



PLANNING BOARD

Report to Town Meeting

**Article 30. Restrictive Covenant – 284 North Pleasant Street
(Petition – Ewert et al)**

To see if the Town will vote to authorize the Select Board to accept a revised covenant governing the range of allowable uses on the property of 284 North Pleasant Street (Map 11C/Parcel 174) by adding, after the words “under G.L. c.40A, s.3”, the language in bold italics, as follows:

and other office uses, including those office uses listed in the Amherst Zoning Bylaw at 3.358, and at 3.359, and at 3.360, and offices of Complimentary/ Alternative/Integrative health care providers which are not specifically listed in the Amherst Zoning Bylaw, and offices of for profit professionals as listed in the Amherst Zoning Bylaw at 3.332.

Recommendation

The Planning Board voted unanimously, 7-0-0, with 2 members absent, to recommend that Town Meeting dismiss Article 30 unless Article 29 is defeated, in which case the Board would support adoption of Article 30.

Background

Article 30 is not a zoning amendment, though it acts a lot like one. Town Meeting is not being asked to approve the language shown above. It is instead being asked to authorize the Select Board to revise an existing restrictive covenant between the owner of the property at 284 North Pleasant Street and the Town, in order to expand the range of uses allowed there. Town Meeting needs to see the covenant revisions in order to know what it is authorizing the Select Board to allow.

The property at 284 North Pleasant Street is the only property in Amherst governed under what is referred to as “contract zoning”—where the land uses on a specific property are limited by a restrictive covenant held by the Town. This is a tool a community can use to allow only a specific limited range of the uses permissible under a given zoning district, and exclude other uses which might not be appropriate.

The property at 284 North Pleasant Street is currently zoned Limited Business. The November 2004 Fall Special Town Meeting vote to change the zoning on the property from General Residence (R-G) to Limited Business (B-L) at the request of the owners, and to enter into a contractual agreement (the covenant) to limit the uses on the property to a specific few. The zoning change relieved some dimensional non-conformities for the property, and allowed the existing uses to expand (a chiropractic office and related medical facilities, an upper floor residence occupied by the owner, and a basement apartment).

The November 2008 Fall Special Town Meeting voted to authorize the Select Board to revise the covenant to expand the range of allowed uses to include non-profit educational or religious uses.

What Article 30 Seeks To Do

The owners now seek to expand the range of uses on the property further, adding the following to the existing range of possible uses: medical/dental offices, offices for alternative/integrative medicine, for-profit educational uses, business offices providing services to customers on the premises (not to include banks), technical/professional offices providing services predominantly by appointment, and administrative offices visited primarily by employees.

