

**COMMITTEE ON ORDINANCES, CHARTER AND RULES
JUNE 17, 2019 AT 6:11 p.m.
COMMITTEE ROOM
WOBURN CITY HALL**

Voting Members:

Present: Chairman Lindsay Higgins, Alderman Michael Concannon,
Alderman Darlene Mercer-Bruen and Alderman Edward Tedesco
Absent: Alderman Mark Gaffney

Non-Voting Members:

Present: President Michael Anderson, Alderman Joanne Campbell
Alderman Richard Gately
Absent: Alderman Robert Ferullo

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On the petition by President Anderson, Alderman Gately, Alderman Higgins and Alderman Mercer-Bruen to amend the Woburn Zoning Ordinances by amending Sections 18 Development Impact Mitigation, by deleting Section 19 Traffic, by amending Section 20.6 relative to mitigation and by amending Section 23.11 relative to mitigation. Motion made and 2nd to accept the communication dated June 12, 2019 received from Tina P. Cassidy, Planning Board Director, Woburn Planning Board and the document dated June 11, 2019 entitled "Proposed Order with Planning Board Recommendations Shown in 'Red-Line Format'" and make them part of the record, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Appearing was Planning Board Director Tina Cassidy and she stated that the ordinance includes a request to have the applicant provide information as to the impact of the proposed project on the schools, police department and fire department, that the City Solicitor expressed concern about including the impact on schools, that including mitigation for impact on schools has been deemed in court cases to be an impermissible tax, that the Planning Board indicated this would be something to work on with the City Solicitor in the future, that the definition should be placed in Section 2 of the Woburn Zoning Ordinances, that there was a concern about defining the impact area, and that the ordinance should quantify what kind of impact would trigger the ordinance. Alderman Mercer-Bruen stated that the level of service reference was left a little gray in the Ch. 40R ordinance, that if there was a specific number this could be an issue, that she prefers to keep this a little gray, that there should be consideration of the practical conditions in a particular area, that as to the impact on the police department and fire department this is quantifiable with respect to the number of units, and that some would say that the departments are already at their limits. Director Cassidy stated that there could be particular impact such as a certain fire truck to service a building in a proposed development. Alderman Mercer-Bruen stated that this could be kept vague to satisfy the City Solicitor but these are important considerations. Director Cassidy stated that the City Solicitor is concerned that any imposition of mitigation with respect to the schools could be an impermissible tax, and that there is not the same concern with the impact on the police department and fire department as these could be quantified. President Anderson stated that he believes the City Solicitor gave her opinion but he believes the area of impact on the schools is quantifiable. Alderman Concannon stated that as to mitigation what the City Council has always questioned is whether the focus on streets and utilities is enough to look at, and that

