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Mayor

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Barney S. Heath
Director

MEMORANDUM

DATE: February 25, 2022

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning
Nevena Pilipovic-Wengler, Community Engagement Planner

RE: **#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.

MEETING: February 28, 2022

CC: City Council
Planning Board
Jonathan Yeo, Chief Operating Officer

Introduction

Planning staff have analyzed the citizen's proposal (Attachment A) to create a new village center zoning district. Generally, Planning staff understanding of the proposal is to allow for greater density in village centers by-right in order to obtain more affordable housing and seek compliance with the recent MBTA communities State requirements. At a high level, the proposal objectives align with the community visions gathered during the first phase of our ongoing Zoning Redesign: Village Center work, specifically making it easier to build housing in village centers.

In advance of the February 28, 2022 public hearing at ZAP, Planning staff sent clarifying questions and comments (see below) and met directly with the petitioner. This memo is meant to summarize our understanding of the proposal. In addition, staff have concerns moving forward with the adoption of this proposal, or any other proposal, before being properly vetted by the broader community and undergoing economic analysis to prove feasibility. As part of the Zoning Redesign: Village Centers work Planning staff will be working with consultants Utile and Landwise to analyze potential zoning scenarios for consistency with the community engagement results from 2021 as well as financial feasibility. Staff can incorporate ideas from the citizens petition as part of this analysis.

Proposal Overview (staff review)

The following questions and comments were shared with the petitioner on February 15, 2022. Planning staff received a response from the petitioner on February 16, 2022 (Attachment B).

Can you please confirm that our understanding of the proposal's height and bulk allowance aligns with your intent?

- Non-residential buildings are limited to 2.0 floors
- Residential buildings, with multi-family units and certain affordability requirements, allow the following number of floors below by-right:
 - 3.0 floors with a flat roof
 - 3.5 floors with a pitched roof
- There is no Special Permit allowance for greater height or bulk

Proposal Outreach

We understand you presented this to Newtonville Area Council. Are there any additional organizations or groups of community members you presented this to, in addition to obtaining the required 60 signatures? How was the proposal received by these different community groups? If at all, did you revise the proposal to incorporate their feedback?

Compliance with the MBTA Communities Multi-Family Requirements

Since creating your proposal, the State has released additional draft guidelines on how MBTA communities can comply with the multi-family zoning district requirements. Has your proposal been analyzed to determine if it meets these requirements (i.e district size, density, and unit capacity)? If not, would you support the necessary revisions to bring your proposal into compliance with the State requirements?

Technical Comments and Questions***Introduction***

The first sentence of the proposal states, "Strike Chapter 30, Section 4.1. Business Districts, in its entirety and insert, in place thereof, the following." Section 4.1 of the current zoning contains the requirements for all Business Districts, BU1-BU5. Section E. District Designation of your proposal states, "Unless otherwise designated in Section 1.3.2 of this chapter, this zoning District shall apply to all areas previously zoned Business 1." Is it the intent to eliminate all other Business Districts, BU2-BU5?

Sec. 4.1.2.A.i and ii – Pitched Roof Allowance and Story Height

The proposal appears to limit flat roofed buildings to two stories unless residential uses are included, at which point it may be three stories. There appears to be no limit to the number of stories for a building with a pitched roof as written.

There are no standards set for how tall each story can be or overall building height in feet. Is this intentional?

Sec. 4.1.2.A.ii – Affordability

Will the Inclusionary Zoning Ordinance not apply to the proposed district? The requirements differ from Sec. 5.11 of the current ordinance. Is the 10% residential requirement, limited to those earning below 50% AMI, applied only to the residential square footage of the building or to the entire building square footage?

Sec. 4.1.2.A.iii – Usable Space

What is “usable space?” Please define.

Sec. 4.1.2.A.iii – Dormer Allowance

Section 1.5.4.G of the current ordinance allows for certain sized dormers as a proportion of the overall building façade. Your proposal sets absolute requirements that have no relationship to the overall size and scale of the building. What is the intent behind this?

