

REAL PROPERTY REUSE COMMITTEE REPORTS FOR AUSTIN STREET
2009-2012

TUESDAY, MAY 26, 2009

#150-09 DIRECTOR OF PLANNING & DEVELOPMENT requesting a discussion re the potential redevelopment of the Austin Street municipal parking lot in Newtonville for mixed-use development, including affordable housing.

ACTION: HELD 7-0

NOTE: Alderman Linsky voiced his support of this item before he left to attend the Committee on Community Preservation. Phil Herr gave a PowerPoint presentation (attached) and an overview of HAPI, the Newton Housing Plan Initiative, whose goal is to help the city implement housing-related aims, particularly those articulated in the Comprehensive Plan. The 11 organizations that participate in HAPI have held 5 workshops and identified approximately a dozen actions including exploring several public sites for potential reuse. Alderman Johnson noted that the concept of developing the Austin Street lot with reconfigured parking began in 2005. Last year, interns for the design firm Sasaki Associates included development of the lot of as part of a sketch plan made for Newtonville square. That sketch showed one large residential structure. HAPI envisions a mixed residential/commercial development. The committee agreed that although the existing parking lot appears to be underutilized, it is important to retain a number of parking spaces for the existing businesses and the Senior Center.

The purpose of bringing this item before the committee – where the process will begin if a proposal is submitted and the parking lot declared surplus– is to get a sense of the physical, economic, and political feasibility for a public/private partnership development. Currently, the concept is in a preliminary stage and several steps away from the city’s issuing a request for proposals. If the sense of the committee is positive, the goal is to put together a package of information by the end of 2009 so the city can begin the formal process for such development. If there is no positive sense then at least the impediments will be identified and can be addressed. Mr. Kruse asked for a straw vote from the committee this evening.

In response to questions relative to the current economic downturn, Lynn Sweet, of LDS Consulting and a member of HAPI, said that now is the time to plan and that to developers and financiers a project this size is considered small and therefore less risky.

The Chairman asked the committee for a straw vote as to whether the Planning Department should proceed to put together a package to present the committee and the public. The committee voted 7-0-1, with Alderman Gentile abstaining, in the affirmative. The item was held, as were the other items, and the meeting was adjourned at approximately 9:00 PM.

NOVEMBER 24, 2009

ACTION: REFERRED TO 2010-2011 BOARD

NOTE: HAPI representative Phil Herr and Planning Director Mike Kruse presented this item to the Committee on May 25, 2009, when the Committee voted informally to support the concept. Mr. Kruse was at the Zoning Board of Appeals this evening, but Mr. Herr joined the Committee. Mr. Herr said that since May, additional studies were undertaken and various plans for reuse were discussed in HAPI workshops in June and September. HAPI will take it up again at its final workshop on December 17 and Mr. Herr anticipates that following that workshop the study report incorporating a draft Request for Interest (RFP) will be presented to the Mayor-elect. He reminded the Committee that out of the 8-9 sites identified for potential development by the Comprehensive Plan the Austin Street lot was chosen because it looked the least troublesome.

Other than a grant of \$10,000, many people, including architects John Wilson and Rick Heym, have worked pro bono.

Site issues include infrastructure: water service in Austin Street is only a 6" main and the sewer line has a history of backups. The Engineering Division has recommended that a TV inspection be performed to determine the adequacy of storm drainage facilities. The intersection of Walnut and Austin Streets nearly-but-not-quite opposite Newtonville Avenue is seriously flawed and should be redesigned and reconstructed whether a new development occurs or not.

Because the parking lot is currently zoned Public Use, a rezoning will be necessary. HAPI recommends that a Business 4 District, which abuts the site, would be appropriate and allow more height – probably 4-5 stories maximum. A modest sketch shows a 4-story building above one below-grade level and containing about 18,000 sf of business floor area, 18 housing units, and sufficient parking for both the new uses and replacement spaces for the ones displaced from the parking lot. A more aggressive sketch shows approximately 24,000 sf of business floor area, all retail, and 30 housing units, plus required parking for the new uses and replacement spaces. Currently, the lot contains 159 parking spaces, of which 129 are available to the public, and a Goodwill trailer. Recent parking studies show that on average 81-90 spaces are occupied daily.

An aggressive alternate could create 58 jobs, 5 more Cabot School pupils, 1,290 trip ends per day (a 15.7% increase), new growth tax levy of \$304,000 with a net revenue after costs of \$40,000. Mr. Herr pointed out that if the site is transferred with no cost to a developer, the real cost is to replace the parking, which is approximately \$15,000 per space. Other gains would include the infrastructure improvements. Ideally, the project could be underway in 2011.

Should the new Mayor choose to proceed, additional steps include:

- refinement of the RFI by City staff and others
- issuance of the RFI
- review of responses by City officials/organizations including the Economic Development Commission and the Housing Partnership
- declaration of surplus by the Commissioner of Public Works and subsequent reuse process through the Board of Aldermen
- issuance of a Request for Proposals

Mr. Herr agreed to the Committee's request to return to its successor so that it might have a look at the refined RFI. The Committee then thanked Mr. Herr and asked him to convey its appreciation to the other members of various organizations who have worked on this proposal, and voted to hold the item and refer it to the next Board.

