

APPENDIX D

Planning Board Reports for 2024 Annual Town Meeting WARRANT ARTICLES

The Planning Board, per Massachusetts General Laws Chapter 40A, Section 5, is required to submit a report to Town Meeting with recommendations on all proposed Zoning Amendments. What follows are the Board's Reports concerning proposed Zoning Amendments that are the subject of Articles 26 and 27 of the Warrant for the 2024 Annual Town Meeting.

Warrant Article 26 – Amend Zoning Bylaws & Town Zoning Map – MBTA Communities Multi-Family Housing Zoning

On Tuesday, March 12, 2024, as required by law, the Planning Board held a duly noticed and advertised Public Hearing on proposed amendments to the Town's Zoning Bylaws that would: i) amend the Code of the Town of Wayland to add a new Article 27 Multi-Family Housing Overlay District, Section 198-2701, *et seq.*, along with associated conforming amendments; and ii) amend the Town's Zoning Overlay Districts Map to add a Multi-Family Housing Overlay District comprised of four sub-districts. The amendments are being proposed in order to comply with G.L. c. 40A, Sec. 3A, the so-called MBTA Communities Act legislation, that requires 177 Massachusetts communities to establish zoning districts in which multi-family housing is permitted as of right.

Background Information:

As a result of January 14, 2021 amendments to Section 3A of the Massachusetts Zoning Act, G.L. c. 40A, Wayland, an "MBTA Adjacent Community", is required to have a zoning bylaw that provides for at least 50 acres to be zoned for multi-family housing use. The designated multi-family housing zone may be superimposed on existing underlying zones so that, at the option of the property owner, development of land may be undertaken subject to the requirements of the new overlay or by complying with all applicable requirements of the underlying principal district or another applicable overlay district.

The Town is not required to create multi-family housing. It is only required to zone so that it could be created at some time in the future. The basic State requirements are that the district: a) contain 50 acres – made up of at least one area of 25 contiguous acres and several smaller areas of no less than 5 contiguous acres each; b) support a minimum density of 15 units per acre on average across the district; c) not be subject to any age restrictions; d) for density calculations, cannot include "excluded" surface waterbodies, wetlands and buffer zones, protected open space and recreational land, cemeteries, Zone I wellhead protection areas, privately-owned land used for educational or institutional uses, publicly-owned land generally; e) avoid sensitive land such as land subject to flooding and priority habitat for rare or threatened species; and f) encourage development of a scale, density and aesthetic that are compatible with existing surrounding uses.

The repercussions for failure to have such a district are loss of funding for state grant programs and potential civil suit by the Massachusetts Attorney General and others. The town is required to submit a District Compliance Application with Town Meeting-approved zoning by no later than December 31, 2024.

Main Provisions of the Proposal:

In accordance with the Massachusetts Executive Office of Housing and Livable Communities (EOHLC) Guidelines, Wayland's proposed Multi-Family Housing Overlay District Bylaw and the Town Zoning Overlay Districts Map would be amended to allow multi-family housing in four sub-districts totaling approximately 50 acres – Route 20 West, River's Edge West, Town Center Development Area, and Planned Development District – Central (see the proposed Town Zoning Overlay Districts Map at Appendix C). Each of the four proposed sub-districts has been assessed using the Commonwealth's Guidelines and compliance model and the Planning Board believes that each conforms to the Commonwealth's requirements.

As structured, the bylaw would not replace existing principal zoning districts or existing zoning overlay districts but would be superimposed over them. Use of this new mixed-use housing overlay would be solely at the option of the property owner. Section 198-2704. "Applicability" in the proposed bylaw makes that clear:

"Section 198-2704.1. The MFHD shall not replace existing zoning districts or zoning overlay districts, but shall be superimposed over them. At the option of the property owner, development and use of land within the MFHD may be undertaken subject to compliance with the requirements of this Article 27 or by complying with the standards or procedures of the underlying district or another applicable overlay district."

