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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** January 25, 2019

**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, Long Range Planner/Zoning Specialist

**RE:** #518-18 - DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.  
**Single Purpose Districts – Primarily Articles 5 & 6, Reference to Articles 7 and 9.**

**MEETING DATE:** January 28, 2019

**CC:** City Council  
Planning and Development Board  
Jonathan Yeo, Chief Operating Officer  
John Lojek, Commissioner of ISD  
Alissa O. Giuliani, City Solicitor  
Marie Lawlor, Assistant City Solicitor  
Jonah Temple, Assistant City Solicitor

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The Special Purpose Districts within the 1<sup>st</sup> Draft Zoning Ordinance are the “non-contextual” zoning districts; the districts that govern those areas that do not fit into the traditional and predominant development patterns of the City.

These areas typically represent single use areas such as the Wells Avenue Office Park, the mall-like properties in Chestnut Hill, and secluded residential complexes like Nahanton Woods or The Gables. These districts are intended to govern the continued management and upkeep of these properties and are not intended as districts that other areas of the City would be rezoned into. Future development in the City is anticipated to make use of the village and residence districts or substantially similar new zoning districts that might be proposed by a developer or result from a City planning process.

There are seven non-contextual districts, with the Public Use and Recreation Districts in Article 5 and the remaining districts in Article 6, as shown below:

<u>Article 5: Public Use and Recreation Districts</u>	<u>Article 6: Single Purpose Districts</u>
Public Use	Office
Recreation	Fabrication
	Regional Retail
	Non-contextual Multi-unit Residence
	Campus/Institutional

The following describes the primary 1<sup>st</sup> Draft Zoning Ordinance provisions that apply within the single purpose districts, how they work and how the standards and rules could be changed in order to achieve different outcomes, and how they compare to the existing Newton Zoning Ordinance. This document will not cover development standards such as stormwater and parking or review processes such as the special permit process, as these topics will be addressed later in the 1<sup>st</sup> draft ordinance review process. This document will identify key issues and policy questions for discussion and the inherent balancing or trade-offs involved.

Finally, this document provides an overview of *Article 7: Overlay & Master Plan Districts*, which is a placeholder for future area-specific planning work.

Reading List: In preparation for this meeting, Committee members should read this memo, all of Articles 5, 6, and 7, along with Article 9 Secs 9.2.4, 9.2.7, and 9.2.13.

### **Non-Contextual Districts (Public Use, Recreation, and the Single Purpose Districts)**

The single purpose zoning districts in the 1<sup>st</sup> draft zoning ordinance are designed to closely reflect the existing conditions of these areas of Newton. Each district in the 1<sup>st</sup> draft ordinance provides four primary pieces of information, the district description and purpose, the rules for lots and building placement on the lot, the building types or development alternatives allowed in the district, and the allowed uses.

As with the other districts, the starting point for creating the single purpose districts, and the rules within them, was understanding the building form and context of the City – the work encompassed by the Pattern Book. The most important factors in defining the context are the types and scales of the buildings, the spacing between those buildings, their relationship to the street, and the ratio of built to unbuilt space on a given lot. So the rules in each district focus on these issues.

#### Public Use District

The Public Use District applies to all publicly owned properties, including all City and state properties such as parks, schools, City Hall, and MBTA stations. Notably, the exception is that this zoning district only applies where the publicly owned parcel is being used for a public

purpose. Therefore, a parcel like Riverside, which may be owned by the State, is subject to a long term lease for private development purposes, and therefore must be zoned to an appropriate district that allows those uses (Mixed Use 3 under the current zoning ordinance). In Newton, all public streets are considered to be in the Public Use District, though they do not show up as such on the Zoning Map.

The Public Use District exempts public properties from zoning requirements and processes, instead directing all City-owned parcels to the Section 5-58 process provided in the City Ordinances. State-owned parcels used for public purposes are exempt from local regulation. This is now the case for the Mount Ida campus, since it was purchased by the University of Massachusetts.

