



## Memorandum

**To: Town Council Members**  
**From: Mandi Jo Hanneke, Chair, Community Resources Committee (CRC)**  
**Date: November 18, 2021**  
**Re: Report by the Chair of CRC to the Town Council – Rezoning of Parcel 14A-33 / Parking Facility District**

---

### Summary:

This report focuses on the proposal by Councilors Ross and Ryan (and originally Councilor Pam, who withdrew her sponsorship soon after referral) to rezone Parcel 14A-33 from R-G to B-G. These revisions were referred to CRC by the Town Council on May 24, 2021.

In short, CRC voted as follows:

- On November 16, 2021, **4-1 (Yes: Councilors Bahl-Milne, Hanneke, Ross, Schreiber; No: Councilor Pam) to recommend the Town Council adopt the Parking Facility Overlay District amendments as presented.**

### Discussion:

Proposed Rezoning of Parcel 14A-33 from R-G to B-G; revised to proposed a Parking Facility Overlay District

Summary of First Public Hearing for Initial Proposal (Not the one in Front of the Council)

On July 13, 2021, CRC held a public hearing on the proposal by Councilors Ross and Ryan to rezone Parcel 14A-33 from R-G to B-G. This proposal came to the Council and was then referred for a public hearing.

The public hearing lasted approximately 2 hours. Councilors Ross and Ryan made the presentation, focusing on looking towards the future, that the lot is not prime street-frontage real estate yet is close to major downtown destinations, so that it is appropriate for a garage, and that re-zoning is just the first step.

After the presentation, members of CRC and the Planning Board were able to ask questions, which were then responded to by members of the Planning staff.

The questions from members of the committees concerned whether the time is appropriate to re-zone the parcel now, or whether the re-zoning should wait until there is a proposal for a garage, whether the lot is the most appropriate lot for a parking garage, whether the re-zoning could be considered spot zoning.

The sponsors stated that the re-zoning is appropriately the first step because an investor won't spend the time or money to draw up plans for a garage until after the correct zoning is in place and that it is better for the Town to have an investor bear the costs of development, study, and design instead of the

Town having to spend taxpayer money to do the same. Further, the Planning Department indicated that the rezoning is not spot-zoning because the new B-G zoning would be connected to current B-G zoning.

After the members of the committee completed asking questions, the public was invited to ask questions. Six members of the public asked questions, with nearly all of them focusing on the impacts a garage would have on the neighborhood and the street, alternatives to a garage at that site, and assurances necessary that the rezoning would only permit a 3-story garage.

Thereafter, one resident spoke in favor of the rezoning, as a necessary part of the solution to the parking perception issues and a growing downtown.

Five spoke in opposition to the proposal, mainly because studies have not been completed, concerns regarding impacts to the neighborhood and increased traffic, and what could happen if re-zoned but a garage is deemed un-tenable there, since promises by this Council and one potential bidder are not legally binding.

One person was neutral about the proposal, stating that there is no interest in a 5-story garage, but that something is needed, especially with the Jones Library so close.

The sponsors responded to the concerns that the RFP issued by the Town would be able to control for and address some of the concerns. Further CRC questions resulted in the possibility of whether the rezoning could be tied to a specific project, such that if the project is not successful, the zoning automatically reverts back to the current R-G zoning. An answer to this question was not readily available.

Because there were outstanding questions about the ability to limit the use of the property if re-zoned, CRC voted unanimously to continue the hearing to August 10. The August 10 continued hearing lasted approximately 2 hours.

Summary of Continued Public Hearing for Initial Proposal (Not the one in Front of the Council)

At the continued hearing, the sponsors provided a good overview of their additional response and their reasons for pushing this forward because of their commitment to creating a thriving downtown and post-COVID having more outdoor dining, which may result in the loss of more parking. The re-zoning is a way to anticipate and deal with our parking needs.

During the hearing, the Building Inspector presented a possible solution of creating an overlay that would allow the Town to put in the specific limiting criteria. It was reported that contract zoning may not work given that that is an arrangement between the town and a third party and this particular parcel is owned by the Town.

Seven residents spoke at the continued hearing, most against the proposal. The main concern for the public continued to be whether the zoning change is happening before identifying the best spot for the garage and if it is CVS, how will it impact the traffic on North Prospect St.

