



Zoning & Planning Committee **Report**

City of Newton **In City Council**

Monday, February 14, 2022

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

Also Present: Councilors Malakie, Laredo, Bowman, Norton, Humphrey, Lipof, Greenberg, Downs, Kalis, Noel, and Lucas

City Staff: Zachery LeMel, Chief of Long-Range Planning; Barney Heath, Director of Planning & Development; Jen Caira, Deputy Director of Planning & Development; Cat Kemmett, Planning Associate; Andrew Lee, Assistant City Solicitor; Ann Berwick, Co-Director of Sustainability; Maureen Lemieux, Chief Financial Officer; Lara Kritzer, CPA Program Administrator; William Ferguson, Co-Director of Sustainability; Nathan Giacalone, Committee Clerk

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

Referred to Zoning & Planning and Public Facilities Committees

#48-22

Requesting an update on the status of implementing the Climate Action Plan
PUBLIC FACILITIES and ZONING & PLANNING COMMITTEES requesting an update from the Sustainability Team and appropriate staff on the status of implementing Climate Action Plan measures, expanding municipal energy efficiency and renewable energy programs as follows:

Newton Power Choice participation rates, municipal power purchasing contracts for gas and electricity; Solar Power Purchase Agreement including operational and PV installations under construction, municipal energy consumption (DOER report) Green Communities grant funded efficiency projects to date, Energy Coach/ "4 our Future" program and zoning ordinances both to increase building energy efficiency/renewables in the private sector and foster sustainable development patterns. (formerly #324-21)

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

Chair's Note: Sustainability Directors will join the committee to present the array of action items pertaining to reducing emissions and fostering clean energy sources in Newton buildings. With Sustainability and Planning staff we will discuss options for advancing the work using working groups, other committees, commission, etc. and outside resources.

Note: The Chair introduced the item, referring to the Chair's note and that the update tonight will focus on Climate Action Plan measures that would ultimately require ordinances or amendments to Chapter 30. The goal is to decide how we can advance the work on these items given the very full agenda of the ZAP committee. There may be a need for additional working groups or committees to begin work on several more complex items. She noted that all of the items to be discussed tonight are listed on the two-page list circulated to Council, and most have docket numbers.

Sustainability Co-Director Ann Berwick joined the committee to provide an overview of Climate Actions that we can achieve through zoning. She began by stating that she would focus on policy measures by which Council could require or incentivize increased building energy efficiency and sourcing clean renewable energy in buildings. Electrification is a goal because electricity can be clean while fossil fuels cannot. Importantly, there will be a focus throughout on pre-emption, to address what measures Newton may take on its own without needing permission from the state. She noted there are several more complex measures that she will describe, then many smaller items that address specific building development standards.

BERDO (Building Energy Reporting and Reduction Disclosure Ordinance). Director Berwick stated that BERDO requires large commercial and residential buildings to achieve net-zero by 2050 and has been adopted in both Boston (BERDO 2.0) and Cambridge (BERDO 1.0) and is under consideration in Watertown. BERDO has been implemented in two phases: BERDO 1.0 requires reporting energy use emissions and BERDO 2.0 which requires reporting and demonstrating annual reductions. She explained that BERDO requires meeting a performance standard, not by mandating specific measures. There are multiple pathways the building owner may choose, depending on the building type. BERDO differs from other measures by addressing all existing buildings, not just new construction.

Director Berwick then described **SRI (Sustainable Residential Incentives Program)**, which is proposed on the Lexington Warrant to be considered at their next town meeting. SRI limits the size that homes may be built by-right but allows increased size if certain are included in the design such as electrification, solar, and a better HERS score (Home Energy Rating Score). It only impacts new buildings and, potentially, large renovations. She clarified that it is currently unclear if SRI may be implemented by a municipality without state permission.

Director Berwick noted that currently, electricity is generated roughly half by fossil fuels and half by renewables, such as wind, solar, hydro and nuclear, and that renewable sources are increasing.

Director Berwick stated that Newton has been working for months on a **Home Rule petition to require electrification** of new construction and substantial renovations. But the draft no longer addresses large commercial buildings as these can be regulated under BERDO. In its current form, the proposed Home Rule petition affects residential and small (under 20,000 sf) commercial

buildings. If Newton gets permission from the state legislature to move forward with electrification, then an ordinance will be drafted, a public education process begun and public hearing set.

