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M E M O R A N D U M

DATE: October 11, 2019

TO: Councilor Albright, Chair, Zoning & Planning Committee
Members of the Zoning and Planning Committee

FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development

RE: **#140-19(3) & 187-19 – Proposed Amendments to the Mixed-Use 3/Transit-Oriented Development District**

MEETING DATE: October 16, 2019

CC: Newton City Council
Planning and Development Board
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

The Zoning and Planning Committee is considering two proposed amendments to the Mixed Use 3/Transit Oriented Development District (MU3), the public hearings for which were opened on June 4, 2019. The first of these was submitted as part of a development application for the site, the second by the Lower Falls Improvement Association.

The Planning Department recommendation, based on the fact that the MU3 District applies only to the Riverside site, is that the amendments be adopted that allow flexibility for the Land Use Committee's review so that the greatest degree of discretion is available to the Council as they study and become immersed in the issues and technical analyses concerning development at this site, and are best equipped to set the appropriate level of development.

General Framework for Zoning Amendment Review

When a person or group submits a proposal to amend the zoning ordinance, they are effectively offering an idea for a set of policies that they are suggesting would offer better outcomes for the municipality. With a zoning proposal there is usually some basis offered as to why the proposed amendments should be adopted.

For the set of amendments that have been submitted by Mark Development, they are offering the proposed development project at Riverside as the basis for their proposed amendments. For the purposes of considering the proposed amendments to the zoning ordinance, text and map, the City Council has to make the decision as to whether the proposed zoning and the development project it then allows, in fact, offer public benefits in terms of their contributions to the public health, safety, convenience, or welfare. Because Mark Development's proposed zoning amendments are inextricably linked to the proposed project, it is difficult to consider one without the other.

As the City Council has designated the Land Use Committee as the entity within the Council that takes the lead in considering proposed development projects, the proposed Riverside project must be considered within that Committee. However, because zoning text amendments are generally considered by the Zoning and Planning Committee, the Council has decided to split this project between that committee and the Land Use Committee, tasking the Zoning and Planning Committee with reviewing the proposed zoning. Given that this district only applies to this single site, there are no implications for other parts of the City for the Committee to discuss. Therefore, the Planning Department has recommended setting maximum zoning parameters greater than the parameters of the proposed project and then allowing the Land Use Committee to proceed with their work of assessing the project itself. Such parameters are consistent with the findings of the Riverside Vision (see below). To set those parameters at anything less than those of the proposed project would require that the Zoning and Planning Committee engage in a review of the project itself because, as noted above, the project is the basis for the submitted zoning amendments.

The amendments to the MU3 District presented by the Lower Falls Improvement Association reflect deep concerns about design and the potential impacts of the proposed project. Those concerns are neither being taken lightly nor dismissed out of hand. It is the opinion of the Planning Department that these issues are best addressed through the special permit process at this time. With an already submitted Riverside plan, a discussion of potential zoning to influence or limit what can be done on that specific parcel is a discussion about that plan and in fairness to all involved in the process, that discussion should occur in one place with all parties – in the Land Use Committee as designated by the City Council.

Riverside Vision Recommendations

In the spring of 2019 the Planning Department, working with a consultant team, led a visioning process for the Riverside site. Through public meetings, numerous interviews, and online engagement coupled with analysis by the design team of the site, a vision and accompanying recommendations were developed. The vision references community connections, housing, environmental sustainability, quality design, economic development, and transportation. This vision offers guidance on assessing the proposed zoning text amendments.

Setbacks

With regard to the setbacks on Grove Street, the vision places the overwhelming emphasis on issues of pedestrian safety and comfort. While the plan itself suggest a zero-lot-line setback (page 76), the necessity of incorporating wider sidewalks, separated bike lanes, lighting and street trees into the space between the current curb and proposed buildings means that the setback itself will likely be greater than that. Analysis of the site, and necessary infrastructure improvements, by the Planning Department and the project peer reviewers has concluded that a minimum 15-foot setback from Grove Street is appropriate. (See pages 76, 88, and 111-112).

Height & Density

Given the City's objectives in economic development, housing, and transportation and the nature of this site as both transit-oriented and with the potential for direct highway access, the Vision Plan concludes that the site could accommodate substantial density and heights. The plan then identifies a series of factors essential towards realizing these public benefits that height and density could allow for, while mitigating potential public harms. These factors are all best addressed through the special

permit process, the findings/analysis and overall process of which are suited to the identification and imposition of appropriate mitigations.

The mitigating factors the plan identifies for consideration through the special permit process include:

- Stepping back building heights from Grove Street towards the rail yards and highway. (p. 73-80)
- Carefully considering the nature of views from adjacent neighborhoods. (p. 91-92)
- Significantly enhancing pedestrian and bicycle infrastructure connecting the MBTA station to adjacent neighborhoods. (p. 111-112)
- Including a robust transportation demand management program. (p. 117-118)

Based on the conclusions of the Vision Plan, and long-standing policies of the City relative to land use, housing, economic development, and transportation, the current recommendation is to establish an overall height limit of 15 stories. The lot area per unit should be set to 1,000 square feet consistent with that of the MU4 District.

Open Space

The Vision Plan highlights the importance of open space to both the people who will live and work at this site as well as residents of the City at large who may visit the site. The plan emphasizes the importance of a diversity of open spaces and of strategies in both design and operations to ensure that open spaces are active and welcoming (see pages 31-33). Staff's recommendation is to retain the current MU3 open space requirements, with a minimum of 15% of the lot required to be in open space and a minimum of 50% of that to be publicly accessible. To further reinforce the recommendations of the Vision Plan, staff proposing that some of the standards the Lower Falls Improvement Association proposed for open spaces be applied to that 50% publicly accessible portion.