the impact on the schools is a valid concern. President Anderson stated that he is not saying there are particular numbers but how might the schools be impacted by the proposal. Alderman Tedesco stated that the city cannot use mitigation for the operating costs of the city. President Anderson stated that a large project may require a school bus stop for example. Alderman Concannon stated that the committee should get a definitive opinion from the City Solicitor. President Anderson stated that the effort should not be to set an amount of money but to assess the impact on the schools. Alderman Mercer-Bruen stated that the city could use this information to say perhaps a project should be smaller. Alderman Higgins stated that what has been stated is taking money to pay for school needs has been determined to be an impermissible tax. The Committee revised the document dated June 11, 2019 entitled Proposed Order with Planning Board Recommendations Shown in 'Red-Line Format'" page by page and the following motions are in reference to the pages and sections in that document. Motion made and 2nd to adopt the recommendations on Page 1, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Alderman Mercer-Bruen stated that public health, safety and general welfare should be more specific as to the police, fire and schools. Motion made and 2nd to adopt Section 18.2 on pages 2, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd the adopt recommendations deleting definitions for Floor Area, Gross and Floor Area, Net on page 2, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Alderman Mercer-Bruen stated that using "will" rather than "may" in the definition of Impact Area on page 2 is not a good amendment. Director Cassidy stated that "may" leaves the focus of the impact area too broad and an argument could be made that a much larger area is impacted. Alderman Mercer-Bruen stated that the impact area has to be around the area of the project. Alderman Concannon stated that this is the beginning of the analysis when the impact is assessed. Motion made and 2nd to change "will" to "may" in the definition of Impact Area on page 2, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Alderman Gately stated that often traffic studies indicate no impact on traffic, and that this should be addressed. Alderman Concannon stated that when the level of service is bad should this be part of the review. Director Cassidy stated that the level of service refers to the time necessary to get through a traffic control signal which is based on the volume of traffic. Motion made and 2nd to amend the definition of Level of Service (LOS) by deleting "such as speed" and inserting in its place the following "including but not limited to speed, traffic volume and congestion" on page 3, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to delete the definition for Impacted Intersection(s) as recommended on page 2, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Director Cassidy stated that the amendments in Section 18.4 on page 3 allow the City Council to be able to determine by a two-thirds vote that there is a substantial change triggering the mitigation ordinance for reasons other than having 15,000 gross square feet of area or the addition of more than ten parking spaces. Alderman Concannon stated that the City Council would have to make a finding as to what makes a substantial improvement. Director Cassidy stated that the Building Commissioner could make the analysis. Alderman Concannon stated that a petitioner will want to know what a substantial alteration determination is based on. President Anderson stated that the City Council would have to make a determination when a petition is filed as to whether a substantial impact is present. Alderman Concannon stated that the city would have to inform the petitioner that a development study is needed. Alderman Mercer-Bruen stated that the ordinance should state that impacts on the police department and fire department must be assessed. Motion made and 2nd to amend the definition of Substantial Alteration or Improvement" on page 3 by striking "on traffic and/or public utilities" and inserting in its place "as set forth in Section 18.5", 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and

2nd to adopt the other recommended changes in the definition of Substantial Alteration or Improvement” as further amended, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the remaining recommended changes on page 3, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the changes to paragraphs 2, 3 and 4 at the top of page 4, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the remaining recommended changes on page 4, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to amend Section 18.5 on page 4 by adding after the word “subjects” in the second sentence the following “identified in Section 18.2 and set forth herein”, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to amend in the definition Substantial Alteration or Improvement on page 3 the words “as set forth in Section 18.2” to read “as set forth in Section 18.2 and Section 18.5”, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended amendments on page 5, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to amend Section 18.5.5 on page 5 by striking the words “City Council” and inserting in its place “SPGA”, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd that the City Clerk be authorized to renumber the paragraphs as necessary, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended changes on page 5 as further amended, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended amendments on page 6, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Alderman Mercer-Bruen asked why the term “geared toward an office environment” is used on page 7. Alderman Concannon stated that developments such as apartments likely would not have bus passes for residents. Alderman Tedesco stated retail uses would not have a need for this type of carpooling either. Motion made and 2nd to amend Trip Reduction Requirements on page 7 by changing the words “but can” in the second sentence to the words “but may”, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended amendments on page 7, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to amend Other Public Facilities Impact Assessments on page 9 by changing the words “both on-site and nearby” to the words “both on-site and in the impact area”, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended amendments on page 9, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd that a communication be sent to the City Solicitor asking how the City Council could add under Section 18.5(c) assessments of development impact on the police department, fire department, department of public works and school department to understand the impact of a proposed development on those services and how the city could address those issues, not with the intention of imposing mitigation to use for operating expenses but to assess the impact on city services for information on addressing those issues, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to add a paragraph 7 on page 10 under Section 18.5(c) as follows: “7. Assessed impacts on police department, fire department, department of public works and school department pending City Solicitor opinion, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended amendments on page 10, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended amendments on page 11, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to amend the first sentence in paragraph 3 at the top of page 12 by changing the words “defaulted on” to the words “failed to comply with all”, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Motion made and 2nd to adopt the recommended changes on page 12 and up through Section 18.9, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Alderman Higgins stated that the matter will remain in committee, and that the next meeting will be on July 8, 2019.

