

**TOWN OF WOLFEBORO
PLANNING BOARD
December 16, 2014
MINUTES**

Members Present: Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Brad Harriman, Selectmen's Representative, Mike Hodder, John Thurston, Paul O'Brien, Vaune Dugan, Members, Dave Alessandrone, Chuck Storm, Alternates.

Staff Present: Rob Houseman, Director of Planning & Development, Lee Ann Keathley, Secretary.

Chairman Barnard opened the meeting at 7:00 PM at the Wolfeboro Public Library.

I. Public Hearings

Central Business District Zoning Changes

Rob Houseman reviewed the proposed zoning changes to the Central Business District, see attached.

Chairman Barnard opened the public hearing.

Tim Melanson expressed concern regarding 5' setbacks; noting the properties located in the CBD do not have a lot of land and questioned the impact of the setbacks on those properties. He stated the setbacks would impact his property and asked if the proposal impacts other lots.

Mike Hodder asked Mr. Melanson what he would recommend.

Tim Melanson replied zero lot lines.

Vaune Dugan verified zero lot lines on existing commercial lots.

Tim Melanson stated a lot of land is taken when the side and rear setbacks are 5' and noted an overhang would be a 6.5' impact.

Rob Houseman stated the Melanson property is 60'x60' (.09 acre) and noted the front of the building is 7' from the property line.

Vaune Dugan verified the roof of the building overhangs the sidewalk and questioned whether the sidewalk is on the property.

Tim Melanson replied no. He noted there is a gas tank buried on the property for heating purposes; noting a 5' setback could be a potential hardship in the future.

Rob Houseman stated the setback impacts the footprint of a structure.

Tim Melanson questioned the need for the change.

Rob Houseman stated winter sidewalk maintenance is a continuous problem.

Linda Murray asked what other zones inns are permitted.

Rob Houseman replied Bay Street Limited Business District and Wolfeboro Falls Limited Business District.

Linda Murray stated the EDC continues to receive feedback that the one thing that Wolfeboro is short on is places to stay. She recommended looking at allowing inns in additional zones (Route 109A and areas that have Town sewer) or allow for larger inns; noting the proposal limits the number of rooms. She stated the EDC has contacted Best Western; noting parents of Brewster Academy students can't get rooms in Wolfeboro and go to Rochester to stay and then shop in the Rochester area.

Vaune Dugan asked Ms. Murray if she is in favor of inns in the Downtown.

Linda Murray replied yes.

Paul O'Brien asked if the EDC has come up with a number of beds they'd like to see.

Rob Houseman stated the EDC is currently discussing the issue and is discussing hiring a third party to perform the analysis for such. He stated they are discussing funding such through WEDCO.

Kathy Barnard verified the EDC wants the number of beds increased and questioned the Chamber of Commerce's input.

Linda Murray stated she does not know the Chamber of Commerce's position.

Brad Harriman asked if other zones allow inns by Special Exception.

Rob Houseman replied no.

Vaune Dugan stated the Board tried to include inns along the Route 28 corridor however, the people objected to such.

Linda Murray stated there is no sewer available on Route 28 and stated Downtown shopping and a walkable community should be promoted.

There being no further questions or comments, Chairman Barnard closed the public hearing.

Kathy Barnard stated Tim Melanson brought up a legitimate issue; noting many properties in the CBD have zero lot lines.

Vaune Dugan stated the only negative is with regard to street frontage; noting she can't rationalize a 5' setback wrapping a property. She recommended a 5' front setback and 5' side setback for corner lots.

The Board discussed the burden of the proposal to commercial properties by increasing the setback from zero to 5'. The Board confirmed that existing structures would be grandfathered, steps/ramp/front entrance must be located on the property and not within the right-of-way and discussed impact to landscaping within the setback.

It was moved by John Thurston and seconded by Mike Hodder to modify the proposed changes to the Central Business District as follows; change front, side and rear setback from 5' to zero for commercial properties (setbacks for residential and multifamily remain as proposed). All members voted in favor. The motion passed.

The Board scheduled a second public hearing for Central Business District Zoning Changes on January 20, 2015.

Nonconforming Uses

Kathy Barnard stated the proposal would allow for a change of use to a less nonconforming use.

