

SECTION 16 – GATEWAY MIXED USE DEVELOPMENT OVERLAY DISTRICT (A.T.M. 5/5/05)

16.1 Scope

To regulate mixed use development in appropriate areas of the Town and to protect the public health, safety, and general welfare in the Town of Lenox by establishing controls that will facilitate flexible development while protecting the public interest.

16.2 Purpose:

The purpose of this bylaw is to foster a greater opportunity for creative development by providing guidelines which encourage a mix of uses compatible with existing and neighboring properties. The intent, furthermore, is to ensure that the appearance and effects of buildings and uses are harmonious with the character of the area in which they are located by:

- A. Allowing a diversity of uses in close proximity in the district within a limited area, including residential, retail, office, entertainment, and open space,
- B. Preserving and restoring the overall character of the district,
- C. Promoting a balance of land uses,
- D. Promoting the opportunity for people to work, meet, shop and utilize services in the vicinity of their residences,
- E. Providing opportunities for the development of housing,
- F. Providing opportunities for a mixture of uses in the same building,
- G. Promoting a positive pedestrian environment in the district,
- H. Facilitating integrated physical design,
- I. Promoting a high level of design quality,
- J. Encouraging the development of flexible space for small and emerging businesses,
- K. Facilitating development proposals responsive to current and future market conditions, and
- L. Encouraging the development of open spaces and parks within the district to accommodate workers, residents, pedestrians and shoppers.

16.3 Mixed Use Applicability

The area known as the Lenox Mixed Use Development Overlay District shall include such land shown on the official zoning map dated May 2005. The LMUD district is an overlay mapped over the other districts. It modifies and, where there is inconsistency, it supercedes the regulations of the underlying district. Except as modified or superseded, the regulations of the underlying districts apply.

16.4 Use Regulations

- A. All uses listed as permitted uses in the underlying zoning district are allowed in the Mixed Use Development.
- B. Any combination of the following uses may also be permitted by the SPGA:
 - 1. A store serving retail business needs in accordance with E.1 of the Lenox Zoning Bylaw.
 - 2. Restaurant
 - 3. Professional offices and governmental offices in accordance with D.1 of the Lenox Zoning Bylaw.
 - 4. Offices of physicians, dentists, attorneys, architects, engineers or accountants.
 - 5. Movie theater not to exceed 650 seats.
- C. Each building footprint for office, retail or restaurant use shall not exceed 20,000 square feet.
- D. Prohibited Uses
 - 1. Animal hospitals, animal sales
 - 2. Automobile or truck sales
 - 3. Drive-up services associated with any commercial use
 - 4. Junkyards.
 - 5. Recycling collection facilities (not including typical recycling activities associated with the legal operation of a business or residence)
 - 6. Service stations (gas station), and
 - 7. Wholesale business, except if affiliated with and accessory to another use on the same lot
- E. Same-structure/On-site Mixed Use
 - 1. Within an approved Mixed Use Development, there shall be no restriction on combining different categories of use within the same building except any imposed by the State Building Code or other federal, state, or local regulations.

16.5 Area Regulations

- A. At least 10% of the entire development shall incorporate residential uses. Residential uses shall not be located on the first floor of a structure when developed in combination with commercial uses.

B Uses must follow the Performance Standards in this section. A proposed Mixed Use Development shall demonstrate that the project shall be served by town water and sewer service upon completion of the proposed development.

C. In a Mixed Use Development, at least 25% of the land shall be set aside as permanent usable open space, for the use of the Mixed Use Development residents, or for all users, or for the community. The required open space shall be conveyed to the Lenox Conservation Commission; a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or, a corporation or trust owned jointly or in common by the owners of lots within the LMUD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Documents creating such trust corporation shall be submitted to the Board of Appeals for approval, and shall thereafter be recorded.

