
City of Cambridge
Community Development Department

What we talk about when we talk about zoning

Jeff Roberts, Director of Zoning and Development
Presentation to Alewife Zoning Working Group
June 29, 2022



This is meant to get you in the mindset of a zoning planner
Will talk a little about zoning in the Alewife area but mostly this will talk about how
we use the mechanics of zoning to advance planning

Land Use Regulation

Included	Not included
Type of use (residential, commercial)	Who owns or occupies land (residents, businesses)
Size and scale of buildings	Use of public streets
Intensity of use	Construction methods, materials
Site or building development characteristics	Matters subject to other state or federal regulation (e.g., building codes, licensing, taxation)

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First and most important thing is that zoning is a legal instrument we have to regulate land use

It allows the city to set rules about land use and development on lots

It does that by regulating the “what” but not the “who” – it doesn’t dictate who can own or lease property

It also doesn’t regulate the use of streets and it doesn’t regulate other things that are under the purview of other regulations, like construction methods, taxation, &c.

Zoning is not a catch-all for everything, and so it doesn’t cover all of what we can do in planning

Zoning is about what's allowed in a district

- Zoning does not dictate. Property owners decide what changes to make.
- Zoning sets the rules, but economic factors influence what changes property owners are more or less likely to make.
- Zoning rules are uniform across a district.
- Zoning allows existing conditions to be maintained.

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We talk a lot about zoning requirements but that sometimes give the false impression that zoning is a “command and control” kind of legal tool

I think it's best to think about zoning as telling a property owner what's allowed

In the United States we have a system built around individual property rights, meaning the owners of property choose how they want to use it

The power of zoning is to set reasonable limits on what property owners can do with their land in order to serve a broader public interest

There are some guardrails around zoning – for example it's based on drawing zoning districts, and the rules across each district have to be uniform, you can't single out particular lots for special treatment – preferential or detrimental

Might ask “well what about all this stuff in Kendall Square” – interesting that you ask, but there is a process that lets a property owner petition to zone their land differently

The City Council can adopt zoning through this process if there is a public benefit being offered in exchange and a process to deliberate on whether the public benefit is commensurate with the additional value that the new zoning might create

Legally complicated - bit of a zoning 102 topic but something we could talk about

Zoning in Massachusetts – and most other places – also has protection for what's called nonconformity, which essentially means if you have a land use in place that is allowed, but the zoning later changes to make it not allowed, that condition can be

maintained – you don't have to tear something down because it's no longer allowed



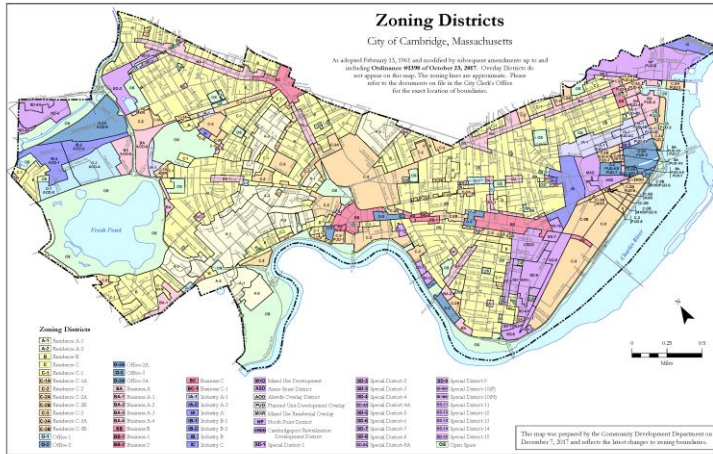
Not Everything is Zoning!

