



Zoning & Planning Committee Report

City of Newton In City Council

Thursday, November 18, 2021

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

Also Present: Councilors Kelley, Bowman, Lipof, Downs, Lucas, Kalis and Greenberg

City Staff: Deputy Director of Planning and Development Jen Caira, Director of Planning and Development Barney Heath, Assistant City Solicitor Andrew Lee, Director of Housing and Community Development Amanda Berman, Chief of Long Range Planning Zachery LeMel, Community Planner Engagement Specialist Nevena Pilipovic-Wengler and Chief Operating Officer Jonathan Yeo

CPA Program Manager Lara Kritzer, Housing Development Planner Eamon Bencivengo

Utile Consultants: Timothy Love, Will Cohen and Lisa Hollywood

Planning and Development Board: Chair Peter Doeringer, Barney Heath and Kevin McCormick

Newton Historical Commission: Doug Cornelius

Newton Housing Partnership: Chair Lizabeth Heyer and Charles Eisenberg

Others Present: The Street Chestnut Hill Development Manager Amanda Chisholm

Others Present: NewTV

#391-21

Appointment of John Rice to the Newton Historical Commission

HER HONOR THE MAYOR appointing John Rice, 9 Selden Street, Waban, as an at-large member of the Newton Historical Commission for a term to expire on September 30, 2023. (60 days: 12/31/21)

Action:

Zoning & Planning Approved 6-0-2, Councilors Wright and Baker abstaining

Note:

Mr. Rice joined the Committee for discussion of his appointment to the Newton Historical Commission (NHC).

The Chair invited Mr. Rice to join the Committee to discuss his interest in serving as an at-large member of the NHC.

Mr. Rice stated that he saw there was an opening in NHC and has lived in Newton his whole life. He likes to consider the historic nature of people, places and buildings and how it impacts the community now and in the future. While a former Councilor, in 2015 Mr. Rice completed the landmarking of the Craft-Wiswall property, now the Suzuki School of Newton, that had been proposed to be a significant development, but was converted to this more modest use. Mr. Rice then said that he was in front of the NHC several times with residents in Ward 5 on several projects regarding demolition delay and landmarking ordinances. The NHC is an interesting committee from which I have to a lot to learn. I feel I will be a good member of the NHC.

Committee members comments, questions and answers:

Mr. Rice is a quintessential community volunteer and has given so much to the community including the Hyde Center and Ward constituents.

Is Mr. Rice currently serving on the Parks and Recreation Commission? Mr. Rice answered yes, as an associate member, a non-voting member unless another member is not present.

Today, an email was received from a prospective NHC full-time member applicant who has urged others to apply for the position. Most members of the NHC have historical background, which is helpful.

Chair Crossley stated that there are several seats open on the NHC. Director Heath stated that Mr. Rice is the first of a few candidates that are being put forward for the NHC which has been operating at a deficit. We have been meeting and interviewing candidates for at least two open seats. Currently, there is one vacancy officially on the NHC that Mr. Rice would be filling, and we anticipate there's going to be another vacancy of a full time member. Director Heath then said that Mr. Rice's fit for the commission with his experience is what the NHC often times must weigh when they're looking at properties. I think having someone of his background and experience, the commission would be well served. We have spoken about providing some training for Mr. Rice, which is available for all the commission members.

The mix of people on the NHC is heavy with members from Ward 3, we should have a mix of wards. Mr. Rice has always been fair, in contact with the community, and has always acted in an impartial, thoughtful, direct, intelligent, kind and decent way. His personal qualifications are not an issue.

Are there three members of the NHC from Ward 3? What is the geographic distribution of the members on the committee? Director Heath answered that he did not have this information available. It's challenging finding folks that are willing to serve on the NHC. We used to have some criteria that sought to get representation from each of the wards but that proved very difficult to do. Obviously, we don't want to get only people from the same ward. We're keeping our eyes open to try and represent all the awards as best we can.

I have concern with the expertise on the commission. Usually, you bring an associate member or alternate member up as the next full member.

We have heard that there are people interested in serving who have some prior background and knowledge in historic preservation. Director Heath said that the vacancy was created when a member had to resign for conflict of interest reasons, which is another challenge for this commission. It is difficult to find folks that are architects or in the design field.

Is there any reason why the alternate member serving cannot be advanced? Is the alternate member interested in this role? Director Heath answered that he does not make the decision on advancing members.

Who is the other vacancy you're anticipating? Director Heath answered that there's a member on the commission who is long serving but has not been able to attend a lot of meetings. For privacy reasons we are withholding a name.

