

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE
VIA Zoom #897 1282 2458
June 10, 2021**

Present: Ken DiFazio, Chairman
Brian Dwyer, Vice Chair
Arthur Mathews, Councilor
Christopher Heffernan, Councilor

Absent: Rebecca Haugh, Councilor

Also Present: Joseph Callanan, Town Solicitor
Robert Luongo, Director of Planning
Eric Schneider, Principal Planner
Robert Conlon, Town Treasurer/Collector
James Malary, Director of Municipal Finance

Recording Secretary: Mary Barker

Chair DiFazio called the meeting to order at 6:30 PM. Councilor Mathews called the roll; Councilor Haugh was absent.

21 010- Review of Measure 17 127-Zoning Amendment to Create a Commercial Overlay District (Section 120-25.14)

This measure was referred to the Ordinance Committee on February 16, 2021. The committee met on March 3, April 29 and May 20, 2021. As a result of the debate, the Planning Department has distributed new maps and a proposed amendment.

Mr. Luongo reported that it has been brought to his attention that there is some concern that the changes might be considered “spot zoning” and if it is the case, there is no reason to continue. This is an overlay zone.

Solicitor Callanan responded that he spoke with the Council President this week about his concerns. It would be more accurately referred to as “retaliatory zoning,” which is not supported by the law. Spot zoning targets a specific area. Whereas, this is a map change, with one or two parcels added or taken away. Here, they proposed reducing the size- but are they being taken out for the right reasons? The size is reduced because there is zero interest in developing certain parcels. If there was a proposal that was being unfairly being looked at, then it is retaliatory. Further, in speaking with Mr. Schneider, it does not appear to be the case.

Mr. Luongo provided the logic as to why the proposal reduces the size and taking out parcels. Some are too close to residential areas, some are to remain as retail shopping, and the location of some is inappropriate. There is definitely justification for taking parcels out for purely logical reasons.

What they have done overall is reduce the heights to two, three and some four-stories. In addition, they proposed reducing the FAR requirement, so density is reduced all to .50. A couple near the MBTA site are 1.25, and some others .75. Parking and setback requirements will remain the same. They are talking also about a 10% inclusionary zoning anywhere with more than 10 units. Eric Schneider provided a presentation with maps illustrating the proposals showing what they propose to change:

- Route 3A- the Lowes' shopping plaza, U Haul, and Arbor Inn sites- proposing 3-stories
- 25% of first floor of any development must be dedicated to commercial retail development; those with podium design have parking on the first floor
- Bridge Street- 4-stories on the Arbor Inn side
- Columbian Street- eliminate a couple of parcels that are too close to the residential neighborhood. Anything built will be kept to 3 stories, with 25% of first floor commercial retail
- Route 18 corridor- shows the existing map and projects already developed/under construction. Propose eliminating everything else except a few parcels by Union Point entrance. Pleasant View Shoppes-- – propose keeping but reduce height to 3 stories. Suggest keeping retail in the corridor, but it is up for debate.
- Stetson shoe building- suggest keeping – it is medical facilities, which are doing well. The disadvantage is that the building is wood construction, which presents problems with medical equipment. Children's Hospital will be vacating the building to relocate to new construction on Libbey Parkway.
- The RK Center is doing okay. It's never been a robust facility. They propose a 3-story maximum, but keep it in.
- The Boston Motel property is already permitted and they propose keeping it and the areas across the street in.
- At the intersection of Routes 18 and 53 there are a couple of parcels- used car lots, etc. good acreage- it's not bad use to keep in, but keep to 3-stories as well. There are 13 acres of tax-title taking property. They suggest taking out of the overlay, and once they have the property in hand decide on the zoning, rather than putting in a place holder now.

Solicitor Callanan agreed; he expects they will have judgment this fall, but there is the owner right of redemption before they start the public process. They have applied to the EPA for a site assessment. They lost out on this year, and turn to MA Development – the Phase I assessment is dated from the 1980's. Mr. Luongo added that the front portion is in, but he is leaning to taking it out. If it will have a substantial housing development in the back, he isn't comfortable zoning the front portion mixed use.

- Route 53- the only parcel they propose keeping is by where the former Purple Eggplant used to be. There's currently a mechanic shop, Indian restaurant, and massage parlor, and the former RMT property- proposing a 3-story height, if someone could assemble the parcels for development.

- Elks property at the corner of Washington and Pleasant- 3 stories, .5 FAR and 25% commercial component.
- Hanover Companies for 4 stories, 2 buildings- parcels next to it, as mixed use- both are zoned industrial. These sites should not be used for industrial use- along the corridor, they don't want to encourage it, since it will cause problems with noise for the residents.

Chair DiFazio asked is the reason 4-stories is allowed near Argyle Court because a plan was already submitted? Mr. Schneider responded yes.

