

West Concord Task Force – Town Meeting 2011  
Article Positions and Frequently Asked Questions

**What are the zoning articles relevant to West Concord?**

The Town is considering five zoning articles that flow directly from West Concord Task Force recommendations to the Planning Board or the Town Manager:

**Article 36.** This article will appropriate funds for the Town Manager to begin implementing recommended roadway and walkway improvements that are part of the phase III (West Concord Village) component of Rte. 62 reconstruction. This article has been amended relative to the printed version that appears in the Warrant. A new version leaves an appropriation of only \$50,000 (not \$500,000) in Article 36 for roadway improvements on Main St. A related article has been added to the Special Town Meeting Warrant that would appropriate an additional \$450,000.

**Task Force recommendation: unanimous in favor as moved (as amended)**

**Article 50.** This article restores the “two-family or additional dwelling” use in the West Concord Business District by special permit that was eliminated at Town Meeting 2010 at the recommendation of the WCTF.

**Task Force recommendation: unanimous in favor**

**Article 51.** This article would create a “village” retail district within the current West Concord Business District that would allow only retail and other pedestrian-oriented uses on the ground floor between the “99” Restaurant and the lot beyond “Dabblers.”

**Task Force recommendation: 6–3 in favor**

**Article 52.** This article creates a zoning definition of “grocery store” and then places size limits on grocery stores, restaurants, and retail stores in the West Concord Business District and the proposed West Concord Village District. An amended version clarifies some of the language used in this warrant article and will be moved on the floor of Town Meeting.

**Task Force recommendation: unanimous in favor as moved (as amended)**

**Article 53.** This article provides a number of setback changes and height changes that would enhance pedestrian appeal and village character of new development in the West Concord Business District (and Village District, if created by Article 51).

**Task Force recommendation: unanimous in favor**

In addition, there are two zoning articles related to a Formula Business Bylaw that was a recommendation of the West Concord Task Force at 2010 Town Meeting. The Planning Board has been given jurisdiction over the development of zoning articles related to Formula Businesses for 2011 Town Meeting and two articles relate to this issue.

**Article 54.** Establishes a Formula Business Bylaw that includes a cap on the total number of formula businesses that may be established in the West Concord Business District.

**Task Force Recommendation: 6–3 in favor**

**Article 55.** Establishes a Formula Business Bylaw that does not include a cap on the total number of formula businesses that may be established in the West Concord Business District.

**Task Force Recommendation: 3–5 opposed with 1 abstention**

Finally, there are four zoning articles and an appropriation request related to the West Concord that are included in the Special Town Meeting Warrant. These articles are:

**Article S2.** Appropriates funding toward capital land purchases to help enable key elements of the West Concord Master Plan.

**Task Force recommendation: unanimous in favor**

**Article S3.** Changes several West Concord Industrial District uses from “yes” to “SP” (special permit) or to “no” in order to encourage industrial uses in a village setting.

**Task Force recommendation: unanimous in favor**

**Article S4.** Further restricts the current “mixed industrial/business/residential” use in the Industrial District with additional special permit requirements.

**Task Force recommendation: unanimous in favor**

**Article S5.** Establishes a West Concord Mixed-Use Overlay District (WCMUOD) for the 50 Beharrell Street Property subject to specific obligations as outlined in a Development Agreement.

**Task Force recommendation: no position pending development agreement**

**Article S6.** Citizen petition to create a “village” retail district within the current West Concord Business District that would allow only retail and other pedestrian-oriented uses on the ground floor between the “99” Restaurant and the former Chrysler dealership. This would have the effect of including the Chrysler dealership parcel within the proposed Article 51 Village District.

**Task Force recommendation: 7–2 in favor**

### **Detailed discussion of West Concord Warrant Articles**

#### **Article 36. West Concord Center Roadway-related Improvements**

Phase III of the Route 62/Main Street reconstruction through West Concord Village offers an opportunity for the Town to leverage construction activities and achieve a number of roadway and sidewalk improvements in the affected areas. This article allows the Town Manager to borrow \$50,000 in order to fund these initiatives, many of which are included in the West Concord Master Plan. The Town Manager has discretion to select among projects that help enable Master Plan goals along this section of Main Street; however, funds must be appropriated before any of such improvements could be achieved. Note that the total amount of this request has been reduced (originally \$500,000) in the amended version to be moved on the floor of Town Meeting. A new article (S2 described below) would reprioritize the remaining funds in support of capital land purchases, rather than roadway and sidewalk improvements, in order to help achieve key elements of the Master Plan.

