



# Zoning & Planning Committee Report

## City of Newton In City Council

**Monday, April 24, 2023**

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

Also Present: Councilors Oliver, Humphrey, Norton, Bowman, Lipof, Kelley, Greenberg, Downs, Lucas, Laredo, and Malakie

City Staff: Barney Heath, Director of Planning; Jennifer Caira, Deputy Director of Planning; Zachary LeMel, Chief of Long Range Planning; Joseph Iadonisi, Planning Associate; Olivia James, Community Engagement Specialist; Liora Silkes, Energy Coach, Ann Berwick, Director of Sustainability, Jonathan Yeo, Chief Operating Officer; Andrew Lee, Assistant City Solicitor; and Jaclyn Norton, Committee Clerk

Planning & Development Board: Vice Chair Kevin McCormick, Peter Doeringer, Jennifer Molinsky, Lee Breckenridge, and Amy Dain

For more information regarding this meeting, a video recording can be found at the following link: [Zoning & Planning Committee April 24, 2023 \(newtv.org\)](https://www.newtv.org/Zoning-Planning-Committee-April-24-2023)

**#73-23**      **Appointment of Joel Shames to the Auburndale Historic District Commission**  
HER HONOR THE MAYOR appointing Joel Shames, 348 Central Street, Auburndale as a full member of the Auburndale Historic District Commission for a term of office to expire on March 20, 2026. (60 Days: 05/05/2023)

**Action:**      **Zoning & Planning Approved 6-0 (Councilors Baker and Ryan Not Voting)**

**Note:**      Joel Shames currently serves as an alternate member of the Auburndale Historic District Commission and noted how he has enjoyed his time serving on the Commission. Mr. Shames detailed that historic preservation is an interest of his and that he enjoys serving his community. Multiple Councilors expressed support and the Committee voted 6-0 (Councilors Baker and Ryan Not Voting) on a motion to approve from Councilor Krintzman.

**#227-22**      **Request for ordinance to regulate embodied carbon in new construction**  
COUNCILOR CROSSLEY, on behalf of the Climate & Sustainability Team, requesting a discussion with the Sustainability Team and Planning Department, and to amend the zoning ordinance (Section 5.13, notable 5.13.4.D Reserved) to regulate embodied carbon in large new construction, to further the objectives of the city's Climate Action Plan.

**Action: Zoning & Planning Approved 6-0 (Councilor Baker and Ryan Not Voting)**

**Note:** Liora Silkes, Energy Coach, described that the proposed ordinance would apply only to special permit projects having over 20,000 sf of building area. In drafting this ordinance Ms. Silkes stated that she was advised by the Planning Department, Law Department, and the Embodied Carbon working Group comprising local industry professionals. At the [03-27-23 ZAP meeting](#) the Committee asked the Law Department to look into requiring this analysis for by-right construction, which would require a separate docket item.

Embodied carbon refers to the greenhouse gas (GHG) emissions associated with the manufacturing, transportation, installation, maintenance, and disposal of building materials. Upfront embodied carbon refers to the GHG emissions released before a building is constructed. This becomes a more significant amount of the total carbon associated with a building as operational carbon is being reduced in high performance buildings. The attached presentation from Ms. Silkes outlines various tools for estimating embodied carbon and strategies for reducing embodied carbon in structural design.

The draft ordinance states that for projects with a gross square footage between 20,000 and 50,000 sf only structural materials must be evaluated. This analysis can be done using the Life Cycle Analysis tools or Environmental Product Declarations noted. Projects over 50,000 sf must use a Whole Building Life-Cycle Assessment tool to estimate the embodied carbon of both the structural and enclosure materials, justification for the building materials used, and the CO<sub>2</sub>e per square foot of the project compared to that of similar projects.

These analyses are not required for projects where at least 50% of the floor area comprises re-use of a pre-existing structure.

The Public Hearing was opened.

Kent Gonzalez, representing Northland Investment Corporation, suggested the following edits to the ordinance. First is to change “justification” to “explanation” in Section 5.13.4.D.2, which both Ms. Silkes and Mark Webster had no issue with. Second was adding “or Green Building Professional” after “Registered Design Professional” in Section 5.13.6.B.3, just as Ms. Silkes recommended in her presentation. The last suggested edit was regarding Section 5.13.6.A.3 Applicability, with respect to embodied carbon. Ms. Silkes explained that the edits to this section were purely grammatical and codify common practice.

Simon French, 44 Glen Ave, asked if these reporting requirements will apply to 40B projects. 40B projects are affordable housing developments with at least 20-25% of units having long-term affordability restrictions. The Chair reiterated that the ordinance before the Committee will only apply to special permit projects.

