



Zoning & Planning Committee Report

City of Newton In City Council

Wednesday, November 14, 2018

Present: Present: Councilors Albright (Chair), Leary, Brousal-Glaser, Krintzman, Downs, Danberg and Baker

Absent Councilor Kalis

Also Present: Councilors Greenberg, Auchincloss and Kelley

Planning & Development Board Present: Peter Doeringer, Sonia Parisca, Jennifer Molinsky, Kelley Brown, Sudha Maheshwari, James Robertson and Kevin McCormack

City Staff Present: Jonathan Yeo (Chief Operating Officer), Barney Heath (Director, Planning Dept.), James Freas (Deputy Director, Planning Dept.), Jennifer Caira (Chief Planner), Rachel Nadkarni (Senior Planner), Lily Reynolds (Community Outreach Manager), Andrea Berman (Housing Development Planner), Eamon Bencivengo (Housing Development Planner), Marie Lawlor (Assistant City Solicitor), Jonah Temple (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#187-18 Zoning Amendment for Inclusionary Zoning

DIRECTOR OF PLANNING requesting amendments to the Inclusionary Housing provisions of Chapter 30, Newton Zoning Ordinance, to increase the required percentage of affordable units; to require that some affordable units be designated for middle income households; to create a new formula for calculating payments in lieu of affordable units; and to clarify and improve the ordinance with other changes as necessary.

Planning & Development Board Held 7-0; Public Hearing Continued

Action: Zoning & Planning Held 7-0; Public Hearing Continued

Note: Chair of the Committee, Councilor Susan Albright, opened the public hearing for the Zoning & Planning Committee. Peter Doering, Vice Chair of the Planning & Development Board, opened the Board's public hearing as well.

Councilor Albright introduced Amanda Berman, Housing Development Planner for the City. Ms. Berman presented the major changes to the existing inclusionary zoning ordinance, which has been discussed in Committee several times. A PowerPoint presentation, along with her comments are attached to this report. Please refer to the attachment for details.

Committee Comments/Questions

A Committee member asked for clarification on the proposed Density Bonus. Ms. Berman explained that if a project is offering to provide an additional affordable unit, above what is required, an additional two market rate units would be allowed into the project. This is a change from the 1:1 ration in the current ordinance.

It was asked if the proposed ordinance would create larger projects. Ms. Berman said the zoning district, not the inclusionary zoning ordinance, determines the scale and number of units. The Inclusionary Zoning ordinance applies to projects of 7 units or more, so they would be subject to a special permit, which gives the City Council some control.

It was asked if the Department of Housing and Community Development's (DHCD) Qualified Allocation Plan (QAP) index amount of \$389,000 is updated by the state, and if Newton would evaluate the ordinance on a yearly basis and/or perhaps change that number on its own. Ms. Berman explained that the City would tie itself to the state QAP number and has no plan to institute a different number on its own, or do a yearly review, per se. However, staff will be consistently reviewing the outcomes produced by the proposed numbers in the ordinance to see if any changes or adjustments should be made.

A Councilor asked how many inclusionary units have been built under the current ordinance. Ms. Berman noted that 14 units have been built since 2003 under the existing ordinance. It was also asked how many might be built under the proposed ordinance. Ms. Berman said there are approximately 240 affordable units currently under construction, permitted or in the approval process with the City Council, and 90 deed-restricted affordable units under construction as well. The City is seeing quite a bit more construction now than it has seen in the last 15 years and the proposed language would provide more affordable units than the current language. It is difficult to predict exactly how many will be created in the long run.

It was asked which stakeholders were consulted by RKG in order to develop their analytical model. Ms. Berman said the model was based on national and regional data, best practices and research. They also engaged in local research by talking to local developers, lenders and others involved in affordable housing in the City. Planning staff has been speaking to multiple stakeholders from the Fair Housing Committee, Two Life Communities, and many others as well.

A Committee member noted that the ordinance recommends underground parking for projects of 35 units and more. Ms. Berman said that RKG came to that conclusion based on their research of national, local and regional data, as well as the conversations they had with local developers. The higher level of units makes underground parking more financially possible.

The Chair noted that Cambridge requires a certain percentage of 3-bedroom units. If people are moving towards studios and one- or two-bedrooms units, this needs to be considered as families need these larger units. She asked Ms. Berman to look into how that might factor into costs for projects.

Planning Board Questions

A Planning Board member said he was been concerned that the Tier 1 units were the fewest. He wondered if there could be some way to shift the distribution in the rental category towards the Tier 1 group. The need for diversity and affordable housing among the poorest people in Newton was not being fully recognized in this model. Ms. Berman said the number of required IZ units was based on the RKG financial feasibility analysis. The RKG consultants were brought on board to test out proposals and to provide assumptions around construction costs, financing, etc., to determine the tipping point in terms of stifling residential development, or not. That financial model guided staff in creating these numbers, and to push the envelope to create as many affordable units as possible, balanced across all the Tiers as much as possible, without rendering projects financially infeasible. In September, there was a specific discussion about tilting the numbers toward more Tier 1 units. The model showed a pretty vast reduction in the overall number of IZ units so it was the Zoning & Planning Committee's decision to create as much of a balance as possible among all three Tiers. The member asked for cost-neutral tables that would have different percentages being assigned to the different tiers to tip it to the lowest income group.

The Chair explained that the Committee and the Council will need to discuss priorities relative to who should be served, how they can best be served and how that might work in the real world with developers and financing. This will be an ongoing conversation.

It was asked if payments-in-lieu of units has been a large factor in having so few units built since 2003. Ms. Berman said there have not been many payments since 2003. Staff continues to try to determine why so few units have been built, but they believe it may have taken a few years for the model to play out in the marketplace; that the review process in Newton is challenging; and that the 2008 recession had a significant impact.

Public Comment

Josephine McNeill, Co-Chair, Uniting Citizens for Housing Affordability in Newton (UCHAN), 53 Taft Ave. thanked the Planning Department for the extensive effort to improve the IZ ordinance in order to meet Newton's housing needs across all income levels. However, there are two areas of concern: It is not clear what the public policy is that is guiding the creation of the Tiers. Without underlying rationale, it is difficult to assess the validity of the Tiers; and there are concerns as to whether the QAP number of \$389,000 is the real cost of producing a unit of housing in Newton. UCHAN suggests looking at the several projects created in Newton in the past 5 years to more closely estimate the true cost; the group commends staff on their commitment to do further research on how to encourage developers to include more units for extremely low-income individuals and families. They suggest the research include gathering data from outside of Massachusetts and seeking opinions from developers and those who benefit from this housing in addition to the regular consultation with other planning professionals.

Marcia Johnson, 39 Bemis St. associated herself with Ms. McNeill's remarks, as well with those of Bart Lloyd, who sent a letter to Councilor Albright. Ms. Johnson said she saw that there are four statements under "Purposes". She asked the Committee to make a matrix and to be sure all the

boxes are being checked off relative to the purpose statements. She also asked they look at special permits to be sure what is being proposed will help move those purposes forward. Sometimes the underlying ordinance does not fulfil the stated purpose. She is encouraging people to comment on the Washington Street Vision Plan. Transportation is a big part of that and she would like everyone to think about bonuses for affordable units near public transportation so those residents do not need cars. There is concern from many people about the number of cars those new units will bring. She also asked that the Council work with the Planning Department and Inspectional Services on enforcement of the rule that off-site units be completed no later than the market rate units.

Nancy Zollers, 154 Oliver Road said she was speaking on behalf of Engine 6. But one comment on her own behalf was that she would like to have a better way for the public to see what is presented in the Chamber. The Chair explained that she and several others have been working with the IT Department to come up with some better solutions to that problem. Ms. Zollers noted that this amendment is extremely important to advocates of affordable housing in Newton and these are difficult documents. They would like more time to become knowledgeable enough to testify in ways that are meaningful to those they represent and to policy makers. She agreed with the comments relative to Tier 1 units and she believes that more math can show how developers can be much more robust around Tier 1 which is an important demographic to Engine 6.

Doris Ann Sweet, 281 Lexington Street said she applauds the efforts of the Planning Department to make the inclusionary zoning ordinance a more effective tool to encourage affordable housing production in the City. There is an opportunity to think creatively about how to better serve not only middle-income families in Tier 3, but also those who are the most economically vulnerable in Tier 1. As the manager of disbursements of a charitable trust fund created by the request of an Auburndale resident in the 1940s, she is regularly confronted with the fact that low-income neighbors are cost-burdened by their housing expenses. It only takes one untoward event to send their economic well-being into a tail spin. She was pleased to see that the Planning Department has begun to think about possible measures to address the need for more Tier 1 housing. Her request is that staff and Committee members take the time to look at possible ways to increase Tier 1 production in Newton. Is there any possibility to extending the range of Tier 2 to as low as 45% at 40% AMI that could still maintain financial feasibility for developers? What about using that payment-in-lieu money to establish a trust fund to provide subsidies for inclusion of Tier 1 housing units in new developments? Can vouchers play a part in including more Tier 1 families to perhaps raise them to Tier 2? There are many other options and she encouraged creative thinking on this issue. She would also like to know more about what happens when a family's income falls above or below their Tier and what is the process of transition to another Tier or to market level? Can this process be spelled out in the ordinance?

Lynn Weisberg, 5 Alden Street said she echoed comments made by Ms. McNeill, Ms. Johnson, Ms. Zollers and Ms. Sweet. She requests that the public hearing be continued. This is complicated, dense material that needs to be reviewed. They need more time to study it in order to be able to make intelligent comments. She supports the attempts for more Tier 1 projects and asks that this

be considered. She also asked for transparency. There have been minimal payments-in-lieu of units, but there have been some and she would like to know the balance of the IZ account and that it be made public at the next meeting. She also encourages staff to think about ways to use that money to assist in the creation of additional affordable units.

Lizbeth Heyer, 25 Freeman Street said she works for Two Life Communities, which was just rebranded. They are the owners of Golda Meir House and Coleman House in Newton which together provide 350 supported housing units for extremely low-income seniors. She thanked the City for trying to create ways to provide more affordable housing. The effort to make both housing and services available to those on a fixed income is very difficult.

The challenge to drafting an inclusionary policy for elder housing with services is finding the right mechanism to ensure that the affordability extends to both housing and services. Services would include things like food and transportation, as well as personal and home care that will allow them to live independently. It is much more difficult to create requirements that provide sustained affordability of housing, plus these services, especially when the services increase with frailty. The income of an older adult is usually fixed, and will decline over time as savings (if any) are depleted. The Joint Center for Housing Issues reports that on average, renters only have enough savings to pay for 3 months of home or personal care services. They end up in a Medicaid nursing home when they run out of money. Homeowners have the added benefit of home equity, but they need affordable places to move to. If not, they stay trapped in their home and forgo food, transportation, etc. in order to make ends meet.

Another challenge is the vast difference between the various kinds of elder housing with services that exist. Having an ordinance with one-size-fits-all approach is difficult. While this proposed IZ ordinance is on the right track, there can be some refinements based on these varied modes and needs. The model of total monthly housing costs, inclusive of base services that must not exceed 80% of the senior's annual gross income, will not yield the same result in the various communities. In order for the inclusionary requirement to result in housing that is affordable and sustainable over time, the pricing needs to reflect older adults' ability to pay based on the actual services provided. She suggests a laser focus on the need for home care and creating a set aside for home care before that calculation is done. She suggests using a building block approach based on the UMass Gerontology Institute's Elder Economic Security Index which calculates that an older single adult needs about \$260/month for food; \$225 month for transportation; \$390 for healthcare; and \$330 for other general expenses. So, after deducting these expenses from an older adult's income, you can more accurately determine what they need for housing. While this approach will result in more sustainable costs on the housing side, it will not address the remaining gap between a low to moderate resident's income and their increasing need for homecare assistance. Adequate homecare assistance is generally not included in base services, especially in independent living with services and assisted living typically includes just one hour of home care a day. On average, seniors use 2.5 – 3 hours of homecare a day. If you charge them too much to live in a unit, they will not have enough money to pay for those services. A calculation of 2.5 hours of homecare should be used to create a set-aside and that amount should be taken off the top of the calculation so that

residents have a fighting chance to buy homecare and stay in that community. She pointed out that 2.5 hours of homecare a day, which has an average cost of \$28 an hour, is \$25,550 a year which is more than half the income of someone at 80% AMI, which is the intended target population for this housing. A very calculated, refined and specific pricing approach needs to be employed to make these communities sustainable over time.

There also needs to be a special provision for Continuing Care Retirement Communities. The problem for low-income people in this type of community, unless the nursing home accepts a Medicaid reimbursement, is that a low-income person will not be able to live there. She strongly encouraged staff to require that the nursing home accept Medicaid reimbursement.

She loved the 100% affordable option. 110% of AMI is too low for senior supported housing because the cost of housing and services for 100% at that amount is not sustainable. She encouraged a special waiver provision for elder housing with services that goes up to 150% of AMI. She said she would be happy to work with staff on language.

No one else asked to speak at the public hearing.

Both the Committee and the Planning Board voted to keep the public hearing open since there were some requests made for new data, and time for people to understand the presented material. The Committee was originally slated to bring this item back to Committee on December 10th but considering that new models will need to be run, that timeframe is not reasonable, therefore, this item will likely come back to Committee in January.

The Committee and Planning Board both moved to hold this item, unanimously.

#220-18 **Discussion relative to the Washington Street Corridor Action Plan**
DIRECTOR OF PLANNING requesting monthly progress discussions on the Washington Street Corridor action plan.

Action: **Zoning & Planning Held 7-0**

Note: Barney Heath, Director of Planning, noted that many Committee members were at the Open House presentation of the Washington Street Vision Plan and Zoning at Newton North. There is currently an ongoing public comment period and an online tool which can be used to make those comments. Office hours were held by Planning Staff last week as well and they met with a number of engaged residents. Office hours will continue over the next three weeks.

Russ Preston of the Principle Group addressed the Committee. He provided an overview of the work that has been accomplished thus far, which was reviewed at the Open House. Please refer to the attached presentation, as well as the very detailed materials that were made available prior to this meeting, which can be found online at:

<http://www.newtonma.gov/gov/aldermen/committees/zoning/default.asp>

The material of the vision plan and zoning will be addressed in “deeper dive” segments on November 26 (West Newton); December 6 (Committee of the Whole Overview); December 10 (Newtonville); January 1 (Crafts Street); January 28 (Zoning Toolkit); February 25 (2nd Draft of Vision Plan); and April/May meetings for the Final Vision Plan and Zoning.

The Committee voted to hold this item.

#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. Public Hearing Closed 9/24/18
Planning & Development Board Approved as amended 6-0-0

Action: Zoning & Planning Approved as amended 6-0-1 (Councilor Brousal-Glaser Abstaining)

Note: A public hearing was held on this item on September 24th and was closed on the same date. Jennifer Caira, Chief Planner, provided an update on the revised zoning for marijuana to include recreational marijuana uses. She provided a PowerPoint presentation which is attached to this report. Please refer to it for details to accompany her comments, below. The Planning Memo on this item may be found online, attached to the agenda at:
<http://www.newtonma.gov/civicax/filebank/documents/92638/11-14-18%20Zoning%20&%20Planning%20Agenda%20and%20Memos.pdf>

Ms. Caira explained that this zoning is intended to be interim and will need to be revisited once the new zoning districts are established as part of zoning redesign. As staff are drafting the zoning map for zoning redesign, they are also considering ways to approach marijuana zoning. They would apply the same guiding principles and rationale as with the current zoning.

The proposed draft presented this evening is largely the same as what was presented last month, however, Mixed Use 2 (MU2) was removed and substituted with Mixed Use 1 (MU1) based on concerns raised regarding the proximity of MU2 to the Newton Highlands Playgrounds. MU1 offers fewer conflicts and it has been clarified that marijuana retailers would not be subject to the prohibition on small retail in this zone. As was presented last month, RMDs and Marijuana Retailers will also be allowed in the Business 2, 4 and 5 zones. Staff tried to identify zones that distributed across the City as best as possible.

The draft ordinance proposes changes to the minimum criteria and limitations on approval that are in the current RMD (medical) ordinance. The proposed ordinance will keep the existing 500’ buffer from schools for RMDs even though the state only requires that particular buffer for marijuana retailers. Staff is also proposing a half-mile buffer between RMDs and Marijuana Retailers but allowing co-location at the same site. The proposal limits the number of Marijuana Retailers to no more than 8, which is 20% of the number of liquor stores, in accordance with state law. The City

may limit the number to no more than that 20% threshold, but cannot lower it without a ballot question, as was just carried out in the recent election. The size of a retail establishment would be limited 5,000 square feet. A retailer must also provide a minimum ground-level transparency of the front façade of 25% of retailers and RMDs, which could be waived by special permit.

Please refer to the various maps in the attached presentation to see the buffer zones, allowed districts and the half mile buffer around the only existing RMD currently in the City.

Ms. Cairra explained that Planning staff have received several questions about the proposed ordinance in the past few days, as follows:

Eliminate BU2 in favor of Manufacturing or Limited Manufacturing Zones.

Staff does not recommend this because it would further concentrate the zones on the north side of the City. The Manufacturing zones tend to locate near each other in clumps, so when applying the half-mile buffer, too many of the locations in that area are cancelled out. This would not assist in meeting the requirement to provide meaningful opportunities for 8 locations. Staff also believes that this use is inherently safer in the commercial corridors. The use was kept out of village centers because of the tension between state requirements to screen visibility of the product and to have an active, transparent and vibrant storefronts in the village centers. Manufacturing zones provide less visibility from the public and police, less activity, and less access for those coming from transit. There is also a desire to not burden residents with policing of the establishments. When an establishment is in a more active area, there are more eyes on it and it is less likely to target crime.

