



# Zoning & Planning Committee Agenda

## City of Newton In City Council

**Monday, June 25, 2018**

7:00PM

Council Chamber/Room 205

### **Items Scheduled for Discussion:**

*A Public Hearing will be held on the following item:*

- #185-18 Discussion and adoption of Needham Street Vision Plan**  
DIRECTOR OF PLANNING requesting discussion and adoption of the Needham Street Vision Plan as an amendment to the 2007 Newton Comprehensive Plan.

*A Public Hearing will be held on the following item:*

- #186-18 Zoning Amendment for Shared Parking Pilot Program**  
DIRECTOR OF PLANNING requesting amendments to Chapter 30, Newton Zoning Ordinance, to allow for a Shared Parking Pilot Program as an accessory use in commercial districts.

- #201-18 Zoning amendment to limit residential portion of business zone developments**  
COUNCILOR GENTILE, MARKIEWICZ, COTE AND NORTON requesting amendments to Chapter 30, Newton Zoning Ordinance, to require that any development in a business zone, limit the residential portion of the project to 50% of the total development. **Public Hearing Closed 5/29/18**

- #202-18 Zoning amendment to Mixed Used 4 district**  
COUNCILOR GENTILE MARKIEWICZ, COTE AND NORTON requesting amendments to Chapter 30, Newton Zoning Ordinance, so that the Mixed Used 4 (MU4) zone is either eliminated; or the dimensional controls are reduced; or a moratorium of two years be placed on any new MU4 development; or any combination of these three action. **Public Hearing Closed 5/29/18**

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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](mailto: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.

- #203-18**      **Zoning amend. for moratorium on zone changes/construction on Washington St.**  
COUNCILOR GENTILE AND NORTON requesting amendments to Chapter 30, Newton Zoning Ordinance, to adopt an immediate moratorium on any zone changes and/or construction/development along both sides of Washington Street, including abutting properties, from the intersection of Commonwealth Avenue Washington Street in Auburndale/West Newton, to the intersection of Washington Street and Centre Street in Newton Corner. This moratorium shall remain in place until Zoning Redesign and the proposed “actionable plan for the Washington Street Corridor” are completed. This moratorium does not apply to by right construction/development that is currently allowed by the Newton Zoning Ordinances. This moratorium shall expire on September 30, 2019. **Public Hearing Closed 5/29/18**
- #376-18**      **Zoning amendment to regulate marijuana establishments**  
THE PLANNING DEPARTMENT requesting amendments to the Newton Zoning Ordinance, Chapter 30, to regulate the use of land, structures and buildings for the operation of marijuana establishments; to determine in which zoning districts and under what conditions marijuana establishments will be allowed; and to establish minimum standards and criteria.
- #76-18**      **Discussion relative to the draft policy content outline of Zoning Ordinance**  
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the Zoning Redesign Project on a draft policy content outline of the new Zoning Ordinance.

**Respectfully Submitted,**

**Susan S. Albright, Chair**

## PLANNING & DEVELOPMENT BOARD



Date: May 30, 2018

The Honorable City Council President, Marc Laredo

City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

Ruthanne Fuller  
Mayor

Barney Heath  
Director  
Planning & Development

Rachel Powers  
CD Programs Manager  
Planning & Development

Dear Honorable Council President Laredo:

Following the public hearing held on May 29, 2018, the Planning & Development Board (P&D Board) discussed petitions #201-18 concerning the proposed zoning amendment to limit the residential portion of projects to 50% in business zone developments; #202-18 concerning the proposed zoning amendments to eliminate, reduce dimensional controls, and/or place a moratorium on Mixed Use 4 districts; and #203-18 concerning the adoption of a moratorium on zone changes and construction on Washington Street through September 30, 2019.

Relative to #201-18 and #202-18, the Planning Board voted 0-6-0 to oppose the proposed zoning amendments.

#### Members

Scott Wolf, Chair  
Peter Doeringer, Vice Chair  
Barney Heath, *ex officio*  
Megan Meirav  
Sonia Parisca  
Chris Steele  
Jennifer Molinsky

However, on #203-18, the Planning Board voted 0-5-1 to oppose the proposed zoning amendments. The intention of the Board member's abstention was to underscore the importance of deferring final action on any new development proposals received during the proposed moratorium until their impact and sustainability can be assessed within the larger context of the Washington Street Visioning process. The Board strongly felt that the power of the City Council to exercise its Special Permit Granting Authority was a sufficient check on unfettered development along the Washington Street corridor.

Submitted on behalf of the Planning & Development Board.

Sincerely,

Scott I. Wolf  
Chair

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Cc: City Council



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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## MEMORANDUM

DATE: June 22, 2018

TO: City Council Zoning and Planning Committee

FROM: Barney Heath, Director of Planning & Development  
James Freas, Deputy Director of Planning & Development  
Rachel Nadkarni, Long-Range Planner

MEETING DATE: June 25, 2018

SUBJECT: **#185-18 Discussion and adoption of Needham Street Vision Plan**  
DIRECTOR OF PLANNING requesting discussion and adoption of the Needham Street Vision Plan as an amendment to the 2007 Newton Comprehensive Plan.

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We are providing this memorandum to introduce the Needham Street Area Vision Plan in preparation of the public hearing on this matter scheduled for June 25<sup>th</sup>.

Page 2 included an addendum regarding commentary received to date on the draft Vision Plan submitted to the Council in the packet for June 11<sup>th</sup>. All amendments will be made along with any additional changes requested by the Committee following the Public Hearing.

I. **Background**

The Planning Department set about developing a vision plan for the Needham Street Area in response to a City Council desire for a more holistic lens with which to evaluate future redevelopment proposals.

II. **Process**

To ensure broad community input for the vision plan, the Planning Department assembled a twenty-one (21) member engagement committee including City Councilor Crossley and Kalis. This group met a total of nine times from December to April. The meetings were held in the neighborhood at Barry Price Center and public comment was taken at every

meeting. A public meeting and open house was held on April 23<sup>rd</sup> to present the various vision plan elements.

### III. **Product**

The attached draft Needham Street Area Vision Plan provides guidance, including recommendations for short term and long-term action for the following elements: environmental health, transportation, land use, design, and implantation.

### IV. **Future Use**

It is anticipated that this document can be formally adopted by the City Council as an amendment to the City's Comprehensive Plan. Once adopted, the vision plan can provide guidance with respect to future City decision making for the Needham Street Area with respect to public improvement, zoning and private redevelopment proposals.

### **Edits/Amendments Requested**

At the June 11<sup>th</sup> Discussion on the Draft Needham Street Area Vision Plan, the following edits/amendments were requested:

- A Vision for Environmental Health
  - More detail on environmental health concepts
    - Staff will provide further descriptions on how to utilize techniques like pervious materials and restoration plantings in the Needham Street area
  - Page 12 – missing word after efficient should be “technologies.”
- A Vision for Transportation
  - More discussion around transportation, particularly the Engagement Group's big ideas
    - Staff will be adding two pages to the transportation section:
      - 1- Showing the commute patterns in and out of the area from the Census
      - 2- Highlighting the “shared services” theme emerging from the big transportation ideas brought up by the Engagement Group members:
        - Small shared transportation services – multiple ideas from members included shared electric vehicle rentals, shared shopping carts that can be taken between businesses/properties, shuttles/circular bus up and down Needham Street, bike share – ideally with more stable 3-wheel option.
        - Shared centralized public parking garages – facilities that people can walk to many properties from and/or connect to shuttles up and down the street
        - Transit on the Greenway – long-term re-establishing transit between Newton Highlands and Needham Heights via the Greenway and restored bridge to Needham while simultaneously maintaining biking and walking access

- Page 21 – add short description of new crosswalk locations and signalization in the MassDOT plan (will do)
- Page 22 – in short term actions – add a bullet “Encourage or Require electric and/or hybrid shuttles”

Staff has also heard from a few members of the Needham Street Area Community Engagement Group with the following requested notations:

- Page 5 – remove hyphen in “all-ages” to “all ages” (will check all instances)
- Page 13 – South Meadow Brook is protected by the “Rivers Protection Act” not the “Wetlands Protection Act” which covers other resources
- Page 14 – broaden the description of ways to “improve the health of South Meadow Brook” since there may be other techniques to consider. Suggested language will be incorporated for bullet #2: *“work with the Conservation Commission to ensure that water quality, stormwater storage capacity, and wildlife habitat are maintained along South Meadow Brook”*
- Page 14 – add more detail to the description of “improving health of open space”
  - Staff will add further to the description to explain that this includes activities like invasive species removal, reducing impervious surfaces, and improving natural drainage
- In Environmental Health and Transportation sections – further highlight the increasing need for pedestrian safety improvements and wayfinding to encourage residents and visitors to explore natural amenities. (e.g. improvements to signs, crosswalks, etc. along routes to destinations like Echo Bridge, Greenway, and other parks)
  - Staff will incorporate this idea into page 15 – Provide Ready Access



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** June 22, 2018

**TO:** Councilor Susan Albright, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Nicole Freedman, Director of Transportation Planning  
Rachel Blatt, Long Range Planner

**RE:** **#186-18 Zoning Amendment for Shared Parking Pilot Program**  
DIRECTOR OF PLANNING requesting amendments to Chapter 30, Newton Zoning Ordinance, to allow for a Shared Parking Pilot Program as an accessory use in commercial districts.

**MEETING DATE:** June 25, 2018

**CC:** Ouida Young, City Solicitor  
Jonah Temple, Assistant City Solicitor  
John Lojek, Commissioner of Inspectional Services

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**EXISTING PROBLEM**

Have you ever been frustrated to see customers or employees circling for parking when empty spaces seem to abound in private parking areas? In Newton Center, at peak periods when parking seems scarce, our research shows that 43% of all spaces are actually empty, mostly in private lots.

Why is this? **Currently, Newton's zoning laws restrict members of the public from parking in private lots.** Headed out to eat in the evening? Newton's zoning laws would not let you park in the lot next door, even if the business is closed and might welcome you to park there.

**GOAL**

Newton's Shared Parking Pilot Program would explore how the rules could be adjusted to allow business and property owners to make their underutilized private spaces available for customers and area employees to park. Property owners must still ensure that they provide parking for their customers and employees - but when they have extra space, this pilot will let them allow the public to use those spaces.



