

AMHERST PLANNING BOARD
Wednesday, April 25, 2018, 8:15 PM
Town Room, Town Hall
MINUTES

PRESENT: Stephen Schreiber, Chair, Greg Stutsman, Robert Crouner, Maria Chao, Michael Birtwistle, Christine Gray-Mullen, David Levenstein, and Pari Riahi

ABSENT: Jack Jemsek

STAFF: Christine Brestrup, Planning Director
Steven McCarthy, Administrative Assistant

Mr. Stutsman opened the meeting at approximately 8:20 PM. Mr. Schreiber was present, but Mr. Stutsman chaired the meeting.

I. MINUTES

Mr. Birtwistle MOVED to approve the Minutes of April 18, 2018. Ms. Riahi seconded and the vote was 5-0-3 (Chao, Schreiber and Gray-Mullen abstained; Jemsek absent)

II. PUBLIC HEARINGS – SITE PLAN REVIEW & SPECIAL PERMIT

SPR 2018-11 & SPP 2018-01– U Drive LLC– University Drive – Mixed-use Building
(continued from April 18, 2018)

Request Site Plan Review approval to construct a mixed-use building under Section 3.325 of the Zoning Bylaw, with 36 residential units and one office, with associated parking and site improvements and request Special Permit to allow more than 10 dwelling units above the first floor and to modify the height requirement (Map 13B, Parcel 33, B-L zoning district)

Mr. Stutsman reintroduced the applications.

Attorney Tom Reidy of Bacon Wilson presented a color rendering of the proposed buildings. He was accompanied by John Kuhn of Kuhn Riddle Architects.

Mr. Stutsman reviewed the Development Application Report. He noted that issues to consider included signs, a Special Permit to allow more than 10 units above the first floor in a mixed-use building and a Special Permit for height modification, a waiver of the parking requirements, and an acknowledgment of the amount of fill to be brought into the site and the Fire Department's comments.

There was no public comment.

Mr. Schreiber stated that he had watched the video of the April 18, 2018, Planning Board meeting at which this project had been presented and discussed. He certified that he understood the issues and was eligible to vote on the applications. Mr. Stutsman stated that Mr. Schreiber, Ms. Chao and Ms. Gray-Mullen had all certified that they had watched the video of the April 18, 2018, Planning Board meeting, had reviewed the materials and were therefore eligible to vote. Ms. Brestrup acknowledged receiving written statements from them all.

Mr. Stutsman turned to the list of draft conditions that had been drawn up by staff. He stated that the applicant was requesting Special Permits for height and the number of units above the first floor and for parking.

Mr. Levenstein noted that the Board had received a new Management Narrative Summary. He asked whether an electrical charging station would be included in the project.

Mr. Roberts, the applicant, stated that he intended to install an electrical vehicle charging station in a spot close to the building. There will be one station with two plugs, he said.

Ms. Gray-Mullen asked about the location of bike racks and whether there would be any bike storage in the building.

Mr. Reidy stated that there would be no formal bike storage in the building, but that there were bike racks at the east end of the building and that they would fit in as many bike spaces as possible in this area.

Ms. Riahi asked about overflow parking. Where will it go?

Mr. Reidy stated that there will be a parking management system:

- Studios and one and two bedroom apartments would each have one parking space;
- Three bedroom apartments would each have two parking spaces;
- The office would have one parking space.

There will be a sticker system to show who had permission to park on the site. There will be monitoring and oversight of the parking lot.

Mr. Reidy stated that parking will be well regulated and the requirements will be made clear in the lease. There will be a 6' high chain-link fence around the southeast corner of the property along with a hedge of arborvitae to keep people from entering the adjacent property to the south. There are also dense woodlands between this site and the adjacent property to the south, discouraging people from walking there. Security cameras will be located on the fence.

The lease states that tenants who park on the adjacent property to the south without permission will be evicted.

Some tenants will not have vehicles. There is a multi-purpose path along University Drive, in front of the property as well as a PVT bus line. Shopping is close by, within walking distance.

Ms. Gray-Mullen stated that more bike racks would encourage tenants to ride their bikes. She asked about a covered bike rack, which the applicant and architect seemed willing to consider.

Mr. Birtwistle noted that the bike rack detail seemed to be able to accommodate as many as seven bikes. With four bike racks, as many as twenty-eight bikes might be accommodated.