Section 198-2704 also makes clear that existing buildings, structures, and uses can continue in existence even after a property owner chooses to pursue development using this new Article 27:

"Section 2704.3. Per G.L. ch.40A, Sec. 6, any building, structure or use lawfully in existence prior to the February 27, 2024 first publication of notice of a public hearing on this Article 27 may be continued in existence even though such building, structure or use does not conform to the requirements of Article 27."

The proposed Bylaw lays out the main structure of what is allowed by right in each of the four sub-districts. "By right" means that a project does not need to obtain what is known as a "Special Permit" but any project will still need to go before the Planning Board for review. The Planning Board has begun drafting "design standards for site layout and development" that will be adopted separately later as regulations and they will help shape how any of these developments function and look. The regulations will facilitate site layout, site and building design, and outdoor amenity spaces (including outdoor lighting, signage, site amenities, landscaping, screening, buffers, stormwater management, open space).

The proposed bylaw provides dimensional requirements and aggregate limits for each sub-district including minimum lot size, minimum frontage, minimum setbacks, maximum building height, maximum lot coverage and maximum number of units per acre. It also has provisions requiring the inclusion of the maximum allowed 10% affordable dwelling units.

Public Comments:

Throughout the 20-month process of developing this zoning proposal, the Planning Board received public comment at its regularly scheduled meetings and also sponsored public forums to explain the requirements and gather input from the community. The overall concerns voiced were that the EOHLG Guidelines with a “one size fits all communities” paradigm is not appropriate for a town that relies on septage systems for sanitary waste, has a vast amount of wetlands and waterways, does not have any public transportation, and has a limited ability to absorb a large increase in roadway vehicles and traffic. Of the four sub-districts being proposed, the Planned Development District – Central that comprises the required 25-acre consolidated area drew the most attention, with some residents concerned about the potential impact of the new overlay district on their properties. That sub-district is overlaid on a portion of the Stoneridge Village area of the Mainstone condominiums. Protected conservation lands buffer and screen the area from adjacent properties.

Planning Board Comments:

Zoning is a planning tool that delineates which specific uses can be located within which areas of town. Wayland already has five existing multi-family housing districts but only a portion of one of them (i.e., the River’s Edge Housing Overlay District home to the Alta Oxbow Apartments) qualifies as a “by right” district. The other existing multi-family housing districts are: the Planned Development District (the Mainstone condominiums), the Southeast Wayland-Cochituate Planning District (the Willowbrook condominiums), the Senior and Family Housing District (Greenways at the Paine Estate), and the Mixed-Use Overlay District (the “Town Center” development).

When assessing possible locations for the required new zoning district, the Planning Board prioritized sites that would be compatible with existing surrounding uses and would minimize disruption to established neighborhoods and businesses. The Board also looked for sites that were close to Route 20 and Route 30 because those form the main transportation corridors in Wayland and are the most likely roadways to receive public transportation in the future.

The Planning Board and many residents had hoped that the zoning could be crafted to require a combination of ground-floor business use along with multi-family housing use, but we were told by the state that such a requirement is not allowed. The Board feared that, given a choice between multi-family residential development and continued business use, property owners and developers would likely choose the residential option and Wayland would lose the businesses and services on which we rely.

For more information *see* the Planning Board web page at <https://www.wayland.ma.us/planning-department-board/pages/mbta-communities-multi-family-zoning-districts-under-section-3a>.

Conclusion:

EOHLG Guidelines make it clear that the new law is neither a mandate to construct a specified number of housing units nor a requirement to create multi-family housing. Towns just have to show that their zoning allows multi-family housing as of right and that a sufficient number of units (in Wayland’s case: 750) could be added to or replace existing uses and structures over time.

Our job as your elected Planning Board is to put the Town in a position to comply with the requirements of the law while employing reasonable planning principles. We hope that you will join members of the Board in voting to adopt the proposed Multi-Family Housing Overlay District bylaw and Zoning Overlay Districts Map.

Planning Board Recommendation:

The Planning Board **recommends approval** of this Multi-Family Housing Overlay Bylaw and a vote of “Yes” on this Article.

