

Public Forum Questions on Walpole Zoning Bylaw Rewrite Phase 2 (Use Table)

Horsley Witten Group, Inc. (HW) facilitated a public forum on February 10, 2009 on behalf of the Zoning Bylaw Use Table and Zoning Bylaw Rewrite Phase II Committee (the Committee). The purpose of the forum was to present the work developed by the Committee to date and explain the proposed changes to the Use Table, which is currently located under Section 5.B of the Zoning Bylaw. At two points in the forum, attendees were invited to ask questions on separate, broad issues. The first question period was focused on the overall approach to the proposed revisions and to the mechanics associated with using the North American Industrial Classification System (NAICS) codes as a significant reference document within the proposed Use Table. The second question period was focused on discussing individual uses as they appear in the proposed Use Table. The question and answer section immediately following this paragraph consists of questions asked at the forum and answers to those questions.

1) Why would a business consider coming into a town with a lengthy and complicated zoning code?

Clarity in what you want to come to town is most important. In reviewing the existing Use Table, it was noticed that the term “plant” was used frequently, evidencing that the Use Table had not been revised in many years and that it was focused on former manufacturing uses. The proposed revised Use Table gives definition to current business, industrial, and warehouse uses recognized on a national level in accordance with the U.S. Department of Commerce’s coding system, the North American Industrial Classification System (“NAICS”).

2) What happens if you want to change your business over time?

The process remains unchanged from the present. The Building Inspector would determine whether the new or expanded use is allowed by right, requires a special permit, or is prohibited, and would enforce the various applicable provisions of the bylaw

3) Wouldn't it have been easier to come up with a list of businesses that you don't want in town or types of noxious uses that you don't want in town and just reference those?

It is better to list what you do want, because the bylaw presently specifically prohibits uses that aren't listed in the Use Table, and this provision will not change as a result of revisions to the Use Table. This way the town avoids the possibility of inadvertently not listing a use that is unwanted or deemed to be undesirable.

4) *How many communities in Massachusetts have used NAICS? Why us?*

We are the first to use it to this extent. The reason we have done this is to have clear definitions for uses and for clarity as to what uses we will allow in town and under what provisions.

5) *Does NAICS have an impact on how you can implement a Special Permit?*

The process for issuance of a special permit, which is presently set forth in Section 2 of the bylaw, would not change, and enforcement of the conditions of a special permit would continue to be enforced by the Building Inspector as they are presently.

6) *Is there an authority charged with interpreting or defining what NAICS code a business should be?*

This would continue to be subject to interpretation and enforcement by the Building Inspector, as it is presently for the existing Use Table. The Building Inspector commented at the forum that the clearer that the uses are in the Use Table, the better for enforcement. He further commented that the present Use Table is as “gray” as can be for interpretation of allowed and prohibited uses, and that the proposed Use Table is very clear for both the applicant and him, providing a huge step forward in protecting the town and giving clarity to any business wanting to come into town; a potentially desirous company, under the present Use Table, would likely not want to come to town if they would have to expend additional funds to go before a board for a hearing because it is not clear whether they are an allowed use. It was also noted that it is proposed to add 21 definitions to the bylaw for further clarifications of terms used in the proposed Use Table.

7) *Because Walpole’s zoning code could be tied to a national standard, can the Use Table—and possible future revisions to it—evolve with national trends?*

Until changed at Town Meeting, the proposed Use Table would continue to refer to the 2007 NAICS code. The code is updated every five years, so the Town could conceivably make an update in the future, but, if no changes are made, the terms within the Use Table would continue to be defined within the 2007 NAICS code, as stated in the headers to the business and industrial/warehouse sections of the Table.

8) *What does having more than 5 acres of farmland make you exempt from?*

An agricultural operation on more than 5 acres of land is exempt from further local regulation on land use for the agricultural use itself.

