

MEMO **Draft 10/14/22**

TO: Newton Housing Partnership
FROM: David Rockwell and Charles Eisenberg
DATE: 10/__/22

RE: Affordable housing overlay district

At its July 19 meeting NHP members discussed the followup appropriate to the NHP's recommendation to the City Council of 6/16/22, in the context of the Village Center zoning proposals, for consideration of an affordable housing overlay (AHO) zoning policy. After discussion at that meeting, the two of us responded to Lizbeth's request for volunteers to undertake an effort of research leading to a possible proposed recommendation for such a policy.

We have reached some preliminary conclusions, but have only partially completed this assignment. We have pursued two avenues: (1) discussion of the AHO subject, as was suggested, with Alice Ingerson and members of the Newton planning staff, and (2) research into the AHO experiences of the cities of Cambridge and Somerville, two nearby communities whose recently enacted AHO ordinances have gained national attention ⁽¹⁾. Based on our findings so far, we believe AHO indeed has merit as a means of stimulating production of more affordably priced housing than is currently occurring in Newton, and that it is showing promising initial impacts where it exists in Cambridge and Somerville.

We also believe, and recommend, that further study is needed to assess its applicability and potential impact in Newton, especially in light of the pending and important Village Center Rezoning and MBTA Communities Zoning efforts currently underway, zoning policies whose impacts on housing and affordable housing production would interact with the impacts of an AHO policy. This further study should continue promptly, as both those rezoning efforts, which we support as important opportunities to foster vibrant village center communities over the long term, are aimed primarily at encouraging more market-rate, not necessarily affordable, multi-family development in our village center and transit-oriented locations. The question before us, therefore, is whether AHO, as a policy alongside the Village Center and MBTA Communities initiatives, and alongside Newton's existing inclusionary zoning ordinance, would truly generate production of more affordable housing – for very-low-income through moderate-income households – than we can reasonably expect otherwise.

We believe the answer to this question is yes. But we are aware of the challenges facing the adoption of such a policy in a community like Newton, where there is both wide recognition of the housing affordability crisis (and genuine responses, like the city's unified commitment to significant local funding for the 43-unit 100% affordable development at the Armory, and its persistence in achieving enhanced

(1) See, for example, a 4/21/22 article by the Municipal Research and Services Bureau of Seattle WA: "Using Affordable Housing Overlay Zones to Reduce the Risk of Displacement" <https://mrsc.org/Home/Stay-Informed/MRSC-Insight/April-2022/Using-Affordable-Housing-Overlay-Zones.aspx>

affordability at the pending Riverside and Northland developments) and reluctance among some in the community to allow development perceived to encroach into the neighborhoods. A recommendation to adopt AHO as a policy in Newton must not be made lightly.

Meanwhile, we believe it is instructive to learn from the experience in Cambridge and Somerville. In both cases, the AHO zoning decisions came only after years of community organizing and robust debate. And, while initial signs suggest these policies are achieving their intended impacts of enabling more affordable housing production than would otherwise be occurring, further investigation into these impacts would help inform our own advocacy. Therefore, we have prepared outlines (**Attachments 1 and 2**), of Cambridge's new zoning ordinance Section 11.207, adopted in October 2020, and Somerville's new zoning ordinance Section 8.1, adopted in December 2021.

Our preliminary observations:

