

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY FEBRUARY 9, 2012

Present: Ald. Johnson (Chairman), Yates, Baker, Danberg, Swiston, Lennon, Kalis

Absent: Ald. Sangiolo

Also present: Ald. Hess-Mahan, Harney, Crossley

Planning and Development Board: Joyce Moss (Chairman)

Appointment by His Honor the Mayor:

#390-11(2) WILLIAM MCLAUGHLIN, 117 Hammond Street, Newton, being appointed as a full member of the Zoning Board of Appeals for a term of office, filling the full member position vacated by Selma H. Urman, Esq., to expire on September 30, 2012 (60 days 03/29/12). [01/30/2012 @ 4:34PM]

ACTION: **HELD 7-0**

NOTE: Mr. McLaughlin was unable to attend the meeting due to his being out of town. The motion to hold was made which carried unanimously.

Re-Appointment by His Honor the Mayor:

#399-11(2) JAMES H. MITCHELL, 83 Countryside Road, Newton Centre, being re-appointed as an associate member of the Zoning Board of Appeals for a term to expire February 1, 2013 (60 days 03/29/12). [01/30/2012 @ 4:34PM]

ACTION: **APPROVED 7-0**

NOTE: After reviewing the resume of Mr. Mitchell the committee moved to approve his reappointment. The motion to approve was made which carried unanimously.

#400-11 ALD. GENTILE, HARNEY, SANGIOLO requesting establishment of a Business 5/Riverside Zone: a mixed-use transit-oriented district at the site of the current Riverside MBTA rail station. The proposed new zone shall allow by special permit a single commercial office building not to exceed 225,000 square feet with a maximum height of 9 stories, two residential buildings not to exceed 290 housing units in total, retail space not to exceed 20,000 square feet, along with a multi-use community center. [11/17/11 @3:36 PM]

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

ACTION: HELD 7-0

NOTE: The committee again gathered to discuss the topic of the proposed Riverside development. The intent of this meeting was to complete the review of the Planning Department's presentation from the previous meeting, completing the exercise of gathering input from the committee about certain key elements that are factors in crafting the zoning language.

Candace Havens, Director of Planning and Development, began by clarifying what the process is from this point forth, as she's received many questions on this. She explained that the Zoning and Planning Committee crafts the zone; once the zone is crafted then the Land Use Committee reviews the special permit and site plan request. Only after the exercise of the special permit will the zoning and map changes occur. The plan for this meeting was to complete the review of the zoning menu first presented at the January 23rd meeting. This menu of options will then be used to prepare for the text amendment itself.

Incentives

Ms. Havens explained that incentives are a necessary element in encouraging the developer to use the zone created and additionally to have the developer create something that is beneficial for them and for the community, since allowing for certain leniencies for the developer is done in exchange for their contributing something to the development that is in the public benefit. These types of incentives are something that the Planning Department encourages.

Ald. Baker touched on the topic of the river being so close yet not accessible from the site, unless the MBTA is contacted and agree to engage in conversations about allowing some means of access. Ms. Havens agreed that the city could try to take the conversation to the MBTA and discuss possibilities with them; perhaps going through the state delegation would be the most workable route towards accomplishing this. The ownership of the riverside was called into question, at which time it was clarified that the Department of Conservation and Recreation actually owns the shoreline. Ald. Yates shared that incentives trouble him to the extent that the benefits proposed by the city impact the worth of the development. He noted that every benefit we provide means more traffic, more sewerage, etc. He would like part of the stipulations is that the developers are able to somehow provide a relief to public facilities which are already overburdened.

Parking

Ms. Havens proceeded to discuss the topic of parking, stating that the department recommends the encouragement of shared parking and transit use. Currently our parking requirements are fairly high, but at the same time we don't want to oversupply parking. To find out what the happy medium is, the Planning Department recommends doing a shared parking study.

Ms. Havens discussed Transportation Demand Management and it's applicability to this pending development because of the opportunity it provides to encourage people

to use public transit. Included in the presentation was a list of incentives for residents/employees/patrons/visitors to not use cars. The first item on the list was to rent apartments and parking spaces separately. The idea behind this is that people who don't have cars get a financial break as generally apartments and spots are rented together. People who need cars can pay extra for them, but they would not be included in the pre-determined price of their rent. The second item on the list was parking "cash-outs" which entail having an employer pay their employees a transportation allowance which they may use however they'd like; should they choose to walk, then they would be able to pocket that money. Third on the list was carpooling, which obviously reduces costs since its split between participants. And the final two options, bike/pedestrian accommodations and bus and transit passes both cut down individual motor vehicle use.

Ald. Baker would like to allow for some flexibility for the future when determining how to manage parking. He believes the committee needs to reflect on offsite issues as well as on site issues when thinking about whether parking availability in the whole area will end up serving just this site. Ald. Harney shared some information about the parking habits of the employees at the riverside office park, noting that studies have shown that 3% of people at the Riverside Business Center commute by vehicle.

It was determined that how much parking is shared or not should be reserved for the special permit process.

Approval Process

Ms. Havens introduced the proposal of having conceptual reviews for projects such as this, which would make this a two tiered review process: the conceptual review followed by a typical special permit review. This conceptual review would allow for a look at the project with the public and the Land Use Committee present. The developer would be able to obtain input about the project, but nothing in this meeting would be binding and no votes would be taken; Atty. Young assured the committee of this. This would just be another outlet for discussion. Conceptual review would only take place in areas where the appropriate zone has already been created. It was decided that the process of conceptual review would be created through the Board Rules and not through the text of the zone change.

