



**APPROVED**

Meeting Minutes

October 24, 2017 Planning Board Meeting

7:00 P.M. | City Council Chambers, Woburn City Hall

Chair pro tem Mr. Jim Callahan called the meeting to order at 7:00 p.m. and asked Planner Karen Smith to conduct a roll call of members.

**ROLL CALL OF MEMBERS**

Mr. Kevin Donovan, Mr. Bob Doherty, Ms. Claudia Bolgen, Mr. Jim Callahan, Mr. David Edmonds were present. Mr. Michael Ventresca, and Chair Carolyn Turner were absent. Also present were Planning Director Tina Cassidy and City Planner Karen Smith.

Member Jim Callahan acted as Chairman for this meeting in Carolyn Turner's absence.

**PUBLIC HEARING ON ZONING TEXT AMENDMENTS**

Alderman Joanne Campbell appeared before the Board to present her petition to amend Section 11.11 (Subsections 1,3,4 and 5) of the Zoning Ordinance (Affordable Housing Requirement) by (a) Increasing affordable housing requirements applicable to special permit petitions from 10% to 25% of units; (b) Expanding the applicability to include uses where dwelling units are located above first stories in commercial structures; (c) Deleting the option of offsite affording housing units by petitioner request; and (d) Deleting a cash payment option to satisfy affordable unit requirements in cases where the number or required affordable units results in fractions below 1.

Alderman Campbell requested permission to submit an informational packet to the Board containing a copy of the original ordinance in addition to a red-lined version to highlight her proposed changes.

Motion to accept Alderman Campbell's packet made by Edmonds;  
Seconded by Bolgen;  
Motion carried, 5-0-0.

Alderman Campbell addressed the board stating Woburn has always been committed to creating affordable housing for its residents and noted several homes within the city are selling upwards of \$1 million. There is a need to provide housing for our children and seniors who chose to stay in Woburn. Due to the current real estate market, many seniors are unable to downsize and first-time homebuyers are having difficulty affording the current housing prices with the limited stock within the city. Alderman Campbell noted the huge growth coming out of Boston is causing housing prices and rents to skyrocket as the city's location at the intersection of Routes 93 and 95 reflects positively on our housing values. Alderman Campbell questioned as to how we produce more affordable housing for our residents and at the same time not over-develop but also reach the State's 10% affordable housing requirement.

Alderman Campbell addressed how the State's affordable housing requirements affect our city. She noted the state passed Chapter 40B in 1969 to address the concerns of affordable housing in Massachusetts and the city is required by law to have at least 10% of their housing stock affordable. In 2007, Woburn Alderman Joanna Gonsalves created the city ordinance requiring 10% of market rate units be affordable and the City is currently only at 8.74% of their quota. Alderman Campbell feels it is the perfect time to address this issue as this past August the city obtained a two-year "safe harbor" with respect to "unfriendly" 40B applications. She supports affordable housing and noted the importance of regaining local control while developing Chapter 40B developments in the locations where the city would like to build them rather than having the developer dictate the locations of 100 to 200-unit developments as she used the recent R1 zoned 40B Mill Street project as a reference. Alderman Campbell also mentioned additional traffic issues that coincide with large housing developments.

Alderman Campbell stated while her proposal of 25% is bold and aggressive she feels it is necessary to get local control back into the hands of the city as it is needed to reach the city's goal of 10% affordable housing units. She added the Census is an important piece in the calculation of the number of affordable residential units, as the current figures were based on the 2010 Census and our current 8.74% status will plummet. This is due the amount of new construction in Woburn and its relation to the fact that the next set of figures will be calculated using information gathered from the 2020 Census.

Alderman Campbell stated her goal is for the Planning Board and City Council to collaborate on this issue and develop the best scenario for the city. She feels the three different ordinances in her proposal address this issue.

Alderman Campbell stated the first ordinance is adding 5.1 line 5 into the affordable housing requirement and added that our business downtown district is not required to have 10% of any new housing units built go towards our 10% affordable housing quota. She cited the most recent proposed Strand Theater apartment project as an example stating that if it came to fruition with the current zoning code, not one affordable housing unit would have been created; adding that her proposed ordinance would remedy that scenario.

