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**Memorandum**

To: Wayne Feiden, AICP  
Director of Planning and Development

Date: April 12, 2006

Project No.: 09720

From: Ralph Willmer, AICP

Re: Zoning Analysis

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I have completed my review and analysis of the City of Northampton Zoning Ordinance. Specifically, the ordinance was evaluated from several different perspectives. First, an assessment of the format of the existing ordinance was performed. It is not meant to be a comprehensive compilation of zoning issues as would be required prior to a complete revision of the ordinance, but it does highlight a number of key issues. This included looking for ways to enhance the readability and understanding of the code for all users. Format changes are proposed, including the use of graphics, although it also is not assumed to be a complete list. The format changes suggested here are potential improvements, but there may be a consensus that the current format in a given section of the ordinance is workable. Second, some more substantive comments are made on several sections of the ordinance. This is not meant to be an exhaustive diagnostic of the ordinance, but it does raise some issues that may need to be addressed when the City decides to proceed with a more comprehensive revision of the zoning ordinance. Third, the option of incorporating some form-based code provisions was considered as an alternative to the current use-based ordinance. Finally, several general observations are made regarding how the ordinance could be updated with newer tools and techniques that may be beneficial to the City.<sup>1</sup>

**Ordinance Format**

In general, while there are a number of suggested improvements for the format of the ordinance, its layout and organization appear to be reasonable. The section numbering system is easy to follow and a number of the regulations are presented in tabular form. There are some graphics to help illustrate specific provisions, but more would be helpful. The Table of Use Regulations cross-references relevant sections of the ordinance for further detail, which can be very helpful.

The following recommendations are made for the format of the ordinance:

**Section 2** – The definition section appears to be comprehensive. That being said, it will likely be necessary to add new definitions to reflect other changes as they are made. Particularly, definitions for certain new land uses may be required if changes are made to the use table to reflect use types not contemplated when the ordinance was last revised in a comprehensive manner. Additionally, some definitions may be deleted if it is determined

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<sup>1</sup> While reviewing the ordinance, several internal inconsistencies, incorrect references, or typos were noted, but are not specifically addressed in this memorandum. These corrections should be made as part of a comprehensive review and update of the ordinance.

that they are no longer relevant. Finally, there are some definitions that go beyond simply defining the term (home occupation and lot are two examples). Standards relating to the regulation of the term should be located in a section outside the definitions. Certain terms should be illustrated to avoid confusion – an example would be the definition for lot and related terms (more so than what is currently in the ordinance).

**Section 3** – The zoning code divides the City into numerous zoning districts (see additional discussion below). However, the beginning of the section merely lists names of each district. It would be useful to provide a description of the zoning designations. The casual observer will not understand the distinction between the three Urban Residence districts without such a description.

**Section 5** – Several suggestions are offered here:

- A number of the use listings include specific site standards or dimensional requirements that clutter the use table (for example, common driveways and planned village).
- The footnotes might be better organized if they appeared at the bottom of the page or at the end of the table rather than interspersed throughout the table.
- Eliminate uses if they are no longer relevant (i.e. private bridge, tunnel; airport; heliport?).
- Certain new uses may need to be added (see below).
- The listings for parking requirements and reduction seem out of place in the use table because they do not appear to relate to any particular land use type.
- Filling of land and wet areas similarly do not belong in the use table since they do not refer to specific land use types.

**Section 6** – The table seems overly complex and cluttered. One option would be to restructure and consolidate the listings of the use categories in each district along with the dimensional requirements. Some listings could be combined where the dimensional requirements are the same in order to simplify the table. Graphics that illustrate examples of the dimensional regulations, beyond those already included, and how to interpret them would be useful here. Some of the notes can be displayed as footnotes rather than placing them in the body of the table itself.

**Section 10** – The section regarding earth removal (Section 10.2) appears out of place in Section 10, Special Permits. For ease of understanding the provisions of this section, it may be useful to state up front that the Planning Board requires plans that demonstrate that the conditions for earth removal can be met. This section only explicitly states that a site plan is required (and references Section 11) and that a reuse plan must also be submitted, but no mention is made that a special permit is required.

Section 10.3 regarding the filling of wet areas also should be placed in a different section.

Section 10.14 on zero lot line development may be better placed in Section 6, Dimensional and Density Regulations.

The remainder of the section contains provisions for specific special permits, but could also be moved into separate sections to make them more evident.

