



## CHAPTER 6 – PLANNING AND LAND USE

As described in Chapter 3, *Planning Context*, Lenox has a long history of land use planning that extends back to the Town’s first Zoning Bylaw, adopted in 1941. A significant amount of planning activity was undertaken in Lenox between 2002 and the present building on the Town’s 1999 Master Plan. A milestone was marked in 2006 with the adoption of a new Zoning Bylaw and concurrent community dialogue on growth management. Much of the planning in Lenox has been undertaken with support from the Berkshire Regional Planning Commission.

Planning is critical to the potential future preservation and treatment of historic resources in Lenox. Through a variety of different planning documents, Town policies and procedures are established that influence how historic resources are treated as development and change take place. It is widely recognized in national, state, and local land use planning that historic resources have community value and their preservation and appropriate treatment should be strongly encouraged.

This is especially true in Lenox where, as discussed in Chapter 5, the Town’s economic prosperity depends upon its historic identity and sense of place. To preserve the historic building and landscape resources that are central to Lenox’s identity, historic preservation values and methodologies must be incorporated into the Town’s planning policies and documents in as many ways as possible. Chapter 8 of this Historic Preservation Plan discusses the traditional historic preservation tools used by communities. This chapter discusses incorporation of historic preservation into other Town planning, development processes, and bylaws.

### THE LENOX PLANNING BOARD

Central to planning in Lenox is the role of the Planning Board. As outlined in the Town’s bylaws, the Planning Board’s responsibility is to “study the future needs of the Town and develop a long range program subject to future change having due regard to a balance between the liberties of the individuals and the welfare of the community.”

**To preserve the historic building and landscape resources that are central to Lenox’s identity, historic preservation values and methodologies must be incorporated into the Town’s planning policies and documents in as many ways as possible.**

In developing this long range program, the Planning Board is responsible for preparing a Master Plan for the Town; undertaking other planning initiatives; and recommending changes to zoning, subdivision, and other land use bylaws and regulations. By law, the Planning Board is responsible for the review and approval of proposed subdivision plans, which includes working with developers using the Open Space Flexible Development option in the Zoning Bylaw. Occasionally, the Zoning Board of Appeals requests the input of the Planning Board in their review of land development projects.

Following workshop discussions with stakeholders, it is apparent that there is a gap in project review in Lenox that it is recommended be filled by a proposed Design Review Committee working in support of the Planning Board. Because of the slow pace of development in Lenox over the past two decades, especially since the 2008 recession, the Town has had few bad experiences in land development and new construction. This could have been different had development pressure been more intense.

Land development projects are reviewed by the Zoning Board of Appeals. While well qualified to review legal requirements in accordance with Zoning Bylaws and experienced in land development issues, Zoning Board members have sometimes expressed desire for assistance in assessing design issues associated with new land development projects. As noted above, they have sometimes asked the Planning Board for such assistance.

This preservation plan suggests that a new Design Review Committee be established as a subcommittee of the Planning Board to review all new development submissions in Lenox, serving in an advisory capacity to the Zoning Board, Select Board, and other committees and commissions. We suggest that it be a subcommittee of the Planning Board in order to coordinate it closely with and place it under the oversight of the body that is responsible for townwide planning and the crafting of bylaws that implement the community's Master Plan.

**6.1 Create a Design Review Committee as a subcommittee of the Planning Board to provide design input on all new land development, subdivision, and new construction projects under Town review serving in an advisory capacity to the Zoning Board, Select Board, and other committees and commissions.**

**6.2 Coordinate closely in land development and subdivision reviews with other Town committees and commissions, especially the Historical Commission, Historic District Commission, and Conservation Commission.**

It is suggested that the Design Review Committee be comprised of selected Planning Board members with the addition of specialists experienced with building and landscape design issues. In concert with the Planning Board, it should review all new land development projects for their adherence to design standards and goals with respect to the Zoning Bylaw and subdivision rules and regulations. With respect to land development, Planning Board and/or Design Review Committee members should attend Zoning Board meetings where projects are reviewed and discussed in order to be familiar with the submissions and processes and be in a position to provide input and advice when needed.