**MEETING PURPOSE**

**A vote of the City Council is needed to amend the Zoning Ordinance to allow the pilot to move forward.**

The Zoning and Planning Committee along with City staff have been developing this proposed pilot for several months, with discussions held in committee on the following dates:

- March 26, 2018
- May 14, 2018

**PILOT OVERVIEW**

Key features of the pilot:

- This is a maximum 3-year pilot with re-evaluation by the Council at the end of Year 1 and Year 2
- Property owners must apply, and ISD approval must be granted, to participate in the pilot
- Resident parking cannot be shared
- Participating properties must agree to the following conditions:
  - To not displace customers or employees of the property in favor of shared parking
  - To manage customer service interactions with parkers
  - To collaborate with the City to address complaints
  - To provide quarterly feedback to the City regarding participation in the program, including sharing anonymous utilization data received from 3rd Party providers
- The City will conduct ongoing evaluation and reserves the right to implement changes and/or cancel the pilot throughout the 3 years

**PILOT DOCUMENTS**

Attached to this memo are the following materials that will be used in running the pilot program:

- Proposed zoning amendment text
- Map of the properties that could apply for participation in the pilot program
- Application to Participate (filled out by property owner), with accompanying information package
- Parking Lot Owner Quarterly Survey
- Parking Space Customer Semiannual Survey

## Response to Councilor Baker’s Comments/Questions

At the end of the last Committee discussion on May 14<sup>th</sup>, Councilor Baker sent staff and the Committee a list of his comments/questions. These are captured below along with responses.

1. The program should be a true pilot, short enough to take place during one Council term.

We agree that a true pilot needs to have a discrete and appropriate time limit. The appropriate time needs to support the pilot’s goals.

**The pilot’s goals are as follows: a) establish proof of concept and b) gain insight and lessons learned for final programming.**

To achieve these goals, we need to allow sufficient time for owners to:



We anticipate being ready to launch the pilot in Fall 2018, halfway through the two-year Council term. We believe that one year would not be sufficient to achieve the above goals. **We recommend the pilot be three years, with the City Council retaining the right to cancel at any time.**

2. The pilot should start in one location where the need has been identified: Newton Centre is the only area so studied. (A precedent is food trucks in Wells Avenue.)

While it is technically possible to pilot the program in just Newton Centre, we believe that this will not allow the program to establish and grow customer the base. (As described in #1, growing the customer base is an important success factor for the pilot).

Shared-parking is a program of scale. This is to say that there is a minimum threshold number of spaces required to attract enough parkers to successfully test the program; we believe at minimum this needs to be Newton Centre and one other neighborhood, such as West Newton.

Growing the pilot also means further testing of how different groups use shared-parking. Piloting in multiple neighborhoods allows for this testing. For instance, in Newton Centre the target is employees in need of daily long-term parking, whereas in West Newton, the target audience is medium-term customer parkers (3-5 hours), and in Nonantum the target audience is residents seeking overnight parking.

**For these reasons, we recommend allowing the pilot to run citywide.**

3. The key problem appears to be employee parking in prime consumer spots, often on the street or in associated lots. The shared parking proposal does not appear to include on-street or public parking being used by employees. There is not yet a disincentive to use those spaces.

The City is concurrently working on additional approaches to specifically address on-street parking being used by employees. We will be presenting this plan to Council shortly.

The plan, based on the Newton Centre Parking Strategy recommendations includes: 1. Market rate pricing for short-term and long-term metered parking, such that a pricing difference between the two will free up front-door spaces for customers 2. Creation of a permit program to allow limited long-term employee parking on residential streets.

4. If the need is to open up short term spaces for short term shoppers and avoid long term parking by commuters or by employees, the program should be tailored to that.

See #3 above.

5. It should not depend on after trial surveys after the fact - though those can still be used - but control of inputs – both on the supply and demand side, which means the City has to design and administer the program, at least initially, like Planning is doing with food trucks.

The City has looked at a variety of program approaches to shared-parking, including programs where the City would act as a middle-man broker. Having explored the competitive marketplace for shared-parking management services, the City found that it could not provide an equivalent level of services to lot-owners as the private market and that any brokering work would come at a cost to the City for no gain over the services private companies can provide. Ultimately, however, should the pilot demonstrate that there is a gap in the services that City-involvement could resolve, this is something that would be explored again.

6. A local precedent is the ability of seniors to buy a sticker for city lot parking. Can some special sticker system be devised for employees that does not depend on an app?

See #3 above. We are simultaneously working to implement a permit/sticker program for employees in four village centers, including Newton Centre. The initial permit program discussed in Newton Centre will add approximately 33 parking spaces on residential streets in Newton Centre for employees. The demand for employee parking is far greater than 33 spaces and we believe taking advantage of existing underutilized spaces in private lots, as this shared-parking pilot proposes to do, has great potential to relieve the parking stress.

7. Be cautious about involving churches and other institutions. We have limited zoning control.

Understood. City staff have been working across departments to understand how Dover-protected religious and educational institutions intersect with this pilot. There are tax implications for institutions choosing to participate in the program – they would have to pay taxes to the City for portions of the property put to commercial use (if they charge for using their spaces). Given that this is a pilot, the intent is to use this opportunity to continue to work with institutions interested in participating to make shared-parking work within the context of their non-profit Dover-protected status and the goals of the shared-parking program.

8. Start with commercial to commercial to see how that works first. The idea is that one commercial user may be able to help another commercial user, like in shopping centers.

The model we are proposing is commercial-to-individual. Recent technological innovations around business to consumer shared-parking have proven highly successful in many cities and we believe have great potential in Newton.

Additionally, the search for parking beyond the 1-2 hour limits established for on-street parking includes a diverse group of employees, commuting residents, and customers visiting multiple businesses (e.g. dinner and a movie, lunch and a medical appointment). We believe the flexibility to test service to all these groups is worthy of this pilot program.

9. Plan for enforcement and how it is to be done and paid for.

The pilot program builds in mechanisms for managing enforcement. First and foremost, the pilot requires that lot owners ensure parking availability for their customers and employees before sharing with the public. It is in their interest to do so, but should they not, evidence of displacement is grounds for removing a property from the pilot program.

The pilot program also requires that lot owners work with the City to address complaints. Uncooperative reactions to reasonable concerns is also grounds for removing a property from the pilot program.

Nicole Freedman, Director of Transportation Planning, will continue to oversee the pilot program's implementation and manage enforcement. She will be working collaboratively with the rest of the Planning Department team as well as the Inspectional Services Department.

10. Start small and succeed, rather than large and fail.

We agree. Our goal is to launch at the size that is small enough to be manageable and sufficient enough to be successful.

The Hubway bike share system is a great example of how to find this balance. There was a lot of pressure to pilot the program with 2-3 stations and 20-30 bikes. However, elected officials came to understand the challenge of scale with bike share: it was clear that a 2-3 station system would not attract riders, generate trips nor test logistics and systems. The Hubway system ended up launching successfully with 60 stations and 600 bikes instead of 2-3 stations. Because of the success of the initial launch, the system has grown to over 150 stations and 1800 bikes and this year will be growing to up to 200 bikes and 2000 stations.

While the areas proposed to allow shared-parking are commercial properties citywide, we expect there to be a limited uptake of the pilot in each area. The pilot gives property owners the option to share their parking; they may for a variety of reasons decide that they still do not wish to share parking resources. And, we anticipate many owners choosing to wait to see how it works for the early adopters. Limiting the number of possible parking areas could result in an insufficient test of the idea.

## Background Material

Below are answers to common questions discussed throughout the development of this pilot program.

1. How is the Zoning Amendment set up?

The Shared-Parking Pilot is set up as an accessory use, and the zoning ordinance requires participation in the pilot program in order to share parking. The added section 6.7.7 is set up with an expiration date – 3 years from the date of adoption by the City Council, with annual discussions regarding implementation at the end of year 1 and year 2.

2. How does the program address property owners versus service provider “apps”?

Property owners will be responsible for making the application to the City of Newton regardless of whether they share spaces at no cost to parkers, rent spaces directly to the public, or use a third-party service provider “app.” Based on the application, the City will confirm eligibility into the program and authorize property owners to then enter into shared parking arrangements.

The City will not be a party to any relationships between property owners and service providers or the relationships between property owners and drivers parking at their facilities.

3. What exactly are these service provider “apps”?

There are now “apps” provided by shared parking service providers, like Spot (parkeasier.com) and SpotHero (spothero.com) that are dedicated exclusively to managing shared parking. These apps create a marketplace to connect property owners that have underutilized parking spaces with people that are looking for parking. Staff sees many benefits to these services, but in some instances, a property owner may be able to meet all of our requirements for shared parking service without a third-party provider.

The app allows owners to:

- Make their extra spaces available on a marketplace
- Set rental times and dates
- Receive and track payment for parking

The app allows drivers to:

- Search for their destination and compare parking options
- Pay directly from their mobile device or computer
- Reserve a spot at their choice facility

4. Where would the pilot be operational?

As this is a pilot, with the intention of learning, we believe the best way to understand demand will be to allow the pilot to roll out citywide. We hypothesize that rentals will occur in areas with higher parking challenges, such as West Newton or Newton Centre, but believe there is an opportunity to identify other needs by allowing the pilot to be citywide.

5. Who makes decisions as to which property owners can rent out space?

The Commissioner of Inspectional Services, with input from the Director of Planning makes final decisions as to whether a property owner can rent out spaces for public use. The Commissioner, with the assistance of the Planning Department will be able to review an application provided by the property owner. Please see attached Property Owner Application for more information.

6. Are businesses ready to jump in?

Nationally, shared parking app service providers are used to working with all types of owners and tenants. They have relationships with local and national retailers such as pharmacies and banks. We have been reaching out to Newton property owners with identified larger supplies of parking. So far those we have reached are interested in the concept but want to review the details. There are several with whom we are still in the process of connecting to the correct staff person.

7. Will sales tax need to be collected? Will this have impact on property taxes?

We are working with the Assessing Department regarding property tax implications of the pilot. The preliminary review suggests that sales tax is required, and property taxes may be affected. Typically, a long-term parking lease is assessed. Staff will continue to work with Assessing as they develop an income-based approach to value for participating properties. It is our understanding that there would be a property tax based on the income brought in by shared parking on a non-profit property as well.

8. How would you enforce the program?

As noted in the Information Sheet, the City may remove a property from the pilot for the following:

- Finding that customers or employees are being displaced in favor of shared parking.
- Persistently uncooperative responses to concerns raised by parkers or neighbors.
- Finding that the property is operating outside of the requirements of the pilot program.
- The pilot program expires, or the pilot program is cancelled by the City Council.

