

# City of Waltham

CITY OF WALTHAM  
CITY CLERK'S OFFICE

*Jeannette A. McCarthy*  
Mayor

2017 JUL 27 A 11: 28

RECORDED

July 27, 2017

TO: The City Council and City Clerk  
RE: Request for City Council to Enact Zoning Ordinance Moratorium on Multi-Family  
Luxury Housing

Dear Councillors:

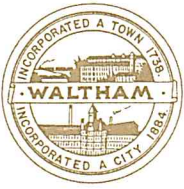
Enclosed please find a request, prior legal opinions and documentation regarding the  
above.

I am available, as well as the Law Department, to answer any questions.

Thank you.

Sincerely,

Jeannette A. McCarthy  
JAM/ccb  
Enclosures



# City of Waltham

Jeannette A. McCarthy  
Mayor

July 27, 2017

TO: The City Council and City Clerk  
RE: Zoning Ordinance Moratorium on Multi-Family Luxury Housing and Request to address zoning issues raised in the 2007 Legislative Master Plan

Dear Councillors:

I hereby request the City Council enact a zoning ordinance moratorium on multi-family luxury housing.

1. As some of you are aware, upon becoming Mayor, I asked the City Council to enact a zoning moratorium.\* The Council enacted a zoning moratorium on sideways housing. Also, an RFP was drafted to hire a zoning consultant which the City Council and Purchasing Agent worked on, and for which I submitted the funding. Some zoning amendments were made. I still get complaints about why sideways condos are allowed. Enclosed are copies of the legal opinions regarding the process etc. (Exhibit A). \* A mayor has no authority to initiate a zoning amendment.
2. After two members of the Ordinance and Rules Committee published in the *News Tribune* full page ads of proposed zoning amendments, the then City Council President Robert J. Waddick asked me for a \$100,000 to fund another zoning study. That money was available on July 1, 2013. Enclosed please find copies of the financial paperwork for that. (Exhibit B).  
  
This year, the City Council in its budget request asked for an additional \$7,000.00 to complete that zoning study, which I appropriated. See enclosed. (Exhibit C).
3. On Tuesday of this week, Councillor Logan sent me the attached request. I am of the opinion that the City's zoning experts, of whom I rely on for independent advice and expertise in the field, particularly First Assistant City Solicitor for Real Estate and Zoning Patricia Azadi and Assistant Solicitor Michelle Learned who handles the litigation of the same, should look at it. On behalf of the Ordinance and Rules Committee, Assistant Clerk Vizard asked about the process for reviewing, but the Law Department has not yet received any request from the City Council to review the draft zoning study or any zoning amendments. (Exhibit D).
4. I request that the City Council address in its current zoning study the issues in its 2007 Non-Binding Master Plan. Enclosed are pages 178-181, 185, 189, 191-192, 197-198, 224-226 (Exhibit E) indicating impact on school enrollment, public safety,

infrastructure, recreation, density, traffic, parking, environment, fiscal budget, urban design, historic character, land use, capacity for additional development, as-of-right development, and special permits. Those issues need to be addressed.

5. Enclosed please find my MEPA response dated September 9, 2106 for Polaroid's DEIR. Page 8 details some of the history of the residential complexes in the City and my opposition to luxury apartments at Polaroid. (Exhibit F)
6. And 40B applicants cite as precedent the City Council's Special Permits. See enclosed portions from 40B application for 341 Second Avenue. (Exhibit G)

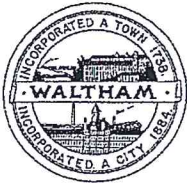
Sincerely,

A handwritten signature in blue ink that reads "Jeannette A. McCarthy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeannette A. McCarthy  
JAM/ccb  
Enclosures  
cc: Law Department



EX. A



# CITY OF WALTHAM

MASSACHUSETTS

ROBERT F. PILICY  
CITY SOLICITOR

## LAW DEPARTMENT

### ASSISTANT CITY SOLICITORS

JOHN B. GERVONE  
PATRICIA A. AZADI  
PATRICIA A. HARRIS  
BERNADETTE D. SEWELL  
HOWARD J. ROCK

Memo to: Honorable Jeannette A. McCarthy, Mayor  
From: Law Department  
Re: Zoning Moratorium – Op. #231/2004; and Op. #237/2004 – townhouses and overdevelopment  
Date: August 10, 2004

I write in response to your written request of August 3, 2004 in which you ask several questions about a zoning moratorium.

Your first question asks whether the Mayor has the right to submit a zoning moratorium to the City Council. The answer to this question is no, the mayor does not have the authority to submit a zoning moratorium. A zoning moratorium may only be effective as an amendment to the Zoning Ordinance. G.L.M. c. 40A, §5 governs the adoption and amendment of zoning ordinances and states that the process may only be undertaken in accordance with the statute. The statute specifically provides that a zoning ordinance amendment may only be "initiated by the submission to the city council . . . of a proposed zoning ordinance . . . by a city council, . . . a board of appeals, by an individual owning land to be affected by change or adoption, . . . by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter."

The statute does not expressly grant to the mayor the power to initiate a zoning amendment but does state that "other methods provided by municipal charter may be employed. In the case of the City of Waltham charter, however, Section 8-7 authorizes the initiation of a zoning amendment only by those persons or groups identified in the statute with one addition. Unlike the statute, the charter also allows a zoning amendment to be initiated by "one (1) or more individual city councillors."

In response to your second question, the mayor does not have the authority to file a zoning moratorium. I would further note, however, that while the mayor does not have the authority to submit a zoning moratorium, such a moratorium, which constitutes an ordinance amendment, does not become effective until, in accordance with the provisions of G.L.M. c. 40A, §5, it is passed by the Council and signed by the mayor.

In response to your third question, I have attached draft language for a zoning moratorium. The language provided would create a moratorium on all multi-family construction and all increased intensity of use special permits. As I had explained in earlier memoranda, copies of which are attached, a moratorium which confines itself to particular sections of a zoning ordinance or particular classes of use are more likely to withstand a constitutional attack. A moratorium on multi-family use and FAR special permits would still enable property owners



to make use of their property and there would, therefore, be less ability on the part of a property owner to claim that there had been an unconstitutional property taking. I have defined the term of the proposed moratorium as two years which appears to be the maximum time the courts have considered to be reasonable.

Your fourth question asks about any other ideas to stop overdevelopment in the city. There are several ways in which this could be done. One would be to eliminate special permits for increased intensity of use. G.L.M. chapter 40A, §9 allows a city to have a zoning provision for special permits for increased intensity of use but does not require that a city allow such special permits. If a moratorium were imposed on special permits seeking increased intensity of use, then only the intensity allowed by the Zoning Ordinance as of right would be possible. It would also be permissible to permanently eliminate the provisions allowing special permits for increased intensity of use. If your concern is for the intensity of use allowed as of right, then the Zoning Ordinance could be amended to decrease the intensity allowed as of right.

Section 3.72241 relating to voluntary demolition and reconstruction of nonconforming structures could also be deleted. This section allows a nonconforming structure with a FAR in excess of that currently allowed as of right to be reconstructed up to the FAR allowed by special permit or the FAR of the prior structure, whichever is less. If it were not for this Zoning Ordinance provision, then under Massachusetts statutes and case law, a nonconforming structure which was voluntarily demolished could only be reconstructed in a manner which fully complied with the current dimensional requirements of the ordinance, including the FAR as of right.

The existing Zoning Ordinance could be amended so that no more than one single-family or one two-family house is allowed on a lot in the zones where single- or two-family houses are allowed. (I would note that currently the Zoning Ordinance does not explicitly limit the number of single- and two-family buildings per lot although it does, in Section 4.212, provide that front, side and rear yards required for any building for compliance with the ordinance cannot be included as part of the yard requirements for any other building.)

With respect to the density issue in the residential context, there are already zoning provisions which affect the density and which have been the subject of interpretation questions in the past. In particular, there has been a question in the past as to how many residential units are allowed on a lot in a district which is zoned for multi-family use. For example, the current ordinance, in the Residence C zone, allows a maximum of six dwelling units per acre, while the minimum lot size in the district is only 6,000 square feet. The ordinance may be read to prevent multi-family use on a lot which is only 6,000 square feet but private attorneys have attempted to have it read as if six units are allowed regardless of the size of the lot. If six units per acre are allowed, then if a lot is proportionately smaller than an acre, the number of units allowed should also be proportionately smaller. Thus, a lot which is half an acre in size could have only three dwelling units. A lot smaller than half an acre could not have a multi-family use but rather would be limited to a single- or two-family use. (I would note that in the Business A and Business B districts, single- and two-family uses are only permitted by special permit while in the Business C district, such use is strictly prohibited. In those districts, therefore, if a lot did not consist of at least half an acre, only a business rather than a residential use would be possible in the Business C district and, in the Business A or B district, only a business



use would be permitted unless a property owner obtained a special permit from the Council authorizing a single- or two-family use.)

In the districts where single- and/or two-family uses are permitted, density issues could be addressed by amending the Zoning Ordinance to remove the small lot provisions of Section 4.218 which give much greater protection to certain single- and two-family lots than chapter 40A requires. In addition, or in the alternative, Section 3.711 could be deleted so that all lots would have to comply with the current frontage requirements of Section 4.11 of the Zoning Ordinance to be buildable.

I would also note that there has been some question of interpretation with respect to the provisions of Section 4.12(12) of the Zoning Ordinance. That section deals with an increased number of residential units allowed per acre when a special permit for increased floor area ratio (FAR) has been granted and states that where there is a conflict between the number of units allowed in the dimensional table of Section 4.11 and in Section 4.12(12), that Section 4.12(12) controls. Some private attorneys have tried to interpret this section by taking the sentence relating to a conflict between Section 4.11 and Section 4.12(12) out of context and treating it as if it applies even where a property has not been the subject of a special permit for increased FAR. The argument, then, is that, in the Residence C district, for example, 18 units per acre are allowed as of right. In fact, this footnote relates only to the situation where an increased FAR has been obtained. Thus, if a half-acre lot in the Residence C district were granted a special permit for an increased FAR, the City Council could also grant an increased number of units. Since the special permit may only increase the number of units per acre to 18, the maximum number of units for a half-acre lot that is being granted an increased intensity of use special permit would be a proportional number or 9 units.

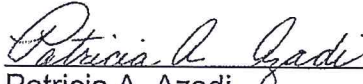
With respect to two-family and multi-family dwellings, I would note that Section 4.216 of the Zoning Ordinance provides that such buildings must provide a minimum of 600 square feet of habitable ground floor area. In recent times, it appears that this provision may not have been utilized as projects appear to have been proposed which have less than 600 square feet of habitable ground floor area or none at all. (In accordance with sections 2.318 and 2.319, parking areas are not included within the definition of habitable floor area.)

In your memorandum of August 9, 2004, you indicated that your primary concern currently is with sideways and dense townhouses. There are several ways to approach these issues. To eliminate townhouses which are being placed sideways on lots, the easiest method of dealing with them would be to amend the Zoning Ordinance and require that each individual unit have a door fronting on/parallel to the street. With this provision, doors facing a driveway, either in a side or a rear yard, would not satisfy the requirement. The provision mentioned above relative to the requirement of a minimum of 600 square feet of habitable ground floor area per building would also apply and could reduce the number of units possible on any particular lot. (Since parking areas are not included within the definition of habitable floor area, parking garages placed under townhouses should not be included in the calculation therefor.) Likewise, the enforcement of the provision relating to maximum number of units allowed per acre and its applicability on a proportional basis to lots less than one acre in size would result in a less dense development than might otherwise occur.

