



Zoning & Planning Committee Report

City of Newton **In City Council**

Monday, December 11, 2017

Present: Councilors Hess-Mahan (Chair), Danberg, Kalis, Albright, Sangiolo, Yates, Baker and Leary;
Also Present: Councilors Crossley and Harney

Planning & Development Board: Peter Doeringer (Acting Chair), Jonathan Yeo, Megan Meirav and Barney Heath

City Staff Present: Barney Heath (Director, Planning Dept.), James Freas (Deputy Director, Planning Dept.), Amanda Berman (Housing Development Planner), Alice Ingerson (Community Preservation Program Manager), Rachel Powers (Community Development Programs Manager), Jonah Temple (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#368-17 Mayor's appointment of Sandra Lingley to the Commission on Disability
SANDRA LINGLEY, 24 Curve Street, Newton, appointed as a member of the COMMISSION ON DISABILITY for a term to expire December 31, 2020.

Action: Zoning & Planning Approved 8-0

Note: Sandra Lingley joined the Committee. She explained that she has been attending the Commission on Disability meetings for about four years. She learned so much at the meetings about helping herself and helping others. She had been on a waitlist for an accessible unit on Curve Street and has just moved in so she is finally a resident of the City. She is also an access monitor for the state through the Massachusetts Office on Disability. The opportunities to learn more are constant and she would like to be able to do more by serving on the Commission. She has a teaching background and has taught as a volunteer in different environments.

Committee Comments/Questions

A Councilor asked what Ms. Lingley's top priorities would be in serving on the Commission. She explained that she moved into an accessible apartment that was not completely accessible. She would like to work on troubleshooting those issues to make sure they do not happen to other people. She would also like to focus on education through various means.

Councilor Hess-Mahan encouraged Ms. Lingley to speak to Jini Fairly, the ADA Coordinator for the City, and attend the Fair Housing Committee meetings. It would be beneficial for the Committee to hear about her experience with accessibility issues in her unit. She explained that the unit was not built as planned, for instance, there is no curb cut off the walkway, the shower did not meet the guidelines and there were a couple of other issues. Inspectional Services gave the unit a temporary certificate of occupancy. An audit was done and there is a report that she has not seen yet. The work keeps getting postponed and is now scheduled for January 8th. She wants to make sure this

does not happen again and to determine what happened. She said it is a lovely unit in a great neighborhood and she will be happy there.

The Committee expressed their concern about the inaccessibility issues. Barney Heath, Director of Planning, said he was taking notes on the issues. He was aware of some of the problems. Alice Ingerson said the driveway was being scheduled for repair but she did not know about the bathroom. There was some difficulty with being able to coordinate with the project manager. Councilor Sangiolo asked that the Committee follow upon these problems. New units will be underway on the Crescent Street project so she would like to have assurances that these types of issues will not be repeated there.

Councilor Yates moved approval and the Committee voted in favor unanimously, with thanks to Ms. Lingley for her willingness to serve.

#369-17 Mayor's appointment of Robert E. Maloney to the Community Preservation Comm
ROBERT E. MALONEY, 245 Otis Street, West Newton, appointed as a Ward 2 member of the COMMUNITY PRESERVATION COMMITTEE for a term to expire January 1, 2021.

Action: Zoning & Planning Approved 8-0

Note: Mr. Maloney joined the Committee. He just finished a 15 year career as a youth coach and now that he is retired from that, he would like to stay involved in the community by serving on the Community Preservation Commission. Professionally, he is in the commercial real estate and development business, mostly in Boston. He can put his experience to use and be able to contribute to Newton.

A Committee member noted Mr. Maloney's background in sports as stated on his resume. His involvement and experience will be very helpful in the recreation role on the Committee. People do not often understand how housing gets financed and his real estate background can be helpful in that area as well. He noted that he does have experience mostly with commercial real estate but has knowledge of the construction business in Massachusetts.

