newton Highlands	1637	CENTRE ST
Newton Highlands	49	FLORAL ST
Newton Highlands	49	FLORAL ST
Newton Highlands	72	FLORAL ST
Newton Highlands	8-Feb	HARTFORD ST
Newton Highlands	16-20	LINCOLN ST
Newton Highlands	22-32	LINCOLN ST
Newton Highlands	23-33	LINCOLN ST
Newton Highlands	21-Mar	LINCOLN ST
Newton Highlands	35-41	LINCOLN ST
Newton Highlands	14-Apr	LINCOLN ST
Newton Highlands	1149	WALNUT ST
Newton Highlands	1151	WALNUT ST
Newton Highlands	1153-1159	WALNUT ST
Newton Highlands	1156-1160	WALNUT ST
Newton Highlands	1170-1176	WALNUT ST
Newton Highlands	1173-1177	WALNUT ST
Newton Highlands	1181-1189	WALNUT ST

Newton Highlands	1186	WALNUT ST
Newton Highlands	1191	WALNUT ST
Newton Highlands	1193	WALNUT ST
Newton Highlands	1194	WALNUT ST
Newton Highlands	1197-1203	WALNUT ST
Newtonville	12	AUSTIN ST
Newtonville	28	AUSTIN ST
Newtonville	40	AUSTIN ST
Newtonville	46-48	AUSTIN ST
Newtonville	60	AUSTIN ST
Newtonville	66-68	AUSTIN ST
Newtonville	74	BOWERS ST
Newtonville	80-86	BOWERS ST
Newtonville	107	CENTRAL ST
Newtonville	119	CENTRAL ST
Newtonville	90	COURT ST
Newtonville	19	HIGHLAND AVE
Newtonville	162	LOWELL AVE
Newtonville	304	NEWTONVILLE AVE
Newtonville	439	NEWTONVILLE AVE
Newtonville	454	NEWTONVILLE AVE
Newtonville	456	NEWTONVILLE AVE
Newtonville	246-254	WALNUT ST
Newtonville	288	WALNUT ST
Newtonville	303	WALNUT ST
Newtonville	304-306	WALNUT ST
Newtonville	305	WALNUT ST
Newtonville	308-322	WALNUT ST
Newtonville	309-321	WALNUT ST
Newtonville	309R	WALNUT ST
Newtonville	323-335	WALNUT ST
Newtonville	324	WALNUT ST

Newtonville	330-334	WALNUT ST
Newtonville	743	WASHINGTON ST
Newtonville	899	WASHINGTON ST
Newtonville	911	WASHINGTON ST
Thompsonville	325	BOYLSTON ST
Thompsonville	327	BOYLSTON ST
Thompsonville	335-339	BOYLSTON ST
Thompsonville	345	BOYLSTON ST
Thompsonville	373-375	BOYLSTON ST
Thompsonville	379	BOYLSTON ST
Thompsonville	383-387	BOYLSTON ST
Thompsonville	1	JACKSON ST
Thompsonville	13	JACKSON ST
Thompsonville	15	JACKSON ST
Thompsonville	17	JACKSON ST
Thompsonville	21	JACKSON ST
Thompsonville	30-34	JACKSON ST
Thompsonville	31	JACKSON ST
Thompsonville	7	JACKSON ST
Thompsonville	405	LANGLEY RD
Thompsonville	412	LANGLEY RD
Thompsonville	415	LANGLEY RD
Thompsonville	416	LANGLEY RD
Thompsonville	418	LANGLEY RD
Thompsonville	422	LANGLEY RD
West Newton	24	BORDER ST
West Newton	30	BORDER ST
West Newton	38	BORDER ST
West Newton	8	BORDER ST
West Newton	1	CHESTNUT ST REAR
West Newton	12	DAVIS CT
West Newton	15	DAVIS ST

West Newton	19-21	DAVIS ST
West Newton	23	DAVIS ST
West Newton	31	DAVIS ST
West Newton	33	DAVIS ST
West Newton	32	DUNSTAN ST
West Newton	34	DUNSTAN ST
West Newton	12	KEMPTON PL
West Newton	18	KEMPTON PL
West Newton	24	KEMPTON PL
West Newton	25	KEMPTON PL
West Newton	5	LUCAS CT
West Newton	11	LUCAS CT
West Newton	15	SPENCER ST
West Newton	521	WALTHAM ST
West Newton	527	WALTHAM ST
West Newton	1149	WASHINGTON ST
West Newton	1151	WASHINGTON ST
West Newton	1157	WASHINGTON ST
West Newton	1169	WASHINGTON ST
West Newton	1171-1173	WASHINGTON ST
West Newton	1179	WASHINGTON ST
West Newton	1185	WASHINGTON ST
West Newton	1191	WASHINGTON ST
West Newton	1197	WASHINGTON ST
West Newton	1203	WASHINGTON ST
West Newton	1211	WASHINGTON ST
West Newton	1213-1215	WASHINGTON ST
West Newton	1221	WASHINGTON ST
West Newton	1229	WASHINGTON ST
West Newton	1235	WASHINGTON ST
West Newton	1239-1247	WASHINGTON ST
West Newton	1253	WASHINGTON ST

West Newton	1274-1284	WASHINGTON ST
West Newton	1286-1294	WASHINGTON ST
West Newton	1296	WASHINGTON ST
West Newton	1298-1308	WASHINGTON ST
West Newton	1314	WASHINGTON ST
West Newton	1326	WASHINGTON ST
West Newton	1345-1355	WASHINGTON ST
West Newton	1357-1369	WASHINGTON ST
West Newton	1362	WASHINGTON ST
West Newton	1371-1379	WASHINGTON ST
West Newton	1381	WASHINGTON ST
West Newton	1385-1389	WASHINGTON ST
West Newton	1391-1397	WASHINGTON ST
West Newton	978	WATERTOWN ST
West Newton	979	WATERTOWN ST
West Newton	989-1003	WATERTOWN ST

Add lot as VC3 – only section that runs between Highland and Chestnut. This lot is over 30,000 sf and will be by special permit.