Alderman Campbell stated her second ordinance deals with the percentage of affordable housing the city requires of developers whether they are townhouses, apartments, or condominiums. She noted she would prefer to increase the number of affordable housing units to a 25% threshold but would discuss raising it to at least 20% if people feel 25% is too aggressive. Her reasoning is if at least 20% of the newly developed units to go toward the affordable housing requirement, the city will reach the 10% threshold quickly and will remain there. With a 20% threshold all of the units within a development will be counted. She provided an example stating at our current rate of 10%, only 10 units would count as affordable in a 100-unit apartment building. If we increase the threshold to 20 or 25%, we would have all 100 units counted toward our goal. Alderman Campbell stated that is one of the reasons why the two recent 40B units were able to count all their units and that helped us reach safe harbor status.

Alderman Campbell further explained the difference between a 25% and 20% threshold noting she spoke with two members from the Woburn Housing Authority and based her calculations using the HUD formula. She stated if 25% of the developer's market rate units become affordable, a resident would pay rent of \$1575/month. Her calculation was as follows: The median household income in Woburn is \$78,500; 80% of \$78,500 is \$63,000 and 30% of that figure is \$18,900; \$18,900 divided by 12 months would be \$1575/month.

Alderman Campbell continued to explain the formula would be a bit different if 20% of the developer's market rate units became affordable. Her calculation was as follows: 50% of the median income of \$78,500 would be \$39,375; a resident would pay 30% of that figure over twelve months resulting in a rent payment of \$984/month. Alderman Campbell pointed out at 25% the developer is actually getting more income per month.

Alderman Campbell stated the last ordinance has three sections. Part one would eliminate Section 11.1 Line 3 in its entirety and would eliminate the potential option of siting required affordable housing units "offsite" from the proposed development; Section 2 rennumbers 11.1 Line 4 as Section 11.11. Line 3; and Section 3 states any fractional number in calculating units will be rounded up.

Alderman Campbell concluded that she feels the city needs to be proactive and if the city doesn't take this bold move and raise the percentage of our affordable housing to 25%, or at least 20%, as we will not be able as a city to get out of the threat of 40B projects and meet our 10% quota. She stated we must create affordable housing for our residents, our children and the seniors in our community. She believes these three ordinance changes will at least start the discussion heading in the right direction.

Edmonds questioned if a 25% threshold has been tried in another community in Massachusetts.

Alderman Campbell responded there aren't any communities at 25% that she is aware of and added most of the other communities are at 10-15%, with 15% being the most common. She stated this past June, Cambridge increased to 20%; reason being so they can count all of the units in their developments in order to reach their 10% threshold.

Edmonds questioned if that was challenged in court and inquired what a cutoff point would be; stating if 25% is good, why not 50%, adding that some may feel it is seizure of their property so to speak and wondered if it was legal.

Alderman Campbell responded that she was not aware of any challenges in court and believes that it is legal. She emphasized that she does not want to stop development, only slow it down. She continued that Woburn has a few huge projects coming and feels that the city is at the tipping point of being overdeveloped, adding to traffic issues that also need to be addressed. She continued that if you implement a 50% threshold, the developer would not make any money on the project as we walk a fine line to maximize units and still encourage development. Alderman Campbell stated that the City needs to step back and decide what are we going to do with the land that is left and what is best for the residents.

Edmonds expressed concern regarding developers buying multiple adjacent lots and building large 40B developments in residential neighborhoods.

Alderman Campbell stated Edmonds' scenario is a concern to both her and her colleagues and referenced the current Lexington Street / Shannon Farm 112-unit project. City Council's concern was the pressure they felt due to the fact that if the developer decided he couldn't maximize profit with 112 units he could have sold that property to someone that would have put in a 40B project with possibly 500 units. She reiterated that is why it is so important to get to at least the 20% requirement so we can say no to the 40B projects and not be so vulnerable.

Doherty asked for clarification regarding a scenario if the city has a 20% requirement and a developer builds a 100-unit complex: would all 100 of the units count toward affordable housing?

