

**TOWN COUNCIL MINUTES  
ORDINANCE COMMITTEE  
Town Hall Council Chambers  
27 September 2010**

Present: Michael Smart, Chairperson  
Kenneth DiFazio  
Ed Harrington  
Arthur Mathews

Not Present: Brian McDonald

Also Present: Robert Conlon, Councilor  
Robert O'Connor, Director of Public Works  
Chip Fontaine, Town Engineer  
James Clarke, Director of Planning  
Robert Luongo, Economic Planner

Recording Secretary: Diane Hachey

Chairman Michael Smart called the Ordinance Committee meeting to order at 6:45 PM.

**10 031-Proposed Ordinance Amendment to Section 8-401-Excavations**

Mr. O'Connor distributed a revised copy of the proposed ordinance. Councilor Mathews noted that this measure was referred to the Ordinance Committee last spring and his intent is to deal with utilities tearing up roads and leaving them in deplorable condition.

Councilor Smart noted that it is the responsibility of the utility company to comply with this proposed ordinance. He asked if anyone in the audience was representing a utility company, to which there was no response.

Councilor Harrington suggested that "street" is stricken from the first sentence and "utility trench" is substituted.

It was noted that a public hearing has been scheduled for October 4, 2010 at the Town Council Meeting. Mr. O'Connor stated that he will not be available that evening as he had a previously scheduled vacation, but would send someone in his place.

Councilor Mathews motioned for favorable action, inclusive of Councilor Harrington's revision, in addition to a favorable public hearing. Motion seconded by Councilor Harrington and voted unanimously.

**10 102-Zoning Amendment for 203 Middle Street (Map 22, Block 291, Lot 9)**

Mr. Clarke and John Walker (attorney for the property owners-International Church of the Foursquare Gospel) presented to the committee. Mr. Walker noted that the property was sold several years ago-Mr. Barry's offer was the best for the property and the community.

Chairman Smart questioned why the Mayor introduced this measure at Council. Mr. Clarke noted that although the Mayor introduced this measure, it was filed by the Planning Department on behalf of the applicant.

Councilor Conlon requested detail on retroactive taxes on the property and details surrounding the sale of the property. Councilor Smart suggested that the solicitor conduct a title search and make his legal recommendations at that point.

Mr. Luongo presented to the committee via a power point presentation. Highlights are as follows:

40 R Guidelines:

- smart growth zoning district
- financial incentives
- affordable housing
- state minimum district requirements
- optional district regulations
- design standards
- municipal review
- 40 R process

Chapter 40 R Smart Growth Zoning and Housing Production Act

- enacted in June of 2004
- state program
- administered by DHCD
- allows for creation of Smart Growth Zoning Districts

Smart Growth Zoning District

- encourages denser residential or mixed- use zoning overlay districts
- minimum 20% affordable housing units
- located near transit stations, town centers, and other suitable locations
- permitted as- of- right or by a limited approval process
- adopted locally as a zoning amendment

Financial Incentives

- incentive payment –upon district approval based on number of new units
- falls under the 21 to 100 units (as the proposal is for 38) which equates to \$75k
- added density bonus of \$3k per unit of new construction
- funding to cover the educational cost of children in new housing

Councilor Harrington asked for detail on the educational funding reimbursement. It was noted that it covers all children in that development in perpetuity-the exact cost is unknown as the state has a specific formula which is used to compute. Councilor Mathews requested that Mr. Luongo obtain the amount of funding for which we can expect to be reimbursed. Councilor Harrington additionally requested that Mr. Luongo ascertain how special needs students are factored into the equation.

Affordable Housing/Subsidized Housing Inventory

- all affordable housing units count towards the 10% affordable housing for the community
- affordable is defined as 80% of median income

State Minimum District Requirements

- eligible location
- at least 20% of units to be affordable
- housing density requirements
  - 20 units/acre for multi family housing
  - 12 units/acre for 2 and 3 family buildings
  - 8 units/acre for single family dwellings

It was noted that the above density requirements are not subject to change.