West Newton	60	Highland St
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Change depth of VC3: up to 100' from Washington St then VC2

Newtonville	787	WASHINGTON ST
Newtonville	793-821	WASHINGTON ST
Newtonville	823-833	WASHINGTON ST
Newtonville	839-853	WASHINGTON ST
Newtonville	885	WASHINGTON ST
Newtonville	891-897	WASHINGTON ST

Keep as VC3

Auburndale	271-283	AUBURN ST
Auburndale	287-289	AUBURN ST

Eliot St T	926	BOYLSTON ST
Eliot St T	940	BOYLSTON ST
Eliot St T	950	BOYLSTON ST
Eliot St T	960	BOYLSTON ST
Eliot St T	978	BOYLSTON ST
Eliot St T	980	BOYLSTON ST
Eliot St T	14	ELLIOT ST
Eliot St T	26	ELLIOT ST
Eliot St T	38	RAMSDELL ST
Eliot St T	38R	RAMSDELL ST
Eliot St T	56	RAMSDELL ST
Newton Centre	37600 sf lot	CENTRE ST
Newton Centre	1188	CENTRE ST
Newton Centre	1196	CENTRE ST
Newton Centre	1310	CENTRE ST
Newton Centre	1314	CENTRE ST
Newton Centre	1330-1340	CENTRE ST
Newton Centre	15	CYPRESS ST
Newton Centre	10	LANGLEY RD
Newton Centre	22-28	LANGLEY RD
Newton Centre	30-34	LANGLEY RD
Newton Centre	36-46	LANGLEY RD
Newton Centre	209-213	SUMNER ST
Newton Corner	296-334	WASHINGTON ST
Newtonville	33-41	AUSTIN ST
Newtonville	773	WASHINGTON ST
Newtonville	787	WASHINGTON ST
Newtonville	793-821	WASHINGTON ST
Newtonville	823-833	WASHINGTON ST
Newtonville	839-853	WASHINGTON ST
Newtonville	885	WASHINGTON ST
Newtonville	891-897	WASHINGTON ST

West Newton	24	CHESTNUT ST REAR
West Newton	1180	WASHINGTON ST
West Newton	1200	WASHINGTON ST
West Newton	1210-1230	WASHINGTON ST
West Newton	1236	WASHINGTON ST
West Newton	1250	WASHINGTON ST

Hi,

In the regards to fairness and equity as we apply zoning changes across the city I would like to suggest adding MRT zoning in the ½ mile of the Boston College T stop. This is also in hopes of avoiding situations like the recent Special Permit for 71 Commonwealth ave where a development of 5 very large units with 3.2 parking ratio will be built.

I'm still not clear why this transit node was not included in the MRT district. I understand that some of the lots are owned by Boston College but as I went thru the Assessor's data base many are not. Some examples- 37, 41,51, 53, 71 and 86 Comm ave are MR1, 85-103 Comm ave are SR2 and 27-29 Com ave MR2.

Also, a few months ago we discussed uses in Nonantum village center VCOD to not allow auto body shops. Is this the recommendation from Planning?

Thank you.

Maria Scibelli Greenberg (she/her)
Newton Ward 1 City Councilor

Ideas for changes to the map based on a meeting with Alison Leary and Maria Greenberg.

Legend

- In the areas that are filled in with a darker color no change is proposed.
- Green border/pale yellow fill – potential areas for MRT
- Red border / pale red fill – potential area for VC3
- Blue border/ pale blue fill – potential area for VC2
- Green outline / pale blue or pale red inside – On current maps they are MRT but could be VC2 or VC3.
- Blue outline / pale red inside -- On current maps they are VC2 but could be VC3.
- Red outline / pale blue inside -- On current maps they are VC3 but could be VC2.

Newton Highlands / Eliot T / Rt. 9



Detail of above image:

- Additional MRT to connect Newton Highlands to Eliot.
- There are many large Victorians on both Lincoln and Erie.
- Right next to Eliot are three lots owned by the same person. That's why the MRT goes up Harrison.



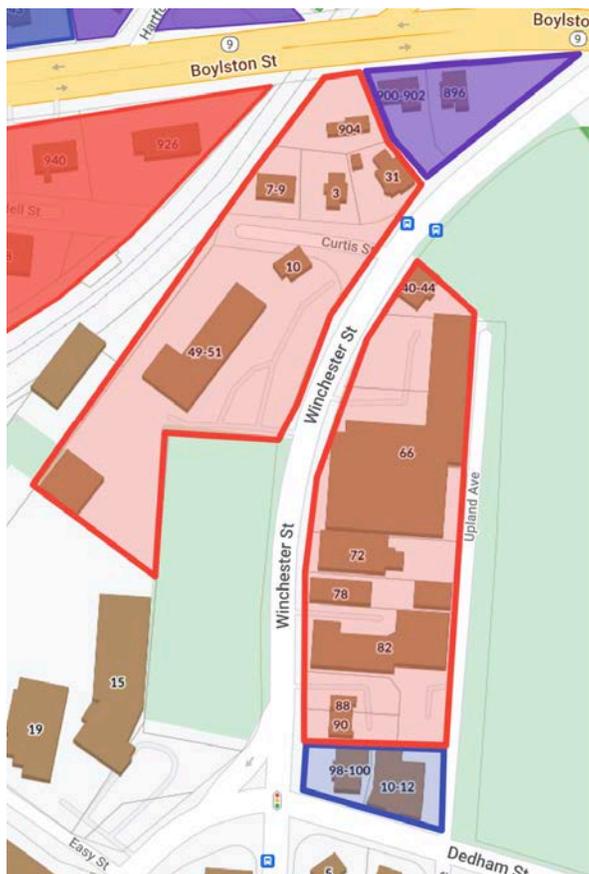
- Additional MRT down Walnut and Lake Ave. as they are so close to the T. There is an entrance to the T on Hyde St. so these lots are very close to transit.



- The section of VC1 that is not filled in with purple is hardly a walkable area.



- An area that could have more VC3. Especially on the west side of Winchester St. – large underused lot with a 2 story building. About 1/3 mile from T.
- The VC3 extends to Rt. 9 because that lot has same owner as one on Winchester St. Could access from there.



