

**WESTWOOD PLANNING BOARD  
LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**



2015 FEB -5 P 12:45

The WESTWOOD PLANNING BOARD will hold a public hearing in accordance with the provisions of M.G.L. Chapter 40A, §5 on Tuesday, February 24, 2015, at 8:30 PM in the Champagne Meeting Room at 50 Carby Street, Westwood, MA, to consider the following proposed amendments to the Town of Westwood Zoning Bylaw and Official Zoning Map:

**Article 1:** To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw and Official Zoning Map related to Section 9.5 [Flexible Multiple Use Overlay District (FMUOD)], including changes to the underlying zoning designation of one or more parcels and/or the expansion of one or more FMUOD districts, or take any other action in relation thereto:

- 1) Add a new Section 9.5.8.7 to read as follows, and renumber subsequent sections, and references to those renumbered sections, as appropriate:

**9.5.8.7 Additional Uses Permitted by FMUOD Special Permit in FMUOD6:**

9.5.8.7.1 Multi-family dwelling.

- 2) Add a new Section 9.5.8.8 to read as follows, and renumber subsequent sections, and references to those renumbered sections, as appropriate:

**9.5.8.8 Additional Uses Permitted by FMUOD Special Permit in FMUOD7:**

9.5.8.8.1 Multi-family dwelling.

- 3) Revise Section 9.5.13 to read as follows:

**9.5.13 Residential Units.** Pre-existing and new housing units, where permitted, shall occupy no more than thirty-three (33%) of the total gross floor area of any project within FMUOD 1, and no more than fifty percent (50%) of the total gross floor area of any project within FMUOD 3, FMUOD 6 or FMUOD 7. The maximum allowable number and type of residential units shall be determined by the Board, in its sole discretion, following the Board's acceptance of a fiscal impact report demonstrating that said residential units will have no negative fiscal impact on the town. The Planning Board shall have the authority to approve, in its sole discretion, phased construction of the residential components of a project, independent of the phased construction of the non-residential components of the same project, as long as the total gross floor area of the residential components of all phases does not exceed the total gross floor area of the project authorized under the FMUOD Special Permit, and as long as no portion of the total land area approved for non-residential components is developed for residential use. Residential units shall be located on upper stories unless the Planning Board determines that a combination of first floor and upper floor residential units are acceptable in a particular development.

- 4) Change the designation of the parcel known as Assessor's Plat 21, Lot 39 from Single Residence C (SRC) District to Local Business A (LBA) District.
- 5) Expand the FMUOD 7 to include parcels known as Assessor's Plat 21, Lots 32, 33, 34, 36, 39, 40, 41, and 42 .
- 6) Replace the map entitled "Official Zoning Map, May 5, 2014" with the map entitled "Official Zoning Map, May 4, 2015".

**Article 2:** To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 8.4 [Senior Residential Development (SRD)], or take any other action in relation thereto:

- 1) Delete the existing Section 8.4 [Senior Residential Development (SRD)] in its entirety and add a new Section 9.8 [Senior Residential Development Overlay District (SRDOD)] to read as follows:

**9.8 SENIOR RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT (SRDOD)**

9.8.1 **Purposes.** The purposes of Senior Residential Development Overlay District are as follows:

- 9.8.1.1 to encourage the provision of independent living accommodations in the form of senior residential communities which are located and designed in such a manner as to uniquely serve the physical and social needs of senior residents, sixty-two (62) years of age and older, with a range of income levels and physical abilities;
- 9.8.1.2 to preserve and enhance Westwood's community character by ensuring design compatibility between new senior residential developments and existing neighborhoods; and
- 9.8.1.3 to preserve open space, protect natural and cultural resources, lessen disturbance to soils, topography and vegetation, and reduce the overall costs of developing high quality senior residential units by allowing for more efficient, compact layout than permitted under a conventional development.

9.8.2 **Location.** The Senior Residential Development Overlay District is herein established as a floating district overlaying all parcels shown on the Official Zoning Map within the following Zoning Districts:

- Single Residence A District (SRA);
- Single Residence B District (SRB);
- Single Residence C District (SRC);
- Single Residence D District (SRD);
- Single Residence E District (SRE);
- Special Residence District (SR); and
- General Residence District (GR).

9.8.3 **Three-step Procedure.** Consideration of a Senior Residential Development (SRD) Project shall require compliance with a three-step procedure as described herein, and no SRD Project shall be permitted prior to successful completion of all three steps:

**Step 1** – Planning board review and approval of SRD Concept Plan pursuant to Section 9.8.7.

**Step 2** – Town Meeting review and approval of SRD Zoning Package pursuant to Section 9.8.8.

**Step 3** – Planning Board review and approval of SRD Special Permit Submittal pursuant to Section 9.8.9.

9.8.4 **Regulations.** The Planning Board shall adopt rules and regulations for the administration of this Section (henceforth referred to as the “Rules and Regulations”). Such Rules and Regulations shall include, but not be limited to, the following: application and submittal requirements, fees, review procedures, reimbursement for consultants, performance guarantees, and procedures for the consideration of permit extensions.

9.8.5 **Design Criteria.** All SRD Projects shall comply with the following design criteria:

9.8.5.1 **Permissible Dwelling Types.** The following types of dwellings may be authorized by SRD Special Permit:

- (a) Single-family detached houses;
- (b) two-family houses;
- (c) two-family semi-detached houses;
- (d) townhouse-type dwelling units; or
- (e) any combination of such housing types or other housing types determined by the Planning Board to be appropriate for a SRD.

9.8.5.2 **Lot Coverage.** The maximum permitted lot coverage for a SRD Project shall be fifty percent (50%), including all structures, roadways, driveways and parking areas.

