

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, MAY 13, 2013

7:45 PM
Room 202

ITEMS SCHEDULED FOR DISCUSSION:

- #108-13 ECONOMIC DEVELOPMENT COMMISSION submitting its 2012 annual report as required by City of Newton Ordinances, **Chapter 22, Section 92**. [03/07/13 @ 1:17 PM]
- #127-13 ALD. GENTILE, HARNEY, SANGIOLO proposing to amend **Chapter 30, Section 15(c)(1b)** of the City of Newton Zoning Ordinances by increasing the lot size from “at least five thousand (5,000) square feet of area” to “at least seven thousand (7,000) square feet of area”. [03/25/13 @ 10:14 AM]
- #77-13 ALD. GENTILE & HARNEY requesting that the Board of Aldermen amend the **City of Newton Zoning Ordinances** so that any properties that have been built and purchased that may now be considered non-compliant due to the recent court decision in the Mauri/Chansky case be considered valid non-conforming properties. [02/27/13 @ 3:06 PM]
- #146-13 THE ZONING & PLANNING COMMITTEE requesting information from the Planning Department concerning the nature and character of vacant lots that were confirmed as unbuildable by the Mauri Appeals Court decision. [04/01/13 @ 9:44 AM]

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Trisha Guditz, 617-796-1156, via email at TGuditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

ITEMS FOR ZONING REFORM DISCUSSIONS WHEN SCHEDULED:

- #80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]
- #220-12 RECODIFICATION COMMITTEE recommending that the table in Sec. 30-8(b)(10)a be clarified with respect to “lot width,” “lot area,” or “lot frontage.”
- #219-12 RECODIFICATION COMMITTEE recommending that Sec. 30-5(b)(4) as most recently amended by Ordinance Z-45, dated March 16, 2009, be amended to reconcile the apparent discrepancy relative to the definition of “structure.”
- #218-12 RECODIFICATION COMMITTEE recommending that Sec. 30-19(g)(1) be amended to clarify “sideline” distance, which is a reference to an undefined concept.
- #217-12 RECODIFICATION COMMITTEE recommending that Secs. 30-19(d)(1) and 30-19(g)(1) relative to the number of tandem parking stalls allowed in the side setback (two) and the number of tandem parking stalls (one) allowed in the setback for parking facilities containing less than five stalls be amended to make the both sections consistent.
- #216-12 RECODIFICATION COMMITTEE recommending that the definition of “Space, usable open” in Sec. 30-1 be amended by removing the exemption for exterior tennis courts as they are now classified as structures.
- #65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms “flat roof” and “sloped roof” be defined in the zoning ordinance.
- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for “lot line” and “structure” for clarity. [04-12-11 @ 11:34AM]
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of “lot area” and revising the “setback line” definition for clarity. [06/01/10 @ 9:25 PM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

#423-12 ALD. JOHNSON AND SANGIOLO requesting that the Director of Planning & Development and the Commissioner of Inspectional Services review with the Zoning & Planning Committee their analysis of the FAR regulations and assessment of the possible impact on housing construction and renovation in the City. [12/03/12 @ 9:14 AM]

#328-12 DINO ROSSI, 362 Watertown Street, Newton, requesting that the current Table A in Section 30-15 of the City of Newton Ordinances be replaced with the Sliding FAR Scale Table that was presented by the FAR Working Group in their Final Report [10/26/12 @ 11:08 AM]

#406-12 ALD. JOHNSON requesting a discussion to review City of Newton Zoning Ordinances Chapter 30-20(h)(6) regarding campaign signs, and the failure of candidates to comply with current removal requirements. [11/19/12 @ 9:24AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#322-12 HIS HONOR THE MAYOR submitting the FY14-FY18 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter. [10/09/12 @ 2:38 PM]

#308-12 ALD. HESS-MAHAN & ALBRIGHT requesting a discussion with the Mayor's office and the Planning & Development Department of policies, procedures, and criteria relating to determinations concerning expenditures of Community Development Block Grant (CDBG) funds. [10/09/12 @ 3:59 PM]

REFERRED TO ZONING & PLANNING, LAND USE & FINANCE COMMITTEES

#273-12 ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer. [09/10/12 @ 1:17 PM]

#129-13 ALD. HESS-MAHAN proposing to amend and/or clarify definition and provisions for granting a special permit for "attached dwellings" in the City of Newton Zoning Ordinances, **Chapter 30-1, 30-8(b)(13) and 30-9(b)(5)**. [05/25/13 @ 5:14 PM]

#128-13 ALD. ALBRIGHT, FULLER, CROSSLEY, LAREDO requesting the creation of a comprehensive, 10-year strategic plan for Newton's conservation lands which would include a multi-year prioritized list of short-term and long-term projects with appropriate estimated budget. This plan should be finished in time to include

high priority item(s) in the FY15 Budget, with any project exceeding \$75,000 added to the Capital Improvement Plan. [03/15/13 @ 10:56 AM]

- #65-13 ALD. YATES, FISCHMAN, KALIS requesting that Chapter 30 be amended to require a special permit for major topographic changes. [02/12/13 @ 12:30 PM]
- #48-12 ALD. ALBRIGHT requesting a discussion with the Executive Office and the Planning Department on the creation of a housing trust. [02/10/2012 @ 9:13AM]
- #81-13 DIRECTOR OF PLANNING & DEVELOPMENT on behalf of the Newton Housing Partnership requesting consideration of naturally affordable compact housing opportunities in MR1 zones. [02/22/13 @ 1:13 PM]
- #64-13 NEWTON HISTORICAL COMMISSION requesting the creation of an administrative permitting process for converting historic barns and carriage houses into accessory apartments to assist in their preservation. [02/05/13 @ 11:35 AM]
- #152-10 ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]
- #391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.
- #260-12 ALD. YATES proposing amendments to Sec. 30-19 to increase the vitality of village centers without adverse impacts on the residential neighborhoods around them. [08-17-12 @ 1:01 PM]
- #282-12 ALD. JOHNSON, CROSSLEY, DANBERG, SANGIOLO requesting quarterly reports, starting the last month of the quarter beginning December 2012, Re-implementation of *Ramping Up: Planning for a More Accessible Newton*. [09-09-12]
- #215-12 ALD. YATES proposing a RESOLUTION requesting that the Planning Department and the Economic Development Commission develop a Main Streets Program following the model of the National Trust for Historic Preservation to revitalize the Newtonville and Newton Centre business districts. [07-17-12 @ 2:55PM]
- #214-12 ALD. DANBERG, BLAZAR, SCHWARTZ proposing an ordinance which would enable the city to respond to properties which are so inadequately cared for, often

by absentee owners, as to constitute a nuisance, not only to properties nearby but also to the public at large, with the understanding that timely intervention may help prevent the loss of such properties to severe neglect, excess accumulation of trash or unsightly collectables, inside or out, or even eventual abandonment.
[07-09-12]

#64-12 ALD. HESS-MAHAN requesting an amendment to Newton Revised Ordinances Sec 30-24(f)(8)b) to clarify the inclusionary zoning preference provisions for initial occupancy of units for households displaced by the development thereof and for units to serve households that include persons with disabilities.
[03-14-12 @8:54AM]

#11-12 ALD. HESS-MAHAN & LINSKY requesting discussion on the implementation and enforcement of the provisions of Section 30-5(c)(1) of the Newton Ordinances which requires that “[w]henver the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of surface water to or from abutting properties.” [1/11/12 1:01PM]

#153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts.
[05- 10-11 @3:19 PM]

#153-11(2) ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting the map changes necessary to establish certain Retail Overlay Districts around selected village centers. [05-10-11@3:16 PM]

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

#102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK & CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]
FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

#95-11 ALD. HESS-MAHAN proposing an ordinance requiring that a notice of conversion to condominium ownership be filed with the Inspectional Services Department and that the property be inspected to determine compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. [03-24-11 @ 9:30AM]
FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012

- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: “(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;” and renumbering existing subsection (5) as (6). [06/07/10 @ 12:00 PM]
- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]
- #61-10 ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
- #164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

Respectfully Submitted,

Marcia T. Johnson, Chairman



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

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Newton City Clerk
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Candace Havens
Director
Dorinda A. Olson, CMC
Newton, MA 02459

MEMORANDUM

DATE: March 8, 2013

TO: Scott Lennon, President of the Board of Aldermen
Members of the Board of Aldermen
David Olson, Clerk of the Board

FROM: Candace Havens, Director of Planning and Development
Amanda Stout, Senior Economic Development Planner

SUBJECT: Annual Report of the Economic Development Commission

Attached is the 2012 Economic Development Commission Annual Report for your review. This report was prepared by the EDC as required by Newton Code Section 22-95, and summarizes the Commission's activities and is recommendations for improving the economic condition and development of the City. It is provided for your reference only and no action is requested. It will also be posted online so it is available to the public.