Auburndale

- The area for more VC2 on the left side of this map currently has Newton Housing Authority buildings. In future may want to do more.
- Star market and parking area could have more height, especially near the Pike



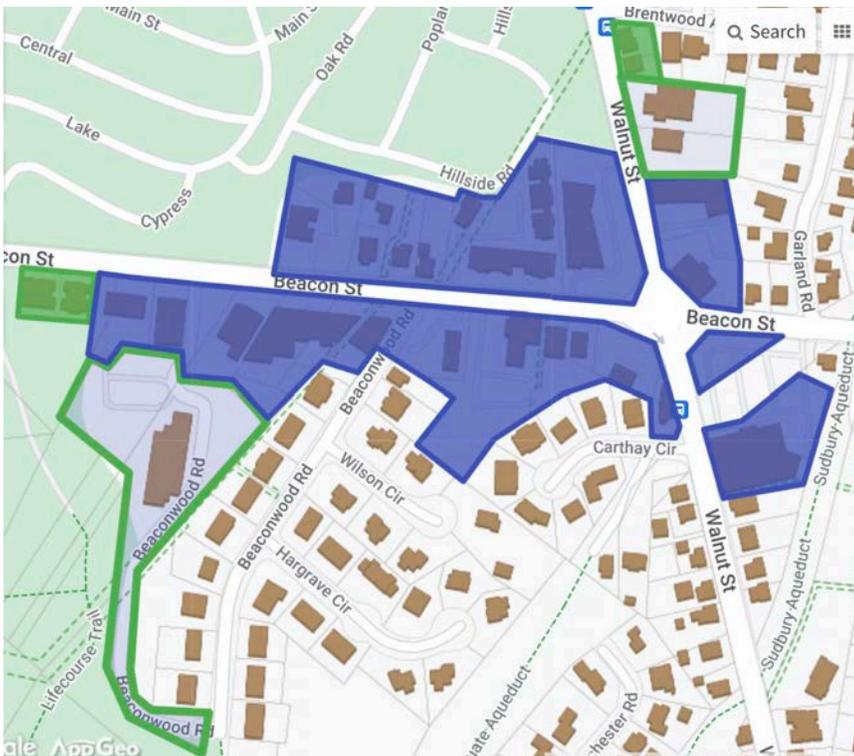
Waban

- The Windsor Club could be VC3. It may never change but if it does it should allow taller buildings.
- Waban should have some VC3.
- The MBTA parking lot and the two housing authority lots would be a good place for VC3.



Four Corners

- The lot that is currently MRT on the bottom left corner of this map could be VC2. It currently has an apartment building that one day they might want to rebuild.
- Two more lots on Walnut could be VC2.



West Newton



- The MBTA parking lot in Waban is zoned so the MBTA parking lot in West Newton could also be zoned.
- A lot of underutilized land on the left side of this map.



- The VC2 on the other side of the Pike is Second Church. They wrote a letter asking why they were not being rezoned since FUSN was. They have a large lot and large buildings now. There had been a school in one of their buildings that is no longer there. I could see how they might want to build housing on their lot.



Nonantum

- Some of Nonantum could have VC3



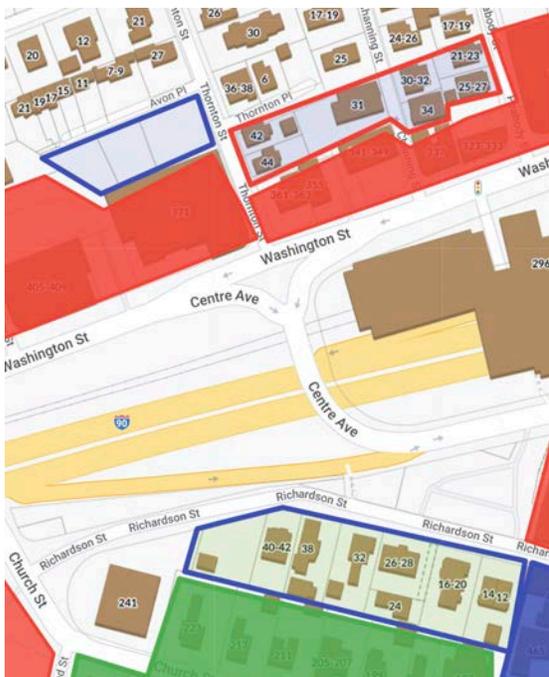
- Detail from above map



Newton Corner



- Some of the lots north of the Pike could be VC2 instead of VC3 to transition to the neighborhood



Newton Centre



- The areas that could be VC2 instead of MRT currently have 3 story buildings on the lot. MRT would be downzoning those lots.
- On Beacon St., the second lot in from the corner of Centre and Beacon currently has a 1 story commercial building. Should be VC2 or VC3 instead of MRT.





Memorandum

To: Barney S. Heath, Director of Planning and Development;
Jennifer Caira, Deputy Director

From: Councilor Julia Malakie

Re: Amendment to VCOD map for West Newton: retain current zoning for Border Street & Harvey Place Manufacturing zone

Date: August 18, 2023

I am requesting amendments to remove the Border Street and Harvey Pl parcels currently zoned Manufacturing from the proposed Village Center Overlay District. (See map below, and parcel list on following page).



Retain current zoning: Manufacturing

Number	Street	Current District	Land Use (Assessors Database)/ (current business)	Planning Dept proposed
7	Border St	Man	Small retail, offices	VC2
25	Border St	Man	Auto repair	VC2
35	Border St	Man	Comm whse (Felix Doolittle)	VC2
39-45	Border St	Man	Comm Whse	VC2
49	Border St	Man	Ind office	VC2
55-67	Border St	Man	R&D (Automatic Laundry)	VC2
11	Harvey Pl	Man	Parking, garage	MRT
17	Harvey Pl	Man	SF	MRT
21	Harvey Pl	Man	2F	MRT
79	Border St	Man	SF	MRT
83-85	Border St	Man	Condos	MRT
93	Border St	Man	Ind factory	
97	Border St	Man	Retail equip (RP Holmes)	MRT
11-13	Lucas Ct	Man	Parking lot	VC3
24	Border St	Man	Ind whse	VC3
30	Border St	Man	Auto repair	VC3
38	Border St	Man	Office bldg (Langione Dance Center)	VC3

