



**Town Council Planning Subcommittee Meeting  
Library Conference Room  
Wednesday, March 7, 2018  
9am**

Present:

Chairman Donald Anderson, Town Council  
Michael Kane, Town Council  
Thomas O'Connor, Town Council  
Ralph Page  
Marilyn Richards

Also Present:

Thomas Florence, Town Clerk  
Denise Menard, Town Manager  
Larry Smith, Interim Town Planner  
Attorney Jane Mantolesky  
John Taikina, Developer  
Joseph Connelly, Property Owner

Subcommittee Chairman Anderson opened the meeting of the Town Council Planning Matters Subcommittee at 9:05am.

Chairman Anderson explained the Subcommittee's concerns of the proposal, specifically regarding Site Plan Review vs. Special Permit to Town Planner Smith. It seemed to Chairman Anderson to be the consensus among the Subcommittee that Special Permit is preferred. Town Planner Smith explained the difference between Special Permit and Site Plan Review. Special Permit is looked at case by case. The Special Permit process would include Site Plan Review (statute) and would allow flexibility to deny a project. Site Plan approvals are "by right" (case law), needing a really good reason to deny them, since the bylaw has already said that this use is allowed on that particular lot in this particular district. Site Plan Review is not a permit, but rather an administrative review process. Ms. Richards expressed concern over the latitude allowed developers with Site Plan Review, stating that in her history, East Longmeadow has never denied a Special Permit request.

Mr. Kane then asked Town Planner Smith to inform the Subcommittee on what this proposed zoning change could mean for the Town. Town Planner Smith said that the uniqueness of East Longmeadow is its practice of creating a special zoning district for individual parcels, which is unlike other towns. The reason for this is to give the Town the ability to decide whether or not that particular project is suitable for that given parcel. He stated that by requiring Special Permit, there are two steps required when only one is really needed to determine such suitability. Ms. Richards pointed out that East Longmeadow's approval process reflects who the Town is and asked if it is illegal. Town Planner Smith said it is not illegal. Ms. Richards expressed that without age restriction or other controls, this could be a scary process without Special Permit. Town Planner Smith agreed, and said his opinion is that the conditions you place when granting the Site Plan would prevent that. The needs of the project, not the applicant, need to be put first when granting a permit.

Chairman Anderson then asked if giving up an industrial zone to residential and retail zoning make good planning sense for the Town. He pointed out the many current industrial zoned businesses that are doing well, and talk of additional manufacturers interested in coming in. Town Planner Smith explained the many facets that could affect

that...revenue, jobs, use of services. With a market rate housing shortage in this state, there is a need for balance. Chairman Anderson pointed out that this particular developer is looking to offer their residential units at above market rate, and agreed that this project will push the Town's affordable housing goal back even further, making it more vulnerable. Ms. Richards asked if the State could hypothetically show leniency for 40B, if the Town could show that they had exceeded their affordable housing requirement. Town Planner Smith was unsure of the answer, but believed the State considers each project individually. Town Planner Smith then clarified that 40B allows a developer to usurp all zoning requirements in the interest of providing affordable housing. Ms. Richards expressed that a "high-rise" type structure would not necessarily fit aesthetically in a neighborhood of single-family homes, for example, but was not quite as concerned about its use. Mr. Page reminded the Subcommittee the need to look at the development as a whole when deciding between Special Permit and Site Plan Review. Individual businesses normally required to obtain a Special Permit within the development, such as restaurants, massage therapists, etc., would still need to go through that process. Town Planner Smith reflected that a mixed use development zone should also include the primary uses allowed by right. Mr. O'Connor stated that it would be fallacy to create a bylaw for a particular use if it will not be used in that way. He also described the sentiment of the hundreds of residents he has spoken to, not desiring to have a high-rise type development in this community. Town Planner Smith opined that mixed use is a positively trending development style, but that the Town has the right to not allow it by bylaw. Mr. O'Connor said that based on feedback he has received, if a mixed use bylaw had to go to Town Meeting, it would fail. Mr. Page pointed out that a bylaw would not necessarily apply to every other business wanting to do something similar. There would be a need to prove the need/benefit to the Town. Ms. Richards expressed concern about having high end housing, but nothing affordable. She pointed out that there is currently a struggle to sell the currently available condos in the community, as it is. Chairman Anderson contributed that Fields at Chestnut only has something like 69 out of 119 high end housing units sold. Mr. O'Connor asked the developer who was present for comment on what they would do with the property if mixed use was not an option. Mr. Taikina said they would demolish the building and put up a warehouse.

Chairman Anderson would like to see language that requires adequate parking but not necessarily paving it over, allowing for green space until the need arises. Town Planner Smith said the Town of Hadley does this, and he will get the information for the Subcommittee

Chairman Anderson questioned whether there was a way to protect the Town, should the developer's projections about traffic and school children, etc., not hit the mark. Town Planner Smith answered that state law reform is continuously introduced but has not yet passed to allow for a Town to assess impact study fees. Chairman Anderson brought up the example of the rotary in the center of Town, and how a retail and residential development would impact that area much more than, say, a warehouse.

