

# Planning Board Zoning Regulations

As of October 19, 2016



**SECTION 176-1.0**  
**AUTHORITY AND PURPOSE**

**1.1. AUTHORITY; TITLE**

**1.1.1 AUTHORITY.**

As authorized by §9.3.4 of the Zoning Bylaw and under the authority delegated to the Town of Lexington by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, known as the "Home Rule Amendment," the Planning Board of the Town of Lexington (Board) adopts these Regulations governing those matters in its jurisdiction under the Zoning Bylaw.

**1.1.2 TITLE.**

These Regulations are known and may be cited as the "Planning Board Zoning Regulations" or as the "Zoning Regulations" or, in this document, as "these Regulations." These Regulations are gender neutral.

**1.1.3 APPROVAL AND COMPLIANCE REQUIRED.**

1. No person may proceed with the improvement or sale of lots, units, or the construction of a street, an internal common driveway, or the installation of municipal services within them or undertake preliminary steps, such as the clearing of land, excavation, site preparation or other preparatory steps, leading to development of land for which requirements or standards are in these Regulations, unless all required approvals have been granted by the Planning Board and recorded in the Registry of Deeds or the Land Court, if applicable, and only then according to the conditions of approval and the procedures set out in these Regulations.
2. Issuance of Building Permits. The Building Commissioner may not issue any permit for erection of a building or the development of land until first satisfied that there has been compliance with these Regulations and the Zoning Bylaw and that all other applicable requirements have been met.

**1.2. PURPOSE AND OBJECTIVES**

**1.2.1 PURPOSE.**

The powers of the Town of Lexington and of the Board under MGL c. 40A and the Home Rule Amendment of the Massachusetts Constitution are exercised to promote the general welfare and convenience, and to protect the health and safety of the residents of Lexington and of adjoining communities by:

1. Identifying and securing, for present and future residents, the beneficial impacts of growth and development;
2. Identifying and avoiding the negative impacts of growth and development on the environment surrounding the development and the Town generally; and

3. Ensuring that future growth and development are of a type and design compatible with surrounding land uses and traffic and public services are not adversely impacted.

#### 1.2.2 OBJECTIVES.

These Regulations are intended to achieve the aforementioned purposes by:

1. Lessening congestion in such streets and in the adjacent public streets;
2. Reducing danger to life and limb;
3. Securing safety in the case of fire, flood, panic and other emergencies;
4. Ensuring compliance with the Zoning Bylaw;
5. Securing adequate provision for water, sewerage, drainage, underground utility service, fire, police, and other services where necessary;
6. Facilitating a detailed review by Town officials and by the public of proposed developments to determine the adequacy of the facilities proposed to be provided and their effect on public facilities and services and on adjoining land; and
7. Creating a sequence of review that progresses from the general to the detailed to avoid unnecessary delay or expense to both the Town and the applicant.

### **1.3. CONSISTENCY WITH STATE LAW; SEPARABILITY**

#### 1.3.1 CONSISTENCY WITH STATE LAW.

In case of conflict between MGL c. 40A (the Zoning Act) as it may be amended, and these Regulations, or for matters not covered by these Regulations, state law controls.

#### 1.3.2 RELATIONSHIP TO ZONING BYLAW.

In cases where the Zoning Bylaw and these Regulations conflict, the Zoning Bylaw prevails.

#### 1.3.3 SEPARABILITY.

The provisions of these Regulations are separable. If any provision of these Regulations, or any decision or determination in the administration of them, is adjudged by a court of competent jurisdiction to be unconstitutional, invalid, or void, the court's decision does not affect any other provision of these Regulations or the administration of them.

#### 1.3.4 INVALIDATION BY CHANGES TO STATE LAW.

Any part of these Regulations invalidated by a new state law, by amendment of existing law, or by a change to the Zoning Bylaw, must automatically conform to the new or amended law or bylaw and will be considered effective immediately, without recourse to the required procedures for amendment and repeal of these Regulations.

#### 1.3.5 AMENDMENT.

These regulations may be amended from time to time by a majority vote of the Board at any regularly scheduled, public meeting.

#### 1.3.6 EFFECTIVE DATE.

These Regulations, and any amendments, become effective on the date they are adopted. A copy of these Regulations must be filed with the Town Clerk within seven days of the date of adoption, and made available for inspection on request.

### 1.4. FORMS

Forms needed to administer development, and their contents, may be created, deleted, or revised by administrative action of the Planning Director. Forms are not part of these regulations.



**SECTION 176-2.0**  
**DEFINITIONS**

In the interpretation of these Regulations, the definitions in the Lexington Zoning Bylaw are incorporated by reference and apply as if set forth here in full. In addition to those terms, the terms set forth below mean the following.

**53G ACCOUNT** — An account created under MGL c. 44 §53G.

**APPLICANT** — An owner or an agent, representative, assign, or successor in title of such owner, as long as the agent does or representative who is not an attorney at law has written authorization to act for the owner. Such authorization must be valid for 180 days, and may be renewed.

**APPLICATION** — All forms, plans, reports, studies or other documents, which together constitute an application for any matter covered by these Regulations.

**BOARD** — The Planning Board of the Town of Lexington.

**ENGINEER** — A professional engineer registered to practice in Massachusetts.

**LANDSCAPE ARCHITECT** — A landscape architect registered to practice in Massachusetts.

**LAND SURVEYOR** — A land surveyor registered to practice in Massachusetts.

**MAJOR SITE PLAN** — An application for site plan review made per §176-9.4 of these regulations.

**MINOR SITE PLAN** — An application for site plan review made per §176-9.3 of these regulations.

**OWNER** — An owner of record as shown by the records in the Middlesex County Registry of Deeds or Land Court Registry of any interest in land which is affected by an application.

**PARCEL** — An area of land in one ownership, with definite boundaries, other than a Lot.

**PLANNING DIRECTOR** — The person appointed under the Lexington Selectmen/Town Manager Act to be the Planning Director for the Town, or when authorized, the Director's designee.

**PROFILE** — A vertical section of streets, storm drainage, and sanitary sewer facilities.

**REGISTERED MAIL** — Registered or certified mail.

**REGISTRY OF DEEDS** — The Registry of Deeds in Middlesex County, including, when appropriate, the recorder of the Land Court.

**SIGHT DISTANCE** — A length of road surface that a particular driver can see with an acceptable level of clarity, computed according to the most recent edition of the American Association of State Highway and Transportation Officials' (AASHTO) A Policy on Geometric Design of Highways and Streets.

**STANDARD SPECIFICATIONS** — The latest revision of Town of Lexington, Massachusetts, Department of Public Works' Division 2 Standard Specifications.

**TOWN** — The Town of Lexington.

**UTILITIES** — Services, including sanitary sewers, stormwater drainage systems, water supply piping, fire alarm conduits, electric and telephone wiring, cable television service, natural gas service, and their appurtenances.

**WETLANDS** — All resource areas protected under MGL c. 131 §40, as may be amended. Buffer areas are excluded from this definition.

**ZONING BYLAW** — The Zoning Bylaw of the Town of Lexington.

SECTION 176-3.0  
**GENERAL REGULATIONS**

**3.1. APPLICABILITY**

The regulations outlined in this Section apply to all applications under these Regulations.

**3.2. OWNERSHIP**

**3.2.1 CONSENT OF OWNERS REQUIRED FOR ALL APPLICATIONS.**

The applicant must state the nature of its interest in the property and all owners must sign any application. Where an owner is not a natural person, documents must be submitted indicating who has authority to enter into an agreement on its behalf.

**3.2.2 RIGHTS OF OTHERS IN LAND.**

The Board's approval of an application does not affect any rights others may have in or over the land which is the subject of the application, nor does it give the applicant the right to perform work on land owned by others.

**3.3. APPLICATIONS**

**3.3.1 CONTACT WITH TOWN DEPARTMENTS THROUGH PLANNING OFFICE.**

The Planning Office should be the point of contact for other town departments when requesting information about site construction for developments subject to these regulations.

**3.3.2 PRE-APPLICATION CONFERENCE.**

Applicants are encouraged to hold a pre-application conference with the Planning Office staff. The purpose of the pre-application conference is for the staff to give an interpretation of these Regulations and an explanation of the Board's procedures. Review of applications occurs after an application is filed.

