



Zoning & Planning Committee Report

City of Newton In City Council

Monday, January 10, 2022

Present: Councilors Crossley (Chair), Danberg, Albright, Leary, Ryan, Wright, Krintzman and Baker

Also Present: Councilors Downs, Lipof, Greenberg, Malakie, Kalis, Lucas, Oliver, Humphrey, Norton and Laredo

City Staff: Deputy Director of Planning and Development Jen Caira, Director of Planning and Development Barney Heath, Assistant City Solicitor Andrew Lee, Chief of Long Range Planning Zachery LeMel and Planning Associate Cat Kemmett

Planning and Development Board: Barney Heath and Kevin McCormick

Others Present: NewTV

#62-22 Appointment of Ali Erol to the Economic Development Commission

HER HONOR THE MAYOR appointing Ali Erol, 204 Dedham Street, Newton, as a member of the ECONOMIC DEVELOPMENT COMMISSION for a term to expire on December 31, 2023. (60 days: 03/02/22)

Action: Zoning & Planning Approved 8-0

Note: The Chair invited Mr. Erol to join the Committee to discuss his interest in serving as a member of the EDC. Mr. Erol joined the Committee and stated that he looks forward to becoming a member of the EDC because he lives and works in Newton since emigrating to the US, feels a deep connection to the city, and wants to contribute.

As a professor at Boston College, Mr. Erol conducts academic research on urbanization, urban spaces, social justice food scarcity in urban areas, and food equity in New England. By serving on the EDC, he can assist the city with research and understanding ongoing economic. He anticipates opening a center at Boston College where he can work with undergraduate students to help write grant applications, and in other ways serve as interns where Newton may benefit from additional staff to conduct research.

Committee members noted that Mr. Erol has a unique skill set, an interesting background and resume and look forward to him serving.

Committee members thanked Mr. Erol for his willingness to serve on the EDC. Councilor Ryan moved approval and the Committee voted in favor 8-0.

Chair's Note: Planning staff will provide a draft calendar for the term, and the Clerk's Office will provide a list of docket items filed to date for committee consideration/discussion.

Note: The Chair noted that three documents are provided in the Packet for this item: a draft calendar for the term, organized by subject area, a list of items either docketed or contemplated, as well as efforts coming up this term, also organized by subject area, and the complete ZAP Docket to date. Tonight's discussion is to lay out the scope of work imagined for the term and hear from the committee and Council on prioritizing the work.

Chief of Long Range Planning Zachery LeMel screen-shared the draft calendar for the term (attached). Chair Crossley provided a brief overview on each section of the calendar under several headings: Zoning Redesign-Village Centers, Housing Choice-MBTA Communities, Master Planning Projects (Newton Wellesley Hospital request for a hospital zone and mechanism for creating a master plan), Sustainability/Environmental Zoning Amendments, Economic Development Zoning Amendments, Historic Preservation Zoning Amendments, Housing Zoning Amendments (non-Village Centers) and Development Standards/ Other. See attached lists.

Committee members suggestions, comments, questions and answers:

It was widely acknowledged that the work outlined is ambitious for one term.

A suggestion was made to refer and center discussions on docket item #58-22, which is regarding enforcing the noise ordinance, to the Programs and Services committee. P&S Chair Councilor Krintzman agreed. Similarly, enforcement updates on other ordinances should not need to go before ZAP, unless such ordinances need amending.

Docket #57-22 requests a general discussion on ways to thwart tear downs (razing of one- and two family homes). This item is listed but not shown specifically on the one page graphic calendar. Several councilors felt it important to address this issue despite how much other work is before the committee. Several committee members noted that the committee's work in 2020 focused on developing a different set of metrics to limit house size in various ways in order to reduce the incentive to replace existing homes with larger ones, but no consensus was reached. The committee agreed to table residential zoning metrics and focus on village centers since January 2021. Others noted that an effort (to revisit these metrics) is larger than it may seem and would impede progress on the village center work.

Nonetheless, several councilors suggested bringing forward the tear down discussion in the first six months of 2022, perhaps as a brainstorming session.

