



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

DATE: February 22, 2019

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

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

RE: #518-18 - DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.
Build Out Analysis.

MEETING DATE: February 25, 2019

CC: City Council
Planning and Development Board
Jonathan Yeo, Chief Operating Officer
John Lojek, Commissioner of ISD
Alissa O. Giuliani, City Solicitor
Marie Lawlor, Assistant City Solicitor
Jonah Temple, Assistant City Solicitor

On Monday, February 25th, the Planning Department staff will present the Build Out Analysis that compares the current zoning ordinance and the October first draft ordinance. Staff are here to work with the City Council to create an ordinance that has not only the City Council's policy goals at the forefront but also the best data analysis possible to understand the range of potential outcomes of the proposed draft.

The standards in the October draft were based on the highest conformity that we thought was possible/practicable at that time in consideration of the broader goals of this project:

- Rules that match the city as it is (increase conformity)
- Rules that reduce the city's vulnerability to speculative teardown/replacements of homes
- Rules that move advance the City on several key issues like climate change and housing affordability and diversity

This project has required an extensive amount of time and thought to develop; there has never before been an analysis of the City's development potential at this scale or level of detail. The purpose of the buildout analysis was to test if the standards in the October First Draft were in fact achieving the goals, and to guide a recalibration of the standards for the second draft. After analyzing the standards from the initial October draft, staff determined that a number of changes would be necessary. Staff put together a set of "February Adjustments" based not only on achieving the goals above but also on additional feedback we have been hearing from the Committee and the public.

These February Adjustments are meant to spark discussion described in the attachment to this memo. Looking ahead to the second full draft at the end of May, staff is looking to the committee for guidance on how to further adjust each of the dials in order to narrow in the rules that will best serve the goals of this effort.

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This comparative build-out analysis represents the first of its kind for Newton. The project could not have been done without the master database created as part of the Pattern Book work and required the development of a complex model and related GIS based mapping.

What is a build out analysis model?

This model is a series of Excel tables that describe the potential maximum build out of the current ordinance, the October draft, and the February adjusted draft. Like all models, this model makes assumptions about what could happen in the future and charts out the potential effects of the choices made by future decisionmakers, in this case, the decisions made by property owners (homeowners and developers alike).

The Zoning Ordinance sets out the rules of the game – what can and cannot be done with private property, but it does not specify what will happen. In Massachusetts, property owners have the right to develop their property in any way that is permitted within the limits set by state building codes and municipal zoning requirements. So, the zoning ordinance articulates the range of outcomes acceptable to the City of Newton.

The model allows comparison between different iterations of a draft zoning ordinance and the existing ordinance, not a prediction of what will happen under these different zoning ordinance versions. The model is limited in its predictive ability - it cannot gauge what property owners will choose to do, but the model can tell us about the upper bound of that range – the maximum possible. We will be as clear as we can that the numbers presented represent "maximum possible" by-right scenarios. By definition, maximum possible is the outside limit – above and beyond what is likely to happen. As you will see in the analysis of the current ordinance, the "maximum possible" build out today represents almost double the amount of buildable square footage in the neighborhood residential districts and more than 2000 more units than have been built after more than 60 years since the 1953 zoning ordinance was adopted for the neighborhoods.

Predicting exactly how Newton would develop over time if the standards of the October Draft ordinance were put in place is difficult, if not impossible. The build-out analysis tells us how many lots,

how much square footage, and how many units would be allowed by the zoning, not how much is likely to be built. That distinction between what would be allowed and what would actually be built, and over what time period, is important to keep in mind.

The likely build-out scenario is dependent on several factors:

- Willing seller – how many property sales will occur
 - It is difficult to estimate how many properties will be sold in a given year. Demographics play a major role, but certainly are not the only factor. Many older adults are selling and moving into homes for the next stage of their life; while this is not the case with all members of that generation, it is a trend that has been ongoing for the past 10 years. This trend is likely to continue for the next several years, but the generational tipping point where more homeowners are of the younger Gen-X and Millennial generations will occur at some point.
- Market for the final product – how strong is the market for the type of development
 - One of the February Adjustments made is to make the 2-Unit Building Type exactly the same size as the House B, meaning that the units in the 2-Unit Building will be at most half the size of the largest House B. Now, a key question that we cannot answer is how the market will view these two products of equal size. Will the market want more 1-unit House Bs or more 2-Unit buildings? At the moment, our understanding is that there is a trend of converting existing 2-unit buildings into 1-unit buildings. Will this trend continue? Probably. For how long? No one knows.
- Zoning allowing the product – the range of options allowed
 - The model can show the “maximum possible” on a series of criteria, but it cannot predict which of the allowed building types, and what specific uses and unit mix will be constructed, or if the existing buildings will stay exactly as they are. Without predicting the likelihood of sales and the market shifts in housing demands, it is very difficult to gauge what the predictive “likely” scenario will be.

