



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

MEMORANDUM

DATE: March 19, 2019

TO: Councilor Susan Albright, Chair, Zoning and Planning Committee
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
James Freas, Deputy Director of Planning
Rachel Nadkarni, Long Range Planner

RE: **#518-18 Discussion and review relative to the draft Zoning Ordinance**
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the
draft Zoning Ordinance.
Development Review Process Discussion Summary – March 11, 2019

MEETING: March 11, 2019

CC: Planning and Development Board
John Lojek, Commissioner of Inspectional Services
Marie Lawlor and Jonah Temple, Law Department

Attached is a meeting summary of the discussion on development review process from the March 11th meeting. Staff will be creating a meeting summary like this for each topic regarding the First Draft Zoning Ordinance to track work flow, next steps, and to digitize the notes taken during the discussion.

At the March 25th meeting, staff will briefly present the meeting summary, and take note of any additional thoughts that the Committee has reflecting back on the previous discussion.

Zoning Redesign Meeting Summary

Topic: Development Review Process

Date: March 11, 2019

Part 1: Staff Summary

During the discussion of the development review processes, staff and the City's legal consultant Joel Russell introduced each of the development review process changes proposed in the first draft. Staff have attempted to summarize those points of agreement that were noted in the meeting and other areas where there appeared to be general agreement, understanding that details on these topics still need further discussion. These notes will be used to direct work flow over the next months and do not represent any decision of the Committee members.

By Right – Projects allowed in conformance with the written rules

- The by-right projects were a smaller part of the discussion on March 11th, but there appeared to be general interest in staff diving deeper into the projects approved in the Land Use process in 2018 to see how the projects that were approved without questions or concerns from the Council would be treated under the first draft.
- There also appeared to be interest in exploring a routine feedback loop between the Land Use Committee and the Zoning and Planning Committee to review the range of projects that the Land Use Committee found to be easily approved so that categories of projects might be moved from special permit to by-right if the two committees and full Council agree.

Special Permits – Projects requiring discretionary permits

- The discussion on March 11th centered on questions around the first draft's proposals for the special permit process. There was clear agreement that if a tiered Special Permit system would work in Newton, the line between projects reviewed at the Planning Board and projects reviewed at the City Council would need to be revised.
 - The discussion included several proposed modifications to the first draft from the Committee and other Councilors present, among them were the ideas to consider a tier of projects that could be reviewed by the Planning Board that include property modifications but not new construction, and an idea to set a square footage threshold between the two tiers for residential instead of a unit count threshold so that particularly large but low unit count projects in the neighborhoods would still be reviewed by the City Council.
 - Staff will revisit the tiered proposal for the second draft.
- There was also discussion of the composition of the Planning Board if they were to take on the role of Special Permit Granting Authority. As was recommended by a member of the committee, staff will further research details on comparable communities and how their special permit granting authority Planning Boards are organized – are they elected vs. appointed, do they have term limits or not, do they designate seats for different fields of expertise, etc.

- The discussion on March 11th also included a conversation about the quasi-judicial role of the Special Permit Granting Authority and the potential conflict with typical legislative roles of the City Council – among them is the tricky balance between the openness with constituents that a legislator might aim for and the legal risk that members of the Special Permit Granting Authority could face if engaging in ex-parte communications. It was mentioned that the Council Rules include guidance on this issue. Planning staff along with the City’s legal consultant Joel Russell and the Law Department staff will further review the existing guidance documents and recent case law on this topic.

Section 6 Findings – Projects to extend an existing nonconformity

- During the discussion on March 11th there was a request for additional information on projects that could potentially fall into the category of the Section 6 Finding. The detailed review of the 2018 projects mentioned above will include a review of how incorporating a separate Section 6 Finding process would affect those projects.

Design Review

- There appeared to be general agreement that more design reviews by the Urban Design Commission will be a benefit to the City.
- There was a concern that the language in the first draft may not clearly enough outline the interrelationship between Urban Design Review and historic design reviews. The intent is for the Urban Design Review to fill the design review function where there is not such a process already; meaning that, where a historic design review is conducted, either by a local Historic District Commission, or the Newton Historic Commission (e.g. during a demolition delay process), that this review would satisfy any design review requirement of the zoning ordinance. Staff will work to make this clearer in the second draft.

Part 2: Meeting Facilitation Notes Documented

Below is the Zoning Redesign Notes Matrix from the Development Review Processes Discussion at the Zoning and Planning Committee Meeting on March 11th.

Recorded Zoning Redesign Facilitated Discussion Matrix

<p>Points of Agreement</p> <ul style="list-style-type: none"> • 20 units is too high for Planning Board Special Permits 	<p>Proposed Modifications</p> <ul style="list-style-type: none"> • Maybe Planning Board deals only with property modifications • Maybe a Special Permit authority threshold based on square footage rather than number of units • Double check the draft does not duplicate design review process with existing historic reviews
<p>Points to Discuss Next Time</p> <ul style="list-style-type: none"> • Goals for each development review process 	<p>Points that need Staff Research</p> <ul style="list-style-type: none"> • Verify land use application numbers from 2012-2014 • Research project types that the Land Use Committee has routinely approved – can these become conforming? • What would happen to the 2018 Special Permit projects under the draft ordinance • What are other communities of Newton's size doing re: development review process? • More info requested on what would fall into the Section 6 Finding category
<p>Ideas to Come Back to</p> <ul style="list-style-type: none"> • Discuss revisiting the question of which body reviews special permits until 6 months + after adoption to see workload 	