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# Wrentham Planning Project 2013

Funding provided by the  
District Local Technical Assistance  
program

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## Prepared for

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William F. Ketcham,  
Town Administrator

December 30, 2013



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## Acknowledgements

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Transportation Planner	Cynthia Wall, Senior Regional Planner
	Eric Halvorsen, AICP, Assistant Director of Transportation

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Paige E. Duncan, AICP

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William F. Ketcham

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## **Executive Summary**

The Town of Wrentham requested MAPC's assistance to identify and review town bylaws that relate to transportation mitigation for development projects. The project goal was to survey communities within the MAPC region and provide examples of bylaws dealing with mitigating the impacts on the transportation infrastructure due to increased development. The Town Planner will evaluate these examples to help determine if Wrentham should consider incorporating transportation mitigation during development reviews, particularly for projects in the South Street/Route 1A area near the Wrentham Outlet Mall.

## **Key Concepts of Transportation Mitigation**

- There are a variety of approaches municipalities have used in the MAPC region to try to capture transportation mitigation as part of the development approval process.
- The myriad approaches municipalities have used all seem to be context sensitive and dependant on the goals and outcomes the municipality is trying to achieve by putting transportation mitigation policies in place. Some are very development or location specific, while others are attempting to improve the transportation network across the municipality. As other municipalities look to implement a formal process for transportation mitigation, having clear goals and outcomes are important components.
- Some municipalities have established incentives, such as a density bonus, which are tied to the transportation mitigation fees. Having a clear and transparent link between the impact of the development on the transportation network and how the mitigation funding will be used to remedy that impact are critical to the successful implementation of the Bylaw.
- Most, if not all of the transportation mitigation procedures that are described in this memo use the Special Permit and/or Site Plan Review process to review the development and assess the appropriate level of transportation mitigation.
- In our discussions with municipal staff from these four communities, it appears that the process for securing transportation mitigation is one that involves not only clear and transparent language in the Bylaw, but also a process of negotiating with the developer to reach a fair and balanced set of mitigation requirements.
- Throughout our review and discussions with municipal staff, it appears that the funding provided through the transportation mitigation process is often not enough to cover the cost of both designing and constructing the transportation project. In most cases, municipalities still need to seek local, state, and/or federal transportation funding sources to complete the projects.

## **Chapter One: Introduction and Background**

### **2012 DLTA Project**

In 2012, the Town of Wrentham requested District Local Technical Assistance to evaluate the amount of new traffic that would result from the development or redevelopment of approximately 250 acres in the South Street/Route 1A area near the Wrentham Premium Outlet Mall. This area was identified by the Planning Board and Paige Duncan, AICP, Wrentham Town Planner as having the potential to significantly exacerbate traffic conditions already congested because of the 94-acre Wrentham Mall. The Town would then examine the existing zoning regulations to determine if they should be modified to better manage future traffic volumes.

The second part of the 2012 Planning Project was to conduct a community visioning for Downtown Wrentham, focused on the former Tyco Valve company site (now Tyco/FRM site). The purpose was to identify the community's goals for the area, including potential land uses and design preferences. Possible pedestrian/bicycle connections between these two areas were also explored.

This project was completed with build-out analysis and trip generation rates for 4 development options, compared against existing conditions. Also, over 50 residents and business owners attended the November 27, 2012 Downtown Wrentham Visioning Workshop and discussed development principles, and desired downtown land uses, design guidelines, and the potential to connect the town through multi-use trails.

### **2013 DLTA Project**

One of the 2012 Next Steps was to follow-up on the build-out and trip generation information by determining if Wrentham should adopt transportation mitigation measures as part of its review of development projects. The Town requested 2013 DLTA funds to enable MAPC to survey other communities that had already implemented this so that the Planning Board could review other examples and make a decision about whether or not to draft a bylaw to address this issue, particularly in the South Street/Route 1A area.

MAPC identified four communities that had regulations addressing transportation mitigation: Foxborough, Framingham, Lexington and Marshfield. The Technical Memorandum in the next Chapter discusses the findings of the research. The Appendix includes the relevant sections of the town bylaw that addresses transportation mitigation.

## **Chapter Two: Transportation Mitigation Memorandum**

Following is the Technical Memorandum: Transportation Mitigation Bylaw Examples, dated December 30, 2013. Referenced bylaws are found in the Appendix following the Memorandum.

## TECHNICAL MEMORANDUM: TRANSPORTATION MITIGATION BYLAW EXAMPLES

TO: Paige E. Duncan, AICP, Wrentham Town Planner  
Wrentham Planning Board

FROM: Eric Halvorsen, AICP, Assistant Director of Transportation, MAPC  
Mark Racicot, Director of Land Use, MAPC  
Cynthia Wall, Senior Regional Planner, MAPC

DATE: December 30, 2013

RE: Examples of Transportation Mitigation Language from Select MAPC Town Bylaws

### KEY CONCEPTS of TRANSPORTATION MITIGATION

- There are a variety of approaches municipalities have used in the MAPC region to try to capture transportation mitigation as part of the development approval process.
- The myriad approaches municipalities have used all seem to be context sensitive and dependant on the goals and outcomes the municipality is trying to achieve by putting transportation mitigation policies in place. Some are very development or location specific, while others are attempting to improve the transportation network across the municipality. As other municipalities look to implement a formal process for transportation mitigation, having clear goals and outcomes are important components.
- Some municipalities have established incentives, such as a density bonus, which are tied to the transportation mitigation fees. Having a clear and transparent link between the impact of the development on the transportation network and how the mitigation funding will be used to remedy that impact are critical to the successful implementation of the Bylaw.
- Most, if not all of the transportation mitigation procedures that are described in this memo use the Special Permit and/or Site Plan Review process to review the development and assess the appropriate level of transportation mitigation.
- In our discussions with municipal staff from these four communities, it appears that the process for securing transportation mitigation is one that involves not only clear and transparent language in the Bylaw, but also a process of negotiating with the developer to reach a fair and balanced set of mitigation requirements.
- Throughout our review and discussions with municipal staff, it appears that the funding provided through the transportation mitigation process is often not enough to cover the cost of both designing and constructing the transportation project. In most cases, municipalities still need to seek local, state, and/or federal transportation funding sources to complete the projects.

### PROJECT CONTEXT

The Town of Wrentham requested the assistance of the Metropolitan Area Planning Council (MAPC) to identify and review town bylaws within the MAPC region that specifically address on- and off-site transportation mitigation related to proposals of new development. The Town of Wrentham is interested in learning from the experiences of other Towns in the region and potentially developing a Bylaw to mitigate transportation issues that result from new development.

MAPC has compiled a summary of four sets of zoning bylaws that include transportation mitigation language. Each example differs based on the approach used, reason for its implementation, method for calculating transportation mitigation, and bylaw language.

## TOWN OF FOXBOROUGH

The Town of Foxborough has a section in their current Zoning By-laws (**Section 6.5.12**) that briefly describes the requirement of project applicants to make off-site improvements to public roads or other community facilities to offset any negative impacts on the transportation network. The Town also allows payments in-lieu of the actual improvements. The improvements may include but are not limited to the widening of streets and improvements of intersections which provide access to the development site; installation of curb and sidewalks along streets serving the site; and drainage improvements necessitated by the development of the site. Developments that go through the Special Permit process are subject to this requirement at the discretion of the Planning Board. Of the four examples MAPC reviewed as part of this research effort, Foxborough's is the simplest and leaves much of the decision regarding impacts to the discretion of the Planning Board. Conversations with town planning staff indicated that this requirement has been used primarily to ensure that pedestrian connections between the development site and adjacent sidewalks are constructed. The Town also prefers to have the infrastructure improvements constructed by the developer, as they do not seem to have a formal mechanism for taking payments in-lieu of actual physical transportation improvements.

The full Zoning By-law for Foxborough can be found at:

[http://www.foxboroughma.gov/Pages/FoxboroughMA\\_Planning/zonbylaw/index](http://www.foxboroughma.gov/Pages/FoxboroughMA_Planning/zonbylaw/index)

## TOWN OF FRAMINGHAM

The Town of Framingham has two sections under their current Zoning By-laws addressing transportation mitigation resulting from new development. The first is a general requirement found in Section IV.I under Site Plan Review<sup>1</sup> that requires a project proponent to complete a Development Impact Statement. Within this Statement, a project proponent must complete a Traffic Impact Assessment documenting existing traffic conditions (including vehicle, pedestrian, and bicycle accommodations) in the vicinity of the project. The Traffic Assessment must also document the potential impact the proposed development would have on surrounding traffic patterns, and identify measures to mitigate any adverse impacts on traffic. Details on the format and scope of the Traffic Impact Statement can be found in **Section IV.I.5.g.1.b.**

Once a Traffic Impact Assessment is completed for the proposed development, and the Town/Planning Board have reviewed the findings in the Development Impact Statement, the

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<sup>1</sup> Criteria for what triggers site plan review can be found in Section IV.I.2 of the Framingham Zoning By-law.

project proponent is required to raise the level of service (LOS) of all impacted<sup>2</sup> intersections and streets to an adequate<sup>3</sup> level following project development or contribute a minimum of 3% of the total development costs of the proposed project to the Town to cover transportation mitigation. In granting approval of an application, the Planning Board may impose other conditions, limitations and safeguards to be part of the approval. This may include a requirement for off-site improvements/mitigation of up to 6% (including the 3% above) of the total development costs to cover not only transportation improvements but also water, sewer, drainage and other public facilities which are likely to be affected by the proposed development. However, the Town usually limits its requests to 3%. A key element with this By-law is that it applies to by-right developments subject to Site Plan Review. Most other communities limit their program to Special Permit projects.

During a phone conversation with planning staff for the Town, it was noted that the 3% mitigation requirement was primarily used during major site plan review and that the 3% was not a mandatory contribution. More often, the mitigation is a negotiation between the project proponent and staff from planning and the department of public works. When mitigation funding is acquired for off-site improvements, it is typically matched with funding from the Town to pay for larger transportation improvement projects.

The Town also has special provisions under the Highway Overlay District Regulations (**Section IV.K**). The Town has two overlay districts which fall under this section, the Regional Center (RC) district and the Highway Corridor (HC) district. Within these two districts there are incentives which allow a development to exceed the density restrictions of the underlying zoning in return for providing public amenities which compensate for one or more specific impacts of increased density. These amenities may include traffic improvements, pedestrian or transit improvements, creation of additional open space, or provisions for public assembly areas.

In the RC district, the Planning Board may grant (by Special Permit) an increase in the Floor Area Ratio (FAR) for new construction above the existing maximum of 0.32 up to a maximum of 0.40. In granting an increase in the FAR, the Planning Board shall make a specific finding in writing that the increase shall not be substantially more detrimental to the neighborhood than the existing structure or use. In addition, the project proponent must provide public benefit amenities such as park space, pedestrian circulation improvements, public assembly space, traffic improvements, or transit amenities. The amenities provided must adhere to the schedule of bonuses table as listed in Section IV.K.9.c. The table lists the ratios outlining how many square feet of new development is equal to square feet or dollars of public amenities.

The final provision in the Town's By-law relates to both the RC and HC districts. To encourage the consolidation of lots, the Planning Board by Special Permit may grant an increase in the FAR

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<sup>2</sup> Impacted intersections refers to those that are projected to receive at least 5% of the expected traffic generated by the proposed development, either based on the peak hour traffic or the total daily traffic generated by the proposed project.

<sup>3</sup> Adequate is defined as a level of service "B" or better for rural, scenic or residential streets and for all new streets and intersections to be created by the project; and "D" or better for all other streets and intersections.



above 0.32. The increase shall not exceed 20% of the combined gross floor area of the buildings on the lots to be consolidated, or 12,000 square feet, whichever is less, up to a maximum of 0.40 FAR. There are objectives and standards associated with consolidating lots such as reducing curb cuts, unifying landscaping and signage, and achieving a higher standard of design than what may be possible with separate developments on individual lots.

Similar density bonus provisions in the Route 9/Golden Triangle area in the Town of Natick mirror the Framingham Bylaws. The development of the TJX Headquarters and Natick Mall has generated significant mitigation funds to that community.

The full Zoning Bylaw for the Town of Framingham can be found at:  
<http://www.framinghamma.gov/index.aspx?NID=246>

## TOWN OF LEXINGTON

In 2009, the Town of Lexington (through Town Meeting) approved an increase in the amount of development allowed for the Hartwell Avenue Corridor. Realizing that increased development would have an impact on the overall transportation network in this corridor, the Town moved to adopt an overlay district that would link the transportation impacts of development to specific mitigation measures. The Town called the overlay district the Transportation Management Overlay District, or TMOD (Zoning Bylaw **Section 135-7.2 formerly §135.43C**). In concert with the development of the overlay district, the Town also hired an engineering consultant to determine what transportation improvements were needed in the corridor. The transportation improvement plan was a key piece which helped the Town to understand future transportation needs, how new development might impact transportation in the area, and ultimately estimate costs for the improvements. It is also worth noting that the idea of increasing the Floor Area Ratio (FAR) in this corridor and tying that increase to specific transportation improvements was a goal in Lexington's Comprehensive Plan. The currently proposed zoning reform legislation relating to development impact fees is similar to the Lexington process.

TMOD's can be established in other areas of Lexington where development impacts are deemed to have a degrading impact on the transportation network and quality of life of Lexington residents. A TMOD must first have a Plan completed that describes the:

1. Assessment of the impacts of reasonably anticipated future development in the TMO District considering current zoning bylaws and other legal and physical constraints;
2. Analysis of existing capital improvement plans or the facilities element of a plan adopted under MGL c. 41, s. 81D (Master Plans);
3. Cost projections for transportation infrastructure improvements required to address the impacts generated by the anticipated development in the TMO District, including the potential impact on nearby residential streets and neighborhoods;
4. Analysis of other reasonably anticipated sources of funding;

5. Required transportation mitigation fees in accordance with a methodology determined pursuant to this study;
6. Off-street parking and loading requirements for the TMO District;
7. Parking and Transportation Demand Management techniques reasonably calculated to reduce the number of vehicle trips generated by developments in the TMO District and to ensure the long term stability of the transportation system;
8. Implementation program that defines and schedules the specific *municipal* actions necessary to achieve the objectives of the plan; and
9. Plan to encourage voluntary participation in TDM programs by those not required to participate.