MARCH 23, 2010

ACTION: HELD 7-0

NOTE: The Committee reviewed the two previous Committee reports of May 26 and November 24, 2009, attached to this evening's agenda, from when this item was discussed last. In summary, the prior Board of Aldermen agreed that the Planning Department should go ahead and refine a Request for Interest (RFI) in developing a portion of the Austin Street parking lot for a mixed-use development containing commercial use and housing. The proposal by the Newton Housing Action Plan Initiative (HAPI), the Planning & Development Department, and the Economic Development Commission envisions a public/private partnership. Ms. Havens explained that a draft RFI is being reviewed by the Law Department. Responses to the RFI will shape the next step, which is a Request for Proposals (RFP). When it reaches the RFP stage,

Alderman Linsky thinks it would be a good idea to have a public comment forum, similar to a bid opening. Alderman Fischman suggested that this project might be a candidate for expedited review under the State program. The steps, so far, are occurring outside the reuse process set out in ordinance 2-7, which process is officially triggered when a parcel or building is declared surplus by the entity, in this case the Commissioner of Public Works under whose jurisdiction it falls.

The Committee thought a site visit would be helpful and agreed to arrange one prior to its next meeting. Ms. Havens said she would e-mail the RFI to Committee members. Alderman Merrill made a motion to hold the item, which motion carried unanimously.

Clerk's note: Subsequent to the meeting, Ms. Havens e-mail the RFI to the clerk and members of the Committee. However, the Committee meeting for April 27 is cancelled because of budget meetings. A site visit will be arranged before the next Committee meeting, which is May 25.

MAY 25, 2010

ACTION: HELD 7-0

NOTE: The committee discussed this item on March 23, 2010. The site was visited by several committee members and Ms. Havens this morning. Last week, Ms. Havens e-mailed committee members and the ward 2 Aldermen an updated *Request for Interest* (RFI), dated May 15, 2010. Several members questioned the specificity of the RFI, but were persuaded that a fair amount of detail is necessary to generate interest in the property; although, if it is too specific it could fail to generate any response. The Committee did suggest that the RFI clarify the permitting process in Newton, i.e., reuse, zone change, special permit, etc.

Although Philip Bram Way, the driveway that runs from Austin Street to Highland Avenue, looks like a private way, it is part of the Austin Street lot. The city envisions it remaining as it is, a way to the Senior Center and a de facto service road for businesses, but the whole parcel is in play, at least at the onset. Not separating it could contribute to the density of a proposed project as added value to a developer.

The Committee was pleased with the RFI and agreed that Ms. Havens should post it on the city's website on June 1. The item was held 7-0.

SEPTEMBER 23, 2010

ACTION: HELD 5-0

#150-09(2) REAL PROPERTY REUSE COMMITTEE requesting that a working group consisting of Reuse members Aldermen Crossley and Linsky, along with Ward 2 Aldermen Albright and Johnson meet with the Executive Department, the Commissioner of Public Works, and the Planning Department to review the potential redundancy and future use of the Austin Street municipal parking lot and report its findings to the Real Property Reuse Committee by the end of October 2010.

ACTION: APPROVED 5-0

NOTE: The Committee discussed docket item #150-09 on November 24, 2009 and March 23 and May 25, 2010. Reports for those meetings are on the aldermanic web page under Committees/Real Property Reuse. The concept of developing the Austin Street parking lot and reconfiguring the parking began in 2005. The Newton Housing Plan Initiative (HAPI), whose goal is to help the city implement housing-related aims, particularly those articulated in the

Comprehensive Plan, held a number of workshops. After exploring a number of potential uses, HAPI ultimately envisioned a mixed residential/commercial development that would retain a number of the current parking spaces for the existing businesses and the Senior Center.

In May the Committee reviewed and approved a Request for Interest (RFI) drafted by the Planning Department. The RFI was posted and the Planning Department received three letters of interest (attached). Responding were First Cambridge Realty, represented this evening by Attorney Terry Morris; Newton Community Development Foundation, represented by Bob Engler; and, B’Nai B’rith Housing New England, represented by Holly Grace.

Consensus is this would be an opportunity for Newtonville and the city as a whole. A successful public/private partnership could bring the city not only tax revenue but in-kind benefits as well. By demonstrating how the city can do things well, it could be something to be emulated in other village centers. However, everyone concurred that the city needs to define what it wants vs. what it would like to allow a realistic assessment of the project’s financial viability. The multiple objectives need to be further refined. At this stage it is difficult to attempt to put together a pro forma. For example:

- metes & bounds of land
- baseline value of land
- sale or long-term ground lease
- acquisition cost
- baseline affordability
- on-grade or below-grade parking; financial feasibility of a two-level parking facility
- number/size of residential units
- practicality of second-floor retail.

The Committee was reminded of Warren Junior High, where the reuse languished for approximately ten years before it was finally converted to housing.

