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Mayor

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Barney Heath
Director

M E M O R A N D U M

Public Hearing Date:	February 4, 2020
Land Use Action Date:	April 28, 2020
City Council Action Date:	May 4, 2020
90-Day Expiration Date:	May 4, 2020

DATE: January 31, 2020

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition 68-20** for a SPECIAL PERMIT/SITE PLAN APPROVAL Petition to allow a 19.5 sq. ft. free-standing sign on the property located at 40 Austin Street, Ward 2, Newtonville, on land known as Section 24 Block 09 Lot 12, containing approximately 13,420 sq. ft. of land in a district zoned BUSINESS USE 5. Ref: Sec. 7.3.3, 7.4, 5.2.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis which may be useful in the special permit decision making process of the City Council. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the City Council will want to consider in its discussion at a subsequent Working Session.



40 Austin Street

EXECUTIVE SUMMARY

The property at 40 Austin Street consists of 13,420 square feet in the Business 5 (BU-5) zone. The site is improved with a one-story structure with a bank on site. The petitioner is seeking a special permit to allow for a free-standing sign that measures four feet ten inches in width by four feet in height.

The Planning Department believes the site is an appropriate location for the free-standing sign. The section of Austin Street that the sign is proposed for is largely commercial, with Shaw's across the street, and other businesses at 46-48 Austin Street, and three commercial properties that provide a buffer between the residential uses at Austin Street and Lowell Ave.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the City Council shall consider whether:

- The specific site is an appropriate location for the free standing sign (§7.3.3.C.1);
- The free standing sign will adversely affect the neighborhood (§7.3.3.C.2);
- The free standing sign will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4); and
- The nature of the use of the premises, the architecture of the building, or its location with reference to the street is such that free-standings or exceptions should be permitted in the public interest (§5.2.13).

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on Austin Street in the BU-5 zone. Austin Street and the surrounding area is comprised of a mix of zones, immediately abutting the site are Business 2, Mixed Use 4 districts and on Highland Ave is a Multi Residence 1 zone. Further east are Business 1 zones that front Walnut Street. **(Attachment A)**. The surrounding land use of the area is mostly commercial with residential to the west of the site. **(Attachment B)**. The site is adjacent to the 28 Austin Street project, a mixed-use development constructed on a municipal parking lot. The Star Market and other

commercial businesses are across the street from the site. The Massachusetts Turnpike separates the site and Austin St. from Washington Street. As you travel down Austin St., there is only one other free-standing sign, which is associated with Shaw's, Gordon Liquors and People's United Bank. Most of the other commercial signs on Austin Street are mounted to the buildings.

B. Site

The subject property at 40 Austin Street consists of a 13,420 square foot lot, improved with a single-story commercial building, home to Rockland Trust. The site is relatively flat and features landscaped areas between the sidewalk and existing building. There is also surface parking lot behind the building that has entrance on the eastern property line and egress along the western property line back onto Austin St. No alterations to the structure are proposed, only the freestanding sign at the front of the site.

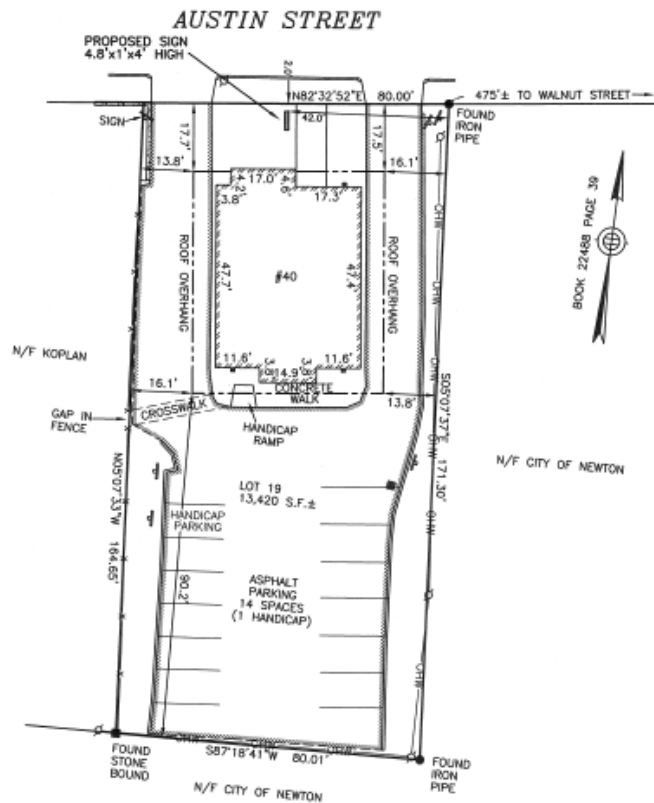
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principle use of the site is and will remain commercial.

