

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, AUGUST 17, 2015

Present: Ald. Johnson (Chairman), Danberg, Baker, Leary, Yates, Hess-Mahan, and Sangiolo

Absent: Ald. Kalis

Also Present: Ald. Brousal-Glaser

City Staff: James Freas (Acting Director, Planning Dept.), John Lojek (Commissioner, Inspectional Services), Maura O'Keefe (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#6-15      ALD. BAKER, HESS-MAHAN, ALBRIGHT requesting a discussion by the Zoning and Planning Committee with the Acting Director of Planning and Development of how Phase 2 of Zoning Reform might be undertaken, including the contents of the proposed Village and Master Planning and Zoning Reform Request for Proposals, including the planning process and ordinance revision process the RFP anticipates, as well as the staffing and funding needed to enable both in-house and contracted work under the RFP to be both well done and appropriately supervised. [12/29/14@4:00 PM]

**ACTION:**      **HELD 7-0**

**NOTE:** A revised draft of the Phase 2 RFP was provided to the Committee in advance of this meeting, attached to the agenda. It can be found online at:

<http://www.newtonma.gov/civicax/filebank/documents/68239/08-17-15%20Zoning%20&%20Planning%20Agenda.pdf>

James Freas, Acting Director of Planning explained that the Committee had expressed two primary problems with the previous draft. First, the wealth of existing information such as the Zoning Reform Group report, Comprehensive Plan and other studies had not been mentioned in the RFP, therefore, he added that a document review would be one of the tasks. Second, greater clarity was needed relative to future planning of the community. Mr. Freas added a task to lead a dialogue in the community about the future character of the City and where growth areas should occur, if any.

Interim and Phase 2 Issues

A Committee member believed the consultant should know what the issues of immediate concern would be. Mr. Freas said he purposely left this a bit vague so that it could be more defined while working with the consultant. The Committee member was under the impression that all the agenda items that had been characterized as Phase 2 would be detailed in the RFP in one way or another. There were some interim issues that the Committee had agreed to address, but the others should be put forward as part of the work product of the consultant.

Mr. Freas explained that the interim issues have been identified by the Committee and the Planning Department will tackle those items. There was concern from the Committee member that while some were actual docket items there were others that came up in discussion while reviewing the Phase 1 ordinance. The previous reports and notes will be consulted to identify those items, but Mr. Freas felt while there may be some incidental things he did not recall that there were large, significant issues that were not docketed.

#### Framework and Controls

The framework of the current ordinance has use oriented districts and a series of dimensional controls dependent on the district and the use. A Committee member's concern was, as the current RFP is written, the pattern book would eliminate dimensional controls and use controls and the zoning ordinance would take on a completely new framework. Mr. Freas said that formed based codes have use controls, dimensional controls, parking standards etc. Anyone responding to this RFP will understand that so there is no difference there. Uses will still be defined and associated with districts. The Pattern Book leads towards building design without disregarding the rest. The notion is to change the controls to make them more consistent. The RFP is written from the perspective of the recommendations of the zoning advisory group report to open the door to consider new zoning districts and essentially a new framework. The Committee member did not support this and disagrees with the zoning reform group. He would like to work within the current framework.

#### Charrettes

Mr. Freas explained that a charrette would be a 5-7 day process punctuated by various meetings and events that people can attend as it suits their schedules. It will include presentations and opportunities to provide input. Committee members were supportive of this and likened it to an Open Studio concept. The idea is to do the work in an open atmosphere and see work in progress instead of behind closed doors.

A Committee member pointed out that residents can be very enthusiastic about this kind of participation but if they see their ideas unrealized, they are not happy.

#### Pattern Book

A Committee member expressed concern that there were many lots that were mis-zoned and non-conforming by size or other factors. Mr. Freas said most of what is addressed in the Pattern Book is designed to resolve those issues. There are other issues identified in the RFP that were taken from the zoning reform group advisory report as additional issues to address. Ald. Yates suggested adding language such as "Designing districts and ordinance language to respond to the uses documented in the pattern book."

A Committee member pointed out that the City is limited to six zones right now and they don't fit the vast majority of the City. The consultant should bring some common sense to creating zoning districts that actually fit the needs. The overarching difficulty is the City has 13 villages with their differences and a multitude of neighborhoods with different characteristics. There are some instances of the as-built environment that are undesirable, such as rear lots and subdivisions that have turned from all one-story capes to a row of mismatched home sizes and

shapes that don't make sense. The consultant needs to have some free range to look at the built environment to determine what is working and what is not. The Committee member felt the RFP needs to move forward and was not concerned with the content as it gets to the issues that need to be addressed. The rest comes from the collaboration with the consultant. In the end, this ordinance may reduce the need for so many special permits.

#### Transition Community

Some Committee members felt it should be spelled out in the RFP that Newton is a transition community between urban and suburban and is very unique in that way. There will be issues to consider in light of this. Some areas can tolerate development and other areas cannot and there can be no blanket solutions for the entire City.

