

The Zoning Subcommittee's task was to review existing zoning in Newton Centre, identify constraints and recommend potential changes in the zoning regulations to efficiently implement the Newton Centre Task Force plan for a renewed, redesigned and revitalized Newton Centre. The recommendations with respect to zoning will reflect underlying rights and the needs of property owners, residents, tenants and visitors. They will also reflect public policy goals with respect to smart, environmental responsible growth and the city's need for more affordable housing.

The Newton zoning ordinance is a complex array of regulations approved piecemeal over decades which designate uses and set dimensional, parking and density requirements. Zoning in the study area is delineated approximately as follows: 37% Business 1; 22% Business 2; 1% Multi-Residence 2; 20% Single Residence 2; and 20% Public Use. Within the business zone the uses include offices, banks, salons, retail stores, restaurants and other service establishments. For business uses the ordinance allows two story buildings with a floor area ratio (floor area divided by lot area) of 1.0 as of right and provides specific setbacks, building height and parking requirements. A property owner may build as of right if it meets these requirements and must be issued a building permit through the City's Inspectional Services Department. If an owner wants relief from certain zoning requirements, depending on the type of relief sought, the owner can either petition for variance to the Zoning Board of Appeals or seek a special permit or site plan review from the Board of Aldermen.

Special permit and site plan review requires approval from 2/3 of the Board of Aldermen.

There are a number of zoning constraints. The current regulations do not encourage compact or smart growth. The parking ordinance limits development proposals. Its stringent requirements must be satisfied on site or within close proximity and not by municipal parking facilities. There is currently no accommodation or relief for proximity to transit and bus routes. There is no incentive for shared parking. Current public uses are not maximized. A portion of the public land in Newton Centre is owned by the MWRA, use of which would require license or lease approval by the MWRA Board of Directors and the Board of Aldermen. Opportunities to improve and enhance public parking are limited. Any change in use of public parcels owned by the City would require action by the Board of Aldermen and possibly an act of the Legislature. Development of public land would require compliance with the public procurement process, public construction and bidding laws.

There are several tools to change existing zoning either incrementally or comprehensively. Amendment of the Newton Zoning Ordinance or zoning districts is subject to Chapter 40A s. 5 of the Massachusetts General Laws, as referenced in Sections 30-28 of the Newton Zoning Ordinance. Local zoning regulations affecting housing can be overridden through use of the comprehensive permit process implemented through Chapter 40B of the Massachusetts General Laws, a mechanism to produce more low and moderate income housing. These types of

incremental changes can result in haphazard development. A more comprehensive method to implement a vision for a designated area may be through creation of an "overlay" district. This is a set of rules which overlay or are superimposed over the underlying zoning districts. It modifies or supplements the regulations of the area, recognizing distinguishing characteristics of the area and providing a mechanism for implementation of a community vision. It involves regulation of land use and density (so-called "use based" code changes) and regulation of the form of the built environment (so-called "form based" code changes which may require specific landscape design and architectural standards).

An overlay district may realize a community vision for Newton Centre. It is also a requirement for certain types of state assistance programs available to fund infrastructure, housing and transportation related costs. Preparation of an overlay district will require meetings and information sessions with the Planning Department, members of the Zoning and Planning Committee and the Land Use Committee of the Board of Aldermen to consider changes to the zoning map and ordinance. It will also require a petition for a change to the zoning ordinance and notification of abutters prior to public hearings before the Zoning and Planning and Land Use Committees. It may also require hearings before other aldermanic committees if recreational uses or road changes are affected. Each committee involved must vote on the proposed overlay and report it out to the full Board which approves the final overlay district.

There are several elements of good zoning which an overlay district should incorporate. First, the graphic aspects, photos, charts and schemes, should be clear. The language of the zoning should be simple to interpret and be able to stand alone with minimal cross references or side documents. It should set out a predictable rational process. The zoning should reflect a partnership among property owners, city planners, developers, and stakeholders necessary to implement the vision. The process should be transparent and allow for public input and evaluation of the merits of proposals. There should be a clear and predictable approval process. Projects that meet the specified criteria should be able to be approved administratively in a reasonable timeframe. Incentive mechanisms should be built into the process, e.g. expedited approval, reduced fees, density bonuses or offsite or shared parking for certain types of projects that reflect the underlying vision and meet certain requirements. Revisions to an overlay may be required. There should be a clear administrative process to make necessary modifications based on periodic review of the changing environment and conditions.

The drafting of an overlay district will require input from a number of sources. It must be based on a vision derived from a comprehensive all-inclusive public process, citizen driven and professionally led. It must include collaboration of planners, land use attorneys, building officials, engineers, designers, and take into consideration neighborhood and existing business concerns.

The overlay must be a clearly articulated vision for a discrete district which protects the existing rights of landowners, residents and tenants and at the same time creates opportunities for improvements. Further, an overlay must be responsive to both public policy objectives and market forces. For an overlay to be successfully implemented, stakeholders must stay involved to enact the rules and monitor compliance.