SECTION 18

DEVELOPMENT IMPACT MITIGATION

18.1 Mission Statement

The purpose of this section is to protect the health, safety and general welfare of the inhabitants of the City of Woburn by providing for the assessment of plans for proposed uses and structures which will have significant impacts on traffic and public utilities, and by requiring the reasonable mitigation of those impacts. This Ordinance will ensure that Woburn's infrastructure is upgraded and maintained in a responsible manner consistent with State and Municipal Laws. This ordinance will increase the safety and reliability of Woburn's roads for pedestrians, residents, employees and motorists alike and will ensure that major developments bear a proportionate share of the cost of capital facilities necessary to accommodate such development.

18.2 Definitions

1. Substantial Alteration or Improvement: An alteration or improvement of a structure or group of structures on the same lot or contiguous lots which will result in an increase in gross floor area in excess of 10 percent of existing gross floor area or which will require an addition of 10 or more parking spaces in the amount required under Section 8 of the Zoning Ordinance prior to the alteration, and which will result upon the full completion in 15,000 square feet or more of gross floor area. An alteration or improvement shall be determined by the building commissioner to be a substantial alteration under this section based on the aggregate of all repairs, improvement, extensions or enlargements undertaken within a period of three years prior to the submission of the request for a special permit.

2. Development Impact Traffic Standards: Standards by which a project shall be evaluated, relative to its impact upon the City's traffic infrastructure. The following impact standards shall be used in evaluating a project's impact on the City's traffic infrastructure:

    a. Level of Service (LOS) of all impacted intersections and roads shall be adequate following project development, and shall be determined according to criteria set forth by the Transportation Research Board of the National Research Council;

b. Impacted Intersection(s): any intersection or intersections projected to receive at least 50 additional vehicles during peak hour traffic over the no-build condition due to the contribution of traffic generated by the proposed development or intersections projected to receive an additional five percent (5%) of anticipated daily or peak hour traffic over the no-build condition due to the contribution of traffic generated by the proposed development;

c. Adequate LOS: a LOS “C” or better for scenic and residential streets and for all new streets and intersections to be created in connection with the project and a “D” or better for all other new or existing intersections;

d. Total development cost: the total cost or value of all development-related improvements, which shall be determined on the basis of standard building or construction costs, such as published in the Engineering News Record or other source acceptable to the City Engineer for the relevant type of structure and use.

18.3 Criteria

The requirements of this section shall apply to any new construction or substantial alteration or improvement as defined by Section 18.2 which requires a special permit issued by the SPGA under Section 11 of this Ordinance for any new or increase in intensity of a commercial or multi-family residential use as defined by uses 3,4, 15, 16, 17, 20, 22, 23, 24, 28, 29, 30, 37, 40, 41, 42, 43, 44, 45, 48, and 53 of Section 5.1, Table of Use, which meet or exceed the following.

1. Any new structure or group of structures under the same ownership (or associated entities) on the same lot or contiguous lots, with 15,000 square feet or more of gross floor area.

2. Any substantial alteration as defined by Section 18.2.1 above.

3. Any change of use of any existing structure or group of structures with 15,000 square feet or more of gross floor area, under the same ownership (or associated entities) on the same lot or contiguous lots, which will require an addition of 10 or more parking spaces in the amount required under Section 8 of the Zoning Ordinance prior to the alteration.

4. All uses permitted by special permit under line 29 of Section 5.1 Table of Uses 'Restaurant, Fast Food'. (added 7/23/2004)

18.4 Special Permit Granting Authority

The Special Permit Granting Authority (the "SPGA") as referenced in this section shall be the City Council for all uses designated in Section 5.1 with a "P", and the Planning Board for all uses designated in Section 5.1 with "PB".

18.5 Development Impact Statement

An application to the SPGA for a Special Permit for a project which meets the criteria for this section, as specified in Section 18.3 above, shall include as compliance with the application submission requirement of Section 11.4.5 a Development Impact Statement, which shall be prepared by a qualified MA. Registered Professional Engineer. The Development Impact Statement shall include the following:

1. Traffic Impact Assessment: this assessment shall document existing traffic conditions in the vicinity of the proposed project, accurately describe the volume and effect of the projected traffic generated by the proposed project, and identify measures necessary and sufficient to mitigate any adverse impacts on existing traffic conditions.

    a. Determination of Scope: prior to preparing the Traffic Impact Assessment, the Applicant's Professional Engineer shall meet with the City Engineer, to review the proposed scope of the Traffic Impact Assessment, including the identification of the "project impact area," to be studied, which shall include all impacted intersections and streets likely to be significantly affected by the proposed project, as defined in Section 18.2.2 above. The City Engineer shall provide a written statement to the SPGA regarding his/her concurrence or disagreement with the proposed scope, and the reasons for his/her opinion, which shall be provided to the Applicant and included with the Traffic Impact Assessment.

