



# Zoning & Planning Committee Report

## City of Newton In City Council

**Monday, July 16, 2018**

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

Also Present: Councilors Kelley, Markiewicz, Auchincloss, Norton, Greenberg and Crossley

City Staff: Jonathan Yeo (Chief Operating Officer), Barney Heath (Director, Planning Dept.), James Freas (Deputy Director, Planning Dept.) Rachel Nadkarni (Long Range Planner), Lily Reynolds (Community Engagement Manager), Amanda Berman (Housing Planner), Marie Lawlor (Assistant City Solicitor), Karyn Dean (Committee Clerk)

**#368-18**      **Appointment of Brian Yates to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR appointing BRIAN YATES, 1094 Chestnut Street, Newton Upper Falls, as a full member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire June 8, 2021. (60 days: 8/17/18)

**Action:**      **Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** Former Alderman/City Councilor Brian Yates joined the Committee and explained that he is a 6<sup>th</sup> generation City resident. He has lived in Upper Falls many years and was actively involved in the work leading up to the establishment of the Upper Falls Historic District, and as Chair of the Zoning & Planning Committee, oversaw the establishment of historic districts in Chestnut Hill, Auburndale and Newtonville. Mr. Yates co-sponsored the demolition delay ordinance as well as the landmarks ordinance, and co-chaired the Historic Buildings Task Force. He noted that High Street in the Upper Falls Historic District is a wonderful example of significant improvements to historic buildings through the good work of the historic district commission and that example should assuage some of the fears residents may have about living in or establishing new historic districts. He looks forward to working with the Newton Upper Falls Historic District Commission.

Committee members thanked Mr. Yates for his willingness to serve. Councilor Downs moved approval and the Committee voted in favor unanimously.

**#401-18**      **Appointment of Tarik Lucas to Newtonville Historic District Commission**  
HER HONOR THE MAYOR appointing TARIK LUCAS 36 Central Avenue, Newtonville, as an alternate member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire June 30, 2021. (60 days: 9/7/18)

**Action:**      **Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** Tarik Lucas joined the Committee. He explained that he has lived in Newtonville for 9 years, within the historic district. He would like to learn more about the City and the neighborhood as he currently serves on the Newtonville Area Council. This would be a great opportunity to learn about the history, architecture and his neighbors.

A Committee member asked if new Historic District Commission members receive any training. Barney Heath, Director of Planning, noted that there is a welcome package and some instruction but he will speak with Katy Holmes, Chief Preservation Planner, about what else might be done. The Committee agreed this would be helpful.

Councilor Kalis moved approval and the Committee voted in favor unanimously with thanks to Mr. Lucas for his willingness to serve.

**#402-18**      **Appointment of Peter Mooradian to Newtonville Historic District Commission**  
HER HONOR THE MAYOR appointing PETER MOORADIAN, 192 Chapel Street, Newton, as an alternate member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire June 30, 2021. (60 days: 9/7/18)  
**Action:**      **Zoning & Planning Approved 6-0 (Councilor Danberg not voting; Councilor Leary recused)**

**Note:** Peter Mooradian joined the Committee. He explained that he has been managing the Masonic Building in Newtonville for the last 11 years. The building is a living history of Newtonville and it is important that it remain that way. He looks at the surrounding buildings and homes in the same way, and feels that any changes need to be approached with that in mind. The historic district commission can guide people in a way that achieves their goals while maintaining historical standards.

A Committee member asked about the changes in Newtonville and how they fit in with historic preservation. Mr. Mooradian said that he has had discussions with the Planning Department about how the area should be developed and how the Masonic building and membership can be leveraged to provide different points of view and information. He has also worked with some people on the Austin Street project providing history and background. The Masons have been a very important part of Newton for a long time. Even though the membership has declined over the past few decades, they still do what they can do support the area. Volunteering for the historic district commission is a good way for him to continue to work within the Newtonville area.

Councilor Downs moved approval and the Committee voted in favor 6-0, with Councilor Leary recusing herself.

**#403-18**      **Re-appointment of Barbara Wales to Newtonville Historic District Commission**  
HER HONOR THE MAYOR re-appointing BARBARA WALES, 5 Rotherwood Road, Newton Centre, as a member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire June 30, 2020. (60 days: 9/7/18)

**Action: Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#404-18 Re-appointment of John Martin to Newtonville Historic District Commission**  
HER HONOR THE MAYOR re-appointing JOHN MARTIN, 12 Simpson Terrace, Newtonville, as a member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2020. (60 days: 9/7/18)

**Action: Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#405-18 Re-appointment of David Morton to Newtonville Historic District Commission**  
HER HONOR THE MAYOR re-appointing DAVID MORTON, 148 Edinboro Street, Newtonville, as a member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2020. (60 days: 9/7/18)

**Action: Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#406-18 Re-appointment of Nancy Grissom to Newtonville Historic District Commission**  
HER HONOR THE MAYOR re-appointing NANCY GRISSOM, 7 Orris Street, Auburndale, as a member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2020. (60 days: 9/7/18)

**Action: Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#407-18 Re-appointment of James Gross to Newtonville Historic District Commission**  
HER HONOR THE MAYOR re-appointing JAMES GROSS, 80 Highland Avenue, Newtonville, as a member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire January 1, 2020. (60 days: 9/7/18)

**Action: Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#369-18 Re-appointment of Paul Snyder to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR re-appointing PAUL SNYDER, 9 Ardmore Road, West Newton, as a full member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for a term to expire July 1, 2019. (60 days: 8/17/18)

**Action: Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#370-18**      **Re-appointment of Julia Neville to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR re-appointing JULIA MALONE NEVILLE, 68 High Street,  
Newton Upper Falls, as a full member of the NEWTON UPPER FALLS HISTORIC  
DISTRICT COMMISSION for a term to expire January 26, 2021. (60 days: 8/17/18)  
**Action:**      **Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#371-18**      **Re-appointment of Laurie Malcom to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR re-appointing LAURIE MALCOM, 95 Algonquin Road,  
Chestnut Hill, as a full member of the NEWTON UPPER FALLS HISTORIC DISTRICT  
COMMISSION for a term to expire December 24, 2019. (60 days: 8/17/18)  
**Action:**      **Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#372-18**      **Re-appointment of Donald Lang to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR re-appointing DONALD LANG, 999 Chestnut Street,  
Newton Upper Falls, as a full member of the NEWTON UPPER FALLS HISTORIC  
DISTRICT COMMISSION for a term to expire December 24, 2019. (60 days: 8/17/18)  
**Action:**      **Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#373-18**      **Re-appointment of Jeffrey Riklin to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR re-appointing JEFFREY RIKLIN, 37 High Street, Newton  
Upper Falls, as a full member of the NEWTON UPPER FALLS HISTORIC DISTRICT  
COMMISSION for a term to expire July 31, 2020. (60 days: 8/17/18)  
**Action:**      **Zoning & Planning Approved 7-0 (Councilor Danberg not voting)**

**Note:** The Committee voted unanimously to approve this re-appointment, without discussion.

**#374-18**      **Re-appointment of Jay Walter to Newton Upper Falls Historic District Comm**  
HER HONOR THE MAYOR re-appointing JAY WALTER, 83 Pembroke Street, Newton,  
as a full member of the NEWTON UPPER FALLS HISTORIC DISTRICT COMMISSION for  
a term to expire July 1, 2020. (60 days: 8/17/18)  
**Action:**      **Zoning & Planning Held 5-2-0 (Councilors Albright and Leary opposed)**

**Note:** Councilor Baker asked that the Committee invite Mr. Walter to their next meeting to discuss  
a letter to the editor that he wrote about historic districts. Mr. Walters has served as a member of  
the Upper Falls Historic District Commission for years but Councilor Baker felt the letter stated a  
wariness of Historic Districts and gave an inaccurate impression of what historic districts

accomplish. Former City Councilor, Amy Sangiolo, sent an email to the City Council expressing concern as well (attached). Councilor Baker noted that there are a number of things that can be done with a home in an historic district and a homeowner can get administrative approval for many kinds of repairs. Within an historic district, everyone must go through the review process but Mr. Walter's letter gave the impression that a full-scale review has to be done for every repair or change. Councilor Baker asked the Committee to hold this re-appointment so that Mr. Walter has an opportunity to comment on his letter and respond to the concerns

A Councilor noted that she heard from a resident that her home had to go through Upper Falls Historic District Commission review to replace windows that were not visible from a public way because her house is on a private way. This is the second time she has heard of a scenario wherein she felt the Commission was acting out of its authority. Brian Yates said he would raise this issue within the Commission if the Councilor would share the information with him.

A Committee member said that she spoke to many people during the recent attempt to form two new historic districts in West Newton and Newton Highlands. People expressed frustration with the process of review, which can vary greatly depending on who is serving at the time. In many cases, the review is well worth it, but there is a balance that has to be struck. She believes that Mr. Walter displays that sense of balance and she has always valued his opinion. His impact on the historic commission should not be judged based on one letter, which in fact, echoes the same frustrations she has heard from residents.

The Committee voted to hold this re-appointment 5-2-0 (Councilors Leary and Albright opposed) and invite Mr. Walter to attend the next meeting.

**#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.

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

**Note:** James Freas, Deputy Director of Planning, introduced Joel Russell, who is working with the Planning Department to write the updated zoning ordinance. Mr. Russell's resume was attached to the meeting agenda for review. Mr. Russell addressed the Committee stating he has been a zoning consultant for 30 years, writing 60 zoning codes in total with 40 of them adopted. Twenty-four of those codes were comprehensive revisions, as is being done in Newton, and he has written 9 form-based codes that have been adopted.

Councilor Baker said he has known Mr. Russell for more than 20 years and has seen his work. He asked Mr. Russell if he has worked on any zoning ordinances in Massachusetts. Mr. Russell noted that he has worked on complete code revisions in Springfield, Tewksbury and West Tisbury and many amendments to zoning codes in other communities in the state.

