



Zoning & Planning Committee Report

City of Newton In City Council

Monday, June 13, 2022

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

Also Present: Councilors Lucas, Greenberg, Kelley, Bowman, Lipof and Downs

City Staff: Jonathan Yeo, Chief Operations Officer; Jen Caira, Deputy Director of Planning & Development; Barney Heath, Director of Planning & Development; Zachery LeMel, Chief of Long Range Planning; Cat Kemmett, Planning Associate; Amanda Berman, Director of Housing & Community Development; Nevena Pilipovic-Wengler, Community Planner Engagement Specialist; Shaylyn Davis, Community Development Planner; Carol Moore, City Clerk; Jaclyn Norton, Committee Clerk

#281-22 Appointment of Lee Breckenridge to the Planning & Development Board

HER HONOR THE MAYOR appointing Lee Breckenridge, 173 Berkeley Street, Newton as a full member of the Planning and Development Board for a term of office to expire on February 1, 2027. Ms. Breckenridge is currently serving as an Alternate member from August 9, 2021 to July 31, 2026. (60 Days: 07/01/22)

Action: **Zoning & Planning Approved 7-0 (Councilor Leary Not Voting)**

Note: Lee Breckenridge joined the Committee to discuss her appointment to the Planning and Development Board for a term to expire February 21, 2027. Ms. Breckenridge noted that she has enjoyed serving as an alternate member and is looking forward to serving as a full member. Ms. Breckenridge's experience includes teaching at Northeastern University on topics including planning, zoning and environmental matters. The Committee thanked Ms. Breckenridge for her willingness to serve. Councilor Wright motioned to approve Ms. Breckenridge's appointment and the motion carried unanimously.

#282-22 Appointment of Amy Dain to the Planning & Development Board

HER HONOR THE MAYOR appointing Amy Dain, 9 Frederick Street, Newton as an Alternate member of the Planning and Development Board for a term of office to expire on July 31, 2026. (60 Days: 07/01/22)

Action: **Zoning & Planning Approved 7-0 (Councilor Leary Not Voting)**

Note: Amy Dain joined the Committee to discuss her appointment to the Planning and Development Board. Ms. Dain, a Newton native has conducted extensive research on public policy, urban and suburban planning, the masterplans, zoning ordinance bylaws and road design standards on

communities throughout the state. In 2017, Ms. Dain's work brought her back to analyzing multi-family dwelling units and accessory apartments through Smart Growth Alliance. Ms. Dain found her independent research and analysis inspirational and she is looking forward to the opportunity to contribute to the community on the matter of suburban planning. The Committee emphasized their gratitude for Ms. Dain's willingness to serve, noting her extensive experience. Councilor Albright moved approval of the appointment and the Committee voted unanimously in favor of approval.

#320-22 Appointment of Harvey Schorr to the Newton Historical Commission

HER HONOR THE MAYOR appointing Harvey Schorr, 106 Bellevue Street, Newton as a full member of the Newton Historical Commission for a term of office to expire on June 21, 2025. Mr. Schorr is currently serving as an Alternate member from February 22, 2022 to March 30, 2025. (60 days: 08/05/22)

Action: **Zoning & Planning Approved 7-0 (Councilor Leary Not Voting)**

Note: The Committee was joined by Harvey Schorr to discuss his appointment to the Historical Commission. Mr. Schorr's expertise includes professional and academic experience as an architect. He explained that he has been serving on the Historical Commission an alternate member and was encouraged to step up as a full member. Mr. Schorr noted that he has had an opportunity to learn the mechanics and regulations of the Historical Commission during his service as an alternate member. He stated that he has found the work of the Commission challenging, as the Commission is limited in their ability to entirely prevent demolition of existing structures. Mr. Schorr assured the Committee that he will work diligently to remain apolitical respecting his work on the Commission. A Committee member noted that the Historical Commission does have the authority to prevent demolition of existing structures by way of the City's landmarking ordinance. The Committee thanked Mr. Schorr for his willingness to become a full member of the Commission. Councilor Danberg motioned to approve Mr. Schorr's appointment to the Historic Commission and the Committee voted unanimously in favor of approval.

