



Committee on Legislative Matters and the Northampton City Council

Members

Councilor William H. Dwight, Chair

Councilor Gina-Louise Sciarra, Vice Chair

Councilor Rachel Maiore

Councilor John Thorpe

MEETING MINUTES

Date: February 10, 2020, Time: 5:00 pm

Location: City Council Chambers, 212 Main St., Northampton, Massachusetts

1. **Meeting Called to Order:** At 5 p.m., Chair Dwight called the meeting to order. He explained the procedure he would use in conducting the public hearings. The hearings are to discuss possible modifications to the zoning ordinance – an ordinance related to wireless antennas and an ordinance to allow a change from one conforming use to another without a Finding. When members deliberate, they will be discussing the zoning as it applies generally and not as it relates to a specific project. He expressed the understanding that many of those present were there in connection to a specific project and said this does not preclude their testimony. The committee may vote to forward the ordinance with either a positive, negative or neutral recommendation or continue the hearing if more information is needed.
2. **Roll Call**
On a roll call, the following councilors were present: Councilor Dwight, Councilor Maiore, Councilor Sciarra and Councilor Thorpe. Also present were Councilor James Nash, Councilor Alex Jarrett, Administrative Assistant Laura Krutzler and City Solicitor Alan Seewald.
3. **Announcement of Audio and Video Recording**
Councilor Dwight announced that the meeting was being audio and video recorded for broadcast by Northampton Open Media (NOM).
4. **Approve Minutes of January 13, 2020 Organizational Meeting**
Councilor Sciarra moved to approve the minutes of January 13, 2020. Councilor Thorpe seconded. The motion passed unanimously 4:0.
5. **Public Comment**
Councilor Dwight opened the floor to general public comment.

Christine Nolan of Northampton thanked councilors for serving the city. Their decisions are important to the City of Northampton and alter lives, she observed. She is speaking in opposition to the relaxing of zoning

laws that may negatively impact residents while enhancing the efforts of developers. Her understanding is that the city wants to make development easier to accomplish in the interest of infill and density, and that makes developers happy. But the city also has a responsibility to consider the good people who are neighbors of these developments. Residents who have been city dwellers and taxpayers for decades; many of them are here. Councilors don't hear from them that often because, in general, they have felt secure that the city is watching out for them - the homeowners. She is sorry to say that that safety is eroding. She urged them not to relax the zoning laws. She wants them - their public servants - to have their backs and to continue to weigh and evaluate carefully each and every building project that comes before them. No two are the same no matter the size, nor will the impact be the same.

Mark Moggio of 445 Spring Street in Leeds said he wanted to ask that the committee this evening really weigh its vote carefully or not vote this evening. This isn't an 'all or nothing' ordinance, he suggested. He has sent emails to each and every one of them today and would like them to look at those emails closely. There are some great alternatives that could be a middle-of-the-road way to do this, instead of cutting out part of this ordinance, particularly having to do with parking, the size of parking lots, etc. He said to please look over those emails and delay a decision.

"Let's take our time" and really think this through, he urged.

There being no more general comment, Councilor Dwight moved to the first item on the agenda.

5. **Public hearings on proposed zoning changes**

Councilor Dwight noted that public hearing notices were published on January 27, 2020 and February 3, 2020 per M.G.L. Chapter 40A, Section 5.

A. **19.173 An Ordinance to Allow Change from One Conforming Use to Another without a Finding**

Councilor Dwight read the version of the ordinance as amended by the Planning Board.

Councilor Sciarra moved to open the public hearing. Councilor Thorpe seconded. The motion passed unanimously 4:0. The public hearing was opened at 5:13 p.m.

Councilor Dwight said he would begin by hearing from proponents.

Senior Planner Carolyn Misch gave a Powerpoint presentation. She began by emphasizing that no matter what happens to the ordinance tonight, the Special Permit criteria for seven units or more will not change. The Sustainable Northampton plan was adopted in 2008. She reviewed the plan's guiding principles, including supporting vibrant downtowns and walkable communities and creating transportation and housing choices. She noted that any land use plan is a policy document intended to guide public and private actions. The idea behind the plan is that regulations should match up to the plan so that it is a tool for implementation purposes.

Ms. Misch summarized Northampton's zoning history. Zoning is a land use tool that directs growth, a way of dividing up the community into geographic areas where different uses are allowed. It dictates the types of uses and where they're allowed and might include things like parking, open space, lot size, landscaping, etc. The first zoning ordinance was adopted in Northampton in 1926 around the time zoning was being adopted throughout the country. Northampton was already built out quite extensively by that time, and it was very rudimentary when first adopted.

From 1926 to 1975, they continued to build as a community. In 1975, 'modern zoning' was adopted. Another 50 years of development had taken place, so, at that time, language was added to spell out how to address nonconformities; i.e. - existing development that did not meet current standards.

After the Sustainable Northampton Plan was adopted in 2008, a committee was established to look at the zoning in place and make changes to more readily match policy documents and goals for the city moving forward. That committee was charged with making clear rules to direct development and removing impediments to projects that met those rules. The idea was to be very clear about the types of projects that could be developed and what Northampton wanted as a community. On the heels of that, between 2011 and 2013, zoning amendments related to residential development were adopted meant to achieve greater sustainability in the way the community functions and to address goals for protection of environmentally-sensitive areas. It was a long, deliberative process to come up with applicable criteria, and they haven't even finished the work started in 2011 - 2013 in terms of trying to match zoning to the city's goals and objectives. Section 9.3 B2 is sort of a relic of the treatment of pre-existing nonconforming structures that was set up in state statute and mirrored in local zoning. It is really inconsistent with the way planners have tried to establish clear standards in modern zoning since it rejects projects that may meet current standards yet don't comply with the finding criteria. The hard stop of not allowing uses other than single-family homes to move forward if they were pre-existing nonconforming was reflective of zoning in the 60's and 70's when, even in the downtown area, multi-family homes were discouraged. Zoning used the provision of required parking as sort of a stand-in for saying, "we don't want more dense development."

