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February 24, 2021

Richard A. Lipof, Chairman  
Land Use Committee  
Newton City Council  
1000 Commonwealth Avenue  
Newton, MA 02459

Re: 1149-1151 Walnut Street Newton Highlands

Dear Chairman, Lipof;

At the February 9 hearing of the Land Use Committee our presentation focused on the requested re-zoning of the property from BU-2 to MU-4, and we noted that the plans for the special permit were being revised for later submission.

We have today submitted revised plans dated 2/23/21 which you will receive electronically, and I wish to highlight certain of the changes made which we think are significant and enhance the project generally:

- Units: The unit count has been reduced from 26 to 25. The number of inclusionary units remains at 5.
- Height: The building height remains 44'. However, in order to reduce possible shadows onto the adjacent Church property Unit 401 has been eliminated from the plan, so the portion of the building at the Northeast corner is 34'.
- Façade: The East elevation façade on Walnut Street has been redesigned to include bay windows and vertical accent elements of traditional form similar to buildings on Lincoln Street. The other elevations have been modified.
- Roof Decks: A third floor roof deck is shown as appurtenant to units 302 and 308. This roof deck will also include elements of sedum mats or similar rooftop vegetation. A fourth floor roof deck with access to all building residents is shown where Unit 401 was removed.

**SCHLESINGER AND BUCHBINDER, LLP**

Richard A. Lipof, Chairman  
Land Use Committee  
February 24, 2021  
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Solar: An array of solar panels is shown on the building roof around the mechanical systems.

Parking: 23 parking spaces remain the same including 1 HP van space and 2 EV charging spaces.

The design team has worked very diligently on these changes which we hope reflect the discussions held at the Committee and comments from Planning at our last hearing on the building. Chris Talanian is excited to present these changes to the Committee at the next available hearing date.

Very truly yours,

  
Alan J. Schlesinger

AJS:sjk

cc: Land Use Committee



Walnut Street Elevation



East Elevation



1149-1151 Walnut Street

Newton, MA | February 22, 2021 | 19100 | © The Architectural Team, Inc.

Aerial Perspective Looking South | Proposed Conditions



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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## PUBLIC HEARING/WORKING SESSION MEMORANDUM

**DATE:** February 2, 2021  
**MEETING DATE:** February 9, 2021  
**TO:** Land Use Committee of the City Council  
**FROM:** Barney S. Heath, Director of Planning and Development  
Neil Cronin, Chief Planner for Current Planning  
Michael Gleba, Senior Planner  
**CC:** Petitioner

In response to questions raised at the City Council public hearing, the Planning Department is providing the following information for the upcoming public hearing/working session. This information is supplemental to staff analysis previously provided at the Land Use Committee public hearing.

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### **PETITIONS #319-20 & #320-20**

### **1149-1151 Walnut Street**

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**Petition #319-20**, to rezone two parcels; **1149 Walnut Street** (Section 52 Block 08 Lot 13) and **1151 Walnut Street** (Section 52 Block 08 Lot 14) from BUSINESS USE 2 to MIXED USE 4.

**Petition #320-20**, for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing buildings and construct a four-story mixed-use building up to 48' in height, containing 26 units and 23 parking stalls, to waive the minimum lot area per unit, to reduce the side setback requirement, to waive the requirement to use A-B+C formula to determine the parking requirement, to waive 24 parking stalls, to allow 1.25 parking stalls per unit, to allow parking in the side setback, to waive dimensional requirements for parking stalls, to allow restricted end stalls, to allow reduced aisle width, to waive perimeter landscaping requirements, to waive interior landscaping requirements and to waive lighting requirements at **1149-1151 Walnut Street**, Ward 6, Newton Highlands, on land known as Section 52 Block 08 Lots 13 and 14, containing 13,200 sq. ft. in a district to be zoned MIXED USE 4 (currently zoned BUSINESS USE 2). Ref: Sec. 7.3.3, 7.4, 4.2.2.B.1, 4.2.2.A.2, 4.2.5.A.3, 4.2.2.B.3, 4.2.5.A.2, 4.2.5.A.4.b, 4.2.5.A.4, 5.1.3.B, 5.1.13, 5.1.4, 5.1.4.A, 5.1.8.A.1, 5.1.8.B.1, 5.1.8.B.2, 5.1.8.B.6, 5.1.8.C.1, 5.1.9.A, 5.1.9.B, 5.1.10 of the City of Newton Rev Zoning Ord, 2017.

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The Land Use Committee (the "Committee") held a public hearing on January 5, 2021 on this petition. This memo reflects additional information addressed to the Planning Department as of February 4, 2021.

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## **Background**

The subject site is comprised of two parcels, 1149 and 1151 Walnut Street, located along the west side of Walnut Street just north of Lincoln Street. The combined two-lot site consists of 13,200 square feet improved with two multi-tenanted single-story commercial buildings built in the early 1900s with parking in the front and rear.

The petitioner proposes to demolish the existing buildings and construct a 26-unit, four-story, 10,169 square foot mixed-use building with 23 at-grade parking stalls on the assembled site. In order to construct the proposed project, the petitioner is seeking to have the subject parcels rezoned from Business 2 (BU2) to Mixed Use 4 (MU4).

As designed, several aspects of the project would also require a special permit under MU4 zoning district requirements and, as it would contain between 10,000 and 19,999 square feet of gross floor area in a mixed-use district, the development would be subject to site plan review under Section 4.2.2.B.1 of the Newton Zoning Ordinance (NZO).

## **Rezoning Petition**

### **Context**

The subject property, located on the west side of Walnut Street between Forest and Lincoln streets, is zoned Business 2 (BU2). Similarly-zoned parcels to the east across Walnut Street and Business 1 (BU1) parcels are located to the south and west. There are also Single Residence 2 (SR2) and Multi-Residence 1, 2 and 3 (MR1, MR2, MR3) zoned areas surrounding the neighborhood village center as well as some Public Use (PU) parcels to the south/southwest. The neighborhood's zoning generally corresponds to its wide mix of land uses that includes single-, two-, and multi- family dwellings located throughout, and commercial uses located along Lincoln and Walnut streets, especially extending to the north, west, and south from the intersection of those two streets which features the MBTA Green Line Newton Highlands station.

The Petitioners seek to rezone the two parcels that comprise the subject property, 1149 Walnut Street (Section 52 Block 08 Lot 13) and 1151 Walnut Street (Section 52 Block 08 Lot 14) from Business 2 (BU2) to Mixed Use 4. Due to recent amendments to Massachusetts General Laws Chapter 40A, the rezoning request and the special permit petition are subject to a majority vote of the City Council. Specifically, the rezoning request is an amendment to the zoning ordinance that would allow an increase in permissible density in a mixed use development and the special permit petition would locate a mixed use development, subject to the Inclusionary Zoning provisions, in a center of commercial activity.

The purposes of the Mixed Use 4 District (Sec. 4.2.1.C) are to:

1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.

4. Expand the diversity of housing options available in the City.
5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

The MU4 zone provisions and requirements were drafted and adopted in light of the City’s Comprehensive Plan, including its so-called “Mixed-Use Element.”

The Comprehensive Plan calls for “enhancing village centers [and] supporting their vitality” by providing “services to nearby neighborhoods,” “housing alternatives,” and “focal areas” to create a “sense of place” while recognizing the unique roles each village plays in the City. The Plan calls for “moderate growth” in the larger village centers and “revis[ing] the zoning rules that presently impose restrictions on residential uses in village centers and other business areas” to “encourage mixed uses in business areas and village commercial centers, particularly where public transportation is available.”

Importantly, the Comprehensive Plan encourages the provision of incentives to spur the “creation of more multifamily housing” and “multi-story buildings;” and that zoning should also be more “proactive” in encouraging desired uses and design features. Also, it should be noted that although the “Mixed-Use Element.” is focused on guiding the development of larger sites, it emphasizes the importance of fine-grained mixed uses, pedestrian appeal, and residential proximity in Newton’s village centers.

**Dimensional Standards**

The table below compares the dimensional requirements for the site’s existing BU2 zoning with the proposed MU4 zoning. The “Petition” column indicates the relevant dimensions of the proposed mixed-use development.

	<u><i>Business Use 2</i></u>	<u><i>Mixed Use 4</i></u>	<u><i>Petition</i></u>
<b>Lot Size (SF)</b>	10,000	10,000	13,200
<b>Lot Area Per Dwelling Unit (SF)(min)</b>	1,200	1,000, waivable by special permit	508
<b>Front Setback for 4 or more stories</b>	Lesser of ½ bldg ht or Average	≥75% of frontage:0-10 feet	10.7 feet
<b>Side Setback abutting BU1 (for 4 or more stories)</b>	½ bldg ht or equal to abutting side yard setback	0 feet	0.5 feet
<b>Side Setback abutting MR1</b>	greater of ½ bldg ht or 15’	20 feet	0.0 feet
<b>Rear Setback not abutting residential or Public Use district</b>	0 feet	0 feet	0.4 feet

<b>Stories</b>	4 (by special permit)	5 (by special permit for mixed use residential)	4 (by special permit)
<b>Building Height</b>	48 feet (by special permit for 4 stories)	60 feet (by special permit for 5 stories mixed use residential)	48 feet (by special permit for 4 stories)
<b>Floor Area Ratio (FAR)</b>		2.50 (by special permit for 5 stories)	2.00

The chart reflects the “Additional Standards in MU4” provided by Sec. 4.2.5 which pertain to height, mixed uses, residential density, and setbacks. (Additional requirements established by the section for which the petitioner is not seeking relief include those pertaining to accessibility, “transparency and entrances,” “lobbies for low-activity uses,” and open space.)

As indicated in the above chart, the provisions of the MU4 district empowers the City Council to grant a special permit to allow a structure measuring 4 stories and 48 feet, as is proposed by the associated special permit petition, with a “finding that the proposed structure is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district.” The Planning Department notes the site is in a transitional location between the village center to the south, marked by the presence of a similarly scaled structures (albeit some with only three stories and/or with sloped roof lines ,as with the nearby building at the northwest corner of Walnut and Lincoln streets), and the more residential neighborhood to the north.

