

**GUIDE TO ZONING AND LAND USE ARTICLES IN THE
NOVEMBER 7, 2011
SPECIAL TOWN MEETING WARRANT
ARTICLES 3& 4**

In accordance with Article 84 of the Annual Town Meeting of 1963, the Planning Board submits the following brief report regarding its zoning amendment articles in the November 7, 2011 Special Town Meeting Warrant. This year there are two articles submitted by the Planning Board in the Special Town Meeting warrant.

Article 3: Amend Zoning By-Law – Apartment-2 Zoning District

The Apartment-2 Zoning District is comprised entirely of the North Hill Continuing Care Retirement Community, which is in the process of modernizing and expanding its facility. One of the components of that effort is the replacement of its existing 72-bed nursing home with a new 72-bed nursing home. The existing nursing home is comprised mainly of double-occupancy rooms. Since it was designed in the early 1980s, it has more of an institutional look than what North Hill would like to provide for its residents. The new nursing home will have single rooms and will be divided into smaller "communities" of approximately ten residents each to create a more residential environment. In order to accomplish this goal, the nursing home will be divided into two wings. Due in part to the topography of the site and the fact that approximately half of the site is subject to a conservation restriction that prohibits the construction of any new building, one of the "wings" of the new nursing home needs to be four stories in height. All four stories would be occupied by residents. The roof of the building would remain at the same elevation as it would as if it were a three-story building; the fourth story is created by essentially excavating much of the lowest level of the building. Were it not to be excavated, the lowest level would be described as a "walk-out basement", if it were in a residential context.

In the Apartment-2 Zoning District, two zoning changes are required to accomplish the desired result. The present limitation on the number of occupied stories in the Apartment-2 Zoning District is three. The amendment would permit an increase in the number of occupied stories from three to four. In addition, the maximum height allowed in the Apartment-2 Zoning District is 40 feet. Due to the creation of the fourth story, the average height of the proposed nursing home would be slightly less than 50 feet, which is why the second zoning request is an increase in the maximum height of a structure from 40 feet to 50 feet.

In an effort to limit any potential impacts in the zoning district, the proposed amendment has been written narrowly so that the increase in the number of occupied stories and the increase in height shall only be applicable to structures or portions of structures that are to be utilized as convalescent or nursing homes (and supportive and/or accessory uses) and provided further that the maximum square footage of the structure or structures benefitting from the provision is limited to 110,000 square feet. In that way, it is made clear that any expansion will not be applicable to the apartments that make up the bulk of the North Hill Continuing Care Retirement Community.

Article 4: Amend Zoning By-Law –Dimensional Regulations for the New England Business Center

Pursuant to the appropriation by the 2010 Annual Town Meeting, the Council of Economic Advisors ("CEA"), which was created by the Board of Selectmen to evaluate Town-wide

economic conditions and make recommendations to promote and encourage new and existing businesses, and the Planning Board sought the services of an interdisciplinary team led by a qualified planning, economic development, urban design and traffic firm as part of its decision to undertake a follow-up study of the New England Business Center (“NEBC”) to that originally completed by Goody, Clancy & Associates in 2001.

After considerable community input, Goody, Clancy & Associates prepared and submitted its Land Use, Zoning & Traffic Study for, inter alia, the NEBC on April 6, 2001. Many of the Study’s recommendations with regard to the NEBC were subsequently incorporated into Zoning By-Law amendments at Town Meeting. Because of the decline of industries which formed the assumptions of development envisioned by the rezoning, the NEBC has not realized anticipated economic growth. Issues have been raised in connection with a study by the CEA as to limitations imposed by use and dimensional regulations.

In 2009, the CEA conducted symposia with key groups including commercial brokers, local businesses, developers, tenants and real estate advisors, property owners and tenants. The principal purpose of the authorized study was to explore recurrent issues raised by those groups in regards to expanding the type and mix of allowable uses, including medical uses; expanding the allowable amount of restaurant, retail and other consumer service uses on the first floor of multi-story buildings; analyzing which dimensional controls were restraining development; and assessing the traffic and other impacts of proposed changes.