### Recreation District

The Recreation District is intended to apply to private recreation facilities, primarily golf courses but tennis clubs and similar would also be included. Privately owned cemeteries were also included within this district as they similarly include open space and limited buildings. Most of these facilities in Newton are currently zoned in residential districts, meaning that the development of these facilities into residential uses is allowed by-right. Under the first draft residential uses, with the exception of a caretaker residence, is not allowed. The range of building types and uses allowed in the recreation district are intended to cover the full range of facilities and activities that currently exist in these districts, with a few new uses to the recreation facilities, like dining uses or a bed and breakfast.

### Office District

The Office District encompasses properties that are standalone office buildings, exemplified by the Wells Avenue Office Park, but also found in a small number of additional locations, typically near highway interchanges. Looking at Wells Avenue specifically, the proposed changes will allow for taller buildings than are currently allowed in that district, up to five stories. The district also allows for a limited range of other commercial uses including restaurants, hotels, and other uses that are either typically seen in office buildings in Newton or are generally considered appropriate support to office uses.

### Fabrication District

The Fabrication District in the 1<sup>st</sup> Draft Ordinance replaces Newton's current Manufacturing District. As properties in this district are often underutilized or undervalued relative to the overall market, one intent of this section is to attempt to preserve lower cost commercial/industrial space for a range of entrepreneurial/innovation economy, arts-related, or general commercial-type uses that frequently do not fit well into other mixed-use or commercial districts. Reflecting Newton's 19<sup>th</sup> century manufacturing past, many of the city's manufacturing districts are relatively small and interspersed into residential neighborhoods, while others are in prime locations near the Charles River or transit lines that likely should be considered for higher value uses. For the purposes of the 1<sup>st</sup> Draft Ordinance Zoning Map, nearly all Manufacturing Districts were simply transferred to the new Fabrication District.

### Regional Retail

In the current ordinance, the same business district zoning rules apply in Newton Center and at Chestnut Hill mall, despite the fact that the building types and scale and mix of businesses are very different in these two locations. The primary objective of the Regional Retail District in the 1<sup>st</sup> Draft Ordinance is to recognize these types of existing regionally oriented shopping centers and provide a set of rules that match their character so that they can remain conforming. These more tailored rules will allow for easier management and operation of these properties for tenant turnover and other issues.

### Non-contextual Multi-unit Residence District

The Non-contextual Multi-Unit Residence District, similar to the Regional Retail District recognizes and allows for the existing large-scale residential developments in Newton so that they can remain conforming with the ordinance. This district is designed to encompass both the single large building examples, such as Chestnut Hill Towers or Nahanton Woods as well as the multi-building townhouse style, more spread out examples such as The Gables or the Terraces. Making these properties conforming and creating a tailored set of rules for these properties that are set apart from the typical residential street patterns will make it easier for maintenance and minor changes to these properties.

### Campus/Institutional District

The Campus/Institutional District applies to the campuses of private secondary schools, colleges, and universities as well as the hospital, removing these properties from the residential district. Similar to the Recreation District, this change means that a campus cannot sell off parcels for residential development by-right but would instead require a rezoning process through the City Council. These types of properties are unique in the way that they encompass multiple buildings and uses in a coherent and inter-related place. The rules need to reflect that nature of these places, while still managing the relationship of these places with the surrounding neighborhoods and, for the colleges, acknowledging their special status as Dover protected uses partially exempt from local zoning.

### **Overlay and Master Plan Districts**

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Article 7 is a placeholder at the moment. The first draft ordinance places all land into a base zoning district, either a contextual district (one of the residential or village districts), or one of the non-contextual districts described above.

The Zoning Redesign process anticipates that this is not Newton's final zoning ordinance and that changes will be made throughout Newton's future. Anticipated in the near future is an ongoing effort to have in-depth community discussions about specific areas of the city and new zoning that reflects the vision plans developed for those places. The work ongoing for Washington Street is such an example.

Additionally, Newton may choose to make use of overlay districts for particular purposes, like the location of marijuana establishments, or to require specific standards in areas that will see

more intense climate change related flooding. Overlay districts, apply simultaneous to the base districts but add specific information about a range of uses or development standard.

### **Restricted Uses**

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Newton's current ordinance includes a number of restricted uses with a number of criteria and rules. These uses and rules have been carried forward as Section 9.2.13 with little change except to update the language and formatting. The Keno use has been renamed as Gambling to reflect the expanded range of gambling now allowed in Massachusetts.

Parking, signage, and other development standards are scheduled for upcoming discussions.