Rob Houseman reviewed the proposed Nonconforming Uses, see attached.

Chairman Barnard opened the public hearing.

Linda Murray questioned what defines and/or justifies less conforming.

Kathy Barnard stated the Board is trying to provide flexibility.

Mike Hodder stated it is impossible to quantify all possible lessening therefore, the Board chose to use a standard of flexibility.

Linda Murray stated she is not opposed to the proposal however, feels that it is subjective.

Tim Melanson agreed with Ms. Murray and questioned what is less. He stated he understands the intent however, noted that Mr. Houseman and the current Board members may not be here in the future. He stated the proposal is a great concept but, noted that potential issues could arise. He stated the Board could approve one application and deny another with identical properties however, different applicants.

Mike Hodder stated he feels the application of standard of less is self-explanatory.

Rob Houseman stated that if both lots can demonstrate the reduction of the nonconformity then the application gets approved.

Linda Murray stated it leaves it open to inconsistent actions by the Board.

There being no further questions or comments, Chairman Barnard closed the public hearing.

Vaune Dugan stated she is comfortable with the proposed language and also understands how the next Board could interpret it differently. She questioned whether “in kind, the same or better” should be added.

Dave Alessandroni verified that the use could be changed.

Paul O’Brien stated the Board needs to be consistent.

Vaune Dugan questioned whether the language “equal to” or another equivalent” should be added.

Mike Hodder stated the ordinance already allows for such.

Brad Harriman asked at what point does a change to a less nonconforming use trigger stormwater management.

Rob Houseman stated any proposal that triggers a change in storm drainage.

Brad Harriman stated parking spaces would trigger stormwater management; noting the change doesn’t have to be a physical change to a building.

John Thurston stated green space is guaranteed if one parking space is changed.

Mike Hodder stated the effect of the proposed change is to allow more flexibility to property owners; noting such is a benefit.

Dave Alessandroni agreed with Ms. Dugan with regard to adding the language “equivalent to”.

Rob Houseman stated such would require a second public hearing.

Kathy Barnard stated she favors that the change would be effected through the Site Plan Review process; noting such includes the public hearing process.

Dave Alessandrone stated that once a decision is made the Board has to follow the precedent set.

It was moved by Paul O'Brien and seconded by Mike Hodder to move Nonconforming Uses to Town Warrant as written. All members voted in favor. The motion passed.

II. Work Session

Petitioned Warrant Article

Rob Houseman stated Town Counsel's letter, dated 11/20/14, is stamped confidential. He stated he feels it is appropriate to release the information to the public including the EDC, Chamber of Commerce and Agriculture Commission.

Mike Hodder stated he is not comfortable releasing the email; noting the minutes are available for review and the Board will vote to either recommend or not recommend the Petitioned Warrant Article.

Rob Houseman stated the opinion received is for the Board's benefit; noting Town Counsel opined that the Petitioned Warrant Article is valid and advised how to incorporate the changes the article is calling for if it passes.

Mike Hodder stated there is no need to read Town Counsel's opinion verbatim and recommended Staff outlines the changes necessary as recommended by Town Counsel at the public hearing.

Rob Houseman stated the ballot will include the actual language of the article.

John Thurston asked if the Board consistently releases opinions from Town Counsel.

Kathy Barnard replied no, the Board uses the opinions as guidance.

Paul O'Brien stated that based on Ms. Barnard's response, he agrees the email should not be released.

Mike Hodder stated he feels that if the information is released to the public it will generate negative political energy. He asked if input has been received from the EDC, Chamber of Commerce and Agriculture Commission.

Rob Houseman replied no.

It was moved by Vaune Dugan and seconded by Stacie Jo Pope to not release Town Counsel's opinion relative to the Petitioned Warrant Article as per the Board's general practice, to take Town Counsel's opinion into consideration and present such as a point of reference at the public hearing. Vaune Dugan, Stacie Jo Pope, Kathy Barnard, Brad Harriman, Paul O'Brien, John Thurston voted in favor. Mike Hodder abstained. The motion passed.

➤ Sign Ordinance

Public forum scheduled for 1/20/15.