**3.3.3 APPLICATION SUBMISSION.**

Per MGL c. 40A §9, applications for special permits must be filed with the Town Clerk and then the Board, through the Planning Office. All other applications should be filed directly with the Board through the Planning Office. The Planning Office staff will then commence its review and schedule the matter for action. The applicant must submit the appropriate fees and a copy of the application either:

1. By hand delivery, during regular working hours, to the Planning Office; or
2. By registered mail to the Board.

**3.3.4 PLANNING DIRECTOR'S AUTHORITY.**

The Planning Director is authorized to act on behalf of the Board in its authority to waive the submission of certain information or plans, provided the Board may, during its review, request this information.

### 3.3.5 COMPLETE AND CORRECT INFORMATION.

The applicant is responsible for the submittal of complete and correct information to the Board, which if not provided may constitute grounds for the rejection of an application for review, disapproval of an application or rescission of a previously approved application.

### 3.3.6 EXTENSION OF ACTION DEADLINE.

The Board may extend the time during which it must act on an application at the request of an applicant. The extension of time may be requested:

1. By a written request; or
2. By the mutual agreement of the applicant and the Board made at a meeting of the Board at which the applicant is present.

Where required by state law or a local bylaw, the Board will promptly notify the Town Clerk of any vote granting an extension of time.

### 3.3.7 CONCURRENT APPLICATIONS.

An applicant seeking approval of a subdivision plan and a special permit as part of one site development proposal may file a concurrent application for both, if the application clearly identifies the separate provisions of the Subdivision Regulations and the Zoning Bylaw for which each application is sought. The Board, acting under the Subdivision Regulations and as the SPGA under the Zoning Bylaw, may issue notices, conduct a concurrent hearing, and issue concurrent decisions provided the decisions clearly identify the separate provisions of the Subdivision Regulations and the Zoning Bylaw for which each application is sought or granted.

### 3.3.8 CONFERENCES AND SITE VISITS.

The Planning Office staff or the Board may request a site visit with the applicant. It may request that stakes be placed in the ground delineating the location of streets, internal common driveways, buildings, or other features to permit a better understanding of the proposed development.

### 3.3.9 RECEIVE ALL PERMITS AND RIGHTS.

The failure, or inability, to receive all necessary permits, licenses, releases, or rights may constitute grounds for disapproval of an application.

### 3.3.10 WITHDRAWAL OF APPLICATION.

An applicant may withdraw an application upon a written request approved by vote of the Board. Later applications are treated as new applications and new fees must be paid.

## 3.4. WAIVERS

The Board may waive strict compliance with specific provisions of these Regulations in accordance with the rules described below.

### 3.4.1 APPLICATION FOR A WAIVER.

An applicant requesting a waiver must submit the following with the application:

1. A written request that identifies the specific provision of these Regulations for which the waiver is requested; and
2. A narrative statement explaining how granting the waiver would be in the public interest and consistent with the intent and purpose of the Zoning Bylaw.

### 3.4.2 EFFECT OF NOT REQUESTING OR GRANTING A WAIVER.

If a request for a waiver is not submitted and one or more features of an application do not follow these Regulations, or the Board does not grant the waiver, noncompliance may be the basis for disapproval of the application.

### 3.4.3 DECISION ON REQUEST FOR A WAIVER.

If the Board waives any provision or standard of these Regulations, it must:

1. Determine that its action is in the public interest and not inconsistent with the intent and purpose of the Zoning Bylaw and of these Regulations; and
2. Include specific reasons for its action in the decision approving the application.

The Board may make its approval of a waiver dependent on conditions that will achieve the objectives of the provision or standard waived.

## 3.5. DECISIONS

### 3.5.1 WRITTEN DECISION; COMMENTS AND RECOMMENDATIONS.

Decisions on an application for approval of a special permit will be written and filed with the Town Clerk. Copies of all decisions will be mailed to the applicant.

### 3.5.2 COPIES OF ENDORSED PLAN.

The applicant must furnish to the Town, and bear the expense of making, copies of any plan that is endorsed or approved with the signatures of the Board members, including one on mylar for the Engineering Division and a black line print for the Board's files. The copies must be furnished to the Planning Office before the recording of the endorsed or approved plan.

### 3.5.3 NO ALTERATION TO APPROVED PLAN.

No alteration may be made to a plan after the Board has approved it unless made through approved change orders or modification as detailed in §176-3.6.

## 3.6. REVISIONS TO APPLICATIONS AND DECISIONS

### 3.6.1 MAJOR AND MINOR REVISIONS.

The Board determines whether proposed revisions are major or minor. The Board's policy is that a revision will be considered major if:

1. There is a substantial change in the impact of the development on municipal facilities or services; or
2. The timing of the proposed revisions, in relation to the public notification procedures per Massachusetts law and in these Regulations, affects the rights of abutters and other interested persons to be informed of a proposed development.

#### 3.6.2 REVISIONS TO APPLICATIONS

1. Minor revisions to an application before a decision may be handled in the regular review of the application.
2. Major revisions to an application before a decision may require an extension of the action deadline or re-advertising the proposed change to allow for abutter notification.

#### 3.6.3 REVISIONS TO DECISIONS

1. Minor revisions to a decision may be handled by vote of the Board.
2. Major revisions to a decision require a new application.

#### 3.6.4 FIELD CHANGES

1. Field changes are minor adjustments to decisions or approved plans based on actual conditions encountered in the field, such as shifting the location of a pipe or catch basin, or substituting like and kind materials. Field changes are approved by the Planning Director, in writing.

**SECTION 176-4.0  
FEE SCHEDULE**

**4.1. ADMINISTRATIVE FEES**

An Administrative Fee will be assessed to offset the expense of review by the Board and Planning Office for all applications.

**4.1.1 SUBMITTAL.**

Administrative Fees must be submitted at the time of the submittal of the application, unless noted. Failure to submit the fee is grounds for denial of the application.

**4.1.2 ADMINISTRATIVE FEE SCHEDULE**

The following schedule applies to the types of applications to the Board:

<b>Type of Application or Action</b>	<b>Amount in Dollars</b>
Unaccepted Streets, §176-7.0. Project Initiation Meeting Unaccepted Street Determination	\$0 \$2,000
Special Permitting, §176-6.0 Residential Sketch Plan Residential Special Permit  Nonresidential Sketch Plan Nonresidential Special Permit	\$1,500 plus \$500 per proof plan lot <sup>1</sup> \$3,000 plus \$500 per proof plan lot <sup>1</sup> \$1,500 plus \$50 per 1,000 SF of GFA <sup>2</sup> \$3,000 plus \$50 per 1,000 SF of GFA <sup>2</sup>
Site Plan Review, §176-9.0 Minor site plan review Major site plan review	\$500 \$1,500
PD rezoning, §176-8.0 Sketch PSDUP Final PSDUP	\$500 \$2,000 <sup>1</sup>
Notes to Fee Schedule:	
1. One payment of a fee for a sketch plan is creditable to the initial fee for a special permit application or PSDUP rezoning request. If more than one fee is paid for a sketch plan, only the first of those payments is creditable to the initial fee for a special permit application.	
2. The incremental portion of the fee is based on net new gross floor area.	

**4.1.3 FEE WAIVERS.**

The Board or Planning Director may waive or reduce any Administrative Fee upon determination that unusual circumstances exist concerning the subject property.

#### 4.1.4 NO REFUNDS.

Administrative fees are not refundable. No fees will be refunded if an application submitted for approval is withdrawn.

#### 4.1.5 COSTS OF ADVERTISING AND HOLDING PUBLIC HEARING.

The applicant is responsible for the costs of publishing the legal notice for any public hearing. If the Board is required to hold the public hearing in a building other than the Town Office Building and there are costs associated with meeting in another building the applicant is responsible for those costs. Failure to pay for the legal notice or other hearing costs will be grounds for denial of the application.

