



Joint Zoning & Planning and Finance Committee Report

City of Newton In City Council

Monday, January 11, 2021

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

Finance Committee Members Present: Councilors Grossman (Chair), Kalis, Norton, Malakie, Humphrey, and Noel

Also Present: Councilors Greenberg, Kelley, Laredo, and Markiewicz. Planning Board Member Peter Doeringer. Community Preservation Committee Member Mark Armstrong. Economic Development Commission Members Philip Plottel and Beth Nicholas.

City Staff: Chief Operating Officer Jonathan Yeo, Chief Financial Officer Maureen Lemieux, Commissioner of Inspectional Services John Lojek, Director of Planning Barney Heath, CPA Program Manager Lara Kritzer, Deputy Director of Planning and Development Jennifer Caira, Associate Planner Cat Kemmett, Information Technology Director Joseph Mulvey, Assistant City Solicitor Andrew Lee, Committee Clerk Cassidy Flynn, and City Clerk David Olson

The first two items were discussed in a joint meeting of the Finance and Zoning & Planning Committees

Referred to Finance Committee

#25-21 **Appropriate \$1,137,285 from Free Cash for Permitting Management System**
HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one million one hundred thirty-seven thousand two hundred and eighty-five dollars from June 30, 2020 Certified Free Cash to fund the implementation of the City's municipal information and permitting management system.

Action: **Finance Approved 6-0**

Note: The Chair of the Finance Committee introduced Chief Operating Officer Jonathan Yeo to make a presentation about the permitting management system (presentation attached). Mr. Yeo introduced the request and noted that the system will support the permitting and licensing processes for the City of Newton, and provide comprehensive municipal information

management for building projects and land use. A team of City employees has been working over the last 1.5 years on this project. The team was led by John Lojek of ISD and includes Jonathan Yeo, Joe Mulvey from IT, Neil Cronin from Planning, Kristin Patton from ISD, Sherry Logee from HHS, and Councilor Chris Markiewicz. Dottie Keene from Dottie Keene Associates was hired to assist the team with the evaluation of our systems. Over the last six months, the team has been reviewing the RFPs and interviewing bidders and is now ready to hire the firm OpenGov to implement a system for the City of Newton. Dottie Keene worked to analyze the business practices of the City and document the requirements necessary to write an effective RFP. She then helped to facilitate the evaluation and selection of a winning vendor. She will continue to work with the city to assist in OpenGov's implementation, working with all departments to configure our business work flows into this new system. The new system will be a major step forward, as Newton does not currently have a coordinated permitting and licensing system.

OpenGov is used by thousands of entities across the country, as well as 83 municipalities in Massachusetts. The cost for the software and implementation is \$1.1 million for the first three years. The price includes purchasing the software, the annual vendor costs, new hardware, and our consultant. This new system will include all of our permits and licenses, as well as property information in one comprehensive database. It will configure workflows to keep our departments moving ahead on projects, and provide a significant improvement for contractors and residents. Users will be able to see more information on line with greater self service, as well as allow contractors to apply and pay online for various inspections and permits.

Mr. Yeo introduced ISD Commissioner John Lojek, who thanked the Mayor for her leadership and for allowing the project to move forward. Mr. Lojek has been wanting this project for 16 years. The team worked hard and put in time outside their normal working hours to put this project together. Because of all the work that went into the RFP, Mr. Lojek believes the City is getting very good value for its money.

The system design goes beyond just permitting and licensing. It will provide a variety of property information and allow us to track almost everything that's done on a property from brand new building permits to dog licensing - all online. Not only Inspectional Services, but also departments like Engineering and DPW which are involved with the issuance of building permits will be able to track where everything is. It will be enormously helpful to the Planning Department and the City Council as it works on Special Permits as it will put all the information about a property, which is currently scattered across the City, in one place.

The Chair of the Finance Committee thanked Mr. Yeo and the members of the project team, and noted that it's exciting to get to this point. She called on Councilor Markiewicz for his thoughts as a member of the team.

Councilor Markiewicz stated that he believes this is the most important application for the City of Newton. It has the potential to be transformative, and will create a database of everything related to permits including the recording of conditions in special permits. He was impressed by this firm and the breadth of what they offered. The fact that they serve over 80 communities in Massachusetts is notable and indicates a software vendor who will invest in their software over time.

Through this software, the City will be able to implement kiosks in City Hall for permits and promote self service. The City's inspectors in the field will have real time access to property records, diagrams, information, etc. which will enable them to do a very complete inspection. Councilor Markiewicz believes that the proposed appropriation will be money extremely well spent. The staff time savings that the City can realize will be tremendous. The return on investment for this system will be real in a very short period of time.

The Chair of the Finance Committee asked for questions from the Councilors.

It was asked if one of the benefits of this system would be the ability to follow up on conditions or requirements of special permits? Mr. Yeo responded that there is a reminder system built into the program that includes tickler files to remind departments of steps that are outstanding. ISD can also set up future inspections, and permit requirements, through the calendar feature. Planning could set up reviews of special permit conditions to remind them to review them within a certain time frame.

It was asked if the system would provide reminders to employees through e-mail? Mr. Lojek responded that reminders will be right in each employee's workflow and work schedule for the day. It was noted by a Councilor that they were thrilled to have this tickler component as part of the software because in the past they had to go around to departments to remind them that they needed to take care of yearly requirements.

