



Newton Zoning 1st Draft Overview

Development Review Process
03.11.19

Agenda

Overview

Discussion: Special Permits

Discussion: Administrative Site Plan Approval

Discussion: Section 6 Findings

Discussion: Design Review





Overview

Zoning is...

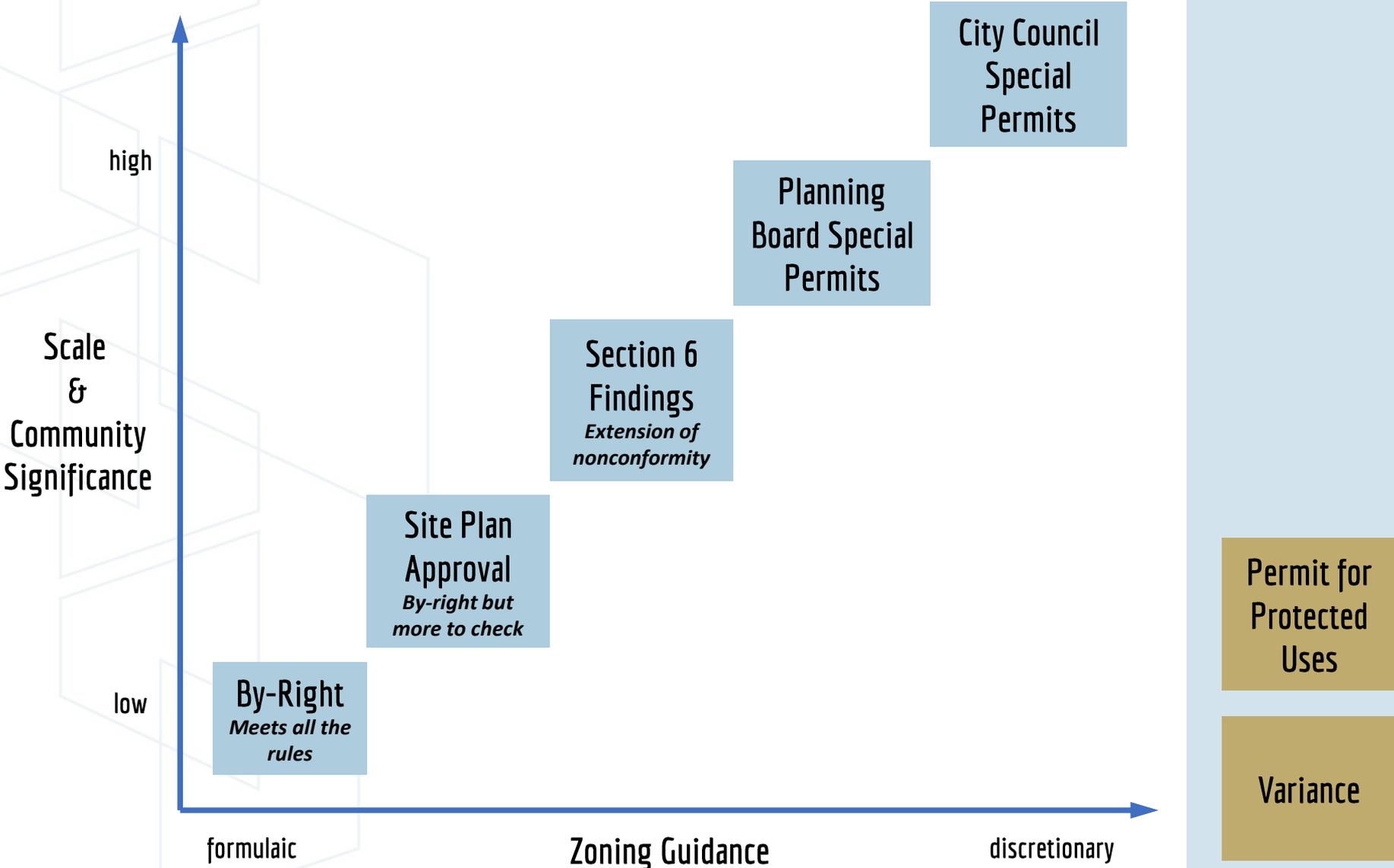
Zoning is a Legislative Action

- Legislative Role of the City Council
 - Establish what is allowed, not allowed
 - Establish procedures, decision making criteria, etc.
- Adoption and Amendments

Zoning is the rule book for development

- A range of permitting processes

Development Review



Development Review

By-Right
Meets all the rules

Allowed

Not Allowed

Site Plan Approval
By-right with more to check

Section 6 Findings
Extension of nonconformity

Allowed, but first...