Sec. 4.1.2.B.i – Building Coverage

Requires building coverage to not exceed 85% - what is the intent for the remaining 15%? What is building coverage? Please define. For reference, current Business districts currently have no max lot coverage requirement.

Sec. 4.1.2.B.ii – Front Setback

Requires a minimum front setback of 5 feet. What is the intent behind this?

The averaging provision for the front setback will still apply as per section 1.5.3.B unless otherwise provided.

Sec. 4.1.2.B.iii – Setbacks Adjacent to Residential Districts

Requires a minimum setback distance of 50 feet from any “single-family or two-family zoning district.” Please define which zoning districts apply - Newton does have the SR1, SR2 and SR3 districts, but does not have any “two-family zoning districts.”

A 50-foot required setback distance will render many lots completely unbuildable. Is this the intent? Has an analysis been done to determine the number of lots that would be unbuildable?

Sec. 4.1.2.C.1 – Use Standards

Proposed uses are limited to “Commercial retail, office, hospitality or other commercial uses not assigned to another use district under this chapter.” If a use is not allowed in another district does that mean it would be allowed in this Village Center district? Please clarify and define allowable uses. (does not appear to include such uses as personal service, banks, funeral home, health club, parking facilities, hospitals, vehicle repair and sales, etc.)

Sec. 4.1.2.D – Special Permits and Site Plan Review

Special Permits are currently required for any development over 20,000 square feet. Is the increase to 30,000 square feet in the village center district only, or across all other districts as well?

Requires a special permit to allow mechanicals and HVAC on a roof. What is the intent of this? Is it not preferable to locate mechanicals on the roof then say in front of the building?

Site Plan Review is required for any project requiring a Special Permit. The current ordinance requires Site Plan Review for any project between 10,000 to 19,999 square feet. Is the intent to remove that requirement for village center district projects?

Other Dimensional Standards and Requirements

No dimensional standards are provided other than height, front setback and lot coverage - what about side and rear setbacks? Lot area per unit? Lot area? FAR? Building height?

The proposal should evaluate how other requirements would be treated, e.g., parking, 5th special permit criterion and sustainable design, and I&I. Also, we or the Council may want to codify special permit conditions such as CMP, pest, vibration, bicycle parking, unbundling parking and rent, etc.

Next Steps

At this time, Planning staff recommended that the ZAP Committee vote no action necessary (NAN) on this item. The questions and comments above make it clear that this proposal is not ready for adoption. However, this proposal will be incorporated into the ongoing Zoning Redesign: Village Center work and Planning staff hope petitioner, and all petition signers, remain involved as this effort gets underway.

Attachments

Attachment A Citizens petition to amend the village center district

Attachment B Petitioner response (February 16, 2022)

VILLAGE CENTER DISTRICT AMENDMENT - 2021

Strike Chapter 30, Section 4.1. Business Districts, in its entirety and insert, in place thereof, the following. (1)

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NEWTON, MA. 02459

floor immediately below. Such area shall not be restricted by the conditions of §4.1.2. A. ii. (3) Dormers, as defined in Section 1.5.4.G., may not exceed ten (10) feet in width and separation between dormers shall be not less than 15 feet. No Special Permit or variance may allow for greater size, capacity, or use.

4.1. VILLAGE CENTER DISTRICT

4.1.1. DISTRICT INTENT

To create a zoning district for Newton Village Centers that maintains a “village scale” and answers the demands created by the recent amendment to MGL Chapter 40A, Section 3 to allow multi-family housing or mixed-use development as of right or by special permit in “eligible locations”. (2)