Employment of Adult Entertainment Use buffers

The buffers for the adult entertainment uses include 500' from schools, 1000' between establishments including those outside the city lines. The marijuana zoning ordinance currently has a 500' buffer from schools, and a half-mile buffer between establishments. Staff does not recommend having that half-mile buffer apply to establishments outside the city lines because Newton cannot control what happens in other communities and some do not have their zoning in place yet. The current proposal includes several locations near the borders of the City and limiting that, again, would hinder the requirement to provide meaningful opportunity for 8 sites. Adult Entertainment uses are not limited in number by ordinance or state law, so that works a little differently.

Peter Doeringer, Planning Board, said owners want service areas that do not compete with other service areas. If Newton locates along its borders first, then the surrounding towns will likely not locate close by.

Other Buffer Questions

Ms. Cairra noted that there was a recommendation to increase the 500' school buffer to 1000' feet, however, the state does not allow that. Adding parks, playgrounds and grocery stores is also not allowed by the state. The state defines "places where children commonly congregate" to include parks if youth programs are run out of those parks, and playgrounds, but not grocery stores. These requirements apply to medical marijuana facilities only. The recreational retailers requirements have been revised to include ONLY public and private K-12 schools (not parks, playgrounds,

daycares, etc) and municipalities are not allowed to expand the 500' buffer or the uses within that buffer.

It was asked how the buffers were measured. Ms. Caira said the maps provided are not the exact final buffers. There is some language from the state regarding 500' feet from that use to the proposed establishments property line. Some of the measurements are more complex, for example, at Cold Spring Park, they would take the measurement from the soccer field and measure 500 feet from any point on that to any point on the parcel that might be proposed.

Size of establishments

Many of the ordinances that staff reviewed did not have a maximum size, but some did. Staff wanted to be sure if there were going to be 8 in the City, that they were not overly-sized. Ms. Caira has seen a range proposed, such as 2,500 square feet (which would exclude any office/storage areas only accessible by staff) to Brookline, which has 5,000 square foot maximum. They looked at current retail establishments just to get an idea of what various footprints sizes looked like:

- Marty's: 13,000 square feet plus 10,000 square feet of storage in the basement
- Dions: 5,000 square feet
- Highland Wine: The entire building is 7,000 square feet, so about half for retail
- Trader Joe's: 15,000 square feet
- Bank of America in Newtonville: 5,000 square feet
- Cabot's: 7,000 square feet
- CVS and Walgreens average about 15,000 square feet

If the City reduced the 5,000 square feet allowance, some areas might need to be excluded. Space in the establishments is needed for waiting areas, individual consults with medical patients, storage, administrative areas, and some room for the security checkpoints and other security measures. All these needs should be inside the store – there should not be people waiting on the sidewalk outside of the establishments. Also, many of the establishments will co-locate medical and marijuana and the state requires that there be a separate checkout for medical patients. Recreational customers, especially initially, may need more one-on-one attention. Ther

A Councilor suggested having a lower number for establishments that are strictly recreational establishments. While he understood the size requirement for a co-located facility or a medical facility, he felt this was still too large for a recreational retail-only use. Ms. Caira said staff did not want to make a place so small that it is difficult to operate all the business inside the store and cause overflow into the street (waiting area, for example). Mr. Heath said these stores will operate differently than many retail uses. There is a screening requirement in the front of the building to limit visibility inside the building; there are perhaps two security checks that take place. This requires a bit of upfront space before customers even get to the area where the products are sold. This provides some rationale for the 5,000 square foot number. This also does not mean every establishments will be as large as 5,000 square feet – this is a maximum – there many be a number that are smaller. The Councilor recommended a maximum of 4,000 square feet for retail-use only with the ability through special permit to go up to 5,000 square feet. Perhaps the upper level of 5,000 square feet might be an incentive for a medical establishment or co-locating.

Provision for Economic Empowerment candidates

Ms. Caira explained that the state has a program that prioritizes economic empowerment candidate applications. A requirement to add a local licensing priority for economic empowerment applications is not being proposed. This kind of requirement or incentive structure would not be in a zoning ordinance, nonetheless. If there is interest, something could be docketed for the general ordinances. There is no requirement that the City have a separate program – the state is doing this on their own.

Public Health Committee

There was a recommendation to establish a public health committee to do a baseline study and study other health data related to cannabis on a yearly basis. This would have to be docketed as a general ordinance and would not be included in the zoning ordinance.

Prevent Sale and Purchase of establishments to larger corporation and limit owning multiple locations

Marie Lawlor, Assistant City Solicitor said each establishment would be subject to a special permit. The permit ends with the sale of an establishment and every new owner would have to get their own special permit. If a local shop wanted to sell their business to a larger corporation, and the City tried to prohibit that, it could involve restraint of trade and that would need to be further researched, but it could not be put into an ordinance.

Distribution of Locations

Ms. Caira noted that the way the zoning is laying out, including the half mile buffer, will naturally distribute locations throughout the City as much as possible. Putting further restrictions on perhaps one in each Ward or so forth, may have unintentional consequences.

Timing of Action

Ms. Lawlor explained that if a specific marijuana zoning ordinance is not passed before the current moratorium expires on December 31, then retail marijuana establishments would be allowed anywhere “similar” retail establishments (liquor store, tobacco store, etc.) would currently be allowed (village centers and all other commercial/business areas) and the special permit requirement would not be in effect. It would be by-right, for the most part.

The Chair noted in order to prevent that from happening, the zoning must be approved prior to December 31st. In order to do that, the item should be voted out of Committee this evening, or at the very latest at the next meeting though that agenda is already very full. There are only a few City Council meetings left before the end of the year.

Limit sale to marijuana in these establishments

It was asked if these establishments could sell other items such as bread. Ms. Caira said since people have to show ID to get in and so forth, these places would be unlikely points of sale for other items that could be more easily purchased at other types of stores. She did not see any desire for a mixed-retail situation. This could perhaps be a special permit condition? Mr. Heath felt

that this was probably addressed in the Cannabis Commission's regulations, but he could not readily find the section.

Hours of Operation

Most liquor stores do not open until 9am and can be open until 11pm; and on Sundays from 12 noon until 6PM. The proposed ordinance allows a range of 9am to 9pm for the marijuana establishments. A Councilor asked if Sunday hours can be limited as with liquor stores. Ms. Caira said that Garden Remedies currently is open 9-9 Monday through Saturday and 12-6 on Sundays. The ordinance sets the maximum hours, but states that the specific hours will be set by special permit to allow for any local concerns.

Organic products

It was asked if that could be a requirement in the ordinance. Ms. Caira said she did not think that could be, but she believed that the establishments are providing that level of information on their products. Ms. Lawlor said the establishments require seed to final consumer destination tracking. The independent testing labs require testing of all products before they get to the consumer.

Proposed Amendments

Limit recreational-only use establishments to 4,000 square feet with the ability through special permit to go up to 5,000 square feet.

In the definitions section, a Councilor was concerned with including "as defined or amended by state regulation" and then articulating the definition because of the definition changes at the state level, there is a conflict. He would prefer using either the definition, or using "as defined or amended by the state regulation" but not both. Ms. Lawlor felt that there was benefit to have the definition right in the document and the "as defined or amended by state regulation" statement as well. If it changes in the state, then the City should probably update the definition so as not to be in conflict.

Definitions of Marijuana Research Facility and Marijuana Retailer: A Councilor said that last sentence should be removed. Ms. Caira said the definitions follow the state definitions.

What is a Tier 1 microbusiness? Ms. Caira agreed that should be added to the definitions.

Requirements for RMDs and Retailers state that they have to submit security plans to the City. Should those plans also be approved and not just submitted. Ms. Lawlor said the security plans have to be approved by the Cannabis Commission in order to get a license and require those plans be shared with law enforcement in the municipality. Ms. Lawlor and Ms. Caira agreed that adding "state approved" should be added for clarification.

It was also suggested that "approval" be added to Section 13 and 14 as well instead of just review for operation and management plans and emergency response plans that are submitted to City departments.

It was asked if a ventilation is required for a retailer. Ms. Caira said they have consistently seen the ventilation requirement for retail establishments.

The Committee voted to approve the following offered amendments:

Section E. 12.

Amend to “All RMDs and Marijuana Establishments shall submit a state approved security plan to the Newton Police Department for review and approval.”

Section E. 13 and 14.

Add “and approval” to the end of each section’s sentence.

Definitions

Add definition of Tier 1 microbusiness;

Remove this last line in the definition of Marijuana Research Facility as it is not part of a definition:
“A research facility may not sell marijuana cultivated under its research license.”;

Remove this last line from the definition of Marijuana Retailer as it is not part of a definition:
“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.”

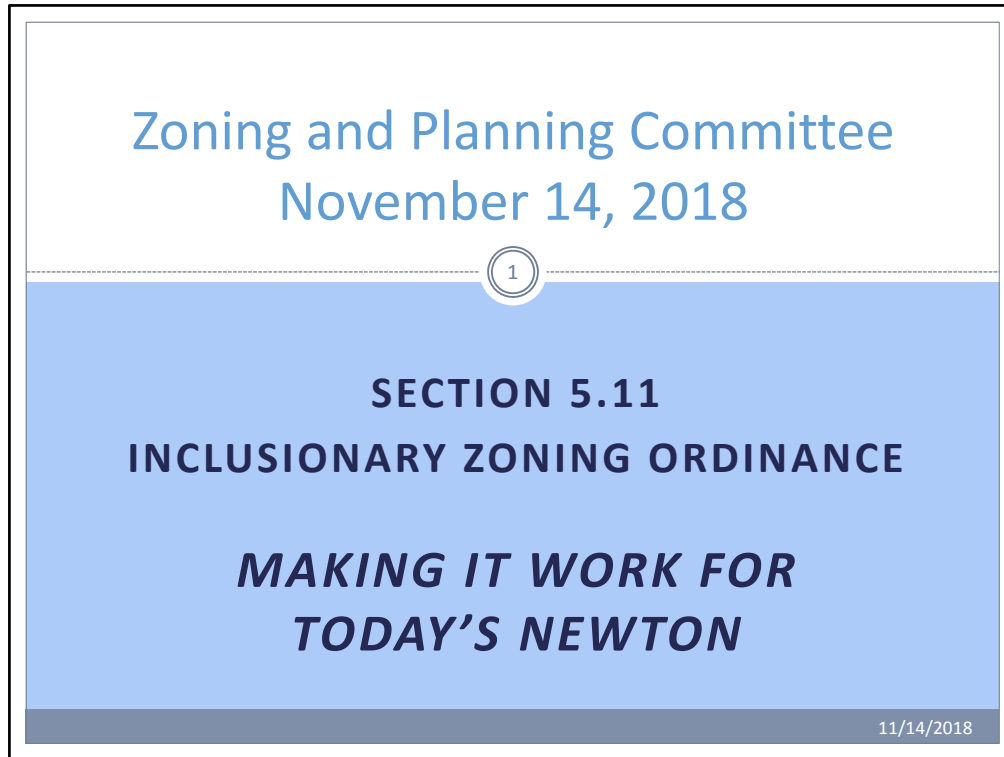
The Committee voted to approve the ordinance, as amended, 6-0-1 with Councilor Brousal-Glaser abstaining.

A Draft Council Order is attached.

The Planning Board reported that they approve the ordinance, as amended by the Zoning & Planning Committee. Their recommendation is attached.

Respectfully Submitted,

Susan S. Albright, Chair



- Good evening everyone, I'm Amanda Berman, the Director of Housing & Community Development
- Thank you all for coming out tonight for the Public Hearing on the update to the city's Inclusionary Zoning Ordinance.
- Tonight, I am going to walk you through the major changes that staff has proposed to the existing inclusionary zoning ordinance, many of which we have already discussed with the committee over the past few months.

Why Are We Here Tonight?

2

“Housing Is Urban Infrastructure”

“Cities Work Only If Housing Works”

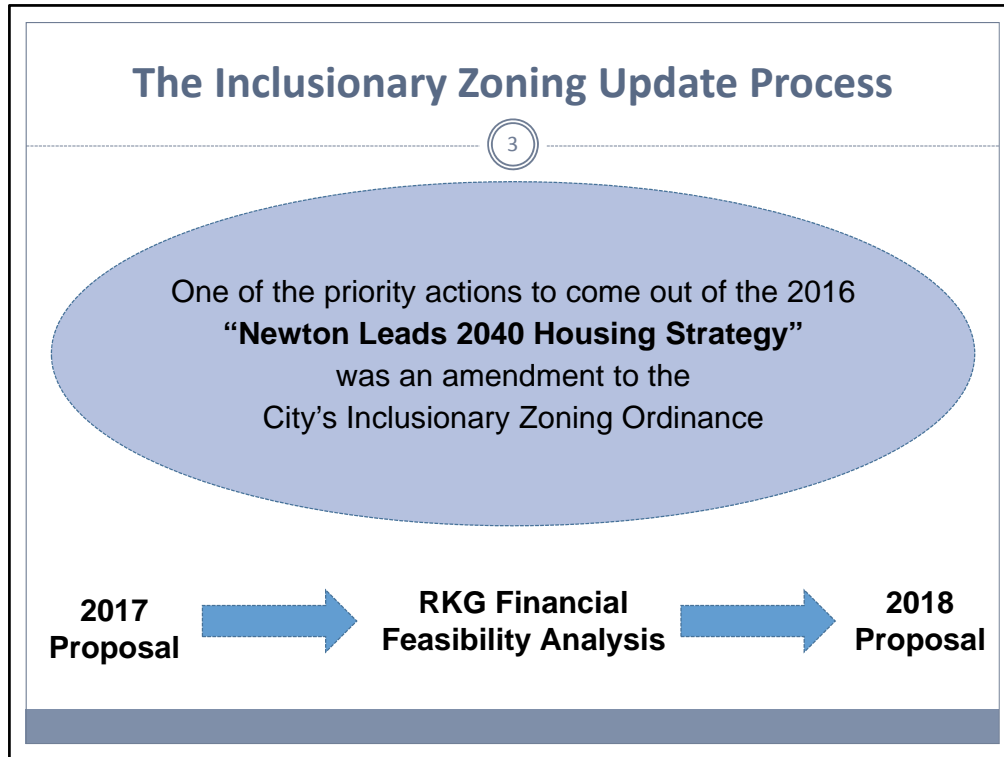
Inclusionary Zoning

leverages private development to create affordable housing through on-site units, off-site units, and payments-in-lieu

Source: David A. Smith, RECAP Real Estate Advisors, April 2015

- To begin, it is important to remember how critical housing, and affordable housing, is to our community’s infrastructure.
- Inclusionary Zoning is one of the many tools that Newton has to create much-needed affordable housing throughout the city
- In general, the purpose of inclusionary zoning is to leverage private development to create affordable housing through the creation of on-site units, off-site units, or a payment to the City in-lieu of constructing an actual unit.

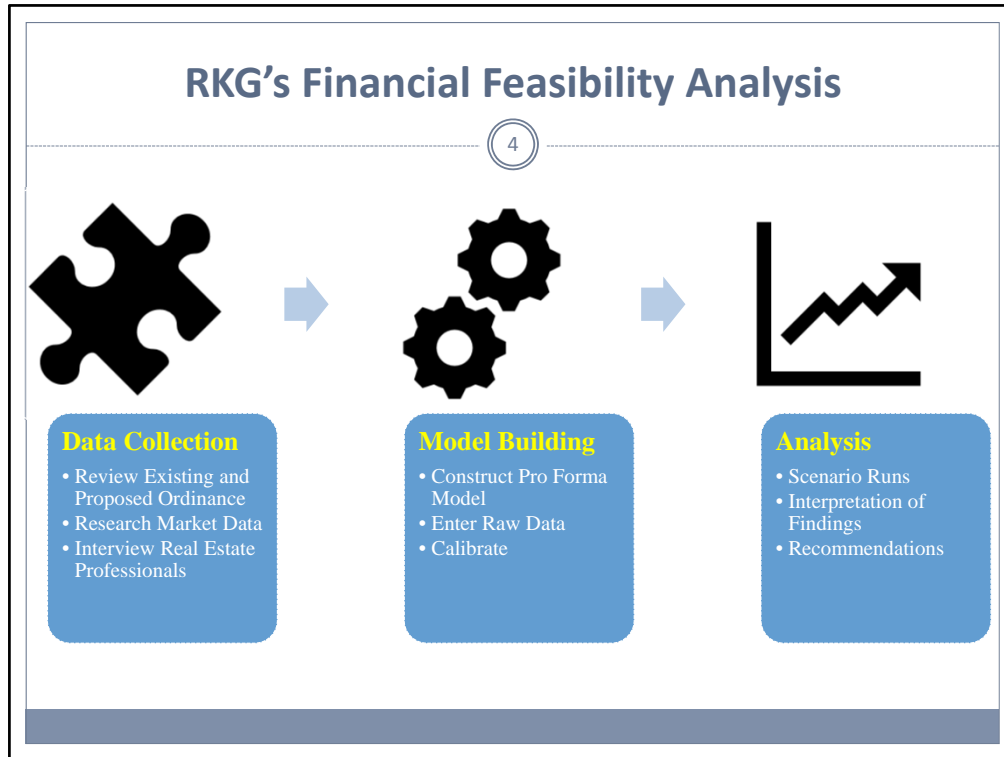
- And while inclusionary zoning is one of many programs that the City has in place to create affordable housing, it has become an increasingly critical mechanism for bringing units online, especially as the housing market continues to sour through Newton



- As many of you know, the idea to look at *how* our inclusionary zoning provisions play a role in strengthening and growing Newton’s affordable housing stock came out of the City’s Housing Strategy in 2016.
- Over the past year and a half, staff has been exploring and assessing the idea of increasing the existing 15% inclusionary requirement to better meet the vast and diverse housing needs of Newton today.
- In addition to proposing increases in the affordable housing requirement beyond 15%, we have taken this opportunity to

provide greater clarity and consistency throughout the ordinance.

