January 9, 2017

Dear Town Meeting Members:

The Massachusetts General Laws, pursuant to Chapter 40-A, Section 5 requires that the Planning Board prepare and submit to Town Meeting a report with recommendations regarding any proposed Zoning By-Law or amendment thereto before any vote to adopt shall be taken by that body. Article 15 on the Warrant for the Special Town Meeting to be held Wednesday, January 11, 2017 is in regards to the codification of the Zoning Bylaw. While it is unclear whether the requirements of Chapter 40-A, Section 5 of MGL apply to this article and the Planning Board is not putting this article forward, the attached report outlines the Planning Board’s review and recommendation regarding this article. Additionally, the attached report outlines the Planning Board’s review and recommendations regarding Articles 17, 18, and 19 which relate to acceptance of several streets or portions thereof.

Remember, Zoning By-Law amendments require a two-thirds (2/3’s) vote. If you have any questions about these reports, please contact the Planning Board.

Sincerely,

Jeff Squire, Planning Board Chair
JANUARY 2017 Town Meeting
Article 15
Codification of the Zoning Bylaw

ARTICLE 15. To see if the Town shall accept the renumbering and revision of the Zoning Bylaw of the Town from its original numbering, as amended through May 11, 2016, to the numbering or codification, arrangement, sequence and captions and the comprehensive revisions to the text of the Zoning Bylaw as set forth in the Final Draft of the Code of the Town of South Hadley, dated October 2016, said codification of the Zoning Bylaw having been done under the direction of the Planning Board, and being a compilation and comprehensive revision of the present Zoning Bylaw, including amendments thereto. All Zoning Bylaws, as amended, heretofore in force, shall be repealed, except that such repeal shall not affect any suit or proceeding pending as the result of an existing law. The Zoning Bylaw shall be codified as Chapter 255 of the Code of the Town of South Hadley, Massachusetts.

BACKGROUND: This article is the result of a larger codification of the Town’s General Bylaws, Zoning Bylaws, and various other Rules & Regulations by General Code Corporation over the past 3 years. In undertaking this codification, they have also updated some of the provisions of the Bylaws. A summary, section by section outline of changes which have been made and the complete Final Draft (December 2016) of the Code are posted on the Town’s website at the following links:

Bylaw Changes Summary:
http://ma-southhadley.civicplus.com/DocumentCenter/View/2338

December 2016 Final Draft:
http://ma-southhadley.civicplus.com/DocumentCenter/Home/View/2313

The Zoning Bylaw is codified in Chapter 255 of the draft code. Accordingly, changes to the Zoning Bylaw begin on page 9 of the Summary Changes document. The Zoning Bylaw begins on page 141 of the Final Draft of the General Code. The Zoning Bylaw is followed by 5 attachments related to the Zoning Bylaw, the last four of these are items adopted by the Planning Board as administrative rules and not as part of the Zoning Bylaw. I would note that item #27 under Chapter 255 - Zoning - in the Summary of Changes on page 13 should not have been included as the codification did not change the wording from “Planning Board” to “Board of Appeals” in regards to repetitive applications – it retained the current provision.

PUBLIC HEARING: The Planning Board conducted a public hearing on this amendment on December 12, 2016. A summary of the comments made at the public hearing is provided below:
Desire for a red-lined copy. Several persons suggested that it was difficult to follow the changes in the Zoning Bylaw absent a red-line marked up copy.

Deletion from Subsections D & E in regard to Home Occupations (item #6 under Chapter 255 – Zoning - on the Summary of Changes). Mr. Harris noted that the deletion removed a duplication of a restriction. The Zoning Bylaw restricts operation of the home occupation to residents of the dwelling unit as a General Criteria applicable to all home occupations regardless of their “category”:

The home occupation is conducted only by residents of the dwelling unit but the business may employ other workers who do not engage in the work of the business at the site of the home occupation.

This limitation is continued in the codified Zoning Bylaw. Therefore, one will not have to look at the “category” of a home occupation to determine who is allowed to work at the business – they will merely need to know that in NO Home Occupation are nonresidents allowed to work on the property for the business.

Deletion from the Conversion of Single-Family to Two-Family Dwellings (item #8 under Chapter 255 – Zoning – on the Summary of Changes). The codified Zoning Bylaw proposes to delete a portion of the Zoning Bylaw which requires applicants for conversion of a single-family dwelling to a two-family dwelling to obtain the written consent of three neighbors. Objections to this deletion included that it removes a protection for single-family neighborhoods without replacing any protections.

Town Meeting members are aware that Special Permits
  o Require a public hearing with notice given to all abutters – more than the immediately adjacent property owners.
  o Are discretionary on the part of the Planning Board.
  o Require a 4/5’s vote of the Planning Board members for approval.
  o Require that the Planning Board make affirmative findings on ALL 12 mandatory standards detailed in Section 9 of the Zoning Bylaw before any Special Permit can be approved.
  o Are appealable in a court of law.

