

GORDON CONWELL

THEOLOGICAL SEMINARY

June 5, 2023

Marnie Crouch, Chair, Planning Board, Town of Hamilton
Shawn M. Farrell, Chair, Selectboard, Town of Hamilton
Joseph J. Domelowicz Jr., Town Manager, Town of Hamilton
Town Hall
577 Bay Road
Hamilton, MA 01936

Dear Ms. Crouch, Mr. Farrell, Mr. Domelowicz and Members of the Selectboard and the Planning Board,

We begin by once again thanking you all for the tremendous efforts you have each made toward creating a zoning overlay district over the Seminary's property at 130 Essex Street. We know that you have invested a substantial amount of time in discussion, fact-finding, design and drafting.

As Dr. Barnes indicated in his comments at this week's Planning Board meeting, the Seminary is submitting to the Planning Board its positions on a number of matters which the Planning Board has been discussing.

Order of the current process.

It has seemed to us that the Planning Board has structured the zoning bylaw drafting process with the intention of completing its deliberations, design and drafting first *before* involving the Seminary. Based on the direction taken by the Planning Board at its meeting this week in adopting in principle the current Planning Board draft bylaw, however, we see that we are at a key inflection point in the process and that the current strategy is in danger of resulting in a zoning bylaw that will not work for the best interests of the Town or the Seminary. We believe that it is critical to include the Seminary in the design and drafting now.

Given the above, we think it is very important that the Planning Board understand our position on several key matters.

The proposal to eliminate the current residential zoning. When the Town approached the Seminary back in the end of 2022, it was the Town that proposed an *overlay* district and the Seminary has participated in good faith with that understanding. From the first moment the Planning Board suggested that the underlying zoning would be eliminated, the Seminary has been consistently clear that doing so would be a major ask on the part of the Planning Board. The only way that eliminating the current zoning can work for the Seminary is if the new overlay district provides appreciable *as of right* commercial uses for existing buildings with a reasonable agreed-upon amount of expansion and reasonable *as of right* alternative residential uses for the upper and middle campuses.

The current Planning Board goal of eliminating the existing single-family zoning reduces all the property except for the existing apartment buildings to the special permit process.

One of the important distinctions between this particular zoning bylaw creation and other circumstances (e.g. the current COD off Chebacco Road) is that the Seminary, its buildings and their intensive uses have been in place for decades. The risk to the Town can, therefore, be managed without the need for a special permit process simply to reuse existing buildings and modest expansion. An appropriate level of site plan review will suffice.

Special Permit process. Following the above issue is our deep concern to see the Planning Board moving in the direction of requiring extensive special permit processes for virtually all of the campus including for reuse of existing buildings. Those uses simply cannot be subject to a special permit process. Given the very difficult lift it is for any developer to gain Planning Board approvals under the best of circumstances and, even if successful with the Planning Board, there may be further opposition from individuals, the Seminary may find it impossible to sell any of the remaining property. This will not achieve the Town's goals for the parcel. At that point, the Seminary will indeed be restricted to selling to another non-profit educational or religious institution with its protections under the Dover Amendment. Applying a special permit process to every single proposed use for the Upper and Middle Campuses injects far too much uncertainty and risk for everyone.

That being said, as long as there are a fair and reasonable amount of *as of right* uses, we believe that the special permit process could provide the Planning Board with an excellent opportunity to evaluate the upper range of densities for proposed uses. By example only, an owner might, after building out according to what is permitted under the bylaw, seek to expand the buildings and would have a process under the bylaw to seek the Planning Board's approval via a special permit.

Traffic. In addition, we have noted recent comments severely understating the intensity of the Seminary's use over the years. While current usage is indeed substantially lower than in prior years, there have never been any complaints of too much traffic coming or going from the Seminary. The existing roadways have easily managed those trips at peak usage. It is not true that the traffic was evenly spread out over an 18-24 hour period. Hundreds of students and employees have come to the campus during normal commuting hours. The Planning Board seems to be making complete guesses as to how much traffic is reasonable. The Town and the Seminary paid the Consultants almost \$90,000 to provide real advice with respect to traffic densities. While the Seminary believes that even the Consultants were too conservative, the Planning Board's current approach fails to take into account the Consultants' expertise in the matter, the Seminary's actual historical use and the likely reasonable future use.