- Over the past year plus, we have continued to research inclusionary zoning ordinances and best practices across the country and throughout the Boston metro region – identifying strong provisions and concepts that we felt would resonate and succeed here in Newton.
- In late 2017, we submitted our first full proposal to this committee, and a public hearing was held in December of last year. However, in an effort to design a new ordinance that would ensure new housing development in Newton includes units for households of various income levels across the city, while not restraining development altogether, staff contracted with RKG Associates in early 2018 to determine the financial impact resulting from the proposed changes to the City’s existing ordinance.
- We believe the following seven proposed changes will help to create an ordinance that works to realize the greatest public benefit from private residential development occurring throughout the City.



- The basis of RKG's analysis included a financial feasibility model based on traditional pro forma analysis standards, to determine a project's financial feasibility.
- After thorough review of RKG's analysis, staff reworked the 2017 proposal to reflect the findings from this report, and we have continued to strengthen this proposal over the past few months based on the feedback we have received from this committee and other stakeholders.

**Strengthening the Ordinance
for Today's Newton**

5

Change #1:

Apply the ordinance to 7 or more dwelling units

Number of Inclusionary Units Required: 2018 Proposal												
Tier Level	7-9 new units		10-20 new units		21-34 new units		35-64 new units		65-100 new units		101+ new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	0.0%	0.0%	0.0%	0.0%	5.0%	0.0%	0.0%	0.0%	2.5%	0.0%	2.5%	0.0%
Tier 2, 51%-80% AMI	15.0%	15.0%	17.5%	5.0%	7.5%	10.0%	2.5%	7.5%	10.0%	10.0%	12.5%	12.5%
Tier 3, 81%-110% AMI	0.0%	0.0%	0.0%	10.0%	5.0%	7.5%	15.0%	10.0%	5.0%	7.5%	2.5%	5.0%
Total	15.0%	15.0%	17.5%	15.0%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%

- So let's begin to explore the major changes that staff has proposed for this updated ordinance.
- **The first major proposed change from our existing inclusionary ordinance** is to apply the ordinance to all residential development that includes the construction of 7 or more dwelling units - The IZ requirement is purely based on the number of units proposed to be constructed, with no reductions provided for the number of residential units that could be built on a parcel by-right or for the residential units proposed to be demolished
- 15% of 7 dwelling units would result in 1.05 IZ units
- Our existing ordinance applies when there net increase of 2 or more dwelling units, less the number of units allowed by-right;
- but Due to current interpretation of ordinance, IZ requirement usually kicks in when there is a net increase of 6 new dwelling units. Example: 6 new units minus 2 units allowed by-right = 4 units subject to IZ requirement; 4 X 15% = 0.6 (therefore, round up to get 1 required IZ unit)
- Projects have also been offered a reduction in their requirement based on the number of dwelling units that currently exist on a site, even if those are proposed to be demolished. Example: 20 new units minus 4 existing units to be demolished = 16 units subject to IZ requirement; 16 X 15% = 2.4 (round down to get 2 required IZ units)

- The purpose of this change is to clarify confusion and multiple interpretations around current ordinance language, and to better balance the financial feasibility of a project with the desired public benefit
- The addition of an affordable unit to a small-scale project can quickly render a project financially infeasible

**Strengthening the Ordinance
for Today's Newton**

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**Change #2:
Create Inclusionary Unit Tiers, linking
affordability requirements to project size and type**

**Change #3:
Employ rising IZ percentage requirements to
project size**

Number of Inclusionary Units Required: 2018 Proposal												
Tier Level	7-9 new units		10-20 new units		21-34 new units		35-64 new units		65-100 new units		101+ new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	0.0%	0.0%	0.0%	0.0%	5.0%	0.0%	0.0%	0.0%	2.5%	0.0%	2.5%	0.0%
Tier 2, 51%-80% AMI	15.0%	15.0%	17.5%	5.0%	7.5%	10.0%	2.5%	7.5%	10.0%	10.0%	12.5%	12.5%
Tier 3, 81%-110% AMI	0.0%	0.0%	0.0%	10.0%	5.0%	7.5%	15.0%	10.0%	5.0%	7.5%	2.5%	5.0%
Total	15.0%	15.0%	17.5%	15.0%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%

- **The second change** is to institute three tiers of affordability within the inclusionary zoning requirements
 - Tier 1: are units that would be affordable to households with annual gross incomes up to 50% AMI
 - Tier 2 – up to 80% AMI
 - Tier 3 – middle-income units – up to 110% AMI
- **The third change** is to increase the IZ percentage requirement as project size increases
 - Creating 6 tiers of project size
- Our existing ordinance requires a 15% IZ requirement across the board, with no consideration for project size or type
- and requires that ½ of the required IZ units be set at 50% AMI, half at 80% AMI, for an average of 65% AMI across all IZ units –
- Nor does the ordinance provide for middle-income units
- As highlighted in the RKG financial feasibility analysis, project size and type matters, and smaller projects are more sensitive to these requirements, as larger projects are able to spread the risk across more units.
- However, staff recommends creating additional project size categories to account for the

high cost of underground parking for projects with 35+ units, **and** de-coupling rental and ownership requirements to account for the differing financial impacts the ordinance could have on these types of projects. For instance, ownership projects require an Internal Rate of Return of 20%, while rental projects only require a 12% return.

- Additionally, this proposal considers a broader spectrum of housing need across the City – from low to moderate to middle income households

Strengthening the Ordinance for Today's Newton

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Change #4: Institute the “Round Up and Build Units” methodology with “Fractional Cash Payments”

Example: 31-unit rental development

- 5% at Tier 1 = 1.55; a total of 2 units at Tier 1
- 7.5% at Tier 2 = 2.325; a total of 2 units at Tier 2 (plus a fractional cash payment)
- 5% at Tier 3 = 1.55; a total of 2 units at Tier 3

Total IZ Units Required On-Site: 6 inclusionary units on-site
(plus a fractional cash payment)

- **The fourth major change** is to institute the “Round Up and Build Units” methodology coupled with fractional cash payments
- If the IZ requirement results in a fraction of a unit that is greater than or equal to 0.5, the developer would be required to round up and build that inclusionary unit;
- but if the fraction comes out to less than 0.5, the project may choose to provide one IZ unit to cover that fraction OR contribute a fractional cash payment to the City
- Currently, our ordinance requires a unit to be provided if the IZ requirement results in a fraction of a unit greater than or equal to 0.5, but does not include a fractional cash payments provision
- While this methodology favors the building of actual IZ units, it also works to capture some value from all fractional amounts less than 0.5, to support future affordable housing development through the City’s Inclusionary Zoning fund

**Strengthening the Ordinance
for Today's Newton**

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**Change #5:
Allow for cash payments in lieu
of providing inclusionary units on site
for projects with 7-9 new units**

➤ Utilize DHCD's QAP Index as basis for payment-in-lieu: \$389,000

- 7-unit project: 70% of \$389,000 = \$272,300
- 8-unit project: 80% of \$389,000 = \$311,200
- 9-unit project: 90% of \$389,000 = \$350,100

- **The fifth major proposed change** is to allow for payments in lieu of providing inclusionary units on site for projects with 7-9 new units.
- Our current ordinance allows for cash payments in lieu of providing actual units through a special permit where the city council makes specific findings to an unusual net benefit to allowing a fee rather than the IZ units; additionally projects with six units or less are eligible to provide a payment-in-lieu
- Our proposal maintains the special permit provision for projects with 10 or more units, however, it provides this cash payment option for projects with 7-9 units, as we believe that smaller projects will benefit from this allowance.
- as these smaller-scale projects are more sensitive to the inclusion of affordable units. By offering the payment-in-lieu option at a decreasing percentage requirement, we believe we are expanding the opportunity for projects of this size to succeed in Newton.
- We continue to recommend utilizing DHCD's Qualified Allocation Plan Index as the basis for this calculation, but have pulled from a provision used by the town of Watertown, where they institute a decreasing percentage adjusted for the number of units. The QAP Index is a well-researched, defensible number that is reviewed on an annual basis and provided by a respected third party, which we believe is very important for determining payments of this type.

- Funds received would continue to be distributed equally between the Newton Housing Authority and the City. The City's funds would be targeted for the creation and preservation of deed-restricted units at or below 80% AMI.

Strengthening the Ordinance for Today's Newton

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Change #6: Amend the Cash Payment and Fractional Cash Payment Amounts and Calculations

- For projects with 10 or more units that receive a Special Permit:
Utilize DHCD's QAP Index as basis for payment-in-lieu: \$389,000
 - Example: 18-unit rental project
 - 17.5% IZ requirement X 18 units = 3.15
 - 3.15 X \$389,000 = **\$1,225,350 total payment-in-lieu**

- **The sixth major change** also has to do with payments-in-lieu of building inclusionary units on site. For projects that fall outside of the 7-9 new units category, payments-in-lieu would only be granted through the Special Permit process where the City Council makes specific findings to an unusual net benefit to allowing a fee rather than the units
- Once again, we recommend using DHCD's QAP Index as the basis for determining the total payment-in-lieu for projects that receive the City Council's approval.
- Our current ordinance exempts the first two units in a development from the fee-in-lieu, and for the remaining units, the fee is equal to 12% of the sales price at the closing of each unit or 12% of the assessed value of each unit for the rental projects

Strengthening the Ordinance for Today's Newton

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Change #6: Amend the Cash Payment and Fractional Cash Payment Amounts and Calculations

Fractional Cash Payment Calculation:

Note: $5\% \times \$389,000 = \$19,450$

48-unit rental development

- Tier 1: $48 \times 0\% = 0$
- Tier 2: $48 \times 2.5\% = 1.2$, so the fractional requirement would be 0.2 (2 X \$19,450 = \$38,900)
- Tier 3: $48 \times 15\% = 7.2$, so the fractional requirement would be 0.2 (2 X \$19,450 = \$38,900)

- **The sixth major change** also has to do with payments-in-lieu of building inclusionary units on site. For projects that fall outside of the 7-9 new units category, payments-in-lieu would only be granted through the Special Permit process where the City Council makes specific findings to an unusual net benefit to allowing a fee rather than the units
- Once again, we recommend using DHCD's QAP Index as the basis for determining the total payment-in-lieu for projects that receive the City Council's approval.
- Our current ordinance exempts the first two units in a development from the fee-in-lieu, and for the remaining units, the fee is equal to 12% of the sales price at the closing of each unit or 12% of the assessed value of each unit for the rental projects

Strengthening the Ordinance for Today's Newton

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Change #6: Amend the Cash Payment and Fractional Cash Payment Amounts and Calculations

Fractional Cash Payment Calculation:

48-unit rental development

Total IZ / Fractional Cash Payment Requirement for Project =

Tier 1: 0 Inclusionary Units

Tier 2: 1 Inclusionary Unit *plus* a Cash Payment of \$38,900

Tier 3: 7 Inclusionary Units *plus* a Cash Payment of \$38,900

Which equals a total of 8 Inclusionary Units required on-site plus a total Fractional Cash Payment of \$77,800

- **The sixth major change** also has to do with payments-in-lieu of building inclusionary units on site. For projects that fall outside of the 7-9 new units category, payments-in-lieu would only be granted through the Special Permit process where the City Council makes specific findings to an unusual net benefit to allowing a fee rather than the units
- Once again, we recommend using DHCD's QAP Index as the basis for determining the total payment-in-lieu for projects that receive the City Council's approval.
- Our current ordinance exempts the first two units in a development from the fee-in-lieu, and for the remaining units, the fee is equal to 12% of the sales price at the closing of each unit or 12% of the assessed value of each unit for the rental projects

Strengthening the Ordinance for Today's Newton

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Change #7: Do not require 100% deed-restricted, affordable projects to comply with the “Number of Inclusionary Units Required” section of the ordinance

- Example: 25-unit rental project at 100% Tier 3
 - No units required at Tier 1 (normally 5%) or Tier 2 (normally 7.5% requirement)
- Example: 75-unit rental project at 85% Tier 3 and 15% Tier 2
 - No units required at Tier 1 (normally 2.5% requirement)

- **The seventh major proposed change from 2017** is to provide a provision in the ordinance where projects consisting of 100% deed-restricted, affordable units are not required to comply with the Number of Inclusionary Units Required section of the proposed ordinance
- This provision would apply to 100% affordable projects at Tiers 1, 2, or 3, or any combination of the three tiers.
- We believe that such a provision may help to encourage projects that serve Newton's shrinking middle-income population, which will work to diversify the array of housing options present throughout the City.
- This provision would likely benefit the City's growing senior population, many of whom do not qualify for subsidized housing, but also do not have a large enough monthly income to afford the limited supply of senior-friendly apartments and condos throughout Newton.

Strengthening the Ordinance for Today's Newton

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Change #8:

**Provide for a density bonus of 2:1
(market-rate to additional affordable units)**

Strengthening the Ordinance for Today's Newton

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Change #9:

Generally discourage off-site units

Strengthening the Ordinance for Today's Newton

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Change #10: Provide the option for “Elder Housing with Services” to provide 5% of on-site beds as affordable, or pay a fee-in-lieu

- Basis for determining payment-in-lieu:
 - 5% of total beds provided in project
 - DHCD's QAP Index for Assisted Living units: \$259,000
- Example: 115-bed assisted living project
 - $0.05 \times 115 = 5.75$; $5.75 \times \$259,000 = \underline{\underline{\$1,489,250 \text{ total payment}}}$

- **The ninth major proposed change from 2017** is to require that “Elder Housing with Services” projects make a cash payment to the City’s Inclusionary Zoning Fund rather than provide the inclusionary beds on site.
- Staff recommends utilizing a 5% of total beds requirement and the QAP Index for Assisted Living units as the basis for determining the total payment-in-lieu.
- Defining an inclusionary policy for projects of this type is very challenging, as the pricing strategy for these projects is complicated, considering the nature of how housing costs and medical care costs are defined and paid for.
- We believe our updated proposal simplifies and clarifies this important provision, while providing the City with much needed resources to fund projects that provide a greater level of subsidy for more income-eligible senior households.

Strengthening the Ordinance for Today's Newton

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Change #11:

Institute an Effective Date for the ordinance

Zoning and Planning Committee November 14, 2018

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QUESTIONS?

9/14/2018

HELLO WASHINGTON STREET!

ZAP Presentation November 14, 2018



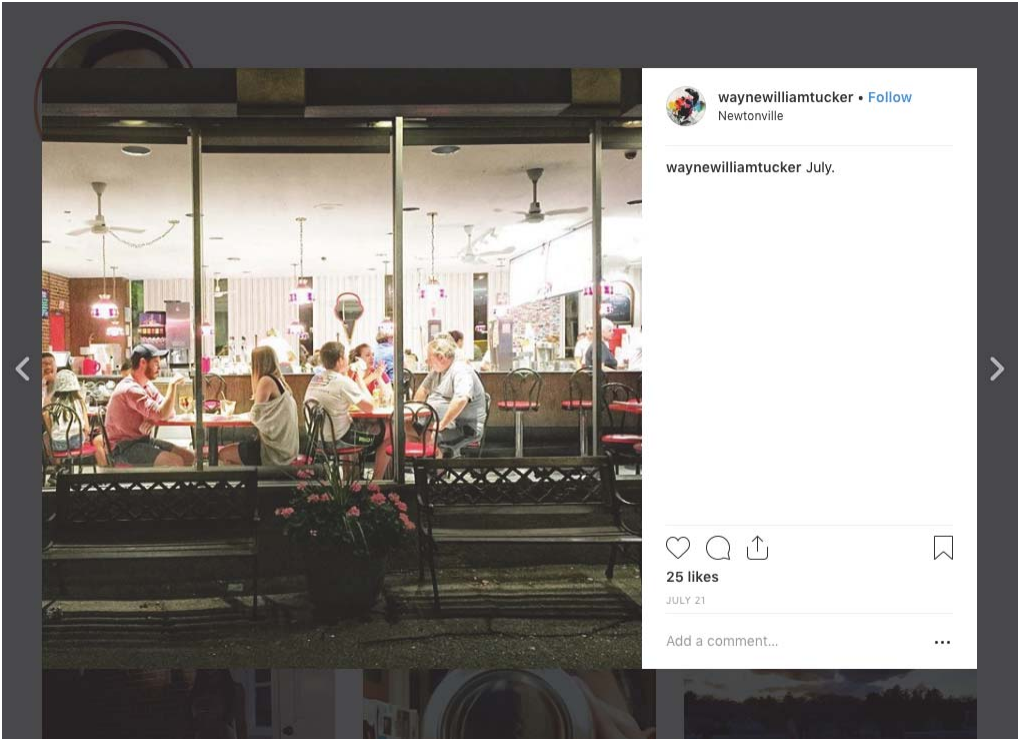
PRINCIPLE



The Challenge

How do we keep our village centers authentically Newton while also adapting to the needs of citizens?





When new development happens, what will it look like?

And who will choose?

Not One Size Fits All Approach



Newton for People

How do you make Washington Street friendly, comfortable, and a better part of Newton?

