

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY MAY 14, 2012

Present: Ald. Johnson (Chairman), Danberg, Yates, Lennon, Baker, Kalis, Sangiolo, Swiston

Also present: Ald. Albright, Hess-Mahan, Fuller

Economic Development Commission: Christopher Steele

City Staff: Candace Havens (Director of Planning and Development), Seth Zeren (Chief Zoning Code Official), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), Rebecca Smith (Committee Clerk)

#391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN
requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

ACTION: **HELD 8-0**

NOTE: The evening was dedicated to the topic of parking. Candace Havens, Director of Planning and Development, gave a Powerpoint presentation on the general topic before the discussion was brought down to specifics. Ms. Havens then continued with a Powerpoint for item #391-09, which pertains to payments-in-lieu of required parking spaces. For the details of this presentation please see the attached document. The questions that arose from the Powerpoint portion of the discussion were the following:

Ald. Baker posed the question of where the money should be deposited once collected; whether it would go to a general fund or a separate fund used only for parking. He also asked the committee to think about whether this is an appropriate policy choice in general.

Ald. Danberg floated the idea that had been discussed at a different point in time which is to have businesses be charged a total sum up front (which could be paid on a yearly basis) so that the business can have x number of spaces for however much it costs per meter.

Ald. Albright asked Ms. Havens whether this proposal means that waivers won't be granted in any scenario. Ms. Havens explained that waivers would still be allowed in some cases, but part of this parking proposal would include reducing the parking requirements for shared uses. She noted that the parking requirements in Newton Centre are extraordinarily high based on our zoning regulations in contrast to the actual use. Shifting from the existing parking requirements to the shared parking reduction would reduce the number of waivers and would reduce the amount of money collected, but it's a fairer method.

Ald. Yates asked whether the practice of having parking credits is gone. When Ms. Havens assured him that it is not, Ald. Yates shared his point of view that, since parking credits were originally put into place when parking wasn't an issue, the city should implement an increase of parking credits. He also explained that there should be two different assessments, one for a free standing business, and one for a business that is a part of a village center; there is a real distinction between the parking implications between the two styles of business. Ald. Yates used the differences in parking impacts between the Panera in Newton Centre and the Panera on Highland Ave in Needham (freestanding). The freestanding business in Needham creates numerous parking issues whereas the Panera in Newton seems to have a minimal effect on the parking in the Newton Centre area. Ald. Yates also shared that we should take a look into allowing institutional parking areas to lease out spaces, perhaps even houses of worship whose parking areas often go unused most of the week.

Ald. Lennon shared that the city should reevaluate the way that it looks at parking credits to allow uses that function primarily at night to use on street spaces and municipal parking lots as parking credits.

Ald. Baker posed the question of what, in the modern era, is a reasonable parking requirement; and, if the city is going to allow waivers for cause, what should the cause be and how much of a waiver should be allowed for said cause. He also asked if a business cannot meet the parking requirements, whether they should contribute solely to a parking fund that goes towards providing parking close to the business. He requests that the department examine this.

Ald. Danberg agreed that a separate fund is more appropriate. She also mentioned that the idea of turning down a use that can't provide parking is an issue that needs to be talked about. The uses that don't need parking are banks and financial institutions, which the city has far too many of. The active uses, the ones the city wants, are the ones that our regulations are so tough on; this practice needs to be reevaluated. Ald. Danberg also shared her frustration over the fact that the overflow of parking from the village centers ends up clogging residential streets.

Ald. Johnson would like EDC and Chamber of Commerce to weigh in on this issue before the committee moves forward with anything. Candace and Ald. Danberg will work to get feedback from these groups. Ald. Johnson also requested that the Planning Department look into other communities that implemented a payment-in-lieu system and provide the committee with their ordinances.

Ald. Sangiolo requested that the committee be provided with an outline of the big picture of future parking reform as this area is just a piece of the problem.

Ald. Danberg moved hold which carried unanimously.

#152-10 ALD. BAKER, FULLER, SCHNIFFER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]

ACTION: **HELD 8-0**

NOTE: Ms. Havens directed the committee to the recommended language on the back of the #150-10 memo. She explained that this item is a follow up from the Boston College v. Board of Aldermen court case where the court requested that the city create more reasonable parking regulations for colleges and universities. The language before you is a proposal that combines a specific regulation with the option for a university to obtain a special permit if they would like to have something more lenient. Since writing this language Ms. Havens has been in touch with Lasell and BC. Representatives from the schools were not able to attend this meeting but Ms. Havens believes their input is important for this conversation and requested that the item be held until representatives are available.

The committee agreed that this is the proper procedure and expressed interest in hearing from the schools, including Mt. Ida, to create a reasonable solution to the parking issues that have arisen.

Ald. Swiston moved hold on the item and the motion carried unanimously.

#207-09(2) ALD. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants. [07/07/09 @ 12:42 PM]

ACTION: **NO ACTION NECESSARY 8-0**

NOTE: Ms. Havens explained that to grant seating on the sidewalk involves a lot of different department that have not been weighing in with the approvals up to this point. To remedy the issue of sidewalk cafés an Economic Development Cluster has been created, consisting of the department heads from Health and Human Services, Inspectional Services, and Planning. In addition to those members, Bob Rooney is also involved as the Executive Department's representative. This cluster has been working on a café ordinance that would address all the different issues that would need to be taken on in order to make this happen. Such issues include: accessibility, parking, egress, enforcement of ordinance, and liquor (alcohol isn't allowed on public property, but a policy needs to be decided in the event that the restaurant already has a liquor license.). There is also the issue pertaining to the ownership of sidewalks, particularly what the policy should be when ½ the sidewalk is privately owned. Ms. Havens shared with the committee that the goal is to have something implemented by next spring, so by this fall the Planning Department intends to come forward with a proposal. Ms. Havens asks that this current item be voted No Action Necessary so that the new comprehensive item can be docketed.

Ald. Danberg and the rest of the committee supported this plan as outlined and Ald. Danberg moved No Action Necessary for items 207-09(2) and 411-09.

Ald. Sangiolo stated that it would be great to have an aldermanic representative on the cluster. It was decided that Ald. Danberg would be that member.

The motion to NAN these items carried unanimously.

#411-09 ALD. DANBERG, MANSFIELD, PARKER requesting that §30-19(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that

indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.

ACTION: **NO ACTION NECESSARY 8-0**

NOTE: See note for item #207-09(2)

Respectfully Submitted,

Marcia Johnson, Chairman

Department of Planning and Development



Parking in Newton

Prepared for

BOARD OF ALDERMEN

Zoning and Planning

Committee

May 14, 2012

Parking In Newton

- Buildings constructed before cars
 - Buildings close together
 - Great pedestrian experience
 - Mixed uses
- Cars multiplied and streets filled
- Parking meters added to aid turnover
- Zoning later required on-site parking
 - Driveways separate buildings
 - Site development restricted



The Garden City today

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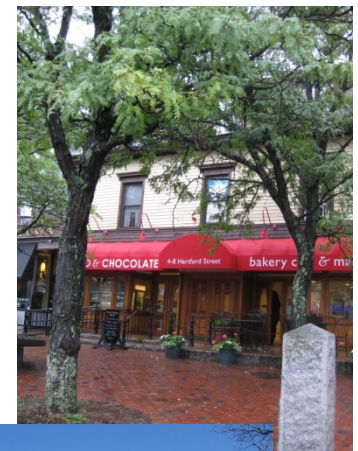


- **Suburban**

- 2 cars or more per household
- Many home sizes and styles, esp. SFRs
- Driveways, garages, on-site parking

- **Village Centers**

- Public transportation
- Mixed uses
- Amenities within walking distance
- Greater density
- Surface parking lots
- Meters on streets



But it's not perfect... yet

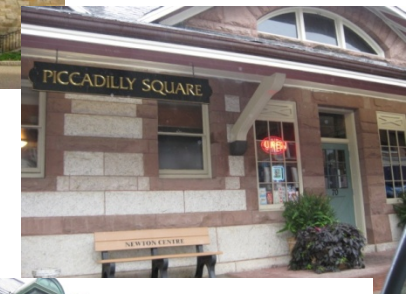
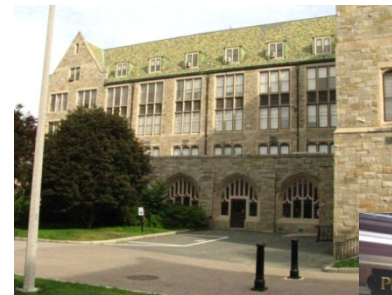
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- **Traffic, Congestion and Pollution**

- More cars per family
- Regional draw
- Inadequate or poorly utilized parking

- **Conflicts among drivers**

- Business owners and employees
- Commuters
- Institutions
- Residents



Finding Balance

5



- Urban and suburban lifestyles are both part of the fabric of Newton
- The car is a fact for the foreseeable future
- Can we live happily ever after?



