



Zoning & Planning Committee Report

City of Newton In City Council

Monday, December 11, 2023

Present: Councilors Baker (Chair), Oliver, Albright, Wright, Krintzman, Getz, Danberg, and Kalis

Also Present: Councilor Farrell

City Staff: Barney Heath, Director of Planning; Jennifer Ciara, Deputy Director of Planning; Zachary LeMel, Chief of Long Range Planning; Olivia James, Community Engagement Specialist; John Sisson, Economic Development Director; Andrew Lee, Senior Assistant City Solicitor; Anthony Ciccariello, Commissioner of Inspectional Services; Andrew Mavrelis, Deputy Commissioner of Inspectional Services; and Jaclyn Norton, Committee Clerk

Planning & Development Board: Kelley Brown (Chair), Peter Doeringer, Kevin McCormick, Lee Breckenridge, Barney Heath, Jennifer Molinsky, and Amy Dain

For more information regarding this meeting, a video recording can be found at the following link: [Zoning and Planning Committee - January 8, 2024 \(youtube.com\)](https://www.youtube.com/watch?v=...)

#21-24 Discussion concerning ZAP Committee workplan for the new term
COUNCILORS BAKER AND OLIVER requesting a discussion with Zoning and Planning Committee concerning the work plan of the ZAP Committee for the new 2024-2025 term.

Action: **Zoning & Planning Held 8-0**

Note: The Committee was joined by the Planning & Development Board and the chair asked that Councilors, Planning & Development Board members, and staff introduce themselves to each other and the public as new members have joined the Committee. The Chair noted that this discussion will be used to determine items that can be taken up by the Committee before budget discussions. In the backup material for this meeting, there was a memo from the Chair and Vice-Chair outlining a variety of topics for consideration. The Clerk in advance of the meeting also received a memo from Councilors Albright and Danberg that outlined items that have been or are set to be docketed for referral to the Zoning & Planning Committee. (attached) For discussion at this meeting, the Clerk shared a compiled version that organized the items from Councilors Albright and Danberg's memo with the topics in the memo from the Chair and Vice-Chair. (attached)

The compiled memo that was presented is broken down into the below substantive sections.

Current Zoning

The Committee discussed potentially taking up an item related to reducing the incidences of demolition of older homes. A Councilor noted that an item in the memo regarding potential revisions to the metrics of the multi-residence districts could be taken up during this discussion. This section included a study of the Manufacturing Zone which would be focused on the work done along California Street and beginning to look at Nonantum and other manufacturing areas. Councilors also expressed interest in having an initial conversation regarding grade changes in new construction resulting in buildings that are significantly taller than nearby homes.

Regarding potential updates to the Inclusionary Zoning (IZ) Ordinance, the Chair noted previous discussions on whether 7 units is an appropriate threshold for the ordinance. Two items docketed are in the attached memo and focus on potential updates to this threshold and how to mitigate bias against residents of IZ units. A Councilor on the Committee noted that Cambridge had done a study regarding this bias and the information from that study could be helpful for this conversation. Barney Heath, Director of Planning, noted that this term would be an appropriate time to examine the IZ ordinance.

MBTA Communities

The Chair noted that the City has submitted the ordinance for review to the Executive Office of Housing and Livable Communities (EOHLC). Zachary LeMel, Chief of Long-Range Planning, added that the City is still waiting on the complete compliance package which includes an economic feasibility analysis from MAPC. This feasibility analysis is currently being completed and the City and MAPC are in communication with EOHLC to ensure that the City is not penalized. Once this analysis is completed a copy will be shared with the City Council. Committee members were also in favor of taking up an item in the attached memo regarding quarterly check-ins on the Village Center Overlay District (VCOD). Later in the discussion Jennifer Caira, Deputy Director of Planning, described that the Planning Department is working with ISD to flag projects within the VCOD to ensure accurate reporting.

A Councilor earlier in the discussion proposed two potential amendments to the zoning passed last term to satisfy compliance with the MBTA Communities Act. These amendments are to increase both usable open space requirements and MRT lot frontage. They also asked the Law Department to respond on how the recommendation on the voting threshold of an amendment to the zoning ordinance is determined. Andrew Lee, Senior Assistant City Solicitor, noted that this determination would be made once there is ordinance language of the amendment to review.

Measurement and Reporting

Councilors expressed support for having a future conversation regarding data that should be collected and reported on and how it can be best shared with the public. Kelley Brown, Chair of the Planning and Development Board, noted that this information being public could help dispel some misinformation.

Regarding the status of Newton reaching Safe Harbor, Ms. Caira noted that as of that morning, the City had reached the threshold of the Subsidized Housing Index (SHI) to enact Safe Harbor.

A Councilor asked if the Planning could give an update on the process for 40B projects at a future meeting not that Safe Harbor has been enacted. A Councilor mentioned that Brookline has a 40B status webpage ([Chapter 40B Status | Brookline, MA - Official Website \(brooklinema.gov\)](https://www.brooklinema.gov/40B)) and a 40B project dashboard. ([Large Projects Update 11-8-23.xlsx \(brooklinema.gov\)](#)) Other Councilors noted that similar information being shared publicly for Newton could be useful.

Housing

Regarding the items for consideration in this section, both the Planning and Law Departments will need time to look at potential remedies to these questions.

Enforcement Work by ISD

For ensuring compliance with the zoning ordinance and special permit conditions it is primarily driven by complaints. Anthony Ciccariello, Commissioner of Inspectional Services, noted the difficulty in enforcing some special permit conditions and that knowing the conditions requires that each special permit be read by staff. A Councilor noted that they have filed some complaints previously regarding street-side fences and have seen some changes. Commissioner Ciccariello also noted that the enforcement officer for the leaf blower ordinance has been very effective at ensuring compliance.

