Planning Board Meeting Minutes
December 14, 2015

Chairman Peter Roche opened the December 14, 2015 meeting of the Winthrop Planning Board at 7:00 pm.

Roll Call

Peter Roche	Present
Robert Carroll, AIA	Present
David Proctor,	Present
Honor Merceret	Present
Vincent P. Zappulla	Absent
David Stasio, Esq.	Present
Gina DiMento, Esq.	Present

PUBLIC HEARING:
Petition of 15-17 Walden St.., PJP Realty Trust

Public Hearing Opened

James Soper (P2) objects to this Public Hearing claiming that documentation was not published in a common area for public viewing, in a timely manner. There is a discrepancy on this claim and will need the vote of the Winthrop Planning Board to continue.

David Stasio recuses himself from involvement with the 15-17 Walden St. Project.

Motion by Robert Carroll to move forward with Petition for an SDOD on 15-17 Walden St., PJP Realty Trust
2nd by Gina DiMento
Passed 5-1 (David Stasio- recused)

Motion by Robert Carroll to re-issue the previous SDOD recommendation with edits discussed (re-use BA Zone) and send to the Town Council for review….(Please see Attached)
2nd by Honor Merceret
Passed 5-1 (David Stasio-recused)

Discussion:
Interim Housing Ordinance-

Discussion on the current ordinance, Gina DiMento will review and make recommendations on this current ordinance to be sent to the Winthrop Town Council for their review.

Motion by Gina DiMento to adjourn-9:10 PM
2nd by Honor Merceret
Passed Unanimously

Winthrop Planning Board
Town Hall
One Metcalf Square
Winthrop, MA 02152

Recommendation to Winthrop Town Council

Request to Amend Town of Winthrop Zoning Map
15-17 Walden Street, MBLU 48//46

Revised & Updated per 12/14/15 Public Hearing

Background

On January 15, 2015, PJP Realty Trust LLC owner of certain real estate at 15-17 Walden St. Winthrop, MA, filed a Petition to request an Amendment to the Town of Winthrop Zoning Ordinance by Amendment to the Zoning Map to apply the provisions of Chapter 17.48 of the Winthrop Zoning Code, Special Development Overlay District (SDOD) to the property located at 15-17 Walden Street. Winthrop Town Council originally referred the Petition to Winthrop Planning Board (WPB) on January 21, 2015.

The Winthrop Planning Board conducted its original Public Hearing on this matter on April 13, 2015, and issued its Recommendation to Town Council on May 16, 2015. A copy of the Findings and Recommendation of the Board resulting from that Public Hearing is attached hereto for reference.

After several months of inconclusive public discussion, the Town Council referred the matter back to WPB for additional consideration on November 17, 2015. WPB directed the Applicant to provide Notice to Abutters and interested parties in accordance with Town policy, and a new Public Hearing was scheduled for December 14, 2015.

On December 11, 2015, the Chair received Notice from an abutter alleging certain inconsistencies in the posting and Notice of the Public Hearing. In particular, the Abutter indicated that postings in Town Hall were not present on one of the bulletin Boards established for that purpose in Town Hall, despite multiple inspections, and provided photographic documentation thereto. Further, the Abutter alleged that information submitted by the Applicant was not provided in a timely manner. After consideration of the Abutter's allegation, and conversations with the Town Clerk's office, the Council President, and the Commonwealth of Massachusetts Attorney General's office, the Chair determined to maintain the schedule and to bring the matter to the Board's attention on 12/14/15, prior to opening the Public Hearing.

On Monday 12/14,15, WPB convened its regularly scheduled Board meeting at 7:00PM. All duly appointed members of the Board were in attendance. As the first order of Business,

the Chair asked the WPB Clerk to report on the posting of the Public Hearing Notice at Town Hall. The Clerk indicated that the Notice was duly posted in two locations in Town Hall, but could not verify whether the document had been inadvertently displaced at any point during the posting period. On the basis of the attestation of the Clerk, conversations with the Council President, discussion with the Attorney General's office, and the public advertisement of the Public Hearing in two successive editions of the Winthrop Transcript, the Chair recommended that the WPB vote to proceed with the Public Hearing. On a motion by Robert Carroll, seconded by Honor Merceret, a motion to proceed with the Public Hearing was approved by a vote of 6-0 (Stasio abstention).