4.1.2. DIMENSIONAL STANDARDS

A. Building Height. Building height is limited to two stories unless otherwise provided.

- i. A flat roofed building with allowed uses set forth in §C. i and C. ii below, shall be limited to two stories.
- ii. A three story, flat roofed building is allowed, provided that not less than forty (40%) per cent of the floor area of said building is for multi-family residential use and further provided that ten (10%) percent of the floor area of said residential use is for units that are deed restricted for occupancy or ownership by occupants with limited assets earning less than fifty (50%) of the Greater Boston Area Median Income. Said restriction is to be in a form approved by the City of Newton Law Department. (3)
- iii. A pitched roof on any building may contain usable space under the roof, provided such usable space does not exceed 60% of the floor area of the

B. Other Dimensional Use Standards.

- i. Building coverage shall not exceed 85% of the lot area.
- ii. No building shall be set back less than five (5) feet from a property line adjacent to a public way or private way to which the public has a right of access, excluding foot and bicycle easements.
- iii. No building shall be set back less than 50 feet from an adjoining single family or two family zoning District.
- iv. Existing non-conforming structures may be torn down and replaced. Any increase in floor space shall be vertical and shall not extend beyond the pre-existing, nonconforming building footprint.
- v. Party Walls are permitted.

C. Use Standards

- i. Commercial retail, office, hospitality, or other commercial use not assigned to another use district under this chapter.
- ii. Residential use above the first floor (including multi-family use).
- iii. All buildings, structures, and additions located on a lot in single and separate ownership, may be available for use in common or in connection with contiguous or adjacent lots without the requirement of a Special Permit.

VILLAGE CENTER DISTRICT AMENDMENT - 2021

- iv. Development of a building on a separately owned lot shall be considered a separate project and shall not require a Special Permit even though connected by party walls.
- v. **Any building construction in excess of two stories shall be subject to the provisions on section 7.4 of this chapter (Site Plan Approval).**

D. A Special Permit is required for:

- i. Any development in the Village Center districts of 30,000 square feet or more of gross floor area.
- ii. Use of the roof for the installation and/or storage of mechanical systems, including HVAC equipment.
- iii. A Site Plan Review is required in connection with a Special Permit.

E. District Designation.

Unless otherwise designated in Section 1.3.2 of this chapter, this Zoning District shall apply to all areas previously zoned Business 1.

Amendment to Section 3 of Chapter 40A, the State Zoning Law.

Section 3 A. (a)(1) An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; . . . ; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative . . . ; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A."

FOOTNOTES

¹ *Newton has five Business use districts and four Mixed Use districts. During Zoning Redesign, these districts should be consolidated to conform to the form-based standards being adopted. This is a proposal to amend areas now zoned Business 1, most significantly by allowing residential use as of right rather than by a Special Permit and limiting height of buildings.*

² *From Eastport, Maine to Kansas, to the Pacific coastal towns; from Ireland to Italy, a village center is immediately recognizable by the predominance of two and three story buildings, its mix of commercial uses, residential uses and local businesses to serve the village residents.*

³ *Assume a lot in a Village Center District contains 10,000 square feet of land. 85% lot coverage times two floors (above the first floor) equals 17,000 square feet plus 5,100 square feet under the sloped roof (60% of 8,500 square feet third floor) equals 22,100 square feet for residential use. 1,700 square feet of space is for low income housing.*

Residential unit size will have to be adjusted to allow for exterior and unit perimeter walls, hallways and stairways.

This formula falls within the form based concept of zoning. It provides an option for developers and land owners to expand building space and to provide housing for an economically disadvantaged portion of the population.

It also qualifies to meet the goals of providing such housing without the necessity of obtaining a special permit, as set out in MGL c.40A, §3, as amended by Chapter 358 of the Acts of 2021.

We, the undersigned voters of the City of Newton, hereby by petition the Newton City Council to hold a public hearing and act upon the attached amendment to the Newton Zoning Ordinance, titled "Village Center District Amendment - 2021", in accordance with Section 10-2 of the Newton City Charter, that says, in part, "The city council . . . shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by at least 50 voters, and which seeks the passage of a measure." The amendment is intended to limit building height and preserve the unique character of our villages.

