

Westwood Planning Board Minutes
Tuesday, February 25, 2020
7:00 pm
Champagne Meeting Room
50 Carby Street, Westwood, MA 02090

Call to Order:

The meeting was called to order by Chair Gorman at approximately 7:01pm. The Chair announced that the meeting was video recorded by Westwood Media Center and he explained the meeting procedures.

Present:

Planning Board members present: Brian D. Gorman, David L. Atkins, Jr., Deborah J. Conant and William F. Delay. Absent: Christopher A. Pfaff. Staff members present: Abigail McCabe, Town Planner, Nora Loughnane, Director of Community & Economic Development, Pat Ahern, Town Counsel and Jessica Cole who recorded the meeting minutes.

174 University Avenue, University Station. Casa Loca Mexican Cantina request for Project-Specific Signage Alternative pursuant to Section 9.7.10.15 of Zoning Bylaw for signage package review.

Applicant: Jonathan Feder, from ICL Imaging was present representing the Wellesley Restaurant Group owners of the restaurant. He request signage on the east and west side of the building. The signage will have two way channel letters that will be white when lit and black when not lit.

Board & Staff Comments:

- Ms. McCabe stated that 2 signs are allowed by right, and that third sign due to the overall signage area have triggered the this review for a Project Specific Signage Alternative.
- A couple members questioned the sign that says "EAT". Mr. Feder explained the owner wants a prominent sign.
- How bright is the lighting? Standard LED lighting, it is not as bright with the two way vinyl.
- EAT, wants the customers to know that you can eat there.
- With the lights on it will appear white.
- Is there a graphic logo? No, kept it simple with just the name of the restaurant.
- The EAT sign is only on the north side of the building.
- Ms. McCabe said that we have other locations in the University Ave overlay district that have received signage approval under this section of the bylaw.

Public Comments: None

Action Taken:

Upon a motion made by Mr. Atkins, and seconded by Mr. Delay, the Planning Board voted in favor 4-0 to approve the Project Specific Signage Alternative for Casa Loca for 174 University Station finding that the proposed wall signs do not pose any negative traffic safety impact or negative impact on the surrounding environment.

230 High Street- Limited EIDR* and Earth Material Movement (EMM)* Public Hearing - Toward Independent Living and Learning, Inc. (TILL) proposes to construct a group home residence for individuals with Acquired Brain Injuries and intellectual disabilities. Project also involves import of more than 200 cubic yards of earth material for regrading of the property for the new construction.

Ms. McCabe reported that the Applicant requests a continuance to the Board's next meeting on March 17th so that they can respond to the comments received by staff and provided revised plans in response to building and fire department comments.

Action Taken:

Upon a motion made by Mr. Atkins and seconded by Ms. Conant, the Planning Board voted 4-0 in favor to continue the Public Hearing for 230 High Street to Tuesday, March 17, 2020, 7pm at 50 Carby Street.

Annual Town Meeting Article Update - Select Board Article 97 to protect Morrison Park and Field *[May be discussed in connection with below item #4 relative to Planning Board Article #3]*

Public Hearing for Zoning Amendments submitted for Annual Town Meeting - Public Hearing on all zoning amendments submitted for Annual Town Meeting scheduled for May 4, 2020.

Select Board Article: Keeps the existing definitions for "Office of Healthcare Professional" and "Medical Centers or Clinics" and adds Medical Center or Clinic to the Table of Uses Section 4.1.

Nancy Hyde, Chair of the Select Board, was present and explained that the Select Board is seeking the Planning Board's support to co-sponsor the article with them. Ms. Hyde introduced Ms. Loughnane, Director of Community and Economic Development who presented the article. Ms. Loughnane provided a full history of the Medical Uses Zoning Amendment Warrant Article and how it has changed over the last few years.

