CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY SEPTEMBER 12, 2011

Present: Ald. Johnson, Baker, Sangiolo, Swiston, Shapiro, Yates
Absent: Ald. Lappin, Lennon
Also present: Ald. Fuller, Crossley, Danberg
City Staff: John Lojek (Commissioner, Inspectional Services), Candace Havens (Director of Planning and Development), Jen Molinsky (Chief Planner of Long Term Planning), Seth Zeren (Chief Zoning Code Official), Rebecca Smith (Committee Clerk)
Planning and Development Board: Leslie Burg, Tabitha McCartney, Joyce Moss, Rev. Howard Haywood, Eunice Kim
Mixed Use Task Force: Phil Herr

#26-11 HIS HONOR THE MAYOR submitting in accordance with Section 7-2 of The City Charter an amendment to the 2007 Newton Comprehensive Plan to include a Mixed Use Centers Element [01-07-11 @ 4:20 PM] (Planning Board report submitted April 5, 2011).

ACTION: NO ACTION NECESSARY 6-0

NOTE: The motion was made to vote No Action Necessary on this item due to the parens two action item that was docketed to take its place. The Committee voted unanimously in favor of the motion to NAN.

#94-11 ALD. HESS-MAHAN proposing an amendment to the accessory apartment ordinance by adding "no accessory dwelling unit shall be separated by ownership from the principal dwelling unit or structure, including, without limitation, conversion to the condominium form of ownership. Any lot containing an accessory dwelling unit shall be subject to a recorded restriction that restricts the lot owner's ability to convey interest in the accessory dwelling unit, except leasehold estates" [03-24-11 @ 9:30AM]

ACTION: NO ACTION NECESSARY 4-0 (Sangiolo, Baker not voting)

NOTE: The motion was made to vote No Action Necessary on this item as well, again, due to a parens two action item that was docketed to take its place. The Committee voted unanimously in favor of the motion to NAN this item as well.

Public hearing re-assigned for September 26, 2011:

#26-11(2) PLANNING AND DEVELOPMENT BOARD submitting in accordance with Section 7-2 of the City Charter an amendment to the 2007 Newton

Comprehensive Plan to create a new Mixed Use Centers Element to be numbered section 3.A in the Comprehensive Plan and to include a vision and guidance for the development or redevelopment of large mixed-use centers.

ACTION: HELD 6-0

NOTE: Candace Havens, Director of Planning and Development, gave a short presentation to the Committee on this item; for the details of that presentation please see the document attached to this report. The purpose of this item is to provide an amendment to the Comprehensive Plan that would encourage the creation of mixed use developments by providing certain incentives for developers and which concurrently provide community involvement during the planning process as well. Creating the Comprehensive Plan was a process that began in 2002 when then Mayor David B. Cohen appointed a Comprehensive Plan Advisory Committee chaired by Phil Herr. The Comp. Plan was adopted by the Board of Aldermen on November 19, 2007.

Following Ms. Haven's presentation, the Committee posed questions that revolved mostly around their concerns about the location of the developments, the size of the developments, and the idea of whether we want to move Newton in a direction that is described as "urban" as this amendment suggests.

Regarding the size of the developments, there is the notion that in order for a mixed use development to move forward it must be 250,000sq ft (floor area, not of lot area) or more, but this idea is incorrect. This number is purely a suggestion, not a requirement. The acknowledgement that this is a suggestion brought to light the fact that these mixed use developments could in fact take place in village centers.

Ald. Baker discussed his concern that mixed use centers may be constructed in residential areas and we may not want commercial uses driven into these locations. Ms. Havens stated that she believes that the changes reflected in this memo resolve the issues. The edits outlined on page 3A-1 of the Planning Department's memo provide a safeguard for the concern that these mixed use developments would result in damage to residential neighborhoods, and even tear downs of the same. In order for a project to proceed it must adhere to all three bullet points listed on the above referenced page number, notably the third bullet point which requires that "access to auto and public transport are accommodated without serious damage to the character and functioning of the vicinity". It should be noted that Ald. Yates and Shapiro both voiced concerns over the vague nature of the word "vicinity".

Ald. Baker also noted that he believes the language should be crafted so that it accomplishes what we want it to accomplish without creating any unintended consequences. With that said, Ald. Baker would like the language

1) to be explicit about residential areas that shouldn't be affected

2) be clear that this is enabling and not mandatory

3) be clear about the process the City is asking to substitute with this change.

Ald. Johnson noted that she would like to see the wording of the bullets to more closely reflect the wording on the chart where it addresses applicability; the Planning Department will look into crafting the language more similarly. After hearing much hesitation about the language by the committee Ald. Johnson requested that this hesitation be explained. It was discovered that much of this disinclination to some of the

language of the amendment was due to the term "urban" which is used in the text. Ald. Shapiro raised his concern about the fact that the amendment encourages the city to move towards "a more urban way". He is worried that this may scare people who do not consider, or do not want, Newton to be an urban area. Ald. Johnson agreed that the issue between urban and suburban is an issue that needs to be addressed and would encourage that the Mayor lead the discussion on it.

Leslie Burg, member of the Planning and Development Board, responded to Ald. Shapiro's statement by reminding all present that Newton is in fact a City. She went on to state that in the past the city was always in a position to have to negotiate with the developer. This amendment is created in an attempt to turn that around; to outline that this is what the City wants. Our process as it is now is incredibly lengthy and discouraging to developers. Ms. Burg also stated expressed that in this meeting she is hearing questions about this amendment that presume that the document is more than what it really is. She stated that essentially the purpose of this document is to say that "we support mixed use development in places where it is appropriate, and these are the features we'd like to see". After these guidelines, the developer still has to go through the entire process which includes a special permit. After her remarks she encouraged that the Committee and the Board finally pass something. Seth Zeren, Chief Zoning Code Official, elaborated, clarifying that the process for implementation is not determined through this amendment. The process will have to come through zoning changes which will differ per site.

