

**AMHERST PLANNING BOARD**  
**Wednesday, October 3, 2007 – 7:00 PM**  
**Town Room, Town Hall**  
**MINUTES**

**PRESENT:** Aaron Hayden, Chair; Jonathan O’Keeffe, Richard Howland,  
Denise Barberet, Jonathan Shefftz, Susan Pynchon,  
Kathleen Anderson (7:08 PM), Ludmilla Pavlova-Gillham (7:22 PM)

**ABSENT:** Eduardo Suarez

**STAFF:** Jonathan Tucker, Director; Christine Brestrup, Senior Planner

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Mr. Hayden opened the meeting at 7:03 PM.

**I. MINUTES – Meeting of September 19, 2007**

Ms. Barberet MOVED: to approve the Minutes of September 19, 2007 with the correction of the vote on page 4, line 13 (7-2-0 instead of 7-0) and the correction of a word on page 3, paragraph 9, line 3, “recommended” instead of “recommend”. Mr. O’Keeffe seconded, and the Motion passed 6-0-0 (Anderson and Pavlova-Gillham had yet not arrived).

**II. PUBLIC HEARING – ZONING AMENDMENTS**

Mr. Howland MOVED: to wait for the arrival of the Town Manager, Larry Shaffer, before beginning the 7:05 p.m. public hearing on Spring Street Rezoning. There was no second and the Board did not take a vote, however there was a general consensus that the Board agreed with Mr. Howland’s motion.

In Mr. Shaffer’s absence Mr. Hayden moved on to New Business

**III. NEW BUSINESS**

**A. Lot Release Request – Lawrence Circle**

Mr. Tucker presented a letter from Bacon & Wilson, Monsein & MacConnell, dated September 25, 2007, with an accompanying map showing Lot 2 on Lawrence Circle. Mr. Tucker stated that the letter requested release from the Approval with Covenants Contract for the subdivision. A Certificate of Performance was also presented. Mr. Tucker noted that the remaining lots represented significantly more value than the remaining value of the work to be done on the subdivision roadway.

Ms. Pynchon MOVED: to approve the release of Lot 2. Ms. Barberet seconded the motion, and the Motion passed 6-0-0 (Anderson and Pavlova-Gillham had not yet arrived).

**B. Other**

Mr. Tucker noted that two other letters had been received by the Board, both from Ted Jarowski, II, a resident of Hazel Avenue, one dated September 20, 2007, and the other dated September 25, 2007, with respect to parking on Hazel Avenue. The first of these letters expressed gratitude to Amherst College for working with abutters regarding the construction of the new athletic fields and parking nearby. Mr. Tucker stated that the Planning Department had advised Mr. Jarowski that the letters were more appropriately addressed to the Select Board since the issues had to do with the town ways. Mr. Hayden thanked Mr. Jarowski for his letters.

Ms. Anderson arrived at 7:08 p.m.

Mr. Tucker went over the upcoming schedule for the Board. He stated that there are upcoming public hearings with regard to proposed zoning amendments. These hearings are scheduled for October 17, 2007. He noted that it may be necessary to hold additional public hearings on

October 24 or October 31. This will depend on whether 200 signatures for a citizen's petition to conduct a Special Town Meeting regarding three citizen-proposed zoning amendments are certified by the Town Clerk in time for Town Meeting. Mr. Tucker described two of these articles as expressing alternatives to articles being presented by the Planning Board. He suggested that the Planning Board could permit discussion of these alternative articles when the corresponding Planning Board's articles are considered at the upcoming scheduled public hearings. He recommended that separate hearings for the alternative articles not be scheduled and held until the petition was certified.

Mr. Hayden asked the Board to reconsider whether the members preferred holding an additional meeting on October 24<sup>th</sup> or October 31<sup>st</sup>. He stated that the Town Meeting Coordinating Committee would be holding a presentation on warrant articles on October 24<sup>th</sup>, so Mr. Hayden suggested that October 31<sup>st</sup> would be preferable for another Planning Board meeting, if it were needed.

Mr. Hayden recused himself to avoid a conflict of interest with the next public hearing, and relinquished the Chair to Vice Chair Jonathan Shefftz, for conduct of the public hearing regarding Spring Street. [Mr. Hayden is employed by Amherst College. Amherst College owns some of the land that would be affected by the proposed rezoning.] Mr. Hayden left the room at 7:13 p.m.