For a property to be developed, there must be simultaneous alignment of favorable market conditions, land and capital availability, and zoning; a set of conditions that have only periodically lined up in Newton’s history to produce significant levels of development. The last major occurrence was in the 1940s and 50s driven by government subsidies and encouragement for a significant portion of the population (with notable exceptions) to move to suburban neighborhoods. In Newton developers found open land for sale and a zoning ordinance that encouraged large homes on large lots.

In some ways, the standards in the October first draft represent what might have happened if the traditional development patterns, which represent the majority of the city, had continued without the lot size requirements put in place in the 1941/1953 zoning rules that mandated lower residential densities. Only 20% of all 1-2 family homes in the neighborhoods were built after the 1953 rules went into effect, and a full 2/3rds of all 1-2 family homes were built prior to 1941. While we cannot know exactly how the City might have developed differently, it is probable that there would have been a modestly higher number of residential units of smaller sizes on a greater number of residential lots.

The last 10 to 20 years have represented a time period in which Newton has once again seen strong development pressure as the Boston region has emerged as a global center for innovation drawing major technology and science related employment with high incomes. With Newton's optimal location relative to both Boston and Route 128, transit access and good schools, the City has drawn this growing affluent population. At the same time, with the aging of the baby boomer generation, one of the largest age cohorts in US history, there are a large number of homes coming up for sale, creating the land availability necessary to spur development. Thus, the confluence of these three factors, a strong market, availability of land and capital, and zoning, have spurred redevelopment activity in Newton's neighborhoods. However, even with this period of more intense development, and more than 60 years under the 1953 zoning ordinance, the City is far from "built-out" under existing zoning, highlighting again that zoning alone is not destiny and that full build-out under the standards of the new zoning ordinance, whatever they might be, will likely occur incrementally over decades.

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As detailed and extensive as this model is, it suffers from the weakness of all models in that it is only a model. It makes a set of assumptions about future human behavior and then charts out the potential ramifications of that behavior over a large population and land area. However, every single number in the various tables that make up this model represents a series of potential decisions made by one or more individuals – a set of decisions that we cannot possibly predict. The results of this model represent a possible, maximized outcome, not a prediction of what will happen nor even what is likely to happen.

There were a number of assumptions and guideposts that helped to direct this work:

1. By-Right Only – The build-out analysis task was to understand, to the extent possible, the implications of the October 1st Draft ordinance and the implications of greatest interest are those by right projects that conform with the written ordinance but are not subject to additional discretionary review. Development of any type that requires a special permit introduces a degree of complexity that was beyond the capacity of our modeling ability. The reason these types of projects require a special permit is because their feasibility depends on a range of aspects unique to a project requiring a discretionary review and conditioning. Unique factors are difficult to model.
2. Residence Districts Only – Similarly, the Village Districts introduce a very high level of complexity as lot patterns, ownership patterns, and other factors are far more complex than typically found in the Residence Districts. We are developing tools to investigate and model these districts further, but for now, there is already a significant series of results to cover just in the Residence Districts.
3. Maximum Build Analysis – Build Space (total sq. ft.) and Number of Lots – A central premise of the 1st Draft ordinance is that we are directly regulating the top concerns about residential lots: the size of the buildings and the placement of those buildings. The current ordinance focuses on lot size, and then building size is determined based on the size of the lot. By focusing directly on building sizes, frontage (width of a lot), and the setbacks (how far the building needs to be from neighboring properties and the street), the ordinance can directly regulate the placement of the buildings on a property. The current lot size-based rules, given Newton's highly varied physical environment, has resulted in disruptive new buildings in Newton's neighborhoods.

This does not mean that lots can be infinitely small. The standards for each building type combined with the setbacks and maximum lot coverage for each district result in an effective minimum lot size for every building type allowed by-right in each of the residence districts. Staff used this methodology to investigate two “full build scenarios:” one in which the maximum building size allowed is anticipated and one that minimizes building size in an effort to maximize lot creation. In the presentation on February 25th we will demonstrate this methodology in detail and walk through the resulting ranges in lot creation, unit creation, and building bulk (sq. ft.).