The chart above also indicates that the proposed development’s 26 units would result in a Lot Area Per Dwelling Unit of 508 square feet. This is less than both the 1,200 square feet required under the present BU2 zoning (which would permit 11 units) and the minimum 1,000 square feet) required in a MU4 district (which would permit 13). A notable difference between the two zoning designations is that the latter is waivable by special permit under Sec. 4.2.5.A.3 where the City Council finds that “the proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic on roads in the vicinity, and better achieves the purposes of this district than strict compliance with these standards.”

As designed, the proposed development would also not meet certain setback requirements established for BU2 and/or MU4 zoning districts. With a proposed front setback of 10.7 feet the proposed development exceeds the MU4 district’s unique maximum front setback of 10 feet for buildings with 4 or more stories. The front setback would also likely be insufficient in the existing BU2 district which has a minimum required setback of the lesser of half the proposed building’s 48 foot height, i.e., 24 feet, or the average of the setbacks of the buildings on the nearest lot on either side, which would appear to be an approximately similar measurement.

Also, at 0.0 feet (as measured from the furthest extent of several balconies that would project from the north façade), the right side setback that abuts the adjacent MR1 zoned parcel would be insufficient



under the existing BU2 zoning, where 24 feet is required. It would also not meet the 20 feet that would be required in a MU4 district.

The Planning Department also notes the MU4 district regulations include a provision unique to it, Sec. 4.2.5.A.4.c, which requires that “(a)ny portion of a building greater than 40 feet in height must be setback 1 foot from the adjacent lot line for each additional foot of height.” This provision would be applicable to the fourth floor of the proposed development, and the associated special permit petition seeks relief from it as the current design does not provide such a setback, which would be approximately 5 feet, for those portions of the building located along the parcel’s boundaries.

In order for the City Council to grant a special permit to grant the requested setback relief(s) for an MU4 zoned property, it would need to find, per Sec. 4.2.5.A.4, that the proposed plan: “can better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage the purposes of this district than strict compliance” than the requirements the petitioners seek to have waived. The setback requirements e.g., abutting residential districts and the portions of buildings greater than 40 feet tall intend to require soft transitions to residential districts and to minimize the impact of additional stories on the street and on adjacent properties.

When reviewing the context of Newton Highlands, several structures contain three-to four-stories and feature sloped roofs. The Planning Department is supportive of a mixed-use development at this site, however is cognizant that the waivers to the dimensional standards of the MU-4 district, may result in a development that is out of scale with the neighborhood, a concern noted by the Urban Design Commission during their review of the petition. The Planning Department suggests the petitioner continue to refine the bulk and mass of the structure to more closely align with the standards of the MU4 zone and consider presenting revisions to the Urban Design Commission.

### **Uses**

The proposed change in zoning would make some changes to the types of land uses allowed on the site. For example, residential use above the ground floor (as is proposed) and laboratory and research facilities, both of which require a special permit under BU2 zoning, would be allowed by right under MU4 zoning. Some now-precluded uses, including assisted living, animal services, health clubs, offices, multi-level accessory parking, would be allowed by special permit. Other uses that are now permitted by-right would require a special permit, including theaters, offices, and personal services, retail uses and service establishments over 5,000 square feet. Also, business incubators, would go from as of right to prohibited.

In the event one or more of the uses that would require a special permit, Sec. 4.2.5.B establishes that the criteria for granting such a special permit for the uses is that the City Council would need to “make a finding that the proposed use will encourage an active, pedestrian-oriented streetscape throughout the day and week, that the proposed use fills a demonstrated need for the use within the vicinity, and that the proposed use is not inconsistent with the purposes of the Mixed Use 4 district or the City’s Comprehensive Plan.” The petitioner has stated the ground-floor would either be used for a 24-seat restaurant or a retail space, both uses would be allowed as of right in either the BU2 or MU4 district.

The Planning Department notes that in general, the criteria for granting special permits for relief from the requirements established by the MU4 district is fairly detailed. This appears to be especially true, for example, for relief related to the required lot area per unit which, as noted above, is “the proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic

on roads in the vicinity, and better achieves the purposes of this district than strict compliance with these standards.”

Indeed, such relief would have multi-dimensional and interrelated aspects, including concerns regarding the amount of parking, and that in dense, mixed-use areas like Newton’s village centers, parking is an important issue for many high-traffic desirable uses, like restaurants.

Yet, in this case, the sought reduction in parking, which is a result of the greater number of units that would be allowed were the lot area per unit requirement be reduced, would result in diminished parking for residents and, crucially, the elimination of parking for the employees and customers of the proposed commercial space.

While the current emphasis on shared parking in villages and other dense mixed-use areas and the encouragement alternative means of travel such as walking, bicycling, and, especially the nearby availability of transit service could reasonably be expected to mitigate some concerns, it is difficult to project that the already well-used street and public parking facilities in the immediate area could easily absorb the additional parking demand that the proposed development, especially its commercial component, would be expected to generate. The Planning Department will continue to work with the petitioner as well as other City Departments to evaluate the petitioner’s approach to parking, including the Transportation Demand Management plan, which will be addressed in a future working session memorandum.

### **Additional Information**

As the public review process for this proposal continues, the Planning Department recognizes the need for additional information about the project. As the street-level pedestrian experience is an important aspect of the proposal, the Department requests that the petitioner provide a sample seating plan for the potential use of the front setback area for a restaurant as this will give some insight into both the use of the (slightly) excessive setback and a sense of its possible contribution to the village center setting. Alternatively, the petitioner should provide details as to how the space will be used should a retail use occupy the ground floor.

The Department further requests that the petitioner provide information regarding the materials to be used for the structure’s exterior, and that the petitioner revisit the siting of a transformer within the front setback near the sidewalk and the driveway as the Planning Department recommends the petitioner avoid locating it in a visually prominent location and limit its impact on the public realm and abutting properties.

Lastly, the Planning Department also requests that the petitioner be prepared to address concerns regarding the shadow impacts of the proposed structure, especially as they relate directly to the several setback reliefs sought by the special permit petition.



Ruthanne Fuller  
Mayor

## City of Newton, Massachusetts

Department of Planning and Development

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Barney S. Heath  
Director

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### MEMORANDUM

**DATE:** January 22, 2021

**TO:** Councilor Crossley, Chair  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director of Planning and Development  
Jennifer Caira, Deputy Director of Planning and Development  
Neil Cronin, Chief Planner

**RE:** #41-21 Zoning Amendments for Marijuana Establishments  
THE DIRECTOR OF PLANNING AND DEVELOPMENT requesting amendments to the Newton Zoning Ordinance, Chapter 30, Sections 4.4 and 6.10, to amend the regulations for marijuana establishments to be consistent with the regulations put forth by the Cannabis Control Commission on January 8, 2021.

**MEETING DATE:** January 25, 2021

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

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In December 2018, the City Council adopted zoning for marijuana establishments, including recreational marijuana uses. Since that zoning was adopted the Mayor has signed provisional host community agreements (HCAs) for eight marijuana retailers (the maximum permitted under the ordinance) and for one marijuana research facility. Thus far only Garden Remedies has opened for recreational marijuana sales and the other are in various states of pursuing a Special Permit and/or licensing from the state. The December 2018 ordinance as well as more information on the HCAs

granted can be found here: <https://www.newtonma.gov/government/planning/development-review/high-interest-projects/marijuana-uses>.

On January 8, 2021 the Cannabis Control Commission (Commission) filed updated regulations for both medical and recreational marijuana. Included in the new regulations are updates to address inconsistencies in the prior regulations, amend definitions, change some terminology, clarify measurements, and add two new license types. Most of the changes are relatively minor but require updates to the ordinance to remain consistent with state regulations. Examples includes renaming Registered Marijuana Dispensaries (RMD) to Medical Marijuana Treatment Centers (MTC), revising the buffer requirements for medical marijuana (MTCs) to be consistent with those for marijuana retailers (500 feet from k-12 public or private schools), and clarifying how that buffer distance is to be measured.

The most significant change is the addition of two new types of delivery licenses, marijuana courier and marijuana delivery operator. A marijuana courier is defined as an entity licensed to deliver marijuana and marijuana products directly to consumers from a marijuana retailer or medical marijuana treatment center but is not authorized to sell directly to consumers. A marijuana delivery operator is defined as an entity licensed to purchase at wholesale and warehouse finished marijuana products acquired from a marijuana cultivator, product manufacturer, microbusiness or craft marijuana cooperative and to sell and deliver directly to consumers but is not authorized to operate a storefront. A marijuana courier will partner with retailers or MTCs to deliver to their customers but cannot store any products while a delivery operator can buy marijuana products wholesale, store onsite in a warehouse, and then deliver to customers under their own brand. Neither entity will allow for public access at their physical location. Delivery operators are not considered retailers and are not subject to the cap on the number of licenses a municipality must issue.

For a period of three years (starting with the issuance of the first license), both marijuana courier and marijuana delivery operator licenses will be limited to applicants who qualify under the Commission's Social Equity or Economic Empowerment programs. The Social Equity program provides training and technical assistance to applicants who have been disproportionately impacted by the War on Drugs, marijuana prohibition, arrests and incarceration and meet certain income and residency requirements. The Economic Empowerment program applicants have to meet criteria such as living in an area of disproportionate impact; holding a position where the primary population served were disproportionately impacted; the majority of ownership is made up of individuals from Black, African American, Hispanic, or Latino descent; the majority of employees live in areas of disproportionate impact; the majority of employees have drug-related CORI; and owners can demonstrate significant past experience in economic empowerment in areas of disproportionate impact.

New zoning is needed for the two new license types. The zoning allows for the courier or delivery operators to physically locate here, it does not affect the ability of Newton residents to receive deliveries from operators within or outside of Newton. The current ordinance allows for Marijuana Transporters, who are licensed only to transport marijuana but not to deliver to customers, to locate in manufacturing zones but does not allow for any delivery uses as they were not included in the initial regulations. The marijuana courier will need a site that allows for parking of the delivery vehicles and likely some office space. The delivery operator will require parking for delivery vehicles and space for

a storage warehouse and office. The courier will never have marijuana products onsite as they will pick up from the retailer/MTC and deliver directly to the customer. The delivery operator will require a secure location to store products. All products come prepackaged, so odors are not a concern.

