

**Town of Westwood
Planning Board
Meeting Minutes
Carby Street Building
March 15, 2006
6:30 PM**

Board Members Present: Steven H. Olanoff, Robert E. Moore, Jr., Robert C. Malster, George A. Nedder (until 7:30 pm)

Board Members Absent: Henry W. Gale

Staff Members Present: Diane Beecham, Town Planner; John Bertorelli, Town Engineer

The meeting was convened at 7:40 pm.

Decision and Vote on Zoning Amendments Presented at the March 7, 2006 Public Hearing

On a motion by Steve Olanoff and seconded by Rob Malster, the four members of the Planning Board in attendance voted unanimously to recommend that Town meeting support the following article:

1. Amend the Zoning Map to rezone three parcels of land located at 40 Allied Drive (Map 17-172), 100 Allied Drive (Map 17-173) and 122 Allied Drive (Map 17-174) from Highway Business to Industrial. (Petition)

On a motion by Steve Olanoff and seconded by Rob Malster, the four members of the Planning Board in attendance voted unanimously to recommend that Town meeting support the following article as amended:

2. Amend Section 4.1.1 [Principal Uses] of the Zoning Bylaw to allow lots located partially in Westwood and partially in another town to use the portion of the lot in the other town to satisfy the requirements of the Westwood Zoning Bylaw. (Petition).

Accepted Amendment:

- 4.1.1 General. No building or structure shall be constructed, and no building, structure or land shall be used in whole or in part, for any purpose other than for one or more of the uses herein set forth as permitted in the district in which said building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized. In the case of lots lying partly within the Industrial District of the Town of Westwood and partly within another abutting municipality, that portion of the lot lying outside of the Town of Westwood may be used to meet the zoning requirements of this Bylaw, and such lot may have effective access through such abutting municipality. However, in all other cases, no building or structure shall be

constructed or used on a lot lying only partly within the Town of Westwood unless the Westwood portion of the lot shall meet the zoning requirements herein set forth, and the lot shall have effective access to the Town of Westwood. There shall be no more than one non-agricultural principal use for each lot in a Residential District, except as may otherwise be provided herein.

On a motion by Steve Olanoff and seconded by Rob Malster, the four members of the Planning Board in attendance voted unanimously to recommend that Town meeting vote indefinite postponement for the following three articles:

3. Amend Section 8.6 [Senior Residential Development] by adding a new section 8.6.9 to require an application for a Senior Residential Development to also be subject to the provisions of the Major Residential Development bylaw if the proposed SRD development has four (4) or more residential units. (Petition)
4. Amend Section 8.5.2 [Definition of a Major Residential Development] by inserting the words "development or construction of four (4) or more dwelling units on, or" after the word "mean" and by inserting a comma after the words "purposes of". (Petition)
5. Amend Section 8.6.4.1 [Senior Residential Development] to require that the allowable density of a Senior Residential Development shall not exceed 1.5 times the density permitted by conventional development at the site unless the Planning Board makes specific findings that a higher density will not have any deleterious impacts. (Petition)

On a motion by Steve Olanoff and seconded by Rob Malster, the four members of the Planning Board in attendance voted unanimously to recommend that Town meeting support the following six articles:

6. Amend Section 7.1 [Earth Material Movement] and Section 4.2 [Notes for Table of Principal Uses] to designate the Planning Board as the special permit granting authority for earth material movement relating to applications for Senior Residential Developments and Major Residential Developments. (Planning Board)
7. 1) Amend Section 8.6 [Senior Residential Development] to state that a Senior Residential Development is not a Major Residential Development or a Residential Retirement Community and does not require a Major Residential Development special permit or a Residential Retirement Community special permit; 2) Amend Section 8.7 [Residential Retirement Community] to state that a Residential Retirement Community is not a Major Residential Development or a Senior Residential Development and does not require a Major Residential Development special permit or a Senior Residential Development special permit; 3) Amend Section 8.5 [Major Residential Development] to state that a Major Residential Development is not a Senior Residential Development or a Residential Retirement Community and does not

require a Senior Residential Development special permit or a Residential Retirement Community special permit. (Planning Board)

8. Amend Westwood Zoning Bylaw Section 3.3 [Location of Districts] to change the date of the Zoning Map from June 1, 2005 to June 1, 2006. (Planning Board)
9. Amend Section 9.6.9.1 [Mixed Use Overlay District Parking Requirements] to allow the Planning Board to vary the requirements of Section 6.1.23 [relating to the location and number of parking area ingress/egress points] to parking areas within the Mixed Use Overlay District. (Board of Selectmen)
10. Amend Section 9.6.10.5 [Mixed Use Overlay District] to insert language to indicate that the specified time period for the lapse of a special permit does not include the time required to pursue an appeal under M.G.L. Chapter 40A § 17. (Board of Selectmen)
11. Amend Section 9.6.5 [Mixed Use Overlay District Permitted Uses] to add uses accessory to the uses cited in this section and to the uses permitted in the underlying zoning district as a permitted use. (Board of Selectmen)

Withdrawn:

12. Amend Section 9.6.4 [Mixed Use Overlay District Special Permit Required] to state that a Residential Retirement Community (RRC) special permit pursuant to Section 8.7 is not required for development under a MUOD Area Master Plan. (Board of Selectmen)

Zoning Amendments Public Hearing

In Attendance: Dan Bailey, Esq. Special Counsel for the Board of Selectmen; Steve Rafsky, Chairman of the Economic Development Advisory Board; Rick Moore, Rizzo Associates; Susan Kincaid, Hale and Dorr

Bob Moore read the legal notice and opening the public hearing.