#### Enforcement

Some Committee members was concerned about the Inspectional Services Department capacity to enforce the zoning ordinance and wanted to have built in mechanisms so that Commissioner Lojek's staff doesn't have to be over-burdened. Commissioner Lojek explained that if a special permit is being violated, a stop work order can be imposed. The choices are then to put the property into compliance or go in to amend the special permit. Fines can be difficult to impose because if the building is not complete, it cannot be assumed they have violated the special permit. If they request a Certificate of Occupancy and are in violation then fines can be imposed without ambiguity. People think that ISD can just enforce but residents get lawyers and take the City to court and it's not always a straightforward process. The zoning ordinance will not help any further with enforcement. A Committee member it was worth asking the consultant if they have any ideas or have seen any solutions that could be helpful in this area. Also, it would be helpful to test the ordinance and try to "break" it to look for loopholes and any unintended consequences and fix those as much as possible.

#### Next Steps

Mr. Freas noted that the consultant will be asked to identify problems, explore a solution set and provide a final draft ordinance. Ald. Johnson noted that the consultant will be working with the Zoning & Planning Committee and the RFP should not limit the scope by being too specific.

The Committee would like the following concepts added to the RFP:

- A reference to Newton's status as a transition community
- An appendix to list the concerns that have been expressed in Committee and addressed in docketed items referred to Phase 2
- References to enforcement
- Highlight that the used based zoning will not be lost
- A footnote as to what "charrette" means

Mr. Freas will make these edits and will submit back to Committee members for further review and then get it out to the consultant as soon as possible. Ald. Johnson will communicate to Mr. Freas when the final input is complete.

The Committee voted to hold this item.

#278-14      ALD. YATES proposing to amend **Chapter 30** of the City of Newton Ordinances to restrict the two-unit structures allowed by-right in the multi-residence districts to structures with the two units side-by-side in a single structure, or one above the other as in double-deckers. [07/31/14 @ 12:03PM]

**ACTION:**      **HELD 7-0**

**NOTE:** This item and #222-13 will be discussed jointly. Ald. Hess-Mahan provided draft language and some illustrations to further demonstrate the intent of what is meant by a “two-family” building. It was attached to the agenda. He was reluctant to include any illustrations that demonstrated what was *not* intended as that could lead to loopholes. He would like to require that the two units have a shared wall that extends the entire height of one or both of the swelling units; or are divided horizontally so that one dwelling unit is above the other.

Commissioner Lojek agreed that illustrations are always helpful. He also felt that keeping the definition as simple as possible is best. His suggestion was to not require that the shared wall extend the entire height of the building because the building would end up looking like boxes. Ald. Hess-Mahan felt that it would be necessary in order to avoid the problems that have come up in the past. The illustrations are not meant to be templates and other elements such as porches, ells, etc. could be added but the basic structure should be divided into a two-family by way of these illustrated examples.

Ald. Sangiolo wondered what the definition was that led to the traditional two-families that were built in the City previous to the problematic ones being built now. Ald. Hess-Mahan replied that it was the style of the time and no one was considering these other odd configurations so that’s all that was built. But people are now looking for ways to get around the intent of the ordinance and by following the stated requirements, are able to build two-family buildings that are really two one-family homes attached by a garage. This is the problem he is trying to solve. If this language needs to be adjusted, it could be done in Phase 2, but this can put an interim measure in place.

Ald. Hess-Mahan would like to add the word “dwelling” in front of each instance of the word “unit”. The Committee agreed with this amendment and will move this item on to public hearing on September 16<sup>th</sup> as well as item #222-13. The Committee voted to hold both items.

#222-13      ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, DANBERG, FISCHMAN & JOHNSON proposing to amend the definitions of "Common roof connector", "Common wall connector", and "Dwelling, two-family" in **Chapter 30**, Section 30-1 of the City of Newton Zoning Ordinances. [06/07/13 @ 1:31 PM]

**ACTION:**      **HELD 7-0**

**NOTE:** See note above.

#222-13(2) THE ZONING AND PLANNING COMMITTEE proposing to amend **Chapter 30**, City of Newton Zoning Ordinances, to regulate the dimensions and setbacks of front facing garages in residential zoning districts. [08/03/15 @ 10:15AM]

**ACTION:** **HELD 7-0**

**NOTE:** Ald. Hess-Mahan provided several examples of garage zoning requirements from other communities which employ a number of different methods of controlling garage-dominant building. The examples were attached to the agenda. He explained that there are a number of homes that have been built in the City that have a significant portion of the front of the home taken up by the garage. He understands that it gives properties larger backyards when this design is employed but it is problematic and results in large swaths of pavement and multiple cars in the front of the house. The dominant feature of the home becomes the garage and detracts significantly from the streetscape and the feeling of a residential neighborhood.

Some possible solutions could include requiring a setback which is greater than the front of the home, and/or that only a certain percentage of the front façade may be occupied by the garage. There could also be multiple design standards with suggested design elements for garages. There are many examples of good design around the City. It was suggested that perhaps there could be some incentive to produce better design so builders would not need to look for loopholes. Mr. Freas said this may be something to look at in Phase 2 instead of in this interim measure, but agreed it should be explored.

Committee members were supportive of these concepts and agreed they would like to see some predictability and consistency to what would be approved in design. Mr. Freas said he would also try to test various options to find any unintended consequences to avoid loopholes. He will work on a draft for this proposed ordinance. The Committee voted to hold this item.

Meeting adjourned.

Respectfully Submitted,

Marcia T. Johnson, Chairman