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Barney S. Heath
Director

MEMORANDUM

DATE: July 21, 2023
TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee
FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning
RE: **#38-22 Discussion and review relative to the draft Zoning Ordinance regarding village centers**
ZONING & PLANNING COMMITTEE requesting review, discussion and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to Mixed Use, business districts and village districts relative to the draft Zoning Ordinance. (formerly #88-20)
#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)
MEETING: July 24, 2023
CC: City Council
Planning Board
Jonathan Yeo, Chief Operating Officer

Introduction

The City Council's Zoning and Planning Committee (ZAP) has worked to develop new zoning for village centers over the last two years, beginning in spring 2021. In June 2022, ZAP worked through a proposed zoning framework that served as the foundation for the Version 1.0 Village Center Overlay District (VCOD) zoning ordinance, released in November 2022. In February and March 2023, ZAP again worked through a framework of proposed zoning revisions, which were then incorporated in Version 2.0, released in May 2023, of the VCOD.

As presented at the June 26 public hearing, which is currently open, City staff and consultant team are working to further refine the VCOD zoning ordinance and zoning map. This work is taking place now, so that revised material can be shared publicly before ZAP continues and then closes the public hearing in the fall.

To ensure the updated VCOD ordinance text is understood and reflects the ZAP Committee's intent, Chair Crossley is recommending a straw vote process to take place at the July 31 ZAP meeting on the VCOD zoning ordinance and the August 15 ZAP meeting on the VCOD zoning map. Planning staff offers ZAP the following framework to move through these straw votes in an efficient manner.

VCOD Zoning Ordinance Framework

The information below organizes the VCOD zoning ordinance into six principal sections resulting in eight ZAP straw votes:

1. Approval Process (review thresholds)
2. Dimensional Standards
 - a. Building
 - b. Site
3. Design Standards
 - a. Building
 - b. Site
4. Parking Requirements (vehicular and bicycle)
5. Allowed Uses
6. Affordable Housing Bonus

Each of these principal sections is broken down into:

- What this is
- Why this is being proposed
- How ZAP previously voted on these items during the June 2022 workshops, where applicable.
ZAP Reports can be found here:
 - [June 1, 2022](#)
 - [June 13, 2022](#)
 - [June 27, 2022](#)
- VCOD zoning ordinance section references

The full zoning language can be found at the following link:

<https://www.newtonma.gov/home/showpublisheddocument/101768/638221735754500000>

1. Approval Process (review thresholds)

What?

The proposal looks to set the level of review based on the size of the parcel. The larger the parcel, the greater level of review is required. Separately, a special permit, or other administrative review, may be required based on the proposed use, parking, or lot configuration.

Parcel Size	Level of Review
20,000 square feet or less	By-right (Administrative Review)
20,000 - 29,999 square feet	Site plan review (Planning Board)
30,000 square feet or more	Special permit (City Council)

Why?

- Meets MBTA Communities Law requirements to allow by-right housing
- Encourages smaller in-fill development by lowering level of review for smaller parcels
- Disincentivizes the aggregation of multiple lots for one large development
- Smaller projects can be more resilient to economic fluctuations
- Multiple buildings mean greater architectural diversity and interest

Previous ZAP Straw Vote (June 2022 - zoning framework)

Site Plan Review Threshold		Special Permit Threshold	
Yes	No	Yes	No
Leary, Albright, Wright, Krintzman, Crossley, Danberg, Baker, Ryan		Leary, Albright, Krintzman, Crossley, Danberg, Ryan	Wright, Baker

Notes:

- There was unanimous support for incorporating site plan review. Some Councilors wanted additional clarification on the threshold and if the Planning Board was the right granting authority.
- The special permit threshold for this straw vote was set at 32,670 square feet. The current proposal has been reduced to 30,000 square feet.

Zoning Code Section References

- Section 2.4 (page 4)
- Section 2.9 (page 26-27)

2. (a) Dimensional Standards for Buildings

What?