Mr. Bailey stated at the public hearing last week, the Planning Board has requested that there be further discussion with the neighborhood to see if they would be willing to support rezoning the portion of the White parcel that will be developed as an office building from residential to industrial. That way, there does not have to be that "torturing" of the bylaw to in effect allow for the commercial use of the property with an underlying residential zoning. The neighborhood is willing to support a change of the underlying zoning to industrial for that portion that will be used for the buffer and for the office building. The remaining portion of the parcel will remain residential. The entirety of the parcel would be included in the MUOD.

Withdrawn:

1. Amend Section 9.6.7.7 [MUOD Alternative Regulations] to 1) insert the following at the end of the first sentence: “, except on the portions of said lot abutting those areas of residentially zoned land on which a buffer area equal to or greater than fifty (50) feet wide is required by recorded restrictive covenant or on which Business or Professional Services Establishments are permitted”; 2) to insert the words “fifty (50)-foot” after the word “Said” in the second sentence.

Mr. Bailey stated that this next amendment is to clarify the intent that the list of permitted uses in the MUOD are also allowed in the underlying district. The intent of the language is to clearly state that the uses allowed in this list are allowed in the MUOD as well as in the underlying zoning district.

2. Amend Section 9.6.5 [MUOD Permitted Uses] by deleting the words “Except as otherwise provided herein and” at the beginning of the first sentence and inserting the following words “unless otherwise provided herein” after the words “applicable to the underlying district”.

Mr. Bailey stated that the lot area should have been included in the amendment last year but was inadvertently omitted. There is no minimum lot area in the MUOD and so there should be not regulation associated with it. After a discussion with the developer, they would like to also include a reference to section 5.5.4 Corner Clearance and Section 5.5.5 Uses within Setbacks as part of this section.

3. Amend Section 9.6.7.3 [MUOD Alternative Regulations] to insert the words “lot area” after the words “lot frontage”.

For the next proposed amendment, Rick Moore, Rizzo Associates and Project Engineer for Westwood Station stated that all the drainage run-off within the Master Plan area should not be treated the same. He stated that the roof run-off should be recharged and everyone is in agreement with this principle. However, run-off from parking lots, based on DEP policy and regulations, should not be treated and then recharged. It should instead be treated and discharged (not recharged). The changes that were made to this amendment were just to make sure that it is not inconsistent with DEP policy.

Mr. Nedder stated that he was concerned about the run-off from the top of the parking garages. Shouldn't they all have roofs? The response was that Cabot, Cabot & Forbes has stated that it would be cost prohibitive to have roofs on all of the parking structures.

Mr. Olanoff stated that some of these provisions should be in the general Water Resource Protection District section rather than in the MUOD.

With respect to the liquid petroleum storage amendment, Mr. Olanoff questioned how this came about and why do we need it. Susan Kincaid, attorney for the

developer, stated that there was a state regulatory scheme that interprets petroleum products in cars as the storage of liquid petroleum products. This may be viewed as a prohibited use under the WRPOD and thus make it subject to appeal.

4. Amend Section 9.6.9 [MUOD Conditions] to insert a new section 9.6.9.2 regarding the application of certain provisions of the Water Resource Protection Overlay District (WRPOD) as it relates to the MUOD that will include the following sections: 1) permitted uses within the WRPOD shall include uses allowed by special permit within the MUOD; 2) petroleum products in vehicles within parking structures within the MUOD shall not be considered the storage of liquid petroleum products; 3) the applicable minimum lot area within the MUOD as it relates to the WRPOD shall be consistent with Section 9.6.7.3 which requires no minimum lot area in the MUOD; 4) for purposes of calculating the minimum amount of vegetation area and the amount of impervious materials coverage in Section 9.3.7.3, the references to "lot" shall be deemed to be the area subject to an Area Master Plan special permit; and 5) stormwater drainage other than roadway run-off shall be recharged with the Master Plan area.