The Public Hearing was opened at approximately 7:15PM, December 14, 2015. Seven members of the Winthrop Planning Board were in attendance, including Chairman Roche, David Stasio, Honor Merceret, Robert Carroll, Vincent Zappulla and Davis Proctor. Member David Stasio requested recusal from the proceeding due to a potential conflict of interest. Clerk to the Winthrop Planning Board also recused herself from meeting due to a conflict of interest arising from her ownership of a residence adjacent to the site proposed for re-zoning.

The Hearing was well attended by the Applicant's counsel, approximately twenty abutters and several interested members of the larger community, including Councilor President Gill, Councilor Sanford, Councilor Varone, and incoming Council President Driscoll.

Chairman Roche opened the Public Hearing with a brief review of the WPB role in reviewing requests for amendments to the Winthrop Zoning Map in accordance with Chapter 17.48, including the findings required under Chapter 17.48.10 to support a positive recommendation for the requested zoning amendment. The Chair also summarized the prior Recommendation of WPB, and the principal Findings that supported the Recommendation. Next, Chairman Roche invited the Atty. McCool (Applicant Counsel) to provide a brief summary of the Applicant's request for the SDOD designation.

Speaking on behalf of Mr. Anderson (Applicant) Mr. McCool made a brief presentation of the procedural and factual matters associated with the request for amendment, and provided WPB with a rendered building elevation to support the Applicant's proposal (att'd). Background information with respect to the use and condition of the existing legal non-conforming use at 15-17 Walden St. is summarized in the prior Recommendation that is attached and referenced hereto. Based upon testimony provided, there has been no change in the condition or use of the building since the April Public Hearing.

Chairman Roche questioned the Applicant's assumption in regard to allowable density for the redevelopment of the site, noting that the limited descriptive information voluntarily provided by Applicant suggests a continued interest in a 20-unit apartment building, which would only be permitted under the "Building Reuse" provisions of the Code. WPB's prior Recommendation had cautioned both the Applicant and the Town Council that it did not consider the project described in the Spring of 2015 to be eligible for consideration as a Building Reuse project. For further discussion of this matter, please refer to the attached 5/16/15 Recommendation.

Upon conclusion of the Applicant's brief presentation, Chairman Roche opened the Hearing to Public Comment.

Mr. Soper, an abutter, reiterated his contention that improper Notice of the meeting was provided, and reserved his rights to dispute any Recommendation that might arise as a result of the deliberation of the Board at its 12/16/15 Hearing. In addition, Mr. Soper expressed his opposition to the 20-unit apartment building that had been discussed at a prior Hearing, and which appears to have been continued during this Hearing. Mr. Soper also indicated that the Board's prior Recommendation erroneously stated that the current zoning district is RA when in actuality the correct district designation is BA. The Chair apologized for the inaccuracy in reporting.

Finally, Mr. Soper alleged that the Building Elevation provided by the Applicant continues to show a garage door along the frontage, a design feature that conflicts with the design standards set forth in Sec 17.48. Another abutter (Kent Elliot) expressed strong opposition to the 20-unit development previously proposed and a lack of trust for the Applicant, but acknowledged that a redevelopment of the site to a quality consistent with previous SDOD projects might be beneficial to the neighborhood. Yet another abutter expressed concern for the proposed scale and massing of a new structure, and the impact on existing solar operations on abutter properties.

With no further comments from the Public, the Chair closed the Public comment period of the Hearing, and invited discussion by the Board. After deliberation the Board offers the following Findings and Recommendation for consideration by Town Council.