The Committee also discussed that an item has been docketed for an update regarding compliance and enforcement of the short-term rental ordinance. Councilors indicated a preference for this to be taken up sooner to allow them to better understand the enforcement process.

Energy Conservation and Climate

Director Heath noted that the Mayor had docketed an item to adopt an electrification ordinance and that it is ready to come before the Committee. Adoption of this ordinance is required for participation in the Ten Communities Program which would allow Newton to require that all new construction and substantial renovation be all-electric. An item has also been docketed from Councilors Albright, Danberg, and Leary regarding the discussion and adoption of a Building Emissions Reduction and Disclosure Ordinance (BERDO) which would create additional requirements for major projects.

Economic Development

An item has been docketed regarding aiding small businesses impacted by development. A Councilor noted that Somerville has done a report on this and would like to see if there is anything similar that could be done by Newton. John Sission, Economic Development Director, noted that he attended a seminar on this report and will need to do more research to figure out potential solutions for Newton. The Planning Department has internally discussed construction impact mitigation measures along with ideas on how to prevent displacement of small businesses.

Community Preservation

The Committee currently has before it a request from the Community Preservation Committee (CPC) regarding the restoration of the Second Church in Newton. The Chair noted a preference

for discussing this item at an upcoming meeting. A Councilor noted that more Community Preservation Act (CPA) funding should be allocated towards housing. Mollie Hutchings, CPA Program Administrator, stated that this allocation is currently at 35% and the CPC is meeting on Tuesday, January 9th to set goals for the year. Councilors also asked if during the discussion on the CPC request the current balance available for each CPA allocation could be provided.

Boards and Commissions

The Chair indicated a preference for taking appointments and reappointments up promptly. An item has also been docketed to request periodic updates from the Municipal Affordable Housing Trust.

Response to State Legislation

The item in this category refers to legislation in the General Court that would allow for more ease in constructing Accessory Dwelling Units (ADUs) and remove the owner occupancy requirement. The Committee will be able to decide if they would like to issue a formal response to this proposed legislation. A Councilor noted that Newton could provide useful information due to the recently revised ADU ordinance on the frequency in which they are developed.

Recodification

The Chair noted that this is worked on with the City Clerk's Office to incorporate zoning amendments into the official ordinances.

Public Education

Regarding public education, multiple Councilors noted support for the development of a primer for the public on what zoning is. One Councilor mentioned a previous brochure by the Planning Department that has some helpful information and would be a good start. (attached)

Committee Process

Regarding the process of the Committee, the Chair outlined that reports from Committee meetings will remain factual to the information discussed at the meeting. The Chair also requested that Councilors and staff attend these meetings in person and let the Committee Clerk know if they are unable to attend. Advance notice will be provided to the Committee regarding the process for public hearings along with information regarding the legal constraints regarding amendments to the zoning ordinance.

Pre-budget Department Interviews and Questions

The Chair noted that these discussions will help serve the purpose of informing the Council about the workings of each department along with better knowing what resources they need.

Parking Minimums

Councilors Albright and Danberg in their memo had included an item on potentially extending the reduction of parking minimums to non-VCOD villages. Amy Dain, Member of the Planning & Development Board, recommended that the Committee also look at options for providing parking if no parking is provided on-site.

Committee members voted 8-0 on a motion to hold item #21-24, #22-24, #23-24, and #24-24 from Councilor Krintzman.

#23-24 Update on Short-term rental ordinance compliance and enforcement
COUNCILORS MALAKIE, WRIGHT, KELLEY, LAREDO, LIPOF, HUMPHREY, LUCAS, ALBRIGHT, DANBERG, AND OLIVER requesting an update on Short-term Rental ordinance compliance and enforcement, including data on registrations, complaints, investigations and fines issued; types of violations being found (e.g. non-owner occupied, room limits, annual time limits, other code violations like noise, health & safety, trash); ability to compare STRs registered with the city vs registered with the state vs listings on public platforms; ability to obtain listing information from STR companies; adequacy of resources or other obstacles to enforcement.

Action: Zoning & Planning Held 8-0

Note: This item was discussed concurrently with item #21-24. A written report can be found with item #21-24.

#24-24 Request for discussion and possible ordinance amendments relative to aiding small businesses impacted by development
COUNCILORS ALBRIGHT AND KELLEY request the Planning Department with the assistance of the Economic Development Commission, research and develop mechanisms including ordinance changes or other means to assist local businesses impacted by development similar to the Somerville work. The goal of this docket item will be to help small commercial/retail/independent and locally-owned businesses remain in Newton as development occurs.

Action: Zoning & Planning Held 8-0

Note: This item was discussed concurrently with item #21-24. A written report can be found with item #21-24.

#22-24 Referred to Zoning & Planning & Finance Committees
CPC Recommendation to appropriate \$125,000 in CPA funding
COMMUNITY PRESERVATION COMMITTEE recommending appropriation of \$125,500 in Community Preservation Act funding from the FY24 Historic Resource Reserve Funds to the control of the Planning & Development Department for a grant to the Second Church in Newton for the restoration.

Action: Zoning & Planning Held 8-0

Note: This item was discussed concurrently with item #21-24. A written report can be found with item #21-24.

The meeting adjourned at 8:44pm.

Respectfully Submitted,

R. Lisle Baker, Chair