Not Allowed, but please make an exception...

Special Permits
Planning Board or City Council

Variance

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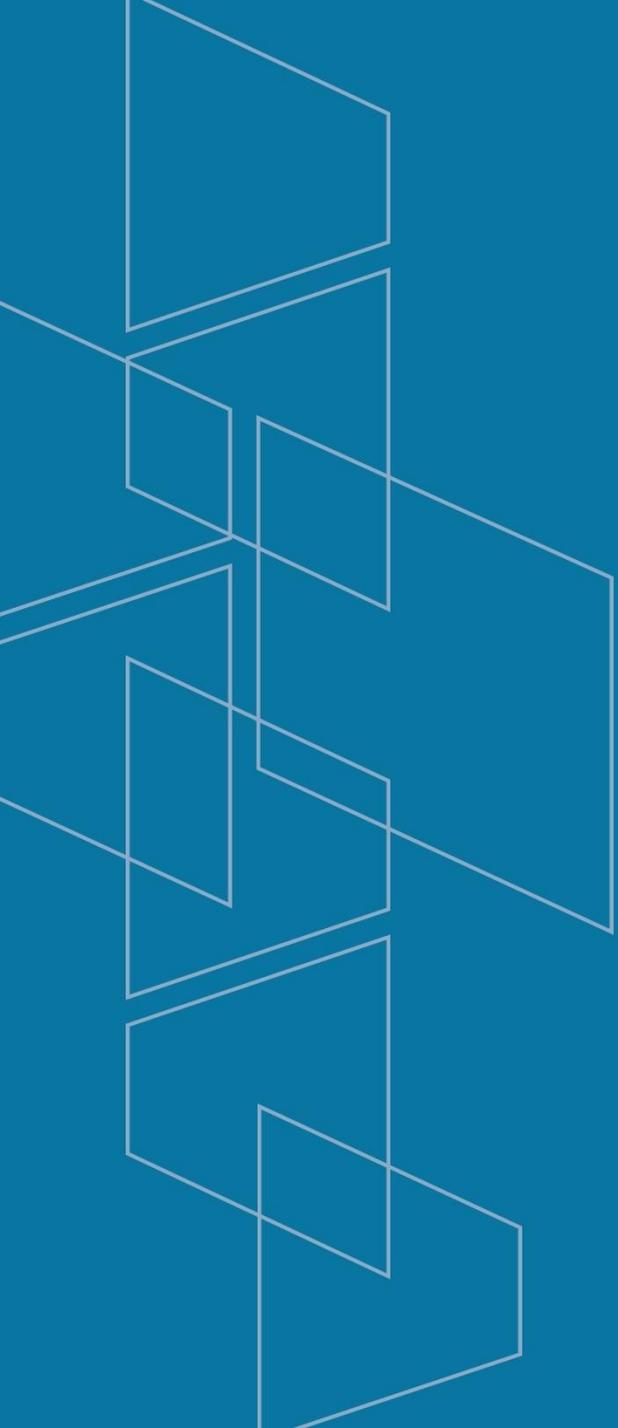
Not Allowed

Anything either stated as “prohibited” or simply not listed is not allowed

Not Allowed, but please make an exception...

Section 6 Findings
Extension of nonconformity

Variance



Discussion: Special Permits

What is a Special Permit?

What is it: a discretionary conditional permit

When required: size, location, or some external effect that requires additional review and potential conditions to mitigate effects

What does it mean: A Special Permit “runs with the land,” no matter who owns the property, or how much time has passed, as long as the conditions continue to be met, the permit stays in place

What is a Special Permit?

Special Permit Granting Authorities

Special Permit Granting Authority: The public administrative body authorized to issue a special permit by MGL Chapter 40A

A Quasi-Judicial Role. When an administrative body is tasked with acting in a judicial manner.

- Action based on record of a case and the law
 - Nothing from outside the public hearing or written records can be considered
- Administrative body enters the decision from a starting point of impartiality

What is proposed?

Special Permit Granting Authorities

Planning Board

Reviews all projects deemed not of citywide significance

City Council

Reviews all projects deemed of citywide significance

Same procedure in each case:
Conduct public hearing (including notice to neighbors),
review written records, add conditions, vote

Same appeals process in each case:
Appeals to court system

What is proposed?