The conundrum is that although this committee has held preliminary discussions, the reuse process set out in §2-7 that requires a formal analysis by the Planning Department and allows the formation of a Joint Advisory Planning Group, both of which would define the “wants” to allow development of a Request for Proposals, has not been triggered because the property has not yet been declared surplus. The sole authority given to the Board of Aldermen in §2-7 is to set the *minimum* sale or lease price. Typically, the Board offers *resolutions* to the Mayor requesting that he impose other conditions relative to the sale or lease of the property and/or building. GL chapter 30B, the Uniform Procurement Act, requires the project go out to bid. The successful applicant will have to petition the Board for a change of zone (all city-owned land is zoned Public Use) and a special permit.

In an effort to advance this potential objective, Alderman Baker suggested forming a small group to meet with the Mayor, the Planning Department and the DPW Commissioner, whose jurisdiction the parking lot is under. It would report its recommendations to the committee at the end of October. The committee agreed and resolved that the group should include Alderman Linsky and Aldermen Albright and Johnson, the two other aldermen from Ward 2, and that Alderman Crossley given her profession as an architect participate as well. All other items were held and the meeting was adjourned at approximately 9:00 PM.

The Commissioner of Public Works declared the property surplus on November 3, 2010. Real Property Reuse held a special meeting on December 20, 2010 prior to the Full Board meeting. The item was placed on second call; a suspension of the rules to allow reporting of an item without a written report was approved.

#368-10 COMMISSIONER OF PUBLIC WORKS declaring surplus for sale or lease the Austin Street municipal parking lot in Newtonville, provided that 85 parking spaces remain available at no cost for City use.
Real Property Reuse Approved as Amended (a) declaring the property surplus 5-1 (Gentile opposed)
Real Property Reuse Approved (b) formation of a joint advisory planning group 6-0

The Board voted (a) to declare the property surplus via a voice vote with 4 nays and (b) to form a joint advisory planning group, also by voice vote.

NOTE: The Chair reported that the committee had approved the item with an amendment to include the words “at least” 85 parking spaces. There are approximately 159 parking spaces in this lot and 85 of those spaces are in constant use, thus the request to retain at least 85 of those spaces. The Chair also noted that the committee voted to form a Joint Advisory Planning Group (JAPG). The JAPG will include members chosen by both the Mayor and the Board of Aldermen and will discuss and review options for the site.

The Real Property Reuse Committee has met a number of times to talk about this property and to look at it as a possible mixed-use site. Several members were concerned that the neighborhood may not know that development of the lot is being considered; however, it was noted that there have been a number of meetings in the neighborhood over the years and the three Ward 2 Aldermen have been involved and are in favor of examining the possibilities. There will be a public hearing as part of the reuse process and then again during the special permit process. The site was identified by the Comprehensive Planning Group as an underutilized site and is one of the few sites where a mixed use development can be situated.

It was noted that the project would be over 20,000 sq. feet and that it would require a special permit. This will provide some protection to the neighbors of the area. Concerns were raised that a project of that size seemed big. Concern was also raised at the loss of 74 parking spaces in the center of Newtonville Square. A statement was made in committee that the City was not looking to make money on this deal; however, other members were upset that the city would consider giving up a piece of property without getting something of value in return.

The Board was reminded that there have been several properties that have been declared surplus that some wish that the city now had back.

A statement was made that Newtonville Square needs to develop a sense of place. To do that it needs a critical mass of activity, and this project will help to do that.

A question was raised as to what it meant that the parking spaces were to be retained at no cost to the city. The chair noted that the developer could not charge the city for their use of the parking spaces. The City could still maintain parking meters or a means to collect parking revenues. The Board voted to approve both (A) and (B).

#150-09(4) PRESIDENT LENNON submitting pursuant to §2-7(2)b) of the City of Newton Revised Ordinances, 2007 the following list of Aldermanic appointees to serve on a Joint Advisory Planning Group (JAPG) to make recommendations on the future use of the Austin Street municipal parking lot, which was declared surplus on December 1, 2010:

John Wilson, 30 Foster Street, Newtonville
Philip Herr, 20 Marlboro Street, Newton
Catherine Farrell, 67 Oak Cliff Road, Newtonville
Judy Jacobson, 289 Cypress Street, Newton Centre
Carol Ann Shea, 22-24 Milo Street, West Newton
Ken Wong, 25 Highland Avenue, #4, Newtonville
Giles Taylor, 10 Lowell Avenue, Newtonville

ACTION: APPROVED 7-0

MARCH 21, 2011

#150-09(5) HIS HONOR THE MAYOR submitting pursuant to §2-7(2)b) of the City of Newton Revised Ordinances, 2007 the following list of Mayoral appointees to serve on a Joint Advisory Planning Group (JAPG) to make recommendations on the future use of the Austin Street municipal parking lot, which was declared surplus on December 1, 2010:

Jane Shoplick, 602 Centre Street, Newton
Rev. F. Robert Tafel, 29 Fisher Street, Needham (Board member of Swedenborgian Church of the Open Word, 11A Highland Avenue)
Barbara Smith-Bacon, 110 Waban Avenue, Waban
Rob Caruso, 237C Watertown Street, Nonantum
David Morton, 148 Edinboro Street, Newtonville
Jack Leader, 613 California Street, Newtonville
Adel Foz, 16 Page Road, Newtonville

