Minority Reports
Special Town Meeting, Fall 2009
Articles 9, 11, and 13

The draft Master Plan has emphasized the desirability and benefits of many of the concepts included in these articles. However, as they are currently conceived, I believe that Articles 9, 11, and 13 fall short of the goals stated in the Master Plan, and in the long term they may actually provide results that are contrary to those envisioned during the Planning Amherst Together process.

Article 9: Medical Offices

On October 7, 2009, the Planning Board voted 5 – 3 to support this article. Those voting in the minority felt that the article as written has problems of substance as well as of language. Following are two reports of members voting in the minority.

This article is the latest in a series of changes to the Professional Research Park zoning district. Most, if not all, of these changes have been sought for and have directly affected the section of the East Amherst PRP off of Larkspur Drive. Many of the changes have been to allow an increase of intensity of use – that is, use that generates vehicular traffic – on the site. In November 2007 Town Meeting approved a change that allowed offices that received moderate numbers of client visits. This article was hailed as a compromise that was carefully crafted by neighborhood residents, the Planning Board and Planning staff, and other concerned citizens. This is not the case of the article now before you. What Town Meeting should carefully consider is the following: 1. At what point do the benefits of economic development to the town as a whole override the impact on the quality of life that such development may bring to an abutting residential neighborhood? 2. Is this change – which stands to benefit a single individual – one that is also good for the entire PRP district and the overall economic development of the town?

This article follows close on the heels of a ZBA decision upholding the Building Commissioner's ruling that medical offices did not fit into the category of "professional and technical offices," but rather that of "medical and dental centers," and that they were thus not allowed in the PRP district. At the time of the 2007 compromise article, it was also emphasized that medical offices were not moderate, but instead high-visitation offices, and were therefore explicitly excluded from the change in use.

An increase in cut-through vehicular traffic from more intense business use has been the greatest concern of the neighborhood that abuts this district. Because much of the land along Larkspur Drive has not yet been developed, residents are concerned about what sort of traffic increase they will need to live with at full buildout, and have repeatedly requested a traffic study over the years. None has been undertaken. Each time an

increase in intensity of use is proposed, they are told to trust that the permitting process will protect them from inappropriate development. Yet each time that they have trusted the process, it has been undone around them. A clear pattern has been established: each time a change is made to increase the intensity of use, another will inevitably follow. Soon this section of the PRP will become unrecognizable – another stretch of office park or commercial enterprises.

In the end, this may be the most beneficial use of this land, in terms of benefit to both property owners and the town's tax base. But such a decision should not be made piecemeal by constant tinkering with the zoning each time an individual wishes to change the rules. The original purpose of the PRP was to "provide an open and attractive environment for office, research and low intensity industrial activities. The standards and regulations are intended to limit development to those activities that are non-commercial in nature and that operate in a clean and quiet manner." Making yet another change to allow offices that are clearly high-visitation – and hence increased vehicular traffic – in the PRP blurs the line between this district and that of the Office Park. Perhaps it *is* time to do this – but not in this way. The PRP district should be examined carefully as a whole – looking at all three very distinct areas in town that are so zoned – to see what has been successful and what has not. And past failures should not discount future successes: the new computing facility planned for Holyoke may provide the impetus for successful development as it was originally envisioned for this district.

Finally, the technical problems of the language of this article must be noted. The earlier reference to the case before the ZBA as to the correct classification of a doctor's office pointed out a degree of ambiguity in the use categories of the Zoning Bylaw. However, with the language as proposed in this article, we will move from livable ambiguity to convoluted, byzantine, and unnecessarily restrictive language that creates more problems than it solves. If passed, we will end up with a two-tiered system that somewhat arbitrarily classifies and counts medical staff and employees and that establishes size classifications for different levels of client visitation through equally arbitrary and even contradictory numbers – as written, an aggregation of "medical offices" could be classed as a "medical center," even though there is no professional affiliation between them. Further, the size limitations on medical offices – designed to shoehorn this use into the PRP district – will end up restricting and hobbling the expansion and success of any practice that wishes to locate here. The easiest solution to the classification problem is to change the wording of Section 3.361 from "Medical or dental center" to "Medical or dental office or center" – already allowed by right (SPR) in five business districts, leaving the smallest offices as an accessory use in residential districts.

The discussions generated by this article have raised many important questions; however, this article does not provide the best possible answers that could be found for them.

Denise Barberet

The amendment defines "Other Medical Care Providers"; this term is not used anywhere in the definitions for "Medical Office" or "Medical Group Practice," which refer instead to "other medical or dental professionals." At a minimum the terminology should be consistent.

There are far too many undefined terms. For example, in the "Medical Offices" definition, what does "direct" mean? (What would be indirect services, and are they excluded?) What does "aggregation" mean? What is a "medical residential facility"? What is "patient support"? Does "ancillary medical services" include physical therapy? What about outpatient drug or alcohol rehabilitation, or methadone treatment?

As a result of the ambiguities, this amendment as written will create confusion and breed litigation.

