



7.1
Hearing December 11 2012
Haverhill

Economic Development and Planning
Phone: 978-374-2330 Fax: 978-374-2315
wpillsbury@cityofhaverhill.com

November 15, 2012

TO: City Council President Robert Scatamaccia and members of the Haverhill City Council

FROM: William Pillsbury, Jr. Economic Development and Planning Director

SUBJECT: Zoning - Merrimack Street Gateway Renaissance Overlay District

At this time the city wishes to propose the attached zoning overlay ordinance for the Merrimack Street waterfront. This ordinance which is limited to the southerly side of Merrimack street from Bridge Street to the post office seeks to create an overlay district which will allow mixed use commercial /residential projects which incorporate designs which integrate the Merrimack river into the project and turn the focus of the street back to the river. The ordinance, modeled after the previously approved 40R district, establishes design standards for mixed use projects and an expedited process for approval of projects which comply with the design standards. We strongly believe that this zoning will serve as a catalyst for significant new private investment in this area of downtown Haverhill

The planning board has held a hearing and their recommendation will be filed with the city council. I respectfully request that the city council schedule its public hearing on this important matter for Tuesday December 11, 2012.

Thank you for your attention to this matter.

IN CITY COUNCIL: November 27 2012
VOTED: that COUNCIL HEARING BE HELD DECEMBER 11 2013
Attest:

City Clerk
IN CITY COUNCIL: December 11 2012
POSTPONE HEARING TO DECEMBER 18 2012
Attest:

City Clerk

also: zoning ordinance
MSGROD



JAMES J. FIORENTINI
MAYOR

CITY OF HAVERHILL
MASSACHUSETTS

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November 21, 2012

City Council President Robert Scatamacchia
And Members of the Haverhill City Council

RE: Overlay Zoning District – Merrimack St.

Dear Mr. President and members of the City Council:

Attached to these materials is a very detailed and lengthy proposed new zoning ordinance which would establish an "Overlay Zoning District" on Merrimack Street. This is the product of months of work of our outside zoning consultants, our City Solicitor, our Planning Director Bill Pillsbury, our Downtown Task Force and the Zoning Subcommittee of the Downtown Task Force. In this new ordinance, we incorporate many of the best practices that have been successfully used in other cities to revitalize their downtown waterfront districts. The ordinance has been reviewed by the Planning Board and was unanimously favorably accepted. The minutes of this meeting will be submitted to the Council before the December 11th meeting.

The new ordinance applies only to the waterfront side of Merrimack Street. It is not a rezoning, it is an "Overlay District." An Overlay District means that the underlying zoning, which is commercial, still applies but an investor who wished to develop residential or mixed-use housing could instead use this overlay district zoning.

Mr. Pillsbury and I will both be before the City Council at your December 11th meeting to go over this in much more detail. I wanted to give the Council a short outline of it beforehand.

Basically, this ordinance encourages residential and mixed-use developments along the waterside of Merrimack Street. The ordinance establishes what are called "Priority Development Projects."

Priority Development Projects, as defined in the ordinance, are mixed-use developments which connect to a boardwalk which we hope will someday run along Merrimack Street behind the existing buildings. Projects that are largely market rate, connect to the boardwalk and allow public access to the river are termed "Priority Development Projects."

Priority Development Projects are given expedited permitting, reduced parking requirements, and increased density. For Priority Development Projects we will strongly consider offering "TIF's" (Tax Increment Financing Agreements) and "DIF's" (District Improvement Financing Agreements.) Our goal is to offer whatever incentives we can to encourage development of Merrimack Street if that development allows the public to connect to the water.

I'm going to ask Bill Pillsbury, by copy of this letter, to meet with each Councilor individually to go over this prior to the meeting and answer any questions you might have.

This comes before you for a public hearing on December 11th. We are very much hoping it can be approved at the public hearing.

If there are changes or amendments that councilors would like to see considered, I would appreciate hearing them before the public hearing so that we can have them typed up and ready for your consideration at the hearing.

This is a very comprehensive ordinance which we believe opens new opportunities for our City. I look forward to speaking with you about.

Very truly yours,

A handwritten signature in black ink, appearing to read 'James J. Fiorentini', with a long horizontal flourish extending to the right.

James J Fiorentini, Mayor

JJF/lk
Encl.



new hearing Dec 18 2012

*12-11-12
new
postpon*

Haverhill

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December 11, 2012

TO: City Council President Robert Scatamaccia and members of the Haverhill City Council

FROM: William Pillsbury, Jr. Economic Development and Planning Director

**SUBJECT: Zoning –Merrimack Street Gateway Renaissance Overlay
District: POSTPONE TO DECEMBER 18, 2012**

At this time the city wishes to postpone for one week, the hearing scheduled for tonight on the proposed zoning amendment to allow our zoning attorneys to make a minor technical modification to the proposal which incorporate the recommendations of the zoning experts and the planning board.

A modified document will be filed with the council and the new date of hearing will be December 18, 2012.

Thank you for your attention to this matter.