The City is requiring property owners to submit quarterly data on parking in their spaces, which can be used to support any findings, as needed.

9. How will you collect data and assess the success or failure of the program?

By participating in the pilot, property owners are required to submit utilization data to the City in quarterly reports and distribute our semiannual survey for parkers. We will review this information, as well as monitor any feedback and complaints we receive. Most importantly, we set up the pilot so that we can adjust the rules to incorporate feedback throughout the three years, ensuring the best possible outcome for Newton.

10. What happens when the pilot ends?

We anticipate that when the pilot ends in three years, we will have learned enough about shared parking to incorporate it into the City's zoning ordinance as a routine matter and the pilot will not need to continue. Lessons learned throughout the pilot can be used to inform zoning updates on parking.

4. A Food Truck must meet all of the requirements of City Ordinances sections 17-47 through 17-50.
5. A Food Truck operating as part of a special event or in a catering capacity for a private function is allowed in all districts.

### 6.7.7. Accessory Shared-Parking

- A. Defined.** Accessory Shared-Parking is the use of accessory parking stalls, authorized under the Accessory Shared-Parking Pilot for shared use in off-peak times. Accessory Shared-Parking is an allowed accessory use only when the owner or operator of the parking stalls has been approved as a participant in the Pilot and the stalls so identified and approved are utilized in strict accordance with the requirements, terms, and conditions of the Pilot to be issued by the Director of Planning and Development.
- B. Accessory-Shared Parking Pilot.** The Accessory Shared-Parking Pilot is intended to optimize existing parking resources in village centers by making underutilized private parking available to the public in select commercial areas.
- C. Standards.**
  1. The Pilot will be administered by the Director of Planning and Development, in consultation with the Commissioner of Inspectional Services. The Director of Planning and Development shall prepare and issue rules/guidelines, not inconsistent with the provisions of this Chapter, that clarify the criteria and requirements for participation in the Pilot and set forth the terms and conditions that will apply to approved participants. A copy of these guidelines shall be posted on the City website.
  2. Participation in the Pilot shall be limited to accessory parking located in a Business, Mixed Use, or Manufacturing District or a non-residential use property abutting or across a public way from a Business, Mixed Use, or Manufacturing District. Accessory parking to residential uses are not eligible. Parking stalls already shared pursuant to a non-accessory parking agreement are not eligible.

3. The owners of properties participating in the Accessory Shared-Parking Pilot shall be responsible for ensuring that the use of their existing parking stalls will not render any required parking stalls unavailable to the persons whom the stalls are designed to serve in accordance with Sec. 5.1.3.E.

#### D. Process.

1. An application for participation shall be on such form and shall provide such information as the Director of Planning and Development and the Commissioner of Inspectional Services may reasonably require.
2. All accessory shared-parking spaces must receive review and written approval by the Commissioner of Inspectional Services, with the advice of the Director of Planning, prior to participating in the Pilot Program to confirm that all applicable criteria and requirements have been met.
3. The Commissioner of Inspectional Services shall have the right to revoke or cancel an approval for participation in the Pilot if the parking is not being utilized in accordance with the requirements, terms, and conditions of the Pilot.

**E. Applicability.** The provisions of this Sec. 6.7.7 are not intended to conflict or be inconsistent with any other provisions of this Chapter. All applicable provisions of this Chapter shall still apply to participants in the Pilot.

**F. Reevaluation.** The Director of Planning shall conduct an annual reevaluation of the Pilot and its guidelines. Such reevaluation shall include a report provided to the City Council reviewing participation activity and statistics.

**G. Expiration.** This provision shall expire three (3) years from the date of adoption on XXX XX, 2021.

## Sec. 6.8. Temporary Uses

[reserved]

4. A Food Truck must meet all of the requirements of City Ordinances sections 17-47 through 17-50.
5. A Food Truck operating as part of a special event or in a catering capacity for a private function is allowed in all districts.

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### 6.7.7. Accessory Shared-Parking

**A. Defined.** Accessory Shared-Parking is the use of accessory parking stalls, authorized under the Accessory Shared-Parking Pilot for shared use in off-peak times. Accessory Shared-Parking is an allowed accessory use only when the owner or operator of the parking stalls has been approved as a participant in the Pilot and the stalls so identified and approved are utilized in strict accordance with the requirements, terms, and conditions of the Pilot to be issued by the Director of Planning and Development.

**B. Accessory-Shared Parking Pilot.** The Accessory Shared-Parking Pilot is intended to optimize existing parking resources in village centers by making underutilized private parking available to the public in select commercial areas.

**C. Standards.**

1. The Pilot will be administered by the Director of Planning and Development, in consultation with the Commissioner of Inspectional Services. The Director of Planning and Development shall prepare and issue rules/guidelines, not inconsistent with the provisions of this Chapter, that clarify the criteria and requirements for participation in the Pilot and set forth the terms and conditions that will apply to approved participants. A copy of these guidelines shall be posted on the City website.
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**D. Process.**

1. An application for participation shall be on such form and shall provide such information as the Director of Planning and Development and the Commissioner of Inspectional Services may reasonably require.
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**E. Applicability.** The provisions of this Sec. 6.7.7 are not intended to conflict or be inconsistent with any other provisions of this Chapter. All applicable provisions of this Chapter shall still apply to participants in the Pilot.

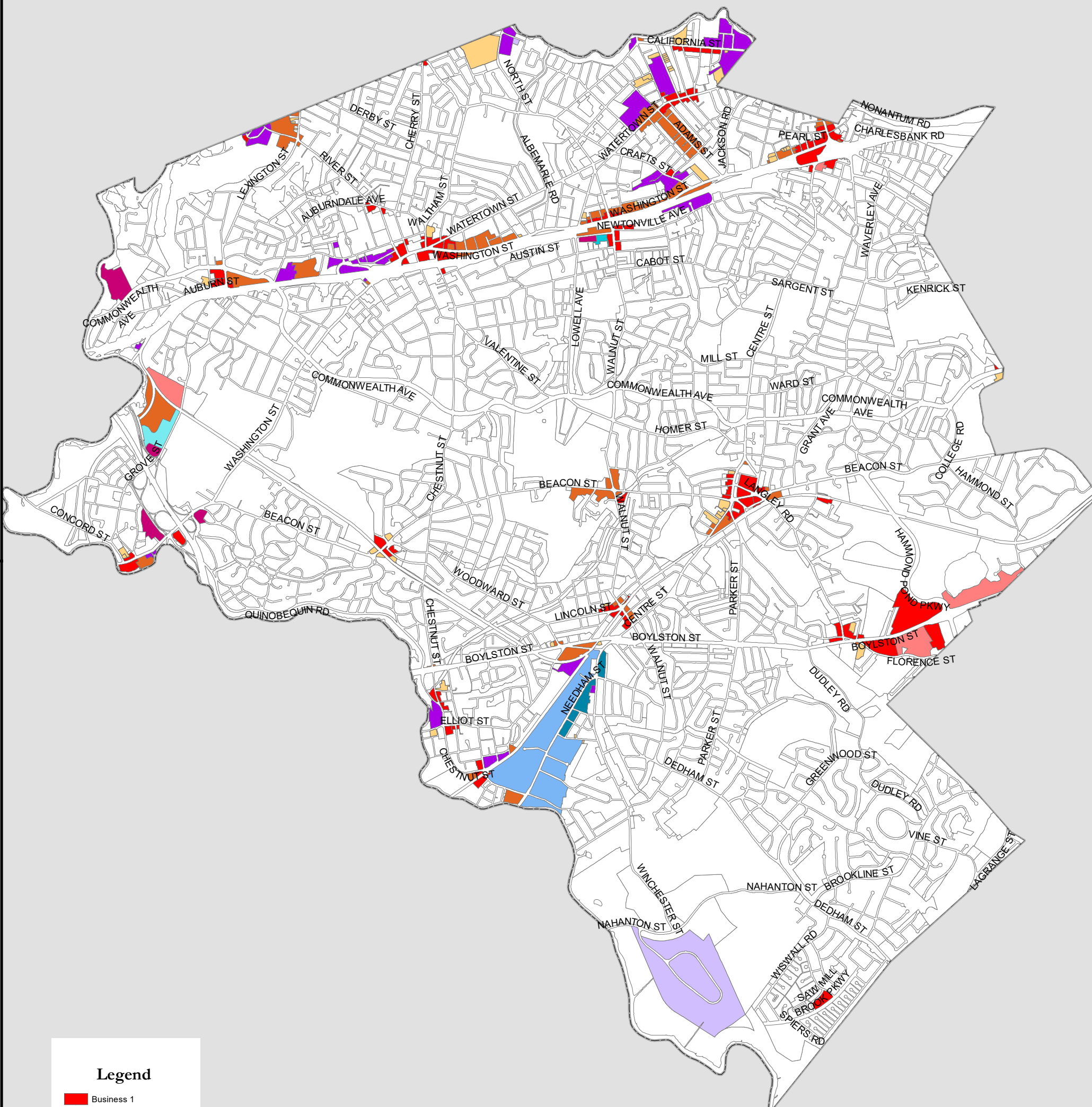
**F. Reevaluation.** The Director of Planning shall conduct an annual reevaluation of the Pilot and its guidelines. Such reevaluation shall include a report provided to the City Council reviewing participation activity and statistics.

**G. Expiration.** This provision shall expire three (3) years from the date of adoption on XXX XX, 2021.

## Sec. 6.8. Temporary Uses

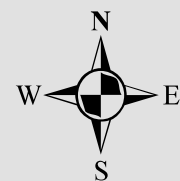
[reserved]





**Legend**

- Business 1
- Business 2
- Business 4
- Business 5
- Limited Manufacturing
- Manufacturing
- Mixed Use 1
- Mixed Use 2
- Mixed Use 3
- Mixed Use 4
- Adjacent non-residential properties



**Shared Parking in Business and Mixed-Use Districts includes adjacent non-residential properties (abutting/across-the-street)**



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

MATERIALS FOR APPLICANT PROPERTY OWNERS

# Shared Parking Pilot Program - *Application to Participate in Pilot*

## Property Information

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Owner Name \_\_\_\_\_ Owner Email \_\_\_\_\_

Point-of-Contact Name \_\_\_\_\_ Point-of-Contact Email \_\_\_\_\_

Point-of-Contact Phone (cell) \_\_\_\_\_ Point-of-Contact Phone (Other) \_\_\_\_\_

Property Address \_\_\_\_\_

Property Uses (Check all that apply)     Retail     Office     House of worship     Other \_\_\_\_\_

## Parking Lot Information

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Total Number of Spaces in Parking Lot    Standard Spaces \_\_\_\_\_    Accessible Spaces \_\_\_\_\_

Describe periods of high and low utilization (weekdays, weekends, times of day, etc.):

High Utilization (peak use times) \_\_\_\_\_

Low Utilization (off-peak times) \_\_\_\_\_

Please provide an aerial image on the back page.