It was asked if Mr. Maloney had any ideas about what can be done with the parks in the City. He said that he been involved with raising money for Newton Little League. Most of that money went towards refurbishing the Little League fields at Morse, Cabot and Pierce Schools. He was frustrated by the condition of the larger fields so he is well aware of work that needs to be done. The City can do a better job of maintaining the parks and public spaces. He understands the budget implications and the City cannot do it all. He said it would be helpful for the Parks & Recreation Department to work with the private sector and private money. He thinks much can be accomplished and he has some ideas on how to get more private money for the public good. A Committee member mentioned she was very interested in acquiring an ice skating rink for the City.

A Committee member asked Mr. Maloney's thoughts on artificial turf. He said that it is expensive to install and much less expensive to maintain in the long run. There is a reason most

municipalities are using it and that is because of the savings in maintenance. He thinks it is safer for play in inclement weather.

Councilor Albright moved approval. The Committee voted in favor unanimously with warm thanks from the Committee for his willingness to serve.

#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]

Public Hearing Closed; Planning & Development Board Approved 2-1-1

Action: Public Hearing Closed; Zoning & Planning Held 7-1-0 (Sangiolo opposed)

Note: The Zoning & Planning Committee and the Planning & Development Board opened public hearings on this item. Barney Heath, Director of Planning noted that this Inclusionary Zoning ordinance amendment has been discussed a few times in Committee. It is a complex ordinance and a complex subject. The key is to find the right balance to get the desired results.

Amanda Berman, Housing Development Planner addressed the Committee. She provided a PowerPoint presentation, which is attached to this report. Please refer to it for an overview and history of inclusionary zoning in Newton.

She noted that the goals are to reduce the potential for multiple interpretations of the ordinance, as well as provide the users of the ordinance with a more predictable roadmap for how the ordinance is to be applied in various circumstances.

Ms. Berman explained that there are six changes being recommended in order to strengthen the ordinance. These were outlined in the presentation and in more detail in the Planning Memo for this meeting:

- Apply ordinance to all new residential development where there is a net increase of 4 or more new dwelling units
- Where IZ requirement results in a fraction of a unit, a cash payment may be made to cover that fraction.
- Redefine calculation for fractional payments in-lieu
- Implement 3 tiers of income eligibility and link affordability to project size and type
- Employ rising IZ percentage requirements to project size, 15% to 25%
- Revise elder housing with services requirements

Public Comment

Robert Korff, 26 Dartmouth Street said he was seeing this ordinance for the first time. He finds the proposal reasonable. At Washington Place, the categories are skewed more towards the lower

income units. He said many municipalities offer a density bonus, and this is more of a mandatory process. Depending on the economics of a given project, this is the upper end of the threshold of what he has seen in most municipalities. This proposal for 25% is a hard pill to swallow on a financial pro forma. You will not find an IZ policy in any municipality that go that high. Cambridge has a complicated formula but it has worked well in the past. It is a 30% overall density bonus if you are participating. It is a scaled formula and there is a significant density bonus that comes with the affordable housing policy. The existing Newton ordinance does allow a one for one density bonus. It was explained that with this new proposal, he would get two market rate units for every Tier one unit he built with a 20% overall cap.

A Committee member asked Mr. Korff if this two-for-one provision was attractive. He said that economically, it does incentivize to add more housing units. There is no land cost to those extra density units. He said he would have to look at some more numbers, but the two-for-one definitely makes things more interesting. The density tolerance has to be considered, however, regardless of how many affordable units are included, so it may not work in practice. That is the reality of the world. That is the balance that needs to be found. The way to get affordable housing projects built is to allow for density. If you allow density, there will be no pushback from developers on the higher percentages. A Councilor noted that the City needs to be able to assess the percentages so that development does not completely stop.

It was asked if the DHCH number was a reasonable per unit number (\$389,000). Mr. Korff felt the number was high but not a game changer. Most developers do the calculation of whether to build the affordable unit or pay the fractional payment. The changes to the ordinance now capture all fractional units. This fractional formula is an incentive to go ahead and build the units.

