



Ruthanne Fuller
Mayor

Barney Heath
Director
Planning & Development

Rachel Powers
CD Program Manager
Planning & Development

Members

Peter Doeringer, Vice Chair
Kelley Brown, Member
Sudha Maheshwari, Member
Jennifer Molinsky, Member
Sonia Parisca, Member
Chris Steele, Member
Barney Heath, *ex officio*
Kevin McCormick, Alternate
James Robertson, Alternate

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CITY OF NEWTON

Planning and Development Board

AGENDA

DATE: **Monday, August 6, 2018**
TIME: **7:00 p.m.**
PLACE: **Newton City Hall, Room 204**

1. **Approve Minutes from July 9, 2018**
2. **Briefings:**
 - a. **Zoning Redesign**
 - b. **Inclusionary Zoning**
 - c. **Economic Development Action Plan**
 - d. **Marijuana Establishment Zoning**
 - e. **Washington Street Vision Plan**
3. **Officer Elections**
4. **Designation of Community Preservation Committee Representative**
5. **Board Training**
6. **Fall Schedule**
7. **Next Meeting:**
 - **Monday, September 17, 2018 at 7:00 p.m., Monthly Planning & Development Board Meeting (CAPER Presentation)**
 - **Monday, September 24, 2018 at 7:00 p.m. in Room 205, Joint ZAP/ Planning & Development Board Hearing**

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec. 504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

PLANNING & DEVELOPMENT BOARD MEETING MINUTES

July 9, 2018



Ruthanne Fuller
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Full Members Present:

Peter Doeringer, Vice Chair
Kelley Brown, Member
Sudha Maheshwari, Member
Jennifer Molinsky, Member
Sonia Parisca, Member
Chris Steele, Member
Kevin McCormick, Alternate
Barney Heath, *Ex Officio*

Staff Present:

Rachel Powers, Community Development Programs Manager
Louis Taverna, City Engineer
John Daghljan, Associate City Engineer

1. **Minutes from the Planning and Development Board Meeting held on June 4, 2018**
2. **Board of Survey/Vote: Farewell Street- VTP Associates**
3. **Discussion/Possible Vote: #185-18 Discussion and Adoption of Needham Street Vision Plan**
4. **Updates for Discussion:**
 - **Washington Street Vision Plan**
 - **Zoning Redesign**
 - **Inclusionary Zoning**
 - **Proposed Marijuana Zoning**
 - **Economic Development Strategy Draft**
 - **Anticipated Development Projects**
 - **236 Auburn Street Affordable Housing**
5. **Next Meetings**

1. **Action Item: Approval of Minutes of June 4, 2018 meeting**

Vice Chair Doeringer opened the meeting at 7:34 p.m. The motion was made by Ms. Molinsky and Seconded by Dir. Heath and approved 2-0-4, as amended, with Vice Chair Doeringer, Ms. Maheshwari, Mr. McCormick, and Mr. Brown abstaining, to approve the minutes of June 4, 2018.

2. **Board of Survey/Public Hearing: Farewell Street- VTP Associates**

Roll Call (ALL MEMBERS): Upon a motion by Mr. Brown and Ms. Parisca and passed 7-0-0, the Board of Survey was opened (7:42 pm).

Vice Chair Doeringer reconstructed the recent history of the Farewell Street project. MWRA approval was still needed as of the last Board of Survey (BOS) meeting, but an approval with restrictions has since been granted and received as of July 9th meeting. He also reiterated the debate between "Country Drainage" versus "Catch Basin Drainage" for managing storm water runoff. In reviewing the June 4th meeting minutes, Vice Chair Doeringer noted DPW's recommendation of hydraulic drainage.

City Engineer, Mr. Taverna, clarified that DPW recommended a hydraulic analysis of drainage; a mathematical calculation for where the storm water would go. However, DPW will issue a recommendation for a drainage mechanism. Finally, Vice Chair Doeringer restated concerns relative to the proposed hammerhead, unrestricted parking and the road width and narrowness. Mr. Taverna indicated that engineering would address this tonight. Vice Chair Doeringer also inquired if there was a final list of waivers and progress in the handling of the HOA.

Mr. Steele arrived during this point in the discussion.

Mr. Taverna reintroduced Associate Engineer Mr. Daghlian to address neighborhood and Board concerns. For new members, he provided a quick synopsis of the project and briefly addressed the project waivers. He further noted that the proponents are working with the Law Department on the HOA issues to address concerns with parking enforcement. The proponents will need permission to expand the water main. The main will need to be taken as a public easement to be owned by the City. He noted an appeal that was heard several weeks ago heard by Conservation Agent Jennifer Steele. Staff is awaiting further conditions. Otherwise, Mr. Daghlian indicated the plan was ready for a vote this evening; he also mentioned that the proponent will need to obtain a performance bond to ensure work is completed in a timely period and described the 20-day BOS appeal period.

Mr. Taverna's staff met with Ms. Steele and the proponent to resolve (country) drainage, requested waivers, the roadway, street lighting, sidewalks and are ready to recommend approval. The waivers are outlined in members' plans and will be referenced in the final memo.

Vice Chair Doeringer recognized several lingering issues with respect to the project's controversial elements. Mr. Taverna noted that the project involved a lot of compromise between the Engineering and Conversation Commission. The narrowness of the roadway was one such compromise to ensure plenty of greenspace and drive-ability. City engineering staff does not anticipate a parking issue and discussed maneuverability of emergency personnel and vehicle traffic.

Ms. Molinsky tried to clarify the Board's role as the BOS, the compromise with the Conservation Commission and whether additional compromises could be made. Mr. Taverna indicated that compromise is essential in implementing a project. Any further changes would need to be revised in an amended Order of Conditions.

Vice Chair Doeringer acknowledged remaining issues relative to road width and drainage arrangements, which were thought to still be in consideration by the Conservation Commission; the Board felt that the roadway should be wider. DPW is in agreement with Conservation Commission's project conditions, since this was a private way. Mr. Taverna highlighted other such examples, such as Ivy Drive and Kessler Way. Environmental sensitivity was paid to the Charles River, adjacent to the Farewell Street parcel, and the reduction of impervious pavement. DPW is now comfortable with Conservation Commission's rationale.

Mr. Steele pointed to concerns related to environmental design and whether there is an ongoing dialogue to address adapting conservation processes. Mr. Taverna confirmed that regular collaboration and discussion around environmentally sound designs and engineering is ongoing amongst the Planning and Public Works Departments. Modern standards have shifted. Redesigns of public ways, such as those planned in Newtonville and West Newton, are very different and involve extensive collaboration with Planning. Mr. Steele explained that it would be helpful to remain in the loop on such dialogue.

Following up on Mr. Steele's comments, Vice Chair Doeringer noted discomfort about approving substandard design and roadway conditions, even in instances of compromise and precedence. The City should be using 21st century standards. He lives in an area with many of the problems the Farewell

neighborhood has discussed. A strong HOA doc might alleviate many of their worries. Vice Chair Doeringer would feel comfortable moving forward with a vote once that HOA document has been finalized and feels the Board should have the opportunity to review how the HOA doc will address some of these concerns.

Dir. Heath would like to identify the problem the Board is looking to resolve first and see if this will be solved through the coming agreements. If the issue is parking in conjunction with use by emergency vehicles, offer a condition that addresses the issue. Mr. Taverna further explained that it is the buyers that will need to live with enforcement enabled through the HOA. Similar subdivisions deal with this regularly, and while the HOA can be strengthened, enforcement is managed by the homeowners. He agrees with itemized conditions. On the second issue, relative to drainage, Mr. Taverna explained that country drainage would work; hydraulic calculations confirm this. Country drainage is a newer, more natural way of thinking and represents an alternate drainage design. Mr. Daghlian added that a robust maintenance plan has been developed indicating when the system will need to be cleaned and/or maintained. This will need to be spelled out and implemented out in accordance with the HOA docs.

Vice Chair Doeringer is primarily worried about the enforcement of parking and common area restrictions. Often, common areas are allowed to deteriorate; the stronger the HOA document is, the less of an issue this becomes. Mr. Taverna assured the Board that City will plow any snow and that there is plenty of area with which to catch snow. The Board's option is to either vote or defer until HOA plan is developed. The Board seeks to ensure that they've armed the homeowners appropriately. Mr. Taverna and team will work hand in hand with the Law Department to ensure strong HOA documents are created.

Mr. McCormick inquired about the introduction of penalties. Mr. Taverna deferred to the Law Department on such matters. Ms. Molinsky further wondered if the City would have to penalize the HOA over issues that arise. The HOA could seek legal contract enforcement through civil procedures. Vice Chair Doeringer continued to drill down how important this document is and further inquired about the implications of a penalty provision. The HOA provision would act as the voice for the homeowners. Mr. Taverna assured that these concerns would be addressed.

Related to concerns about the road degrading, Ms. Molinsky asked if there would be a curb installed. Staff indicated that the curb was part of the proponent's waivers and explained you wouldn't want a curb due to the recommended country drainage. Mr. Brown asked about the operations and maintenance plan; pesticides are discussed and applied but forbidden in the conservation ordinance. Conservation Commission should revise the order of conditions in order to be consistent with the ordinance. He also asked if there were existing catch basins. Mr. Taverna and John noted they were in driveways, along with water quality separators.

Vice Chair Doeringer entertained approving the proposed plan subject to Board's conditions or defer vote until the HOA plan has been developed. Mr. Taverna believes it's in the best interest of the project to move forward based on the technical work that have been completed. Vice Chair Doeringer pressed the importance of getting the Law Department's input. Dir. Heath also acknowledged the proponent's cooperation and willingness to meet all Board's requirements and recommendations. He has been a willing participant throughout. Dir. Heath would hate to see the project held up due to concerns over language in the HOA documents. The onus is on the Law Department to write a strongly worded agreement.

Mr. Brown asked for clarification on a condition which states that when obtaining the Certificate of Occupancy prior to all site work being completed, the proponent would need to post bond/bank check, but also says that all site work must be completed prior to a Certificate of Occupancy being issued. Mr. Taverna explained that partial elements are implemented at various times. This provision is a way to

ensure completion of the roadway but allow the proponent to sell homes as they are finalized. This condition may need to be reworked in the final document for clarity.

Mr. Brown also addressed the matter of completing utilities; the roadway must be built and all utilities in place before the proponent can obtain building permit and construct the house. Mr. Daghlian indicated they want to ensure that the site is stabilized before construction. This has been required of all subdivisions over the course of past 10 years. Proponent Mr. Vona discussed some of the moving parts around this project and in satisfying Conservation Commission's required mitigation. No C.O. is issued until project is in complete compliance; the Order of Conditions holds everything in place.

Ms. Molinsky asked why the Health Department was involved in the review process. Mr. Taverna stated that other subdivisions, particularly those with environmental issues, have needed the Health Commissioner's expertise. Their review is referred to in the rules and regulations.

Upon a motion by Vice Chair Doeringer, seconded by Mr. Steele, and approved 6-0-1, with Dir. Heath abstaining, the Board of Survey moved to approve the subdivision plan agreed to by the developer and Engineering Division of the Department of Public Works, subject to final approval of completion of the Home Owners' Association documents.

Mr. Taverna indicated that Mylar drawings will be available in Engineering and will communicate with Rachel when they are ready for signature. Otherwise, they can be signed at the next Planning and Development Board meeting. HOA docs are being reviewed by the Law Department and will be circulated to the Board. There is a 20-day BOS appeal period. After 20 days, the HOA document will be circulated to members, rather than holding an additional hearing/meeting. Signing drawings will be indicative of approval of subdivision and HOA.

Upon a motion by Ms. Molinsky, seconded by Ms. Maheshwari, the motion to adjourn the Board of Survey was passed 7-0-0. (8:28pm)

3. Discussion: #185-18 Discussion and Adoption of Needham Street Vision Plan/ Possible Vote

Vice Chair Doeringer moved forward with discussion on the Needham Street Vision Plan. Dir. Heath indicated that all members were forwarded a copy of the Vision Plan, which has been presented at several ZAP meetings. If passed, the Plan would be an amendment to the City's Comprehensive Plan. Such plans have also been created for Newtonville and Wells Ave. This initiative represents an extensive undertaking and more than 6 months' worth of work, involving public engagement and a committee composed of more than 20 members.

Dir. Heath provided a synopsis of the effort and various topics covered. Feedback from those meetings have been taken into consideration in developing the Plan. The Plan represents sound recommendations to guide future policy. Ms. Parisca, who represented the Planning and Development Board, noted the stakeholders' commitment, the process and topics covered, including open space, sustainability, street work, bike lanes. She feels it is a good start to master plan for the area and recommends the Board's adoption of the Vision Plan.

Ms. Parisca Made the motion to approve the plan, with Mr. Steele seconding.

Upon further discussion, Ms. Molinsky spoke to the efforts' positive outcomes, having served as a city planner. Dir. Heath also recognized the work by staff, in particular Rachel Nadkarni, who worked so hard to pull together the document. Vice Chair Doeringer asked for clarification on how this plan gets incorporated into the Comprehensive Plan and whether this will be an appendix?

Dir. Heath explained that while the Comprehensive Plan is dated and general, this effort provides a zoomed-in approach that offers focused attention on a specific area; it's a guidebook for the special permitting process, as well as a guide for public improvements. The Plan represents a priority listing of improvements and desired outcomes for area. The Mayor is a strong believer in comprehensive vision planning and engaging in such efforts with other projects. Dir. Heath foresees this being the utilized approach moving forward.

Ms. Maheshwari asked for information on one upcoming redevelopment project, the Northland Redevelopment. Dir. Heath informed the Board that the developers will be coming forward with a plan in September. The Needham Street Vision Plan document will be helpful in guiding those discussions.

Mr. Brown noted an error in the Plan's introduction, which will be corrected prior to presenting to the City Council. ZAP is taking up the matter Monday evening and may vote then or take up the matter at subsequent date. The Board's recommendation will be forwarded to the Council.

Ms. Molinsky was struck by the area's history as the first suburban business park and would like to see this commemorated. Dir. Heath referred to prior discussions around this and the interest to recognize the park's history. Vice Chair Doeringer spoke to the Plan's Mission Statement which updates by living example by way of a "forward" that anticipates these visions being part of comprehensive planning processes. Dir. Heath concurred, acknowledging that this plan represents a snapshot in time. Mr. Brown wanted clarification as to how this fits into the larger picture. Ms. Maheshwari asked when the next Comprehensive Plan was planned. Dir. Heath indicated that this is being addressed piece-by-piece, as individual elements are updated separately (i.e. the Economic Development Strategy); Some sections don't change over time, while others change more frequently.

Mr. McCormick inquired about previous amendments to the Comprehensive Plan. Vice Chair Doeringer clarified whether this adoption would be an amendment or supplement? Dir. Heath confirmed the Plan would serve as an amendment.

The motion to accept the Needham Street Vision Plan was passed 6-0-1, with Dir. Heath abstaining.

4. Updates for Discussion:

a. Washington Street Vision Plan

Dir. Heath noted it was a big week for the Washington Street Visioning Plan. There was a lot of public participation and 3 main public efforts. Information is currently being compiled. The Principal Group will present a summary at ZAP to be shared with the Planning and Development Board. There will be subsequent public hearings and an open house that is planned for October 29th to review the first draft.

b. Zoning Redesign-

Dir. Heath indicated that Zoning Redesign is also full speed ahead, outlining the timeline for changes to the zoning ordinance. A complete draft ordinance is anticipated to be presented to ZAP October 22nd. The Planning and Development Department is finishing the map and proposed districts. Deputy Director James Freas will present at future Board meetings.

c. Inclusionary Zoning-

Inclusionary Zoning had a separate track apart of changes to the form-based code aspect of the zoning ordinance. Recommendations were compiled at the end of last

year. The City then hired consultant RKG to review proposed changes to ensure the ordinance's viability and future development. The Department is taking into account their suggestions and is in the process of revisiting the original proposal. They are seeking to develop a feasible policy to ensure continued creation of affordable housing. Planning will be presenting at ZAP Monday. The information will be presented to the Board at a later point in time.

Vice Chair Doeringer would like to see how developer approaches the costs of developing housing.

d. Recreational Marijuana-

Dir. Heath indicated that draft maps have been prepared outlining 8 zoning locations fitting various marijuana establishments, including cultivation, retail, testing and manufacturing.

Vice Chair Doeringer commented that how constraints were portrayed was excellent. The likely track is that discussion will move on to ZAP this month, with public hearings anticipated in September and October.

Once retail establishment is established, Mr. Brown inquired if we needed medical facilities. Dir. Heath indicated that more clarification is needed on this. Garden Remedies is an existing medical facility; they were exempted from the moratorium. Mr. Brown asked if the referendum moves forward, will the ordinance and zoning efforts essentially be put on hold. Dir. Heath still intends to have a draft by the end of summer.

e. Economic Development Strategy-

Dir. Heath reminded the Board that the Economic Development Strategy is being updated. Camoin Associates were hired to assist in the process and have held 3 public meetings. The EDC is leading these efforts. A draft strategy was released about a month ago. Comments are being incorporated into the next draft. Planning is scheduled to go present to ZAP later in July. The memo and strategy will be circulated to Board. Dir. Heath indicated the strategy will largely involve city action steps. Economic Development Director Kathryn Ellis can come in to present further on strategy at a later meeting.

f. Anticipated Development Projects-

Dir. Heath indicated that several big projects are underway, including the Northland Redevelopment and Riverside; both require rezoning. Dir. Heath inquired if the Board wanted to move forward with a subcommittee, which was the approach taken with several such projects in the past. Vice Chair Doeringer provided some context with how the "subcommittee" mechanism came to be; it was designed to economize Board proceedings. Efforts involve representing the Board at Land-Use/Zoning and Planning Council Meetings, while reporting back to Board and representing Board interests. This seemed to be a pragmatic practice. There is a larger public turn out at City Council public hearings and can influence decisions.

g. 236 Auburn Street-

Ms. Powers provided a brief overview of CAN-DO's acquisition of this property and the funding process. The project is leveraging CDBG, HOME, CPA and State FCF funding. CAN-DO/MetroWest CD received their Comprehensive Permit and closed on their CDBG, HOME and CPA funding in April. The Housing and Community Development Division hosted a ground-breaking event during CD Week at 236 Auburn Street. Project specifications were recently submitted and are expected to go out to bid very shortly.

5. Reorganization Discussion/Elections-

Dir. Heath introduced the Board's rules and regulations, explaining how nominations to the Board are made and how subsequent votes are treated. The Board will need to designate a chair, vice chair and CPC designee. The vote will occur at a future meeting. The CPC designee is a volunteer assignment.

Vice Chair Doeringer expressed his interest in serving in a position. Mr. Steele observed the many new members and that we should consider institutional knowledge, time and availability. Volunteers for the CPC can contact Dir. Heath. CPC Coordinator Alice Ingerson will follow-up with information about the CPC.

6. Discussion of Starting Times-

Vice Chair Doeringer noted that there were two competing times in play: 7:30 pm for regular meetings and 7pm for joint meetings. Ms. Parisca advocated for earlier meetings. Vice Chair Doeringer also supported the idea for a potential max/cap time on meetings. The Board's consensus approved of an earlier, 7pm, start time.

7. Board Training-

Dir. Heath announced the availability of training opportunities through the Citizen Planner Training Collaborative and the variety of topics. Mr. Steele asked for information to be distributed. The CPTC can provide onsite training in creating master plans, hosting public hearings, subdivision control law, site plan review, recreational marijuana and open meeting law. Money is budgeted during FY19 for such training.

Vice Chair Doeringer recommended trying out a single topic to test out training. Additional information is to be distributed to members.

8. Next Meetings-

The next meeting is scheduled for August 6th. It is expected to be short and concise.

9. Action Item: Adjournment

Upon a motion by Mr. Steele, seconded by Ms. Molinsky, and unanimously passed 7-0-0, the meeting was adjourned at 9:21 p.m.



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Mayor

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Barney S. Heath
Director

MEMORANDUM

DATE: July 27, 2018

TO: Councilor Susan Albright, Chair
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development
Rachel Nadkarni, Chief Planner, Long Range Planning

RE: DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the Zoning Redesign Project on a draft policy content outline of the new Zoning Ordinance.

MEETING DATE: July 31, 2018

CC: City Council
Planning Board
Ouida Young, Acting City Solicitor
John Lojek, Commissioner of ISD

Planning Department staff have been working on drafting the zoning ordinance with significant progress made thus far as we prepare for the October 22nd presentation of a complete draft document. Focus thus far has been on the map and districts and staff have begun meeting with Councilors ward-by-ward in order to get feedback on the initial work. For the meeting on the 31st, staff will present the current draft map, descriptions of the proposed districts, and the upcoming schedule. Attached is the current working Table of Contents for the draft Zoning Ordinance.

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Sec. 2.1. Zoning Districts Established

[This section only temporarily placed here:]

2.1.1. Establishment

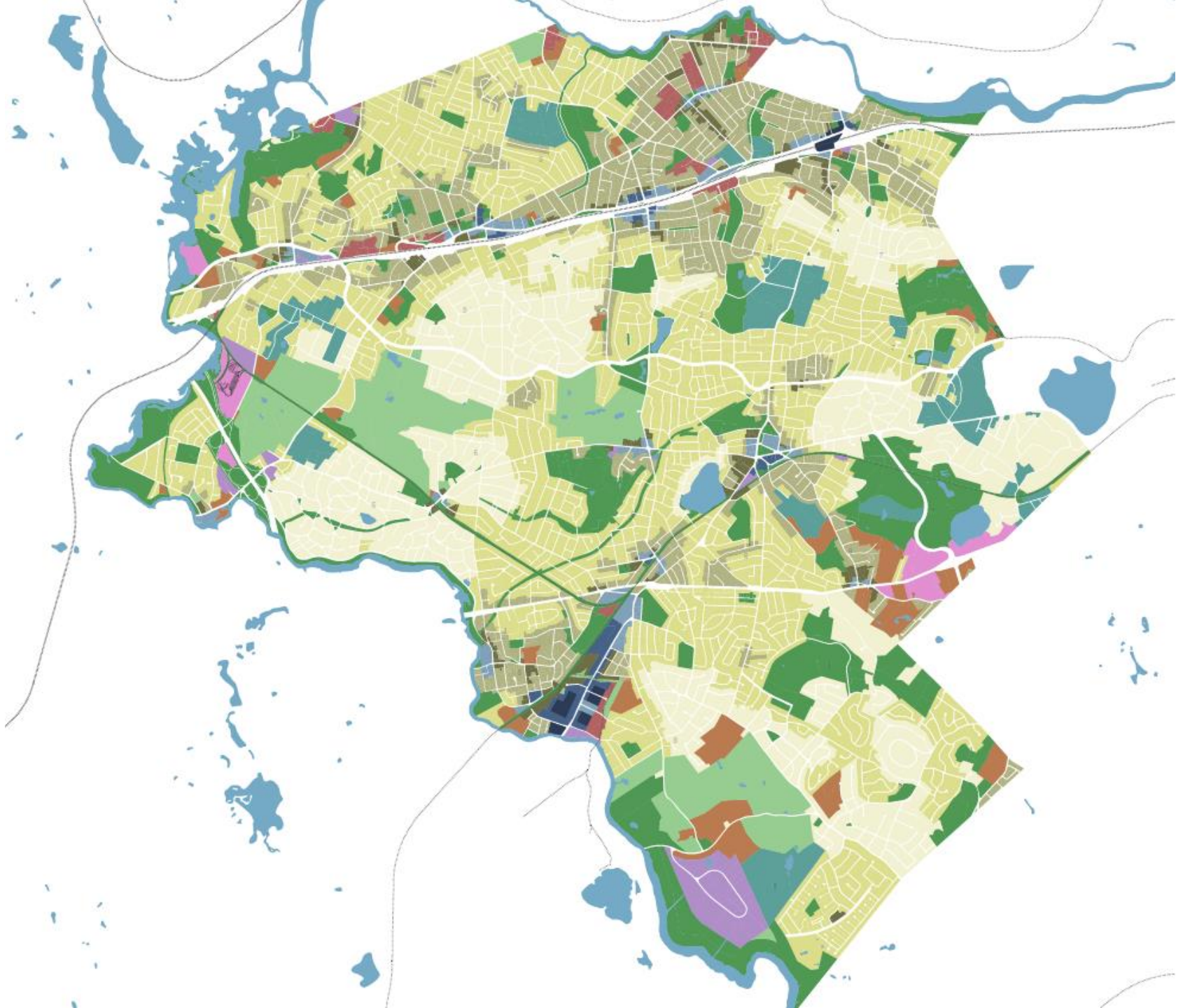
The City is hereby divided into districts, to be known respectively as follows:

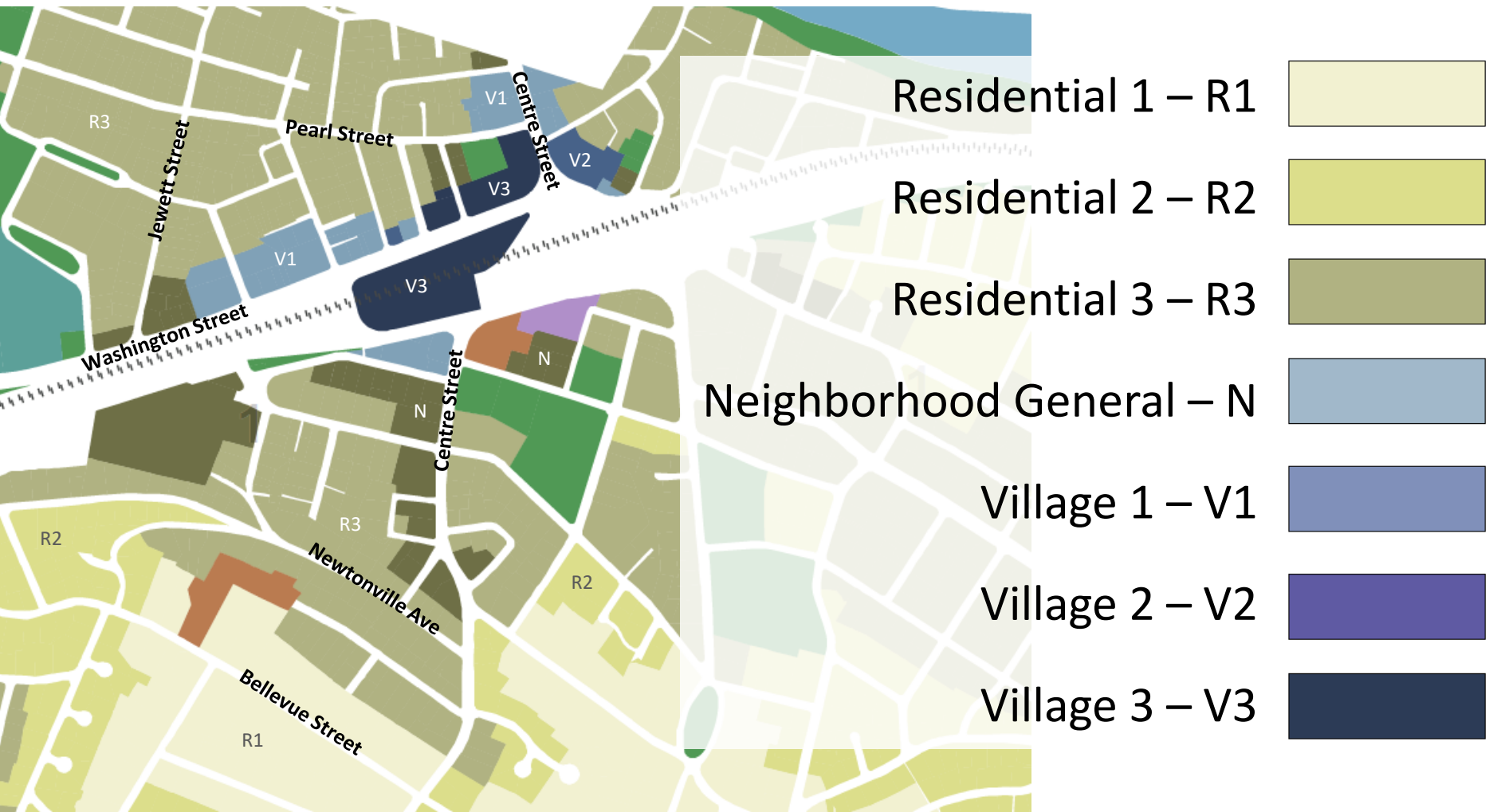
Residence Districts
Residential 1 District
Residential 2 District
Residential 3 District
Neighborhood General District
Village Districts
Village 1 District
Village 2 District
Village 3 District
Public Use & Recreation Districts
Public Use District
Recreation/Open Space District
Special Purpose Districts
Office District
Fabrication District
Regional Retail District
Multi-Family Residential District
Campus/Institutional District
Overlay Districts