## Rental Information

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Will you share spaces directly or use a 3<sup>rd</sup> party provider?     Direct     3<sup>rd</sup> Party (\_\_\_\_\_)

Do you intend to charge for parking?     Yes     No

Describe periods when you intend to share the spaces (weekdays, weekends, times of day, etc.):

## Terms

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In order to participate in the Shared Parking Pilot Program, I agree to the following terms:

- To not displace customers or employees of the property in favor of shared parking.
- To manage customer service interactions with parkers.
- To collaborate with the City to address complaints.
- To provide semi-annual feedback to the City regarding participation in the program, including sharing anonymous utilization data received from 3<sup>rd</sup> Party providers.

I understand that:

- This is a pilot program, and rules changes may occur as the City learns from implementation.
- This is a pilot program that will terminate after 3-years or following interim year evaluations.

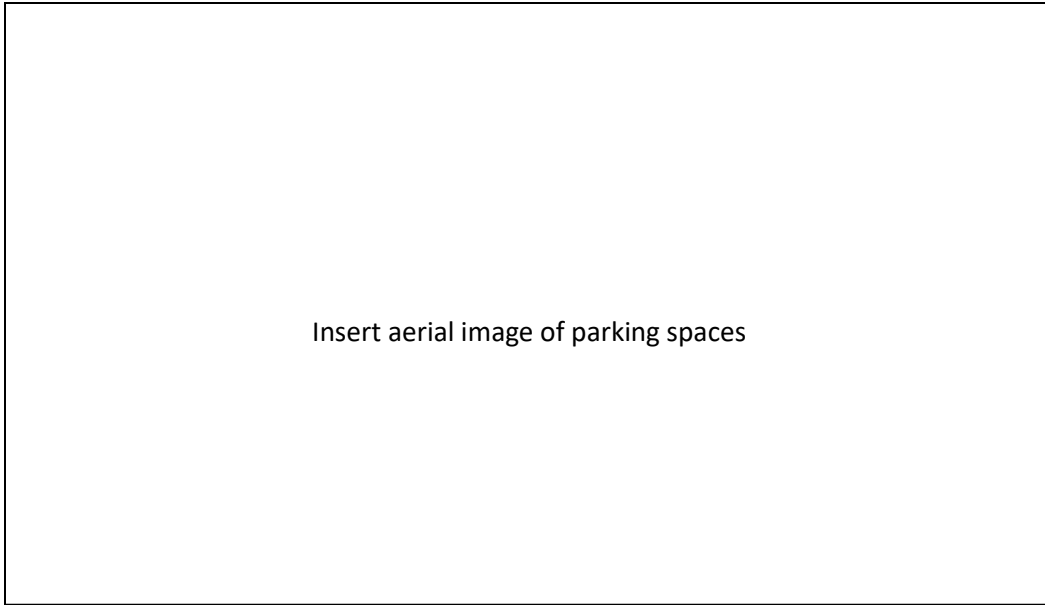
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Signature

Date

<input type="checkbox"/> APPROVED	<input type="checkbox"/> DENIED	_____ ISD Commissioner
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MATERIALS FOR APPLICANT PROPERTY OWNERS



## MATERIALS FOR APPLICANT PROPERTY OWNERS

# Shared Parking Pilot Program *Information Sheet*

### **ABOUT THE PROGRAM**

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Have you ever been frustrated to see customers or employees circling for parking when empty spaces seem to abound in private parking areas? In Newton Center, at peak periods when parking seems scarce, our research shows that 43% of all spaces are actually empty, mostly in private lots. Why is this? Currently, Newton's zoning laws restrict members of the public from parking in private lots. Headed out to eat in the evening? Newton's zoning laws would not let you park in the lot next door, even if the business is closed and welcome you to park there.

Newton's Shared Parking Pilot Program seeks to correct this imbalance by allowing business and property owners to make their private spaces available for customers and area employees to park. Property owners must still ensure that they provide parking for their customers and employees, when they have extra space, but this pilot will allow them to rent spaces to the public.

We at the City believe that increasing the availability of parking to the public, will benefit everyone in Newton. This pilot will help the City test our theory.

If you are a business or property owner and want to participate in the pilot, read on...

### **FREQUENTLY ASKED QUESTIONS**

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1. Does my location qualify? You can participate if your parking lot is:
  - a. Zoned for business, mixed use, or manufacturing (B-1, B-2, B-3, B-4, B-5, MU-1, MU-2, MU-3, MU-4, MAN, LM) OR is a non-residential use adjacent to one of the above zones.
  - b. Existed by XXX XX, 2018.
  - c. Not already permitted for use by another property (non-accessory parking agreement).
  - d. Parking spaces for a residence cannot be used.

The City will also confirm eligibility of all applicants.

2. What am I agreeing to if I join the pilot? To join the pilot, you agree to:
  - Only rent out spaces when extra space is available. You cannot displace your customers or employees in favor of shared parking (*per §5.1.3.E of the Newton Zoning Ordinance*)
  - Be available to answer parkers questions and provide basic customer service to parkers
  - Work with the City to address any complaints
  - Provide feedback to the City, if asked, regarding participation in the program
  - Provide bi-monthly reports with rental statistics
3. How do I apply to participate in the pilot? To start, you will submit an application to the City of Newton. Sharing parking without being a participant in the program is a zoning violation. You will need to provide basic information such as location and number of spaces. You will also need to agree to the terms of the pilot. The City will review and send a letter of approval within 10 business days.
4. How do I share/rent spaces to the public? You can provide services directly (find and interact with parkers, accept payments, answer questions) or use a shared parking service. Shared parking service providers, like Spot (parkeasier.com) and SpotHero (spothero.com), are dedicated exclusively to managing shared parking. Like AirBNB does for lodging, these apps create a marketplace for parking lot owners and parkers. They allow you to register your location, set dates and times spaces are available, accept payments, and provide customer service. Parkers use the app to search and pay for parking.

## MATERIALS FOR APPLICANT PROPERTY OWNERS

5. Do I have to use a Shared Parking App Service? The City has no preference regarding whether you provide shared parking services directly or use a third party shared parking company.
6. Once my parking lot is in the program, what's my relationship with the City?  
All of the shared parking activities are private transactions. The City of Newton's pilot program is a pilot of the legal framework within which one can share parking between properties. The City will not be a party in the relationship between a property owner and a third-party service provider (e.g. app service) nor will the City be a party to the relationships between lot owners and parkers. The City of Newton assumes no liability for properties sharing their parking through this program.
7. What services do I need to provide to customers? The City requires you to provide the following whether or not you use a 3<sup>rd</sup> party app or not.
  - Real time customer service whenever you are making spaces available
  - Ability to black-out dates, change or cancel reservations
  - Ability to communicate any changes to parkers in advance of a reservation
8. What data do I need to include in the reports to the City? The City will request information such as number of bookings, occupancy rate and average price per reservation. App service providers like SPOT and SpotHero typically provide automated reports with this information.
9. How many spaces can I make available? You can make as many spaces available as you want provided that you maintain enough spaces for your customers or employees. The number of spaces you make available likely will vary by time of day or day of the week based on your business' pattern of employee/customer use. The most important thing: you must keep enough spaces available so that you do not displace your customers or employees.
 

EXAMPLE: Your restaurant has a big lunchtime and evening rush, Wednesday through Sunday. You know that consistently the back row of spaces in your lot are empty before you open at 11am each day and throughout the day Monday and Tuesday. So, you list your back row spaces for shared use all day Monday and Tuesday and from 7am – 11am the rest of the week, keeping the rest open for customers and employees.
10. Can I charge for parking? Yes, you choose the rate you would like to charge.
11. What does it mean that this is a Pilot program? The City is piloting this program to determine if shared parking works for property owners, the public and neighboring properties. Throughout the three-year pilot period the City may adjust rules or regulations as knowledge is gained. Modifications to the Shared Parking Pilot Program will be announced on the program website and sent via email to all participating property owners at least 30 days prior to a rule change going into effect.
12. What will the City do if a lot owner does not follow the rules? The City may remove a property from the pilot for the following reasons:
  - Finding by the Commissioner of Inspectional Services, with input from the Director of Planning, that customers or employees are being displaced in favor of shared parking.
  - Persistently uncooperative responses to concerns raised by parkers or neighbors.
  - Finding by the Commissioner of Inspectional Services, with input from the Director of Planning and Development and that the property is operating outside of the requirements of the pilot program guidance.
  - The pilot program expires, or the pilot program is cancelled by the City Council.

(survey distributed online)

# Shared Parking Pilot Program *Quarterly Owner Questionnaire*

## Contact Information

Owner Name \_\_\_\_\_ Owner Email \_\_\_\_\_

Owner Phone(daytime) \_\_\_\_\_

Point-of-Contact Name \_\_\_\_\_ Point-of-Contact Email \_\_\_\_\_

Point-of-Contact Phone (cell) \_\_\_\_\_ Point of Contact Phone (other) \_\_\_\_\_

Property Address \_\_\_\_\_

## Questions

Will you continue to participate in the Shared Parking Pilot Program?  Yes  No. If no, please explain:

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What is working well with the program?

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What feedback have you received about the program from *parkers, customers, tenants or neighbors*?

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What improvements would you like to see?

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Is there anything else you would like to tell us?

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Please submit questionnaire along with copy of anonymized utilization data to [nfreedman@newtonma.gov](mailto:nfreedman@newtonma.gov) by XXX, XX, 20XX.

MATERIALS FOR APPLICANT PROPERTY OWNERS

(Survey distributed online. Promoted by property owners and 3<sup>rd</sup> party providers as possible)

# Shared Parking Pilot Program *Semiannual Parker Questionnaire*

How often do you use shared parking?