Planning staff are considering the following factors in order to present zoning recommendations at the next meeting:

- The existing uses that are most similar to these uses are Marijuana Transporter (allowed in M zones) and Wholesale Business or Storage Facility (allowed with conditions by-right in BU2, by Special Permit in MU1, and by-right with conditions in M and LM zones)
- The couriers and delivery operators will likely have higher parking needs than typical storage or office uses.
- Drivers will make multiple deliveries at a time, reducing potential traffic impacts.
- Given the parking requirements and security needs, these uses may not be compatible with the goals for vibrant, pedestrian oriented village centers and commercial districts.
- Manufacturing zoning districts are limited in Newton and allowing for couriers and delivery operators to locate in some commercial districts will make it easier for social equity and economic empowerment applicants to open here.

Questions for ZAP Committee:

- Should commercial or mixed-use zoning districts be considered for couriers and delivery operators?
- Could couriers be allowed by-right as there will not be any marijuana product onsite?

Next Steps:

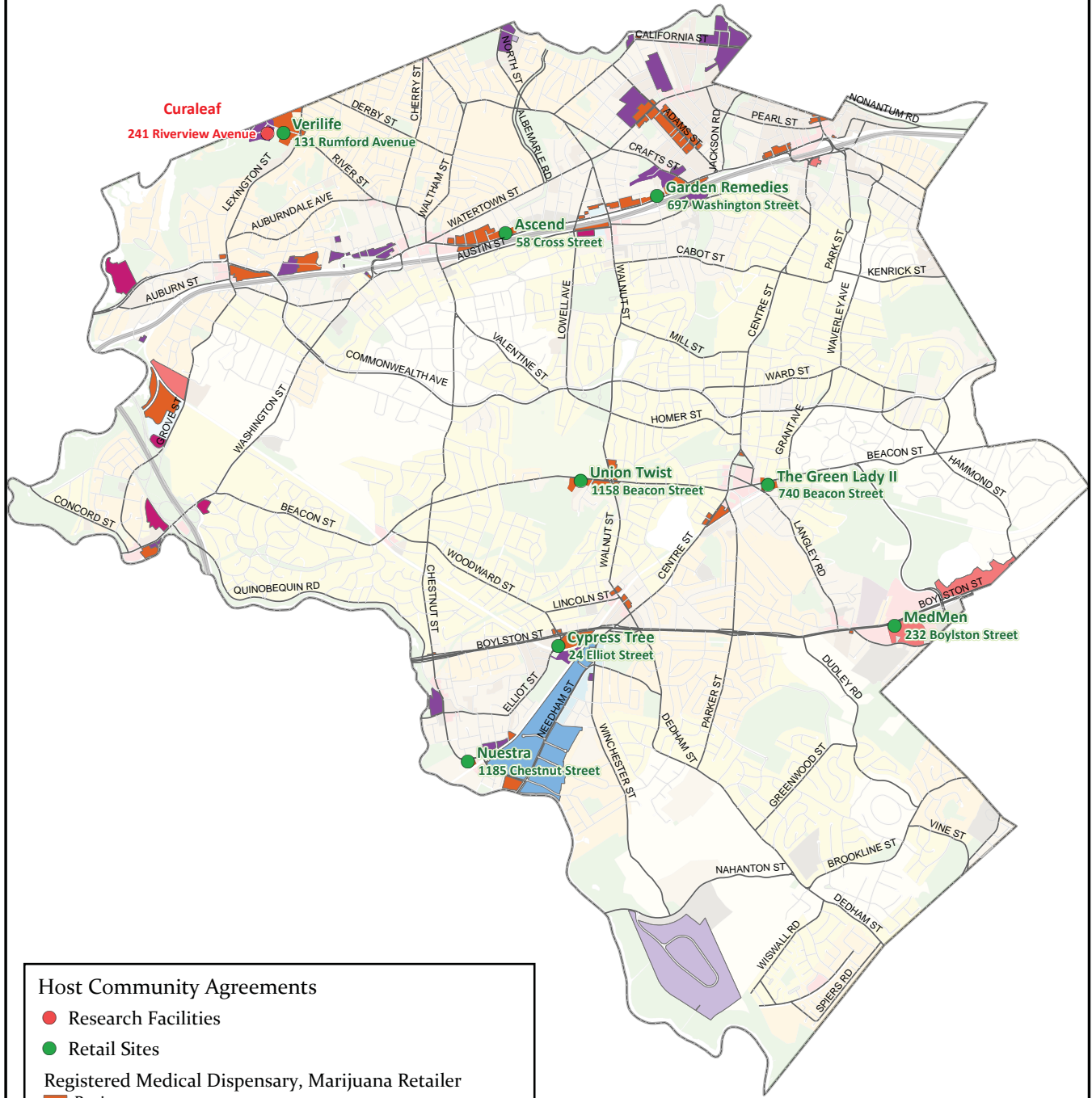
Staff will present a red-lined version of the 2018 ordinance reflecting the necessary changes as well as zoning recommendations for marijuana couriers and delivery operators.

**ATTACHMENT A:** Existing Marijuana Zoning and locations of establishments with Host Community Agreements

# Existing Marijuana Zoning

City of Newton, MA

January 22, 2021



- Host Community Agreements**
- Research Facilities
  - Retail Sites
- Registered Medical Dispensary, Marijuana Retailer**
- Business 2
  - Business 4
  - Business 5
  - Mixed Use 1
- Craft Marijuana Cooperative, Independent Testing Laboratory, Cultivator, Product Manufacturing, Research Facility, Transporter, Microbusiness**
- Manufacturing
- Independent Testing Laboratory, Research Facility**
- Limited Manufacturing





# PLANNING & DEVELOPMENT BOARD JOINT MEETING WITH COMMUNITY PRESERVATION MINUTES

January 12, 2021

## Members Present:

Peter Doeringer, Chair  
Sonia Parisca  
James Robertson  
Jennifer Molinsky  
Barney Heath  
Kelley Brown  
Kevin McCormick

Ruthanne Fuller  
Mayor

Barney Heath  
Director  
Planning & Development

## Members

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

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**CPC members Present:** Community Preservation Committee (CPC) members present included Mark Armstrong, Dan Brody, Eliza Datta, Byron Dunker, Susan Lunin, Robert Maloney, Jennifer Molinsky, Martin Smargiassi, and Judy Weber

## Staff Present:

Barney Heath, Director of Planning and Development  
Lara Kritzer, Community Preservation Program Manager  
Amanda Berman, Director of Housing & Community Development  
Tiffany Leung, Senior Community Development Planner  
Eamon Bencivengo, Housing Development Planner  
Cat Kemmett, Planning Associate

Meeting held virtually by Zoom Meeting

## 1. Request for a Substantial Amendment to the FY21 Annual Action Plan to allocate \$400,000 in Newton CDBG funds and a pre-commitment of \$130,000 in FY22 HOME Funds towards the Coleman House Senior Housing Preservation Project developed by 2Life Communities.

Mr. Armstrong, chair of the CPC, stated that the Planning and Development Board and CPC were meeting jointly to review the proposal from 2Life Communities for funding of the Coleman House Senior Housing Preservation project. The project was introduced by Jeff Sacks, who explained that he was starting his three-year term as chair of 2Life Communities' Board of Directors. He noted that he was a former housing representative member of the CPC and was excited to see the Committee meeting jointly with the Planning Board on this project. He noted that both the Planning Board and CPC had previously supported 2Life Communities with the funding for the Golda Meir project. He appreciated their support for the Coleman House project, explaining that it provided housing for very low and extremely low-income senior households. For over fifty years, 2Life Communities (previously known as Jewish Community Housing for the Elderly) has provided a dynamic and supportive environment for the seniors living in its affordable housing. Mr. Sacks noted the challenges of the current proposal to completely rehabilitate and restore the property with its residents still living there and noted how their team had designed the project to improve accessibility and adaptability within each unit. He ended by noting that the proposal requested \$4.5 million in CPA funding and \$530,000 in CDBG and HOME funding.

Lizbeth Heyer, Chief of Real Estate and Innovation for 2Life, gave a presentation on the Coleman House Preservation proposal. She noted that this was an important affordable housing preservation opportunity. 2Life Communities is the long-term owner, operator, property manager, and service provider for all of its properties and currently manages 1,300 apartments on five campuses. Their residents include 1,600 individuals from thirty different countries. Ms. Heyer noted that 30% to 40% of their residents were nursing home eligible but that only 2% moved to nursing homes annually due to the support and benefits provided to their residents.

Ms. Heyer explained that the Coleman House is adjacent to the Jewish Community Center (JCC) and was built in two parts in the 1980s and 1990s. She noted that they had onsite resident services in all of their properties with the goal of 100 residents to each resident service coordinator. Ms. Heyer explained that many of the coordinators were bilingual and reviewed the cultural, social, physical, and educational services and benefits that they provided to their residents. Ms. Heyer explained that the buildings also had live-in staff and would continue to after the renovations.

The Coleman House buildings include 146 units available to very low and extremely low-income households, those with incomes well below 50% AMI. Ms. Heyer explained that they were able to supply this affordable housing through a mix of Section 8 and PRAC project-based contracts. The median income for their residents is \$12,000 and the median age is 82. Ms. Heyer added that 53% of residents needed some level of assistance and that 40% of residents used a cane or walker for mobility.

Ms. Heyer explained that all units will be adaptable, and a certain number would be fully accessible. Adaptable units were based on resident needs to remain in their units over time and included better turning radiuses for walkers and wheelchairs, installing blocking for future grab bars in different locations, and easily removeable cabinets in the kitchen. The project would also include a full life cycle investment for the building envelope and infrastructure. They are working to get as close as possible to full electric systems to reach Enterprise Green Community standards. Ms. Heyer noted that it was also important to them that their systems be efficient as they paid for all of the utilities in the buildings.

Ms. Heyer stated that they were requesting that local support cover 18% of the project using CDBG, HOME, and CPA funding. The project also anticipated using some Consortium HOME funds as well. The largest share of the costs, approximately \$25 million, would come from 2Life Communities itself as they reinvested equity back into the building. The project costs included \$25 million in construction and \$4 million in soft costs. Because they were using fewer funding sources, their transaction costs were lower, and they planned to have only a modest developer fee. The CPA funding would be dedicated to costs involved with repairs and replacement work on the building envelope and infrastructure. Ms. Heyer estimated that the project included \$10 million in project costs for building envelope and infrastructure elements. The project proposed to use the HOME funding for construction, and to use the requested CDBG funding to assist with relocation costs for their residents. Ms. Heyer added that this was 2Life's fourth project in an occupied building and that they had a good sense of how to do these now. Their approach was to empty a stack of units, renovate them, and to then relocate the residents from the next stack of to be developed units into the finished units so that residents remained in the same building throughout the process.