Snow will be removed by a contractor and taken off-site.

The Board found, under Section 10.38 of the Zoning Bylaw, Special Permit, focusing on issues related to the Special Permit:

10.380 – The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; the property has access to public transportation and services, it is located in an emerging mixed-use district, and the Planning Board had supported the zoning change from OP to B-L to encourage this type of development; the number of dwelling units above the first floor is compatible with The Arbors nearby, which also has more than ten dwelling units above the first floor; the height of the building is compatible with the building at 101 University Drive and with the roof of the adjacent Hangar building;

10.381 – The proposal is compatible with existing Uses and other Uses permitted by right in the same District;

- 10.382 – The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structure or site features; the proposal includes appropriate landscaping features and new forested areas, as well as a fence and a hedge; mechanical equipment is located on the roof and is screened from view; in addition there has been a peer review of the stormwater management system and the Town Engineer has found the plans to be satisfactory; in addition the applicant has moved the building away from the abutter to the south;
- 10.383 – The proposal will not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; the parking lot has been properly designed with adequate maneuvering space and turn-around space for fire trucks; the entry drive has been designed to provide adequate sight distance; the multi-use path in front of the property is being re-designed to be 9' wide, with a single, two-way path to avoid multiple crossings between vehicles, bicycles and pedestrian;
- 10.384 – Adequate and appropriate facilities will be provided for the property operation of the proposed use;
- 10.385 – The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features; the proposal includes appropriate landscaping features and new forested areas, as well as a fence and a hedge; mechanical equipment is located on the roof and is screened from view; in addition there has been a peer review of the stormwater management system and the Town Engineer has found the plans to be satisfactory; in addition the applicant has moved the building away from the abutter to the south;
- 10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw; the applicant has submitted detailed parking plans and has requested a waiver from the requirement of two parking spaces per dwelling unit; the applicant will provide parking spaces as described during the public hearing and will receive a waiver under Section 7.9 of the Zoning Bylaw; a sign plan will be required to be submitted as a condition of the approval;
- 10.387 – The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements; a Traffic Impact Statement was submitted as part of the application; the TIS concluded that this project was not expected to result in a significant increase in the number of vehicles or in vehicle travel delay in the vicinity of the project site and not expected to result in a noticeable impact to the vehicles traveling to and from the land uses on the west side of University Drive;
- 10.388 – The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use; the parking and circulation plan is satisfactory;
- 10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water; a third-party peer review was performed on the stormwater management plan which found that the plan was satisfactory; the Town Engineer has found the project to be satisfactory with respect to sewage and refuse disposal and surface water drainage; a dumpster will be provided with a wooden screen;
- 10.390 – N/A;
- 10.391 – N/A;
- 10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage; a six-foot high chain link fence with a hedge of

arborvitae will screen this property from the adjacent property to the south; the building will be landscaped in a traditional manner using native plants; the areas away from the building will be heavily re-vegetated with native plants that will help to revive the wetlands and wooded areas;

- 10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting , through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions; exterior lights will be downcast and/or shielded and will not shine onto adjacent properties or streets; a detailed Lighting Plan has been submitted;
- 10.394 – The proposal avoids to the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes and wetlands;
- 10.395 – The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto; the building across the street at 101 University Drive is four stories tall and of similar height; there are taller buildings on the UMass campus at the north end of University Drive; the building that houses The Hangar has a roof that is of similar height;
- 10.396 – The proposal provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features; the dumpster is screened by a wooden fence; the site is adequately landscaped to screen it from its surroundings;
- 10.397 – There are no recreational facilities on site, but the property is close to other amenities in town and is located along the multi-use path known as the Arthur Swift Bikeway, which is connected to the Norwottuck Rail Trail;
- 10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw and the goals of the Master Plan; the Planning Board supported the rezoning of this property in order to encourage the type of development that is being proposed; the proposal will provide new housing at a mix of income levels.

Mr. Crouner MOVED to close the public hearing for the Special Permit for more than ten units above the first floor and for a modification of the height requirement to 39’-3” and to grant the Special Permit as requested, including waivers as requested and including the parking waiver and conditions. Mr. Birtwistle seconded and the vote was 9-0.