Director of IT Joe Mulvey was asked about the security and the potential for a breach of this system. Mr. Mulvey responded that this solution is cloud based and does not tie directly into our internal systems. The IT department did discuss security with the company and because this is cloud based system that doesn't work with an active directory it's pretty secure and doesn't raise any red flags.

The committee questioned how the constituent experience will be different with this product? Mr. Lojek responded that the idea behind the new system is that everybody can see exactly where a project is in the process at any given moment. The system is all about routing the work. The process may start in ISD, but at the appropriate time, the Planning Department will immediately be able to look at it, then Engineering will be able to look at it. No more pieces of paper being passed around. All plans will be accepted electronically and all approvals will be

part of the electronic work flow. The system will make each department more accountable as everyone will know how long something has been sitting in a particular department.

It was asked what new hardware is needed for this project? Mr. Yeo responded that new tablets would be needed for the inspectors to take with them out in the field. When they are on the site inspecting a building they will be able to look at the plans and be able to see in real time exactly what they're supposed to be reviewing. The department does have some tablets now, but they are at the end of their useful life. Tablets usually only last about three years because of wear and tear.

Councilors asked about the rollout of the system because there are concerns about bumps in the road and how they will be minimized. Will there be a testing period and what kind of testing? Mr. Mulvey noted that they are breaking the migration up into three phases. The biggest phase will be moving the current Community Plus data into OpenGov. There will be several iterations of the import to ensure that everything comes over smoothly. While the data is being imported, ISD and Planning will be working specifically on workflow including the steps required. As far as the testing goes the first round will be making sure that the staff is happy and satisfied with what we expect the platform to do. Unlike the website transition, we don't have an existing system, so we will be creating a new system and then implementing a go live time at some point so it's a very different project than transitioning a website. Mr. Lojek responded that his staff will be starting with a specific permit type like electrical and mechanical permits and will then move on to building permits and adding the Planning Department and the Health Department, and so on

It was asked if there would be a period of time once this site went live when a builder, an architect or constituent could still come in and have personal contact with members of ISD as not everyone is going to be comfortable or understand how to use the data in the system. Additionally, will there be a staff person dedicated to assisting people with how to use the system? Mr. Lojek responded that the ISD counter is going to stay open. There is always going to be a need for the counter to provide personal service and information to citizens about particular issues. We don't expect to lose personal contact with people at all.

The Councilors asked about older records and the legacy component because there are documents that are part of the history of a property that are not scanned in at this point in time. Mr. Lojek responded that all the information from 2005 forward, and all of the plans from 2015 forward are electronic, so all that material will be uploaded as part of the data conversion. There's a lot more work to do with the older data. It was noted that sometimes it's important to know what happened further back in history to resolve a current-day issue.

With all the data and the process being electronic, it was asked if the software could segregate what is needed by the departments and inspectors for enforcement and what is available to the public? Mr. Lojek responded that the system could do that.

It was asked if residents would be able to see if something that has been flagged for the future will be coming up and how that flagged item was responded to. Mr. Lojek responded that he expected that would be the case. Items to be addressed in the future can be added into the system with as much of this online as possible.

It was asked if everything that's online now will be uploaded to into the new system and be available when the system goes live. It was noted that there needs to be integration between the City Council web pages and the city web pages. Mr. Yeo responded that when a new City Clerk is hired, we will need to figure that out.

It was asked if information like demolition permits, tree permits, historical commission hearings, etc. would show up for a property through this system. Right now it is hard to find all of this information for a property through the website as it is in multiple places. Mr. Lojek responded that all of these items would be incorporated into the workflow. It will require the cooperation of many different departments.

As this item had only been referred to Finance, a motion was made by Councilor Kalis to approve which received 6 votes in favor with none opposed.

Referred to Zoning & Planning and Finance Committees

#458-20

CPC Recommendation to appropriate \$1,433,000 in CPA funding for Grace Church

COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of one million four hundred and thirty-three thousand dollars (\$1,433,000) in Community Preservation Act historic resource funding to the Grace Episcopal Church Tower Restoration project for the stabilization and preservation of the historically significant ca. 1872 conical stone spire, tower and belfry.

Actions:

**Zoning & Planning Held 6-0 (Councilors Baker and Danberg not voting)
Finance Held 6-0**

The Chair of the Finance Committee introduced the item and noted that there were a number of people who were instrumental in helping to get to this meeting organized including President Albright, Councilor Crossley, CPA Program Manager Lara Kritzer, Assistant City Solicitor Andrew Lee, and Mr. Olson and Ms. Flynn from the Clerk's Office. She noted that she met with President Albright and Councilor Crossley to put together the materials that the Committees received in advance of this meeting and hopes that committee members found them helpful. She then introduced CPA Program Manager Lara Kritzer to make a presentation on behalf of the Community Preservation Committee.