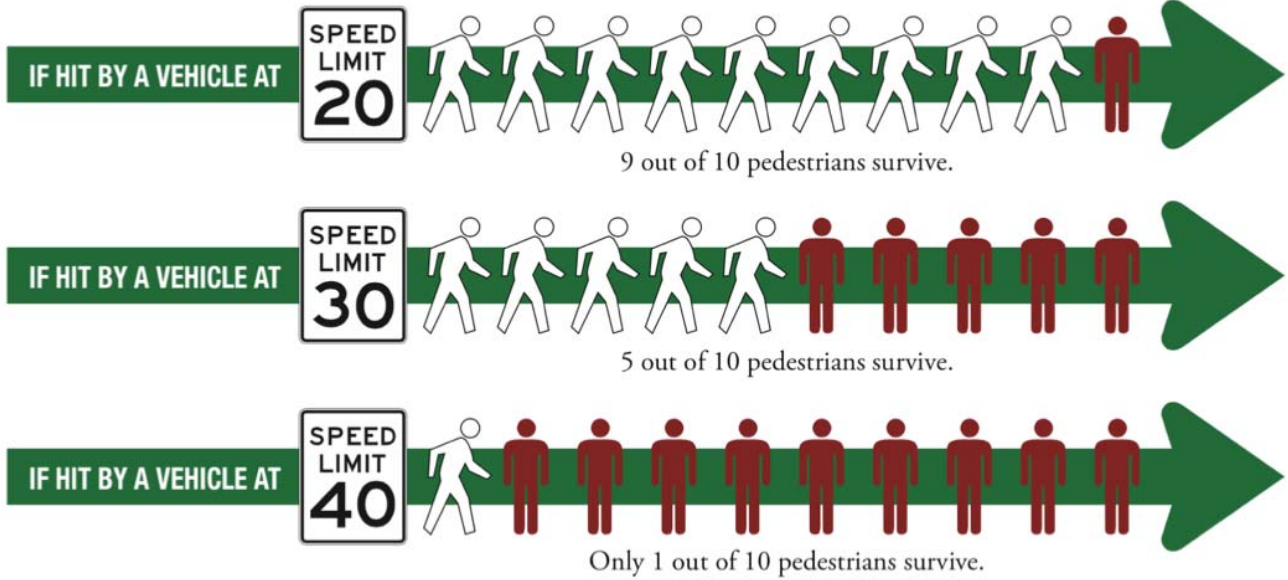


Washington Street, Curb to Curb



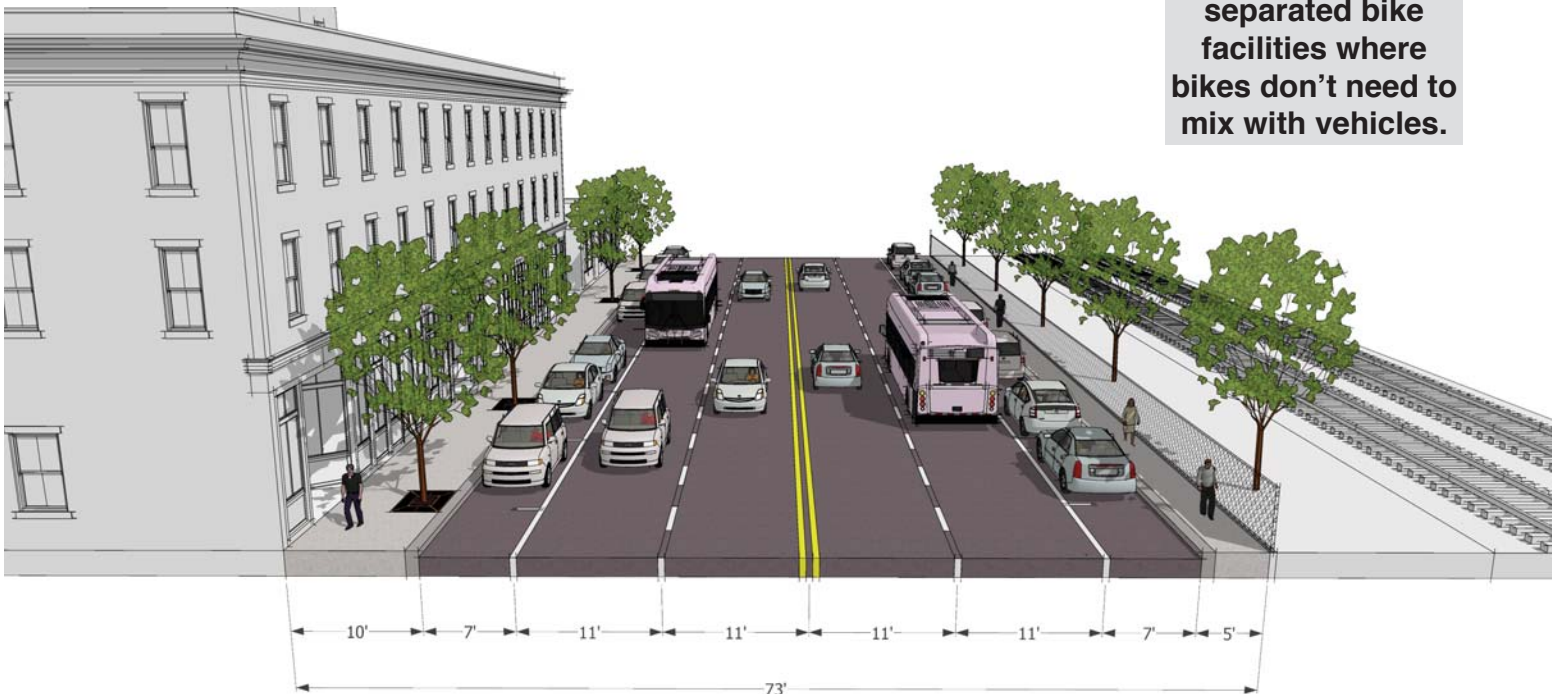
Issues: Speeding vehicles, similar behavior to Turnpike, challenging crossings, unsafe pedestrian/bikes

PEDESTRIAN SURVIVAL PROBABILITY



Washington Street: Existing Conditions

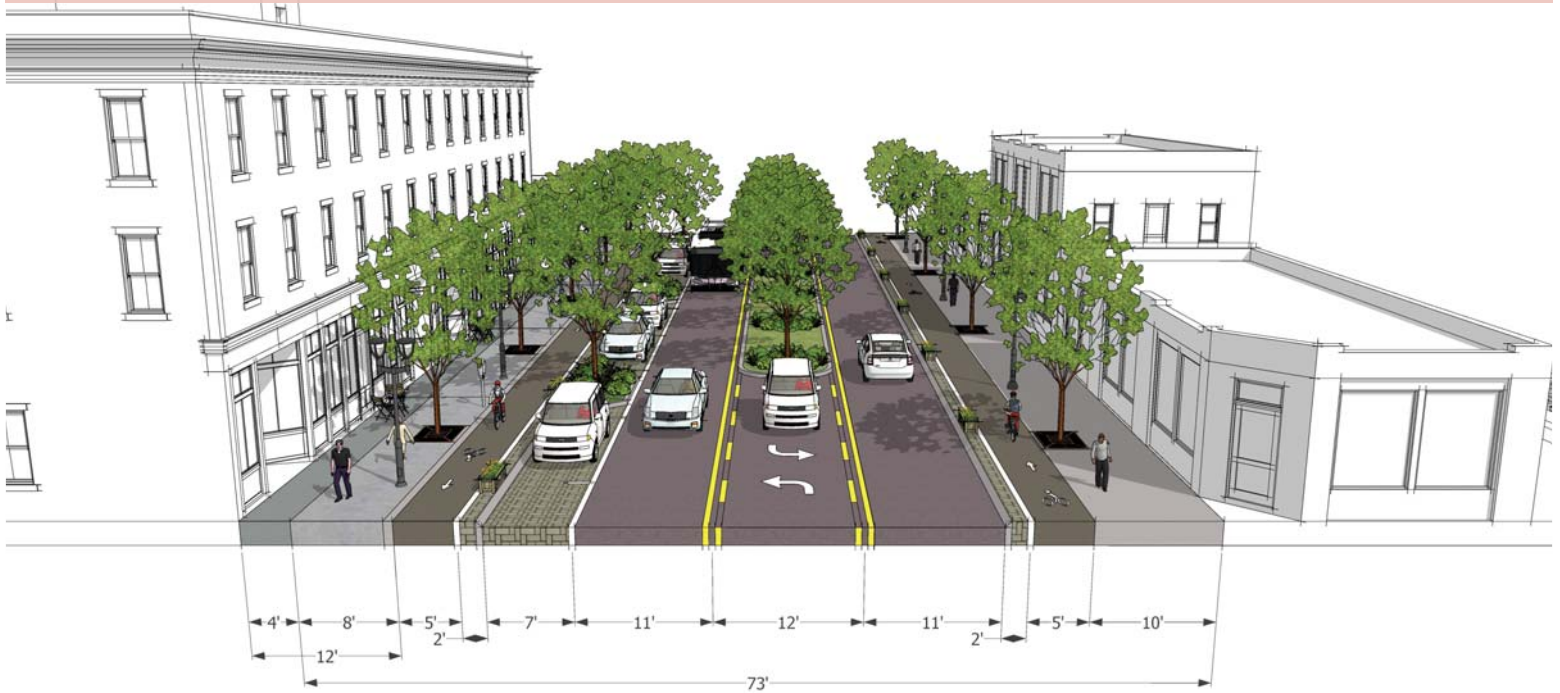
We heard you want separated bike facilities where bikes don't need to mix with vehicles.



Washington Street at Craft Street

Washington Street: Long-Term Redesign

#220-18



Washington Street at Craft Street

Washington Street: Short-Term Implementation

#220-18



Washington Street at Craft Street

Plan for people or plan for cars?

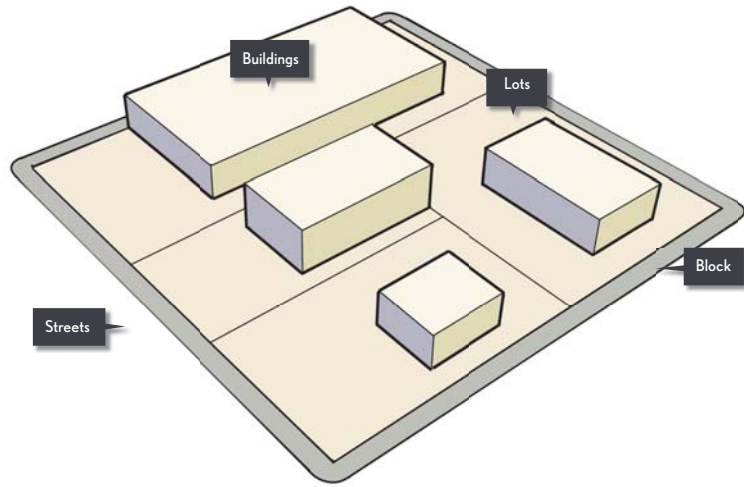


Market Driven
Precedent



Typical Condition

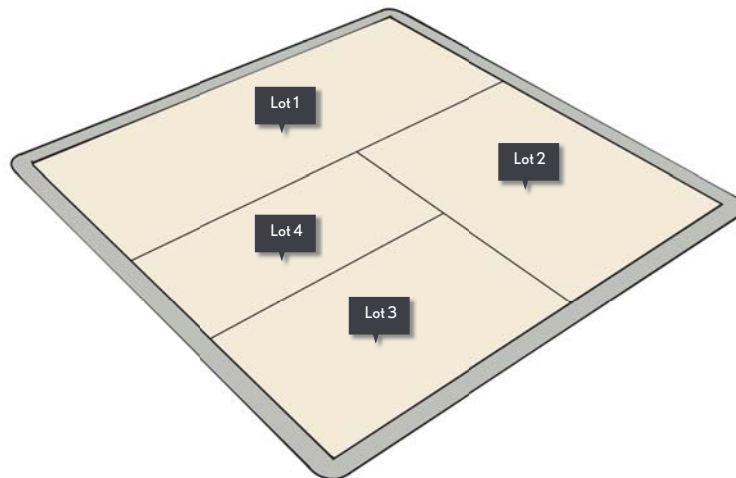
#220-18



15

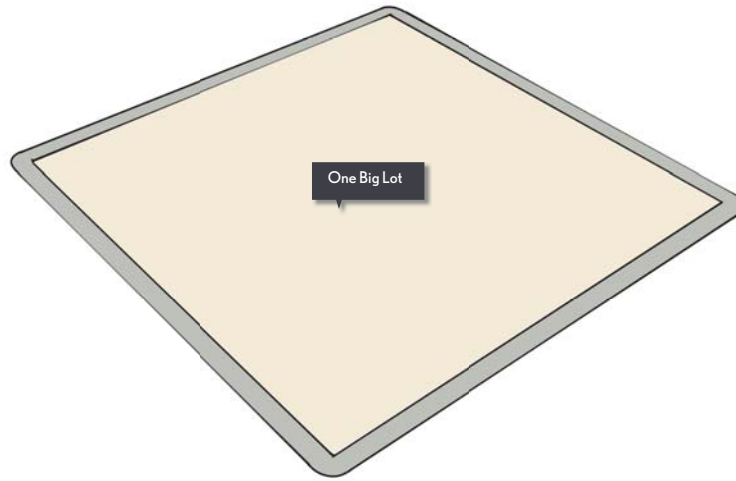
Multiple Properties are Bought

#220-18



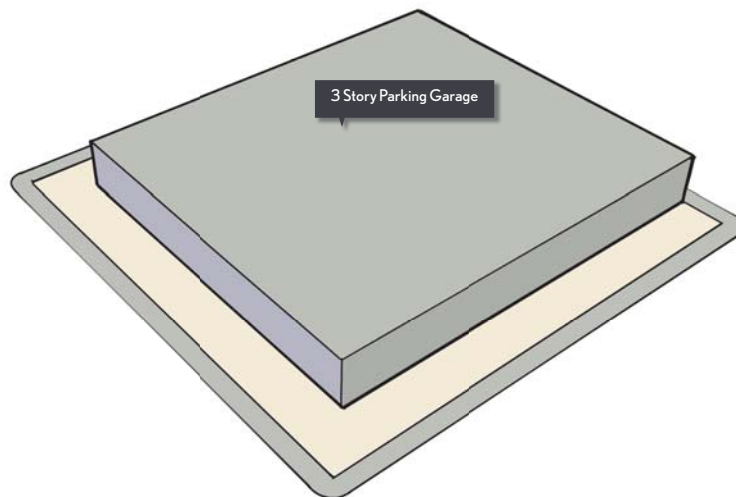
16

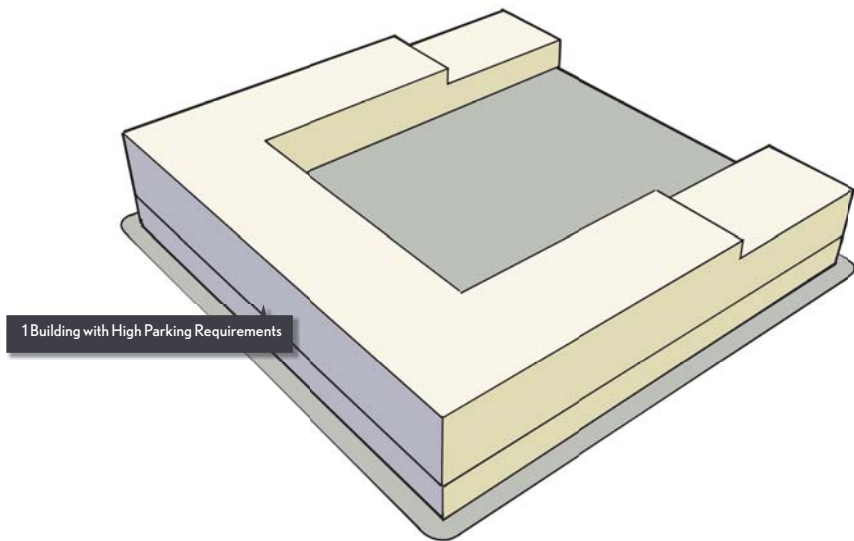
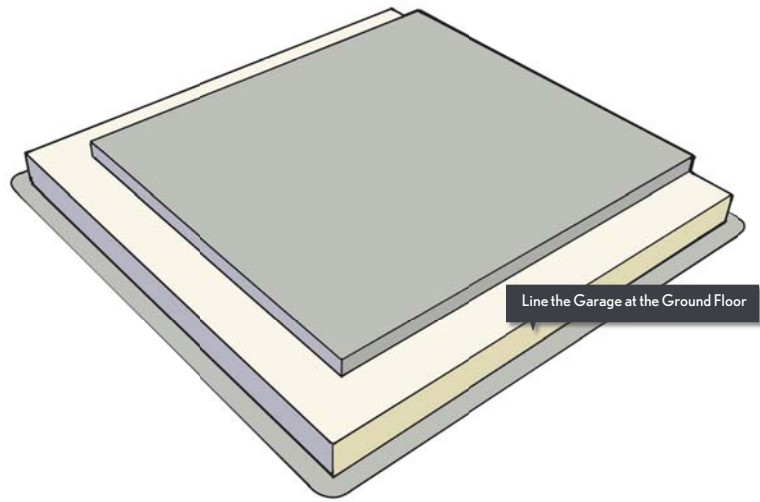
The Large Site is Assembled



Market Driven Development Occurs

Market Driven Option





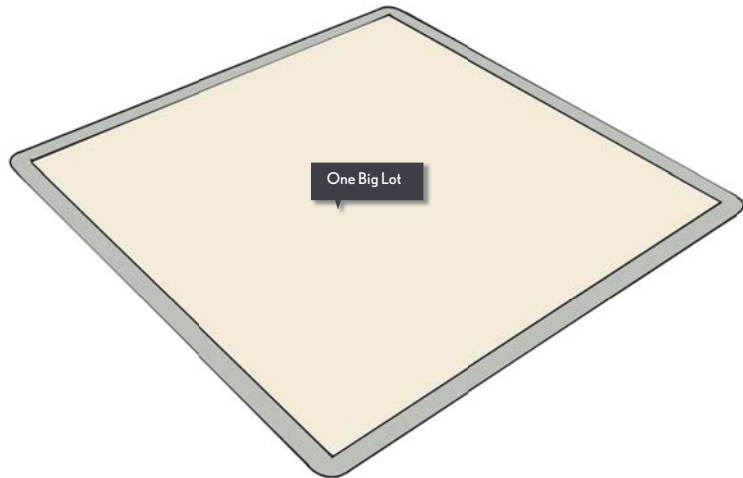


Incremental
Precedent



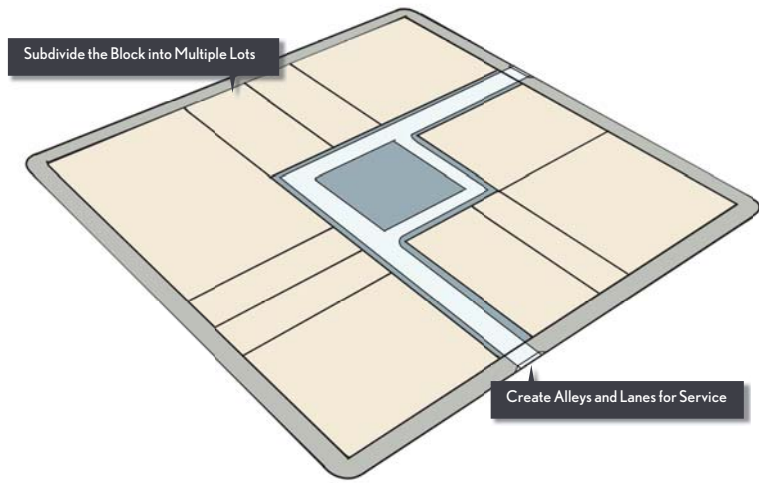
Is there another way to control development?