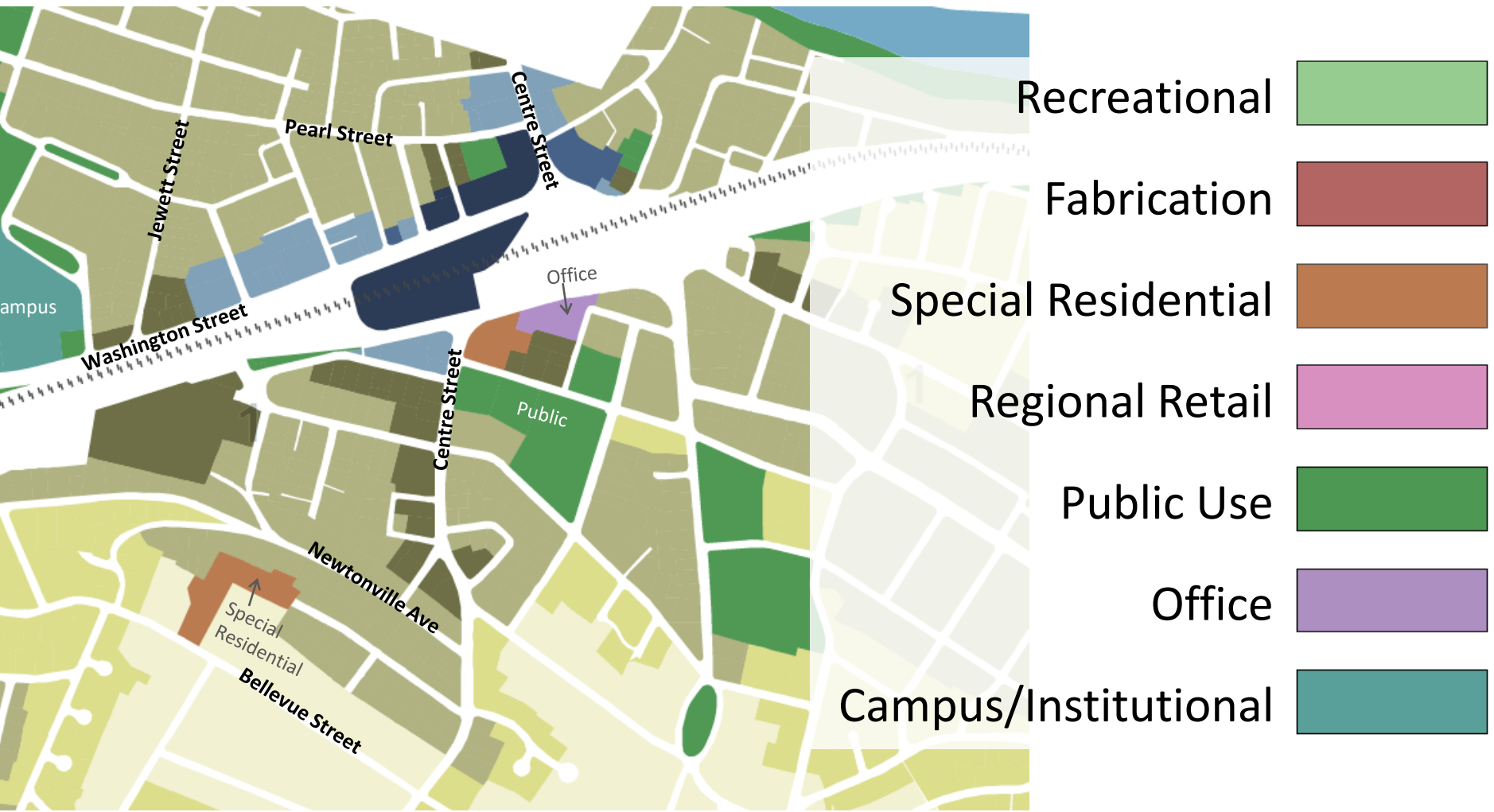
Zoning Map Draft #1

Zoning & Planning Committee
7.30.2018





The Draft #1 Zoning Map include 14 proposed zoning districts
 – 7 context based districts and 7 single purpose districts



The Draft #1 Zoning Map include 14 proposed zoning districts
 – 7 context based districts and 7 single purpose districts



The Draft #1 Zoning Map is based on current context
– visioning & master planning efforts
will be used to guide future changes

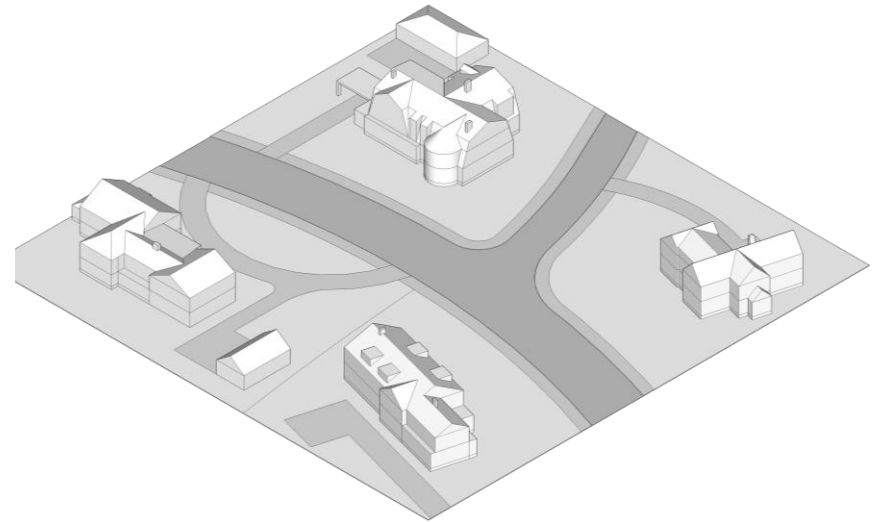


Residential 1 – R1

The Residence 1 District is composed of neighborhoods characterized by typically larger homes on larger parcels of land. These neighborhoods frequently feature architecturally distinctive homes and significant areas of landscaping and trees. Nearly entirely single unit dwellings, where other uses exist or may be proposed, it is generally in the interest of preserving the existing building stock through allowing an existing building to be converted to multiple units or the creation of a museum or other civic institution.

Building Types:

- House A (estate)
- House B (colonial/mid-size Victorian)
- House C (cape/cottage)
- House D (large ranch)
- Multi-building Court
- Civic Building (religious institution/school)



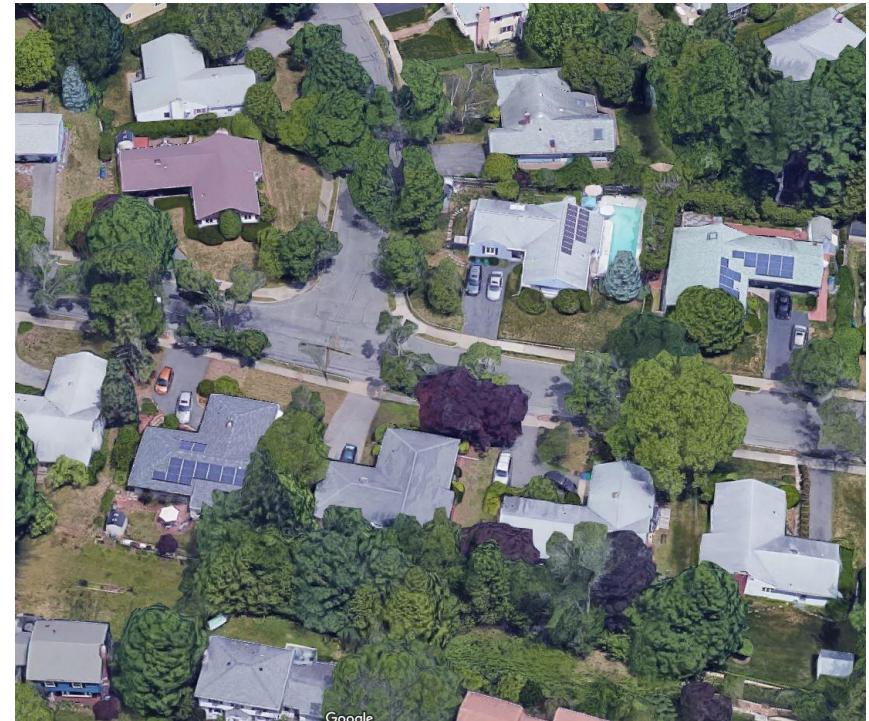
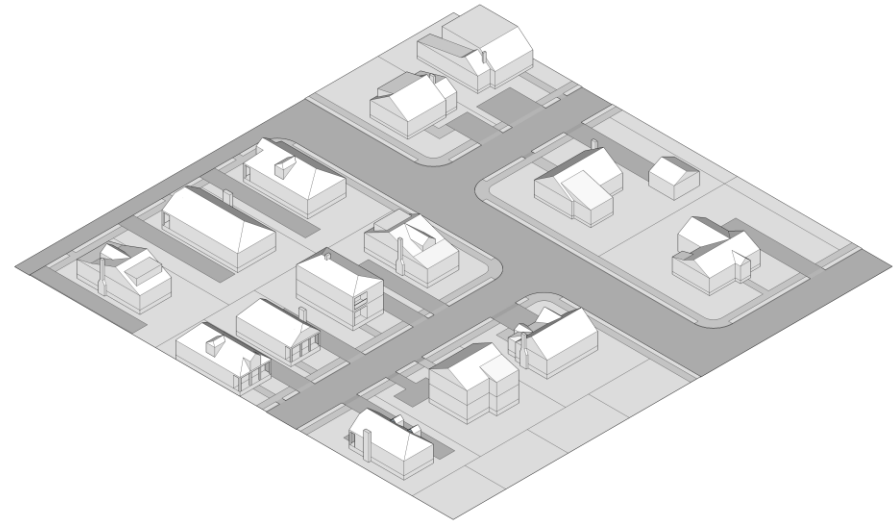
Residential 2 – R2

The Residence 2 District represents the quintessential suburban neighborhood with ample lawns and single-unit homes. Largely developed in the middle of the last century in the spaces between Newton's villages, the intent of this district is to create predictability for homeowners in what they may do with their homes and preservation of neighborhood character. In many cases these neighborhoods are remote from the walkable village centers of the City and therefore do not have nearby gathering places, shops, or services.

Building Types:

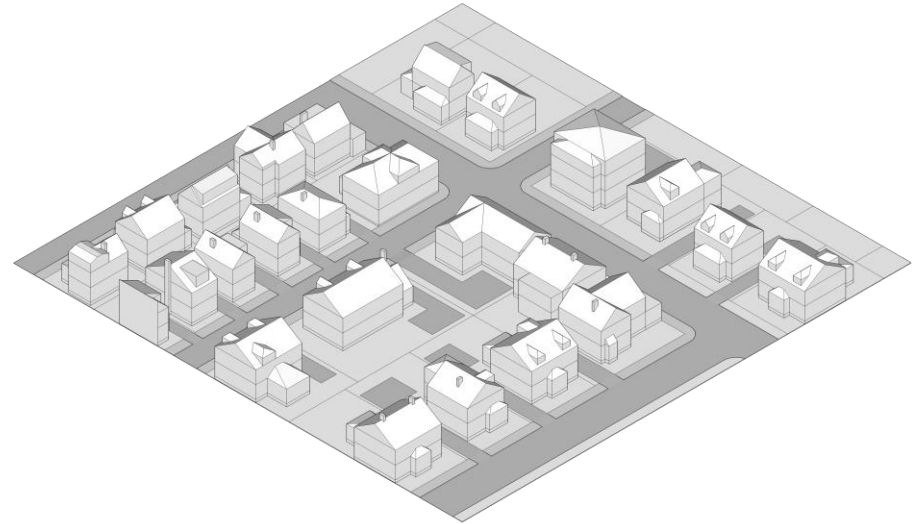
- House B (colonial/mid-size Victorian)
- House C (cape/cottage)
- House D (large ranch)

- Multi-building Court
- Civic Building (religious institution/school)



Residential 3 – R3

The Residence 3 District represents a suburban scale neighborhood composed of single, two, and three-unit homes and frequently within walking distance to transit and activity centers. The intent of this district is to preserve neighborhood character, support predictability, and to integrate homes in two and three-unit buildings.



Building Types:

- House B (colonial/mid-size Victorian)
- House C (cape/cottage)
- Duplex (2-units next to each other)
- Apartment House (triple decker)
- Small Apartment Building
- Multi-building Court
- Civic Building (religious institution/school)

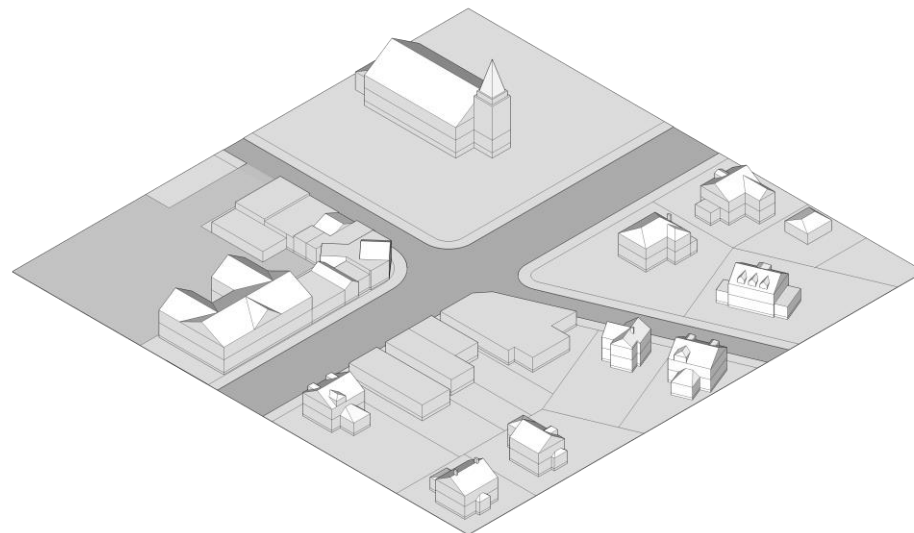


Neighborhood General - N

Within a short walk of the amenities, mixture of uses, and transit options of Newton's village centers, the Neighborhood General District serves as a transition from the villages to the neighborhoods beyond. With easy access to the above amenities, these areas are appropriate for a wider range of housing types, consistent in scale with the neighboring single and two-unit homes, including 2-4 unit buildings, cottage clusters and townhouses. The intent of this district is to offer a wider range of housing choices, including affordable housing options, in walkable neighborhoods close to transportation and to direct such housing to support the existing character of the neighborhood.

Building Types:

- House A
- House B
- House C
- Duplex
- Apartment House
- Townhouse
- Small Apartment Building
- Shophouse
- Small Multi-use Building
- Small Shop
- Multi-building Court
- Civic Building (religious institution/school)



Shophouse



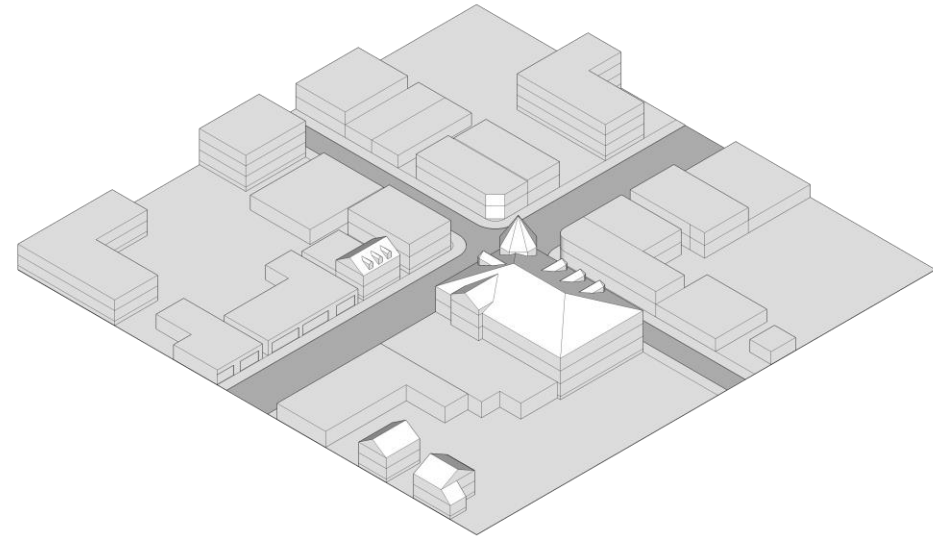
Multi-Building Court – detached single-unit residences surrounding a shared central green space

Village 1 – V1

The proposed Village 1 District represents the smallest of the village centers in Newton, exemplified by such places as Waban and Newton Highlands as well as the edges of other villages and mixed-use districts where they abut the residential neighborhoods. This district generally has a maximum height of three stories. Buildings are generally required to front directly on the sidewalks and feature active storefronts and small commercial spaces to encourage local businesses.

Building Types:

- Small Apartment Building
- Shophouse
- Small Shop
- Shop
- Small Multi-use Building
- Fabrication Building
- Civic Building

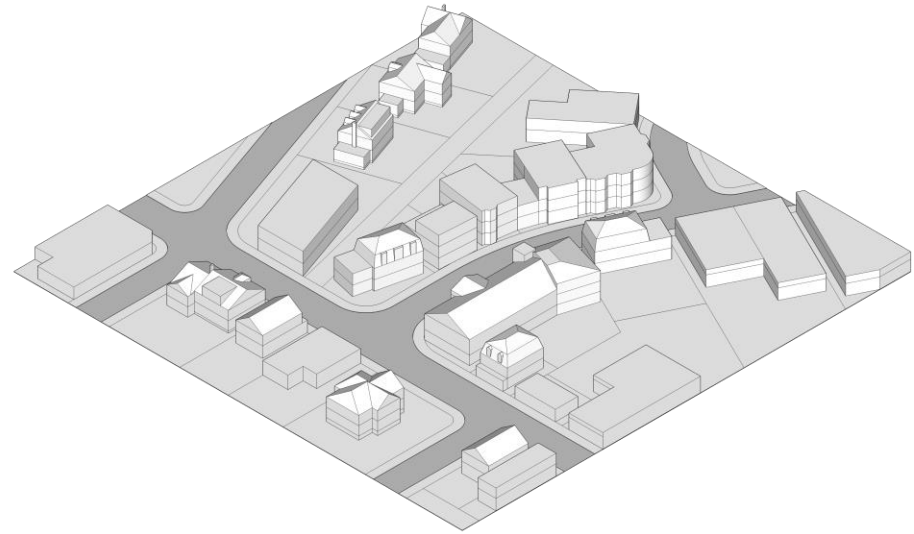


Village 2 – V2

The Village 2 District represents the core of the middle-sized villages in Newton, exemplified by the central parts of Newton Centre and West Newton. This district restricts heights to three stories. Buildings front directly on the sidewalk with active storefronts and a mixture of small and medium sized commercial spaces to promote mostly local businesses with some regional or national stores also present. The intent of this district is to feature a vibrant mixed-use village with a significant residential population, primarily local serving office space, and a shopping destination for residents of Newton and neighboring municipalities.

Building Types:

- Small Apartment Building
- Shophouse
- Small Shop
- Shop
- Small Multi-use Building
- Medium Multi-use Building
- Lab Building
- Lined Garage
- Civic Building

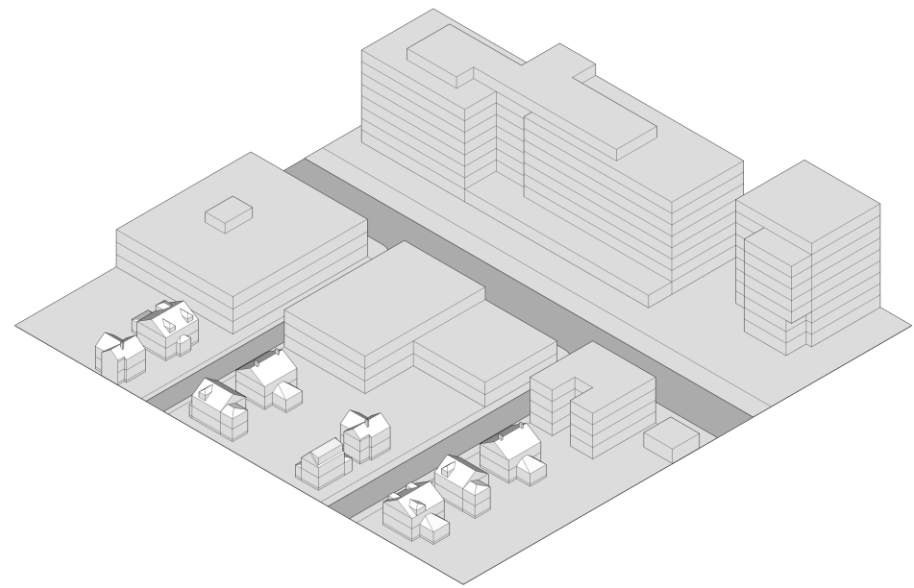


Village 3 – V3

The Village 3 District represents the core area of larger villages. Buildings are characterized by middle scale heights and front directly on the sidewalk with active storefronts with a mixture of small and medium sized commercial spaces to promote mostly local businesses with some regional or national stores also present. The intent of this district is to feature a vibrant mixed-use village with a significant residential population, office space targeted towards regional or national companies, and a shopping destination for residents of Newton and neighboring municipalities.

Building Types:

- Shophouse
- Small Shop
- Shop
- Small Multi-use Building
- Medium Multi-use Building
- Large Multi-use Building
- Tall Multi-use Building
- Lab Building
- Lined Garage
- Civic Building

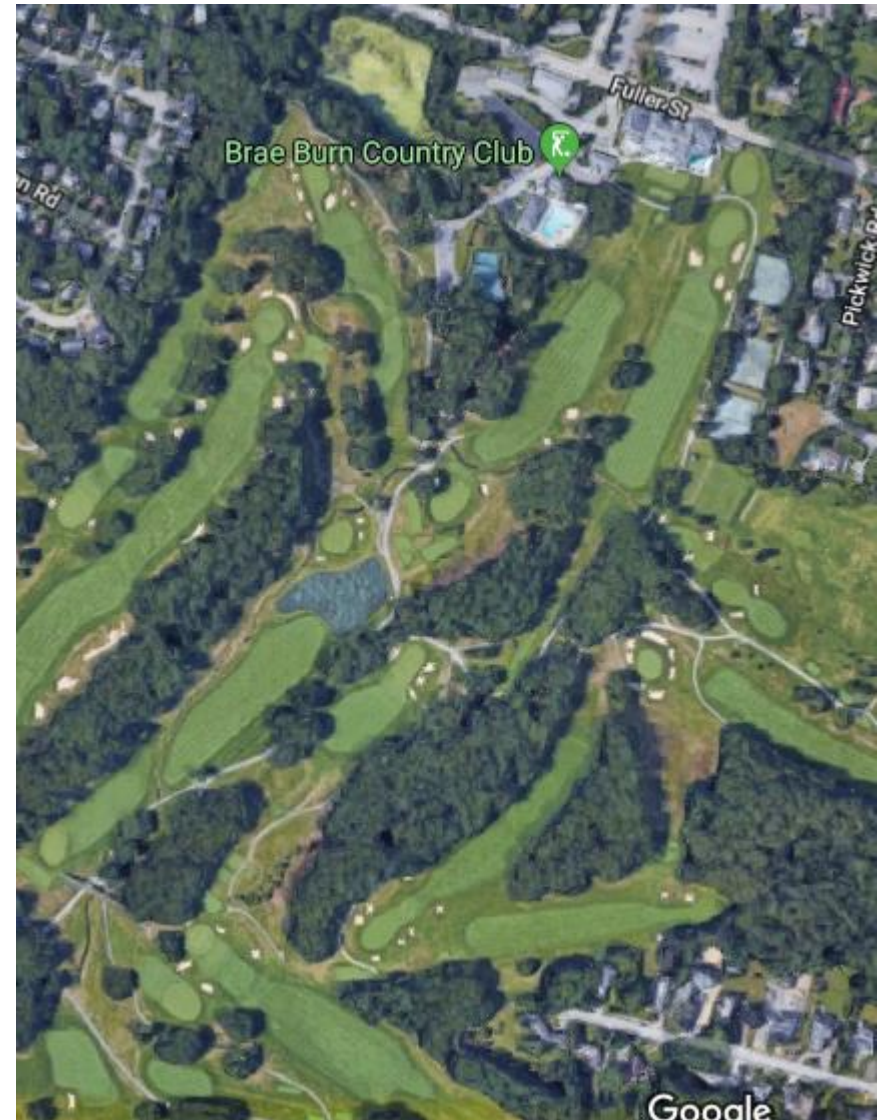


Recreation

The Recreation District represents large, privately held recreational facilities such as golf courses or tennis clubs as well as other, similar substantial and largely undeveloped parcels such as cemeteries. These parcels typically represent significant open space resources for the community at large as well as serving as a recreational resource for members of the community. Buildings in this district tend to stand-alone and not relate to the surrounding neighborhood or village context.

