



## **Zoning & Planning Committee** **Report**

### **City of Newton** **In City Council**

**Monday, March 23, 2020**

**Present:** Councilors Crossley (Chair), Danberg, Albright, Ryan, Krintzman, Leary, Wright, and Baker

**Also Present:** Councilors Bowman, Downs, Laredo, Kelley, Lipof, Gentile, Markiewicz, Auchincloss, and Greenberg

**Planning Board:** Peter Doeringer (Chair), Kevin McCormick, Chris Steele, Sonia Parisca, Jennifer Molinsky

**City Staff:** Jennifer Steel, Senior Environmental Planner; Zachery LeMel, Chief of Long-Range Planning; Gabriel Holbrow, Community Engagement Specialist; Jennifer Caira, Deputy Director of Planning; Barney Heath, Director of Planning; Nathan Giacalone, Committee Clerk

**#178-20      Adoption of the Open Space and Recreation Plan Update**

DIRECTOR OF PLANNING requesting discussion of the 2020-2027 Open Space and Recreation Plan, a letter stating that the Zoning and Planning Committee reviewed the Plan, and adoption of the plan as an amendment to the 2007 Comprehensive Plan.

**Action:      Zoning and Planning Held 8-0**

**Notes:** Chair Crossley introduced the item, noting that the Open Space and Recreation Plan (OSRP) is put forward for adoption every seven years. It is intended that the adopted OSRP would update that element of the Comprehensive Plan. Jennifer Steel, Senior Environmental Planner, presented slides (attached) to explain the process and timeline for consideration and adoption of the revised OSRP, noting that the Conway School of Landscape Design graduate students were hired to assist in developing the Plan materials.

Ms. Steel said that a comprehensive community engagement strategy has included two community meetings, each hosting about 75 attendees. In addition, an online survey was fielded which returned responses from 1,360 residents. Residents were asked to cite problems and needs and rate the level of urgency. In order of priority, these included:

1. Athletic fields in disrepair
2. Insufficient trail maintenance
3. Invasive species

4. Inadequate accessibility.

The online public survey suggested the most urgent needs, including stronger legal protections for open spaces, improving play field conditions, adding shade trees and bike paths. Ms. Steel explained that the growing demand for open spaces will require innovative ways to better steward these places. There are three category goals addressed in the OSRP: stewardship, connectivity, and protection, with equity and access as overriding objectives to be met within all three areas,

Ms. Steel concluded her presentation with a timeline, showing that the next step is the department reviewing the first Conway School OSRP draft (received this day). The Conway team will work with staff to produce a refined second draft that will be distributed to the Council and public for review. The department requests the Zoning and Planning Committee assign a public hearing in early May. After additional public comment and staff input, a final draft will be presented to the Committee for a vote by June 8, 2020. If the Council votes to accept the Final Draft, it will be submitted to DCS-EOEEA for its final review and approval to make Newton grant-eligible.

Questions, answers, and comments from the Committee are as follows:

*What additional protection is required for Newton's parkland?*

Land preserved for recreational purposes already has significant protections. Any proposed changes must be approved on both the local and state level and an additional parcel of equal size must be set aside for protection. Conservation restriction is the most permanent restriction which can be given to any piece of land.

*How does the equity goal get enough attention if it is not stated on its own?*

This was done on purpose as it was believed that leaving it on its own would leave it too susceptible to be overlooked. Integrating it into the three goals was the best way to make sure that access and equity get the attention they deserve.

*When would the Council and Committee receive a cleaned-up draft?*

The intent is to provide a draft to the Committee on April 30, 2020. This leaves plenty of time to edit the draft before and after this date before running into any deadlines.

*How scientific and representative was the survey?*

While the survey was not a perfect cross-section of Newton, it solves other statistical challenges by collecting demographic information as well as a separate youth survey.

*Concern was expressed that when news of an online survey gets out, groups can organize to deliver coordinated responses and skew the results.*

*Will the Plan have priority/action items or just goals?*

Yes, the final Plan will have prioritized action items.

*When will climate resilience be incorporated into the plan?*

There is already some consideration of this in the Plan, and it will be integrated with both the Newton Climate Change Vulnerability Assessment and Action Plan and the Climate Action Plan, which were adopted last term as elements of the Comprehensive Plan.

Councilor Baker moved to set a public hearing on the Open Space and Recreation Plan draft on May 11, 2020. The Committee agreed.