Chair Crossley stated that it is her understanding that there's only one architect right now on the NHC. There is an interest in finding another architect. Mr. Heath agreed.

Committee members thanked Mr. Rice for his willingness to serve on the NHC. Councilor Albright moved approval and the Committee voted in favor 6-0-2, Councilors Wright and Baker abstaining.

**#180-21 Requesting a review and possible amendments to Section 4.2.5(A)
COUNCILORS LAREDO, LUCAS, LIPOF AND MARKIEWICZ requesting review of and possible amendments to Section 4.2.5(A) of the City of Newton Zoning Ordinance to clarify language concerning shadows and blocked views in the Mixed Use 4 district.
Zoning & Planning Held 8-0 on 09/13/21
Zoning & Planning Held 8-0 on 10/14/21; Public Hearing Scheduled for November 8, 2021
Zoning & Planning Held 8-0; Public Hearing Closed on 11/08/21
Action: Zoning & Planning Approved 7-0-1, Councilor Baker abstaining**

Note: Deputy Director of Planning and Development Jen Caira, Chief of Long Range Planning Zachery LeMel joined the Committee for discussion on this item.

Mr. LeMel presented a summary of Section 4.2.5(A) (PowerPoint attached) on intent, background information, issues with existing language, proposed revisions, and expected outcomes.

At the November 8, 2021, meeting, Committee members requested additional information on the proposed zoning language to further clarify the existing zoning language on the request for additional height or request for waivers on the set back requirements. Committee members requested that the words "materially or unreasonably" be added to the text of the amendment. In working with the Law Department, the language has been updated as follows:

Proposed amendment language to Sec. 4.2.5.A.1 Height, 4.2.5.A.2 Mixed-Use Residential Incentive and Sec.4.2.5. A.4 Setbacks of the City of Newton Zoning Ordinance.

Proposed Revisions shown as underlined bold text

Height

Buildings in the Mixed Use 4 district shall be a minimum of 2 stories and shall conform to the limits for building height and stories established in Sec. 4.2.3. City Council may grant a special permit to allow up to 4 stories and 48 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, **does not create shadows or blocked views that have material and adverse effects on its surroundings** ~~does not adversely affect its surroundings by creating shadows or blocking views~~, and advances the purposes of this district.

Mixed-Use Residential Incentive

Buildings that meet the definition of mixed-use residential buildings shall conform to the specific limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 5 stories and 60 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, **does not create shadows or blocked views that have material and adverse effects on its surroundings** ~~does not adversely affect its surroundings by creating shadows or blocking views~~, and advances the purposes of this district.

Setbacks

Setbacks. The City Council may grant a special permit to waive **strict compliance with** the following setback requirements by finding the proposed plan **does not create shadows or blocked views that have material and adverse effects on its surroundings** ~~can better protect the surrounding community from shadows and blocked views~~, supports pedestrian vitality, and **advances** ~~encourage~~ the purposes of this district: ~~than strict compliance with the following Standards:~~

Mr. LeMel stated that the Planning, Law Department and docketers struggled with the words “better protect”. There is no defined baseline for how a plan can “better protect” a surrounding area. Vagueness is limiting and prevents approval of a project where the impact of shadows is neutral. The lack of flexibility for the City Council is inconsistent with the intent of the 2012 adopted Mixed Use element of the Comprehensive Plan.

The language is meant to clarify and align with existing practice. Impacts of shadows will continue to be analyzed using a shadow study (shadow extent, duration, seasonal reach, and the ground level uses it affects, among others). Standard Special Permit criteria remain, and Planning can bring in a peer-reviewer as needed. Determination of whether there is an adverse impact from shadows and blocked views can be determined specific to each site and project.

Committee members comments, questions and answers:

We are allowing a variance from the existing standard because the mixed use is designed to do this and that's a valid idea. I'm concerned that it's unfair to abutting residential property owners.

I would prefer alternative language and am happy to offer an amendment to the Committee which would say that if the building goes up by then as of right or it comes closer because of the waiver that because of this additional height or reduced setbacks does not create additional shadows on abutting residential properties or blocked views from such properties.

Please define what is meant by the impact of the shadow is neutral? Ms. Caira answered that it means that the shadow would not be lesser or greater but would stay the same.

