



*Town of Lexington*

## **PLANNING BOARD**

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Robert Creech, Chair  
Robert D. Peters, Vice Chair  
Ginna Johnson, Clerk  
Richard L. Canale  
Charles Hornig  
Michael Leon, Associate

### **RECOMMENDATION REPORT OF THE LEXINGTON PLANNING BOARD**

#### **ARTICLE 16: AMEND ZONING BYLAW & MAP – HARTWELL AVENUE AREA (CITIZEN PETITION)**

#### **RECOMMENDATION**

On Wednesday, September 30, 2020, after a series of public hearings, the Planning Board Voted to recommend that Town Meeting approve Article 16, Amend Zoning Bylaw & Map – Hartwell Avenue Area (Citizen Petition) with a vote of three (3) in favor, two (2) in opposition, and zero (0) in abstention.

#### **JUSTIFICATION FOR RECOMMENDATION**

##### Majority Consensus

The rezoning of Hartwell Avenue parcels has been in the works for many years. Although this “By Right” proposal will result in less control over project specifics than the Special Permit process, we expect good results to be realized in a much shorter timeframe. A property owner testified that he had no interest in pursuing the Special Permit process. The Proponent has been working with Planning Staff to harmonize this proposal with the work that Staff are doing for ATM2021.

##### Minority

Members of the Planning Board in the minority objected to the Citizen’s Article for several critically important reasons:

- The permissive by-right proposals will result in parcel subdivision and haphazard development that the Town will not be able to control;
- No financial planning or design professional has determined the physical build-out or has estimated tax revenue for these proposed dimensional controls;
- Land uses have not been coordinated with the proposed relaxed dimensional standards;
- Town goals for Net Zero fossil fuel emissions have not been addressed in this proposal;
- Other than Planning Board hearings, no Town sponsored consensus-building has occurred for these citizen proposals. Town Meeting approval will preclude a robust public process that is scheduled to ensue after Town Meeting votes; and
- There are more effective zoning changes that should be made to revitalize the Hartwell area. Town Meeting should wait until all relevant information is presented to Town Meeting members

In addition, Richard Canale, based upon his more than a dozen years either as a voting designee of the Boston MPO or representing the Regional Transportation Advisory Council, believes that approval of this zoning will result in Lexington not receiving up to \$50 million dollars in Federal transportation funding because it lacks a housing component and would not meet Transportation Equity standards

## **SUMMARY**

Charles Hornig and 9 other voters petitioned the Town to amend the Zoning Bylaw and Map to allow additional commercial development in the Hartwell Avenue / Bedford Street area.

The proposal would change the dimensional standards for the existing CM (Manufacturing) District along Hartwell Avenue. The changes proposed would:

- Reduce all lot area, frontage, and setback requirements;
- Allow significantly larger and taller buildings;
- Reduce the special building setback of 200 feet along the southwest side of Bedford Street to 37 feet, leaving room to expand the Bedford Street right-of-way to a width of 100 feet; and
- Add design standards, limiting the height of buildings near streets or the bikeway and reserving 15% of each lot for outdoor amenities.

The Zoning Map changes would move commercial properties adjacent to the CM District into that district. Those properties are currently in the CD-3 (110 Hartwell Avenue), CSX (7 Hartwell Avenue), and CRO (420-482 Bedford Street) Districts. Parts of some of the Bedford Street properties are already in the CM District. The proposal would also move properties used for open space (near 110 Hartwell Avenue) or utilities (Eversource transmission lines and VA Hospital pumping station) into the GC District.

Properties on the northwest side of Bedford Street, such as the former Boston Sports Club, are not included in this change, but will be discussed under Article 17.

## **PUBLIC HEARING PROCESS**

Due to COVID-19, all zoning articles initially scheduled for the 2020 Annual Town Meeting were postponed to a Fall 2020 Special Town Meeting. Due to the length of time between the Annual and Fall Special Town Meetings, the Planning Board was required to hold new public hearings. To ensure that all information heard during the public hearings has been communicated, this section of this report provides a review of the public hearings held for both the 2020 Annual Town Meeting and Fall 2020 Special Town Meeting.