## II. PUBLIC HEARING – ZONING AMENDMENTS

### A-6-07 Spring Street Rezoning

To amend the permit requirement under Sections 3.327.0, Hotel/Motel, and Section 3.372.1, Inn, of the Zoning Bylaw from Special Permit (SP) to Site Plan Review (SPR) in the General Business (B-G) District, and to amend the Official Zoning Map to change the zoning designation of the following properties from General Residence (R-G) to General Business (B-G):

Assessors Map 14A, Parcels 264, 265, 266, 267, 268, 269, 270, and portions of the Town Common and Spring Street public ways, all as shown on Exhibit A (*Continued from September 5, 2007*)

Mr. Shefftz read the preamble and reopened the continued public hearing. He summarized the content of the previous Planning Board meeting, noted that the Board had heard from Amherst College regarding the Lord Jeffery Inn renovation and expansion plans on September 5, 2007, and stated that the proposal involves a change in the Zoning Map and a change in the text of the Zoning Bylaw with regard to hotels, motels and inns. He stated that the petitioner is the Town of Amherst and that the Board would hear a presentation from the Town Manager, regarding this proposed zoning amendment.

Kathleen Anderson gave the report from the Zoning Subcommittee. She stated that the Subcommittee had met prior to the Planning Board meeting and had discussed the proposed Spring Street rezoning. The ZSC had not come to a decision on the proposal. Mr. Suarez, a member of the ZSC, would like more information on the proposal. Mr. Hayden, a member of the ZSC, had recused himself from ZSC meetings on this topic because he is an employee of Amherst College. Ms. Anderson stated that she agrees with the proposal to expand the B-G district but has concerns about the possibility of large hotel chains building large hotels in the B-G district.

Larry Shaffer, a resident of 299 Amity Street, and the Town Manager, gave a brief history of the proposal. He stated that he had had a conversation with the President of Amherst College about the potential for expanding and refurbishing the Lord Jeffery Inn and he had asked the Planning Department and Planning Board to look at this possibility, including the implications for Amherst College and the downtown. He stated that downtowns have an ebb and flow and that Amherst currently has a strong downtown because its users enjoy the downtown. The Lord Jeffery Inn is one of the critical anchors for the downtown. If the Lord Jeff is successful it will draw more people with money to the downtown.

When Mr. Shaffer talked to Amherst College he had mentioned his vision that the Lord Jeff could be similar to the Red Lion Inn in Stockbridge and act as an anchor and a draw for downtown Amherst. The balance of the neighborhood proposed for rezoning is small and contains just a few properties. There are complimentary opportunities associated with these properties that may be realized when the Lord Jeff is revitalized. The advantages of this rezoning would be that it would act to stabilize the downtown and expand the tax base. Mr. Shaffer noted that he had asked the Planning Director, Mr. Tucker, to develop and advocate for a rezoning proposal to achieve this outcome and had asked the Planning Board to consider that proposal.

Ms. Barberet asked why the two portions of the proposal need to be tied together. Mr. Shaffer stated that he views the two portions as parts of one issue.

Ms. Pavlova-Gillham arrived at 7:22 p.m.

Mr. Shaffer stated that he is also mindful of the possible demolition at 26 Spring Street.

Ms. Barberet asked why there was a need to tie the map rezoning to the text revisions. She expressed agreement with the map changes, however she had concerns about the text revisions because of what was happening vis-à-vis the Roundhouse site in Northampton and the large hotel proposed there. She is hesitant to lose the control afforded by the Special Permit. She and Mr. Howland summarized the proposal for the Roundhouse site.

Mr. Shefftz stated that he viewed the two portions of the rezoning proposal as two separate issues. One portion proposes to extend the business district and one portion proposes to change the permit required for hotels, motels and inns throughout the entire General Business (B-G) District from Special Permit by the ZBA to Site Plan Review by the Planning Board.

Ms. Anderson stated that the Planning Board has the authority to limit the size, layout, and other aspects of development proposals. Site Plan Review is not a blank check, she said.

Mr. Tucker noted that there are dimensional limitations on development in the downtown area (the B-G district) including limitations on height (4 floors and 50 feet) and limitations on lot coverage that would constrain what would be possible. He noted that a large hotel chain would be limited by dimensional restrictions in the Zoning Bylaw in the same way as any other development in the B-G District. He stated that the two portions of the proposal were separable and had been arranged that way within the proposed article. The Site Plan Review process would be easier for the Lord Jeff than a Special Permit, but they could still pursue their plans with a Special Permit.

Mr. Howland noted that Amherst College is not planning to do anything with the Lord Jeff immediately and he asked why the decision on this rezoning proposal needs to be made at this time. He noted that the Comprehensive Plan for the Town is being finished and that it would be likely to accommodate this type of zoning change. He thought it was unnecessary to intervene at this time and that the Board should wait until the Comprehensive Plan was finished.

