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Barney S. Heath
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MEMORANDUM

DATE: April 6, 2018

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

FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development
Nicole Freedman, Director of Transportation Planning
Rachel Blatt Nadkarni, Long Range Planner

RE: **#186-18 Zoning Amendment for Shared Parking Pilot Program**
DIRECTOR OF PLANNING requesting amendments to Chapter 30, Newton Zoning Ordinance, to allow for a Shared Parking Pilot Program as an accessory use in commercial districts.

MEETING DATE: April 9, 2018

CC: Ouida Young, City Solicitor
Jonah Temple, Assistant City Solicitor
John Lojek, Commissioner of ISD
Planning Board

This memo is to provide a short update on the Shared Parking Pilot. We expect the full program presentation to occur at the end of May. This memo includes a few updates and outline of what to expect in May.

I. Question from March 26: Where does the zoning state that shared parking isn't allowed?

In working with Inspectional Services Commissioner Lojek and the Law Department, we found that when reviewing regulations of parking in the Zoning Ordinance, shared parking of the short-term impermanent variety is not permitted by omission.

The use table for non-residential zones (§4.4), distinguishes three types of parking facilities:

- Accessory parking (parking for a use on that property) is allowed by right
- Non-accessory parking (parking for a use not on the property) requires a special permit
- Public parking is generally not allowed, except for Mixed-Use 3, Mixed-Use 4, and Limited Manufacturing Districts

The intent of the pilot is to allow flexibility for sharing accessory parking in off-peak times, which is **an additional use of accessory parking facilities, rather than a separate type of parking facility** (different parking spaces).

Section 5.1 covers the detail standards for parking facilities, and includes several subsections regarding shared parking within the same property:

- General regulations of parking facilities are listed in §5.1.3, paraphrased below:
 - May not reduce parking below the required minimum number of spaces (A)
 - Method of calculating required minimum number of spaces when enlarging a building or changing a use, and allowance for a Special Permit to waive that requirement (B, C, D)
 - Spaces must be maintained and available for those they were intended to serve (E)
 - Prohibit use of municipal parking lots to meet minimum parking requirement (F)
- Minimum accessory parking requirements are set in §5.1.4
 - Properties with a mix of uses are guided on calculating a reduced accessory parking requirement when shared parking between uses on the same property is expected (in §5.1.4(C) and (E))

Looking at Sections 4.4. and 5.1 in combination, **shared parking between uses on the same property is allowed** and there are clear guidelines for how that sharing relates to the accessory parking spaces, while there are no regulations recognizing the type of sharing described in this pilot. **Since this type of parking activity is not a recognized use, nor is it recognized in the regulation of activities for accessory parking, by omission it is not allowed.**

II. Early stage draft zoning amendment text

Section 5.1.3 of the current ordinance is an important section guiding the development of the pilot program, and reads as follows:

“All required parking facilities shall be provided and maintained so long as the use exists which the facilities were required to serve. Reasonable precautions shall be taken by the owner or operator of particular facilities to assure the availability of required facilities for the employees or other persons whom the facilities are designed to serve. Required parking stalls shall not be assigned to specific persons or tenants nor rented or leased so as to render them in effect unavailable to the persons whom the facilities are designed to serve.”

The understood intent of this section is to ensure that accessory parking spaces are available to the use that the parking spaces are accessory to. The pilot will work with this section and the intent is to allow flexibility in off-peak times, when and only when, sharing them would not “render [the spaces] in effect unavailable to the persons whom the facilities are designed to serve.”

The zoning ordinance amendment is structured within Article 6.7 Accessory Uses

Below are the early draft portions of the amendment. The definition, intent, evaluation, and expiration sections are drafted. The critical sections on standards and process are still a work in progress.

6.7.7 Accessory Shared-Parking

- A. Defined. Accessory Shared-Parking is the use of legally created accessory parking stalls authorized under the Accessory-Shared-Parking Pilot for shared use in off-peak times. Accessory Shared-Parking is an allowed accessory use only when the owner or operator of the parking stalls has been approved as a participant in the Pilot and the stalls so identified and approved are utilized in strict accordance with the requirements, terms and conditions of the Pilot to be issued by the Director of Planning and Development.
- B. Accessory Shared-Parking Pilot. The Accessory-Shared-Parking Pilot is intended to optimize existing parking resources in village centers and reduce congestion created by customers moving their cars from lot to lot by allowing shared private parking in select commercial areas.
- C. Standards (In Process)
- D. Process (In Process)
- E. Applicability. The provisions of this Sec. 6.7.7 are not intended to conflict or be inconsistent with any other provisions of this Chapter. All applicable provisions of this Chapter shall still apply to participants in the Pilot.
- F. Reevaluation. The Director of Planning shall conduct an annual reevaluation of the Pilot and its guidelines. Such reevaluation shall include a report provided to the City Council reviewing participation activity, rates, and statistics.
- G. Expiration. This provision shall expire three (3) years from the date of adoption on XXX XX, 2021.

III. Outline for May Discussion

- Pilot Program Description, Rules, and Regulations
- Full Draft Zoning Amendment
- Two draft maps of Pilot areas – options for discussion
- Answers to questions from March 26