NOTE: Since March 23, the Mayor has postponed the City's budget address to May 11. The Committee will set a new date for the public hearing once the new budget calendar is confirmed.

The item was held 8-0.

**#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.

**Action:** Zoning and Planning Held 8-0

**Notes:** Director of Planning Barney Heath, Deputy Director of Planning Jennifer Caira, Chief of Long-Range Planning Zachery LeMel, and Community Engagement Specialist Gabriel Holbrow joined the committee.

Chair Crossley introduced the item and emphasized that the material being covered in Articles 3 and 2 is still in draft stages and is being considered in sections in order to achieve understanding of the implications of the proposed formulas in the residential districts, and whether the standards proposed achieve the objectives we seek, both in terms of discouraging out-of-context, overly large buildings resulting from tear downs in neighborhoods, while at the same time providing more diverse housing opportunity, especially near transit.

Mr. LeMel and Ms. Caira began the presentation, saying that it would focus on individual case studies to show examples of projects recently built resulting from speculative tear downs, and how the proposed ordinance would have resulted in a different, often smaller development on the same site. This presentation is attached to this report.

Staff framed the presentation on how building types proposed to be allowed in the residential districts will help Newton to meet its goals to decrease speculative tear downs, promote contextual development, and increase housing diversity.

Staff reviewed dimensional modifications proposed to the October 2018 draft ZO, including to building footprints, setbacks and lot coverage. These would slightly reduce the by-right build out potential throughout all proposed residential districts from October 2018, though still allow more options than the current ordinance. Each House Type has requirements for building width, depth,

footprint, number of stories, and story heights. House Types A, B, and C by-right building footprints were reduced. This reduction was also applied to 3-unit and 4-8 unit buildings. Two-unit, townhouse section, shop house, small multi-use, small shop, and civic buildings remain unchanged. The new ordinance intends to encourage smaller homes on smaller lots. Mr. LeMel and Ms. Caira also specified throughout the presentation that while the proposed ordinance would not stop speculative tear downs, it would both reduce the frequency of them and ensure that rebuilding respects neighborhood context.

Several case studies demonstrated how the proposed ordinance would work in practice. Each case study covers what existed prior to the approved construction, the as built plan under the current zoning, and a test fit of the maximum possible development under the proposed zoning.

**Case 1.** The property at 85 Fuller Terrace would be classified as a House Type B in an R2 District. Currently the property is situated in an SR3 district. The prior old house had been converted to a two-family. The approved project made substantial changes to the property while converting back to single-family. The rear setback was reduced from 30 feet to 17.2 feet and the footprint was increased from 1400 square feet to 2153 square feet. The proposed ordinance would not have allowed the scale of this project as it exceeds both the maximum building footprint and height. The proposed ordinance would have allowed modest expansion, only slightly larger than the original house, physically similar in scale to the rest of the houses in the neighborhood.

**Case 2.** The property at 878-880 Chestnut Street is currently in an MR3 district. Under the proposed ZO, there could be a two-unit residence in an R3 district. The prior building on the site was a single-family house which had been converted to a two-family residence. This case study focused on total lot coverage. The current ZO allows for 30% lot coverage in MR3 districts, but by definition, only includes the building footprint. The proposed ZO allows for 50% lot coverage in R3 districts, but by definition, includes all impervious area (footprint, driveway, porch, walkway, etc.). The approved project has a lot coverage of 56 percent. If it had been subject to the proposed ZO, a reduction in impervious surface, or lot coverage, would have had to be reduced to comply with the 50% limit.

The built-as-approved project nearly eliminates the front yard in favor of meeting the parking requirement in the front yard. Both side setbacks were also reduced from 10 feet to 9.35 feet. Under the proposed ordinance, the lot coverage would be maintained at 50 percent, though the building would still be able to have a maximum footprint of 2,000 square feet. It would also have to be 10 feet closer to the street in its front setback, in order to be consistent with the streetscape.

