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Barney S. Heath
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MEMORANDUM

DATE: February 12, 2021

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 Department of Planning and 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.

MEETING: February 22, 2021

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

Article 3 – Residence Districts, Reviewing in 2020

Throughout the past year (2020), ZAP reviewed Article 3 – Residence Districts of the draft Zoning Ordinance. Highlights include reaffirming the goals and objectives, using detailed case studies to understand how the recommended mechanisms and standards function, and debating on how those recommended mechanisms and standards could be revised to facilitate the evolution of Newton’s residential neighborhoods more clearly and simply according to those goals and objectives.

ZAP agreed at the December 14, 2020 meeting to temporarily set down the proposed zoning for Newton’s residential neighborhoods (Article 3) to focus on Newton’s village centers/transit nodes in 2021. To do so requires capturing and documenting the work to date on Article 3, which is summarized in this memo, annotated draft zoning text (Attachment A), and draft zoning map ([link here](#)).

Guiding Goals and Objectives for Article 3 – Residence Districts Updates

As previously mentioned, comprehensive efforts on zoning reform (Zoning Redesign) began nearly a decade ago with the Zoning Reform Group (ZRG). From this beginning, the highest organizing principle for Zoning Redesign has been to align Newton’s Zoning Ordinance with the *Comprehensive Plan* (2007). Of course, Newton’s needs and challenges have evolved since 2007 and the plans and policy documents following the *Comprehensive Plan*, such as the Housing, Transportation and Economic Development

strategies and the Climate Action Plan, reflect that. This past April the ZAP Committee unanimously reaffirmed the goals and objectives informing the draft recommendations for Article 3. The recommended mechanisms and standards should always be evaluated on if, and how well, they achieve these goals and objectives:

- Housing: A zoning code more responsive to demand for housing that serves a range of incomes; Promote sustainable community development patterns
- Sustainability: Environmental stewardship, fiscal strength, and meeting community needs
- Context: Preserve and protect what we like in our neighborhoods; Encourage new development to fit in the context of our neighborhoods and villages

Reading the Annotated Draft Zoning Text (Attachment A) & Draft Zoning Map (Attachment B)

Per ZAP's guidance, staff have compiled the overall comments, questions, concerns, and areas of agreement within Article 3. These appear as comments on the side of the annotated draft zoning text provided. The source documents used were the ZAP documents (memos, presentations, and reports), Councilor memos, Building Professional Group comments, and internal meetings with other City staff (Current Planning, Inspectional Services, and Law). To improve readability, a comment that applies to multiple sections was only indicated at the first occurrence. For example, ZAP has requested further analysis on many of the proposed district dimensional standards (lot frontage, setbacks, etc.). This comment appears once, not in every district section.

The draft zoning map includes the proposed R4 district, which was developed in 2019 following the build out analysis and public sentiment that the districts proposed in 2018 were overly broad. No other changes have been made to the draft zoning map since it was originally shared in October 2018. The R4 district was not publicly shared until an April 2020 ZAP meeting because Zoning Redesign was paused in 2019. The zoning district boundaries remain a draft and require additional substantive conversation and debate in committee and with the public. In addition to the static map, staff have also updated the interactive map, [link here](#), where you can compare the draft districts with the current districts.

General Comment About Multi-Family Housing

The term Multi-Family Housing is defined by Massachusetts General Law as, "a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building." Newton's current zoning ordinance does allow for multi-family housing within all existing residence districts (SR and MR), but it requires a Special Permit in all cases. Although the proposed ordinance remains a draft, the latest iterations proposed to allow some multi-family development by-right in certain residence districts. To what extent, and to what scale, multi-family housing is allowed by-right and by Special Permit requires additional discussion.

Mechanisms and Standards to Achieve the Goals and Objectives

The mechanisms and standards within Article 3 – Residence Districts all work together to facilitate the incremental evolution of Newton's neighborhoods consistent with the above goals. The following list highlights some of the key elements within the proposal with a particular focus on the where the current conversation stands. Please visit the [Zoning Redesign – Article 3 web page](#) for more in-depth information on the ZAP proceedings.

