



Smart Growth Committee

February 11, 2021 @ 3:00 p.m.
Held Via Zoom

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TOWN CLERK
BILLERICA

Attendees:

- Denise McClure**
- Mike Riley**
- Mark Lalumiere**
- Matt Battcock**

Absent:

- Pat Flemming**

Pledge of Allegiance

Denise McClure- We held community meeting in December through zoom where we had almost 30 people in attendance. We did a quick presentation on the concept of mixed use, what it is and what we are thinking about. The feedback we got during that was pretty positive. People discussed the design, architecture and the scale of the buildings. We also did a survey that we sent out that we had people respond through Google and we received 536 responses to the survey.

A majority of the responses:

- 50% of people said they go out to eat they go to Burlington
- What do you like about Town Center-Its History, the Library, that there are sidewalks.
- What do you like about Boston Road-Nothing
- What do they want to see on Boston Road-Restaurants
- What would you change-70% said more restaurants, 60% said more attractive places
- What three words come to mind when you think of Town Center-Boring, Traffic, Tired, Historic, and congested.

Mike Riley-Addressed that he like to have Jeff Speck come and speak and be part of the forum. He is a well-known Economic Developer; he has written many books on Smart Growth. It would be an outside professional, that could give us guidance.

Denise McClure-I do want to just say that we are working on this zoning, it is not just creating zoning, it is other things that you do to create walkable and more friendly spots. So even doing it in conjunction with the bylaw it is important, but I think it is also a bigger picture of; how do you achieve that through multiple different things it is not just create zoning and it happens, there's a

lot of things that all tie into that. This is just one piece of the puzzle to kind of change the feel of this area

Denise McClure went over the First draft of the Mixed use overlay Zoning By-Law

QUESTIONS AND COMMENTS FROM THE BOARD

Page 1

Mark Lalumiere- I had some concern trying to define all these different overlays in the Historic District. The Historic Districts is the one that we are really concerned with. I think you know trying to come up with some wording and where do you put it? I thought at the end of subzone A, Town Center that we add the wording properties within the Historic District must comply with the review process for said District so that it is completely clear that they still have to go through the Historic District process. I will put these all-in writing and get them to get Denise. I was thinking of subzone A, it does include the Historic District in the center, but it does go a little further to include properties that are not in the District. I know we talked about you know it would be nice to see the District expands and do we offer an incentive for these properties that are in Subzone A and if they comply with the Historic District review process and bylaws, do they get some additional incentive or is it just simple wording of these properties or projects will be reviewed favorably or something like that but try and get more of these properties that they close to the center, they're outside the District but it would be nice to see them adopt the District guidelines to make it more uniform and in a bigger District without changing all the zoning.

Denise McClure- I think you could do either or and that might be something that we play around with. I think you absolutely could incentivize and get some sort of incentive whatever that might be to comply with it, or we could put it as almost a design type guideline that says it's encouraged that you do it depends on how strong we want to be. It may be something to think about, but I think it's a great idea that if you're right on that edge and there's been the idea of expanding, it could be a way to try to get those properties to meet it

Mark Lalumiere- I think it is just important to mention that the intent of that is really curb appeal and that we would rather see landscaping and trees out front of a property rather than asphalt parking.

Use Restrictions- (Page 3)

Mark Lalumiere- Let us keep it as clean and simple as possible. I had one little revision there on the definition of mixed use, which to me mixed used in this instance is allowing residential and commercial uses in the same building. I think it's clean and simple as that. We don't have that in the zoning anywhere, so we would list mixed use retail, restaurant, office and the last thing I was thinking is any another all use permitted in the underlying District except for industrial zone properties because I don't think you want to get into a mixed use residential and industrial zoned area and that may spur an industrial zone property along Boston Rd anyone that

wants to take advantage of this would basically have to abandon their industrial uses and move on to something cleaner and higher and better use.

I just want to clarify it, say a restaurant use. I think in this instance if its under the mixed used development it should be under Planning and not the ZBA. I think there could be some confusion there of who has jurisdiction

Density Regulation (Page 3)

Density Bonuses (Page 3)

Matt Battcock-I know we need flexibility, but I am not sure we should really be given bonuses for what they should be doing anyways which is connectivity, walkways, sidewalks, bicycle connections and all that stuff. I think the density when it gets too dense it is literally a lightning rod in Town along with the height. I understand the flexibility and everything and I just think if someone is going go into one of these places that should be the standard.