Cc: Mayor Setti D. Warren
Bob Rooney, COO
Maureen Lemieux, CFO



CITY OF NEWTON, MASSACHUSETTS

Economic Development Commission

2012 ANNUAL REPORT

Setti D. Warren
Mayor

Candace Havens
Director
Planning & Development

Amanda Stout
Senior Economic
Development Planner

Commissioners

Christopher Steele, Chair
Ronald Lipof, Vice Chair
Jack Leader, Secretary

Barry Abramson
David Abromowitz
Daphne Collins
Charles Eisenberg
Robert Finkel
Jane Ives
Peter Kai Jung Lew
Frank McGehee
John R.A. Pears
Philip Plottel
Charles Rudnick
Darryl Settles

Prepared for: Mayor Setti D. Warren and Newton Board of Aldermen

Prepared by: Newton Economic Development Commission

Submitted February 2013

1000 Commonwealth Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1142

I. Background

The Economic Development Commission (EDC) was established under General Laws Chapter 40, Section 8A to promote and develop business and industry within the City of Newton. The Commission is charged with strengthening the local economy leading to new job opportunities for residents and expansion of the City's tax base. City Ordinance Article V, Section 22-95 lays out the governing provisions as summarized below:

1. The Commission shall consist of 15 members appointed by the Mayor.
2. The Commission has the power and duty to:
 - study, investigate, and appraise economic conditions and trends;
 - promote, assist, and encourage the preservation, development and location of new and existing Newton industry, business and commerce;
 - investigate and assist in the establishment of commercial projects and identify appropriate commercial areas and zones for such establishment;
 - prepare and distribute informational publications;
 - cooperate with civic agencies/commissions/associations, state/federal agencies, municipal departments and officials, and business associations and organizations;
 - advise and make recommendations to appropriate officials, agencies, boards, department, and commissions of the City.

This report is prepared and submitted to the Board of Aldermen in compliance with City Ordinance Article V, Section 22-95 (g) (10).

II. 2012 in Review

The EDC has been and continues to be involved in a wide range of projects. Below is a summary of major projects and activities conducted during the January - December 2012 period:

Short-Term and Long-Term Goals and Strategies - The Economic Development Commission continues to advance its mission through its established goals and strategies developed based on priorities found in major relevant economic developments documents - *Newton Comprehensive Plan*, Economic Development Charter, FY2012 Planning and Development Budget Presentation- Economic Development Goals, *Newton Center Task Force Study*, and the *Economic Development Self-Assessment Tool (EDSAT): Results for the City of Newton, MA* (May 25, 2012).

Short-Term Goals and Strategies:

- Streamline the City's permitting processes and address structural changes to make the City more responsive to the business community; institute predictability.
- Improve Newton's "bio-ready" status
- Investigate Regional Economic Development Partnerships
- Look into best practices and ways that Newton can actively partner with cities and towns
- Expressly examine means for supporting local small business and marketing the

- City as a location for new small business
- Gather data on economic development metrics and statistics
- Actively monitor the advancement of and assist:
 - Riverside
 - Newton Centre
 - Austin Street/ Newtonville
 - Chestnut Hill Square/ Route 9
 - Needham Street

Long-Term Goals and Strategies:

- Continue to monitor active projects in Newton Centre for consistency with the *Newton Centre Task Force Study Report: Firefighters' Triangle, Cypress Street, Business Improvement District (BID)*, and address the implementation of plans proposed in the study
- Zoning process simplification
- Re-zoning where appropriate
- Address parking and other regulatory hurdles where appropriate
- Washington Street Corridor
- Play a part in Future Village Studies when they occur, and champion them when necessary

The advancement of these goals may be through EDC's monitoring, review/action, incubation and structural changes to make processes more responsive and predictable.

March meeting was "kick-off dialogue"/joint meeting with Board:

The EDC met with the Board of Aldermen in a joint session in March 2012 to review the mission of the EDC, review goals for the coming year, and discuss issues of interest to both parties.

As a result of this meeting, there was broad agreement to pursue:

- Measures to address village vitality, including adoption of selected aspects of the National Trust for Historic Preservation's Main Streets program;
- Support for the Business Incubator Initiative;
- Enhanced biotechnology capabilities;
- An expressed interest in working with other regional municipalities to share best practices;
- Continued interaction between the Board of Aldermen and the EDC through attendance at meetings of the Zoning and Planning Committee, as well as periodic joint meetings.

Small Business Incubator:

The Economic Development Commission worked collaboratively with Suffolk University to evaluate the feasibility of establishing a small business incubator in the City of Newton. Over a semester project, graduate business and law students and Commission members worked collaboratively to examine successful incubator models, evaluate local competition, and to develop a target market or user type that might be drawn to a Newton location.

The resulting report and plan represent an important first step in developing an incubator strategy for the City. A local private business incubator has opened in the intervening period, and the EDC will be contacting the operator to identify ways in which our initial efforts can be merged with theirs.

Village Vitality and Bank Regulation:

The Mayor, Board of Aldermen, and the EDC have all noted the need to keep Newton's Village Centers vibrant and economically viable over the long term. However, a mix of factors ranging from the current extended economic downturn, high rents, and antiquated regulation had resulted in stagnation in some centers. This stagnation was then accompanied by an influx of more passive uses which could easily pay rents while also being permitted as of right under the City's current regulations.

The EDC worked with selected Aldermen to propose and advocate various means of improving the regulatory framework. In an attempt to both highlight the need for such change and also offer a means for temporarily leveling the playing field, the EDC proposed adopting a period of one year wherein all new proposed banking facilities would be subject to the same special permit process as other more intense village uses, such as restaurants.

The ensuing conversation has resulted in much more focused and urgent attention being placed upon the regulatory environment facing the village centers as well as new efforts to promote the villages to new merchants.

Biotech/BioReady:

The EDC voted at the June 12 meeting to pursue actions to enhance Newton's economic base and its ability to attract corporate investment in the field of Biotechnology.

Newton has a Biotech location profile for access to workforce, varied forms of transit, access to the Longwood Medical Area, Cambridge, and other factors which equal or better our neighbors. As a result, we believe it both appropriate and advisable to embrace Biotechnology as a key industry in our City's future.

The EDC proposes to upgrade Newton's bioready certification through the Mass Biotech Council from bronze to silver through the following actions:

1. Re-constituting the Newton Biosafety committee
2. Amending the zoning ordinance to allow as of right biotech laboratory (i.e. recombinant DNA uses) and manufacturing in existing manufacturing and industrial zones, and potentially others as well

While the EDC has proposed initial zoning language changes, the City first needs to reconvene the Biosafety committee to progress further.

EDSAT:

The City had previously engaged the Dukakis Institute of Northeastern University to perform an Economic Development Self-Assessment Tool (or EDSAT) on the City of Newton. This process is intended to determine Newton's readiness to respond as businesses consider locating in the city, and is also further intended to spur conversations on the City's goals regarding economic development more broadly.

