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Barney S. Heath
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MEMORANDUM

DATE: November 3, 2023
TO: Councilor Susan Albright, City Council President
City Council

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
Joe Iadonisi, Planning Associate

RE: **#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)
#39-22 Requesting discussion on state guidance for implementing the Housing Choice Bill
COUNCILOR CROSSLEY on behalf of the Zoning & Planning Committee requesting discussion on state guidance for implementing the Housing Choice element of the MA Economic Development legislation. (formerly #131-21)

MEETING: November 6, 2023

CC: Planning Board
Jonathan Yeo, Chief Operating Officer
Alissa Giuliani, City Solicitor

The City Council Zoning and Planning Committee (ZAP) voted to recommend the Village Center Overlay District (VCOD) zoning proposal to the full Council at their Monday, October 23 meeting. This milestone comes after nearly three years of research, analysis, and community engagement. To help facilitate the deliberation at City Council, Planning staff are providing the following materials.

Background on the Village Center Zoning

Village centers have traditionally served Newton as centers of commerce, places to meet for a coffee or a meal, where one can catch a train or bus to Boston or elsewhere, and great places to live. And allowing for housing near businesses and close to transit makes perfect sense (and cents) for both the residents and village center businesses in terms of their health. But the current zoning in and around our village centers is not at all conducive to this historically beneficial model of having mixed-use areas, convenient and efficient, to live, work, shop, and play. The zoning for village centers has been in place since 1987, when the ability to build multi-family housing and mixed-use development was drastically reduced or eliminated.

The Village Center Overlay District (VCOD) is a proposed set of zoning regulations for the commercial centers and immediately surrounding residential areas of 13 of Newton's commercial village centers,

covering about 3% of the city. As an overlay district, a property owner only gains options. They may choose to build under the existing zoning or opt into the VCOD. The VCOD includes three sub-districts with allowed heights between 2.5 and 4.5 stories, applied to each village center uniquely, unlike the current zoning, which has the same set of requirements for all village centers. The VCOD zoning is consistent with city-wide goals to:

- I. Increase housing options – Easier to build housing of varying types and sizes
- II. Support local businesses – Simplify rules for opening and growing a business, more customers to frequent shops
- III. Reduce greenhouse gas emissions – Fossil free development per the forthcoming Electrification Ordinance, compact development near transit/services
- IV. Create more affordable/accessible housing – Smaller units and more inclusionary affordable units

The VCOD zoning would also bring Newton into compliance with the requirements of the MBTA Communities Law, which requires cities and towns served by the MBTA to zone for by-right multifamily housing capacity near transit. Newton’s deadline for compliance is December 31, 2023. Also, compliance with the MBTA Communities law also satisfies the affordable housing requirement of the Ten Communities Act, that will allow Newton to require electrification of new construction.

The latest version 3.1 of the draft VCOD zoning map and ordinance can be found as attachments to this memo and at [this link](#).

How We Got Here

This zoning proposal follows more than two years of community engagement, numerous proposals and analyses, and months and months of meetings and presentations with ZAP. Along with City staff, experts in urban design and the economics of development have assisted in testing and shaping this proposal to achieve our community goals. Some of the outreach highlights include:

- Discussion at more than 50 [ZAP meetings](#)
- Thousands of [community visioning submissions](#)
- Targeted [focus group](#) discussions
- Input from a 90-person [community engagement network](#)
- Hundreds of [written testimonials](#)
- Direct noticing to property owners/tenants, within proposal and abutters (6,000+ postcards)

More details about this multi-phased effort can be found on the [Community Engagement page](#) of the Newton Planning website.

Proposal Highlights and Key Information

The VCOD is focused in and immediately around 13 of Newton’s commercial village centers, covering just 3% of the City. Though targeted, the VCOD provides important opportunities for people to live near transit, shops, and restaurants. The zoning is balanced across the Green Line and Commuter Rail stations

as well as throughout other traditional, walkable village centers, many of which are served by buses. Choosing which village centers to include within the VCOD proposal occurred through [historical review](#), [community visioning](#), and [quantitative research](#).