4. Lot Split Analysis – The lot split analysis was done by taking frontage and effective minimum lot sizes, as described in #3 above, and identifying the number of residential lots citywide that met the size requirements necessary to be split. From there the maximum possible number of new units was calculated along with an estimate of the largest building types that could be created on those new lots.
5. Number of Units Analysis – The overall maximum possible number of units was calculated by estimating the maximum units possible for the largest building type that could fit on an existing lot. For lots that could be split, the maximum units was estimated based on a maximum number of units that could be created in the largest building types on each possible new lot. As noted above, given the realistic rate of production in Newton and the range of market factors involved, it is unlikely that the maximum number of units would ever be reached.
6. Teardown Vulnerability Analysis – The teardown vulnerability analysis assesses the risk of a property being of interest to speculative residential developers. These are the projects that involve a teardown and rebuild without a specific client but are simply completed on the assumption that the final product can be sold for a profit.

The teardown vulnerability analysis compares the maximum potential value and the maximum potential square footage of a property to the existing value and square footage. It is our understanding that there are two criteria a speculative builder looks for: first can they build at least 3800 sf (inclusive of an attached 2-3 car garage) and can the resulting new construction be sold for 2.4-2.5 times the purchase price of the property.

In this analysis, we estimated that the value of new construction is approximately \$600/square foot. We arrived at this number with the help of the City’s assessing department, and some residents testing the math on recent teardowns in their neighborhoods. The model finds that a speculative teardown occurs when both the 3800 square foot and the 2.4 times the final value triggers are met.

Results

In developing the 1st Draft Zoning Ordinance, our working hypothesis was that by tying the dimensional standards for lots and buildings to the dimensions found in the existing patterns of development and buildings in the city, we could create an ordinance that met the overall goals of the project. The build out analysis showed that we need to make some adjustments to the standards in order to achieve the stated goals.

- Rules that match the city as it is (increase conformity)

- Rules that reduce the city's vulnerability to speculative teardown/replacements of homes
- Rules that advance the City on several key issues like climate change and housing affordability and diversity

Attached you will find results pages for each district, which include:

- Key Takeaways from the Build Out Analysis
- Explanation of the February Adjustments package as applies in the district
- Options for additional changes and the implications for changing in one direction or another

Each district is meant to be readable as a standalone set of ideas, and some repetition occurs.

Conclusion and Next Steps

The build out analysis has been a substantial amount of work and incredibly informative to the development of the proposed ordinance standards. Our objective in this memo and the presentation is to help the Committee to develop a deeper understanding of how the proposed mechanisms work and the interplay between the standards, the level of conformity, and the potential results for development in the future.

Based on the feedback we get from the Committee on Feb 25th and following, as well as ongoing public feedback, staff will continue to assess potential changes to the draft ordinance. The next round of recommended zoning text and standards will be presented in the 2nd draft zoning ordinance at the end of May / beginning of June.

Residence 2 District

Key Takeaways from February Build Out

- The October Draft reduced the total bulk (residential sq. ft.) that could be built on Residence 2 lots as compared to the Current Ordinance, and the February Adjustments package reduced the total bulk even further.
- After the February Adjustments, the teardown vulnerability goes down dramatically from 35% of properties being vulnerable under the current ordinance to 4-5% under the February version.
- A maximum possible 4% more units would be allowed over the maximum possible number of units under the current ordinance.

February Adjustments and Comparison to October Draft

1) Lot Standards

- Frontage: min 60 ft (no change)
- Lot Depth: n/a (no change)
- Lot Coverage: 30% max. (reduced from 35%)
- Setbacks:
 - Front: 20 ft absolute min (increased from 15 ft)
 - Side: 12.5 ft (increased from 10 ft)
 - Rear: 30 ft (increased from 20 ft)

2) Building Type Standards

- **House B**
 - Reduce the by right footprint down to 1400 sf (from 1600 sf)
 - Reduce Special Permit footprint to 2000 sf (from 2200 sf)
- **House C**
 - Reduce the by right footprint down to 1200 sf
 - Maintain Special Permit footprint at 1800 sf
- **House D** – no changes

Options for Additional Changes

1) Frontage (Lot Width at the Street)

- Lot splitting is the compensation for potential loss of value for those owners of extra-large lots that lose the ability to build a very large house. Minimum frontage determines the number of lot splits that can occur – increasing the minimum frontage will decrease the number of potential lot splits and potentially reduce the compensation to those large properties. For the February Adjusted version, the minimum frontage standard in the Residence 2 District is set so that only approximately 18% of existing lots are wider than the minimum. One option is to change the minimum frontage either up or down, depending on the prioritization of value preservation versus new lot creation.

