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**TOWN OF DEDHAM  
PLANNING BOARD**

November 12, 2020

This report summarizes the proposed five (5) zoning amendments (Articles 21, 23, 24, 25 and 26) and the Planned Residential Development (Article 22), that appear on the 2020 Fall Annual Town Meeting Warrant and the Planning Board's Recommendations to Town Meeting.

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**Article 21 Purpose**

Article 21 would authorize changes to the Dedham Zoning Bylaw to extend the lapse of Special Permits from two (2) to three (3) years

**Background Summary**

Currently under the Dedham Zoning By-law, Special Permits lapse (expire) if there has not been a substantial use or construction two years following Special Permit approval. State laws were changed (in 2013) to allow a Special Permit to lapse after three years. The law was updated to account for the sometimes lengthy and complex permitting processes involved with development projects. The proposed amendment is to be consistent with state laws and surrounding municipalities.

**Planning Board Recommendation**

The Planning Board held the required public hearing regarding Article 21 on September 9, 2020. At a subsequent public hearing on October 14, 2020, the Planning Board voted unanimously (5-0) to recommend approval to Town Meeting.

**Article 22 Purpose**

Article 22 would approve a comprehensive concept plan for a Planning Residential Development 146, 188, and 216 Lowder Street and 125 Stoney Lea Road, Dedham MA (Dedham Assessors' Map 105, Lots 17, 19, 23 and Map 118, Lot 31) submitted by Old Grove Partners LLC.

**Background Summary**

Over the course of three meetings held on January 22, 2020, February 5, 2020 and February 12, 2020, the Planning Board discussed a preliminary concept plan for the referenced PRD. Pursuant to the Dedham Zoning By-law, a PRD requires a three-step process: 1.) a comprehensive concept plan is reviewed and recommended by the Planning Board to Town

Meeting; 2.) Town Meeting approval; and 3.) Approval of a site development plan by the Planning Board consistent with Town Meeting approval. Based on comments by the Board and Dedham community, the developer reduced the initial proposed thirty (30) single family dwellings down to twenty-six (26) single family dwellings on the 62-acre property. The developer also agreed to the following conditions: (a) the PRD shall have a maximum of twenty-six (26) dwelling units; (b) the minimum dedicated open space shall be 48 acres (a portion of which may be donated to the Town or non-profit entity if so approved by the Planning Board); and (c) the gross living square footage of each dwelling unit to be a maximum of 2,500 sq. ft. The Board will also note the developer has agreed to coordinate with the Town to address pedestrian and/or vehicular safety measures in the immediate area.

### **Planning Board Recommendation**

The Planning Board held the required public hearing regarding Article 21 on September 9, 2020. At a subsequent public hearing on October 14, 2020, the Planning Board voted unanimously (5-0) to recommend approval to Town Meeting.

### **Article 23 Purpose**

Article 23 would authorize changes to Section 4.0, Dimensional Requirements of the Dedham Zoning Bylaw to further regulate the height and massing of buildings in commercial and industrial zoning districts.

### **Background Summary**

The Planning Board conducted a study of mixed-use development projects (commercial use on the first floor and residential on upper floors) to understand the issues and opportunities with such projects over the past decade. Based on results of the Mixed-Use Study and feedback from the Dedham community, the Planning Board recommends the Zoning Bylaw should be updated to provide better dimensional regulations and design standards, ensuring development projects add to the vitality of the neighborhoods. As such, the consultant recommended to increase the height of buildings in our business districts from 40 ft. to 50 ft. The increase would accommodate greater floor to ceiling heights of first floor commercial uses. However, the Planning Board believes 45 ft. would be consistent with existing buildings and previous approvals. The maximum number of stories allowed would remain at four (4). In addition, Section 4.0 would be updated to require an upper-floor façade step-back of 10 ft. on any building exceeding two stories or thirty-five (35 ft.). This provision enforces the goal of reducing the scale of a building, increasing access to light and air, and ensuring the ground floor is the prominent feature of the building.