Incremental Option



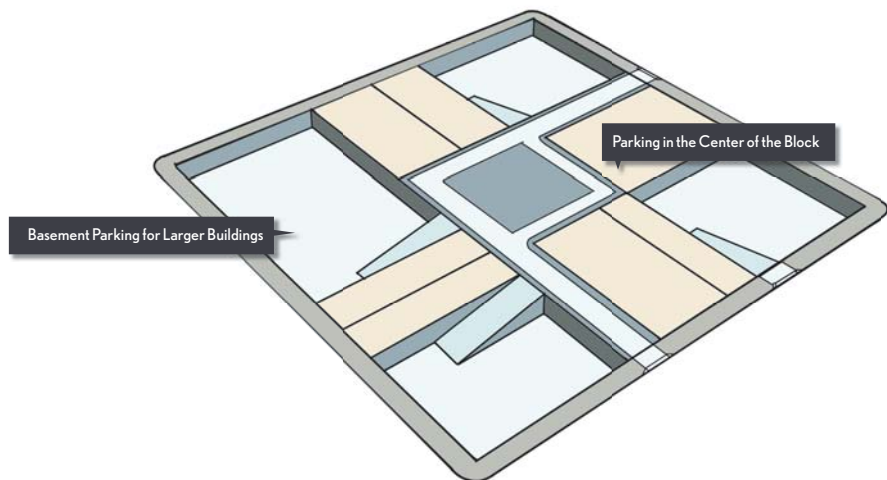
Create Human-scaled Architecture

Incremental Option ^{#22-18}



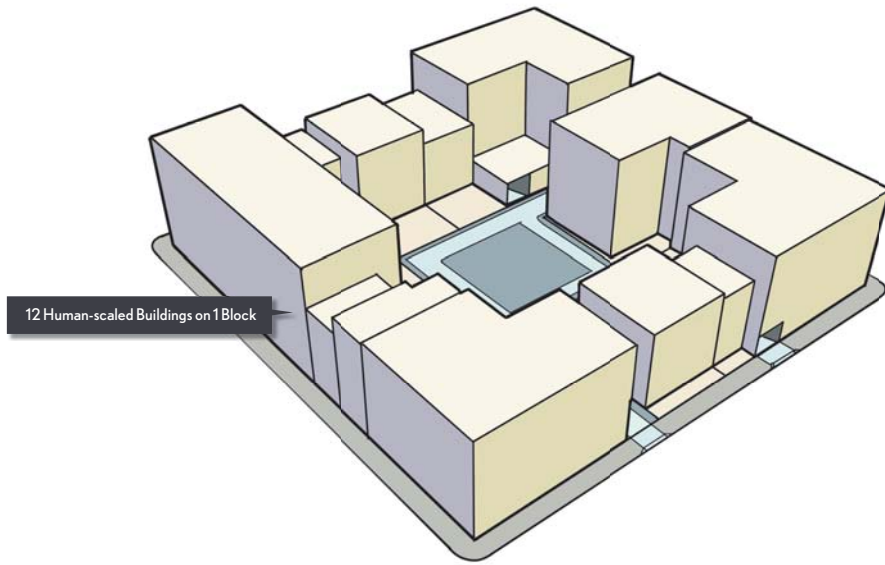
Subdivide Land at the Right Scale & Provide Transportation Choices

Incremental Option ^{#22-18}



A Traditional Approach to Development

Incremental Option ^{#220-18}



25

#220-18

Courtyard Precedent



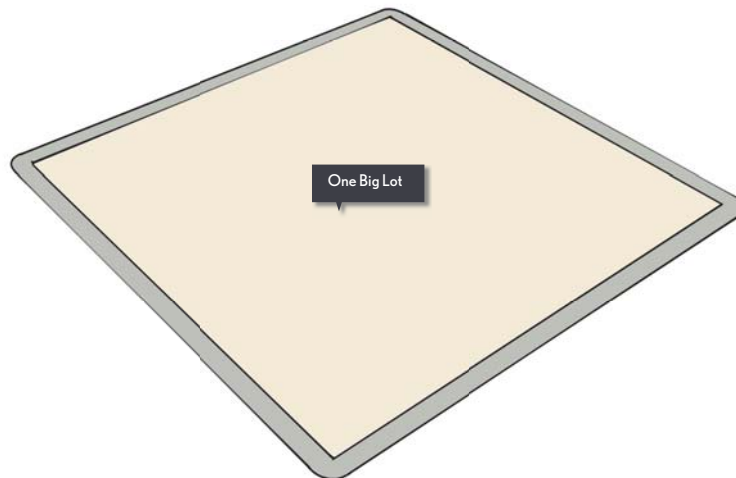
26

Courtyard Precedent



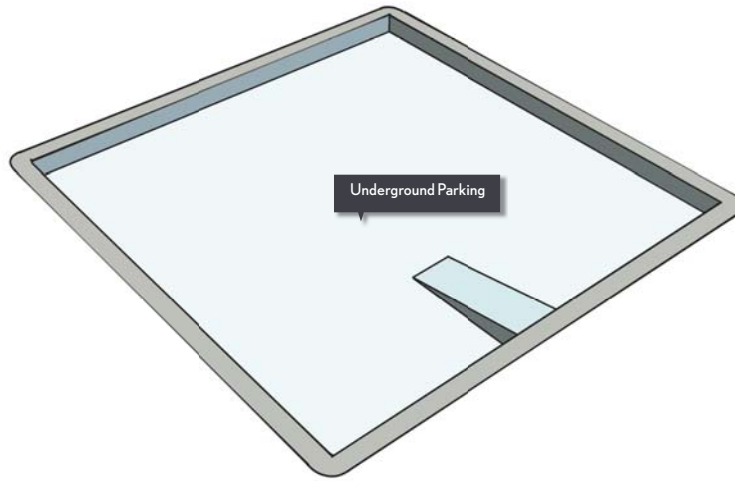
We need more parking, but what the Human-scaled places?

Courtyard Option



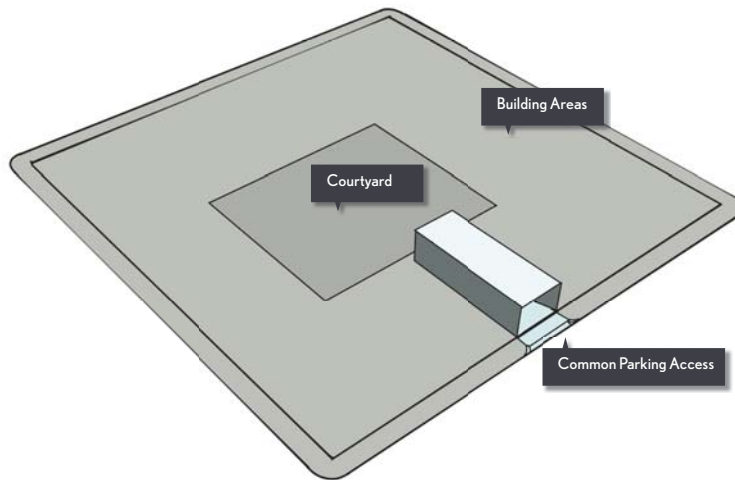
Create a Large Common Garage

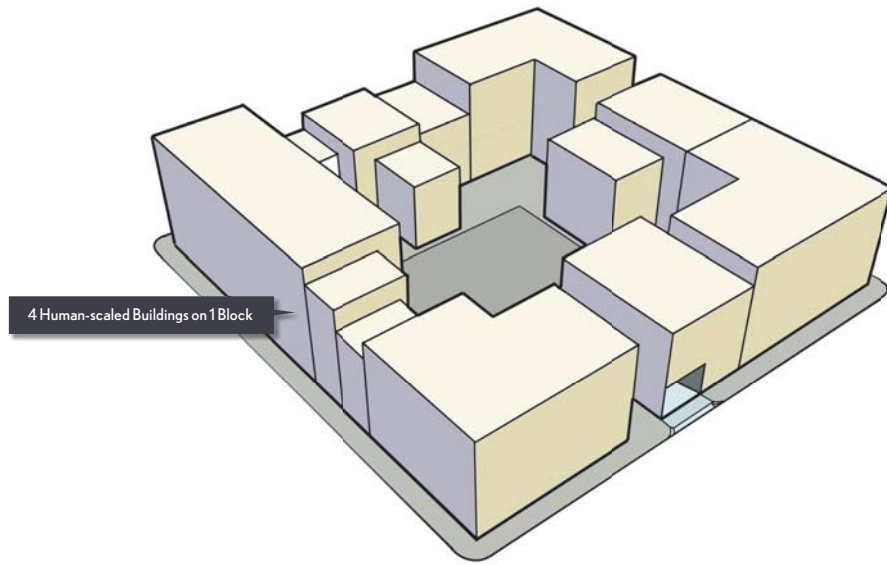
Courtyard Option ^{#22-18}



Share the Parking with the Entire Block

Courtyard Option ^{#22-18}





Market Driven Option

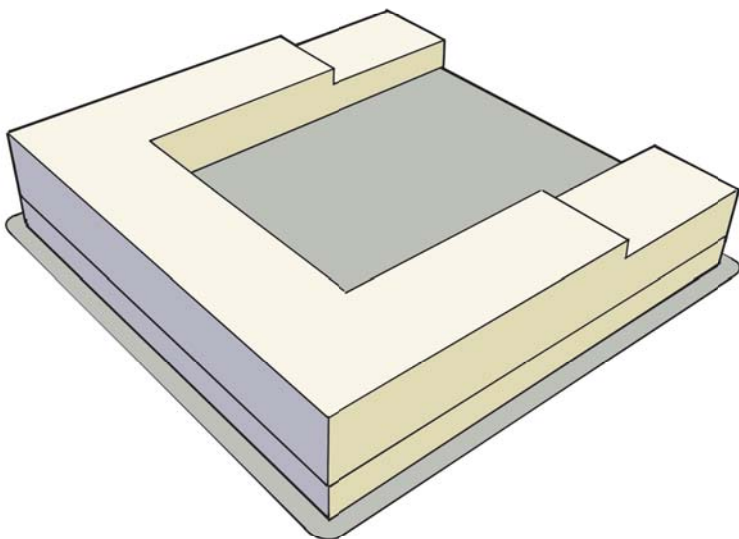
Continues to address new projects on a case-by-case basis.

Pros:

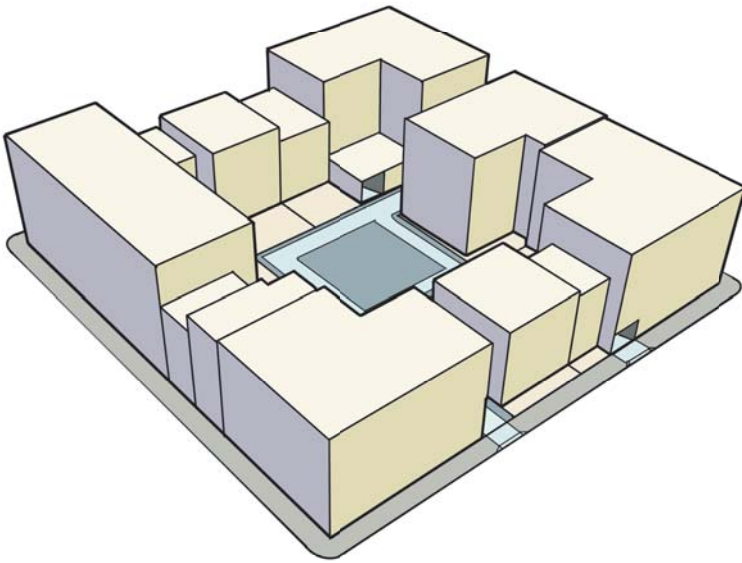
- Does not require community consensus.
- Can provide for affordable housing and market rate prices.
- Provides for ample parking.

Cons:

- Unpredictable results.
- Resulting buildings may not meet community goals.
- Excess parking yields more traffic.



Incremental Option



An option that allows for development to occur in an incremental pattern over time.

Pros:

- Results in a smaller scale of development.
- Makes Newton unique in the regional market.
- Provides DIF revenues for parking garages, parks, and affordable housing.

Cons:

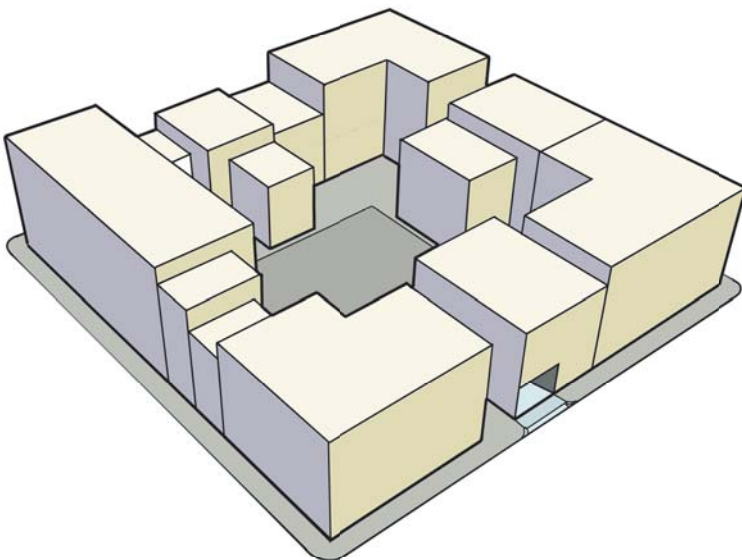
- Smaller scale projects are costly to build and may not be feasible in the current real estate market.
- Highly desirable form of development will result in luxury housing prices for all units that are not deed restricted affordable units (15% inclusionary zoning).

Key Moves:

- Off-street parking should not be required.
- By-right approval is required.

33

Courtyard Option



An option that responds to the desire for smaller scale buildings, while also still accommodating parking, parks, and other community benefits.

Pros:

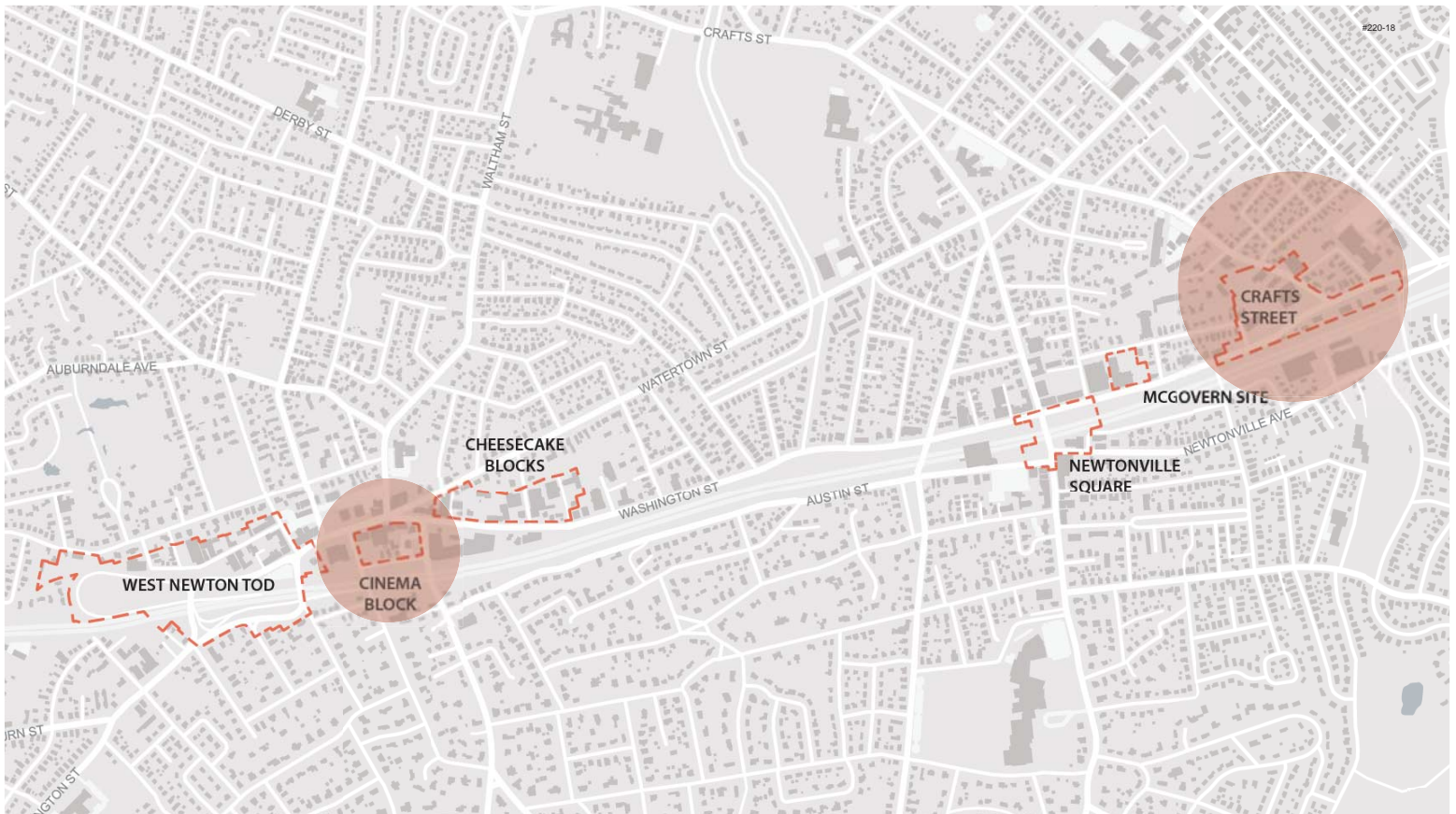
- Provides for a smaller scale form of development.
- Allows for underground parking.
- Provides public parks and plazas in the center of blocks.
- Because each courtyard block is developed as a large project by a single entity, affordable housing, parks, and other community benefits can be tied to development.