Mr. Russell said that he would like to hear what Committee members would like to see come out of

the zoning redesign project. His job is to advise staff, but the common goal is to create something that the City will adopt. He explained that form-based zoning ordinances are a tool to get the type of development that will fit into the existing context of the City. One of the basic principles of form-based zoning is that it starts with citizen participation and a planning process, much like what is currently being done with the Washington Street Corridor action plan. After citizen input, the process must continue with a clear set of intentions in terms of design, transportation and major goals for walkability and vitality. Most zoning codes only relate peripherally to a comprehensive plan, however, form-based zoning emerges from a detailed plan of a particular area. The pattern book explains the context of Newton, but then that analysis of context has to be translated into the actual rules for development. The form-based approach allows a much clearer level of detail, which provides more guidance and predictability to developers, homeowners, City Councils and planning boards.

Mr. Russell provided a PowerPoint which is attached to this report. Please refer to it for details of his presentation.

#### Committee Comments/Questions

A Councilor watched a TED talk by George Proakis who is the Planner in Somerville, MA and she has been intrigued with form based code since then. She sees this as an opportunity to create wonderful street designs but also to maximize green spaces to mitigate climate change impacts, and have opportunities to plant more trees in increasingly dense and urban areas. She still finds people are very wary of it, however, and are concerned with what might happen with a form based code. Mr. Russell said the terminology is problematic and Somerville has avoided the term altogether. When it is explained without using the term, people understand it and generally like it. The purpose of the form based code is to make things more predictable and understandable. When a City passes a zoning ordinance, many people do not know what the results will be and this will change that.

There was some concern that the illustrations in the presentation show the creation of an urbanized space. The process implies a commitment of public resources for street reconstruction, which can be extremely expensive. Also a number of people are concerned that Newton is losing its character with teardowns and construction of much bigger houses. The proposed ordinance encourages more development of that kind rather than less. In addition, there are some inconsistencies in the proposals. He was concerned that the streets in Newton are going to have houses right next to each other without much space in between or in front. A big attraction in Newton is that there is some space. It is a suburb undergoing some redevelopment rather than an open community under development or an urban area that needs better infrastructure.

Mr. Russell said the more fine grained and more urban examples are not meant to be citywide. They are meant to be along the Washington Street corridor or in some of the village centers that would benefit from that kind of treatment. There are a number of different streetscapes that could be planned, not just one type. The advantage of giving visual examples is that people can get an idea of what could happen but the danger is that people might think that concept is citywide. This is about the citizens implementing the vision that they generate in cooperation with the elected and

appointed officials. The form based approach works better in urban than suburban areas, perhaps, but that does not mean it cannot be applied well in suburban areas. Making a better public realm applies in both a city and in a suburb, it is just that the solutions are going to be different. Whatever the City wants is what is put in the code. Rules can be put in place to discourage teardowns. If there are regulations that require a similar sized building to replace the tear down, that would make people either not tear something down or build something that fits the character of the neighborhood.

A Councilor asked if Mr. Russell feels he is coming into the process at the right time and if the . Mr. Russell said he has not been hired to write the ordinance, except for a couple sections. Otherwise he will be counseling and reviewing the writing. He trusts that the basic framework is what the community wants based on all the work and community meetings that have taken place. He said he has the technical background and skill to write a well-crafted ordinance. Having Phase One complete is a huge advantage but things tend to take more time than anticipated. There will always be little problems to be dealt with but with the right structure and framework, those amendments are much easier to make and tends to avoid most of the issue. Staff, developers, architects and the City Council need to learn how to use a new ordinance but zoning has been progressing and changing for over 100 years.

A Committee member said there have been some changes in neighborhoods that they do not like, as a result of current zoning. She wondered what would qualify as the “character” of a neighborhood - the newer construction or the buildings that have been there for years. Mr. Russell said it is up to the community which way they would like to go and up to this Committee as to what they recommend to the City Council. Each neighborhood is going to be different and those decisions need to be made based on the contextual analysis has been done and by the ongoing conversations with Councilors in each ward.

The Chair asked how the Committee and Council can stay involved moving forward. Usually this Committee can pore over a zoning amendment word by word but with a total re-write, that is not possible. She thinks a more inclusive process is necessary. Mr. Russell said a smaller group does have to do that detailed work but an advantage of this approach is a lot of visual imagery can be presented in meetings. It will show people what the outcome will be of certain regulations. Zoning can be very boring, but the use of visual images changes the game and more people become interested and it becomes easier to understand. Ward and neighborhood meetings are very helpful as well. People worry about what they can and cannot do with their property; and people worry about what their neighbor can do and cannot do with their property. Running a “zoning clinic” can be helpful to address those concerns. People can come in with plot plans and ask questions relating to the new and the old zoning. People really want to understand the changes, but that is very labor intensive for staff. Usually not a huge number of people ask those questions, but they should be able to. Meetings should be a manageable size and there will be areas that will draw many people, and some that will not. Getting the word out through cable TV, social media and the website is helpful and more and more communities do things online and residents are used to doing things online.

It was noted that 3-story buildings were torn down in the village centers and now there are 1-story buildings that ended up in their place. Some people feel that taking away the 1-story buildings is ruining the “historic” feel of the centers when they really were not there historically. Mr. Russell said using historic photos and images can remind people that this will not lead to a “change” but it will actually bring back the historic character.

A Councilor said she would like Newton to become the walkable, transit friendly community that it used to be with villages that were able to serve a lot of people. Parking minimums will have to be discussed because big parking lots between buildings do not lead to a comfortable walking experience. She would like the City to be sustainable by dealing with trees, storm water, etc. Also, choosing the best examples of existing buildings and parcels is the best way to approach the ordinance in order keep make the City more lovely rather than less. There are some regrettable examples in the City and they should be used as examples of what not to do going forward.

A Councilor said he would like to see more specific examples of what can be done with the current ordinance and how that will change with the new ordinance.

It was noted that there are many people who come to community meetings but the City Council has to represent those that do not come as well. He did not want to really too heavily on community meetings because there are other points of view. Meeting fatigue can set in as well for Councilors, staff and residents.

It was asked how the large vision plans are being incorporated into the zoning ordinance. Mr. Russell said the vision plans are just concepts and the question is always how will it actually happen. Even in special permits, the plans presented are not always what gets built. This particular tool is one of the most effective ways to insure what is in the vision plan is what will get built. It is not just relying on vague parameters and a discretionary approval process. It gives much clearer guidance to everyone involved in the decisions. The Washington Street project is doing both a vision and master plan for the area as well as proposing zoning. That zoning would then probably be dealt with as an overlay district. There are two different scales of zoning and planning – the citywide plan is more coarse and the specific areas are more fine grained. The idea of the vision is that you start with a framework proposed for the whole City and then you drop in specific areas like Washington Street and Needham Street with much more detailed sections. The Pattern Book provides a great foundation for zoning for specific locations.

The Committee thanked Mr. Russell for his presentation and information.

The Committee voted to hold this item, unanimously.

**#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.

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



**Note:** Barney Heath, Director of Planning, noted that amendments have been made to the Needham Street Vision Plan based on the input from the June 11<sup>th</sup> discussion in Committee and the June 25<sup>th</sup> public hearing. The Planning Memo outlined the changes and an updated version of the Plan was made available to the Committee. Both the Planning Memo and the Vision Plan can be found attached the online agenda at <http://www.newtonma.gov/civicax/filebank/documents/90767/07-16-18%20Zoning%20&%20Planning%20Agenda.pdf>

Mr. Heath explained that there was a very robust engagement process and great commitment from the 23-member Needham Street Area Engagement Committee in preparing the Vision Plan. (Six members were present at the meeting this evening.) Councilor Kalis and Councilor Crossley were on the Committee along with residents in and around Needham Street representing a variety of interests and neighborhoods. They began by looking at the existing context of Needham Street and concluded that there was, in fact, not much context there. There were many conversations about what people would like to see on Needham Street and there was a fair amount of consensus about what that could be. People love the Greenway and the Charles River and would like to find ways to connect to those resources and augment open spaces. Creating community gathering spaces was a common theme amongst the Committee members whether that be in open spaces or in some built form. Committee members liked the idea of creating a new neighborhood so that there could be a connection with what already exists, including residential, commercial and some of the industrial heritage in the area. These connections could bring a vibrant energy to the area that is currently lacking. Transportation was a complicated issue and there were discussions about the many ways to address it.

The Needham Street Vision Plan is designed specifically to be an aspirational broad policy document and is not meant to provide specifics or focus on a particular project. It is meant to be a guide on which to base future decisions on zoning and project development.

#### Committee Comments/Questions

A Councilor said that the specificity on the number of stories on page 39 is problematic. He thinks it should be expressed more broadly and benchmarks should not be set. He would also like to use data from the area about use of cars and public transportation, etc. (from Avalon, for instance) so that the City can better articulate the impact of future development. Mr. Heath explained that the illustration on page 39 of the Plan which shows different heights associated with different areas of Needham Street, was created to provide some guidance to the City Council. Staff felt that the various heights needed to be stated for the different sections of the street and Human Scale Design principles were used to determine the heights. There was consensus among Engagement Committee members that 3-5 stories were comfortable limits. In the more southwest and southeast sections of the street where there was sufficient depth and buffer from the adjacent neighborhood, it seemed appropriate to move towards the higher stories within that range. Above a certain height, setbacks would be used so that the experience as a pedestrian would be comfortable and not that of a looming building.

Rachel Nadkarni, Long Range Planner, explained that Human Scale Design focuses on the person on the street so that the street level experience is comfortable. This has been part of urban design academia for the last 50 years or more and several prominent designers have spent their careers working on this concept. There has been some interesting research coming out of Tufts University and other institutions of a scientific nature corroborating those findings from the 60s. People are in some ways still animalistic and have the same instincts as they did when roaming the plains of Africa – there is a universal understanding of spatial relationships and people look for smaller, protective spaces where they can see the edges. This is often evident at parties where people find the smaller places to gather. A sense of enclosure ends up being better for the person walking on the sidewalk than a wide-open space. There are height distances that are comfortable for human interaction as well. For instance, a person on the sidewalk can have a conversation with someone who is at the fifth story height, but higher than that would be problematic. As you get up to the edge of a street or plaza, balance is needed and it has been found that 3-5 stories in the ideal space that provides that sense of protection and enclosure and also allows for a comfortable interaction with another person in the building. Committee members felt that using this explanation in the Vision Plan would be very helpful and would lead to a better understanding of the recommendations. A Committee member said she read that Piazza San Marco in Venice was shown to be the right balance of height, open space and protected space, while Government Center in Boston is exactly the opposite.