- Daily
- Weekly
- Monthly
- Annually
- Never

In what time intervals do you rent the spaces?

- Hourly
- Daily
- Monthly/annually

Do you always use the same parking lot, or different parking lots?

- Same lot
- Multiple lots

Why do you use the shared parking instead of parking in public spaces? (Check all that apply)

- Less Expensive – It costs less than other parking options
- More convenient – It is easier to get to/from destination
- Less Hassle – I don't have to worry about tickets, moving my car, feeding the meter
- More certainty – I know in advance I have a space. I never need to look for parking
- I could never find a space before.

When you use shared parking, where are you typically going? (check all that apply)

- Shopping
- Restaurants
- Work
- MBTA
- Other

Thinking about the last time you used the shared parking service, how many businesses did you visit?

- 0
- 1
- 2
- 3
- 4 or more

What is working well with the program?

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What improvements would you like to see?

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Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** June 22, 2018

**TO:** Councilor Albright, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Rachel Nadkarni, Long Range Planner

**RE:** **#201-18 Zoning amendment to limit residential portion of business zone developments**  
COUNCILOR GENTILE, MARKIEWICZ, COTE AND NORTON requesting amendments to Chapter 30, Newton Zoning Ordinance, to require that any development in a business zone, limit the residential portion of the project to 50% of the total development.

**MEETING DATE:** June 25, 2018

**CC:** Ouida Young, City Solicitor  
Planning & Development Board  
City Council

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Each business zone offers a different set of requirements for residential in business zones. In all business zones except the BU5, where no-residential uses are allowed, there are some residential uses that are allowed by-right with standards, and some that are allowed by Special Permit. In locations across the city there are properties in business zones that are 100% residential use, whose future non-conforming status under the proposed would need to be understood.

The Planning Department recommends that the Zoning and Planning Committee first focus its discussion on the issue to be addressed and, from that, what is the appropriate approach. Some important questions to consider:

1. What is the specific issue of concern?
2. What additional data is necessary to guide decision making?
3. How new non-conforming properties would be addressed?
4. Would there be different rules regarding specialty housing types – e.g. lodging houses, assisted living, live/work, etc.?





Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** June 22, 2018

**TO:** Councilor Albright, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Rachel Nadkarni, Long Range Planner

**RE:** **#202-18 Zoning amendment to Mixed Used 4 district**  
COUNCILOR GENTILE MARKIEWICZ, COTE AND NORTON requesting amendments to Chapter 30, Newton Zoning Ordinance, so that the Mixed Used 4 (MU4) zone is either eliminated; or the dimensional controls are reduced; or a moratorium of two years be placed on any new MU4 development; or any combination of these three actions.

**MEETING DATE:** June 25, 2018

**CC:** Ouida Young, City Solicitor  
Planning & Development Board  
City Council

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At the baseline, the MU4 zone is a “floating zone” that can only be applied to a parcel of land by a legislative act of the City Council.

This proposal includes three options, each with a different outcome:

- Eliminate the MU4 zone
- Modify the MU4 zone
- Place a moratorium on new MU4 locations

Typically, moratoriums are applied to issues that do not otherwise have a discretionary process, i.e. by right development, and not to development for which a case-by-case discretionary decision can be made. The Council has the flexibility at the moment to not approve any new MU4 Zones and, where the Council chooses to apply the district, most projects will still require a special permit, granting even further discretion to the Council. Removing the zone or installing a moratorium would eliminate the option to allow an MU4 Zone to be created.

The Planning Department recommends that the Zoning and Planning Committee first focus its discussion on the issue to be addressed. Some important questions to consider:

1. What is the specific issue of concern?
2. What additional data is necessary to guide decision making?
3. What outcome is sought by a modification or a moratorium?
4. What are the impacts of each option on residents, businesses, and the City overall?



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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**MEMORANDUM**

**DATE:** June 22, 2018

**TO:** Councilor Albright, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney S. Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Rachel Nadkarni, Long Range Planner

**RE:** **#203-18 Zoning amendment for moratorium on zone changes/construction Washington St.**  
COUNCILOR GENTILE AND NORTON requesting amendments to Chapter 30, Newton Zoning Ordinance, to adopt an immediate moratorium on any zone changes and/or construction/development along both sides of Washington Street, including abutting properties, from the intersection of Commonwealth Avenue Washington Street in Auburndale/West Newton, to the intersection of Washington Street and Centre Street in Newton Corner. This moratorium shall remain in place until Zoning Redesign and the proposed "actionable plan for the Washington Street Corridor" are completed. This moratorium does not apply to by right construction/development that is currently allowed by the Newton Zoning Ordinances. This moratorium shall expire on September 30, 2019.

**MEETING DATE:** June 25, 2018

**CC:** Ouida Young, City Solicitor  
Planning & Development Board  
City Council

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Moratoriums can be used to temporarily halt specified types of development activities while plans and/or regulatory changes are developed and implemented to address the concerns identified. The idea is that the issue is of such a scale or level of concern that a time-out is necessary so that controls or mitigation measures can be put in place.

As drafted, the proposed moratorium applies to projects seeking discretionary special permits issued by the City Council and variances issued by the Zoning Board of Appeals. The effect of this moratorium would be the prevention of any new special permit or variance applications for the next 18 months or

until the completion of the Zoning Redesign and Washington Street Vision processes. Typically, moratoriums are applied to issues that do not otherwise have a discretionary process, i.e. by-right development, and not to development for which a case-by-case discretionary decision can be made. As written, the proposed moratorium removes discretionary authority.

In considering whether or not to establish a moratorium, there are three “best practices” to consider:

1. Clearly defined timeframe and endpoint;
2. A precise target such that the issue is narrowly defined and only that development activity which necessarily must be halted to address the issue is subject to the moratorium; and
3. Identified objectives – what will be the outcome of the work? – a plan, policy, regulation or other action and a scope of work for getting there.

The proposal includes a proposed timeframe and endpoint as well as identified objectives.

The Planning Department recommends that the Zoning and Planning Committee first focus its discussion on the second moratorium “best practice” identified above; what is the issue to be addressed? Some important questions to consider:

1. What is the specific issue of concern?
 

This question refers to more than just identifying the target of the moratorium. This question is meant to get to the heart of why a moratorium is necessary. For example, a municipality with a lake experiencing declining water quality as a result of lakefront development might place a moratorium on such development until such time as new rules can be enacted that would address the issue. Generally, the fact that a new plan or new rules are in development by itself does not constitute sufficient basis.
2. Is a moratorium necessary in order to effectively address the issue?
 

As a moratorium strips away property rights, even though temporarily, it is generally considered a last resort action. This question is meant to drive consideration of other, less impactful ways of addressing the issue such as existing discretionary review processes.
3. What additional data is necessary to guide decision making?
4. What are the impacts of a moratorium on residents, businesses, and the City overall?
 

Are all special permit and variance requests included in the moratorium? For instance – would special permits related to a change of use (e.g. retail to restaurant), addition to an existing property, or special permits amendments be subject to the moratorium?
5. What would be the outreach plan to follow up with individual property owners regarding the moratorium?



Ruthanne Fuller  
Mayor

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**Barney S. Heath**  
Director

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**MEMORANDUM**

**DATE:** June 22, 2018

**TO:** Councilor Albright, Chair  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Marie Lawlor, Assistant City Solicitor  
Jennifer Caira, Chief Planner

**RE:** #376-18 Zoning Amendments for Recreational Marijuana Establishments  
THE PLANNING DEPARTMENT requesting amendments to the Newton Zoning Ordinance, Chapter 30, to regulate the use of land, structures and buildings for the operation of marijuana establishments; to determine in which zoning districts and under what conditions marijuana establishments will be allowed; and to establish minimum standards and criteria.

**MEETING DATE:** June 25, 2018

**CC:** Jonathan Yeo, Chief Operating Officer  
Ouida Young, Acting City Solicitor  
John Lojek, Commissioner of ISD  
Planning and Development Board  
Marijuana Working Group

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**EXECUTIVE SUMMARY**

The voters of Massachusetts passed a law to permit the cultivation, processing, distribution, possession and use of marijuana for recreational purposes in November 2016. The City of Newton approved the ballot referendum 55 percent to 44 percent. Effective December 15, 2016 the law allowed certain personal use and possession of marijuana. The Cannabis Control Commission

(Commission) was established in September 2017 to oversee all recreational and medical use marijuana and issued regulations regarding the licensing of commercial (non-medical) marijuana activities. On March 5, 2018 City Council adopted Ordinance B-4, establishing a moratorium for all recreational marijuana establishments until December 31, 2018. The moratorium was established in order to have time to review and respond to the regulations issued by the Commission in March and develop a zoning ordinance for recreational marijuana and other marijuana related facilities as non-medical marijuana establishments are not otherwise contemplated or addressed under the present Newton Zoning Ordinance.

## **CANNABIS CONTROL COMMISSION REGULATIONS**

The Cannabis Control Commission (Commission) is tasked with reviewing applications from candidates for licenses, establishing a registration process, and performing background checks of individuals associated with applicants or licensees. In addition, the Commission is required to promulgate statewide regulations addressing: public health issues such as products, labeling, advertising and potency; industry issues such as cultivation, distribution, transportation and seed-to-sale tracking; and market participation for communities including women, minority, and veteran-owned businesses, as well as growing cooperatives. On March 23, 2018 the Commission published the final regulations for the adult use of marijuana. The regulations primarily focus on the licensing application and process; however, they also provide definitions for the various uses and some guidance for municipalities. Below is a summary of relevant regulations:

- During the application process for the Commission, applicants will be required to demonstrate they've held a community meeting and have executed a Host Community Agreement with the municipality. Once the application is complete, the municipality is notified and has sixty days to notify the Commission if the applicant is not in compliance with local zoning. Special Permits need not be granted by this deadline, the Commission just needs to know that a Special Permit would be available for that particular location.
- Host Community Agreements are required for all marijuana establishments (including medical marijuana dispensaries). The agreement may include a community impact fee of up to 3 percent of gross sales to be paid to the host community, as long as the fee is reasonably related to real costs imposed on the municipality due to the establishment operating there.
- Local ordinances may govern the "time, place, and manner" of marijuana establishments and may not be "unreasonably impracticable". Local laws cannot be so difficult to comply with that they would subject applicants to unreasonable risk, or require such a high investment of risk, money, time or any other resource or asset, that a reasonably prudent businessperson would not operate a marijuana establishment.
- A municipality may pass an ordinance limiting the number of marijuana retailers to 20% or more of the number of package store liquor licenses. A ban of any use or a limitation on retailers below 20% in Newton would require a ballot initiative.