**Section 15** – Move this section to the end.

**In general** – Although there are some graphics found at the end of the ordinance, it is recommended that additional diagrams, pictures, and photos be added. They should be placed in applicable sections of the Ordinance, particularly in the definition section and after the dimensional table.

If the City is interested in a more innovative way in which to post the ordinance on its website, a number of municipalities have utilized a visual interactive code. The ordinance online would include numerous hyperlinks to definitions, cross-references to other relevant sections, and explanatory language and diagrams. It is an interesting means of presenting a zoning code and can be very user-friendly. One examples of such a code is in Henderson, NV (<http://www.cityofhenderson.com/planning/php/vicintro.php>).

### **Section 5 – Table of Use Regulations**

The following comments are offered as items to look into further when a comprehensive revision of the ordinance moves forward:

- What is the distinction between home occupation and home office? Only home occupation is defined in Section 2, although Section 10.12 uses a third term, “home office-occupation”.
- Under retail and commercial uses, there are listings for retail and personal services as distinguished by floor area. Yet there are subsequent listings of some similar uses without regard for floor area.
- Impacts from land uses are not necessarily determined by size. For example, a shoe store and a convenience store of the same size will likely have radically different average daily trips and parking requirements. Others, such as dry cleaners and auto body shops may have environmental issues that dictate where they may be allowed.
- The table should more specifically delineate land uses to include such businesses as auto body shops, convenience stores, banks, bed & breakfast, inns, and dry cleaners, just to name a few.
- Drive-in establishments can also have differing impacts depending upon the use. A fast food restaurant with a drive-through window operates for about 18 hours a day seven days a week, while a bank would be open for substantially less time.

### **Special Permits**

Although the Special Permit Granting Authority is the Planning Board for most cases, the Zoning Board of Appeals and the City Council has the authority to hear some special permit applications. Ideally, the Planning Board is best equipped to be the SPGA. However, in Northampton the City Council hears special permits for civic or public uses and the Zoning Board of Appeals generally reviews those that involve accessory uses or structures. This breakdown is reasonable as long as the Planning Board remains the major SPGA.

### **Section 8 – Parking Regulations**

The parking regulations should be revisited to determine whether the standards listed are current and in synch with what the City has experienced with recent projects. Additionally, the City may

want to consider implementing new regulations that set forth both a minimum and a maximum number of parking spaces. There are a number of examples of developments that establish parking ratios based upon the busiest days resulting in underutilized impervious space for the majority of the year.

The shared parking regulations can be enhanced to more specifically delineate the parking requirements that pertain to the uses that will share the spaces. There may be instances where more than 20% of the spaces can be shared.

Landscaping provisions for parking areas should be upgraded to include more than six foot wide planting strips. Standards for the planting of trees and shrubs can be added to create more aesthetic parking areas, create some shaded areas, and reduce glare from headlights.

### **Section 10.3 – Filling of Wet Areas**

This section addresses the need to follow certain conditions if there is to be any filling of water or wet areas. Although any such project would be subject to approval by the Conservation Commission pursuant to the Massachusetts Wetlands Protection Act, it appears likely that meeting the conditions set forth in the ordinance may conflict with an Order of Conditions issued by the Conservation Commission. The permitting of such a project should be left with the Conservation Commission.

This section should be combined with Section 10.4 – Filling of Land Other Than Water or Wet Area – into a single section. There are specific requirements listed for the site plan to be submitted pursuant to this section, but are somewhat duplicative of the requirements for a Site Plan Approval under Section 11. This list should be limited to only those items required above and beyond what is already listed in Section 11.5.

### **Form-based Zoning**

Form-based zoning is a technique in which the municipality establishes zoning districts that primarily emphasize physical form of the built environment with the end goal of producing a specific type of “place”<sup>2</sup>. It regulates building types while allowing building owners to determine the uses. This is in contrast to the typical zoning scenario that regulates land use by districts, while building form may or may not be regulated in accordance with design guidelines or performance standards.

In form-based zoning, once a building type has been established, market forces tend to determine the mix of uses that will occupy the prescribed building types. The regulations tend to be more flexible in order to give property owners some latitude in the mix of uses that occupy the buildings. In addition to building type, the municipality may also seek to address streetscape appearance that is in harmony with the scale of the neighborhood. This can still include parking standards, as well as those for pedestrian and bicycle accessibility, and sidewalk and street layout. This technique has become more commonplace in recent years, although there has not been much experience with it in Massachusetts.