9.8.5.3 **Number of Dwelling Units.** The maximum number of dwelling units permitted in any SRD Project shall be calculated by first deducting the area of all land which contains wetlands, water bodies, significant rock outcroppings, slopes in excess of 15%, and any other features not reasonably suited for residential development, from the aggregate land area of the proposed SRD Project; then by deducting from that amount all land area necessary for access and egress, parking, buffer areas and dedicated open space; then by dividing the resultant land area by the minimum lot area required for the development of a single-family dwelling unit in the underlying residential district; then by multiplying the resultant number by four (4). Notwithstanding the above, the maximum number of dwelling units proposed for a SRD Project shall in no case exceed eight (8) dwelling units per acre.

9.8.5.4 **Setbacks.** Where proposed structures are to be developed on existing streets or direct extensions of existing streets, front yard setbacks may be reduced to not less than one hundred percent (100%) of the front setback requirement in the underlying district. Where proposed structures are to be developed on new interior drives, front yard setbacks may be reduced to not less than twenty (20) feet. There shall be no minimum side or rear setback between structures within a proposed SRD Project.

- 9.8.5.5 **Perimeter Buffer.** Each proposed principal and accessory structure, driveway, and interior drive shall be set back a minimum of thirty (30) feet from the sides and rear of the perimeter of the SRD Project.
- 9.8.5.6 **Parking.** There shall be provided at least one and one-half (1½) off-street parking spaces per dwelling unit, one of which is reserved for the use of such dwelling unit and within one hundred fifty (150) feet thereof, and provisions shall be made for additional visitor parking spaces, in an amount deemed appropriate by the Board.
- 9.8.5.7 **Building Height.** Maximum building height requirements shall be as set forth in Section 5.4.1 of this bylaw pertaining to the underlying residential district.
- 9.8.5.8 **Number of Bedrooms.** There shall be not more than two (2) bedrooms in any dwelling unit, nor shall there be any den, office, bonus room, loft, attic, or similar area which could be converted for use as a third bedroom.
- 9.8.5.9 **Handicap Accessibility.** All dwelling units shall be designed to accommodate suitable means of access and egress for people with disabilities in conformance with 521 CMR Section 9. Additionally, in cases where supplemental wheelchair ramps and/or lifts are necessary to achieve suitable means of access and egress, architectural plans for individual dwelling units shall demonstrate the location and means of incorporating such ramps and/or lifts. Such ramps and/or lifts shall be installed by the owner of any dwelling unit if required by a resident of said dwelling unit.

9.8.6 **Special Conditions.** All SRD Projects shall comply with the following conditions:

- 9.8.6.1 **Age Restrictions.** Occupancy shall be limited to persons who have reached the age of sixty-two (62) years and any close relative residing with such person. For purposes hereof, “close relative” shall mean a spouse, child, parent, grandparent, brother, sister, aunt, uncle, niece or nephew, and shall include a person so related by legal adoption and by the half blood.
- 9.8.6.2 **Coordinated Unit.** The SRD shall be developed as a Coordinated Unit, which shall mean a building or group of buildings under common management and serving a common function.
- 9.8.6.3 **Affordable Housing.** In any project authorized under a SRD Special Permit which will result in the development of more than ten (10) new residential units, a minimum of fifteen percent (15%) of total housing units shall be “affordable” as defined in the Rules and Regulations, unless the Planning Board determines a proposed alternative to be at least equivalent in serving the Town’s housing needs. The affordable dwelling units authorized under the provisions of this Bylaw shall be Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or affordable units developed under additional programs adopted by the Commonwealth of Massachusetts or its agencies. All said units shall count toward

Westwood's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended.

9.8.7 **SRD Concept Plan.** The initial step in the SRD review process shall be the submission of an SRD Application and Concept Plan for approval by the Planning Board as set forth below.

9.8.7.1 **Application.** An application for a SRD Special Permit, including plans and submittal items required pursuant to this Section, shall be submitted to the Planning Board in conformance with the Rules and Regulations.

9.8.7.2 **Concept Plan.** A minimally detailed, schematic drawing of the proposed SRD Project shall be submitted to the Planning Board in conformance with the Rules and Regulations. Said plan shall contain sufficient information in regard to existing and proposed conditions to allow the Planning Board to understand the nature and physical impact of the proposed development, including a depiction of the proposed number and type of dwelling units and the approximate locations of all proposed buildings, structures, site drives and parking areas.

9.8.7.3 **Planning Board Review.** The SRD Concept Plan shall be reviewed and considered by the Planning Board in the course of a regularly scheduled public meeting within thirty (30) days of receipt of the Application and SRD Concept Plan, in accordance with the Rules and Regulations. If the Planning Board recommends in favor of Step 2 consideration of the proposed SRD Project, the Applicant may prepare a SRD Zoning Package for consideration by Town Meeting pursuant to Section 9.8.8. If the Planning Board recommends against Step 2 consideration of the proposed SRD Project, the Applicant may revise and resubmit the Application and Concept Plan for reconsideration, or may withdraw the Application and Concept Plan without prejudice.

9.8.8 **SRD Zoning Package.** Prior to the Planning Board's consideration of a SRD Special Permit for a project developed pursuant to this Section 9.8, a Senior Residential Development Package must be adopted by a two-thirds (2/3) vote of a town meeting in accordance with the procedures for adoption or change of zoning ordinances or by-laws set forth in M.G.L. Chapter 40A, section 5.

9.8.8.1 **SRD Zoning Plan.** A SRD Zoning Package submitted for consideration at Town Meeting shall include a SRD Zoning Plan including the following information, which shall be on file with the Town Clerk and available for review:

9.8.8.1.1 A locus plan showing the general location of land proposed to be developed as a SRD Project, and noting the Assessors Map(s) and Lot number(s), and land area in square feet for all parcels included within the proposed SRD Project.