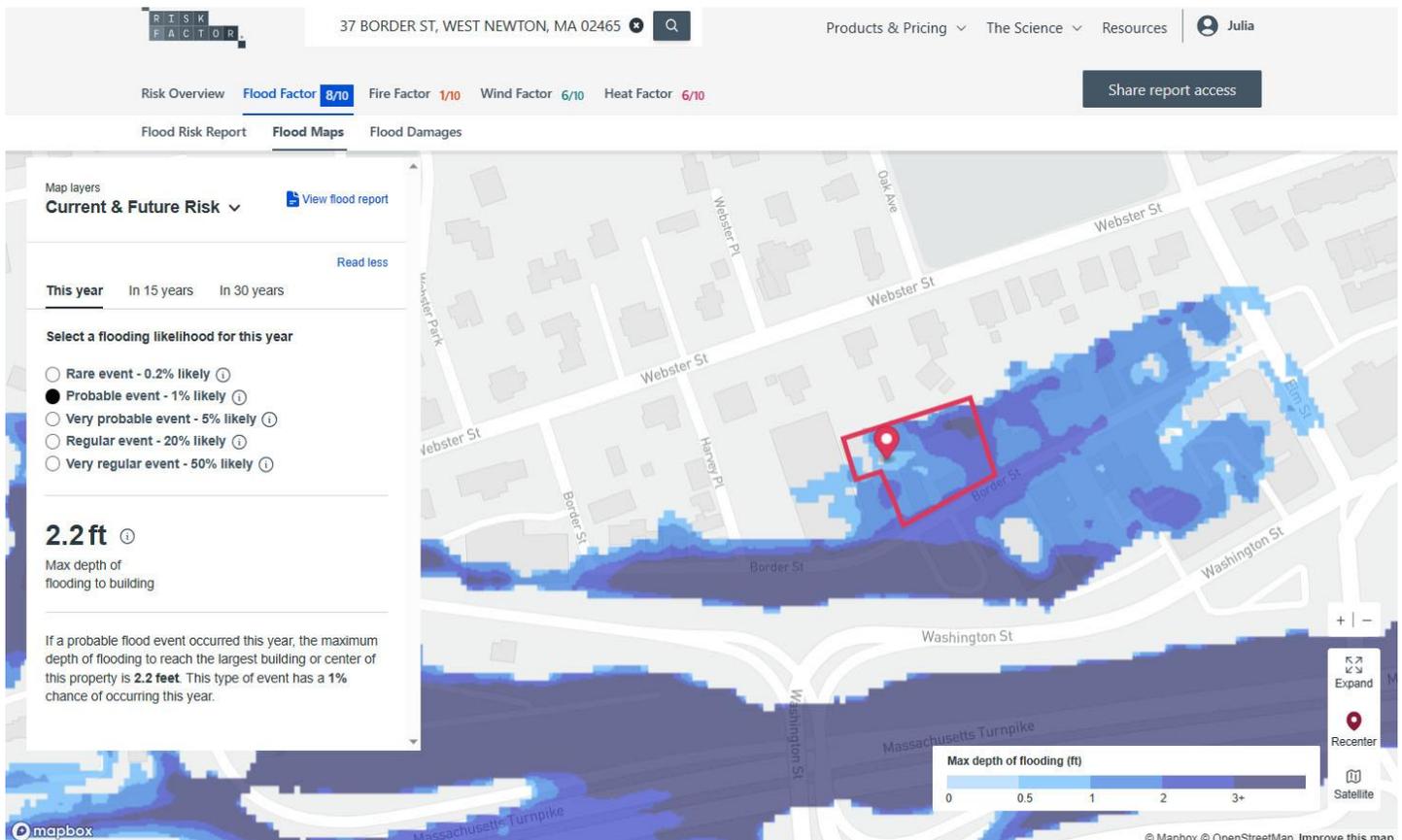
Reason #1:

Border Street is one of the few remaining Manufacturing zones in Newton, part of our shrinking commercial tax base that we should be trying to retain, and home to some very successful businesses. These include:

- [Automatic Laundry](#), a successful and growing family-owned company which supplies and services communal laundry equipment to residential properties, colleges, and businesses around New England and beyond
- [Joanne Langione Dance Center](#), a very busy dance school founded in 1976
- [Felix Doolittle](#), which produces personalized stationery and products, founded by Newton residents, watercolor artist Felix Fu and his wife Loren Sklar in 2003. Their customers are nationwide; one day there I met a couple of customers on vacation from Oregon who'd stopped by to visit.
- [R.P. Holmes](#), a third-generation family-owned plumbing and HVAC company.

Reason #2:

Border Street is an unofficial flood zone – not on the FEMA flood maps, but recognized by First Street Foundation’s riskfactor.com property lookup site:



This is not just a theoretical risk. Flooding has happened four times just since I've been on City Council: in June 2020, August 2021, and July 29 and August 8 this summer.

Border Street really wants to be Cheesecake Brook, which is culverted under the length of the street. Whatever flooding might normally occur in this low-lying area is exacerbated by the fact that at the Elm Street end, the cross sectional area of the culvert is constricted by about half, to accommodate a large MRWA water main running under Elm Street. In past decades, the culvert was apparently big enough to handle rain despite the constriction, but increasingly intense storms in recent years cause the culvert to fill up and flood the street, as I recorded on July 29 <https://youtu.be/sm6HO1wCR78> and August 8 <https://youtu.be/PX22KkCHEeM>

On August 8, when Newton got 2.77 inches of rain, Needham got about 6 inches and Billerica 7 inches, so it's pure luck that our flooding was not worse.

MWRA predictably does not want to move their water main, and DPW has not found a solution.