Another method of reducing density of townhouses is to require a minimum lot area per dwelling unit for each district in which multi-family buildings are allowed.

I am enclosing several draft amendments which could address some of the above-identified issues either on a permanent or temporary basis.

If you have any questions, please call me.

  
Patricia A. Azadi

enclosures

file:231-2004



Proposed Zoning Moratorium

IN THE CITY COUNCIL

IN THE YEAR TWO THOUSAND FOUR

AN ORDINANCE AMENDING CHAPTER 21 OF THE GENERAL ORDINANCES OF THE CITY OF WALTHAM ENTITLED "ZONING."

Chapter 21 of the General Ordinances of the City of Waltham, Article III entitled "Establishment of Districts," Section 3.4 entitled "Table of Uses," as most recently amended, is hereby further amended by adding the following new Section 3.41:

- 3.41. Suspension of Permits for Multi-family Uses. Notwithstanding any other provisions contained in this Zoning Ordinance, no permits or special permits shall be issued for the construction or voluntary demolition and reconstruction of any multi-family buildings in the City of Waltham prior to August 9, 2006. This suspension of said permits and/or special permits is necessary in order to provide the City of Waltham with adequate time to prepare comprehensive changes to the Zoning Ordinance to eliminate serious problems with overcrowding, infrastructure and density issues, consistent with the purpose of this Zoning Ordinance as stated in Article I of said Zoning Ordinance and all other applicable state and federal laws and regulations.

And

Chapter 21 of the General Ordinances of the City of Waltham, Article III entitled "Establishment of Districts," Section 3.5 entitled "Special Permits" as most recently amended, is hereby further amended by adding the following new Section 3.511.1:

- 3.511.1. Suspension of Special Permits for Increased Intensity of Use. Notwithstanding any other provisions contained in this Zoning Ordinance, no special permits shall be issued for increased intensity of use in the City of Waltham prior to August 9, 2006. This suspension of said special permits is necessary in order to provide the City of Waltham with adequate time to prepare comprehensive changes to the Zoning Ordinance to eliminate serious problems with overcrowding, infrastructure and density issues, consistent with the purpose of this Zoning Ordinance as stated in Article I of said Zoning Ordinance and all other applicable state and federal laws and regulations.

Read and adopted:

Approved:

Proposed amendment relative to so-called "sideways" townhouses

IN THE CITY COUNCIL

IN THE YEAR TWO THOUSAND FOUR

AN ORDINANCE AMENDING CHAPTER 21 OF THE GENERAL ORDINANCES OF THE CITY OF WALTHAM ENTITLED "ZONING."

Chapter 21 of the General Ordinances of the City of Waltham, Article IV entitled "Dimensional Requirements," Section 4.2 entitled "Supplementary dimensional regulations," as most recently amended, is hereby further amended by adding the following new Sections 4.26, 4.261 and 4.262:

Section 4.26. Applicable to all districts in which multi-family uses are permitted.

Section 4.261. Location of outside doors for townhouses, row houses, garden apartments and similarly structured buildings. In all multi-family buildings where every dwelling unit located therein will have a portion of said unit located on the ground floor level, such as townhouses, row houses and garden apartments, each separate unit shall be required to have a door, leading from the individual unit to the outside of the building, on the side of the building which faces the street on which the lot frontage is measured.

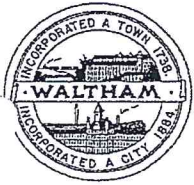
\*Section 4.262. Minimum lot area per dwelling unit. Any lot used for multi-family residential purposes must have a minimum lot area of \_\_\_\_\_ square feet per dwelling unit.

Read and adopted:

Approved:

\*I would note, with respect to proposed Section 4.262, that it would also be necessary to make multiple changes to the table of dimensional regulations so that required lot area, maximum number of dwelling units and minimum lot area per dwelling unit would be consistent with one another.





# CITY OF WALTHAM

## MASSACHUSETTS

ROBERT F. PILICY  
CITY SOLICITOR

### LAW DEPARTMENT

#### ASSISTANT CITY SOLICITORS

JOHN B. CERVONE  
PATRICIA A. AZADI  
PATRICIA HARRIS BANNAN  
BERNADETTE D. SEWELL  
HOWARD J. ROCK

Memo to: Councillor Jeannette McCarthy, Chairperson  
Zoning Ad Hoc Committee

From: Law Department

Re: Suggested parameters for zoning moratoria

Date: October 10, 2003


I write in response to your written request of October 8, 2003, asking that this office provide parameters regarding a possible zoning moratorium. As discussed in our telephone conversation of this date, I am attaching a copy of the memo which I provided to the Ordinances & Rules and Community Development committees last December. This memo provides a general overview of the law with respect to zoning moratoria. The most critical features of a moratorium that may be able to withstand attack are that the moratorium is limited to a reasonable period of time, the scope is limited to issues which are of major concern and which will be substantively examined and addressed within a reasonable period, particular uses or particular districts are the proposed subject of the moratorium, and at least some viable use for property owners is still available. As noted in my previous memo, a moratorium prohibiting the issuance of all permits in all districts might not be held by a court to be a valid exercise of the zoning power.

In our telephone conversation, you mentioned the subject of special permits and indicated that a question has been raised as to whether special permits may be subject to a moratorium. The answer to this question is yes. In fact, Waltham has had a moratorium in the past on special permits. That moratorium related specifically to telecommunication facilities special permits and remained in effect until the Council had had the opportunity to examine its procedures for issuance of telecommunications special permits and pass an amendment to the Zoning Ordinance addressing the topic.

Any new moratorium which related to special permits would not deprive property owners of the use of their property because they would still be able to undertake any projects allowed as of right. Such a moratorium could be directed specifically to particular types of special permit developments or, if the special permit process itself requires major reworking, it would be possible to have a broader scope. I would recommend, however, that telecommunications special permits be excluded from any moratorium since they already have been the subject of one and a substantive review was previously completed. Only if major deficiencies have been found with the telecommunications special permit process would it be advisable to institute a new one with respect to that particular subject matter.

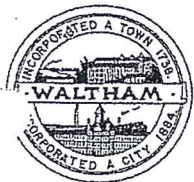


If you have any additional questions, please contact me.

  
Patricia A. Azadi

Enclosure

File: moratorium-10-10-03



# CITY OF WALTHAM

MASSACHUSETTS

ROBERT F. PILICY  
CITY SOLICITOR

## LAW DEPARTMENT

### ASSISTANT CITY SOLICITORS

JOHN B. CERVONE  
PATRICIA A. AZADI  
PATRICIA HARRIS BANNAN  
BERNADETTE D. SEWELL  
HOWARD J. ROCK

Memo to: Kevin Ritcey, Clerk of Committees  
Ordinances & Rules Committee  
From: Law Department  
Re: Proposed Zoning Moratorium – Op. #292/2002  
Date: December 10, 2002

I write in response to your written request of November 12, 2002, that this office review a proposed moratorium on the issuance of "new zone changes and special permits." I would note that the resolution which accompanied your request contained a handwritten notation that the word "special" should be deleted from the request so that the temporary moratorium would apply to all "new zone changes and permits."

I would begin by noting that the temporary moratorium has been proposed through a resolution. Such a moratorium would not be effective unless adopted as an amendment to the Zoning Ordinance of the City of Waltham. A moratorium is an exercise of the zoning power as "it effectively reclassifie[s property] to a more restrictive use, if only for a temporary period. Regardless of the time period, it is still a zoning provision." Collura v. Town of Arlington, 367 Mass. 881, 329 N.E.2d 733 (1975). The resolution should, therefore, at a minimum, be resubmitted as a proposed ordinance change.

As an ordinance change, the Council may want to consider whether it wishes to limit its own ability to enact Zoning Ordinance changes for a period of two years. I have found no case that specifically addresses the issue of a legislative body, by ordinance, removing its own ability to legislate. It would appear that this would not be an appropriate exercise of the legislative power since it would, if it could be effective, result in the elimination, albeit temporarily, of the Council's statutorily-granted authority to adopt, amend and revise zoning ordinances. As a practical matter, if a zone change is proposed, whether by the City Council itself or by private individuals, the Council's best method of prohibiting the change is by rejecting the proposal or failing to take action within 90 days of the public hearing thereon. If the Council feels any particular proposal is inappropriate or requires further study, the Council would not have to adopt that proposal. The problem with imposing a restriction, by ordinance, on the adoption of new ordinances is that any attempt to amend or repeal the restriction before the expiration of two years (the time period established by the proposed moratorium) would itself, arguably, be a violation thereof. Thus, if the Council concluded its comprehensive zoning ordinance review and the City had a new Master Plan formulated in less than two years, the Council would, according to the terms of the temporary moratorium, be unable to rescind said temporary moratorium and enact new amendments to the Zoning



Ordinance which would be responsive to the comprehensive review and new Master Plan until the expiration of the two-year period.

With respect to the issuance of any permits, the Council may have the authority, by Zoning Ordinance amendment, to prohibit, for a reasonable, temporary period of time, the issuance of any new permits if it is able to establish a valid zoning purpose for said restriction. I would note that I have found no case that specifically deals with the issue of a temporary moratorium that prohibits the issuance of all permits. Generally, the cases deal with moratoria that temporarily limit all uses in only a few districts, or that only limit a few uses in certain districts while allowing other uses to continue to be available. It is unclear whether a blanket ban on all uses in every district such as the one proposed here would be found a valid exercise of the zoning power. At a minimum, to withstand constitutional attack, it would be advisable to include a very extensive preamble in the proposed zoning moratorium amendment setting forth the legitimate zoning and planning concerns which necessitate the total prohibition on the issuance of any and all permits. In this regard, the Council might wish to consider whether it wants to allow the issuance of permits for renovations, modifications or additions to pre-existing structures, e.g., home remodeling projects.

The proposed resolution seeks a two-year moratorium on the issuance of all permits. The applicable case law indicates that, where a legitimate zoning purpose is served, a moratorium of such a term is not unreasonable. The Collura case, mentioned above, involved a temporary moratorium in place for two years and the more recent case of W.R. Grace & Co.-Conn., et al. v. Cambridge City Council, decided by the Massachusetts Appeals Court on November 25, 2002, involved a moratorium and another zoning amendment which effectively prohibited new development in a particular district for a period of 23 months. In both of those cases, the Court found that the time during which new development was delayed was not unreasonable because the communities were engaged in legitimate review and study of their zoning ordinances to correct identified problems therewith. As the Court stated in the Grace case, quoting the holding in the Collura case, "[i]nterim provisions can be a 'salutary device in the process of plotting a comprehensive zoning plan to be employed to prevent disruption of the ultimate plan itself.' "

In Sturges v. Chilmark, a 1980 case, the Court found that the imposition of a rate of development by-law was subject to constitutional challenge but noted that "every presumption is made in favor of the by-law, and, if its reasonableness is fairly debatable, it will be sustained . . . The plaintiffs have the heavy burden of showing a conflict with applicable constitutional provisions." The Court in that case further noted that it was not "confronted with a by-law generally designed to exclude persons from acquiring places of permanent residence." As noted above, because the proposed moratorium, although temporary, would apply to all new construction, it is unclear whether the last-referenced statement of the Court would cause a different outcome should the issue of the moratorium's constitutionality be raised.