Uses:

- Agriculture
- Arts & Creative Enterprise
- Cemetery
- Community Center
- Museum
- Private Club or Large
(e.g. Golf Course or Tennis Club)
- Public Service

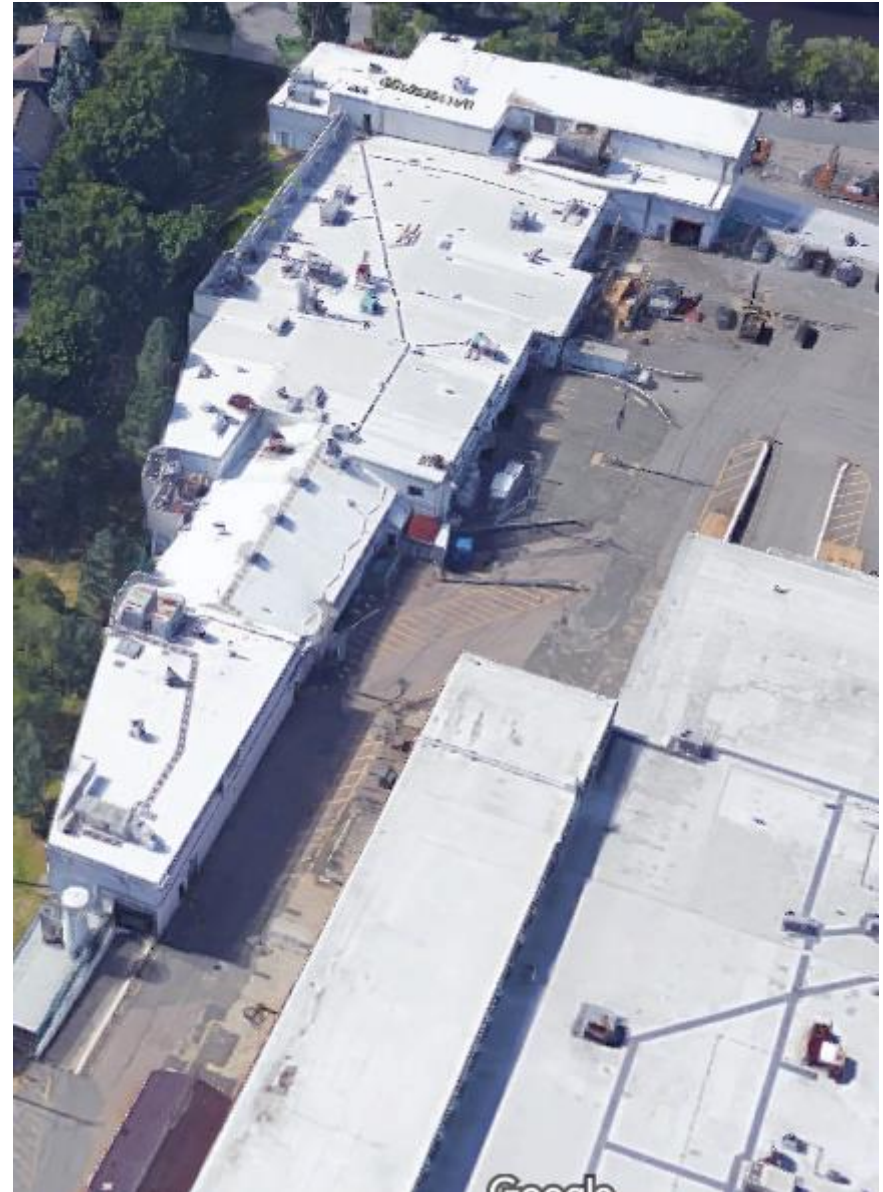


Fabrication

The Fabrication District represents Newton's manufacturing, light industrial, and maker/builder spaces. This district is composed of buildings where things get made and for uses that require storage space. The uses in this district can generate noise, odors, and other environmental conditions that must be mitigated.

Building Types:

- Fabrication Building
- General Commercial Building

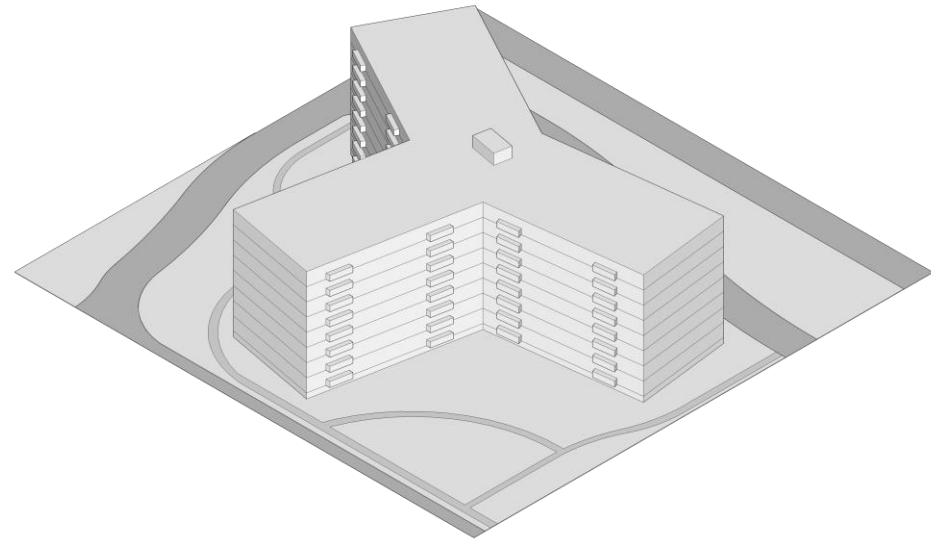


Special Residential

The Special Residential District is composed of large scale multi-unit development projects configured as either one large building or as multiple townhouse style buildings. The defining characteristic is that the development project is isolated from surrounding neighborhoods through vegetated buffers and/or parking lots. These projects do not typically reflect the surrounding building character.

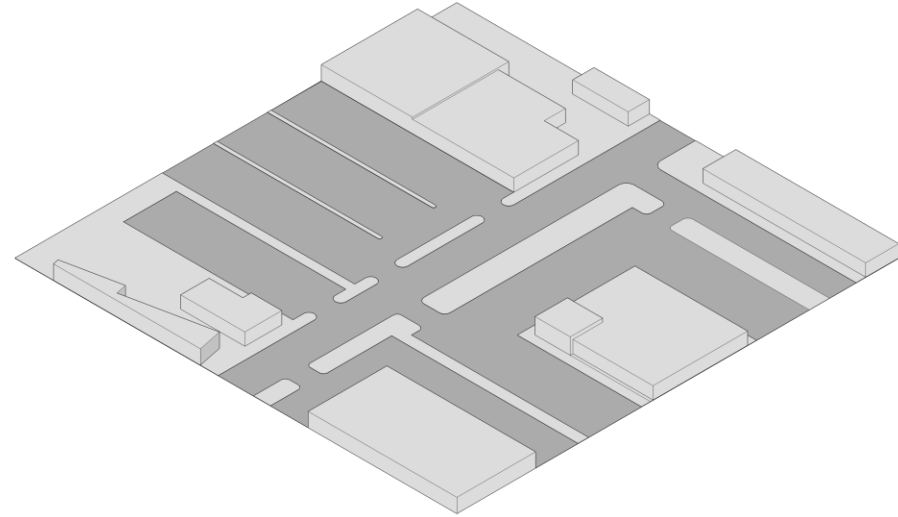
Building Types:

- Townhouse
- Apartment Tower



Regional Retail

The Regional Retail District is composed of regional retail destinations; typically, large, multi-unit retail complexes. These lots typically have large amounts of parking and the buildings are isolated from any surrounding neighborhoods.



Building Types:

- Shopping Center
- Large Office Building



Public Use

The Public Use District is composed of public spaces such as parks, plazas, and conservation areas, and buildings dedicated to public uses such as education, recreation, and local government. All of the properties in this district are publicly owned. Buildings are frequently distinctive in their placement and design and contribute significantly to community identity.

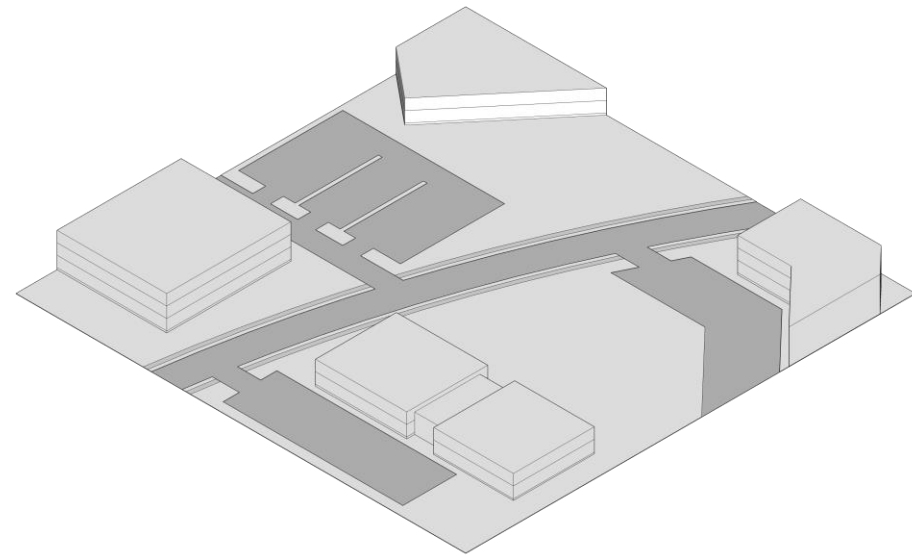
Uses:

- Parks
- Public Schools
- Municipal Facilities



Office

The Office District is composed of stand-alone office buildings, most typically found in proximity to highway access. Buildings in this district are frequently surrounded by landscaping and parking lots.



Building Types:

- Office Building
- Lab Building

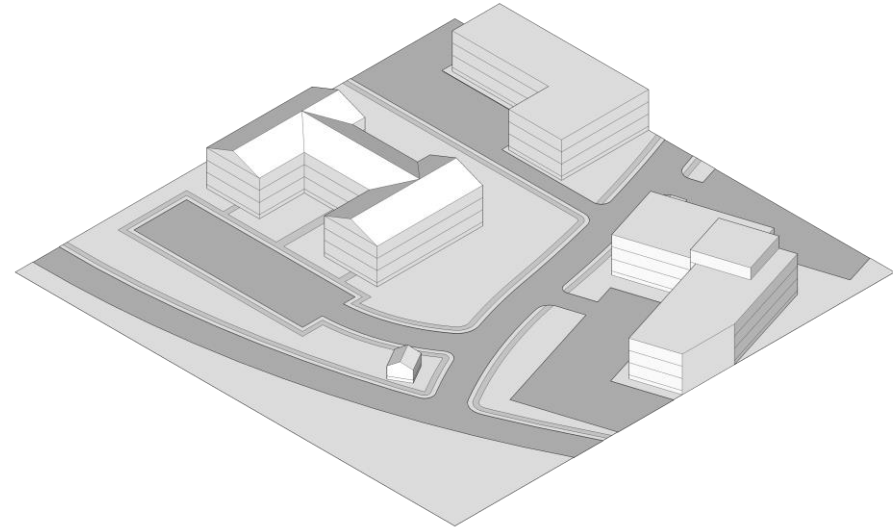


Campus/Institutional

The Campus/Institutional District represents Newton's large school and institution campuses. These areas are characterized by buildings at different scales, greenspaces, parking facilities, and other structures with most of these features internally oriented rather than relating to the public street network.

Uses:

- College/University
- Private School
- Civic Institution



Next Steps

October 22nd - Full Draft Ordinance & Map

Next Public Forums:

Councilor-hosted Ward-by-Ward Meetings



Ruthanne Fuller
Mayor

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Barney S. Heath
Director

MEMORANDUM

DATE: July 13, 2018

TO: Councilor Albright, Chairman
Members of the Zoning and Planning Committee

FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development
Amanda Berman, Housing Development Planner
Jennifer Caira, Chief Planner

RE: **#187-18** DIRECTOR OF PLANNING requesting amendments to the Inclusionary Housing provisions of Chapter 30, Newton Zoning Ordinance, to increase the required percentage of affordable units; to require that some affordable units be designated for middle income households; to create a new formula for calculating payments in lieu of affordable units; and to clarify and improve the ordinance with other changes as necessary.

MEETING DATE: July 16, 2018

CC: Ouida Young, Acting City Solicitor
Planning & Development Board
City Council

The availability of a diverse array of affordable housing options is a critical issue for the City of Newton, affecting the City's long-standing value as a welcoming community for people of all backgrounds, preventing City employees from being able to live in the community they serve, and hindering the ability of businesses of all types in the City to compete for employees.

In an effort to design a new Inclusionary Zoning ordinance that would ensure that new housing development in Newton includes units for households of various income levels across the city,

while not restraining development altogether, staff contracted with RKG Associates to determine the financial impact resulting from the proposed changes to the City's existing Inclusionary Zoning ordinance. The Financial Feasibility Analysis developed by RKG (attached) details the approach the consultants used to test the City's proposed ordinance changes, the results of their analysis, and their recommended modifications to the proposed ordinance to reduce the financial impacts of the ordinance on housing development so as to maintain financial feasibility.

To perform the analysis, RKG created a financial feasibility model based on traditional pro forma analysis standards for real estate development. The model focuses on Internal Rate of Return (IRR) calculations to determine financial feasibility. This measure is a standard approach to understanding the potential performance of a real estate investment. ***Boston area development industry minimum standards for a desired IRR are currently 20% for new construction ownership residential and 12% for rental residential projects.*** Generally, projects that do not achieve this IRR are not able to get financing.

Pro forma development modeling requires substantial market data to generate the model assumptions needed to calculate financial performance. The three primary data categories include: construction/development data; revenue/expenditure data; and finance/investment data. RKG used several tools to gather both local and regional data, including interviews with several for-profit and non-profit residential developers and commercial lending bank professionals, the City Assessors database, current rent rates and sales prices throughout Newton, and nationally-recognized secondary data sources, such as Marshall & Swift Valuation Services.

RKG's modeling efforts compared the financial performance of seven distinct residential development scenarios under the City's existing Inclusionary Zoning ordinance against the financial performance of those same scenarios under the proposed IZ ordinance. The results were compared to understand the impact of the proposed ordinance on the financial feasibility of each scenario. The seven development scenarios reflected various small, medium and large-scale ownership and rental development projects that may occur in Newton. The financial model calculated the basic go/no-go decision a developer must make about a potential project, which usually comes down to overall financial return and risk exposure. If there is confidence that the desired returns will be reached, then the project will be pursued, otherwise the project will not be undertaken.

While the full report provides greater detail around the results generated by each of the seven model scenarios, the following is a summary of the key findings from the financial analysis:

- **Project size (number of units in a project) matters.** The addition of an affordable unit or a required payment-in-lieu can have an outsized impact on the overall financial return of a project and can quickly render a project infeasible. Small-scale developers have greater sensitivity to changes in their development program due to their inability to spread the cost of an affordable unit or a payment-in-lieu of a unit across several market-rate units.
- **The proposed IZ percentage requirements for medium size projects (7-20 units) appear to be calibrated correctly.** For projects with 10-20 new units, the proposed percentage requirements result in more affordable units for the City, while returning an acceptable financial outcome to the developer. The increase in affordable unit requirements is offset by the introduction of Tier 3, middle-income units (81%-110% AMI). *(It is important to note, however, that RKG was only asked to test one scenario in the 10-20 new units category: a 20-unit rental project. While the financial return for this scenario under the proposed ordinance comes out positive, the majority of scenarios in this category do not. Staff tested multiple scenarios for this project size category and found that the proposed IZ requirements were too great for most of the projects to be financially acceptable. Had more scenarios been run in this project size category as part of the RKG analysis, it is likely that the consultants would not have come to the same conclusion about the proposed ordinance for this category of projects).*
- **The proposed IZ percentage requirements for large size projects (20+ units) have a negative impact on the overall financial return of a prototypical development and are financially infeasible for the developer.** The key issues for these large size projects are the 25% IZ requirement (10% higher than the existing IZ ordinance) and the introduction of Tier 1 units (at or below 50% AMI).
- **The proposed density bonus of 2 additional market-rate units for every 1 additional inclusionary unit is not sufficient enough to offset the requirement that each additional inclusionary unit be designated at Tier 1 (50% AMI), nor does it help to make these larger projects financially viable.** Even applying a hypothetical three-to-one ratio does not yield a positive result for these projects.

After thorough review and consideration of the Financial Feasibility Analysis developed by RKG, staff reworked its Inclusionary Zoning Ordinance proposal from 2017 to reflect findings from this report. We sought to create an updated ordinance that does not stifle residential development, but rather, strikes a careful balance between the City's vast need for affordable housing and the nuanced economics of housing development. This updated proposal works to realize the greatest public benefit from private residential development occurring throughout Newton.

Also attached to this memo is the December 8, 2017 staff memo to the ZAP Committee for the Public Hearing that took place at the committee’s December 11, 2017 meeting. This memo summarizes staff’s proposed changes to the Inclusionary Zoning Ordinance at that time and includes a clean and red-lined version of the proposed ordinance text.

Proposed Changes to the 2017 Inclusionary Zoning Proposal:

1. Amend the proposed “Number of Inclusionary Units Required” table to reflect the findings from the Financial Feasibility Analysis and staff research

- Introduce IZ requirement at 7 new units, rather than 4 new units
- Overall, reduce the IZ requirement across all project size categories to better balance the financial feasibility of a project with the desired public benefit
- Create new project size categories between 21 new units and 100 new units to account for surface parking versus underground parking thresholds (per RKG’s Financial Analysis, projects with >35 units tend to see 100% underground parking, which is most often very costly and done in space scarce developments)
- De-couple Rental and Ownership IZ requirements to account for the differing financial impact the ordinance could have on these types of projects
- Continue to utilize a rising IZ percentage requirement to project size given that smaller scale projects have a greater sensitivity to changes in their development program than larger projects, which are able to spread the risk across more units
- Lock in IZ requirement at point of application (Special Permit or Building Permit application, whichever comes first)

2018 Proposal:

Number of Inclusionary Units Required: 2018 Proposal												
Tier Level	7-9 new units		10-20 new units		21-34 new units		35-64 new units		65-100 new units		101+ new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	0.0%	0.0%	0.0%	0.0%	5.0%	0.0%	0.0%	0.0%	2.5%	0.0%	2.5%	0.0%
Tier 2, 51%-80% AMI	15.0%	15.0%	17.5%	5.0%	7.5%	10.0%	2.5%	7.5%	10.0%	10.0%	12.5%	12.5%
Tier 3, 81%-110% AMI	0.0%	0.0%	0.0%	10.0%	5.0%	7.5%	15.0%	10.0%	5.0%	7.5%	2.5%	5.0%
Total	15.0%	15.0%	17.5%	15.0%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%	17.5%

2018 Proposal, Project Size Examples:

Number of Inclusionary Units Required: 2018 Proposal Examples												
Tier Level	7 new units		16 new units		24 new units		47 new units		78 new units		225 new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	0	0	0	0	1	0	0	0	2	0	6	0
Tier 2, 51%-80% AMI	1	1	3	1	2	2	1	4	8	8	28	28
Tier 3, 81%-110% AMI	0	0	0	2	1	2	7	5	4	6	6	11
Total	1	1	3	2	4	4	8	8	14	14	39	39

2017 Proposal:

Number of Inclusionary Units Required: 2017 Proposal													
Tier Level	4-6 new units		7-9 new units		10-20 new units		21-50 new units		51-100 new units		101+ new units		
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	
Tier 1, up to 50% AMI	-	-	-	-	-	-	5.0%	-	7.5%	-	10.0%	-	
Tier 2, 51%-80% AMI	15.0%	15.0%	15.0%	-	10.0%	10.0%	10.0%	10.0%	10.0%	15.0%	10.0%	15.0%	
Tier 3, 81%-110% AMI	-	-	-	15.0%	10.0%	10.0%	10.0%	15.0%	7.5%	10.0%	5.0%	10.0%	
Total	15.0%	15.0%	15.0%	15.0%	20.0%	20.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	

Staff notes:

As described above, our recommended changes to the 2017 proposed IZ ordinance are in direct response to the findings from RKG’s Financial Feasibility Analysis, as well as staff’s additional testing of the financial model, research and learnings over the past six months. The updated percentage requirements still include three tiers of income eligibility, as well as a tiered structure linking affordability to project size and project type; however, staff’s updated proposal introduces the IZ requirement at a higher “new units “number and reduces the IZ requirement across the board to better balance the financial feasibility of a project with the desired public benefit.

Additionally, the updated proposal further considers the nuances of housing development and more closely accounts for the differing costs and financials associated with different project sizes and types. As detailed in the RKG report, ownership projects require a much higher Internal Rate of Return (20%) than rental projects (12%) and therefore, are more sensitive to the inclusion of affordable units. Because the sales value of an affordable unit is capped at a level that is affordable to a household at 80% of the area median income, a value gap exists between delivering a market-rate unit and an affordable unit. From the developer’s standpoint, the inability to realize full value from an affordable unit, which has a similar cost to that of a market-rate unit, results in a financial loss if the IZ requirement is too great.

While the 2018 proposed “Number of Inclusionary Units Required” table appears to favor ownership projects over rental, the difference in percentage requirements is merely accounting for the differing financial characteristics of these project, and the much higher expected rate of return for ownership developments.

2. Institute the “Round Up and Build Units” methodology rather than the “Fractional Payments” proposal

- Where the IZ requirement results in a fraction of a unit greater than or equal to 0.5, require the developer to build one inclusionary unit to capture that fraction (Newton’s current IZ policy)
- Do not require a cash payment for a fractional amount, even if the IZ requirement results in a fraction of a unit less than 0.5

Staff notes:

While the fractional payment methodology proposed by staff in 2017 may result in a project delivering both inclusionary units and a cash payment to the City, many of the scenarios run utilizing RKG’s model result in a financially infeasible project due to the large fractional payment required per the proposed calculation. As discussed in the RKG report, the fractional cash payment is added to the initial cost of the development, which ultimately influences the project’s overall financial return. The fractional cash payment, coupled with the value loss from providing affordable units on site, erodes the developers financial return to the point of not moving forward with a project.

In an effort to put forth an ordinance that carefully balances the need for greater affordable units, while not stifling residential development altogether, staff recommends streamlining the proposal to favor the building of units, rather than the receipt of fractional cash payments. We believe the “round up and build units” methodology will not only provide more certainty for the development community as they consider potential projects, it will ultimately result in the creation of more affordable units throughout Newton.

3. Allow for cash payments in lieu of providing inclusionary units for projects with 7-9 new units

- Utilize DHCD’s current Qualified Allocation Plan (QAP) “Total Residential Development Cost Limits” Index,¹ (2018-2019 QAP = \$389,000, the average of the

¹ From the Commonwealth of Massachusetts Department of Housing and Community Development’s Low Income Housing Tax Credit Program 2018-2019 Qualified Allocation Plan, Appendix C, <https://www.mass.gov/files/documents/2018/04/26/20182019QAP.pdf>

“Small Units” index and “Large Units” index), at a decreasing percentage adjusted for the number of units:

- Ex. 7-unit project: 70% of \$389,000 = \$272,300
 - Ex. 8-unit project: 80% of \$389,000 = \$311,200
 - Ex. 9-unit project: 90% of \$389,000 = \$350,100
- Continue to distribute IZ funds equally to the Newton Housing Authority and the City of Newton’s Planning & Development Department
 - Target the City’s portion of these funds for the creation and preservation of deed-restricted units at or below 50% AMI

Staff notes:

While this updated proposal does away with the fractional payments requirement, it still provides the *option* for a developer to request a cash payment in lieu of building the actual inclusionary units as part of the proposed project. With a preference for the inclusionary units over the cash payments, this new proposal only allows projects with 7-9 new units to choose to make such a payment without receiving permission from the City Council through the Special Permit process. As referenced in RKG’s Financial Analysis, smaller-scale projects are more sensitive to the inclusion of affordable units, and therefore, may benefit from the ability to pay a fee-in-lieu, rather than build the affordable units on site.

By offering the payment-in-lieu option at a decreasing percentage requirement for small projects with 7-9 new units, a concept also utilized by the Town of Watertown, staff believes we are expanding the opportunity for projects of this size to succeed, even with the inclusionary requirement. In addition, the cash payment option offers the City the potential to receive funds for its Inclusionary Zoning Fund, which will be targeted for the creation and preservation of deed-restricted units affordable to households at or below 50% AMI.

Staff continues to recommend utilizing DHCD’s Qualified Allocation Plan (QAP) Index as the basis for these fee-in-lieu payments. These cost limits, published annually, provide a defensible number that is grounded in industry-wide research by a respected third party, the Massachusetts Housing Partnership (MHP). As stated in the QAP, to develop these cost limits, MHP researched the costs of hundreds of rental projects over a four-year timeframe in DHCD’s and MHP’s portfolio, and assessed multiple variables, including the

cost of production versus preservation; family housing versus senior housing or special needs housing; regional variations in cost; and variations based on construction type.²

4. For projects subject to IZ requirements, other than those that fall in the 7-9 new units category, allow for payments-in-lieu through the Special Permit Process, only where the City Council makes specific findings to unusual net benefit to allowing a fee rather than inclusionary units

- For projects that receive approval from the City Council for a payment-in-lieu, utilize DHCD’s QAP index of \$389,000 per unit to calculate the total required payment.
 - Example, 18-unit rental project: 17.5% requirement X 18 units = 3.15; 3.15 X \$389,000 = \$1,225,350 total payment

Staff notes:

As discussed above, while this updated proposal does away with the fractional payments requirement, it still provides the *option* for a developer to request a cash payment in lieu of building the actual inclusionary units as part of the proposed project; however, only projects with 7-9 new units may choose to make such a payment without receiving permission from the City Council through the Special Permit process.

