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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** February 25, 2022

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

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

**RE:** **#42-22 Citizens petition to amend the village center district**  
ATTORNEY PETER HARRINGTON ET AL., submitting a 60-signature citizen to strike Chapter 30, Section 4.1 Business Districts, in its entirety and insert, in place thereof, the following 4.1. Village Center District; 4.1.1. District Intent and 4.1.2. Dimensional Standards.

**MEETING:** February 28, 2022

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

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### Introduction

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

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

**Proposal Overview (staff review)**

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

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

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

***Proposal Outreach***

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

***Compliance with the MBTA Communities Multi-Family Requirements***

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

**Technical Comments and Questions*****Introduction***

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

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

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

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

***Sec. 4.1.2.A.ii – Affordability***

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

*Sec. 4.1.2.A.iii – Usable Space*

What is “usable space?” Please define.

*Sec. 4.1.2.A.iii – Dormer Allowance*

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

*Sec. 4.1.2.B.i – Building Coverage*

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

*Sec. 4.1.2.B.ii – Front Setback*

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

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

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

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

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

*Sec. 4.1.2.C.1 – Use Standards*

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

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

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

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

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

*Other Dimensional Standards and Requirements*

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

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

**Next Steps**

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

**Attachments**

Attachment A            Citizens petition to amend the village center district

Attachment B            Petitioner response (February 16, 2022)