

Minutes of the Planning Board Meeting of August 25, 2020

Pursuant to a notice and agenda filed with the Town Clerk, the Planning Board met at 7:00 p.m. on August 25, 2020 and held a virtual online public meeting via <https://zoom.us>

Chair Ferguson began by explaining the conduct and format of the Public Hearing and the methods for public comment. The meeting was recorded and will be available on the Minuteman Media Network. (Please note the first 39 minutes of the recording did not record due to technical difficulties.)

Ms. Ferguson asked for a roll call of the Planning Board members. Present were: Ms. Ferguson, Mr. Bosdet, Mr. Sayegh, Mr. Flint, Ms. Orvedal, Mr. Johnson, and Ms. McEaney.

Town Planner Elizabeth Hughes was present.

MAPC Revised Thoreau Depot Redevelopment Vision & Draft Zoning Presentation

Metropolitan Area Planning Commission (MAPC) Planner Chris Kuschel presented the revised the Vision & Action Plan based on the feedback from the Planning Board and public comments. He has also provided draft zoning for the Thoreau Depot Business District. Mr. Kuschel went over the changes to the Vision Statement and the proposed Zoning. To assist with the Board's discussion, the Chair compiled Mr. Kuschel's commentary (except the text for new section 8) into a 2-page document so Board members could see a snapshot of the recommendations.

The Board proceeded to review each of Mr. Kuschel's commentary and provided input on each section. The Board discussed the proposed Section 8 and whether it would be more appropriate to have the design elements incorporated into a new Concord Village Design Guidelines and Requirements instead of in the Zoning Bylaw and the timeline of the grant and the public process and the ability to develop Zoning Bylaw amendments for a 2021 Fall Town Meeting. The Town Planner will work with Mr. Kuschel on the formatting of the proposed bylaw amendments within the existing Zoning Bylaw structure.

Chair Ferguson asked for public comment.

Mark Gailus, 62 Prescott Road, referred to the Vision Plan, street trees, and pocket parks. He would like to encourage developers to maintain or sustain moderate size trees and vegetation as part of the process, not just as an after-thought.

Moira Walsh, 169 Thoreau Street, thanked the Board for their efforts. She said that she would like to see an Advisory Council created. She suggested that having a three dimensional model would be helpful so that residents can get a sense of the type of design elements that could be created. She emphasized that the neighborhood is two blocks from a Historic District and expressed concerns that whatever is proposed should be carefully thought out and in "Concord character."

Mr. Kuschel said he will follow up with the Town Planner on further exploring the various options and reporting back to the Board at different stages to get their input before scheduling a public forum.

2020 Annual Town Meeting Supplemental Public Hearing Follow-up Discussion, Town Meeting Material & Article 41 & 42 Recommendation

The Board discussed whether any further amendments need to be made to any of the Articles or additional information provided. Included in the Board's packet were the draft Planning Board Report on the warrant articles, and recommendations and motions for Article 32, 34 & 37. Articles 35, 36, 38 & 39 have been included on the Consent Agenda with the Planning Board's Report, Recommendation and Motion. Town Counsel is reviewing these documents to make sure it meets the requirements under MGL Ch. 40A. The Planning Board is required to provide a report to Town Meeting on Article 41 & 42.

The Board acknowledged receipt of an email from Gail Hire, 54 Nancy Road, in support of Articles 41 and 42.

Mr. Johnson noted he attended a recent Select Board meeting and that the Select Board supports passage of Articles 41 and 42.

After discussion, Mr. Johnson moved that the Planning Board recommend affirmative action on Articles 41 and 42 as presented at the August 19 Public Hearing. Mr. Bosdet seconded. All voted in favor. The roll call voted was Ms. McEaney, yes; Mr. Sayegh, yes; Ms. Orvedal, yes; Mr. Flint, yes; Mr. Bosdet, yes; Mr. Johnson, yes; and Ms. Ferguson, yes.

AG OML Determination September 10, 2019 Meeting Minutes

In 2019, an Open Meeting Law complaint was filed with the Attorney General regarding the September 10, 2019 meeting minutes. The Complainant alleges that; 1) the September 10 meeting minutes omit comments made by the Chair and two other Board members that the PRD Plan would be preferable to a subdivision, and; 2) omits that a vote was taken to recommend the PRD Plan to the Board of Appeals. The AG has found that for the first complaint, the Board's September 10 meeting minutes substantially comply with the requirement that they provide an accurate and sufficiently detailed summary of the discussion at issue.

On the second complaint, the AG finds that the Board violated the Open Meeting Law where its September 10 meeting minutes inaccurately state in the third paragraph on page 3 that Mr. Flint's vote to recommend the PRD Plan would be "subject to review of a draft recommendation. The AG's determination states: "That the video recording of the September 10 meeting shows that the Board did not take a formal vote, but rather that each member confirmed their agreement that the Board should recommend approval of the PRD Plan. Although we find the September 10 meeting minutes to generally accurately reflect what occurred with respect to the Board's action regarding the PRD Plan, we find the statement that Mr. Flint's vote to recommend the PRD Plan would be "subject to review of a draft recommendation letter . . ." to be inaccurate. This language may reflect the actual practice of the Board, but no member of the Board in fact stated that their approval would be subject to review of the Town Planner's letter. Meeting minutes

must accurately reflect the discussions held, and so we order the Board to amend the September 10 meeting minutes to accurately reflect the discussion.