On a motion by Steve Olanoff and seconded by Rob Malster, the four members of the Planning Board in attendance voted unanimously to recommend that Town Meeting support the following articles from the March 7, 2006 public hearing:

Amend the Zoning Map to include the parcel of land located at 213 Whitewood Road (Assessor's Map 33, Lot 20) in the Mixed Use Overlay District 1 (MUOD 1) and Mixed Use Overlay District 2 (MUOD 2). (Board of Selectmen)

Amend Section 9.6.5 [Mixed Use Overlay District Permitted Uses] to add Business or Professional Services Establishments, Bank and Financial Institution as a permitted use. (Board of Selectmen)

On a motion by Steve Olanoff and seconded by Rob Malster, the four members of the Planning Board in attendance voted unanimously to recommend that Town Meeting support the following articles from this public hearing listed above: Articles #2, #3, and #4.

For the next proposed amendment article, Mr. Bailey stated that the Board of Selectmen are only going forward with the "restaurant with entertainment" and the other two uses will be withdrawn.

5. Amend Section 9.6.5 [Mixed Use Overlay District Permitted Uses] to allow for Restaurant with Entertainment; Bar within a Restaurant (with or without entertainment); and Bar within a Hotel as permitted uses.

6. Amend the Zoning Map to rezone the entirety or a portion of the parcel of land located at 213 Whitewood Road (Assessor's Map 33, Lot 20) from Single Residence C to Industrial.

Mr. Bailey stated the next proposed amendment will not allow for any additional residential development in the MUOD. Instead, its intent is to allow for more flexibility in its location. It will not allow for more residential because the MUOD bylaw states that residential is limited to 1/3 of the project.

7. Amend the Zoning Map to include the entirety or a portion of the parcels of land known as Assessor's Map 33, Lots 11 and 12 in Mixed Use Overlay District 2 (MUOD 2).

Mr. Bailey states that the next two proposed amendments deal with the relocation of the Adult Use overlay district. By redeveloping University Avenue, and particularly allowing for restaurants with entertainment and liquor licenses, this could actually make the existing Adult Use overlay district attractive for such uses. It is now proposed to move this district to Route 1 on the Clair Mercedes and the Carruth Capital parcels. These parcels were selected because they are within the Highway Business District which does not allow for restaurants with entertainment and these parcels do not have frontage on Route 1.

Mr. Olanoff stated that he would expect that this area would not be attractive to adult bookstores and the like.

Mr. Rafsky stated that there was a public sentiment that the Town was at risk with respect to its adult use zoning. At this point in time, they realize that this zoning has come up late in the process and they will again likely review this zoning in more depth at a later time and may again move the district. This may only be a temporary fix for now.

Mr. Olanoff stated that he would like to find out the changes in acreage from the new district as opposed to the existing district.

Mr. Malster stated that the timing of all the zoning amendment articles has been wrong. For the Special Town Meeting, the Planning Board needs to have language much earlier on in the process. He stated that he was particularly concerned regarding the proposed change in the Adult Use overlay district when the property owners have found out today about the proposed change.

8. Amend Section 9.1.2 [Adult Uses Overlay District Location] to remove the following parcels from the Adult Uses Overlay District: Assessors' Map 38, Lots 3, 4, 5, 9 and 14; and 2) to include the following parcels within the Adult Uses Overlay District: Assessors Map 23, Lots 230 and 231.
9. Amend the Zoning Map 1) to remove the following parcels from the Adult Uses Overlay District: Assessors' Map 38, Lots 3, 4, 5, 9 and 14; and 2) to

include the following parcels within the Adult Uses Overlay District:
Assessors Map 23, Lots 230 and 231.

On a motion by Steve Olanoff and seconded by Bob Moore, the three members of the Planning Board in attendance voted unanimously to close the public hearing.

On a motion by Steve Olanoff and seconded by Bob Moore, the three member of the Planning Board in attendance voted unanimously to recommend to Town Meeting to support the following articles hearing at this public hearing: Articles #5, #, #7, #8 and #9.

Discussion of Letter to be sent to Mr. Musto prior to the resubmittal of his Reynold's Farm Senior Residential Development application

[The Town Planner had drafted a letter from the Planning Board to Mr. Edward Musto, applicant for the Reynold's Farm Senior Residential Development that was recently denied a special permit by the Board. The Board wanted to convey that they believe that this site is an appropriate one for senior residential development and they want to encourage Mr. Musto to submit a new application with a new site design. The letter will convey the priorities that the Board wants addressed in the new plan. The Board reviewed the letter and decided to make some additional changes to it and send it out at a later date.]

Discussion of alternatives to expend settlement from the Steven's Farm pedestrian path appeal

[At a previous meeting in executive session, the Planning Board decided to settle an appeal with Paul Tryder of Cornerstone Corp. regarding the construction of a pedestrian path on his property that would link Longmeadow Road in Steven's Farm subdivision to Hale Reservation. The Board would not return the remaining \$39,000 of the subdivision bond until it was constructed and Mr. Tryder filed suit against the non-return of the bond money. The Board and Mr. Tryder settled the appeal and a condition of that settlement is for Mr. Tryder to provide \$20,000 to the Town for a project that has some similarity to a pedestrian path. The Board decided to donate the \$20,000 to the Department of Recreation as part of their fundraising campaign to install new playground equipment at the School Street playground.]

The meeting was adjourned at 9:00 pm.