

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

WEDNESDAY, NOVEMBER 13, 2013

7:00 PM – PLEASE NOTE EARLY START TIME

Aldermanic Chamber/Room 202

Public hearing will be held on the following item:

#295-13 ALD DANBERG proposing amendment to **Sec. 30-24(f)** Inclusionary Zoning by deleting paragraph (11) *Hotels* in its entirety to remove the requirement that new hotel developments must make cash payments to the City in support of housing for low and moderate income housing. [08/26/13 @ 12:30PM]

Public hearing will be held on the following item:

#64-12(2) ALD. HESS-MAHAN requesting an amendment to Newton Revised Ordinances **Sec 30-24(f)(8)(b)** to clarify the existing inclusionary zoning preference provisions for initial occupancy of units, and to create a new preference for eligible households displaced by the development of those units.

Public hearing will be held on the following item:

#309-13(4) DEPT. HEADS HAVENS AND ZALEZNIK requesting amendments to the City of Newton Zoning Ordinance, Chapter 30, to create new zoning regulations allowing the use of land, structures and buildings for registered marijuana dispensaries in certain business and mixed use zoning districts within the City by special permit, and to establish minimum standards and criteria for the granting of such special permits.

#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]

#309-13 DEPT. HEADS HAVENS AND ZALEZNIK requesting amendments to the City Of Newton Zoning Ordinance, **Chapter 30**, as needed to add a definition of Medical Marijuana Treatment Center and to establish parameters regarding what districts and under what conditions Medical Marijuana Treatment Centers will be allowed within the City of Newton. [09/11/13 @ 4:12PM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: jreider@newtonma.gov . or 617-796-1145. For Telecommunications Relay Service dial 711.

#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]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

#404-13 Natasha Staller et al. requesting a revision to the zoning District boundary Lines so as to transfer from Multi-Residence 1 District to a Single Residence 3 District the following properties:
Assessors' parcels SBL nos. 61-037-0004 through 61-037-0013; 61-042-0007 through 61-042-0023; 65-019-0001; 65-019-0007 through 65-019-0012; 65-019-0014 through 65-019-0022; 65-019-0009A; 65-019-0017B and 65-019-0022A.
Also requesting transfer from a Single Residence 2 District to a Single Residence 3 District SBL no. 65-019-0015A. [11/01/13 @ 12:57 PM]

#128-13 ALD. ALBRIGHT, FULLER, CROSSLEY, LAREDO requesting the creation 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]

#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]

#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]

#406-12(3) ZONING & PLANNING COMMITTEE requesting a discussion to review City of Newton Zoning Ordinances Chapter 30-20(h)(6) regarding the size and number of campaign signs allowed on lots. [08/15/13 @ 4:37PM]

- #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]
- #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.
- #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]
- #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]
- #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.
- #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]
- #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]

- #296-13 ALD. DANBERG proposing amendment to **Sec. 30-24(f) Inclusionary Zoning** by reorganizing and clarifying the provisions regarding purchaser and renter income limits and sale and rental price limits. [08/26/13 @ 12:30PM]
- #294-13 ALD. DANBERG proposing amendment to **Sec.30-24(f) Inclusionary Zoning** to clarify the limitation on use of public funds in constructing inclusionary units and to expand on where the use of public funds for inclusionary units will be allowed. [08/26/13 @ 12:30PM]
- #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.
- #267-13 LAND USE COMMITTEE proposing to amend Section 30-21(c) to permit de minimis relief for alternations, enlargements, reconstruction of or extensions to lawfully nonconforming structures in which the nonconformity is due to Floor Area Ratio (FAR) requirements set out in section 30-15(u) Table A, subject to administrative review by the Planning Department.
- #263-13 ALD. JOHNSON & ALBRIGHT requesting that the Planning Department document a clear and transparent process for the establishment of housing that complies with Massachusetts Chapter 40B statute so that citizens are knowledgeable of the steps needed, decision making points and decision makers. [07/15/13 @ 2:09PM]
- #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]
- #80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]
- #265-13 ALD. YATES requesting a report from the Law Department on the decision by the U.S. Supreme Court on the *Koontz vs. St. Johns River Water Management District* and its possible impact on the City's zoning ordinances. [08/05/13 @ 12:28PM]
- #266-13 ALD. YATES requesting that the Law Department provide the Zoning & Planning and Land Use Committees and other interested members of the Board with legal advice on what parties have standing to challenge zoning ordinances and the relevant court cases involving uniformity. [08/05/13 @ 12:28PM]

- #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]
- #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]
- #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]

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]
- #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]

ZONING REFORM ITEMS:

PHASE 1:

- #222-13 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, DANBERG, FISCHMAN & JOHNSON proposing to amend the definitions of "Common roof connector", "Common wall connector", and "Dwelling, two-family" in **Chapter 30, Section 30-1** of the City of Newton Zoning Ordinances. [06/07/13 @ 1:31 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]

- #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]
- PHASE 2:**
- #264-13 ALD. YATES requesting that the Zoning Reform Group or its successor consider amending City of Newton Zoning Ordinances Chapter 30 to develop additional residential districts reflecting the small lots in older sections of the City and map changes to bring the zones of more residential sections of the City into conformity with the existing land uses. [08/05/13 @ 12:28PM]

Respectfully Submitted,

Marcia T. Johnson



Setti D. Warren
Mayor

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


#295-13
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

PUBLIC HEARING MEMORANDUM

DATE: November 8, 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
Amanda Stout, Senior Planner, Long-Range Planning

RE: #295-13: ALD DANBERG proposing amendment to **Sec. 30-24(f) Inclusionary Zoning** by deleting paragraph (11) Hotels in its entirety to remove the requirement that new hotel developments must make cash payments to the City in support of housing for low and moderate income housing.

MEETING DATE: November 13, 2013

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

EXECUTIVE SUMMARY

In mid-2012, a working group was formed by the Economic Development Commission (EDC) and the Newton Housing Partnership (NHP) to identify and draft proposals for improvement to the current Inclusionary Zoning regulations in Chapter 30 Section 24(f). Driven by the observation that Newton has not had any recent hotel development, the group investigated the barriers that exist to hotel development in Newton. The group discovered that the Newton Zoning Ordinance requires a "housing affordability" fee on any new hotel rooms created, which dates to Newton's initial adoption of the Inclusionary Zoning ordinance in 1977. That is, a special permit for a hotel is conditional on a cash payment in the amount of "10 per cent of the number of rooms in excess of that which existed on January 1, 1989 multiplied by the estimated per room valuation following construction." The EDC/NHP study found that no parallel provisions exist in other communities in Massachusetts and that this linkage does not apply to any other non-residential land uses in Newton. Furthermore, they found that no hotel has been built in the City of Newton since the hotel fee was added, which has resulted neither in gains for hotels nor for affordable housing. Elimination of this requirement will be beneficial for

meeting demand for lodging, as well as provide economic benefits to the City as hotels are built. Staff supports elimination of the requirement.