Concept Plans/Illustrative Plans/Mutual difficulty of form-based code for the Seminary parcel. From virtually all inputs, the idea of using form-based codes on this parcel has been rejected. The parcel simply does not lend itself to form-based codes for multiple reasons, including the fact that it is unlikely to be the location of any significant retail businesses, does not cross multiple property owners, is a single lot with no public access, is virtually invisible from the surrounding streets and abutting properties and is not near the Town center. Most important, however, is that the overall goal of the Town and the Seminary is to position the property for motivated buyers for

the allowed uses, whomever those might be. Form based zoning attempts to guess the market, something in which neither the Town nor the Seminary wishes to engage.

For those reasons, as well, we do not believe that a Concept/Illustrative Plan methodology will work well. While we appreciate that setting out some illustrations can be a useful way of thinking through the possible future uses of a parcel, it is unlikely to be helpful as a formal part of the bylaw here. We note that the plans themselves have not been a part of any iterative process. The illustrative plans have stayed essentially the same despite any new information. That suggests that there is a lack of flexibility inherent to the plans that will be unworkable in the future. Again, this becomes a futile exercise in guessing the market. That will not benefit the Town or the Seminary.

A word about abutters. The Seminary, by most if not all abutter feedback, has been an excellent neighbor for 50 years. We have never blocked anyone from walking over the entire property, people travel many miles to play our disc golf course, neighbors ride their horses, walk and, frankly, run their unleashed dogs and jog through our campus on our roads and on the lawns without any interference. Pickup ultimate frisbee and soccer games are a common occurrence.

While we acknowledge the concerns of immediate abutters, we believe that a sensitive and reasonable bylaw will not result in adverse impacts. If the bylaw allows for little new development, it will not achieve the wider Town's goals. If the process set out in the bylaw requires a special permit, any future owner will be severely hampered from developing *existing* buildings not to mention building anything new. As of right uses are key to the success of this bylaw.

The argument here should not be that the Planning Board has the ability to force its will on the public and the Seminary with its favored concept for the Seminary's property future development. We urge the Planning Board to consider the reasons that began this whole endeavor and have informed all the other constituencies. The Seminary continues to work in good faith to reach a true win/win for everyone involved recognizing that that will require cooperation and concessions by all.

Infrastructure. We note that the questions about infrastructure (e.g. wastewater treatment, electrical etc.) keep being raised in terms of potential uses. We suggest that this is not a relevant concern with respect to fashioning a zoning bylaw. Any prospective purchaser of the property will do its due diligence to insure that there will be sufficient infrastructure to service its requirements. In addition, matters such as the wastewater treatment plant are subject to state jurisdiction and are not matters within the purview of zoning.

Here are some key issues and the Seminary's current position:

- **Uses.** We agreed with the Consultants' recommendations for uses on the three campuses and have not heard any reason why the Town should deviate from them.

In addition, the suggestion that any particular use is unlikely to find a buyer currently is not an appropriate reason to omit it as a permitted use under the proposed bylaw for several reasons. First, it is irrelevant to the fundamental question, namely, is the proposed use one that would be appropriate for this parcel of land? Second, guessing the market should have no connection to whether to include a use in the bylaw. Markets are fickle by nature and what may seem like a very promising use today may have no momentum tomorrow and vice versa.

One additional point about the tax base and its connection to uses. As seen on the consultants' report, certain commercial uses will result in higher valuations of the buildings. So, while the tax rate for commercial and residential may be the same, the buildings may not render the same assessment. The tax revenues from commercial uses can substantially exceed residential.

- **New construction; density.** We believe that the property can handle 1,000,000 square feet of *new* commercial construction/use and the Planning Board is at about ¼ of that. We have heard disappointment from the Master Plan Steering Committee that even the Consultants' proposals were insufficient to meet the goals for developing this parcel.

