



Town of Lexington

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REPORT TO THE 2009 SPECIAL FALL TOWN MEETING

ARTICLE 3 PROPOSAL TO AMEND PLANNED COMMERCIAL DISTRICT

45 - 65 HAYDEN AVENUE (CD-9)

Recommendation

The Planning Board recommends that Article 3 be **APPROVED**.

To arrive at this conclusion the Board utilized the documents and plans listed below. The Board encourages Town Meeting Members and interested residents to review them as well – this report is not a substitute for the submitted materials. This report only discusses significant issues identified during the Board's public process. The relevant documents, cited below, have been published to the Town's website (<http://www.lexingtonma.gov/planning/cubist.cfm>), and hardcopies will be provided by the applicant at Town Meeting.

- The present 1997 Preliminary Site Development and Use Plan Narrative (the PSDUP) including the Appendices.
- The Amended Preliminary Site Development and Use Plan Narrative (the APSDUP), revised through October 30, 2009. The APSDUP includes a number of appendices, including but not limited to, permitted uses, a metes and bounds description of the district, proposed traffic mitigation and transportation demand management plans, and a draft wetlands certificate.
- The Preliminary Site Development and Use Plan (the Plan), prepared by Cubellis, Inc., dated July 24, 2009, with revisions through October 6, 2009. The Plan is comprises six sheets.
- The Memorandum of Understanding dated November 2, 2009 (the MOU). A MOU is a voluntary, binding contract used by the Town to refine scope, substance, and some special conditions of proposed developments. The MOU was negotiated on behalf of the Town by senior staff and selected Board and Committee liaisons.

The Board recommends this project to Town Meeting because of a combination of factors that when taken together point to a good project. These reasons are summarized below:

- The proposed project is an appropriate use of the site by a company committed to the community;
- There is a positive fiscal benefit to the community for the foreseeable future;

- The incremental increase of traffic impact on the area is acceptable because the applicant has demonstrated the ability and commitment to accomplish the special conditions regarding Transportation Demand Management; and
- The Town has negotiated an advantageous mitigation package.

In reviewing this proposal, the Board discussed several points of concern. For some members of the Board these issues should have been addressed with more specificity to better protect the Town’s interests. Discussed in more detail below, these matters include, among others, height, some detailed procedural items of the CD-rezoning process, and CD rezoning substance.

Site and Development Analysis

The purpose of the project is to permit the additional development of 110,000 gross square feet of research and development/office space and up to 156,000 gross square feet of structured parking to accommodate Cubist Pharmaceutical Inc.’s anticipated growth. The site has been their Corporate Headquarters since 2001, and is considered a first class office and biotechnology facility.

In 1997, the site was zoned as a Planned Commercial (CD-9) District made up of two parcels, 65 Hayden Avenue, currently owned by Cubist, and 45 – 55 Hayden Avenue currently owned by Realty Associates Fund VI, LP. The 2009 proposal effectively splits the District into two parts, where all new growth proposed under this amendment is to accrue to the Cubist property (65 Hayden Ave.).

	Area	Area
Total land area of CD-9	1,628,227 SF	37.4 Acres
Area of vegetated wetland	438,209 SF	10.1 Acres
Developable site area	1,190,018 SF	27.3 Acres

Development Intensity

The following table shows the current and proposed dimensional standards of key elements of the development. While the proposed standards do not necessarily dictate what will ultimately be built on the site, with the exception of site coverage, the applicant is seeking to build as close to these maximums as possible.

Dimensional Standards	Existing Zoning (CD-9)	Proposed Zoning
NFA to Developable Area (FAR)	0.185	0.26
Site Coverage (%)	25 %	25 %

Height

A concern is that the overall maximum height of the proposed building could be considerable higher than the 60 feet being requested (which is already higher than typical for Lexington) and that this height may be inappropriate. The Board, while extremely sensitive to this concern, took into consideration the limited views of the building from residential neighborhoods and felt that they were not enough to dissuade Town Meeting from approving the project.

Dimensional Standards	Existing Zoning (CD-9)	Proposed Zoning
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Height: In Stories In Feet	4 Existing Roofline ¹	
65 Hayden – Building²: In Stories In Feet		- 60 Feet
65 Hayden – Garage: In Stories In Feet		- 70 Feet

Some members of the public and a minority of the Board voiced concern regarding the applicant’s proposal to allow for greater roof coverage and mechanical height than the current Zoning allows. In this case the request is to allow an additional 25 feet for rooftop mechanicals, up from 20 feet; and for 60% horizontal coverage, up from 25%. In addition, 3% of the rooftop structures can extend 35 feet above the roof.

Related Regulatory Controls

The following items are not regulated directly, but are desirable to quantify nonetheless. For instance, Net Floor Area is not directly regulated, but as it is the numerator in the calculation of FAR, it’s crucial to know.