ACTION: APPROVED 7-0

NOTE: The concept of developing the Austin Street parking lot and reconfiguring the parking began in 2005. The Newton Housing Plan Initiative (HAPI), whose goal is to help the city implement housing-related aims, particularly those articulated in the Comprehensive Plan, held a number of workshops. After exploring a number of potential uses, HAPI ultimately envisioned a mixed residential/commercial development that would retain a number of the current parking spaces for the existing businesses and the Senior Center. This would be an opportunity for Newtonville and the city as a whole. A successful public/private partnership could bring the city not only tax revenue but in-kind benefits as well. (In December of 2010, the Commissioner of Public Works declared the Austin Street municipal parking lot surplus, with the caveat that the city retain not less than 85 parking spaces.)

Sec. 2-7, which sets forth the reuse process, requires the JAPG to work with the Planning & Development Department to identify alternatives for the future use of the subject surplus property. When both the JAPG and the Planning & Development Department complete their work, they file separate written reports with the Real Property Reuse Committee, which then holds a public hearing on the recommendations. Ultimately, the Board of Aldermen through the recommendation of the Real Property Reuse Committee sets a minimum sale/lease price and submits via resolutions to the Mayor its other recommendations relative to the future use of the property.

Tonight's special meeting was scheduled because the Ward 2 Aldermen wish the JAPG to begin its work as soon as possible so that it can complete its charge within the time prescribed in Sec. 2-7 in order to schedule a public hearing prior to the summer break. Alderman Linsky commended the appointees for their abilities, professional backgrounds, and diversity. Membership includes a direct residential abutter, a representative from a church that is also a direct abutter, a former Alderman, members who are well-known for community involvement, members who have been involved in the potential project from its inception, and members who are relatively new to community participation. Alderman Linsky pointed out that there are no forgone conclusions; the process will define the ultimate recommendation. Alderman Merrill moved approved of both items, which motion carried 7-0.

SEPTEMBER 27, 2011

A public hearing was held on the following item:

#150-09(6) JOINT ADVISORY PLANNING GROUP and PLANNING & DEVELOPMENT DEPARTMENT filing their separate reports pursuant to Ordinance Sec. 2-7(2)b) identifying alternatives for the future use of the Austin Street municipal parking lot at 28 Austin Street, on land known as SBL 24, 9, 15, containing approximately 74,536 sq. ft. of land, in Newtonville, which was declared surplus by the Commissioner of Public Works on December 1, 2010.

ACTION: HELD 6-0

NOTE: Following is a brief timeline:

- The concept of developing the Austin Street parking lot into a mixed residential/commercial development while retaining 85 parking spaces for the city began in 2005, resulting in docket item #150-09.
- The Committee discussed docket item #150-09 on November 24, 2009 and on March 23, May 25, and September 23 of 2010.
- In May of 2010 the Planning Department sent out a Request for Interest (RFI), which elicited three written responses and two verbal inquiries.
- The Commissioner of Public Works declared the parking lot surplus on November 3, 2010.
- Item #150-09(3), pending in the Zoning & Planning Committee, was docketed by the Ward 2 Aldermen on December 10, 2010 proposing that the parcel be rezoned from Public Use to Business 1.
- A 14-member Joint Advisory Planning Group (JAPG) was appointed in April of 2011.
- As required by ordinance, the JAPG and the Planning Department submitted their separate reports (both attached) in June of 2011. Upon receipt, both reports were distributed to the Board and posted on the city's website. *The committee reports referenced above available at www.ci.newton.ma.us under Board of Aldermen/Committees/Real Property Reuse.*

This evening, Jack Leader, Chairman of the Joint Advisory Planning Group (JAPG), presented the JAPG report and Chief Planner for Current Planning Eve Tapper presented a PowerPoint presentation (attached). The Committee's charge is to recommend a minimum sale and/or lease price, which requires a 2/3 vote of the Board of Aldermen, and to communicate to the Mayor via resolutions what the Board and community envision for the parcel. The Planning Department will issue a Request for Proposals (RFP) consistent with the JAPG and Planning Department reports and the board order.

Speaking at the public hearing were the following individuals, all of whom favor the mixed use model proposed in both reports.

Dan Fahey, 86 Washington Park, Newtonville, attended several of the JAPG meetings. Given the small size of the lot it is important to provide incentives to an imaginative developer. Is there a possibility of acquiring an adjacent space to work with?

Doris Sweet, 281 Lexington Street, Auburndale, said there is a crying need for affordable housing and the affordable component should be maximized in developing this site.

