Town of

AMHERST *Massachusetts*

PLANNING BOARD **Report to Town Meeting**

ARTICLE 23 MASTER PLAN COMPLIANCE (Planning Board)

To see if the Town will amend Article 1, and Sections 10.38, 11.1, and 11.24, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

~ SEE ATTACHMENT ~

Recommendation

The Planning Board voted 8-0 to recommend that Town Meeting adopt Article 23.

Background

On February 3, 2010, after several years of public forums, surveys, and extensive community input and participation, the Planning Board voted to adopt Amherst's Master Plan.

The purpose of Article 23 is to amend the Zoning Bylaw to acknowledge that the Bylaw is in accordance with the recommendations of the Master Plan, and will continue to be as new amendments are proposed and considered. As indicated, the Zoning Bylaw is intended to promote the health, safety, convenience and general welfare of the inhabitants of the Town and to encourage the most appropriate use of the land throughout Amherst. The Master Plan offers a wide range of goals, objectives and strategies that will help guide current implementation and future amendment of the Zoning Bylaw more effective in the future.

The amendment also adds language to the those sections of the Zoning Bylaw used by the Zoning Board of Appeals and Planning Board during permit reviews, to add an assessment concerning whether applications for land use permits (Site Plan Review approvals or Special Permits) are in harmony with the goals of the Master Plan.

In response to questions from the Zoning Board of Appeals, Town Counsel has indicated that no part of this amendment would limit a permit granting authority's current ability to deny or condition development projects. Nor would the Master Plan diminish the authority granted to the Special Permit Granting Authority by the state Zoning Act or Amherst's Zoning Bylaw.

Town Counsel indicated that this amendment would acknowledge the guidance of the Master Plan, but could not compel a specific decision in a pending application. The Master Plan is the larger framework of community intention. The Zoning Bylaw is one principal method—among several—that the community will use to implement the recommendations of Master Plan.

Additionally, this amendment does not have the effect of making the Master Plan 'part' of the Zoning Bylaw, nor can it change the Bylaw—only a 2/3s vote of Town Meeting can do that. Any subsequently proposed amendment to the Zoning Bylaw seeking to implement a recommendation of the Master Plan will follow the same process as any other amendment—development and recommendation by the Planning Board, followed by review and approval, amendment, or denial by Town Meeting.

During the process of reviewing this amendment, the Planning Board also identified some outstanding technical errors in Section 11.1, Execution. Article 23 also proposes to correct that language.

Public Hearing

The Planning Board held a public hearing on Article 23 on March 3, 2010. There was no public comment. The Planning Board voted 8–0 to recommend that Town Meeting adopt this article.

ATTACHMENT

ARTICLE 23 MASTER PLAN COMPLIANCE

To see if the Town will amend Article 1, and Sections 10.38, 11.1, and 11.24, by deleting the ~~lined out~~ language and adding the language in ***bold italics***, as follows:

A. Amend Article 1, Purpose, by adding the language shown:

ARTICLE 1 PURPOSE

This Zoning Bylaw is enacted pursuant to, and under the authority of, Chapter 40A of the General Laws as amended, for the purpose of promoting the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst, ***and to encourage the most appropriate use of land throughout Amherst. This Zoning Bylaw is in accordance with the recommendations of the Master Plan adopted by the Planning Board and is consistent with the comprehensive plan of the regional planning agency.***

B. Amend Section 10.38, Specific Findings Required, by adding the language shown:

10.398 The proposal is in harmony with the general purpose and intent of this Bylaw, ***and the goals of the Master Plan.***

C. Amend Section 11.1, Execution, by deleting and adding the language, as shown:

SECTION 11.1 EXECUTION

The Building Commissioner shall enforce the provisions of this Bylaw as hereinafter provided. No building shall be constructed, altered, moved, or changed in use in the Town without a permit from the Commissioner. Such permit shall be withheld unless such construction, alteration or proposed use is in conformity with all provisions of this Bylaw. Where a ***S***pecial ***P***ermit ~~from the Board of Appeals~~ ***or Site Plan Review approval*** is required (pursuant to the provisions of this Bylaw), or where an appeal or petition involving a variance is pending, the Building Commissioner shall issue no such permit except in accordance with ***the*** written decision of ~~said~~ ***the appropriate*** Board.

D. Amend Section 11.24, Review Criteria/Guidelines, by adding the language shown:

11.2400 Conformance with all appropriate provisions of the Zoning Bylaw ***and the goals of the Master Plan.***