**Case 3.** The property at 36 Salisbury Street is currently in an MR1 district which under the proposed ordinance would become a House Type B in an R3 district. This case study focused on definitions of height, basements and numbers of stories. Prior to renovation the lot had a gradual slope upward from the street. In the approved project, the grade was raised and retained at the

property line in the front, but then significantly cut away for the drive leading to a basement level garage, revealing 3.5 stories at the front elevation. In the current ZO this type of configuration is allowed as it is considered a 2.5 story house. In the proposed ZO, this house would be defined as a 3.5 story house, thus not allowed. Under the proposed ordinance, a story is considered a story if more than 50 percent of the front is exposed, which in this case would have limited the height of the house by an entire floor. In addition, the footprint was increased by right from 1400 square feet to 2052 square feet, which would not be allowed in the proposed ZO.

**Case 4.** The property at 1081 Washington Street now has a commercial building in a BU2 zone. Under the proposed ordinance this would be an N district and allow a Shop House type. Prior to the current building there was a retail space in the front with additional residential space in the back. Now there is a single two-story commercial building, which was granted a special permit a few years ago. Under the proposed ordinance, this building would be required to have its second floor be residential as per the Shop House requirement in this zone.

Staff provided an outline of next steps for proceeding with this section. The plan at the next meeting is to focus on garage requirements, building components, and other accessory structures. The committee is asked to continue with the current readings and Planning staff memos will be provided a week in advance of the next meeting.

Questions, answers, and comments from the Committee are as follows:

*When will a side-by-side comparison of the existing and proposed language be provided by the Planning Department?*

*Regarding the case study on Fuller Terrace, what happens to small houses on large lots which are seeing single-family attached? Cluster housing needs at least an acre sized lot, is there any sense on the lot sizes of where mega houses were put up that could have been cluster housing instead?* The final ordinance will have diagrams in it to answer some of these questions. For now, the only documents available to be shared are redlined versions.

*Do single-family houses larger than 4000 sf become nonconforming everywhere under the proposed ordinance?*

It depends. The only single-family House Type that allows more than 4,000 sf by-right is House Type A. Some larger homes in Newton will become non-conforming, which could be because of footprint, stories, total square feet, etc. under the proposed ordinance. This is the tradeoff as overall conformity increases across Newton. The areas with these houses are not seeing as much change as those that will be made conforming, so the Planning Department believes that this will lead to an overall less hinderance to development than what exists under the current ordinance.

*How will grade change be handled in the proposed ordinance?*

There is no special permit for grade change as it is replaced with one for a retaining wall under the assumption that it is more important to focus on how height is measured since that ties into how grade is manipulated.

*Will there be a focus group of real estate professionals and developers as Zoning Redesign will change property values?*

Yes, there is already a focus group planned. Currently it is expected to consist of architects and builders, with plans to include developers. It can easily expand to include real estate professionals.

*On 878-880 Chestnut Street, the developer bought a back lot as well. The paving was the biggest concern to the neighborhood. How does this impact nonconformities and housing opportunities in general?*

Referring to the buildout analysis will be helpful as total nonconformities will be reduced, along with bringing in more opportunities for housing diversity.

*General agreement that more professional input on the Zoning Redesign process is needed.*

*For the examples provided, would these teardowns have happened under the proposed ordinance?*

The proposed ordinance would not have allowed these teardowns as they were presented. It would not necessarily have stopped them entirely and it cannot save all old homes in Newton. But it can make sure that whatever is built is contextual with the neighborhood.

*There appears to be a lot of R1 and R2 districts near village centers and mass transit hubs, based on this is the proposed ordinance really doing the best it can to meet Newton's sustainability goals?*

This is a good point to be brought up. The Planning Department will take another look at the draft lines and see if there is any way the districts can be redrawn at all to better meet sustainability goals.

*There is concern about the loss of multi-family homes in certain districts, will there be a way to allow them in the proposed ordinance?*

Existing two-family buildings would be nonconforming in these districts under the proposed ordinance, but they could still be extended. Most of the examples were built as House Type B and under the teardown thresholds. If one tears down a multifamily building, they will be able to build another multifamily structure on the same spot.

*What is the best way to factor in the cost of tearing down a multifamily building to replace with a single-family one? Is there a way to get input from the building community on this?*

*Will the proposed ordinance discourage parking in the front setback?*

Currently the proposed ordinance does not but it can be adapted to have stronger language on this.

*Will a push to incentivize more multi-family builds near transit hubs unintentionally lead to increased teardowns of old homes to build these new buildings?*

The intent is that multi-unit conversion of buildings will dissuade increased teardowns of them. The Planning Department is awaiting more professional input to better gauge the feasibility of this option.