The Plan shall also be periodically updated to reflect actual development activity, actual costs of infrastructure improvements completed or underway, changes to plans in the area, or amendments to the Zoning Bylaws. The Transportation Plan for the area is meant to specifically address all modes of transportation, not just vehicular movement.

The Hartwell Avenue Corridor (where the first TMO was established) is currently zoned CM (Manufacturing) and has an area-wide FAR of 0.35. FAR increases above the existing 0.35 are allowed by special permit, and the Special Permit Granting Authority may impose conditions, including additional transportation mitigation fees, to meet the goals of the TMO Plan that was developed for the area. A developer has a choice to go through the traditional special permit process, or elect to go through the TMO process. The TMO process includes a specific set of regulations and fee structures for a development making the process more streamlined and predictable. If a developer elects to go through the regular special permit process, they may be subject to potentially higher transportation mitigation requirements.

As part of the TMO process, the developer must create a full or partial Parking and Transportation Demand Management Plan (PTDM) depending on the size of the development. These plans must address specific demand management techniques that will be utilized to reduce single-occupancy vehicle trips, (e.g., membership in a transportation management association), and a parking plan. Developers are required to submit annual reports to the town that include information on employee/patron mode split and the results of the PTDM measures and goal attainment.

The Town of Lexington created a transportation mitigation fee structure for development as well. The fee is the sum of \$5.00 for every square foot of increased Net Floor Area above the FAR listed under the base zoning, which in the case of the CM zone is 0.35. The transportation fees collected from new development in the TMO are put into an account that is used to pay for the design and improvements to the transportation network to further the goals of the plan established for the TMO. In most cases, the money collected may only account for a portion of the funds needed for design or construction. In these cases, the Town would seek outside funding sources such as state or federal transportation resources. Town staff indicated that they have not seen a lot of development activity in the Hartwell Avenue TMO area and have not been able to fully assess the success of implementing the overlay district.

The following documents are included for reference: Lexington Zoning Bylaw Section 7.2; the Lexington Planning Board TMO (Transportation Management Overlay District) Regulations and the Lexington Transportation Management Plan for TMO-1 District The Hartwell Avenue Area Plan

The full Lexington Zoning Bylaw can be found at:

[http://www.lexingtonma.gov/Zoning%20Bylaw%20w%20Italics%20\(3-20-2013\).pdf](http://www.lexingtonma.gov/Zoning%20Bylaw%20w%20Italics%20(3-20-2013).pdf)

## TOWN OF MARSHFIELD

The Town of Marshfield took a different approach when developing a transportation mitigation section within their Zoning Bylaw. During the development of a large industrial park off Route 139 in Marshfield, the Town created a transportation mitigation bylaw to ensure that part of the costs for roadway and intersection improvements in the area were shared by the developer and the Town. This Bylaw was developed in partnership with the owner of the industrial park land. Based on the anticipated build-out of the industrial park, the Town identified improvements along Route 139 to accommodate additional vehicle trips. The largest identified improvement was the widening of Route 139. The mitigation funding collected from new development in the industrial park was placed into a fund that was eventually used (in combination with a More Jobs Grant) to fund the design of the Route 139 improvements.

Within the current Zoning Bylaw, **Article XI** Special Permit Conditions Section (11.10) describes when a traffic impact analysis is required for new development. The Bylaw requires a traffic impact analysis for any development that requires a Special Permit for a principle use within the B-1, B-2, or I-1 zoning districts, or that would have an anticipated average peak hour trip generation in excess of 30 vehicle trip ends or an average weekday generation in excess of 400 vehicle trip ends. Exceptions are made for developments where it is found by the Board that a traffic study for the area impacted by the proposed project has been completed within the last 12 months and is acceptable to assess the impacts; or where it is determined by the Board that the traffic impacts affect Route 139. When impacts are germane to Route 139, the applicant can contribute funds to the Town in an amount at least equal to the cost of completing a traffic impact analysis.

Generally, the applicant is required to make improvements to the transportation network which will minimize traffic and safety impacts, and do not degrade the Level of Service at nearby intersections below the Level of D. If the proposed mitigation is deemed by the Board to be inadequate, the Board can seek alternative proposals to meet the standard which include reducing the size of the development, changing uses on site, contributions to off-site street and intersection improvements, or actual construction of off-site street and intersection improvements. If the development will have primary impacts on Route 139, the applicant may be required to contribute to a traffic mitigation fund at least equal to \$300.00 per parking space. Based on our review, it appears that the traffic impact analysis is the pre-requisite for determining transportation impacts and appropriate mitigation. The mitigation requirements and/or dollar value contribution to the

mitigation fund is based on the location of the development (on Route 139 or elsewhere), significance of the transportation impacts, and negotiations between the Planning Board and the developer.

In our discussions with the Town Planner, this transportation mitigation section of the Bylaw was developed to help mitigate impacts to Route 139 from the proposed build-out of the industrial park in that area. Due to market conditions and other factors, the development did not take place at the level of intensity originally envisioned and mitigation funds alone were not enough to pay for the design of the Route 139 improvements. As was mentioned above, the mitigation funds were coupled with a More Jobs Grant to fund the design. The Route 139 improvements are now being constructed by MassDOT.

The full Zoning Bylaw for the Town of Marshfield can be found at:

<http://www.townofmarshfield.org/government-departments-building-zoning-bylaws.htm>

## **Appendix: Town Bylaw Examples of Transportation Mitigation**

Foxborough Zoning By-Law Section 6.5.12

Framingham Zoning By-Law Section IV I. and Section IV K.

Lexington Zoning Bylaw Section 7.2

Lexington Planning Board TMOD (Transportation Management Overlay District) Regulations  
Lexington Transportation Management Plan for TMO-1 District The Hartwell Avenue Area  
Plan

Marshfield Zoning Bylaw Section 11.10

2. The Board may require that specific areas adjacent to buildings or areas of the businesses operations be specifically reserved for loading or delivery operations. These areas can not be counted for parking or utilized for access aisles.
3. All service areas, dumpster and trash receptacle locations, and other similar uses shall be screened from the street and from public view. They may be screened through a variety of materials such as walls, fences, plantings or a combination of these materials.

**6.5.10 Utility Service.** All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical, cable and telephone lines shall, whenever practicable, be placed underground.

**6.5.11 Drainage.**

1. All efforts shall be made to design the drainage system to utilize low impact development (LID) methods. Developments not incorporating any LID design elements shall prove to the Board that the use of these drainage systems is not feasible for the project due to unique site characteristics or its location.
2. Detailed drainage design and computations shall be provided in conformance with the State of Massachusetts, Department of Environmental Protection Storm Water Management Handbook. Closed drainage systems shall be designed for a 25-year storm event. Culverts, detention basins, and infiltration systems shall be designed for 100-year events.
3. Post development drainage rates shall not exceed pre-development levels. Within the Water Resource Protection District, special attention shall be made to ensure water quality is not degraded. Easements shall be shown on the plan. If they are to be granted to the Town a written easement and a specific easement plan of such for recording purposes is necessary.

**6.5.12 Off-Site Improvements.** The Planning Board may require applicants to make off-site improvements to public roads or other community facilities, or to make payments for the reasonable costs associated with the impacts of the proposed development. Such improvements may include but are not limited to the widening of streets and improvement of intersections providing access to the site; the installation of curb and sidewalks along streets serving the site; and drainage improvements necessitated by the development of the site.

**6.5.13 Public Safety.**

1. Buildings and adjacent grounds shall permit easy access and operation by fire, police and other emergency personnel and equipment.
2. The Board may require fire lanes at locations providing access to buildings to ensure that these areas are open for fire vehicle access.

## **I. SITE PLAN REVIEW**

### **1. Purpose**

The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures which may have significant impacts on traffic, municipal and public services and utilities, environmental quality, community economics, and community values in the Town.

### **2. General Provisions**

The Planning Board shall conduct site plan review and approval. Notwithstanding any provision of this By-Law to the contrary, any structure, use, alteration or improvement which meets any of the following criteria shall require site plan review and approval as set forth in this section:

- a. any new structure, or group of structures under the same ownership on the same lot or contiguous lots, or any substantial improvement, substantial alteration, or change in use of an existing structure or group of structures, which results in the development of any off-street parking or loading facilities (except for residences requiring fewer than five stalls) and less than 8,000 square feet of gross floor area, any new construction or expansion, alteration or enlargement of a parking facility and/or off-street loading facility and/or any facility for the storage or sale of any type of new or used vehicle, including construction vehicles, truck trailers and/or any vehicle which would normally require licensing by the Commonwealth of Massachusetts shall be subject to the provisions of the first paragraph of Section IV.I.5, herein with regard to Contents and Scope of Applications;
- b. any new structure, or group of structures under the same ownership on the same lot or contiguous lots, or any substantial improvement, substantial alteration, or change in use of an existing structure or group of structures, which results in the development of, redevelopment of, reuse of, change in use of, or an increase of at least 8,000 square feet of gross floor area, or which requires the provision of 30 or more new or additional parking spaces under this By-Law, or which results in a floor area ratio (FAR) greater than 0.32, shall be subject to this Section IV.I. in its entirety;
- c. any new structure or group of structures which results in the development of 3,000 square feet of gross floor area or requires 5 or more parking spaces or an off-street loading facility, when any portion of any lot or parcel of land on which said structure or use is located in or lies within 200 feet of a residential district, shall be subject to this Section IV.I. in its entirety.
- d. any substantial improvement or substantial alteration or change in use of an existing structure or group of structures which results in the development, redevelopment, reuse, change in use or an increase of 3,000 square feet of gross floor area or requires 5 or more parking spaces or an off-street loading facility, when any portion of any lot or parcel of land on which said structure or use is located in or lies within 200 feet of a residential district, shall be subject to this Section IV.I in its entirety.

For purposes of this Section IV.I, the calculation of increase in floor area shall be based on the aggregate of all new structures, improvements, alterations or enlargements, calculated from the date of enactment of this section.

### **3. Basic Requirements**

- a. Notwithstanding anything contained in this By-Law to the contrary, no building permit shall be issued for, and no person shall undertake, any use, alteration or improvement subject to this section unless an application for site plan review and approval has been prepared for the proposed development in accordance with the requirements of this section, and unless such application has been approved by the Planning Board.
- b. The Planning Board, at its discretion and based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements in Subsection 5 and the development impact standards in Subsection 6. Such waiver shall be issued in writing with supporting reasons.
- c. No occupancy permit shall be granted by the Building Commissioner until the Planning Board has given its approval that the development and any associated off-site improvements conform to the approved application for site plan review and approval, including any conditions imposed by the Planning Board.

#### 4. Application and Review Procedure

- a. Prior to the filing of an application pursuant to this section, the applicant, as defined in Section I.E.1 herein, shall submit a preliminary draft of such application to the Building Commissioner, who shall advise the applicant as to the pertinent sections of this Zoning By-law.

The applicant, as defined in Section I.E.1. herein, is encouraged to meet with the Planning Board for a pre-application conference prior to submitting a formal application. The purpose of the conference is to identify the scope of the proposed development, timeline for review, and need for potential outside consultants and to identify special development issues and necessary applications, permits and approvals required in preparation for a formal filing. Materials that are typically helpful to facilitating the conference include preliminary concept plan alternatives.

- b. The applicant shall submit to the Planning Board the application for site plan approval, conforming to the requirements of this Section IV.I. and as specified on the application. Upon receiving the completed application, the Planning Board shall forthwith transmit one copy each to the Building Commissioner, the Engineering Department, the Planning Department, the Police Department, the Fire Department, the Board of Public Works and such other departments and boards as the Planning Board may determine appropriate.
- c. Such agencies shall, within 35 days of receiving said copy, report to the Planning Board on (1) the adequacy of the data and the methodology used by the applicant to determine impacts of the proposed development and (2) the effects of the projected impacts of the proposed development. Said agencies may recommend conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development. Failure by any such agency to report within the allotted time shall constitute approval by that agency of the adequacy of the submittal and also that, in the opinion of that agency, the proposed project will cause no adverse impact.
- d. The Planning Board shall not render a decision on said application until it has received and considered all reports requested from Town departments and boards, or until the 35-day period has expired, whichever is earlier. Where circumstances are such that the 35-day period is insufficient to conduct an adequate review, the Planning Board may, at the written request of the applicant, extend such period to 60 days.
- e. The Planning Board shall hold a public hearing on any properly completed application within 65 days after filing, shall properly serve notice of such hearing, and shall render its decision within 90 days of said hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L. c.40A section 11, and with the requirements of Section V.L. of this By-Law. All costs of the notice requirements shall be at the expense of the applicant.
- f. In reviewing the impacts of a proposed development, the Planning Board shall consider the information presented in the application for site plan approval, including all items specified in Section IV.I.5.; all reports of Town departments submitted to the Planning Board pursuant to Section IV.I.4.(c); and any additional information available to the Planning Board, submitted to the Planning Board by any person, official or agency, or acquired by the Planning Board on its own initiative or research.
- g. The corner points and angle changes of the subject property lines shall be clearly marked in the field.
- h. If the Applicant's proposed development is located within 200 feet of a residential district or residential use, the Applicant is strongly encouraged to coordinate at least one informational meeting with residents through the Town Meeting Representatives in the applicable precinct(s), including adjacent precinct(s), to solicit public input. The Applicant shall submit a statement regarding the extent of communication with residents of the area about the proposed development with its application submittal. The Applicant shall post a Community Notice in a conspicuous location on the subject property. The Community Notice shall be as prescribed by the Planning Board, informing the public of the proposed Site Plan Application for the property. Said Community Notice shall be posted at least five days prior to an application submittal to the Planning Board, and shall be considered an application requirement.



## 5. Contents and Scope of Applications

An application for site plan review and approval under Section IV.I.2.a shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, and/or a Registered Landscape Architect, and shall be limited to a parking plan, pursuant to subsection 5.f, herein, containing items 1-15 as set forth in subsection 5.a, below, an environmental impact assessment, as set forth in subsection 5.g.(2), below, and a parking impact assessment, as set forth in subsection 5.g.(5), below. The Planning Board may require additional information be provided by the applicant, including but not limited to a Traffic Impact Assessment, should traffic and circulation matters or other development related issues be deemed important considerations to a site plan evaluation and decision.