Section 9 deals with nonconforming structures, uses and lots; it's not just the little subsection in front of them. It's remained substantially the same since the 1970's and was established long before zoning contained specific criteria for new development. Zoning now has requirements like open space and buffers, traffic mitigation, tree replacement and protection, landscaping and lighting, etc. specifically for multi-family housing adopted in more recent years. Design criteria were created through lots of planning, lots of thought and lots of time by community members.

The idea is to allow change on older nonconforming parcels so long as they continue to meet new standards adopted by City Council related to two-family, three-family and multi-family homes. The purpose of the amendment is to make zoning further consistent with the city's approach since 2008 to match plan goals and not have an effect on other review processes already in place but not duplicate those or create another impediment to reaching the goals the city has established.

Ms. Misch reviewed a flow chart for projects. Anything over 2,000 square feet that is not a single-family home automatically triggers Planning Board review, she advised.

At the conclusion of her presentation, Councilor Dwight opened the floor to comments from opponents.

Nancy Denig of 34 Dewey Court said she wanted to respond to the very first caveat presented by Ms. Misch; i.e., that the proposed change doesn't change special permit criteria for projects under seven lots. [Editor's note: Misch actually stated that special permit criteria for projects *over* seven units would not change.]

The neighborhood they are concerned with in particular is Dewey Court, but they are aware this change will affect other properties in the city. They looked at the project from the point of view of special permit criteria.

She'd be comfortable with various things if she sensed that there was an awareness that the project does not meet special permit criteria. She wrote a letter summarizing how the project does not meet special permit criteria only to be told each criteria either did not apply or meant something else. "I'm not assured at all that special permit criteria are going to protect the quality and character of our neighborhoods."

John McLaughlin, an attorney representing Mark Moggio, spoke in opposition. Mr. Moggio has the support of almost all his neighbors on Dewey Court and has heard throughout the city from other neighbors in opposition to proposed projects, he related.

This is not an issue of property owners vs. renters and not a question of property rights or property values, he observed. The development "is going to hurt everybody in the neighborhood" whether they rent or own, he claimed. The issue pertains to development that will increase on-street parking which is already bad and cause traffic problems that are already bad.

They are here because he filed a law suit on Dewey Court claiming that the developer received a finding he should never have received. The case is now being held in abeyance while the parties see what happens with the law. Obviously, if they change the law, he is going to lose the lawsuit.

Ms. Misch talked about finding statutes being 'relics.' Just so they know, every city around has finding ordinances and they would be the only city without them; they would be an anomaly, Attorney McLaughlin pointed out.

Some nonconforming lots are worse than others, Attorney McLaughlin noted. The lot on Dewey Court has zero frontage and only has access to the road through the pavement into it.

They are proposing doing away with findings altogether, he presented. The law has been that if someone is using a lot that is nonconforming and changes it, it can't be made substantially worse. Also, to qualify for a finding, the new use can't be more intensive. He can understand their wanting to take some of those elements out. Many towns don't have the 'substantial detriment' rule *and* that it can't be more intensive.

It is not innovative to simply say 'yes' to every developer. [By removing the finding requirement], they are not giving the ZBA the power to look at every situation and decide whether a huge apartment building is a good use or not. With a finding, local government has more power to protect the neighbors.

This relates a lot to parking, he continued. Right now if someone comes in for a special permit they are going to deal with parking based upon what are truly antiquated rules - the parking regulations. The type of developments now on board are apartments within apartments. Each one of those bedrooms - on Dewey Court 30 bedrooms - are potentially separate units. They are going to have 30 cars there. When planners look at the regulations for special permits, they are going to say developers meet the regulations when the reality is much, much worse because each of the bedrooms is a separate apartment. It looks like some of the developers are saying, 'Look, they do this in Boston . . . they do this in Brooklyn'. If it works there, why can't we do it here?

The main reason it doesn't work here is that, here - like it or not - people are going to bring their cars. They don't in downtown Boston.

With the new law being proposed, someone could come in on a horrible lot, build an entire apartment complex, get a special permit based on outdated parking regulations and it would be ruinous for the neighborhood for on-street parking and traffic. The ZBA would no longer have the ability to say, "No, that doesn't work." The ZBA has more power than the Planning Board would on a special permit, he contended. He can understand they might want to take out some of the language, but there is no reason at all to take away the power of their own board to make decisions. To say, "No more findings," Northampton would be an anomaly in the area and it would set them up for development that would hurt everybody, he stressed.

He doesn't think they are here because of any city plan, they're here because he brought the lawsuit, he concluded.

Councilor Jim Nash of 18 Montview Avenue noted that the project is in his ward. Part of why they're here is that, when people don't like a development, they look for a lever to push on to stop it. Over on North Street they saw it around wetlands, here on Dewey Court they are seeing it around the frontage issue.

He was part of the Zoning Revision Committee that made recommendations to the Planning Board. "Our zoning is super developer-friendly," he asserted. By and large, they worked to make sure zoning is very developer-friendly so that infill could happen. One theme committee members really stuck to throughout their discussions was the idea of streetscape. He pointed to Graves Avenue as a model of the dimensional guidelines adopted for the Urban Residential C (URC) district. Buildings are close to the street, there is a sidewalk and tree belt, and it is walkable. This is reflected through all the different urban residential districts, he pointed out.