After closing comments, the public hearing was closed by unanimous vote (Councilor Hanneke was absent). The sponsors agreed to speak with and discuss with the Building Inspector and the Planning Department about the new options discussed prior to further deliberations at CRC.

The Planning Department also mentioned that they may discuss their understanding of the best location for a parking garage in town, potential language for an overlay district, and some additional research. They will then share their research and proposal for the overlay with CRC and the Planning Board to see if they want to include the overlay in their recommendations.

#### Summary of Further Public Hearing and Continued Public Hearing for Revised Proposal (The One in Front of the Council)

Thereafter, the Sponsors notified CRC that they were working with the Planning Department on a revised proposal that would address many of the concerns heard at the public hearing. Once that proposal was ready for consideration, the CRC, due to statutory requirements held a further public hearing, on October 26, 2021. There were approximately 12 attendees at the public hearing on October 26<sup>th</sup> and it lasted approximately 2 hours before being continued until November 9, 2021. The November 9<sup>th</sup> continued hearing had approximately 12 members of the public attend, many of whom had attended the October 26<sup>th</sup> hearing. The November 9<sup>th</sup> continued hearing lasted approximately 1.5 hours, and was closed by a vote of 4-1 (Councilor Pam in opposition). In total, the CRC held approximately 7.5 hours of public hearings over the course of 4 meetings.

At the first public hearing on October 26, 2021, there were limited Councilor questions, due to time constraints and the desire to ensure that all public who had attended the meeting for this public hearing were adequately heard. At the continued hearing on November 9, 2021, Councilors asked questions relating to side setbacks, maximum number of stories, and whether the non-Town owned parcel that houses parking should be included in the overlay district.

At both recent hearings, there were extensive questions from the public. These encompassed clarifying the maximum height of the structure from the N. Pleasant Street side of the building, what an overlay means for other uses for the property, how many levels could be accommodated within the height restrictions, whether the proposed parcel is appropriate for a parking facility, whether other parcels could be included in the overlay or were considered for the overlay, where walking access is appropriate, whether a facility is needed in Amherst, what evidence the Town has for needing to plan for a facility through zoning, when traffic studies would be completed, whether the side and rear setbacks are appropriate, and what stakeholder groups were consulted.

Both sponsors and the Planning Department endeavored to respond to the questions. First, as to height, the maximum 40' height is measured from North Prospect Street. Therefore, with the sloping grade on the parcel (the North Pleasant Street edge is approximately 8' lower), and no current plans to reference, it is hard to speculate on how high the rear (North Pleasant Street) wall of a facility would rise. There was discussion and clarification that the 40' height limit applies to the head wall of the parking deck of the facility, not to any stairwell or elevator access walls or to any potential solar arrays that may be installed above the top deck. It was also noted that the 40' height limit proposed for the overlay is the same building height limit for a building in the R-G zone.

Second, as to maximum stories, since parking facilities have sloping "floors", it is hard to state the height in "stories". The height is assumed to be tall enough to permit the equivalent of a ground level and 3 above ground parking decks.

For questions regarding the design of a parking facility, the sponsors and the Planning Department stated that they couldn't speculate on the "look" because that would not be known until the design phase. However, there were regular statements that design standards could be incorporated into an RFP for a public-private partnership, and that prior to the issuance of an RFP was the proper time to discuss the desired standards. The Planning Department stated that they do not have any architectural plans,

nor have they seen any plans from the BID or any other entity that may have expressed interest in responding to a potential RFP.

The Planning Department clarified that if the Parking Facility District is adopted but the Town determines a parking facility is not appropriate for the site (for any number of reasons, including not receiving any bids, or rejecting all bids from an RFP), the underlying R-G zoning would be determinative. The proposal only changes that underlying zoning for the building of a parking facility, which is why the overlay district is a better proposal than the initial B-G revision proposal, since it limits the new uses and changes to dimensional and lot coverage requirements to a parking facility.

After the public asked questions during each hearing, the members of the public were given an opportunity to speak in favor or opposition to the proposed revisions. While no members of the public who attended the hearings spoke in favor of the proposal, the sponsors noted that the Planning Board received several comments from local residents and business owners, including Amherst Cinema and the Library Director, in favor of the proposal.

