

ARTICLE 1: TO SEE IF THE TOWN WILL VOTE TO AMEND THE PROTECTIVE ZONING BY-LAWS WITH REGARD TO THE NEIGHBORHOOD BUSINESS OVERLAY DISTRICT (NBOD, SECTION 9.3) AS FOLLOWS:

**Item 1. Amend Section 9.3.2 entitled “Applicability,” which presently reads:**

**.2 Applicability.** The NBOD is an overlay district superimposed over, rather than replacing, the applicable underlying zoning districts. NBOD authorizes certain uses not allowed in the underlying base district provided certain special terms and conditions are met regarding the establishment of such uses. Where the NBOD authorizes uses not otherwise allowed in the underlying district, the provisions of the NBOD shall control. Except as provided in this Section 9.3, the NBOD does not in any manner alter or remove the zoning rights permits in the underlying base zoning district(s). Nothing contained in this section 9.3 shall prohibit or limit uses otherwise permitted by right or by Special Permit in the base zoning district(s).

**To read instead:**

**9.3.2 Applicability.** The NBOD is an overlay district superimposed over, rather than replacing, the applicable underlying zoning districts. The NBOD authorizes certain uses not allowed in the underlying base district provided certain special terms and conditions are met regarding the establishment of such uses. Where the NBOD authorizes uses not otherwise allowed in the underlying district, the provisions of the NBOD shall control. Except as provided in this Section 9.3, the NBOD does not in any manner alter or remove the zoning rights permits in the underlying base zoning district(s). Nothing contained in this section 9.3 shall prohibit or limit uses otherwise permitted by right or by Special Permit in the base zoning district(s). **Where any provision in the NBOD is different than any provision elsewhere in the Protective Zoning By-Laws, the provision of the NBOD shall control.**

**Item 2. Amend Section 9.3.3 entitled “Requirement for Approval of a Concept Plan at Town Meeting,” which presently reads:**

**.3 Requirement for Approval of a Concept Plan at Town Meeting.** No development for uses not otherwise allowed in the underlying zoning district shall be permitted on any land within the NBOD without first obtaining approval, by a majority vote at Town Meeting, of a Concept Plan that identifies the proposed development. 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 6.1.
7. The general location and approximate size of all proposed new buildings, including the approximate size of each single principle use within said buildings; the final size of each single principle use to be determined via the Town's site plan review process and shall not exceed the dimensional requirements in Table G.
8. Examples of amenities and design features to be included as part of 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 Property Owner ("Developer") that addresses, but is not limited to, the following:
  - a. Any proposed exactions, financial gifts, easements or land gifts
  - b. Payment for consultant review of plans and documents accompanying the Concept Plan
  - c. The timing of assessment of new improvements
  - d. The Developer's payment for design and implementation of traffic

- e. Transfer of responsibilities and commitments in the event the property is sold

Such proposal shall be incorporate into the terms of a development agreement, which may include other provisions between the Developer and the Town of Maynard acting by and through the Board of Selectmen and the Planning Board before final site plan approval is granted by the Planning Board

**To read instead:**

**.3 Requirement for Approval of a Concept Plan at Town Meeting.** No development for uses not otherwise allowed in the underlying zoning district shall be permitted on any land within the NBOD without first obtaining approval, by a majority vote at Town Meeting, of a Concept Plan that identifies the proposed development. **A Concept Plan shall be defined as a plan of the proposed development which is preliminary and conceptual in nature and which shall include the general use and approximate size and location of the buildings, project layout, proposed roads, parking, and all items as set forth in subparagraphs 1-10 below along with all other amenities, to the best of the property owner's knowledge as of the date of the Concept Plan.** 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 and approximate size of all proposed new buildings,

the final **location and size of each building** to be determined via the Town's site plan review process and shall not exceed the dimensional requirements in Table G.

8. Examples of amenities and design features to be included as part of the proposed development.
9. Illustrations of the general architecture of the proposed structures.
10. A preliminary traffic impact analysis.

11. **Prior to the vote at Town Meeting on the Concept Plan, a Development Agreement shall be signed by the Board of Selectmen, Planning Board and the Property Owner ("Developer") that addresses, but is not limited to, the following:**

- a. Any proposed exactions, financial gifts, easements or land gifts
- b. Payment for consultant review of plans and documents accompanyi  
Concept Plan
- c. The timing of assessment of new improvements
- d. The Developer's payment for design and implementation of traffic
- e. Transfer of responsibilities and commitments in the event the property is sold

**Item 3. Amend Section 9.3.5 entitled "Permitted Principal Uses," which presently reads:**

**9.3.5 Permitted Principal Uses.** The following uses are allowed by right in the Neighborhood Business Overlay District:

