

**City of Hallowell**  
**Special Planning Board Meeting**  
**June 30, 2016**  
**6:30 pm**

**1. Call to Order**

Ms. Feinstein called the meeting to order.

**2. Roll Call / Quorum**

Ms. Feinstein took the roll call and established a quorum.

Present: Judith Feinstein (Vice-Chair), Richard Bostwick, Darryl Brown, Daniel Davis, Andrew Landry (2<sup>nd</sup> alt.), Amy Mills (1<sup>st</sup> alt.), Jane Orbeton, Rosemary Presnar  
City Manager Nate Rudy, Matt Morrill, Tom Federle

Excused: Danielle Obery

Ms. Mills will be voting; Mr. Landry will not be voting.

**3. Public Comments** (The Board has agreed to limit the time allotted to Public Comment to fifteen minutes.)

None.

**4. Historic District Certificate of Appropriateness Application for Cronin Square Condo Association, 116 Second Street, Map 9 Lot 164**

Robert Duplessie, 116 Second Street #3, President of the Cronin Square Condo Association, presented additional information for an application for renovations to a deck, stairs and walkway. Linda Sadoff, Secretary of the Association, was also present.

Mr. Duplessie told the Board he met with the American Legion and went over the engineer's report. The American Legion was responsive. He explained that there is a 7-foot space between the buildings and the American Legion owns 18 inches of the 7 feet.

Mr. Duplessie summarized the Engineer's report. They will be reusing almost all of the granite on site. The engineer also inspected the cracks in the basement wall of the American Legion and found that they do not go all the way through but do create concern about removing the soil; therefore the soil will be replaced with gravel and insulation. Regarding the metal railing, the Association has decided to use a block baluster rather than the spiral balusters originally submitted. The railing is being made by a blacksmith and will cost \$1,300 to \$1,600. He provided a photograph of the new baluster style.

Ms. Orbeton asked if the railings on the stairs would be metal; Mr. Duplessie said they will be pressure-treated wood. Ms. Orbeton asked if any part of the deck and stairs would be on the American Legion's property; Mr. Duplessie said that currently part of the deck is on the Legion's property, but the new stairs and granite wall will be entirely on the Association's property.

Motion to find the application complete with the information presented at the meeting.

Moved: Bostwick

Seconded: Brown

Ms. Feinstein requested that "demolition" be removed from the application. Mr. Bostwick and Mr. Brown accepted the friendly amendment.

Amended motion:

Unanimously approved

Motion to find the application in harmony with Historic District standards and approve the application as amended.

Moved: Brown

Seconded: Presnar

Unanimously approved

The Board recessed until 7 o'clock.

The Board reconvened.

## **5. Public Hearing on Proposed Amendments to Chapter 9 Sections 388, 390, and 392**

Ms. Feinstein opened the Public Hearing at 7:00 PM. Ms. Orbeton distributed copies of a summary comparison of the proposed changes to the Ordinance.

### **Comments from Mark Eyerman, Consultant to the City**

Mark Eyerman, Planning Decisions, presented a summary of the background of the Stevens School Planned Development District (SSPDD), which included concerns regarding drainage and traffic. New use requires a Master Plan which is intended to be a broad brush with specific issues being dealt with under subdivision review, site plan review, etc. The intent is to provide flexibility of use, and the goal is to force thoughtful consideration before breaking up the lot.

Ms. Presnar asked if the intent of §9-392 was that Mixed-Use was separate from other uses or a part of the entire parcel; Mr. Eyerman explained that the intent was to allow pieces to be cut out for specific uses, e.g., a fire station or a school, but all else would be under a Master Plan, and that the Master Plan would only apply to Planned Mixed-Use Development.

Ms. Feinstein invited questions for Mr. Eyerman from the Public. There were none.

### **Comments from Tom Federle, Counsel for Mr. Morrill**

Mr. Federle observed that the Ordinance is sensible as it is and calls for flexibility within the overall planning. He presented a drawing of a conceptual Master Plan. He said that Mr. Morrill is asking to be able to do some things while creating the Master Plan, specifically to reuse some of the existing buildings. He pointed out that occupancy preserves structures. The changes proposed would allow Mr. Morrill to acquire tenants immediately and improve infrastructure necessary for reuse. It would also allow residential use as part of an Open Space Subdivision. Lifting the ban does not provide immediate development but allows for planning and the application process to be brought forward in the time frame by lifting procedural bans that made sense when the City was facing unknown development.

Ms. Feinstein stressed that the Public Hearing was being held to discuss the proposed amendments to the Ordinance, not the conceptual Master Plan.

