



Memorandum

To: Councilor Deborah Crossley, Chair, Zoning and Planning Committee
From: Councilor Lisle Baker
Subject: #88-20: Director of Planning requesting review, discussion and direction relative to the Draft zoning ordinance
Date: February 10, 2020
Cc: City Council, (and those named on the Planning Department memo dated February 7, 2020)

I have read the helpful February 7, 2020, Planning Department memorandum setting out a proposed framework for amending Newton's zoning ordinances. At the conclusion of the memorandum, there is a request for feedback on the prioritization and timeline from the ZAP Committee. Because the Committee response will set the agenda for much of our future work, it I thought it best to put my preliminary comments in writing, reserving the opportunity to adjust or supplement them at the Committee discussion.

First, regardless of what we decide to review and when, the protocols that the Department recommended about having materials well in advance and working through them will be helpful. Second, the memo evidences a thoughtful attempt to shape a review process with a proposed calendar, a useful idea. Third, the Chair anticipates, as I understand it, dividing ZAP meetings between the rezoning items and other matters that are still time sensitive, such as how our enforcement is going on Short-term Rentals, as the answers may have implications for the upcoming budget discussions beginning in April. This too is a worthwhile plan.

At the same time, while the Director's docket item requests review, discussion and direction, it appears also to ask for the Zoning and Planning Committee to ratify the proposal the memorandum makes in response. For the reasons set out below, I am not yet prepared to do so. I also would like to propose an alternative way to proceed.

While this February 7 memorandum regarding #88-20 is an important beginning, it seems to presume agreement on the need for this comprehensive review culminating in a wholesale change to our ordinances. I, and perhaps others, am not yet persuaded that this is the wisest use of our time. Here are some questions or comments which may frame possible discussion before the Committee tonight, as I assume the process that we are to follow is one for the Committee, with the advice of our colleagues on the Council, to decide.

1. The Planning Department proposal is that we should start by reviewing the components of the revised ordinance with the ultimate decision postponed until after the next Council election. Even without taking account of other Council work, like the budget, or the summer schedule, this is a challenging schedule to meet.

2. Should we not take those aspects of our zoning which we already have heard are most problematic and spend time on them with sufficient background research? For example, we have had years of demolition since the last time the Council considered a measure to respond to them. What are the characteristics of the properties demolished and the replacement structures? Without knowing that pattern, how can we responsibly consider a remedy?

3. Two years ago, we were told we had to hire a planning consultant at great expense in order to get ahead of development pressures in the Washington Street corridor. Now, having enacted a Plan at the end of the last term, we are told that we should now defer any action on changing our zoning for at almost two years.

What happens to those properties in the Washington Street corridor in the meantime and what will be built in their place without an updated zoning ordinance?

5. Any proposed revisions in our ordinance should be compared side by side with the current ordinance to understand the impact of the change. Otherwise, how can we assess whether and how some modification of our existing ordinance would not be a simpler and better remedy than awaiting a wholesale revision?

6. While the work of the Zoning Reform Working Group is helpful, it was prepared some time ago and never adopted by the Council. It should not be the only template for how we schedule or evaluate success in our rezoning.

With those comments in mind, here is what I propose that we undertake as an alternative course of action going forward.

A. The Zoning and Planning Committee might begin with some specific problems we agree are worthy of early attention and see how the current ordinance, or the proposed ordinance, would respond to them. This process would help determine if an adjustment in the current ordinance may be a worthwhile interim measure. Here are some candidate issues I have heard from constituents or colleagues:

1. Demolition of existing smaller homes to make way for larger structures. Would an adjustment in the FAR or other dimensional controls, or new dimensional controls, be a useful way to respond without a wholesale revision in our ordinance? Having past data of demolitions and their replacements would be very helpful crafting or revising the ordinance.

2. Attached dwellings.

3. Performance standards for storm-water runoff on to public streets and neighboring properties, either through the surface or through underground means.

4. Zoning modifications to respond to the Washington Street Plan as a test case for some of the ideas proposed in the new zoning for the commercial areas of the City.

B. While we make progress on these issues, I recommend we continue exploration of the resources available for ensuring compliance with our existing ordinances.

C. In the meantime, we have a number of items docketed before the Committee which may require more immediate attention – such as our Landmark Ordinance - before we get into budget discussions, traditionally beginning after Patriot's Day. Other items may be deferred until later, a scheduling choice which I hope we might discuss in Committee. This would include the ordinance regulating how attached garages appear on street frontage, for example, long deferred. There may be other issues left over from the 2017 recodification of our zoning ordinances to take care of, too.

Because we have spent so much time and money on zoning, I suggest this approach would likely give us something to show for our work before undertaking a wholesale revision in our zoning ordinances, which we found last term was too much to digest with all the other work before the Council and the Committee.

I hope that this memorandum is responsive to the February 7 memorandum's request for feedback, and I look forward to the discussion this evening. Thank you.