

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

### City of Newton In City Council

### Monday, November 13, 2017

Present: Councilors Hess-Mahan (Chair), Danberg, Yates, Kalis, Baker, Albright and Leary

Absent: Councilor Sangiolo
Also Present: Councilor Crossley

Planning & Development Board: Peter Doeringer, Sonia Parisca and Barney Heath

City Staff Present: Barney Heath (Director, Planning Dept.), James Freas (Deputy Director, Planning Dept.), Rachel Blatt (Urban Designer), Rachel Powers (Community Development Program Mgr), Amanda Berman (Housing Development Planner), Lily Reynolds (Community Engagement Manager),

Jonah Temple (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#335-17 Mayor's appointment of Anne M. Killilea to Commission on Disability

ANNE M. KILLILEA, 789 Watertown Street, West Newton appointed as a member of the COMMISSION ON DISABILITY for a term to expire December 31, 2018. (60 days

1/5/18) [10/13/17 @ 3:23 PM]

Action: Zoning & Planning Approved 7-0

**Note:** The Committee had an opportunity to review Ms. Killilea's resume. She explained that in 1999 she became deaf overnight after taking Zithromax. She has been a nurse for almost 40 years and she has incorporated her deafness with her nursing. She works with hospitals to teach hospital staff how to talk to the late-deafened person. She is also a member of the Association of Late-deafened Adults and she has taught around the United States, teaching them how to talk to healthcare workers.

Ms. Killilea feels she can add perspective as part of the deaf culture, for instance, she was recently at the ribbon cutting ceremony at the Highlands Playground. Slides are important to children who have hearing aids or cochlear implants because they pick up static electricity when they travel down and it can "zap" then when the reach the ground. That is why the rubberized material on the ground is important. She is in a doctoral program and will graduate with an EdD next December. She noted that there is a lot of depression, isolation and tiredness associated with being deaf. There is also an increase in Alzheimer's disease. It is hard work being deaf and she is excited about contributing and helping people.

It was asked if there was anything that the City Council could do to make their meetings more accessible. The audio is online but that would not be helpful for deaf people. She said there are closed captioning options she could discuss with the Council. She noted that these options are important to develop over time because many more people will be deaf due to so many people wearing ear buds.

The Committee thanked Ms. Killilea for her willingness to serve. Members felt her contribution will be very helpful. The Committee voted to approve her appointment unanimously.

### Referred to Programs & Services and Zoning & Planning Committees

#276-17 Ordinance amendments to allow food trucks

THE ECONOMIC DEVELOPMENT COMMITTEE, COUNCILORS FULLER, HESS-MAHAN, KALIS, LENNON, LIPOF, NORTON, AND SANGIOLO requesting to amend Chapter 17, Sections 17-46 through 17-50 to allow Food Trucks to locate and operate on public streets in Newton subject to licensing by the Health Department and to location permitting requirements, initially restricted to Wells Avenue; to introduce new rules applicable to all Food Trucks operating in the City; and requesting to amend Chapter 30 to allow Food Trucks in the Public Use District subject to the same restrictions and requirements. [08/24/17 @ 4:17 PM]

Programs & Services Approved 5-0-1on 11/8/17

Action: Public Hearing Closed; Zoning & Planning Approved 7-0

**Note:** Councilor Hess-Mahan explained that a public hearing is being held on this item because there is a zone change involved on Wells Avenue to facilitate locating food trucks there. The regulations, licensing and permitting requirements will be in Chapter 17 and were taken up by the Programs & Services Committee on November 8<sup>th</sup> and were approved.

The Chair opened the public hearing for the Zoning & Planning Committee. The Planning and Development Board did not have a quorum present, therefore, they will be holding their own public hearing on December 4<sup>th</sup>.

James Freas, Deputy Director of Planning addressed the Committee. He provided a PowerPoint which is attached to this report. He explained that communities across the country and in greater Boston are adopting ordinances to allow food trucks, primarily in underserved locations in order to add to street vitality and offer a greater range of food options. They also can be food incubators for restaurants. This ordinance will allow food trucks only on Wells Avenue. There is a great demand from property owners and their tenants to see a wider range of food choices there. There are very few nearby options in the area.

The change to the zoning ordinance would establish food trucks as an accessory use allowed in the Public Use district, specifically only on Wells Avenue.

