



Zoning & Planning Committee Report

City of Newton In City Council

Monday, January 13, 2020

Present: Councilors Danberg (Vice Chair), Krintzman, Albright, Baker, Ryan, Wright, Leary

Absent: Councilor Crossley (Chair)

Also Present: Councilors Malakie, Laredo, Bowman, Kelley, Greenberg, Downs

City Staff: Barney Heath, Director of Planning; Jennifer Caira, Deputy Director of Planning; Gabriel Holbrow, Community Planner and Engagement Specialist; Zachery LeMel, Chief of Long-Range Planning; Andrew Lee, Assistant City Solicitor; Jonathan Yeo, Chief Operating Officer; Nathan Giacalone, Committee Clerk

Chair's Note: There will be a presentation from the Planning Department on the history of Zoning Redesign.

Notes: Barney Heath, Director of Planning, addressed the Committee on this item.

Mr. Heath opened his presentation by saying how after Planning's full agenda from the previous term, the Department felt it necessary to take a step back and provide an overview of Zoning Redesign for the Committee, along with the steps ahead and the chance for feedback from the Committee. Mr. Heath said that Planning has already been meeting with Chair Crossley and Vice Chair Danberg to discuss the steps to take moving forward in the Zoning Redesign process. Another purpose of the review is to catch up the new councilors on the Committee.

Jennifer Caira, Deputy Director of Planning presented to the Committee after Mr. Heath. Ms. Caira's presentation is attached to this report. Ms. Caira said that the goal was to adopt a new zoning ordinance during the 2020-2021 council term. She said that Zoning Redesign aims to create a new context-based zoning that is more flexible in use than the current zoning. The timeline for Zoning Redesign goes back to 2011 and the report of the Zoning Reform Group. This Group Report outlined 11 themes to be used for Zoning Redesign. They are:

1. Better organize the Ordinance for ease of use
2. Simplify and streamline the permitting and review process
3. Recognize the uniqueness of each village center and commercial corridor
4. Encourage mixed-use residential in village centers

5. Create “soft-transitions” between village centers and residential neighborhoods
6. Allowance of moderate, flexible growth for commercial corridors
7. Rationalize and streamline of parking regulations
8. Protection of neighborhood character and scale
9. Creation of more diverse housing opportunities
10. Institution of a better process for managing change of religious and educational institutions
11. Improvement of natural resource conservation and sustainability

Ms. Caira emphasized these as the themes which will be the base of Zoning Redesign. From 2016 to 2017, the City launched a new Pattern Book and used 18 months of public engagement to help gather more data for the new Pattern Book. After the release of new draft zoning ordinances in 2017 and 2018, the Planning Department decided in 2019 to pause on Zoning Redesign.

Phase 2 comes with the completed pattern book and a draft zoning map of the City’s zoning districts. She said that Planning also has a full draft of the proposed ordinance.

Ms. Caira then highlighted several amendments to the zoning ordinance that the Council adopted over the last term, such as regulating short-term rentals and marijuana establishments, adopting the Climate Action Plan, and several development standards to promote energy efficiency.

Ms. Caira said that the Planning Department’s main goal for the new term would be to advance Zoning Redesign. She said that a timeline would be developed lay out how the Council might address Zoning Redesign in a section-by-section manner to best meet the interim goals. The recommendation was to start with Article 3-the residential section. This choice is because the most work has been done with the residential districts prior to the Zoning Redesign pause with possible solutions identified. She said another reason to start with residential sections is because it addresses some of the issues that the Committee has identified as pressing. These include how to use the code to discourage teardowns, better-defining single-family attached homes, and incorporating the intentions of the garage ordinance. In order to meet these goals, the Planning Department would have to revisit where Zoning Redesign left off before moving forward with the initiatives in the residential districts.

The next steps for Zoning Redesign were also outlined. Ms. Caira said that they were to discuss the process and timeline at the January 27th Committee meeting and to begin a summary of the Article 3 draft at the February 10th Committee meeting.

Ms. Caira concluded her presentation and welcomed questions from the Committee.

A committee member emphasized that a shift to context-based zoning would be a significant change from what is currently in use and urged caution with it. He also felt that too much of the Zoning Redesign process was being handled by the administrative authorities rather than the legislative ones.

A committee member responded that they believed context-based zoning to be an improvement over the current zoning ordinances. They pointed out how the current older zoning has also allowed plenty of unintended consequences. Asking the other committee member to explain their reservations about context-based zoning, they answered that the burden should be on Planning to explain why the changes are necessary, rather than to explain why the current zoning ordinances are adequate. They wanted each change explained in more detail. Mr. Heath answered that it was important to address this issue and look at case studies of how the new zoning ordinance would take effect.

A committee member asked Planning why zoning redesign would start with residential areas rather than smaller zoning sections to test how it would work.

A committee member commented that under residential areas, there are significant issues such as the garage ordinance which the committee plans to address as soon as possible.