1. Open Space is defined as lands that are restricted from development and shall be naturally vegetated areas, open fields, parks or landscaped areas. Where possible, proposed open space shall be linked to existing open spaces from green corridors. Setback, disconnected parcels, and left over space including but not limited to areas between buildings shall not be considered as open space. The following may be considered open space:

No more than fifty (50%) percent of the dedicated open space shall constitute wetlands, and land subject to seasonal flooding. The term “wetland” shall be limited to the definition of wetlands as specified under MGL c. 131, Section 40, the Wetlands Protection Act, as amended.

No more than fifty (50%) percent of the slope greater than twenty (20%) percent shall be dedicated as open space.

The open space shall be used for wildlife habitat, conservation, historic preservation, outdoor education, passive recreation, park purposes, or any combination of these uses. Additional uses may be permitted upon approval of the Planning Board, provided that such uses are in harmony with the promotion and retention of open space.

D. Setback between buildings shall be not less than twenty (20) feet unless otherwise specified in the Zoning Bylaw.

16.6 Performance Standards

- A. No use shall be permitted that causes or results in dissemination of dust, smoke, gas or fumes odor, noise, vibration or excessive light under standards set forth in the performance criteria in this chapter.
- B. Any other performance standards of the town shall also apply to uses conducted under this Section 16.6 of the Lenox Zoning Bylaws
- C. Architecture should demonstrate the cohesive planning of the development and present a clearly identifiable design feature throughout. Applicants are encouraged to use traditional New England architectural elements in the design. It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity. Rather, cohesion and identity can be demonstrated in similar building scale or mass; consistent use of facade materials; similar ground level detailing, color or signage; consistency in functional systems such as roadway or pedestrian way surfaces, signage, or landscaping; the framing of outdoor open space and linkages, or a clear conveyance in the importance of various buildings and features on the site;
- D. Buildings adjacent to usable open space should generally be oriented to that space, with access to the building opening onto the open space;
- E. It is strongly encouraged that landscaped space, and particularly usable open space, be designed and located to connect as a network throughout the Mixed Use Development. It is also generally intended that said space be designed and located to connect with existing off-site usable open space, and provide potential for connection with future open space by extending to the perimeter of the Mixed Use Development, particularly when a plan exists for the location and networking of such future open space;
- F. Commercial uses shall be designed and operated, and hours of operation limited where appropriate, so that neighboring residents are not exposed to offensive noise, especially from traffic or late-night activity. No amplified music shall be audible to neighboring residents.
- G. Vehicular access to and from public roads is intended to be consolidated. Vehicular access to Mixed Use Development lands from a public roadway shall generally be limited to one (1) access point, particularly when Mixed Use Development frontage along said roadway is three hundred (300) feet or less;
- H. Internal streets shall consist of local and collector roadways, designed in accordance with standard traffic engineering practice. Any street proposed for public dedication shall meet the town standards. Driveway consolidation should be undertaken so as to reduce traffic conflicts on Route 7&20.

1. Provision for Interior roadways and common curb cuts

To allow for the least disruption in flow of north/south traffic on Routes 7 and 20, and the opportunity for orderly growth within the zoning districts bordering this state roadway, the town considers the reduction of entrances and exits on the highway of major concern.

For that reason, all site plans shall show reasonable plans for interior roadways linking neighboring parcels presently develop or which could be developed or which could be developed as future site development activity occurs to a common access point.

The Zoning Board of Appeals may approve provisions for interior roadways utilizing joint access and/or egress, recognizing that the final design and permitting of access to Routes 7 and 20 is to be accomplished only through the access permit process of the Massachusetts Highway Department. The ZBA shall have the authority to authorize the following density bonuses for abutting owners who develop interior roadways or feeder streets utilizing a common drive and curb cuts thereby eliminating per parcel access/egress point on the highway:

- a) the number of square feet occupied by the interior roadway on the owner's land; and,
- b) an additional five (5%) percent in the amount of lot coverage allowed by the requirements of the bylaw for an existing or proposed use; and,
- c) an increase of one dwelling unit per acre for an existing or proposed residential use.