Findings

After consideration, the Board finds, as follows:

1. Finding #1, 2, 4, and 5 from the WPB 5/13/15 Recommendation are hereby restated and considered as part of the Revised Recommendation.
2. Prior Finding #4 is restated as follows. The property is a legal non-conforming use in the ~~RA~~ BA Zone. Allowable uses within the ~~RA~~ BA zone are significantly more permissive than the RA Zone. Future uses that might otherwise be developed if the SDOD is not approved could be substantially more deleterious to the neighbors' quality of life and could sustain and exacerbate the underlying incompatibilities that have been a source of frustration for abutters.
3. The Applicant's continued (apparent) reliance upon the reuse provisions of Sec 17.48, despite WPB's Recommendation that no such reliance should be assumed, is troubling and suggests more clear direction may be necessary.
4. Certain abutters may experience unanticipated impacts (e.g. loss of solar access) due to the location, scale and massing of a new construction proposal, or a significant increase in the height of a redeveloped building. These issues should be carefully considered in the design review/special permit process, and all reasonable efforts should be taken to avoid such impacts.

Recommendation

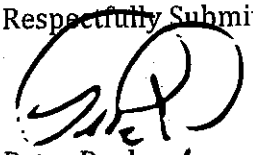
In recognition of the testimony provided and the findings that emerged from WPB deliberation, WPB reiterates and clarifies its prior Recommendation as follows. **Subject to appropriate design review and control**, the proposed re-zoning of the real property at 15-17 St. Walden Street, to apply the provisions of Chapter 17.48, Special Overlay Development District, will encourage the redevelopment of an existing non-residential property that is functionally obsolescent and represents a blighting influence on the adjacent neighborhood.

As indicated in the prior Recommendation, the Board does not believe the Applicant's reliance upon the preservation of a portion of the existing structure to achieve density bonuses under the Building Reuse section of Chapter 17.48 is reasonable or sustainable under that provision of the Code. Prior to rendering a final Decision on the requested amendment to the Zoning Map, the Town Council should seek advice of counsel that WPB has the authority to deny the Applicant's ability to rely ("by-right") upon the Reuse provisions of Chapter 17.48, and the density bonuses that arise thereto.

If counsel cannot provide such assurance, we recommend that the requested re-zoning be tabled until Chapter 17.48 can be amended to assert the necessary controls. The intent of that provision was to incentivize the preservation of buildings with historic and/or architectural significance, the preservation of which would be an asset to the abutters and the broader community. In the absence of a finding to that effect, no density bonus should be granted by-right. Please note that the Board's Recommendation to approve the re-zoning request is expressly conditioned upon this ability to limit the density bonus that may otherwise be available to building re-use projects.

On these bases, WPB voted 6-0 (Stasio abstained) to approve a Motion by Member Carroll, seconded by Member Merceret to recommend approval of the requested Amendment of the Winthrop Zoning Map to apply the provision of the Special Development Overlay District to the property located at 15-17 Walden Street.

Respectfully Submitted,



Peter Roche,
Chairman
January 11, 2016

Winthrop Planning Board
Town Hall
One Metcalf Square
Winthrop, MA 02152

Recommendation to Winthrop Town Council

Request to Amend Town of Winthrop Zoning Map
15-17 Walden Street, MBLU 48//46

Background

On January 15, 2015, PJP Realty Trust LLC owner of certain real estate at 15-17 Walden St. Winthrop, MA, filed a Petition to request an Amendment to the Town of Winthrop Zoning Ordinance by Amendment to the Zoning Map to apply the provisions of Chapter 17.48 of the Winthrop Zoning Code, Special Development Overlay District to the property located at 15-17 Walden Street. Winthrop Town Council referred the Petition to Winthrop Planning Board on January 21, 2015.

