

Memorandum

To: Planning Board
From: Jennifer Burney, Town Planner
Date: 3/31/2011
Re: Smith Property

The following information is in response to the many questions and concerns that were asked and expressed at the July 8, 2010 Board of Selectmen meeting regarding the Smith Property. There are many zoning scenarios that can be played out.

- 1) Leave the property residentially zoned which allows 80,000 lot size residential housing.

Developers that have expressed interest in the property have stated that residential development is not feasible due to the cost of assessment (approx \$50,000) and clean up (approx. \$150,000-\$300,000) and the cost to acquire the property (asking price 1.8 million). The property consists of 8+ acres which could allow up to 4 houses or less under current zoning.

- 2) Leave it as it:

A few comments stated that the site should remain as it is. According to the EPA, a site must be cleaned up within a specific time period or face fines or other ramifications. The owner of the property is responsible for clean up. There are assessment grants and low interest loans available for cleanup for private ownership. If a town owned property, there are grants available to assist towns with assessment and cleanup.

www.epa.gov/newengland/brownfields

www.massdevelopment.com

Catherine.finneran@state.ma.us (Mass DEP – Catherine Finneran New England Brownfield’s Coordinator)

- 3) Residential 40B

A developer could choose to do a 40B. 25% must be affordable with no limit to the number of units required per acre. The ZBA approves the Comprehensive Permit.

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4) LIP (Local Initiative Plan) – “friendly 40B” – way around zoning (density requirements and use)

- Application submitted with letter of endorsement by Board of Selectmen. The ZBA oversees and approves the application.
- The ZBA can approve or deny an application based on various grounds: e.g. public good etc... The Developer or abutters could appeal if they are found to have standing. Not sure if the Board of Selectmen could appeal. DHCD will check into this.
- The ZBA could NOT require as a condition that the project get town meeting approval.
- A LIP can be residential (no minimum amount as long as 25% is affordable) or can be mixed use (see the following on Mixed Use 40B). There is no limit on density. The Regency is 60 units consisting of 23 acres, Sunset Ridge is 28 units with 15.5 acres and Bolton Woods Way (a LIP) is 28 units consisting of 9.9 acres.

5) Mixed Use 40B

A Project may contain ancillary commercial, institutional, or other non-residential uses, so long as the non-residential elements of the Project are planned and designed to complement the primary residential uses, and help foster vibrant, workable, livable, and attractive neighborhoods consistent with applicable local land use plans and state sustainable development principles.

The ZBA would approve this project.

6) Village Overlay with design guidelines

The Board could take a proactive approach and create zoning that would allow mixed use along with design guidelines that would be **acceptable** to the town. Design guidelines vary. Some are strict guidelines or general design standards. In most cases a design review board is established

consisting of architects, landscape architects, historical preservationists etc. Zoning to allow a village overlay/mixed use would need to be approved by 2/3rd town meeting vote.

Guidelines/standards could control:

- Buildings mass and architectural style
- Density
- Lighting, signage, landscaping
- Buffering
- Parking
- Setbacks and building height
- Uses

Examples of rural towns similar to Bolton can be found along the Mad River in Vermont and some small western Massachusetts towns.

Some of the design guidelines I have collected thus far are: (note this list is not complete, it should be noted that during a review phase that relevant examples should be reviewed for Bolton).

- Concord
- Jamestown Rhode island
- Cape Cod Commission
- Harvard (residential)
- Stoughton
- Littleton
- Canton
- Farmington Ct
- Great Barrington MA

7) Rezone to Business or Limited Business

The Town could consider rezoning the parcel to the current limited business or business district. A village overlay with design guidelines/standards could be more site specific and tailored to this site. Massing, setbacks, parking, uses desired in the National Historic District (Smith Property) may be different than what is desired at Bolton Office Park or Skinners etc...

8) 40R Smart Growth Districts:

Towns can adopt Smart Growth Districts that allow for dense residential or mixed use development. Smart Growth Districts can include town and city centers, other existing commercial districts in cities and towns, and existing rural village districts. While all residential and mixed use development must be as-of-right in a smart growth zoning district, communities can use design review to regulate the physical character of the development as long as requirements are not unduly burdensome. Twenty percent of the housing in the district must be affordable to those earning 80% or less of the median income and be deed restricted for at least 30 years.

The district must provide a minimum allowable density of eight units per acre for single-family homes, 12 units per acre for two and three family buildings, and/or 20 units per acre for multi-family dwellings. Smart growth zoning districts must provide a range of housing opportunities for a diverse population including households with children. In order to address the circumstances of smaller and more rural municipalities any community with a population of less than 10,000 people may request a reduction from the minimum allowable density requirements. The community will need to show that compliance with the density requirements would create a hardship and that any proposed reduced density would be consistent with the smart growth goals of Chapter 40R. The community must also demonstrate that development at the required densities would either be highly inconsistent with the existing physical environment of the community, would create significant risks to water pollution due to poor soils, or cannot be feasibly served by a piped water system.

State Approval: Before adopting a smart growth zoning district, communities must apply to DHCD for district approval. The Board of Selectmen submit an application request to the State Department who must determine if the proposed location is an eligible site and must also approve the proposed zoning regulations and design standards. Once an application has been approved by the Department, a community then adopts the zoning regulations for the overlay district (2/3rds town meeting vote). Communities that adopt smart growth zoning districts receive an approval letter from the Department. The community is then eligible for incentive and bonus payments.

Financial incentives: A primary purpose of Chapters 40R and 40S is to provide a financial incentive to communities to build smart growth consistent housing. Four types of incentives are offered.

1) Zoning Incentive Payments: Upon approval of a district a municipality receives a zoning incentive payment. The amount of the incentive payment is based on the potential number of new housing units (The maximum number of units possible under the 40R overlay zone minus the total number of units permissible under the previous zoning.) that can be constructed in the district. The incentive payment is disbursed to the community after the issuance of the approval letter by the Department. Payments range from:

- \$10,000 for up to 20 units;
- \$75,000 for 21-100 units;
- \$200,000 for 101-200 units;
- \$350,000 for 201-500 units; to

- \$600,000 for 501 or more units of housing.

2) Bonus Payments: A community will also receive a bonus payment of \$3,000 for each unit of new housing unit built in the district which is payable once the building permit has been issued for the housing unit.

3) Educational Costs (Chapter 40S): Communities are reimbursed for any net cost of educating students living in new housing in a smart growth district. The reimbursement is equal to the cost of educating students living in new housing in a smart growth district minus the percentage of new revenues from the district that would be otherwise be devoted to educational costs and any increase in state educational aid resulting from students living in new housing in the district.

4) Funding Preference: When awarding discretionary funds, DHCD and the Executive Offices of Environmental Affairs, Transportation, and Administration and Finance must give preference to municipalities with an approved smart growth zoning district.

http://www.mass.gov/envir/smart_growth_toolkit/pages/mod-40R.html

I hope this information is helpful. Please let me know if you need any further information.

Sincerely,

Jennifer Burney
Town Planner