What is the Vision?

6

- **Comprehensive Plan**

- Maintain villages as viable economic/community centers
- Protect character and safety of residential neighborhoods
- Support commuters who reduce traffic and congestion
- Make it safe and easy for kids to get to school
- Ensures good relations among residents, businesses, and visitors to Newton
- Create community consciousness about health, public safety and environmental benefits of reduced auto use

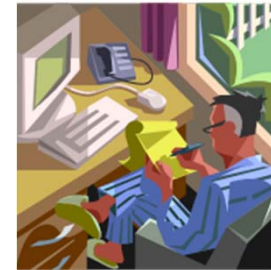


Strategies

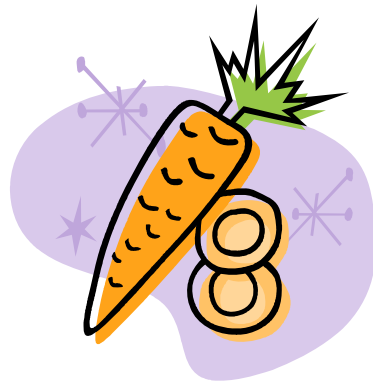
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- Art and Science



- Carrots and Sticks

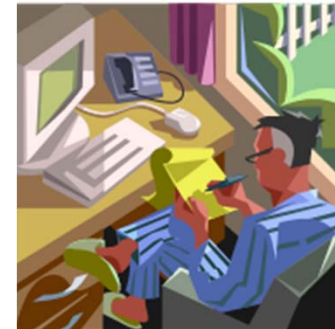


Science

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- Gather information

- Number and location of spaces
- Parking rates and restrictions
- Utilization
- Turnover
- Modal splits
- Origins and destinations



- Understand the problem you're trying to solve

- Base decisions on facts

- Perceptions can be misleading

Art

9

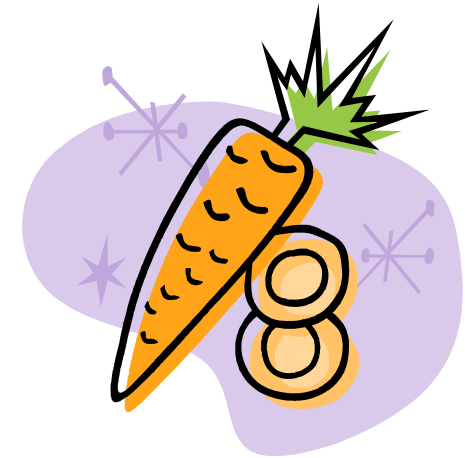
- Create a parking management plan
 - Engage the Community
 - Always ask, “Why?”
 - Quantifiable goals to maximize use of existing parking
 - Encourage alternatives
 - Establish policies that treat similar situations similarly
 - Identify future improvements, if needed
 - Include implementation tools
 - Market it!



Carrots

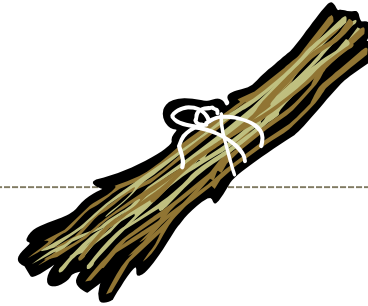
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- **Set rates to encourage desired behaviors**
 - Long-term, cheaper rates, farther from destination
 - Short-term, more expensive, closest to destination
- **Transportation management to reduce demand (TDM)**
 - MBTA Passes
 - Bike lanes, bike racks, bikes, equipment
 - Showers, changing areas
 - Shuttles
 - Guaranteed rides home
 - Carpool/vanpool matching and/or priority parking
 - Bus shelters
 - Hire local
 - Join TMA



Sticks

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- Make laws that enforce desired behaviors
 - Adjust rates of citations and meters to encourage turnover
- Make them easy to enforce
 - Enforcement staff is a limited resource, too
- Actively enforce them
 - Lack of enforcement = scofflaws
- Update policies, laws and practices
 - Are they consistent with our goals, policies, and interests?

What have we done recently?

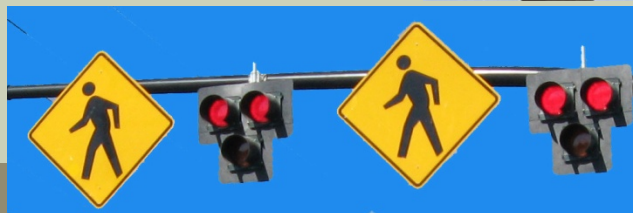
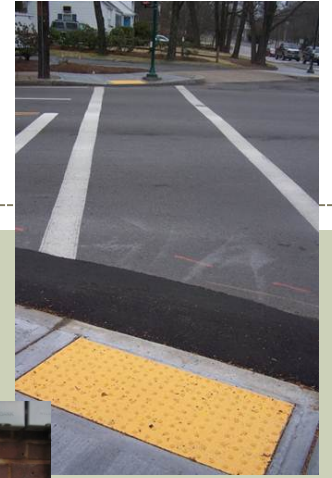
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- **Fine-Tuned Administration**
 - Traffic Council authority changed
 - Transportation Team created
 - Transportation Advisory Committee to create policies
 - Transportation Advisory Group (TAG Team) to implement policies

What have we done recently?

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- Promoted alternatives to reduce demand for parking *and* sustainability
 - Bike lanes on Beacon Street
 - Bike lanes for Centre and Walnut Streets in review
 - 109 new bike racks = 571 bike parking spaces
 - Held 2 bike training workshops
 - Received 2 bikes for City employees and instituted training
 - 2 Zipcars in Newton Centre
 - 2 electric car-charging stations
 - Snow-clearing ordinance
 - Accessible curb cuts
 - Pedestrian signals



What's on the horizon?



What's on the horizon?

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- Parking plan for Newtonville
 - Rationalize restrictions
 - Optional override for residents
 - Create fairness and predictability
 - Offer guidance to Traffic Council for future requests