Immediately prior to the conduct of a scheduled Public Hearing by the Planning Board, an abutter notified Town of Winthrop that the Petitioner's required Notice to Abutters was deficient. On March 4, 2015, counsel to Petitioner submitted a letter to Planning Board requesting a waiver of the statutory 65-day Hearing period, and requested the re-scheduling of the proposed Public Hearing to enable compliance with Notice provisions. The request was granted, and the Public Hearing was rescheduled for April 13, 2015.

The April 13th Public Hearing was well attended by the Applicant, approximately twenty five abutters and several interested members of the larger community, including Councilor Sanford, Councilor Varone, and Councilor Mael. Chairman Roche indicated that Council President Gill expressed his regrets for his inability to attend due to a conflict with the scheduling of a School Committee meeting.

Attorney David McCool provided testimony that Public Notice requirements for the Public Hearings had been satisfied, and that evidence of such has been provided to the Town Clerk.

Four members of the Winthrop Planning Board were in attendance, including Chairman Roche, David Stasio, Honor Merceret and Davis Proctor. Clerk to the Winthrop Planning Board recused herself from meeting due to a conflict of interest arising from her ownership of a residence adjacent to the site of the proposed re-zoning.

Chairman Roche opened the Public Hearing with a brief review of the WPB role in reviewing requests for amendments to the Winthrop Zoning Map in accordance with Chapter 17.48, including the findings required under Chapter 17.48.10 to support a positive recommendation for the requested zoning amendment. Next, Chairman Roche invited the Applicant and Atty. McCool to provide a brief summary of the Applicant's request for the SDOD designation.

Speaking on behalf of Mr. Anderson (Applicant) Mr. McCool made a brief presentation of the procedural and factual matters associated with the request for amendment, and provided WPB with plot plans, and conceptual designs to support the Applicant's proposal. The site of the requested zoning change is a light industrial building formerly used as a commercial/wholesale bakery ("MuffinTown").

15-17 Walden Street (MBLU 43-10) is a 19,782 sf lot improved by a 2-story masonry/CMU light industrial structure, consisting of approximately 9,349 sf gross building area. Designed primarily to serve for use by warehouse/light industrial uses, the building has limited utility for reconfiguration within the limits established in the underlying RA zone. The Applicant acknowledged that the building is significantly deteriorated, has limited utility for alternative uses, and is incompatible with adjacent, predominantly residential uses. In particular, the building is designed to accommodate significant truck delivery movements, which has been a source of disharmony within the neighborhood. The building has been marketed for alternative light industrial use with very limited success. Given the condition of the building, it's largely vacant status, and the incompatibility of the originally intended use with the surrounding neighborhood, the Applicant made a compelling case that the existing building may be considered functionally obsolescent within the context offered in Chapter 17.48 of the Winthrop Zoning Code.

As part of the presentation to the Board, Applicant provided a conceptual plan for the redevelopment of the property in a manner the Applicant believes to be consistent with the goals articulated within Chapter 17.48 of the code, and the broader interests of the neighborhood and community. That plan proposes to develop a 3 story wood frame building, consisting of twenty (20) multifamily housing units on two floors above an at-grade 40 space parking deck.

Chairman Roche questioned the Applicant's assumption in regard to allowable density for new construction within the SDOD. The proposed density of development is well above that allowed under the SDOD. The Applicant responded that its redevelopment assumptions relied upon the provisions included within the SDOD for "Building Reuse" projects, which provides for significant density bonus for the preservation and adaptive reuse of existing buildings. Upon further questioning, the Applicant acknowledged that less than 10% of the existing building would be "re-used". The Chair expressed serious reservations about Applicant's reliance upon this assumption.