An application for site plan review and approval under Section IV.I.2.b or 2.c or 2.d shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, and/or a Registered Landscape Architect, and shall include:

- a. A site plan at a scale of one inch equals twenty feet (1"=20'), or such other scale as may be approved by the Planning Board, containing the following items and information:
  1. Topography of the property, including contours at a 2 foot interval based on the most recent National Geodetic Vertical Datum (NVGD).
  2. Location of all buildings and lot lines on the lot, including ownership of lots, and street lines, including intersections within 300 ft.
  3. Dimensions of proposed buildings and structures, including gross floor area, floor area ratio, total lot coverage of building, and breakdown of indoor and outdoor floor area as to proposed use. Area dimensions to include Lot Coverage of Building, Paved Surface Coverage, and Landscaped Open Space and Other Open Space, with percentages of these items to be provided and to total 100 percent of the lot area.
  4. Maximum seating capacity, number of employees, or sleeping units if applicable.
  5. Locations and dimensions, including total ground coverage, of all driveways, maneuvering spaces and aisles, parking stalls and loading facilities, and proposed circulation of traffic.
  6. Location of pedestrian areas, walkways, flow patterns and access points, and provisions for handicapped parking and access, and bicycle accommodations.
  7. Location, size, and type of materials for surface paving, curbing, and wheel stops.
  8. Location, dimension, type and quantity of materials for open space, planting, and buffers where applicable.
  9. Provisions for storm water drainage affecting the site and adjacent parcels, and snow storage areas. Drainage computations and limits of floodways shall be shown where applicable.
  10. A photometric plan showing both the intensity of illumination expressed in footcandles at ground level to the property's boundaries and the location, orientation, height, wattage, type, style and color of outdoor luminaire(s) for all existing and proposed lighting.
  11. Identification of parcel by sheet, block, and lot number of Assessors Maps.
  12. Planning Board Signature Block at approximately the same location on each page of the submitted plans.
  13. Zoning Table to be located on both the front page of the submitted plans and on the Parking Plan/Site Plan page.
  14. Water service, sewer, waste disposal, and other public utilities on and adjacent to the site.
  15. An area designated for the storage of waste and refuse.
  16. Sign submittal showing sign locations and construction details which shall include the following information as may be applicable: a scaled drawing of each proposed sign showing all dimensions, colors, lettering, graphics, materials and type of illumination; scaled drawing showing all dimensions of facades proposed to contain signage and indicating the location and dimensions of the proposed sign and any

landscaped or other areas in which a freestanding sign is to be placed clearly showing the locations of the sign.

17. Any additional information required by the Planning Board to ensure compliance with this section. The Planning Board may waive any of the above requirements.

For convenience and clarity, this information may be shown on one or more separate drawings.

- b. A landscape plan at the same scale as the site plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type of stock for each shrub or tree.
- c. An isometric line drawing (projection) at the same scale as the site plan, showing the entire project and its relation to existing areas, buildings and roads for a distance of 100 feet from the project boundaries.
- d. A locus plan at a scale of one inch equals 100 feet (1"=100'), or such other distance as may be approved by the Planning Board, showing the entire project and its relation to existing areas, buildings and roads for a distance of 1,000 feet from the project boundaries, or such other distance as may be approved or required by the Planning Board.
- e. Building elevation plans at a scale of one-quarter inch equals one foot (1/4"=1'-0") or one-half inch equals one foot (1/2"=1'-0") or such other scale as may be approved by the Planning Board, showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades.
- f. A parking plan, at the same scale as the site plan.
- g. A Development Impact Statement which shall describe potential impacts of the proposed development, compare them to the impacts of uses which are or can be made of the site without a requirement for site plan review, identify all significant positive or adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. The Development Impact Statement shall consist of the following five elements

**(1) Traffic Impact Assessment**

- (a) **Purpose:** To document existing traffic conditions, which includes vehicle, pedestrian and bicycle accommodations, in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures proposed to mitigate any adverse impacts on traffic.

**(b) Format and Scope:**

- (i) Existing traffic conditions average daily and peak hour volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries, and shall be no more than 12 months old at the date of application, unless other data are specifically approved by the Planning Board. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Planning Board may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.
- (ii) Projected traffic conditions for design year of occupancy: statement of design year of occupancy, background traffic growth on an annual average basis, impacts of proposed developments which have already been approved in part or in whole by the Town.
- (iii) Projected impact of proposed development: projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed

development; and projected post-development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development (as defined in (i) above).

**(2) Environmental Impact Assessment**

**(a) Purpose:** To describe the impacts of the proposed development with respect to on-site and off-site environmental quality

**(b) Format and Scope:**

- (i)** Identification of potential impacts: description and evaluation of potential impacts on the quality of air, surface water, and ground water adjacent to or directly affected by the proposed development; on-site or off-site flooding, erosion, and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious area; on-site or off-site hazards from radiological emissions or other hazardous materials; adverse impacts on temperature and wind conditions on the site and adjacent properties; impacts on solar access of adjacent properties; and off-site noise or light impacts.
- (ii)** Systems capacity: evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.
- (iii)** Proposed mitigation measures: description of proposed measures for mitigation of any potential adverse impacts identified above.
- (iv)** The Stormwater Impact Analysis shall describe the impacts of the proposed development on the quality, volume and rate of on-site and off-site stormwater runoff. The format and scope of the analysis shall identify any potential impacts of stormwater runoff and shall demonstrate compliance with the Massachusetts Department of Environmental Protection's Stormwater Management Standards, 310 CMR 10.00 using the guidelines and structure set forth in the latest edition of the Massachusetts Stormwater Handbook.

**(3) Fiscal Impact Assessment**

**(a) Purpose:** To evaluate the fiscal and economic impacts of the proposed development on the Town.

**(b) Format and Scope:**

- (i)** Projections of costs arising from increased demands for public services and infrastructure.
- (ii)** Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided.
- (iii)** Projections of the impacts of the proposed development on the values of adjoining properties.
- (iv)** Five-year projection of increased Town revenues and costs resulting from the proposed development.

**(4) Community Impact Assessment**

**(a) Purpose:** To evaluate the impacts of the proposed development with respect to the Town's visual and historic character and development goals.

**(b) Format and Scope:**

- (i)** Site design and neighborhood impact: evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character and intensity of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements); and of the location and configuration of proposed structures, parking areas, and open space with respect to neighboring properties.

- (ii) Historic impact: identification of impacts on significant historic properties, districts or areas, or archaeological resources (if any) in the vicinity of the proposed development.
- (iii) Development goals: evaluation of the proposed project's consistency or compatibility with existing local and regional plans.

**(5) Parking Impact Assessment**

- (a) **Purpose:** To document existing neighborhood parking conditions, to evaluate the off-site impacts of the proposed parking, and to mitigate any adverse parking impacts on the neighborhood.
- (b) **Format and Scope:**
  - (i) existing off-site neighborhood parking conditions, including identification of streets likely to be affected by the proposed development;
  - (ii) projected impact of proposed development;
  - (iii) proposed mitigation measures for adverse impacts identified above.

The Planning Board, at its discretion and based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements of the development impact assessment listed in this paragraph g. Such waiver shall be issued in writing with supporting reasons.

**6. Development Impact Standards**

The following standards shall be used in evaluating projected impacts of proposed developments; provided, however, that an application for site plan review and approval under Section IV.I.2.a shall be evaluated using only the standards contained in Section IV.I.6.b. and Section IV.I.6.e, below. New building construction or other site alteration shall be designed, to the extent feasible, and after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to comply with the following standards:

**a. Traffic Impact Standards**

- (1) The "level of service" (LOS) of all impacted intersections and streets shall be adequate following project development, or the total value of off-site traffic improvements required or approved by the Planning Board as a condition of approval in any location within the Town affected by the proposed project shall be equal to a minimum of three per cent (3%) of the total development cost of the proposed project. For purposes of this standard:
  - (i) "level of service" (LOS) shall be determined according to criteria set forth by the Transportation Research Board of the National Research Council;
  - (ii) "impacted" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project;
  - (iii) "adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections; and
  - (iv) "total development cost" shall mean the total of the cost or value of land and all development-related improvements, and shall be determined on the basis of standard building or construction costs, such as published in the Engineering News Record or other source acceptable to the Planning Board, for the relevant type of structure and use.
- (2) The proposed site plan shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

- (i) Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.
- (ii) Where possible, driveways shall be located opposite similar driveways.
- (iii) Sharing of access driveways by adjoining properties and uses is encouraged.
- (iv) Left-hand turns and other turning movements shall be minimized.
- (v) Driveways shall be so located and designed as to discourage the routing of vehicular traffic to and through residential streets.
- (vi) Pedestrian and bicycle circulation shall be provided for in the site design and shall be separated from motor vehicle circulation as far as practicable.

**b. Environmental Impact Standards**

- (1) The proposed development shall not create any significant emission of noise, dust, fumes, noxious gases, radiation, or water pollutants, or any other similar significant adverse environmental impact.
- (2) The proposed development shall not increase the potential for erosion, flooding or sedimentation, either on-site or on neighboring properties; and shall not increase rates of runoff from the site to the satisfaction of the Town Engineer and Board of Public Works. Provision for attenuation of runoff pollutants and for ground water recharge shall be included in the proposal. The proposed development shall comply with Massachusetts Department of Environmental Protection's (DEP's) Stormwater Management Standards, 310 CMR 10.00.
- (3) The design of the proposed development shall minimize the destruction of unique natural features.
- (4) The location and configuration of proposed structures, parking areas and open space shall be designed so as to minimize any adverse impact on temperature levels or wind velocities on the site or adjoining properties.
- (5) Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties.
- (6) Proposed structures, and existing structures adjoining the project site shall be free from shadows created by the proposed development from 9:00 a.m. to 3:00 p.m. on December 21. Proposed development within the Central Business District shall be exempt from this standard.
- (7) All outdoor lighting shall be designed and located so that a line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site; except that this requirement shall not apply to (a) low-level intensity pedestrian lighting with a height of less than ten feet, or (b) security lighting directed off the wall of a principal structure.

**c. Fiscal Impact Standards**

- (1) Projected positive net fiscal flow for first five years after design year of occupancy.

**d. Community Impact Standards**

- (1) Design elements shall be compatible with the character and scale of neighboring properties and structures.
- (2) The design of the development shall minimize the visibility of visually degrading elements such as trash collectors, loading docks, etc. All utilities within the property boundaries that are intended to serve the project shall be placed underground. If waste or refuse disposal areas are located outside of any existing or proposed building, the waste and refuse shall be placed in a container kept fully closed. Such containers shall be

surrounded entirely by solid fencing or other material as approved by the Planning Board and incorporated into the site design and landscaping. Adequate waste and refuse facilities shall be provided for all proposed uses.

- (3) The design of the development shall be consistent or compatible with existing local plans, including plan elements adopted by the Planning Board, Conservation Commission, Parks Commission, and other Town bodies having such jurisdiction.
- (4) The design of the development shall minimize earth removal and volume of cut and fill. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- (5) The design of the development shall minimize the area over which existing vegetation is to be removed. Tree removal shall be minimized and, if established trees are to be removed, special attention shall be given to the planting of replacement trees.

**e. Parking Standards**

- (1) The facility will not create a hazard to abutters, vehicles or pedestrians.
- (2) Appropriate access for emergency vehicles will be provided to the principal structure.
- (3) Adverse impacts on the abutters, residents, or businesses in the area or on the character of the neighborhood will be mitigated satisfactorily.
- (4) The snow storage area(s) shall be located so as not to encroach upon or obstruct any sidewalks or walkways or parking spaces, interior travel lanes or lot ingress/egress, inhibit site visibility, reduce the recommended minimum stopping sight distances or turning radii at any point on the site, or obstruct or encroach upon fire lanes or emergency access points.

**7. Decision**

**a. Specific Findings Required**

Prior to granting approval or disapproval, the Planning Board shall make written findings with supporting documentation as specified below. Such findings shall pertain to the entire proposed development including any site plan or design modifications imposed by the Planning Board as a condition of its approval, and any off-site improvements proposed by the applicant or required by the Planning Board as a condition of its approval.

**b. Approval**

The Planning Board shall approve an application, based on its review of the projected development impacts and the proposed methods of mitigating such impacts, if said Board finds that the proposed development is in conformance with this By-Law, after considering whether the proposed development will comply, to the extent feasible, with the standards set forth in Sections IV.I.6.(a) - (e); provided, however, that an application for site plan review and approval under Section IV.I.2.a shall be evaluated using only the standards contained in Section IV.I.6.b. and Section IV.I.6.e.

**c. Disapproval**

- (1) The Planning Board may reject a site plan that fails to furnish adequate information required by the by-law;
- (2) The Planning Board may reject a site plan where, although proper in form, the plan depicts a use or structure so intrusive on the needs of the public in one regulated aspect or another that rejection by the board would be tenable.

**d. Expiration**

A site plan review approval granted under this section shall lapse within two (2) years, not including such time required to pursue or await the determination of an appeal as referred to in MGL, Chapter 40A §17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction was not begun by such date except for good cause.

### 8. Conditions, Limitations and Safeguards

In granting approval of an application the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include, among other matters and subjects:

- a. Controls on the location and type of access to the site;
- b. Controls on the number of vehicles that arrive or depart during the morning and/or evening peak hours (including controls on the maximum number of vehicles which may use the off-street parking areas during said periods);
- c. Requirements for off-site improvements up to a maximum value of six per cent (6%) of the total development cost of the proposed project to improve the capacity and safety of roads, intersections, pedestrian ways, water, sewer, drainage and other public facilities which are likely to be affected by the proposed development;
- d. Requirements for donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widenings or improvements;
- e. Requirements for securing the performance of all proposed work, including proposed off-site improvements, by either or both of the following methods: (1) a performance bond, a deposit of money, negotiable securities, letter of credit, or bank passbook in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements required as conditions of approval; (2) a covenant running with the land, executed and duly recorded by the owner of record, whereby the required improvements shall be completed before the property may be conveyed by other than a mortgage deed.
- f. Conditions to minimize off-site impacts on traffic and environmental quality during construction.
- g. Requirements for reductions in the scale of the proposed development, including reductions in height, floor area, or lot coverage, provided, however, that any such reduction be limited to that which is reasonably necessary to reduce the level of impact of the proposed development to a level that will permit the Board to make the written findings required under Section IV.I.7.(a) herein.
- h. Requirements for screening parking facilities from adjoining premises or from the street by walls, fences, plantings, or other devices to mitigate adverse impacts;
- i. Conditions to mitigate adverse impacts to the neighborhood and abutters, including but not limited to adverse impacts caused by noise, dust, fumes, odors, lighting, headlight glare, hours of operation, or snow storage.

