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## **61 Summer Street Zoning Analysis/White Paper**

*The property is located on an approximate 2.09-acre (91,040 square foot) parcel within the General Residence (GR) zoning district. It is not in the Downtown Overlay District (DOD). This zoning primarily allows single and multifamily residential and some institutional uses.*

*To thoroughly analyze the district in terms of highest and best use under Maynard's current zoning by laws, it is necessary to highlight the advantages or disadvantages of each potential development path forward. Demolition or preservation of the existing building may have an effect on each potential avenue of development.*

*Maynard's Inclusionary Zoning By-law requires dedication of affordable units with projects creating five or more units.*

### **Potential Development under GR Zoning**

#### **Existing Structure**

Currently a 74,865 square foot former school exists on the site. This adds an additional consideration as razing or rehabilitative construction will factor into redevelopment cost calculations.

Any proposed use of the existing structure for residential purposes will require a finding by the Zoning Board of Appeals (ZBA) that the proposed residential use is no more detrimental to the surrounding area than the previous use (as a place of assembly). As this is a residential neighborhood already, the outcome would likely be favorable, but a public hearing will be required. Additionally, utilizing the existing design would potentially make further ZBA approval necessary due to non-conformities or other zoning circumstances that may exist and be subject to regulatory restrictions. This applies to all potential development paths.

#### **By-Right Uses**

A "by-right use" is a use requiring minimal review (typically limited to Site Plan review) but otherwise requiring no additional zoning approvals. If the zoning criteria for a by-right use is met by an applicant, the Town must grant Site Plan approval. Potentially, the parcel could be separated into individual lots through an Approval Not Required (ANR) process and developed

individually. While the size of this parcel makes this the path unlikely (because of the assumed desire of a developer to maximize the number of units) it is a possibility.

Examples of potential by-right development could involve removal of the existing structure followed by an ANR division of the land into approximately 8-9 irregularly-shaped lots with a new single-family home on each (minimum lot size of 7,000 square feet).

One advantage for a developer using this approach would be the likely absence of any discretionary review of development by the Town under the Zoning By-laws if meeting the current dimensional requirements of the GR district.

There is no scenario where a redevelopment of the existing structure could be limited to by-right review.

### **Special Permit Uses**

Special Permits are regulated by state statute and locally administered by the Planning Board (PB) or the ZBA. While somewhat discretionary if an applicant demonstrates consistency with the Special Permit criteria and meets other zoning requirements, approval must be granted. The PB may impose conditions to mitigate specific circumstances. If approval is denied or the developer is inclined to dispute conditions required by the PB, the burden falls to the Town to prove that the project does not meet the criteria or is otherwise ineligible for the permit.

An example of this type of development created under this process could be a PB Special Permit authorizing redevelopment of the existing structure, or construction of a new structure, for multi-family (3 or more) units. The GR district would allow *approximately* 18 units for the subject property.

The Zoning By-laws also have a provision that allows for the creation of “Elderly Housing” provided it is under the jurisdiction of the Maynard Housing Authority. This would allow approximately 45 units by Special Permit of the ZBA in the existing structure or of new construction.

### **Special Circumstances/Development Agreement**

The Zoning By-laws allow for a significant level of flexibility for projects meeting specific criteria or deemed to have benefits the Town deems desirable. This path typically requires a Development Agreement executed with the developer by the Select Board and the PB in addition to normal zoning permitting. Most frequently, the developer requesting additional or “bonus” units for the project. The Town in turn receives additional affordable units and potentially other mitigation depending on the specifics on the proposal. This approach has helped the town significantly increase its affordable housing stock.

This strategy has been successfully used in the DOD within the existing regulatory framework, and while the subject property does not fall within the DOD, the Town’s Inclusionary Zoning By-law offers similar benefits. A project utilizing this approach for multifamily development using the Inclusionary Zoning By-law provision could, in theory, develop up to approximately 38 units (roughly 12 of which would be “affordable”).

Because neither the Zoning By law nor the building code regulate unit size, a project developed under this strategy could benefit the Town by allowing creation of smaller, more affordable units. This could work either with redevelopment of the existing structure or construction of a new structure(s). Because a Development Agreement is a private agreement, and the request goes beyond what would be typically allowed by the Zoning By-laws, there is a considerable degree of flexibility for the Town's negotiating position.

### **Chapter 40B Development**

State law also provides a mechanism to override local zoning in certain circumstances. For example, the Town's zoning district restrictions do not apply. This may be involuntary or voluntary on the part of the local government. Permitting is done through a "comprehensive permit" issued by the ZBA. This occurs after the developer obtains approval from the Department of Housing and Community Development (DHCD).

For an involuntary (unfriendly) 40B project, a developer must demonstrate that the Town is below the required 10% threshold of subsidized housing inventory (SHI). This is an arduous process and while Maynard has never been the subject of an unfriendly 40B to date, the Town has been susceptible for the majority of the time statute has been in effect. Maynard's current SHI is 9.4%, and thus below the threshold. Insufficient infrastructure capacity will normally not prevent a 40B development.

A "friendly" 40 B has the advantage of allowing the Town to work with the developer on a specific proposal with specific terms. By creating a joint application, the Town can control the overall final product.

Examples of this could include a multifamily development of higher density than the zoning district allows with an obligation by the developer to provide a specific amenity or Town benefit. Again, this approach increases the Town's negotiating flexibility.

### **Subdivision**

A developer may apply to create a subdivision. State statute regulates subdivisions and the Town has adopted specific regulations to implement and administer the statute. This typically requires only Planning Board approval and the applicant demonstrating compliance with the Subdivision regulations and Zoning By-laws. Normally this would be done to create single-family housing, although condominiums are also possible. Density is controlled by the zoning district.

Advantages of creating a subdivision for the developer include maximizing unit count by minimizing lot size. A developer could develop up to 13 single-family units by creating a subdivision in this case. Disadvantages include the cost of internal roadways, infrastructure, and other improvements required by subdivision regulation.

### **Potential Funding Resources**

There are a number of potential state and regional resources that may assist the Town or developer to facilitate the property's reuse, demolition, sale, etc. Typical assistance may include: funding, developer financing, and technical assistance. Some of these entities (and

their associated objectives) include:

- MassDevelopment (Economic development-related investment, Reuse of properties).
- Mass Housing (creation of rental housing)
- Mass Cultural Council (cultural facilities development)

These are just a few of the potential resources available. Once a vision for the site is developed, potential funding sources can be further researched.

Before applying for funding, it is crucial to:

1. Obtain a consensus from Town leadership about what use is desirable for the location.
2. Link potential use(s) to regional or state goals (construction of affordable housing, preservation of historically-significant structures, creation of community amenities, improvements benefiting underserved groups, rehabilitation of existing structures, or environmental remediation).

Any demonstration of public-private partnership is invaluable, as has been demonstrated with outside funding assisting several recent town projects, including Maynard Crossing, Mill & Main and Coolidge School.