*If FAR is to be abandoned as a building measurement tool in favor of square footage-based standard, couldn't this change have simply been made within the framework of the current ordinance?*

*If building something new, does the setback need to line up exactly with the adjacent properties, especially when geography makes this difficult?*

The Planning Department has been having this same internal debate and needs more feedback on the issue.

*The proposed ordinance seems focused on stopping all teardowns, irrespective of whether a teardown is the right move or not since not all old homes have historic value. Does the proposed ordinance account for this? Should the Council even be involved in telling residents how big to build their houses?*

*How will the proposed ordinance stop over-large house construction as has taken place in Oak Hill park and other areas using building loopholes?*

The proposed ordinance's use of total lot coverage as a standard and improvements in measuring building footprint and other building accessories should solve this.

*Why is the two-family footprint larger than the three-family one?*

The Planning Department has studied this and assumes that two-family builds are more likely to be built side-to-side while three-family builds are usually built stacked.

*There was agreement amongst some councilors against limiting the size of a house no matter the lot size.*

*If the proposed ordinance is adopted, it will make many houses nonconforming, does the Planning Department have any figures on which and how many properties will be affected in this way?*

*Are all these House Types economically feasible? The Washington Street case study presented is next to the site of Ascend. What is the level of demand to live next to a marijuana dispensary?*

*Where did the goals of this proposed ordinance, such as the reduction of speculative teardowns, come from?*

These goals have come from past Zoning & Planning meetings by combing the meeting reports to pull out what appeared to be the most logical goals. There is no single place where all of the goals came from. The Chair added that the bibliography of these reports was distributed in an earlier Planning Department memo.

*What has been the experience of other communities that have already adopted similar measures to the proposed ordinance and what can be learned from them?*

This is a great question and the Planning Department will look more into it.

*The courtyard cluster is an intriguing idea, is it possible to get more information on their conditions and viability considering how expensive land is in Newton?*

Cluster housing controls are listed under alternative building styles in Article 3 of the proposed ordinance and cluster housing has its own regulations.

*What are the options for a small house on a large lot, but one too small to build cluster housing?*

The Planning Department is currently working on answering this problem.

*A map, even a draft map would be very helpful for the Committee to have at this stage of reviewing Zoning Redesign.*

*Increasing density increases the value of the land and can make teardowns more likely, leading to possible gentrification and other forms of upzoning. Limiting building size could help counter this, as well as tiny houses. Have these been considered? Have other communities considered them?*

There is nothing in the current zoning ordinances barring nor incentivizing them.

Questions and comments submitted by Councilors Baker and Wright concerning Zoning Redesign are also attached to this report.

Councilor Albright moved to hold which carried 8-0.



**#30-20**      **Ordinance amendment to repeal Zoning Ordinance 3.4.4 Garages**  
COUNCILOR ALBRIGHT requesting amendment to Chapter 30 of Newton's Zoning Ordinance, section 3.4.4 on garages (delayed implementation until July 1). This ordinance has been delayed five times.

**Action:**      **Zoning and Planning Held 8-0**

**Notes:**      Items #30-20, #38-20, and #148-20 were discussed and voted on simultaneously with #88-20.

**#38-20**      **Request for discussion relative to single-family attached dwellings**  
COUNCILOR LAREDO requesting a review of the zoning requirements for single-family attached dwelling units.

**Action:**      **Zoning and Planning Held 8-0**

**Notes:**      Items #30-20, #38-20, and #148-20 were discussed and voted on simultaneously with #88-20.

**#148-20**      **Request to amend Chapter 30 to eliminate parking minimums**  
COUNCILORS ALBRIGHT, AUCHINCLOSS, BOWMAN, CROSSLEY, DANBERG, DOWNS, GENTILE, GREENBERG, KALIS, KELLEY, LIPOF, MARKIEWICZ, NOEL, KRINTZMAN, AND RYAN seeking amendments to Chapter of the Revised City of Newton Ordinances to eliminate mandated parking minimums to improve vitality of local businesses, reduce the cost of housing, and support the climate action goals.

**Action:**      **Zoning and Planning Held 8-0**

**Notes:**      Items #30-20, #38-20, and #148-20 were discussed and voted on simultaneously with #88-20.

The Zoom chat log generated during the meeting is also attached to this report as backup.

The meeting adjourned at 9:58 pm.

**Respectfully Submitted,**

**Deborah J. Crossley, Chair**