Mark Lalumiere-So I think it gives the Planning Board a better position if they are not comfortable with the project to deny something. If somebody comes in shooting for the 12 units per acre all the density bonuses and it does not fit it, it's somewhat complies, is a lot of wiggle room in there to write a denial on. Examples, I do not think you have the right parcel access or the public outdoor seating area that you have is not big enough, it needs to accommodate more people. I really think if you are not going to do these things you really need to stick with the 8 units per acre but does not meet the density bonus requirements so you're not flat out denying a project you're just saying what you presented to us isn't good enough stick with the 8 if you want the 12, we want X, Y&Z.

If I have this correctly, so the minimum would be, they come in at a with a parcel and we're going to hold him to that standard pedestrian, walkability but this density bonuses allow you to ask for essentially offsite improvements.

So, the bonus is really a number of housing units per acre, but it doesn't put in any regulation for density of commercial.

Affordability Requirement-(Page 3-4)

Mark Lalumiere-We must add that they are in perpetuity for any affordable units

Design Guidelines (page 4) 58:00

Mark Lalumiere-Two comments, I understand the first one about residential on the ground floor, I think you might want to look to provide an exception for some of the smaller projects for handicapped Accessibility because you could get a smaller project that can only do four units and once you put those four units one floor above, you are now requiring an elevator which could potentially kill a project when you only have to provide say one handicapped accessible unit. I think it might want to provide some review room for the planning board and we can approve it for one handicap unit on the 1st floor

I think what a lot of people fail to notice is all the electricals' been buried and there is no overhead wires anymore which really changes the character you just forget that they were there

then it might be that any of these projects you kind of require the same thing, all the electrics will be buried rather be strung pole to pole.

Mike Riley-Is everything in the center already required to be underground?

Mark Lalumiere-No, that was done as part of the sidewalk project and everything was connected in underground

Dimensional Regulations sub-zone A (page 4-5) 1:03

Matt Battcock-I think the height for Zone A, three stories for the center, should be maximum 2 stories and I think on the on the Zone B, 50 foot is max height and that is way too much. I think also if you started at two stories. Then if they wanted to do extra things maybe it could be talked about to go to three, but my main concern is the center of Town having something with that amount of height would not be too palatable to most of the residents specially with Town Center being Historic.

Denise McClure-Are you saying that three stories in Town Center or just the four stories in 50 feet on Boston Rd

Matt Battcock- Both I think be significant issues to most of the residents because of the height

Mark Lalumiere-This is a reduction from what is allowed in the center now. Some of the center is zoned General Business which currently in General Business you are allowed three stories or 45 feet so this would reduce the height by 5 feet, its less than what is there now and then the other Zone B increases it by 5 feet and one story for general business

Matt Battcock- Zone A, I think they should start with two stories and if they want to add in different amenities then we can talk about 3 stories. I think it should start at two instead of starting at three or starting at 5 in the other zone and go up, not start up and try to get back, I think that is harder for the planning Board to do also.

Denise McClure-I think you are right, if we allow three stories, you are going to see projects with three stories. If you only allow one story above it is just not a feasible project. I just do not think that people will develop under it, so my concern with that one is that I think you need two stories above. Take the florist, those buildings on the corner, you are going to utilize that building and build up from it and I think one story is not enough to build up to make a project economically feasible. If you did it as a bonus we'd have to probably look and tie in the density with the height because more height without more density doesn't really help you because you know the height worked with the FAR giving you more height because there was no density so once you got another floor I meant whatever you can fit on there you could fit on there but since we're restricting the density we have to be careful if we did that had we give them more density plus more height or else you don't need the height doesn't alone doesn't get you anything but I feel pretty strong that you wont see anyone come in with one floor

Matt Battcock-If we start at three stories that is what we are getting. If you start at five stories/50 feet, that is what is coming in there. It makes it difficult on the Planning Board to say no or go backwards. But if you start lower and go up for every floor they want to put on, we get X, Y & Z so we can get things for the Town.