Ms. Kritzer introduced the Chair of the Community Preservation Committee Mark Armstrong and Vice Chair Dan Brody. She also noted that they were joined by several representatives

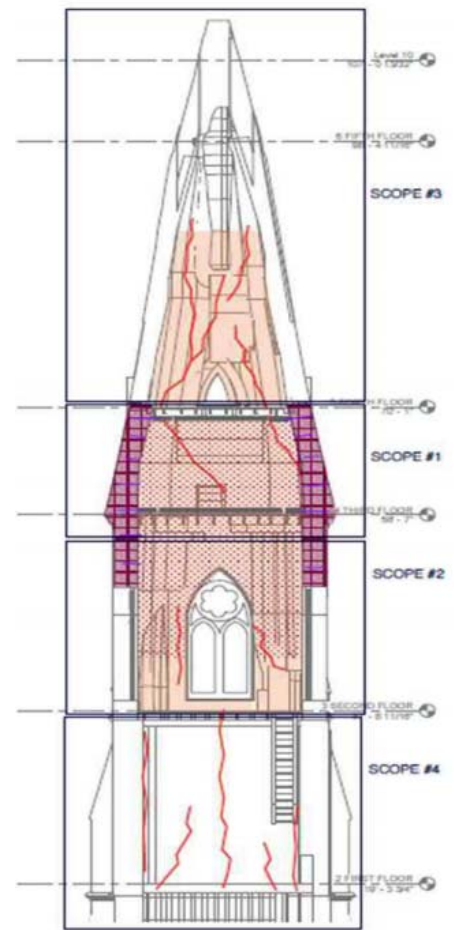
from the Grace Episcopal Church including architect Scott Aquilina. She then shared her presentation (attached).

The Grace Episcopal Church building has been considered to be an architecturally and historically significant structure for as long as the City has been tracking its historic resources. It was designed by noted architect Alexander Esty in 1872 and is thought by many to be one of his major works. The site is listed on the National Register of Historic Places as part of the Farlow and Kendrick Parks Historic Districts and had a preservation restriction placed on it in 1999.

Many city documents have noted the need to protect and preserve Newton's churches, not only for their architectural and historical contributions to the area, but also for the social services, community gathering places such as polling centers, and multi-use open space facilities which many of them provide. Grace Episcopal Church and its tower have been community landmarks. The most notable element of the structure is the gothic revival stone tower which is offset from the main building and houses an open belfry and an architecturally unusual stone spire. The exterior condition of the stonework is regularly inspected and repaired as needed. During a recent review of the bell tower last year, engineers from Structures North Consulting discovered cracks in the stonework which seriously threatens the integrity of the structure.

At this point the tower is in danger of collapse. The applicant proposes to stabilize the structure by securing the exterior stone back to the core structure. The system would use an integral spring loaded steel reinforcement system to resolve the structural flaw and is expected to permanently correct the issue. Once the structure is stabilized, restoration work would be completed to repair the existing cracks and damaged stone, and to re-point the mortar throughout the structure. The proposed budget divides the work into two phases over two years. Phase One will complete the stabilization of the structure in 2021 and Phase Two will complete the restoration of the stonework in 2022.

The applicants are requesting 50% of the project cost from the CPA, and propose to match these funds with a mix of other grants and donated funds.



Proposed Project Budget - Sources	
Requested CPA Funding	\$1,433,000
Massachusetts Historical Commission Preservation Projects Fund (Received)	\$50,000
Massachusetts Historical Commission Emergency and Preservation Projects Fund	\$100,000
National Fund for Sacred Places	\$250,000
Grace Episcopal Church Member Contributions and Endowment	\$875,000
Private Foundation Support	\$158,000
PROJECT TOTAL	\$2,866,000

The CPC's recommendation proposes that funds set aside in the historic resource reserves be used for this project. The reserve fund represents the 10% of annual CPA funds which are set aside each year for historic preservation, which is one of the CPAs three stated purposes. The historic reserve fund has a total of \$1,037,119 in unused historic resource funds through FY21. The balance of the funds requested would come from reserve funds in FY22. A chart was provided as part of the presentation on how Newton's CPA funds have been used to date.

Current CPA Fund Balances

Account Types	Current Fund Balance
Community Housing Reserve Fund	\$911,042
Historic Resource Reserve Fund	\$1,037,119
Open Space Reserve Fund	\$409,689
FY21 Budget Reserve	\$1,306,399
General CPA Fund Balance	\$9,865,878
Total Funds Available	\$13,530,127

Mr. Armstrong, Chair of the Community Preservation Committee, stated that there were a couple of votes that were not in favor of this project for different reasons, but that it received a favorable recommendation from the Committee. As required by the CPC, the request was for 50% or less of the total amount of the project. The CPA funds are expected to be used to leverage other sources of funding for this project. The Committee recognized the urban design and architectural value of the tower, and its place in the City, when they made their decision.

The Chair of the Finance Committee laid out her plans for tackling the discussion of this project. She proposed breaking the discussion up into four components:

The first component will be a discussion of the merits of this project. Is this a historical resource that we want to preserve?

The second category of discussion will be around the fact that this is a privately owned historic resource. What other projects have been funded that fall into this category?

The third category of discussion will be around the amount of money that is being requested. It is a significant amount of money. What are the other historic resource projects that are in need of funding?

And finally the legal component of this particular project. There are some different legal aspects of this project to consider.

The Chair of Finance opened the floor for discussion.

The Merits of this Project.