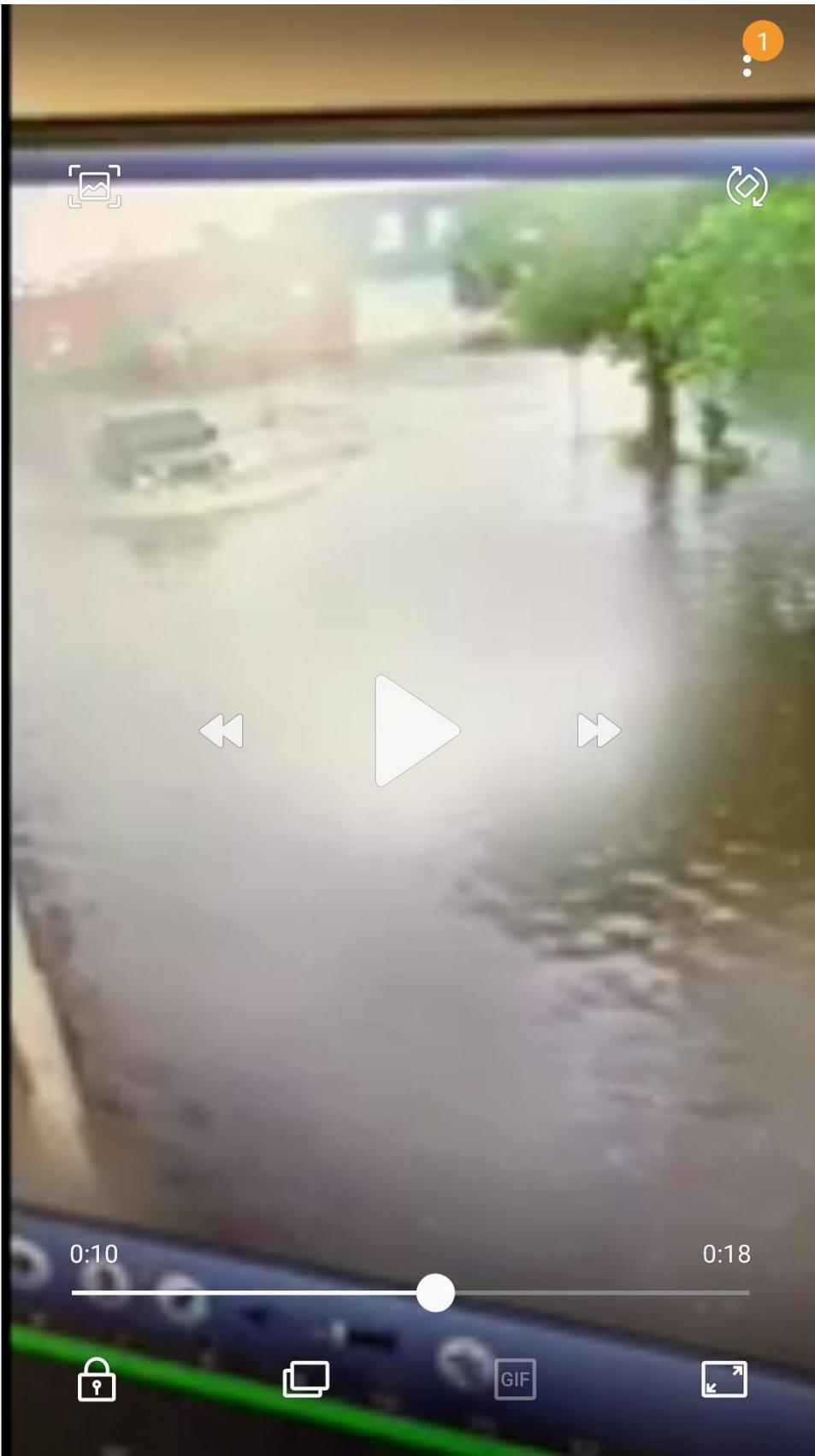
Border Street is also proposed to be part of the MBTA Communities overlay district. The state's guidelines about location of districts state:

*When choosing the location of a new multi-family zoning district, every MBTA community should consider how much of a proposed district is sensitive land on which permitting requirements and other considerations could make it challenging or inadvisable to construct multi-family housing. For example, **an MBTA community may want to avoid including in a multi-family zoning district areas that are subject to flooding, or are known habitat for rare or threatened species, or have prime agricultural soils in active agricultural use.***

As Councilor Norton has pointed out, "may" really should be "should" in the context of flooding. Newton does not need Border Street to meet our MBTA Communities target, and including it could find future residents getting up in the middle of the night to move their cars to higher ground, or finding their cars totaled like recent Library visitors.

The following pages are a few photos from each of the recent floods.

June 2020 (Automatic Laundry security camera video)



June 2020 (Automatic Laundry - flooding reached equipment area)



August 2021 (provided by Galaxy Auto Body)