Ms. Loughnane explained that prior to 2013, the single term "Office of doctor or dentist not a resident on the premises" was used in the Zoning Bylaw. In 2013, additional medical uses were added "Office of a Health Care Professional" and "Medical Center or Clinic" to the Definitions section and were added as uses in Section 9.7 – the University Avenue Mixed Use Overlay District (UAMUD). In 2017, when reviewing various medical terms it was discovered that the expanded medical related uses were never added to the Table of Principal Use Chart which outlines all uses that are allowed in the underlying zoning districts throughout town and list where and when they are allowed. In 2017 the Planning Board recognized the need to clarify where defined medical uses are permitted and where they are prohibited. In November 2017, the Planning Board brought forward a zoning amendment that included the following:

- Eliminated the awkward and board use title "office of doctor or dentist not a resident on the premises";
- Revised definitions for UAMUD medical uses "Office of a Health Care Professional" and "Medical Center or Clinic";
- Added definitions for higher intensity medical uses "Hospital" and "Substance Rehabilitation and Treatment Facility";
- Amended the Use Chart to include all medical terms and required a Zoning Board of Appeals (ZBA) special permit for the higher intensity medical uses of Hospital and Substance Rehabilitation Treatment Center in the ARO only;
- Medical Center or Clinic was only allowed by ZBA special permit in the two Industrial zones and ARO zone;
- Office of the Health Care Professional where it was allowed in the use chart did not change from the current office of a doctor use is allowed, which is in the business districts and by special permit in the GR zone.

Ms. Loughnane presented the definitions proposed in November 2017:

Hospital - A building designed and used for the diagnosis and treatment of human patients that includes overnight care facilities.

Substance Rehabilitation or Treatment Facility - A building designed and used for the diagnosis and treatment of human patients for substance rehabilitation and/or treatment facilities.

The proposed revisions to the existing definitions were:

Office of Health Care Professional - An office for a medical doctor, dentist, psychologist, chiropractor, acupuncturist, or similar physical or mental health care professional, including clinical and laboratory analysis activities directly associated with such medical office use, but excluding offices within Medical Centers or Clinics, Hospitals, or Substance Rehabilitation or Treatment Facilities.

Medical Center or Clinic - A building designed and used for the diagnosis and treatment of human patients ~~that does not include substance rehabilitation or overnight care facilities~~ is not a Hospital or Substance Rehabilitation or Treatment facility.

Ms. Loughnane explained that the Planning Board's fall 2017 article received unanimous support from the Planning Board, received a favorable action by the Finance and Warrant Commission, and Town Meeting approved by a 2/3 vote. After Town Meeting approves zoning changes the documentation is submitted to the Attorney General. In summer 2018 the Attorney General found a minor procedural defect in one of the Planning Board's continued hearing sessions. The Attorney General recommended a process to cure that defect that would allow the article to be approved if posted for a certain amount of time. However, a resident submitted a letter of objection and the Attorney General had no choice but to disapprove the article if there was any objection to the minor procedural defect.

In 2019, at the next Town Meeting cycle the Planning Board again brought forward the medical use article. The Planning Board initially brought forward the same article as in 2017 in addition to the three other articles that were disapproved in 2017. At the first public hearing the Board heard strong neighborhood opposition, largely from the residents abutting the East Street ARO district. Residents were concerned about a rumored methadone clinic and opposed to the "Substance Rehabilitation or Treatment Facility" new definition and proposal for it to be allowed by special permit in the ARO zone. In March 2019 the Planning attempted to address these concerns by amending the proposed zoning article but ultimately voted to request the article for Medical Uses be withdrawn and promised to rework the article and resubmit the article for Town Meeting.

Ms. Loughnane said that there was no fall Town Meeting but the Board submitted the Medical Use article placeholder request for Town Meeting in August for a possible fall Town Meeting and again in December for Annual Town Meeting for 2020. In January 2020, a Board member drafted and presented a revised medical facilities article that created a new Medical Facilities Overlay District clearly excluding the East Street ARO in response to concerns previously raised by residents. Planning Board members responded by saying they need more time to review the proposal and withdrew sponsorship of their submitted article.

The Select Board voted to take over the warrant article sponsorship deciding to focus on the most essential aspects of the zoning amendment. The Select Board revised the article to: keep the existing definitions with no changes; added the existing defined terms to the Zoning Use Chart; and remove references to outdated term "Office of doctor or dentist not a resident on the premises" to become "Office of Health Care Professional".

Current Proposal does not change the existing definitions and keeps the same as follows:

Office of Health Care Professional - An office for a medical doctor, dentist, psychologist, chiropractor, acupuncturist, or similar physical or mental health care professional, including clinical and laboratory analysis activities directly associated with such medical office use, but excluding offices within Medical Centers or Clinics.