2) Setbacks

- Increasing the minimum setbacks will reduce conformance of existing buildings but increase the spacing between a new building and its neighbors. The tradeoff with setbacks is that a house that is nonconforming with respect to one of its setbacks can, through Section 6 Finding (or Special Permit conducted as Section 6 Finding), be extended with a lower level of review than a conforming structure, which must pass the hardship test of a Variance in order to further encroach into a setback.

3) Lot Coverage

- Reducing the maximum lot coverage will reduce conformance of existing properties but also increase the amount of landscaped area on a newly constructed site. Like with setbacks, the challenge is that the bar for exceeding the maximum is lower for a nonconforming property than for a conforming property.

4) Lot Depth or Lot Size

- As of yet the ordinance does not set a minimum lot depth or overall minimum lot size. Adding either of these measures will reduce the ability for a “tiny house lot” to be created and reduce the number of potential lot splits. However, frontage is such a strong tool, and minimum lot size comparatively inconsequential, that adding either of these requirements is expected to have limited effect. Setting a required minimum lot size becomes more about setting a baseline price for a house in Newton. The possibility of a “tiny house lot” creates an opportunity for a lower price point, even though, economically, these are unlikely to be common.

5) Building Types

- The February adjustments did not include any changes to the list of allowed building types in the Residence 2 district. Should the Council wish to proceed in a similar direction as Minneapolis and consider reducing/eliminating single family zoning as a means of allowing more contextual affordable housing throughout the city, one way would be to consider adding the adjusted Two-Unit Building type by Special Permit (the exact same size as the House B) as an allowed building type in the R2 District. An alternative with a similar result, but also an eye to historic preservation, would be to allow a House B to be split into two units under the provision of a “Multi-Unit Conversion,” which would only apply to buildings that are at least 10 years old.

6) Building Type Standards

- **Building Footprint**
 - The February Adjustments package includes reductions in the by-right and special permit footprints for both the House B and the House C. The House D is at this point not recommended for changes. It should be noted that the Special Permit maximum footprint would not be something that the Special Permit Granting Authority would be allowed to exceed and that any project with a Special Permit request to increase the footprint would be funneled into a Design Review process. This second Special Permit

range is intended to serve as the “Large House” Review that has been discussed on numerous occasions throughout the last several years.

- **Building Components**

- The October draft includes a number of architectural building components that can be used to strengthen a home’s connection with the neighborhood street: front porches, extended front entries, and bay windows. Building components can also be used to allow more square footage beyond the allowed footprint, under a tight set of criteria. One idea that staff is considering in light of the smaller footprints shown in the February Adjustments is to incorporate a by right “Side or Rear Wing” component that allows a modest increase in living space under strict design criteria/review. For this idea to make sense it would need to be crafted to ensure it provides the flexibility homeowners need for adapting older homes without creating a loophole that results in speculative teardowns.

- **House D proximity rule**

- The House D proximity rule has not been something we have heard too much about from the Council or the public. We are finding that the proximity rule idea is confusing to many in the public and may not be the right tool for Newton right now. The intent behind the House D proximity rule was an understanding that those in neighborhoods dominated by 2.5 story Victorians found the large sprawling House D to be a disruption of the historic patterns, as well as a comment from environmentalists that the large 1-story House D is an inefficient use of land resources over the 2-2.5 story House B which offers the same useable square footage in a smaller footprint. The slight discouragement of the House D form is balanced by the allowance to do a new House D by Special Permit and an understanding that a 1-story building that has a footprint equivalent to a House B or House C would be allowed by right.

Neighborhood General District

Key Takeaways from February Build Out

- The 2011 Zoning Reform Group report called for the creation of soft transitions between villages and neighborhoods. The Neighborhood General District, is set up to be a transitional district, with some commercial allowed, but this makes it even harder to understand through modeling than the residence districts because the model cannot account for whether commercial or residential development is more likely to occur and some of the properties in this district are currently in business zoning districts rather than residential districts. The build out assumes a “most residential” scenario and leaves out any commercial development.
- Even with the February Adjustments, the teardown vulnerability increases in the Neighborhood General district, from 56% to 77-84%. Again, the role of commercial opportunities is an unknown factor.
- More unit creation in the smaller multi-unit building types is directed to the Neighborhood General district than the other residence districts because this district is adjacent to walkable village centers and transit. The maximum possible units increases by more than 3 times the maximum possible today. Again the comparative attraction of small scale commercial space development on some properties in this district may keep this number much lower than the maximum possible.