EDC held a joint meeting with the Long-Range Planning committee of the Board of Aldermen in August to receive the findings of the report and also to set additional goals for establishing business targets and better integrating with regional efforts to market the area as a place to do business

Inclusionary Zoning:

The EDC has noted several items within the City's current inclusionary zoning ordinance which hamper both the development of affordable housing as well as the development of some property types unaffiliated with housing. A subset of EDC members worked with members of the Newton Housing partnership to identify specific changes and enhancements to the inclusionary zoning ordinance. These include:

- Removing restrictions on hotels
- Providing for the use of public funds to enable development of affordable housing
- Clarification of the definition of "affordable units"

These recommendations are in draft form and will be presented to the Board of Aldermen imminently.

Business Excellence Awards Program:

The EDC held its first annual business excellence awards ceremony on October 18, 2012 in conjunction with Newton Community Pride. The event was expressly designed to celebrate and acknowledge the businesses that have made a significant contribution to the City and its villages. The event was also an effective platform to underline the City's commitment to its relationship with its small businesses and to further market the City. Award winners, selected from an established nomination selection process, were:

Village Awards

- Auburndale – Boccabella Café & Bistro
- Newton Centre – Panera Bread
- Newton Highlands – Green Planet Kids
- Newton Lower Falls – National Development
- Newton Upper Falls – Dunn Gaherin's Food and Spirits
- Newtonville – Cabot's Ice Cream & Restaurant
- Nonantum – Stoddard's Cutlery
- West Newton – Paddy's Pub

The Community Business Award

- Newton Cultural Alliance

The Villages Business Award

- The Village Bank

The Citizen Champion Award

- Joel Kadis

Also during the evening, the F. Gerard Adams Award was established in memory of Jerry Adams, a dedicated EDC member who served for 9 years and contributed greatly to the advancement of economic development in our City. This award will be awarded to an educational institution or public employee(s) who have contributed to the business and economic development advancement of the City.

Membership 2012

Barry Abramson
David Abromowitz
Daphne Collins
Charles Eisenberg
Robert Finkel – appointed November 2012
Robert Gifford – resigned 2012
Jane Ives
Jack Leader
Ronald Lipof
Peter Kai Jung Lew
Frank McGehee – appointed November 2012
John R. A. Pears
Philip Plottel
Charles Rudnick – appointed November 2012
Darryl Settles
Christopher Steele

Officers - The EDC held annual elections of officers in February 2012. Christopher Steele was elected Chair, Ronald Lipof was elected Vice-Chair, and Jack Leader was re-elected as Secretary.

In addition to the above, the EDC formalized its process for electing officers in future years as follows:

- January – Nominations placed for officer positions
- February – Elections held
- March – First meeting with new officers in place

Staffing - Amanda Stout, AICP, Senior Economic Development Planner staffs the EDC. Stout continues to update the economic development website to make it a more responsive, informational, and promotional tool; she has participated in many of the EDC's initiatives; guided business applicants through the established EDC's review process; and has identified and coordinated early in the City's application process projects of special interest to the EDC.

III. Attachments

- A. February 29, 2012 – EDC Letter regarding a one-year bank oversight period
- B. March 12, 2012 – EDC Letter regarding MBTA proposed fare increases and service cuts
- C. April 4, 2012 – EDC Letter regarding Chestnut Hill Star Market License decision
- D. May 18, 2012 – EDC Letter regarding village center zoning and parking regulations
- E. June 14, 2012 – EDC Letter regarding BioReady Community status
- F. August, 2012 – Presentation on the findings of the EDSAT process
- G. September 14, 2012 – EDC Letter in support of revised CPC funding guidelines
- H. October 18, 2012 – Program from Newton Business Excellence Awards Ceremony



CITY OF NEWTON, MASSACHUSETTS

Economic Development Commission

The Honorable Scott Lennon, President, and Members of the Board of Aldermen
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

February 29, 2012

Setti D. Warren
Mayor

Dear President Lennon and Members of the Board of Aldermen,

Candace Havens
Director
Planning & Development

The continued vitality of our village centers is an important public purpose that has been expressed through many actions and documents, including the *2007 Newton Comprehensive Plan*. While specifics can be debated, there is a general consensus that our village centers should contain a healthy mix of residential and commercial activities, including a variety of service and retail activities.

Amanda Stout
Senior Economic
Development Planner

For many years the EDC and other City bodies have expressed concern over the ever increasing number of bank branches that keep opening in our business districts. Demographics make them come, and the ability to pay high rents (as well as the lenient parking requirements) makes them desirable tenants.

Commissioners

Unfortunately, too many banks have a negative impact on our village centers. They tend to drive out other users, decreasing the variety and the availability of other types of stores and services. As destination locations, they generate little synergy or spin-off and nothing to enliven village centers at night.

Christopher Steele, Chair
Ronald Lipof, Vice Chair
Jack Leader, Secretary

In recognition of these factors, the EDC has supported the docketed legislation which would limit the as-of-right location of new banks on the ground floor of our village centers. However, the recession has created an environment in which banks are displacing other businesses at an alarming rate that far outstrips the legislative process.

Barry Abramson
David Abromowitz
Daphne Collins
Charles Eisenberg
Robert Gifford
Jane Ives
Peter Kai Jung Lew
John R.A. Pears
Philip Plottel
Darryl Settles

It is important that the legislative process be allowed to take its course but it is also important that the vitality of our villages be protected while these deliberations take place. Therefore, the EDC proposes that the following moratorium be put in place:

For the next twelve months, no bank shall be allowed to be built or opened for business on the ground floor of any building in any Business District within the City unless it receives a Special Permit allowing it to do so.

Hopefully this will provide enough time for the Board of Alderman to deal with this problem without imposing an undue burden on commercial property owners. Given the existing number of banks branches in Newton, it will certainly not impose any burden upon the citizenry.

Sincerely,

Christopher Steele, Chair
Newton Economic Development Commission

1000 Commonwealth Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1142

www.newtonma.gov

CC: Candace Havens, Director of Planning and Development

CITY OF NEWTON, MASSACHUSETTS
Economic Development Commission



Richard A. Davey, Secretary of Transportation and Chief Executive Officer
 Massachusetts Department of Transportation
 c/o MBTA
 Ten Park Plaza
 Boston, MA 02116

Setti D. Warren
 Mayor

March 12, 2012

Dear Secretary Davey,

Candace Havens
 Director
 Planning & Development

The Newton Economic Development Commission writes this letter to oppose the MBTA's proposed fare increases and service cuts to the transit system. We are deeply troubled by the impact that this will have both upon the residents of the City of Newton as well as upon the economic vitality of our City and its businesses.

Amanda Stout
 Senior Economic
 Development Planner

We agree wholeheartedly with the January 10, 2012 letter from Mayor Setti D. Warren, our state delegation, and School Committee and the letter from the Board of Aldermen regarding the severe impact that both Scenario 1 and Scenario 2 would have on the City of Newton. Service cuts to the Route 52 bus, the Route 59 bus, Express Bus service, and weekend Commuter Rail service would cut access to critical residential and commercial corridors within the city and also sever connections to other workplaces throughout the region.

Commissioners
 Christopher Steele, Chair
 Ronald Lipof, Vice Chair
 Jack Leader, Secretary

Newton's strength as a business location with a critical role in the regional economy of Metropolitan Boston and Eastern Massachusetts is predicated upon the availability of a robust, multiple mode transit system that serves both the residents of Newton and those who commute to work in our City.