Mr. Shaffer stated that there had been ongoing discussion about economic development as part of the master plan process and that he would like to advocate that Amherst College move forward quickly with its plans, rather than waiting. He wanted to demonstrate to Amherst College that the Town can step forward and take action. He noted that the Lord Jeff could accommodate conference services and that such a development would be better if it happened sooner rather than later.

Mr. Shaffer stated 1) that he wants the Town to begin to define its own future, that it is time for us to shape a vision for ourselves, and 2) that there is a practical element in that the historic residence at 26 Spring Street that was purchased by the Masons is in danger of being demolished, to be replaced by a parking lot, unless the Masons can sell it to someone who can develop the property.

Mr. Tucker agreed with Mr. Shaffer about 26 Spring Street and stated that the Masons have been patient while the Town discusses what to do in the Spring Street neighborhood. The Masons building on Main Street serves as a home for several community fraternal organizations. The house at 26 Spring Street is known as the Chauncey Lessey Home. Mr. Lessey developed Spring Street in

1869 and built other houses in the period between 1870 and 1875 on the street. In addition, two houses on the south side of the street that were built on the Common around 1860 had been moved to Spring Street.

The Masons wish to take advantage of the ownership of their property. If there is no rezoning here they will demolish the house. Other options for use of the property have been investigated, but so far none have been practical, given the current R-G zoning of the site.

Mr. O’Keeffe said that he had a sense of urgency about the rezoning. Amherst College had not yet presented the idea for expanding and refurbishing the Lord Jeff to its trustees and the rezoning would assist the college in obtaining the approval of the trustees.

Mr. Shaffer thanked the Planning Board for all of its hard work on this issue, especially given the fact that a critical Red Sox game was being played while the Board was meeting.

Lydia Vernon-Jones of 17 Gaylord Street, a representative from the First Congregational Church, indicated that the church just recently became aware of the plans for development of the area and the members would like to have more information about the proposal. The development of the Spring Street area would impact the church’s parking, both on-site and on the street. Ms. Vernon-Jones stated that she was not there to present a position on the proposal but merely to raise questions and issues and obtain information. The church has an investment in the area and owns the whole block on which the church building is located. The church owns a large parking lot. It is a downtown church and has an interest in enhancing the downtown.

Mr. Tucker commented that he had grown up in First Church and that his mother had been an organist there for decades. Meeting notices with regard to the issue of rezoning had been sent to the church rector since late June. There had been 7 or 8 such mailings to the church.

Mr. Shaffer stated that the Town will be happy to share information with the First Church and he asked Mr. Tucker to meet with representatives of the First Church with regard to the proposed rezoning.

Jim Thomas of 22 Seelye Street stated that he lives one block down from the proposed Spring Street rezoning. He had heard about the possibility of building a parking garage on the Spring Street parking lot, the Amherst College Alumni Lot.

Mr. Shaffer responded that there had been a conversation with the president of Amherst College with regard to an inter-modal transportation center on that site with parking, bus stops, Zip-cars, a bus station and other features. Mr. Shaffer stated that the conversation had been set off to the side and was not part of this discussion on rezoning.

Mr. Howland noted that there had been conversations back as far as 1952 regarding converting the former Louis’ parking lot (now CVS) into a parking garage. He stated that this location is still being considered for a parking garage and asked why we want to bring so many vehicles into the center of town.

Ms. Pynchon asked for clarification as to where Mr. Thomas lives and where the Amherst College parking lot is located. Mr. Tucker presented a map that showed the lot and the lower portion of Spring Street, where Mr. Thomas lives.

Ms. Anderson noted that the proposal to rezone the area ends at Churchill Street.

Vincent O’Connor of Summer Street stated that he had several issues regarding the rezoning proposal. The first issue is that there should be a map of the whole downtown area, including the municipal parking zone, to be included in the packet of information sent to Town Meeting members regarding this rezoning proposal. Section 7.4 of the Zoning Bylaw deals with the Municipal Parking Zone. He encouraged the Board to read that section of the Bylaw.

Mr. Tucker noted that the Municipal Parking Zone was similar to an overlay zone in that it “lays over” a part of the downtown and creates a zone in which parking requirements are suspended for

private uses and parking is considered to be a public responsibility. However, he noted that developers may still want to construct parking lots to be associated with proposed buildings. In the Municipal Parking Zone it is considered that the land is more valuable for uses other than parking.