Warrant Article 27 – Amend Zoning Bylaw to Add Retail Self-Storage As Additional Commercial Use in a New Business B Zone Subdistrict B-1

On Tuesday, March 12, 2024, as required by state law, the Planning Board held a duly noticed and advertised Public Hearing on proposed amendments to the Town’s Zoning Bylaws that would: i) amend Chapter 198 of the Code of the Town of Wayland to add Retail Self- Storage as a new commercial use allowed only in a new Sub-District B-1 in the Business B Zone; and ii) amend the Town’s Zoning Map to add a new Sub-District B-1 in the Business B Zone at 193 Commonwealth Road.

Summary of Petitioners’ Proposal:

This zoning article proposed by Petitioners is seeking to re-zone a single 2.9-acre parcel of land at 193 Commonwealth Road (Parcel 51D-019) that is currently located in a Business B zoning district. The proposed change would create a sub-district B-1 in the current Business B zone to allow Retail Self-Storage as a permitted use. The parcel of land in question is located on the south side of Commonwealth Road (Route 30) between the Donelan’s market shopping area to the west and residentially zoned land to the east. The predominant zoning in the area is single-family residential (i.e., 20,000 square foot residential lots).

The main provisions of the proposed zoning amendment are:

- Create Sub-District B-1 comprised of a single parcel of land in the existing Business B zoning district;
- Add a new business use and definition to the bylaws as well as dimensional requirements that apply only to this one new business use;
- Add the requirement that for this particular business use to proceed, it would need to receive a special permit and the criteria for granting that permit are prescribed in the language of the proposed bylaw.

Public Comments:

Numerous public comments were received from residents living in the immediate neighborhood. Overall concerns voiced were that the proposed bylaw amendment, if adopted, would: change the character of the neighborhood, not fulfill the Town’s Master Plan for Cochituate Village, and not be an appropriate location for a warehouse use; create a safety concern because the language of the bylaw specifies an inadequate number of on-site parking spaces for the called for community use space; create a safety concern for those wishing to access the community space. Concerns were also raised about the environmental sensitivity of the parcel adjacent to wetlands

and Snake Brook. Concerns were raised that this would constitute spot zoning. Several commenters stated their concern that, as drafted, the proposed bylaw amendment conflicts with other provisions in the zoning bylaws and that it was unclear how the proposed bylaw would actually work in practice. Comments were also received in support of the provision calling for a community space inside any retail self-storage facility.

Planning Board Comments:

While deliberating on the recommendation that the Planning Board would make to Town Meeting, the Board discussed the comments received, the numerous drafting issues with the proposal and noted that zoning bylaws must be clear in their language so that they are easily understood and enforceable. The language of the proposed bylaw calls for the requirement of a special permit but nowhere in the actual text of the bylaw does it state who would be the special permit granting authority (e.g., the Zoning Board of Appeals or the Planning Board). The amendments to the Table of Principal Uses by Districts and the Table of Dimensional Requirements are misleading in that it is made to appear that the retail self-storage use is allowed more generally in the Business B district. Without specifying the maximum square footage of the allowable building, Petitioners provide their own formula of one parking space for each 15,000 square feet of building. Under the Article 6 Site Plan Review zoning provisions, considerably more parking availability would be required. However, Petitioners have chosen to exempt this building, even with its intended community space use, from the requirements for site plan review. It is also not clear that the community space could actually be required, rather than just considered, as one basis for issuing a permit for a proposed project. There is a concern that the proposed zoning amendment may run afoul of M.G.L. ch. 40A, Section 4 that requires the same uses to be allowed in all of the Business B districts across town. Massachusetts State Law requires that when zoning bylaws are crafted for principal districts such as Business B, the same uses are to be allowed across that entire district. Wayland has three small Business B zoning districts and this proposal calls for re-zoning just one parcel in one of those Business B districts. Retail Self-Storage would be a permitted use on only this one parcel. Town Counsel has advised that this raises concerns of the legality of the proposed zoning change. It is carving out just one spot in the overall Business B zoning district where the proposed use would be allowed.

Planning Board Recommendation:

The Planning Board **recommends disapproval** of this proposed zoning bylaw amendment for Retail Self-Storage and a vote of “No” on this Article.