Applicants should notify the Massachusetts Highway Department as soon as possible of their intent to utilize the provisions of this bylaw in order to facilitate an orderly and cooperative permitting process between the ZBA and the state highway department.

- I. The design should preserve and enhance natural features such as topography, waterways, vegetation, and drainage ways.
- J. The design should minimize impervious surfaces and incorporate other design features to minimize storm water runoff.
- K. Mixed Use Developments should maximize pedestrian transit-oriented development. Specifically they should use "traffic-calming" techniques liberally; provide networks for pedestrians as good as the networks for motorists; provide pedestrians and bicycles with shortcuts al alternatives to travel along high-volume streets, and emphasize safe and direct pedestrian connections to transit stops and other commercial and/or employment nodes;

provide long-term, covered, bicycle parking areas; provide well-lit, transit shelters; incorporate transit-oriented design features; and establish Travel Demand Management programs at employment centers.

L. Lighting:

1. All outdoor lighting shall be designed so as not to adversely impact surrounding uses, while also providing a sufficient level of illumination for access and security purposes. Such lighting shall not blink, flash, oscillate or be of unusually high intensity of brightness.
2. Parking areas shall be illuminated to provide appropriate visibility and security during hours of darkness.
3. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries, and shall be directed toward the object or area to be illuminated. Light shall be directed away from residences.
4. Lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation. The glare from the installation of outdoor lights and illuminated signs shall be contained on the property and shall be shielded from abutting properties. Lighting structures shall be integrated with the site and surrounding uses.

M. All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire underwriters and shall be screened from view from public ways and abutting properties.

N. Waste Disposal: Storage of waste and waste facilities shall be screened from view from public ways and neighboring properties and shall follow State and Town Board of Health regulations.

O. Parking and Loading, and Shared Parking Requirements

1. Parking shall conform to the existing bylaws of the Town of Lenox (Section 10).
2. Parking shall be located to the side or rear of buildings. In no case shall parking be allowed in the planting strip adjacent to the sidewalk or within the front setback of any lot.
3. Buildings that do not have frontage on a street must provide access for emergency and service vehicles through the layout and design of driveways, interior service roads, or pedestrian and bicycle circulation corridors.
4. Where there is more than one category of use, then the number of spaces required shall be 70% of the sum of required spaces for each category of use.
5. Parking areas shall be screened from adjacent residential uses, streets, and walkways using trees and shrubs adapted to the region, of specimen quality conforming to the

American Standard for Nursery Stock, (American Standards Institute, Inc.), and shall be planted according to accepted horticultural standards. Berms may be used for screening along the street in conjunction with plant materials.

P. Signs shall conform to the existing bylaws of the Town of Lenox (Section 7).

16.7 Procedures for Application for Mixed Use Development

- A. Application for Mixed Use Development requires a special permit with site plan review. Prior to an application for Mixed Use Development, the owner/applicant may, and is encouraged to, arrange for an informal review of the Mixed Use Development plan by the Planning Board. A Mixed Use Development may be allowed by Special Permit by the Zoning Board of Appeals within the Lenox Mixed Use Development Overlay District in compliance with this section and upon satisfactory completion of the Special Permit Process and Site Plan Review requirements as described in this Bylaw. Special Permit Uses in a Mixed Use Development
- B. Those proposed uses in an application for a Mixed Use Development which require a Special Permit with Site Plan Approval shall continue to require all such approvals as are designated in the Table of Uses. However, where such approval or review is also required as part of an application for a Mixed Use Development, the applicant shall only be required to submit a single Special Permit with Site Plan Approval application for the purposes of gaining approval for all uses in such application.

