

Call to Order:

The meeting was called to order at 7:01 p.m. Present were Chair Zach Bergeron, members Vincent Chiozzi, Jay Doherty, Joan Duff (present for Regular Session only), Ann Knowles, and Associate Member Steven Pouliot; also present was Paul Materazzo, Director of Planning, Lisa Schwarz, Senior Planner and Tom Urbelis, Town Counsel.

On a motion by Ms. Knowles seconded by Mr. Doherty the Board moved to go into Executive Session for consultation with Town Counsel for confidential legal advice; and to discuss litigation strategy in National Development Acquisitions LLC v. Andover Planning Board; and the Chair declare that an open meeting would be detrimental to the Town's litigation strategy and to return to open session. The Chairman so declared that an Open Session would be detrimental to the Town's litigation position. **Vote:** Unanimous (5-0). Roll Call: Mr. Doherty yes, Mr. Pouliot yes, Ms. Knowles yes, Mr. Chiozzi yes, and Mr. Bergeron yes.

At 7:48 p.m. on a motion by Mr. Pouliot seconded by Mr. Doherty the Board moved to return to open session. **Vote:** Unanimous (6-0). Roll Call: Mr. Doherty yes, Mr. Pouliot yes, Ms. Knowles yes, Mr. Chiozzi yes, Mr. Bergeron yes, and Ms. Duff yes.

It should be noted that after the Executive Session, Attorney Urbelis left the meeting and did not return.

Town Meeting Warrant Articles:**Articles P-45 and P-46 Zoning Bylaw Amendment – Historic Mill District:**

Mr. Bergeron opened the continued public hearing on Articles P-45 and P-46 Zoning Bylaw Amendment – Historic Mill District.

Mr. Materazzo stated based off of residents' questions and ideas for improvement at the last public hearing, several amendments have been made to the overlay. The changes that have been incorporated offer clarifying language to assist in guiding development. He noted that the Board of Selectmen, the Council on Aging and the Andover Green Advisory Board have voted to support the article.

Ms. Knowles noted that she and Mr. Materazzo reviewed the details of heights and the setbacks and created areas of zones street by street. She sees this as an asset to Town. She added that the language has been tightened up and the design guidelines will address everything that they wanted them to address. Mr. Doherty stated that he sees this as a great opportunity for the Town. He noted that in 2008 Watertown enacted a similar overlay district in an area of Town that is now booming. Ms. Duff added that she sees this as a wonderful opportunity to expand the downtown.

Karen Herman of 50 Sunset Rock Road, Chair of the Preservation Commission, stated that the Preservation Commission has also voted to support the article.

On a motion by Mr. Doherty seconded by Mr. Chiozzi the Board moved to recommend approval of Town Meeting Articles P-45 and P-46. **Vote:** Unanimous (6-0).

Town Meeting Warrant Articles (cont'd):**Article P-44 Dimensional Special Permit – Historic Preservation:**

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

David Brown of 31 Glenwood Road, Chairman of the Zoning Board of Appeals noted that Article 7.9 of the Zoning Bylaw was adopted by Town Meeting 10-12 years ago. It allows for the ZBA to grant a special permit for a historic structure to be moved to a lot smaller than allowed, or for that structure to stay on the same lot with the lot being subdivided for an additional house to be built on the lot. The first permits issued were to move historic houses, and since its inception 10 permits have been issued. This has become a valuable tool for the Town to preserve recognized historic structures. In the past year deficiencies have become apparent in the Bylaw specifically in the case of lot size. This redraft of the Bylaw clarifies the zoning language and expands definitions, clarifies and codifies the roles of various Boards specifically the role of the Preservation Commission and it addresses confusion that has come to light over the years in the Bylaw. He noted that the original language reduced the requirements for the lot that the historic structure was on, but the new lot had to meet the dimensional requirements of the Bylaw. This now allows the new lot to have a reduced area and frontage. As rewritten, the Bylaw now removes confusion, will result in greater cooperation between the administering Boards and presents additional opportunities to preserve historic structures.

