

Memo

To: Zack Lemel, Chief Planner
From: Susan Albright, Councilor At Large Ward 2, President Newton City Council
Re: Questions for zoning redesign
Date: September 9, 2020

Cc: Deborah Crossley, Chair, Zoning & Planning Committee,
City Council
David Olson, Clerk of the Council;
Nathan Giacalone, Clerk of the Zoning and Planning Committee
Barney Heath, Director, Department of Planning and Development;
Cat Kemmett, Planning Associate;
Neil Cronin, Chief of Current Planning
Planning Board
John Lojek, Commissioner of Inspectional Services
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

Dear Mr. Lemel

Thanks so much for being willing to help the Committee and Council work its way through the proposed code. First let me say that I am amazed at how you picked up the ball from where James left off and have provided us the wonderful opportunity to keep going without skipping a beat. I apologize for not putting this email on "official" City Council stationery. The lateness of the hour prevents me from accessing the official letterhead. I guarantee that this is an official memo from a Councilor just as official as if it had been on official letterhead.

At times, as I read the code, while I can easily read it- I get frustrated because I don't understand its impact on Newton. The key to tackling something new (as I learned over my 28 years in Information Technology - a field that is constantly changing) is to keep an open mind and keep plugging along. What I am most looking forward to is working our way through code - talking with my colleagues on the Committee - with you as our guide. We all have many questions - of course we do. The best thing to do in a situation like this is to not panic but read, reread, ask questions, talk and debate the issues with colleagues and then with the public until we all finally have an understanding of what it all means and then - decide what we like and don't like individually and as a group. The key to everything we do on the Council is keeping an open mind. (I took a whole course in Psych at Tufts as an undergrad on the open and closed mind). We are all Councilor/generalists regarding most of the things we are asked to vote on. Our job often requires that we listen to a member of the public, a member of the staff, or a colleague who comes up with an idea to change or create an ordinance and asks that we act on it. We have to learn a new area then decide if the requested change makes sense and ultimately decide to vote for it or vote against it. This is true for far ranging things like deciding who should

approve RDNA laboratories in Newton, or setting the water rates, or approving a street design, deciding to purchase open space in the face of scarce resources, or yes- creating a new zoning code. None of our Councilors are experts in every field (we must vote nevertheless). At times, such as this one, we are asked to vote on changes to an existing code that we have grown quite used to. I would hope that at this very early stage, that none of our ZAP members would have closed their minds. I hope that we are all approaching this essential and important effort with an open mind – being willing to learn and make a judgment based on facts. This is what I, and I think most of us are trying our best to do. That being said – here are some of my biggest questions.

Now my questions:

1, Non-conformity; I'm beginning to feel that the issue of "fixing" all the non-conformity in Newton might be a red-herring. So much of Newton was built before zoning even existed so we started with a motley group of buildings on a motley bunch of lots. Then more buildings were built up to 1940/53 zoning changes. What we have are lots on hills, very small lots, very big lots, big lots with small houses – and the reverse, old/new lots (who decided that was the way to solve a problem?). James used to tout that we would have less non-conformity at the end of our project. I'm beginning to feel there will be just as much non-conformity – just different. In the end – does this really matter? Should we stop using this goal – removal of non-conformity, as one of the things we must achieve. Can't we be done with this issue? We created new setbacks particularly side setbacks which were meant to prevent people from building out to the lot line which was the cry from many regarding the McMansions. So – now all the buildings with side setbacks between 5 and 15 feet will become non-conforming. Should we say, "so what"? Tell me where I need to care more about non-conformity

2. Special permits – Another hue and cry before we started was that we should reduce the number of special permits. I ask WHY? Isn't this a safety valve related to issue #1 above. We have now and will continue to have non-conformity. I see no way around this and the safety valve is special permits. Love to understand why it is important to greatly reduce the number of special permits. Also – if we allow special permits those of us who have served on the Land Use Committee might have a lot to add to what criteria are needed to give guidance to special permit decisions.

3. R2 districts that have smallish homes on large lots – I guess this is related to #2. There are many R2 districts, which are not internally consistent. Some houses in a sub-cluster are smallish houses on large lots. These people feel that limiting the size of their home on a large lot is essentially a taking - removing their property rights. If we had special permits to deal with this I think I could live with this problem. Right now there is no safety valve – shouldn't we build in this safety valve? The known bunch of homes at the Center street end of Homer Street are an example of this.

4. Are the setbacks correct – I want to discuss houses that exist now that can't exist in the future – particularly if we have no special permits. We need staff to run through many examples. Then the committee will see what we have done on the ground and like it or not like it and discuss whether the pros outweigh the cons – without this we are flying blind.

5. I would love it if we had worked on the Village centers at the same time as the residential – but that ship has sailed and we can always come back to residential after we do the villages. This is just a note to you to talk about village centers in the context of whatever we finally decide on the residential article

6. Ancillary uses – Particularly the south side of the city but also the west part. I think we need to put some rules in place. Can you think of what they might be? If someone wanted to turn my house (1075 Comm Ave) into a restaurant – would that look/feel right for the neighbors? My house is roughly across the street from City Hall. Is that the right place to put a restaurant? Should restaurant be a different set of rules than if you wanted to make my house into a museum? (Not that my house is at all museum worthy). We need more discussion on this topic and I'd love to hear your thoughts on adding criteria.

7. Why can't a duplex be side by side? I see no difference from the up and down model. There are homes all over the city that are side by side. You walk into the front door and you are faced with a small hallway with 2 doors. Both sides have an up and down. From the outside it looks just like a single-family house. It is not the same thing as townhouses, which visually look like 2 separate homes.

8. It is tempting to talk about the controversial issues of 2 family homes everywhere and the 6 family multi-conversions but is it fruitful in moving our conversation forward? It is my recommendation in terms of process that we put this aside – in the parking lot, and deal with the basics FIRST. There is a lot to be learned and discussed about the basics FIRST even though some Councilors have jumped right to the more stimulating questions. However – when we do get to these topics I hope you will be ready with a financial analysis of what price housing we will achieve. Will we create middle class housing? How can we also create affordable housing? We need more of both I just want to have an analysis that explains how we can constrain the units (size? Location? Number? Etc?) to make sure we not only get more housing but more housing for middle class and at 80% or lower. The theory is that increasing the supply should level the price over time. How much increase in supply do we need to get to that leveling. Please have someone do the work and show the work to prove this.

Once I understand these issues I may have more questions – but that is the way this goes. Zoning is something that touches the lives of every person in Newton and we want to make sure we get it right. But not delay it to the point that we do nothing.

I want to end (for now) where I began. You are shepherding us through a very difficult discussion. Again, I thank you for what you have done so far and for the difficult times ahead of us. You are dealing with Councilors who have long-standing vested interests in our existing code. You are dealing with Councilors who are dealing with code for the first time. You have Councilors who like the status quo who want to tinker with what exists and you have councilors who are desperate for change. Together – you as our staff and we as duly elected Councilors coming at this with various perspectives can work together to make this work. You will have to help guide all of us through this project. I thank you for this hard work.

**MEMORANDUM**

DATE: September 9, 2020

TO: Zachery LeMel, Chief of Long Range Planning, Newton Planning Department

FROM: Councilor Lisle Baker

RE: Comments on the Planning Department's revised provisions of the Residential Component of the Department's proposed new zoning ordinance attached to a Planning Dept. memo dated August 7, 2020 in response to a subsequent Planning Dept. memo dated August 11, 2020 regarding #88-20 DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance; as well as companion docket items related to zoning redesign, including #30-20, #38-20, and #148-20

CC: Deborah Crossley, Chair, Zoning & Planning Committee
City Council
David Olson, Clerk of the Council; Nathan Giacalone, Clerk of the Zoning and Planning Committee
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1. Executive summary.

This memo constitutes my response to a request from Chair Crossley for written comments on the Residential Component of the Planning Department's proposed new zoning ordinance for the City which follows in detail below. I regret to report, however, that the more I understand about the proposed new ordinance, especially its Residential Component, the more concerned I become that adopting it would not be in the best interests of the City of Newton. It marks a radical change in our controls on the use of land without assuring an improvement in the quality of life in our varied village and neighborhoods that such a major change should achieve. Indeed, the process itself of its adoption has become a divisive issue in itself at a time when our residents are justifiably focused on other issues, such as the Pandemic, their livelihoods and the education of their children. I remain open to persuasion otherwise, but I respectfully suggest the Planning Department substitute for this time and resource consuming global zoning redesign more specific modifications to our current zoning framework which both Councilors and residents alike can more easily follow and understand. That overall recommendation aside, a number of the provisions of the proposed ordinance mark advances, such as the treatment of garages as design elements; others are much more problematic, such as increases in density from which appear to provide opportunities for developers to profit while increasing impacts on neighbors and public services. I elaborate these comments below.

2. Introduction.

By email dated September 2, 2020 Chair Councilor Crossley requested that members of the Zoning and Planning Committee, and other interested Councilors, offer our “questions, comments, and requests for information” in writing to you. The subject is the Planning Department’s revised provisions of the Residential Component of the Department’s proposed new zoning ordinance attached to a Planning Dept. memo dated August 7, 2020 in response to a subsequent Planning Dept. memo dated August 11, 2020. In her prior memo dated August 21, she asked that we “dig into the details...[and] ask what is most concerning, unclear, difficult, and what questions need to be answered” for a “workable product.” It has taken more time than I expected, but this memo constitutes my response. As she suggested, I have used the August 11 memorandum as a framework, quoting from it below, with some preliminary comments as Chair Crossley had suggested orally in our last Zoning and Planning meeting that if something were omitted we should mention that as well.

This the most complex legislative matter I can recall since I began serving on the City Council in 1980, including the last zoning redesign in 1988. No one memo can do justice to this effort, so I respectfully reserve the right to supplement these comments as appropriate.

Also, as this topic will be discussed by the Zoning and Planning Committee at its September 14 meeting, consistent with my past practice, I am providing my comments to you in advance, copying those copied in the Planning memo dated August 11, and asking that Council Clerk post a copy on the City Council website for the public to be aware, consistent with the advice of the Massachusetts Supreme Judicial Court in *Boelter v. Board of Selectmen*, 479 Mass. 233 (2018), as well as requesting that a copy also be attached to the Zoning and Planning Committee Report for the September 14 so these comments will be easily accessible as part of the public record of our work. This process is important because we all need time to reflect on these issues in advance of the meeting on the 14th and not rely only upon your summary of our comments, thoughtful and well-intentioned as that summary may be.

Finally, despite the long history of discussion of Zoning Redesign this term, this is the first time we have been invited to provide our views in writing about the Residential Component as a whole, so I will address those issues first.

3. General comments.

A. The new zoning framework the Department recommends we adopt - a form-based code – has become a problem in itself, diverting time and resources from the Department and the Council seeking to address discrete problems in our current ordinance about which there appears to be common concerns.

Over the last years, I have seen the process of updating Newton’s zoning change from an attempt to respond to some issues that arose in the initial recodification of our zoning ordinance – such as garages that dominated the streetscape of the houses they served, or teardowns of what was entry level housing in Newton to make way for McMansions, or limits on new construction which encouraged building to all the available setbacks next to neighbors or the street – to a whole new “form based” code. To the best of my understanding, such a code has been adopted in only one Massachusetts city, Somerville. That is a far more urban community than Newton with its many varied neighborhoods, villages and commercial areas. That distinction raises concerns that this is not the right framework also for Newton.

We are proceeding down this path despite the fact that to the best of my knowledge the full City Council has not endorsed the idea of a form-based code. It is not clear to me, at least, why some changes in our current zoning ordinance could respond to these problems better than we do now, but without the disruptions, uncertainty, and confusion that this wholesale revision involves. Moreover, to this original

plan for a makeover in our ordinance has been added the Department's recommendations in its ~~most recent~~ ^{#88-20} iteration that Newton abandon single family zoning and add more density to the City by allowing two-family homes in any new construction and multi-family housing in existing homes, both as of right. Thus, this effort has now moved from rectifying discrete problems to an entirely new model of suburban density.

This work is also ongoing while the citizens of the City are more properly focused on responding to the Pandemic than the arcane subject which provides the framework for the built environment of the City, but which is invisible to almost all until something affects their property, and by then it is too late as the changes that affect their lives will have been made. I therefore will continue to request that we focus on those things we can attend to and do those – as we did at the end of the last Council term - with climate friendly elements of housing, rather than continue down this path of a wholesale ordinance redesign. (For example, the modifications to our existing simple standards for garages was originally docketed years ago and it has now been officially deferred until 2022.) This protracted process has allowed buildings to be constructed in the interim that many will regret, and meanwhile, we continue to expend time largely outside of the view of the public except for a few advocates, architects and lawyers, and occasional concerned citizens who communicate with us. This is not a good place for Newton to be.

To be specific, I urge the Department, and by implication, my colleagues, to revisit the garage ordinance sooner rather than later, to look at interim adjustments in our existing limits on the floor area of residential buildings to make for smaller buildings upon reconstruction, and to explore new housing opportunities in village commercial centers. These are places where your Department's energies could be better spent, at least until after the Pandemic, in my judgment.

B. We have no comparison of the proposed ordinance to what is now in effect, not just a comparison of with what the Department earlier proposed.

It is important for the public to understand the significant changes in our current ordinance effected by the proposed revisions, which include new categories of land uses, new zones, new dimensional controls, and new maps of new zones, as well as significant changes in the intensity of uses allowed. Before we even consider a straw vote or other sense of the Committee on the Residential Component of the new ordinance, we need to understand how it differs from the old and to what degree. If we are to continue down this path, I respectfully request that the Department allocate time to build that comparison. Individual case studies can be helpful, but they are not sufficient. It is not a justification to avoid that work to say that the new proposal is so different from what we now have that comparisons are difficult. If anything, that argues against the changes as a whole. Why give up what we have for something different if we cannot well understand what the differences may be? We have precedents in the Council before where provisions of a proposed new Charter were compared side by side with their counterparts in the current Charter, and new material highlighted. Given the importance of the decision being asked of the Council, surely such a comparison is within the capacity of the Department to prepare.

Beyond that basic issue of comparing existing to proposed, it is difficult to follow what the Department recommended as we were provided in the August 7 memorandum with a red-lined version of the Department's prior draft, but not a version as proposed, nor a comparison with the current ordinance so that it is clear what we are being asked to replace. Both would be of aid to our process. In the meantime, however, it is not only possible but also likely that some key elements may be missed as part of our review.

C. Specific elements of the Residential Component omitted from the August 11 memo framework for discussion.

1. The change in minimum frontage and the addition of a frontage maximum for a new lot.

A key dimension of the Residential Component is the elimination of a minimum lot size and a reduction in the applicable required frontage for a new lot to be built upon. For example, in a Single

Residence zone, the current ordinance requires a minimum of 140 feet for a new lot. In the new ~~R1~~ **#88-20** zone, the least dense, that number drops by almost half to 80 feet. In an R2 zone it would be 60 feet (with a maximum of 110), an R3 and R4 zone 50 feet (with a maximum of 100 feet). Note that the net effect of this reduction is denser construction of new homes. Also, the frontage reduction can itself encourage the demolition of existing homes to make way as larger lots are divided or even subdivided. Moreover, much of the beneficial open space in Newton – in the sense of tree canopy and plant materials – comes from the mature trees that dot the landscape, as well as open space surrounding some of the homes on larger lots. That public amenity maintained at private expense can be lost, a process we already see in the demolition process as trees are cut as the buildings come down.

