

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



The WESTWOOD PLANNING BOARD will hold a public hearing in accordance with the provisions of M.G.L. Chapter 40A, §5 on Tuesday, February 26, 2012, at 7:30 PM in the Champagne Meeting Room at the Carby Street Municipal Office Building, 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 9.4 [Wireless Communication Overlay District (WCOD)], or take any other action in relation thereto:

- 1) Replace the existing Section 9.4 [Wireless Communication Overlay District (WCOD)] with a new Section 9.4 [Wireless Communication Overlay District (WCOD)] to read as follows:

9.4 WIRELESS COMMUNICATION OVERLAY DISTRICT (WCOD)

9.4.1 **Purpose.** The purpose of the Wireless Communication Overlay District (WCOD) is to permit and regulate the use of wireless communication facilities within the Town and to encourage their location and use in a manner which minimizes negative visual and environmental impacts. It is intended that this Section be in compliance with the Federal Telecommunications Act of 1996 in that the requirements of this section: (i) do not prohibit or have the effect of prohibiting the provision of wireless communication services; (ii) are not intended to discriminate unreasonably among providers of functionally equivalent services; and (iii) do not regulate wireless communication services on the basis of environmental effect of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning emissions. This Section does not apply to the construction or use of an antenna structure by a federally licensed amateur radio operator, as exempted by M.G.L. Chapter 40A, Section 3.

9.4.2 **Location.** The Wireless Communication Overlay District– (WCOD 1) is herein established as an overlay district as shown on the Official Zoning Map and as described herein:

9.4.2.1 **The WCOD** shall comprise all land within the following zoning districts:

Administrative-Research-Office (ARO)
Highway Business (HB)
Industrial (I)
Industrial-Office (IO)

9.4.2.2 The WCOD shall also include the following specific parcels, or discreet portions of parcels, as shown on the Westwood Board of Assessors' Map, as of January 1, 2014:

Parcel 04-001 (Hale Reservation, limited to existing utility easement);
Parcel 09-065 (Dedham-Westwood Water District water towers);

Parcel 14-046 (High Street Fire Station);
 Parcel 14-071 (Town Hall);
 Parcel 14-072 (Police Station);
 Parcel 14-079 (Westwood Public Library);
 Parcel 14-094 (Deerfield School);
 Parcel 14-096 (St. John's Episcopal Church);
 Parcel 14-140 (First Baptist Church);
 Parcel 14-181 (Colburn School Building);
 Parcel 16-005 (Hanlon School); Parcel 16-238 (St. Denis Church);
 Parcel 16-250 (First Evangelical Free Church);
 Parcel 21-044 (St. Margaret Mary Church);
 Parcel 21-047 (Thurston Middle School);
 Parcel 21-048 (Westwood High School);
 Parcel 21-050 (First Parish of Westwood United Church);
 Parcel 21-064 (First Parish of Westwood United Church);
 Parcel 23-189 (Islington Community Center);
 Parcel 23-215 (Islington Fire Station and Morrison Field);
 Parcel 24-135 (Downey School);
 Parcel 28-077 (Sheehan School);
 Parcel 28-059 (Buckmaster Pond, former quarry parcel only);
 Parcel 28-078 (Sheehan Athletic Fields);
 Parcel 28-329 (Temple Beth David).
 Parcel 35-089 (Martha Jones School); and
 That abandoned portion of public right-of-way which extends from the intersection
 of Grove Street and Country Club Road to Route 128.

9.4.3 **Definitions.** For the purposes of this Section, the following definitions shall apply:

9.4.3.1 **Wireless communication facility.** Any tower, pole, antenna, receiving or transmitting equipment of any kind, and any equipment or structure related to wireless communication activities such as cellular telephone service, personal communication service (PCS), enhanced specialized mobile radio service, paging, light radio, and any other functionally equivalent service, including access ways, screening materials and landscaping associated with said facility.