MA Legislation

Director Berwick stated that Rep. Khan has filed a bill which would require all new construction and major renovations statewide to be all-electric in order to facilitate the net-zero by 2050 goal. Other pending bills would allow municipalities to require some of these measures, eliminating the preemption issue. Additionally, the MA DOER has issued a "Straw Code". The proposed codes would update the MA Building Code ("Base code") and the Stretch Energy code, as well as provide a new "Specialized code" which requires higher energy performance standards than the Stretch code. None of the codes require electrification per se, though electrification can be part of a pathway to achieving code compliance. Newton adopted the Stretch code in 2009, and now is one of 299 Stretch Code communities. Therefore, both the amended Base and Stretch codes would apply to Newton automatically. The Specialized code is opt-in.

Director Berwick closed her presentation by summarizing that BERDO, SRI, and the Home Rule petition are the main topics which ZAP and working groups should move forward on. There are other measures that can be handled at the staff level. These measures would be an installed solar requirement for new commercial properties, reducing the building size threshold that triggers stricter energy controls and sustainability for projects seeking special permits, electrification requirements for special permits, increasing electric vehicle charging requirements, and regulating embodied carbon in new construction.

Councilor Questions and Comments:

How many years did it take for renewables to become half of how electricity is generated, versus by fossil fuels, and what can we expect? Director Berwick answered that renewables like offshore wind have been taking off while the share generated by fossil fuels has been declining.

If Newton adopts the new Specialized code, is it prohibited from pursuing the home rule petition on electrification? Director Berwick answered that it does not.

Is the electrical infrastructure in Newton of sufficient capacity to handle increased electrification? Director Berwick stated that Newton does not need to manage this question as other organizations such as ISO New England and the Department of Public Utilities are working on building the grid.

How does geothermal energy and undergrounding utilities fit into this plan? Director Berwick answered that geothermal energy can be another approach to heating and that there is a pilot program in response to the omnibus energy bill passed by the state last year. Regarding undergrounding utilities, Director Berwick stated that she understands there is a working group is currently studying this for both aesthetic and liability concerns in discrete areas.

What is the cost of electrification on a renovation? Are there any grants available to help with this? Director Berwick stated that the evidence shows a minimal cost impact on new construction, though she added that the impact can be more varied with renovations depending on the specifics of the project. Additionally, global events can impact energy costs, particularly as they are hard to predict. Both state and federal subsidies for electrification retrofits are available to consumers.

What HERS level would get us to net-zero by 2050? Director Berwick responded the target levels have hovered in the mid-40s and clarified that a lower HERS score is more environmentally friendly.

(Note HERS = Home Energy Rating Score, on a 1-100 scale; A “net zero” energy building would get a score of zero. A score of 100 reflects a building built to base code.)

Is there any more information on the stretch code since it was released? Director Berwick answered that about 48 slides were released and not much else. We are in a public comment period that concludes in early March. She expects that the response will be primarily that it does not go far enough.

How will embodied carbon be tracked and does this apply to teardowns as well? Director Berwick stated that there is currently an embodied carbon working group (advising/working with the Energy Coach, Law and Planning), though she emphasized that tracking embodied carbon is still a new process. There will be more on embodied carbon from the Planning Department in March. It was stated that Waneta Trabert would be better suited to answer the question about tracking construction waste in more detail, but the state already has regulations covering recycling materials.

There are docket items to address the measures described in Director Berwick’s presentation already and the work is planned to continue. The decision now is how to best structure this work. It matters whether we call it a subcommittee or Council committees as this determines applicable rules.

Multiple Councilors supported the use of Working Groups. They suggested that the makeup would include staff, Councilors, representatives from certain boards & commissions, and community stakeholders. It was also recommended to include a Working Group tasked to identify financial assistance to people.

One councilor suggested that while there may need to be a group dedicated solely to laying the groundwork for an ordinance like BERDO, that the second group might take on more than just the SRI. It might be focused on climate actions targeting residential buildings, for example.