Stricter Criteria

Special Permits are issued when the S.P.G.A. makes findings that all of the criteria for granting a special permit have been met.

Current Criteria are general.

Specific criteria only appear in a handful of locations, e.g. MU3 District

1. The specific site is an appropriate location for such use, structure;
2. The use as developed and operated will not adversely affect the neighborhood;
3. There will be no nuisance or serious hazard to vehicles or pedestrians;
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved; and
5. In cases involving construction of building or structures or additions to existing buildings or structures, if those proposed buildings or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the site planning, building design, construction, maintenance or long term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy.

What is proposed?

Stricter Criteria

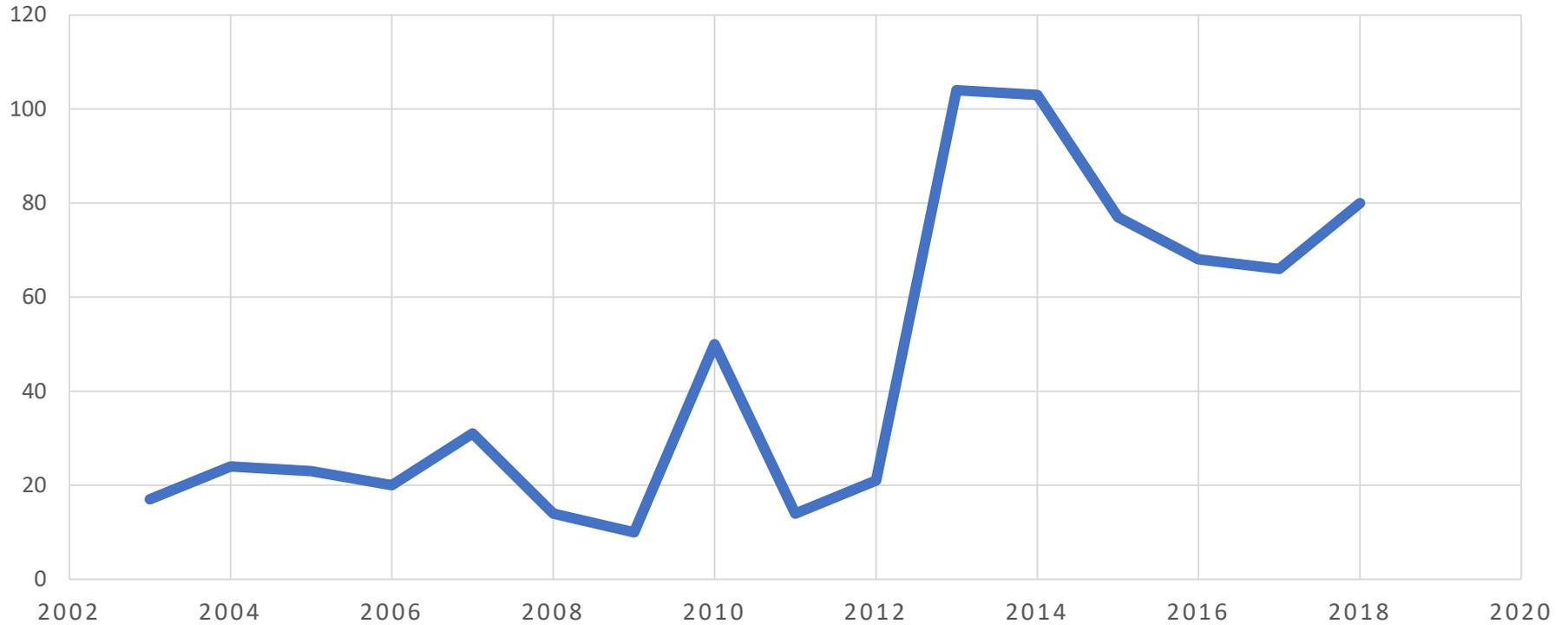
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The first draft
includes generally
applicable criteria
+
specific criteria for
each special permit

In its discretion to approve or deny a special permit required by this Ordinance, the Special Permit Granting Authority shall find that the application meets the following criteria:

- A. Conformance with the adopted Comprehensive Plan and other existing policy plans of the City of Newton
- B. Consistency with the purposes of this Ordinance.
- C. Consistency with the purpose of the district where the subject property is located
- D. Conformance with all applicable provisions of this Ordinance
- E. Considerations indicated elsewhere in this Ordinance specifically for the required special permit

