

September 30 2020

Members of the Newton City Council Planning and Zoning Committee:

Over the past several months, many of us have been providing assistance to the Planning Department with analysis of the impact of its proposed rezoning plan. We have been encouraged to provide this assistance by planning department staff, many city councilors and the Mayor in recognition of the detailed knowledge and expertise we bring to evaluating the effects of zoning on housing development from design, construction cost and home owner perspectives. As architects, builders and residents of Newton, we are committed to help maintain the quality of life in our city as zoning is being reconsidered. Despite challenges to our businesses and personal lives caused by the pandemic, we have provided significant time and effort to analyze both the macro effects of the rezoning plan as well as its impact on homeowners by applying the proposed rezoning to numerous renovation and new construction projects which we have worked on for Newton residents over the past several years.

During numerous online meetings, we have presented detailed analysis of built projects to planning staff and we have shown that the vast majority of these projects would not be permissible under the current rezoning proposal. The projects we analyzed reflect a diverse range of improvements and building programs which are typical across the City. Specifically, we have presented projects that reflect renovation and additions undertaken by homeowners as well as projects that involve restoration of historic properties. In addition to the analysis of specific projects, we have also provided many examples where the proposed zoning would on a broad scale increase the number of homes that would not conform to the new dimensional requirements. Despite our efforts to help inform decisions regarding the impact of the proposed zoning, we have seen no evidence that our work is being considered. In fact, changes to the proposal that have been made over the past few months have ignored issues demonstrated by our project analysis and have instead made some elements of the plan more prescriptive and restrictive. In view of the Planning Department's failure over several months to meaningfully answer questions and concerns, respond to evidence provided by numerous building professionals or provide its own probative analysis, we reluctantly have concluded that the proponents of rezoning have no intention of considering facts and evidence of the potentially broad, negative impact that this plan could have on homeowners, the aesthetic character of the city and potentially on property values. In short we feel our time and expertise is being wasted.

Many of us have been concerned about this process from the outset given that no detailed analysis was undertaken to identify specific issues with current zoning so that the new "form

based“ approach could be properly evaluated. Form-based zoning imposes a highly prescriptive approach to housing design and has been adopted predominantly in dense urban communities like Somerville. It is clearly ill suited to communities like Newton with a very diverse housing stock and varied lot sizes. Given the drive to force fit form-based zoning to the actual built environment, the Planning Department is now calling it a “hybrid” of form based zoning. Nonetheless, we made a genuine effort to improve on the original proposal rather than reject it summarily given the many problems that were obvious from its inception. The problems with the metrics of the rezoning proposal are only exacerbated by the most recent change that would allow multi family development by right across the city. Combined with the elimination of minimum lot sizes and allowing some additions in setbacks by right, the lack of restrictions on multi-family seems to effectively “unzone” the city, rather than reduce non conformity, make development more predictable, or retain the character of neighborhoods. The Zoning and Planning Committee’s “3rd straw vote goal” approved at its April 27, 2020 meeting 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 villages.” The current plan clearly conflicts in many important ways with the objectives the Committee adopted just a few months ago.

With this background in mind, these are our primary concerns with the current proposal:

- We have examined numerous built and proposed projects and find these new proposed controls are significantly more restrictive and more complex than current controls. New side and rear yard setbacks will create more non-conformity in existing structures. For example, the side yard requirements imposed by the new R1 zone for much of Waban results in most homes being non-conforming. The new lot coverage definition that now includes driveways compounds the problems. The resulting non conformity will severely restrict and discourage homeowners across the city from improving their homes with additions that reflect contemporary living requirements and market expectations to retain property value. Such projects also facilitate improved energy conservation as well.
- The proposal to remedy increased non-conforming conditions by allowing certain additions by right in the new more restrictive setbacks would likely be struck down in the courts and defies the most basic purpose of zoning in the first place. Shouldn’t property owners at least be able to expect that there will be no construction allowed in setbacks, at least not without a variance?
- The elimination of FAR in favor of foot print restrictions is another significant issue. The footprint restrictions are based on the median of what currently exists in contrived neighborhood zones based on the pattern book prepared by Sasaki. The problem with this methodology is that over 90% of homes in Newton were built before 1960 which

means that this most critical standard of footprint limits is based on characteristics of housing built over the last hundred years, not current and future housing requirements. In many the data used reflects homes

- The removal of minimum lot size is an enormous and unnecessary paradigm shift that promotes more vertical than horizontal homes. As is the case with all the dramatic changes in this plan, no study has been presented which evaluates the impact of such a significant change to land use in the city. If we want a mechanism to allow existing non-conforming lots to be buildable, we can simply add a provision to our existing code with whatever stipulations we find appropriate and subject the approval to issuance of a special permit.
- Minimum lot frontage has also been significantly reduced. Combined with the removal of minimum lot size, this one change could allow certain neighborhoods in our city to be significantly transformed. If this is adopted, developers as of right could more easily take down a house on a larger property, subdivide that land, and put up two houses on lots that do not meet current requirements. In fact, subdivision of existing lots should not be the primary concern. The incentives under lower frontage requirements without lot size minimums to assemble adjacent conforming and non-conforming lots to create two legal lots will certainly spur property speculation and encourage more demolition of homes, a central problem that rezoning was supposed to address.
- One of the late additions to this proposal was the global change to eliminate single-family zones. As proposed, existing homes could be subdivided into up to six units by right. This would certainly affect density, green space, and parking issues. It could also create new infrastructure demands on schools, streets and sanitation. If there is a desire to increase housing options through such a change, its adoption should require extensive community discussion, and an independent review of legal issues and its and economic impact. We also believe that abutters should be able to weigh in on multi-family conversions by requiring a special permit when such conversions are proposed .

We believe that based on the evidence we and others have presented, the proposed zoning plan disregards many of the original goals of the City Council for updating the city's zoning code. As the proposal has evolved, it has become increasingly clear that it is being driven by ideology and not an evidence-based approach to updating and improving the city's land use policies. The lack of objective quantitative analysis of issues with current zoning by the Planning Department is unacceptable in a city which touts its high standards for transparency and professionalism.

Moreover, to advance such dramatic changes to our neighborhoods at a time when the public cannot effectively participate because of the pandemic is divisive, cynical and unnecessary. Is this what we envisioned for a process toward improved zoning? There are simply too many

changes in this proposal that are so diametrically opposed to the controls currently in place. Does such unstudied dramatic change to land use make sense now?

We believe that strategically-targeted incremental modifications to the Zoning Code would be a much more effective way to improve and rectify problems on the ground. Changing all the controls will create chaos, driven by conflicting policy objectives and too many unforeseen consequences. Conversely, if we improve the current code based on clear objectives and analysis, the results are likely to be far better. We can modify the Code to strategically improve what is on the ground with modest modifications that help preserve neighborhoods and can allow for reasonable and controlled growth.

We hereby request an opportunity to present our analysis and conclusions at a ZAP meeting as soon as it can be scheduled. Such a presentation will allow a more detailed and dynamic discussion of the many substantive concerns that have been raised by us and many other residents with the proposed rezoning. We encourage other professionals who may be working privately with members of the Committee to make their views public and participate.

Thank you for your consideration.

Respectfully,

Steven Garfinkle

Peter Sachs, Architect

Marc Hershman, Architect

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