2. The elimination of a minimum lot size in the proposed new ordinance.

One of the changes to Newton zoning effected a number of years ago was to avoid the construction of new homes on lots of less than 5,000 square feet as being out of scale with Newton as it developed. Without such a minimum lot size, many more lots can be built upon. Again, if the Council were to determine that it wishes to change that minimum lot size, it could assess the impacts more easily under our current ordinance. We cannot do so in the context of the Residential Component proposed.

3. The elimination of Floor Area Ratio as a control on oversized development without considering whether and how it might be improved.

Floor area ratio (FAR) as a means of controlling building mass was developed and implemented with the encouragement of the then leadership in the Planning Department to help control teardowns and oversized houses. It is still not clear why the current Planning Department is recommending that this tool - which I recall was hard won -- now be abandoned. For example, limiting the floor total floor area to be built to a percentage of the lot size allows larger houses on larger lots and smaller homes on smaller lots. On the other hand, as I understand the proposed new zoning, a 7,000 or a 21,000 square foot lot in an R2 district could have the same maximum house size. Also, if there is a concern that some elements of a lot count for purposes of the Floor Area Ratio which are really not part of the building envelope created by front, side and rear setbacks, might we simply amend the FAR limits to exclude that portion of the lot not within the allowable building setbacks on four sides? That would help address the problem of building on narrow or “pork chop” lots where land area not needed for the structure counts toward the limits on its size.

4. Clarification of changes in carefully designed features of our current zoning ordinance, such as Rear Lot Subdivisions.

Over the years, the City Council has taken great pains to shape aspects of the current zoning ordinance with great care. For example, the division of a parcel to allow a residence to be constructed on a rear lot was carefully crafted to allow it be done only under special permit, with specific standards and guidelines above and beyond what could be done as of right. Before any change in the ordinance should take place, it is important to sort out what has been removed and what is proposed to take its place, and why.

5. Clarification of what is unchanged, even if renumbered and relocated.

It is very difficult to follow what is in our current ordinance has essentially been transplanted into the proposed version. Without more guidance from the Department, how are members of the Council and the public to know? For example, the dimensional limitations on the size of separate structures that can be built on a lot appear to be the same as in the current ordinance, but it would be helpful to know what is new and what is proposed to be changed, echoing an earlier comment.

6. Under current zoning certain dimensional nonconformities can be relieved as needed by a special permit from the City Council with conditions designed to protect abutting properties; the proposed ordinance appears to create whole new classes of dimensional nonconformities for which there is uncertain relief, if any.

Much of the rationale for the proposed changes is to reduce nonconformity – the fact that many existing lots and structures do not conform to current zoning requirements. How many homeowners annually seek relief from such rules through Special Permits from the Council? Is such nonconformity relief focused on one or more elements in particular, like FAR? The Department should undertake such a review before creating more nonconformities with the new ordinance without understanding if and how such new nonconformities might be better addressed under the current ordinance. Aside from learning from that historical data, what new nonconformities would be created with the new dimensional controls on house types? A justification for a form-based code is attempting to make as of right what was discretionary before. It would be ironic if the Council were to trade a regime of nonconformity which is relatively well-understood, and can be relieved by special permit so long as the result is not substantially more detrimental to the neighborhood, for a regime which is novel and untested, but ultimately requires similar relief for many properties which might now be conforming but become nonconforming under the proposed new zoning.

7. No consideration of the housing opportunities that might be created in commercial areas without disrupting existing neighborhoods.

While I understand the Chair’s desire to proceed through the proposed ordinance in sections, some of the housing opportunities we seek might be found in Village Commercial areas, should we not discuss these at the same time, rather than revisit the Residential Component at that time?

4. Specific comments on the Department’s August 11 Memorandum.

With this general background in mind, including all the reservations expressed, here is the August 11 memorandum from the Department with my comments in italics.

[Excerpts from the Department’s August 11 Memorandum appear below, with comments at intervals.]

Guiding Questions to Review Article 3 – Residence Districts

In preparation for the upcoming ZAP meeting on August 13th, the Planning Department has created a series of questions connected to the revisions proposed in Article 3 – Residence Districts. The series of questions is organized in order as they appear within the draft zoning text. The Planning Department suggests this be used to guide the study and review of the draft. It is intention of the Planning Department to fully introduce these draft revisions at the upcoming ZAP meeting, though it will most likely require multiple meetings to have sufficient discussion within the Committee on all items.

Guiding Goals and Objectives

- Facilitate an increase and diversity of housing opportunities citywide
- Promote economic and environmental sustainability
- Ensure new development, and renovations, respect the physical character and scale of existing neighborhoods and align with adopted visions

[Comment: As indicated in a prior memo from me and Councilor Wright, both the 8/7/20 and 8/11/20 Planning memo contains a significant error: The 3rd straw vote goal approved at the Zoning and Planning Committee meeting on April 27, 2020 was as follows: “Context: Preserve and protect what we like in our neighborhoods.

Encourage new development to fit in the context of our neighborhoods and village” has a very different intent and purpose from what the Planning memo reports: “respect and control the physical character and scale of existing neighborhoods and new development according to adopted visions.” This statement needs correction in both memos. This is more than a technical objection. I voted for the original goal in Committee because it spoke of neighborhood preservation not just in scale but in what we like about them – which includes variations in density of use across the City. Unlike some other suburbs, Newton has some areas of single-family, two-family and multi-family use, with varying lot sizes and building types. This heterogeneity is one of the reasons new families continue to be attracted to the City.

This is not the only alteration in what the Committee voted on April 27. Here is the exact language from the Zoning and Planning Committee

“Housing: A Zoning Code more responsive to a demand for housing that serves a range of incomes; promote sustainable community development patterns.”

That is very different from “Facilitate an increase and diversity of housing opportunities citywide” as the Planning Department’s recasting implies an increase in housing – not what we voted – and that it be citywide – rather than targeted for the most appropriate contexts. These could be village commercial areas, which would allow both the housing opportunity and neighborhood preservation goals to be more compatible rather than in conflict, which is the result of the Department’s responses to them.

Finally, the third element of the Committee’s straw vote was as follows: “Sustainability: Environmental Stewardship, fiscal strength and meeting community needs.” Again, this is different from the Department’s rewriting that its zoning is designed to “promote economic and environmental sustainability.” Those are worthy goals themselves, but they omit the important dimension of fiscal strength for the City where new land uses can put demands on city and school services without creating the equivalent new tax revenue to support them.

Why take the time to dwell on these distinctions? It is because the Planning Department’s rewriting of what the Committee voted for are used to justify the recommendations that follow. The Council in its wisdom may elect to vote for any or all of the proposed zoning changes recommended by the Department, but it does not advance the cause of either clarity or confidence in the outcome for the Department to justify the means it recommends by altering the ends voted in Committee that they are designed to serve.]

3.1 Residence Districts

Dimensional Standards & Building Types

The proposed five residence zoning districts (R1, R2, R3, R4 and N) are the foundation for regulation across Newton’s neighborhoods and roughly correspond to five of the existing residential districts (SR, SR2, SR3, MR1 and MR2). Taken all together, these district can be viewed as a transect that moves from larger lots/less building types (R1, R2, and R3) to smaller lots/more building types (R4 and N). This typically corresponds with Newton’s existing residential development patterns as areas further away from public transit and village centers to areas in much closer proximity to these resources, respectively.

[Comment: This statement does not fit with the current pattern of Newton land uses. Newton is not so graduated in the location of its uses of land. In fact, the City is much more heterogenous. Some residential areas, such as Chestnut Hill, are next to major commercial areas, like the Chestnut Hill Shopping Center and the Route Nine commercial corridor. Others are more distant. This situation requires maps that can be clearly understood and how what they show differs from the existing zones and to what degree.]

1. **Do the required district lot and setback dimensional standards, as well as the allowed mixture of building types, facilitate the desired development patterns as explained above?**

[Comment: If the ends are not accurate, then the means to these ends is not accurate as well. It is not wise to change to a form-based code the full implications of which cannot be fully understood.]

2. **Certain building types are only allowed by Special Permit within a given district. Is that appropriate or should they be allowed by-right or not at all?**

[Comment: Moreover, in the draft provided, the Department indicated that a key element not yet before the Committee is the decision about what entity and under what standards discretionary relief would be provided for provisions of ordinance, either for the grant of a special permit under M.G. L. c. 40A, Sec. 9, or a finding that a particular provision could be lawfully relaxed for a non-conforming property under a finding that such a change would not be substantially more detrimental to the neighborhood under M.G.L.c.40A, Sec. 6. The choice of entity and standards for decision is different from the threshold question of what the proposed ordinance should allow or prohibit or whether some discretionary relief, (other than a zoning variance by the Newton Zoning Board of Appeals for hardship unique to the parcel, always available), is involved. These comments assume that the City Council will still act in both the Section 9 and Section 6 roles, though I understand that is not the Department's recommendation. If appointed entities, like the Planning Board, were to so act for some or all of such discretionary relief, these recommendations might change.]

a. House D in R2

[Comment: This choice illustrates the difficulty of the current ordinance. It is built, as the Department's memo indicates, around the idea of house types as the primary land use. Beyond that, do we want to limit the opportunity for people to build or own one floor homes that are easier for seniors to navigate?]

b. Triple Decker in R3

c. Small Apartment House in R4

d. Small Multi-Use Building in N

3.2 Building Types

Special Permit Allowance to Vary Building Type Dimensional Standards (sec. 3.2.2)

One of the stated objectives driving the Zoning Redesign process has been to simplify and streamline the permitting and review process. Lowering the administrative burden and streamlining the process could go together with revised rules and regulations that truly reflect the City's goals. Allowing development by-right that conforms to these new rules and regulations can be a predictable way to accomplish this. The proposed building type dimensional standards are either derived from measurements of Newton's existing residential buildings (House A through Duplex) or from urban design best practice (Triple Decker through Small Multi-Use Building). This way, new construction of these building types should respect the existing physical character and scale of neighborhoods.

Decisions

1. **Should the draft remove the allowance to increase beyond the maximum building type dimensional standards by Special Permit?**
 - a. **If yes, should certain building component allowances replace the Special Permit as a simpler and more predictable mechanism?**

- b. If no, should there be a cap placed on how much a Special Permit increase is allowed for each building type?**

[Comment: No to the first question and yes to the second, though with qualifications. Some building components are modest, but other elements, such as a side or rear addition, can have impacts on abutters that the special permit process provides a way to condition and ameliorate. The Planning Department, to the best of my knowledge, has not done any systematic analysis of the pattern of special permits to see what are granted routinely and with what conditions and which are the subject of more intense review because of impacts on neighbors. Zoning amendments should be guided by that experience. It was a prior review of this type that led to the current de minimis ordinance which does allow minor changes as of right. But when minor becomes major without appropriate additional review, homeowners become developers and neighbors can be adversely affected. That is what setbacks and other dimensional controls are designed to help achieve. Owner gains some protection from what happens next door in return for some control on what they can do themselves, which Justice Holmes once called the “reciprocity of advantage.” The problem is not just lack of an examination of our Newton special permit experience. The premise of the house type as the fundamental building block of the proposed new zoning code is that it will limit oversized structures. To allow additions to be made as of right can mean significant increases in size, and intensity of use that often goes with it, undermining that goal.]

Two-units within House A, House B, and House D By-Right

Within the Additional Standards section for the above building types is a proposal to allow new construction of these building types to have a maximum of two-units. These building type standards are based on corresponding single-family existing residential structures throughout Newton. This change would allow, it does not force or require, new construction of these building types to have two-units. Property owners have every right to build or renovate these building types as single-family homes. Allowing this throughout all of Newton’s residential neighborhoods could help fairly and equitably distribute housing opportunity within building forms that respect the existing physical character and scale of neighborhoods.

Decisions

- 1. Should new construction of these building types, based on the existing form of single-family homes in Newton, be allowed to have a maximum of two-units by-right?**
- 2. Should this provision be reserved for single-family zones within a certain distance to public transit (Green, Line, Commuter Rail, Express Bus) and village centers?**
 - a. ¼ mile?
 - b. ½ mile?
 - c.

[Comment: No, to both questions. A constant criticism of residents is that the entry level housing is being demolished for much more expensive housing oversized for the lot and their neighborhoods. We have heard concerns from architects and others that the Department’s proposal would add to, rather than respond, to this problem. A number of comments we have received have pointed out the incentives for tear downs of entry level housing in single family zones will increase as developers will now have two units to sell in place of one, an opportunity potentially available city-wide. Despite how it is phrased, this is effectively the end of single-family zoning in the city, though single family homes can remain until a developer offers a price that will allow it to be torn down to make way for more expensive two-family homes. Also, if it is to occur, it may make no sense to provide such opportunities only on the basis of access to transit when so many residents still need cars, and the whole fabric of commuting by mass transit to work is being undone by the Pandemic. That demand for single family housing remains high is an indication of the value these homes command in the market, but that demand may shift as homes next door are torn down to make way for new two-family homes.]

The Planning Department recommends the removal Small Shop (sec. 3.2.13). Though this form currently exists in Newton, it seems the goals of promoting economic sustainability and increasing housing opportunity warrants new development of this type to have ground floor commercial with residential or office above. Or, the draft should allow existing buildings that match this form to have an opportunity to build an additional story for residential or office, which is captured in the Shop House (sec. 3.2.11) and is proposed only in the Neighborhood General District immediately adjacent to village centers.

Decisions

1. **Should the new Zoning Ordinance encourage new single-story commercial development through the Small Shop building type, or should it be removed?**

[Comment: Again, it depends on the location. It used to be the case that some of the buildings next to the Newton Centre T station were apartments above commercial space. Toward the end of the last century, the owners found that office use would pay more and the apartments were no more. Shop buildings can be useful, but it depends on the use and the location. Also, if the premise is that it supports upper story residential, perhaps the residential use should be assured in some way.]

3.3 Building Components

Building type increases through Building Components

Per discussions at ZAP, with city staff, and the architects/builders focus group, the Planning Department recommends updates to building components that allows existing homes to reasonably expand as homeowners needs change and for new development to expand beyond the maximum allowable footprint in a simpler, more predictable, manner. Building Components incorporate the innovative thinking found in the Current Ordinance *De Minimus* regulation, data on Newton's existing residential massing, and urban design best practice. The Planning Department recommends that building components that can modestly increase footprint, Side Wing (sec. 3.3.2.F) and Rear Addition (sec. 3.3.2.G), on the smaller building types (House A – Duplex) be capped at 25% and for the larger building types (Townhouse Section – Small Multi-Use Building) be capped at 10% beyond the maximum building footprint. 25% for the smaller building types is based on data of existing housing stock, which allows a development with an appropriately sized lot to match the majority of existing structures of that building type. Adding such building components requires available lot coverage and space within the established setbacks, which helps ensure such increases are proportional and only occur on appropriately sized lots.