Cons:

- Scale may still feel too big.
- Does not allow for incremental change.

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How can development enhance the villages?



Cinema Block



Cinema Block - Existing



Cinema Block - Market Driven Option



Cinema Block - Courtyard Option

#220-18



Cinema Block - Incremental Option

#220-18





What areas need to become better parts of Newton?

Enable New Value at the Edges

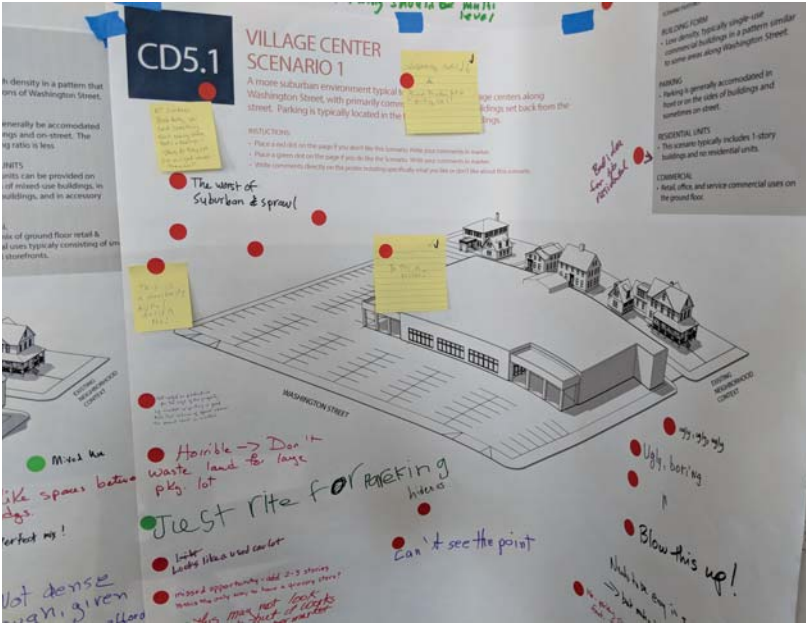
Issues: turnpike noise, lack of greenery, poor transit access, perception that there's poor places to hang out.



Crafts Street



What is the future of the Crafts Street area?



Crafts Street - Existing Conditions



Crafts Street - Market Driven Option

#220-18



Crafts Street - Courtyard Option

#220-18



Crafts Street - Incremental Option

#220-18



Traditional Formal, Convenient Parking

Existing Conditions



Washington Street at Crafts Street

3 to 4 Story Streetscape^{#220-18}



Washington Street at Crafts Street

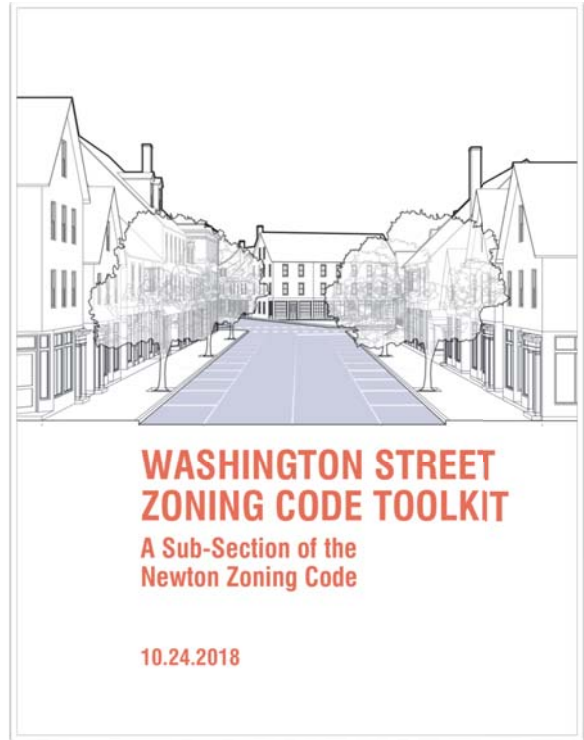
5 to 6 Story Streetscape^{#220-18}





Better Zoning, Better Villages

What are the tools that can help make
this vision possible?



Shopfront width

Limit the width of shops and shopfronts to no more than 30 ft in width.



57

Neighborhood step-downs

When abutting a residential neighborhood, require buildings to be no more than 1-story greater in height than allowed height in the residential neighborhood.



Upper story setbacks

In areas where buildings are allowed to be taller than 3-stories, require buildings to step back after the third story by 10 feet.



#220-18

Required Parks & Squares

Provide standards for a courtyard building group that requires a publicly-accessible civic space at the center of the block.



Approve incremental buildings by right

Allow small-scale buildings that meet the standards of the code avoid the special permit process, as way to encourage more small-scale buildings.

Longer process does not = better projects.



Flexible Parking Standards

Have clear and specific standards for where parking can be located, but remove off-street parking requirements to enable small-scale development and let the market decide.



8 Step Program for a comprehensive approach to managing parking (and traffic).

Step #1:

Allow on-street parking overnight, year round.

63

Step #2

Improve signage for where one can and cannot park within a 1/2 mile of the village center.

64

Step #3

Provide safe and comfortable options for walking and biking, so more people will choose those options.

65

Step #4

Adopt market based pricing strategies to improve parking availability and convenience (the Donald Shoup approach).

66

Step #5

Allow developers to “unbundle” parking so they can charge market prices for spaces and separate that cost from housing rent & commercial leases.

Step #6

Focus on transportation demand management strategies.

Step #7

Improve bus and transit access, infrastructure, and frequency.

Step #8

Create opportunities for district parking solutions, including shared parking garages.

We Need Everyone's Input

newtonma.gov/washingtonstreetvision

Drop-In Office Hours

5:00 p.m. – 6:00 p.m.

Newton City Hall, Room 106C
(right inside front door of City Hall)

- Thursday, November 8th, 2018
- Thursday, November 15th, 2018
- Monday, November 19th, 2018
- Thursday, November 29th, 2018

2018 NOVEMBER						
SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

NEXT STEPS FOR COUNCIL PROCESS

- November 26 - West Newton deep dive
- December 6 - Full Council - Review of Vision Map
- December 10 - Newtonville deep dive
- January 14 - Crafts deep dive
- January 28 - Zoning Toolkit
- February 25 - Vision Plan Draft #2
- April/May - Final Vision Plan & Zoning presented to Council



THANK YOU

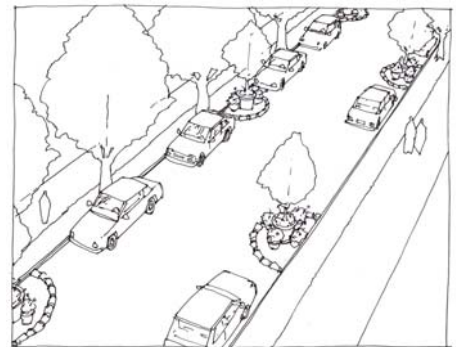
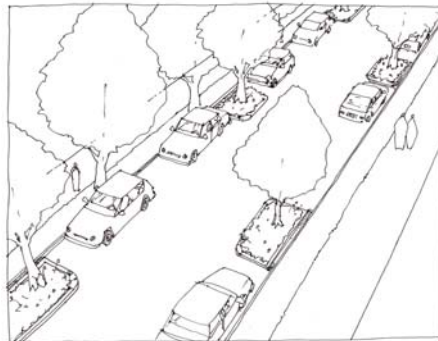
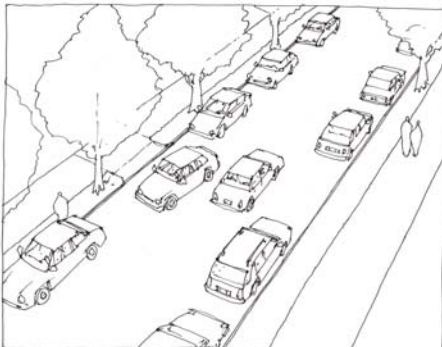
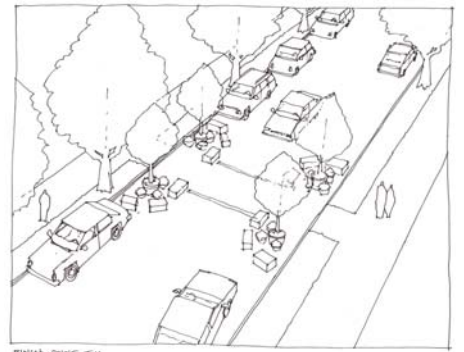
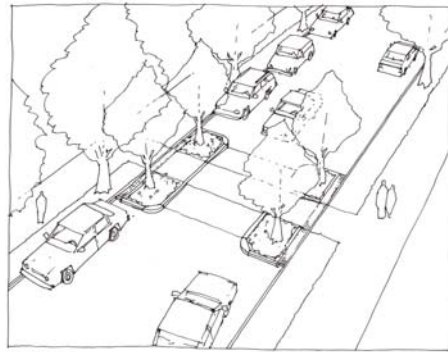
HELLO WASHINGTON STREET!
newtonma.gov/washingtonstreetvision
[@hellowashingtonstreet](https://twitter.com/hellowashingtonstreet)
WASHINGTONSTREET@NEWTONMA.GOV



PRINCIPLE 

Strategies to prevent neighborhood cut through traffic

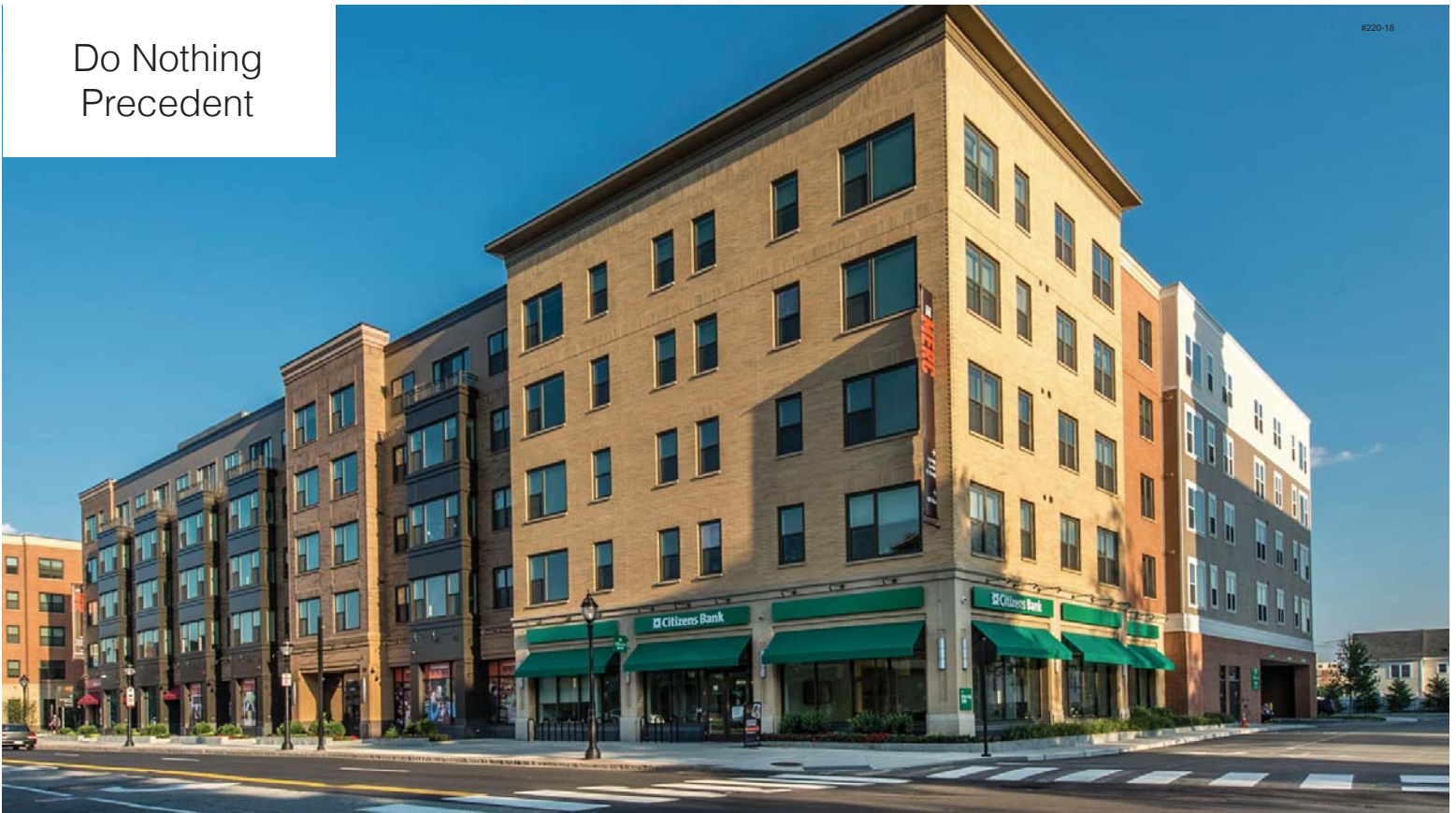
#220-18

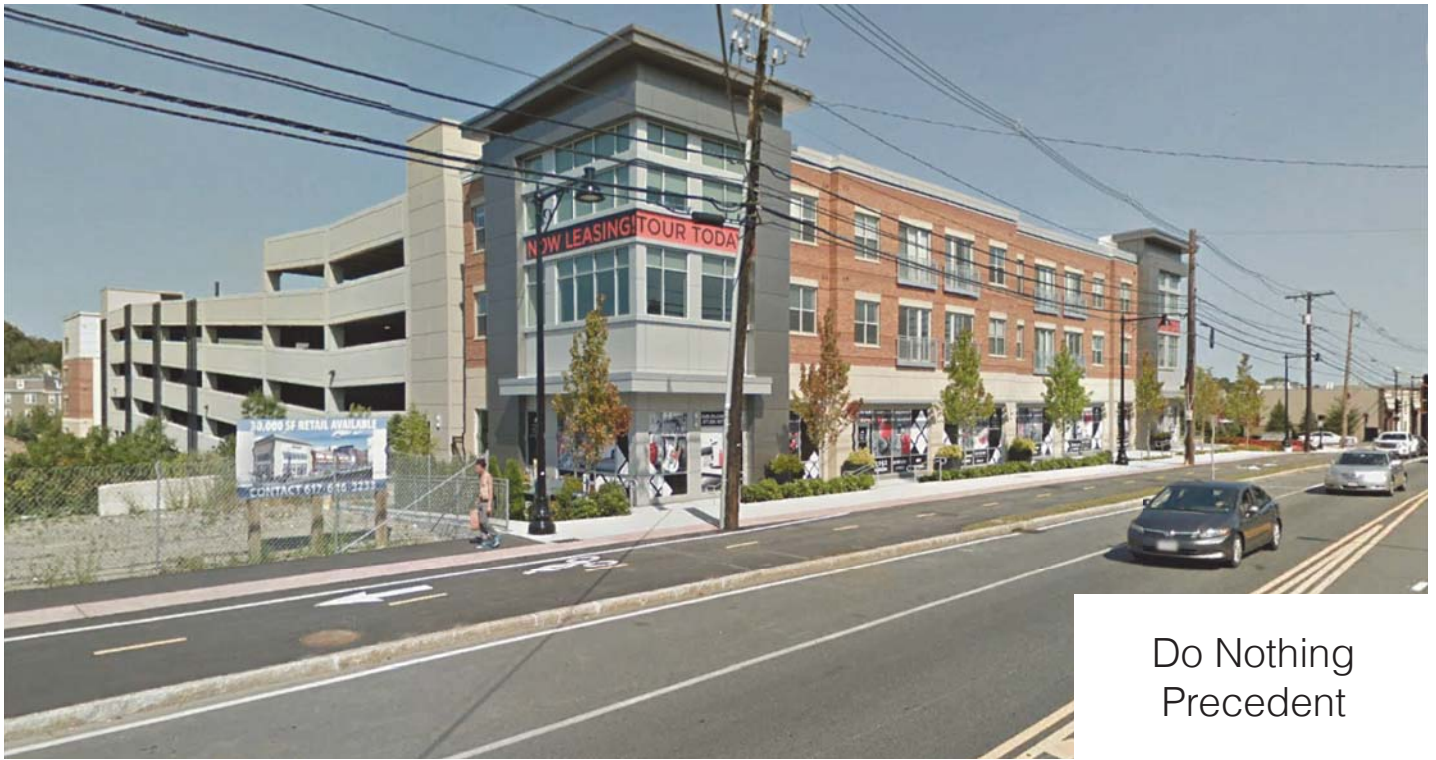


Do Nothing
Precedent



Do Nothing
Precedent





Do Nothing
Precedent



Courtyard
Precedent



Courtyard
Precedent



#220-18

Incremental
Precedent



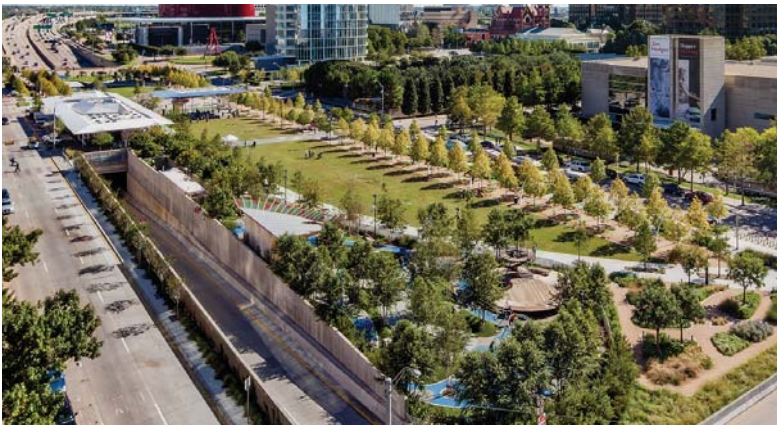


Incremental Precedent

Incremental Precedent



Courtyard Precedent







Courtyard
Precedent



Use recent photos of courtyard projects. #220-18



Infrastructure costs
\$331,300,000 (low)
\$453,900,000 (high)