The applicant, when other than the owner(s), and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of site plan approval.

### 9. Administration

- a. The Planning Board shall establish and may periodically amend rules and regulations relating to the administration of this section, including additional regulations relating to the scope and format of reports required hereunder.
- b. The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be considered complete unless accompanied by the required fees.
- c. The Planning Board shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.
- d. Any person aggrieved by a decision of the Planning Board with regard to Site Plan Review may appeal such decision to a court having jurisdiction, in accordance with Massachusetts General Laws, Chapter 40A, Section 17.

**10. Separability**

The invalidity of one or more provisions or clauses of this section IV.I. shall not invalidate or impair the section as a whole or any other part hereof.



## K. HIGHWAY OVERLAY DISTRICT REGULATIONS

### 1. Purpose and Intent

The purpose of this Section K is to manage the intensity of development and the quality of design along major highway corridors so as to protect the public health, welfare and safety and to enhance the economic vitality of the area. In particular, the provisions of this Section K are designed to limit congestion, to preserve environmental qualities, to improve pedestrian and vehicular circulation, and to provide for mitigation of any adverse impacts resulting from increased development in a complex regional center. In addition to these purposes, the open space and landscaping provisions of this section are designed to foster development that is of high visual and aesthetic quality.

Furthermore, it is a specific purpose of this Section K to establish parallel and consistent zoning regulations for highway corridor areas which are shared by the Towns of Framingham and Natick, in order to achieve a unified development character for such areas and to avoid substantive and procedural conflicts in the regulation and administration of land uses within such areas.

This Section K establishes a system whereby a development may attain a greater density than allowed by right, in return for providing public benefit amenities which compensate for one or more specific effects of increased density. These amenities may include traffic improvements (to accommodate increased traffic), pedestrian or transit improvements (to reduce traffic generation), creation of additional open space and public parks (to compensate for increased congestion and concentration of economic activities), provision of public assembly areas (to foster more balanced development and a sense of community).

The provision of increased development density in return for such amenities is specifically authorized by MGL Ch. 40A, Sec. 9, with respect to open space, traffic and pedestrian amenities, and is also generally authorized for other amenities.

### 2. Definitions

The following terms shall be specifically applicable to these Highway Overlay District regulations and shall have the meanings provided below.

**Bonus:** The construction of floor area in excess of that permitted as of right by the applicable FAR maximum.

**Bonus Project:** A project for which the applicant is seeking any one (1) or more of the bonuses provided in Section IX of these Regulations.

**Change In Use:** A change in part or all of an existing structure from one use category or purpose to another use category or purpose. In a mixed or multi-use facility, an exchange or rearrangement of principal use categories or components shall not be construed as a change in use unless the net change in any of the factors in the [Table of Off-Street Parking Regulations, Subsection IV.B.1(a)], requires an addition of 10 or more parking spaces to the amount required by this By-Law prior to the change in use.

**Divider Island:** A landscaped element running in a direction parallel to a vehicular travel lane, used to separate parallel rows of parking spaces.

**Excess Pervious Landscaping:** Pervious landscaping exclusive of wetlands, as defined herein, in excess of the amount required by the applicable LSR.

**Floor Area Ratio (FAR):** The ratio between (1) the gross floor area of all buildings on a parcel, including accessory buildings, and (2) the total area of the parcel.

**Landscape Surface Ratio (LSR):** The ratio between (1) the area of a parcel devoted to pervious landscaping or natural vegetated areas and (2) the total area of the parcel. Both components of this ratio shall exclude any wetland resource area, as defined in M.G.L. Ch. 131, Sec. 40, except for wetland areas that are located within one hundred (100) feet of an upland area adjoining a developed area of the project.

**Major Alteration:** An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area equal to or greater than 15% over the gross floor area in existence on January 1, 1992; or which is equal to or more than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, more than five thousand (5,000) square feet, which ever is the lesser amount.

**Minor Alteration:** An alteration or expansion of a structure or group of structures, on the same lot or contiguous lots, that results in an increase in gross floor area of less than 15% over the gross floor area in existence on January 1, 1992; or which is less than eight thousand (8,000) square feet, or, if the parcel on which the subject structure is located is within two hundred (200) feet of a residential district, less than five thousand (5,000) square feet, which ever is the lesser amount.

**Nonbonus Project:** A project for which the applicant is not seeking a bonus.

**Open Space Public Benefit Amenity:** A public benefit amenity in the form of a park or excess pervious landscaping, available for passive or active recreation, or leisure use, by the public.

**Parcel:** All lots utilized for any purpose in connection with creating a development, e.g. buildings, parking and detention basins.

**Park:** A continuous area of open space which is directly accessible to the public for scenic, recreational or leisure purposes.

**Pedestrian Circulation Improvement:** A public benefit amenity in the form of a pathway, off- site sidewalk or pedestrian bridge designed to facilitate pedestrian movement.

**Pedestrian Bridge:** A structure designed to convey pedestrians over a watercourse, railroad, or public or private right of way.

**Pedestrian Tunnel:** A structure designed to convey pedestrians under a watercourse, railroad, or public or private right of way.

**Pervious Landscaping:** Area that is principally covered with natural materials such as grass, live plants or trees.

**Public Assembly Space:** A room or facility, such as a meeting room, theater, amphitheater or auditorium, which is available on a not-for-profit basis for use by members of the public for civic and cultural events.

**Public Benefit Amenity:** An improvement, facility or financial contribution for the benefit of the general public, provided in connection with a development in order to qualify for an increase over the Base FAR.

**Public Transit Endowment:** A contribution to a trust fund, maintained by the Town of Framingham or another governmental body designated by the Board of Selectmen, established for the purpose of providing long-term financial support for local or regional transit systems serving the Regional Center district.

**Service Road:** A road that is designed to provide access to abutting properties so that the volume of traffic entering onto or exiting from major roadways is reduced.

**Terminal Island:** A landscaped element running in a direction parallel to individual parking spaces and having a minimum length equal to the length of any abutting parking space found at the end of a row.

**Transit Amenity:** A public benefit amenity which contributes to the use and/or long-term availability of public transit and is either a transit-related lane widening or public transit endowment.

**Transit-Related Lane Widening:** A new or expanded lane on an existing street, designed and reserved for use by high occupancy vehicles, such as buses and vans.

### 3. Establishment Of Districts

#### a. General

The Highway Overlay Districts are established as districts which overlay nonresidential zoning districts abutting major arterial highways. There are two such overlay districts: the **REGIONAL CENTER (RC)** District and the **HIGHWAY CORRIDOR (HC)** District.

#### b. Regional Center (RC) District

1) The RC district shall be bounded as follows:

- Easterly by the Framingham-Natick Town line;
- Southerly by the boundary line between the General Business district and the R-1 Single Residence district on the southerly side of Worcester Road (State Route 9);
- Westerly by the intersection of Worcester Road and Cochituate Road (Route 30);

- The Northerly boundary shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of that portion of the northerly right-of-way of Cochituate Road, between Worcester Road (Route 9) and the Framingham-Natick Town line.

- 2) If, as of January 1, 1992, any portion of the area of a parcel falls within the RC district, then the entire parcel shall be deemed to fall within the district.

**c. Highway Corridor (HC) District**

The HC District shall include all parcels, or groups of contiguous parcels serving a common use, whether or not in common ownership, which are used for non-residential purposes as of January 1, 1992 and any portions of which are located within 200 feet of the right-of-way of Worcester Road (Route 9), but excluding (a) parcels that are included in the RC district as set forth above; (b) parcels located on the northerly side of Worcester Road between Edgell Road and the westerly ramp leading onto Route 9 (the Framingham Center); (c) the parcels known as the Framingham Industrial Park; and (d) the parcels known as 9/90 Crossing.

**d. Relationship to Underlying Districts**

- 1) The Highway Overlay Districts shall overlay, all underlying districts, so that any parcel of land lying in a Highway Overlay District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-Law.
- 2) All regulations of the underlying zoning districts shall apply within the Highway Overlay Districts, except to the extent that they are specifically modified or supplemented by other provisions of the applicable Highway Overlay District.
- 3) Requirements for off-site contributions under Site Plan Review:
  - a) For non-bonus projects, the requirements of Sections IV.I.6(a) and IV.I.8.(c) regarding contributions for off-site improvements shall apply.
  - b) For bonus projects which comply in all other respects with the requirements of this Section K. and other provisions of the By-Law, the provisions of this Section K. regarding contributions for off-site improvements and public benefit amenities shall supersede and replace the requirement for off-site improvements under Section IV.I.6.(a) and IV.I.8.(c).

**4. Use Regulations**

**a. General**

- 1) The Highway Overlay Districts are herein established as overlay districts. The underlying permitted uses are permitted. However a developer must meet the additional requirements of this Section K.
- 2) Lots in a Highway Overlay District exclusively used or zoned for single or two family residential development are exempt from these regulations, regardless of the underlying Zoning District classification.

**b. Multiple Use Developments**

Multiple use developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district.

**5. Intensity Regulations**

**a. Base Floor Area Ratio (FAR) for Nonresidential Development**

For any nonresidential development, the floor area ratio (FAR) shall not exceed 0.32, except as modified below in this section.

**b. Increase in FAR for New Construction with Public Benefit Amenities in the RC District**

The Planning Board may, by Special Permit, grant an increase in the maximum floor area ratio above 0.32, up to a maximum FAR of 0.40, for parcels located in the Regional Center (RC) zoning district, subject to the following requirements:

- 1) Increased pervious landscape surface shall be provided in accordance with Section VI(b) of these Highway Overlay Districts Regulations.
- 2) Public benefit amenities shall be provided as required herein, and the increase in permitted floor area shall be determined in accordance with the schedule of bonuses set forth in Section 9 of these Highway Overlay Districts Regulations. A FAR increase shall be granted only if the Board makes the Findings required in sub-paragraph G. of these Highway Overlay Districts Regulations.

**c. Increase in FAR for Consolidation of Lots in the RC or HC Districts**

In order to encourage consolidation of lots, the Planning Board may, by Special Permit, grant an increase in the floor area ratio above 0.32. Such increase shall not exceed 20% of the combined gross floor area of the buildings on the lots to be consolidated, or 12,000 square feet, whichever is lesser, up to a maximum FAR of 0.40.

A FAR increase shall be granted only if the Board determines that the proposed consolidation will achieve, to the maximum extent feasible, the Objectives and Standards set forth in sub-paragraph c. 1) below and makes the Findings required in sub-paragraph g of this Section 5.

**1) Objectives and Standards**

- a) The coordinated development shall be designed to provide access improvements and reduce the number of curb cuts as well as improve signage, unify landscaping, and achieve a higher standard of site design than would be possible with separate development of the individual lots.
- b) Only lots which were in separate ownership as of January 1, 1992 may be consolidated for purposes of qualifying for a FAR increase in a Highway Overlay District.
- c) The coordinated development need not involve consolidation of ownership. However, the continued use of improvements achieved through consolidation must be guaranteed through appropriate mechanisms (such as easements).

**d. Increase in FAR for Projects Involving Minor Alterations in the RC or HC Districts**

The Planning Board may, by Special Permit, grant an increase in the existing FAR over 0.32 for minor alteration up to a maximum FAR of 0.40. Such increase shall be granted only if the Board makes Findings required in sub-paragraph g. of this Section 5. A special permit, under this Section, is not required for a minor alteration which does not exceed a FAR of 0.32.

**e. Areas Excluded from FAR Computation**

The floor area of the following types of facilities shall *not* be included in the gross floor area of a structure or structures for the purposes of computing the floor area ratio on a parcel in the HC or RC district:

- 1) Day care facilities licensed by the State Office for Children
- 2) Off-street parking facilities and associated ramps and aisles;
- 3) Facilities dedicated to public or private transit facilities, or to trip reduction activities such as carpooling and van pooling. Such facilities may include waiting areas, ticket offices or offices for the administration of transportation management and trip reduction activities.
- 4) Cafeterias for the primary use of the employees who work at the site.

**f. Density on Parcels Where Portion Dedicated to Town or Commonwealth**

Subject to the other provisions of this section, if the owner of a parcel, with the concurrence of the Planning Board, dedicates to the Town or the Commonwealth a portion of the parcel for public ownership of a bonus facility, then the permissible density at which the remainder of the parcel may be developed shall be based on the total parcel area including the area so dedicated.

**g. Findings Required for a FAR Increase**

In granting a FAR increase the Planning Board shall make a specific Finding, in writing, that the increase shall not be substantially more detrimental to the neighborhood than the existing structure or use, and in the case of new construction, that the increase shall not be substantially more detrimental to the neighborhood than the project at the Base FAR, and that all of the conditions set forth below are met. As the basis for its decision, the Planning Board shall

consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features. It shall be the responsibility of the applicant to demonstrate conformance with the following standards as part of the request for a FAR increase.

- 1) The increase will achieve the goals, objectives and intent of these Highway Overlay District Regulations.
- 2) The increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared with the degree of compliance present in the existing development. In the case of new construction, the increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared to development at the Base FAR.
- 3) The proposed development complies with all other applicable requirements set forth in the Town of Framingham Zoning Bylaw, including, when required, the site plan review and/or off-street parking requirements in Section IV., thereof, subject to the following exceptions:
  - a) That such requirements are specifically superseded by these Highway Overlay Districts Regulations,
  - b) That the contribution for off-site improvements required by Section IV.I.6.(a) and IV.I.8.(c) shall be not less than three per cent (3%) of total development cost.

## 6. Open Space Requirements

### a. Base Landscape Surface Ratio (LSR)

The base landscape surface ratio (LSR) shall be 0.20 for retail, consumer service and manufacturing uses, and 0.40 for office, research and development and other similar non-retail, nonresidential uses.

### b. Increased LSR for Bonus Projects

For bonus projects, the minimum required landscape surface ratio shall be the sum of (1) the base LSR specified above for the applicable use, and (2) one-half of the difference between the proposed FAR and 0.32.

### c. Multiple Use Projects

The minimum required LSR for multiple use developments shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

#### 1) Non-bonus projects:

Minimum LSR= (Retail, service or manufacturing floor area percentage x 0.20)  
+ (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)

#### 2) Bonus projects:

Minimum LSR=[(Retail, service or manufacturing floor area percentage x 0.20)  
+ (Office, R&D or other similar non-retail, non-residential uses floor area percentage x 0.40)]  
+ (one-half of the difference between the proposed FAR and 0.32)

### d. Applicability

The requirements of this Section 6 shall apply to any new structure which requires ten (10) or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten (10) or more parking spaces.