Karen Herman of 50 Sunset Rock Road, Chairman of the Preservation Commission added that this is a well thought out amendment that will give the Preservation Commission a better tool to help prevent demolition of historically significant structures. Ms. Duff stated that this is a good step to strengthen the Bylaw several years after rolling it out. Ms. Knowles agreed.

On a motion by Mr. Doherty seconded by Mr. Pouliot, the Board recommended Town Meeting approval of Article P-44. **Vote:** Unanimous (6-0).

Article P-54 Zoning Bylaw Amendment – Rezone Land off Fleming Avenue:

Mr. Bergeron opened the public hearing on Article P-54 Zoning Bylaw Amendment – Rezone Land off Fleming Avenue.

Mark Johnson of Johnson and Borenstein stated that a 2-lot subdivision plan was approved in February of 1964 off of Fleming Avenue. He noted that Lot A is zoned SRA and Lot B is zoned ID. The intent of this article is to rezone Lot B to SRA. He added that in changing the zoning it does not give approval for anything.

Mr. Bergeron asked what the total acreage was for both parcels. Attorney Johnson stated that the total acreage was 13.76 acres. Ms. Knowles asked if they would have to do a new subdivision plan. Attorney Johnson stated that they would have to come back to the Board with a new subdivision plan, and they would have to look into access and have the wetlands delineated. Ms. Knowles asked if they could require that any development be built in the style of the older

neighborhood. Mr. Materazzo stated that there was a possibility, but reminded the Board that a development is not what is before them. Ms. Knowles noted that the area was developed as **Town Meeting Warrant Articles (cont'd):**

White Shawsheen and the current SRA zoning allows for larger lots than the existing lots. She would like to see the historic lot sizes remain. Mr. Materazzo pointed out the Stirling Woods subdivision that abuts the property is a newer subdivision with larger lots. Attorney Johnson stated that smaller lots are something that they would be willing to consider.

Mr. Materazzo stated that the SRA district has a minimum lot size of 15,000 s.f., so to allow for smaller lots they may have to create a new zoning district. Mr. Chiozzi asked if a cluster subdivision is only allowed in SRC. Attorney Johnson stated that a cluster subdivision is allowed in any zoning district except SRA. Mr. Chiozzi asked who owned the property to the North. Mr. Materazzo stated it is a permanently protected open space parcel owned by Merrimack River Watershed Council.

David Brown of 31 Glenwood Road stated that given the demarcation of the railroad tracks from the other ID districts; he felt that it made a lot of sense to rezone this area. He added that the only mechanism to get smaller lots sizes is the 40B Comprehensive Permit. He encouraged the Board to support this article.

Eric Daum of 15 Carlisle Street stated that he is an abutter to Parcel A, sits on the Town's Design Review Board and is an architect by training. He stated that he is part of the Shawsheen working group and they have discussed rezoning the area to allow smaller lot sizes, greater density and smaller house sizes typical of Shawsheen Village. As an abutter he has concerns about development of the parcel, but he recognizes the rights of the property owners to develop the site. He stated that access to the site is only possible by way of Fleming Avenue which terminates not in a cul de sac, but at the last lot on the east side of the street. He added that there is a steep ravine midway through the site on eastern half with a 25-30 ft elevation change in a short distance. To the North is a significant amount of wetlands. He is also concerned about traffic because turning from Fleming Avenue onto Haverhill Street is a nightmare.

Ed Parker of 9 Carlisle Street stated that the elevation of the site is quite high and the water table is profound. He is concerned about the effect on the water table because everything rolls down hill and most of the people in the neighborhood already have sump pumps. Historically the area was known as the Filter Bed and the mill would pump their wastewater into the area. He was surprised that Stirling Woods was built without more consideration of what was dumped in that area which possibly included petroleum based chemicals, benzyne, VOCs and other contaminants. He hopes that if the area is developed, a due process of soil testing takes place as well as other examinations for hazardous waste.

David Brown of 31 Glenwood Road stated that the key element of rezoning is allowed uses. He noted that the current by right uses in the ID district are less compatible with the surrounding residential neighborhood. Attorney Johnson reiterated the purpose of the article and acknowledged that if they moved forward with a subdivision, other items would have to be looked at and they would be back before the Planning Board. He added that a Comprehensive Permit could be applied for without a rezoning.