ANALYSIS

“Hotel/motel” is a use allowed by special permit in Business Districts 1, 2, 3, 4, and 5, in Mixed Use 2, and in Mixed-Use 3/Transit-Oriented Development District. Newton currently has three hotels:

- Hotel Indigo Boston-Newton Riverside, 399 Grove Street, Newton Lower Falls, built in 1964 (originally Days Inn);
- Crown Plaza Boston-Newton, 320 Washington Street, Newton Corner, built on air rights over the Massachusetts Turnpike in 1967 (originally Sheraton); and
- Marriott Boston-Newton, 2345 Commonwealth Avenue, Auburndale, built in 1968.

A fourth hotel, Susse Chalet (originally Charterhouse Motor Hotel), was built at 160 Boylston Street, Chestnut Hill in 1966. The Avalon Bay Chestnut Hill apartment complex was built on this site in 2005. There are no motels, inns, or other lodging areas.

At the September 9, 2013 meeting of the Zoning and Planning Committee, the EDC, NHP, and Committee discussed some of the advantages of hotel development. Hotels have a positive fiscal impact, generating revenue for a host community and providing a variety of jobs with a low impact on services. By their nature, hotels draw visitors to the City, so there is an economic multiplier associated with these guests who will dine, shop, and patronize Newton’s village centers and commercial corridors. In other words, such visitors spend money elsewhere in the City so other businesses besides the hotels/motels benefit financially.

In Massachusetts, cities and towns may levy a tax of up to 6% of the taxable rents of hotels, motels, lodging houses, and certain bed and breakfast establishments. Newton, like most of our neighbors including Needham, Waltham, and Brookline, has adopted this Local Room Occupancy Tax of 6%, which hotel operators collect and remit to the State, along with the 5.7% State room occupancy excise tax. According to the Massachusetts Department of Revenue, in FY2013, Newton received revenue of \$2,051,414 from the Local Option Rooms Tax. Additionally, in FY2013 Newton received \$1,407,804 in revenue from the Local Option Meals Tax, which Newton has adopted at a rate of 0.75%. While raising revenue through taxes is not the principal reason for amending the Inclusionary Zoning ordinance, it is true that hotel development generates revenue for the City through Local Option Rooms and Meals Taxes.¹

There are hotels at a variety of price points in neighboring communities, and these municipalities are constructing new hotels to meet continued demand. For example, Needham recently hosted a grand opening for the Residence Inn Marriott Boston-Needham, which is located in the New England Business Center/Needham Crossing just over Newton’s border and is poised to attract business guests visiting the Highland Avenue/Needham Street Corridor.

Newton’s location and demographics make it a very attractive location with a high demand for hotels. According to the 2010 Census, the City of Newton has a population of 85,146 and a median household income of over \$100,000. Newton is home to several colleges, including Boston College, the Boston College Law School campus, Lasell College, Mount Ida College, the Andover-Newton Theological Seminary, and Hebrew College, and the many parents, visiting scholars, conference attendees, and

¹ <http://www.mass.gov/dor/local-officials/municipal-data-and-financial-management/data-bank-reports/local-options.html>

sporting event attendees for these colleges and the others in surrounding communities generate significant demand for hotels in the area. Additionally, businesses in and around Newton hosting conferences and Newton residents hosting out-of-town guests seek out Newton-based hotels.

The EDC and NHP suggested that the unfairness of the ordinance by singling out hotels alone as non-residential development subject to this fee sends a negative message to the business community. This requirement negatively impacts economic development in Newton by imposing a financial barrier on hotels, which have the potential to be a net tax contributor and a business type that is uniquely suited to attracting other businesses and improving the quality of life in Newton. While any new hotel would still be subject to review through the special permit process, the proposed change to eliminate the link between hotels and Inclusionary Housing may yield short-term results that will enhance the tax base and quality of life in Newton through the creation of new hotels.

PROPOSED TEXT AMENDMENT

1. Delete the entire paragraph in Sec. 30-24(f)(11) Hotels.

~~“(11) Hotels. Whenever an application for a special permit seeks to increase the density of residential development for a hotel, the board of aldermen shall require a cash payment as a condition of any such grant. The amount of the payment shall be determined as 10 per cent of the number of rooms in excess of that which existed on January 1, 1989 multiplied by the estimated per room valuation following construction, as determined by the assessing department. Payment shall be made in accordance with section 30-24(f)(4).”~~

NEXT STEPS

A working session will follow the public hearing and at that time the Zoning and Planning Committee will have an opportunity to discuss the proposed amendment to the Newton Zoning Ordinance. Staff recommends adoption of the proposed amendment to the Newton Zoning Ordinance.



Setti D. Warren
Mayor

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

#64-12(2)
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

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PUBLIC HEARING MEMORANDUM

DATE: November 8, 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
Amanda Stout, Senior Planner, Long-Range Planning

RE: #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.

PUBLIC HEARING: November 13, 2013

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



EXECUTIVE SUMMARY

The proposed amendment to the Inclusionary Zoning ordinance is intended to give preference in the allocation of affordable units resulting from this provision to households that are displaced from their homes as a result of the development. For units that are designed to be accessible for persons with disabilities, the amendment proposes that these be given preference for households where a member of the household has a disability and, beyond that, allocate units as per the same preferences as other affordable units. Staff recommends approval of the draft language as amended.

BACKGROUND

The Newton Fair Housing Committee, and its predecessor Fair Housing Task Force, developed guidelines for resident selection preferences applicable to housing developments that are subject to

oversight by the City of Newton through either funding or regulation (not including housing developed or administered by the Newton Housing Authority, which is subject to a different set of Federal requirements). In 2009, the Board of Aldermen adopted amendments to the City's Inclusionary Zoning provisions making them consistent with these guidelines. In 2010, the Guidelines were revised in order to provide more clarity regarding preferences for units to serve households that include a person with disabilities. In 2012, the Guidelines were again revised, this time to add a provision for those cases in which an Inclusionary Housing development results in the displacement of households that are currently living in affordable units on that site. The intent is to ensure that residents who are displaced and who are eligible for the new affordable units created through the development receive first preference for those units. The proposed language below proposes how to incorporate this criterion as the first in a series of criteria to determine preference for affordable units included in 30-24(f)(8)(b)(v) and (vi).

ANALYSIS

A development that relies on Federal funds provided through the City of Newton is subject to Federal requirements which aim to minimize displacement of eligible households. The proposed change would reinforce the effort to ensure affordable housing for individuals in need.

When an affordable housing unit becomes available, and when more than one qualified resident applies for the unit, which is typically the case, the City or designee holds a lottery. Eligible applicants are assigned adjusted rankings in the local preference pool based on the preference categories in the ordinance. After discussion with staff, the Committee requested that the term "lottery" need not be used in the zoning text, as it is understood that a lottery will be held in accordance with Massachusetts Department of Housing and Community Development (DHCD) policy. The proposed language states simply that preference shall be given for qualified applicants "in the following order."

It is unlikely that a proposal in Newton would displace more eligible households than it plans to accommodate. All projects that are subject to Inclusionary Zoning go through the special permit process, and if a proposed project would lead to a net decrease in affordable units, the circumstance would be discussed on a case-by-case basis as part of the special permit process.

OTHER REVIEWS

The Zoning and Planning Committee reviewed this proposal in working sessions on October 22nd and 28th.