Ald. Yates took issue with the idea of conceptual review as he is concerned that discussing a project in detail before impact studies have been done is not good practice. Ald. Harney echoed Ald. Yates' concern. On the contrary Ald. Hess-Mahan would rather see a conceptual review up front as it is easier for the community to understand what's going on. He believes that to have the conceptual plan would give insight into what the impact may be.

Post Construction Impact Studies

Ms. Havens next addressed post-construction impact studies. She shared that road, water, and sewer complaints are the greatest complaints received from the residents. The Planning Department feels it is a good idea to go back and see if the impacts that were projected into the future are the ones that are realized once a project is complete, as well as assessing whether the methods used to allay such issues have been successful. Additionally the department suggests that as a precautionary measure it may be wise for

the city to require a bond up front from the contractors which would be forfeited should they not comply with the efforts settled upon to control the impact.

Project Phasing

Ms. Havens suggests that specific project phasing be implemented; this would entail making a schedule of the process. Though this is already done in practice, adding it into the language would solidify it as a procedure.

Ald. Harney expressed concern about phasing. This is such a large project, he commented, that it will take years to complete and the impact will be tremendous; because of this, he would like any effects on the infrastructure completed first, and would also like to see the phasing laid out for the entire project, not just piece by piece.

Responses to Specific Questions

Eve Tapper, Chief Planner for Current Planning then walked the committee through the Planning Department's responses to unresolved issues from last week's meeting:

Naming and purpose

Ms. Taper explained that as far as the naming of the site is concerned, it is up to the Board. She noted that all transit oriented developments are mixed-use developments and explained that if it is called a mixed-use development then the city has the ability to include elements to encourage a transit oriented site. Ald. Johnson called attention to the docket language, asking whether there is a downside to using both phrases in the naming of the zone; if there is no downside, she would prefer using this combined name.

Ald. Yates shared his opinion that the zone should be classified as a mixed use 3 as its general type, but with descriptions of its association with transit systems explained in the statement of purpose as well as represented in the list of uses. He also believes that it should be made clear that this is trolley accessible, but not commuter rail accessible.

Ald. Baker is concerned that broad language may make this zone more portable than it is intended to be. He would like the language to underline the planning rationale but not be loose enough for someone to interpret this zone as being applicable elsewhere. The committee's final note on this subject was that they'd like the department to spend more time crafting the language to ensure that it doesn't unintentionally allow for a zone that could be applied in many locations throughout the city

Limiting the Overall Development:

Ms. Tapper explained that two ways, in addition to the limits set forth in the docket item, to limit the development could be through the use of percentage requirements and a square footage cap. The Planning Department recommends a cap of 1 million square feet of development, not including MBTA parking. The latest iteration of the project is about \$945,000 square feet, so this limit allows for a bit of flexibility. The limit on square footage would be included in the ordinance, but the percentage requirements could be something addressed through the special permit process to allow for some flexibility in determining what uses, and how much of each, is appropriate (after impact studies are

conducted) and how much of each is feasible for the economic climate. The Planning Department recommends that three uses be present in the development; the most agreeable combination of uses is retail/service, residential, and office.

Ms. Tapper also notes that the F.A.R is a factor in limiting development, but explained that until we know exactly what the size of the development parcel will be, we cannot accurately set a number for F.A.R.

It was decided that the requirement of three uses be included in the ordinance, but that the percentage of each use be determined during the special permit process.

Uses:

Seth Zeren, Chief Zoning Code Official walked the committee through last page of memo (attachment A), the list of uses. The column on the right identifies whether the use would be allowed by-right or by special permit. Mr. Zeren explained that not all uses can be special permit uses all the time; there must be some by-right uses allowed so as to not give the sense of a regulatory taking.

Ald. Yates provided the suggestion that the office use be by right on the second floor and above. Mr. Zeren explained that the city could restrict offices and financial institutions to second floor and above if that is the will of the committee. Ald. Yates also requested that in the public and community section of uses the options of library and museum be added.

Ald. Kalis suggested that office and retail be split up instead of having them both under the Commercial category. Ald. Kalis recommends that the office use can stand on its own.

Ald. Danberg suggested that residential dwellings on the ground floor be allowed by-right as this would lessen the incidence of empty storefronts and give more of a neighborhood feel to the area.

It was suggested at one point that group homes be moved into the special permit category, but it was determined that the committee doesn't want to move in that direction as Atty. Young explained that there are provisions against such measures; moving these uses into a special permit category could be seen as discriminatory.

Residential Density:

It was determined that the residential density be capped at 290 units. There was a brief discussion about whether it would be possible to limit the number of bedrooms instead of limiting the number of units, but Atty. Young explained that there are limits against regulating the interiors of dwellings.

Regulating Height

At the last meeting the Committee showed an interest in using contextual height rather than actual height from grade. When the Planning Department discusses height they are focusing on actual footage more so than stories; stories will be governed by the FAR.

Mr. Zeren explained that there would be a building height limit of 200 feet. This is 30 feet higher than the Hotel Indigo, but when using contextual height the two buildings would look to be the same height from Grove Street. Additionally, it is possible to tie in building height to incentives. Mr. Zeren floated the idea of height as an incentive, perhaps initially having the height limit lower, but increasing it to 200 in exchange for public benefit. The committee agreed that there should be some flexibility on height, but tabled the issue without a solid decision on this.

Setbacks

Mr. Zeren explained that the goal here is to protect Grove Street from too much bulk, so the Planning Department recommends requiring half building height as the setback from the street. On other property lines however will require 0 setbacks since the impact on abutters (the highway, the train yard) would be minimal. Ald. Swiston inquired as to whether in the development we can require the articulation of buildings so that they are not all flat-fronted. Mr. Zeren will look into this.