Other Councilors stated that separate working groups were not enough. Instead there should be a full Council Committee to address climate issues. They felt that the ad-hoc nature of working groups does not meet the importance of the issue and that a full Committee would build more

support. It was also stated that there should not be so much concern on cost at the moment as it is late in the emergency and inaction will cost more and there needs to be emphasis on electrification as there is no longer a choice on this.

A Councilor stated that despite the urgency of climate change, the costs for these initiatives cannot be ignored as they will be felt by the residents.

Deputy Director Cairra confirmed that the Planning Department has discussed outreach and engagement and is working on bringing in outside resources to assist with communications materials.

It was also stated that whatever groups are created, that the intention is to have open meetings. Subcommittees and Council committees must comply with the Open Meeting Law.

Without further discussion, Councilor Albright made a motion to Hold which carried 8-0.

#129-22 **Appointment of Judy Weber to the Newton Affordable Housing Trust Fund**
HER HONOR THE MAYOR appointing Judy Weber, 21 Belmont Street, Newton 02458 to the Newton Affordable Housing Trust Fund as a member for a term of office to expire March 21, 2024. (60 days: 04/08/22)

Action: **Zoning and Planning Approved 8-0**

Note: Ms. Weber was invited to introduce herself and describe her desire to join the Trust Fund. Ms. Weber answered that she has been a Newton resident for over 45 years and worked in affordable housing for her entire career. Recently, Ms. Weber was the Governor's appointee to the Newton Housing Authority. She stated that she volunteered to serve on the Trust in particular because of her experience in the operations side of affordable housing and is familiar with what it takes to maintain a project over time, while she imagines most others may be coming from the development side.

Councilors stated that they were impressed with Ms. Weber's experience in affordable housing and were interested to hear her ideas on how to increase it in Newton.

Without further discussion, Councilor Leary made a motion to approve which carried 8-0.

#130-22 **Appointment of Harvey Schorr to the Newton Historical Commission**
HER HONOR THE MAYOR appointing Harvey Schorr, 106 Bellevue Street, Newton 02458 to the Newton Historical Commission as an alternate member for a term of office to expire March 30, 2025. (60 days: 04/08/22)

Action: **Zoning and Planning Approved 7-0-1 (Councilor Wright abstaining)**

Note: Mr. Schorr was invited to introduce himself and describe his desire to join the Newton Historical Commission. Mr. Schorr stated that he was speaking with the Mayor last

summer and after mentioning his architectural background, she had asked him to serve on the Commission. He described his long career in architecture and that he has been a Newton resident since 1971. In his own neighborhood, Mr. Schorr stated that teardowns are common and while some are unavoidable, some good homes are also lost. He thinks the Commission could be more proactive in publicizing and promoting the good of preservation.

Councilor Questions:

How much experience do you have with historic architecture and work in Newton? Mr. Schorr answered that he has done little work in Newton, most of his work has been non-residential and that he has worked on historic preservation in many places.

Have you attended the historic commission meetings? Mr. Schorr stated that he had only been to one since the Mayor recommended his appointment.

Are there ways to combine the advantages from both historic preservation and teardowns? There is often a financial incentive to pursue a teardown. Mr. Schorr answered that this has been an issue that those in design professions have faced for a long time, as it is often more economical to pursue a demolition and start over. Design professionals argue that cost should not be the primary factor.

How would you approach achieving a more efficient building envelope in an historic structure? Mr. Schorr stated that the state code already has strict requirements for the building envelope.

Have you thought about how historic preservation and accessibility meet? Mr. Schorr stated that those in design confront these issues constantly as access issues loom large. The ADA has clear mandates for access.

Without further discussion, Councilor Leary made a motion to approve which carried 7-0-1 (Councilor Wright abstaining).

#131-22 Appointment of Josh Markette to the Auburndale Historic District Commission
HER HONOR THE MAYOR appointing Josh Markette, 60 Grove Street, Auburndale 02466 to the Auburndale Historic District Commission as an alternate member for a term of office to expire March 14, 2023. (60 days: 04/08/22)

Action: Zoning and Planning Approved 8-0

Note: Mr. Markette was invited to introduce himself and describe why he wants to serve on the Commission. Mr. Markette answered that it was his neighbor, the former chair of the District Commission, who encouraged him to volunteer.

Without further discussion, Councilor Krintzman made a motion to approve which carried 8-0.