Ken Gonzalez, Washington Street said he would like to reiterate what Mr. Korff said about density. Twenty percent is the highest in the Commonwealth. There is 25% in one district in San Francisco and upwards to 30% in David California. They have extremely robust housing markets. Cambridge and Somerville have robust housing markets as well as they are producing units through their IZ ordinance. Cambridge has a 30% cap on density. They had professionals come and help them determine what can work well. There is something not working with Newton's ordinance because it is not doing what it was intended to do. Creating the Tiers is helpful. Currently, a developer would be better off going with a 40B, so this is going in the right direction. The two-for-one at 50% AMI needs to be looked at and density is important.

Julia Malakie, 50 Murray Road said the higher requirement is a good idea as well as capturing fractional units. She was not sure if money would be lost by getting a fractional payment instead of a full payment that is currently collected now for .5 and over. She believes the DHCD number should be higher and more in line with actual costs. She was appalled that the Committee is taking direction from the developers in the room. You cannot take people at their word on how much money they are going to make. Units on Court Street development are selling for 40% more than what the CPA was told the selling price would be. There is frustration with the Pattern Book

deadline coming up and people are fed up with the developments, the density and the traffic and the developers are making the money and not living near the developments.

Phil Herr, Marlborough Street said the extension of the requirements to include units at lower percentages of AMI is important. In the last census, the number of the units at the lowest incomes in the City actually had grown from the last census. The format used for clarity is useful and he thought it was a very worthwhile effort. He is not sure if it will work, but he finds it very worthwhile.

Hearing no other requests to speak, the Committee voted to close their public hearing. The Planning & Development Board closed their public hearing as well and reported their vote for approval 2-1-1. The Board recognized that there were some substantial work still to be done but that it was headed in the right direction.

Councilor Hess- Mahan summarized the concerns of Committee members. He said the current ordinance does not work. The number being proposed for the calculation of the fee is a good number because it is indexed so it will change with the greater metropolitan Boston area market. He would recommend that the point of doing this is not to cover the full cost of building a unit, but of subsidizing a unit, which is what is done now with CPA and/or CDBG funds. These funds might be better used for other projects or acquisitions. The in-lieu payments will go into Newton Housing Authority projects or non-profit projects. Coming up with the right numbers requires more study and several Committee members agreed with that. Newton will be an outlier at 25% and it is a significant increase from the current 15%. His concern was that the change from 10% to 15% caused some consternation, and not many new units have been built.

Somerville did a comprehensive study along with a consultant to get to the right number. Councilor Hess-Mahan had concerns about the feasibility of 25% and if it will actually make a difference – will more units be built. He is not sure that is true and he would rather try to get it right on the first pass so it does not have to be tweaked in the future. Committee members have to persuade 16 Councilors to support this and while the people in the room tonight have good knowledge of this, most of the rest of the City Council do not. He wants to come up with something that will pass and that will work. A Committee member suggested that until this ordinance is put in place, it will be impossible to know just how this will work.

It was suggested that the Planning Department spend more time talking to the Land Use Bar, developers, other communities and other stakeholders.

Two Committee members seemed ready to approve the item tonight, while 5 others felt there was still more work to be done. Councilor Hess-Mahan noted that while he would love to be able to move this Inclusionary Zoning item forward as his last act as Chair of this Committee, he understands the hesitancy of some members. He is concerned about voting this with 2 in favor and 5 abstentions which is not a very strong recommendation to the full City Council. He asked that this Committee, in the new term, move forward on this ordinance and come out with some solid

support. The incentive structure has to be correct so that the builders will create projects that the City Council will approve. If that balance is not struck, developers may be more interested in going the 40B route instead of dealing with this. While it is enticing to up the percentage, if it is not reasonable, there will be no projects. After hearing the Committee's concerns, the big policy question is whether or not the proposed changes create enough incentives in the right direction.

Councilor Sangiolo moved approval. She said if the Committee does not approve it, it can be re-docketed in the new term. Committee members expressed that no one really wants to vote against this in principle, but in fact, it does need some more work so there is concern. They too would rather have it come out of Committee with a strong recommendation on its merits. The Committee was impressed by the amount of time and effort went into this ordinance, but more analysis is necessary to enhance the ability for the ordinance to be passed. If this went to the City Council now and failed, it would have to be shelved for 2 years, which would be unfortunate.