	Existing Condition	Proposed Condition
Impervious Surface: SF Ratio	414,500 25.5%	444,124 27.3%
Net Floor Area (NFA)³	213,360 SF	300,483

Adequacy of Vehicular Access & Internal Circulation

The applicant’s treatment of traffic and parking was one of the primary issues debated among the Board, the public and the applicant.

The Town retained *Vanasse Hangen Brustlin, Inc.* (VHB) to perform a professional, independent technical review of the traffic study prepared by MDM Transportation Consultants, Inc. VHB’s review did not just cover this proposal, but also the recently adopted CD rezoning at Ledgesmont, and the proposed rezoning at the Patriot Partners site. This was to insure that not only would the individual projects be reviewed, but that the aggregate impact of these proposals was accounted for as well. The Traffic Study and our peer review are available on line. The peer review concluded that the applicant’s study was prepared according to industry standards using information and methods suitable for a traffic impact study.

For Cubist’s proposal, the anticipated trip generation numbers are essentially insignificant, as the expansion is quite small compared to the existing traffic volumes in the area and the anticipated generation of other projects is larger.

For Cubist’s parcel to meet its total parking needs on land under its control within the CD-9 District, the applicant proposes to add 233 spaces on the Cubist parcel, accomplished by replacing

¹ In 1997, the existing roofline referred to was 55 Hayden. It is assumed to be 45 feet, the maximum allowed under the CRO zoning in place prior to 1997.

² Building height will allow for additional rooftop mechanical height and rooftop coverage.

³ NFA is defined differently in the existing CD-9 zoning than in the proposal. While the definitions are not substantially different, it is unclear how to reconcile the two.

a surface parking lot with a parking structure. For the CD district as a whole, this would bring the parking ratio to just over 3 spaces per 1,000 square feet of net floor area.

One element that pleases both the Board and the public is the proponent's exemplary results of the transportation demand management (TDM) measures undertaken on site since the 1997 rezoning. In a community that generally sees 95% of its workforce travel to work in single-occupancy vehicles, this site has lowered the number to 85% - a real accomplishment in a suburban town with limited access to the regional transit network. All TDM program elements required of the site in 1997 will continue except that the continuing support to Lexpress will be converted to a payment plan.

Relation to Natural Features

The Board did not identify any on-site natural features that would be directly impacted by this proposal, except as set out below.

On-site Environmental Effects

The applicant has completed a wetland certification process with the Conservation Commission, and received an Order of Resource Area Delineation (or ORAD). Should the APSDUP be approved by Town Meeting, the development will be required to obtain an Order of Conditions from the Conservation Commission.

Potential Effects on Nearby Property

The public process identified the proposal's proximity to the Hayden Woods Conservation Area as a concern, specifically how the location of the proposed garage may affect the view from the trail network. The applicant modified the proposal during the process to ameliorate some of these concerns by lowering the height of the garage (formerly 80 feet, presently 70 feet including any rooftop structures), and proposing strategic planting treatment on and around the elevation of the garage that faces Hayden Woods.

The Board is generally satisfied with these changes and did not identify this as a major item during its deliberation.

The Proposed Design

Approval of the design of the proposed structures is left to the Special Permit process by the SPGA under the DSDUP. The applicant has included conceptual renderings of the proposed addition in Appendix D of the APSDUP. With the exception of the garage, the Board principally concerned itself with the overall site design and site planning issues. There was little testimony received from the public on this point and the Board did not recognize it as a point of concern.

Impact on Public Facilities & Services

The Board concerned itself with the essential municipal utilities of water and sewer. Other services, like police, fire and public works were discussed under the fiscal analysis. Initially the Board relied upon the Town's Engineering Division's review of the proposal plans given at staff's Development Review Team meeting. As no issues were identified, no report was issued to the Board. However, when concerns were raised by the abutters, the Board requested that the Engineering Division conduct a consolidated review of the water and sewer demands in the area. This review included the recently rezoned Ledgemont parcel, the proposed Lexington Technology Park expansion and this proposal. The review indicated that water and sewer capacities were more than adequate for the proposed demands, and did not identify any problems. The Fire Department confirmed that they presently have sufficient equipment and capability to service the site and its proposed structures.

Analysis of Town Fiscal Considerations

The applicant submitted a detailed analysis of the fiscal impacts on the Town, prepared by John Connery, a private planning consultant. Mr. Connery's findings point to a net benefit of approximately \$500,000 per year. Put another way, of every tax dollar brought in by the site, the Town only needs to spend 16 cents to service the site. The project will also generate several hundred thousand dollars in one-time permitting fees during construction.

Other work of Mr. Connery has been peer reviewed in the past. His methodology is very conservative and incorporates local practice (confirmed by the Assessor's staff) to ensure a sufficiently accurate picture.