5. Include a provision where projects consisting of 100% deed-restricted, affordable units (at Tier 1, Tier 2, Tier 3, or any combination thereof) are not required to comply with the proposed Section 5.11.4.B. “Number of Inclusionary Units Required”

- Such projects would still be subject to all other sections of the proposed ordinance, but would not be required to comply with prescribed percentage requirements per income level, as detailed in the proposed Section 5.11.4.B.
 - Example: 35-unit rental project at 100% Tier 3 (81%-110% AMI) would not be required to provide any units at Tier 1 or Tier 2
 - Example: 75-unit rental project at 85% Tier 3 and 15% Tier 2 would not be required to provide any units at Tier 1

Staff notes:

While the need for affordable housing in Newton exists across all low to middle-income levels, the introduction of such a provision may help to encourage the development community to consider projects that serve Newton’s shrinking middle-income population,

² From the Commonwealth of Massachusetts Department of Housing and Community Development’s Low Income Housing Tax Credit Program 2018-2019 Qualified Allocation Plan, Appendix C, <https://www.mass.gov/files/documents/2018/04/26/20182019QAP.pdf>

helping to diversify the array of housing options present throughout the City. Such a provision could be particularly beneficial to Newton’s senior population, many of whom fall in this middle-income category. Housing options for this group are particularly constrained as their annual income is too high to qualify for the majority of subsidized housing (reserved for households at or below 80% AMI), but too low to afford the limited supply of senior-friendly apartments and condominiums throughout Newton that are priced at market-rate and above. Additionally, the introduction of greater middle-income units throughout the City could also help to slow the rapid pace of escalating rents at all income levels.

This provision, however, does not simply favor 100% middle-income projects. Any project that includes 100% affordable units, regardless of tier, would not be required to comply with the prescribed percentage requirements of the proposed IZ ordinance. Staff believes that such a provision provides additional incentive for developers to propose and build housing in Newton at a diversity of income levels, a need that exists across the City.

6. Require that “Elder Housing with Services” projects make a cash payment to the City’s Inclusionary Zoning Fund rather than provide the inclusionary beds on site

- Utilize 5% of the total number of beds provided in the project as the basis for determining the payment-in-lieu, coupled with DHCD’s Qualified Allocation Plan QAP Index for “Single Room Occupancy / Group Homes / Assisted Living / Small Unit Supportive Housing” of \$259,000 to calculate the total required payment
 - Example, 115-bed assisted living project: 5% requirement X 115 beds = 5.75; 5.75 X \$259,000 = \$1,489,250 total payment
- Continue to distribute IZ funds equally to the Newton Housing Authority and the City of Newton’s Planning & Development Department
- Target the City’s portion of these funds for the creation and preservation of deed-restricted units at or below 50% AMI

Staff notes:

As written, Newton’s existing IZ policy for Elder Housing with Services lacks clarity and guidance for determining the inclusionary requirements for this type of project. However, Newton is not alone in struggling to design an inclusionary policy that successfully considers the complicated nature of the pricing strategy for projects of this type. The “housing” costs are only part of the equation; the real challenge comes in trying to define how the medical costs for a household offered an inclusionary bed would be determined. No clear best practices exist to assist staff in crafting a proposal that works for both the developer and the households eligible for the inclusionary beds.

This proposed change seeks to simplify and clarify the ordinance language, while providing developers and the City with greater certainty around the expectations for an Elder Housing with Services project. By requiring a payment-in-lieu rather than on-site beds, the proposed ordinance carefully balances the need to receive a critical contribution from projects of this type with the ability for the City to fund housing projects that provide a greater level of subsidy for more income-eligible households.

Once again, by utilizing DHCD's QAP Index for these payments, the proposed ordinance provides a defensible number that is grounded in industry-wide research by a respected third party, Massachusetts Housing Partnership.

7. Remove the Density Bonus provision from the Inclusionary Zoning ordinance altogether

Staff notes:

As specified in the Financial Feasibility Analysis, the Density Bonus provision as proposed in 2017 (two additional market-rate units for every one additional inclusionary unit at 50% AMI) does not provide enough of an incentive to the developer to render the project financially feasible. Due to the deep affordability level of the additional inclusionary unit, the value loss that results is too great for the developer to overcome. Even applying a hypothetical three-to-one ratio does not yield a positive result for these projects.

In its current form, the "Incentives" section of the existing IZ ordinance (1 unit granted for each additional inclusionary unit provided above the number required per the ordinance) is vastly underutilized. While the current "incentive" bonus may be beneficial to a project's financial feasibility, the request for increased density may present more issues than solutions for a proposed project in the development review process.

Given that this incentive is neither successful in its current form, nor financially feasible in its proposed state, staff recommends removing this provision altogether.

Attachments:

- Attachment A: City of Newton Inclusionary Zoning: Financial Feasibility Analysis, March 15, 2018, prepared by RKG Associates, Inc.
- Attachment B: Public Hearing Memo to ZAP, December 8, 2017, including a red-lined version of 2017 proposed IZ Ordinance language and a clean version of 2017 proposed IZ Ordinance language

Economic Development Action Plan for the City of Newton

July 2018

Prepared for:

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About Camoin Associates

Camoin Associates has provided economic development consulting services to municipalities, economic development agencies, and private enterprises since 1999. We specialize in real estate market analysis to evaluate the feasibility and impacts of proposed projects. Through the services offered, Camoin Associates has had the opportunity to serve EDOs and local and state governments from Maine to California; corporations and organizations that include Lowes Home Improvement, FedEx, Volvo (Nova Bus) and the New York Islanders; as well as private developers proposing projects in excess of \$600 million. Our reputation for detailed, place-specific, and accurate analysis has led to projects in thirty states and garnered attention from national media outlets including *Marketplace* (NPR), *Forbes* magazine, and *The Wall Street Journal*. Additionally, our marketing strategies have helped our clients gain both national and local media coverage for their projects in order to build public support and leverage additional funding. The firm currently has offices in Saratoga Springs, NY, Portland, ME, Boston, MA, and Brattleboro, VT. To learn more about our experience and projects in all of our service lines, please visit our website at www.camoinassociates.com. You can also find us on Twitter [@camoinassociate](https://twitter.com/camoinassociate) and on [Facebook](https://www.facebook.com/camoinassociates).

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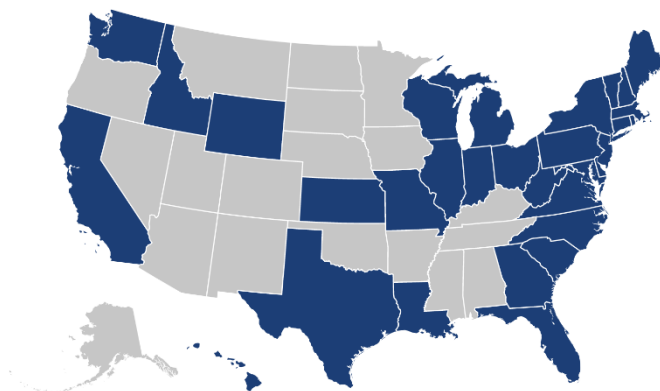


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Attachment 1: Action Plan Matrix

Attachment 2: Economic Base Analysis

Attachment 3: Market Analysis

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Executive Summary

The City of Newton undertook an economic development planning process with the intent of identifying opportunities to make Newton a great place to live, work and play, to grow the commercial tax base, to enhance existing village centers and commercial corridors, and to build on the momentum of the regional economy. With exciting development proposals in the works, market demand opportunities, and many assets, the City of Newton is well positioned to capitalize on regional growth and grow the tax base. This plan has been prepared through a collaborative approach that combines data collection, stakeholder interviews, public engagement, market research, and meetings with the Mayor, Economic Development Commission, and the City's Department of Planning and Development.

The information collection portion of the planning process found that there were a number of key themes that rose to the top as key issues related to economic development, including:

- The City is essentially fully built out and there are limited parcels available for new development. **Almost all projects will have to be renovations or redevelopment projects.** In order to grow the commercial tax base, it will be **essential to look for opportunities in the villages and commercial corridors.**
- **To support commercial development, it will be necessary to make transportation improvements and to increase both the number and types of residential units** to attract and retain a more diverse population.
- **Improvements in the development review process to make it more predictable and efficient will be critical to attracting more development** to the key areas where the City would like to see increased economic activity.

Recognizing the intersection of transit, housing, and land use policy with economic development, the action plan is holistic and focuses on a wide range of issues that all relate to the goals for the future of Newton. The intent of the process and final plan is to guide the efforts of the city, Economic Development Commission, and partner organizations as they move forward and look to implement specific and strategic initiatives to guide economic development in Newton.

The five main goals identified through this planning process include:

Goal 1: Take steps to pursue development sectors that make Newton both commercially successful and a great place to live, work, and play.

Goal 2: Focus redevelopment efforts on key parcels and corridors in Newton

Goal 3: Support the start-up, growth, stability, and vitality of businesses and entrepreneurs in Newton

Goal 4: Make the development process more predictable and efficient including community consensus and refinement of the review process.

Goal 5: Maintain and enhance the special qualities of Newton while improving transportation throughout the City for residents, businesses, and visitors.



Introduction

Recognizing that the time was right to look for opportunities to grow the commercial tax base and build off of recent regional momentum, the City of Newton decided to undertake the creation of an Economic Development Action Plan. The intent of this economic development action plan is to use data, conversation, research, and analysis to identify action plans and strategies that will lead to increased opportunities and intentional economic growth. Through the planning process and implementation, Newton is looking to identify ways to capitalize on regional growth through attraction of new firms and retention of existing companies, and improved quality of life for residents.

Work Completed

To fully understand, analyze, and strategize the economic prospects for Newton, MA, the Camoin Team completed an economic base analysis and market analysis to identify what makes Newton special. These documents are included as an attachment to this report and the main findings are summarized below in the Economic Conditions section and organized by opportunities and challenges. A series of stakeholder interviews that were conducted to better understand issues facing the business community, residents, and developers added anecdotal and “on-the-ground” information to the data. Finally, three public meetings were held to receive feedback from community members.

As part of the initial research to create an economic development strategy for the City of Newton, Camoin Associates gathered data to fully understand the demographic and existing economic conditions. The City of Newton was compared to the larger Boston Metro region and Massachusetts. The following are some of the key findings, with the full report included as Attachment 2.

Demographic Analysis Findings

- After decades of limited growth, the city’s population has increased 7.5% in the last ten years. Census population estimates for 2016 place Newton’s population at 89,045, its highest point since the 1970s. Much of this growth can be attributed to Gen Xers (those born between 1962 and 1981 who are in their thirties to fifties) moving into Newton with their families.
- **Newton has a high share of seniors** (those 60 years and older) relative to the region and state. **The proportion of residents 60+ has increased from 17.2% in 2006 to 24.5% in 2016, as current residents continue to age.** Meanwhile, the **young adult age groups (20 to 39) shrank** from 25.0% to 20.4%, and continue to be underrepresented in Newton compared to the region. This presents an **opportunity to expand the housing stock geared towards both seniors and young adults.** Both of these groups tend to have similar housing preferences in terms of propensity to rent, smaller amount of space required, desire for walkability, and lower housing budgets.
- **With about a third of residents commuting into Boston**, the City of Boston is the top commute destination of Newton residents. About 85% of Newton residents commute out of Newton daily. Additionally, 89% of employees at Newton establishments commute in from outside Newton. This high degree of cross-commuting indicates a mismatch between housing and job options and presents an opportunity to build housing to meet the needs of the city’s workers, as well as



attracting companies that can take advantage of the skills of existing residents and allow residents to work closer to home.

Economic Base Analysis Findings

- Between 2006 and 2016, the number of establishments in the Boston Metropolitan Statistical Area (MSA)¹ increased by 61.8%, compared to an increase of 63.6% nationally. Small firms are driving the largest proportion of growth in the MSA, growing by 104,000 establishments and accounting for 70% of the overall increase in number of establishments. Small firms also contributed the largest growth in number of jobs over the ten-year period (2006-2016) adding 436,917 jobs and making up over half all job growth. This large increase reflects an **atmosphere of entrepreneurship, self-employment, and small business within the region that can be supported in Newton and enhanced with various economic development initiatives.**
- Job growth in Newton is outpacing the MSA and the state. **From 2007 to 2017 jobs increased by 14%, compared to 8% in Massachusetts and 9% the Boston MSA.** In the next decade, jobs in Newton are expected to increase by 9%, based on regional and national historic trends in the industries present in Newton. Average earnings per job in Newton are about \$71,000, which is lower than both the MSA (\$84,000) and state (\$78,000), due to the high number (and growth) of retail and health care jobs in Newton. **Overall job growth indicates a prosperous economic climate, an ability to support a wide variety of jobs, and an opportunity to attract higher-wage employers to the city.**
- The top five industry sectors by employment in Newton for 2017 include:
 - Educational Services (private) (21,350 jobs or 27% of all jobs)
 - Healthcare and Social Assistance (13,062 jobs 16% of all jobs)
 - Professional, Scientific and Technical Services (7,008 jobs or 9% of all jobs)
 - Retail Trade (5,347 jobs or 7% of all jobs)
 - Government (4,997 jobs or 6% of all jobs)
- The sectors growing the most (and providing the most jobs) in Newton are Health Care and Social Assistance; Educational Services; and Professional, Scientific and Technical Services. Educational Services and Professional Services, in particular, tend to be higher-skills, higher-wage jobs, that are better aligned with the city's resident labor force. The sectors contracting are Wholesale Trade; Finance and Insurance; and Retail Trade.

Market Analysis Findings

As part of the initial research to create an economic development strategy for the City of Newton, Camoin Associates conducted a real estate market analysis to determine development opportunities for different use types throughout the city. These use types include office space, lab space, medical office, industrial, retail, hotel, and residential. This information will be used to ensure economic development strategies are

¹ Metropolitan Statistical Areas (MSA) are defined by the United States Census Bureau as: a geographical region with a relatively high population density at its core and close economic ties throughout the area.



grounded in market realities. Market opportunities are summarized in Table 1 with the full report included as Attachment 3.

Table 1: Newton Market Opportunity Summary

Newton Market Opportunity Summary	
Use Type	Opportunity
Office	High vacancy level and a lack of Class A space limit potential for new development, but opportunities exist to reposition and amenitize current inventory.
Lab	Robust growth and soaring rents in Cambridge/Boston life sciences sector presents an opportunity to create a lab space node in Newton.
Medical Office	An aging population and shifting trends in health care delivery means strong demand for medical office space into the future.
Industrial	Land availability constraints and high land costs limit potential for comparatively low-value industrial development.
Retail	High incomes and significant spending leakage are an opportunity for new retail development in the city, but rising rents are squeezing out existing mom-and-pop shops.
Hotel	Sluggish commercial development in Newton and increased room supply in nearby suburbs limits potential, but differentiated boutique hotels are viable.
Residential	Urgent need for smaller, affordable workforce units to house the talent required to attract commercial development. To be affordable, affordable units are more likely to be multifamily rather than single-family homes.

Source: Camoin Associates



Opportunities and Challenges Assessment

The findings of the interviews, data analysis, capacity assessment, and knowledge of the region were compiled into a list of the City of Newton's opportunities and challenges related to economic development and quality of life. This assessment is used to inform the goals, and actions identified in the Action Plan Matrix. The full list of opportunities and challenges are outlined below.

Newton's Opportunities

- Excellent location and proximity within Boston Metro
- Highly educated workforce
- Well established villages
- Well-known reputation as a great place to live
- High-quality schools
- Undergoing zoning redesign
- High incomes and consumer spending power
- Numerous new development projects in progress
- Strong demand for lab space in the region
- Boston College Schiller Institute and UMass Amherst developments
- Three commuter rail and seven MBTA Green Line stops
- Access to the Charles River
- Lower commercial property tax rate than Boston and neighboring communities

Newton's Challenges

- Limited space/sites for development
- Inadequate transportation infrastructure, traffic congestion, and parking challenges
- Limited diversity of housing options
- Negative perception related to predictability and ease of development
- Limited resources for economic development
- Zoning regulations restricting development
- Tension within community around the vision for the future of Newton
- Heavy reliance on residential values for tax base
- Difficulty attracting and retaining entrepreneurial and innovative businesses

What is Constraining the Commercial Component in Mixed-Use Development?

A number of recent mixed-use development proposals with significant residential components have raised questions about why developers are not proposing more commercial development. While the proposals coming forth may seem lopsided, it is important to keep in mind that there is no “typical” balance of residential and commercial programming in a mixed-use property. The mix of uses that a developer pursues depends largely on market demand and the financial return associated with each use type. Market conditions driving development include:

- Newton is a highly desirable place to live and housing commands high prices and rents. As a result, **residential is among the highest-value development types for real estate developers.**
- **There is weak demand in the suburban office market** overall and limited site availability and transportation access.
- **Newton currently has considerable existing vacancies**, over 475,000 square feet, to satisfy small to mid-sized office space requirements.
- There is strong demand for large Class-A office space within the region but **tenants require direct highway or public transit access**, and ideally both. Newton simply does not have many sizable sites that offer this level of access.²
- **Many properties are owned by family trusts** which are less likely to make the investment necessary for redevelopment such as adding floors or revamping older buildings.
- Retail and restaurant demand in Newton is strong, but **retail tenants in a mixed-use development typically cannot survive on spending by on-site residents alone.**
- For a mixed-use development to have a successful retail component, it must be well-located along a major corridor or within an existing commercial area with substantial vehicle or pedestrian traffic.

Tax Base Composition

The tax base composition is an important consideration of this Economic Development Action Plan with one of the goals being to grow the commercial base. The following are some key points related to the tax base in Newton.

- Commercial properties in Newton currently make up 8.7% of total real property value, a share that has remained flat since 2008.
- Limited available parcels and the ratio of demand for residential development compared to commercial development account for this stable percentage over the last ten years.
- All but one of the Newton’s seven neighboring communities have a higher share of commercial property value.
- In Watertown, the share is nearly 18%, and in Boston and Waltham, these property types represent over 30% of value.
- The City maintains a commercial tax rate that is competitive compared to its neighbors. Boston, Waltham, and Watertown all

Commercial & Industrial Share of New Construction Value, 2008-2018	
Waltham	48.3%
Boston	33.8%
Watertown	28.1%
Needham	20.2%
Newton	16.1%
Weston	7.6%
Brookline	7.4%
Wellesley	7.0%

Source: MA Division of Local Services

² Note: There are two key areas in Newton with transportation access including Riverside and Needham Street. Riverside has access to the Green Line and 128 and Northland has access to Interstate 95. These two parcels are the exception in Newton.

have higher commercial tax rates than Newton even though those communities have a significantly higher commercial base as a share of their total real property value.

2018 Commercial Property Tax Rate - Rate per \$1,000 of Assessed Value	
Newton	\$20.62
Boston	\$25.20
Waltham	\$27.97
Watertown	\$24.63

Source: Camoin Associates

Given the fact that commercial development typically has a net positive impact on a community’s fiscal resources, especially compared to residential development, many in Newton see increased commercial development as a way to pay for City expenditures and shift the property tax burden away from residents. However, to “move the needle” on the balance between commercial and residential value, an extraordinary amount of commercial development would be required. Newton’s high number of residential properties and the high values of these properties contribute to this challenge.

To reach a commercial share of 10%, Newton would need over \$400 million in new commercial value, equivalent to more than two Wells Avenue Business Parks or more than three of The Street Chestnut Hill retail developments. If new residential development over the next ten years continues at the pace it has maintained over the last ten years, an additional development equivalent to Wells Avenue Business Park will be needed just to preserve the current commercial/residential balance. Moreover, a huge amount of commercial development would be needed to impact residential property tax bills. If Newton added another Wells Avenue today, it would decrease the average property tax bill for a single-family home by 1.5%, which assumes no additional expenses were incurred to the City as a result.

While it will be difficult to meaningfully increase the percent of the tax base from commercial services, it is essential to keep working towards this goal. **Every dollar of new commercial value is worth almost double (1.9x) the residential value in terms of tax revenue generated.** Annual public expenses, and thus the net fiscal impact, associated with commercial development is almost always lower than residential development, as well. As a result, new commercial development will positively impact the City budget, even if the effect is small. Additionally, **new jobs and investment associated with commercial development create employment opportunities for Newton residents within the City limits, creating ripple effects in the city’s economy.**

Market Potential by Location

The following matrix (Table 2) compares the potential use types to the different locations throughout Newton to identify areas of greatest potential.

Table 2: City of Newton Uses & Location Opportunity Matrix

City of Newton Uses & Locations Opportunity Matrix							
Use Type	Market Potential	Target Locations (applicable districts in <i>italics</i> , 13 villages in bold)					
		Needham Street Corridor	Washington Street Corridor	Charles River Mill District	Major Office Centers	Major Retail Centers	Village Centers
		<i>N-Squared Innovation District</i>	West Newton, Newtonville, Newton Corner	Nonantum	<i>Wells Ave, Riverside</i>	Chestnut Hill, Route 9, Newton Centre	Auburndale, Highlands, Upper Falls, Lower Falls, Waban, Oak Hill, Thompsonville
Office	High vacancy level and a lack of Class A space limit potential for new development, but opportunities exist to reposition and amenitize current inventory.	●	●	●	●	●	○
Lab	Robust growth and soaring rents in Cambridge/Boston life sciences sector presents an opportunity to create a lab space node in Newton.	●	●	●	●	○	○
Medical Office	An aging population and shifting trends in health care delivery means strong demand for medical office space into the future.	●	●	●	●	●	●
Industrial	Land availability constraints and high land costs limit potential for comparatively low-value industrial development.	●	○	●	●	○	○
Retail	High incomes and significant spending leakage are an opportunity for new retail development in the city, but rising rents are squeezing out existing mom-and-pop shops.	●	●	●	●	●	●
Hotel	Sluggish commercial development in Newton and increased room supply in nearby suburbs limits potential, but differentiated boutique hotels are viable.	●	●	○	●	●	○
Multifamily Residential	Urgent need for smaller, affordable workforce units to house the talent required to attract commercial development. To be affordable, affordable units are more likely to be multifamily rather than single-family	●	●	●	●	●	●

Source: Camoin Associates

Key

High Potential ●	Some Potential ●	Limited Potential ○
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Emerging Themes

There were a number of core economic development related themes that kept coming up throughout the planning process. These themes drove the development of the specific goals and objectives and guided the conversation about how best to move forward with the City's economic development initiatives. The core concepts and areas for focus included:

- **Business Development, Entrepreneurial Ecosystem, and Workforce Development:** The current assessed value of the City is Newton is heavily weighted towards residential properties, resulting from a high number of very high value homes in the city. With over 85% of the city's assessed value coming from residential properties, there is interest in findings ways to diversify the tax base. **Diversifying the tax base will require attracting, retaining, and expanding the businesses in Newton** through specific business support programs, workforce development initiatives, and innovation and entrepreneurship development. With so much development momentum throughout the Boston Metro, it is has been difficult for Newton to compete when business owners are considering relocating due to the city's constraints related to transportation, available space, and incentives. However, Newton does have specific strengths that can be leveraged to attract commercial development including *location, more affordable space options, and a highly educated workforce*. Strategies related to this theme will require identifying targeted industries and locations for development as well as ensuring the proper programs are being offered to support business enterprises and keep innovation in the city.

Why A Diverse Tax Base in Newton is Important -

The City of Newton's tax base is heavily concentrated in residential assessed value, and it would take significant commercial development to ease the tax burden off of residential property owners. However, even though the ratio of residential to non-residential assessed value is unlikely to shift substantially in the near future, there is a lot of value in commercial development, including: *increased job opportunities for local residents, increased vibrancy and vitality, improved quality of life for residents, a more inclusive environment, and an overall healthier and larger tax base*. Instead of focusing on the percent of residential versus non-residential assessed value, other metrics for understanding the growth of commercial development in Newton include:

- Amount of commercial construction occurring year over year;
- Amount of property tax revenue coming from commercial properties and whether that is increasing or decreasing year over year; and
- Percent of total square footage for residential versus non-residential properties in Newton.

Newton's ability to attract commercial development is closely tied to the core issues of:

- *Significant transportation-related issues* that are limiting accessibility of workers and customers as well as diminishing quality of life for residents;
- *Shortage of available land* or space for development and limited economic development resources like funding for staff, attraction, and incentives;
- Local and regional reputation as a place with a challenging development review process and difficulty of prospective businesses working with neighbors and community members; and
- Local and regional reputation as being a bedroom community.

- Planning and Development Process and Role of the City of Newton:** The City's current planning and development review process has resulted in significant delays and increased costs for developers looking to do projects in Newton compared to other Massachusetts cities and towns. Unfortunately, Newton is well-known for being particularly difficult for developers. Some challenges include extensive community pushback, city process delays and unpredictability, and lengthy review and discussion periods. There are a number of large-scale proposals on the table that would have positive effects on the city; however, the current process makes it difficult for a developer to have any success moving forward. A crucial recommendation outlined in the Action Plan Matrix is to update the development review process and land use policies to ensure that they align with Newton's goals and are streamlined and predictable.
- Neighborhoods, Corridors, and Transportation:** Within the City of Newton, there are 13 unique villages ranging from small neighborhood-serving ones like Waban to major commercial hubs like Newton Centre. These villages, along with the commercial corridors of the City including Needham Street, Washington Street, and Route 9, all have varying degrees of development and community engagement. The economic development strategy must address the varying needs of the villages and corridors within the city to ensure all are able to attract and retain suitable development that supports small businesses, diversity in population and real estate product, and aligns with the community's vision for quality of life here.

The issue of transportation related to economic development was discussed in numerous interviews, public engagement sessions, and within previous research. Transportation issues of congestion, insufficient public transportation options, lack of parking in some areas, and areas of unsafe bike and pedestrian infrastructure came up as a barrier to workforce and customer attraction and ultimately a barrier to business attraction. When businesses struggle to attract and retain their employees because of transportation cost and time, they will look to locate elsewhere, in particular, where employees can travel by bike, public transportation, or walk. Talent attraction is one of the most important factors businesses consider when they are making location decisions. Newton struggles to compete with other nearby localities who have

City of Newton Zoning Code

The City of Newton is undergoing a significant update of the zoning code and related land use regulations. This zoning re-write will address some of the major issues related to economic development, including bringing parcels into conformity with their current use to minimize appeals and amendments, reviewing parking requirements, and ensuring the types of uses that are desired are allowed in the villages and corridors.

Review of the zoning regulations and associated policies will also include considering ways to make the overall process more predictable and faster; this review aligns with the City's goal of growing the commercial tax base.

Housing Diversity

Although not always seen as a typical economic development concern, having a diversity of housing options in Newton is vital to having a range of both employees and commercial sectors. Allowing increased variety of housing in targeted locations, different types of housing options, and different price points ensures that Newton can be home to a range of people and that the businesses are able to get the workers they need, all of which impacts economic development.

invested in necessary infrastructure and other systems to deal with transportation issues. Recommendations in the Action Plan offer guidance on priority infrastructure investments.

Small Businesses

Small, locally owned businesses play an important role in any city, but especially in the villages of Newton. Small businesses have a great impact on the local economy and add flavor, uniqueness, and character to downtowns and village centers. The small businesses in Newton are struggling to remain viable due to high rent for space, parking challenges for customers and employees, and declining spending due to online sales.