**It is recommended that a Design Review Committee be established to provide input in the review of all new development submissions in Lenox, serving in an advisory capacity to the Zoning Board, Select Board, and other committees and commissions.**

Each land development plan should be reviewed at a Planning Board meeting(s) with the assistance of the Design Review Committee. Written recommendations on design issues should be submitted to the Zoning Board for consideration in their review. Issues would include those related to site planning, layout, landscape design, and, when applicable, building design. The design of new development projects should be in concert with the design principles and standards outlined in the Town's Master Plan, applicable bylaws, and supporting plans, including this Historic Preservation Plan.

The Planning Board and/or Design Review Committee should have assistance on an on-call basis from professional consultants in site planning, landscape design, and/or building design when needed. *(Actions of the Planning Board with support from the Historical Commission.)*



*Typical subdivision of a historic former farmstead along East Street. Similar subdivisions will continue to be implemented and can preserve historic building and landscape resources.*

**6.3 The Planning Board should review all new subdivision submissions, as it is required to do so by law. The Board should support Town staff in negotiations with owners and developers on design issues that benefit the broader community.**

This role is particularly relevant to historic preservation. The Planning Board should be familiar with historic preservation resources, issues, and principles. As outlined in many of the Town's planning documents, including the Zoning Bylaw, historic building and landscape resources should be preserved in new development projects whenever possible. The Planning Board should have assistance from a professional engineering and design firms on an on-call basis when needed.

In undertaking its work, it is recommended that the Planning Board work closely with the Berkshire Regional Planning Commission on best practices in

planning—both in long range planning and for assistance in specific planning reviews when necessary. *(Action of the Planning Board with support from the Historical Commission.)*

**6.4 Maintain a close working relationship with the Berkshire Regional Planning Commission with regard to best practices in planning, including with respect to historic resources, for long range planning initiatives. Seek assistance from the BRPC in specific project reviews when necessary.**

In short, it is recommended that the Planning Board and Design Review Committee serve the Town in addressing design issues associated with all new development projects requiring Town approval. In doing so, the Planning Board and Design Review Committee should be guided by the design principles and standards laid out in the Zoning Bylaw, subdivision regulations, Town Master Plan, and additional planning documents relevant to specific areas of the Town. The Planning Board and Design review Committee should work in close cooperation with other committees and commissions, especially the Historical Commission and Conservation Commission. *(Action of the Planning Board with support from the Historical Commission.)*



***Second homes purchased for the enjoyment of Lenox's cultural, historic, natural, and lifestyle amenities are a large part of the market for new subdivisions.***

## MASTER PLAN UPDATE

The Lenox Planning Board is in the process of updating the Town Master Plan; the previous Master Plan was completed in 1999. Consultant selection for preparation of the Master Plan is being undertaken as this Historic Preservation Plan is being completed. The master planning process will take a year and a half and be completed by November 2019.

In accordance with the Massachusetts General Laws, the Lenox Master Plan will conform with requirements of M.G.L. Chapter 41, Section 81D. It will include:

- Town-wide goals and policies;
- Land Use Element;

- Housing Element;
- Economic Development Element;
- Natural and Cultural Resources Element;
- Open Space and Recreation Element;
- Services and Facilities Element;
- Circulation Element; and
- Implementation Program Element.

It is intended that this Historic Preservation Plan will comprise an Historic Preservation Element of the new Master Plan and meet many of the requirements of the Natural and Cultural Resources Element of the plan. In addition, the vision, goals, and guiding principles outlined in Chapter 4 of this preservation plan should be incorporated into those for the Master Plan.

Chapter 2 of the preservation plan provides an historical overview that outlines the types of historic building and landscape resources that should be preserved as part of the new Master Plan.

The Economic Development Element of the Master Plan should build on the concept of The Creative Economy discussed in Chapter 5 of this plan and highlight the importance of historic resources to the Town's identity and economic prosperity.

The recommendations in Chapter 5 through 9 provide guidance on various aspects of the proposed Master Plan from the perspective of historic preservation and community character. It is anticipated that this perspective will be incorporated into the vision, policies, planning, and recommendations of the Master Plan.