Ms. Heyer reviewed the project schedule, explaining that they were ready to proceed and hoped to have the completed construction documents in February. The relocation work was anticipated to begin in March with construction underway in April. Project completion was estimated to be by April 2023.

Mr. Armstrong found it interesting that the CPA funding was considered to be for preservation here, noting that the building and work to be done was very different from the CPC's usual preservation



projects. Mr. Doeringer asked what level of Enterprise Green status they were aiming for. Elise Salinger, 2Life's Real Estate Innovation Manager, explained that the status would be equivalent to a silver or gold LEED certification. Mr. Doeringer asked if all the non-HOME funded units would be affordable in perpetuity. Ms. Salinger answered that all the units were permanently affordable. Additionally, the HOME units would have restrictions on them which went beyond the minimum requirements for that funding.

Ms. Datta stated that she was a member of the Newton Housing Partnership as well as the CPC and was very supportive of the project. She noted that the Housing Partnership recognized that it is hard to develop and preserve deeply affordable units like the ones at Coleman house. The Partnership had also discussed the adaptability and accessibility of the rehabilitated units and Ms. Datta thought that it was great that 2Life was investing in these improvements. Ms. Datta also appreciated the simplicity of the financial structure of the project and its more predictable schedule.

Ms. Molinsky stated that she worked in aging in housing and noted that 2Life Communities was a national leader in the field. She stated that she was very supportive of the project and thought that the ability to adapt the units should not be underestimated as it would provide a tremendous benefit to residents.

Housing Development Planner Eamon Bencivengo then gave a presentation on the use of the CDBG and HOME funding for the project. He explained that 2Life's request for \$530,000 equaled 1.7% of the project with \$411,898 coming from CDBG funding and \$118,102 from HOME funds. He explained that there was also a small change in the funding since the Planning and Development Board's memo. The HOME funds had been lowered with a placeholder added for May/June when the City would know more about the status of FY22 federal funds. The lower HOME funding amount has been paired with additional CDBG funds. Mr. Bencivengo explained that the results would be the same but that this provided a more conservative approach to using the HOME funds. He added that the project had previously been awarded West Metro HOME Consortium funds and explained that these came from pooled funds from all of the Consortium member communities and were released in regular funding rounds. Mr. Bencivengo stated that the current project met all the eligibility requirements for this funding and was highly leveraged. The project addressed many of the City's housing goals with its deeply affordable units for seniors and would be more sustainable, which was a long-term goal of the City. He added that the Housing Partnership had voted last week to recommend full funding to the project and that staff also recommended approval.

Mr. McCormick asked if there was already a permanent affordability restriction on the property. Ms. Heyer answered no, that the affordability was instead guaranteed by their HUD and other housing contracts. Rose White, 2Life Communities' Housing Finance Specialist, stated that the permanent affordability of the property will be tied to the financing and that the property would not have a separate restriction. Mr. Doeringer questioned tying the affordability to the financing, asking whether the affordability would be compromised if the HUD financing ever ended. Ms. White stated that that any affordability restrictions would most likely be renewed with any refinancing of the project. Ms. Berman added that there were restrictions tied in with the city funding including a 20 year or longer restriction for the HOME funded units. Ms. Weber asked how long their contracts were for and Ms. Heyer answered that they had both annual and fifteen-year contracts. Ms. Weber added that the federal government had continued to show support for senior housing and did not show any signs of walking away from it. Ms. Heyer noted that 2Life Communities had been providing affordable senior housing for 55 years and was a stable and well capitalized company that was expanding.

Mr. Maloney noted that the property had been recently refinanced and that the project had long term financing in place that represented a high percentage of the property value. He thought that the proposed funding request was for a good cause.

Mr. Brown asked the applicants how they had determined the appropriate project for the project. Ms. Heyer stated that they had begun with a capital needs assessment of the building that evaluated the condition of the building envelope and systems. They had developed the core of the project around a thirty-year usable life scope, then had brought in a contractor to start testing their assumptions by looking into the walls. They then looked at any additional goals which would meet the desired programmatic outcomes. Ms. Heyer stated that their goal at Coleman House was that no one should ever have to leave their units for a nursing home and that 2Life Communities had a passionate commitment to sustainability. They had then set their budget and scope around these goals. Mr. Brown asked about the Consortium HOME funding. It was noted that there had been no other applicants for that funding this round. Mr. Brown asked if there were any other projects that were not being funded due to this project. Ms. Berman answered that there were other projects but that it was hard to qualify for these funds. She noted that the HOME funds required that a project already be pretty far along with the rest of its funding in place. It just happened that this was ready when those other projects were not. She noted that for the HOME Consortium funds, not all applicants wanted to deal with the restrictions and complications that came along with the fund. Mr. Brown asked if there was anyone waiting to use the Newton funds. Ms. Berman answered no, that the only other potential use for the Newton funds was the Armory, adding that this project was a very appropriate and strong use of this funding.

Ms. Parisca stated that this is a wonderful project. She asked if all of the units were assigned or if there was a waiting list for units. Ms. Heyer explained that they were currently holding some units open for relocations but that the buildings were otherwise fully occupied with a 500-person waiting list. Mr. Armstrong asked if 2Life Communities had any plans for adding new units. Ms. Heyer answered that they were working on a new development for the site, Opus, which would provide middle income housing to those who wished to age in community. 2Life was getting ready to submit their special permit application for the project this spring. Ms. Heyer explained that the construction on Opus was still a few years away and noted the challenges of bringing in services to middle income households which currently only exist in high-end facilities. The project had been difficult to design, but 2Life thought that it would be an overall enhancement to the Coleman House facilities.

Discussion was opened to the public at this time.

Diana Murphy, Chair of the Council on Aging, expressed her support for the project. She noted that Newton was in desperate need of senior housing and that many seniors were remaining in their homes longer than they should because they had no other option. She stated that 2 Life Communities is innovative and had a fantastic track record, and that the Council strongly endorsed this project. Robin Nasson assisted Constance, an 18-year resident of the community, in voicing her support for the project and organization. Constance stated that 2Life took wonderful care of its residents and offered many programs and services.

Peter Barrer of Green Newton stated that he was a retired engineer and was very concerned with sustainability. He noted the City's goal of being carbon free by 2050 and was concerned with the proposed project scope. Ms. Selinger clarified and expanded on the project's sustainability plans, explaining that this work would put the property on a clear path to zero carbon in 2050. She discussed with Mr. Barrer their plans for air sealing as well as upgrading systems and insulating the building cavities, adding that the plans had evolved since their original submission and that she was happy to provide additional guidance on their sustainability approach.

Mr. Maloney moved to close the CPC's public hearing on the Coleman House project proposal. Ms. Lunin seconded the motion which passed by unanimous voice vote.

Ms. Molinsky then moved to close the Planning and Development Board's public hearing on the Coleman House project funding. Ms. Parisca seconded the motion which also passed by unanimous voice vote.

Ms. Lunin moved to recommend \$4,214,622 in CPA Community Housing funds to the Coleman House Senior Housing Preservation project. Mr. Maloney seconded the motion which passed by a unanimous roll call vote.

Ms. Parisca moved that the Planning and Development Board recommend approval of the proposed substantial amendment and pre-Commitment of the HOME funds to the Coleman House project. Mr. McCormick seconded the motion which passed 6-0-1, with Mr. Heath abstaining.

## **2. Adjournment**

The Planning & Development Board portion of this meeting was adjourned at 8:10 P.M.



# PLANNING & DEVELOPMENT BOARD JOINT MEETING WITH ZONING & PLANNING COMMITTEE MINUTES

January 25, 2021

## Members Present:

Peter Doeringer, Chair  
Sonia Parisca  
Kelley Brown  
Sudha Maheshwari  
Kevin McCormick  
Jennifer Molinsky  
Barney Heath  
James Robertson  
Chris Steele

Ruthanne Fuller  
Mayor

Barney Heath  
Director  
Planning & Development

**Zoning & Planning Committee Members Present:** Councilors Crossley (Chair), Danberg, Leary, Albright, Wright, Krintzman, Baker, and Ryan

**Also Present:** Councilors Bowman, Kelley, Lipof, Downs, Malakie, Greenberg and Laredo.

## Staff Present:

Chief Operating Officer Jonathan Yeo, Commissioner of Inspectional Services John Lojek, Director of Planning Barney Heath, Deputy Director of Planning and Development Jennifer Caira, Senior Planner Zachary LeMel, Associate Planner Cat Kemmett, Community Engagement Planner Nevena Pilipovic-Wengler, Assistant City Solicitor Andrew Lee, Committee Clerk David Olson

## Members

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

Meeting held virtually by Zoom Meeting

## 1. Discussion and possible vote on Docket Item #448-20, Proposal to amend Newton Zoning Ordinances Chapter 30 Section 3.4 Garages

The Chair of the Zoning & Planning Committee opened the meeting and introduced those in attendance at the meeting. She noted that ordinance A-78 has been deferred multiple times and if not amended will go into effect on April 1st. She then asked Associate Planner Cat Kemmett to present the key components of the proposed Garage Ordinance prior to opening the public hearing. Ms. Kemmett stated that the goal of this proposed ordinance is to limit the visual impact and dominance of garages from the street, while still allowing options for lots of all shapes and sizes. This is to be accomplished by regulating the width of front-facing garage doors relative to the total width of the structure. The relative width regulations will only apply to front facing garages and will be measured as the sum of the widths of all front facing garage doors.

Front facing garages will be limited to 45% percent of the total front elevation of the structure if using only single garage doors, or 40% of the total front elevation if using a double garage door. The total door width on any part of the front elevation which is set back more than 10 feet from the front most exterior wall will be excluded from the total. Single garage doors may be up to 9 feet wide and double garage doors

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may be up to 16 feet wide. Door width maximums will apply only to front facing and side facing garages as the doors are more visible from the street.