Barry Abramson
 David Abromowitz
 Daphne Collins
 Charles Eisenberg
 Robert Gifford
 Jane Ives
 Peter Kai Jung Lew
 John R.A. Pears
 Philip Plottel
 Darryl Settles

In February 2012, the MBTA Advisory Board, an independent statutory organization representing the interests of the 175 cities and towns in the MBTA service district, authored a report analyzing the MassDOT Fare Increase and Service Cut Proposals. The report also presents a counter-proposal for generating new revenue and for finding additional savings through transportation reform. The counter-proposal can be read here: <http://www.mbtaadvisoryboard.org/reports/advisory-board-counter-proposal/>

We strongly recommend the adoption of The MBTA Advisory Board proposals, including:

- No service cuts and no changes to the RIDE service area
- 25% across-the-board fare increase
- Cost-shifting reform measures, including moving transit security to the State Department of Public Safety
- Surcharge of \$0.50 on sporting, concert, and theater tickets

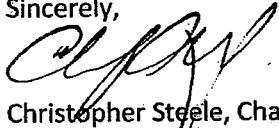
1000 Commonwealth Ave.
 Newton, MA 02459
 T 617/796-1120
 F 617/796-1142

While the MBTA is in the process of reviewing its operating practices, we also wish to ***strongly advocate for an increase in the operating hours of subway and bus service (ideally until to 2:00 a.m.) in order to better serve the access and mobility needs of transit-dependent populations, particularly those whose working situations rely upon transit.***

www.newtonma.gov

These are challenging economic times. Newton and our neighboring cities and towns – and importantly, our commuting citizens - cannot afford the fracturing of economic opportunity represented by these service cuts and the associated rate hikes. We urge you to reject both Scenario 1 and Scenario 2 as presented by the MBTA and to look to innovative solutions that will not require service cuts.

Sincerely,



Christopher Steele, Chair
Newton Economic Development Commission

CC: Mayor Setti D. Warren, City of Newton
Candace Havens, City of Newton, Director of Planning and Development
David Koses, City of Newton, Transportation Planning Coordinator



CITY OF NEWTON, MASSACHUSETTS
Economic Development Commission

The Honorable Setti D. Warren, Mayor
The Honorable Scott Lennon, President, and Members of the Board of Aldermen
Martina Jackson, Chair, Board of License Commissioners
Kathleen McCarthy, Board of License Commissioners
James H. Mitchell, Board of License Commissioners
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Setti D. Warren
Mayor

Candace Havens
Director
Planning & Development

Amanda Stout
Senior Economic
Development Planner

Commissioners

Christopher Steele, Chair
Ronald Lipof, Vice Chair
Jack Leader, Secretary

Barry Abramson
David Abromowitz
Daphne Collins
Charles Eisenberg
Robert Gifford
Jane Ives
Peter Kai Jung Lew
John R.A. Pears
Philip Plottel
Darryl Settles

April 4, 2012

Re: Chestnut Hill Star Market License Decision

Dear Mayor Warren, President Lennon and Members of the Board of Aldermen, and Chair Jackson and Members of the Board of License Commissioners,

The Newton Economic Development Commission writes this letter to express our concern over two possible ramifications of the February 21, 2012 decision of the Board of License Commissioners to deny a Wine/Malt License to the Chestnut Hill Star Market.

1. There is a great deal of excitement in the City about the Wegman's Market that is slated to open across Route 9/Boylston Street at the new Chestnut Hill Square development. The EDC feels that the recent decision of the Board of License Commissioners may directly affect and jeopardize the tremendous economic development potential of Chestnut Hill Square.

2. More broadly, the EDC fears that this decision promotes a negative perception of Newton as a place to do business. The current decision raises a larger concern about placing the concerns of some selected small businesses over the desire for a predictable regulatory environment that is fair to all businesses.

We appreciate the complexity involved in evaluating each License and ask that the process be kept as transparent, fair, consistent, and predictable as possible.

Sincerely,

Christopher Steele, Chair
Newton Economic Development Commission

CC: Candace Havens, Director, Department of Planning and Development
Dori Zaleznik, MD, Commissioner, Department of Health and Human Services

1000 Commonwealth Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1142

www.newtonma.gov



CITY OF NEWTON, MASSACHUSETTS

Economic Development Commission

Alderman Marcia Johnson, Chair, Zoning and Planning Committee
 Alderman Ted Hess-Mahan, Chair, Land Use Committee
 Alderman Victoria Danberg, Vice-Chair, Zoning and Planning Committee
 Alderman Mitch Fishman, Vice-Chair, Land Use Committee

City of Newton
 1000 Commonwealth Avenue
 Newton, MA 02459

Setti D. Warren
 Mayor

Candace Havens
 Director
 Planning & Development

Amanda Stout
 Senior Economic
 Development Planner

Commissioners
 Christopher Steele, Chair
 Ronald Lipof, Vice Chair
 Jack Leader, Secretary

Barry Abramson
 David Abromowitz
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1000 Commonwealth Ave.
 Newton, MA 02459
 T 617/796-1120
 F 617/796-1142

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May 18, 2012

Re: Village Center Zoning and Parking Regulation

Dear Alderman Johnson, Alderman Hess-Mahan, Alderman Danberg, and Alderman Fishman,

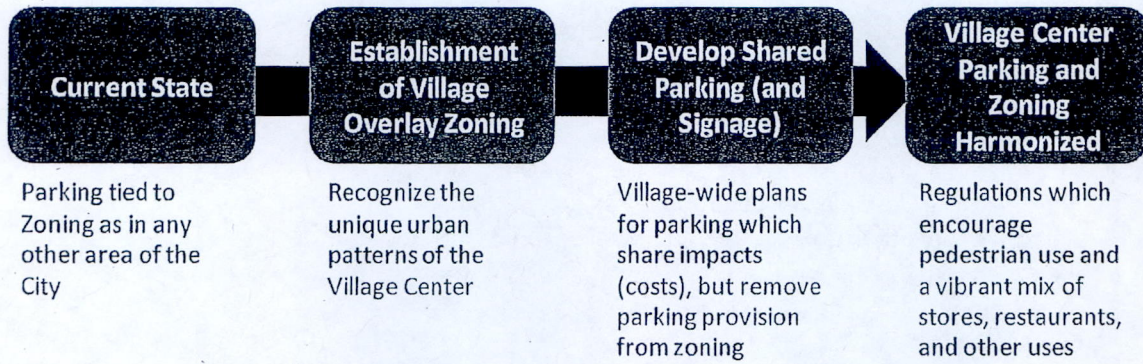
The EDC respectfully submits this letter to suggest a course of action regarding revitalization of the Village centers.

During our joint meeting of the Board of Aldermen and the Economic Development Commission on February 16, several Aldermen suggested that enhancing the economic vitality of the Village centers should be a key economic development goal of the City. We agree.

Drawing on our ongoing conversations with village restaurants and merchants (as well as our own observations) we have identified the interrelationship of zoning and parking as critical to the continued vitality of the village centers. A vital neighborhood center caters to the needs of pedestrians and automobile-based shoppers alike. As such it is different from other forms of isolated, strip- or one-off retail developments in that it requires parking, but that parking is shared for the center as a whole, and is not dictated by the use of any one space.

Moreover – as is shown in studies by the Urban Land Institute and National Trust for Historic Preservation, the density and mix of development in such spaces is directly correlated to its overall vitality and its overall economic sustainability. Our February 29, 2012 letter to the Board of Aldermen suggesting a temporary (12-month) moratorium on permitting new banking facilities as-of-right is intended to provide our village centers the chance to rebuild their diversity of development. Still, such a moratorium is only a stop gap measure.

Our commission has spent some time examining the situation and suggests that the concepts of a Village Overlay District with an associated parking plan – a concept already advanced within the Zoning and Planning Committee – are key steps towards reinvigorating Newton's village centers.



As noted above, several docket items already exist which cover some of the issues mentioned above notably docket item # 153-11, #153-11(2) for Retail overlay districts and #391-09 for Payment in-lieu for parking (which could be used to establish broader Village parking plans). The EDC would like very much to work with both the Land Use Committee and Zoning and Planning Committee to move forward on a broader plan towards revitalization of the village centers.

Please let us know how we can best support these efforts towards revitalization through enhancing the regulatory environment. We believe that clear signals from the City towards more dense, mixed use development, and a parking policy which does not adversely impact individual selected uses will spur market forces in a positive direction.