**6.5 Incorporate this Historic Preservation Plan into the new Master Plan for Lenox as a supporting Historic Preservation Element. Incorporate the vision, goals, guiding principles, and recommendations of the Historic Preservation Plan into the various elements of the Master Plan.**

**6.6 State clearly that it is Town policy that historic building and landscape resources should be preserved, appropriately treated, and incorporated into new land development projects as future development occurs.**

Lenox has prepared special planning studies for different portions of the Town, including Lenox Village, the Gateway Overlay District, and the commercial corridor along north Route 7/20 (New Lenox). These studies have included innovative visions and recommendations for these areas, some of which have been implemented and some of which have not.

It is recommended that the new Master Plan address the different landscape areas in Lenox as described in Chapter 2 and in Chapter 5 above. Each of these areas has its distinctive character, including historic building and landscape resources, and should undergo future change in a way that strengthens character and preserves historic resources.

**This Historic Preservation Plan will comprise an Historic Preservation Element of the new Master Plan.**



As outlined in Chapter 5, these areas include:

- Lenox Village;
- Lenox Dale;
- Northern Route 7/20 Corridor (New Lenox);
- Gateway Overlay District;
- The Great Estates Area;
- Suburban Landscapes (Including north and east portions of the Town);
- The River Corridor; and
- Conservation Lands.

*(Actions of the Planning Board with support from the Historical Commission.)*

**6.7 Specifically address master planning for each of the distinctive landscape areas within Lenox. Identify their character defining features, including historic building and landscape resources. Develop Town policies and planning guidelines that enhance the distinctive character and potential of each landscape.**

The new Master Plan provides a unique opportunity to address the future of Lenox and provide a strong vision around which residents can come together. It is hoped that this preservation plan is of assistance in that effort. *(Action of the Planning Board with support from the Historical Commission.)*



*Townhouses developed at the Cranwell Spa and Resort, a Great Estate property.*

## ZONING BYLAW, SUBDIVISION REGULATIONS, AND BYLAWS

Lenox's existing Zoning Bylaw, subdivision regulations, and other bylaws are discussed in Chapter 3 of this plan. Following the update of the Town's Master Plan, noted above, revisions to the Town's bylaws should be made for the Master Plan's implementation. This should include changes to strengthen historic preservation and community character.

Lenox's Zoning Bylaw and subdivision regulations have an important role in promoting the preservation of historic resources as new land development and subdivision projects are taking place. In general, it should be the policy of the Town that historic resources should be identified during the site planning and design process and that these resources should be preserved and incorporated into new development projects.

While the Town cannot legally *require* the preservation of privately owned historic resources in new development projects, it can use its authorized powers and considerable influence to work with and negotiate with developers toward this end. If developers know that the preservation of historic resources is expected, many will do the right thing and incorporate the resources into their projects as a matter of course simply to ensure a smooth review and approval process. Where the Town has negotiating leverage, such as with the Special Permit process where conditions can be applied and projects can be denied, the Town's influence in promoting preservation can be considerable.

The appropriate treatment of historic buildings helps preserve and strengthen community character, which is important to the Lenox economy and enhances local quality of life. The Town's bylaws and regulations should reference and make use of the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and related guidelines, discussed in Chapter 4, in promoting the appropriate treatment of historic buildings in private sector projects. Architects and planners have decades of experience in applying the principles outlined in the Standards and achieving good preservation results while accommodating needed change.

Lenox's existing bylaws and regulations do promote historic preservation and the enhancement of community character; however, they could be significantly strengthened to be more effective. Following completion of the Master Plan, a more comprehensive review and update should be undertaken toward this goal. This chapter of the Preservation Plan includes specific recommendations for revisions to the existing Zoning Bylaw and Subdivision Regulations. It is hoped that these recommendations can be included in the updates undertaken by the Planning Commission.