Following the discussion it was determined that the Planning Department will continue to work on this item but the version that will be heard on the 26th of September is the version that was presented to the Committee for this meeting. Ald. Yates moved hold on item which carried unanimously.

#49-11 ALD. JOHNSON, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning & Development and Commissioner of Inspectional Services review with the Zoning & Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments. [02-15-2011 @8:44AM]

ACTION: HELD 6-0

NOTE: Jen Molinsky, Chief Planner for Long Term Planning, gave a brief update on the status of the FAR data collection. She stated that there have been 40 odd submissions from various people thus far. So far, she has only analyzed about ½ of it but the submissions seem to be breaking down as predicted into three groups: there are people who are fine under both calculations, there are people who are better off under the new calculations, and there are people who were hovering close to the maximum FAR and the new calculations pushed them over. It's breaking down like they thought it might even in this small sample. Ald. Johnson requested that Ms. Molinsky provide the Committee with a report of the specifics by the next meeting (Sept 26th)

Ms. Molinsky also stated that there will be another FAR information session on September 19th at 9am. John Lojek, Commissioner of Inspectional Services Department

added that even with the information sessions, one of the things the Inspectional Services Department continues to see is people coming to the counter quite frazzled because they are being fed misinformation by a certain group of people/developers. Some developers are working their clients up to believe that it's because of these calculation changes that they cannot add any more to their house without a special permit, when in actuality they wouldn't be able to anyway since the home was already built to the maximum FAR available for the lot. Commissioner Lojek stated that should over time the numbers prove to be out of whack, then they may be revisited and tweaked.
Following these comments Ald. Yates moved hold which carried unanimously.

#81-11 ALDERMEN JOHNSON, CROSSLEY, HESS-MAHAN, LAPPIN & DANBERG requesting the Director of Planning & Development and the Chair of the Zoning Reform Scoping Group provide updates on the Scoping Group's Progress. These updates will occur at the frequency determined by the Chair of the Scoping Group and the Chair of the Zoning and Planning Committee. [3/14/2011 @ 11:16PM]

ACTION: HELD 5-0 (Baker not voting)

NOTE: Ald. Crossley, Chair of the Zoning Reform Scoping Group, joined the committee to update them on the progress of the ZRG. She informed the Committee that the group has held a public meeting as well as a full committee meeting in August to go through the work of the Commercial Subgroup. As a result of this work they have developed a skeletal version of what the final report will be, which will be taken to Committee at the next meeting. All meeting notes are on the ZRG website including the Powerpoint presentations. Ald. Crossley shared that the goal is to conclude the work of the committee by November. She shared that at the upcoming meeting on September 22nd they will address structural reforms and substantive reforms based on themes already discussed; specific recommendations arising from this will be put in appendices. Following this update, Ald. Yates moved to hold the item which carried 5-0.

Respectfully Submitted,

Marcia Johnson, Chairman

#26-11

Setti D. Warren
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Candace Havens
Director

MEMORANDUM

DATE: September 1, 2011

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

FROM: Candace Havens, Director of Planning and Development
Jennifer Molinsky, Chief Planner for Long-Range Planning
Seth Zeren, Chief Zoning Code Official

RE: **Working Session**
#26-11, His Honor the Mayor submitting in accordance with Section 7-2 of The City Charter an amendment to the *2007 Newton Comprehensive Plan* to include a Mixed-Use Centers Element

CC: Mayor Setti D. Warren
Board of Alderman
Planning and Development Board
Marie Lawlor, Assistant City Solicitor

Petition #26-11 was previously introduced at a Working Session on May 23, 2011. On June 27, the Committee held a working session which focused on the goals and principles expressed in the proposed Mixed-Use Centers Element amendment to the *Comprehensive Plan*. On July 12, the Committee held a working session which focused on how the Mixed-Use Centers Element might be implemented through changes in City policies, procedures, and/or zoning regulations. This memorandum and the revised Draft Mixed-Use Element that follows responds to questions raised at the previous working sessions and presents a consensus revision by the Planning Department and the Mixed-Use Task Force Chairman, Phil Herr.

Executive Summary

The Mixed-Use Element is a proposed amendment to the *Comprehensive Plan* that was prepared by the Mayor's Mixed-Use Task Force. The *Comprehensive Plan* recommends mixed-use development in village commercial centers, particularly adjacent to transit services. However, the *Plan* provides little detail on the vision for mixed-use development in Newton and no explicit guidance on how mixed-use development should be applied to large sites. This amendment was written to clarify the City's intentions for mixed-use centers and to guide future developments on its larger sites.

The Element encourages a modest amount of growth in new mixed-use centers, which are defined as newly developed or redeveloped complexes of substantial size, perhaps 250,000 square feet of floor area or more. New mixed-use centers are intended to complement rather than replace residential neighborhoods.