Residential properties with one unit will be allowed up to two garages, one attached and one detached, with a limit of 700 square feet in total ground floor area and up to three cars. This is not changed from the current ordinance. Residential properties with two units will have a maximum garage footprint for each unit of 500 square feet, and each garage will be limited to two cars. The width regulations will limit the impact of garages close to the street because garages more than 10 feet in front of the main body of the house would be calculated just on the front facing garage wall.

Side facing garages will be allowed in front of the main elevation of a house as long as there is at least 10% fenestration on the garage wall facing the street. A front facing garage which is set back more than 10 feet from the front elevation is exempt from the width standards for front facing garages. A garage that is 70 feet or more from the primary front lot line, and garages located on rear lots, will be exempt from the standards for front and side facing garages. In contrast, Newton's current zoning ordinance does not place any restrictions on garage door width, overall garage width, or fenestration. Garage placement on the lot is limited only by the setback requirements, and up to 700 square feet in total ground floor area of garage space is allowed by-right.

This ordinance, if adopted, will only apply to new garages and renovations of existing garages. A nonconforming garage can remain in perpetuity in its current state. A lawfully nonconforming structure does not need to comply with the requirements of a zoning change. Ms. Kemmett noted that since the December 14, 2020 draft, a few minor changes have been made including:

- The required separation between accessory and principle buildings has been reduced from 6 feet to 5 feet
- The placeholder definition for rear-facing garages has been removed
- The definitions of front- and side-facing garages have been updated to clarify measurement for curved primary front lot lines
- The means by which the primary front lot line will be determined for properties where the main entrance does not face a street has been clarified

The Planning Department recommends that, if adopted, the ordinance have an effective date of April 1, 2021, and not apply retroactively. This would give building professionals ample time to understand the new zoning, and to ensure that any currently permitted projects will be able to go through before any new standards are put in place.

The Public Hearing was then opened.

Peter Sachs stated he had shared illustrations to convey the difficulties in placing the garage on smaller properties (7,000 sq. ft. with 70 ft. width), particularly two-story, 30' by 40' center entrance colonial properties, when you cannot put the garage fully in front of the house. He said that if you cannot put the garage fully in front of the house, it will limit the ability to create an accessory dwelling unit (ADU) over the garage. This makes it very difficult for smaller properties to take advantage of ADUs by utilizing the garage structure as a conversion. Newton is beautiful because of its variety, its topography, its variety of houses and designs, and different lot structures all over the city. It's very difficult to write a singular proposal for an ordinance without a special permit option because there is so much variation. He encouraged the committee to adopt a special permit clause. He did not feel that both of the architects groups have participated enough in the formation of this ordinance. The Chair of the Zoning and Planning Committee stated that there are many architects and builders present who participated in the process and that they can speak to that.

Dan Powdermaker said that he had rehabbed and renovated primarily Victorian houses over the last 20 years in Newton. What's in front of the committee in this ordinance certainly does reflect input from him and from other builders and architects. He said although it's not everything that architects want, it does address a lot of their concerns in terms of maintaining flexibility in design, especially in a city with many highly irregular lot sizes and shapes. Buyers want garage spaces with their properties, and being able to have some flexibility in placement, while at the same time addressing some of the aesthetic concerns that have prompted a lot of complaints in terms of oversized garages, this proposed ordinance does seem to accomplish a lot of that. To Mr. Sachs's point about ADUs, Mr. Powdermaker said that the intent originally was to have the garage revisions as part of broader zoning reform. That has not happened and there's certainly a lot of other things, including parking and driveway concerns, that he hopes the Council gets to in the coming months as they look at broader reform.

Treff Lafleche, another architect, stated that he has participated in the review and negotiation of the changes in the garage ordinance. Although in his opinion it is still not as clear and as good as it could be, he believes that it is moving in the right direction. It was vetted by builders, developers, and architects. In working with the Planning Department, the builders group was able to clarify a number of things that were important, primarily responding to the reality that garages are part of the living space of a home. They are not only to house automobiles. The value of the garage is much greater than many of the members of the Council appreciate. He said that this ordinance lacks some clarity related to the amount that garages be allowed to come forward of the house, primarily because of sustainability. One of the things that folks are trying to deal with is the amount of stormwater runoff due to impervious surface areas and garages. The natural tendency these days is to move garages from the rear of the property to the side or to the front to reduce the amount of impervious surface related to driveways. Allowing the migration of the garage achieves a very important goal of sustainability.

Nathaniel Lichten said that if you allow a garage to be 45% of the width of the house, it should not be able to project that far forward, and certainly without a special permit. A special permit process for moving the garage in front of the house is more acceptable, but he is worried that with 45% of the width, and 10 feet in front of the house, we're going to just continue to have the snout houses that we currently have. It isn't pedestrian or neighborhood friendly. It makes the garage the predominant feature of the house. He thinks that the 10-foot rule should be reduced, or a special permit criteria should be added. The second point is that there is a special permit allowance for having more than three cars for a single dwelling unit, but no special permit option for increasing the number of cars for a two-unit building. You could have five cars on a single family lot if you get a special permit, but there's no ability for a two-family house to have that same five-car garage, or two garages - a two-car garage and a three-car garage. There should be special permit criteria for the two-dwelling unit to match the single-family special permit criteria that exists in the ordinance.

Lisa Monahan, a member of the architect and builders group, stated that much of her feedback had already been said. She shared her sentiment that a lot of good has occurred by way of developing a process around this project and that the Planning Department and the Zoning and Planning Committee have worked really well together in going through a really complicated ordinance. It was also the first opportunity that the building professionals had as a group to weigh in and offer some opinions. And although she agrees that it's not perfect, she thinks that lots of improvements were made, and there will be a chance to go back and fine tune things.

Jay Walter applauded the restraint shown in the proposal, stating that it does not overregulate the location of the garage. He believes that the dimensional constraints and defining the width of the garage relative to the house will address the issues of major concern that created the need for this garage ordinance. The work on the garage ordinance, and on garages in general, is not over. Zoning Redesign will address issues of paving, lot coverage, accessory apartments, and accessory buildings that will

further help define more acceptable garages and their placement on lots. He disagreed that this regulation should include more special permitting, and believes it has enough flexibility written into this ordinance that you don't need additional special permits. However, he agreed with the earlier speaker about the number of cars relative to single-family dwellings versus two-family. That should be addressed, as well as better clarification of corner lot conditions.

Ellen Katz, an architect, referred to a drawing and analysis she had sent to the committee. The new garage ordinance is an improvement in many ways in her opinion, however, it encourages larger garages in the case of people wanting to build accessory units. The garage is limited to 700 square feet and one and a half stories. If you build out to the full 700 square feet, the one and a half story limit allows you to have about 450 square feet of living space above the garage, which is about the size of an efficiency apartment in Manhattan. If you build a significantly smaller garage you end up with much less living space over that garage. She said there's an incentive there to build the largest possible garage, because that's the only way to get an accessory apartment unit over it. For a one-car garage of 300 square feet, you'd only end up with 200 square feet above it, which doesn't meet the minimum requirements for an accessory dwelling unit. Under this proposed ordinance, if you don't build out to the maximum square footage, you can't build a studio apartment above. She stated that the ordinance is encouraging the largest possible garage, maximizing lot coverage and discriminating against homeowners in neighborhoods with historically small lot sizes such as Newton Upper Falls. This ordinance could be fixed by allowing two full stories if the garage footprint is 500 square feet or less. If the structure is 500 square feet or more then you can limit the building to one and a half stories.

Mark Sangiolo, a building professional, explained an issue he was experiencing for a two-family townhouse project he is working on. When you have a two family, you're not allowed to put Unit One's garage up against Unit Two. You have to create this awkward living space that is dedicated to Unit One as a buffer between Unit One and Unit Two. He does not understand the rationale, it seems like a weird interpretation of some rule. He dislikes being constrained in the design and doing less good design or worse design, like putting the garages on each end of a two family. It sets where you can put your windows, etc. You can't put the garages next to each other, nor can you have one garage in between Unit One and Unit Two because that puts it up against the second unit. He thought it was being addressed, but discovered recently that although a related clause has been removed from the draft ordinance, another clause remains that ISD interprets to mean the living spaces in two units must be contiguous - and does not include a garage. He hopes it can be fixed somewhere else in the ordinance.

The Chair of the Zoning and Planning Committee noted that she spoke with Mr. Sangiolo earlier about this, and with Ms. Cairra and the Law Department. The clause in question in the proposed garage ordinance was eliminated, but in the first section of the ordinance, Section 1.5.1B. That definition does not belong in the garage ordinance but is an issue that needs clarification in terms of how it's being interpreted by the Inspectional Services Department. The law department is now engaged in assessing the language and ISD's interpretation. Ms. Cairra stated that the issue does lie in the definition for two-family detached structures in Section 1 and how the two units meet each other, including needing living spaces touching for the entire length. This issue is something that is best addressed in the Section 1 definition, not as part of the garage ordinance, as the issue isn't coming from the garage ordinance. The Chair noted that anything that lacks clarity in the ordinance, or that people are interpreting in unexpected ways, needs to be looked at, and should be fixed separately.

The Chair of the Committee called for a motion to close the public hearing which was approved unanimously. She then brought the discussion back into committee. Topics of discussion in Committee included the following:

### **70-foot Exemption**

Concern was raised that the 70-foot exemption would create an incentive to build snout houses further back on long, narrow properties. The Committee took a straw poll and the majority (5- 3) did not have a problem with the exemption.

### **Definition of two family attached**

It was asked if the clause that Mr. Sangiolo was concerned about has reopened what was remembered as the “linguini” problem. That is, skinny odd sections of living area that are not useful but have been required to meet the interpretation of this definition. Commissioner Lojek noted that a former council was fighting with the problem of two-family houses that appeared as though they were two single-family houses attached by some tenuous attachment. The rule was developed so that garages couldn't be the attaching point of a two- family home. The purpose behind this was to have the building look like a singular building that had two units in it, as opposed to two single-family houses that had a couple of little garages between them. Linguini simply referred to a tenuous attachment between the two units, as if it were a piece of linguini between the two. The point is that it has to be substantially connected unit to unit. You cannot just have the connection be garage to garage between two units that are essentially side by side buildings. It was stated that the definition in 1.5.1B warrants a closer look by itself as it requires that there be a shared wall the full height of one or both of the units, or a clear separation horizontally between units, but in that definition there's no mention that you can't have a garage be part of the building.