    b. Existing Traffic Conditions: the assessment shall measure and assess average and daily peak hour volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of all intersections and streets within the project impact area. Generally, such data shall be no more than 12 months old at the date of the application, unless other data are specifically approved by SPGA with the recommendations of the City Engineer.

c. Projected Traffic Conditions: the assessment shall include projected traffic conditions for the design year of occupancy, including statement of the design year of occupancy, estimated background traffic growth on an annual average basis, and impacts of other proposed developments that have been approved in whole or in part by the City which will effect future traffic conditions.

d. Projected Impact of Proposed Development: the assessment shall include the projected peak hour and daily traffic generated by the development on the roads and ways in the project impact area, sight lines at the intersections of the proposed driveways and streets, existing and proposed traffic controls in the vicinity of the proposed development, and projected post-development traffic volumes and levels of service of intersections and roads likely to be affected by the proposed development.

e. Traffic Mitigation Measures: the assessment shall propose specific measures to be undertaken by the Applicant in order to mitigate the impacts of the proposed development and to ensure that current traffic conditions and LOS are not adversely effected by the project. Also, the assessment shall consider both on site and off site mitigation measures, to include but are not limited to new traffic control signals, increase in right of way capacity via widening roads, or other right of way or intersection improvements. The proposed mitigation measures, if approved by the SPGA, shall become conditions of the special permit.

2. Utility Impact Assessment: this assessment shall document the capacity and condition of the existing public utility infrastructure in the vicinity of the proposed project, including but not limited to water and sewer services, and stormwater drainage systems. The assessment shall also accurately describe the additional demand upon said infrastructure items, generated by the proposed project, and identify measures necessary and sufficient to mitigate the impact caused by the additional demand.

   a. Determination of Scope: prior to preparing the Utility Impact Assessment, the Applicant's Professional Engineer shall meet with the City Engineer, to review the proposed scope of the Utility Impact Assessment, including the identification of the "project impact area," to be studied, which shall include all water and sewer utilities likely to be significantly affected by the proposed project.

The City Engineer shall provide a written statement to the SPGA regarding his concurrence or disagreement with the proposed scope, and the reasons for his opinion, which shall be provided to the Applicant and included with the Utility Impact Assessment.

b. Existing condition and capacity: The assessment shall identify the size, type, condition and overall remaining capacity of the existing utility infrastructure. The assessment shall include examination of all City plans, completion of field inspections, including hydrant pressure testing of water lines, and where necessary video camera inspections of existing sewer lines. The assessment shall also include: an up-to-date inventory of all utility infrastructure impacted by the project; estimates of the existing capacity and percentage of capacity presently utilized; excess capacity if any; the estimated system inflow and infiltration; as well as the projected longevity of the existing system.

c. Projected conditions: The assessment shall include: projected usage for the design year of occupancy, including estimated water usage, and sanitary and storm water outflows; estimated background growth of usage, together with the impacts of usage caused by other developments already approved in whole or in part by the City.

d. Utility Mitigation Measures: the assessment shall propose specific measures to be implemented by the Applicant to mitigate the impacts of the proposed development on the public water and sewer infrastructure, including: increasing the capacity by the replacing and/or enlarging existing lines, inflow and infiltration improvements, on-site retention or detention tanks, or other on-site or off-site measures. The proposed mitigation measures, if approved by the SPGA, shall become conditions of the special permit.

3. Special Permit Review: The City Engineer shall be responsible for preparing a written report to the SPGA after consulting with the Superintendent of Public Works and all other relevant departments regarding the adequacy and accuracy of the scope, data, findings, and proposed mitigation measures presented in the Development Impact Statement and the proposed mitigation measures proposed in the Traffic Mitigation Assessment and the Utility Impact Assessment.

18.6 Completion of Mitigation Measures

1. No building permit shall be issued to an applicant for a Special Permit under this section until surety has been established in a sum sufficient to ensure completion of said mitigation measures, in the form of a 100% performance bond, irrevocable letter of credit, or escrow agreement. The sum of said surety shall be established by the SPGA and be approved as to proper form and content by the City Solicitor.

2. No occupancy permit, permanent or temporary, shall be issued to an applicant for a Special Permit under this section until all mitigation measures described in the Development Impact Statement and specified as conditions in the Special Permit have met the following conditions:

    a. All mitigation measures have been certified by the City Engineer as complete and all public improvements have been accepted by the City of Woburn or the Commonwealth of Massachusetts, whichever is applicable;

    b. All design, construction, inspection, testing, bonding and acceptance procedures have been followed and completed in strict compliance with all applicable public standards and have been certified by the City Engineer.