The Department of Revenue has determined that vendors at a special event, pay the sales tax to the municipality. A transient food truck, such as ice cream trucks and canteenas, must send the meals tax to their base location. These food trucks on Wells Avenue, are being treated as transient vendors by the DOR, so the revenue would likely go to Boston or wherever their base is. Mr. Freas has been speaking to Needham and will speak to others neighboring communities to submit a letter for a formal rule change at the DOR, which is simply approved by the Commissioner, to allow the meals tax to be paid to Newton.

A Committee member was pleased to see that no polystyrene products or plastic bags would be allowed.

It was asked if the food trucks would take up any parking spots. Mr. Freas said they would be working with the tenants and property owners about the locations, and the trucks may take up spaces, but there is no shortage of parking on Wells Ave. There will likely be two food trucks there rotating a couple days a week, which would be a great start. This will be a learning experience and they will figure out what works best with some experimenting.

### **Public Comment**

Steve Goldberg, Goldberg's Deli, Wells Avenue said he had heard about this public hearing just today. He asked if there would be a requirement to keep the food trucks a certain distance from a restaurant. Mr. Freas said there are no such requirements, but he would definitely work with Mr. Goldberg and keep that consideration in mind. Each city/ town does it differently. He suggested talking to other restaurant owners. He knows that compostable products can hold just about anything because he uses them, so that requirements should not be a problem for food trucks. He also noted that Boston uses GPS devices on trucks so that it is known where they are.

Joyce Plotkin, Chair Economic Development Commission said the EDC was happy to get to this point with food trucks. They interviewed property owners and tenants at Wells Avenue and they are very excited about this. There is competition on the Needham side as they have a couple of food trucks two days a week, so she would like to see the playing field leveled. Wells Ave owners are looking to update the park and this amenity will be very helpful for attracting new tenants and employees. Ms. Plotkin read a letter in support of the ordinance from Greg Reibman of the Newton Needham Chamber of Commerce, which was submitted previously to the City Council. Chuck Tanowitz has a list of food trucks and is working on logistics and promotion. Most food trucks need 4-6 months lead time to schedule their trucks. Joyce Plotkin noted that the original ideas have been to have food trucks in the back area, which is away from Goldberg's Deli.

The Committee voted to close the public hearing. James Freas noted a couple of scrivener's errors in the draft ordinance. The changes were made known to the Law Department. Updated redlined and clean draft ordinances are attached. Councilor Yates moved approval and the Committee voted in favor 7-0. The item will have to be postponed to the December 4<sup>th</sup> City Council meeting, or later, until after the Planning Board holds their public hearing.

### **Zoning Redesign Update**

James Freas, Deputy Director of the Planning Department provided an update on the Zoning Redesign project. He presented a PowerPoint which is attached to this report. Please refer to the presentation for more details. This update will cover the event that was held on October 19<sup>th</sup> by the Planning Department on Zoning Redesign, which focused on economic development.

Mr. Freas noted that there are more than 10,000 businesses in Newton from 18 different business areas identified in the Pattern Book. Newton's commercial tax revenue, however, is declining. The root causes of that have not yet been identified but the Economic Development Strategy will look at that.

Zoning can help businesses find opportunities to locate and expand in the City and make it easier to operate a business in the City. Economic development in the city includes growing the innovation economy and insuring the success of the village centers.

### <u>Innovation Economy</u>

The innovation economy (tech, biotech, life sciences, etc.) is strong in the Boston area. Newton is well positioned to take advantage of it as well due to its location and new centers that are being developed in Watertown and Waltham. Newton also has an incredible work force that includes second-career entrepreneurs who are developing businesses within their homes or taking advantage of the Newton Innovation Center. Interestingly, Newton has one of the highest rates, per capita, of patents in the country (1 per 1,000 people). A prime opportunity to grow the innovation economy in the City is the N2 district.

### Village Centers

Within the village centers, there is a high density of high-income people which is attractive but also leads to the higher rents there. The businesses in the village centers are interested in more flexibility and lower regulatory costs particularly with parking requirements which can be an obstacle for new businesses. Other issues across the City are a need to bring workforce and customers to the area by reasonable housing and transportation choices.

### **Commercial Uses**

There are currently 68 commercial uses identified in the zoning ordinance. There are some challenges with interpretation and enforcement of some of those. The plan is to start categorizing the uses and to simplify some rules that apply to them. For example, currently restaurants are required to close by 11PM, which is likely an outdated rule that could be changed for appropriate locations. Another example is co-working space, a new use that needs to be identified and thereby encouraged. The intent sections are currently blank but they will be developed as the districts are developed.