➤ Historic Buildings

Kathy Barnard stated the consultant has asked what the Board wants inventoried and requested the Board advise Mr. Houseman of such.

The Board agreed to inventory buildings from 1940.

➤ **Landscaping Ordinance**

Kathy Barnard stated Paul O'Brien, John Thurston, Vaune Dugan, Dave Ford, Kirk Titus and she will schedule to meet after the first of the year.

III. Public Comment

None.

IV. Informational Items

Rob Houseman reviewed the following informational items; the Board's memorandum to Barry Muccio regarding crosswalk lighting, Norway Plains' memorandum regarding Green Mountain Realty Corporation, Impact Fees, LRPC Annual Report and Notices of Decision. He stated Dave Ford, Barry Muccio and he would be convening a night time evaluation of lighting and location of crosswalks; noting he would provide recommendations as a result of such. He stated Dave Ford will review alternative ways to light crosswalks.

V. Planning Board Subcommittee Reports

TRC: 12/10/14 ~ reviewed the redevelopment of KLM Scientific and Collden Farm Subdivision.

VI. Approval of Minutes

December 2, 2014

Correction: Page 3, Landscaping Ordinance; add Guest: Kirk Titus, Tree Warden

It was moved by Mike Hodder and seconded by Paul O'Brien to approve the December 2, 2014 Wolfeboro Planning Board minutes as amended. All members voted in favor. The motion passed.

VII. New/Other Business

None.

It was moved by Mike Hodder and seconded by Stacie Jo Pope to adjourn the December 16, 2014 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.

There being no further business, the meeting adjourned at 8:53 PM.

Respectfully Submitted,
Lee Ann Keathley
Lee Ann Keathley

*****Please note these minutes are subject to amendments and approval at a later date.*****

12/12/2014

Proposed Zoning Changes

- Central Business District
- Nonconforming Use

12/12/2014

Planning Board

- Kathy Barnard, Chairman
- Stacie Jo Pope, Vice Chairman
- Brad Harriman, Selectmen's Rep
- Vaune Dugan
- Mike Hodder
- Paul O'Brien
- John Thurston
- David Alessandroni, Alternate
- Chuck Storm, Alternate

12/12/2014

AGENDA

- Ordinance Presentation
- Public Hearing

Article XIV. Commercial District C1
Central Business District

§ 175-90. Setback requirements; height requirements; coverage.

- A. Setback requirements.
- (1) Front yard: (street) 5
- (2) Commercial establishments: 30 feet
- (3) Single family: 30 feet
- (4) Multi-family: 10 feet
- (5) Side yard: 5
- (6) Commercial establishments: 10 feet
- (7) Single family: 10 feet
- (8) Multi-family: 5 feet
- (9) Rear yard: 5
- (10) Commercial establishments: 10 feet
- (11) Single family: 10 feet
- (12) Multi-family: 5 feet

Article XIV. Commercial District C1
Central Business District

§ 175-91. Permitted uses.
 [Amended 3-9-2010 ATM by Art. 3]
 E. Commercial establishments (stores and shops for the conduct of retail business or personal service):

- (1) Offices.
- (2) Restaurants.
- (3) Banks.
- (4) Indoor theater.
- (5) Similar community services.
- (6) Inns.^{1,2}

NOTES:
¹Requires Planning Board approval under the provisions of RSA 676:1.
²The use shall require a special use permit and compliance with all applicable zoning and life safety codes.
The use shall not be exempt from the parking requirements as provided for in § 175-130.8.

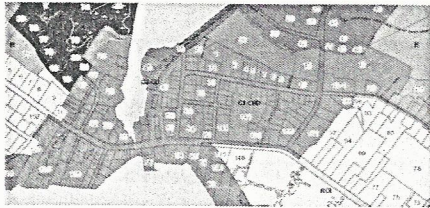
Article XIV. Commercial District C1
Central Business District