Haverhill

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December 14, 2012

TO: City Council President Robert Scatamaccia and members of the Haverhill City Council

FROM: William Pillsbury, Jr. Economic Development and Planning Director

SUBJECT: Zoning –Merrimack Street Gateway Renaissance Overlay District

At this time the city wishes to propose the attached zoning overlay ordinance for the Merrimack Street waterfront. This ordinance which is limited to the southerly side of Merrimack street from Bridge Street to the post office seeks to create an overlay district which will allow mixed use commercial /residential projects which incorporate designs which integrate the Merrimack river into the project and turn the focus of the street back to the river. The ordinance, modeled after the previously approved 40R district, establishes design standards for mixed use projects and an expedited process for approval of projects which comply with the design standards. We strongly believe that this zoning will serve as a catalyst for significant new private investment in this area of downtown Haverhill

The planning board conducted a hearing on the proposed ordinance and has voted a unanimously favorable recommendation to the city council. The minutes of that hearing are attached. This ordinance has been reviewed and approved by the City's legal counsel for zoning Mark Bobrowski as well as several other legal and zoning experts.

As Planning director I concur with the planning board and our legal experts and strongly recommend that the City Council approve the zoning ordinance as proposed.

Thank you for your attention to this matter.



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PLANNING BOARD

November 30, 2012

City Council President Robert Scatamacchia
& City Councilors
Room 204-City Council Office
City of Haverhill

RE: Merrimack Street Gateway Renaissance Overlay District

Members Present: Kenneth Cram, Krystine Hetel, Daniel Spurling, Timothy Connors,
James Cronin, Bob Driscoll, and Paul Howard

Members Absent: Jack Everette

Also Present: William Pillsbury, Jr., Economic Development & Planning Director
Lori A. Woodsum, Office Manager/Economic Development & Planning

Dear City Council President & City Councilors:

The Haverhill Planning Board at its regularly scheduled meeting held on 11/14/12, Wednesday Evening, at 7:00 p.m. in the City Council Chambers, Room 202, heard this matter that was tabled to this meeting from the October 12, 2012 Planning Board meeting.

William Pillsbury, Jr. the Economic Development and Planning Director came forward to speak about the Waterfront Overlay District. The board members and people in the audience were made aware of an important document that will in many ways help to change the face of Haverhill as we go forward into the future. It was noted that they had been working on zoning issues of a variety of aspects over the last year or so. He referred to when he was before the City Council recently and spoke to the councilors about the Water Street Zoning and also talked about the fact that we had some very important work that we were doing relative to Merrimack Street and have been continuing and was diligent to do that and have this evening literally and says this because he really felt strongly about this as a role of this Planning Board plays... he generally would not bring in a document

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that you would receive one day and ask you to act on it. He would never, ever do that with the City Council he knew better. The reason that he was doing it now was because it was so important and the timing is so of the essence in this particular case. We have been and it will be announced probably in the media in the next day or so but we have been the successful recipient of a very large Mass Works Grant for this particular area of Merrimack Street which will help us to build the flood wall and the board walk and those infrastructure improvements that we need to redevelop Merrimack Street and that timing of that from the State is very important. The State is looking for us to take some affirmative steps as a city and continue to move forward. It was noted that our initiatives were in the area of laying the ground work for the redevelopment of Merrimack Street. There is interest... there is private sector interest in Merrimack Street and there continues to be private sector interest so we feel strongly and the Mayor has instructed him to bring this forward tonight to the board and on December 4th we are going to request the City Council to have a hearing on this basically to create an Overlay District for the Merrimack Street area. The boundaries of that overlay district are the bridge, Bridge Street and the southerly side of Merrimack Street down to Elliot Place which is just on this side of or the easterly side of the Post Office and extending out into the centerline of the River. So it was basically the southerly side of the waterfront side of Merrimack Street and the district is being called the Merrimack Street Gateway Renaissance Overlay District. They certainly have thought about this from a variety of perspectives. One of the things again as mentioned was our State delegation particularly Representative Brian Dempsey's involvement in all these discussions about this. The State has designated this us as a "Gateway City" so the idea that we are really developing zoning that is reflective of the "Gateway City" and what should happen in the "Gateway City" by way of creativity in terms of zoning and putting forth our best foot to try and develop Smart Growth and to develop our inner city areas that was the reason that we were designated as a "Gateway City" because these assets that we have are so tremendous but that yet need such help and kind of really put that even in the name when we said that it was the "Gateway Renaissance Overlay District".

Mr. Pillsbury noted to the board members that were on the Planning Board at the time with the designation of the western end of our downtown ... the Washington Street, Wingate Street area known as the 40R District under the State designations that is very similar to the structure that we have outlined in this document. This document has been worked on by Attorney Mark Bobrowski at his level and by other attorneys that have looked at this from a zoning expertise perspective and thought that what we have... he characterized as follows: Innovative, State of the art form based zoning code developed to accomplish the desired goals of the redevelopment of Merrimack Street and the Merrimack River Waterfront for mixed use development which turns the focus of the street back to the river, which really would serve as a catalyst for substantial private investment.

Planning Director William Pillsbury noted that building under the principals of the 40R District and the catalytic effect that that zoning created resulting in mixed use development in the western end of our downtown and this zoning takes into consideration the very real differences in the built-in environment on Merrimack Street versus the 40R District in terms of building style, construction, site layout, and while establishing key guiding principals to direct the redevelopment it affords the flexibility, predictability, and opportunity for creativity for the private investor who will know what the desires of the city are which are clearly laid out in this document and then they can take an expedited route if they choose to comply with those desires of the city an expedited route to approval of a