### **Annual Town Meeting Public Hearing Proceedings (February - March 2020)**

On Wednesday, February 26, 2020, after publication of a legal advertisement in the Boston Globe newspaper on February 6 and February 13, 2020, the Planning Board opened its public hearing for Article 43: Hartwell Avenue Area. A series of continued

public hearings were held on Wednesday, February 26, 2020, Wednesday, March 4, 2020 (continued without testimony), and Thursday, March 5, 2020. The Planning Board closed the public hearing and made a recommendation to the 2020 Annual Town Meeting on Thursday, March 5, 2020.

## **PUBLIC HEARING MINUTES**

### FEBRUARY 26, 2020

Bob Creech opening the public hearing and requested a presentation for Article 43: Hartwell Avenue Area.

Charles Hornig presented a PowerPoint presentation entitled Article 43: Hartwell Avenue Area, dated February 26, 2020. The presentation included a review of why this change is being proposed?; why now?; a review of the Hartwell Avenue area existing conditions; dimensional standards relevant to lots, setbacks, Floor Area Ratio (FAR), and height; design standards – amenities, height, and Bedford Street; a review of the proposed district boundaries; what might happen?; and concluded with a review of traffic, parking, transportation, and natural environment.

Mr. Creech requested comments from members of the Planning Board. The following comments were provided.

- Richard Canale provided a review of the current rezoning process, delays in the process, in addition to conversations with developers as to direction for the proposed zoning. Mr. Canale stated that Lexington should review what Burlington has done in the Wegmans area. Mr. Canale further noted that the proposal to Town Meeting does not include mixed-use options.
- Robert Peters referenced Mr. Hornig's statement that this would be a Phase One, followed by a second phase.
- Ginna Johnson provided a summary of her position relative to the public process for moving the Hartwell Avenue process forward. Ms. Johnson questioned if Mr. Hornig had reached out to the abutting residential streets. Ms. Johnson reviewed the various sections of the project, in addition to the need for a more inclusive public process and the promotion of net-zero.
- Mr. Creech requested clarification regarding design standards. Mr. Hornig stated that he would assume that design regulations would be developed in the fall if the article were to pass.

Mr. Creech opened the floor for public comment. The following comments were provided.

- A statement of concern regarding the rezoning of the area on the north side of Bedford Street
- A statement of support by a member of the public for the proposed Hartwell Avenue Citizen Article. It was further noted that the Town needs additional tax revenue. This is a commercial zone and makes sense.

- A statement regarding houses within the proposed zoning area, relative to significant issues that have taken place. The member of the public further included information regarding the loosening of regulations and what the community will get.
- A statement regarding the duration of the process for the Hartwell Avenue zoning initiative. It was noted that the primary concern is traffic, but they need not wait.
- A statement regarding the proposal in front of the Town Meeting is the best of the request. Followed by a comment as to not to continue to talk about it, but rather do something.
- A statement that if provided the framework, then additional parcels of land on Hartwell Avenue will be redeveloped.
- A statement of concern regarding an increase in traffic and the need for something to be done about it
- A statement of agreement for some of the proposed changes and that this proposal is the transition from suburban to urban. In favor of the additional tax revenue but not in favor of reducing the twenty-five (25) foot set back, in addition to concerns regarding traffic congestions and the need to think outside of the box. It was recommended to include dedicated bus lanes and other alternative traffic reducing methods.
- A statement of clarification regarding an allowed height of a structure relative to the proposed amendments

Mr. Hornig stated that this zoning initiative is to get the process kick-started, and much of this is moving forward with the twenty-five (25) percent design.

#### MARCH 5, 2020

Robert Creech, Chair, opened the continued public hearing on Article 43 – Hartwell Avenue Area and then requested a review of any updates to the article.

Charles Hornig provided a brief review of the proposed article, which included recent conversations with landowners.

Mr. Creech requested comments from members of the Planning Board. The following comments were provided.