#279-22 Request for amendment to the Zoning Code to regulate certain signage

HER HONOR THE MAYOR requesting amendments to the City of Newton Zoning Ordinance, Chapter 30, Section 5.2 Signs regarding regulation of noncommercial signs.

Zoning & Planning Held 7-0 (Councilor Albright not voting) on 05/09/22

Action: **Zoning & Planning Approved 6-0-2 (Councilors Baker and Leary Abstaining)**

Note: Chief of Long Range Planning Zachary LeMel presented an overview of the Chapter 30 Section 5.2 amendments relative to the regulation of non-commercial signs. Mr. LeMel explained that the proposed amendments to Chapter 30 are relative to election signs and lawn signs on private property, which express opinions, views and/or beliefs. The amendments will remedy aspects of the current zoning code that do not comport with constitutional law. Mr. LeMel noted that a comprehensive sign overhaul is forthcoming. The proposed changes to the sign ordinance include; the defining non-commercial signage, and deleting existing language regarding election signage and yard/garage sales. The language regulating non-commercial signage draws from the existing language in the ordinance regarding size and location. The draft amendments prohibit commercial signage and

artificial illumination, except as permitted by Section 5.2.10. Lastly, the ordinance amendments include modifications for improved clarity and consistency.

The Public Hearing was Opened.

Peter Harrington, 157 Lowell Avenue, urged the Committee to approve the ordinance so that aligns with the United States Constitution. Mr. Harrington suggested that the Committee adopt additional language stating that the ordinance does not apply to political signs and emphasized the danger to democracy in limiting free speech. Mr. Harrington noted that free speech should be protected even when it may be inconvenient or unsightly. He asked the Council to consider the difference between non-commercial signs and political signs.

Amy Mah Sangiolo, 389 Central Street, expressed concern that the proposed changes are not being done as part of a comprehensive review and revisions to the sign ordinance. She also expressed concern relative to the sign restriction on non-commercial signage and suggested that they should be treated the same way as commercial signs. The Chair noted that a comprehensive review has been undertaken, but that that process will take time, and it is important to be in compliance with constitutional law quickly.

Martina Jackson, 115 Lowell Avenue, noted that her property was subject to enforcement action based on the City's existing ordinance. Ms. Jackson expressed concern that the zoning ordinance currently limits free speech. Ms. Jackson emphasized her support for approval of the ordinance and noted that community aesthetic should not be a consideration for the Council.

A Committee member expressed concern relative to the proposed limitation on non-commercial signs to 3'x3'. Associate City Solicitor Andrew Lee confirmed that the Law Department is comfortable with the proposed limitation, because this imposes no restriction on content. Deputy Director of Planning and Development Jennifer Caira noted again that the Planning Department has begun an internal review with the Law Department and is preparing to begin analysis of the sign ordinance in coordination with the Urban Design Commission.

Some Committee members expressed concerns about the 3'x3' size limitation, noting that it is somewhat arbitrary and questioned whether it should be considered constitutional. Committee members noted that the ordinance could be approved without a size limitation and the Council could approve a subsequent amendment relative to size in the future, if needed. Councilor Krintzman motioned to strike the language from the draft ordinance relative to the size limitation (Section 5.2.A). Some Committee members were supportive of the size limitation, noting that a proliferation of billboard-sized signs could become unsightly, regardless of content. It was noted that identifying signage as unsightly is subjective and up to each property owner's discretion. The Committee was in agreement that in no case should non-commercial signage impact public safety. Committee members reiterated concern about creating a standard that is not clear and objective.

Planning and Development Board Member Lee Breckenridge expressed support for additional analysis and case studies on the first amendment. Ms. Breckenridge noted that making a distinction for non-commercial signage created a content-based distinction.

Committee members agreed that the ordinance should include an explicit condition that any signage not create a public safety concern. Councilor Krintzman amended his motion to include the language: “No signage shall create a public safety concern” as well to eliminate of the 3’x3’ size limitation. The Committee voted 5-3 (Councilors Baker, Albright and Leary opposed). Councilor Krintzman motioned to close the public hearing, which carried unanimously. Planning and Development Board Member Kevin McCormick motioned to close the public hearing before the Planning & Development Board. The motion carried unanimously.

