

**COMMITTEE ON ORDINANCES, CHARTER AND RULES  
JULY 8, 2019 AT 6:00 P.M.  
COMMITTEE ROOM  
WOBURN CITY HALL**

Voting Members:

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

Non-Voting Members:

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

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VOTED to dispense with the reading of the previous meeting's Minutes and to approve, all in favor, 5-0.

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**On the petition by Tidd Home LLC to amend the Woburn Zoning Ordinances by deleting from Section 29.5.4 Conversion of Significant Historic Building the first line "Twenty (20) units per acre" and replacing same with "Up to a maximum of Fifteen (15) units."**

Appearing was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that there has been discussion about revisions to the proposed order. President Anderson presented the following proposed amendment to the ordinance for the Committee to review: "Maximum Permitted Residential Density: Twenty (20) units per acre. For any parcel less than one acre with a structure that was used as a legal pre-existing nonconforming use as of December 4, 2018, the number of units shall be in the discretion of the City Council but in no event shall the number of units exceed 15. Municipally-owned buildings, or Municipally-owned buildings that are under agreement to be sold for the purpose of development in accordance with this Section 29, or former Municipally-owned buildings that were sold for the purpose of development in accordance with this Section 29, shall be exempt from the maximum permitted density restriction." Motion made and 2<sup>nd</sup> that the document be received and made part of the record, all in favor, 5-0. President Anderson stated that he spoke with Alderman Campbell, the City Solicitor and the Planning Director regarding possible amendments to the ordinance, that the city does not want single family homes being turned into multi-unit buildings thereby effectively turning R-1 neighborhoods into de facto R-2 neighborhoods, that if a structure is used as a conforming use as of December 4, 2018 then the property cannot take advantage of this ordinance. Attorney Tarby stated that the language of the amendment meets the spirit of giving the City Council the ability to be flexible on density. Board of Assessors Chief Appraiser Andrew Creen stated various requests were made of the Assessors Department staff concerning this issue, that he wants to know how to address the questions of the committee, that he thought it best to seek the advice of the City Council to be as specific as possible to obtain the data if that is possible, that some data in their records is better than others, that the year built data is not of good quality in all cases or sufficient to determine whether or not a house was built prior to 1918, that the Assessing Department uses the effective year built, that for a house built in 1900 and completely renovated in 2010 giving the building a date of 2010 is

more accurate representation of the house than 1900, that many years ago city officials visited houses and one of the questions asked was when a house was built, that the date built in the records is not reliable as to houses built many years ago, that the definition in the zoning code for gross floor area is different than the term is used for assessing records, that the assessing data may not accurately include all the information the City Council is seeking, that he could work with the GIS Coordinator in the Engineering Department to try to capture all the information sought, that the Engineering Department uses map/block/lot to identify property as does the Assessing Department but the Assessing Department also uses another unique identifier for each property, that for example a condominium unit would have a unique identifier in the Assessing Department records but the map/block/lot would be as to the entire condominium development, and that after a quick review approximately 250 single family homes would qualify under this ordinance without consideration of accessory structures. Commercial Appraiser John Connolly stated that accessory structures such as garages are treated differently if the structure is attached or detached from the main dwelling. Chief Appraiser Creen stated that the records show 320 single family homes in the R-1 and R-2 zoning districts satisfy the ordinance criteria. Alderman Concannon stated that a concern was that as proposed the ordinance may have gone down the path of unintended consequences by trying to address a couple of properties, that the amendment proposed by President Anderson may close the loophole, and that the burden of proving that a structure is a pre-existing nonconforming use is on the property owner but he is not certain how many structures are affected. Chief Appraiser Creen stated that the property owner could use old fire insurance maps, records of when water was turned on to the building or have an architect certify the date of construction. Alderman Mercer-Bruen stated that she is not comfortable agreeing to the proposed amendment when there is so much information that is not known, and that it is important for the city and the neighbors that the Tidd Home be preserved but she is concerned about how many properties are affected. Alderman Concannon stated that the Assessing Department may have provided all the information that they can. Alderman Campbell stated that there is no list of pre-existing nonconforming use properties, and that this would require analyzing each property. Alderman Gately stated that the issue started in 1986 after the zoning changes created nonconforming properties, and that the amendment proposed by President Anderson reduces the number of affected houses. Alderman Concannon asked what limits there may be on the discretion the City Council can exercise. City Solicitor Ellen Callahan Doucette asked how the limit of fifteen units was determined and how large the units have to be, and stated that there has to be a rational criteria on which the decision is based. Alderman Mercer-Bruen stated that fifteen units is based on the units at the Tidd Home. City Solicitor Callahan Doucette stated that there are a number of historic houses in the city, that the Woburn Historical Commission has a list of historic houses, that the available inventory of historic houses has significant information on the property, and that leaving the number of units to the discretion of the City Council is not firm criteria. Alderman Tedesco stated that there has to be a definite number of parking spaces per unit. Motion made and 2<sup>nd</sup> that a communication be sent to the Woburn Historical Commission requesting a copy of the current historic properties inventory and a description of the method of compiling the list, all in favor, 5-0. John Flaherty of Tidd Home LLC stated that the Historical Commission does not have a significant list of historic properties. City Solicitor Callahan Doucette stated that the research conducted by the Historical Commission indicates when houses were actually built. Mr. Flaherty stated that this process to convert the properties is a lot of work, that the only property which fits in the category is the St. Charles Church convent building except that there is not sufficient area for parking, that the Tidd

