



# Zoning & Planning Committee Report

## City of Newton In City Council

**Monday, July 31, 2023**

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

Also Present: Councilors Laredo, Lucas, Oliver, Norton, Markiewicz, Humphrey, Greenberg, Downs, Lipof, Malakie

City Staff: Barney Heath, Director of Planning; Jennifer Caira, Deputy Director of Planning; Zachary LeMel, Chief of Long Range Planning; John Sisson, Economic Development Director; Andrew Lee, Senior Assistant City Solicitor; Jonathan Yeo, Chief Operating Officer; Anthony Ciccariello, Commissioner of Inspectional Services; and Jaclyn Norton, Committee Clerk

Planning & Development Board: Kelly Brown, Peter Doeringer, Lee Breckenridge, Kevin McCormick, Amy Dain, Jennifer Molinsky

For more information regarding this meeting, a video recording can be found at the following link: [Zoning and Planning Committee - July 31, 2023 \(newtv.org\)](https://www.newtv.org/Zoning-and-Planning-Committee-July-31-2023)

**#245-23      Appointment of Jane Obbagy to the Economic Development Commission**

HER HONOR THE MAYOR appointing Jane Obbagy, 28 Lenox Street, Newton as a member of the Economic Development Commission for a term of office to expire on September 11, 2026. (60 Days: 09/08/23)

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

**Note:**      Ms. Obbagy described her background regarding economic development issues on an international scale, as well as serving on the Town of Concord's Economic Vitality Committee. A Councilor asked Ms. Obbagy what she believes she could bring from her experience on the Economic Vitality Committee to the Economic Development Commission. Ms. Obbagy detailed that her time on that committee was during the pandemic and that members of the committee would each bring ideas to the table which resulted in initiatives being started to help businesses thrive. Councilors voted 7-0 (Councilor Danberg Not Voting) on a motion to approve from Councilor Albright.

**#205-23      Petition to rezone lots on Charles Street**

TERRENCE P. MORRIS, ESQ. petitioning to amend the City of Newton’s Zoning Map by changing the current zoning of the property known as and numbered 132 Charles Street, Newton, Ma, and shown on the City of Newton Assessor’s database as Section 41, Block 06, Lots 14, currently zoned MULTI-RESIDENCE 1 and MANUFACTURING, and Section 41, Block 06, Lot 26, currently zoned MANUFACTURING, to MIXED USE 1.

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

**Note:**          The Chair noted that the use table requested by committee members on July 24th is included in the planning memo for this item. Zachary LeMel reminded that in the previous meeting, more information was also requested regarding the rationale for this request as well as allowed uses. Terrence Morris, Esq provided a memo detailing this rationale which was also included in the packet. The Mixed Use 1 district requested for the two parcels, which are currently zoned as both manufacturing and multi residence, would allow for slightly more development than the Manufacturing zone but does not allow for the more intensive uses than the Manufacturing zone.

A Councilor expressed concern about voting in favor of the request due to the owner not looking to do anything different with the building. Attorney Morris later stated that his client is seeking certainty regarding the zoning of the parcel. Another Councilor also sought clarification regarding uses on parcels near 132 Charles St. Mr. LeMel reminded that the Massachusetts Turnpike, railroad tracks, and the Charles River abut this site, making it relatively isolated. Councilors voted 6-0-2 (Councilors Krintzman and Ryan Abstaining) on a motion to approve from Councilor Albright.

**Chair’s note:** *Staff and Utile will present an illustration of development that could evolve using the VCOD along a particular street in Newton. Councilor Wright will present a tool she developed to quantify unit capacity if the metrics are modified. The majority of the meeting will be to review and discuss the text by substantive sections as per the staff outline, take straw votes on each section, and consider amendments relevant to each section.*

**#38-22      Request for discussion and amendments to the Zoning Ordinance and Zoning Map regarding village center districts**

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 Chair noted that there will be several parts to discussion on this item. First, Utile and Planning staff will present an illustration of development that is likely to evolve under the (Village Center Overlay District) VCOD, by examining a particular area of the city and looking

into the decisions that affect development potential. Next, Councilor Wright will present a tool that she and councilor Oliver developed that can quantify unit capacity if metrics are modified. The committee will then focus on the draft text pre the substantive sections provided by the Planning Department, consider any amendments relevant to each section, and take straw votes.

### **Illustration of Potential Development**

Loren Rapport, Senior Associate at Utile, Inc., presented the attached presentation that focuses on potential development along Madison Avenue in Newtonville. This street was chosen among many considered because it is mapped to include VC3, VC2, and MRT zones, as the street runs from a key retail corridor to a residential neighborhood.