9.8. 8.1..2 An existing conditions plan showing the topography and features, including, without limitation, all wetlands and water bodies, significant rock outcroppings, areas with slopes in excess of 15%.

9.8. 8.1.3 A calculation of the maximum number of dwelling units proposed to be developed within the SRD Project in accordance with the procedure set forth in Section 9.8.5.3.

- 9.8.8.1.4 A proposed conditions plan including:
- (a) The location and width of all existing and proposed roads and ways that will serve the land to be developed, together with a description of the means by which the proposed roads and ways are to be laid out, including whether such roads and ways are to be created through the Subdivision Control Law and/or as public ways to be laid out through town meeting approval;
  - (b) The location and width of all bicycle and pedestrian pathways, including the expected circulation routes;
  - (c) The location and approximate dimensions of all proposed structures, including notations as to the estimated floor area of each structure, the number of dwelling units proposed for each structure, the estimated floor area of each proposed dwelling unit, and the number of bedrooms in each dwelling unit;
  - (d) The location and dimensions of all proposed parking spaces; and
  - (e) The location, area, and designated use of all land proposed as dedicated open space and/or buffer area.

9.8.8.2 **Supplemental Information.** A SRD Zoning Package submitted for consideration at Town Meeting shall include the following supplemental information and materials, which shall be on file with the Town Clerk and available for review:

- 9.8.8.2.1 Illustrated descriptions of proposed amenities and design features, such as streetscape improvements, landscaping, and signage, to be included as part of the proposed development.
- 9.8.8.2.2 Illustrations of the general architecture of the proposed structures, including depiction of the height of the proposed structures in relation to surrounding buildings and existing and proposed topography.
- 9.8.8.2.3 Accompanying technical reports and studies including:
- (a) Stormwater and drainage report;
  - (b) Fiscal impact study (including the impact on tax revenue);
  - (c) Traffic study;
  - (d) Noise study;
  - (e) Utilities report; and
  - (f) Affordable housing plan, if required.
- 9.8.8.2.4 A summary of all proposed mitigations, including without limitation, traffic improvements, exactions, financial contributions, easements, land grants, and affordable housing arrangements, if applicable.

9.8.8.3 **Submission to Town Meeting.** Following submission of a complete SRD Zoning Package, the Planning Board shall prepare a warrant article for consideration of the proposed SRD Zoning Package, and shall request the Board of Selectmen's inclusion of said warrant article on the next available Town meeting Warrant.

9.8.8.3 **Consideration by Town Meeting.** If Town Meeting votes to approve the SRD Zoning Package, the Applicant may prepare a SRD Special Permit Submittal for consideration by the Planning Board pursuant to Section 9.8.9. If Town Meeting does not vote to approve the SRD Zoning Package, the application process shall be concluded. The proposed SRD Project shall not be reconsidered within two (2) years after the date of such unfavorable action.

9.8.9 **SRD Special Permit.** Development under this Section requires a SRD Special Permit issued by the Planning Board in compliance with the provisions of this Section. Any special permits which may otherwise be required pursuant to this Bylaw shall be consolidated into the SRD Special Permit. In such case, a consolidated Special Permit Application shall be acted upon by the Planning Board in accordance with the requirements of this Section, regardless of which board is designated as the Special Permit Granting Authority in the applicable sections of this Bylaw. Environmental Impact and Design Review (EIDR) approval pursuant to Section 7.3 of this Bylaw shall be consolidated into a mandatory site plan approval component of the SRD Special Permit, and no separate EIDR Approval shall be required.

9.8.9.1 **Public Hearing.** The Planning Board shall hold a public hearing in accordance with the Rules and regulations, to review said application for compliance with the requirements of this Section, and shall prepare a zoning amendment warrant article and recommendation for consideration at town meeting.

9.8.9.2 **Decision.** A SRD Special Permit shall be granted by the Planning Board, unless otherwise specified herein, only upon its written determination that, in addition to any other considerations required under this Bylaw, it finds the following:

9.8.9.2.1 That the Senior Residential Development Package has been adopted by a two-thirds (2/3) vote of a town meeting in accordance with the procedures for adoption or change of zoning ordinances or by-laws set forth in M.G.L. Chapter 40A, section 5;

9.8.9.2.2 That the SRD Project will have a positive impact on the quantity and quality of available housing choices for residents sixty-two (62) years of age and older, with a range of income levels and physical abilities, and demonstrated market for proposed age-restricted units;

9.8.9.2.3 That the Proponent has demonstrated a verifiable need for the proposed development to serve senior residents with current ties to the Westwood community.

9.8.9.2.4 That the proposed design, location, and layout of the SRD Project, and of each individual dwelling unit and all proposed common facilities, will appropriately serve the demonstrated physical and social needs of senior residents.

- 9.8.9.2.5 That the SRD Project will be compatible with the surrounding neighborhood in size, scale and character of building and site features.
- 9.8.9.2.6 That the SRD Project contains suitable provisions for vehicular and pedestrian movement and safety, both within the development and on proximate roads;
- 9.8.9.2.7 That the SRD Project contains suitable provisions for pedestrian access and/or public transportation to open space, neighborhood shopping and service facilities;
- 9.8.9.2.8 That the SRD Project contains appropriately designed on-site community facilities to serve the recreational and social needs of the proposed SRD Project's residents, unless the Board determines that such is unnecessary due to the location of an SRD Project in close walking distance to similar off-site facilities;
- 9.8.9.2.9 That the SRD Project will not have a significant negative impact on the natural environment;
- 9.8.9.2.10 That the adverse effects of the proposed SRD Project will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.