Home was built in 1809 as a hotel, and that in 1877 the building was converted to a old age home. Alderman Higgins stated that the concern is not whether the Tidd Home is old enough but what other buildings are in the city which may come under the ordinance, and that after the word “discretion” the words “based on size of lot, size of structure, location of the lot and available parking” could be added. City Solicitor Callahan Doucette stated that the language should indicate compliance with parking requirements and not use the term “available parking”. Alderman Campbell stated that the review is not just looking at fifteen units, that she has been looking at houses in her ward, that there are a number of older houses, that as currently written a number of the homes meet the criteria and could be converted to five-family houses, that ten parking spaces would be easy to construct on a quarter acre parcel, that there are quite a few properties that potentially could be changed, and that the amendment offered by President Anderson makes it harder to make these changes. Alderman Higgins stated that a reference to impact on the neighborhood could be added. Alderman Campbell stated impact on the neighborhood is already in the ordinance but could be added in this section as well. Alderman Concannon asked what is the basis for determining the impact on neighboring properties, and asked whether this should be more definite. Alderman Mercer-Bruen stated that impact on the neighborhood could be a five-family home in a single-family neighborhood which may affect the value of the other homes. Alderman Gately stated that 50% of the parcel would still have to be open space. Motion made and 2<sup>nd</sup> that the proposed ordinance as amended by President Anderson be further amended by adding the words “based on size of lot, size of structure, location of the lot and compliance with the parking requirements set forth in Section 29.6” after the word “discretion”, all in favor, 5-0. Alderman Campbell stated that “in the discretion” should be change to “by special permit”. Chair Higgin stated that these conditions describe what “discretion” means. Alderman Mercer-Bruen stated that there must be strong language so that action of the City Council can withstand an appeal. Motion made and 2<sup>nd</sup> that the matter be returned back for action pending comments from the City Solicitor, all in favor, 5-0. Alderman Concannon stated that this matter is being sent back for action with the expectation that information will be received from the City Solicitor and the Woburn Historical Commission.

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**On the petition by Montvale Land LLC to amend the 1985 Woburn Zoning Ordinances Section 28 Technology and Business Mixed Use Overlay District (TBOD) Sections 28.1, 28.2, 28.2.2, 28.4.4, 28.4.5, 28.5, 28.6.1.11, 28.6.2.2, 28.7, 28.8, 28.9, 28.11 and 28.12.**

Appearing was Attorney Joseph R. Tarby, III, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 and he stated that the ordinance submitted was not a massive change of the underlying ordinance, that the petitioner worked with Planning Board Director Tina Cassidy on the ordinance, that the red-lined version of the ordinance had been submitted on May 16, 2019, that the congregate housing units would not be included in the 15% affordable housing requirement as it is too difficult to include these units, that the fees to the residents include room, meals, services and recreational activities, that the Woburn Nursing Center and Benchmark properties do not conform to the affordable housing requirements, that there will be 300 units and the city will still be reaching 10% affordable units with thirty units, that the project therefore will meet the Ch. 40B quota requirements, that it is unlikely other properties will seek the same reduction, that this property is in an overlay district, and that the petitioner asks the City Council not to include the Planning Board recommendation with a 15% affordable housing requirement in the ordinance. Alderman Mercer-Bruen stated that the city has worked hard to get