Mr. Pouliot stated that he would like more time to review the article before a decision is made.

Town Meeting Warrant Articles (cont'd):

On a motion by Ms. Duff seconded by Ms. Knowles the Board moved to continue the discussion on Article P -54 Rezoning of Land off of Fleming Ave from ID to SRA to April 28, 2015 at 7:30 p.m. **Vote:** Unanimous (6-0).

Article P-63 Zoning Bylaw Amendment – Haverhill Street & Tantallon Road:

Mr. Bergeron opened the public hearing on Article P-63 Zoning Bylaw Amendment – Haverhill Street and Tantallon Road.

Bill Buckley, representing the proponent of the private warrant article, Neil Rosenberg and others, the owners of 10 and 16 Haverhill Street and 7 Tantallon Road, reminded the Board that he originally came before them in August with a request for them to consider rezoning the area. He noted that the discussion led to a larger discussion and workshops on possibly rezoning a larger section of the area, which will take more thought. From these discussions it appeared that there was some support for extending the General Business district into these parcels that are currently zoned Industrial A. The current uses at the site are consistent with the GB zone and include a bank, professional offices and personal service establishments. This would create an opportunity to redevelop the former Wood Mill Creamery Building, help to streamline the permitting process for existing businesses and tenants and prohibit undesirable industrial uses allowed by right at the site. He added that they have had meetings on this article with the Planning Division and the Shawsheen Village Working Group.

Mr. Buckley stated that the site is 2.74 acres and showed the existing zoning. He noted that the residential homes on York Street are also zoned Industrial A. He stated that in discussions with the neighborhood group over the reuse of the building, they would like something to fit into the character of the neighborhood. The proponents of the article are aware that if the zoning passes, significant work will need to be done including working on traffic concerns, parking, odor and noise concerns as well as being aware of the abutting River if any project were to be approved. He added they are not seeking approval of a project at this time but instead the ability to seek approval of a project.

Mr. Doherty asked Mr. Buckley if he has had meetings with the neighborhood. Mr. Buckley stated that they met with the group in January and they hope to meet with them again before Town Meeting. He also stated that he has had a meeting with the Planning Department and they have raised ideas and thoughts on how something like this should proceed. He added that included in the neighborhood group are two architects who have agreed to sit down with them to get ideas on the type of building that will fit into the character.

Mr. Pouliot asked if any members of the neighborhood group were present. Eric Daum of 15 Carlisle Street stated that the group has been looking at the property for almost six months. The group's primary concern all along has been the traffic on Haverhill Street, but the lots are acting as de facto general business at this time, and it seems like a logical move to make an official designation of those properties as general business. He stated that personally he is deeply concerned about the creamery building and every effort should be made to preserve that

building. The working group would like recognition that traffic and increased density in the neighborhood may be a problem, as well as that this may set a precedent for future development.

Town Meeting Warrant Articles (cont'd):

Frank McNally of 5 York Street noted that with the area zoned as IA, current businesses had to go through a waiver process in order to operate, and there were certain limitations to the types of businesses. He is concerned that making the area general business will make it easier to approve restaurants and other businesses of that nature, and with the site's proximity to Route 495 that use will increase traffic in the neighborhood. He noted that the working group has discussed the possibility of an overlay which could create a hybrid zone between industrial and general business and allow them to specify the types of businesses that would be appropriate for the location, and allow the businesses already operating ease with their permitting process.

Mr. Bergeron asked Mr. Materazzo to highlight what types of businesses would or would not be allowed as part of general business. Mr. Materazzo noted that the IA district allows for warehousing, contractor yards and more toxic uses. Mr. Bergeron asked if fast food restaurant was allowed in general business. Mr. Materazzo stated that it was allowed by a ZBA special permit. He noted that restaurants are allowed today in the IA by a ZBA special permit as well.