Mark Lalumiere-Just to kind of put it in perspective, basically everything East of Boston Rd on the East side is zoned general business except for Saint Theresa's church. In that District right now, the underlying general business allows a height of 45 feet or three stories, so this overlay would be if you get down to two technically more restrictive, we are cutting the height down by 5 feet but keeping the three stories in there. Someone could come forward with a project in the general business and comply with zoning at 45 feet and three stories.

Denise McClure-I will say whatever we decide upon these heights, no one can go higher than these in anywhere.

Mike Riley- I say with bonuses and density bonuses you will kind of probably want to cap it off on Boston Rd

Denise McClure- You would tie the bonus to say, you got extra density and extra height together because again you give him extra density, without the height it is not going to make any sense. If you give them extra height without giving him extra units, they have nothing to put in that extra floor. For a good design you want 3 stories.

Mark Lalumiere-So my concern it is that the underlying zoning allows more. So, any argument that you hear of; it is too tall or there's too many stories, will only apply in a residential setting because somebody could come in and present something and say well let me step back by the underlying zoning. I am allowed to build a three-story building at 45 feet height.

Denise McClure- I would hate to say it, I'm going to take it a little further than Mark and I bet our single-family zoning allows a 35-foot single family house

Mark Lalumiere-A single family house 2 1/2 stories 35-foot height for a single-story home the only time it gets reduced is based on the lot size. If the lot is less than 7500 square feet, then the Max height goes down to 28 feet

Mike Riley-What happens with density bonuses? if you come in and you have here 40 feet, three stories, do they get density bonuses

Denise McClure- So the PUD that we came from it gave you a bonus for height and that allowed you with your density bonus under the PUD was to get more height, and what that did is because it was just an FAR it meant you could shove more units in there. Because we are giving a density of you this is your maximum height. You cannot build a building higher than three stories and the 40 feet only because stories tend to be more than 10 feet.

Matt Battcock-Once again I think it is one story too high to start.

Mark Lalumiere- In an industrial zone, there is no restriction on number of stories it is just maximum height of 45 feet above the grade plane. In the general business zone, it is three stories or 45 feet. This is essentially allowing you another story and another 5 feet in height. I would say you want to go down to 3 stories, 45 feet only because the underlying zoning law allows it now

Denise McClure-In the end, three stories whether it is 40 or 45 feet you will probably never notice the difference.

Mark Lalumiere-So essentially height and the number of stories is not a change from what is already allowed there

Parking Requirements (page 5-6) 1:21

Mike Riley- I am a little bit confused why everybody is decreasing parking spaces and we increasing it

Denise McClure-I would say that I am fine with 1.5 spaces per unit no matter the number of bedrooms but that's my opinion

Matt Battcock-I have no issues with it.

Mark Lalumiere-We do have offsite parking provisions now in the zoning, which it is a special permit through the ZBA basically, this would just take that and put it under the jurisdiction of planning

Mike Riley- I am going to have a conversation with the housing director. I do not know how many spots they used back there behind the library but if there is a possibility of a business owners to lease parking spots from the Housing Authority, there is a way to get revenue for the Housing Authority

Application for Special Permit Approval (page 6-8) 1:29

Mike Riley- Asked Andrew about the LRTA and how it is used around Town. 1:34

Andrew Jennings- We have two primary routes in Town, both connecting Lowell and Burlington. The 14 is one of the heaviest routes on the LRTA, it basically comes by the UPS facility on Brickkiln Rd, down 129 Boston Rd, to the center on Concord Rd then to Middlesex Turnpike into Burlington and terminates at the Lahey clinic. The 13 comes from Lowell to the North Billerica post office, goes via Lowell St. to the North Billerica station, comes back down Talbot Ave and Talbot Ave to the center and then proceeds down Boston Rd, to about the Burlington line where it meets up with another MBTA bus route. So, you have got hourly service

on both lines, through the center to Burlington and you actually have twice hourly service. I mean clearly in my mind your changes in zoning you want to make your densities higher where there is transit than where there is not, but I think that because there's already transit in both zones that the transit element isn't particularly important and of the things, I've heard discussed today the only thing that transit might impact is the number of parking spaces required. I am concerned about how the gap between the two zones will work and be integrated with one another particularly since next year we are going to be doing a major set of work on Boston Rd. I also have the general problem about many of the facilities that you want to put in for biking and walking in transit. You will have to bring in the party in both zones of the State since the State makes many of the decisions there and not the Town itself so these are issues that you have to think around, but you don't have any direct control over that I can see.