The proposed Ordinance after all amendments following the committee meeting is as follows:

PROPOSED ORDER
with Committee on Ordinances
amendments of June 17, 2019

ORDERED

Be it Ordained by the City Council of the City of Woburn that the 1985 Woburn Zoning Ordinances, as amended, be further amended as follows:

1. By deleting Section 18 Development Impact Mitigation in its entirety and replacing same with the following:

SECTION 18

DEVELOPMENT IMPACT ASSESSMENT AND MITIGATION

18.1 Purpose - The purposes of these provisions are to:

1. Assess proposed development and certain land uses to protect the health, safety and general welfare of the inhabitants of the City of Woburn;
2. Secure the safety, adequacy and reliability of Woburn's roads, utilities, services and facilities for pedestrians, residents, employees and motorists alike;
3. Identify the direct impacts a development or certain land uses will have upon the City's public facilities and services and ensure that the burden of those direct impacts upon public infrastructure are addressed and minimized, including the maintenance and upgrading of infrastructure in a responsible manner consistent with State and Municipal law and to the extent necessary to service public needs; and
4. Ensure that any mitigation required to address the development's impact(s) is/are proportionately borne by the development or land use that creates them via the imposition of reasonable mitigation requirements.

18.2 Scope of Study - The direct impacts that must be considered and assessed shall include, but not be limited to, impacts upon:

1. The public health, safety and general welfare of the residents of the City;
2. The surrounding natural environment;
3. Parks, playgrounds, and other recreational and open spaces;
4. Storm water management and drainage ways;

5. Roadways, streets and other public ways;
6. Motor vehicle traffic including public transit, passenger and truck traffic;
7. Non-motorized vehicular traffic, including pedestrian movement and safety and bicycle travel;
8. Public utilities, including water and sewer supplies and demand, gas, electric, telephone and the like;
9. Sanitary waste disposal; and
10. Trash.

18.3 Definitions – The following definitions shall apply to this Section 18.

IMPACT AREA: Area surrounding the proposed development that may be impacted including, but not be limited to, intersections and streets.

LEVEL OF SERVICE (LOS): A measure used to analyze the quality of traffic service by categorizing traffic flow and assigning quality levels of traffic based on performance measures including but not limited to speed, traffic volume and congestion. A project's Level of Service shall be determined according to criteria set forth by the Transportation Research Board of the National Research Council

SUBSTANTIAL ALTERATION OR IMPROVEMENT: An alteration or improvement of a structure or group of structures (a) totaling fifteen thousand (15,000) gross square feet or more in size which will either result in an increase in gross floor area of more than ten percent (10%) or which will require the addition of ten (10) or more parking spaces in order to comply with the Zoning Ordinance, or (b) which alteration or improvement the SPGA determines, by 2/3rd majority vote, may substantially impact existing conditions and therefore have a significant impact as set forth in Section 18.2 and Section 18.5. A determination of a Substantial Alteration or Improvement shall be based on the aggregate of all repairs, improvements, extensions or enlargements undertaken within a period of three (3) years prior to the submission of the application to which this section applies.

SPECIAL PERMIT GRANTING AUTHORITY ("SPGA"): The Special Permit Granting Authority (the "SPGA") as referenced in this section shall be the City Council for all uses designated in Section 5.1 with a "P" and the Planning Board for all uses designated in Section 5.1 with "PB".

18.4 Applicability - The requirements of this section shall apply to:

1. Any new construction;
2. Any Substantial Alteration or Improvement which requires a special permit;
3. Construction of 5,000 gross square feet or more of new floor area or improvement of 5,000 gross square feet or more of existing floor area in a B-N, B-D, S-1 or S-2 zoning district; or

4. Any new use established, or any increase in intensity of an existing use, which is listed in Section 5.1 Table of Uses under lines 3(a), 3(b), 3(c) 3(d), 4, 5, 15(b), 16(b), 17(b), 20, 20(a), 22(a), 22(b), 22(c), 23, 24, 28, 29, 30(a), 30(b), 37, 40(aa), 40(ab), 40(ba), 40(bb), 41, 41(a), 41(b), 42, 42(a), 43, 44, 45, 48, 49 and 53 of Section 5.1, Table of Uses, which results in:
 1. The construction of 15,000 square feet or more of new gross floor area;
 2. Any Substantial Alteration or Improvement as defined by Section 18.3 above;
 3. The conversion of 15,000 square feet or more of gross floor area from one use to another use; or
 4. The addition of ten (10) or more parking spaces in order to comply with Section 8 of the Zoning Ordinance.