Sincerely,

Christopher Steele, Chair
Newton Economic Development Commission

CC: Candace Havens, Director, Department of Planning and Development



CITY OF NEWTON, MASSACHUSETTS
Economic Development Commission

The Honorable Setti D. Warren, Mayor
 City of Newton
 1000 Commonwealth Avenue
 Newton, MA 02459

Setti D. Warren
 Mayor

June 14, 2012

Re: BioReady Community Status

Candace Havens
 Director
 Planning & Development

Dear Mayor Warren,

Amanda Stout
 Senior Economic
 Development Planner

By a vote of 10 to 0 of the members present at our June 12, 2012 meeting, the EDC suggests the following actions to enhance Newton's economic base and its ability to attract corporate investment in the field of Biotechnology.

Commissioners

During our joint meeting of the Board of Aldermen and the Economic Development Commission on February 16, Aldermen and Economic Development Commissioners alike noted the significant activity in Biotech research and back office investment in Weston, Waltham, Lexington, and other nearby communities.

Christopher Steele, Chair
 Ronald Lipof, Vice Chair
 Jack Leader, Secretary

Newton has a Biotech location profile for access to workforce, varied forms of transit, access to the Longwood Medical Area, Cambridge, and other factors which equal or better our neighbors. As a result, we believe it both appropriate and advisable to embrace Biotechnology as a key industry in our City's future.

Barry Abramson
 David Abromowitz
 Daphne Collins
 Charles Eisenberg
 Robert Gifford
 Jane Ives
 Peter Kai Jung Lew
 John R.A. Pears
 Philip Plottel
 Darryl Settles

The Massachusetts Biotechnology Council (MassBio) certifies communities based on their readiness to accommodate and work with Biotech companies. This certification also carries with it marketing and exposure through MassBio's activities across the country and internationally. Cities and towns can achieve BioReady Community status at the Bronze, Silver, Gold, and Platinum levels, and Newton is currently at the Bronze level.

The EDC proposes to upgrade Newton's BioReady certification from Bronze to Silver through the following actions:

1. Amending the zoning ordinance to allow as-of-right biotech laboratory (i.e. recombinant DNA uses) and manufacturing in existing manufacturing and industrial zones, and potentially others as well.
2. Re-constituting the Newton Biosafety committee.
3. Directing the Planning and Development Department to identify buildings and/or land sites suitable for biotechnology uses and promote available sites in the BioSites inventory at www.massachusettsfinder.com.
4. Formalizing and regularly convening site plan review meetings, which will bring together all pertinent departments, to provide an overview of the local approvals process for significant commercial and industrial projects.

1000 Commonwealth Ave.
 Newton, MA 02459
 T 617/796-1120
 F 617/796-1142

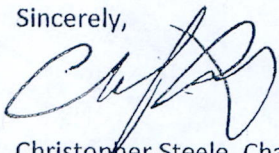
www.newtonma.gov

If successful and if the City sees fit, the City could also create a stretch goal for itself over the next three years to achieve Platinum BioReady status by achieving the some or all of the following

- Pre-permitting existing sites or buildings for biotechnology laboratory or manufacturing use, and
- Adopting the current version of the National Institutes of Health guidelines on recombinant DNA (rDNA) activity as part of its regulations, and
- Pre-permitting at least one existing building with 20,000 square feet or more of available space for biotech uses, or having a shovel-ready pre-permitted land site with completed MEPA review and municipal water and sewer capacity to meet additional demand.

We will work with the Board of Aldermen to docket an appropriate item to address 1, 2, and 3 in the initial list above. We ask your assistance in supporting and promoting this initiative as well.

Sincerely,



Christopher Steele, Chair
Newton Economic Development Commission

CC: Candace Havens, Director, Department of Planning and Development

Economic Development Self-Assessment Tool (EDSAT)



**FINAL RESULTS FOR THE CITY OF NEWTON
LONG-RANGE PLANNING COMMITTEE OF THE BOARD OF ALDERMEN
ECONOMIC DEVELOPMENT COMMISSION
AUGUST 13, 2012**

Introduction



- Ongoing partnership between Northeastern University's Dukakis Center for Urban Research & Policy and the National League of Cities
- Integrated view of how various departments and stakeholders affect economic development and their roles in creating a business friendly environment
- In Newton, ongoing support of EDC and Board of Aldermen Long-Range Planning Committee throughout this process

Northeastern University
Kitty and Michael Dukakis Center
for Urban and Regional Policy

**NATIONAL
LEAGUE
of CITIES** | CENTER
FOR RESEARCH
& INNOVATION

Methodology

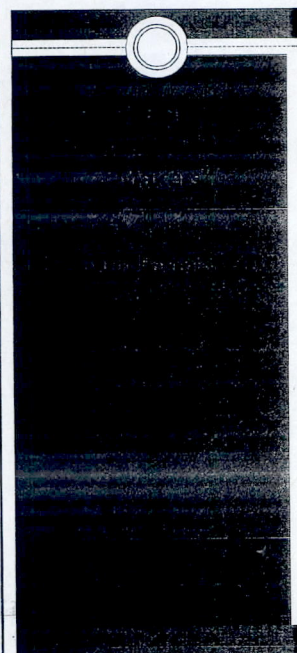


- Over 250 questions on EDSAT questionnaire
 - Quantitative questions answered by staff with data gathered from many departments and research
 - Qualitative questions answered by small working group
 - 7-page narrative submitted with questionnaire
- Newton's answers rated on
 - **Location Factor:** level of importance to location experts (Very Important, Important, Less Important)
 - **Relative Strength:** response versus Comparison Group Municipalities (CGM) – stronger than most (green), average (yellow), weaker than most (red)
 - Interaction between Location Factor and Newton's Relative Strength yields telling results about "Deal Makers" and "Deal Breakers"
- Report includes prioritized lists and detailed narrative

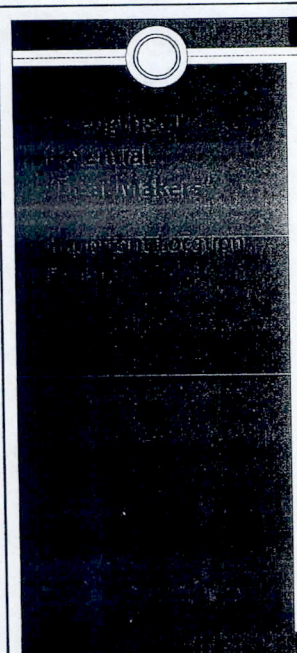
Results: Newton's Strengths



- Quality of Life
 - Highly skilled and educated workforce
 - Public transit network
 - An enviable set of quality of life factors such as proximity to Boston, historic and village atmosphere with amenities and services, and highly rated public school system
- Municipal Process
 - Municipal permitting processes that are on the shorter end of the duration spectrum
 - Technical guidance that is offered to permit applicants
 - Elected officials in Newton are more involved in expediting development by facilitating dialogue with community groups than their counterparts in the CGM



- Parking
 - On-site parking near development sites
- Traffic
 - Transportation planner and engineer on staff and consultants
- Workforce Composition
 - Highly skilled
- Labor
 - Highly educated



- Public Transit
 - Sites within ¼ mile transit, TOD strategy
- Physical Attractiveness
- Quality of Available Space
- Predictable Permits
 - Permitting guidance, flowcharts, handbooks
- Citizen Participation in the Review Process
 - Elected officials involved, facilitate dialogue
- Cultural & Recreational Amenities
- Low crime rate
- Strong local schools
- Amenities near development sites
- Business incentives available in MA

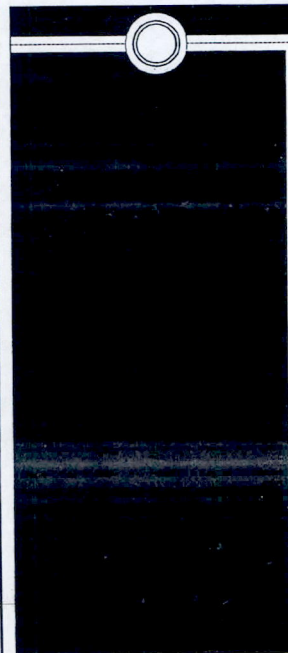
Results: Newton's Weaknesses



- **Characteristics Associated with Location and High Quality of Life**
 - Report cites high cost of housing, presence of parking meters, high utility and property tax rates, etc.
 - Some "potential weaknesses" are taken in a very suburban context
 - High retail/office rents are singled out as a weakness
- **Understanding, Promoting, and Attracting**
 - Maintain better lists, formal debriefing with prospective firms, formal process of gauging satisfaction of existing businesses
 - Promote our strengths through marketing programs, engage partners and local businesses as ambassadors
 - Identify industries to target and a development vision