As described in the draft Element, good mixed-use development should reflect the positive qualities of a village center: combining commerce, residences, and public amenities integrated into its surroundings rather than buffered from them, creating places where people can live, work, and shop. The Element sets out a strategy for achieving this vision centering on making mixed-use development more attractive to developers than single-use development, making better use of under-utilized land, and ensuring that proposed developments are responsive to City goals. The implementation steps recommended in the Element include:

1. The creation of a detailed vision and plan for a particular site or area of the City, originating either with the developer or through a City-led community visioning process
2. The adoption of zoning provisions better tailored for developments of this scale and kind
3. The development of a set of models and measures to assist all parties in understanding and evaluating the levels of various types of project impacts
4. The creation of a collaborative process for assessing the fit between the location and the proposal

The Planning Department supports the vision and approach suggested in the Mixed-Use Centers Element[1]. As requested by the Zoning and Planning Committee, Planning Department staff and the Chairman of the Mixed-Use Task Force, Phil Herr, worked together to write the current revised draft of the original Draft Mixed-Use Centers Element. These changes primarily addressed questions of applicability, relevance, specific versus general vision, implementation, and impact modeling and are summarized in the table below. Various small revisions have also been made in an effort to clarify the language of the Element.

[1] For a more detailed discussion of the vision, principles, and goals of the draft Element, see the Planning Department memorandum dated June 24. For a detailed discussion of the issues surrounding implementing the Element's vision of mixed-use development, see the Planning Department memorandum dated July 9.

DRAFT

DRAFT MIXED-USE CENTERS AMENDMENT

Contents as most recently revised August 25, 2011
Formatted to be *Comprehensive Plan* Element 3A:

3A. MIXED USE CENTERS

MIXED-USE CENTERS

"Plans are nothing – planning is everything."
Dwight Eisenhower

1. VISION

The livability of Newton has been greatly enhanced by its traditional mixed-use village centers. The future livability of the City can be further enhanced through the creation of a number of well-located and well-designed new mixed-use centers. As used in this Element, "mixed use" refers to two or more distinctly different uses on the same parcel or located on adjacent or nearby parcels. New mixed-use centers should be exemplars of excellence in place-making, being great places in which to work, live, shop, recreate, or just visit and be within. They would accommodate a share of the modest amount of commercial and residential growth that is anticipated and planned for by the City, as outlined elsewhere in this *Comprehensive Plan.* They would further benefit the City by adding both jobs and fiscal support. Careful guidance should ensure that the interests of the communities within which they are sited are given thoughtful consideration regarding the location, programming, and design of these new centers.

Applicability

"Mixed-use centers" are newly developed or redeveloped complexes of substantial size, perhaps a quarter-million square feet of floor area or more, preferably but not necessarily incorporating both residential and commercial uses. Mixed-use centers could be built on single parcels or adjacent groups of parcels, either under common ownership or under separate but coordinated ownership. These new mixed-use centers are intended to complement rather than replace existing residential neighborhoods. This Element provides broad guidance for new mixed-use centers on topics such as design, housing, and transportation, as well as guidance regarding how the City, community, and property owners might work together towards sound project decisions.

The processes outlined in this Element are designed with large mixed-use centers in mind. However, most of the principles and goals of mixed-use development discussed below could apply well to smaller developments, and can be helpful in later crafting of guidance for those smaller areas.

In a city as fully developed as Newton, new mixed-use centers will be appropriate only when located where:

- The general category of nonresidential use proposed (such as retail, office, or research) is also present and/or permitted in the vicinity;
- Housing already exists and/or is permitted in the vicinity; and
- Access by both auto and public transport can be accommodated without serious damage to the character and functioning of the vicinity.

2. STRATEGY

To achieve the vision of integrated, vibrant new mixed-use centers, the City needs an approach that makes their creation not only possible, but also attractive to developers and community members. For it to occur, development of mixed-use centers on appropriate sites needs to be more appealing to developers than the alternative of single-use proposals. Since no wholly vacant site for large-scale mixed use appears to exist anywhere in the City, for it to occur such development also has to be more attractive than continuing the existing under-utilization of already developed property. Finally, such mixed-use development should be responsive to the City's *Comprehensive Plan,* zoning, and other adopted guidance, rather than requiring amendments to its plans and regulations to accommodate development proposals.

The initiative for large-scale mixed-use centers commonly comes from a plan prepared by a developer who controls the property in question. Where multiple properties and ownership are involved, an initial vision could be prepared through a joint effort of City, the community and those having interests in those properties. In either case, that plan eventually needs to be sufficiently detailed to allow evaluation of its nature and impacts relative to the City's plans and regulations. While that can be done today, improvements in three areas could make the whole mixed-use center review process work better for both developer and community:

- Zoning provisions better tailored for developments of this scale and kind;
- A developed set of models and measures to assist all parties in understanding and evaluating the levels of various types of project impacts: and
- A collaborative process for assessing the fit between the location and the proposal.

Together, those improvements should facilitate prompt decisions and provide predictability about what will or will not be likely to gain approval. For people in nearby neighborhoods, the approach should provide predictability about the limits to potential impacts of development and a well-defined role in the process of managing the impacts of new development, going beyond the minimum requirements for public voice as stipulated in statutory law.

3. DESIGNING MIXED-USE CENTERS

Background

Unlike new mixed-use centers, Newton's villages grew incrementally over several centuries of profound change at the hands of many actors. Despite those and other differences between then and now, we would do well to learn from our existing village centers in the locating, programming, and designing of new mixed-use centers. One lesson learned is, while the full set of villages serves us well, those centers are highly individual. No tight template governing their development would have produced as good an outcome as has some invisible hand that has allowed broad variations. However, the set of village places does have some powerful consistencies, and those are critical to their success. In guiding development of new mixed use, we shouldn't be overly prescriptive about the details of how development should be shaped, but

we should be firm about assuring consistency with those qualities that have historically proven critical to success in Newton's development.

Lessons learned from village centers include:

- Each village center is made up of a mix of uses, not simply one dominant one.
- The uses are not segregated from each other but, rather, are mixed at fine grain.
- Those uses are easy to move within and among on foot.
- To a greater or lesser extent, the uses are often interrelated, to some degree serving or depending on each other, so that the adjacencies and integration are not just symbolic; they are functional.
- It is usually hard to define where the village center ends; the zoning map came too late to dictate otherwise. To successfully replicate that kind of "soft" transition from center to surroundings is challenging, but critically important in the long term.