With this particular project, they're here today in his mind because the guidelines they worked very hard on for over two years for projects creating seven or more units were not really adhered to through the planning process. When he looks at the proposed plans, he doesn't see granite curbs, he doesn't see sidewalks and he doesn't see a relationship between the structure and the street. Thus, they have people pushing back and they have found a lever. It does make sense to him to remove this check in the process but it doesn't because they're here today because of what he views as a misapplication of zoning to start out with.

He knows he has a number of constituents in the room and they're thinking about Dewey Court. But this applies to numerous properties. St. John's Cantius Church, a project approved a few weeks ago with a 10-foot setback, got a finding for condominiums proposed by O'Connell Development. It is zoned Central Business (CB) which requires a 30-foot setback. What's dawning on him is that, since it's CB, what if the owners want to go from residential to retail and make Thornes II there? If developers are allowed to just switch uses, how are they going to stop that?

He is going to be very leery as they move forward about all of the ramifications across the city.

His last point is that Dewey Court did not need to go to the ZBA, he continued. All they needed to do is create more street scape. If they extended the street, created sidewalks and created a cul-de-sac, they could have gotten 50 feet of frontage. With a cul-de-sac on the roadway, they could get 16 units; they could get the townhouses in there. They didn't need to go this route; they could have done it by right. Maybe they couldn't have proposed the building they have right now, but there was another way to do this.

He asked Attorney Seewald to explain in plain English 350-9.3 B1 and B2.

Ms. Misch is here to explain the changes as they are not legal issues, they are zoning changes, Attorney Seewald noted. However, as he understands 9.3 B1, prior to this proposal, a change from one conforming use to another that required additional elements such as parking was not possible. The real estate they have is all the real estate they're ever going to have, so it's treated differently in the law than other forms of property, he explained. For example, the ability to convey property in perpetuity has been struck down by the courts. Similarly, uses that can never be changed are disfavored because times change and people need to be able to change uses. What is being proposed is allowing changes from one conforming use to another conforming use as long as the new conforming use conforms to dimensional requirements applicable to it other than the elements in which it is already deficient.

Using Dewey Court as an example, the proposal as he understands it would not be creating any new nonconformities.

A finding is the least stringent review of any review process in the ordinance, Attorney Seewald continued. If a special permit is required, all of the issues about compatibility with the neighborhood, etc. are subsumed in the special permit criteria. It is a much more detailed look at the proposed use. The finding criteria that a project not be *substantially* more detrimental is a very relaxed standard, less exacting and less arduous than the criteria applied to special permits. The argument is that if someone is going through a special permit process, there is no need to go through a finding which is less exacting.

Ruth Von Goeler of Northampton echoed the request for members to take their time making a decision and not rush into this. She is hearing a lot about it being a balance between wanting to make things easier for developers vs. wanting to protect residents. She encouraged the committee to give everybody time to think it through. It's an important zoning change that gives residents a little additional protection.

Lilly Lombard said she wanted to build off what Ms. Von Goeler said. She mentioned the ordinance relative to large-scale ground mounted solar arrays. When it came before LM, it wasn't quite cooked. Thanks to Councilor Murphy who's in the room and Councilor Klein, the parties got together and discussed ways in which it could be tweaked. They have heard from a land use attorney that there are other things they can consider. She worries when she hears from a land use attorney with a lot of familiarity with development in other communities that Northampton is very liberal. "I want us to pause," she confirmed. She encouraged councilors to continue the hearing and take time to consider the options suggested by Mr. Moggio rather than just taking up or down action today.

Ms. Lombard acknowledged they went through a community process to decide how they wanted human settlements to occur, but, "we have to keep evolving and we have to keep learning," she proposed. As someone on the Public Shade Tree Committee (PSTC) who is studying the decline of the tree canopy over time and following scientific research about how critical a tree canopy is for mitigating and building resilience around climate change, one of the things that got her engaged in this project is that it puts at minimum five significant trees at risk. Given what she is learning about the value of their urban shade tree canopy and given how liberal they seem to be about promoting development and limiting disincentives to removing trees, she thinks they need to keep evolving as a community about what infill looks like.

"I don't think the community conversation is over. I think we need to keep talking about what it means to have a climate-friendly, affordable, equitable, safe community in an era of rapid climate change."

Kate Lavoie of Northampton echoed what Lilly and Ruth said. Her concern from what she has heard tonight is that the ordinance change would just be a 'yes or no' vote. She thinks it deserves more discussion and more input from the community. She echoed requests to take a pause.

Farnsworth Lobenstine noted that, in Planning Board, Ms. Misch acknowledged there are hundreds and hundreds of pre-existing nonconforming lots. If there are hundreds and hundreds, he believes they need more time to carefully consider if this proposal really meets the needs of the city. Given the complexities, he suggested they give themselves the ability to consider additional options and gather more information.

Elaine Jandu of Northampton echoed the fact that there are a lot of questions. Nobody feels comfortable with the new ordinance as proposed. She asked councilors to give the discussion more time.

Mr. Lobenstine alluded to some alternative proposals that he didn't think Attorney McLaughlin presented clearly enough. Specifically, councilors could choose to say that three or fewer units not be required to get a finding or that six or fewer units be treated differently than seven or more. Their concern is that the ZBA still be required to review projects of seven or more units, he clarified. This is a way the zoning ordinance could better protect neighborhoods and the town as a whole, he suggested.