- **Parking**
 - Fewer retail sites with on-site parking than others; parking is not free
- **Rents**
 - Retail rents in village centers are 2.5x higher
 - Retail in highway business districts 2.8x higher
 - Manufacturing space 25% higher
 - Office in village centers 1.9x higher
 - Office in highway business districts 2.8x higher
- **Infrastructure**
 - Electricity rates slightly higher



- **Critical Mass Firms**
 - No industrial attraction policy
 - City has not identified industries targeted for recruitment
- **Cross-Marketing**
 - City does not formally engage partners to market the city
- **Tax Rates (local)**
 - Split property tax rate; both residential and industrial/commercial rate are higher than median
- **Housing**
 - Median sale price single-family home and rent for two-bedroom apartment higher than median

Next Steps Suggested in Report

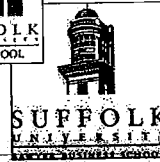
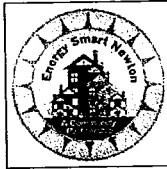


- Develop a business inventory
- Survey businesses about satisfaction, what kinds of businesses they want to see, outreach roles they can play
- Identify missing and desired industry sectors
- Create a development vision
- Proactive and direct marketing efforts aimed at identified business sectors

- In progress staff/intern
- In progress staff/intern; also EDC role

Discussion: Identifying Industries & Attracting Business

- Small Business Incubator
- Industrial attraction: biotech
- Industrial attraction: green design, construction, energy
- Engage local business spokespeople, identify ambassadors
- Meet with regional and state partners
 - MA Office of Business Development



Discussion

- Understanding Newton's Business Landscape
- Promoting Newton's Businesses
- Identifying Industries and Attracting Business



CITY OF NEWTON, MASSACHUSETTS
Economic Development Commission

Community Preservation Commission of the City of Newton
c/o Ms. Alice Ingerson, the Community Preservation Program Manager
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Setti D. Warren
Mayor

September 14, 2012

Candace Havens
Director
Planning & Development

Re: Proposed Newton CPC Guidelines

Dear Esteemed Members of the Commission,

Amanda Stout
Senior Economic
Development Planner

The Newton Economic Development Commission wishes to express our support of the changes to CPC Funding as outlined in the Draft Guidelines of 28 August.

We applaud the four key premises upon which the new guidelines are based. These appear to us not only rational and consistent, but also support the City's Economic Development Goals:

Commissioners

Christopher Steele, Chair
Ronald Lipof, Vice Chair
Jack Leader, Secretary

1. By using established City-wide plans to guide investment decisions, the City emphasizes that it has a vision for what the City should become, that it has agreed-to priorities, and that it will invest directly in line with these priorities. These priorities are in line with Massachusetts' goals for encouraging compact, walkable, transit-oriented development as well.

Barry Abramson
David Abromowitz
Daphne Collins
Charles Eisenberg
Robert Gifford
Jane Ives
Peter Kai Jung Lew
John R.A. Pears
Philip Plottel
Darryl Settles

2. By balancing the allocation of funds, the City enhances its commitment to developing affordable and workforce housing. This supports development in its own right and also ensures that Newton will continue to be able to attract new working families to the City. This also supports the Commonwealth's recognition of the connection between workforce housing and economic development.

3. The proposed cost/benefit and performance standards enhance that the desired results of CPC funding are achieved.

4. The use of proper oversights will provide a means for evaluating success as well as a way to continuously improve our CPC process.

These guidelines specifically match funding priorities to the goals of the City and establish an effective process for measuring success. We strongly support these guidelines and suggest that they be implemented as written as soon as possible.

Sincerely,

Christopher Steele, Chair
Newton Economic Development Commission

1000 Commonwealth Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1142

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Thank you to our generous sponsors for making tonight's event possible and for your ongoing support of economic development in Newton.



Newton
Community
Pride

Act 911, 90, Service, Identification



Jake's
FALAFEL
CORNER



RUSSO'S



Piano Music by Alexi P.



Business Excellence Awards Ceremony

October 18, 2012

6:00 p.m. - 8:00 p.m.

War Memorial Auditorium
Newton City Hall

Presented by

Mayor Setti D. Warren

Newton Community Pride

Ruth L. Barnett, President

Newton Economic Development Commission

Christopher Steele; Chair ♦ Ronald Lipof, Vice Chair

Jack Leader, Secretary ♦ Barry Abramson

David Abromowitz ♦ Daphne Collins ♦ Charles Eisenberg

Robert Gifford ♦ Jane Ives ♦ Peter Kai Jung Lew

John R.A. Pears ♦ Philip Plottel ♦ Darryl Settles

Amanda Stout, Sr. Economic Development Planner

PROGRAM

Welcome

Christopher Steele, EDC Chair

Remarks

Mayor Setti D. Warren

AWARD PRESENTATIONS

***Establishment of the
F. Gerard Adams Award***

Auburndale Village Business Award

Bocca Bella Café & Bistro
Mario Boccabella and Anthony Vega

Newton Centre Village Business Award

Panera Bread
Gregg Godfrey and Scott Hauver

Newton Highlands Village Business Award

Green Planet Kids
Annabelle Ship

Newton Lower Falls Village Business Award

National Development
Ted Tye

Newton Upper Falls Village Business Award

Dunn-Gaherin's Food and Spirits
Seana Gaherin and Robert Dunn

Newtonville Village Business Award

Cabot's Ice Cream & Restaurant
Joe Prestejohn

Nonantum Village Business Award

Stoddard's Cutlery
David Marks

West Newton Village Business Award

Paddy's Pub
John O'Hara and Karl O'Hara

Community Business Award

Newton Cultural Alliance
Thomas Concannon

The Villages Business Award

The Village Bank
Kenneth Brennan

Citizen Champion Award

Joel Kadis



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

#127-13 Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: May 10, 2013

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner, Long-Range Planning 

RE: #127-13: ALD. GENTILE, HARNEY, & SANGIOLO proposing to amend Chapter 30, Section 15(c)(1)b) of the City of Newton Zoning Ordinances by increasing the lot size from "at least five thousand (5,000) square feet of area" to "at least seven thousand (7,000) square feet of area".

MEETING DATE: May 13, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

INTRODUCTION

Petition #127-13 was discussed at the April 22, 2013 meeting of the Zoning and Planning Committee. Staff presented a memo at this meeting with the finding that the proposed amendment represented a decrease in the level of protection offered to property owners in the City as compared to that provided in Massachusetts General Laws Chapter 40A, Section 6. Further discussion and analysis by the Planning and Law Departments since the April 22nd meeting has re-affirmed this conclusion. The Planning Departments recommends the Committee concur that no action is necessary (NAN) on petition #127-13. Text from the Newton Zoning Ordinance and Massachusetts General Laws are provided below for reference.

Newton Zoning Ordinance: Section 30-15(c)

(c) Exceptions Applicable in Residential Districts.

Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall apply to any lot in a residential zoning district except to the extent that either the provisions of Massachusetts General Laws, Chapter 40A, Section 6, as in effect on January 1, 2001, or the following provisions, provide otherwise.

Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall not apply to any lot in a residential district if all of the following requirements are met:

(1) At the time of recording or endorsement, whichever occurred sooner, or on October 11, 1940 if the recording or endorsement occurred before October 11, 1940, the lot

a) conformed to the requirements in effect at the time of recording or endorsement, whichever occurred sooner, but did not conform to the increased requirements, and

b) had at least five thousand (5,000) square feet of area, and

c) had at least fifty (50) feet of frontage.

