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MEMORANDUM

DATE: February 14, 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
Gabriel Holbrow, Community Planner – Engagement Specialist

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.
Where we left off in Zoning Redesign

MEETING: For ZAP meeting discussion on February 24, 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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To set the stage for a productive Article-by-Article review of Zoning Redesign, this memo provides a link to the first draft of the Ordinance published in October 2018 as well as summaries of the work done by the Zoning and Planning Committee (ZAP) and the Planning Department in the months since the first draft. A second draft was never issued, but numerous changes to the October draft were proposed and discussed. The Planning Department intends this overview to enable the Committee to efficiently pick up where Zoning Redesign left off in Spring 2019.

The sections below are organized roughly by date, with links to relevant memos and presentations. For your convenience, a short summary of each meeting’s outcomes is provided directly in this memo.

First Draft Zoning Ordinance (October 2018)

In consultation with ZAP and through listening to the community and reviewing the Comprehensive Plan and best practices in the field, the Planning Department arrived at the overarching concept of a *Context-Based Zoning Ordinance*. This phrase was understood to mean that the rules and regulations of the new Zoning Ordinance would largely derive from the existing Newton context – the existing patterns of

development evidenced throughout the City and would place a larger emphasis on form and design than the current Zoning Ordinance.

This first full draft was published on October 19, 2018 and presented to ZAP on October 22, 2018. There was a Committee of the Whole meeting on December 6, 2018 where the Planning Department presented the same material. Although the ZAP Committee, members of the public, and the Planning Department have recommended numerous changes to the draft since 2018—summarized in the sections below—the October 2018 draft remains a good representation of the outline and general approach recommended for the Zoning Ordinance going forward.

The Planning Department strongly encourages Councilors to review the October 22, 2018 ZAP memo and presentation before February 24, 2020. Those who want a deeper dive into the material may review the complete first draft Zoning Ordinance and draft Zoning Map.

First Draft Zoning Ordinance presented at ZAP (October 22, 2018)

- Memo: <http://www.newtonma.gov/civicax/filebank/documents/94692>
- Presentation: <http://www.newtonma.gov/civicax/filebank/documents/94706>

First Draft Zoning Ordinance (October 19, 2018):

<http://www.newtonma.gov/civicax/filebank/documents/92269>

Map – First Draft Zoning Ordinance (October 19, 2018):

<http://www.newtonma.gov/civicax/filebank/documents/92281>

Zoning and Planning Committee Working Group Meetings (November 2018 – March 2019)

All meeting summaries can be found online at:

http://www.newtonma.gov/gov/planning/lrplan/zoning_redesign_@_zap.asp

With the release of the first draft Zoning Ordinance, the Planning Department met with ZAP to discuss and provide guidance to the development of a second draft. In some cases, the Planning Department analyzed feedback received from ZAP and made recommendations for updating the draft in line with those comments.

I. Residence Districts (November 26, 2018)

- Memo: <http://www.newtonma.gov/civicax/filebank/documents/94693>
- Presentation: <http://www.newtonma.gov/civicax/filebank/documents/94666>
- Meeting Summary: <http://www.newtonma.gov/civicax/filebank/documents/94700>

Issues highlighted for further research and consideration:

- What are the appropriate setbacks for alternate lot/building configurations (e.g. Rear Lots, Courtyard Cluster)?

- What is the effective minimum lot size in each district based on setbacks and lot coverage? This was later addressed in the Build Out Analysis presented on February 25, 2019.
- Proximity rules, particularly for multi-family housing in the R3 district, merit further thinking. This was addressed in the Build Out Analysis presented on February 25, 2019, when staff recommended eliminating proximity rules.

II. Village Districts (January 14, 2019)

- Memo: <http://www.newtonma.gov/civicax/filebank/documents/94705>
- Presentation: <http://www.newtonma.gov/civicax/filebank/documents/94668>
- Meeting Summary: <http://www.newtonma.gov/civicax/filebank/documents/94987>

Issues highlighted for further research and consideration:

- A maximum building width of 200 feet, applicable to some of the larger building types in village districts, may be too wide.
- A default front setback of 0 feet may not be adequate to ensure that sidewalks can be widened. Staff expressed an intent to continue exploring interplay of the front setback, frontage buildout, and building fenestration tools in the village districts to build on the goal of creating vibrant sidewalks in the village centers.
- What tools are available to address banks in village centers? What are the appropriate standards for bank uses?
- How do the standards for the residential unit factor and outdoor amenity space in the first draft relate to recent multi-family developments?
- What are the appropriate window transparency requirements for appointment-based personal services?

III. Single Purpose Districts (January 28, 2019)

- Memo: <http://www.newtonma.gov/civicax/filebank/documents/94988>
- Presentation: <http://www.newtonma.gov/civicax/filebank/documents/95021>
- Meeting Summary: <http://www.newtonma.gov/civicax/filebank/documents/96034>

Issues highlighted for further research and consideration:

- The campus/institutional district should only include properties that are used for education or institutional purposes. The district should not include any neighboring residential properties that happen to be owned by the adjacent institution.
- In the regional retail district, some potentially well-fitting uses like breweries and museums are not allowed in the first draft. Staff expressed an intent to continue reviewing the list of allowed uses in this district.