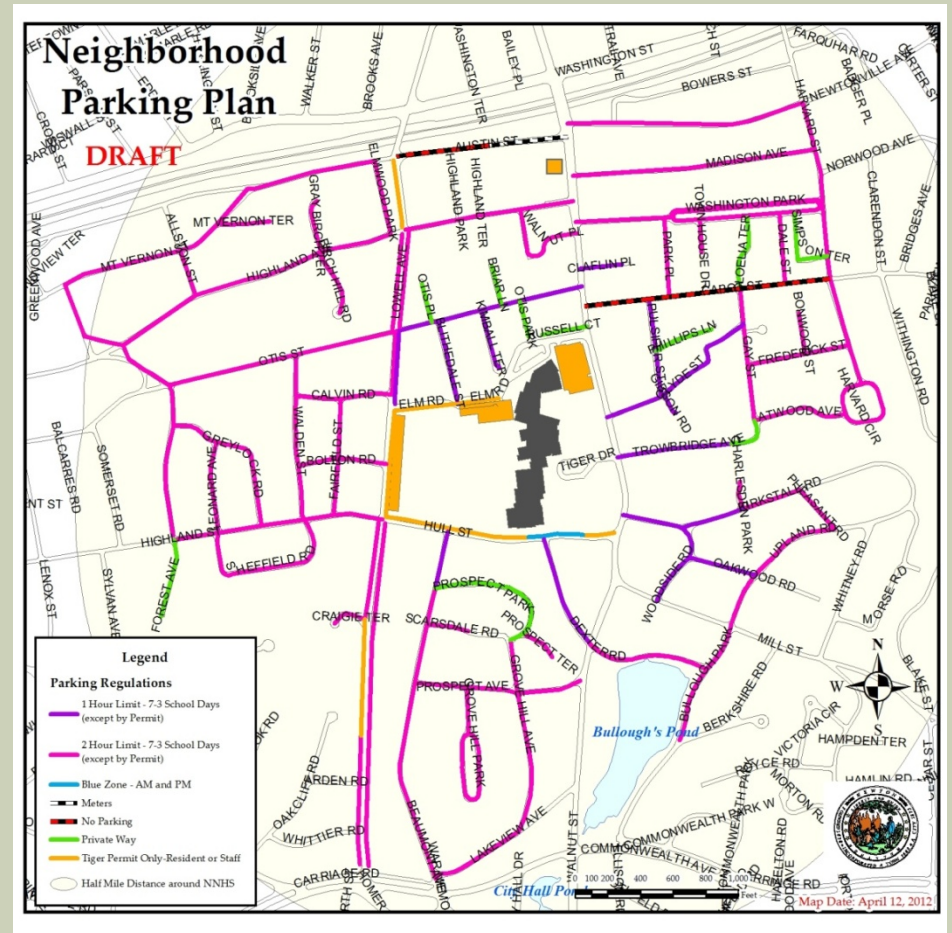
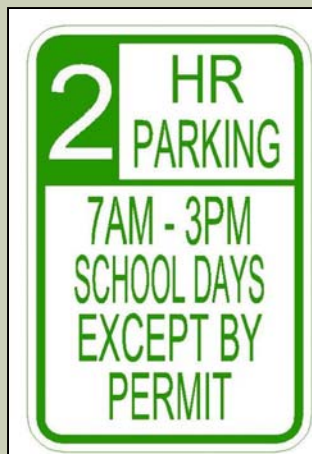
1-Hour Limit
Except Permit

2-Hour Limit
Except Permit

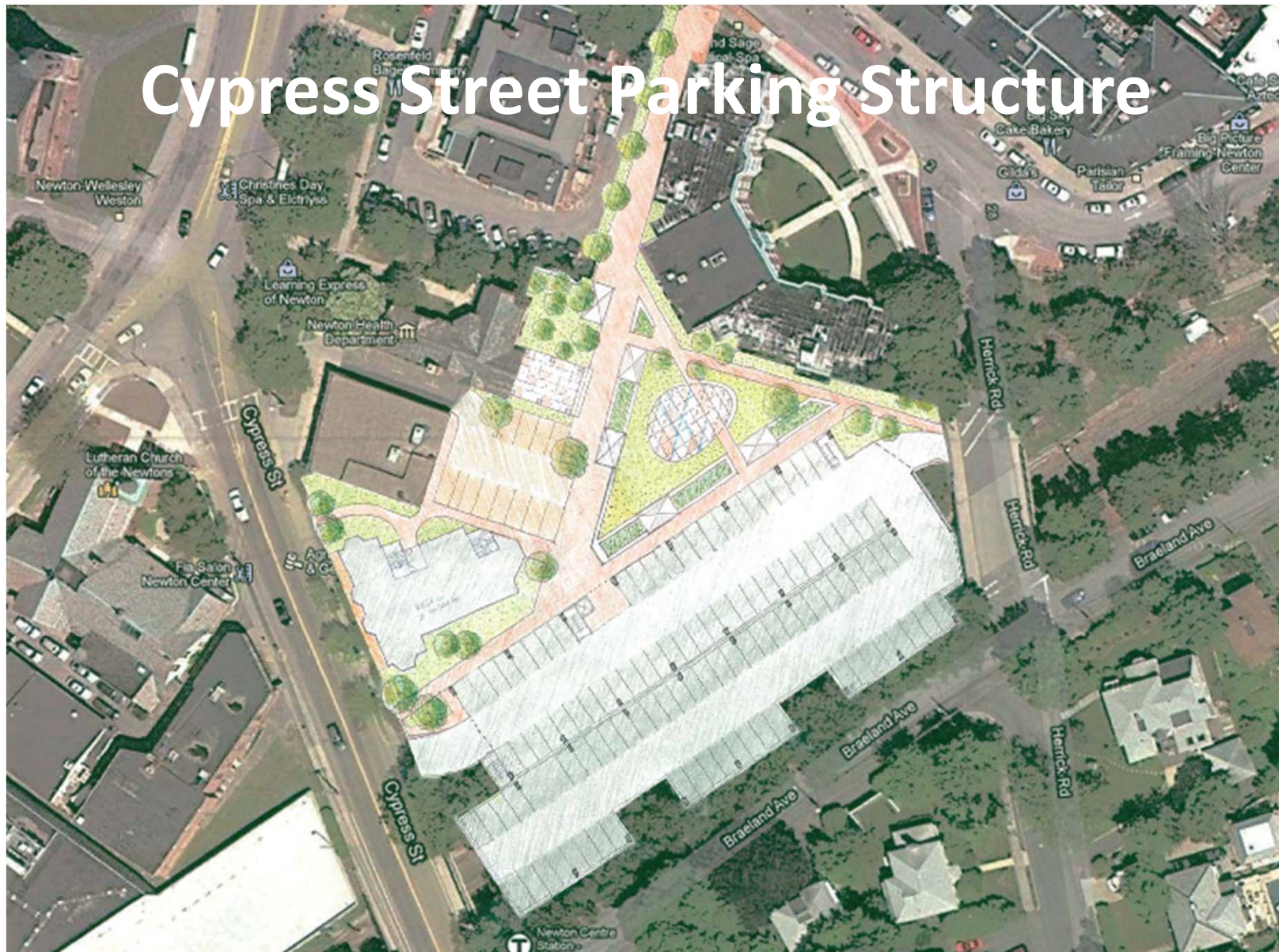
TIGER Permit

Blue Zone

Private Way



Cypress Street Parking Structure



What's on the horizon?

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- Zoning Reform
 - Phase 1 – Reorganization of contents
 - Phase 2 – Substantive evaluation
 - ✦ Do the parking regulations promote the vision?
 - ✦ Does requiring on-site parking for businesses do that?
 - ✦ Are the standards realistic to current conditions?
 - ✦ Should they be reduced in shared-parking situations?
 - ✦ Are there other ways to encourage shared parking that we might want to include?

What else can we do to realize the vision?

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- **Adopt a Parking Management Plan**
 - Comprehensive and policy-driven
 - Action Plan with goals, strategies, and timelines
 - Complements Transportation and Mobility Element
 - Promote safe, economically viable village centers
- **Continue to fine-tune administration**
 - Bring together parking functions in one department
 - Parking Manager to oversee
 - Add more tools to the tool kit



Pieces of the Puzzle

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- Parking in-lieu fees
- Parking for colleges
- Sidewalk Café standards
- Holiday Parking Promotional
- Parking Benefit Districts

Current Parking Proposals

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#391-09: Ald. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting the establishment of a municipal parking mitigation fund whose proceeds, derived from payments-in-lieu of providing off-street parking spaces associated with special permits, will be used solely for expenses related to adding to the supply of municipal parking spaces, improving existing municipal parking spaces, or reducing the demand for parking spaces.

#152-10: Ald. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to Section 30-19 of the City of Newton ordinances to clarify parking requirements applicable to colleges and universities.

#207-09(2): Ald. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants.

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Department of Planning and Development

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#391-09: Ald. Danberg, Mansfield, Vance And Hess-Mahan requesting an amendment to Section 30-19 to allow payments in lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

Payments In Lieu of Parking

Newton's Current Parking Regulations

Payments in Lieu

Options for Consideration

Related Parking Items

Newton's Current Parking Regulations

- On-site parking required for every use
 - Metered, street parking not included

What if no land is available?