Ms. Orbeton observed that if §9-392 applies only to Planned Mixed-Use Development then the proposed change is not necessary, and her reading is that §9-392 is only for Planned Mixed-Use Development. Mr. Bostwick pointed out that the term "Planned Mixed-Use Development" appears only in the SSPDD and asked Mr. Eyerman for background. Mr. Eyerman said that unlike other zones with allowed uses, in approving a Master Plan the City Council would be defining uses to be allowed as part of the Mixed-Use Development. Mr. Federle suggested that it was time to reexamine the ordinance; Mr. Morrill wants to streamline the planning process where possible regarding existing structures that pre-date the zoning district.

### **Comments from the Public**

Ms. Feinstein invited comments from the Public.

Pam Perry, 11 Perry Lane, told the Board she is a member of the Ordinance Rewrite Committee. She pointed out that infrastructure is not a use and should not be added. The Ordinance was written to encourage reuse and reuse should not be included in Permitted Uses. She said she felt the changes are unnecessary and suggested that mixed-use already includes residential.

Maureen AuCoin-Giroux, 3 Middle Street, explained that she is a former Code Enforcement Officer for the City. She said that the proposed changes were developed by Mr. Morrill and that was appropriate because the City was not initiating necessary changes on its own. Mr. Morrill developed the proposal in conversation with planners. Regarding the addition of residential use to permitted uses, she pointed out that very little is not allowed through Conditional Use Review. She also noted that the existing buildings are not suited to single-family dwellings, and division into more than two dwelling units would trigger the subdivision process. As far

as infrastructure is concerned, she said she agreed with Ms. Perry. Regarding §9-390, she felt the change was all right as clarification. The roads must be built to City standards, and even as permitted uses they would go through additional review. Ms. Orbeton added that Planned Mixed-Use Development requires both Planning Board and City Council action. Ms. AuCoin said she supports the proposed changes to §9-388 as written. Ms. AuCoin noted that as far as dimensional requirements go, the only non-conforming structure is 49 Winthrop Street; all the others are conforming. She disagreed with the change. She said the buildings are non-conforming only if new lots are created, most notably a logical division between the Erskine and Dummer Buildings. She supported relaxed dimensional requirements. She pointed out that the proposed changes in §9-392(2) seem to contradict the inclusion of infrastructure as a permitted use. She also said she supports striking reuse and modification from §9-392(2) but doesn't like leaving demolition in; she gave Erskine Building as an example because it could not be demolished without a Master Plan in place.

Kenneth Young, 25 High Street, questioned the need to move quickly if, as Mr. Federle has said, the Master Plan is available. Mr. Young pointed out that Mr. Federle has said the goal of the amendment to §9-390 is to encourage reuse but Mr. Morrill hoped to sell some of the buildings to other developers; he asked how reuse by those developers would be regulated. He asked for clarification on the relation of the Master Plan requirements to those purchasers. Mr. Federle said they would be governed by the Master Plan. Mr. Young observed that reusing a building without a Master Plan would create a hodge-podge. Mr. Federle explained that Mr. Morrill was not ready to present a finished Master Plan and he doubted that the City was ready to receive one. He added that there is uncertainty regarding the time frame for approval and the proposal does not entail any exterior changes or changes of use. Mr. Young asked if reuse were possible, what was the point of requiring a Master Plan. Mr. Federle pointed out that such changes would not be contrary to the Master Plan envisioned by the Comprehensive Plan. He added that if the City updates the Master Plan requirements, Mr. Morrill is ready to present a Master Plan. Ms. Feinstein pointed out the time frames provided in the Ordinance. Mr. Young said he felt that the proposed amendments would allow the whole complex to be developed without a Master Plan and suggested a time limit.

Lisa Rigoulot, 13 Lincoln Street, expressed concern about the proposed amendment to §9-388(8) because the requirements for subdivision review are less stringent than for a Master Plan. The obvious drainage problems require a Master Plan. She said residential uses should be part of the Master Plan. Regarding §9-390, she asked if a building is non-conforming now, how that affected use and addition. She pointed out that the proposed change to §9-392(2) also deals with residential uses, and they are a problem.

Alan Stearns, 23 Pleasant Street, explained that he was speaking as an individual. He observed that [state] administration after administration failed to sell the property. Mr. Morrill took a great risk. Mr. Stearns urged taking a chance over continued disuse and deterioration. He stressed the danger of deterioration and fire danger while the process drags on. He pointed out that the City Council approved a resolve including flexibility to encourage development. Regarding access to Howard Hill, he noted that that is a continuation of the Howard Hill Master Plan; the worst case is that a Master Plan never happens, and in that case an Open Space subdivision would provide access to Howard Hill. He also pointed out that there is a question of whether the complex is indeed a single lot.