9.8.10 **Compliance with Subdivision Rules and Regulations.** Nothing contained herein shall in any way exempt a proposed SRD Project involving a subdivision from compliance with the Planning Board's Rules and Regulations Governing the Subdivision of Land or the Rules and Regulations of any other town board or commission having jurisdiction. Nor shall this section in any way affect the right of the Board of Health and of the Planning Board to approve, with or without modifications, or disapprove a subdivision plan in accordance with the provisions of such rules and regulations and of the Subdivision Control Law.

- 2) Replace the map entitled "Official Zoning Map, May 5, 2014" with the map entitled "Official Zoning Map, May 4, 2015".

**Article 3:** To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 4.4.2 [Accessory Apartments], or take any other action in relation thereto:

- 1) Delete Section 4.4.2 [Accessory Apartments] in its entirety and adopt a new Section 8.3 [Accessory Apartments] to read as follows, and renumber subsequent sections, and references to those renumbered sections, as appropriate:

**8.3 ACCESSORY APARTMENTS**

8.3.1 **Purposes.** The purposes of this section are as follows:



- 8.3.1.1 to offer greater housing choice by allowing varied mixes of housing type, compatible with community character; and
- 8.3.1.2 to encourage preservation of community character through the continued ownership of existing residential properties and their surrounding landscapes.
- 8.3.2 **Special Permit Required.** An Accessory Apartment shall require the issuance of a special permit by the Board of Appeals in compliance with the provisions of this Section.
- 8.3.3 **Applicability.** The principal dwelling or accessory building or structure to be altered or constructed to contain an Accessory Apartment shall be a single-family dwelling or building accessory thereto.
- 8.3.4 **Limited Number of Special Permits.** The maximum number of special permits to be issued and in effect shall not exceed one percent (1%) of the current number of single-family and two-family dwelling units in Town. All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed.
- 8.3.5 **General Requirements.** An Accessory Apartment shall be subject to the following general requirements:
  - 8.3.5.1 There shall be no more than one (1) Accessory Apartment per lot.
  - 8.3.5.2 No Accessory Apartment shall be permitted on a property which also contains a Conversion of a One-family Dwelling pursuant to Section 8.1.
  - 8.3.5.3 No Accessory Apartment shall be permitted on a property which also contains a boarding house.
  - 8.3.5.4 The owner of the premises within which the Accessory Apartment is located shall occupy either the principal dwelling or the Accessory Apartment. For purposes of this Section, the owner shall be one or more individuals who constitute a family, who holds title to the premises directly or indirectly, and for whom the premises is the primary residence for voting and tax purposes. An affidavit certifying owner occupancy shall be filed with the Building Commissioner upon initial occupancy and every four years thereafter.
  - 8.3.5.5 Adequate provision shall be made for the disposal of sewage, waste and drainage to be generated by the occupancy of the Accessory Apartment, in accordance with the requirements of the Board of Health.
- 8.3.6 **Design Requirements.** An Accessory Apartment shall be subject to the following design requirements:

- 8.3.6.1 The exterior character of the property containing an Accessory Apartment within a principal or accessory building or structure shall maintain the appearance of a single-family property.
- 8.3.6.2 The floor area of the Accessory Apartment shall not be less than five hundred (500) square feet.
- 8.3.6.3 The floor area of the Accessory Apartment shall not exceed the lesser of nine hundred (900) square feet, or thirty-three percent (33%) of the floor area of the combined dwelling or dwellings if the footprint of the principal dwelling remains unchanged, or twenty-four percent (24%) of the floor area of the combined dwelling if the footprint of the principal dwelling is enlarged.
- 8.3.6.4 Adequate provision shall be made for direct ingress and egress to and from the Accessory Apartment without passage through any other portion of the principal structure.
- 8.3.6.5 All stairways to upper stories shall be enclosed within the exterior walls of the building in which the Accessory Apartment is located.
- 8.3.7 **Alterations, Relocations, or Additions.** The Board of Appeals may allow for the alteration or relocation of a structure proposed for conversion under this section, and may allow for the construction of one or more additions to said structure, if in the Board's determination, the proposed alteration, relocation, or addition does not significantly change the exterior character of the property.
- 8.3.8 **Parking Requirements.** An Accessory Apartment shall be subject to the following parking requirements:
  - 8.3.8.1 Off-street parking shall be provided for each automobile used by an occupant of the Accessory Apartment. Said parking shall be in addition to the number of parking spaces required pursuant to Section 6.1.3.1 of this Bylaw.
  - 8.3.8.2 Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface. No motor vehicle shall be regularly parked on the premises other than in such a parking space. No parking space shall be located within a street right-of-way.
  - 8.3.8.3 If a total of more than three (3) parking spaces are required to serve the principle dwelling and the Accessory Apartment, the provision of such additional spaces shall require a special permit pursuant to Section 4.3.3.2 of this Bylaw.
  - 8.3.8.4 Where there are more than two (2) outdoor parking spaces associated with an Accessory Apartment, said parking spaces shall be screened with evergreen or dense deciduous plantings, walls or fences, or a combination thereof acceptable to the Zoning Board of Appeals. Said screening shall be

sufficient to minimize the visual impact on abutters and to maintain the single-family appearance of the neighborhood.

8.3.9 **Building Permit and Certificate of Occupancy Required.** No accessory apartment shall be constructed without the issuance of a building permit by the Building Commissioner. No use of an Accessory Apartment shall be permitted unless a certificate of occupancy therefor, issued by the Building Commissioner, shall be in effect. A certificate of occupancy shall not be issued unless the Building Commissioner determines that the accessory apartment is in conformity with the provisions of this Section and any special permit issued therefor.