## 7. Dimensional Regulations

### a. Height:

- 1) Height limitations shall be as specified for the underlying zoning district(s).
- 2) The maximum height of new structures or altered structures where building height is increased, which are located adjacent to residential zoning districts shall be as follows:

DISTANCE FROM RESIDENTIAL DISTRICT	BUILDING HEIGHT
less than 50 feet	30 feet
equal to or greater than 50 but less than 200 feet	40 feet.
equal to or greater than 200 but less than 300 feet	50 feet.
equal to or greater than 300 but less than 400 feet	60 feet.
equal to or greater than 400 feet	80 feet

**b. Setbacks:**

- 1) Minimum front setbacks shall be as specified for the underlying zoning district(s).
- 2) Structures shall be set back a minimum of fifteen (15) feet from all side and rear property lines, or the setback required by the underlying zoning, whichever is greater, except as modified by subparagraph c., below.

**c. Where Abutting Residential Districts**

The minimum setbacks for structures located adjacent to residential districts shall be thirty (30) feet.

**8. Landscaping Requirements**

**a. General Purpose and Intent**

The requirements and standards set forth in this Section 8 are intended to achieve specific performance objectives, as described below, to enhance the visual quality of the areas within the Highway Overlay Districts, to encourage the creation and protection of open space, to avoid expansive development of impervious surfaces, to protect and preserve the area's ecological balance and to ensure that landscaping is an integral part of development. In the event the applicant desires to deviate from the specific standards set forth below, the Planning Board may approve alternative plans if it finds that such alternative is clearly more feasible and/or preferable and that the proposed arrangement meets the general purpose, intent, and objectives of this Section 8.

**b. Objectives**

In order to accomplish the General Purpose and Intent of these Highway Overlay Districts Regulations specific objectives shall be accomplished by landscape plans, which shall include the following:

- 1) Buffer strips at the front of lots shall contribute to the creation of tree-lined roadways and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them.
- 2) Buffer strips adjoining or facing residential uses or residential zoning districts shall provide the strongest possible visual barrier between uses at pedestrian level and create a strong impression of spatial separation.
- 3) Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.
- 4) All required landscaping shall be located entirely within the bounds of the parcel.
- 5) To the greatest feasible extent, existing healthy, mature vegetation shall be retained in place or transplanted and reused on site.

**c. Applicability**

The requirements of this Section 8 shall apply to any new structure which requires ten (10) or more parking spaces, and to any major alteration, or change of use of an existing structure which requires the addition of ten (10) or more parking spaces.

**d. Technical Requirements**

All off-street parking site plans and special permits required hereunder shall include a landscape plan and planting schedule prepared by a registered landscape architect unless waived in accordance with Section 10.b.

**e. Occupancy Permits**

- 1) No occupancy permit, whether temporary or permanent, shall be granted by the Building Commissioner, [until the Planning Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty (30) days shall have passed since the request was submitted to the Planning Board.
- 2) In cases where, because of seasonal conditions or other unforeseeable circumstances, it is not possible to install or complete landscaping prior to initial occupancy of the building(s), an occupancy permit may be granted by the Building Commissioner, upon the approval of the Planning Board, under the following conditions:
  - a) the owner shall make a payment to the Town, to be held in escrow by the Planning Board, to ensure that required landscape planting is installed and maintained

- b) the amount of the escrow payment shall be set by the Planning Board and shall be equal to the remaining estimated cost of materials and installation, with allowance for escalation and contingencies.
- 3) Release of any escrow amounts, or approval of issuance of an occupancy permit, shall be conditioned upon the receipt by the Planning Board of written certification by a registered landscape architect that the specified plant materials to be included in the project landscaping have been installed according to the approved landscape plan.

**f. Landscaped Buffer Strips**

**1) General Standards**

In the highway corridor and regional center areas, a landscaped buffer strip shall be provided separating all buildings, parking areas, vehicular circulation facilities, or similar improvements from the right-of-way line of any public street, or any private way which is adjudged by the Planning Board to perform an equivalent function. Plantings in landscaped buffer strips shall be arranged to provide maximum protection to adjacent properties and to avoid damage to existing plant material. The landscaped buffer strip shall include the required planting as set forth herein, and shall be continuous except for required vehicular access points and pedestrian circulation facilities. All required landscaping amenities shall be located within the bounds of the parcel. Signs shall be designed to be integrated into the landscaping.

**2) Specific Standards**

**a) Depth**

Unless a greater depth of landscaping is required in the underlying zoning district, landscaped buffer strips shall be one-third ( $\frac{1}{3}$ ) of the distance between the street right-of-way and any building line, but shall not be less than fifteen (15) feet in depth, and need not be greater than fifty (50) feet in depth. Sidewalks may be considered in the calculation of the buffer depth. Landscaped buffer strips adjoining or facing residential districts or residential uses shall be a minimum of fifteen (15) feet in depth.

**b) Composition**

The buffer strip shall include a combination of deciduous and/or evergreen trees and lower-level elements such as shrubs, hedges, grass, ground cover, fences, planted berms, brick or stone walls. When necessary for public safety or to prevent adverse impacts on neighboring properties, the Planning Board may require that the buffer strip contain opaque screening.

**c) Arrangement**

Arrangements may include planting in linear, parallel, serpentine, or broken rows, as well as the clustering of planting elements. The following provisions set forth the form of arrangement of plantings. The form of plant arrangement is as follows:

- 1) At least one (1) tree shall be provided per twenty-seven (27) linear feet of street frontage or portion thereof. There shall be a minimum of three (3) trees in the entire buffer strip. Trees may be evenly spaced or grouped. Groups of trees shall be spaced no further apart than fifty (50) feet.
- 2) At least four (4) shrubs shall be provided per one hundred (100) square feet of landscaped area in the buffer strip.

**d) Opaque Screens**

An opaque screen may be comprised of walls, fences, berms, or evergreen plantings, or any combination thereof, providing that the Planning Board may require evergreen trees or shrubs instead of fences when deemed appropriate. Opaque screens shall be opaque in all seasons of the year. For developments adjoining or facing residential districts or residential uses, or when necessary for public safety or to prevent adverse impacts on neighboring properties, a buffer strip shall contain opaque screens as follows:

- 1) The screen shall be opaque from the ground to a height of between two and one-half ( $2\frac{1}{2}$ ) to six (6) feet when planted or installed as determined by the Planning Board.
- 2) Walls or fences exceeding four and one-half ( $4\frac{1}{2}$ ) feet in height shall have plantings on the side facing the residential district, and may be required to have plantings on both sides.
- 3) Evergreen trees or shrubs shall be spaced not more than five (5) feet on center.

- 4) The Planning Board may require ornamental or shade trees in addition to an opaque screen, planted in conformity with the standards set forth in Section 8.f.2) c) above, depending upon the type, size and proximity of adjoining residential uses.

**e) Berms**

When berms are used to meet the requirements for a buffer strip they shall be planted with living vegetation. The minimum top width of a berm shall be three (3) feet, and the maximum side slope shall be 3:1. No more than twenty-five per cent (25%) of the coverage of a planted berm shall be mulch or non-living material.

**f) Mulches**

When used in required landscaping or buffers, mulches shall be limited to bark mulch or decorative stone. No more than twenty-five per cent (25%) of the coverage of the landscaped area shall be mulch or non-living material.

**g. Intersection Sight Distance Restrictions**

Landscaped buffers and screening shall not restrict sight distances at intersections or driveway entrances. Site distance requirements, location and specification of site zones shall be determined by reference to the current edition of the Commonwealth of Massachusetts Department of Public Works Highway Design Manual, or any successor publication. As a guide, no fence or other structure may be erected, and no vegetation may be maintained, between a plane two and one-half ( $2\frac{1}{2}$ ) feet above curb level and a plane seven (7) feet above intersecting roadway levels within the zone required for site distance, subject however to actual roadway profiles of the intersecting streets and/or driveways.

**h. Landscaping within Off-Street Parking Areas**

**1) Standards for Landscaping Within Parking Areas:**

- a) Parking areas shall be broken into sections not to exceed one hundred forty (140) cars per section. Sections shall be separated by landscaped buffers to provide visual relief. At a minimum, the buffers shall consist of islands which shall be a combination of "divider islands" and "terminal islands".
- b) Each landscaped island shall have a minimum area of one hundred fifty (150) square feet and shall consist of pervious landscaping. Landscaped islands may be curbed or without curbing as follows: Curbing, at least five (5) inches in height, shall surround each landscaped island as protection from vehicles. No tree shall be planted less than four (4) feet from the curbing. Rain gardens shall be designed to meet LID standards and other applicable stormwater management Best Management Practices (BMP's) and may be designed without curbing where appropriate.

**1) Divider Islands:** The following additional design standards shall apply to divider islands:

- (a) At least one landscaped divider island shall be provided for every four (4) parallel rows of parking.
- (b) Trees shall be spaced not more than twenty-seven (27) feet on center.
- (c) At least one (1) shrub shall be provided for every five (5) linear feet, or one (1) shrub per thirty-five (35) square feet of ground area, whichever results in a greater number of shrubs.

**2) Terminal Islands:** The following additional design standards apply to terminal islands:

- (a) Terminal islands shall be used either (1) to separate parking spaces from driveways and other vehicular travel lanes, or (2) to break up large numbers of parking spaces in a single row of spaces.
- (b) Landscaped terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes. In addition, terminal islands shall separate groups of parking spaces in a row, such that no continuous line of adjoining spaces contains more than twenty-five (25) parking spaces.
- (c) As an alternative to separating groups of parking spaces with small internal terminal-islands, additional landscaped area may be provided. Such additional landscaped area shall be provided as additional depth in the buffer strip (above the minimum depth otherwise required in Section 8.b. above), terminal and divider islands adjacent to rows exceeding twenty-five (25) spaces, and shall be provided at a ratio of at least 1.2:1.0. However, no more than thirty-five (35) adjoining parking spaces may be provided in a row of spaces, regardless of the size of the landscaped islands at the ends of the row.
- (d) Terminal islands shall contain at least two (2) trees when abutting a double row of parking spaces.



- (e) Landscaped terminal islands shall contain evergreen shrubs planted three (3) feet or less on center, in order to prevent damage due to pedestrian traffic.
- c) Grass or ground cover may be substituted for shrubs in divider islands and terminal islands with the approval of the Planning Board.
- 2) Increase of impervious areas: Notwithstanding the limitation on paved areas set forth elsewhere in Section 8.h.1)b), a landscaped island may be up to thirty-three per cent (33%) impervious surface, provided that all such area is used for pedestrian walkways and that such walkways are adequately buffered from the parking areas.
- 3) Use of porous paving materials: In order to minimize the amount of storm water runoff from paved areas, the use of porous paving materials is encouraged where feasible.

**i. Landscaping Adjacent to Buildings**

Landscaped areas at least ten (10) feet in depth shall be provided adjacent to buildings on every side of such buildings that has a public access point and shall contain trees and shrubs. This requirement may be waived by the Planning Board in cases where it is impractical to provide the specified depth of landscaped area due to the size, shape or other characteristics of the parcel; however, in no case shall any parking space or vehicular travel lane be located less than five (5) feet from the building.

**j. Standards for Plant Materials**

- 1) All trees, shrubs and hedges must be species that are hardy in Plant Hardiness Zone 5, as defined by the American Standards for Nursery Stock and shall be resistant to salt spray and urban conditions where appropriate.
- 2) Plantings shall be selected and designed so as not to require high water use for maintenance.
- 3) Deciduous trees must be at least two and one-half (2-1/2) to three (3) inches caliper, six (6) inches above the top of the root ball, at the time of planting; and must be expected to reach a height of at least twenty (20) feet within ten (10) years, when considering the expected normal growth patterns of the species.
- 4) Evergreen trees must be at least eight (8) feet in height at the time of planting.
- 5) Ornamental or specimen trees must be at least eight (8) feet in height at the time of planting.
- 6) Shrubs and hedges must be at least three and one-half (3-1/2) feet in height or have a spread of at least twenty-four (24) inches at the time of planting.
- 7) Shade or canopy trees shall be provided within parking lots, and within buffer strips.

**k. Design for Pedestrian Circulation**

- 1) Pedestrian Access Through Buffers and Screens  
Landscaped buffers should, to the greatest extent possible, serve as usable open space, providing an environment for pedestrian access between uses. Therefore, buffers shall be designed to include appropriate means of pedestrian access and crossing, both along the landscaped area (i.e., in a parallel direction with the property line) and across the buffer (i.e., providing pedestrian access to the site, separate from vehicular access points). Buffers and screens shall provide for appropriate hard-surfaced pedestrian access points and walkways where property lines abut existing or planned public streets, whether or not such streets have been constructed.
- 2) Pedestrian Circulation in Parking Facilities
  - a) Parking facilities and appurtenant driveways shall be designed so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site.
  - b) Pedestrian walkways shall be (i) integrated, to the extent possible, into the interior and/or perimeter landscaping of parking lots; (ii) constructed with a paved or similarly firm surface, at least six (6) feet in width; and (iii) separated from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.

**l. Maintenance**

- 1) The owner(s) and/or developer(s) of any lot shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

- 2) A permanent water supply system, sufficient in the Planning Board's determination, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate locations. Whenever possible, "gray" or re-used water, or wells, shall be used as the water source.
- 3) Maintenance bond: The Planning Board may require a bond to ensure that required landscape plantings are maintained and survive for up to one (1) growing season following completion of planting.

**m. Pervious Landscaping**

Up to five (5) per cent of the area counted as pervious landscaping may include pedestrian circulation components such as walkways. Parking areas surfaced with porous pavement shall not be considered pervious landscaping.

**9. Bonus Density Provisions**

**a. Eligibility for Bonus Floor Area**

If a proposed improvement or facility in the Regional Center district complies with the standards set forth in Section 5.b. above, it shall be eligible for bonus floor area in accordance with the requirements set forth in paragraphs b through f of this Section 9.

**b. Public Benefit Amenity**

To qualify for bonus floor area a public benefit amenity must be specifically listed in the Schedule of Benefits below. A public benefit amenity that is a physical space shall be one to which the public is assured access on a regular basis, or an area that is dedicated to and accepted by the Town for public access purposes. Furthermore, to be considered a public benefit amenity, a specific improvement or facility must be determined to provide a public benefit and to be appropriate to the goals and character of the area. In addition, the following requirements must be met:

**1) Parks**

To be eligible as a public benefit amenity a park must meet all of the following standards:

- be at least 2,500 square feet in area;
- have a minimum width of 50 feet;
- be buffered and/or screened from nearby roads, parking areas and other vehicular circulation facilities; and
- not be located within the landscape buffer strip required under section VIII.F.