Chair Crossley stated that the Committee can hold a general discussion on how to disincentivize tear downs, but a continued effort would require either a third meeting a month and/or a

working group to delve into the details and report back to committee. Staffing would be difficult. The Committee tabled residential metrics both because committee members were unable to reach consensus on policy, and sufficient analyses were not yet available.

One committee member suggested eliminating any further work on the accessory apartment ordinance (adopted 12/2017). The Chair responded saying that several councilors and others have expressed interest in some very specific amendments to that ordinance, not a complete review.

Q&A

Regarding zoning redesign in village centers, are the economic analyses included in the draft calendar? Mr. Heath answered yes, the first two items below the heading are: Existing zoning analysis (existing conditions, development potential, and economic analysis), and Alternative development scenarios for small and large village centers (graphic and economic analysis).

Where it says “refine and vote on zoning amendments to achieve preferred development scenarios (will be split up)” – what does that mean? Mr. LeMel answered that there are numerous elements making up village centers, including dimensional standards and building types. The Committee and the community have expressed concern that there cannot be a one size fits all approach.

What is the “California Street Manufacturing Zoning District (study)” on the calendar? Mr. LeMel answered that the City has received a state grant from the Housing Choice fund to study the area north of California Street and consider what a more vibrant 21st century manufacturing zone could look like.

It is important to maintain commercial buildings to help with the tax base. Why is the funding for the California Street Manufacturing Zoning District (study) coming from Housing Choice monies? Is this a proposal to change the district from manufacturing to housing? Mr. Heath answered no, California Street is seeing development pressure from both housing and commercial sectors. This is a zoning study to examine the area, have a community process to solicit input and lay out different potential alternatives. Many state grants have the imprint of Housing Choice grants but have to do with economics and zoning.

Will the California Street manufacturing zoning district study be handled by an outside consultant? Mr. Heath answered that Housing Choice Grant of \$75,000 will be used for an outside or an on-call consultant. He then stated that he is unsure if this decision (choosing the consultant) has been made.

A few Committee members suggested that perhaps working groups may assist the Committee with several of the more complex items on the calendar, particularly to lay the groundwork on some of the climate action items.

A councilor said that all pending docket items should be identified in the graphic calendar and asked to know when all items will be heard.

Chair Crossley reminded again that in addition to the one page graphic calendar showing categories of items and how we may address them over the term, there is a two page document that organizes all items (both docketed and contemplated to date) by substantive category that can be easily cross-referenced. She added that the two year term draft graphic calendar can help guide and focus our work, but that Agendas cannot be specifically determined more than a month or so at a time.

It was noted that Ms. Cairra has prepared a memorandum summarizing both current and future housing data, that will be provided to Council via the Clerk's office on January 11, 2022.

Committee members thanked the Planning staff for their diligence, specifically noting the well organized documents as helpful to the discussion. The Chair urged councilors to advise her regarding any future docket items, they may be considering aide in calendar planning.

#39-22 Requesting discussion on state guidance for implementing the Housing Choice Bill

COUNCILOR CROSSLEY on behalf of the Zoning & Planning Committee requesting discussion on state guidance for implementing the Housing Choice element of the MA Economic Development legislation. (formerly #131-21)

Action: Zoning & Planning Held 8-0

Note: This section will be available at a later date. To view this section of the report from NewTV, use this link <https://newtv.org/recent-video/107-committee-meetings-and-public-hearings/7302-zoning-planning-committee-january-10-2022>, and use the 1:11:00 mark in the timestamp.

Without further discussion, Councilor Krintzman made a motion to hold this item. Committee members agreed 8-0.

#42-22 Citizens petition to amend the village center district

ATTORNEY PETER HARRINGTON ET AL., submitting a 60-signature citizen to strike Chapter 30, Section 4.1 Business Districts, in its entirety and insert, in place thereof, the following 4.1. Village Center District; 4.1.1. District Intent and 4.1.2. Dimensional Standards.