MBTA Communities compliance

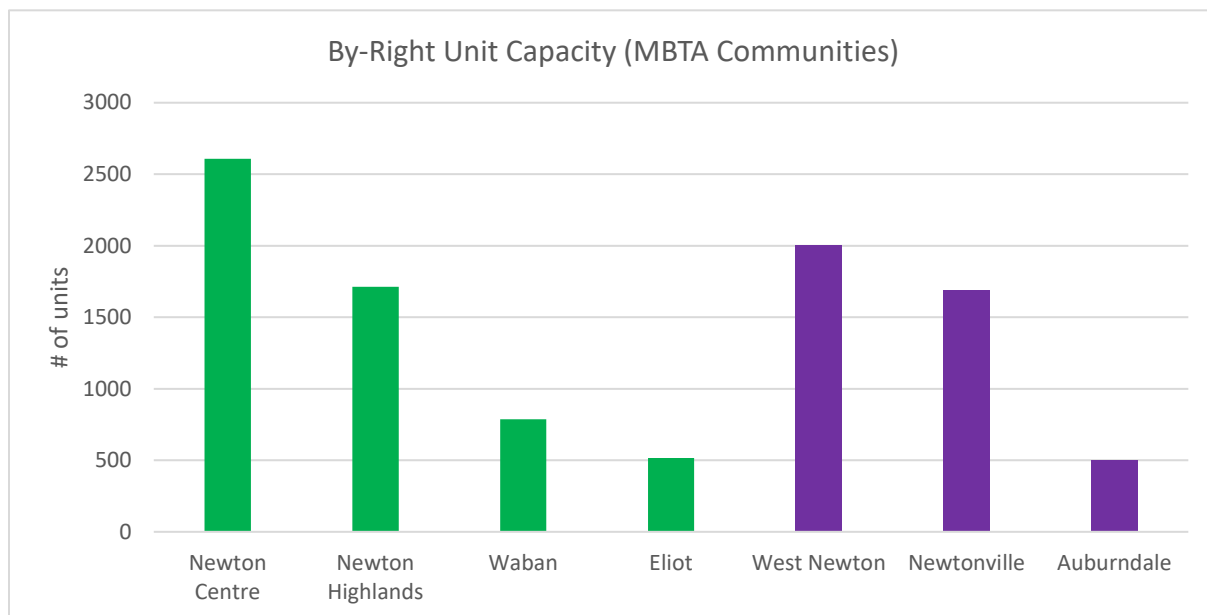
This effort began almost three years ago at the direction of ZAP to develop new zoning for village centers that builds upon over a decade of city goals related to housing, climate, and the economy. While this effort was already underway, the state passed the MBTA Communities Law, requiring Newton, along with 176 other communities served by the MBTA, to adopt zoning that allows for multifamily housing (3 or more units) to be built by-right near transit stations. Newton's requirement is for zoning with a unit capacity of at least 8,330 units. It is important to note that unit capacity is calculated per a model created by the state that is looking to determine the absolute maximum number of housing units that could be built under zoning. It is not an estimate of what might realistically get built. The unit capacity calculation does not take into consideration existing housing and assumes every single lot is a blank slate and is built with the most housing possible without providing a single parking space onsite.