**6.8 Following completion of the Master Plan, update the Town's Zoning Bylaw and Rules and Regulations Governing the Subdivision of Land to strengthen historic preservation provisions.**

*(Action of the Planning Board with support of the Zoning Board of Appeals and approval of Town Meeting.)*

**It should be the policy of the Town that historic resources should be identified during the site planning and design process and that these resources should be preserved and incorporated into new development projects.**



*This contemporary restaurant building in Lenox's commercial corridor was as an addition to an earlier historic residence.*

### Zoning Bylaw

As discussed in Chapter 3, Lenox's Zoning Bylaw incorporates a number of provisions that address the preservation of historic and cultural resources. However, the language used in the various provisions that mention it is inconsistent, and it is unclear how those provisions are to be addressed in practice.

Additionally, there is no clear statement overall in the Zoning Bylaw that it is Town policy that historic and cultural resources should be preserved and appropriately treated. It is recommended that the Zoning Bylaw include a clear statement that it is Town policy that historic resources be identified, preserved, and incorporated into new development projects.

**6.9 Following completion of the new Master Plan, revise the Establishment and Purposes section of the Zoning Bylaw to express the goals and purposes of the Master Plan as permitted under Massachusetts law. Include a statement that it is Town policy that historic building and landscape resources should be preserved.**

This general policy statement on historic preservation will provide support for preservation language and requirements for its implementation elsewhere in the Zoning Bylaw. Specific provisions of the bylaw should be revised to strengthen historic preservation language, make the language consistent, and delineate provisions and areas of authority where historic preservation can be influenced and encouraged. *(Action of the Planning Board with support from the Historical Commission.)*

Several important provisions of the existing Zoning Bylaw provide the basis for influencing the preservation of historic resources on properties that are being developed:

- Section 3.4, Special Permits, is invoked for many uses especially under higher density residential and commercial districts. When a Special



Permit is required, the Zoning Board of Appeals reviews the proposed project with respect to established criteria outlined in the bylaw. The criteria can include that historic resources on a property be identified, preserved, and incorporated into the design of the new project.

The Zoning Board can negotiate with the developer on the extent and quality of the preservation required depending upon the nature of the project and the types of resources. The Zoning Board is empowered to set reasonable conditions for approval of a project, which can include that historic resources be preserved or that an appropriate level of preservation treatment is achieved. Projects that do not meet Town goals and criteria can be denied, so the Special Permit process is a particularly powerful tool.



***The Arcadia Shop (left) and Lenox Fit (right) are appropriate examples of the adaptive reuse of historic buildings for contemporary commercial uses. In both cases, modern additions were constructed to the rear of the buildings to accommodate needed uses while the historic buildings remain prominent facing the road.***

- Section 3.5, Site Plan Approval in the C-1A and C-3A Zones, includes Standards of Review and Design Standards for land development projects in the Town's C-1A and C-3A districts, which are located primarily along Route 7/20 north of the road's intersection with Main Street. A small area with C-1A zoning is also located at the intersection of Route 7/20 with Housatonic Street.

This is Lenox's suburban commercial corridor which experienced significant development during the 1950s and 60s. It includes hotels, services, restaurants, a gas station, and a shopping area with the Town's only large grocery store. It is an important commercial corridor for Lenox residents and visitors. It is often cited as being of poor visual quality—Lenox's contribution to suburban sprawl—but its visual quality is not as compromised as the sprawl located in many other places. This area will continue to be developed and redeveloped and is a good place for commercial uses. The area is constrained by relatively small lots and existing buildings close to the road. Despite constraints, the visual quality of the corridor can continue to be improved over time.

A number of historic resources have been lost to commercial development along Route 7/20 over time, but many historic resources remain. Many of the remaining historic resources were once historic

farmsteads, including historic residences and in some cases outbuildings and landscape features. New development projects should be required to identify historic resources, incorporate them into the development projects, and treat them in accordance with professional preservation standards.

The Standards for Review and Design Standards in Section 3.5 provide the Zoning Board of Appeals with the basis for negotiation with developers on desired historic preservation outcomes. The Planning Board and Historical Commission can provide the Zoning Board with information and advise on preservation and design issues.



***This vast area of paving adjacent to a historic building adaptively reused as a restaurant could have been more appealingly designed to enhance the commercial corridor. The adjacent building is a car wash.***

- Section 8.9, Estate Preservation Area, is a special bylaw provision crafted for the Great Estates to facilitate and encourage the preservation of historic mansions, outbuildings, and associated landscape contexts while allowing for adaptive reuse of the historic buildings and additional new development to help make potential projects economically viable. Eight estate properties have been identified where the provision may be applied. It appears to have been successfully applied at Cranwell Spa and Golf Resort and Canyon Ranch (Bellefontaine).

