



Zoning & Planning Committee **Report**

City of Newton **In City Council**

Monday, March 14, 2022

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

Also Present: Councilors Laredo, Malakie, Oliver, Greenberg, Kelley, Bowman, Humphrey, Lipof, and Norton

Planning & Development Board: Peter Doeringer (Chair), Kevin McCormick, and Chris Steele

City Staff: Jen Caira, Deputy Director of Planning & Development; Devra Bailin, Economic Development Director; Zachery LeMel, Chief of Long Range Planning; Andrew Lee, Assistant City Solicitor; Nevena Pilipovic-Wengler, Community Planner Engagement Specialist; Barney Heath, Director of Planning & Development; Cat Kemmett, Planning Associate; Jonathan Yeo, Chief Operations Officer; Nathan Giacalone, Committee Clerk

#38-22 Discussion and review relative to the draft Zoning Ordinance regarding village centers

ZONING & PLANNING COMMITTEE requesting review, discussion and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to Mixed Use, business districts and village districts relative to the draft Zoning Ordinance. (formerly #88-20)

Action: **Zoning & Planning Held 7-0 (Councilor Leary not voting)**

Note: Nevena Pilipovic-Wengler, Community Planner Engagement Specialist, delivered the attached presentation. Zachery LeMel, Chief of Long-Range Planning, Planning Director Barney Heath and Deputy Planning Director Jen Caira also joined this discussion.

Ms. Pilipovic-Wengler began by summarizing the 2021 engagement process (PowerPoint attached) which asked the community to express its vision for the future of village centers, resulting in eight primary takeaways.

By the end of June, the committee will have reviewed economic analyses of alternative village center development scenarios for large and small village centers in Newton, and considered which scenarios best achieve shared community objectives. In addition, development scenarios will be evaluated relative to achieving housing opportunity in compliance with the MBTA

Communities requirements. Once the committee evaluates this work, preferred alternative development scenarios will be chosen to present to the community, as the basis for village center zoning.

The engagement process planned includes reaching out to the comprehensive network of community groups engaged during phase one (see PowerPoint), preparing illustrated and interactive materials that can be used to train leaders from each group who can then present to their organizations or groups. The engagement period is proposed to take place from May through October.

Ms. Pilipovic-Wengler stated that in order to reach as many people as possible, there will be interactive tools offered both virtually and in-person. Additionally, there will be an exhibit installed at the Newton Free Library from August through October.

Ms. Pilipovic-Wengler then described how she plans to build the community engagement network. A maximum of two representatives from any one group may apply to participate in workshops to review the material from the development scenarios. Membership in the network requires only a commitment to engagement, not zoning expertise. Applications are due by Sunday, April 10; workshops will begin in May. City Councilors are welcome to observe the meetings.

It is envisioned that community feedback will be delivered to the Committee by late November or early December.

Discussion:

It would be better to have a draft code earlier in the fall. What is the content of the community engagement?

Ms. Pilipovic-Wengler answered that engagement will test whether the community feels the development scenarios reflect what they said in 2021. Mr. LeMel added that Utile's development scenarios will be the foundation for the engagement material which ought to be tested prior to writing the zoning. The development scenarios will be based on potential zoning recommendations (i.e. modified allowances for height, FAR, setbacks, # of stories, etc.).

The engagement process is valuable, but the legislative power is with the Council. How does this process interact with how the Council discusses these questions?

Director Heath answered that this is to get the word out and ensure residents are aware of our proceedings.

It would be better to conclude community feedback by September. Getting this report to the Committee by early fall would allow significant work to be done before the holiday season.

Deputy Director Caira stated that Planning hopes to establish comfort (in ZAP committee) with the development scenarios by the end of June. She and Director Heath both added that

engagement was extended into the fall as Planning has consistently heard that residents are less available during summer.

While Community engagement is important there is concern that this process will be taken as a scientific one. The Council should demonstrate its seriousness by discussing and voting on specific issues such as building heights.

Deputy Director Caira responded that the intent is to work through these questions. Planning will be meeting with ZAP to discuss these matters and then bring them before the community. There is no draft ordinance text planned to be ready by June, but the hope is to reach agreement on key pieces of it.

The Committee needs to balance hearing from residents and taking up the burden of this work. The content of these plans will be discussed in detail with Utile over the next few meetings.

It is important to engage the community with scenarios and to get residents informed on the zoning potential using the development scenarios, but there is also concern about writing the code before decisions have been made on the relevant questions.

Did you say that this process will not dive into the zoning particulars?