For purposes of computing bonus credits, no more than one-third of the area of the park shall consist of wetlands, water bodies, steep slopes (over 25%), or other areas not usable for public recreation or leisure activities. On-site park area which meets the above standards and which is not wetlands may be used to satisfy the minimum landscape surface ratio (LSR) requirement. On- or off-site park area may be used to qualify the project for bonus floor area.

**2) Pedestrian Circulation Improvement**

Such improvements shall be directly accessible to the pedestrian circulation system, and shall where possible connect with existing pedestrian circulation improvements on adjacent parcels and/or provide for connection to such improvements which can reasonably be expected to be developed on adjacent parcels. The following standards shall also be applicable:

**a) Pathway (Off-Site)**

A pathway shall be at least (fifty) 50 feet from a vehicular circulation improvement for at least ninety (90) per cent of its length.

**b) Sidewalk (Off-Site)**

A sidewalk shall not be on land owned by the applicant or on public or private right-of-way immediately adjacent to frontage of land owned by the applicant.

**c) Pedestrian Bridge/Tunnel**

Bridges or tunnels and should have clear functional relationships to adjoining commercial properties and/or public open space amenities. To be eligible as a public benefit amenity, a pedestrian bridge or tunnel shall not be located entirely on the applicant's property, nor shall it connect a principal use with an accessory use such as a parking structure.

**3) Service Roads**

Driveways and other facilities which principally serve the internal circulation needs of a project, and which provide only a marginal public benefit, shall not qualify as service roads under the provisions of this Section 9.

**c. Schedule of Bonuses**

Bonus floor area shall be available in accordance with the bonus ratios listed in the following "Schedule of Bonuses", up to the maximum FAR permitted in this Section 9 if the Planning Board deems that the amenity offered by the applicant accomplishes the objectives of this Section K. The bonus ratio is the ratio of (1) the unit of public benefit amenity provided to (2) the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, a bonus ratio of one to three (1:3) and an amenity unit of "Square Foot" means that for each square foot of the amenity the project shall be eligible for three (3) additional square feet of floor area for permitted uses.

**SCHEDULE OF BONUSSES**

PUBLIC BENEFIT AMENITY	AMENITY UNIT	BONUS RATIO*
<b>Open Space Amenities</b>		
Park	Square foot	1:1
Excess Pervious Landscaping	Square foot	1:0.5
<b>Pedestrian Circulation Improvements</b>		
Off-Site Sidewalk	Square foot	1:1
Pathway/Bikeway	Square foot	1:1
Pedestrian Bridge/Tunnel	Square foot	1:1
<b>Public Assembly Space</b>	Square foot	1:5
<b>Traffic Improvements</b>		
Service Road (24-30 foot paved width)	Square foot	1:3
<b>Transit Amenities</b>		
Transit-related Lane Widening	Square foot	1:2
Public Transit Endowment	Dollar (\$)	20:1

\*Note: BONUS RATIO= Amenity: Floor Area

**d. State-Mandated Amenities**

The Planning Board may grant bonus floor area for a public benefit amenity that is not specifically listed in paragraph B above, only when the cost of such amenity exceeds 3% of the total cost of the project and if:

- 1) the provision of such amenity has been mandated as part of a State approval process; and,
- 2) the provision of the alternative improvement furthers the objectives of this Section 9; and,
- 3) the improvement is at least equivalent in value and effect to a listed public benefit amenity which would qualify the development for the proposed amount of bonus floor area.

**e. Prospective Bonus Agreements**

A project in the RC district, which proposes to provide a public benefit amenity but not to use the full FAR increase which the amenity makes possible, may enter into a prospective bonus agreement (PBA) with the Planning Board as a condition of the Board's granting of a Special Permit and/or Site Plan Approval. The PBA shall define the specific nature of the public benefit amenity and the amount of FAR and additional floor area for which the parcel shall become eligible as a result of provision of the improvement. The maximum term of a PBA shall not exceed five (5) years, following which the rights to any unused FAR increase shall become null and void. If, for any reason, a change of use of a parcel that has been approved for an FAR increase which is in whole or in part unused is proposed within the affective term of a PBA, the owner must obtain the approval of the Planning Board to take advantage of such remaining increase.

The only effect of a PBA shall be to increase the allowable FAR of the development, subject to all other requirements of this Section 9. The approval of a PBA by the Planning Board shall not be deemed to supersede or waive any of the other provisions of this Section, nor shall such approval be considered to represent the granting of site plan approval or special permit approval for any future development.

**f. Continuing Obligation for Bonuses**

- 1) Where a bonus is granted, the applicant shall covenant to ensure the continued use of the bonus facility or improvement for the purpose for which the bonus was granted. Such covenant shall be recorded as a condition of the special permit and shall run with the land.

- 2) An applicant who constructs a pedestrian circulation improvement shall be responsible for the maintenance, upkeep and provision of insurance for the improvement, unless it has been dedicated to and accepted by the Town. If the improvement is not maintained, the Town may, at its sole option, place a lien on the property, maintain the improvement, and seek reimbursement from the owner.

#### **10. Administration**

The review procedures set forth herein are intended to apply to the *RC* and *HC* districts, in addition to the requirements of the underlying zoning district. In administering such procedures and requirements, the Planning Board shall apply the standards of the underlying zoning district if such standards, procedures and requirements are more restrictive than set forth in these Highway Overlay District Regulations.

The Planning Board shall be the Special Permit Granting Authority for all special permits granted under these Highway Overlay District Regulations.

##### **a. Thresholds for A Special Permit for Non-Bonus Projects**

A development which requires site plan review and a special permit in conformance with the underlying zoning shall be required to conform with the additional requirements of these Highway Overlay Districts Regulations. No additional special permit or site plan review shall be required.

##### **b. Thresholds for A Special Permit for Bonus Projects**

- 1) An additional Special Permit is required for any proposed development which will exceed the base Floor Area Ratio (FAR) of 0.32, as described in Section V, hereto.

##### **2) Procedure:**

- a) When required, the procedures for site plan submission, review and approval shall be as set forth under Section IV.I. of this By-Law, except that the traffic impact standards of Section IV.I.6.(a) and IV.I.8.(c) including the requirements for off-site traffic improvements, are superseded by the provisions of Section 3.d.3) and 5.b. herein. In the event that multiple Special Permits are required either by these Highway Overlay District Regulations or by these Regulations and the Underlying Regulations, the review process employed shall occur simultaneously, with a separate vote recorded for each, to minimize, to the greatest feasible extent, the decision-making time period.
- b) The calculation of a major or minor alteration shall be determined by the Building Commissioner.

##### **c. Modifications and Waivers**

The Planning Board may modify and/or waive strict compliance with one or more of the standards, regulations and objectives set forth in these Highway Overlay District Regulations in accordance with the following procedures.

- 1) Findings Required for a Waiver: The Planning Board shall make a specific Finding, in writing, that a waiver and/or modification will not create conditions which are substantially more detrimental to the existing site and the neighborhood in which the site is located, than if the waiver and/or modification were not granted. As the basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic; municipal services and facilities; the character of the neighborhood including environmental and visual features; and whether the objectives of these Highway Overlay Districts Regulations are achieved.
- 2) Performance Standards for Waivers: The applicant will be required to demonstrate that the waiver, if granted, will accomplish the following design and performance objectives, as are applicable:
  - a) Landscaped buffer strips which create a strong impression of separation between developed areas and adjacent streets and/or residential areas.
  - b) Landscaped parking areas and landscaped areas adjacent to buildings to provide shade and visual relief from large expanses of impervious surfaces.
  - c) Improved pedestrian circulation within the subject site and, where possible, create pedestrian access to adjoining sites.
  - d) Maintenance of all landscaped spaces and buffer areas.
  - e) Improved vehicular access, reduced curb cuts for access drives, improved on-site circulation.

- f) Improved building architecture and facade to achieve compatibility and harmony with the surrounding neighborhood.
- g) Improved site signage.

**d. Mutual Review**

It is the intent of this Section to provide an opportunity for regional review of proposed developments in the Regional Center district as described below: Review and comment by the Planning Board of the Town of Natick is specifically encouraged. In its review of a site plan, the Planning Board shall consider any comments submitted by the Planning Board of the Town of Natick.

- 1) If the size of the proposed structure is equal to or greater than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick and shall meet with the Planning Board of Natick to describe the project, if requested by the Natick Planning Board.
- 2) If the size of proposed structure is less than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Natick. The Planning Board of Natick shall be notified of the dates of all public hearings regarding the project.



SECTION 135-7.0, SPECIAL DISTRICT REGULATIONS  
7.2, TRANSPORTATION MANAGEMENT OVERLAY DISTRICT — 7.2, TRANSPORTATION  
MANAGEMENT OVERLAY DISTRICT

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**7.2 TRANSPORTATION MANAGEMENT OVERLAY DISTRICT**

**7.2.1 Purpose.** The Town may create Transportation Management Overlay (TMO) Districts that allow greater opportunity for facilitating effective multi-modal transportation networks that increase the quality of life in Lexington through improved traffic management and mitigation to that outlined in §§ 5.1 and 5.5, consistent with the following principles:

1. Multimodal Consideration. To ensure that the safety and mobility of all users of the circulation and transportation systems, including vehicles, public transit, pedestrians and cyclist, are considered equally;
2. Context Sensitive Design. To incorporate, throughout project planning, design, and construction, the overarching principles of Context Sensitive Design, including attention to scenic, aesthetic, historic, and environmental resources; and
3. Clear Process. To develop and implement plans adopted through a broad-based, clear and transparent process.

**7.2.2 Overlay District.** A TMO District shall not supersede other zoning districts, but shall be deemed to be superimposed over these other zoning districts, except that if an applicant elects to comply with the requirements in this Section, this Section shall supersede §§ 5.1 and 5.5.

**7.2.3 Applicability.** The provisions of this Section shall apply to developments located within a TMO District that elect to comply with the requirements of this Section, rather than complying with §§ 5.1 and 5.5. Notwithstanding anything set forth herein to the contrary, an applicant may not make such an election until a plan for the TMO District has been adopted by the Planning Board as described below. A final *certificate of occupancy* shall not be issued unless or until all provisions of this Section have been satisfied, except for those conditions that by their terms are intended to be satisfied after occupancy of the *structures* for which the *certificate of occupancy* is sought.

**7.2.4 Transportation Plan Required.** The Planning Board, after consultation with the Board of Selectmen and an advertised public meeting, shall adopt a specific plan for each TMO District containing the following elements:

1. Assessment of the impacts of reasonably anticipated future development in the TMO District considering current zoning bylaws and other legal and physical constraints;
2. Analysis of existing capital improvement plans or the facilities element of a plan adopted under *MGL c. 41, s. 81D*;
3. Cost projections for transportation infrastructure improvements required to address the impacts generated by the anticipated development in the TMO District, including the potential impact on nearby residential streets and neighborhoods;
4. Analysis of other reasonably anticipated sources of funding;
5. Required transportation mitigation fees in accordance with a methodology determined pursuant to this study;
6. Off-street parking and loading requirements for the TMO District;
7. Parking and Transportation Demand Management techniques reasonably calculated to reduce the number of vehicle trips generated by developments in the TMO District and to ensure the long term stability of the transportation system;

8. An implementation program that defines and schedules the specific *municipal* actions necessary to achieve the objectives of the plan; and
9. A plan to encourage voluntary participation in TDM programs by those not required to participate.

The plan shall be updated periodically to reflect actual development activity, actual costs of infrastructure improvements completed or underway, plan changes, or amendments to the zoning bylaws.

**7.2.5 Transportation Mitigation Fee.** The imposition of a transportation mitigation fee shall not prevent the Town from imposing fees it may otherwise impose under local bylaws. The payment of a transportation mitigation fee is required when an applicant elects to proceed under this Section, subject to the following:

1. **Timing of Payment.** Payment of the transportation mitigation fee shall be in cash, under terms and conditions specified in the TMO District plan.
2. **Payment Use.** Any transportation mitigation fees paid to the Town are intended to be used to fund transportation infrastructure improvements that are necessitated by the proposed development of the applicant. Examples of appropriate uses include the costs related to the provision of equipment, infrastructure, facilities, services, or studies associated with the following: traffic mitigation; public transportation; bicycle and pedestrian accommodations or other transportation-related improvements. Except where deficiencies are exacerbated by the new development, in which case the fee may be assessed only in proportion to the deficiency so exacerbated, the fee shall not be expended for personnel costs, normal operation and maintenance costs, or to remedy deficiencies in existing facilities. The expenditure of the fees without Town Meeting appropriation is prohibited.
3. **Rough Proportionality and Reasonable Benefit to Fee Payer.** The transportation mitigation fee shall be determined by the TMO District plan described in § 7.2.4. The fee shall be roughly proportionate to the impacts created by the development. The purposes for which the fee is expended shall reasonably benefit the proposed development.

**7.2.6 Parking and Transportation Demand Management.** Submission of a Parking and Transportation Demand Management (PTDM) plan, which is consistent with the TMO District plan described above, is required when an applicant elects to proceed under this Section. Compliance with the submitted PTDM plan shall be a condition of any permit approvals.

**7.2.7 Enforcement.** Compliance with the PTDM plan submitted with an approved permit application may be enforced through § 9.1.

**7.2.8 Special Permit.** Where a development electing to proceed under this section also requires a special permit, the *SPGA* shall not grant the special permit unless it imposes conditions, including transportation mitigation fees and parking and transportation demand management requirements, to meet the goals of the TMO District plan.



