



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** February 28, 2020

**TO:** Councilor Deborah Crossley, Chair, Zoning & Planning Committee  
Members of the Zoning & Planning Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
Jennifer Caira, Deputy Director of Planning & Development  
Zachery LeMel, Chief of Long Range Planning

**RE:** **#88-20 Discussion and review relative to the draft Zoning Ordinance**  
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.  
**Zoning Redesign – Overview of Article 3 Residence Districts**

**MEETING:** March 9, 2020

**CC:** City Council  
Planning Board  
John Lojek, Commissioner of Inspectional Services  
Alissa O. Giuliani, City Solicitor  
Jonathan Yeo, Chief Operating Officer

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The Residence Districts (Article 3) within the draft Zoning Ordinance regulate development activity in Newton's neighborhoods. The substance of Article 3 is designed and mapped to achieve the City's goals of minimizing vulnerability to speculative tear downs, reducing non-conformities, simplifying the process for property owners seeking to make minor changes on their property, improving the degree to which development within neighborhoods is consistent with the valued character and scale of those neighborhoods, and introducing mechanisms that allow for incremental degrees of neighborhood evolution in a controlled and consistent manner with neighborhood building scale. Development herein refers to everything from new buildings to minor additions or alterations to existing buildings.

Following the release of Article 3, City staff heard from the ZAP committee, the City Council, and the community that the Residence Districts needed adjustments to better align with the City's vision. City staff utilized a build out analysis and determined several changes to better achieve the above City goals. The March 9<sup>th</sup> ZAP meeting will focus on reviewing an updated Article 3 that not only incorporates feedback from the build out analysis, but also the additional feedback gathered from the committee and community. Ahead, the committee, working closely with City staff, should hold more detailed discussions to review and edit the content of Article 3 in order to come to consensus on a complete draft Article 3.

## Residence Districts (Article 3)

### *Introduction*

The proposed five residence zoning districts (R1, R2, R3, R4 and N) are the foundation for regulation across Newton's neighborhoods and roughly correspond to five of the existing residential districts (SR, SR2, SR3, MR1 and MR2). Each residence district provides four primary pieces of information, the district description and purpose, the rules for lots and building placement on the lot, the building types or development alternatives allowed in the district, and the allowed uses. For clarity, a zoning district does not correspond to a single neighborhood as a neighborhood could have elements of multiple zones.

The work encompassed by the Pattern Book, which analyzed the form and context of Newton, served as the starting point for creating these residence districts. In a more detailed sense, this meant looking at what rules and standards best achieved consistency with that form and context over time as development activity (from additions to new homes) occurred. The most important factors in defining the context are the types and scales of the buildings, the spacing between those buildings, their relationship to the street, and the ratio of built to unbuilt space on a given lot. Notably, using lot size as a proxy for building envelope is no longer germane in the draft Zoning Ordinance as it does not consistently or precisely address the issues above. Instead, the buildability of a lot is determined by its capacity to accommodate an appropriately scaled building with the frontage, setbacks, and lot coverage requirements – in other words based on whether it fits into the context of the neighborhood.

The draft ordinance utilizes a context-based approach to address one of the issues forefront for many Newton residents, mainly the replacement of existing homes with very large, out-of-scale homes. This issue is a complex and challenging one as it requires the balancing numerous competing issues or interests, including:

1. Potential loss of property value or tax revenue;
2. Ability of property owners to expand their homes to meet changing needs;
3. Preservation of neighborhood building scale;
4. Retention of potentially more affordable building stock.

As the committee dives into the details, the big issues to tackle are whether the allowed homes, known as building types, are too big or too small and how many buildable lots are available for new construction. Some options to consider include further changing the allowed footprints of the building types; whether to allow larger footprints by special permit; the required frontages; the new residence district (R4); and/or adding building components such as side wings and rear extensions that would allow greater building sizes with a greater degree of control. City staff will prepare case studies for the committee to explore all of these options at subsequent meetings.