Alderman Campbell responded yes but deferred to Cassidy for clarification.

Cassidy stated a project with 20% of the units could have all the units counted, however, but only if those units were affordable to people at 50% of the area median income. Our ordinance today is at 80% of area median income. With 80% you'd need a minimum of 25% of the units affordable to get all of them to count toward the subsidized housing inventory.

Alderman Campbell confirmed with Cassidy that all 72 units on Mill Street counted toward our affordable housing inventory.

Cassidy responded positively and noted 25% of the units at Mill Street are affordable to people at 80% of the area median income.

Bolgen stated she appreciated Alderman Campbell thinking of this complex issue two years in advance and felt there must be a number of affordable units that would not stifle development and would provide us with the maximum affordable units in a non 40B context. Housing is in demand and generations want to remain living here. She stated the City must develop a better understanding of what a number would be that doesn't stop the process of development but helps us move to our goal more quickly and hopefully within the context of our safe harbor.

Alderman Campbell stated an idea that is not part of her ordinance, but she has thought about maybe instead now it's written two units or above but maybe it is ten units and above for townhouse developments. So, the smaller developer isn't squeezed too much and the smaller developers are still able to make a living. Just throwing this out there as an example.

Bolgen stated it is a complex puzzle and perhaps it might just make sense to survey what we have left in the city to build upon while questioning what we can build on, what we foresee that can be developed, and how we can legislate in terms of getting the goal we are hoping for.

Cassidy stated she informally researched other communities regarding an inclusionary zoning ordinance and the majority of them have a percentage between 10-15%. She also briefly spoke with

some planners at a recent MAPC meeting regarding the proposed 25% threshold and will reach out to them to see if they have documents and/or research material for analysis of impact.

Bolgen stated it is important to analyze and foresee what is available in terms of development – will it be new development or redevelopment, 5 units versus 50 units - while taking into consideration what impact that would have on requiring affordable units at certain levels.

Cassidy mentioned there is some analysis in the Housing Production Plan or Master Plan that lists items to consider in terms of future development. She questioned whether or not the future is largely single-family developments and, if so, should the single-family developments be subject to the affordable housing ordinance; they are not today. Is the community ready for that or interested in supporting that? We need to think of the things other than the multi families that may not be part of the puzzle and what the future development may be.

Callahan questioned the downtown restriction and noted he feels it should be addressed by both the Planning Board and the City Council while noting there are lot of items in this proposal that need to be vetted out and that all 4 areas of the amendment have merit and need refinement.

Callahan opened this matter for a public hearing and asked any members of the audience who wanted to address the Board to do so. There were none.

Bolgen noted it would be beneficial at a time like this to have a joint committee, such as the former Zoning Ordinance Review Committee (ZORC), where they could work together in a public forum to gather information and work through zoning ordinances and major projects such as this one.

Bolgen stated she would like research from Cassidy as to whether there any studies that talk about what is the correct number that doesn't stifle private development but yet helps communities reach their goal faster in addition to information on the issue of how our city determines what types of developments we should be looking at in the future and how we should plan an ordinance that talks about affordable housing components maybe differently for smaller developments as opposed to larger.

Cassidy recommends the board continue the public hearing and the discussion on this matter to November 28, 2017 at 7 p.m.

Bolgen questioned if Campbell's intent was to leave lower thresholds in place for development in the Technology and Business Overlay District (Section 28) that currently requires 15% of the units to be affordable; the Commerce Way Corridor Overlay District (Section 23) that requires 10%; and the Mishawum Station Transit Oriented Development Overlay District (Section 21) that requires 10%. Bolgen questioned the need to harmonize the numbers.

Cassidy stated it was Alderman Campbell's intent to have a number that would be applicable across the board for everyone adding that she would see if those other three overlay districts could be enveloped into the changes at this point, should the City Council and Planning Board decide to do that.

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Bolgen motioned to continue the Public Hearing and discussion to November 28, 2017;  
Seconded by Edmonds;  
Motion carried, 5-0-0.

