

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

THURSDAY, AUGUST 16, 2012

7:45 PM
Room 202

ITEMS TO BE DISCUSSED:

- #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]
- #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]

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #79-12 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of nine hundred thirty eight thousand sixty-three dollars (\$938,063) to the Planning & Development Department for the creation of seven units of affordable rental housing at 12 and 18-20 Curve Street, West Newton, as described in the proposal submitted by Myrtle Village, LLC. [03/01/12 @ 5:00 PM]

ITEMS SCHEDULED FOR SEPTEMBER 10, 2012:

- #150-09(7) DIRECTOR OF PLANNING & DEVELOPMENT proposing that Chapter 30 section 30-13 be amended to establish a Mixed Use 4 (MU4) District; that Section 30-15 be amended to create a new Section 30-15(w) and revised Table 1 and Table 3 providing dimensional standards for development in the MU4; Section 30-15(w) shall include specific standards and special permit criteria for height, residential density, setbacks, accessibility, street-level transparency, lobbies for low-activity uses, open space, and an incentive for including mixed-use residential dwellings; and that Sections 30-13(h) and 13(i) be renumbered and revised to include specific special permit criteria and allow shared parking and connections with adjacent lots. [08-06-12 @ 11:53AM]

- #150-09(8) DIRECTOR OF PLANNING & DEVELOPMENT proposing a certain parcel of land located at 28 Austin Street in Newtonville identified as Section 24, Block 9, Lot 15, known as the Austin Street Municipal Parking Lot be rezoned to the Mixed Use 4 (MU4) District to allow a mixed-use development. [08-06-12 @11:53AM]
- #60-10(2) ALD. HESS-MAHAN proposing that Chapter 30 sections 30-15(s)(10) and 30-24 be amended to substitute a requirement for a three-dimensional computer model for the option of providing a scaled massing model for special permit applications in the Planned Multi-Use Business District (PMBD), per Section 30-15(s)(10)a), and for commercial and/or multi-family development with a gross floor area of greater than 20,000 square feet, per Section 30-24(b) in order to facilitate compliance with recent amendments to the Open Meeting Law and that Sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen. [08-06-12 @11:59AM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

- #214-12 ALD. DANBERG, BLAZAR, SCHWARTZ proposing an ordinance which would enable the city to respond to properties which are so inadequately cared for, often by absentee owners, as to constitute a nuisance, not only to properties nearby but also to the public at large, with the understanding that timely intervention may help prevent the loss of such properties to severe neglect, excess accumulation of trash or unsightly collectables, inside or out, or even eventual abandonment. [07-09-12]
- #215-12 ALD. YATES proposing a RESOLUTION requesting that the Planning Department and the Economic Development Commission develop a Main Streets Program following the model of the National Trust for Historic Preservation to revitalize the Newtonville and Newton Centre business districts. [07-17-12 @2:55PM]
- #216-12 RECODIFICATION COMMITTEE recommending that the definition of “*Space, usable open*” in Sec. 30-1 be amended by removing the exemption for exterior tennis courts as they are now classified as structures.
- #217-12 RECODIFICATION COMMITTEE recommending that Secs. 30-19(d)(1) and 30-19(g)(1) relative to the number of tandem parking stalls allowed in the side setback (two) and the number of tandem parking stalls (one) allowed in the setback for parking facilities containing less than five stalls be amended to make the both sections consistent.
- #218-12 RECODIFICATION COMMITTEE recommending that Sec. 30-19(g)(1) be amended to clarify “sideline” distance, which is a reference to an undefined concept.

#219-12 RECODIFICATION COMMITTEE recommending that Sec. 30-5(b)(4) as most recently amended by Ordinance Z-45, dated March 16, 2009, be amended to reconcile the apparent discrepancy relative to the definition of “structure.”

#220-12 RECODIFICATION COMMITTEE recommending that the table in Sec. 30-8(b)(10)a) be clarified with respect to “lot width,” “lot area,” or “lot frontage.”

#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. [06/01/10 @ 4:19 PM]

#60-10 ALD. HESS-MAHAN proposing that sections 30-15(s)(10) and 30-24(b) of the City of Newton Ordinances be amended to substitute a 3-dimensional computer model for the scaled massing model in order to facilitate compliance with recent amendments to the Open Meeting Law and that sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen. [02/23/10 @ 3:24 PM]

#48-12 ALD. ALBRIGHT requesting a discussion with the Executive Office and the Planning Department on the creation of a housing trust. [02/10/2012 @ 9:13AM]

#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.