The third paragraph of the existing September 10, 2019 minutes reads:

“Mr. Flint said that he was in favor of recommending to the Zoning Board of Appeals approval of the revised 4-unit plan for the proposed Planned Residential Development (at 430 Old Bedford Road) consistent with the Town Planner’s report and subject to review of a draft recommendation letter (to be prepared by the Town Planner) for the Board’s review at the next meeting, prior to the ZBA’s October 10 meeting. All the other members indicated that they were in favor of that approach.”

After discussion, Mr. Johnson moved that the Planning Board amend the minutes of the September 10, 2019 meeting to have the paragraph state the suggested language according to the Town Planner’s August 25, 2020 agenda memorandum:

“The Chair asked to get a sense of the Board so that the Town Planner can draft the recommendation. Mr. Flint stated he would vote in favor of the proposal and make a recommendation to the Zoning Board of Appeals to approve the special permit request. Mr. Flint further explained that beyond the things already covered in the Town Planner’s report, he wouldn’t have any further requirements. The Chair continued to ask the other Board members around the table. All the other members indicated that they were in favor of that approach.”

Ms. McEaney seconded. All voted in favor. The roll call voted was Mr. Bosdet, yes; Ms. Orvedal, yes; Mr. Flint, yes; Mr. Sayegh, yes; Ms. McEaney, yes; Mr. Johnson, yes; and Ms. Ferguson, yes.

Planning Board Meeting Minutes

The Board reviewed the draft minutes of the August 11, 2020 meeting. Mr. Johnson moved that the Board accept the minutes as written. Mr. Flint seconded and all voted in favor. The roll call was The roll call voted was Mr. Bosdet, yes; Ms. Orvedal, yes; Mr. Flint, yes; Mr. Sayegh, yes; Ms. McEaney, yes; Mr. Johnson, yes; and Ms. Ferguson, yes.

Planning Board Liaison & Town Planner Updates

Town Planner Hughes updated the Board with information about the Town’s award of a \$135,000 Mass Trails Grant for the Assabet River Pedestrian Bridge and Trail and explained the next steps going forward after Town Meeting and potential permitting timeline. Director Rasmussen explained about the need to establish an easement with the 300 Baker Ave. property owners in order to be awarded state transportation funds for construction of the bridge.

Mr. Flint commended the efforts by the Town Planner and the Planning Director to improve the walkability in West Concord.

Ms. Hughes reported that the Concord Shuttle grant was awarded and that can begin to move forward too. Director Rasmussen updated the Board on the visitor feasibility study and the next steps and potential timeline.

Ms. Hughes reported that a State grant was also awarded to the Town for a consultant to assist Town staff in investigating the potential of creating a business improvement district for the three village districts. She explained the process going forward and upcoming meetings with property owners as part of the process.

Ms. Ferguson reported that there is an upcoming Comprehensive Sustainability Energy Committee meeting (CSEC).

General Public Comment

Mark Gailus, 62 Prescott Road, suggested that it would be helpful to clarify at Town Meeting, in the presentation of Article 37, both the business district boundaries and the subject property boundaries (gas station property) and to show a GIS map with the current zoning. Business zone boundaries aligned with property boundaries. Also, it seems current business properties extend into residential districts and he asked if those properties are non-conforming. Are there other similar parcels.

Moir Walsh, 169 Thoreau Street, spoke of her concerns with Article 37's potential negative impacts to the whole community, the Thoreau Depot neighborhood and pedestrian safety in general. She asked if Article 37 will be on the Town Meeting Consent Calendar and Ms. Ferguson informed her that it is not. She spoke in opposition to Article 37 and the proposed zoning changes.

Director Rasmussen clarified that the non-conforming properties that Mr. Gailus asked about and explained that there is a provision in the current Zoning Bylaw that allows, by special permit, a property owner to extend an allowed use from one zoning district into another zoning district provided the parcel has frontage in the less restrictive zoning district. She suggested that Board may want to add that information in the presentation of warrant article at Town Meeting.

Joe Stein, 21 Thoreau Street, he noticed that there is a lot language in the Thoreau Depot presentation about four-story buildings, yet there has be no public discussion on height. He opined that four-stories is excessive and not appropriate for the area. Chair Ferguson explained about the process. Town Planner Hughes explained that there will be numerous opportunities for public input and discussion.

Mark Gailus, 62 Prescott Road had a follow up question. Town Planner Hughes explained the special permit process for Section 2.3.4 for expansion from one zoning district into another. She explained that findings and requirements for the granting of a special permit by the Zoning Board of Appeals.

Chair Ferguson said that the Sept. 8 meeting will be Mr. Johnson's last Planning Board meeting.

The meeting adjourned at 9:36 p.m.

List of documents presented which are on file in the Planning Division Office at 141 Keyes Road, Concord, MA:

- MAPC Revised Vision and Action Plan

- Summary MAPC recommended zoning changes for Thoreau Depot Business District
- Open meeting law complaint and Sept. 10, 2019 Planning Board meeting minutes
- Draft minutes August 11, 2020 Planning Board meeting
- Email G. Hire re: ATM Articles 41 & 42

Respectfully submitted,

Nathan Bosdet, Clerk

Minutes approved on: 8/22/20