### **4.2. PROJECT REVIEW FEES**

#### 4.2.1 APPLICABILITY.

In addition to an Administrative Fee, the Board may impose a Project Review Fee on those applications which require, in the judgment of the Board, review by outside consultants because of the size, scale, or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary resources to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to help the Board and to ensure compliance with all relevant laws, ordinances, by-laws, and regulations. Such support may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

#### 4.2.2 SUBMITTAL.

Should the Board require outside review, a Project Review Fee must be submitted to the Planning Department for deposit in a 53G Account. Failure to make this payment is grounds for denial of the application.

#### 4.2.3 SCHEDULE.

The following schedule applies to the types of applications to the Board set forth below. Where more than one type of application has been submitted for Board action, only the largest of the applicable Project Review Fees may be collected for deposit into the 53G Account, and not the sum of those fees.

Residential: \$2,000 plus \$700 per unit.

Nonresidential: \$5,000.

#### 4.2.4 REPLENISHMENT.

When the balance in an applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Board may require a Supplemental Project Review Fee to cover the cost of the remaining project review. Failure to make this payment is grounds for denial of the application.

#### 4.2.5 INSPECTION PHASE.

After the approval of application, the Board may require a Supplemental Project Review Fee to ensure the availability of funds for the inspection phase of the review process.

#### 4.2.6 HANDLING OF PROJECT REVIEW FEES.

Project Review Fees must be turned over to the Town Treasurer by the Planning Department for deposit into a 53G Account.

1. Outside consultants retained by the Board to help in the review of an application must be paid from this account.
2. The Board must provide the following information in a timely fashion on request of the applicant:
  - a. A statement of principal and interest based on information from the Town Accountant;
  - b. A report of all checks authorized for issuance; and
  - c. An estimate of bills pending from consultants for work completed, or in progress, but not invoiced.
3. Remaining funds in the 53G Account, including accumulated interest, must be returned to the applicant, or the applicant's successor in interest, at the conclusion of the review process, as defined below. Any person or entity claiming to be an applicant's successor in interest must provide the Board with documents showing proof of succession in interest:
  - a. With the disapproval of an application for a special permit or site plan.
  - b. With the release of the performance bond at the end of the construction of the project.

#### 4.2.7 APPEAL.

The choice of a consultant by the Board for the review of an application may be appealed by the applicant in writing to the Board of Selectman as provided in MGL c. 44 §53G. The required time limits for action upon an application by the Board are automatically extended for duration of the appeal.

#### 4.2.8 DELINQUENT ACCOUNTS.

The following rules apply to fees owed to the Board by applicants:

1. Due date. Administrative fees are due at the time of submittal of an application. Project Review fees and Supplemental Project Review fees are due in 14 days from the date that the Board determines that they are required.
2. Monthly Interest Charge. All fees past due by one month from the date of invoice are subject to a monthly interest charge based upon an annual interest rate of 14%.
3. Costs of Collection. All costs of collection associated with past due accounts must be borne by the applicant.

4. Current Delinquents. All applicants owing fees to the Board at the time of any amendment to these provisions of the regulations must be sent the following:
  - a. A duplicate notice of the amount past due.
  - b. A copy of the applicable sections of these regulations with all amendments clearly indicated.
  - c. Notice of a 30-day grace period before beginning any changes in interest rates or charges.
5. Failure to pay. Failure to pay delinquent fees, interest, or costs of collection after 30 days' notice is grounds for denial of an application or rescission of an approved application.

SECTION 176-5.0  
SUBMISSION MATERIALS

**5.1. FORMAT AND CUSTODY OF PLAN AND DOCUMENTS**

5.1.1 General Information. Each sheet of a plan must include the following information:

1. Title block containing the name and section designation, if any, of the proposed development;
2. The name of the applicant and the property owner if not the same;
3. The name, address, and imprint of the professional registration stamp of the landscape architect, engineer, or land surveyor responsible for the preparation of each sheet;
4. A title for each sheet and a number for each sheet, with sheets consecutively numbered;
5. A visual scale and a North arrow, the direction of which must be the same for all sheets;
6. The date of original preparation and the date of each revision, with the revisions noted;
7. If applicable, space for endorsement by the Planning Board, with room for the signature of each member, and the date of the endorsement below the signatures;
8. If applicable, reference to the certificate of action, special permit, or covenant and the date of those actions;
9. If applicable, space for the Town Clerk's certificate of no appeal and the date of that certification below the space for the Clerk's signature; and
10. A legend denoting any signs and symbols used on the plan and not otherwise explained.

5.1.2 Document and Plan Formatting Requirements.

1. All plans and other application material intended to be recorded must meet the latest version of either the Deed Indexing Standards for the Commonwealth of Massachusetts or the Manual of Instructions for the Survey of Lands and Preparation of Plans to Be Filed in the Land Court. These documents are available on the Board's website.
2. Vertical Datum. All elevations shown on profiles and topographic plans must be based on the North American Datum of 1983 (NAD83) and identify all benchmarks used and their elevations.
3. Typewritten or printed material must be submitted in 8 1/2 inch by 11-inch format. Oversized brochures or reports will not be accepted.
4. Information in digital form. All submitted information and plans must be supplied both in written form as required elsewhere in these Regulations and in

digital form. The digital information must be submitted in its native format (e.g., MS Word, or AutoCAD) and in Portable Document Format (PDF).

5.1.3 Graphic Conventions. Lines showing existing conditions must be shown as screened or dashed lines; proposed conditions must be clearly differentiated from existing conditions by the use of solid, heavier, or bold lines. Contour lines shown on the plan must correspond to known elevations on existing benchmarks and to the existing and proposed grades of streets shown on profile drawings.

5.1.4 Legibility of Plans. The information required on the various types of plans specified below must be presented in a legible form. More than one of the plans listed in § 176-4.2 may be placed on one sheet provided the information is clear. Illegible plans are grounds for denial.

5.1.5 Custody of Plans. Once submitted, the original copy of plans will be retained by the Planning Office for the Planning Board and will not be released to the applicant.

## **5.2. INFORMATION REQUIRED; BY TYPE OF PLAN.**

5.2.1 Title Sheet. A title sheet shows all land within 500 feet of the development tract that is the subject of the application including:

1. All existing dwellings and principal buildings;
2. The land use of each lot;
3. All lot and right-of-way lines, in a general way;
4. Existing contours at two-foot intervals;
5. Principal natural features;
6. Zoning district boundaries;
7. Recorded easements abutting the tract; and
8. Public facilities or property, such as conservation or recreation land, footpaths, bicycle paths, or streets.

5.2.2 Site Analysis Map. A site analysis map, prepared by a landscape architect, shows:

1. Existing contours at two-foot intervals;
2. Steep slopes, distinguished as follows:
  - a. Slopes greater than 15% but less than 25%;
  - b. Slopes greater than 25% but less than 40%; and
  - c. Slopes greater than 40%.
3. Mature trees, distinguishing deciduous from evergreen, and differentiating between them by size as follows:
  - a. Trees with a diameter at breast height (DBH) between 6 and 12 inches
  - b. Trees with DBH between 12 inches and 18 inches;

- c. Trees with a DBH between 18 inches and 30 inches; and
- d. Trees with a DBH greater than 30 inches;
4. A note containing the number and total DBH of all trees with a DBH greater than 6 inches;
5. Location and results of any soil, percolation, and water table tests using the Department of Environmental Protection Soil Evaluation procedures under Title V;
6. Areas in the tract subject to easements, rights-of-way, or similar deed restrictions;
7. If applicable, a wetlands delineation, prepared by a professional wetlands specialist, identifying:
  - a. The wetland boundaries,
  - b. The 25' buffer boundary,
  - c. The 50' buffer boundary, and
  - d. The 100' or 200' jurisdictional line;
8. Habitats of rare and endangered species;
9. Fences, stone walls, trails and rock outcroppings;
10. Existing vegetation, including open fields, unique specimens of vegetation and rare and endangered species habitats;
11. Areas of visual impact, including viewscales into and out from the site;
12. Sources of noise affecting the site and abutting sites; and
13. Potentially historically or architecturally significant structures and sites on or adjacent to the site.
14. Information on topography, slopes and trees required may be omitted in areas of the site that are not proposed to be disturbed, provided these areas are clearly marked on the plan as areas not to be disturbed.