Councilors provided the following comments and concerns:

Councilors in general felt that the project was both historically and architecturally a gem for the Community. It is an outstanding resource which is worth preserving, and meets many of the community preservation plan goals. It contributes to the preservation of Newton's unique character and enhances the quality of life in Newton Corner.

There is broad based community support. Councilors heard from a wide variety of people, not just members of the church. To many, this is an icon that you encounter as you drive, walk or bike along Church Street. It stands out as part of the landscape of Farlow Park.

It is an important landmark for Ward One. There is very strong support for this funding from the Hunnewell Hill Neighborhood Group, the Newton Corner Neighborhood Group, and from many members of the neighborhood. It was noted that the Council has received many, many emails hoping to get this funding for the tower. Grace Church is a private religious organization, but also regularly leases space for important community and social service resources for the community. The church has entered into partnership with Independent Living providing independent living for cognitively challenged adults and has rented out its rectory for outpatient services to Riverside Community Care which serves thousands of individuals, and works closely with the schools and the health department. It also provides space at below-market rates for many community organizations and the church hosts entertainment programs, as well as serving as a polling location for Ward One residents. The church is not just a religious space, it is also used for the public good.

Without the funds from the CPA the bell tower is at risk to be taken down.

A Privately Owned Historic Resource

Councilors provided the following comments and concerns:

Concern was raised about public money going to a private organization. I further back in history to resolve a current-day issue was noted that the City has done this before with excellent outcomes. In Newton Corner the West Suburban YMCA building received funds for window preservation and funds have been given for affordable housing projects with great success. The West Suburban YMCA provides public benefit including camp programs and housing for homeless men. The key concept to understand is that public funds are not just being used for private purposes, but to advance a public purpose.

The City has funded other private organizations with a large amount of money like the Durant-Kenrick and Allen house projects. Some Councilors felt that what separates those two projects from this one is that those two projects have a very public purpose, as opposed to this particular project which does not have the same level of public access. The Community Preservation Committee should develop a policy around funding for private organizations. Criteria needs to be developed to decide whether or not it is appropriate to give private organizations Community Preservation funds.

Some Councilors felt it was important that we not conflate the purposes of the CPA. There's a different set of metrics for the Grace Church project than the YMCA building, because the church is historically significant in different ways. The Council should be careful about the conditions that are put upon it.

The Amount of Money Requested

Councilors provided the following comments and concerns:

Many other communities have funded similar projects. However, the amount of money that is being asked for from the CPC for this project pales in comparison to the amounts funded by other communities. The largest ones were funded in Boston which gave three churches funds for similar projects. The largest amount of money given in Boston was \$450,000 and that was to the First Baptist Church. In that case the money was approximately a third of the project. This \$1.4 million is the largest amount of money for any of these projects. And while it's a worthy project, is this the right amount of money, or could we challenge the community to raise other funds, as other churches have done, to fund a more significant part of the project?

It was noted that 10% of the CPA funds need to be spent on historic resources and we have a little over one million in the account with \$400,000 coming in each year.

One Councilor noted that if these funds are approved, the property should be landmarked. The church itself said in their letter to the Council that that's one of the things that they want to follow through with.

A Councilor asked whether a condition could be added that if the church sells the property at some point down the road, that the CPA money will be returned?

Solicitor Lee stated that the Law department is looking into landmarking and is taking that under advisement. With regards to the condition of having the money returned if the property transfers ownership, it doesn't conform to the reasoning of the granting of CPA funds. Usually when CPA funds are spent, the property is protected through some sort of a restriction like a Historic Preservation Restriction that runs with the land regardless of who owns it. Solicitor Lee's understanding is that the only time that funds are actually repaid to the city is if the structure was destroyed by some calamity and there were insurance proceeds. Then the funds would be paid back to the city. He didn't believe that a condition to require that the funds must be repaid if the ownership changes is something that's ever been done before.

Ms. Kritzer noted that any CPA funding for historical resources requires a preservation restriction. In this case the property already has a preservation restriction which requires that if they make any changes to the historic structure, they must first get approval from the Massachusetts Historical Commission for those changes. When landmarking was originated it was to protect buildings, such as this one, from changes that were inappropriate. Local landmarking puts protections on the property that are reviewed by the Newton Historical Commission. A preservation restriction goes to the Massachusetts Historical Commission, which often involves the Newton Historical Commission as well, for approval. We already have the restrictions and the protections in place on this property, whether or not we choose to fund the project.

It was asked if when the reserves available for this project were calculated was the 10% required allocation or the 20% CPC determined ideal amount used? Ms. Kritzer responded that when the Comptroller sets up the accounts each year they put 10% of the annual funds into the budget reserve. However, since the CPA has not had many historic resource projects in the last few years, there's a greater amount of money in that fund right now.

Ms. Kritzer was asked how this expenditure squares with the lengthy chart of other items that are in the historic resource categories for the future? She responded that it is hard to predict because it's hard to tell when a project will come before the CPC with a proposal. Our list of potential City projects includes the score from the CIP so that we know how important it is, or how likely it is to come up, but the CPC can only act on proposals brought before it. Until the City is ready to move forward with a project, we don't necessarily know when the funds will be needed. Recent historic projects have been very small like the one from Historic Newton for fence and gutter repairs. The CPA hasn't had a large-scale project recently. The most recent large-scale project request was for the War Memorial steps and that was placed on hold because of the costs.

