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Barney S. Heath
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MEMORANDUM

DATE: March 3, 2017

TO: Councilor Ted Hess-Mahan, Chairman
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
James Freas, Deputy Director
Neil Cronin, Senior Planner

RE: Zoning Redesign

CC: City Council
Planning and Development Board
Donnalyn Kahn, City Solicitor
John Lojek, ISD Commissioner

As part of the overall Zoning Redesign Project, the Planning Department expanded the purpose of these regular updates to the Zoning and Planning Committee to include general information on Zoning and related topics. This memo is a continuation of that effort and details the differences between “Use-Based” and “Form-Based” Zoning and was written by Neil Cronin, Senior Planner for Current Planning.

What is a Zoning Code?

Simply put, the zoning code regulates development throughout the City. The code does this by controlling the footprint of structures through dimensional controls, i.e. height, orientation on a lot, and square footage. In addition, the code regulates the “use” of a structure by dividing the City into districts. For example, the City has residential districts which can only contain residences and business districts where residences are not allowed. This type of ordinance which separates uses by districts is known as a “Euclidian” code. The name comes from Euclid, Ohio whose use-based zoning code was upheld by the United States Supreme Court in 1926.

History of Zoning in Newton

Newton's first zoning ordinance was adopted in 1922 and, like Euclid, was use-based. The ordinance established districts separating incompatible uses i.e., residential from commercial and manufacturing while otherwise doing very little to regulate how development occurred. Over time the City revised the ordinance to contain provisions limiting the actual structure, including height, setbacks, and massing. These criteria are the foundations of a form-based zoning code which focuses on the built environment as opposed to use. As more and more criteria which regulated form, were incorporated into the ordinance, the code gradually became a hybrid; regulating use and form.

Where is Newton Now?

Today's zoning ordinance divides the City into several districts including three single family districts, two multi-family districts, five business districts, two manufacturing districts, and four mixed-use districts. The districts, combined with dimensional controls, provide regulations and help further separate uses, but one major problem is that context is ignored. For example, there are several Single Residence 1 (SR-1) zones throughout the city where only single family homes are allowed. The current ordinance states the home must not be more than 36 feet tall, be no less 25 feet from the street, and so on. However, an SR-1 parcel in West Newton is different than an SR-1 parcel in Oak Hill. As a result, builders following the ordinance can create a final product much different than the existing houses in the neighborhood. Over time, this lack of control over form and context has changed the built environment so much that the unique sense of place is being lost.

Where is Newton Going?

To guide future development while preserving the character of Newton's neighborhoods, the City is seeking to create an ordinance that relies more heavily on the form-based elements of zoning, as described above, while also adopting an approach that is "context based." This approach begins the zoning process by collecting information on the existing built environment in order to design an ordinance that more closely reflects the look of the City as it exists today. The result is an ordinance that is able to differentiate between lots in West Newton and Oak Hill and therefore promote development in keeping with the context of the City's villages and neighborhoods. Of course, a City is never static when it comes to development as it must adapt to larger changes in the economy over time, but this approach to zoning is intended to allow for that change while respecting the inherent qualities of the City. The proposed ordinance would still regulate land uses, but the structure of the ordinance focuses more on the form of development, and its context in the City, than on the use aspect of the rules.