Mr. O'Connor noted that the net gain in parking spaces for the existing parking garage had been only about 35-40 spaces. The expansion of the buildings around Boltwood Walk had eliminated some of the pre-existing private employee parking spaces in the area. We will not be able to keep up with parking no matter what we do, he said. There is a problem with too much traffic and too many cars downtown. The streets are narrow and there is not sufficient street space for more cars. We need public transportation.

Mr. O'Connor stated that there are problems relative to the rezoning. Rezoning is not necessary to accommodate expansion of The Lord Jeff. He does not object to rezoning the Grace Episcopal Church property. For the rezoning of the Lessey House property, he stated that there should be a contractual agreement between the town and the owners so that the building will not be demolished or removed. He noted that the R-G zoning only allows 25% building coverage and 40% lot coverage; whereas the B-G zoning allows 75% building coverage and 95% lot coverage. Rezoning to B-G without a contractual relationship could open the door to the creation of a parking lot on the site. Mr. O'Connor disagreed with rezoning of the northwest corner of Spring Street and Churchill, the site of an apartment house. Mr. O'Connor also recommended a contractual agreement with Amherst College regarding the houses on the south side of Spring Street. Mr. O'Connor noted that a contractual agreement had been made with the owner of a property on North Pleasant Street, a chiropractor, regarding rezoning from R-G to B-L, allowing the current owner to rent his offices to another chiropractor if the current owner became incapacitated and unable to pursue his profession.

Mr. Shefftz asked how many such contracts currently exist in town.

Mr. Shaffer stated that he had worked on many different types of development agreements, some of which were large corporate parks. He does not agree with contract zoning since it doesn't run with the title of the property but rather with the owner of the property. The contract is gone once the property is sold. Mr. Shaffer said that he does not believe that contract zoning speaks to the general needs of the community and that the contracts would need to be different for each property. Other ways are better suited to addressing the community's concerns, such as acquiring historical easements that do provide encumbrances on the title to the property. Contractual zoning is not adequate nor is it manageable.

Mr. Tucker stated that there have been two cases of contract zoning in Amherst:

- 1) Palley Village on Belchertown Road, where the town rezoned the property from PRP to R-O to accommodate a Cluster Subdivision and in return the developer built two affordable duplexes [providing four affordable units];
- 2) The chiropractor's office previously mentioned by Mr. O'Connor.

He cautioned that given the general desire to control change it would be easy to fall into a proliferation of specific idiosyncratic zoning agreements. Zoning is intended to provide accommodation for wider community needs.

Mr. O'Connor stated that he did not believe that the town would have engaged in the contractual agreement with the chiropractor if the contract would dissolve once the owner changed. He strongly recommended that the town staff provide copies of the chiropractor's contractual agreement to the Planning Board. He stated that too many people believe that the proposed rezoning does not sufficiently protect the public interest. He recommended that contractual zoning be used with regard to the property across from the Emily Dickinson House. He objected to the Town Manager's statements.

Mr. Howland objected to Mr. O'Connor's comments regarding the Town Manager.

Mr. O'Connor stated that without contractual agreements the beneficial rezoning might not take place.

Mr. Howland MOVED: to close the public hearing. Ms. Pavlova-Gillham seconded and the motion passed 7-0-0.

Mr. Howland suggested that the Board hold the other three hearings to accommodate the members of the public who had come for those hearings and then return to the discussion of the Spring Street rezoning if there were still time.

Mr. Howland MOVED: to postpone discussion on the Spring Street rezoning until after the other business on the agenda had been completed. Ms. Anderson seconded and the motion passed 7-0-0.

Mr. Hayden rejoined the Board at approximately 8:21 PM. He read the preamble for the three (3) public hearings regarding Research & Industrial Uses, Research & Development (R & D) Overlay District and Accessory Light Manufacturing. The Board decided by consensus to combine the public hearings for the three articles since they were so closely linked. However, Mr. Hayden stated that since it was not yet 8:30 PM, the hearing for Accessory Light Manufacturing, scheduled for 8:30 PM would not be opened until that time.

**A-3-08            Research & Industrial Uses**

To amend Sections 3.372.0, 3.372.1, 3.372.2 and Article 12 of the Zoning Bylaw in order to clarify the regulation of research and industrial uses.