#### 5.2.3 Property Rights and Dimensional Standards Plan.

The information shown on the property rights plan must be shown to scale and in its true relative position and with adequate dimensions and bearings to set its exact location on the ground and on the plan with at least two existing permanent bounds in existing ways. A property rights and dimensional standards plan, prepared by a registered land surveyor, shows:

1. All lot lines and lines defining easements, including the length of the line and the bearing of each line.
2. The location of existing easements or other property rights affecting the development;

3. The location of any sections of the land to which the Town would be granted property rights, either by easement or transfer of ownership, for street, utility, conservation, recreation or other public purposes;
4. The proposed division of the property into parcels in private ownership, if any, if it affects zoning provisions;
5. The proposed yard setback in feet for buildings and, if applicable, from a zoning district boundary, a brook or a pond and, if applicable, the setback of a driveway or parking lot from lot lines;
6. The proposed boundaries of any common open space;
7. The proposed maximum height of buildings;
8. The proposed distance, in feet, between buildings;
9. Proposed bounds, markers and/or monuments;
10. If applicable, zoning district boundary lines and the Town boundary line;

#### 5.2.4 Site Construction Plan.

A site construction plan, prepared by a landscape architect and a civil engineer, shows, where applicable:

1. The location of existing and proposed new buildings;
2. Existing and proposed contours;
3. If applicable, a delineation of vegetated wetlands approved by the Lexington Conservation Commission, with the buffers described in §5.2.2.7 above;
4. The proposed location and dimensions of streets, drives, parking areas, curb cuts, streetlights, and driveway aprons;
5. The location and characteristics of any proposed common open space;
6. The proposed drainage system in general;
7. Proposed landscaping in general;
8. A proposed limit-of-work line outside of which no land or natural features will be disturbed; and
9. A note indicating amounts of earth material that is to be removed, added, or reused on site.

5.2.5 Street Layout and Profile Plan. A street layout and profile plan, prepared by a civil engineer, with each street shown on a separate sheet and consisting of a street layout plan and a street profile plan matching the street layout plan, shows:

1. Street Layout Plan
  - a. The layout of each proposed street in the development and beyond it to the limit of the proposed construction necessary to provide adequate access and connection to municipal services;

- b. The length of each straight segment to the nearest one hundredth of a foot and the bearing thereof to the nearest five seconds;
  - c. The length, central angle, radius and length of tangent for each curved segment to the same degree of precision as the straight lines and clearly identifying each non-tangent curve;
  - d. All existing and proposed construction features, such as pavement, walks, curb or berm, drains, catch basins, manholes, sewers, water mains, other underground conduits where known, retaining walls, traffic islands, grass plots, and gutters;
  - e. Center-line stations designated at one-hundred-foot intervals at or opposite points of tangency;
  - f. Angles in the street line, manholes, catch basins and culverts; and
  - g. Sight lines for entering and merging traffic at street intersections and driveway intersections and other necessary data pertaining to traffic safety.
2. Street Profile Plan. To match the street layout plan and be located either above or below it for ease in locating corresponding points:
- a. The existing side lines and existing and proposed center lines and bicycle accommodation markings, with elevations every 50 feet and at all high and low points;
  - b. The grade of the principal segments of the proposed street, showing the location of vertical curves and corresponding data;
  - c. All proposed sewers, drains, catch basins, manholes, cleanouts, siphons and other appurtenances identifying the material, class or strength and size of sewers and drains and the grade for each section thereof in percent; and
  - d. The centerline stations and invert elevations of all catch basins, manholes, cross drains or culverts.
- 5.2.6. Utilities Plan. A utilities plan, prepared by a civil engineer, shows:
1. The location and size of the Town's existing water mains, fire hydrants, sanitary sewers, and storm drains; and
  2. The proposed location and size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development.
- 5.2.7 Landscape Plan. A landscape plan, prepared by a landscape architect, shows:
1. Existing and proposed grades;
  2. The existing vegetative cover to be retained, and including the location, size and type of such vegetation

3. Existing trees with a six-inch DBH or greater, identification of specimen trees, identified as:
  - a. Trees to be retained,
  - b. Trees to be removed, and
  - c. Trees to be transplanted;
4. Existing and proposed stone walls
5. Existing and proposed building footprints, fences, parking spaces, loading bays, driveways, walks, storage areas, public rights-of-way, easements and location of structures on, and the uses of, abutting properties;
6. A plan and plant schedule giving botanical and common names of plants to be used, size at time of planting, mature size, rate of growth, quantity of each, location and method of any excavation and soil preparation, and the spacing and location of all proposed trees, shrubs and ground covers;
7. Proposed street furniture, such as regulatory and informational signs, benches, hydrants, street lighting standards, postal boxes, bicycle infrastructure, transformer pads and the like; and
8. The methods for protecting plant materials during and after construction, including a tree maintenance plan, outlining the owners' obligation to maintain and protect trees on the property on an ongoing basis.

5.2.8 Proof Plan. A proof plan shows:

1. The boundaries of the proposed development tract;
2. Existing contours at two-foot intervals;
3. Potential lots in the tract, each complying with the minimum lot frontage, minimum lot area, and minimum lot width required by the Zoning Bylaw;
4. If applicable, a street layout plan that complies with the design standards for streets and rights-of-way per Chapter 175, including grading; the plan must reflect the minimum amount of impervious surface required to comply with the design standards and (3) above, unless the frontage requirement is met by an existing street
5. Any easements or similar property interests that benefit or restrict the project site; and
6. A table of development data appearing on the proof plan that includes:
  - a. The total land area of the development tract;
  - b. The total area of delineated wetlands;
  - c. The area in the proposed right-of-way; and
  - d. The area of the impervious surfaces in the proposed right-of-way.

5.2.9 Off-Street Parking and Loading Plan. An off-street parking and loading shows:

1. The number, location, elevation and dimensions of all driveways, maneuvering spaces or aisles, parking spaces and loading bays, which comply with this bylaw and accepted engineering practice;
2. The construction details and the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, trees, screening and lighting;
3. The location of all buildings, lot lines and zoning boundary lines from which the parking lot or loading area must be set back;
4. Where landscaping is to be provided, the species and size of plant materials; and
5. A summary schedule showing the amount of floor space, or other parking or loading factor to be met, the number of standard, compact and handicapped parking spaces and number of loading bays.

5.2.10 Lighting Plan. A lighting plan shows:

1. The location and type of any outdoor lighting luminaires, including the height of the luminaire;
2. The luminaire manufacturer's specification data, including lumen output, color temperature, and photometric data showing cutoff angles;
3. The type of lamp such as: metal halide, compact fluorescent, high-pressure sodium;
4. A photometric plan showing the intensity of illumination at ground level, expressed in foot-candles; and
5. That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross-section drawings, or other means.

### 5.3. REQUIREMENTS FOR OTHER INFORMATION

The following information, if applicable, must be included in an application:

5.3.1 A Table of Development Data showing, if applicable:

1. Total land area;
2. Area in vegetated wetland;
3. Developable site area;
4. Length of street and area in street right-of-way;
5. Area in common open space;
6. Area and percentage of site coverage of buildings;
7. Area covered with impervious surface;
8. Impervious surface ratio;
9. Gross floor area and net floor area of all buildings;

10. Floor area ratio of all buildings;
11. Density of dwelling units, or their equivalent; and
12. Number of off-street parking spaces and loading bays.

5.3.2. Hydrologic and Drainage Analysis. A drainage analysis, prepared by a civil engineer, showing:

1. The results of any tests or copies of calculations used in the design;
2. Calculations demonstrating the adequacy of the proposed sewer and drainage systems and their compatibility with existing drainage systems; and
3. Estimates of flood elevations reached during a one-hundred-year storm, ground- and surface water elevations.

5.3.3. Soil Surveys, Test Pits, and Test Borings. Soil surveys, test pits, and test borings, prepared by a civil engineer, to decide the suitability of the soil for the proposed streets, drainage and utilities, to be taken at one-hundred-foot intervals at the proposed station points as described in the street layout and profile per Section 176-5.2.5 or at such other points as the Town Engineer may request.