ANNUAL NUMBER OF SPECIAL PERMITS



Number of Special Permit Applications per Year															
2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
17	24	23	20	31	14	10	50	14	21	104	103	77	68	66	80

Special Permit Details		2008	2013	2018
Number of Residential Units in the Project	0 Units <i>(Commercial Only)</i>	11 <i>79% of total</i>	51 <i>49% of total</i>	29 <i>36% of total</i>
	1-2 Units	2 <i>14% of total</i>	40 <i>39% of total</i>	35 <i>44% of total</i>
		3-8 Units	1	12
	9-20 Units	-	1	5
	20+ Units	-	-	4
Commercial Project Details	Includes a Parking Waiver	1 <i>7% of total</i>	13 <i>(only parking waiver: 1)</i> <i>13% of total</i>	11 <i>(only parking waiver: 1)</i> <i>14% of total</i>
		Includes a Sign Special Permit	1	9
	Change of Use Only	-	7	8
	Tenant change only <i>(change of use/sign)</i>	-	9 <i>9% of total</i>	9 <i>11% of total</i>
		-		
Projects with Nonconformity	Includes an Extension of a Nonconformity	1	17 <i>(only nonconformity: 5)</i>	23 <i>(only nonconformity: 5)</i>

Discussion Questions

- 1) What is an appropriate split between Planning Board and City Council Special Permits (if any)?**



Discussion: Site Plan Approval

What is Site Plan Approval?

What is it: an administrative permit

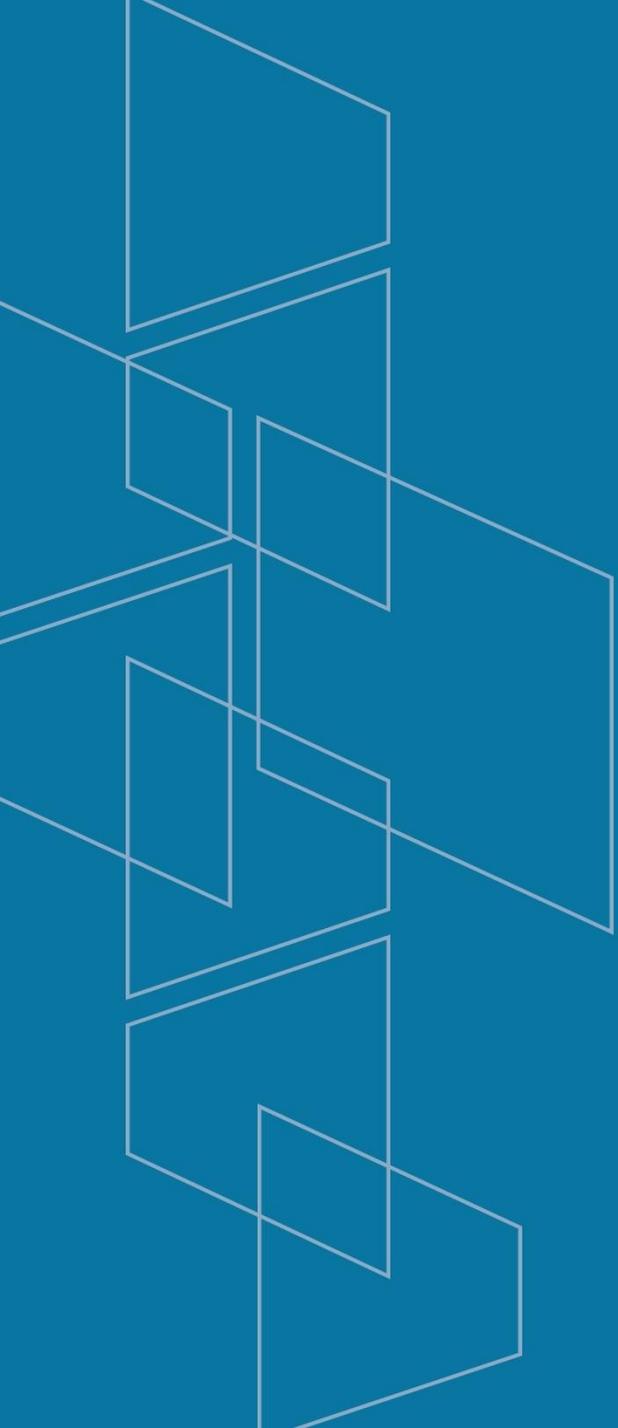
When required: some aspect of the site plan or project details requires review beyond the scope of a building permit

What does it mean: The permit is, like a building permit, specific to the project submitted, it is by all accounts an “allowed” by-right project, but details need further discussion before a permit is granted

- Site design
 - Pick-up/drop-off at a school
- Analysis
 - Proximity Rule
 - Individual sign in context of a sign plan

Discussion Questions

2) What kinds of projects would be appropriate for this level of review?