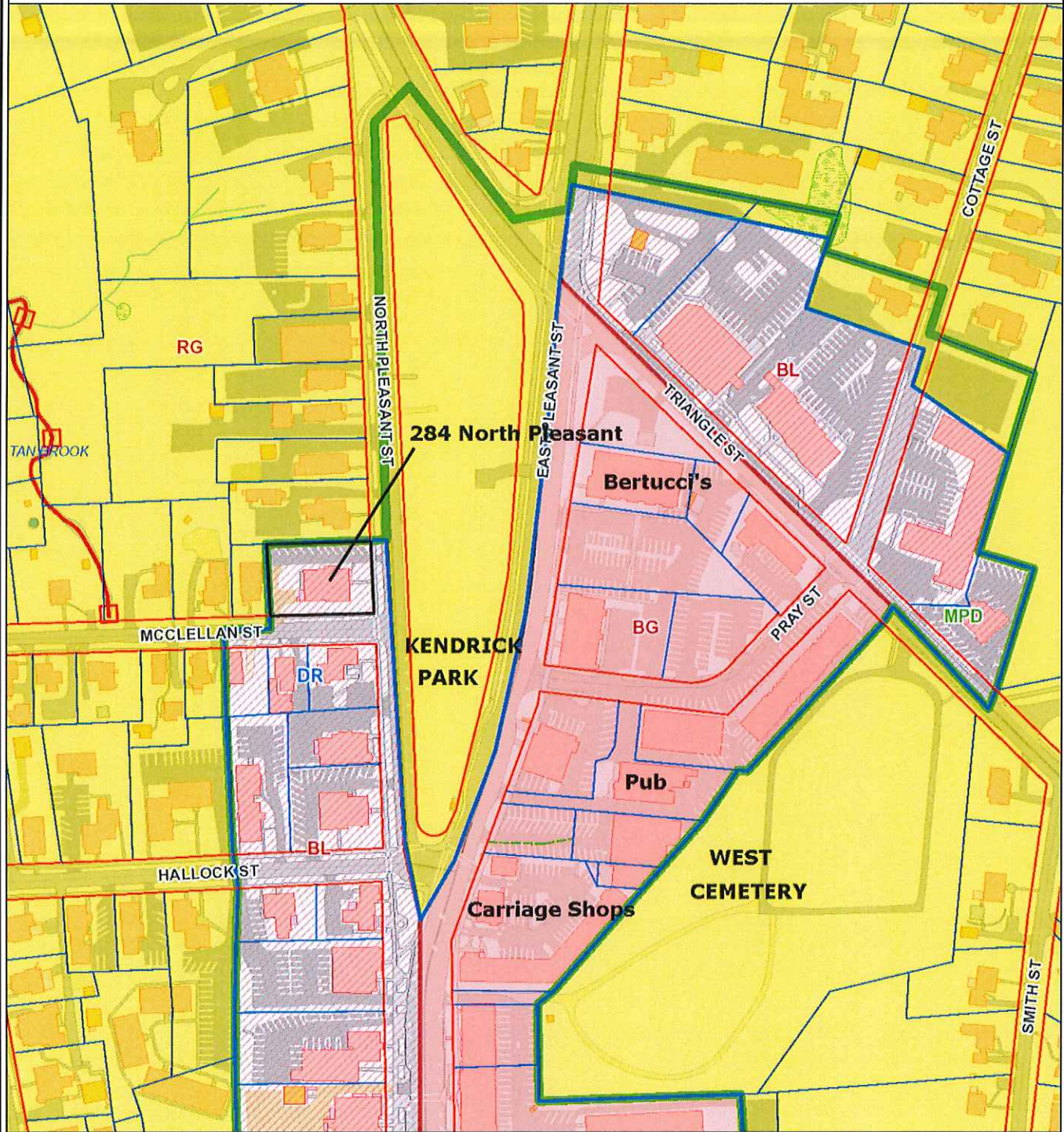
The Problem

The property owner Howard Ewert wrote his petition article hurriedly, trying to meet the zoning amendment submission deadline for the 2014 Annual Town Meeting. In the process, in his proposed revisions to the covenant, he referred to specific Zoning Bylaw section numbers rather than naming the uses. The Zoning Bylaw is amended frequently, and section numbers can change over time. For the covenant to work properly, the specific uses need to be described in narrative language, not as a series of Zoning Bylaw section numbers.

Public Hearing

The Planning Board held a public hearing on Article 30 on Wednesday, March 5. Mr. Ewert presented his article, and the Zoning Subcommittee reported on its deliberations with regard to the article. Mr. Ewert reported that he supported the Planning Board's alternative article (Article 29), which accomplished the same changes as his petition article, but without the potential problems. He said he had spoken to his neighbors and they supported the proposed changes. There was no public comment.

After further discussion, the Planning Board voted unanimously, 7-0-0, with 2 members absent, to recommend that Town Meeting dismiss Article 30 unless Article 29 is defeated, in which case the Board would support adoption of Article 30.



Horizontal Datum: MA Stateplane Coordinate System, Zone 4151, Datum NAD83, Feet
 Vertical Datum: NAVD88, Feet

Planimetric & topographic basemap features compiled at 1"=40' scale from April, 2009 Aerial Photography. Parcels compiled to match the basemap; revisions are ongoing.

The information depicted on this map is for planning purposes only. It may not be adequate for legal boundary definition, regulatory interpretation, or property conveyance purposes. Utility structures and underground utility locations are approximate and require field verification.

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| <p>Property M</p> <ul style="list-style-type: none"> □ Surrounding Community Par <p>Zoning Map</p> <ul style="list-style-type: none"> ✱ FPC Boundary Elevations FPC Stream Setbacks 25' Setback 50' Setback Zone Overlay Design Review Board Jurisdi Municipal Parking District | <p>Zoning</p> <ul style="list-style-type: none"> R-LD: Low Density Residenc R-F: Fraternity Residence R-O: Outlying Residence R-N: Neighborhood Reside R-VC: Village Center Reside R-G: General Residence B-VC: Village Center Busine B-L: Limited Business B-N: Neighborhood Busines B-G: General Business OP: Office Park COM: Commercial PRP: Professional & Resear LI: Light Industrial ED: Educational FPC: Flood-Prone Conserva |
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1" = 200 ft