- Building code
- Sanitary code
- Stormwater regulations
- Wetlands permitting
- Business licensing
- Historic protection
- Public investments

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Lots of other agencies, boards, &c., play a role in regulating development
Many of these are subject to their own set of state laws and local regulations
Zoning cannot supersede other things regulated by state law
Other local ordinances often apply
Often confusion about what we mean by zoning

Zoning Districts



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- Every part of the city is in a district
- Districts defined by their land use character – use, scale, intensity
- Range from more restrictive to more permissive

Called zoning for a reason – based on dividing the city into districts

Every part of the city is in a base zoning district

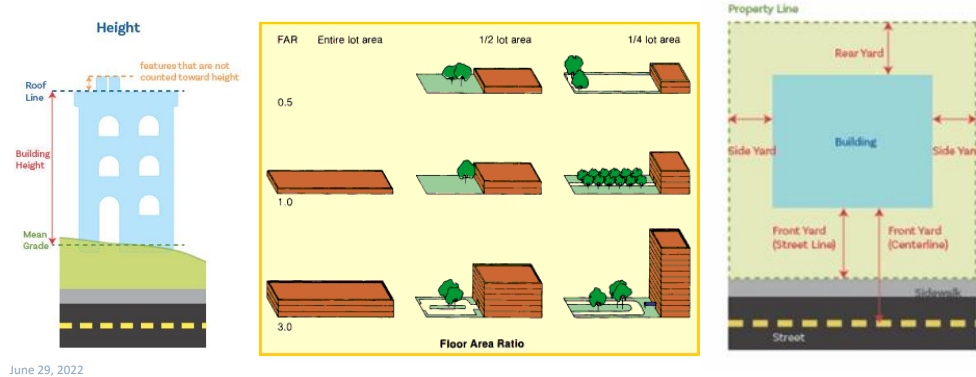
Those districts are characterized by difference in type and intensity of use

All districts allow residential use, and some districts allow an increasingly broader range of uses including some combination of multifamily housing, offices and labs, retail businesses, and industrial facilities

Basic Development Controls

Use type and intensity: height, density (floor area, housing)

Development standards: open space, setbacks, parking



What does zoning actually regulate?

The main development controls in zoning include

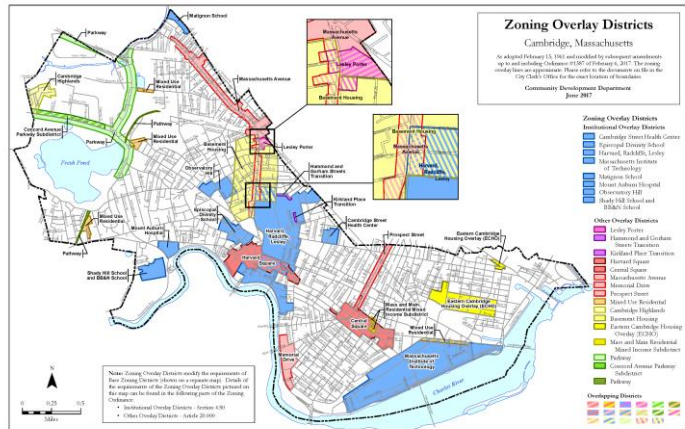
- building height, fairly straightforward
- building density often represented by a real estate concept called FAR which is often used as a proxy for intensity of use
- Yards, or how far a building is set back from streets
- Other things like open space and parking also regulated

Development controls, like land use, range from restrictive to permissive

Overlay Zoning

Modifies base zoning in various ways

- Modified sets of allowed uses
- Modified dimensional standards
- Special requirements for some types of development



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Probably one of the most misunderstood concepts in zoning
 Simple explanation is that overlay zoning modifies the base zoning
 But overlay zoning doesn't change any of the fundamental rules about zoning –
 anything that's done as overlay zoning could be written into the base zoning
 The main benefit of overlay zoning is to introduce new zoning concepts in a way that
 is concise and doesn't mess with the base zoning too much
 You can draw new overlay districts, but don't have to – some of our overlay zoning is
 simply tied into our base zoning map (will talk about when we get to Alewife)

Special Permits and Variances

Special Permit	Variance
Subject to legal appeal	Subject to legal appeal
Requires public hearing, notification, decision	Requires public hearing, notification, decision
Allowed by Zoning Ordinance	Not allowed by Zoning Ordinance
Normally granted if zoning requirements are met, except if not found to be in the public interest due to unique circumstances of the site	Normally not granted unless there is a hardship that justifies special consideration due to unique circumstances of the site

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Finally one of the tools we can use in zoning is the special permit or “conditional” use. What this means is that you can allow certain things only after a permit granting authority – in our case the BZA or Planning Board – reviews a proposal and finds that it meets specific criteria laid out in zoning.

