

AMHERST PLANNING BOARD
Wednesday, November 12, 2014 – 7:00 PM
Town Room, Town Hall
MINUTES

PRESENT: David Webber, Chair, Stephen Schreiber, Rob Crowner, Bruce Carson, Richard Roznoy, Greg Stutsman and Christina Calabrese

ABSENT: Sandra Anderson

STAFF: Jonathan Tucker, Planning Director
Christine Brestrup, Senior Planner

Mr. Webber opened the meeting at 7:09 PM.

I. MINUTES

Draft Minutes for the October 22nd meeting had been submitted but the Board had not had time to review them. They will be reviewed at the next meeting.

II. JOINT PUBLIC HEARING – SITE PLAN REVIEW AND SPECIAL PERMITS

SPR2015-00003 & SPP2015-00001 – Joint Public Hearing – Archipelago Investments LLC – 1 East Pleasant Street (the Carriage Shops) (Continued from October 1, 2014 and October 22, 2014)

Request Site Plan Review approval for a mixed-use building containing dwelling units in combination with ground floor retail/commercial uses and parking, with 78 (now 84) apartments on Floors 2 through 5, and request Special Permit to modify maximum building coverage (70 to 80%) and maximum height (55' to 60') (Map 11C, Parcel 278, B-G zoning district)

SPP2015-00003 – Archipelago Investments LLC – 1 East Pleasant Street (the Carriage Shops) (Continued from October 22, 2014)

Request Special Permit to modify side and rear setback requirements, under footnote “a” of Table 3 of Zoning Bylaw for mixed-use building (Map 11C, Parcel 278, B-G Zoning District)

Mr. Webber read the descriptions of the applications and noted that these were continued public hearings and that the building is now proposed to contain 84 apartments.

Mr. Webber introduced and welcomed Christina Calabrese, new Planning Board member.

Kyle Wilson of Archipelago Investments LLC presented additional documents that had been revised since October 22nd, including updated renderings and floor plans, showed photographs of the existing Carriage Shops building and described the changes to the building, including an updated upper floor plan and balconies that have been pulled into the building.

Mr. Wilson and his partner, David Williams, began working with Jerry [Gates], Bob [Ritchie] and Larry [Severance] about 18 months ago in the context of the current Zoning Bylaw to come up with a plan for the redevelopment of the Carriage Shops site. It is difficult to come up with a plan that meets the goals of the Master Plan for redevelopment of downtown and also addresses the issue of affordability, he said. This project is designed to meet the current Zoning Bylaw.

The developers have been participating in discussions about Inclusionary Zoning with the Zoning Subcommittee and listening to the town’s consultant, Judi Barrett, with regard to this issue. Inclusionary Zoning, while it has been instituted in a number of places, has been “difficult to pull off”. The goals are difficult to achieve. Inclusionary Zoning has worked in

some municipalities where the following attributes coincide:

- Density
- Height
- Subsidy
- Management

This project meets the current Bylaw, but does not provide affordable housing units. The project might have been different if it were developed in a different time, where more density and more height were permitted. The town might consider teaming up with subsidizing agents and getting the local Housing Authority to manage affordable units in the future.

Mr. Wilson and Mr. Williams would like to work on other projects in Amherst and want to come up with an Inclusionary Zoning Bylaw that includes cost offsets.

Mr. Wilson presented updated renderings of the building, including the southwest corner, the northwest corner and the view from the cemetery. The upper floor plan no longer has projecting balconies. The applicants are still seeking Special Permits for setbacks and height. Mr. Wilson presented a plan showing parcels of land in the downtown that abut residential zoning districts and noted that the required 20 foot setback would affect many parcels in town and render them undevelopable. He acknowledged that a zero setback is not appropriate when a property is next to a single-family house.

The other Special Permit that is being requested is for height – to go from the 55’ allowed height to a height of 60’ to provide for greater ceiling heights in the residential portion of the building and allow ground floor service of the building by service vehicles.

Mr. Wilson presented photographs of the building containing Collective Copies, noting that it is a well-liked 4-story building that is 55 feet tall and has tall ceiling heights.

He noted that the proposed building could fit five stories within a 55 foot structure, but it would have lower upper-floor ceiling heights and it would not be as appealing. The Collective Copies building contains residential units over retail space on the ground floor, he said.

The applicants presented their request to withdraw without prejudice the Special Permit application to modify building coverage. They noted that the submittal which was made in August included a green roof over the parking lot. They heard many comments focused on the design of the north side of the building, including that the scale of the garage wall was not appropriate to the pedestrian scale of the area. The new plans no longer have a full green roof. There will be green roof trays over some of the parking spaces and a fence instead of a wall to enclose the parking area. The building coverage is no longer in excess of the maximum allowed and therefore the applicants seek to withdraw the request for a Special Permit to modify the building coverage requirement.

Mr. Roznoy MOVED to approve the withdrawal without prejudice of the Special Permit application for building coverage. Mr. Carson seconded and the vote was 6-0-1 (Calabrese abstained).

Mr. Roznoy asked about the propensity of white cedar to age. Mr. Wilson explained that Atlantic White Cedar is rot resistant. He noted that there are cementitious boards and polymer-based products that could be used but that the developers chose a natural material. The wood will be pre-treated with a bleaching agent and will turn silvery gray over time. The developers will establish a maintenance budget to ensure that the building remains attractive. They are willing to incur additional maintenance costs to include wood on the façade. If the building is poor looking it will be difficult to rent, he said.