Ms. Pilipovic-Wengler answered that the engagement planned will be a technical and policy-oriented project that seeks to present the zoning particulars through broadly understandable material. The community engagement network is not the forum to go deeply into the zoning particulars. Rather, the network is meant to respond to community requests for more involvement and assist Planning staff in making sure the presentation material is as accessible as possible.

Ms. Pilipovic-Wengler also confirmed that this engagement network will invite representatives from established groups, (e.g. League of Women Voters), so that they can lead their members to the engagement set to take place between August and October.

If the plan is to finish the process by next spring, then the Committee needs to finish engagement before the late fall.

Deputy Director Caira answered that these conversations are not waiting until November to start but are ongoing now. Director Heath added that the important policy questions will be put before the Committee by June.

It is hard to assert that the engagement process is overdone without knowing where the Committee will be in this process in June.

Utile is showing real-world examples in the village centers. Last meeting, we saw what is economically feasible under current zoning. In the next three sessions we'll consider options under revised zoning scenarios.

It is a good idea to educate people on the tradeoffs as ZAP continues this discussion. If not a draft ordinance, the Committee needs to have something meaningful accomplished by the end of the year.

The committee thanked Ms. Pilipovic-Wengler, then tabled item #38-22 at 8pm to complete the public hearing on item #42-22.

Later, the Committee voted to take this item off the table and resume discussion on #38-22, to debrief on the analyses presented at the previous meeting.

Mr. LeMel summarized the February 28th meeting (PowerPoint attached) where Utile and Landwise assessed the economic feasibility of development on three different sites in Newton Center, under current zoning rules. He stated that it showed that parking requirements limit building size to less than what is permitted by zoning.

Discussion:

One councilor noted that parking requirements are sensitive as they are necessary to maintain since cars are still a primary method of transportation. The Council needs to ask what the alternative is if parking requirements are reduced.

However, another noted that the Land Use committee routinely waives parking requirements in village centers from what our ordinances require, adding that it is important to distinguish between first floor retail/commercial use and residential as each has a very different parking need.

Planning is doing what the committee asked for (economic analyses). It is easier for people to react to more specific things. Starting from scratch would create too much uncertainty. We know the areas of contention. Trade-offs should also be made clear for the public. Would like to get to a point where we can put this to bed before the end of the year.

With the budget discussions approaching, the Council may not be able to properly address this issue in the near-term.

In addition to the scenarios by parcel, can staff provide illustrations of what the streetscapes could look like, when built out?

Mr. LeMel answered that development as a result of these changes is not instantaneous and occurs over time. These drawings will be critical for discussion, but we must be clear that they only show what could happen over many years.

Councilor Baker made a motion to hold which carried 7-0 (Councilor Leary not voting).

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

ATTORNEY PETER HARRINGTON ET AL., submitting a 60-signature citizen petition 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.

Action: Zoning & Planning voted No Action Necessary 8-0; Public Hearing Closed

Note: The Chair opened the item noting that this is a continuation of the public hearing begun at the last meeting, and reminding that Section 10-2 of the City Charter affords citizens the opportunity to formally speak to the Council. The Council must hold a public hearing and act on a petition addressed to the Council when signed by at least 50 voters. In cases where the petition seeks passage of a measure, action must be taken within three months of filing. This means that, as with any docket item, there must be a vote to approve, deny, or vote “No Action Necessary” (NAN). She explained that voting NAN means that the Committee has received the information from the discussion and does not need to move further with the item. The Chair added that the item was being discussed again in order to mail individual notices to the petition signers, as required by the Charter. She then opened the public hearing and invited the petitioner, Atty. Peter Harrington, to make an opening statement.

Attorney Harrington stated that his intent with the petition was to bring to attention an ongoing discussion of what should happen to village centers. He stated that there is much public support behind limiting building height, with a plurality, according to a Newtonville Area Council survey, favoring three stories. The proposed ordinance language in the petition also seeks to address the new law that requires multi-family housing, which is less dense than the existing zoning. He urged adoption of the state requirement by-right instead of creating new denser zoning. He also felt that discussion of voting NAN on the item at the February 28th meeting the “No Action Necessary” (NAN) vote discouraged people from participating and asked if there could be another action.

The Chair answered that an NAN vote is used for many items, such as when information has been delivered to the Council, but further action is not yet needed or clear. She then asked Attorney Lee for any further clarifications on committee actions, who stated that the Committee can pass an item without changes, reject it, or pass the NAN measure stated which would be deemed a rejection.