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

#102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK & CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]

FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

#95-11 ALD. HESS-MAHAN proposing an ordinance requiring that a notice of conversion to condominium ownership be filed with the Inspectional Services Department and that the property be inspected to determine compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. [03-24-11 @ 9:30AM]

FINANCE REFERRED BACK TO ZAP COMMITTEE 3/26/2012

- #64-12 ALD. HESS-MAHAN requesting an amendment to Newton Revised Ordinances Sec 30-24(f)(8)b) to clarify the inclusionary zoning preference provisions for initial occupancy of units for households displaced by the development thereof and for units to serve households that include persons with disabilities. [03-14-12 @8:54AM]
- #49-11 ALD. JOHNSON, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning & Development and Commissioner of Inspectional Services review with the Zoning & Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments. [02-15-2011 @8:44AM]
- #25-12 TERRENCE P. MORRIS, G. MICHAEL PEIRCE, JASON ROSENBERG, JOHN LOJEK proposing a zoning ordinance amendment to amend section 30-15(c)(3)(b) by inserting the word “*subject*” before the word “*lot*”, the word “*and*” before the word “*such*” and the word “*adjoining*” after the word “*such*” so that the paragraph reads as follows:
(b) if the subject lot was held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the subject lot and such adjoining lot had on it a single-family or two-family dwelling. [01/30/2012 @ 3:14PM]
- #11-12 ALD. HESS-MAHAN & LINSKY requesting discussion on the implementation and enforcement of the provisions of Section 30-5(c)(1) of the Newton Ordinances which requires that “[w]henver the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of surface water to or from abutting properties.” [1/11/12 1:01PM]
- #61-10 ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
- #164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

- #81-11 ALDERMEN JOHNSON, CROSSLEY, HESS-MAHAN, LAPPIN & DANBERG requesting the Director of Planning & Development and the Chair of the Zoning Reform Scoping Group provide updates on the Scoping Group's Progress. These updates will occur at the frequency determined by the Chair of the Scoping Group and the Chair of the Zoning and Planning Committee. [3/14/2011 @ 11:16PM]
- #153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts. [05-10-11 @3:19 PM]
- #153-11(2) ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting the map changes necessary to establish certain Retail Overlay Districts around selected village centers. [05-10-11@3:16 PM]
- #65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms "flat roof" and "sloped roof" be defined in the zoning ordinance.
- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for "lot line" and "structure" for clarity. [04-12-11 @ 11:34AM]
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of "lot area" and revising the "setback line" definition for clarity. [06/01/10 @ 9:25 PM]
- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]
- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: "(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;" and renumbering existing subsection (5) as (6). [06/07/10 @12:00 PM]

Respectfully Submitted,

Marcia Johnson, Chairman

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Trisha Guditz, 617-796-1156, via email at TGuditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date



Setti D. Warren
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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: August 10, 2012

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

FROM: Candace Havens, Director of Planning and Development
Seth Zeren, Chief Zoning Code Official 

RE: #150-09(3) Aldermen Albright, Johnson, and Linsky proposing that a parcel of land located at 28 Austin Street 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.

MEETING DATE: Working Session on August 16, 2012

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

EXECUTIVE SUMMARY

In June, 2011, the Joint Advisory Planning Group (JAPG) for the City’s Austin street parking Lot presented their final report. The report recommended that the Austin Street public parking lot be redeveloped as a mixed-use residential development providing several dozen affordable and market-rate apartments, open space, and public parking close to the Commuter Rail Station to add pedestrian life to the area and enhance the vitality of Newtonville. Beginning at a working session on May 29, 2012, the Zoning and Planning Committee (ZAP) and the Planning Department have deliberated over the summer and prepared a proposed zoning text to accommodate the redevelopment of this site: the new MU4 zoning district. The MU4 zone better meets the specific needs of the Austin Street site for both encouraging appropriate redevelopment and minimizing negative impacts on the vicinity than any existing zoning district. The MU4 may also be appropriate for guiding the redevelopment of other sites in Newtonville or in other village centers, where the Board of Aldermen deems appropriate. Attachment A presents the revised text for discussion at the ZAP working session on August 16th, 2012. This revised text reflects the comments of the Committee at the past working session, particularly around universal accessibility and providing more specific special permit criteria. Staff welcomes any additional comments or questions in preparation for a public hearing in September.

