

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY, JULY 16, 2012

Present: Ald. Johnson (Chairman), Ald. Sangiolo, Kalis, Yates, Baker, and Lennon; absent: Ald. Danberg and Swiston; also present: Ald. Albright and Linsky

Staff: Candace Havens (Director of Planning & Development), Seth Zeren (Chief Zoning Code Official), Marie Lawlor (Assistant City Solicitor), Maura O'Keefe (Assistant City Solicitor), Linda Finucane (Assistant Clerk of the Board), James Freas (Chief Planner for Long Range Planning)

Other attendees included Christopher Steele (Chairman of the Economic Development Commission) and Phil Herr (Chairman of the Comprehensive Planning Committee)

Note: Ms. Havens introduced James Freas, the new Chief Planner for Long Range Planning. Most recently Mr. Freas worked for the Metropolitan Area Planning Council (MAPC) and previously in Hampton, Virginia. He has masters in studies in environmental law and community planning. He has a broad experience, at MAPC he organized seminars, was part of the MAPC Economic Group, its Energy Division, and worked on, among other projects, master plans, open space, etc. The Committee welcomed Mr. Freas.

#150-09(3) ALD. ALBRIGHT, JOHNSON, LINSKY proposing that a parcel of land located in Newtonville identified as Section 24, Block 9, Lot 15, containing approximately 74,536 square feet of land, known as the Austin Street Municipal Parking Lot, currently zoned Public Use, be rezoned to Business 4. [12/10/10 @9:21AM]

ACTION: HELD 5-0

NOTE: This item was discussed on May 29, June 11, and again on June 25 when the Planning Department was asked to address several issues that arose in reviewing draft ordinance #2. The Chairman also asked Alderman Baker if he would review it further for consistency with the Mixed Use Element of the Comprehensive Plan. A revised draft ordinance #3 was attached to the Planning Department memo dated July 13 and this evening Mr. Zeren presented a PowerPoint highlighting the changes. Also included were responses to comments from Alderman Baker received in an email today. Please note the topic refers to its page number on the PowerPoint.

Single Room Occupancy (SRO) – Page 5

The draft ordinance includes SROs as a special permit use. The Planning Department believes this creates an opportunity to provide another type of housing – a middle ground - between the young and aging population envisioned by the Joint Advisory Planning Group. Alderman Swiston advocated for including it; however, other committee members, while not opposed to this type of housing, believe it is not an appropriate use at this site even by special permit. Given the constraints the small size of the site places on the size of any future

development and given that 25% of the housing will be for low- and moderate-income residents, it's unlikely a developer for economic reasons would include this type of housing. The committee agreed, however, that although not necessarily suitable for this site; the use should be pursued in general.

Residential Density – Page 6

The Planning Department is proposing a 1,200 square-foot minimum lot area per unit instead of the 600 square feet proposed previously. The Board can waive it by special permit, with findings that the proposed density meets certain criteria. Aldermen Baker questioned whether there is enough content to guide the Land Use Committee. Perhaps there should be some more specifics on the criteria for additional density and height, building on language from the Comprehensive Plan, including the issue of traffic reduction. What about pedestrian amenities, such as showers and locker rooms for bike riders? Alderman Baker asked if there should be more about pedestrian amenities. Findings consistent with purpose, e.g., consideration of shadow/light or blocking views might be added relative to allowing additional height.

Entrance design standards and Street-level definition – pages 7 and 8

Alderman Yates had asked that the definition of street level explicitly state that any entrance above or below grade would be handicapped accessible. The Planning Department has suggested including ramps and accessibility features in the “street level” definition. Ms. Havens pointed out, however, that there is a difference between a zoning design standard or zoning definition and the Architectural Access Board (AAB) Code. All new construction must meet the AAB Code just as it is required to meet building code. The Planning Department proposes an “entrance” design standard requiring that at least one main entrance face the street and be publicly accessible. This proposed design standard is to ensure that buildings interact with the street. It is not related to handicapped access.

The Planning Department presented three possible definitions of “street level,” which definition relates to street level uses and Design Standards (6) and (7), Transparency and Lobbies for low-activity standards, respectively, in the draft ordinance. Alderman Yates still was not persuaded. What does 4' above or 4' below the average sidewalk grade mean? He suggested the Planning Department ask for input from the Commission on Disabilities.

Limits on size of uses– Page 9

The Planning Department is proposing a special permit threshold of 5,000 square-feet for ground-level commercial uses. It believes this is analogous to the 50-seat by-right restaurant provision. Some members feel this will prevent mom and pop stores. Although favoring smaller tenants may create a barrier to attracting an anchor tenant. What about the economic stability of small mom and pop stores? Would 10,000 square feet allow more flexibility? Currently, the trigger for a special permit is 20,000 square feet.

Limits on size of uses – New Criteria for 20,000 square feet Special Permit - Page 10

The Planning Department recommends adding specific findings for granting a special permit for buildings containing over 20,000 square feet of floor area. The proposed criteria

would apply to Mixed Use 1 and Mixed Use 2 Districts as well as to the proposed Mixed Use 4 District.

Alderman Yates was dubious about applying these criteria to the MU-1 and MU-2 Districts on Needham Street. Mr. Zeren pointed out that this section would only affect new buildings or existing buildings undergoing substantial modification. It would result in better sidewalks, reductions in curb cuts, more open space, etc. Alderman Yates was not convinced of the benefits. Aldermen Baker asked if removing the single lot limitation in the general Mixed Use Districts as opposed to making some adjustments for this particular zoning classification was a good idea. Should the need for coordination with other parcel owners be included instead? Alderman Yates cited the study of Needham Street by Lozano White, done some years ago, which advocated vehicular access to businesses over separately owned rear lots as a way of reducing traffic on Needham Street. The proposed section does not include the Riverside MU-4/TOD. The Planning Department agreed to not include MU-1 and MU-2 Districts.

