

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY, NOVEMBER 25, 2013

**7:00 PM – PLEASE NOTE EARLY START TIME**

Room 202

- #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.
- #407-13 HIS HONOR THE MAYOR requesting discussion relative to establishing a Regional Technology Center in Newton under the state's Economic Development Incentive Program. [11/12/13 @ 4:47 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]
- #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]

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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](mailto:jreider@newtonma.gov) . or 617-796-1145. For Telecommunications Relay Service dial 711.

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

- #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]
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- #408-13 ALD. BAKER requesting discussion of potential impacts resulting from recent changes in the National Flood Insurance Program as it may relate to Newton properties. [10/19/13 @ 4:25 PM]
- #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]
- #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]
- #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]

**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]
- #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****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

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Candace Havens  
Director

## PUBLIC HEARING MEMORANDUM

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**DATE:** November 22, 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 25, 2013

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

The following memo responds to issues raised during the public hearing and working session held November 13, 2013.

### Non-Profit Status of RMD Applicants

There was lengthy discussion on the nature of the non-profit status of RMD applicants. The State regulations specify that all RMDs must be non-profits, as required in 105 CMR 725.100(A)(1), noted below:

*An RMD is required to incorporate pursuant to M.G.L. c. 180 and to maintain the corporation in good standing with the Secretary of the Commonwealth. An RMD must operate on a non-profit basis for the benefit of registered qualifying patients. Such corporation must ensure that revenue of the RMD is used solely in furtherance of its non-profit purpose.*

For the purposes of amending the City's Zoning Ordinance to regulate the potential land use-related impacts of an RMD, the question of non-profit status is irrelevant. The proposed amendment also requires that an RMD applicant have received a permit from the State, thereby indirectly requiring that the RMD be a non-profit as defined in the regulations above.

#### Drug Potency

In their testimony, one potential RMD applicant described the limited potency of their product, suggesting that the "high" effect of the drug was effectively removed. Subsequent discussion was had around the idea of somehow introducing the potency of the drug into the zoning, but this issue is outside of the scope of zoning for the use.

#### Boston's Medical Marijuana Regulatory Framework

In the last meeting the Zoning and Planning Committee was invited to consider Boston's draft Health Department regulations. On review of these regulations, City staff has found that they are largely repetitive of the State regulations creating a local duplicative review process with an associated fee to be paid to the City of Boston. Boston could host as many as five RMDs so their proposed fees may amount to sufficient funds to cover some of the costs of their proposed review process. As Boston has allowed the RMD use in all business and manufacturing zoning districts with a conditional permit (roughly equivalent to a special permit) with no criteria beyond those that are standard to Boston's conditional permit process, Boston's Health Department regulations serve to supplement the zoning regulations. Discussion of fees or local review of RMD security measures or other aspects of the business should be considered in the context of Health Department regulations not as part of the Zoning Ordinance.

#### Newton's Zoning Ordinance Amendment

Attached is the most recent version of the proposed Newton Zoning Ordinance amendment regulating the RMD use. The highlighted section, copied below, reflects the proposed change based on comment received from the Zoning and Planning Committee.

- (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. The context map shall include the measured distance to all uses described in section 30-36 (d)(1).

Attachment A: Proposed Ordinance Language to allow Registered Marijuana Dispensaries (11/22/13)



**Attachment A:** Proposed Ordinance Language to allow Registered Marijuana Dispensaries

**Item # 309-13**      11/22//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 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. The context map shall include the measured distance to all uses described in section 30-36 (d)(1).
- (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 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.



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Mayor

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Candace Havens  
Director

## WORKING SESSION MEMORANDUM

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**DATE:** November 22, 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:** #407-13 HIS HONOR THE MAYOR requesting discussion relative to establishing a Regional Technology Center in Newton under the State's Economic Development Incentive Program

**MEETING DATE:** November 25, 2013

**CC:** Board of Aldermen  
Donnalyn Kahn, City Solicitor

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### EXECUTIVE SUMMARY

The Economic Development Incentive Program (EDIP) through the Massachusetts Executive Office of Housing and Economic Development provides a means of promoting job growth and retention, stimulating private investment, and helping businesses thrive in the Commonwealth. Under this program, cities and towns may apply for designation as an Economic Target Area (ETA) which, among other benefits, positions those municipalities to negotiate tax incentives if they feel that a company meets their strategic goals. Newton is eligible to apply for a Regional Technology Center (RTC) designation, which is a type of ETA designed to target large areas of commercial or industrial space suited to high-tech, high-quality jobs. A Newton RTC would be a logical extension of the N<sup>2</sup> Innovation Corridor, further the City's partnership with the Massachusetts Office of Business Development (MOBD) in facilitating appropriate growth of existing Newton-based companies and attracting national and international companies, and create the opportunity for the City to offer tax incentives in the future. In staff's view, establishment of an RTC provides the City with options that it currently doesn't have and would be a wise choice. Although no formal Board action is requested at this time, this

information is provided for Board consideration in the event that it should wish to consider tax incentives in the future. We welcome the Board’s thoughts on this.