It is recommended that Estate Preservation Area bylaw provision be reviewed in terms of its performance and results over the years. Possible changes to the language and requirements should be considered. Assessment of which properties remain to which it could still apply should be made. Consideration should be given to whether other, smaller properties should be added to those currently designated to make use of it, in which case refinement of the requirements might be necessary.



***Blantyre, currently an inn, is among the Great Estates eligible to use the Estate Preservation Area provision of the Zoning Bylaw.***

- Section 9.7, Open Space Flexible Development, is applicable to the R-1A residential zoning district that encompasses a large portion of Lenox including the most developable lands outside of the villages and commercial corridors between Lenox Mountain on the west and the Housatonic River on the east. The R-1A zoning district allows for 1-acre lot residential subdivisions and is the most likely area for future new residential development in Lenox.

The Open Space Flexible Development provision allows for concentrated development on smaller lots and a density bonus where open space can be preserved in a residential development. The provision can be used to preserve woodlands and natural resources and enhance landscape connectivity. It can also be used to preserve historic building and landscape resources. The provision is reviewed by the Planning Board in accordance with Special Permit processes.

Many of the properties under potential development within the R-1A district were former early and mid-nineteenth century farmsteads. In undertaking Open Space Flexible Development reviews, historic resources should be identified on the subject property and preserved. Historic buildings should be incorporated into new developments when they are present. Historic landscape resources of interest might include stone walls, farm lanes, field lines, mill sites, and other resources.





***Vacant historic residential buildings along the Route 7/20 commercial corridor within the Gateway Overlay District should be considered threatened and should be incorporated into new development.***

- Section 10.2, Gateway Mixed Use Development Overlay District, is located on Route 7/20 at its intersection with Main Street. As discussed in Chapters 3 and 5, the Gateway Overlay District has been the subject of planning studies intended to encourage mixed use development that incorporates existing historic resources present within the district. The overlay district seeks to encourage new development that is harmonious with the character of the area, including its historic resources. As with other areas of the Route 7/20 corridor, most of the historic resources are former early and mid-nineteenth century farmsteads. Because of the development pressure along the Route 7/20 corridor, these buildings should be considered threatened, and the Gateway Overlay District is an important provision that encourages their preservation and appropriate treatment.



***Though well intentioned, the contemporary commercial renovations to these historic residential buildings along Route 7/20 could have benefited from professional advice on the appropriate treatment of historic buildings. Lenox Zoning Bylaw permits review of design within the commercial corridor. Discussion of the appropriate treatment of historic buildings is included in Chapter 4. In these specific examples, the original historic building forms and materials should have been preserved with any additions set back and to the rear. New materials should be similar to the preserved historic materials.***



**6.10 Use the Special Permit process and bylaw provisions related to C-1A/C-3A, Estate Preservation, Open Space, and Gateway Overlay zoning to encourage the preservation and appropriate treatment of historic buildings and their landscape contexts.**

With respect to these bylaw provisions, below are specific suggestions for strengthening the existing language with respect to historic preservation. It is recommended that the Planning Board consider these suggestions in its work. Should the updating of the Master Plan lead to a further update of the Zoning Bylaw, it is recommended that similar language be incorporated in appropriate provisions of the new bylaw. The Special Permit process is a particularly important tool through which historic preservation can be encouraged.