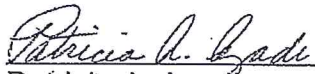
Even if the proposed temporary moratorium is a lawfully enacted zoning provision, it could be subject to challenge as effecting a partial regulatory taking of a particular property owner's land. The Court would look at the particular facts presented in any such challenge. "Compensation is required by the Fifth Amendment to the United States Constitution when governmental regulation deprives the owner 'of all economically beneficial or productive use of land' See Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1014-10-19 (1992),"



quoted in Grace. Where, as here, there would only be a temporary deprivation, the Court looks at "the economic impact of the regulation on the claimant; . . . the extent to which the regulation has interfered with distinct investment-backed expectations; and . . . the character of the governmental action." Connolly v. Pension Benefit Guaranty Corp., 475 U. S. 211, 225 (1986). This test was applied in the Grace case and the Court found that there was no regulatory taking, in part because the owner had not been deprived of all beneficial use of its property because certain uses already existed on the property and they could continue; title to the property still remained in Grace's possession; and, at the conclusion of the moratorium, the potential existed for new uses even if they weren't the same uses allowed prior to the moratorium. Any regulatory taking claim would be very fact specific and it is not possible to determine, in advance, whether or not there might be any circumstances which could result in a successful challenge.

This opinion is not intended to provide an exhaustive analysis and review of the issues that might be raised by the proposed resolution and/or its reconfiguration as a Zoning Ordinance amendment, but it does highlight the most significant issues that might be faced upon implementation.

If you have any additional questions, please contact this office.

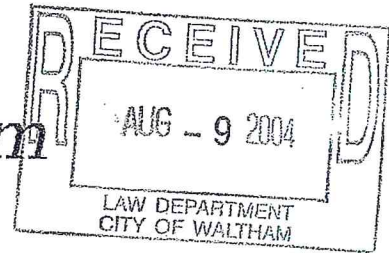
  
Patricia A. Azadi

file:292-2002



# City of Waltham

Jeannette A. McCarthy  
Mayor

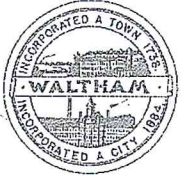


**CONFIDENTIAL**

TO: Robert Pilicy, City Solicitor  
FROM: Jeannette A. McCarthy *JAM*  
RE: Zoning Moratorium  
DATE: August 9, 2004

*Op # 2004-237*  
*PAA*

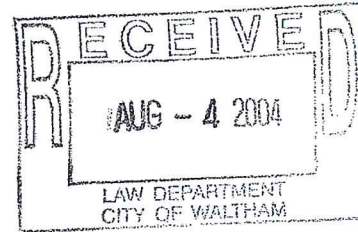
Relative to my August 3, 2004 memo to you, my primary concern at this time is the sideways and dense townhouses, which are springing up all over the city again. Therefore, in addition to the ordinance for a moratorium, I would like a separate zoning ordinance amendment drafted to prohibit sideways townhouses and their resulting density. I would like that second ordinance to also contain amendments that address the other existing dimensional or use problems that our current ordinances create thus resulting in overdevelopment as of right.



# City of Waltham

Jeannette A. McCarthy  
Mayor

OP# 2004/231  
PAA



TO: Robert F. Pilicy, City Solicitor  
FROM: Jeannette A. McCarthy  
DATE: August 3, 2004  
RE: Zoning Moratorium

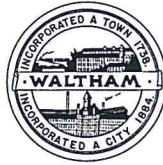
1. Does the mayor have a right to submit a zoning moratorium in whatever form to the City Council?
2. If the answer is no, please state that the mayor has no authority to file a zoning moratorium.
3. If the answer is yes, please prepare the necessary paperwork, in whatever form, i.e. ordinance etc., to submit a zoning moratorium to the City Council to stop the overdevelopment in the city.
4. If you or your office has any other ideas to stop the overdevelopment that is rampant in the city, please advise.
5. You are to have all of the above documentation to me within one week from today.

Thank you.

Jeannette A. McCarthy  
JAM/ns



**City of Waltham**  
 City Hall, Purchasing Dept.  
 610 Main St.  
 Waltham MA 02452



EX. B

<b>PURCHASE ORDER</b>
<b>15213</b>

<b>Issue Date</b>
<b>07/27/2017</b>

**PURCHASE ORDER**

MAIL ALL INVOICES TO THE "SHIP TO" ADDRESS

Vendor No.	Requisition No.	Department
25255	574	CITY COUNCIL

**ISSUED TO:**  
 COMMUNITY PRESERVATION ASSOCIATES  
 BARBER BRIAN  
 919 LAURA ST  
 CASSELBERRY, FL 32707

**SHIP TO:**  
 WALTHAM CITY HALL  
 CITY COUNCIL  
 610 MAIN STREET  
 WALTHAM, MA 02452

FOR MORE INFORMATION CONTACT PURCHASING DEPARTMENT

TELEPHONE NO.: 781-314-3240

Item	Quantity	Description	Account No.	Unit Price	Extended Price
1	1.00	COMPREHENSIVE ZONING ORDINANCE AND MAP UPDATE PER CONTRACT DATED JULY 29, 2014	001-111-5400-5300	\$49,720.00	\$46,470.24

*PO balance \$110.24*

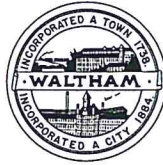
MASS. SALES TAX EXEMPT  
 PURCHASER CERTIFICATE NO.  
 E046-001-416

**TOTAL OF PURCHASE ORDER \$46,470.24**

THE PURCHASE ORDER NUMBER ABOVE MUST APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS, INVOICES AND CORRESPONDENCE. ALL SHIPMENTS SHALL BE MADE PREPAID.

_____ PURCHASING AGENT
_____ AUDITOR
_____ MAYOR

**City of Waltham**  
 City Hall, Purchasing Dept.  
 610 Main St.  
 Waltham MA 02452



<b>PURCHASE ORDER</b>
<b>17383</b>

<b>Issue Date</b>
<b>07/27/2017</b>

**PURCHASE ORDER**

MAIL ALL INVOICES TO THE "SHIP TO" ADDRESS

Vendor No.	Requisition No.	Department
25255	384	CITY COUNCIL

**ISSUED TO:**  
 COMMUNITY PRESERVATION ASSOCIATES  
 BARBER BRIAN  
 919 LAURA ST  
 CASSELBERRY, FL 32707

**SHIP TO:**  
 WALTHAM CITY HALL  
 CITY COUNCIL  
 610 MAIN STREET  
 WALTHAM, MA 02452

FOR MORE INFORMATION CONTACT PURCHASING DEPARTMENT

TELEPHONE NO.: 781-314-3240

Item	Quantity	Description	Account No.	Unit Price	Extended Price
1	1.00	COMPREHENSIVE ZONING ORDINANCE	001-111-5400-5300	\$4,360.00	\$4,360.00

ALSO INCLUDES MAP UPDATE

PER CONTRACT DATED JULY 29, 2014

PO VALUE NOT TO EXCEED \$4,360.00 WITHOUT PRIOR WRITTEN APPROVAL OF THE CITY.

ONLY FOR SERVICES RENDERED AFTER JULY 1, 2016

*PO balance \$4,000*

MASS. SALES TAX EXEMPT  
 PURCHASER CERTIFICATE NO.  
 E046-001-416

**TOTAL OF PURCHASE ORDER \$4,360.00**

THE PURCHASE ORDER NUMBER ABOVE MUST APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS, INVOICES AND CORRESPONDENCE. ALL SHIPMENTS SHALL BE MADE PREPAID.

_____ PURCHASING AGENT
_____ AUDITOR
_____ MAYOR





# City of Waltham

## 2015 Expenditure Report

From 07/01/2014 to 06/30/2015

CITY COUNCIL - CONSULTANT (ZONING)									
001-111-5400-5300	Chk #	PO #	Invoice	Warr	Approp	Expended	Encumbered	Available	% Exp
07/01/2014 BDAPP Budget					\$100,000.00	\$0.00	\$0.00	\$100,000.00	0.00%
08/26/2014 POENC COMMUNITY	15213				\$0.00	\$0.00	\$49,720.00	\$50,280.00	49.72%
02/06/2015 APWAR COMMUNITY	739198	15213	2	2586	\$0.00	\$4,225.08	\$0.00	\$46,054.92	53.94%
02/06/2015 POPAR COMMUNITY	739198	15213	1	2586	\$0.00	\$0.00	\$-6,865.08	\$52,920.00	47.08%
02/06/2015 POPAR COMMUNITY	739198	15213	2	2586	\$0.00	\$0.00	\$-4,225.08	\$57,145.08	42.85%
02/06/2015 APWAR COMMUNITY	739198	15213	1	2586	\$0.00	\$6,865.08	\$0.00	\$50,280.00	49.72%
06/30/2015 POPAR COMMUNITY	745350	15213	053115	2622	\$0.00	\$0.00	\$-5,840.00	\$56,120.00	43.88%
06/30/2015 POEOY COMMUNITY	15213				\$0.00	\$0.00	\$0.00	\$56,120.00	43.88%
06/30/2015 APWAR COMMUNITY	745350	15213	053115	2622	\$0.00	\$5,840.00	\$0.00	\$50,280.00	49.72%
001-111-5400-5300 Ending Bal					\$100,000.00	\$16,930.16	\$32,789.84	\$50,280.00	49.72%
Period Total					\$100,000.00	\$16,930.16	\$32,789.84		
5400 EQUIPMENT & UNUSUAL Ending Bal					\$100,000.00	\$16,930.16	\$32,789.84	\$50,280.00	
Dept 111 CITY COUNCIL Ending Bal					\$100,000.00	\$16,930.16	\$32,789.84	\$50,280.00	
Fund 001 GENERAL FUND Ending Bal					\$100,000.00	\$16,930.16	\$32,789.84	\$50,280.00	
Grand Total					\$100,000.00	\$16,930.16	\$32,789.84	\$50,280.00	49.72%
					\$100,000.00	\$16,930.16	\$32,789.84		