**Why designate an ETA/RTC in Newton?**

The City of Newton has been partnering with the Town of Needham on several projects, including the N<sup>2</sup> Innovation Corridor and road redesign and master planning for the Needham Street/Highland Avenue Corridor. In 2007, Needham designated an RTC for the whole Town, with special attention paid to the New England Office Park, now known as Needham Crossing. This proactive planning paid off for the Town when TripAdvisor was drawn to the area by a TIF in exchange for relocation of 450 jobs, creation of 250 jobs, and private investment in building a new company headquarters; the Town was ready to act and negotiate the TIF. Designating an RTC in Newton would require a similar proactive planning effort that would be especially valuable for supporting redevelopment along Needham Street, as well as in other areas of the City. **Joining the RTC program does not commit the City to offering tax incentives; it only creates the opportunity to do so.** Waltham has been a designated ETA for a number of years and has never offered a tax incentive while Burlington, which has been an ETA for 20 years, has created three TIF agreements.

The City of Newton has also been working closely with colleagues at MOBD. They emphasize the EDIP program as a means for municipalities to partner with the State on job creation and retention. Once a company negotiates a TIF, other State funds and tax credit programs become available to assist the company in being successful in Massachusetts. Newton faces a competitive disadvantage relative to many of our neighboring communities that have this economic development tool available.

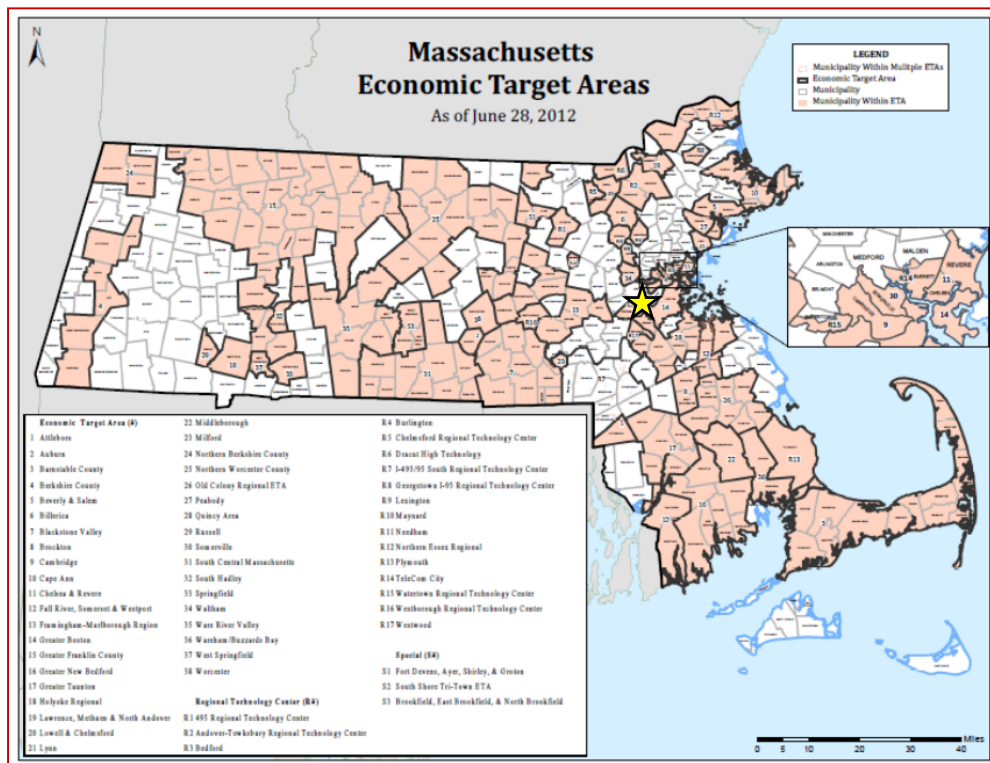


Figure 1: All ETAs and RTCs in Massachusetts as of June 20, 2012 are shaded, and the star is on the City of Newton.