District Dimensional Standards & Allowed Building Types (Sec. 3.1)

The proposed five residence zoning districts (R1, R2, R3, R4 and N) are the foundation for regulation across Newton's neighborhoods. Taken all together, these districts can be viewed as a transect that moves from larger lots/fewer building types (R1, R2, and R3) to smaller lots/more building types (R4 and N). District dimensional standards (lot coverage, setbacks, lot frontage, etc.) regulate the placement of structures on a lot. Utilizing data collected from the Pattern Book, these standards were derived from Newton's existing building and lot layouts. Setting the standards in this way was intentionally designed to promote consistency in terms of the general scale of the neighborhood.

The data shared with ZAP at the [September 14, 2020](#) meeting revealed the clear disconnect between the existing ordinance dimensional standards and the existing conditions found throughout Newton's neighborhoods. This discrepancy is one of the many reasons why new development often feels out of scale and proportion with its surroundings.

Generally, ZAP, the Planning Board, and the building professionals would like to see further analysis on setting these dimensional standards. There was particular concern on how these new standards will impact existing properties. In addition, some councilors expressed concern over eliminating minimum lot size altogether. Lastly, ZAP agreed to remove the proposal to allow two-family homes by-right in the R1 and R2 districts. More analysis is needed on whether to allow this by Special Permit or not at all.

Building Types (sec. 3.2)

Building types are a tool common in form-based codes and are used in lieu of a floor area ratio (FAR), which is how the current ordinance regulates building size. FAR is the total square footage of all the floors of a building, divided by the total square footage of the lot it is on. Because FAR is directly tied to the size of the lot, building sizes can vary dramatically when there are irregularly sized and shaped lots within a neighborhood, which is a common occurrence in Newton. The rules around what is counted towards the total floor area can also lead to less desirable designs to maximize the size of a building.

Building types control the size of buildings, independent of the size of the lot. The building types proposed in the draft ordinance set a maximum footprint and number of stories (along with maximum heights for each story) and allow for certain components to be added, such as small additions, porches, dormers, etc. Building types provide predictability about the scale and footprint of a building and how it will fit into the neighborhood context, particularly in a city like Newton where lots are not uniform in size and shape. The building types proposed in the draft ordinance are still being reviewed and refined to determine the appropriate forms and dimensions to ensure the right balance between flexibility and predictability. Read more about building types here: <https://opticosdesign.com/blog/building-types-inzoning-part-1-why/>

Moving forward, additional analysis is needed on the use of building types vs. FAR. As the article points out, it may not be an all or nothing situation. Building types may be most appropriate in/around village centers and transition areas and corridors that link to surrounding residential neighborhoods. Further out, in more auto-dependent areas, another mechanism may be more appropriate. Lastly, ZAP requested further market analysis to ensure the feasibility and desirability of the building type standards. For example, will a developer build a stacked duplex. Though this building type exists throughout Newton and the region, it is rare to see one newly constructed.

Building Components (sec. 3.3)

Per discussions at ZAP, with city staff, and the architects/builders focus group, the Planning Department recommended updates to building components that allows existing homes to reasonably expand as homeowners needs change and for new development to expand beyond the maximum allowable

footprint in a simpler, more predictable, manner. Building Components incorporate the innovative thinking found in the Current Ordinance *De Minimus* regulation, data on Newton's existing residential massing, and urban design best practice.

However, the building professionals presented how the standards within the current iteration are often too prescriptive to allow for such flexibility. In addition, Councilors questioned whether it is appropriate to allow new construction to take advantage of the bonus building components provide. Both issues need to be explored further so that the proposal results in incentivizing the preservation and renovation existing homes.

Alternative Lot/Building Configurations (sec. 3.5)

The section on alternative lot and building configurations acknowledge that Newton's neighborhoods have a wide variety of lot shapes and sizes. Each mechanism allows for a different controlled approach to allowing development on these lots in-line with the City Council goals and objectives. Many of these mechanisms already exist in Newton's current ordinance (rear lots and multi-unit conversion). The proposed ordinance looks to simplify the process for property owners looking to take advantage of one of these mechanisms, while also eliminating the negative impacts often seen under the current ordinance regulations (ex. rear lot developments that are as large, or larger, than the property in front). In addition, new mechanisms (courtyard cluster and multi-building assemblage) look to facilitate desirable development patterns and offer new housing opportunities.