The Dewey Court project has been portrayed as a 'Hail Mary' with neighbors using a technicality to prevent it from moving forward, but this is far from the case, Ms. Denig observed. As she said at the beginning, many special permit criteria should be applied to this project. In particular, 75% of the project is within wetland buffer zone, major trees are proposed to be removed and, rather than an ideal street scape, car ports are proposed to back up against abutters. Her view as an abutter would be looking at the back of a car port. Also the character of the building, every single criteria is not met, she contended. It is not one little glitch but a whole series of issues neighbors have with the proposal, she stressed.

Regarding the special permit process, obviously there are glitches with that process as well, Mr. Moggio attested. That's what brought them here; they weren't happy with the way that process went. Because of the finding decision, they were able to stop the project. The special permit process has a lot of glitches and, obviously, is subject to Planning Board discretion. Members take recommendations from planners; they're a volunteer board and not necessarily educated on the criteria. The special permit criteria have a lot of flaws or at least aren't always followed by the Planning Board from what they've seen so far, he submitted.

Councilor Dwight offered Misch the opportunity to respond.

Planners have done extensive work on parking requirements in the last several years, Misch reported. They have looked at data on car ownership, and it is much lower downtown than in outlying areas. This is taken into account in the parking requirements.

Regarding potentially allowing development to move forward with a finding instead of by right, six subsections in Section 9.3 presently allow lots to move forward by right, she pointed out. Adding another layer of review with a finding that is not nearly as detailed as the Planning Board review is really just adding another permit without necessarily adding value. Her suggestion would be requiring a finding for projects that don't trigger any other kind of review.

There has been a lot of conversation in the city about creating new impervious surface and parking that's not going to be used, she continued. She cautioned against requiring more parking in areas where they know they have fewer cars than in other areas.

A lady who didn't identify herself asked if a finding is a public hearing process. Members said yes.

With respect to Northampton being developer-friendly, the goal of the city has been to spell out requirements for development with the understanding that permits will be granted if applicants meet the criteria. Planners are very specific about the criteria they want so it makes it easy [only] if applicants are willing/able to comply, Ms. Misch clarified.

Scott Reinhart of Northampton noted that one thing that kept coming up is that the city has a mechanism in place to allow this to be taken out earlier; i.e. - the Zoning Board of Appeals. Section 350-10.1 (Special permits) lists seven criteria that must be met. Five out of the seven were not met, including parking, traffic, impact on the neighborhood, etc., he contended. When they asked if they could slow this down and review that process, it was a very contentious meeting. If they spell out that developments must meet these seven requirements and then five of them don't count, that's really not very clear, he asserted.

They asked for a traffic study; that was turned down, he asserted. They are talking about putting a huge building - 32 units - at the end of the street, more than the number of houses on the street now. He and his neighbors are not against development, but a three-story, 32-bedroom unit is not responsible for that neighborhood, he observed. That is why they ask that people just slow down and look at the whole picture.

One criteria is that applicants cannot put in a development that is impactful to people with disabilities, Mr. Reinhart added. Several people in the neighborhood are legally blind, himself included. This was brought to the board's attention but was brushed off. It is the middle of the winter, so why can't they get a traffic study? He asked. The traffic study they used is antiquated, he charged.

Before building this "huge monstrosity," he advised 'tapping the brakes.'

Luka Madden of Northampton said she'd like to offer a different perspective. She is a 30-year old professional who works in Westfield and lives in Northampton. All of her friends are also 30-year old professionals, and none of them can afford to rent their own place. They all rent with multiple people and share apartments. This is who is moving into the community. They all have cars because it's not feasible to live in this community without one. She has friends who live at 155 Pleasant Street, a similar development with no parking. They are paramedics who work in emergency services and they often spend 35 or 40 minutes finding parking when they return to their apartment.

With respect to streetscape provisions, the idea is that the city wants projects to be pedestrian-friendly, Attorney McLaughlin explained. With certain lots that are nonconforming, that's impossible. Dewey Court developers are proposing a big concrete box with a sea of pavement in front of it. If councilors could craft some kind of ordinance that would work with a finding, they could do more than say 'yea' or 'nay.'

In the absence of further testimony, Councilor Dwight said he would entertain a motion to close the public hearing. He reiterated that, while the descriptions heard are clearly relevant, they are not talking about Dewey Court. It is a point of reference or case in point.

Councilor Sciarra moved to close the public hearing.

After confirming this would bring an end to public testimony, Councilor Thorpe said he would respectfully move to continue the public hearing. Councilor Maiore seconded.

They could continue the hearing in situ or put it on the agenda for the next meeting, Councilor Dwight responded. He asked Councilor Thorpe his pleasure.

He still has questions, Councilor Thorpe said.

Attorney Seewald cautioned members against considering evidence gathered outside of the public hearing. At this point, the question is whether there is more relevant evidence or facts councilors need in order to deliberate with fellow councilors. If the answer is yes, it is totally appropriate to continue. But if all they have is questions about how best to address this without taking in more facts, that's part of deliberation.

In response to a question about what additional information he seeks, Councilor Thorpe said he'd like to ask more questions of Carolyn Misch and take a look at a future land use map.

Because there is a lawsuit, members have to be very constrained in how they deal with this, Councilor Dwight reminded. All their deliberation has to take place in a public meeting. Conversation outside of the meeting or by serial email is in violation of the Open Meeting Law, he stressed. He expressed his understanding that it is permissible for residents to contact councilors individually and speak to them one on one.

However, councilors are sitting in a quasi-judicial role and should not be gathering evidence outside of these walls, Attorney Seewald countered. "If you want more evidence, bring it here so everyone knows what's being said to you and what the basis for your decisions are," he counseled. If they have questions for Carolyn, she should answer them here.

Councilor Dwight asked Councilor Thorpe to present his questions to Carolyn so she could answer them in public session.