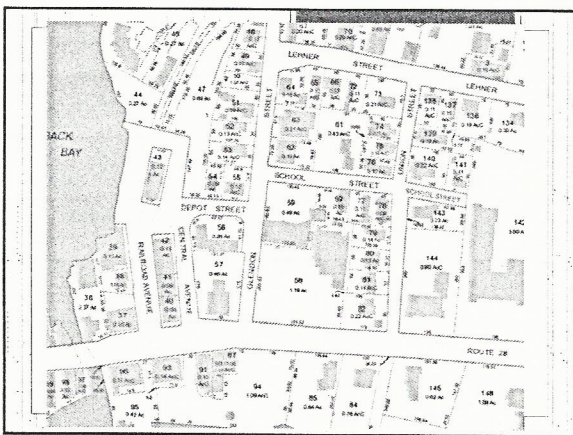
Definition

INN
 A single building containing 50 or fewer sleeping rooms and built or converted to accommodate, for a fee, travelers who are staying for one month or less. An inn may provide dining services to its guests and may host special functions, such as weddings and conventions.

12/12/2014

Article XIV. Commercial District C1
Central Business District





12/12/2014

Article XIV. Commercial District C1
Central Business District

- Public Hearing
- Setback Change
- Include Inns as a permitted Use

§ 175-43. Nonconforming uses.

Article VI. General Provisions

A. Expansion.

(1) A nonconforming building or structure may be maintained or rebuilt as it existed at the time of the passage of this section and may, by special exception, be expanded by no more than 25% of its existing area at that time.

(2) A nonconforming use occupying a portion of a parcel of land or a portion of a building may, by special exception, be expanded by no more than 25% of the portion of the parcel of land or building dedicated to the nonconforming use at the time of passage of this section; provided, however, that nonconforming signs may not be expanded.

B. Abandonment. Any nonconforming use that is discontinued or abandoned for a period of one year or more cannot be resumed.

Proposed addition to the ordinance:

A. Routine Maintenance. Routine maintenance and repairs of the building or structure housing the nonconforming use as well as those modifications required by applicable health and safety codes shall be permitted by the zoning Administrator.

B. Nonconforming Status of Projects Under Construction. Any use of a building for which a building permit has been issued prior to the adoption or amendment of these regulations and the erection of which is in conformity with the plans submitted and approved for such permit, but that does not conform to the use provisions of these regulations, shall be a nonconforming use, and may be continued or modified in accordance with the following provisions.

C. Continuation of a Nonconforming Use. Any nonconforming use may be continued, except that if any such nonconforming use is abandoned or desisted or voluntarily or by legal action caused to be discontinued for a period of one (1) year, then any subsequent use of the building, other structure or use of the land shall be required to be in conformity with the provisions of these regulations.

§ 175-43. Nonconforming uses.

D. Conversion of a Nonconforming Use to an Allowed Use. A nonconforming use may be converted to a permitted use or use permitted by Special Exception in the zone in which it is located. Once a nonconforming use is converted to a conforming use, it may not revert to a nonconforming status. A building or structure containing a nonconforming use may be enlarged, extended, reconstructed or structurally altered if said use is changed to a permitted use and the building or structure completely conforms to the provisions of these regulations.

E. A nonconforming use may, upon site plan review approval, be changed to another, less nonconforming use.

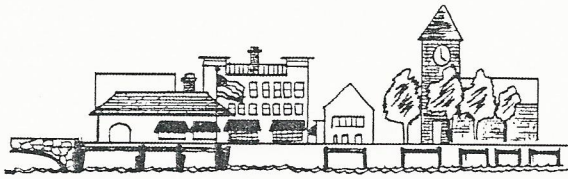
DEFINITION: Less Nonconforming: a use that, while not permitted or permitted by special exception, once changed is more nearly conforming to the regulations and ordinance.

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12/12/2014

§ 175-43. Nonconforming uses.

- Public hearing



Planning and Development

*Town of
Wolfeboro*

Memorandum

To: Planning Board

From: Robert T. Houseman, Director of Planning and Development

Date: December 12, 2014

Re: Central Business District

Below please find suggested changes to the Central Business District Ordinance.

The changes include:

- A singular setback standard for all use types. I have proposed:
(1) Front yard (street): 5
(2) Side yard: 5
(3) Rear yard: 5

This recommendation is based on the current development patterns within the district. Only a very small portion of the CBD has no setbacks.