- Rear Lots

The Committee generally agreed that rear lot development should require a Special Permit and that new development should be limited in scale. Under the proposed ordinance, this means allowing only a House Type C (cottage/bungalow) building type on a rear lot. Committee members, and other councilors in attendance, explained that rear lot developments often occur because of a financial hardship to the property owner. In this way, a more predictable zoning code could make it easier for struggling residents to remain in their homes and provide more affordable housing options currently not available in the City. Lastly, ZAP requested additional analysis on the minimum lot size required to create a maximum sized rear lot development. This is difficult to do given the lot variation found throughout Newton, but staff will work to provide general data.

- Multi-unit conversion

Overall, ZAP agreed that multi-unit conversion provides an incentive to preserve Newton's existing housing stock and facilitate additional housing units simultaneously. However, there was not clear agreement on how the regulation should function. Remaining questions include should conversions be allowed by-right and at what scale in some parts of Newton; are more restrictions needed for limiting exterior alterations; does the ordinance need to differentiate between existing building and new ones. At ZAP's December meeting, the Committee agreed to eliminate the six-units by-right multi-unit conversion from the R1 and R2 districts.

It should be noted that the current ordinance allows multi-unit conversion by Special Permit in all SR districts and the MR1 district.

- Courtyard Cluster

Courtyard Cluster development is a building form that promotes community interaction through compact living clustered around a semi-private shared open space. The smaller than typical

residential unit size is meant to provide a non-subsidized form of housing that is generally less expensive. Courtyard Clusters can also provide greater flexibility for families as their needs change over time and alternatives for seniors looking to downsize and remain in Newton. Given the intent of this development type, ZAP agreed on limiting Courtyard Cluster developments to the R4 and N districts, which are proposed to be adjacent to amenities and resources found in village centers and public transit hubs. In addition, the Committee thought creating a standalone smaller Courtyard Cluster building type was a good idea, though additional review is needed.

- Multi-Building Assemblage

This development pattern was not thoroughly discussed at ZAP and requires additional analysis.

Uses (sec. 3.6)

Broadly, the uses allowed in the proposed zoning ordinance for the Residence Districts are the same as are currently allowed. The Committee generally agreed that Allowed Uses, specifically limited non-residential uses, can promote more vibrant and walkable neighborhoods. There appeared to be general consensus that Adaptive Reuse (sec. 3.6.1.B), allowing uses like corner stores and cafes, can particularly aid in this. However, the Committee requested that the Planning Department further evaluate which types of non-residential uses should be allowed by-right (–for example – a psychiatrist office) versus by Special Permit (–for example – a restaurant). Finally, there appeared to be general consensus that home businesses should not be limited to one per household within the proposed ordinance.

Parking (sec. 3.7)

The proposed ordinance seeks to align parking requirements more consistently with the City's environmental goals outlined in the Climate Action Plan. Minimum parking requirements often have the effect of facilitating a built environment that favors automobile use over any other mode of transportation, and often require parking at levels higher than the market demands, resulting in an excess of parking stalls and impervious surface and increased development costs. As Newton moves towards a future that better acknowledges the role that safe and accessible public transit, biking, and pedestrian infrastructure can play in how we move around the city, this plan anticipates a time when parking needs will be reduced through modest, incremental change.

In Committee, one member spoke in favor of implementing parking maximums and no Committee members spoke against this. The general sense of the Committee was that the more space set aside for cars will be filled with more cars. Regarding the elimination of parking minimums, the opinion of the Committee was split as four Committee members were skeptical that developers would provide adequate parking if minimums were not in place. Two Committee members said that eliminating parking minimums would allow residents and developers to make better choices regarding parking needs. This discussion will need to continue when we return to this section.

Looking Ahead

This work will be discussed at the upcoming ZAP meeting on February 22, 2020. Staff will work with ZAP to ensure all comments are properly compiled within the annotated draft and update as necessary following the meeting.

Attachments

Attachment A Article 3 – Residence Districts, annotated draft zoning text