

Call to Order:

The joint meeting of the Planning Board and the Economic Development Council was called to order at 7:02 p.m. Present for the Planning Board was Vice-Chair Vincent Chiozzi, members Jay Doherty, Joan Duff, Ann Knowles, and Associate Member Steven Pouliot (arrived at 7:12 p.m.); also present was Paul Materazzo, Director of Planning.

Town Meeting Warrant Articles:**Article P-47 Amend Dimensional Requirements in Industrial D2 Zoning District:**

Mr. Chiozzi opened the public hearing on Town Warrant Article P-47, Amend Dimensional Requirements in the Industrial D2 Zoning District. Mr. Materazzo informed the Board that the ID2 dimensional requirements allow for 50 ft of height and 3 stories. This warrant article would change the number of stories to 4 while keeping the 50 ft of height. This would allow buildings to be filled vertically rather sprawling them east to west. The height limitation would not change and all other dimensional requirements such as parking, setbacks, open space, and lighting would remain the same.

Mr. Doherty asked if the ID2 zoning had been tested yet. Mr. Materazzo stated that the Board permitted the Restaurant Depot in the ID2 District. Mr. Doherty asked if the Board has any other 4 story buildings in Town other than Brickstone Square. Mr. Materazzo noted that the GB, Mixed Use and IA districts allow four stories and the IG district allows 5 stories. The ID and ID2 districts allow for three stories. This would bring the ID2 district parallel with the other business districts.

Mr. Doherty stated that he didn't have a problem with adding a story if the height remains the same. Mr. Materazzo stated the height of the building would stay the same. Mr. Chiozzi added that all other functions of the area would remain the same.

John Fenton of 180 Main Street stated that he sees this as being good because a higher density building can lead to higher tax revenues and more jobs. He added that from an environmental angle a smaller footprint is also good. He stated that it sounded like a sound economic idea.

The Board tabled the discussion to later in the meeting.

Articles P-45 and P-46 Zoning Bylaw Amendment – Historic Mill District:

Tim Vaill of 9 Bancroft Road, Chairman of the Economic Development Council (EDC) stated that the Economic Development section of the 2012 Master Plan talks about taking key steps to becoming a commercial center. The Economic Development Council was formed in 2012 to make Andover the best place to work and live in America. A year and a half ago the EDC began the Andover Tomorrow series inviting different speakers to discuss economic development with a focus on the idea that successful towns find new sources of revenue to take the tax burden off of the homeowner. This overlay district would encompass roughly 100 acres of land from Main Street to the Shawsheen River and Dundee Park to Whole Foods.

Heather Arvidson of 9 Arcadia Road stated that she is a 2007 graduate of Andover High School who returned to Andover 2 years ago after time abroad and found that a lot had changed. She

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stated that this overlay is about community, bringing people together and making a change. She went on a site walk of the area and saw a very dangerous intersection, empty buildings and potential. Ms. Arvidson introduced a short video on the Historic Mill Overlay District. After the video, Ms. Arvidson noted that this project is about community and all of Andover changing. She stated that long term sustainable development comes from using what you have to make the future better. Residents can collaborate to grow for a future that all can be proud of.

Charlie Kendrick of 8 Forbes Lane showed the 100 acres of the overlay and the hodgepodge of zoning districts in that area. He noted that a series of site tours and charrettes allowed for feedback on what residents would like to see happen in the area. He noted that an overlay does not change the underlying zoning already in place. The purpose of the overlay is to increase tax revenues, encourage diverse housing opportunities, preserve open space, encourage adaptive reuse of mills, enhance the quality of design review, improve traffic conditions and obtain public sector support for transit improvements. Mr. Vaill added that they hope to create a new land use pattern to link the downtown with the river and enhance the quality of life. This is a plan created by Andover citizens of varied demographics, and does not contain any development projects. It is creating opportunity.

Eric Eldracher representing the St. Augustine's Parish Council stated he was pleasantly surprised and appreciative to hear about the safety concerns of that intersection. He asked if the intersection improvements will be set as a priority during the development of the area. Mr. Chiozzi stated that there is no set priority but the Board has been talking about that intersection for at least twenty years. With the implementation of the overlay district the Town could get TIF money from the state for improvements. Ms. Knowles pointed out that it is easier to get TIF money if there is a plan in place. Mr. Materazzo stated that all projects seeking a special permit under this zoning overlay would have to specifically address intersection mitigation.