- No expansion that increases parking demand
- By special permit
 - Off-site parking
 - Parking waivers

Payments in Lieu of Parking

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- “In-lieu-fees” or “payments in lieu of parking”
 - Per space fee
 - No parking provided on-site
 - Revenue for parking or to reduce demand

Pros and Cons

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Pros

- Creates equity and consistency
 - Predictability for developers
 - Fairness for other property owners who comply
- Encourages shared/public parking in structures
 - More efficient use of land
- Better Urban Design
 - Fewer driveways
 - Encourages infill
- Allows business where otherwise impossible
- Allows business to open sooner if by right
 - More tax revenues
 - More business revenues
- Waivers now given without funds or new parking
 - Doesn't address long-term need
- May cost less than special permit w/atty's fees
- Revenue to create parking or reduce demand

Cons

- Lack of on-site owner-controlled parking
- Uncertainty about when/where public parking will be provided
- Fear of high fees
- Fear of less parking

Year	Address	Use	Stalls Waived
2006	33-55 Boylston St.	bioretention facility	3
	200 Wells Ave.	dance studio & math school	12
	1165 Chestnut St.	earth station/satellite antennas	1
2007	225 Boylston St	annual rug sale (2 weeks)	90 (temporary)
	349 Dedham St.	Chabad	61
	109 Oak St.	office building	35
	18 Station Ave.	dental office	3
	218 Newtonville Ave.	three-family dwelling	1
2008	149A California St.	adult day care	16
	342 Eliot St	restaurant	6
2009	35 Morseland St.	temple	137
	118 Needham St.	restaurant	10
	1239-43 Centre St.	restaurant	23
	1-27 & 304-06		126
	39 Herr		8
	2345 C		(never built) 53
2010	751-75		no other SP)
	796 Be		no other SP)
	225 Bo		11
	200-23		up to) 467
	1012-1		1
	481 Ha		1
	1347 W		3
	286 Waverly St.	Durrant Kenrick Museum	20
	70 Union St.	proposed diner	18 (no other SP)
	152 Adams St.	mixed-use development	1
675 Washington St.	retail expansion	1	
175 Allerton Rd.	three family	1	
1479 Washington St.	funeral home	38	
2011	429 Cherry St.	NCSC conversion to office	19 (no other SP)
	1-33, 33-55 Boylson St.	Chestnut Hill Shopping Center	590 (in the alternate)
	53-57 Union St.	St. Petersburg Café	8
	149A California St.	adult day care	6 (no other SP)
	111 Elm St.	mixed-use building	9
	543 Commonwealth Ave.	restaurant	9 (no other SP)
	1648 Beacon St.	restaurant	9 (no other SP)

• **Over 1,000 parking stalls waived between 2003 and 2011**

• **At least 100 stalls waived where no other special permit required**

Things to Consider – The real cost of parking

TYPE OF PARKING	COST PER SPACE
SURFACE LOT AT-GRADE	\$3,000-\$5,000
1 level above grade	\$20,000-\$30,000
2 levels above grade	\$20,000-\$30,000
3 levels above grade	\$20,000-\$30,000
AVERAGE ABOVE GRADE	\$25,000
1 level below grade	\$30,000
2 levels below grade	\$40,000
3 levels below grade	\$50,000-\$75,000
AVERAGE BELOW GRADE	Increases with depth

Things to Consider – At what rate?

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Market Rate

- Larger revenues
- Revenues better able to pay for new parking facilities/mitigation
- May be viewed as too expensive by prospective businesses or developers

Discounted

- Easier for businesses, nonprofits, and institutions to pay
- Revenues may not be able to pay for new parking facilities

Payments In Lieu of Parking

Newton's Current Parking
Regulations

Payments in Lieu

Options for Consideration

Related Parking Items

Examples of In-Lieu Fees

City	In-Lieu Fee
Walnut Creek, CA	\$30,900
Chapel Hill, NC	\$7,200
Carmel, CA	\$54,000
Ashburnham, MA	Market rate
Delray Beach, FL	\$4,000 - \$18,200
Orlando, FL	\$9,883
Mountain View, CA	\$13,000
Miami, FL	\$5,000 - \$12,000
Ottawa, Ontario	\$10,043

Journal of Planning Education and Research @ 1999 Association of
Collegiate Schools of Planning, Donald Shoup.

Lessons Learned

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- **Set price not too high, not too low**
 - Close to actual cost
- **Set baseline for supply and demand**
 - Inventory private and public parking
 - Recordkeeping is important
- **Automatic adjustment for inflation**
- **No assigned spaces**
 - Must exist to purchase
 - Standard size parking space

Things to Consider – Payment Structure

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Lump Sum Payment

- Potential to quickly raise large amount of revenue
- Larger burden on new businesses
- Hard to budget projects for fluctuating income

Annual Payment

- Reliable ongoing cash stream
- Lower burden for new businesses
- Can discontinue before fully paid if use requiring waiver goes away
- Smaller initial revenue

Things to Consider – Payment Structure

# of Spaces	\$/Space	Lump Sum	# of years	Annual Fee
1	\$10,000.00	\$10,000.00	20	\$ 500.00
2		\$20,000.00		\$ 1,000.00
3		\$30,000.00		\$ 1,500.00
4		\$40,000.00		\$ 2,000.00
5		\$50,000.00		\$ 2,500.00
10		\$100,000.00		\$ 5,000.00
50		\$500,000.00		\$ 25,000.00
100		\$1,000,000.00		\$ 50,000.00

Things to Consider – Review process

32

- **Planning staff**
 - Administrative review + parking study > LUC if concerns
 - Administrative review > LUC over threshold
- **Traffic Council**
 - Handles other parking matters
- **Zoning Board of Appeals**
 - Hears appeals for other planning issues
- **Board of Aldermen**
 - Land Use Committee

Things to Consider

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Administrative

- Faster
- More predictable
- Decreases professional costs
- Fewer staff resources
- Criteria needed
 - availability of parking
 - Limit on administrative purview?
- Public review

Special Permit

- Public hearing
- Board action required
- No change in timing, predictability, or cost of process
- If SP and in-lieu fees are required, cost will be greater yet

Things to Consider - Exceptions

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Waive fee

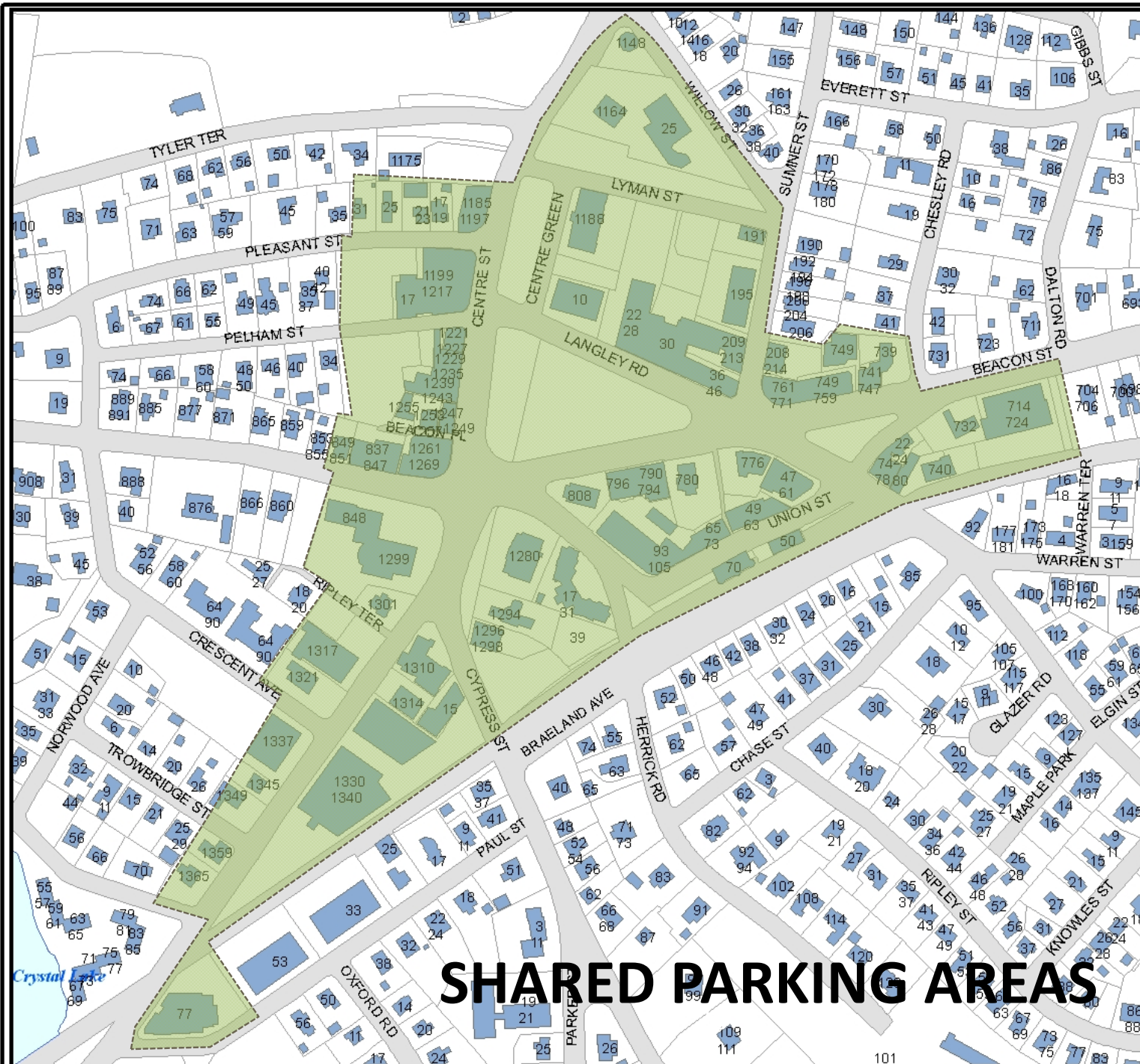
- Allows relief for exceptional circumstances
- Some tenants/property owners pay disproportionately - not fair
- Less revenue for public purposes