Phil Herr, 20 Marlboro Street, Newton Corner, was a member of the Newton Housing Action Plan Initiative (HAPI), the body instrumental in getting this project off the ground. HAPI and the JAPG are admirable examples of citizens and the city working together for a constructive purpose. Relative to rezoning, options include adding another zoning district or creating an overlay district; however, in Mr. Herr's opinion, it makes the most sense to rezone the parking lot to Business 4. There are several other B4 parcels in the city, the most recent the Chestnut Hill Shopping Center. The 25% v. the 15% required affordable units recommended by the JAPG are an extraordinary opportunity. If cost analyses prove it can't be done, then the city can revert to 15%. The JAPG agreed that fiscal benefits trade off against other benefits, i.e., other benefits to the community should be given more weight. Perhaps a developer should pay less in proportion to the benefits it would bring.

Jackie Gelb, 81 Prairie Avenue, urged that the Request for Proposals state that affordable housing is a priority.

Sonia Michelson, 94 Park Avenue, Newton Corner, concurred that the opportunity to include affordable housing is a priority.

Morton Grossman, 213 Nahanton Street, owns 10-12 Austin Street, a commercial block that abuts the parking lot. He is a long-term small property investor in Newton and would like to improve his Austin Street property, perhaps combining it somehow with the proposed development.

Mindy Sieber, 15 Upland Road, Waban, Director of the New Art Center in Newtonville, suggested that including a performance space for arts would draw people in the evening and stimulate the economy for local restaurants.

MaryAnn Figoni, 929 Beacon Street, who owns a 4-family at 33-35 Highland Avenue that abuts the parking lot, does not want a 4-story parking garage up against her residential property. It will block the light. She hopes the design will complement the Victorian neighborhood.

The Committee thanked the members of the JAPG for the time and work given to this project.

In working session, the Committee discussed the differences between the JAPG and Planning reports, which some members thought were more substantial than other members:

The differences are:

- JAPG recommends 25% of the housing units be affordable; the Planning Department suggests 15%;
- JAPG recommends rezoning to Business 4; Planning Department agrees with B4 rezoning *or* creating a new "village zone"
- JAPG says the *most important* thing is to enliven Newtonville Square; the Planning Department wants to enliven the Square *and provide* significant fiscal benefits to the city.

Accessibility to persons with mobility disabilities is a non-issue because all the housing must be built to Architectural Access Board standards and must comply with Building Code.

Several members asked if rezoning the site prior to the RFP being issued was premature since it was usually done in conjunction with the special permit application. Proponents believe rezoning the site up front will attract serious responses and there is no harm because the city still controls the site. Ms. Young pointed out that there are legal issues to reconcile for a private/public mixed-use project. She would like more control than just a lease to retain the 85 public parking spaces. Ms. Young explained that the RFP process is controlled by the public bidding process in GL chapter 30B, §16. The RFP tells potential bidders what the city wants and the bidders in turn state in narrative what they are willing to provide. It is not a design competition. A development on this site will need a special permit from the Board of Aldermen.

As to a sale of the property v. a ground lease (Warren House has a 65-year ground lease), some members thought it might be a lengthy process to get approved the home rule legislation necessary to allow the city to enter a ground lease of more than 30 years. Some prior reuse board orders have included both a minimum sale price and a minimum lease price.

Ms. Havens is not troubled with the slight differences in the reports. Both the JAPG and the Planning Department are essentially on the same page. A development as proposed can fill an unmet demand for people downsizing as well as young couples with no children.

The maximum height and stories allowed in a B4 district by special permit are 96 feet and 8 stories, respectively. The JAPG considers the Masonic Temple and the Claflin condominiums the bookends of Newtonville Square. Both buildings are approximately 75 feet in height.

Many see this project as a model. If successful in Newtonville, it may be emulated in other villages sliced in half by the Turnpike. Not counting the commercial losses, it is estimated that Newtonville lost approximately 80 units of multi-family housing when the Turnpike was built.

Alderman Linsky was prepared to offer a motion to set the minimum sale price at \$1.00, using the bullet points contained in the JAPG report as a basis for resolutions.

Terry Morris, who asked to speak as a life-long citizen of Newton, former Alderman and Chairman of the Land Use Committee, not as someone who had represented one of the parties who responded to the RFI, suggested that asking for a lower number of affordable units could encourage potential developers to compete with higher numbers. He also suggested that the RFP be not so specific as to the number of total units. Establish a parameter of stories and height. Smaller units will create a greater density. Finally, he suggested the minimum sale price be set at \$1.00. The city has an opportunity to create excellence in place-making.

Brooke Lipsitt, a former Alderman and President of the Board, also asked to speak because she had a prior commitment and was unable to attend the public hearing, agreed that the minimum price should be as low as possible. Taxes and income from the development will bring in revenue. She urged including a high threshold for affordability because it is difficult to maintain diversity in the community.

Aldermen Crossley, Albright, and Johnson all voiced support for what they consider an exciting opportunity for Newtonville and the entire city.

Alderman Baker said the parcel is a public asset of significant value and that for him to support this there has to be a very high order of public benefit to justify a very minimum sale price. He also needs a clear sense that the special permit process will not be abdicated.