18.5 Development Impact Statement (DIS) – A Special Permit or other application for a project meeting the thresholds in Section 18.4 above shall include a DIS which shall be prepared by personnel competent and qualified in their respective fields; at a minimum, the traffic and utility assessments must be prepared by qualified Massachusetts Registered Professional Engineers. The DIS shall include detailed information on and assessments of the subjects identified in Section 18.2 and set forth herein, including assessments of the clear and direct impacts the proposed project will have upon them. A DIS shall contain the following information:

- a. Traffic Study: This assessment shall document existing traffic conditions in the vicinity of the proposed project, accurately describe the volume and effect of the projected traffic generated by the proposed project, and identify measures necessary and sufficient to mitigate any adverse impacts on existing traffic conditions.
 1. Determination of Scope: Prior to preparing the Traffic Study, the Applicant's Registered Professional Engineer is strongly encouraged to participate in a Scoping Meeting with the City Engineer to review the proposed scope of the Traffic Study including identification of the project's Impact Area to be studied. The City Engineer shall provide a written statement to the SPGA regarding concurrence or disagreement with the proposed scope or the scope as otherwise provided in the Traffic Study, and the reasons for the City Engineer's opinion. Such written statement shall be provided to the SPGA and the Applicant either within thirty (30) days of the City Engineer's pre-application meeting with the Applicant's Registered Professional Engineer or, if no Scoping Meeting is held, within thirty (30) days of the City Engineer's receipt of the Traffic Study as part of the application filed with the City Clerk. Such written statement of concurrence or disagreement shall be either included with or subsequently attached to, as applicable, the Traffic Study submitted by the Applicant. The SPGA may require the Applicant to study and evaluate additional roadways and/or intersections to address any concerns identified by the City Engineer.

2. Contents: The Traffic Study shall contain the following:

- i. Existing traffic conditions: Measurement and assessment of average and daily peak hour vehicular, pedestrian and bicycle traffic volumes, average and peak speeds, sight distances, accident data and Levels of Service (LOS) of all intersections and streets within the project's Impact Area and including any intersection projected to be adversely affected by the project over the No Build condition. Such data shall be no more than twelve (12) months old at the time of application, unless other data are specifically approved by the SPGA with the recommendation(s) of the City Engineer. Automated Traffic Recorder (ATR) data must be for a minimum of 48 hours, not including Saturdays, Sundays, holidays, any day within a holiday week, or any day with any snowfall in the Boston basin geographical area. For each location counted, a plot of average directional count by hours for a 24 hour average weekday shall be provided.

For projects near a State or Federal highway, turning movement counts must be sufficient to show that they include, at a minimum, the two highest peak hours among these possibilities: AM highway peak, mid-day highway peak, mid-afternoon highway peak, and PM highway peak. If the two highest generator peak hours do not overlap any part of the highway peak, substantiating data must be provided.

With respect to accident history, a minimum of three (3) years of data shall be provided for each roadway and intersection impacted by the project. Written requests for accident reports shall be made to the Woburn Police Department for local roads and intersections and to MassDOT's District 4 Engineer for roads and intersections on State-owned highways.

- ii. Projected traffic conditions: Projected traffic conditions for the design year of occupancy, including a statement of the design year of occupancy, estimated background traffic growth on an annual average basis, and impacts of other proposed developments that have been approved in whole or in part by the City of Woburn or an abutting town which will affect future traffic conditions.
- iii. Projected impact of proposed project: Projected peak hour and daily traffic generated by the proposed project on the roads and ways in the project Impact Area, sight lines at the intersections of the proposed driveways and streets, existing and proposed traffic controls in the vicinity of the proposed project, and projected post-development traffic volumes and Levels of Service (LOS) of intersections and roads likely to be affected by the proposed project.
- iv. Traffic mitigation measures: Specific measures to be undertaken by the Applicant in order to mitigate the impacts of the proposed project and to ensure that current traffic conditions and Levels of Service (LOS) are not adversely