A total of 11 different members of the public spoke in opposition to the proposed Parking Facility District. Reasons included that currently, the lot is never full, St. Brigid's would be negatively affected, there hasn't been a need for a parking facility shown, the sponsors haven't demonstrated that the proposed parcel is the best location for a parking facility, the maximum height is too high, the proposed location is not central to downtown, and the proposal is not responsive to public comments.

#### Summary of Deliberations for Revised Proposal (The One in Front of the Council)

On November 16, 2021, CRC began deliberations on the Parking Facility District proposal. Between the public hearings and the deliberations, housing, social, transportation, and historic impacts were identified and economic, cultural, sustainability, transportation, and social benefits were identified.

One Councilor spoke of how the evolution of this proposal has been a great example of how the zoning process can work. After hearing the Destination Amherst presentation from the Town Manager, two Councilors came up with a way to move the parking facility portion of that presentation forward, presented that plan to Council, then at the required hearings, heard a lot of concerns from residents, considered those concerns and heard from staff a potential way to address a large portion of those concerns, then worked with staff to craft the alternative proposal, which then had more public hearings and comment, and which CRC and the Planning Board were able to consider. As one Councilor stated, the proposal evolved dramatically from the original in direct response to resident and Councilor concerns, including to limit the building height to the same maximum as currently allowed on the parcel, to limit any non-R-G conforming uses or dimensional requirements to a parking facility, and to add some design standards that seek to shield residents from some of the detriments of a parking facility.

After recognizing that this proposal stemmed from the Town Manager's Destination Amherst plan, which was well received by the Council, one Councilor mentioned that easier parking was a theme of all groups at the downtown visioning forums held pre-COVID, and that this proposal meets a vision of keeping parking central to downtown, easily accessible, yet hidden from view from the main shopping and gathering areas. Further, in response to concerns about not having a plan, one Councilor stated that by revising the zoning first, the individuals responding to the RFP will bear the costs of the studies, instead of the Town, which is a wise use (more appropriately, lack of use) of Town resources.

Another Councilor recognized that many residents spoke against the proposal at the CRC hearings, and that most of those residents lived close to the proposed District. While the concerns of these residents are all valid and understandable, the Councilor stated that the Council's role is to consider a proposal

and how it will benefit or harm the Town as a whole, with the abutters being only one part of that equation. That Councilor noted that descriptions of the area as a residential neighborhood were not quite accurate, as North Prospect Street, from Amity to Cowls is really a transitional zone between the commercial downtown on North Pleasant Street and Amity Street, and the residential areas of Lincoln Avenue and North Prospect Street north of Cowls. And, in that Councilor's view, the benefits of adding the Parking Facility District greatly outweigh the potential harms, citing benefits such as planning for the future that is envisioned for the Town, with increased visitor numbers for the Cinema, the Drake, the performances on the Common, and the expanded Jones Library (to name a few), potentially less on-street parking half of the year due to the resident's welcoming and support of on-street, outdoor dining that will likely continue into the future and other re-envisioning of the use of the downtown public way, and the benefit of having the entities that believe a parking facility will be fiscally feasible do all of the studies to determine that, instead of using taxpayer money to do those studies.

One Councilor spoke of their belief that a parking facility in the CVS lot was not appropriate, as to that Councilor, Boltwood Garage is the obvious location to add floors to. Further, a parking facility on North Prospect Street will have destructive repercussions to an important neighborhood in Town, which outweigh other potential benefits to the entire Town. Finally, the Councilor did not believe that it was an appropriate time to be discussing this matter, despite the revisions having been referred to CRC by the Town Council in May, 6 months prior.

After discussion, CRC voted **4-1 (Yes: Councilors Bahl-Milne, Hanneke, Ross, Schreiber; No: Councilor Pam) to recommend the Town Council adopt the Parking Facility Overlay District amendments as presented.** Councilor Pam opposed the recommendation for the concerns stated above by Councilors and residents.

## Committee Members:

Shalini Bahl-Milne, Vice Chair

Mandi Jo Hanneke, Chair

Dorothy Pam

Evan Ross

Stephen Schreiber