Some Councilors commented that the Council has heard that if Grace Church doesn't get the full amount, then this project will not happen. But that's not the right way to look at this request. The Committee should recommend to the full Council the allocation that it feels is appropriate, if any.

It was asked if the larger Episcopal Church in the United States or the region provided assistance toward this project? Members of Grace Church responded that Grace Church is an integral member of the Episcopal Diocese of Massachusetts. The Diocese of Massachusetts has over 90 parishes in communities that are not as affluent as Newton. Those churches are struggling financially, and the Diocese is working very hard to support those churches, including programming on racial justice, hunger relief, and other social equity programs. The money comes from the parishes themselves to fund the Diocese. The Diocese is not in a position to help in significant ways financially

A Councilor is interested in finding out from Grace Church what would happen if a lesser amount was appropriated. What if the City provided funds in the range of \$400,000 to \$800,000 dollars? It was noted that the community fundraising portion of this project may not have begun yet, so this may be another opportunity to raise more funds

A member of the church council stated that they can't raise money until they know what the project will entail. The church has done a very extensive feasibility study with several consultants that they have hired to find out what funding is available through other grant money, and what exactly could be raised as a congregation and a community. By far, Community Preservation funds are the biggest possible grant that they could get. Without that, they won't be able to raise enough money to fix this problem. A member of the church council stated they have followed all the criteria of the CPC. One of the criteria is to not apply for more than 50% of the project and the request is only for 50% of the project. It was noted that the church would have liked to apply for more funds but know this is not an option. They have a very good handle on what they think they can raise and believe it's going to be a stretch for them to raise this money, but are committed to raising the match.

It was asked if there is any dollar amount less than what has been requested that could be accepted and still be able to complete the project? The members of the congregation responded that they examined how much they will be able to raise and how much the CPA would be able to fund. The church needs this \$1.43 million to make this project happen. It was noted that it would be cheaper to take the tower down. The tower does not affect the mission of the church. The church will function with or without a tower. A member of the church noted that if they do achieve a higher level of fundraising than they predicted, they would be happy to share that savings with the City and adjust the amount of money accepted from the CPC.

The Chair of the Finance Committee noted that she added this to the list of questions for the Law Department. If Grace Church raises more money than projected, would the CPC be able to accept money back?

Legal component of this particular project

Councilors provided the following comments and concerns:

It was noted that this is the first time Newton has considered a CPA project for a religious institution, but that 91 municipalities in Massachusetts have already committed CPA funds to help preserve historic houses of worship. Newton has yet to do so and it was asked if this was by happenstance or does Newton need to pass a policy to allow that? Ms. Kritzer responded there's no set policy amongst the committee. The proposals that have been funded are a function of who has applied in the past for CPA funds. All Community Preservation Committees are limited by what projects are proposed to them. For whatever reason, Newton has had virtually no religious institutions apply for funding in the last 20 years. She felt that was just coincidence.

A Councilor remembered that Grace Church applied for funds in the first year that the City had the CPC. Ms. Kritzer responded that they applied in the first year or two of the program to restore the clerestory windows in the church. They ended up, however, getting funding from the Mass Historical Commission and funding from an insurance issue. They ended up receiving more funding than they needed so they withdrew their CPA application and went no further with it.

One Councilor stated that here in New England we have so much history tied up in our churches; for example, no one would argue if public funds were dedicated to historic preservation of Boston's Old North Church. It is important that the Council evaluate each project on its own merits, and on an individual basis. A Councilor stated that the Council should not rule out funding to private organizations just because they are houses of worship. And in fact, the Supreme Court said as much in their Trinity Lutheran case.

A Councilor stated that they were very comfortable that we are on sound legal ground and felt that this is actually a very important thing for the City to be doing. They were quite comfortable that scrutiny has been applied by the Community Preservation Committee and that they did an appropriate job.

Ms. Kritzer was asked how many other churches are in Newton that are on the Historic Register and she responded that there are 25. Some Councilors foresaw the City possibly entering a whole new area of possible funding requests, and felt it important for the Community Preservation Committee to think about what the criteria are that a religious organization must meet to be worthy of receiving Community Preservation Funds.

Some Councilors felt that a steeple is religious in form and function unlike a church playground, or the secular community functions that have been described. This request is not for acquiring the church building for public use and preservation, which would be a different question. A number of Councilors noted that churches are a big part of our historic landscape in Newton. But if that's true, then the Council might need to think long term about what the answer is not just for this specific project but for preservation of church buildings in general. A Councilor noted that the government should not be in the business of picking and choosing the active and ongoing religious sects to support or not support.

One Councilor noted that students of architecture and religion understand that a church building is heavy with symbolism.

Some Councilors felt that public funds should not be used for the purpose of supporting any religious denomination. One Councilor stated that religious organizations should not be receiving public funds because money that is given to faith-based churches can have restrictions on it, therefore presenting the possibility that certain individuals could be excluded from enjoying the benefits of the public funds.

Some Councilor felt that if the City is truly committed to supporting our historic buildings, then there needs to be a discussion on how the City deals with historic religious buildings.