Diano Circo, 17 Greenville Street, said that he appreciates Mr. Morrill's vision. He said no one can assume that Mr. Morrill will be the ultimate developer of the entire property. He noted that he has concerns about adding residential uses to §9-388 because he doesn't want to see the low-hanging fruit developed early so that the hard stuff never happens.

Pam Perry emphasized the importance of a site inventory and expressed concern that without a Master Plan development will create drainage problems. Mr. Morrill pointed out that the conceptual Master Plan addresses stormwater, sewer and electrical service.

David Wood, 4 The Ledges, identified himself as a retired professional engineer. He said a Master Plan is necessary for appropriate infrastructure development.

Larry Morrisette, 6 Page Street, expressed concern regarding conservation and preservation of historic buildings.

Mr. Federle responded to several of the comments. He pointed out that the high cost of preserving historic buildings makes bringing in other developers necessary. He said tentative conversations are underway. In

addition, he said that the proposed change requires an Open Space subdivision as provided in the Ordinance, and this is not an easy process; it includes site plan review, which addresses drainage, traffic, etc. while Master Plan requirements do not.

Mr. Young asked how the process for this meeting works. Ms. Feinstein explained that the City Council wants the Planning Board to discuss the proposed amendments and make its recommendations immediately, so that they (Council) will have them for their July 11th meeting.

Ms. Orbeton asked if Mr. Morrill had suggested changes to the proposed amendment. Mr. Federle said that if the Board agreed that §9-392 applies only to Planned Mixed-Use Development, the proposed amendment is unnecessary. Ms. Orbeton asked Mr. Eyerman if he agreed that the section applies only to Planned Mixed-Use Development; he said he did. Ms. Orbeton suggested the amendment to §9-392 should be removed. Other Board members concurred.

Mr. Federle explained that the requested change to dimensional requirements was driven by the street right-of-way setback. Currently there is no right-of-way on the internal streets, but if streets are constructed and turned over to the City, a right-of-way would be created and there would be problems with setback requirements. Mr. Landry pointed out that this would apply only if there was no Master Plan. Mr. Federle said they hoped streets would be deeded to the City before a Master Plan is approved. Ms. Orbeton suggested confining the setback requirement in subsection 2 of §9-390.

Mr. Federle told the Board that they had tried their best to ask for the least necessary change. Building housing would bring people to the site. He pointed out that the standards for an Open Space Subdivision are stringent. He is reluctant to strike any of the proposed changes to §9-388, though he suggested that language could be added to #9 to provide that such use does not require extensive external modification. He pointed out that life safety issues often require exterior modification and they would have to rely on the Planning Board's cooperation. Mr. Bostwick observed that for the five historic buildings external modification could affect their historical classification and the tax credit that requires compliance with the Secretary of Interior standards, though ADA trumps historic preservation. Mr. Federle agreed that losing eligibility for the tax credit would be self-destructive for a developer.

Ms. Feinstein provided an emailed comment from Planning Board Chair Danielle Obery, 4 Elm Street. Ms. Obery suggested removing the proposed #10 from §9-388 because infrastructure improvements are generally exempt from permitting and don't add impervious area and aren't structures per se. She also objected to the proposed language in §9-390 because it would allow expansion of a structure without Planning Board approval. She suggested not removing "modification" from §9-392(2).

Ms. Feinstein provided an emailed comment from Jeanne Langsdorf, 25 Warren Street. Ms. Langsdorf observed that the proposed change §9-388(8) seems to capitalize in the short term on the best land in the complex and leave the less desirable without a plan. She said that improving infrastructure seems to be implied as a permitted use and adding the language presents the possibility that a developer could expect compensation from the City for infrastructure improvements. She said that the proposed changes to §9-392 allow for unlimited expansion of existing buildings and is not in the City's best interest.

There were no further comments from the Public and Ms. Feinstein closed the Public Hearing.

The Board recessed for five minutes. The Board reconvened.

### **Planning Board Discussion**

#### **§9-392(2) – Master Plan Required**

Ms. Feinstein noted that Mr. Federle and the Board had already agreed to strike this proposed amendment.