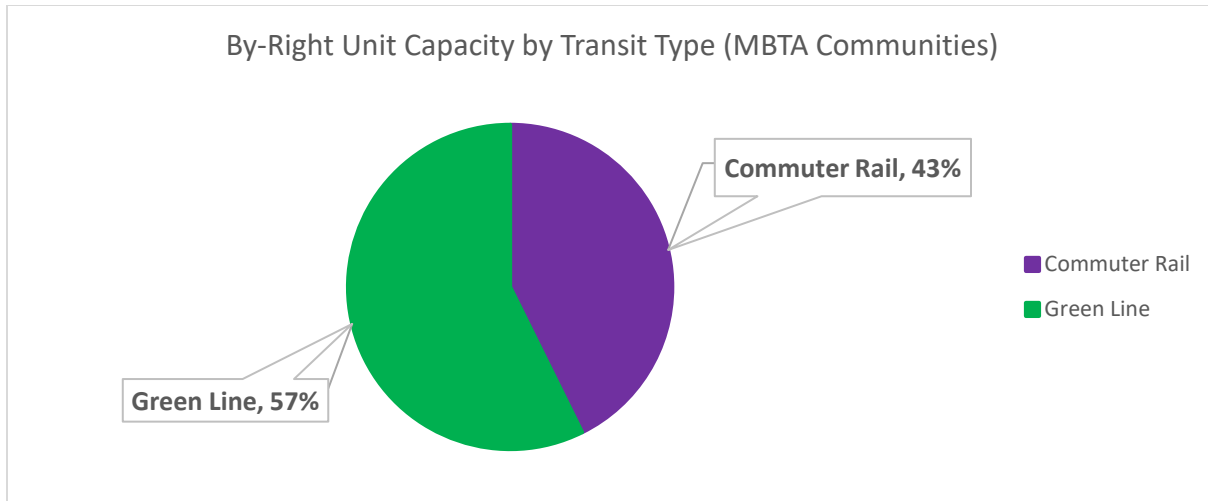
Planning staff previously calculated the unit capacity for the MBTA Communities Law compliance for Version 3.0, which met all of the compliance requirements and slightly exceeded the minimum unit capacity. ZAP made minor changes to the maps between versions 3.0 and 3.1 that results in a minimal reduction to unit capacity in Newtonville and Waban. Following any potential changes to the zoning text or maps by the City Council, Planning staff will update the calculations and submit to the state prior to the December 31 deadline.

Village center zoning distribution across the city

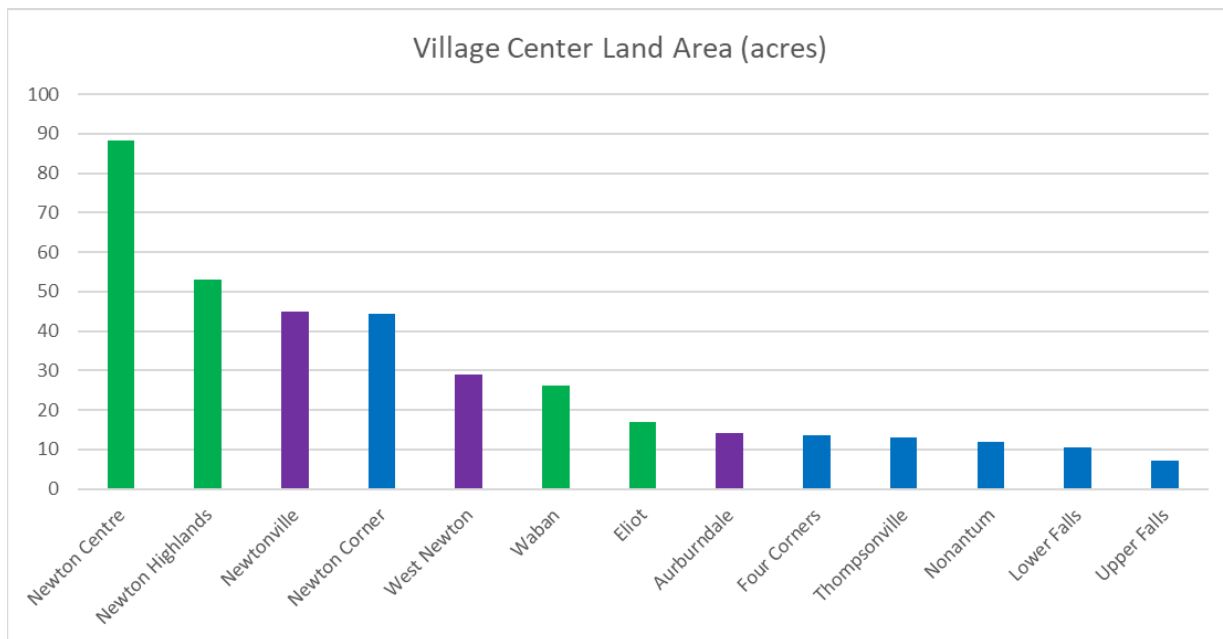
The VCOD proposal is spread across 13 of Newton's commercial village centers. This distribution ensures development pressure is not concentrated in one area and that new housing (and affordable housing) can be provided in each village. It also disperses the effects of new development on city services.