PROPOSED TEXT AMENDMENT

1. The proposed language recommends deletion of 30-24(f)(8)(b)(v) and (vi) and replacing it with the new text:

- ~~v) Preference shall be given for qualified applicants who fall within any of the following equally weighted categories: (1) individuals or families who live in Newton; (2) households with a household member who works in Newton, has been hired to work in Newton, or has a bona fide offer of employment in Newton; (3) and households with a household member who attends a public school in Newton.~~

~~vi) Preferences for those dwelling units which are designed or modified to be accessible to people with disabilities shall be assigned (a) first to households that as well as having one or more of the four preferences above also include a member needing the features of the unit, then (b) to households having none of the above preferences but that include a member needing the features of the unit, then (c) to other households having one or more of the preferences above, and then (d) to other applicants."~~

v) Preference shall be given for qualified applicants in the following order:

- a) Where a development results in the displacement of individuals who qualify for a unit in terms of household size and income, first preference shall be given to those displaced applicants, unless such preference would be unallowable under the rules of any source of funding for the project.
- b) Following that, preference shall be given to any other qualified applicants who fall within any of the following equally weighted categories: (1) Individuals or families who live in Newton; (2) Households with a family member who works in Newton, has been hired to work in Newton, or has a bona fide offer of employment in Newton; and (3) Households with a family member who attends public school in Newton.

vi) Preferences for dwelling units having features that are designed, constructed, or modified to be usable and accessible to people with visual, hearing, or mobility disabilities shall be given to qualified applicants in the following order:

- a) First preference for initial occupancy shall be given to applicants who are displaced as a result of the project and who need the features of the unit;
- b) To households that include a family member needing the features of the unit and having preference under one or more of the three categories listed in 30-24(f)(8)(b)(v)(b);
- c) To households that include a family member needing the features of the unit but that do not have a preference under one of the three categories listed in 30-24(f)(8)(b)(v)(b);
- d) To households having preference under one or more of the three categories listed in 30-24(f)(8)(b)(v)(b).

NEXT STEPS

A working session will follow the public hearing and at that time the Zoning and Planning Committee will have an opportunity to discuss the proposed amendment to the Newton Zoning Ordinance. Staff will provide additional analysis as requested to respond to public comments or questions. Staff recommends adoption of the proposed amendment to the Newton Zoning Ordinance.



Setti D. Warren
Mayor

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


#309-13(4)
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

PUBLIC HEARING MEMORANDUM

DATE: November 8, 2013

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

FROM: Candace Havens, Director of Planning and Development 
Dori Zaleznik, Commissioner of Health & Human Services
Marie Lawlor, Assistant City Solicitor
James Freas, Chief Planner, Long-Range Planning

RE: #309-13(4): DEPT. HEADS HAVENS AND ZALEZNIK requesting amendments to the City of Newton Zoning Ordinance, Chapter 30, to create new zoning regulations allowing the use of land, structures and buildings for registered marijuana dispensaries in certain business and mixed use zoning districts within the City by special permit, and to establish minimum standards and criteria for the granting of such special permits.

MEETING DATE: November 13, 2013

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

EXECUTIVE SUMMARY

The voters of Massachusetts overwhelmingly passed a law to permit the cultivation and sale of marijuana for medicinal use in November 2012 and since that time the Massachusetts Department of Public Health (DPH) has developed State regulations to permit the siting and operation of registered marijuana dispensaries (RMD) and begun the first phase of the permitting process. Staff recommends that RMDs be treated as a new use within the zoning ordinance and that amendments be made to the ordinance to allow this use in certain business districts where identified location-related criteria can be met. As a highly regulated industry that is also new to the State, there are a number of local land use considerations a City like Newton must make in order to accommodate this new use while meeting the stated purposes, goals, and values of the City's Zoning Ordinance and *Comprehensive Plan*.

BACKGROUND

With the passage of the Medical Marijuana referendum in the 2012 elections, Massachusetts became one of 18 states to legalize the use of marijuana for medicinal purposes. While the issue of medical marijuana is not without a degree of controversy, the drug has demonstrated effectiveness in a number of serious medical conditions. Marijuana has been shown to be effective for control of pain, particularly the chronic unremitting pain associated with cancer and neuropathy (nerve irritation). The drug is also useful for control of nausea especially in patients receiving chemotherapy for cancer. Marijuana additionally has the benefit of improving appetite in patients with debilitating illnesses such as cancer or AIDS when weight loss can be severe. It has been used with some success in some patients with seizure disorder, Parkinson's, and Lou Gehrig's disease. Compared to some of the medications used for chronic pain, in particular narcotics, marijuana has fewer side effects, less of a need to increase doses due to tolerance, and significantly less addiction potential.

The primary cause of controversy surrounding the issue of medical marijuana is the drug's continued illegal status under the Federal Controlled Substances Act and its potential for recreational use. In recognition of these issues, the DPH adopted a set of strict regulations governing the siting and operation of RMDs and the methods by which the drug can be prescribed to patients. This extensive set of regulations was summarized in a previous memo, dated September 20, 2013, to the Zoning and Planning Committee on this topic.

The regulations serve two primary purposes: 1) to strictly control the distribution of the drug so that only those with a legitimate medical reason will have access; and 2) to avoid the promotion of the use of marijuana outside of medicinal purposes. Towards those ends, the regulations focus on security of the premises and operations, the prescription process, and the location and nature of the growing areas and dispensaries. The State regulations are both comprehensive and carefully considered and state regulators clearly drew lessons from the experiences of other states where medical marijuana is permitted.

State Permitting Timeline

In considering a moratorium on RMDs, it is important to understand the permitting timeline and how a moratorium might affect the ability of a potential RMD to be located in Newton. The application process for an RMD is divided into two phases:

PHASE 1

- Phase I applications were due on August 22. Forty-seven organizations applied for dispensaries in Middlesex County, which is the largest number of overall applications received by any county.
- DPH reviewed these applications for compliance with the resource requirements (available money) of the organization and absence of any convictions of any of the individuals involved for any illegal activities.
- Decisions on Phase 1 applications (per criteria above) were delivered September 23, 2013.
- After receipt of Phase 1 approval, applicants are required to notify the chief administrative officer and the chief of police of any community in which they are looking to site an RMD of their intent to submit an application for Phase 2. (Newton has currently received 9 or 10 inquiries from different organizations looking to come to Newton during the Phase 1 process).

PHASE 2

- Applications are due within 45 days of receiving Phase 1 approval (November 8, 2013).
- Applications must include a detailed business plan, an operating plan, summary of operating policies and procedures, detailed security and product transport plan, analysis of the projected patient population and projected need within a defined service area, training procedures, experience of the organization, patient education materials, and procedures for giving marijuana to registered patients who qualify for financial hardship, etc.
- If an applicant has an identified site, the application must also include proof of interest in the property (title, lease agreement, etc.) a detailed floor plan, and description of plans to ensure compliance with local codes.
- Applications must also include a proposed timeline for achieving operation. The license will hold the applicant to finalized version of this timeline.
- In considering Phase 2 applications, DPH may conduct site visits. The regulations state that they will take into consideration geographical distribution (convenience for patients and avoidance of clustering in one location) and local support for the application.
- The newspapers have reported that DPH will be making their Phase 2 decisions before the end of the calendar year with an expectation that RMDs will take at least an additional several months before they are ready to open.