Zoning and Planning Committee

1

MARIJUANA NEW ZONING PROPOSALS

Proposed Zoning Districts

2

- Interim until new Zoning Redesign districts
- All uses by Special Permit only
- Retail and Medical – Business 2 (BU2), Business 4 (BU4), Business 5 (BU5), and Mixed Use 1 (MU1)
- Marijuana Research and Independent Testing Laboratory – Limited Manufacturing (LM) and Manufacturing (M)
- Cultivation, Marijuana Product Manufacturing, Craft Marijuana Cooperative, Transport and Microbusiness – Manufacturing (M)

Minimum Criteria and Limitations on Approval

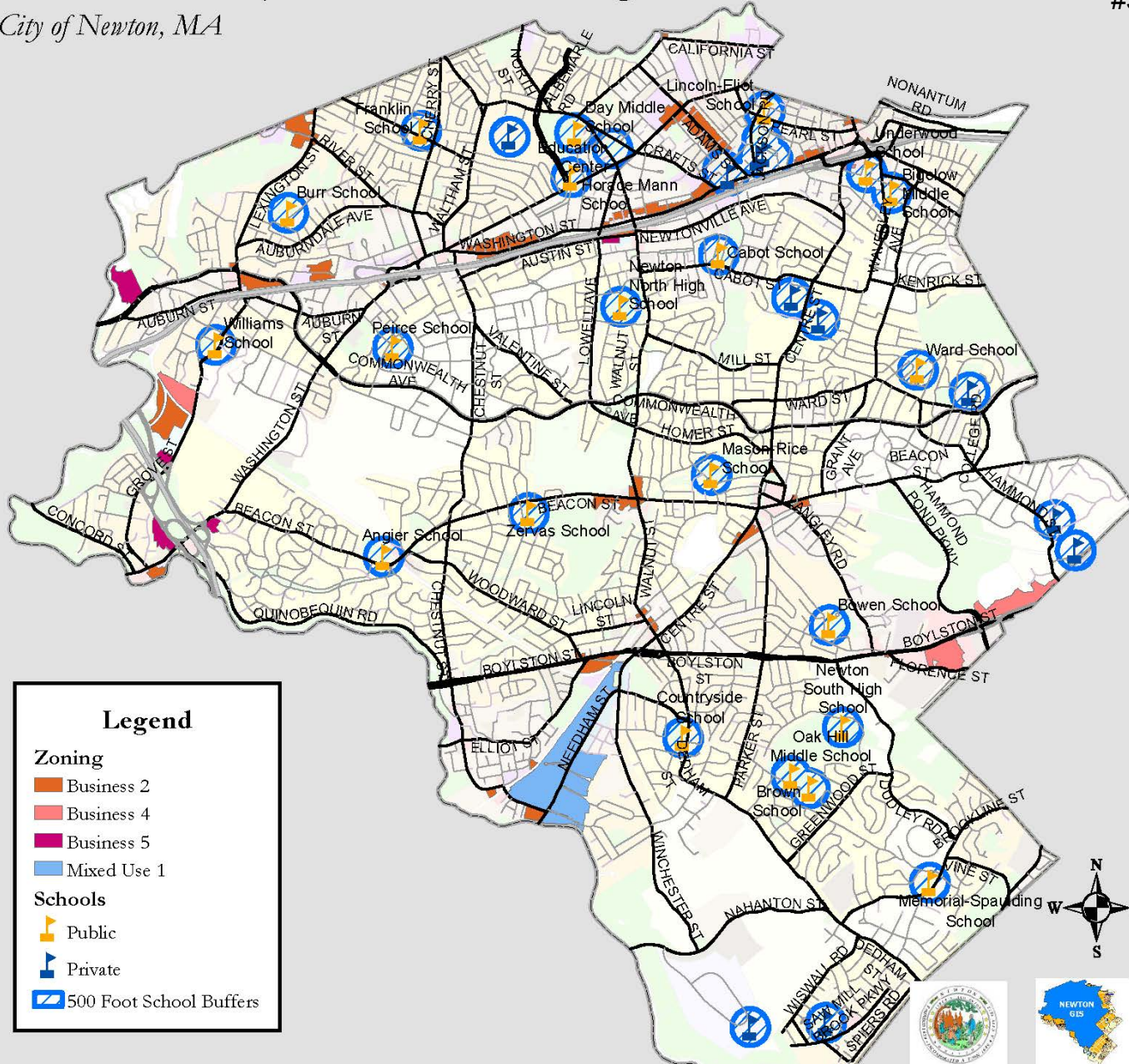
3

- 500 foot buffer from schools
- Minimum half mile buffer between all RMDs and Marijuana Retailers, except for co-location
- Marijuana Retailers limited to no more than 20% of package store licenses (8)
- Limit RMDs and Marijuana Retailers to less than 5,000 square feet
- RMDs and Marijuana Retailers to provide minimum of 25% transparency at ground level, unless waived by Special Permit