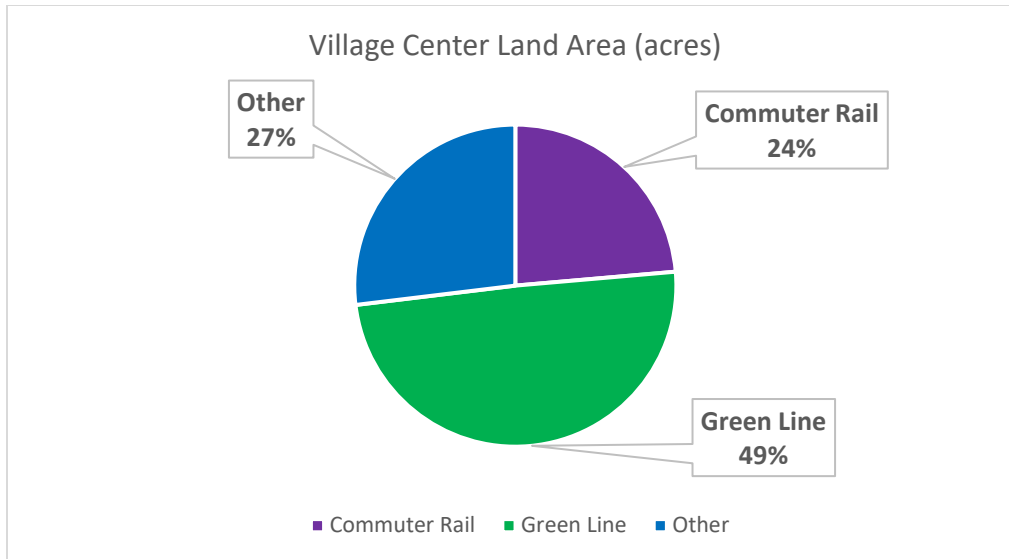
Using the state's MBTA Communities model the villages along the Green Line would have capacity for approximately 1,500 more units by-right than the villages along the Commuter Rail.





Looking at the number of parcels and overall area included in the entire VCOD proposal, almost three-quarters of the area included in the VCOD is located within a half mile of a transit station. About half of the total area is focused along the Green Line with the remainder split fairly evenly between the village centers along the Commuter Rail and those that are further from a transit station. Aside from Newton Corner (which has access to express buses to Boston), the smallest areas in the VCOD are those villages not adjacent to a transit station.





Smaller developments

The existing zoning ties building size to lot size, so the larger the lot, the larger the building that can be built. Developers are also incentivized to consolidate multiple lots and to propose a larger building to mitigate the risk inherent in the process to rezone the site and seek a special permit.

The VCOD proposal decouples building size and lot size and ties the level of discretionary review to the size of the lot. Buildings can never exceed the footprint and height set by the zoning district (except in limited conditions when the amount of affordable housing is significantly increased). By-right development without any additional review and public hearing by either the Planning Board or City Council can only occur on lots that are less than 20,000 square feet (less than half an acre). Regardless of the level of review, all VCOD projects are subject to required design standards to ensure a higher quality building design that fits into the village center.

In the Village Center 3 (VC3) district, which allows for the largest buildings and is generally limited to major corridors and the core of village centers, buildings are allowed up to 4.5 stories and a footprint of 15,000 square feet. For example, Trio and 28 Austin Street in Newtonville could not be built under the VCOD. Trio is on a 120,000 square foot lot and has two buildings with footprints of approximately 20,000 square feet and 35,000 square feet. The footprint of 28 Austin Street also is almost double what is permitted in VC3.