**PROPOSED PRELIMINARY SUBDIVISION PLAN** / 285 Locust Street LLC

Bolgen announced she was unable to attend the previous meeting on October 10, 2017 but confirmed she viewed the entire meeting online and has filed the appropriate forms with the Planning Board clerk to qualify to participate in Public Hearing continued from the previous meeting. She noted the proposed 285 Locust Street Preliminary Subdivision application was not a public hearing but wanted to inform the applicant she is up to date on their application.

Attorney Bill Proia, Riemer & Braunstein LLP, 7 District Avenue, #800, Burlington, MA, represented the applicant and summarized the developer is seeking approval of a four (4)-lot single-family subdivision and no waivers are currently being requested. In addition, all proposed lot sizes, frontages, setbacks, ground coverage and landscaped usable open space appear to conform to the zoning requirements for the R-3 Zoning District. He stated they've reviewed all the departmental comments and their goal is to integrate the city's comments into their final definitive application they will file in the future.

Cassidy added comments from the Police, Engineering, Inspectional Services, Board of Health, DPW and Fire have been received. The Conservation Commission verbally indicated that the Petitioner must file a Request for Determination of Applicability (RDA) with the Commission, as the subject property is within a Groundwater Protection District (Zone 2). Further, although not required, the Conservation Administrator encourages the planting of native vegetation on the site to the extent possible, particularly at the rear of the property.

Edmonds requested confirmation that this preliminary application is simply a place holder for what the applicant expects the future development to be.

Cassidy stated the developer is seeking a preliminary plan approval to construct a subdivision per Section II.D of the 2002 Planning Board Subdivision Rules & Regulations and it is consistent with M.G.L. Chapter 41, Section 81-S. The Board's subdivision regulations provide that a preliminary plan may be submitted for a residential subdivision by the applicant to the Planning Board and to the Board of Health for discussion and approval, modification or disapproval by each Board. It will freeze in place the zoning ordinance that was in effect on the day they filed their application. She continued to note the applicant stated at the previous meeting it was likely not going to be a 4-lot subdivision, their intent is a multi-family development on that site and that would have to be permitted through the City Council.

Cassidy noted if this preliminary plan gets approved and they file a definitive plan within seven months and it also gets approved, 10% of their proposed 41 units will be required to be affordable.

Director Cassidy recommended that the Board vote to approve the preliminary subdivision plan for 285 Locust Street subject to the following conditions/notations:

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1. That a subsequent definitive plan application will relocate the proposed drainage infiltration system to private land, include maintenance easements, restore pavement on Locust Street to accommodate runoff overflow and incorporate a street light;
2. That a hazardous materials environmental report and risk assessment review be conducted by the Board of Health prior to the approval of a definitive plan;
3. That a subsequent definitive application will incorporate a traffic impact study, with special attention directed to the Locust Street/Cambridge Road intersection;
4. That prior to the issuance of building permits for an approved project, the applicant will meet with the Building Commissioner to ensure compliance with building envelope setbacks; and
5. That dust and rodent control measures shall be in place as needed throughout any approved project.

Motion to accept the Planning Director's recommendation made by Doherty;  
Seconded by Bolgen;  
Motion carried, 5-0-0.

**DOWN'S COURT SUBDIVISION** / Mr. Fred Cialdea

Cassidy provided an overview recalling this two-lot definitive subdivision was approved in the Spring of last year. At the last meeting the Board set the amount of surety needed to guarantee completion of this project at \$63,000. The pending request asks the Board to accept a Treasurer's check in that amount to replace the covenant currently posted as surety. In addition, the developer submitted drainage and emergency turnaround easement documents for review and acceptance. The easement documents were reviewed by City Solicitor Ellen Callahan-Doucette and revised in accordance with her recommendations. The City Solicitor did note that acceptance of the easements by the City is subject to Mayoral authorization by the City Council.

Cassidy recommended the Board vote to (a) accept the submitted and executed drainage and emergency access easements, (b) accept the offered Treasurer's check in the amount of \$63,000 as surety to guarantee completion of the Down's Court subdivision, and (c) release the Covenant previously posted as surety so that the lots may be built upon and sold.