Mr. Webber listed some of the materials that had been submitted including:

- Letter from Nate Malloy regarding the September 23rd meeting of the Historical Commission and review of the mural and associated easement;
- Letter from Jason Skeels, Town Engineer, dated November 12, 2014, commenting on the revised plan set, stormwater management system and the traffic impact statement;
- Letter from the Assistant Fire Chief, Donald McKay, regarding the revised open parking plan, which the Fire Department favors because of better access by the ladder truck to the center of the complex;
- Letter from the Tree Warden, dated November 12, 2014, commenting on specific trees along the edges of the property;
- Two memos from Jonathan Tucker, Planning Director, one regarding parking and one regarding building height;
- A large number of letters from citizens, both for and against the project, including a letter from the attorney of an abutter, with specific comments and objections;
- An opinion from Town Counsel, Joel Bard, of Kopelman & Paige, regarding the interpretation of Footnotes related to side and rear yard dimensional requirements.

Mr. Wilson delivered to the Board a document stating how the proposed project meets the Site Plan Review Criteria in Section 11.24 and the Special Permit Criteria in Section 10.38 of the Zoning Bylaw.

Public Comment

Mr. Webber announced that David Sloviser had requested before the meeting to speak on behalf and instead of four other people: John Fox, Gerry Weiss, Steve Bloom, and Noryn Resnick. He spoke later in the public hearing.

Hilda Greenbaum of 298 Montague Road noted that she had submitted a map showing the 20 foot setback for properties within the B-G zoning district. All of the properties that abut the cemetery have a 20 foot setback except for three parcels, including the One East Pleasant Street parcel, the parcel immediately north of that and the parcel owned by Denny Jones on Pray Street. Ms. Greenbaum asserted that the existing Carriage Shops building is a non-conforming structure and that the developers of the new structure would need to prove that it is not substantially more detrimental to the neighborhood if it is built closer than 20 feet to the property line. She asserted that the “grandfathering” that is associated with the non-conforming Carriage Shops building might be lost if the building is torn down. Ms. Greenbaum stated that without the 20 foot setback, this development would be an expansion of a non-conforming use and would need to prove that it is not substantially more detrimental to the neighborhood than the existing Carriage Shops building. She referred to the two Bank of America buildings in town that are inappropriate. The town should not have more of these types of buildings.

Shavahn Best of Canton Avenue expressed concern about the height of the proposed building, the lack of affordable units for low and moderate income people, the number of people in town who are on waiting lists for affordable housing, the fact that this project requires a Special Permit and should be required to provide affordable units, the fact that it will displace existing businesses, the fact that the units will be very expensive, and she asserted that the Planning Board is not considering the needs of people from all walks of life as it reviews the proposal for this building.

Jacqueline Maidana of 22 Lessey Street expressed concern about the proposal. She questioned whether the building would have accommodations in the dwelling units for handicapped people and people with mobility impairments. She quoted specific requirements

for handicapped accessible and adaptable apartments.

Ms. Brestrup explained that issues related to accessibility for the interior of the building come under scrutiny when the Building Commissioner is reviewing plans related to a Building Permit for construction of the building. There are state and local laws that govern handicapped accessibility, both in and outside of the proposed building. The Building Commissioner will review the building plans to make sure that they comply with all of the laws regarding handicapped accessibility.

Mr. Wilson stated that compliance with the Mass AAB [Architectural Access Board] regulations will be followed to obtain a Building Permit.

David Sloviter of 194 Lincoln Avenue spoke in opposition to the development and made the following comments:

- Many people oppose this development, but are not opposed to change or to redevelopment of the site;
- They support an increase of students in the downtown and think that it will lead to economic development and more retail and services;
- They agree that the property needs a new use and that the existing buildings need extensive repair and it is not economically feasible for the property to continue in its current condition and use;
- They agree that a mixed use project makes sense and that there are aesthetic issues related to the design, but that is not why they are opposed to the project;
- They object to the project because of who the project will attract and because of issues related to parking; it will attract only students and not professors and retired people;
- This building differs from the Boltwood Place project; in the proposed building there are no master bedrooms, no master baths, no storage, no amenities and no dedicated parking;
- This building will not be attractive to those approaching retirement; young professionals with small children will not find it attractive;
- Mr. Sloviter and those he represents are concerned about noise, congestion, debris and bad behavior; they are concerned that all of the tenants will be students;
- They are concerned about management of the property, including who will staff the front desk and whether they will be trained to deal with problems;
- They are concerned about increased encounters with police;
- They are concerned about the small number of parking spaces (36) for 192 tenants;
- Retirees and young families will want to have cars and will want to park them close to their units;
- Parking is not legal on adjacent streets overnight in the winter;
- They don't oppose development of the site, but they do oppose the design of the building; they have encouraged the developers to make changes that will attract people other than students;
- The contractor, Cutler's, website refers to Kendrick Place as catering primarily to the student population; the architect's website also refers to Kendrick Place as student housing;
- This building too will be student housing; no one else will want to live here;
- The site is ripe for development, but it should be done in the right way;
- Amherst is not responsible for the development of student housing for UMass;

- The building will be a nuisance most of the year, deserted in summer and will create congestion and other problems.

Janet Keller of Pulpit Hill Road offered the following comments:

- The design of the interior of the building shows small living areas not suitable for a variety of family types;
- The use will be more detrimental to the downtown and the entire town; our downtown is our business center;
- The site is a prominent site on a main thoroughfare, fronting on Kendrick Park and backing up to the National Historic Site of the cemetery;
- The design of the building exterior should strive to create a presence in the downtown that the prominence of the site deserves;
- The stormwater management plan should handle the problems of Tan Brook;
- Enough parking should be provided to serve the needs of the tenants;
- The building should be designed to avoid harm to other properties in the downtown;
- The proposal is not compatible with existing uses;
- The building should provide affordable housing;
- The design of the building is not appropriate to downtown, in terms of shape, massing and design.