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project that complies with the City's preferred modes of development. So it was noted that he would take as much time as the board members needed this evening and knew that the members were seeing this for the first time but will try to walk through the contents of the document and then ask for board consideration of a recommendation to the City Council. The format of the document was very typical of a zoning amendment. It starts with a purpose Statement. It contains definitions, defines the district, it lays out use restrictions, those permitted uses, those prohibited uses, it deals with dimensional issues, it deals with density, parking, and design standards. Then for the majority of the documents beyond Page 9, if you actually start looking at Page 9, Section 255-146 is basically the process of how to apply. So from Page 9 on it is a very technical submission requirement, number of plans, what needs to be contained in those plans and those types of things. So to walk through the purpose clause... this really identifies many of the things that I've mentioned earlier but the purpose of it was to establish the "Gateway Renaissance Overlay District". The Planning Director wanted to mention that this was OVERLAY in the sense that it is not rezoning and it does still allow the underlying zoning continue to exist. He noted that if someone has an existing property and is one that does not desire to have anything done to their property or whatever or desires something different that is allowed in the underlying zoning that still continues to exist. So we are not in any way affecting the underlying zoning of these properties in this district. The idea being to foster or arrange opportunities for development of a mixed use nature with components which may include among others distinctive retail, education, performing arts, media, graphic arts, offices, restaurants, public and private access and use of the Merrimack River that is now affectively cut off by a substantial and necessary floodwall. The director explained that to spark the redevelopment of marine use facilities they would take advantage of the navigable waters of the Merrimack River adjacent to Downtown Haverhill and as said earlier to encourage private capital to invest in design and construction of distinctive and attractive site development programs that promote compact design, creation of vital urban open space and take advantage of a variety of transportation options including enhanced pedestrian access to employment and nearby rail access.

The Planning Director referred to Page 1 of the Municipal Ordinance, Article XV. Merrimack Street Gateway Renaissance Overlay District where there is a listing of some of the purpose clauses again. Some of those typical in zoning if you looked at your zoning... (Inaudible) about promotion of public health safety and welfare by encouraging diversity of opportunities, fostered the longtime expansion of the workforce and market rate of multifamily housing to bring further vitality and stability to the downtown riverfront. It would also increase the production range of housing units to meet existing and anticipated housing needs and it goes on with a variety of different elements establishing design standards which is a very important element of this, which allows context sensitive design and creative site planning in this area as well.

The definition section was referred to by the Planning Director at this point. It was noted that we do have something a very key component... (Inaudible) ...again the 40R District is this concept of as of right approval... as of right projects. Planning Director Pillsbury explained that in the 40R District it is this concept of an as of right approval, as of right projects. Also in the 40R District if you bring a project that complies with the design standards and complies with all of the requirements and does not require waivers and that project is determined to be completed then it is an as of right project and you could build within those design perimeters and the City Council in this particular case and in the case

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of the 40R the City Council was the plan approval authority and they are the ones that grant that approval and it is one stop shopping. He thought that was the whole concept behind the 40R and ultimately behind this document is the idea of expedited permitting of trying to move a process along as quickly as possible. It was noted that we as a city laying out the framework or the groundwork of what you want to see in that area. If someone shows up with that and they are willing to make that investment and move forward with a project then we are saying to them in return that we are going to expedite your approval and will not take you through a multiplicity of boards or a multiplicity of initiatives that you will have to do to get your approval... you are entitled to that approval. The Planning Director knew that it was a dangerous word... entitled... but the idea was if you complied with this... as Forest City did for example when they came in with their project, a 70 million dollar project... we approved that in one public meeting with the City Council because we had laid out all of that ground work in advance as we will as in this particular case as well.

Some of the other important definitions in one which I think is very important for consideration this evening is in this particular case the drafting... indicates that the plan approval authority as of this submission is the Planning Board. We will be ultimately bringing this to the City Council. One of the things that the mayor heard from the City Council ... some members of the City Council in a previous submission on the waterfront area, the Water Street area was that we should try where possible to try to move this into the realm of boards such as the Planning Board and this board would be the deliberate body on reviewing these kinds of projects that would come forth under this particular overlay district for Merrimack Street.

We did define something in this zoning ordinance that he felt was fairly creative. We created even a faster fast tract for something called a priority project. A priority project would be defined as follows: A mixed use project in which 85% or more of the residential units are not restricted by income... in other words they are market rate units. Point one... We are talking about at least 85% of the units are market rate units. Point 2... being that it encompasses an area at least a full width of Merrimack Street and the flood walls so in other words it is envisioning that access to the river and the inclusion of the river and whatever the priority project may be and which provides public access to and along a boardwalk, a promenade overlooking the Merrimack River or public access to the waters of the Merrimack River or both that contains those three elements plus does not require any waivers from the design standards, the density and dimensional regulations then it shall be considered a preferred project. A PREFERRED PROJECT gets a couple of different things. It gets an expedited review so instead of it being 120 days it is going to be 75 days. So it would give the developers looking at this time to come forward with a project then they could have a predictability of their approval to be within that timeframe. And the determination that it would be a preferred project would be made within 20 days by me. I would make that determination under the zoning and forward that information along to the plan approval authority at that time.