Action: Zoning & Planning Held 8-0; Public Hearing set for February 28, 2022

Note: Chair Crossley stated that tonight, the Committee will not discuss this item. The sixty signatures have been certified on the petition obligating the City to hold a public hearing within 60 days of the item being docketed.

Without discussion, Councilor Krintzman made a motion to hold the item and set the public hearing for February 28, 2022. Committee members agreed 8-0.

#63-22 Reappointment of Elizabeth Sweet to the Zoning Board of Appeals

HER HONOR THE MAYOR reappointing Elizabeth Sweet, 281 Lexington Street, Auburndale, as an associate member of the ZONING BOARD OF APPEALS for a term to expire on January 10, 2023. (60 days: 03/02/22)

Action: **Zoning & Planning Approved 8-0**

Note: Without discussion, Councilor Krintzman made a motion to approve Ms. Sweet appointment as an associate member of the ZBA. Committee members agreed 8-0.

#64-22 Reappointment of Lei Reilley to the Zoning Board of Appeals

HER HONOR THE MAYOR reappointing Lei Reilley, 130 Pine Street, Newton, as an associate member of the ZONING BOARD OF APPEALS for a term to expire on January 10, 2023. (60 days: 03/02/22)

Action: **Zoning & Planning Approved 8-0**

Note: Without discussion, Councilor Krintzman made a motion to approve Ms. Reilley appointment as an associate member of the ZBA. Committee members agreed 8-0.

#65-22 Reappointment of Denise Chicoine to the Zoning Board of Appeals

HER HONOR THE MAYOR reappointing Denise Chicoine, 275 Islington Road, Newton, as an associate member of the ZONING BOARD OF APPEALS for a term to expire on January 10, 2023. (60 days: 03/02/22)

Action: **Zoning & Planning Approved 8-0**

Note: Without discussion, Councilor Krintzman made a motion to approve Ms. Chicoine appointment as an associate member of the ZBA. Committee members agreed 8-0.

At approximately 10:15 p.m., Councilor Danberg made a motion to adjourn. Committee members agreed 8-0.

Respectfully Submitted,

Deborah J. Crossley, Chair

ZAP Calendar

	2022												2023											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Zoning Redesign - Village Centers																								
Existing zoning analysis (existing conditions, development potential, and economic analysis)																								
Alternative development scenarios for small and large village centers (graphic and economic analysis)																								
Draft zoning amendments for alternative development scenarios (ex. use table, parking, dimensional standards)																								
Refine preferred development scenarios for small and large village centers																								
Refine and vote on zoning amendments to achieve preferred development scenarios (will be split up)																								
Citizens petition to amend the village center district																								
Housing Choice - MBTA Communities*																								
Planning staff to brief ZAP/City Council																								
Public comment period on State guidelines																								
Creation of an action plan (planning and analysis required for compliance)																								
Implementation of the action plan (drafting and adoption of zoning amendments)																								
Masterplanning Projects																								
Newton Wellesley Hospital (enabling legislation)																								
Newton Wellesley Hospital (masterplan and regulatory framework - zoning)																								
California Street Manufacturing Zoning District (study)																								
Sustainability/Environmental Zoning Amendments																								
Stormwater Ordinance updates																								
Criterion 5 (reduced size threshold and add substantial renovations)																								
Limiting embodied carbon in new construction																								
Requiring solar panels in new construction																								
Existing commercial buildings: BERDO for Newton: "Building Energy Reporting & Reduction Ordinance"																								
New residential buildings: tie performance standards to building size																								
Economic Development Zoning Amendments																								
Update parking requirements (commercial uses, specific zones, size thresholds, etc.)																								
Regulate last mile delivery services																								
Modernize commercial, mixed-use, and industrial use tables																								
Provide small business incentives/protections																								
Historic Preservation Zoning Amendments																								
Periodic updates on the MACRIS survey																								
Process to protect landmarked buildings																								
Reuse incentives to preserve and restore historic buildings																								
Housing Zoning Amendments (non-Village Centers and Housing Choice)																								
Updated to the Accessory Dwelling Unit Ordinance																								
Updates on the establishment of the Municipal Housing Trust																								
Updates on housing production																								
Other Zoning Items/Development Standards																								
Clean-up items (yearly)																								
Updates to the Sign Ordinance																								
Updates to the Fence Ordinance																								
Managing topography: Retaining walls, natural grade, measuring rules																								
Discussion with ISD regarding ordinance compliance update																								