Lilly Lombard asked for clarification as to how residents can engage with their councilors on this.

"You're engaging them now," Attorney Seewald responded. They can't engage them outside of the public hearing because they as citizens have the right to hear all information on which councilors base their decisions. This is for the benefit of the public because they don't want councilors making decisions on information outside of the hearing that the public didn't have the opportunity to address.

Councilor Dwight called the motion to continue to a vote, and it passed unanimously 4:0. The hearing was continued to March 9th at 5 p.m.

People are welcome to send emails to him and other councilors to become part of the public record, Councilor Dwight clarified.

B. 19.125 An Ordinance Related to Wireless Antennas on Street Poles

Councilor Sciarra moved to open the public hearing. Councilor Thorpe seconded. The motion passed unanimously 4:0. The public hearing was opened at 6:35 p.m.

Councilor Dwight recited the history of the ordinance. He read the most recent version as presented by Ms. Misch this afternoon.

Mrs. Krutzler clarified that the version just read is not the one formally before the committee. The one formally before them is the ordinance as referred back to Legislative Matters (LM) by the City Council on October 17, 2019. Therefore, in order to accept the ordinance with amendments as submitted this afternoon, it is necessary for LM to act to approve the amendments.

Councilor Dwight asked Ms. Misch to speak to the version as presented to them today.

This went all the way to the floor of City Council and was referred back to Legislative Matters, Ms. Misch reminded. The intent is to be more specific about the criteria for approval of wireless antennas since the city does not have the ability to deny them. This section would establish criteria for projects within the right-of-way.

At the staff level, they did more research about the types of antennas and different ways they could be concealed and installed and associated design criteria and pulled a lot of from communities that already have 5G. They also went back to the Department of Public Works (DPW) to see how they felt about the expanded text. DPW staff reviewed it and wondered if they should pull out the design criteria and make them regulations and simply state in the ordinance that applicants need to follow the criteria as established through regulations promulgated by the DPW.

The fee for right-of-way access has been reduced to \$270 per recommendation of the FCC. A \$1,000 fee has been added for antennas to be located on city-owned poles because this places more of a burden on the city in terms of maintenance. A different fee is recommended for the two different scenarios.

Councilor Dwight asked if anyone else would like to speak

This is a pretty good example of things that have gotten better, Councilor Murphy observed. The original version called for burying equipment in the ground at the foot of the pole. The overriding reason to try not to make this too prohibitive is that it is going to fundamentally change how they do things by providing competition for cable and allowing all kinds of interesting opportunities to use the internet. He thinks this has moved in a positive way. One thing he still and has always found vexing is that it appears that there is a new rendition of the ordinance that has just appeared. He doesn't know if it was in the packet or not but it makes it very difficult in a public hearing environment when a new version is presented and hasn't been circulated. He thinks this is a better version.

He feels a little vindicated for having been the one primarily making this stick around for a long time. He's confident it got better in the process although he's still a little distressed that major changes appeared at the 11th hour.

They don't have a public process at the DPW so there is not a chance for public input on the regulations, he pointed out. He doesn't know what the implications of that could be, whether bureaucrats could potentially change it in a negative way.

There being no further comments, Councilor Sciarra moved to close the public hearing. Councilor Maiore seconded. The motion passed unanimously 4:0.

Councilor Sciarra moved to forward the ordinance with a positive recommendation. Councilor Maiore seconded.

Councilor Dwight noted that it is still necessary to amend the ordinance [to accept the changes as presented by Ms. Misch today]. Councilor Sciarra withdrew her original motion and instead moved to amend the ordinance to adopt the proposed changes. Councilor Maiore seconded.

Councilor Dwight asked Ms. Misch to address Mr. Murphy's concern about DPW regulations not being promulgated by a public, deliberative body.

The city is fairly constrained in what it can do as far as regulating these, Ms. Misch reminded. Given that the city has to grant the permits, the DPW is not be able to unreasonably withhold permission, she indicated. Planners have essentially stripped discretionary language from the ordinance, she noted.

He advised the planning director to remove all discretionary language since he was proposing to be the permit-granting authority, Attorney Seewald confirmed. The first draft contained language such as 'Vaults should be buried, if feasible.' He told Mr. Feiden not to use 'if feasible' if he was going to grant permits administratively. Requirements must be clear and fixed in order to remove subjectivity. Requiring something 'if feasible' implies the kind of discretion that needs to be exercised by a public body, he explained.

He suggested to Ms. Misch today that it would probably be more appropriate for the DPW to issue the permits since they issue related permits such as trench permits.

It's worth noting the Federal Communications Commission (FCC) has given municipalities very little ability to regulate wireless telecommunications, Councilor Dwight noted. It's basically saying, "these are coming, there's not much you can do about it," other than deciding where to put them on the pole. It is necessary to create rules because there are no rules, he added. It is one of those situations where technology has far outstripped the policies and regulations in place.

Councilor Dwight moved to strike the term '5G' in the second to final paragraph.

Councilor Maiore noted the word 'telecommunications' in Section 350-10.9 D should be replaced with 'facilities' to be consistent with other sections. Councilor Dwight accepted this as a friendly amendment to his motion. Councilor Sciarra seconded. The motion passed unanimously 4:0.

Councilor Dwight called the motion on the greater body of amendments to a vote, and it passed unanimously 4:0.

Councilor Sciarra moved to forward the ordinance as amended with a positive recommendation. Councilor Maiore seconded. The motion passed unanimously 4:0.

C. 20.012 An Ordinance Relative to Demolition Review for Historically-Significant Buildings - referred by City Council 1/16/2020

Councilor Dwight read the ordinance.