Economic Development Action Plan

The Economic Development Action Plan for the City of Newton has been developed to address the primary issues, themes, and opportunities identified. The intent of the plan is to outline specific strategies that the City of Newton and partners can implement that will grow the commercial tax base and improve the City for living, working, and playing. Tactics for wide-ranging strategies and objectives have been included with both short- and long-term steps and priority levels.

Some of the initiatives described on the following pages are already in progress within the City of Newton or have been suggested previously as part of prior planning efforts, while others have been developed based on economic development best practices, an understanding of the issues facing the region and Newton, and potential capacity of City staff. This plan is designed to grow the commercial tax base in an effort to maintain the high level of services that residents currently enjoy while being inclusive to a wide range of residents. The plan was developed around existing and potential staff capacity, yet the objectives in the plan are ambitious to help the City meet ambitious economic development goals.

These initiatives are intended to act as a work plan for the City of Newton and task status should be reviewed regularly for progress-to-completion or a need to change course. While these are important goals and objectives right now, the ever-changing economy, as well as fluctuating state and national priorities, are likely to dictate adjustments to the plan.

The following is a narrative description of the Action Plan Matrix. More detail is provided immediately following in the Action Plan Matrix itself.

Priority First Steps

While all the strategies are important and have been included for a reason, the following should be implemented as soon as possible as they will have the greatest impact and result in momentum for the overall effort.

- 1) **Complete the review of the zoning code to align it with the goals of the community** to grow the commercial tax base and make village centers and commercial corridors with mass transit thriving with successful retail, restaurants, and residences. Use this time to also review the development review process to find ways to make it faster and more predictable. Complete press releases, developer informational sessions, and other promotional activities to make people aware of the improvements being proposed to improve the perception of Newton's review process and relationship with development. The intention is not to make it easy for developers but rather to make it predictable and not overly onerous in a way that blocks good development from happening.
- 2) **Update the City of Newton's Economic Development website** to include more information about the strengths of the city, available space, major project happenings, and other tools for businesses looking to potentially locate in the area. Highlight the workforce, high quality of life, and affordable space options as reasons why a business should locate in Newton. Create target landing pages

- 3) **Continue to reevaluate the Newton Innovation Center** to identify the next steps of the initiative. Find a larger building in a location with restaurants, coffee shops, and other amenities while re-aligning or re-reconfirming the purpose and focus of the Center to clarify who it is trying to serve and why, what goals and objectives the City is trying to accomplish.
- 4) **Improve the land use policies and development review process to encourage appropriately scaled transit oriented development and walkability.** Use the zoning update to allow for walkable villages and corridors with appropriate parking requirements.

Action Plan

Goal 1 Take steps to pursue development types that make Newton both commercially successful and a great place to live, work, and play.

Objective #1.A. - Increase lab space in Newton to capitalize on highly skilled workforce with science background and regional economic trends.

- i. Identify a corridor or collection of parcels that will be geared towards lab space and rezone as necessary to encourage development to that area. Look to areas with high market demand such as Nonantum, Wells Ave, and Riverside. Concentrate the lab space to encourage synergies between the businesses and employees.
- ii. Use City of Newton resources to invest in transportation infrastructure (bike and pedestrian assets, public transportation, van or car sharing options), technical infrastructure (financing pools, professional service provider inventory, business planning guidance), permitting (fast track, generic review and approvals), etc. to make it easy and attractive for a business to establish a space.
- iii. Promote the potential opportunities of Newton to existing lab space developers and operators, including affordability, parking, and community support. Conduct targeted marketing including improved web presence, conferences, and other networking events.

Objective #1.B. - Increase office space in Newton including coworking space to attract and retain companies and increase the commercial tax base.

- i. Add office space by allowing appropriately scaled additional stories in the zoning redesign in targeted areas with demand for office space such as Riverside, Wells Avenue, Nonantum, and village centers.

Objective #1.C. - Encourage mixed-use projects in villages and commercial corridors, especially those with mass transit.

- i. Redo zoning to make sure that market driven mixed-use developments are allowed in village centers and along commercial corridors. Allow for additional development around commuter rail,

T stations, and other multi-modal assets to create mixed-use nodes with increased economic activity, customer base, and vibrancy.

ii. Evaluate proposed mixed-use projects in terms of the proportion of workforce housing to create skills match between housing and employment options.

iii. Encourage development of housing geared towards young professionals and low to middle income families to attract more people to serve business growth.

iv. Encourage housing in villages and commercial corridors with mass transit to create "built in" customers for businesses who need less access to private automobiles.

Objective #1.D. - Take advantage of economic development tools

i. Use Tax Increment Financing (TIF), if necessary, to incentivize commercial development and attract businesses. Develop guidelines for evaluating TIF applications that establish Newton's desired outcomes from TIF-incentivized projects (e.g. quality job creation, sizeable capital investment, attraction of specific industry sectors, etc.) and specify targeted investment areas within the city, including Needham Street, Washington Street, Wells Avenue, the Charles River Mill District, and Newton Centre.

ii. Utilize District Improvement Financing (DIF) for funding traffic and infrastructure improvements, parking structures, and other public projects needed to stimulate private investment in targeted areas within Newton, if necessary. Identify DIF goals and establish a Development District and Development Program for one or more areas within Newton

iii. Assess the potential for using District Improvement Financing (DIF) revenues for Newton to acquire and lease out affordable retail space to local retailers in retail districts including Washington Street and Newton Centre.



About Tax Increment Financing (TIF)

Tax Increment Financing ("TIF"), which enables a municipality to enter into an agreement to reduce taxes on Real Property, is a method that, like District Improvement Financing (DIF), offers incentives for investment in a targeted area. Unlike DIF, TIF requires approval by the state's Economic Assistance Coordinating Council. Municipalities may apply for permission to enter into TIF Agreements through the Economic Development Incentive Program.

Under this TIF legislation, landowners may be granted property tax exemptions of up to 100% of the tax increment. A municipality may enter into a TIF Agreement with a landowner for a maximum term of 20 years. A TIF Zone must be in an area approved by the EACC as an Economic Opportunity Area (EOA) or found to be an area "presenting exceptional opportunities for economic development" by the Director of Economic Development.

TIFs are often approved in conjunction with state tax credits and often have a job creation/retention requirement attached.

- Needham and Boston are the only two neighboring communities of Newton to approve TIF agreements over the last several years.
- In Needham, TIFs were approved for TripAdvisor in 2012 and NBCUniversal in 2017
- In Boston, a TIF was approved for LogMeIn in 2014

Some communities have TIF guidelines on their website that lay out the TIF application process for a potential development. Newton should consider assembling its own set of guidelines.

- <https://www.mma.org/shelburne-develops-tif-guidelines-0>
- <http://www.town.barnstable.ma.us/economicdevelopment/TIF%20Application%20Checklist.pdf>
- <http://southhadleyma.gov/258/Tax-Increment-Finance-Plan>
- <https://www.northamptonma.gov/DocumentCenter/View/878>



Goal 2 Focus redevelopment efforts on key parcels and corridors in Newton.

Objective #2.A. - Continue to revitalize Needham Street

- i. Complete the Needham Street visioning process and implement recommendations.
- ii. Improve the physical environment of Needham Street corridor to make it more pedestrian friendly, implement traffic calming measures, and enhance the appearance.
- iii. Work collaboratively with Needham to implement N2 Innovation District initiatives.
- iv. Work with the developers of the Northland property to create an appropriately scaled project that will have positive economic benefits for the community creating a mixed-use project that will provide housing, Class A office, retail, and other amenities and will offer new transportation options, types of housing, and more vibrancy.

Objective #2.B. - Pursue development of Riverside

- i. Engage neighbors and community in project discussions. Assist with facilitation of conversations with local, regional, and statewide agencies. Highlight the potential of the site resulting from its location along the 128 belt and access to the MBTA station.
- ii. Encourage uses that align with the goals of Newton in terms of building out co-working space/office space, diversity of housing types, and diversifying and growing the tax base.
- iii. Determine the right mix of uses and size/scale/building height so it works for Newton.
- iv. Build transportation infrastructure to serve the Riverside development to enhance multi-modal offerings and ability to move from the site to other places in Newton. Specifically, consider connecting the green line at Riverside to the commuter rail at Auburndale, creating safer walking and biking connections throughout, and creating a connected network of streets within Riverside that also connects at multiple points to the surrounding areas including Recreation Road to avoid overloading Grove Street.



Objective #2.C. – Build out the Charles River Mill District

- i. Align zoning with goals to be a mixed-use neighborhood with opportunities for lab space and support services.
- ii. Build the brand of the Charles River Mills District. Inventory the assets and strengths of the area and incorporate into promotion material as a good option for those companies looking for a moderate cost and industrial/urban setting.
- iii. Develop lab space in this district, an emerging opportunity.
- iv. Encourage the proper mix of services (eg - Restaurants, coffee shops, day care, etc.) to serve residents, businesses, and employees.

Objective #2.D. - Realign the Wells Avenue Business Park

- i. Implement the recommendations from the Wells Ave Vision plan including creating a secondary entrance/exit.
- ii. Increase the height restrictions to allow for additional growth.
- iii. Allow for a variety of non-housing (gyms, restaurants, cafes, personal services, etc.) and create additional amenities for businesses and workers.
- iv. Improve the quality of the roads, sidewalks, lighting, seating, signage, and general appearance of the Wells Avenue Business Park for all users.

Objective #2.E. - Revitalize Washington Street

- i. Continue to engage the community in the Washington Avenue Corridor Visioning and Zoning process and direct development to align with community vision.
- ii. Make physical improvements and transportation related improvements that align with the vision identified.

Objective #2.F. - Develop a vision plan for Newton Centre

- i. Complete a full market analysis to identify the specific opportunities for Newton Centre, including community infrastructure.
- ii. Engage community and neighbors in the process to allow for feedback on potential growth, use types, new projects, and investments.
- iii. Amend zoning to be consistent with vision.
- iv. Limit the number of banking institutions to diversify mix of business.
- v. Encourage building second and third floors on existing building for office and residential.
- vi. Encourage more co-working space.



Objective #2.G. - Focus development of larger villages as regional centers for business and retail

- i. Focus on creating a vibrant environment in the larger villages, especially those with mass transit, through attraction of restaurants, retail, housing, and office/co-working space. Review all zoning regulations to ensure they accommodate an increase in square footage of development that is in line with the community goals for each village.
- ii. Design parking recommendations to ease congestion and make it easier for businesses and residents.

Goal 3 Support the start-up, growth, stability, and vitality of businesses and entrepreneurs in Newton.

Objective #3.A. - Create a business environment in Newton that provides more support for small and local businesses

- i. Create a regular communication system to ensure easy access of information related to business resources, training programs, and support that is available digitally and in hard copy.
- ii. Establish land use policies that encourage or require affordable rent for locally-owned retail establishments in targeted locations throughout Newton.
- iii. Partner with the Chamber, higher education, and other organizations to offer networking events for small businesses and entrepreneurs for both partnership development and to create a support system. Use events to highlight service providers that are well versed in the challenges facing small businesses in Newton.
- iv. Make changes to zoning code to ensure co-working, incubator, and makers spaces are allowed as a right within targeted areas.
- v. Continue to engage with the N2 Innovation District and collaborate on efforts that will highlight Newton as attractive and open for business.
- vi. Identify funding sources for businesses and property owners to work with enforcement officials around improvements to bring buildings up to code.
- vii. Ensure zoning code allows home based businesses with appropriate regulations to preserve neighborhood character.

Objective #3.B. – Leverage the Economic Development Commission

- i. Use the Economic Development Commission as a partner in implementation of the Economic Development Action Plan.



- ii. Continue to have the EDC weigh in on City of Newton matters related to or impacting business and economic development.
- iii. Use the EDC to communicate and work with the village and corridor stakeholders to understand and plan for how their goals and objectives fit into the Economic Development Action Plan.

Role of the Economic Development Commission

From *City Capacity Assessment* by Camoin (Attachment 4)- The Economic Development Commission was established by City ordinance with a mission to promote and develop business and industry for the purpose of strengthening the local economy, providing jobs, and expanding the City's tax base. The Commission promotes, assists, and encourages existing and new business, industry, and commerce in Newton and advises and makes recommendations to City officials and staff.

Recommendations

Success in Newton and regional economic development requires an ongoing commitment to understand, plan, implement, and measure policies and actions. While the EDC is not a policy-making or an independent body that can take or implement action, they can and should play a critical role in economic development. Based on the work completed for the Economic Development Action Plan, we recommend the following as it relates to the EDC's role:

1. With support from staff, be the primary overseer of Economic Development Action Plan including communicating its results, briefing the Mayor, Council, and relevant committees, businesses and the public; regularly reviewing progress using the action plan matrix, reporting progress, and making recommendations for any course-adjustments. This should be done at least annually.
2. Objectively weigh in on City matters related to business and economic development. Specifically focus on impacts or implications of City policies and actions on the business environment, economic growth and development.
3. Communicate and work with the Chamber, Neighborhood Councils, and village or corridor groups to understand and plan for how their goals and objectives can fit within the City's overall Economic Development Action Plan.

Objective #3.C. - Improve the external marketing of Newton's business environment

- i. Create a more professional economic development website with web-based applications and GIS platforms.
- ii. Update the economic development website to make it easier to access. Include targeted demographic, economic and workforce data, infrastructure availability, and contact information.
- iii. Create a targeted bio/life sciences landing page that has marketing material targeted towards developers and businesses that highlight the workforce skills and qualifications of residents, available space and any shovel ready sites, Gold Bio-Ready Rating, and the ease of the process.
- iv. Create a workforce landing page that describes the workforce and why Newton is a good place to do business.
- v. Create a retail/demographic landing page that describes why Newton is a good place to open a store.
- vi. Enhance the City of Newton's commercial real estate connection services through use of MLS listing, tracking of available space, development of web-based applications, and redesign of the Commercial Real Estate Connection page.
- vii. Increase the marketing budget as resources and demand allows.

Objective #3.D. - Better understand and provide more support to existing businesses by expanding Newton's business visitation program.

- i. Implement a formal Business Retention and Expansion program, and partner with an organization such as the Regional Chamber. Work with partner organizations to create a base list of questions for all contacts and a central point for documentation of the visit to make sure all information is shared and follow-up conducted.
- ii. Continue to create a schedule and priority list for what companies to conduct visitation with. Focus efforts on the larger businesses first with regular integration of the smaller businesses that have potential to grow.
- iii. Review the pre-visit survey to identify topics for discussion, conduct visit, track information and issues, and follow-up site visits with responses back to the business. Input all data and information in a digital system or platform to keep track of any necessary follow-up. Use information to address immediate issues through referral or immediate action and/or identify themes and provide recommendations to the City of Newton.



Objective #3.E. – Implement policies to support small retailers and improve their ability to remain viable.

- i. Recognize historic businesses as special Newton assets by creating a registry of long-established small retail businesses and evaluate using this information to design a financial assistance program.
- ii. Consider employing small business friendly zoning that preserves and increases supply of small retail spaces, and includes a business diversity ordinance.
- iii. Work to engage landlords in discussions around economic development issues in villages and the role that they play in supporting small retail.
- iv. Create opportunity for local Newton businesses in government properties when appropriate.

City of Newton Retail Strategies

Newton's thirteen villages each have their own unique mix of local businesses, historic assets, and public amenities. They are under increasing rent pressure from the booming regional real estate market:

The core retail markets inside and along Route 128 have seen record-setting rents as of late, and are expected to remain steady. In this area, average rents of \$50-\$55 per square foot NNN for small shop space and \$25-\$30 per square foot NNN for larger spaces are common. For every operator that comes into this area aggressively but cannot sustain sales sufficient to cover high rents, there are strong tenants ready to backfill that space. Recent successful retail developments in Newton include The Street Chestnut Hill and Newton Nexus.

While these trends are great for the tax base, property owners, and developers, the spike in commercial rents is outpacing sales growth for Newton's small businesses. Combined with the need to adapt quickly to eCommerce trends in the industry, competition from national chains, and a limited supply of affordable space, Newton's long-established independent businesses are under threat; some have already shuttered their storefronts. As small local businesses are forced to leave, Newton's sense of place is diminished.

See Attachment 5 for more information on strategies to preserve local retail establishments.



Objective #3.E. - Expand capacity of Newton Innovation Center (NIC)

- i. Clarify the purpose and focus of the Center, including who it is trying to serve and why, and what goals and objectives Newton is trying to accomplish. Focus on entrepreneurs and businesses with employees who live and work in Newton or at least have expressed interest in growing in Newton outside of the NIC.
- ii. Actively look for a larger building closer to more restaurants, coffee shops, entertainment, small offices, and mass transit.
- iii. Establish guidelines for accepting and graduating clients/tenants connected to the purpose, goals and objectives. Make clients and tenants apply and then base acceptance on a case-by-case basis using the guidelines.
- iv. Develop and implement a more formal evaluation and metric system specifically to show progress towards meeting goals and objectives. Report results annually to the EDC and City of Newton.
- v. Expand the focus to include small business services (regardless of sector) for existing Newton businesses.
- vi. Increase visibility through social media, stories, and the Website.

Newton Innovation Center

The City of Newton works in collaboration with the Regional Chamber and the Cambridge Innovation Center to run the Newton Innovation Center (NIC), a center based in a municipal building.

The Center has served 126 clients since it began (40 since last June) in 2016. Less than ten of these have been Newton companies. Of clients served, only 1 company has left (graduated from the Center) and that company is moving to Rhode Island; none have graduated and stayed within Newton.

Clients/tenants pay monthly rent of \$175 for co-working space and \$350 for dedicated office space which is significantly below market value rates in Newton. Initial investment by the City of Newton was the building itself which is a City owned building. The City provides building maintenance and care but beyond that there are no other annual costs to the City. The City receives annual revenues from the Center in the amount of \$8,500 (\$6000 license fee, \$2400 cleaning fee) for a net fiscal benefit of \$6,000 annually.

There are no specific criteria for accepting clients other than space limitations. Thus far the Center has had to turn away about eight companies due to space availability. There is also no policy or criteria for graduating clients. They can stay as long as they wish as long as they pay the rent. In terms of evaluation and tracking results, the Center sends out a survey to the tenants each year when their license agreement is renewed to track results on number of companies using the space but there is no broader evaluation based on meeting economic objectives or outcomes overall for the Center.



Targeted Industries

Based on our analysis (data and findings for which is presented in the Base Analysis), we recommend the following industry targets. These were based on historic and projected trends in Newton and the surrounding region related to industry size, concentration, growth, and earnings along with our knowledge of emerging industry trends. They are also recommended based on the existing labor force, education levels and demographics.

- Healthcare – large and small providers, companies within the supply chain or needing to partner with healthcare providers, health care practices seeking real estate/office space, home health networks, entrepreneurs within the health care space, and health-tech (healthcare and IT)
- Educational services – including private training, online businesses, business that can benefit from access to education institutions, high education levels, enrichment training and learning including the arts, education technology
- Professional, scientific and technical – particularly computer systems design which is a regional and local strength, management and consulting, science and technology
- FIRE – finance, insurance, and real estate – though experiencing some declines in sub sector, overall a good match for the City and region with leading real estate knowledge forms, strong workforce skills in analytics, management, and IT
- Possible emerging opportunity – life sciences, biotech – strong in Greater Boston Region is an opportunity for companies looking to move out of start-up phase to a corporate home if lab space can be developed (see real estate section).

In terms of business retention, expansion and attraction tactics for the City of Newton

- 1. Focus on retention and expansion as the top priority – assisting with planning, codes, licenses, customer service, connecting business to solve problems of business already there. Help any and all businesses for retention and expansion regardless of sector.**
2. Work with Chamber and regional partners on coordinating attraction efforts – effort will require business intelligence, lead generation, and building networks nationally and globally which will require resources beyond which can be provided by the City alone.
3. Key selling points – Boston metro – globally recognized metro, safety, education levels/workforce, education institutions, technology intensive region, neighborhoods and villages outside of downtown Boston but near to it, high quality services (school system, parks recreation, library etc....); and, lower price real estate than parts of Boston.
4. Update website to reflect information on economic development specifically related to these targets and tactics.



Objective #3.G. - Implement regular opportunities for feedback from businesses in the villages and corridors

- i. Run a series of round-table discussions in each of the villages to gather information from landlords, property owners, business owners and residents about what they want for their village. Use these conversations to focus on identifying priority projects, specific improvements, opportunities to establish a unique village, and what business owners need. Assess what citizens and businesses are interested in committing their time and efforts to.
- ii. Identify what is needed from the City of Newton to make priority projects happen in terms of funding, support, and education, and provide this information to village representatives following round-table discussions.

Objective #3.H. - Target growth sectors based on Newton's strengths - bio/life sciences; healthtech; professional and technical services (including IT)

- i. Integrate tactics geared specifically towards these sector opportunities into business expansion and attraction efforts. Identify Stage 1 and 2 companies (1-10 employees) looking to grow but not necessarily wanting a City of Boston location.
- ii. Update website to reflect information on economic development related to these targets and tactics. Identify, highlight, and promote success stories of companies in Newton in these targeted sectors through social media, press releases, and newsletter communications.
- iii. Work with Newton North High School and Newton South High School to create internships, career pathways, and other workforce development systems to prepare students for potential careers or business opportunities.
- iv. Work with Chamber and regional partners on coordinating attraction efforts.

Objective #3.G. - Create an inventory of funding sources and financing tools

- i. Inventory all the funding sources and resources available to businesses in Newton for a variety of issues including mentoring, capital costs, training, retaining, retraining, etc. Make this information available on the website and update regularly. Look to inventory Small Business Assistance programs, low interest loan options, grant programs, and other alternative financing tools. Consider having EDC play a role in this effort.
- ii. Reach out to residents of Newton to consider establishment of a Newton-specific angel investment fund to support entrepreneurs and start-ups who want to stay and grow in Newton. Engage existing investors and businesses in Newton and highlight the benefits of growing and keeping successful businesses local. Align this effort with the strategies and efforts for the NIC.



Goal 4 Make the development process more predictable and efficient including community consensus and refinement of the review process.

Objective #4.A. - Create positive, community-based conversations around the future of Newton

- i. Engage village residents around what they want for their local area. Include a citywide discussion around the future of Newton, and the role of "village" within the larger city as it pertains to the future.
- ii. Find ways to engage the residents of Newton in regular positive, open discussions around the core issues facing Newton including diversity, affordability, residential growth, inclusion, local initiatives and funding for projects. Make these conversations ongoing through multiple channels and use the information gathered to guide economic development in the direction desired by the community.

Objective #4.B. - Improve the development review process

- i. Create two tracks for zoning review (smaller vs larger commercial projects) to allow for a more efficient process.
- ii. Improve the existing one stop shop within Newton to assist with larger projects and act as a liaison through the review process.
- iii. Improve and possibly streamline procedures for engaging the community around large projects that are being proposed. Engage developers early in community discussions to identify issues and have fewer delays.
- iv. Implement a customer service survey for applicants to identify areas for improvement. Implement recommended changes as appropriate.

Objective #4.C. - Review all land use regulations and development policies

- i. Complete the zoning redesign project and ensure regulations are predictable and align with stated goals of the community around economic development, livability, diversity, density, and inclusion. Create guidelines for when and where to increase height and square footage allowed in commercial areas to grow the commercial tax base and have vibrancy. Focus on core



commercial areas and village centers, particularly those areas with multi-modal transportation options and existing infrastructure.

- ii. Focus zoning redesign on reducing the need for special use permits to make development more predictable and easier in places where it is appropriate.
- iii. Reduce or eliminate parking requirements for ground floor uses in village centers.
- iv. Provide the public and decision makers better information about the fiscal impact of land use decisions. Prepare an impact analysis guide that outlines the cost of different types of development on Newton including types of residential, commercial, retail, open space, etc. Use this as a tool to guide policy, decision making, and public education.

Objective #4.D. - Improve development review process to create more walkable developments in areas close to Newton's transit assets

- i. Use zoning update process to clarify regulations for more walkable villages and commercial corridors and to consider parking requirements in context.
- ii. Require analysis of transportation options as part of development analysis to understand impacts.
- iii. Streamline design review process to make it predictable and efficient for applicants.
- iv. Create a transportation fund, where developers can pay for site context improvements or for specific elements to be implemented in the capital improvement program.

Goal 5 Maintain and enhance the special qualities of Newton while improving transportation throughout Newton for residents, businesses, and visitors.

Objective #5.A. - Promote multimodal transportation safety and comfort in villages and neighborhoods

- i. Enhance sidewalks, crossings, and add bike parking to increase safety, attractiveness, and usability and to support a "park once" environment to reduce extra driving in village centers.



- ii. Expand placemaking and beautification measures at street level to promote walkability.
- iii. Implement slow traffic zones where needed.
- iv. Invest in transit and cycling networks and services to serve younger workforces that want alternatives to commuting by car. Specifically, focus on linking gaps between mass transit services and bike paths and employment centers.

Objective #5.B. - Use shared parking to reduce parking footprint in village centers

- i. Update zoning policy to enable shared parking exceptions.
- ii. Assist willing property owners in drawing up and implementing joint agreements that would allow for shared parking opportunities.
- iii. Establish and adopt a parking availability goal (could be village-wide or sub areas)
- iv. Regularly evaluate supply and demand of public and private parking use to evaluate needs and compliance with goal.
- v. Use supply and utilization data to examine the right amount of parking as part of future developments.
- vi. Use parking technology to encourage motorists to park in the most appropriate places.

Objective #5.C. - Comprehensively evaluate private shuttle routes that operate to create a more inclusive and comprehensive community transit system

- i. Partner with operators to develop a mutually-beneficial system between private and institutional shuttles while also filling needed gaps in service.
- ii. Partner with adjacent municipalities to create sub-regional service.
- iii. Promote and incentivize ridership.

Objective #5.D. - Focus on maintaining the character and unique feeling of the villages while supporting economic vibrancy

- i. City of Newton representatives should continue to regularly visit businesses and attend neighborhood meetings to identify concerns and challenges to the business environment and



how small businesses can be supported. Work with residents to identify any issues or concerns that impact their quality of life and their ability to interact at the neighborhood level.

ii. Invest in public infrastructure, streetscape improvements, street furniture, parks, and green space to create opportunities for increased interactions among neighbors and walkability.

iii. Work cooperatively with businesses and residents to create small scale community gathering places (playgrounds, street furniture, etc.) events and opportunities for place making and neighborhood scale networking.

Objective #5.E. - Enhance Newton's thriving arts community

i. Support the Newton Cultural Alliance and Newton Pride and engage the arts community in identifying and addressing what issues or challenges they are facing.

ii. Develop a Newton Cultural Plan that outlines needs, opportunities, and specific strategies for implementation.

iii. Review permitting process for art events and other events in the community. Make adjustments as appropriate to streamline requirements and make it more accessible.

iv. Incorporate art into new projects such as space for artists to live or work, commissioning of pieces, and more community art experiences.

v. Continue to provide matching funds to support Newton's participation in the Mass Cultural Council.

vi. Work with the Chamber and the Economic Development Planner to continue to connect developers with the art community for engagement and strategizing.