Vision

New mixed-use centers should create positive, integrated relationships with the surrounding neighborhoods. Sites should be visually and functionally integrated to increase their vitality. Shared spaces and streets are critical to that goal, which suggests new buildings should be oriented toward rather than turning their backs on them.

A mixture of dwellings, shops, offices, restaurants, and other uses can create activity at all hours of the day and on the weekends. This activity creates a vibrant pedestrian-scale place that is safe and desirable. By having some businesses, which provide nearby residents with jobs or services or other benefits the mixed-use area is integrated with the community. Connections by both street and pedestrian pathways are critical to accomplishing that. There should be both precedent and flexibility regarding the categories of use that are part of the mix, and there should be flexibility for the location of those uses within the center in order to achieve the overall design intent.

Truly vibrant mixed-use centers typically involve not only a mix of commercial and residential uses, but also include a significant public amenity that helps in the creation of a sense of place. Those uses are typically co-located at an accessible public transportation node. It is valuable both functionally and symbolically for the pathway from residences to public transportation to be an easy and pleasurable one.

While it is possible to develop new mixed-use centers that lack one or more of the above qualities, such development is less likely to achieve the vision that Newton seeks. Such developments should only be supported if they offer some alternative benefit through programming, design, or location.

The design of buildings and sites should place priority on achieving harmony and integration with their context, rather than just consistency with complex tables and numerical rules; ideally, zoning should enable that. The following goals should be primary in the shaping of building form and density:

- The shaping of buildings and spaces should be respectful of and compatible with the context within which the development is to be located, ideally having an organic consistency with its environs without mimicry or preclusion of well-designed differences in massing and scale.
    - Buildings that are taller than the surrounding urban fabric might be acceptable after considering such things as whether that height would cause adverse impacts from shadows or the blocking of views.
    - More building bulk may be acceptable where skillful design of building forms, rooflines, and architectural features lower the visual impact of the bulk.
    - More density or bulk than might be more acceptable than otherwise where the mix and integration of uses within a site lowers the impacts (e.g. traffic) on the surrounding neighborhood.
- The configuration of buildings and landscaping should create positive outdoor spaces, contributing to the quality of the experience of visiting the place, and not just be vegetated (open space) leftovers between buildings.
- Respect for the environment that goes beyond minimally satisfying land use and environmental requirements should be expected as a part of achieving contextual integration.
- Roofscapes should be made into positive assets through their design and forms of usage, providing functional benefits (e.g. solar energy conversion, recreation) as well as visual interest and attractiveness as seen from buildings within and neighboring the development.
- Creative use should be made of the potential of vertically-mixed uses in considering the distribution of uses within and beyond the development.
- Good-faith efforts should be made both during and subsequent to development to enhance the extent to which the entire center benefits Newton residents through targeted employee recruitment efforts, training or apprenticeship opportunities, or similar initiatives.

Actions

- Make efforts to develop guidance that is more concrete about the design of mixed-use centers. Guidance should be relevant to Newton's existing character and acknowledge that a cherished quality of the City is that "appropriateness" varies sharply among the

villages and other sub-areas of the City. The outcome might be not just one, but rather, a set of design guidelines such as are commonly developed for communities or neighborhoods.

Even better, the guidance might include models that use measures for determining early if a proposal, after considering its location, site size, building size, and mix of uses and design is likely to be appropriate. Having such metrics can reduce arbitrariness and increase predictability, much as is done with great complexity by LEED, which dares to be prescriptive and measurable about this topic for the whole of the United States. Much the same was done with great simplicity by the point system in the Santa Fe *Architectural Design Review Handbook* (1988) prepared by Santa Fe architects and planners for a community thought to be visually homogenous only by those who don't know it well. Less exceptional descendants of such work also exist (e.g. "Workbook for Successful Redevelopment," Naperville, IL, 2002).

- Where the above guidance appears appropriate for development other than large-scale mixed-use centers, that guidance should be incorporated into Newton's Zoning Ordinance by adoption of the Board of Aldermen.

4. ACCESS AND TRANSPORTATION

Background

The Transportation and Mobility Element of the *Comprehensive Plan* makes clear a planning intention that is important to planning for mixed-use development centers since they are inherently well suited to help in meeting the cited objective.

> *"We want to assure that the design of new development is well-related to the transportation system that the City intends, rather than development dictating what that system must be, just as fully as we want the design of the transportation system to be well-related to the development that the City intends, rather than serving only the City as it exists or as predicted rather than intended."*

In other words, transportation infrastructure and adjacent land uses should be complementary and conjunctive such that new development need not dictate changes in the desired road infrastructure.

Vision

By locating a mix of uses within a compact area, some trips that otherwise would be made in autos can be made on foot. By concentrating a substantial amount of development, mixed-use centers also concentrate potential trip ends, improving the feasibility of alternatives to single-occupant auto trips, ranging anywhere from carpooling to rail transit, and enhancing the feasibility of shuttle bus connections. Bicycle access and pedestrian access both between uses within the development and between those uses and ones in the off-site areas around them can

substantially reduce the share of trips made by auto if alternative means of access are made easy, safe and pleasant. No mixed-use center should fail to make those efforts.

Within limits, the mix of uses within the development can be managed to reduce the amount of traffic generated. Trip generation in relation to building floor area varies widely between residential on the low end to retail on the high end. Including more housing and less retailing means fewer trips from the same amount of floor area. Further efforts at trip and parking demand management become feasible where mixed-use centers have an over-arching management structure. Carpooling, company parking protocols and vans, and incentives for employees and others to use public transportation can all contribute to auto trip reduction.

