

Memorandum

Subject: Austin Street Development
Date: November 11, 2015
To: Land Use Committee of the Board of Aldermen
CC: Board of Aldermen,
Department of Planning and Development
From: Newtonville Area Council



NEWTONVILLE

AREA COUNCIL

2014-2015

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At the November 11, 2015 meeting of the Newtonville Area Council, the Council agreed by unanimous vote to send this document to the Land Use Committee of the Newton Board of Aldermen and additional recipients regarding the Special Permit Application submitted by Austin Street Partners and the City of Newton for development of the Austin Street parking lot. This document specifically addresses our primary concerns with the Draft Board Order #119-15.

Respectfully submitted,

Jacqueline Freeman
Secretary, Newtonville Area Council

The Newtonville Area Council (NAC) has reviewed the new plans for the Austin Street Partners (ASP) development of the Austin Street lot. This document is an update to our previous review, and includes references to the Findings and Requirements in *Draft Board Order #119-15* dated November 6, 2015. We hope it will be of assistance as the Land Use Committee evaluates the specific waiver requests and prepares a final board order pursuant to Docket Item #119-15 (Austin Street Partners, LLC/City of Newton petition for Special Permit and Site Plan Approval for development at 28 Austin St.).

Sequencing of Walnut Street and Austin Street: We request that the Board of Aldermen place a requirement on the City of Newton in its position as co-petitioner, requiring that the scheduling of construction of any development at 28 Austin St occur after the sidewalk and roadway reconstruction of Walnut St is completed. Our reasoning: 31 parking places on Walnut St will be temporarily lost during Walnut St. reconstruction. This matches the existing surplus in the Austin St lot, which will no longer exist after 28 Austin St is built. Additionally, the improved Walnut St should help attract customers to the Village to help offset the business disruptions which will occur during Austin St. construction.

Use of one-time lease payment funds: Due to the fungible nature of the lease payment funds, the **NAC requests an elaboration of Finding #16**, binding on the City as co-petitioner, addressing the following:

- 1) Reaffirmation of Board Order #150-09(6) of February 6, 2012, item 10, *“That funds at least equal to the monetary bid received for the sale or lease of the property be used to enhance the redevelopment of the site and improve Newtonville center more generally.”*
- 2) Clarification that these funds be used to augment existing funds, and shall not be used (1) to fund improvements already planned by the City, including but not limited to sidewalk expansion, crosswalk and curb ramp improvement and repaving of Walnut St., or (2) to relieve requirements of the Developer stipulated in the RFP. Benches, lighting, trees and other amenities in the Newtonville village would be among viable options, since the city has stated that funds for such items are not included in the street reconstruction funds. On the other hand, we understand that the sum to be paid by the developer for undergrounding is less than the projected cost, and we object to use of the use of these funds to offset a responsibility of the developer clearly stipulated in the RFP.

Waivers: The NAC offers our recommendations regarding some of the waivers that would be required by the current design and site plan.

- 1) **Setback of 4th floor. We disagree with Finding #20**, in which the building height is found to be comparable to other nearby buildings. The heights listed of those buildings are ridge peak heights, and not cornice heights, so they are not visually equivalent. A step-back of the fourth floor would substantially improve the apparent massing of the building relative to the surrounding structures.

It is clear that the wording of Zoning Ordinances(2015) Section 4.2.5(A)(4)(c) (former Section 30-15(w)(4)(c)) did not anticipate a property such as 28 Austin St, where the lot line is in the roadway in places, and not parallel to the curb line. The language used in minutes of Zoning and Planning sessions during definition of the MU4 zone indicates that a 0 to 10 ft maximum setback along the fronting street was to ensure that retail windows and entrances were close to the pedestrian walkway. The wording

of these minutes, as well as the illustration in the named section of the ordinances, would imply that the intent was that a building face directly abutting the sidewalk should have a 1:1 step-back for features over 40 feet high. While we understand that a strict reading of the ordinance would mean that no waiver is required, we strongly urge that a step-back of the fourth floor along the north and west faces be required for site plan approval.