9.4.3.2 **Minor wireless communication facility.** A wireless communication facility for which all components are located fully within an existing building or structure, or fully within an addition to an existing building which is approved pursuant to a WCOD Special Permit, and are not visible from the exterior of said building or structure, or for which any components located outside of an existing building or structure are less than ten (10) feet in height.

9.4.3.3 **Major wireless communication facility.** A wireless communication facility not meeting the limitations specified for a Minor wireless communication facility.

9.4.4 **Permitted Uses.** Except as otherwise provided herein and subject to the provisions of this Bylaw applicable to the underlying district, land and buildings in a WCOD may be used for any purpose permitted as of right or by special permit in the underlying district. Minor wireless communication facilities and Major wireless communication facilities may be permitted in the

WCOD as set forth in this Section. Wireless communication facilities, whether Major or Minor, shall not be permitted outside the boundaries of the WCOD.

9.4.5 **Permits Required.**

9.4.5.1 Minor wireless communication facilities to be located entirely within the interior of an existing building or structure, not visible from the exterior, and not involving a change to the exterior size or appearance of the building or structure, shall be a permitted use in the WCOD, provided that the wireless communication facility complies with FCC standards for radio frequency emissions and receives a building permit from the Building Inspector.

9.4.5.2 Minor wireless communication facilities to be located outside of an existing building or structure, or to be attached to an existing communication facility, utility transmission tower or pole, water tower or related facility, shall be a permitted use in the WCOD, provided that the wireless communication facility is no more than ten (10) feet in height, adds no more than ten (10) feet in height to the building or structure, and receives A WCOD EIDR Approval pursuant to this section and Section 7.3 of this bylaw.

9.4.5.3 Minor wireless communication facilities to be located entirely within the interior of an addition to an existing building, which addition is approved pursuant to a WCOD Special Permit, and which facilities are not visible from the exterior, may be permitted in the WCOD only upon the issuance of a WCOD Special Permit from the Planning Board in compliance with the provisions of this section.

9.4.5.4 Major wireless communication facilities may be permitted in the WCOD only upon a determination by the Planning Board that the location of the proposed facility would provide adequate screening and buffering such that the proposed facility would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of the Bylaw, and only upon the issuance of a WCOD Special Permit from the Planning Board in compliance with the provisions of this section.

9.4.6 **Application and Submittal Requirements.** An application for a WCOD Special Permit or WCOD EIDR Approval shall be filed in accordance with the Planning Board's Rules and Regulations for Wireless Communication Overlay District Special Permits, and shall include the following, except to the extent waived by the Planning Board:

9.4.6.1 Locus map at a scale of 1":200' which shall show all streets, landscape features, dwellings units and all other structures within five hundred (500) feet of the proposed wireless communication facility.

9.4.6.2 Site plan prepared by a Registered Professional Engineer at a scale of 1":40' which shall show the following information:

9.4.6.2.1 Location, size and height of the wireless communication facility, including the location, size and height of all accessory structures and equipment.

- 9.4.6.2.2 Property boundaries of the site.
- 9.4.6.2.3 Topographical site information, including existing and proposed elevations.
- 9.4.6.2.4 Fencing, landscaping, lighting and signage.
- 9.4.6.2.5 Areas to be cleared of vegetation and trees.
- 9.4.6.2.6 Location and identification of all existing buildings, structures and uses of land located on the site.
- 9.4.6.2.7 Location and identification of all existing buildings, structures and uses of land located within three hundred (300) feet of the property boundaries of the site.
- 9.4.6.3 Profile or elevation drawings to illustrate the view lines from the wireless communication facility to all nearby residences and public areas.
- 9.4.6.4 Color photograph or computerized rendition of the wireless communication facility and its components and accessory structures. For a Major wireless communication facility, a rendition shall also be prepared to illustrate the view lines from all neighboring streets.
- 9.4.6.5 Description of the wireless communication facility and the technical, economic and other reasons for the proposed location, height and design.
- 9.4.6.6 Visual representation of the area of solid Radiofrequency Radiation (RFR) coverage and the area of marginal RFR coverage of the wireless communication facility, existing and proposed.
- 9.4.6.7 Confirmation that the wireless communication facility complies with all applicable federal and state standards, regulations, statutes and other requirements. This shall include, if applicable, a written statement that the wireless communication facility is in compliance with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
- 9.4.6.8 A description of the wireless communication facility's capacity, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
- 9.4.6.9 Documentation that the Applicant has the legal right to install and use the wireless communication facility.
- 9.4.6.10 After the submittal of an application, the Planning Board may require that the Applicant perform a "balloon test" or other test in the field sufficient to illustrate