Massachusetts General Laws, Chapter 40A section 6

*Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but **at least five thousand square feet of area and fifty feet of frontage.***



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459


#77-13 Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: May 10, 2013

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner, Long-Range Planning 

RE: #77-13: ALD. GENTILE & HARNEY requesting that the Board of Aldermen amend the City of Newton Zoning Ordinances so that any properties that have been built and purchased that may now be considered non-compliant due to the recent court decision in the Mauri/Chansky case, be considered valid non-conforming properties.

MEETING DATE: May 13, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

INTRODUCTION

As a result of the court decision invalidating the City's interpretation of section 30-15(c)(3)(b) any home built on a non-conforming lot formerly in common ownership would now be considered non-compliant according the Newton Zoning Ordinance raising potentially severe issues for these homeowners. The current estimate is that there are seven such lots, the details of which can be found in the accompanying memo for petition #146-13.

Zoning Amendment

The proposed Zoning Ordinance amendment (attached) would allow these homes to become nonconforming under the provisions of section 30-15(c). In this context, "nonconforming" simply means that the house exists legally and may be modified or expanded consistent with the regulations

of the zoning ordinance, but the dimensions of the lot are not consistent with the current requirement of the zoning ordinance for the zoning district in which that lot sits.

The most critical issue to resolve for this proposed zoning ordinance amendment is the closing date for qualifying non-compliant homes to receive the benefit of this amendment. There are two primary options, the first being the date on which the City received notice of the legal challenge to the ordinance, which has been identified as October 6, 2009, and the second being a date related to the development of this proposed amendment to the Zoning Ordinance such as the docket filing date, February 27, 2013, or its adoption date. The importance of selecting this date relates to the issue date for building permits and certificates of occupancy for the seven non-compliant homes.

Petition #77-13 seeks to make all homes that have been built and purchased and that were later made non-compliant by the court decision, legally non-conforming. A two-family condominium building on Lowell Avenue was built and received its certificate of occupancy in 2011 and the two units were subsequently purchased. The earlier closing date identified above would leave the two homes on this lot non-compliant and subject to enforcement unless they were able to get a variance.

At the ZAP working session on April 22, 2013 the question was raised as to whether the phrase “was constructed in compliance with a building permit” was sufficiently precise given the intent of the original docket language. The concern raised appeared to be centered on the meaning of “constructed.” Could the meaning be construed to enable a partially or mostly constructed house to qualify under the proposed amendment? The proposed language adds receipt of a certificate of occupancy along with a building permit, as was suggested during that meeting. The certificate of occupancy formally recognizes that a building is complete and compliant with all City requirements.

Based on a comment made at the April 22 working session meeting, the attached zoning amendment language is preceded by a formal purpose statement. The purpose statement, in this context, is not meant to be included in the Zoning Ordinance, but is instead meant to clearly state the legislative intent of the proposed amendment and to accompany the zoning amendment language as it makes its way through the City legislative process.

NEXT STEPS

A Public Hearing for this item has been scheduled for the May 29th ZAP meeting.

Attachment

This attachment contains the proposed language for the zoning ordinance amendment to section 30-15(c)(3)(b) of the Newton Zoning Ordinance. The first part below contains a statement of purpose, which is not intended to be included as language in the zoning ordinance but is instead meant to accompany the zoning amendment text through the legislative process as a clear statement of legislative intent for the proposed amendment. The second part below contains the actual proposed zoning amendment text. New text is underlined; text to be removed is ~~struck through~~.

Part 1

Purpose Statement

The purpose of the following amendment is:

(1) to memorialize the interpretation of an existing provision of the Newton zoning ordinances by the courts of the Commonwealth, specifically Section 30-15(c)(3)(b). Subsection b was intended to protect certain existing single-family and two-family dwellings on lots that did not conform to applicable zoning density and dimensional requirements, and were in common ownership with an adjoining lot at some time after January 1, 1995. Subsection b, however, was not intended to authorize the construction of a new dwelling on the adjoining lot held in common ownership where the adjoining lot was nonconforming to applicable zoning density and dimensional requirement; and

(2) to avoid a hardship of being found to be legally noncompliant with Newton zoning ordinances for a small number of properties within the City that were constructed on such common ownership adjoining lots incident to building permits issued by the City pursuant to an erroneous interpretation of 30-15(c)(3)(b) during a period of time after the effective date of Section 30-15(c)(3)(b) until

Either

A - the time the City was put on notice of a legal challenge to its erroneous interpretation that such adjoining lots were entitled to a building permit.

OR

B – the enactment of this ordinance amendment (or other date to be determined), understanding that no additional building permits or certificates of occupancy have or will be issued on currently un-built or unoccupied lots or structures.

Part 2

Proposed text for 30-15(c)

(c) Exceptions Applicable in Residential Districts.

Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall apply to any lot in a residential zoning district except to the extent that either the provisions of Massachusetts General Laws, Chapter 40A, Section 6, as in effect on January 1, 2001, or the following provisions, provide otherwise.

Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall not apply to any lot in a residential district if all of the following requirements are met:

- (1) At the time of recording or endorsement, whichever occurred sooner, or on October 11, 1940 if the recording or endorsement occurred before October 11, 1940, the lot
 - a) conformed to the requirements in effect at the time of recording or endorsement, whichever occurred sooner, but did not conform to the increased requirements, and
 - b) had at least five thousand (5,000) square feet of area, and
 - c) had at least fifty (50) feet of frontage.
- (2) The size or shape of the lot has not changed since the lot was created unless such change complied with the provisions of section 30-26.
- (3) Either
 - a) The lot was not held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the lot in question,or
 - b) If the lot was held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the lot in question, such lot had on it a single-family or two-family dwelling,or
 - c) If the lot:
 - i) did not have on it a single-family or two-family dwelling as of July 7, 2001; and
 - ii) was held in common ownership at any time after January 1, 1995 with an adjoining lot that had continuous frontage on the same street and the adjoining lot was the site of a single-family or two family dwelling; and
 - iii) has on it a single-family or two-family dwelling that was constructed in compliance with a building permit and received a certificate of occupancy on or before June 1, 2013.



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459


#146-13 Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: May 10, 2013

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner, Long-Range Planning 

RE: #146-13: THE ZONING & PLANNING COMMITTEE requesting information from the Planning Department concerning the nature and character of vacant lots that were confirmed as unbuildable by the Mauri Appeals Court decision.

MEETING DATE: May 13, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

INTRODUCTION

On March 27, 2013 the Zoning and Planning Committee discussed a proposed amendment to the Newton Zoning Ordinance which would have allowed for the development of legally undersized lots in common ownership with an adjacent parcel where there was a minimum lot size of 5,000 square feet and 50 feet of frontage. The amendment would have allowed for the continuation of a practice of granting such building permits that was based on a 2001 zoning ordinance amendment, the interpretation of which was found to be in error by the Massachusetts Appeals Court in the Mauri decision referenced in the docket language. In the discussion, members of the Board of Aldermen requested additional information with regard to the lots affected by this decision.

The Planning Department conducted an analysis of vacant residential parcels to determine that there are 103 lots in common ownership with a neighboring property, which, for the purpose of zoning, are effectively merged. In many cases, these effectively merged lots are significantly bigger than the

majority of the existing residential lots in each respective neighborhood with a number of implications for what can be built there in the future. In addition, there are seven built lots rendered non-compliant as a result of the court decision. A proposed zoning ordinance amendment to address this issue is presented in a Planning Department memo on petition #77-13.

DATA ANALYSIS

Staff sorted residential properties in common ownership located on the same street where one or more of the identified lots was listed as vacant. This list was further sorted to remove those that met lot size and frontage standards and the resulting list was spot-checked on the map to verify that the identified lots were contiguous. The resulting list identifies 103 properties as shown on the attached map.

The 103 properties identified should not be considered a definitive list of those lots that could or would be built on if that option were enabled in the zoning ordinance. Many lots could have restricted development rights due to wetlands or other conservation-related features. Further, each lot must still demonstrate that a proposed development can meet parking standards. Finally, some lots are not able to adequately demonstrate that the lots were not merged by deed in the past, effectively eliminating the second lot.