February Adjustments and Comparison to October Draft

1) Lot Standards

- Frontage: min 50 ft (increased from 30 ft)
- Lot Depth: n/a (no change)
- Lot Coverage: 70% max. (increased from 65%)
- Setbacks:
 - Front: 5 ft absolute min (increased from 0 ft)
 - Side: 10 ft (increased from 7.5 ft)
 - Rear: 20 ft (increased from 15 ft)

2) Building Type Standards

- **House B**
 - Reduce the by right footprint down to 1,400 sf (from 1,600 sf)
 - Reduce Special Permit footprint to 2,000 sf (from 2,200 sf)
 - Reduced the by right height down to 2.5 stories (from 3 stories)
 - Added an allowance for 3-story height by Special Permit
- **House C**
 - Reduce the by right footprint down to 1200 sf
 - Maintain Special Permit footprint at 1800 sf

- **NEW BUILDING TYPE NAME: 3-Unit Building**

This was formerly known as the “Apartment House” and is recommended for substantial changes that limit the number of units and the overall size.

This Building Type must have 3 units, no more, no less.

Building Width: min. 20 ft – max. 65 ft

Building depth: max. 90 ft

Building footprint: max 1600 sf by right, 1800 by Special Permit

Number of stories: 2.5 stories, 3 by Special Permit

- **NEW BUILDING TYPE NAME: 4-8 Unit Building**

This is a new building type that replaces the Small Apartment Building in the Neighborhood General District. It is substantially smaller than the Small Apartment Building that appeared in the October Draft.

This building type must have between 4 and 8 units, no more, no less.

Building Width: min. 20 ft – max. 75 ft

Building depth: max. 90 ft

Building footprint: max 2,500 sf

Number of stories: 3 stories max.

Options for Additional Changes

1) Frontage

- The tradeoff with frontage in Neighborhood General is that the wider lots will allow fewer, larger building types while narrower lots would allow splitting and could encourage more smaller buildings. For the February Adjusted version, the minimum frontage standard in the Neighborhood General District is set so that only approximately 20% of existing lots are wider than the minimum.

2) Setbacks

- In the Neighborhood General district, we removed the 0 ft front setback and went with a 5 ft minimum. 20% of all properties currently have a 5 ft setback or less. Because the front setback is combined with the requirement to use the abutting properties front setbacks for primary guidance on building placement, this change would mean no new building would be less than 5 ft from the front lot line, even if the abutting properties have a 0 ft front setback.

Increasing the minimum setbacks will reduce conformance of existing buildings but increase the spacing between a new building and its neighbors. The tradeoff with setbacks is that a house that is nonconforming with respect to one of its setbacks can, through Section 6 Finding (or Special Permit conducted as Section 6 Finding), be extended with a lower level of review than a conforming structure, which must pass the hardship test of a Variance in order to further encroach into a setback.

3) Lot Coverage

- In the February Adjustments package, the maximum lot coverage in the Neighborhood General actually increases to 70% from 65%. Reducing the maximum lot coverage will reduce conformance of existing properties but also increase the amount of landscaped area on a newly constructed site. Like with setbacks, the challenge is that the bar for exceeding the maximum is lower for a nonconforming property than for a conforming property. Given that just under half of the properties in the Neighborhood General district are already above 70% lot coverage and grandfathered in at their current lot coverage percentage, getting general conformance at 65% could be difficult to achieve.

4) Lot Depth or Lot Size

- As of yet the ordinance does not set a minimum lot depth or overall minimum lot size. Adding either of these measures will reduce the ability for a “tiny house lot” to be created and reduce the number of potential lot splits. However, frontage is such a strong tool, and minimum lot size comparatively inconsequential, that adding either of these requirements is expected to have limited effect. Setting a required minimum lot size becomes more about setting a baseline price for a house in Newton. The possibility of a “tiny house lot” creates an opportunity for a lower price point, even though, economically, these are unlikely to be common.

In the Neighborhood General district these could just as likely be “tiny shop lots” as “tiny house lots” and the interest in enhancing opportunities for small businesses has been a consistently strong policy goal.