9) *What/who controls water for a particular use? How does the proposed revised Use Table address water use and protection?*

In Walpole, water allocation for a particular use is controlled by the Board of Water and Sewer Commissioners. In addition, the Zoning Bylaw Use Table/Rewrite Phase 2 Committee was fortunate in that that the Board of Water and Sewer Commissioners was able to provide assistance to the Committee in the form of an independent review of the proposed Use Table by Weston and Sampson, the Commissioners' consulting engineer, at no cost to the Town, the comments of which were incorporated into the Committee's findings for the creation of the proposed Use Table. Also, it has been noted that Section 12 of the zoning bylaw provides strict measures for protection of groundwater, and the Committee was fortunate to have the Building Inspector, the Deputy Fire Chief, and the Health Agent attend its meeting on September 2, 2008 to explain their roles in the further protection of groundwater beyond the provisions of Section 12 through their job duties.

10) *Under the Industrial/Wholesale section, how tall can a building be?*

This is and will continue to be enforced under the provisions of Section 6 of the zoning bylaw. At this time no changes are proposed to dimensional requirements of the bylaw.

11) *Has the Committee decided to allow a trash transfer station?*

There is no proposal to allow a trash transfer station. See Question No. 1 below, in the second section of this document, for further information.

12) *How was the Master Plan incorporated into the process?*

There was a desire expressed by residents to increase Walpole's tax base without burdening the average homeowner. See Question No.15 below, in this section of this document, for further information in that regard.

In regard to representation of the contents of the Master Plan, among the sitting members of the Zoning Bylaw Use Table/Rewrite Phase 2 Committee there was one representative member of the Boards, Commissions and Committees most involved in the implementation of the various functional areas of the Master Plan, and zoning in general. This included a representative member from each of the following:

- Board of Selectmen
- Board of Sewer and Water Commissioners
- Conservation Commission
- Economic Development Commission
- Finance Committee
- Historical Commission
- Master Plan Implementation Committee
- Planning Board (2 representative members)
- School Committee
- Zoning Board of Appeals

In addition, the sitting members of the Zoning Bylaw Use Table/Rewrite Phase 2 Committee included one representative from the East Walpole business community and one member of the Walpole Chamber of Commerce representing the Downtown business

community, as well as two members of the public at large (one appointed by the Board of Selectmen and one appointed by the Planning Board), and the Building Inspector as an Ad hoc Member. The Town Planner, and the Economic Development and Grants Officer, also attended the meetings of, and participated in and coordinated activities, of the Zoning Bylaw Use Table/Rewrite Phase 2 Committee.

13) *How can we limit the size of industrial operations?*

In some cases a cap on size is proposed. In general the size of an operation is limited by the size of the property, and by parking, open space, and buffering requirements found elsewhere in the bylaw, and in some cases by restrictions put forth in conditions in the issuance of a special permit.

14) *How is Biotechnology regulated?*

There are extensive state regulations in addition to local zoning bylaws. See Question No. 2 below, in the section of this document, for further information.

15) *Walpole needs to increase its tax base and promote economic development. How can the use table help with this?*

A clear definition of the land uses that the town desires is the most effective way to bring about the desired economic development that will increase Walpole's tax base without putting additional undue burden on homeowners.

16) *Is there a way to take Biotechnology uses with BioSafety Level 2 out of the use table? (concerns regarding MRSA)*

See Question No. 2 in the section below for further information.

17) *How does the table protect the sole source aquifer?*

Primarily, protection to the sole source aquifer is provided through Section 12 of the zoning bylaw, and by actions and duties of other town agencies, notably the Building Department, the Board of Health, and the Fire Department. The proposed Use Table helps in this effort by making desired uses clearer and better defined.

18) *What does the Special Permit do?*

A special permit allows review by a Board, either the Planning Board or the Zoning Board of Appeal as listed in the Use Table, of the proposed use at a public hearing. After consideration of the content of a public hearing, including both the presentation by the applicant and comments from the public, the Board hearing the application can, pursuant to listed findings that must be made pursuant to Section 2 of the Bylaw, either approve the application as submitted, approve the application with conditions, or deny the application.

As part of the discussion at the forum, HW recommended that a follow-up document to any questions asked in the second question session be posted on the project website. This is to ensure that the public can get accurate references for any NAICS use regulations to properly address questions raised at the forum. The following text presents two questions presented in the second question period that deal with specific uses and how these are regulated in the proposed Use Table.