Mike Riley- Did you just add a stop in front of Town hall?

Andrew Jennings- There is a stop now at Tom Glavine Way

Mike Riley- Sounds like we have pretty good coverage here in Billerica

Andrew Jennings- For the two zones you do. There are two other major pieces of transportation available to Billerica residents that the LRTA's involved with. The Roadrunner transportation for seniors and disabled. It will take you from any point within 3/4 of a mile of the fixed route to 3/4 of a mile anywhere on the LRTA system. This means that about half the geographic area of Billerica is not eligible for this. They are eligible for the COA transportation for which the LRTA provides a subsidy. The COA sets the rules for that but it is basically anywhere within Town and a few places outside. Now longer term, if we can get the funds, they have been in planning to add a bus route to the VA hospital in Bedford and I'd like to see some East -West transportation to fill in the places but yes, the school department the COA, Roadrunner, fixed route and they are all not coordinated with what we do for how we do our highway planning, so there's a lot of work we have to do on transportation planning but these two zones the transportation is as good as it gets in Billerica.

Public Comments

Chris Tribou- When you widen roads, you are going to be increasing traffic or if you increase the parking minimum. It is kind of discourages that walkability. You need 1.5 spaces for residential, but you know you kind of give the person developer options. So instead of having a parking minimum that you can waive. Essentially you could allow the appointing board to waive the parking minimum but what you would want is a large amount of green space and other amenities to that green space. Fountains and picnic tables, so when people are at retail on the bottom you have housing on the top and then you have green space in an area where residents can walk over to the picnic tables and start eating their food on a nice sunny day. Adjacent to the park with a baseball field like all that connectivity. I think would make a huge difference.

Marlies Henderson- I have a few questions that I marked on the zoning map. Are other things like mill conversion and reuse and residential clusters are those other overlays?

Denise McClure-Those are separate, and Mark may hit a little bit more about the mill conversion and the clusters. Those are different overlays that lay over different properties, so they are just other overlay Districts within.

Marlies Henderson-So at this point we cannot even talk about having shops and apartments at the Mills in North Billerica

Mike Riley- We need to bring it back to Town meeting. We are redoing that PUD overlay by law so that is just these nodes.

Marlies Henderson-You can see there is a trend to be moving away from having planning board and ZBA, so the planning board does not have to make more of the decisions and the applicant does not have to go from this way to that way. I was wondering if you are talking about acres what about the natural resources so there is wetlands jurisdiction that would go to the Conservation Commission and do those wetland acres count when you are talking about your 8 or 10 units per acre or do, they do not count because that could be considerable.

Denise McClure-So normally for me and I am not sure what Mark would say, I have in the past done it where it is literally just your lot because it is hard to determine exactly what you consider buildable and what you don't. When you set density there are so many other constraints that you put on it and that's that helps tie in as to how big something can be so although you may say it's 8 units an acre and you may have part of that anchor be wetland but by the time you're done utilizing only the lot portion a lot you can build on based on the Conservation Commission requirements and the height restriction and the building coverage restriction and the parking restriction it all balances out so it makes it cleaner to do it that way in my opinion it's not as confusing as there is arguing over well what do you consider buildable and what do you consider not buildable.

Marlies Henderson-I like the requirements of buried electrical and I don't know how much is in the current narrative for connectivity to open space so if you have a parcel and there is a river nearby or there's a forest nearby and the connectivity to that to avoid public parcels getting landlocked and I don't know if we included the language about community paths or paper streets that I mentioned at the previous meeting I think Denise was going to write up something is it in there?

Denise McClure- I do not know that we can regulate or deal with them as per zoning

Mark Lalumiere -The only person who has right to access to a paper street is a direct abutter. So, it's not considered a public way. A direct abutter has the rights to utilize to the center of the paper street or anybody that is on the paper street has a right.

