

2019 04 06 Planning and Regulation Subcommittee Report on WA 13-15 Related to the Creation of the Waldo Durgin Overlay District

The Planning and Regulation Subcommittee of the Advisory Committee met in Town Hall, Room 103 on April 4, 2019, for a discussion and public hearing on Warrant Article 13, submitted by Neil Wishinsky on behalf of the Coolidge Corner Study Committee and other residents; and Warrant Articles 14 & 15, submitted by the Board of Selectmen. Attending were P&R Subcommittee members Steven Kanen, Carol Levin and Lee Selwyn; Janet Gelbart, ad hoc Subcommittee member; Neil Wishinsky, Chair of the Select Board; Jonathan Simpson, Associate Town Counsel; Kara Brewton, Economic Development Director; Members of the Coolidge Corner Study Committee: Sergio Modigliani, Lauren Bernard, Frank Caro, Ken Lewis, and Linda Olson Pehlke; EDAB Co-Chair Paul Saner; and Marc Levin, Jacob Bloom and Bob Allen representing CHR; as well as members of the public (see attached sign-in sheet).

SUMMARY

Warrant Articles 13 – 15 are an interrelated group of articles concerning the development site described as 8 -10 Waldo Street, 10-18 Pleasant Street and 16 John Street in Coolidge Corner referred to as “Waldo Durgin.” They are the culmination of a two-year effort by the Town, as represented by the Coolidge Corner Study Committee, and Chestnut Hill Realty (CHR) the developer. The Subcommittee views Warrant Articles 13 – 15 as the best possible outcome for both the Town, the Coolidge Corner neighborhood and business community. By a vote of 3-0-1, the Subcommittee recommends FAVORABLE ACTION on Warrant Articles 13 – 15 as presented. CHR has indicated they will not consider amendments to the draft MOA which is included in the explanation of WA 14.

BACKGROUND

The Town of Brookline has undertaken multiple planning efforts and studies for this area of Coolidge Corner dating back to 2005. The Coolidge Corner Study Committee (CCSC) was formed in 2016 by the Select Board in response to proposals to construct 40(b) developments at the sites of the current Holiday Inn and the Waldo Durgin garages. The Select Board recognized that the redevelopment at either of the sites would have a significant impact on the surrounding neighborhoods. The CCSC was authorized to work to draft “proposed terms for a Memorandum of Agreement with either Developer to address design, financial, operational, environmental and other matters relative to their respective projects and the Sites so that the net results benefit both the Town and the Developers.” The Holiday Inn proposal was withdrawn, and since the fall of 2017 the CCSC focused its efforts on Waldo Durgin.

The CCSC consists of 15 members including representatives from EDAB, the Planning Board, HAB, and the neighborhood, and having backgrounds in architecture, development, housing and law. The CCSC met 37 times, with all meetings including public comment. Two of these meetings were held at the Waldo Garage and enjoyed a high attendance by local residents and business owners. The CCSC was aided in its work by outside professional consultants including Pam McKinney, the Town’s development consultant; Environmental Partners, which performed

the initial traffic study; and a 2013 report the Town commissioned from Structures North titled “Existing Conditions & Re-Use Feasibility Report of the Durgin Garage.”

OBJECTIVES

The CCSC sought to mitigate any adverse impacts a development might have on the community, while encouraging development which supports other goals and characteristics valued by the Town. Consideration was given, but not limited, to:

- Building massing and density
- Public realm enhancements and Open Space creation/connectivity
- Environmentally friendly design elements and materials
- Existing zoning
- Legal considerations
- Locations, size, and design of parking facilities
- Physical and economic conditions
- Financial feasibility
- Feasibility of uses including those proposed by the Developers
- Historic preservation/character of the surrounding neighborhood
- Transportation/circulation of pedestrians and bicycles
- Synergy with other potential mixed-use redevelopments in the district
- Public benefits proffered to the Town
- Net fiscal impact to the Town
- The Coolidge Corner business community
- Affordable housing.

The resulting three Warrant Articles are thought to achieve an optimization of the Town’s goals and values, while minimizing the potential adverse impacts of the redevelopment of the Waldo Durgin Site.

DESCRIPTION OF INDIVIDUAL WARRANT ARTICLES

Warrant Article 13 seeks to amend the Town’s Zoning By-Law to create the Waldo Durgin Overlay Zoning District. It establishes criteria under which a Special Permit may be granted to allow the construction of an 8 and 10 story, 210 room hotel building; a 13 story, 143 unit residential building with ground floor and mezzanine commercial space; and a 289 space underground parking garage.

Warrant Article 14 will authorize the Select Board to enter into and/or amend as necessary, any new or existing agreements to affect the full benefits and protections stipulated in the draft Memorandum of Agreement (MOA) included in this Article and the related Tax Certainty Agreement.