No waiver

- All tenants/property owners treated equally
- No lost revenue
- Some new/small businesses may not be able to afford fees

Base Map

City of Newton,
Massachusetts

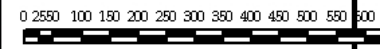


Legend



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



MAP DATE - March 28 2011

SHARED PARKING AREAS

Things to Consider – Parking Requirement

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Existing Requirement

- ITE standards – too high
- Doesn't account for other modes

Shared-parking reduction

- More realistic
- Considers alternative modes
- Will reduce # of waivers and \$\$
- Many ways to figure

Things to Consider – Parking Requirement

37

- NCTF example 50/50 retail and restaurant of 50,000 sq. ft.
 - Actual conditions = 1 space/866 square feet = 58
 - Mixed-use formula = 180-200 spaces
 - Newton Zoning Regs = 400
 - Zoning Regs reduced by Journey-to-Work figures (x .7) = 280

Recommend minimum 25% reduction in shared-use areas

Things to Consider – Use of fees

38

- **New or improved parking facilities**
- **Better Parking Management**
 - New parking meters that use demand pricing to ensure availability
 - Consolidate operations
 - Signs to direct motorists to parking facilities
- **Reduce Demand**
 - Improvements to pedestrian and bicycle infrastructure
 - Improvements to public transit service and stations
 - Other TDMs

Things to Consider – More tools

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- Allow packaging of measures that address demand
 - On-site parking
 - Off-site parking
 - TDM Measures
 - Shared-car or bike parking
 - Bike spaces in place of % of car spaces
 - In-lieu fees







Setti D. Warren
Mayor

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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: May 11, 2012

TO: Alderman Marcia Johnson, Chair of Zoning and Planning Committee
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development 

SUBJECT: **#152-10:** Ald. Baker, Fuller, Schnipper, Shapiro, Fischman, Yates and Danberg recommending discussion of possible amendments to Section 30-19 of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities.

MEETING: May 14, 2012

CC: Board of Aldermen
Bob Rooney, COO
Donnalyn Kahn, City Solicitor

BACKGROUND

In a 2003 Appeals Court of Massachusetts case, *Trustees of Boston College vs. Board of Aldermen of Newton*, the Court ruled that the application of the parking regulations in Newton's Zoning Ordinance as written results in an overcounting of parking spaces required by colleges and universities because some uses, such as classrooms, dorm rooms and cafeterias would be separately included in parking calculations when, in fact, an individual student or staff member could only be in one place at a time. The Court expressed support for the provision of Section 30-19(13) of the Newton Code that allows discounts for restaurants, theatres, etc. in conjunction with a hotel, but noted that this provision is not written so as to apply to college campuses, though it exhibits similar multi-use characteristics. Ultimately, the application of Section 30-19 to the Boston College Middle Campus Project was overturned and the Court recommended that the City's zoning regulations be amended to arrive at a more reasonable parking regulation for colleges and universities consistent with the Court decision and MGL Chapter 40A Section 3, the so-called "Dover Amendment."

ANALYSIS

Contemporary parking assessments for mixed use offer a sophisticated, usually computerized analysis that factors combinations of uses into the parking calculation. In recent years, Boston College has prepared such analyses to show how the combination of activities, location of uses, variety of transportation alternatives, and student parking policies and pricing, all play a part in how parking supply and demand are balanced on-campus. Their efforts to successfully manage parking have been largely due to this thoughtful and detailed analysis, which takes into consideration a variety of influences, and which may vary widely from campus to campus. In other words, there is no “one size fits all” for campus parking.

Staff’s research into college and university campus parking standards produced no definitive solutions. Zoning regulations and parking literature favor the shared-use approach to balancing supply and demand. Yet, while contemporary mixed-use parking assessments are likely to provide the truest calculation of the needed supply and demand, it is uncertain as to whether such a parking requirement for college campuses will, in fact, satisfy the Court’s direction to create a reasonable regulation in the City of Newton. The Court specifically pointed out that our zoning regulations include no single category applicable generally to the multiple activities that typically occur on college campuses and referenced Section 30-19(d), which provides for reductions that are allowed for hotels as a possible approach. Specifically, Section 30-19(d)(13) allows for a ½ reduction in parking for food service associated with hotels, and ¼ reduction when associated with places of assembly. The zoning regulations also allow for a 1/3 reduction by special permit for a mix of uses when in a single integrated development per Section 30-19(d)(18).

RECOMMENDATION

To respond to the Court’s direction that appropriate standards be created, but also allows for more fine-grained analyses, staff recommends amending the zoning regulations by adding a new Section 30-19(21) that specifically references college and university parking and allows for a 1/3 reduction in parking based on the fact that no student, staff, or faculty member can frequent a cafeteria, classroom, assembly hall, or dormitory at the same time, but that also allows for a case to be made for a further reduction based on a professional parking analysis.

Recommended language for new Section 30-19(21):

(21)In the case of a college or university campus, where food service, living quarters, places of assembly, and other related uses are provided, the parking requirement for the campus shall be 1/3 of the combined total number of parking spaces required for the individual uses as provided in Section 30-19; a further reduction may be allowed by special permit if a professional shared-parking study demonstrates that fewer spaces can effectively meet the parking demand.



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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: May 11, 2012

TO: Alderman Marcia Johnson, Chair of Zoning and Planning Committee
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development 

SUBJECT: **#391-09;** Ald. Danberg, Mansfield, Vance and Hess-Mahan requesting an amendment to Section 30-19 to allow payments in lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

MEETING DATE: May 14, 2012

CC: Board of Aldermen
Bob Rooney, COO
Donnalyn Kahn, City Solicitor

EXECUTIVE SUMMARY

The Zoning Regulations for the City of Newton require that property owners provide parking on-site, based on the type of land use, square footage, and sometimes the number of employees proposed; however, most of the City's buildings were constructed prior to parking requirements, and land for providing spaces is scarce. In order to expand, remodel, or change uses and comply with our regulations, property owners may request waivers for all or some of their required spaces. Between 2003 and 2011, over 1,000 parking stalls were permanently waived through special permits approved by the Board of Aldermen. Parking spaces were not provided elsewhere, though in most instances, property owners offered other amenities that may or may not have offset the reduction of on-site parking, such as providing bike racks or pedestrian signals.

While such mitigations are useful infrastructure improvements, the current ad hoc system of assigning them contributes to a sense of unpredictability and unfairness. They also fail to

provide a comprehensive, long-term solution to parking and transportation needs of the City. Establishment of a simpler and more equitable process could result in reduced development costs, allow for businesses to start operations months earlier and thus, generate income sooner, and also create a source of funding that could help pay for needed parking and/or transportation improvements. There has been a growing interest in shared parking, as well as in reducing parking demand for environmental and traffic/circulation benefits, as well as to promote economic development. The adoption of parking in-lieu fees could facilitate these goals.