Beneficial Open Space

Ald. Yates expressed the desire to amend the definition of beneficial open space to include the stipulation that beneficial open space should provide access to other open spaces resources.

Ald. Kalis suggested a 10% minimum instead of 5% since this is such an important aspect of a good development. Ald. Yates commented on the definition of beneficial open space should include that it provides access to other open spaces resources.

Following this discussion a motion to hold was made which carried unanimously. The Zoning and Planning Committee will meet again on February 15th to continue this discussion.

Respectfully Submitted,

Marcia Johnson, Chairman

William M. McLaughlin

- Newton Resident for 16 years
- Massachusetts Native (grew up in Arlington and Belmont)
- BA in Economics from Harvard College (1986)
- Real Estate Development and Investment Professional for 23 years
 - Extensive Land Use/Zoning Experience
 - Overseen Approx. \$3 Billion in Ground Up Development, Rehabilitation, and Investment
 - Managed Local and State Level Entitlement Processes in over 20 MA communities and elsewhere
 - Frequent Guest Lecturer at Area Graduate School Programs on Topics of Real Estate Development, Investment, and Finance; Affordable Housing; Planning and Zoning Issues.
 - Leading Expert on Mixed Income Housing Development
 - On Board of Managers of Large Somerville MA based Industrial Real Estate Investment LLC.
- Charitable and Other Community Activities Include:
 - Can-Do Advisory Board
 - Newton Wellesley Hospital Board of Overseers
 - Board of Directors, Caritas Communities, Inc.
 - Current or Former Coach, NCLL, NGS, NAA
 - Past Chair, Greater Boston Real Estate Board, Past President, Rental Housing Association
- Married (Linda), with 6 children ages 7-17.

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#399-11

Application for Committee Appointment City of Newton, MA



Name: James H. Mitchell

Date: November 30, 2006

Wife: Nancy Brunell Mitchell, Esq. – Assistant General Counsel, Commonwealth of Massachusetts
Department of Conservation & Recreation (1979-Present)

Children: Jenna NSHS '02, Cornell '06, Columbia '07
Emily NSHS '04, Cornell '08

Occupation, if applicable: Lawyer & Partner in Real Estate Management & Development firm

Committee(s) you might wish to serve on:
License, Board, Zoning Board of Appeals

What activities or issues interest you?

As a lifelong resident, I am interested in serving the City of Newton to give back, and to help maintain and improve its unique character and quality of life for its residents

Relevant expertise, experience, and education"

Lifelong resident of Newton. Graduate of Bowen School, Meadowbrook Jr. High & Newton South High School '68; Graduated University of Massachusetts Amherst B.B.A. '72 with an area of concentration in Urban & Regional Studies; Graduated Suffolk University Law School (evening division) '76. Member in good standing of the Massachusetts Bar since 1977. Practiced law in Boston from 1977 to 1981 concentrating in real estate and municipal taxation. Since 1972, I have been a principal in Bobson Realty, a family-owned real estate investment, management and development firm. I have had experience practicing and appearing before various zoning and planning board in eastern Massachusetts.

List you community activities with offices held, if any:

Member, Newton Board of License Commissioners (2005 to present) Past President of Temple Beth Avodah ('95-'97); Member, Mayor's Needham Street Advisory Committee (1998); Active volunteer pilot with AngelFlight Northeast with over 25 missions (1996-present)

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NEWTON, MA 02159



Setti D. Warren
Mayor

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Candace Havens
Director

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David A. Olson
Newton, MA 02459

WORKING SESSION MEMORANDUM

DATE: February 3, 2012

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

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning
Seth Zeren, Chief Zoning Code Official

RE: #400-11: Ald. Gentile, Harney, Sangiolo requesting establishment of a Business 5/Riverside Zone: a mixed-use transit-oriented district at the site of the current Riverside MBTA rail station. The proposed new zone shall allow by special permit a single commercial office building not to exceed 225,000 square feet with a maximum height of 9 stories, two residential buildings not to exceed 290 housing units in total, retail space not to exceed 20,000 square feet, along with a multi-use community center.

MEETING DATE: February 9, 2012

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

INTRODUCTION

At the January 23rd working session of the Zoning and Planning Committee, the Planning Department introduced a menu of zoning tools and their policy implications to seek consensus in crafting a new zone for the redevelopment of the Riverside MBTA station ("Riverside"). This report concludes that presentation and recaps the consensus to date. By the end of this meeting, the staff presentation will be complete and consensus items identified so that staff can prepare a draft ordinance for review at the Zoning and Planning Committee meeting on February 15th.

MENU OF ZONING OPTIONS (continued)

Incentives: How can we encourage public benefits?

- **Additional height for more open space and/or community space.** For example, for every additional 5% of beneficial open space in excess of the minimum required, an additional ten feet of building height could be allowed up to a specified maximum.
- **Additional height or floor area for more affordable housing.** Additional height or floor area could be allowed for providing additional affordable housing beyond the minimum 15% already required in the Newton Zoning Ordinance (NZO) or for making a financial contribution to affordable housing elsewhere in the City.
- **Additional height or floor area for vertical integration.** Additional height or floor area could be allowed in exchange for the vertical integration of uses within individual buildings on the site.
- **Additional height or floor area for sustainable design that exceeds what is required.** An additional ten feet of building height or additional floor area could be allowed if the proposed development significantly exceeds the NZO's requirements for sustainability, for example by attaining LEED certification or by providing "green roofs."

Parking: How can we encourage shared parking?