Decisions

1. **Should building components have a maximum allowance per building type?**
 - a. **If yes, is 25% appropriate for (House A through Duplex) and 10% (Triple Decker through Small Multi-Use Building)?**
 - b. **If no, what is the appropriate mechanism to regulate the expansion of each building type to meet the evolving needs of homeowners?**

[Comment: A prior comment has elaborated on this issue.]

3.4 Design Standards

Garage Design Standards (sec. 3.4.1)

Utilizing form-based mechanisms the draft zoning language creates standards to achieve the goals of minimizing the visual impact/dominance of garages within neighborhoods and the public realm. The draft ordinance breaks down how residential building types can provide garages in a variety of configurations that respond to the variety of Newton's lot sizes and layouts, without compromising on these goals. In this way, the new language greatly increasing both the level of predictability and flexibility for developing garages as part of new construction or an addition.

1. **Should front-facing garages be required to setback from the front elevation of the house unless certain design mitigation measures are met?**

[Comment: yes. Note that the hard copy of the current zoning ordinance that I recently received from the Committee Clerk contains as operative limitations on garages which I recall the Council reconsidered and which are not to be final until 2022, unless otherwise amended.]

2. **Should front facing garages with space for two cars be required to be designed with individual doors?**

[Comment: yes.]

3. **Should a home only be allowed to have one attached front-facing garage, regardless of how many units?**

[Comment: This seems reasonable to avoid the visual and public safety impacts of garages becoming the dominant feature on the streetscape. As a general matter, the general thrust of these proposed changes is positive. It still seems possible to do something along these lines even within the framework of our current ordinance, however.]

3.5 Alternative Lot/Building Configurations

Multi-Unit Conversion (sec. 3.5.2)

Per our discussions at ZAP, a majority of the Committee, additional City Councilors in attendance, and Planning Board members voiced support for Multi-Unit Conversion as a mechanism to incentivize the preservation of Newton's existing building stock and promoting an increase in diverse housing opportunities throughout the city. From this feedback, the Planning Department recommends expanding the allowed building types that can utilize this mechanism (sec. 3.5.2.A). Second, city staff recommend that Multi-Unit Conversions be allowed by-right if creating six residential units or less. To ensure the exterior of the building is preserved, and generally limit abuse of this mechanism, additional language has been added from the current ordinance limiting exterior alterations (sec. 3.5.2.B).

Decisions

1. **Should Multi-Unit Conversion be allowed by-right? If yes, what is the appropriate number of units allowed by-right?**
2. **Should Multi-Unit Conversion be allowed by-right only within a certain distance to public transit (Green, Line, Commuter Rail, Express Bus) and village centers?**
 - a. $\frac{1}{4}$ mile?
 - b. $\frac{1}{2}$ mile?

[Comment: No to both 1 and 2 (which includes both a and b). The relevance of mass transit is no longer clear; see prior comments on two family homes available as of right. Also, multi-unit conversion can occur by special permit under if the parcel has enough land to subdivide the lot to allow the same number of units. This is an important safeguard that should be maintained to offset additional density with more open space with special permit review to protect nearby properties from unintended impacts. Also, the Council spent many months arriving at a good accessory apartment ordinance – acknowledged as a statewide model - which allows a unit that is truly accessory to be created, while providing safeguards for abutters, such as allowing some units as of right and others by special permit, as well as homeowner occupancy and controls on exterior alterations; those provisions would apparently be gone or unused. (It is unclear whether multi-unit properties would continue also to allow internal accessory apartments; see prior comments on the two-family properties.) There are also issues of over-crowded student housing in multi-family units near local colleges which these conversions would only make more difficult. Finally, when the Pandemic subsides, these are ripe properties for Airbnb use and not

long-term renters, something prohibited by the current accessory apartment ordinance and lodging house provisions of our current zoning ordinance.]

3. Are the mechanisms limiting exterior alterations appropriate?

[Comment: controls on exterior alterations are wise – see the accessory apartment provisions of our current ordinance. How these would work needs exploration.]

4. Should the development of affordable housing be incentivized through multi-unit conversion? If so, what is the appropriate requirement (50%, 75%, 100%)?

Courtyard Cluster (sec. 3.5.3)

Courtyard Cluster development is a building form that promotes community interaction through compact living clustered around a semi-private shared open space. The smaller than typical residential unit size is meant to provide a non-subsidized form of housing that is generally less expensive. Courtyard Clusters can also provide greater flexibility for families as their needs change over time and alternatives for seniors looking to downsize and remain in Newton. Given the intent of this development type, the Planning Department recommends limiting Courtyard Cluster developments to the R4 and N districts, which are proposed to be close to amenities and resources found in village centers and public transit hubs.

Decisions

1. Is it appropriate to limit Courtyard Cluster development to residence districts near village centers and public transit?

[Comment: Courtyard clusters should not be allowed without special permit, as cluster development can be done under special permit under current zoning. This provision requires more thought.]

3.6 Uses

Adaptive Reuse of Existing Buildings (sec. 3.6.1)

The adaptive reuse section of the proposed zoning ordinance identifies a limited range of uses that might be allowed in an existing building by special permit to allow for its adaptive reuse. Most commonly, these types of buildings have been converted into museum, arts, or educational uses, including such examples as the Durant-Kenrick House, the New Art Center, and the Allan House. The draft ordinance proposes to expand the menu of potential reuse uses to include other arts related uses, general office space, and restaurant/cafes. This idea expands the opportunities for new commercial space, sensitively incorporated into an otherwise residential area and creating an opportunity for a neighborhood-based restaurant or allowing an expanding home business to stay in location. The idea is in line with how neighborhoods historically evolved, created walkable areas with neighborhood serving uses, and this provision allows a certain degree of evolution, in a way that is highly controlled, based on the special permit process.

Decisions

1. Should all adaptive reuse projects require a Special Permit? If not, which should be allowed by-right?

2. Should adaptive reuse be allowed in all Residence Districts?

a. If no, which districts should it be limited to?

b. If yes, are extra controls needed (i.e. Adaptive Reuse is only allowed on arterial/major collector streets)?

[Comment: The premise of separating residential from commercial properties has been foundational for zoning. A few exceptions are where they abut residential properties as nonconforming uses, such as along Commonwealth Avenue between Centre Street and Grant Avenue. If they are allowed, having them reserved for

major arterials helps avoid the potential impacts commercial uses – or adaptive uses with impacts like commercial ones - can have on abutting or nearby residential properties. In addition, adaptive uses should be allowed only by special permit where the context makes sense. For example, a restaurant on the corner of Centre Street and Commonwealth Avenue – even if less than block from a residence – is very different from allowing it – even with a special permit – in the middle of a residential neighborhood. It is easy in the focus on form rather than function of the Department’s zoning proposals to lose sight of the fact that zoning was designed to zone – to separate uses which can conflict with each other – just like we have traffic control by pavement markings and stoplights rather than by lawsuits. In the seminal U.S. Supreme Court case that upheld local zoning against challenge, the Court opined that “a nuisance may be merely a right thing in the wrong place, -- like a pig in the parlor, instead of the barnyard.” Euclid v. Ambler Realty Co., 272 U.S. 365 (1926). Again, to return to what the Zoning and Planning Committee voted – we want to preserve what we like about our neighborhoods - and that may mean keeping commerce in commercial zones. As the U.S. Supreme Court said in another case upholding local zoning: “A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land use project addressed to family needs.... The police power is ... ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.” Village of Belle Terre v. Boraas, 416 U.S. 1 (1974).]

3.7 Parking Requirements

The proposed ordinance parking requirements differ in other way by more proactively addressing the transportation impacts of development. The minimum parking requirements are reduced and maximum parking requirements are introduced. This approach derives from the recognition that minimum parking requirements generally have been demonstrated to produce a range of unintended consequences ranging from environmental impacts and increased traffic. These impacts were partly the result of minimum parking requirements creating an environment that favors automobile use over any other mode.

Decisions

- 1. Should on-street parking count towards the minimum parking requirement for non-residential uses within the Residence Districts?**
- 2. Should the following buildings be exempt from parking requirements within the Residence Districts:**
 - a. 1- and 2- unit residential buildings?**
 - b. Ground story non-residential uses less than 5,000 sf?**
 - c. Accessory uses?**
- 3. Should parking minimums be removed entirely?**

[Comment: No to all three questions. All it will do is push cars on to the streets and make the overnight parking ban – a useful idea – difficult if not impossible to enforce. If so, the impact on sections of Newton near Brookline which bans overnight parking year- round, and whose residents might now find Newton a tempting alternative, as well as college students who have found neighborhood streets welcome garaging away from campus, need to be considered. Moreover, the premise that parking attracts cars has been contested – and Newton is not a compact city where walking, subways, and cabs offer easy alternatives to having your own automobile available for comings and goings involving other people or heavy objects – especially in the time of the virus where residents are uneasy about ride or transit sharing. Having parking required on site assures that the adverse impacts of on-street parking are avoided and keeps the streets clear in the residential areas.]

Driveway Access (sec. 3.7.1.E)

Similar to garages, driveways can greatly impact the look and feel of a property as it relates to the neighborhood because it provides access into the property where that property meets the public realm. The draft zoning language on

driveways is meant to help Newton achieve its goals around promoting sustainable design and can support greater public safety as well.

Decisions

1. **Should a maximum driveway width be set at the lot line to reduce paving and enhance public safety (note driveway widths can increase further into the property)? If so, what are the appropriate maximums:**
 - a. **10 ft for residential properties with eight-units or less?**
 - b. **20 ft for residential properties with nine-units or more?**
2. **Should a single-family property only be allowed one curb cut?**
3. **Should a second curb cut require a Special Permit?**

[Comment: It depends on the site. This question illustrates some of the challenges of the zoning as proposed. Some major decisions, such as the size of houses and house lots, are as of right, but here a special permit is contemplated for a minor element. In some cases, it may be a problem and in others not so much, depending on the lot size and the neighborhood context, and even whether an existing sidewalk exists in front. Residential driveways should generally be narrow – especially if lengthy – but as important as the width may be the materials and the location. In general, it is important to have driveways that minimize impacts on neighbors. Also, to preserve green space it may be important to allow ways for parking to occur in the front setbacks rather than assume a garage which may be more intrusive and expensive.]

[End of Planning Memo insert]

3. Conclusion.

It is important to recognize that of all the Newton ordinances, zoning is one of the most impactful and yet most invisible. Residents buy and rent in Newton with expectations of some sense of stability. The traditional path was that a home would be bought and sold as lifestyle changes. Now there is a sense that homeowners want both stability in terms of what their neighbors can do but also more chances to change their own arrangements to suit their needs. This presents a fundamental tension which zoning in Newton has traditionally resolved by providing for stability for most residential properties but allowing limited change in intensity or scale by Council-granted special permit. By and large this regime has served Newton well. We should not forsake it for another zoning regime that focuses on form over function without a clear demonstration that it will be an improvement.

Thank you.



Memorandum

To: City Council
From: Chair of Zoning & Planning Committee
Re: Zoning Redesign
Date: September 9, 2020

Dear Colleagues,

I write to slightly adjust the process moving forward on Zoning Redesign from what I outlined in the August 21 memo I sent to you.

In that memo I asked if between now and our next ZAP meeting on September 14, particularly committee members, would organize any questions you may have about the details of the draft Article 3, and try to schedule time to talk with Mr. LeMel individually in advance of our next meeting. I further said that this would help Mr. LeMel to structure the content of our next several meetings by focusing on addressing those questions and whatever analyses or data you may ask to see. I said that given that our August meeting left so many unanswered questions, mostly expressed as “but the devil is in the details” - that there would not be time for staff to organize another meeting for August.

Councilors Baker and Laredo formally questioned the Law department as to whether such individual meetings might constitute a violation of the Open Meeting Law. The Law department answered ‘No’. What they termed “structured briefings” for the purposes of educating on an issue, when presented to a sub quorum of any committee, do not of themselves constitute a violation, just as any one of us always has the ability to call and discuss matters before Council with staff. Councilors routinely do this.

However, as we know, “serial conversations” on an issue outside a public forum is not allowed under OML.

If information/ opinions shared in a “structured briefing” were to be repeated to other Councilors in other than a public meeting, that would risk a violation.

To make sure there is no chance of this happening, and to air all of our questions in an organized way in the sunshine - we can achieve the same result by adopting the process that we use in many other committees, particularly land use, by submitting our questions to staff, and asking staff to sort and answer those questions in a public forum and/or in writing.

Please submit your questions, comments and requests for information regarding the DRAFT of Article 3 -in writing - to Zachery/ the Planning department and cc Clerk Giacalone.

Please use the memo that begins to define a 'decision tree' (attached below again) to organize your questions.

(Link to August 11 Planning Memo Here:

<http://www.newtonma.gov/civicax/filebank/documents/105567/08-11-20%20Planning%20Memo%20#88-20.pdf>)

Please try to do this before next week.

And of course - if you need to speak with Zachery to clarify anything - as always, feel free to do so.

All my best,
Deb



Memorandum

To: Zachery LeMel
From: Councilor Marc C. Laredo
Re: Comments on the proposed changes to the residential portion of the Zoning Code
Date: September 10, 2020

In response to Chair Crossley's request, the following are some comments and concerns that I have regarding the current draft and the process in general. I expect to have additional comments, especially about the details of these proposals, after I have had an opportunity to hear the views of my colleagues and professionals in the architect and builder communities.

Overview

My thoughts fall into three categories: overall goals and process; the new proposed standards; and policy issues. As we move forward, we should separate out discussions regarding new proposed standards from policy decisions such as whether to allow conversions by right and eliminating parking requirements. The policy decisions could be adopted (or rejected) under our current code and are separate and distinct from the new rules that are being proposed. The ongoing discussions of ZAP should be framed accordingly.

Goals and process

- *Format.* One of the primary goals of our zoning review process is to simplify our zoning code and make it more user-friendly. Generally, this draft accomplishes that goal. It is easy to read and understand. This is a very important aspect of a zoning code that should not be understated. Clarity and ease of use is important for residents, architects and contractors, city staff, and the Council.
- *Changing goals.* The latest goals articulated by the Planning Department (and the ZAP chair) differ from the goals set by ZAP. Councilors Baker and Wright discussed this in their August memo. It needs to be corrected. Furthermore, the goals of the zoning effort seem to be shifting. If the goals are going to change, we need to have a robust discussion in the Council and with the public about these changes and the rationale for them. Here are some examples:
 - Less than two years ago, the goal was development in village centers and near public transit and keep existing housing patterns in the neighborhoods. That no longer seems to be the case.
 - For many years, one of the main stated purposes of this effort was to reduce nonconformity. Now, we have been advised that this goal is no longer important. What has changed and why has it changed?
 - The Comprehensive Plan called for a modest increase in the city's population over time. The latest draft would allow for a much larger rate of growth. We have already approved (or are in the process of approving in the case of Riverside) a significant number of new housing units. The Washington Street Vision Plan alone calls for the construction of many more units. Where are the studies that discuss the financial and infrastructure costs of this change? How will the city manage this growth?