*Timeline derived from DHCD guidance and deadlines



Housing Choice Legislation: MBTA Communities

Docket #39-22
Zoning and Planning Committee

January 10, 2022

#39-22



Before We Begin

- Initial presentation
- Many questions remain
- Guidance is still a draft
- Will provide more analysis
- Additional meetings to come

#39-22



Agenda

- What is the Housing Choice Legislation
- Why Housing Choice
- Draft guidance for MBTA Communities/ what does this mean for Newton
- Next Steps

What is the Housing Choice Legislation?

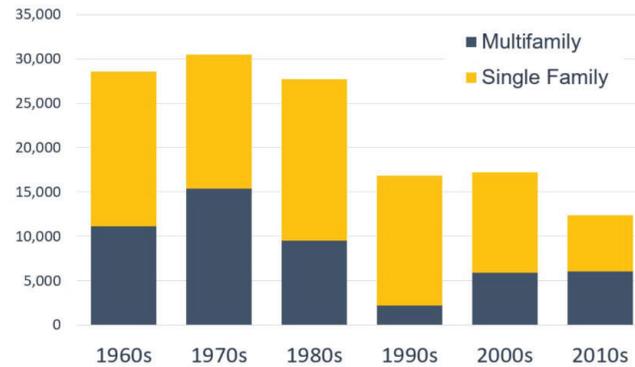
- Amendments to Chapter 40A of the General Laws (the Zoning Act) that:
 - Reduce the number of votes required to enact certain kinds of zoning ordinances from a $\frac{2}{3}$ supermajority to a simple majority
 - Similarly reduce the voting thresholds for the issuance of certain kinds of special permits
 - **MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right or lose eligibility for certain State funding**



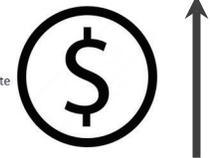
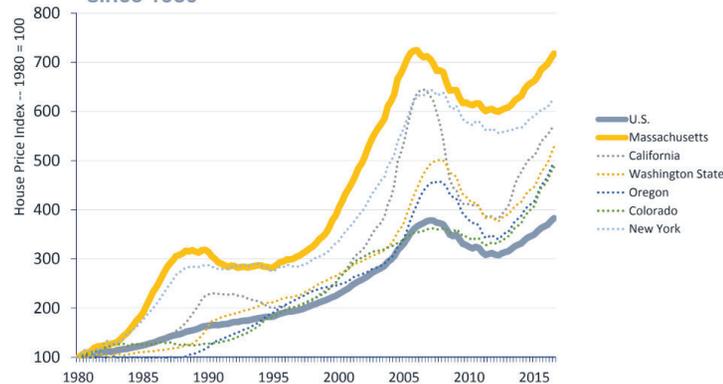
Why Housing Choice?

- “Make it easier to approve *housing supportive zoning*”
- “To grow Massachusetts’ stock of housing, combat the long-standing housing crisis, and reenergize neighborhoods and communities”

Average annual housing permits by decade in Massachusetts



Change in home price index since 1980



Source: Massachusetts Housing Partnership



Draft Guidance for MBTA Communities

Draft Guidance: <https://www.mass.gov/info-details/draft-compliance-guidelines-for-multi-family-districts-under-section-3a-of-the-zoning-act>