This discussion begins with the premise that a value per parking space would be established, and through an agreed-upon process, an applicant could obtain a waiver *and* contribute financially to a City fund that could then be used for parking and transportation-related purposes, such as providing shared/public parking, subsidizing transit, and/or encouraging alternative modes of transportation. Payment of a fee in lieu of providing parking would be one of several possible options that petitioners could consider to satisfy their parking requirements. Also considered in this analysis is the notion that our existing parking requirements are somewhat high. Like many cities throughout the country, the City's parking regulations were likely based on Institute of Traffic Engineers (ITE) studies that failed to take into account the reductions in demand that occur in areas where people can walk from place to place, which reduces the need for a parking space per customer for each destination.

ANALYSIS

Reasonableness of Parking Requirement

Two noteworthy issues have arisen in our discussions of in-lieu fees. First, is the fact that our parking standards tend to require more spaces than needed for most uses (*Attachment A*). This is due, in part, to the fact that we have many public transportation options available throughout the community, an asset that many cities lack. It is also likely that these standards were originally based on generic ITE standards, which were derived from limited studies of uses in isolation and without the benefit of alternative means of travel (thus, resulting in a higher number of drivers). Secondly, since our public parking tends to be in village centers where people park their cars and walk to more than one shop it is unnecessary for each store to provide a space for each patron. This poses the question as to whether the Board may want to revise Newton's parking regulations near transit stops, and/or wherever a variety of travel options are available and are well-used, or in shared-used areas in general. Lowering the requirement will also lower the amount of the in-lieu fee, generally.

Real cost of parking

Another key issue relates to cost. Current data on the cost of providing parking is within the following ranges:

Table 1. Parking facilities costs

TYPE OF PARKING	COST PER SPACE
SURFACE LOT AT GRADE	\$3,000-\$5,000
1 level above grade	\$20,000 - \$30,000
2 levels above grade	\$20,000 - \$30,000
3 levels above grade	\$20,000 - \$30,000
AVERAGE ABOVE GRADE	\$25,000
1 level below grade	\$30,000
2 levels below grade	\$40,000
3 levels below grade	\$50,000 - \$75,000
AVERAGE BELOW GRADE	Increases with depth

Do we want to charge market rate? Staff research concludes that most cities set their fees in one of two ways: 1) Calculate the fee per space on a case-by-case basis for each project or 2) set a uniform fee per space for all projects. Most tend to set rates slightly below market rate so as not to deter development. If Newton’s parking requirement already is too high, market rate parking will be unaffordable for many and may scare away potential businesses; however, if the in-lieu fee is too easy to achieve, people will opt to pay and not provide spaces which, over time, could result in too few parking spaces and insufficient revenues to satisfy the new demand. While market rate fees may seem high, the *actual* cost of providing parking on-site may be more costly than the fee, or impossible due to lack of available land. The ability of a business to satisfy a parking requirement this way is a benefit to both the land owner and the City, provided funds are sufficient to create new spaces as demand warrants.

How should it be paid? Offering options regarding timing of payments also can affect how palatable the options are. Lump sum and annual payments each have their benefits. Up-front payment offers a larger amount of money at once, which, if substantial, could enable the City to make transportation improvements sooner; however, annual payments provide cash flow that provides an ongoing revenue stream for planning future improvements. It is possible to consider both options to give business and property owners greater flexibility in financing projects. Some examples of how the timing and cost of space may vary are shown in Tables 2 and 3:

Table 2. Payment by lump sum versus annual fee

# of spaces	\$/space	lump sum	# of years	Total annual fee
1	\$15,000	\$15,000.00	10	\$1,500.00
2		\$30,000.00		\$3,000.00
3		\$45,000.00		\$4,500.00
4		\$60,000.00		\$6,000.00
5		\$75,000.00		\$7,500.00
10		\$150,000.00		\$15,000.00
50		\$750,000.00		\$75,000.00
100		\$1,500,000.00		\$150,000.00

Table 3. Payment by lump sum versus annual fee

# of spaces	\$/space	lump sum	# of years	Total annual fee
1	\$10,000	\$10,000.00	20	\$500.00
2		\$20,000.00		\$1,000.00
3		\$30,000.00		\$1,500.00
4		\$40,000.00		\$2,000.00
5		\$50,000.00		\$2,500.00
10		\$100,000.00		\$5,000.00
50		\$500,000.00		\$25,000.00
100		\$1,000,000.00		\$50,000.00

Who should be eligible?

This program could be applied to both commercial and residential properties, although very few requests for reducing residential parking are received annually. More typically, residential requests are for dimensional exceptions or increases in the number of parking spaces. Thus, initially, staff recommends it for commercial areas only.

On what basis should the parking calculations be adjusted?

The parking analysis prepared for Newton Centre shows variation in parking calculations based on different methodologies. The City’s parking requirement for the existing uses was six times higher than the actual demand for parking. A sophisticated parking model recommends about half the parking required by our current regulations (*Attachment A*). Thus, a 25-30% reduction for such a shared-parking area is a conservative one. However, will this be representative of other village centers or other mixed-use sites? It is difficult to say how much proximity to a transit center with frequent headways influences this reduction. However, all of our village centers have a mix of complementary uses and we know that this inspires “shared” parking, i.e., people park once and visit more than one place of business, or where businesses have different hours of operation and the same spaces can be used at different times of day to serve more than one business. It may be necessary to perform additional studies in village centers that don’t have the benefit of a “T” stop or frequent bus service to confirm this figure is fitting. However, based on previous studies in Newton Centre, a 25-30% reduction in the requirement would allow for a good balance of parking, with some additional parking spaces still available.

Should there be a cap on the in-lieu fees?

If the parking requirement is appropriate and the fee is adequate to create more parking as needed, a cap should not be needed; again, keeping in mind that payment of a fee instead of providing parking may 1) free up private land for a higher and better use, and/or 2) allow expansion where it would not otherwise be permitted. Both outcomes result in income generation for businesses and property owners, tax revenues for the City, and increased vitality in these areas. Increased tax revenues and in-lieu fees provide the means to address transportation needs.

Can/should in-lieu fees apply to Dover-protected institutions?

If they are considered reasonable standards, fees may provide a means to obtain some appropriate compensatory contribution from institutions that affect the community parking supply; however, the Law Department has indicated that this may not be upheld and is not being considered as part of this proposal at this time.

Should there be an appeal process to lower the fee for hardships? Staff has noted some situations where there was strong community support for business activities that anticipate relatively low impact but where funds are restricted. On one hand, petitioners are asking for an exception to the standards that will enable them to do something they might not otherwise be able to do which may benefit them financially, while enhancing the vitality of our commercial centers. On the other hand, too many reductions or fees or unequal outcomes will undermine the goals of fairness and predictability, as well as the ability to fund mitigations ~ all of which are the primary benefits of the program. If the Board wishes to provide such an option, it may want to consider establishing some criteria for hardship and may wish to delegate this responsibility to the Zoning Board of Appeals, as it hears other types of appeals.

Who should consider the parking in-lieu fees requests? One of the complaints heard about parking waiver requests that go through the Board of Aldermen is that they can take a several weeks and be potentially very costly for the petitioners, especially if they hire an attorney. If such requests continue to go through the Board and at the end of the day, they are approved with a fee added, that's a double whammy. But, if not the Land Use Committee, then who should review these requests? Here are some options for review of parking in-lieu fee requests and their pros and cons:

1. Administrative reviews. This process exists for review of site plans for Dover-protected institutions. If an administrative review process were established, it could require petitioners to provide a parking study of the area (preferably by a parking professional), so City Planning and/or Engineering staff can assess the information and determine whether acceptance of a fee in place of parking would have any adverse impacts. If there is concern about the impacts of a waiver(s), such a request could be referred to another decision-making body. If there are no red flags, staff could sign off on the request, record the approval in the Planning/ISD computer and filing system. The petitioner could then open for business and/or obtain a building permit, provided this is the only outstanding conformance issue. The Board may want to set a threshold to which staff has such authority, with higher level requests forwarded to ZAP for review. Low threshold requests could also be forwarded to ZAP if staff feels the basis for administrative approval has not been met. The fee for administrative site plan reviews is now set at \$350.
2. Traffic Council. Traffic Council reviews off-site parking requests and assesses community impacts of various parking situations. The Council's review typically requires a study of the general area in which requests are considered and could require the applicant to provide a professional parking study, such as that which is typically required of special permit applicants. The Council could review and act upon a request on the

same night (although there is sometimes a backlog of pending requests that could delay the initial review unless these requests are given priority). The Traffic Council meets monthly and there is not currently a fee for requests before the Traffic Council.