On a motion by Mr. Chiozzi seconded by Ms. Knowles the Board moved to recommend Town Meeting approval of Article P-63. **Vote:** 5-0-1 with Mr. Doherty, Ms. Knowles, Mr. Chiozzi, Mr. Bergeron and Ms. Duff voting yes, and Mr. Pouliot abstaining from voting.

It should be noted that after the public hearings on Town Meeting Warrant Articles, Mr. Doherty left the meeting and did not return.

139-143 Elm Street and 26 Pine Street:

Mr. Bergeron opened the continued public hearing on 139-143 Elm Street and 26 Pine Street, a Special Permit for Elderly Housing.

Joe McElwee of Capital Seniors Housing, the applicant, reviewed the process thus far including the neighborhood meetings that were held. He noted the changes that have been made to the application which include: decreasing the number of units to 96, decreasing the square footage of the building by 5,000 s.f., reducing the height of the building to 34 ft and rotating the building by 45 degrees.

Steve Ruiz of Mosely Architects presented the new design. He noted that the building has been rotated 45 degrees and lowered 4 ft into the ground so that it appears to be a 2 story building, eliminating the "wall-like" feel on Elm Street. Additional landscaping has been added for screening. The architecture was borrowed from features of buildings in the neighborhood. The building will have gable roof overhangs, wrap around porches in the front, a portico share, dormers, pop-ups and double hung windows. Walkways around the building will create different environments for residents.

Chris Huntress of Huntress Associates gave an overview of the special permit requirements and how this application meets or exceeds all requirements. He reviewed the area of the site within a 1 mile radius noting that Merrimack College and AVIS land abut the property, with Merrimack

owning frontage on Elm Street. Mr. Huntress showed the original site plan and then showed the plan with the revised 45 degree shift. He added that they are taking the building down 4 feet and **139-143 Elm Street and 26 Pine Street (cont'd):**

have removed 15 parking spaces reducing the impervious area. The number of pole and billiard lights is being reduced. Mr. Huntress showed the 7 ft high free standing monument sign that will be placed at the entrance, 30 ft back from the right of way of Elm Street. The pedestrian scale parking lot lights will be a single pole with a 12 ft height to the bottom of the fixture. He noted the internal walkways will have 3 ½ ft lighted bollards, and they will be meeting LEED criteria on the lighting.

Ms. Knowles asked who would own the land being transferred to AVIS. John Smolak, the applicant's attorney stated that CSH will retain ownership subject to a conservation restriction held by AVIS perhaps jointly with the Town, or with the Town having enforcement rights. He added that the Conservation Commission seems happy with AVIS holding the restriction. Ms. Knowles asked who would maintain the land. Mr. Smolak stated that that would have to be further discussed with AVIS. Ms. Duff asked if the wildlife areas abut AVIS land and Mr. Huntress stated that she was correct. Mr. Chiozzi noted that vehicular access to Pine Street would be permanently restricted, but asked if they will still allow pedestrian access. Mr. Smolak stated that vehicular access may be needed to service the stormwater facility once a year, but fencing or a protective buffer could be put in place at Pine Street. Ms. Duff asked if the asphalt would remain, and Mr. Smolak confirmed that it would. Ms. Schwarz requested that fencing designs be brought to the Board. Ms. Knowles asked how the changes to the plan would affect the drainage. Mr. Smolak stated that they would be addressing the drainage at the next meeting.

Mr. Pouliot stated that he would like to reserve his comments on the aesthetics of the building until all other issues such as traffic, drainage and municipal service issues are proven adequate. Mr. Bergeron asked him if he wanted to discuss the look of the building or if he had any other issues to discuss. Mr. Pouliot stated that there was nothing specific and he thought that the applicant made great efforts to improve the building, but while it may look nice he would like to make sure that all of the other factors are taken care of before he comments on the aesthetics. Mr. Chiozzi stated that now that the snow has melted he would like to schedule a site visit so that the Board can get a better understanding of the site and the elevations.