The Chairs of both Finance and Zoning & Planning entertained motions to hold this item in their respective Committees, which were approved in each committee. The Chair of Finance noted that she has kept a list of questions, and the biggest sticking points, that have come up during the conversation. She asked that if Councilors have additional questions or concerns over the coming days, that they contact her or Chair Crossley. She would like to make sure that the Committees are staying on top of this and getting any information that is needed. She and Chair Crossley will work together to find another night to continue this discussion. She thanked all of the members of the public, the administration, and the Grace Church community for participating and for their patience tonight.

The Joint Meeting ended and the Zoning & Planning Committee reconvened to discuss the following items.

#485-20 Economic Development Commission requesting City Ordinance amendments
ECONOMIC DEVELOPMENT COMMISSION requesting an amendment of Sections 4.4.1 (Business, Mixed Use & Manufacturing Districts), 6.4.28 (Research and Development), and 6.5.9 (Laboratory and Research Facility) in order to clarify inconsistencies in the way Research and Development is treated in the use tables and definitions. Providing clarity in where Research and Development uses are allowed is necessary to diversity Newton's Economy, make Newton competitive

with surrounding communities in attracting 21st century industries and jobs, and raise Newton's commercial tax revenue and implement recommendation from the 2019 Newton Strategic Plan (Camoin study).

Actions: Zoning & Planning Held and set a date of February 8, 2021 for a public hearing 8-0.

The Chair of the Zoning & Planning committee opened this portion of the meeting and recognized Peter Doeringer from the Planning Board, staff from the Planning and the Law departments, and Economic Development Commission members Philip Plottel and Beth Nicholas.

Assistant Director of Planning Jen Caira made a presentation (attached). She highlighted the need for clarification in terms of research and development (R&D) uses in our current zoning ordinances and noted that the proposed changes are primarily a corrective measure.

R&D uses in the zoning code are contradictory, and a little confusing. The changes that are being proposed retain the original intent of the zoning and keep the same distribution of uses that are allowed by right versus by special permit. It also makes some modifications to the manufacturing definition to reflect product and process development in R&D industries such as life sciences and robotics. This would correct technical inconsistencies and would be consistent with the economic development strategy for the city.

To highlight the issue, the use table in Section 4.4 has research and development called out in the table as only allowed in the MU3 zone which is just for Riverside Station. The definition for research and development is left reserved. However, the definition of a laboratory and research facility, which is allowed in all of our commercial and manufacturing zones, whether by right or by special permit, is defined as a research and development facility. This has led to confusion.

Existing Zoning

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Research and development	--	--	--	--	--	--	--	P	--	--	--	Sec. 6.4.28
Laboratory and research facility	SP	SP	SP	SP	SP	P	P	SP	P	P	P	Sec. 6.5.9

6.4.28. Research and Development

A. **Defined.** [reserved]

6.5.9. Laboratory and Research Facility

A. **Defined.** Research and development facility, laboratory or research facility with or without recombinant DNA research or technology, as defined in Revised Ordinances Chapter 12, Sections 12-20 et. seq.

B. **Standards.** In the business 5 District, the facility is exclusively for research purposes with no manufacturing on the premises.

(Ord. No. S-260, 08/03/87; Ord. No. T-319, 12/20/93; Ord. No. A-113, 06-19-17)

When trying to determine if a use is allowed, it seems that by the definition of a Laboratory and Research Facility, research and development is allowed by special permit in many zones, and by right in others. It gets confusing however because Research and Development is specifically listed as allowed only in the MU3 Zone. This confusion can lead to these types of uses passing Newton by. A quick look at our zoning ordinance could make someone think that research and development just isn't permitted anywhere in Newton. The definition is just outdated for laboratory and research facility and isn't reflecting how this type of use is really operating today. To go into a little more detail, I'll hand the presentation off to Ms. Nicholas from the Economic Development Commission.

Ms. Nicholas noted that she is currently retired but spent 11 years working for the Massachusetts Life Sciences Center, a quasi-public economic development entity in Massachusetts. She was the general counsel and vice president of education and workforce for 11 years. She is familiar with promoting research and development activities across the Commonwealth.

She reiterated that the EDC is not changing existing uses. The first proposed clarification is to avoid confusion so that R&D entrepreneurs who are looking at locating in Newton can see clarity in the zoning ordinance. In section 6.4.2 we would eliminate research and development from the table and leave just the laboratory and research category. We are working with the Law and Planning Departments to determine the exact terminology.

In section 6.5.9, we want to refine the definition to better align with 21st century research and development. We want to make sure that people understand what's permissible. We also are hoping to clarify that accessory manufacturing use can be associated with R&D. To give a very quick example. When Moderna or Pfizer were developing the vaccine for Covid-19, they needed to use fermentation tanks, or cell culture tanks, to develop the vaccine, so that they could then manufacture it in larger quantities. They had to do this accessory manufacturing to refine how it was going to be manufactured in bulk before sending it off to a manufacturing facility. This is the kind of accessory manufacturing that we are talking about. It's a component of research and development.