3. Zoning Board of Appeals (ZBA) or Planning and Development Board. Staff would request the same study noted and forward recommendations to the appropriate body for action, which also could consider requests to reduce or eliminate the fee, if desired by the Board. The fee for appeals is \$400; the fee for variances is \$500.
4. Board of Aldermen. Whenever another special permit is required for a site, any related parking request would automatically be referred to the Land Use Committee per current practice and acted upon by the Board of Aldermen. The fee for a special permit for nonresidential uses is \$750 and \$350 for residential.

What else is needed?

Definition of shared-parking areas. Staff is in agreement that reduced parking standards should apply in areas where there are at least three complementary uses. Shared-parking areas could include village centers, as well as mixed-use developments. For the ease of use, staff further recommends defining geographical areas in each area where shared parking occurs, generally delineated by the change in zoning from commercial/retail use to residential uses. Examples of shared-parking areas include our village centers, Needham Street and the Chestnut Hill shopping areas.

Determination of the “right” reduction in the parking requirement. Modeling for parking demand shows varied results based on the combination of types of uses and one option would be to require such modeling to determine whether an area should be eligible for a reduced parking requirement and by how much. Another approach might be to create a modest “generic” reduction that is likely to be applicable in most circumstances; this method offers an easier way to administer such a program and would likely be fine in most scenarios. Finally, consideration of a “walkability” score within a specific area might offer a means of assessing the eligibility for and extent of reductions (*Attachment B*).

The 2000 census data journey-to-work data demonstrates a reduced reliance on single-occupant vehicles where public transit is more readily available. However, proximity to Green Line stations, a commuter rail station or to a bus route have very different effects on reducing car usage. In addition, this data applies only to workers and may not be indicative of shoppers’ habits in village centers with a transit stop. Staff was not in agreement as to whether to further reduce parking requirements in shared-parking areas, many of which also are easily accessible by public transit. Rather, we agreed that until research can demonstrate how much more of a reduction may be appropriate under varying circumstances, the conservative approach would be to reduce the requirement based on shared-parking opportunities only.

Shared-parking boundaries. It may also be useful to establish boundaries around shared-parking areas so it is clear where the parking reductions apply and where studies should be

conducted. These could be simple geographic outlines around an area (e.g., Newton Centre) or could be specific to use zones (i.e., BU, M, MU etc). (*Attachment B*)

Use of funds collected. As noted earlier, the funds could be spent on parking improvements as well as for subsidizing alternative modes of transportation. In a sense, the latter solution is a bit more elegant in that it means those who choose to drive are paying for the benefits that go to those who may chose not to. However, some level of detail may be needed to show some tangible evidence that this money is improving mobility options within the City or within a shared-parking area, or at least to establish a means of prioritizing spending to reduce parking demand and/or improving parking facilities. If combined with other parking-related funds, there will be more substantial revenues for creating more parking and/or reducing demand, for which spending could be prioritized based on need.

PARKING-IN-LIEU FEES WITHIN A LARGER CONTEXT

Acceptance of a fee in exchange for a parking waiver need not be the only alternative to satisfying a parking requirement. Provision of a variety of options will enable property owners more affordable means or satisfying parking requirements for future uses and developments. Possible options include:

- 1. On-site parking.** This is the current requirement and will remain an option.
- 2. Off-site parking.** This option is currently allowed by special permit. Like the in-lieu fee, it could be permitted subject to justification that parking is available within a reasonable walking distance, such as 300-500 feet or 1/8 of a mile. Off-site parking could be allowed when there are excess spaces on another site and their use by another business does not render the owner of off-site spaces to be out of compliance with the Zoning Regulations as a result. Off-site parking also could be allowed when the users of the spaces operate at different times of the day or week. In either case, documentation of a formal agreement between the parties is provided with evidence that both the lessor and lessee are in compliance with local parking regulations as a result of this arrangement. There need not be a limit to the number of spaces that can be used for the purposes of satisfying a parking requirement in this fashion, as spaces are not being waived. The cost of this option is as agreed upon by the parties who rent or lease space to each other.
- 3. TDM Measures.** Transportation Demand Management (TDM) measures can encourage use of transportation alternatives and include employee purchase of "T" passes for employees, installation of bike racks, provision of bikes and/or showers, participation in a shuttle service, guaranteed rides home, carpool/vanpool matching or preferential parking, addition of bus shelters, hiring of local residents, and membership in a Transportation Management Association (TMA). These means are only effective so far

as the results are measurable and petitioners should be required to document their effectiveness upon request.

4. **Shared-car or bike use.** Provision of one space for a car that can be shared with others can encourage employees to take other means of transportation to work. Zipcar representatives have indicated that for every car they put on the street, 20 are taken off the road and those who opt to have such a car on-site should be permitted to reduce their parking requirement accordingly. However, Zipcar's figures are based on the general public's use of such a car, and to support the general concept of shared parking, the Board may want to require that all car-sharing arrangements be made available to the general public and not be restricted to users of the subject property. Also, based on Zipcar's experience, a single car should be located within easy walking distance (roughly ¼ mile or 5-minute walk), so the proximity to other shared-car locations and/or the demand for those should be taken into account when allowing for shared-car spaces to be substituted for a required parking space.

5. **In-lieu fees.** These would be permitted as agreed upon by the Board of Aldermen. Staff recommends market rate pricing and with a reduced parking requirement if located in a shared-parking area.

NEXT STEPS

Staff recommends the Committee discuss the merits of in-lieu fees and other ways to address parking supply and demand. If there is sufficient interest in pursuing these, staff can prepare additional information and/or text for Committee review based on its feedback.

Attachment A: Newton Centre Parking Study Comparison
Attachment B: Sample shared parking districts
Attachment C: Sample in-lieu fee ordinance

ATTACHMENT A

TABLE 1. TRAFFIC AND PARKING WITH CALCULATIONS (REVISED 10/20/17)

PARKING CALCULATIONS					
Gross Floor Area Proposed	1 space/866 square feet of GFA ⁴	Mixed use formula ⁵	Newton Zoning Regulations ⁶	Zoning Regs x.7	
50,000 square feet	<ul style="list-style-type: none"> • 29 spaces • 29 spaces 	<ul style="list-style-type: none"> • 146-160 customer spaces • 35-40 employee spaces 	<ul style="list-style-type: none"> • 309 spaces • 91 spaces 	280 spaces	
TOTAL	58 spaces	180-200 spaces	400 spaces		
50,000 square feet gross floor area					
<ul style="list-style-type: none"> • 18,000 restaurant • 18,000 retail • 10,000 community space • 4,000 winter garden 	<ul style="list-style-type: none"> • 21 spaces • 21 spaces • 11 spaces • 5 spaces 	<ul style="list-style-type: none"> • 150-161 customer spaces • 30-34 employee spaces 	<ul style="list-style-type: none"> • 220 restaurant • 78 retail • 250 community space • 8 winter garden 		
TOTAL	58 spaces	180-195 spaces	556 spaces	389 spaces	
30,000 square feet gross floor area					
<ul style="list-style-type: none"> • 15,000 restaurant • 15,000 retail 	<ul style="list-style-type: none"> • 17.5 spaces • 17.5 spaces 	<ul style="list-style-type: none"> • 87-96 customer spaces • 21-24 employee spaces 	<ul style="list-style-type: none"> • 184 spaces/ restaurant • 55 spaces/retail 		
TOTAL	35 spaces	108-120 spaces	239 spaces	167 spaces	
30,000 square feet gross floor area					
<ul style="list-style-type: none"> • 9,600 restaurant • 9,600 retail • 8,400 community space • 2,400 winter garden 	<ul style="list-style-type: none"> • 11 spaces • 11 spaces • 10 spaces • 3 spaces 	<ul style="list-style-type: none"> • 99-103 customer spaces • 17-19 employee spaces 	<ul style="list-style-type: none"> • 118 spaces/restaurant • 35 spaces/retail • 210 /community space • 5 spaces/winter garden 		
TOTAL	35 spaces	116-122 spaces	368 spaces	167 spaces	

⁴ Data provided through the assessor's office for the Newton Centre study area shows totals a gross building area of 821,286 sq. ft. and peak occupancy of 948 spaces (private and public demand combined) or an equivalent of 1 space per 866 square feet of gross building area. If the uses proposed in "The Triangle" have similar parking demand characteristics as those already in Newton Centre, then the future demand for parking would likely be in this range. If there are a greater proportion of high demand uses (such as restaurants and medical offices), then the parking required will be higher than this. Conversely, if low-demand uses dominate (such as bike shops or residences), the parking requirement would be less than this.