5) Building Types

- The February Adjustments package includes significant changes to two of the building types allowed in the Neighborhood General district. The Apartment House and the Small Apartment Building are both recommended to have not only name changes, but major changes to their design standards. The Apartment House becomes a 3-Unit with a smaller size and the Small Apartment Building becomes the 4-8 Unit Building, also with a smaller size. The February Buildout Analysis assumes that those two building types would be allowed by right in the Neighborhood General District, in direct replacement of the Apartment House and Small Apartment Building.

It is important to remember, that once a building has more than 2 units, a range of additional development criteria come into play, particularly parking. While the October Draft eliminates the minimum parking requirement for 1 and 2-unit buildings, a minimum of 1 parking space per unit must be provided on site for the 3-unit + buildings.

6) Building Type Standards

- **Building Footprint**
 - The February Adjustments package includes reductions in the by-right and special permit footprints for both the House B and the House C, as well as smaller footprints for the 3-Unit Building and the 4-8 Unit Building. It should be noted that where no Special Permit maximum is listed, as is the case for the 4-8 Unit Building, there would be no option for the Special Permit Granting Authority to grant an expansion of the building.

Residence 3 District

Key Takeaways from February Build Out

- The October Draft did not succeed at reducing the teardown vulnerability or the maximum potential bulk (residential sq. ft.) as compared to the Current Ordinance, but the February Adjustments package both reduces teardown vulnerability and maximum potential bulk.
- After the February Adjustments, the teardown vulnerability goes down dramatically from 47% of properties being vulnerable to speculative tear down under the current ordinance to 11-12% under the February version.
- A maximum possible 4% more units would be allowed by the February version over the maximum possible number of units allowed by the current ordinance.

February Adjustments and Comparison to October Draft

1) Lot Standards

- Frontage: min 50 ft (increased from 40 ft)
- Lot Depth: n/a (no change)
- Lot Coverage: 50% max. (reduced from 60%)
- Setbacks:
 - Front: 10 ft absolute min (increased from 5 ft)
 - Side: 10 ft (increased from 7.5 ft)
 - Rear: 20 ft (increased from 15 ft)

2) Building Type Standards

- **House B**
 - Reduce the by right footprint down to 1,400 sf (from 1,600 sf)
 - Reduce Special Permit footprint to 2,000 sf (from 2,200 sf)
 - Reduced the by right height down to 2.5 stories (from 3 stories)
 - Added an allowance for 3-story height by Special Permit
- **House C**
 - Reduce the by right footprint down to 1,200 sf
 - Maintain Special Permit footprint at 1,800 sf

- **NEW BUILDING TYPE NAME: 3-Unit Building**

This was formerly known as the "Apartment House" and is recommended for substantial changes that limit the number of units and the overall size.

This Building Type must have 3 units, no more, no less.

Building Width: min. 20 ft – max. 65 ft

Building depth: max. 90 ft

Building footprint: max 1,600 sf by right, 1800 by Special Permit

Number of stories: 2.5 stories, 3 by Special Permit

- **NEW BUILDING TYPE NAME: 4-8 Unit Building**

This is a new building type that replaces the Small Apartment Building in the Residence 3 District. It is substantially smaller than the Small Apartment Building that appeared in the October draft.

This building type must have between 4 and 8 units, no more, no less.

Building Width: min. 20 ft – max. 75 ft

Building depth: max. 90 ft

Building footprint: max 2,500 sf

Number of stories: 3 stories max.

Options for Additional Changes

1) Frontage

- Lot splitting is the compensation for potential loss of value for those owners of extra-large lots that lose the ability to build a very large house. Minimum frontage determines the number of lot splits that can occur – increasing the minimum frontage will decrease the number of potential lot splits and potentially reduce the compensation to those large properties. For the February Adjusted version, the minimum frontage standard in the Residence 3 District is set so that only approximately 20% of existing lots are wider than the minimum. One option is to change the minimum frontage either up or down, depending on the prioritization of value preservation versus new lot creation.

2) Setbacks

- Increasing the minimum setbacks will reduce conformance of existing buildings but increase the spacing between a new building and its neighbors. The tradeoff with setbacks is that a house that is nonconforming with respect to one of its setbacks can, through Section 6 Finding (or Special Permit conducted as Section 6 Finding), be extended with a lower level of review than a conforming structure, which must pass the hardship test of a Variance in order to further encroach into a setback.

3) Lot Coverage

- Reducing the maximum lot coverage will reduce conformance of existing properties but also increase the amount of landscaped area on a newly constructed site. Like with setbacks, the challenge is that the bar for exceeding the maximum is lower for a nonconforming property than for a conforming property.