Ken Cram of Bayside Engineering, the applicant's traffic engineer, reviewed the revised traffic study. He noted that he met with Ms. Schwarz and Erica Guidoboni, the Town's traffic peer reviewer, to expand the scope of work based on Ms. Guidoboni's comments and comments received from residents. The crash data was expanded to a 5 year crash analysis and traffic projections were projected out for 7 years. There was no substantial change in findings in the crash history or traffic projections except at the intersection of Elm Street and Routes 114/125. He noted that the Merrimack Valley Planning Commission has had studies done on that intersection, but there is nothing in the works to solve the capacity issues on Route 114. Based on Ms. Guidoboni's review, the trip pattern has been clarified, the site distance numbers were revised and a site distance plan prepared. The plan now also includes a sidewalk along the site driveway that goes all the way down to Elm Street.

Mr. Cram stated that the original traffic study was 1 day of turning movement counts and 2 days of automatic traffic recorder counts of daily traffic volumes. Traffic counts were performed again in the middle of March which is typically a lower than average month. These counts were

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

lower than the volumes from October. The turn movement counts added in the Saturday peak period of 10:30 a.m. to 1:30 p.m. The unsignalized intersections operated at a Good Level of Service and the intersection of 114/Elm Street/Andover Street operated better on the Saturday peak than the weekday peak hours. The study area was expanded to the intersection of Elm Street/Washington Avenue/Walnut Avenue, with Walnut Avenue being a known cut through street. The volumes in the morning peak hour coming out of Walnut Street were 59 cars turning left onto Elm Street, 23 going through to Washington and 8 turning right onto Elm Street. In the evening peak there were 79 left turns, 33 cars going through to Washington and 4 right turns. During the Saturday peak there were 66 left turns, 26 going through to Washington and 5 turning right onto Elm Street. On Elm Street there were 55-58 vehicles making a right hand turn onto Walnut Street during the peak hours, 2-6 turning left onto Washington.

Mr. Pouliot asked if people drive the entire distance of Elm Street from Merrimack College to Elm Square, or if they branch off. Mr. Cram stated that typically they branch off and some traffic is picked up onto Elm Street from side streets. Mr. Pouliot asked if the new traffic count was taken during the Merrimack College spring break. Mr. Cram stated that as far as he knew it was not, and it was not done during any of the local school breaks. Ms. Knowles asked if anything stood out for the 3 p.m. hour. Mr. Cram stated that during the 3 p.m. – 4 p.m. hour there were 100 less cars than the peak of 5-6 p.m.

Mr. Cram reviewed the comparable sites that were taken into account in Webster and Burlington for traffic generation. He stated the counts at both sites were close to each other, with Burlington being a bigger facility. The traffic generation rates from the Burlington facility were used, which were higher than the ITE rates, and the numbers compared with this facility came out roughly the same. He noted that the Ms. Guidoboni concurred with these findings. He added that she asked for additional data to confirm the peak hour is 5 p.m. to 6 p.m. and does not shift to the 3 p.m. hour, which will be provided at the next hearing.

Mr. Cram stated that he looked at the crosswalk at Elm Street and Whittier Street. Improvements can be made to that crosswalk by repainting the pavement markings. In regards to bicycle and pedestrian activity, during the October 8th count, at Elm Street and Pine Street there were 8 bicycles and 46 pedestrians during the p.m. peak. He noted that Ms. Guidoboni suggested a crosswalk across Elm Street at that intersection which may be feasible if the Town Engineer concurs. He stated that one of the easiest traffic calming measures is to raise the crosswalks. This isn't a traditional speed bump, but instead a raised area that forces cars to slow down. Ms. Guidoboni also suggested bulb outs which narrow the road in an area by taking the extra width out of the shoulder creating a visual cue for drivers to slow down. Ms. Duff asked if that would be similar to what was done on Chestnut Street. Mr. Cram stated that Chestnut Street has a chicane which changes the directionality of the road. Elm Street is too much of a travelled way to consider making it a one way.

Bill Downs of 147 Elm Street stated that his property goes 600 ft back from Elm Street and is in line with this building. The lighting will devalue his property.