### Manufacturing

The current zoning ordinance largely reflects heavy manufacturing. Over time, the districts have evolved to include office space, light industry, storage space, automotive uses, etc. These are scattered over the City with no mass of manufacturing districts. Some will lend themselves to expanding to innovation economy spaces, some could transition to more traditional or other businesses, depending on the location. The consultant will be looking at the better uses for these districts.

### **Home Business**

A big potential for growth is in home businesses and second-career entrepreneurs. Currently, the zoning ordinance only allows one home business per dwelling unit. This can be a challenge for a family who may have two members with home businesses. The plan would be to look at differentiating between businesses that have on-site customers and those that do not. Perhaps requirements could be relaxed in certain circumstances while making sure that home businesses remain largely invisible to the neighborhood. Removing a parking requirement for most potential home businesses may be reasonable. A Committee member noted that the home business ordinance was looked at several years ago. He recommended that staff look at that history when considering these issues. He also asked about businesses in residential districts and how taxes will be calculated compared to businesses in commercial districts, as it may incentivize locating businesses. Mr. Freas said they will be looking at the tax issue.

### Signs

Commercial signs draw the most complaints of any other aspect of the zoning ordinance. The plan is to clarify and illustrate sign rules and potentially create a sign design guide. Many say the current ordinance is hard to follow. Allowing the Urban Design Commission to make minor adjustments in sign rules is under consideration. Comprehensive sign packages for buildings with multiple storefronts would be desired as well. A property owner could come in with a set of rules for the tenants to follow regarding signs and if that is approved, they would not have to go through the review process. The rules for temporary signs and sandwich boards need to be updated. A Councilor explained that the sign ordinance was also recently reviewed and that information should be consulted.

### Community Feedback

Lily Reynolds, Community Engagement Manager, reported that about 30 participants came to the event. The community feedback summary on the issues was included in the Planning Memo that was included in the Friday packet. She reported that the next event will be held on November 29<sup>th</sup> and the topic will be related to zoning for homeowners (garages, fences, retaining walls, additions, dormers, FAR, etc.)

### #109-15(2) Zoning amendment to increase inclusionary zoning units from 15% to 25%

HIS HONOR THE MAYOR requesting consideration of changes to the inclusionary housing provisions of the Zoning Ordinance to increase the required percentage of affordable units to 25% for larger projects; require that some affordable units be designated for middle-income households; and to create a new formula for calculating payments in lieu of affordable units. [10/31/17 @ 4:42 PM]

### Action: Zoning & Planning Held 7-0

**Note:** Barney Heath, Director of Planning, explained that the Inclusionary Zoning (IZ) ordinance has not been updated since 2003 and Newton has not seen many inclusionary units or in lieu payments since then. The housing market continues to appreciate and the affordability gap is getting wider in Newton and in greater Boston as well which is a reason to review and update the

ordinance. Neighboring Communities such as Cambridge, Somerville and Boston are all updating their IZ ordinance in recognition of this gap.

Amanda Berman reviewed the Planning Memo which was included in the Friday packet. It can be found at:

http://www.newtonma.gov/civicax/filebank/documents/85971/11-13-17%20Planning%20Memo%20#109-15(2).pdf

This item will be heard in public hearing on December 11, 2017.

Respectfully Submitted,

Ted Hess-Mahan, Chair

# Zoning and Planning Committee

1)

## FOOD TRUCK ORDINANCE



3







## Licensing Ordinance



 Retains all existing Health Department Licensing Procedures

 Introduces a Location Permit administered by the Planning Department

Creates a set of rules for food trucks

## **Zoning Ordinance**

7

Establishes food trucks as an accessory use

Allowed in the Public Use District – Wells Ave

#276-17

8

• Questions?

**Food Truck Ordinance** 

Chapter 17 – Licensing and Permits Generally

Article III. Hawkers, Peddlers, Food Trucks and Canvassers

Division 3. Food Trucks

Sec. 17-46. Food Trucks Defined

A readily movable trailer or motorized wheeled vehicle, currently registered with the Massachusetts Division of Motor Vehicles, designed and equipped to cook, prepare, and/or serve food for human consumption as a mobile food establishment.

Sec. 17-47. License Required

No food truck may operate without a license issued by the Commissioner of Health and Human Services.

Sec. 17-48. Food Truck Locations

On-street food truck locations shall only be permitted on Wells Avenue. The Department of Planning and Development shall determine the specific location(s) and time periods during which permitted Food Trucks will be allowed to operate on Wells Avenue, taking into account public safety for vehicles and pedestrians. This restriction, and the following permit requirement, does not apply to Food Trucks catering a special event or similar occurrence.