### **Planning Board Recommendation**

The Planning Board held the required public hearing regarding Article 23 on September 9, 2020. At a subsequent public hearing on October 28, 2020, the Planning Board voted unanimously (5-0) to recommend the following zoning bylaw amendment(s):

Amend Section 4.2.2 of the Zoning By-laws to delete the strikethrough language and insert the language in bold, as follows:

#### 4.2.2 Buildings Permitted in Nonresidential Districts.

Buildings in Nonresidential districts CB, GB, HB, LB, LMA, LMB, RDO, and AP, other than single and two-family dwellings, shall not exceed the height of ~~40~~ **45** feet,

measured from the average finished grade of the lot within 20 feet of the outside walls of the building to the high point of the roof, provided that for buildings with sloping roofs the height shall be measured to the eave line if no portion of the building above the eave line is used for human occupancy. **In the CB and LB Districts, there shall be an upper-story, step-back of 10 ft. on any street frontage elevation of a building exceeding two stories or thirty-five (35) feet.** No building shall have more than four stories, including any part of the building below the average finished grade if used for human occupancy.

### Article 24 Purpose

Article 24 would authorize changes further regulate Mixed Use Developments.

### Background Summary

The Planning Board conducted a study of mixed-use development projects to understand the impact of such projects in Dedham over the past decade and identify issues, challenges and opportunities going forward. Based on results of the Mixed-Use Study, the 2019 Housing Study, and feedback from the Dedham community, the Planning Board recommends the Zoning Bylaw should be updated to provide better flexibility regarding mixed use developments, while also ensuring projects are of a higher architectural merit. The following is a summary of changes:

- Standards for “horizontal” mixed use development, where the mix of uses may be located in separate structures on the same lot (or lots). An advantage of this approach is that it provides for options to design a project with the number of units needed to make a project feasible, while keeping the height of buildings relatively low;
- Remove the requirement for dwelling unit sizes and maximum number of units. The reasoning is the Planning Board has approval authority over any mixed-use development project regardless. In addition, if a development complies with required dimensional standards such as setbacks, height, and floor area ratio, provides adequate parking, and the site plan provides safe and efficient access to the site, further regulation of number of units/sizes is redundant;
- Ability for the Planning Board to grant any necessary waivers where the granting of waivers would be in the best interest and/or beneficial to the Town; and
- Mixed-Use Development would now be subject to architectural peer review.

### Planning Board Recommendation

The Planning Board held the required public hearing regarding Article 24 on September 9, 2020. At a subsequent public hearing on October 14, 2020, the Planning Board voted unanimously (5-0) to recommend the following zoning bylaw amendment(s):

Amend Section 7.4.3.1 to delete the strike-through language and insert the language in bold, as follows:

1. **In the CB and LB Districts,** All dwelling units in a Mixed-Use Development shall be located above the ground floor, shall have a separate entrance, and shall not share stairs or hallways with commercial uses, except that a fire escape or exit used only in emergencies may be available at all time to both.

Add the following new Section immediately following Section 7.4.3.1, and renumber the following subsections of Section 7.4.3 accordingly:

In the RDO, HB and GB Districts, a Mixed-Use Development may be allowed in accordance with Section 7.4.3.1, or alternatively, in accordance with the following standards for horizontally mixed uses:

- a. The mix of residential and nonresidential uses may be located in separate structures on the same lot or lots of the same ownership. One of the buildings with nonresidential uses shall be designated the primary building on the lot for purposes of this section. If a vertically mixed building is also included in the development, it shall be considered the primary building.
- b. The main entrance to the primary building must be on the front façade.
- c. The front façade of primary building must be parallel to the public right-of-way.
- d. For vertical mixed-use buildings, and for free-standing commercial buildings in a Mixed-Use Development, there shall be a minimum first-floor height of fourteen (14) feet, as measured from the finished floor to finished ceiling height.
- e. Developments with multiple buildings may have more than one building facing the street or buildings arranged in a courtyard or other configuration. Two or more buildings facing the street shall be set back uniformly.
- f. In a development with multiple buildings, off-street vehicular parking may be located at grade at the rear of each building, in a courtyard serving multiple tenants, in an onsite structured parking facility (parking garage), in an offsite parking area with safe pedestrian access within 500 feet of the site, or any combination of the above.
- g. On the rear elevation of any building in the development, the ground floor may be used for at-grade parking to serve residential or nonresidential tenants. The ground floor may also be used to provide residential units with universal access.