**A-4-08            Research & Development (R & D) Overlay District**

To amend Section 2.03 and Section 3.2 of the Zoning Bylaw to create a new Research & Development (R & D) overlay district, and to amend the Official Zoning Map to add the new R & D district to the following properties on the west side of University Drive:

Assessor's Map 13B, parcels 17, 18, 19, 21, 22, 24, 27, and 28  
Assessor's Map 13D, parcels 2, 3, 5, 59, 62, and 70

Ms. Pavlova-Gillham recused herself from these public hearings because of a conflict of interest — she is an employee of the University of Massachusetts and she manages leases for UMass at 101 University Drive, a property that would be affected by the rezoning.

Mr. Tucker recommended that the Planning Board reverse the order in which they consider the rezoning proposals, with the R & D Overlay District (A-4-08) first and the text changes related to the uses (A-3-08) second. He acknowledged that it had been Mr. O'Connor's suggestion that it made the most sense to first talk about creating the new overlay district and then talk about other specific amendments that responded to the new district.

Mr. Tucker said that the proposal was to amend the Official Zoning Map in the area west of University Drive, south of Amity Street and north of Northampton Road. The area is now zoned B-L — the overlay district would "sit over" the underlying B-L zone. The purpose of the overlay district would be to change the permit requirements for research and development and light manufacturing uses from Special Permit by the Zoning Board of Appeals to Site Plan Review by the Planning Board. Mr. Tucker stated that the proposal would take the area as described on the map, which lies on the western edge of town, and allow the office buildings in that zone, located near the University, to house spin-off businesses with quick travel time to the University. The overlay district would not apply to other adjacent B-L properties — the Newmarket Center property, the residence on the north side of Amity Street, or the B-L properties south of Northampton Road (Rte. 9). This kept the R&D overlay district away from adjacent dense residential neighborhoods. The OP (Office Park) district on the east side of University Drive already permits these uses. The rezoning would create one large area for this type of business.

Ms. Barberet asked about the two B-L properties that have diagonal striping on the map [on the south side of Northampton Road]. Mr. Tucker stated that the diagonal striping indicated the B-L District, and that these two properties would not be included.

Ms. Anderson reported for the Zoning Subcommittee. She acknowledged Mr. O'Connor's role in switching the order of the amendments. She stated that the ZSC had accepted the article and recommended that the Planning Board bring it to Town Meeting.

Mr. Hayden stated that the proposed change was complex to describe but simple and straightforward in its effect.

Mr. Tucker stated that, within the overlay district, there would be changes in the uses allowed in three (3) categories: research and development, lighting manufacturing, and manufacturing. Within the R & D overlay district research and development and light manufacturing uses would be allowed by Site Plan Review, not Special Permit. The remainder of the regulation would stay the same.

Mr. Tucker acknowledged Mr. O'Connor's role in dividing the rezoning into separate motions: 1) amendments to the research and development and light manufacturing use categories, 2) amendments to the manufacturing use category, and 3) amendments to Article 12 – adding a definition of toxic or hazardous substances. Other changes that are being proposed are that under each of the three (3) use categories the range of uses possible would be more carefully defined. The proposal also expands and clarifies the kinds of toxic or hazardous materials that would be allowed and regulated. In the first two categories, the Permit Granting Authority or Special Permit Granting Authority would have the ability to say that a use cannot proceed further if the Board of Health determines that there are potential health problems associated with the proposal. The Planning Board could deny a use based on the comments of the Board of Health, under their bio-safety regulations. Zoning would be a secondary layer of protection. The Planning Department has asked Town Counsel for an opinion on this matter.

Ms. Anderson stated that the proposal had been accepted by the ZSC and that the ZSC had recommended that the Planning Board bring these proposals to Town Meeting.

Mr. Tucker stated that now the only places where manufacturing as a use category can occur are in the LI and PRP zones. Because of the range of intensive uses possible under this category, the proposal changes manufacturing from a by-right use under Site Plan Review approval to Special Permit by the Planning Board.

Under the PRP district the designation (SP) will be removed because the PRP district no longer includes portions of the Aquifer Recharge Protection district and (SP) designates a use that is allowed by Special Permit if it is within the Aquifer Recharge Protection district. The aquifer was remapped. The (SP) in this case is vestigial.

Mr. O'Keeffe asked if this were a redundant change. Mr. Tucker stated that the ZSC would have developed a separate article to deal with this issue but the opportunity to change the designation had been presented as a result of this rezoning proposal. Mr. O'Keeffe asked if the change were just for these uses. Mr. Tucker said it was.