8.3.10 **Expiration of Special Permit.** A special permit issued pursuant to this Section shall automatically become null and void upon the expiration of ninety (90) days following such time as neither the principal dwelling nor the accessory apartment is occupied as the primary residence of the owner thereof for voting and tax purposes. Failure to provide recertification of owner occupancy pursuant to Section 8.3.4.4 shall be grounds for automatic expiration.

- 2) Revise Section 8.1 [Conversion of One-family Dwelling] subsection Section 8.1.2 [Special Permit Required] to read as follows:

8.1.2 **Special Permit Required.** Upon the grant of a special permit by the Board of Appeals, the conversion and/or use of a one-family dwelling to a dwelling for not more than two (2) families may be authorized, provided that such one-family dwelling was constructed on or before December 31, 1938, and provided that the exterior character of the property remains consistent with that of a single-family dwelling, and provided that no accessory apartment is in existence on the same property pursuant to Section 8.3 of this Bylaw.

- 3) Revise Section 4.3.3 [Accessory Uses in Residential Districts] subsection 4.3.3.12 to read as follows:

4.3.3.12 Accessory apartment consisting of a second dwelling unit located within a detached one-family dwelling, or a building accessory thereto, subject to the conditions in Section 8.3

**Article 4:** To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 7.1 [Earth Material Movement (EMM)], or take any other action in relation thereto:

- 1) Delete Section 7.1 [Earth Material Movement] in its entirety and replace with a new Section 7.1 [Earth Material Movement] to read as follows:

## **7.1 EARTH MATERIAL MOVEMENT**

7.1.1 **Special Permit Required.** No soil, loam, sand, gravel, topsoil, borrow, rock, sod peat, humus, clay, stone or other earth material shall be exported, imported and/or regraded on any premises within the Town unless such export, import and/or regrading will constitute an exempt operation

as hereinafter provided or is done pursuant to a special permit therefor granted by the Planning Board.

7.1.2 **Application Requirements.** An application for a special permit for earth material movement shall be accompanied by a site plan and all other application materials required by the rules and regulations of the Planning Board. The site plan shall be prepared by a Registered Land Surveyor or Registered Professional Engineer and shall include the following information:

- 7.1.2.1 Existing topographical contours of the subject land shown at two (2) foot intervals;
- 7.1.2.2 Existing topographical contours of adjacent land shown at two (2) foot intervals, if available;
- 7.1.2.3 Topographical contours as proposed after completion of the operation;
- 7.1.2.4 Proposed lateral support to adjacent properties;
- 7.1.2.5 Proposed drainage and soil erosion prevention measures;
- 7.1.2.6 Quantity and composition of earth material to be exported, imported or regraded;
- 7.1.2.7 Other information necessary to indicate the complete physical characteristics of the operation.

7.1.3 **Special Permit Decision.** An EMM Special Permit shall be granted by the Planning Board only upon its written determination that operations conducted under such special permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town, and will be in harmony with the general purpose and intent of this Section. No special permit for the movement of earth material (including temporary structures accessory thereto), shall be granted if the Board finds that operations conducted thereunder would:

- 7.1.3.1 Be injurious or dangerous to the public health or safety;
- 7.1.3.2 Produce noise, dust or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property;
- 7.1.3.3 Result in transportation of materials on ways giving access to the subject land which will cause traffic congestion or hazards;
- 7.1.3.4 Result in transportation which will cause undue injury to roadway surfaces;
- 7.1.3.5 Result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted;
- 7.1.3.6 Have a material adverse effect on the natural or engineered drainage patterns of groundwater or surface water; or

7.1.3.7 Have a material adverse effect on the health or safety of persons living in the neighborhood or on the use or amenities of adjacent land.

7.1.4 **Conditions.** In granting a special permit hereunder, the Planning Board shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town, which shall include conditions as to:

7.1.4.1 Area and limits of work;

7.1.5.2 Method of import, export and/or regrading of earth material;

7.1.4.3 Type and location of temporary structures;

7.1.4.4 Duration of time and termination date of import, export and/or regrading of earth material;

7.1.4.5 Hours of operation;

7.1.4.6 Policing of traffic entering and leaving the site;

7.1.4.7 Routes for transporting earth material through the Town;

7.1.4.8 Area and depth of excavation and/or fill;

7.1.4.9 Proximity to street and lot lines;

7.1.4.10 Grades of slopes;

7.1.4.11 Reestablishment of ground levels and grades;

7.1.4.12 Provisions for temporary and permanent drainage and erosion control;

7.1.4.13 Disposition of boulders, tree stumps and other debris;

7.1.4.14 Replacement of loam over the area of removal;

7.1.4.15 Planting of the area to suitable cover, including trees; and

7.1.4.16 Cleaning of roadway surfaces during and following transport of earth material.

7.1.5 **Fill Material.** A statement may be required from a certified professional to verify the source and content of fill material if the special permit is issued for the placement of fill. The analysis of the content of the fill material may be required so as to detect the presence and quantity of hazardous or substandard materials. This analysis shall be conducted by a certified professional hired by the Planning Board at the expense of the Applicant.

7.1.6 **Surety and Performance Bond.** A surety and performance bond, cash or other adequate security may be required to insure compliance with the terms, conditions, limitations and safeguards of such special permit and to indemnify the Town for any harm to any public well, roadway, wetland

or other resource caused by such import, export and/or regrading of earth material and the equipment used for such operations on the premises or by ancillary activities.

7.1.7 **Time Limit.** No special permit for the export, import and/or regrading of earth material shall be granted for a period of more than one (1) year in a Residential District or more than three (3) years in a Nonresidential District, although the special permit may be renewed for additional periods in the same manner as for the initial issuance.