Sec. 17-49. Location Permit to Operate on Public Property

In addition to the license required in Sec. 17-47, a food truck operator wishing to operate on-street must obtain a location permit from the Department of Planning and Development and shall submit a permit application on a form provided by said Department, which at a minimum shall include:

- 1. A description of the business;
- 2. The location and time period, as determined by sec 17-48, for which a location permit is sought and during which, the vendor will be stationary and serving food;
- 3. Description of the Food Truck's presence on the street including any signs or objects that will be proposed to be placed on the sidewalk.
- 4. Proof that the vehicle has passed all necessary inspections required by the Newton Fire Department
- 5. Proof of a general liability policy in effect during all days and times for which a location permit is sought that names the City as an additional insured and is in a form and for an amount approved by the City;

Such a location permit exempts the permitted food truck from other City requirements for Hawkers and Peddlers in sections 17-27 through 17-29. The location permit shall have a duration of up to one year and is revocable based on non-compliance with the requirements of this ordinance. Should the number

of location permit applicants exceed available locations, the Director of Planning and Development shall create an equitable distribution of available locations among qualified applicants. The Director has the authority to not issue a location permit based on legitimate public objectives to diversify food truck offerings in an area or due to issues related to past operations of the Food Truck vendor. No permitted Food Truck shall cease operations during the period covered by the location permit without notifying the Department of Planning and Development.

Sec. 17-50. Food Truck Rules

The following requirements shall apply to all food trucks operating in the City.

- 1. All food truck operators must comply with all applicable federal, state, and local laws, regulations, and ordinances, any conditions on a City license or permit, and any applicable City policies, procedures, standards and guidelines. All licenses are issued subject to the licensee's compliance with this Section and these regulations. Licensees shall supply such information as the City or its agent may require for purposes of the proper enforcement of these regulations. The City or its agent, including the Police and other inspectional departments, may at any time inspect the premises to which the license applies to determine whether the licensee is in compliance with this Section.
- 2. No food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
- 3. All food truck operators shall offer a waste container(s) for public use that operators shall empty at their own expense. The food truck operator shall inspect all adjacent streets and sidewalks within 100 feet regularly for purposes of removing any litter found.
- 4. Food trucks are encouraged to provide consumers with compostable or recyclable single service articles, such as compostable forks and paper plates, and a waste, recycling container, and composting container for their disposal. No Styrofoam products or plastic bags are permitted.
- 5. No food truck shall make or cause to be made any unreasonable or excessive noise in violation of section 20-13 et seq.
- 6. Grease and grey water must be contained and disposed of in accordance with State Sanitary Code.
- 7. Food trucks shall be limited to no more than 25 feet in length.
- 8. For food trucks on public property, the City reserves the right to require a food truck operator to temporarily move a food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.
- 9. Food trucks must conspicuously display their license and any required permit on the windshield of the truck.
- 10. No mobile food vendor licensee may transfer a mobile food vendor license except upon application to and approval by the Health and Human Services Commissioner of the transfer.

### Chapter 30: Zoning Ordinance

Sec. 2.3.2 Accessory Uses Allowed

#### B. Public Use District

1. Food Trucks on Wells Avenue only subject to Sec. 6.7.6.

Sec. 6.7 Accessory Uses

#### 6.7.6 Food Trucks

- A. Intent. Food Trucks are intended to advance the following:
- 1. Bring variety to the availability of local food establishments;
- 2. Add vibrancy and interest to the street life of a district;
- 3. Encourage the advancement of new restaurants and food service businesses by serving as a form of business incubator for new restaurant ideas in a start-up phase; and
- 4. Create food options and amenities for underserved locations in the City.
- B. Food Trucks Defined. Defined in City Ordinances Sec 17-46.

### C. Rules for Food Trucks.

- 1. In the Public Use District, Food Trucks shall only locate on the public street 'Wells Avenue' according to City Ordinances Sec 17-48 and 17-49. Food Trucks are allowed on public land as part of a special event with a license from the Health Department.
- 2. A food truck shall not remain parked overnight.
- 3. A Food Truck is not required to provide parking.
- 4. A Food Truck must meet all of the requirements of City Ordinances sections 17-47 through 17-50.
- 5. A Food Truck operating as part of a special event or in a catering capacity for a private function is allowed in all districts.