Actions in Surrounding Communities

A majority of the municipalities surrounding Newton have enacted moratoria on RMDs. These moratoria have end points ranging from March to June of 2014. Of those municipalities that are close to Newton, only Westwood and Boston have enacted zoning regulation establishing the allowed locations for RMDs. A small number of these indicate that they will be deciding on new zoning language in the near future, including Brookline this November and Cambridge in January. Waltham and Somerville both described their amendment process as being in progress. Many other communities said the issue would be taken up in the spring.

Progress on Registered Marijuana Dispensary Zoning Amendments by Neighboring Municipalities			
	Moratoria	Expiration	Amendment in progress?
Boston	No	NA	Adopted in July
Brookline	Yes		Yes - Nov
Needham	Yes	March, '14	Yes
Waltham	Yes	June, '14	Yes
Watertown	Yes	June, '14	Yes
Wellesley	Yes		Possibly in Spring
Weston	Yes*		No

** Meeting to decide to impose a moratorium scheduled for Dec 2.*

PROPOSED AMENDMENT

The proposed amendment includes three primary components: 1) identifies the districts in which the RMD use will be allowed and establishes that the use will only be allowed by Special Permit; 2) describes the submittal requirements to be included in an RMD application; and 3) establishes special permit criteria unique to this use.

Location and Special Permit Requirement

In identifying the districts to consider where RMDs would be allowed, the working group considered the likely nature of the proposed use as defined by the DPH regulations and the locational requirements already defined in those regulations. Given the still unknown aspects of these facilities and a desire for close review, the working group recommends the use be allowed by special permit only.

The DPH regulations strictly limit the number of RMDs statewide and by county and clearly indicate that geographic dispersion will be an important factor in their selection of which RMD applications to permit. By these factors, it is likely that DPH will favor regionally-accessible locations near highways and public transit services. Coupled with the extensive security protocols required by the regulations, the nature of the resulting RMDs will likely be highly suburban favoring stand-alone commercial buildings. Building design will likely not be pedestrian-friendly in the sense that there will not be engaging storefront windows and the use will likely not be highly active in the sense of generating a great deal of foot traffic. For these reasons, the RMD use is likely inappropriate for Newton's villages where active uses and pedestrian-friendly design are key components of the City's economic development strategy and efforts to improve village vitality. The working group therefore focused attention on those zoning districts where a use exhibiting these characteristics might be most appropriate, narrowing the choice down to Business 2 and 5 and Mixed-Use 1.

Based on the limited districts identified and the special permit requirement, the working group concluded that the buffer areas identified in the DPH regulations were generally sufficient and is thus recommending 500-foot buffers on schools, daycare facilities, places of worship, and other places where children commonly congregate. The Board has the option to reduce this 500-foot buffer where existing conditions provide a sufficient buffer and/or the proposed RMD use will not have a negative impact on neighboring land uses. The special permit is specifically identified as being non-transferable and only valid for a permitted RMD while its permit remains valid and a provision has been added requiring RMDs to notify the City annually on the status of their permit.

Submittal Requirements

There are a number of additional submittal requirements proposed for RMDs in order to allow necessary review of a given proposal in the special permit process. These include:

- A description of proposed activities on the site;
- A service area map;
- A transportation impacts analysis;
- A context map (allowing analysis of nearby land uses and potential impacts); and
- Copies of registration materials issued by the Department of Public Health as well as copies of any application materials submitted.

Special Permit Criteria

The special permit criteria are intended to reinforce the requirements of the DPH regulations and advance local interests with regard to the possible impacts of a RMD. To that end, these criteria include consideration of the dispersal of these facilities based anticipated demand, compatibility with the surrounding area, access to regional transportation facilities, and consideration of security and law

enforcement concerns as well as the standard special permit criteria provided for in section 30-24(d) of the Zoning Ordinance.

NEXT STEPS

A working session will follow the public hearing and at that time the Zoning and Planning Committee will have an opportunity to discuss the proposed amendment to the Newton Zoning Ordinance. Staff will provide additional analysis as requested to respond to public comments or questions. Staff recommends adoption of the proposed amendment to the Newton Zoning Ordinance.

Enclosures

Attachment A Proposed Ordinance Language to allow Registered Marijuana Dispensaries

Attachment A: Proposed Ordinance Language to allow Registered Marijuana Dispensaries

Item # 309-13 10/31//2013 DRAFT FOR DISCUSSION PURPOSES

Add the following new section:

30-36. Registered Marijuana Dispensaries

(a) *Purpose.* The purpose of this section is to provide for the limited establishment of registered marijuana dispensaries (“RMD”) within the City as they are authorized pursuant to state regulations set forth in 104 CMR 725.000. Since RMD’s are strictly regulated and will be limited in number by the Massachusetts Department of Public Health, the intent of this section is to permit RMD’s where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.

(b) *RMD uses not allowed as-of-right.* RMD uses are not included within the definition of retail sales or services, agriculture, or any other lawful business permitted as of right or by special permit as provided in Chapter 30.

(c) *RMD uses allowed by special permit.* Use of land, buildings or structures for RMD’s shall be allowed only by special permit pursuant to section 30-24 in the following districts, subject to the requirements and criteria of this section: Business 2; Business 5; and Mixed Use 1.

(d) *Minimum criteria and limitations on approval.*

(1) An RMD shall not be located within a radius of five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which children or minors commonly congregate, or from a house of worship or religious use, or a lesser distance if the board of aldermen finds that the RMD is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD’s operation. Such distance shall be measured in a straight line from the nearest property line of the proposed RMD to the nearest property line of the facility.

(2) An RMD shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD that is not properly registered with the Massachusetts Department of Public Health. The RMD shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the board of aldermen within one week of issuance, and shall immediately notify said clerk if its registration is not renewed or is revoked.

(3) A special permit granted by the board of aldermen authorizing the establishment of an RMD shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the RMD has been authorized by the special permit. If the registration for the RMD is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

(4) An RMD shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.

(5) An RMD shall conform to the dimensional requirements applicable to the zoning district in which it is located.

(6) An RMD shall be subject to the number of parking stalls required in section 30-19(d)(10) unless a lesser or greater number of stalls is required by the board of aldermen based on the transportation analysis provided by the applicant

(7) All signage shall conform to the requirements of 105 CMR 725.105(L) and to the requirements of section 30-20 of these ordinances. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMD. The board of aldermen may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

(8) The RMD's hours of operation shall not adversely impact nearby uses. The board of aldermen may, as a special permit condition, limit the hours of operation of an RMD to mitigate any adverse impact on nearby uses.

(e) *Special permit application and procedure*

The procedural and application requirements of section 30-24 shall apply. In addition to the procedural and application requirements of section 30-24(a), (b) and (c), an application for special permit shall include, at a minimum, the following information:

(1) *Description of Activities:* A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.

(2) *Service Area:* A map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMD's exist or have been proposed within the expected service area.