### **Attached Versus Detached Garages**

There was a question about the new minimum distant requirement between the main house and detached garage. If a garage is attached, it must meet the setback requirements of the primary structure; if it's a true accessory structure it can get within five feet of a lot line by right. In the past there was gaming that went on that the Commissioner of Inspectional Services was concerned about, so he proposed setting a minimum distance between the structures.

### **Accessory Dwelling Units above a Garage**

The current ordinance provides for a maximum by-right garage of 700 square feet except by special permit which is going to stay the same. There is no required minimum size except that a car must fit in it, so a small single-bay garage would have to be about 300 square feet. It is true that a half story above that by itself would not allow for the minimum 250 square feet for an ADU, or even allow for a staircase to be added within it, however, that doesn't take into account the potential for adding to the footprint of the building. To create an ADU on top of a small garage you are going to have to create vertical space by adding square footage to the garage to get the minimum space required above. This is the case in our current ordinance. If someone has a tiny garage, they must add to it in order to put something on top of it. Currently, the accessory building section limits the height for all accessory buildings, which includes garages, to one and a half stories. It is certainly worth looking at ways to go above the one and a half stories in order to encourage accessory units, but it should be done separately outside of this garage ordinance. The committee felt that the accessory dwelling unit issue needed additional discussion but should not be taken up as part of the garage ordinance at this time. The garage ordinance must be passed by April 1st, otherwise ordinance A-78 will become effective (unless repealed) and that is not the intent of the committee. There was initial consensus that the garage ordinance should be moved forward.

### **Implementation Date**

It was noted that the Planning Department has recommended that the ordinance not be implemented retroactively and should have full implementation by April 1. A councilor questioned if an implementation date of April 1 was enough time for the industry to understand the changes. It was stated that usually when changes are made to the building code, the new code goes into effect on January 1 of the coming year and is optional for six months in order to give people time to understand



the changes and get through a design cycle. The committee should keep in mind what happened when changes were approved in 2016. People were caught in the middle of a project that was well into design, but not yet permitted.

### **Corner Lots**

There was a great deal of confusion regarding the corner lot issue and it was stated by several Councilors that it might be worth having one more meeting to discuss the issue. In response Ms. Caira stated that the currently proposed ordinance does not regulate the overall width of garages that are facing the secondary frontage on corner lots. Corner lots are subject to two front lot line setbacks, so it doesn't leave a whole lot of space to work with on corner lots. The options for where a garage can be placed on a corner lot are going to be more limited if you're controlling both of the street frontages as if they were primary front lot lines. The secondary frontage is often narrower, so it's going to be difficult to have a garage that's facing the secondary frontage meet the width requirements. Ideally the ordinance is addressing the street presence on both streets and on the corner lot you're not going to get the overwhelming sense of house after house with garages that are really prominent, it would be limited to the corners.

Once the corner lot setbacks were reviewed it was realized that garages wouldn't dominate the secondary streets like they would if all of the houses were unregulated. Garages facing the secondary frontage are considered side facing garages. They are not the side facing garages that project to the front of the house, so they don't need the fenestration, but they must comply with the 9-foot single garage door and 16-foot double door garage requirements. They don't have a provision regulating the overall width of the garage, but they are restricted to the door sizes. Ms. Caira noted that she could put together a memo explaining this for the next meeting. It was stated by a Councilor that the garage facing the secondary street should not have to comply with the same setback as a garage facing the primary street. Ms. Caira explained that current zoning ordinances require them to be treated the same, and that a change to a setback requirement on the secondary frontage should be taken up in a separate discussion as part of zoning reform.

### **The Use of the Word Automobile**

A Councilor asked that the word automobile to define the use of a garage be eliminated from the ordinance. Garages are used for more than just automobiles. Planning staff said they will consider alternate language.

## **2. Adjournment**

There was consensus that the committee should have one more meeting to discuss the ordinance. A motion by the Zoning and Planning Committee to hold this item for one more session, which will be February 8, 2021, was approved unanimously.

The Planning and Development Board also voted unanimously to hold the item. The Planning and Development Board meeting was adjourned at 8:58 p.m.



Ruthanne Fuller  
Mayor

Barney Heath  
Director  
Planning & Development

#### Members

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

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# PLANNING & DEVELOPMENT BOARD MEETING MINUTES

February 1, 2021

#### Members Present:

Peter Doeringer, Chair  
Kelley Brown  
Chris Steele  
Sudha Maheshwari  
Kevin McCormick  
Jennifer Molinsky  
Sudha Maheshwari

#### Staff Present:

Barney Heath, Director of Planning and Development  
Zachery LeMel, Chief of Long Range Planning  
Nevena Pilipović-Wengler, Community Engagement Manager  
Cat Kemmett, Planning Associate

Meeting held virtually by Zoom Meeting

### 1. Discussion and possible vote on Chapter 30 Section 3.4 Garages

The meeting was opened at 7:02 p.m. Ms. Kemmett provided an update on the Garage Ordinance and the public hearing held on January 25<sup>th</sup>. She explained some of the key mechanisms in the Garage Ordinance including:

- Front Facing Garages would be limited to 45% of the total Front Elevation if providing only Single Garage Doors (Sec. 3.4.4.C.1.a) or 40% if providing a Double Garage Door (Sec. 3.4.4.C.1.b) unless otherwise exempted
- For Front Facing Garages and Side Facing Garages. Single Garage Doors may be up to 9 feet (3.4.4.C.2 and 3.4.4.D.2), and Double Garage Doors may be up to 16 feet wide (3.4.4.C.3 and 3.4.4.D.3)
- The proposed draft carries forward the same ability in the current Zoning Ordinance to seek a Special Permit for a Garage providing space for more than 3 cars or over 700 square feet in area, and also allows more than 2 garages by Special Permit (Sec. 3.4.4.H.1)

Since the Garage Ordinance was last discussed with the Board, there were a few minor changes made to the ordinance text. These changes include:

- Sec. 3.4.3.A.2 was amended to change the required separation between accessory buildings and principal buildings from 6 feet to 5 feet.
- The placeholder definition for Rear Facing Garage was removed. Staff determined that this definition is not necessary. Garages that face the rear of a property or lie at an angle that does not fall under the definitions of a Side or Front Facing Garage, will be allowed under the definition of a Garage.
- The definitions for Front Facing Garages and Side Facing Garages were updated to clarify how to measure the angle that determines the Garage type for curved or otherwise not straight Primary Front Lot Lines (Sec. 3.4.4.B.3 and 3.4.4.B.2).

- The definition of Primary Front Lot Line was amended to clarify the procedure for properties where the main entrance does not face a street or right of way (Sec. 3.4.4.B.8).

Mr. Heath added that further discussion of the ordinance and a possible vote will take place at ZAP on February 8<sup>th</sup>. Chair Doeringer asked for clarification on the outstanding questions about the ordinance must still be addressed.

Ms. Kemmett explained that Board and Committee members had a number of questions about topics closely related to garages including the definition of Two-Family, Detached buildings (Sec. 1.5.1.B) and the link between garage design and Accessory Apartments (Sec. 6.7.1). Staff have flagged these important points for future analysis, to be taken up either under Zoning Redesign or a cleanup of those individual sections at a later date.

She explained that there were a few topics raised at that meeting that staff have since looked into further including concern about the 70-foot exemption in Sec. 3.4.4.G.1., the use of the word automobile in the ordinance, and requests for further clarification about garages on corner lots.

Mr. Brown asked for more context about how ZAP decided to allow garages forward of the house. Mr. LeMel said that this represents a compromise. Promoting flexibility asked for by building professionals. If there was a setback, there was no consensus on how big that setback might be. This compromise ensures the worst of the worst garages will be prevented, but gives builders needed flexibility in design.

Ms. Maheshwari asked for further clarification on the concern about corner lots. Ms. Kemmett said that staff will more clearly explain how corner lots will be handled in the ordinance at the next ZAP meeting. Chair Doeringer noted that we should be considering all streetscapes, not just the primary front lot line for each house. Careful consideration should be given to how garages on corner lots facing the secondary street are regulated, because if they are allowed within 5 feet of the lot line, it may be too close to the street and have a negative impact. Mr. LeMel said that there aren't many detached garages being built now, but this is something to think about and consider. The upcoming Planning memo will clarify how corner lots will be impacted by the ordinance.

Ms. Molinsky asked if there should be a special permit option for relief from design constraints for lots with difficult shapes or topographies. She said that Mr. Brown made a compelling argument at the public hearing for why we shouldn't go down the road of needing additional special permits without careful consideration of the purpose those special permits will serve. She said that if such a special permit were available, the criteria should make very clear what is allowed and under what circumstances.

Mr. LeMel explained that there are a lot of permutations in the ordinance that would allow for garages no matter the lot size or configuration. For that have major topographical hurdles, applicants also had the option of seeking a variance.

Mr. Brown expressed that in his opinion, the special permit as written was not necessary, since lots facing hardships could seek a variance. Alternatively if the special permit option is retained, he recommended setting clear criteria such as ensuring the garage would not be visible from a public way, or that it be located a certain distance from the front lot line, or other rules to that effect.

Mr. Brown asked why the front facing garages standards should not apply if the garage was set back 10 feet. Mr. LeMel said that the rationale is that if the garage is set back that far, it fades into the background and is less prominent, and that those garages would still be limited to the 700 square foot maximum.

Ms. Molinsky voiced that she was ready to vote on the issue and that in the recommendation, the nuances of the conversation of the Board and their suggestions would be conveyed rather than simply recommending for or against the ordinance. Chair Doeringer then asked for input for language to use in the recommendation.

Mr. Brown suggested recommending against special permits, or if they are kept in, setting precise conditions for those special permits. Ms. Molinsky agreed on the importance of precise and clear criteria. Chair Doeringer noted that if the special permit option is removed, that would take away a certain degree of flexibility for homeowners, and that by carefully crafting the conditions under which a special permit should be granted and setting reasonable restrictions on them, we can retain flexibility.

