

**COMMITTEE ON ORDINANCES, CHARTER AND RULES
WEDNESDAY, SEPTEMBER 1, 2021, AT 6:30 P.M.
CITY COUNCIL CHAMBERS
WOBURN CITY HALL**

Voting members present: Chairman Michael Concannon, Alderman Darlene Mercer-Bruen, Alderman Michael Lannan, Alderman Joseph Demers, and Alderman Jeffrey Dillon.

Non-voting members present: Alderman Robert Ferullo, Alderman Richard Gately, President Edward Tedesco, and Alderman Joanne Campbell

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Reading of previous meeting minutes: Motion made by Alderman Demers and seconded by Alderman Dillon to approve the minutes of the meeting of August 3, 2021; in favor, 5-0.

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ND Properties LLC, 264 Salem Street, Medford, Massachusetts 02155, to amend the 1985 City of Woburn Zoning Ordinance, as amended, be further amended as follows: amend Section 25 UPPER MAIN STREET OVERLAY (UMS) DISTRICT as follows: 1. Section 25F.3 shall be amended by deleting “fifty-seven (57)” on the last line of the paragraph and replacing with “twenty (20) units per acre.” Representing the petitioner were Attorney Joseph R. Tarby III, Rubin Rudman LLP, 600 Unicorn Park, Woburn, MA; and Attorney Peter Durning of Mackie, Shea & Durning, 20 Park Plaza, Suite 101, Boston, MA. Chairman Concannon said the committee has received two memoranda: 1. A recommendation from the Planning Dept. dated August 16, 2021, entitled “Planning Board report on proposed amendment to Section 25 of the Woburn Zoning Ordinance (Upper Main Street Overlay District);” and 2. A prodigious document from Attorney Tarby dated August 30, 2021, entitled “Re: Petition of ND Properties LLC to Amend Section 25 of the 1985 City of Woburn Zoning Ordinance.” Motion made by Alderman Mercer-Bruen and seconded by Alderman Dillon to accept the Planning Board memorandum and make it part of the permanent record; all in favor, 5-0. Motion made by Alderman Mercer-Bruen and seconded by Alderman Dillon to accept the document from Attorney Tarby and make it a part of the permanent record; all in favor, 5-0. Attorney Tarby said his clients have filed for a modification of the current Main Street Overlay District to allow for 20 units per acre instead of 57 units total. He said the presentation at the previous public hearing involved the environmental background of the property. He said in order to clean up the property the developers will require 20 units per acre. He said if the zoning change is approved, there will be 89 units. He said the previous proposal by developer Scott Seaver included a 4-story building. He said the current proposal is for a 4-story building plus one level of structured parking under the building. He said the height of the proposed Seaver building was 41 feet, 8 inches, and the current proposal calls for a height of 52 feet, 6 inches. He said the building ground coverage in the proposed Seaver project was 10.25 percent, while the ND proposal calls for a building ground coverage ratio of 13.33 percent. He said the Seaver project had 120 surface parking spaces and the ND proposal has 103 surface parking spaces. He said with the exception of the