Special permits otherwise work the same as normal zoning but can consider factors that are unique to a particular site or proposal, and they can be granted with conditions that are meant to mitigate impacts that are specific to that proposal in order to meet the required criteria.

Another way to think of special permits are normally meant to be granted unless there is a unique, case-specific reason why they shouldn't be.

Special permits are often confused with variances, which go through a similar application and hearing process.

But conceptually variances are the opposite of special permits – they are sought to permit things that aren't allowed in zoning, and are not normally meant to be granted unless there is a case-specific reason why they should be granted, referred to as a “hardship” that justifies one site being treated differently from other sites in the same district.



Ways to Apply Development Standards

- **Prescriptive**
- **Performance**
- **Review-Based**
- **Incentive-Based**

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Those are the basic building blocks of zoning, there are many different ways to apply zoning in support of an area's planning goals

These are some simple concepts, but when you really understand it you can apply zoning in many creative ways

Development Standards: Prescriptive

Precise rule, simply stated, administratively applied.

e.g., “Buildings must be set back at least 10 feet from the street.”

Benefits	Drawbacks
Easily understandable	No allowance for flexibility or incentives
Straightforward to apply/enforce	Some issues can't be addressed with a simple standard

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This is the most basic of base zoning – all zoning starts with setting prescriptive “yes or no” standards for each zoning district

Note that prescriptive standards have to stick to development characteristics like height, setbacks, FAR – can't require public space or infrastructure, that can only be done through incentives

Development Standards: Performance

Compliance must be demonstrated by analysis/assessment.

e.g., “Buildings must be set back so that shadow is not created over more than 50% of the street.”

Benefits	Drawbacks
More direct in addressing some issues/impacts	Requires more professional expertise
Opportunity to meet standards in different ways	Potential for ambiguity, unforeseen consequences

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The idea of a performance-based standard is you regulate something based on a desired outcome rather than setting a prescriptive requirement
 This doesn't always work as a baseline zoning requirement, sometimes it has to be applied only in special cases
 Another concern is that there might be a greater risk of veering outside the purview of zoning

Development Standards: Review-Based

A board (Planning Board or BZA) determines that criteria are met.

e.g., “In granting a special permit, the Planning Board must find that the front setback is appropriate for the use and compatible with surrounding buildings.”

Benefits	Drawbacks
Case-by-case review allows for input, improvement, mitigation	Can't stand alone – builds on top of “as-of-right” options
Allows for good judgment	Decisions can be challenged

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Many of the standards in our zoning use the special permit provision in state zoning law to require review

Sometimes this is used to say that development triggering a certain threshold needs to be reviewed for impacts

Another way to use this is to say that one standard is allowed as-of-right, but another standard can be allowed by special permit if it meets the criteria

This is helpful when you want an opportunity for public input, to make improvements, and impose conditions on approval

The thing to note here is there always has to be an “as-of-right” option, you can't make everything subject to review

Development Standards: Incentive-Based

More flexibility is allowed if a particular objective is met.

e.g., “Front setbacks may be reduced to 5 feet if they are made accessible to the public.”

Benefits	Drawbacks
Encourage “better than the minimum” approach	Challenge to agree on balance between incentive and benefit
Enables public improvements that can’t otherwise be required	Doesn’t guarantee a particular outcome

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Often used in conjunction with a special permit, but like a special permit there still has to be an “as-of-right” option

The idea here is that there are some things we can’t require property owners to do, or maybe it’s not practical to require in every circumstance

But if we make the zoning more favorable for one outcome compared to another, it can encourage property owners to make the choices we want them to make

In a way this is a fairly nuanced approach but in other ways it’s just how the zoning game works – we set the rules and property owners choose what to do