Conservation/Preservation Planner Sarah LaValley explained that the Historical Commission is simply looking to have the demolition review ordinance apply to every building built in 1945 or earlier.

The demolition delay ordinance was adopted in 2005 to protect and preserve significant buildings and structures by identifying alternatives to demolition, she related. Regulated structures under the current ordinance include all buildings built prior to 1901 and a selection of buildings built between 1901 and 1939. Prior to issuance of a demolition permit, the Building Inspector forwards the application to the Historical Commission for review. Upon receipt of an application, commission members visit the site to evaluate its historical significance. If a structure is determined not to be significant, a demo permit is issued. Findings of non-significance are the majority of decisions issued. There have been 92 reviews in the 15 years the ordinance has been in place, and 75% of those have been findings. If the structure is determined to be significant, a hearing is held. In many cases, demolition is allowed to continue without delay but the commission requests that pictures be taken for documentation purposes.

One reason for the requested change is that some local records were destroyed by fire in the early 1900's, resulting in many buildings being listed as built in 1901 even though they were actually built earlier. By including principal structures built through 1945, the commission will be better able to consider the city's potentially historic resources. The change brings the ordinance more in line with regional and state guidelines of what's considered to be historic. Outbuildings built prior to 1901 will still be subject to review.

Members asked questions and offered comments.

Councilor Sciarra moved a positive recommendation. Councilor Maiore seconded. The motion passed unanimously 4:0

D. 20.014 An Ordinance Relative to Parking on Bridge Street - City Council referral pending 2/6/2020

This item will be continued to the next meeting per request of Councilor Nash, Councilor Dwight advised.

2. New Business

A. Schedule Public Hearing for Charter Review Committee Recommendations

Members discussed a date for a public hearing on the Charter Review Committee's recommendations. They agreed to Monday, March 2nd at 7 p.m. in Council Chambers.

3. Adjourn

Councilor Sciarra moved to adjourn. Councilor Thorpe seconded. The motion passed unanimously 4:0. The meeting was adjourned at 7:18 p.m.

Prepared By:

L. Krutzler, Administrative Assistant to the City Council

413.587.1210; lkruzler@northamptonma.gov

EXHIBIT A

List of Documents Reviewed at February 10, 2020 Legislative Matters Committee Organizational Meeting:

1. February 10, 2020 Legislative Matters Committee Agenda
2. Legislative Matters Committee Meeting Minutes of January 13, 2020 Organizational Meeting
3. Powerpoint Presentation presented by Carolyn Misch, "Modifications to 350-9.3 B2"