- *Effects of COVID-19.* COVID-19 is likely to change how we live and work for many years, even after it is brought under control. Many businesses with employees who can work from home will allow them to do so. Companies in Boston and elsewhere will need less office space. It will be less important for many workers to be able to commute into Boston. Furthermore, while I hope and expect that the use of public transit will return, we do not know what that will be like in the future. My concern is that none of that has even been mentioned in our zoning discussions and how these changes may lead to different needs for our residents and businesses.
- *How can we reach the 40B threshold.* We have not had any discussion in this process of how to reach the 40B threshold of ten percent affordable housing. Reaching the ten percent threshold accomplishes two important public purposes: providing more affordable housing in the city and allowing us to be free of developers' threats of using 40B as an alternative in the Land Use process. How will our new code allow us to reach this goal?
- *Increasing opportunities for home ownership.* We have a significant number of projects underway that will increase the number of rental units in our city. That growth meets a significant need. But absent from our discussions is any mention of how to increase opportunities for home ownership, especially among groups that have traditionally faced barriers to home ownership.
- *Lack of outreach.* Our collective attention in the city is elsewhere. How do we ensure that we are listening to the views of a broad range of residents and not just the small percentage of them who attend a ZAP meeting or participate in Planning Department office hours? What specific suggestions do we have in this regard?

The Proposed New Standards

- *Clear, definitive language.* Legislative language, such as a zoning code, should be clear and directive. Suggestion as to best practices, such as statements that meetings with the Planning Department are "recommended" and "Centralized and underground garages are encouraged," and "ribbon driveways are highly encouraged" have no place in a zoning code (if needed, they can be included in a best practices advisory put out by the Planning Department). I have similar concerns with the "context descriptions."
- *Rationale for eliminating the use of FAR and the creation of "building types."* I have not seen a robust discussion (including the participation of members of our architectural community) of why we believe FAR is not working and that, instead, building types is the preferred method. I do not have strong views on this but need to understand the rationale better. I also think we need to have a much more in-depth conversation about what the elimination of most residential special permits will mean. Will that now require a homeowner to seek a variance (a much more difficult standard) for any changes? Also, where are the "urban design best practice" referenced on page 2 of your memo?
- *Is there support from the architectural community regarding the new rules.* What do the architects think about the proposed code? Are we addressing their concerns and, if not, why not? I want to hear directly from these experts who will have to work with these new standards and have them walk us through the standards line by line before I can offer judgments on the specific standards.
- *Driveways and garages.* The standards for driveways, especially the width of driveways, ignore practicality and existing conditions throughout the city. I agree that we need to better regulate garages. I want to hear from architects and builders to better understand the standards.

Policy issues

- *Should we allow conversions by right of existing buildings.* I favor policies that allow existing structures to add more housing units with three important conditions: (a) the structure must be existing for a fixed number of years (we do not want developers building a new building with the goal of converting it in a couple of years); (b) the exterior changes should be minimal (the current draft would allow significant

additions through the by right inclusion of side and rear additions, among others; and (c) we have a special permit process for these conversions. I do not view a special permit process as onerous, especially because it serves as an important means of overseeing developers (the legitimate criticisms of the special permit process relate, in my view, to their burden on homeowners to add on to their houses - these conversions are likely to be built by developers).

- *Should we allow building two family structures by right throughout the city.* I do not support conversions by right (as opposed to by special permit) throughout the city without any consideration of existing conditions. This will encourage developers to buy existing homes, tear them down, and build to the maximum amount possible. As stated above, the special permit process serves as an important safeguard to make sure that the city's interests are protected, especially when dealing with developers.
- *Should we eliminate all parking requirements for one- and two-family residences.* What is the purpose of this change? If it is to reduce reliance on automobiles, that may work well in larger developments but ignores reality in single- and two-family residences (and I support reducing our parking requirements for such developments as well as for reducing or eliminating parking requirements for commercial spaces in our village centers). Parking requirements and year-round, on-street parking are interrelated. We have repeatedly heard from residents in certain wards that they do not have enough parking on their lots (even though they knew of the limitations when they rented or bought their houses) and need to park on the street and many Councilors are sympathetic to these concerns. If all we are doing is shifting parking to the streets that does nothing to reduce automobile use and makes it more difficult to clean our streets on a regular basis and sand and plow in the winter.

I look forward to continued discussions with my colleagues about these important issues.



Newton City Council

2020-21

To: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee
Zachery LeMel, Chief of Long-Range Planning

From: Councilor Alicia Bowman

Re: Comments on Residential Portions of Current Draft of the Revised Zoning

Date: September 11, 2020

CC: City Council

Thank you for taking the time to review questions I have regarding the residential portions of the current draft of the revised zoning. As we were not able to meet in person with Planning staff on these items, I hope I have given enough detail on my questions for them to respond.

I would like to add my support for the goals that Zoning & Planning voted on back in the spring:

- *Housing: A zoning code more responsive to a demand for housing that serves a range of incomes. Promote sustainable community development patterns.*
- *Sustainability: Environmental stewardship, fiscal strength and meeting community needs.*
- *Context: Preserve and protect what we like in our neighborhoods. Encourage new development to fit in the context of our neighborhoods and villages.*

I support these goals as they are consistent with and in support of many already developed Newton plans including: The Comprehensive Plan, the Climate Action Plan, the Housing Strategy Plan, the Transportation Strategy Plan and the Economic Development Plan.

It is important to recognize that these goals represent a shift from the original goals of zoning reform. With the increasing housing pressures in the region, the escalation of the climate crisis and renewed focus on equity and a call to make Newton a more diverse and welcoming community, shifting goals was necessary to meet the challenges Newton is facing now and will continue to face into the future. Zoning is one of the strongest tools Newton can use to achieve a more environmentally sustainable, equitable, economically vibrant and healthy community.

I applaud many of the Planning Department's suggested changes in zoning. Newton will benefit greatly from policies that will allow multi-family "missing middle" housing, create more walkable neighborhoods, enable more affordable housing to be built, encourage adaptive reuse of buildings and all done so while recognizing the need to be more environmentally sustainable.

Across the country, communities have been adopting similar zoning updates and are seeing success.

That said, I think this process will benefit from creating more detailed goals, analyzing how these changes are likely to materialize in Newton, determining how the effectiveness of the new policies will be measured and more robust discussions of potential downside of changes and how these could be mitigated. These conversations should have significant input from architects and developers including affordable housing developers. We also need to have a more robust community engagement process going forward. Zoning is complicated and will require significant community support to be successfully adopted.

Comments and questions on new draft of zoning using format of Mr. LeMel's email

3.1 Residence Districts

#1: Lot and standards:

- Lot coverage maximums. Will these make multi-family difficult in R1 and R2? Will it reduce tear downs? Do new rules apply if they tear down?
- Removing contextual setback. Can you explain how it works now? Are their neighborhoods where contextual setback is a positive? Should we consider this as something that could be reviewed under special permit?
- New setbacks and other dimensions. Will this increase non-conformity as letter from Debra Waller suggests? Does this open more properties to be modified by SP vs. higher bar of ZBA approval? Are there other impacts?
- Should we consider allowing small multi-use buildings to be up to 4 stories especially if designs include more historic details like a pitched roof or more historically appropriate façade/details?
- I disagree with the prioritization of goals by district. It is too restrictive. I feel that the goal of character and scale should never be a top priority given the importance of addressing housing and climate crisis.
- If the prioritization of the goals stands, than what is defined currently as R3 vs R4 should be reviewed. There many sections of R1, R2 and R3 that are very close to transit and/or village centers. R4 should be ¼ mile from transit and/or village centers and R3 ½ mile. Is there a plan to update the map?
- Multi-unit conversion re: Parking: What is adequate parking? Why does there need to be any parking at all?

#2: Linking building types to districts

- Triple Deckers ought to be allowed by right in R3, especially if R3 will be closer to transit and/or village centers. Also does a 3 unit “need” to be a triple decker?
- Same thing for small apartment houses in R4 and small multi-use buildings in N, allow these by right.
- As for house D, why would we not allow it anywhere it meets the dimensional requirements? For house type D I am concerned with: “Design and landscaping is compatible with the neighborhood and adjacent properties.” This seems too subjective to have in zoning

3.2 Building Types

#1: Increasing beyond maximum building standards

- While I support allowing the special permit process to be used to flex above the maximum standards and thus better meet the needs and desires of property owners, I am not yet convinced that building components is the best way to handle it. I am likely to be more in favor of a cap on the maximum percent increase.

#2: Two units by right

- Yes. Two units by right is a good way to increase housing availability, gives home owners more flexibility in how they manage their homes and is equitable across the city. Restricting two-family to certain areas of the city is not equitable.
- What can be done to blend single family and two-family homes design wise? What can be done to encourage renovation over teardowns?

#3: Small Shop

- I am in favor of the Small Shop building being replaced by the Shop House as it provides more flexibility in use and more likely to provide better transition from residential neighborhoods to village centers.

3.3 Building Components

#1: Controlling Max Buildout

- I don’t feel that we have enough information on building components and the potential downsides of controlling maximum build out by them.

#2: Other

- Are wraparound porches allowed?

- Cross-gable – Please explain the maximum
- Revisit what can be in front set back – currently dealing with issue deciding if dumpster in front of condominium building is a “built structure” or not although ISD agrees it should not be allowed in front setback

3.4 Design Standards

#1: Garage Design Standards

- Not allowing garages to dominate the front of a property is a desirable goal. Thus, I support stepping them back and one door per bay.
- As for the number of garages that can face the front, would we want to consider allowing one front facing garage by right and more than one by special permit?

3.5 Alternative Lot/Building Configurations

#1: Multi-unit conversion

- Multi-unit conversions should be allowed by right. My concern with it being as many as 6 units by right. Will development review be sufficient to ensure the integrity of the outside of the building is maintained and that parking and driveways are minimized?
- 100% Affordable/Sustainable Design Standard RU Factor = 900: Would Sustainable Design Standard today = Passive House?
- I would like to hear from affordable housing developers on what percentage it would take to make a conversion possible. There may not be enough units in most conversions to make projects possible.

#2: Courtyard Cluster

- No strong feelings either way.

3.6 Uses

#1: Adaptive reuse of existing buildings

- Too restrictive for arts category. Why allow Shared Art spaces/education in R1 but not in R2 and R3. Work/Live Creative Studios should be allowed anywhere.
- If we have a goal of 15-minute neighborhoods, can that be reached if *Fresh Food Market or Grocery Store* can only be in N or BU districts?
- Adaptive reuse should be allowed in all residence districts; maybe this should all be by special permit

#2: Other

- Accessory apartments: How many homes currently have detached buildings such as carriage houses? How many have been converted to accessory apartments? Is there any reason we wouldn't let others be converted by right? Also, think we should consider allowing small detached units by right up to a certain size if there is not another detached building
- Car share and bike share should be allowed anywhere

3.7 Parking

#1: Requirements

- Just verifying that this means that tenants or buyers MUST pay separately for parking and it cannot be given away for free. *Off-street motor vehicle parking spaces must be rented, leased, or sold as a separate option rather than a requirement of the rental, lease, or purchase of a residential unit or non-residential floor space.*
- Please give an example of what can't be done. *No parking stall may be located between the building front elevation and the street.*
- Parking minimums for vehicles should be eliminated altogether for all uses.
- Larger commercial buildings and residential units of 6 or more should have secure, covered bike parking.

#2: Driveway Access

- Driveway widths should be set to 10ft maximum at the curb
- 20 ft wider driveways are fine but I think that this should be for much larger multi-unit buildings (25+?) by right
- Allow other wider driveways by special permit only
- Allow a second curb cut by special permit. For some properties a small circular driveway is the best or only option.

Comments are based on review of the following document:

<http://www.newtonma.gov/civicax/filebank/documents/105495>



MEMORANDUM

DATE: September 10, 2020

TO: Zachery LeMel, Chief of Long Range Planning, Newton Planning Department
 Nathan Giacalone, Clerk of the Zoning and Planning Committee
 Barney Heath, Director, Department of Planning and Development
 Cat Kemmett, Planning Associate
 Neil Cronin, Chief of Current Planning

FROM: Councilor Pam Wright

RE: Comments on the Planning Department’s revised provisions of the Residential Component of the Department’s proposed new zoning ordinance version 3 attached to a Planning Dept. memo dated August 7, 2020

CC: Deborah Crossley, Chair, Zoning & Planning Committee
 City Council
 David Olson, Clerk of the Council
 Planning Board
 John Lojek, Commissioner of Inspectional Services
 Alissa O. Giuliani, City Solicitor
 Jonathan Yeo, Chief Operating Officer

Dear Planning Department,

I am pro smart development and I want truly affordable housing. “A zoning code more responsive to a demand for housing that serves a range of incomes” was unanimously agreed upon with a straw vote at ZAP 4/27/20. My interpretation of the new zoning ordinance version 3 does not accomplish that. I believe version 3 as written will just bring in more luxury housing with an accelerant rate of tear downs AND, for some smaller lots, even larger homes than that can be built today. I would like to propose some alternatives for consideration once we flesh out the ideas.

I will begin with my high level issues of the most recent draft (080720) ordinance followed by a listing of specific issues, questions, comments (Appendix A). I am also including my suggestions for discussion on how to fix some of the issues. The orange highlighted items I believe are the most important out of the 111 line items.

I request a separate discussion in ZAP on how to reduce teardowns. Per my perspective, version 3 will significantly increase them. I will provide my ideas to reduce teardowns at that time.

As an engineer I am concerned with the inaccuracies in the change log. Any changes or revisions to the original proposed draft need to be accounted for with 100% accuracy, as well as who made the changes (Planning Department or ZAP Committee).

- Items just appearing in version 3 without any annotation

- Items not redlined but changed
- Items removed and not noted
- Change log not following its own definition "...all the changes to Article 3 made between the draft shared in March 2020 and the latest draft shared here are documented in a changelog".

Appendix B addresses some of these change log issues. I have also noted by a star in Appendix A some of the change control issues.

Appendix C contains specific tear down data over 2.5 months this spring showing what can be built by right in the designated zone and what was built there per our present zoning ordinance. Surprisingly, many of the new houses can be bigger than presently allowed under FAR. When given the opportunity per appendix C, developers always built more units per the data except in extreme situations.

As of this date, I have many concerns with the proposed new zoning code presented by the Zoning & Planning Committee (ZAP). I have listed in Appendix A my specific concerns, but I wish to start with the overarching ones.

I believe that in order to cast a responsible vote I would need the following information from the Planning Department:

- A build-out analysis of the total number of dwelling units generated in our residential and village districts under the final proposed zoning map.
- A tear-down analysis of the redevelopment of our Residential and Village Districts.
- The infrastructure impacts – fiscal, traffic and parking.

I am not the only one concerned with version 3 of the zoning ordinance. We received a series of letters from architects, some of whom were members of the Architect Focus Group. Quite a few believed the proposed ordinance would "*remain fundamentally flawed and likely to have unforeseen consequences that could have significant deleterious effects on our city and our homes.*" Many residents have written in with their concerns too. I would like these issues to be discussed and addressed in ZAP.