One of the benefits of mixed-use development is the potential for sharing parking at different times of day or days of the week. Traffic and parking studies are typically required for large projects and it is particularly important to evaluate the potential for maximizing shared parking opportunities and strengthening the use of alternative modes of transportation to foster a model transit-oriented development. Peer reviews are routinely required for such an analysis (selected by Planning Department at developer's expense) to demonstrate that parking is sufficient for the combination of uses proposed, but not over-supplied. After granting a special permit, changes to the combination of uses could require review and approval by the Planning Director to determine that sufficient parking continues to accommodate any new combination of uses. A professional shared-parking analysis can inform this consideration.

Site Plan and Special Permit Processes: How should these be addressed?

- **Two-tiered review.** The Planning Department recommends a two-tiered review for development of this site starting with 1) review of conceptual plans, including general layout of buildings, open space, and uses and anticipated impacts followed by 2) final approval of engineered drawings. The Land Use Committee would review the concept plan and provide tentative approval before considering final site plan/special permit approvals. This process will offer the developer an opportunity to address any issues before having invested in engineering costs and provides for public comment at both stages.

- **Post-construction public facilities impact study.** Studies of actual impacts on public facilities including road capacity, water, and sewer systems could ensure consistency between projected and actual impacts. Monitoring should begin after the establishment of the use and continue for several years to ensure measurements of normal operations. If actual impacts exceed projected acceptable ranges, alterations to the development would be required until the impacts are properly addressed (as defined in the special permit) or a bond forfeited.
- **Project phasing.** Phasing is very helpful in allowing projects to respond to changing market conditions and the complexity and expense of developing an entire large site at once. While the schedule of phases will be set out in the special permit, the zoning text could specify that phasing would be allowed and that all infrastructure improvements be in place prior to issuance of a certificate of occupancy for that portion of the project that relies on such improvements.

SUMMARY OF PREVIOUS MEETING COMMENTS AND RESPONSES TO QUESTIONS

At the January 23rd meeting, the Committee generally agreed that a new zone for Riverside should:

- Require a mix of uses, but not require that the development include a fixed percentage, but perhaps a range for each category of uses to allow for flexibility in design as well as to account for fluctuations in the market.
- Include a minimum development parcel size of ten acres to ensure that a project is comprehensively designed to integrate the whole site.
- Require more than 5% beneficial open space.
- Allow height in excess of nine stories, possibly by employing "contextual height" as a frame of reference.
- Allow stepped setbacks for taller elements of buildings to minimize the visual impact of the massing of a structure on pedestrians at street level where needed.
- Require the development not be inconsistent with the *Comprehensive Plan* and its Mixed-Use Centers Element.

The Committee discussed, but reached no conclusions on the concepts below. The Planning Department's recap below reflects comments, suggestions, and questions noted at that session.

Name and purpose of the zone

Several Aldermen questioned whether the proposed development is actually transit-oriented and, therefore, whether the name and purpose should include references to this type of development. While transit-oriented development is typically mixed-use development, not all mixed-use development is transit-oriented. In order to qualify as transit-oriented, development must be:

"A high-density and walkable mixed-use residential, office, and/or retail area situated at or in close proximity to a transit station. Due to the site's close location to public transportation,

pedestrians and bicyclists are treated with the highest priority and single-occupancy vehicle use is discouraged. Bicycle and pedestrian uses are encouraged by having amenities, such as secure bicycle storage and wide, well-lit and landscaped pedestrian routes. Single-occupancy vehicle use is discouraged by utilizing aggressive transportation demand tactics. Buildings are generally constructed to allow for easy movement between multiple uses on site. In addition, shared parking strategies are utilized to minimize the number of parking spaces on site.”¹

It is debatable whether the developer’s designs to date exemplify a true transit-oriented development. Should the Board wish to foster this objective, there are a variety of ways the Board could do so. For example, rewarding transit-oriented features in the zoning text, employing performance standards to limit traffic impacts, requiring bicycle racks and pedestrian-friendly sidewalks, and employing transportation demand management (TDM) plans are all strategies that would strengthen the site’s multi-modal potential.

The Committee also discussed the pros and cons of including a site-specific purpose at the beginning of the zoning text. Alderman Yates recommended amending the Planning Department’s proposed language to read as follows (Alderman Yates’ additions are bolded):

“This district shall only be used on a site that combines mass transit and proximity to an interstate highway. This district shall protect adjacent and other city neighborhoods from undue impacts while allowing sufficient density to make such a development economically feasible. To accomplish these goals new development shall provide enhancements to public infrastructure, be integrated with and protect nearby neighborhoods, provide a mix of compatible and complementary commercial and residential uses appropriate for transit-oriented sites, and advance the principles of the City’s Comprehensive Plan, including its long-term goal of strengthening alternatives to single-occupancy automobile use.”

By identifying proximity to mass transit and an interstate, this zoning text could then be applied to other similarly situated sites if the Board would like the zone to be available elsewhere, so the Board should consider whether this is intended or desirable. As staff has noted previously, the site may be unique enough to warrant a site-specific approach and not be considered a candidate for spot zoning.

Limiting overall development and requiring a mix of uses

Committee members expressed support for limiting the overall development allowed at the Riverside site and requiring a mixture of uses, while ensuring that the mix is flexible enough to respond to changes in the market. The docket language sets caps on the amount of office, residential and retail uses that may be developed on the site. Using these figures, the Planning Department calculated that the proposed Riverside project contains close to one million square feet of additional development,

¹ From the Metropolitan Area Planning Council’s (MAPC) report of Riverside entitled “The Station at Riverside – A Smart Growth Analysis” (dated September 2011)

including accessory parking (not including the MBTA parking structure and intermodal station). Of the non-parking uses, approximately 40% would be office, 56% residential, 3% retail, services, and restaurants, and 1% community uses.