The Study’s objective, therefore, was to identify a balanced plan appropriate to (1) expanding the type of allowable uses and mix of commercial uses within the NEBC so that the park can respond to market demands and fulfill its development potential; (2) expanding the allowable amount of retail and/or other consumer uses and/or restaurant uses on the first floor of multi-floor developments; (3) analyzing which, if any, existing dimensional controls are restraining development, either prohibiting it altogether on smaller lots or not providing sufficient financial incentive to encourage development; and (4) assessing what the traffic and other impacts are of various levels of different uses and/or mix of uses and/or regulatory changes increasing the density of development so that a proper balance can be reached between appropriate fiscal incentives and acceptable levels of impacts on our community. In sum, the purpose of the study was to compare the impacts of various proposed changes in use and dimensional requirements with those of the existing NEBC zoning.

May 2011 NEBC Zoning Amendments

Although the study was not completed sufficiently at the time of the 2011 Town Meeting to bring forward the dimensional changes under consideration, Town Meeting adopted the CEA’s and Planning Board’s recommended changes regarding the expansion of allowed uses and the expansion of the allowed mix of retail, restaurant and consumer services on the first floor of multi-story buildings. To that end, the By-Law amendments adopted by Town Meeting clarified which medical uses were allowed in the district and created certainty as to such uses allowed by right, allowed by special permit or prohibited in the NEBC, taking proper account of existing language in the By-Law and the impacts by way of traffic and parking of large medical uses. Accordingly, the amendment allowed as of right non-group practices of two or fewer medical professionals and allowed by special permit larger professional groups, physical therapy, alternative medical practices, and other wellness treatment facility uses.

The amendment further clarified that medical clinics and Medical Service Buildings, as defined in the By-law, are not allowed. It, however, clarified that certain uses within the definition of

Medical Services Buildings are allowed. The amendments were essential because recently proposed uses within the NEBC have been stymied by the lack of clarity regarding these uses.

The need for services ancillary and supportive of businesses in the NEBC was a recurrent theme of the symposia and study conducted by the Town over the last few years. As evidenced by the Study, such services—restaurants, retail, and consumer services—are severely restricted by our current zoning and represent an outdated office building model. Accordingly, the amendment passed by Town Meeting broadened the profile of uses allowed on the first floor of a multi-story building in the NEBC to address this deficiency. To avoid destination businesses, these ancillary services are limited to 15,000 sq. ft. per establishment. All food uses, including coffee shops and restaurants, are subject to special permit requirements.

It was explained to Town Meeting that the proposed amendments were a first step and that the CEA and Planning Board would be back at a subsequent Town Meeting with dimensional recommendations.

November 2011 Proposed NEBC Dimensional Zoning Amendments

The Study, which had not yet been completed sufficiently for the CEA to present dimensional recommendations to Town Meeting in the spring, has now been completed and, as promised, the CEA has brought the article to the Special Town Meeting in November. Essentially, the consultants conducted a maximum build-out analysis, building on the Goody Clancy report and subsequent information. Aspects of various maximum build out upon which the analysis focused included changing the types of uses, the mix (percentage) of retail, consumer services and restaurants on the first floors of development, and modifying/relaxing the dimensional regulations. The primary issues addressed relate to land use, economic feasibility, fiscal impact, traffic circulation, safety, and access.

The CEA's investigation and analysis, as confirmed by the Study, made clear that certain dimensional requirements are impediments to development. Existing lot coverage, open space and FAR limitations place undue constraints on development without providing a commensurate public benefit. The changes proposed, in many cases not attainable on existing lots, will permit greater flexibility, especially when coupled with a general provision granting discretion to the Planning Board to relax dimensional requirements (except height) up to 25% after making specific findings as to the propriety of the waivers as to a particular project and location. As to the new section proposed, the CEA is of the view that the future development of the NEBC depends on Needham's ability to be responsive to the requirements of new or proposed uses. Successful office parks, such as those located in Waltham, Lexington and Burlington, have flourished due to the flexibility of their zoning provisions. In order to foster economic growth, the Town needs to provide sufficient flexibility to compete with other communities for development.

