



Zoning & Planning Committee

Report

Part 1

City of Newton In City Council

Monday, September 13, 2021

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

Also Present: Councilors Malakie, Oliver and Lucas

City Staff: Deputy Director of Planning and Development Jen Caira, Planning Associate Cat Kemmett, Chief of Long Range Planning Zachary LeMel, Planning Associate, Cat Kemmett, Director of Planning and Development Barney Heath, Community Planning/Engagement Specialist Nevena Pilipovic-Wengler, Assistant City Solicitor Andrew Lee, Chief Operating Officer Jonathan Yeo and Senior Planner Jennifer Steel

Planning and Development Board: Peter Doeringer and Kevin McCormick

Utile Consultants: Timothy Love and Lisa Hollywood

Others Present: NewTV

#178-20 Adoption of the Open Space and Recreation Plan Update

DIRECTOR OF PLANNING requesting discussion of the 2020-2027 Open Space and Recreation Plan, a letter stating that the Zoning and Planning Committee reviewed the Plan, and adoption of the plan as an amendment to the 2007 Comprehensive Plan.

Zoning & Planning Held 8-0 on 05/07/20, Public Hearing Closed 05/07/20

Zoning & Planning split the item into three parts on 05/19/20

1. Send a letter to the State that it has reviewed the Open Space and Recreation Plan, Approved 8-0 on 05/19/20 *Part 1 passed full Council on 06/08/20 *

2. Adopt the Open Space and Recreation Plan as an amendment to the 2007 Comprehensive Plan, Held 8-0 on 05/19/20

3. Further discussion on implementation for the 2020-2027 Open Space and Recreation Plan, Held 8-0 on 05/19/20

ACTION:

Part 2. Zoning and Planning Approved 8-0,

Part 3. Zoning and Planning No Action Necessary 8-0

NOTE: Chair Crossley reminded the committee that it was in May or 2020 that Council voted to send a letter to the state recommending the DRAFT OSRP. She added that now that the state has approved a final version of Newton's Open Space and Recreation Plan (OSRP), City Council can consider adopting the OSRP as an amendment to the Comprehensive Plan, as it has done in the past.

Chief Operating Officer Jonathan Yeo and Senior Planner Jennifer Steel joined the Committee for discussion on this item.

Ms. Steel stated that the OSRP has been accepted by the State Department of Conservation Services, a division of EOEAA which is responsible for review and the approval of plans. The State required modifications which were made. These were mostly minor edits. The one major component the state required was a comprehensive inventory and assessment of Parks and Recreation Department facilities regarding ADA components and compliance. The Parks and Recreation Department reviewed each facility identifying where ADA standards apply and work that must be done to comply, which was submitted to the State for approval. To meet all of the objectives of the OSRP, an internal cross-departmental Implementation Committee was instituted which has begun to make progress on the OSRP action items. When conditional state approval was granted in 2020, seven years of grant eligibility began which is applicable through July 2027.

Ms. Steel presented an overview of the OSRP (PowerPoint attached). She reviewed improvements to the OSRP, fully updated data, tables, maps, graphs, robust public engagement, 120 specific action items, detailed ADA facility graph. She also explained how the OSRP for the first time addresses climate change, includes maps of all recreational facilities, maps of each action item, and a trails database.

Committee members comments, questions and answers:

Will the Parks and Recreation Department be completing a strategic plan to detail how we can complete accessible work in City parks? Ms. Steel answered that she did not know if there if they are developing a strategic plan for ADA compliance improvements. However, she stated that the Parks and Recreation Department has a Capital Improvement Plan (CIP). Mr. Yeo stated that the administration is working with the Parks and Recreation Department on the CIP (Draft to be issued in October) to include new projects; many projects involve accessibility requirements.

Please provide an example on how climate change is being addressed. Ms. Steel answered that climate change in the open space aspect of the plan where tree planting and preservation played a large role. An example includes Objective 2E, "the importance of increasing street and park tree canopy covers throughout the city especially in environmental justice communities to increase native habitat and compensate for impending hotter temperatures increased precipitation and urban heat islands."

Do the words "environmental justice communities" refer to areas of Newton with less tree canopy? Ms. Steel answered yes, where the tree canopy may be noticeably less than other parts of the city.