While the majority of the Committee preferred not to set minimum proportions for each use, the Committee differed on whether there should be a maximum proportion allowed for each use. Based on the docketers' intent to limit the size of the development to ensure that the impacts of the development on the surrounding neighborhoods are minimized, the Planning Department offers two suggestions: 1) Identify a range for each category of uses, such as 35-45% office, 50-60% residential, 3-10% retail, 1-5% community space; or 2) cap the gross square footage above grade of the entire development at one million square feet (not including the MBTA parking structure and intermodal station) and evaluate the mix of uses during the special permit process based on studies of potential impacts. Percentages for each category of use could then, if necessary, be set as conditions of the special permit to address any potential impacts on the City. In either case, should there be a need or desire to change the mix of uses, they would be subject to Board approval. If the mix is specified in the zoning text, changes to both the zoning regulations and the special permit would be required, which may be viewed as onerous when a single Board review (through special permit) could address such modifications.

Allowed uses

The Committee asked the Planning Department to incorporate a broader array of allowed uses within the categories referenced by the docket language: office, retail, residential, and community or public use. In response, the Planning Department prepared the Table of Principal Uses in Attachment A. In order to avoid regulatory takings, some uses must be allowed by right. Therefore, the Planning Department designated some uses in the table as such, but notes that any development of greater than or equal to 20,000 square feet would be subject to special permit. Those uses allowed by right help provide flexibility for the alteration of uses into the future by allowing, for example, a restaurant to be replaced by a personal service establishment, so long as parking requirements are satisfied.

The Planning Department recommends including several additional provisions in order to limit impacts and encourage neighborhood-focused services and amenities, while allowing flexibility of use in the future:

- Offices, financial services, and professional services are proposed on the ground floor by special permit to encourage an enlivened streetscape.
- Retail sales, financial services, professional services, personal services, and restaurants would be limited to less than 5,000 square feet per establishment by right and would require a special permit to be larger; this would encourage more, smaller uses and discourage especially large, destination uses.

Residential density

Docket #400-11 calls for a maximum of 290 dwelling units in any new Riverside development. A variety of mechanisms could be used to achieve this goal:

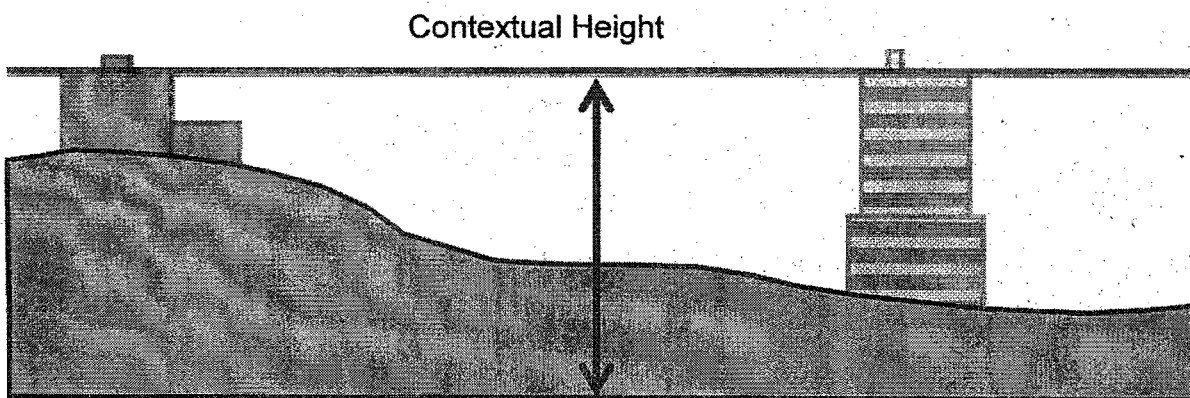
- Set a cap of 290 dwelling units in the zoning text; although this approach doesn't address the square footage or number of bedrooms of the new units that can affect project impacts, it creates a finite cap
- Set a minimum lot area per dwelling unit; in the Business 4 zone, for example, the minimum is 1,200 square feet of lot area per dwelling unit and is a standard that has functioned well in the past.²
- Set performance measures for school and traffic impacts to manage the impacts of residential dwellings
- Set a cap for the total number of dwelling units *and* include performance standards to adjust for impacts.

Regulating height and stories

Stories vary in height, from about ten feet for parking structures to 12-15 feet for residential and commercial buildings, so the Planning Department recommends regulating height rather than stories.

Contextual height and incentives

The concept of contextual height is based on using the height of existing buildings in the area as a frame of reference for the height of new structures, rather than measuring height from grade beneath each building.



During the last working session, the Committee was open to the possibility of a ten-story office tower, which could reasonably have a contextual height of approximately 203 feet above the Newton Base Elevation. The Hotel Indigo has contextual height of 173 feet above the Newton Base Elevation and is the highest structure within 1,200 feet. The zoning text could provide the option to exceed the

²With a minimum lot area of 1,200 square feet, 100 dwelling units would be allowed on a 120,000 square foot lot (approx. 3 acres)— $120,000/1,200 = 100$). This approach sets a constant density for housing that will produce a final number of units depending on the ultimate size of the development parcel. This threshold could be set in such a way as to allow only a maximum of 290 units—depending on the size of the development parcel, this could vary from 1,200 to 2,200 square feet

contextual building height by adding one or more of the incentives, such as open space, sustainable design features, affordable housing, or vertical integration of uses. An alternative is to set a maximum height with or without reliance on incentives. With incentives, however, additional public benefits may be created.