Councilor Krintzman motioned to approve the draft ordinance, as amended. The Committee voted 6-0-2 (Councilors Baker and Leary abstaining). Planning and Development Board members discussed the proposed ordinance amendments. The Board considered Councilor Krintzman’s amendment as approved during the Zoning & Planning Committee discussion. The Board was not prepared to vote on the amendment, which they felt may be a significant change. Ms. Molinsky motioned to approve the original amendments as propose by Planning department staff, and her motion was seconded. The Planning and Development Board voted 5-0-1 (Barney Heath abstaining). Mr. Brown motioned to adjourn which carried unanimously.

#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)
Zoning & Planning Held 7-0 on 06/01/22

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

Note: The Committee continued its discussion on the recommended zoning framework for Village Centers, that would result in amendments to Chapter 30. The Committee was joined by Planning staff (Director Barney Heath, Deputy Director Jennifer Caira, Chief of Long Range Planning Zachary LeMel); the City’s zoning redesign consultants from Utile, Tim Love and Lauren Rapport, the Planning and Development Board, and members of the Economic Development Commission and Newton Housing Partnership. The meeting can be viewed on NewTV’s website at the following link [Zoning and Planning Committee June 13, 2022 \(newtv.org\)](https://www.newtv.org) .

The Chair explained that the focus of the discussion at this stage is to provide feedback to the Planning Department and Utile on the general framework recommended to amend zoning of village centers. She reminded that the committee goal is to complete deliberations on the framework this month, in order for the Planning Department to move forward with more detailed analyses and mapping alternatives this summer. Continuing to work from the Planning memo provided for the June 2 meeting, she proposed taking up the three-tiered zoning districts first, items 10-12.

10. MU4 modified for village center core business districts

Ms. Caira explained that the revised MU4 zone has been calibrated and drafted based on economic feasibility analyses and recent developments. Amendments to the MU4 zone includes the creation of a maximum building footprint and allowing 4.5 stories by right, $\frac{1}{2}$ story less than what is currently permitted by special permit in the existing MU4 zone. Ms. Caira noted that establishing a maximum building footprint as a new metric, limits the building from being overly large in projects that are by right. The maximum building height and the maximum building footprint could only be exceeded by special permit, provided the design achieves the intent of breaking up the massing. Ms. Caira explained that the proposed amendments would allow for smaller and mid-sized by-right developments. The modified MU4 zone would allow for the most height and mass of the three zones, and would only be suitable to apply to larger village centers. Ms. Caira emphasized that mapping alternatives will come after additional analysis.

Committee members discussed the general framework detailed for the MU4 zone. A Committee member noted that it might be helpful to understand the upper limits of what may be allowed by special permit. The Committee discussed whether the maximum building footprint is the correct dimensional restraint, versus FAR. Mr. Love noted that establishing an FAR limit can create a low, spread out building. Ms. Caira explained that the recommendation to eliminate the number of units allowed per acre is to prevent fewer, larger units in the same size building, where more, smaller units could be accommodated.

In response to concerns raised by some Committee members, Mr. Love explained that under the recommended framework, development on parcels larger than $\frac{3}{4}$ of an acre would be subject to the special permit process. Committee members emphasized the need to vary the roofline, mitigate building bulk and ensure there is sufficient space to clearly articulate individual buildings. Mr. Love noted that the definition of half story allowed in by-right projects is a tool intended to incentivize creative architectural form and details.

The Committee was generally supportive of increasing allowed height in village center business cores, noting that that higher stories in large village centers is appropriate and not historically out of context. Additionally, Committee members noted that encouraging developers to construct housing by right supports increased housing opportunities and helps to meet the MBTA Communities Law requirements. Councilors agreed on the importance of zoning amendments that can help village centers thrive and those which encourage visiting and/or living in village centers without cars.

A Committee member expressed concern that the proposed amendments may result in a significant increase in density and height, and with delegating control (site plan review) to an appointed board, and noted that the MU4 zone was created to be applied to specific sites, not entire districts. Another councilor noted that there have been several new developments approved since 2020 that will create approximately 3000 new units.

There was support for creation of a clear threshold for special permits and a new zoning code that the Housing Trust can use. A Councilor expressed concern that new housing units could be turned into offices at a later time. Ms. Caira noted that it is unlikely that a significant number of residential units would be changed into office space without a significant change in market needs, and confirmed that various types of uses remain necessary.