Clare Bertrand of 610 Bay Road spoke in support of the proposal. As a property manager in South Amherst she deals with professional office space and housing. This is a wonderful proposal for downtown and is basically a by-right development. She grew up here and loves Downtown Amherst. Her mother was elderly and she was able to find suitable housing in downtown Amherst, but the house was not very handicapped accessible. This new development will provide accessible housing for all ages. She spoke in support of young people and noted that there are a lot of students who value our community and volunteer for community service. There has been an over-emphasis on bad student behavior, which is not fair. Students don't need a car. They need good housing. This is a fine design and it is the kind of housing that is needed in Amherst. The town is strong, welcoming and growing. She is happy that the developers want to invest in our community and that they are bringing more housing to Downtown Amherst.

David Moriarty of South Mount Holyoke Drive spoke in support of the project. He has lived here since 1956. While a graduate student he lived in the Faculty Apartments at UMass which are no longer here but which answered a real need. He doesn't think that it is in the interest of the applicant to cater only to one group of tenants. More people are single. Single people may find these apartments desirable. He expects students to live here. Any property management company will have stipulations about tenants' behavior. This building will prove to be an asset to Amherst.

Sharon Povinelli of 493 Montague Road, one of the owners of A.J. Hastings, spoke in support of the project. This year is the 100th anniversary of Hastings. Downtown is not thriving. We need people living downtown. There are seven colleges in the area including Holyoke and Greenfield Community Colleges and only a few "bad apples". This is a by-right use and she supports it.

Mr. Webber began to review the Development Application Report, revised November 6, 2014, prepared by staff. The applicants have requested a Special Permits.

Ms. Brestrup explained that the applicant is requesting a modification of the requirement that the building be limited to 55 feet; the applicants request that the building be allowed to go to 60 feet. The Planning Board is authorized to modify the requirement via a discretionary

Special Permit based on Footnote “a” of Table 3, Dimensional Regulations, of Article 6 of the Zoning Bylaw.

Mr. Webber explained that the applicant is requesting a modification of the requirement for setbacks, the distance from the edge of the building to the lot line. The standard setback is 20 feet for the side and rear yards in the B-G zoning district [for properties that abut a residential district].

The applicant is requesting a Special Permit to modify the setback requirement as follows:

- 4’-4” on the south side;
- 5’-4” on the cemetery side;
- 5’-0” on the northeast corner.

The setback is proposed to be 26’-0” for most of the north side, which is in keeping with the requirement.

A legal issue was brought up at the last session of the public hearing with regard to Footnotes “a” and “e”. The Planning Board requested an opinion from Town Counsel. There has been an argument that the Planning Board doesn’t have authority to waive the setback requirement related to Footnote “e”.

Mr. Webber read both Footnotes “a” and “e”. He noted that the Special Permit needs to be reviewed in the context of existing buildings and features in the surrounding area.

Mr. Webber read the email from Town Counsel regarding the interpretation of Footnotes “a” and “e” as they relate to setbacks for the building being reviewed, dated November 12, 2014, and entered its contents into the record. [In Town Counsel’s opinion Footnote “a” may be applied to the required 20 foot setback described in Footnote “e”.]

Mr. Crowner agreed with Town Counsel’s interpretation and asked why the normal setback requirement was either 0 or 10 feet, and not in between. Mr. Tucker stated that this requirement is related to the Fire Code, for reasons of safety and circulation. In this case the building abuts parcels of public land on the south and east and therefore access or egress is ensured. Mr. Schreiber noted that “all or nothing” provisions are common in the Building Code.

Paige Wilder of Fearing Street read into the record a dissenting lawyer’s opinion [from Attorney Donna MacNicol] regarding Footnotes “a” and “e”.

Mr. Webber acknowledged receipt of the letter from Attorney Donna MacNicol of MacNicol & Tombs of Greenfield, dated November 10, 2014. He noted that Ms. Wilder had read the section on “Special Permit Requests – Modification of Side and Rear Yard Setbacks”.

There was discussion about Attorney MacNicol’s assertion that the modification of side and rear setbacks required a variance. Mr. Webber noted that a variance is very difficult to obtain because it requires that the site is different in some way from other properties in the area causing it to be unable to conform to the normal zoning requirements.

Ms. Brestrup noted that Attorney Bard had the opportunity to read Attorney MacNicol’s letter, but that Attorney MacNicol had not had the opportunity to read Attorney Bard’s letter prior to submitting her letter.

Mr. Schreiber noted that there is a 0 foot proposed setback at the southeast corner of the building (shown on the site plan), causing the side yard setback at that point to be 0 feet.

John Fox of 90 Fearing Street noted that the Planning Board had just received legal opinions and that they are challenging to read and understand. He asserted that the Planning Board should not vote until they had time to review these legal opinions.

Kyle Wilson formally requested that the side setback at the southeast corner be modified to allow a 0 foot setback at that point, in keeping with the general request for modification of side and rear setback requirements.

Mr. Webber agreed that the Special Permit application [SPR2015-00003] was so modified.

Mr. Webber continued review of the Development Application Report. He stated that the Planning Board had held a site visit for these applications. The applicants had asked for a waiver from the requirement for a Sign Plan. He was not inclined to waive the requirement but to require the applicant to return with a Sign Plan at a later date. He noted that a Lighting Plan had been submitted and that there are three town-owned streetlights to be protected during construction. The proposed lights include 17 wall sconces on the north and west facades, 3 recessed lights, no lighting on the mural. The wall sconces show down-lighting and up-lighting.

Mr. Wilson stated that the sconces would be like those at Kendrick Place, with only down-lighting. They will be dark-sky compliant, and similar to the sconces on the east and south facades of Boltwood Place.

Mr. Wilson stated that the parking area will be lit, but that the lighting scheme for the parking area had not yet been determined. Building Code issues will influence the lighting of the parking area.

Mr. Williams stated that the developers will work with the town to extend the streetscape from One East Pleasant Street up to Kendrick Place, and to develop a plan for street lighting and landscaping in this area.

Mr. Roznoy noted that the Town Engineer's report had stated that more details need to be provided regarding the streetscape.

Mr. Webber stated that one condition of the Site Plan Review would be that all recommendations of the Town Engineer, contained in his review letter, should be complied with.