Finally, mixed-use center developments can create enough value to enable some level of mitigation of the traffic impacts that it causes. Neighbors will welcome that mitigation when it helps provide and enhance public transportation, removal of existing safety concerns or traffic flow impediments. Skillful traffic engineering at intersections can often greatly improve traffic movement with little physical change. However, choices get harder when given the proposed scale and mix of uses, no feasible alternative mode and demand management efforts are adequate to offset trip volumes projected from the development unless supplemented with undesirable roadway change.

The way the City addresses those hard choices should be no different for mixed-use development than for single-use development. The location, programming, design, and management of all major developments should not negatively impact the ease of travel by all persons, regardless of mode. The design and placement of access points and transportation mitigations related to the development should essentially "cause no harm" to community or environmental values. Quiet residential streets should not have to be turned into major arteries, even if doing so allows traffic to flow more easily than before. Accessibility for pedestrians or bicyclists should not be damaged in order to facilitate auto travel. New concrete sound barriers should not be needed to block traffic noise in order to accommodate a major new development.

In order to identify when the impacts of a potential project would be unacceptable, the City, community, and developer should collaborate on modeling potential impacts early in the development process, prior to too much expensive design work. These models should be developed in advance and might include "yellow flag" thresholds indicating levels of impacts that are so high that they deserve special attention. For example, an increase in traffic volume above some percentage might justify a "yellow flag alert" since accommodating that increase *might* require street alterations or traffic engineering changes that could be damaging to the nearby quality of life.

Special attention is warranted when the impact models cross "yellow-flag" thresholds of concern. At that point, the community, developer and City should collaborate, possibly requiring revisions to the project's programming, scale, transportation management efforts, street design so that, on balance, they are acceptable. "Yellow flags" should be seen as an opportunity for creative design, rather than hard barriers to development. Testing for such flags can be done simply and inexpensively early in the design process, saving missteps.

Certain access efforts are particularly critical for large-scale mixed-use developments because of their potential traffic impacts, mix of uses, and the need for integration with their surroundings:

- Mixed-use centers should have excellent pedestrian and bicycle connections both among different uses within the site and between those uses and the surrounding environs. The new developments should be permeable through interconnections to adjacent developments wherever possible, both by foot and by auto. Visible and adequate bicycle storage areas and appropriate changing locations with showers for office users will help support the use of bicycles for commuting.

- The visual and environmental impacts of surface parking should be mitigated and pedestrian accessibility enhanced through locating and designing parking facilities with that in mind, not obliging pedestrians to cross open parking lots in order to reach their destinations.

- Where feasible, parking should be accommodated in structures, but surface parking should be allowed where it is serves to protect pedestrians, improve the commercial experience, and not impede the flow of traffic.

- Wherever possible, the visual impact of parking facilities should be mitigated with intervening retail or other uses, unless those facilities are of rare design quality themselves.

Actions

- Adopt a street design classification system and adopt guidelines for both that system and the street functional classification system, as called for in the Transportation and Mobility Element of this *Plan*. These classification systems should include design guidelines such as measurements of road width and configuration, lane placement, and pedestrian and bicycle features, making them responsive to changes in the urban fabric (e.g. village center or residential neighborhood) adjacent to the road. A more concrete, better developed street classification system will make the City's intentions for roadway design clear and provide guidance in assessing the appropriateness of street modifications that might be proposed in relation to large-scale mixed-use center development.

- Develop an in-City capacity for early collaborative concept-level estimation of the access and traffic impacts of major developments, better than back-of-the-envelope, but quicker and less demanding than the sophisticated studies that would continue to be the basis for final design and approval actions. That capacity would enable an important aspect of the collaborative input and review approach described in the Vision above, engaging City officials and staff, the applicants, and community residents.

- Develop an initial version of the "yellow flag" system suggested above to provide guidance to both those designing developments and those reviewing them regarding when traffic impacts threaten to result in unacceptable impacts as a consequence of either excessive congestion and disturbance or community and environmental damage. This

would draw upon the above impact estimation. After some experience that system might be further refined and made an integral part of the City's decision-making system.

- Explore the creation of a transportation mitigation fund, which could allow traffic mitigation resources to be used for a broad range of mitigating actions, not just specific traffic engineering alterations, to the extent allowed by law.[1]

5. HOUSING IN MIXED-USE CENTERS

Background

The inclusion of residences in mixed-use developments has at least three important benefits for Newton. First, if well located, programmed, and designed, such a mix of uses can enable new development to enhance our existing community, rather than needing to be buffered from it. Such real mixed use can provide wonderfully vital places in which to shop, work, live, or all three, and can help make the development a welcome asset for the neighborhood.

Second, the increasing success of the mixed-use model makes it a valuable means of serving part of the housing needs of the City and the region. The housing in mixed-use centers is intended to chiefly serve young households and senior citizens, neither of which is well served by Newton's existing dominantly large-dwelling housing stock. Incentives can be used to encourage affordable housing in new mixed-use centers, potentially going beyond the inclusion mandated by Newton's zoning to support Newton's socio-economic diversity.

Third, incorporation of dwellings in a mixed-use center can make the spatial transitions between the development and any adjoining or nearby residential uses a less disruptive one than otherwise, enabling the new uses at those edges to be as compatible as possible with the existing neighborhood.