Mr. Heath said using data from Avalon and other area developments could be very helpful and it will depend on how willing people are to share their information. Staff will consider how they might capture the data and speak to their colleagues in Needham for information.

A Committee member asked how curb cuts will be addressed. Mr. Heath said that Massachusetts Department of Transportation (MassDOT) will be taking care of many of those issues as part of their projects on Needham Street and will be greatly reducing the number of existing curb cuts. It was suggested that reduction of curb cuts be added as one of the goals under the “vision of transportation” in the Plan so that people will know this is being taken seriously and is being addressed.

It was asked how centralized parking would be approached on Needham Street. Mr. Heath said the Engagement Committee spoke about a “park once” strategy so that people can park and then get to other parts of Needham Street by walking, shuttle or other means. Ms. Nadkarni explained that Needham Street is almost the same length as Newbury Street and many people are willing to walk and shop that distance. The wider sidewalks and the ability to cross the street more safely will add to that experience.

A Councilor said that the state is part of the reconstruction of Needham Street and the Plan is speaking to the private landowners’ part in development and re-development, however, he does not think that Needham Street has a Newbury Street/neighborhood kind of feel. It feels more like a highway. He wondered if the Plan will meet the reality on the ground because the vision is that

of a pedestrian-friendly area when it is an automobile-friendly area. Mr. Heath explained that this vision plan is an opportunity to right some of the wrongs of Needham Street. The MassDOT project will help with that but as redevelopment occurs, opportunities become available to make it much better and to encourage a pedestrian-friendly area. The neighborhoods would like to connect to Needham Street and make it part of a dynamic area.

Councilor Kalis responded that he lives in the area and there is a community formed by the families at the Countryside School, which is populated by those in the neighborhood and those that come from Upper Falls. There is a sense of community. Kids are walking to school down Needham Street and adults are walking to work after getting off the T. The opportunities are tremendous and the people who live there are excited about the vision and want to see things change in order to link the different parts of the community.

It was noted that the Greenway can be used to access both the Eliot T and the Newton Highlands T. This will cost money but it can be made very useful as a way to move people pleasantly from one place to another. How can public land be used between the Fire Station and the DPW building to create a pathway to Eliot Street and the T and how to extend past National Lumber (who are encroaching on the Greenway behold their leasehold) and manage to complete the pathway. Those are not easy problems and require some dedicated focused work. More development in the area could bring more utilization of the Greenway and this needs to be thought through.

A Councilor asked if the idea of eminent domain has been discussed as a tool to fix some of the problems that cannot be solved by regulation. If this is done in a way that enhances the whole system, then perhaps property values would increase. A Committee member noted that one of the reasons the MassDOT project was delayed for a year was because they did not leave enough time to do the takings to make it work.

A Committee member saw that many of the goals are very long-term such as trees, storm water and transportation services. She wondered how this could all be financed and that some of the work could take decades before they become reality. Mr. Heath said financing has been a part of the discussion and so they have separated short term and long term goals. The Plan is a guide to help guide investment of both public and private dollars. Part of the exercise was identifying the priorities so that when public or private improvement money becomes available, those priorities would be addressed in order.

A Councilor asked about expanding equity as noted on Page 49 of the plan. Mr. Heath said a number of items have to do with providing affordable housing, middle-income housing, incorporating universal design and accessibility and opportunities to provide local businesses to occupy spaces. Committee members said they appreciated the thought that went into expanding equity in these and other ways.

As this Vision Plan will become an amendment to the Comprehensive Plan, a Committee member suggested adding a glossary to the Comprehensive Plan. There are a number of planning and other professional terms that could use explanation for the reader.

Former Councilor Brian Yates noted that throughout the process, there was a request and a unanimous consensus not to put traffic out onto Oak Street. The implication of the density layout in this plan is that it could end up on Oak Street. He felt the Neighborhood Area Council was ignored when it should have been fully involved in this plan.

A member of the Engagement Committee, Ms. Katz, explained that she attended all of their meetings as well as all but one of the zoning meetings, she serves on the Conservation Commission and she is a volunteer steward of a conservation parcel. She lives in Upper Falls and walks often on the Greenway, South Meadow Brook and along Needham Street. She has great hopes for the area and she thinks the Plan is a great document. The public health section was much improved. She has a few concerns:

- One is the fate of the Greenway because it is the best thing to happen to Upper Falls in a generation. The Conservation Commission has the proposal out to DCR for Newton's first trail loop, which would link to the Greenway. She is concerned that one of the long-term goals is for transit options on the Greenway. This would be a step backwards if the trail was opened and it was later turned back into fixed-rail transit, which is 20<sup>th</sup> century thinking. She sent an email to the Committee that links to a report produced by MAPC about transit ridership. The increase in ridership from a green line extension would be very minimal.
- She is concerned about the negative impact of curb cuts onto Oak Street. She lives off Oak Street and it is her only way out. During the Elliot Street bridge construction, it was impossible to make a left turn during rush hour. That was a taste of what increased traffic would look like. There are over 90 households on dead end streets that back onto the Charles River with the only outlet being Oak Street. There is also a bus stop in the area. It will be difficult for residents in that area should further curb cuts be created.
- She would like Newton to uncouple building height with increasing density. Historically, greater building height leads to density and it is always a negative in people's minds – more people, more cars. Sometimes, however, building higher brings wonderful things like bigger parcels of open space and less roof surface to get hot and form a heat sink. You can build high and get the same number of units per acre but get more open space without necessarily increasing the density. Those ideas need to be uncoupled in general.

A Committee member noted that she has seen people struggling to walk in the area after a snow event. She asked if the sidewalks will be improved for pedestrians. Mr. Heath said they are absolutely going to be improved by widening the sidewalks, adding better streetlights, and installing traffic lights that will improve the traffic flow and safety of the area.

Follow Up

Mr. Heath and Councilor Albright felt that it would be beneficial to take the comments from this meeting and make a few changes to the document. The Chair asked for a little more time than usual for review so that it could be approved at the July 30<sup>th</sup> meeting. Mr. Heath agreed.

Councilor Danberg moved hold and the Committee voted in favor.

**#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.

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

**Note:** Barney Heath, Director of Planning, explained that RKG Associates prepared an Inclusionary Zoning Financial Feasibility Analysis. That report was provided to Committee members, attached to the Planning Memo, which was prepared for this discussion. The Planning Memo and Analysis report start on page 109 at: <http://www.newtonma.gov/civicax/filebank/documents/90767/07-16-18%20Zoning%20&%20Planning%20Agenda.pdf>

Mr. Heath said he would like to have a discussion with the Committee on broader policy issues tonight. Staff would like guidance on some significant issues and could then spend the rest of the summer detailing that in ordinance language.

Amanda Berman, Housing Development Planner joined the Committee. She explained that staff has been working on updating the inclusionary zoning ordinance so that it would better meet the needs of Newton today and address the affordable housing gap. There are 7 big changes from the 2017 draft of the ordinance given the learnings from the RKG report and additional staff research and conversations.

1. Amend the proposed “Number of Inclusionary Units Required” table to reflect the findings from the RKG report and staff research.
2. Institute the “Round Up and Build Units” methodology rather than the “Fractional Payments” proposal.
3. Allow for cash payments-in-lieu of providing inclusionary units on site for projects with 7-9 new units.
4. Other than projects with 7-9 new units, only allow for payments-in-lieu through the special permit process.
5. Do not require 100% deed-restricted, affordable projects to comply with the “Number of Inclusionary Units Required” section of the ordinance.
6. Require that “Elder Housing with Services” projects pay into the Inclusionary Zoning Fund rather than provide beds on site.

7. Remove the Density Bonus provision from the Inclusionary Zoning ordinance altogether.

The details of these 7 major changes are outlined in the attached PowerPoint presentation. Ms. Berman also provided some additional handouts which are attached.

#### Committee Comments/Questions

It was asked if only larger projects will create units and smaller projects will generate payments. Mr. Heath said that the projects between 7 and 9 units have the option of either to build units or a payment-in-lieu. The Elder Housing with Services category generates payments instead of units. Larger projects will create units unless payment-in-lieu is granted through a special permit.

A Committee member asked how the City will utilize money in the Inclusionary Zoning Fund. Councilor Albright noted that she and Councilor Crossley have docketed an item to discuss that.

A Councilor asked about the use of the Department of Housing and Community Development (DHCD) Qualified Allocation Plan (QAP) numbers are why they were chosen for the proposed ordinance. Ms. Berman explained that DHCD puts out the QAP each year, which is a guide for how they will fund the low-income tax credit projects. This index is the total residential development cost limits based on research conducted by the Massachusetts Housing Partnership (MHP), utilizing MHPs and DHCDs databases to look at rental projects across the state and how much they cost. Last year Committee members and some residents felt the QAP number was too high and burdensome for projects, while others thought it was not nearly high enough to develop a unit of affordable housing. Staff's recommendation was a way to find a happy medium. They still feel strongly that the QAP recommendation is a strong basis for determining the payments-lieu with decreasing percentages adjusted for the number of units. When the recommended numbers are run through RKGs model for various projects, they pan out. Ms. Berman has been talking with RKG and for them it is about presenting a proposal that allows projects to be financially feasible. The majority of projects that are run through the model are determined to be financially feasible.