5.3.4. Traffic Study. A traffic study and a proposal for mitigating measures to improve capacity or for trip reduction programs, if any. The traffic study must include:

1. Data Collection. Data shall not be collected earlier than 12 months before the submission of a traffic study. Data shall include:
  - b. Automatic traffic recorder (ATR) counts(s) with full vehicle classification (i.e. trucks, buses, motorcycles, etc.) for a minimum 48-hour weekday period. Location(s) must receive prior approval of the Planning Director. Full fifteen-minute segment data must be submitted electronically to the board.
  - c. Pedestrian and bicycle counts taken at ATR locations as required by the Planning Director
  - d. Intersection turning movement counts (TMC) and queues of the morning and evening peak periods at the intersections likely to be affected by the proposed development including vehicle classification; pedestrian and bicycle movement counts whether on the roadway or sidewalk. In special circumstances where the peak traffic impacts are likely to occur at times other than the usual morning and evening peak periods, the additional counts for those peak periods are required.
  - e. ATR and TMC counts must not be taken during weeks with public, major religious holidays, and school breaks. Counts are not valid in inclement weather. If counts are not taken during the months of April, May, September or October then the Board may require additional counts.
  - f. Traffic crashes, summarized from the Massachusetts Highway Department records for the previous 3-year period including crash type, injury,

involvement of pedestrians and/or bicycles, surface conditions and weather.

2. Analysis.

- a. An estimate of trip generation for the proposed development showing the projected inbound and outbound vehicular trips for the morning and evening peak periods and a typical 24-hour period. Where there is existing development of the same type of use on the site, actual counts of trip generation must be submitted.
- b. Trip generation rates may must be based on the most recent edition of "The Trip Generation Manual" prepared by the Institute of Transportation Engineers that is on file in Lexington Town Engineer's office, and, if applicable, data about similar developments in Massachusetts; or data from professional planning or transportation publications, provided the methodology and relevance of the data is documented.
- c. The morning and evening "peak period" is usually be the two hours between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. respectively. The morning and evening "peak hour" is that consecutive sixty-minute segment in the peak period in which the highest traffic count occurs as determined by traffic counts of the peak period divided into fifteen-minute segments. For uses that have an exceptional hourly, daily, or seasonal peak period, additional analysis must be conducted for that extraordinary peak period.
- d. An estimate of the directional distribution of new trips by approach streets and an explanation of the basis of that estimate. Where there is existing development of the same type of use on the site, actual counts of trip directional distribution must be submitted.
- e. An assignment of the new trips to be generated by the proposed development to the segments of the Town street network, including state highways, which are likely to be affected by the proposed development.
- f. An inventory of roadway characteristics of the principal approach streets adjacent to the development site and of the streets in the intersections at which turning movement counts are taken showing the width of the right-of-way and of the traveled way, traffic control devices, obstructions to adequate sight distance, the location of driveways or access drives within 500 feet of the entrance to the site for uses that are substantial trip generators, and the presence or absence of sidewalks and their condition, and the manner in which bicycles are accommodated.

3. Mitigation.

- a. In the case of a development in an abutting community, which will have a traffic impact on a street or intersection in Lexington, which is likely to be affected by the proposed development for which the traffic study is being prepared, the traffic impact of the development in the abutting community must be included in the traffic study provided:

- i. The development has been approved by official action of that abutting community but has not opened for use before the date that the traffic counts required by this section were taken; and
  - ii. Data on the traffic impact of that development, comparable to that required by this section, is available.
- b. Analysis of the effect on the capacity of those intersections in the Lexington street system likely to be affected by the development during both daily peak periods showing:
- c. Existing traffic at these intersections;
- d. Additional traffic generated by the development without consideration of any mitigating measures or trip reduction programs;
- e. The additional traffic generated by the development inclusive of mitigating measures or trip reduction programs;
- f. Future traffic from other developments previously approved by the Town of Lexington for which a traffic study was required, or by an abutting community, which have not yet been opened for use before the date that the traffic counts required by this section were taken.
- g. Where mitigating measures or trip reduction programs are proposed, they must be proposed by the applicant and accompany the traffic study at the time of filing of the application. Where the proposed mitigating measure is the construction of a traffic engineering improvement, evidence, such as letters of support, or commitment, or approval, or the award of a contract, may be submitted to show that construction of the traffic improvement is likely to occur.
- h. An estimate of the time and amount of peak accumulation of off-street parking. The counts referred to above must have been taken in the 12 months before the filing of the application. Upon request, the traffic engineer must furnish an explanation of the methodology of the traffic study and additional data, as needed.

5.3.5 Additional Information. In its decision on a sketch plan, the Planning Board may indicate that additional information is necessary for the next stage in the review process; this information is to be furnished by the applicant to the Board in a timely manner.

#### **5.4. DOCUMENTS AND EXHIBITS**

In addition to the plans, studies, analyses, and tests, the various types of applications cited in these Regulations require or permit that the following documents and exhibits be submitted, if applicable:

5.4.1 Deed or Easement. Drafts of any deed, easement, or restriction offered to the Town.

5.4.2 Site Development Conditions. Proposed conditions limiting the use of parts of the site, maintaining or enhancing existing natural features, making site improvements or landscaping, or accepting or assigning responsibility for maintenance.

5.4.3 Building Design. Proposed conditions, which may include a visual representation, such as sketches or photographs, limiting the size, scale, type, style, siting and exterior appearance of buildings.

5.4.4 Off-Site Traffic Improvements. Proposals for mitigating measures or the design or construction of off-site improvements (or financial contributions therefore) to deal with the traffic impacts of the proposed development including any trip reduction commitments.

5.4.5 Off-Site Town Facilities and Services. Proposals for mitigating measures or the design or construction of off-site improvements (or financial contributions therefore) to deal with the impacts, except traffic impacts, of the proposed development on Town facilities or services.

5.4.6 Use of Buildings. Proposed special conditions limiting the types of establishments that may use buildings or land and their hours of operation.

5.4.7 Housing. Proposed special conditions limiting the type, size, or location of dwelling units, or the income range of occupants, or dealing with the level of, or term of continued, affordability of dwelling units.

5.4.8. Historic or Architectural Preservation. Proposed special conditions dealing with the maintenance or restoration of buildings or places of historic or architectural significance.

5.4.9 Other Material. Any other material necessary for the Board to make the findings required by §135-9.4.2.



**SECTION 176-6.0**  
**SPECIAL PERMITS**

**6.1. APPLICABILITY**

The Lexington Zoning Bylaw authorizes the Planning Board to act as the special permit granting authority (SPGA) for certain special permits. These Regulations are adopted under the Zoning Act, MGL c. 40A §9. These Regulations supplement the provisions of the Lexington Zoning Bylaw.

**6.2. PROCEDURES**

6.2.1 Provisions of Zoning Bylaw Must Be Specified. A person applying for a special permit must cite the specific section of the Zoning Bylaw and the action that the Planning Board is requested to take and include information on the conditions, standards, and criteria for it to make the decision. If a person seeks a special permit under more than one provision of the Zoning Bylaw, he/she must file an application that clearly identifies each provision of the Zoning Bylaw for which a special permit is sought.

6.2.2 Sequence of Review. The Planning Board recommends that a person seeking approval of a special permit follow the sequence set forth below:

1. Sketch plan (recommended, not required): An initial and informal way to discuss all development alternatives.
2. Special Permit Application (required): includes construction details and other detailed information necessary to comply with the Zoning Bylaw and to carry out the design agreed to in the sketch plan stage.

6.2.3 Issuance of Decision on the Application for a Special Permit. The Planning Board may vote to grant, grant with conditions, or deny a special permit. The filing of the decision with the Town Clerk completes the application and review process.

**6.3 SKETCH PLAN APPLICATION SUBMITALS**

6.3.1 Prepared by landscape architect. Sketch plans must be prepared by a landscape architect. Engineers, land surveyors, and other types of consultants may assist, but a landscape architect must have overall responsibility for the design of the development proposal.

6.3.2 Source of information. Information taken from, or shown on, a marked-up copy of the Town's data or property maps is generally acceptable for the sketch plan except where indicated in Section 6.3.3.

6.3.3 Information required. Sketch plans may only include the following material:

1. Title Sheet. [see Section 5.2.1.]
2. Site analysis map. [see Section 5.2.2.]
3. A proof plan. [see Section 5.2.8.]
4. Table of development data [see Section 5.3.1.] showing the total land area, the approximate area in vegetated wetland and the approximate area in the slope

subtypes. The table of development data may be included on either the title sheet or the site analysis map(s).