# City of Waltham

## 2016 Expenditure Report

From 07/01/2015 to 06/30/2016

### CITY COUNCIL - CONSULTANT (ZONING)

001-111-5400-5300

	Chk #	PO #	Invoice	Warr	Approp	Expended	Encumbered	Available	% Exp
07/01/2015 BDCFW FY15 TO FY16 BAL FRWD					\$32,789.84	\$0.00	\$0.00	\$32,789.84	0.00%
07/01/2015 POSOY COMMUNITY		15213			\$0.00	\$0.00	\$32,789.84	\$0.00	100.00%
07/31/2015 POUPE COMMUNITY		15213			\$0.00	\$0.00	\$-3,360.00	\$3,360.00	89.75%
07/31/2015 APWAR COMMUNITY	746264		4	2631	\$0.00	\$3,360.00	\$0.00	\$0.00	100.00%
11/06/2015 APWAR COMMUNITY	749385	15213	5	2654	\$0.00	\$1,959.60	\$0.00	\$-1,959.60	105.97%
11/06/2015 POPAR COMMUNITY	749385	15213	5	2654	\$0.00	\$0.00	\$-1,959.60	\$0.00	100.00%
11/20/2015 POPAR COMMUNITY	750122	15213	110515	2658	\$0.00	\$0.00	\$-2,520.00	\$2,520.00	92.31%
11/20/2015 APWAR COMMUNITY	750122	15213	110515	2658	\$0.00	\$2,520.00	\$0.00	\$-4,080.00	112.44%
12/24/2015 APWAR COMMUNITY	751373	15213	8	2667	\$0.00	\$4,080.00	\$0.00	\$-600.00	101.82%
12/24/2015 POPAR COMMUNITY	751373	15213	5-15	2667	\$0.00	\$0.00	\$-3,480.00	\$-5,880.00	117.93%
12/24/2015 APWAR COMMUNITY	751373	15213	9	2667	\$0.00	\$5,280.00	\$0.00	\$-9,360.00	128.54%
12/24/2015 APWAR COMMUNITY	751373	15213	5-15	2667	\$0.00	\$3,480.00	\$0.00	\$-5,280.00	116.10%
12/24/2015 POPAR COMMUNITY	751373	15213	8	2667	\$0.00	\$0.00	\$-4,080.00	\$0.00	100.00%
02/05/2016 POPAR COMMUNITY	752595	15213	9	2667	\$0.00	\$0.00	\$-5,280.00	\$0.00	100.00%
02/05/2016 POPAR COMMUNITY	752595	15213	10	2677	\$0.00	\$0.00	\$-6,360.00	\$6,360.00	80.60%
04/01/2016 POPAR COMMUNITY	752595	15213	10	2677	\$0.00	\$6,360.00	\$0.00	\$0.00	100.00%
04/01/2016 APWAR COMMUNITY	754661	15213	11	2690	\$0.00	\$0.00	\$-5,640.00	\$5,640.00	82.79%
06/30/2016 POLIQ COMMUNITY	15213				\$0.00	\$0.00	\$-110.24	\$110.24	99.66%
06/30/2016 POEOY COMMUNITY	15213				\$0.00	\$0.00	\$0.00	\$110.24	99.66%
06/30/2016 POUPE COMMUNITY	15213				\$0.00	\$0.00	\$110.24	\$0.00	100.00%
<b>Period Total</b>					\$32,789.84	\$32,679.60	\$110.24	\$0.00	100.00%
<b>5400 EQUIPMENT &amp; UNUSUAL Ending Bal</b>					\$32,789.84	\$32,679.60	\$110.24	\$0.00	
<b>Dept 111 CITY COUNCIL Ending Bal</b>					\$32,789.84	\$32,679.60	\$110.24	\$0.00	
<b>Fund 001 GENERAL FUND Ending Bal</b>					\$32,789.84	\$32,679.60	\$110.24	\$0.00	
<b>Grand Total</b>					\$32,789.84	\$32,679.60	\$110.24	\$0.00	100.00%

**City of Waltham**  
**2017 Expenditure Report**  
**From 07/01/2016 to 06/30/2017**

CITY COUNCIL - CONSULTANT (ZONING)									
001-111-5400-5300	Chk #	PO #	Invoice	Warr	Approp	Expended	Encumbered	Available	% Exp
07/01/2016 BDAPP Budget					\$7,000.00	\$0.00	\$0.00	\$7,000.00	0.00%
07/01/2016 BDCFW CRCTN BAL FRWD FY16 TO FY17					\$110.24	\$0.00	\$0.00	\$7,110.24	0.00%
07/01/2016 POSOY COMMUNITY		15213			\$0.00	\$0.00	\$110.24	\$7,000.00	1.55%
09/27/2016 POENC COMMUNITY		17383			\$0.00	\$0.00	\$4,360.00	\$2,640.00	62.87%
10/21/2016 APWAR COMMUNITY		761931	13	2738	\$0.00	\$1,200.00	\$0.00	\$1,440.00	79.74%
10/21/2016 APWAR COMMUNITY		761931	12	2738	\$0.00	\$1,440.00	\$0.00	\$0.00	100.00%
10/28/2016 APWAR COMMUNITY		762316	1A	2739	\$0.00	\$360.00	\$0.00	\$-360.00	105.06%
10/28/2016 POPAR COMMUNITY		762316	1A	2739	\$0.00	\$0.00	\$-360.00	\$0.00	100.00%
	001-111-5400-5300 Ending Bal				\$7,110.24	\$3,000.00	\$4,110.24	\$0.00	100.00%
	Period Total				\$7,110.24	\$3,000.00	\$4,110.24		
5400 EQUIPMENT & UNUSUAL Ending Bal					\$7,110.24	\$3,000.00	\$4,110.24	\$0.00	
Dept 111 CITY COUNCIL Ending Bal					\$7,110.24	\$3,000.00	\$4,110.24	\$0.00	
Fund 001 GENERAL FUND Ending Bal					\$7,110.24	\$3,000.00	\$4,110.24	\$0.00	
Grand Total					\$7,110.24	\$3,000.00	\$4,110.24	\$0.00	100.00%
					\$7,110.24	\$3,000.00	\$4,110.24		



CITY COUNCIL

EXPENDITURES

Classification	FY 2015		FY 2016		FY 2017		FY 2018		
	Actual Expenditures	Budget	Actual Expenditures	Budget	July - March Actual Expenditures Thru 6/30/17	Department Request	Mayor's Incr/Decr	Mayor's Recommendation	Council Approval
Personnel 001-111-5100	286,064.73	299,365.00	292,984.00	299,365.00	220,151.98	302,095.00	2,730.00	302,095.00	0.00
5111 Salaries - Full Time									
General Expenses 001-111-5200	54,300.00	54,300.00	54,300.00	54,300.00	40,425.00	54,300.00	0.00	54,300.00	
5191 Council Monthly Expense			3,156.75	4,000.00	1,620.57	4,000.00	0.00	4,000.00	
5341 Advertising			5,107.86	4,000.00	889.00	4,000.00	0.00	4,000.00	
5343 Printing			1,472.73			1,500.00	1,500.00	1,500.00	
5383 Photographs	5.82	3,000.00	798.48	3,000.00	12.00	3,000.00	0.00	3,000.00	
5420 Office Supplies	3,343.40	3,000.00	3,030.35	3,000.00		3,000.00	0.00	3,000.00	
5731 Conference Expense									
Equipment & Unusual 001-111-5400	16,930.16	7,000.00	32,679.60	10,000.00	3,000.00	7,000.00	0.00	7,000.00	
5300 Consultant - Comprehensive Zoning Review					860.00	10,000.00	0.00	10,000.00	
5315 Legal Assistance			5,819.00						
5863 Chairs						300.00	0.00	0.00	
Projector (repair/maintenance)						300.00	300.00	300.00	
Ritcey Award						1,000.00	0.00	0.00	
Meeting Timer						10,000.00	0.00	0.00	
Portable Computer Monitors							0.00	0.00	

Department Explanation for Requested Increases

Item	Reason	Department Cost for Requested Increase
5383 Photographs	Photographs and albums for City Councilors during the fiscal year of an election.	1,500.00
Projector (repair/maintenance)	Repair/Maintain existing projector in Council Chamber	300.00
Ritcey Award	Annual funding for the Ritcey Award to an employee for outstanding public service	300.00
Meeting Timer	Device (1) to monitor time restrictions/requirements of public meetings	1,000.00
Portable Computer Monitors	Portable computer monitors to enhance the viewing for the audience in the Council Chamber	10,000.00

\*MAYOR: Use city cable funds

COST SUMMARY BY CLASSIFICATION

Personnel	286,064.73	299,365.00	292,984.00	220,151.98	299,365.00	302,095.00	2,730.00	302,095.00	0.00
General Expenses	57,649.22	68,300.00	67,866.17	68,300.00	42,946.57	69,800.00	1,500.00	69,800.00	0.00
Equipment & Unusual	16,930.16	17,000.00	38,498.60	17,000.00	3,860.00	28,600.00	300.00	17,300.00	0.00
Total Operating Budget	360,644.11	384,665.00	399,348.77	266,958.55	384,665.00	400,495.00	4,530.00	389,195.00	0.00

EX.

EX. 10

**Casey-Brenner, Colette**

---

**From:** Councilw9  
**Sent:** Tuesday, July 25, 2017 7:05 PM  
**To:** Mayor  
**Cc:** Councillors; Joe Vizard; Malone, Rosario  
**Subject:** FW: Zoning Review

**RE: Zoning Review**

Mayor,

Just following up on our previous e-mails. We never did received any feedback from you (see below) on the draft zoning amendments. Let us know if you have anything to add.

Thanks!

Robert

Robert G. Logan

Vice President

Waltham City Council

Councillor Ward 9

CouncilW9@city.waltham.ma.us

Twitter: @RLoganW9

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---

**From:** Mayor  
**Sent:** Monday, August 22, 2016 2:26 PM  
**To:** Councilw9; Mayor  
**Cc:** Gary Marchese; Diane LeBlanc; Malone, Rosario; Wilson, Kara  
**Subject:** RE: Zoning Review

Robert,

Kara gave it to me. As soon as I finish my summer work, I will review it.

JAM



---

**From:** Councilw9  
**Sent:** Friday, August 19, 2016 7:58 PM  
**To:** Mayor <mayor@city.waltham.ma.us>  
**Cc:** Gary Marchese <garymarcheselaw@gmail.com>; Diane LeBlanc <dianeleblancatlarge@yahoo.com>; Malone, Rosario <rmalone@city.waltham.ma.us>; Wilson, Kara <kwilson@city.waltham.ma.us>  
**Subject:** RE: Zoning Review  
**Importance:** High

**RE: Zoning Review**

Mayor,

In one of your communications for the August meeting you asked if you would have an opportunity for input into the proposed zoning amendments, and if you could get a copy. We have extended the public input period through the end of August, but we won't be taking any action on this for a few weeks anyway. We would love to get your input. The documents have been posted on the City website, but if you want hard copies Kara can get them for you. Keep in mind this is a draft.

At some point I would like the Law Department to do a "pre-review" before anything is actually advertised for a public hearing. It doesn't make sense to start the 90-day clock on a complex proposal like this, only to have the Law Department point out some fatal flaw that requires starting all over again. I would rather have them do a preliminary review and fix things up front.

As you read the proposal, but before you come to any conclusions, I would urge you to contact me if you have any questions about why we made certain changes and/or what we were trying to accomplish. We are striving to forge a consensus, or at least get as close as possible, before proceeding. I would be glad to answer any questions you might have. Thanks!

Robert

Robert G. Logan

Councillor Ward 9

Chairman, Ordinances & Rules Committee

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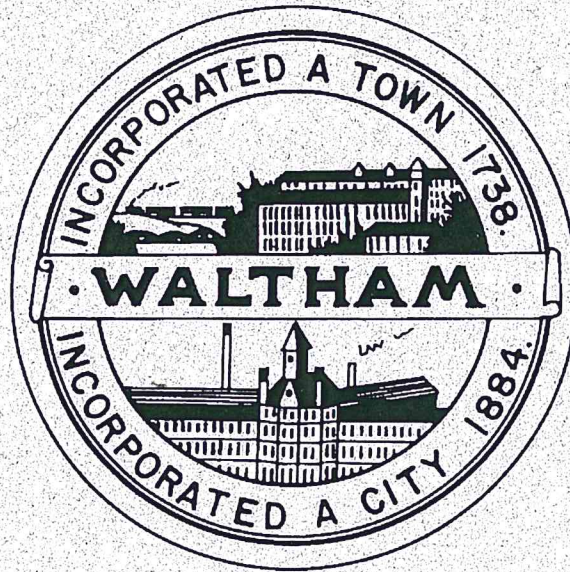


EX 15

# WALTHAM COMMUNITY DEVELOPMENT PLAN

JUNE 2007

Legislative Version



Prepared by the  
Metropolitan Area Planning Council,  
Central Transportation Planning Staff,  
Waltham Planning Department

Partially funded under Executive Order 418 by the  
Massachusetts Department of Housing & Community Development,  
Massachusetts Department of Business and Technology,  
Executive Office of Transportation and Construction,  
Executive Office of Environmental Affairs.

Plan Submitted to the City Council by Mayor Jeannette A. McCarthy on December 23, 2004 and  
recommendations were submitted to the City Council on March 21, 2005.

