



## **Zoning & Planning Committee Report**

### **City of Newton** **In City Council**

**Tuesday, August 15, 2023**

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

Also Present: Councilors Markiewicz, Downs, Lucas, Humphrey, Malakie, Laredo, Gentile, Oliver, and Norton

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

For more information regarding this meeting, a video recording can be found at the following link: [Zoning and Planning Committee - August 15, 2023 - YouTube](#)

**Chair's note:** *The Committee will review and discuss the text by substantive sections as per the staff outline, take straw votes on each section, and consider amendments relevant to each section.*

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

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

**Action:**      **Zoning & Planning Held 8-0**

**Note:**      The Chair noted that the committee will continue its work reviewing the draft text by substantive section as per the outline from staff, and take straw votes on amendments proposed as relevant to each section. Amendments approved will be incorporated into a revised version 3.0 text in advance of the public hearing resuming on Tuesday, September 26.

#### **Affordable Housing Bonus**

Zachary LeMel reminded that version 2.0 of the draft text includes a building height and footprint bonus if a property owner provides more affordable housing within a development. Option 1 would allow one additional story and up to 2,500 sf more building footprint in VC2 and VC3 zones, if 25% of the units are deed-restricted as affordable to an average 65% AMI.

Option 2 would allow 2 additional stories and an additional 2,500 sf in building footprint if 30% of the units are deed-restricted as affordable to an average 65% AMI (area median income). This bonus may not be used within 50 ft of a lot line abutting MRT or any existing residential zone and VC3 lots abutting a VC1, MRT, or residential zone are not eligible for the bonus.

Councilors Albright and Wright moved to remove option 2. Multiple Councilors expressed support for the motion, citing the limited areas where this bonus could be utilized. The motion passed on a straw vote of 7-1 (Councilor Krintzman Opposed).

Councilor Wright proposed to allow a property owner to develop a lower percentage of affordable units if some units are made affordable to lower income households. Multiple Councilors and staff acknowledged the need for this, but noted the importance of economic feasibility analyses to support such an amendment, and that this would be best accomplished by amending the inclusionary ordinance itself, the next review of which is on the calendar for the coming year. Staff agreed there is much analysis needed to get to a feasible number of units. The motion failed on a straw vote 3-5 (Councilors Crossley, Krintzman, Albright, Danberg, and Leary Opposed).

### **Parking Requirements**

Mr. LeMel summarized that version 2.0 VCOD has no on-site parking requirement for vehicles (though it is allowed), but developments having over 10 units and commercial space require bicycle parking. The Chair noted that the VC2 and VC3 districts are laid over existing business districts and the MRT district is laid over residential neighborhoods, so we can discuss parking requirements for each separately.

Five amendments were submitted regarding this section, with two focusing on vehicular parking, two regarding bicycle parking, and one regarding the granting authority for parking waivers.

1. Councilor Wright proposed to set a parking minimum of 0.5 spaces per unit within the mixed-use priority streets. This week's updates to the MBTA Communities guidelines from DHCD will now allow some dwelling units within mixed-use development to count towards compliance. Councilor Wright withdrew the amendment until staff can review the new requirements.
2. Councilor Baker moved to require 1 space per unit in all VCOD zones that are within 50 ft of a residential zone, but waivable by special permit, stating that the objective is to soften the impacts transitioning from the VCOD to residential neighborhoods. The Chair then suggested substituting a parking requirement in the MRT district. Jennifer Cairra recommended that if a parking requirement for the MRT district is added, to make it for new construction only, but exempt development under the adaptive reuse option. Multiple Councilors expressed support for having no parking minimums within the VCOD. Two straw votes failed as follows:

A straw vote to require 1 space per unit in the MRT district for new construction only failed 3-5 (Councilors Leary, Albright, Krintzman, Danberg, and Ryan Opposed)

A straw vote to require a minimum of 1 parking space per unit in the VC2 and VC3 districts within 50 ft of a residential district, but waivable by special permit also failed 1-7 (Councilors Leary, Albright, Wright, Krintzman, Crossley, Danberg, and Ryan Opposed).

First Councilor Laredo proposed to remove bicycle parking requirements, stating that we should treat parking requirements for bicycles similar to cars, but noted that he would be fine with requiring a percent for e-bikes if bicycle parking is required. Staff made clear that their intention is to greatly simplify the lengthy draft section on bicycle parking requirements. The motion failed on a straw vote of 3-5 (Councilors Leary, Albright, Crossley, Danberg, and Ryan Opposed).

Councilor Wright then proposed to add e-bike requirements, specifically to assure the ability to safely charge the battery. Multiple Councilors noted fire hazards related to charging these batteries in living areas. Mr. LeMel noted that staff would need to look into to electrical outlet requirements existing in the building code. The motion passed 8-0 on a straw vote to include requirements for e-bikes.

Councilor Laredo then moved to retain the City Council as the special permit granting authority for parking waivers within the VCOD, instead of the Planning & Development Board. Ms. Caira explained that a special permit could be sought regarding parking dimensional standards and for bicycle parking. These cases would be very few. The motion failed 4-4 on a straw vote (Councilors Albright, Krintzman, Crossley, and Danberg Opposed).

### **Dimensional Standards for Buildings**

Numerous amendments were proposed for this section.

1. Councilors Albright, Laredo and Wright proposed capping the maximum height to the main ridge of a of a pitched roof in the MRT district to 40 ft., (from 45'). This confirmed the sense of the committee over several meetings. The motion passed 8-0 on a straw vote.