- The key objective behind both AHO policies in Cambridge and Somerville was to streamline the production of affordable housing which had been stymied by restrictive zoning and the difficulty of affordable developers to compete for sites with market-rate developers. Policymakers in both communities hope that the AHO will open up opportunities for affordable developers to undertake projects in locations hitherto unavailable to them and with certainty of permitting approval.
- AHO cannot by itself solve the two prominent challenges facing all affordable housing developers – the deep need for subsidy capital and the paucity of developable sites. AHO could alleviate the latter issue by making a wider range of properties available for potential affordable development, and the smoother permitting process should save on costs and therefore on the need for subsidy. But these challenges will remain. Because of these and other normal factors affecting real estate development in general, therefore, the creation of an AHO ordinance would not usher in a flood of new housing developments. It could, though, have an incremental, but useful, impact on the pace of approval and construction of new affordable housing units over the long term.
- Both cities' AHO apply citywide, enabling developers of 100% affordable projects to obtain density relief otherwise unavailable. Developers proposing less than 100% affordability are subject to the cities' inclusionary zoning (IZ) requirements, which do not offer density bonuses and apply to projects of a minimum size of 30,000sf (in Cambridge) and 4 units (in Somerville). The minimum IZ affordability is 20% of the square footage (in Cambridge) and 20% of the unit count (in Somerville).
- There are currently six projects, totaling 601 units, in the Cambridge AHO permitting pipeline. Four are proposed by affordable housing developers (three non-profits, one for-profit) and two by the Cambridge Housing Authority. While some of these projects were in process prior to the onset of AHO, developers for all the projects have indicated to the writer that the certainty of the permitting outcomes has made a difference, saving time and cost.
- Both Cambridge and Somerville have denser overall land uses than does Newton, with its higher preponderance of one- and two-family zoning districts than is the case in those cities. Nevertheless, the housing affordability crises in all three communities are similarly dramatic and demand an urgent response.

- A recommendation in favor of an AHO policy in Newton must consider its potential impact on the pending Village Center Rezoning and MBTA Communities policy discussions. It may very well be that AHO could become a critical policy complement to those policies by helping them enable affordable as well as market housing production even beyond the helpful but insufficient impact of Newton's inclusionary zoning ordinance. NHP's continuing analysis should look carefully at the interaction between the Village Center and MBTA Communities policies and a possible AHO policy in Newton, to identify the opportunities and challenges involved with all three policy tools combined.

We look forward to conversation on this at the upcoming NHP meeting.

Outline of Cambridge Affordable Housing Overlay

Section 11.207 to the Zoning Ordinance
Adopted by the City Council in October 2020

D Rockwell
10/13/22

1. **Origins**
 - a. “Envision Cambridge” – city-wide planning process starting in 2016
 - b. City Community Development Department sponsored a series of community forums in 2019 and 2020, at the request of the City Council’s Housing Committee.
 - c. The Housing Committee of the Cambridge City Council proposed an AHO in 2019, but it expired without action 9/30/19.
 - d. The Housing Committee filed a second petition in early 2020 and it was adopted by the City Council 10/5/20.

2. **Goal:** support development of housing up to 100%AMI, citywide, through by-right permitting for “incremental increases in density, limited increases in height, and relaxation of certain other zoning limitations”.

3. **Affordability provisions:**
 - a. Must be 100% affordable up to 100%AMI, but also:
 - i. 80% of the units must be affordable at 80% AMI for rentals, and 50% of the units must be affordable at 80% AMI for homeownership.
 - ii. Rent or [mortgage + utilities + insurance] must not be more than 30% of income.
 - iii. Language also emphasizes reusing existing buildings for affordable housing. Gives non-binding advisory design review function to the Cambridge Affordable Housing Trust.
 - b. An AHO Project need not comply with the existing IZ ordinance.

4. **Density relief:**
 - a. Maximum height:
 - i. Where existing zoning limit is 40 feet,
 1. If no ground-floor commercial -- 45 feet; maximum stories 4.
 2. If there is ground-floor commercial – 50 feet; maximum stories 4.
 - ii. Where existing zoning limit is 40-50 feet,
 1. If no ground-floor commercial -- 66 feet; maximum stories 6.
 2. If there is ground-floor commercial – 70 feet; maximum stories 6.
 - iii. Where existing zoning limit is more than feet,
 1. If no ground-floor commercial – 80 feet; maximum stories 7.
 2. If there is ground-floor commercial – no limit listed.

