



TOWN OF WESTON

PLANNING BOARD
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RECOMMENDATION TO THE MODERATOR

DATE: May 12, 2021
TO: Ripley Hastings, Moderator
CC: Select Board; Kevin Sheehan, Greatland Realty Partners
FROM: Imaikalani Aiu, Town Planner
RE: **Annual Town Meeting, May 2021**
Article 30 - Transit Oriented Multiple Dwelling Overlay District
Article 31 – Office and Research and Development District B
Article 32 - Amend Zoning Map –Park and Riverside Road to Transit Oriented Multiple Dwelling Overlay
Article 33 – Amend Zoning Map – 9-15 and 20 Riverside Road to Office and Research and Development District B

On January 20, 2021 Greatland Realty Partners LLC submitted to the Select Board a petition to amend the Zoning Bylaws to establish an Office and Research Development District B and apply that zoning to their properties at 9-15 and 20 Riverside Road. The Select Board at their January 26, 2021 meeting requested the petitioners consider adding housing as part of their proposal and subsequently voted to send the proposed zoning and map amendment to the Planning Board for Public Hearing.

The Planning Board scheduled a hearing for the amendments for March 17, 2021 while the Town representatives from the Select Board, Planning Board, and Housing Trust began discussions with the applicant on how and where to create housing on the site. The petitioners proposed a land swap of involving two parcels of Town Land, one on the east side and one on the west of the 9-15 Riverside Road parcel, to give the town a single parcel of approximately 1.5 acres on which it could develop housing. Whether the proposed housing would be on Town owned land on the west or east end of the 9-15 Riverside Road parcel was not immediately settled. The Town, in considering the amount of housing, for the site realized that the needed housing for the Town would vary based on the outcomes of three different Comprehensive Permit applications and that the Town would need the flexibility to react any combination of those outcomes. To accommodate these uncertainties the Town proposed an overlay zoning district which would allow housing to be developed at density of up to 20 units per acre by right and up to 50 units with a Special Permit. The Select Board transmitted these proposed zoning bylaw and map amendments to the Planning Board on March 23, 2020.

At their March 17 meeting the Planning Board opened the hearing on the Office and Research and Development Zoning Bylaw and Map Amendment and gave an overview of the proposed Multiple Dwelling Overlay District. The public hearing for the Multiple Dwelling Overlay district officially opened on April 28, however, both the Office and Research and Development and Multiple Dwelling Overlay districts were discussed at March 31, April 14, May 5, and May 12 meetings.

Over the course of these meetings, the Board heard testimony from abutters with concerns over the proposed maximum density of 50 units/acre; the possible location of the housing at the west end of the site. Other abutters, as well as the Board, were concerned about possible air quality contaminants; noise generation from lab equipment; the proposed height of the buildings including the additional height allowance for mechanical screens. The Board was concerned about the traffic generation from the lab use; abutters were concerned with the traffic generated by the proposed residential use. The Board was additionally concerned about overall site lighting; the allowed residential height, and access to the residential site, particularly if on the west end of the property.

The applicant presented a draft development agreement to the Town on April 22, 2021 in which they outlined the terms of the land swap and proposed a contribution of \$2million for the Town to use for housing.

The Board conducted a site visit on May 4, 2020 to observe potential building heights and the proposed housing site.

At the April 14th meeting, the petitioner's traffic, acoustical consultant, and air quality consultants presented their assessments and proposed mitigations of the proposed use. At the May 5th meeting, the Board heard from peer review consultants regarding traffic and noise.

The traffic peer review by BETA Group (report attached) agreed with the trip generation estimates and proposed mitigation, but also recommended additional scope to the study such as inclusion of additional intersections; inclusion of the 518 South 40B project in their growth projections; and a detailed list of TDM strategies.

The acoustical peer review by Intertek (report attached) found that the proposed noise limits of 40db at the property lines and no more the 5db above background between 9pm and 7am would provide sufficient protection for the abutters and is technically feasible. The peer review recommended that the background noise level be established by a third party and that specific noise nuisances such as tonal noises be reviewed for individual equipment.

An air quality consultant was not available to perform a review in time for a Town Meeting recommendation, however CPP, an air quality consultant, did give a courtesy review of the memo from the applicant's air quality consultant, RWDI, and found that their assessment was done consistent with industry standards, but noted that the air quality concerns around specific chemicals associated with the lab use was beyond their expertise. Given that when considering zoning for the Office and Research and Development use we do not know the specific building tenants, and therefore, what specific chemicals used will be, we cannot fully assess any hazards

or nuisances. As such, review of the possible chemical effects is more appropriate at the time of Special Permit and Site Plan Approval and then again for each new tenant.