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

Bernice Downs of 147 Elm Street addressed the character of the neighborhood. She noted that the Town's first Post Office was built on Elm Street in 1785, her house is over 260 years old and most of the houses on Pine Street are over 100 years old. Regardless of what the traffic study states, she sees traffic on Elm Street every day. Almost every day in the newspaper there are advertisements for assisted living, so she doesn't know why another one is needed, and it will be detrimental to her neighborhood. She questioned if there will be blasting or stone crushing which will be terrible noises. She added that she can't understand how a company from Washington, D.C. can come in and ruin the neighborhood.

Jessica Enners of 6 Cheever Circle stated that she is concerned about the 3 p.m. shift changes of 40 employees because it is the same time children are getting off the school bus and the middle schoolers are crossing the street at one crosswalk. She is concerned for the safety of the children because residents will be able to hire private care givers who have not had CORI checks. She noted that there are currently three elderly facilities in Town and one is changing 13 units from assisted living to independent care. She is concerned of what will happen if the facility fails and has to close, and added that two facilities in Washington, D.C. and one in Minnesota have recently closed.

Nan Conte of 134 Elm Street stated that the driveway is small for the size of the facility. She added that Merrimack College is not part of the Elm Street neighborhood. She stated most of the houses on the street are 2,000 – 3,000 s.f which is nowhere near 88,000 s.f. She is concerned that moving soil and blasting will affect the water table for area homes and the wetland area that is a fragile ecosystem.

Lance Fromme of 23 Burton Farm Drive stated that he is mainly concerned about sewage and stormwater management. He added that with the redesign the building is still a 40 ft tall building. He noted that the original design was a block-like, very massive ugly building. At the community meeting in October, residents were encouraged to visit the Stonecroft facility in Burlington which he and his wife did, and he took pictures. The Burlington facility looks almost exactly like their new proposal, so he sees this as manipulative. Changes were not made based on resident input. He added that in Burlington he could not find a single family residence in the area.

Chuck Papaglia of 64 Summer Street noted that the applicant mentioned a 1 mile radius, but ¼ of a mile only touches residences and all of the property is zoned for residences. Mr. Papaglia gave the definition of the word "variance" from Webster's dictionary and stated that putting this facility in a residential area is breaking a rule. He noted that in the Lawrence Eagle Tribune on Sunday there was a full page advertisement for a local assisted living facility. He stated that the Town shouldn't go against existing zoning rules.

Christopher Yates of 130 Elm Street noted that if you cover up the building on the plan everything around it is single family homes and family oriented. He added that if you asked anyone in the room if they would be here if it were single family homes being developed they would answer no because that would be in character with the surrounding neighborhood.

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

Nat Boughton of 7 Cheever Circle stated that during the Board's earlier discussion on Haverhill Street they discussed conforming to the zoning, keeping the area consistent with what is there and making sure that it looked like the neighborhood/historic district. He noted that the Board should live by those words for the people who live in the homes of this area.

Robert Ciampa of 53 Pine Street stated that the 1,800 signatures are not neighborhood signatures. He added that community meetings do not equal neighborhood support, and there has been pushback. He stated that he is a Trustee of AVIS, and this does not imply AVIS support, they will take land to preserve it. He stated that Town Counsel has written a letter stating that the Board's decision is based on community impact. The people in the room understand the community impact and at the end of the day the vote comes down to community impact, not neighborhood and Town.

David Silverstein of 26 Burton Farm Drive stated that he did not hear anything about projecting an increase in traffic once the Merrimack dorms are complete and occupied. He added that he would like to follow up on comments from his neighbor Mr. Fromme. He doesn't want to get sucked in by pretty pictures with no guarantee of the final design. Ms. Knowles asked Mr. Cram to address the Merrimack College project. Mr. Cram stated that traffic projections for the Merrimack College dorms were included in the background traffic projections.

On a motion by Ms. Duff seconded by Ms. Knowles the Board moved to continue the public hearing on 139-143 Elm Street and 26 Pine Street to April 9, 2015 at 7:30 p.m. **Vote:** Unanimous (5-0).

Ms. Schwarz stated that the expected topics at the April 9th meeting include a continuation of traffic, stormwater, drainage and sewer, earth movement, need/social structures and noise.

Adjournment: The meeting was adjourned at 9:58 p.m.