The Planning Director noted those were the major definitional issues that he believed that he had here. Planning Director Pillsbury mentioned the overlay district itself was just that and was not a replacement of the underline zoning. Then we talked about use restrictions. We talked about allowed uses and non-allowed uses. It was noted again that permitted as of right in the district would be mixed use development which would provide a space in the project or phase thereof which would contain each of at least one of the non-residential categories on Page 4. It was noted that Page 4 was the page that he

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was talking about right now. Then mentioned multifamily development, mixed use development which is a mix of residential and commercial uses, whether any of the commercial uses that are listed here such as business and professional offices, commercial financial offices, eating and drinking establishments, retail uses, education uses, performing arts, community facilities, athletic facilities, Inns and Hotels and those types of things would all be allowed by right within this mixed use project. It was also noted the incorporation of parking as not a principle use... you just cannot have a parking garage and would not just be supporting a parking garage. Parking would be an element that would be required. Open space and recreational uses would be allowed uses there: Marinas, piers, floats, board walks, fishing areas and those types of things that incorporate access to the river would be allowed as would any accessory and ancillary uses that would be customarily incidental to the uses above. So again you can see we are trying to be inclusive of those uses that would be those elements that could make up a quality mixed use project. It was noted that the list of things that were prohibited were things that you really would not want to see downtown. This list could be a lot longer. We could probably specify other things that we would say we would probably collectively agree. But these were some things that we settled in on such as... gas stations for one thing. Solid waste disposal facility, salvage yards, self storage facilities and those kinds of things would not be allowed within the district. A lot of automotive vehicle related things... motor vehicle sales in particular would not be allowed... district car washes and those kinds of things.

The zoning envisions the process of project phasing so that the applicant could propose a multi building multi-phase project which we would consider as part of the approval and we would kind of lay out what those phases would be and that is consistent with what we did with 40R. The areas he thought were most created and most formed based which is a term that he would be happy to try to explain but was not sure it was totally explainable but in our jargon in our zoning but the form based idea is that we take a look at the existing layout of Merrimack Street and say within that district you could basically create things that do not have to have a lot of restrictions. You do not have to have frontage restrictions. You do not have to have side yard set back or rear yard setback and you were not trying to envelope a building envelope into a very limited area. So what we basically have is dimensional regulations is one and that's height. It was the only dimensional regulation that we were proposing for this district and it would be to a maximum of 10 stories on a regular project or 12 stories on a priority project or a preferred project, which we defined earlier. So somebody could get a density bonus of two additional stories on a preferred project most likely more market rate units would be the idea, which is the concept behind that type of a density regulation. The density regulations go a little... so again no other dimensional regulations. No frontage, no area, no setbacks and that again is very consistent with what you see developing in the whole area of foreign base codes. So you are really dealing with what is there rather than create something arbitrarily and then place it inside of that and would try to explain that further if that is not clear. (INAUDIBLE) ...the 40R District allows 220 units per acre as the maximum density and that is really what we would have in this particular area as well. Floor area ration really mirrors what we have in our zoning, currently which is 4.0 calculated according to the definition of floor area ration in the existing zoning ordinance.

Planning Director Pillsbury mentioned parking and that we had learned a lot about parking. We learned that one of the things that we can do with parking is into the concept of shared parking which was something as a city has seen very successfully utilized in the

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downtown area. The current standard for the proposal for parking for residential use would be one space for residential use would be one space per residential unit or .75 in the case of a priority project in return for a higher degree of development and a larger project with more market rate housing. And there would be an opportunity for reduced parking. Now again, you have more market rate units the market may dictate that they want more spaces. We are not forcing it in the other direction but saying that would be the standard that would apply to that particular project. We are trying to be as creative as we can in terms of how that parking is (inaudible) even allowing the opportunity to have spaces, maybe leased spaces in the new garage on Moulton Way. So that they would have an opportunity to lease spaces in that area and then comply with this particular configuration of parking for their project. The majority of which the concepts that we have seen discussed always envision on site parking i.e. the parking to be under the building. The design concept that we hoped to see is very much... as you look at Merrimack Street right now it really tails off from the grade of Merrimack Street to the bottom of Wall Street or the bottom of the flood wall... so what we envision is that differential as the street as you rise up to become parallel to Merrimack Street to the top of the flood wall would be a parking (inaudible) that would be able to exist and believed that was a very doable during engineer or the preliminary engineering as shown (inaudible) approval... so again though we have these standards which are somewhat permissive in terms of how you could configure your parking and how you can create it. The market is going to drive us and what we are driving in and will include parking because it will be built underneath the building and that is the expertise that... (Inaudible) ...area. Again it is possible for the creator to reduce the parking standards based on an application or an application for a waiver that is consistent with the 40R District. All the other waiver requirements are consistent here that are shown here that relate to parking and other waivers that are the same types of opportunities for waivers that were (inaudible) the 40R District as well.

In terms of design standard... see Page 8 and Page 9 this particular area is very important. The design standards must be required for any kind of a project. That would be plan approval for (inaudible) responsibility to evaluate the submission as to compliance to these design standards. The design of a new building shall encourage public and private access to and along the Merrimack River and public and private use of viewing the Merrimack River which provides physical or visual access to the Merrimack River to create further activity on the water sheet are encouraged. Physical access to the Merrimack River shall include one or more of but not limited to public and or private docks, or mariners, floats, piers, wharfs, and fishing areas. Visual access to the Merrimack River (inaudible) one or more of the following: not limited to boardwalks, plazas etc. New buildings shall be cited to establish view corridors from Merrimack Street to the River, and to invite public pedestrian access to the waterfront from Merrimack Street. The buildings are encouraged to have designs, elements, or lighting features that provide visual gateway, landmark, or iconic view from downtown Haverhill which when viewed from any one of more of Merrimack Street, Bridge Street, Main Street, Merrimack River, and the south side... the south bank of the Merrimack River and or the Bradford Bridge. Another design standard is that there will be adequate capital infrastructure for on site municipal services provided within any project including Water Street for drainage, adequate traffic circulation shall be provided to and from the projects with vehicular access points in order to maintain reasonable traffic control on Merrimack Street. Ground floor spaces facing Merrimack Street and facing any plaza on top or any parking under podium and or parking under

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structure shall be designed to encourage mildly urban pedestrian friendly atmosphere. Lighting shall not be over spill onto adjacent properties or into the night sky. And one goal of this area is to promote new, urban design and layout in the district. Applicants shall not be required to preserve existing buildings, facades or other historic or potentially historic features or elements in the district, if any.