Amend existing Section 7.4.3.2, as it may be renumbered, to delete the strike-through language and insert the language in bold, as follows:

Each dwelling unit in a Mixed-Use Development shall have a complete set of sanitary facilities, cooking, and living space that includes sleeping facilities independent from another dwelling unit in a Mixed-Use Development. A Mixed-Use Development may **provide** ~~share~~ common storage, laundry facilities, and other customary shared facilities located within a Mixed-Use Development. Each dwelling unit ~~cannot be less than four hundred (400)~~

~~square feet and not more than one thousand five hundred (1,500) square feet in total gross floor area, and must shall meet all occupancy and Building Code requirements. The maximum number and type of allowable residential dwelling units shall be determined by the Planning Board as part of the Special Permit and site plan review process.; provided, however, there may not be more than two (2) residential dwelling units in a Mixed Use Development in the LB Zoning District~~

Delete existing Section 7.4.3.3, as it may be renumbered, and insert a new section in its place as follows:

All Mixed-Use Developments shall provide at least one parking space per dwelling unit, except those Mixed-Use Developments within one half mile of a commuter rail station. A Mixed Use Development shall provide additional parking for the nonresidential uses per the requirements set forth in Table 3 (Dedham Parking Table), or as may be determined by the Planning Board to be sufficient to meet the needs of such Mixed-Use Development, taking into consideration complementary uses and activities having different peak demands, joint parking arrangements, the availability of on-street and public parking, proximity to public transportation, and such other mitigating factors and measures as may be appropriate.

Amend existing Section 7.4.3.4, as it may be renumbered, to delete the strike-though language and insert the language in bold, as follows:

A Mixed-Use Development in the RDO or HB Zoning District with twelve (12) or more **dwelling units** ~~apartments~~ shall have maximum lot coverage of 80% and a maximum floor area ratio of 1.0. **For purposes of determining compliance with the FAR of 1.0, floor area shall be the sum of the floor area in all buildings in the development.** ~~In the RDO Zoning District, there shall not be more than thirty (30) apartments located on any lot or on any abutting lots held in common ownership on the date of the adoption of this provision.~~

Delete existing Section 7.4.4, as it may be renumbered, and insert a new Section 7.4.4, Waivers, in its place as follows:

The Planning Board, at its discretion, reserves the right to grant waivers to any or all of the requirements of Section 7.4, where such granting of waivers will be in the best interest and/or beneficial to the Town of Dedham.

Insert the following new Section 7.4.5, Site Plan Review/Peer Review, as follows:

Applications under this Section 7.4 shall be subject to the provisions of Section 9.5 pertaining to Site Plan Review which, if required, shall be conducted by the Planning Board as part of the Special Permit process. The Planning Board may enlist a peer review architect during the Special Permit and/or site plan review process for a Mixed-Use Development.

Delete existing Mixed-Use Development definition within Section 10.0 and replace in its entirety the following new Mixed-Use Development definition, as follows:

Mixed-Use Development: A development that includes both residential uses and nonresidential uses. The development may be vertically mixed within a single structure, with nonresidential uses on the ground floor facing the street and residential use on upper floors above; or horizontally mixed, with residential and nonresidential uses located in separate buildings on a lot or lots of the same ownership. The total gross floor area of the nonresidential uses in a mixed-use development must be at least 10 percent (10%) of the sum of the gross floor area of all buildings on the lot or lots of the same ownership. All Mixed-Use Developments are authorized by a Special Permit issued pursuant to Section 7.4 of this Bylaw.

### **Article 25 Purpose**

Article 25 would authorize new language regulating affordable housing for any Mixed-Use Development Project or Age Restricted Project in the Town of Dedham.