End of Public Comments

The board discussed the next meeting date-February 25th

Adjournment

2/28
2/11

MIXED USE OVERLAY ZONING BY-LAW

STATEMENT OF PURPOSE AND AUTHORITY

The purpose of this Section is to encourage the construction of Mixed Use Developments in designated Districts within the Town of Billerica. The major objectives of the District are:

- Permit a mix of land uses, densities and building types in one development.
- Facilitate high quality, integrated planning of developments beneficial to the Town and constructed in a manner which is highly responsive to specific sites and their surroundings.
- Require more rigorous development standards than those found in other zoning districts.
- Provide a mechanism to accommodate development reuse and redevelopment in specified locations, which is in the public interest and may not otherwise be permitted within the Town's Zoning By-Law
- Create mixed use developments that work together to create a unified sense of place and purpose
- Facilitate the development of a mix of uses that contribute to a vibrant business environment and increases street level activity
- Promote a greater variety of housing choice and create diversity of housing opportunities in the corridor
- Create connectivity of uses and promote pedestrian activity
- Develop uses that are compatibility with the Town's character and historic or traditional context
- Create a balanced and vibrant mix of compatible uses
- Create development nodes in order to plan for a comprehensive corridor
- Create a retail and restaurant base that residents can utilize
- Encourage the reuse of existing buildings and the construction of new, innovative designs that enhance the corridor

The Mixed Use Overlay District will contain standards for the entire district and will also create two (2) sub-zones that will contain standards specific to each zone.

DEFINITIONS

The following definitions shall apply in the Mixed Use Overlay District:

Mixed Use

The use of a building for more than one use. The building contains a commercial use or uses on the first floor or ground floor and residential or office uses on the upper floors.

OVERLAY DISTRICTS

The Mixed Use Overlay District shall take the form of an overlay district covering designated portions of General and Neighborhood Business Districts as well as Residential Districts on the Billerica Zoning Map. For any land within the Mixed Use District, a Developer may choose to conform either to the zoning regulations which govern the underlying

zoning district or to the Mixed Use Overlay District regulations and procedures set forth by this Section, whose specific provisions shall supersede all other provisions in the Zoning Bylaw with respect to the underlying district including and without limitation, use, intensity, dimensions, parking and site plan review; however, the provisions of any other overlay district shall continue to apply.

Two sub-zones are established for this Overlay District in order to preserve, maintain, and promote a diversity of housing stock and commercial establishments within the corridor. The specific boundaries of the two sub-zones are shown on the Town of Billerica Zoning Map. The two sub-zones are as follows:

Sub-Zone A: Town Center

The goal of this sub-zone is to preserve the historic character of the Town Center while providing additional opportunities for a diversity of housing options, commercial development, and pedestrian activity.

Sub-Zone B: Boston Road

The goal of this sub-zone is to provide additional opportunities for commercial growth through the addition of housing. This sub-zone will also act as an anchor to increase commercial growth along Boston Road outside of this Overlay District.

SPECIAL PERMIT CRITERIA

The Planning Board, as the Special Permit Granting Authority, shall have authority to grant a Special Permit to construct within the Mixed Use Overlay District by a vote of at least four members of the seven member Planning Board. The Board shall evaluate proposed projects and require all such projects to conform to the requirements, standards and guidelines as set forth in the Mixed Use Overlay District.

The Planning Board shall interpret all provisions of this Overlay District and all definitions and regulations pertinent thereto and shall provide such interpretations upon request by an applicant for a Special Permit under this Overlay District.

In addition to any standards and criteria set forth elsewhere in this Overlay District, the following standards shall apply for all projects, in both sub-zones, constructed in the Mixed Use Overlay District. The following standards shall be met in order to receive special permit approval from the Planning Board:

1. All mixed use development shall contain a balance of commercial and residential uses.
2. The construction of the residential uses and the commercial uses shall be completed simultaneously.
3. All mixed use development shall be designed to generate pedestrian traffic
4. Parking shall be located to the rear or side of the building, whenever physically feasible
5. Parking lots shall be cohesive and not separated by use.

Use Restrictions

The following uses shall be permitted:

1. Mixed Use
2. Retail
3. Restaurant
4. Office

Should uses be added that reflect the commercial uses listed in the underlying zoning? Or should the uses just be mixed use?

Density Regulations

The density in sub-zone A shall be 8 units per acre.