Allowing side wings and rear additions to be outside the maximum footprint for new builds will incentivize developers to tear down the house. Per planning dept documents and what has been stated over the past 1-2 years is if a developer can build a house larger than 3800 sf, cost less than \$600 sf and sell it for 2.5 times the original house, then it's likely to be a tear down. Allowing the footprint bump for additions only on *existing* homes will help reduce tear downs. This is greener solution too. A renovated home has much less embodied carbon than a tear down replaced by a new home. Also, restricting the tear down size will reduce the bidding wars by developers for homes that could be sold to a family. More discussions are needed.

In MLS data over 2.5 months this spring, every new build lot that could be converted into 2 units or more, was converted into multiple units except for 2 very small lots (3511 sf and odd shaped 5000 sf lot). Allowing multifamily housing everywhere will explode tear downs and greatly increase density. This can have a huge effect on the city and therefore, a build out analysis should be performed along with city financial, traffic and infrastructure impacts calculated.

Multi-unit conversions are a hot topic. We need to discuss how many units by right, what size house, what zone, etc. I want to share my ideas in our ZAP meeting.

Per the housing seminar I attended, duplexes and triple deckers should have the same footprint as single family homes. These units are still bigger than house B in the proposed zoning ordinance. As these units will likely be located near transit and village centers, it makes sense to have smaller units.

Town house, allowed only in N, which is next to village centers is bigger than a house B. Again, per the missing middle one would want smaller and more housing near transit and village centers. Reducing the footprint to 800 or maybe 1000 would help. This would still be a 2400 sf or 3000 sf home. Right now 4 town houses could have the massing of 18,000 sf.

The ordinance tried to remove snout houses and it did it for single family homes. For 2 unit buildings less than 48' wide, snout houses remain. I have recommendation to resolve this issue.

People are afraid of special permits and I've heard horror stories spending \$70K and then abandoning the project. Architect Peter Sachs stated in a ZAP meeting that he charges \$2000 for a special permit. He seems to have the process down. We should make the special permit process for residential homes as easy as possible including a prescreening (DBT) and checklist. How can one person find the process easy and others find it exceedingly difficult?

Finally, I would close with the requirement of a comparative table of our current zoning ordinance to the proposed new code. This is a significant change from our current ordinance, and it is important for the residents to understand these changes. Plus, this will help the councilors understand the differences before we vote on the new ordinance.

APPENDIX B – CHANGELOG ISSUES

3.1.2. Residence 1 District (R1)

A. Context Description.

The Residence 1 District is composed of neighborhoods characterized typically by larger homes on larger parcels of land. These neighborhoods consist almost entirely of single unit residences and frequently feature architecturally distinctive homes and significant areas of landscaping and trees. Where other uses exist or may be proposed, the City would like to preserve the existing building stock by allowing, to a limited extent, for existing buildings to be converted to multiple units or to a civic institution.

B. Purpose.

1. To preserve the scale of these neighborhoods throughout the City.
2. To permit the development of single unit detached residential buildings on individual lots.
3. To permit contextual modifications of existing single unit detached residential buildings.
4. To create a mechanism for the preservation and continued use of architecturally significant homes.

8/7/20 version which reads very different

Not a red line of version of 2/28/20. Page 6 states:

In addition, all the changes to Article 3 made between the draft shared in March 2020 and the latest draft shared here are documented in a changelog (Attachment B).

3.1.2.B was changed but it was not noted in the change log.

Zoning Redesign
Article 3 - Residence District, Change Log

#88-20
Attachment B

The table below represents the revisions and updates made to Article 3 - Residence Districts from the draft shared in the March 9, 2020 ZAP memo, titled **Version 2 - 02/28/20**. The original draft of Article 3 - Residence Districts was released in October 2018.

Section	Previous Recommendation	Proposed Recommendation	Goal, Problem Addressed, or Reasoning
3.1.1.D	Table specified the Special Permit Granting Authority depending on the scale/threshold of proposed development	Make this a [Reserved] section to be discussed as part of the larger discussion on Article 11 - Administration	To simplify and streamline the permitting review process remains an overall goal. However, attempting to tackle development review and overhauling the zoning code at the same time does not allow for the necessary focus each item needs individually.
3.1.2.C - 3.1.2.D	Lot and Setback Standards were split into two different bullets. "Contextual Front Setback (sec. 3.4.1.A)" states as a rule.	Combine 3.1.2.C (Lot Standards) and 3.1.2.D (Setback Standards) into one bullet titled "Dimensional Standards". Remove "Contextual Front Setback" and instead make the minimum-maximum range of front setback the rule.	"Dimensional Standards" is the language used in the current Zoning Ordinance. Being consistent with language, when possible, will simplify the transition to the new code. Similarly, Contextual Front Setback is an option found in the current Zoning Ordinance. Making it a rule in the draft is not necessary because each district sets a minimum and a maximum front setback (range), that is contextual. This recommendations simplifies the code.

2/28/20 version:

Version 2 – 02/28/2020

3.1.2. Residence 1 District (R1)

A. Context Description.

The Residence 1 District is composed of neighborhoods characterized typically by larger homes on larger parcels of land. These neighborhoods consist almost entirely of single-unit residences with significant areas of landscaping and trees. Where other uses exist or may be proposed, the City would like to preserve the existing building stock by allowing for existing buildings to be renovated or converted to multiple dwelling units or to a civic institution.

B. Purpose.

1. To permit the development of detached residential buildings on individual lots in scale and context with these neighborhoods throughout the City.
2. To permit contextual modifications of existing detached residential buildings in a predictable manner for homeowners and neighbors.
3. To create a mechanism for the preservation and continued use of existing building stock architecturally significant homes by allowing for existing buildings to be renovated or converted to multiple dwelling units or ~~to a~~ civic institution.
4. To promote, through building and lot design, community connections.

Issue with data in 3.2.7.B. This is for the duplex –changed the max number of stories. It was 3 in version 2 and 2.5 in version 3 but nowhere did it say it changed.

<p>3.2.7.B See 3.2.3.B "Building Dimensional Standards", and maximum footprint = 2,000 sf</p>	<p>See 3.2.3.B "Building Dimensional Standards", and maximum footprint = 1,800 sf (smaller footprint)</p>	<p>See 3.2.3.B. And the new maximum footprint more closely aligns with existing two-unit (Duplex) developments in Newton, and New England generally. It also, will promote smaller development, which will help to lower costs and help achieve certain goals around sustainability. Also, this differentiates between a Duplex and a Townhouse Section. A Townhouse Section is two-units (or more) side-by-side.</p>
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Version 2

Version 2 – 02/28/2020

3.2.7. Two-Unit Residence

A. Description.

The two-unit residence building type is common in Newton’s traditional mill village areas like the Upper Falls and Nonantum, as well as in early commuter neighborhoods near transit like West Newton, Newtonville and Auburndale. Two-unit residence types can be organized with one unit above and one below, two units side-by-side, or a combination as in the case of a “Philadelphia-style” duplex.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
20 ft	65 ft	80 ft	2,000 sf SP: 2,200 sf	3 stories	Max 12 ft SP: 14 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

And now version 3:

3.2.7. Duplex Two-Unit Residence

A. Description.

The ~~two-unit residence~~ Duplex building type is common in Newton's traditional mill village areas like the Upper Falls and Nonantum, as well as in early commuter neighborhoods near transit like West Newton, Newtonville and Auburndale. ~~Two-unit residence Duplex building types are can be~~ organized with one unit above and one below, ~~two units side-by-side, or the second floor is split between the two units a combination~~ as in the case of a "Philadelphia-style" duplex.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
20 ft	65 ft	80 ft	1,800 2,000 sf	2.5 stories	Max 12 ft SP-14 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

Another discrepancy version 2 vs 3 and not all in attachment B in 3.1.6.C for the N district. All the setbacks became smaller from version 2 but it doesn't look like it in version 3.

Section	Previous Recommendation	Proposed Recommendation	Goal, Problem Addressed, or Reasoning
3.1.6.C	Front Setback = 5ft (min.), Side Setback = 10ft, Rear Setback = 20ft	Front Setback = 0ft (min.), Side Setback = 7.5ft, Rear Setback = 15ft	The recommended changes to setback requirements within the N district more closely align with the goal of providing more housing opportunities closest to village centers and public transit in a form is appropriate for these transition areas between residential neighborhoods and village centers.

3.1.6.C N district

C. Dimensional Standards.

The following table contains lot standards for the Neighborhood General District:

Lot Characteristics	
Frontage:	40 30 ft Min, 100 ft Max
Lot Depth:	-
Lot Coverage:	70% Max; +10% by SP (See Sec. 2.3.2)

Version 2 limits

was 50 not 30

this change not in attachment B

smaller setbacks compared to version 2

The following table contains setback standards for the Neighborhood General District:

Setbacks	Min	Max
Front:	Contextual Front Setback (See Sec. 3.4.1A) Absolute Min: 0 ft	25 ft
Side:	7.5 ft	-
Rear:	15 ft	-
Frontage Buildout	Minimum greater of 12 ft or 40% of the lot frontage, whichever is greater; nonconforming lots exceeding the max. frontage have a min. of 40 ft	-

was 5

was 10

was 20

3.5.3.B.1 R4 lot coverage for courtyard cluster went from 60% in version 2 to 50% in version 3 but no red line or anything in app. B about the change. It's noted as "added" but it was already in version 2.

APPENDIX A: Questions and Concerns on Zoning Ordinance Version 3 by Councilor Pam Wright

#88-20

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/Comment
1	Overall	Proposed new zoning code	Understanding implications for existing Housing Stock	Build out analysis
2	Overall	Proposed new zoning code	Understanding property tax and infrastructure costs for Newton residents	Financial, traffic and infrastructure impacts
3	Overall	Proposed new zoning code	Understanding implications for existing Housing Stock	Tear down analysis
4	Mayor	According to the mayor's email to me "The City Council is in charge of writing the zoning and, when asked, the Planning Department provides the Council with their professional opinion."	In my opinion the Zoning & Planning Committee is not "in charge" of the writing of a new zoning code. Please explain why we as a Committee are not following the process delineated to me by the Mayor.	Define and follow process
5	Planning Department Memo dated 080720 -p2	The goals and objectives changed from the straw vote goals, specifically from "Context: Preserve and protect what we like in our neighborhoods. Encourage new development to fit in the context of our neighborhoods and villages" to "Ensure new development, and renovations, respect the physical character and scale of existing neighborhoods and align with adopted visions"	This is a major shift and never agreed upon by the committee.	Change goal back to "Context: Preserve and protect what we like in our neighborhoods. Encourage new development to fit in the context of our neighborhoods and villages."
6	ZAP meetings	Attainable housing	What is the definition of "attainable" housing which replaces affordable housing in recent ZAP discussions. Please provide examples with defined cost ranges.	Definition and data
7	overall	Present versus proposed zoning ordinance	Please provide a comparison of today's zoning ordinance vs. what is proposed in version 3.	Comparison table
8	Architect letters	The Focus Group Architects expressed a concern that the proposed new zoning code will increase nonconformity.	How many houses will become nonconforming with the increased setbacks, especially for houses currently in SR2 shifting to R1 Districts?	Non conformity calculation
9	Architect letters	Suggestions from architects	The new ordinance would remain fundamentally flawed and likely to have unforeseen consequences that could have significant deleterious effects on our city and our homes. Have you address their concerns?	Respond to Architects' concerns
10	Architect letters	Suggestions from architects	This ordinance does not make the review or permit process simpler or easier. Have you addressed their concerns?	Define simpler review and permit process
11	General	House Type Conversions	If you have a house C, can you convert it to a house B by right? What is that process?	Define the process for House Type conversion.
12	Non conforming	Non conforming house or driveway	zoning code, is the property owner able to expand the building by right? If the driveway does not conform, would a property owner be able to modify the driveway? Will a property owner be able to grandfather pre-existing driveways and setbacks?	Define non-conformity for existing homes; and what does grandfathering mean

APPENDIX A: Questions and Concerns on Zoning Ordinance Version 3 by Councilor Pam Wright

#88-20

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/Comment
13	Non conforming	Non conforming house or driveway	What if you keep up one corner of the house, can you keep the non compliant driveways and patio and expand the house to the max allowed?	Define non-conformity for existing homes; do you have to meet new regs with teardown?
14	3.1.1.D	The Planning Department recommends that the discussion on who is the Special Permit Granting Authority, and at what scale of project, to happen when taking up Article 11 – Administration.	Why, it's part of Article 3. "The Special Permit Granting Authority is determined by the thresholds listed in the table below"	To be discussed as part of the Article 3 deliveries
15	3.1.2.B.2	"To permit contextual modifications of existing detached residential buildings in a predictable manner for homeowners and neighbors"	What is meant by this ? Please provide some examples. It's used in other districts	Define and example
16	3.1.2.B.4	"To promote, through building and lot design, community connections."	Define and explain as it is repeated throughout the proposed code.	Define and example
17	3.1.2.D.1.e	Civic Building	Why has civic building removed from R1, R2, R3, R4, N?	Explanation
18	3.1.2.E.2	"Multi-Unit Conversions (Sec.3.5.2) are permitted in the Residence 1 District. Depending on the scale of the project, a Special Permit may be required."	Define scale of project and when a SP is needed	Define and provide examples
19	3.1.3.C	Contextual front setback	Why removed contextual front setback in R2, R3, R4?	Explanation
20	3.1.3.D.2.a	Ranch home in R2	Why is a ranch still a special permit in R2? There are ranches in R3 now – why not allow? A ranch is a good option for a senior. In general, I would expect only a homeowner to build a ranch, not a speculative builder.	Explanation
21	3.1.3.D.2.B.iii	"The site and building as designed, constructed, and operated will contribute significantly to the efficient use and conservation of natural resources and energy"	What does this actually mean? Its vague.	Explanation
22	3.1.4.A	R3 is described "frequently within walking distance to transit" but R2 and R1 are not described that way, in fact "many of these neighborhoods are remote from the walkable village centers."	Both of those areas do include many areas walking distance to transit. Why the switch in wording?	Explanation
23	3.1.4.B.1	"Permit the development of detached residential buildings on individual lots in scale and context with these neighborhoods"	Why is a large house B allowed, 4375 sf by right? The average size is ~2500 sf. In places like Oak Hill Park the average house size is 1000 sf. House B is 4 times bigger and very out of context.	Discussion
24	3.1.4.D.2.b.ii	"Design and management strategies achieve compatibility with the neighborhood and adjacent residential properties?"	Why only in R3 and R4. What is meant by by it? Please give examples.	Explanation and provide examples
25	3.1.4.D.2.b.iii	Triple Decker parking requirements	Why have parking requirements removed for triple decker? Are there no parking requirements for a triple decker?	Clarify
26	3.1.5.D.2.b.iii	4-8 unit parking parking requirements	Is parking removed for 4-8 unit building. This is implied here.	Clarify

APPENDIX A: Questions and Concerns on Zoning Ordinance Version 3 by Councilor Pam Wright