SUMMARY OF CHANGES TO PROPOSED TEXT

Staff made additional revisions to the revised Mixed-Use 4 zone presented at the July 16th working session. The revised text incorporates the following specific changes:

- More specific language requiring universal accessibility adapted from language in the Mixed Use 3/TOD zone
- More specific special permit criteria incorporating additional language from the Mixed-Use Centers Element
- New text and graphics to better explain the setback regulations
- Revisions to the 20,000 square foot special permit rule allowing sites to be integrated with adjoining parcels while preserving the original intent
- Other minor text changes

PREVIOUS DISCUSSION

Initial discussions about the reuse of the City's Austin Street parking lot for mixed-use development began in 2005. In March 2011, the Board of Aldermen appointed a Joint Advisory Planning Group (JAPG) to consider the reuse of the site and in June 2011, the JAPG submitted "The JAPG Report Austin Street Parking Lot," spelling out the group's recommendations. On May 29th, the Planning Department presented an overview of the Austin Street JAPG report and staff analysis related to the proposed rezoning of the Austin Street parcel (see the Planning Department report dated May 25, 2012 for analysis of the JAPG recommendations). On June 11th, the Planning Department responded to Committee questions and presented draft zoning text for a new Mixed-Use 4 (MU4) zone (see the Planning Department report dated June 8, 2012 for more information). On June 25th, the Planning Department provided answers to Committee questions and a revised zoning text (see the Planning Department report dated June 22, 2012 for more information). Only July 16th, the Planning Department addressed additional Committee questions and suggestions and presented a third draft zoning text (see the Planning Department report dated July 13, 2012 for more information).

NEXT STEPS

Staff will integrate any remaining comments or questions into a final draft to be presented at the Public Hearing, anticipated in September.

ATTACHMENT A: Proposed Mixed-Use 4 Zone, version 4.0

ATTACHMENT B: Proposed Advertising Language

PROPOSED ZONING TEXT AMENDMENTS

Add the following definitions to Section 30-1: Definitions

- **Mixed-use residential building:** A building occupied by both residential and nonresidential uses.
- **Street level:** The level of a building the floor of which is nearest to the grade of the adjacent sidewalk.

Section 30-13(h) Establishment and purposes of the Mixed Use 4 District (existing 30-13(h), etc. to be re-lettered)

(1) Purposes. The purposes of the Mixed Use 4 District are to:

- a) Allow the development of buildings and uses appropriate to Newton’s village commercial centers and aligned with the vision of the City’s *Comprehensive Plan*.
- b) Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
- c) Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
- d) Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

(2) Allowed uses. In the Mixed Use 4 District, land, buildings, and structures may be used or may be designed, arranged, or constructed for one or more of the purposes listed in Table B, below. In granting a special permit in accordance with the procedures of Section 30-24 for a use enumerated below, the Board of Aldermen shall make a finding that the proposed use will encourage an active, pedestrian-oriented streetscape throughout the day and week, that the proposed use fills a demonstrated need for the use within the vicinity, and that the proposed use is not inconsistent with the purposes of this section, 30-13(h)(1), the 2007 *Newton Comprehensive Plan*.