Although Massachusetts has not specifically authorized form-based zoning codes in the Zoning Act (M.G.L. c. 40A), aesthetic issues in zoning are referenced in the purposes section of the Zoning Act. Moreover, cities and towns have regulated the aesthetics of signs in zoning codes for years.<sup>3</sup> That being said, the two best known examples of form-based zoning in Massachusetts are the Lowell Zoning Ordinance and the recently adopted Zoning and Land Use By-laws for the South Weymouth Naval Air Station. Additionally, there are numerous examples from elsewhere around the country.

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<sup>2</sup> Section 6.5 – South Weymouth Naval Air Station Zoning and Land Use By-laws

<sup>3</sup> Note that a specific legal review of this issue was not undertaken as part of this project.

For this report, the following form-based codes were reviewed. Copies of relevant portions are attached as well.

- o Lowell, MA
- o South Weymouth Naval Air Station site
- o Woodford County, KY
- o Sonoma, CA
- o Pleasant Hill BART Station, CA
- o Hercules, CA
- o Petaluma, CA
- o Arlington County, VA

Form-based zoning is typically based upon regulating different areas of the city or town, sometimes called transects, that range from the most rural areas to the more densely developed inner core. In some of the samples provided here, the zoning is based upon regulating plans, which identify street sections and building types for specific areas of the municipality that are based, in part, on the local existing conditions. Thus, after surveying neighborhood densities, the urban core, and the transitions from urban to suburban and then to rural development, a municipality can begin to create a zoning code that preserves and enhances those development patterns while giving building owners more flexibility in the land use types.

General land use parameters would be assigned to each of these areas. For example, traditional neighborhoods may allow a variety of housing types and small commercial establishments. The inner urban core would facilitate mixed use, retail, office, and multi-family housing. More rural areas would encourage single-family housing and open space or agricultural protection.

Once those parameters are established, the zoning will define the standards for streetscape improvements and building types in each area. Usually, several different building types are allowed – sometimes matched against the hierarchy of street designations. The regulations include design, massing, aesthetic, landscaping, parking, and other similar considerations. One key element that sets form-based zoning apart from typical zoning is that the form-based code has building appearance graphics worked into the code (along with a narrative description) so that they would be easily understood. This can guide developers in understanding what building form is expected if a permit is to be granted. As will be demonstrated in the sample codes provided, some municipalities define what types of building forms are allowed in a certain zoning district. Typically, use regulation is secondary to form.<sup>4</sup>

The following is a summary of the different approaches taken in the samples listed above.

#### Lowell, MA

Portions of the Lowell zoning ordinance begin to address some form-based zoning concepts, although they are not as detailed as others described below. Much of the code is use based, but recent revisions focus on new procedures and regulations aimed at promoting and protecting neighborhood character in accordance with the Master Plan. Additionally, the new map rezones the entire City using a new set of zoning districts that are described in Section 3.1 of the new Zoning Code. The new districts are designed to reflect the existing character of the City's neighborhoods on a block-by-block basis and regulate new development to respect and complement the existing neighborhood character.

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<sup>4</sup> Proakis, George J., AICP, "Placemaking in Massachusetts Communities: The Challenge of Adapting Innovative Form-Based Regulations, 2005, [www.cnunewengland.org](http://www.cnunewengland.org)

### South Weymouth Naval Air Station

The South Weymouth Naval Air Station encompasses land in Weymouth, Abington and Rockland. The Zoning and Land-Use By-laws for this 1,442 acre area were adopted by all three towns last year. Several village center districts and seven land use categories were established. The Table of Permitted Uses sets forth the permitting requirements and building forms.

The by-law contains simple and clear graphic descriptions of twelve different building forms covering the range of allowed uses. They illustrate building height, placement on the site, and building elements. Dimensional standards are applied as well in accordance with the building forms based on principal building uses. For uses with a corresponding building form, the building form standards apply and not those in the Table of Dimensional Standards. Conversely, if a use does not fit into one of the twelve building forms, the dimensional standards apply.

Smart growth principles such as maximum parking requirements, smaller lot sizes, and setbacks are designed into the building forms and dimensional standards.