B. Building and Site Design

The petitioner is seeking to construct a free-standing sign installed at the northern front portion of the site, in front of the existing building and approximately two feet from the front lot line. The sign is visible from Austin Street when traveling between both directions east and west on Austin Street. The sign will be internally illuminated.



C. Parking and Circulation

The petitioner is not proposing any changes to the parking and circulation on site.

D. Landscape Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Section §7.3.3 and §5.2.13 of Section 30, to allow a free-standing sign.

B. Newton Historical Commission

This petition does not meet the minimum threshold for review from the Chief Preservation Planner.

C. Engineering Review

This petition does not meet the minimum threshold for review from the Engineering Division of Public Works.

D. Urban Design Commission

The UDC reviewed the existing sign and in a memo dated October 16, 2019 (**Attachment D**), recommended approval of the proposed sign. A separate, wall mounted sign also came under the UDC's review but is not subject to this special permit as it is allowed by right.

V. PETITIONERS' RESPONSIBILITIES

The petition is currently complete.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** Urban Design Commission Memo
- Attachment E:** Draft Council Order

ATTACHMENT A

Zoning

40 Austin St.

City of Newton,
Massachusetts

Legend

- Single Residence 2
- Multi-Residence 1
- Multi-Residence 3
- Business 1
- Business 2
- Business 5
- Mixed Use 4
- Public Use