16.7.2. Submission Requirements.

An application to the SPGA shall be in accordance with Section 13 and Section 9.21 of the Lenox Zoning Bylaw. In addition, any application for a Mixed Use Development shall submit a master plan for tract in accordance with the Lenox Gateway Redevelopment Plan and including the following supportive information:

- A. A neighborhood context map, at a scale not less than one inch (1") equals one hundred feet (100'), providing a graphic description of the neighborhood in which the tract lies, including roads, utilities and other public facilities, major existing buildings and structures. There shall also be a statement and/or plan as to the general impact of the proposed Mixed Use Development upon the area, indicating how the Mixed Use Development relates to surrounding properties and what measures will be taken to create appropriate transitions and access from the subject property to abutting public properties (i.e. parks and other recreational lands) or other neighboring tracts (if applicable);

- B. A conceptual site plan drawn to a scale of not less than one inch (1") equaling fifty feet (50'), or series of drawings at the same scale, and any necessary supporting information;
- C. Analysis of compliance with regulations as to dwelling units per square feet of lot area, height, building coverage, floor area ratio (FAR) and parking requirements;
- D. Names of all property owners within three hundred (300) feet of the Mixed Use Development boundary;
- E. Explanation of provisions for the landscaping and maintenance of all open space and drainage areas;
- F. A traffic analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies, including current traffic counts for streets surrounding the project, analysis of the existing capacity of those streets, projections of the amount of traffic that will be generated by the proposed development, and the ability of the thoroughfare system to absorb the increased traffic without decreasing the level of service below an acceptable level - said level to be determined by the SPGA in consultation with the Chief of Police and Superintendent of Public Works;
- G. A utilities analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies. Said analysis shall contain an inventory of existing utilities including, but not limited to, storm sewers and drains, sanitary sewers, electrical lines, Fire alarm boxes and lines, gas lines/mains, water mains, lighting, curb and gutter, etc. Said inventory shall illustrate utility locations, sizes, diameters, carrying capacity and present load on the system. The engineer's report shall state if the current system is capable of adequately serving the proposed development. If the current utility system is found to be inadequate for the proposed development, the report shall confirm the deficiencies and make recommendation(s) as to the infrastructure improvements necessary to properly service the proposed development and maintain the existing service. The report shall also present a formal plan for infrastructure improvements, documenting timing, funding mechanisms and coordination with the Town;
- H. In addition, in making an application for final approval of the Mixed Use Development (or phase thereof), an applicant shall supply full documentation as to how the final level plan complies with the approved Lenox Gateway Redevelopment Study. When final Mixed Use Development approval is applied for in phases or stages of development, the applicant shall keep and submit with each final application a running total or status report of Mixed Use Development compliance with the approved preliminary master plan, including, but not limited to, floor area ratio, residential density and number of units, Mixed Use Development

ground coverage, required landscaped area and usable open space and the like. The applicant shall provide full documentation and a comparison of approved master plan development data, existing Mixed Use Development site data to date, final approved development data to date, and the currently proposed development data.

- I. Any other supportive information the applicant feels may be beneficial to the Town of Lenox in the evaluation of the request.

16.8. SPGA Review of Mixed Use Development - Application.

The SPGA shall review and determine whether an application is complete and place special emphasis in its review as to compliance with provisions of Section 16 herein, including compliance with the purpose and general requirements/features of a Mixed Use Development. The SPGA shall also determine whether the proposal is consistent with the most suitable development of the Town, and conduct a review in accordance with the requirements for special permit with site plan review as set forth in Section 9.21 of this Bylaw.

The Mixed Use Development shall comply with all requirements of this Bylaw unless a deviation from these strict requirements is authorized herein. The SPGA may modify or waive any requirement of the overlay district upon finding that due to topography, location or other unusual conditions affecting the property, the requirements of this section would unreasonably restrict the use of the property or would be detrimental to the orderly development the area. In granting such modifications or waiver, the Board may impose conditions it deems necessary to protect the public interest and to insure that the development will be consistent with the purpose of this section.

Mixed Use Development review shall be consistent with all procedural provisions of Section 13 and Section 9.21 of this Bylaw with respect to special permit with site plan review, including procedures for public hearings, conduct of review, findings and determinations, and actions.