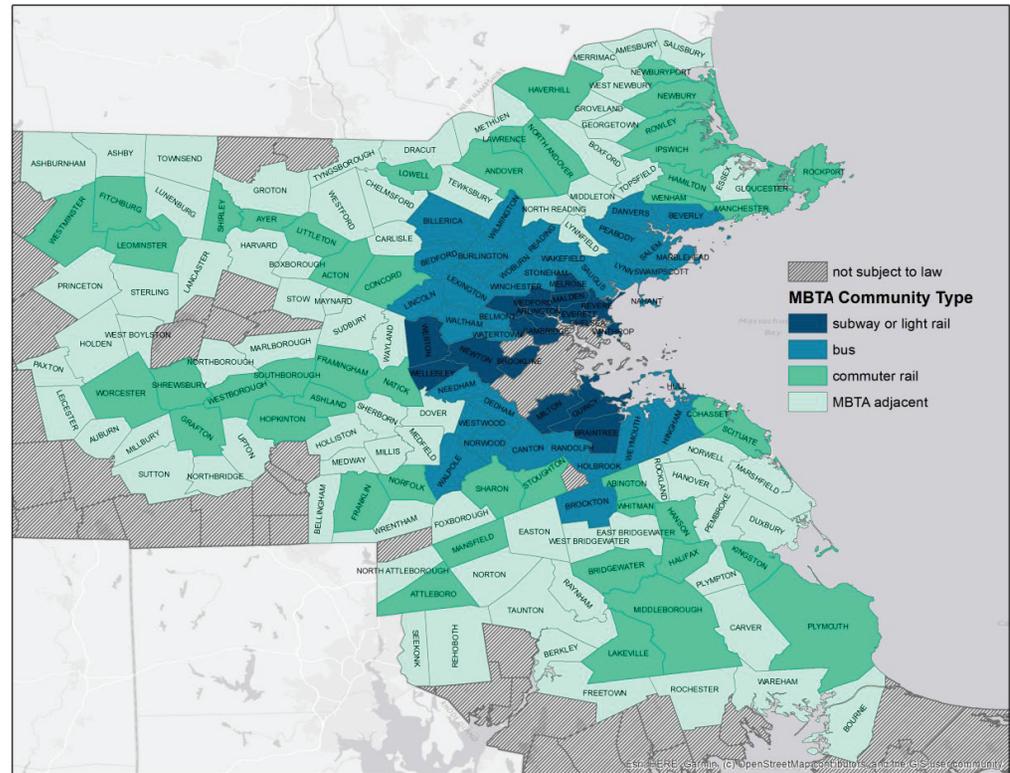
#39-22

At least one zoning district of reasonable size permits multi-family housing by-right meeting the following criteria:

- Minimum gross density of 15 units per acre
- Within 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station
- No age restrictions
- Suitable for families with children

Newton is one of 175 MBTA Communities

Newton is considered a *Rapid Transit Community* (highest level of service)





What Does This Mean for Newton

#39-22

- Newton does not have a zoning district that meets all of these requirements
- To comply Newton would need to create a zoning district or districts of a “reasonable size” and allow for a minimum “unit capacity”
- Newton is not required to comply. Non-compliance means Newton would no longer be eligible for certain State funds.



By-Right Requirement

- Allow “the construction and occupancy of multi-family housing is allowed in that district without the need to obtain any discretionary permit or approval.”
- “Site plan review and approval may be required for multi-family uses allowed by-right.”
 - “...may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties.”
 - “...may not be used to deny a project that is allowed as of right, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.”
- Staff expect to still require a special permit for certain multi-family projects above a certain unit threshold

Unit Capacity

- Allow for a minimum of 25% multi-family units as a percentage of total housing stock
- Allow for, not require the construction of, 8,330 units