Mix of Uses

The Riverside site has long been recognized by the City and people throughout the region as one of the most important potential development sites in greater Boston because of its location and transportation system access. The Vision Plan finds the balance between the importance and value of this location and understanding the concerns of neighbors. Ultimately, the set of solutions offered by the plan offer the potential that the development of this site, as envisioned, will provide significant benefits to the surrounding neighborhoods and the City without diminishing the potential of the site.

An important aspect of what the development at Riverside can achieve is in meeting the equally important City needs for commercial and residential. At completion, the site will likely be the most valuable piece of commercial property in the City and should therefore have a substantial commercial aspect. At the same time, housing, particularly in transit-oriented locations, is critically important to the City and therefore the site should also have a substantial residential component. These uses should be incorporated into a project that, through its layout and design, represents a high-quality environment for the people who will live and work here. The current recommendation is to set the square footage and related density measures at a maximum supported by the Riverside Vision plan and greater than that presented by Mark Development and then refine the project through the special permit process as is standard practice. (See pages 93-104, 45-54, and 81-84)

4.2. Mixed Use Districts

4.2.1. District Intent

- A. *No Changes*
- B. **Mixed Use 3/Transit-Oriented Development.** The purpose of the Mixed-Use 3/Transit-Oriented district is to allow the development of a mixed-use center on a parcel of no less than 9 acres near the terminus of a mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.
- C. *No Changes*

4.2.2. Dimensional Standards

A. Applicability.

1. *No Change*
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

| Mixed Use District | MU1 | MU2 | MU3/TOD |
|-------------------------|-----------|-----------|----------------------------------|
| Lot Area Per Unit (min) | 10,000 sf | 10,000 sf | <u>1,000</u> 1,200 sf |

3. *No Change*

B. Approval Process.

1. *No Change*
2. *No Change*
3. *No Change*

4.2.3. All Building Types in Mixed Use Districts

No changes in the dimensional table, except:

Height (max) – 36' by-right; ~~135'~~ 220' by special permit

Stories (max) – ~~4~~ 15

Floor Area Ratio (max) – up to 36' = 1.0; up to ~~135'~~ 220' = ~~2.4~~ 2.7

4.2.4. Additional Standards in MU3/TOD

Any development permitted by special permit must meet the following requirements and the requirements of Sec. 4.2.3. The City Council may grant a special permit to allow exceptions to the by-right dimensional standards of the MU 3/TOD, provided that the requirements of this Sec. 4.2.4. are met and no dimension exceeds those allowed in Sec. 4.2.3 for the mixed-use development special permit.

- A. **Setbacks.** Any structure or building must be set back a minimum of 15 feet for any portion of the property abutting Grove Street. There is no required setback on any other portion of the property. Balconies may project into the setback. a distance equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a Commonwealth of Massachusetts instrumentality, the setback may be 0 feet for nonresidential uses. To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks. In accordance with the procedures provided in Sec. 7.3, the City Council may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.
- B. **Beneficial Open Space.** At least 50 percent of the beneficial open space required by Sec. 4.2.3 for a mixed-use development must be freely open to the public. The portion of the beneficial open space designated as open to the public must meet the following criteria:
 - 1. Be of adequate size and design to accommodate public congregation and use, including any necessary amenities or infrastructure. Examples spaces include plazas, parks, playgrounds, playing fields, and community gardens.
 - 2. Be at least 400 sf in area and at least 20 feet in width and length.
- C. **Exclusion of Public Structures from Zoning Requirements.** Any portion of a development parcel for the proposed development owned by a Commonwealth of Massachusetts instrumentality and devoted to a governmental function from which the general public is excluded (including, but not limited to a rail yard, maintenance facility, or railroad right-of-way) and any portion of a building or structure dedicated for public use by a State instrumentality (such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority) shall not be included in the calculation of:
 - 1. The quantity of beneficial open space required;
 - 2. Minimum lot area; or
 - 3. Floor area ratio.
- D. *No Changes*
- E. *No Changes*
- F. **Intensity of Development.**
 - 1. The development must have at least one use from each of the three categories (A, B, and C) plus a community use space.
 - a. Category A: Office (including research and development, business incubator, medical office, and other similar uses);
 - b. Category B: Retail sales, personal services, restaurants, banking, health club, place of entertainment and assembly place of amusement, indoor or outdoor, theater, lodging, hotel, motel, animal services; and

- c. Category C: Multi-family, live/work space, single room occupancy, single person occupancy, assisted living, nursing home.

2. *No changes*

- G. The square footage in each category shall not exceed the maximums listed below, except, where approved by special permit, the maximums may be adjusted by up to 10 percent in each category, so long as the total gross floor area of all uses, excluding accessory parking, does not exceed ~~580,000~~ 1,250,000 square feet:
1. Category A shall not exceed ~~225,000~~ 525,000 square feet (excluding offices incidental to residential, retail or community uses), the majority of which must be contained within one structure;
 2. Category B shall not exceed ~~20,000~~ 72,000 square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the Commissioner of Inspectional Services;
 3. Category C shall not exceed ~~335,000~~ 600,000 square feet not to exceed ~~290~~ 550 dwelling units.

H. *No changes*

4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

The following indicates potential amendments to the use table:

| Commercial Uses | MU3 |
|---|-----------|
| Animal service, excluding overnight boarding | <u>SP</u> |
| Parking facility, accessory, single level | <u>P</u> |
| Parking facility, non-accessory, single level | <u>SP</u> |
| Parking facility, accessory, multi-level | <u>SP</u> |
| Parking facility, non-accessory, multi-level | <u>SP</u> |