Chair Doeringer then called for straw vote on getting rid of the special permit in the ordinance, which did not pass. He then called for a straw vote on setting conditions for the special permit, and that motion did pass.

Ms. Molinsky said that the ADU issue brought up in the public hearing was important, but that it should be part of bigger discussion about how we facilitate ADUs in the city. She said that the Garage Ordinance is probably not the best place to address ADUs, but that the recommendation should reflect the importance of discussing ADUs soon.

Chair Doeringer noted that the recommendation should encourage further consideration of corner lots and making sure the streetscape is considered on side streets as well.

Upon a motion by Mr. Steele, seconded by Mr. Brown, the Board voted 6-0-1 in favor of recommending approval of the amendment to Chapter 30, City of Newton Zoning Ordinances by repealing Ordinance No. A-78 and amending the regulation of garages in residential zoning districts as set forth in the revisions to Chapter 30, Section 3.4 with Mr. Heath abstaining.

## **2. Zoning Redesign Update**

Mr. LeMel then introduced the topic of Zoning Redesign and asked for feedback from the Board on how they would like to move forward. Planning has presented a plan to move forward comprehensively, but even if the sentiment is to move forward with incremental change rather than comprehensive, this workflow would work. The workflow outlined in the Planning memo includes in-depth research and frequent touch points with members of the public to gauge interest and response to proposed zoning changes.

Chair Doeringer said that Zoning Redesign has gotten negative feedback from some community members in the past who felt that the process did not meaningfully incorporate their voice. He said that if this is to be a community document, the public needs to be engaged and the comments they provide should help shape the process and the zoning itself.

Mr. LeMel agreed that people need to feel buy-in and be engaged early and often in order for this process to work well. He added that feedback from the engagement events in December helped confirm this, as several people mentioned the need for a referendum on Zoning Redesign at those meetings.

Mr. McCormick said that the community should be engaged but noted that the Planning department will continue to play an important role in writing the zoning itself and facilitating the engagement process. It will not be purely community driven because the city is involved, but the community plays a critical role.

Mr. Brown asked what a referendum for Zoning Redesign would accomplish. Mr. Heath said that a vote could be challenged, similar to what happened with the Northland project. Mr. Brown said that while everyone would prefer to reach a general consensus on a path forward with Zoning Redesign, it is a politically charged issue and a lot of differing opinions. He noted that despite the best efforts of the Planning Department, the vast majority of participants in the December engagement events were older white homeowners. This is a common issue in the suburbs, and there is research that supports a lack of true inclusive and representative participation in public processes like this. Mr. Brown further added that while these hurdles are significant, putting effort into educating people and engaging them in conversations about the substance of policies is important if we are to create real and impactful change. He acknowledged the difficulty of taking on a comprehensive change like this and expressed a hope that the complexity and political nature of this work would not deter people from considering progressive changes.

Ms. Molinsky said that something the project still lacks is a good website with clear and accessible information, which can help educate people and cut down on the amount of misinformation about zoning. She suggested being more clear about the difference between affordable housing that is subsidized and housing that is more affordable relative to the housing prices in the market now, because the two are very different and we need to be very clear about what level of affordability can be achieved through zoning and what can be achieved through funding and subsidy. Ms. Molinsky added that at some point there should be a conversation about the role of the Board in this process, and the question of whether there will be changes made to the special permit granting authority powers in the city.

Mr. Heath responded that the conversation has not yet progressed to the part of the ordinance that addresses the special permit granting authority and those powers, but that it will be addressed. He affirmed Mr. Brown's point about engagement and diversity and said that it is important to make sure we are reaching out to people with a variety of viewpoints and backgrounds and including them in these conversations and processes. He said that the upcoming focus on village centers should be a good testing ground for some of these conversations.

Mr. McCormick seconded Ms. Molinsky's suggestion to better clarify what affordability means in terms of zoning and asked to what extent the three goals the ZAP agreed on for Zoning Redesign were still part of this process.

Mr. LeMel said that those goals are still important, but if the committee decides to go forward with the geography based framework, it would be appropriate to revisit the foundational documents like the Pattern Book, Comprehensive Plan, Climate Action Plan, etc. to plot the direction forward while rooting the work firmly in the goals and visions the city has in place now.

Ms. Pilipovic-Wengler added that much of the feedback from the December event focused on the legitimacy of the process, and the sense that some participants shared that Zoning Redesign is being spearheaded by city staff rather than by elected officials. In order to go forward with effective community engagement, there needs to be a sense that these changes are needed and will have a positive future impact.

Chair Doeringer said that there seems to be a sense from some members of ZAP that the best path forward is to tackle individual problems, in the vein of the Garage Ordinance, and that it is more effective to fix the zoning we have now rather than create a new ordinance entirely. He added that it's important not to take a one size fits all approach to the different topics, and to make sure each topic is given the appropriate nuance necessary. He recommended bringing in outside experts and case

examples to explain what have worked elsewhere, and what could be adapted to the unique context in Newton.

Ms. Molinsky seconded the importance of bringing in outside learning from other cities. She also suggested hosting a charette to foster dialogue between residents and interactive participation, when it is safe to do so.

Mr. LeMel asked for the Board's thoughts on approaching changes piecemeal rather than comprehensively. Chair Doeringer said that it can be hard to convince people that a holistic change is better since the process is so long, but that in his opinion comprehensive change would be preferred because so much change is needed and many elements are interconnected and could not easily be taken on independently. Mr. McCormick added that the Garage Ordinance was a long and difficult process, and to do that over many iterations for dozens of topics individually would likely take years. Mr. Steele and Ms. Molinsky concurred that thinking and working systemically would be preferable to a piecemeal approach.

### **3. Discussion Items**

#### Housing Choice

Mr. Heath gave an update on the Housing Choice bill signed into law in January by Governor Baker. The Housing Choice provisions change state law to lower the vote threshold needed to adopt certain zoning changes from two-thirds to a simple majority. This language went into effect immediately. Also included in the bill are new multi-family zoning requirements that are likely to impact Newton. The bill requires "MBTA Communities," those communities served by MBTA transit stations, to include at least one zoning by-law or ordinance that provides for at least one zoning district of reasonable size in which multi-family housing is allowed as of right with no age. Communities that fail to come into compliance with this will no longer be eligible for funding from the Governor's Housing Choice Initiative, the Local Capital Projects Fund, and the MassWorks infrastructure program.

Guidance from DHCD will be forthcoming on the finer details of these new requirements, and there is not yet a clear date by which the changes to zoning must be completed. Newton has used funding from MassWorks in the recent past, so there is strong incentive to make those amendments in the near future.

#### Housing Trusts

Mr. Heath explained that members of the CPC and Newton Housing Partnership have discussed the possible formation of a housing trust. Over 100 Massachusetts communities have a trust in some form or another. State legislation allows for the creation of trusts and nearby communities including Somerville, Cambridge, Brookline, and Salem have trusts. Somerville and Cambridge get direct allocation from CPA funding that they use to develop affordable housing or fund affordable housing projects. This topic was introduced several years ago at CPC but did not have the support to move forward. Lara Kritzer has been researching and engaging with communities that use these trusts to better understand the pros and cons to see if it would be a good fit for Newton's needs.

Mr. Heath explained that one of the key questions here is to see if there is a way to move more quickly and efficiently using trusts to develop affordable housing. Some communities have used HOME funds for their trusts, some do not. There is a lot of variation in how they operate and how they are configured depending on the municipality. In several weeks at ZAP staff will present what they have learned so far

from neighboring communities and what an approach that includes a housing trust might look like in Newton.

Chair Doeringer asked if there were any examples of trusts that used a significant pool of money other than CPA funds. Mr. Heath explained that some towns use funds from inclusionary zoning or use general funds. In Newton, he believes the bulk would likely be CPA funding. Mr. Brown added that general funds could be used for this purpose and a housing trust could accept cash donations.

#### CDBG Human Service/ Emergency Solutions Grant Reviewers

Mr. Heath explained that the annual round of CDBG funding is coming up and he has been authorized to ask several Board members to participate on the review committee for Human Services and for the Emergency Solutions Grant program. He noted that past participation in these reviews by Board members has proven very helpful to the process.

Mr. Brown and Mr. McCormick volunteered to participate in the Human Services review, and Ms. Maheshwari and Ms. Molinsky volunteered to assist with the Emergency Solutions Grant review.

#### **4. Minutes**

Upon a motion by Ms. Maheshwari, seconded by Ms. Molinsky, the minutes from January 4 and January 5, 2021 were accepted 7-0-0 and 6-0-1 respectively, with Mr. Steele abstaining from the vote for January 5<sup>th</sup>.

#### **5. Adjournment**

Upon a motion by Mr. Steele, seconded by Ms. Molinsky and unanimously approved, the meeting was adjourned at 9:09 p.m.



# PLANNING & DEVELOPMENT BOARD JOINT MEETING WITH ZONING AND PLANNING COMMITTEE MINUTES

February 8, 2021

## Members Present:

Peter Doeringer, Chair  
Sonia Parisca  
Chris Steele  
Jennifer Molinsky  
Kevin McCormick  
Kelley Brown  
Barney Heath

Ruthanne Fuller  
Mayor

**Zoning and Planning Committee Members Present:** Councilors Crossley (Chair), Leary, Wright, Krintzman, Danberg, Baker and Ryan

**Also Present:** Councilors Lipof, Markiewicz, Downs, Laredo, Greenberg and Malakie

Barney Heath  
Director

Planning & Development

## Staff Present:

Jonathan Yeo, Chief Operating Officer; Marie Lawlor, Assistant City Solicitor; Jen Caira, Deputy Director; Cat Kemmett, Planning Associate; Zach LeMel, Chief of Long Range Planning; and Devra Bailin, Director of Economic Development, Planning & Development Department

Meeting held virtually by Zoom Meeting

## Members

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

## 1. Discussion and possible vote on Docket Item #485-20 Zoning Amendment for Research & Development

The meeting was opened at 7:01 p.m. Ms. Caira stated that this item is to clarify existing allowed research and development uses and has been a collaborative effort between the Planning Department and Economic Development Commission. The is to correct some issues within the existing zoning to make it clearer that research and development is allowed, and to encourage these kinds of businesses in Newton.