11. and 12. BU2/BU3

Ms. Caira explained that the BU3 zone is the second tier (less density allowed by right) and BU2 is the third tier (least density allowed by right), intended to be applied to villages by gradually stepping down from the village center central core to the outskirts/ residential neighborhoods. The revised BU3 would allow up to 3.5 stories as of right, a 10,000 sq. ft. maximum building footprint and the ability to add a story by special permit. The revised BU2 zone would allow 2-2.5 stories by right, a 5,000 sq. ft. footprint and the potential for an additional story by special permit. Councilors discussed the general framework for the BU2 and BU3 zones.

Councilors were supportive of requiring either pitched roofs or stepping back a top story to achieve the half story definition recommended. The Committee asked that the Planning Department and Utile provide illustrations, both diagrammatic and actual examples, of what buildings might look like under the revised BU2/BU3 zones. Councilors emphasized the importance of clearly defining the transition from the village to the residential area and how the proposed zoning districts relate to their adjacent residential zones. Some Councilors suggested that additional height could be allowed as a “density bonus” in the BU2 and BU3 zones if other important goals (sustainability, affordability, public space creation, etc.) were met. Committee members also questioned how the density bonus might be used to incentivize these goals. Ms. Caira noted that the Planning Department is thinking about how to incorporate requirements for small plazas, public open spaces, sustainability, and/or a green score that could apply to by right projects. Tim Love said that one way to approach a density bonus might be to offer a menu of options.

With that, the Committee took a straw vote that carried 6-0-2 in favor of the general framework for the revised MU4, BU2 and BU3 zones (Councilors Wright and Baker abstaining).

5. Elimination of Minimum Lot Size

The Committee discussed removal of the minimum lot size requirements. Ms. Caira noted that there are many lots in village centers that are significantly less than 10,000 sq. ft. per parcel. She explained that allowing development on smaller parcels could encourage smaller incremental development.

The Committee was generally supportive of the elimination of minimum lot sizes, noting that the requirement is somewhat arbitrary and precludes development on a number of parcels.

Councilors noted that it would be helpful to have a sense of the number of impacted parcels. Ms. Caira noted that developers could be encouraged to develop different types of buildings on the smaller parcels, but noted that it is costly to build a new building and expects that would limit the number of newly developed projects on small parcels. With that, the Committee took a straw poll, which carried 8-0 in favor of moving forward with the elimination of minimum lot sizes.

Councilor Krintzman move hold on the item which carried unanimously.

Referred to Zoning & Planning and Finance Committees

#336-22 **CPC Recommendation to appropriate \$133,002 in CPA funding**
COMMUNITY PRESERVATION COMMITTEE recommending appropriation of one hundred thirty-three thousand and two dollars (\$133,002) in Community Preservation Act funding be appropriated from the Unrestricted Prior Year Funds to the control of the Planning & Development Department for the completion of the 100% design of the Commonwealth Avenue Carriageway Redesign project in Auburndale.

Action: **Zoning and Planning Approved 7-0 (Councilor Leary Not Voting)**

Note: The Chair explained that item #336-22 was inadvertently referred to the Zoning & Planning Committee but should have been referred to the Finance and Public Facilities Committees. Councilor Danberg motioned to send the item back to the Council for referral to the appropriate Committees. The Committee voted 7-0 in favor of sending the item back to the Council.

#283-22 **Reappointment of Paul Snyder to the Newton Upper Falls Historic District Commission**
HER HONOR THE MAYOR reappointing Paul Snyder, 9 Ardmore Road, West Newton as a full member of the Newton Upper Falls Historic District Commission for a term of office to expire on July 1, 2025. (60 Days: 07/01/22)

Action: **Zoning and Planning Approved 7-0 (Councilor Leary Not Voting)**

Note: The Committee reviewed Mr. Snyder's appointment to the Upper Falls Historic District Commission. The Committee expressed no concerns relative to the reappointment and voted unanimously in favor of a motion to approve from Councilor Albright.

The Committee adjourned at 10:50 pm.

Respectfully Submitted,

Deborah J. Crossley, Chair