Committee members voted 7-0 (Councilor Ryan Not Voting) on a motion to close the public hearing from Councilor Danberg.

During discussion a Councilor asked how the lower carbon concrete compares to the typical concrete used in building construction. Mr. Webster stated that while the time for strength gain is sometimes longer depending upon the additives in the mix, that once hardened the alternative concrete mixes are identical or stronger than the typical concrete used. Barney Heath, Director of Planning, noted that the report will be submitted when the building permit is pulled for the project. Ms. Silkes added that the City can use the initial submissions to develop a standard submission form for future projects.

Committee members voted 6-0 (Councilors Baker and Ryan Not Voting) on a motion to approve the ordinance as amended (attached) from Councilor Krintzman. The Planning & Development Board voted 5-0-1 (Director Heath Abstaining) on a motion to approve from Lee Breckenridge.

**Chair's Note:** *Planning staff will present version 2 of the draft VCOD maps and discuss how these maps and version 2 metrics can help Newton reach compliance with the MBTA Communities requirements.*

**#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 8-0

**Note:** The following item was discussed concurrently with item #38-22. A written report can be found with item #38-22.

**#39-22 Requesting discussion on state guidance for implementing the Housing Choice Bill**

COUNCILOR CROSSLEY on behalf of the Zoning & Planning Committee requesting discussion on state guidance for implementing the Housing Choice element of the MA Economic Development legislation. (formerly #131-21)

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

**Note:** The Chair noted that at this stage, staff are working to both refine the maps and metrics as well as to see how the VCOD might achieve compliance with the MBTA Communities Law. A detailed description of the MBTA requirements for Newton can be found in the March 29 committee report [here](#). Version 2.0 draft VCOD maps are revised from version 1 based on community input and committee deliberations on a list of specific changes. Tonight, we will hear an uninterrupted presentation of how these maps evolved and why, and in particular how compliance can be achieved.

Jennifer Caira, Deputy Director of Planning, detailed that these maps build upon a multi-year effort to promote vibrancy within the village centers. Zachary LeMel, Chief of Long Range

Planning, reviewed the version 1 draft maps and the key takeaways from subsequent community engagement sessions. (PowerPoint attached)

### **Version 2 Draft Maps**

The version 2 draft maps change most dramatically along the Green line, in order to achieve the required contiguity, as well as to reflect the desire of many to expand the lowest density district, now called MRT, within walking distance of the T. There are relatively minimal changes proposed to mapping the districts on the north side of the City. Importantly, both historic districts and all public property have been completely removed from the overlay districts.

The proposed zoning will now consist of four districts with VC1 being split into two districts.

### ***Village Center 3 (VC3) and Village Center 2 (VC2)***

These districts remain largely unchanged from version 1 except for removing the maximum front setback and the 5 ft side setback if the parcel abuts a building without a party wall in a non-residential district. Version 2 includes offering a density bonus for increased affordability in both VC1 and VC2, by allowing an additional story and up to 2,500 sf footprint for providing at least 25% affordable units at 65 % AMI (Average Median Income). Parcels within 50 ft of a lot line abutting a Multi-Residence Transit (MRT), or any other residential district will not be able to utilize this bonus. Lots within a VC3 district can take advantage of an additional two-story height bonus and a 2,500 sf footprint bonus for providing at least 30% affordable units at 65% AMI. This bonus cannot be utilized by VC3 lots abutting a VC1, MRT, or residential district.

### ***Village Center 1 (VC1)***

The VC1 district will be similar to the VC1 district proposed in version 1 which allows 2.5 stories, a maximum footprint of 4,000 sf, but with the maximum side setback removed. Version 2 proposes that limited commercial uses be allowed on the ground floor. However, This district will now only be mapped along Route 9 from Newton Highlands to Eliot MBTA station.

### ***Multi-Residence Transit (MRT)***

The MRT district has been added in version 2, replacing what was proposed as VC1 in version 1, and expanding these transition zones within close proximity to village centers. MRT will allow for 2.5 stories at a maximum height of 45 ft for a pitched roof and 2 stories at a maximum height of 27 ft for a flat roof. Commercial uses are not allowed. Using this overlay district (versus the underlying zoning) would require the property owner to provide a minimum of 3 and a maximum of 4 units. Commercial and retail uses are not allowed. Also, within this district, the intention is to incentivize rehabilitation of existing structures; those metrics being presented at a next meeting. Mr. LeMel provided examples of existing structures within Newton that are similar to what could be built by-right under the proposed MRT

district. (attached) He also noted that this new district would allow for similar or smaller development compared to the current zoning.