b. Other

- i. FAR: If existing FAR is 1.0, the allowed new FAR is 2.0. If existing FAR is more than 1.0, no maximum FAR will apply.
- ii. Minimum lot area: No minimum lot area per dwelling unit applies for an AHO Project.
- iii. Setbacks: AHO Projects shall have minimum setbacks of 15' front, 7.5'side, and 20' rear. The front setback can be less if the existing requirement is less, or the average of the nearest four 2-story buildings on the same side of the street.
- iv. Open Space: 30% of lot, reduced to 15% if project is preserving a historic structure. Open space can include first floor outdoor decks. 11.207.5(d)
- v. Off-street Parking: none required "except to the extent necessary to conform to other applicable laws, codes or regulations". For AHO Projects > 20u, access to on-street or off-street facilities accommodating passenger pick-up and delivery off-loading is required (approved by Director of Traffic and Parking). AHO Projects providing no off-street parking must offer 50% discounted MBTA passes or free membership in a bicycle sharing service.
- vi. Design guidelines: The Planning Board has a non-binding advisory role on design of AHO projects, under a design guideline document issued by the City's Community Development Department.

Outline of Somerville Affordable Housing Overlay

Section 8.1 of the Somerville Zoning Ordinance
Adopted by the City Council in December 2021

D Rockwell 10/13/22

1. Origins

- a. Prior to the adoption of the Affordable Housing Overlay, the entire zoning code was overhauled in 2019, after an extensive community-based comprehensive planning process known as “Somervision 2040” (updating the earlier Somervision 2030 plan). The new zoning code had two key innovations relevant to affordable housing:
 - i. It initiated a new inclusionary zoning (IZ) requirement at 20% of units at varying very low-, low- and moderate-income tiers by formula.
 - ii. It moved the code from the conventional zoning approach (based on segregation of uses) to a form-based code based on physical building types. Key residential building types are Neighborhood Residential (NR), Urban Residential (UR), Mid-Rise (MR), and High-Rise (HR).
- b. The **affordable housing overlay** (Section 8.1) was approved two years later, in December 2021, and was a further outgrowth of Somervision 2040.

2. Goal (quoting from new Section 8.1)

- a. “To permit the development of buildings that provide all dwelling units as affordable dwelling units.”
- b. “To permit additional residential use intensity, additional building height, and additional tolerance for dimensional standards to incentivize the development of affordable dwelling units.”

3. Affordability provisions:

- a. To be eligible for zoning relief under Section 8.1, an AHO project must be 100% affordable at the existing mix of very low-, low- and moderate-income tiers provided for in the 2019 IZ code.
- b. An AHO project is exempt from the requirements of other existing zoning provisions, including the existing Affordable Housing section of the code.

4. Allowed/Required Uses (by right):

- a. Building Types allowed:
 - i. **NR Districts:** same as building types currently allowed (*cottage, detached house, semi-detached house, duplex and detached triple-decker*), plus:
 - 1. *Backyard cottage* allowed by right rather than requiring site plan approval
 - 2. Within ½-mile of transit: *semi-detached triple deckers, multi-plex buildings, apartment house buildings, and row house buildings*

- ii. **UR Districts:** No change to building types currently allowed (*semi-detached triple decker, multi-plex [4- to 6-unit apartments], apartment house, apartment building rowhouse*).
- iii. **MR Districts:** same as currently allowed (*apartment buildings and mixed-use buildings*)

b. Affordability required: 100% affordability at income tiers in existing IZ requirements.

5. **Density relief:**

- a. Maximum height:
 - i. **NR Districts:** no change
 - ii. **UR Districts:** 4 stories
 - iii. **MR Districts:** 7 stories (86') unless they abut an NR district, then maximum is 4 stories (50').
- b. Dimensions: 5% favorable deviation allowed on existing maximum lot coverage, minimum green score, minimum open space, front and side yard setbacks, minimum façade build out, and maximum floor plate.
- c. Project size limitations: AHO projects are exempt from the following project size limitations in the existing code:
 - i. maximum number of units
 - ii. maximum number of dwelling units per lot
 - iii. minimum gross floor area per dwelling unit