Again, the Committee's only authority is to set a *minimum* sale and/or lease price, with other parameters set out in resolution form to guide the Mayor in negotiations. After discussing what to incorporate into the resolutions, the Committee agreed that it would prefer to have a draft board order to work from. There are also responsibility issues to be resolved. Holding the item until October would provide enough time for the Law and Planning Departments to respond and

generate a draft board order. Alderman Baker moved to hold the item, which motion carried unanimously. The meeting was adjourned at approximately 10:55PM.

OCTOBER 25, 2011

#150-09(6)

ACTION: APPROVED 6-0-1 (Gentile abstaining) to sell or lease/retaining 85 public parking spaces

NOTE: This item was the subject of a public hearing and working session on September 27, 2011, report attached.

Alderman Baker began by noting that unlike the Health Department building, this property is a very valuable asset and as such part of the challenge is the position advocated in the Joint Advisory Planning Group (JAPG) and Planning Department reports that the city should get in-kind benefits instead of cash. It is unusual to sell a city asset for nothing. He wondered if there is a way for the city to realize a financial return through CPA funding. Alderman Albright felt this would be circular, like taking money from one pocket to another, besides CPA money can be used for housing only if it is affordable housing.

Both the JAPG and Planning reports recommend the property be delivered rezoned from Public Use to Business 4. (A text amendment will be necessary to allow a public use, in this case parking, in any zoning district.) Alderman Fischman pointed out that mitigations would be part of the special permit, which any proposal for development will require. Philip Bram Way, the right-of-way that runs through the parking lot from Austin Street to Highland Avenue needs to continue to function for access to the commercial buildings fronting on Walnut Street. Ms. Young noted that because the city owns the property delivering it rezoned confers protections not present in property privately owned.

Alderman Gentile said he would have a hard time letting the property go for \$1.00; he remains unconvinced there is enough public benefit to sell it for that price. He asked if the city had obtained an appraisal. Ms. Tapper explained no, it had surveyed 120 properties improved with apartments, commercial space or both located in commercial assessing district 6 (in which the Austin Street lot is located), where the median *assessed* value of lots with greater than 20,000 square feet of land is an average of \$20-\$25 per square foot. Alderman Gentile suggested getting an appraisal. Ms. Tapper said an appraisal would be difficult without knowing what is going to be built on the property. Alderman Baker agreed that the city should get an appraisal. By rezoning the property from Public Use to Business 4, the city is conferring additional value. Theoretically, getting at least 18 units of housing of which 25% must be affordable, divesting itself of an asset, rezoning the property ourselves to add more value, seems a relatively modest public benefit for what the city is putting into this.

Alderman Linsky disagreed. The site is burdened by 85 public parking spaces and the city will gain tax revenue; it is not a giveaway.

Phil Herr, Chairman of the Housing Partnership and member of the Comprehensive Planning Advisory Committee pointed out that the parking needs to be structured to make the site work. He estimates that each space will cost the developer approximately \$20,000; the 25% versus the 15% required affordable housing will probably bring the cost a quarter of a million dollars more than market units and the developer will be responsible for undergrounding wires and intersection improvements. Mr. Herr recommends the city avoid putting a large financial stipulation for conveyance of the property because it will scare off potential developers. He suggested an analysis of costs at the time of conveyance and then of the benefit stream over time,

it might be better if the number is not stipulated at the front end. Alderman Baker said the city is creating added value and subsidizing housing, a novel exercise for the Board of Aldermen.

Acknowledging that it is an experiment, Alderman Albright said the whole point of the proposal is the revitalization of a village center per the recommendations contained in the *Comprehensive Plan*. Alderman Johnson could not be present this evening because of a family commitment, but the three aldermen from Ward 2 have been working on this since 2005 and fully support the proposal to revive Newtonville with what they envision as a vibrant mix of uses to attract people to the square.

Alderman Baker said that since the Ward 2 aldermen are such strong proponents, he is persuaded it is worth a shot; however, he and Alderman Gentile would like the city to obtain a professional appraisal prior to the full Board vote. Since an appraisal has to be done prior to the bidding process anyway, it might as well be done now. The Committee agreed. Although finding the funding in such a short time could be a problem, Ms. Tapper agreed the Planning Department would do its best to do so.

Alderman Linsky moved approval to sell or lease the property with the city retaining 85 parking spaces and with the resolves contained in the draft board order dated November 7, 2011. The motion to approve carried 6-0-1, with Alderman Gentile abstaining.

The City is still awaiting the appraisal for the docket item below, which was voted out of Real Property Reuse Committee on October 25 and subsequently postponed to a date certain of December 19. Postponed to January 17, 2012.

JANUARY 31, 2012

Item Recommended by Board of Aldermen on January 17, 2012:

#150-09(6) JOINT ADVISORY PLANNING GROUP and PLANNING & DEVELOPMENT DEPARTMENT filing their separate reports pursuant to Ordinance Sec. 2-7(2)b) identifying alternatives for the future use of the Austin Street municipal parking lot at 28 Austin Street, on land known as SBL 24, 9, 15, containing approximately 74,536 sq. ft. of land, in Newtonville, which was declared surplus by the Commissioner of Public Works on December 1, 2010.

