



## **Zoning & Planning Committee** **Report**

### **City of Newton** **In City Council**

**Monday, April 25, 2022**

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

**Also Present:** Councilors Lipof, Greenberg, Bowman, Laredo, Downs, and Malakie

**Planning & Development Board:** Peter Doeringer (Chair), Kevin McCormick, Jennifer Molinsky, Kelley Brown, Lee Breckenridge (Alternate)

**City Staff:** Jen Caira, Deputy Director of Planning & Development; Barney Heath, Director of Planning & Development; Andrew Lee, Assistant City Solicitor; Nevena Pilipovic-Wengler, Community Planning/Engagement Specialist; Cat Kemmett, Planning Associate; Nathan Giacalone, Committee Clerk

**#127-22      Request for amendment “last mile” delivery services**

COUNCILORS LAREDO, DOWNS, CROSSLEY, RYAN, KALIS, DANBERG, KRINTZMAN ALBRIGHT, MARKIEWICZ AND WRIGHT requesting amendments to the Newton Zoning Ordinance, Chapter 30, including, but not limited to, the addition of a definition for Microfulfillment Center, and amendments to Section 4.1.1 Allowed Uses, Section 5.1.4 Number of Stalls, Section 5.1.12 Off-Street Loading Requirements, and Section 6.4 Commercial Uses to regulate the use of land, structures and buildings for the siting and operation of a facility whose primary use is for the receipt, transfer, short-term storage, dispatching, coordination, preparation, routing of package delivery, and parking of vehicles, associated with the delivery of goods directly to consumers, by allowing such uses in the Business Use 4, Mixed Use 1, Mixed Use 2, Manufacturing, and Limited Manufacturing Districts by right and subject to listed standards, and to prohibit such uses in the Business Use 1 and Business Use 2 Districts, or allow the uses in the Business Use 1 and Business Use 2 Districts either by right and subject to listed standards, or only upon the granting of a special permit.

**Action:** **Zoning & Planning Approved 5-0-2 (Councilors Crossley & Krintzman abstaining; Councilor Leary not voting); Public Hearing Closed 04/25/22**

**Note:** The Committee was joined for discussion on this item by Deputy Director of Planning Jen Caira, and members of the Economic Development Commission (EDC) Chuck Tanowitz and Sarah Rahman.

The Chair opened the meeting saying there will be a brief presentation in the item ahead of the scheduled public hearing.

Ms. Caira presented (attached), defining microfulfillment centers (also referred to as “last mile delivery) as storefronts not usually open to the public that deliver products within a relatively short radius. At its last meeting, the Committee did not come to a decision about how to regulate microfulfillment centers in village centers, or whether allowing them at all, but agreed to send multiple options forward to public hearing. Ms. Caira then described how the staff proposal is the result of working with the Advisory Group comprising members of the EDC and Chamber of Commerce, other City departments, and interviewing GoPuff, the only microfulfillment center currently operating in Newton. The draft zoning proposal proposes to allow microfulfillment centers by-right in BU1 and BU2 (village centers), BU4, MU1, MU2, M, and LM districts, subject to specific dimensional, loading and delivery vehicle parking standards. Alternatively, the Committee may decide that to locate in BU1 and BU2 (village centers) should also require a special permit, or, not that microfulfillment centers not be allowed in village center districts at all. Controlling standards include providing a minimum of two off-street parking spaces for delivery vehicles for the first 2,500 square feet of space and additional parking space for every 2,500 square feet after that. To be allowed at street level, microfulfillment centers must be at least 16 feet set back from the street-facing building façade or any point of the building must be located at least 30 feet back from a street.

Ms. Caira stated that the Planning Department’s recommendation is to approve the proposed zoning including allowing microfulfillment centers in village centers BU1 and BU2 districts, subject to those standards. She explained that this is because Planning believes that it will be difficult to find many opportunities for this use in village centers where the proposed criteria can be met, and that village center zoning is planned to be revisited.

Committee Discussion, Questions, and Comments:

Many councilors thanked the Planning Department for its thorough and careful work on this proposed zoning.

A councilor commented that he is comfortable with allowing these centers in the M, MU1, MU2, BU3, and BU4 subject to the listed standards. For village centers, he stated that if allowed at all it should be by a special permit as it is easier to lessen this restriction in the future.

The chair opened the public hearing and asked how many folks wished to speak. Only one hand went up.