Ron Abraham of 1-9 Lupine Road stated that he understands the vision, but he is concerned about protections for industrial businesses in the area. He asked what guarantees could be given to current owners that their properties or businesses will not have to change. He is concerned that local business owners were not personally spoken to about this. He has owned Elm Street Auto for 43 years and has been a resident for 25 years. He is concerned that those who have built their businesses for years in that area are being forgotten, and once this is put in place there will be no where for businesses like his to go in Town. These businesses are a necessity for the Town, but once residential developments are there people will not want to look out their windows and see the types of uses that are currently in the area.

Mr. Chiozzi stated that if you are a landowner, you will still have property rights, and your land may actually increase in value. This may cause you to want to sell, but nothing in the zoning gives anyone else the right to make a property owner sell or move. Mr. Doherty agreed and assured Mr. Abraham that nothing would happen to his business unless he chose to sell. He added that his power is not to sell. Mr. Abraham stated that people running small businesses in Town are being driven out of their properties. Mr. Doherty reiterated that no one can force him to sell. Mr. Abraham stated again that he is worried about what will happen when new residents see his business outside their window. Mr. Chiozzi again stated that zoning does not give

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anyone a right to force someone to sell their property because they don't like what they see. Mr. Abraham stated that he constantly has opposition to his building and he feels people will put pressure on him to move. Mr. Doherty stated that he understood what Mr. Abraham was saying, but reminded him that he is an allowed use. Mr. Chiozzi stated that the overlay does not change the underlying zoning. Ms. Knowles agreed that Mr. Abraham will still have all of the protections of the current zoning. Mr. Abraham stated that he and the other business owners in that area need the peace of mind of that protection. Mr. Doherty stated that the protection is there, and added that the only time something on his property will change is if he sells. Ms. Knowles stated that this would be different if it were a zoning change instead of a zoning overlay. In a zoning change, Mr. Abraham may be a grandfathered use, but in an overlay Mr. Abraham's current rights remain. She added that he could even expand his business. Mr. Materazzo noted that in Section 8.7.3.1 of article, it states that underlying zoning districts will remain in force and in full effect. If your property or use complies today and you want to expand or stay for generations you can.

Claudia Bach of 19 Chandler Circle asked for the Andover Tomorrow Group to meet with Mr. Abraham and other property owners and businesses in that area to hear their concerns. It is important for the people in the area to have the opportunity to be heard throughout the whole process so that there isn't any misunderstanding about what is happening.

Steve Fink of 26 Bateson Drive stated that Amesbury implemented a similar zoning, and offered for anyone to meet with Bob Lavoie, an Amesbury City Councilor to discuss the process that they went through, and go on a site walk. Mr. Abraham stated that the confusion has to be eliminated and he has many concerns and worries. Mr. Fink noted that a fair number of people have asked for the nature of that part of the community to not change. Mr. Abraham stated that he would like to see a resolve between the old and the new generations.

David Brown of 31 Glenwood Road stated that the concept behind this proposal is great, he has been on one of the walks and he understands the objective. He noted that the article would allow for the Planning Board to issue a special permit for particular types of development in this overlay district for uses that aren't allowed in the current zoning. He pointed out several areas in the article that he found to be confusing or contradictory, and ways that it could be structured or renumbered. Mr. Chiozzi asked Mr. Brown to provide a copy of his notes to the Board or Planning staff for a follow up.

Anil Navkal of 14 Rock O'Dundee Road stated that the heights allowed bothered him, especially with the differing grades in the area. He stated that he has a few questions, but he is excited about this effort and hopes that it goes through nicely. He questioned why the Conservation Commission is not mentioned with the amount of wetlands in the area. Mr. Chiozzi stated that individual projects may require a separate permit application to the Conservation Commission. Mr. Navkal pointed out that Section 8.7.3.2 states the provisions of the underlying districts shall no longer be applicable. Ms. Knowles stated that the provisions of the underlying zoning would only no longer be applicable if the developer chose to obtain a special permit for the overlay district. Mr. Navkal stated that he was reading it as if you apply for a special permit for the overlay, no prior restrictions, such as Conservation restriction apply, only the restrictions written

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in the overlay language, and he just wanted to know if he was reading it wrong. Ms. Knowles stated that any other approval that is needed in the normal course of an application would still be required. Mr. Materazzo added that this overlay district does not take any authority away from the Conservation Commission or any other Town Board. This is only applies to the Planning Board review of a project.

Mr. Navkal noted that one of the recommended uses is Restaurant, Fast Food. He asked if fast food is different than a McDonald's that would have a drive thru. Mr. Materazzo stated that the uses are derived from the existing Zoning Bylaw. He noted that drive-thrus are not allowed in Town and an establishment like Dunkin Donuts is considered a fast food use.