The density if sub-zone B shall be 10 units per acre

Density Bonuses

A density bonus shall be awarded to increase the number of dwelling units beyond the maximum number permitted in the Mixed Use Overlay District, under the following circumstances:

In sub-zone A, a maximum of 12 units per acre shall be permitted when a project provides for increased pedestrian activity and connectivity between properties, including but not limited to walkways, pedestrian areas that increase the amount of sidewalk area available to the public, outdoor seating areas designed to be utilized by dining establishments while complementing the building and allowing for unencumbered pedestrian circulation, or public outdoor spaces

In sub-zone B, a maximum of 15 units per acre shall be permitted when a project provides for alternate modes of transportation, including bicycle amenities and public transit. Providing for alternate modes of transportation could include, but is not limited to, routes dedicated to pedestrian and bicycle connections separated from vehicular routes, or cross-access routes through the subject parcel specifically for pedestrian and bicycle cross-access which connects adjacent parcels. Cross access routes shall be specifically designed to be separated from vehicular use through design features such as signage, pavement markings, and landscaping

In both sub-zone A and sub-zone B, one additional market rate unit shall be permitted for each additional affordable housing unit provided above the number required by this Section, provided that in no case the unit density bonus shall exceed 25% of the total units.

Affordability Requirement

The applicant for any development subject to the provisions of this Section shall contribute to the local stock of affordable units in accordance with the following requirements:

At least ten (10) percent of the residential units in a development subject to this by-law shall be established as affordable housing units. For purposes of calculating the number of affordable housing units required in a proposed development, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit and any fractional unit of 0.4 or less shall require no contribution to satisfy the fractional share. Affordable housing units shall be offered for sale or rental in the

same proportion of the total units as the offer for sale or rental of market rate units in the development.

All affordable housing units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Planning Board. The regulatory agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward the Town's Subsidized Housing Inventory. No building permits shall be issued until the restriction and the regulatory agreement are recorded at the Registry of Deed and a copy provided to the Planning Director and the Building Inspector.

Design Guidelines 58.0

These guidelines shall apply to development in the entire overlay district. Furthermore, these guidelines are not intended to inhibit design creativity or discourage innovative architectural design solutions. Rather, they provide general standards for building massing, siting, and design solutions. It is understood that buildings and structures may not be able to comply with all of the following guidelines, but buildings and structures should comply if it is physically possible. For projects in the Mixed Use Overlay District, the following design guidelines shall apply:

1. Residential and office space shall be placed on the upper floors, not on the first floor or street level.
2. Retail, restaurant, and other lively pedestrian friendly uses are encouraged on the ground floor.
3. Buildings on a corner lot should have a façade that relates to both streets and contains enhanced architectural features at the corner of the building.
4. Site lighting should be considered an integral element of the landscape design of a property. Lighting should facilitate safe and convenient circulation for pedestrians, bicyclists and motorists. Overspill of light and light pollution should be avoided.
5. Outdoor seating/dining throughout the two (2) subzones is encouraged.
6. All development should be designed to facilitate, accommodate and encourage use by pedestrians.

Dimensional Regulations 1.02

The dimensional regulations for the Mixed Use Overlay District are as follows:

The dimensional regulations for sub-zone A are as follows:

Maximum building coverage	50%
Minimum open space	20%
Minimum width of side yard	N/A
Minimum width of front yard	N/A
Minimum width of rear yard	20 feet

Maximum height of buildings	40 feet
Maximum stories	3 stories

The dimensional regulations for sub-zone B are as follows: *1:18*

Maximum building coverage	50%
Minimum open space	20%
Minimum width of side yard	N/A
Minimum width of front yard	N/A
Minimum width of rear yard	20 feet
Maximum height of buildings	50 feet
Maximum stories	4 stories

Parking Requirements *1:21*

The parking requirements in the Mixed Use Overlay District shall follow the regulations as set forth in Section 8 of the Billerica Zoning By-Law, except for the following:

Multi-family Residential: 1.5 parking space per unit containing one (1) bedroom. 0.5 parking spaces shall be added for each additional bedroom in a unit containing more than one (1) unit.

For all mixed use development, the total requirements for off-street parking facilities shall be the sum of the requirements of the various uses computed separately. Off-street parking facilities for one use will not be considered as providing required parking facilities for any other use except as permitted by the Planning Board as per specified in the Shared Parking section of this by-law.