Preservation of existing buildings

The zoning proposal will not change any aspect of the current historic review process and landmarks, National and state register properties, and buildings proposing full or partial demolition will still be subject to review by the Newton Historical Commission (properties located in local historic districts were excluded from the zoning proposal per the City Council's recommendation). In addition, the zoning discourages tear downs of existing homes and makes it easier for institutional and commercial buildings (such as churches) to be adapted to new uses.

The Multi Residence Transit (MRT) district includes incentives for when existing homes are converted into multiple apartments or condos. Under the existing zoning single- and two-family homes are often torn down and turned into a much larger, more expensive home or two condos. This proposal encourages the preservation and conversion of existing homes into 3-6 apartments or condos.

The VCOD proposal also lets the market drive the amount of parking provided on site. The zoning removes the minimum parking requirement in the VC2 and VC3 zones, eliminating a significant hurdle for existing

buildings looking to bring in new uses (which often results in the need to seek a special permit to waive the requirement to provide additional parking onsite, even when the building is not being enlarged). One space per residential unit is required in the MRT zone for new buildings.

More affordable housing

New buildings in the Village Center Overlay District will be required to comply with the requirements of the inclusionary zoning ordinance. This means any building with more than six units must provide 15% to 20% of the units as permanently affordable housing. The proposal also includes an affordable housing bonus when at least 25% of the units are permanently affordable at an average of 65% of Area Median Income.

In addition, the dimensional requirements for residential development in the MRT zone encourages more units that are smaller than what typically is being constructed today. These smaller units should have lower price points compared to units in new two-family homes.

Protections for residential neighbors

The proposed zoning is designed to transition from the VC3 and VC2 zones in the core of the village centers to the residential MRT zone to the adjacent residential neighborhoods. The zoning includes protections for when the VC3 and VC2 districts are adjacent to MRT or residential parcels including, upper floor setbacks, height step downs, limitations on utilizing the affordable housing bonus, increased setbacks, and screening requirements. Amendments from Version 1 to 3.1 also reduced maximum building heights, increased upper floor setbacks, increased open space requirements, a minimum frontage requirement in MRT, a minimum parking requirement in MRT, and increased setbacks in all districts.

VCOD Updates from Version 3.0 to 3.1

Following the close of the public hearing on September 26, 2023, ZAP held two meetings in October where a final series of amendments were considered. In addition, City staff (Planning, Law, ISD, etc.) have continued to refine and clarify the proposed language so that it is fully achieving the desired intent. These changes are reflected in Version 3.1. Explanations, as appropriate, are provided here. Non-substantive changes are not included below but can be found in the redline Version 3.1 document (Attachment B).

Map Amendments

Newtonville –

- 304-306 Walnut Street (change to VC2 from VC3)
- 308-322 Walnut Street (change to VC2 from VC3)
- 899 Washington Street (change to VC2 from VC3)
- 911 Washington Street (change to VC2 from VC3)

Waban –

- 68-70 Wyman Street (change to VC2 from VC3)
- 1535 Beacon Street (add to VCOD as MRT)

Nonantum –

- All VC2 properties east of Adams Street (remove from the VCOD Proposal)

- After multiple discussions at ZAP, there was consensus amongst the committee, as well as all three councilors from Ward 1, to remove the VC2 zoning along Watertown Street east of Adams Street. There was also consensus that the manufacturing districts located north of Watertown Street along Adams Street, Chapel Street, and Bridge Street may be appropriate for new zoning. An item has also been docketed with the city council requesting “a discussion with the Zoning & Planning Committee and the Planning Department to consider re-zoning certain manufacturing districts adjacent to the village of Nonantum, to appropriate uses and scale, relative to the proximity to the village center”. The Planning Department has recently studied the large manufacturing area off of California Street near the Watertown border and looks forward to building upon this analysis as well as working with the Nonantum community and ward councilors to develop zoning for the manufacturing areas adjacent to the village center.

Zoning Text Amendments

Require 1.0 parking spaces per residential unit for new construction in MRT

- ZAP approved this amendment from Councilor Crossley 6-1.

Triggers for site plan review and special permit (Sec. 9.2.4.B.)