The Board turned to the Site Plan Review application and reviewed the Site Plan Review criteria under Section 11.24 of the Zoning Bylaw and the draft conditions provided by staff. The Board was prepared to issue a blanket statement that the project complied with the relevant criteria listed in Section 11.24 of the Zoning Bylaw, Site Plan Review criteria.

Mr. Reidy stated that the applicant had some issues with the draft conditions, particularly #8 and #31c. For #8, Mr. Reidy asked if the detailed plans of the paved areas and detailed information about site improvements could be submitted to the Planning Department for review and approval prior to the issuance of a Building Permit rather than to the Planning Board. The Planning Board agreed to this proposal.

Mr. Reidy asked if Condition #31c could be interpreted to allow a temporary Certificate of Occupancy to be issued prior to the As-Built plans being submitted to the Building Commissioner and Town Engineer, but to not issue the final Certificate of Occupancy until these documents had been submitted and approved. Board members agreed to this interpretation.

Mr. Schreiber MOVED to close the public hearing for the Site Plan Review application and to approve the Site Plan Review application with waivers and conditions as written and discussed and to find that the

proposal met all of the relevant criteria of Section 11.24 of the Zoning bylaw. Ms. Riahi seconded and the vote was 9-0.

Waivers

- Waiver of parking requirements under Section 7.9 of the Zoning Bylaw.

Conditions

General

1. Development shall be built substantially in accordance with plans submitted to the Planning Board and approved on April 25, 2018.
2. Development shall be managed substantially in accordance with Management Plan submitted to the Planning Board.
3. Upon a change of ownership, or if the property is no longer managed by Barry Roberts, the new owner and/or manager shall submit a new Management Plan to the Planning Board at a public meeting for its review and approval. The purpose of the meeting shall be for the Board to determine whether conditions of the permit are being complied with and whether any modification to the Site Plan Review approval or Management Plan is required.
4. A Sign Plan shall be submitted to the Planning Board for its review and approval at a public meeting.
5. All exterior lighting shall be dark sky compliant. Exterior lighting shall be downcast, shielded and shall not shine onto adjacent properties or streets.
6. This property shall be registered and permitted in accordance with the Amherst Residential Rental Property Bylaw. Loss or suspension of a rental permit shall constitute a violation of this condition.
7. Changes to the project and/or substantial changes to any approved site plans or to the exterior of the building shall be submitted to the Planning Board for its review and approval prior to the work taking place. The purpose of the submittal shall be for the Planning Board to approve the change and/or to determine whether the changes are de minimis or significant enough to require modification of the Special Permit or Site Plan Review approval.
8. Detailed plans of paved areas and detailed information about site improvements including information related to handicapped accessibility such as surface treatments, grading, spot elevations, railings, etc. shall be submitted to the Planning Department for review and approval prior to the issuance of a Building Permit.
9. Landscaping shall be installed in accordance with the Landscape Plan and, once installed, shall be continually maintained. All disturbed areas shall be loamed and seeded, unless otherwise specified.
10. One (1) hard copy and one (1) digital copy of the final revised plans shall be submitted to the Planning Department.
11. The office space shall be available to be rented by a member of the public and shall not be used solely as the management office for the proposed mixed-use building.