Zoning in Alewife

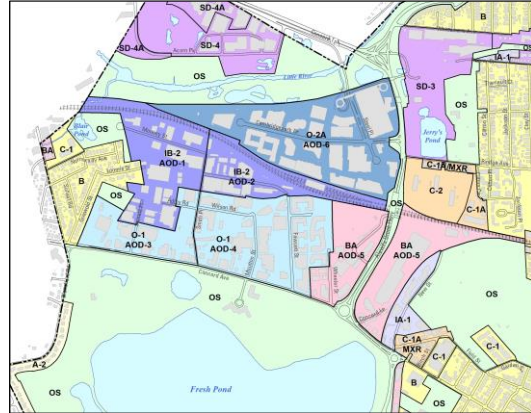
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Go quickly through brief overview of current zoning in Alewife and how it works
This is to give you a sense of how these broader concepts are applied in this area
In the next session Daniel will be going into more detail on the specifics of zoning and
what the Alewife District Plan recommends changing

Alewife Overlay Districts (AODs) (20.90)

Review-Based / Incentive-Based

- “Two-tier” zoning approach
 - As-of-right: Low density and height
 - Special permit: Moderate density, mid-rise height
- Development bonus for public infrastructure
- Special Permit requires general conformance with area plan



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This is an overlay approach – how can you tell? the overlay is drawn into the base zoning map

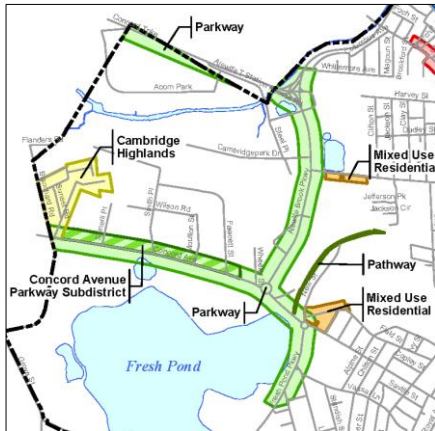
Similar to PUDs, which are used in major redevelopment areas like Kendall, North Point, Alewife

As-of-right option exists, without mandatory review

To unlock the higher tier of height, density, and other zoning flexibility, the Planning Board needs to grant a special permit

It also allows for development bonuses for public resources and infrastructure, which is fundamental to our planning in redevelopment areas

Other Overlay Districts



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Prescriptive (w/Review-Based Relief)

Parkway Overlay District (20.60)

- Lower height, bulk control
- Increased front setbacks
- Landscaping and design standards

Cambridge Highlands Overlay District (20.800)

- Reduced housing density (compared to other Res. B districts)

Some other overlay districts that mostly pre-date the AODs

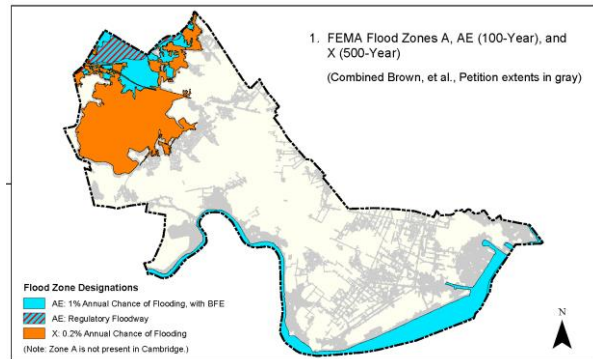
Parkway overlays limit height, increase setbacks, and impose other design standards that are intended to lend a more open, somewhat more suburban feel to the areas around urban parkways

Highlands Overlay is a little more recent – some of you were involved in this – it imposes lower density requirements in that neighborhood compared to similar neighborhoods

Flood Plain Overlay District (20.70)

Performance / Review-Based

- All activity in the 100-year flood plain (no size threshold)
- Requirements for compensatory flood storage
- Planning Board special permit



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Flood Plain overlay has been in place since the early 1980s

It imposes additional requirements for development in FEMA-designated flood hazard areas

Specific criteria have to be met, and in most cases a special permit from the Planning Board is required

But these requirements are mostly the same as under the Wetlands Protection Act so the Planning Board's review often duplicates reviewed by the Conservation Commission

Project Review Special Permit (19.20)

Review-Based (Citywide)

- Projects 50,000 SF or more (sometimes 20,000 SF or more)
- Planning Board Review
- Transportation Impact Indicators
- Urban Design Objectives

New projects should be responsive to the existing or anticipated pattern of development.