MBTA Communities - Cohort Designations and Capacity Calculations

Show 5 entries

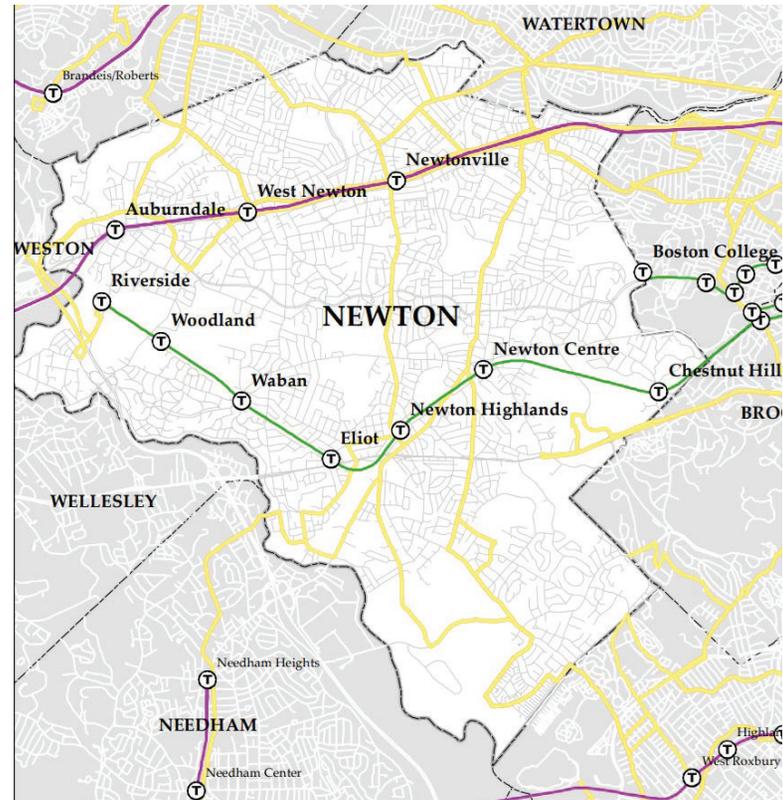
Search:

Municipality	MBTA Community Type	2020 Housing Units (Census PL-94)	Minimum multifamily district unit capacity requirement
Cambridge	subway or light rail	53,907	13,477
Quincy	subway or light rail	47,009	11,752
Somerville	subway or light rail	36,269	9,067
Newton	subway or light rail	33,320	8,330
Brookline	subway or light rail	27,961	6,990

Showing 1 to 5 of 175 entries Previous **1** 2 3 4 5 ... 35 Next

Reasonable Size

- “At least 50 acres of land - or approximately one-tenth of the land within 0.5 miles of a transit station”
- Not required, or needed, to zone all land within 0.5 miles of transit to allow multi-family for compliance
- Can be one multi-family zoning district or a number of districts that meet the reasonable size and unit capacity requirements



Density Requirement (capacity + size)

- There is an inverse relationship between the district size and density per acre requirement to meet the allowed unit capacity
- Multiple districts, with varying density allowances, could be used to create a gross density of 15 units per acre



Density Requirement (many options)

- Newton already has a variety of housing types that meet or exceed the required density
- None of these housing types are allowed by-right and most are considered non-conforming to the current zoning



16 units
53 units / acre



3 units
15 units / acre



8 units
40 units / acre



10 units
21 units / acre

#39-22



17 units
45 units / acre



3 units
32 units / acre

Image Source: Newton Assessor's Database



Non-Compliance

- Newton would no longer be eligible for funds from the following grants:
 - Housing Choice Initiative
 - Local Capital Projects Fund
 - MassWorks
- DHCD may consider non-compliance when making other discretionary grant awards

Recent grants received:

- \$7 million in Massworks funding for Route 9 improvements (2012-2014)
- \$1.6 million in Massworks funding for Oak Street/Needham Street Intersection (2019)
- \$400,000 in Masswork funding for design of Pettee Square (2021)
- \$220,000 in Housing Choice funding to undertake affordable housing feasibility study for West Newton Armory
- \$75,000 in Housing Choice funding to examine zoning options for California Street manufacturing area



Next Steps

Key dates per State guidance in 2022:

- March 31, 2022 - State public comment period ends
- May 2, 2022 - City Council must be briefed
- Summer 2022 - Finalized guidance from the State
- December 31, 2022 - Action Plan must be submitted to DHCD

#39-22

- Additional analysis would help to decide whether to pursue compliance (build out, development scenarios, lookbook)
- The City Council must be briefed by the beginning of May to remain in compliance
- Recommend a Committee of the Whole meeting in March so staff can compile/send questions and comments before the State public comment period closes



Thank you