## Geographic Scope

When considering the geographic scope of an ETA or RTC, a municipality should consider areas in the city or town that might someday be considered for designation as Economic Opportunity Areas (EOAs): that is, sites where the City is strategically considering economic development opportunities and where a significant new development project might be enabled or encouraged by means of a TIF. The minimum size for an RTC is three adjacent census tracts, and, in the interest of keeping all future options open, most RTCs are comprised of all of the census tracts in a municipality.

The RTC program requires that a community identify a minimum of 200 acres with the capacity to support the build-out of 3,000,000 square feet of commercial or industrial space. As a largely built-out City with limited areas devoted to commercial and industrial space, Newton is unlikely to meet this requirement by focusing on only a few areas of the City. For example, the Needham Street Corridor is approximately 118 acres.

If Newton applies with all 18 census tracts, then the spectrum of possible EOAs would include the Needham Street Corridor, the Wells Avenue Office Park, former manufacturing space in Nonantum, office space in Newton Corner, and other opportunities that may surface in the City. It becomes difficult to justify why some census tracts are “in” or “out” and it means that the potential to receive a TIF would be available citywide to anyone demonstrating that they can meet the criteria (with Board approval). ***The onus falls on the company or developer to perform and prove they are deserving of the economic development incentive.***

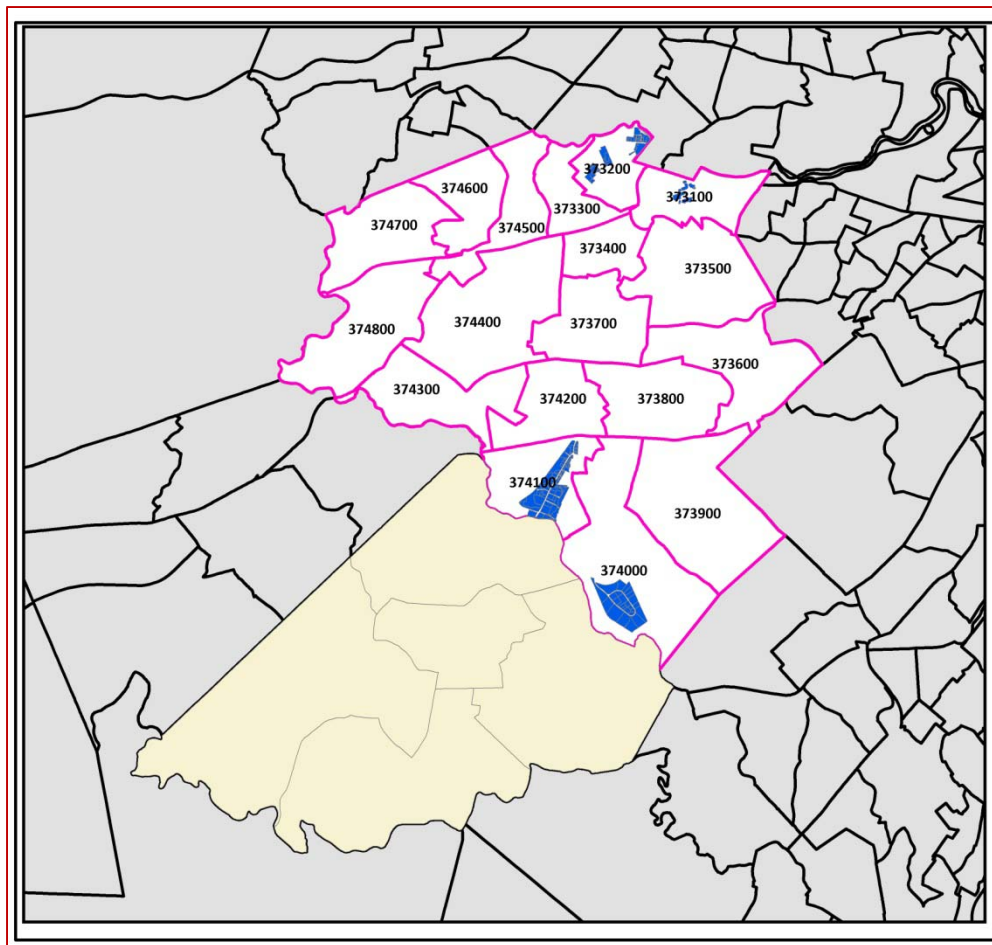
Area	Acreage	Current + Future Development Potential
Needham Street Corridor	118 acres	3,000,000 square feet (source: MAPC Needham Street Market Analysis, assumes some zoning changes)
Wells Avenue Business Park	108 acres	TBD
Nonantum/California Street (Limited Manufacturing)	21 acres	TBD
Newton Corner	12 acres	TBD
TOTALS	259 acres	3,000,000+ square feet

