

## Article \_\_\_\_

To see whether the Town will vote to amend Chapter 198 of the code of the Town of Wayland, the Town's Zoning Bylaw, by making the following revisions:

### I. SECTION ONE

Strike Section 603.3 and replace it with the following:

#### 603.3

Notwithstanding Section 601.2, *supra*, any proposed nonprofit educational, religious, or child care uses land protected under G.L. c. 40A, §3 ("Section 3 Uses") shall be subject to site plan review under Article 6, which shall be limited consistent with those statutory provisions. The purpose of this Section is to ensure that all such uses and facilities are reasonably regulated in regards to bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage.

#### 603.3.1

In reviewing the site plan submittal for a Section 3 Use, the following issues shall be considered:

- (a) relationship of the bulk, height of structures, and adequacy of open spaces to the natural landscape, existing buildings and other community assets in the area, and compliance with other requirements of this Bylaw, which includes but is not limited to lot coverage, yard sizes, lot areas and setbacks.
- (b) physical layout of the structures, driveways, utilities and other infrastructure as it relates to the convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets, and when necessary, compliance with other requirements for the disabled, minors or the elderly;
- (c) adequacy of the arrangement of parking and loading areas in relation to the proposed use of the site; and
- (d) physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts on neighboring properties and excessive light pollution.

#### 603.3.2

Site plan review of a Section 3 Use shall be by the Planning Board ("Board"). In considering a site plan for a Section 3 Use, the Board shall consider whether any proposed or potential incidental uses are in harmony with the uses permitted in the underlying zoning district. Subject to the limitations of G.L. c. 40A, §3, the Board shall impose any such conditions, limitations, and safeguards as it deems appropriate to protect the interests of, and consistent with, the planning objectives for the underlying zoning district. The Board shall file its written decision with the Town Clerk within sixty (60) days of receipt of an application, unless such time is extended by agreement of the applicant.

## II. SECTION TWO

In Section 802, Table of Permitted Uses, amend footnote “1” to read as follows: “Site plan review shall be limited as set forth under Section 198-603.3 of this Zoning Bylaw.”

## III. SECTION THREE

In Section 606.3, first sentence, replace the term “Building Inspector” with “Planning Board.”

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**ARGUMENTS IN FAVOR:** This zoning amendment fills a regulatory gap in our existing Zoning Bylaw by requiring major educational, religious and day care land use development projects to undergo a site plan review process managed by the Planning Board, which members are Wayland residents who are elected rather than appointed. The Planning Board will have the authority to impose reasonable conditions and restrictions to protect the broad planning goals and objectives embodied by the Zoning Bylaw. Without this amendment, such uses could be expanded, without appropriate scrutiny or oversight, to include ancillary or incidental components that may create undesirable impacts on the town or the immediate residential neighborhood, such as illuminated athletic fields and musical entertainment facilities, commercial or retail buildings, or large parking lots. The current Bylaw leaves the review of these facilities to the appointed Building Commissioner, without a public hearing or an enforceable zoning decision.

**ARGUMENTS IN OPPOSITION:** Some may argue that the Building Commissioner’s review is sufficient, and that creating a Planning Board review process will add delay to construction of otherwise worthy projects. Further, the Carroll School experience was favorable without the need for this level of review.

### **Finance Committee Comments (draft):**

Approval of this Article would establish a site plan review process, managed by the Planning Board, for new or substantially modified day care, non-profit educational, and religious uses of land in Wayland. These specific land uses have unique protection under Section 3 of the state Zoning Act, a provision sometimes referred to as the “Dover Amendment.” Under that state law, municipalities have limited authority to regulate these uses, although they are not automatically exempt from local zoning bylaws and ordinances. The law permits “reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements...”

The recent acquisition of approximately 11 acres at 39-45 Waltham Road by the Carroll School, a non-profit education organization, and the School’s plans to redevelop the property into its Wayland campus for classrooms, meeting space, offices, and athletic fields, exposed a gap in our current zoning regulatory framework. As a protected use under the Dover Amendment, the School’s use of its 11-acre campus is permissible in the underlying residential zoning district, and can only be subjected to

“reasonable regulations.” Under our current Zoning Bylaw, Dover Amendment uses are exempt from the ordinary site plan review process conducted by the Planning Board in an open hearing with public participation. Under the current bylaw, such uses must only obtain an informal site plan approval by the Building Commissioner, an unelected town official. The proposed zoning amendment would create a formal review framework for major land use developments associated with educational, religious, and day care uses.

While the Carroll School voluntarily submitted to a site plan review hearing and a list of conditions regulating its activities, and agreed to limit its activities and structures in a manner that will be mostly benign and respectful of its residential neighbors, future applicants may not be so obliging. Existing uses that are not planning any major expansions or changes in use are unaffected. The amendment would not unduly burden educational, religious and day care uses, because the Planning Board’s review and authority to impose restrictions are limited by state statute (the Dover Amendment). The amendment does not affect agricultural uses, which are also protected by the Dover Amendment; such uses are not currently subject to site plan review by the Building Commissioner, and will not be subject to site plan review by the Planning Board. The proposed Bylaw is narrowly tailored to address the need to regulate and put reasonable limits on the size and scope of major educational, religious and day care development projects, which will still be exempt from complying with the full extent of our zoning restrictions that apply to every other commercial and residential property in Wayland.