The three things that can be waived using this provision, when there is an abutting residential district, are the minimum side or rear setback, the height and the maximum front setback. Depending on the orientation of the building to the abutters and the design, it is possible the proposed building could have a neutral effect on the abutting uses. It could be that the shadow has a very minimal increase but isn't considered material. The current language and any language that requires the shadows to be improved, is too restrictive. It ties the hands of the Council in analyzing the context and whether it's creating any sort of adverse effects. You could have very minor changes to shadows that aren't affecting anyone adversely.

What is the definition of material and adverse effects? Ms. Caira answered that every time you vote on a special permit, you're making a finding as to whether there's an adverse effect on the neighborhood. This isn't defined in the zoning ordinance. The Council is using their judgment as well as the analysis that the Planning Department, peer reviewers and other consultants provide as to whether in this context, there would be an adverse effect. This will vary depending on the circumstances and the uses. For certain uses a smaller increase in shadows could be more of an adverse effect than others. It depends on what those ground floor uses. It is appropriate to leave to the discretion of the Land Use Committee and the Council as these issues are wrestled with in every single special permit.

I am concerned with village centers being zoned for two stories (by right) and now we're spot zoning for up to five stories. (There is) a large difference between the two. Ms. Caira said that the call for flexibility is coming directly from the Comprehensive Plan which created this mixed use zone specifically for village centers. The intent is not to have a table of rigid standards, but that there should be some flexibility in considering the context.

I feel the word "material" which was added is beneficial, making it more flexible and clearer. There are many communities that have statements about shadows in their zoning ordinance indicating that you can't count on shadows as being the issue that should deny a project. Every decision the Land Use Committee makes is a judgment call. Does it adversely affect the neighborhood or adversely affect the neighbors? It is a weighing and balancing of the project.

The prior language was too stringent. It suggested that if there was a shadow, then the project should be denied. Shadowing should be one criteria and left to the discretion of the Land Use Committee. Seasonal changes (shadow study over time) should be considered.

We've tried very hard on the boundaries between residential and the commercial properties. The language currently says, 'better protect'. We work hard in the Land Use Committee process to say that a public interest must be served and there is no adverse impact. I'm concerned the proposal will allow a balancing of the benefits of the project against the harm to the abutters.

It is important to understand the Land Use Committee makes decisions based on its best judgement. The general criteria for granting a special permit are intentionally vague but are basically statements of do no harm. This is an additional set of criteria applying to a specific condition. The Council adopted mixed use districts because it felt we needed another type of zoning district to accommodate certain types of uses. The district will not be appropriate everywhere in the City and that is the burden of the Land Use Committee to decide when it is appropriate and what conditions to impose.

Councilors comments, questions and answers:

Adding the word 'material' just simply gives the Land Use Committee and the Council the ability to be flexible regarding the relative impact of shadows. The original language created a problem, it was too rigid. Councilor Laredo relayed that he also supports this language.

I prefer the current language because it is strict. The MU4 building can be up to five stories. A building will create shadows. The current language, if it does create a shadow, it doesn't kill the project. A building that size should not be near a residential district. If you want to put it near residential districts, it needs to improve the district with (respect to) blocked views and shadows. The proposed language takes that away.

Committee members thanked the Planning Department for their thoroughness.

Without further discussion, Councilor Leary made a motion to approve as presented. Council members agreed 7-0-1, Councilor Baker abstaining.

#438-20 Request for creation of Trust in Newton to support affordable housing development
COUNCILORS ALBRIGHT, CROSSLEY, HUMPHREY, DANBERG, MALAKIE, KELLEY,
BOWMAN, KALIS, GREENBERG, DOWNS, WRIGHT, RYAN, NOEL, LEARY, LIPOF AND
NORTON requesting the Planning Department analyze mechanisms already in use in other cities and towns, identify funding sources, and create a Housing Trust in Newton to facilitate and foster the development of affordable housing in Newton.
Zoning & Planning Held 11/09/20, 03/22/21, 07/26/21, 09/27/21, 11/08/21
Action: Zoning & Planning Approved 8-0 to accept the state enabling legislations and approve
the ordinance.

Note: CPA Program Manager Lara Kritzer, Director of Planning and Development Barney Heath, Assistant City Solicitor Andrew Lee joined the Committee for discussion on this item.

Ms. Kritzer stated that the Planning Department does not have anything to add from the discussion on November 8, 2021, but will be happy to answer questions, in addition to the memo in the packet.