Non-binding Resolution of the City Council was read and adopted on June 11, 2007. No Mayoral action was  
requested and no Council Order was issued.



## Impacts of Projected Development

Communities use development impact studies to gauge the consequences of maintaining current development patterns, estimate the results of revising zoning ordinances or to explore the implications of allowing particular development proposals to be permitted. These reports are often combined with fiscal impact analyses, which project the net benefits and costs associated with estimated future development. Fiscal and other constraints dictate that this Buildout Analysis briefly and broadly examine impacts to the demand for municipal services resulting from development to the estimated capacities allowed By-Right and under Special Permit in Waltham's existing zoning ordinances. This should at least provide a sense of the magnitude of change that could be felt by Waltham residents if development is allowed to proceed to the limits allowed by existing zoning.

### School Enrollment

Increases in the number of school-aged children will be the largest single impact that future residential development will produce in Waltham. Education costs generally consume the greatest share of municipal budgets in Massachusetts; in 2004 the Waltham School Department spent \$13,478 per pupil across all of its programs, which served over 4,700 students. Forecasting school enrollment resulting from future development requires making several assumptions about types of home construction, household composition and size. MAPC developed excellent forecasting methods using statistical data from the 2000 Census and surveys of residential developments throughout metropolitan Boston for its *Peer Review of the Master Plan for the South Weymouth Naval Air Station*, published in 2005.

Table A summarizes the application of MAPC's methodology to Waltham's projected By-Right and Special Permit capacity for new residential development. Overall, construction of 5,700 dwellings By-Right in Waltham will add nearly 2,000 new school-age children to the city's school system, while the addition of over 12,200 new homes by Special Permit will bring in nearly 3,400 school-age children. Adjusting for private school attendance<sup>59</sup>, residential development on this scale will boost enrollment in the Waltham School System between 35% and 61%. To maintain Waltham's current staffing levels in the face of such increases, between 135 and 269 new teachers and 32 and 55 administrative personnel will have to be hired<sup>60</sup>. While the Waltham School Department is nearing completion of an eight-school rebuilding program, accommodation of this amount of new students will require construction of new school buildings, or at the very least re-use of some formerly surplus school properties<sup>61</sup>.

Property type	New Units, By-Right	New Units, Sp. Permit	School-Age Children per New Unit*	Additional School-Age Children, By-Right	Additional School-Age Children, Special Permit
Senior Apartments	176	685	0	0	0
Condominiums	1,038	2,968	0.233	242	694
Apartments	620	1,581	0.316	196	524
Townhouses	2,429	5,513	0.219	531	1,172
Single Family Homes, Basic	580	580	0.676	392	392
Single Family Homes, Large	878	878	0.698	613	613
<b>TOTAL</b>	<b>5,722</b>	<b>12,205</b>	-	<b>1,975</b>	<b>3,395</b>

\* These rates were estimated by MAPC with Public Use Microdata from the 2000 US Census for the Boston metropolitan area.

\*\* Totals may not add due to rounding.

Table A also clearly demonstrates that the type of new homes built is just as important as the number of new dwellings in determining the sheer number of new students that could access Waltham's school system under different Buildout scenarios. Most new residences in Waltham will consist of condominiums, townhouses and apartments, the bulk of which will have two bedrooms. MAPC's aforementioned Census analysis indicates that the

<sup>59</sup> The 2000 U.S. Census found that 10.5% of children in Waltham between the ages of 5 and 17 attended private schools. The Massachusetts Department of Education reported a private school attendance rate of 15% in the Waltham school district for 2002-03.

<sup>60</sup> Waltham's overall student-teacher ratio for 2005-06 is 10.7 to 1. The Waltham School Department also has 1.9 administrative staff per 100 students in 2005-06.

<sup>61</sup> At the conclusion of its eight-school building program, the Waltham School Department will be able to absorb up to 1,600 new students between grades K-12.



average number of children per dwelling climbs steeply between dwellings with one or two bedrooms and those with three or more bedrooms, while single-family homes and apartments generally have higher numbers of school-age children than condominiums and townhouses.

**Public Safety**

Development of over 5,700 and 12,200 dwellings respectively By-Right and by Special Permit, along with the addition of millions of square feet of new commercial space, will require the hiring of additional public safety personnel and possibly construction of new police, fire, and ambulance facilities. The Waltham Fire Department estimates that development of between 1,200 and 2,800 new homes on the Fernald School campus alone will require an additional fire and ambulance company to be located in North Waltham. To maintain Waltham’s current staffing levels of fire and emergency personnel, 32 additional firemen and 7 additional paramedics/emergency medical technicians will have to be hired to accommodate Waltham’s By-Right Buildout capacity, and 64 new firemen and 14 new emergency staff will be needed to handle Special Permit capacity. This additional staffing will also require between two and four new fire engines, as well as new ambulances, support vehicles and possibly up to four new fire stations if current fire structures cannot adequately house additional equipment and manpower.

Similarly, the Waltham Police Department estimates that projected residential development of just the Fernald campus would require the hiring of twelve additional police officers. Construction of housing up to Waltham’s By-Right and Special Permit capacities will respectively require hiring of between 33 and 70 additional police officers, 4 and 8 new emergency dispatchers, 7 and 9 new school crossing guards and 2 and 5 additional civilian support staff. Besides new police vehicles and equipment, this amount of additional staff may require construction of up to two new police sub-stations.

Table B: Projected Public Safety Hiring Required to Maintain Current Staffing Levels				
Public Safety Personnel	ADDITIONAL STAFF REQUIRED		ADDITIONAL FACILITIES REQUIRED	
	By-Right Capacity	Sp. Permit Capacity	By-Right	Sp. Permit
Fire	32	64	2	4
Paramedic / EMT	7	14	1	1
Police	33	70	1	2
Emergency Dispatch	4	8	0	0
School Traffic	7	9	0	0
Administrative (Police & Fire)	5	10	0	0
<b>TOTAL</b>	<b>88</b>	<b>175</b>	<b>4</b>	<b>7</b>

\*\* Totals may not add due to rounding.

**Infrastructure**

Construction of new homes and commercial property will not only require the hiring of additional municipal employees, but will increase usage of public infrastructure such as roads, and water, sewer and drainage systems. In gauging the effects of residential development on just the Fernald School campus, Waltham’s Transportation Department estimates that peak hour vehicle traffic on Trapelo Road will increase by over 10%, requiring provision of additional lanes to maintain current service levels. Construction of thousands of new dwellings By-Right and by Special Permit, along with millions of square feet of new commercial space, will increase traffic loads on major and minor roads throughout Waltham. Unfortunately, little space exists for road widening, particularly for major arteries such as Trapelo Road and Lexington, Main, Moody and South Streets.

Waltham faces a similar situation with its water systems, part of which (drinking water and trunk sewer) are operated by the Massachusetts Water Resources Authority. Many water, sewer and storm mains in the city are operating substantially below capacity due to age and condition, and can handle very little additional strain from new development without being completely replaced. The Commonwealth of Massachusetts is now requiring storm water run-off to be handled on individual properties in retention ponds and basins, and has imposed tight conditions on sewer expansion in the city to prevent illegal connections and ground water/run-off infiltration into the Charles River.

**Recreation**

The Waltham Recreation Department currently spends approximately \$28.25 per resident per year to provide recreation programming (sports leagues, summer camps, etc.) in municipal parks and playgrounds. The department will have to spend an additional \$370,000 to maintain existing recreational programs if 5,700 new homes are built By-Right in the city, and an additional \$790,000 if 12,200 new homes are constructed by Special Permit. While these amounts can be raised from property taxes on new development, population growth will boost demand for new playing fields, parks, playgrounds, community centers and open spaces, worsening the shortfall of such property currently faced by the Recreation Department. With little undeveloped land remaining in Waltham, the ability of the city to acquire new recreation property will be severely limited, particularly if demand rises for land on which to build new homes and businesses. In short, development to Waltham's By-Right or Special Permit capacities will likely consume the few remaining parcels suitable and available for use as new recreational areas.



## Special Topics

### Properties in the Riverfront Overlay District

The Riverfront Overlay District straddles the Charles River across portions of Wards Five, Eight, Nine and a small part of Ward Seven, encompassing dense clusters of commercial and industrial properties along River, Calvary, Charles, Felton and Crescent Streets and Rumford Avenue. Running through Waltham's downtown and historic Southside neighborhood, the District encompasses many large manufacturing and commercial facilities, which are well suited for adaptation to mixed residential and commercial use. Continual decline in Waltham's manufacturing base means that the highest and best use of factory and warehouse buildings in the Riverfront Overlay District in the current real estate market is as mixed use space, with multiple stories of apartments over ground floor shops and restaurants. The potential for this type of conversion has already been realized in Waltham in the Cronin's Landing development, as well as in the proposed redevelopment of a bag factory at 78 Rumford Avenue into apartments.

This study examined 353 parcels in the Riverfront Overlay District, which contain 547 homes and over 2,500,000 SF of commercial and industrial uses, as demonstrated below in Table Thirteen and Map Nine. Three hundred twenty-four of these properties are occupied and 29 are vacant. Most of these parcels (67%) are located within Ward Nine, with the remaining properties concentrated in Ward Five. Land uses on these properties tend to be small, averaging 7,200 SF of commercial/industrial space, except in Ward Eight, where the 27 parcels in the District average 28,000 SF in size.

The development potential of properties in the Riverfront Overlay District By-Right is relatively small, totaling 22 new dwellings and nearly 475,000 SF of additional commercial space. In contrast, by Special Permit these parcels can accommodate almost 3,000 new homes, primarily by converting nearly half of their existing commercial/industrial space into residential uses. Vacant parcels in the District can absorb 525 new residences and 113,000 SF of retail space by Special Permit; the remaining capacity of 2,465 new units is derived from adaptation of existing space to residential uses.

Table 13: Parcels in the Riverfront Overlay District – Build-out Summary

Property type	Number of Parcels	Current Dwelling Units	Current Commercial Space (SF)	Additional Dwelling Units, By-Right	Additional Commercial, By-Right (SF)	Additional Dwelling Units, Sp. Permit	Additional Commercial, Sp. Permit (SF)
Ward Five	88	154	438,894	4	194,773	531	-188,227*
Ward Seven	1	0	7,987	0	0	0	0
Ward Eight	27	19	780,893	25	58,085	677	-446,531*
Ward Nine	237	374	1,320,174	-7*	221,328	1,782	-566,872*
<b>TOTAL</b>	<b>353</b>	<b>547</b>	<b>2,547,948</b>	<b>22</b>	<b>474,186</b>	<b>2,990</b>	<b>-1,201,630</b>

\* These figures represent net totals that include properties adding commercial space and others converting existing commercial space into residences in mixed-use developments



## Industrial properties

Waltham has a long and notable industrial history. Its manufacturing base, in decline since the 1970's, is still significant relative to other communities in the region. This study examined 186 industrial parcels with over 8,600,000 SF of manufacturing space, as detailed below in Table Fifteen and Map Eleven. Nearly two-thirds of this capacity is located along I-95/Route 128 in Ward One and River Street in Ward Five, while 18% of this space is located within the Riverfront Overlay District.

Over the past two decades, industrial activity in the greater Boston area has migrated overseas, to southern states, or to peripheral locations along Route 495 and in Western Massachusetts in search of lower labor and production costs. As a result, the highest and best use of industrial property in Waltham now and in the near future is generally not manufacturing but rather office or research functions inside the Route 128 corridor, and mixed residential and commercial uses in other parts of the city.