- The addition of the inn as a permitted use with the following requirements:
¹Requires Planning Board approval under the provisions of RSA 676:4.
²The use shall require a change of use permit and compliance with all applicable building and life safety codes.
³**The use shall not be exempt from the parking requirements as provided for in § 175-130.B.**

This section states:

B. CBD and WF Districts. Parking requirements under this article shall not apply to a change to a commercial use or an expansion of a commercial use that does not include an addition or expansion of the

existing square footage of the building in these districts; provided, however, that the number of parking and loading spaces available on site shall not decrease. Additions/expansions of the existing square footage of the building shall meet the requirements of this article.

The intent of this note would be to require full compliance with the parking ordinance for the conversion of existing building to an Inn. New construction is already required to comply with the parking ordinance. Attached are the applicable sections of the parking ordinance for your review.

Article XIV. Commercial District C1 Central Business District

§ 175-88.7. Purpose.

The Central Business District is designed to protect the character of the existing downtown, maintaining its pedestrian scale, while promoting a healthy mix of retail, professional office, medical and residential uses within the district and promoting mixed uses on individual properties. It is intended to enable the downtown to remain a vibrant, compact commercial center, serving the needs of community residents, the region and tourists as the economic center, and to promote a complementary and diverse mix of commercial and residential uses.

§ 175-89. Dimensional controls.

A. Minimum lot area:

- (1) Commercial: none required.
- (2) Single-family/duplex: 21,780 square feet (Town sewer and water required).
- (3) Multifamily: 6 units per acre (Town sewer and water required).

B. Minimum lot frontage: 50 feet.

§ 175-90. Setback requirements; height requirements; coverage.

A. Setback requirements.

- (1) Front yard (street): **5**
 - (a) Commercial: none required.^a
 - (b) Single-family/duplex: 30 feet.
 - (c) Multifamily: 10 feet.
- (2) Side yard: **5**
 - (a) Commercial: none required.^a
 - (b) Single-family/duplex: 10 feet.
 - (c) Multifamily: 6 feet.^b

(3) Rear yard: 5

(a) Commercial: none required.^a

(b) Single-family/duplex: 10 feet.

(c) Multifamily: 6 feet.^b

B. Maximum height permitted: 30 feet, for structures with roofs with a pitch of less than 10/12, and 35 feet if 10/12 or greater. However, the height restrictions shall not apply to appurtenant structures, such as church spires, belfries, cupolas, domes, chimneys, flagpoles, antennas or similar structures, provided that no such structure shall exceed a maximum footprint of 144 square feet.

NOTES: ^aWhere lots within these districts share a boundary line with a lot which lies in any residential district, yard requirements as measured from those shared boundary lines shall be as indicated under all other commercial districts. ^bIn yard areas which abut a residential district, parking shall not be permitted. ^cCentral Business District: Yard area along the shore front shall have a minimum depth equal to the vertical distance between the lowest and highest points of the structure, not including appurtenant structures such as spires, cupolas and domes

C. Percent coverage: 100%.

§ 175-91. Permitted uses.

[Amended 3-9-2010 ATM by Art. 3]

A. One of the following dwelling unit structures is permitted per lot:

(1) One single detached dwelling per lot.

(2) One accessory apartment.

(3) One duplex dwelling per lot.

B. Accessory structures.

C. Accessory uses.

D. One home occupation, occupying up to 500 square feet of the single-family dwelling (requires TRC approval).

E. Commercial establishments (stores and shops for the conduct of retail business or personal service).

(1) Offices.

(2) Restaurants.

(3) Banks.

(4) Indoor theater.

(5) Similar community services.¹

(6) Inns.^{1,3}

F. Signs, no more than two per business, including add-on signs.

G. Nursing or convalescent homes, and the like.¹

H. Multifamily dwellings.¹

I. One accessory dwelling unit per principal commercial building. (No density requirements shall apply.)¹

J. Conversion of structure to a bed-and-breakfast.¹

K. Conversion of a permitted use to another permitted use and no change to the exterior of the building or parking is required.²

[Amended 3-12-2013 ATM by Art. 2]

NOTES:

¹Requires Planning Board approval under the provisions of RSA 676:4.