#### State Minimum District Requirements

- full compliance with federal, state and local fair housing laws
- proposed housing density will not overburden current infrastructure
- must define review process and approval authority
- must be defined in the ordinance zoning

#### Zoning District Options

- may modify or eliminate dimensional standards
- may designate a percentage of developable land as perpetual open space
- may provide for mixed use development
- may encompass an existing historical district
- may require more affordability than required by law

#### Design Standards

- design standards may be adopted to ensure that the physical character of development is within the smart growth zoning district and will compliment the adjacent buildings
- the design standards are included in the zoning package and are subject to the Town Council's review

#### Municipal Review

- application content described
- zoning in effect at time of application will govern
- public hearing required with notice in newspaper and abutters
- 120 days is the timeframe for a decision
- conditions allowed for smart growth compliance and to mitigate impacts

#### Smart Growth Zoning Program Administration

- DHCD oversees the smart growth zoning district program

#### 40 R Process

- application to DHCD for Smart Growth District
- local public hearing held by Mayor in 2007
- submit preliminary eligibility application to DHCD

#### Creation of a Smart Growth Zoning District

- submit to Town Council
- public hearing (Council /Planning Board)
- Council votes following Planning Board's recommendation
- DHCD approval
- final zoning is presented to the BZA

#### Project Application and Decision

- project application
- public hearing and review
- decision

#### Outline of Proposed Ordinance for the Clapp Memorial Smart Growth Overlay District

##### Existing conditions

- 2.35 acres
- R-1 current zoning (single family (1 unit/25k square feet with a maximum of 4 units)

##### Existing building

- built in 1903

- 10,500 square feet
- 2 ½ stories (50 feet in ht. )

#### Allowed Usage and Densities

- state allows for mixed -use sub district
- residential is 20 units/acre
- commercial is a maximum of 7k square feet
- 2/3 family townhouse subdistrict
- residential is 12 units/acre
- open space sub district is open space/passive use

#### Dimensional Requirements

- figures are based on state law, final decision rests with the town

	Mixed use district	2/3 family townhouse district
Max height	50 feet	35 feet
Min lot frontage	60 feet	60 feet
Setbacks		
Front	30 feet	30 feet
Side	20 feet	20 feet
Rear	20 feet	20 feet

#### Parking Requirements

- multi family and townhouses are 2 spaces/unit
- office use is 1 space/300 square foot of gross floor area

#### Plan Review and Approval

- BZA shall issue plan approval decisions and a special permit

#### Site Plan Standards

- the developer must meet:
- set backs
- retain existing landscape and features
- enhance pedestrian environment
- limit ingress and egress
- screen parking

#### Design Standards

- roofs
  - new construction should mimic the existing historic structures
  - materials and color
  - only new construction durable materials and high quality craftsmanship are strongly encouraged
  - use traditional materials such as wood, brick and stone
- outdoor lighting
  - use decorative lighting and bollards in the context of the surrounding character
  - all site lighting is required to not contribute to glare and reduce light trespass
- service and utilities
  - screening of all outdoor trash receptacles
  - all utility equipment should be screened and be as inconspicuous as possible
- site landscaping
  - preserve existing where possible
  - gateways and site entrances should be distinguished by special landscaping features

- use of chain link or stockade fencing visible from any public view is prohibited
- mixed use development properties
- design standards require non residential elements of any mixed use development to be planned and designed in an integral manner to compliment the residential uses

#### Housing and Affordability

- 20% of housing units shall be affordable
- 10% of units within the district shall be 3 bedroom units (4 in total) with 20% affordable
- administrating agency shall be designated by the Mayor
- prices of affordable homeownership units and rental units are properly computed
  - income eligibility of households applying for affordable housing is properly determined
- the housing market and resident selection plan conforms to all requirements
- sales and rentals are made to eligible households chosen in accordance with the housing marketing and residential selection process
- affordable housing restrictions are on record with the Registry of Deeds
- submission requirements
  - evidence that the project complies with percentage of affordable housing units
  - evidence that the project complies with the eligibility and cost requirements
  - a form of affordability restriction exists

#### Cost and Eligibility Requirements

- affordable housing to be occupied only by eligible households
- affordable rental unit--the monthly rent payment, including utilities, shall not exceed 30% of the maximum monthly income permissible for an eligible household
- affordable homeownership unit-the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium fees, and insurance, shall not exceed 30% of the maximum income permissible for an eligible household

#### Estimate of Incentives Value for Proposed Project

- zoning incentive payment =\$75k
- density bonus payment at \$3k/unit =\$102k
- total incentive from above =\$177k
- plus the school reimbursement (unknown factor)

Councilor DiFazio questioned if the \$177k+ could be used to revitalize Central Square. Mr. Clarke noted that in his discussions with the Mayor, she is amenable to earmarking funds and is open to a discussion.