4) Lot Depth or Lot Size

- As of yet the ordinance does not set a minimum lot depth or overall minimum lot size. Adding either of these measures will reduce the ability for a “tiny house lot” to be created and reduce the number of potential lot splits. However, frontage is such a strong tool, and minimum lot size comparatively inconsequential, that adding either of these requirements is expected to have limited effect. Setting a required minimum lot size becomes more about setting a baseline price for a house in Newton. The possibility of a “tiny house lot”

creates an opportunity for a lower price point, even though, economically, these are unlikely to be common.

5) Building Types

- The February Adjustments package includes significant changes to two of the building types allowed in the Residence 3 district. The Apartment House and the Small Apartment Building are both recommended to have not only name changes, but major changes to the standards for those building types. The Apartment House becomes a 3-Unit with a smaller size and the Small Apartment Building becomes the 4-8 Unit Building, also with a smaller size. The February Buildout Analysis assumes that those two building types would not be allowed by right across the district, based on the October Draft's proximity rule for these building types. One option for the Committee to consider is to allow one or both of these types to be allowed by right without the proximity rule or a special permit. It is important to remember, that once a building has more than 2 units, a range of additional development criteria come into play, particularly parking. While the October Draft eliminates the minimum parking requirement for 1 and 2-unit buildings, a minimum of 1 parking space per unit must be provided on site for the 3-unit + buildings.

- **Apartment House and Small Apartment Building proximity rule**

- The Apartment House and Small Apartment Building are both recommended for considerable changes as part of the fine tuning coming out of the Build Out Analysis. In the Ward by Ward meetings we have been hearing both confusion and concern about the proximity rule tool. The proximity rule came about as a compromise between priorities for allowing small-scale multi-unit housing, and a desire for the zoning redesign effort to produce only a limited amount of change in the neighborhoods. Based on the feedback we have been hearing, the recommendation is that the proximity rule of this type may not be the right tool for Newton right now.

Another approach could be to split the current Residence 3 district into two. There are a number of scenarios for what building types a new Residence 4 district would include, and we have put together one of those for consideration by the committee:

Residence 3:

By Right Building types: House B, House C, Two-Unit

Residence 4:

By Right Building Types: House B, House C, Two-Unit, 3-Unit

Special Permit Building Types: 4-8 Unit

6) Building Type Standards

- **Building Footprint**

- The February Adjustments package includes reductions in the by-right and special permit footprints for both the House B and the House C, as well as smaller footprints for the 3-Unit Building and the 4-8 Unit Building. It should be noted that where no Special Permit maximum is listed, as is the case for the 4-8 Unit Building, there would

be no option for the Special Permit Granting Authority to grant an expansion of the building.

- **Building Components**

- The October draft includes a number of architectural building components that can be used to strengthen a home's connection with the neighborhood street: front porches, extended front entries, and bay windows. Building components could also be used to allow more square footage beyond the allowed footprint, under a tight set of criteria. One idea that staff is considering in light of the smaller footprints shown in the February Adjustments is to incorporate a by right "Side or Rear Wing" component that allows a modest increase in living space under strict design criteria/review. For this idea to make sense it would need to be crafted to ensure it provides the flexibility homeowners need for adapting older homes without creating a loophole that results in speculative teardowns.

Residence 1 District

Key Takeaways from February Build Out

- The October Draft increased the teardown vulnerability and increased the total bulk (residential sq. ft.) that could be built on Residence 1 properties as compared to the Current Ordinance, but with the February Adjustments package the total bulk is reduced slightly, and the teardown vulnerability increases slightly.
- After the February Adjustments, the maximum possible 11% more units would be allowed over the maximum possible number of units allowed by the Current Ordinance.