Setbacks

The Committee expressed support for the "adaptive setbacks" and "stepped setbacks" concepts. Given the varied topography, relationships to a scenic road and interstate highway, different approaches are appropriate. Along Grove Street, the Planning Department suggests a setback of a distance equal to ½ of the building height. Where the development parcel abuts the interstate highway ROW or the MBTA train yard, the Planning Department suggests that the required setback could be zero feet, as development there will not impact abutters.

Beneficial open space requirement and incentives

Beneficial open space is defined in the zoning ordinance as:

"Areas not covered by buildings or structures, which shall specifically include, but are not limited to: landscaped areas; playgrounds; walkways; plazas, patios, terraces and other hardscaped areas; and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, or (ii) surface parking facilities, or (iii) areas that are accessory to a single housing unit, or (iv) areas that are accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public. In calculations of the amount of beneficial open space provided, an offset of ten percent (10%) of the otherwise applicable square footage requirements shall be made for the provision of well-maintained publicly available green planted areas."

The standard for beneficial open space is more stringent than for the open space required in residential areas of the City; some undeveloped portions of a site, including circulation walkways, vegetative buffers, and parking lot landscaping would not count toward beneficial open space. In the previous working session, the Planning Department suggested setting the beneficial open space requirement at 5% of the development parcel given that other commercial and mixed-use zones do not require any open space at all. The Committee expressed a general support for increasing the minimum requirement and staff suggests 10% as a baseline.

Implementing performance standards

The Committee reached some consensus around the idea that performance measures should focus on limiting impacts on public facilities first and foremost. Toward that end, the Planning Department recommends that the Board require performance measures for the impacts of the following and require that a potential developer present a viable plan (subject to peer review) demonstrating how the community will be protected during construction and for the life of development:

- Traffic/roads
- Schools with respect to both additional enrollment and capacity
- Water and sewer systems

The Planning Department suggested several other performance measures in the memo for the Committee's January 23, 2012 working session. These concepts could be added to the criteria as additional findings that the Board of Aldermen would need to make in approving a special permit on this site:

- Is not inconsistent with the Comprehensive Plan
- Achieves excellence in place-making through:
 - High quality architectural design
 - A mixture of uses where residents and visitors can live, work, and play
 - Pedestrian-scale design including building footprints and articulation, street-level windows and entrances, and walkways throughout the site
 - Public spaces that connect and sustain a variety of uses, promote a vibrant street life, and connect to the surrounding neighborhood
 - Enhanced open space for passive and active recreation
- Encourages alternatives to single occupancy automobile transportation through enhanced public transportation, and improved pedestrian and bicycle facilities and access to, through and around the site
- Implements a transportation demand management plan
- Encourages a diversity of housing opportunities in Newton and provides for a full range of housing choices throughout the City for households of all incomes, ages, and sizes
- Ensures architectural consistency and quality of signage through a comprehensive signage program

RECOMMENDED ACTION AND NEXT STEPS

Following this working session, the Planning Department will summarize the areas of consensus and comments from this meeting and the previous one and will draft a zoning text amendment for discussion at the Zoning and Planning Committee's next meeting on February 15th.

ATTACHMENT A

TABLE OF PRINCIPAL USES	
Commercial:	
• Office (including general office, research and development, office of a licensed professional, medical and dental offices, business services, investment services, insurance company and similar uses,)	BR
• Retail sales (including market, pharmacy, convenience store, newsstand, retail bakery, specialty foods, general merchandise, and similar uses)	BR
• Financial services (including bank, credit agency, or similar uses)	BR
• Personal services (including barber shop, salon, laundry, dry cleaning, personal trainer or studio, tailor, cobbler, repair shop, and similar uses)	BR
• Eating and drinking (including restaurant, delicatessen, café, tavern, bar, and similar uses)	BR
• Health club	BR
• Place of Entertainment and Assembly (including theater, hall, club, place of amusement, and similar uses)	SP
• Lodging (including hotel, motel, bed and breakfast)	SP
• Parking, non-accessory commercial	SP
• Drive-through uses (drive-through establishment of any of the other uses enumerated in this section)	X
Residential:	
• Residential dwelling above the first floor	BR
• Artist live/work space	BR
• Group home	BR
• Single room occupancy	SP
• Multifamily housing	SP
• Townhouse	SP
• Assisted living or nursing home	SP
Public and Community:	
• Community center or hall	BR
• Day care (adult or child)	
• Place of religious assembly	
• Government offices or services	
• Park or garden	
• Nonprofit or public school	
• Rail or bus terminal	
• Public parking	BR
• Uses similar to or accessory to the above	

**Uses permitted by right (designated as "BR" in green), by special permit ("SP" in yellow), or not permitted ("X" in red). Subheadings note specific alterations to the principal use, which would require additional relief.*

Department of Planning and Development

1

ZONING AND PLANNING COMMITTEE
WORKING SESSION
FEBRUARY 9, 2012

RIVERSIDE REZONING

#400-11: Ald. Gentile, Harney, Sangiolo requesting establishment of a Business 5/Riverside Zone: a mixed-use transit-oriented district at the site of the current Riverside MBTA rail station. The proposed new zone shall allow by special permit a single commercial office building not to exceed 225,000 square feet with a maximum height of 9 stories, two residential buildings not to exceed 290 housing units in total, retail space not to exceed 20,000 square feet, along with a multi-use community center.