Town Planner Smith confirmed that under Special Permit, the Town could reduce the number of units allowed or even deny it outright. Mr. Kane asked the developers about their backup plan, should the mixed use bylaw not come to fruition. Mr. Taikina stated that as allowed density changes, plans will change. Mr. Kane said it is difficult for the Town to know how to craft the bylaw without drawings, impact study, etc., which is, reasonably, not possible for the developer to provide right now without knowing the bylaw. Mr. Taikina stated that the developer would rather the Town craft the bylaw they are comfortable with now, instead of restricting by Special Permit later. Comparisons were made to Center Square plaza growth, which is Special Permit. Mr. Taikina shared that the traffic study engineer was given instructions to provide a worst case scenario. Ms. Richards confirmed that a mitigation agreement in the Special Permit for Center Square has not had to be used, but if they did, they'd be able to. Something like this could be applied to the traffic impact of the mixed use zone.

Chairman Anderson asked the developer if the condos would be allowed to be rented, or restricted to owner occupied. Mr. Taikina stated that they have not been successful with having those restrictions in their condo documents, so they would not be strictly owner occupied, however they have not, in their experience, had any less than 70% of their previous units owner occupied. Chairman Anderson expressed concern about restricting rental from a transient atmosphere, ie: Airbnb. Mr. Taikina stated that they have previously been successful with that type of restriction, so that would not be a concern. Ms. Richards said within mixed use bylaw, you have to create scenarios for height requirements, density, etc. within that particular zone and for the benefit to the community.

Town Planner Smith asked the developer why they had such strong reservations regarding Special Permit. Mr. Taikina stated that Special Permit can be easily revoked. Town Planner Smith confirmed that Site Plan Review is very limited in its chances of being revoked. Mr. Taikina offered that as more businesses come into a mixed use development, traffic goes down because of the uses interacting, providing a trip sharing scenario. He also reminded the Subcommittee that they are willing to do what the Town wants, they just don't want to have changes or revocations years down the road after having been well established. Town Planner Smith clarified that you can really only revoke a Special Permit if there is some material violation. He also said when a zoning map change passes, one can go for Special Permit and be denied, but that a Special Permit being pulled half way through is extremely rare. Ms. Menard offered that her experience in finance proved that even if that happened, it still doesn't really jeopardize financing.

Mr. Kane asked if Town Planner Smith knew how many parcels in Town are currently zoned Industrial Garden. Town Planner Smith indicated that he could find out that information, if it was necessary.

Regarding minimum acreage, Mr. O'Connor asked Town Planner Smith if the developers could develop all 40 acres, if that was the minimum set in the new bylaw. Town Planner Smith said that is inevitably up to zoning, because this is a request for a zoning map change. There would need to be a requirement that the development has to be a minimum of 40 acres and that they cannot subdivide.

Ms. Mantolesky suggested that in Site Plan, another requirement could be added (via checkbox item) for mixed use developments, rather than require them to go through Special Permit which is subject to future revocability. Town Planner Smith conceded that Special Permit findings are very subjective. Ms. Richards expressed concern that if the Town votes to allow mixed use development with only Site Plan review, everything looks great on paper, but then the developer could submit a plan that the Town feels is too robust for the community, instructing the developer to scale it back. With this scenario, the Town could then end up in a legal battle. Town Planner Smith opined that Site Plan review is comprehensive enough without the need for Special Permit.

Mr. Taikina clarified that he would like there to be some language that protects condo owners' rights to sell their units.

Chairman Anderson asked the Subcommittee their thoughts on a recommendation to the Town Council regarding Special Permit vs. Site Plan Review. The discussion was that a change of the proposed bylaw to Special Permit would be favorable.

Chairman Anderson asked the Subcommittee for their thoughts on a recommendation to the Town Council regarding minimum acreage. The Subcommittee discussed a minimum of 40 acres.

Chairman Anderson asked the Subcommittee for their thoughts on a recommendation to the Town Council regarding height of the residential buildings. The Subcommittee discussed the potential of the proposed 4 story

building with 50 feet in height within 400 feet of the road, then 60 feet in height, set 100 feet back due to the pitched roof (typical roof pitch is 7/12).

Ms. Menard clarified that the Town Council can deny a revised proposed bylaw if it has changed too much from the original proposal. Council can vote it down, and then ask Planning Board to create, with their suggestions, a new proposed bylaw, which essentially starts the process over again. The Planning Board right now cannot open a public hearing on this same proposal again. There is a need for clarification on whether or not Home Rule Charter applies to the Planning Board bylaw.

Chairman Anderson said that he would like the Planning Board to create a proposal that is good for the town and wants it on the record if the Planning Board does not support mixed use.

Mr. Taikina stated that should the bylaw require the Mixed Use Development to be under Special Permit, then the Industrial Garden Park parcel should remain Industrial Garden Park zone, with a Mixed Use Development under Special Permit listed in the table of uses for the Industrial Garden Park. Ms. Richards wondered if changing the language to allow industrial use will mean they have to go through the process from the beginning again. Ms. Menard was asked to consult town counsel on that issue.

It was decided that another meeting of the Subcommittee would be needed to discuss and decide on a recommendation for the remaining items not addressed during this meeting.

The next meeting was scheduled for Wednesday, March 14th at 9am in the Library Conference Room.

Ms. Richards moved to close the meeting at 11:15am. Mr. Page seconded. **The motion to adjourn the meeting at 11:15am passed unanimously (5-0).**

Respectfully submitted,

Tracy Berns  
Planning Administrative Assistant