the proposed height and location of the wireless communication facility in relation to the surrounding area.

9.4.7 **Development Standards.**

- 9.4.7.1 An Applicant proposing a wireless communication facility must demonstrate to the satisfaction of the Planning Board that the visual and aesthetic impacts of the wireless communication facility on nearby properties will be minimal. The Applicant must also demonstrate that the facility must be located at the proposed site due to technical, topographical or other unique circumstances, and that no reasonable combination of locations, techniques or technologies will mitigate the height or visual impact of the proposed wireless communication facility.
- 9.4.7.2 Co-location of wireless communication facilities is encouraged. To the extent possible, wireless communication facilities shall be located in or on existing buildings or structures, including, but not limited to, buildings, communication facilities, utility transmission towers or poles, water towers, and related facilities, provided that such installation preserves the character and integrity of these buildings or structures. The Applicant shall have the burden of demonstrating to the satisfaction of the Planning Board that a good faith effort has been made to co-locate on an existing building or structure, or on an existing Major or Minor wireless communication facility, that there are no feasible existing buildings or structures upon which to locate, and that no reasonable combination of locations, techniques or technologies will obviate the need for the proposed wireless communication facility.
- 9.4.7.3 Major wireless communication facilities shall be designed and constructed to accommodate the maximum number of presently interested users that is technologically practical. In addition, if the number of proposed users is less than four, the applicant shall provide a plan showing how the proposed tower can be expanded to accommodate up to four users. In the event that the Planning Board finds that co-location is preferable, the applicant must agree to allow co-location pursuant to commercially reasonable terms to additional users.
- 9.4.7.4 Antenna support structures shall be buildings or monopoles. Where appropriate to the surrounding area, at the sole discretion of the Planning Board, monopoles shall be disguised as flag poles or trees.
- 9.4.7.5 The highest point of a Major wireless communication facility, including its antenna support structure and any component thereof or attachment thereto, shall not exceed one hundred (100) feet above ground level.
- 9.4.7.6 The maximum diameter or width of any Major wireless communication facility antenna support system shall be no more than three (3) feet.
- 9.4.7.7 All Major wireless communication facilities is shall be setback from all property lines abutting any public way, including any sidewalk, a distance one hundred percent (100%) of the height of the highest point of the wireless communication facility, except that this setback requirement may be reduced, at the sole discretion

of the Planning Board, to allow the integration of a wireless communication facility into an existing or proposed building or structure.