Mr. O'Connor stated that he was happy to hear about the request for Town Counsel's opinion with regard to the Board of Health. He does support the article and specifically supports the use of Site Plan Review for the R & D overlay district. He also supports the change in the manufacturing use category to Planning Board Special Permit in the LI and PRP districts. He suggested that three (3) properties in the proposed overlay district (China Dynasty, the gas station and the other gas station with the car wash) be removed from the proposal because these were clearly areas for commercial activity on Route 9. He asked why we would put valuable highway commercial property in the overlay district. He stated that Site Plan Review is for use by right. He suggested that there be a map prepared to show the entire area from University Drive to Route 116 [in Hadley] with the associated wetland areas to show that the development potential for this area is limited. This will

reassure residents that there are no residential abutters to these areas and that most of the usable area has already been built upon.

Mr. Hayden thanked Mr. O'Connor for his suggestions. Mr. Hayden opened the 8:30 PM public hearing and read the preamble.

**A-5-08            Accessory Light Manufacturing**

To amend Section 5.07 of the Zoning Bylaw to create additional regulations for accessory manufacturing associated with research and development or testing uses.

Mr. Tucker asked the Board to focus on the revised version of the proposed rezoning (dated 10/3/07) on their desks and not the version that had been sent to them in their packets. Mr. Tucker read the new version and explained that this zoning section had previously applied only to activities permitted by right [by Site Plan Review]. With the proposed rezoning, accessory light manufacturing could be accessory to a use permitted by Site Plan Review or by Special Permit. This permitting could be done by amending the existing permit, if there is one. He further explained that accessory light manufacturing must be related to the principle use, and could be for developing prototypes and testing. A significant geographical distance is established between areas where these uses would be permitted and the location of residential units.

Mr. Tucker reviewed the provisions of the proposed Section 5.07, Scientific Research or Development, for the Board.

Ms. Anderson reported that the Zoning Subcommittee voted to recommend that the Planning Board accept this proposed rezoning article and bring it to Town Meeting.

Ms. Barberet suggested a grammatical change in the text of the proposal, as follows:  
Section 5.0712, line 2, add the words "shall be [permitted]" after the number 3.372.2 and  
Section 5.0714, line 1, "activating" should read "activity".

Mr. O'Connor thanked the Zoning Subcommittee and staff for revising the first paragraph of this proposal. He stated that he believed that Town Meeting could vote for this proposal without controversy and that the town would have another opportunity for success.

Mr. Howland MOVED: to close the public hearings. Ms. Pynchon seconded the motion and the motion passed 7-0-0.

Mr. Hayden recommended that the Board proceed to a discussion of the R & D Overlay, Research and Industrial Uses and Light Manufacturing rezoning proposals.

Mr. Shefftz MOVED: to approve simultaneously the three (3) rezoning proposals with Ms. Barberet's suggested modifications to A-5-08. Ms. Pynchon seconded and the motion passed 7-0-0.

Ms. Pavlova-Gillham re-entered the room at 9:04 PM.

**VIII. PLANNING BOARD SUBCOMMITTEE REPORTS**

A.     Zoning

Mr. Hayden stated that the Zoning Subcommittee report had already been heard.

B.     Atkins Working Group

There was no report from the Atkins Working Group.

**IX. PLANNING BOARD COMMITTEE REPORTS**

A.     Pioneer Valley Planning Commission

Mr. Howland reported that the PVPC would be meeting on October 18, 2007. Mr. Howland and Mr. Tucker are planning to attend the meeting.



B. Community Preservation Act Committee

Mr. Hayden reported that CPAC would be meeting on October 9, 2007. He also noted that the Historical Commission would be meeting on October 4, 2007.

Mr. O'Connor asked if anyone had communicated with the Select Board regarding the fact that the Historical Commission and the Planning Board had designated representatives for CPAC. Mr. Tucker stated that the Historical Commission representative had been appointed to CPAC by the Select Board. Mr. Tucker will check on Ms. Barberet's appointment (as a representative of the Planning Board) by the Select Board to CPAC.

C. Agricultural Commission

Ms. Pynchon stated that there was no report from the Agricultural Commission.

D. Comprehensive Planning Committee

Mr. Howland reported that the CPC has a draft of the Comprehensive Plan available for public review and that comments were being solicited at the Jones Library. He stated that a subcommittee had been formed to edit the draft so that it could be presented to Town Meeting.

Mr. Hayden stated that the CPC had decided to make a report to Town Meeting, rather than soliciting a vote, and that the review subcommittee was working on getting together final comments for ACP, the consultants. Drafts will be available for Town Meeting members. He noted that the ACP contract had run out but that ACP had agreed to prepare one final version of the Comprehensive Plan document. Mr. Hayden noted that the Planning Board would need to continue its discussion regarding its own process for adoption of the Comprehensive Plan and that once it is adopted, Town Meeting will implement it.