Vince O'Connor of Summer Street expressed concern about the interior lighting of the building. The occupants of the building will have lights on in their rooms. The building will appear like a big lantern. The windows face in all directions.

Mr. Webber noted that the applicant had submitted an Erosion Control Plan and asked if the Town Engineer had commented on it. Ms. Brestrup stated that the Town Engineer had not commented but that she had asked the Building Commissioner about it and he did not have any concerns.

Mr. Webber stated that one condition of the Site Plan Review approval would be the submission of a written statement from the Town Engineer or the Building Commissioner stating that the Erosion Control Plan was adequate.

Mr. Webber stated that a condition of the Site Plan Review approval would be that a Sign Plan and a Landscape Plan be submitted.

Mr. Roznoy noted that the Tree Warden had submitted thorough comments on existing trees along the periphery of the site.

Mr. Webber reviewed the Tree Warden's comments, which included the fact that certain trees lean away from the proposed building and can be saved with proper building techniques.

Mr. Wilson concurred with the Tree Warden's assessment and stated that some of the trees might be saved. However, trees that are disturbed by construction have a shorter life span. Replanting on town property or on private property might be a better alternative. The developers will try to protect some of these trees. Soil compaction is the leading cause of damage during construction, he said.

Mr. Stutsman stated that he would like to save the trees in accordance with the Tree Warden's recommendation. Mr. Wilson expressed support for protecting specimen trees that the Board and the Tree Warden wished to see protected.

A Scenic Roads public hearing will be held on the proposed removal of the Crabapple tree along East Pleasant Street. Mr. Wilson stated that 5 new trees are proposed to be planted along the stretch of road where the Crabapple is being removed.

Ms. Brestrup stated that the Select Board, as Cemetery Commissioners, will need to approve the removal of town-owned trees in the Cemetery.

Vince O'Connor noted that one of the reasons to maintain the 20 foot setback along the cemetery side is to avoid impact on the trees along that side. The trees provide a barrier between the B-G zoning district and the R-G zoning district where the cemetery is located. The most efficient solution is to maintain the 20 foot setback and protect the trees during construction, he said.

Mr. Webber stated that a condition of the Site Plan Review approval would be the submission of a detailed Landscape Plan that would be reviewed by the Design Review Board prior to its review by the Planning Board.

Ms. Brestrup stated that handicapped accessibility on the site and the surrounding streetscape is under the jurisdiction of the Planning Board.

Mr. Webber stated that the condition of the Site Plan Review approval would be the submission of a detailed plan of the site, with details about the four sides of the building and the four common areas on the site.

Mr. Roznoy asked about the extent of the work that would be paid for by the grant for infrastructure improvements. Ms. Brestrup noted that the money from the grant would pay for putting the overhead wires underground.

Mr. Wilson stated that there is only one pole above ground in the vicinity of One East Pleasant Street. He explained the extent of the work to put the wires underground. He showed the location of the pole where the above-ground wires currently go underground. He noted that the aluminum traffic light pole and arm will be removed.

Mr. Wilson stated that the streetscape along East Pleasant Street will include the concrete and brick sidewalk design that has been installed throughout the downtown. This streetscape improvement will be continued from the southwest corner of the property up to the "woonerf" on the north side of the building.

Paige Wilder stated that in the past the town had made statements to the effect that there could be no underground wires and that specifically there could be no underground wires along Pine Street. She asked what is different about this location.

Ms. Brestrup explained that the MassWorks Grant was given for a specific location and could not be used for Pine Street. Also, WMECO did not want transformers to be placed

underground because of problems with water but that WMECO agreed that the wires could be placed underground.

Mr. Webber stated that the applicant had submitted a Traffic Impact Statement and that the Town Engineer agreed with its conclusions.

Mr. Webber reviewed the Site Management Plan. He stated that the Board needed more detail about management of the site. Will a manager live on-site? Will the management of this site be similar to Boltwood Place and Kendrick Place? Did the developers consider a "manned" front desk and an on-site superintendent?

Mr. Wilson responded that there will be a manned front desk and that the developers have considered having someone live on-site. Someone will be on-call 24 hours a day, 7 days a week. They are receptive to the idea of an on-site manager living in one of the units. The desk is proposed to be manned from 9 a.m. to 5 p.m. or from 11 a.m. to 7 p.m. The developers plan to hire a third-party management company. Mr. Carson stated that if there is no one at the desk 24/7 then there should be an on-site superintendent who lives on-site.

Mr. Wilson stated that the front desk manager will be there to receive packages, and deliveries, greet service people, and assist with utilities, during business hours. There is potential for someone to live on-site. If there is someone living on-site there will be a coordinated effort between the person at the front desk and the live-in superintendent.

Mr. Roznoy recommended a condition that would require that the desk be staffed 24/7 at least for the first couple of years and then have the applicants return to determine if this needs to be continued.

Mr. Wilson stated that if someone lives on-site then there is no need to have someone 24/7 at the front desk.

Mr. Roznoy stated that the most important hours are not 9 a.m. to 5 p.m. but 5 p.m. to midnight or later. There is a need for a physical presence at the entryway.

Mr. Wilson agreed that the developers might have a third-shift employee at the front desk.

Mr. Webber asked about access to the stairwell from the parking garage and the back outdoor area. Mr. Wilson stated that access from the back door to the lobby has Building Code issues. This door may only be for egress. The lobby is secure and will be the entrance to the property. Tenants will need a key fob to go anywhere from the lobby. The gates at the parking garage will be fob activated. Access to the lobby will only be for those with a key fob.

Mr. Carson reiterated that it would be best to have someone at the desk 24/7.

Mr. Schreiber stated that such a requirement is excessive. He understands the recommendation for a sunset provision, but it is in the interests of the owners to keep the building safe and well-maintained. He does not support 24/7 desk management. He recommended that the applicant be required to come back with a clearer Management Plan.