At the May 5th meeting, the Planning Board also recommended reducing the allowed Multiple Dwelling Density to 15 units by right and 20 units with a Special Permit. These numbers correspond with the required density to comply with the recent state Housing Choice legislation and the amount needed to provide Weston with one year of “safe harbor” against 40B Comprehensive permits, respectively. The Board also recommended reducing the allowed height, however, the Board has not yet had the opportunity to fully discuss an appropriate height.

On May 11th 2021, the petitioner sent a revised development agreement which included the agreement to execute the land swap; an open space or affordable housing contribution of \$2million; an agreement to fund design and construction of a crossing of the Worcester Commuter Rail line capped at \$3million with any additional funds reverting to the Town; and an agreement to fund the Town’s costs for development of housing up to \$100,000. The agreement also included addressing the outstanding items in the Planning Board’s Traffic Impact Assessment Peer Review by BETA and a provision allowing public use of any trail system built on site. The benefits package to the Town is sizeable and gives the Town a very viable opportunity to augment its affordable housing stock. However, some terms of the agreement needed to be revised:

- The land swap \$2 million housing contribution should occur after approval of zoning amendments in Articles 31 and 33 by the Attorney General with no other obligations required by the Town.
- The \$3 million can be payable upon receipt of Special Permit and resolution of appeals for timing, as the intent of the funds, to create a pedestrian crossing of the Worcester line benefits both the petitioner’s project and any potential housing. But the payment of these funds should not be contingent upon receipt of Special Permit. If the applicant never pursues a Special Permit the Town should still receive the funds for facilitating pedestrian connectivity for a housing project or the Town should get the right to pursue housing on the west parcel. Further, the permitting granting authorities should judge a project based on its merit not on a contingent payment.
- The right of the petitioner to appeal or litigate over the proposed housing is too broad. Certain negative impacts, such as traffic, have already been studied and should not be considered as grounds for an appeal or lawsuit.
- The inclusion of abutters as parties of interest should not be considered grounds for the housing project to be voided. The development of any housing on the site, whether through the means outlined in the proposed Multiple Dwelling bylaw, or through a subsequent rezoning, or a 40B Comprehensive Permit all involve a public process.

At the Select Board’s May 11th meeting the Select Board outlined the development agreement benefits to the Town and proposed referring Articles 30 and 32 to committee for further study. Postponing action on Articles 30 and 32 would avoid confusion between the proposed Multiple Dwelling and the Office and Research and Development rezoning and present a better chance to secure the benefits to the Town outlined in the Development agreement. With an acceptable development agreement in place the Town would still, with the passage of Articles 31 and 33,

receive the land and preserve its options for developing housing either through a comprehensive permit or through a rezoning at a subsequent Town Meeting.

On May 12th the petitioner also submitted a revised Article 31 which included amendments to include in the Site Plan Review criteria transportation demand management strategies, air quality, lighting, and sound mitigation with provisions for peer review. The applicant also added language which explicitly prohibits any lab use above the CDC BSL-2 designation and adds a definition for life sciences.

The Board also requested that the applicant amend the bylaw so that any vivarium would require a Special Permit separate from that for developing the site or other individual lab, and that Section V.E.5 to be modified to call out which specific building would be allowed to continue the non-conforming use.

In consideration of the above the Board makes the following recommendations:

The Board voted 5-0 to recommend that Articles 30 and 32 be referred to committee for further study

The Board has reviewed the proposed zoning bylaw amendment in Articles 31 and is comfortable recommending the latest draft, including comments from the May 12 meeting for adoption. However, the Board's remains concerned that the very recent changes, as recent as May 12, have not been before the public with t enough time for sufficient consideration. Should the voters agree, the Board would recommend that matter be continued to a future date certain. The Board voted 4-1 to make this recommendation.

The Board has reviewed the proposed zoning map amendment in Articles 33 and is comfortable recommending the latest draft including comments from the May 12 meeting for adoption. Again, however, the Board's primary reservation is that the very recent changes to Article 31, as recent as May 12, have not been before the public with enough time for sufficient consideration. Should the voters agree, the Board would recommend that matter be continued to a future date certain. The Board voted 5-0 to make this recommendation.

The Planning Board further reserves the right to amend its recommendation based on the content of the signed Development Agreement between the Town and the petitioner.