A **YES VOTE** on this article would authorize the town to borrow funds and include improvements in the Town budget.

A **NO VOTE** on this article would prevent the Town from making improvements beyond what can be incorporated into the existing operational budget.

#### **Article 50. Table of Use Regulations (West Concord Business District)**

This article restores the “two-family or additional dwelling” use in the West Concord Business District by special permit that was eliminated at Town Meeting 2010 at the recommendation of the WCTF. It is important to understand the relationship between Articles 50 and 51. Whereas Article 50 would allow additional residential development within the West Concord Business District by Special Permit, Article 51 would *eliminate* additional residential development on the 1<sup>st</sup> floor within a smaller “Village District” to be created within the existing West Concord Business District. The goal of Article 50 is to allow the Planning Board to balance the market for retail space in the overall Business District with “smart growth” residential uses. There is some concern that creating too much retail-zoned area would create “dead zones” within the Business District. If both articles pass, the Planning Board could allow special permit multi-family residential dwellings on the edges of the “Village District” but still within the current Business District.

A **YES VOTE** on this article would restore the “two-family or additional dwelling” use in the West Concord Business District by special permit.

A **NO VOTE** on this article would maintain the current uses for the Business District that do NOT allow two-family or additional dwellings.

## **Article 51. Establish the West Concord Village District**

This article creates a new zoning district – the West Concord Village District – that is located within the heart of the current West Concord Business District roughly between the “99” and the lot beyond “Dabblers.” To make a lively and attractive village center, we need our spaces to have good dimensions and good uses. Good dimensions make the streetscape feel comfortable – the buildings aren't so tall that they cut off the sun or loom over people, and the buildings aren't so short or so far apart that the streetscape feels exposed and deserted. That's what the Business District dimensional changes (Article 53) work toward. But even with good dimensions, a village center isn't fun or attractive or comfortable unless the street level is interesting. Residences and offices are inward-directed uses, without much interest for passersby. Large stores take a long time to walk past, use up too much room in the village, and tend to increase traffic (Article 52). Good uses for the ground floor in a village center are ones that people walk in and out of frequently, such as retail, services, civic uses, and open space. Upper floors can be used for residences, offices, and additional retail, services, and so forth.

If we don't restrict uses, we could end up with uninviting uses that drive away shoppers and pedestrians. But if we restrict uses too much, we could end up with empty storefronts, and too many empty storefronts would be even more damaging than uninviting uses. By applying dimensional changes throughout the Business and Village districts, we preserve for posterity the possibility to expand the Village District (or it could be reduced if it turned out to be too large), and we create a less-restricted business area that's inviting in scale but allows many uses. By applying use changes only in the Village District as defined, and allowing larger restaurants in the Business District than in the Village District, we balance needed regulation with needed flexibility.

A **YES VOTE** on this article would create a new Village zoning district within the West Concord Business District that would have more restrictive uses.

A **NO VOTE** on this article would not create a Village zoning district and maintain the same allowed uses throughout the West Concord Business District.

## **Article 52. Grocery Store, Retail Store and Restaurant**

This article creates a zoning definition of “grocery store” and then places size limits on grocery stores, restaurants, and retail stores in both the West Concord Business District and the proposed West Concord Village District. Within the Business District, retail stores would be limited to 4,000 square feet of retail space (does not include storage areas, offices, break rooms, or rest rooms), restaurants and grocery stores would be limited to 5,000 square feet. Within the Village District, the same limits would hold, except that a restaurant is limited to 4,000 square feet, but an additional 20 percent increase in size is allowed by special permit. These sizes were chosen based on the size of current retail establishments in the West Concord Village and would not create any new non-conformity among existing West Concord businesses, but would prevent future development of retail stores, restaurants, and grocery stores larger than the specified limits. Since the limits apply to stores and not to buildings, buildings that exceed the size limit can be configured as multiple stores, or space beyond the allowed limits can be used as non-public space such as offices. The West Concord Task Force and the Planning Board identified some ambiguity in the Warrant Article language and will move an amended motion with revised language relative to what is printed in the Warrant on the floor of Town Meeting to correct this flaw.

A **YES VOTE** on this article would limit future development within the Business District and Village District to the sizes specified.

A **NO VOTE** on this article would allow future development to proceed subject to other dimensional requirements, but with no limit on retail floor space.