Warrant Article 15 will authorize the Town to accept a Restrictive Covenant to be recorded on the land, entitled “Tax Certainty Agreement.” The Tax Certainty Agreement will protect the tax benefits flowing to the Town from this development for 95 years.

BENEFITS TO THE TOWN

CHR has filed a to develop a 299 unit residential building as a Comprehensive Permit under MGL Chapter 40B project for this site. The 40B project does not have to conform with current zoning, and the Town has limited control over the final project. In contrast, the Zoning Overlay District process gives the Town a great deal of influence over the final mixed-use development and presents the opportunity to create a variety of benefits to the Town unavailable under the 40B. The following is a partial list of the benefits to the Town under the mixed-use development permitted by these Warrant Articles as compared to the proposed 40B project (see chart):

- a. Size: The mixed-use development will total 350,000 SF, a reduction of 50,000 SF from the 40B.
- b. Building Height: An 8 and 10 story hotel building and a 13 story residential building compared to a single 12 story residential building.
- c. Massing: The buildings have been positioned on the site so as to minimize the shadows cast on the existing abutting residential units. There is no opportunity to influence the siting under 40B.
- d. Parking: 289 “unbundled” underground parking spaces with a certain number designated for abutters and members of the general public to replace existing surface lots. This number is lower than permitted under current zoning. Under the 40B there are 41 surface and 292 underground spaces for the exclusive use of the residential building. In addition, in the event of a decrease in future demand for parking, the MOA provides for retrofitting a portion of the underground garage for other uses.
- e. Residential Units & Affordable Housing: 143 one and two bedroom units (199 total bedrooms) of which 11 will be designated affordable, plus a \$3,275,000 payment to the Town’s Affordable Housing Trust Fund. This payment has the potential to create approximately 60 additional units depending on market conditions, in a location and configuration best suited to the Town’s needs. Under the 40B the comparable statistics are: 299 studio, one, two and three bedroom units (463 bedrooms).
- f. Public Realm Improvements: Widening of the John Street sidewalk, conversion of the 14-space John Street lot and the Town lot at the corner of John and Green Streets to parks/sitting space, landscaping at the Coolidge Corner Library, on-site bicycle storage, active ground floor space on Pleasant Street, a public use easement allowing for pedestrian passage through the site, and a potential pedestrian connection to the Brookline Booksmith. None of these public realm improvements are possible under the 40B.
- g. Fiscal Impact: The mixed-use development will have a greater positive fiscal impact on the town as compared to the 40B. The mixed-use development will generate \$1.65 million in annual additional tax revenue to the Town as projected from the 40B. This is due to:

- a. 43% of the project area being taxed at the Commercial Tax Rate which is 64% higher than the Residential Tax Rate;
 - b. A higher assessed value for the residential component due to the higher proportion of market rate units;
 - c. The Hotel Room Occupancy Excise Tax equal to 6% of room revenues.
- In addition, the mixed-use development will have a lower demand for municipal services since it will have approximately half the number of residential units.
- h. Financial Stability: A 95-year Tax Certainty Agreement will insure the Town continues to receive the enhanced tax revenue stream from the project even if there is a change in use or change in ownership to a non-profit entity.
 - i. Environmental Sustainability: The mixed-use development will be built to the newest version of LEED Silver certification, and to energy use intensity targets which exceed current building codes. CHR has committed to pursuing a zero emissions goal by 2050 and is exploring both geothermal and all electric HVAC systems.
 - j. Control: The Town has greater influence over the design of the site plan and buildings due to the Special Permit process, the required Site Plan Review by the Planning Board, the requirement of a Design Advisory Team as required by the mixed-use project's designation as a Major Impact Project, and the Design Guidelines, Memorandum of Agreement and Tax Certainty Agreement supplementing the zoning changes. In addition, the Town will have the ability to require on-going conditions after the project is constructed, including annual Transportation Demand Management (TDM) reports for the hotel, parking and operations management. This is not possible in the 40B.

Waldo Durgin Overlay/40b Comparison

	Mixed-use	40B
Size	350,000 sq. ft.	400,000 sq. ft.
Height	Hotel: 8- and 10-story; Apartments: 13-story	12-story building
Units	143 one- and two-BR	299 studio, one- two- and three BR
Bedrooms	199	463
Affordable Units	11 plus \$3.275MM payment to Affordable Housing Trust	60
Parking	289 unbundled underground spaces	41 surface and 292 underground for occupant use only
Public Realm Improvements	Yes	No
On-going	Yes	No

PROTECTIONS TO THE TOWN

It is in the Town's best interest to insure the mixed-use development contemplated by these Warrant Articles becomes a reality and does so in a timely fashion. The following provisions are included in the Warrant Articles to protect the Town's interest.

- a. Sunset Provision: CHR must complete the Design Review pre-application process as required under the Special Permit by June 1, 2020.
- b. Time is of importance: The Planning Board will have the discretion to deny the Special Permit if more than 2 years have elapsed from the opening of the public hearing on the Special Permits to the closing.