#88-20

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/Comment
27	3.1.5.E.2	Multi building assemblages	What does multi building assemblages look like in R4? What about side set backs?	Clarify and provide examples
28	3.1.6.C **	Neighborhood general frontage	Frontage in version 2 was 50'. In Version 3 30' is redlined and replaced with 40'. Nothing noting this in the changelog	Update the change log
29	3.2.1.A	"Building types are a way of organizing standards for the size, shape, and scale of principal buildings."	Building types are defined here but Planning said it's not really a building type but a volume of house. What is correct?	Clarify
30	3.2.3.B	House A	Why no special permit for very large house A?	Discussion
31	3.2.3.C	Fenestration	Review fenestration – is this a good number? What have the architects say?	Discussion
32	3.2.3.E.3	Increase building footprint	Why are building components – rear and side additions not part of original footprint? This will incentivize teardowns	Discussion
33	3.2.3.E.3	Increase building footprint	Not clear - other building components don't count toward increase of footprint – only side and rear additions in House A? Also are any allowed in setback?	Clarification
34	3.2.4.E.2	Maximum 2 units in house B for new build	Allowing 2 units to be built in house B will increase teardowns. Also, many sampled homes in Appendix C will be bigger than allowed today by FAR. Whenever a developer can build more than 1 unit he did except for 2 extreme conditions More details in Appendix C.	Discussion
35	3.2.4.E.3	increase building footprint	Why are side wings and rear additions allowed to increase footprint? This will cause more tear downs, especially for house B and now 4375 sf, much bigger than 3800 sf; similar for house D	Discussion
36	3.2.6.B	Ranch size decrease	Why did ranch go down in size and why isn't there one by right in R2?	Explanation and discussion
37	3.2.6.B	Ranch in R3	Why not ranch in R3? Special permit? In case someone wants to build a family compound.	Discussion
38	3.2.6.E.2	2 units in ranch	Allowing 2 units to be built in house D will increase teardowns; per data collected whenever possible developer built 2 units	Discussion
39	3.2.7.B **	Building Dimensional Standards	Marked up building dimensional standards is NOT in the previous table. The previous one has 3 stories for 2 unit. Now it's 2.5 stories and no change log NOW	Update change log

APPENDIX A: Questions and Concerns on Zoning Ordinance Version 3 by Councilor Pam Wright

#88-20

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/Comment
40	3.2.7.A	2 unit (duplex) definition	Interesting - 2 family is either duplex (on top of each other) or Philadelphia style – not townhouse style. Must have 2 Residential Units, one on the first floor and one on the second floor. Alternatively, may have 2 Residential Units with the first unit comprised of the first floor and a portion of the second floor, and the second unit comprised of the remainder of the second floor.	
41	3.2.7.B	Duplex footprint	Why 1800 sf footprint? Missing middle recommends 2 and 3 unit builds same footprint as single family (1400 sf)	Discussion
42	3.2.7.C	Fenestration	Review fenestration. Are the numbers appropriate?	Explanation
43	3.2.8.B	Triple decker footprint	Per the missing middle, triple decker footprint should be the same size as a house – 1400 sf.	Discussion
44	3.2.8.B **	Change log issue with number of stories	Marked up building dimensional standards is NOT in the previous table. The previous one has 2.5 stories for 3 unit. Now it's 3 stories and no change log	Update change log
45	3.2.8.C	Fenestration	Review fenestration. Are the numbers appropriate?	Explanation
46	3.2.9.B	Town house footprint	Max footprint is large – will result in 4500 sf townhouse – bigger than house B. 4 townhomes could be 18,000 sf mass. Being next to the village center, they should be much smaller. Need to discuss an appropriate number	Discussion
47	3.2.9.C	Fenestration	Review fenestration. Are the numbers appropriate?	Explanation
48	3.2.9.E.2	"Maximum of 2 Residential Units are permitted per townhouse section."	Townhouse can be 2 units; page 5 of memo doesn't note it and maximum 8 sections or 16 units. Why reduced from 3 to 2?.	Explanation
49	3.2.10.C	Fenestration	Review fenestration. Are the numbers appropriate?	Explanation
50	3.2.10	Inclusionary zoning	Small apartment house 4-8 units doesn't say anything about inclusionary zoning starting at 7 units.	Clarification
51	3.2.10.E	Town house vs small apartment house	Small apartment house – it can be townhouse – side by side – don't see anything in the definition stopping it. 900 sf footprint	Clarification
52	3.2.10.E.4	"The following Building Components may be used to increase the maximum Building Footprint by no more than 10 percent"	Why allow 10% increase? If allowing bigger footprint, just increase foot print.	Explanation
53	3.2.11.C	Fenestration	Review fenestration. Are the numbers appropriate?	Explanation
54	3.2.11.E.4.b	"100% affordable/Sustainable design standard"	What is the definition of "100% affordable/Sustainable design standard". Are both required or just 1? It's not clear.	Definition, clarification
55	3.2.11.E.6	"The following Building Components may be used to increase the maximum Building Footprint by no more than 10 percent"	Why allow 10% increase? If allowing bigger footprint, just increase foot print.	Explanation

APPENDIX A: Questions and Concerns on Zoning Ordinance Version 3 by Councilor Pam Wright

#88-20

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/Comment
56	3.2.12.C	Ground story fenestration decrease	Why did ground story fenestration decreased for small multi use building (12,000 sf footprint)? Review	Explanation
57	3.2.12.E.3.b	"100% affordable/Sustainable design standard"	What is the definition of "100% affordable/Sustainable design standard". Are both required or just 1? It's not clear.	Definition, clarification
58	3.2.12.E.5	"The following Building Components may be used to increase the maximum Building Footprint by no more than 10 percent"	Why allow 10% increase, just increase foot print?	Explanation
59	3.2.13	Location of small shop	Why not allow small shop in very narrow locations – like Needham st. Could be by special permit.	Discussion
60	3.2.14	Civic building	Why is civic building being removed?	Explanation
61	3.3.1/3.3.2	Building components	What is the relationship between “building components” and “architectural components?”	Explanation
62	3.3.1	Side wing and rear additions	Side wing and rear addition by right on House A-D plus duplex- 25% BUT triple decker and larger are by special permit. Additions are implied by right in earlier section but doesn't state it. Need to be clear	Clarification
63	3.3.2.B.3.a	“opaque enclosure at the bottom of the guardrail”	Is this statement needed? Isn't “views of the public realm through the posts and rails” enough?	Explanation
64	3.3.2.C	Porches: Planning stated if a porch has a roof then it counts in the footprint.	I don't see definition of stated by planning here. If it doesn't have a roof then I think it's a deck. Please clarify and also what's in the footprint.	Clarification
65	3.3.2.C.3.b	“opaque enclosure at the bottom of the guardrail”	Is statement needed? Isn't “views of the public realm through the posts and rails” enough?	Explanation
66	3.3.2.C	“front porch”	Need to remove “front” from porch from text – at least 4 of them	Update text
67	3.3.2.E	“A side wing added to a principal building that does not exceed the maximum building footprint for that building type shall be part of the main massing of the building”	Same statement for rear addition. If one has a 2000 sf House B colonial (800 sf footprint) then one can add 600 sf footprint (1400 sf total space) to get max house size and then add 25% more by right with side wing and rear addition for a 1750 sf footprint or 4375 sf house. One still needs to maintain setbacks and lot coverage. Can this also be done with a 1000 sf ranch? Can it be changed into a 1400 sf house B and then a 25% increase with side and rear setbacks?	Discussion
68	3.3.2.E.2	Dimension chart "Depth"	Please explain “depth” which is “100% of the front elevation width.” A drawing would be helpful.	Explanation
69	3.3.2.E.2	Side addition width can be up to 50% of the front elevation	This seems large. Why was that number chosen? Is it based on any standards?	Explanation
70	3.3.2.E.3.a	"Side wings must have similar style roof as the Principal Building."	Side wings must have similar style roof. This may exclude an 1 story addition with a roof deck above it which many homes have. Is this what we want?	Discussion

APPENDIX A: Questions and Concerns on Zoning Ordinance Version 3 by Councilor Pam Wright

#88-20


No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/ Comment
72	3.3.2.F	Rear addition	Uses "side wing" need to correct in section F	Update text
73	3.3.3.A	Dormer	Should a minimum percentage of fenestration be required for a dormer?	Explanation
74	3.3.3.C.2.c	Roof Deck: <400 sf or 20% footprint; width not > 50% building width except flat roof; must be back 5' from all edges and 10' from front elevations (can be waived for parapet wall is guardrail)	Are the roof deck dimensions a standard? Why were they chosen?	Explanation
75	3.3.4	Accessory Structures	Backyard fireplaces are not addressed here	Explanation
76	3.3.5.A.3.a	Accessory Building Placement	Garage or accessory building can be 5' from side or rear setback – so in the setbacks. Is this a standard or just what was done in the past? Is this a good number?	Explanation
77	3.3.5.A.3.b	"Accessory buildings must be separated from the principal building by at least 6 feet"	Is 6' a standard? If an enclosed breezeway is added, is the accessory building part of the footprint? And if a garage is now less than 6' from the principal building, is it part of the footprint?	Explanation
78	3.4.1.A	Building Design Standards	Why was contextual front setback removed?	Explanation
79	3.4.1.D.1.a	Front facing garage placement	Garage is recessed from house by 8' but for a front porch at its elevation if it's 6' deep. Good design practice would have this recessed with porch.	Discussion
80	3.4.1.D.4	"Where the building Front Elevation is less than 22 feet long, an attached garage is not allowed as part of that elevation"	How was 22' determined? There should be some similar statement for duplex or house with 2 units.	Explanation
81	3.4.1.F.1	"The length of an attached garage, or attached garages, facing the Primary Front Lot Line may be up to 50% of the total Front elevation or 24 feet, whichever is greater."	Doesn't remove snout houses for 2 units. Allows all front garages in 2 unit buildings if the house is 24' wide (and there are some duplexes today that wide). If the house is 30' then 80% of garage is the front.	Change 24' to 12' and this will remove snout house from 2 units
82	3.4.1.F.2.c	"By Special Permit, a detached garage of more than 700 sf may be located within the setback, provided a minimum of 5' from the property line is maintained."	Very large detached garages are allowed in setback at least 5' from property line.	Discussion
83	3.5.1.B.5	Why remove the requirement that 50% of building in a rear lot has to face the street?	Why was this requirement removed?	Explanation
84	3.5.2.B	Text correction	Number of units allow is 3.5.2.D not 3.5.2.C	Update text

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/ Comment
85	3.5.2.C.1	"No exterior alterations of the structure are allowed, except: Building Components"	Please clarify – My understanding a side wing and rear addition which are building components can be added up to 25% of max footprint to make a multi unit conversion. For a small house B (footprint 800 sf and house 2000 sf) the house can be added on for a 1400 sf footprint and then 25% added for side wing and rear addition so the 2000 sf house is now at the maximum 4375 sf with a 1750 sf basement. Can 60% of the basement be used to get over 5400 sf and allow 6 units by right? If the lot is big enough, that 2000 sf house can now be converted into 6 units. Is this logic correct? How will this be regulated? Who will determine the extent of allowable "exterior alterations" and how the "building components" will be allowed?	Clarification and examples
86	3.5.2.C.2	"alterations of the structure... necessary to comply with applicable Health, Building and Fire Codes."	How will this be regulated? Who will determine the extent of allowable "exterior alterations" and how the "building components" will be allowed? Please provide examples and rough sizes	Clarification and examples
87	3.5.2.D.2	"100% Affordable/Sustainable"	What is the definition of "affordable" and "sustainable". Please provide specifics numbers too.	Definition and data
88	3.5.2.E **	" Depending on the scale, a Multi-Unit Conversion may be by-right or require a Special Permit"	Multi unit conversion ADDED by right 6 units and defined special permit but not in version 2. Wrong paragraph cited in attachment B. This is a big change and it should be highlighted better – it is just "normal" text.	Correct Change Log
89	3.5.3.C.1	Courtyard cluster: 50'lot frontage for a ¾ acre	50' seems very small for courtyard cluster. Is this a correct number?	Explanation
90	3.5.3.C.1 **	R4 lot coverage	R4 lot coverage changed from Version 2 but not noted anywhere. Appendix B stated there was no R4 requirements in V2 but that is wrong – it was there	Correct change log
91	3.5.4.C.4	"Townhouse Sections must be in a series of at least 2 but no more 8 sections. "	Why change to 2 townhouses – shouldn't it be at least 3? Should it be a maximum width and not "8"? You may have very narrow townhouses	Discussion
92	3.5.4.D.1	"By Right. An assemblage is by-right if it includes no more than 6-8 dwelling units "	This can be 6 townhomes and 27,000 sf. This is a very large building that can be built by right. In the past anything over 20,000 sf needed a special permit.	Discussion

APPENDIX A: Questions and Concerns on Zoning Ordinance Version 3 by Councilor Pam Wright

#88-20

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/Comment
93	3.6.2	It appears to me commercial vehicle parking is permitted without limitation in all zones.	I believe that at present only one commercial vehicle is allowed per lot in single-family residence zones. There are also no size restrictions - a commercial vehicle could be anything from a pickup truck with commercial plates, to a moving van, to a cement mixer, to an oil truck capable of holding more than 11,000 gallons. Please clarify.	Clarification
94	3.7.1.E.1=3	"permeable areas"	What is the definition of "permeable" areas. Some material is better than other.	Clarification
95	3.7.1.E.1	"Driveways may be located within the required side setback area provided the driveways are located at least 3 feet from the side lot line."	Why 3' used? Is this the standard or used now?	Explanation
96	3.7.1.E.4	"No parking stall may be located within any required setback area...No parking stall may be located between the building front elevation and the street."	Is this for new builds only and everyone else grandfathered in? Presently many people park in this area.	Discussion
97	3.7.1.E.4	"No parking stall may be located within any required setback area...No parking stall may be located between the building front elevation and the street."	Can someone park on their lawn? It doesn't seem to prohibit it	Clarification
98	3.7.1.E.5	"For a minimum of 10 feet measured from the lot line where the driveway is accessed into the lot, driveways may be no wider than 10 feet if providing one-way access to a parking area for residential Building Types with eight-units or less"	Why only one way drive for 8 or less units? What standard is this based on?	Explanation
99	3.7.1.E.5.a	"Driveway widths may increase beyond the minimum 10' measured from the lot line where the driveway is accessed to allow for motor vehicles to back-in and back-out"	What does this mean – can you show a diagram?	Explanation and provide examples
100	3.7.1.E.8.	"Curb cuts for residential driveways should be at least 20' from an unsignalized intersection and at least 40' from a signalized intersection"	Are these standards – 20' and 40'?	Explanation
101	3.7.2.B.4	"That parking provided in excess of any maximum permitted must be paved with paving stones, grass pavers, pervious concrete, or porous asphalt"	Why no special permit for excess parking and impervious material?	Discussion
102	map question	Lodging house/ Rooming house	Please add 1 rooming house with x (for discussion) units per village center or N to add affordable housing. Do we have any now? Why not? It's allowed in the present ordinance	Discussion
103	map question	Districts	How were districts determined – computer, person driving neighborhoods, looking at maps?	Explanation
104	question	Lots needed to change district	How many lots needed to change to another district?	Explanation
105	map question	Change district process	How can one petition to change their zoning on their lot and/or neighborhood – what's the process?	Explanation

No.	Section	Proposed Zoning Code v080720 or PD comment	Question/Concern	Recommendation/Comment
106	random question	Minimum house size	There is a minimum apartment/condo size in multi unit conversion and accessory apartments. What is the minimum apartment size for house A, B, C, D duplex, triple decker and 4-8 unit apartment building? What is the minimum size of 2 units in house A, B and D?	Clarification
107	random question	Breezeway	What defines a breezeway and when does it connect the garage to the house and then include the garage in the footprint?	Clarification
108	random question	Breezeway	Can an open breezeway have enclosed space on the 2 nd floor connecting to the finished space above the detached garage? That space isn't counted in the footprint but lot coverage only- correct?	Clarification
109	random question	"should" usage	"Should" should not appear in a law. If you don't want to say "must" or "shall", leave it out.	
110	random question	The practice of "Grandfathering"	If a house is torn down (or maybe 50% demolished) it should adhere to the new zoning ordinance for a new build, and not be grandfathered in. Is this correct?	Explanation
111	random question	 <p data-bbox="283 1218 919 1239">Recently built two-family home in Newton Corner (does not match any House Type)</p>	<p data-bbox="980 1036 1696 1256">Page 10 in intro letter states this house doesn't match any style. I heard there's no "style" now but a footprint and max height. If they added a porch with roof up to the garage edge (in red) and made the garage doors 2 single doors, wouldn't this pass as a 2 unit in house B if it met the max footprint? I can't find anything in the ordinance not allowing it. Or can this be a 2 unit town house now?</p>	Clarification

This document started as an exercise collecting data to determine if a maximum house size of 3500 sf (square feet) for single family homes is the correct number to reduce tear downs in Newton. I reviewed MLS listings daily for 2.5 months this spring looking for “new build”. I collected the address and the listing information like size, price, etc. I went to the assessor’s data base to collect lot size, frontage, previous house size if available, zoning, and sale price of tear down home. For a few homes I estimated the previous house size by google map pictures, assessor data on nearby homes and lot size. Those estimates are preceded with a squiggle or ~. I also collected data from the ISD database.