TABLE B: PRINCIPAL USES FOR THE MIXED USE 4 DISTRICT ¹	
Uses similar to or accessory to the following, may be allowed as determined by the Commissioner of Inspectional Services ²	
Commercial	
• General office, including but not limited to research and development, professional offices, and medical office, above or below street level	BR
• At street level ³	SP
• Animal Services, including but not limited to sales and grooming and veterinary services; excluding overnight boarding	SP
• Retail sales, including but not limited to specialty food store, convenience store, newsstand, bookstore, food coop, retail bakery, art gallery, and general merchandize store, that are 5,000 square feet or less in area	BR
• More than 5,000 square feet of gross floor area	SP
• Personal services, including but not limited to barbershop, salon, tailor, cobbler, personal trainer or fitness studio, laundry, and dry cleaning drop off, that are 5,000 square feet or less in area	BR
• More than 5,000 square feet of gross floor area	SP
• Business services, including but not limited to copying and printing establishments and shipping services, that are 5,000 square feet or less in area	BR
• More than 5,000 square feet of gross floor area	SP
• Eating and drinking establishments with 50 seats or less	BR
• More than 50 seats	SP
• Open between the hours of 11:30 p.m. and 6:00 a.m.	SP
• Retail banking and financial services, above or below street level	BR
• At street level ³	SP
• Automated Teller Machines	BR
• Health club	SP
• Place of entertainment and assembly, theater, club	SP
• Lodging, including but not limited to, bed and breakfast, hotel, motel	SP
• Open-Air Business	SP
Residential	
• Multifamily dwellings (a building containing three or more dwelling units) , above street level	BR

• At street level	SP
• Live/work space or home business	BR
• Single-room occupancy dwelling or single-person occupancy dwelling, above street level	SP
• Assisted living or nursing home	SP
Civic, Public, and Community	
• Community use space	BR
• Day care services for adults or children	BR
• Place of religious assembly	BR
• Government offices or services	BR
• Park or garden	BR
• Nonprofit or public school	BR
• Library or museum	BR
• <u>Other uses allowed in Section 30-6</u>	BR
Transportation and Infrastructure	
• Parking, public or accessory to an allowed use	BR
• Parking, non-accessory commercial	SP
• Car-sharing services, bike rental, electric car-charging stations	BR
• Public rail or bus station	BR
Prohibited	
Drive-in business, hospital, manufacturing, funeral home, sales of motor vehicles, car wash, gas station or motor vehicle service station, fast food establishments as defined in section 30-1, personal storage warehouse	

¹ Uses listed in Table B are permitted as of right in the Mixed Use 4 District where denoted by the letter “BR.” Uses designated in the Table by the letters “SP” may be allowed only if a special permit is issued by the Board of Aldermen in accordance with the procedures in section 30-24. Where more than one enumerated classification could apply to a proposed use, the most specific classification shall be employed; where the uses are equally specific, the most restrictive classification shall be employed.

² Any use determined to be similar to a use listed in Table B shall be subject to the same level of review as the use to which it is similar. An accessory use is only allowed if the use to which it is accessory is allowed, as shown in Table B.

³ Street level as defined in Section 30-1; street-level entry lobbies permitted per Section 30-15(w)(5)

Add the following to Section 30-15, Table 1:

Zoning District	Minimum Required Lot Area	Minimum Lot Area per unit	Minimum lot Frontage	
Mixed Use 4	10,000	1,200	80	SEE TABLE 3 for other dimensional controls

Add the following to Section 30-15, Table 3:

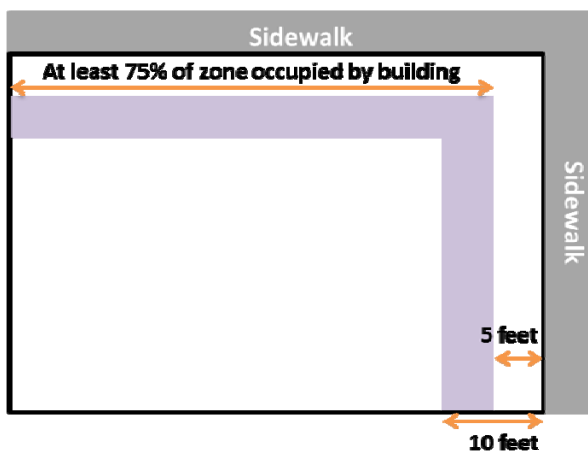
Zoning District	Max. # of Stories	Bldg. Ht. (ft.)	Total Floor Area Ratio	Gross Floor Area/ Site Plan Approval (SF)	Threshold by Special Permit (Gross Floor Area; SF)	Min Lot Area (SF)	Lot Coverage	Beneficial Open Space	Front (feet)	Side (ft.)	Rear (ft.)
Mixed Use 4											
As of Right ¹⁴	2	24	1.0	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	5-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴
By Special Permit ¹⁴	4	48	2.0	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	5-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴
Mixed-use residential, by right ¹⁴	3	36	1.5	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	5-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴
Mixed-use residential, by Special Permit ¹⁴	5	60	2.5	10,000-19,999	20,000	10,000	N/A	0% or 5% ¹⁴	5-10 ¹⁴	0 or 20 ¹⁴	0 or 20 ¹⁴

¹⁴ See sec. 30-15(w) for additional dimensional requirements for developments within the Mixed Use 4 Zone.