Shared Parking

Two or more uses may meet their parking requirements by sharing a common shared parking area, provided that the shared spaces are held in common ownership with all uses being served through easements or fee title, that all spaces are located within four hundred (400) feet of all uses they serve, a calculation is provided to the Planning Board showing the expected peak use of all parking spaces and that the usage of such parking area would not occur simultaneously, and the Developer can show that the total proposed number of parking spaces will meet the demands of the uses proposed for the site.

In order to be granted shared parking approval, the Planning Board shall determine that a lesser number of spaces would be adequate for all parking needs because of special circumstances such as shared parking for uses having peak parking demands at different times or other measures reducing parking demand.

A reciprocal agreement shall be executed by the owners and operators of the different sources or uses in the building or development ensuring the long-term joint use of such shared parking, and defining the terms upon which the parking is shared.

Off-site Parking

An applicant may request to the Planning Board to utilize off-site parking in order to meet the parking requirement. All municipal or other parking facilities which are used to satisfy the parking requirement must meet the following criteria:

1. The parking facility must be less than one thousand (1,000) feet from the proposed development, the distance to be measured in a straight line from the two (2) closest points between the proposed use and the parking facility
2. The applicant must provide the Planning Board with proof of ownership or lease for those parking spaces in order to satisfy the parking requirement.

Application for Special Permit Approval 1:29

The Special Permit process as detailed in Section 13 of the Billerica Zoning Bylaw shall be followed for all Mixed Use Overlay District Special Permits.

Required Submittals

The applicant shall file the following information together with a Mixed Use Special Permit Application and the required filing fee:

- A. Form: A Civil Engineer, registered in Massachusetts, shall prepare and certify the site plan, which shall be clearly and legibly drawn on mylar to a maximum scale of 1" = 40'.
- B. Size of Plan: All sheets that make up the original plan shall be 24" x 36".
- C. Number of Copies: The applicant shall provide copies of each plan for purposes of review by other boards, agencies, officers, and outside consultants, as designated in the SPGA Rules. The number of copies to be provided shall be set forth in the SPGA Rules.
- D. Contents: A site plan and supporting documents shall at a minimum show the following information:
 1. Metes and bounds of the property, area of the property, north point, scale, and date;
 2. Name, address, and signature of the person preparing the site plan stamped with that person's Massachusetts Registration number and seal;
 3. Name and address of the record owner or owners of the property and street address of the property with street number, if one exists at the time of application;
 4. Names of all abutters to the property as they appear in the most recent certified tax list;
 5. The existing topography of the land at two (2) foot contour intervals, Mean Sea Level Datum;
 6. Location, width, and names of all existing and proposed streets that affect the property and are within 100 feet of the property;
 7. Location and width of all existing and proposed easements that affect the property;
 8. Existing and proposed carrying capacity and level of service of the streets that serve the property;
 9. Location and outline of all existing and proposed buildings and structures on the property;

10. The basement and first floor elevations, the height, and use of all existing and proposed buildings on the property;
11. Location and outline of cesspools, septic tanks, leaching areas, and wells on the property;
12. Location and outline of existing public sewers available to serve the site;
13. Location and outline of proposed access to trunk lines, capacity of the trunk lines, and available increases in flow;
14. The location of all present and proposed utility systems, including sewage disposal; water supply lines; and telephone, cable, and electrical lines;
15. Location, size, and type of all existing and proposed storm drains, culverts, catch basins, headwalls, invert elevations and depths, end walls, hydrants, manholes, drainage swales, percolation tests, storm drainage, and drainage facilities, including adjacent existing water ways and drainage ditches to serve the site and with all calculations for the proposed drainage system;
16. Profiles of the proposed drainage system together with details of all proposed structures.
17. An illumination plan showing the location, height, intensity, and bulb type (e.g., fluorescent, sodium, incandescent) of all external lighting fixtures, and including the direction and illumination and methods proposed to eliminate glare onto adjoining properties;
18. The location, height, size, and design of all proposed signage;
19. The location, type of surface, and type of screening of rubbish collection areas and type of container(s);
20. The location of existing major site features, such as rock ridges, ledge outcroppings, wetlands, water retention or detention areas, brooks, bodies of water, waterways or canals, treelines and isolated trees to be cleared that are of a 12 inch diameter or greater;
21. A landscape plan showing all buffer areas and the size and type of plant materials to be provided, and indicating all proposed changes to existing major site features.
22. The proposed finished topography of the site at two (2) foot contour intervals, Mean Sea Level Datum.
23. The location and description of a permanent type bench mark on or adjacent to the property;
24. The location and description of the bench mark used in establishing the topography;
25. Zoning classification for the property and zoning district lines if the property lies in one or more zoning districts or abuts a zoning district;
26. Where applicable, the location of wetlands and flood plain protection district boundaries;
27. Description of plans to prevent erosion of soil during and after construction, excessive runoff, and flooding of other properties, if applicable;
28. The location and type of surface of all existing and proposed parking areas, loading areas, maneuvering areas, driveways, fire lanes, accesses, and walkways, which shall include wheelchair ramps and crosswalks;
29. The delineation of each parking space, showing the size of a typical parking space for domestic and imported cars, block totals for number of spaces, with the final number of parking spaces noted on the plan in an obvious place;
30. Traffic flow patterns within site entrances and exits and existing and proposed daily and peak traffic and street capacity levels of ingress and egress streets and drives; site distances of ingress and egress streets and drives onto adjacent streets; loading and unloading areas on the site; and curb cuts on the site and within 100 feet of the site. The traffic analysis shall be conducted by a traffic engineer;
31. For new construction or alterations to any existing building or structure, the area of the building or structure to be used for the proposed use or uses; maximum number of