The additional tax revenues generated by the mixed-use development are an important benefit to the Town. To protect this revenue stream against a future change in use or transfer of ownership to a non-profit entity, Warrant Article 15 provides for a 95-year Tax Certainty Agreement which will be recorded with the land.

The design elements of the proposed mixed-use project represent a substantial portion of the benefits accruing to the Town. The Waldo Durgin Overlay District zoning is accompanied by a set of detailed Design Guidelines and a MOA (to be authorized by Warrant Article 14), and Site Plan Review by the Planning Board.

Collectively these land use regulations, developer agreements, and design guidelines will provide the Town, abutters, and Coolidge Corner residents and business owners with far greater controls, public benefits, and mitigation than would be available under the 40B option.

COMMUNITY SUPPORT

Although members of the CCSC indicated they would have preferred shorter buildings with less massing, no one who attended the hearing expressed opposition to the proposed mixed-use project. Lauren Barnard (TMM Precinct 8) reported the Trustees of the Coolidge Green Condominium Association (abutting the project on John Street) unanimously support the project. David Lischinsky, owner of Eureka Puzzles and President of the Coolidge Corner Merchant's Association, opined that the hotel will be good for both retailers and restaurants. He cited previous studies in which retail revenues were highly correlated with the Marriott Courtyard's occupancy rates. Frank Caro, TMM 10 and member of the CCSC, noted that the project builds on North Brookline's strong suit: density and walkability -- and will benefit the Town's commercial area. Some reservations were expressed about the robustness of the Town's long-term planning process. Another neighborhood concern is the increase in traffic from a hotel relative to the 40B development.

DEVELOPMENT PROCESS POST WARRANT APPROVAL

Subsequent to the approval of these Warrant Articles by Town Meeting, the Zoning Overlay District must be reviewed and approved by the Attorney General which can take up to six

months. Upon approval, the Special Permit process will begin and is estimated to require 12 to 18 months to complete. The Special Permit process will incorporate the requirements and limits of the Zoning Overlay District, along with the Design Guidelines and MOA.

The success of the Special Permit process will be dependent on the continued positive collaborative process between CHR and the Town. As has been noted by CCSC member Sergio Modigliani:

In the course of working with CHR on the Waldo Durgin site, I found them and their design and legal teams to be dependable and responsive partners in the give and take process, listening and responding to Committee requests and trying to find ways to accommodate and address community concerns. There were many examples, but some of the more important ones include the addition of both the cafe and shared work spaces; commitment to green and sustainable standards sought by Town Meeting and community groups; the in kind payment to the Housing Trust Fund, which both reduced the building's height and provides the Town with a needed infusion for more affordable housing bridge financing; the inclusion of off-site green space improvements; the Booksmith connection; and, a more thoughtful approach to parking matters.

SUBCOMMITTEE DISCUSSION

Subcommittee members asked about the impact of the construction process on the area, particularly the parking requirements of the workers. Marc Levin (CHR) indicated that the Construction Management Agreement (to be drafted) will address this. Once the underground garage is completed the workers will utilize that parking.

Concern was expressed about the future of the existing Pleasant Street retailers. Marc Levin indicated that CHR is in negotiations with these tenants over termination of their leases. It was noted the remaining Pleasant Street facades and buildings will look "shabby" in comparison to the new development. Kara Brewton noted the Town's Façade Improvement Program provides interest free loans to businesses for façade improvements.

Additional questions focused on the 40B development proposal and the amount of Affordable Housing provided under that process versus the amount proposed in the mixed-use development. Roger Blood (HAB) noted that the required \$3.275 million payment to the Housing Trust Fund in lieu of 10 additional affordable units on site results in the residential development being one story shorter. The Housing Trust Fund has an excellent record in developing affordable housing at a lower cost than a for-profit developer, averaging \$50,000 per unit in its last five projects. At this cost, the payment to the fund would result in an additional 65 affordable units in locations that are better suited to the Town's needs.

Paul Saner (EDAB Chair and member of the CCSC) noted that a majority of the 40B proposals in process are located on commercial sites and will have a negative impact on the Town's

commercial tax base. Paul further noted that if these Warrant Articles are not approved, the 40B development for this site will proceed.

Janet Gelbart indicated the arguments in favor of these Warrant Articles are persuasive, and, as a native New Yorker, is comfortable with the height of the proposed development. Though residents might prefer a smaller project for the site, it is not clear that a developer could create one profitably.

Lee Selwyn supports the Warrant Articles but pointed out the leverage the 40B proposal had in the process is a demonstration of the problem with the 40B program.

Carol Levin supports the Warrant Articles, and feels they do a very good job balancing the competing needs of the Town.

The Subcommittee voted Favorable Action on Warrant Articles 13, 14 and 15 by a vote of 3 – 0 – 1. The one abstention was due to the Subcommittee member also being a member of the CCSC.

Sign In
April 4, 2019

WA 13, 14 & 15

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