affected by the project. Also, the assessment shall consider both on site and off site mitigation measures, to include but not be limited to new traffic control signals, increase(s) in right of way capacity via widening roads, or other right of way or intersection improvements. Where the use of existing transit systems is proposed as mitigation, analysis of the impacts on capacity and performance of these services should be quantified and documented in this section. The proposed mitigation measures, if approved, shall be required to be completed prior to the issuance of a final certificate of occupancy for the project component. The assessment shall also consider how the proposed mitigation measures and future year performance degradation are fully mitigated to the equivalent No Build condition.

v. Trip Reduction Requirements: As a condition of its approval, the SPGA may require actions and programs by the owner and/or manager of a development to reduce the number of single occupant automobile trips made to a development, particularly during peak traffic hours. These requirements are geared toward an office environment, but may be applied to other uses to a certain extent. Such actions and programs may include:

1. providing a pass to employees for use on a public transportation system that service the development area;
2. use of carpools and vanpools;
3. scheduling of hours of operation, such as flex-time, staggered work hours, and spread scheduling that reduces trips during peak traffic hours;
4. preferential parking locations and arrangements for vehicles other than single occupant automobiles; and/or
5. restrictions on access to, or egress from, off-street parking areas during peak traffic hours.

b. Utility Impact Assessment: The Utility Impact Assessment shall document the capacity and condition of the existing public utility infrastructure in the vicinity of the proposed project, including but not limited to water and sewer services and storm water drainage systems. The assessment shall also accurately describe the additional demand, if any, upon said infrastructure items, generated by the proposed project, and identify measures necessary and sufficient to mitigate the impact caused by any such additional demand.

1. Determination of Scope: Prior to preparing the utility impact assessment, the Applicant's Professional Engineer is strongly encouraged to meet with the City Engineer to review the proposed scope of the utility impact assessment, including the identification of the project's Impact Area to be studied, which shall include all water and sewer utilities likely to be affected by the proposed project. The City Engineer shall provide a written recommendation to the SPGA regarding the proposed scope or the scope as otherwise provided in the utility impact assessment, and the reason(s) therefor. Such written recommendation shall be provided to the Applicant within thirty (30) days of the City Engineer's meeting with the

Applicant's Professional Engineer, or, if no scoping meeting is held, within thirty (30) days of the City Engineer's receipt of the utility impact assessment as part of the application filed with the City Clerk. Such written recommendation shall either be included with or subsequently attached to, as applicable, the Utility Impact Assessment submitted by the Applicant. The SPGA may require the Applicant to study and evaluate additional utility infrastructure impacts, including but not limited to water, sewer and storm water drainage, to address any concerns identified by the City Engineer.

2. Contents: The Utility Impact Assessment shall evaluate:
 - i. Existing condition and capacity: Identification of the size, type, condition and overall remaining capacity of the existing utility infrastructure. The assessment shall include examination of available City plans within the immediate Project vicinity, completion of hydrant pressure testing of the City water main(s) serving the facility and, where necessary, video camera inspections of existing sewer service connections to be re-used. The assessment shall also include an up-to-date inventory of City-owned utility infrastructure impacted by the Project; for sanitary sewer and storm drainage systems provide estimates of the existing capacity and percentage of capacity presently utilized as well as excess capacity if any;
 - ii. Projected conditions: Projected usage shall be provided, including estimated water usage, and sanitary and storm water outflows; together with the impacts, as available, of usage caused by other developments already approved by the City.
 - iii. Utility mitigation measures: Specific measures to be implemented by the Applicant to mitigate the impacts of the proposed project on the public water and sewer infrastructure, including increasing the capacity by replacing and/or enlarging existing lines; inflow and infiltration improvements or payments; on-site retention or detention tanks; or other on-site or off-site measures. The proposed mitigation measures, if approved by the SPGA, shall be solely related to the proposed development and completed prior to the issuance of a final certificate of occupancy for the Project component.
- c. Other Public Facilities Impact Assessments: This section of the DIS shall include detailed information and analyses about the development's projected impact(s), both on-site and in the impact area, on all of the following:
 1. Parking, including existing and proposed on-site motor vehicle and bicycle parking layout(s)/accommodations and on-street/off-site (where applicable) motor vehicle and bicycle accommodations to evidence proposed facilities are sufficient to serve the project;
 2. Transit Services, including locations of bus, train and transit stops, shelters, stations