employees; and where applicable, maximum seating capacity; and identification of any federal or state permits required for the project.

32. A description of the hours of operation of the proposed use.

- E. Elevations: Elevations of all proposed structures. Elevations for all sides of the building shall be included.
- F. Deed: A copy of the owner's deed giving a legal description of the site, and/or other evidence of authority or interest of the applicant, whenever the applicant is not the owner of the subject property, such as an executed purchase and sales agreement or appointment as agent of the owner.
- G. Other Permits: Copies of existing variances or special permits applicable to the property, including the book and page where recorded at the Middlesex North Registry of Deeds.

Procedure

An applicant shall file the application, fees, and all required submittals, including notice of the date of filing with the Town Clerk. In addition, the applicant shall also file fifteen (15) copies of the application and the required submittals to the Planning Department on behalf of the Planning Board.

The Planning Board shall request comments from the Building Department, Engineering Department, Conservation Commission, Fire Department, and Police Department.

Decision

An application for Special Permit approval shall be reviewed for consistency with the purpose and intent of this section and shall follow the requirements as set forth in this zoning by-law for approval of a special permit.

Waivers

Except where expressly prohibited herein, upon the request of the applicant, the Planning Board may waive dimensional and other requirements of the Section in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the Mixed Use Overlay District or if the Planning Board finds that such waiver will allow the project to better achieve the intent and overall purposes of this Section.

Can you request a waiver to density? Or affordability? Should these be expressly prohibited

Minor Amendments

Following approval of a Mixed Use Special Permit, an applicant may apply to make minor amendments to the approved plan. Minor amendments include minor utility or building orientation adjustments, lighting or façade adjustments, or minor adjustments to parking, landscaping, or other site details that do not affect the overall massing, final build-out, or building envelope of the site and do not increase the number of dwelling units in the project in the aggregate form that was provided in the original plan approval. Plans showing such minor amendments must be submitted to the

Planning Director. The Planning Director shall make a determination as to whether the changes constitute a minor amendment and may authorize such changes in writing to the applicant. The Planning Director shall set forth any decision to approve or deny a minor amendment in writing within thirty (30) days after the applicant has filed an amended plan.

Major Amendments

Those amendments deemed by the Planning Director to constitute a major amendment because of the nature of the change in relation to the prior approved plan or because such change cannot be appropriately characterized as a minor change as described above, shall be submitted to the Planning Board as a new application for Special Permit approval.

Development Schedule

The Developer shall begin construction of the project within 24 months of the date of the granting of the Special Permit (or, if applicable, following appeal as provided in Massachusetts General Law, Chapter 40A, Section 9). The Planning Board shall grant in writing an extension of this time period of up to an additional 24 months upon determination of good cause. If the Developer fails to commence construction of the project within 24 months plus any approved extension period, the Special Permit shall lapse.

Conflict with Other Bylaws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaw. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw or provisions therein, shall apply.

Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town of Billerica's Zoning Bylaw.