1) *Has the Committee proposed to allow Trash Transfer Stations in the Town of Walpole?*

No. Trash Transfer Stations are grouped under the NAICS code 5621. This code is omitted from the proposed Use Table and would therefore not be allowed anywhere in the Town.

2) *How would Biotechnology uses be regulated under the proposed Use Table?*

Biotechnology would be regulated under two sections of the proposed Use Table. Under the proposed Business section, Biotechnology would be regulated under letter “q”, which is described as:

“Testing Laboratories and Research and Development in Biotechnology with the exception of uses that exceed Biosafety Level 2 as defined by the Centers for Disease Control and Prevention and further defined within Section 14 of this Bylaw”

Under the Wholesale and Manufacturing section of the proposed Use Table, Biotechnology would be regulated under letter “q”, which is described as:

“Pharmaceutical and Medicine Manufacturing with the exception of uses that exceed Biosafety Level 2 as defined by the Centers for Disease Control and Prevention and further defined within Section 14 of this Bylaw”

This industry appears in two separate sections of the proposed Use Table to ensure that the “business” and “manufacturing” aspects of these companies is accounted for in the Use Table and regulated in an identical fashion.

The definitions that are referenced in both of these use descriptions deal specifically with “Biosafety Levels” as they are defined by the United States Centers for Disease Control and Prevention:

Biosafety Level 1: Practices, safety equipment, and facility design and construction that are appropriate for undergraduate and secondary educational training and teaching laboratories, and for other laboratories in which work is done with defined and characterized strains of viable microorganisms not known to consistently cause disease in healthy adult humans. *Bacillus subtilis*, *Naegleria grube ri*, infectious canine hepatitis virus, and exempt organisms under the NIH Recombinant DNA Guidelines are representative of microorganisms meeting these criteria. Many agents not ordinarily associated with disease processes in humans are,

however, opportunistic pathogens and may cause infection in the young, the aged, and immunodeficient or immunosuppressed individuals. Vaccine strains that have undergone multiple in vivo passages should not be considered avirulent simply because they are vaccine strains. Biosafety Level 1 represents a basic level of containment that relies on standard microbiological practices with no special primary or secondary barriers recommended, other than a sink for handwashing.

Biosafety Level 2: Practices, equipment, and facility design and construction are applicable to clinical, diagnostic, teaching, and other laboratories in which work is done with the broad spectrum of indigenous moderate-risk agents that are present in the community and associated with human disease of varying severity. With good microbiological techniques, these agents can be used safely in activities conducted on the open bench, provided the potential for producing splashes or aerosols is low. Hepatitis B virus, HIV, the salmonellae, and *Toxoplasma* spp. are representative of microorganisms assigned to this containment level. Biosafety Level 2 is appropriate when work is done with any human-derived blood, body fluids, tissues, or primary human cell lines where the presence of an infectious agent may be unknown. (Laboratory personnel working with human-derived materials should refer to the OSHA Bloodborne Pathogen Standard², for specific required precautions.) Primary hazards to personnel working with these agents relate to accidental percutaneous or mucous membrane exposures, or ingestion of infectious materials. Extreme caution should be taken with contaminated needles or sharp instruments. Even though organisms routinely manipulated at Biosafety Level 2 are not known to be transmissible by the aerosol route, procedures with aerosol or high splash potential that may increase the risk of such personnel exposure must be conducted in primary containment equipment, or in devices such as a BSC or safety centrifuge cups. Other primary barriers should be used as appropriate, such as splash shields, face protection, gowns, and gloves. Secondary barriers such as handwashing sinks and waste decontamination facilities must be available to reduce potential environmental contamination.

PLEASE NOTE: The proposed Use Table is being actively reviewed by the general public and several municipal agencies, and is therefore subject to revision in the coming days and weeks. As such, any section headers, references or quotes in this document may change and readers are encouraged to visit the website regularly to ensure they have the most recent version of the document. The website can be accessed through the Town's Planning Board webpage at: <http://th.walpole.ma.us/Plan.htm>