Discussion: Section 6 Finding

What is a Section 6 Finding?

What is it: permission to extend/alter a nonconformity

When required: some aspect of the site plan or project builds upon a legally existing nonconformity

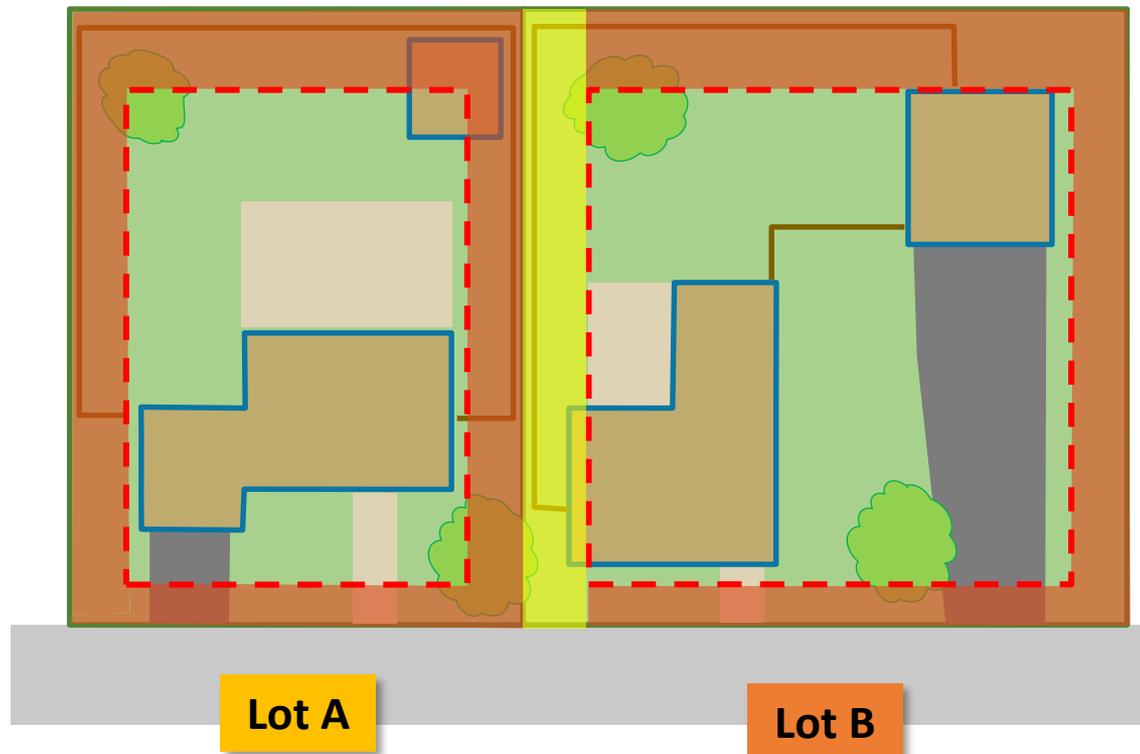
What does it mean: The project was found to be “not substantially more detrimental to the neighborhood” than the existing nonconformity

Example of Nonconformity

Example: Side Yard Setbacks

What does conforming mean for a home addition?

- **Lot A** is conforming
 - Any expansion into the setbacks is off-limits
- **Lot B** is nonconforming
 - Section 6 Finding can grant further expansion into setback



Discussion Questions

3) Should the new ordinance provide for the Section 6 Finding process?



Discussion: Design Review

What is Design Review?

What is it: advisory review by the Urban Design Commission

When required: alongside any special permit to modify the dimensions of a building type, e.g. large house review, large scale projects, and sign plans

What does it mean: These are advisory to the Special Permit Granting Authority and the applicant – a formalization of the process in place today

Discussion Questions

4) What kinds of situations should advisory design review meetings be required?