#### Timeline for Approval State Initial Approval

- in June of 2007 DHCD had its initial meeting
- in September of 2007 the Planning Board had its initial meeting
- in November of 2007 a local public hearing was held
- in June of 2009 DHCD issued its approval

#### Final DHCD Approval of Smart Growth Overlay District

#### Project Application Within the Smart Growth Overlay District

- project applicant submitted to BZA
- hearing –2 week notice
- decision

#### Administration, Enforcement and Appeal Process

- BZA shall review project applications, approve site plans including design standards to implement a project and issue plan approval decisions with the CMSGOD

- building inspector shall administer the ordinance
- legal appeals arising out of plan approval decision by the BZA shall be governed by the applicable provisions of MGL Chapter 40 R

#### Project Application and Development Project Overview

Councilor Mathews noted the timeline incurred in rezoning requests and announced that the joint public hearing on this measure has been tentatively scheduled for Monday, 8 November 2010. He needs to contact the chairman of the Planning Board to confirm.

Councilor DiFazio noted his concern that the Planning Board's report is not issued until after the public hearing. To this end, he urges the public to comment on the project which is precisely the reason the report isn't issued until the public is heard from.

Mr. Barry's attorney (Ray Jennings) spoke on behalf of his client. He noted that this project started in 2007 with many neighborhood meetings and active participation. Originally the plan called for 46 units but it has been decreased to 38, with many design changes in order to comply with the projected zoning ordinance. The goal is to restore the Clapp Memorial, create 8 units of affordable housing, and provide for transient employment opportunities for the town.

He further noted that Mr. Barry intends to make substantial improvements to the surrounding Central Square districts.

Mr. Jennings suggested the following publication entitled "Use of Chapter 40 R in Massachusetts" which can be located at: [www.mapc.org/sites/default/files/Chapter\\_40R\\_Report.pdf](http://www.mapc.org/sites/default/files/Chapter_40R_Report.pdf)

Mr. Jennings noted that this publication is a helpful tool for smart growth and affordable housing production and cites the uses of 40 R in surrounding communities. It was noted that in excess of \$10 million had been paid out for projects.

Mr. Barry distributed a map inclusive of changes from the original map. He summarized that the location entails 10,500 square feet with 12-13k square feet in actuality due to the height of the ceilings.

Chairman Smart requested the most current set of plans to be submitted to the Town Council Office. Councilors Smart and DiFazio stated that they would not vote on a project without a complete, detailed set of drawings.

Councilor DiFazio questioned if the Council is voting solely on the zoning change or also the project itself. Mr. Luongo specified that technically the vote is on the zoning ordinance but in reality one would be voting on the project as well.

Councilor Conlon noted his concern with the project and questioned its viability in the town of Weymouth. He believes that the state should propose this project in another town and feels that it is not appropriate for Weymouth.

Several Councilors requested other projects undertaken by Mr. Barry-he offered to supply a list of locations for their perusal.

Councilor Mathews asked for more detail on the plans for revitalization of Central Square. Mr. Jennings noted that Mr. Barry intends to refurbish 555 Middle Street and has reached out to the owner and creditor of the property. Plans are to refurbish building facades, install lighting, build a kiosk etc. Mr. Barry has committed to contributing his own funds to this effort.

Councilor DiFazio asked for a more detailed update on artists rendering which had been previously distributed.

Councilor Smart requested water consumption and traffic study detail and encouraged all concerned that

this is supplied prior to a vote.

It was suggested that this power point presentation is delivered at the public hearing in addition to the website which houses the revitalization plans.

Chairman Smart noted the following items to be completed prior to a vote by the committee:

- all current drawings/maps
- traffic studies
- water consumption
- cost on per pupil reimbursement-inclusive of special needs calculation
- a listing of how many communities are waiting for funding

Chairman Smart will schedule another Ordinance Committee Meeting prior to 8 November and will inform all involved and noted that the meeting schedule will depend upon how quickly the aforementioned items are received by the committee.

At 9:38 PM, there being no further business to attend to, Councilor Mathews made a MOTION to ADJOURN the meeting, seconded by Councilor Harrington. UNANIMOUSLY VOTED.

Respectfully Submitted:

Diane Hachey/Recording Secretary

Approved by:

Chairman Michael Smart