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*Board of Health
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*Board of Appeals
Planning Board*

Legal Notice – Maynard Planning Board

Pursuant to Massachusetts General Laws, Chapter 40A, s.5, the Maynard Planning Board will hold a public hearing on Tuesday, December 8, 2015 at 7:00 pm at the Maynard Town Building, 195 Main Street, Room 201, Maynard, Massachusetts to review the petition to Special Town Meeting 2016 of the Maynard Board of Selectmen to amend the Maynard Zoning Bylaws. This petition seeks to amend the Neighborhood Business Overlay District (NBOD) found in Section 9.3 et seq. of the Zoning Bylaws by substantially revising the current regulations governing NBOD developments.

The text of the proposed amendment is reprinted below:

9.3 NEIGHBORHOOD BUSINESS OVERLAY DISTRICT (NBOD)

9.3.1 Purpose. The Neighborhood Business Overlay District (NBOD) is established:

1. To encourage and authorize the mixed-use development of large land areas by means of authorizing and combining a variety of building types and uses with conditions and safeguards; and
2. To prevent detrimental effects and impacts upon neighboring land uses and upon the Town of Maynard.

9.3.2 Applicability. The NBOD is an overlay district superimposed over, rather than replacing, the applicable underlying zoning district(s). Upon receipt of a special permit from the Planning Board, the NBOD authorizes certain uses and structures not otherwise permitted in the underlying district(s). Where the NBOD authorizes uses or structures not otherwise allowed in the underlying district(s), the provisions of the NBOD shall control.

9.3.3 Requirement for Approval of a Concept Plan at Town Meeting. No construction or activity for a structure or use not otherwise permitted in the underlying zoning district(s) shall be permitted on any land within the NBOD without first obtaining approval, by a majority vote of Maynard Town Meeting, of a Concept Plan that identifies the proposed development and uses and structures proposed therein. At the property owner's discretion, one or more Concept Plans may be submitted at different times and a Concept Plan may include development of all, or any smaller portion, of the relevant parcel or lot. Each Concept Plan submitted for approval at Town Meeting shall include the following information:

1. The area of land proposed to be developed under the NBOD regulations, which may be less than the total area of the applicable lot.
2. The topography of the land to be developed.

3. The location of wetlands and water bodies, if any.
4. The location of existing roads and ways serving the land to be developed.
5. The general location, size and shape of existing structures to be removed, and the general location, size and shape of existing structures to remain.
6. The general location and size of all required buffer areas provided in compliance with Section 9.3.11.3.
7. The general location, general use and approximate size of all proposed new buildings including the proposed general use within said new buildings; the final size of each proposed new building to be determined via the Town's site plan review process and shall not exceed the dimensional requirements in Table G, below.
8. Examples of amenities and design features to be included as part of the proposed development, including but not limited to, the proposed location, number, size, type, appearance and lighting for, on and off premises signs relating to and serving the proposed development.
9. Illustrations of the general architecture of the proposed structures.
10. A preliminary traffic impact analysis.
11. A written proposal from the applicant or its agents ("Applicant") that addresses, but is not limited to, the following:
 - a. Proposed contribution to the Town of Maynard, including but not limited to proposed improvements to public facilities, public infrastructure, gifts of land, including easement rights, grant of financial resources to offset anticipated development impacts and other proposals to mitigate development impacts ;
 - b. Payment for consultant review of plans and documents accompanying the Concept Plan pursuant to G.L. c.44, s.53G; and
 - c. Assurances for continuing obligations should the applicant assign all or some of its rights in the proposed development.

Such proposal shall be incorporated into the terms of a binding development agreement, which may include any other lawful provisions negotiated between the Applicant and the Town of Maynard acting by and through the Board of Selectmen and the Planning Board, said provisions to be specifically attributable to projected impacts from the proposed development upon the surrounding neighborhood, the Town of Maynard and the region. The execution of said development agreement is a condition precedent to final site plan approval by the Planning Board (see Section 10.5 of the Zoning Bylaw).

9.3.4 Application for Permits. Following approval of a Concept Plan at Town Meeting as provided in Section 9.3.3., the Applicant shall be entitled to apply for any other permits and approvals required for all or any portion of the development shown on the Concept Plan, including, without limitation, site plan review.

9.3.5 Permitted Principal Uses. The following structures and uses, identified as defined terms in Section 11.0 of the Zoning Bylaw, are allowed without need for a special permit in the Neighborhood Business Overlay District:

Healthcare Facility including Medical, Dental and Psychiatric offices
Business, Professional or other Office

Child Care Center
Bank
Health Club
Restaurant, not including “fast food” restaurant
Garden Center
Personal or General Service Establishment
Supermarket
Retail Business
Wholesale Business/Mixed Use with fewer than 5 dwelling units
Multiple principal uses on a single lot or parcel within the NBOD.

9.3.6 Permitted Accessory Uses. The following uses and structures may be permitted as accessory to a permitted principal use or structure if occurring or constructed on the same lot as the permitted principal use or structure.