Affordable Units

12. Affordable units
 - a. At least 12% of the dwelling units (4 units) shall be and shall remain affordable and shall be marketed to eligible households whose annual income may not exceed 80% of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (the “affordable Units”); and subject to approval by DHCD, the Affordable Units and the remaining units shall be eligible to be included in the Town’s Subsidized Housing Inventory (“SHI”), as maintained by DHCD.
 - b. There shall be four (4) Affordable Units: One (1) studio apartment, two (2) one-bedroom units, one (1) two-bedroom unit.
 - c. As defined by Article 12, Definitions, of the Zoning Bylaw, “Affordable housing units are units which may only be rented or purchased by families or households whose annual incomes, adjusted for family size, do not exceed the limits for the maximum annual income for low-income families or households (80% of the median income for Amherst, as calculated by the U. S. Department of Housing and Urban Development or any successor agency), and are eligible and countable for the purpose of the Commonwealth’s 40B Subsidized Housing Inventory (SHI) or its successor.
 - d. The affordable units and ADA units shall not be segregated from the market rate units and in accordance with Article 15, Inclusionary Zoning of the Zoning Bylaw, the affordable units shall be "dispersed throughout the development and shall be comparable to the market rate units in terms of the quality of design, materials and general appearance of their architecture and landscape."
 - e. The Applicant shall submit a Local Action Unit application to DHCD under the Local Initiative Program, enter into a Rental Regulatory Agreement with DHCD and the Town, and comply with all DHCD requirements, so as to ensure that the Affordable Units will be included in the DHCD Subsidized Housing Inventory for the Town.
 - f. The Affordable Units are to remain affordable in perpetuity. Subject to DHCD approval, this requirement shall be included in the Regulatory Agreement. The affordability requirement shall remain in effect in perpetuity, even if the requirement is not included in the Regulatory Agreement or if the Regulatory Agreement is terminated.
 - g. Affordable Units shall be marketed and rented to income-eligible households in accordance with DHCD regulations and guidelines for the Local Initiative Program (“Guidelines”), which require the approval by DHCD of an affirmative fair housing marketing plan. The costs associated with the development and implementation of the marketing plan, including advertising and processing for the Affordable Units, shall be borne by the Applicant.
 - h. Subject to the approval of DHCD, a qualified agent shall be engaged by the Applicant to administer the initial marketing and lottery for the Affordable Units, and to maintain a waiting list for subsequent rentals, in compliance with the income eligibility requirements for tenants of the Affordable Units.
 - i. As allowed under applicable law, and for no more than 70% of the Affordable Units, the Applicant shall provide a local preference category for current residents of the Town of Amherst and for persons employed in the Town of Amherst.

- j. The Affordable Units shall be identified in an exhibit to the DHCD Regulatory Agreement. Thereafter, if an Affordable Unit ceases to count as an Affordable Unit due to increases in tenant income (pursuant to DHCD regulations and the provisions of the Regulatory Agreement), the next available market-rate unit with the same number of bedrooms as the Affordable Unit in question, shall be rented as an Affordable Unit.
 - k. The affordable units shall be designated prior to the issuance of any building permit. The Regulatory Agreement shall be approved by DHCD and recorded at Hampshire County Registry of Deeds prior to the issuance of any certificate of occupancy, with a copy provided to the Building Commissioner.
 - l. The affordable units shall be available and the tenant selection process shall be in process at the time of any full or partial certificate of occupancy for completed units. However, at the discretion of the Building Commissioner, a certificate of occupancy may be issued and exclude the affordable units until the tenant selection process has been completed and Inspection Services has been provided documentation of the completed selection process. The affordable units shall be occupied at all times only by qualifying tenants in accordance Regulatory Agreement.
- 13. All air-conditioning units, communication devices and all other outside mechanical equipment shall be placed on the roof of the building and not on exterior walls or within windows. Any equipment whether located on the ground or on the roof shall be screened from view and noise muffled, with fencing, plantings or other suitable materials, following the approved plans.
 - 14. All onsite utilities shall be underground.
 - 15. Parking shall be enforced and managed in accordance with the Management Plan.
 - 16. Visitor parking, guest parking, staff parking, future tenant parking and all ADA parking stalls shall be provided and clearly marked on the ground and with signage

Construction

- 17. Prior to issuance of any Building Permit, a pre-construction meeting shall be scheduled with the applicant, the applicants contractor, the Town Engineer, the Building Commissioner, Superintendent of Public Works, Planning Staff, the Fire Chief and any other staff personnel that may have a role in the construction of the project
- 18. A written construction fire management plan shall be submitted to the Fire Chief and Building Commissioner, prior to the issuance of a Building Permit.
- 19. A Construction Logistics Plan shall be provided at the pre-construction meeting and shall cover the following items:
 - a. Construction timeline and expected completion dates for each phase
 - b. Location of parking for contractors;
 - c. Location of on-site and off-site staging, such as for construction vehicles, including cement trucks;
 - d. Location of fencing around construction site;
 - e. Details and locations of directional, marketing and job signs related to construction;