David Webber

Article 11: Neighborhood Business (B-N) District

As of the writing of this report, the public hearing has not yet been held on this article. However, as a member of the Planning Board when it was originally proposed (Fall 2007), and as a participant in the discussions of the Zoning Subcommittee on the current version, I have carefully watched its evolution.

This article was originally proposed to resolve certain zoning difficulties and anomalies in the Main-Dickinson-High Streets area, and as a way to allow a more useful mix of residences and small businesses. I originally supported the article for both reasons: zoning should be streamlined and sensible, and I am as well in favor of a greater mix of residential and business uses – my grandfather owned a successful auto repair garage in a residential neighborhood from the 1940s through the 1980s. However, as this article has evolved, and as it has been placed and interpreted within the context of the Master Plan, I do not feel that it will accomplish what we want it to do, and it has the potential to radically reshape the town in ways that are not desirable and that are not what were envisioned in the Planning Amherst Together process.

The Master Plan has repeatedly emphasized the importance of and citizens' desire for goods, services, and employment within walking distance of residences. Using these statements and invoking 1860s maps of the central portion of Amherst, the Planning Director has advanced a Land-Use map for the Master Plan that designates the downtown, village centers, and almost the entirety of the General Residence (R-G)

district as mixed-use centers. What the creation of a Neighborhood Business (B-N) zoning district will do is to open up – at least in theory – all remaining residential districts to potential commercial activity.

The Master Plan's vision of strengthening the downtown – defined by many as the central business district (B-G) only, the retail core of town – and the village centers as mixed-use areas that provide goods, services, and employment, as well as residential space, makes sense and is workable. A critical mass of both businesses and customers is preserved and enhanced. People residing within walking distance will have increased incentive to leave their cars at home and head downtown on foot. All will benefit.

Designating the R-G district as a mixed-use center and opening it to commercial activity makes less sense; opening all other residential districts by allowing for B-N districts within them makes the least sense of all. By allowing for the diffusion of businesses throughout the town – essentially the suburbanization of business – the critical mass of businesses and customers necessary for economic viability will be diminished and may even be lost. While the notion of a return to the Amherst of the 1860s may be desirable, lovely, and even romantic, it is hardly realistic. Small businesses within residential districts survived and thrived in that era because it was the most practical choice for people to shop and work near where they lived. The reality of transportation in the 1860s virtually guaranteed such a choice. Transportation realities of the 21st century offer no such guarantees. Locating businesses and employers in a residential neighborhood does not mean that they will be sought out by or provide employment for nearby residents. Further, the restrictions placed on hours and number of employees – necessary to make businesses who wish to locate in this zoning district palatable to abutting residential areas – may limit or have a negative impact on their economic viability. Businesses that are able to attract a sufficient customer base may do so by bringing unwanted vehicular traffic through the surrounding residential areas, thus defeating the purpose of such a district. In the R-G district in particular, absent the critical mass of other businesses and customers, the success of new businesses may only be possible by promoting the urbanization of that part of town – hardly the vision imagined by those residents who participated in Planning Amherst Together.

A more livable, sustainable town that thinks and supports local businesses first is what we should work to create, and this article does have elements that could help to make that happen. But in its present incarnation, it is too ambitious and potentially uncontrolled in its scope and potential for change. We should first protect, strengthen, and enhance our current business districts before creating others that in the end may be unsustainable or undesirable.

Denise Barberet

Article 13: "Green" Building and Lot Coverage

After holding the public hearing on Article 13 on October 7, 2009, the Planning Board decided to split this article into two parts for recommendation. Parts A and B, dealing with maximum building coverage for buildings with green roofs (plus their definition in Part D), received a split vote of 4 – 4 and thus failed to receive a recommendation. The Planning Board later voted to recommend that this part of the article be referred back to them. Part C (plus the definitions in Part D) was recommended by a 7 – 1 vote.

I believe that several of the concerns raised during the discussion of green roofs also apply to green paving systems. I fully support the move away from environmentally unfriendly products such as asphalt. However, I am struck by the irony of the incentive system in this article: if you do something that is better – though still not ideal – for the environment, you can now do more of it. One of the tenets of environmentalism is to lessen our footprint upon the earth, not extend it. Porous asphalt *is* permeable and does aid in stormwater control and water filtration, but nonetheless, when you see it, *you see asphalt*. Asphalt's primary reason for existence is to provide a surface for vehicles. Leaving other considerations aside, allowing more coverage of a lot – even with a more environmentally friendly product – encourages greater vehicle concentration and detracts from the lot's aesthetic appeal (although it could conceivably resolve the problem of rental properties where cars are now parked on the lawn). This article also contains no provisions for what will happen if a property owner decides – for whatever reason – to convert to a more conventional paving system.

We should absolutely encourage the adoption of materials that have environmental benefits, but we should not do so in a piecemeal fashion nor at the expense of more truly green space. While I can see advantages and benefits to giving lot-coverage bonuses in commercial areas, where asphalt is an inevitability, I don't see the overall benefits to the community from doing so in residential districts. What I would like to see is a new section of the Zoning Bylaw that provides a comprehensive vision of uses of green materials – one that does not reward simply because you do it, but because it is in the overall best interests of the community.

Denise Barberet