

PLANNING & DEVELOPMENT BOARD MINUTES

March 1, 2021



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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Members Present:

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

Staff Present:

Barney Heath, Director Planning & Development
Cat Kemmett, Planning Associate

Meeting held virtually by Zoom Meeting

1. Continued public hearing and possible vote on docket item #319-20, Request to rezone two parcels from BU-2 to MU-4 at 1149-1151 Walnut Street

Chair Doeringer opened the meeting at 7:01 p.m. Mr. Steele motioned to reopen the public hearing, which was seconded by Ms. Molinsky and approved unanimously.

Attorney Alan Schlesinger spoke on behalf of the petitioner. He spoke about the value of proactive planning and how this project fits in well with the Newton 2040 plan. He explained that existing conditions in Newton Highlands don't always align with that vision, but through this plan and others like it, development in that area can look more like what is outlined in the vision plan. Updates made to the plan include reducing the height of one unit to minimize the shadow cast on the neighboring church, and in its place adding a roof deck and green space. He mentioned that members of the Newton Highlands Area Council and the Planning department have spoken in favor of the plan.

At 7:10 p.m., Ms. Molinsky motioned to close the public hearing, seconded by Mr. Brown and unanimously approved. Board discussion then followed.

Mr. Brown expressed support for the zoning change. He acknowledged that the applicant still has some work to do on other aspects of their special permit, but the progress seemed positive.

Mr. Steele inquired whether the existing facilities at 1 Lincoln would be allowed to be built by right under the existing zoning of the parcel. Atty. Schlesinger responded that they could not, because that district doesn't allow as many units by right, the building would be too tall, and there would not be enough parking.

Ms. Molinsky noted that the existing zoning is not a good match for what the city's adopted policies envision for this area. She heard support from the public at the public hearing and supports the rezoning.

Mr. Heath then explained that if the Board were to vote on this matter, it could also advise the City Council that this zoning request falls within the Governor's "Housing Choice" bill. He explained that by virtue of allowing an increase in permissible density in a mixed-use development within a Village Center, this project qualifies for the simple majority voting threshold for the City Council.

Mr. Brown asked why the Board would need to affirmatively note the simple majority vote threshold, seeing as this is now state law. Mr. Heath responded that the Planning Department has been advised by the Law Department that the Board should cite their reason for advising the Land Use Committee to use the simple majority threshold rather than the standard 2/3 supermajority normally required.

Chair Doeringer expressed that his sentiment would be to follow the guidance of the Law department and ensure that the Board explain their rationale in their memo.

Ms. Molinsky asked if the City Council would have the discretion to decide if a vote is taken by simple majority or if must meet the 2/3 threshold. Mr. Heath responded that they could not, but that the Planning and Development Board can provide guidance in their recommendation. He said that it was very likely that the Law Department will affirm the Board's decision regarding the voting threshold, as long as there is a rational basis in the guidance of the legislation.

Ms. Parisca said that in her view, it seemed appropriate based on the guidance to recommend a simple majority vote. Mr. Brown concurred.

Upon a motion by Mr. Steele, seconded by Ms. Molinsky, the Board voted in favor of recommending the rezoning with 6 in favor and Mr. Heath abstaining.

2. Update on Zoning Amendment for Marijuana Courier and Marijuana Delivery Operation Uses

Ms. Kemmett then provided an update on the Marijuana Zoning Amendment. She explained that the Marijuana Courier and Marijuana Delivery Operator designations are similar to other uses allowed by-right in Manufacturing and Limited Manufacturing Districts.

Between the Cannabis Control Commission regulations and licensing process, the City's own ordinance and Host Community Agreement, the uses will be well regulated. For this reason, staff recommend that adding the requirement for a Special Permit for these uses is not necessary. Eliminating the need for a Special Permit provides greater opportunity for Social Equity and Economic Empowerment applicants, and these applicants will be the only ones eligible for those licenses for a period of three years.

She added that the public hearing for the item will be held on March 8 at the Zoning and Planning Committee.

Ms. Parisca asked what control exists over third-party web platforms between consumers and the warehouses- what protections are in place to ensure that couriers do not get a monopoly on the marijuana industry in the area? Ms. Kemmett responded that couriers only work with established retailers, so this should not be a big concern for those licenses. Mr. Heath added that the awarding of licenses falls under the purview of the CCC and is not handled through zoning.