**Food Truck Ordinance** 

Chapter 17 – Licensing and Permits Generally

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- 4. Proof that the vehicle has passed all necessary inspections required by the Newton Fire Department
- 5. Proof of a general liability policy in effect during all days and times for which a location permit is sought that names the City as an additional insured and is in a form and for an amount approved by the City;

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of location permit applicants exceed available locations, the Director of Planning and Development shall create an equitable distribution of available locations among qualified applicants. The Director has the authority to not issue a location permit based on legitimate public objectives to diversify food truck offerings in an area or due to issues related to past operations of the Food Truck vendor. No permitted Food Truck shall cease operations during the period covered by the location permit without notifying the Department of Planning and Development.

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- 2. No food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
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- 7. Food trucks shall be limited to no more than 25 feet in length.
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- 9. Food trucks must conspicuously display their license and any required permit on the windshield of the truck.
- 10. No mobile food vendor licensee may transfer a mobile food vendor license except upon application to and approval by the Health and Human Services Commissioner of the transfer.

Chapter 30: Zoning Ordinance

Sec. 2.3.2 Accessory Uses Allowed

B. Public Use District

1. Food Trucks on Wells Avenue only subject to Sec. 6.7.6.

Sec. 6.7 Accessory Uses

6.7.6 Food Trucks

A. Intent. Food Trucks are intended to advance the following:

- 1. Bring variety to the availability of local food establishments;
- 2. Add vibrancy and interest to the street life of a district;
- 3. Encourage the advancement of new restaurants and food service businesses by serving as a form of business incubator for new restaurant ideas in a start-up phase; and
- 4. Create food options and amenities for underserved locations in the City.
- B. Food Trucks Defined. Defined in City Ordinances Sec 17-46.
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- 2. A food truck shall not remain parked overnight.
- 3. A Food Truck is not required to provide parking.
- 4. A Food Truck must meet all of the requirements of City Ordinances sections 17-47 through 17-50.
- 5. A Food Truck operating as part of a special event or in a catering capacity for a private function is allowed in all districts.



# Newton Zoning Redesign

Newton's Advantage: Zoning and Economic Development

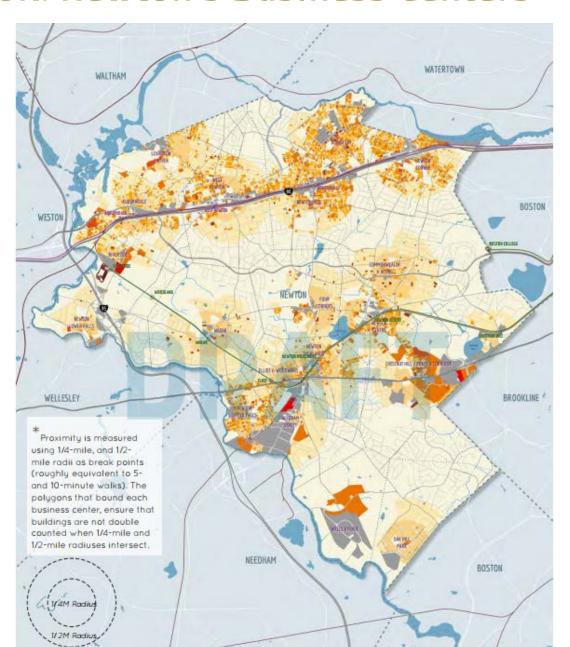
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# Newton's Advantage: Zoning and Economic Development