- 3.4. Special Permits – Under Criteria, add that determination shall include consideration of the: *Preservation and appropriate treatment of historic building and landscape resources.*
- 3.5. Site Plan Approval in the C-1A and C-3A Zones – Under Section 3.5.5, Contents of Site Plan, add that site plans should identify *any historic building and landscape resources on the property.* Under Section 3.5.9, Standards for Review, state that *historic buildings and landscape contexts shall be incorporated into new development projects.* Under Section 3.5.13, Design Standards, revise the existing language on renovations to historic buildings to state that buildings should be renovated and adaptively reused in accordance with the Secretary of the Interior’s Standards for Rehabilitation (discussed in Chapter 4 of this plan). Other existing language in this section is acceptable.
- Section 4. Definitions – Add a definition for *Historic Resource: Building, structure, or landscape feature associated with a property identified in the Town’s Historic Resource Inventory as maintained by the Historical Commission.* Add a definition for *Historic Landscape Context: The immediate landscape area associated with and significant to a historic building resource.*
- 9.7. Open Space Flexible Development – Under Purposes, make “Preserve historic and archeological resources” its own line, separate from protect the natural environment. Add to the purpose *the adaptive reuse of historic buildings and their landscape contexts and their incorporation into new development projects.* Under Section 9.7.5, Design Process, state “historic and cultural resources” under Understanding the Site. Add a statement under “Definitions” that open space may be used for the preservation of historic buildings and their landscape contexts as well as for the preservation of archeological sites. Add a section on General Design and Performance Standards to the Open Space element that includes a statement that historic buildings should be preserved and treated in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.
- 10.2. Gateway Mixed Use Development Overlay District – Under Purposes, state “Preserving and adaptively reusing historic buildings and

their landscape contexts.” Under 10.2.10, General Design and Performance Standards, add a statement on the incorporation of historic buildings and their landscape contexts into new development projects and the treatment of historic buildings in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.



*The Courtyard by Marriott recently developed within the Gateway Overlay District is an important addition to the Town’s hotel venues. The development does not address many design goals of the overlay district, but is not necessarily inappropriate. Design review of the building should have emphasized a contemporary solution rather than mock historicism. In general, new construction within the Town’s historic context should be contemporary—expressive of its own time and place—and compatible with the Town’s historic character as outlined in the Secretary of the Interior’s Standards and discussed in Chapter 4.*

#### **6.11 Strengthen language in existing sections of the Zoning Bylaw to support the Town’s historic preservation policies and goals.**

As discussed above, the Estate Preservation Area section of the zoning bylaw should be reviewed in terms of its performance and results over the years and possible changes to the language and requirements should be considered.

#### **6.12 Review the successful use of the Estate Preservation Area provision of the zoning bylaw and make any necessary adjustments for its continued use in the preservation and adaptive reuse of estate properties.**

*(Actions of the Planning Board with support from the Historical Commission.)*

### **Subdivision Regulations**

Similar revisions as described above for the Zoning Bylaw should be made to the Town’s *Rules and Regulations Governing the Subdivision of Land* following completion of the new Master Plan to strengthen support for the preservation of historic resources.

Subdivision review is undertaken by the Planning Board in accordance with the *Rules and Regulations*. The role of the Planning Board in overseeing design quality

in accordance with Town goals is important, as discussed earlier in this chapter. In proposed new subdivisions, it should be Town policy that historic resources be identified in early stages of site analysis to the same degree as required for wetlands and other natural resources. Historic building and landscape resources should be preserved and incorporated into new subdivision plans.

The Historical Commission should provide assistance to the Planning Board in the identification of historic resources and in providing information, advice, and recommendations for their treatment, as discussed in Chapter 8.

**6.13 Following completion of the new Master Plan, revise the Town's subdivision regulations to reflect Master Plan policies and goals, including those outlined in this Historic Preservation Plan. Include a statement that it is Town policy that historic building and landscape resources should be preserved and incorporated into new subdivision projects.**

Below are specific language changes that could be made to the existing *Rules and Regulations Governing the Subdivision of Land* to clarify and support historic preservation goals.