Mr. Webber expressed concerns about management during move-in times, nights and weekends, occurrences like "Blarney Blowout", times when people might want to sneak in guests. He stated that the Board needs a "fully fleshed-out Management Plan".

Mr. Wilson stated that it is in everyone's best interest that this be a well-managed property. There are a variety of ways to achieve this.

Mr. Webber stated that the Board had received comments from the Fire Department and the Town Engineer. The Design Review Board had met and submitted a report. They voted on October 21st to recommend approval of this project.

Mr. Webber turned to Stormwater Management. Ms. Brestrup noted that the law requires that a new development not increase the rate of stormwater runoff from the site.

Janet Keller of Pulpit Hill Road stated that there were two places in the Special Permit criteria that require that a development should not contribute to flooding in the area.

Mr. Webber noted that Section 10.38 of the Zoning Bylaw contains criteria for granting Special Permits. Some of these criteria [10.382, 10.385 and 10.390] include criteria related to flooding.

Ms. Keller stated that it is not enough that the runoff be less than the existing condition. The runoff from the project should be contained on-site and the stormwater management system should be designed for large storms.

Ms. Brestrup explained the stormwater management system, including the “green roof trays” that will retain some water, and the permeable pavement on the “woonerf” that will allow water to be retained under the driveway.

Mr. Tucker stated that the runoff from the developed site is predicted to be less than the current condition for the 2, 10 and 100 year storms.

Ms. Keller submitted written comments and asked that they be entered into the record. Mr. Webber entered her comments into the record.

Mr. Webber addressed the issue of open space. He noted that there isn't any open space on-site. This is a downtown building in the B-G zoning district. He read the purpose of the B-G zoning district from Section 2.02 of the Zoning Bylaw, which states that the B-G district is meant to “provide for a mixed use area, of high density, containing a wide variety of commercial, office, residential, institutional, civic, and cultural uses”. He concluded that high-density development is appropriate for the B-G zoning district.

Mr. Webber acknowledged the Town Engineer's comments about sewer and water connections.

Mr. Webber confirmed that the revised plans satisfy the requirements for more topographic information and greater detail along the northern property line, as noted in the Development Application Report.

Mr. Wilson stated that the applicants had met with the Historical Commission several times. They plan to retain the mural in its current size and update the substrate and finishes. The trustees of the Carriage Shops condominium association are working with them. Nothing has changed since the last meeting with the Planning Board. The distance between the mural and the property line will be 5 feet. The distance from the property line to the existing fence in the Cemetery is 3 feet.

Mr. Webber commended the applicants on their work with the Historical Commission and the artist in crafting a solution to the issue of the mural.

Mr. Wilson stated that he agreed to the submission of a Logistics Plan, developed in coordination with the design/build team.

Mr. Webber recommended that a condition be imposed requiring the submission of a Logistics Plan prior to the issuance of a Demolition Permit.

Ms. Brestrup noted that there had been certain issues related to construction at Kendrick Place that the Building Commissioner recommends should be addressed in the Logistics Plan, such as parking for contractors' vehicles, staging of cement trucks off-site, fencing, obstruction of sidewalks, etc.

Mr. O'Connor mentioned the project at Puffers' Pond this summer as being a case where there should have been a Logistics Plan. The project disturbed residents of the area for 6 weeks. Also, unlike Kendrick Place where there is more room in the street, the road is narrower in front of One East Pleasant Street, making it even more disruptive to use the street as a staging area. Mr. O'Connor noted that the managers of Townhouse Apartments and Mill Hollow and Kamins Realty have stated that the police cannot enter these properties unless things get out of hand. Kamins cannot get the police to respond to a problem unless a complaint is made by a resident. This development needs a resident manager who can call police when things get out of hand. There should also be a statement in the lease that no one else may occupy the apartments except those who have signed the lease. The current lease allows a guest to stay for 30 days, and keys can be copied, he cautioned.

Mr. Wilson presented information on how the Carriage Shops property is currently serviced. The proposed alleyway will be 26 feet wide. It can act as a staging area for concrete trucks and be used as a drive aisle during construction.

Mr. Webber turned to the issue of Inclusionary Zoning. He noted that the Zoning Bylaw, as interpreted by the Planning Board and Town Counsel does not require the applicant to provide affordable housing units.

Mr. Webber turned to the issue of Parking. The applicant is proposing 36 parking spaces. There has been a concern expressed that this is not enough. There are a lot of buildings in cities that have no parking. No concerns have been expressed by Board members that there is not enough parking and therefore the parking can be considered adequate.

Hilda Greenbaum of Precinct 1 asked these questions and made these statements: "What is the definition of a mixed-use building? What makes it a mixed-use versus apartment building? The ZBA requires parking for apartment buildings. Can you build a mixed-use building with only one retail space and call it mixed-use? How much commercial space is required?"

Mr. Tucker stated that the Municipal Parking District [where the proposed building is located] was established in the 1960's to encourage dense development in the downtown area. He quoted from Section 7.43 of the Zoning Bylaw, listing the uses which are exempt from the requirement for off-street parking, including the residential uses listed in Section 3.32, with the exception of dormitories or similar college residence halls, hotels, motels and inns.

Mr. Webber stated that the Board needs to find that this is a mixed-use building exempt from parking requirements under Sections 7.43 and 3.32 of the Zoning Bylaw.

Ken Rosenthal asked that the Board look at the project as it affects the town. The applicants' partners have described Kendrick Place as a dormitory and "student housing". The design of the building caters to students, he asserted. Mr. Rosenthal stated that he was formerly part of the Economic Industrial Development Commission. A redesigned building would be supported by many, he said.

Mr. Tucker read from the definition of a mixed-use building, Section 3.325 of the Zoning Bylaw, which states that a mixed-use building is a "Building containing dwelling units in combination with stores or other permitted business or commercial uses."