This brings us to 255-146 on Page 9 and noted that was the process and was not going to take the time to go through all of that but would certainly answer any questions that you have. The submittals are typical which you would be submitting a package of detail with enough detail for us to evaluate the design standards and all the other criteria and have that reviewed by all the city departments so that we will have really substantial submission requirement which we are very familiar with and the process for approval would move forward to circulation... there would be a filing and then there would be a circulation to the boards. Plan approval authority would be in this particular time it would be the Planning Board so the City Council will be receiving that information and will have the opportunity to have that input as any other city agency or department would and noted that the hearings would be held and the maximum amount of time would be 120 days which from the developers point of view is pretty quick to begin with and with a preferred project would cut that down to 75 days to give the opportunity for them to have knowledge that the project will be built in (inaudible) ... We reserve the right to do peer review if necessary at the expense of the developer, which is something that is very important. It was noted that the decision process was really a mirror of the 40R District. The City Council has the plan approval authority in that particular case which has the criteria that says the project and the site plan meet the standards, meets the requirements set forth in the Article or a waiver has been granted thereof and there is no negative on that particular score then the project can move forward. If there are extraordinary adverse potential impacts to the project and those have been adequately mitigated then the project is entitled to move forward. So those are the plan approval for criteria and those are similar to the 40R District.

Planning Director Pillsbury noted that the form of the decision which is the paperwork aspect of it that gets filed with the city clerk and then forwarded on to the various departments.

The Planning Director also noted that the change in plans after it has been approved noted that the language is very familiar probably to those that have been involved in any 40B work it is a minor change or a major change. A minor change would not require a public hearing but major changes do.

It was noted that there was some freeze language in there that freezes the zoning once an approval has been granted which is really State of the art language that reflects our current financing criteria and projects to start (inaudible) start if they have the expenditures for things such as parking garages... (Inaudible) ...the fact that that project has as commenced and that the zoning does apply.

Planning Director Pillsbury noted that there was a section in here which was added recently that basically talks about the fact that the city would give consideration to the establishment of this tax increment financing project or (inaudible) and note that both of those would have to have an enabling statutes from the City Council that would give consideration to do that. We would be bringing something called 40B before the City Council soon to basically taxing (inaudible) for market rate housing and were submitting that plan to the State as well. There were a lot of zoning tracks going as he said and that would be coming as well.

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Planning Director William Pillsbury noted that was a quick synopsis and apologized for the quick synopsis aspect of it... a lot of material. As he said to you he would stay as long as you wanted him to stay here and talk about this and answer any questions that you might have but noted that through his prospective sitting here and having been around the city for a fair amount of time he thought that this would really place the city in the strongest possible position to see the catalyst and to be a catalyst for private development in that area. It is adding additional support by approving zoning such as this to this support that we have received from our State delegation particularly Chairman Dempsey again has been in the right front center in helping us to envision what will be on Merrimack Street. It was noted that there is an extremely strong private sector interest and could not go much further than that in characterizing it but it is there and real and we have property owners down there that want to see things are happen and are willing to see properties more and that type of thing. It is with great enthusiasm that he requests that you consider a favorable recommendation to the City Council on this item. As he always tries to characterize zoning it is not a one and done situation. Zoning is a living, breathing document and noted that it always can be changed and changed fairly quickly and so he did not suggest that they would be changing this because he thinks this is good. He thinks it is as innovative as you could be in the filed of zoning right now and thought they were out at the cutting edge and the city should feel pretty good about that. We have enjoyed tremendous support from the City Council on these types of things in the past and again will be going there in a couple of weeks and kind of anticipated the same kind of response... and it is incumbent upon us over the next couple of weeks that we do our due diligence with the City Council in these coming weeks and there were some councilors here tonight and appreciated them being here at this hearing. The Planning Director noted that they will be spending a lot of time discussing this for the next couple of weeks.

The Planning Director William Pillsbury noted that he would answer any questions that you might have and at the same time since this is a hearing would entertain the rest of the hearing process and ask for a favorable recommendation to the City Council.

Chairman Paul Howard asked if there were other permits that would be involved with maybe Conservation or the State and wanted to know how that would play into the timeframe that we have to approve the plans and get through this process.

Planning Director Pillsbury noted that Conservation would be the other area and talked about that as recently as today (11/14/12). Basically you are talking about riverfront redevelopment... certainly redevelopment projects and so the track record on the Conservation Commission reviewing it expeditiously processing and determination of a riverfront redevelopment project was very good. He would not anticipate any delay from them in terms of (inaudible).

City Councilor William Macek and Conlin LePage were sitting in the audience and spoke informally to the board.

Planning Director Pillsbury answered yes they could... (to a question asked from the councilors) he thought that one of the things that we really are encouraged by was that the State as kind of a unified body... this is really a bold Statement for me to make but they are really buying into this gateway city idea. Gateway cities are presenting things and they

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tend to be supportive across the spectrum. These Mass Work Grants are a combination of grants from a whole bunch of different agencies all put under one roof so it really was a chance to really have the State... I guess my push back on that would be to say... wait a minute... you guys want us to do all this stuff why are you giving us a delay on issues... so he thought that was where Secretary Bialecki's Office has been very helpful as ombudsman and really try to break through some of these things and help with expediting permitting. We are a 43D Community... we've done that and we've got expediting permitting in place and would expect that we would move things along as quickly as we could.