- Section I.B, Objectives and Criteria – Strengthen the statement under item K that existing historic building and landscape resources should be preserved, appropriately treated, and incorporated into proposed new subdivision projects.
- Section II.C, Definitions – Add a definition for *Historic Resource* and *Historic Landscape Context* to include historic buildings identified in the Town's historic resources inventory and their immediate landscape contexts. (See recommendation above with respect to the Zoning Bylaw.)
- Section IV.A.2, Preliminary Plan Contents – Include the identification of historic building and landscape resources on the property as a requirement of Preliminary Plan itemized in a distinct lettered element of this section.
- Section IV.A.2.I, Preliminary Plan Contents – Include the identification of historic resources and discussion of impacts on historic resources in the Development Impact Statement prepared for Planning Board review.
- Section IV.B.2, Definitive Plan Contents – Include the identification of historic building and landscape resources on the property.
- Section IV.C, Impact Statement – Revise “historic sites” to read “historic resources and historic landscape contexts.” (See recommendations for definitions above and related to the Zoning Bylaw.) Under item 2.a, revise “scenic and historical features” to read “scenic views and features, historic resources and historic landscape contexts, trails...”
- Section V.A, Design Standards, Relationship to Plans – Revise this section to more clearly state that subdivisions should be consistent with and should implement the goals, strategies, and objectives of the Town Master Plan for the site in which they are located.

- Section V.B, Design Standards, Protection of Natural Features – Revise this section to be more thoroughly and clearly stated. Separate discussions of natural resources and historic resources, strengthening the statements for both. Restate that existing historic resources and historic landscape contexts should be identified, preserved, appropriately treated, and incorporated into proposed new subdivision projects.
- Section V.H, Protection of Natural Features – To some extent, this section repeats V.B above. Combine and strengthen the language of both.

**6.14 Strengthen language in existing sections of the subdivision regulations to support the Town’s historic preservation policies and goals.**

*(Actions of the Planning Board with support from the Historical Commission.)*

**Potential Additional Bylaws**

Lenox should make use of the bylaws authorized by the Massachusetts General Law for the protection of historic resources. The Massachusetts Historic Commission has prepared a publication titled *Preservation through Bylaws and Ordinances* that reviews a range of bylaws that could be of use in promoting historic preservation in Lenox (MHC 2010). A few of the most relevant are noted below. Lenox needs to make use of as many of the available tools for historic preservation and growth management as possible.

**6.15 Build public support for the adoption of bylaws that help support the preservation of historic resources.**

*(Action of the Select Board, Planning Board, and Historical Commission.)*

***Demolition Delay Bylaw***

Massachusetts law allows for the review of permit applications for the demolition of buildings within a municipality to determine whether the subject building is historically significant and should not be demolished but should be preserved.

Through a Demolition Delay Bylaw, a proposed demolition can be delayed to provide time during which alternatives to demolition can be explored, developed, and implemented. A delay period of twelve months is recommended, though some municipalities have used a six month period. Demolition Delay Bylaws have been enacted by many Massachusetts towns experiencing development pressure and are common within the eastern portion of the state. The bylaw has sometimes been enacted after a particularly controversial experience during which a significant historic resource has been lost.

As stated in a sample bylaw recommended by the Massachusetts Historical Commission, a Demolition Delay By-law:

*is enacted for the purpose of preserving and protecting significant buildings within a town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate*

**Through a Demolition Delay Bylaw, a proposed demolition can be delayed to provide time during which alternatives to demolition can be explored, developed, and implemented.**



*or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work.*

Demolition Delay Bylaws are enacted under the General Bylaws of a town, rather than the Zoning Bylaw, and permit review is undertaken by the town's Historical Commission. Buildings affected may include any building within the town which is fifty years or more old and which has been determined by the Historical Commission to be significant based on any of the following criteria:

- The building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The building has been found eligible for the National Register of Historic Places; or
- The building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the town or the Commonwealth; or
- The building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Residents of Lenox considered adoption of a Demolition Delay Bylaw in a recent Town Meeting, and the measure did not pass. However, the Demolition Delay Bylaw is an important tool in the preservation of threatened historic resources, and it is wise to have it on hand in case it is needed to prevent loss of a valued historic resource to development. It is a last line of defense. Public support should be built for adoption of the bylaw through the work of the Select Board, Planning Board, Historical Commission, and Zoning Board of Adjustment. It is possible that a limited bylaw could be enacted applying to a list of particularly significant buildings about which there would be little public objection. The bylaw could be later expanded provided public support could be demonstrated.