## **Article 53. Table III – Dimensional Regulations**

This article provides a number of setback changes and height changes that would enhance pedestrian appeal and village character of new development in the West Concord Business District. Many of our favorite

buildings – the block from the Gatehouse to Beharrell Street, and most of the buildings across the street – are non-conforming relative to current zoning. On the other hand, while people like the businesses in West Concord's strip malls, virtually no one likes the way the properties are laid out with the parking more prominent than the stores and with sidewalks down the street that feel deserted and abandoned. The proposed changes are designed to require future development in the West Concord Business District to be designed like the parts of West Concord village that most of us say we like the best: easy and friendly to walk around, with parking behind buildings or screened on the side. Also, studies show that parking in front of buildings makes pedestrians feel exposed and unsafe, while village-scale buildings with shallow setbacks create an “outdoor room” that feels comfortable and welcoming to pedestrians and causes cars to drive more slowly. It may take years or decades before lots are redeveloped according to the new zoning regulations, but if we don't make this change, it will never happen.

A **YES VOTE** on this article would require new development to meet dimensional regulations consistent with village scale and character.

A **NO VOTE** on this article would require future development to meet current dimensional requirements that are not consistent with village scale and character.

### **Articles 54 and 55. Formula Business with and without a Cap**

Both Article 54 and 55 have the same goal, which is to achieve the right mix of formula and non-formula businesses within the West Concord Business District in order to preserve the character and appeal of the area. A business would be considered a formula business if it triggers two or more of five alternate criteria that are substantially the same as fifteen (15) or more other establishments. These triggers have evolved over recent months to make the criteria included in the final Warrant language less strict than prior bylaw drafts in order to help address the concerns of local business and property owners. The essential difference between the resulting articles is the inclusion of language in Article 54 that would cap the total number of formula businesses unless and until the article were overridden at a future Town Meeting. Article 55 limits the number of formula businesses only by requiring a special permit, leaving no direct means of determining the ultimate mix of formula and non-formula businesses.

Some Concordians may prefer Article 54 on the grounds that even if formula businesses adhere to the special permit criteria, there should still be an absolute ceiling on the number of formula businesses that can open in order to maintain a balance that is near existing conditions. Others may prefer Article 55 without a fixed limit on the grounds that the special permit process can establish an appropriate balance between community and individual interests in deciding the right mix of formula and non-formula businesses. Finally, some may prefer not to pass either article and place no specific restrictions on formula businesses, on the grounds that none are needed.

Considerations include how to balance the potential freedoms of the property owners and business owners who may not want any restrictions imposed on them against potential loss of property rights for owners and businesses whose value may be harmed by an excessive presence of formula businesses. The interests of current (and future) residents who largely value the existing local character must also be considered in this equation.

In addition, any determination of the necessary degree of protection against an excessive proliferation of formula businesses should consider that a cap serves as a firm backstop whereas the special permit process is more flexible but less bounded and therefore ultimately more risky. Free market forces that are currently in place do not provide controls but enable more individual business alternatives.

A **YES VOTE on Article 54** would define a formula business and limit their numbers to maintain the current mix of formula/non-formula businesses in the West Concord Business District through a special permit process with an overall cap.

A **YES VOTE on Article 55** would define a formula business and limit their numbers to maintain a mix of formula/non-formula businesses in the West Concord Business District through a special permit process only.

A **NO VOTE** on both articles would allow any number of formula businesses to locate in the West Concord Business District as long as they meet other zoning requirements.

### **Special Town Meeting Warrant Articles**

#### **Article S2. Appropriate funds for capital land purchases**

Article 36 as printed in the Warrant was put forth by the Town Manager to ensure that funding was available for roadway and sidewalk improvements in the West Concord Village area as a step toward achieving elements of the West Concord Master Plan. While the West Concord Task Force agrees with the goal of achieving elements of the Master Plan, we see land acquisition in the Village area as a greater priority for town funds relative to roadway and sidewalk improvements that can be more easily accomplished as part of the town's operational budget or CPA funding. After discussions with the Planning Board and the Town Manager, it has been agreed that a Special Town Meeting Article was needed to re-allocate any appropriated funds so that they can be used to help with the purchase of key properties in the West Concord Village area (portions of the Acadian parcel and the former Chrysler parking lot) to enable parts of the Master Plan to be realized.

A **YES VOTE** on this article would allow the Town to borrow \$450,000 for capital land acquisitions that enable the West Concord Master Plan.

A **NO VOTE** on this article would prevent the town from borrowing additional funds for this purpose.