Mr. Heath said the Planning staff has spent quite a bit of time on this and done significant work, but not everyone had been heard from. Planning has not brought in a consultant as Cambridge has done. He understands the hesitancy. There are still some unknowns and there may still be unknowns even with the assistance of a consultant. His preference would be to go to the full Council with a strong recommendation from Committee. A better understanding of how the formula works in the marketplace is necessary to make Committee members more comfortable.

Committee members asked Councilor Sangiolo to withdraw her motion and instead allow for a vote to hold. She agreed and Councilor Leary moved hold. The Committee voted 7-1-0 with Councilor Sangiolo opposed. The item will have to be re-docketed in the new term in order to move forward with the proposal.

The Committee decided to forego the Zoning Redesign Update and adjourned the meeting.

Chair's Note: Councilor Hess-Mahan noted that it has been his distinct pleasure to work with Barney Heath, James Freas and all the staff in the Planning Department, as well as all the staff working with the Zoning & Planning Committee over this past term. He wished everyone well.

Respectfully Submitted,

Ted Hess-Mahan, Chair

Zoning and Planning Committee December 11, 2017

1

SECTION 5.11 INCLUSIONARY ZONING ORDINANCE

***MAKING IT WORK FOR
TODAY'S NEWTON***

Why Are We Here Tonight?

2

“Housing Is Urban Infrastructure”

“Cities Work Only If Housing Works”

One of the priority actions to come out of the
“Newton Leads 2040 Housing Strategy”
was an amendment to the
City’s Inclusionary Zoning Ordinance

Inclusionary Zoning Ordinance:

Making it Work for Today's Newton

#109-15(2)

3

Overview and History of Inclusionary Zoning

Overview and History of Inclusionary Zoning

4

What is Inclusionary Zoning?

- Leverages private development to create affordable housing
 - On-Site Units
 - Off-Site Units
 - Payments In-Lieu
- Increasingly popular across the United States
 - More than 500+ municipalities have adopted some type of ordinance
 - Ordinances / policies vary widely by municipality

Overview and History of Inclusionary Zoning

5

Inclusionary Zoning in Newton

- City has a leadership history both nationally and across the State
 - Informal policy in 1960s & 1970s negotiated by Alderman
 - Codified in 1977 as “10% Ordinance” (units created under original ordinance were not designated as affordable in perpetuity)
 - Targets low- and moderate income households; current ordinance is consistent with State regulations defining affordability

Overview and History of Inclusionary Zoning

6

Inclusionary Zoning in Newton, cont'd

- Current ordinance was Adopted in 2003 when Sec. 30-24(f) was amended:
 - Increased percentage of inclusionary units from 10% to 15%
 - Allowed fee-in-lieu payments for projects with 6 units or less
 - Off-site units allowed when developer partners with a nonprofit
- However, current interpretation of the ordinance is losing out on projects containing 3 – 5 new dwelling units

Inclusionary Zoning Ordinance: #109-15(2)

Making it Work for Today's Newton

7

IZ Ordinance Update: Why Now?

IZ Update: Why Now?

8

- The City's concentration of high value housing has created an ***extremely unaffordable environment*** for Newton's current population
- Newton's ***Middle-Class is shrinking***, and so is its ***workforce...***
- The City's population is ***aging*** and its ***household size is declining***, but there remains a lack of affordable options for smaller households and senior residents looking to downsize in Newton
- ***At 7.5%***, Newton's Subsidized Housing Inventory (SHI) falls short of the state's 10% threshold