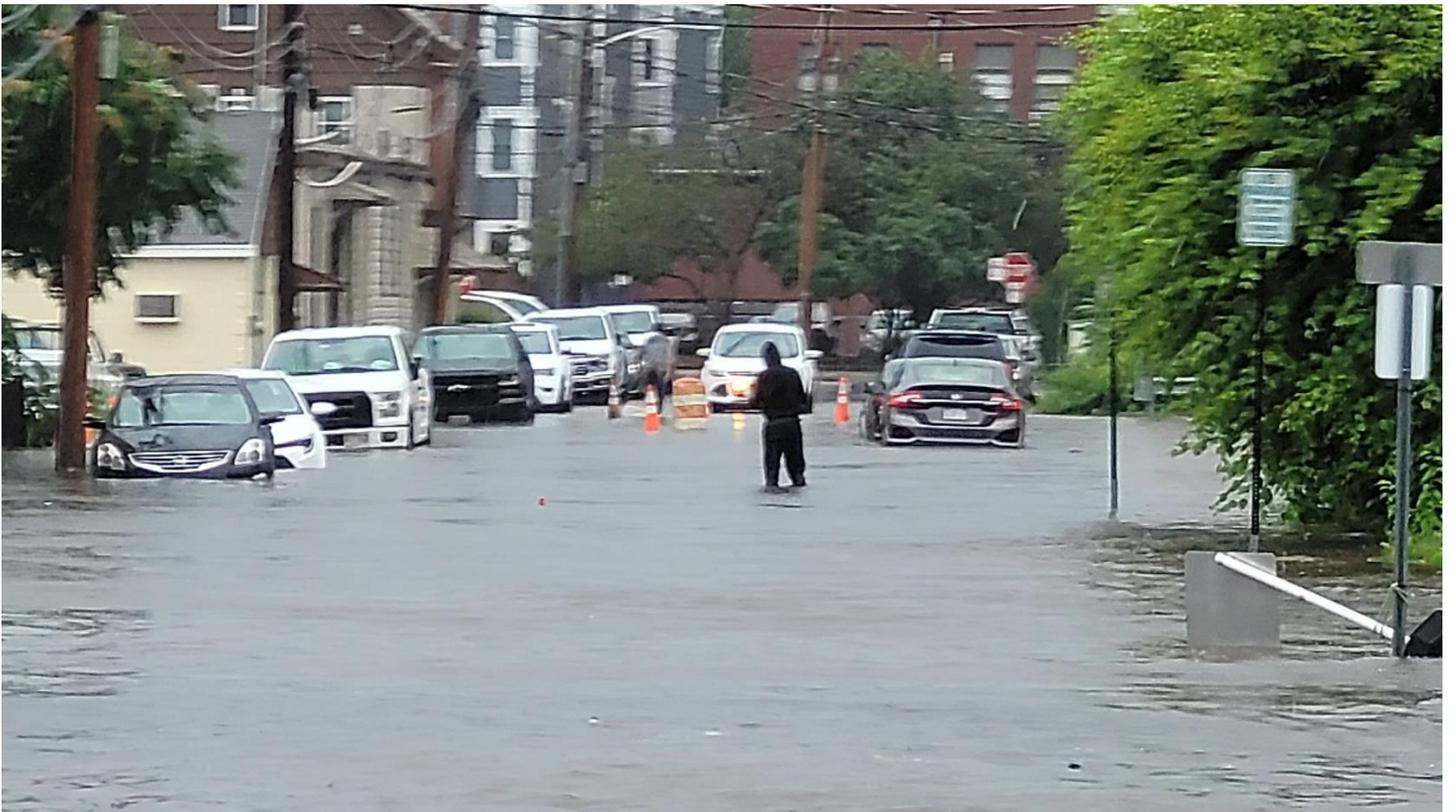
July 29, 2023



August 8, 2023



August 8, 2023



August 8, 2023



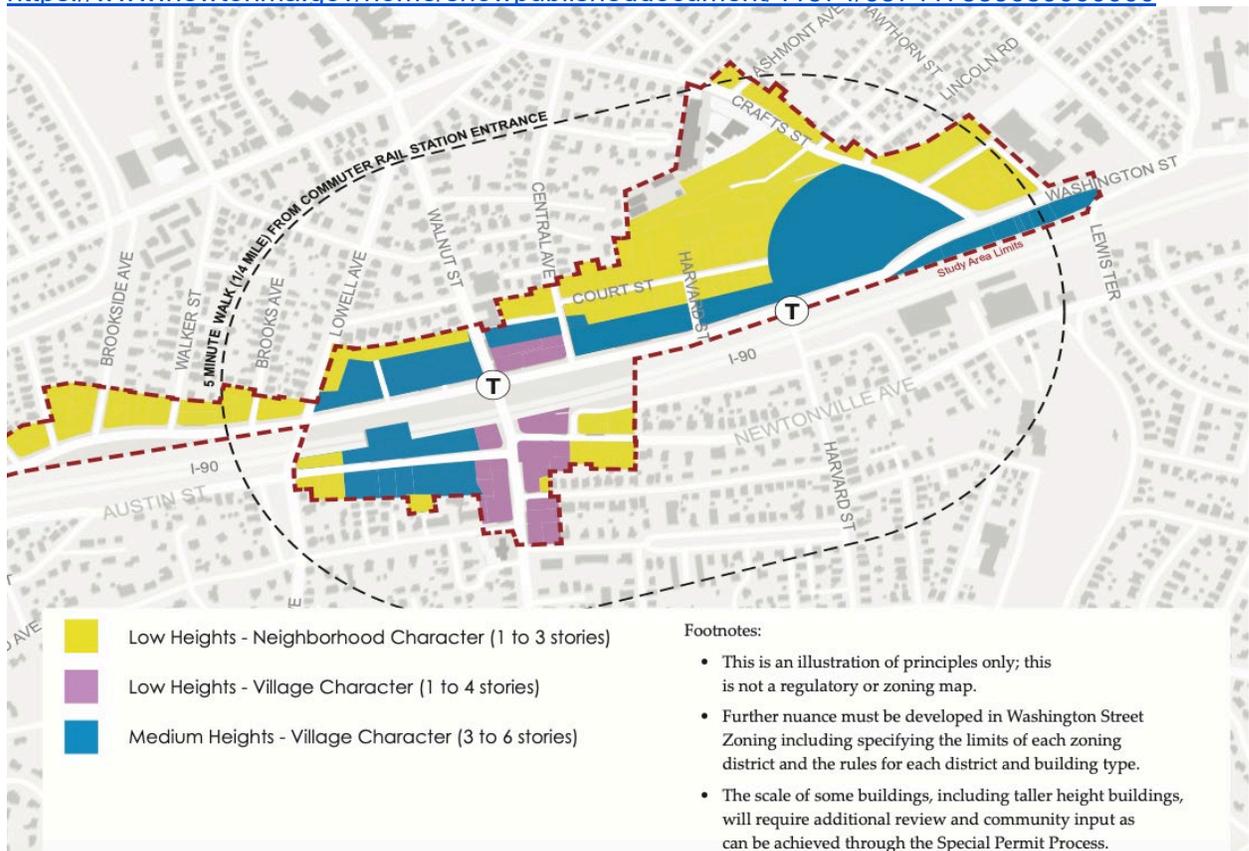


To: Zoning & Planning Committee
From: Tarik J. Lucas, Councilor At-Large, Ward 2
Date: August 4th, 2023
Subject: Amendments to Village Center Zoning

1. Change all parcels in the village of Newtonville on Walnut Street south of the Massachusetts Turnpike that are proposed in the overlay district as VC3 to VC2.

The reason for this change is simple. The densest and tallest buildings in Newtonville should be reserved for certain parcels along Washington Street. Allowing 5-story building along a narrow and small street will create a “canyon-like effect”. If a developer wishes to build 5-stories or taller, that should require a special permit. Also, the Washington Street Vision Plan, which was adopted in December 2019 and is part of Newton’s Comprehensive Plan, calls for a 4-story maximum building height on this section of Walnut Street. I have provided a link to the Washington Street Vision Plan, and a map from the vision plan which states a 4-story maximum building height on Walnut Street.

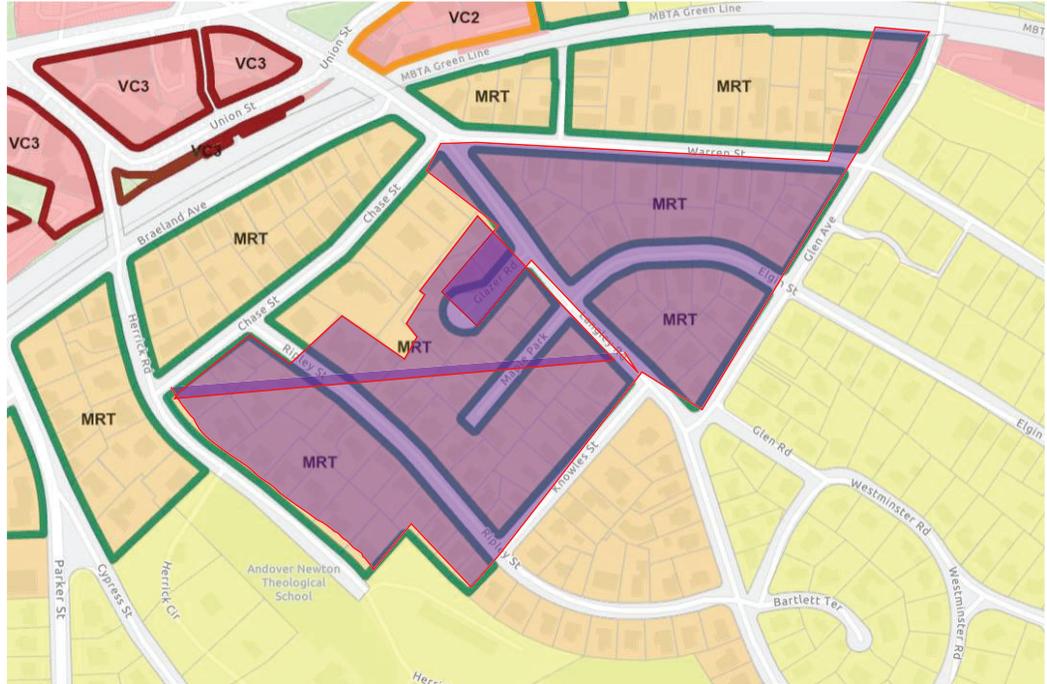
<https://www.newtonma.gov/home/showpublisheddocument/41574/637417539659000000>