### ***Priority Streets***

Planning staff in previous discussions outlined having priority streets where ground floor commercial would be required in order to assure the vitality of village centers. It is noted that these parcels would not count towards compliance with MBTA Communities as DHCD has determined that mixed-use development may be incentivized but not required, under the statute. Priority streets are marked on the maps by a thick black line.

### ***Local Historic Districts and City-Owned Parcels***

Parcels located within the Newtonville and Upper Falls local historic districts have been removed from version 2 of VCOD draft maps. The Planning Department has also removed City-owned parcels from all Village Center Overlay Districts.

### ***Parking***

Version 1 required 1 on-site parking space per unit minimum for multi-family residential development. Commercial development had a parking minimum of 1 space per 700 sf with no on-site parking required for ground floor commercial or the first 5,000 sf of upper floor area. In version 2 there is no on-site parking minimum for either multi-family residential or commercial development. Ms. Caira made clear that while on site parking is not required, it may still be built, and no maximums are proposed.

Mr. LeMel had noted that requiring on-site parking is one of the biggest barriers to reaching compliance with MBTA Communities. If the parking minimum was removed in version 1 the unit capacity increased by an estimated 2,500 units (from 3500 units). This is because the MBTA Compliance tool assumes grade level parking, which reduces the building area left for units. A few Councilors expressed hesitancy with the removal of parking minimums entirely, and staff agreed to check the unit capacity of version 2 with both a 1 space per unit and 0.5 space per unit parking minimum.

### ***MBTA Communities Compliance***

Mr. LeMel provided the Committee with a table showing how the unit capacity requirement for Newton compares to other communities along with providing an overview of the requirements for compliance. Version 1 of the VCOD draft maps and text did not comply with unit capacity and 50% of the district being contiguous.

By creating the low density MRT district, expanding it along the Green line from Newton Center to Eliot Street T stops, and removing on-site parking minimums, version 2 VCOD would bring Newton into compliance. As drafted, this scheme enables 10,000 units, a gross density of 35 units/acre, cover 288 acres of land, is 100% (at least 90% required) within ½ mile of a MBTA or Commuter Rail station, and 69% of the total land area is contiguous (50% required). Planning staff emphasized that the unit capacity number is not a build-out analysis and does

not correlate to the number of units that would be constructed under the proposed zoning, just as the current zoning is not built out to the capacity it enables.

### **Discussion**

Many councilors applauded staff for the great work and showing how the new maps could reach compliance. There were two areas of concern noted: many felt that the metrics of the MRT district need further adjustment, and several expressed concern with the heights allowed, particularly when factoring the possibility of additional a story or two (in VC3 only) for additional affordability.

Multiple Councilors, while appreciating that the new MRT zone expands multifamily opportunity along the T, raised concerns with the proposed MRT metrics as not providing sufficient incentive over the underlying zoning to prevent tear downs. The underlying zoning which allows greater FAR, but fewer units, would remain a more desirable choice for developers. Preservation of existing homes is one objective of creating that zone. In addition, councilors worried that limiting the footprint of new construction to 1500 sf, under the VCOD, would not allow enough area to achieve multiple units. Parcels within the VCOD will be able to elect whether to comply with the existing zoning or the VCOD zoning. Director Heath noted that the Planning Department will test the financial incentive of deciding between the overlay zoning and the existing zoning, and consider modifying the sf incentive, particularly in the case of rehabilitation of existing structure. In addition, Ms. Caira added that the VCOD district cannot solve all issues with zoning in Newton but to rather provides an option. The overlay district was chosen to reduce non-conformities regarding existing structures and allow for greater flexibility under the zoning. The underlying zoning is flawed and must be tackled separately.

Councilors indicated support for reducing the scale of certain village centers with one Councilor suggesting that the number of parcels in the VC3 district be reduced. Multiple Councilors also noted that the VC1 district could potentially be expanded to other areas that could benefit from the increased density compared to the MRT district. A Councilor, while appreciating the VC1 district along Route 9 indicated support for increasing the scale of the VC1 district to 3 stories.

When asked about the potential for subdividing or aggregating lots affecting the metrics for compliance with MBTA Communities, Mr. LeMel reminded that the compliance model only considers existing parcels, and that aggregating 30,000 sf or more would trigger special permits. He added that building footprint limitations in VC2 and VC3 will also disincentivize aggregation of lots to build a larger development.

Multiple Councilors expressed support for the direction of the proposal. Committee members voted 8-0 on a motion to hold from Councilor Krintzman.

The meeting adjourned at 10:27 pm.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**