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

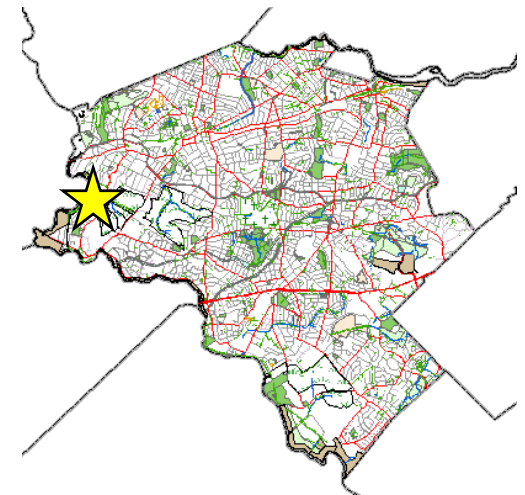
Summary of Previous
Meeting

Responses to Questions

Next Steps

Introduction

- ZAP craft new zone
- LUC reviews special permit/site plan
- Exercise of SP causes map change
- February 9th
 - Finish menu of zoning options
 - Recap consensus
 - Answer questions
 - Prepare for text amendment



Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
Meeting

Responses to Questions

Next Steps

What's a success?

- Complementary uses within walking distance
- Great places in which to live, work and play
- Visually and functionally integrated
- Modest commercial and residential growth
- Compatible within context
- Active at all times of day and weekends
- Economic benefits of jobs and fiscal support
- Varied housing balanced with other uses and impacts
- Access by all modes without damage to character and functioning of vicinity
- Positive outdoor spaces
- Excellent bike and pedestrian connections
- Both *art* and *science*

Riverside Rezoning

Introduction

**Menu of Zoning Options,
Continued**

Summary of Previous
Meeting

Responses to Questions

Next Steps

Menu of Zoning Tools (cont.)

- Major policy considerations
 - Name and purpose
 - Allowed Uses
 - Size of Development
 - Development considerations
 - Incentives
 - Parking
 - Approval processes
- Clear policy vision and goals → zoning text

Riverside Rezoning

Introduction

**Menu of Zoning Options,
Continued**

Summary of Previous
Meeting

Responses to Questions

Next Steps

Incentives

Why?

- Encourage developer to use this zone
- Create public amenities

Additional density or height for:

- Beneficial, publicly-accessible open space
- Community space

Encourage:

- Additional affordable housing
- Vertical integration
- Excellence in green design

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
Meeting

Responses to Questions

Next Steps

Parking

Encourage shared parking and transit use

- Different uses use same spaces
 - Time of day, day of week, Time of year
- Park once, visit many places
- Current requirements are high
- Don't over supply
- What's the right number?
- Shared-use study and peer review

Transportation Demand Management

- Rent parking and apartments separately
- Parking "cash out" for employees
- Carpools
- Pedestrian and bicycle accommodations
- Bus/transit passes

Riverside Rezoning

Introduction

**Menu of Zoning Options,
Continued**

Summary of Previous
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Responses to Questions

Next Steps

Approval Processes

- Two-tiered review of development plans
 - Conceptual
 - Final engineered drawings
- Post-construction public facilities impact study
 - Roads, water, sewer
 - Monitoring of impacts for at least two years
 - If impacts exceed and/or service degraded, additional mitigation required or forfeit bond
- Project phasing
 - Timeline set out in special permit
- Expanded special permit criteria

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

**Summary of Previous
Meeting**

Responses to Questions

Next Steps

Summary of Previous Meeting

Consensus from previous meeting:

- Require a mix of uses, with flexibility
- Ten-acre development parcel
- Require more than 5% beneficial open space
- Allow height in excess of nine stories, possibly by employing “contextual height”
- Allow stepped setbacks for taller elements of buildings to minimize the visual impacts
- Require the development not be inconsistent with the *Comprehensive Plan* and its Mixed-Use Centers Element

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
Meeting

Responses to Questions

Next Steps

Responses to specific questions:

- 1) Name and purpose
- 2) Limiting overall development
- 3) Mix of uses
- 4) Allowed uses
- 5) Residential density
- 6) Contextual height
- 7) Setbacks
- 8) Beneficial open space
- 9) Implementing performance standards

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
Meeting

Responses to Questions

Next Steps

Name and Purpose

- **Riverside-specific or not?**
 - Should new zone apply to more sites?
 - Is spot zoning an issue?

- **TOD or MUD?**
 - All TODs are MUDs, but not all MUDs are TODs
 - Encourage transit orientation
 - ✦ Prioritize bikes and pedestrians
 - ✦ Design for easy movement between uses
 - ✦ Discourage single-occupancy vehicle use
 - ✦ Encourage shared parking
 - ✦ TDM plans

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
Meeting

Responses to Questions

Next Steps

Limiting overall development

- ~ a million square feet of development
 - Not including MBTA parking structure and intermodal hub

Options:

- Cap overall floor area, limit uses in SP
 - Keeps zoning ordinance flexible on uses
 - Limits overall development clearly
- Use FAR alone
 - Amount of development depends on final size of development parcel

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
Meeting

Responses to Questions

Next Steps

Mix of uses

- Docket item allocates proportion
- Need for flexibility in the face of market

Options:

- Range: 35-45% office
- Maximum, no minimum: <45% office
- Three or more uses
- Ratio of uses worked out in special permit

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
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Next Steps

Table of allowed uses

- Recommended by the Zoning Reform Group
- By-right uses and regulatory takings
 - Can allow one use to shift to another use so long as traffic and other impact measures are met