Thoughts on Village Center Zoning Map V2		Interactive Zoning Map >>>>>> https://gis2.ci.newton.ma.us/vczoningcompare.html	KEY
Principle	Additional Notes	Recommended Change	
1 Focus MRT on zones already zoned MR recognizing need to keep Centre St for connectivity	Highlands and Centre MRT is mostly in areas zoned MR but does include pockets of SR zones	a. Remove all Hyde St., Cushing St. and Allerton Rd. parcels from MRT unless any needed for connectivity of 50% b. Remove 15 -55 Woodcliff from MRT c. Remove 40,46,56 Columbus from MRT (only 40 is currently multi-family) d. Consider whether UCC parsonage 60 Columbus should be MRT or not e. Remove 63 & 69 Columbus from MRT (63 is currently a 2 family) f. Remove 62 & 68 Chester from MRT g. Remove 14 Standish from MRT h. Remove 56, 50 and 38 Paul from MRT (56 is 2 family) i. Remove Chesley, Everett, Dalton parcels from MRT unless needed as transition for adj VC zone j. Remove 35 Pleasant and 40, 46, 48 and 49 Pehlem parcels from MRT (all SF/SR)	new detail since W6 meeting new thought Included in mock-up of new map Included in mock-up of new map Included in mock-up of new map not included Included in mock-up of new map Included in mock-up of new map
2 Pair back MRT zones in Newton Centre that are not likely to result in conversions due to small lot size, most are already 2 family		a. Remove 82-128 Herrick from MRT b. Remove 3-61/63 Ripley and 18/20 - 56 Ripley from MRT c. Remove 95-145 Langley and 100-154 Langley from MRT d. Remove 9/11 - 37 Knowles from MRT e. Remove 62 Chase from MRT f. Remove 112-168/170 Warren from MRT g. Remove all properties on Glen, Elgin, Glazer and Maple Park from MRT	Included in mock-up of new map Included in mock-up of new map
3 Expand MRT to close-by adjacent properties already zoned MR		a. Add 178-180 Sumner, 170-172 Sumner, 161-163 Sumner to adjacent MRT zone b. Add 192 Gibbs, 195 Gibbs to adjacent MRT zone c. Add 1120-1122 Centre to adjacent MRT zone	Included in mock-up of new map Included in mock-up of new map Included in mock-up of new map
4 BU (or current BU use) should be VC1/2/3 not MRT	BU to MRT is a significant downgrade	a. Change 1345 thru 1365 Centre from MRT to VC2 b. Change 1400 Centre St. from MRT to VC2 (similar to current use) c. Change 858 Walnut and 860-862 Walnut from MRT to VC1 d. Change 837-847 Beacon St from MRT to VC2 or VC3 e. Change 849-851 Beacon from MRT to VC1	Included in mock-up of new map Included in mock-up of new map
5 Change BU with current residential use to MRT	Create better transition business to residential	a. Add 58-60 Brentwood and 54 Brentwood to MRT	Included in mock-up of new map
6 Add more BU (BU use) zones in the 1/2 mile radius to VCZ		a. Add 53 Winchester (Creata A Cook) as VC2 or VC3 b. Add 40/44 - 90 Winchester as VC2 c. Add 98-100 Winchester and 10-12 Dedham as VC1	Included in mock-up of new map
7 Don't down zone current multi-family housing		a. Change 33 and 53 Paul St. (3 story apartment buildings) from MRT to VC2	Included in mock-up of new map
8 Encourage the adaptive re-use of historic/iconic village center buildings		a. Change 1135 Walnut St. (St. Pauls Epis) from VC2 to MRT or VC1 b. Change 1141-1145 Walnut St. (Christian Science) from VC2 to MRT or VC1	Included in mock-up of new map Included in mock-up of new map
9 Other changes		a. Remove VC3 abutting/over Sudbury Aqueduct on Lyman	Included in mock-up of new map
Open Questions			
1	Will there still be INI (inflow & infiltration) payments with by right development? If so will any portion of this be allocated to other neighborhood improvements? What about support for NewMO and BlueBike?		
2	Require minimum open space on MRT to encourage some usable green space and trees.		
3	What encourages planting big trees in the front yard?		
4	Should we have maximum parking, especially in MRT?		
5	What rules govern lot subdivision such as minimum frontage?		

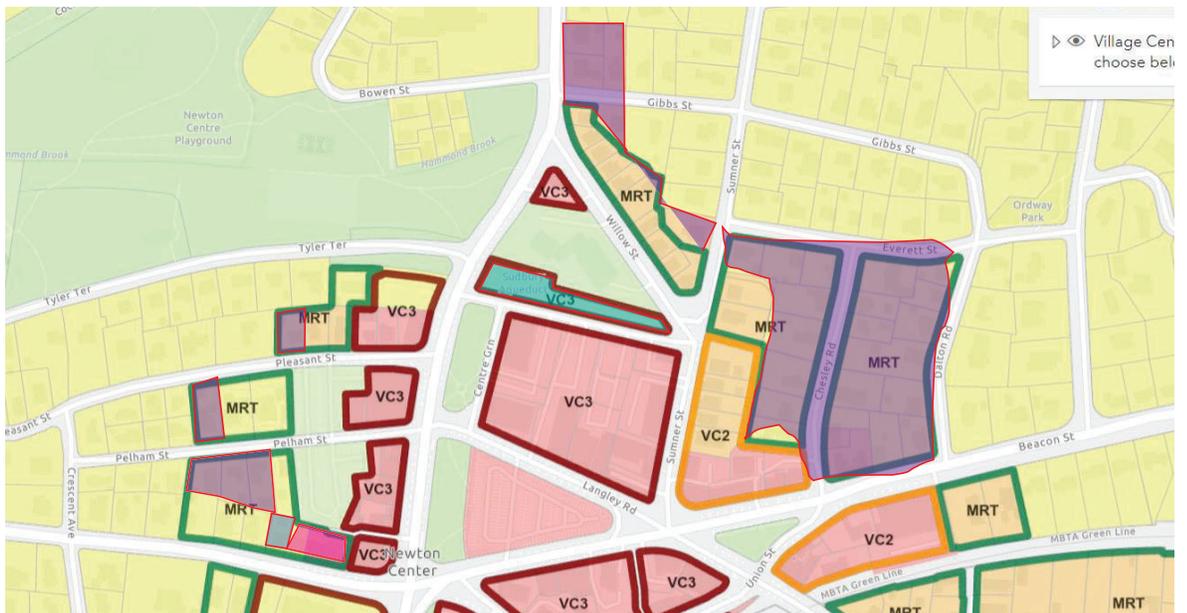
Proposed Changes in Newton Center south of T