7.1.8 **Exempt Operations.** The movement of earth material in any of the following operations shall constitute an exempt operation and shall not require an EMM special permit:

7.1.8.1 Export, import and/or regrading of less than two hundred (200) cubic yards of earth material in the aggregate in any year on any one premises within a Residential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed natural grade elevations.

7.1.8.2 Export, import and/or regrading of less than two hundred (250) cubic yards of earth material in the aggregate in any year on any one premises within a Nonresidential District, so long as such export, import or regrading results in finished slopes of less than fifteen percent (15%) and finished elevations of less than five (5) feet above surrounding and undisturbed natural grade elevations.

7.1.8.3 Export and/or regrading of earth material necessarily excavated in connection with the lawful construction of a building or structure, or of a driveway, sidewalk or path incidental to any such building or structure, provided that the quantity of earth material removed does not exceed that actually displaced by the portion of building, structure, driveway, sidewalk or path below finished grade, and provided that resultant finished slopes are less than fifteen percent (15%) and finished elevations are less than five (5) feet above surrounding and undisturbed natural grade elevations.

7.1.8.4 Export, import and/or regrading of earth material consisting of compost, peat, manure, loam or other vegetative or earthen matter by exempt agricultural, horticulture or floriculture uses necessary for, or directly related to, the planting, cultivation or harvesting of vegetative products or the raising or care of animals.

7.1.8.5 Export, import and/or regrading of earth material on land in use by the Town or other governmental agency.

7.1.9 **Subdivisions.** The export, import and/or regrading of earth material on any parcel of land for which a preliminary or definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, tentative or final approval of a subdivision plan by the Planning Board shall not be construed as authorizing the export, import and/or regrading of earth material on the premises, even though in connection with the construction of streets and the installation of municipal services shown on a subdivision plan, and an EMM Special Permit shall be required pursuant to this Section.

7.1.10 **Existing Earth Material Removal Operations.** A sand or gravel pit, quarry or other earth material removal activity in lawful operation on any premises on the effective date of this Bylaw

may continue as an exempt operation unless and until abandoned, or if operating under a prior special permit issued by the Board of Appeals, until the expiration thereof. Discontinuance for more than twelve (12) consecutive months shall be deemed to constitute abandonment. However, unless specifically authorized by such prior special permit or by a new special permit issued hereunder (i) the depth of excavation shall not be increased below the grade of the lowest point excavated on the effective date of this Bylaw; (ii) the total area of excavation shall not be increased by more than fifty percent (50%) over its area on said date; and (iii) the amount of material removed per day shall not exceed by more than fifty percent (50%) the daily average for the twelve (12) months preceding said date or the actual period of operation, if less than twelve (12) months.

**Article 5:** To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 2.0 [Definitions] and to Section 4.1 [Principal Uses], including amendments related to various uses, or take any other action in relation thereto:

- 1) Replace the definition for the term “Height, Building” with a new definition for “Building Height” to read as follows:

Building Height The vertical distance from grade plane to the average height of the highest roof surface. The limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, amateur radio antennas and other necessary features usually carried above the roof line, provided such features do not cover more than twenty-five percent (25%) of the area of the roof of the building or other structure and are used in no way for human occupancy.

- 2) Replace the definition for the term “Manufacturing” with a new definition for “Manufacturing” to read as follows:

Manufacturing A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding the following: Acid manufacture; Cement, bituminous concrete or asphalt manufacture; lime, gypsum or plaster of paris manufacture; Production of chlorine or similar noxious gases; Distillation of bones; Drop-forge industries manufacturing forging with power hammers; Manufacture or storage of explosives in bulk quantities; Fertilizer manufacture; Garbage, offal, or dead animal reduction or dumping; Glue manufacture; Hair manufacture; Petroleum refining; Processing of sauerkraut, vinegar or yeast; Rendering or refining of fats or oils; Smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill; Stockyard or feeding pen; Slaughter of animals, not including the killing of fowl.

- 3) Add a new definition for the term “Accessory Apartment” to read as follows:

Accessory Apartment A self-contained area comprised of living space, kitchen space and a bathroom, within a single family home or as an accessory structure thereto, and which may be occupied by one or more individuals, related or unrelated to the owner of the principal dwelling, and which accessory apartment is subject to the conditions of Section 8.3 of this Bylaw.

- 4) Add a new definition for the term “Commercial Grade Solar” to read as follows:

Commercial Scale Solar Any Solar Energy Facility which exceeds five (5) kilowatts capacity and is designed to produce more than fifty (50) percent of its energy for off-site use.

- 5) Add a new Sections 4.1.6.9 to read as follows, and renumber subsequent sections as appropriate:

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.6.9 Commercial Grade Solar	N	N	N	N	N	N	N	N	N	N	Y	Y	Y

- 6) Add a new definition for the term “Fire Arms/Explosives Sales and Service” to read as follows:

Fire Arms/Explosives Sales and Service The sale and/or service and/or repair of firearms, ammunition, or explosives by a firearms dealer, whether it is the principal sales item or incidental to the overall sales. This use includes firearms dealers that transfer and lease any firearms.

- 7) Add a new Sections 4.1.5.39 to read as follows, and renumber subsequent sections as appropriate:

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5.39 Fire Arms/Explosives Sales and Service	N	N	N	N	N	N	N	BA	BA	BA	N	N	N

- 8) Add a new definition for the term “Grade Plane” to read as follows:

Grade Plane A reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

- 9) Add a new definition for the term “Taxi Service” to read as follows:

Taxi Service An individual, business or organization engaged in the operation or dispatch of one or more vehicles used or designed to be used for the conveyance of persons or parcels from place to place for hire, including limousine service, but excluding said service operated or authorized by municipal or state authority.