2. Councilor Wright proposed to reduce the maximum allowed building footprint in the VC1 district to 3,000 sf. Chair Crossley proposed instead removing the VC1 district from the text. The Chair noted VC1 was originally intended as the transition zone from the business districts to residential neighborhoods, however, the scale did not work and VC1 was replaced with MRT to align the scale with that found in 1-2 family zones and to incentivize adaptive reuse. In addition, mapping VC1 along Route 9 met with criticism due to poor access for many of these sites especially with increased unit counts. Multiple Councilors noted that this would significantly reduce the unit capacity, with the Chair reminding that VC1 accounts for enabling approximately 2,000 units. Staff stated that once the updated MBTA Communities Guidelines have been received, that an updated unit capacity including mixed-use will be provided. A Councilor expressed concern that the amendment to eliminate VC1 may limit other options to reduce scale within the VCOD and still comply with the MBTA formula. Staff stated that there is now plenty

of room to adjust numbers and still comply with MBTA. The proposal to eliminate VC1 passed on a straw vote 4-2-2 (Councilors Krintzman and Baker Opposed) (Councilors Wright and Danberg Abstaining, noting that they wished to see the impacts on the mapping) Councilor Wright therefore withdrew her amendment.

Councilor Wright proposed modifying the size of the half story in VC2 and VC3 as follows:

3. to increase the setback for a half story from 7 ft to 10 ft, and
4. to reduce the half story pitched roof height in VC2 and VC3 to 14 ft from 18ft.

Both amendments passed unanimously on a straw vote.

5. Councilor Wright proposed to reduce the minimum depth of ground floor active uses in VC2 and VC3 to 12 ft from 25 ft

Staff noted their desire to eliminate the active use minimum depth to allow more design flexibility which the committee unanimously agreed.

6. Councilor Wright proposed regulating the unit size to 1,000 sf. Staff and councilors reminded that unit size may not be regulated in the district submitted to comply with the MBTA Communities Law. The motion was withdrawn.

7. Councilor Laredo proposed to change the nomenclature of a half story and refer to it as “a full story which is set back”. Multiple Councilors and staff expressed concern that adopting this amendment would confuse residents as a “half story”, as defined in the text, has been the nomenclature for the several years that this item has been under consideration. In addition, it is typical in zoning code, including our residential code, that a “half story” is not literally half, but limited by pitched roof, setback and other requirements. The item failed 1-6-1 (Councilors Leary, Albright, Krintzman, Crossley, Danberg, and Ryan Opposed) (Councilor Baker Abstaining) on a straw vote.

8. Councilor Baker proposed an amendment to reduce the height of the VC2 and VC3 districts by one whole story, but waivable by special permit, noting that more oversight is needed by the City Council. Mr. LeMel noted that since City Council is the only body that can set zoning, the idea that the Council has no oversight over by-right development is false. Ms. Caira followed by describing that very little is allowed to be built by right today and that removing a story will undermine the goals of the VCOD. Multiple Councilors expressed opposition to this amendment, and it was withdrawn.

9. Councilor Baker proposed to reduce the maximum height within 50 ft of a residential zone to 3 stories from 3.5 stories. Many councilors objected, and the motion was withdrawn.

10. Peter Doeringer, Planning & Development Board member, proposed to have additional protections when abutting a residential district apply, when the residential district is across a right of way. Mr. LeMel stated that the Inspectional Services Department does not see properties across a right of way as abutting and Ms. Caira stated that this amendment could

have unintended consequences. It was discussed that during mapping, such context should be taken into consideration. This amendment was withdrawn.

**Dimensional Standards for Sites**

Councilor Wright proposed that the front setback be increased from “10 ft or the average of abutting lots, whichever is less”, to 25 ft or the average of abutting lots, whichever is less. Mr. LeMel noted that the front setback in MR and SR districts is 25ft and the front setback within the VC2 and VC3 is 0 ft. The 10 ft setback of the MRT district aids in providing a transition between the core of a village center and residential neighborhoods. A Councilor noted that this setback would only apply to new construction in the MRT district, and that open porches are allowed within the front setback. The proposal was amended to “20 ft or the average of abutting lots, whichever is less”, and passed 7-0-1 (Councilor Wright Abstained).

Councilor Wright proposed to increase the side setback required in the MRT district from 7.5 ft to 10 ft. The item passed unanimously on a straw vote

Councilor Wright proposed to increase the side setback when a VC2 or VC3 district is abutting a residential district, from 15 ft to ½ the building height or 20 ft. minimum. Ms. Caira recommended against this change. The proposal was then modified to change the side setback from 15 ft to 20 ft. which passed on a straw vote 6-0-2 (Councilors Albright and Krintzman Abstained).

Committee members voted 8-0 on a motion to hold both docket items from Councilor Krintzman.

The Chair reminded that next meeting (8/21/23) begins at 5:30, and the committee will continue with and complete its review of the text and proposed amendments prior to reviewing the maps, and encouraged all who wish to get map amendments in, who have not yet done so - to get them to the clerk and staff promptly this week, well ahead of the Friday packet.

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

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

**Action:**      **Zoning & Planning Held 8-0**

**Note:**      This item was discussed concurrently with item #38-22. See report above.

The meeting adjourned at 10:32 pm.

**Respectfully Submitted,**  
**Deborah J. Crossley, Chair**