and routes within the project Impact Area as well as private shuttle bus service routes, school bus stops, etc. within five hundred (500) feet of the project site. Information shall be provided relative to daily AM and PM schedules (including Saturdays for residential or retail projects) for stops/stations within five hundred (500) feet of the project site including a summary of transit schedules and headways for each service.

3. Environmental conditions and impacts, including a summary of wetland resource areas and buffer zones, identified and potential vernal pools, groundwater protection zones, flood hazard areas and floodplains, steep slopes and areas of known soil/groundwater contamination. If the project is subject to a Notice of Intent filing with the Conservation Commission, the Applicant shall provide a copy of the submission to the SPGA to fulfill the provisions of this Section.
 4. Parks, playgrounds, and other recreational and open spaces, including all public and privately-owned open space parcels and trails, public parks and playgrounds and athletic facilities such as pools, running tracks, walking paths and ballfields within five hundred (500) feet of the project site.
 5. Pedestrian movement and safety, including existing levels of pedestrian traffic within five hundred (500) feet of the project site, five (5) year projections of volumes of pedestrian traffic, the location and condition of existing sidewalks and other pedestrian ways including whether or not compliant with ADA requirements, and provision of lighting and other safety measures in areas where pedestrian traffic exists or is expected as a result of the development.
 6. Trash and recycling. If the project will request public trash service, include estimated tonnage of refuse and recycling to be generated by the development on a weekly basis and any private or public provision(s) for collection of trash and recycling.
 7. *Assessed impacts on Police Department, Fire Department, Department of Public Works and School Department pending City Solicitor opinion.*
- 18.6 Report by City Engineer - The City Engineer shall be responsible for preparing a written report to the SPGA after consulting with the Superintendent of Public Works and all other relevant departments regarding the adequacy and accuracy of the scope, data, findings, and proposed mitigation measures presented in the Development Impact Statement.
- 18.7 Peer Review - The SPGA may require peer review of some or all of the contents of the DIS, at the Applicant's expense as it deems appropriate.
- 18.8 Performance and Completion of Mitigation Measures
1. No building permit shall be issued to an Applicant until surety has been established in a sum sufficient to ensure completion of any said mitigation measures, in the form of a performance bond, irrevocable letter of credit, or escrow agreement and such is filed

with the City Treasurer The sum of said surety shall be established by the SPGA after consulting with the City Engineer, who shall be responsible for review and approval of the costs of construction/completing mitigation measures and including a minimum of an additional twelve percent (12%) to the estimate, to account for inflation and as a contingency against unexpected field conditions. Such cost estimate shall be prepared by the Applicant's professional engineer or licensed architect. The City Solicitor shall approve the surety as to proper form and content prior to its acceptance by the SPGA.

The Applicant is expected to complete/implement any and all required mitigation construction/improvements as conditions of any Special Permit or plan approval prior to the issuance of a final occupancy permit for the project. In the event that all required mitigation construction/improvements are not completed by the time a final occupancy permit is issued for the project, then the SPGA may revoke the Special Permit or plan approval.

The SPGA may, by majority vote, periodically reduce the amount of the bond held as surety to guarantee completion of mitigation measures. No bond reduction or final release of remaining bond monies shall be approved unless the SPGA has received certification from the City Engineer and/or any other appropriate municipal department that all required mitigation work has been satisfactorily completed.