Policy Analysis

The Lexington Comprehensive Plan recommends that future commercial development should seek redevelopment opportunities within existing commercial zones rather than the expansion through the increase of the geographical bounds of commercial districts. This proposal meets this particular goal.

Planning Considerations

One issue that was raised and discussed at length by both the Board and public during the hearing was the handling of parking and transportation planning. Some members of the public advocated delaying the current slate of CD Proposals to allow the Town to create an area-wide plan similar to the one the Board is creating in the Hartwell Avenue area. However, rezoning proposals must be dealt with as they are made, and in this case decided to not wait. The MOU secures funds that the Planning Board may use to develop an area-wide plan in the event that the rezoning request is approved. The Town will then be able to plan and prioritize the improvements in the area rather than have them dictated by individual developments.

Another planning issue is the designation of the Zoning Board Appeals (ZBA) as the Special Permit Granting Authority for this development (APSDUP, p.8). This represents a change to the original CD-9 rezoning which gave this power to the Planning Board. The Board does not object to this change.

At the Board's request, the applicant modified the APSDUP to make clear that the 2009 Zoning Bylaw applies to this district except as specifically noted in the APSDUP. Some members are concerned that the APSDUP language does not give adequate weight to the existing Bylaw.

Purposes of Zoning

The applicant submitted a narrative explaining why it is seeking to increase the intensity of its development, which can be found in the APSDUP. The Board feels that this project maintains an appropriate relationship between land use, traffic congestion and the scenic and aesthetic qualities of the Hayden Avenue corridor.

Comparison of Proposed to Existing Allowable Uses

Generally the proposed uses are not significantly different from those in the existing CD District; in fact they represent a refinement of the uses presently allowed. There was concern about the extensive list of uses originally sought by the applicant. This list was culled down to represent only those uses that are immediately necessary or reasonably practical to include. Neither the public nor Board raised concerns regarding these upon the conclusion of the public hearing process. The Allowable Uses can be found in the APSDUP's Appendix A.

Summary of Public Hearing

The public hearing on this application was opened August 26, 2009, and was split into two issue-specific sessions so that the public would have ample time to consider the issues. The first session was for general comments on the process and plans. The second session, October 7, 2009, was specifically for traffic issues. Ultimately the hearing was continued to a third date, October 14, 2009, at which time the hearing was closed. The minutes for these meetings are on file with the Planning Department, and are summarized below.

August 26, 2009

The hearing opened with the Chair explaining the procedures and purpose of the hearing. This was followed by a presentation by the development team. This presentation introduced the site and the proposed program to the Board and interested public. The key points of the presentation were:

- The proposed changes would apply to the entire site but new construction would occur only at 65 Hayden Avenue;
- Cubist would continue to abide by the TDM provisions from the 1997 rezoning;
- Stormwater management at 65 Hayden would be brought up to today's standards;
- The traffic evaluation was conservative, based on office space rather than R&D; and
- The fiscal analysis and the framework of a mitigation package and an MOU were presented.

The Board asked a number of questions covering a range of topics, including:

- Concern with the split of parcel into an A & B;
- Height, illumination, and parking supply
- Need for a mitigation package
- Which Board should be the SPGA

The audience comments covered the following topics:

- Unease regarding separating the two parcels.
- The view of the parking garage from Hayden Woods.
- The FAR
- The Fiscal Review
- The incremental impact of this project
- A formal report addressing water and sewer supply/demand issues.

October 7, 2009

The primary purpose of the October 7 meeting was to discuss the findings of the applicant's traffic study and of the Town's peer review of it. The applicant explained a few points of the proposal that had been modified since the last hearing, including:

- Applicant filed a revised PSDUP with the Town Clerk October 7.
- The parking structure would be reduced to five and a half stories, containing 300 spaces (a net increase of 220 parking spaces on the site).

- The traffic analysis revealed that anticipated traffic volumes still fall within the impacts allowed under the original rezoning and that there was no material change in the level of service at the intersections studied.

The Board had comments and questions regarding the height of the proposed garage, the process necessary to ensure that the green building standards would be met, and escalation of the annual payment to Lexpress.

The audience comments focused almost exclusively on the transportation issues and in particular, how they were dealt with in the MOU.

October 14, 2009

The meeting of October 14 began with the applicant explaining some updates to the revised PSDUP and the MOU in response to the comments made at the previous meeting, specifically clarifying language regarding the garage and parking spaces. There would be payment for 100 parking spaces made over a five year period; if more parking spaces were to be utilized they would have to pay more for those spots. The minimum payment would be \$38,000 annually for five years for the first 100 parking spaces.

The Board and audience had further comments regarding the Lexpress payment being converted to a lump sum rather than an annual payment, the height of the garage, and some proposed definitional changes.

RECORD OF VOTE

On November 4, 2009, the Planning Board voted to recommend approval of Article 3 to Town Meeting.

Members in Favor of the Recommendation:

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