Newton Housing Partnership (NHP) Chair Lizabeth Heyer stated that tonight, she is speaking on behalf of the NHP, who are enthusiastic in support of this item. The opportunity to have an affordable housing trust will advance the efforts of the City to expand the supply of housing that is affordable at levels that you can't get to through inclusionary zoning or a 40B process. It is a process and a body that's enabled to advance the housing agenda through targeted use of housing resources, using the initial source the Community Preservation funds that the City has available. The ability to strategically target those funds to production of affordable housing that expand our supply of low income housing is important and exciting. The effort to expand affordable housing benefits the City in three ways. One, streamline and expedite the funding of projects that are brought to the City for production. The trust, using allocated CPC funds (and hopefully additional funds) can expedite and simplify that process of reviewing and advancing projects. Second, the opportunity to support, advocate and administer additional funds that could be made available in the form of expanded CPC funds or a transfer tax, can start building the fund. Third, is the ability for the trust to act as a body that does not just respond to projects, but strategically plan for development opportunities, by purchasing land and buildings, those assets and making them available for development. This is an affirmative action rather than a reactive action, which is a foundational aspect of what the trust can do. It's the tool in the tool chest that's most important in terms of signaling both affordable housing developers and folks in the City that we're serious about this effort – that we've empowered a body to advance housing production through attaining those resources in land and buildings. To the NHP, that's probably the most important change that will come through the creation of a Trust and its aspect of the current draft of the legislation.

Committee members comments, questions and answers:

Can you clarify that there is no power of eminent domain in the trust? Attorney Lee said that Housing Trust cannot exercise any power of eminent domain.

Normally, if there's property held by the City, it goes through a disposition process on City property. There's a statement in the memo that says that it doesn't apply. **Why wouldn't it apply because the bidding process does apply.**

If the Trust is discontinued for any reason what happens to those funds? Do they come back to the City, or are they applied for a different purpose? Attorney Lee answered with regard to why a housing trust is disposing of real property doesn't have to comply with 2-7 because (Real Property Reuse) only applies to City owned property, meaning that the City literally holds it as opposed to a trust. But disposition will have to comply with the RFP requirement. The trust as a separate entity can hold property. The reason that the RFP process still applies is because Chapter 30B doesn't just apply to cities. Chapter 30B applies to every public agency or public body, which the Housing Trust is,

though it is not the City. The RFP process would apply even though 2-7, Chapter 40 specifically refers to City owned property.

What are the certain safeguards when public funds are spent, that you can't pay higher than assessed value or the just compensation? It would be helpful if this were clear in the ordinance.

There's a ceiling on the expenditure, is there any such limitation in this context? Attorney Lee answered yes, wherever the sources of funds are coming from. It's clear that if the Housing Trust is using funds in its account from CPA monies, the CPA requirement can't pay more than the appraisal using customary practices. They can't go above that amount. He then said that this could be made clear in the ordinance.

What happens if the Trust ceases to function? Where do the funds go? Attorney Lee first answered that he did not know. It would be necessary for him to consult with the Comptroller's office. Ms. Kritzer answered that the CPA funds never leave the City. If the Trust dissolves, without spending all its money, the funds are still in the City account. CPA funds would be returned to the CPA general account as we do for any project that doesn't use all its funding and would go back into circulation and the next funding round for CPA. Attorney Lee added that because the CPC will have an MOU with a Trust that will explicitly provide for recapture of funds. That is a mechanism that will ensure that whatever happens with the Trust, the funds if they're not used the way they're supposed to can be recaptured. A Committee member added that the CPA funds are reported to the Department of Revenue so they must be tracked separately from other funds that might be used for housing which was in the MA Modernizing Municipal Finance Government Act of 2016 to protect the use of CPA funds for the purposes that they were intended.

The CPC unanimously approved this, and they're ready to seed the trust with 35% of their current annual budget. Thereafter the Council will be able to review the amount recommended to the Trust at budget during the annual CPC budget presentation. For the City to be competitive in advantaging opportunities to create affordable housing in our City, it is necessary to approve this Trust.

This is a very good piece of legislation. It will advance the agenda of housing. It will help expand the supply of affordable housing, streamline and expedite this whole process.

Please provide information on the topic of transfer tax and the impact that it may have on funding the Trust.

Will the Comptroller monitor the expenditure of funds of the Trust including what consultants might be used and report back to us?

Ms. Kritzer answered that the account would be set up with the Comptroller's office to monitor the expenditures. The CPC and Planning Department will be monitoring the funds to ensure that the funding is used appropriately.

Committee members thanked Law and Planning Departments as well as the Newton Housing Partnership for their collaborations over the past year, and for their very concise and clear summary of the key aspects of the.

Without further discussion, Councilor Ryan moved approval to accept the state enabling legislation and approve the ordinance as presented. Committee members agreed 8-0.