Some observations:

- Frequently the house can be built bigger in the new zoning ordinance. It is accomplished usually with a finished attic. Presently the game is played where the finished attic is not counted because it is under the defined threshold. That loophole goes away. “ISD house size” included all attic space over 7’.
- Some houses would have a smaller footprint but bigger overall with the allowed finished attic than what is being built now.
- Most homes were built to the maximum FAR limit.
- ISD should require builders to deliver some drawings (i.e. FAR) in a required format. For instance, FAR should be in a standard table including each floor area, steps/process used in the calculation and the final number against the FAR maximum number.
- House size via architect drawings is usually quite different from the MLS listing. I expect the MLS listing includes finished basement but even then, the numbers did not always add up.

While reviewing the data, it seemed that the homes that are being built now could be bigger in the proposed zoning. I brought up this observation and the planning dept asked me to collect more data. I also noticed that multi unit homes could be built even larger than what is allowed by FAR in the new zoning. I went back to add data on multi families.

I reviewed the latest zoning maps (4/3/20 Planning Dept memo to Councilor Crossley) to determine the future district for each lot. For rectangular lots, I calculated depth from lot size and frontage. I then calculated lot coverage and allowed 300 sf per driveway in R2, 200 sf per driveway in R3 and R4 and 400 sf per driveway for R1 (in the new ordinance maximum driveway width is 10’). I calculated the maximum house size 3 ways, by lot coverage, by setbacks and by maximum house size in that district per the new ordinance. Those calculations assumed a rectangular lot. Then for the real time-consuming data collection – I reviewed the actual house drawings in the ISD database and calculated house size that was built. First, I had to find this info buried in the drawings. If it was not available, I added up the pieces of the house. If it got really complicated and taking a lot of time, I just skipped to the next one. Some drawings had FAR data easily available, so I added that into the spreadsheet. I personally did not calculate FAR and relied on the architects and drawings for those numbers. As you can see in the data, most of those houses were built to the FAR limit and one was over and didn’t appear to have a special permit.

I did not have the bandwidth to calculate every lot. If it was a weird shaped lot, I did not continue. A few were handpicked by others (near them) or otherwise I just went down the list with homes that were on rectangular lots and reasonably easy to calculate. This is not all the data over that time, but I expect most of it. If a house never listed on the MLS I didn’t capture it. This data should be used to get an idea on what is happening in the city and to see trends. The new zoning code is supposedly reducing the size of homes built. As you can see, that is not happening and in fact, most can be built bigger than what is allowed under FAR.

Sample of homes torn down in MR districts. Can it be built bigger in the new zoning ordinance? #88-20

Address		From city assessor database			From real estate listing - size is often inaccurate/inflated and many times includes basement							Notes	
No.	Street	lot size sf	tear down house size sf	tear down house price	size sf	list price	total for new build	sold price	ISD house size	by right new zoning house size	can new house be built in new zoning by right?	notes	Notes - house change
121	Arlington	10284	1969	\$825,000	3565 x2	\$ 1,648,000	\$3.2m, 7100 sf		5039	4375	no/yes	lot should be R3 and allow bigger house	colonial -> 2 condos
40-46	Ashmont Ave	13221	~2000	\$1,150,000	4988 x2	\$ 1,799,000	\$3.6m 9976 sf		6170	5625	smaller	finished attic; listing bigger; split into 2 lots for 4 units	split -> 2 condos
	2 lots	6610.5			divide lot into 2				6170	11250	yes bigger	2 lots and two 2 family at 15,600 sf for the 2 homes	
77-79	Blake	8473	3766	\$890,000	3250 x2	\$1,578,000	\$3.1m 6500 sf	\$1,550,000	4216	5625	yes bigger		2 family -> 2 condos
241-243	California St	7500	1522	\$734,900	3078 +1	\$ 1,195,000 +1,295,000	est \$2.2m, 6100 sf		3972	5625	yes bigger	renovate + add 2nd unit;	2 family -> 2 condos
609-611	Centre St	9942	~4565	\$1,150,000	3700-3260	\$1,599,000 - \$1,459,000	\$3m 6960 sf		5002	5625	yes bigger	5330 in database; added structure to 1880 Victorian	added to Victorian
69	Charles St	7960	1522	\$550,000	2050 x2	\$ 764,900	\$1.5m 4100 sf		3779	5625	yes bigger		2 condos; next of pike
400	Cherry	14068	~2000	\$1,025,000	4145, 4145	\$ 1,559,000	\$3.1M 8290 sf	1,559,000, 1,545,000	6686	5625	smaller	its now at max FAR; listing include basement	colonial -> 2 condos
1110	Chestnut	22800		\$1,200,411	2300-3945	\$875,000 - \$1,080,000	est \$4m 10,000 sf	\$871K	~9000	5625	no/yes with divided lots	now 4 town houses; new zoning 8580 2 condos but 6 total if divide lot into thirds	antique 2 family?-> 4 condos
	divide into 3 lots	7600			divide into 3 lots				~9000	16875	yes bigger	3 two families	
217	church St	11040	3874	\$930,000	3027 - 3375	\$1,299,000 - \$1,399,000	\$2.6m 6402		4315	5625	yes bigger	kept part of 1815 house	2 family -> 2 condos;
28-30	28-30 Circuit	7401	3246	\$919,000	1991 - 2384	\$1,149,000 - \$1,199,000	\$2.3m 4375 sf		3250 + 1605 sf base w garage;	5625	yes bigger	setbacks for max footprint; house on hill so from street it would look like 1.5 stories with another story in back down hill	2 family -> 2 condos
19-25	Cloelia Ter	9721	2920		4424 x2	\$ 1,800,000	\$3.6m 8848	\$1,765,000		5625			colonials -> 2 condos
16	Cragmore	9035	1145	\$875,000	4160 x2	\$ 1,549,000	\$3m 8320 sf		6187	5625	smaller	far max 4700, as built 4699 with attic 6187	cape -> 2 condos
12	Cross St	6948	1873	\$806,000	2654 x2	1275000 x2				5625			colonial -> 2 condos
1-7	Elm St	26320	~2600	\$900,000	3100 - 3400	\$ 1,499,900, \$1,559,000	\$6m, 13000sf	\$1,480,000		5625			2 family -> 4 units

Address		From city assessor database			and many times includes basement							Notes	
No.	Street	lot size sf	tear down house size sf	tear down house price	size sf	list price	total for new build	sold price	ISD house size	by right new zoning house size	can new house be built in new zoning by right?	notes	Notes - house change
14-16	Emerson	9531	~2400	\$850,000	3150 x2	\$ 1,299,000	\$2.6m 6300	\$1,275,000		5625			2 condos - price ea
72-78	Highland Ave	22905		\$1,107,000	2718 +3	\$1,235,000 +3 more units	est \$3.6m, 8100 sf			5625		4 UNITS; can split into 2 lots	2 family - 4 condos
72-78	Highland Ave	11453			divide lot into 2					5625		2 lots	
72	highland st	20418	4000?	\$1,495,000	4881 +1	\$1,695,000 - \$1,720,000	\$ 3.3m, 8863	\$1,720,000	9917	4375	smaller	single family; FAR limit 0.45, at 0.42	2 family -> condos
187	Linwood	7034	2058	\$855,000	2400 x2	\$ 1,300,000			3914	5625	yes bigger	FAR MAX 3710, built max 3700 w/ porch; new code 7800 sf w 400 sf driveway;	cape
30-32	Maple	14037	3150	\$1,135,000	4660 x2	\$1,799,000	\$3.6m 9320 sf			5625			
336	Newtonville Ave	29800	~3500 sf	\$1.8m	3153, 3581, 5365 +1	\$1,475,000, \$1.7m, \$2m	\$6.8 m 15K+sf + 4600 sf	1.7m, \$1.475m		5625		4 condos; divide lot; 30k sf lot	antique 2 family into 4 units;
		14900			divide lot into 2					5625			
117-119	Norwood Ave	14343	~2600	\$1,260,000	4450 x2	\$ 1,850,000	\$3.7m 8900 sf	\$1,850,000, 1,800,000		5625			new 2 units
9-11	Oak Ave	9934	4091	\$1,130,000	3000	\$1,389,000 - \$1,400,000	\$2.8m 6000	\$1.4m		5625			2 condos
13-15	Otis	10228	2342	\$0	3981 - 4049	\$1,675,000 x2	\$3.3m 8030 sf	\$1.54m, \$1.62m		4375		no frontage in database	
33-35	Page	15126	4798	\$1,421,000	3650 - 3600	\$ 1,799,000 - \$1,888,000	\$3.7m 7250 sf			5625		CORNER LOT; gut renovation	2 family -> 2 condos
42-44	Pennsylvania	16999	6088	\$1,015,000	3226 - 4872	\$ 1,575,000- \$1,695,000	\$3.1m 8098 sf	\$1,510,000		5625			2 family -> 2 condos
15	S Gate Park	14120	?	\$450,000	1646 + 1212 + x	\$1,050,000, \$850,000	6249?			5625		old Knights of Columbus -> 3 condos	-> 3 condos
100-102	Thurston	12251	2500	\$1,068,000	3526x2	\$ 1,489,000	\$3m 7050 sf	\$1.475m, \$1.56m		5625			2 family -> condos;
960-962	Walnut	10976		\$1,125,000	3244 x2	\$ 1,695,000	\$3.4m 6488 sf	\$1.675m x2		4375		R2	antique -> 2 condos
377	Walnut	13887	6245	\$1,800,000	7418 x2	\$ 2,600,000				4375		R2	2 family -> expand 2 condos

Back up data for the above charts

No.	Street	new house size by FAR	FAR max house size	by right new zoning house size	ISD house size	lot size	frontage (wide)	length calculated	zoning		Footprint				max allow by right zoning code 2 fam	25% Max house size by zoning code allow by right +25% addition
									now	future	lot cov allowed (% of lot) proposed	max footprint per setbacks	max footprint per setbacks or lot cov 300 or 200/drive	by right max house size per foot print/lot cov		
121	Arlington			4375	5039	10284	95	108	MR1	R2	3085	4060	2485	6213	3500	4375
40-46	Ashmont Ave	6170	6204	5625	6170	13221	105	126	MR2	R3	6611	8160	6200	15500	4500	5625
	2 lots			11250		6611	52.5	126		R3	3305	3120	2700	6750	4500	5625
77-79	Blake	4216	4263	5625	4216	8473	85	100	MR1	R3	4237	4550	3800	9500	4500	5625
241-243	California St	3972		5625	3972	7500	50	150	MR2	R4	4500	4550	4100	10250	4500	5625
609-611	Centre St	5002	5019	5625	5002	9942	75	133	MR1	R3	4971	5641	4500	11250	4500	5625
69	Charles St	3779	4059	5625	3779	7960	65	122	MR1	R3	3980	4161	3500	8750	4500	5625
400	Cherry	6686	6906	5625	6686	14068	70	201	MR1	R3	7034	8549	6600	16500	4500	5625
1110	Chestnut	~9000		5625	~9000	22800	122	187	MR1	R4	13680	17869	13280	33200	4500	5625
	divide into 3 lots			16875		7600	41	187		R4	4560	4342	3942	9855	4500	5625
217	church St	5341	5343	5625	4315	11040	78	142	MR1	R3	5520	6469	5100	12750	4500	5625
28-30	28-30 Circuit	4053	4078	5625	3250 + 1605 sf base	7401	80	92	MR2	R3	3701	3720	3301	8253	4500	5625
19-25	Cloelia Ter			5625		9721	160	61	MR1	R3	4861	4306	3900	9750	4500	5625
16	Cragmore	4699	4700	5625	6187	9035	90	100	MR1	R3	4518	4927	4100	10250	4500	5625
12	Cross St			5625		6948	74	94	MR1	R3	3474	3450	3050	7625	4500	5625
1-7	Elm St			5625		26320			MR2	R3	13160			0	4500	5625

																zoning							25%
No.	Street	new house size by FAR	FAR max house size	by right new zoning house size	ISD house size	lot size	frontage (wide)	length calculated	now	future	lot cov allowed (% of lot) proposed	max footprint per setbacks	max footprint per setbacks or lot cov - 200/drive or 400 sf R1	by right max house size per foot print/lot cov	TOTAL max allow by right 2 fam or house A/B single family footprint/ total	allow by right +25% addition							
14-16	Emerson			5625		9531	102	93	MR2	R4	5719	6389	5300	13250	4500	5625							
72-78	Highland Ave			5625		22905	100	229	MRI	R3	11453	15924	11100	27750	4500	5625							
2 lots				5625		11453	50	229			5726	5970	5300	13250	4500	5625							
72	highland st			4375	9917	20418	112	182	MRI	R2	6125	11510	5525	13813	3500	4375							
187	Linwood	3700	3710	5625	3914	7034	85	83	MR1	R3	3517	3429	3000	7500	4500	5625							
30-32	Maple			5625		14037	87	161	MR1	R3	7019	8800	6619	16548	4500	5625							
336	Newtonville Ave			5625		29800	120	248	MR1	R4	17880	23975	17480	43700	4500	5625							
2 lots				5625		14900	60	248			8940	10275	8540	21350	4500	5625							
117-119	Norwood Ave			5625		14343	80	179	MR1	R4	8606	10354	8206	20515	4500	5625							
9-11	Oak Ave			5625		9934	70	142	MR1	R3	4967	5596	4567	11418	4500	5625							
13-15	Otis			4375		10228		#DIV/0!	MR1	R2	3068	#DIV/0!		0	3500	4375							
33-35	Page			5625		15126	160	95	MR1	R3	7563	9035	7163	17908	4500	5625							
42-44	Pennsylvania			5625		16999	100	170	MR1	R3	8500	11199	8100	20250	4500	5625							
15	S Gate Park			5625		14120	139	102	SR3	R3	7060	8518	6660	16650	4500	5625							
100-102	Thurston			5625		12251	85	144	MR1	R3	6126	7418	5726	14315	4500	5625							
960-962	Walnut			4375		10976	88	125	MR1	R2	3293	4708	2693	6733	3500	4375							
377	Walnut			4375		13887	80	174	MR1	R2	4166	6797	3566	8915	3500	4375							