3. Inflow and Infiltration Fund Exemption: Applicants who receive a Special Permit under this Section which includes conditions which require improvements to the City of Woburn's water and sewer services, and stormwater drainage systems directly implemented by the Applicant, shall not be exempt from the requirements of Title 13, Article 11 of the City of Woburn Municipal Code. (Amended 8/7/2001)

18.7 Traffic Safety and Infrastructure Fund

In lieu of the Applicant performing all or part of the mitigation measures which have been made a condition of the Special Permit, the SPGA may at its sole discretion require the Applicant to make a contribution into the Traffic Safety and Infrastructure Fund (the "fund") equal to three per cent (3%) of the total development costs of the proposed project. In calculating the payment, the Applicant shall not be credited the amount of the contribution required under Title 13, Article 11 of the City of Woburn Municipal Code, or any contribution to roadway, water or sewer

improvements required as a result of the environmental review process of the state or federal government. (Amended 8/7/2001)

1. For purposes of this section, “total development costs” shall mean the total of the cost or value of all development related on site improvements, and shall be determined on the basis of standard building or construction costs, such as published in the Engineering News Record or other source acceptable to the City Engineer, for the relevant type of use or structure.

2. The said Traffic Safety and Infrastructure Fund shall be established in the City Treasury and shall be kept separate and apart from other moneys by the City Treasurer. Any moneys in said fund shall be expended only at the direction of the City Council, with the approval of the Mayor, for the purposes mentioned below. All moneys which are collected as a result of any contribution to this fund shall be transferred to the principal of said fund, and the City Treasurer shall be the custodian of the fund and shall deposit the proceeds in a bank or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth of Massachusetts, or in federal savings and loan associates situated in the commonwealth. Any interest earned thereon shall be credited to and become a part of such fund. The fund shall be administered by the City Engineer of the City. In all matters, the City Engineer shall consult with and obtain recommendations and cost estimates from the Superintendent of Public Works or other appropriate department heads. (Amended 8/7/2001)

3. Any moneys in the fund shall be expended only by a majority vote of the entire membership of the City Council, with the approval of the Mayor, and shall be appropriated only for the purpose of maintaining and improving the public rights-of-way, the water supply and distribution system, and the storm and sanitary sewer infrastructure of the city, which shall include traffic regulation and control, road improvements (including widening), traffic control signals, street lighting, sidewalks and other public improvements related to traffic safety, the installation or repair of wells for the supply of municipal water, water treatment facilities, water distribution lines, pump stations, reservoirs and other storage water facilities, metering facilities, and other water distribution facilities, and storm and sanitary sewer lines, treatment facilities, drainage and catch basins, or other sewerage facilities, and including new construction where needed. The cost of land takings necessary to accomplish any of the purposes listed herein shall be considered a proper purpose for the expenditure of moneys

from this fund. No moneys in this fund shall be used for any purpose not included or directly related to the purposes listed above. Further, moneys contributed by a specific applicant for a special permit under this section shall be spent on mitigation measures related to said development, specified in the Project Mitigation Statement, and specified as conditions in the special permit.

4. Said moneys shall be paid by applicants seeking a special permit under this section, and provided further that all contributions must be paid into the "fund" before a permanent occupancy permit will be issued.

5. Per written request of the Applicant, the SPGA may allow him/her to directly implement a portion of the proposed mitigation measure identified in the Project Mitigation Assessment, and which have been made conditions of the special permit. The costs of those measures, itemized by cost category, as certified by the City Engineer and approved by the SPGA, shall be credited to the Applicant's payment to the Traffic Safety and Infrastructure Fund, and said payment shall be reduced by the certified amount.

6. The Applicant will be required to provide fee payment and irrevocable letter of credit to the City for the full impact fee as specified above. The credit shall be applied and the amount of the letter of credit reduced at the completion of the project, as certified by the City Engineer.

7. If the Applicant has defaulted on the conditions of the Special Permit, and has not completed the mitigation work before the issuance of a temporary or final occupancy permit, the City shall complete the mitigation measures as much as is practical with funds obtained through the exercise of the letter of credit above.

8. The proponent shall agree to participate in the regional or local transportation management association (TMA) and implement a transportation demand management program that includes the assignment of an Employee Transportation Coordinator to work with the TMA and employees to encourage ridesharing and the use of public transportation.

18.8 Waivers

1. The SPGA, by a majority vote, after receiving Development Impact Statement

and the report of the City Engineer, may waive all or part of the mitigation requirements of this Section 18.

2. The SPGA, in approving a waiver, shall make a specific Finding, in writing, that the granting of a waiver will not create conditions which are substantially more detrimental to the neighborhood in which the site is located, than if the waiver were not granted. As the basis for its decision, the SPGA shall consider other positive impacts of the project upon the projected impact area not measured by the Development Impact Statement, such as, but not limited to, the substantial remediation of an environmentally contaminated site.

18.9 Severability

The invalidity of one or more provisions or clauses of this section shall not invalidate or impair the section as a whole or any other part hereof.

18.10 Effective Date

This Section 18 of the Zoning Ordinances shall be applicable to any permits or special permits granted after the adoption of this Ordinance.

(added 10/04/1999)

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