Mr. Luongo reviewed the proposal with the Planning Board. The Mayor will submit a measure with the proposal to go through the process and it will be ready for the next meeting.

Chair DiFazio asked if it will also include inclusionary zoning and he suggested it be a separate measure.

Mr. Schneider responded that he agreed, structurally.

Mr. Luongo gave a quick statement on inclusionary zoning so that the Town Solicitor and Councilor Mathews and the chair understand- he did bring a proposal about how to approach inclusionary zoning based on land area rather than number of units. He has not held back any information from the table. There wasn't a desire to meet on Solicitor Callanan's proposal.

Councilor Mathews noted he and Councilor Haugh submitted a measure, and it will need to be withdrawn properly before the Mayor's measure is brought forward. He does not want to get into a legal quagmire. It may have already self-destructed by not meeting public hearing deadlines. He thanked the administration for coming up with a good collaborative plan. He also agreed that inclusionary zoning should be a separate measure.

Solicitor Callanan explained that they are proposing to save the Safe Harbor based on land area instead of housing stock. It's unorthodox, and inclusionary zoning should be too. They would need thousands of multi-families to reach the threshold. Instead of 10% affordable housing, they should have 10% of land area. They already have the land area, but need to maintain it and is more consistent with the intent of inclusionary zoning. They could have requested a section of Delegas' or Boston Motel properties. With affordable units, a developer will simply increase the number of units. The advantage of this would be to develop single family housing instead of adding to the multi-unit housing and can satisfy the requirement off-site.

Chair DiFazio responded by following that method, the most important objective is to protect Safe Harbor, and everyone who develops, would have to slice out a low-income area. How would they physically do that? The Solicitor responded that they would be given the option; on- or off-site. The chair asked, which would result in greatest increase

in number of units available to the public? The Solicitor responded that it would be 10% of the units, if a developer says he needs 10% to make a profit.

Councilor Mathews responded that this is intriguing- especially if a developer can get a hold of a parcel. Over time, developers aren't renewing 40B certificates, because of the demand of the housing market. He likes the idea of separating the inclusionary portion. This is a great conversation to have.

The chair suggested another meeting to segregate the inclusionary zoning with some examples to illustrate the two options.

Mr. Luongo responded that he would like to see more on the Solicitor's proposal, but cautioned the committee- if this is something that the planning department must track, depending on the regulations and details, he might have to hire staff to manage the tracking. It must have staff capacity for implementation.

Chair DiFazio summarized that as to first part, it means closing out this measure and moving forward with a new measure to make the change. No vote is necessary.

Councilor Mathews suggested a conversation to close out one and submit the other. There will be opportunity at two upcoming town council meetings.

21 082- Proposed Amendments to the Town's Tax Title Payment Agreements Ordinance

This measure was referred to the Ordinance Committee on May 17, 2021, and the committee met on May 20, 2021. A public hearing was conducted on June 7, 2021. A memo was circulated amending the ordinance with five new terms regarding tax titles and making back payments giving owners some relief.

A motion was made by Councilor Mathews to forward measure 21 082 to the full Town Council with a recommendation for favorable action and was seconded by Councilor Heffernan.

A roll call vote was taken: Councilor Heffernan-Yes, Councilor Mathews-Yes, Vice Chair Dwyer-Yes, Chair DiFazio-Yes. UNANIMOUSLY VOTED.

21 090- Changes to the Town's Ordinances as Proposed by the Ordinance Review Committee

This measure was referred to the Ordinance Committee on May 17, 2021, and the committee met on May 20, 2021. A public hearing was conducted on June 7, 2021.

Mr. Malary reported that the committee met and thoroughly reviewed the Code of Ordinances, with no substantive changes. It was a collaborative effort, and they voted on the process, debated changes and submitted their recommendations in a report.

A motion was made by Councilor Mathews to forward measure 21 090 to the full Town Council with a recommendation for favorable action and was seconded by Councilor Heffernan.

A roll call vote was taken: Councilor Heffernan-Yes, Councilor Mathews-Yes, Vice Chair Dwyer-Yes, Chair DiFazio-Yes. UNANIMOUSLY VOTED.

ADJOURNMENT

At 7:37 PM, there being no further business, a motion was made by Councilor Mathews to adjourn and was seconded by Councilor Heffernan.

A roll call vote was taken: Councilor Heffernan-Yes, Councilor Mathews-Yes, Vice Chair Dwyer-Yes, Chair DiFazio-Yes. UNANIMOUSLY VOTED.

Attachment: PPP from Planning Department

Respectfully Submitted by Mary Barker as Recording Secretary

Approved by Ken DiFazio as Budget/Management Committee Chairman
Approved unanimously on 28 June 2021