

Call to Order:

The meeting was called to order at 7:30 p.m. in the 2nd Floor of the Town Offices. Present were Chairman Austin Simko, members Zachary Bergeron, Vincent Chiozzi, Joan Duff and Ann Knowles; also present were Paul Materazzo, Director of Planning, Lisa Schwarz, Senior Planner and Jacki Byerley, Planner.

Merrimack Valley Planning Commission Housing Update:

Mr. Simko opened the continued discussion with the Merrimack Valley Planning Commission on the regional housing plan. Mike Parquette of the Merrimack Valley Planning Commission reviewed the housing section of the Town's Master Plan and discussed with the Board if each goal was still valid.

The Board discussed if they wanted to specify the need for more units to be creating in town by infill or other means. Mr. Chiozzi noted that more units cannot be created in many areas of town without changing the zoning. The discussion turned to the need in town for more starter homes at more affordable prices for young families. Mr. Chiozzi stated that an obstacle for smaller lots with starter homes is the frontage requirements in Town.

Elizabeth Hedstrom Henlin of 10 Osgood Street stated that she was concerned that this plan fails to address what density does to a town of 34,000 residents that already has strains on its infrastructure and services. The Board needs to consider what accommodations would need to be made in other areas of town to allow for intelligent sustainable growth.

Mr. Simko asked what metrics are available to measure buildout and when the town will reach saturation. Mr. Parquette stated that a buildout analysis was done in 2001 and 2007. This can be performed again, however, there are certain unknowns that cannot be taken into account such as market changes, zoning changes and the permitting and construction of any 40B developments. Mr. Bergeron questioned what information comes out of that kind of analysis. Mr. Parquette stated that the information is how many units the town can accommodate under the current zoning. Mr. Chiozzi stated that he believed from a prior assessment, the projection for Andover was to max out at 38,000 residents.

Mr. Simko asked what direct support for low income homeowners and renters would encompass. Mr. Parquette stated that this strategy was something that people shared as an opportunity through MVPC's online program coUrbanize. He stated that this would be some sort of a subsidy funded by federal or state grants to help alleviate homeownership costs. Ms. Schwarz added that the Housing Partnership Committee has had discussions on how to help residents to age in place. Money from grants could be used to renovate seniors' existing homes to make them more accessible.

Nuala Boness of 4 Robinswood Way stated that Andover has tons of low income housing which is a strain on the infrastructure and safety. This is how it has been for the last 10-15 years and Andover has not had any single family-developments for families that can pay their way. Andover is trying to appeal to young families, not millennials. The town needs a plan to have a balance. Giving out charity is not the beginning of anything. She would like the town to focus on a strategy for busses to get people around. She would like the Town to focus on something

Merrimack Valley Planning Commission Housing Update (cont'd):

for her, such as a nice two bedroom, 1,000 square foot unit that would be more helpful for her to stay in town.

Mr. Simko stated he agreed that balance is important and the Board has been talking about balance tonight. The focus of the Planning Board is not just on affordable housing. In the last few months the Board approved a market rate single family development that is the subject of another agenda item tonight.

Lauren Annarelli of 7 Cherokee Circle stated that she has lived in Town for 5-6 years and she was able to find an affordable home in town and worked her way up to something else. Her age group is capable of finding a starter home in town. There is an abundance of starter homes. The younger generation is competing with the baby boomers that want to downsize. It is not in the town's best interest to accommodate millennials. She stated that we've all worked hard to get here, and the town shouldn't sacrifice everything to accommodate millennials.

Courtney Driscoll of 1 Carriage Hill Road stated she moved to Andover for the space and the atmosphere. If she wanted to live in a community with a mall and apartment buildings she would have stayed in Burlington. She felt that the face of Andover is being changed and it is bothersome.

Ms. Schwarz stated that all areas of town, unless classified as permanently protected open space, have development pressures. For a long time, the Board was seeing 9-lot market rate subdivisions of million dollar homes, and people felt that was ruining the character of Andover. The last Master Plan focused on stopping mansion-ization. Available land will continue to be developed, so the question now is what can be put in this housing plan to guide the Planning Board when future properties come forward for development.

Elizabeth Hedstrom-Henlin of 10 Osgood Street stated that she moved to Andover for her children to live in a walkable community. She stated that the Master Plan was well thought out and well crafted, but has been disregarded by many members of the town who push for special exceptions and variances. Intentional development should always be the goal. Not everything needs to be developed in the next 1-5 years. With the amount of housing that is being discussed to be developed shortly, you may gain millennials and retain seniors, but you will lose her family, and she could be a tax payer for the next 25-30 years. She suggested the Board try to not only win the battle but win the war in regards to age diversity in town.