Mr. O'Keeffe announced that the Red Sox had won, 4-0.

E. Flood Prone Conservancy Task Force

There was no report from the Flood Prone Conservancy Task Force

**V. FORM A (ANR) APPLICATIONS**

There were no Form A (ANR) applications.

**VI. UPCOMING ZBA APPLICATIONS**

There were no upcoming ZBA applications to be reviewed.

**VII. UPCOMING SPP/SPR/SUB APPLICATIONS**

Mr. Tucker noted that a continued public hearing for Amherst Enterprise Park Definitive Subdivision Plan was scheduled for October 17<sup>th</sup>. He also noted that a public hearing had been scheduled for a new Site Plan Review application on November 7<sup>th</sup>.

**X. REPORT OF THE CHAIR**

Mr. Hayden stated that the Town Meeting Coordinating Committee would be meeting on Thursday, October 25<sup>th</sup>. Mr. Tucker commented that the TMCC would be meeting on October 24<sup>th</sup> for a warrant review. The TMCC would also be meeting on October 25<sup>th</sup> for a warrant review at Amherst Regional Middle School, for a smaller group review.

**XI. REPORT OF THE DIRECTOR**

Mr. Tucker had nothing to report.

Mr. O'Connor noted that the Conservation Commission and the LSSE Commission would be holding a joint meeting on the updated Open Space & Recreation Plan. They will also be holding public meetings on October 11<sup>th</sup>, at the Hitchcock Center, on October 22<sup>nd</sup>, at the North Amherst

Congregational Church, and on November 1<sup>st</sup>, at the Munson Library, at 7:00 PM. Mr. O'Connor stated that the Open Space Plan was a major component of the Comprehensive Plan and that it must be finalized and submitted to the state.

Mr. Hayden again relinquished the Chair to Vice-Chair Jonathan Shefftz and recused himself and left the room at 9:14 PM.

Having closed the public hearing on **A-6-07 – Spring Street Rezoning** proposal earlier in the evening the Board began discussion of the proposal.

Mr. Shefftz summarized the proposal and stated that the purpose of the Planning Board's discussion was to determine if the Board wished to provide a recommendation on the proposal to Town Meeting.

Mr. Howland stated that he faced a dilemma with regard to the proposal because the Comprehensive Plan had been developed by 500 to 600 people and the Plan will speak to what should happen in downtown. He had been concerned that there was no pressing need to accept the rezoning proposal at this time, but had been convinced by the goals of the Town Manager with respect to commercial development and agreed that Amherst College should be encouraged to move forward with its plans. He stated that the Masonic house is a difficult thing to deal with, although he was not convinced of the degree of its historical significance, or of the historical significance of the other houses on Spring Street. He stated that Special Permits were meant to deal with substantial deviations from the Zoning Bylaw, while Site Plan Review is more expedient and represents a more general attempt to fit a proposal into the requirements of Zoning Bylaw.

Ms. Pynchon asked if the two pieces of the proposal (the map change and the text change) have to be together or if they could be separated. She expressed support for Part A (the map change) but not for Part B (the text change).

Mr. Tucker stated that the two pieces had been specifically separated to allow two separate motions to be made at Town Meeting. He noted that the Lord Jeff expansion could go forward under a Special Permit as a permitted use if the B-G rezoning was adopted. He stated that Bill Gillen [a local architect] had testified at a ZSC meeting that many people will not even attempt to do projects in Amherst if they need a Special Permit because banks are reluctant to lend them money because of the uncertainty.

Ms. Anderson left the room at 9:25 PM.

Mr. Tucker stated that the procedures for Site Plan Review and Special Permit are identical under the Zoning Bylaw. He noted that sometimes Site Plan Review can be a more technically rigorous process. In addition, the Planning Board can make significant changes to a site plan and management plan under Site Plan Review. However, under Site Plan Review, the Planning Board does not say "no" to projects unless they patently violate the zoning regulations.

Ms. Anderson returned to the room at 9:27 PM.

Mr. Howland stated that he does not like Special Permits used too frequently. Site Plan Review is consistent with the zoning that the townspeople have adopted. Special Permits are supposed to be used to regulate deviations from the spirit of the Bylaw. He prefers Site Plan Review to Special Permit in this case.

