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James Freas
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ZONING REVIEW MEMORANDUM

Date: May 4, 2015

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Alan Schlesinger, attorney
Austin Street Partners, LLC
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

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David A. Olson, CMC
Newton, MA 02459

RE: Request for a mixed-use development consisting of 5,000 square feet of commercial space, 68 dwelling units with parking and 127 public parking spaces

Applicant: Austin Street Partners LLC	
Site: 28 Austin Street	SBL: 24009 0015
Zoning: MU4	Lot Area: 74,536 square feet
Current use: Public parking lot	Proposed use: Residential, commercial, and public and private parking

BACKGROUND:

The property at 28 Austin Street is situated at the corner of Austin and Walnut Streets, with a 30 foot right of way that leads to Highland Ave. The lot consists of 74,480 square feet in a MU4 zone. The property is currently owned by the City of Newton and is used as a public parking lot. The property was declared "surplus" by the Board of Aldermen in 2010 and rezoned to MU4 in 2012 in anticipation of Requests for Proposals for redevelopment. The City entered into a Memorandum of Intent with Austin Street Partners in 2014.

Austin Street Partners proposes to redevelop the property with a mixed-use structure containing 68 dwelling units, including the required affordable units, on the second, third and fourth floors of the four-story, 48-foot tall building. The proposed 85,652 square foot building will include 5,000 square feet of commercial space, including office and/or retail and/or a restaurant, as well as residential parking within the building, and 127 public surface parking stalls. Parking for car-sharing and electric vehicle charging stations, as well as future bike rental are included.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Alan Schlesinger, attorney, dated 4/21/2015
- Existing Conditions Plan, signed and stamped by Verne T. Porter, surveyor, dated 10/22/2014
- Floor Plans, prepared by ADD Inc and Stantec, dated 4/16/2015
 - Basement
 - Ground Floor
 - Second Floor
 - Third Floor
 - Fourth Floor

ADMINISTRATIVE DETERMINATIONS:

1. Section 30-13(h)(2), Table B establishes the allowed uses in the MU4 district. According to this table, the 68 residential units above the first floor are allowed by right.
2. The applicant is proposing 5,000 square feet of street-level commercial space, including the potential for office, retail, service and/or restaurant uses. Per Section 30-13(h)(2), Table B, a special permit is required for street-level office use.
3. Restaurants with less than 50 seats are allowed by-right, those with more than 50 seats require a special permit pursuant to Section 30-13(h)(2), Table B. To ensure that a restaurant with more than 50 seats will be allowed to operate, a special permit is required.
4. There are 127 public surface parking stalls proposed for the property. Section 30-13(h)(2), Table B allows public parking by right.

The applicant is proposing 90 parking stalls in a below-grade parking garage, with 85 parking stalls proposed for the residential use, as well as an additional five for the commercial space within the ground level of the proposed structure. These below-grade parking stalls are accessory to allowed uses and are allowed by right.

5. The applicant is proposing 85,652 square feet of gross floor area within the proposed structure. Section 30-13(j)(1) requires site plan review and a special permit for proposed buildings which contain 20,000 square feet or more of gross floor area.
6. The applicant is proposing a building height of 48 feet and four stories, which requires a special permit per sections 30-15 Table 3, and 30-15(w)(2). This section allows the Board of Aldermen to grant a special permit for up to five stories and 60 feet for Mixed-Use Residential Buildings. The Ordinance requires that any portion of a building greater than 40 feet in height must be setback one foot from the adjacent lot line. The proposed structure meets this requirement.
7. Section 30-15, Table 3, and Section 30-15(w)(4)b require a 20-foot side and rear setback when a subject property abuts a residential zone. The properties to the south of the subject property are zoned Multi-Residence 1. The applicant is proposing a side setback of 10 feet, which requires a special permit to waive the side setback requirement per Section 30-15(w)(4).

8. Section 30-15(w)(8) requires that parcels greater than one acre in area shall provide beneficial open space totaling no less than 5% of the total lot area. The proposal provides exactly 5% open space, or 3,750 square feet, in the form of a public plaza in the northeast corner, a planted area in the southwest corner, and landscaping along the perimeter.
9. Section 30-24(f)(2) requires that a project requiring a special permit for residential or mixed use development including residential development beyond that allowable as of right or totaling more than two new additional units be subject to the inclusionary housing provisions. The ordinance requires that the project provide no fewer than 15% of the number of dwelling units proposed to be added by the development. The applicant is proposing to provide ten affordable units out of the 68 units, which is 15% of the total, in accordance with the Ordinance. Further, the applicant proposes to set aside seven units as "workforce housing," for persons earning up to 120% of Area Median Income, for a total of 25% deed restricted units.
10. The project proposes 90 below-grade parking stalls for residents and employees of the commercial space, and 127 surface parking stalls for public use. Per Section 30-19(d)(2), two parking stalls are required per each dwelling unit. With 68 residential units proposed, 136 stalls are required.

Within the proposed 5,000 square feet of commercial space, the applicant assumes 2,000 square feet of retail space, 1,000 square feet for office use, and a 50 seat restaurant.