Thus, the Planning Board and Town Planner have noted that the deletion merely allows any property owner where this use may be permitted by Special Permit to apply for a Special Permit. It does NOT assure or even suggest that any such Special Permit would be granted merely because the abutters have not endorsed the application. Neither does the deletion remove the abutters from voicing their legitimate concerns over a proposed conversion. Rather, it allows the
There were suggestions that there should be some design criteria developed to ensure that any conversion is compatible with the neighborhood. The Planning Board and Town Planner have noted that compatibility with the area is an element of several of the Special Permit standards already included in Section 9 of the Zoning Bylaw as adopted by Town Meeting. These Special Permit standards are not changed by the codification of the Zoning Bylaw. In addition to reviewing an application for compatibility before deciding whether or not to approve an application, it has been the Planning Board’s practice to establish specific conditions on Special Permit (and Site Plan Review) projects to address compatibility issues on a case by case basis – working with the abutters and the applicant where possible.

The Planning Board is more than willing to work with Town Meeting members, residents, property owners, design professionals, and others to develop a set of Design Guidelines which could – at a future Town Meeting – be enacted which would apply to all conversions.

The Planning Board also notes that the scope of this deletion is limited to properties in the Residence A-2 and Agricultural zoning districts as those are the only two zoning districts in which a conversion may be permitted by Special Permit. They are prohibited in the Residence A-1, Residence C, and Business A-1 zoning districts and permitted by right in the Residence B, Business A, and Business B zoning districts. This codification does NOT change the districts in which a conversion is allowed, may be permitted, or is prohibited.

**REPETITIVE APPLICATIONS.** Subsequent to the Planning Board public hearing, a question was raised as to whether the deletion of the “abutter consent” can be included in this article since it was part of an amendment voted down by Town Meeting in 2015. Massachusetts General Laws, Chapter 40A, Section 5 provides that:

> No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

The Planning Board has unanimously recommended adoption of the proposed codified Zoning Bylaw as noted herein.

The Planning Board recognizes the need to have some clear standards which govern the conversion of Single-Family Dwellings to Two-Family Dwellings to ensure they fit into the
neighborhoods in which they are located. To this end, the Planning Board is committed to working with a task force of citizens and residents to develop such standards and bring forth a Bylaw proposal for Town Meeting approval – hopefully in Spring 2017. In furtherance of this commitment and understanding, the Planning Board adopted an “Interim Policy Regarding Standards to be Applied to Special Permits For Conversion of Single-Family Dwellings to Two-Family Dwellings” which is presented on the following two pages for informational purposes.

RECOMMENDATION: The Planning Board, at their December 12, 2016 meeting, voted to recommend approval of this article as presented.
Interim Policy Regarding Standards to be Applied to Special Permits
For Conversion of Single-Family Dwellings to Two-Family Dwellings

The Planning Board will work with a Task Force (of citizens and residents) to develop standards applicable to Conversion of Single-Family Dwellings to Two-Family Dwellings and bring forth a Bylaw to enact such standards; hopefully at a Spring 2017 Town Meeting. In the interim, the Planning Board will utilize the following standards as guidelines for consideration of any Special Permit application for Conversion of Single-Family Dwellings to Two-Family Dwellings. Where the application raises issues which can be addressed (in the Board’s opinion) by application of these standards, the Board will incorporate conditions which appropriately attach the standards.

1. **Owner-Occupancy.** Where no more than one two-family dwelling is located on a parcel, at least one of the dwelling units must be occupied by an owner of the dwelling unit.

2. **Design Standards – Minimum.** Two-family dwellings subject to this Subpart shall conform to standards #3, #5, #6, and #7 of the Site Plan Review Criteria specified in Section 12(E) of the Zoning Bylaw. In applying these specific standards, the Planning Board should pay specific attention to the appearance of the proposed structure in terms of number of primary entryways as viewed from the adjoining public ways and the number of driveway entrances from a single public way. As a generally rule, in applying these criteria, the following features are to be deemed “objectionable”:
   a. Multiple entryways visible from a single public way
   b. More than one driveway accessing the structure from a single public way

3. **Design Standards – Basis for comparison.** The Planning Board may, where it the members deem it to be appropriate, focus on the existing residential structures which would be deemed “abutters” under the Special Permit notice requirements for use in making assessments as to the compatibility of the proposed Two-Family Dwelling. Accordingly, if the “abutting” residential structures are single-family, the approved two-family dwelling – particularly those resulting from conversion of a single-family dwelling – are to appear as though they are also single-family dwellings.