Member Krystine Hetel wanted the planner to explain exactly what a gateway community is and secondly is the Mass Work Grant contingent upon our approval of this.

Planning Director Pillsbury answered no to the second question, it was not contingent upon... basically it was just... the Mass Works Grant is an indication he thought just the State's review of our material that we submitted and we talked about our opportunity to create jobs and to create the opportunity to have a construction project in the downtown area that makes sense and they believed in that. He stated that it was not ignorant of everything else that was going on in the area and one of the things that they know that we are working on it and want to see us move forward on it is not contingent upon the zoning. Your other question was?

Member Hetel wanted to know what a gateway city was.

Planning Director Pillsbury noted that a gateway city has been determined by the legislature to be those communities that are usually older mill cities such as Fall River, Brockton thought that might be another one... there are a lot of gateway cites and certainly we are one of those... Springfield thought that was another one, Lowell... There are a number of them but from our perspective it deals with our heritage as a former mill city that really of a large enough population to be a city and truly be a gateway into the Merrimack Valley Region he thought from Southern New Hampshire and so this gateway concept that we are becoming a revitalized location needed through transportation or through redevelopment of our former mill structures and those types of things into housing nodes and mixed use nodes such as this that they see the opportunity there and providing additional incentives to communities that fall into that category.

Chairman Paul Howard noted that this was pretty exciting and that it has been a pretty long time for this portion of the city where no one had gone into... no development and that something like this would spur that to that technical degree. It was good for the city.

Planning Director Pillsbury felt the same way and he thought was the belief that they had... it has been a long time coming... and it was not just that we were kind of thinking this out and this was the first shot... this is really the first shot over the (Inaudible)... this is really trying to replicate what we did and he has to commend the City Council for supporting the 40R District creation. He noted that was a big step... we did not know what was going to happen down there. We did not have a Forest City. We did not have a Hayes Building. We did not have a project... we had (inaudible) and that was nice. But we did not have a

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lot of redevelopment going on and putting that zoning in place really was catalytic and thought that was what we are hoping that this is going to do again because why do we believe that because we have been there and done that and thought in this particular case the time is now. We have tremendous support from the State. The State looks at what we accomplished as a city down there. They have supported us. They have given us the money for the parking garage. They have given us the designation as to growth district and those were the kinds of things that they believe in with what the city has to offer. We are mentioned in a lot of conferences around the State when they talk about what is going on in various cities. Haverhill comes out as a place that has really done some things and that is to the credit to the administration for really stepping up to the plate and doing those fundamental things. This is the coaches sitting around putting the game plan together in the offensive game plan for Sunday. We are saying that we want to go out and win this game. We have to layout the game plan in advance to do that and that is what we are really doing. We are laying out a game plan and this is the offensive play book for the development community to come in and handing it to Brady... that is what we want to do... hand it to somebody.

Member Jim Cronin thanked Planning Director Pillsbury for his presentation which he felt was very helpful. He had a couple of questions. He was looking at the design criteria/design standards and there was reference in there about the new buildings being encouraged to have designs and create this gateway... strong language... is there something in there that can assure us that that kind of design will take place building by building. Another thing that might be missing is... is there anything in here in the design standards that assures an integrated architectural presentation in this zone so it fits and looks good... it is not like a road... (Inaudible).

Planning Director Pillsbury thought those were some areas where we would have that the onus be on the presentation of the applicant. Those were the kinds of things that we would be expecting them to present to us as part of the package. How all of this does fit together because the language might be loose in that sense but it really is the basis upon which we would review a project. If the approval authority does not believe that it is there then it is not an approved project.

Member Jim Cronin noted that as right things do not come into play until you are at that decision...

Member Dan Spurling asked if there was some discretion involved on that plan approval.

Planning Director Pillsbury answered yes... the decision point... the Planning Board in this case the approval authority... he went back to the decision language... he read the following: the project and site plan meet the requirements and standards set forth in the article. There is a determination and affirmative determination made by the board the plan approval authority that meets it. That is the basis for denial. The flipside of that is... that is basis for denial... if it does not meet it we are not approving it. So they would then have a right to appeal that, which would be their right but certainly we would be making a decision with a strong argument as to why those issues of concern did not pass the mustard of the board... (Inaudible). The approval has a right but it is... there is that element there that

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gives us control and that is where he thought the design standards... you run a fine line of making them so rigid that though shall have blue curtains and you are pushing for that kind of extreme... you will get a lot of blue curtains but might not get a good development.

Member Cronin noted so we want to make sure that it all fits.

Chairman Howard noted so we are trying to cover some innovation too that we do not know everything. Someone else might come in with something very innovative that we might like.

Planning Director Pillsbury thought that the onus would be... again they did do ground work for the Forest City Project. It was a fairly long period of time involved that we were evaluating that before we even got the filing. If there was going to be a project submitted we would know an awful lot about it before it gets into the 75 or a 120 day time period. We would be sitting down with the developer way in advance before he comes in. There is no way that they could do this... any project down there without the participation of the city. We happen to own Wall Street. So we have an opportunity there to make sure that all conversations are early and awesome. That is the way that we did Forest City and that would be my view of how we would do any project in the overlay district. It would be that kind of advance work and then a filing and then... the thing that we do not want to do is run file of our own timeframes.

Member Cronin had a couple of questions. He noted that there were a lot of reference to cars but did not see reference to boats. Especially about storage of boats on or by private property (inaudible), limited parking... (Inaudible) and would people be able to keep their boats in the parking lots... (Inaudible).