Ms. Knowles asked if it was correct that any project proposed under the overlay would have to have a mix of uses. Mr. Materazzo stated that there is a provision that may require that, but it would depend on where the site is located.

Mr. Navkal asked why the article states what uses are allowed, but then also states that any uses not listed are not allowed. He questioned why that is necessary and asked if it is legalese. Mr. Materazzo informed the Board that the article was written with consultation from both the Cecil Group and Town Counsel. Mr. Navkal asked questions about signage, what the Board would like to see and design objectives. Mr. Materazzo stated that existing zoning would determine the size of signs. Mr. Navkal noted that the document discusses the incorporation of energy efficient and environmentally sensitive principles. He asked if they could give specific examples such as LED lights or LEED certification. Mr. Materazzo stated that design guidelines would be developed as a complimentary document. Mr. Navkal asked how the Board measures or determines unreasonably detrimental. Mr. Materazzo stated that that is something that the Board reviews as part of all special permits. Mr. Navkal requested that they not use that language and be more specific so that it is not as subjective.

Greg Luckman of 13 Florence Street stated that he recalled that the height limits in the area are 65 ft except on certain streets such as North Main Street, Essex Street, Pearson Street and Red Spring Road where the limit is 35 feet. He asked why they did not put a similar restriction on Brook Street and Central Street. He felt that 65 ft high buildings down Central Street to Brook Street would be very imposing. Mr. Materazzo stated that both Essex Street and Brook Street are in the General Business district which today allow for a height of up to 50 feet. Limited the heights to 35 ft in the overlay would be down-zoning existing properties on those streets. Mr. Luckman reiterated that he does not agree with allowing the heights up to 65 feet.

The Board tabled the discussion to later in the meeting.

Article P-42 Table of Use Regulations for Restaurants:

Mr. Materazzo reviewed the Zoning Board of Appeals process for Restaurant, Sit-Down and Restaurant, Fast Food. He noted that staff cannot recall an instance where an application has been denied by the ZBA. This would help to streamline the process to allow the use by right in districts where they are currently allowed by special permit.

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Ms. Knowles asked David Brown, Chairman of the ZBA, if the ZBA needs anything else attached to this document or if it is good by itself. Mr. Brown stated that he supports this article in concept, but noted that the special permit process attaches reasonable conditions onto the businesses and allows for public review. His concern is that it expands the allowed uses but retains the existing definitions, and the current definitions are not consistent with the types of establishments in Town. He would first like to see a broader more comprehensive approach with a revamp of the definitions. Mr. Materazzo asked Mr. Brown if he felt this was a good Phase 1, or if the Board should table this item and take at a more comprehensive review next year. Mr. Brown stated that his advice would be a comprehensive review of everything; because once definitions are changed the Board may feel that certain uses should require the broader review of a special permit. Mr. Chiozzi asked which definition is for food that you call ahead for and is brought out to your car. Mr. Brown stated that an establishment like that is something that has to be addressed because the definition of Restaurant, Drive In is "provides service or sale of food or drink to customers while in their vehicles," however; all of the definitions pertain to a restaurant's principle use.

Mr. Materazzo asked if the Board felt that they should withdraw the article and take a more comprehensive approach next year. Mr. Pouliot stated the Board should take a more comprehensive approach next year. Mr. Chiozzi asked if the special permit process is causing problems. Mr. Materazzo stated that it is causing problem for almost every new restaurant in Town. Mr. Brown stated that they encourage every applicant to follow a parallel permit process. He added that the criteria to obtain a special permit are not that burdensome.

Ms. Knowles asked if the Board should instead take Restaurant, Fast Food out of the article. Mr. Brown stated that he is not concerned with the Restaurant, Sit-Down definition, and he could support just that going forward. Ms. Duff asked if that would help the three month process. Mr. Materazzo stated that it would be a benefit to businesses today. He noted that in order to take Restaurant, Fast Food out of the article, an amendment would have to be made on the floor of Town Meeting.

Mr. Chiozzi questioned if the article should be withdrawn if it is affecting businesses today. Mr. Brown stated that the Zoning Bylaw needs to address businesses that are sit-down with a large takeout component. Mr. Chiozzi asked if the Town would get something that they don't want if this passes. Mr. Brown stated that once a comprehensive review takes place, the Board may find that they no longer want certain uses allowed by right. He encouraged the Board to take a step back. Mr. Materazzo reiterated that the current zoning slows down the entire process of every new restaurant that comes to Town. Mr. Chiozzi noted that he would hate to pass this and then go back to Town Meeting next year and explain why this is something the Board now does not want.

On a motion by Ms. Knowles seconded by Mr. Pouliot the Board voted to withdraw Article P-42 to amend the Table of Use Regulations for Restaurants. **Vote:** Unanimous (5-0).

