
MEMORANDUM

TO: City Council
FROM: Planning Board
DATE: April 6, 2023
SUBJECT: Report of the Planning Board
ODNC00135_01_30_2023 – A Zoning Ordinance Amendment to Remove the Allowance of “ITIF” Special Permits for Residential Uses

Background and Context

Section VII-A of the Zoning Ordinance requires new uses and extensions or enlargements of existing uses to provide parking spaces according to the schedule of parking requirements in Section VII-B. For a property within 300 feet of an off-street municipal parking facility (except within the Waterfront West Overlay District), Section VII-A authorizes the Planning Board to grant a special permit to satisfy all or part of the off-street parking requirement by making a payment into the Intermodal Transportation Improvement Fund (ITIF).

The attached map shows the 300-foot buffer from downtown municipal parking facilities and the areas within that buffer that are unaffected by the existing ITIF provision either because they are in the Waterfront West Overlay District or because they are municipal properties and uses (primarily parking lots and parks). This map identifies the limited geographic areas within which the ITIF provision has any potential impact (shown by the dashed outlines), and a closer look at existing buildings and uses within these subareas would likely reveal a much more limited potential for impact.

Granting of a special permit under the ITIF provision is discretionary on the part of the Planning Board, following review of a parking demand analysis provided by the applicant. The provision is not commonly used: in the five years since the provision was enacted the Planning Board has approved only three special permits, granting relief for a total of 13 parking spaces. This small amount of activity is likely due to the limited number of properties that both (a) qualify due to location and (b) could benefit from the relief due to existing and proposed uses.

Ordinance 135 would amend the Zoning Ordinance by removing the ability of the Planning Board to grant an ITIF special permit for a new or expanded residential use of property. On January 30, 2023, the City Council voted to refer Ordinance 135 to the Planning and Development Committee. On March 1, 2023, the Planning and Development Committee and the Planning Board held a joint public hearing on the proposed amendment. The Planning Board closed its portion of the public hearing that evening and continued the matter to its meeting on March 15, 2023, and then continued it again to its April 5, 2023 meeting.

Analysis – Potential Impact of Proposed Amendment

The existing Zoning Ordinance provides an option for owners of properties within 300 feet of municipal parking facilities to make a payment to the City in lieu of providing the number of parking spaces otherwise required by the Ordinance, subject to the grant of a special permit by the Planning Board. The proposed amendment would restrict this option to nonresidential uses.

Many if not most properties in the downtown core are legally nonconforming to the current parking standards. As a result, a change in use of such properties will not require provision of additional parking spaces unless the Section VII-B parking requirement for the new use is greater than the corresponding requirement for the existing use. In other words, applicants only need to address a net increase in the number of required parking spaces when making a change of use.

There are three broad categories of development that might be affected by the existing ordinance and the proposed amendment: (1) conversion of existing upper-story nonresidential space to residences; (2) redevelopment of existing commercial properties to more intensive mixed use; and (3) creation of additional dwelling units in existing residential properties.

1. Conversion of Upper-Story Nonresidential Space to Residences

Conversions of upper-floor space in downtown buildings to residential use will generally not require the provision of any additional parking spaces and therefore will not benefit from the existing ordinance nor be adversely impacted by the proposed amendment.

Business uses are typically subject to higher parking requirements than residential uses. For example, offices are required to provide one parking space per 300 square feet of gross floor area while the highest residential parking requirement is two spaces space per dwelling unit. Thus, for an office-to-residential conversion to generate any additional parking requirement, the average dwelling unit size would have to be less than 600 square feet. Accordingly, it is highly unlikely that a conversion of office or other nonresidential space in the downtown to residential use would require the owner to provide any additional parking spaces, and so the Ordinance's ITIF provisions would not come into play.

2. Redevelopment of Existing Commercial Properties to More Intensive Mixed Use

In a few limited situations, the proposed amendment may limit the maximum possible density of development. These are underdeveloped sites, typically containing a single-story building and surface parking spaces. Examples include 49-57 Merrimac Street (former gas station) and 85-87 Merrimac Street (the current site of "Pure Bliss"). However, in both of these cases the site can likely be redeveloped for mixed use in much the same way as 2-6 Market Street, where the parking spaces for residences has been accommodated on site. In fact, a concept plan for 49-57 Merrimac Street is currently before the Planning Board, showing all required parking spaces for the residential uses being provided on site (without the use of stacked parking or mechanical lifts).

3. Creation of Additional Dwelling Units in Existing Residential Properties

The final category of potential impact includes small residential conversions at the perimeter of the 300-foot radii, in places like Market Street, Park Street and upper State Street. In these

areas, it is conceivable that a few residences could be split into more dwelling units, but the number of lots potentially affected by the proposed ordinance is small.

Planning Board Findings and Recommendation

The Planning Board finds that the proposed ordinance will have little to no impact on either the development of housing or parking congestion in the downtown and adjacent neighborhoods.

At its meeting on April 5, 2023, the Planning Board voted 7 to 1 to recommend that the Zoning Ordinance be amended as set forth in ODNC00135 01 30 2023, except that its provisions should not apply to hotels and inns (use no. 105).

Housekeeping Amendment

In a March 27 memo to the Planning Board and the City Council Planning and Development Committee, Zoning Administrator Jennifer Blanchet has proposed a housekeeping amendment to clarify whether a property is within the 300-foot radius from a municipal parking facility. At its April 5 meeting the Planning Board voted unanimously to recommend that the Zoning Ordinance be modified as proposed by the Zoning Administrator.

Parking for Downtown Residents

Mixed-use conversions of underutilized upper floors in downtown buildings are generally beneficial to the City because having more residents living downtown can help support downtown businesses and year-round economic vitality. As described earlier, the proposed ordinance will not affect conversions of upper-floor space in the downtown core from commercial to residential use, because (a) the buildings that contain those upper-floor spaces are generally lawfully nonconforming as to parking, and (b) the parking requirements for residential use are generally less than the requirements for the pre-existing commercial uses.

However, converting those upper stories to residences will bring additional cars that need to be parked in or near the downtown. While the primary demand for parking for office uses is during the daytime, residences create a need for parking at night, when the City's parking lots are less occupied but neighborhood curbside parking is most in demand. If additional downtown residences are created by conversions of upper-story commercial space or new development, the residents of those new units will have to compete with the residents of the adjacent neighborhoods for scarce on-street parking spaces.

Currently, the City has a policy of prohibiting overnight parking in city lots (with only a limited exception in the Green Street parking lot for a few residents of the "Inn Street Mixed-Use Area"). The City Council adopted this policy to address problems of long-term parking in the municipal lots, but it creates an artificial scarcity of parking spaces for downtown residents who must find on-street parking in nearby neighborhoods. Managing overnight parking in municipal lots can be a complex task, but it may become necessary to modify the prohibition on overnight parking to address the needs of residents of converted space in downtown buildings. This will likely require the development of a comprehensive parking management strategy for the downtown.

300-Foot Buffer from Parking Facilities, Excluded Areas, and Areas Potentially Impacted by Proposed Amendment