### Woodford County, KY New Urban Code

Woodford County uses regulating plans to show how the buildings fit into the neighborhood context and illustrates the relationship between the public space (streets, parks, etc.) and the private space. Regulating plans are established for rural areas as well as downtowns and village centers. Street types are recommended and sections are illustrated for different street types that show dimensions, sidewalks, and the placement of trees and buildings. Specific streetscape standards establish setbacks and shade tree requirements. Building placement standards prescribe how the buildings are to be sited, as well as the required or allowed building elements. Standards are established for a number of building uses – residential, commercial, office, workplace, etc. Architectural standards are applied to each of the buildings.

In the preface to the code, the goals from the Comprehensive Plan are listed and serve as a guide for the zoning code.

### Sonoma, CA

The key elements of the Sonoma ordinance set standards and guidelines for streetscapes for one specifically named street and for the hierarchy of street types. Standards are established for parking lanes, right-of-way, pavement width, curb type, curb radius, sidewalk width, planter type and plantings.

Block structure is also regulated with design standards and guidelines. Street layout encourages connections with existing streets and cul-de-sacs are discouraged. Standards are also set forth for natural features, parks and open space, alleys and gated communities are discouraged.

### Pleasant Hill BART Station, CA

This code is for a very specific area around a BART station in the San Francisco metropolitan region. It is based on a regulating plan for the area and is based on establishing building envelope standards in order to create a good streetscape. These standards are set forth for workplace, shopfront, residential flats, and townhouse suites. For each of those buildings, the regulations address height, siting, elements, and uses.

### Hercules, CA

This code creates a “palette of street types”, which forms the basis for future development. Building placement and volume standards are applied to the hierarchy of street types. Architectural standards, particularly projecting façade elements, are established for bay windows, stoops, balconies, porches, and the like. Additional regulations cover building walls, windows, doors, roofs, fences, and signs. This code is well illustrated, showing examples of different elements, and in some

cases showing desirable attributes in contrast to undesirable ones (as does the Northampton Design Guidelines for the Central Business District).

#### Petaluma, CA

This code sets forth standards for building function, how private buildings affect the public realm, thoroughfares, landscaping and utilities, parking, historic preservation, design review, and civic spaces. It includes a form of use table that explains what, if any, permit is required to develop certain uses within the designated districts for a given planned area. This ordinance uses a good mix of graphics, tables and narrative to describe the relevant standards.

#### Arlington County, VA

This code is similar to many of the others, although some of the standards are prescribed in more detail than others. It emphasizes historic preservation and breaks retail uses into two different categories based on the provision of entertainment or leisure activities, high customer counts, or if it is a shopping destination (primary retail). Secondary retail provides personal or business services. For the building envelope standards, there are specifications for height, siting of the building on the lot, building elements, and use (what is allowed on the ground floor, etc.). Some of the streetscape requirements are more detailed than others, particularly with respect to squares and civic greens. Architectural standards are more specific as well, including dictating the dimensions of certain features and the materials that can be used.

#### **Process for Revising the Zoning Ordinance**

Our recommended approach for a zoning revision project begins with the establishment of a Zoning Advisory Committee, which is ideally comprised of 7 – 13 people that represent various municipal boards and departments. There also should be City Council representation on the Committee. Additionally there may be outside stakeholders on the committee as well. This Committee should be an advisory committee to the Planning Board, which has the primary responsibility for submitting changes to the zoning ordinance. This can help to ensure Planning Board acceptance of the proposed changes.

We recommend a kick-off meeting during which the key issues are raised in order to best prioritize what needs to be done. An important part of the early stage of such a project is the interviews conducted with city staff, board members and outside stakeholders. Depending upon the political climate, it may be worth interviewing City Council members as well. We would also recommend a tour of the city in order to see specifically what types of problems exist and to visualize how a planning effort may be implemented.

After that initial data collection phase, a complete zoning diagnostic should be conducted that details the issues to be resolved and to identify potential solutions that can be pursued. This would include a legal analysis for internal inconsistencies and conflicts with state and case law, which has not been done as part of this review.

Since public outreach and education is important in order to ensure the ultimate political acceptance of the new ordinance, it is important to hold an initial public forum at this stage of the project. Moreover, outreach via a page on the Office of Planning and Development's website, cable TV, the local press, displays in City Hall, etc. can help to educate the public. A "zoning fair" where resource materials and graphic displays are exhibited can be another useful outreach tool. The use of graphics throughout the process is important to demonstrate what the proposed changes will look like on the ground and to help people visualize those changes.