- (3) *Transportation Analysis*: A quantitative analysis, prepared by a qualified transportation specialist acceptable to the director of planning and development and the director of transportation, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
 - (4) *Context Map*: A map depicting all properties and land uses within a minimum one thousand (1,000) foot radius of the proposed site, whether such uses are located in Newton or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs.
 - (5) *Registration Materials*: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to that department for the purpose of seeking registration, to confirm that all information provided to the board of aldermen is consistent with that provided to the Massachusetts Department of Public Health.
- (f) *Special Permit Criteria*. In granting a special permit for a Registered Marijuana Dispensary, in addition to finding that the general criteria for issuance of a special permit as set forth in section 30-24(d) of this ordinance are met, the board of aldermen shall find that the following criteria are met:
- (1) The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
 - (2) The site is located at least five hundred (500) feet distant from a school, daycare center, preschool or afterschool facility or any facility in which children or minors commonly congregate, or from a house of worship or religious use, or the site is located at a lesser distance if the board of aldermen finds that the site is sufficiently buffered such that these facilities or uses will not be adversely impacted by the RMD's operation.
 - (3) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation.
 - (4) Traffic generated by client trips, employee trips, and deliveries to and from the RMD shall not create a significant adverse impact on nearby uses.
 - (5) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

- (6) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.
 - (7) The building and site are accessible to persons with disabilities.
 - (8) The site is accessible to regional roadways and public transportation.
 - (9) The site is located where it may be readily monitored by law enforcement and other code enforcement personnel.
 - (10) The RMD's hours of operation will have no significant adverse impact on nearby uses.
- (g) *Severability.* If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.



Setti D. Warren
Mayor

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


#423-13
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: November 8, 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: #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.

#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.

MEETING DATE: November 13, 2013

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

INTRODUCTION

In February 2011, the Board of Aldermen adopted new residential floor area ratio (FAR) regulations under Ordinance Z-77, which changed both the way gross floor area is calculated and the allowed FAR in each residential zoning district; FAR is the ratio of the floor area of a building relative to the area of

the lot on which it is located and is used to regulate the mass of structures. Ordinance Z-77 sought to change FAR to more accurately reflect existing conditions, to make FAR easier to apply and enforce, and result in new residential construction in keeping with its surroundings. The new regulations became effective on October 15th, 2011 and were preceded and followed by extensive education of the building professional community. Petition #423-12 requests that the Planning Department and the Inspectional Services Department provide their assessment of the possible impacts of the FAR regulations since they went into effect in 2011.

The changes to the FAR regulations were in large part the result of the recommendations of a working group of building professionals and related stakeholders. The FAR working group worked with Planning Department staff to conduct a detailed analysis of the issue, looking at existing conditions, discussing the implications of FAR regulations, and testing potential ordinance amendments through a number of different realistic scenarios. The FAR group report recommended measures that they believed would be equitable across different building types and lot sizes across the City. The primary recommendations dealt with expanding the area of a building that counts towards the FAR measure and creating a sliding scale table that establishes the formula for calculating allowed FAR based on zoning district and lot size. Ultimately, the Board of Aldermen adopted a slightly different formula that lowered the allowed FAR across the all properties while incentivizing the use of current larger setback requirements on the so-called pre-'53 lots where such setbacks would not otherwise be required. Petition 328-12 proposes that the FAR regulations be amended again to utilize the recommended formula generated by the FAR working group.

BACKGROUND

The Planning Department has submitted information relative to the possible impacts of the new FAR regulations a number of times since their adoption, most recently in July 2013 and prior to that, in October, 2012 marking the one year anniversary of the rule change, and in a follow-up meeting in November, 2012. The general finding at that time was that the possible impacts of the new regulations were difficult to discern based on the limited time that had passed since the regulations became effective and broader market fluctuations. Any impact on the rate of home construction or renovation in Newton was impossible to accurately identify, as it is difficult to measure something that may not be happening; where that can be seen by comparison, it is difficult to ascertain a causal relationship between the rule change and any possible diminishment in the rate of building permits. Further, the rate of construction is so small in Newton to begin with that any design trends that may have been sparked by the rule change are still not greatly apparent.

While there are certainly more special permits being requested as a result of the FAR requirements than there were last year, that appears to be more a result of market trends than from the particular change made. The Department's recommendation remains that addressing the root issues of over-sized homes and neighborhood character that have resulted in the current FAR regulations should be taken up as part of the broader zoning reform effort envisioned in Phase 2 of zoning reform.

ANALYSIS

In previous reports, the Planning Department has presented data demonstrating a gradual rise in the number of building permits and special permit requests since the new FAR regulations went into effect

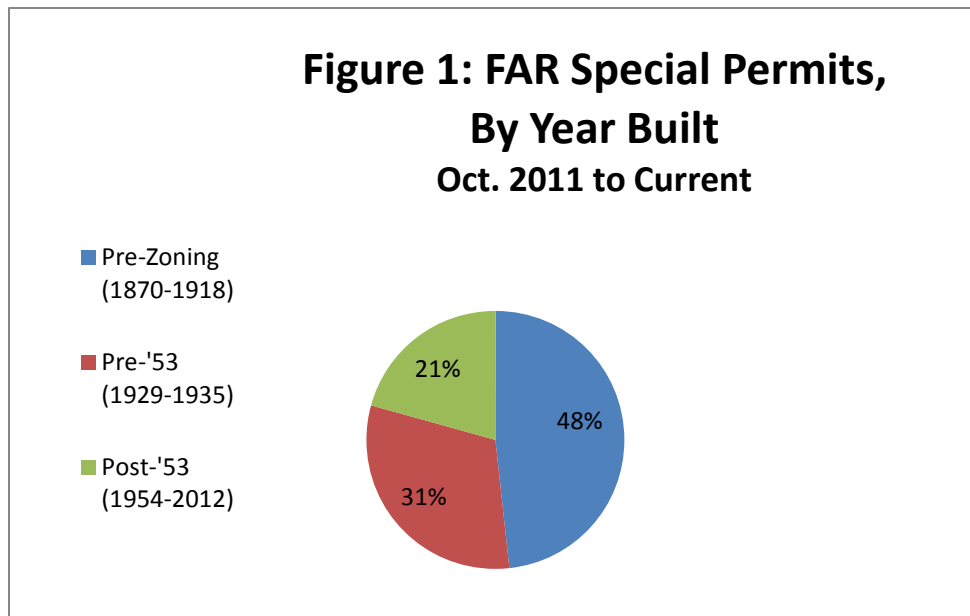
in October, 2011. This rise is consistent with the increasing rate of home construction seen in the greater Boston region over this same time period, which is itself a product of an apparently improving housing market and economy. This is presented below, updated to the present time.