#390-21 Requesting amendments to Zoning Ordinance Chapter 30, Sections 4.4 and 6.4

THE DIRECTOR OF PLANNING requesting amendments to the Newton Zoning Ordinance, Chapter 30, Sections 4.4 and 6.4 to allow for veterinary uses in the Business 4 zoning district.

Action: Zoning & Planning Held 8-0, Public Hearing Scheduled for December 16, 2021

Note: Deputy Director of Planning and Development Jen Caira and “The Street Chestnut Hill” Development Manager Amanda Chisholm joined the Committee for discussion on this item.

Ms. Caira stated that this item was docketed after receiving an inquiry from the people at The Street in Chestnut Hill who have a potential veterinary tenant.

Ms. Caira presented a summary of an amendment that would allow veterinary hospitals in the business 4 zoning district. (PowerPoint attached).

Ms. Caira stated that no animal services or veterinary clinics are currently allowed in the business 4 zoning district. Prior to 1996, veterinary hospitals were limited to manufacturing zones. There was an amendment in 1996, due to increased pet ownership increasing demand for veterinary uses, to expand the number of districts that allowed veterinary hospitals, which were allowed by special permit in some Business and Mixed Use 1 zoning districts. (The Mixed Use district was only created in 2012). Veterinary uses remain by-right in the manufacturing and limited manufacturing districts. The Business 4 (BU4) zoning district was not included in 1996, because only one area in the City was zoned BU4 at the time, which was for an assisted living facility. Since 1996, the city has rezoned other lands to BU4, normally as part of a rezoning to accommodate a special permit project. These sites tend to be the larger campus style developments and are subject to the controls conditioned under the special permit. The veterinary hospitals would be compatible with the BU4 zones that exist today which are large and contain some buffering from adjacent neighborhoods.

The Planning Department proposes to amend the zoning to allow veterinary hospitals in the business 4 zoning district, by-right if the use meets certain limiting standards, such as that there be no overnight boarding not related to medical care.

The Planning Department asked that the Committee set a public hearing for Thursday, December 16, 2021.

Committee members comments, questions and answers:

“The Street” appears to be thriving. There are portions of The Street which are close to residential properties. Most of “The Street” is under a special permit.

Having a public hearing at the very end of the term is not wise. People who may be affected may not be available to attend. We try to have public hearings on major issues not occur at the end of the term or in the summer. I am not persuaded that this is a matter of urgency.

Would the Benchmark Senior Living Facility in Newton Corner, a Business 4 zoning district, consider a veterinary hospital? Ms. Caira said that we're not proposing every Business 4 zoning district would have a veterinary hospital. The other Business 4 zoning districts tend to be larger mixed use campuses. I don't see that location having a veterinary hospital if it was no longer assisted living and was turning over to some other use. There's several other uses they'd probably consider first and would likely require some sort of special permit.

What was Planning's thought process in proposing the use by-right versus by special permit?

Ms. Caira answered that the department thought that there would be limited impacts in a Business 4 District as opposed to some of the other districts it's allowed in such as the business districts that are in the village centers themselves or on the edges of them or commercial corridors. Those districts made sense for a special permit to consider the context, however the BU4 sites tend to be larger sites with multiple uses. It seemed more appropriate to allow the use by right but if there's consensus among the Committee that it would only be open to special permits, that's fine as well. We can move forward as a special permit. There was a timing concern with hoping to move something forward given the proposed tenant at The Street.

Is there a shortage of veterinary clinics in the City? Ms. Caira answered that we have seen several inquiries. We see a lot of this sort of urgent care model that is between your regular veterinarian and more of a larger urgent care clinic.

Regarding zoning on Needham street, we have an emergency care unit for pets and a regular vet.

Ms. Caira answered that Needham Street is zoned mixed use 1 and mixed use 2 zoning districts which do allow for a veterinary hospital. It's the Business 4 zoning district, that doesn't allow this use. I don't think it was intentional that it was left out when the zoning was last amended (1996), but that zone hadn't really been utilized at the time. Needham Street zoning is decided by special permit in or on the edges of village centers and manufacturing areas. The only differentiation in our zoning is if you're a pet store like Petco, small clinics will do some vaccines, microchips etc., that falls under animal services. Regular everyday vet falls under veterinary hospital.

Are doctors' offices allowed by-right in the Business 4 zoning districts? Ms. Caira answered yes.

Can we require a condition without a special permit that the barking noise be contained on site?

Ms. Caira answered we may be able to add to the ordinance standards that there be no noise extending beyond the property line.