IMPLICATIONS

As these lots are effectively merged under the Zoning Ordinance, each represents a lot that in many cases will be significantly larger than the majority of other lots in the neighborhood. Like most suburban communities, as lots for residential development were created in Newton over time, they were laid out in uniform patterns. As lots were sold for development, some people chose to purchase more than one lot, whether for investment purposes or to allow for a larger yard. These combined lots stand out as being significantly larger even as the house is otherwise in scale with the neighborhood. Under the zoning regulations though, the potential size of a new house is defined, in part, by the size of the lot. These now merged lots have the potential therefore to have new homes built that are significantly larger than those in the current neighborhood. In the last year there have been two properties that have received demolition permits in order to build very large homes on such merged lots and those projects are proceeding.

Many have noted that even the lots that are uniform with the neighborhood are seeing new homes being built that are typically larger than the existing homes in the neighborhood. There is a significant difference in that the traditional, smaller lots are also generally longer than they are wide. Given side setback requirements on these narrow lots, the new homes are roughly as wide as the adjacent homes. From the street, these new homes appear to be generally in scale with the neighborhood. One has to view a home from the side to see how the extra square footage has been incorporated into the back. Further, these large homes on small lots in many cases require a special permit to exceed the FAR limits providing an opportunity for review and mitigation.

Merged lots are significantly wider than other lots in the vicinity upon which a larger new home can be built. While there is greater flexibility in the placement and size of new homes on these larger lots, development of such lots typically preserves private yard space at the rear of the property and large, wider-than-average homes relative to others in the neighborhood.

NON-COMPLIANT LOTS

As best as can be determined at this time, Staff believes that there are seven lots with built homes rendered non-compliant as a result of the court decision. At the April 22nd meeting staff identified nine lots and an additional one was added during the course of the meeting. Since then, with further investigation, two of these were found to qualify under “old lot” standards. A third lot, which received its building permit in 2001, was found to have received a variance allowing a 5,000 square foot lot with 50 feet of frontage in 1973. The remaining seven lots are identified on the attached map and listed below.

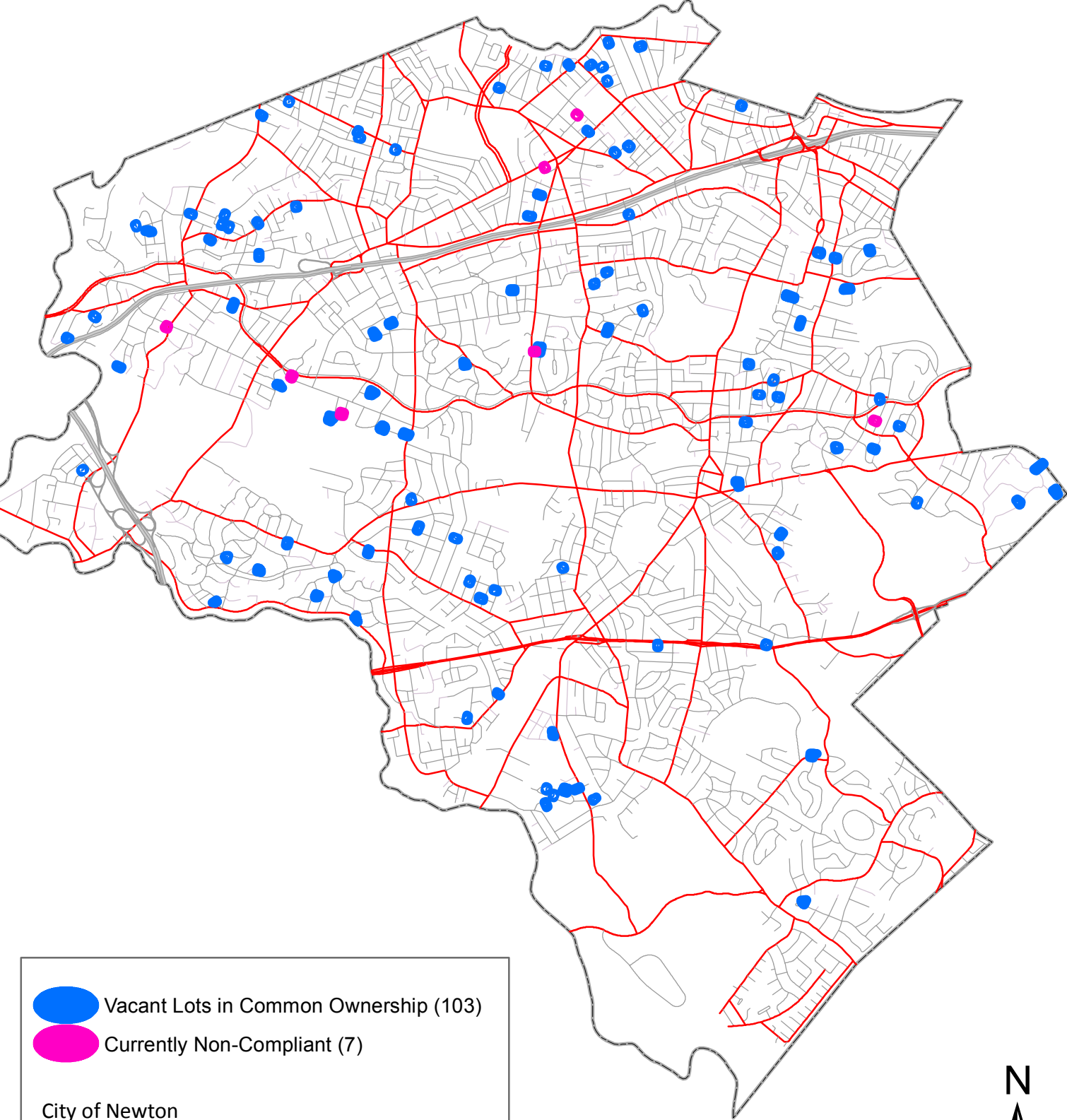
ADDRESS	STREET	PERMIT ISSUED	CERTIFICATE OF OCCUPANCY ISSUED	LOT SIZE	FRONTAGE	ZONE
7	Churchill Street	1/16/2005	3/14/2007	6242	66	MR1
91	Woodland Road	7/25/2006	3/8/2007	8950	60	SR3
470-472	Lowell Ave	5/16/2011	12/16/2011	7400	65	MR1
1682	Commonwealth Ave	9/13/2006	6/20/2008	9500	85	SR2
101	Manet Road	8/4/2006	4/29/2008	6812	60	MR1
43	Rossmere St	1/14/2003	7/13/2003	6278	61	MR1
86	Pickwick	11/9/2004	11/16/2005	12075	100	SR1



POSSIBLE POLICY RESPONSES

As is recommended in the *Comprehensive Plan*, the likely best approach to attempting to resolve this issue would be to more closely investigate the characteristics and urban form of Newton’s existing neighborhoods, engage residents in conversations about their expectations with regard to their homes and neighborhoods, and to use this collective feedback to craft policies and regulations to govern the diverse neighborhoods and housing stock of the City. Such an approach could be incorporated into Phase 2 of Zoning Reform and would likely result in a new set of residential zoning districts that are more closely related to the City’s existing neighborhoods and the goals of the *Comprehensive Plan*:

“Development is to be guided to reflect the character held or sought by existing residential neighborhoods, protecting the qualities of that which exists. That often but not always means minimizing changes: well-designed change can strengthen existing qualities. Sometimes residents feel that the opportunity to make change is a valuable part of the character of their part of the City, while in other areas even small departures from what exists are viewed with dismay. In all of the places in the City, the well-considered views of that place should be given great respect in land management policies and decisions.” (Land Use Overview, page 3-6)

Lots Affected by the February 2012 Appeals Court Decision



-  Vacant Lots in Common Ownership (103)
-  Currently Non-Compliant (7)

City of Newton
Planning & Development Department
May 10, 2013