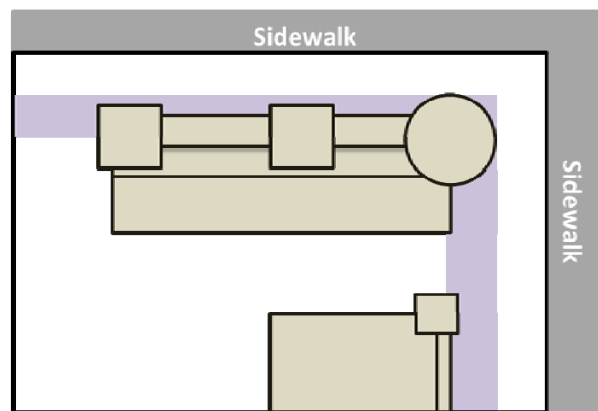
30-15(w) Design Standards for the Mixed Use 4 District. Notwithstanding any provisions of Section 30-15 to the contrary, buildings and structures in the Mixed Use 4 Zone shall conform to the following standards:

- (1) **Height.** Buildings in the Mixed Use 4 Zone shall be a minimum of two (2) stories and shall conform to the limits for building height and stories established in Section 30-15, Table 3. The Board of Aldermen may grant a special permit in accordance with the procedures in section 30-24 to allow up to four (4) stories and forty-eight (48) feet of building height by finding that the proposed structures are compatible in visual scale to their surroundings, do not adversely impact their surroundings by creating shadows or blocking views and, advances the purposes of Section 30-13(h)(1).
- (2) **Mixed-Use Residential Incentive.** Buildings that meet the definition of Mixed-Use Residential Buildings per Section 30-1 shall conform to the specific limits for building height and stories established in Section 30-15, Table 3. The Board of Aldermen may grant a special permit in accordance with the procedures in section 30-24 to allow up to five (5) stories and sixty (60) feet of building height by finding that the proposed structures are compatible in visual scale to their surroundings, do not adversely impact their surroundings by creating shadows or blocking views and, advances the purposes of Section 30-13(h)(1).
- (3) **Residential Density.** The Board of Aldermen may grant a special permit in accordance with the procedures in section 30-24 to vary the lot area per dwelling unit requirement of Table 3 by finding that the proposed density creates a beneficial living environment for the residents, does not negatively impact the traffic on roads in the vicinity, and better achieves the purposes of section 30-13(h)(1) than by strict compliance with these standards.
- (4) **Setbacks.** The Board of Aldermen may grant a special permit in accordance with the procedures in section 30-24 to vary the following setback requirements by finding the proposed plan can better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage the purposes of section 30-13(h)(1) than by strict compliance with these setback standards.
 - a) A minimum of 75% of the frontage of the lot facing a public way shall contain a building(s), the first floor façade of which is setback between five and ten feet from lot line.

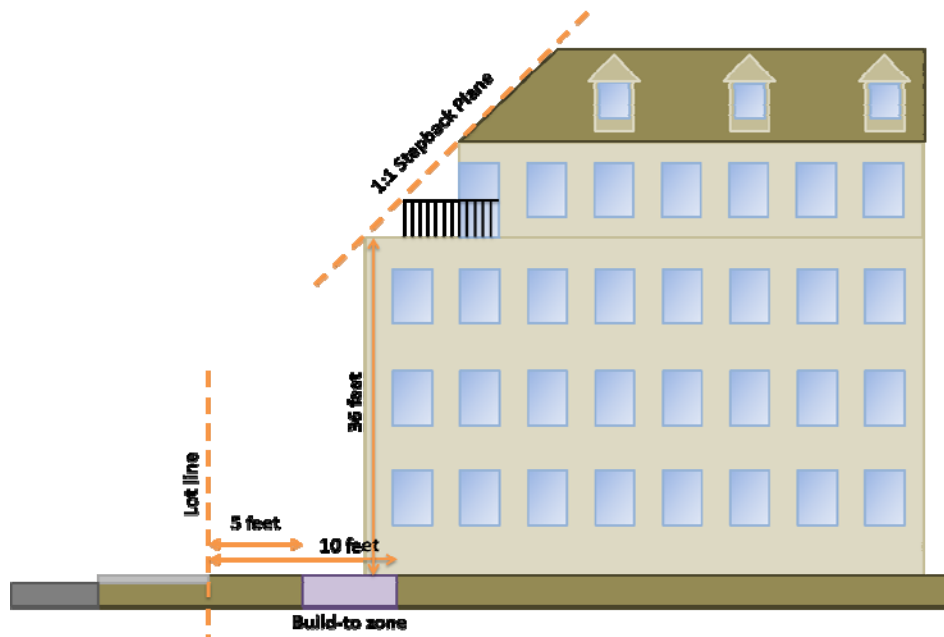
Illustration of Section 30-15(w)(4)a):