- f. Emergency contact information, such as name and cell phone number of developer and contractor;
 - g. Information about construction signs, including advertising signs for contractor, developer and architect;
 - h. The company affiliation, name, address and business telephone number of the construction superintendent who shall have overall responsibility for construction activities on the Project Site
 - i. Proof that "Dig-Safe" has been notified at least 72 hours prior to the start of any site work;
 - j. Any other relevant information that they may request.
20. The Construction Logistics Plan shall be subject to the following conditions:
- a. Construction activity shall occur only between 7:00 AM and 7:00 PM, Monday to Saturday.
 - b. Parking for contractors shall be restricted to the Project Site.
 - c. There shall be no parking or idling of construction trucks and equipment in any public right of way.
 - d. Any blasting or hammering of rock or material to be noticed to Town Officials and abutters 24 hours in advance and completed between 9:00 AM and 3:00 PM.
21. As part of the Building Permit Application, the applicant shall provide the Building Commissioner the name, address and business telephone number of the Project manager or onsite supervisor who shall be responsible for all activities on the Project Site.
22. There shall be no exterior construction activity, including fueling of vehicles, on the Project Site before 7:00 a.m., or after 7:00 p.m., Monday through Saturday. There shall be no construction on the Project Site on the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas. The Applicant agrees that the hours of operation shall be enforceable by the Amherst Police Department and/or Inspection Services.
23. The Project Site shall be fenced during construction.
24. Appropriate measures shall take place to control dust, dirt, debris and construction materials on site. Water for dust control shall be trucked in from offsite or from an on-site irrigation well if operational.
25. Prior to and during construction, physical barriers shall be installed to provide tree protection along the limit of the clearing line. Erosion controls and tree protection measures shall be continuously maintained throughout the course of construction.
26. All catch basins shall be protected from soil and debris contamination during construction and shall be cleaned at the end of construction.
27. No stumps, demolition material or construction debris shall be buried or disposed of at the project site.
28. The Town Engineer and Building Commissioner shall inspect the construction of the entry driveway and all onsite paved areas for conformance to Town Standards.
29. The Applicant shall provide As-Built Plans that show building locations, grades, access ways,

parking areas, sidewalks and walkways, curbing, stormwater management facilities, lighting and utilities to the Building Commissioner, Town Engineer and to be placed with the Site Plan Review decision in the Planning Department offices within 90 days of receiving the Certificate of Occupancy.

30. The final Certificate of Occupancy shall not be issued until:
- a. The final topcoat of paving for all driveways and access areas, sidewalks, and berms has been completed;
 - b. Landscaping as shown on the Plan of Record has been installed, and;
 - c. As-Built plans have been submitted to the Building Commissioner and Town Engineer by all design professionals for the site and building construction and have been approved by the Building Commissioner and Town Engineer.

III. TOWN MEETING ISSUES

- A.** Impact of Charter on Zoning Amendments – Mr. Crowner reported on the Select Board’s review of the zoning amendments and KP Law’s memo on the transition and what can be acted upon at Town Meeting. The Board discussed the decision of the Select Board that Article 33, Supplemental Dwelling Units, and Article 34, Amend Official Zoning Map, should not be acted on by Town Meeting. The Select Board decided that the marijuana articles were urgent and should be acted on. The Inclusionary Zoning articles were part of the ongoing business of the town and should be acted on. They were not convinced that the Supplemental Dwelling Unit article was urgent and they thought that the Zoning Map article was too big a change to happen at this time during the transition period. The Board discussed what motion it should make on these articles. The Petitioner will make the motion on Article 34. The Planning Board decided that it did not wish to make a motion on Article 33, if it cannot be acted on. Therefore the Planning Board will not make a presentation on Article 33 either.

There was discussion about what would happen if the Select Board makes a motion to refer Article 33 and the motion fails.

Ms. Brestrup will tell the Moderator that the Planning Board prefers not to make a motion on Article 33, but if that is not appropriate the Planning Board will make a motion to refer the article to itself.

For Warrant Discussions (Precinct Meetings) Mr. Stutsman, Ms. Brestrup and Mr. Crowner volunteered to attend.

Mr. Stutsman will not be available to meet on May 16.

The Planning Board will have meeting scheduled for each night of Town Meeting, in case it is necessary for them to meet about an issue related to Town Meeting.

Ms. Riahi will not be available to meet on May 16.

- B.** Motions – see above
C. Presentations – see above

IV. ADJOURNMENT

The meeting was adjourned at 9:05 PM.

Respectfully submitted Approved:

Christine Brestrup
Planning Director

Greg Stutsman
Acting Chair

DATE: _____