Signature

Print Name & Address

Ward

| | | |
|----------------------|---------------------------------|-----|
| ✓ Peter Harrington | 157 Lowell Ave | 2/1 |
| ✓ Colleen Minaker | Colleen Minaker 32 Bemis St. | 2/1 |
| ✓ Mr THOMAS TUCKER | 157 Lowell Ave | 2/1 |
| Maura Harrington | Maura Harrington 157 Lowell Ave | 2-1 |
| ✓ James B Holland Sr | 30 Brooks Ave | 2-1 |

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| Signature | Print Name & Address | Ward |
|-----------|--|------|
| | Carol O'Grady 920 CENTRE ST | 6 |
| | Jon Clarys 23 Buswell rd 02458 | |
| | CARA STEFFY 43 HIGHLAND AVE #3 NEWTONVILLE | |
| | Robert Williams 47 Washington Park Newtonville | |
| | JAMES WOOD 47 WASHINGTON PARK 02460 | 2 |
| | Lorraine Sanik 411 Newtonville Ave | |
| | Jonathan Fischer 411 Newtonville Ave | |
| | Jenny Chen 79 Walnut St. | |
| | Diana Reoung 90 Highland St. | |
| | Fran Mancini 38 Carleton St | |
| | JAY Goldman 41 Vineyard Rd | |
| | Emma Barson 40 Bolton | |
| | Darius Eslamii 40 Bolton | |
| | Nicole Babich 110 Madison AVE Newtonville MA | |
| | Kyle Zinchuk 110 Madison Ave Newtonville MA | |

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| Signature | Print Name & Address | Ward |
|---------------|--------------------------------|------|
| | Mark Rubel 51 Brooks Ave | 2-1 |
| | Helen K. Rubel 51 Brooks Ave | 2-1 |
| | Daniel Harris 17 Maerdeen | |
| | Doug Marand 12 Marion St | |
| | Lynn Marand " " | |
| | Robert DeSantis 46 Parsons | 3 |
| | Hilary Bialk 16 Creole Dr. | |
| | Liana Amichangco 15 Ohio Ave | |
| (CITIZEN) | JEFFREY SITTEN, 120 CENTER ST | 3 |
| | William Swartz 113 Edinboro St | |
| | Jacob Weidberg 145 Langley Rd | |
| | TOM DIGOSTINO 359 CABOT ST | |
| | Susan Poole 71 Fresenden St | 2 |
| | Christine Bradh 701 Washington | |

Petition to the Newton City Council to consider a
compromise amendment to the Zoning Ordinance for Newton Villages

We, the undersigned Newton Voters request the Newton City Council consider and approve the attached proposal for amendment to the Newton Zoning Ordinance.

| Name | Address |
|-------------------------------------|------------------------------------|
| ✓ ¹ G. G. G. G. | 61 Waban Park |
| ✓ ¹ Anne Reenstierna | 90 Waban Park |
| ✓ ² Eric Reenstierna | " " " |
| ✓ ³ Barbara J. Dittusson | 93 Waban Park |
| ✓ ⁴ W. A. D. D. | 93 WABAN PARK |
| ✓ ⁵ Bernard J. G. G. G. | 116 Jewett St |
| ✓ ⁶ J. M. G. G. | 116 Jewett St |
| ✓ ⁷ M. I. G. G. | 38 WABAN ST |
| ✓ ⁸ Jennifer Furse | 110 Jewett St. |
| ✓ ⁹ Wendy P. P. | 38 WABAN ST. |
| ✓ ¹⁰ John G. G. | 110 Jewett St. |
| ✓ ¹¹ Kevin R. R. R. | 92 HAWTHORN ST. |
| ✓ ¹² Thomas K. K. | 141 Jewett St #2 |
| ✓ ¹³ Arthur-LeBasseur | 98 Jewett Street |
| ✓ ¹⁴ JOE CROWLEY | 129 WABAN ST |
| (15) ✓ ¹⁵ Quatha Adams | 227 Jackson Rd, Newton MA 02458 |

Petition to the Newton City Council to consider a
compromise amendment to the Zoning Ordinance for Newton Villages

We, the undersigned Newton Voters request the Newton City Council consider and approve the attached proposal for amendment to the Newton Zoning Ordinance.