Medical Center or Clinic - A building designed and used for the diagnosis and treatment of human patients that does not include substance rehabilitation or overnight care facilities.

This limited article proposes Medical Centers or Clinics not allowed in any of the underlying base zoning districts and only allows it in University Avenue Mixed Use Overlay District. There are no proposed changes to the Office of Health Care Professional zoning districts, only the name of the term. The Select Board recommends further discussion of the other aspects of the medical use bylaw and encourages the Planning Board to pursue further amendments for the next Town Meeting. The Select Board will proceed with the revised and limited version of the Medical use Article and will present to Fin Com on March 2nd. The Board asks the Planning Board to join in the sponsorship for this article. The Planning board should make a recommendation on this article as well as all other zoning articles.

Board Discussion, Questions and Comments:

- 2020 Medical Uses definition of *Office of Health Care Professional* Definition, but excluding offices within Medical Center or Clinic, What is the reasoning for having it there, is it covered by the Medical Centers or Clinic? *Ms. Loughnane responded that it shows that there is a difference between a General Office and a Medical Center or Clinic, and is only allowed at University Station.*
- Use the words or similar physical or mental health care professional, how is that determined and what was the idea behind it? *Ms. Loughnane explained that the bylaw has a definition of Office of a Doctor or Dentist*

not a resident on the premises and we have another definition of personal services establishments in the bylaw. Anything outside those are prohibited, and the Building Commissioner will make a determination.

- *Substance Abuse, is this article intended not to address it? Ms. Loughnane, Yes, that is correct substance abuse treatment centers are not included or addressed in this article. The Select Board decided it is a larger issue to be considered carefully. This is a clean-up bylaw for the two definitions we currently have that are not included in the Table of Uses.*
- *Table of Uses slide, can you explain the footnote? Ms. Loughnane explained that the Table of Uses only lists table columns for the underlying "base" zoning districts and not for Overlay Districts, thus Medical Centers and Clinics are not permitted in any of the underlying districts, in the Industrial zone there is a footnote saying, only as permitted in the UAMUD to clarify where it is allowed in University Station by references in the University Avenue Mixed Use Overlay District section 9.7 where it is currently allowed today.*
- *Is it worth adding the extra language? Clarify it more? Ms. Loughnane, it is prohibited, not sure how else to write it. Start with it being prohibited.*
- *Back in the 2017 proposed zoning article, under the Office of Healthcare Professional definition specifically excluded the Substance Rehabilitation Treatment Facilities, but in this 2020 article that is not the case, why? Ms. Loughnane, the 2020 Article that the Select Board is proposing does not make any changes to the definitions; the changes made in 2017 were made because there was also a new definition to be added for Hospitals and Substance Rehabilitation Treatment Facilities. If you are not adding that new definition for the Hospital and Substance Rehabilitation Treatment Facilities to the bylaw then you don't want to define something referencing something that is not in the bylaw.*
- *Why can't the exclusion of Substance Rehabilitation Facilities be added with the Office of Healthcare Professional definition and Use Chart now? That definition was written that way in 2013 for the University Station bylaw, we wanted to change it by adding the definitions, but since the Planning Board is not going forward, the Select Board is keeping the existing definitions in this limited article.*
- *If you go through the bylaw, you'll find presently right now we don't have any definitions for Dialysis Centers, Urgent Care, Pharmacy drugs or acupuncture and they are not in the Use Chart or in the FMUOD. We have to have definitions for Shuttle, Fitness or Health Center and those are not in the Use Chart. Why can't you put that exception in there? Ms. Loughnane, if something is not defined in the Use Chart, the Building Commissioner makes a determination of where it fits. By having it be specific we are protecting ourselves. There are plenty of uses we can add to the Use Chart; The Planning Board is welcome to expand it. D Conant; Medical center and office of health care professional were specifically zoned for the University Ave overlay district. Why are you trying to bring uses for the University Ave Overlay District in to the use chart when we don't include uses for FMUOD. Why are we trying to do this? N. Loughnane: I believe FMUOD uses are in use chart. D Conant; No, for example Shuttle. It's allowed only in overlay district. Personally, this is good starting point but it still needs work. Language needs to be tweaked and expanded.*
- *There is a lot of discussion of the new Brigham coming in and the Mental Health Services, and there is concern that there is a potential for a detoxification in there. Do you know if this is going to happen? Ms. Loughnane replied that the Planning Board approved the Brigham & Women's building and you have a very specific approval that you granted for that and the building was described at that time. Take a look back at your approval to see what is and is not permitted and overnight patient facilities is not allowed.*
- *In a nutshell, what are we trying to prohibit? Ms. Loughnane, nothing we are trying to keep the uses in the Districts where they already exists and prohibit them from going to other undesirable locations merely because it was unclear, thus clarifying the bylaw. This Board member needed more time.*
- *A dialysis treatment facility why wouldn't that be clearly a Medical Clinic? We didn't have a Use Chart that allowed that, we didn't have the definition.*
- *A board member felt defining this is helpful. Without a definition and Table of Uses for that definition you search for the closest possible thing. It is scaled back to be a very specific article, we should sponsor it with the Select Board. The hope is that The Planning Board will then take a more holistic way to address Medical Uses.*