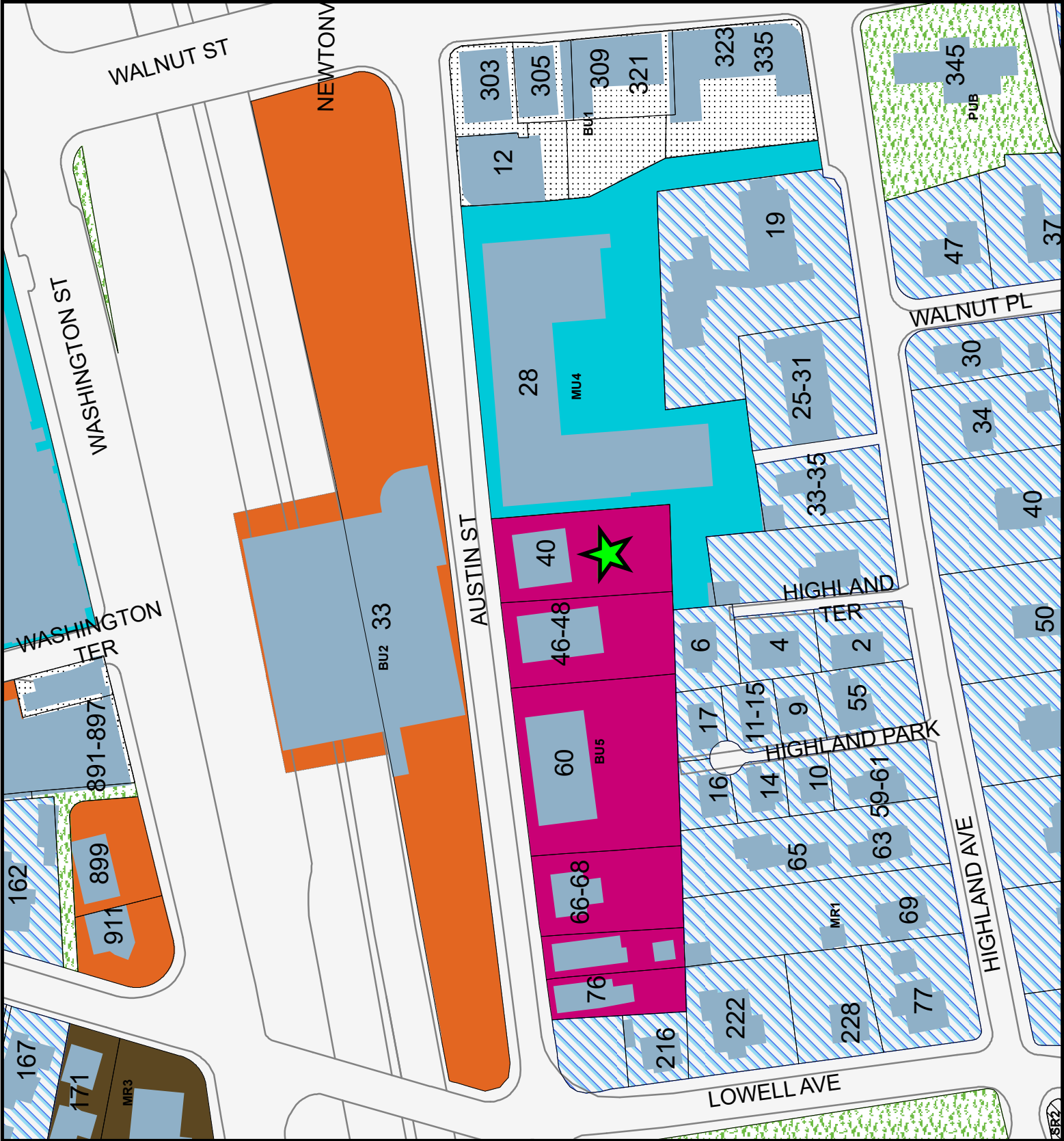


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 150 175
feet

Map Date: January 23, 2020



ATTACHMENT B

Land Use

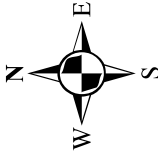
40 Austin St.

City of Newton,
Massachusetts

Legend

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space
- Nonprofit Organizations

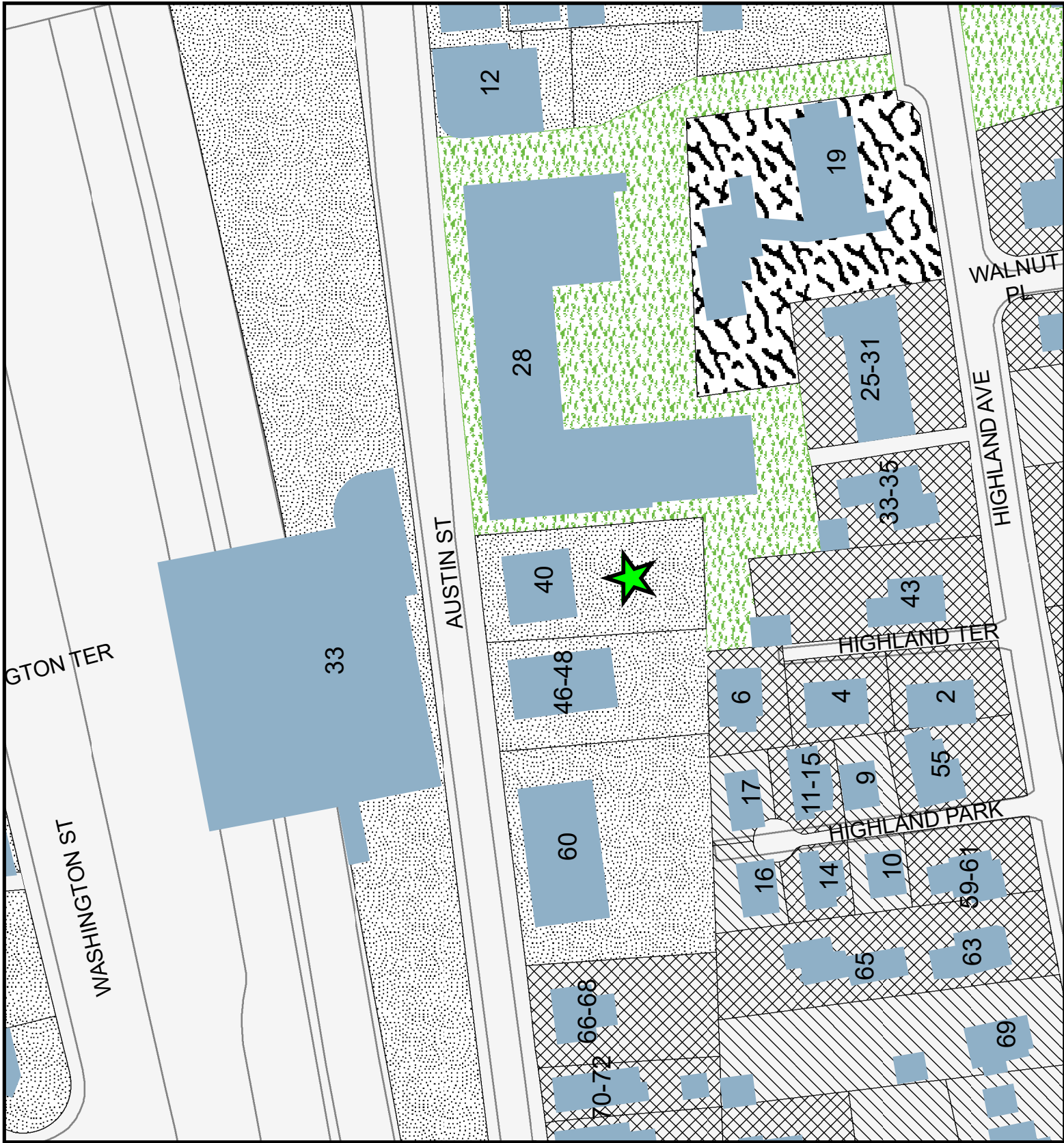


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CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
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0 12.5 25 50 75 100 125 Feet