ACTION: APPROVED 5-0-3 (Albright, Crossley, Danberg abstaining) to set the minimum sale price at \$1 million

NOTE: On October 25, 2011, the previous Real Property Reuse Committee approved a “nominal” sale/lease price contingent on an appraisal being obtained prior to a vote of the board of aldermen. Since it took a while to fund and engage an appraiser, the item was postponed several times to dates certain and ultimately referred to the 2012-13 board of aldermen. The appraisal was received on Friday evening January 13, 2012 prior to the long holiday weekend, too late for distribution to the board. Consequently, the item was recommitted on January 17 to give members the opportunity to read it and to allow the reuse committee to arrange a meeting the appraiser could attend to address any questions it might have. The revised appraisal estimates the value of the land to be approximately \$2.1 million (not the \$2.15 million figure given in the initial report.) The history of the item (committee, planning department, JAPG reports) and the appraisal are available online at www.ci.newton.ma.us on the board of aldermen page under Friday Packet.

Ms. Havens presented a PowerPoint (attached) in which she provided a brief overview of a nominal price v. an appraised price and something in between. Currently, the parking lot has 159 metered-spaces. The charge of the committee and board is to set a *minimum* sale and/or

lease price. The nominal price offers flexibility to the City in considering proposals. The appraised value guarantees the city a financial return, but may discourage developers and/or result in a more intense development to cover costs. A price set in between could be based on criteria established by the board to serve the interests of the city. G.L. chapter 30B, the Uniform Procurement Act, allows a municipality to offer property for less than fair market value, provided it is for a valid public purpose, promotes public welfare, and the value has been established, i.e., an appraisal is obtained, before disposition. The Request for Proposals (RFP) could include a provision that the developer would pay the city for the cost of the upfront costs incurred by the city to provide the necessary data about the property. Ms. Havens suggested that should the committee vote to sell or lease the property, it might request that the Mayor create an evaluation committee to vet the proposals received by the city.

This evening the committee was joined by Dan Clifford of Clifford Appraisal & Consulting. Mr. Clifford noted the parcel contains 1.7 acres, which for Newton is a relatively large piece of undeveloped land. The scope was not straightforward because of the wide range of opinions and development scenarios, which made it problematic. Mr. Clifford contacted an architect to create a baseline for a development containing 5,000 square feet of commercial space, no less than 18 units of housing, at least 15% of which would be for low- to moderate-income residents, and 85 public parking spaces to be retained by the city. Using a comparable sales approach and a price per square foot and employing a 42,000 square-foot building as a baseline - without dealing with either surface or structured parking - resulted in approximately \$50 per square foot. He noted that providing 25% affordable housing has not been a barrier to Avalon Bay, which has been very successful in building first class multi-family housing. Also, in his opinion the city's retention of 85 parking spaces is not that much of a drawback.

Aldermen Crossley, Danberg and Albright wish to offer flexibility to a potential developer. They and the community are looking for creativity not just a simple building, and realize that structured parking, pathways, and other amenities are expensive. For example, cost per space for structured parking is estimated at \$20,000-\$25,000 per space. Achieving these goals in their view indicates that setting the price as nominal allows the Mayor to balance the value of the land with the public good offered by the developer. The public good might come in the form of structured parking, open space, increased affordable housing or other amenities important to the village. Alderman Linsky agreed with this perspective.

Alderman Fischman said he had worked on permitting for the Brainerd Road project, one of the comparable land developments provided by Mr. Clifford, which has both surface and underground parking. The sale price for that property was approximately \$40 per square foot. Based on that figure, Alderman Fischman felt the Austin Street lot could warrant \$60 per square foot, perhaps justifying \$3 million. Mr. Clifford said the Newton site is superior to all four sites included in the report. Alderman Laredo asked about revenue – loss or gain? Ms. Havens said that counts taken by the city show approximately 50% of the 159 metered spaces are used at peak hours. These counts established the number of public parking spaces (85) the city needs to retain. The city would continue to receive parking revenue. Rough calculations indicate the project would not be a big revenue generator. Using very preliminary back of the envelope calculations, 5,000 square feet of commercial space might generate an approximate \$28,000 in tax revenue a year and, depending on the number of housing units and their size, an additional \$38,000 might be generated from the residential component. Again, Ms. Havens stressed these figures are rough numbers.

The Chairman said the community is looking for a creative development, something other than a “box” represented by all four samples chosen by Mr. Clifford. The JAPG and Ward 2 aldermen envision knitting together a community as well as revitalizing it. They hope to encourage lots of different proposals to offer more choice to the community. She pointed out that there are currently 5 vacant storefronts in the village and 7 banks all of which limit foot traffic.

Alderman Gentile countered that the city doesn’t have to give the land away to get something creative. He would like the fair market value of the land to be taken into consideration. Alderman Laredo agreed. The board of aldermen’s job is to set the minimum price. The mayor’s job is to select the best proposal taking into consideration the minimum price and public benefits. Both are uncomfortable disposing of a valuable asset and not getting a revenue stream.