The VCOD includes four zones with maximum heights ranging from 2.5 and 4.5 stories. These zones are applied to each village center uniquely, unlike the current zoning, which has the same set of requirements for all village centers. Similarly, the maximum building footprint, which sets the overall massing of the building, is tiered ranging from 1,500 and 15,000 square feet.

	Building Footprint (max)	# of Floors (max)	Building Height (max)
Village Center 3 (VC3)	15,000 square feet	4.5 stories	75 ft - pitched roof 69 ft - flat roof
Village Center 2 (VC2)	10,000 square feet	3.5 stories	62 ft - pitched roof 56 ft - flat roof
Village Center 1 (VC1)	4,000 square feet	2.5 stories	45 ft - pitched roof 40 ft - flat roof
Multi Residence Transit (MRT)	1,500 square feet (new) + 50% of existing (reuse)	2.5 stories (pitched) 2.0 stories (flat)	40 ft - pitched roof 24 ft - flat roof

Notes:

- 3.5 stories is the maximum height allowed in the proposed overlay zone within 50 feet of abutting residential zone, including MRT
- Heights are maximums, allowing for flexible design and desired uses, particularly for ground floors active uses
- Pitched roof maximum heights are to the ridge peak
- Size of lot and setback apply, which will limit the maximum footprint size
- MRT allows a maximum of 4 units in new construction and 6 units when the existing building is reused

Why?

- Each village center is treated uniquely by how zones are mapped
- Maximum building footprint encourages smaller infill development on smaller sites
- Building footprints and heights were tested to assure economic viability
- More housing types facilitated in areas where access to amenities already exists
- Future development is more predictable (no special permit increases allowed)
- Conversion option in MRT encourages the preservation and reuse of existing buildings

Previous ZAP Straw Vote (June 2022 - zoning framework)

Village Center 3, Village Center 2, Village Center 1 (building footprint, # of floors, height)		
Yes	No	Abstain
Leary, Albright, Krintzman, Crossley, Danberg, Ryan		Wright, Baker

Notes:

- The MRT zone was not incorporated until winter 2023, which replaced where VC1 was mapped in Version 1.0. VC1 now mapped only along portions of Route 9.
- The straw vote included FAR, which has since been removed from the proposal
- The VC1 max. building footprint was 5,000 sq ft for this straw vote, now it is 4,000 sf
- The maximum building heights in MRT have been reduced through ZAP discussions held in spring 2023

Zoning Code Section References

- Section 2.5.B (page 6-7)

2. (b) Dimensional Standards for Sites

What?

The relationship of a building to the street and adjacent properties, controlled by setbacks, is important for creating quality spaces where people want to be. Like the building dimensional standards, the requirements are tiered for the four zones. Smaller setbacks in the VC3 and VC2 zones allow the building to take up more of the lot, close to the street and with a continuous street wall. The setbacks in VC1 and MRT are greater, allowing for more open space and a smooth transition from the village center cores to the surrounding neighborhoods.

	MRT	VC1	VC2	VC3
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 or Public Use District	7.5'	15'	15'	15'
Rear (min.)				
Abutting a non-Residential District	15'	15'	5'	5'
Abutting a Residential or Public Use District	15'			
Building Separation for Multiple Buildings on a Lot (min.)				
--	15'	15'	25'	25'

Notes:

- Front setbacks must be increased to create a minimum 12' wide sidewalk where one does not currently exist.

Why?

- Align rules with desired outcomes and historical context
- Will lead to clearly defined, high quality spaces (i.e. plazas, main streets, neighborhoods, etc.)

Previous ZAP Straw Vote (June 2022 - zoning framework)

Setbacks were previewed at ZAP, but a straw vote was not taken on specific metrics.

Zoning Code Section References

- Section 2.5.A (page 4-6)
- Section 2.6.A.1.b (page 8)

3. (a) Design Standards for Buildings

What?

In addition to the basic footprint and height/stories requirements, additional design standards (requirements) further regulate the overall size and shape of buildings.