Chair Doeringer added that courier and delivery operators will both be able to cross city lines to sell products, so it is a pretty open market.

Ms. Molinsky noted that the distribution of across the city isn't equitably distributed, it is skewed heavily toward north side of the city. She would like to see opportunity for these uses spread more evenly.

Mr. Brown asked for details about how these businesses work, and whether individuals might use their personal vehicles or leave for deliveries from their home, rather than a warehouse. Mr. Heath said that these uses could not be conducted from home, they would be required to operate out of a facility in an area zoned for the use. Ms. Kemmett added that personal vehicles cannot be used for marijuana delivery according to CCC regulations.

Chair Doeringer asked whether existing retailers need to get a license to contract out to a delivery system, or if they can they just decide to work with a licensed courier, which is a separate entity, whenever they want.

Ms. Kemmett said that the couriers and delivery operators must get their own licenses. Mr. Heath added that to his knowledge, existing retailers do not need a new or separate license to work with couriers or delivery operators, but staff could check in on that.

Ms. Maheshwari asked if it was allowed for licensed couriers from other towns (like one out of Watertown or Needham) pick up from a marijuana retailer in Newton, like Garden Remedies, and deliver to an address in Newton? Or would that courier need to be licensed in Newton? Mr. Heath said that it seems like couriers licensed in other towns would be allowed to do this, without needing to be licensed in Newton, but that he could double check that with the Law department.

Ms. Maheshwari asked what the rules are regarding what happens if a courier can't make a delivery- for example, if the person who asked for the delivery isn't home. Can they just keep it in the car, or does it have to go back to the warehouse or retailer? Ms. Kemmett said that the CCC has strict rules about how marijuana products get from point A to point B, so staff can incorporate those questions into the material covered at the public hearing.

3. Zoning Redesign Update

Mr. Heath provided an update on the Zoning Redesign conversation at ZAP. He explained that at the previous ZAP meeting, committee members had discussed the relative merits of addressing zoning changes comprehensively or of addressing them more piecemeal. He said that the general consensus was to move forward with comprehensive planning, but leaving the door open for ad hoc changes to current zoning as well.

Mr. Heath said that the next area of focus will be on Village Centers, which will be a good opportunity to look into ways to support economic development goals in a time when businesses are hurting. Furthermore, it makes sense to look at Village Centers as area of possible interest for upcoming zoning changes the city is considering bringing zoning into compliance with stipulations in the Housing Choice legislation.

Mr. Brown noted that there is a significant portion of people who seem content to move forward just addressing zoning changes piecemeal and asked if ZAP is invested in working comprehensively. Ms. Parisca concurred, and asked how the Planning and Development Board might play a role in keeping momentum going and advocating for progressive, comprehensive change.

Ms. Molinsky shared some of her experience from the FAR working group, where members identified some of the challenges that come along with limiting the scope when dealing with complex and interconnected policies and regulations.

Mr. McCormick also affirmed the importance of addressing things comprehensively and would be interested in Ms. Parisca's suggestion to see how the Board can take on a more active role.

Chair Doeringer said he is optimistic about the direction of Zoning Redesign conversations and sees opportunities for productive forward movement and points of agreement in evaluating zoning in village centers.

4. City Updates

Mr. Heath said that Riverside will be going before Land Use soon to amend their special permit, and the Board will be involved in that since it involves zoning. The city has not yet received the formal submission but anticipates the applicant will want to adjust the existing special permit to replace the hotel with a lab building and convert office lab building as well.

Housing Trusts will be discussed on March 22 at ZAP. Someone from the Mass Housing Partnership will be there to give a presentation about these trusts, and staff have already begun researching the pros and cons of a potential housing trust in Newton.

5. Minutes

Upon a motion by Mr. Steele, seconded by Ms. Maheshwari and unanimously approved, the minutes from January 12, January 25, February 1, February 8, and February 9 were all accepted. Mr. Steele abstained from voting on the minutes for January 12 and February 9. Ms. Maheshwari abstained from voting on the minutes for January 12, February 8, and February 9. Ms. Parisca abstained from voting on the minutes for February 9.

6. Adjournment

Upon a motion by Mr. Steele, seconded by Ms. Maheshwari and unanimously approved, the meeting was adjourned at 8:20 p.m.