When evaluating the likelihood of development using the overlay zoning on these the parcels along Madison Ave. The following key factors were taken into consideration:

- **Parcel Ownership** – If the site is owned by more than two owners it is less likely to be developed in the near or medium-term.
- **Parcel Size** – If the parcel is of a smaller size, the developer may wait to acquire an adjacent parcel to build closer to the maximum allowable footprint.
- **Size of Existing Development** – If the existing building is close to the allowable massing thresholds proposed in the overlay zoning, no new development will likely happen on the parcel.
- **Existing Value** – Parcels where newer development exists will not be likely candidates for redevelopment in the near or medium-term.
- **MRT Conversion vs New Construction** – Parcels with existing development within 100 sf of the proposed 1,500 sf maximum allowable footprint (ground floor area) will be more likely to choose the multi-family conversion option rather than new construction.

By evaluating sites along Madison Avenue using the above information, the attached presentation provides a “soft site analysis,” *which identifies how likely a parcel is for redevelopment*, to determine which parcels would most likely develop over time as short-term, medium-term, and long-term development along Madison Ave. Test fits were diagrammed on the various parcels. Ms. Rapport stated that short-term is what could happen in as little as 0-4 years, medium-term is 5-8 years, and long-term is 9+ years.

A Councilor asked if the attractiveness of the underlying zoning was considered in this analysis. Ms. Rapport stated that this analysis only looked at these parcels through the lens of the VCOD. This Councilor also proposed a landscaping requirement be added to help aid in the transition from VC3 or VC2 to residential neighborhoods. When asked about parking Ms. Rapport stated that it was assumed that some parking would be built, and that the parking was varied due to different factors specific to each site She noted the parking setback. The analysis did not examine subdivisions or combining lots. Multiple Councilors thanked staff and Ms. Rapport for the detailed analysis.

**Councilor Wright Unit Calculation Tool**

Councilors Wright and Oliver developed a tool to calculate the total unit capacity of the entire VCOD, using the MBTA Communities Compliance Guidelines. The number of units counted does not represent the number of units that will be built. Councilor Wright noted that the district used for compliance in Newton must have a minimum unit capacity of 8330 units, but the current version 2.0 of the VCOD (used to reach compliance) results in a unit capacity of 10,000 units. This does not include lots over 30,000 sf, mixed-use priority streets, areas outside of ½ mile from public transit and less than 5 acres. Councilor Wright stated that with all areas of the VCOD included, the councilor's tool calculates a unit capacity of 17,920. It is important to note that this tool has not been vetted by the Planning Department for accuracy, as it was delivered to staff only this afternoon.

This tool uses data from the Assessor's database. Each property was classified as one of the VCOD zones along with if they were part of the mixed-use priority streets, and if they are abutting a residential or non-residential lot. Variables within this database include setbacks, average unit size, maximum building footprint, special permit threshold, and story heights. Inputting these variables allow the tool to calculate the maximum footprint possible on a site.

The Councilors designed this tool to better understand how changing various zoning parameters in the VCOD would affect the unit capacity according to the MBTA formula, although the tool is not intended to replace the compliance model provided by the Massachusetts Department for Housing and Community Development (DHCD), and produces slightly different unit counts.

Multiple Councilors noted how the model needs to be studied more to fully understand its accuracy. Jennifer Caira, Deputy Director of Planning, stated that this tool does not factor in the mapping component of the MBTA Communities unit capacity calculation, which must be factored in. For example, areas zoned VCOD with less than 5 contiguous acres, such as Auburndale village, may not be counted towards MBTA compliance. Ms. Caira also reminded about the sensitivity study the Planning Department provided relating to parking requirements. ([05-22-23 Planning Memo - #38-22](#)), which showed how dramatically requiring on-site parking would reduce the unit count. Several councilors noted the importance of zoning for what is best for Newton and our village centers, versus seeking minimum compliance capacity. The formula is for DHCD to determine compliance only, and does not take into account what is already built. Several also noted the economic analyses to support the scale proposed.

**Ordinance Text Review.**

The Chair thanked councilors who submitted amendments to the text in advance, and noted that they will be taken up as they relate to the substantive section. She noted that after staff describe each substantive section, the intention is to take straw votes on relevant amendments and the section., and that Planning staff will use these decisions to craft Version 3.0 to be advertised in advance of reopening the public hearing in September. The Chair noted that taking straw votes in this way, as the committee did a year ago when determining to proceed with the

framework, is a normal process or refinement, emphasizing that straw votes are not definitive, and Councilors may change their minds.