Objective #5.F. - Create initiatives that highlight and promote the unique aspects and quality of life of Newton

i. Enhance the use, appreciation, and protection of the Charles River by attracting water enhanced and water based businesses. Implement recommendations identified in the N2 Innovation District Plan to develop trail connections along the Charles River to create a "river walk." Repurpose the unused rail bridge across the river between Christina Street and the river walk for pedestrian access. Expand infrastructure for canoeing and kayaking in the Charles River, such as additional boat launches. Market these recreational opportunities to residents, employees, and visitors. Highlight access and view points to incorporate the Charles into the day-to-day life of Newton residents and workers.

ii. Invest in the gateways at the main "entrances" to Newton including signs, planters, street art, and other techniques to engage those who are passing through and ensure that they know they are arriving in Newton, a special city.



iii. Enhance the unique Newton feel of each village and commercial corridor with signage, benches, light fixtures, planters, art, etc.

iv. Work cooperatively with business and residents to create small scale community gathering places (playgrounds, street furniture, etc.) events and opportunities for place making and neighborhood scale networking.



Attachment 1: Action Plan Matrix



Attachment 2: Economic Base Analysis



Attachment 3: Market Analysis



Attachment 4: City Capacity Analysis



Attachment 5: Retail Strategy Research

City of Newton Retail Strategies

The Challenge

Newton's thirteen villages each have their own unique mix of local businesses, historic assets, and public amenities. They are under increasing development pressure from the booming regional real estate market:

The core retail markets inside and along Route 128 have seen record-setting rents as of late, and are expected to remain steady. In this area, average rents of \$50-\$55 per square foot NNN³ for small shop space and \$25-\$30 per square foot NNN for larger spaces are common. For every operator that comes into this area aggressively but cannot sustain sales sufficient to cover high rents, there are strong tenants ready to backfill that space. Recent successful retail developments in Newton include The Street Chestnut Hill and Newton Nexus.

While these trends are great for the tax base, property owners, and developers, the spike in commercial rents is outpacing sales growth for the city's small businesses. Combined with the need to adapt quickly to eCommerce trends in the industry, competition from national chains, and a limited supply of affordable space, Newton's long-established independent businesses are under threat; some have already shuttered their storefronts. As small local businesses are forced to leave, so goes Newton's sense of place and quality of life.

Recommendations for Leveling the Playing-field

In cities across the U.S. and Canada, developers and funders are focused on catering to large chains who can afford high lease rates and easily cover their debt. Left untouched, city-scale real estate markets and access to capital is increasingly biased towards major retailers. Newton is experiencing these trends first-hand. The following recommendations are designed to address the imbalance of power and level the playing field so the city's otherwise healthy local retail businesses can compete.

Recognize Historic Businesses as Historic Assets

In 2015, faced with sky-rocketing commercial lease rates causing otherwise healthy businesses to shut down or relocate, the City of San Francisco decided to create a [historic registry](#) for their 30+ year old businesses and subsequently established the Legacy Business Historic Preservation Fund (legacybusinesssf.com) to offer financial support:

- For Legacy Businesses, annual grant of \$500 per employee, with a cap of 100 employees.
- For Property owners who extend ten-year or longer leases to Legacy Businesses, annual grant of \$4.50 per square foot, with a cap of 5,000 square feet.

[The program](#) is open to 300 businesses and non-profits annually.

Independent retail business across the U.S. are facing similar challenges, and many cities are considering legacy business programs to help small businesses stay in-place in competitive real estate markets. [San Antonio](#) recently established a program and Seattle just completed an [exploratory study](#), which contains in-depth information on this type of program.

³ NNN, or "triple net," refers to a lease arrangement where the tenant is responsible for property taxes, maintenance, and insurance expenses, beyond the base rent amount



Actions

- The City will create a registry for Newton’s long-established small retail businesses. This information will be used to customize the following recommendations and strategies specifically to the needs of Newton businesses as well as better connect the small business community across the thirteen villages.
- As part of the registry, the City will collect information about:
 - Type of businesses (goods sold or services offered)
 - Age of business, brief history
 - Ownership structure and any succession plans
 - Size and type of space the business occupies
 - Lease rates and ownership status of space business occupies
- The City will use information collected when creating the registry to design a financial assistance program, including grants and tax credits, that will address high-rent blight. The program will support small retail businesses and/or property owners to offset rising rents and enable the businesses to remain in-place. This is can be tied into the creation of tax increment financing districts.

Employ Small Business Friendly Zoning

Spiking commercial retail real estate lease rates in cities across the U.S. is the result of developers focusing on the needs of large national chains. Cities can use their zoning code, one of their most powerful tools to guide development, to proactively preserve affordable retail space while still maintaining a friendly environment for large retailers.

Updating a zoning code can be a very time-intensive process. Cities like San Francisco and [New York City](#) use Special Purpose Districts to supplement their existing zoning code to respond to specific needs of individual neighborhoods.

Actions

- **Restrict chain stores in village centers.** Create districts with provisions for ‘formula retail’ to cap how much street-level retail can be chain stores in Newton’s villages. Formula retail provisions can allow chain stores only by permit, not by right, and, by conducting outreach to residents when a project is proposed, can give the local residential community/consumer market the opportunity to be more engaged in the development process.
- **Use the city zoning code to preserve and increase the supply of smaller retail spaces.** Parameters might include a cap on storefront size, require mixed-use buildings to have a minimum number of storefronts, and put limits on when a retailer can knock down walls to create larger spaces.
- **Adopt a business diversity ordinance.** The ordinance can require businesses with many locations in the U.S. to apply for a special use permit in order to locate in one of Newton’s villages. The permit can consider how many businesses of that type are already in the district, assess if the business is compatible with the neighborhood, and consider if the applicant would bring something to the district that does not currently exist.

Create a “Buy Your Building” Plan

Businesses that own their own building have more control over their costs and are more resilient in a dynamic real estate market environment. Small business owners who own their own buildings build equity with their mortgage payments and build wealth that is more likely to stay locally in the community instead of out-of-town investors.



Many cities are in the process of designing programs and policies to help local small retail businesses owners purchase buildings. In [Austin](#) and [Salt Lake City](#), lease-to-own programs use a mix of federal grants and local lenders to help small businesses purchase buildings and in New York City, strategies are being proposed to encourage developers to sell retail spaces as condominiums. Other communities are getting creative and using investment cooperatives and [commercial community land trusts](#), to help stabilize commercial rates for small businesses.

Actions

- The City will identify financial partners for the program, including a network of local and regional lending institutions as well as federal programs through HUD and SBA.
- The City will work with partners, as well as representatives from the business community interested in participating in the program, to design a program to help Newton's business owners purchase buildings.

Create Opportunity for Local Businesses in Government Properties & Purchasing

Cities own and invest in real estate and can support local businesses by implementing policies that make city-owned properties more accessible for small businesses. This might be space in and around public transit, in city-owned buildings, and city-owned recreational amenities. Cities can control the rent in these spaces.

Actions

- The City will take an inventory of City-owned properties and public settings and identify space that local retailers and service providers might be able to capitalize on.
- This information will be used to write policies that encourage local businesses to bid on these opportunities.
- The City will conduct outreach to local businesses to promote the opportunities.
- As momentum for this project accelerates, the need for a digital solution will arise to efficiently connect businesses with available space. The City will explore creating a digital application to streamline this process and reduce staff-time necessary to run the program.

Establish a Local Currency Program

Examples of local currency programs include:

BerkShares Redeemable at over 400 participating businesses in the Berkshires of Massachusetts, BerkShares are issued at multiple participating banks (15 branches at four local banks). They give the user a 5% discount, as they cost \$0.95 per Berkshare but can be used to purchase \$1 worth of goods and services at participating businesses. They are traded in at what they cost, \$0.95, providing an incentive for business owners to recirculate them to other participating businesses. Since 2006, 7.3 million Berkshares have been issued, and there are currently about 140,000 BerkShares in circulation.⁴

BNotes This Baltimore- based local currency started in 2011 and has grown to over 34,000 in circulation regularly. Started as a response to the economic crisis, the goal of BNotes was to address the growing wealth inequality in the region. Now, over 240 businesses accept BNote. BNotes are purchased at six participating retailers and cost \$10 for 11 BNotes and can be exchanged for the reverse rate (11 BNotes for \$10), incentivizing recirculation.⁵

⁴ Active Local Currencies <http://www.centerforneweconomics.org/content/active-local-currencies>

⁵ Where to get BNotes <http://baltimoregreencurrency.org/cambios>



Brixton Pound The Brixton Pound in the UK started off as a physical currency, when their 10 pound note featured David Bowie, a resident of Brixton. Later, an electronic pay-by-text platform was introduced. Started in 2009, around 250 businesses currently accept the paper currency and 200 use the pay-by-text platform. They also feature a cash machine that distributes paper Brixton Pounds, and a program where their local government employees can receive part of their paycheck in this local currency.

Local currency programs can have the following benefits:

- **Boosts the local multiplier effect.** As an economic development tool, local currencies keep money local and recirculating through the same community, therefore increasing the economic multiplier effect. Circulation encourages capital to remain in a specific geographic location, benefiting all participating business. When you spend locally, your dollar stays local up to three times longer than when it's spent with national chains.⁶
- **Promotes local economic development.** A local currency program is a great way to unite businesses around a common and ubiquitous desire: to increase sales. While it does require coordination, it can be a small-scale reminder that it not only serves a purpose in its own right, but supports existing local economic development initiatives.
- **Encourages social benefits.** Just like the feeling when you get your final punch in that coffee card being part of a local currency program builds social fabric and pride in one's community.
- **Increases customer loyalty.** As mentioned previously, Brixton's local government provides the option for employees to receive the Brixton Pound as a portion their salary. Employees who do so report changing spending habits, trying out participating businesses when they normally wouldn't.
- **Creates new business networks.** As a business who received a local currency there is also an incentive to spend it again with another participating business. This encourages new businesses-to-business relationships to develop, increasing the interconnectedness of a region's economy.⁷

Local currency programs work well in communities where there are already a number of small, independent merchants, strong community spirit, relative geographic isolation, and inflow of new residents (particularly artists and students). Except for geographic isolation, the City of Newton checks all of these boxes. A local currency program can

Actions

- The City will design a local currency program targeted at students (college and high school), and the service-industry workforce (individuals who work in local hospitals, retail stores, and service providers) using information available through the Schumacher Center for a New Economics: <http://www.centerforneweconomics.org/content/local-currencies>.
- Local technology experts will be recruited to help establish the digital structure for the currency (website, app, etc.)
- The City will launch a robust marketing campaign to recruit businesses and engage the targeted customers of students and employees in the service-sectors about the local currency.

⁶ The Multiplier Effect of Local Independent Businesses <https://www.amiba.net/resources/multiplier-effect/>

⁷ Money with a purpose Community currencies achieving social, environmental and economic impact http://b.3cdn.net/nefoundation/ff0740cad32550d916_o1m6byac6.pdf



Offer Technical Support for Retail Businesses

Newton's local retail and service businesses need innovation support so they can adapt and innovate within an industry that is evolving – fast. Many national retailers have their own internal innovation centers or 'innovation labs' that are focused on developing the company's next big idea. To compete, small independent retailers who want to stay in Newton need a community where they can go to test and refine their transformative ideas and receive technical support to enhance existing business operations. The Newton Innovation Center (NIC) can be the hub for this community.

Services and support accessed through the NIC to local retail businesses and enraptures will include:

- Education around transformation in the retail industry and the role of small businesses in the future of community-based retail and services when trends are driven by outside forces:
 - Rapid adoption of technology by consumers
 - New retail players like Amazon, Google, and Facebook
- Business succession planning
- Providing local market intelligence and consumer targeting recommendations
- Digital programming and matching small business owners with local IT experts in the community to support (example: [Digital Main Street](#)):
 - Digital marketing
 - eCommerce systems
- Connect local retailers with other entrepreneurs in the community who want to test new ideas in Newton
- High-impact interior design support

It is critical that the programs and services offered avoid simple preservation tactics and instead foster a culture of creative thinking and taking disruptive actions.

Actions

- Through the process of developing the small business registry, the City will conduct a needs assessment to understand which resources and types of assistance are most in-demand by the local retail community.
- The City will work to identify partners for this project such as one of our many leading educational institutions and/or corporate partners.
- A business plan for the NIC will be created that re-focuses programming and assistance to support local small businesses and entrepreneurs who want to remain in the city.

Enhance the City's Commercial Real Estate Connection Services

As mentioned above, many Newton businesses struggle to remain in the city when their lease expires or they need to expand into a larger space. This is due to the limited supply of retail space at affordable rates. Existing businesses looking to stay in the city and businesses interested in locating to the city, need support in their search for space to understand the options that are available at different price points.

The [Commercial Real Estate Connection](#) page on the City's website currently offers a wordy, bureaucratic narrative, concluded with a non-hyperlinked web-address to a LoopNet page. This pushes business owners away from the City's website and creates the perception that the City is not the best place to look for help when trying to find commercial real estate. In comparison, the City of Detroit's [Motor City Match](#) website is an excellent example of a site designed to connect local business owners who need space and property owners with available space. It's designed to be inviting, emanating energy and excitement about retail opportunities in Detroit – not an easy feat!



This program also offers grant awards to local businesses and building owners to help revitalize the city's neighborhoods.

Actions

- Utilize MLS listings like LoopNet as well as the data collected as part of the business registry (above) to create a current database of commercial space in the City.
- Develop a system to track available space and lease rates regularly.
- Communicate real estate availability to the business community regularly.
- Develop a web-based application to be housed on the City's website, that local businesses can use to search for space.
- Redesign the [Commercial Real Estate Connection](#) page to improve the user experience and messaging. It should provide live links to resources the city offers and be designed to encourage the visitor to contact the City for assistance finding a great property to meet their needs.



Attachment 6: Acknowledgements

The creation of the City of Newton Economic Development Strategy involved numerous members of the Newton community. Below is a list of the people and organizations that made this strategy possible.

Newton Economic Development Commission

The Newton Economic Development Commission was established by City ordinance with a mission to promote and develop business and industry for the purpose of strengthening the local economy, providing jobs, and expanding the City's tax base. The Commission promotes, assists, and encourages existing and new business, industry, and commerce in Newton and advises and makes recommendations to City officials and staff.

EDC Members

Joyce Plotkin (Chair)	Howard Barnstone (Vice-Chair)
Robert Finkel (Vice-Chair)	Chuck Tanowitz (Secretary)
Stephen Feller	Jeremy Freid
G. Groot Gregory	Jane Ives
Jack Leader	Peter Kai Jung Lew
Philip Plottel	

Thank you to all the people who came out and participated in the public meetings associated with this project and the people who participated in interviews with the project team. Their insights were invaluable to development of this strategy.

Tom Andrews, EVP
Jeff Behrens, Siamab Therapeutics
Dr. Ed Chazen, Boston College
Allan Cohen, City of Newton Assessors Department
Neil Cronin, City of Newton Planning Department
Daniel Elias, New Art Center in Newton
Steve Feller, Economic Development Commission
Kent Gonzales, Northland Investment Corporation
Mark Goodman, Cardio High
Marc Laredo, City Council President
Jack Leader, Economic Development Commission
Robert S. Korff, Mark Development, LLC
Karen Masterson, Johnny's Diner
Kerry McCormack, Newton Nexus
Brian O'Dea, Newton-Wellesley Hospital
Joyce Plotkin, Chair of Economic Development Commission
Phil Plottel, Economic Development Commission



Thomas Ragno, King Street Properties
Greg Reibman, Newton Needham Chamber of Commerce
Paul Roberts, Newton Camera
Carolyn Rock, Boston Ballet
Alan J. Schlesinger, Schlesinger and Buchbinder, LLP
Linda Sloan Key, Century Bank
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Goal 1: Take steps to pursue development types that make Newton both commercially successful and a great place to live, work, and play.

Rationale: For Newton to successfully move towards the desired future there are specific steps that Newton can take to encourage development of specific use-

	Objective	Actions	Lead and Partners	Priority Level and Timeframe	Resource Level	Measures for Progress and Success
1.A.	Increase lab space in Newton to capitalize on highly skilled workforce with science background and regional economic trends.	<ul style="list-style-type: none"> i. Identify a corridor or collection of parcels that will be geared towards lab space and rezone as necessary to encourage development to that area. Look to areas with high market demand such as Nonantum, Wells Ave, and Riverside. Concentrate the lab space to encourage synergies between the businesses and employees. ii. Use City of Newton resources to invest in transportation infrastructure (bike and pedestrian assets, public transportation, van or car sharing options), technical infrastructure (financing pools, professional service provider inventory, business planning guidance), permitting (fast track, generic review and approvals), etc. to make it easy and attractive for a business to establish a space. iii. Promote the potential opportunities of Newton to existing lab space developers and operators, including affordability, parking, and community support. Conduct targeted marketing including improved web presence, conferences, and other networking events. 	City of Newton, EDC	High, Short Term	Staff Time and High Level of Capital Investment	Total square feet of lab space, Number of related jobs in Newton, Number of related companies in the city.
1.B.	Increase office space in Newton including coworking space to attract and retain companies and increase the commercial tax base.	<ul style="list-style-type: none"> i. Add office space by allowing appropriately scaled additional stories in the zoning redesign in targeted areas with demand for office space such as Riverside, Wells Avenue, Nonantum, and village centers. 	City of Newton	High, Short Term	Staff Time	Total square feet of occupied office space
1.C.	Encourage mixed-use projects in villages and commercial corridors, especially those with mass transit.	<ul style="list-style-type: none"> i. Redo zoning to make sure that market driven mixed-use developments are allowed in village centers and along commercial corridors. Allow for additional development around commuter rail, T stations, and other multi-modal assets to create mixed-use nodes with increased economic activity, customer base, and vibrancy. ii. Evaluate proposed mixed-use projects in terms of the proportion of workforce housing to create skills match between housing and employment options. iii. Encourage development of housing geared towards young professionals and low to middle income families to attract more people to serve business growth. iv. Encourage housing in villages and commercial corridors with mass transit to create "built in" customers for businesses who need less access to private automobiles. 	City of Newton	Medium, Short Term	Staff Time	Total square feet of occupied space within .25 miles of multi-modal assets, Number of residential units considered affordable for the workforce
1.D.	Take advantage of economic development tools	<ul style="list-style-type: none"> i. Use Tax Increment Financing (TIF), if necessary, to incentivize commercial development and attract businesses. Develop guidelines for evaluating TIF applications that establish Newton's desired outcomes from TIF-incentivized projects (e.g. quality job creation, sizeable capital investment, attraction of specific industry sectors, etc.) and specify targeted investment areas within the city, including Needham Street, Washington Street, Wells Avenue, the Charles River Mill District, and Newton Centre. ii. Utilize District Improvement Financing (DIF) for funding traffic and infrastructure improvements, parking structures, and other public projects needed to stimulate private investment in targeted areas within Newton, if necessary. Identify DIF goals and establish a Development District and Development Program for one or more areas within Newton iii. Assess the potential for using District Improvement Financing (DIF) revenues for Newton to acquire and lease out affordable retail space to local retailers in retail districts including Washington Street and Newton Centre. 	City of Newton	Medium, Mid-Term	Staff Time	New development induced

Goal 2: Focus redevelopment efforts on key parcels and corridors in Newton.

Rationale: There are a number of corridors and areas of Newton that are especially well positioned for economic development opportunities.

	Objective	Actions	Lead and Partners	Priority Level and Timeframe	Resources	Measures for Progress and Success
2.A.	Continue to revitalize Needham Street	<ul style="list-style-type: none"> i. Complete the Needham Street visioning process and implement recommendations. ii. Improve the physical environment of Needham Street corridor to make it more pedestrian friendly, implement traffic calming measures, and enhance the appearance. iii. Work collaboratively with Needham to implement N2 Innovation District initiatives. iv. Work with the developers of the Northland property to create an appropriately scaled project that will have positive economic benefits for the community creating a mixed-use project that will provide housing, Class A office, retail, and other amenities and will offer new transportation options, types of housing, and more vibrancy. 	City of Newton, EDC	High, Short Term	Moderate Staff Time	Number of community engagement sessions, Total number of commercial square footage
2.B.	Pursue development of Riverside	<ul style="list-style-type: none"> i. Engage neighbors and community in project discussions. Assist with facilitation of conversations with local, regional, and statewide agencies. Highlight the potential of the site resulting from its location along the 128 belt and access to the MBTA station. ii. Encourage uses that align with the goals of Newton in terms of building out co-working space/office space, diversity of housing types, and diversifying and growing the tax base. iii. Determine the right mix of uses and size/scale/building height so it works for Newton. iv. Build transportation infrastructure to serve the Riverside development to enhance multi-modal offerings and ability to move from the site to other places in Newton. Specifically, consider connecting the green line at Riverside to the commuter rail at Auburndale, creating safer walking and biking connections throughout, and creating a connected network of streets within Riverside that also connects at multiple points to the surrounding areas including Recreation Road to avoid overloading Grove Street. 	City of Newton, EDC	High, Short Term	Minimal Staff Time	Number of community engagement sessions, Total number of commercial square footage
2.C.	Build out the Charles River Mill District	<ul style="list-style-type: none"> i. Align zoning with goals to be a mixed-use neighborhood with opportunities for lab space and support services. ii. Build the brand of the Charles River Mills District. Inventory the assets and strengths of the area and incorporate into promotion material as a good option for those companies looking for a moderate cost and industrial/urban setting. iii. Develop lab space in this district, an emerging opportunity. iv. Encourage the proper mix of services (eg - Restaurants, coffee shops, day care, etc.) to serve residents, businesses, and employees. 	City of Newton, EDC, City of Watertown	Medium, Mid-Term	Staff Time	Total commercial square feet in Charles River Mill District.
2.D.	Realign the Wells Avenue Business Park	<ul style="list-style-type: none"> i. Implement the recommendations from the Wells Ave Vision plan including creating a secondary entrance/exit. ii. Increase the height restrictions to allow for additional growth. iii. Allow for a variety of non-housing (gyms, restaurants, cafes, personal services, etc.) and create additional amenities for businesses and workers. iv. Improve the quality of the roads, sidewalks, lighting, seating, signage, and general appearance of the Wells Avenue Business Park for all users. 	City of Newton, EDC	Medium, Mid-Term	Minimal Staff Time	Occupancy in Wells Ave Business Park
2.E.	Revitalize Washington Street	<ul style="list-style-type: none"> i. Continue to engage the community in the Washington Avenue Corridor Visioning and Zoning process and direct development to align with community vision. ii. Make physical improvements and transportation related improvements that align with the vision identified. 	City of Newton, EDC	Medium, Mid-Term	Moderate Staff Time	Number of community engagement sessions, Total number of commercial square footage

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2.F.	Develop a vision plan for Newton Centre	<ul style="list-style-type: none"> i. Complete a full market analysis to identify the specific opportunities for Newton Centre, including community infrastructure. ii. Engage community and neighbors in the process to allow for feedback on potential growth, use types, new projects, and investments. iii. Amend zoning to be consistent with vision. iv. Limit the number of banking institutions to diversify mix of business. v. Encourage building second and third floors on existing building for office and residential. vi. Encourage more co-working space. 	City of Newton, EDC	Medium, Mid-Term	Minimal Staff Time	Completion of market analysis, Zoning review complete
2.G.	Focus development of larger villages as regional centers for business and retail	<ul style="list-style-type: none"> i. Focus on creating a vibrant environment in the larger villages, especially those with mass transit, through attraction of restaurants, retail, housing, and office/co-working space. Review all zoning regulations to ensure they accommodate an increase in square footage of development that is in line with the community goals for each village. ii. Design parking recommendations to ease congestion and make it easier for businesses and residents. 	City of Newton	High, Mid-Term and ongoing	Minimal Staff Time	Square feet of commercial use within village districts

Goal 3: Support the start-up, growth, stability, and vitality of businesses and entrepreneurs in Newton.

Rationale: By supporting entrepreneurs and businesses, Newton will grow its tax base, create new economic opportunities for all, and build vibrancy of villages and commercial corridors.