Can we advertise for the public hearing without deciding now, if we want to add no noise extending beyond the property line and determine this after the public hearing? Ms. Caira

answered yes, we have done that before, as long as we put in the draft language of the notice that this is up for discussion.

Do we have the latitude to require soundproofing such a facility? Ms. Cairra answered that we could require that noise be fully contained within the building.

Veterinary clinics are needed in this City, and we ought to allow them.

What location in The Street is the veterinary hospital being proposed? Ms. Chisholm answered that we did not think that this would be a high impact use. We have received a lot of inquiries for this type of use. It seems like it's a high demand in terms of placement within the City and something that would be needed. This particular use would be within the Star Market building. Of course, we would be noise proofing. We need to make sure that we're careful with the retailers that are neighbors as well and just making sure that the fit is good for the rest of the center. We reached out with an inquiry, we are open to and expect that this would be open to all Business 4 zones. We wouldn't ask for the request to be specific to just our properties. Ms. Chisholm offered to speak with Councilor Baker on his concerns and apologized for not letting him know about their inquiry in advance.

I think this is precisely a special permit situation. A special permit gives the chance to review and figure out exactly how this is going to work on site. The proposed location is at the end of the property closer to the residential area. Veterinarian facilities often have a need for outside activity.

I would not like to see this go to public hearing unless it has a special permit as part of it. I think that's a safeguard that we ought to have for this use in this classification. I'm not going to support the motion to just send it to public hearing without that. It's not an appropriate way to go. I hope that the proponent would find that special permit isn't automatically meaning you can't do it, it means that we have a chance for the affected people in the neighborhood to be heard to have the safeguards built into the site and project.

Please explain some of the ways noise could be minimized.

It appears The Street doesn't sound like a great place for a veterinary hospital, depending on how heavy the use is. Can we discuss whether this is a by-right or special permit at the public hearing? I'd like to move that we have a special permit as part of this advertisement. Ms. Cairra answered that as suggested we could do this as we have done before that gives options for consideration of by-right or special permit.

Can we do this exclusively as a special permit? Ms. Cairra answered that this is for the Committee to determine. We could leave the option open for the public hearing and the Committee could vote. If the Committee prefers to move this to a public hearing with a special permit requirement, we certainly can do that.

I'm happy to move the item forward to a public hearing with a special permit requirement. But at the end of the year, I just don't think this is a wise thing to do without that requirement.

Can it be made clear to folks who are coming to the public hearing that we're considering a special permit and ask them if they think that's necessary? We could put the item as a discussion item for the public hearing allowing us flexibility and when we bring it back into Committee, we can decide and the impacts it may have. It just leaves the option, and the people will decide.

A good point was raised that a special permit ought to be an option. Sending it to public hearing with that flexibility makes the most sense for us as a Committee.

Chair Crossley stated that there's a motion on the table to move this item to a public hearing. There's a request to require that at the public hearing we make it clear that there's a choice of whether to allow this by-right or by special permit, and that should be reflected in the presentation that night so that the public is made aware of two options. We can hear from the public and what they support.

Councilor Baker stated to be clear, if we go to public hearing, the advertisement will say that the item is being heard either by-right or by special permit. Is this correct? Ms. Caira answered yes, that is required, to consider either option, it must be in the advertising, otherwise we would need to re-notice.

Without further discussion, Councilor Danberg made a motion to hold this item and schedule a public hearing for Thursday, December 16, 2021. Committee members agreed 8-0.

#88-20 Discussion and review relative to the draft Zoning Ordinance

DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.

Zoning & Planning Held on 01/27/20, 02/10/20, 02/24/20, 03/09/20, 03/23/20, 04/13/20, 04/27/20, 05/19/20, 06/01/20, 06/15/20, 06/29/20, 07/09/20, 07/16/20, 08/13/20, 09/14/20, 10/01/20, 10/15/20, 11/05/20, 11/09/20, 12/14/20, 02/22/21, 03/08/21, 05/24/21, 07/08/21, 09/13/21, 10/25/21, 11/08/21

Action: Zoning & Planning Held 8-0

Note: Chair Crossley stated that tonight's discussion will focus on village centers. Our consultant Utile will lead a discussion to begin to synthesize the common themes that have emerged from community engagement with the quantitative analyses of Newton's village centers. This is the third of a four part presentation/discussion series. Meeting #4 will be held on December 16.

Deputy Director of Planning and Development Jen Caira and Utile Consultants Timothy Love, Will Cohen and Lisa Hollywood joined the Committee for discussion on this item.