- Under state law, a marijuana establishment may not be located within 500 feet of a pre-existing public or private k-12 school. Municipalities may adopt an ordinance to reduce that distance requirement.
- A municipality may regulate signage regarding marijuana-related uses, but the standard may not be more restrictive than those applied to retail establishments selling alcohol.
- Municipalities are prohibited from barring the transportation of marijuana or marijuana products or adopting an ordinance that makes transportation unreasonably impracticable.

### EXAMPLE ORDINANCES

Very few municipalities in Massachusetts have adopted new zoning regulations for recreational marijuana use at this time (most have similar moratoriums or have voted to prohibit the use). Planning staff have reviewed draft and recently adopted ordinances and bylaws from Boston, Brookline, Amherst, Groton, Grafton, and Easthampton. Below are some examples of regulations from those communities:

- Most communities require a Special Permit for all marijuana related uses
- Retail marijuana establishments are generally permitted (by Special Permit) in business and some industrial zones
- Hours of operation are typically set by Special Permit or Host Community Agreement; however, several communities limited the hours to a maximum of 8 am to 8 pm. Salem requires the hours of operation be consistent with those for package stores.
- Most regulations included a buffer between marijuana establishments, ranging from 50 feet in Easthampton to one half mile in Boston.
- Several regulations include a prohibition on marijuana establishments being located within buildings that also contain residential units.
- Several regulations include a maximum size for retail marijuana establishments, ranging from 2,500 square feet to 5,000 square feet.
- Groton and Salem require that the Police Department review a security plan.
- Salem also requires an Operations and Management plan be submitted to the Building Department prior to issuance of a building permit. The plan must include organizational structure, location, property description, hours of operation and staffing, cultivation practices, processing practices, distribution practices, employee safety, general compliance, fire prevention, sanitation requirements, electrical system overview, proposed energy demand and proposed electrical demand offsets, ventilation system and air quality, and proposed water system.

- Salem requires cultivation and manufacturing facilities to offset 100 percent of electricity consumption.

## PROPOSED REGULATIONS

In developing a draft ordinance regulating both recreational and medical marijuana, Planning staff have consulted with other City departments, and reviewed the regulations issued by the Commission as well as draft ordinances and bylaws from other municipalities in order to create a zoning ordinance that provides meaningful opportunities for marijuana establishments in accordance with state laws and regulations, while imposing reasonable safeguards to ensure public health, safety, well-being, and prevent undue impacts on the natural environment. Included below are definitions for the various uses, a discussion of potential zones for each use, and proposed regulations and criteria for approval to be included in the ordinance.

### Definitions

- *Marijuana Establishment* – a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.
- *Marijuana Retailer* – an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.
- *Marijuana Cultivator* – an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.
- *Craft Marijuana Cooperative* – a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.
- *Marijuana Product Manufacturing* – to compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.
- *Marijuana Transporter* – an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers.
- *Registered Marijuana Dispensary (RMD), also known as Medical Marijuana Treatment Center* – a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered

Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.

- *Marijuana Research Facility* – an entity licensed to engage in research projects by the Cannabis Control Commission. A Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana products. A research facility may not sell marijuana cultivated under its research license.
- *Independent Testing Laboratory* – Laboratory licensed by the Commission that is: accredited to the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, Section 34.
- *Microbusiness* – Co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

## Locations

The Newton Zoning Ordinance currently allows RMDs (medical marijuana dispensaries) in the Business 2 (BU2), Business 5 (BU5), and Mixed Use 1 (MU1) zones, by Special Permit only. The ordinance will need to be updated to include allowed zones for each of the uses defined above. It is intended that all marijuana uses will be by Special Permit only. It should also be noted that all proposed zoning utilizes existing zones and will need to be updated at the time new districts are adopted as part of Zoning Redesign.

## Retail Marijuana and Registered Marijuana Dispensaries

Retail Marijuana storefronts and RMDs have unique aesthetic concerns as they are prohibited from having the product visible from the street. Combined with security requirements and concerns, this can result in bunker-like retail establishments which are not always pedestrian friendly. The goal in locating these establishments is to try to locate outside of our most vibrant, pedestrian oriented zones within village centers, while establishing minimum transparency requirements to mitigate potential aesthetic concerns when located at the ground floor. Additionally, these establishments should be located in areas that are easily monitored by law enforcement and benefit from additional “eyes on the street” from pedestrian and vehicular traffic. Zones being considered for both Retail Marijuana and RMDs include the BU2, BU5, Business 4 (BU4), and Mixed Use 2 (MU2). These zones are being considered for the following reasons:



- The BU2 zone is generally located along commercial strips or nodes outside of village centers.
- The BU5 zone is primarily located along the western edge of the City and both BU2 and BU5 currently allow medical marijuana dispensaries.
- The BU4 zone includes The Square and The Street in Chestnut Hill as well as a couple other properties adjacent to Riverside and in Newton Corner. These locations provide regional access at the edges of the City, are mostly outside of village centers, and still maintain a high level of activity to contribute to a sense of safety.
- The Mixed Use 2 zone is located along the northeast portion of Needham Street and is just outside the village center while still maintaining vehicular and pedestrian activity.

Other commercial and industrial zones were considered and deemed not appropriate for the following reasons:

- The Business 1 (BU1) zone is primarily located in village centers, where high degrees of ground floor transparency are important but difficult to provide given the use and limitations on product visibility. Restricting Retail Marijuana and RMDs to above (or below) the ground floor was considered but determined to be impractical due to the lack of multistory commercial buildings and the lack of accessibility for persons with disabilities.
- The Mixed Use 1 (MU1) zone currently permits RMDs, though none have located in this zone at this time. This zone provides regional access and commercial buildings that are relatively isolated from residential neighborhoods, however the scale of development along this stretch of Needham Street is inconsistent with proposed regulations to limit the size of Retail Marijuana and RMDs. This section of Needham Street consists of large parcels and large-scale office and retail buildings. Additionally, the MU1 zone does not permit retail that is less than 5,000 square feet.
- The Mixed Use 3 (MU3) and Mixed Use 4 (MU4) zones are limited and have only been applied to specific projects that are a mix of residential and commercial uses. These would not be appropriate zones given the conflict of locating a marijuana establishment within a building with residential units.
- The Limited Manufacturing (LM) zone is only located at Wells Avenue. As this area is intended to be an office park with a focus on jobs-producing uses, it is not being considered as an appropriate zone for Retail Marijuana and RMDs. Additionally, allowing these uses would require an amendment to the Wells Avenue deed restriction.
- The Manufacturing (M) zone does not currently allow any retail uses. This zone is not being considered for Retail Marijuana or RMDs in order to preserve these zones for true manufacturing uses and for security concerns due to the nature and location of these zones and buildings, which tend to be less pedestrian oriented and more isolated.

### Marijuana Research Facility and Independent Testing Laboratory

Marijuana research and testing uses are similar to laboratory and research facilities, which are permitted by-right in the Manufacturing and Limited Manufacturing zones. We are proposing these uses be permitted by Special Permit in the M and LM zones. While research facilities are permitted to cultivate marijuana, it is only for the purpose of conducting research and cannot be sold. As cultivation would be accessory to the research use and limited in size, these uses would be appropriate at Wells Avenue in the LM zone and in M zones.

### Cultivation, Marijuana Product Manufacturing, Craft Marijuana Cooperative, and Microbusiness

The above uses are most appropriate in the Manufacturing district. Aside from Marijuana Product Manufacturing, the uses involve cultivation of marijuana, which typically occurs in warehouse buildings. These uses would not include direct sales to consumers and therefore do not need to have a public presence in a commercial corridor and would not be similar to the R&D and office uses located at Wells Avenue.

### **Standards and Criteria for Approval**

#### Existing Registered Marijuana Dispensary (RMD) Ordinance

In addition to the use table, which lays out which uses are permitted in which zones, the zoning ordinance can include additional regulations for marijuana establishments as well as tailored criteria for approval for the various uses. Currently the existing ordinance for RMDs contains minimum criteria and limitations on approval for RMDs as well as specific criteria that must be met, in addition to the general Special Permit criteria, to grant approval of the RMD.

The existing RMD ordinance requires a 500-foot buffer from schools as well as places where children commonly congregate and places of worship. This buffer can be waived by City Council as part of Special Permit process. The ordinance also currently requires that RMDs be operated fully within a permanent building and fully comply with all zoning dimensional requirements, that the RMD be registered with the state, and that the RMD must receive a new Special Permit if they facility relocates to a new site or if a new RMD locates on the existing site. Hours of operation are not set by the ordinance; however, the RMD's hours of operation shall not adversely affect nearby uses. In addition, the ordinance requires that applicants submit a transportation analysis, a map and narrative of the anticipated service area, including anticipated number of clients, and a map showing all uses within 1,000 feet. Criteria for approval include: the RMD is located in an area that does not currently have reasonable access to medical marijuana, the site provides convenient, safe, and secure access and egress for clients and employees utilizing all forms of transportation, traffic shall not create a significant impact on nearby uses, aesthetic impacts have been mitigated, the building and lot are accessible to persons with disabilities, the lot is accessible to regional roadways and public transportation, and the site is located where it may be readily monitored by law enforcement and code enforcement personnel.

## Proposed Standards for Marijuana Establishments

The following standards are being for marijuana establishments:

- Limit the number of Retail Marijuana storefronts to 20 percent of the package store liquor licenses, which translates into up to eight potential licenses for retail marijuana in Newton. This is the lowest limit that can be set without a ballot initiative.
- Provide a buffer between all storefront marijuana establishments (both retail and RMDs) of at least 1,000 feet, but no more than half a mile.
- Require a minimum transparency requirement for ground floor storefronts (both retail and RMDs) of at least 25 percent. We are exploring whether this number can be higher and still allow establishments to reasonably meet state requirements regarding visibility of products.
- Prohibit marijuana uses to be located in a building with residential units.
- Limit the size of Retail Marijuana establishments.
- Require all cultivation to offset 100 percent of energy consumption with renewable energy, either on site, through Newton Power Choice, or by buying Renewable Energy Certificates (RECs).
- Require a transportation analysis, including a traffic study and a parking study.
- Require a lighting plan.
- Set hours of operation by Special Permit or Host Community Agreement.
- Require review and approval of a security plan by Police.
- Require submittal of an emergency response plan to Fire and Police.
- Require submittal of an operation and management Plan to Inspectional Services and Planning.