- 9.4.7.8 No Major wireless communication facility shall be constructed within a distance equal to one hundred percent (100%) of the height of the highest point of the wireless communication facility from any existing residential dwelling or any proposed dwelling for which a building permit or subdivision approval has been issued. However, this regulation shall not prohibit the later development of any residential dwelling within said distance from an existing wireless communication facility.
- 9.4.7.9 All equipment enclosures and other improvements included within a wireless communication facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair.
- 9.4.7.10 Fencing shall be provided to control access to the base of a Major wireless communication facility. The fencing shall be compatible with the scenic character of the Town, as determined by the Planning Board, and shall not consist of barbed wire or razor wire.
- 9.4.7.11 All exterior wireless communication facilities shall be painted, colored, molded, installed or otherwise screened to minimize their visibility to abutters, adjacent streets, views from scenic roads, and residential neighborhoods. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Existing on-site vegetation shall be preserved to the maximum extent feasible.
- 9.4.7.12 All antennas on a Major wireless communication facility shall be single unit cross-polar antennas. Antennas shall be designed and mounted in such a manner as to present the smallest possible silhouette, profile, or cross-section.
- 9.4.7.13 Wireless communication facilities shall not be lighted unless required by the Federal Aviation Administration (FAA), or unless after consultation with the Police and Fire Chiefs, the Planning Board requires such lighting for public safety reasons.
- 9.4.7.14 Wireless communication facilities shall not interfere with nor have any negative effect on the Town's emergency radio communications.
- 9.4.7.15 Signs posted for advertisement or any other reasons shall not be allowed on or in the vicinity of a Major wireless communication facility, with the exception of one (1) sign not exceeding four (4) square feet in area at the facility which shall display the name and telephone number of the person and company responsible for the maintenance of the facility. The signage shall also display a 'No Trespassing' warning.

9.4.8 **Decision.** A WCOD Special Permit or WCOD EIDR Approval shall only be granted upon the determination of the Planning Board that the application meets the objectives cited herein. The Planning Board may impose reasonable conditions at the expense of the Applicant, including

performance guarantees, to promote these objectives. Prior to the issuance of any WCOD Special Permit or WCOD EIDR Approval, the Planning Board shall make positive findings that:

- 9.4.8.1 The Applicant has demonstrated to the satisfaction of the Planning Board that there exists a significant gap in coverage and that said gap would be sufficiently reduced or eliminated by the proposed wireless communication facility.
- 9.4.8.2 The Applicant has demonstrated to the satisfaction of the Planning Board that the wireless communication facility must be located at the proposed site due to technical, topographical or other unique circumstances, in order to satisfy a demonstrated gap in coverage.
- 9.4.8.3 The Applicant has demonstrated to the satisfaction of the Planning Board that the visual and aesthetic impacts of the wireless communication facility on nearby properties will be minimal, and that no reasonable combination of locations, techniques or technologies will mitigate the height or visual impact of the proposed wireless communication facility.
- 9.4.8.4 The Applicant has demonstrated, in any case where a major wireless communication facility is permitted within the WCOD, that the location of the proposed facility would provide adequate screening and buffering such that the proposed facility would not be detrimental to the Town or to the general character or visual appearance of the surrounding neighborhood or abutting uses, and would be consistent with the intent of the Bylaw.
- 9.4.8.5 The wireless communication facility will have no significant adverse impact on the town and surrounding residential properties.

9.4.9 **Discontinuance of Use.** A wireless communication facility, and all accessory equipment, shall be removed within six (6) months of abandonment or discontinuation of use. As a condition of any special permit for the placement, construction or modification of a Major wireless communication facility, the Applicant shall provide a bond, in a form acceptable to the Town, or shall place into escrow a sum of money sufficient to cover the costs of removing the facility from the subject property and said funds shall be held by an independent escrow agent to be appointed by the Applicant and the Planning Board. The amount of the surety shall be certified by a Registered Professional Engineer or Registered Professional Architect. The Applicant shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued.

9.4.10 **Pre-existing Non-conforming Facilities.** Any wireless telecommunication facility legally in existence on the date of enactment of this section which does not comply in all respects with these provisions shall be deemed a pre-existing non-conforming use. Such wireless communication facilities may be renewed after a public meeting of the Planning Board. Non-conforming Major wireless communication facilities may be reconstructed, expanded and/or altered pursuant to the issuance of a WCOD Special Permit from the Planning Board in compliance with the applicable provisions of this section. A Minor wireless communication facility associated with a Major wireless communication facility may be granted WCOD-EIDR Approval in compliance with the applicable provisions of this section.