²The use shall require a change of use permit and compliance with all applicable building and life safety codes.

³The use shall not be exempt from the parking requirements as provided in § 175-130.B.

§ 175-92. Special exception uses.

[Amended 3-9-2010 ATM by Art. 3]

Uses which may be permitted by special exception shall be as follows:

A. Dispensing of marine fuels.¹

B. Nonprofit educational institutions.¹

C. Public parks and playgrounds.¹

D. Hospitals for the treatment of human beings.¹

E. Libraries, museums and the like.¹

F. Uses necessary to the above.¹

G. Affordable nonprofit housing for the elderly and affordable nonprofit workforce housings.¹

¹ NOTE: Requires Planning Board approval under the provisions of RSA 676:4.

§ 175-92.1. Other requirements.

[Added 3-9-2010 ATM by Art.3]

A. Development standards.

(1) Parking. No new parking shall be located on the portion of the lot between the front wall of the principal building and the front property line. This restriction shall apply to the full width of the lot. For corner lots, this restriction shall apply to all frontages abutting a public street.

(2) Vehicular access. No new vehicular access or driveway shall be located or pass between the front wall of the principal building and the front property line.

(3) Building setback. The front wall of the principal building shall be located within 15 feet of the front property line.

(4) Pedestrian area. The area directly in front of the front wall of the building and extending to the front property line shall be maintained as a pedestrian area and shall be improved with appropriate amenities to link the building with the sidewalk and to encourage pedestrian and/or customer use of the space.

(5) Front entrance. The front wall of the principal building shall contain a front door providing access to the building for tenants, customers, or users of the building.

(6) Treatment of the front facade. The front wall of the principal building shall be designed to include windows appropriate to the proposed use. On the first floor, not less than 20% of the surface area of the front wall shall be windows. On upper floors, not less than 10% of the surface area shall be windows.

B. For additional requirements, see:

(1) Article XXII, Off-Street Parking and Loading Requirements.

Article XXII. Off-Street Parking and Loading Requirements

[Amended 3-8-2011 ATM by Art. 4]

§ 175-128. Purpose and intent.

Any use of land involving the arrival, departure, or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, shall be designed and operated to:

A. Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street.

B. Increase the traffic-carrying capacity of streets and highways in the Town and obtain a more efficient utilization of on-street curbside parking.

C. Reduce hazards to pedestrians upon public sidewalks.

D. Encourage bicycling and pedestrian pathways and facilities.

E. Protect adjoining lots and the general public from nuisances and hazards such as:

(1) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles.

(2) Glare and heat from parking lots.

(3) A lack of visual relief from expanses of paving.

(4) Accelerated runoff of surface water from land covered by impervious materials.

§ 175-129. Issuance of permits.

No building permit or certificate of occupancy shall be issued for the erection of a new building, the enlargement or increase in the floor area of an existing building, the development of a use not located in a building, or the change from one type of use to another, unless off-street parking spaces or loading bays are provided in accordance with this article.

§ 175-130. Change or expansion of use.

A. Central Business District parking requirements. In the CBD, parking shall be evaluated in a different manner. Typically, on-site parking is insufficient or is lacking completely. However, the downtown currently functions and people do find parking, so rather than establishing a number of spaces required, it is hereby determined that the amount of on-site parking is a base from which to analyze changes in parking demand. New or changing uses shall be evaluated from the perspective of changes in the demand for on-site parking. Proposed changes which decrease demand shall be permitted. Proposed additions and new buildings with no increase in demand shall be permitted only upon provision of additional parking spaces in an amount equal to the increase in parking demand. Such spaces may be provided by one or more of the following means:

(1) Additional on-site parking spaces.

(2) Off-site parking spaces, located within 500 feet of the site. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principal pedestrian entrance to the building housing the use. Such off-site parking shall not reduce the required parking for any other use utilizing the property on which it is located unless such shared use is approved by the Planning Board. The right to use the off-site parking must be guaranteed for the duration of the use as evidenced by a deed, lease, easement, or similar written instrument as may be approved by the Town Attorney. The off-site parking shall be located in the Central Business District.