#### **Article S3. Revised Uses in the West Concord Industrial District**

The current West Concord Industrial District zoning allows several uses that the West Concord Task Force feels are inconsistent with a village setting. While we support and encourage the light industrial uses that currently exist, the current zoning allows for several uses that might significantly change the character of the West Concord Industrial District and – potentially – the nearby West Concord Business and Village Districts. This article would eliminate auto dealerships and further restrict by special permit several currently allowed uses (i.e., lodge and club, personal service shop, funeral home, veterinary or kennel, auto service station, and auto repair shop) in order to encourage more appropriate village uses within the Industrial District.

A **YES VOTE** on this article would eliminate or restrict several current uses allowed in West Concord Industrial District.

A **NO VOTE** on this article would maintain the current allowed uses in the West Concord Industrial District.

#### **Article S4. Special Permit Requirements for Mixed Industrial/Business/Residential Use in the West Concord Industrial District**

The current zoning allows for a mixed industrial/business/residential use in the Industrial District, which includes Beharrell St., Bradford St., and Winthrop St., with a special permit process from the Town Planning Board. While this does impose certain restrictions, including a maximum height of 40 ft, it would allow for a wide variety of undesirable outcomes (including a “mixed” use consisting of primarily one or two uses with only a token amount of the other use(s), or a development without any traffic circulation improvements or open space opportunities) subject only to the approval of a few individuals. For example, the Concord Commons development was built in an industrially zoned area with a special permit, even though it is mostly residential. The Task Force feels that new residential development in the Industrial District should be subject to a more rigorous public process given the past history in some communities of residential developments being incompatible with light industrial activities such as those that currently exist.

This article requires new mixed industrial/business/residential uses in the West Concord Industrial District to obtain a special permit that specifically includes consideration of several factors:

- residential/retail uses must be structurally part of an industrial use building

- 20% affordable—residential units and/or industrial square footage (minimum 10% affordable residential units)
- retail cannot exceed 25% of total floor space
- industrial and non-retail business cannot be less than 30% of total floor space
- no residential use on the ground floor
- adheres to the Design Guidelines and is consistent with/advances the West Concord Master Plan
- if other elements are met, height may be increased to 40 feet.

While this still enables a range of residential development opportunities within the Industrial District, it does subject potential development to Planning Board scrutiny and consideration of the factors identified.

A **YES VOTE** on this article would require new Industrial District development that includes residential to obtain a special permit with consideration of the identified factors.

A **NO VOTE** on this article would allow future Industrial District development to obtain a special permit for industrial/business/residential development without special consideration of the identified factors.

### **Article S5. West Concord Mixed-use Overlay District**

This article establishes a West Concord Mixed-Use Overlay District (WCMUOD) for 50 Beharrell Street and 138 Commonwealth Ave. subject to specific obligations as outlined in a Development Agreement. The West Concord Task Force has voted to pass the project onto the Planning Board, Town Manager and Board of Selectmen for further review and negotiation of the development agreement. When, and if, there is a development agreement, the WCTF will determine its support once it's had a chance to review the negotiated Agreement. We do recognize that many features of the proposed development are consistent with key Master Plan elements and support a *process* that allows the Town to consider new residential development in the industrial district through a more considered process than the special permit process that now exists.

The Task Force appreciates that the development group has listened to our concerns with the project as proposed in good faith. The key point to understand is that the recommended *process* requires (1) the Town (though the Selectmen) to negotiate a Development Agreement on behalf of the town that specifies many of the key areas of concern (the height of a development, the number of residential units, the mechanism to guarantee affordability of industrial and residential units, and the wastewater treatment options) and that, (2) after a comprehensive package has been negotiated, it would then be subject to public scrutiny and Town Meeting approval. Approval would mean a 2/3 majority at Town Meeting, not just the approval of the Task Force, the Planning Board, Selectmen, or any other specific Town committee.

A **YES VOTE** on this article would create a new overlay zoning district that permits redevelopment of the WCMUOD properties consistent with the Development Agreement approved by the Town.

A **NO VOTE** on this article would not allow the proposed project, but does allow redevelopment of the industrial properties consistent with existing special permit requirements for mixed industrial/business/residential uses.

### **Article S6. Citizen's petition to establish West Concord Village District**

The West Concord Task Force originally recommended a village district similar to that proposed in Article 51, but that also included the former Chrysler Dealership building and adjacent parking lot. The Village District as proposed by the Planning Board does not include this parcel. This article – if passed – would have the effect of creating a Village District that does include that additional parcel of land. All other elements of this article are identical to the Village District proposed in Article 51.

A **YES VOTE** on this article would create a new Village zoning district within the West Concord Business District that would include the former Chrysler Dealership.

A **NO VOTE** on this article would not create a Village zoning district that includes the former Chrysler Dealership.