## Joining the Needham RTC

***It is possible for the City of Newton to apply for a stand-alone RTC or to apply to join the existing Needham RTC,*** forming a new RTC comprised of the two neighboring municipalities. The State is very interested in promoting regional collaboration and RTCs comprised of multiple municipalities are looked upon more favorably than stand-alone RTCs, so long as each municipality is bringing something

to the table. Joining with Needham would align with Newton's, Needham's, and the State's shared interest in building strong economic development collaboration to the benefit of the integrated Needham Street/Highland Avenue Corridor. The N<sup>2</sup> Innovation Corridor initiative, spearheaded by Secretary Greg Bialecki, is an example of the type of strategic regional economic development branding that is encouraged.

There is precedent for individual municipalities joining existing RTCs. In order for Newton to join the Needham RTC, the Town of Needham must agree by a vote of their Board of Selectmen and signing of an Agreement. The City has had productive conversations with the Town of Needham regarding this possibility, although as of the date of this memo, the Town had not yet completed their internal reviews. Newton can submit the application on its own, while leaving open the possibility of joining the two RTCs together in the future.



**Figure 2:** Proposed Newton RTC comprised of all 18 U.S. Census tracts. The large shaded area in the lower left side of the map includes the five census tracts that comprise the Needham RTC. The darkened areas represent areas with significant development potential and the possibility of housing EOAs in the future: the Needham Street Corridor, the Wells Avenue Industrial Park, industrial space in Nonantum, and office space in Newton Corner.



## EOA Criteria

The EOA criteria are an important part of the application as they become part of the measures by which future projects would be considered for EOA designation and tax incentives by both the City and the State. Every municipality sets criteria differently based on a city or town's unique economic development strategy and the types of redevelopment opportunities that it might wish to encourage. As part of this RTC application, Newton sets its own criteria that it will use when considering future EOAs, which are neither subject to influence by the State nor by Needham, if there were to be a joint RTC.

The RTC application asks the City to outline goals for the first five years in which the ETA would be in effect and outline the criteria that it will use to designate an Economic Opportunity Area (EOA), which is a prerequisite to negotiating a TIF. These questions prompt the City to think about the economic development goals that a TIF might help the City achieve and the types of circumstances under which it might offer a TIF, but it does not commit the municipality to offering a TIF. The goals and criteria are rooted in the *Comprehensive Plan* and other policies. It is important to remember that an EOA would only be used in conjunction with redevelopment projects where there is a measurable increase in property value. The City gets the best "bang for the buck" with redevelopment of obsolete or vacant buildings as the difference between base assessed value and the assessed value after improvements (the "increment" or "delta") will be high, even when a portion of the property taxes on that increment are abated for a period of time.

The following language is proposed for inclusion in the RTC application:

*"When considering areas within the proposed ETA as possible candidates for designation as EOAs, Newton will consider how that area contributes to the City's economic development goals and Newton's pivotal location in the Commonwealth:*

- 1. To facilitate existing Newton companies' continued growth in the City.*
- 2. To support the Commonwealth's goal of attracting innovative companies to Massachusetts to play a role in maintaining a sustainable and growing economy, and specifically, to help enhance the N<sup>2</sup> Innovation Corridor and the Route 128 region's ability to provide quality jobs and career options to residents of Newton and the surrounding towns and cities.*
- 3. To support office development that demonstrates significant increase in jobs in locations with a high potential for secondary economic benefits.*
- 4. To support projects that include a permanent improvement to the City's economic competitiveness, such as those that include infrastructure enhancements on the redevelopment of important commercial/industrial parcels.*
- 5. To promote redevelopment of existing industrial and commercial properties and effective reuse of obsolete or vacant industrial or commercial buildings in the Needham Street Corridor, the Wells Avenue Office Park, Nonantum, and Newton Corner.*

6. *To assist companies that are interested in locating in Newton that are deemed strategically valuable or that demonstrate a strong connection to locations or industries consistent with Newton's economic development strategy.*
7. *To encourage the redevelopment of sites in a manner that is consistent with the Commonwealth of Massachusetts' Sustainable Development Principles, including advancing smart growth and multi-modal transportation options and featuring principles of green design."*