For example:



- b) No side or rear setbacks are required, except, where abutting a residential district, the required side and rear setbacks shall be no less than twenty (20) feet.
- c) Any portion of a building greater than 36 feet in height must be setback one foot from the adjacent lot line for each additional foot of height.



(5) **Accessibility.** The design of the building(s) and the site plan shall give due consideration to the issues of accessibility, adaptability, visitability, and universal design.

(6) **Transparency and Entrances.** Commercial uses in a Mixed Use 4 Zone must meet the following requirements: The Board of Aldermen may grant a special permit in accordance with the procedures in section 30-24 to vary these setback requirements by finding the proposed design better enables appropriate use of the site, supports pedestrian vitality, and achieves the purposes of section 30-13(h)(1) more favorably than by strict compliance with these setback standards.

- a) There shall be at least one entrance every fifty feet of building frontage facing a public way.
- b) A minimum of 60% of the street-facing building façade between two feet and eight feet in height above the street-level floor must consist of clear windows that allow views of indoor space or display areas.
- c) Display windows used to satisfy these requirements must be regularly updated and maintained to create an active window display; any illumination of the display shall be internal to the façade of the building.

(7) **Lobbies for low-activity uses.** Section 30-13, Table B, permits offices, retail banking, and financial service uses at street level by special permit only. Entryways and lobbies at street level are allowed for office, retail banking, and financial service uses occurring above or below street level subject to the following requirements:

- a) Any dedicated entranceway and lobby space for such uses may not exceed a total of fifteen (15) linear feet of an exterior building wall and 400 square feet of gross floor area.
- b) Exterior ATMs may occupy no more than an additional twelve (12) linear feet of an exterior building wall.

(8) **Open Space.** Parcels greater than one acre in area shall provide beneficial open space totaling no less than 5% of the total lot area. Parcels smaller than one acre in area are encouraged to provide and maintain attractive landscaping where it enhances the public realm, environmental sustainability, and/or the appearance of the site.

Renumber Sections 30-13(h) and 13(i) to Sections 30-13(i) and 13(j) and revise the new Sections 30-13(i) and 13(j) as follows:

(h) Site Plan Approval, Building Size. In all Mixed Use Districts, land and buildings may be used for the purposes authorized in their respective districts, provided that:

- (1) any proposed building(s) or structure(s) containing individually or in the aggregate between 10,000 and 19,999 square feet in gross floor area; or
- (2) any addition(s) to an existing building(s) or structure(s) containing individually or in the aggregate between 10,000 and 19,999 square feet in gross floor area which increases the total gross floor area to less than 20,000 square feet; or
- (3) any addition(s) to an existing building(s) or structure(s) which increases the gross floor area individually or in the aggregate to between 10,000 and 19,999 square feet in gross floor area

shall require site plan approval in accordance with section 30-23, except that after August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure identified in subsection (2) or (3) of this section shall not be subject to site plan approval. All building(s), structure(s) and addition(s) thereto shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot. However, nothing herein prohibits phased development of a property, shared open space, pedestrian or vehicular connections between parcels, shared parking between the parcel(s) and other parcels in the vicinity, and/or similar design features that are in keeping with the City's vision for the subject parcel.