#### **§9-390 – Dimensional Requirements**

Ms. Feinstein said that while Ms. Obery was opposed to enlargement, Ms. Feinstein felt that there were enough other triggers intrinsic in the SSPDD ordinances to prevent it. Mr. Landry suggested changing Subsection 2 to limit the 25 foot setback to new buildings. Mr. Eyerman said he didn't think that addressed the issue because buildings would not be set back 25' from the new rights-of-way. Mr. Landry restated his proposed language for Subsection 2. There was discussion of the proposed amendment to the introductory

paragraph of the section and whether it was needed. Mr. Federle and the Board agreed to withdraw the amendment and leave the introductory paragraph as originally written and to add language to Subsection 2 to state that the setback is 25' for any new building or structure provided that, if such building or structure is located within 200' of the right-of-way of Winthrop Street, it shall be located to reflect a uniform setback of existing buildings along the street and that the minimum setback from the street right-of-way for an existing building or structure is 0 feet.

### **§9-388 – Permitted Uses**

Ms. Mills observed that infrastructure is unusual as a permitted use and seems to reflect the proposed language in §9-392(2). Mr. Landry suggested striking infrastructure from §9-392(2) because essential services includes public utilities. It was agreed to remove the proposed language for §9-388(10) and include roads. Mr. Federle asked whether private roads would be included, and the Board decided to change its proposal to “Public and private roads.” After further discussion, “roads” was changed to “streets.”

The Board discussed the proposed language for §9-388(9) and the possibility of adding a provision that any modifications to an existing building must be consistent with maintaining the building’s designation on the National Register of Historic Places if applicable. Ms. AuCoin asked who would become the reviewing authority for compliance. Mr. Bostwick said he doubted the provision was necessary because the historic tax credit is so important to the developer. Mr. Federle pointed out that the proposed change is for reuse, not modification. The Board decided not to add the provision but did decide to change “or Residential Uses” to “and Residential Uses.”

The Board discussed the proposed language for §9-388(8). The Board discussed Open Space Subdivision requirements. Mr. Federle pointed out that this is a cluster development which is in demand and not currently available in Hallowell. Ms. Presnar pointed out that the public does not want to see large uses removed from the Master Plan and suggested that the waiver option in §9-392(7)(A) could compensate for not removing this from the Master Plan. Mr. Federle explained that the priority will be to get a Master Plan before the Planning Board, but they want to be able to start a subdivision process before Master Plan approval so that Subdivision approval can be granted as soon as possible after the Master Plan is approved. He suggested adding language to allow a subdivision application prior to the Master Plan but not allow approval without a Master Plan. Mr. Davis observed that subdivision approval is a lengthy process. Ms. Mills pointed out that it is important to avoid writing an ordinance for a particular applicant and suggested a more surgical approach by changing §9-392(1)(A) to allow the Master Plan and a subdivision to proceed simultaneously. There was lengthy discussion. Mr. Brown asked if subdivision needed to be included in §9-388(9) regarding residential units; Ms. Feinstein said she felt it was implicit in the approval process. Ms. Orbeton said she was uncomfortable changing Master Plan requirements for a subdivision and suggested allowing an Open Space Development Plan as a permitted use but limiting it by size or number of dwelling units; Ms. Feinstein said limiting size would be better than limiting the number of dwelling units. Mr. Eyerma referred to the formula for determining the number of lots allowed under the standards for Open Space Developments and suggested adding density standards to Planned Mixed-Use Development under §9-390(1). After extensive discussion, the Board decided to allow a single Open Space Development provided that the dwelling units are located south of the gas-line right-of-way and to remove the reference to §9-846 so that it was clear that the entire Subdivision process was applicable. Mr. Eyerma agreed to work with Mr. Federle to establish the appropriate metes and bounds.

### **Planning Board Recommendation**

Motion to recommend the changes outlined this evening which eliminate the proposed amendment to §9-392(2); to the proposal to §9-390, which amend sub 2 and make no changes to the introductory paragraph; and to §9-388, which take out infrastructure improvements, add private and public streets as a proposed use, and accept the proposal to add residential uses as part of a single Open Space Development as outlined; and to recommend changes in definitions of density of lots as discussed, with the numbers to be provided within the next week by Mr. Federle.

Moved: Orbeton

Seconded: Brown

Unanimously approved

## **6. Other Business**

None

**7. Adjournment**

Motion to adjourn.

Moved: Bostwick

Seconded: Brown

Unanimously approved

*Accepted as Presented on July 20 2016, by a vote of 6 Yea to 0 Nay.*

*Attested:*

*s/*

\_\_\_\_\_ *Danielle Obery, Chair*