Though committee members expressed appreciation for several elements of the proposed language, it was generally agreed that other aspects of the petition require further deliberation. Atty. Lee clarified that Holding the item is not an action.

Public Comment:

Robert DeSantis, 46 Parsons Street, stated that changes to the zoning are made in 100-year timeframes and the historic architecture should be preserved. He felt that new multi-unit buildings being constructed in Newton, such as Trio, look too much like Soviet-era high density buildings in Europe.

Wendy Plesniak, 38 Waban Street, believes that developers do not want to produce housing stock with mortgage caps under \$450,000/500,000. The term “affordability” needs to be taken back from developers and this petition accomplishes this goal. She also suggested a temporary five-year zone for a village centers which would allow housing by-right and establish dimensional limits to preserve village character.

Marc Hershman, MSH Architects, presented with Atty. Harrington at the prior meeting. He stated that zoning needs to better consider the realities of living in a pandemic-prone world as the built-environment continues to evolve. He felt that high-density housing has been proven to be too risky and going forward, the code should emphasize separating formerly shared spaces such as corridors, entranceways, and stairwells.

Kathy Pillsbury, 34 Carver Road, stated that the Washington Street Vision Plan discusses a range of building heights and shows that there is a range of public opinion on this topic.

Atty. Harrington expressed interest in the temporary zoning concept.

Councilor Baker made a motion to close the public hearing which carried 8-0.

Discussion:

Multiple Councilors expressed support for a vote of NAN, thanking the petitioner and his colleagues for their work. They felt that while the proposed language in the petition offers up good ideas for village center zoning, and that the points raised are and will be considered seriously as we deliberate village center zoning reform, the Councilors stated that this petition brings attention to public concerns over design and it was suggested that Planning incorporate elements of this proposal as part of its public engagement campaign.

Councilor Baker made a motion to close the public hearing which carried 8-0.

Councilor Baker motioned to vote No Action Necessary which carried 8-0.

The Planning & Development Board voted to close the public hearing 4-0.

Mr. Doeringer asked if the Planning Board needed to take a vote on this item and Atty. Lee answered that it does not since the item is being voted NAN but it can. Mr. McCormick made a motion to vote No Action Necessary which carried 3-0-1 (Director Heath abstaining).

#127-22 Request for amendment to the Zoning Code to regulate “last mile” delivery services

COUNCILORS LAREDO, DOWNS, CROSSLEY, RYAN, KALIS, DANBERG, KRINTZMAN ALBRIGHT, MARKIEWICZ AND WRIGHT requesting an amendment to the Zoning Code to regulate “last mile” delivery services in the City of Newton.

Action: Zoning & Planning Held 7-0 (Councilor Leary not voting); Public Hearing set for 04/25/22

Note: The Committee was joined for discussion on this item by Phil Plottel, Chair of the Economic Development Commission (EDC), along with EDC members Chuck Tanowitz and Sarah Rahman. They were also joined by Jodie Zussman and President Greg Reibman of the Charles River Regional Chamber.

Mr. LeMel delivered the attached presentation, picking up from the prior discussion in ZAP of this item in late January, regarding whether and how to regulate “last mile” delivery centers. This is a new business model, which will be called “microfulfillment “centers. Mr. LeMel stated that the Advisory Group, comprising Ms. Zussman, Mr. Tanowitz, and Mr. Doeringer, has met every week since January and presented to the Planning & Development Board, the Regional Chamber, and EDC. There have also been discussions with Gopuff, the only microfulfillment center operator in Newton.

Mr. LeMel defined microfulfillment centers as looking like retail from the outside but which are primarily a warehouse and distribution center. Deliveries are often done by bikes and scooters in urban areas like Boston, Cambridge, and Brookline.

Currently micro fulfillment centers are not a defined use in the code, so ISD sees them as retail uses, which are allowed in village centers by-right. Mr. LeMel stated that Planning drafted the proposed ordinance to allow this option, but in a controlled manner. This proposed ordinance does not apply to businesses who offer delivery as a supplemental service.

The proposed ordinance would allow microfulfillment centers by-right within BU1 BU2, MU1, MU2, M, and LM districts, but subject to listed standards. These standards would recommend one parking spot per 750 square feet, plus one per four employees, limit overall size to 5000 square feet in BU districts and 10,000 square feet within MU/LM/M districts, and require 2 spaces for delivery vehicles for the first 2,500 square feet and additional one space for every additional 2,500 square feet. Additionally, both an in-store retail component and 50 percent storefront transparency requirement are proposed, but with certain exemptions, such as if the business is located in the rear of a building. Within village centers, below grade and second floor spaces would also be exempt since they do not contribute to the streetscape. Mr. LeMel noted that Gopuff has been in place for about two years without any problems. Mr. LeMel described the two alternatives proposed for BU1 and 2 districts in the proposed ordinance. The first bans them entirely, reasoning that the requirements would be too difficult to enforce, and the negatives would outweigh the benefits. The second allows microfulfillment centers but not on the street, reasoning that this will keep them from directly impacting the pedestrian experience.