#### 5. Project Narrative.

6.3.4 Sketch plan not a commitment to later approval. Any review, comments or recommendations made by the Planning Board or the Planning Department staff are limited to the information presented in the sketch plan and are not to be considered as a commitment to approve a site development plan for which more detailed information is required.

### 6.4 SPECIAL PERMIT APPLICATION SUBMITALS

6.4.1 Coordination by landscape architect. A landscape architect must be responsible for the coordination of the physical planning of the proposed development.

6.4.2 Information required. Information presented in the special permit application must be based on field surveys, except as noted below. A special permit application must include the following:

1. A title sheet [see Section 5.2.1.] which may be based on existing map resources;
2. A site analysis map [See Section 5.2.2.] based on a field survey; existing trees larger than six inches in caliper within the proposed limit-of-work line must be shown;
3. A property rights and dimensional standards plan [See Subsection 5.2.3.]; the plan must be based on an instrument field survey; existing and proposed bounds, markers and monuments shall be shown; existing easements and property rights only may be based on map resources at the Registry of Deeds or Land Court;
4. A site construction plan [see Section 5.2.4.];
5. A street layout and profile plan [see Section 5.2.5.];
6. A utilities plan [see Section 5.2.6.];
7. A landscape plan [see Section 5.2.7.]
8. Elevations of proposed buildings
9. A table of development data [see Section 5.3.1.];
10. And, if applicable:
  - a. A draft, in proper legal form, of any of any proposed conditions;
  - b. Hydrologic and drainage analysis [see Section 5.3.2.] if there are extensive wetlands on the site, or the topography may cause accelerated water runoff, or a drainage system is proposed as an alternative to the Standard Specifications, so that the Town Engineer can determine the feasibility of the proposed drainage system;
  - c. Soil surveys, test pits or test borings [see Section 5.3.3.] if needed to determine the suitability of the land for the proposed streets, drainage and utilities;
  - d. Additional information [see Section 5.3.5.];

- e. If a sketch plan was filed, or at a subsequent public hearing, a written response to the Planning Board's comments and recommendations at any prior hearing; and
- f. A proof plan [see Section 5.2.8.] if a special permit residential development is proposed.



SECTION 176-7.0  
**UNACCEPTED STREETS STANDARDS**

**7.1 AUTHORITY.**

- 7.1.1 Authority. The Zoning Bylaw requires every lot have frontage on a street as defined in the Zoning Bylaw (§135-10.0). The Bylaw has three classifications of streets: 1) a public way laid out and maintained by a public authority; 2) a way constructed in accordance with an approved subdivision plan; and, 3) a way in existence on April 4, 1948 that has been determined to be adequate by the Planning Board.

This third classification of street is not a permanent one as it relies on the determination of the Planning Board as to the status of the street at the time a building permit is sought. In order for a way in existence on April 4, 1948 to be categorized as a street, the Planning Board must make a determination that it has sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land served by the way, and for the installation of municipal services to serve the land and the buildings erected, or to be erected, on that land.

This section of the *Zoning Regulations* sets forth the procedures and construction standards by which the Board will render its opinion on the adequacy of these ways.

**7.2 OBJECTIVES.**

- 7.2.1 Objectives. The Planning Board has adopted these Regulations for the following reasons:
1. To extend the system of streets that are either accepted public ways or are constructed to Town standards in a manner compatible with the Town's Complete Streets policies;
  2. To set forth written standards and procedures for determining the adequacy of unaccepted ways to serve as frontage, in relation to the construction of large additions or new dwellings, for lots on such ways.

**7.3 APPLICABILITY.**

7.3.1 Regulated Activities & Length of Jurisdiction.

1. Regulated Activities. Until the Planning Board determines that the unaccepted street provides adequate frontage, no building permit may be issued for any lot on a way not accepted by the Town but in existence on April 4, 1948 for:
  - a. A new dwelling on a vacant lot, or
  - b. Additions to, or replacement of, an existing dwelling that increases the gross floor area on the lot by more than 1,000 square feet.
2. Subdivision Control if More than One Lot. In the case of additions to, or replacement of, more than one dwelling on the same segment of unaccepted street, the applicant must file a definitive subdivision plan and provide for the construction of public facilities as required by the *Subdivision Regulations*. For

the purposes of this requirement, this means if any adjacent or abutting lot(s) was owned by the same person, or one or more principals in a development entity, in any of the five years preceding the application, and a street determination was issued for that lot.

3. Length and Direction of Jurisdiction. The Board will determine the adequacy of the way along the entire frontage of the lot and the intervening distance between the lot and the nearest accepted street, plus any area required to provide a safe transition to the existing ways, which may add to the length of the required improvements.

### **7.3 PERMITTING PROCESS.**

7.3.1 Process Outline. The Planning Board issues its determination after an application is received, staff conducts a review of the proposal, and the matter is discussed at a public meeting with abutter notification.

7.3.2 Action Deadline. The Planning Board must act on a street determination application within 45 days from the submission date, unless extended per §176-3.3.6.

7.3.3 Decision. The Planning Board will determine that:

1. The unaccepted street presently is of adequate grade and construction and no improvements are necessary; or,
2. The unaccepted street is not presently of adequate grade and construction but will be after certain improvements, proposed by the applicant, are made; or
3. The unaccepted street is not of adequate grade and construction and the improvements proposed by the applicant are not sufficient to change that determination.

7.3.4 Determinations are limited to the grade and construction of the street and should not be interpreted as implying that the lot under consideration meets any other test of the Zoning Bylaw to qualify it as a buildable lot.

7.3.5 Performance Guaranty. If the improvements are not to be completed before the issuance of a Building Permit, the Board will require a performance guaranty to cover the costs of the construction and inspections, in accordance with sections 175-6.5 and 6.6 of the Board's *Subdivision Regulations*.

7.3.6 Duration of Determination. Street determinations are valid for two years from the date the designation was voted by the Board.

### **7.4 REQUIRED IMPROVEMENTS & DESIGN STANDARDS**

7.4.1 Same Standards as *Subdivision Regulations*. The improvements and design standards for improvements of unaccepted streets are the same as those found in Chapter 175-7.0 of the *Subdivision Regulations*, and are incorporated here by reference.

## 7.5 APPLICATION REQUIREMENTS

7.5.1 Format of plans and documents. The format and the information required for any of the plans or other documents cited in this section is the same as those set forth in Chapter 175 of the Code of Lexington, the *Subdivision Regulations*.

7.5.2 Information Required. The information required for a Street Determination must be sufficient to depict the condition of the length of the street under review and must include the following items:

1. Street Construction Plan. Street Construction Plans must depict the length of street as described in §175-7.0 above, and are comprised of the plans indicated below:
  - a. A title sheet, §175-7.1. Land 100 feet back from the way for the length of the proposed improvements needs to be shown. It may be based on existing map resources rather than a survey; not required: zoning district boundaries, and recorded easements abutting the tract;
  - b. A site construction plan, §175-7.1, except the following items are not required: the location and characteristics of open space, and proposed limit-of-work line;
  - c. A street layout plan and a street profile plan, §175-7.2;
  - d. A utilities plan, §175-7.4; and
2. A certified copy of a plan properly recorded before April 4, 1948, showing the layout of the way and evidence that the street has been in existence ever since;
3. An opinion of an attorney stating he/she has examined the deeds of the owner of the lot and of all others who have rights in the right-of-way and that the applicant has the legal right to make the improvements proposed to comply with these standards, including the construction of drainage facilities and subsurface improvements, and improvements to any intervening distance. The Board may require submittal of copies of the deeds of other property owners or a representative sample of those deeds (if they are similar) concerning the rights held by the (other) property owners in the right-of-way;
4. A list identifying all waivers, if any, and the reason a waiver is requested. If the applicant seeks waivers from these *Regulations*, the Board requires that the plan set include an additional Site Construction Plan showing full compliance with the design standards; and
5. A statement whether or not the applicant intends to petition to have the street accepted by the Town as a public street.
6. Applicants must include the fee set forth in § 176-4.1.2.