## **TMOD Regulations**

### **Article XV. Transportation Management Overlay District Plans**

#### **§ 175-77. General Provisions**

- A. Purpose. In accordance with § 135-43C\* of the Zoning Bylaw, the purpose of Transportation Management Overlay District (TMOD) Plans is to allow greater opportunity for facilitating effective multimodal transportation networks that will increase the quality of life in Lexington. Compliance with a TMOD plan provides an alternative to the special permit process outlined in Article XI, Off-Street Parking and Loading, and Article XII, Traffic, of the Zoning Bylaw, which focuses on increasing the levels of service only for private automobiles.
- B. Waivers. Upon request, the Planning Board, or in the case of a small project PTDM plan the Planning Board's designee, may waive strict compliance with the requirements of a TMOD plan for a particular development where such waiver is in the public interest and not inconsistent with the intent and purpose of the Plan. An applicant is not entitled to a waiver and the Planning Board, or its designee, in its discretion, may decline to approve a request for a waiver.
- C. These regulations, to accompany Transportation Management Overlay District Plans, were adopted by the Planning Board at its meeting of November 3, 2010 and are effective immediately. Any TMOD plans and regulations may be updated periodically to reflect actual development activity, actual costs of infrastructure improvements completed or underway, plan changes, or amendments to the Zoning Bylaws.

#### **§ 175-78. Hartwell Avenue Area (TMO-1) District Plan**

There is a Transportation Management Overlay District Plan adopted by the Planning Board specifically for the TMO-1 District, as required by §135-43C(4) of the Zoning Bylaws. It is known as the TMO-1 District Plan or the Hartwell Avenue Area Plan.

The increased development authorized for the Hartwell Avenue area by the Lexington 2009 Annual Town Meeting will result in increased traffic counts.<sup>1</sup> Without pro-active intervention, such an increase will adversely impact traffic circulation in nearby routes and associated intersections. The TMO-1 District Plan was developed to mitigate the effects of projected impacts.

\*NOTE: Sec.135-43C has been re-codified as SECTION 135.7.2 Included in the Appendix

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<sup>1</sup> Tetra Tech Rizzo's "Traffic Mitigation Plan for the Hartwell Avenue Transportation Management Overlay District", Section 3.0 Future Conditions, pages 16-22.

#### A. Applicability

- (1) The provisions contained in the TMO-1 District Plan, and these regulations, apply to developments located within the TMO-1 District that elect to comply with the requirements of § 135-43C of the Zoning Bylaw and the specific requirements of TMO-1 District Plan, instead of the special permit process outlined in §§ 135-71 through 135-73.
- (2) When a development electing to proceed under this section also requires a special permit or special permit with site plan review because its floor area ratio (FAR) is greater than that permitted by right in the underlying district and the total additional net floor area is greater than 100,000 Square Feet (SF), the Special Permit Granting Authority (SPGA) may impose additional traffic and infrastructure impact related conditions, including additional transportation mitigation fees and parking and traffic demand management requirements, to meet the goals of the TMO-1 Plan.

#### B. Enforcement.

A final certificate of occupancy shall not be issued unless or until all provisions of § 135-43C have been satisfied.

#### C. Transportation Mitigation Fee.

- (1) Calculation of payment. The Transportation Mitigation Fee is the sum of \$5.00 for each square foot of increased Net Floor Area, as defined by the Zoning Bylaw.
- (2) Timing of payment. Twenty-five percent of the fee will be paid within five days of the issuance of the building permit, site plan review (when applicable) or special permit, which ever occurs first. The remainder of the fee shall be received in full, no later than the issuance of an Occupancy Permit.

#### D. Off-Street Parking and Loading Requirements.

- (1) Except as otherwise provided in this section, the parking and loading standards within the TMO-1 District shall be calculated and applied in accordance with Article XI of the Zoning Bylaw for the underlying district.
- (2) The preferential parking spaces required by §135-64F(1) may also be used by single-occupancy vehicles with an EPA combined mileage rating of 40 or more miles per gallon.
- (3) All applicable sites shall provide one bicycle parking space for each 15 motor vehicle parking spaces, with a minimum of two bicycle parking spaces

#### E. Parking and Transportation Demand Management Plans (PTDM plans).

Developments located within the TMO-1 District that elect to comply with the requirements of the TMO-1 District Plan must create and implement a parking and transportation demand management (PTDM) plan as detailed below. PTDM plans must be submitted for review with the application for a building permit, site plan review, or special permit, whichever comes first. A final certificate of occupancy shall not be issued unless a complying PTDM plan has been submitted.

- (1) Types of PTDM Plans. Projects that require major site plan review or a special permit must submit a full PTDM plan, as described in § 175-78E(3). Projects that are either exempt from site plan review or subject to minor site plan review may submit either a Small Project PTDM Plan, as described in § 175-78E(2), or a full PTDM plan..
- (2) Small Project PTDM Plans. Small project PTDM plans are reviewed by the appropriate permit granting authority. Projects exempt from Site Plan Review have their PTDM plans reviewed by the Building Commissioner, while projects subject to minor site plan review are reviewed by the Planning Board's designee.
  - (a) Small Project PTDM plans must provide a description of the specific demand management techniques that will be utilized to accomplish a reduction in single occupancy vehicle use.
  - (b) Require annual reports to the Town. Unless a different arrangement is made with the Town, reports shall be due to the Planning Department on July 1, or the first business day thereafter. Annual reports must include:
    - (i) An Employee and/or patron mode split survey;
    - (ii) The results of the selected PTDM measures and goal attainment.
- (3) Full PTDM Plans. Full PTDM plans are reviewed by the Planning Board. Full PTDM plans must:
  - (a) Include membership in, or a contract with, a local Transportation Management Association (TMA) that provides transit services within the Transportation Overlay District to reduce the use of single occupancy vehicles.
  - (b) Provide a description of the specific demand management practices that will be utilized to accomplish a maximum of 85 % of site trips being in single occupancy vehicles. These will include the use of financial incentives that encourage the use of alternative commuting modes of travel in order to create equity between modes of travel, such as parking cash out, travel allowances, rideshare benefits, and transit benefits such as subsidies for TMA shuttles, MBTA and Lexpress passes.
  - (c) Require annual reports to the Town. Unless a different arrangement is made with the Town, reports shall be due to the Planning Department on July 1, or the first business day thereafter. Annual reports must include:

- (i) An Employee and/or patron mode split survey;
- (ii) Biennial counts of parking occupancy and driveway traffic counts; and
- (iii) The results of the selected PTDM measures and goal attainment.

## TRANSPORTATION MANAGEMENT PLAN FOR TMO-1 DISTRICT

### The Hartwell Avenue Area Plan

At a duly called hearing of the Lexington Planning Board on November 3, 2010, this Transportation Management for the TMO-1 District was adopted, along with its implementing regulations found in §175-78 of the Development Regulations.

#### A. Purpose.

In accordance with § 135-43C\* of the Zoning Bylaw, the purpose of a Transportation Management Overlay District (TMOD) plan is to allow greater opportunity for facilitating effective multimodal transportation networks that will increase the quality of life in Lexington. A TMOD plan provides a developer with a predictable structured alternative to the special permit process outlined in Article XI, Off-Street Parking and Loading, and Article XII, Traffic, of the Zoning Bylaw.

The increased development authorized for the Hartwell Avenue area by the Lexington 2009 Annual Town Meeting will result in increased traffic counts in the area.<sup>1</sup> Without pro-active intervention, such an increase will impact adversely traffic circulation in nearby routes and associated intersections. This specific TMOD plan for the TMO-1 District, also referred to as the Hartwell Avenue Area Plan, was developed to mitigate the effects of the projected impacts to the extent possible. It covers the Hartwell Avenue area and describes a comprehensive transportation system that is intended to provide adequate transportation access to the Hartwell Avenue area. The TMO-1 District Plan contains the nine elements required under § 135-43C(4) and describes what transportation improvements and mitigation measures will be required by the expected additional development.

While the TMO-1 District encompasses the commercial properties on Hartwell Avenue, Westview Street, Maguire Road and parts of Bedford Street, and its bounds reflect the anticipated source of impacts from expanded development, the impacts and the required mitigations may extend beyond the limits of the district.

Throughout the development of the TMO-1 District Plan, the Board has been guided by the following three principles:

- (1) Multimodal consideration. To ensure that the safety and mobility of all users of the circulation and transportation systems, including vehicles, public transit, pedestrians and cyclist, are considered equally;
- (2) Context sensitive design. To incorporate throughout project planning, design, and construction, the overarching principle of context sensitive design, including attention to scenic, aesthetic, historic, and environmental resources; and
- (3) Clear process. To develop and implement plans adopted through a broad-based, clear and transparent process.

\*NOTE: Sec. 135-43C has been re-codified as SECTION 135.7.2

<sup>1</sup> Tetra Tech Rizzo's "Traffic Mitigation Plan for the Hartwell Avenue Transportation Management Overlay District", Section 3.0 Future Conditions, pages 16-22.

Travel to and from the TMO-1 District, in 2010, is dominated by automobile traffic, the volume of which leads to severe congestion during the morning and evening commuting periods. The Hartwell Avenue area is not well served by public transportation and there is a critical absence of bicycle and pedestrian infrastructure, providing no viable alternative to the private automobile.

Given capacity limitations of the surrounding roadway network, building significant new roadway capacity within the District may provide little or no congestion relief. Without proactive intervention, anticipated new development (a result of the recent up-zoning in the CM District, which underlies the TMO-1 District) will drive congestion to levels that will jeopardize the area's viability. The TMO-1 District Plan provides mechanisms to promote alternative modes for new and existing travel demand.

The TMO-1 District Plan was designed to accomplish the following objectives:

- (1) Create a policy and regulatory framework that promotes a greater use of alternative (non-automobile) travel modes to, from and within the Hartwell Avenue corridor;
- (2) Design and build the transportation infrastructure needed to support that policy; and
- (3) Minimize the negative impacts of commercial growth on residential streets.

#### **B. Analysis of Related Master Plan Elements**

This Plan meets the goal of the Comprehensive Plan to

“Create an Overlay District for Hartwell Avenue Area that allows a modest Floor-Area-Ratio (FAR) increase if tied to a commitment for an overall TDM strategy and improvements at the Bedford Street/Hartwell Avenue intersection. As an alternative or complementary policy, businesses wanting to add space along Hartwell Avenue would be required to pay a fee that goes towards a fund dedicated to implementing transit programs and/or infrastructure improvements along Hartwell Avenue.”

#### **C. Assessment of Future Development**

Largely based on the increased by-right floor area ratio allowed by the changes to the CM District at the 2009 Town Meeting, the existing 1.8 million square feet (SF) of net floor area (NFA) in the TMO-1 District could theoretically increase by 650,000 SF, a 37% increase. Given the age of existing buildings and physical site constraints, the actual amount of development may be less. The greatest potential for this new development is expected south of Maguire Road and west of Hartwell Avenue.

Within the CM District, development beyond the by-right FAR of 0.35 is permitted by special permit. This TMO-1 Plan does not account for the impacts of such developments, however, consistent with §175-78A(2), the SPGA may impose conditions, including additional transportation mitigation fees and parking and traffic demand management requirements, to meet the goals of this Plan.

#### **D. Cost Projections for Transportation Infrastructure Improvements**

The cost associated with the proposed infrastructure improvements is projected to be \$26.7 million.<sup>2</sup> Project design and permitting is expected to total \$2.27 million. These figures do not include the costs associated with any necessary Right of Way acquisitions or the construction of the West Lexington Greenway.

The greater part of funding is anticipated to be Federal funding through the Boston Metropolitan Planning Organization's (MPO) Transportation Improvement Program (TIP). Accordingly, both Federal and State design standards will need to be satisfied throughout the design process. All roadway elements will be designed to ensure multimodal safety.

#### **E. Analysis of Other Reasonably Anticipated Sources of Funding**

The total cost of the proposed infrastructure improvements is approximately \$26.7 million. The MPO's current practice is that the municipality undertakes the design while federal, state and local money is used for construction. It should be noted that the usual breakdown of federal/state government TIP funding is 80% federal and 20% state. Local money comprises funds from developer mitigation, betterments, and tax levy. In order to move the project ahead, Lexington may choose to take on more of the implementation costs.

This TMO-1 District Plan is premised upon adequate increases in required transportation infrastructure and services being funded only to the extent that all of the by-right FAR development enabled by the changes to the CM District in 2009 is charged at the listed mitigation fee rate.

This plan does not address impacts from development that results in an area-wide FAR above 0.35. The Planning Board may perform additional traffic studies to determine the adequacy of this TMO-1 District Plan at higher area-wide FARs. In the interim, individual developments that seek FARs above 0.35 may be assessed a surcharge on FARs above 0.35 to ensure long-term viability of the Hartwell area transportation system, as detailed in § 175-78A(2).

Funding programs, with revenue sources, to be considered include the following:

External programs, with revenue sources:

- Federal/state/local/private funding of several TMO-1 projects through multiple program sources that qualify for inclusion on the MPO's Transportation Improvement Plan (TIP);
- Commonwealth legislation and/or appropriation in support of efforts to keep the U.S. Air Force Hanscom Air Base off of future Defense Base Realignment and Closure (BRAC) lists;
- MassWorks Infrastructure Program funds for infrastructure needs;
- Massachusetts Executive Office of Housing and Economic Development (EOHED) special programs;

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<sup>2</sup> The conceptual cost estimate consists of \$16,100,000 for infrastructure construction, \$6,600,000 for design, permitting, contingencies and police detail allowances, and \$4,000,000 for undergrounding of utilities on Hartwell Avenue.

▪ Federal Highway Administration's National Scenic Byways Program grant program,  
Lexington revenue sources that may be allocated to Plan implementation:

- Transportation mitigation fees
- Assessments and Betterments. (Assessments under MGL c. 83 s. 26 for half of the cost of sidewalks on Hartwell Avenue North and Maguire Road)
- Tax levy, including District Improvement Financing (DIF), Community Preservation Funds, and general tax levy

In order to permit the design or construction of improvements before receipt of mitigation fees, the Town may borrow funds, applying transportation mitigation fees to the debt service as they become available.

Other funding sources will be sought as opportunities permit.

#### **F. Transportation Mitigation Fee.**

In varying degrees, each element of the proposed transportation infrastructure improvements listed below will contribute to mitigation of new development in the TMOD area. Through the analysis provided in the Tetra Tech Rizzo Report, the Planning Board has determined that the total funds derived by anticipated new development are roughly proportionate to the impacts created by the development, reasonably benefit the development, and will not produce funds in excess of those necessary to mitigate the impacts that can be attributed solely to the new development.

- (1) Calculation of payment. The Transportation Mitigation Fee is the sum of \$5.00 for each square foot of increased Net Floor Area, as defined by the Zoning Bylaw.
- (2) Payment of the fee is governed by §175-78C of the implementing regulations.

#### **G. Proposed Transportation Infrastructure Improvements**

The following transportation infrastructure improvements constitute elements of an area-wide plan that will address both the impacts of the anticipated future development in the area and future system deficiencies. If a street or intersection is not listed, no improvements are anticipated.