Who determined who serves on the implementation team and perhaps a City Councilor should be on the team? Mr. Yeo answered that the team involves staff from different departments, who need to meet regularly during business hours. An entire fields, parks, structures, trails and outdoor performance space plan has been outlined. This is being further developed and will be presented to the City Council via the Community Preservation Committee (CPC). He added that the OSRP plan also addresses pedestrians and bicyclists.

The implementation team meets quarterly, is that sufficient? Mr. Yeo answered that the quarterly meetings are for the overall team to coordinate the overall effort and keep members on track, but that members of the team working on specific action items meet almost daily.

It is difficult to understand the discrepancies (relative importance) of the comprehensive assessment of the Parks and Recreation Department facilities in terms of their ADA components and compliance. Perhaps, have the “NO’s” in red to understand which of the “NO’s” prevent people from using the park and which of the “NO’s” are nice to have. The graph does not provide an easy and quick analysis. Ms. Steel answered that she struggled with screen readers and consulted with Jini Fairley; colors are not helpful to people with sight disabilities.

Did the Commission on Disability (COD) consider the ADA graph? Ms. Steel answered that ADA Coordinator, Ms. Fairley was involved and help guide the team on what was in the plan and on the implementation with the Parks and Recreation Department.

It is necessary to think about the meaning when you talk about the goals the State required to make parks accessible “as much as feasible”. Ms. Steel answered that the broad statement refers also to every parcel of open space, so in the board goal statements it is not possible to be more specific.

It is necessary to take accessibility extremely seriously, please move up on the timetable to make parks totally accessible. Ms. Steele answered that the Parks and Recreation Department is very concerned on improving accessibility issues in parks and fields.

Others noted that the OSRP completes the necessary first step of completing a careful and thorough inventory of the work needed. Now we must assertively integrate this work into the city capital improvement program and apply resources to advance the work.

What types of grants can the City apply for over the seven year period, and how much money could be available? Ms. Steel answered that hundreds of thousands of dollars are potentially available including land grants, park grants, self-help grants, recreational trails grants and others.

Has the City identified any other open space locations for action? Ms. Steel answered that open space parcels are identified, and she is not aware of any availabilities at this time. Mr. Yeo added that the City is very interested on focusing on a new park at 150 Jackson Road.

It came up during a village visioning in Newton Upper Falls that Lexington, MA has created a program called "ACROSS Lexington" that prescribes walking routes for pedestrians and bicycles.... that we might use to help define access throughout and around a village. Can you describe how this might apply to Newton? Ms. Steel stated that Lexington, MA has done a tremendous job in creating prescribed loop trails which are defined on maps. Each loop is a known pathway, has a known distance and includes points of interest. She and members of the Newton Conservators have been interested in getting something like this mapped for Newton, but we need volunteers and staff to apply to the effort.

Regarding aqueducts, the MWRA has retained the sub-surface easements but not all easements. It is hopeful the process will ensure the space above aqueducts be preserved for public access.

Mr. Yeo stated that a street tree master plan project will be underway. He then offered to speak with Ms. Fairley and Commissioner Banks on Councilors concerns.

Committee members thanked Ms. Steel for her presentation and diligence.

Without further discussion, Councilor Leary made a motion to approve part 2, Adopting the OSRP as an element of the Comprehensive Plan. Councilor Albright made a motion for no action necessary on part 3. Council members agreed 8-0.

#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.

ACTION: Zoning and Planning Held 8-0

NOTE: Chair Crossley stated that this item was docketed when City Council voted to approve housing and retail across the street from the Newton Highlands "T" stop when a direct abutter expressed concern about a shadow that would be cast on their property. Although Council approved the project, some felt that the current ordinance language is unclear as written. If the committee agrees on alternative language, a public hearing date can be assigned.

Planning Associate, Cat Kemmett, Deputy Director of Planning and Development Jen Caira, Chief of Long Range Planning Zachary LeMel, Planning Associate and Assistant City Solicitor Andrew Lee joined the Committee for discussion on this item.

Ms. Kemmett presented (PowerPoint attached) a summary of the MU4 ordinance, including the History of its development and adoption as an element of the Comprehensive Plan, the intent behind establishing mixed use districts as laid out in the Comp. Plan a special permit, concerns with the existing ordinance language and language proposed to clarify that section according to the intent.