Mr. Crowner asked if the drive aisle of the parking area would accommodate semi-trailer trucks. Mr. Wilson stated that the drive aisle can accommodate a turning radius of 35'-6" which will work for a semi-trailer truck. The height of the ceiling will also accommodate a "semi". The site plan has reduced the number of curb cuts from 2 to 1, he noted.

Mr. Webber asked how the developers plan to deal with the crosswalk that is in front of the site.

Mr. Wilson stated that there will be a staging plan for pedestrian traffic, allowing them to pass by the site and cross the street during construction. The crosswalk currently "drops into" the place where one of the existing drive aisles is located. The applicants will work with the town on the relocation of the crosswalk. The applicants prefer a crosswalk similar to that in front of Hastings, which is plastic applied to the surface of the asphalt, which gives the appearance of brick and concrete, but without joints and heaving problems.

Elissa Rubenstein of 38 Fearing Street spoke about the Management Plan. This project is similar to Kendrick Place. She noted that, with the combination of Kendrick Place and One East Pleasant, approximately 300 people will be added to the number of downtown residents. Having a manager "on-call" is not sufficient. New York City apartments have superintendents who live in the building. This new building needs not just a live-in person, but someone who can be alert to activities happening between 10:00 p.m. and 3:00 a.m. Ms. Rubenstein noted that when people thought of development in the downtown and instituted the Municipal Parking District they were not thinking of buildings that were 5 stories tall with 100 – 200 people living upstairs. Businesses nearby will pay the price for this building not having adequate parking. People are already parking along Lincoln Avenue. More people will be trying to find parking on the streets in the downtown area. This is a big game-changer she said.

The Board discussed whether they were ready to make a decision and whether they should deal with all the applications together in their decision. Mr. Crowner stated that he was not ready to make a decision on setbacks at this time, especially on the north side. Is a 5 foot setback sufficient space between buildings, according to the Fire Chief?

Ms. Brestrup explained that the Building Commissioner will look at the distance between buildings and will determine the level of fire protection for the new building based on how far it is from the adjacent building.

Mr. Schreiber stated that the normal requirement for 10 feet between buildings is based on an assumption about windows. He is satisfied that fire safety issues will be addressed.

Mr. Crowner stated that he would like to hear directly from the Fire Department on the issue of the 5 foot setback between the buildings at the northeast corner.

Mr. Webber noted that the request to modify the height of the building was still being considered under a Special Permit application, although the request to modify the building coverage requirement had been withdrawn. The applicant represents that the 60 foot height will allow high ceilings in the apartments, making small apartments feel more spacious and will allow trucks to come in and out of the service area.

Mr. Webber noted that Section 10.380 requires a finding that the building is suitably located in town. He read from the purpose of the B-G zoning district, in Section 2.02 of the Zoning Bylaw: "The purpose of the B-G District is to provide for a mixed use area, of high density, containing a wide variety of commercial, office, residential, institutional, civic and cultural uses". He also noted that Objective H.3 in the Demographics and Housing section of the Master Plan states that "appropriately designed infill development can promote neighborhood

revitalization” and encourage vitality in the downtown area.

Mr. Roznoy agreed that this proposal complies with the Master Plan with regard to infill and mixed-use buildings.

Mr. Webber noted that Section 10.381 requires that a project be compatible with existing uses and with other uses permitted by right. He stated that the first floor is proposed for retail with apartments above. This is typical of the downtown with retail on the bottom and housing above and therefore compatible.

Debbie Friedlander of 31 Beston Street stated that this mixed-use building is not very mixed. It will be rented predominantly to students. They will only be here for 6 months of the year. Businesses are going out of business. We should try to attract families who will be here year round. This building has small bedrooms, with 4 bedrooms to a unit. She noted that elderly people need parking spaces. If people live in the building they need to be able to park there.

Mr. Roznoy stated that the Board should find that this building meets the definition of a mixed-use building, according to the Zoning Bylaw.

The Board turned to review of Section 10.38 of the Zoning Bylaw and focused on the request to modify the height requirement.

The Board found, under Section 10.38 of the Zoning Bylaw, Special Permit, with respect to modifications of the height requirement, from 55 feet to 60 feet [SPP2015-00001]:

- 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; its height is compatible with other buildings in the downtown area, in the B-G zoning district; the height is suitable to the neighborhood;
- 10.381 – The proposal is compatible with existing uses and other uses permitted by right in the same district; the modified height of the building is compatible with the mixed-use of the building, allowing higher ceilings (by 6” per floor) in the apartments and higher first floor ceilings providing access by service and delivery vehicles to the ground floor garage area;
- 10.382 – The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features; this is a mixed-use building with windows, not an industrial building that would produce a nuisance; the HVAC heat exchange units are better screened from sight and sound as a result of the higher roof of the building where they are located; the building is an all-electric building; the HVAC equipment is up on the roof and is shielded and enclosed with a screen; the extra height makes the mechanical equipment less audible from the street; the additional height of the building will not constitute a nuisance and does not create visually offensive structures or site features;

Ms. Greenbaum asked how the Planning Board could make its findings since the Board had not had a chance to read the letters from citizens and lawyers. Mr. Webber stated that he had read every letter that has been submitted and that the Board has abundant evidence and information to make its findings about a 5 foot increase in height.