## Proposed Criteria

The criteria for approval for Retail Marijuana and RMDs can stay largely the same as the existing criteria for RMDs. Additional criteria regarding odors should be included for all marijuana uses, and further criteria beyond the existing RMD criteria, tailored to cultivation, manufacturing, research, and testing may be necessary and is currently being explored.

## **NEXT STEPS**

Following discussion of this item, we would request that a public hearing be on this item for September.

**ATTACHMENT A:** Draft Zoning Map for Retail Marijuana and RMDs

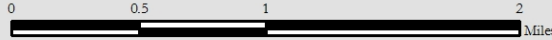
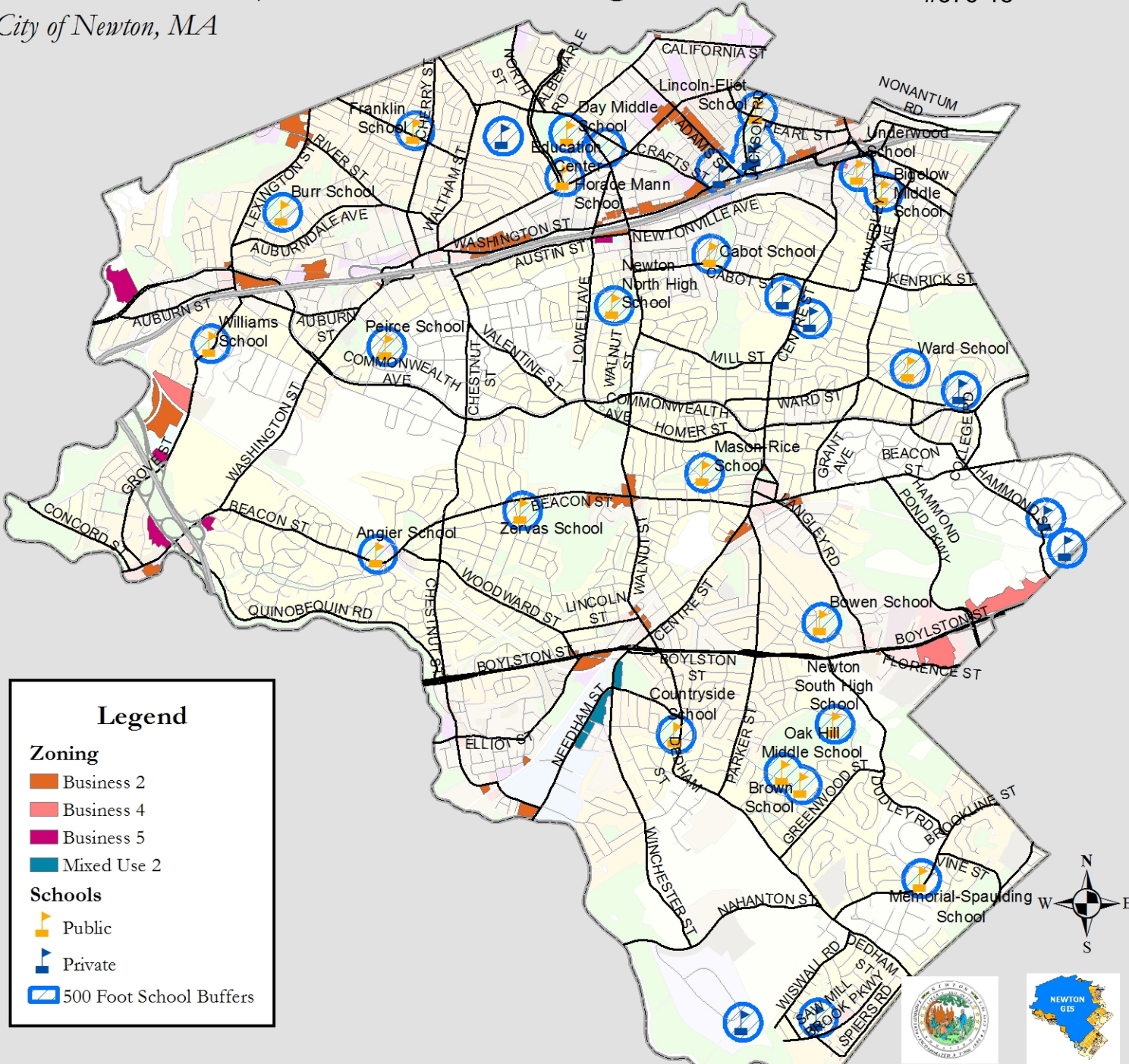
**ATTACHMENT B:** Draft Zoning Map for Marijuana Research Facilities and Independent Testing Labs