The development potential of industrial properties is relatively small By-Right, totaling 33 new dwellings and almost 1,600,000 SF of new commercial space. In contrast, by Special Permit these parcels can accommodate over 3,300 new homes and more than 19,000,000 SF of office/research and commercial space. This development potential is not evenly distributed throughout the city, but is concentrated in the I-95/128/Winter Street corridor (with the potential to accommodate 17,200,000 SF of new commercial space) and along the Charles River in the Riverfront Overlay District (where properties can absorb 1,800 new homes in mixed-use developments).

Property type	Number of Parcels	Current Dwellings (units)	Current Commercial Space (SF)	New Dwellings, By-Right (Units)	New Commercial, By-Right (SF)	New Dwellings, Sp. Permit (Units)	New Commercial, Sp. Permit (SF)
Ward One	59	0	3,873,329	0	1,298,349	0	15,844,501
Ward Two	4	0	450,463	0	26,567	0	296,914
Ward Three	3	0	27,565	0	0	0	23,127
Ward Four	22	0	830,070	16	-13,695*	16	213,621
Ward Five	22	0	1,656,562	0	100,760	248	1,629,886
Ward Six	17	0	324,986	14	-65,696*	36	498,258
Ward Seven	9	0	75,720	0	215,486	0	1,353,901
Ward Eight	13	0	569,444	0	3,031	596	-361,329*
Ward Nine	37	0	821,844	3	31,303	973	-426,234*
<b>TOTAL</b>	<b>186</b>	<b>0</b>	<b>8,629,983</b>	<b>33</b>	<b>1,596,105</b>	<b>1,869</b>	<b>19,072,645</b>
<i>Inside Riverfront Overlay District</i>	<i>56</i>	<i>0</i>	<i>1,578,093</i>	<i>0</i>	<i>149,497</i>	<i>1,812</i>	<i>-934,233</i>

\* These figures represent net totals that include properties adding commercial space and others converting existing commercial space into residences in mixed-use developments

**“Small lot” (Grandfathered) Parcels**

Waltham has a number of residential parcels, collectively referred to as “small lots” or “grandfathered lots”, that are comprised of multiple small sub-parcels that often, under the City’s Zoning Ordinances, can legally have additional structures built on them. This study analyzed 311 such properties, as summarized below in Table Seventeen and Map Thirteen. These properties are primarily residential, and contain a total of 894 “sub-parcels” and 471 dwellings. “Small lot” properties are concentrated in Wards Two, Four and Six, and are generally small, averaging slightly over one-quarter acre (12,000 SF). These parcels were primarily created prior to the adoption of zoning, and are often the sites of former summer cottages, particularly in the Hardy Pond area in Ward Two, which was a popular vacation spot in the early twentieth century.

Waltham’s “small lot” parcels have substantial capacity to accommodate new development. By-Right, these properties can accommodate 217 new homes; by Special Permit they can absorb a total of 291 new homes, a 62% increase in the number of residences that currently exist on them.

Property type	Number of Parcels	Total Lots on Parcels	Current Dwellings on Parcels	Additional Dwelling Units, By-Right	Additional Dwelling Units, Sp. Permit
Ward One	14	31	16	11	11
Ward Two	118	269	173	84	84
Ward Three	34	113	32	47	47
Ward Four	49	118	76	2	2
Ward Five	2	4	1	6	17
Ward Six	87	251	166	67	68
Ward Seven	0	0	0	0	0
Ward Eight	0	0	0	0	0
Ward Nine	7	29	7	0	62
<b>TOTAL</b>	<b>311</b>	<b>815</b>	<b>471</b>	<b>217</b>	<b>291</b>



## **Recommended Actions**

Parcel buildout studies allow study of: the consequences of maintaining current development patterns, the effects of revising zoning ordinances and the implications of allowing particular development proposals to be permitted. Given the findings of this element, we advise the following measures be enacted:

- Review and, as appropriate, amend the Zoning Ordinances in order to:
  - Insure that the amount and location of By-Right development is acceptable given existing infrastructure restraints,
  - Maintain or perhaps extend Special Permit development relative to By-Right development to inject formal municipal review, comment, negotiation and public meeting procedures into Waltham's development process,
  - Examine exaction ordinances and, as appropriate, strengthen and increase current linkage payment requirements in order to mitigate development impacts on the City's transportation, education and general municipal infrastructure,
  - Explore creation of additional mixed-use districts to provide both housing and retail/entertainment uses in areas with large amounts of under-used industrial or commercial property - recognizing the dual advantages of expanding the housing supply and creating new demand for retail and commercial uses,
- Govern development by framing permitting decisions according to projected development impacts so that new construction does not overwhelm existing and future municipal infrastructure. Potential impacts to be studied should include, but not be restricted to:
  - Traffic circulation (auto, transit, bicycle and pedestrian),
  - Parking (spaces provided, relation to traffic impacts, impervious surface created)
  - School enrollment (elementary, middle and high school students "generated"),
  - Public safety (police, fire, ambulance and other emergency services),
  - Water, storm drain and sewer usage (capacity used versus capacity provided to municipal system),
  - Environmental impacts (effects on wetlands, floodplains, watersheds and associated flora/fauna),
  - Fiscal impacts (net development costs [total infrastructure costs versus tax revenue generated]),
  - Recreation (new users "generated" for public active and passive recreation facilities),
  - Urban Design (effects of structural massing and aesthetics on adjacent properties/neighborhood),
  - Historic character (effects on local historic properties if project is located in a historic district)
- Development impact information should be reviewed by appropriate municipal departments:
  - Clearly articulate Waltham's municipal development process, both for By-Right and Special Permit development, via the municipal website, cable channel and publications,
  - Monitor projects developed by Special Permit to ensure that all permit conditions are enforced.



## 2007 PLAN UPDATES

The Land Use element of the 2006 Community Development Plan was updated by the Waltham Planning Department in conjunction with the Waltham City Council. On May 14, 2007, the Council's Ad Hoc Master Plan Committee recommended the following revisions to this part of the Plan:

- Amendment #1:     *Provide recommendations in the Land Use element (bullet points) for how to prevent overdevelopment in Waltham. Provide Action Items for improving development decision making processes in the City, mainly by better information flow from technical staff to municipal decision makers.*
- Amendment #2:     *Review the CDP and refresh any dated references or language.*

## ECONOMIC DEVELOPMENT

### *Improve Access to Health Care*

With the closing of the Waltham hospital in 2003 and its probable redevelopment for other uses, residents expressed concern about the community's lack of nearby medical care.

- In the near term, explore the need for additional public transportation to health care facilities in neighboring communities.
- Continue to assist the Joseph Smith Health Center's satellite facility on Main Street with federal grant funds. Explore with health care providers (e.g., private, non-profit, universities) the potential for establishing other satellite facilities, similar to Children's Hospital at Waltham, to better serve all local residents. Examine potential sites for health care providers in the downtown area as a way to increase daytime visits to downtown and help support retailers.
- Explore expansion or acquisition of new/existing medical facilities.

### *Workforce Development*

Waltham has one of the largest and highest paying job bases in metropolitan Boston, much of which is located in office parks along Route 128. The city also has a large and growing population of immigrants, many of whom lack language and job skills to successfully compete for good jobs. While a number of organizations actively provide workforce development services to Waltham residents (see Appendix X for a list), the City can provide leadership to better coordinate between the needs of residents and the needs of local employers.

- Establish and foster an organizational link between employers and the local workforce development community (City of Waltham, public schools, universities, State, private sector, and community groups) to more directly connect employer needs and workforce development efforts.
- Help identify office space for workforce development providers, and in particular assist the current effort to relocate the State's Employment and Training Resources career center from Newton to Waltham.
- Explore funding for transportation service between low income communities in central Waltham and nearby employment centers (e.g., hotels and offices along Route 128) to supplement the services provided by the 128 Business Council and MBTA.
- In recruiting downtown retailers, seek businesses that will commit to hiring low-moderate income Waltham residents.
- Coordinate retailer recruitment with training programs to ensure a quality workforce for target companies

## TRANSPORTATION

Most of the intersections examined for the Transportation study are currently experiencing impaired levels of service. Planned improvements by the city will improve some service levels in the future, but significant development or redevelopment could further degrade traffic flow on major streets.

- Continue implementing signal upgrades based on the results of the inventory of the city's signal system and the Waltham Transportation Department's future Transportation Master Planning initiatives.
- Institute a systematic traffic count program to allow the city to track changes in traffic patterns.
- Conduct a more detailed analysis at intersections with higher than average crash rates, and for which no current redesign plans exist to determine the nature of existing problems and how they can be corrected
- Coordinate economic development planning and transportation planning.

## LAND USE

Waltham's existing Zoning Ordinances permit a potentially tremendous amount of new residential and commercial development to be built in the city, to a level that will overwhelm existing municipal infrastructure networks (roads, water/sewer capacity, public safety, education, recreation and open space) beyond their capacity to expand. Construction of new development even to the capacity allowed in the Zoning Ordinances By-Right could seriously stress the city's ability to provide effective and responsive municipal services, reducing quality of life.

In visioning meetings, residents expressed concerns about the impacts of large commercial and residential developments on city infrastructure and the quality of life of residents. While these sentiments received support in

the public forums, the perceived problems were not sufficiently detailed to guide specific changes to the city's review processes. However, since the findings of the Transportation element indicate that key intersections are already experiencing unacceptable levels of service, and the buildout analysis shows that existing zoning can permit 40 million square feet of additional commercial development by Special Permit, the City should analyze impacts of new development both in terms of specific proposals and the City's overall zoning and infrastructure capacity.

***Regulation of Development/Limiting Impacts***

- Examine the capacity for additional development under existing zoning regulations, both as of right and under special permits, in relation to the capacity of the city's infrastructure to support additional traffic, school children, water/sewer use, etc. This was accomplished by the Buildout Analysis portion of this plan.
- In accordance with any revision of zoning capacity, explore revising the zoning code to decrease reliance on special permitting and expand the range of clearly defined as-of-right uses.
- Improve dissemination of information about development proposals, extend outreach to increase attendance by affected communities, and clarify decision criteria to increase transparency of the review process.
- Assess the capacity/resources of city staff to investigate and enforce compliance with required mitigation measures.
- Revise or recodify Waltham's existing Zoning Ordinances to reduce the city's zoning capacity for new residential and commercial development.