The benefits of including housing in large-scale centers is widely understood, but so too are the challenges to achieving that. Among them is the complex volatility of real estate markets, with housing, shopping, workplace, and entertainment markets seldom moving in smooth unison, raising the challenge of how to achieve integration of those uses to produce the sought-after vibrancy when markets may at times make it nearly impossible to simultaneously develop all of them. That is one of the key issues dealt with below.

Vision

Housing, either within or adjacent to and integrated with mixed-use centers, can provide a kind of vitality and fruitful contributions to the creation of wonderful places and an improved quality of life that centers without such housing may not be able to achieve. The presence of housing within the development affects considerations for location and design. The collaborative process

[1] Currently Massachusetts General Laws do not allow local municipalities to create general development impact fees.

and zoning revisions suggested by this Element should support the inclusion of housing or integration with surrounding neighborhoods.

By incorporating or being integrated with surrounding housing, a mixed-use center can enhance the quality of life of our existing neighborhoods. To achieve vitality in the public space the residential component of a mixed-use center must be of an adequate scale. Housing in mixed-use centers should be an important and integrated element, not an after-thought or rule-satisfier. Likewise, housing should not be located in an isolated residential fragment in an unsupportive, non-residential context. The developer should work together with City staff and the community to determine what would be an appropriate housing component. Where appropriate, explicit guidance on the desired residential component could be created through an area planning process or within zoning regulations, so long as it is recognized that the evolving real estate market may favor specific uses (i.e., retail, office, housing, and hotel) in different market cycles.

Housing that already exists nearby can importantly contribute to the vitality and exchange that is sought, but achieving that would require skillful design of how the new buildings and uses relate to the existing ones as well as program efforts. Those might include enabling nearby residents to have easy access to the services being provided on-site, assuring that those services are appropriate to the neighbors, as well as to others, and if programmatically provided for, enabling neighbors to gain benefits from both open space and parking. Given such measures, neighboring off-site units might be considered to be part of the development in determining the allowable scale of nonresidential presence as discussed above.

It is important that housing commitments be firmly guided regarding type, location, design and timing of construction in order to produce the kind of vitality and great places being sought. Housing provisions should reflect both the populations appropriately served at that place and time and the amenities in that environment, chosen following discussion with related City officials and housing-related organizations.

Residential parking demand created by mixed-use centers will reflect the mix of activities, proximity to public transportation, and project-wide demand management efforts. Those considerations may substantially change parking demand, thereby justifying departure from the usual rules of Newton's parking standards when substantiated by, among other things, recent experience in this and surrounding communities with similar developments.

Compliance with the usual rules for regulating business activity conducted within a dwelling should not be required, although alternative controls to assure an appropriate ambiance for family living should apply. Such development might even allow "live/work" units combining both living and working space with flexibility in the allocation between uses over time.

Welcoming and publicly accessible open space is essential as is some amount of reasonably located open space for use exclusively by residents and their guests. Innovative ways of providing open space such as green terraces and roofs should be encouraged in meeting this need.

It is important that the type of housing included in mixed-use centers helps to address needs not being well-served by the existing stock of housing. A current example is the need for housing

suitable for seniors at most income levels who are seeking to downsize or, sometimes, upsize their accommodations.

Actions

- Develop modeling and procedures to facilitate early collaborative City/developer/ community projections of the impacts of the housing upon the adequacy of each of the affected school facilities that are likely to accommodate its enrollment impacts.

- Shape mixed-use center zoning to serve the City's housing needs, either on-site or in the adjacent neighborhoods. Zoning should also encourage integration between mixed-use centers and surrounding residential areas.

6. FINANCE AND MIXED-USE CENTERS

Background

New mixed-use centers clearly can bring substantial amounts of new revenue and new jobs to the City, but too commonly what is claimed and discussed are gross impacts on revenue and jobs, not the net impact after taking into consideration second-order impacts. Those second-order impacts are more difficult to estimate than the gross impacts, but they deserve attention, since they are often very large, and considering them may substantially change perceptions about development proposal benefits, for better or worse.

Taxes perhaps best illustrate the point. New development brings new tax revenues, but it also brings new service demands. Those costs in some cases can turn what seemed to be a fiscal asset into a fiscal liability. If a new retail development chiefly serves Newton, then it may compete with existing businesses so that its net impact on revenue may be substantially lower than its gross impact. On the other hand, more business development could strengthen existing businesses. For example, some businesses attract other related businesses or support existing ones with their purchases, creating a larger than expected increase in revenues. Similar second order impacts deserve attention when considering jobs, traffic, and other impacts.

The benefits of fiscal gain are readily understood, in part because they are so clearly local. Property taxes generated in Newton go to the City of Newton and benefit its residents. The benefits of gaining jobs are less self-evident, in part because in a metropolitan area they are seen as regional. Nonresidents will generally hold new jobs located in Newton, and a large percentage of workers residing in Newton hold jobs not in Newton, but elsewhere within the metropolitan area. However, there are a number of good reasons for caring about bringing jobs to Newton, aside from the tax support they bring with them.

First, bringing jobs to Newton to some extent means more jobs for the region and for Massachusetts, and that is good for everyone. Second, the City is expected to grow somewhat in population over the years, and there will be benefits if the current balance of the number of jobs held by Newton residents and the number of Newton residents who hold jobs can be maintained.

Such "balance" is a widely sought goal. Newton has it, and has had it, more or less, for decades. Losing that balance would mean more commuter traffic and more dependence on other places.

Vision

Business development plays an important role in supporting services for Newton residents. Commercial property taxes and fees help offset the costs of education, public safety, and infrastructure.