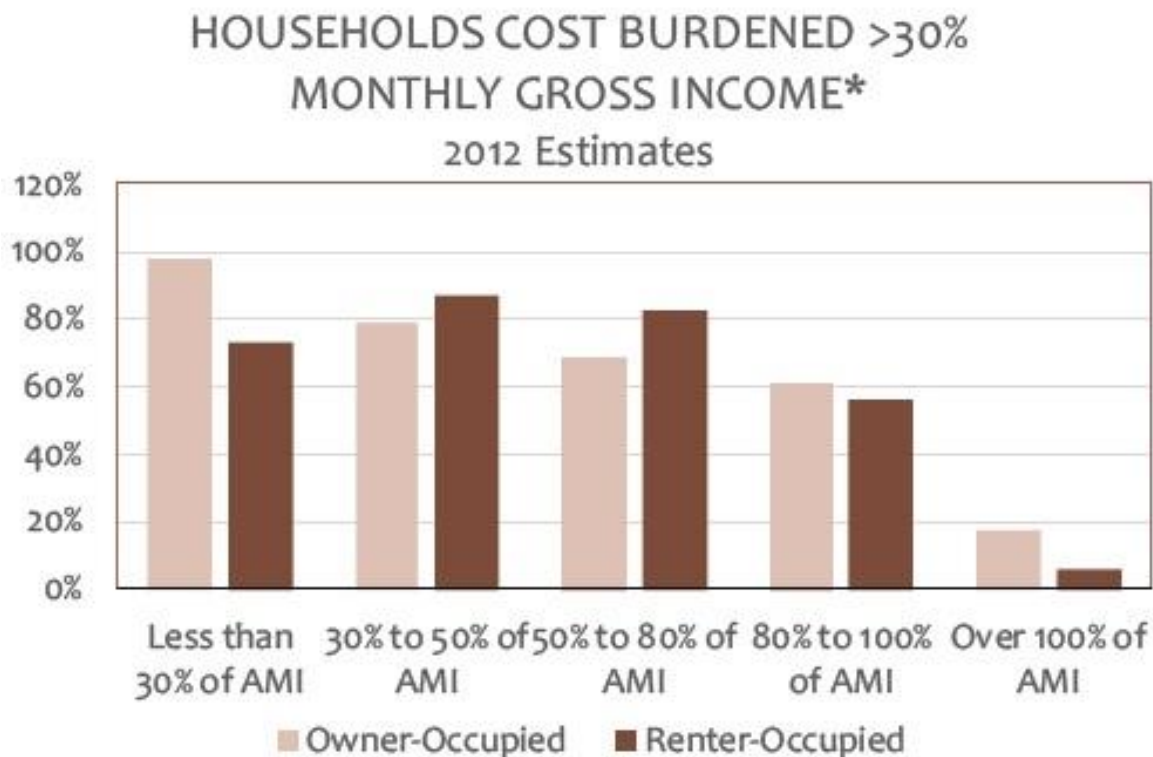
IZ Update: Why Now?

#109-15(2)

Unaffordable Environment for Newton's Current Population

9

Between 4,713 and 5,092 lower-income households in Newton cannot afford the home they live in, and are considered ***housing cost burdened***



IZ Update: Why Now?