A Committee member noted that the recent Sunrise project which went through the special permit process, provided for 3 beds and a certain number of services. That seemed like a very reasonable offer on their part at the time. It was asked if that was too complicated a model and if discretion like that should be taken away since the recommendation is to not require elder housing with services to create units. Ms. Berman said it was wonderful that there will be 3 people who will get a bed and 45-minutes of services a day, however, only their housing costs are being met. It is impossible to know what their medical costs will be in the future and there could come a day when those individuals require care beyond the 45-minutes a day and the medical costs exceed what they can afford. When that happens, she wonders if they will be asked to leave, or perhaps some other party will come in to subsidize their care. There are a lot of questions about how to manage the affordability component of these projects. Requiring a payment-in-lieu provides monies that can go into the Inclusionary Zoning funds, which can fund projects specifically focused on subsidized housing for seniors.

A Committee member felt this proposal essentially ends up providing housing for healthy people and not those who need care. Priorities and policies need to be set very clearly set about how the funds will be allocated - who will have preference and who will be left out. It seems the very low-income people never seem to be served in these scenarios. A Committee member said she felt that there will never be enough money in the fund to provide the kind of opportunity that Sunrise is providing with those 3 units. This needs further study to determine the role of Medicare and Medicaid and outside advice from healthcare experts is needed. Mr. Heath said staff did an extensive nationwide search on this issue and it there is nobody who gets this just right. The more they looked at it, they realized qualifying medical expenses that might be incurred, and how they would be paid for is extremely difficult. Maybe they can add language that there can be a negotiation about units (like Sunrise) instead of the payment, but it is tricky. Ms. Berman felt they would use some of the funding for projects by affordable housing developers who specifically build housing for low- to moderate-income seniors. A Councilor said the average stay at a facility like Sunrise is 2 years.

It was asked how units are qualified for the Subsidized Housing Inventory (SHI). Mr. Freas said a rental project has to have 25% affordable units at 80% AMI or lower, or 20% affordable units at 50% AMI or lower, for all the units in the project to be eligible for the SHI. If those thresholds are not met, then just the affordable units are eligible. For ownership projects, just the affordable units are eligible.

A Committee member asked about the "round up and build" requirement works. It seemed it would be much more expensive to build the extra unit instead of making the payment. Ms. Berman explained that round up and build versus fractional payments is specifically related to the analysis in the RKG report. RKG ran 7 scenarios of different project types with both the existing ordinance, the proposed 2017 proposal and the round and build requirement. The round up and build worked out the best. Using fractional payments at each tier ended up being quite cumbersome for many of the scenarios. Developers ending up both building units and paying up to \$1M for the fractions of units. It was pushing too many projects over the line and making them financially unfeasible.

A Committee member asked why the City could not ask for the partial payment under the .5 and require creation of the unit above .5. Ms. Berman said the model can be run in several different ways and one small change can make a project financially unfeasible. The City wants units to be produced. The fractional cash payment is a bonus, but using the build plus fractional cash payment makes many projects unfeasible. Mr. Freas said they could run the model again to see how it plays out, but they use the QAP number because it is substantiated, verifiable and does not require the City to produce a number itself. It represents the cost of building a unit. Taking the differential between the market rate and what the developer gets for the unit is a smaller amount of money, but some communities use that because it makes it easier for the developer. A community benefit donation is that differential and the advantage of that is it is more market responsive. However, the QAP number is more fixed but it actually provides dollars that are sufficient to build units. For each payment received, there will be money to build a unit, which is the goal.

It was asked if building underground parking was going to be subsidized rather than requiring higher inclusionary zoning levels. Ms. Berman said that proposal is reacting to the financial feasibility of large projects that are looking to provide underground parking. A Committee member said if projects are built in a village center, near transit, then the parking requirement should change. Mr. Freas said that fundamentally, the proposal is saying the overall cost of doing a project in Newton is to provide parking and housing units. In this scenario it is giving up the housing units for the parking. The current requirement is 1.2 spots per units, but perhaps staff can try other numbers in the model. A Committee member said that, in general, the parking should be disconnected from the unit. In theory, the housing should be cheaper if parking is decoupled.

It was noted that 117 affordable units have been created in the last 15 years with only 14 created through the Inclusionary Zoning ordinance. So much time is being spent on this for ending up with so few units. Mr. Heath said the proposed changes are meant to change that. The bar had been set too high and therefore so few units were created. It was too difficult to build them and comply with the ordinance. While the ordinance looked great on paper, it was not getting results. Lowering the bar will result in more units. Trying to build the inclusionary zoning fund will also help serve the population under 50% AMI.

It was asked if the density bonus was being eliminated because it was not being utilized or effective, but could it be effective if modified. Mr. Heath said it is a complex issue and they wanted to decouple density from inclusionary zoning. The density issue is a separate issue that is dealt with through zoning or the special permit process. There might be a number at which the bonus becomes feasible but it could add another layer of complexity. They would like to wait for the new zoning and take a look at this again.

A Committee member asked, for the sake of clarity for the City Council, that staff explain that this proposal is density neutral in the sense of the City's zoning pattern. In the circumstances in which a project reaches the proposed thresholds, then a certain number of affordable units needs to be created, and if those thresholds are not met, then a cash payment will be required.

Meeting adjourned.

**Respectfully Submitted,**

**Susan S. Albright, Chair**



**Karyn Dean**

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**From:** Amy Sangiolo <amysangiolo@gmail.com>  
**Sent:** Monday, July 16, 2018 9:42 AM  
**To:** Karyn Dean  
**Subject:** Please forward to the ZAP Committee for tonight's meeting  
**Attachments:** IMG\_20170419\_0004.pdf

Dear Zoning and Planning Committee members,

I write in opposition of the re-appointment of Jay Walter to the Newton Upper Falls Historic District Commission. Given Mr. Walter's disparaging statements about local historic districts (see attached Letter to the Editor), it seems inappropriate to continue Mr. Walter's service on a local historic district but rather given his interest in development, Mr. Walter might be better suited for the Urban Design Commission or the Design Review Committee.

Thank you for your time and consideration.

Sincerely,

Amy Mah Sangiolo

## Be wary of local historic districts

To those who wish to create local historic districts to stop tear-downs, be careful what you wish for. A LHD is a blunt instrument to address a very specific concern. In order to prevent a handful of teardowns at the peak of the market, you create a burdensome regulatory regime

SEE LETTERS, B3

effecting entire neighborhoods for generations.

As a commissioner of the Upper Falls Historic District Commission for the last nine years, I have seen first hand the regulatory demands a district puts on its residents. Homeowners must come before us for any major change to the exterior of their home or their lot. Most people assume this means additions or remodeling. They may not realize it includes ordinary home repairs such as replacing doors or windows, shutters or gutters. It also includes porch, stoop or stair repairs, new or replacement fencing, garden walls, garages or garden structures. Basically anything you want to do to the outside of your home is subject to review by the Commission if it can be seen from a public way and it is not an in-kind repair, except painting.

These regulations are often a huge hassle for homeowners. First they can't just hire a contractor to get something done. They must submit an application, have drawings made, then attend a public hearing (or two). They must notify their neighbors and allow time for appeals. Often the Commission requires more complicated details and more costly materials. At times we prohibit people from doing what they want to do.

At a minimum the process takes a month, typically two, sometimes more. It is required of all houses within the district no matter how architecturally insignificant they are. I often feel sorry for applicants caught in a seemingly pointless process because it is apparent to all, the house or the proposed change just doesn't warrant the attention.

This is not to say local historic districts don't have value. They do indeed help to preserve and protect the architectural heritage and historic fabric of a neighborhood. But they do it at a fairly onerous regulatory process that cedes a lot of power to local commissions and can be burdensome for homeowners within the district. Only truly distinguished homes and extraordinary neighborhoods should be asked to comply.

**Jay Walter**

Former vice president of the

# Introduction to Form-Based Zoning

#76-18

Joel Russell, Planning Consultant and Attorney

Graphics by Urban-Advantage

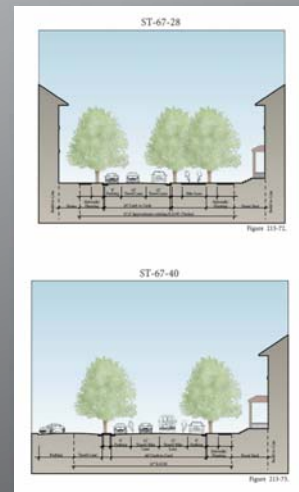
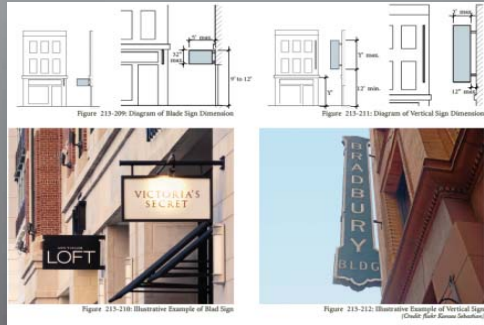
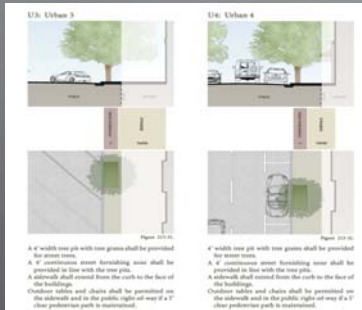


- Form-based zoning adds clarity to regulations and harmonizes new development with the existing built environment. It creates walkable neighborhoods with inviting public spaces.



Form-based zoning can be incorporated into a zoning ordinance to enable development to fit better into an existing context or to enhance or transform that context.

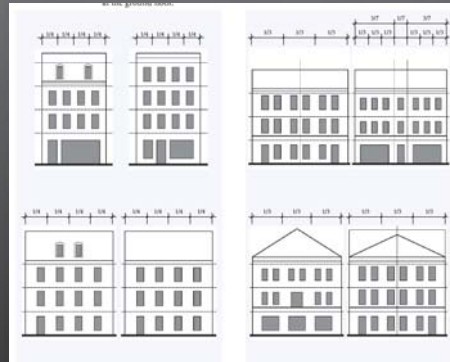
#76-18



Public frontage

Sign Types

Street Types



Private frontage

Building Forms (by Architectural Style)

Cornice Details

How we regulate built form shapes the life of communities.