10.383 – N/A; the height of the building has no bearing on this criterion;

10.384 – N/A; the Special Permit is for modification of height, not for the use;

10.385 – The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site; this is a mixed-use building with windows, not an industrial building that would produce a nuisance; the HVAC heat exchange units are better screened from sight and sound as a result of the higher roof of the building where they

are located; the condensers are all up on the roof and are shielded and enclosed with a screen; the extra height makes the mechanical equipment less audible from the street; the additional height of the building will not constitute a nuisance and will not create detrimental or offensive uses on the site;

- 10.386 – N/A; the height of the building has no bearing on parking and sign regulations;
- 10.387 – The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements; the Board has received a Traffic Impact Report; the increased height of the building improves pedestrian and vehicular safety; full-sized delivery trucks will be able to enter into the ground floor of the building and therefore will not impact streets and sidewalks; the height allows for the woonerf area to be enlarged, thereby providing increased access to the building as well; in addition the number of curb-cuts is being reduced from 2 to 1, improving the pedestrian and vehicular access;
- 10.388 – The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, material and equipment incidental to the normal operation of the use; there is adequate space in the building, in the service area, to accommodate these needs; full-sized delivery trucks will not impact streets and sidewalks because they can enter the ground floor of the building;
- 10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes and methods of drainage for surface water; increased height of the building will not affect sewage disposal or drainage of surface water; increased height of the building will allow more efficient disposal of refuse and recyclables because garbage trucks will be able to enter the ground floor of the building for pick-up of disposables;
- 10.390 – N/A; the building is not located in a Flood Prone Conservancy District;
- 10.391 – The proposal protects, to the extent feasible, unique or important natural, historic or scenic features; these features include the general character of downtown and the cemetery; it is consistent with other existing downtown buildings; the building will protect the natural, historic and scenic general character of the downtown; the height of the building will help to enclose Kendrick Park and will protect the function of the West Cemetery as an urban green space;
- 10.392 – N/A; the increased height of the building will not affect the landscaping;
- 10.393 – N/A; the height of the building will not affect the intrusion of lighting onto adjacent properties;
- 10.394 – The proposal avoids, to the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes and wetlands; the increased height of the building will not affect steep slopes, floodplains, scenic views, grade changes and wetlands; the building is consistent with other buildings in the downtown such as Town Hall (66' at the ridge), First Congregational Church (64' on north side, 74' on west side), Clark House (57'), Kendrick Place (57'); the 60 foot height will have no significant impact on scenic views in the area;
- 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 Design Review Board has reviewed this project and recommends approval;
- 10.396 – The proposal provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features; the increased height of the building directly supports screening for these items; loading docks, refuse disposal and storage areas will be located within the building; rooftop equipment will be higher above the surrounding grades and will be screened with fencing;

- 10.397 – N/A; the building is located in the B-G zoning district where high density is encouraged; the project is immediately across the street from Kendrick Park, which will serve as a nearby recreation area for tenants of the building;
- 10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw and the goals of the Master Plan; the Board has already quoted some of the goals of the Master Plan that are upheld by this proposal; the project promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst; the proposal also follows the recommendations of the Housing Production Plan and the Housing Market Study, recently prepared by consultants for the town, which stated the need for additional housing throughout the town; by meeting the goals of both of these plans it promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Mr. Roznoy recommended going through the Section 10.38 criteria for the second Special Permit and then closing the public hearing on the Special Permits together. The Board agreed by consensus to proceed in this manner. Board members also agreed that most of the conditions that were mentioned during the public hearing were related to the Site Plan Review and not to the Special Permits, except for one. Mr. Crowner recommended imposing a condition on the Special Permit for modification of side setback requirements that the Board requires that the applicant obtain a statement from the Fire Department confirming that the side setback at the northeast corner of 5 feet is not a hazard.

Mr. Webber noted that, with respect to side and rear setback requirements, the Board would be relying on the opinion of Town Counsel with respect to Footnotes “a” and “e” of Table 3, in Article 6 of the Zoning Bylaw, which states that the Planning Board has the authority to modify the 20 foot setback on the sides and rear of the building to the specified amount.

The Board found, under Section 10.38 of the Zoning Bylaw, Special Permit, with respect to modifications of the side and rear setback requirement [from 20 feet to 4’-4” on the south side, 5’-4” on the cemetery side, 5’-0” on the northeast corner and 0’ on the southeast corner] (SPP2015-00003):

- 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 proposed setbacks are compatible with other buildings in the downtown area, in the B-G zoning district; the setbacks are roughly consistent with the existing building footprint along two sides of the building;
- 10.381 – The proposal is compatible with existing uses and other uses permitted by right in the same district; the modified side and rear setbacks are consistent with other buildings in the B-G zoning district because a 0’ setback is allowed on most properties in the B-G district; the proposed setbacks are consistent with the architectural styles throughout the downtown area;
- 10.382 – The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features; the proposed setbacks will not create a nuisance; the proximity of other buildings is hardly applicable; based on the renderings submitted by the applicant the proposed setbacks will not create a nuisance that cause a visually offensive structure or site feature;
- 10.383 – The proposal will not be a substantial inconvenience to abutters, vehicles or pedestrians; the Board will impose a condition requiring that the applicant obtain a statement from the Fire Department that the 5 foot setback from the neighboring building on the northeast corner will not create a hazard; the proposal provides adequate/excellent access around all sides of the building; any potential substantial

