

Regular Meeting Minutes
October 11, 2022

Members present: Mark M. Schafron/*Chairman*, Paul A. Cormier, Stephen Cormier.--*Members*, and Trevor Beauregard/*Director-City Planner*.

Members absent: *Robert J. Swartz/Vice Chairman, Robert J. Bettez, Sr.*

Also present: Rob Oliva-City Engineer, Roland Jean-Building Commissioner, Attorney Christine Tree, Joanne Tavano and Anthony Tavano of PrivateOversight, LLC, and Christine Martines Fucile-DCDP.

ANNOUNCEMENT - Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the Chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents referenced or used during the meeting must be submitted in duplicate to the Director of Community Development & Planning pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

Mr. Schafron called the meeting to order at 7:00 p.m.

1. APPROVAL OF MINUTES:

Motion to approve meeting minutes of:

- ✓ *August 09 – Public Meeting (Mass Ave Rentals, LLC)*
- ✓ *August 09 –Regular Planning Board Meeting*

P. Cormier/S. Cormier.

*Vote: 3 – 0
(2 Members absent)*

2. NEW BUSINESS:

2.1 PrivateOversight, LLC

T. Beauregard stated the petitioner has submitted a zoning amendment to the map which the City Council has since passed on to the Planning Board for initial recommendation. T. Beauregard explained earlier this year they were before the ZBA for a use variance for a multi-family development off West Broadway which was denied, then asked to meet with the Planning Board requesting an informal discussion on a potential development under the Smart Growth Planned Unit Development Zoning which after discussing, went back to the drawing board and now are coming forward with a request for the zoning change for 20 parcels from Commercial 2 to General Residential 3.

Attorney Christine Tree provided a power point presentation and explained they are proposing a zoning map amendment which means they are not redrawing any lot lines but would like to change the district. Further, she believes the change that is being proposed is beneficial for everyone in the district. Therefore, they are looking to change the zoning at the West Broadway portion of the Commercial 2 district between Kendall Pond and the Templeton line. Attorney Tree thanked T. Beauregard for the time he has given them and said after some discussion they are looking to change to General Residential 3. Attorney Tree displayed a quick summary of what they are doing where they want to do it, why they want to do it, and why this should be considered. There are parcels which are Com 2 and RR 2 so there are a number of split district

parcels, and the primary zoning is COM 2 so looking to change to GR 3. There are 20 parcels involved and believe this change would take a district where every single non-vacant parcel is either non-conforming or only allowed under a Variance and make every single parcel conforming which will benefit the current residents as well as protect them from any future inappropriate commercial development. However, with the GR 3 district believe there is some allowance for future business use but only use that is compatible with the residential uses that are there. All parcels are either vacant or residential however the zoning is COM 2, and in the COM 2 district single-family homes are not an allowed use, and therefore every parcel is non-conforming or built under a Variance. The current zoning presents unnecessary hurdles to single family homeowners in this district. Every time a homeowner wants to do an extension of their home or erect a garage on their property, or do something that is substantial enough of an alteration but still within a single family home use, they are going to be treated as a pre-existing non-conforming use that has to be altered through special permit or through review with the Building Commissioner, or will require a modification of the variance in the case of Deer Hill Road that they have received previously to build a single home which is an unnecessary, interferes with their rights of single family home ownership, and believe the City does not benefit from this kind of oversight which is a hurdle the City, as well as the homeowners, don't need. Strangely, the commercial uses that are not compatible with the existing residential uses are allowed by right. Any commercial uses such as a 15,000 square foot retail store or a restaurant with live entertainment under a special permit would be detrimental to the existing single-family homeowners. If the amendment is allowed, the proposed would not be entitled to be approved. The City retains a substantial amount of oversight because a special permit will still be required, and site plan review will still be required. Although this does benefit us, we believe the greater benefit is to the City and the residents. Attorney Tree displayed map of "Location of Proposed Change" showing where the parcels are located as well as a small sharp corner of Templeton. Also displayed was a map of the current zoning showing COM 2, IND 2 and RR 2 and pointed out the parcel area where they would like to change. Attorney Tree noted the PACC (*Polish American Citizens Club*) and said they are not asking to change the zoning for PACC, but should this petition be allowed, there will be a tiny corner of PACC that remains Commercial 2 and should probably be considered to be rezoned to RR 2. Attorney Tree displayed a map of the "Parcels affected by proposed Zoning Change" and stated there are a number of parcels that are split between two zoning districts as well as PrivateOversight, LLC. Further, a parcel that is split between two zoning districts, especially Com 2 and RR 2 faces a lot of problems in any development because there are very few uses and amongst are park or outdoor recreation that are allowed by right in both districts which is another reason why re-looking at the zoning would benefit the existing owners. Attorney Tree pointed out the list of affected parcels showing the current use mostly single-family homes which is all residential and completely incompatible with the COM 2 designation. Attorney Tree displayed the "Parcel's current use conformity table" and commented this table shows how each parcel that has been improved is currently treated under zoning, most of them are pre-existing non-conforming such as Deer Hill Road which was created under a Use Variance. Under the proposed change to GR 3 every parcel would be conforming. So, having a conforming single-family home parcel would make any modifications for single-family homeowners much easier to contemplate.