### **Approval Process (Review Thresholds)**

Mr. LeMel reviewed that Version 2.0 of the VCOD proposal sets the level of review based on the size of the parcel. Parcels under 20,000 sf will be by-right, parcels 20,000 sf -29,999 sf will undergo site plan review conducted by the Planning & Development Board, and parcels over 30,000 sf will need to seek a special permit. He noted that these thresholds were determined based on extensive research by staff and consultants along with urban design best principles.

During the discussion, some Councilors expressed concern with the inability to deny a project through site plan review and the reduced council oversight. Staff noted that the Planning Board may put conditions on a project which can be enforced, but they cannot make the project infeasible. Ms. Caira also noted the level of risk that a developer takes when seeking a special permit.

Three amendments were submitted and included in the Friday Packet that seek to reduce the parcel size threshold for special permit review. Councilor Baker proposed reducing the special permit threshold to 25,000 sf to maintain some extra scrutiny within this new overlay district, and noted how the special permit process produces better quality design. Upon further reflection, Councilor Baker amended his motion to set the special permit threshold at 20,000 sf. Committee members voted 2-6 (Councilors Leary, Albright, Krintzman, Crossley, Danberg, and Ryan Opposed) on a straw vote for each of these amendments.

Amendments proposed to reduce the special permit threshold to 15,000 sf (Laredo) and between 10,000 sf and 15,000 sf (Wright) were not taken up due to the failure of the previous two amendment.

Committee members voted 6-2 (Councilors Wright and Baker Opposed) on a straw vote to maintain the special permit threshold at 30,000 sf.

Councilor Wright proposed an amendment to make the special permit threshold for parcels on mixed use priority streets at 10,000 sf., since these lots do not count towards MBTA Communities compliance and to allow for greater discretionary review within the core of many village centers. Another Councilor noted how reducing the threshold will significantly discourage development. Councilors voted 2-6 (Councilors Leary, Albright, Krintzman, Crossley, Danberg, and Ryan Opposed) on a straw vote against this amendment.

Councilor Wright proposed an amendment to require a public hearing for projects undergoing site plan review, to make sure that the public can still provide input on a project. Mr. LeMel noted that other communities are adding this requirement and that adding it would require informing the public that although the Planning & Development Board may condition a project, it may not deny a project. Committee members voted unanimously in favor of this amendment.

Councilor Laredo proposed an amendment to remove site plan review from the proposal. This amendment was withdrawn.

Councilors voted 8-0 on a motion to hold from Councilor Albright.

**#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:**      This item was discussed with item #38-22. A written report can be found with item #38-22.

**#246-23      Appointment of Anthony Ciccariello as Commissioner of Inspectional Services**  
HER HONOR THE MAYOR appointing ANTHONY CICCARIELLO as COMMISSIONER OF INSPECTIONAL SERVICES pursuant to Sec 3-3 of the City Charter. (30 Days: 08/09/23)

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

**Note:**      The Chair noted the letter from the Mayor which praises Anthony Ciccariello's performance and qualifications. Mr. Ciccariello spoke regarding his experience with zoning and building code enforcement and how that is a major part of the job. Councilors commended Mr. Ciccariello's willingness to help others find a solution to a problem along with his work ethic and practical experience in the field. Committee members voted 8-0 on a motion to approve from Councilor Danberg.

**#243-23      Reappointment of Kathryn Cade to the Conservation Commission**  
HER HONOR THE MAYOR reappointing Kathryn Cade, 195 Islington Road, Auburndale as a full member of the Conservation Commission for a term of office to expire on July 31, 2026. (60 Days: 09/08/23)

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

**Note:**      The Chair read item #243-23 into the record. Committee members expressed no concerns relative to the reappointments and voted 8-0 on a motion to approve from Councilor Krintzman.

**#244-23      Reappointment of Jeffrey Riklin to the Newton Upper Falls Historic District Commission**

HER HONOR THE MAYOR reappointing Jeffrey Riklin, 37 High Street, Newton Upper Falls as a full member of the Newton Upper Falls Historic District Commission for a term of office to expire on July 31, 2026. (60 Days: 09/08/23)

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

**Note:**        The Chair read item #244-23 into the record. Committee members expressed no concerns relative to the reappointments and voted 8-0 on a motion to approve from Councilor Krintzman.

The meeting adjourned at 10:36pm.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**