In section 6.5.11 Manufacturing we want to make sure that we are allowing the types of manufacturing that occur in the 21st century that are associated with R&D processes and product development. The following text is proposed to be added the manufacturing definition:

10. Product and/or process development as a result of a Laboratory and Research Facility including, but not limited to, life sciences, robotics, renewable technology, sustainable technology, and/or electronic technology; and

Finally, in section 6.7.4 scientific research and development activities. When I first came across this I was really puzzled, I didn't know what it referred to and then after more investigation and speaking with the experts discovered that it really only applies to civic and institutional uses therefore we want to clarify that.

6.7.4. Scientific Research and Development Activities

A. **Defined.** Activities necessary in connection with scientific research or scientific development or related production, **exclusively for civic and institutional uses**, accessory to activities permitted as a matter of right, so long as it is found that the proposed accessory use does not substantially derogate from the public good.

~~B. **Standards. Notwithstanding anything in this Sec. 6.7.4, no recombinant DNA research shall be permitted as an accessory use.**~~

These changes align well with the economic development strategy that the Council approved in 2019. There is a goal and an objective to increase lab space, to capitalize on the highly skilled workforce with science background, and regional economic trends. We believe that there is a unique opportunity right now to increase our commercial tax base with R&D enterprises. There is an exodus away from high cost urban areas that has been accelerated by COVID-19. We know that folks like to live closer to where they work, and we believe that more developers of R&D will be looking at parcels in Newton to see if they might have opportunities to move out of Boston or Cambridge where the costs are very high. Massachusetts is an R&D powerhouse and biotech is a thriving industry. We hope that Newton can leverage some of that strength that

has been occurring. Finally, our residents are highly educated and are well aligned with these higher skill, higher wage jobs available in R&D. They could benefit greatly from more development in this arena.

We hope that the Council will set a public hearing. The members of the Economic Development Commission will continue to refine this language with the Law Department and experts in the research and development field to make sure that we are getting this right, while still keeping the intent of the original language.

The Chair of the Zoning and Planning Committee thanked the Commission for being proactive, practical minded, and for identifying these issues. She noted that if this is something that is causing businesses to pass over Newton because they think the City is not allowing it here, is passing this ordinance enough, or does Newton need to advertise that it is open for business in this respect. She asked Ms. Baylin if she wanted to speak to this.

Ms. Baylin stated that the word does need to get out. These changes to the text are the necessary first step, then it will be possible to get the word out to the appropriate industries.

There was some confusion with the definition, as it now states that it is exclusively for civic and institutional uses. It sounded like you were talking about commercial use. And the additional language seems to limit it to civic and institutional use.

Ms. Caira stated that this particular provision in 6.7.4 is within the Civic and institutional use category within the ordinances already. You're absolutely right that our clarification relates to commercial uses. So, if you look at the use tables, under the public use and open space section, and also the use table in the residential section. Both of them under civic institutional uses reference science research and development activities, and they refer to section 6.7.4. And then if you follow that, section 6.7.4 has some language that goes along with that in the back. It is only that language under scientific research and development activities in 6.7 which applies to civic and institutional uses. It's a little confusing and someone trying to understand our zoning and looking for what they need to do for research and development may come across this and try to figure out where it fits in. We just wanted to add some language that this section just applies to civic and institutional uses. The definitions in 6.5.9 for laboratory and research facility does fall under our industrial uses in our commercial and industrial zones.

The basic point is that the EDC wants to allow certain limited manufacturing and research & development in industrial and certain business zones. I would be cautious about obviously extending those into residential zones without real clarification.

It might be good to have a map so that somebody who is looking at the ordinances can navigate directly to the place that applies to what they are looking for. There needs to be some clarity.

It was asked how this confusion in the ordinance came about. Was this from the MU3 that was passed years ago or was it the MU3 that was just recently passed that caused this confusion.

Jen Caira stated that it was the first iteration of the MU3 that caused this. She has spoken with Mark Development to ensure that these changes are not accidentally undoing anything at Riverside. They weren't even using that research and development portion because they have a special permit for a laboratory and research facility.

It was noted that Mark Development is actually going to be coming back to modify that special permit. Planning is cognizant of that and will consider how to handle this zoning given that they may be applying particularly under that zone. Ms. Caira responded that Planning is coordinating with them for that reason, but also because they have experience in this field and are trying to attract these uses. The petitioner has been doing research around this, and the zoning in other towns and communities nearby. They have taken a look at this and their clients are taking a look at this with their clients and will be giving us some feedback on the language as well.

It was asked if this correction in the MU3 zone will clarify that a special permit is required for these particular uses. Jen Caira responded yes, and they have already asked for one.

Mr. Doeringer from the Planning Board stated that he enthusiastically endorses all these corrections and minor changes. He too stumbled badly over the meaning of civic and institutional uses and feels that the language ought to be more affirmative in the institutional and civic uses section by dropping the term exclusively, because that has a very firm sound.

It was noted that the Newton-Needham Chamber of Commerce had a workshop on this a few years ago. It might be worth the time to run whatever language that ends being up developed by Greg Reibman who would probably have the list of participants. There were some people from Newton on the panel. It might be worth running these changes by the panelists to see if these changes are what is needed from people who are in the field.

I don't imagine a public hearing on this is going to draw hundreds of people, but we might want to make sure that the people who are impacted by it could come and speak

It was asked why it was permitted in an MU3 zone and now it's a special permit, but it is permitted in the other zones.