4. **Footprint Expansion – Limited to Safety Items.** The footprint of the building may not be expanded except for possible installation of safety required items.

5. **Footprint Expansion – Limited to 5%.** The footprint of the building may not be expanded by more than 5%; however, any such expansion is to be generally screened from view from adjoining properties used as single-family residences.
6. **Exterior Façade.** The exterior facade shall not be altered other than to restore its original exterior appearance; however, measures to upgrade the building to more sustainable conditions (by such means as installation of energy efficient building materials including but not limited to windows, installation of gutters and downspouts, and similar such measures) will generally not be considered as impermissibly altering the exterior appearance.

7. **Sanitary Sewer.** The dwellings must be served by the Town’s sanitary sewer system.

8. **Impervious Runoff.** No increase in impervious surface except where necessary under “4” above subject to the limitation of “5” above.

Discussed and approved by the Planning Board under “Other New Business” January 9, 2017
JANUARY 2017 Town Meeting
Article 17
Lawrence Avenue Acceptance

ARTICLE17. To see if the Town will accept Lawrence Avenue from Granby Road to the boundary of Hillcrest Park Condominiums (as depicted in Appendix “A”) and as described in a previous Selectboard Public Hearing, or take any other action relative thereto.

BACKGROUND: On October 21, 1952, Town Meeting voted unanimously to accept Lawrence Avenue from Granby Road for a distance of 600 feet, as a public street. The Warrant Article included the words “plus or minus” after “600 feet” but the actual motion which passed Town Meeting did not include such words. The distance or length of Lawrence Avenue to the Hillcrest Park Condominiums is approximately 650 feet (depending on how it is measured). A depiction of the subject section is provided below:
Following discussion of this issue, at their August 15, 2016 meeting, the Planning Board took the following action (as excerpted from the approved minutes):

Motion - Mr. Cavanaugh moved and Ms. O’Brien seconded the motion to state that the Planning Board would support the acceptance of the balance of Lawrence Avenue from the Hillcrest Park condominiums property to the present “accepted end” of Lawrence Avenue. The Board voted Four (4) out of Four (4) members present in favor of the motion.

RECOMMENDATION: The Planning Board, at their January 9, 2017 meeting reaffirmed its August 15, 2016 vote and voted to recommend approval of this article as presented.
ARTICLE 18. To see if Town Meeting will vote to accept Apple Road, as described in a draft deed provided by the owner’s attorney, as a Town Road, or take any other action relative thereto. (see Appendix “B”)

BACKGROUND: On September 12, 2005, the Planning Board approved the Definitive Plan for Adam & Eve Estates. Plans for this 9 lot subdivision called for construction of a cul-de-sac named “Apple Road” off the end of Lyman Terrace. Over the past 10 years, the developers undertook the roadway and related infrastructure improvements and complied with the Town’s infrastructure regulations except where the Planning Board waived the strict application (such as not requiring a sidewalk). At their February 29, 2016 meeting, the Planning Board conditionally released the Performance Guarantee upon demonstration that the requirements had been satisfied, receipt of a draft right of way deed, and receipt of certifications of completion by the project engineer, DPW Superintendent, Fire District #1 Water Superintendent, and SHELD. All certifications were received and the developer’s attorney submitted a deed conveying the right of way to the Town. This deed is to be executed upon approval of this Warrant Article by Town Meeting.

RECOMMENDATION: The Planning Board, at their January 9, 2017 meeting, voted to recommend approval of this article as presented.
ARTICLE 19. To see if Town Meeting will vote to accept Stewart Street Extension, as described in a draft deed provided by the owner’s attorney, as a Town Road, or take any other action relative thereto. (see Appendix “C”)

BACKGROUND: On December 14, 2005, the Planning Board approved the Definitive Plan for Annafield Estates. Plans for this 6 lot subdivision called for construction of a cul-de-sac at the end of Stewart Street. Over the past 10 years, the developers undertook the roadway and related infrastructure improvements and complied with the Town’s infrastructure regulations except where the Planning Board waived the strict application. At their February 29, 2016 meeting, the Planning Board conditionally released the Performance Guarantee upon demonstration that the requirements had been satisfied, receipt of a draft right of way deed, and receipt of certifications of completion by the project engineer, DPW Superintendent, Fire District #1 Water Superintendent, and SHELD. All certifications were received and the developer’s attorney submitted a deed conveying the right of way to the Town. This deed is to be executed upon approval of this Warrant Article by Town Meeting.

On March 14, 1959, Town Meeting voted to accept Stewart Street for a distance of 500 feet off Route 33. This present Article 19 will accept the balance as developed pursuant to the 2005 Definitive Plan.

RECOMMENDATION: The Planning Board, at their January 9, 2017 meeting, voted to recommend approval of this article as presented.