Comparison of years before and after change (Year is Oct. 15 to Oct. 14)	2010-2011	2011-2012	2012-2013 (as of Nov 1)
Total number of building permits	2,790	2,816	2,743
Total number of new home permits	73	82	90

Comparison of special permits (SP) for FAR (Oct 15 to Oct 14)	2010-2011		2011-2012		2012-2013 (as of Nov 1)	
	Number	Percent of Total	Number	Percent of Total	Number	Percent of Total
Approx. number of special permits	40	-	60	-	70	-
Residential SP for FAR	6	15%	14	23.3%	15	21%
Residential SP for FAR only	3	7.5%	6	10%	14	20%
Permits for new home construction	73	-	82	-	90	-
New Residential SP for FAR	0	0%	3	3.7%	1	1%
New Residential SP for FAR only	0	0%	2	2.4%	1	1%

The data clearly shows an increase in the number and percentage of special permit requests to exceed the allowed FAR. While the total number of special permits is increasing each year, as would be expected with the improving economy and increasing number of building permits overall, it is notable that the number of special permits just for FAR waivers is increasing both in number and as a percentage of the overall number of special permits. Increasingly, these FAR special permit requests are solely to address the FAR issue. The details of these special permit requests are provided in Appendix A.

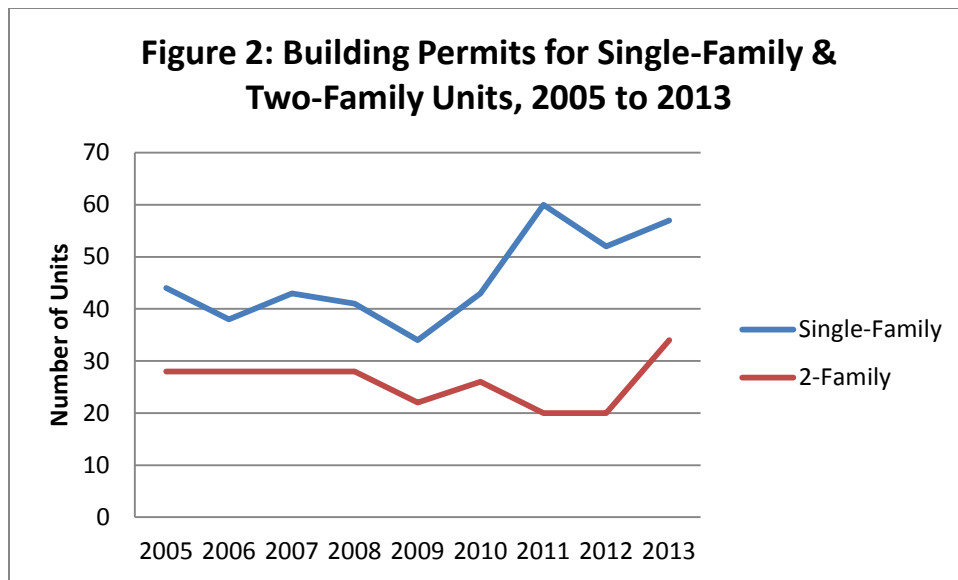
Appendix B provides a map of the areas of the City where these special permit requests are coming from. In nearly every case the existing home exceeds the FAR requirement, a situation that is likely more common on older lots where lots tend to be smaller with the home covering more of the lot. All but six of these special permits are on so-called "old lots," dating to before the 1953 Zoning Ordinance rewrite, which required significantly larger lots for new homes. Overall, these special permits for additions and new homes represent a very small proportion of the overall building permit activity indicating that most City residents are able to add additions and even build new homes without having to get a special permit for FAR. Given the fact that most lots in Newton are non-conforming with the lot sizes required by the Zoning Ordinance since the 1953 revisions, it is likely that a significant portion of special permits in any given year will be for requests to exceed FAR, but this is less an issue caused by the FAR requirements and more of an issue created by the general level of nonconformity best addressed through a planning process as part of Phase 2 of the zoning reform effort.



Impact of FAR Regulation on Two-Family Development

The petitioner in docket item #328-12 has suggested that the FAR regulations, as presented in Table A in section 30-15 of the Zoning Ordinance, are specifically an impediment to the development of two-family buildings in the City, requesting that the formula used in this table be amended to the original recommendation of the FAR Working Group. In a memo prepared for the Nov 26th, 2012 meeting of the Zoning and Planning Committee, staff demonstrated that a number of factors were likely involved in any perceived decline in the sale or production of two-family homes in Newton, including general market conditions and the declining availability of suitable lots zoned for this use. The memo also suggests that the difference between the two formulas for FAR likely represents a very small amount of potential additional square feet, as low as 100 square feet. One year later, comparing the building permits issued in Newton to regional numbers and past experience suggests that the rate of two-family production has returned to its pre-recession baseline.

In 2005 the City produced 28 units in two-family buildings and, remarkably, produced the exact same number each year until 2009 when it dropped to 22 units, as might be expected given the recession. After an increase in 2010 back up to 26 units, it dropped to 20 each year in 2011 and 2012. In 2013 the number of units produced has increased to 34. This trend, shown in Figure 2 below along with the production rate over this same time period for single-family units, reflects the state of the economy and likely also the variability induced by the challenges of finding suitable properties on which to build two-family homes. Even if the drop in 2011 and 2012 were in some way connected to the adoption of the new FAR regulations, the number of building permits issued in 2013 would indicate that these regulations are somehow no longer a significant factor.



In considering potential impacts of the FAR regulations it is also important to assess whether Newton is lagging the region on the production of either single or two-family homes. One way to assess this issue is by looking at the percent change from year to year in the number of building permits issued in each category. The Boston Foundation, in conjunction with the Dukakis Center for Urban and Regional Policy and the Warren Group, issues an annual report called the Greater Boston Housing Report Card detailing the rate of housing production in the region and related issues of public policy and economic growth. Using data from this report, drawn from U.S. Census data covering 159 municipalities in greater Boston (excluding Boston itself) Figures 3 and 4 below demonstrate that the rate of unit production has generally tracked with regional rates, allowing for a higher rate of variability in Newton given the significantly smaller sample size. Again, availability of land in any given year is a significant deterrent of the rate of production. Figure 5 demonstrates that Newton’s rate of productions, as a percentage of the region has actually increased over time.