The phrase "once in a lifetime" opportunity has been bandied about. The applicability of that phrase, however, should not be the opportunity to design a bucolic residential neighborhood that looks much like the rest of Hamilton. The opportunity of a lifetime is to take a property that can readily handle significant commercial use and substantially increase the Town's tax base without creating material adverse conditions for that part of Town.

Given we believe that the Consultants were too conservative in their proposed densities, we think that anything that is below those proposed densities will severely underutilize the property.

- **Proposed districts.**
 - **Generally.** As we have offered on several occasions, we believe that a meeting with a couple of members of the Planning Board and Select Board to walk the property will be invaluable. That will allow us all to tweak the current proposed boundaries for the subdistricts.

To date that Planning Board has declined that invitation. We would welcome the opportunity of an in-person site walk in order to demonstrate why the following adjustments to the districts would be fair and reasonable:

- **NA.** We suggest that the area on the northerly side of the road containing Gate House should be excluded from the NA given the likelihood that that house would provide an opportunity for expansion and repurposed uses (e.g. boutique B&B etc.). Also, it should be made clear that landscaping/hardscaping and expansion of the parking lot in the NA subdistrict can be expanded etc. as a permitted use.
- **C-R/C, UE and S-R/C.**
 - We do not see the advantage or necessity to creating three different subdistricts. Indeed, it may significantly hinder the cohesive development of the areas designated by the three subdistricts. This appears to be an example of trying to guess the market rather than developing an overlay district that has the flexibility to accommodate the market.

- **N-R.** This subdistrict could be improved by slight modifications of the boundary particularly where it extends up to the intersection. That portion of the property would more naturally belong in what is shown as C-R/C currently.
 - **HL.** Again, while we do not agree with so-called “heritage landscapes” or no-build zones, we are open to conceding a good portion of the HL area. We would, however, need to extend the GH-CR in a southerly direction to include the UE and current patio area. Those have been improved areas for well over half a century and are not landscaped.
- **Conservation restrictions.** We do not see the need to submit large portions of our campus to permanent conservation restrictions, given that the proposed areas are already designated wetlands.
- **Heritage buildings.** While we appreciate the historicity of the Retreat House, and even Pilgrim Hall, we are aware that the market may not view them with the same value. We understand that the retention will be under the Development Agreement. Therefore, it should not be a reference in the Purposes 9.6.1.
- **Heritage trees.** While we appreciate the beauty of various stands of trees, and have demonstrated our appreciation by preserving them for 5 decades, we are acutely aware that trees die and that construction may need to remove some of them. We do not see the appropriateness of the Planning Board governing *internal* stands of trees. That is a matter that is best left to the association that will manage the common areas and the property owners themselves.
- **Open space.** Section 9.6.8.2 is so restrictive as to be unworkable. Assuming that we reach agreement on certain heritage landscapes and natural areas, then there should be no further restrictions on any other portion of the property. It simply does not make sense to impose that level of restriction on this particular property. The areas of the property likely to be developed are not visible from any public way. It is very unclear who would benefit from such restrictions.
- **Dimensional provisions.**
 - **Setbacks/buffers.** In most areas, the proposed huge setbacks (100’) around the entire property are unnecessary, and, in several locations, adverse to the intentions here as they will hinder necessary flexibility to expand existing buildings. In terms of the Bridge Street parcels, the Seminary already has a 50’ buffer for all vegetation, all of the homes are located toward the bottom of the lots a significant distance *downhill* and the current property owners have voted their lack of concern about being able to see the top of the hill by the extensive tree clearing that they have conducted. It is a relatively easy matter for any owner of a lot to allow the vegetated buffer to extend higher and further if there are concerns.