### ***Affirmative Maintenance Bylaw***

Affirmative Maintenance Bylaws are an effective tool for protecting historic resources from loss due to lack of maintenance. There are various forms of affirmative maintenance bylaws. They provide the Town with the ability to identify threatened buildings and mandate that owners take necessary actions to stabilize and secure a building. Affirmative Maintenance Bylaws are adopted as a general bylaw under home rule authority and requires a majority vote of Town Meeting.

An Affirmative Maintenance Bylaw typically it empowers the Historical Commission to identify threatened buildings according to a clear set of standards. These standards are tied to loss or deterioration of specific and major features or elements of a building or are linked to the safety code enforced by the Building Commissioner.

Affirmative Maintenance Bylaws can require owners to make minimum repairs

necessary to secure and stabilize the envelope of the building. If the owner fails to make such repairs, a fine can be levied and/or the municipality can make the repairs and place a lien on the property. Most Affirmative Maintenance Bylaws contain clear economic hardship provisions, since this is a claim often made by an owner of a deteriorating building. (MHC 2010:17)



*Lenox's rural and suburban roads are worthy of special protections.*

### **Scenic Roads Bylaw**

Massachusetts has long permitted local enactment of Scenic Road Bylaws as authorized by Chapter 40, Section 15C of the Massachusetts General Laws. The bylaw allows a town to designate local roads as scenic roads. Once designated, any repair, maintenance, reconstruction, or paving work done shall not involve or include the cutting or removal of trees or the tearing down or destruction of stone walls without prior written consent of the Planning Board. Numbered routes and state highways are exempt unless the entire length of the route is contained within the town.

The Scenic Roads Bylaw provides a measure of recognition and consideration in impacts to scenic roads by development and other actions. It is a tool that can help protect Lenox's scenic landscape. Public support should be built for its adoption. In some Massachusetts towns, all roads have been designated as scenic in order to receive this minimal level of review. In Lenox, it is recommended that all roads existing on the Town's 1854 map be designated as scenic roads.

## **BUILDING CODES AND PRESERVATION**

Buildings in Lenox must be designed in accordance with the Massachusetts State Building Codes. The State Building code is based on modified versions of the International Building Code and includes a specific code addressing existing buildings. Some commercial property owners in Lenox have complained that the level of code compliance work required for their older buildings has made building renovation and adaptive reuse financially untenable.

Typical building code issues are often related to required separations, egress, and accessibility. “Separations” refer to the fire rating of building construction materials between different spaces within the building. For example, construction ratings between different floor levels or between usable space and fire stairs are usually required to be “2-hour rated.” The existing materials in historic floors and walls often don’t meet the required rating standards.

“Egress” refers to the means of exit from a building. Historic buildings often don’t have exit stairs meeting fire egress requirements—stairways in historic houses converted to business use are often open and cannot be enclosed without damaging the historic building. Corridor and door widths other don’t meet modern standards either.

“Accessibility” refers to making buildings accessible to wheelchairs and those with disabilities. Modern standards for accessibility have been developed, but it is often difficult to apply those standards to an existing building.

This is a statewide problem and is not peculiar to Lenox or the Berkshires. Preservation architects have been finding creative ways to address the problem for decades. The Historical Commission and Town staff should maintain contact with the Massachusetts Historical Commission as the issue is addressed statewide. Local building code officials should work with property owners with awareness of this issue.



***Potential developers of this historic inn in Lenox Village have expressed reluctance to take on the project due to the cost of bringing the building into full code compliance.***



**6.16 Work with the Lenox building code officials on appropriate levels of mitigation for historic buildings that enhance public safety while preserving historic character and integrity.**

Many historic buildings are designed such that full compliance with modern building codes would cause significant damage to the building's character defining features and historical integrity. Where full compliance is not possible, special mitigation measures can be designed and customized to the specific characteristics of the building in order to make the buildings as safe as possible. Sometimes such mitigation measures are unorthodox and creative. Local building inspectors may be empowered to work with designers and property owners on mitigation measures within the limits necessary for public safety. The cooperation and support of local building code officials is critical to the success of many adaptive reuse projects. *(Action of the Select Board and Chamber of Commerce with support from the Historical Commission.)*



***New Lenox, established as a railroad depot at the railroad crossing in the middle distance, is among the areas of Lenox that will be subject to future residential land development.***