Sample of homes torn down in MR districts. Can it be built bigger in the new zoning ordinance? #88-20

Address		From city assessor database			From real estate listing - size is often inaccurate/inflated and many times includes basement							
No.	Street	lot size sf	tear down house size sf	tear down house price	size sf	list price	sold price	ISD house size	by right new zoning house size	can new house be built in new zoning by right?	notes	Notes - house change
7	Avery path	7004	~1000	\$705,000	4556	\$ 1,750,000	\$1,715,000		4375		triangular lot	ranch -> colonial
45	Beecher Ter	5000	2488	\$515,000	3661	\$ 1,693,000	\$1,593,000		4375		weird shaped lot; could be 2 units	gutted and added on
25	Bellevue St	20158	2096	\$1,150,000	7108	\$ 3,999,000			7500			house -> modern
44	Bernard St	5000	1000	\$425,000	2576	\$ 1,495,000	\$1,515,000		2375			ranch -> colonial
25	Cavanaugh Path	7009	~1200	\$625,000	4000	\$ 1,589,000	\$1,550,000	3429	4375	yes bigger	corner lot; incl attic: 83 sf @7'; as built FAR 0.477, limit 0.48; new home footprint would have to be smaller	ranch
92	Charlemont	7075	2998	\$810,000	4100	\$ 1,749,000			3140		corner triangle lot	
659	Chestnut St	15000	4463	\$1,175,000	5300	\$ 2,799,000			7500			colonial -> colonial
64	Dearborn	9471	90	\$700,000	4506	\$ 1,889,000			4375			
819	Dedham St	15093	1691	\$800,000	6440	\$ 2,349,000			7500			
832	Dedham St	14751	1681	\$850,000	6100	\$ 2,495,000			7500			cape -> colonial
144	Derby	9909	1428	\$655,000	4744	\$ 1,999,000			4375		corner lot	bungalow -> colonial
16	Edinboro Ter	3511	1200?	\$310,000	2760	\$ 1,348,000	\$1,250,000		2868			antique -> colonial; lot 3511 sf
10	Elinor	9731	1400?	\$843,000	4800	\$ 1,975,000	\$1,900,000		4375		corner lot	ranch -> colonial
46	Exeter	19105	~2000	\$1,450,000	8000	\$ 4,500,000	\$4,450,000	5875	7500	yes bigger	*R1 driveway 400 sf from footprint; max house constrained by col M 9750 - almost 70% bigger	cape -> colonial
11	Fairhaven	15884	~1800	\$1,108,000	4290	\$ 2,995,000	\$2,925,000		7500		could divide into 2 lots	ranch -> colonial
		7942			divide lot into 2				2200		2 LOTS but house max is 2200 for each vs 7500 for 1	
105	Fairway Dr	7274		\$800,000	4080	\$ 1,599,000	\$1,580,000		4375			
146	Fairway Dr	7525	1576	\$800,000	4553	\$ 1,890,000		3866	4375	yes bigger	far max 3537; 3521+345 attic total 3866; base 600 sf	
170	Forest	17300	4620	\$1,740,000	8000	\$ 3,950,000		5427	7500	yes bigger	far max 5488; built 5427 + 2825 base	renovation + addition

Address		From city assessor database			From real estate listing - size is often inaccurate/inflated and many times includes basement							
No.	Street	lot size sf	tear down house size sf	tear down house price	size sf	list price	sold price	ISD house size	by right new zoning house size	can new house be built in new zoning by right?	notes	Notes - house change
45	Fox Hill Rd	11803	1200?	\$990,000	5271	\$ 2,649,000		4542	4375	smaller	at max FAR 4243 + 1654 base +299 attic	ranch -> colonial
28	Grant St	4500	~1800	\$535,000	2873	\$ 1,349,900	\$1,260,000	2152	1750	no w/parking; yes w/o park	max FAR 2160; as built 2151 + 726 base	
116	Highland St	15280	3404	\$1,500,000	5850	\$ 3,479,000	\$3,284,000	4462	4375	smaller	.06 from FAR	historic
176	Highland Ave	29100	2128	\$1,612,000					7500			
6	Indian Ridge Rd	10440	1732	\$825,000	5000	\$ 2,200,000	\$2,125,000		4375		corner lot	
15	15 Kendall Rd	16882	1720	\$950,000	6285	\$ 2,695,000		6374	4375	no but split lots than yes	max FAR 6415; built 6374 + ~2400 base; could build bigger by speical permit; could split into 2 lots	ranch -> colonial
	divide into 2 lots	8441			divide lot into 2				4375	2 homes	2 4375 sf homes by right	
312	Kenrick	15043	~1800	\$750,000	6200	\$ 2,875,000			7500			ranch -> colonial
9	Kerr Path	11014	~1200	\$740,000	6280	\$ 2,139,000	\$2,060,000		4375		triangular lot	ranch -> colonial
61	Lakeview	18126	1763	\$1,150,000	6938	\$ 3,999,000		5978	4375	no smaller	max FAR 5981; proposed FAR 5978; 3092 1st, 2346 2nd, 0 attic	ranch -> modern
25	Larkin Rd	7914	1036	\$630,000		\$ 1,749,000		3330	4375	yes bigger	1600 1st; 1600 2nd; 3364 in FAR; 130 sf attic; some doc numbers wrong	
27	Littlefield Rd	11070	1830	\$1,060,000	7000	\$ 2,849,000		4792	5855	yes bigger	450 sf attic	split -> colonial
188	Mount Vernon	20176	~3500	\$1,650,000	6800	\$ 3,998,000		6980	7500	yes bigger	327 sf attic	
593	Saw Mill Brook Pkwy	7350	1032	\$710,000	4670	\$ 1,875,000		3759	4375	yes bigger	273 sf attic	ranch -> colonial
23	Shumaker Path	10000	~1100	\$825,000	5150	\$ 2,200,000		3907	4375	yes bigger	153 sf over 7' in attic incl	ranch -> colonial
11	Shute Path	7021	1050?	\$627,000	5100	\$ 1,885,000		3614	4375	yes bigger	1837 + 1459+attic: 318 sf ; new home footprint would have to be smaller but overall house could be bigger	ranch -> colonial
225	Spiers	7004	~1200	\$550,000	4263	\$ 1,449,000	\$1,375,000	3480	4375	yes bigger	attic below 7' = 0	ranch to colonial
28	Varick Rd	22619	1980	\$1,200,000	6792	\$ 3,650,000			7500			ranch -> modern
15	Vine	15470	~700	\$1,200,000	5431	\$ 2,649,000			4375		corner lot	ranch -> colonial
3	W Pine	6018	~1000	\$677,000	3815	\$ 1,599,000	\$1,599,000		1750		corner lot	ranch to colonial
33	Warren Rd	10120	1475	\$950,000	5136	\$ 2,200,000	\$2,150,000		4375			ranch -> colonial

Back up data for the above charts

#88-20

Address									zoning							25%
No.	Street	new house size by FAR	FAR max house size	ISD house size	by right new zoning house size	lot size	frontage (wide)	length calculated	now	future	lot cov allowed (% of lot) proposed	max footprint per setbacks	max foot-print per setbacks or lot cov - R2 300 sf/drive or R1 400 sf/drive	by right max house size per foot print /lot cov	TOTAL max allow by rightor house A/B footprint/ total	by right new zoning house size
7	Avery path				4375	7004	120	58	SR3	R2	2101	795	* lot issue		3500	4375
45	Beecher Ter				4375	5000	150	33	MR1	R3	2500	433	* lot issue		3500	4375
25	Bellevue St				7500	20158	102	198	SR2	R1	5040	8223	4600	11500	6000	7500
44	Bernard St				2375	5000	50	100	SR3	R2	1500	1250	950	2375	3500	2375
25	Cavanaugh Path			3429	4375	7009	70	100	SR3	R2	2103	2256	1803	4508	3500	4375
92	Charlemont				3140	7075	100	71	SR3	R2	2123	1556	1256	3140	3500	3140
659	Chestnut St				7500	15000	100	150	SR2	R1	3750	5100	3350	8375	6000	7500
64	Dearborn				4375	9471	90	105	SR3		2841	3590	2541	6353	3500	4375
819	Dedham St				7500	15093	105	144	SR1	R1	3773	5118	3373	8433	6000	7500
832	Dedham St				7500	14751	112	132	SR1	R1	3688	4803	3288	8220	6000	7500
144	Derby				4375	9909	82	121	SR2	R2	2973	4038	2673	6683	3500	4375
16	Edinboro Ter				2868	3511	40	88	MR1	R3	1756	1156	956	2868	3500	2868
10	Elinor				4375	9731	100	97	SR3	R2	2919	3548	2619	6548	3500	4375
46	Exeter	5875	5924	5875	7500	19105	105	182	SR1	R1	4776	7605	4376	10940	6000	7500
11	Fairhaven				7500	15884	170	93	SR1	R1	3971	3697	3297	8243	6000	7500
2 lots					2200	7942	85	93	SRI	R1	1986	1280	880	2200	6000	2200
105	Fairway				4375	7274	70	104	SR3	R2	2182	2426	1882	4705	3500	4375
146	Fairway Dr	3521	3557	3866	4375	7525	70	108	SR3	R2	2258	2588	1958	4895	3500	4375
170	Forest	5427	5448	5427	7500	17300	120	144	SR1	R1	4325	6333	3925	9813	6000	7500

Address									zoning							25%
No.	Street	new house size by FAR	FAR max house size	ISD house size	by right new zoning house size	lot size	frontage (wide)	length calculated	now	future	lot cov allowed (% of lot) proposed	max footprint per setbacks	max foot-print per setbacks or lot cov - R2 300 sf/drive or R1 400 sf/drive	by right max house size per foot print /lot cov	TOTAL max allow by righthor house A/B footprint/ total	by right new zoning house size
45	Fox Hill Rd	4243	4249	4542	4375	11803	92	128	SR2	R2	3541	5246	3241	8103	3500	4375
28	Grant St	2152	2160	2152	1750	4500	50	90	SR3	R2	1350	1000	700	1750	3500	1750
116	Highland St	4462	5300	4462	4375	15280	95	161	SR2	R2	4584	7759	4384	10960	3500	4375
176	Highland Ave				7500	29100	144	202	SR1	R1	7275	14257	6875	17188	6000	7500
6	Indian Ridge Rd				4375	10440	80	131	SR2	R2	3132	4428	2832	7080	3500	4375
15	15 Kendall Rd	6374	6415	6374	4375	16882	120	140	SR3	R2	5065	8550	4765	11913	3500	4375
2 lots			3208		4375	8441	60	140	SR3	R2	2532	3150	2232	5580	3500	4375
312	Kenrick				7500	15043	130	116	SR2	R1	3761	4564	3561	8903	6000	7500
9	Kerr Path				4375	11014	154	72	SR2	R2	3304	2776	2476	6190	3500	4375
61	Lakeview	5948	5981	5978	4375	18126	110	165	SR2	R2	5438	9756	5138	12845	3500	4375
25	Larkin Rd	3364	3640	3330	4375	7914	60	132	SR3	R2	2374	2867	2074	5185	3500	4375
27	Littlefield Rd	4342	4346	4792	5855	11070	100	111	SR2	R1	2768	2742	2342	5855	6000	5855
188	Mount Vernon	6577	6653	6980	7500	20176	210	96	SR2	R1	5044	5283	4644	11610	6000	7500
593	Saw Mill Brook Pkwy	3486	3456	3759	4375	7350	70	105	SR3	R2	2205	2475	1905	4763	3500	4375
23	Shumaker Path	3754	3800	3907	4375	10000	80	125	SR2	R2	3000	4125	2700	6750	3500	4375
11	Shute Path	3296		3614	4375	7021	80	88	SR3	R2	2106	2077	1777	4443	3500	4375
225	Spiers	3480	3502	3480	4375	7004	72	97	SR3	R2	2101	2222	1801	4503	3500	4375
28	Varick Rd				7500	22619	118	192	SR2	R1	5655	9882	5255	13138	6000	7500
15	Vine				4375	15470	130	119	SR2	R2	4641	7245	4341	10853	3500	4375
3	W Pine				1750	6018	93	65	SR3	R2	1805	1000	700	1750	3500	1750
33	Warren Rd				4375	10120	87	116	SR3	R2	3036	4112	2836	7090	3500	4375

Councilor Kalis Zoning Redesign Questions-9/13/2020

Overall, I'm very excited and optimistic about the zoning redesign phase we are in. Phase 1 took quite a while and I'm pleased with the outcome – the clarity and readability of the code. I think Phase 2 has an opportunity to make a difference in affordability as well as living up to the idea that we are a welcoming City. As I have not attended all of the ZAP meetings due to other meetings running concurrently, my questions may have already been posed, but I'll ask them as I don't have the answers. I've read the other questions submitted and do not think mine are repetitive, but I look forward to answers for all of them.

1. Why did we move from affordable housing to attainable? So much of what we've been trying to do over the years is increase the number of affordable units we have – so why water this down?
2. How are we incenting developers to build affordable units creatively? Are we looking at Portland and Cambridge as models where overlays and/or incentives are used to drive affordability? I'm not seeing a drive for affordability except potentially in your suggestion of the homes that can become 6 units.
3. I'm wondering if you can talk to the idea of immediate supply and demand vs. eventual? What I mean here is that many people are speaking about going from single family to multi family housing as a way for developers to simply line their pockets by taking a \$1.2M SF home and making it into 2 condos both worth \$1.2M. The immediate impact is not affordable. But over time, those \$1.2M homes may become the affordable units due to constraints we are placing on redevelopment and if we assume developers will build some condos worth \$1.2M and some might be above that and some lower, we could end up with some affordable housing eventually. Is this how you think about it?
4. Are we putting in enough constraints on redevelopment to ensure developers cannot always build the largest units – in my previous question the \$2M units? Pls specify.
5. Given we have just approved Washington St rezoning as well as other large projects, what is your opinion on waiting to rezone the entire City to understand impact?
6. And, what is your opinion of taking some of the ideas we are discussing and phasing them in to understand if we are achieving our goals as well as understanding impact?
7. If we were to rezone the City to multi family, what can we do to prohibit or slow down the rush by developers to purchase our currently affordable units? It seems the incentive would be there to purchase those lower priced units and convert them to multi family immediately.

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