The types of residential uses that this *Plan* suggests for mixed-use centers will have a lower impact on City services per dwelling unit than Newton's average single-family residence. The market for housing in mixed-use centers will be largely at opposite ends of the adult life cycle: young couples and empty nesters. Data from the Newton School Department make clear that the ratio of enrolled pupils to dwelling units is far lower in multi-family dwellings than in single-family ones. In most cases this may mean that the tax revenue from smaller dwelling units balances out the costs of the school children they would house. Site-specific enrollment and fiscal impact studies should be made for any substantial mixed-use development proposal. In most cases, such studies are likely to document that the housing in mixed-use developments provides a modest net revenue contribution to the City.[2]

Creating new housing in mixed-use centers serves important City goals including creating vibrant places and increasing the availability of housing for households of all types and incomes. Fiscal benefits or impacts must be balanced with these and other City goals. Housing must be considered in balance with the potential revenue benefits of commercial development. The fiscal impact of housing should be considered on a site-by-site basis, taking into account the types of units proposed, the capacity of area schools, and expected taxable value.

Actions

- Clarify and document the City's requirements regarding development-related impact fees and exactions.

  By paying taxes new development supports City costs, including those associated with the facilities and services for which it creates need. When that need is quite location-specific, it is common to have the development causing the cost bear at least part of it through absorbing public improvement costs, monetary contribution, or some other form of participation. Massachusetts law generally does not allow impact fees or exactions. Statutory authorizations for such treatment are few and narrow, and the courts view of constitutionality has been sharply restrictive. Despite that, some Massachusetts municipalities have home rule legislation authorizing significant charges to be made. Newton's current practices in that regard result in quite substantial efforts by developers to, in effect, restore net capacity of certain infrastructure to what it was without that development. The Commonwealth does the same through the MEPA process for certain

[2] Page 10-9 of this *Comprehensive Plan* contains a one-page summary of the basis for that expectation, which also is supported by evidence from impact assessments done for past proposals and in some cases the careful monitoring of the accuracy of those analyses.

costs, importantly highway transportation. However some cost generators, notably school impacts, have not been treated in that way. In short, Newton could do more, but only within limits.

If the City establishes impact fee requirements at some point in the future, such fees should apply to all new large-scale development and not uniquely to mixed-use development. A fee applied only to mixed-use development would discourage new mixed-use development.

Quite apart from what the City does or does not do about mixed-use development, the City should set out clear and reasonable expectations about the fiscal mitigation it expects *before* it considers large developments. What share of the costs of mitigating various off-site impacts will developers be expected to carry, and what share will they not?

While at some level case-by-case *ad hoc* negotiation in such developments is helpful and inevitable for very large singular developments, but it may not be efficient or equitable for either the City or developers. The City should at least document its expectations in one place so that developers know how to translate our values into project costs without surprise, and so that community residents can know what can or cannot equitably be asked of new development.

- Develop modeling and procedures to facilitate early collaborative City/developer/ community projections of the fiscal impacts of the proposed development upon the City. This step would serve to integrate other collaborative efforts that have been called for above, including traffic analyses, school impact analyses, and others.

  Fiscal consequences are properly a significant consideration regarding major development, whether mixed-use or not. It is standard practice to model fiscal impacts for large developments. However, such projections typically lack credibility among those who oppose the project unless community members are themselves involved in creating the projections. Newton should create a system that gives all parties a hand in the analysis, sharing the effort, and hopefully sharing confidence in the outcome. The City should specify the scoping requirements, prepare the mathematical/metric models to be used and assist, but not dominate, the execution. The developers and interested community members would help in utilization of the modeling by gathering information and critiquing its use.

- Make efforts to use mixed-use development as a means of improving the local job-gaining likelihood of persons for whom our housing efforts are trying to make Newton a welcoming community. If resources for doing so can be found, such an effort would be highly supportive of the policy intent of supporting socio-economic diversity in Newton which now is being implemented almost exclusively through support for below-market housing.

7. MIXED-USE GUIDANCE PROCESS

Background

Mixed-use centers can already be created under the City's existing zoning, and there is every reason to expect that upon their completion such developments will be of benefit for the City. This amendment to the *Newton Comprehensive Plan* is intended to make the City's intentions about such developments clearer, to encourage the creation of such developments, and to guide both applicants and those responding to their proposals.

However, resting on existing rules and the *Comprehensive Plan* alone for mixed-use developments would fall short of what can be accomplished using the process refinements suggested in this Element of the *Plan*. The likelihood of developers choosing mixed-use development and the City gaining its benefits will be greatly enhanced by the City taking actions to improve both the regulatory framework for such development and the context for how City agencies and staff, those doing development, affected neighborhoods and other affected interests relate to each other in the consideration and approval of such proposals.

Vision

Future mixed-use development should have specific guidance either from a participatory planning process organized by the City and a neighborhood group or from a collaboration among the City, the community, and the developer in response to a specific initial proposal by the developer. Publicly accessible models would be employed to predict and evaluate potential community impacts. Necessary permitting and, if required, adoption of zoning map and/or text amendments would follow those planning and assessing efforts. The entire approach should incorporate a clear collaborative process that gives a structured voice to the community.

Newton City government is rich in data, both historic and current. The City is rich among its population as well as among its (busy) staff in expertise on how to utilize those data resources to produce helpful estimates and projections. So, too, are the developers of major projects and their consultants. It would be helpful to organize a way of using all of those resources in a well-structured way early in the evolution of development proposals. That could support informed understanding of what can be agreed upon regarding the range within which impacts of development are likely to lie, not only for traffic but also for a range of equally important topics in other areas of concern, such as design, schools, and taxes; and not only agreement among technicians, but also including members of the public.