Outdoor storage of recreational equipment.
Outdoor recreational facilities including athletic field and tennis and basketball courts.
Outdoor storage, display and sales of merchandise accessory to a permitted principal retail use.
Bank automated teller machine.
Management or maintenance office related to the principal use.
Parking and accessory drives for all permitted uses in the underlying, base Zoning District, as well as any and all utilities necessary to support such permitted uses, whether or not on the same lot as the principal use.

9.3.7 Uses Permitted by Special Permit of the Planning Board. The following structures and uses, identified as defined terms in Section 11.0 of the Zoning Bylaw or in Section 9.3.14, below, are allowed only upon receipt of a Special Permit in the NBOD. In addition to the criteria applicable to the grant of a special permit contained in Section 10.4 of the Zoning Bylaw, the Special Permit Granting Authority (SPGA) shall withhold approval of a special permit for any of the uses or structures listed below unless the SPGA concludes that (1) the proposed use or structure is consistent with the Concept Plan approved by Town Meeting; (2) cumulative impacts from the proposed use or structure, including but not limited to, impacts on traffic and public infrastructure will be sufficiently minimized and mitigated through on and off site improvements and (3) the proposed use or structure, when completed, will be in harmony with the purpose and intent of NBOD and not otherwise inconsistent with the purpose and intent of the Maynard Zoning Bylaw.

Multi-family Dwelling
Parking Structures
Mixed use with 5 or more dwelling units
“Drive-Thru” or “Drive-Up” Uses, provided that the Planning Board shall not issue special permits allowing more than two (2) “drive-thru” or “drive up” “fast food restaurant” uses and no more than four “drive-thru” or “drive up” uses in total to be operative within an NBOD at any one time
Adult Day Care
Assisted Living Residence
Nursing and Convalescent Home
Continuing Care Retirement Community
Independent Living Facility
Emerging Energy Technology Establishment
“Fast Food” Restaurant
Veterinary Hospital
Brewery with Ancillary Service
Uses and structures customarily incidental to any permitted principal use.

9.3.8 Dimensional Requirements. Unless otherwise set forth in Section 9.3, Table G lists the dimensional requirements for each single principal use within the NBOD. Uses listed in Table G as “N/A” have no corresponding dimensional requirement.

TABLE G: NBOD DIMENSIONAL REQUIREMENTS

<u>Principal Use</u>	<u>Maximum Gross Floor* Area</u>
1. Healthcare Facility	N/A
2. Health Club, including Indoor Athletic and Exercise Facility	N/A
3. Restaurant	N/A
4. Garden Center	N/A
5. General or Personal Services Establishment	N/A
6. Supermarket	75,000 SF
7. Retail Business (exclusive of Supermarket)	190,000 SF*
8. Wholesale Business	N/A
<u>Principal Use</u>	<u>Maximum Gross Floor* Area</u>
9. Mixed Use with fewer than five (5) dwelling units	N/A
10. Bank	N/A
11. Emerging Energy Technology Establishment	N/A
12. Child Care Center	N/A
13. Adult Day Care	N/A
14. Assisted Living Residence or Continuing Care Retirement Community	N/A
15. Independent Living Residence	N/A
16. Nursing and Convalescent Home	N/A
17. Multi Family Dwelling	N/A
18. Parking Structures	N/A
19. Mixed Use with Five (5) or more Dwelling Units	N/A
20. Brewery with Ancillary Service	N/A
21. Fast Food Restaurant	N/A
22. Veterinary Hospital	N/A

* Consistent with Section 4.1.5 of the Zoning Bylaw, the maximum gross floor area for any single retail entity (other than a Supermarket) in any building shall be limited to a maximum size of 65,000 square feet.

9.3.9 District Total. The total gross floor area for non-residential uses or structures, including accessory uses or structures, shall not exceed 310,000 square feet.

9.3.10 Building Height. The maximum height of buildings within the NBOD shall comply in all respects with the requirements of Section 4.1 and Table “B” of the Zoning Bylaw. However, and notwithstanding a more restrictive provision contained within Section 4.1 and Table “B” of the Zoning Bylaw, within the NBOD, the maximum height of a structure used exclusively for residential purposes, including uses meeting the definition of and permitted for, a Continuing Care Retirement Community, shall be a maximum of fifty (50) feet and a maximum of four (4) stories. No structure greater than forty (40) feet shall be constructed closer than three (300) hundred feet to any residential zoning district or closer than one thousand (1,000) feet to any State numbered roadway.

9.3.11 Housing Cap. The maximum number of dwelling units in the NBOD shall not exceed one hundred eighty (180) regardless of the permitting mechanism used to construct said dwelling units. For up to and including 175 dwelling units no fewer than seventeen (17) of the dwelling units constructed within the NBOD shall be made available for sale or rent, for the longest period permitted by law, to individuals or families earning less than eighty percent (80%) of the median income of Maynard, as that figure is determined from time to time by the Commonwealth of Massachusetts (“affordable unit”) All additional dwelling units greater than 175 shall be affordable units. Notwithstanding, this cap shall not include those dwelling units permitted pursuant to the terms and conditions of Section 9.3 et seq. as senior housing, nursing/convalescent homes, assisted living residences and any dwellings associated with a continuing care retirement or independent living community.