Options

- Allow offices on the ground floor by S.P. only
 - Encourages vertical integration and pedestrian environment
- Limit retail, services, and restaurants to 5,000 square feet without a S.P.
 - Encourages diverse, neighborhood scale businesses over larger destination uses

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
Meeting

Responses to Questions

Next Steps

Residential Density

Options

- **Cap: 290 units for the site**
 - Site-specific
 - Doesn't address size, number of bedrooms per unit
- **Ratio: one unit per 1,200 square feet of lot area**
 - Standard in Business zones
 - Not as relevant in larger development
 - Number of units depends on size of development parcel
- **Performance measures**
 - Focus on impacts to traffic and schools
- **Combinations of above**

Riverside Rezoning

Introduction

Menu of Zoning Options,
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Summary of Previous
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Responses to Questions

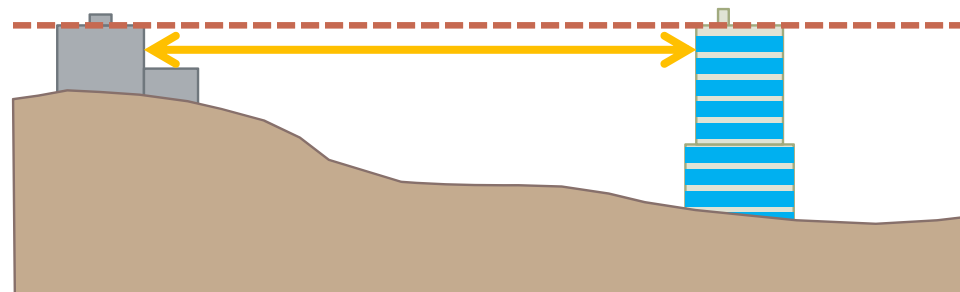
Next Steps

Regulating height

- Stories vary in height
- Focus on total height

Contextual height

- Elevation above reference plane
- Hotel Indigo: 173 feet
- 10-story office tower: 203 feet
- Incentives up to +30 feet



Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
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Responses to Questions

Next Steps

Setbacks

- Support for adaptive setbacks
- Protect Grove Street
- Flexibility for odd-shaped development area and varying orientations

Options

- Require ½-building height setbacks from Grove Street
- Zero foot setbacks where fronting the highway and MBTA train yard
 - No impacts on abutters

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
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Next Steps

Beneficial Open Space

- Functional “open space” not “leftovers”
 - Active and passive recreation
- Planning Department suggests 10% minimum
- More beneficial open space through height bonus
 - Make incentivized beneficial open space publicly-accessible

Riverside Rezoning

Introduction

Menu of Zoning Options,
Continued

Summary of Previous
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Performance standards

- **Require post-construction studies of public facilities**
 - Traffic/roads
 - Schools
 - Water and sewer

- **Special Permit criteria**
 - Consistency with the Comprehensive Plan
 - Excellence in place-making
 - Encourage alternatives to single-occupancy car use
 - Implement a TDM plan
 - Encourage diverse housing options
 - Signage

Riverside Rezoning

Introduction

Menu of Zoning Options,
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Responses to Questions

Next Steps

Next Steps

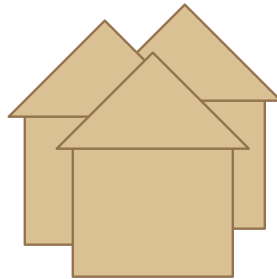
- Planning and Law Departments draft text based on Committee feedback
- February 15th consider first draft

Performance standards

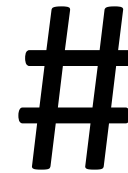
- *Adequacy of public facilities.* New development should be adequately served by and not adversely impact public facilities, including transportation infrastructure, utilities, water and sewer infrastructure, public safety, school capacity, and other public facilities. Studies of the impact on public facilities in the abutting neighborhoods and city-wide must be undertaken as part of the special permit application process. Any adverse impacts from new development, during and after construction, must be addressed in the proposed design. Post-construction studies for traffic impacts and water and sewer quality shall also be required. These studies must be conducted within twelve months of full occupancy, or earlier if requested by the Director of Planning and Development, the City Engineer or Traffic Engineer, and continue for a further two years. If these studies show that public facilities are below the expected conditions approved in the special permit, then further mitigation shall be required and annual follow-up studies conducted until these studies show for five consecutive years that the impacts directly from, or related to, the development are at or below original expectations.
- *Pedestrian and neighborhood considerations.* If the development proposes any measures such as those listed below, which, singly or in combination create a negative impact on pedestrians or surrounding neighborhoods, the applicant shall employ mitigation measures to eliminate the impact(s):
 - Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
 - Removal of pedestrian crossing, bicycle lanes, or roadway shoulder;
 - Traffic signal additions or alterations and/or roadway improvements such as roundabouts or other traffic calming measures; and
 - Relocation or alterations to public transit access points.



Lot area



Number of Dwellings



Lot Area per
Dwelling Unit

10,000 sq. ft. lot

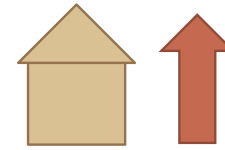
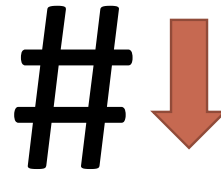
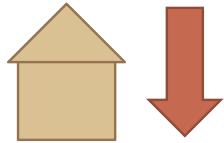
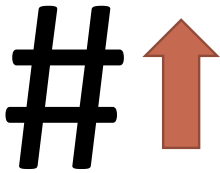


8 dwellings



1,250 sq. ft.
per Dwelling unit

10,000 sq. ft.



Lot area per unit	No. of units
800	12
1200	8
1600	6
2000	5