#76-18



How we regulate urban form shapes the life of communities.

#76-18



How we regulate urban form shapes the life of communities.

#76-18



How we regulate urban form shapes the life of communities.

#76-18



How we regulate urban form shapes the life of communities.

#76-18



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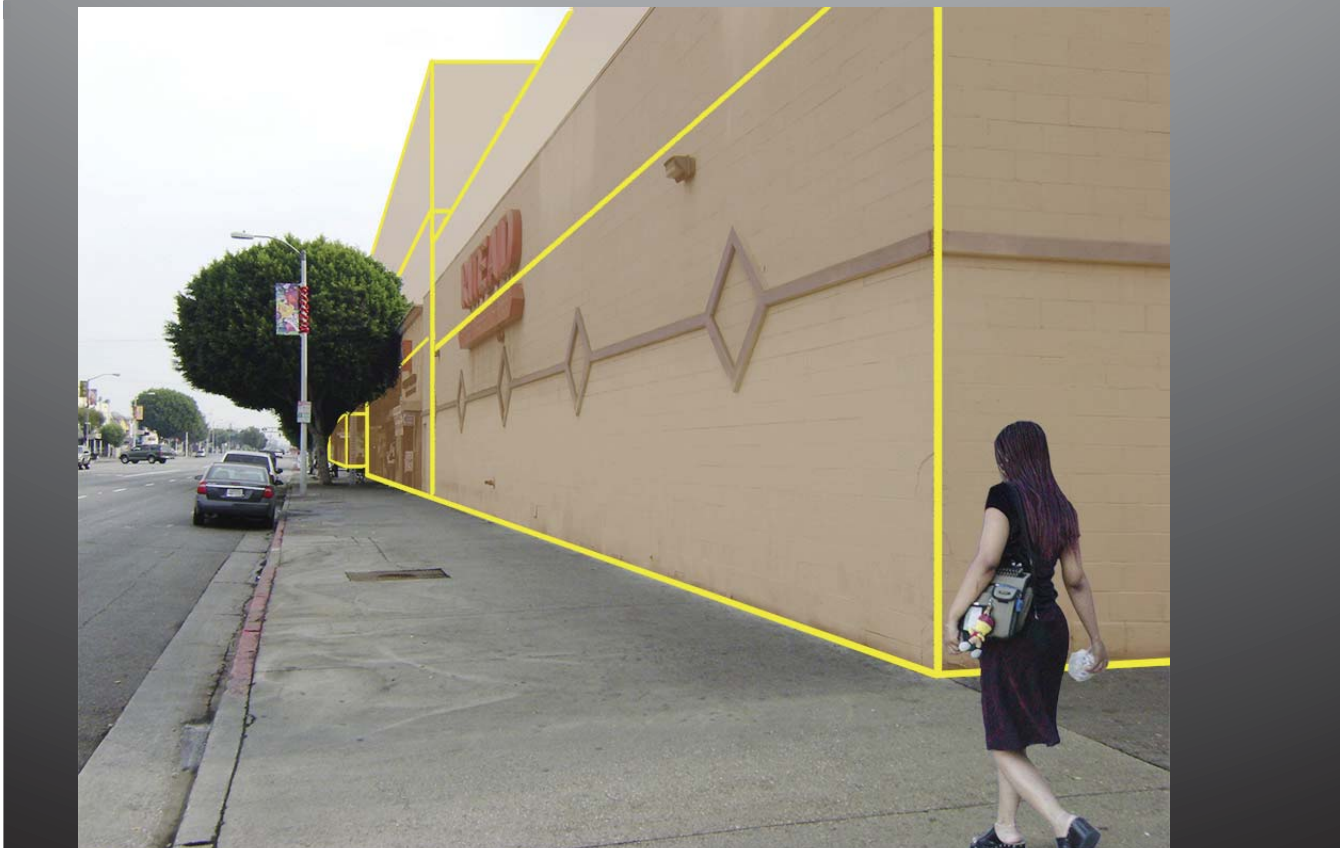




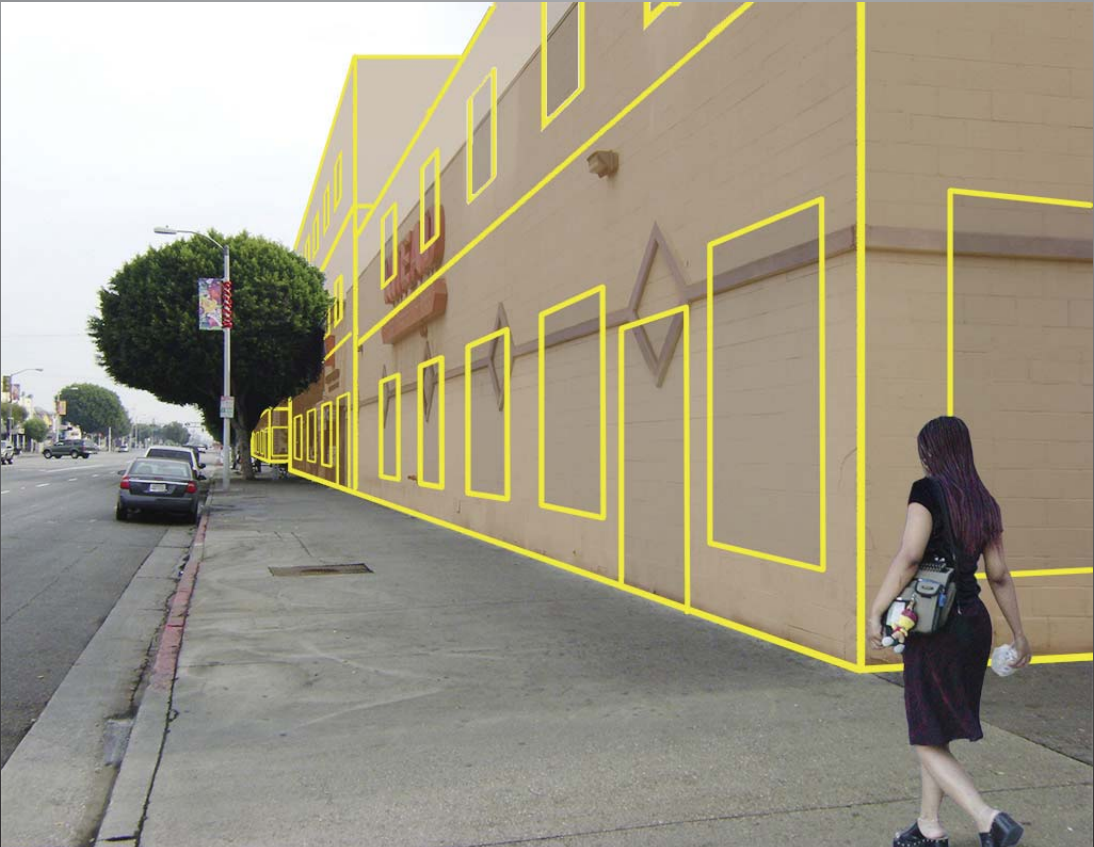
The facades of buildings should welcome people, not repel them. #76-18



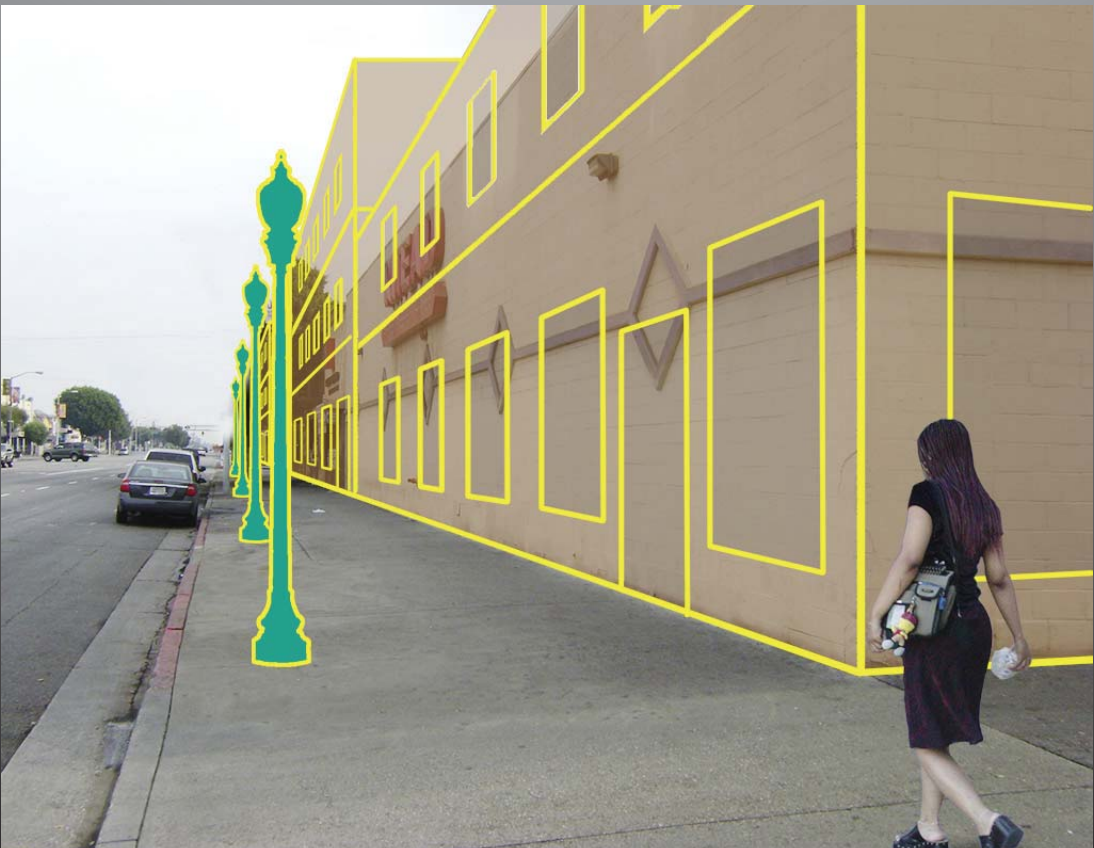
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The facades of buildings should welcome people, not repel them. #76-18