The next phase of the project would involve scheduling a series of working sessions with the Committee. It is most useful to look at the Table of Uses and the definitions first. The goal will be to confirm or change what uses are allowed in the different districts, and if so, are they allowed by

right or by special permit. Many of the future decisions will be based upon changes made to these two sections. Any potential changes to the map should be discussed early in the process as well.

The remainder of the working sessions should be scheduled to address specific issues. We usually recommend that there be some explanatory memoranda to describe the policy choices that are applicable for each section of the ordinance. Typically, there is no absolute right or wrong approach to a given zoning technique. But the manner in which it is written and implemented has policy ramifications that must be understood.

After the key policy decisions have been made, the process of drafting the changes can proceed. It will be important to understand how the changes have evolved so that they can be explained at future public meetings and City Council hearings. Another public forum can be useful at this point in time.

Finally, as the drafts are prepared, there will likely be changes before a final version is ready to be reviewed by the City Council. There may be political considerations to take into account before the Council decides whether to consider a totally new zoning ordinance at once. Some municipalities prefer to submit specific sections in a more piecemeal manner instead of trying to adopt all the changes in one wholesale piece of legislation. This is particularly true at Town Meeting where a town does not want to run the risk of losing the entire bylaw because of opposition to a certain section.

### **Conclusion**

Although the review of the Northampton Zoning Ordinance was not a comprehensive zoning diagnostic, it is clear that certain changes should be made to improve format and ease of use. At the same time, this ordinance is much more user-friendly than others. The most useful approach will be to add graphics to help illustrate the definitions and dimensional standards in the ordinance. Recommendations were also made regarding improvements to the Table of Use Regulations.

The ordinance also contains a number of newer zoning techniques, although it has not embraced many of the smart growth principles.

Regarding form-based zoning, there is some track record in Massachusetts for this zoning technique although there is nothing specific in the Zoning Act authorizing it. There is potential to use form-based zoning in Northampton, although it may be useful to update some of the City's planning documents for those areas where form-based zoning might be applicable. The City already has some comprehensive design standards for the Central Business District that can serve as a guide for future zoning provisions. There are features from each of the samples cited above that could be useful models for the City to use if it pursues form-based zoning.

The Central Business District may be appropriate for pursuing form-based zoning. In addition to addressing the architectural guidelines, including streetscape regulations will provide a more comprehensive vision for the Central Business District. After some additional planning and visioning input, the City could consider expanding this type of regulation for other strategic areas of the City, including the areas surrounding and transitioning into the Central Business District.

One form this could take is to revise the zoning framework for the Central Business District area, regardless of whether the current zoning delineation is used or if map changes are made. The City should determine if, and how, it wants to revise or update the list of allowable uses in the district. A separate use table could be established for this district. Street types within the district should be characterized based upon intensity of use and whether it is predominantly commercial or residential in nature. Examples include a four-lane boulevard, two-lane main street, town center street, neighborhood street, neighborhood lane, etc. The streets can be listed or depicted on a map.



For each street type, the City would then determine the suitable building type, placement (setbacks, if appropriate), volume or massing, height, etc. that typifies that street type and complements existing structures. In essence, this would substitute for the current dimensional regulations that govern the uses allowed in the district. The regulations could also include landscaping and streetscape improvements that enhance the neighborhood.

Finally, additional design related regulations could be added to address building facades, walls, windows and doors, fences, and signs. Much of the architectural and design regulations could be generated from the existing Design Guidelines.

Essentially, one could consider this type of hybrid approach to be an ordinance within an ordinance. The City would substitute its existing use and dimensional regulations for the Central Business District and create a whole new set of regulations that govern the form of the buildings and streets first and foremost, and the use would be secondary, as long as it is allowed in the use table.

However, it is not recommended that the City move directly to form-based zoning for the entire City. A mixture of traditional and form-based zoning is a better approach at this time since there has not been much experience with form-based codes in Massachusetts or elsewhere around the country. It is still important to regulate land use by the types of uses allowed in specific districts in order to minimize potential land use conflicts. Form-based codes place too much of the land use decision making in the hands of the property owners and there should be some municipal control over these decisions. Additionally, it may not be applicable to use form-based zoning in predominantly residential areas that have similar types of homes, such as may be the case in the Rural Residence and Suburban Residence districts.