### **Potential EOAs**

In the RTC application, Newton must explain the potential areas that might be designated as EOAs in the future. The following language is proposed:

*"The Needham Street corridor has some of the greatest potential for near-term redevelopment activity. The City is currently creating a Master Plan for the corridor, coordinating with the Massachusetts Department of Transportation on roadway design and future reconstruction, and partnering with the Town of Needham on planning and marketing for the entire corridor (Needham Street in Newton and Highland Avenue in Needham) as a high-tech, life sciences, and innovation economy center as part of the greater metro Boston economy. The location and accessibility of this corridor translates into a significant opportunity for new private investment. It is an historic innovation center and it is currently the focus of plans to enhance multi-modal transportation infrastructure. Needham Street is already home to many innovative companies, and it has great potential for increased investment and density in an already mixed-use environment.*

*There are potential redevelopment sites that would be possible candidates for designation as an EOA in other areas of the City. The Wells Avenue Industrial Park, composed of 108 acres originally intended for light industrial use, has been the subject of recent discussion about how to best redevelop and reposition this unique area of the City. Areas on the northern side of the City, such as California Street in Nonantum, Newton Corner, and parts of West Newton, contain older mill buildings, warehouses, and other industrial and commercial spaces, some of which is underutilized and all of which is located in close proximity to mixed-use commercial centers and transit access. These areas might be strong candidates for EOAs should there be a significant project that meets the City's criteria."*

### **NEXT STEPS**

No action is necessary from the Zoning and Planning Committee at the November 25<sup>th</sup> meeting. The Executive Office and the Department of Planning and Development are aiming to submit the City's application for designation as an RTC to the State on November 27<sup>th</sup> for consideration at the EACC's December 18<sup>th</sup> meeting. If and when a particular EOA and TIF incentive package is contemplated, a detailed proposal would be docketed for discussion and subject to approval by the Board of Aldermen.

### **ATTACHMENT: DEFINITIONS**

## DEFINITIONS

The following definitions and explanations are provided as background to the discussion of Newton's application to the State as a Regional Technology Center.

- **Massachusetts Office of Business Development (MOBD)** – part of the Massachusetts Executive Office of Housing and Economic Development, this office aims to strengthen the economy and increase job growth throughout Massachusetts by providing a highly responsive, central point of contact that facilitates access to resources, expertise, and incentive programs available in the Commonwealth to businesses that are seeking to expand or locate in the Commonwealth.
- **Economic Development Incentive Program (EDIP)** – a tax incentive program designed to foster job creation and stimulate business growth throughout the Commonwealth. Participating companies may receive state and local tax incentives in exchange for job creation, manufacturing job retention, and private investment commitments.
- **Economic Assistance Coordinating Council (EACC)** – representatives of MOBD who meet quarterly to review applications for ETA, RTC, EOA, TIF, and other economic incentive programs.
- **Economic Target Area (ETA)** – a designation that enables a city or town to offer tax incentives to companies locating in areas of the Commonwealth exhibiting high unemployment, poverty, or recent major job losses.
- **Regional Technology Center (RTC)** – a sub-component of ETAs, RTCs are designed to target large areas of commercial or industrial space suited to high-tech, high quality jobs regardless of the economic status of the surrounding area. The Towns of Needham, Lexington, Burlington, and Westwood are among the 17 RTCs in Massachusetts.
- **Economic Opportunity Area (EOA)** – a site within an ETA or RTC that meets the city or town's criteria for EOA designation and that meets the State's criteria as hosting an "Expansion Project." At the municipal level, the project requires city approval and negotiation of a TIF, and at the State level, the project must meet new job creation and retention thresholds for five years and generate significant out-of-state sales.
- **Tax Increment Financing (TIF)**<sup>1</sup> – Massachusetts' version of Tax Increment Financing (TIF) allows municipalities to provide flexible, targeted incentives to stimulate job-creating development. It is a negotiated agreement between a business, property owner, and host municipality. The business pays the full tax rate on the "base value" of the property while a percentage of the increased value (the increment) is untaxed for a specified length of time. The untaxed percentage may range from 5% to 100% of this increased value and the timeline may range from 5 years to 20 years. The property would not be paying less in taxes in the future than they are today. When negotiating a TIF, the City would review a company's proposal against the criteria the City established during the RTC application process. A TIF agreement requires Board of Aldermen approval.

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<sup>1</sup> Note that in every other state in the country, a "TIF" refers to a more complicated multi-party financing relationship to support infrastructure investments. In Massachusetts, this concept is referred to as District Improvement Financing (DIF).