- inconvenience during construction will be mitigated by the required staging plan;
- 10.384 – N/A; the Special Permit is for modification of setbacks, not for the use;
- 10.385 – The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site; the proximity of other buildings is hardly applicable; based on the renderings submitted by the applicant the proposed reduced setbacks will not create a detrimental or offensive use on the site;
- 10.386 – N/A; the height of the building has no bearing on parking and sign regulations; any signs will be addressed when the required sign plan is submitted and the parking is all contained within the building so it is not affected by the modifications;
- 10.387 – The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements; the Board has received a Traffic Impact Report; the modification to the side setback will allow the applicant to create a “woonerf” for excellent access to the north side of the building and will reduce the impact to pedestrians because there will be only one curb cut;
- 10.388 – The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, material and equipment incidental to the normal operation of the use; the modification to the side setback will allow the applicant to create a “woonerf” for excellent access to the north side of the building and to the garage area;
- 10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes and methods of drainage for surface water; the modification to the side setback will allow the applicant to create a “woonerf” for excellent access to the north side of the building for refuse disposal and other vehicles to service the building;
- 10.390 – N/A; the building is not located in a Flood Prone Conservancy District;
- 10.391 – The proposal protects, to the extent feasible, unique or important natural, historic or scenic features; these features include the general character of downtown and the cemetery; the reduced setback will protect the mural by replacing it in concert with the artist in a location that is consistent with its current location; the setback along the cemetery will be approximately the same as the existing building; there will be no intrusion into the historic cemetery; the slope will be brought back to its historic grade along the cemetery side;
- 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 condition of the Site Plan Review will require that the applicant return with a revised Landscape Plan; the applicant will work with the Tree Warden regarding the disposition or preservation of existing trees and planting of new trees along the sides of the property;
- 10.393 – N/A; the modified setbacks of the building will not affect the intrusion of lighting onto adjacent properties;
- 10.394 – The proposal avoids, to the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes and wetlands; the modification of the side and rear setbacks will improve the appearance of the repainted mural by making it more approachable and by bringing it up to grade with the cemetery;
- 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 Design Review Board has reviewed this project and recommends approval;
- 10.396 – The proposal provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features; the modification of side and rear setbacks allow better access to the parking and service area and therefore better screening of loading and delivery areas;

- 10.397 – N/A; the building is located in the B-G zoning district where high density is encouraged; the project is immediately across the street from Kendrick Park, which will serve as a nearby recreation area for tenants of the building;
- 10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw and the goals of the Master Plan; the Board has already quoted some of the goals of the Master Plan that are upheld by this proposal; the project promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst; the modification of the side and rear setbacks allow for a single curb cut and promotes better access to the building on the north side, which promoted the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Mary Wentworth of Clark House stated that Clark House is a six-story building, but it is not built on the crest of a hill. She asserted that a Special Permit is a mechanism for the Board to grant waivers from the Bylaws, but that there should be some benefit to the town. If the Board does not find a benefit to the town then the Board will set a precedent. She does not see how the town will benefit from this project as opposed to a project that might be approved “by-right”.

Mr. Webber stated that there are several citations of the Master Plan that would directly support the Planning Board in allowing these Special Permits, including:

LU.2.B – to encourage increased upper floor residential development in the downtown and village centers;

H.3.B – increase residential densities in the downtown and village centers.

Both of these objectives are met by the increased height and reduction in building setbacks.

Mr. Crouner stated that the clearest benefit is that the modification of dimensional requirements will allow the building to include parking, even though parking in this area is not required.

Mr. Roznoy MOVED to close the public hearing on the Special Permits [SPP2015-00001 and SPP2015-00003] and that they be approved with one condition, related to the Fire Department’s statement on the safety of the setback at the northeast corner. Mr. Carson seconded and the vote was 6-0-1 (Calabrese abstained).

The Board discussed continuing the public hearing on the Site Plan Review to a date certain.

Mr. Webber listed potential conditions for the Site Plan Review application [SPR2015-00003]:

1. The comments and concerns of the Town Engineer contained in his letter of review shall be satisfied.
2. The applicant shall submit a revised Management and Security Plan.
3. The applicant shall obtain a written statement from the Town Engineer confirming that the Erosion Control Plan is adequate.
4. The applicant shall submit a Sign Plan.
5. The applicant shall submit a Landscape Plan, developed with the approval of the Tree Warden (for the periphery of the site) and the Select Board (for the cemetery side).
6. The applicant shall submit a Landscape Plan for street trees, with the advice and consent of the Tree Warden.
7. The applicant shall submit a Site Plan showing handicapped access for the site and the public way.
8. The applicant shall submit a Logistics Plan prior to the issuance of a Demolition Permit.
9. The applicant shall work with the town to relocate or preserve the crosswalk across East Pleasant Street.

The Board discussed whether to include a condition related to the Historical Commission's review. They decided not to include such a condition at this time because the Historical Commission can place its own conditions on the Demolition Permit/Delay application.

The Board discussed continuing the public hearing to a date certain.

Mr. Roznoy MOVED to continue the public hearing to Wednesday, November 19th, at 7:00 p.m. Mr. Stutsman seconded and the vote was 6-0-1 (Calabrese abstained).

Mr. Webber reiterated that the Special Permits had both been granted and that the public hearing on the Special Permits had closed.

The Board added another potential condition:

10. The applicant shall work with the Historical Commission on signage and the entryway to the West Cemetery and mural.

III. ZONING – no report or comment

A. Zoning Subcommittee Report

B. Public Comment Period

IV. OLD BUSINESS

Topics not reasonably anticipated 48 hours prior to the meeting – none

V. NEW BUSINESS

A. PVPC – District Local Technical Assistance (DLTA) Program – Projects Solicitation for 2015 – none

B. Topics not reasonably anticipated 48 hours prior to the meeting – none

VI. FORM A (ANR) SUBDIVISION APPLICATIONS – none

VII. UPCOMING ZBA APPLICATIONS – none

VIII. UPCOMING SPP/SPR/SUB APPLICATIONS – none

IX. PLANNING BOARD COMMITTEE & LIAISON REPORTS – no reports

Pioneer Valley Planning Commission – Bruce Carson

Community Preservation Act Committee – Sandra Anderson

Agricultural Commission – Stephen Schreiber

Transportation Plan Task Force – Richard Roznoy and Rob Crowner

Amherst Redevelopment Authority – vacant

Design Review Board – vacant

Housing and Sheltering Committee – Greg Stutsman

Town Gown Study Steering Committee – David Webber and Greg Stutsman

Master Plan Implementation Committee – vacant

Zoning Subcommittee – Rob Crowner, Bruce Carson, Greg Stutsman and Stephen Schreiber

X. REPORT OF THE CHAIR – none

XI. REPORT OF STAFF – none

XII. ADJOURNMENT

The meeting was adjourned at 11:10 PM.

Respectfully submitted: Approved:

Christine M. Brestrup
Senior Planner

_____ DATE: _____
David Webber, Chair