structured parking component, the look of the proposed building will be similar to Seaver's proposed building. Attorney Durning said the anticipated cost of remediation is \$4.7 million-\$5.3 million, according to the professionals at Weston + Sampson, who performed an extensive assessment of the contamination. He said Weston + Sampson tried to establish where the hot spots are and target those areas for treatment. He said Massachusetts does not have any outlets for hazardous materials, which have to be transported out-of-state, which he said adds to the cost. He said Weston + Sampson performed additional testing for dioxin, and the tests revealed there is evidence the level of dioxin is above the regulatory threshold and will require additional soil disposal. He said there was also testing formed for PFAs in the groundwater, but the levels of contamination are not above the regulatory threshold. He said the cost of soil removal drives remediation. He said there were some concerns expressed at the public hearing about selling high-end condominiums. He said one important component of the project is it is designed for residential apartments, not condos. He said the development model has been dictated by EPA. He said EPA would not approve condos. He said one of EPA's concerns is having a singular management component. He said EPA wants to retain institutional control. He said the take-away from the development proposal is that the developer will continue to monitor the property due to concern about contaminants on the property now. He said the Planning Board letter indicates one of the benefits of the project is that the EPA will ameliorate the property and convert it to the public asset. He said this parcel does not have the same level of priority as the Wells G & H site. Most importantly, he said, there were more responsible parties that funded the remediation of the Wells G & H site. Here, he said, there are no deep pockets. He said EPA and DEP have evaluated the property and suggested preliminary steps, but they are not proposing extreme work that will result in an eye-catching turnaround. He said this parcel has essentially been abandoned. He said ND Properties has designed a project that is going to realize a substantial improvement. Chairman Concannon said the matter before the committee is a proposed zoning change, but the committee is also aware of the underlying project. He asked if any member of the committee wished to address the petition. Alderman Demers said there is a compelling argument to have a private company remediate the site, but he is having a hard time reconciling previous statements from the neighbors. He said there will be additional traffic due to the Ledges project across the street, and he is going to find it hard to support a zoning change that will allow for an expansion of the number of units. He said the council has to respect the will of the neighbors. He said what is being requested is not a small change. He said it will result in 32 more units. He said that while he would like to make the property less of an eyesore, he is having a hard time with a proposal that allows 32 more units. Attorney Tarby said the original proposal by Seaver was well over 10 years ago, when the extent of the contamination was not known. He said things have changed over the last 12 years. Alderman Demers said nothing has changed for the neighbors, and they are his primary concern right now. Alderman Dillon said any time a private company wants to clean a contaminated site, he is going to look at it hard. He said, however, he also has to consider the neighbors, some of whom are here tonight. He said he has to go with the wishes of the neighborhood. Alderman Mercer-Bruen said she agrees with Alderman Demers' comments about the primary concern being the safety of the neighborhood. She said there is no safety threat from the contamination. She said there is no impetus for the council to do anything. She said the council is faced with up-zoning proposals quite often. She said there are grants available through the federal and state government for remediating contaminated land and perhaps that's what the applicant may want to do. She said she will not be supporting this zoning amendment. Motion made by Alderman Demers and seconded by

Alderman Dillon to allow members of the City Council who are not on the committee to address the petition; approved, 5-0. Alderman Gately said he was on the City Council when Mr. Seaver wanted to develop the parcel. He said he knew it fell apart for Mr. Seaver. He said the property has sat there all these years and the neighbors have had contamination on her doorstep. He said there is an opportunity now to clean up the property. He said the contamination can't stay there, but he is not sure about the re-zoning. He said he is concerned because there is already a massive project across the street. He said North Woburn has taken a big hit in terms of development over the past two years. He said he can't understand how a person who bought the land and started to develop it can just walk away. Attorney Tarby said Mr. Seaver did not buy the property. He said it is still owned by Roketenetz. Alderman Gately asked how the owner can walk away when the owner contaminated it. He asked where their responsibility is. Attorney Tarby replied the liens are so significant at this point they are worth more than the value of the property. Alderman Gately said he does not see the property being cleaned up soon without this zoning change going through. He said remediation will cost a lot of money. He said he does not see the federal government making remediation of the site a priority. He said he can't believe someone can just walk away and not pay to have the property cleaned. Alderman Campbell said the Planning Board went out of its way to vote 5-0 not to endorse the proposed zoning amendment. She said the Planning Board does not do that very often. She said the contaminants are contained. She said the neighbors have supported keeping the number of units the same. She said if that's the case, she does not feel like the zoning should be changed. She said the council has to be careful. She said changing from 57 units to 20 units per acre is a lot. She said she thinks the council has to support the neighbors. Attorney Durning said there is currently not contaminated ground water leaving the site, but there is concern about the soil stockpile. He said EPA and DEP have been applying chemicals to encapsulate the contamination and prevent the ground water from migrating. He said this is not a perfect solution nor a long-term solution. He said this developer has been performing encapsulant as a goodwill gesture and to demonstrate their willingness to be a good partner. He said containment is temporary, and further work should be done there. Alderman Campbell said the committee is not saying the project can't be built; it is saying the density can't get any worse. She said the property can still be developed. Attorney Tarby said no one is going to develop the site if there is a limit of 57 units. Attorney Tarby directed the committee to a section of the Planning Board report, which he read, as follows: "In terms of support for the zoning amendment, two potential positives were identified. The rezoning might result in the remaining environmental work being done more quickly, via redevelopment by the private sector, versus completion by the Federal and State agencies. Redevelopment of the 1071 Main Street site might also result in improvements to the nearby public utility systems at the expense of a private developer instead of taxpayers. A number of possible mitigation measures, including sewer upgrades, water servicing, and sidewalk installation, were identified during earlier permitting approvals for the property. Those previously-identified improvements could be required by the City Council as conditions of any new special permit that might be issued to allow a residential development at 1071 Main Street." President Tedesco said cleanup is generally a good thing, and if there wasn't a 167-unit project going in across the street, the committee would be having a different conversation. He said at approximately 90 units, he just doesn't see how that will result in a net positive for Ward 6, Route 38, and the residents of that area. Motion made by Alderman Demers and seconded by Alderman Dillon to suspend the rules to accept comments from the audience; approved 5-0. Michael Raymond, 10 North Maple Street, said he wants to reiterate a couple of things he said during the public hearing. He said the