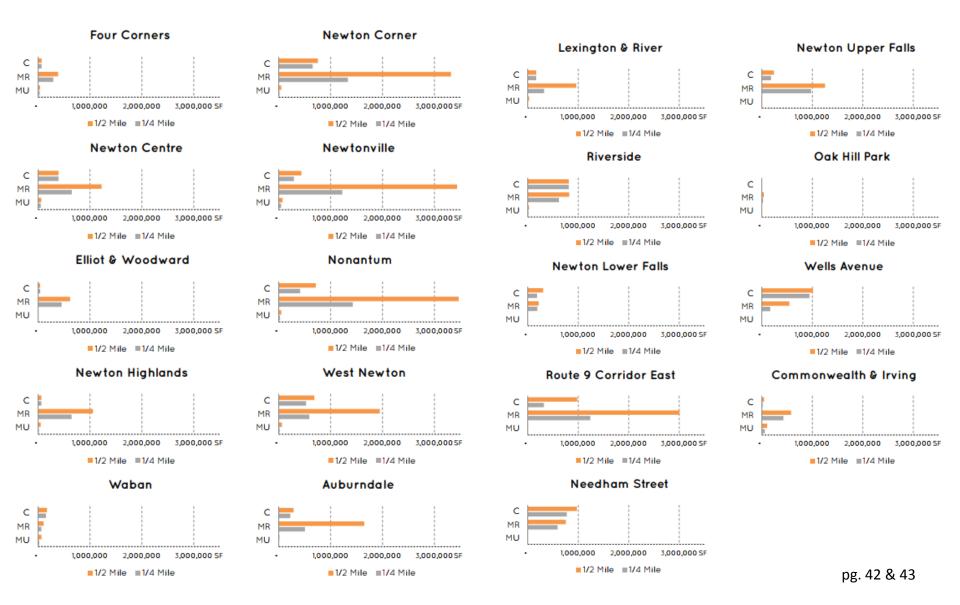
## **Newton's Business Community**

# 10,000+ businesses

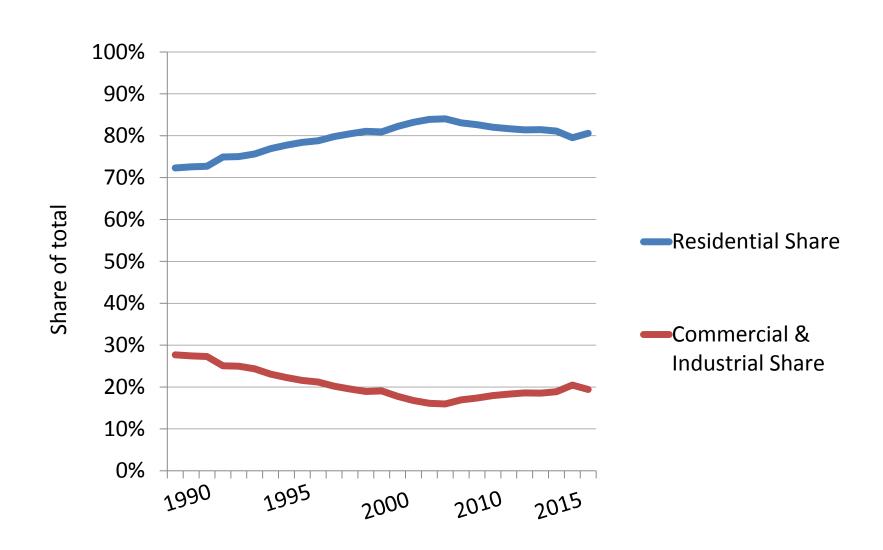
## Pattern Book: Newton's Business Centers



## Pattern Book: Newton's Business Centers



## Residential Tax vs. Commercial Tax



## Zoning can...

...help businesses find opportunities to locate and expand in Newton.

...make it easier to operate a business in Newton and contribute to vibrant commercial areas.



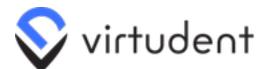
















## Economic Development is linked to:

- Housing
- Transportation
- Business competition

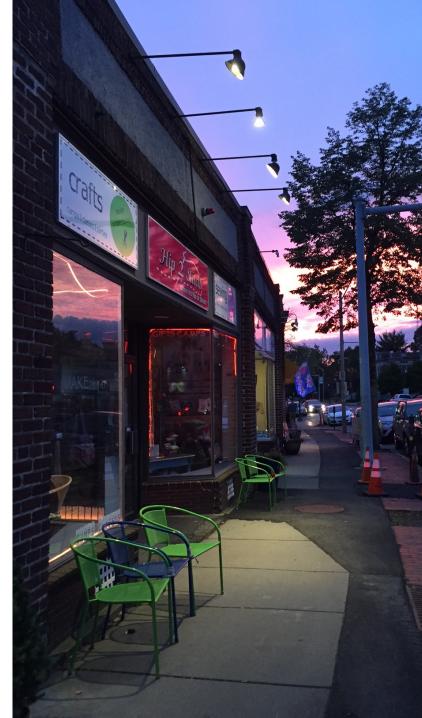




Make it Newton







## Zoning & Economic Development

## **Commercial Uses**

Business types allowed and the rules that apply to them

## Manufacturing District

Industrial lands

## **Home Businesses**

Work from home!