February Adjustments and Comparison to October Draft

3) Lot Standards

Frontage:	min 80 ft (no change)
Lot Depth:	n/a (no change)
Lot Coverage:	25% max. (reduced from 30%)
Setbacks:	
Front:	25 ft absolute min (increased from 20 ft)
Side:	20 ft (increased from 15 ft)
Rear:	40 ft (increased from 30 ft)

4) Building Type Standards

- **House A**
 - Reduce the by right footprint down to 2400 sf (from 2500 sf)
- **House B**
 - Reduce the by right footprint down to 1400 sf (from 1600 sf)
 - Reduce Special Permit footprint to 2000 sf (from 2200 sf)
- **House C**
 - Reduce the by right footprint down to 1200 sf
 - Maintain Special Permit footprint at 1800 sf
- **House D** – no changes

Options for Additional Changes

1) Frontage

- Lot splitting is the compensation for potential loss of value for those owners of extra-large lots that lose the ability to build a very large house. Minimum frontage determines the number of lot splits that can occur – increasing the minimum frontage will decrease the number of potential lot splits and potentially reduce the compensation to those large properties. For the February Adjusted version, the minimum frontage standard in the Residence 2 District is set so that only approximately 15% of existing lots are wider than the minimum. One option is to change the minimum frontage either up or down, depending on the prioritization of value preservation versus new lot creation.

2) Setbacks

- Increasing the minimum setbacks will reduce conformance of existing buildings but increase the spacing between a new building and its neighbors. The tradeoff with setbacks is that a house that is nonconforming with respect to one of its setbacks can, through Section 6 Finding (or Special Permit conducted as Section 6 Finding), be extended with a lower level of review than a conforming structure, which must pass the hardship test of a Variance in order to further encroach into a setback.

3) Lot Coverage

- Reducing the maximum lot coverage will reduce conformance of existing properties but also increase the amount of landscaped area on a newly constructed site. Like with setbacks, the challenge is that the bar for exceeding the maximum is lower for a nonconforming property than for a conforming property.

4) Lot Depth or Lot Size

- As of yet the ordinance does not set a minimum lot depth or overall minimum lot size. Adding either of these measures will reduce the ability for a “tiny house lot” to be created and reduce the number of potential lot splits. However, frontage is such a strong tool, and minimum lot size comparatively inconsequential, that adding either of these requirements is expected to have limited effect. Setting a required minimum lot size becomes more about setting a baseline price for a house in Newton. The possibility of a “tiny house lot” creates an opportunity for a lower price point, even though, economically, these are unlikely to be common.

This is particularly true in the Residence 1 district as the neighborhoods included in this district are currently seeing a small trend of homeowners purchasing neighboring homes to tear them down and expand their private yard area. There is a small number of instances where this occurs, but suffice it to say, the economics at play, is unlikely to lead to tiny houses across the R1 district.

5) Building Types

- The February adjustments did not include any changes to the list of allowed building types in the Residence 1 district. Should the Council wish to proceed in a similar direction as Minneapolis and consider reducing/eliminating single family zoning as a means of allowing more contextual affordable housing throughout the city, one way would be to consider adding the adjusted Two-Unit Building type by Special Permit (the exact same size as the House B) as an allowed building type in the R1 District. Already, the “Multi-Unit” conversion rule that exists under the current and the October draft ordinances allow for House A building types to be converted to multiple units if the project includes the preservation of a historic building.

An option that could slightly reduce the number of potential lot splits would be to remove the House C from the allowed building types. As with the “tiny house lot” idea, there are a variety of implications in removing the House C option. If the House C is removed from the list, it is far less likely that smaller homes would be created from a lot split. This reduces the

estimated maximum possible units by just 77 units (to an 8.4% increase in maximum number of units vs. 11% maximum number of units), but also means that relatively affordable homes in this district would be clearly discouraged by the ordinance.

6) Building Type Standards

- **Building Footprint**

- The February Adjustments package includes reductions in the by-right and special permit footprints for both the House B and the House C, and a reduction in the by right footprint for the House A. The House D is at this point not recommended for changes.

It should be noted that the Special Permit maximum footprint would not be something that the Special Permit Granting Authority would be allowed to exceed and that any project with a Special Permit request to increase the footprint would be funneled into a Design Review process. This second Special Permit range is intended to serve as the “Large House” Review that has been discussed on numerous occasions throughout the last several years. One idea that we have heard is the idea of removing or raising the special permit limit on the House A, with an understanding that any house larger than the by right limit would go through the “Large House” review special permit.

- **Building Components**

- The October draft includes a number of architectural building components that can be used to strengthen a home’s connection with the neighborhood street: front porches, extended front entries, and bay windows. Building components can also be used to allow more square footage beyond the allowed footprint, under a tight set of criteria. One idea that staff is considering in light of the smaller footprints shown in the February Adjustments is to incorporate a by right “Side or Rear Wing” component that allows a modest increase in living space under strict design criteria/review. For this idea to make sense it would need to be crafted to ensure it provides the flexibility homeowners need for adapting older homes without creating a loophole that results in speculative teardowns.