neighborhood mostly consists of single and two-family homes, not rows of apartment buildings. He said he believes this project will suffocate the neighborhood, when combined with the project across the street. He said there are also pending projects on New Boston Street, along with the reconstruction of the New Boston Street bridge. He said it will be like parking an ocean liner on your driveway that you will have to look at for the next 50 years. He said he does not think the property right now is an environmental disaster. He said the neighborhood is satisfied with the demolition of the buildings. He said if this project goes through, all the neighbors are going to see is an ocean liner. Jayne Germano, 8 Naples Avenue, said the scope of the proposed building is out of scale with the area. She said there is nothing like a 5-story building on Route 38. She said it is too much for the area. Dianne Autenzio, 27 Milan Avenue, said she is opposed to the zoning change. She said the proposed project will add to the school population and place an additional burden on public services like police and utilities. She said she agrees with Alderman Mercer-Bruen's suggestion that the applicant should seek additional sources of funding, or perhaps renegotiate the price with the owner. Martha Gonsalves, 19 Virginia Avenue, said her home is directly across the street from this proposed building. She said she has also had to contend with blasting from the Ledges project for the past two years. She said any additional units will be too much. She said trying to get onto Main Street is already difficult as is. She said a lot of this comes down to how much profit the developer will make. She said if the developer can find a way to get a grant, they should look into that. Brian Ross, 11 Poole Street, said he is opposed to the proposed zoning change. He said if the neighborhood wanted this site cleaned up faster, the committee would be hearing a lot more from the residents. He said allowing 57 units in the 2012 was generous. He said North Woburn and East Woburn have taken a beating with new development. He referred to Section 1 of the Woburn Zoning Ordinance, which states a zoning change is supposed to be a big deal. He recommended a denial of the zoning amendment. Deborah Parlee, 4 Wheeling Street, said the project at 855 Main Street was built at 15 units per acre. She said there are no buildings taller than three stories north of CVS on Main Street. She said with all the apartments going in in North Woburn, there has to be a breaking point. She asked how long the developers will continue to own the property once the project is finished. Motion made by Alderman Demers and seconded by Alderman Mercer-Bruen to return to the regular order of business; approved, 5-0. Chairman Concannon asked what the will of the committee is. Motion made by Alderman Mercer-Bruen and seconded by Alderman Concannon that the proposed zoning change "ought not to pass;" approved, 4-1, with Chairman Concannon opposed.

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MOTION made by Alderman Demers and seconded by Alderman Dillon to adjourn; in favor, 5-0. Chairman Concannon adjourned the meeting at 7:16 p.m.