In the past, well-informed dialog about impacts has largely focused on traffic impacts and involved consultants to the developer, City staff, consultants to the City, and MassDOT engineers. The results of these discussions have often not been persuasive for many of the parties that have been concerned about such developments. As a result, for example, there may be no public agreement on the likely scale of traffic impacts or even a range of impacts, let alone agreement on appropriate mitigations.

The need for project-specific relief is no surprise, given the large scale of the developments proposed and the history of the City's regulatory processes in which zoning rules and action on

special permits relying on such change are often taken in tandem. It is perfectly reasonable for Aldermen to want to have a specific example of what a regulatory change would entail before adopting it. That is how the B-4 district and many other provisions have been created or revised.

Actions

- Develop modeling and procedures to facilitate early collaborative City/developer/ community efforts to create objective projections of the likely impacts of large-scale development upon the vicinity and the City at large. The preceding sections describe several areas for the creation of impact measurements and "yellow-flag" thresholds.

- Develop a way to organize the data that the City carefully collects, and employ this data to reduce conflict in the shaping of new development, ultimately reducing costs for all parties and reducing the time needed to reach decisions.

- Adopt amendments to the existing zoning that will improve the process for approval of such developments so that they can work better for applicants, for the affected vicinities and interests, and for the City. In crafting this zoning, recognize that different zoning strategies may be necessary for different sites. Revisions to our Planned Mixed Business Development (PMBD) provisions would build on what already exists, enabling relatively prompt adoption of change. Other alternatives would include a wholly new "planned development" approach, or revisions to existing Business and Mixed-Use district zoning.

  It is critically important that the chosen approach separates the provisions that are intended to apply to all mixed use center proposals from those provisions that quite reasonably should differ from location to location, thus assuring uniformity in the process of review and approval and in certain substantive rules, such as basic locational ones, while allowing there to be differences in the other substantive requirements in response to differences in location and project nature. Site-specific rules regarding an approved concept plan and a set of unique use, dimensional, and parking requirements would be recorded in the aldermen's approval documents, not in the text of the Ordinance.

  That approach reflects the reality of how these decisions really get made, and it facilitates shaping unique solutions for these rare but widely consequential proposals to the context of unique sites, and not limiting solutions to zoning rules created for a different location.

- Consider the potential applicability of much of the guidance of this Element for developments that are smaller in scale than the very large ones for which this material has been developed, and for our existing village centers in which the mix of uses is on separate lots developed not at once, but rather, over many decades. Good regulation for large-scale mixed-residential/commercial developments will contain a number of provisions that would be inappropriate in those other contexts, most obviously the insistence upon integration of a residential presence, as well as a number of other provisions that flow from that. However, many of the provisions in this Element would be perfectly appropriate in many other contexts. Where applicable, the potential benefits of this effort for those other kinds of circumstances deserve to be pursued.

Department of Planning and Development

WORKING SESSION OF THE ZONING AND PLANNING COMMITTEE, SEPTEMBER 12, 2011

MIXED-USE CENTERS ELEMENT

#26-11(2), PLANNING AND DEVELOPMENT BOARD SUBMITTING IN ACCORDANCE WITH SECTION 7-2 OF THE CITY CHARTER AN AMENDMENT TO THE 2007 NEWTON COMPREHENSIVE PLAN TO CREATE A NEW MIXED USE CENTERS ELEMENT TO BE NUMBERED SECTION 3.A IN THE COMPREHENSIVE PLAN AND TO INCLUDE A VISION AND GUIDANCE FOR THE DEVELOPMENT OR REDEVELOPMENT OF LARGE MIXED-USE CENTERS.

The Mixed-Use Centers Element

- Amendment to the *Comprehensive Plan*
- New mixed-use centers should be encouraged to:
  - Enhance the City
  - Accommodate modest growth
  - Reflect the positive qualities of village centers
- The Element:
  - Vision for development of mixed-use centers
  - Recommends changes to Zoning Ordinance and approval process to support vision
- Previous Working Sessions on June 27 and July 12
- Public Hearing date: September 26

Mixed-Use Centers Element

Major Questions

- To what sites does the element apply?
- Where does the site-specific vision come from?
- How would the Element's goals be implemented?
- How would impact metrics be used and who would create them?

Mixed-Use Centers Element

To what site does the Element apply?

- Large sites
- Generally over 250,000 square feet of gross floor area
- Near existing commercial and residential land uses and transportation infrastructure
- Intended to complement rather than replace existing residential neighborhoods

Mixed-Use Centers Element

Where does the site-specific vision come from?

- Sites are unique
- Site-specific vision from developer is common for smaller sites
- For multiple properties, joint effort with City, owners and neighbors
- Generally, a collaborative process

Mixed-Use Centers Element

How would the Element's goals be implemented?

- General steps:
  - Zoning revisions
  - Creation of impact models and metrics
  - Expanded collaborative process for project review
- Range of approaches are possible
  - Base zoning districts
  - Performance-based PMBD
  - Tools appropriate to each unique site
  - Docket preferred implementation initiatives

How would impact metrics be used and who would create them?

- Use models of specific impacts to guide project design, review, and mitigation
  - Traffic, schools, design, and fiscal impacts
- Yellow flags, not red flags
  - Additional attention needed
    - Design
    - Community engagement
- City staff to create impact metrics/models
- Metrics/models would be employed in reviewing development proposals

Mixed-Use Centers Element

General Revisions

- Removed references to current projects or recent approvals
  - Plan should provide guidance for years to come, not dated
  - We can predict some sites, but not all
  - Some existing sites may turn over (Chestnut Hill Shopping Center, e.g.)
- Suggested intro to "Vision" section (3A-3): *"The following qualities are highly valued for mixed-use sites. Although they may not all be achievable on a given site, each should be carefully considered for its potential to achieve the vision described."*