Beth Nicklas, Economic Development Commission representative, stated this corrective measure is in keeping with the Economic Development Plan that was adopted by the City Council in 2019. The strategies include: increasing lab space to capitalize on Massachusetts highly skilled workforce with scientific background and regional economic trends; increasing office space in Newton to attract and retain companies to increase the commercial tax base; targeting growth sectors that may provide good paying jobs for Newton citizens in life sciences, health, tech professional and technical services. The rationale for putting this forward is to clarify the inconsistencies and ambiguities that the EDC found in the code, but it also provides a unique opportunity to increase the commercial tax base in Newton.

Ms. Caira stated the proposal is to strike the term "research and development" from the use table and rename it "laboratory, research and development" to better reflect the category of uses, rather than describing only one type of facility. The definition is now: "technical facility consisting of laboratory space, office space,

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storage space and space for assembly of materials for study research and development experimentation and prototype development in one or more scientific fields, including but not limited to life sciences biotechnology biomedical research, robotics, renewable technology, sustainable technology computer science, electronic technology or medicine.” Ms. Caira also stated that prior changes to Section 6.7.4, which only applies to accessory scientific and research activities in civic and institutional uses, had been removed from the proposal due to being inadvertently left out of the public hearing notice. This includes striking a prohibition on RDNA uses, which will be addressed in the future.

Ms. Nicklas stated that the EDC reached out to the Newton-Needham Chamber of Commerce. They are very supportive of this corrective measure, believing that it will resolve some of the ambiguities in the current language of the ordinance. The EDC also received a comment from a Wells Avenue landowner expressing their support.

Chair Crossley then opened the public hearing.

Debra Waller expressed her concern that Section 6.7.4 B. deletes an important prohibition. Ms. Nicklas said that allowed uses would not be changed, but only clarified by this docket item. Ms. Waller continued saying it would be a large change to allow this use in all these residential districts. She voiced concern that the deletion of 6.7.4 B would add risk to the lives of existing Newton residents in return for no increase tax revenue, because 6.7.4 only affects institutional and civic uses, who don't pay any taxes. Ms. Waller asked to know who asked for 6.7.4.B to be deleted.

Chair Crossley asked the Planning Department and the Economic Development Commission to speak to her question. Ms. Caira said that she believes Ms. Waller is referring to Section 6.7.4, which only applies to accessory scientific and research activities in civic and institutional uses. This section prohibits RDNA as an accessory use. In 2017 the city council removed RDNA from zoning and made it subject to the Biosafety Committee. However, amending this section was not specifically noted in the public notice and so will not be included at this time. Amending 6.7.4 is not critical to the changes proposed that will clarify commercial and industrial laboratory and R&D uses.

Mr. Phillips said that the EDC originally focused just on the business, industrial, and manufacturing use districts. When the EDC reviewed the ordinances, they saw that Section 6.7.4 also references scientific and research uses in civic and institutional use districts and proposed changes. However, they are primarily focused on commercial and industrial districts. The EDC worked to simplify the code so it would be understandable and consistent.

Randall Block said that he would support Ms. Waller’s statement. He is concerned about proposals to have life science buildings built at Riverside, as well as the adjacent Riverside management building given the proximity to residences.

Attorney Stephen Buchbinder said that he is a land use attorney with interest in the topic and is the attorney for Alexandria Real Estate, owner of Riverside Office Park. As Ms. Caira mentioned, there is some confusion in the current ordinance, and the proposed text amendments are important in clarifying the rules.

Amy Sangiolo asked if there was outreach to any community groups, neighborhood organizations, or Area Councils. Chair Crossley answered that although the sections under discussion were properly noticed, that the section of the ordinance that addresses residential districts was not and is therefore postponed. The intent is to vote on the portion of the ordinance that addresses commercial and manufacturing districts. Chair Crossley then said that she recommends Councilors reach out to constituents when the remainder of the item returns to ZAP, which will require its own public hearing.

The public hearing was then closed.

Ms. Caira noted that the proposed language does not change allowed RDNA uses or definitions in commercial or industrial zones. the language and process will be the same as is in the current zoning ordinance.

Ms. Molinsky said that these proposed amendments rationalize the ordinance and make sense from an economic development perspective. She asked how the City know that in these mixed-use districts where a special permit is not necessary that the manufacturing won't produce fumes or noise or something that will disturb the neighbors, and whether the city would be open to linking that to Section 6.5.11. Ms. Caira suggested that the intent is that the addition of a new number 10 in the manufacturing definition for product and/or process development in connection with the lab research or development uses is meant to limit manufacturing just to that which is accessory to the lab or research and development use and would not permit heavy manufacturing.

Chair Doeringer said that he has done some work on this kind of R&D prototype and understands the type of manufacturing necessary to prepare prototypes for market. He suggested language to sharpen the distinction between R&D prototypes that would distinguish manufacturing on a small scale and clarifying the transition to manufacturing activities, perhaps in nonmanufacturing zones. Chair Doeringer suggested language could be added to Section C of the laboratory research and development definition, to clarify manufacturing accessory to the R&D use in districts that do not otherwise permit manufacturing.

Mr. Plottel said that the City tried to use language that was similar to ordinances in neighboring communities and is concerned about the unintended consequences of trying to provide too much definition. Economic Development Director Ms. Bailin said that most municipalities do not define a limit on what constitutes an accessory manufacturing use, as it can vary significantly. The definition of accessory manufacturing has not been limited in its definition because doing so may inadvertently restrict or prohibit some sort of R&D use that you wish to attract.

It was asked how a building inspector decides whether the company's accessory manufacturing activities comply with the allowed use if there's no definition. Ms. Bailin and the Planning Department said that ISD must make this kind of determination all the time.

Mr. Steele noted that the City Council, Committee, and the EDC first began the conversation in 2012, to position the city of Newton similarly to other bio ready communities, and to possibly adapt some language similar to what is in Watertown and Waltham ordinances.

Committee and Board members voiced appreciation that planning and EDC have reviewed other town ordinances and bylaws, and agreed that it is difficult to define terms, especially in the biotech industry where protocols can change rapidly. If the ordinance tries to over define these terms, it would be difficult for building inspectors to make decisions.

It was asked what counted as an accessory use. Ms. Caira answered that an accessory use is determined by the Inspectional Services Department Commissioner who determines the point at which accessory becomes the primary use in a building but certainly it's not the primary activity. There is always some manufacturing that happens before a product must go somewhere else for a full-blown manufacturing process.

The ZAP committee approved the item 7-0-0.

Upon a motion by Mr. Steele and seconded by Ms. Maheshwari, the Planning & Development Board approved this item 6-0-0.

## **2. Adjournment**

The Planning and Development Board meeting was concluded at 8:20 p.m.

DRAFT



# PLANNING & DEVELOPMENT BOARD JOINT MEETING WITH LAND USE COMMITTEE MINUTES

February 9, 2021

## Members Present:

Peter Doeringer, Chair  
Jennifer Molinsky  
Kevin McCormick  
Kelley Brown  
Barney Heath

**Land Use Committee Members Present:** Councilors Lipof (Chair), Greenberg, Kelley, Markiewicz, Downs, Bowman, and Laredo

**Also Present:** Councilors Ryan and Wright

## Staff Present:

Chief Planner Neil Cronin, Senior Planner Katie Whewell, Senior Planner Michael Gleba

Meeting held virtually by Zoom Meeting

Ruthanne Fuller  
Mayor

Barney Heath  
Director  
Planning & Development

## 1. Continuation of Public Hearing to rezone two parcels from BU-2 to MU-4 at 1149-1151 Walnut Street

The Planning and Development Board joined the Land Use Committee for discussion on items #319-20 and #320-20. Attorney Alan Schlesinger represented the petitioner Newton Walnut LLC. Atty. Schlesinger presented details of the request to rezone from 13,200 square feet from BU-2 to MU-4. The project site is in the BU2 district between the BU1 and MU district on Walnut Street. Atty. Schlesinger noted that the center of Newton Highlands is all within the BU1 district. He reviewed details of the Planning Memo dated 01-05-21 which summarized portions of the 2007 Comprehensive plan indicating that mixed use centers can contribute to vibrant village centers, encouraged development of housing above retail, and indicated that increase in intensity could increase service and use for the public transit. The City Council adopted the MU4 district in 2012 to encourage growth in village centers, near transit and to provide support for village centers. The Newton Leads 2040 Housing Plan emphasizes the role of villages in providing jobs, services, housing, and transit hubs. Atty. Schlesinger showed comparisons between the BU2 and MU4 districts. He noted that the districts are similar but MU4 allows additional density.

Atty. Schlesinger provided contextual photos of the surrounding area in Newton Highlands. He noted that many buildings that contribute to the unique character and aesthetic of Newton Highlands that lie within the BU1 district are legally nonconforming. They are desirable and work well within the existing context, but many are taller than would be allowed by right, would not meet the side yard setbacks, or do not have enough parking, and would require a special permit under the current ordinance rules. In his opinion, the BU1 zoning in this area is not an accurate reflection of existing conditions, and the BU1 designation does not help foster the kind of mixed use and vibrant community form that the city hopes to see in village centers.

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

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Mr. Gleba gave a presentation explaining some of the differences between elements of the BU2 and MU4 districts, including height, setbacks, and stories allowed by right or by special permit.

Members of the committee discussed the threshold required for a vote of this nature now that the 2/3 majority vote now only applies under certain circumstances.

Nathanial Lichtin of the Newton Highlands Area Council voiced support for the rezoning of this site. He believes MU4 is a more appropriate designation for this area, which is adjacent to an MBTA stop. It is a good candidate for moderate density, so allowing for more density is appropriate here. Through the special permit criteria, any potential negative impacts in terms of height or traffic can be mitigated.

Kathy Pillsbury voiced support for rezoning this parcel, especially considering its proximity to the MBTA stop.

David Rockwell said that this rezoning is appropriate and would add needed housing to the area. He noted that the units proposed are small and he would like to see larger ones to support families.

Peter Barrer voiced support for this rezoning and hopes that the petitioner will consider a Passive House design.

Dennis Rieske also voiced support for this project.

Councilors Bowman, Downs, and Ryan stated support for this project.

The Committee voted 7-0 in favor of holding this item.

## **2. Adjournment**

The meeting was concluded at 9:30 p.m.