2. Payments in Lieu of Performing Mitigation Measures

- a. It is the preference of the City that the developer/Applicant complete all mitigation measures, if any. Occasionally the option of a payment in lieu of performance may be appropriate in certain circumstances (e.g. contributions, which to the extent not voluntary and with the exception of the 12% interest and contingency specified above cannot exceed the cost of any direct and proportionate impact of the proposed project, toward a larger-scale infrastructure project being planned by others). In those circumstances the SPGA may by 2/3^{rds} majority vote authorize the Applicant to make a payment in lieu of performing all or part of mitigation measure(s) which have been made a condition of a Special Permit or plan approval.
- b. Any such payment shall be equivalent to the amount calculated by the City Engineer in accordance with paragraph 18.8.1 above and shall be placed into an account dedicated to the specific purpose identified as a condition of the approval. The payment shall be used for no other purpose. In calculating any such payment, the Applicant shall not be credited the amount of the contribution required under Title 13 of the City of Woburn Municipal Code or any contribution to roadway, water or sewer improvements required as a result of the environmental review process of the state or federal government.
- c. At least once each year from the date the funds are deposited with the city, the City Auditor shall certify in writing to the City Council and the SPGA, if the City Council is not the SPGA, the amount of funds remaining unencumbered in the account.

- d. In the case when such payment in lieu of performance is accepted and if the funds have not been encumbered by the City of Woburn within two years of the issuance of an occupancy permit, the City Council upon its own initiative or the request of the Applicant or SPGA shall hold a hearing to determine why the funds have not been spent or encumbered. At said hearing, the City Council may extend for a period of no more than two years the time frame to encumber such payment in lieu of performance. If payment in lieu of performance is not encumbered in the aforementioned time frame, the payment shall be returned to the developer.
 - e. Any money in the fund shall be expended only by a majority vote of the entire membership of the City Council, with the approval of the Mayor, and shall be appropriated only for the purpose of performing and/or addressing the mitigation set forth in the Development Impact Statement.
3. If the Applicant has failed to comply with all the conditions of the Special Permit or plan approval, and/or has not completed required mitigation work before the issuance of a temporary or final occupancy permit, the City shall complete the mitigation measures as much as is practical with funds obtained through the exercise of the surety posted in accordance with paragraph f.1 above
 4. If a proposed project generates a significant number of additional residents and/or employees and such participation is warranted and required by the SPGA, the Applicant shall participate in the regional or local transportation management association (TMA) and implement a transportation demand management program that includes the assignment of an Employee/Resident Transportation Coordinator to work with the TMA, residents and employees to encourage ridesharing and the use of public transportation.
 5. Waivers - The SPGA, by a 2/3rds majority vote of the full SPGA, after receiving the Development Impact Statement and the report of the City Engineer, may waive all or part of the mitigation requirements of this provision. The SPGA, in approving a waiver, shall make a specific finding, in writing, that the granting of a waiver will not create conditions which are substantially more detrimental to the neighborhood in which the site is located, than if the waiver were not granted. As the basis for its decision, the SPGA shall consider other positive impacts of the project upon the project Impact Area not measured by the Development Impact Statement, such as, but not limited to, the substantial remediation of an environmentally contaminated site, the creation of needed affordable housing and transportation demand management measures.

18.9 Severability. The invalidity of one or more provisions or clauses of this section shall not invalidate or impair the section as a whole or any other part hereof.

2. By deleting Section 19 Traffic in its entirety.

3. By deleting Section 20.6 from Section 20 Woburn Loop Bikeway/Greenway Overlay District in its entirety and replacing same with the following:

20.6 Development Impact Mitigation

All residential uses developed in the Woburn Loop Bikeway/Greenway Overlay District under this section shall meet the requirements of Section 18 of this Ordinance.

4. By deleting Section 23.11 from Section 23 Commerce Way Corridor Overlay District (CWCOD) in its entirety and replacing same with the following:

23.11. Development Impact Mitigation

All uses developed in the CWCOD shall meet the requirements of Section 18 of the Woburn Zoning Code. All moneys generated by projects approved for the CWCOD development shall be expended within the CWCOD to improve and/or provide necessary infrastructure and public safety improvements.

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Motion made and 2nd to adjourn, 4 in favor, 0 opposed, 1 absent (Gaffney absent). Chairman Higgins adjourned the meeting at 6:38 p.m.

A TRUE RECORD ATTEST

William C. Campbell
Clerk of Committees, Pro Tem