- In the non-contextual multi-residence district, there is confusing language about when a Special Permit is required. Staff expressed an intent to review this language.
- What are the appropriate district designations for the Newton Wellesley Hospital and the West Suburban YMCA? In the first draft zoning map, the hospital is in the campus/institutional district, while the YMCA is in the neighborhood general district.
- Do housing/services for older adults need to be added to the allowed uses within the campus/institutional district, particularly considering Lasell Village? Staff expressed an intent to review how assisted living facilities might or might not fit within the standards and purpose of this district.

IV. Build Out Analysis (February 25, 2019)

- Memo: <http://www.newtonma.gov/civicax/filebank/documents/95483>
- Presentation: <http://www.newtonma.gov/civicax/filebank/documents/95508>
- Deep-Dive Tables on the Percentage of Conforming Properties: <http://www.newtonma.gov/civicax/filebank/documents/95513>

In February 2019 Planning staff presented the results of a build out analysis for residential areas that tested the current zoning against the October 2018 First Draft Zoning Ordinance. Based on that analysis and the feedback from the ward meetings, staff also presented a number of proposed revisions to the residential districts. The build out analysis tested the maximum possible by-right residential development that could occur and made assumptions about what conditions were likely to result in a tear down. The results were a comparison of the maximum number of buildable lots, number of units, total potential square feet of development, and teardown vulnerability for both the current and proposed Zoning Ordinance. A property was considered vulnerable to a tear down if a speculative builder could build at least 3,800 square feet (inclusive of an attached 2-3 car garage) and the resulting new construction could be sold for 2.4-2.5 times the purchase price of the property. It was estimated that the value of new construction is approximately \$600/square foot.

While the October draft greatly reduced existing nonconformities, there was an increase in the number of lots vulnerable to a teardown. Staff recalibrated setbacks and building sizes to greatly reduce teardown vulnerability, (though nonconformities were increased somewhat from the October draft) and presented these recommendations in the February memo and the Deep-Dive Tables.

The following adjustments were recommended by Planning staff:

- Increase setbacks in all residence districts (R1, R2, R3, and N)
- Reduce building footprints for House A, House B, and House C
- Adjust lot coverage in all residence districts
- Replace the Apartment House and the Small Apartment Building with substantially smaller new building types in the R3 and N districts: the 3-Unit Building and the 4-8 Unit Building

- Consider splitting the R3 district into two districts: R3 and R4
 - In R3, allow House B, House C, and Two-Unit building types by-right
 - In R4, allow House B, House C, Two-Unit, and 3-Unit building types by-right and allow the 4-8 Unit building by Special Permit
- Eliminate the proximity rule

V. Development Review Process (March 11, 2019)

- Memo: <http://www.newtonma.gov/civicax/filebank/documents/96040>
- Presentation: <http://www.newtonma.gov/civicax/filebank/documents/95752>
- Meeting Summary: <http://www.newtonma.gov/civicax/filebank/documents/96035>

During discussion of the development review process, the Committee made several specific recommendations and requests for further research. Much of the discussion focused on the appropriate thresholds for different types of review, particularly the threshold between by-right projects and those needing a Special Permit and the threshold between Special Permits granted by the Planning Board and those granted by City Council.

Public Comment from Ward-by-Ward Meetings (November 2018 – March 2019)

While ZAP was engaged in working group discussions of the first draft Zoning Ordinance, the Planning Department held community meetings ward-by-ward to provide an overview of the draft and begin a discussion of recommended changes to the Zoning Ordinance.

Summary of Notes from Ward-by-Ward Meetings presented at ZAP (March 25, 2019):

<http://www.newtonma.gov/civicax/filebank/documents/101739>

List of Ward-by-Ward Meetings by date:

- Ward 5 (November 29, 2018)
- Ward 7 (December 12, 2018)
- Ward 6 (January 10, 2019)
- Ward 3 (January 24, 2019)
- Ward 1 (February 7, 2019)
- Ward 8 (February 13, 2019)
- Ward 2 (February 28, 2019)
- Ward 4 (March 7, 2019)

Generally, attendees liked the idea of limiting building size in the neighborhoods, with many pointing out that perhaps more needed to be done to limit the size of new houses in the neighborhoods and prevent the risk of teardowns.

There was a great deal of concern about the residence 3 district as proposed in the first draft. In response to this feedback and to feedback from the Build Out Analysis, staff recommended eliminating the proximity rule for small-unit multi-family housing and recommended splitting the R3 district into district into two districts – R3 and R4.

A common thread in the questions and comments at the ward-by-ward meetings had to do with the balance between the competing desire for small, more affordable housing for neighborhoods and the desire that Zoning Redesign have no effect on property values.

Regarding open space, there were some who felt strongly about having a strict limit on buildable area to ensure green yard space on private properties. On a bigger scale, there was generally a positive reaction to the idea of moving the golf courses and other private recreational land out of the residence districts and into the recreation district.

There were a number of comments stating concern about staff or the Planning Board being involved in granting Special Permits and other decision-making. Participants expressed a strong interest in ensuring that the people making decisions about development remain accountable to the people affected by those decisions.

Finally, staff frequently heard the need to simplify and use clear plain language, both in the Zoning Ordinance itself and in materials that the City provides about the Ordinance and the Zoning Redesign effort.

Next Steps

At the February 24 ZAP meeting, the Committee will discuss an overview of the draft Zoning Ordinance and the work done post-draft.

Attachment

Attachment A: Planning department memo for ZAP meeting on October 22, 2018