(3) Fee in lieu of parking. The Planning Board may allow that fees be paid in lieu of providing all or a portion of the off-street parking spaces required for a use. Fees in lieu of parking shall be \$_____ per deficit parking space and shall be paid in full prior to the issuance of a building permit. The payment of fees in lieu of parking

will be made to the Fees in Lieu of Parking Fund to be used solely for the purpose of creating and maintaining public parking in the CBD.

B. CBD and WF Districts. Parking requirements under this article shall not apply to a change to a commercial use or an expansion of a commercial use that does not include an addition or expansion of the existing square footage of the building in these districts; provided, however, that the number of parking and loading spaces available on site shall not decrease. Additions/expansions of the existing square footage of the building shall meet the requirements of this article.

C. All other districts. Changes of use shall meet the requirements of this article. Expansions of use shall require additional parking and loading for said expanded area as required by this article.

§ 175-131. Shared parking.

The Planning Board may approve the joint use of parking spaces by two or more establishments or uses on the same or contiguous lots, the total capacity of which is less than the sum of the spaces required for each, provided that the Board finds that the following standards are met:

A. The parking provided meets the intent of the requirements during the peak use required by such establishments.

B. The approval by the Planning Board of such parking spaces shall be upon the following conditions:

(1) The approval granted will automatically terminate upon the termination of any establishment participating in the joint use.

(2) The approval will automatically terminate upon any substantial change in the time pattern of the joint use of spaces by any establishment participating therein which results in the total spaces provided being insufficient for the combined requirements of the users.

§ 175-132. Location of off-street parking spaces.

Required off-street parking spaces shall be provided on the same lot or premises with the building or land they serve, except as follows:

A. Parking spaces required for buildings or land uses on two adjoining lots may be provided in a single common facility on one or both of said lots.

B. The provision of off-lot, off-street parking spaces shall be limited to nonresidential uses. All required off-street parking spaces, other than those in a parking facility, shall be located only in a zoning district in which the use being served by those spaces is a permitted use.

Chapter 175. ZONING

Part 1. Planning and Zoning

Article VI. General Provisions

§ 175-43. Nonconforming uses.

A. Expansion.

(1) A nonconforming building or structure may be maintained or rebuilt as it existed at the time of the passage of this section and may, by special exception, be expanded by no more than 25% of its existing area at that time.

(2) A nonconforming use occupying a portion of a parcel of land or a portion of a building may, by special exception, be expanded by no more than 25% of the portion of the parcel of land or building dedicated to the nonconforming use at the time of passage of this section; provided, however, that nonconforming signs may not be expanded.

B. Abandonment. Any nonconforming use that is discontinued or abandoned for a period of one year or more cannot be resumed.

 Proposed addition to the ordinance:

A. Routine Maintenance. Routine maintenance and repairs of the building or structure housing the nonconforming use as well as those modifications required by applicable health and safety codes shall be permitted by the Zoning Administrator.

B. Nonconforming Status of Projects Under Construction. Any use of a building for which a building permit has been issued prior to the adoption or amendment of these regulations and the erection of which is in conformity with the plans submitted and approved for such permit, but that does not conform to the use provisions of these regulations, shall be a nonconforming use, and may be continued or modified in accordance with the following provisions.

C. Continuation of a Nonconforming Use. Any nonconforming use may be continued, except that if any such nonconforming use is abandoned or desisted or voluntarily or by legal action caused to be discontinued for a period of one

(1) year, then any subsequent use of the building, other structure or use of the land shall be required to be in conformity with the provisions of these regulations.

D. Conversion of a Nonconforming Use to an Allowed Use. A nonconforming use may be converted to a permitted use or use permitted by Special Exception in the zone in which it is located. Once a nonconforming use is converted to a conforming use, it may not revert to a nonconforming status. A building or structure containing a nonconforming use may be enlarged, extended, reconstructed or structurally altered if said use is changed to a permitted use and the building or structure completely conforms to the provisions of these regulations.

E. Change of a Nonconforming Use to another Nonconforming Use. A nonconforming use may, upon site plan review approval, be changed to another, **less nonconforming** use.

Less Nonconforming is defined as a use that, while not permitted or permitted by special exception, once changed is more nearly conforming to the regulations and ordinance.