Per Section 30-19(d)(10), retail uses require one stall per each 300 square feet of gross floor areas, as well as one stall for every three employees at the busiest shift. The proposed 2,000 square feet, with a presumed six employees requires nine parking stalls.

Office uses require one stall per each 250 square feet per Section 30-19(d)(11). The proposed use of 1,000 square feet of office space requires four stalls.

Restaurant uses require one stall per every three seats, as well as one stall for every three employees at the busiest shift per Section 30-19(d)(13). A 50-seat restaurant is proposed with up to six employees at the busiest shift, requiring 19 stalls.

The total number of parking stalls required for the proposed uses is 168. However, to ensure that the applicant does not need to amend the special permit in the future for a parking waiver, if it is presumed that the 3,000 square feet currently proposed for retail and office is used as medical office, 15 stalls will be required per Section 30-19(d)(12), for a total of 170.

With 90 stalls proposed for the site, a waiver of 80 stalls is required per Section 30-19(m).

11. Section 30-19(e) requires that a parking plan for any parking facility with more than five stalls shall be submitted to the Commissioner of Inspectional Services for review prior to construction. The applicant seeks a waiver from this provision.
12. Section 30-19(h)(1) requires that no parking stall shall be located in a required setback, or within five feet of a structure containing dwelling units. There is parking proposed within the side and

rear setbacks, as well as within five feet of the proposed building. A special permit per Section 30-19(m) is required.

13. The minimum dimensional requirements for parking stalls is 9 feet wide by 19 feet deep per Section 30-19(h)(2)a) and b). The applicant proposes several compact stalls, which require a waiver per Section 30-19(m).
14. Section 30-19(i)(1) requires that parking facilities be screened from abutting streets and properties with dense plantings and/or fencing. To the extent that the proposed parking plan does not meet these requirements, a waiver is necessary per Section 30-19(m).
15. The submitted plans do not show proposed interior landscaping. To the extent that the proposed parking lot does not meet the interior landscaping requirements of Section 30-19(i)(2), a waiver is required per Section 30-19(m).
16. No lighting is shown on the submitted plans. Section 30-19(j)(1) addresses the requirements for lighting of parking facilities. The applicant shall either comply with the provisions of the Ordinance, or should seek a for a waiver from the requirements of 30-19(j)(1) per Section 30-19(m).
17. Section 30-19(k) requires bicycle parking facilities. There is a 768 square foot bike storage area proposed within the basement level parking garage, however no public bicycle parking is proposed. A waiver from this section is required per Section 30-19(m). It is noted that a future bike-sharing station is proposed within the public plaza on the right of way.
18. Section 30-19, Table of Off-Street Loading Requirements lays out the number of loading bays required for new uses by gross floor area of a structure. Per the Table, two bays would be required for a building with 85,652 square feet. Given that only 5,000 is dedicated to commercial uses, a waiver is requested per Section 30-19(m).

MU4 Zone	Required	Proposed
Lot Size	10,000 square feet	74,480 square feet
Frontage	80 feet	+/- 300 feet
Setbacks*		
• Front	<10 feet	8 feet
• Side	20 feet	10 feet*
• Rear	20 feet	35 feet
Lot Area Per Dwelling Unit	1,000 square feet	1095 square feet
Total Gross Floor Area		85,652 square feet
Building Height (by Special Permit)	36 feet (60 feet)	48 feet
Max Number of Stories (by Special Permit)	3 (50)	4
FAR (by Special Permit)	1.5 (2.5)	1.15
Beneficial Open Space	5%	5% (3,750 square feet)
Transparency	Entrance every 50 feet 60% clear windows	Complies Complies

*Waivable by Special Permit per Section 30-15(w)(4)

19. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§30-13(h)(2), Table B	To allow street-level office uses	S.P. per §30-24
§30-13(h)(2), Table B	To allow a restaurant with more than 50 seats	S.P. per §30-24
§30-13(j)(1-3)	To allow a building in excess of 20,000 square feet of gross floor area	S.P. per §30-24
§30-15(w)(2), §30-15, Table 3	To allow building height of 48 feet and four stories	S.P. per §30-24
§30-15(w)(4)b), §30-15, Table 3	Waiver for a side and rear setback less than 20 feet abutting the MR1 district	S.P. per §30-24
§30-19(d)(2), (10), (11), (12) (13), §30-19(m)	Waive 80 parking stalls	S.P. per §30-24
§30-19(e), §30-19(m)	Waive requirement for a parking plan	S.P. per §30-24
§30-19(h)(1), §30-19(m)	To locate parking within a setback, and within 5 feet of a residential structure	S.P. per §30-24
§30-19(h)(2)a) and b), §30-19(m)	To waive the dimensional requirements for parking stalls	S.P. per §30-24
§30-19(i)(1), §30-19(m)	To waive the screening requirements for parking lots	S.P. per §30-24
§30-19(i)(2), §30-19(m)	To waive the interior landscaping requirements	S.P. per §30-24
§30-19(j)(1), §30-19(m)	To waive the lighting requirements for parking lots	S.P. per §30-24
§30-19(k) §30-19(m)	Waive the requirement for bicycle parking facilities	S.P. per §30-24
§30-19, Table of Off-Street Loading, §30-19(m)	To waive the off-street loading requirements	S.P. per §30-24