We believe that the following setbacks/buffers are reasonable:

- Bridge Street property: existing 50 foot buffer plus and additional 25 feet.
 - Northwesterly boundary: 50 foot buffer or existing building locations, whichever is shorter;
 - Internal between districts: 12.5'. The nature of the land is such that there is no need to require any significant setback between zones, except to maintain a minimum distance between buildings of 25' in total.
- **Height.** Given the topography of the land, particularly true with respect to the middle campus subdistrict, the building heights can safely be set at 5 stories/60 feet without any derogation to the surrounding areas. Market analysis indicates that the biotech users will have minimum heights to accommodate the lab spaces and equipment/building services.

In addition, based on conversations with industry-sector leaders, senior living (independent, assisted and memory care) campuses seek to centralize their shared amenities within a single building and multi-storied buildings allow the residence ready access to their daily dining, exercise and other activities. This is particularly the case in the northeast where the weather can make moving between residential and shared spaces challenging.

- **Signage.** There is no reason for the Planning Board or the Zoning Bylaw to regulate signage *within* the property. That should be left to the association that will manage the common areas and the property owners.
- **Roadways.** We do not agree that the roadways require any reconfiguration. That is something best left to the association that will manage the common areas and the property owners.
- **Public Access.** We do not agree that the public should have enforceable rights of access. Assuming that we can reach agreement on the full zoning bylaw, we are open to an accommodation here. We are concerned, however, that such access will need to be subject to reasonable control for concerns arising out of student and resident/owner safety and security concerns for business, particularly with respect to espionage etc. This is more appropriately a matter for the Development Agreement.

We understand that this is a process of give and take, and the Seminary is open to many of those restrictions and limitations. We continue to be willing to work hard with everyone to get a zoning overlay district that will provide *some* of what everyone wants, while understanding that nobody will get everything they want.

We respectfully submit some following amendments to the Planning Board's current version of the BHOD.

1. Upper Campus

- a. The BHOD should allow for at least the existing buildings on the Upper Campus to be adaptively reused with up to 200,000 square feet of additional new space as a

matter of right. The additional square footage would be subject to reasonable, non-onerous *site plan review*.

- b. The BHOD should allow for additional expansion on the Upper Campus by *special permit*.

2. Middle Campus

- a. Site plan review for the middle campus up to 200,000 square feet of new construction.
- b. Max height of 5 stories/80 feet for buildings in the main field area.

3. Special Permit, generally

- a. To achieve the Town's goals, and given that it is impossible to determine today whether a particular project would create too intensive a use, the Planning Board should have discretion to evaluate projects that exceed the established amount of square feet (either as a matter of right or by site plan review) and grant special permits for those proposed uses.

Development Agreement.

A number of the concerns that the Planning Board is addressing are more readily handled by a Development Agreement, e.g. management of the common areas (including wastewater treatment facilities), affordable housing, preservation of the Retreat House and Pilgrim Hall, management of potential public access to certain portions of the property, use by the Town of the property for siting of its emergency response and communications facilities, and prohibited uses including by deed restrictions to name a few.

It has been the Town's and our understanding all along that the Seminary's ability to enter the Development Agreement is contingent upon several fundamental principles:

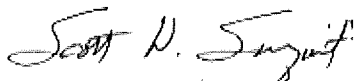
1. The zoning bylaw must provide clear avenues to permitting various allowed uses as-of-right.
2. Any enforceability of the Development Agreement will be contingent upon the owner(s) receiving final permits.
3. It will be clearly stated that the new zoning overlay will not apply to the Seminary as a religious and educational institution.

Obviously, while the Seminary is unable to agree with finality on anything until we have a complete package between the zoning bylaw, the development agreement and any drawings/plans/sketches etc. we are prepared to continue in good faith toward an excellent overlay district.

Again, we are standing ready to do whatever we can to bring this to a successful conclusion for all the constituencies. We trust that our outlining many of our key concerns here will assist the Planning Board in its drafting and deliberations.

Please let us know how we can best serve the Planning Board during the remainder of the process.

Sincerely,



Scott W. Sunquist, President, Gordon-Conwell Theological Seminary



Kenneth J. Barnes, Professor and Project Manager, Gordon-Conwell Theological Seminary

cc:

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