**City of Waltham**  
**“Putting it All Together” Forum**  
**4/22/04**  
**Comments from the Public**

MAPC Staff: J. Alland, M. Hunsberger

- Recommendations will only work if they are implemented in the zoning ordinance
- Traffic impacts of development have been ignored for too long
- Have spent much effort to clean up the river; good to use it more for recreation, but must also keep it clean by restricting types of uses
- Do need more housing for low incomes
- Indian Ridge development will create a big problem due to runoff from cutting the tree cover; north Waltham has too much development already; better location for housing is Raytheon site on River Street where there would be no environmental impact
- Water quality of Charles River was recently downgraded – overdevelopment in Waltham was one of the causes; must make sure additional development does not harm the river
- Don’t want any more roads
- Need linkage payments for housing from commercial development
- Need to re-zone to create more housing
- Recreation areas (e.g. Hardy Pond) need parking and access
- Need open space for passive recreation as well as for playing fields
- Downtown feels like a parking lot, needs more green space; any new housing should be in taller buildings with green space nearby
- Main Street needs to be comfortable/safe for pedestrians
- What happened to Mayor’s notion of development moratorium?
- Mayor: lawyers said moratorium wouldn’t stand up in court – will revamp zoning to address over development; needs citizen support to be successful
- Existing codes and conditions placed on development permits need to be enforced in addition to zoning being revamped; without enforcement, new regulations will have no effect
- RFP for a consultant to revise zoning has been issued by City Council
- Suggest “rain tax” – new construction is taxed on the basis of how much impervious surface is created
- Mixed use downtown should be truly mixed use, not just a single purpose district, e.g. all entertainment/restaurant
- Downtown mixed use should extend all the way down to Derby Street (Vokey: agreed, it should go all the way to Newton line)
- Riverside development needs to be sensitive to wildlife and we have to be careful not to overuse the river itself
- Existing ordinances are not being enforced – too much is grandfathered, approved by special permits that violate the spirit of regulations, variances, incorrect interpretations; new ordinance needs to be so clear it cannot be misinterpreted.
- Ideas that come from the neighborhoods need to be implemented: south side has long requested basic services (street sweeping, sidewalks, curbs, pedestrian safety); taking care of streets will keep residents out on the street and control crime; Mayor: Gorham Street sidewalks, sewer, water, parking is scheduled for reconstruction
- Riverwalk should include kiosks with information about history, nature; trash is continually blown onto walkway and into river from businesses near Newton street
- Revitalization of south end of Moody street must not displace the immigrant residents
- Is there potential to use the footings in the river at the end of Maple Street for a fishing pier or boat launch? (City: no, they are structurally unsound. The city is building a handicapped accessible boat ramp right downtown.)
- Is a golf course really the best/most desired use for the Met State property? (a long discussion followed with the Mayor stating she is in favor of keeping the land from reverting to the state in 2006, and is not opposed to the golf course but is opposed to the proposal to build a costly club house in the first phase)
- Support for the greenways linking north to downtown as well as the Wayside Trail

- Waltham is not bike-friendly today – need the Wayside Trail as well as better signage and crosswalks for the Riverwalk; city’s crosswalks need to be repainted to be more visible
- Plan needs to be directly linked to zoning to be implemented
- Trapelo Road and Smith Street congestion needs to be addressed
- Many downtown streets are too narrow for parking on both sides; bicyclists should be registered and educated on safe riding
- Sidewalks needed in many places, especially Wyman and Lincoln streets



# WALTHAM CITY COUNCIL – COMMUNITY DEVELOPMENT COMMITTEE

## Input Session for the Draft Community Development Plan

March 21, 2005

Waltham City Councillors suggested the following comments and revisions at this session:

### Councillor Darcy:

1. Assess parcels at-risk along the route of the proposed Waltham Greenway;
2. Acquire and/or protect entire surplus MBTA right-of-way proposed for use as the Waltham Wayside Rail Trail;
3. Consolidate public and private “paper” lots west of Hardy Pond to protect the site and promote recreation in the area;
4. Explore methods of land donation for parcels with significant open spaces;
5. Protect Square Pond and analyze construction of a board walk to allow the public to safely access the site

### Councillor Logan:

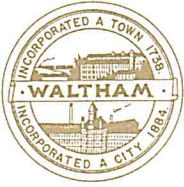
1. Revise error in Ward Six "Access to Water" chart

### Councillor Tarallo:

1. Consolidate municipal land holdings around Hardy Pond to help maintain and improve water quality;
2. Improve the water quality and sedimentation in Hardy Pond;
3. Protect municipal access to the Winter Street ice rink, currently owned by the Commonwealth, through acquisition or written agreement;
4. Protect the Connors Pool on River Street, currently owned by the Commonwealth, through acquisition or written agreement, from demolition, sale or transfer to parties that would discontinue the property’s recreational functions

### Councillor Rourke:

1. Convene a reuse committee for the site of the former Woerd Avenue landfill;
2. Increase protection of municipal owned open spaces and recreational facilities;
3. Compile a forest management plan for the Storer conservation lands;
4. Convey all property in the city that falls under MGL Article 97 to the Waltham Conservation Commission;
5. Explore opportunities to create vest pocket parks in and around the Southside neighborhood



Ex F.

# City of Waltham

*Jeannette A. McCarthy*  
*Mayor*

September 9, 2016

Secretary Matthew A. Beaton  
Executive Office of Energy and Environmental Affairs (EEA)  
ATTN: MEPA Office, Deirdre Buckley  
100 Cambridge Street, Suite 900  
Boston, MA 02114

RE: EEA #14681  
1265 Main  
DEIR  
Waltham, Massachusetts

Dear Secretary Beaton:

Thank you for the opportunity to provide comments on the above.

## **PHASE 1** **(280,000 SQUARE FEET)**

In my opinion, this Petitioner/Developer actually did the right thing by meeting with the neighbors and the City and incorporating those concerns into its plan, producing a first class mixed-use (office and retail) development and proceeded with the plan in a bad economy. They also did tremendous landscaping to the Phase I site.

I requested and received a conveyance, first by Trust and then by gift deed of Berry Park, (20 acres of conservation land adjacent to the 250-acre City-owned Prospect Hill Park which had been subdivided into house lots by the prior owner.)

The Petitioner also formulated a Global Master Traffic Plan, provided some traffic improvements, a Maintenance Agreement for the relocation of the City sewer, which Petitioner had requested and performed. Petitioner constructed the portion of the Wayside Rail Trail that abuts its Waltham property.

## **PHASE II** **(1,825,000 SQUARE FEET) - An increase of 850,000 sq. ft. from the ExENF)**

**"NEED"**

## **RESIDENTS' CONCERNS**



There have been several meetings of the neighbors including meetings sponsored by Ward 7 Councillor Joseph Giordano, Ward 1 Councillor Daniel Romard, Councillor-at-Large Patrick O'Brien and myself at the former Banks School, as well as meetings with the Cedarwood Association (Mayor, Joseph Giordano and Patrick O'Brien), and appearances before the Waltham Traffic Commission to address neighborhood and Citywide concerns of the residents.

Residents want the commuting and business traffic out of the neighborhoods including Tavern Square, Stow Street, Ravenswood Road, Main Street, Weston Street and the Highlands. At the neighborhood meetings, the neighbors expressed a desire for a cul-de-sac at the base of Stow Street to prevent the use of Stow Street as a "Border Road" to the I-95 highway and to prevent commuting traffic from using Stow Street and Tavern Square as a cut through if the highway improvements are completed.

Currently, there is no "Border Road" to the highway on either side of I-95 in the area of Routes 20 and 117. Residents have also expressed the desire for no truck deliveries at night and the need for vegetative screening.

#### **RECOMMENDED MITIGATION:**

Residents want a direct access to Rt. 128 and I-95 to keep business and commuting traffic out of the neighborhoods.

Residents want a Stow Street cul-de-sac.

#### **BUSINESSES' CONCERNS**

Numerous tenants of the businesses in, around, and off Winter Street/Wyman Street/Bear Hill Road/Totten Pond Road/Second/Third/Forth/Fifth Avenues are increasingly complaining about the extraordinary length of time to exit and enter their worksites and access the highway. So many complaints have been received that the Massachusetts High Technology Council, as well as several other business owners, have contacted me directly for assistance. Their petition will go before the City's Traffic Commission this month. They are advocating for various traffic enforcements and improvements. They also support a Global Master Plan for the highway, ramps and adjacent roadways to keep Rt. 128 and the region economically viable.

#### **"NO NEED"**

The overwhelming feelings shared by Waltham residents across the City to me, with which I concur, is that the City does not need any more:

- Traffic
- Apartments
- Banks
- Super Markets

- Nail/Health Salons
- Liquor Stores

Residents are split on whether there is a need for additional restaurants.

Residents have expressed to me a need for more diverse retail such as a Kohl's or Target type store. I have advocated for the same to the Petitioner, as I acknowledge there is such a need.

### **TRAFFIC**

#### **PHASE 1**

Petitioner's traffic consultants developed a Global Traffic Master Plan which studied all of the Waltham highway interchanges at Trapelo Road, Winter/Wyman/Totten Pond Road and Routes 20 and 117.

#### **1265 MAIN STREET SITE**

New traffic signals on Main Street at Market Place Drive, as well as the creation of a long Marketplace Drive provide sufficient storage on site to address the increasing traffic volumes.

#### **STATE HIGHWAY AND ROUTE 20 INTERCHANGE AND HIGHWAY OFF RAMPS**

- A. The roadway dividers at Rt. 20 have mixed results. The right designated exit lane from Route 128 to Rt. 20 East works well, but the left designated lane leading around the highway to Rt. 20 West is deadly at best.

The left lane yield sign should be immediately converted to a stop sign until there can be direct access with a proper highway "Border Road" as opposed to using Weston and Stow Streets as the "Border Road". The dividers are continually bent, plowed into and damaged. Complaints to the state have produced no change. Complaints include failure to yield, lack of sight distance and barriers which produce accidents. There have been 5 crashes from February 2016 to August 2016 and 6 crashes in 2015 reported to the Waltham Police. It is important to note that the State Police respond to this area. I do not have the State Police accident data. I only have the calls that were made to the Waltham Police Department.

#### **RECOMMENDED MITIGATION:**

Stop Sign with state enforcement instead of yield. This is low cost and can be implemented now.

- B. Other complaints, the 2 lanes on Rt. 20 East after the Tavern Square light should be merged sooner to avoid additional collisions.



**RECOMMENDED MITIGATION:**

Either make left lane, left turn only or adjust lane markings, so the merge to single lane happens sooner. This is low cost and can be implemented now.

- C. The Petitioner also illustrates a willingness to implement their Global Master Plan, which is much needed with the volume of traffic congestion in the City, as well as the businesses and consumers coming to 1265 Main Street site.
- D. Petitioner in conjunction with another local developer petitioned the Traffic Commission for a connection in the rear of Petitioner's property leading out to Fifth, Third and Fourth Avenues. This connection was temporarily approved for weekends. I advocated for and wholeheartedly support that connection.

**PHASE II**

The prior Petitioner's proposal (Related Companies of New York) (EEA#13952) proposed 1.69 million square feet of development. This Petitioner in its (ExENF) proposed 1.28 million square feet. Petitioner's current proposal is for 2,105,000 square feet, an increase 850,000 square feet. (DEIR, pages 2-2 through 2-5.)

The 400,000 square foot housing component would not be an 'as-of-right' project. The remainder of the Petitioner's proposed project appears to be 'as-of-right' under the City's current zoning. As I have indicated, I am in favor of commercial development with more diverse retail, such as a department store. The Petitioner's other proposed uses are consistent with the commercial uses on Rt. 128 (other than the housing.)

Regardless, the traffic solution is paramount to any further development on this site.

Petitioner designed a Global Master Plan for the area. (DEIR Figures 2.5 and 2.6)

**HIGHWAY RAMPS****Realignment of Bear Hill Road and Second Avenue with Green Street**

- A. The Petitioner's Proposal calls for the realignment of Bear Hill Road and Green Street to allow direct access from Rt. 117/Main Street to I-95 South. That is able to be achieved now. The Developer is willing to do that now. In preparation for that they acquired the rights to Green Street and the anticipated new owner of the 128 Auto Parts on Green Street has expressed a willingness to me and has the financial ability to achieve that now. This will not only directly benefit the Petitioner, but will directly benefit the proposed re-development of the 128 Auto Parts (into a mixed-use modern office and retail.) It will also provide a huge benefit to the City of Waltham and the Town of Weston and all the commuters from Rt. 117 West to East to the highway who now use Stow Street as a cut

through to access Rt. 128. In essence, this will eliminate 50% of the traffic on the local roads by making a left or right turn onto Green to access the highway directly.

This can be done now, as Green Street provides a direct access to the highway, and the private owners have the land.