- Richard Canale provided concerns regarding the process associated with the Hartwell Avenue zoning initiative. Mr. Canale stated his concerns regarding moving forward at this time, especially with the need for housing for families.
- Robert Peters referenced a member of the public's effort regarding work efforts over the past thirty (30) years. Mr. Peters further noted the need to get this effort moving forward.
- Ginna Johnson provided a review as to not recommending this article forward to Annual Town Meeting. Ms. Johnson stated that there had been a

lack of public outreach process, the impacts on properties, lack of research, etc. Ms. Johnson reviewed the Lexington goal of increasing the tax base. Ms. Johnson reviewed the proposed language, as presented in Table 2.

Mr. Hornig provided a review of his outreach to the commercial property owners.

The Planning Board and Mr. Hornig discussed the proposed article and the concerns.

- Mr. Canale reviewed the zoning process, development of the draft language, and provided a review of the process for applicants that use Planned Reuse Developments.

Mr. Creech opened the floor for public comment. The following comments were provided.

- A review of the history of the Hartwell Avenue development and the need for new zoning to allow for redevelopment
- A question as to where the market is today, no one wants to do office. It would be recommended to increase the size. It was noted that Cambridge is one-hundred (100) percent built out, and that businesses are moving to the suburbs.

Mr. Canale provided an analysis of various properties within Lexington that could allow for the development of lab space. Mr. Canale provided a review of businesses as to what they want and the reason to move forward.

A member of the public provided a review of how landowners can recoup the value of their property post razing an existing structure.

Ms. Johnson provided a review of tax analysis within Lexington.

Mr. Creech questioned the reason for allowing a minimum lot size of five-thousand (5,000) square feet. Mr. Hornig provided a review regarding the proposed dimensional regulations.

Mr. Creech questioned what the buildout could potentially be if this effort passes. Mr. Hornig stated that the potential buildout would be six-point twenty-five (6.25) million square feet, two-point-five (2.5) times of what is there now. Mr. Creech questioned that if we did this, there are a lot of proposals that the community could get under the proposed Hartwell Avenue zoning. Mr. Creech requested clarification regarding the Floor Area Ratio (FAR).

Mr. Creech noted a recent rezoning effort for 7 Hartwell Avenue and stated concerns about changing the zoning district for that parcel.

Mr. Canale stated that only one (1) special permit had been granted for Hartwell Avenue. Mr. Hornig questioned what a timetable would be for including housing in this proposal.

Members of the Planning Board provided their reasons for support or opposition.

## **Fall Special Town Meeting Public Hearing Proceedings (September 2020)**

On Monday, September 14, 2020, after the publication of a legal advertisement in the Lexington Minuteman newspaper on August 27, 2020, and September 3, 2020, and notification sent to parties of interest, the Planning Board opened its public hearing for Article 16, Amend Zoning Bylaw & Map – Hartwell Avenue Area (Citizen Petition). Continued public hearings were held on Wednesday, September 23, 2020 and Wednesday, September 30, 2020. At such time the Planning Board closed the public hearing and made a favorable recommendation to the Fall 2020 Special Town Meeting.

### **PUBLIC HEARING MINUTES**

#### **SEPTEMBER 14, 2020**

Robert Creech, Chair, opened the public hearing for Article 16, Amendment to the Zoning Bylaw & Map – Hartwell Avenue Area (Citizen Petition).

Present for the public hearing: Charles Hornig, Citizen Petitioner

Mr. Hornig stated that he is representing himself and not a board or committee that he serves on. Mr. Hornig presented a PowerPoint presentation for Article 16, Amend Zoning Bylaw & Map – Hartwell Avenue Area (Citizen Petition). The presentation included an overview of the history of development on Hartwell Avenue, Why this change?, Dimensional Standards, District Boundaries, Tax Revenue, Traffic, Parking and Transportation, Natural Environment, and the aviation paths. Mr. Hornig further reviewed the draft language.

Mr. Creech requested comments from the members of the Planning Board. The following comments were provided.