Mr. Love stated that tonight's presentation is to make the bridge from the engagement presentation that you got from Ms. Pilipovic-Wengler on November 8, 2021, to a way to think about the zoning

framework relative to what the engagement told us. We're going to remind you what the engagement said and then talk through a matrix that was included in the memo. I will provide a moderate level of detail by showing some examples and talk about our next steps.

Ms. Caira and Mr. Love presented (PowerPoint attached) a summary of the quantitative data analysis, qualitative research, and extensive community engagement effort. They said we are now looking to make that connection to zoning and see how zoning can implement some of those takeaways. As we presented last month, we heard from a lot of people through a lot of different forums through vision kits, online forum, equitable focus groups, economic development focus groups, and talking with people on the street. Utile also worked with the Planning Department on some quantitative analyses: on site analysis of several village centers.

As we move forward, we want to think about an iterative community engagement process for these technical proposals. We had an incredible amount of input and thoughtful ideas from community members. We really want to build in this iterative process going forward. This is still being workshopped, we are still thinking about the best ways to work through this process and to engage but we're hoping to draft sets of technical and policy proposals among staff, Utile and any other consultants as necessary with Zoning & Planning Committee, Planning Board and other relevant commissions and be reviewing these proposals with community members to see to what extent the proposals align or don't, with the takeaways from the engagement effort. We have thought about perhaps this is discussion kit version of the vision kit. For example, we want to ultimately bring back a community-informed set of recommendations for this committee to deliberate.

These are the main takeaways that resulted from the synthesis of the engagement and mostly what this comes down to is vibrancy of village centers. The seven takeaways are as follows:

Seven Takeaways

1. Create more communal and public space and activation
2. Increase accessibility to buildings and infrastructure
3. Incorporate climate resiliency through built structures and green spaces
4. Help small businesses to begin, stay and thrive in village centers
5. Make the permitting process easier, clearer and multi-tiered
6. Add more diverse housing options and encourage mixed-use projects
7. Prioritize safe and accessible routes to and through village centers, especially walking and biking

In closing, Ms. Caira stated that staff are looking for guidance, on moving forward with this with the goal of coming back in December talking through these things in more detail, maybe getting into more detailed comparisons of what's in our existing zoning. Then coming back next term to work closely with the Committee on some of these proposals.

Committee members comments, questions and answers:

You have discussed the framework which will be beneficial. The challenge in the village centers is we have a disaggregated set of landowners. The problem then becomes if you decide to do something in point A, you're going to incentives that basically means more density. There are a variety of things you can do but it means there is will be less space. **Part of the challenge is how do you distribute that opportunity around and what do you do with collateral impacts?**

I am hopeful that the second stage of this conversation would include if you owned the property how would you organize it and what are the collateral impacts on those properties? Would this building be taller here, this building would be shorter there because what we're dealing is multiple land owners and multiple properties, which need to have some rational framework around them? The second stage is going to be a very challenging one to sort which properties should be the appropriate ones to build up as opposed to not. **Which properties are going to be the appropriate ones to incentivize and what are the impacts on the abutting properties, whether they're residential or otherwise? How do we make zoning work so that it does in fact, not create new conflicts but build synergies?** Mr. Love answered that we have some of the same questions that must be studied in the next steps.

I look forward to the time when we have a working session. I think before we go further, this committee needs to talk among ourselves.

You provided data in September, on what makes a successful village center and what makes them larger, smaller, what are the attributes. I would like to base some of what we're doing on your original work, less on the community outreach and more on the data about what makes a successful village center.

Newton has many different size villages. I can't imagine that the same rules will apply to all of them. I would like you to build in the thoughts about what do we want to do for the small villages, what do we want for the large villages and how is that different?

We have Newton land and building costs to deal with. I would like to have an expert in economic and real estate development come in to discuss with us. We need to paint a picture of what we want. We should test against the reality of here's what you're going to get, here's what people are likely to want to do. Can we do what we think we want to do, given the land costs, building costs, traffic and parking?

I suggest that you go back to the original slides that you gave us about your studies of our villages. What makes a successful village? If we need a big mix of uses, how do we encourage that?