- **Minimum ground floor height** - The minimum height is set based on the expected uses. Mixed-use priority streets require 15 feet, and all other streets require 12 feet, except in MRT.
- **Story height** - There are no maximum story heights, except for half-stories, but ground stories taller than 18 feet and upper stories taller than 16 feet are counted as 2 stories.
- **Half-story** - The top floor is reduced in appearance by either a flat roof stepped back from the floor below or as a pitched roof. In the MRT zone a half-story must be a pitched roof.
- **Ground story active uses** - Along mixed-use priority streets, certain active commercial uses must be provided at the ground floor.
- **Architectural features** - To incentivize quality design, bays, balconies, awnings, and porches do not count towards the building footprint within certain parameters.
- **Facade articulation** - To ensure differentiated buildings, facades more than 100 feet must be broken down by a minimum jog or recess.
- **Fenestration** - The ground floor in VC3 and VC2 must have a minimum amount of transparency to make the building inviting and accessible. The amount is determined by the type of street and the ground floor use.
- **Building entrances** - Buildings along streets must have main entrances along those streets and they must be clearly articulated.
- **Roof features/mechanicals** - The same rules for non-architectural features in Section 1.5.4.A apply to incentivize architectural variety. Mechanical equipment must be screened and not placed along the front of any building.

Why?

- Ensure quality design for by-right projects
- Create more predictability for future development
- Align the zoning with what desired uses need to operate

Previous ZAP Straw Vote (June 2022 - zoning framework)

Incorporate design standards into the zoning (site and building design standards)		
Yes	No	Abstain
Leary, Albright, Wright, Krintzman, Crossley, Danberg, Baker, Ryan		

Notes:

- This vote was on the general idea of design standards. Specific metrics were not voted on.

Zoning Code Section References

- Section 2.6.B.1-5, 2.6.B.7, 2.6.B.9-14 (pages 8-15)

3. (b) Design Standards for Sites

What?

In addition to the basic setback requirements, additional design standards (requirements) further regulate where/how a building can be located on a site.

- **Facade build out ratio** - The building wall (front elevation) facing the right of way must be proportionate to the lot width. VC3, VC2, and VC1 require a minimum of 75%.
- **Minimum sidewalk width** - A minimum width of 12 feet between the back of curb and building front elevation must be provided. The minimum front setback will have to be adjusted accordingly to accommodate this.
- **Multiple buildings and separation** - Multiple buildings on a site are allowed by-right, except in MRT, which requires a special permit. VC3/VC2 have a minimum building separation of 25 feet and VC1/MRT have a 15-foot minimum.
- **Open space** - Sites over 30,000 square feet require a minimum % of open space accessible to the public. VC3/VC2 require 5% and VC1/MRT require 30%.
- **Retaining walls** - Any retaining wall over 4 feet requires a special permit.
- **Parking setbacks** - On-site parking may not be in front of the building and has minimum setback and screening requirements.
- **Curb cuts and driveways** - Only one curb cut is allowed and must be along a secondary street if available. Driveways have a maximum width to reduce conflicts with pedestrians and cyclists.

Why?

- Ensure quality design for by-right projects
- Larger projects must provide public open space in VC2 and VC3
- Incorporate conditions normally imposed by the special permit process within the zoning

Previous ZAP Straw Vote (June 2022 - zoning framework)

Incorporate design standards into the zoning (site and building design standards)		
Yes	No	Abstain
Leary, Albright, Wright, Krintzman, Crossley, Danberg, Baker, Ryan		

Notes:

- This vote was on the general idea of design standards. Specific metrics were not voted on.

Zoning Code Section References

- Section 2.5.A (page 6)
- Section 2.6.A.1-5 (page 8)
- Section 2.6.C.3-11 (page 16-22)

4. Parking Requirements (vehicular and bicycle)

What?

Private vehicular parking is allowed, but not required, for uses within the proposed village center zoning. Bicycle parking, short-term and long-term, is required based on the specific use.

Parking Requirements		
Use	Vehicular Parking (min.)	Bicycle Parking (min.)
Residential	Not required	< 10 units - Not required > 10 units – Required, see table 2.6.C.2
Office	Not required	Required, see table 2.6.C.2
Retail/Commercial	Not required	Required, see table 2.6.C.2

Why?