#132-22 **Appointment of Joel Shames to the Auburndale Historic District Commission**
HER HONOR THE MAYOR appointing Joel Shames, 348 Central Street, Auburndale 02466 to the Auburndale Historic District Commission as an alternate member for a term of office to expire March 14, 2023. (60 days: 04/08/22)

Action: **Zoning and Planning Approved 8-0**

Note: Mr. Shames was invited to introduce himself and describe his interest in joining the Commission. He answered that a current member of the Commission requested him to join in order to fill a vacancy. He added that as a Newton resident for almost 30 years he felt that he should be willing to step up and do his part. Director Heath clarified that there are currently three vacancies out of the seven positions.

Without further discussion, Councilor Krintzman made a motion to approve which carried 8-0.

Referred to Zoning & Planning and Finance Committees

#150-22 **CPC Recommendation to appropriate \$94,600 in CPA funding**
COMMUNITY PRESERVATION COMMITTEE recommending appropriation of ninety-four thousand six hundred dollars (\$94,600) in Community Preservation Act fund, with \$74,978.29 to come from the FY22 Unrestricted Funds (Account #58R10498-57900) and the remaining \$19,621.71 to come from the FY22 Historic Resource Fund (Account #58B10498-57900B) to the control of the Planning & Development Department for a grant to the New Art Center to complete the plans and studies necessary to move forward with the restoration of the former Church of the Open Word located at 19 Highland Avenue.

Action: **Zoning and Planning Approved 8-0**

Note: The Committee was joined by Community Preservation Program Administrator Lara Kritzer and Dan Brody, Chair of the CPC, for discussion of this item. They were also joined by Emily O’Neil and Dewey Nichols from the New Art Center.

Mr. Brody delivered the attached presentation, summarizing the request. The New Art Center (NAC) is currently located at 61 Washington Park at a building that is no longer suitable. The NAC has reached an agreement with the current owners of the former Church of the Open Word at 19 Highland Avenue to commence a one-year study to assess the condition and capacity of the buildings to meet the New Art Center needs. Mr. Brody stated that this would be a better use for the site than if a developer purchased it to build more condos. He continued that according to the current timeline, the study is estimated to be completed in August, 2022 and NAC will match the funding from the CPA. If the study determines the building is suitable, the NAC will look to purchase the building, and may return to the CPC for historic preservation funding. Ms. O’Neil stated that this location would allow NAC to participate more in the vibrancy of Newtonville.

Mr. Nichols added that the NAC is exploring ways to increase its prominence as well.

Councilor Questions and Comments:

With the Senior Center nearby and projected to undergo a major rebuild, can these projects collaborate on programming? Ms. O'Neil answered that NAC has been talking with Commissioner Morse and the Senior Center and is happy to discuss a.

Was the City involved with helping NAC obtain its current building? Ms. O'Neil answered that yes, the City provided the building for a dollar back in 1977. It has not yet been discussed what will happen to the current building after NAC is finished with it.

Will the proceeds from the sale of the current building go towards the purchase of the new building as CPC money can only be used for historic restoration? Ms. O'Neil stated that the NAC will need to figure this out as the process progresses.

Does the NAC have a plan to pay for the ongoing maintenance and operations needs of the former Church of the Open Word building? Ms. O'Neil answered that NAC is still in the phase of understanding the viability and will not move forward if the study determines that the building is not sustainable.

Was it said that the Church of the Open Word is in the Newtonville Historic District? It is on the National Register and a Historic Resource in the district, but not included in the District.

Councilors spoke in favor of the proposal to locate NAC in the Open Word Church in the village, saying that it would breathe new life into Newtonville. Councilors expressed hope that the feasibility study yields positive results.

Without further discussion, Councilor Albright made a motion to approve using CPC funding to conduct the feasibility study, which carried 8-0.

#126-22 Requesting technical amendments to Newton Zoning Ordinance, Chapter 30
DIRECTOR OF PLANNING requesting technical amendments to the Newton Zoning Ordinance, Chapter 30 to address missing or incorrectly transcribed ordinance provisions, fix inconsistencies, and clarify ambiguous language.