Chair Crossley asked Mr. Love if he wants to speak to where we are in the process from your point of view and to what level have you been able to integrate the data that you brought us earlier (and that you have as well in this presentation) with what we've learned from the community engagement? Mr. Love answered that creating the draft matrix I presented and used as a framework

as well as our thinking through this kind of relationship map that we're presenting as a diagram *is very much an integration* of what we learned through our analysis, including walk sheds and transit impacts. The recipes of mixed use that seem to create a healthier vitality are very much integrated into and inspired our first take. I could pull those apart and identify from direct observations where they came from. We spent time with planning staff kind of processing and talking through all of this. I appreciate comments about your need to get up to speed on the kind of processing that we've been doing - even to put this presentation together for you. Mr. Love continued saying he thinks we're going to have to customize the use of the requirements for different village centers. Perhaps we can have four categories with perhaps 3 or 4 separate frameworks for the scales of village centers that we're talking about. There's not a one size fits all

You need to let us do some things for you. It is necessary that you build in the time for us to talk, learn and be part of the process. Chair Crossley stated that she feels it is the Committee's job to build in the time. We have one more meeting this term, and our staff and consultants can only go as far as we can go.

A request was made to Chair Crossley and planning staff to build in ample time for the committee to consider the work.

The Committee should also discuss as Utile presented, what are successful village centers and how to make that work.

Regarding requirements, such as sustainability, If people would read it, then we would give them more density or more height. Since these are generally special permits to begin with, why don't we require of the business if they don't want to meet it, then they need to convince us why they should not and that provides more framework for others knowing what can be built. Ms. Cairra answered that staff completely agree. This is where we'll need to have much more discussion analysis as both requirements and incentives. In some instances, requirements may make more sense and other areas we may want to incentivize to go above and beyond requirements. We want to explore all options, but certainly, there should be many of these things required and at what scale too when thinking about different scales of development, and how we tailor requirements or incentives to those scales.

Mr. Love stated that the matrix was a framework that we took a first pass at filling in. **It's not a proposal.** This is a way that we might all discuss the issues, options, the way to think about it. I hope it didn't seem like that matrix was our zoning recommendations. It is so complicated, that column and row matrix seemed to be the best way to discuss dimensional standards across these kinds of categories that came up or to take one of the rows all the way across is a couple of ways to slice and dice to have more targeted conversations about what's at stake, what's possible and what's off the table.

Chair Crossley stated that the matrix is a very helpful way of beginning to organize our thinking. The seven themes that emerged from the community engagement. Some of them are subject areas all by

themselves, like anything to do with the climate action plan and climate resiliency is a large chunk of work. We're already struggling in this Committee, other Committees, and then there's a whole separate sustainability team in the City, trying to figure out how we can move our climate action plan forward using our land use zoning and other ordinances. I am not sure if a two dimensional matrix is enough to understand how to make policy decisions, but it's a great beginning. It's going to require a lot more time.

Mr. Love stated that one thing that might help is that the first question of a zoning code is how high and big can you build and what can go in there? That the structure of both zoning codes and then what are the other requirements that come along with it? The essential (questions) are, **how high and what's allowed in there?** One thing that the diagram tries to do is show that, those two questions are the essential questions and how do we tie in those two essential questions? The matrix isn't totally neutral, dimensional standards and the use table is always a little bit foregrounded.

The other framework issue that is worth thinking about is the public investment. There are a variety of things that enable the payment of public infrastructure to be shared with a private property owner. One the challenges that you're raising is that the zoning is something that applies to the private land, but there is a public complement to it and it seems that one of the values of planning is that you try and put these things together and determine what's appropriate for the private landowner to bear and what's appropriate for the public to bear and how do we make sure that those two things fit together as opposed to work across purposes?

We shouldn't lose sight of the zoning side without having a clearer sense of what's going to complement it on the public side, we may be working at cross purposes.

Please provide information on examples of what happens in Newton, as opposed to what could happen somewhere else is really an important opportunity for us to think about. When we see it, we can react to it in a way that I think is going to be more productive for you going forward.

When I think about changing zoning, I think about what human needs are we trying to meet? What uses would we like to see in our village centers? Housing, meeting needs for open space, commitment to sustainability, mitigating climate impacts, how we can support local businesses, how we can energize our village centers? It is necessary to figure out zoning that would that work across the City and how we can shape it for all our different village centers.

A working group with colleagues and staff would be very helpful to build out these thoughts. Some specific examples on what would work would be beneficial.

All village centers should have an open meeting space. We should look at the big picture of having spaces in village centers where there are people on bicycles, bicycle parking, places for cars, affordable housing and transit creates vibrant spaces.

I suggest that we gather in person to talk and listen to each other on whether you agree or not and see where we can come in agreement to make the village centers better in the City and for our residents.

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

At approximately 9:26 p.m., the Committee adjourned.

Respectfully submitted,

Deborah J. Crossley, Chair