Great streets happen when road and building designs are matched. #76-18



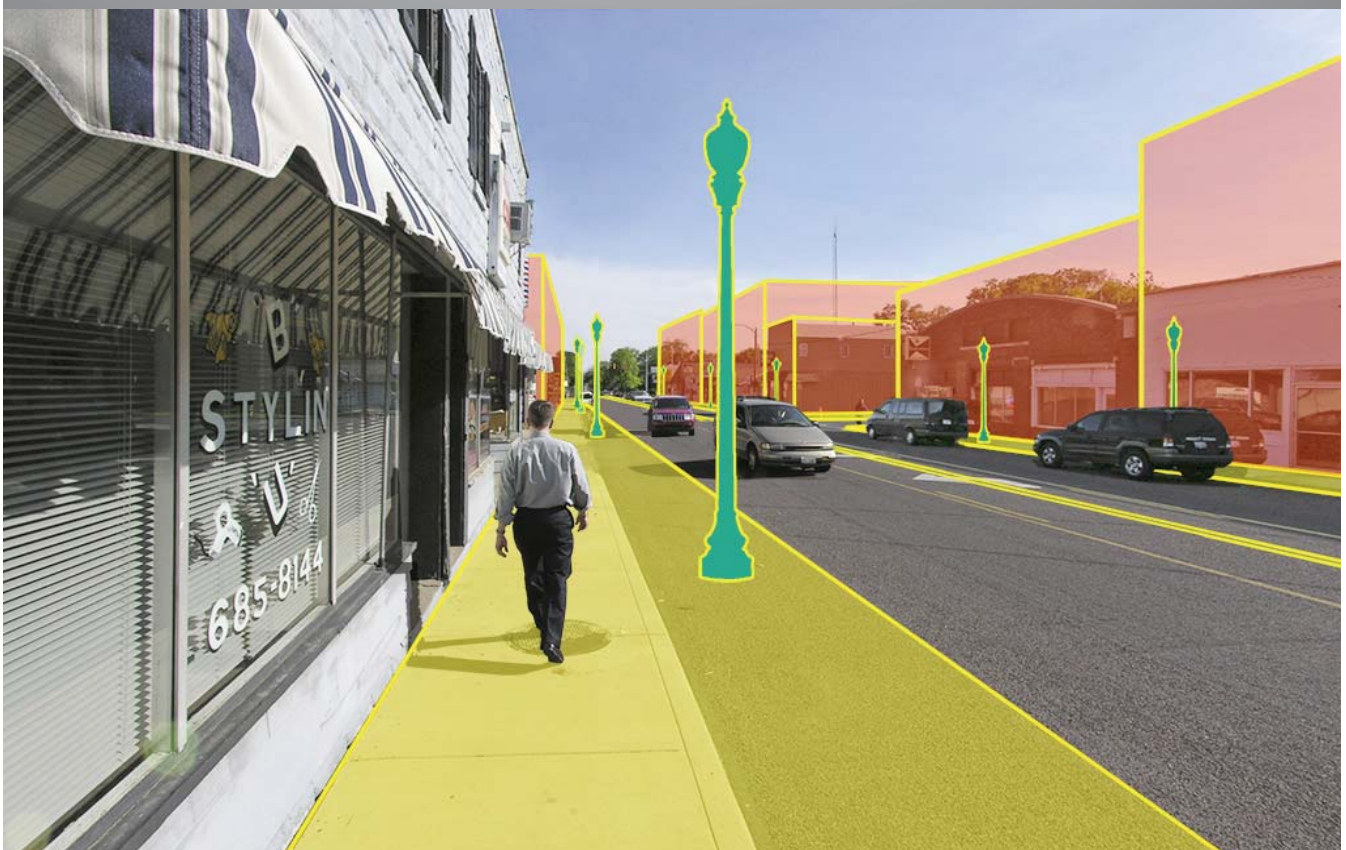
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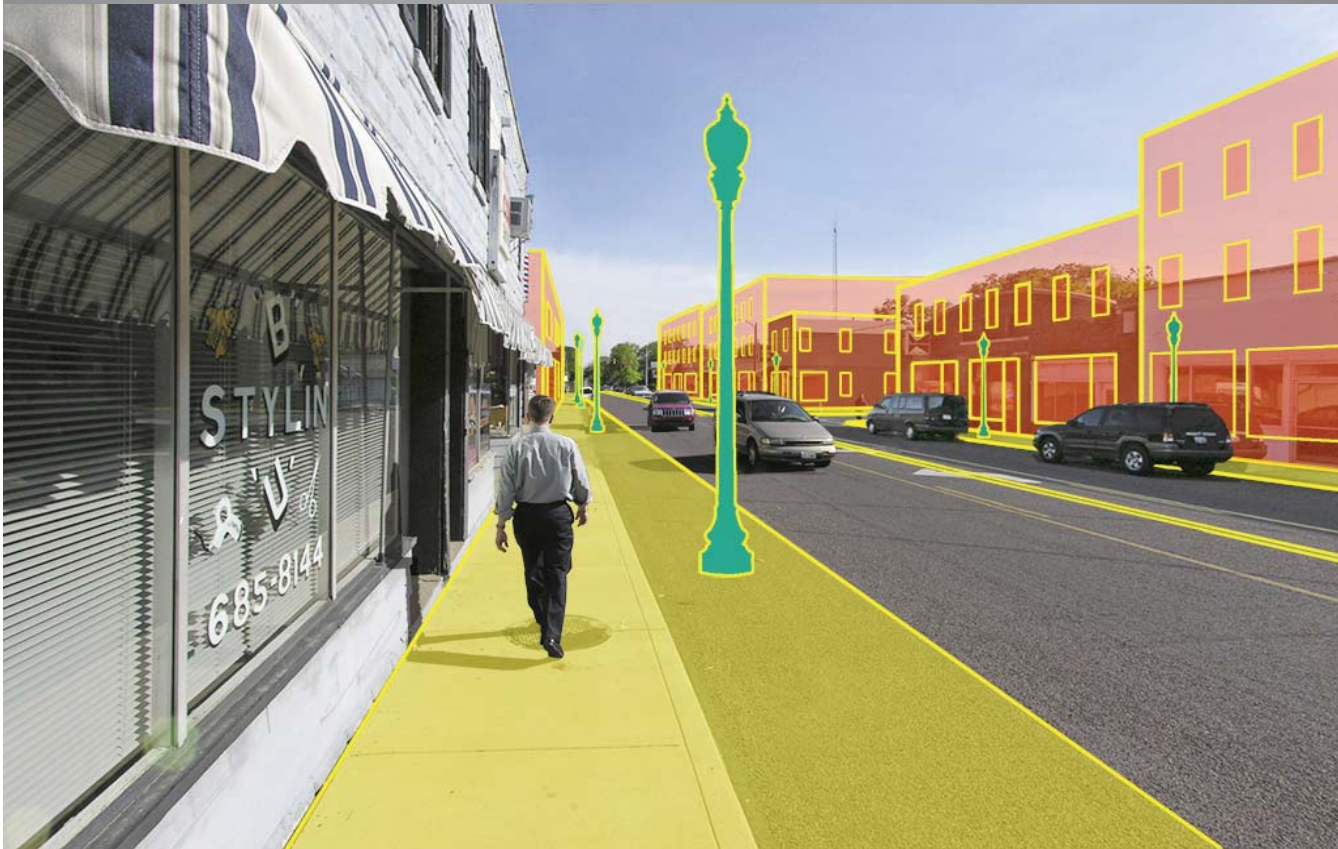
Great streets happen when road and building designs are matched. #76-18



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Great streets happen when road and building designs are matched. #76-18



Neighborhoods can be revitalized by building on their original form. #76-18



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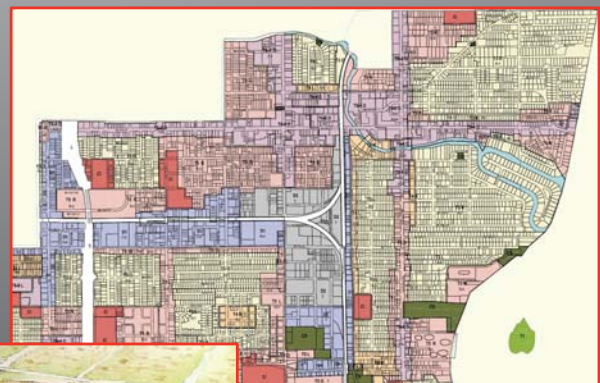
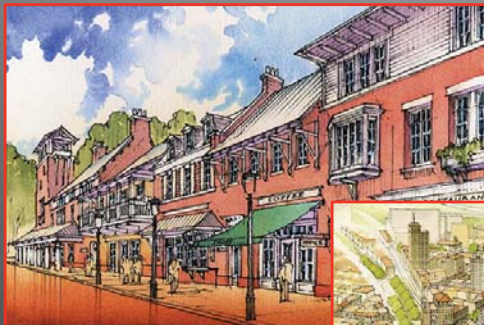
Neighborhoods can be revitalized by building on their original form. #76-18



With Ferrell Madden

- Communities have adopted form-based zoning to guide development at many scales, from streets to neighborhoods to entire cities.