Ms. Pavlova-Gillham stated that the Comprehensive Plan is almost finished. The draft speaks to sustainable development. The Town Manager has a mandate since he was chosen by the Select Board. This proposal represents a desire to make the process of applying for permits easier for businesses. The Lord Jeff sets the tone for this part of the downtown and therefore more volume and density is appropriate for Spring Street. The proposal is in conformance with the draft Comprehensive Plan. Ms. Pavlova-Gillham expressed gratitude to Mr. O'Connor for mentioning the Municipal Parking Zone. She pointed out that the MPZ specifically exempts hotels and motels,

which must provide their own parking. She noted that hotels and motels in the downtown area might increase traffic but they might also increase business.

Mr. Howland stated that Amherst College is a reliable neighbor and the college has its own parking lot that is not fully used, behind Alumni House.

Ms. Pavlova-Gillham stated that when she thinks of zoning changes she tries not to think of individual property owners. She noted that a great deal can be done within Site Plan Review to improve a proposed development. She also noted that there is a large investment in fees and time associated with applying for a land use permit. Five percent (5%) to ten percent (10%) of a project fee is related to design and permitting. A development needs to have financing in place before permitting is begun. The documentation required for Site Plan Review is similar to that required for a Special Permit. However, there is no guarantee of receiving the permit with the Special Permit process. Developers cannot get financing needed to hire consultants to produce documents for Special Permit. Special Permits should be reserved for the extreme cases. Hotel uses are not against the general character of the downtown, and hotels should be included in the business district.

Mr. Shefftz asked whether inns were also exempted from the provisions of the Municipal Parking Zone. Someone could take an old building and turn it into an inn and not provide parking. Mr. Tucker agreed that this was true but pointed out that inns must be located in existing historic buildings at least 75 years old. The likely scale of structures within the downtown that meet this requirement falls within the range of expectations for a modest-sized lodging facility. Many of the existing buildings that might be converted to inns already have parking associated with them and already have uses in them that require parking.

Mr. Howland noted that Site Plan Review can require underground parking or surface parking on site. Mr. Tucker pointed out that very few projects can get financing without demonstrating that they will have sufficient parking.

Mr. O'Connor stated that it may be appropriate to remove some properties from the Municipal Parking Zone. He also noted that he had spoken with the Town Manager in the hallway during the meeting and had been assured that the Town would seek to reach an agreement with the Masons to preserve the building on Spring Street.

Ms. Barberet stated that she is in favor of Part A (map changes) but not in favor of Part B (text changes). There was a discussion of what might happen in the future if the nearby B-L zone were changed to B-G and if future text changes were accepted by Town Meeting. Ms. Anderson pointed out that a future Town Meeting could change lots of things with respect to zoning.

Mr. Tucker noted that it was part of the zoning amendment process to look at all of the uses that are proposed.

Ms. Pynchon asked again about the feasibility of splitting the two parts of the proposal. She requested that the two parts be split and asked if there could be some educational materials provided to Town Meeting members regarding the difference between Site Plan Review and Special Permit.

Mr. Howland noted that there should be a portion of the motion that would provide a clear explanation and that the two portions should be considered together. They should be treated as a unit. The proposal appeals to the downtown business community and the financing issue is a valid one.

Ms. Pynchon MOVED: to break the proposal up into two separate motions. There was no second but there was a discussion about the motion.

Mr. Tucker suggested that the Board could move to make a specific recommendation on one part and then on the other. He suggested that Ms. Pynchon could amend her motion to move a specific recommendation on one piece. He suggested that there be Motion 1 on Part A and Motion 2 on Part B.

Ms. Pynchon MOVED: to consider Part A under Motion 1 and Part B under Motion 2. Mr. O’Keeffe seconded and the motion passed 7-0-0.

Ms. Pavlova-Gillham MOVED: to recommend to Town Meeting Part A under Motion 1. Ms. Pynchon seconded and the motion passed 7-0-0.

Ms. Pavlova-Gillham MOVED: to recommend to Town Meeting Part B under Motion 2. Mr. O’Keeffe seconded.

Ms. Pynchon stated that she would like a friendly amendment to include a one-page description of the differences between Site Plan Review and Special Permit. Mr. O’Keeffe noted that the Town Meeting Coordinating Committee was trying to put together a primer on zoning. Ms. Pavlova-Gillham described the educational content to be included and volunteered to help develop the handout.

The motion, including the friendly amendment, passed 6-1-0 (Barberet opposed).

Mr. Shefftz announced that this concluded the discussion on the proposed Spring Street rezoning.

The meeting was adjourned at 10:00 PM.

Respectfully submitted:

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Christine M. Brestrup, Senior Planner

Approved:

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Aaron A. Hayden, Chair

DATE: \_\_\_\_\_