(j) Special Permit, Building Size. In all mixed-use districts, land and buildings may be used for the purposes authorized in their respective districts, provided that:

- (1) any proposed building(s) or structure(s) containing individually or in the aggregate 20,000 or more square feet in gross floor area; or
- (2) any addition(s) to an existing building(s) or structure(s) containing individually or in the aggregate 20,000 or more square feet in gross floor area; or
- (3) any addition(s) to an existing building(s) or structure(s) which increases the gross floor area individually or in the aggregate to 20,000 or more square feet in gross floor area

shall require a special permit in accordance with section 30-24, except that after August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure identified in subsection (2) or (3) of this section shall only require site plan approval pursuant to section 30-23. In granting a special permit, the Board of Aldermen shall make a finding that the proposed site plan and building form is compatible with the neighborhood context, that the proposed project improves the pedestrian environment through design, creation of open space, and/or improvements to the public way, including plans for their maintenance and use, and that the proposed uses enhance the commercial and civic vitality of the vicinity. All building(s), structure(s) and addition(s) thereto shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot. However, nothing herein prohibits phased development of a property, shared open space, pedestrian or vehicular connections between parcels, shared parking between the parcel(s) and other parcels in the vicinity, and/or similar design features that are in keeping with the City's vision for the subject parcel. (Ord. No. T-12, 3-20-89; Ord. No. T-75, 3-5-90; Ord. No. T-154, 6-3-91; Ord. No. T-185, 11-18-91; Ord. No. T-319, 12-20-93; Ord. No. V-87, 7-8-96; Ord. No. V-156, 1-5-98; Ord. No. V-173, 5-18-98; Ord. No. W-34, 3-5-01; Z-108, 04-17-12)

PROPOSED ADVERTISING LANGUAGE

#150-09(7): The Director of Planning and Development proposing that section 30-13 be amended to establish a Mixed Use 4 (MU4) District; that Section 30-15 be amended to create a new Section 30-15(w) and revised Table 1 and Table 3 providing dimensional standards for development in the MU4; Section 30-15(w) shall include specific standards and special permit criteria for height, residential density, setbacks, accessibility, street-level transparency, lobbies for low-activity uses, open space, and an incentive for including mixed-use residential dwellings; and that Sections 30-13(h) and 13(i) be renumbered and revised to include specific special permit criteria and allow shared parking and connections with adjacent lots. A complete copy of the proposed text can be obtained from the Planning Department on the second floor of City Hall, or at 617-796-1120, or szeren@newtonma.gov.

#150-09(8): The Planning Department proposing a certain parcel of land located at 28 Austin Street in Newtonville identified as Section 24, Block 9, Lot 15, known as the Austin Street Municipal Parking Lot be rezoned to the Mixed Use 4 (MU4) District to allow a mixed-use development.



Setti D. Warren
Mayor

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Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: August 10, 2012

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

FROM: Candace Havens, Director of Planning and Development
Seth Zeren, Chief Zoning Code Official 

RE: #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.

MEETING DATE: Working Session on August 16, 2012

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

EXECUTIVE SUMMARY

Since 2007, the number of FDIC-insured bank branches in the City has increased by approximately four branch locations. This increase in banks, particularly visible in a few villages, prompted the Economic Development Commission (EDC) to begin a conversation on the impact of banks on the retail mix and vitality of Newton's village commercial centers. The proposed docket item is not meant as a permanent measure, but rather to create a temporary "oversight period" to slow down the opening of new banks and give the Board time to consider zoning changes that can address the overall vitality of Newton's villages. The proposed special permit oversight period would require new banks locating where no bank currently exists to obtain a special permit from the Board of Aldermen; existing banks would not be subject to this requirement.

At the previous Zoning and Planning Committee working session on July 16, the Planning Department presented an initial analysis of the impact of banks on retail vitality. Since that working session, the Planning Department met with representatives of local banks and the Chamber of Commerce to get their perspectives on the matter. The bank representatives noted that banks provide many benefits to the local business environment, including generating significant foot traffic during business hours and providing commercial lending services. They also considered themselves to be stable tenants and anchors in their respective communities and also expressed their strong preference for maintaining a presence at street level, preferably by right.