Mr. Simko asked Mr. Parquette what MVPC needs from the Board moving forward. Mr. Parquette asked the Board to look at the Master Plan goals and come up with strategies to meet those goals. He added that this is a plan, not mandate. He stated that Essex County is 4,000 housing units shy of the vacancy rates you should have for single family homes and apartments for a healthy turnover. This is what contributes to bidding wars for homes. The Board discussed the Town's median income compared to the average sale price of a single family home. They noted that the prior presentation by MVPC showed that those making the median income in town cannot afford the median home price. Ms. Schwarz stated that this disparity affects economic development in town because the affordability of a community is something that large businesses

Merrimack Valley Planning Commission Housing Update (cont'd):

look at when they are looking at communities to relocate to. Mr. Chiozzi noted that it makes no sense to build cottages for 1 acre lots, so unless the town changes the zoning for smaller acreage and frontage requirements, which would then add to the density of town, it will be difficult to add units. He added that it is very difficult to get the 2/3rds vote at Town Meeting required for a zoning change.

61 Main Street:

Mr. Simko opened the continued public hearing for 61 Main Street, an application filed by TD Bank, NA for a Special Permit for Change in Parking Space Requirements.

The Board discussed the proposed conditions for this permit with Bill Cooper of TD Bank and his attorney, Mark Johnson. The discussion focused on what changes to the property or use would trigger the need for the applicant to come back to the Board to reexamine the parking. The Board was most concerned with protecting their right to reconsider the parking calculations under certain conditions, such as if the building were to be demolished, razed, enlarged or renovated, or if the use were to change. Attorney Johnson offered that in regards to use, if the change in use did not require more than 44 parking spaces, his client would not want to have to come back to modify the special permit. Mr. Chiozzi questioned if a renovation without a change in use could increase the number of needed parking spaces. Attorney Johnson stated that a condition could be added that any activity that requires more than 44 parking spaces would be cause for the parking special permit to be reconsidered. Mr. Bergeron asked if based on the current square footage, if there were any other uses that would require parking numbers close to 44 spaces. Attorney Johnson stated that a Business, professional or administrative office use would require 35 parking spaces.

The Board and applicant agreed that in regards to the validity of the special permit, a condition should read, "The special permit shall remain in effect, so long as any change does not result in the need of more than 44 parking spaces, otherwise the Planning Board shall reconsider the parking calculations and special permit at a regularly scheduled public meeting." The Board reviewed the five conditions that would be placed on the special permit.

On a motion by Ms. Knowles seconded by Mr. Bergeron the Board closed the public hearing for TD Bank 61 Main Street Special Permit for Change in Parking Space Requirements. **Vote:** Unanimous (5-0).

On a motion by Ms. Knowles seconded by Mr. Bergeron the Board approved a Special Permit for Change in Parking Space Requirements for 61 Main Street with the following five conditions as elaborated in discussion. **Vote:** Unanimous (5-0).

It should be noted that after the discussion on 61 Main Street, Mr. Simko left the room and returned after the discussion on meeting minutes.

Discussion Items:**Meeting Minutes:**

On a motion by Ms. Duff seconded by Ms. Knowles the Board approved the minutes of the Andover Planning Board of September 26, 2017. **Vote:** Unanimous (4-0).

100 Federal Street – Sarepta Therapeutics:

Mr. Simko opened the discussion on a request by Sarepta Therapeutics located at 100 Federal Street to commence construction on an 8,500 s.f. addition that was part of their Master Plan per Special Permit SP95-11.

Mark Johnson, an attorney representing Sarepta Therapeutics stated that the addition is to be constructed within the parameters of the phased construction approved per SP95-11. In 1996, 41,000 was constructed with an 8,700 s.f. addition in 2003 and an 8,600 s.f. addition in 2005. Before each addition began, the applicant sought and received a vote from the Board reaffirming the vote of the phased construction.

Susan Mohn of John Crowe and Associates, a representative for the applicant, reviewed the site plan. She noted that this addition is less than what was originally proposed for its location. The utilities for the addition are already in place. The roof water will go to Pond B per the original permit issued. No additional parking will be added.

Ms. Byerley stated that there is additional square footage available per the Master Plan of the property that could come back to the Board at a later time for approval of construction. Ms. Knowles asked if any new addition would trip the need for additional parking. Ms. Byerley stated that the parking was reviewed as part of the approved 85,000 s.f. and there is parking being held in reserve that has not been constructed yet. Mr. Chiozzi asked if there were any parking issues right now and Ms. Mohn stated that there were not.

On a motion by Mr. Bergeron seconded by Ms. Knowles the Board agreed that the construction of 8,500 square feet falls within the scope of the original permit issued in 1995 permit SP95-11. **Vote:** Unanimous (5-0).