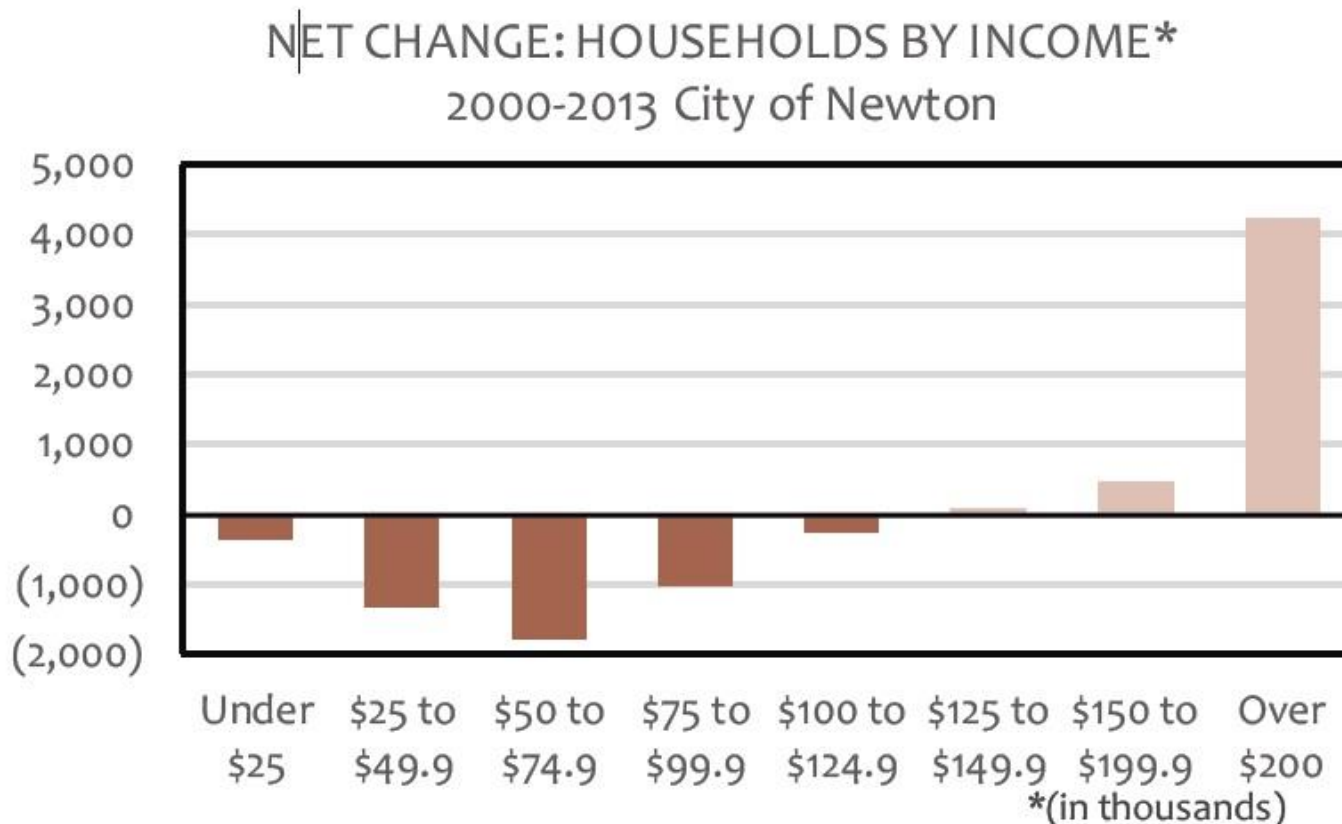
The Shrinking Middle-Class

#109-15(2)

10

A shrinking middle-class, and a shrinking workforce

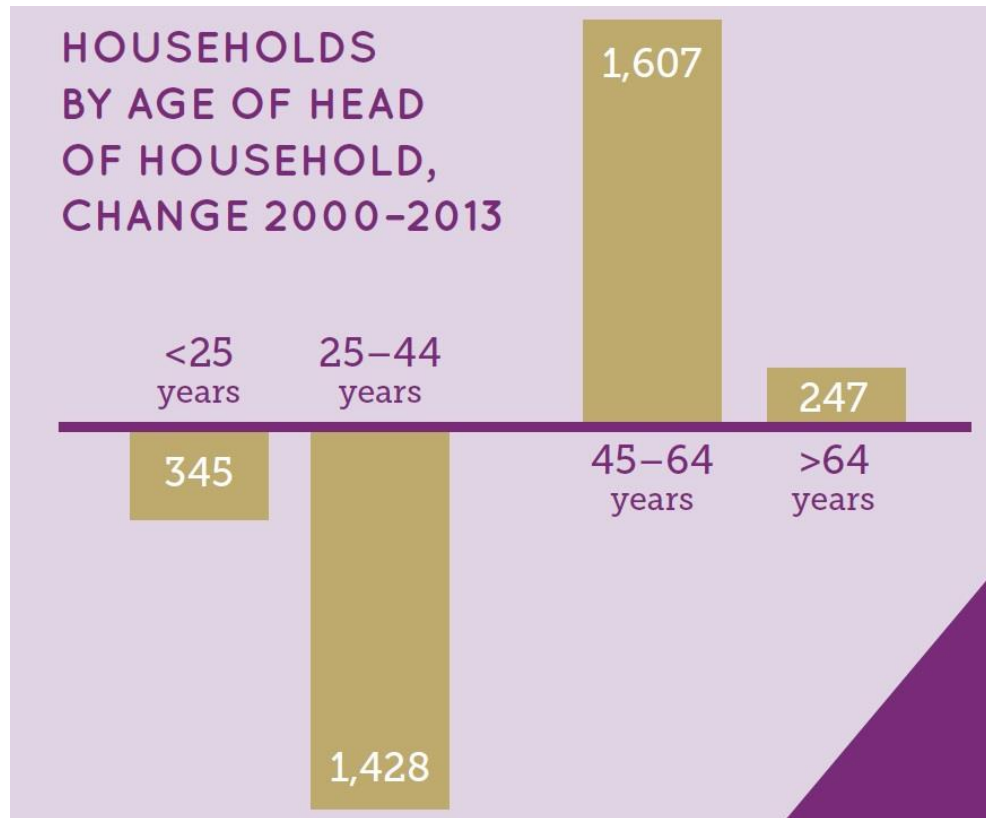
“Affordable Housing is where essential jobs go to sleep at night.”