Ms. Kemmett stated that it is proposed to revise criteria for projects seeking a special permit for building height and setback requirements in MU-4 and clarify how shadows and blocked views will be assessed. No substantive changes are proposed to MU-4.

The current language in section 4.2.5(A) can be interpreted to mean that a special permit is only appropriate if no shadows or blocked views would be created at all by the proposed building. This interpretation is not consistent with expressed intent of MU4, or past application of standards.

Proposed amendment language to Section 4.2.5(A) of the City of Newton Zoning Ordinance

“Does not create shadows or blocked views that adversely affect its surroundings”.

Staff believe the expected outcomes from this change to be minimal. Rather, this update is a clarifying change to better align with current practice and with the intent put forward in the Comprehensive Plan. The City Council, as the Special Permit Granting Authority, will continue to review the impacts of any shadow or blocked views through a shadow study, with possible factors of analysis including: shadow extent duration, seasonal reach, the ground level uses it affects, among others and determination of adverse impact of shadows and blocked views can be specific to each site and project.

Committee members comments, suggestions, questions and answers:

This seems to leave Council with deciding whether it is a “good” shadow or a “bad” shadow.

There are times when special permits are granted with specific criteria different from the base criteria as a right. Sometimes, the general theory of special permits is not standard. This standard is trickiest when discussing set back requirements. The original language included “what consequences would happen if you left the set back as is”. City Council can waive set back requirements even with adverse setbacks. Applicants may seek a waiver and say that they are creating a shadow. Additional clarification is necessary. Mr. LeMel answered and stated that the language as written states b) no side or rear setbacks are required, except, where abutting a residential district, the required side and rear setbacks shall be no less than 20 feet.

The word ‘significant’ is mentioned, but not in the proposed text, and it is necessary to define and clarify the word “adversely”. Mr. LeMel said that the Comprehensive Plan amendment was reviewed, and it specifically has language that each site can be analyzed on a case-by-case basis. Ms. Caira added that this particular zone was intended to have some flexibility, not prescribed standards and that special permit proposals must be considered in context.

Please explain how the proposed language differs from the current language. The language is not clear. Ms. Caira answered that the original language can be read that “any creation of a shadow is an adverse impact”. Changing the order of those words means it is necessary to consider “whether the creation of the shadow will have an adverse impact, not that all shadows or blocked views **constitute** adverse effects”. The change is minor and was not intended to define adverse impacts, it was meant

to leave some discretion. To be clear, solely the creation of a shadow is not an adverse impact as all buildings will cast shadows. Attorney Lee added the purpose of the language is to clarify one simple ambiguity. The ambiguity is the interpretation that the language is saying that shadows themselves by their very nature create an adverse impact. When the Law Department reviewed the proposed language, the minor change does accomplish this.

Could the language be clarified regarding the definition of an adverse impact? Mr. LeMel answered the language is in the Comprehensive Plan and that the Land Use Committee would determine this.

Guidance should be provided to the Land Use Committee on the balance they try to achieve. Ms. Caira answered yes, guidance could be provided.

Committee members thanked Ms. Kemmett for her presentation.

Without further discussion, Councilor Danberg made a motion to hold this item. A public hearing date was not assigned. Council 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

ACTION: Zoning and Planning Held 8-0

NOTE: This report will be available at a later date.

#326-21 Appointment of David Weinstein as an alternate member of the Newtonville HDC

HER HONOR THE MAYOR appointing DAVID WEINSTEIN, 132 Cornell Street, Newton, MA. 02462 as an alternate member of the NEWTONVILLE HISTORIC DISTRICT COMMISSION for a term to expire on June 30, 2024. This appointment will substitute his appointment as a full member as approved by the Council on July 12, 2021. (60 Days: 10/08/21).

ACTION: Zoning and Planning Approved 8-0

NOTE: Without discussion, Councilor Krintzman moved approval of substituting Mr. Weinstein's appointment from full member to an alternate member. Council members agreed 8-0.

The Committee adjourned at 10:10 p.m.

**Respectfully submitted,
Deborah J. Crossley, Chair**