- 10) Add a new Sections 4.1.5.41 to read as follows, and renumber subsequent sections as appropriate:

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.1.5.41 Taxi Service	N	N	N	N	N	N	N	N	N	BA	N	N	N



11) Add a new definition for the term “Yard Sale” to read as follows:

Yard Sale Any display of goods and/or samples for sale of said goods on a residential property.

12) Add a new Sections 4.3.3.10 to read as follows, and renumber subsequent sections as appropriate:

	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.3.3.10 Yard Sale, limited to no more than two days per sale, and no more than two sales year on any residential property	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N

**Article 6:** To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 6.3 [Enclosure, Screening, and Buffers], or take any other action in relation thereto:

1) Revise Section 6.3.5.1 to replace the words “parking facility” with the words “parking area” so that the revised Section 6.3.5.1 reads as follows:

6.3.5.1 Any off-street parking area containing five (5) or more parking spaces and located in or adjacent to a Residential District, and not contained within a structure;

**Article 7:** To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to Section 5.4 [Height Regulations], or take any other action in relation thereto:

1) Revise Section 5.4.2 to replace the words “the Massachusetts State Building Code” with the words “the definition of ‘Building Height’ contained in Section 2 of this Bylaw” so that the revised Section 5.4.2 reads as follows:

5.4.2 **Height Determination and Exceptions.** In all Districts, the height of a building or structure shall be measured as set forth in the definition of “Building Height” contained in Section 2 of this Bylaw, except that in Residential Districts, the height of a building or other structure shall be measured from the highest finished ground elevation adjoining the structure at the exterior walls. The limitations of height shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses, amateur radio antennas and other necessary features usually carried above the roof line, provided such features do not cover more than twenty-five percent (25%) of the area of the roof of the building or other structure and are not used in any way for human occupancy.

**Article 8:** To see if the Town will vote to approve housekeeping amendments to various sections of the Westwood Zoning Bylaw and Official Zoning Map as may be necessary to correct errors or inconsistencies and to clarify such sections, or take any other action in relation thereto.

**Article 9:** To see if the Town will vote to adopt a Demolition Delay Bylaw as separate General Bylaw, numbered in proper sequence within the General Bylaws, or take any other action in relation thereto:

- 1) Add a new Section to read as follows, and renumber subsequent sections accordingly:

**1.0 Demolition Delay Bylaw**

**1.1 Intent and Purpose.** The purpose of this Bylaw is to protect the historic and aesthetic resources of the Town of Westwood by surveying, preserving, rehabilitating, researching, or restoring whenever possible, buildings or structures which constitute or reflect distinctive features of the architectural, cultural, or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of Westwood.

**1.2 Definitions.** As used in this Bylaw, the following terms shall have the meanings indicated:

Application An application for a demolition permit filed by the owner of record of the premises, or the holder of a bona fide purchase and sale agreement for such premises. The application must be signed by both the applicant and (if different) the owner of record at the time of application. An applicant may withdraw an application without prejudice at any time prior to a decision by the Commission.

Commission The Westwood Historical Commission.

Commissioner The Building Commissioner of the Town of Westwood.

Demolition Permit The permit issued by the Commissioner as required by the State Building Code for the demolition, partial demolition, or removal of a building or structure.

Historically or Architecturally Significant Structure Any building or structure which is:

- a. Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic, or social history of the Town of Westwood, the Commonwealth of Massachusetts, or the United States of America; or which is
- b. Historically or architecturally important by reason of period, style, method of construction, or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

Local Historic District Any district shown on the official map entitled "Local Historic Districts, Town of Westwood, Massachusetts" recorded in the Office of the Westwood Town Clerk, and which has been established pursuant to the provisions of MGL c. 40C.

Preferably Preserved Any historically or architecturally significant structure individually or in context which, because of the important contribution made by such structure to the Town's historical or architectural resources, is in the public interest to preserve, rehabilitate, or restore.

Premises The parcel of land on which an historically or architecturally significant structure exists.

**1.3 Regulated buildings and structures.** The provisions of this Bylaw shall apply to only the following buildings and structures:

1.3.1 Buildings and structures listed on the National Register of Historic Places or the State Register of Historic Places.

1.3.2 Buildings and structures within any local historic district.

1.3.3 Buildings and structures which in whole or in part were constructed on or before December 31, 1910.

**1.4 Procedure.**

1.4.1 Upon receipt of an application for a demolition permit for a building or structure regulated by this Bylaw, the Commissioner shall within ten (10) days transmit a copy thereof to the Commission. No demolition permit shall be issued except in conformance with the provisions of this section.

1.4.2 A public hearing shall be conducted by the Commission within sixty-five (65) days of receipt of the application for demolition permit by the Commission, and shall be closed within ninety (90) days of the opening of said hearing. Failure to open or close the hearing within these prescribed time periods shall be deemed to constitute constructive approval by the Commission, and in such case, the Commissioner shall, subject to the requirements of the State Building Code and any other applicable laws, Bylaws, rules and regulations, issue the demolition permit.

1.4.3 The Commission shall give notice of the public hearing by publishing at least fourteen (14) days before the hearing an announcement in a local newspaper of the time, place, and purpose of the hearing. The Commission shall also transmit a copy of said notice to the applicant, to the owner of record (if different from the applicant), to the owners of all properties within 300 feet of the subject property, to the Westwood Historical Society, to the Westwood Land Trust, and to any others the Commission deems necessary to notice.