Public Comments:

Unidentified Resident, How does this affect the Meditech Parcel if at all? What is the cost of doing nothing? What is the risk of doing nothing?

Ms. Loughnane replied that a Medical Center or a Clinic is prohibited in the ARO, which is the zoning district where Meditech is located. Ms. Hyde added that if we did not move forward with this article Westwood runs into the situation that Ms. Loughnane referred to, which is if a use is not defined in the use chart, the use can then be proposed anywhere in Town. If a use is not clearly zoned stating where it can and cannot go, the Town is vulnerable to the use being proposed anywhere. Generally medical uses are also non-profits; we are trying to protect the tax base and not encouraging these non-profit uses to locate on our most valuable commercial land which is why the article only allows Medical Centers in the UAMUD where a development agreement exists that gives the Town the ability to negotiate a Payment in Lieu of Taxes (PILOT) agreement.

F. Fusco, 20 Pine Lane, Are you aware of any facilities such as drug detox centers and psychiatric wards being proposed?

Ms. Loughnane responded that any new uses would go through the Planning Board. A psychiatric office is permitted, The B&W facility does not permit overnight patients. Smaller offices will still be allowed, the larger offices are only allowed at University Station and only with the approval of the Planning Board as proposed in this article.

Board and Staff Comments:

- Voting to make a recommendation to the Finance and Warrant Commission.
- Tonight the Planning Board is voting to support the articles.
Ms. Hyde is looking for the Planning Board's support in the article and to consider co-sponsoring.
- A Board member was still caught up with the Hospital or Substance Rehabilitation not being able to be considered as Office of a Healthcare Professional. Concerned with what Interim Counsel said in 2019 that he'd rather have that definition of Office of Healthcare Professional if they wanted to do Substance Rehabilitation.

Ms. Loughnane, It's not that you can't have it, if the Planning Board wants to take up an article at the next Town Meeting to change the language; Select Board is trying a very simplified quick fix to the bylaw. Recommend not to make any changes to the definitions for this first step.

- With this article as proposed with the Office of Health Care Professionals and Medical Center or Clinic will this protect us from Substance Rehabilitation facilities?

Ms. Loughnane responded that Office of Health Care Professional and Medical Center is clearly defined in the bylaw to exclude Substance Rehabilitation and exclude overnight care facilities. However, because there is no definition for Substance Rehabilitation or Treatment Facilities or Hospital, the Town remains exposed and vulnerable to either of those uses being proposed. Thus, the Town remains exposed by not defining and zoning those uses. Because there is no definition, the Town is exposed; the Planning Board should look into full protection for the Town by zoning.

Action Taken:

Upon a motion made by Mr. Atkins and seconded by Mr. Gorman, the Planning Board voted 2-0-2 (Conant and Delay abstained from the vote) to support the article and recommend to co-sponsor with the Select Board.

Select Board Article: Zoning Map Amendment options related to Town-owned Property on High Street the Obed Baker House at 909 High Street and abutting parcel on High Street known as Assessor's Parcel 21, Lots 42 and 43. Proposes options for rezoning related to redevelopment proposal.