Newton's Aging Population and Shrinking HH Size

11

There is a lack of affordable housing options for smaller households and residents seeking to downsize



IZ Update: Why Now?

#109-15(2)

Striving to Meet Our 10% SHI Requirement

12

According to MGL Chapter 40B, subsidized housing units (SHI) should represent 10% of all housing units in Newton

➤ Newton's Current SHI: 7.5%

**Additional SHI
Units Needed:**



**Over 800 units needed
to get to 10%!**

Inclusionary Zoning Ordinance: #109-15(2)

Making it Work for Today's Newton

13

Newton's Increasingly Unaffordable Housing Market

An Increasingly Unaffordable Newton: #109-15(2)

Newton's For-Sale Market

14

- **70%** of Newton households cannot afford a median-priced single-family home in Newton



An Increasingly Unaffordable Newton: #109-15(2)

Newton's For-Sale Market

15

Recent Home Sales In Newton, Sept. 2017			
Number of Bedrooms	HH Size	Avg. Sale Price*	Maximum Sales Price (120% AMI)
2 Bedrooms	3	\$693,275	\$348,250
3 Bedrooms	4	\$915,737	\$387,250
4 Bedrooms	5	\$1,187,548	\$424,750

- # of for-sale units affordable to households with incomes $\leq 120\%$ AMI: **ZERO**
- % of Newton households with incomes $\leq 120\%$ AMI: **Over 51%**

An Increasingly Unaffordable Newton: #109-15(2)

Newton's Rental Market

16

Market Rents In Newton, Sept. 2017

Number of Bedrooms	HH Size	Avg. Rent (Listing Price)	Maximum Affordable Rent (80% AMI)
2 Bedrooms	3	\$3,486	\$1,759
3 Bedrooms	4	\$4,012	\$1,954

- # of units affordable to households with incomes $\leq 80\%$ AMI:
2 out of 40 (5%)
- % of Newton households with incomes $\leq 80\%$ AMI:
Approx. one-third

Inclusionary Zoning Ordinance:

#109-15(2)

Making it Work for Today's Newton

17

Strengthening the Ordinance for Today's Newton

- Six Major Proposed Changes -

Strengthening the Ordinance for Today's Newton

#109-15(2)

18

Change #1:

Apply ordinance to all new residential development, where there is a net increase of 4 or more new dwelling units

Number of Inclusionary Units Required												
Tier Level	4-6 new units		7-9 new units		10-20 new units		21-50 new units		51-100 new units		101+ new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	-	-	-	-	-	-	5.0%	-	7.5%	-	10.0%	-
Tier 2, 51%-80% AMI	15.0%	15.0%	15.0%	-	10.0%	10.0%	10.0%	10.0%	10.0%	15.0%	10.0%	15.0%
Tier 3, 81%-110% AMI	-	-	-	15.0%	10.0%	10.0%	10.0%	15.0%	7.5%	10.0%	5.0%	10.0%
Total	15.0%	15.0%	15.0%	15.0%	20.0%	20.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%