1.4.4 If, following the public hearing, the Commission determines that the building or structure proposed for demolition is not a historically or architecturally significant structure, or that the proposed demolition of the building or structure would not be detrimental to the purposes protected by this Bylaw, the Commission shall notify the Commissioner within fourteen (14) days of such determination. Upon receipt of such notification, or upon the expiration of fourteen (14) days from the close of the hearing without such notification, the Commissioner shall, subject to the requirements of the State Building Code and any other applicable laws, Bylaws, rules and regulations, issue the demolition permit.

1.4.5 If, following the public hearing, the Commission determines that (1) the building or structure is a historically or architecturally significant structure and (2) the

demolition of this historically or architecturally significant structure would be detrimental to the historical or architectural resources of the Town, the Commission shall declare the building or structure a preferably preserved historically or architecturally significant structure, and shall notify the applicant and the Commissioner within fourteen (14) days of such determination. No demolition permit shall be issued for at least six (6) months after the date of such determination by the Commission except in accordance with section 1.4.6 below.

- 1.4.6 Notwithstanding the above, the Commissioner may issue a demolition permit for a preferably preserved historically or architecturally significant structure after receipt of written notice from the Commission that (a) the structure has been fully documented to the satisfaction of the Commission, and that (b) all salvageable and valuable artifacts and materials have been or will be removed and preserved to the satisfaction of the Commission, and that (c) any of the following applies:
  - 1.4.6.1 The Commission is satisfied that there is no reasonable likelihood that the applicant, owner, or some other reasonable person or group is willing to purchase, preserve, rehabilitate, restore, or relocate said building structure; or
  - 1.4.6.2 The Commission is satisfied that for at least six months, including periods of time prior to the date of submission of an application for demolition permit, the owner has made continuing, bona fide, and reasonable efforts to locate a purchaser to preserve, rehabilitate, restore, or relocate said building or structure, and that such efforts have been unsuccessful; or
  - 1.4.6.3 The Commission is satisfied that the proposed demolition may be conducted in a manner that is not detrimental to the historical or architectural resources of the Town.
- 1.4.7 In all cases where a building or structure has been determined by the Commission to be a preferably preserved historically or architecturally significant structure, no demolition permit shall be issued until all approvals are in place for subsequent development. Approvals include but are not limited to building permits, zoning variances or special permits (if necessary), licenses, easements and subdivisions of the premises of any kind. All appeals from the granting of such approvals must be concluded before the demolition permit may be issued.
- 1.4.8 A decision by the Commission is made in relation to the party filing the application only, is non-transferable, and expires two (2) years from the date of the decision. If demolition has not occurred prior to the expiration of the Commission's decision, a new application for a demolition permit must be filed with the Commissioner, and reviewed by the Commission in accordance with the provisions of this section, prior to any subsequent demolition.
- 1.4.9 If a building or structure is determined to be a preferably preserved historically or architecturally significant structure, the owner shall be responsible for properly securing such building or structure, if vacant, to the satisfaction of the Commission. Should the owner fail to properly secure such building or structure, a subsequent destruction of such building or structure at any time during the period of the

demolition delay through fire or other cause which could have been prevented by properly securing such building or structure, shall be considered a voluntary demolition in violation of this Bylaw and shall be subject to Section 1.6.2.

**1.5 Commission's review and recommendation on other applications.**

1.5.1 Upon receipt of an application for an Environmental Impact and Design Review (EIDR) Approval, a Flexible Multiple Use Overlay District (FMUOD) Special Permit, an Earth Material Movement (EMM) Special Permit, a Definitive Subdivision Approval, a Senior Residential Development (SRD) Special Permit, or an Open Space Residential Development (OSRD) Approval involving a parcel of land containing a building or structure regulated under Section 1.3, the granting authority shall transmit to the Commission a copy of the application for review and recommendation. Failure of the Commission to respond to the granting authority within thirty (30) days of its receipt of such application shall be deemed to signify its lack of opposition to the project.

**1.6 Enforcement, remedies and appeals.**

1.6.1 The Commission and the Commissioner are each authorized to institute any and all proceedings in law or in equity as they deem necessary and appropriate to obtain compliance with the requirements of this Bylaw or to prevent a violation thereof.

1.6.2 No building permit shall be issued with respect to any premises upon which an historically or architecturally significant structure has, either partially or fully, been voluntarily demolished in violation of this Bylaw for a period of two (2) years after the date of the start or completion of such demolition.

1.6.3 **Appeals to Board of Selectmen.** Appeals to the Board of Selectmen may be taken by a person aggrieved by reason of their inability to obtain a permit under this Section. The Petitioner shall file such appeal with the Town Clerk within twenty (20) days after the refusal of a permit or the issuance of the order of decision. The Petitioner shall forthwith transmit a copy thereof, with the date of filing certified by the Town Clerk, with the Board of Selectmen. The Board of Selectmen shall hold a public hearing within thirty (30) days of the receipt of the petition and shall render a decision within sixty (60) days from the date of filing. Failure by the Board of Selectmen to take final action upon a petition within the sixty (60) day period shall be deemed to be a grant of the appeal.

1.6.4 **Appeals to Court.** A person aggrieved by a decision of the Board of Selectmen may appeal to a court of competent jurisdiction within twenty (20) days after the Board's decision has been filed with the Town Clerk. Notice of such action with a copy of the complaint shall be filed with the Town Clerk within said twenty (20) days.

1.7 **Severability.** If any section, paragraph, or part of this Bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

**Petition 1:** To see if the Town will vote to change the Zoning District of parcel designated Map 24, Lot 74 from Single Residence B (SRB) to Highway Business (HB) and to further amend the Official Zoning Map to reflect this change, or take any action relative thereto.

TOWN OF WESTWOOD  
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