



PLANNING BOARD

Report to Town Meeting

**Article 19. Zoning – Mixed-Use Building
(Citizen Petition – Perot et al)**

To see if the Town will amend section 3.325 of the Zoning Bylaw, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

~ SEE WARRANT LANGUAGE ~

Recommendation

The Planning Board voted 5-0 (4 members absent) to recommend Town Meeting defeat Article 19.

Background

If passed, Article 19 would undo some of Town Meeting's recent changes to Special Permit requirements for mixed-use buildings in the Commercial (COM) Zoning District. It also seeks (unsuccessfully) to narrow the permissible business uses within those buildings. The Planning Board opposes these changes.

Town Meeting has already spoken on the issue of requiring Special Permits for mixed-use buildings in the COM zoning district. Until this year, a Special Permit was required for more than 6 dwelling units in a mixed-use building in COM Districts. However, on June 3, 2013, Town Meeting voted to raise that threshold to 10 dwelling units. (Article 31 - 119 for, 56 against).

Article 19 seeks to undo this change by reverting back to a 6 dwelling unit threshold in selected portions of the COM zone. To the extent that the proposed locational limitations could be made to work, this limitation would apply in portions of the North Amherst COM District, the East Village COM District, and the Amherst Farmers Supply COM District, all of which abut the R-N District. The Planning Board opposes lowering the threshold because it would discourage viable mixed-use buildings in all of these areas.

Article 19 also has serious functional problems. First, it would not accomplish its stated goal of allowing only “business and commercial” institutional uses within mixed-use buildings in all COM Districts, because it does not create a new definition for the use; it essentially just re-arranges the

words. The Building Commissioner has indicated he would have to interpret the new language as allowing the same range of uses as the current language.

Even if it did have the effect of narrowing the permissible uses, the Planning Board would recommend against Article 19 because government uses, public services, and consumer services are critically important to the vitality and economic success of walkable, livable village centers.

Second, limiting the changes to “buildings abutting the R-N or PRP districts” simply doesn’t work. In most cases, required setbacks make it impossible for a building (as opposed to a property) to be located so that it would “abut” a zoning district. The Building Commissioner has said that he wouldn’t know how to determine what “abutting” meant under this language, making it problematic to enforce.

Public Hearing

The Planning Board held a public hearing on Article 19 on Wednesday, October 16. Following public comment and further discussion, the Board voted 5-0 (4 members absent) to recommend that Town Meeting defeat Article 19.