Name

Address

- | Name | Address |
|------------------------------|-----------------------------|
| ✓ ¹ Julie Lavelly | 35 Waban St Newton 02458 |
| ✓ ² EUGENE LAUREL | 35 WABAN ST NEWTON MA 02458 |
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(8)

PRESS RELEASE

Contact: **(#42-22) - Attachment A**
Peter F. Harrington
617-969-2050
pfh@aol.com

September 30, 2021

A zoning amendment to protect Newton village centers from over development has been filed with the City Council by Peter F. Harrington, a West Newton Attorney familiar with zoning law.

“This proposal is intended to protect the visual character of our villages, encourage reasonable village redevelopment and meets new state requirements for multi-family residences,” according to Mr. Harrington.

Innovations included in the amendment include elimination of special permits, a strict limit on building height and a bonus allowance for sloped roofs. The two story threshold height limit in village centers remains the same. A third floor is allowed, as of right, if it is used for multi-family housing. Under the present law a third floor requires a special permit. If a sloped roof is added the owner can use the interior attic space.

Harrington, a former Vice President of the Newton Board of Aldermen and a former Newton State Representative said, “We need to address the new State requirements while the City Council is rewriting our zoning ordinance. They are discussing Village Center zoning. This proposed zoning law meets the State’s new requirements and we can take advantage of the Council calendar meet our obligations.”

Some of the objectives of this proposal are to eliminate uncertainty of development in our villages for both neighbors and builders, speed up the time between conception and production, allow flexibility in unit design, provide an opportunity to build new naturally affordable housing, and preserve the New England Village character of our community

Over 65 Newton voters have signed a petition asking the City Council to hold a public hearing on Harrington’s proposed zoning amendment. Under Section 10 of the City Charter a public hearing is required if 50 or more citizens request it.

In January 2021 Governor Baker signed an amendment to Section 3 of Chapter 40A, the State Zoning Law.

Section 3 A. (a)(1) An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; . . . ; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative. . . ; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.”

end

From: Peter F. Harrington

To: Barney Heath, Director of Planning & Development
Jennifer Caira, Deputy Director of Planning & Development
Zachery LeMel, Chief of Long Range Planning
Nevena Pilipovic-Wengler, Community Engagement Planner

Date: February 16, 2022

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

Proposal Overview

Can you please confirm that our understanding of the proposal's height and bulk allowance aligns with your intent?

- Non-residential buildings are limited to 2.0 floors

Response: Yes. It is my understanding that this is the current limitation in our village centers. From my investigation, it appears that most residents are satisfied with this limitation.

- Residential buildings, with multi-family units and certain affordability requirements, allow the following number of floors below by-right:

- o 3.0 floors with a flat roof
- o 3.5 floors with a pitched roof

Response: Yes

- There is no Special Permit allowance for greater height or bulk

Response: Yes. However, I have been working with other land use attorneys and Attorney Schlesinger will recommend a 4th floor by Special Permit and I think we will agree that there should be some limitation on the size of the building without requiring a special permit. I understand that 20,000 square feet is the current limitation.

Proposal Outreach

We understand you presented this to Newtonville Area Council. Are there any additional organizations or groups of community members you presented this to, in addition to obtaining the required 60 signatures? How was the proposal received by these different community groups? If at all, did you revise the proposal to incorporate their feedback?

Response: While I have spoken to many about this proposal it has been in the nature of an explanation and I have received little to no feedback. The exception has been a series of discussions with Attorneys Morris and Schlesinger.