#76-18

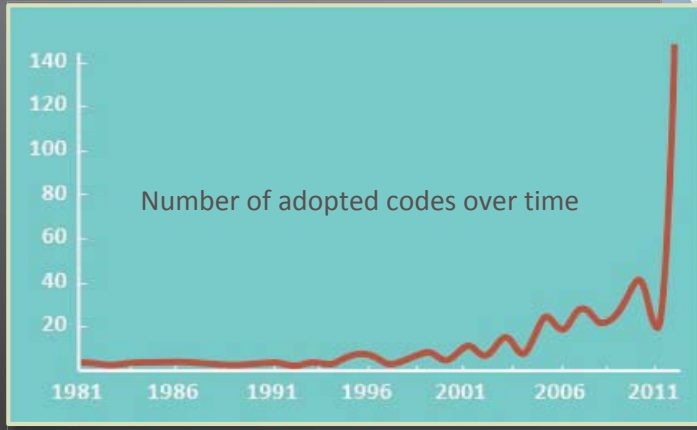


City



Neighborhood

- The number of communities adopting form-based zoning in North America is rapidly accelerating . . .



### Form-based zoning can create:

- A sense of “place”
- A walkable public realm
- Neighborhood vitality
- Safer streets for walking and biking
- A variety of uses and building types compatibly mixed
- The type of development found in Newton’s traditional village centers



Zoning and Planning Committee  
July 16, 2018

1

**SECTION 5.11  
INCLUSIONARY ZONING ORDINANCE**

***MAKING IT WORK FOR  
TODAY'S NEWTON***

7/16/2018


- Good evening everyone, I'm Amanda Berman, the City's Housing Development Planner.
- Thank you all for being here tonight to discuss staff's proposed changes to the City's Inclusionary Zoning Ordinance.
- Over the past year and a half, we have done a lot of work to design a proposal that will better meet the housing needs of today's Newton.
- We believe the changes we will discuss tonight represent an ordinance that will create more affordable housing throughout the City, while not having a detrimental impact on Newton's overall housing development.

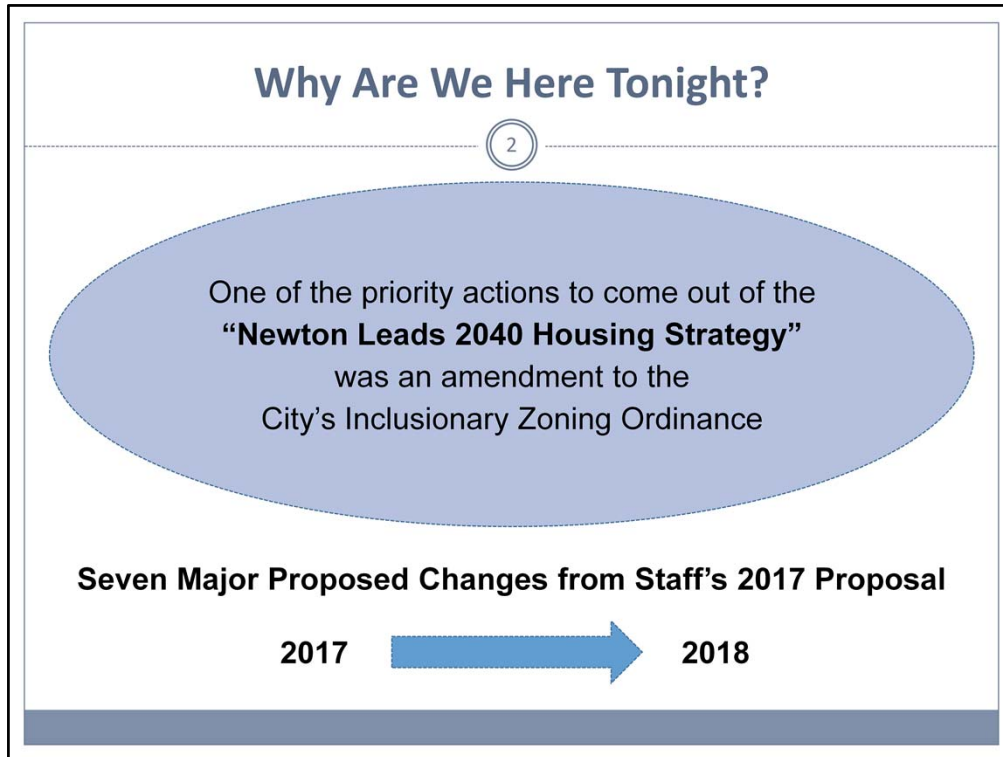
## Why Are We Here Tonight?

2

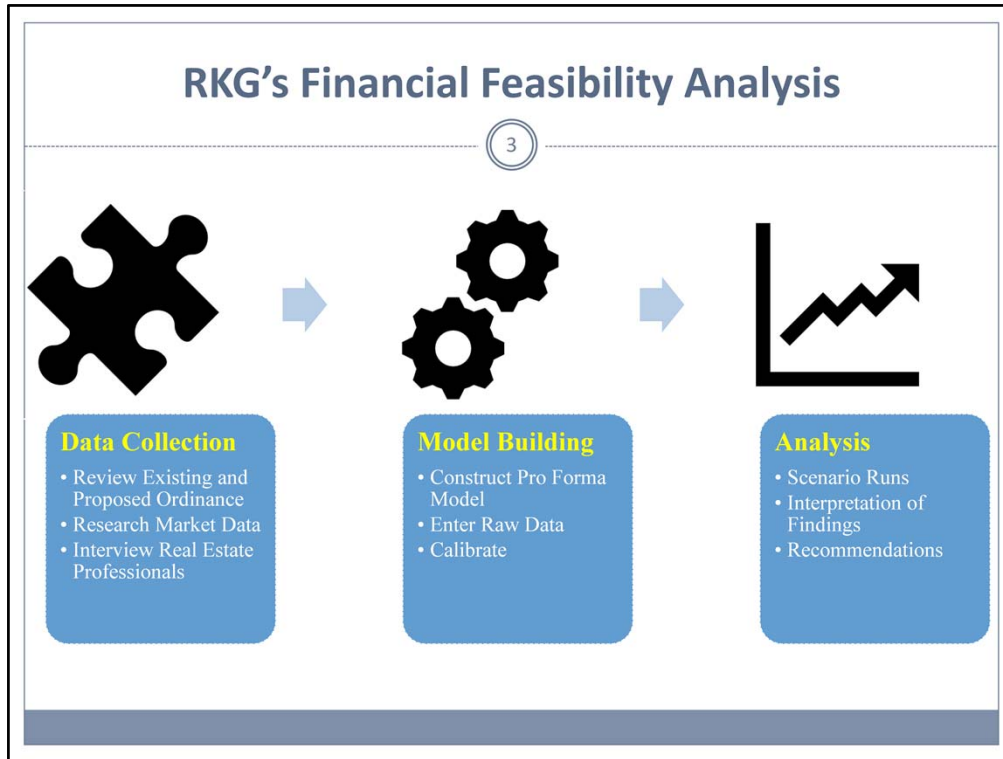
One of the priority actions to come out of the  
**“Newton Leads 2040 Housing Strategy”**  
was an amendment to the  
City’s Inclusionary Zoning Ordinance

**Seven Major Proposed Changes from Staff’s 2017 Proposal**

2017  2018



- As you all 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.
- Tonight, we will explore staff’s most current proposal for amendments to this ordinance, which include seven major changes from our 2017 proposal.



- To design a new IZ ordinance that would ensure that 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 to determine the financial impact resulting from the proposed changes to the City's existing ordinance.
- The basis of RKG's analysis included a financial feasibility model based on traditional pro forma analysis standards for real estate development, to determine a project's financial feasibility.
- After thorough review of the analysis, staff reworked its 2017 proposal to reflect findings from this report. We believe the following seven proposed changes will help to create an ordinance that does not stifle residential development in

**Newton, but rather,** works to realize the greatest public benefit from private residential development occurring throughout the City.



## Strengthening the Ordinance for Today's Newton

4

**Change #1:  
Amend the proposed  
“Number of Inclusionary Units Required” table  
to reflect the findings from the RKG report  
and staff research**

| 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        |
| <b>Tier 1, up to 50% AMI</b>                         | 0.0%          | 0.0%         | 0.0%            | 0.0%         | 5.0%            | 0.0%         | 0.0%            | 0.0%         | 2.5%             | 0.0%         | 2.5%           | 0.0%         |
| <b>Tier 2, 51%-80% AMI</b>                           | 15.0%         | 15.0%        | 17.5%           | 5.0%         | 7.5%            | 10.0%        | 2.5%            | 7.5%         | 10.0%            | 10.0%        | 12.5%          | 12.5%        |
| <b>Tier 3, 81%-110% AMI</b>                          | 0.0%          | 0.0%         | 0.0%            | 10.0%        | 5.0%            | 7.5%         | 15.0%           | 10.0%        | 5.0%             | 7.5%         | 2.5%           | 5.0%         |
| <b>Total</b>   | <b>15.0%</b>  | <b>15.0%</b> | <b>17.5%</b>    | <b>15.0%</b> | <b>17.5%</b>    | <b>17.5%</b> | <b>17.5%</b>    | <b>17.5%</b> | <b>17.5%</b>     | <b>17.5%</b> | <b>17.5%</b>   | <b>17.5%</b> |

- **The first major proposed change from 2017** is to apply the ordinance to all new residential development, where there is a net increase of 7 or more new dwelling units, rather than 4 new units.
- Overall, we recommend reducing the IZ requirement across all project sizes and types to better balance the City's need for affordable housing with the financial feasibility of a project.
- We also recommend 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% IRR.
- As highlighted in the RKG report, 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.

## Strengthening the Ordinance for Today's Newton

5

### **Change #2: Institute the “Round Up and Build Units” methodology rather than the “Fractional Payments” proposal**

- Example: 24-unit rental project
  - 5% at Tier 1 = 1.2; so 1 unit at Tier 1
  - 7.5% at Tier 2 = 1.8; so 2 units at Tier 2
  - 5% at Tier 3 = 1.2; so 1 unit at Tier 3
  - Total of **4 affordable units** out of 24 total units

- **The second major proposed change from 2017** is to institute the “Round Up and Build Units” methodology rather than the “Fractional Payments” proposal from 2017.
- So for example, 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 one inclusionary unit; but if the fraction comes out to less than 0.5, no fractional payment would be required, and the developer would only be required to build the whole number of units – as detailed in the 24-unit rental project example on the screen.
- What we learned from the RKG report is that many of the scenarios run using their model result in a financially infeasible project due to the large fractional payment required per the proposed calculation. The payment, added to the value loss from providing the affordable units on site, erodes the developer’s financial return to the point of not moving forward with a project.
- We believe this methodology will not only help to provide greater clarity around the ordinance, it will result in the creation of more affordable units in a timely manner.