- City Council regularly waives existing parking requirements
- Encourage car free and car lite lifestyle to reduce traffic and emissions
- Requiring parking makes it difficult to meet MBTA Communities compliance, see [ZAP memo](#)
- Makes it easier to preserve and reuse existing buildings, such as churches
- Reduces the cost of development to create more affordable housing and business space
- Half of multi-family housing parking provided is not used according to [MAPC/City survey](#)
- Shared public parking is the preferred way to provide parking in business zones

Previous ZAP Straw Vote (June 2022 - zoning framework)

Parking Requirements (1 space per residential unit)		
Yes	No	Abstain
Leary, Albright, Wright, Krintzman, Crossley, Danberg, Baker, Ryan		

Notes:

- This vote reflects the June 2022 proposal, which was to reduce but still require some vehicular parking. Councilors Wright and Baker were uncomfortable not requiring parking for ground floor retail. Councilors Leary, Krintzman, and Danberg wanted no requirements.
- Committee discussions were held in February and March 2023 about not requiring vehicular parking, with a majority of Committee members in favor once MBTA Communities requirements were assessed. No straw vote was taken.

Zoning Code Section References

- Section 2.6.C.1-2 (page 15-16)

5. Allowed Uses

What?

The use table determines what types of uses (residential, office, retail, etc.) are allowed, either by-right or by special permit. Building off the existing use table, the proposal looks to make more desired uses by-right and simplify the process for approving these uses.

- Commercial uses are not permitted in the MRT zone, only residential and some civic uses are allowed
- Commercial uses are limited in the VC1 zone, and mostly by special permit
- New single and two-family homes are not permitted in any of the VCOD zones
- Multi-family and live/work uses are permitted in all zones
- Banks are not permitted on the ground story in VC3, and only in VC2 and VC1 by special permit
- Banks may be located on the upper story, by special permit only, in VC3 and VC2
- Research and Development is allowed in the VC2 and VC3 zones, however no other industrial uses are permitted in any of the VCOD zones

See Use Table for full details. (Section 2.8.A-C (page 22-26))

Why?

- Allow for diverse housing options (type, size, price, etc.)
- Allow for desired commercial uses to meet community needs in locations that don't always require a vehicle
- Expand Newton's commercial tax base
- Prohibit ground floor uses which do not add street level activity

Previous ZAP Straw Vote (June 2022 - zoning framework)

A use table, or specific uses, were not presented or voted on in June 2022. A detailed use table was shared with Version 2.0 released in May 2023.

Zoning Code Section References

- Section 2.8.A-C (page 22-26)

6. Affordable Housing Bonus

What?

The proposed zoning offers a development bonus, in limited circumstances, in return for providing more units of affordable housing than would be required under the current inclusionary zoning ordinance. The affordability requirements would apply to rental and ownership properties at levels of 25% or 30% of the total units.

Affordable Housing Bonus			
	Base Condition	Option 1 (VC2 and VC3)	Option 2 (VC3 only)
Height Bonus (stories)	NA	+1	+2
Building Footprint Bonus (sq ft)	N/A	+2,500	+2,500
Required Affordable Units (min)	17.5%	25%	30%
Required AMI for Affordable Units	50-80% Rental / 80% Ownership		

Notes:

- Bonus cannot be used within 50 feet of a lot line abutting a MRT or residential zone
- VC3 lots abutting a VC1, MRT, or residential zones are not eligible for bonus
- The average AMI can be no more than 65% AMI for a rental development

Why?

- Increased affordable housing without additional City funding/resources
- Limited to parcels at the village center cores with access to amenities/resources
- Metrics are set that some, not all, properties can utilize the bonus

Previous ZAP Discussion (March-April 2023)

A formal straw vote was not taken on this item, which was first introduced in the spring of 2023. Most committee members spoke supportively of Option 1, while support for Option 2 was mixed.

Zoning Code Section References

- Section 2.8.B.6 (page 10-11)