Ms. Hyde, Select Board Chair was present to report that the Select Board voted to withdraw this article, and they have a response to the RFP, but it's not fully developed and no zoning changes are needed at this time. The Select Board wants to create a working group to work on the proposal, and see what can become of the property.

Planning Board Article 1: Renting of Rooms for residential properties. Add new definitions for short-term rentals (5-29 days) and long-term (30 days or more), and prohibit renting of rooms for fewer than 5 days.

Staff & Board Comments:

- Members of the family? Not more than 3 persons? *It is not more than 3 unrelated persons.*
- It is a challenging Article.
- What about enforcement? *It is a challenging enforcement. Call the Building Commissioner.*
- Do you get fined or warned? *Ms. Loughnane, currently the Building Commissioner starts by sending a letter to the owner asking the owner to contact him within a reasonable time period, usually a second warning letter if there is no response and then a third letter and fines will begin.*
- There is a 6 day minimum? *Correct*
- Mr. Delay commented that you can rent a home by the hour.
- Did we ever hear from the Board of Health? Mr. Gorman made a call to the Board of Health.
- Ms. McCabe in the definition for long term she recommends changing the wording to 30 or more consecutive days.

Public Comments:

Ms. Stapleton, 193 School Street, was present and it is happening in her neighborhood, she has called the police. She believes there should be a timeframe. It has changed the lifestyle on the street. She is concerned about the neighborhood impact of renting rooms to different people for short periods of time.

Ms. Loughnane suggested revising the language in the renting of rooms to include a single family or not more than 3 unrelated people that would allow a family of any size to rent. The Board agreed with this change. Ms. McCabe will add language to both definitions "a Single Family or not more than 3 unrelated people".

Action Taken:

Upon a motion made by Ms. Conant and seconded by Mr. Delay the Planning Board voted in favor 3-1 (Atkins voted against) to recommend favorable action of the Short Term Rental Article to the Finance and Warrant Commission.

Planning Board Article 2: To clarify that uses not listed and expressly permitted in the Zoning Bylaw are prohibited.

Board Comments:

- Like the intent, but don't think that it is necessary.
- Second sentence captures it; it makes it stronger, may be protective.
- Can we get an opinion from the Building Commissioner? *Ms. McCabe will ask.*
- A board member was concerned about the unintended consequences.

Action Taken:

Upon a motion made by Ms. Conant and seconded by Mr. Delay the Planning Board voted in favor 4-0 to recommend this article to the Finance and Warrant Commission.

Planning Board Article 3: To remove Morrison Park & Field (440, 470 and 480 Washington Street) from the FMUOD Flexible Multiple Use Overlay District. Property to remain within the underlying Local Business B (LBB) zone.

Board Comments:

- It is not necessary; a zoning change would need $\frac{2}{3}$ vote at Town Meeting.
- There is a more permanent solution.
- Make it less attractive to developers.
- Article 97 is going to take a while.
- A board member thought it was probably a mistake when it was moved to the FMOD.

Ms. Hyde, Select Board Chair, was present and had a presentation. Ms. Hyde explained that the FMUOD boundaries were intentional to have Morrison Park and Field in the Overlay District. Morrison Park and Field initially was on the same parcel as the Fire Station and it was hoped that the fire station would one day be updated and

renovated and the FMUOD would assist by allowing more flexibility for a new Fire Station. The Fire Station is now on a separate lot than the field and park. She and the Select Board are proposing a state regulation known as Article 97 is an alternative approach to protecting Morrison Park and Field. Article 97 is the state's constitutional way to preserving recreational and park land with a permanent form of protection. Once a property is designated as Article 97 it is very difficult to be removed and thus very difficult to develop. Ms. Hyde presented the proposed land that would be under the Article 97 which is not the entire parcel but would include Morrison Park, Softball Field and Basketball Court and exclude wireless flag pole, the parking lot, the snack shack and the DPW shed. Once it is Article 97 to take it away a unanimous vote of the Recreation Commission, $\frac{2}{3}$ vote at Town Meeting, and $\frac{2}{3}$ vote of both House of State Legislature is needed to remove land from Article 97. It is done with intent to protect it; it can be adopted right away.