MODIFICATIONS TO 350-9.3 B2

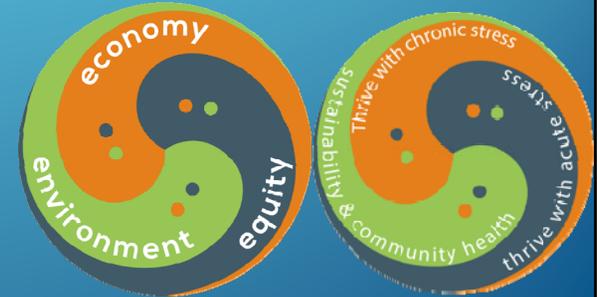
Long Range Plan and Relation to Zoning

Why Zoning

Public Processes for Zoning Amendments

Criteria for Development

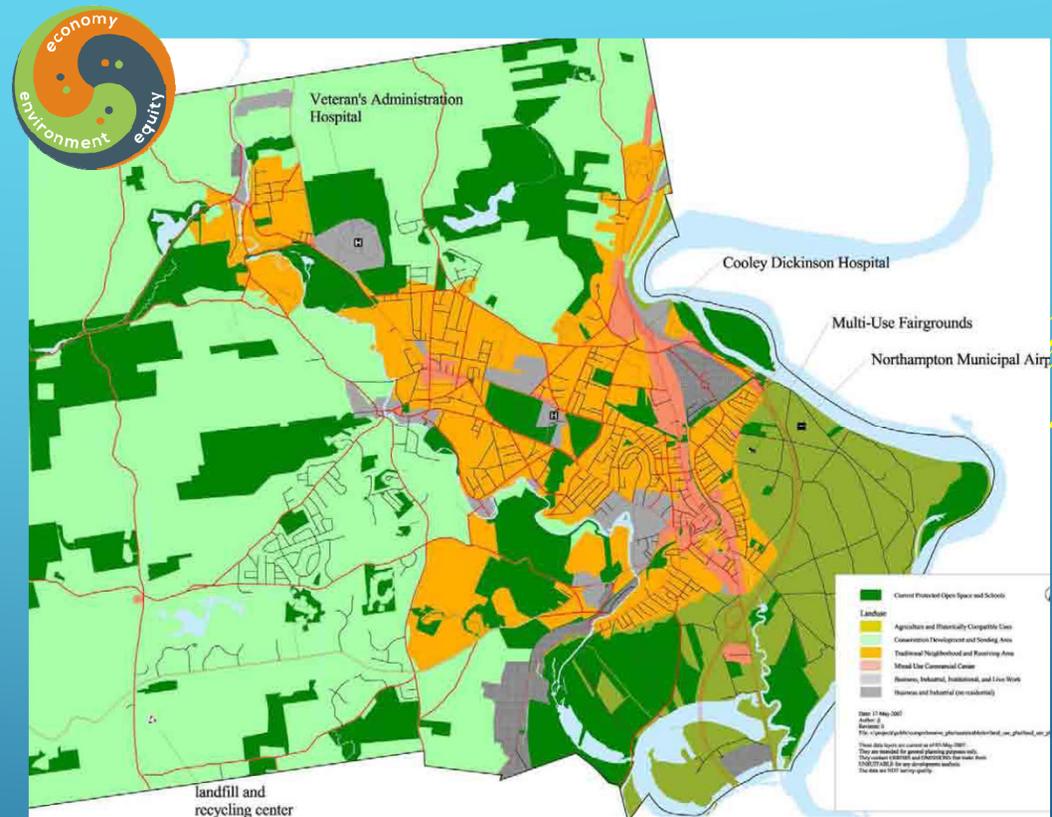
How 9.3 Relates to the Rest of Zoning



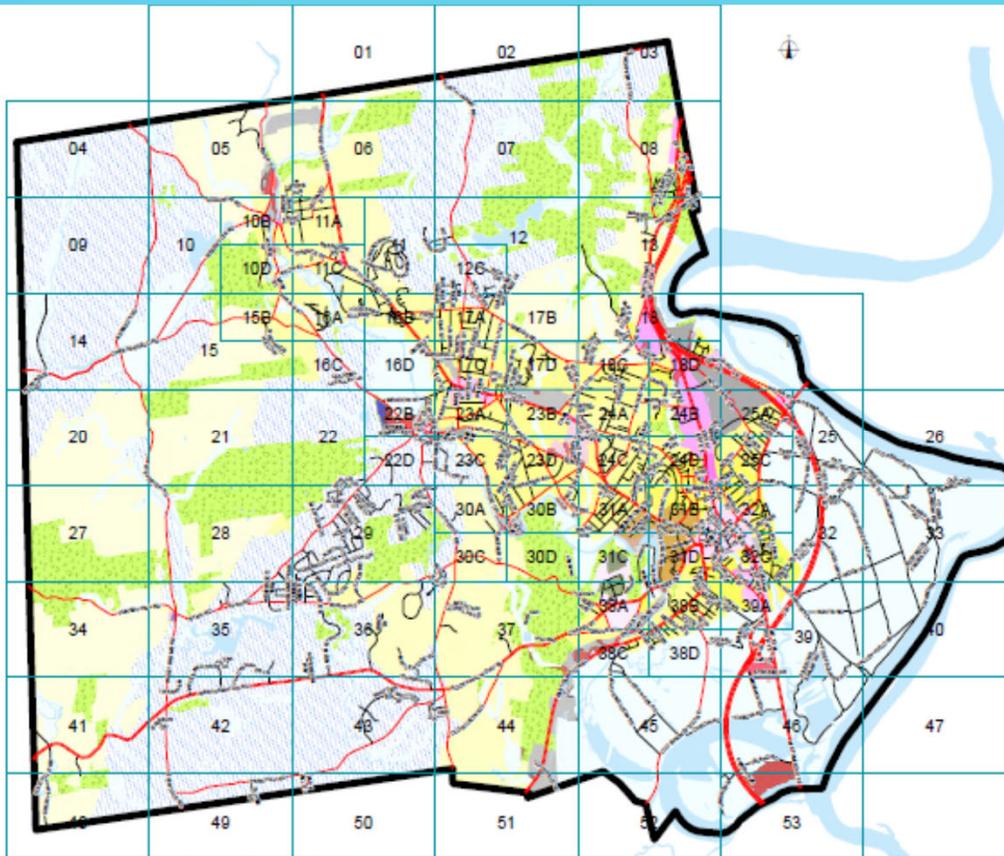
**REGARDLESS OF WHAT HAPPENS WITH THIS
CHANGE, SPECIAL PERMIT FOR 7+ UNITS
REMAINS**

SUSTAINABLE NORTHAMPTON PLAN

- ▶ Adopted 2008
 - ▶ Support vibrant downtown
 - ▶ Walkable community
 - ▶ Equity
 - ▶ Transportation & Housing Choice
 - ▶ Climate
 - ▶ Cost of Services
- ▶ Policy Document for Public & Private Actions
 - ▶ Guide City actions, spending, infrastructure, transportation
 - ▶ Use land use tools to guide private & public development
- ▶ Land Use Regulations Should Match Policy Objectives In Plan



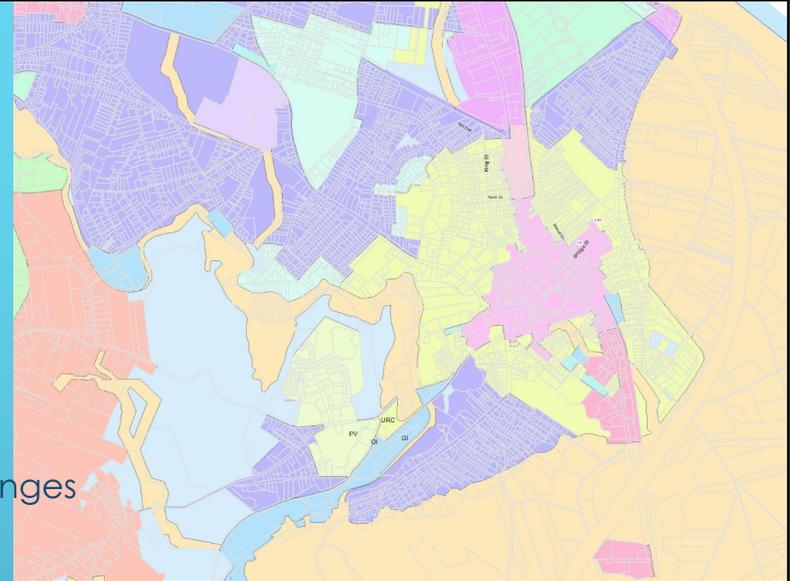
WHAT IS ZONING AND WHY DO WE HAVE IT?