Motion to accept the Planning Director's recommendation made by Edmonds;  
Seconded by Bolgen;  
Motion carried, 5-0-0.

**RUSSO ESTATES** / Mr. William Scire and Carmen Russo Jr.

Cassidy recalled this six-lot definitive subdivision was approved in June of 2014 and several extensions of the construction completion date were granted. The current request is for acceptance of the draft HOA declaration and bylaw document and drainage and sewer easement documents (the drainage easement would be granted to the City and the sewer easement will be deeded to the

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abutter). Draft documents were submitted to and reviewed by City Solicitor Ellen Callahan-Doucette and minor edits she suggested have been incorporated into the documents by the Petitioner.

Cassidy recommended the Board vote to approve/accept the draft HOA declaration and bylaws and drainage and sewer easement documents.

Motion to accept the Planning Director's recommendation made by Edmonds;  
Seconded by Doherty;  
Motion carried, 5-0-0.

**DRAGON COURT/GARVEY ROAD (CONSTRUCTION UPDATE)** / Mr. Robert W. Murray

Cassidy provided an update on construction progress and conformance with conditions of subdivision approval while adding that at the last meeting the Planning Board invited the developer and qualified representatives to this meeting to discuss three matters. Two of the matters were potential or proven violations of conditions that the Planning Board imposed at the time of approval of the plan. One condition regarded the hours of construction on the site; the second issue is the condition that would have required preservation of all mature trees in good health and not in development areas; and the third issue to be discussed with the developer related to the details of construction of the swale that runs within the drainage easement along the common property line of the abutters and the developers of the parcel. Cassidy stated she wrote a letter at the Planning Board's direction inviting Mr. Murray to this meeting and the developer's attorney. Mr. Tarby responded requesting a continuance due to the fact he would be out of town on October 24, 2017 and that his client would prefer to have his legal counsel accompany him to the meeting. For that reason, Attorney Tarby asked the discussion be tabled to November 14, 2017.

Bolgen asked if Cassidy discussed the swale issue with City Solicitor Ellen Callahan Doucette as to what the limits as an authority as a Planning Board are to as our own volition to reopen the design standards of a subdivision that has already been approved.

Cassidy responded she furthered the conversation with Doucette but it has not been concluded while adding she shares the concern to be sure we have the conversation appropriately. Cassidy noted if the Planning Board is to have a discussion of possibly changing the design it needs to be done in the correct way to make sure that all parties, including developers, abutters, the Planning Board, and the city that we have done it the correct way. Cassidy reviewed the Law 81W of Massachusetts General Law (M.G.L.), Chapter 41, which speaks to plan modifications and how they can be done by a developer at his/her election, but added there are avenues for a Planning Board of its own to reopen the discussion or consider modifying the plan. She added that a plan modified under M.G.L. Chapter 41 Section 81W, would require abutter notification, a public hearing and public testimony and a 20-day appeal period.

Bolgen asked Cassidy if at the next Planning Board meeting they can discuss with the developer the work on the site and the conditions on the existing plans and how they've been implemented. Bolgen added with the regard to potentially moving the drainage easements and the swale that the Planning Board needs to be very careful how the discussion is approached and stated that, if that is the board's will to have that conversation, we have it in a way that is defensible.



Cassidy responded in the affirmative.

Edmonds questioned what the options are if the Planning Board concludes that some of the trees should have been saved.

Cassidy stated that is the crux of the question in some respects. The planting of some number of replacement trees might be appropriate; whether it is reasonable and probable to ask a developer to transplant a tree of significant caliper may not be possible but added that the idea of potentially having some trees planted on that site or some other methods of screening that might be helpful is something that the Board could consider.

Edmonds stated such trees do exist because he sees them going down the highway on the back of flatbeds and they are expensive. He added he is still having hard time wrapping his head around the clear cut of the trees and why the developer couldn't save a single tree on 5 acres.

Bolgen noted two potential ways the Planning Board might modify the plan on its own. The first option being the developer decides to meet half way, or  $\frac{3}{4}$  of the way, and volunteers a solution to the problem to have trees planted; or theoretically, with regard to the trees, the Planning Board could seek modification and the modification issue wouldn't just be limited to the drainage.