9.3.12 Site Plan Approval. The provisions of Section 10.5, Site Plan Approval, shall apply to all uses, buildings and structures permitted by right or by special permit in the NBOD. All structures and uses permitted pursuant to the NBOD shall be subject to Site Plan Approval from the Planning Board. The Planning Board may not issue such approval unless the proposed Site Plan substantially conforms to the Concept Plan approved by Town Meeting. The Planning Board may permit minor modifications to the proposed development in connection with its site plan review, provided that the Planning Board finds, in its reasonable discretion and in writing, that any such modifications do not materially conflict with the general intent of the Concept Plan as approved. In addition to the requirements contained in Section 10.5 of the Zoning Bylaw, applications for Site Plan Approval shall ensure compliance with the following requirements:

1. Lighting.

- a. All lighting installations shall be designed to achieve no greater than the minimum luminance levels for the activity as recommended in the most recent standards established by the Illuminating Engineering Society of North America (IESNA);
- b. To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cut-off (Full-cutoff means that no light is emitted above the horizontal plane that intersects the lowest part of the fixture). Where necessary to prevent light or glare, accessories such as hoods and shields shall be used on lighting fixtures. The source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent property;
- c. Security lighting shall be shielded and directed at a downward angle.
- d. As part of any application for Site Plan Review, the applicant shall prepare a lighting study showing that the development will meet these standards.

2. Utilities Underground. All new, non-municipal utilities (such as electricity, telephone, gas, fiber optic cable) shall be placed underground.
3. Setbacks/Buffers. For the construction of any new building, a setback area of one-hundred (100) feet shall be provided at the perimeter of every lot or parcel in the NBOD where it abuts the property line of any residentially zoned or occupied properties, except for fences twelve (12) feet in height or less and driveways necessary for access and egress to and from the new building(s); provided, however, that existing structures and existing access roadways and paved areas are exempt from this requirement. Notwithstanding the preceding, existing structures and paved areas shall not be made more non-conforming except for American with Disabilities Act (ADA) compliance. A buffer area of forty-five feet (45) shall be provided where the property line of any land within the NBOD is contiguous to the property line of another lot within an existing residential district. The buffer shall be landscaped and screened by way of fences, walls, and/or plantings (including existing vegetation and trees) to reasonably and substantially shield abutting land from parking and loading areas and buildings. Any such fences or walls may, in the reasonable determination of the Planning Board, provide openings to allow safe pedestrian access and egress between the development site and the adjacent neighborhood.
4. Parking. Required parking shall be four (4) spaces per one thousand (1,000) square feet of gross floor area for retail and supermarket uses. For outdoor sales and display areas of a Garden Center uses, required parking shall be one space per three thousand (3,000) square feet of outside merchandise display area. For all other allowed uses, the parking requirement for such use shall be in accordance with the schedule of parking uses set forth in Section 6.1 of the Zoning Bylaw.

9.3.13 Signage. On and off premises signs relating to development and uses within an NBOD shall be as approved by Town Meeting pursuant to Section 9.3.3.8, above. Thereafter, revisions to the placement, number and lighting of wall signs only may be approved by the Planning Board pursuant to Section 9.3.7 or 9.3.11, as applicable, where, and only where, the Concept Plan approved by Town Meeting does not contain sufficient details or where the details of the Concept Plan are proposed for insubstantial revision. For the purposes of this Section, “insubstantial revision” shall mean revisions to the sign component of the Concept Plan as it relates to the placement, number and lighting of wall signs only within the NBOD. In no event, shall the Planning Board approve any revision to signs placed at the NBOD entranceway(s)—so called “pylon” or “freestanding” signs.

9.3.14 Definitions for NBOD Uses. Definitions not contained within this Section shall utilize the definitions found within Section 11.0 of the Zoning Bylaw.

Assisted Living Facility or Independent Living Residence - Any entity, however organized, which meets each of the following three criteria: 1) Provides room and board to residents who do not require 24-hour skilled nursing care. 2) provides assistance with activities of daily living; 3) collects payments for the provision of these services; all as further defined in G.L. c. 19D, s. 1, as amended from time to time. A unit as defined in G.L. c. 19D, s. 1 shall be a dwelling unit under this By-law.

Continuing Care Retirement Community (“CCRC”) - CCRCs provide housing and personal services which may include health care, usually at one location. CCRCs offer an environment and the services necessary for residents to age in place. The intent of the CCRC is to allow a person to remain at the retirement community as their personal and/or health care needs change.

Health Care Facility - A walk-in clinic, rehabilitation center, medical lab, dental lab, weight loss clinic, or similar facility. A Health Care Facility may have extended business hours but does not have overnight accommodations.

Restaurant: An establishment where the principal business is the sale of food and beverages within the structure, including but not limited to the characteristics of patrons dining at tables or in booths, being waited on by staff and with food and beverages being primarily served in non-disposable containers

except for takeout items which are expressly allowed. For the purposes of the NBOD, a “restaurant” is distinguished from a “fast food restaurant”. The definitions of “Fast food” and “Fast food restaurant” are found in Section 11.0 of the Zoning Bylaw.

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Town Planner