### **Background Summary**

Several studies and plans conducted by the Planning Board and/or the Town of Dedham have indicated Dedham needs to address affordable housing. Affordable housing is defined as affordable to person in the Dedham area earning less than 80% of the area median income (AMI) for a household. The AMI in 2019 for the Boston region (which includes Dedham) was \$113,300. To qualify for affordable housing one's income level would be 80% or below the AMI, which means in Dedham these units would be available to households making \$90,640 or less (these numbers are based on a family of four). In addition, the community process conducted as part of the mixed-use development study stated the Town should require affordable units within mixed-use and age-restricted developments. Furthermore, many, if not all surrounding municipalities provide some level of affordable housing. As a result, the Planning Board has spent a considerable amount of time with the Dedham community to develop a proposed set of regulations that would:

- Increase the supply of housing stock in the Town of Dedham that is permanently available to and affordable by low- and moderate-income households;
- Encourage greater diversity of housing accommodations to meet the needs of Dedham residents and local employees; and
- Develop and maintain a satisfactory proportion of the Town's housing stock as affordable housing units, deed restricted per eligibility on the Subsidized Housing Inventory (SHI).

The proposed Affordable Housing regulations would be applicable to any Mixed-Use Development Project or Age Restricted Project of ten rental dwelling units or more. All such projects would be required to provide fifteen percent (15%) of their units for rent to moderate income (80% AMI) households. Projects that would provide more affordability may be granted a density bonus. The proposed regulations would also set up an affordable housing trust fund which would receive payments in lieu of providing on-site affordable housing units for situations where providing such units would be unfeasible.

### **Planning Board Recommendation**

The Planning Board held the required public hearing regarding Article 25 on September 9, 2020. At a subsequent public hearing on October 14, 2020, the Planning Board voted unanimously (5-0) to recommend the following zoning bylaw amendment(s):

## **7.9 AFFORDABLE HOUSING**

**7.9.1 Purpose.** The purpose of this section is:

- (1) To increase the supply of housing stock in the Town of Dedham that is permanently available to and affordable by low- and moderate-income households;
- (2) To encourage greater diversity of housing accommodations to meet the needs of Dedham residents and local employees; and
- (3) To develop and maintain a satisfactory proportion of the Town's housing stock as affordable housing units, deed restricted per eligibility on the Subsidized Housing Inventory (SHI).

**7.9.2 Applicability.** This Affordable Housing Bylaw shall apply to all projects where a special permit and/or variance is sought from any Town board or body to construct a Mixed-Use Project under Section 7.4, or an Age Restricted Project under Section 7.8, of ten rental dwelling units or more. The provisions of this Section 7.9 shall apply to all such Projects in all zoning districts of the Town.

**7.9.3 Definitions.** The following definitions shall apply in this Section 7.9:

1. "Affordable Housing" shall mean housing affordable to low or moderate income households, as defined below.
2. "Affordable to persons or families qualifying as low income" or "low income households" shall mean affordable to persons in the Dedham area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the area median income ("AMI") adjusted for household size.
3. "Affordable to persons or families qualifying as moderate income" or "moderate income households" shall mean affordable to persons in the Dedham area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the AMI, adjusted for household size.
4. "Inclusionary Project" a Mixed Use Project developed under Section 7.4, or an Age Restricted Project developed under Section 7.8 to construct 10 rental dwelling units or more.

**7.9.4 Special Permit Granting Authority ("SPGA").** For a Mixed-Use Project under Section 7.4, or an Age Restricted Project under Section 7.8, the Special Permit Granting Authority ("SPGA") shall be the Planning Board. An application for a special permit shall comply with the rules and regulations of the applicable SPGA.

**7.9.5 Required Moderate Income Housing.** In order to be eligible for the grant of a special permit, the following requirements shall be met:

1. All such Inclusionary Projects are required to provide fifteen (15%) percent of their units for rent to moderate income households.

2. When the applicant for an Inclusionary Project proposes to provide more than the required fifteen (15%) percent of all units for moderate income households, or, in the alternative, proposes to provide some of the required units as units for households with an income of less than 60% of AMI, adjusted for household size, the SPGA may grant a density bonus of not more than 15% of the total number of units.

**7.9.5 Provision of Affordable Units.** The required affordable housing in an Inclusionary Project may be met in one of the following ways. The developer as part of his/her special permit application shall include a proposal to address this requirement.