Action: Zoning and Planning Held 8-0; Public Hearing set for 03/28/22

Note: The Committee was joined by Planning Associate Cat Kemmett and Deputy Director of Planning & Development Jen Caira. Ms. Kemmett introduced the item and delivered the attached presentation, stating that updates are regularly made to fix errors found in Chapter 30. Ms. Kemmett stated that the first error needing correction relates to calculating FAR for commercial buildings with exterior insulation. She explained that amendments adopted in 2019 allow exterior insulation to be added to a building without contributing to the FAR calculation. However, this exemption is only available to buildings in residential districts and the Planning Department believes that the intention was to apply this amendment to the other districts. Ms. Kemmett stated that this is likely due to a formatting error which makes it appear to only apply

to residential districts. The proposed fix will allow this deduction in all other districts, making the policy more consistent and incentivizing higher levels of insulation.

The second error Ms. Kemmett stated, came from 2021 amendments that decoupled building and story heights, which changed some dimensional standard tables. This formatting change created some errors and she stated that the proposed amendment will fix this along with another longstanding error. No current projects have been impacted.

The third error is in the tables showing maximum by-right height in MU4 districts, also caused by the reformatting process.

Ms. Kemmett recommended setting a public hearing date for March 28th for these items.

Councilor Questions and Comments:

To wrap a commercial building in four inches of exterior insulation, is it correct that they would not be required to do an FAR calculation? Ms. Caira answered yes; this is the proposal being put before the Committee.

When 5.13 was passed in December of 2019, wasn't the idea to allow this insulation to protrude into the setback? Would this also apply to commercial buildings? Ms. Caira answered that this is correct, but it is a different section and does not apply here.

Exterior insulation may protrude into the setback in both residential and commercial districts, is that correct? Ms. Caira answered that yes, setbacks in Section 1.5.3 do not differentiate between residential and other districts, a section which does not differentiate between residential and commercial districts.

A Councilor stated that exterior insulation aligns with the motivation for originally passing the ordinance.

Councilor Krintzman made a motion to Hold the item and set a public hearing for March 28th which carried 8-0.

#57-22 **Request for discussion relative to demolition of existing homes in Newton**
COUNCILORS WRIGHT, MALAKIE, BAKER, HUMPHREY, MARKIEWICZ, KALIS AND RYAN requesting discussion of appropriate adjustments to Newton's zoning to discourage the demolition of smaller homes which are being replaced by larger and much more expensive structures. (formerly #75-21)

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

Note: Councilors Wright and Baker introduced the item, stating that the intent is to determine if there can be a short-term adjustment to disincentivize tear-downs. The main question is whether requiring "new lot" setback requirements, which are larger than "old lot"

setback requirements, would disincentivize teardowns. There are about 100 homes that go through the demolition process each year.

Councilor Wright presented the attached document on her findings regarding this item. She acquired examples from residents and other councilors regarding teardowns and additions where the house seems to take up most of the lot. Back in March 2020, the Planning Department came out with a spreadsheet in one of their presentations which compares new lot (post 1953) standards with “old lot” (pre-1953) standards. Councilor Wright stated that in the SR3 and MR districts, there is no difference between old and new lot standards except in side setbacks. The biggest differences between old and new lot standards are in SR1 districts.

Looking at a variety of different houses, Councilor Wright stated that first question they asked was if the new house meets the new lot setbacks, and many did. Next they studied whether the house would need to be built smaller to meet all of the different items and only about half would need to be built smaller, but not much smaller. The next column asks if the house is built to the new setbacks, and a few use the FAR bonus, mainly for older houses. She then added how developers will change the address of a house to build it bigger.

Based on the information studied, she found that requiring teardowns or major additions to go to new lot standards will likely not reduce teardowns.

Councilor Wright then expressed interest in pursuing the residential incentive proposal (SRI) that Lexington is considering.

Councilor Questions and Comments:

Councilors appreciated that Councilors Wright and Baker did the analysis, and although it did not produce the expected results, that it was a useful exercise to show that by itself, increasing setback requirements to reduce building opportunity is not sufficient. It was suggested that as this conversation continues, its goals should be better defined and that we should also study the sustainability issue more. It was also asked if this conversation can include preserving the single-family opportunity at a lower price point as a goal.

Councilor Danberg made a motion to Hold which carried 8-0.

The meeting adjourned at 9:16pm.

Respectfully Submitted,

Deborah J. Crossley, Chair