-  Remove these properties from MRT



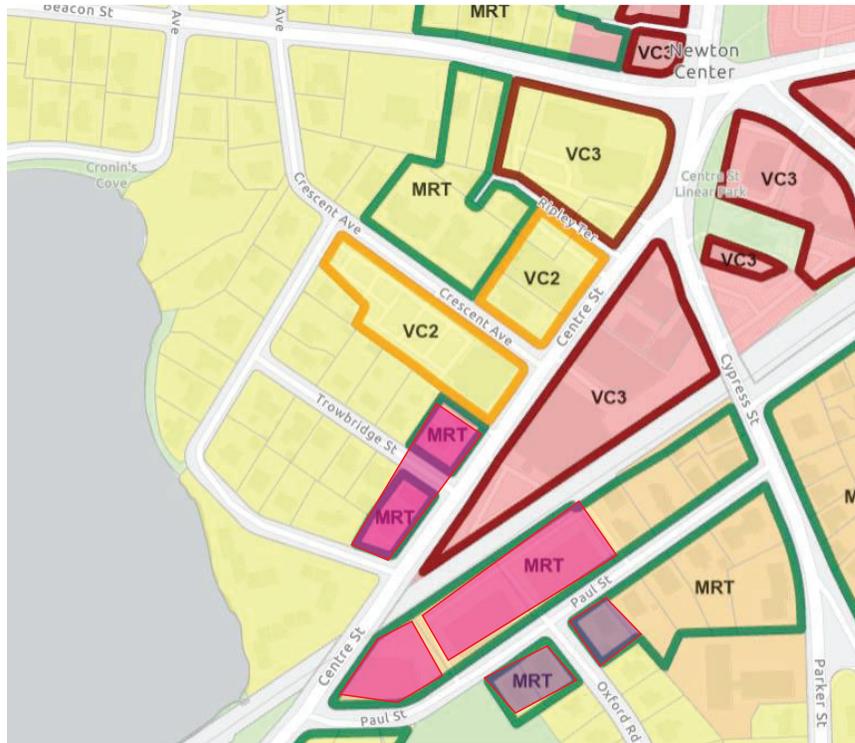
Proposed Changes in Newton Center north of T

-  Remove these properties from MRT
-  Add these properties to MRT
-  Change these properties from MRT to VC2 or VC3
-  Change these properties from MRT to VC1
-  Remove this property from VC3



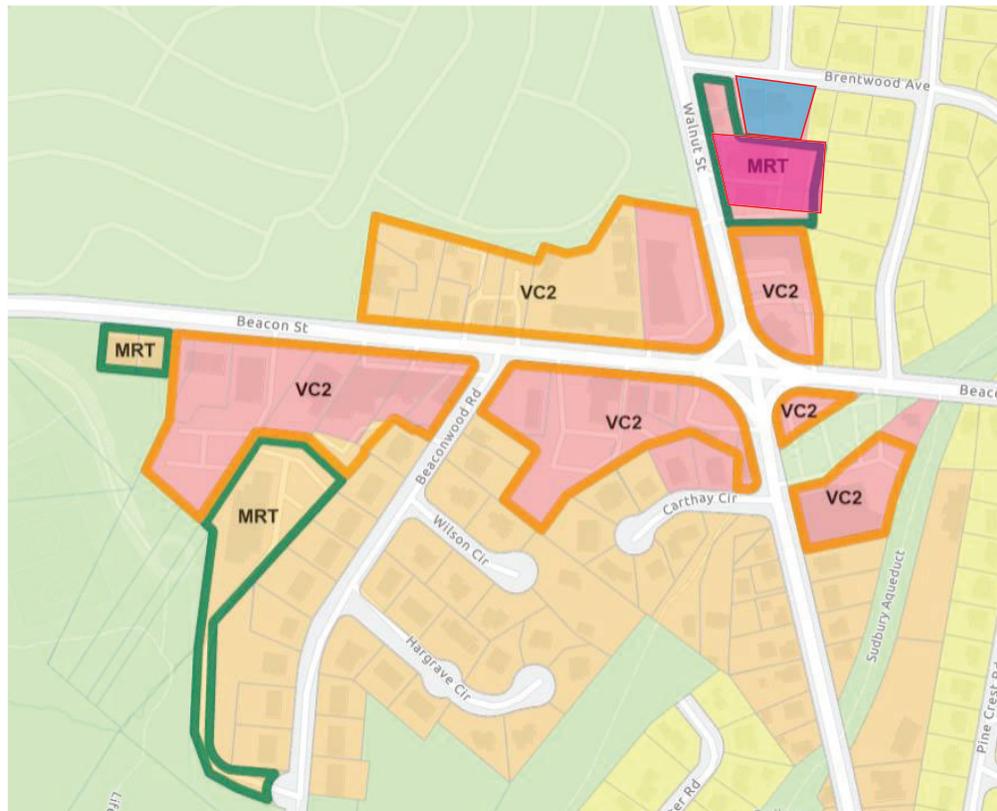
Proposed Changes in Newton Center west of T

-  Remove these properties from MRT
-  Add these properties to MRT
-  Change these properties from MRT to VC2



Proposed Changes in Four Corners

-  Add these properties to MRT
-  Add these properties to VC2



Proposed Changes in Newton Highlands

-  Remove these properties from MRT
-  Change these properties from VC2 to VC1 or MRT



Proposed Changes Highlands South

-  Remove these properties from MRT
-  Change these properties to VC2 or VC3
-  Change these properties to VC1