Fleming Avenue Subdivision Homeowners Association Documents:

Ms. Byerley informed the Board that a condition of the Fleming Avenue Subdivision approval was the establishment of a Homeowners Association that would be reviewed by Town Counsel and approved by the Planning Board before being recorded at the Registry of Deeds. Town Counsel and the Engineering Department have reviewed and approved the Homeowners Association documents and a recommendation for the amount to be deposited by the developer into the HOA account has been made. Proof of the deposit by the developer will have to be made and there are a couple of scrivener's errors in the documents that will be corrected before recordation.

On a motion by Ms. Knowles seconded by Mr. Bergeron the Board approved the Declaration of the Fleming Avenue Subdivision Homeowners Association as submitted with scrivener's errors corrected. **Vote:** Unanimous (5-0).

146 Dascomb Road – Update from Property Owner’s Representatives:

Mr. Simko opened the discussion on 146 Dascomb Road, an update from the property owner’s representatives. Attorneys David Torrisi and John Arnold and engineer Rick Friberg were present representing Lupoli Companies.

Mr. Arnold stated that a draft warrant article was provided to the Board to allow Planned Developments in the ID2 Districts subject to an enhanced two-step approval process. The first step would be to obtain approval from Town Meeting on a development plan and the second step would be for the Planning Board to approve the special permit. The warrant article outlines what would have to go into the development plan to be reviewed at Town Meeting.

Mr. Simko asked what the permitting process would be after Town Meeting votes on a conceptual plan. He specifically asked what Town Meeting would be approving and what the scope would be of the Planning Board’s review. He questioned what discretion the Planning Board has to modify what Town Meeting has approved. Mr. Friberg stated that Town Meeting would be approving a master plan for the site which would include items such as dimensional information, parking and allowed uses on the site. The Planning Board would review the site plans for conformance to what was approved at Town Meeting. Mr. Simko asked if it would be a Site Plan Review or a Special Permit Review. Mr. Friberg stated that it would be both a Site Plan Review and a Special Permit for ID2 Use. Mr. Simko asked if the Planning Board would be able to deny the project if it did not meet the special permit criteria such as if the Board felt that it would be a detriment to the downtown. Mr. Friberg stated that special permit criteria would still have to be satisfied.

Mr. Chiozzi asked if they are proposing one warrant article to change zoning to allow a Planned Unit Development in ID2, and if that is approved, at the same Town Meeting, to propose details for their property as a separate warrant article. Mr. Arnold stated that he was correct. Mr. Chiozzi questioned this process as the Attorney General must approve any zoning changes after Town Meeting. Tom Urbelis, Town Counsel stated that he would appreciate if Mr. Lupoli’s attorneys could provide him a legal precedent for filing an application in regards to a warrant article under a zoning bylaw that hasn’t been adopted.

Mr. Bergeron asked if there is a precedent in Town for a conceptual master plan being approved. Mr. Materazzo stated industrial subdivisions such as Minuteman Park off of River Road have obtained approval of master plans from the Board. Ms. Knowles stated that this would very detailed and the Board would want the ability to get into the weeds of it and not have a master plan tie the Board’s hands. Mr. Chiozzi stated for clarification purposes Minuteman Park was not approved at Town Meeting. Mr. Bergeron asked if any master plans have ever been proposed and approved at Town Meeting and Mr. Materazzo stated that there have not been such approvals in Andover.

Mr. Simko asked what Lexington’s experience has been with this process. Mr. Arnold stated that in Lexington you can apply for a Planned Unit Development in any part of town at Town Meeting. If it is approved at Town Meeting, the Planning Board has less review authority than what this is being proposed here. Mr. Simko asked what the benefit is of a master plan first going to Town Meeting if the Planning Board will then perform its normal review. Mr. Friberg

146 Dascomb Road – Update from Property Owner’s Representatives (cont’d):

stated that the residents are asking to set the bar higher of achieving the 2/3rds vote at Town Meeting. David Torrisi an attorney representing the applicant stated that people also want to be able to talk about the project at Town Meeting. Mr. Bergeron noted that the zoning change would affect more than the 146 Dascomb Road parcel. Mr. Materazzo stated that this zoning change would also impact the ID2 district on River Road. Mr. Arnold stated that the master plan approval provision allows the town to look at each project in the ID2 district on a site by site basis.

Ms. Knowles stated that she is concerned about the differences between the existing ID2 special permit process and its requirements and this Planned Unit Development process and its requirements. Mr. Friberg stated that the dimensional requirements are different but the special permit criteria are the same. Differences are that this would include housing and zero lot setbacks.