Compliance with the MBTA Communities Multi-Family Requirements

Since creating your proposal, the State has released additional draft guidelines on how MBTA communities can comply with the multi-family zoning district requirements. Has your proposal been analyzed to determine if it meets these requirements (i.e., district size, density, and unit capacity)? If not, would you support the necessary revisions to bring your proposal into compliance with the State requirements?

Response: My proposal has not been analyzed to determine if it meets the requirements of the Massachusetts guidelines. I have no objection to such a review. Knowing the complications of accepting content changes, I would have to review any such proposal before agreeing to it.

Technical Comments and Questions Introduction

The first sentence of the proposal states, “Strike Chapter 30, Section 4.1. Business Districts, in its entirety and insert, in place thereof, the following.” Section 4.1 of the current zoning contains the requirements for all Business Districts, BU1-BU5. Section E. District Designation of your proposal states, “Unless otherwise designated in Section 1.3.2 of this chapter, this zoning District shall apply to all areas previously zoned Business 1.” Is it the intent to eliminate all other Business Districts, BU2-BU5?

Response: Footnote 1 of my submission says, “¹ Newton has five Business use districts and four Mixed Use districts. During Zoning Redesign, these districts should be consolidated to conform to the form-based standards being adopted. This is a proposal to amend areas now zoned Business 1, most significantly by allowing residential use as of right rather than by a Special Permit and limiting height of buildings.”

Sec. 4.1.2.A.i and ii – Pitched Roof Allowance and Story Height

The proposal appears to limit flat roofed buildings to two stories unless residential uses are included, at which point it may be three stories. There appears to be no limit to the number of stories for a building with a pitched roof as written.

Response: Good point. I would like to confirm that I intended that the reference to a pitched roof follow the guidelines in the ordinance and that the roof be the roof over the third floor. My intent was that the space under the third-floor roof could be used for residential purposes.

There are no standards set for how tall each story can be or overall building height in feet. Is this intentional?

Response: It was my intent that the current standards should apply. I assumed there was a limitation on the height of a sloped roof.

Sec. 4.1.2.A.ii – Affordability

Will the Inclusionary Zoning Ordinance not apply to the proposed district? The requirements differ from Sec. 5.11 of the current ordinance.

Response: My intent was to introduce a discussion about changing the terms of the inclusionary zone, in this district, by requiring 10% of the space be used for affordable housing and allowing owners to have some flexibility in the type or size of the units. For example, a builder/owner might find a three or a four-bedroom unit preferable to two or three studio units. I was one of the Aldermen that introduced the 10% contribution in the early 1970’s. Now might be a good time to update the concept.

Is the 10% residential requirement, limited to those earning below 50% AMI, applied only to the residential square footage of the building or to the entire building square footage?

Response: This subject should be included in the proposed discussion mentioned in the preceding paragraph. My opinion is that it should be limited to the area used for housing. That way it will more closely align with the current ordinance.

Sec. 4.1.2.A.iii – Usable Space

What is “usable space?” Please define.

Response: *Perhaps habitable space as defined in §8.3 leaves open the possible inclusion of low ceiling areas under a pitched roof, I think we should develop a new definition the excludes that space. I would suggest a definition that excludes space with a ceiling height of less than 5, 6 or 7 feet. I would look to builders and/or developers for more information on this subject.*

Sec. 4.1.2.A.iii – Dormer Allowance

Section 1.5.4.G of the current ordinance allows for certain sized dormers as a proportion of the overall building façade. Your proposal sets absolute requirements that have no relationship to the overall size and scale of the building. What is the intent behind this?

Response: *My intent was that building be limited to 3½ stories and dormers be allowed to create space but they be individual dormers, not to run the length of roof.*

Sec. 4.1.2.B.i – Building Coverage

Requires building coverage to not exceed 85% - what is the intent for the remaining 15%? What is building coverage? Please define. For reference, current Business districts currently have no max lot coverage requirement.