Planning Director Pillsbury noted that was a very good point and would think that would be something (inaudible) that may very well be an item that needs to be added... (Inaudible).

Member Cronin had another question regarding Massachusetts Laws... Does Massachusetts allow (TAPE CHANGE TO SIDE 2 and the rest of Member Cronin's comment was inaudible.)

Planning Director Pillsbury noted for the purpose... the city would have to declare a public purpose and the city would have to take the (INAUDIBLE).

Member Cronin...(Inaudible)... other States have done this with their cases that is why (inaudible) ...would the city say it is public interest advantaging one private owner over another and taking the property from the current owner and giving it to the private developer... (Inaudible) ...advantage of the city. What is the Mass situation...? (Inaudible).

Planning Director Pillsbury noted that he was not an expert in eminent domain law... it was a really complicated... I have on any discussion that ever has come up in the City of Haverhill on eminent domain said forget about it... we are not even going to go down that road. So that is only him speaking but it is pretty complicated and our legacy of eminent

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domain got us into problems that we have done on Merrimack Street right now with old issues...

Chairman Howard noted on a water supply point of view any time anyone in this valley takes a water supply... (Inaudible) ...guarantee business... lawyers that specialize in (inaudible) ...I'm going to get you more money to (inaudible) ...absolutely...

Member Spurling noted that the key location in Connecticut was a very unique set of circumstances and he did not think would exist in the scale and scope of the kind of redevelopment that might be happening here that involved a lot more industrial. It was just much bigger in scale and different... (Inaudible).

Planning Director Pillsbury noted it was just one of those areas that he would not envision the city would even entertain. He was not saying it could not happen and then would have to become experts on that kind of law but it really would be... he did not see a scenario where the city would be in a position where the city would want to take a building and give it to a private developer. He did not know how you could confirm a (inaudible) process... a public purpose for that and get away with it.

Member Spurling was assuming that Chapter 91 plays as such that the development buildings right along the water would involve public access to the facilities and things of that nature.

Planning Director Pillsbury wanted to know if he meant public access to the waterways...

Member Spurling answered both... to the river and to the waterfront itself.

Planning Director Pillsbury noted that one of the things that we did back when the original board walk was built on the Washington Street end... we extended the Harbor line out into the center of the river. The Harbor Line is not going to be a constraint for development of moorings or boat docks... there would be the normal Army Corps process and those kinds of things.

Member Spurling asked about reconstruction of the floodwall. He wanted to know what the increase in height would be.

The Planning Director answered about 2 feet. The concept that they have been using is that we would use the boardwalk elevation rise as the conditional compensatory storage so that we would have the height and we would have it in the boardwalk and the FEMA folks the people that looked at it... (Inaudible).

Member Spurling noted that (inaudible) would go a long way towards the ... (Inaudible).

Planning Director Pillsbury noted that will not be all that we will need and was sure that will be discussions between the Mayor and the City Council about that... there will need to be some city commitment on this project. We are looking at other sources of funding as well. So it will be a multiple sources and uses type of analysis but it will be... I think you said that

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it would go a long way... yes it will. It would go a long way to being able to get the... particularly the portion in this district. It may not get us all the way to the path but it might get us quite a ways.

Member Connors knew that Lowell and Springfield were deemed to be gateway... (Inaudible) ...have they been implemented similar types zoning regulations as the one that proposed here tonight and if so have they been successful.

Planning Director Pillsbury thought that they probably both have 40R designations that would be something that he would expect. He did not know everything about them but was recently at a conference and the Lowell Planning Director spoke and one of the things that he talked about was their most recently redevelopment initiatives has been this idea of identifying in Lowell and what it is that they want to see happen. In other words what is their preferred project? What did they want to see and in our case we have identified that as the redevelopment of the riverfront and defining that as tying into the river both as view corridors, pedestrian access and those kinds of things. They identified that and then in their case they had some publicly owned properties that they went out and said if you give us a proposal based on... and we are telling you what we want yet the proposal was based on that type of thing. We are not doing that we do not have the publicly owned properties but we are saying to the development world that this is the playing field along which we are to play and that is similar of what will, I think in their zoning that they laid out in terms of how they dealt redevelopment... (Inaudible).

Member Timothy Connors asked if Mr. Pillsbury believed the 75 days essentially for pre-approval of the developers is sufficient for the departments committees and other bodies that have to review these plans. Do you think it is adequate sufficient?

The planning director answered yes. It was noted that we always have the option by mutual agreement to extend and that was not like we were turning into pumpkins on the 75th day unless we want to... I mean to make it clear if we are ready to make a decision that is fine but we also... a lot of these things we find mutual extensions and that would be optional or we would act. You are all familiar with it with this board we are very careful of timeframes. Constructive approval is something you do not like to hear... (Inaudible).

Chairman Paul Howard noted that one of the requirements of that is that there are no waivers.

The planner answered right.

The chairman noted that they had to follow all the design standards. So to get that expedited approval they could not have any waivers. You want to make this simple... it complies with the plans with our standards or you haven't (inaudible).

Someone noted good point.

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Member Krystine Hetel wanted to know if the whole Merrimack Street area is commercial retail and no residential. She wanted to know how that would change the south side of Merrimack Street in the next four or five years.

Planning Director Pillsbury noted it was similar to what you saw in the Industrial General Zone of Washington Street and of Essex Street. What you had there was a scenario where we had mill buildings that could be used for commercial uses or light industrial uses but no residential uses. The same is true of Merrimack Street as of today. You do not have a special permit option for a mixed use projects in that area but what we will be allowing by this rezoning is this idea of mixed use projects by right in the district. So what you would expect to see are projects that come forward that will be a mixture of housing and commercial uses such as restaurants, offices or whatever the use proposed might be.