### *Notes on Standards*

Front Setbacks: The draft ordinance proposes that the contextual setback (Sec. 3.4.1), the minimum and maximum setback based on that of the neighboring adjacent properties, be the margin where a building could be placed from the front property line, with the listed setback standards only used where a contextual setback would not apply. The current zoning ordinance provides the contextual setback as an option.

Side Setback: One place where the data and goal of reducing non-conformity does not set the standards is for side setbacks. If staff had followed the data in this instance, the side setback standard proposed would likely have been zero. Instead, staff has proposed a minimum side setback of 7.5 feet depending on the district, which is the same as the current minimum. Other districts require higher minimum side setbacks, and often increased further following the build out analysis.

Lot Coverage (Sec. 2.2.1.C & Sec. 2.3.2): The lot coverage standard in the draft ordinance encompasses more than the current ordinance, which only counts building footprints, and varies by district. The draft ordinance proposes that lot coverage include all paved or otherwise “built” surfaces such that the standard reflects the built versus unbuilt aspects of the property. Driveways, patios, and decks would therefore all count towards the lot coverage maximum. Resulting lots will be more permeable for stormwater. This approach replaces the existing lot coverage and open space requirements.

Fenestration and Garage Rules (Sec. 2.7 & Sec. 3.4.2): A strong sense of community, the idea that people know and interact with their neighbors, is important to many Newton residents and supports a range of public policy objectives including public safety, adapting to climate change, and democratic participation. Research and observation of different places and neighborhoods has found that features of how a place is designed can strongly influence sense of community. Rules in the draft ordinance relating to fenestration, which is the amount of windows and doors, and garage placement intend to begin to address design attributes of homes that can reduce barriers to this sense of community. The attached revised draft largely removes the fenestration requirements for residences in an attempt to simplify the ordinance as the building code already strongly regulates things like windows. Rather, the fenestration requirements within the Zoning Ordinance should focus primarily on ground floor commercial uses to go above and beyond the building code. The garage regulations should also be carefully reviewed to set maximum width and placement to improve the pedestrian orientation of homes.

#### *Notes on Zoning Districts*

Following the results of the build out analysis and discussions with the community and ZAP committee, City staff updated the Residence districts typically by increasing setbacks and reducing lot coverage, which results in a smaller buildable area. In addition, the Residence 3 district has been split into the Residence 3 and Residence 4 districts. Key updates include:

Residence 3: The new building type, 3-Unit Building, is allowed only by special permit.

Residence 4: This new district is meant to further define neighborhoods composed mostly of multi-unit buildings, with single, two, and three-unit homes as well. It provides another layer of transition between the Residence 1, 2, and 3, Districts and the Neighborhood General District. It allows the new building type, 3-Unit Building, by-right and the new building type, 4-8 Unit Building, only by special permit.

#### *Notes on Building Types*

Following the results of the build out analysis and discussions with the committee, City staff updated the Building Types in a variety of ways:

House A (Sec. 3.2.3): By-right footprint reduced.

House B (Sec. 3.2.4): By-right and special permit footprint reduced. 3 stories requires Special Permit in all districts.

House C (Sec. 3.2.5): By-right footprint reduced.

3-Unit Building (Sec. 3.2.8): Formally called “Apartment House” the changes limit the number of units and the overall size.

4-8 Unit Building (Sec. 3.2.10): Formally called “Small Apartment Building” the changes reflect a substantially smaller building.

### *Preserving Historic Homes*

Based on conversations with some property owners/designers, another issue to discuss is the potential for modest flexibility on certain zoning district standards in order to promote preservation of historic structures through additions rather than tear-downs. This issue recognizes that for many of the older homes in Newton, those that predate zoning, the buildings can sit very close to lot lines or have other anomalies for which flexibility might be warranted.

### *Alternative Development Options*

Attached Units (Sec 3.2.9 & Sec 3.5.4): The existing zoning ordinance allows attached units in all residential districts by special permit. However, the scale of these projects is often inconsistent with the surrounding context. The first draft ordinance restricts this building type, identified now as a Townhouse Section, to the Neighborhood General district. In addition to the district and building type standards, projects that include a townhouse will also need to meet the requirements of the Multi-Building Assemblage section (as this section is particularly important for the Village Districts, we will likely spend more time on it during that discussion). The Townhouse building type will need careful review to set the orientation, scale, and location of these buildings.