- Robert Peters requested clarification as to whether the passing of the Citizen Article would adversely impact the proposed staff article at the 2021 Annual Town Meeting, which was presented earlier at the joint Planning Board and Select Board Meeting. Mr. Peters further questioned if we are to prioritize federal transportation funding, what the timeline would be. Sheila Page, Assistant Planning Director, stated that the Town is presently on the Long-Range Transportation Plan, with an estimated funding cycle of the 2030-2034 timeframe. Ms. Page noted that the staff is hopeful that things move forward sooner and that the Town will be on an earlier schedule for funding.
- Richard Canale presented a PowerPoint presentation, which included an overview of Do we need this?, Hartwell Initiative, Dimensional Standards, PB should Recommend disapproving this Article. Mr. Canale requested a response to his questions. Mr. Hornig stated that his proposal is consistent with what the staff is presenting, and his efforts are not inconsistent with the Town's vision. Mr. Hornig responded to all of Mr. Canale's questions, as explained in the PowerPoint presentation. Mr. Canale provided additional input regarding housing and environmental justice issues.
- Ginna Johnson thanked Mr. Canale for his follow-up presentation. Ms. Johnson stated that she did not support the article in the spring for the

Annual Town Meeting. Ms. Johnson noted that the dimensional controls are not restrictive and are by-right. Mr. Johnson stated her concerns regarding rules on site design and public outreach. Ms. Johnson presented several street images of Hartwell Avenue to illustrate that Hartwell could feature a wooded streetscape, giving it a unique and marketable identify that met the Town's climate resilience goals. Mr. Hornig provided a review of his outreach and efforts to work with landowners, in addition to an overview of measures required by the Conservation Commission.

Ms. Johnson requested clarification regarding the consensus-building process, where the vision is developed through a community process. Consensus building is different than the reaction to a developed proposal. Ms. Johnson also reviewed groundwater, noting her concerns regarding how the development will impact other properties relative to flooding.

- Mr. Creech requested clarification regarding dimensional controls. Mr. Creech questions how many properties could take advantage of the proposed height. Mr. Hornig stated that a fair number could take advantage of the proposed height. Mr. Creech requested clarification from Ms. Loomis as to how the submitted Citizen Article impacts the staff proposal. Ms. Loomis stated that the staff proposal would have to be flexible regarding its request, depending on whether the Citizen Article passes or not.
- Mr. Canale requested clarification regarding an analysis regarding revenues generated from a lab building vs. office building.

Mr. Creech opened the floor for public comment. The following comments were provided.

- A request for clarification as to whether the proposed Citizen Article is in conflict with the vision for the Hartwell Avenue area. Ms. Loomis, what would happen if the Citizen Article passes or does not pass?
- A local landowner provided an overview of their parcel of land, where a current tenant filed for bankruptcy. The landowner noted their concerns if they miss this opportunity to redevelop the property if they renew the leases.
- A statement that it is time to move on and do something. The Economic Development Advisory Committee (EDAC) has been working on this rezoning effort for the last decade. It was noted that this proposal brings forward the best that has been developed. The proposed rezoning effort was entered into to increase commercial revenue for the community, not for housing.
- A request for clarification as to whether any housing would be permitted under this Article. Mr. Hornig stated that housing would continue to be prohibited under this Article.
- A statement of concern regarding other communities such as Burlington, Waltham, etc. that have planned for and experienced sizeable commercial

development in recent years. In addition to the change that such growth will have on Lexington's character, it feels much more city-like.

**SEPTEMBER 23, 2020**

The Planning Board agreed to hold their discussion on Article 17, until September 30, 2020 at 7:00 p.m. but allowed for public comment.

**SEPTEMBER 30, 2020**

Robert Creech, Chair, opened the public hearing for Article 16 and requested an update from Mr. Hornig.

Mr. Hornig provided a brief update to a few amendments made to Article 16, which included minor edits and the addition of an effective date of February 1, 2021.

Mr. Creech requested comments from the Planning Board. The following comments were made.