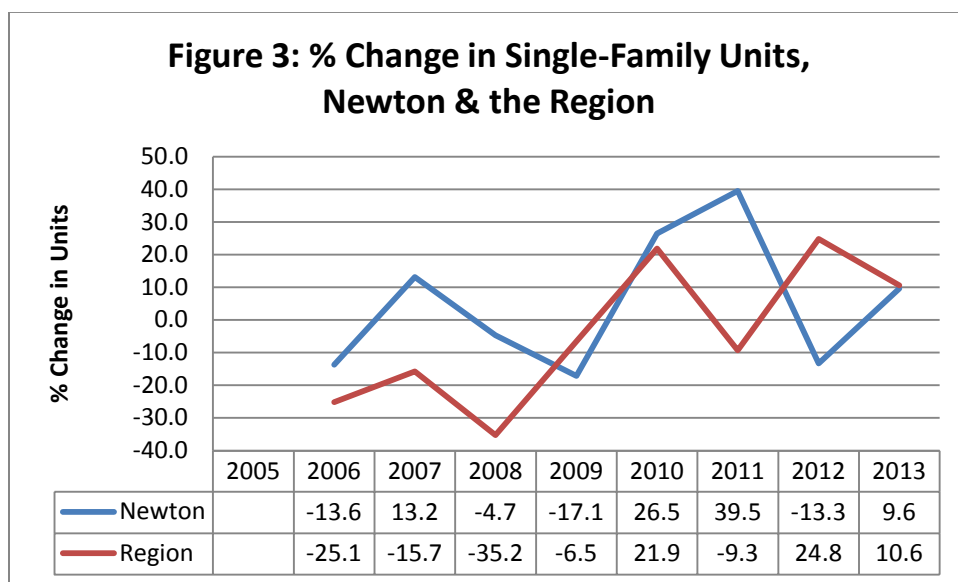
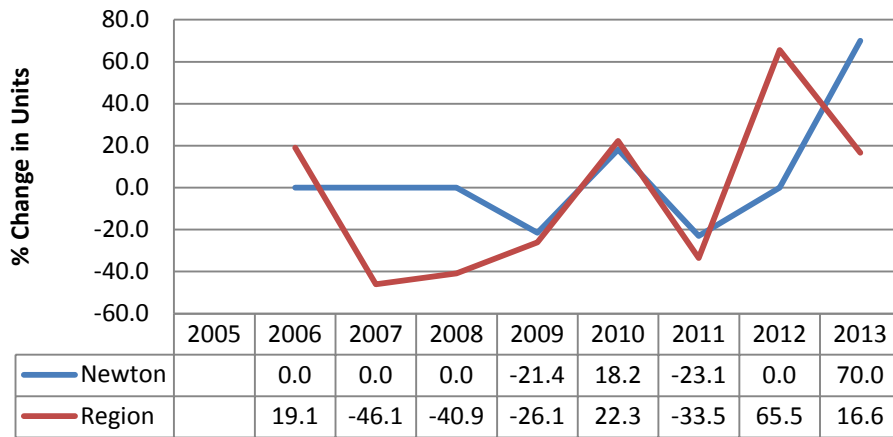
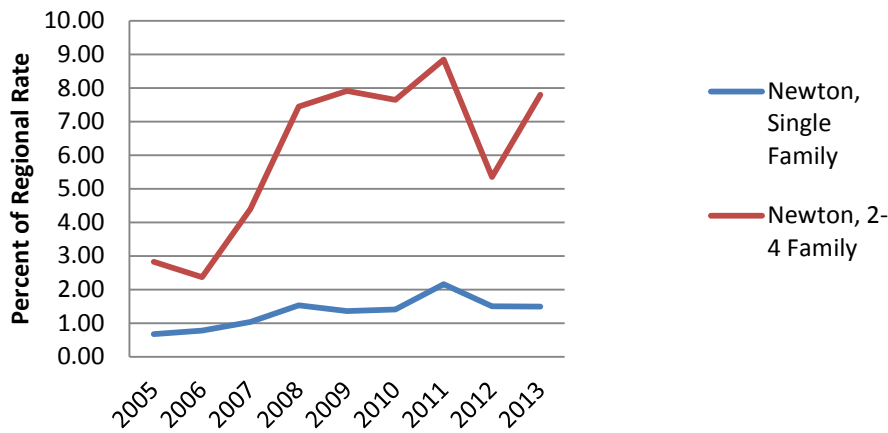


Figure 4: % Change in Units in Two-Four Family Buildings, Newton & the Region



Newton Housing Productions as a Percent of Regional Housing Production



NEXT STEPS

The Planning Department and Inspectional Services Department continue to monitor development activity in the City and any potential impacts from FAR regulation change. As stated in previous reports on this topic, the Planning Department’s recommendation remains that consideration of changes to the FAR regulations be considered in the context of the comprehensive zoning reform Phase 2 efforts. The Land Use Committee is also paying close attention to the FAR issue and is discussing ways of improving their ability to review these projects through guidance, policy, or rule change. That Committee has docketed an item to consider a “de-minimis” rule for FAR that would essentially allow requests to exceed FAR limits by small amounts to proceed with administrative review rather than the lengthier special permit process. Staff welcomes any questions or concerns relative to the FAR regulations on which the Committee would like additional staff research.

ATTACHMENT A: Special Permit Projects (Oct 15, 2011 to Nov 1, 2013)														
Date	Address	Zone	Waivers	Size of Lot (sq. ft.)	Allowed FAR	Bonus	Existing FAR	Proposed FAR	Existing (sq. ft.)	Size of Addition (sq. ft.)	Number of sq. ft. over allowed FAR	SP under old rule	SP under interim rule	Notes
Oct-11	56 Waldorf Road	MR1	FAR, ext NC	5,403	0.57	No	0.36	0.60	1,945	1,297	162.09	Yes	Yes	Large two-story addition on a small lot
Nov-11	14 Loring Street	SR2	FAR	8,500	0.40	No	0.48	0.54	4,080	510	1,190.00	Yes	Yes	Replace existing screened porch with large home office on existing large house, modest lot
Nov-11	143 Lincoln Street	SR2	FAR, change NC	11,775	0.36	No	0.24	0.42	2,826	2,120	706.50	Yes	Yes	Doubling the size of a modest two-family to create two attached dwellings
Dec-11	39-41 Clarendon Street	MR1	FAR	11,130	0.50	Yes	0.55	0.58	6,122	334	890.40	No	Yes	Enclose existing porches
Dec-11	43 Hillside Avenue	SR2	FAR, ext NC	8,365	0.41	No	0.54	0.66	4,517	1,004	2,091.25	Yes	Yes	3.5-story addition to large victorian on a lot sloping to the rear
Jan-12	1841 Commonwealth Avenue	SR2	FAR, ext NC	8,475	0.40	No	0.34	0.48	2,882	1,187	678.00	Yes	Yes	Two-story addition and one car garage replacing existing two car garage
Mar-12	111 Pleasant Street	SR2	FAR, ext NC	5,628	0.45	No	0.72	0.76	4,052	225	1,744.68	Yes	Yes	Enclose rear porches on nonconforming two-family and structure on small lot
Mar-12	112 Exeter Street**	SR1	FAR, 3rd story	16,080	0.32	Yes	0.29	0.36	4,663	1,126	643.20	Yes	Yes	Submitted under pre-Oct 15 rules, large split level