9.4.11 **Time Limitation.** A special permit issued for a Major wireless communication facility over fifty (50) feet in height shall be valid for a period of five (5) years. At the end of this time period, the Major wireless communication facility shall be removed at the Applicant’s expense unless the Applicant receives approval from the Planning Board to renew the WCOD Special Permit for an additional five (5) years.

- 2) Revise Official Zoning Map to reflect proper delineation of Wireless Communication Overlay District.

Article 2: To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to medicinal marijuana, including amendments to Section 4.1 [Principal Uses] and/or Section 4.2 [Accessory Uses], and related amendments to Section 2.0 [Definitions] and Section 6.1.5 [Parking Requirements for Commercial Uses], or take any other action in relation thereto:

- 1) Add a new Section 4.1.5.37 to read as follows, with “BA” in columns under district ARO, and with “N” in all other columns:

4.1.5.37 Medicinal Marijuana Dispensary

- 2) Add a new Section 2.87 to read as follows, and renumber subsequent sections as appropriate:

2.87 Medicinal Marijuana Dispensary An establishment, licensed by the state Department of Public Health or other applicable state entity, that acquires, cultivates, processes, sells, dispenses, distributes, or administers products containing marijuana, and/or marijuana-related supplies or materials, to qualifying patients or their personal caregivers.

- 3) Amend Section 6.1.5 [Parking Requirements for Commercial Uses] by adding new Section 6.1.5.12 to read as follows, and renumber subsequent sections as appropriate:

<p>6.1.5.12 Medicinal Marijuana Dispensary</p>	<p>One (1) space for each two hundred fifty (250) square feet of floor area or fraction thereof devoted to selling, storage, service and all other activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises</p>
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Article 3: To see if the Town will vote to approve certain amendments to the Westwood Zoning Bylaw related to signs, including amendments to Section 6.2 [Signs], and related amendments to Section 2.0 [Definitions], or take any other action in relation thereto:

- 1) Remove the existing Section 6.2.2.21, add a new Section 6.2.2.22 to read as follows, and renumber previous and subsequent sections as appropriate:

6.2.2.22 Real Estate Open House Sign A temporary sign announcing a real estate open house during which an agent or owner will show property for sale or lease.

2) Replace the existing Section 6.2.2.26, with a new Section 6.2.2.26 to read as follows:

6.2.2.26 Special Events Sign A temporary sign that advertises a charitable, nonprofit or civic event, which event may include an open house, registration or similar event associated with a charitable, nonprofit or civic organization.

3) Replace the existing Section 6.2.7.6, with a new Section 6.2.7.6 to read as follows:

6.2.7.6 Signs advertising or promoting one or more special events which occur in locations outside the geographic boundaries of the Town of Westwood.

4) Replace the existing Section 6.2.10.5, with a new Section 6.2.10.5 to read as follows:

6.2.10.5 **Temporary Banners.** Temporary banners announcing charitable, nonprofit, or civic events to be held within the geographic boundaries of the Town of Westwood, shall be permitted for a period of time not to exceed thirty (30) consecutive days prior to the event. All temporary banners shall be removed within ten (10) days after such event. Such banners may be erected across public ways with the prior written permission of the Town Administrator upon such terms and conditions as it shall determine, including size, location and design.

5) Replace the existing Section 6.2.10.7, with a new Section 6.2.10.7 to read as follows:

6.2.10.7 **Real Estate Open House Signs.** Open house signs, not exceeding six (6) square feet in area, shall be permitted only on the property which is for sale or lease, and/or at nearby intersections to guide potential buyers to that location, and shall only be permitted during the hours of the open house.

Article 4: 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.

The complete text relative to the proposed amendments is available for inspection between 8:30 a.m. and 12:00 noon, Monday through Friday at the office of the Planning Board at 50 Carby Street, or during regular municipal business hours at the Town Clerk's office. Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board.

John J. Wiggin, Chairman
Westwood Planning Board