Healthcare Facility  
Health Club  
Restaurant  
Garden Center  
Personal Service Establishment  
Supermarket  
Retail Business  
Wholesale Business  
Mixed Use with fewer than five (5) dwelling units  
Multiple principal uses on a single lot or parcel within the NBOD

**To read instead:**

**9.3.5.1 Permitted Principal Uses.** The following uses are allowed by right in the Neighborhood Business Overlay District:

Healthcare Facility, **including Clinic and Medical, Dental and Psychiatric Office**  
Health Club  
Restaurant  
Garden Center  
**General or** Personal Service Establishment **and Business or Professional or Other Office**  
Supermarket  
Retail Business  
Wholesale Business  
Mixed Use with fewer than five (5) dwelling units  
Multiple principal uses on a single lot or parcel within the NBOD  
**Theatre, Club or Other Place of Entertainment**  
**Multi-Family Dwelling**  
**Fast Food Restaurant**  
**Motor Vehicle Light Service**  
**Printing Shop**  
**Brewery with Ancillary Food Service**  
**Emerging Energy Technology Establishment**  
**Family, Adult and Child Daycare**

**Item 4.** Add a new Section 9.3.5.2 entitled “Prohibited Uses” after Section 9.3.5.1, to read as follows:

**9.3.5.2 Prohibited Uses. In addition to any use which is not specifically permitted in this Section 9.3 and which is otherwise prohibited in the underlying district, any Medical Marijuana Dispensary and/or growing facility shall be prohibited in the NBOD.**

**Item 5.** Amend Section 9.3.7 entitled “Uses Permitted by Special Permit of the Planning Board,” which presently reads:

**9.3.7. Uses Permitted by Special Permit of the Planning Board.** The following uses are allowed by Special Permit in the Neighborhood Business Overlay District:

Multi-family Dwelling  
 Parking Structures  
 Mixed use with five (5) or more dwelling units

**To read instead:**

**9.3.7. Uses Permitted by Special Permit of the Planning Board.** The following uses are allowed by Special Permit in the Neighborhood Business Overlay District:

**Elderly Housing and Assisted Living**

Parking Structures  
 Mixed use with five (5) or more dwelling units

**Item 6. Amend Section 9.3.8 entitled “Dimensional Requirement,” which presently reads:**

**9.3.8 Dimensional Requirements.** 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**

Principal Use	Maximum Gross Floor Area
Multi-Family Dwelling	N/A
Healthcare Facility	N/A
Health Club	30,000 s.f.
Restaurant	10,000 s.f.
Garden Center	25,000 s.f.
Personal Services Establishment	5,000 s.f.
Supermarket	75,000 s.f.
Retail Business	35,000 s.f.
Wholesale Business	35,000 s.f.

**To read instead:**

**9.3.8 Dimensional Requirements.** Table G lists the dimensional requirements for each single principal use within the NBOD, **unless otherwise set forth in Section 9.3.**

**TABLE G: NBOD DIMENSIONAL REQUIREMENTS**

<b><u>Principal Use</u></b>	<b><u>Maximum Gross Floor Area</u></b>	
<b><u>1. Multi-Family Dwelling and Garden Apartment and Elderly Housing and Assisted Living</u></b>	<b><u>325,000 s.f.</u></b>	
<b><u>1. Retail Business and all other Permitted Principal Uses set forth in Section 9.3.5 other than 1. and 3. in this Table G</u></b>	<b><u>349,000 s.f. total</u></b>	
<b><u>a. No more than 1 structure</u></b>	<b><u>152,000 s.f.</u></b>	
<b><u>b. No more than 1 structure</u></b>	<b><u>117,000 s.f.</u></b>	
<b><u>c. No more than 2 structures</u></b>	<b><u>50,000 s.f.</u></b>	
<b><u>d. No more than 2 structures</u></b>	<b><u>14,000 s.f.</u></b>	
<b><u>e. No more than 3 structures</u></b>	<b><u>16,000 s.f.</u></b>	
<b><u>1. Municipal Facility</u></b>	<b><u>55,000 s.f.</u></b>	

**The Planning Board may issue a special permit to increase the square footage of any Principal Use by up to 5% of the Maximum Gross Floor Area in Table G above, without Town Meeting approval, except that no special permit shall be required if the developer increases a Principal Use or Uses by up to 15% if the developer reduces another Principal Use or Uses by the same square footage.**

**Item 7: Amend Section 9.3.9 entitled “District Total,” which presently reads:**

**9.3.9 District Total.** The total gross floor area for all principal uses within the NBOD, including nonresidential portions of Mixed Use structures, excluding multifamily dwellings, healthcare facilities, and residential components of mixed use structures, shall not

exceed  
175,000 s.f.