Attorney Tree displayed a “Zoning Post Proposed Change” and explained they have taken this change to Kendall Pond right before the veterinary clinic that is located there and does not require a change but believe it is pre-existing non-conforming use.

Attorney Tree displayed the “Current Zoning is Detrimental to Owners and Development” table and said what they are arguing is that the current zoning, she believes there was anticipated a development of that part of Gardner that has not happened in line with the design. It is Route 2A and she can definitely see a past Board looking at the zoning and thinking they should have Com 2 because that will encourage commercial development along the main corridor within the City. However, it has actually been developed as a residential area.

Attorney Tree displayed “Table of Residential Uses” noted the RR2, GR3, COM 1 and COM 2. Residential uses are not allowed in COM 2. By contrast, in GR3, single-family homes are allowed, two-family dwellings are allowed multi-family in three and four are allowed by Special Permit, so it is more encouraging to those kind of residential developments that are actually growing in that area. By contrast, the business uses that are allowed by right in COM 2 include things like professional office but would also be a medical office building, a convenience store, a retail store, a bank, a laundry, and a restaurant serving food with live entertainment which again, is by right. There would be minimal Municipal oversight to moderate the effect of use depending on parking. Site Plan review is not designed to prohibit a use that is allowed by right. By contrast, the GR 3 uses do allow some business use but most of them are allowed by Special Permit thus if there was an appropriate development there, this Board and the Zoning Board of Appeals could have oversight to see whether that use could be compatible with single-family homes. So, because the proposed amendment brings all the parcels into conformity with their current use, and eliminates all non-conformities, we believe this would be an appropriate zoning map amendment for the Board to undertake.

Attorney Tree explained the proposed project and stated they are projecting 45 Townhouse style residential units. Construction will be in two phases, with most of Phase 1 units to be sold as condominiums. Phase 2 which is further back into the property is proposed to be apartment dwellings. The proposed project maintains a 50-foot buffer with a little bit of intrusion on the Templeton side of the 50-foot buffer but in general it runs the entire property. This would still require a Special Permit and Site Plan review and therefore Gardner will have the ability to maintain any oversight necessary to mitigate the use from the surrounding parcels. It also retains the ability to reject the proposal. A special permit is not required to be issued though the hope is it will be.

This is beneficial to Gardner because it will increase the quality of new housing stock which could be young professionals, very small families, or elderly Gardner residents who want to stay in Gardner but are not able to maintain their residence as exists. The approximate acreage is 19 acres which has not been able to be developed for a long time. Visuals of the parcel were also displayed.

Attorney Tree asked if there were any questions.

Mr. Schafron noted, just to be clear, with the proposed change to GR3, there are no existing commercial operations on impacted parcels right now. Attorney Tree replied no.

Mr. Schafron asked if the Board had any questions. S. Cormier wondered if the parcel where a real estate office had been still exists at one of the locations. R. Oliva believes this property was sold; however, this would be an in-home business.

Mr. Schafron said what is in front of the Planning Board is not the development itself, which is down the road, but voting on whether to advise the City Council to consider or not consider the

Applicant's request for a zoning change for the areas that Attorney Tree presented, as well as request a Joint Public Hearing with the City Council to go over this proposal.

Motion to recommend zoning change from COM 2 to GR3 to the City Council as well as recommend holding a Joint Public Hearing with the City Council.

S. Cormier/P. Cormier.

Vote: 3 – 0

T. Beauregard suggested to Attorney Tree to reach out to the other property owners prior to Joint Public Hearing to inform them there will be a Public Hearing, and consider sending out notices so they are aware the zoning to their property may change. Attorney Tree agreed and noted she will provide a copy of the letter.

3. OLD BUSINESS:

None.

4. ANNOUNCEMENTS~~NEWS~~ARTICLES~~EVENTS:

Worcester Business Journal Article regarding Heywood Hospital was provided.

Next Meeting Tuesday, November 8, 2022 at 7 p.m.

Adjournment

Motion to adjourn.

S. Cormier/P. Cormier.

Vote: 3 - 0

The meeting adjourned at 7:28 p.m.

All documents referenced or used during the meeting are part of the official record and are available in the Department of Community Development and Planning pursuant to the Open Meeting and Public Records Law.