## Strengthening the Ordinance for Today's Newton

6

### **Change #3: 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 third major proposed change from 2017** is to allow for payments in lieu of providing inclusionary units on site for projects with 7-9 new units. Developers could still choose to build the units, if they so desire.
- We continue to recommend utilizing DHCD's Qualified Allocation Plan Index for Total Residential Development Cost Limits for Newton 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 to determine total payment-in-lieu. Again, the QAP Index is a well-researched, defensible number 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. Funds received by the City would be targeted for the creation and preservation of deed-restricted units at or below 50% AMI.
- While our current IZ proposal does have a preference for the building of inclusionary units over cash payments, we believe that smaller projects will benefit from this allowance. As referenced in the RKG report, smaller-scale projects are more sensitive to the inclusion of affordable units, and 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.

## Strengthening the Ordinance for Today's Newton

7

### **Change #4:** **Other than projects with 7-9 new units, only allow for payments-in-lieu through the Special Permit Process**

- 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 fourth major proposed change from 2017** 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 a 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
- **Currently, the Inclusionary Zoning** ordinance is applied through the special permit process when there is a net increase of 2 or more new dwelling units
  - However, due to the current interpretation of the ordinance, the IZ requirement usually kicks in when there is a net increase of 6 new dwelling units, as 2 of those units are interpreted to be allowed by right.
  - 15% of 4 units is equal to 0.6, which when rounded up gets you to the 1 required IZ unit
  - Because of this interpretation, we are missing out on units from project containing 4 and 5 new dwelling units
- **Our proposed ordinance** recommends applying the requirement to all new residential development projects where there is a net increase of 4 or more new dwelling units, regardless of what is allowed by right in that zone, and with no connection to the need

for a special permit.

- The IZ requirement would be purely based on the net increase of new dwelling units, with no reduction based on the number of residential units that could be built by-right
- **The reasoning behind this proposed change is to:**
  - Capture the benefit of smaller-scale residential projects by including those with a net increase of 4 or more new dwelling units, versus the 6 or more that is applied to our current ordinance
  - And, to clarify any confusion that exists around the current ordinance in terms of when it is to be applied

## Strengthening the Ordinance for Today's Newton

8

### **Change #5: 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 fifth 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 Tier 1, 2, or 3, or any combination thereof
- We believe that such a provision may help to encourage projects that serve Newton's shrinking middle-income population, which will help 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 the majority of subsidized housing, but do not have a large enough monthly income to afford the limited supply of senior-friendly apartments and condos throughout the city

## Strengthening the Ordinance for Today's Newton

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### **Change #6: Require that “Elder Housing with Services” projects pay into the Inclusionary Zoning Fund rather than provide beds on site**

- 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
  - $0.05 \times 115 = 5.75$ ;  $5.75 \times \$259,000 = \underline{\$1,489,250 \text{ total payment}}$

- **The Sixth 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 and the QAP Index for Assisted living units at 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 Elder Housing with Services projects is very complicated, considering the nature of how housing costs and medical care costs are defined.
- 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 #7:**  
**Remove the Density Bonus provision from the  
Inclusionary Zoning ordinance altogether**

- **The Seventh major proposed change from 2017** is to remove the Density Bonus provision altogether
- As outlined in RKG's report, the density bonus proposed by staff in 2017 does not provide enough of an incentive to the developer to render a project financially feasible, due to the deep affordability of the 50% AMI inclusionary unit, as the value loss that results from the requirement
- Additionally, the current "incentives" provision of our existing ordinance is vastly underutilized, likely due to the challenges such a request presents during the development review process.



Zoning and Planning Committee  
July 16, 2018

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**QUESTIONS?**

7/16/2018

## Inclusionary Zoning Ordinance Update Summer 2018

## Number of Inclusionary Units Required

Updated 7.13.18

| 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        |
| <b>Tier 1, up to 50% AMI</b>                         | 0.0%          | 0.0%         | 0.0%            | 0.0%         | 5.0%            | 0.0%         | 0.0%            | 0.0%         | 2.5%             | 0.0%         | 2.5%           | 0.0%         |
| <b>Tier 2, 51%-80% AMI</b>                           | 15.0%         | 15.0%        | 17.5%           | 5.0%         | 7.5%            | 10.0%        | 2.5%            | 7.5%         | 10.0%            | 10.0%        | 12.5%          | 12.5%        |
| <b>Tier 3, 81%-110% AMI</b>                          | 0.0%          | 0.0%         | 0.0%            | 10.0%        | 5.0%            | 7.5%         | 15.0%           | 10.0%        | 5.0%             | 7.5%         | 2.5%           | 5.0%         |
| <b>Total</b>   | <b>15.0%</b>  | <b>15.0%</b> | <b>17.5%</b>    | <b>15.0%</b> | <b>17.5%</b>    | <b>17.5%</b> | <b>17.5%</b>    | <b>17.5%</b> | <b>17.5%</b>     | <b>17.5%</b> | <b>17.5%</b>   | <b>17.5%</b> |

| Number of Inclusionary Units Required: 2018 Proposal Examples |             |          |              |          |              |          |              |          |              |           |               |           |
|---|-------------|----------|--------------|----------|--------------|----------|--------------|----------|--------------|-----------|---------------|-----------|
| Tier Level  | 7 new units |          | 16 new units |          | 24 new units |          | 47 new units |          | 78 new units |           | 225 new units |           |
|   | Rental      | Owner    | Rental       | Owner    | Rental       | Owner    | Rental       | Owner    | Rental       | Owner     | Rental        | Owner     |
| <b>Tier 1, up to 50% AMI</b>                                  | 0           | 0        | 0            | 0        | 1            | 0        | 0            | 0        | 2            | 0         | 6             | 0         |
| <b>Tier 2, 51%-80% AMI</b>                                    | 1           | 1        | 3            | 1        | 2            | 2        | 1            | 4        | 8            | 8         | 28            | 28        |
| <b>Tier 3, 81%-110% AMI</b>                                   | 0           | 0        | 0            | 2        | 1            | 2        | 7            | 5        | 4            | 6         | 6             | 11        |
| <b>Total</b>  | <b>1</b>    | <b>1</b> | <b>3</b>     | <b>2</b> | <b>4</b>     | <b>4</b> | <b>8</b>     | <b>8</b> | <b>14</b>    | <b>14</b> | <b>39</b>     | <b>39</b> |

## City of Newton, MA

## Overview of 2018 Income Limits and Maximum Affordable Rents &amp; Sales Prices

| FY 2018 Income Limits Summary - Newton, MA |                |           |           |           |           |           |
|--|----------------|-----------|-----------|-----------|-----------|-----------|
| Income Level                               | Household Size |           |           |           |           |           |
|  | 1              | 2         | 3         | 4         | 5         | 6         |
| 30% AMI                                    | \$22,650       | \$25,900  | \$29,150  | \$32,350  | \$34,950  | \$37,550  |
| 50% AMI                                    | \$37,750       | \$43,150  | \$48,550  | \$53,900  | \$58,250  | \$62,550  |
| 60% AMI                                    | \$45,300       | \$51,780  | \$58,260  | \$64,680  | \$69,900  | \$75,060  |
| 70% AMI                                    | \$52,850       | \$60,410  | \$67,970  | \$75,460  | \$81,550  | \$87,570  |
| 80% AMI                                    | \$56,800       | \$64,900  | \$73,000  | \$81,100  | \$87,600  | \$94,100  |
| 100% AMI                                   | \$75,500       | \$86,300  | \$97,100  | \$107,800 | \$116,500 | \$125,100 |
| 110% AMI                                   | \$83,050       | \$94,930  | \$106,810 | \$118,580 | \$128,150 | \$137,610 |
| 120% AMI                                   | \$90,600       | \$103,560 | \$116,520 | \$129,360 | \$139,800 | \$150,120 |

| 2018 Maximum Affordable Rents, City of Newton<br>(all utilities included in rent) |                                 |             |             |             |
|---|---------------------------------|-------------|-------------|-------------|
| Unit Type   | Household Size<br>(# of BR + 1) | 50% AMI     | 80% AMI     | 110% AMI    |
| Studio  | 1                               | \$ 943.75   | \$ 1,420.00 | \$ 2,076.25 |
| 1 BR Unit   | 2                               | \$ 1,078.75 | \$ 1,622.50 | \$ 2,373.25 |
| 2 BR Unit   | 3                               | \$ 1,213.75 | \$ 1,825.00 | \$ 2,670.25 |
| 3 BR Unit   | 4                               | \$ 1,347.50 | \$ 2,027.50 | \$ 2,964.50 |
| 4 BR Unit   | 5                               | \$ 1,456.25 | \$ 2,190.00 | \$ 3,203.75 |

| 2018 Maximum Affordable Sales Prices, City of Newton |                                 |            |            |            |            |
|--|---------------------------------|------------|------------|------------|------------|
| Unit Type  | Household Size<br>(# of BR + 1) | 70% AMI    | 80% AMI    | 100% AMI   | 110% AMI   |
| Studio   | 1                               | \$ 172,000 | \$ 197,000 | \$ 247,000 | \$ 271,000 |
| 1 BR Unit  | 2                               | \$ 197,000 | \$ 225,000 | \$ 282,000 | \$ 310,000 |
| 2 BR Unit  | 3                               | \$ 222,000 | \$ 253,000 | \$ 315,000 | \$ 349,000 |
| 3 BR Unit  | 4                               | \$ 246,000 | \$ 282,000 | \$ 352,000 | \$ 387,000 |
| 4 BR Unit  | 5                               | \$ 266,000 | \$ 304,000 | \$ 374,000 | \$ 418,000 |