Multi-Unit Conversions (Sec 3.5.2): Allowing a large single-family house to be converted into multiple units is a strategy employed in the current ordinance to promote preservation of these large houses. The draft ordinance carries this strategy forward with a more generous allowance for the number of units and a slightly less strict historic preservation standard. These standards are meant to increase the likelihood that this option is more attractive than tearing down the structure.

Courtyard Clusters (Sec 3.5.3): The concept is the idea of small attached or detached buildings surrounding a shared central green. Though around for decades, in its current incarnation, the idea originates in the Pacific Northwest is proliferating across the country. Courtyard clusters create a sense of community created by the shared space and hamlet like environment and the form is particularly attractive to older adults. From the perspective of Newton’s neighborhoods, the development approach allows for new homes to be introduced into a neighborhood in a way that is compatible with its scale and character. Locally, the Concord Riverwalk development is a prominent example of the development type.

The draft ordinance allows this development approach on lots of at least .75 or 1 acre depending on the zoning district and requires a special permit. Allowed building types are identified by zoning district and a smaller footprint requirement than otherwise required outside of a courtyard cluster is specified. The committee should consider whether this development approach might be acceptable by an administrative site plan review process rather than by special permit, given the extensive design requirements already specified in the ordinance. This approach to permitting could further encourage use of this form. Could the review process be tied to the size of the project and/or the district? Staff is also looking at the viability of this form on smaller lots than currently required.

### *Allowed Land Uses*

General (Sec 3.6): Broadly, the uses allowed in the first draft zoning ordinance for the Residence Districts 1 through 3 are the same as are currently allowed. The key differences are in the sections identified below and in the addition of the Bed & Breakfast use category.

The Neighborhood General district is a new kind of mixed-use district, transitioning from the purely residential neighborhoods to the mixture of uses found in the village centers. As mapped, the neighborhood general district is replacing business district zoned areas on the existing zoning map. This district has a more limited range of allowed commercial uses than the adjacent village districts and features building types meant to be in scale with the adjacent neighborhoods.

Adaptive Reuse (Sec 3.6.1.B): The adaptive reuse section of the draft zoning ordinance identifies a limited range of uses that might be allowed in an existing building by special permit to allow for its adaptive reuse. The section targets existing civic or house type buildings. Most commonly, these types of buildings have been converted into museum, arts, or educational uses, including such examples as the Durant-Kenrick House, the New Art Center, and the Allan House. The draft ordinance proposes to expand the menu of potential reuse uses to include other arts related uses, general office space, and restaurant/cafes. This idea expands the opportunities for new commercial space, sensitively incorporated into an otherwise residential area and creating an opportunity for a neighborhood-based restaurant or allowing an expanding home business to stay in location. The idea is in line with how neighborhoods historically evolved, created walkable areas with neighborhood serving uses, and this provision allows a certain degree of evolution, in a way that is highly controlled, based on the special permit process. Are there additional uses to consider within the adaptive reuse framework?

### **Additional Reading**

In preparation for the this meeting, and subsequent meetings discussing Article 3, committee members should read this memo, all of Article 3 (attached), Article 2 Sec. 2.1-2.8, and Article 9 Sec. 9.2.2 and 9.2.14 A, F, G, and H.

#### *Article 2*

<http://www.newtonma.gov/civicax/filebank/documents/94712>

#### *Article 9*

<http://www.newtonma.gov/civicax/filebank/documents/94719>

### **Looking Ahead**

Following the general overview of Article 3 at ZAP on March 9<sup>th</sup>, City staff will begin preparing detailed case studies and other materials for the committee to review, discuss, and recommend changes to the specific content at subsequent meetings. At the March 23<sup>rd</sup> ZAP meeting, City staff proposes to hold a workshop on how the draft Article 3 address the issue of tear downs with a focus on building types and sizes (Sec. 3.2).

### **Attachments**

Attachment A Article 3 – Residence Districts (redlined)