the community where it is with respect to meeting the affordable housing quota, that she will not support the change, that the petitioner can calculate the 15% affordable units, and that a communication can be sent to DHCD asking for information as to whether congregate housing can be included in the affordable housing calculation. City Solicitor Ellen Callahan Doucette stated that if there is an affordable condominium unit DHCD sets the price and that DHCD also calculates the appropriate portion of the condominium association fee, that for congregate housing DHCD would have to calculate how meals would be affected, that she has not heard of a congregate housing unit being included to meet affordable housing requirements, that there has to be an agreement drafted regarding the affordable units, and that she will contact DHCD to see if congregate elderly housing is included in the affordable housing requirements. Motion made and 2<sup>nd</sup> that the City Solicitor contact DHCD to determine whether congregate housing is included in the Ch. 40B affordable housing calculation, all in favor, 5-0. Alderman Concannon stated that it would be helpful to determine if it is practical and done before by DHCD for congregate housing to be included in an affordable housing requirement, and once the answer is obtained whether the affordable housing requirement should be applied in this case. President Anderson stated that 85% of residents would be subsidizing the other 15% of the residents. Alderman Campbell stated that the congregate units are included in the number of units in the Ch. 40B calculation. Alderman Tedesco stated that he would not support requiring congregate housing to provide 15% affordable units, that the units are billed differently depending upon the needs of the residents, that this requirement will hurt the other 85% of residents, and that he will not support imposing the affordable requirement regardless of whether DHCD says the city can do so. Alderman Campbell stated that the ordinance should include the congregate housing in the 15% affordable requirement, that this project is liking getting a 300 unit apartment with no Ch. 40B benefit, and that there should also be affordable units for elderly in need. Alderman Mercer-Bruen stated that she does not believe that the 85% of residents will be subsidizing the 15% affordable units residents. Alderman Tedesco stated that the city will still be getting 30 units out of the 200 other units which is still 10% of the units so the city is not losing ground in the Ch. 40B calculation. City Solicitor Callahan Doucette stated that if the affordability requirement does not apply to congregate housing then the units should not be included in the total Ch. 40B unit calculation, that the 200 units will count toward the Ch. 40B quota, and that the 100 congregate units would be included in the housing total as well. Motion made and 2<sup>nd</sup> that the ordinance ought to pass without the Planning Board recommendation, 2 in favor, 3 opposed (Concannon, Mercer-Bruen, Higgins opposed), Motion Fails. Alderman Concannon stated that he wants to receive a response from DHCD before voting on the proposal. President Anderson stated that the ordinance should be changed so that up to a certain number of corporate units are not included in the affordable calculation. Attorney Tarby stated that the petitioner would not object to a cap of 100 units, that the petitioner indicates there will be between 100 and 104 units, and that therefore the cap should be at 104 units. President Anderson stated that this ordinance could use further review. Motion made and 2<sup>nd</sup> that the City Solicitor look at Section 28.6.2.2 to determine the appropriate location to insert the cap on the affordability requirement of congregate units at 104 units, all in favor, 5-0. Motion made and 2<sup>nd</sup> that the matter be returned back for action pending receipt of DHCD information from the City Solicitor and receipt of comments from the City Solicitor as to the location of the cap on the affordability requirement for congregate housing, 3 in favor, 2 opposed (Mercer-Bruen, Higgins opposed).

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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.** Chair Higgins offered a revised copy of the ordinance following the amendments made at the last committee meeting and incorporating the recommendation of the City Solicitor 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 2/3<sup>rd</sup> 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.~~

*d. Fiscal Impact Assessment*

*The purpose of the Fiscal Impact Assessment is to evaluate the fiscal and economic impacts of the proposed development on the City in accordance with the following:*

1. *Projections of costs arising from increased demand for public services (such as schools, police and fire (including ambulance service), trash and waste disposal; administrative and inspection services);*

2. *Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided;*
3. *Projections of the impacts of the proposed development on the values of abutting properties;*
4. *Consistency or conflicts with the City's Master Plan; and*
5. *Five-year projection of increased City revenues versus costs resulting from the proposed development.*

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<sup>rd</sup>s 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.

Motion made and 2<sup>nd</sup> that the document be received and made part of the record, all in favor, 5-0. A communication dated July 5, 2019 from City Solicitor Ellen Callahan Doucette entitled “Proposed Amendment of the Woburn Zoning Ordinance – Mitigation” was received. Motion made and 2<sup>nd</sup> that the communication be received and made part of the record, all in favor, 5-0. Motion made and 2<sup>nd</sup> to insert Section 18.6.d and delete Section 18.5.c.7 as recommended by the City Solicitor and shown in the document, all in favor, 5-0. Alderman Mercer-Bruen stated that memorandum from the City Solicitor supports the ability of the City Council to assess the impact of a development on the schools, police, fire and department of public works. Alderman Concannon stated that the memorandum from the City Solicitor support the analysis of the

impact of a development on the departments, that the city is not looking to put the cost of mitigation of the impacts on the petitioner but the City Council should be able to have information in order to make decisions, and that this is an improvement over the previous mitigation ordinance. President Anderson stated that he appreciates the City Solicitor referencing the City's Master Plan in the amendment. City Solicitor Ellen Callahan Doucette stated that she could not find a standalone mitigation ordinance, and that the requirements are generally where a large project is being developed. Alderman Tedesco stated that if the city takes money for mitigation then the burden is on the city to be certain the work is completed. Alderman Mercer-Bruen stated that the preference is not to take money for mitigation but if the city does take money in lieu of mitigation work then the city must be certain the work is completed. Motion made and 2<sup>nd</sup> that the ordinance ought to pass, as amended, all in favor, 5-0.

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Motion made and 2<sup>nd</sup> to adjourn, all in favor, 5-0. Chair Higgins adjourned the meeting at 7:20 p.m.

A TRUE RECORD ATTEST

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William C. Campbell  
Clerk of Committees, Pro Tem