Mr. LeMel recommended a public hearing be set for April 25.

Discussion:

Mr. Plottel stated that the EDC has not taken a formal vote yet. He expressed concerns about the vitality of village centers and how these businesses would impact parking. He questioned whether this encouraged the uses that the community wants. Mr. Tanowitz supported the focus on village center vitality.

Councilor Laredo spoke as the lead docketer, thanking the Planning Department for its work on this item. He stated that while it makes sense to allow microfulfillment centers in village centers, the storefront requirement may be hard to enforce.

Devra Bailin, Economic Development Director supported the conclusions of the Advisory Committee.

Mr. Steele summarized a presentation he made to the Planning Board on this topic and urged caution as some of these uses may create effects similar to banks which do not attract more foot traffic into village centers. Since these businesses would be serving the broader Newton market, they may create rent competition within the village centers as well.

Mr. Doeringer stated his concerns about the nature of these businesses and the incentives they face. These included their nature as growth businesses, the speed of their vehicles, and the frequency of replenishment. He stated that it would be better if there was real-time electronic enforcement and monitoring of the parking issues created by this use.

Ms. Zussman stated that some of these businesses may want to go into former bank locations due to the space they provide

Chamber President Reibman urged the Council to avoid being too restrictive on this use as the future for this business is uncertain.

Discussion:

Committee members thanked staff for their thorough and collaborative work with the EDC and Chamber. Committee members generally agreed that if microfulfillment centers are to be allowed, they should be carefully regulated, and expressed concerns about enforcement of the retail component requirement. Other comments were as follows:

Non-retail uses should be limited to above and below the first floor. These centers should not be allowed even in the rear of a building that fronts a main street, but a side street would be fine. The proliferation of banks took up much space for non-retail use and delivery would also take up valuable parking space.

It is important to regulate them to preserve village centers as streetscape vital areas. They could be good for areas where residents do not have the ability to walk to a store as they could function similar to a convenience store.

Delivery vehicles could be disruptive to residents who abut micro fulfillment centers.

Allowing these fulfillment centers could help to support higher density housing around village centers.

A councilor stated that there is no scenario under which microfulfillment centers should be allowed in village centers, and that they may be a nuisance to surrounding businesses due to the delivery vehicles.

Another councilor felt that the parking requirements proposed are too great.

Other strategies better support transit-oriented housing such as closing certain streets.

Currently, could a microfulfillment center move into the empty Walgreens, black out the windows, block the door, and open?

Mr. LeMel answered yes, current zoning allows this use, as long as the business meets retail parking and other zoning requirements would be allowed by-right. Our current ordinance does not require on site sales.

The special permit option should also be discussed as this could allow them into the BU zones. If standards are stricter, they can always be relaxed later on.

Asked for Planning's interpretation of the discussion, Deputy Director Caira stated that the zoning should avoid mentioning side streets vs main streets. She felt that there was consensus against allowing these businesses in village centers, but that areas like Needham Street would be fine provided they had proper setbacks. Additionally, there would be no restrictions other than size in the manufacturing districts and parking requirements would also be reduced. To keep them out of village centers, Deputy Director Caira stated that they would need to be kept out of BU1 and BU2 zones as there is not yet a village center zone. She also clarified that this will be a temporary measure until village center zoning is perfected.

Councilor Albright made a motion to set a public hearing for April 25th which carried 7-0 (Councilor Leary not voting).

Councilor Krintzman made a motion to Hold which carried 7-0 (Councilor Leary not voting).

#180-22 Reappointment of Daniel C. Green to the Conservation Commission
HER HONOR THE MAYOR reappointing Daniel C. Green, 38 Everett Street,
Newton Center to the Conservation Commission for a term of office to expire on
January 1, 2025. (60 days: 05/06/22)

Action: Zoning & Planning Approved 7-0 (Councilor Leary not voting)

Note: Councilor Krintzman made a motion to approve which carried 7-0 (Councilor Leary not voting).

The meeting adjourned at 10:27pm.

Respectfully Submitted,

Deborah J. Crossley, Chair