**To read instead:**

**9.3.9 Non-Residential Total.** The total gross floor area for all principal uses within the NBOD, including nonresidential portions of Mixed Use structures, excluding multifamily dwellings, healthcare facilities, and residential components of mixed use structures, shall not exceed **the corresponding Maximum Gross Floor Area set forth in Table G above except as otherwise set forth in Section 9.3.**

**Item 8: Amend Section 9.3.10 entitled “Housing Cap,” which presently reads:**

**9.3.10 Housing Cap.** The maximum number of housing units in the NBOD shall not exceed one hundred (100).

**To read instead:**

**9.3.10 Housing Cap.** The maximum number of housing units in the NBOD shall not exceed **two hundred fifty (250). The Board of Selectmen may issue a special permit to increase the number of housing units by 5% without Town Meeting approval.**

**Item 9. Amend Section 9.3.11 entitled “Design Criteria,” which presently reads:**

**9.3.11 Design Criteria.** In addition to provisions in other sections of this By-law, the criteria listed in this Section 9.3.11 shall apply to any action in the NBOD requiring site plan approval under Section 10.5.

1. Lighting. These standards are intended to: promote a lighting design for all development within the NBOD to ensure public safety and welfare; and protect the night sky from unnecessary ambient light. Any lighting plan submitted as part of a Site Plan Review application, shall include the following:

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 any 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 (45) feet 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 (1) 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 this By-law.

**To read instead:**

**9.3.11 Design Criteria.** In addition to provisions in other sections of this By-law **concerning design criteria to the extent they may be applicable**, the criteria listed in this Section 9.3.11 shall apply to any action in the NBOD requiring site plan approval under Section 10.5.

1. Lighting. These standards are intended to: promote a lighting design for all development within the NBOD to ensure public safety and welfare; and protect the night

sky from unnecessary ambient light. Any lighting plan submitted as part of a Site Plan Review application, shall include the following:

- 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 low profile lights of twenty-five (25) feet or less and** 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, **front and rear setback areas of at least fifty (50) feet and side setback area of at least forty (40) feet shall be provided at the perimeter of the NBOD development where it abuts the property line of any residentially zoned properties and twenty (20) feet where it abuts open space zoned 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 **no less than twenty (20) feet** shall be provided where the **perimeter of the NBOD development** 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 sit and the adjacent neighborhood.
4. Parking. Required parking shall be **one (1) spaces per three hundred (300) square feet of gross floor area for office, retail, supermarket and all other allowed uses not set forth herein.** For outdoor sales and display areas of a Garden Center uses, required parking shall be one (1) space per three thousand (3,000) square feet of outside merchandise display area. **For multi-family and other dwelling units, required parking shall be 1.75 spaces per unit. For all restaurant uses, required parking shall be one (1) space per eighty-five (85) square feet of gross floor area. For warehouse uses, required parking shall be one (1) space per twenty-five hundred (2,500) square feet of gross floor area. Relief from these parking standards may be granted by special permit by the Planning Board.**
5. **Dimensional Requirements.** **The minimum requirements of the NBOD**

**development shall be an area of 15,000 s.f.; 100 feet of frontage and 100 feet in width; total maximum building coverage 35% of the NBOD development; maximum building height of fifty-two (52) feet for residential uses and forty (40) feet for any other uses within the NBOD; minimum landscape open area of 20% of the NBOD development; and minimum landscape open area of 5% in the front yard of the NBOD development.**

**Item 10: Amend 9.3.12 entitled “Site Plan Approval,” which presently reads:**

**9.3.12 Site Plan Approval.** The provisions of Section 10.5, Site Plan Approval, shall apply to uses, buildings and structures permitted by right or by Special Permit in the NBOD.

1. All new development 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 the 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.

**To read instead:**

**9.3.12 Site Plan Approval.** The provisions of Section 10.5, Site Plan Approval, shall apply to uses, buildings and structures permitted by right or by Special Permit in the NBOD.

1. All new development pursuant to the NBOD shall be subject to Site Plan Approval from the Planning Board. The Planning Board **may issue** such Approval unless the proposed Site Plan substantially **does not conform** to the Concept Plan approved by the Town Meeting. The Planning Board may permit 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 **substantially and** materially conflict with the general intent of the Concept Plan as approved.

**Item 11: Add a new Section 9.3.14 entitled “Special Permitting Granting Authority” after Section 9.3.13, to read as follows:**

**9.3.14 Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority for this Section 9.3 except that the Board of Selectmen shall be the Special Permit Granting Authority for Section 9.3.10.**

**OR PASS ANY VOTE OR TAKE ANY OTHER ACTION RELATIVE THERETO.**

**SUBMITTED BY: Town Administrator**

**APPROPRIATION: None**

**FINCOM RECOMMENDATION: At Town Meeting**

**PLANNING BOARD RECOMMENDATION: At Town Meeting**