

# WINCHESTER CHAMBER OF COMMERCE

25 WATERFIELD ROAD

WINCHESTER, MASSACHUSETTS 01890

(781) 729-8870

April 27, 2015

## Winchester Chamber of Commerce Response to Final Center Business District Zoning

The Winchester Chamber of Commerce is committed to maintaining a vibrant town center for Winchester, protecting historic resources, and to improving economic opportunities for all.

While the Chamber supports the goals outlined in the proposed zoning amendment, we do not think the details of the proposed zoning changes adequately support those goals. The proposed height, FAR and setback regulations will not enable land owners to build economically viable projects. The **proposed** review and approval process continues the cumbersome and uncertain pattern of the present system.

As a result, the Winchester Chamber of Commerce **cannot** support the proposed zoning changes as presently written.

We urge the Winchester Town Meeting to indefinitely postpone this article, allowing further dialog with the Planning Board and modification of the zoning changes to better reflect the needs of Winchester businesses and Winchester as a whole.

Our goal is to work out changes with the planning board and come back to town meeting in the fall.

### **CBD REZONE CHANGE IN PERMIT GRANTING AUTHORITY**

The proposed Zoning change dramatically alters what has been the rule of law in Winchester since the first Zoning By-Laws dating back to the 1920's. Specifically, the Planning Board has written in to the Center Business District Zone a provision that would appoint themselves as the permit granting authority, a quasi judicial role that has always been under the jurisdiction of the Zoning Board of Appeals.

This is a significant change that should not be taken lightly. The current Zoning Board of Appeals has handled the task exceptionally well for over 85 years and is the envy of Zoning Boards of Appeal throughout the Commonwealth because of their excellent reputation. Historically, the Board has always consisted of a combination of lawyers, architects and other design professionals who volunteer their time to serve on this very important quasi judicial Board.

Good government requires a separation of powers. We need not look beyond the examples provided in our Federal Constitution and our State Constitution in which the legislature creates the laws and the Courts interpret them.

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If the system isn't broken there is no need to fix it. Our current Zoning Board of Appeals functions extremely well and should be the permit granting authority on any Zoning matters within the CBD. The Chamber of Commerce, after careful consideration, objects to this provision contained in the proposed Center Business District Zoning changes that are currently before you. The Planning Board should not be in the position of making quasi judicial decisions interpreting the very same by-laws that they themselves have created. The Permit Granting Authority should not be different from zone to zone. The proposed change is self-serving; it eliminates the existing separation of powers and it creates an inappropriate precedent.

## **Specific Proposed Changes to Section 7.3 Center Business District Zoning**

The following specific changes are proposed to bring the proposed CBD zoning more into line with the goals established in Section 7.3.1 Purpose:

### 7.3.12.1 East Core

7.3.12.1 (4) Change Side setback to 0- 5 feet in order to allow windows on the sides of buildings

7.3.12.1 (5) Change special permit minimum rear yard to 10 feet

### 7.3.12.2 Town Common

7.3.12.2 (4) Change Side setback to 0- 5 feet in order to allow windows on the sides of buildings

7.3.12.2 (5) Change special permit minimum rear yard to 10 feet

### 7.3.12.3 North Core

7.3.12.3 (4) Change Side setback to 0- 5 feet in order to allow windows on the sides of buildings

7.3.12.3 (5) Change special permit minimum rear yard to 10 feet

### 7.3.13.1 Height Map

Change GREEN ZONE height map legend to allow 51 feet with Parking Special Permit

### 7.3.14 Planned Unit Development Areas

7.3.14.2 Boundaries- Change Map 7.3.3 to align PUD2 boundary with North Core Boundary shown on Map 7.3.2

### 7.3.15 Site Plan and Design Review

7.3.15.1 Applicability-

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- (1) Change new construction lot size limit from 10,000 SF to 15,000 SF
- (2) Delete site plan review for change of use without change of footprint
- (3) Change expansion lot size from 10,000 to 15,000 SF

## 7.3.19 Inclusionary Housing

7.3.19.3 Incentives – Delete last sentence to allow housing incentive to increase FAR by .50 above maximum allowed.

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