Town Meeting Warrant Articles (cont'd):**Article P-41 Amend Table of Use Regulations for Medical Center or Clinic:**

Mr. Materazzo reviewed the proposed article which would allow by right a Medical Center or Clinic in the Limited Service, Office Park, Industrial A and Industrial D districts. Mr. Materazzo noted that Doctors Park is in the Office Park district, and any repositioning of space there requires a special permit from the ZBA today. This would allow the use by right with overview from the Planning Board if any proposal triggers a Special Permit for Major Non-Residential Project. He stated this would also allow for new opportunities in Brickstone Square.

Ms. Knowles stated that she sees this as very clear cut and doesn't see any objection to it. Mr. Pouliot asked specifically regarding Brickstone Square, what type of medical use would be allowed. Mr. Materazzo stated anything defined in the Bylaw which includes a medical building like what the Board approved on Lowell Street, a dentist or a chiropractor's office. Mr. Pouliot asked if they could allow it by special permit. Mr. Materazzo stated that the trigger for a special permit would be the alteration of an existing building of more than 40% or new construction. This says that if a medical use wants to go into an existing building as an office suite it can go in by right, but if you are going into an existing building and rehabbing the entirety, that would trigger the Special Permit. Ms. Knowles asked if alternative medicine was considered medical. Mr. Materazzo noted that it would be up to the Inspector of Buildings to determine if alternative medicine fell under the use. He read the definition which is "A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities."

David Brown of 31 Glenwood Road, Chair of the Zoning Board of Appeals stated that he felt the definition was clear and well established. He noted that the by right use would not eliminate other permits that are now required from other Town departments.

Greg Luckman of 13 Florence Street asked if medical uses are restricted to what would be covered by medical insurance. Mr. Materazzo stated that medical center or clinic is specifically defined by the Town of Andover and it is up to the Inspector of Buildings to determine if something fits within the definition.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to recommend approval of Article P-41 Amend the Table of Use Regulations for Medical Clinic. **Vote:** Unanimous (5-0).

139-143 Elm Street and 26 Pine Street:

John Smolak, an attorney representing the applicant, CSH Andover, LLC asked the Board to continue this hearing without discussion, as not all Planning Board members are in attendance. He also asked that the Board consider adding a dedicated meeting for this project to their schedule because of canceled hearings throughout the process due to unforeseen circumstances. Mr. Pouliot stated that he felt an extra dedicated meeting would be appropriate.

Mr. Chiozzi opened the continued public hearing for 139-143 Elm Street and 26 Pine Street.

139-143 Elm Street and 26 Pine Street (cont'd):

On a motion by Ms. Knowles seconded by Ms. Duff the Board continued the public hearing on 139-143 Elm Street and 26 Pine Street without discussion to March 31, 2014 at 8:00 p.m.

Vote: 4-0-1 with Mr. Chiozzi, Ms. Duff, Ms. Knowles and Mr. Pouliot voting yes and Mr. Doherty abstaining.

Town Meeting Warrant Articles:

Article P-47 Amend Dimensional Requirements in Industrial D2 Zoning District:

The Board continued their discussion on Article P-47.

On a motion by Ms. Duff seconded by Mr. Doherty the Board voted to recommend approval of Article P-47 Amend Dimensional Requirements in Industrial D2 Zoning District. **Vote:** 4-1 with Mr. Chiozzi, Mr. Doherty, Ms. Duff and Ms. Knowles voting yes; and Mr. Pouliot voting no.

Articles P-45 and P-46 Zoning Bylaw Amendment – Historic Mill District:

On a motion by Ms. Duff seconded by Mr. Doherty the Board voted to continue the discussion on Articles P-45 and P-46 the Andover Historic Mill District to March 31, 2015 at 7:30 p.m.

Vote: Unanimous (5-0).

Article P-44 Dimensional Special Permit – Historic Preservation:

Mr. Chiozzi opened the public hearing on Article P-44 Dimensional Special Permit – Historic Preservation.

On a motion by Ms. Knowles seconded by Mr. Pouliot the Board continued the public hearing on Article P-44 Dimensional Special Permit Historic Preservation without discussion to March 31, 2015 at 7:30 p.m. **Vote:** Unanimous (5-0).

Other Business:

Murray Hill Estates Performance Guarantee Extension:

On a motion by Ms. Knowles seconded by Ms. Duff the Board moved the performance guarantee for Murray Hill Estates subdivision be extended to March 31, 2017. **Vote:** Unanimous (5-0).

Adjournment: The meeting was adjourned at 9:16 p.m.