- In [version 2.0](#) (page 4-5) the dimensional standards table showed what triggered additional discretionary review. In [version 3.0](#) (page 5), this was removed from the table and put in the development review section. However, it was not properly transcribed. The latest version corrects this error. For VC2 and VC3, the lot size determines the level of review. In MRT, multiple buildings on a lot determines the level of review for new construction and adaptive reuse.

Adaptive reuse clarification (Sec. 9.2.6.B.8.c)

- Further clarification was needed on permissible alteration to the front elevation and language on how Inspectional Services can allow other changes if structural damage is found during reconstruction. Language was further refined through conversation with the historic planning team.

Differentiate between awnings for principal entrances and other entrances/windows (Sec. 9.2.6.B.10.f)

- Awnings offer protection from the weather and can further signalize a building main entrance. Because of this the dimensional allowances are different for these two awning types. Awnings for principal entrances may project out further than awnings for a window.

Update the façade articulation based on urban design best practice (Sec. 9.2.6.B.11)

- Exempt ground story active uses and the half-story from needing to meet the façade articulation requirements. Ground floor commercial spaces would be negatively impacted from having notches or offsets carved into them. Similarly, the half-story is either pitched or already set back from the floor below it. Design wise, it does not make sense to require a notch or offset at the half-story.
- A bay or balcony, or some combination of the two, may be utilized to satisfy the façade articulation so long as they meet the minimum dimensional requirements. It was not clear whether these architectural features could satisfy the requirement. This addition makes it explicit as they would realize the intent, which is breaking up a long flat façade.

Corner lots may have up to one curb cut per frontage with approval from DPW (Sec. 9.2.6.C.6)

- Overall, curb cuts are not permitted along a primary front lot line when access is available elsewhere. In the case of corner lots, there may be a strong rationale for having a curb cut on each frontage

though. For example, one way entry on one frontage and one way exiting on the other may be best for overall circulation. This was not allowed before, but now is allowed with approval from DPW.

Remove the fee requirement in the site plan review submission requirements (Sec. 9.2.9.B.4)

- The city is looking comprehensively at the fee requirements for special permits and site plan review. Once that work is completed a fee will be recommended for City Council's approval.

Update site plan review procedures (sec. 9.2.9.B.5)

- Update that the Planning Board will close the public hearing within 120 days (previously 180 days) and render a decision within 60 days (previously 45 days) of closing the public hearing. This change was recommended by the Planning Board and should provide ample time for a project to be fully reviewed and a decision made.

Monitoring and Reporting Moving Forward

As with any new zoning ordinance, it is critical to review and monitor the outcomes once implemented. This is the case for Inclusionary Zoning (IZ), which has a five-year look back, coming up in 2024. In addition, the recently updated Accessory Dwelling Unit (ADU) ordinance, revised in fall 2022, grew out of a review of the successes and failures of the previous ADU ordinance.

Likewise, this will be the case for the VCOD proposal. Even before adoption, Planning staff have consistently reviewed specific VCOD language with other teams within Planning (Current, Historic, Conservation, Housing, etc.) and other City departments (ISD, Law, DPW, Fire, Schools, Parks, etc.). This will continue once adopted and the projects reviewed will inform future improvements to the ordinance itself and help guide other City resources as necessary, like infrastructure improvements. In addition, as projects come in for building permits, Planning staff will work with ISD to share out reports to the City Council as appropriate.

Zoning cannot be a static endeavor. Rather, it is a dynamic document that through careful monitoring and reporting can be regularly improved upon by the City Council.

Next Steps

Planning staff look forward to working with the City Council as deliberations begin on the VCOD proposal. If the City Council votes to approve the VCOD zoning then staff will quickly work to submit the zoning for MBTA compliance by the December 31, 2023 deadline.

Attachments

Attachment A	Version 3.1 VCOD zoning ordinance (clean)
Attachment B	Version 3.1 VCOD zoning ordinance (redline)
Attachment C	Version 3.1 VCOD zoning map (citywide)
Attachment D	Version 3.1 VCOD zoning map (individual village centers)
Attachment E	Version 3.1 VCOD parcel list