## **7.6 CONSTRUCTION AND COMPLETION**

7.6.1 Same Rules as *Subdivision Regulations*. The procedures for the construction and completion of improvements to unaccepted streets are the same as Section 8.0 of the *Subdivision Regulations*, and are incorporated here by reference.

SECTION 176-8.0  
**PLANNED DEVELOPMENT DISTRICTS**

**8.1 OBJECTIVES.**

- 8.1.1 To establish a step-by-step listing of required and recommended submittals and procedures to amend the Lexington Zoning Bylaw to create a Planned Development (PD) District; and
- 8.1.2 To provide adequate information in a timely manner, and well before the vote of the Town Meeting, to permit review by the Planning Board, other Town boards and departments, by Town Meeting members, residents, and affected neighborhood groups.

**8.2 SEQUENCE OF REVIEW.**

The Planning Board recommends that an applicant seeking to establish a new PD district or to modify to an existing PD district follow the sequence set forth below:

- 8.2.1 **SKETCH PLAN (RECOMMENDED).** An initial and informal way to present a proposal to the Planning Board to see what it may find acceptable prior to filing a petition for change of zoning district. This is the first step in a dialogue between the applicant and the Planning Board in developing a proposal that the Planning Board might be able to recommend favorably to the Town Meeting. The submission includes the material described in subsection 8.7.1 below.
- 8.2.2 **PETITION FOR CHANGE OF ZONING DISTRICT (REQUIRED).** A petition with accompanying description of the land proposed to be rezoned submitted to the Board of Selectmen to place an article on the warrant for the Town Meeting. The submission includes the material described in subsection [08.4.1](#) below.
- 8.2.3 **PRELIMINARY SITE DEVELOPMENT AND USE PLAN (REQUIRED).** Submitted with the petition for change of zoning district; includes the material described in section [08.5](#) below.
- 8.2.4 **PUBLIC HEARING (REQUIRED).** Submitted to the Planning Board for the public hearing on the zoning change; includes the material in section [08.6](#) below.
- 8.2.5 **SITE PLAN REVIEW (REQUIRED, BUT ONLY AFTER TOWN MEETING APPROVAL OF REZONING PETITION).** Submitted to Planning Board; includes construction details and other detailed information necessary to comply with the preliminary site development and use plan approved by Town Meeting.

**8.3 RIGHT OF APPLICANT TO PETITION NOT ABRIDGED.**

Nothing in these Regulations should be interpreted to prevent a property owner from petitioning the Town Meeting for the rezoning of land. These Regulations set forth procedures and guidelines for how the Planning Board will carry out its responsibilities in making an advisory recommendation to the Town Meeting on a rezoning petition.

**8.4 PETITION FOR REZONING.**

- 8.4.1 The petition shall describe the proposed zoning change and include a legally adequate description of the land affected by the change.
- 8.4.2 The petition shall be filed with the Board of Selectmen.
- 8.4.3 It is recommended that at the time of filing with the Selectmen the applicant provide the Planning Board with an informational copy of the petition submitted to the Board of Selectmen.

**8.5 PRELIMINARY SITE DEVELOPMENT AND USE PLAN.**

- 8.5.1 **RELATIONSHIP TO ZONING BYLAW.** The preliminary site development and use plan (PSDUP) is the basic document that regulates development in a planned development district. The standards in the PSDUP may differ from those set forth for other districts in the Zoning Bylaw. Other than the standards, uses, and requirements approved in Section 8.5.2, the Zoning Bylaw in effect as may be amended by Town Meeting action subsequent to the establishment of the PD, shall govern.
- 8.5.2 **REQUIREMENTS FOR TEXT.** The text of the PSDUP shall include at least the following:
1. A list of the plans and other documents that are part of the PSDUP; the plans and other documents shall be identified by title, who prepared them, and their latest date;
  2. A provision that any sale or transfer of rights or interests in the development shall include a condition that successors are bound to the terms and conditions of the preliminary site development and use plan;
  3. Permitted uses, which may be a list of permitted uses; a cross-reference to the Zoning Bylaw, Table 1, Permitted Uses and Development Standards; or a combination of the above;
  4. Dimensional standards, which may be a list of dimensional standards; a cross-reference to the Zoning Bylaw, Table 2, Schedule of Dimensional Controls; or a combination of the above;
  5. Standards and requirements for off-street parking and loading; signs; landscaping, transition and screening; outdoor lighting; and traffic. These may be narratives describing special regulations unique to the development or cross-references to provisions of the Zoning Bylaw that will apply to the PD District; and
  6. Special conditions to mitigate the impacts of the proposal, which may include grants of benefits to the Town such as land for public purposes, construction of improvements (or financial contributions therefor) on behalf of the Town, or other development limitations such as aesthetic features.

8.5.3 **TEXT CONTROLS.** In the case of a conflict or inconsistency between the text of the preliminary site development and use plan and plans or other exhibits attached to it, the text shall control.

8.5.4 **OTHER REGULATORY MATERIAL:**

The PSDUP must include a visual representation of the general scale and massing of buildings. Visual representations may include site plans, building plans, building elevations, and perspective sketches. In each case they shall be accurate with respect to the scale and general appearance of the buildings in the context of their actual location. Neighboring buildings, topography, streets, major trees, and other landmarks shall be accurately shown. In the case of perspective sketches, the viewpoint shall be realistic and, if possible, it shall be identified on the site plan.

## **8.6 NON-REGULATORY INFORMATION.**

The following are considered to be explanations, background information and justification for a rezoning and are not to be treated as regulations that affect the development of the land within the planned development district. Any information not applicable to a specific proposal shall be noted.

1. A site analysis map;
2. A locus-context map;
3. A street layout plan and a street profile plan;
4. A utilities plan;
5. A property rights and dimensional standards plan;
6. A site construction plan;
7. A landscape plan;
8. A table of development data.
9. A hydrologic and drainage analysis;
10. Soil surveys, test pits or test borings;
11. A traffic study.
12. Reasons for rezoning. A written statement indicating why a change to the proposed zoning district proposed is justified and is considered appropriate for the area.
13. Comparison with development permitted in the existing zoning district. A written analysis, supported by data, so that the maximum development potential allowed by right in the existing zoning district can be compared to the proposed rezoning.
  - a. In the case of land in an existing one-family (RO, RS) or two-family (RT) residential district, a proof plan;

- b. In the case of land in an existing commercial district, an analysis showing the amount of gross and net floor area and the floor area ratio of existing development on the site and the amount of gross and net floor area that would be permitted if the site were developed to the maximum floor area ratio allowed in the existing district.
- 14. Analysis of compliance with the Town's Comprehensive Plan or other policies;
- 15. Analysis of the impact on public facilities and services other than schools;
- 16. Analysis of the impact on the environment;
- 17. For non-residential developments and non-residential portions of mixed use developments, analysis of Town fiscal considerations; and
- 18. Any other permits required.

## **8.7 SKETCH PLAN.**

8.7.1 SUBMISSION. The information submitted with a sketch plan shall include that required by sections [08-5](#) and [08-6](#) with the following exceptions and modifications:

- 1. All material may be provided in a general and approximate manner;
- 2. A property rights and dimensional standards plan showing only the division of the property into parcels, the location of open space, and the location of sections of land to be granted to the Town; this exhibit does not need to be prepared by a land surveyor or civil engineer;
- 3. A site construction plan showing only the location of buildings and interior drives, the grading of significant parts of the site and, if applicable, any common open space; not required: the dimensions of streets, drives, parking areas and the proposed drainage system;
- 4. A table of development data showing only the: total land area, area in vegetated wetland, developable site area, area and percentage of site coverage of buildings, and, if applicable, the amount of common open space, area covered with impervious surface, impervious surface ratio, gross and net floor area of buildings, floor area ratio, number and density of dwelling units, number of off-street parking spaces and loading bays; not required: length of street, if applicable, and area within street right-of-way;
- 5. A traffic study showing only:
  - a. An estimate of trip generation;
  - b. A count of average daily traffic by machine on the frontage street only;
  - c. An inventory of roadway characteristics on the frontage street only;
  - d. An inventory of roadway characteristics of the principal approach streets adjacent to the development site and of the streets in the

intersections at which turning movement counts are taken showing the width of the right-of-way and of the traveled way, traffic control devices, obstructions to adequate sight distance, the location of driveways or access drives within 500 feet of the entrance to the site for uses that are substantial trip generators, and the presence or absence of sidewalks and their condition;