Current ordinance: Special permit; net increase of 2 or more new residential units, less the number of units allowed by right; any fractional unit of 0.5 or greater shall constitute a whole unit; usually kicks in with net increase of 6 or more new dwelling units, not 4 or more units

Strengthening the Ordinance for Today's Newton

#109-15(2)

19

Change #2:

Where IZ requirement results in a fraction of a unit, a cash payment may be made to cover that fraction

Current ordinance: Through special permit; developments containing 6 dwelling units or less

Strengthening the Ordinance for Today's Newton

#109-15(2)

20

Change #3: Redefine calculation for fractional payments in-lieu

Inclusionary Housing Cash Payment Calculation:

A = # of new dwelling units X IZ % Requirement (per Required Units Table)	X
<i>Multiplied by</i>	
B = 2017 DHCD Total Residential Dev. Costs Index (avg. of large & small unit projects)	\$389,000
Total Cash Payment Due for Project	<i>Equals A X B</i>

Current ordinance: First 2 units in development are exempt; remaining units – 12% of sales price or assessed value of each rental unit

#109-15(2)

Examples of IZ Fractional Cash Payment Calculation:

Net Increase of 66 new units (rental) - Inclusionary Housing Cash Payment Calculation:									
A =								B =	Cash Payment Due Per Tier:
Tier 1:	7.5% X 66	<i>equals</i>	4.95				0.95	X \$389,000	\$369,550
Tier 2:	10% X 66	<i>equals</i>	6.6				0.6	X \$389,000	\$233,400
Tier 3:	7.5% X 66	<i>equals</i>	4.95				0.95	X \$389,000	\$369,550
Total Cash Payment Due for Project									\$972,500
Total IZ Requirement: 14 Inclusionary Units plus Cash Payment of \$972,500									

Strengthening the Ordinance for Today's Newton

#109-15(2)

22

Change #4:

**Implement 3 tiers of income eligibility
and link affordability to
project size and type**

Number of Inclusionary Units Required

Tier Level	4-6 new units		7-9 new units		10-20 new units		21-50 new units		51-100 new units		101+ new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	-	-	-	-	-	-	5.0%	-	7.5%	-	10.0%	-
Tier 2, 51%-80% AMI	15.0%	15.0%	15.0%	-	10.0%	10.0%	10.0%	10.0%	10.0%	15.0%	10.0%	15.0%
Tier 3, 81%-110% AMI	-	-	-	15.0%	10.0%	10.0%	10.0%	15.0%	7.5%	10.0%	5.0%	10.0%
Total	15.0%	15.0%	15.0%	15.0%	20.0%	20.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%

Current ordinance: Average 65% AMI, regardless of project size; no IZ units provided for households above 80% AMI

Strengthening the Ordinance for Today's Newton

#109-15(2)

23

Change #5:

**Employ rising IZ percentage
requirements to project size,
15% to 25%**

Number of Inclusionary Units Required

Tier Level	4-6 new units		7-9 new units		10-20 new units		21-50 new units		51-100 new units		101+ new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	-	-	-	-	-	-	5.0%	-	7.5%	-	10.0%	-
Tier 2, 51%-80% AMI	15.0%	15.0%	15.0%	-	10.0%	10.0%	10.0%	10.0%	10.0%	15.0%	10.0%	15.0%
Tier 3, 81%-110% AMI	-	-	-	15.0%	10.0%	10.0%	10.0%	15.0%	7.5%	10.0%	5.0%	10.0%
Total	15.0%	15.0%	15.0%	15.0%	20.0%	20.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%

Current ordinance: 15% for all IZ projects, regardless of size

Strengthening the Ordinance for Today's Newton

#109-15(2)

24

Change #6: Revise elder housing with services requirements

Current ordinance: 2.5% of annual gross revenue from project to be contributed to City; City Council determines whether contribution should be residential beds or unit, or a cash payment

Zoning and Planning Committee

December 11, 2017

25

QUESTIONS?