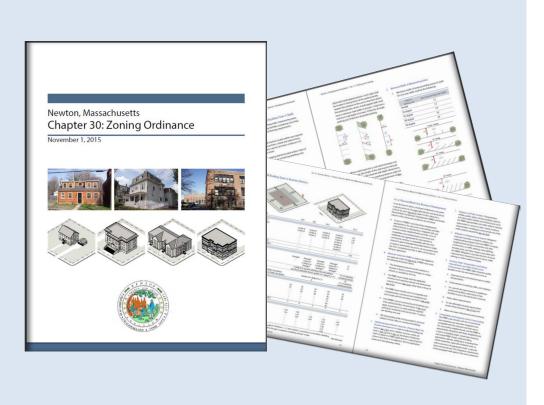
## Signs

The design of signs

## Zoning & Economic Development

# Commercial Uses: Business types allowed and the rules that apply to them

- 68 uses currently
- Difficult to interpret and enforce
- New "innovation economy" uses not defined
- Extraneous rules



## Proposed Commercial Uses Policy

Goal: Support businesses to locate and thrive in Newton's commercial areas.

- 1. Combine & categorize uses to ease understanding & enforcement.
- 2. Introduce new uses like co-working space.
- 3. Remove or modify specific rules applying to some uses.
- 4. Reduce parking requirements.



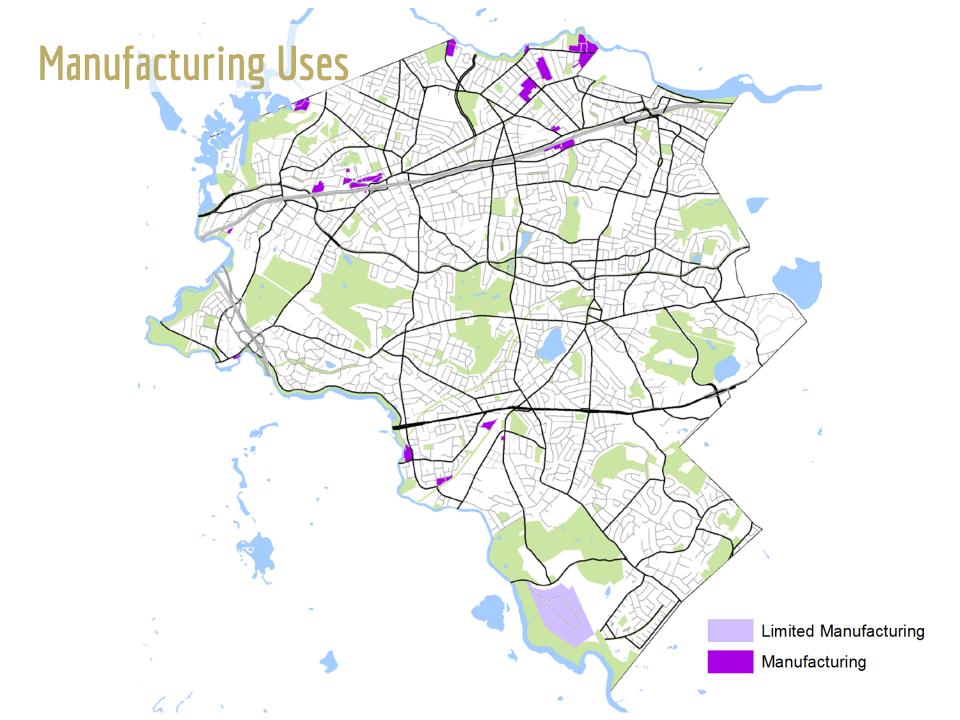
## Zoning & Economic Development

## Manufacturing District:

- Current zoning reflects old-school heavy industry
- Evolved to offices, light industry, storage, automotive
- Encourage commercial like
   Wells Ave., N2, Charles
   River







## Thinking Differently about "Manufacturing District"

## **Manufacturing District:**

- Opportunity for innovation district (maker spaces, fabrication, innovation economy)
- Protect
   manufacturing from
   housing development
   pressure





## Proposed Manufacturing Districts Policy

Goal: Support economic development and a growing innovation economy in Newton.

- 1. Study potential future of different districts Economic Development Strategy.
- 2. Transition some to other types of districts.
- 3. Identify some for redevelopment and growth.
- 4. Identify others for retention as lower-cost business start-up and fabrication space.