	Objective	Actions	Lead and Partners	Priority and Timeframe	Resources	Measures for Progress and Success
3.A.	Create a business environment in Newton that provides more support for small and local businesses	<ul style="list-style-type: none"> i. Create a regular communication system to ensure easy access of information related to business resources, training programs, and support that is available digitally and in hard copy. ii. Establish land use policies that encourage or require affordable rent for locally-owned retail establishments in targeted locations throughout Newton. iii. Partner with the Chamber, higher education, and other organizations to offer networking events for small businesses and entrepreneurs for both partnership development and to create a support system. Use events to highlight service providers that are well versed in the challenges facing small businesses in Newton. iv. Make changes to zoning code to ensure co-working, incubator, and makers spaces are allowed as a right within targeted areas. v. Continue to engage with the N2 Innovation District and collaborate on efforts that will highlight Newton as attractive and open for business. vi. Identify funding sources for businesses and property owners to work with enforcement officials around improvements to bring buildings up to code. vii. Ensure zoning code allows home based businesses with appropriate regulations to preserve neighborhood character. 	City of Newton, EDC, Chamber of Commerce	High, Short Term and ongoing	Moderate Staff Time	Number of businesses in Newton
3.B.	Leverage the Economic Development Commission	<ul style="list-style-type: none"> i. Use the Economic Development Commission as a partner in implementation of the Economic Development Action Plan. ii. Continue to have the EDC weigh in on City of Newton matters related to or impacting business and economic development. iii. Use the EDC to communicate and work with the village and corridor stakeholders to understand and plan for how their goals and objectives fit into the Economic Development Action Plan. 	EDC	High, Short Term and ongoing	Minimal Staff Time	Number of actions implemented.
3.C.	Improve the external marketing of Newton's business environment	<ul style="list-style-type: none"> i. Create a more professional economic development website with web-based applications and GIS platforms. ii. Update the economic development website to make it easier to access. Include targeted demographic, economic and workforce data, infrastructure availability, and contact information. iii. Create a targeted bio/life sciences landing page that has marketing material targeted towards developers and businesses that highlight the workforce skills and qualifications of residents, available space and any shovel ready sites, Gold Bio-Ready Rating, and the ease of the process. iv. Create a workforce landing page that describes the workforce and why Newton is a good place to do business. v. Create a retail/demographic landing page that describes why Newton is a good place to open a store. vi. Enhance the City of Newton's commercial real estate connection services through use of MLS listing, tracking of available space, development of web-based applications, and redesign of the Commercial Real Estate Connection page. vii. Increase the marketing budget as resources and demand allows. 	City of Newton, EDC, Consultant	High, Immediate and ongoing	\$50,000 for initial website upgrade plus \$10,000 per year for maintenance	Number of visits to the websites
3.D.	Better understand and provide more support to existing businesses by expanding Newton's business visitation program.	<ul style="list-style-type: none"> i. Implement a formal Business Retention and Expansion program, and partner with an organization such as the Regional Chamber. Work with partner organizations to create a base list of questions for all contacts and a central point for documentation of the visit to make sure all information is shared and follow-up conducted. ii. Continue to create a schedule and priority list for what companies to conduct visitation with. Focus efforts on the larger businesses first with regular integration of the smaller businesses that have potential to grow. iii. Review the pre-visit survey to identify topics for discussion, conduct visit, track information and issues, and follow-up site visits with responses back to the business. Input all data and information in a digital system or platform to keep track of any necessary follow-up. Use information to address immediate issues through referral or immediate action and/or identify themes and provide recommendations to the City of Newton. 	City of Newton, EDC, Chamber of Commerce	High, Short Term and ongoing	Moderate Staff Time	Number of businesses visited each year

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3.E.	Implement policies to support small retailers and improve their ability to remain viable.	<p>i. Recognize historic businesses as special Newton assets by creating a registry of long-established small retail businesses and evaluate using this information to design a financial assistance program.</p> <p>ii. Consider employing small business friendly zoning that preserves and increases supply of small retail spaces, and includes a business diversity ordinance.</p> <p>iii. Work to engage landlords in discussions around economic development issues in villages and the role that they play in supporting small retail.</p> <p>iv. Create opportunity for local Newton businesses in government properties when appropriate.</p>	City of Newton, EDC, Chamber of Commerce	High, Immediate and ongoing	Extensive Staff Time	Number of locally owned small retail establishments in Newton.
3.F.	Expand capacity of Newton Innovation Center (NIC)	<p>i. Clarify the purpose and focus of the Center, including who it is trying to serve and why, and what goals and objectives Newton is trying to accomplish. Focus on entrepreneurs and businesses with employees who live and work in Newton or at least have expressed interest in growing in Newton outside of the NIC.</p> <p>ii. Actively look for a larger building closer to more restaurants, coffee shops, entertainment, small offices, and mass transit.</p> <p>iii. Establish guidelines for accepting and graduating clients/tenants connected to the purpose, goals and objectives. Make clients and tenants apply and then base acceptance on a case-by-case basis using the guidelines.</p> <p>iv. Develop and implement a more formal evaluation and metric system specifically to show progress towards meeting goals and objectives. Report results annually to the EDC and City of Newton.</p> <p>v. Expand the focus to include small business services (regardless of sector) for existing Newton businesses.</p> <p>vi. Increase visibility through social media, stories, and the Website.</p>	City of Newton, EDC, Chamber	High, Immediate	Extensive Staff Time	Number of companies in NIC, Number of companies leaving NIC and staying in Newton
3.G.	Implement regular opportunities for feedback from businesses in the villages and corridors	<p>i. Run a series of round-table discussions in each of the villages to gather information from landlords, property owners, business owners and residents about what they want for their village. Use these conversations to focus on identifying priority projects, specific improvements, opportunities to establish a unique village, and what business owners need. Assess what citizens and businesses are interested in committing their time and efforts to.</p> <p>ii. Identify what is needed from the City of Newton to make priority projects happen in terms of funding, support, and education, and provide this information to village representatives following round-table discussions.</p>	Mayor, City of Newton, EDC	High, Short Term and ongoing	Staff and volunteer time	Number of events held, Number of attendants
3.H.	Target growth sectors based on Newton's strengths - bio/life sciences; healthtech; professional and technical services (including IT)	<p>i. Integrate tactics geared specifically towards these sector opportunities into business expansion and attraction efforts. Identify Stage 1 and 2 companies (1-10 employees) looking to grow but not necessarily wanting a City of Boston location.</p> <p>ii. Update website to reflect information on economic development related to these targets and tactics. Identify, highlight, and promote success stories of companies in Newton in these targeted sectors through social media, press releases, and newsletter communications.</p> <p>iii. Work with Newton North High School and Newton South High School to create internships, career pathways, and other workforce development systems to prepare students for potential careers or business opportunities.</p> <p>iv. Work with Chamber and regional partners on coordinating attraction efforts.</p>	City of Newton, EDC, School District	Medium, Short Term	Moderate Staff Time	Number of businesses in targeted industries
3.I.	Create an inventory of funding sources and financing tools	<p>i. Inventory all the funding sources and resources available to businesses in Newton for a variety of issues including mentoring, capital costs, training, retaining, retraining, etc. Make this information available on the website and update regularly. Look to inventory Small Business Assistance programs, low interest loan options, grant programs, and other alternative financing tools. Consider having EDC play a role in this effort.</p> <p>ii. Reach out to residents of Newton to consider establishment of a Newton-specific angel investment fund to support entrepreneurs and start-ups who want to stay and grow in Newton. Engage existing investors and businesses in Newton and highlight the benefits of growing and keeping successful businesses local. Align this effort with the strategies and efforts for the NIC.</p>	City of Newton	Medium, Mid-Term	Minimal Staff Time	Inventory of financial tools, Creation of a DIF or TIF district

Goal 4: Make the development process more predictable and efficient including community consensus and refinement of the review process.

Rationale: Enhancing the efficiency of the development process, while at the same time respecting the wishes of the community, will create a more positive business environment and attract additional development to Newton.

	Objective	Actions	Lead and Partners	Priority and Timeframe	Resources	Measures for Progress and Success
4.A.	Create positive, community-based conversations around the future of Newton	<ul style="list-style-type: none"> i. Engage villages residents around what they want for their local area. Include a citywide discussion around the future of Newton, and the role of "village" within the larger city as it pertains to the future. ii. Find ways to engage the residents of Newton in regular positive, open discussions around the core issues facing Newton including diversity, affordability, residential growth, inclusion, local initiatives and funding for projects. Make these conversations ongoing through multiple channels and use the information gathered to guide economic development in the direction desired by the community. 	City of Newton, EDC	High, Immediate and ongoing	Moderate Staff Time	Number of events and sessions held
4.B.	Improve the development review process	<ul style="list-style-type: none"> i. Create two tracks for zoning review (smaller vs larger commercial projects) to allow for a more efficient process. ii. Improve the existing one stop shop within Newton to assist with larger projects and act as a liaison through the review process. iii. Improve and possibly streamline procedures for engaging the community around large projects that are being proposed. Engage developers early in community discussions to identify issues and have fewer delays. iv. Implement a customer service survey for applicants to identify areas for improvement. Implement recommended changes as appropriate. 	City of Newton, EDC	High, Immediate and ongoing	Moderate Staff Time and Salary	Development review process time,
4.C.	Review all land use regulations and development policies	<ul style="list-style-type: none"> i. Complete the zoning redesign project and ensure regulations are predictable and align with stated goals of the community around economic development, livability, diversity, density, and inclusion. Create guidelines for when and where to increase height and square footage allowed in commercial areas to growth the commercial tax base and have vibrancy. Focus on core commercial areas and village centers, particularly those areas with multi-modal transportation options and existing infrastructure. ii. Focus zoning redesign on reducing the need for special use permits to make development more predictable and easier in places where it is appropriate. iii. Reduce or eliminate parking requirements for ground floor uses in village centers. iv. Provide the public and decision makers better information about the fiscal impact of land use decisions. Prepare an impact analysis guide that outlines the cost of different types of development on Newton including types of residential, commercial, retail, open space, etc. Use this as a tool to guide policy, decision making, and public education. 	City of Newton	High, Immediate	Moderate Staff Time	Complete the re-zoning project
4.D.	Improve development review process to create more walkable developments in areas close to Newton's transit assets	<ul style="list-style-type: none"> i. Use zoning update process to clarify regulations for more walkable villages and commercial corridors and to consider parking requirements in context. ii. Require analysis of transportation options as part of development analysis to understand impacts. iii. Streamline design review process to make it predictable and efficient for applicants. iv. Create a transportation fund, where developers can pay for site context improvements or for specific elements to be implemented in the capital improvement program. 	City of Newton	Medium, Short Term	Moderate Staff Time	Zoning update

Goal 5: Maintain and enhance the special qualities of Newton while improving transportation throughout Newton for residents, businesses, and visitors.

Rationale: Quality of place is an important factor for economic development and specifically business and talent attraction. The City of Newton offers residents and businesses a high quality of place. In order to maintain and enhance this quality of place, there are some improvements that can be made in village centers and throughout Newton.

	Objective	Actions	Lead and Partners	Priority and Timeframe	Resources	Measures for Progress and Success
5.A.	Promote multimodal transportation safety and comfort in villages and neighborhoods	<ul style="list-style-type: none"> i. Enhance sidewalks, crossings, and add bike parking to increase safety, attractiveness, and usability and to support a "park once" environment to reduce extra driving in village centers. ii. Expand placemaking and beautification measures at street level to promote walkability. iii. Implement slow traffic zones where needed. iv. Invest in transit and cycling networks and services to serve younger workforces that want alternatives to commuting by car. Specifically, focus on linking gaps between mass transit services and bike paths and employment centers. 	City of Newton	High, Short Term and ongoing	Capital Investment	Number of improvements made
5.B.	Use shared parking to reduce parking footprint in village centers	<ul style="list-style-type: none"> i. Update zoning policy to enable shared parking exceptions. ii. Assist willing property owners in drawing up and implementing joint agreements that would allow for shared parking opportunities. iii. Establish and adopt a parking availability goal (could be village-wide or sub areas) iv. Regularly evaluate supply and demand of public and private parking use to evaluate needs and compliance with goal. v. Use supply and utilization data to examine the right amount of parking as part of future developments. vi. Use parking technology to encourage motorists to park in the most appropriate places. 	City of Newton	High, Short Term and ongoing	Minimal Staff Time	Number of shared parking agreements
5.C.	Comprehensively evaluate private shuttle routes that operate to create a more inclusive and comprehensive community transit	<ul style="list-style-type: none"> i. Partner with operators to develop a mutually-beneficial system between private and institutional shuttles while also filling needed gaps in service. ii. Partner with adjacent municipalities to create sub-regional service. iii. Promote and incentivize ridership. 	City of Newton, Operators	Medium, Mid-Term	Minimal Staff Time	Number of partnerships established, Number of riders
5.D.	Focus on maintaining the character and unique feeling of the villages while supporting economic vibrancy	<ul style="list-style-type: none"> i. City of Newton representatives should continue to regularly visit businesses and attend neighborhood meetings to identify concerns and challenges to the business environment and how small businesses can be supported. Work with residents to identify any issues or concerns that impact their quality of life and their ability to interact at the neighborhood level. ii. Invest in public infrastructure, streetscape improvements, street furniture, parks, and green space to create opportunities for increased interactions among neighbors and walkability. iii. Work cooperatively with businesses and residents to create small scale community gathering places (playgrounds, street furniture, etc.) events and opportunities for place making and neighborhood scale networking. 	City of Newton, Chamber of Commerce	Medium, Mid-Term	Staff Time	Number of commercial businesses in smaller village centers

5.E.	Enhance Newton's thriving arts community	<ul style="list-style-type: none"> i. Support the Newton Cultural Alliance and Newton Pride and engage the arts community in identifying and addressing what issues or challenges they are facing. ii. Develop a Newton Cultural Plan that outlines needs, opportunities, and specific strategies for implementation. iii. Review permitting process for art events and other events in the community. Make adjustments as appropriate to streamline requirements and make it more accessible. iv. Incorporate art into new projects such as space for artists to live or work, commissioning of pieces, and more community art experiences. v. Continue to provide matching funds to support Newton's participation in the Mass Cultural Council. vi. Work with the Chamber and the Economic Development Planner to continue to connect developers with the art community for engagement and strategizing. 	Newton Cultural Alliance, Chamber of Commerce	Medium, Mid-Term	Minimal Staff Time and Financial Resources	Completion of a Newton Cultural Plan
5.F.	Create initiatives that highlight and promote the unique aspects and quality of life of Newton	<ul style="list-style-type: none"> i. Enhance the use, appreciation, and protection of the Charles River by attracting water enhanced and water based businesses. Implement recommendations identified in the N2 Innovation District Plan to develop trail connections along the Charles River to create a "river walk." Repurpose the unused rail bridge across the river between Christina Street and the river walk for pedestrian access. Expand infrastructure for canoeing and kayaking in the Charles River, such as additional boat launches. Market these recreational opportunities to residents, employees, and visitors. Highlight access and view points to incorporate the Charles into the day-to-day life of Newton residents and workers. ii. Invest in the gateways at the main "entrances" to Newton including signs, planters, street art, and other techniques to engage those who are passing through and ensure that they know they are arriving in Newton, a special city. iii. Enhance the unique Newton feel of each village and commercial corridor with signage, benches, light fixtures, planters, art, etc. iv. Work cooperatively with business and residents to create small scale community gathering places (playgrounds, street furniture, etc.) events and opportunities for place making and neighborhood scale networking. 	City of Newton, N2	Medium, Mid-Term	Staff Time and Moderate Investment for Gateways	Reuse of the unused rail bridge, Amount of investment in infrastructure for river use, Number of gateway improvements

**Zoning and Planning
Committee**

①

**MARIJUANA
NEW ZONING PROPOSALS**

7/30/2018

Zoning Principles

②

- Minimize impacts to neighboring uses
 - Traffic, parking, odor, etc.
- Balance aesthetic impacts with security concerns
 - Include minimum transparency requirements and locate retailers outside of village centers
 - Locate retail in visible locations for easier enforcement and increased safety from “eyes on the street”

Planning & Development Department 7/30/2018

Proposed Zoning Districts

③

- Interim until new Zoning Redesign districts
- All uses by Special Permit only
- Retail and Medical – Business 2 (BU2), Business 4 (BU4), Business 5 (BU5), and Mixed Use 1 (MU1)
- Marijuana Research and Independent Testing Laboratory – Limited Manufacturing (LM) and Manufacturing (M)
- Cultivation, Marijuana Product Manufacturing, Craft Marijuana Cooperative, and Microbusiness – Manufacturing (M)

Planning & Development Department 7/30/2018







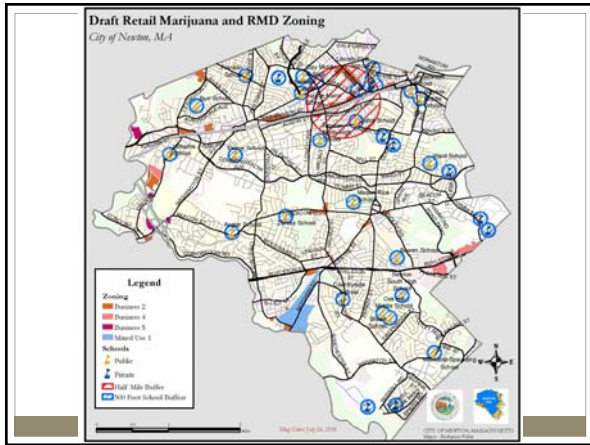
Minimum Criteria and Limitations on Approval

7

- 500 foot buffer from schools for Marijuana Retailers (recreational) and 500 foot buffer from schools, daycares, places of worship and places where children commonly congregate for Registered Marijuana Dispensaries (medical)
- Minimum half mile buffer between all RMDs and Marijuana Retailers
- Marijuana Retailers limited to no more than 20% of package store licenses (8)

Planning & Development Department

7/30/2018



Half-mile buffer around Garden Remedies



Planning & Development Department

7/30/2018

Minimum Criteria and Limitations on Approval

10

- Conform with state regulations for signage and advertising
- Hours of operation not to exceed 8am to 8pm
- Do not locate within building containing residential uses
- Limit RMDs and Marijuana Retailers to less than 5,000 square feet
- RMDs and Marijuana Retailers to provide minimum of 25% transparency at ground level, unless waived by Special Permit

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Minimum Criteria and Limitations on Approval

11

- Require police review and approval of security plan
- Submit emergency response plan to police and fire
- Submit operations and management plan to Planning and ISD
- All cultivation to offset energy use with 100% renewables
- Ventilate so as that odors cannot be detected at exterior of building or adjoining use

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Submittal Requirements

12

- Service area map for RMDs
- Transportation Analysis
- Lighting Analysis
- Context Map
- Registration Materials

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Criteria for Approval – all Marijuana Uses

13

- Lot is designed to provide convenient, safe and secure access for clients and employees driving, walking, bicycling, or using public transportation
- Loading, refuse and service areas are designed to be secure and shielded from abutting uses
- Designed to minimize adverse impacts on abutters
- Satisfied all conditions and requirements of the ordinance

Planning & Development Department 7/30/2018

Criteria for Approval – RMDs and Retailers

14

- 500 feet from a school unless waived – Marijuana Retailers
- 500 feet from a school, daycare, religious use or place where children congregate – RMD
- Traffic will not create significant adverse impact
- Building and lot are compatible with other buildings in the area and mitigate any negative aesthetic impacts
- Accessible to persons with disabilities
- Accessible to regional roads and public transportation
- Located where it may be readily monitored
- Hours of operation will not have a significant adverse impact on nearby uses

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Criteria for Approval – RMDs only

15

- Located to serve an area that currently does not have reasonable access to medical marijuana or has been established by DPH as an area where supplemental service is needed

Planning & Development Department 7/30/2018

Next Steps

16



- Request a public hearing on this item in September

Planning & Development Department 7/30/2018

CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

DATE: July 6, 2018

TO: Marc C. Laredo, President, Newton City Council
All Members, Newton City Council

FROM: Ouida C.M. Young, Acting City Solicitor 
Marie Lawlor, Assistant City Solicitor 

RE: Questions from the City Council regarding Marijuana Issues

The City Council will consider two marijuana-related ballot questions at its full Council meeting on Monday, July 9, 2018. President Laredo requested that councilors send any questions they might have to the City Clerk for a response from the Administration.

This memorandum includes draft language for both ballot questions being considered by the Council and provides answers to the questions from the councilors to the extent possible at this time. As the City Council appreciates, M.G.L. c. 94G which authorizes adult (a.k.a. recreational) use of marijuana is a new statute and there are no judicial decisions to provide clear guidance on many aspects of the statute. The responses provided by the Law Department are based on both a reading of the statute itself as well as discussions with the Municipal Law Unit of the Attorney General's Office, the Elections Division of the Secretary of State, and the Cannabis Control Commission ("CCC").

The CCC's *Guidance for Municipalities* is attached to the memorandum and can be found at the CCC's website at <https://mass-cannabis-control.com/>.

Text of Proposed Ballot Questions.

Perhaps the starting point for this memorandum is with the language of the two ballot questions being considered by the City Council. One question would essentially ban all types of recreational marijuana establishments in Newton although the proposed text of the ballot question would permit Garden Remedies to engage in certain non-retail recreational marijuana activities. To date, Garden Remedies has stated it is not interested in undertaking the types of non-retail recreational marijuana activities that would be permitted pursuant this ballot question. The second ballot question would reduce the number of recreational marijuana retailers in Newton from a minimum of 8 retailers as prescribed by statute to not less than 2 nor more than 4 retailers.

The authority to place these questions on the ballot comes from M.G.L. c. 94G which sets out the general format for ballot questions as well as the types of regulation of recreational

marijuana that can be undertaken through a ballot question. One issue that needs to be addressed if two questions appear on the same ballot is how to determine which question prevails. The Law Department has proposed language to make clear to the voters how to determine which ballot question would be considered the “winner.” While this is not the sole approach that could be considered, express language addressing this issue should be included in the ballot questions.

**Text of Ban/Opt-Out Question
Question #1**

The following Ballot Question (Question #1) shall only take effect if it receives an affirmative majority of the votes cast on Ballot Question #1 and Ballot Question #1 receives a greater number of votes cast in the affirmative than the number of votes cast in the affirmative for Ballot Question #2:

Shall this City adopt the following ordinance?

Operation of recreational (non-medical) marijuana establishments as defined in M.G.L. Chapter 94G is prohibited in Newton, provided that a marijuana establishment that was licensed and approved to operate as a Medical Marijuana Treatment Center (Registered Marijuana Dispensary) in the City of Newton prior to July 1, 2017 may, if otherwise allowed by zoning, (a) cultivate non-medical marijuana; (b) manufacture and/or produce non-medical marijuana related products; (c) test non-medical marijuana and the products derived therefrom; (d) engage in wholesale distribution of non-medical marijuana and non-medical marijuana products, but not to include retail sales thereof in the City of Newton.

[Insert City Solicitor summary]

Yes _____ No _____

**Text Limiting Number of Recreational Retailers Question
Question #2**

The following Ballot Question (Question #2) shall only take effect if it receives an affirmative majority of votes cast on Ballot Question #2 and Ballot Question #2 receives a greater number of votes cast in the affirmative than the number of votes cast in the affirmative for Ballot Question #1:

Shall this City adopt the following ordinance?

The number of recreational marijuana retailers as defined in M.G.L. Chapter 94G shall be set by an ordinance adopted by the City Council to not less than 2 recreational marijuana retailers nor more than 4 recreational marijuana retailers notwithstanding M.G. L. chapter 94G, §3(a)(ii).

[Insert City Solicitor summary]

Yes _____ No _____

City Councilor Questions and Answers

Q 1. The proposed ban is silent on research and microbusiness. Would the ban extend to those activities or not?

A. The proposed ban would extend to all types of marijuana establishments including research and microbusinesses.

The only exception would be for Garden Remedies (as a medical facility licensed prior to July 1, 2017) to operate the recreational marijuana activities enumerated in the ban language, but not retail sales. Please note, even if Garden Remedies wished to operate one or more of those other types of marijuana establishments, Garden Remedies would have to apply for separate licenses from the CCC, comply with BU2 district zoning, and amend their special permit.

As a practical matter, Garden Remedies has informed us that it has no interest in any type of license other than retail sales in Newton. In any event, at this time it appears unlikely that the draft marijuana ordinance currently being prepared by the Planning Department will allow marijuana establishments other than retail in the BU2 district.

Q 2. The way the ban is worded would give a monopoly to the activities named in the ban to the one facility licensed before July 1, 2017 – is that legal? If it is legal, is it proper? What reason do we have to limit these activities to one organization?

A. The Law Department does not comment on policy decisions. However, facilities which received licenses before July 1, 2017, currently enjoy preferential treatment under M.G.L. c. 94G. The Council also exempted Garden Remedies from the moratorium adopted earlier this year.

Q 3. If the question to opt-out is put on the ballot along with the question to limit the number of recreational stores, and the voter wants to opt-out but then votes yes to limit the number of stores as a safety bet in case opt-out wins, wouldn't that result in the person negating their real desire to opt-out?

Similarly, if a voter did not want to opt-out and wanted eight stores by the voter voting no to opt-out but yes on limiting the number of stores as a safety bet he may only get the limited number of stores.

Is there any way to make the wording of these ballot questions clearer?

A. The proposed draft language for the ballot questions set out in the memorandum would explain to voters how the “winning” ballot question would be determined. As for any confusion, the summaries will be an important part of the ballot in terms of explaining the questions to the voters.

Q 4. Can the City ban edibles? Can a community prevent the sale of edible marijuana-infused products such as cookies, brownies or gummy bears or similar products that appeal to children and adolescents, or limit the sales to medical marijuana establishments only?

A. No. Retail recreational sales of edibles are allowed by M.G.L. c. 94G. While that statute authorizes municipalities to enact reasonable time, place and manner restrictions, it does not authorize restrictions that conflict with the statute. The appearance and packaging of recreational marijuana edibles is regulated by the CCC at 935 CMR 500.150.¹

¹ 935 CMR 500.150 Edible Marijuana Products

- (1) Production of Edible Marijuana Products. Production of edibles shall take place in compliance with the following:
- (a) Any edible marijuana product that is made to resemble a typical food or beverage product must be packaged and labeled as required by M.G.L. c. 94G, §4(a ½)(xxvi) and 935 CMR 500.105(5) and (6).
 - (b) The manufacture or sale of edibles in the following shapes is prohibited:
 - 1. The distinct shape of a human, animal, or fruit; or
 - 2. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.
 - (c) Edible marijuana products that a geometric shape and simply fruit-flavored are not considered fruit and are permissible.

M.G.L. c. 94G, §4(a ½)(xxvi):

(xxvi) requirements for the labeling of a package containing marijuana or marijuana products that shall, at a minimum, include: (1) a symbol or easily recognizable mark issued by the commission that indicates the package contains marijuana or a marijuana product; (2) a symbol or other easily recognizable mark issued by the commission on the package indicating to children that the product is harmful to children; (3) the name and contact information of the marijuana cultivator or the marijuana product manufacturer who produced the marijuana or marijuana product; (4) the results of sampling, testing and analysis conducted by a licensed independent testing laboratory; (5) a seal certifying the marijuana meets such testing standards; (6) a unique batch number identifying the production batch associated with manufacturing, processing, and cultivating; (7) a list of ingredients and possible allergens; (8) the amount of delta-nine-tetrahydrocannabinol (Δ 9-THC) in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume; (9) the number of servings in a package if there are multiple servings; (10) a use-by date, if applicable; and (11) the following statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

Q 5. Can Newton request the CCC deferral of action on a local retail application pending resolution of local ballot questions, if any? If so, who would have to request it and by what process and by what time?

A. Newton can ask the CCC to defer action pending the ballot question vote. To date, we have been unable to get the CCC to return calls to the Law Department to discuss this point. However, the last step in the licensing process requires that the CCC notify a local municipality that issuance of a license is imminent, and the municipality then has 60 days to return comments to the CCC. The City will be able to include a request to defer action until the results of the ballot question are known, but whether the CCC complies with that request is not known at this time.

Q 6. I find parts of the 2016 ballot question language confusing. See the language quoted below with my questions in italics (2 parts to this question):

Part 1 - QUOTED LANGUAGE reads: "Section 3. Local control (a) A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter and that:

- (1) Govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories, except that zoning ordinances or by-laws shall not prohibit placing a marijuana establishment which cultivates, manufactures, or sells marijuana or marijuana products in any area in which a medical marijuana treatment center is registered to engage in the same type of activity."

Q. So does this mean a medical and adult use establishment can be in the same general area?

A. The 2016 ballot question language of Section 3 (1) as quoted above was amended by the legislature in 2017 (St. 2017, c. 55). The language about placement of a recreational establishment in the "same area" as a medical treatment center was amended to provide instead that a municipal zoning ordinance or by-law cannot operate to prevent a medical treatment center licensed prior to July 1, 2017 from converting to a recreational facility engaged in the same type of activity (e.g. a retail medical dispensary sales to retail recreational sales; or a medical cultivator to recreational cultivator, etc.).