Ms. Caira responded that that's a very good question. That's how it is today, and we were proposing not to touch where it's by special permit and where it is by right. It's inconsequential here because that MU3 really is just Riverside. I'm also happy to make that by right in MU3. I don't think it makes a big difference, either way, because Riverside is under a special permit for everything, and they did specifically request this use.

The Chair noted the Committee needs to set a public hearing and asked for a motion to do so. Councilor Krintzman made the motion and it was approved unanimously. A motion to hold the item was then made by Councilor Danberg and approved unanimously.

Chair’s Note: The Zoning & Planning Committee will discuss and consider a schedule with respect to Zoning Redesign elements that may be taken up as part of docket item #88-20 over the next several months. A more detailed discussion of community engagement events and Zoning Reform topics is planned for the January 25 Zoning & Planning Committee meeting.

Discussing the upcoming Calendar.

The Chair of Zoning and Planning introduced the calendar of topics and items to be discussed in Zoning & Planning over the next six months. She noted that both she and the Vice Chair worked with the Planning Department to put it together. It lays out the items, other than zoning redesign items, that need attention over the next six months. It will provide a framework for laying in the discussions the committee needs to have about zoning redesign.

Chair's Note:
 ZAP Agenda January 11, 2021

Draft Partial ZAP Schedule (6-months)

		2021												
Item		11-Jan	25-Jan	8-Feb	22-Feb	8-Mar	22-Mar	12-Apr	26-Apr	10-May	24-May	14-Jun	28-Jun	
Other ZAP Items	Joint Meetings	Finance	Planning Board	Planning Board	Planning Board	Planning Board	Land Use			Planning Board	Planning Board		Planning Board	
	Garage Ordinance		PH	Follow up discussion (if needed)	Vote									
	Demo Delay			Follow up discussion*	Follow-up discussion (if needed)	PH & Vote								
	R&D Zoning Amendment	Intro discussion*		PH & Vote										
	Marijuana Zoning Amendment		Intro discussion	Follow-up discussion*		PH & Vote								
	Grace Church (CPC Funding)	Intro discussion (ZAP joining Finance)	Follow up discussion (ZAP joining Finance)	Follow up discussion (ZAP joining Finance)										
	Local Preference (IZ Ordinance)							Intro discussion	Follow-up discussion*		PH & Vote			
	Housing Trusts								MHP Presents	NHP Presents				
	Stormwater Ordinance (Part I)						Intro discussion							
	Topographic Survey Pre-Bldg. Permit						Intro discussion	Follow-up discussion*		PH & Vote				
Energy Efficiency Analysis									Intro discussion	Follow-up discussion*		PH & Vote		

* Assign Public Hearing

PH = Public Hearing

At our next meeting we're going to have an introductory discussion on the marijuana zoning amendment and hold a public hearing on the garage ordinance. In addition that evening, we may have a follow-up discussion on Grace Church. The chair of Finance and Zoning and

Planning will have a conversation on scheduling of Grace Church, given what we have to discuss on zoning redesign that same evening.

The conversation on the zoning redesign matter is twofold. One is to begin a summary conversation on the work we did last year. We are going to work on putting up a placeholder in the work we've done so far before we can move on. We will not conclude that discussion that evening. We will also get an update on the community engagement that we undertook in December. The report will be an assimilation of all of the comments and questions that were received the important messages that came out of that, and how we ought to approach community engagement going forward.

On February eighth, we will have our public hearing, and possibly vote on the RMD zoning amendment. We will have a follow up discussion, if we need it, on the garage ordinance.

Our working group has completed its work on updating the demo delay ordinance to the point where we have an annotated draft that is ready for committee review and to set a public hearing.

We have an expert from the Mass Housing Partnership, and also the Newton Housing Partnership, who are planning to come in and speak with us on the establishment of a Housing Trust.

Stormwater ordinance, part one.

We're hoping for an introductory discussion at the second meeting in March. This is something that the engineering department has been working on for quite some time, and most of the detail is within their ordinances, but is also relevant to chapter 30. We need to make some clear references to those requirements and also think about related stormwater rules to clarify them for the sake of the average petitioner.

That same night, the committee may also talk about the topographic survey. Some of us are trying to make sure that this is a requirement for new construction and major renovation. We have a long way to go on that.

In terms of demo delay my understanding is that there's going to be a conversation at the Historical Commission. It is on their agenda for the end of January to review our draft. Andrew Lee from a Law Department will be joining them for that discussion.

When we have our conversation in two weeks, we can talk about how to proceed substantively as we move ahead with zoning redesign, and how we want to structure that work and schedule that work. We might be able to lay in some of those discussion items that we want to have, such as the Economic Development Bill waiting for the Governor's signature, that may require local ordinances to enable.

Committee members asked if conversations about form-based zoning and teardowns could be included in the schedule.

The Chair was reminded we must take into account the Budget schedule when setting the calendar. This is normally a single separate meeting for the Committee to review the Planning, Inspectional Services, and CPA Budgets.

The chair reminded Committee members that the next meeting is January 25. Which will begin with the public hearing on the garage ordinance. The meeting was adjourned.

Respectfully Submitted,

Deborah J. Crossley, Chair