Staff & Board Comments:

- What are the statistics? *Hard to find out what properties are Article 97, the state does want to preserve.*
- Fully support.
- Article 97 seems like the better option.
- Mr. Ahearn, Town Counsel, has had a conservation Division of Conservation and Recreation (DCR) in Boston, if it passes, once it is recorded, it is in place at that time, by the Fall it could be protected.
- Mr. Walsh, Select Board, Mrs. Walsh brought it to the Select Board.

Public Comment: None

Action Taken:

Upon a motion made by Mr. Atkins and seconded by Mr. Delay, the Planning Board voted 4-0 to withdraw the Planning Board Article 3 related to Morrison Park and Field.

Planning Board Article 4: To prohibit Fire Arms/Explosives Sales and Services in the Local Business B (LBB) and Local Business A (LBA) zoning districts so that the Fire Arms/Explosives Sales use is only allowed in the Highway Business (HB) and Industrial (I) zones by special permit.

Board Comments:

- Remove 2 of the Zones Business district A & B from possible locations for Fire Arms sales as they do not fit in with the desired uses of the local business districts. Still allows by special permit in the highway business and the Industrial zones.

Public Comments: None

Action Taken:

Upon a motion made by Ms. Conant and seconded by Mr. Delay, The Planning Board voted in favor 4-0 to make a recommendation to the Finance and Warrant Commission on Planning Board Article 4 related to fire arms and explosives sales.

Upon a motion made by Ms. Conant and seconded by Mr. Delay, the Planning Board voted in favor 4-0 to continue the public hearing to Monday, March 2, 2020 at 7:00 pm at the Library, 660 High Street in the Community Meeting Room.

Other Business Items:

Review of Meeting Minutes

Action Taken:

Upon a motion made by Mr. Gorman and seconded by Mr. Atkins, The Planning Board voted in favor 4-0 to accept the minutes from November 19, 2019 as amended.

Public Comments:

Ms. Stapleton, 193 School Street, was present and noted that the Brigham & Women's talk was the same night as Fin Com.

Adjournment:

Upon a motion made by Ms. Conant and seconded by Mr. Atkins, the Planning Board members voted in favor (4-0) to adjourn the meeting at approximately 9:06 pm.

List of Documents:

<p>174 University Avenue-Casa Loca Project Specific Signage Alternative Package Application and Cover Letter, From: Jonathan Feder, ICL Imaging, 1 page. West Side Permit Graphic v3, From: ICL Imaging, 1 page. East Side Permit Graphic v3, From: ICL Imaging, 1 page.</p>	<p>PDF</p>
<p>Zoning Amendment Public Hearing Public Hearing Notice Short Version, From: Westwood Planning Board, 1/31/2020, 2 pages. Public Hearing Notice Long Version with Full Text & Maps, From: Westwood Planning Board, 2/4/2020, 8 pages. Zoning Amendment Flow Chart, 1 page. State Zoning Act Guide, From: Commonwealth of Massachusetts, Department of Housing & Community Development, 11/30/2009, 9 pages. MA General Law - Chapter 40A, Section 5, From: malegislature.gov, 5 pages. Existing Zoning Bylaw May 6 2019, Town of Westwood, 5/6/2019, 222 pages. Presentation to Fin Com 2-11-20 - Articles, Town of Westwood, 2/11/2020, 23 pages. FINCOM ATM Summaries Notice, Town of Westwood, 6 pages. Medical Use Article PowerPoint Presentation, 17 slides</p>	<p>PDF</p>
<p>Other Business Items: Planning Board Best Practices, From: Westwood Planning Board, 6/20/2019, 2 pages. Town Charter - Planning Board Sections, 1 page. Planning Board Roles & Responsibilities - Citizen Planner Training Collaborative Presentation, From: MA Citizen Planner, 70 pages. Town Organization Chart, Town of Westwood, 1 page. Planning Board FAQs, 7 pages.</p>	<p>PDF</p>
<p>Town Planner Meeting Summary memorandum to Planning Board Members, from Abby McCabe, dated February 21, 2020 revised through February 25, 2020, re: Planning Board meeting summary for February 25 Meeting.</p>	<p>PDF</p>
<p>Request from TILL for continuance request for 230 High Street Limited EIDR. EIDR and EMM Application and corresponding plans, staff comments, public hearing notice.</p>	<p>PDF</p>