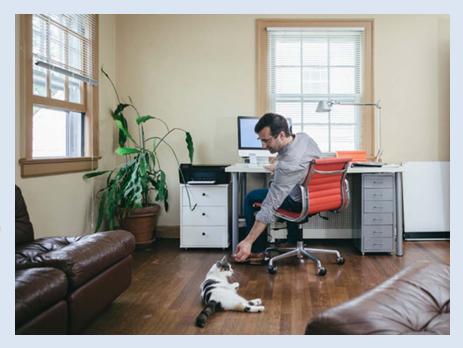




## Zoning & Economic Development

## **Home Businesses:**

- Online based businesses
- Virtual transactions, customer interaction
- Service economy, consulting, etc.
- Cuts congestion, increases entrepreneurship



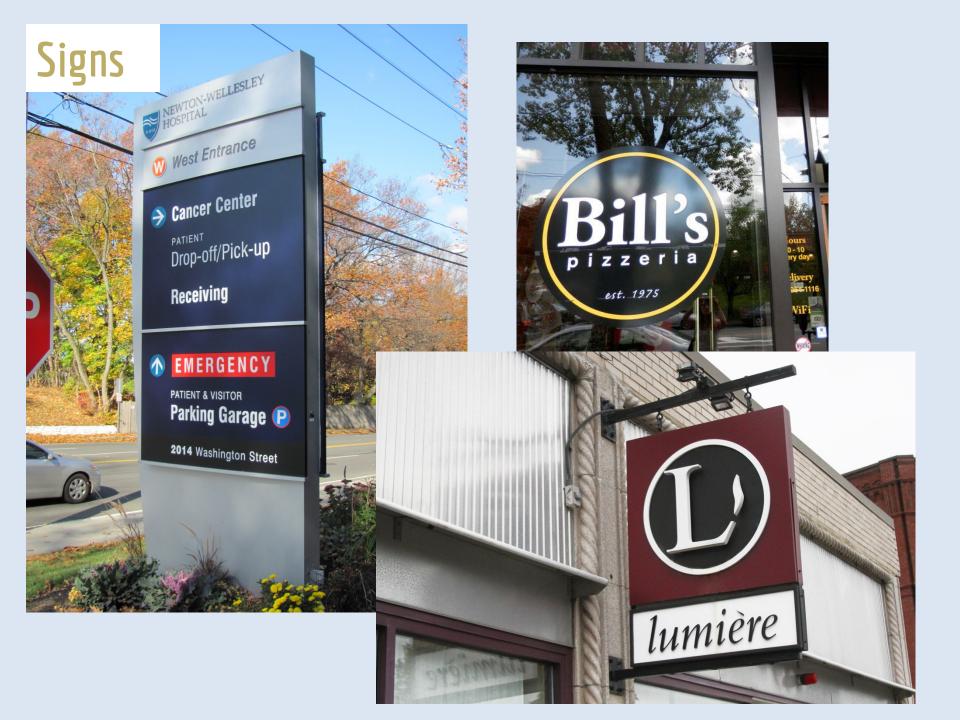
## **Proposed Home Business Policy**

Goal: Support residents with a flexible home business policy to encourage economic development.

- 1. Allow more than one per dwelling unit.
- 2. Recognize the difference between businesses with onsite customers and not.
- 3. Relax regulations around type and number of employees, location and square footage of business.
- 4. Remove parking requirement.







## Proposed Sign Policy

Goal: Make sign ordinance more businessfriendly, easier to enforce, and encourage good design.

- 1. Clarify and illustrate sign rules. Create a sign design guide.
- 2. Expand Urban Design Commission to decide minor adjustments to sign rules.
- 3. Encourage comprehensive sign packages for multiple storefronts in the same building.
- 4. Create new rules for temporary signs and sandwich boards.





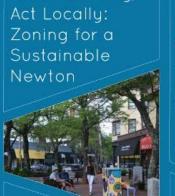
### City of Newton Zoning Redesign Event Series: September 2017 - May 2018

Location: Newton Free Library, 330 Homer Street, Druker Auditorium\*

Time: 6:30 p.m. - 8:00 p.m.\*

RSVP online at www.courbanize.com/newtonzoning

Wednesday, September 27th Think Globally, Act Locally: Zoning for a Sustainable



Thursday, October 19th Newton's Advantage: Zoning and Economic Development

Wednesday. November 29th Crackina the Code: Understanding Zoning for Homeowners



Thursday. December 14th Housing for Whom? Zoning, Affordability, and Fair Housing

Thursday, January 18th A parking Lot for Goldilocks: Zoning for Just the Right Size

Thursday, February 15th Tapping the Creative Economy: Zoning, Arts, and Artisans

> March 15th Building Shape. Size, and Form in Neighborhoods and Village Centers

Thursday,

Thursday, April 12th What's the Process? How Stuff gets Built in Newton

> Thursday, May 10th A New Zoning Map for Newton



\*All the events will be held at this location and time.

The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec. 504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711:



## What do you think