Upon conclusion of the Applicant's presentation, Chairman Roche opened the Hearing to Public Comment. The Board was presented with a Petition signed by approximately 75-100 abutters and neighborhood residents expressing strong opposition to the proposed redevelopment concept and urging the Planning Board and Town Council to deny the request for the requested Zoning Map adjustment to SDOD. Next followed the delivery of testimony by approximately 15 neighbors and abutters including Ms. Kuntz, Mr. Soper, Mr. Quist, Ms. Quist, Mr. Casey, Ms. Silverton, Mr. Varone, Mr. Elliot, Mr. Carolyn, Mr. O'Connor and Ms. Costello, all expressing opposition to the proposed reuse project, and providing testimony that the proposed density of the development would increase traffic hazards, reduce property values, and be disharmonious with the primarily single family residential development that is located adjacent to the proposed structure. Mr. Soper, in particular, challenged the consistency of the Applicant's redevelopment assumptions with the provisions set forth in Chapter 17.48 citing, in particular, the proposed FAR and the existence of garage doors along the frontage.

Upon further questioning by the Chair, a significant majority of the abutters acknowledged that the existing building is incompatible with the neighborhood, is functionally obsolescent, and should be redeveloped. The opposition to the SDOD designation is based primarily upon the Applicant's proposed redevelopment concept. Chairman Roche indicated that the approval of SDOD designation would in no way represent concurrence with the proposed redevelopment concept, which would be the subject of a detailed Public Hearing and Site Plan review process if the SDOD designation was approved and the Applicant decides to proceed.

Additional testimony was provided by certain representatives of the community including Mr. Polino, a local realtor, who expressed his opinion that there are few, if any, economic uses for the building as currently configured and indicated his support for the proposed rezoning. Councilors Mael and Sanford indicated that they were in attendance to hear the discussion and would make their comments known during the consideration of the request by Town Council. Chairman Roche indicated that Council President Gill was unable to attend the meeting due to a conflict with School Committee, but expressed his strong interest in the proceeding.

With no further comments from the Public, Chairman Roche summarized his understanding of the public comment to include the fact that the opposition to the SDOD designation is primarily founded in opposition to the proposed development concept, rather than a categorical opposition to redevelopment of the functionally obsolescent Muffin Town building. Hearing no dissent, Mr. Roche closed the Public comment period of the Hearing, and invited discussion by the Board.

Findings

After consideration, the Board finds, as follows:

1. The site consists of approximately .5 acres of land (19,782sf), improved by a 9,349 sf industrial masonry structure with no significant architectural character, and is not worthy of preservation.
2. The former use of the building, light industrial/warehouse/bakery, is functionally obsolete, incompatible with adjacent residential uses, and at risk of extended disinvestment if flexibility in zoning is not permitted.
3. The property is a legal non-conforming use in the RA Zone. Allowable uses within the RA zone are quite limited and are generally inconsistent with the preservation and reuse of the existing 9,349 sf masonry structure.
4. Although the site is located in close proximity to the CBD Zone, the municipal complex, the Cummings School, two large multifamily developments (RB), the immediately adjacent uses are predominantly single-family homes. Any future redevelopment must take serious consideration of the impact on the quality of life and property values of abutting uses.
5. The Special Permit process included within Chapter 17.48 will provide a thorough review of the concerns expressed by abutters, and assure that those concerns are considered in any subsequent reuse of the site.

Recommendation

In recognition of these findings, and after serious consideration of the testimony provided by Applicant and abutters, WPB recommends as follows. The proposed Re-Zoning of the real property at 15-17 St. Walden Street, to apply the provisions of Chapter 17.48, Special Overlay Development District, will encourage the redevelopment of an existing non-residential property that is functionally obsolescent and represents a blighting influence on the adjacent neighborhood.

While the Board does not comment on conceptual development plans presented in advance of the Special Permit process, the Board does not believe the Applicant's reliance upon the preservation of a portion of the existing structure to achieve density bonuses under the Building Reuse section of Chapter 17.48 is reasonable or sustainable under the provisions of that provision of the Code.

On the basis of these Findings, WPB voted their unanimous approval of a Motion by Member David Stasio (second by Member Honor Merceret) to recommend approval of the requested Amendment of the Winthrop Zoning Map to apply the provision of the Special Development Overlay District to the property located at 15-17 Walden Street.

Respectfully Submitted,

Peter Roche,
Chairman
May 16, 2015