Alderman Fischman suggested that although \$2.1 million may be a conservative estimate with \$3 million more of a reality, the city must price it somewhat reasonably to offer an incentive to potential developers. He pointed out that if the minimum sale price did not attract proposals, then the mayor could ask the board to amend it.

Alderman Swiston views this property like any other real estate being marketed. A general base scale is 25-30% discount of fair market value. The scope of work relates to the price of the land, which in turn affects the density. For example, up-front costs of \$20,000 to cover site preparation work v. \$1 million would be a steal for a developer. However, overpricing could encourage unwanted density. Alderman Albright emphasized that the goal was revitalization, not density.

Alderman Laredo thought it important to send the message that the city is looking for a good development and as such needs to send a message that we value the property. The city does want a monetary return and should not subsidize a project.

Aldermen Merrill suggested the \$2.1 million appraisal might be an appropriate minimum price.

Alderman Crossley was discouraged by the tenor of this evening’s conversation. It goes against what has been discussed for years. This is a unique opportunity - probably the most unique since Oak Hill Park was developed – for the city. She realizes the land has value, but doesn’t see this as giving something away. The Request for Proposals must be crafted to attract a certain type of development. She fears a high price will restrict incentives for that type of developer and the ability for a truly interesting project. She sees no point in getting hung up on an appraisal that has limited relevance to what the community is trying to achieve.

Alderman Linsky although he understands and partially agrees with Alderman Gentile said the Newtonville community has waited a long time for this. Newtonville is losing more and more stores and it has like many villages become a hub for banks. The community sees this site as a catalyst for renewal and revitalization. He envisions the Austin Street project as a bundle project, one that needs to create the greatest amount of interest. The appraisal was necessary at some point anyway, so it is good to have and, although he prefers a ground lease, he urged the committee to set a nominal sale price.

Alderman Gentile said that one definition of “nominal” in the 5th edition of Black’s Law Dictionary is “...often with the implication that the thing named is so small, slight or the like, in comparison to what might properly be expected, as scarcely to be entitled to the name, e.g. a nominal price.” He stressed that he is not advocating for a large dense project, simply fiduciary responsibility. He noted that the city pays top dollar for properties it acquires e. g., \$6 million for Kessler Woods, over \$2.5 million for Lake Avenue and Rogers Street; \$2.5 million for

Angino Farm. He said he attended a meeting this past weekend at St. Bernard Church in West Newton relative to an appraisal commissioned by the Archdiocese for the church, rectory, and 2 parking lots. Appraisers Colliers Meredith & Grew appraised two small parking lots at over \$1 million each.

Alderman Fischman suggested using the purchase price for off-site benefits such as infrastructure improvements, green space, street trees, landscaping and other public improvements in and on the fringe of Newtonville Square and on Austin Street to facilitate success of the proposal rather than the monies just going into the general fund. Alderman Gentile pointed out that the city has many other needs and that \$1 million was a considerable sum for village improvements.

Alderman Laredo offered a motion that the minimum sale price be set at \$1 million. Alderman Danberg was not prepared to vote for this proposal at this time; she needs to give it more thought. It is important to not reduce the flexibility of the mayor. Alderman Crossley said she could not support it. The cost of structured spaces could be \$1.7 million. If, for example, the city is serious about small, affordable units and if each unit cost the developer approximately \$300,000 each it would require a subsidy. A minimum price of \$1 million is not a strong enough statement to the mayor. The Chairman agreed, \$1 million limits benefits to the community, e.g., undergrounding the utilities would cost more.

Susan Gittelman, Executive Director at B'nai B'rith Housing New England, addressed the committee. Ms. Gittelman suggested the concept of linkage, earmarking monies for the developer to do improvements as part of the project, could buy the city more bang for the buck without the public bidding process. Furthermore, it is a visible, valuable property and Ms. Gittelman, whose organization has been interested in the project from its inception, believes there will be a number of developers competing for development rights. However, Ms. Young cautioned that the attorney general and public construction laws are not helpful in allowing private developers to implement public construction; although it does depend on the scope of the project and where the improvements are located in relation to the project.

The committee reviewed the resolutions included in the previous draft board order. It agreed to strike the following resolution since it seems the use of Community Preservation funds, even if possible, which appears unlikely, simply would take funding from another project(s) with no gain to the city:

8. That the Mayor explore legitimate ways that in addition to the in-kind benefits desired a financial return to the City of nominal compensation be obtained using Community Preservation funds, or otherwise.

The committee amended resolution 2, so that instead of rezoning occurring prior to the RFP, the rezoning shall be done concurrently with the RFP process.

The committee agreed to add three additional resolutions as follows:

- That the city shall work with the developer to address the infrastructure needs identified on page 5 of the Joint Advisory Planning Group Report.
- That the mayor shall appoint a committee comprised of individuals with related expertise to evaluate the proposals.
- That at least the minimum price of \$1 million would be used to improve the area of the project and the environs of Newtonville village.

Upon a motion by alderman Swiston to accept alderman Laredo's motion to set the minimum price at \$1 million, with the amended resolutions to the mayor, the committee voted 5-0-3, with aldermen Albright, Crossley, and Danberg abstaining, to approve the draft board order, attached.