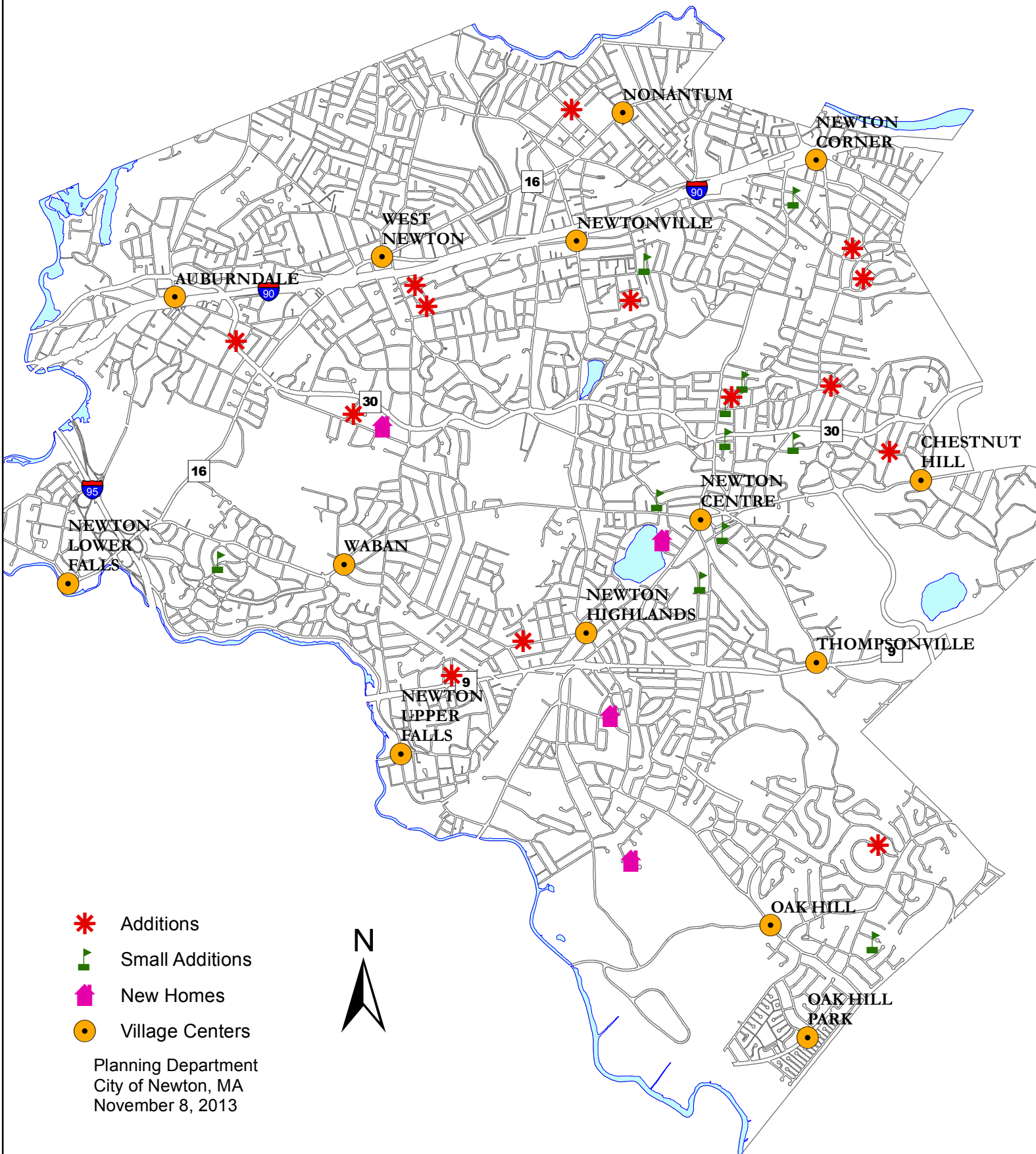
															ranch looking for 3rd story addition
Mar-12	112-116 Dedham Stree #4 (new)	SR3	FAR, rear lot sub	15,033	0.24	No	n/a	0.36	n/a	5,412	1,803.96	Yes	Yes	Large home on rear lot subdivision with FAR waiver under Section 30-15, Table 4 for rear lots	
Apr-12	150 Countryside Road (new)	SR1	FAR	25,000	0.26	No	n/a	0.28	n/a	7,000	500.00	No	No	New 2.5 Story House	
Apr-12	35 Norwood Avenue (new)	SR2	FAR	9,573	0.39	No	n/a	0.45	n/a	4,308	574.38	Yes	Yes	New 2.5 Story House	
Apr-12	258 Nevada Street	MR1	FAR, ext NC	11,122	0.48	No	0.31	0.57	3,448	2,892	1,000.98	Yes	Yes	Conversion of two-family to attached dwellings, new addition nearly doubling size of structure	
Jun-12	97 Hillside Avenue	SR2	FAR	12,551	0.35	No	0.48	0.52	6,024	502	2,133.67	No	Yes	Demolition of existing garage, new attached garage on large 4-story victorian	
Aug-12	54 Oxford Road	SR3	FAR	7,681	0.48	Yes	0.71	0.73	5,454	154	1,920.25	No	Yes	Large nonconforming house on modest lot making small addition	
Dec-12	37 Columbine Road	SR1	FAR	15,415	0.33	Yes	0.33	0.36	5,125	440	462.45	Yes		Addition and deck	
Jan-13	55 Alban Road	SR2	FAR	13,020	0.35	No	0.38	0.40	4,999	190	651.00	Yes		Addition to west corner of house, fill in 2nd story deck to expand master suite	
Feb-13	105 Nonantum Street	SR2	FAR	5,872	0.45	No	0.41	0.53	2,400	678	469.76	Yes		Renovate attic into master	

														bedroom and bath suite
Feb-13	12 Fellsmere Road	SR2	FAR	8,500	0.40	No	0.39	0.50	3,338	945	850.00	Yes	Addition to west corner of house, fill in 2nd story deck to expand master suite	
Mar-13	132 Hammond Street	SR2	FAR	13,561	0.34	No	0.36	0.43	4,905	880	1,220.49	Yes	1-story addition to rear, adding family room, kitchen area, deck. 2nd garage bay behind existing single car garage	
Apr-13	99-101 Atwood Road	MR1	FAR	7,434	0.54	Yes	0.56	0.65	4,831	510	817.74	Yes	Expand 1st floor unit to include master bedroom, bathroom, screened-in porch at rear, built over carport for 2 cars	
Apr-13	140 Church Street	MR1	FAR, decrease OS, exceed LC	9,070	0.51	Yes	0.76	0.77	6,896	109	2,358.20	Yes	Add mudroom off rear kitchen entry. Fill in corner in rear of kitchen	
Apr-13	20 Burrage Road	SR2	FAR	5,771	0.45	No	0.45	0.48	2,789	210	173.13	Yes	2-car garage in lower basement level	
Jun-13	80 Dartmouth	SR1	FAR	19,371	0.30	yes	NA	0.32	NA	6,279	462.00		New house	
Jun-13	15 Rice St	SR2	FAR	6,944	0.43	no	0.46	0.47	2,150	22	277.76	yes	square off corner in kitchen	
Jun-13	42 Braeland Rd	MR1	FAR	4,767	0.46	no	0.65	0.71	2,454	170	1,191.75	yes	kitchen addition	
Jul-13	31 Loring St	SR2	FAR	11,374	0.39	yes	0.46	0.48	5,287	122	1,023.66	yes	small addition	

Jul-13	38 Beechcroft	SR1	FAR	19,058	0.29	no	0.28	0.35	6,724	1,332	1,143.48	yes	attached garage with space above
Jul-13	37 Baldpate Hill Rd	SR1	FAR	23,455	0.29	yes	0.36	0.41	8,551	1,012	2,814.60	yes	expand mudroom add breakfast and seating area on first floor, add guest bed and computer room on second floor
Sep-13	71 Montvale Crescent	SR1	FAR	12,000	0.32	no	0.37	0.38		130	720.00		replace garage

** Submitted under the pre-Oct 15 old FAR rules; needed a special permit either way, but smaller waiver required under old rules

Location of Special Permits Requesting FAR Waivers, Oct 2011 to Current



- * Additions
- ▲ Small Additions
- 🏠 New Homes
- Village Centers

Planning Department
City of Newton, MA
November 8, 2013