A committee member asked how zoning redesign would relate to the Washington Street Vision Plan. Ms. Caira answered that some of the specific zoning for the Washington Street Vision Plan would be included within zoning redesign. However, this could result in additional zoning districts.

A councilor expressed their surprise at the decision regarding Washington Street but thought it was a good idea and did not think the Washington Street corridor should be treated as a unique place. They emphasized that even with all the professional expertise of the Planning Department, that the final say in goals falls to the City Council. They wanted the problems sought to be solved by zoning redesign more clearly defined. They felt that by better defining these problems, it may show that the current zoning is still adequate. The committee member also asked for studies of similar plans undertaken in other cities to see how these changes are implemented and what the results are.

A committee member emphasized the desirability of seeing studies of more towns. They spoke about context-based zoning and said that it looks at new building in the context of where it is and what its effect will be. They gave an example of the Oak Hill area in Ward 8 which has experienced many smaller homes being torn down and replaced by megastructures. Context-based zoning, they said, would discourage and prevent the construction of these structures out of character with the neighborhood.

A committee member asked if they were going to view context-based zoning as another tool to use or a wholesale rewrite. His concern was that the shift to context-based zoning would be looking for solutions rather than problems and the appropriate tools needed to fix them. He also stated his caution over a full-scale rewrite of Newton's zoning due to the magnitude of the act before seeing if the existing zoning framework could be adjusted as needed.

A committee member emphasized the earlier point that tear-downs and the “McMansions” that replace them are a problem that context-based zoning will seek to eliminate. Context-based zoning would limit how big a new house could be built in relation to the house torn down. The committee member also supported studies of similar policies in other cities.

A committee member spoke about how the new housing construction was eliminating Newton’s single-family affordable housing in her area, also echoing concerns about how cellar installation impacts the groundwater conditions. They said that the main objective should be to come up with reasonable solutions for housing to balance development while maintaining community character.

A councilor spoke about the need to address the concerns being faced by the village districts in the City such as housing, transit, and senior services. They favored new zoning to meet the challenges ahead for Newton.

A councilor said that the main issue was whether context-based zoning was the best tool to face the challenges posed by tear downs and other similar issues in Newton. They said that the problem was clear and that the debate now is over the solutions. They asked the other councilor what they thought the Council should do to the existing zoning code in order to best help the village centers. The councilor responded that possible solutions could include a housing overlay, changes to parking, or more height. They said that if dense housing was not built close to mass transit, then plans to incentivize less vehicle traffic would be for naught.

A committee member added that goal was first for the intended use of the land, then for the form. They also said that zoning redesign would be helpful in meeting the myriad of challenges facing Newton such as mass transit and sustainability. The committee member also spoke in favor of viewing more examples from other municipalities to identify what plans worked well, which ones did not, and the reasons why.

A committee member asked whether the three main issues they saw: tear downs, the garage ordinance, and groundwater, could be addressed with the existing zoning guidelines. They said that context-based zoning could be derived from existing zoning ordinances to respond to these prevailing issues without the need for a full-scale rewrite.

A committee member suggested adding single-family attached homes to the previous list of items for Planning to analyze against the existing code. They added that when the items were put together it nearly added up to the whole residential section anyway.

A councilor said that they wanted to see the Planning Department come up with the simplest solution possible for the mentioned specific challenges.

A committee member spoke about the high percentage of non-conforming lots in Newton and agreed that residential may be a difficult place to start with context-based zoning. They also

supported including the Washington Street Vision Plan into Zoning Redesign. The committee member also wanted a more defined comparison of what can be built on parcels under current zoning compared to under zoning redesign.

A councilor said that they felt the term “context-based zoning” was misleading in the way that it would alter existing zoning regulations. They wanted to see an easier way for residents to access the regulations for what they were able to build.

A committee member expressed concern that the zoning redesign would move too fast without time to fully analyze it.

Mr. Heath then said that regarding comments about the prevalence of non-complying properties that one of the main goals of zoning redesign would be to bring them back into compliance.

A Councilor said that based on comments about how most of Newton is not in compliance, the four main problems brought up should be further analyzed by Planning to see if the existing zoning code can fix them or not. They said the four specific problems should serve as the base to see whether context-based zoning was needed or not.

A committee member said that the nonconformance problem is decades old. They said that the nonconformance is not causing the problems Newton is facing and changing the code to make properties conforming will not solve the actual problems the City faces.

A committee member concurred and emphasized the need to look at similar initiatives in other communities. They said that the code needed to consider more environmental issues as may be needed in the future.

A committee member said that in their conversations with builders around the City, they have found that builders know how to get around zoning regulations via loopholes. This is done through how the house is raised and how stories are classified as either attics or third floors.

With no further comments, the committee closed conversation on the Chair’s Note. As it was not a formal docket item, no vote was taken.