⁵ This method includes a reduction in parking for uses that complement each other where drivers typically park once and visit several destinations.

⁶ See calculations and assumptions in attached appendix.

Item C Traffic and Parking Report

ATTACHMENT B



NEWTON CENTRE



NEWTONVILLE



WEST NEWTON

ATTACHMENT C

SAMPLE IN-LIEU FEE ORDINANCE

Purpose. The purpose of this ordinance is to establish fees in lieu of providing on-site parking spaces within a shared-parking area as established by the Board of Aldermen. Fees collected shall become part of a parking fund and shall be used for development or maintenance of shared parking and/or for facilitating use of alternative modes of transportation to effectively reduce the demand for new parking in areas of greatest need.

Shared-parking area refers to properties located within the boundaries of a designated zone as established by the Board of Aldermen. Such areas must have at least three complementary uses within 300 feet of one another and/or where it can be demonstrated that people walk from one destination to another within the district rather than to drive to each destination. The parking requirement for businesses in shared-parking areas shall be reduced by 25% based on the shared-parking potential.

Calculating fees

1. The amount of the fee for new construction additions to existing buildings and changes in occupancy shall be established by resolution of the Board of Aldermen.
2. The number of spaces required by the change in occupancy shall be the difference between the number required by the new use and number required by the previous legal occupant per Section 30-19 and shall be reduced by 25% in a shared-parking area.
3. The demolition or removal of all or a portion of an existing building and its replacement with another structure of equal or less than the floor area of the original building shall not be considered new construction for purposes of this chapter. However, all floor area in an amount beyond that contained in the original building shall be considered an addition and fees shall be calculated accordingly.
4. The per-space fee for new construction, additions or changes in occupancy must be determined prior to the issuance of construction permits for the structure or occupancy for which the parking is required or prior to the issuance of a City business license for the activity for which the parking is required, if no construction permit is required. The fees may be paid by one of the following means:
 - a. Lump sum. The fee must be paid prior to issuance of building permits for the structure or occupancy for which the parking is required or prior to the issuance of a city business license for the activity for which the parking is required, if no building permit is required.
 - b. Annual fee not to exceed 20 years with interest based on the Consumer Price Index for the Metrowest area of Boston. The Finance Director shall update the base price per space fee each year December 1st for the following year and annual payments shall be due on January 1st and delinquent by February 1st. The

penalty and interest for delinquent payments shall be as provided for property taxes. Unpaid fees shall become a lien upon the property for which the parking is required. If the installment option is selected, the remaining principal balance may be paid in full at any time without penalty.

Change or cessation of use

Once a property is subject to an obligation for in-lieu parking fees the following shall apply if the use is changed or discontinued:

1. If a structure is enlarged or a use is replaced with a use for which more parking is required according to the Zoning Regulations, the additional parking requirement may be met by paying additional in-lieu fees.
2. If a structure is reduced in area, or wholly or partially becomes vacant, or a use is replaced with a use for which less parking is required according to the Zoning Regulations, there shall be no change in the obligation for parking in-lieu fees. There shall be neither refund of a lump sum payment nor an abatement of installment payments. Once satisfied, the obligation for parking-in-lieu fees shall be deemed to meet the parking requirement for any structure or use in the same location having a parking requirement equal to or less than that for which the in-lieu fee amount was previously determined.
3. If a structure is replaced by a permanent structure intended for uses requiring fewer parking spaces than those in the previous structure according to the Zoning Regulations, the City upon the property owner's request shall refund the difference between the lump sum payment for the previous structure and the lump sum payment which would be due for the replacement structure or cancel the obligation for the proportionate number of spaces covered by installment payments.

Ownership change - Dividing or merging properties

A change of ownership or the dividing or merging of properties shall not affect an obligation for parking in-lieu fees or a determination that parking requirements have been met according to fees paid for a particular use.



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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: May 11, 2012

TO: Alderman Marcia Johnson, Chair of Zoning and Planning Committee
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development 

SUBJECT: **#411-09: Ald. Danberg, Mansfield, and Parker** requesting that Section 30-19 b(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.
#207-09(2): Ald. Parker, Danberg, and Mansfield proposing that Chapter 30 be amended to allow additional seating in restaurants.

MEETING DATE: May 14, 2012

CC: Board of Aldermen
Bob Rooney, Chief Operating Officer
Donnalyn Kahn, City Solicitor
Dori Zaleznik, Commissioner of Health and Human Services
Dave Turocy, Commission of Public Works
John Lojek, Commissioner of Inspectional Services
Chief Proia, Fire Chief

BACKGROUND

Both item #411-09 and #207-09(2) refer to restaurant seating for which a new parking demand may be created. The first item addresses the desire for outdoor seating and reconsideration of the associated parking requirements. The second item also will involve a discussion about parking and special permit requirements appropriate to restaurant uses, generally. Because both relate to restaurant parking requirements, staff recommends they be considered together.

ANALYSIS

Outdoor seating is a significant public benefit in enlivening the streetscape. However, the Zoning Ordinance does not explicitly allow additional sidewalk seating as has been allowed by the Board of License Commissioners. Use of the sidewalk for this purpose requires approvals from several departments including Public Works, which controls activities on the sidewalk; the Fire Department, which addresses fire safety and access concerns; Health and Human Services, which deals with food handling and related health/safety matters; and Planning and Inspectional Services, which consider related parking and accessibility issues. The members of the Economic Development Cluster, which includes department heads from Inspectional Services, Planning, Health and Human Services and Bob Rooney from the Executive Office in consultation with Public Works and Fire, are actively collaborating on this matter and are investigating the following issues:

- Parking requirements for additional tables. Adding seating in restaurants increases the parking requirement, though many restaurants may not be able to provide more spaces on-site as required by law. Whether indoors or outdoors, should there be some additional relief for restaurants? Some restaurants have addressed the parking issue by restricting use of a comparable number of interior seats inside; otherwise, a parking waiver would be required. Some restaurant owners have claimed this is a hardship for their businesses and would like more leniencies with parking requirements for expanding their offerings during warmer months. Establishment of in-lieu fees and other means of addressing parking supply and demand may offer some relief, and consideration of this issue may be influenced by the outcome of that discussion.
- Accessibility. Space on sidewalks for seating is limited. What assurances can we offer that safe access will be provided for all possible patrons?
- Egress on the public way. Again, with limited space for tables and chairs, how can we assure safe and ample use of the sidewalks for their primary purpose?
- Consumption of liquor on public property. Local laws prohibit consumption of alcohol on public property; however, some sidewalks are partially owned by private property owners. If a restaurateur has a liquor license, should drinking be allowed outdoors? Only on the privately-owned land? On the City-owned sidewalk? Not at all?
- Cost of associated improvements. In some cases, physical improvements may be necessary or desirable to accommodate outdoor seating. What arrangements could be made to cover these costs?
- Enforcement. The Department of Public Works has oversight of the public sidewalks. Which department will oversee conformance to new standards for outdoor seating?
- Indemnification. What are the legal responsibilities of the parties and how can the City be protected?

RECOMMENDATION

The Economic Development Cluster is actively working to produce a proposal for a comprehensive sidewalk café ordinance by the end of the summer, so the Board can discuss and determine the appropriate course of action by fall, and a process can be in place by spring 2013. Given that in-lieu fees and other parking supply/demand issues are also currently under discussion, we recommend no action on these items at this time and propose to docket appropriate language by September 2012 to establish reasonable standards for restaurant seating that encourages village vitality and addresses the concerns mentioned above.