### **Highway Ramp at 1265 Main Street Property**

- B. As far as the ramp on the easterly side of the highway, the Petitioner is ready, willing, and able to pay for and build that ramp on its property proceeding from Main St/117 to Route 128 Northbound.

### **RECOMMENDED MITIGATION:**

I recommend the realignment of Bear Hill Rd/Second Avenue with Green Street and the highway ramp on the 1265 Main Street property.

### **WYMAN STREET/THIRD AVENUE NEW TRAFFIC SIGNALS (Figure 2.6)**

- C. With regard to Wyman Street, I asked the Petitioner to propose traffic improvements within the State and City's right of way at Totten Pond Rd/Third Avenue and Winter/Wyman Streets and to realign Third Avenue with Wyman Street.

In the past, commuters and residents could always access Totten Pond Road directly from the highway ramp. Now, only Third Avenue traffic can use that ramp. All of the other highway traffic has to go down to the Wyman Street partial interchange to access Winter Street, Wyman Street or Totten Pond Road. Since there is not enough storage at Wyman Street everything gets backed up including onto the highway.

With the addition of the signals proposed by the Petitioner, Totten Pond Road access would be facilitated while easing up the burden on Wyman Street and thus allowing the original highway design to work. It will also help the tenants in the complexes on Third, Fourth and Fifth Avenues, as well as travelers on West Street, Winter Street, First and Second Avenues, who deal with this gridlock on a daily basis.

### **RECOMMENDED MITIGATION:**

Reinstating the Totten Pond off ramp. Realign Wyman Street and Third Avenue and install signals as proposed in Figure 2.6. These signals will help with the numerous complaints from the office tenants, commuters, residents and help lessen the backup of traffic onto the highway. This can be done now and the Petitioner is willing to do it and pay for it.



## **HIGHWAY BRIDGES IN WALTHAM**

### **WINTER STREET BRIDGE**

The City of Waltham not only paid for the design of the Winter Street Bridge, but also the multiyear construction oversight of the Winter Street Bridge Project. We are grateful to the State for construction and completion of that project.

### **MAIN STREET/ROUTE 117 STATE BRIDGE**

This Bridge is not in good condition and it needs to be replaced. Every year the state fills the numerous depressions in the pavement and every year they quickly reappear. The bridge also shakes, rattles and vibrates more than it should. Additionally, it is woefully undersized for the Route 117 and 20 Interchanges which are close in proximity to each other, and attempt to handle huge volumes of traffic daily from the north, south east and west.

A few years ago, for this project, Sam Park offered to put the bridge supports in place for a new bridge in an attempt to facilitate the Main Street bridge replacement project. His offer was not accepted by the state.

A few years ago, the then Secretary of Transportation came to Waltham as a guest of the Waltham State Representative. He met with local officials including police, traffic, planning and myself. The Secretary indicated on State Representative's cable TV show that the Rt. 117/Main Street Bridge was in the State's plan for replacement.

Subsequently, the City Planner, Traffic Engineer and I went to DOT, District 4 and we were told, that was not the case. We were told that the City would have to put this bridge on the TIP list. We asked to do that.

Everyone agrees that this state bridge needs to be replaced. The size and the scale of it I will leave to the traffic and engineering experts.

A new bridge would allow for the expansion of the Wayside Rail Trail, and for increased bicycle, vehicular and pedestrian safety, as well as provide additional transportation options.

### **RECOMMENDED MITIGATION:**

Replace the bridge.

### **OTHER CONCEPTS**

#### **MULTIMODAL CENTER ON 128**

I believe Rt. 128 needs a true multimodal center with public transportation on the highway. This has been advocated for years by MBTA, MAPC, the 128C3 Group – consisting of Towns of Weston, Lexington, Lincoln and Burlington and the City of Waltham's Mayor. The Fitchburg line is in close proximity to Jones Road and one of adjacent property owners has an underutilized oversized garage that could facilitate this goal, but nothing has happened.

### **128 MONORAIL**

I also believe that the State's Master Plan should include a monorail in the center of the highway from Burlington to Waltham to Westwood. Burlington would provide public transportation access to Alewife; Waltham's Fitchburg line would provide public transportation access to Boston's North Station and Fitchburg to the west. Westwood Station would provide access to Boston's South Station and New York.

Numerous residents, businesses and other communities have expressed support for this concept to me and are willing to work with the City, State and Federal authorities to get it done since Rt. 128 is a parking lot most of the time now.

In doing some research, I discovered that in other areas of the country (Boca Raton) there has been a public private partnership with private funding of an interior coastal rail. I have been informed that impacted businesses would be in support of this type of public/private partnership, because it benefits their businesses as well.

### **OTHER PROJECTS ON THE HORIZON**

In the Rt. 128 area, in Waltham, there are several anticipated proposals for large developments: Green Street; several parcels on Main Street adjacent to Green Street/Jones Road owned by one family; added development to an existing Jones Road commercial complex; and the redevelopment of Bear Hill with the potential additional access out onto Main Street/Rt. 117.

This does not include all the City Council's Special Permits for the Winter Street/Wyman Street/West Street/Totten Pond Road/Bear Hill Road/Second Avenue projects currently in the queue.

Why is this important? The traffic is terrible now, just imagine more with no direct highway accesses or new bridge.

Further, this Petitioner, unlike other developers, does not skirt the MEPA process or submit piecemeal MEPA filings without revealing their big development plan. It is my strong opinion that there should be shared responsibility for this benefit/solution. All the other property owners/benefactors just sit back and wait for someone else to do it, but there should be a plan that the State endorses and every Petitioner should be required to participate in that solution for the good of the Commonwealth, the City of Waltham, its residents, all of those who come to work in this area, and the surrounding towns.



### HOUSING

The Petitioner is fully aware that I am adamantly opposed to any housing on this commercial site. Here are some reasons why:

Waltham currently has thousands of apartments and condominiums. Some of the current residential complexes include:

2015-16	Cooper Street	260+ apartments
2012	36 River Street	200 apartments
2013	One Moody Street	260+ apartments
2000-03	The Ridge (40B)	264 apartments
2003	Longview Place	348 apartments
2003	Pulte/Wellington Crossing	268 units
1998	Bear Hill Village	318 apartments
1998	Cronin's Landing	290 apartments
1995	Bishops Forest	350 units
1989	Briar Glen Village	151 apartments
1989	Pizzi Farm Condos	48 units
1989	Clark's Pond	88 units
1983	Casey Estates	52 units
1982	Warren/Whitman	111 units
1979	Northgate	351 apartments/condos
1972	Gardencrest	700 apartments
1972	Windsor Village	707 apartments
1965-70	Lincoln Street	84 apartments
1968	Colonial Manor	57 apartments
1965	Rome Apartments	28 apartments
1960	Charlesbank	468 apartments
1960	Glen Meadow	120 units

This does not include all the cluster housing and multi-family properties throughout the City. Nor does it include the proposed 195-unit 40B development at 341 Second Avenue.

Furthermore, the above residences are not even all occupied or built yet. Despite the vacancies, the Waltham City Council continues to approve more Special Permits and Zone Changes. As Mayor, I have no absolutely no authority over City Council Special Permits. Zone Changes come to me for approval/denial, but when I veto them, they override my veto.

As Mayor, however, I have to deal with the impact of the City Council's decisions on the City's residents, and the resultant impact on the City's TRAFFIC, infrastructure: water,

sewer, drain, roads, schools, density, etc. Further, I am the one deemed responsible for this overdevelopment.

Equally important, is removal of commercial properties from the commercial tax base, which negatively impacts the tax bills of the residential taxpayers due to the fact that Waltham has a split tax rate for residential and commercial properties.

That being said, Bear Hill Village already provides housing close to Rt. 128. It cannot be considered as a transit oriented development, because there is no public transit system in place on Rt. 128. There is no train station/stop on Routes 128/117/20, so why would anyone advocate for additional housing when there is no accessible public transportation? Especially with the fact that the traffic is already gridlocked on the highway, Rt. 20 and Rt. 117/Main Street both in and well beyond Waltham.

I absolutely oppose any housing in the commercial area of Route 128. There no need.

Further the surrounding communities, Lexington, Watertown build their affordable housing on the Waltham borders. Now Weston is considering a 40B in this vicinity on the Waltham line.

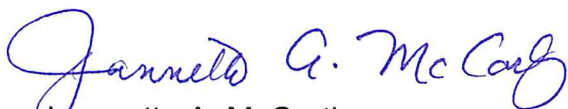
### **SUMMARY**

This Petitioner is ready, willing and able to build two new highway off-ramps now, as well as install new traffic signals for Third Avenue and Wyman Street. It should be allowed to do that now, while the State does what is necessary to design and build the Rt. 117 Bridge and the compatible ramp connections. The State has already utilized creative methods to replace bridges in a more timely and efficient fashion. That should be done here. At least then something will be done for the benefit of the City's neighborhoods and the business tenants who commute here for work.

The ultimate goal is to keep the neighborhoods of Waltham protected, while keeping the commercial areas economically viable and accessible by means of the highway and proper border roads.

Thank you.

Sincerely,



Jeannette A. McCarthy  
JAM/ccb



**Section I: Sponsor Information**

The entity applying for a PEL, referred to herein as the "Sponsor", must be either a public agency, a non-profit organization, or a limited dividend organization. Please indicate which of these organization types the Sponsor is (check one):

- Public Agency
- Non-Profit Organization
- Limited Dividend Organization

What is the name of the Sponsor?

*Broadstone Watch City, LLC*

**1. Sponsor Information**

- a. Name of Sponsor: Broadstone Watch City, LLC
- b. Business Address: One International Place, Suite 400 Boston, MA 02110
- c. Business Phone: (617) 535-7567
- d. Business Fax No. NA
- e. Website Address, if any: www.allresco.com

**2. Principal Individuals.** Please provide the names and contact information for each of the principal owners and/or officers representing the Sponsor in this PEL application. Space for three such individuals is provided below – if there are more than three, please attach contact information about those persons on a separate sheet:

a. Name Michael Boujoulian  
 Title: Managing Director  
 Office Phone (617) 535-7567  
 Cell Phone \_\_\_\_\_  
 E-Mail Address mboujoulian@allresco.com

b. Name Geoffrey Engler  
 Title Development Consultant  
 Office Phone: 617-782-2300 x202  
 Cell Phone 617-276-7261  
 E-Mail Address gengler@s-e-b.com

c. Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Office Phone \_\_\_\_\_  
 Cell Phone \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_

**3. Experience of Sponsor.** Please attach separately a description of the experience of the Sponsor and the individuals representing the Sponsor in development projects like the project for which the PEL is being sought. Include any other relevant experience in housing development and management, real

## Section V: Municipal Actions

Please describe below the contact you have had to date with the Town/City regarding this Project.

The Applicant met with the Director of Planning Catherine Cagle on 6/30 to introduce the project and to identify key concerns. On 7/24, the Applicant also met with Deputy Chief of Fire Prevention Cliff Richardson to discuss issues relating to emergency vehicle access and fire safety in general.

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Please describe below any actions you are aware of which the municipality has taken to promote the development of affordable housing .

*The City of Waltham has used approved several mixed-income multi-family developments through its Special Permit process, most recently for Acadia on the Charles, Merc at Moody & Main, and The Watch Factory. The affordable units at each development respectively were added to the City's Subsidized Housing Inventory through DHCD's Local Action Unit Application process. The City's local bylaw requires 10% of the total project to be designated as affordable as permitted through the Planning Board.*

## Section VI: Sustainable Development Characteristics

Please describe below any aspects of the Project which are in keeping with the ten Massachusetts Sustainable Development Principles (attached).

***See Tab 15 for the Sustainable Development Characteristics***