EDC member Chuck Tanowitz, a member of the Advisory Group, stated that the EDC was split on whether to allow these centers in village centers, but could not vote at its recent meeting not having a quorum. Mr. Tanowitz felt that microfulfillment centers are an evolving use that will require continued observation. He said there was EDC consensus to not require a special permit, because there should be predictability and clear criteria if these are to be allowed. That said, he expressed concern on potential traffic impacts in village centers, and escalation of rents. Later, Mr. Tanowitz added that the truck and delivery issues go far beyond the question of

microfulfillment centers. He noted that some locations, such as Whole Foods, already serve as *de facto* microfulfillment centers through the similar services Amazon provides.

Overall councilors were cautious about allowing microfulfillment centers to locate within village centers, despite the controlling standards. However, some felt that as a temporary measure, allowing them by special permit would be acceptable, but meeting the same criteria as a threshold. A few felt that locating in village centers by-right according to the proposed criteria would be a good idea, citing that villages have numerous vacancies and the proposed criteria would not allow this use to interfere with the streetscape. Some also felt that based on the limited real estate opportunity in village centers which could possibly meet the dimensional criteria, not very many of these businesses could locate there. Councilors who oppose village center locations under any circumstances, cited concerns of increased traffic, increased rents, conflicts with pedestrian activity, and a general uncertainty about long-term impact. Since microfulfillment centers could presumably deliver across Newton, some worried they will likely not solely rely on bicycles or scooters. On the other hand, some councilors noted that if these are not allowed in village centers (BU1, BU2), there may be more pressure on manufacturing districts, many of which are located in close proximity to neighborhoods. Councilors agreed that loading should be kept off public streets.

Mr. Doeringer, Chair of the Planning & Development (P&D) Board, stated that while P&D members initially thought controlled village center locations would be beneficial, with continued deliberation P&D members have increasing concerns and are now leaning towards not allowing them in BU1 or BU2 zones.

Mr. Kelley Brown of the P&D Board felt that microfulfillment centers are not an appropriate use for village centers and that Newton does not have sufficient density to realize the benefits that these businesses can bring. He noted that this can all be revisited in the future (as we proceed with village center zoning amendments). Mr. Brown asked if a special permit must rely on the general criteria only or would the ordinance criteria still apply as well?

Ms. Cairra answered that there is no mechanism proposed that would allow Council to waive the design standards by special permit.

**Q:** Can you explain again the setback requirements of 16 and 30 feet?

**A:** Ms. Cairra: If located in an existing building, the microfulfillment center must be set back at least 16 feet from the front street-facing façade of the building, but that a stand-alone building must be at least 30 feet set back from the street. As long as a different use is allowed in front on the street the microfulfillment center can be 16 feet back. This ensures that these businesses are properly set back from the street so as not to impede an active streetscape. She added that many small retailers look for the shallow spaces and do not keep much stock on site.

**Q:** Why would we not have a loading/unloading zone for any sized fulfillment center rather than required parking stalls for any sized fulfillment center?

**A:** Ms. Cairra: the parking stalls are required for delivery vehicles which come and go more frequently. A loading bay is required for spaces 5,000 feet or more, is intended for large deliveries to the microfulfillment site, not deliveries to customers. While there could be a loading

zone on the street, this is subject to a Traffic Council decision and Planning does not want to encourage this.

**Q:** Will below and above grade locations still be allowed as is in the previous draft?

**A:** Ms. Caira: Yes, such locations would be permitted in the proposed text and not subject to the setbacks or design requirements.

**Q:** Would marijuana delivery fall under these regulations?

**A:** Ms. Caira: No, marijuana dispensaries and deliveries are defined and regulated under separate ordinance.

**Q:** Are commercial vehicles allowed to use city lots and parking spaces?

**A:** Ms. Caira answered that she would have to look into this further, but that delivery parking must be handled on site in the requirements proposed for a microfulfillment center, and public parking may not be counted toward meeting this requirement. Most businesses will likely seek the onsite parking for convenience.

**Q:** How much parking is required for employees?

**A:** Ms. Caira responded that the general requirements are one stall per every 1000 square feet and per every four employees. These stores tend to have a fairly low number of employees.

It was stated that BU4 may be included in the special permit category as it includes The Street, the only property that might be affected. Since there are multiple street-fronts, it needs to be clarified what a microfulfillment center would be 30 feet back from. It also needs to be clarified whether a microfulfillment center would be able to go in by-right (as was recently approved with a veterinary facility) or if the existing special permit would need to be amended.