Map Date: January 23, 2020





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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: January 9, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Franklin Schwarzer, Attorney
Benlin Properties LLC, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow a free-standing sign

Applicant: Benlin Properties LLC	
Site: 40 Austin Street	SBL: 24009 0012
Zoning: BU5	Lot Area: 13,420 square feet
Current use: Bank	Proposed use: No change

BACKGROUND:

The property at 40 Austin Street consists of 13,420 square feet improved with a single-story bank and surface parking on the lot adjacent to the newly constructed apartment building on the old Austin Street parking lot. The petitioner requests a special permit to allow for the erection of a free-standing sign.

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

- Zoning Review Application, prepared by Franklin Schwarzer, dated 12/12/2019
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 11/19/2019
- Sign Plans, prepared by Philadelphia Sign, dated 5/31/2019

ADMINISTRATIVE DETERMINATIONS:

1. Rockland Trust seeks to construct a 19.5 square foot free-standing sign at the front of the property along Austin Street measuring 4'10" in width by 4' in height. The sign is to be located 2 feet from the front lot line. Per section 5.2.3, a free-standing sign is considered the principal sign, and secondary signs are permitted on the building (as per the dimensional requirements of section 5.2.8). Per section 5.2.13, a special permit is required for the proposed free-standing sign. No exceptions for secondary signs are proposed as part of this application.

Zoning Relief Required		
<i>Ordinance</i>	<i>Required Relief</i>	<i>Action Required</i>
§5.2.13	To allow a free-standing sign	S.P. per §7.3.3



Setti D. Warren
Mayor

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DATE: October 16, 2019
TO: Jennifer Caira, Chief Planner
Jane Santosuosso, Chief Zoning Code Official
FROM: Urban Design Commission
RE: 40 Austin Street
CC: Land Use Committee of the City Council
Petitioner

At the request of the Department of Planning and Development, the Urban Design Commission has reviewed and provides the following comments to the Department of Planning and Development and the Land Use Committee of the City Council regarding the free-standing sign at 40 Austin Street. The following members were present at the UDC meeting: Michael Kaufman, Jim Doolin, John Downie, Robert Linsky, Carol Todreas, and William Winkler. The following information is intended to give advice on specific matters affecting the free-standing sign.

40 AUSTIN STREET – FREE-STANDING SIGN

At its regularly scheduled meetings on September 11th and October 16th, the Urban Design Commission (UDC) reviewed the proposed Signage at 40 Austin Street for:

- One free-standing principal sign, internally illuminated, with approximately 20 sq. ft. of sign area perpendicular to Austin Street.
- One wall mounted secondary sign, internally illuminated, with approximately 32 sq. ft. of sign area on the northern façade facing Austin Street.

Based on the signage submitted and the presentations by the applicant, the Urban Design Commission recommends approval for the proposed free-standing sign and secondary sign as proposed.

40 Austin Street
#68-20

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a free standing sign, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site is an appropriate location for the proposed free standing sign because the site is located in the Business 5 district with commercial uses nearby (§7.3.3.C.1);
2. The proposed free standing sign will not adversely affect the neighborhood due to the presence of signs and commercial uses on Austin Street (§7.3.3.C.2);
3. The free standing sign will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3);
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4); and
5. The nature of the use of the premises and location with reference to the street is such that free-standing signs or exceptions should be permitted in the public interest (§5.2.13).

PETITION NUMBER: #68-20

PETITIONER: Benlin Properties, LLC

LOCATION: 1200 Walnut Street, Section 24, Block 009, Lot 0012,
containing approximately 13,720 square feet

OWNERS: Benlin Properties

ADDRESS OF OWNERS: 15 Ward Street
Somerville, MA 02143

TO BE USED FOR: Commercial

CONSTRUCTION: No site work

EXPLANATORY NOTES: To allow a free-standing sign (§5.2.13)

ZONING: Business 5 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Plan of Land “40 Austin Street Proposed Sign” dated November 19, 2019; signed and stamped by Bruce Bradford, Professional Land Surveyor
2. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this Council Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded Council Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Department of Planning and Development that confirms plans submitted with any building permit are consistent with plans approved in Condition #1.
3. No Certificate of Occupancy/Final Inspection for the buildings and uses covered by this Special Permit/Site Plan Approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or surveyor certifying substantial compliance with Condition #1.