Other comments by Alderman Baker included whether neighborhood transition may be referenced with context and whether specific housing needs, like seniors and young families, be referenced as they are in the Comprehensive Plan? The Committee agreed that referencing neighborhood transition is fine. However, the Chairman pointed out that referencing seniors and young families is not suitable because it precludes other groups. She suggested that the high number of affordable units is likely to attract couples starting out and seniors who wish to downsize but remain in Newton.

Alderman Baker believes there may be value in looking at the purposes which may benefit by more specificity for grounds allowing something to exceed the by-right use. He suggested that there be more clarity in the purposes to reflect the Comprehensive Plan. The Committee voted 5-0 to hold the item for another meeting on August 16 when it hopes to consider the final draft language for public hearing.

Please see the attached 7/14/12 memo received subsequent to the meeting from Phil Herr, who chaired the Comprehensive Planning Committee, for his comments on the draft ordinance.

#162-12 THE ECONOMIC DEVELOPMENT COMMISSION requesting a one-year moratorium, starting immediately, where no bank shall be allowed to be built or opened for business on the ground floor of any building in any Business District within the city unless granted a Special Permit from the Board of Aldermen. [05-17-12 @ 4:18 PM]

ACTION: HELD 5-0

NOTE: The Committee discussed this item on June 25. This evening Mr. Zeren reviewed with the Committee the Planning Department memo dated July 13. This is not intended as a permanent solution to what many perceive as a problem with a glut of banks in particular village centers. Its intent is to slow down the opening of new banks to allow a period in which a solution to the perceived problem may be formulated. The memo listed four potential interventions and the pros and cons of each.

- *Equalize or reduce parking requirements for active uses and/or repeal the requirement that a restaurant containing more than 50-seats require a special permit.* The advantage is that high-activity uses, those that generate more parking demand, not be disadvantaged. The drawback is there may not be enough parking; uses with less parking demand support those with more demand.
- *Restrict low-activity uses at street level.* The advantages are it reserves street level for more active uses; potentially creates market for second or basement levels. The disadvantages are an increase in costs and administrative time.
- *Create quota system for low-activity uses in each village.* The advantage are it limits the number of banks in each village; is clear and easily enforced. The disadvantages are it creates an advantage for existing banks; doesn't distinguish street level; difficult to establish the areas and the "right" number.
- *Require a buffer zone for low-activity uses.* The advantage is it limits the number of banks in a given area. The disadvantages are it creates an even larger advantage for existing banks by shutting out competition; doesn't distinguish street level; difficult to set right number.

Non-zoning programs suggested include but are not limited to developing programs to help new business locate in village centers; small business incubator programs; educating property owners and commercial brokers; grants for façade improvements; village promotions; signage, and creating business improvement districts. The Economic Development Commission has called out Newtonville and Newton Centre as villages that have lost retail over the past several years.

Alderman Yates suggested the City look into the National Trust for Historic Preservation Main Streets program; it is a proven model. Mr. Zeren said the City does use the Main Streets menu for non-zoning types of things where appropriate.

Several other Committee members pointed out it's not just the number, it's the types of business, the hours of operation, and concentration of particular businesses. Mr. Zeren agreed it is important to consider the concentration. For example, Newtonville has seven banks on the south side of the Turnpike; these banks occupy a sizable percentage of retail space. This is the case in Chestnut Hill and West Newton Square as well.

Alderman Baker asked what kind of vitality the city wants in particular villages. Is there a systemic response not involving individual parcels each time? Consider the time of day each business operates. A bank which is predominantly a daytime use frees up parking for other predominantly evening uses such as restaurants; essentially, creating an informal shared parking program.

Mr. Zeren asked if the Committee had considered the amount of time it can devote to the issue. Is the one-year oversight period really necessary? The Chairman asked the Committee if it feels the one year – if approved – is really doable. She suggested it might consider the items already on the agenda (payments in lieu of parking and village overlay districts). Does the Board want to slow down the influx of financial institutions on the first floor? Alderman Lennon

suggested the time might be better spent on the other docket items. Even if there are one or two new banks in the next year, he can't see the detriment. Although, the Chairman noted that she is aware of a specific instance in Newtonville where a bank and landlord forced out a longtime retail business. Alderman Baker said it might be better to spend time on village overlay without singling out a use. He suggested instituting a pilot program in one village.

Alderman Yates acknowledged that Newton Centre and Newtonville have suffered a loss of retail. He suggested that the existing parking credits are not based on real urban development and, although parking credits get a bad rap, they are a creditable tool to reduce parking requirement in village centers.

Ms. Havens is less concerned after reflecting on the actual numbers of banks and financial institutions. Is vitality in the village centers really a result of banks or is it the perception of vitality? In her opinion the outcome may be similar with a special permit route or an overlay. She believes the impact would not be huge without a special permit requirement in place.

Alderman Sangiolo does not support the special permit – centers grow organically. Do residents support the local small businesses they say they want? It can be a situation of landlord v. neighbors v. empty store fronts. She suggested the Planning Department find out what Wellesley did when it had so many empty storefronts. Alderman Kalis sees the special permit as a breather, not a moratorium.

The Chairman suggested meeting with the Chamber of Commerce, EDC, and bank representatives for input prior to a public hearing.

The Committee voted unanimously to hold the item for its next meeting on August 16. All other items were held without discussion and the meeting was adjourned at approximately 10:10 PM.

Respectfully submitted,

Marcia T. Johnson, Chairman

Attachments:

July 16, 2012 Planning Department PowerPoint

July 14, 2012 Phil Herr memo