Response: *When the world and I were younger, the BUI zone did have control over the amount of space a building could take up. I prefer spaces between buildings, as opposed to a solid block of building. I agree with Councilor Baker’s preference for setbacks, even minimal setbacks. Since I was writing the proposal, I inserted my preference.*

Sec. 4.1.2.B.ii – Front Setback

Requires a minimum front setback of 5 feet. What is the intent behind this?

Response: *same as above. I think it is important to the public interest to try to avoid the creation of the canyon effect in our villages.*

The averaging provision for the front setback will still apply as per section 1.5.3.B unless otherwise provided.

Sec. 4.1.2.B.iii – Setbacks Adjacent to Residential Districts

Requires a minimum setback distance of 50 feet from any “single-family or two-family zoning district.” Please define which zoning districts apply - Newton does have the SR1, SR2 and SR3 districts, but does not have any “two-family zoning districts.”

Response: *We could change that to MR 1. There are some that think it should apply to single and two family uses [as opposed to districts].*

A 50-foot required setback distance will render many lots completely unbuildable. Is this the intent? Has an analysis been done to determine the number of lots that would be unbuildable?

Response: *No analysis has been done. This is not an unresolvable problem. You have the information as to how many lots would come under this provision. The intent is to protect the owners of single- and two-family homes from “monster” buildings adjacent to their back yards. One of the problems we have created is that we are building gentrified, expensive housing in buildings that dwarf adjacent single- and two-family homes.*

Sec. 4.1.2.C.1 – Use Standards

Proposed uses are limited to “Commercial retail, office, hospitality or other commercial uses not assigned to another use district under this chapter.” If a use is not allowed in another district does that mean it would be allowed in this Village Center district? Please clarify and define allowable uses. (does not appear to include such uses as personal service, banks, funeral home, health club, parking facilities, hospitals, vehicle repair and sales, etc.)

Response: The City has written the zoning ordinance in a manner that identifies uses allowed in various districts. There is an argument that uses not identified are not allowed. My intent would be to allow a broad range of uses to provide changes in the commercial market to be allowed in our village districts. Over the 60 years± that I have observed business use in our village centers, I have noted a significant change in the type of business and the type of product sold. I would like to avoid a situation where new businesses are required to seek a change in the ordinance in order to open up. However, the standards could be changed to apply uses allowed under section 4.4.1 of the zoning ordinance.

Sec. 4.1.2.D – Special Permits and Site Plan Review

Special Permits are currently required for any development over 20,000 square feet. Is the increase to 30,000 square feet in the village center district only, or across all other districts as well?

Response: I recommend the special permit waiver apply to construction under MGL 40A, §3A in the village centers.

Requires a special permit to allow mechanicals and HVAC on a roof. What is the intent of this? Is it not preferable to locate mechanicals on the roof then say in front of the building?

Response: It is not preferable to neighbors, village customers and visitors to see a forest of waste pipes projecting from the roofs of village buildings. When builders had more pride in the finished product, they took measures to diminish the impact of such visual eyesores. Since the City policy is to reduce parking requirements, more basement spaces should be available and the mechanicals can go back to the basement level of the building.

Site Plan Review is required for any project requiring a Special Permit. The current ordinance requires Site Plan Review for any project between 10,000 to 19,999 square feet. Is the intent to remove that requirement for village center district projects?

Response: Only if such removal were required in order to conform to the guidelines under MGL 40A, §3A.

Other Dimensional Standards and Requirements

No dimensional standards are provided other than height, front setback and lot coverage - what about side and rear setbacks? Lot area per unit? Lot area? FAR? Building height?

The proposal should evaluate how other requirements would be treated, e.g., parking, 5th special permit criterion and sustainable design, and I&I. Also, we or the Council may want to codify special permit conditions such as CMP, pest, vibration, bicycle parking, unbundling parking and rent, etc.

Response: I had to leave something for others to resolve. These issues seemed appropriate for discussion and decision by the Councilors.

Thank you for your thoughtful comments.