**ATTACHMENT C:** Draft Zoning Map for Marijuana Cultivation and Product Manufacturing

# Draft Retail Marijuana and RMD Zoning

#376-18

City of Newton, MA



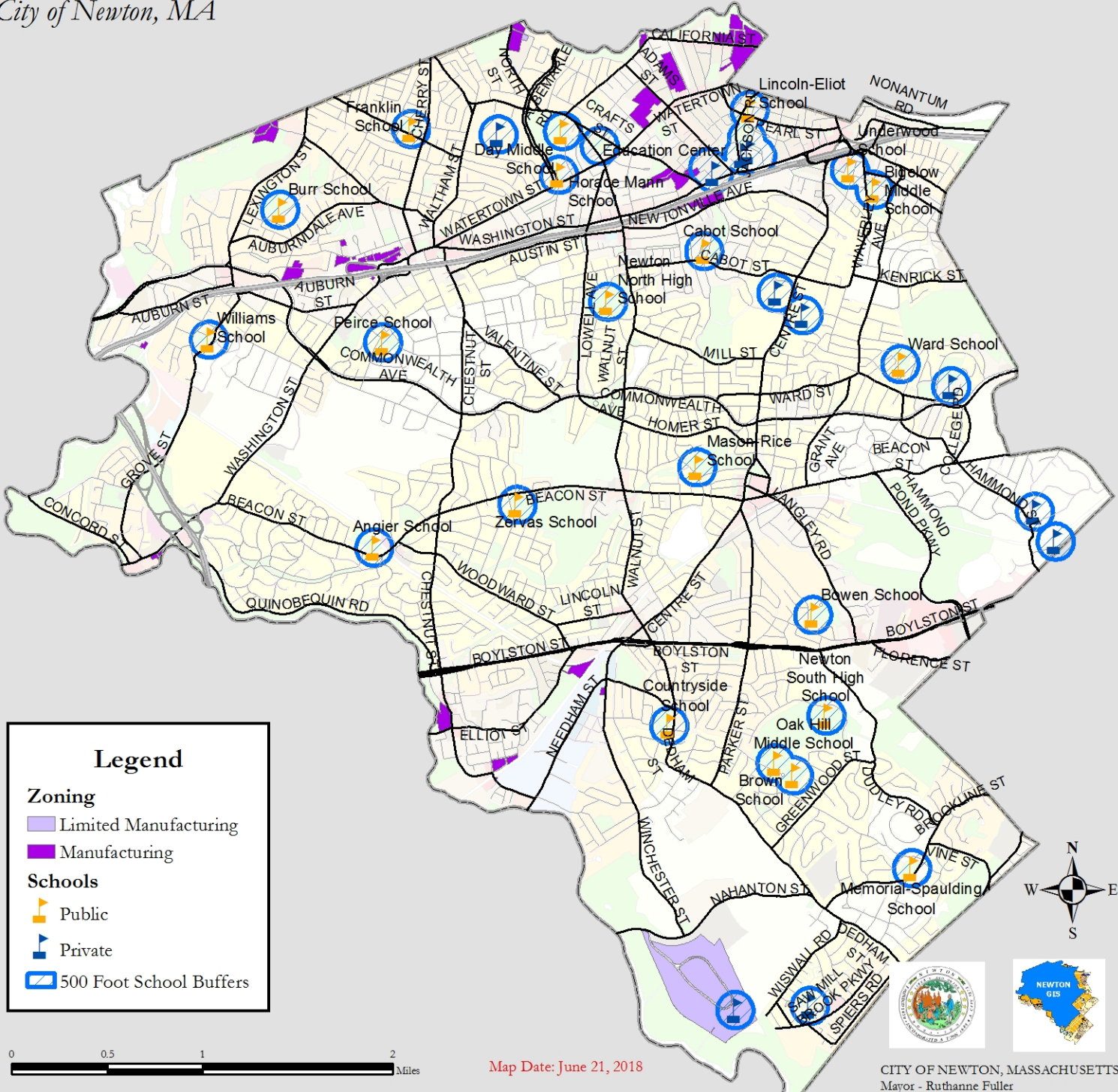
Map Date: June 21, 2018



# Draft Marijuana Research Facility and Independent Testing Laboratory Zoning

#376-18

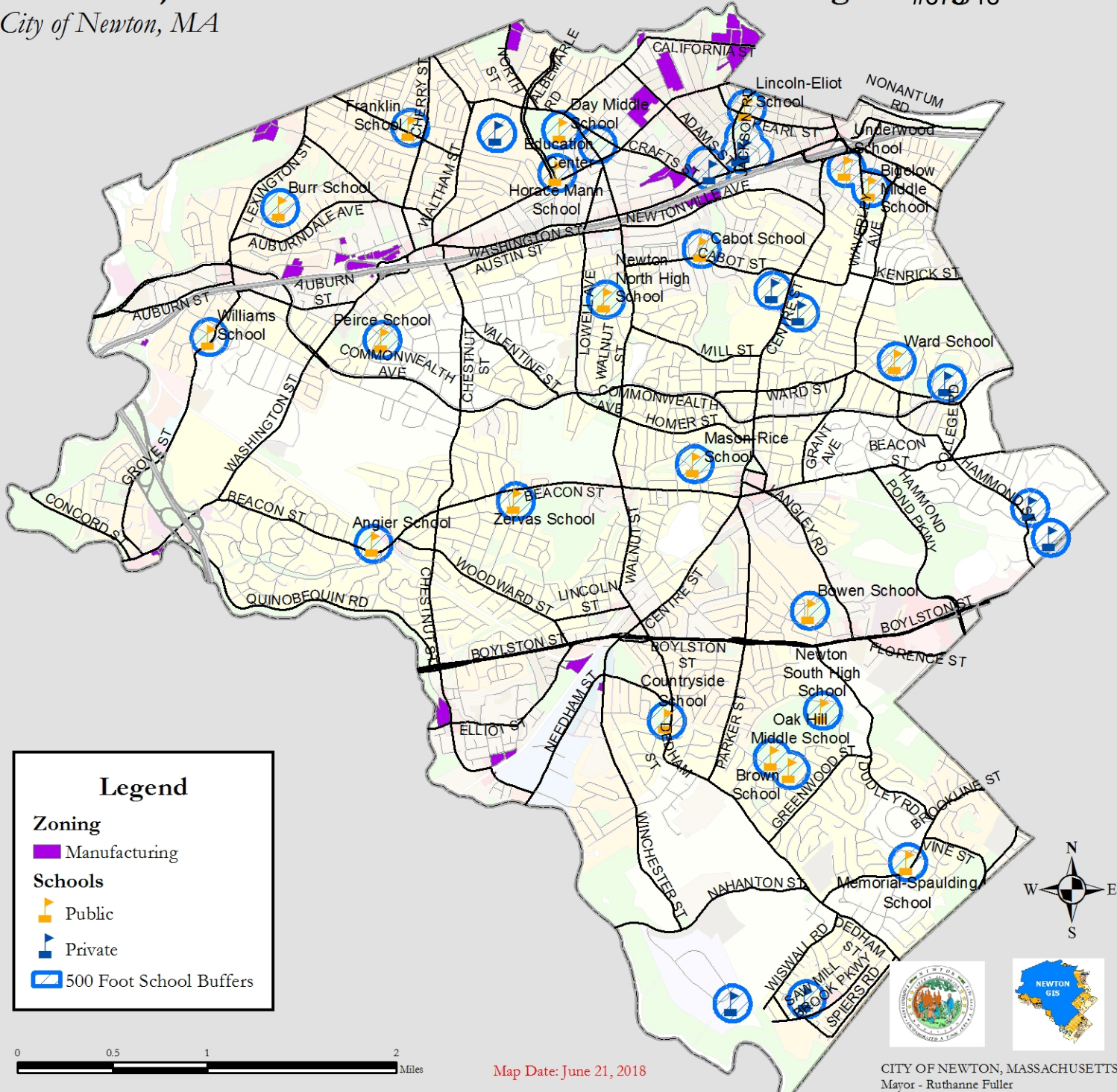
City of Newton, MA



# Draft Marijuana Cultivation and Product Manufacturing Zoning

#378-18

City of Newton, MA





Ruthanne Fuller  
Mayor

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**Barney S. Heath**  
Director

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## MEMORANDUM

**Date:** June 21, 2018

**TO:** Councilor Susan Albright, Chair  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director of Planning & Development  
James Freas, Deputy Director

**SUBJECT:** Zoning Redesign

**MEETING DATE:** June 25, 2018

**CC:** City Council  
Planning and Development Board  
Ouida Young, City Solicitor

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On May 10<sup>th</sup>, 2018 the Planning Department hosted the final in the series of topic-based Zoning Redesign events. This event was titled *A New (Draft) Zoning Map for Newton* and included a presentation from Sasaki Associates about the mapping and analysis used to create new draft zoning map options. For the upcoming Zoning and Planning Committee meeting staff will provide an update on our approach to developing the draft map, review the comments and discussion from the public at the May 10<sup>th</sup> event, and look ahead to our summer and fall plans to councilor meetings and community engagement. Attached is the event Summary Report of the community discussions that took place immediately following the May 10<sup>th</sup> presentation.





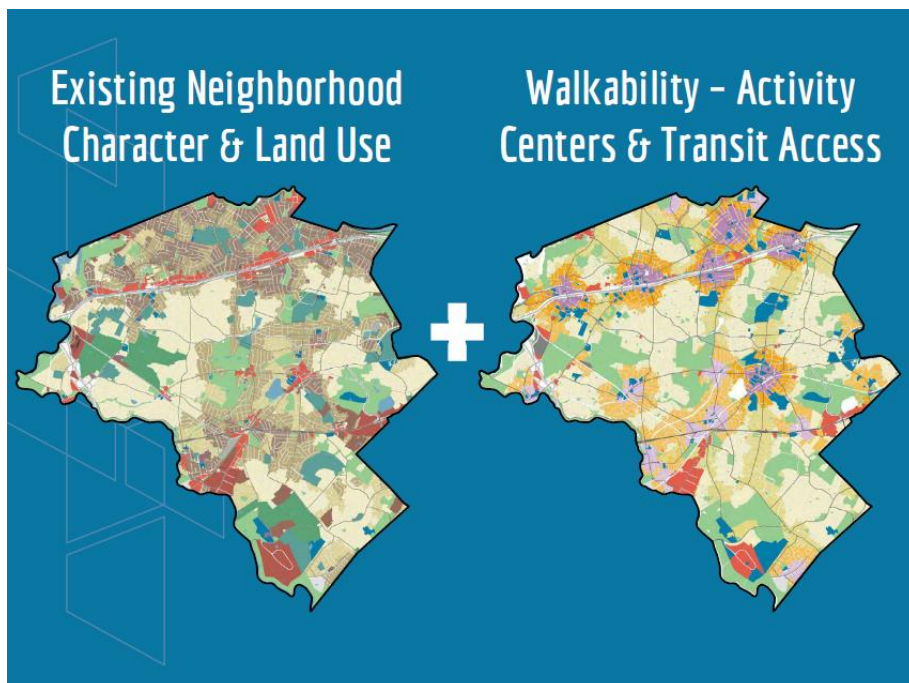
## Summary Report

### A New (Draft) Zoning Map for Newton

This summary report is for the Zoning Redesign event on Thursday May 10, 2018 and the presentation slides and video of the presentation are available online ([www.courbanize.com/newtonzoning](http://www.courbanize.com/newtonzoning)). An informational sheet was published ahead of the event and is appended to this report.

At this final event in the Zoning Redesign series the consultant team, Sasaki Associates, provided the presentation covering the following topics:

- Data-driven map making process
- Reviewing the draft district boundaries and draft building types
- Showing examples of how context-based zoning districts and building types may get more 'context-based' results and less buildings that don't fit in with the existing context



The event was well attended by over 70 members of the public. After the presentation, City staff and the consultant team fielded several clarifying questions from attendees. Then, the event proceeded to small group discussions where attendees were asked to provide feedback on the entire presentation and,

specifically the two maps presented. The first map proposes zoning for existing neighborhood character and land use. The second map proposes zoning that would allow appropriately scaled growth in existing activity centers and close to transit.

One of the main themes in the discussion groups was how to reconcile the strengths and weaknesses of the two zoning maps. These maps present different options; one, proposes a zoning map that reflects the existing context and character of Newton and the other, proposes a zoning map that directs future change to be in areas where commercial uses or transit access already exist.

### **Community Feedback: Tradeoffs Between Two Maps**

Attendees discussed tradeoffs presented by these options and several people expressed wanting to review maps more carefully over time. One table noted the first mapping approach represents maintaining status quo policy objectives dating to the 1950's, while the second mapping approach represents directing change over time mostly to village centers and transit accessible areas. Several table discussions noted that the second map, which locates areas of greater transformation in commercial or village centers, would mean policy goals on environmental sustainability, reducing carbon footprint, and responding to climate change are more likely to be addressed. Many attendees were skeptical of any zoning changes and expressed opposition to promoting growth or change of any kind.

Several groups discussed the desire to **preserve the architectural styles and characteristics** of an area and its immediate surroundings. It was noted by staff that zoning can't legislate taste, but it can regulate the degree to which a new building or changes to an existing building are reflective of the existing neighborhood context. The zoning approach proposed at the presentation would use **building types** to specify what building forms would be allowed in varying neighborhoods, and these building types would be based on the existing neighborhood context. Some groups discussed design reviews as an additional tool that could be incorporated into zoning.

Many attendees provided positive feedback on this concept. Some people were interested in seeing the **context-based zoning approach** also be applied to the village centers. In general, many people asked for more details about the proposed building types for **village centers**. Some suggested that zoning redesign look to zone the entire city as a historic district. Some felt as though village centers in Newton are already dense and were concerned about ideas of more density. Many asked how zoning in village centers and near village centers would respect smaller homes in village centers.

As in previous events in the Zoning Redesign series, attendees expressed a need to combat **"teardowns"** that replace older, smaller homes with new homes that don't fit the neighborhood context. Several people appreciated the proposed context-based zoning approach and building types, as a way for zoning to address and reduce teardowns. Some people responded to the presented building type information negatively stating they felt as though the examples were based more on statistics than neighborhood feel.

In the context of conversations regarding the “**missing middle of scale**” in village centers, many people were interested in finding ways to zone for medium-sized projects closer to transit. One group discussed whether the current zoning ordinance renders such medium-size projects risky and therefore less financially feasible. Other tables looked to recent proposals such as a proposal on Adams Street as an example of a proposal that some said is not compatible with the neighborhood. One group used West Newton as an example and expressed concern that if a neighborhood is zoned with a character district that is denser, the neighborhood might become progressively denser. One table discussed how Newton’s Comprehensive Plan describes the importance of **open space** as a balance to development.

Some people expressed dissatisfaction with the **public process** to date for Zoning Redesign and expressed interest in zoning changes to be passed by citizens’ referendum instead of by City Council vote. A few attendees mentioned interest in a **moratorium** on buildings wholesale and looked to zoning redesign to accomplish this. One group discussed ward-by-ward meetings about Zoning Redesign with Ward Councilors and suggested these be open to the public.

There were also discussions about population growth over time including concerns with **schools, traffic and congestion**. Several people hoped that zoning changes are considered with **fiscal impacts** to the city in terms of increased tax revenues or increased costs. One group discussed zoning for golf courses in Newton and recommended they not be zoned residential in the future and the City seek a right of first refusal in the case golf courses change hands. People also discussed types of housing units built in the future including smaller units and apartments.

### **What’s next?**

Residents had an opportunity to drop in to City Hall on Tuesday, May 22<sup>nd</sup>, 2018 from 5:00 – 7:00 p.m. to ask more detailed questions of staff, discuss any of the presentations from the event series over the last year, and share further ideas for consideration. Over the coming months future opportunities for providing feedback will be announced by City staff.