Councilor Albright made a motion to approve the ordinance as drafted, with two exceptions: to remove zones BU1, and BU2 from the use table, which will not allow microfulfillment centers in village centers, and to require a special permit for microfulfillment centers to locate in a BU4 zone.

Leaving the public hearing open, the committee voted to table item #127-22 at approximately 8:15pm to take up time sensitive items:

Two new appointments to Boards and Commissions, and the further analyses of village center districts with Planning consultant Utile. (items #196-22, #232-22, and #38-22). (See reports following)

*At about 10:30pm, the Committee voted to take this item off the table and resume discussion on #127-22.*

President Albright's motion to approve the proposed ordinance but exclude microfulfillment centers from operating in BU1 and BU2 zones and require a special permit for locations in BU4 zones was on the table.

No members of the public chose to comment on this item. Councilor Krintzman made a motion to close the public hearing which carried 7-0 (Councilor Leary not voting)

The Committee discussed the motion; all agreed that action should be taken swiftly in order to regulate this new use while village center rezoning is under consideration.

Councilors asked to list existing BU4 zones and whether they are all created by special permit, so it would require an amendment to the special permit in any case. Ms. Caira answered that most BU4 sites operate under one or more special permits and individual council orders would have to be reviewed to determine whether this use would be allowed without amending the special permit. She added that in any case the setback standards for microfulfillment centers must be met as well.

Councilor Albright's motion to approve the proposed new ordinance, except to exclude microfulfillment centers from operating in BU1 and BU2 zones, and to require a special permit for locations in BU4 zones, carried 5-0-2 (Councilors Crossley and Krintzman abstaining; Councilor Leary not voting).

Mr. McCormick made a motion for the P&D Board to close its public hearing which carried 4-0 (Mr. Brown and Ms. Molinsky not voting). Ms. Breckenridge made a motion for the P&D Board to postpone its vote on the item to another date before the start of its May 2<sup>nd</sup> meeting to allow for further discussion which carried 4-0 (Mr. Brown and Ms. Molinsky not voting).

**#196-22      Appointment of Laxmi Rao to the Planning and Development Board**

HER HONOR THE MAYOR appointing Laxmi Rao, 124 Walnut Hill Road, Newton as an Alternate member of the Planning and Development Board for a term to expire on April 19, 2026. (60 days: 05/20/22)

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

**Note:**      Ms. Rao introduced herself and described her interest in joining the P&D Board. Ms. Rao stated that she and her family have lived in Newton for 40 years. Now that she is recently retired, she is ready to give her time and contribute her expertise. She also stated that she believes proactive planning is vital in order to bring together the many aspects that shape the built environment. Ms. Rao stated that she has attended multiple Committee meetings and has been greatly impressed with the work.

Councilors thanked Ms. Rao for her willingness to serve.

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

**#232-22**      **Appointment of Zach Knowlton to the Economic Development Commission**  
HER HONOR THE MAYOR appointing Zach Knowlton, 61 Walker Street #1, Newtonville as a member of the Economic Development Commission for a term of office to expire on October 30, 2023. (60 days: 06/03/22)

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

**Note:**      Mr. Knowlton introduced himself and described his interest in joining the EDC. Mr. Knowlton stated that he moved to Newtonville about two months ago and that he wants to learn about and get involve in the community, particularly by way of his area of expertise. Having served on the EDC in the town of Medway, Mr. Knowlton stated that he would be grateful to serve on the EDC in Newton.

It was stated that the Council should have a larger conversation about general economic development in Newton and Mr. Knowlton was asked for his input on this. He answered that he will need to learn more about Newton, but based on his time in Medway, he sees opportunities for grassroots development. The growth of remote and service-oriented work will likely trigger a rescaling and that more engagement with the community may improve this transition.

Councilor Albright made a motion to approve which carried 8-0.

**#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:**      This section of the report will be completed at a later date.

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

**#234-22**      **Reappointment of Jack Leader to the Economic Development Commission**  
HER HONOR THE MAYOR reappointing Jack Leader, 613 California Street, Newtonville as a member of the Economic Development Commission for a term of office to expire on May 1, 2025. (60 days: 06/03/22)

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

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

The Committee briefly discussed its scheduling options for the month of May and determined that it would plan to hold its next meeting after the Budget on June 1<sup>st</sup>.

The meeting adjourned at 10:59pm.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**