Cassidy recommended the Board table discussion of this matter to the next meeting on November 14, 2017 at 7p.m.

Motion to accept the Planning Director's recommendation made by Bolgen;  
Seconded by Edmonds;  
Motion carried, 5-0-0.

#### **APPROVAL OF MINUTES:**

Due to several member's absences and at the recommendation of Cassidy, the Board tabled approval of the minutes from the 9/26/2017 24 Flagg Street Site Visit and the October 10, 2017 meeting until the November 14, 2017 Board meeting.

#### **PLANNING BOARD DIRECTOR UPDATE:**

- Wall Estates and 24 Flagg Street subdivisions are scheduled to be on the next meeting agenda.
- Federal Street / Smart Growth Overlay District public hearing continuation is scheduled for the November 14, 2017 meeting.
- There will be a Public Hearing regarding a proposed change to the zoning districts in which research and testing laboratories are permitted by right and special permit on November 14, 2017.

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- City is continuing to work on a system for remote participation.

Doherty inquired about the status of the former Zoning Ordinance Review Committee (ZORC).

Cassidy stated that she and Chair Turner attended a City Council committee meeting and the general consensus of councilors was that the Planning Board has the tools that it needs on its own to be able to do the City's planning and does not need a separate committee with two councilors. At last discussion the Council said it would take the under consideration. Cassidy noted she will check with city clerk and provide an update if that status has changed.

Doherty mentioned that Alderman Campbell's proposal requires many hours of discussion and it cannot be accomplished in one meeting.

Cassidy asked for the Board's opinion as to inviting the City Council to a joint meeting within the next few months to have a discussion on affordable housing. The four issues we discussed tonight are only 4 of about 60 that are in the book and about 20-25 are worthy of a focused discussion.

Bolgen mentioned that ZORC was originally comprised only of Planning Board members and worked on special projects such as subdivision rules and regulations. She noted projects were discussed at separate meetings and feels the scope of this affordable housing project perhaps fits that scenario.

Edmonds mentioned two overlay issues (Commerce Way and St. Anthony) that were discussed years ago, and remembers there was a consultant along with the two city council members that participated. It was an informal process where issues were discussed openly and freely.

Doherty agreed with the need to conduct a separate meeting at a separate time to discuss the affordable housing amendment.

Callahan stated he remembers discussing the Commerce Way Overlay District during months of deliberations with developers and attorneys and noted they were beneficial sessions and added we are now seeing the fruition of that work with the Fitzgerald Tile project on Commerce Way. He added that Alderman Campbell's ordinance changes have a lot of merit and should be considered in light of the way the city sees itself going in the future and added he is in favor of subcommittee meetings just on that subject matter while discussing one of the four ordinances in one night and resolving to satisfaction before moving on.

Bolgen suggested that the Board opt to select a date for a special zoning committee meeting during the next Planning Board meeting on November 14, 2017.

Motion to adjourn at 8:11 p.m. made by Bolgen;  
Seconded by Doherty;  
Motion carried, 5-0-0.

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*Table of Documents Used at Meeting*

Staff Report
Public Hearing on Zoning Text Amendment: Copy of Pages 81 and 82 of Woburn's Housing Production plan
Downs Court Subdivision: Copy of Grant of Access Easement; Drainage Easement; and Down's Court Homeowner's Association and By- Laws
Russo Estates Subdivision: Copy of Grant of Easement; Covenant; and Russo Drive Homeowner's Association and By-Laws; and Drainage Easement
Dragon Court / Garvey Road: Copy of Letter of Invitation to Mr. Murray to attend meeting; Copy of Alderman Bruen's email to Director Cassidy including abutters photo and emails; Copy of Daily Times article published on October 19, 2017
Draft Meeting Minutes of October 10, 2017 Planning Board Meeting and September 26, 2017 24 Flagg Street Site Visit
24 Flagg Street Subdivision: Copy of email from Maryann Myers and Director Cassidy' response to her
Special Permit Letters of Recommendation: 36 Cabot Road LLC and 195 Presidential Way