- (1) Bedford Street East (from Route 128 to Hartwell Avenue) Redesign, reconstruct and widen to provide:
  - four travel lanes
  - bicycle lanes on both sides
  - a raised center median
  - sidewalks on both sides
  - provision for the West Lexington Greenway multi-use path
  - bus turnouts and shelters where appropriate



- (2) Hartwell Avenue North (from Bedford Street to Maguire Road) Redesign, reconstruct and widen to provide:
- four travel lanes
  - bicycle lanes on both sides of the roadway
  - a raised center median with a limited number of breaks to permit turns
  - a sidewalk on the east side
  - a multiuse path on the west side to accommodate the West Lexington Greenway from the existing Minuteman Commuter Bikeway to Bedford Street
  - crosswalks at appropriate locations
  - bus turnouts and shelters where appropriate
  - underground utilities
- (3) Hartwell Avenue South (from Maguire Road to the Hanscom AFB gate) Redesign and reconstruct to provide:
- two travel lanes
  - a center turn lane with raised islands
  - bicycle lanes on both sides
  - a sidewalk on the west side
  - a sidewalk on the east side from Hartwell Place to the Hanscom AFB gate
  - crosswalks at appropriate locations
  - bus turnouts and shelters where appropriate
  - underground utilities
- (4) Wood Street Redesign and reconstruct to provide:
- two travel lanes to accommodate automobiles with occasional bus and local truck traffic
  - bicycle accommodations/lanes on both sides
  - a sidewalk on the northeast side
  - a sidewalk on the southwest side from #28 to #182
  - crosswalks at intersecting streets, including the West Lexington Greenway crossing.
  - bus turnouts and shelters where appropriate
- (5) Maguire Road
- Provide a sidewalk on the south side
- (6) Westview Road
- Create a safe passageway for Minuteman Commuter Bikeway across Westview Road
- (7) West Lexington Greenway from Minuteman Commuter Bikeway to Route 2A

- Construct Greenway<sup>3</sup>
- (8) Bedford Street & Route 128 Southbound Ramps Intersection
- Replace the existing intersection with a multilane modern roundabout with crosswalks on all approaches
  - Provide for both on road and off road bicycle accommodations around roundabout
  - Install traffic signal conduit to facilitate future construction of pedestrian signals
- (9) Bedford Street & Eldred Street Intersection:
- Install a crosswalk and a pedestrian-only signal
  - Prohibit left turns into and out of Eldred Street
- (10) Bedford Street, Hartwell Avenue, & Drummer Boy Way Intersection:
- Replace the existing intersection with a multilane modern roundabout with crosswalks on all approaches except the Hartwell Avenue(which is crossed at Westview Street)
  - Provide for both on road and off road bicycle accommodations around roundabout
  - Allow for future traffic in both directions on Drummer Boy Way if and when agreed to by the condominium board
  - Install traffic signal conduits to facilitate future construction of pedestrian signals at all crosswalks
- (11) Bedford Street & Winter Street Intersection:
- Widen and restripe to ease left turns into and out of Winter Street
- (12) Hartwell Avenue & Westview Street Intersection:
- Install crosswalks across Westview Street and Hartwell Avenue southern approaches
  - Prohibit left turns into and out of Westview Street
- (13) Hartwell Avenue & Minuteman Bikeway / West Lexington Greenway Intersection:
- Update existing crosswalk and bikeway/pedestrian signal to balance level of service for cars, pedestrians and bicycles
  - Relocate bikeway crossing offset from present Hartwell crossing, if needed, for effective Maguire Road roundabout traffic flow
- (14) Hartwell Avenue & Maguire Road Intersection:
- Replace the existing intersection with a single-lane modern roundabout with crosswalks on the Hartwell Avenue northbound and Maguire Road approaches
- (15) Hartwell Avenue & Hartwell Place Intersection:
- Install crosswalks on Hartwell Place and Hartwell Avenue southern approaches

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<sup>3</sup> Costs for the construction of the Greenway are not included in the total TMO-1 plan cost estimate.

(16) Hartwell Avenue & Wood Street Intersection:

- Construct crosswalks on the Wood Street and Hartwell Avenue northern approaches
- Install traffic signal conduit to facilitate future construction of traffic signals

(17) TMO-1 District Transit Services

- Design appropriate transit measures that integrate into a multi-modal transportation system
- Develop prototype guidelines for Parking and Transportation Demand Management (PTDM) measures which include identification of appropriate TMA services specific to Hartwell Avenue
- Design Management Tools
- Provide Transit Capital Equipment

**H. Off-Street Parking and Loading Requirements.**

Off-street parking and loading is governed by §175-78D of the implementing regulations.

**I. Parking and transportation demand management plans (PTDM plan).**

A Town TMO-1 goal is to increase the use of alternative modes of transportation in the Hartwell Avenue area, including public transit, bicycling, and walking. To accomplish this, the Planning Board's regulations set a goal for the number of Single Occupancy Vehicle (SOV) trips into the TMO-1 District and within each project at no more than 85% of trips.<sup>4</sup>

Project PTDM plans should strive to take advantage of the synergy of pooled resources and shared costs with other developments.

**J. Implementation Program.**

- (1) Identify discrete project descriptions and sequencing. (Planning Board, Board of Selectmen)
- (2) Complete the Project Need Forms required to initiate the TIP processes. (Town Engineer)
- (3) Establish a process to design an area transit system, which will help area businesses coordinate and contract for transportation management services, including shuttle. (Board of Selectmen)
- (4) Establish traffic mitigation and Parking and Transportation Demand Management (PTDM) accounts. (Board of Selectmen, Town Meeting)

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<sup>4</sup> The US Census Bureau's 2005-2007 American Community Survey data reported that of those working in Lexington, 83.4% (±2%) drove to work alone. The adjusted figure, removing those who work from home or walk to work, is 88.5%. These two groups were removed on the assumption that this is not something the employer can influence.

- (5) Authorize funding for transportation design services and for a PTDM Study that ascertains appropriate TMA services required for the TMO-1 area. (Board of Selectmen, Town Meeting)
- (6) Initiate the engineering study necessary to apply for a Heavy Commercial Vehicle Exclusions for Wood Street (Planning Board)
- (7) Consider options for undergrounding utilities in the TMO-1 District. (Planning Board)
- (8) Identify high-priority project components to be constructed in advance of the TIP projects using other available funds (Planning Board, Board of Selectmen) and authorize funding for their design and construction. (Town Meeting)
- (9) Authorize funding for 25% design of the TIP projects. (Town Meeting)
- (10) Seek needed approvals and funding for the West Lexington Greenway. (Conservation and Recreation)
- (11) Seek additional state and federal funds as available. (Economic Development Director)
- (12) Review Article XV for possible updates. (Planning Board)
- (13) Update §192-17 to forbid parking in bicycle lanes. (Board of Selectmen)

**K. Voluntary participation in TDM programs.**

All developments within the TMO-1 District are encouraged to develop parking and transportation demand management plans that reinforce the goals of the TMO-1 District Plan.

**L. Acknowledgement and Supplemental Information.**

This plan was adopted after the Planning Board conducted a public process that informed the formulation of the Plan. Additionally, a lengthy public process was run by the Board's consulting engineer, Tetra Tech Rizzo which garnered much input from Town Boards and Committees, and the Public. Tetra Tech Rizzo's technical assistance is captured in their report, "Traffic Mitigation Plan for the Hartwell Avenue Transportation Management Overlay District", dated July 2, 2010. This reference document serves as an extensive supplement to, and detailed source of information for, this Regulation.

This analysis was also informed by the "Lexington Commercial Zone Analysis and Buildout Study" dated July 15, 2008, done by the Cecil Group and GLC Development Resources, which was commissioned by the Economic Development Task Force.

Town of Marshfield, MA Zoning Bylaw

- g. Required minimum lot size shall be for property in zones B1 and R3 - 10,000 square feet; in zone B2 and R2 - 20,000 square feet and in zone R1 - 40,000 square feet;
  - h. Sufficient parking space shall be provided on the lot, including at least one additional space to serve the accessory apartment. Said additional space shall have access to the driveway serving the principal dwelling;
  - i. The principal dwelling shall be occupied by the applicant/owner as his or her principal residence;
  - j. Compliance with the State Building Code.
4. Plan Requirements - The applicant shall comply with Section 10.10 Special Permits of this by law. In addition, the following information shall be furnished:
- a. the existing and proposed square footage of each dwelling unit;
  - b. the existing and proposed floor layouts of each unit;
  - c. any proposed changes to the exterior of the building;
  - d. all plans should be prepared by a registered land surveyor; and
  - e. requirements for open space should be maintained.
5. Transfer of Ownership of a Dwelling with an Accessory Apartment - The Special Permit for an accessory apartment in a single family dwelling shall terminate upon the sale of property or transfer of title of the dwelling.

The new owner(s) shall be required to apply for a new approval of a Special Permit for an accessory apartment and shall submit a written request to the SPGA.

6. Recertification of Owner Occupancy - Not later than January 31 of each year following issuance of a Special Permit for an accessory apartment, the owner of the premises must certify under the pains and penalties of perjury on forms to be available at the office of the Building Inspector that the premises continue to be occupied by the owner as his or her principal residence. Failure to recertify in a timely manner shall result in the automatic termination of the Special Permit.

Section Traffic Impact Study – A detailed traffic impact analysis shall be submitted for any application for a development which requires a) a special permit for a principal use within the B-1, B-2 or I-1 zoning district, or b) which would have an anticipated average peak hour trip generation in excess of 30 vehicle trip ends or an average weekday generation in excess of 400 vehicle trip ends; except that the requirement for traffic impact analysis may

be waived where it is found by the Board that a traffic study for the area impacted by the proposed project has been completed in the past 12 months and is acceptable to assess the impacts of the proposed project; or where it is determined by the Board that the primary traffic impacts of the proposed development affect Route 139 and where the Town and/or MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, and where the applicant is willing to contribute funds to a traffic mitigation fund in an amount at least equal to the cost of a traffic impact analysis, as determined by the Board upon consultation with at least the Building Inspector, Board of Public Works, the Planning Board and the applicant. Calculation of anticipated average peak hour trip generation and average weekday generation shall be determined as follows:

1. Determination of Traffic Impact:

- a. In determining traffic generation under this provision, the data contained in the most recent edition of The Institute of Transportation Engineers' publication "Trip Generation" shall be used.
- b. If a principal use is not listed in said publication, the Special Permit Granting Authority (SPGA) may approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed principal use.
- c. If no such listed use is sufficiently similar, a traffic generation estimate, along with the methodology used, prepared by a registered professional engineer experienced and qualified in traffic engineering, shall be submitted for approval by the SPGA.

2. Preparation: The traffic impact analysis shall be prepared by a registered professional engineer experienced and qualified in traffic engineering. Firms and individuals preparing traffic impact analyses for submittal to the Board shall comply with any specific standards or requirements for qualifications as the Board may adopt.

3. Scope of Traffic Impact Study: The traffic impact study shall include the following information:

- a. Existing traffic conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, accident data for the previous three years, and levels of service (LOS) of intersections and streets likely to be impacted by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1000 feet of the project boundaries, and shall be no more than 12 months old at the date of the application, unless other data are specifically approved by the SPGA. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Board

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may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.

- b. Projected traffic conditions for design year of occupancy: statement of design year of occupancy, average annual background traffic growth, impacts of proposed developments which have already been approved or are pending before town boards.
- c. Projected impact of proposed development: Projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; and projected post development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development (as defined in 3.a. above).
- d. Proposed mitigation: A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or car pooling, or other appropriate means; and an interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems. Measures shall be proposed to achieve the following post-development standards:
  - (i) Level of Service (LOS) at nearby intersections shall not be degraded more than one level as a result of traffic generated by the proposed development, nor shall any nearby intersection be degraded below the Level of D.
  - (ii) Adjacent streets shall not exceed design capacity at the peak hour as a result of traffic generated by the proposed development.
  - (iii) Safety hazards shall not be created or added to as a result of traffic generated by the proposed development.
- e. Adequacy of Mitigation: If the proposed mitigation is deemed by the Board to be inadequate to achieve the standards set forward in Sec. 11.10(3)(d) above, the applicant shall provide alternative proposals to meet the standards, including: reduction in the size of the development; change in proposed uses on the site; contributions to off-site street and intersection improvements; or construction of off-site street and intersection improvements. Where the alternative proposals submitted by the applicant are inadequate, and where it is determined by the Board that the primary traffic impacts of the development as proposed affect Route 139 and where the Town and/or MassHighway has engineered plans for traffic mitigation that are in the planning or implementation stage, the applicant may be required as a condition of special permit approval to contribute funds to a traffic mitigation fund at least equal to \$300.00 per parking space required to serve the proposed use under this bylaw. For purposes of this standard:

- a. "Level of Service" (LOS) shall be determined according to criteria set forth by the most recent edition of the manual of the Transportation Research Board of the National Research Council;
  - b. "Impacted" means intersections projected to receive at least five per cent (5%) of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project; and
  - c. "Adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections.
4. Administrative Procedures: The Special Permit Granting Authority (SPGA) shall adopt rules relative to the issuance of a special permit and file a copy with the Town Clerk. The SPGA shall follow the procedural requirements for special permits as set forth in Chapter 40A, Section 9. The SPGA shall also impose, in addition to any applicable conditions specified in this bylaw, such applicable conditions as it finds reasonably appropriate to improve traffic flow or conditions, safety, or otherwise serve the purposes of this bylaw. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Board. After notice and public hearing, and after due consideration of the reports and recommendations of other town boards and departments, the SPGA may grant such a permit.

#### Section Curb Cut Bylaw

11.11

1. Applicability and Use - All driveway openings for special permit uses must be approved by the Special Permit Granting Authority (SPGA). The SPGA shall solicit from and consider any comments received by the Board of Public Works in approving or conditioning such a curb cut permit.
2. Required Performance Standards - The following standards shall guide issuance of curb cut permits by the SPGA:
  - a. One curb cut shall be allowed per parcel. If frontage exceeds 600', one additional curb cut may be permitted where it will aid access to and circulation within the parcel. For the purpose of this provision, "parcel" shall mean the entire property subject to an application and any other contiguous land in common ownership or control on or after the date of this bylaw (as amended at the Annual Town Meeting on April 29, 1999). Lots shall not be subdivided for the purpose of increasing the number of permissible curb cuts.