Draft Retail Marijuana and RMD Zoning

#376-18

City of Newton, MA



Legend

Zoning

- Business 2
- Business 4
- Business 5
- Mixed Use 1

Schools

- Public
- Private
- 500 Foot School Buffers



Map Date: July 24, 2018

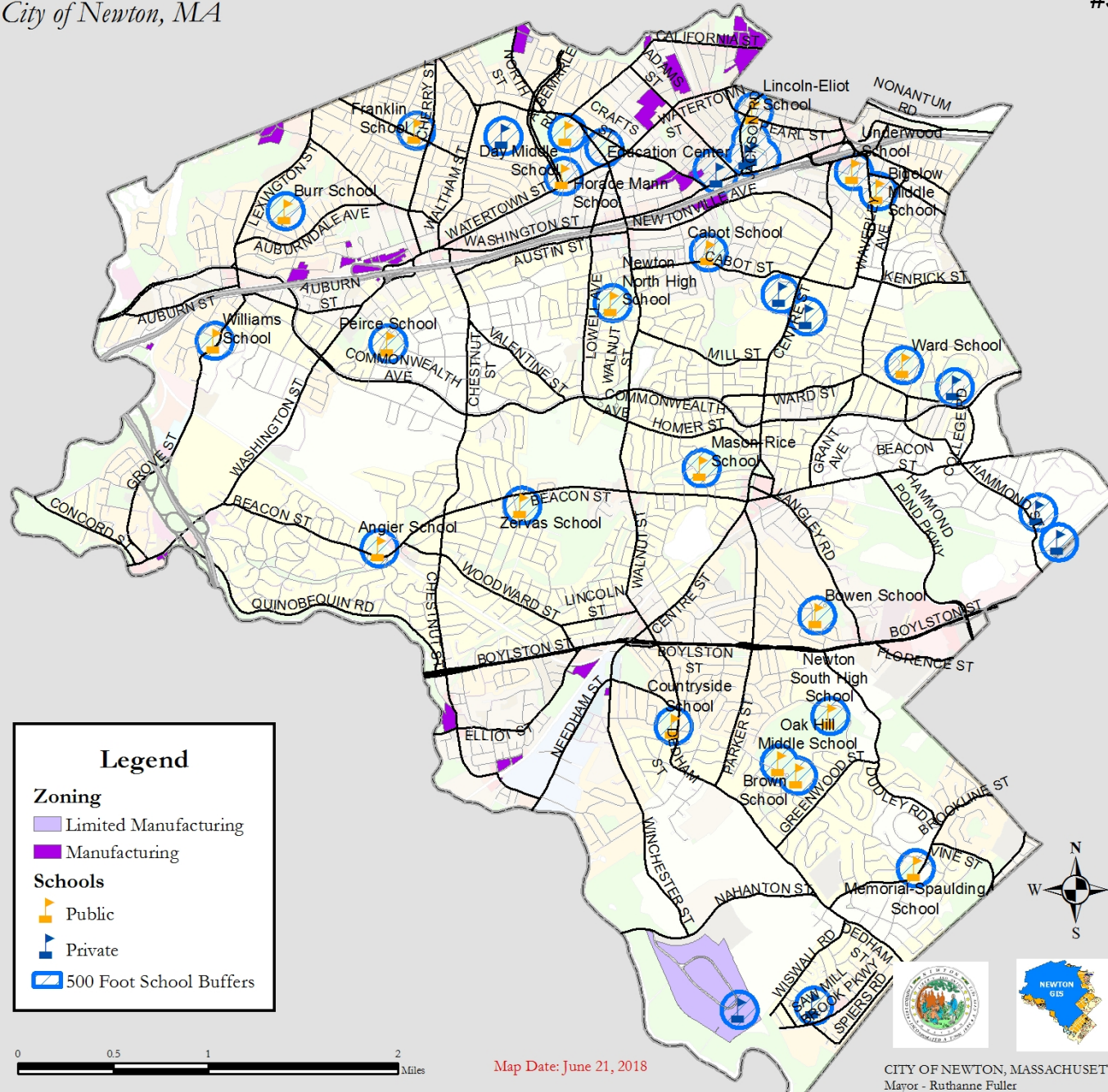


CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller

Draft Marijuana Research Facility and Independent Testing Laboratory Zoning

City of Newton, MA

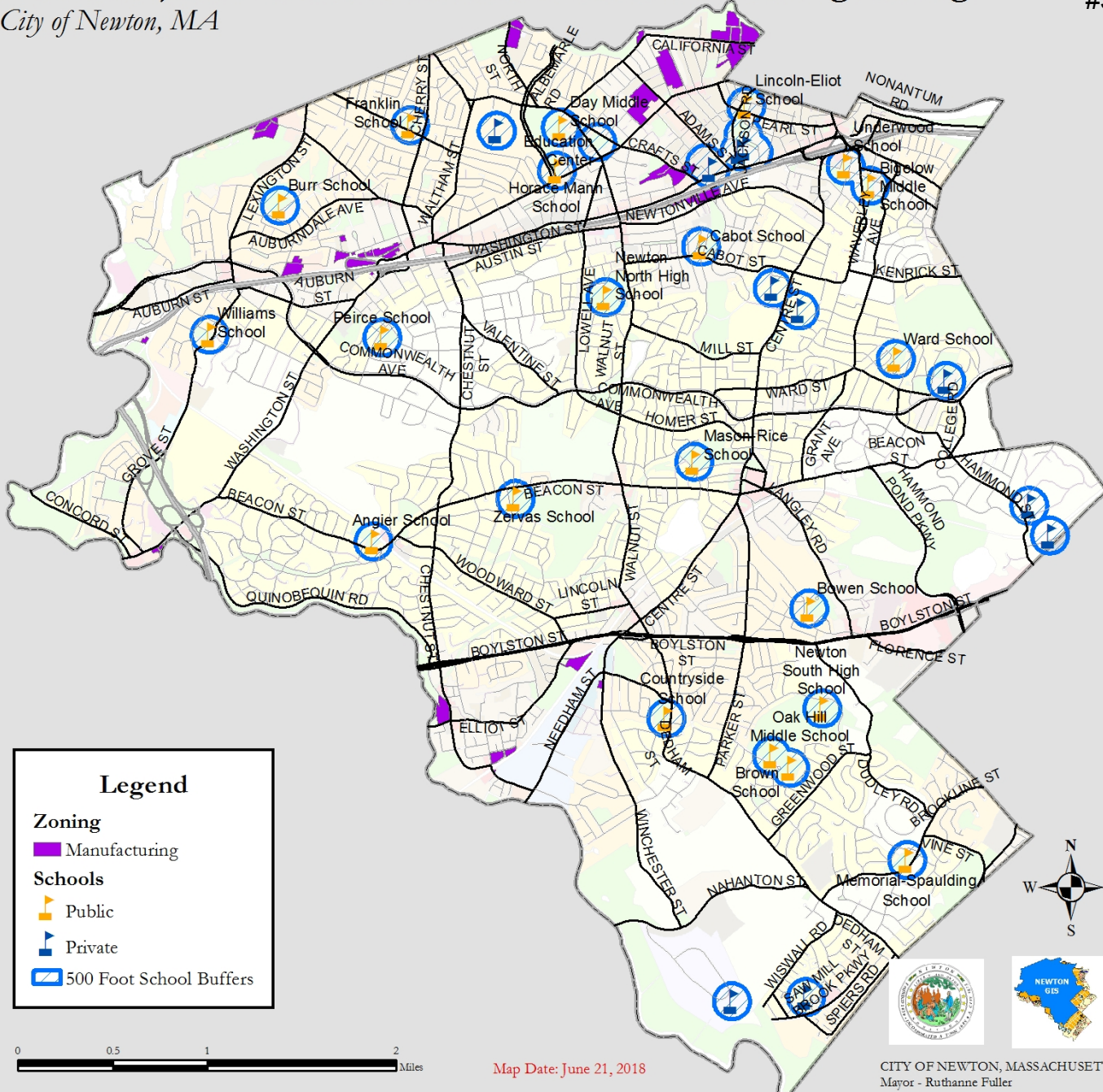
#376-18



Draft Marijuana Cultivation and Product Manufacturing Zoning

City of Newton, MA

#376-18



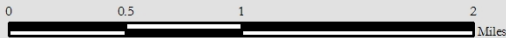
Legend

Zoning

- Manufacturing

Schools

- Public
- Private
- 500 Foot School Buffers



Map Date: June 21, 2018

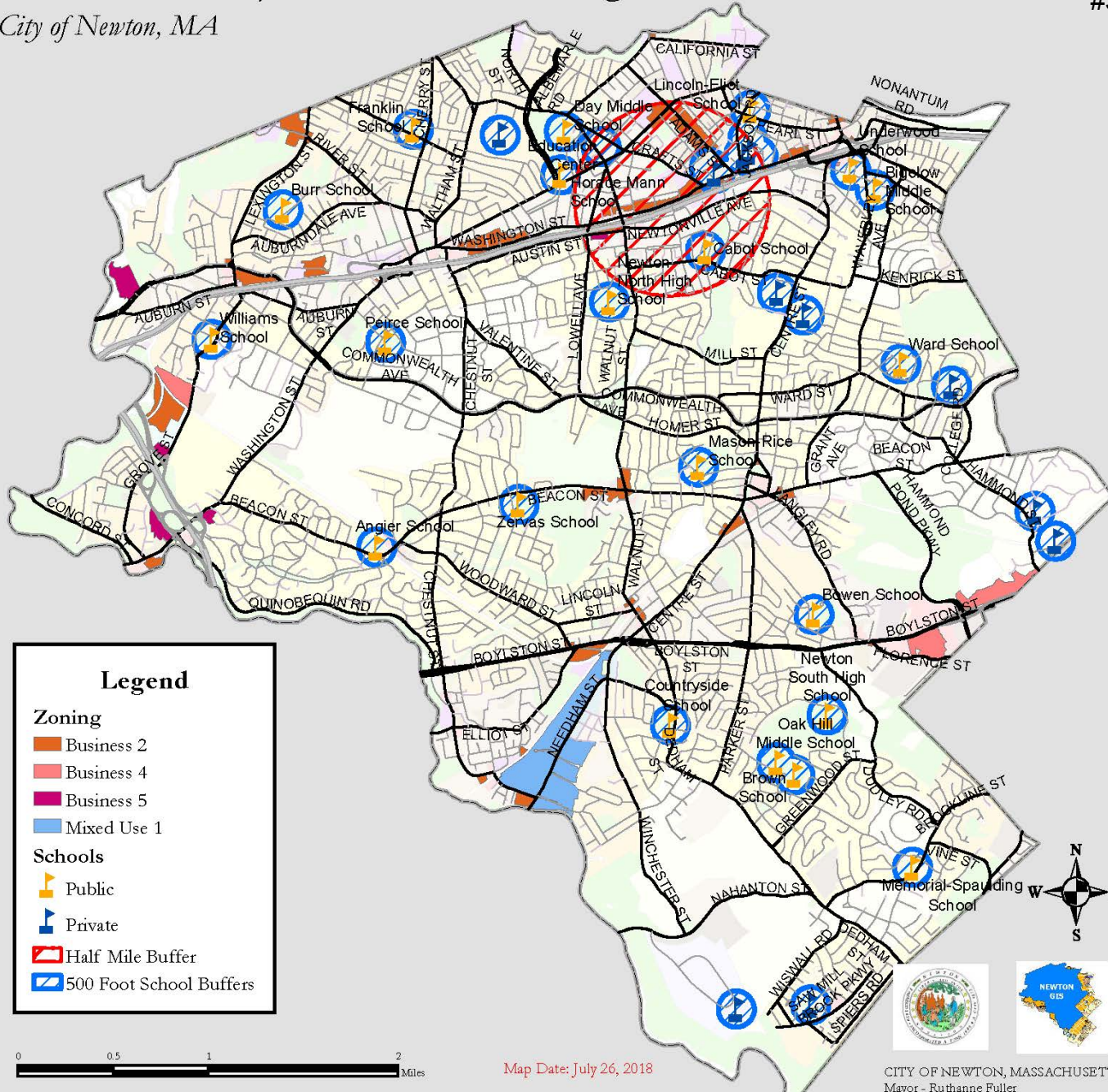


CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller

Draft Retail Marijuana and RMD Zoning

City of Newton, MA

#376-18



Legend

Zoning

- Business 2
- Business 4
- Business 5
- Mixed Use 1

Schools

- Public
- Private

Half Mile Buffer

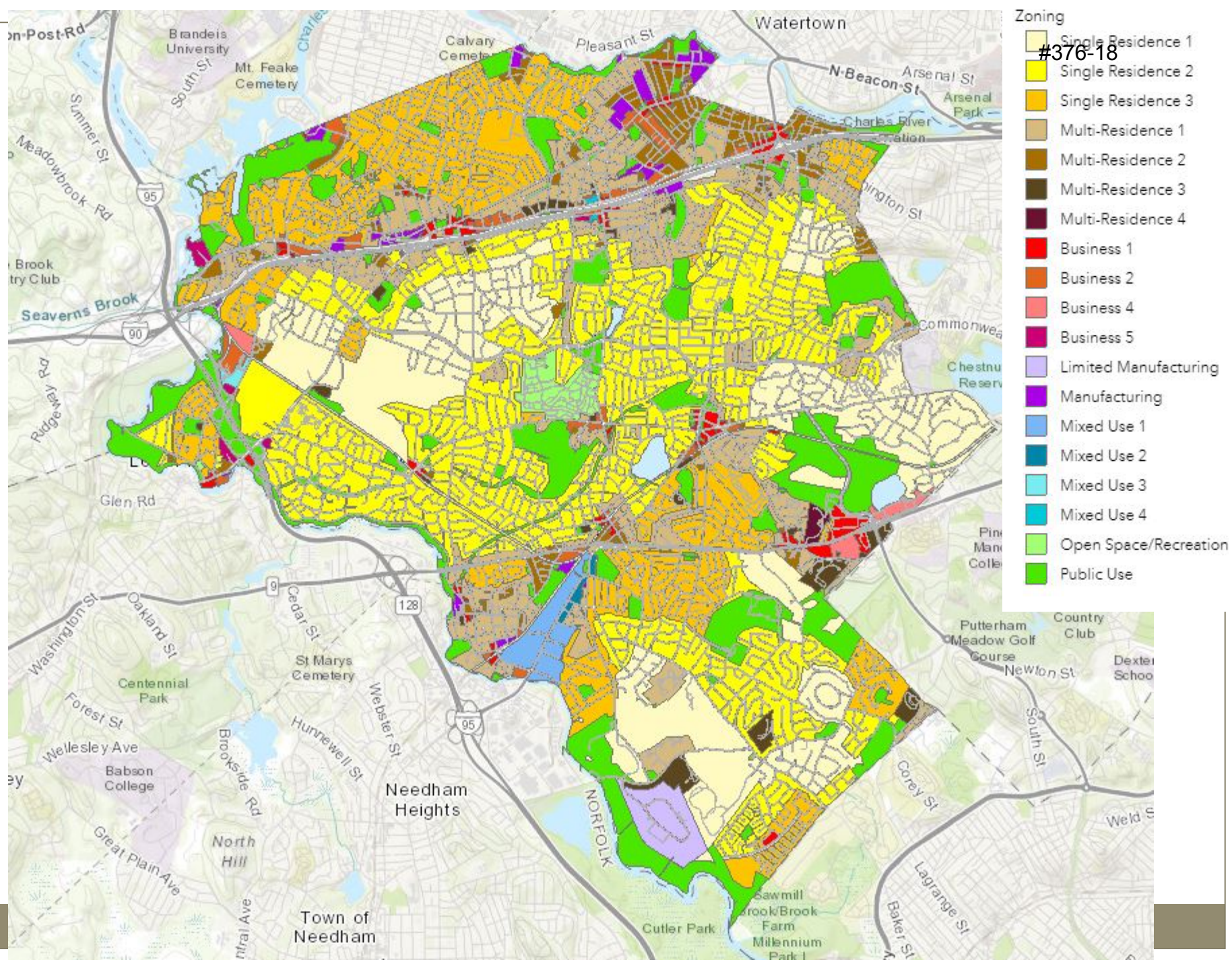
500 Foot School Buffers



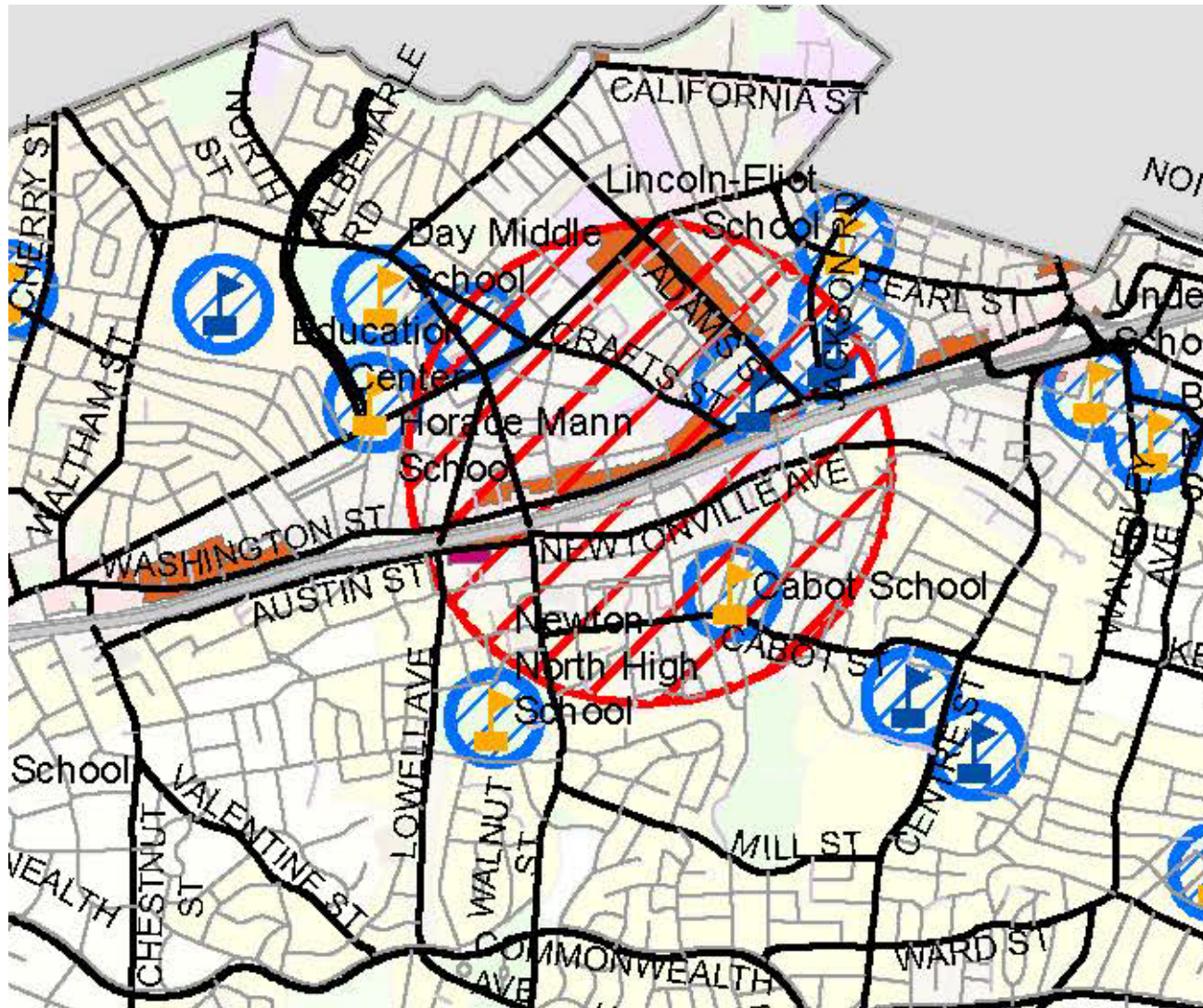
Map Date: July 26, 2018



CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller



Half-mile buffer around Garden Remedies



PLANNING & DEVELOPMENT BOARD



November 16, 2018

The Honorable City Council President, Marc Laredo

City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Ruthanne Fuller
Mayor

Subject: Docket #376-18, Zoning Amendment for Recreational Marijuana Establishments

Dear Honorable Council President Laredo:

Barney Heath
Director
Planning & Development

On November 14th, the Planning & Development Board discussed docket item #376-18, the zoning amendment for Recreational Marijuana Establishments.

Rachel Powers
CD Programs Manager
Planning & Development

The Planning Board voted 6-0-0 to recommend approval of this item as amended at the Zoning & Planning Committee.

Submitted on behalf of the Planning & Development Board.

Peter Doeringer, Chair
Kelley Brown, Member
Sudha Maheshwari, Member
Jennifer Molinsky, Member
Sonia Parisca, Member
Chris Steele, Member
Barney Heath, *ex officio*
Kevin McCormick, Alternate
James Robertson, Alternate

Sincerely,

Peter B. Doeringer, Chair

Cc: City Council
Planning & Development Board

Bcc: R. Powers
B. Heath

1000 Commonwealth Ave.
Newton, MA 02459
T 617-796-1120
F 617-796-1142
www.newtonma.gov

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

November , 2018

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Chapter 30 ZONING** as follows:

I. **Delete** the provisions of Sec. 6.10.3 **Registered Marijuana Dispensaries**, and insert in its place the following language:

6.10.3. Marijuana Uses

A. Purpose. The purpose of this Sec. 6.10.3 is to provide for the limited establishment of Registered Marijuana Dispensaries (“RMDs”) and adult use Marijuana Establishments within the City as they are authorized pursuant to state regulations set forth in 105 CMR 725.000 and 935 CMR 500.000. Since RMD’s and Marijuana Establishments are strictly regulated by the Massachusetts Department of Public Health and the Cannabis Control Commission, the intent of this Sec. 6.10.3 is to permit RMDs and Marijuana Establishments where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.

B. Definitions. Marijuana Uses shall include the following, as defined or amended by 935 CMR 500.000:

1. **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.

2. **Independent Testing Laboratory** – a 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.
3. **Marijuana Cultivator** – an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.
4. **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.
5. **Marijuana Product Manufacturer** – an entity licensed to compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.
6. **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.
7. **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.
8. **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.

9. **Microbusiness** – a 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.
10. **Registered Marijuana Dispensary (RMD), also known as Medical Marijuana Treatment Center** – an 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.
11. **Tier 1 Marijuana Cultivator** – a Marijuana Cultivator that is limited to no more than 5,000 square feet of canopy.

C. Marijuana uses not Allowed As-of-Right. Marijuana uses are not included within the definition of retail sales or services, agriculture, manufacturing, research, or any other lawful business permitted as of right or by special permit as provided in this Chapter.

D. Marijuana uses allowed by special permit. Use of land, buildings or structures for an RMD or Marijuana Establishment shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.3.

E. Minimum criteria and limitations on approval.

1. An RMD shall not be located within a radius of 500 feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate, and a Marijuana Retailer shall not be located within a radius of 500 feet from an existing public or private k-12 school, unless the City Council finds that the RMD or Marijuana Retailer is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD or Marijuana Retailer's operation. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the facility.

2. An RMD or Marijuana Establishment shall be properly registered with the Massachusetts Department of Public Health or Cannabis Control Commission pursuant to 105 CMR 725.100 or 935 CMR 500.100 and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD or Marijuana Establishment that is not properly registered with the Massachusetts Department of Public Health or Cannabis Control Commission. The RMD or Marijuana Establishment shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the City Council within one week of issuance and shall immediately notify said clerk if its registration is not renewed or is revoked. The RMD or Marijuana Establishment shall provide the Newton Police Department with the names and contact information for all management staff and shall immediately notify the police department of any changes.
3. A special permit granted by the City Council authorizing the establishment of an RMD or Marijuana Establishment shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the RMD or Marijuana Establishment has been authorized by the special permit. If the registration for the RMD or Marijuana Establishment is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.
4. An RMD or Marijuana Establishment shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.
5. An RMD or Marijuana Establishment shall be subject to the number of parking stalls required in Sec. 5.1 unless a lesser or greater number of stalls is required by the City Council based on the transportation analysis provided by the applicant. An RMD or Marijuana Retailer shall comply with the parking requirements for Retail uses; a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Microbusiness, or Marijuana Product Manufacturer shall comply with the parking requirements for Manufacturing; and a Marijuana Research Facility or Independent Testing Laboratory shall comply with the parking requirements for Research, Laboratory.
6. All signage shall conform to the requirements of 105 CMR 725.105(L) and 935 CMR 500.105(4) and to the requirements of Sec. 5.2. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMD or Marijuana Establishment.

The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

7. The RMD or Marijuana Retailer's hours of operation shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall an RMD or Marijuana Retailer open before 9:00 a.m. or remain open after 9:00 p.m.
8. The number of Marijuana Retailers shall not exceed 20 percent of the number of liquor licenses issued in the City pursuant to G.L. c.138 § 15 (commonly known as "package stores").
9. No RMD or Marijuana Retailer shall be located within a radius of one half-mile of an existing or approved RMD or Marijuana Retailer. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD or Marijuana Retailer to the nearest property line of the existing RMD or Marijuana Retailer. The co-location of a RMD and Marijuana Retailer on the same site shall not be subject to this buffer requirement.
10. No RMD or Marijuana Establishment shall be located within a building containing a residential use.
11. No RMD or Marijuana Retailer or co-located facility shall exceed 5,000 square feet of floor area.
12. All RMDs and Marijuana Establishments shall submit a state approved security plan to the Newton Police Department for review and approval.
13. All RMDs and Marijuana Establishments shall submit a state approved emergency response plan to the Newton Police Department and Newton Fire Department for review and approval.
14. All RMDs and Marijuana Establishments shall submit a state approved Operation and Management Plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.
15. An RMD or Marijuana Retailer located at the ground level shall provide at least 25 percent transparency along building's front façade at ground level and existing buildings shall not be modified to reduce the transparency of the front façade at the ground level to below 25 percent, unless the City Council finds impacts to security and aesthetics have been appropriately mitigated.

16. Any marijuana cultivation shall offset 100 percent of energy used for cultivation through renewable energy, either by any combination of purchasing Renewable Energy Certificates through the State, generating renewable energy onsite, and/or through Newton Power Choice, if available.
17. The RMD or Marijuana Establishment shall be ventilated in such a manner that no:
 - a. Pesticides, insecticides, or other chemicals or products in cultivation or processing are dispersed into the outside atmosphere; or
 - b. Odor from marijuana may be detected by a person with a normal sense of smell at the exterior or the building or at any adjoining use or property.
18. A Marijuana Research Facility may not sell marijuana cultivated under its research license.
19. Marijuana 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.

F. Special permit application and procedure. The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit shall include, at a minimum, the following information:

1. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), research, testing, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
2. **RMD Service Area:** Applications for an RMD shall include a map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMD's exist or have been proposed within the expected service area.
3. **RMD and Marijuana Retailer Transportation Analysis:** An application for an RMD or Marijuana Retailer shall include a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Director of Planning

and Development and the Director of Transportation, analyzing the proposed new vehicular trips, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site. An RMD or Marijuana Retailer that does not provide the number of parking stalls required per this Sec. 6.10.E.6. shall also provide a parking study.

4. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
5. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot, whether such uses are located in the City or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs. The context map shall include the measured distance to all uses described in paragraph D.1 above.
6. **Registration Materials:** Copies of registration materials issued by the Massachusetts Department of Public Health or Cannabis Control Commission and any materials submitted to that Department for the purpose of seeking registration, to confirm that all information provided to the City Council is consistent with that provided to the Massachusetts Department of Public Health or Cannabis Control Commission.

G. Special Permit Criteria. In granting a special permit for an RMD or Marijuana Establishment, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

1. Criteria for all marijuana uses:
 - a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot, whether driving, bicycling, walking or using public transportation.
 - b. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
 - c. The RMD or Marijuana Establishment is designed to minimize any adverse impacts on abutters.
 - d. The RMD or Marijuana Establishment has satisfied all of the conditions and requirements in this section.

2. Additional criteria for RMDs and Marijuana Retailers:

- a. The lot is located at least 500 feet distant from an existing public or private k-12 school, or the lot is located at a lesser distance if the City Council finds that the lot is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD or Marijuana Retailer's operation.
- b. Traffic generated by client trips, employee trips, and deliveries to and from the RMD or Marijuana Retailer shall not create a significant adverse impact on nearby uses.
- c. The building and lot have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.
- d. The building and lot are accessible to persons with disabilities.
- e. The lot is accessible to regional roadways and public transportation.
- f. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel.
- g. The RMD or Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses.

3. Additional Criteria for RMDs only:

- a. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.

H. Severability. If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

AND

II. **Delete** in its entirety the last row, Registered marijuana dispensary, in the "Restricted Uses" portion of the Table appearing in Sec. 4.4.1, **and insert** in its place the following new rows:

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Registered Marijuana Dispensary	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Craft Marijuana Cooperative	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Independent Testing Laboratory	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Cultivator	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Product Manufacturing	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Research Facility	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Retailer	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Marijuana Transporter	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Microbusiness	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3

Approved as to legal form and character:

ALLISA O. GIULIANI
City Solicitor

Under Suspension of Rules

Readings Waived and Adopted

EXECUTIVE DEPARTMENT

Approved:

(SGD) DAVID A. OLSON
City Clerk

(SGD) RUTHANNE FULLER
Mayor