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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

ATTACHMENT A

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**
• Other uses allowed in Section 30-6	**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 **Mixed Use 4**	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.)
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).

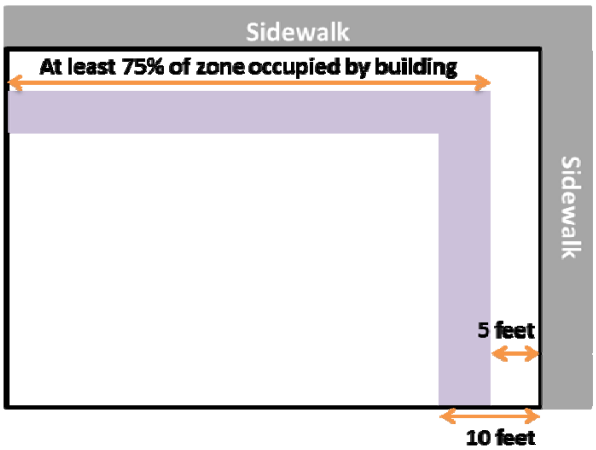
(2) Mixed-Use Residential Incentive. Buildings that meet the definition of Mixed-Use Residential Buildings per Section 30-1 shall conform to the specific limits for building height and stories established in Section 30-15, Table 3. The Board of Aldermen may grant a special permit in accordance with the 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.

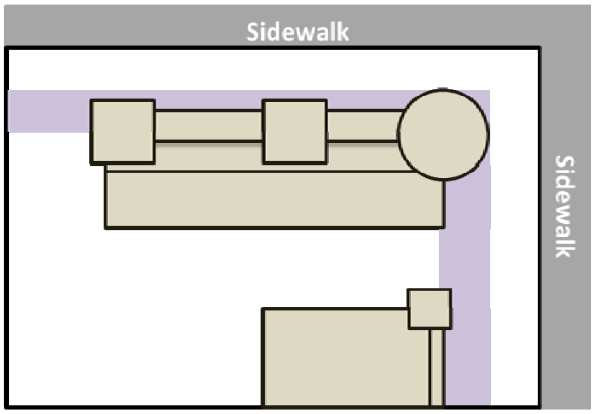
(4) Setbacks. The Board of Aldermen may grant a special permit in accordance with the procedures in section 30-24 to vary the following setback requirements by finding the proposed plan can better protect the surrounding community from shadows and blocked views, support pedestrian vitality, and encourage 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):

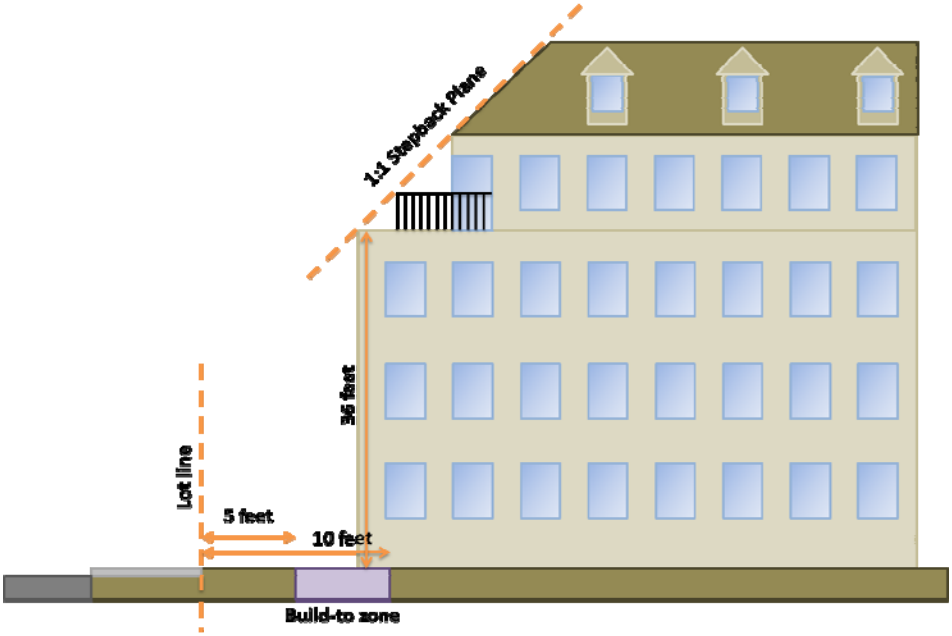


For example:



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)

ATTACHMENT B

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.