Mr. Simko asked if there would still be a requirement for 15% affordable housing. Mr. Friberg stated that the requirement would remain. Mr. Bergeron asked why the housing would be restricted to over 55. Mr. Friberg stated that the community was concerned about the number of school children who could live in this development. He stated that they also learned that there is a big market in town for over 55 housing. Mr. Materazzo asked if the community would vote on the total unit count. Mr. Friberg stated that Town Meeting would vote on exact square footages for all of the uses including the residential which has made it easier for impacts to be quantified.

Ms. Knowles asked if the Board will have the ability to talk about how the proposed development fits on the site and give constructive feedback on the density of the development which the developer will respond to. Mr. Friberg stated that the Board would have that ability and the Design Review Board would also have the ability to discuss massing, parking locations, etc.

Elizabeth Hedstrom Henlin of 10 Osgood Street noted that Mr. Lupoli and his representatives here tonight are not residents and residents only can file warrant articles. She questioned what will be amended on this draft and what will be actually submitted to the warrant. She suggested the residential units be restricted to being owner occupied because additional aggregated rental properties are not needed on Town. Mr. Torrisi stated that 100 residents will sponsor the articles. He added that the units will be rentals because Mr. Lupoli holds on to all of his properties.

Joe Albuquerque of 197 Greenwood Road asked what the square footage, number of bedrooms and rents would be for the units. Mr. Friberg stated that it would be 225 units with a mix of 1-2 bedroom units. He stated that Mr. Lupoli has stated that the rents would be \$2,000 - \$2,600 a month. Mr. Albuquerque asked for all documents that the town has received on this item to be placed online on the Task Force’s webpage. He asked if anything else has been provided to the Board regarding what could be done on the property by right. Mr. Materazzo stated that a conceptual proposal had been provided to the town. Mr. Albuquerque also asked for a 43D district to be explained. Mr. Materazzo stated that 160 Dascomb Road has been identified by the state as a 43D district for expedited permitting but this site has not.

146 Dascomb Road – Update from Property Owner’s Representatives (cont’d):

Courtney Driscoll of 1 Carriage Hill Road asked if the Task Force is supposed to gather all of the information and provide feedback before Special Town Meeting. Mr. Materazzo stated that the Selectmen have put together the Task Force and its first meeting will be the following week. Ms. Driscoll asked if Mr. Lupoli has any special rights that is allowing him to bring both the zoning article and the master plan article to the same Town Meeting. Mr. Materazzo noted that Town Counsel asked tonight for Mr. Lupoli’s representatives to provide information on any precedent from the Attorney General that would allow them to do this at one Town Meeting.

Brad Weeden of 5 Summer Street asked where they will move the cell tower on the property. Mr. Torrissi stated that he did not know where it would be moved.

Dan Esdale of 4 Surrey Lane asked if the Board will vote a recommendation before Town Meeting. Mr. Torrissi stated that the Planning Board has to have a hearing on the final language. Mr. Esdale asked if the Board will allow the project to be talked about. Mr. Simko stated that the zoning language and the project would both have to be talked about. Attorney Urbelis stated that the articles would also come before the Board of Selectmen for hearings.

Mr. Materazzo asked what changes to the conceptual plan would require it to have to go back to Town Meeting for approval. Mr. Friberg stated any change in use or anything that exceeds the outlined thresholds.

Elizabeth Hedstrom Henlin asked why a change in use would require it to go back to Town Meeting and not just Planning Board approval first and then Town Meeting approval. Mr. Friberg stated that the intent was to make it very restrictive. Ms. Hedstrom Henlin advised the Board to identify the scale of change that would mandate a return to Town Meeting.

Town Meeting 2018 – Revisions to Sign Bylaw and Banner Bylaw:

Tom Urbelis, Town Counsel, informed the Board that a recent case decided by the U.S. Supreme Court affects the Town and most municipalities in the country. It is related to sign and banner bylaws. The Supreme Court has ruled in *Reed v. Gilbert, AZ* that when municipalities regulate the content of a sign it will trigger the First Amendment. Justice Scalia gave guidance that there could be regulations pertaining to size, location, distinguishing between lighted and unlighted signs, distinguishing fixed messages and electronic signs, distinguishing between signs placed on commercial and residential, distinguishing between premises and off premises, restricting the total number of signs, restricting what is allowed per mile or per roadway and imposing time restrictions on a particular timed event.

Attorney Urbelis stated that he and his colleague Carol McGravey provided the Board with the existing sign bylaw with markups of potential revisions for discussion. He added that this will also apply to the banner bylaw. This will kick off discussions with not only this Board but also the Design Review Board.

Town Meeting 2018 – Revisions to Sign Bylaw and Banner Bylaw (cont'd):

Ms. Knowles stated that she would like to run it through the Design Review Board so that the Town maintains all control that is allowed. Attorney Urbelis stated that the Tow will still have a lot of control, there will just be a new limitation.

Adjournment: The regular meeting was adjourned at 9:55 p.m.