With the analysis of dimensional changes having been completed, the CEA has made its recommendations in the form of a draft zoning proposal. Those recommendations as approved by the Planning Board are as follows:

NEBC Dimensional Zoning Changes

Section 4.8 Dimensional Regulations for NEBC

Amend 4.8 Table

By changing Front Setback from 20 feet to 15 feet.

By changing Maximum Lot Coverage from 50% to 65%

By changing Floor Area Ratio from 0.40 to 1.00

By changing Maximum Height from 68 feet to 72 feet

Amend Footnote (1)

By changing the first sentence to read: “If the Planning Board determines that the proposed structure is properly accessible to fire fighting equipment, it may allow by special permit a maximum height of up to 84 feet.”

By changing the third sentence to read: “In no instance shall any building exceed 41 feet in height unless it is more than 350 feet from a General Residence or Single Residence B zoning district boundary.” [Adds the words “or Single Residence B”]

Amend Footnote (2)

By changing first sentence to read: “Maximum lot coverage shall be 65% for all projects.” [65% replaces 50%]

By changing second sentence to read: “However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet the maximum lot coverage may be increased to 75%.” [75% replaces 60%]

Amend Footnote (4)

By changing the sentence to read: “A 25-foot front yard setback must be maintained for structured parking.” [25-foot replaces 30-foot.]

Amend Footnote (6)

By changing first sentence to read: “A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board.” [1.75 replaces 1.1]

By changing third sentence to read: “Further, the Planning Board may allow a floor area ratio of up to 2.0, by special permit, where the applicant demonstrates, to the Board’s satisfaction, that the proposed use will not generate peak hour trips in excess of 0.6 trips per 1,000 square feet of total development area.” [2.0 replaces 1.5]

Section 4.8.1 Supplemental Dimensional Regulations for NEBC

Amend subsection (4)

By adding the following sentence at the end of this subsection 4: “Notwithstanding the preceding sentence, open space shall include pervious surfaces used for ways, access streets, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. (Pervious surfaces shall not preclude porous pavement, porous concrete, and/or other permeable pavers.)”

Section 4.8.2 Floor Area Ratio, Incentives

Amend Section 4.8.2

By changing the first sentence to read: “In the New England Business Center District the maximum floor to area ratio (FAR) permitted by right shall be 1.00.” [1.00 replaces 0.4.]

Add New Section 4.8.3

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.8 (including sections 4.8.1 and 4.8.2), by relaxing each by up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1(b) of these Zoning By-Laws, and that such waivers are consistent with the requirements of Section 6.8. This section does not authorize the Planning Board to waive the maximum height regulations. (By way of example, the 15' front yard setback could be waived to 11.25'; the 65% lot coverage could be waived to 81.25%; or the 40,000 sq. ft. minimum lot area could be waived to 30,000 sq. ft.)

[The words in brackets are not part of the change but are an explanation of the change.]

Traffic Impact Analysis

The Study's traffic consultant, Vanasse & Associates, having reviewed the existing roadway network and conditions, as well as planned roadway improvements (planned Route 128 add-a-lane and anticipated Highland Avenue improvements) concluded that, “with the increased area roadway capacity plus the rerouting of an estimated 500-700 peak hour cut-through vehicle trips, there will be sufficient capacity to accommodate significant new development. Based upon our review of the traffic study completed for the Route 128 add-a-lane project and their projected increased traffic to and from the business center the projected [maximum development over the next 15-20 years of] 2.5 million square feet is a reasonable development scenario to be accommodated with the planned infrastructure improvements.” (Complete memorandum is available from the Planning and Community Development Department.)

Fiscal Impact Analysis

The NEBC constitutes 11.1% of Needham's overall tax base and accounts for 56.2% of Needham's commercial tax base. The Study concluded that the increase in annual municipal costs attributable to new development would be minimal compared to the millions of anticipated annual revenues resulting therefrom.

Over the last twenty years, there has been a consistent shift of the tax burden from the commercial to the residential tax base (from over 25% to about 15%), due in large part to the lack of commercial development generally and in the NEBC particularly. In order to reverse this trend, the CEA and Planning Board think it is imperative to encourage growth and investment in the NEBC by adopting the proposed zoning changes.

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