- Richard Canale presented a series of slides entitled Article 16, Hartwell Avenue Area, September 30, 2020, Public Hearing, Richard Canale, Planning Board member. The slides covered topics such as reasons for disapproval, tax revenue. Mr. Hornig responded to all of the items brought up by Mr. Canale. Mr. Canale answered to the three years of the public outreach process, a reference to a recent article in the Colonial Times.
- Robert Peters requested clarification regarding the lack of a housing element: How would this proposal be perceived at a Town Meeting? Mr. Hornig responded to the questions regarding housing. Mr. Peters requested further information regarding 40R and the current housing review that is taking place. Ms. Loomis provided a review of the recent Special Permit Residential Development (SPRD) housing efforts underway.
- Ginna Johnson provided her support for the statements made by Mr. Canale, but also noted her concerns regarding not hearing from the public yet. Ms. Johnson said that no one had modelled Mr. Hornig's proposal to understand their impacts. Ms. Johnson further stated her concerns regarding small lot size, narrow lot frontage (50'), no restriction on the density of development, and tall building heights (115') with no restriction on number of stories. Mr. Hornig responded to Ms. Johnson's questions. Ms. Johnson followed-up with additional questions and statements regarding the proposed dimensional controls, observing that the 50' frontage could not accommodate a typical parking lot (64') and certainly not a parking garage; the small lot size may lead to property subdivisions that are profitable for owners, but prevent the creation of a unified district.
- Mr. Creech questioned why February 1st and not April 1? Mr. Hornig explained, noting the staff's effort to bring forward a zoning article in the winter of 2021.
- Mr. Canale referenced the three years of public outreach and the zoning consultant's presentation in November of 2019. It was noted that the consultant stated that 40R in the Hartwell area is problematic. Mr. Canale referenced the recent commercial and residential development opportunities



in Lexington. Mr. Canale further said his concerns regarding the Citizen's proposal.

Mr. Creech opened the floor for public comments. The following statements were made.

- A statement that this proposal is long overdue and its time. The Town needs commercial tax revenue, and Hartwell Avenue is outdated.
- A statement of eagerness for Hartwell's potential redevelopment, followed by a statement that the Town commits to its values. The Town needs to make sure that redevelopment meets the Town's efforts for the next zero emissions.
- A request for clarification as to whether all projects that go into Hartwell will require Site Plan Review.
- A statement regarding the need to move this Citizen Petition article forward.
- Lexington's statement to ensure that development in Hartwell needs to be sustainable and support buildings' electrification.
- A statement of support for the spirit of this proposal. However, Lexington is in a hole and needs to stop digging. Lexington has an opportunity to be a poster child to be a green community.

Mr. Creech questioned if members of the Planning Board had any additional comments. The following comments were made.

- Mr. Peters stated that he supported this Article in the spring and still supports it now. Mr. Peters noted that Lexington has this opportunity now and will fix anything that needs fixing at the annual Town Meeting of 2021.
- Mr. Canale provided a review of the public's comments, along with the difference between special permits and site plan review. Mr. Canale concluded that all five Planning Board members are committed to fixing the zoning, but this Article is distracting to the bigger picture.

On September 14, 23, 30, 2020, the Planning Board opened the floor for public comments. Public comments were received on September 14, 23, and 30, 2020. All comments can be reviewed on the video stream capture of the public hearing and the associated meeting minutes.

**Planning Board Vote**

***Charles Hornig moved that the Planning Board make a favorable recommendation to Town Meeting on Article 16. Robert Peters seconded the motion. The Planning Board voted in favor of the motion 3-2-0 (Roll Call: Charles Hornig – yes; Robert Peters – yes; Richard Canale – no; Ginna Johnson – no; Robert Creech – yes). MOTION PASSED***

Robert Creech ..... yes  
 Robert Peters..... yes  
 Ginna Johnson..... no  
 Richard Canale .....no  
 Charles Hornig ..... yes

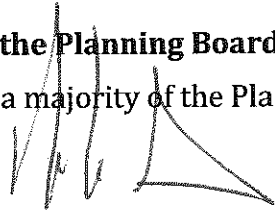
**Record of Vote**

On May 13, 2020, the Planning Board voted to allow the Planning Board Chair to sign documents on behalf of the Planning Board.

***Charles Hornig moved that the Planning Board allow the Chair of the Planning Board to sign all documents for the Planning Board during the COVID-19 State of Emergency. Robert Peters seconded the motion. The Planning Board voted in favor of the motion 5-0-0 (Roll Call: Robert Peters - yes; Charles Hornig - yes; Richard Canale - yes; Ginna Johnson - yes; and Robert Creech - yes). MOTION PASSED***

**Signature of the Planning Board**

Signatures of a majority of the Planning Board,



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