Member Hetel asked if the ground floor would be some sort of retail or business and asked about floors number nine, ten, and eleven and above if that would all be residential. That is a lot of residential.

Planning Director Pillsbury noted that it did not have to residential... you could have offices on the 5th, 6th, or 7th floor. He noted that is a possibility and that would be a nice outcome in situations where multiple stories of commercial and office use. He noted that what they were trying to create or what they hope to try and create on Merrimack Street is really something that we do not think of right now. Rejuvenated, revitalized area with a lot of what people refer to it as the 18 hour economy and there are things going on there in the evening and there are things going on and there is this vibrancy that we do not have there right now. There is a lot of activity on Washington Street in that area that was not there before and what we hope is that this will be the same type of thing and perhaps even some reconstruction and access to the river and just something that we have really not done. We have completely gotten the river involved in the western end of downtown. We have the boardwalk built behind the Tap Restaurant and that is great. This is going to be much more (Inaudible) of the Merrimack River perhaps even more than the other end. That is what we hope...

Chairman Paul Howard noted that basically the underline zoning there has not worked.

Mr. Pillsbury responded the underline zoning hasn't worked.

The chairman noted again it hasn't worked.

The planner answered right.

The chairman noted that otherwise there would have been an investment down there already.

The planner answered right... but what we find from talking to developers is that much of their issue is timing. They really... and to the degree of regulation... if you are going to come in and really pin them down to extensive amount of review and analysis and regulation in an unpredictable timeframe... a lot of communities... he just spoke to

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someone today asked how are we doing stacking up with this zoning compared to some other places and they said not a lot of communities are trying to be this open and out front with telling you what they want and then giving you a timeframe that is predictable. So to developers time is money and again if we can help with that and we can say to them that the time is predicted... it's 75 or 120 days and you can know or you can have an answer and perhaps they will step forward with a plan and will step forward with the proposal because they can see an end. A lot of times you get into a special permit process and you have to go to the Zoning Board of Appeals first, then come here to the Planning Board then you have to go to the City Council and then back before the Planning Board and noted that any one of those steps can be elongated and any one of those steps could be appealed. So it is a predictability factor... is it all going to be perfect and work great... I hope so but I am not naive enough to think so. I think what we are doing is we are taking a step forward to put something in place that will be reviewed possibly, very positively by the private sector and that is the hope.

Member Kenneth Cram asked about the Riverfront Protection Act and how it played into all of this.

Planning Director Bill Pillsbury asked if he meant the Rivers Act and Member Cram answered yes. The planner noted that it was a redevelopment zone and because of the floodwall noted that we did not have any FEMA issues at all because the flood wall and can within 2 feet and that is taken care of. We do not have to contend with FEMA... we are not in the flood plain because it is protected so we have the option to define those redevelopment areas through Conservation Commission's perspective as a redevelopment area. Redevelopment areas are not governed by the ordinance so it is an opportunity to get a quick determination there that it is a redevelopment area and get ready to... (Inaudible) ... Storm water management would be something that we would continue to look at but storm water... (Inaudible) ...could be built into the project to make sure that everything... (Inaudible) ...storm water management regulations and that would be part of their designs before we see... (Inaudible).

Member Cram thanked the planner for his response.

Chairman Paul Howard asked if there was anyone in the audience that wanted to speak. No one came forward to speak. The chairman turned the hearing back over to the planning director.

Planning Director Pillsbury informed the people in the audience that we literally got this off the presses today and was the reason why we are moving this forward. He gave out extra copies of the ordinance in question and noted he would be happy to meet with them to answer any questions they might have regarding this matter. It was noted by the planner noted that they could talk from now and until the council meeting.

The planner noted no... it has not been that and basically what we have had on the agenda is the whole overlay district for zoning as a discussion point and that was what we were operating on tonight.

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Chairman Howard closed the public portion of the hearing considering there was no other public input. He then turned the public portion of the hearing over to comments from the planning director.

The planning director noted not over to me... the planner however did recommend a favorable recommendation to the City Council. It was noted by the planner that all these minutes will be transcribed and the council will all receive copies of said minutes for their review. The planning director noted to the board that their comments and questions have been good and the boat storage was something that had not been discussed but thought that was important and did not think that we wanted to see boats stored on Merrimack Street. So that is an element. Again... all of your questions and comments and please feel free if you have any more after tonight to certainly keep in contact and would be happy to try to answer them. He did apologize because it is a bit unusual to ask you to do this but he appreciated it and he knew the Mayor appreciated it as well.

The chairman thanked the planner and asked for a motion.

After board consideration, Member Timothy Connors motioned for a favorable recommendation to the City Council for the proposed zoning amendment. Member Bob Driscoll seconded the motion. The following members voted in favor: Kenneth Cram, Krystine Hetel, Daniel Spurling, Timothy Connors, James Cronin, Bob Driscoll and Paul Howard all voted in favor to forward this zoning amendment to the City Council. Member Jack Everette was absent. Motion passed to forward this matter to the City Council.

City department reports are attached to and considered part of this decision and minutes.

Signed,



Paul B. Howard
Chairman



Cc: Waterfront Overlay District (W.O.D.) Zoning Amendment
Mayor James Fiorentini
City Council (copy)
City Clerk (original)
City Engineer
City Solicitor William Cox