Development should be pedestrian and bicycle-friendly, with a positive relationship to its surroundings.

The building and site design should mitigate adverse environmental impacts of a development upon its neighbors.

Projects should not overburden the City infrastructure services, including neighborhood roads, city water supply system, and sewer system.

New construction should reinforce and enhance the complex urban aspects of Cambridge as it has developed historically.

Expansion of the inventory of housing in the city is encouraged.

Enhancement and expansion of open space amenities in the city should be incorporated into new development in the city.

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We see a lot of these cases, you're probably familiar

Incorporates specific transportation impact and urban design review into larger projects

Still relies on principle that special permits are normally granted

But provides opportunity for transportation mitigation and improvements to design

Green Building Requirements (22.20)

Performance (Citywide)

- Projects 25,000 SF or more
- Administratively applied
- Relies on widely used rating systems
- Includes submission of a “Net Zero Narrative” (advisory)



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2010 stakeholder planning and zoning process (like this one) to promote green design
 Uses a set of nationally recognized standards
 Performance approach allows some flexibility
 Administrative, not subject to modification by special permit

Climate Resilience Zoning (coming soon!)



Performance (Citywide)

- Flood resilience standards based on 2070 projected flooding elevations
- Building/site design standards based on best practices for heat island mitigation

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Many of you were involved in this
Introduces a new set of standards to promote resilience from future flooding and mitigation of urban heat island impacts

Affordable Housing Overlay (11.207)

Prescriptive / Incentive (Citywide)

- Alternative standards for all-affordable housing development
- As-of-right permitting with advisory design review
- Limited to 7 stories / 80 feet height in AODs (generally), no limitations on units or density



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Another one you're probably familiar with

This is a citywide overlay that creates alternative standards that can be applied to residential development where all units are permanently affordable

In most of the areas we're looking at, this would allow 7-story residential buildings as-of-right if the affordability requirements are met

Alewife District Plan Zoning Highlights

- Density and uses generally the same
- Keep development bonuses for public infrastructure
- Commercial heights up to 85' if ground story is light industrial / retail
- Prescriptive design standards to promote ped/bike-friendly streetscape, mitigate impacts of elevated buildings
- Increased open space requirement
- Parking maximums instead of minimums, TDM to limit traffic growth
- \$5/SF contribution to shared infrastructure fund

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Won't go through all of this, but in general the Alewife District Plan recommendations keep the framework of the current AOD zoning, with specific changes to support area goals

For example, requirements for certain types of uses at the ground story, but counterbalanced by adding a story of allowed height onto buildings

Also new setback requirements and design standards to create a cohesive streetscape per the district plan, and increased open space requirements

Some of the more significant changes have to do with parking and transportation, which we'll talk about at a future meeting

Food For Thought ...

- Many development scenarios – larger phased redevelopment, small-site redevelopment, preservation/rehab
- Vision is long-term, markets change often (commercial, residential, commercial again ...)
- What outcomes are desired, and do the allowances in zoning enable those outcomes to happen?



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Leave you with a few things to churn over in your mind as you try to make sense of all this

1. Alewife is a complex area – unlike other development areas that have larger contiguous ownership, ownership is still scattered and redevelopment will occur in a more irregular way
2. Think long-term – when I started here most development in Alewife was commercial. During the recovery from the Great Recession the market shifted to residential and people were concerned about too much housing being built. Now the market has shifted back to commercial and people are concerned about not enough housing being built. Can't always be planning in reaction to what's happening in the market, that will change over time
3. Another thing I hear a lot is that everything's already don't and we missed our chance and might as well forget about it. In an evolving area there's always another phase of change and redevelopment around the corner, there's no reason not to keep planning

To take it back to the beginning, zoning is really all about what's allowed – when our planning tells us what the desired outcomes are, the first question to ask is whether those outcomes are allowed under our zoning and what changes are needed to make

those the preferred outcomes when owners decide what is the next investment they want to make in their land



Thank You