- 2) **Low Activity Uses.** We disagree with Finding #18, which supports office use in the street-level retail spaces. One of the stated goals of the Planning Department when this parcel was reviewed by Zoning and Planning was to enhance retail (including food service, and personal services) space in Newtonville, and to stimulate pedestrian activity along Austin St.; lower activity uses such as offices and banks were specifically to be avoided in street level storefronts. However, a substantial percentage of the ASP commercial space is allocated to office use, not retail. NAC opposes such a waiver. The NAC asserts that all of this space should be kept as retail, and that the second floor would be a more appropriate location for office space. Second floor office space would also improve the sharing ratio of the underground lot.
- 3) **Parking Stalls:**
 - We disagree with Finding #21(e). The NAC opposes a blanket waiver of parking stall dimensions based on the current plan. The 8'6" width is reasonable in open parking lot areas. However, we are concerned by narrow stall dimensions between concrete supports. The NAC also opposes intermingling of compact spaces randomly among the 8'6" spaces. Post occupancy, we anticipate the lot to be at capacity frequently. Drivers will utilize open compact spaces, regardless of vehicle size.
 - We disagree with Findings #21(a) and #21(c) regarding adequacy of commercial parking. The NAC does not oppose waivers of residential parking stalls. We are concerned about the waiver of 29 commercial parking stalls. However, we feel that having a safe, functional lot is more important than the exact number of parking stalls. We feel the parking lot and structural post placement needs to be redesigned so that there are no narrow stalls between structural posts. Narrow stalls are less problematic for residential use where vehicle turnover is low, but GPI data showed that 2/3 of the activity in the lot is less than 1 hour duration, meaning there is high turnover.
 - We disagree with Finding #8 regarding adequacy of parking studies conducted by the City and ASP. We repeat our objection to parking studies that do not include winter months and inclement weather in determining current use. Actual peak use is greater than the numbers listed in the cited studies, which should be acknowledged when considering appropriate commercial tenants.
 - We disagree with Finding #18 regarding estimates of new use. Given that the total lot capacity will be approximately equal to the current peak use, businesses such as a 50 seat restaurant or a "spin studio" will clearly reduce the resources available to customers of existing businesses below current demand, and would cause material harm to those businesses. Since ASP is providing no added capacity for customers of the new commercial space, the NAC believes that the special permit would need to include language that requires special permits of commercial tenants who are to occupy the new spaces.
- 4) **Traffic studies.** We believe inadequate data has been provided to support Finding #8, in that the Traffic Impact Study was inconsistent with the example businesses cited by ASP and the City. We are troubled that the assessment of traffic is postponed until after construction is completed as stipulated in Requirement #26, and feel that the remedies

defined in that Requirement are inadequate to correct a problem. **We object to the timing of Requirement #15** in that a Transportation Demand Management Plan should be required prior to issuance of the building permit.

Deliveries and Trash: We feel the addition of the rear corridor for the businesses, and access to trash from the rear of the stores are substantial improvements. However, we maintain our skepticism of whether the area allocated to trash is sufficient. Additionally, **we disagree with Finding #21(g)** that “adequate provision is made for deliveries and trash and recycling pick-up.” The site plan includes no area for delivery truck parking that would not block access to the parking stalls. Additionally, the lack of trash storage area would result in likely daily trash pickup, and a truck collecting trash would block 31 (~25%) public parking stalls.

Undergrounding of utilities: We disagree with the adequacy of Requirement #27. The RFP specifically requires the developer to underground utilities along Austin St. It makes no sense to sequence the undergrounding of utilities AFTER construction is complete. Undergrounding of utilities should be performed either before or during construction, prior to completion of the new sidewalk and plantings and repaving of Austin St.

Facade and building material alterations: We are concerned with the vagueness of Requirement #11. The NAC has previously voiced concern about the visual quality of some of the materials, such as the cement fiber board that we observed at a site visit to a similar building by this developer. We have not seen samples of the proposed building materials except in the 3D model provided by ASP. The model shows use of brick, stone masonry on the lower level, and extensive use of cement fiberboard clapboards. Because the city is a co-petitioner, we request that Land Use play an active role in reviewing and approving exterior building materials to ensure that the building fits Newtonville’s architectural environment.

Construction parking: We believe that the new plan is substantially improved, but is critically dependent on the easy accessibility of the 50 on-site stalls throughout the construction cycle. We feel detailed construction site plans are necessary for each of the major phases of the project to validate that there will not be periods without the 50 on-site stalls. While these drawings appear to be required in *Requirements #10 and #12* prior to issuing of a building permit, we feel that preliminary plans should be provided prior to issuance of a special permit. Such drawings are necessary to ensure that the location of the parking stalls will both be safe, and be perceived as safe and accessible in order for shoppers to use them. We also believe that due to the scale of the economic impact should the contractor be unable to maintain these 50 stalls, it would be reasonable to require a substantial bond of the contractor to cover such losses.

Plaza and Bram Way: The primary benefit to the village of this development is the public plaza. The plaza only works as a vital public resource if Bram Way in front of Starbucks and Golden Scissors is closed to vehicular traffic except for emergency vehicles and time-restricted commercial delivery. The city as co-petitioner has argued that the Bram Way be one way onto Austin St. If this occurs, the effective plaza will be halved in size, as will its use. **We strongly disagree with Requirement #8(g)** which postpones a decision about Bram Way until after construction, and defers this decision to the Liaison Committee. While we understand that adjustments may be required in the future, we feel that the Board Order should place initial restrictions on vehicle travel on this portion of Austin St. in order to yield a successful public plaza.