In considering the nexus between the number of banks and their role in village vitality, Planning staff has outlined a potential “Village Vitality Project” that could comprehensively address such concerns through a combination of zoning changes and non-zoning interventions. At this juncture, the Board must decide if it wishes to further evaluate the causes, effects and incentives for village vitality over the next year (including discussion about parking and overlays) and the role the banks play, and whether it wishes to put in place a special permit requirement for banks in the meantime. If an oversight period is desired, the Board may want to focus on the two or three village centers where there is the most concern, so that new banks could easily enter the market where there is a local need.

ANALYSIS

Discussion with bank representatives

On Thursday July 19, members of the Planning Department and the EDC met with representatives from Cambridge Savings Bank, Century Bank, Dedham Savings Bank, Watertown Savings Bank, Rockland Trust, Needham Bank, Village Bank, People's Federal Bank at Century Bank in Newton Centre. Chris Steele from the EDC introduced the intent behind the petition to support the vitality of village centers by regulating the retail mix, and staff provided additional context. The representatives expressed a shared concern that banks were being unfairly characterized as harming village centers, rather than being key partners in their vitality and all agreed that a street-level presence was very important to them. The representatives noted that banks draw many customers during their open hours who may also patronize neighboring businesses, pointing out that the traditional “bankers hours” have been extended to evenings and weekends for many. Several representatives questioned whether an increase of four banks over the past five years and other research presented were evidence of a significant impact. The conversation moved toward considering how to “focus on the positive.” There was agreement that banks serve a vital function in the community by providing financial services not only to customers, but also to merchants and property owners. Some banks, including Century Bank in Newton Centre have conference or community rooms that can be made available to community groups for meetings. Furthermore, some areas of the City, particularly Newton Highlands and Nonantum are seen having an unmet banking demand.

What makes villages vital?

During the previous working session the, members of the Committee and staff raised the overall question of “what makes villages vital?” Vitality can mean many things to different people and definitions of vitality may differ from village to village, there are certain well understood urban design and planning principles for creating vital places. Vitality starts with people and many points of interest. Vital areas draw visitors through a dense mixture of active uses and events with opportunities for work, shopping and play throughout the day and week, and provide interest for people of all ages and abilities. Vital areas also provide a safe, attractive environment with green spaces, places to sit, and other features so pedestrians can linger, greet each other, and visit several businesses in one trip. Density can also be important by providing foot traffic and eyes on the street from overhead apartments above shops.

Building off these fundamentals, the vision of vitality that each village chooses to pursue can vary in style and substance. One village may prefer to emphasize an active night life with restaurants and entertainment venues that may be less active in the morning hours, while another village focuses on providing service and retail needs

of residents in the vicinity, while yet another emphasizes more urban-style living with upper-story apartments near transit and other amenities nearby. The 2007 *Comprehensive Plan* calls for developing detailed “place-centered” village plans to guide future zoning and land use patterns, infrastructure investment, and business growth. This village planning process would include identifying a community definition of “vitality” for each village in turn.

Main Streets Program

The Main Street Program is one approach some communities have taken to address issues of village revitalization or vitality. The National Trust for Historic Preservation operates a Main Street Center that provides resources and coordination for accredited Main Streets programs. Main Streets organizations are typically freestanding nonprofit organizations or associated with existing community organizations that focus on collaboration between business and property owners to beautify and promote a business area. The success of the Main Streets model highlights the importance of combining regulatory reform with non-regulatory coordination and promotion. To achieve accreditation, a Main Street program must meet specific requirements, including incorporating the organization in coordination with the regional coordinating program, hiring a full time Main Street Coordinator, appointing a Board of Directors, and regular reporting at the regional and national level. Accreditation and membership provide access to information, best practices, and consulting services supplied by the National Trust. However, many of the tools and concepts employed by Main Streets programs are well understood in downtown planning practice generally, and whether or not Newton chooses to become “official” participants, there is a wealth of information and guidance available which City staff could employ to implement Main Streets strategies.

NEXT STEPS

If the Committee decides that the bank oversight period is necessary, staff will craft appropriate docket language for public hearing. Whether or not the Committee decides to initiate this intervention, village planning work could begin with development of a planning strategy, which would include developing an understanding of the existing conditions and community expectations in each village, as they relate to the question of vitality and an outline of different ways to address vitality concerns, whether legislative or non-legislative. Creation of village plans could emerge from this work and could coincide with the zoning reform work that is planned for the following year.