1. The SPGA may require the low and/or moderate-income housing units to be constructed on the same site as other market rate units and indistinguishably interspersed throughout the Inclusionary Project (except as provided for below). In all cases, the low and/or moderate-income housing units to be provided shall be equal in quality, materials and character to the base level market rate units in a development.
2. For Inclusionary Projects providing fifteen (15) units or less, instead of constructing new units or rehabilitating existing units as set forth above, the developer may request the SPGA to accept a payment in lieu to a designated governmental or nonprofit housing entity or, the developer may request the SPGA to accept a payment in lieu to the Town.
3. The amount of any payment in lieu shall be determined by the following formula: the proposed average fair market value of all of the proposed dwelling units, as certified by a qualified appraiser or the Town Assessor, and multiplied by 0.15. Said payment in lieu shall be made prior to the issuance of any certificate of occupancy.

**7.9.4 Rental of Low and Moderate Income Housing Units.**

1. Low and/or moderate-income housing units shall be made available to persons eligible for low and/or moderate-income housing as per the regulations of the Commonwealth's Department of Housing and Community Development (DHCD). The units shall remain available for perpetuity or such maximum time as may be allowed under applicable law.

**7.9.5 Fractional Share.** In determining the number of low and moderate-income units to be provided, a fractional share of 0.4 or more shall be regarded as a whole unit and a fractional share of 0.3 or less shall require no contribution to satisfy the fractional share.

**7.9.6 Preference.**

a. The affordable dwelling units under this By-Law shall be Local Action Units developed in compliance with and approved pursuant to the requirements for the same as specified by Commonwealth of Massachusetts Department of Housing and Community Development (DHCD), or successor agency, or (if approved by the Planning Board) affordable dwelling units developed under such additional programs adopted by the Commonwealth of Massachusetts or its agencies. All such affordable dwelling units shall count toward the Town of Dedham's requirements under Sections



20-23 of Chapter 40B of the General Laws of Massachusetts, and shall be listed on the Subsidized Housing Inventory (SHI) maintained by DHCD. The developer shall assist the Town in the preparation of any forms required.

b. To the extent permitted by applicable law, and after approval by DHCD, otherwise qualified Dedham residents shall have a first opportunity and preference for the affordable dwelling units in an Inclusionary Project. For purposes of this requirement, "Dedham residents" shall be defined as a current Town of Dedham resident (as established through certification by the Dedham Town Clerk based on census, voting registration, or other acceptable evidence), or a current employee of the Town of Dedham or business establishment located in Dedham, or households with children attending the Dedham Public Schools.

**7.9.7 Timing.** If the project is built in phases, a proportionate share of low and/or moderate income units shall be built in each phase as determined by the SPGA in the special permit decision.

**7.9.8 Designated Housing Entity.** In lieu payments received under the provisions of this Section shall be paid to the Town or to an entity to be established by the Town, including an Affordable Housing Trust Fund pursuant to G.L. c. 44, s. 55C, for the purpose of increasing the supply and/or quality of affordable housing in Dedham.

## **Article 26 Purpose**

Article 26 would authorize the digitization/re-codification of the Dedham Zoning Bylaw.

### **Background Summary**

The majority of Town of Dedham bylaws and regulations are accessed through an online service called E-Code. Many municipalities throughout the Commonwealth utilize this service to display and provide access to their bylaws and regulations. E-Code provides a streamlined approach for stakeholders to view, search and print municipal bylaws and regulations. Currently, the Dedham Zoning Bylaw is provided to the public via a Word or PDF document. As such, Town would like to utilize E-Code as the source of the Dedham Zoning Bylaw, modernizing the process of utilizing and accessing the Dedham Zoning Bylaw. No changes to the Dedham Zoning Bylaw are proposed as part of this Article, except for renumbering of the sections.

### **Planning Board Recommendation**

The Planning Board held the required public hearing regarding Article 21 on September 9, 2020. At a subsequent public hearing on October 14, 2020, the Planning Board voted unanimously (5-0) to recommend approval to Town Meeting.