- Land Use Rules to direct growth
- Types of Uses
- Where they are allowed
- How much
- How they are connected
- Includes :
 - Parking
 - Open space
 - Location of structures
 - Heights
 - Lot size
 - Landscaping
 - Noise
 - Protection of sensitive areas

HISTORY OF ZONING

- ▶ 1926
- ▶ 1975
 - ▶ Establishment of Procedures for Non-Conformities
- ▶ 2008 Adoption of Sustainable Northampton
 - ▶ Committee established to recommend zoning changes
 - ▶ Create opportunities to meet city's needs & goals
 - ▶ Create clear rules
 - ▶ Remove impediments for projects meeting rules
 - ▶ Ensure consistency to achieve goals.
- ▶ 2011/2013
 - ▶ Adoption of Zoning Amendments to Implement Plan



HISTORY OF ZONING

► 2013-Present

- Amendments to achieve sustainability, equity & environmental goals
- Deliberative process
- Create very clear criteria for where & how residential growth should occur
- The section of 9.3B2 is a relic that maintains inconsistency with where we want development

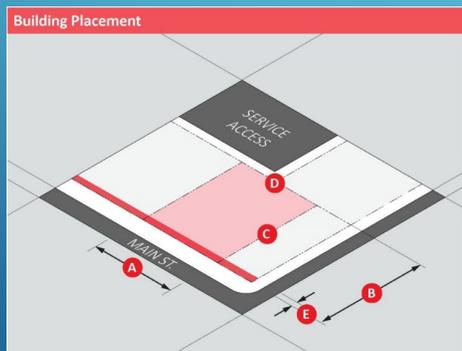
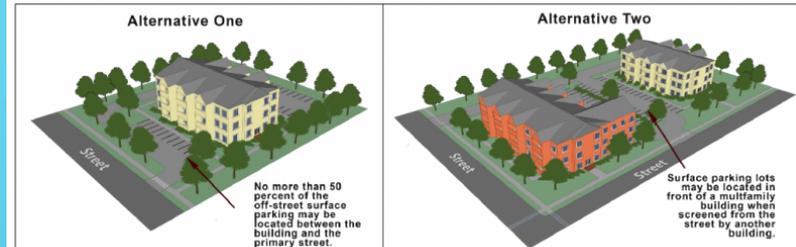


Figure 27-6903(b): Multifamily, Townhouse, or Three-Family Parking Location



(c) Building Orientation and Configuration

(1) Single-Building Development

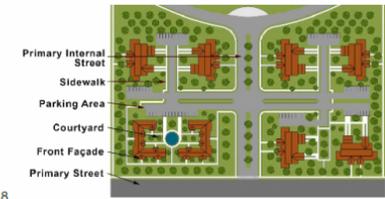
The primary entrance of a multifamily, townhouse, or three-family single-building development shall face the street or a common open space such as a mews.

(2) Multi-Building Development

Multifamily, townhouse, and three-family developments with more than one building shall be configured so that primary building entrances are oriented towards external streets, internal streets, or open space areas (like mews or courtyards). Buildings may be oriented towards off-street parking lots only in cases where no other practical

17

Figure 27-6903(c)(2): Multi-Building Orientation



18



- ▶ Non conforming uses, structures, lots
- ▶ Substantially same since 1970s
- ▶ Established long before current zoning that addresses issues
- ▶ Proposed Text
 - ▶ Changes allowed to different conforming use if all density, setbacks
 - ▶ No new non-conformities created



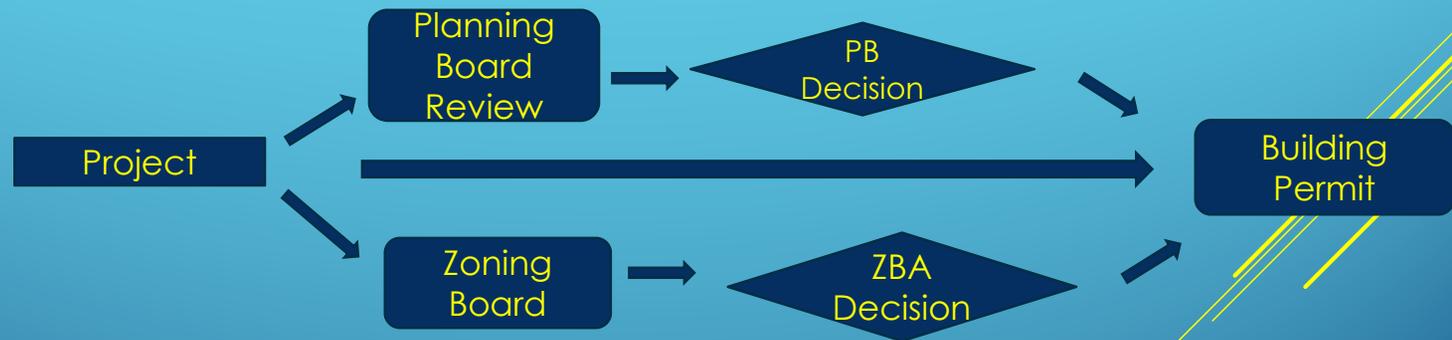
CHAPTER 350-9

- ▶ Width/Frontage
- ▶ Depth
- ▶ Treat parcels equally



NON-CONFORMITY TYPES

- ▶ Consistent with other aspects of zoning & section 9
- ▶ Matches Plan goal to create clear guidance for review
- ▶ No effect on all other review requirements for a project
- ▶ Full compliance with all other requirements of zoning



PURPOSE OF AMENDMENT