Part 2 - QUOTED LANGUAGE reads:

- (2) "Limit the number of marijuana establishments in the city or town, except that a city or town may only adopt an ordinance or by-law by a vote of the voters of that city or town if the ordinance or by-law:

- (i) Prohibits the operation of 1 or more types of marijuana establishments within the city or town: “

Q. Does this mean a community may opt out of adult use/recreational establishments via a ballot question? Isn't adult use a type of establishment?

A. The terms “adult use” and “recreational” marijuana mean the same thing and are used interchangeably. The statute and CCC regulations define several different types of adult use (recreational) establishments as follows: Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Marijuana Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. 935 CMR 500.002

A community may prohibit the operation (the word opt-out is in popular use but does not appear in the statute) of one or more (or all) of these types of adult use establishments by ballot question approved by the voters and enacted by the legislative body.

Q 7. Given the various legal authorities enabling questions to appear on a local ballot, and the various legal authorities governing questions specifically related to local zoning on recreational marijuana – would there be a greater legal certainty in the mechanism for resolving conflicting questions if one or more of the ballot questions were the result of an Article 10 initiative petition?

A. No.

Q 8. Regarding future proposed city council ordinances – Unless a proposed ordinance sought to reduce the number of marijuana retailers to fewer than 8 or prohibit the operation of 1 or more types of marijuana establishments – What legal authority would preclude the city council from amending a zoning ordinance regarding the number or marijuana retailers in the City?

A. Newton may be able to increase the number of marijuana retailers to the minimum number permitted by M.G.L. c. 94G §3(a)(ii) (i.e. 8) without passage of another ballot question. However, again we have no clear guidance on this point from either the courts or the CCC.

Q 9. What, if anything can the City Council (and Land Use) do re: already-filed special permit petitions?

A. Neither the proposed ban nor the proposed limit on retail recreational marijuana sales establishments will apply to any special permit application for a medical marijuana treatment center. They would apply only to recreational marijuana establishments.

The only special permit application currently pending before the Land Use Committee for recreational retail sales of marijuana is from Garden Remedies. Given that Garden Remedies was licensed for medical marijuana sales by the state prior to July 1, 2017, it is the Law Department's opinion that the City Council may not deny Garden Remedies a special permit amendment seeking to add recreational marijuana sales but may impose reasonable conditions. M.G.L. c. 94G §3. That protection will not extend to future recreational marijuana establishment applicants licensed after that date.

Q 10. What would happen if we grant Garden Remedies a special permit to sell recreational marijuana, then a ballot question wins by a majority to ban/opt-out? Would that license be revoked, or would they continue adult use sales as a non-conforming use?

A. It is unclear under state law and CCC regulations whether a subsequently enacted ban would apply to Garden Remedies' operation of retail recreational marijuana sales. The Law Department consulted with the Municipal Law Unit of the Attorney General's office which agrees that there are good arguments on both sides and that the question will likely be resolved in the courts.

Q 11. Can the City ask the CCC to delay approving any licenses in Newton until after the November ballot question?

A. As pointed out above, Newton can ask the CCC to delay approval of any license, but we do not know how the CCC would act on that request.

Q 12. Will Garden Remedies be able to sell recreational marijuana once they are approved by the CCC even if this occurs before voting in November?

A. Yes, assuming its special permit has also been approved. (Unless CCC tells us it would delay issuing license pending outcome of ballot question to ban.) Garden Remedies, along with all other recreational marijuana retailers, will also have to wait until independent testing facilities are licensed and operational.

Q 13. How much revenue will Newton get from recreational marijuana?

A. Newton will receive a local tax of 3% of gross revenue from recreational marijuana retail sales. In addition, Garden Remedies has agreed in its Community Host Agreement to 3% impact fees on both recreational sales and medical sales. (This is in addition to the 3% recreational sales tax).

Projected potential revenue (bear in mind this is a rough projected estimate) could be as high as \$750,000 annually from Garden Remedies alone. This figure would include the 3% impact fee on recreational retail sales; the 3% impact fee on retail medical sales; and the 3% local option tax on recreational retail sales.

Q 14. Have you found out more about the recent decision by the Attorney General allowing a town moratorium to be extended into 2019? If so, would Newton be able to do so as well?

A. The Municipal Law Unit of the Attorney General's office has informed us that requests to extend moratoria beyond December 31, 2018 are evaluated on a case by case basis. The town in question was granted the extension because it was impossible for the town to act on proposed by-laws prior to December 31 due to town meeting scheduling issues. That reason would not apply to Newton.

Q 15. Would such an extension of the moratorium be by vote of the Council as occurred with the current one?

A. An amendment to extend the current moratorium would be zoning ordinance amendment and as such would be subject to the requirements of M.G.L. c. 40A in terms of public advertising, public hearing, and a 2/3 vote of the City Council.

Guidance for Municipalities

The following guidance is provided to assist applicants seeking to be licensed as a Marijuana Establishment under 935 CMR 500.000, which establishes the regulatory requirements for adult use marijuana in the Commonwealth. This guidance is not legal advice. If you have questions regarding the legal requirements for licensure in the Commonwealth, you are encouraged to consult an attorney.

Notice: This Guidance document only pertains to marijuana for adult use and does not provide guidance on the medical use of marijuana program regulated by the Department of Public Health or the hemp program to be regulated by the Massachusetts Department of Agricultural Resources. The Medical Use of Marijuana Program will be transferring to the Cannabis Control Commission on or before December 31, 2018.

Timeline for Implementation of Marijuana for Adult Use

November 8, 2016	Question 4 Passed
July 28, 2017	Governor Signs Chapter 55 of the Acts of 2017
August 1, 2017	Appointment of Cannabis Advisory Board
September 1, 2017	Appointment of Cannabis Control Commission
December 22, 2017	Announcement of Draft Regulations
February 5-15, 2018	Public Hearings
February 15, 2018	End of Public Comment Period
March 7, 2018	Final Regulations Approved
March 23, 2018	Final Regulations Published in the Massachusetts Register
April 2, 2018	Priority Certification Begins
April 17, 2018	Begin Accepting Priority Applications
May 1, 2018	Begin Accepting Applications for Cultivation, Microbusiness, Craft Cooperatives, Independent Testing Labs, and Lab Agents
June 1, 2018	Begin Accepting Applications for Retail, Product Manufacturers, and Transport

Background on 2016 & 2017 Laws on Marijuana for Adult Use in Massachusetts

On November 8, 2016, Massachusetts voters voted 53% in favor of a ballot initiative known as “Question 4” authorizing the limited adult use of marijuana and the licensing of marijuana establishments, amongst other things. The ballot initiative became Chapter 334 of the Acts of 2016 and created the “Regulation and Taxation of Marijuana Act, G.L. c.94G (“2016 Marijuana Act”).

In December 2016, the Massachusetts Legislature passed Chapter 351 of the Acts of 2016. Chapter 351 accomplished a number of things. First, it exempted the cultivation of marijuana from the agricultural exemption in the Zoning Act, G.L. c.40A §3, therefore retaining local control over the placement of marijuana establishments. It also delayed the deadlines set in Chapter 334 for six months to allow the Legislature time to amend Chapter 334 (the timeline above reflects the delayed dates). It also required the Department of Public Health to enter into an agreement with a research entity to conduct a comprehensive

baseline study of marijuana use in the commonwealth. DPH is required to submit a report of its findings not later than July 1, 2018.

On July 19, 2017, the Massachusetts Legislature passed a bill (H.3818) to amend Chapter 334 and the law it created, G.L. c.94G, as well as create additional laws relating to adult and medical use of marijuana. The bill became Chapter 55 of the Acts of 2017 (“2017 Marijuana Act”) and was signed by the Governor on July 28, 2017. The 2017 Act built upon the foundation of the 2016 Act, creating a five-person Cannabis Control Commission, a twenty-five person Cannabis Advisory Board, as well as a hemp program to be run by the Department of Agricultural Resources. It also placed limits and restrictions on municipal control over the siting of marijuana establishments that will be discussed in this Guidance. The deadlines created by the Legislature in December 2016 remained unchanged.

In October 2017, the newly-formed Cannabis Control Commission held listening sessions throughout the Commonwealth. The Cannabis Advisory Board was also convened in October 2017 and broke into four subcommittees: Public Safety, Public Health, Market Participation and Marijuana Industry, which issued recommendations to the Commission regarding proposed regulations on December 5, 2017.

On December 21, 2017, the Cannabis Control Commission approved draft regulations. Public hearings were held throughout the Commonwealth and written comments were accepted through February 15, 2018. On March 7, 2018, the Commission promulgated final regulations at 935 CMR 500. It is anticipated that the regulations will be published in the Register on March 23, 2018.

Helpful Links

Chapter 334 of the Acts of 2016

<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter334>

Chapter 351 of the Acts of 2016

<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter351>

Chapter 55 of the Acts of 2017

<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55>

Chapter 94G of the General Laws

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94g>

Bill H.4284

<https://malegislature.gov/Bills/190/H4284>

Final Regulations

<https://masscannabiscontrol.com/wp-content/uploads/2018/03/Reposted-031218-CCC-Final-Regulations-with-disclaimer.pdf>



Cannabis Control Commission website
<https://masscannabiscontrol.com>

Definitions:

Terms used in this Guidance, such as “marijuana,” “marijuana products” and many others are defined in the Regulations, 935 CMR 500.000. Please refer to the Regulations (link provided above) if you have any questions regarding the meaning of a particular term.

Types of Marijuana Establishments

The Marijuana Acts and the draft regulations create different kinds of marijuana establishments. Unlike a registered marijuana dispensary (RMD) (also known as a “medical marijuana treatment center”), which is required to cultivate, process and retail its own marijuana and marijuana products for medical use, an adult use marijuana establishment may opt only to participate in a particular part of the industry, such as cultivation.

All marijuana establishments are subject to strict, comprehensive state regulations and inspections by Commission agents. All marijuana establishments are required to enter into host community agreements with the municipality in which they are located (there is more detail on host community agreements below). Only marijuana retailers are subject to the local marijuana tax created under the 2017 Act. One business may hold three licenses in each category, with certain exceptions.

Marijuana Cultivators

A Marijuana Cultivator may cultivate, process and package marijuana, to transfer and deliver marijuana products to marijuana establishments, but not to consumers. A Craft Marijuana Cooperative, which will be discussed in further detail below, is a type of Marijuana Cultivator. Cultivators may select what tier they will be in, which will affect their application and licensing fees. The following options are available, but no licensee may have a total canopy of more than 100,000 square feet.

Canopy means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries, canopy may be noncontiguous, but each unique area included in the total canopy calculations shall be separated by an identifiable boundary which include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

Tiers of Marijuana Cultivator

Each licensee (except a craft marijuana cooperative) may have 3 licenses, but the total canopy authorized by the licenses added together may not exceed 100,000 square feet.

Tier 1	up to 5,000 square feet	Tier 7	50,001 to 60,000 sq. ft.
Tier 2	5,001 to 10,000 sq. ft.	Tier 8	60,001 to 70,000 sq. ft.
Tier 3	10,001 to 20,000 sq. ft.	Tier 9	70,001 to 80,000 sq. ft.
Tier 4	20,001 to 30,000 sq. ft.	Tier 10	80,001 to 90,000 sq. ft.
Tier 5	30,001 to 40,000 sq. ft.	Tier 11	90,001 to 100,000 sq. ft.
Tier 6	40,001 to 50,000 sq. ft.		

Tier Management

Expansion: A Marijuana Cultivator may submit an application to change the tier in which it is classified. A Marijuana Cultivator may change tiers to either expand or reduce production. If a Marijuana Cultivator is applying to expand production, it must demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production.

Relegation: At the time of license renewal process for Marijuana Cultivators, the Commission will review the records of the Marijuana Cultivator during the six months prior to the application for renewal. The Commission may reduce the licensee’s maximum canopy to a lower tier if the licensee sold less than 70% of what it produced.

Craft Marijuana Cooperative

A Craft Marijuana Cooperative is a type of Marijuana Cultivator which may cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments, but not to consumers, and must consist of:

- Massachusetts residents who have formed a limited liability company, limited liability partnership, or a cooperative corporation;
- A business may only have one Craft Marijuana Cooperative license;
- Members of a Craft Marijuana Cooperative may not have a controlling interest in any other marijuana establishment;
- A Craft Marijuana Cooperative is not limited to a particular number of cultivation locations, but is limited to a total canopy of 100,000 square feet and 3 locations for activities authorized for marijuana product manufacturers;
- One member of the Craft Marijuana Cooperative must have filed a Schedule F tax form (reporting farm income) in the past five years.
- The Craft Marijuana Cooperative must operate according to the seven cooperative principles published by the International Cooperative Alliance in 1995.

Marijuana Product Manufacturer

A Marijuana Product Manufacturer is an entity authorized to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana

Establishments and to transfer marijuana and marijuana products to other Marijuana Establishments, but not to consumers.

Marijuana Retailer

A Marijuana Retailer is an entity authorized to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

Please note that similar to marijuana for medical use, edible marijuana products for adult use shall not be considered food and therefore Marijuana Retailers would not be subject to inspection by local Boards of Health under 105 CMR 590 unless local regulations requiring such inspections are promulgated.

A Marijuana Retailer provides a retail location which may be accessed by consumers 21 years of age or older or, if the retailer is co-located with a RMD by individuals who are registered qualifying patients with the Medical Use of Marijuana Program with a registration card.

Marijuana Transporter

A Marijuana Transporter is an entity that may only transport marijuana or marijuana products when such transportation is not already authorized under a Marijuana Establishment license if it is licensed as a Marijuana Transporter:

- **Third Party Transporter:** An entity registered to do business in Massachusetts that does not hold another Marijuana Establishment license pursuant to 935 CMR 500.050 and is not registered as a registered marijuana dispensary pursuant to 105 CMR 725.000.
- **Existing Licensee Transporter:** A Marijuana Establishment that wishes to contract with other marijuana establishments to transport their marijuana and marijuana products to other marijuana establishments.

Marijuana Research Facility

A Marijuana Research Facility is an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts. A Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. Any research involving humans must be authorized by an Institutional Review Board. A Marijuana Research Facility may not sell marijuana it has cultivated.

Laboratories

Independent Testing Laboratory:

An Independent Testing Laboratory is an entity that does not hold any other type of marijuana establishment license and is properly accredited to perform tests in compliance with the stringent requirements of the Department of Public Health protocols for testing marijuana and marijuana products.

Standards Testing Laboratory:

A Standards Testing Laboratory is an entity that would otherwise qualify to be an Independent Testing

Laboratory but instead performs blind tests to verify the results of an Independent Testing Laboratory at the request of the Commission.

Microbusiness

A Microbusiness is a co-located Tier 1 Marijuana Cultivator, and/or Marijuana Product Manufacturer limited to purchase 2,000 pounds of marijuana from other Marijuana Establishments in one year.

A Microbusiness licensee shall not have an ownership stake in any other Marijuana Establishment and a majority of its executives or members must have been residents of Massachusetts for no less than 12 months prior to application is eligible to apply for a Microbusiness license.

Application fees and license fees for Marijuana Microbusinesses shall be set at 50% of the combined sum of the application fees and license fees for cultivation and/or, manufacturing.

Social Consumption & Delivery

Regulations regarding licenses for social consumption and delivery to consumers have been delayed for further study. The Commission anticipates drafting regulations regarding licenses for this category in February 2019. In the meantime, municipalities wishing to authorize social consumption in their community must follow the ballot process established in G.L. c.94G §3(b) for the election in November 2018.

Please note that legislation has been filed to clarify the ballot process (Bill H.4284, which may be reviewed at <https://malegislature.gov/Bills/190/H4284>) and this guidance will be updated if the legislation is enacted.

Role of Cannabis Control Commission

The Commission is required to promulgate statewide regulations addressing: public health issues such as products, labeling, advertising and potency; industry issues such as cultivation, distribution, transportation and seed-to-sale tracking; and market participation for communities including women, minority, and veteran-owned businesses, as well as growing cooperatives.

The Commission will also review applications from candidates for licenses, determine which applicants may be awarded licenses, deny an application or limit, condition, restrict, revoke or suspend a license, establish a registration process, based on finding of suitability or approval of licensure, check the backgrounds of individuals associated with applicants or licensees. The Commission may inspect marijuana establishments, seize and remove from the premises of a marijuana establishment and impound any marijuana, equipment, supplies, documents and records obtained or possessed in violation of the law for the purpose of examination and inspection, inspect all papers, books and records of close associates of a licensee whom the Commission suspects is involved in the financing, operation or management of the licensee, impose fees and fines, and conduct adjudicatory proceedings.

The Commission may also refer cases for criminal prosecution to the appropriate federal, state or local authorities, monitor any federal activity regarding marijuana, adopt, amend or repeal regulations for the

implementation, administration and enforcement of the law, and may prepare, publish and distribute studies, reports, bulletins and other materials.

Municipal Role in Commission Licensing Process

The Commission is required by law to engage in a licensing process for marijuana establishments. During the application process, applicants will be required to demonstrate that they have held a community outreach meeting within the past six months and that they have executed a Host Community Agreement with the municipality. Once the application is complete, the municipality will be notified and given an opportunity to confirm and that the proposed location is compliant with bylaws or ordinances at the time the application was completed.

Licensing Process: Community Outreach Meeting

The applicant will need to submit documentation of a community outreach meeting, which must occur within six months of filing its application, including:

- **Notice**
 - Must contain the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least seven calendar days prior to the hearing;
 - a copy of the meeting notice must be filed with the town or city clerk, the planning board, the contracting authority for the municipality, and local licensing authority for adult use of marijuana (if applicable); and
 - a copy of the meeting mailed to abutters and other parties of interest identified in the regulations;
- **Information Discussed:** information presented at the community outreach hearing, which must include:
 - the type(s) of Marijuana Establishment to be located at the proposed address;
 - information adequate to demonstrate that the location will be maintained securely; steps to be taken by the Marijuana Establishment to prevent diversion to minors;
 - a plan by the Marijuana Establishment to positively impact the community; and
 - information adequate to demonstrate that the location will not constitute a nuisance.
- **Q & A:** community members must be permitted to ask questions and receive answers from representatives of the Marijuana Establishment.

Licensing Process: Host Community Agreement

Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and the applicant evidencing that the applicant for licensure and host municipality have executed a host community agreement.

Licensing Process: Municipal Notification & Permitting

Notice: Once the Commission determines an application is complete, it is required to notify a municipality that it has received a completed application for a marijuana establishment in the municipality.

Sixty Day Deadline: The municipality has sixty (60) days from receipt of the application to notify the Commission that the applicant is not in compliance with local ordinances or bylaws. If communication from the municipality is not received within 60 days, the applicant will be deemed to be compliant with all applicable local ordinances and bylaws.

Local Permits: Please note that if a local ordinance or bylaw requires local permitting or licensing, the applicant does not need to have the permitting or licensing granted at the time of the notice to a municipality. Instead, the Commission simply needs to know whether such permitting or licensing is available for that particular location.

Provisional License: Similar to the process with registered marijuana dispensaries, when it completes the application process, including the municipal notification, an applicant will initially receive a provisional license. If a provisional license is issued and the applicant does not yet have local permits or licenses, it may seek the necessary local permits or licenses prior to requesting a final license from the Commission.

Final License: A final license may be issued by the Commission once the applicant has passed all the necessary inspections to receive a final license, including a demonstration that all necessary local permits and licenses have been granted.

Local Licensing: A municipality may also implement its own licensing process, as long as it does not conflict with the state laws and regulations governing marijuana establishments.

Role of Municipalities Regarding Adult Use of Marijuana

The Marijuana Acts both authorize and limit the way in which municipalities can control marijuana establishments in their communities. It also protects any restrictions or limitations a municipality may have imposed as of July 1, 2017 on the operation of RMDs, marijuana establishments or both, pursuant to the 2012 law authorizing medical use of marijuana (Chapter 369 of the Acts of 2012) or the 2016 Act. Below is a brief overview of provisions relating to municipal control. Any decision to implement local controls on marijuana should be made in consultation with a municipality's attorney.

Host Community Agreements

Under state law, marijuana establishments and RMDs are required to execute Host Community Agreements with the municipalities in which they operate. The agreement must stipulate the responsibilities of the community and the marijuana establishment or RMDs.

The agreement may include a community impact fee of up to 3% of gross sales to be paid to the host community, as long as the fee is reasonably related to real costs imposed on the municipality due to the establishment or RMD operating there. The agreement may not be effective for longer than five years. Please note that any cost to a city or town imposed by the operation of a marijuana establishment or RMD must be documented and considered a public record under Massachusetts public records laws, G.L. c.4 §7 cl. 26 and G.L. c.66 §10.

The Commission encourages municipalities to carefully consider the impact of the particular marijuana establishment proposed for a community, as well as benefits it may bring in local revenue and employment, when negotiating a host community agreement.

There is legislation pending to protect host community agreements executed on or before July 1, 2017 malegislature.gov/Bills/190/H4284. The same legislation requires municipalities receiving community impact fee payments to establish a separate account into which fee payments must be deposited.

Local Control: Taxes

A municipality that accepts the local sales tax option may collect a 3% tax on sales of marijuana by a marijuana retailer to a consumer. The tax will be collected with other sales tax and distributed to municipalities at least four times per year. Please note that there is legislation pending - malegislature.gov/Bills/190/H4284 - that would remove “marijuana products intended for consumption as defined in G.L. c.94G” from the exemption from sales tax for food products for human consumption in G.L. c.64H §6.

Local Control: Bylaws & Ordinances

The law allows, but does not require, municipalities to pass bylaws and ordinances governing the “time, place, and manner” of marijuana establishments (cultivators, retailers, manufacturers, testing labs, and any other licensed marijuana-related businesses) as well as businesses dealing with marijuana accessories. Such bylaws and ordinances may not be “unreasonably impracticable.”

Under the definition in the law, this means that the local laws cannot be so difficult to comply with that they would subject licensees to unreasonable risk, or require such a high investment of risk, money, time or any other resource or asset, that a reasonably prudent businessperson would not operate a marijuana establishment.

Alternatively, a municipality may determine a proposed marijuana-related use falls under an existing use authorized by its bylaws or ordinances. For the purpose of understanding how to respond to a notification from the Commission that an application has been deemed to be complete, the Commission provides the following interpretation of the limits of local control.

Local Control: Conversion from Medical Use to Adult Use

Zoning bylaws or ordinances are not permitted to operate to prevent the conversion of an RMD registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment for adult use engaged in the same type of activity. The Commission interprets conversion to include not only replacing the operation of a registered marijuana dispensary entirely with the operation of a marijuana establishment, but also to address adding marijuana establishment operations to the operations of a RMD.

There is legislation pending - malegislature.gov/Bills/190/H4284 - that clarifies this interpretation. A registered marijuana dispensary that has received its provisional or final registration no later than July 1, 2017 is grandfathered against zoning bylaws or ordinances that would prevent it from conducting the

same type of activities for adult use of marijuana that it is engaged in for medical use of marijuana. For a discussion on bans or limiting the number of marijuana establishments through a general bylaw or ordinance, please see the next page.

Local Control: Moratoria

A Moratorium of a Reasonable Length of Time is Permitted. Although municipalities are prohibited from using a zoning bylaw or ordinance to prevent the conversion of a registered marijuana dispensary, the Commission does not interpret the word prevent to prohibit the municipality from imposing a moratorium, a temporary delay passed as a zoning amendment to allow a municipality to engage in a planning process to determine how best to zone marijuana establishments for adult use in its community.

The Commission will interpret the reasonableness of the length of a moratorium in a manner consistent with the opinions issued by the Attorney General's Office in reviewing moratoria proposed by communities, which, as of the date of this publication, in the majority of cases has allowed moratoria through December 31, 2018. When the moratorium expires, the Commission cautions local officials from amending their zoning bylaws or ordinances in a manner that could be deemed to conflict with the statute and recommends consulting the City Solicitor and Town Counsel regarding any zoning amendments.

Local Control: Additional Permits

Additional Local Permits for Adult Use May Be Required. Although municipalities are prohibited from using a zoning bylaw or ordinance to prevent the conversion of a registered marijuana dispensary, the Commission does not interpret the word prevent to prohibit the municipality from requiring a registered marijuana dispensary eligible under the statute to apply for any additional local permits required to change its existing operation with a marijuana establishment for adult use. The Commission cautions local permitting boards from exercising their discretion in acting on a request for a local permit in a manner that could be deemed to conflict with the statute and recommends consulting the City Solicitor and Town Counsel during their decision-making.

Local Control: Bylaws, Ordinances, and Ballots

Banning or Limiting the Number of Marijuana Establishments in a Municipality:

A municipality may restrict the number of marijuana establishments in its community, but it must follow certain procedures to do so.

- A municipality may pass a bylaw or ordinance limiting the number of marijuana retailers to 20% or more of the number of liquor licenses issued pursuant to G.L. c.138 §15 (commonly known as "package stores") in that municipality. For example, if a municipality has 100 such liquor licenses, that municipality may set a maximum limit for 20 marijuana retailers.
- If the governing body of a municipality seeks to ban marijuana retailers from operating in the municipality, limit the number of them to fewer than 20% of the number of liquor licenses or limit the number of any type of marijuana establishment to fewer than the number of RMDs registered to engage in the same type of activity in the city or town, there are two different procedures for proceeding, which depend on how the municipality voted on the ballot initiative to legalize marijuana in 2016.

- If a municipality voted no on the initiative, then the governing body may limit or ban the number of marijuana establishments by passing a bylaw or ordinance prior to and including December 31, 2019.
- If a municipality voted yes on the initiative or if it is after December 31, 2019, then the question must be posed to the people of the municipality at a regular or special election following a specific process and wording.
- There is legislation pending - malegislature.gov/Bills/190/H4284 - to clarify the election process.

Ban:

If a municipality enacts a complete prohibition on marijuana establishments for adult use through a general bylaw or ordinance, the Commission will not issue a license so as to authorize the conversion of a registered marijuana dispensary to a marijuana establishment for adult use in that municipality.

Limited Number:

If a municipality adopts a general bylaw or ordinance imposing a limitation on the number of marijuana establishments within its community, such that the amount allowed is less than the registered marijuana dispensaries within that community, the municipality must determine which registered marijuana dispensaries will be permitted to proceed to the application process for adult use by executing a host community agreement with those dispensaries.

Local Control: Buffer Zones, Signage, and Transportation

Buffer Zone:

Under state law, a marijuana establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Municipalities may adopt an ordinance or bylaw to reduce that distance requirement.

Signage:

A municipality may regulate, by bylaw or ordinance, signage regarding marijuana-related uses, but the ordinance or bylaw may not impose a standard more restrictive than those applied to retail establishments selling alcoholic beverages within the municipality.

Transportation:

Municipalities are prohibited from barring the transportation of marijuana or marijuana products or adopting an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.

Questions?

If you have additional questions regarding types of Marijuana Establishments, please contact the Commission at CannabisCommission@State.MA.US or (617) 701-8400.