6. Recommended: an investigation of the capacity of existing public facilities other than schools to serve the development, including the effect of the proposed development on the provision of Town services;
7. For non-residential developments and non-residential portions of mixed use developments, an estimate of the projected assessed valuation and annual tax revenue for the Town, including real estate and motor vehicle excise and other revenues;
8. Not required: a street layout and profile plan, a utilities plan, a landscape plan, hydrologic and drainage analysis, and soil surveys, test pits, and test borings, an analysis of impact on the environment;

#### 8.7.2 REVIEW PROCEDURE.

1. The Planning Office will:
  - a. Post the application materials on the Planning Office web site;
  - b. Notify other Town boards, committees and departments that the Board believes may be affected by, or interested in, the proposed rezoning;
  - c. Notify at least all persons who would receive notice of an application for approval of a special permit as described in G.L. c. 40A, s. 11, of the receipt of the proposal with a brief summary of it; and the Board's procedures and those prescribed in the Zoning Bylaw for review, public meetings and hearings and official action on a proposed amendment to the Zoning Map; and
2. The Planning Board will conduct a public information meeting.
3. Second presentation. Depending on the comments and recommendations received from others, the Planning Board may request that the applicant make a second presentation at a public information meeting.

#### 8.7.3 DECISION.

The Planning Board will make a written recommendation that will indicate whether the proposed use of the land, without consideration of the proposed density or other design features, is acceptable to the Board.

1. If the use alone is not acceptable, the Board will indicate the proposal is unlikely to receive a subsequent favorable recommendation by the Board.
2. If the use is acceptable the recommendation will indicate whether:

- a. The proposed density and other design features are acceptable, or could be acceptable if modified;
  - b. The proposed conditions on the development, or mitigating measures or benefits to the neighborhood or the Town, are acceptable, or could be acceptable if modified.
3. The Board may cite specific improvements or modifications of the proposal that are necessary for it to make a favorable recommendation to the Town Meeting.
  4. Time period for sketch plan. The Planning Board will make a written recommendation within 60 days after a sketch plan has been properly submitted and determined to be complete.
  5. Effect on subsequent decisions; right to petition. The Planning Board's recommendation, at the sketch plan stage, does not guarantee the Board's subsequent recommendation. An unfavorable recommendation, at the sketch plan stage, should not be interpreted to deny an applicant the right to petition the Town Meeting for a rezoning of the land; it does affect the likelihood of obtaining a favorable recommendation from the Planning Board.

## **8.8 PUBLIC HEARING AND RECOMMENDATION.**

- 8.8.1 **SUBMISSION.** All information required by subsections [08-5](#) and [08-6](#) shall be submitted to the Planning Board before the first publication of the advertisement for the public hearing.
- 8.8.2 **REVIEW BY TOWN COMMITTEES AND DEPARTMENTS.** Prior to making its recommendation to Town Meeting, the Planning Board will request a recommendation from the Town Engineer, the Conservation Commission and such other departments, boards or committees as the Board believes may be affected by, or interested in, the proposed rezoning.
- 8.8.3 **DECISION.** After conducting a public hearing, the Planning Board will make a written recommendation to the Town Meeting that the rezoning of the land be approved or disapproved prior to the Town Meeting vote on the rezoning petition.
- 8.8.4 **BASIS FOR PLANNING BOARD RECOMMENDATION.** The Planning Board's recommendation to the Town Meeting will be based on the information presented at the public hearing. The Planning Board's recommendation may take into account any revisions made by the applicant after original submittal until the close of the public hearing.
- 8.8.5 **CONTENTS OF PLANNING BOARD RECOMMENDATION.** The Planning Board recommendation to the Town Meeting will include at least the following:
  1. A recommendation as to whether the rezoning petition, including the preliminary site development and use plan, should be approved or not, and the reasons for the recommendation;

2. Site and development analysis concentrating on the physical development of the site and its surroundings and including:
3. How the development relates to the natural features of the site;
4. The intensity of the proposed development;
5. The adequacy of vehicular and pedestrian access and internal circulation;
6. On-site environmental effects, such as drainage, groundwater, and waste disposal;
7. Potential effects on nearby properties;
8. The quality of the proposed design;
9. Impact on public facilities and services: an analysis of the capacity of existing public facilities, services and programs other than schools (sewer, water, streets, public transportation, fire, drainage, and other Town services), including consideration of any proposed improvements or mitigating measures, to serve the proposed development;
10. For non-residential developments and non-residential portions of mixed use developments, analysis of Town fiscal considerations, including potential revenue and costs;
11. Policy analysis: comments on whether the proposed development complies with such elements of the Comprehensive Plan that have been adopted, other Planning Board policies, and such other Town policies as may be applicable;
12. Planning considerations: other points not covered above, such as the potential effects of the proposed development on the area immediately around it;
13. Purposes of zoning: a discussion of how the rezoning would satisfy the purposes of zoning (See Zoning Bylaw § 135-1.2.) and Massachusetts Acts 1975, Chapter 808, § 2A;
14. A comparison with the development permitted by right in the existing zoning district;
15. Comments and recommendations received from Town boards and departments;
16. A summary of the main points made by those attending the public hearing;  
and
17. Comments on any special conditions that are proposed.



SECTION 176-9.0  
**SITE PLAN REVIEW**

**9.1. GENERAL REGULATIONS**

## 9.1.1 Authority and purpose.

These regulations governing site plan review are adopted under §135-9.5.4.2 of the Zoning Bylaw to create uniform procedures and standards for the review of site plans submitted to the Town. Said review is intended to protect the health, safety, convenience and general welfare of the inhabitants of the Town of Lexington by assessing potential impacts on municipal services and utilities, traffic, the environment and aesthetics and by assuring that the same are adequately considered. Site plan review is not aimed at the prohibition of permitted uses in a zoning district, but with reasonable regulation consistent with the public interest.

## 9.1.2 Amendment.

These regulations may be amended from time to time by a majority vote of the Planning Board at any regularly scheduled, public meeting, following notice and a public hearing as required by §135-9.5.4.2 of the bylaw.

**9.2 ADMINISTRATIVE REGULATIONS**

## 9.2.1 Applicability.

Under §135-9.5.2 of the bylaw, the following types of activities and uses require site plan review by the Board or its designee:

1. Exterior construction or expansion of a structure resulting in an increase of 500 square feet or more of total building gross floor area or 500 square feet of site coverage; or
2. Any change(s) to an approved site plan.
3. Any application showing exterior construction or expansion of a structure which results in an increase of less than 500 square feet of total building gross floor area in any three-year period is exempt from site plan review unless Subsection A(1)(a) or (b) of §175-79 applies.

## 9.2.2 Preapplication review.

1. **SKETCH PLAN.** All applicants are encouraged to submit a sketch plan to the Town's Planning Department for review in advance of filing an application with the Board. Such sketch plan does not constitute a formal application for site plan review. Before or upon submittal of a sketch plan, the applicant must contact the Planning Department to schedule an appointment with Town staff to review the plan.
2. **SCOPE OF REVIEW.** Town staff will review the sketch plan in an effort to promote greater efficiency in the formal review process. Such review will be limited to technical issues in the areas of Town staff's expertise. While Town

staff may offer opinions on the viability of a particular site modification, improvement or design, compliance with these regulations and/or the probability of securing waivers therefrom, all such comments are nonbinding and should not be construed by the applicant to constitute instructions or directives of a binding nature.

#### 9.2.3 Approval.

The Board, or its designee in the case of a minor site plan review, may approve an application subject to such reasonable conditions as may be necessary or appropriate to:

1. Enforce compliance with substantive requirements of this Chapter, unless waived; and
2. Protect the health, safety, convenience, and general welfare of the inhabitants of the Town of Lexington.

#### 9.2.4 Conditions.

Among its conditions, the Board, or its designee in the case of a minor site plan review, may require the provision of adequate security by the applicant, in such form and amount as may be determined by the Board. This security is to ensure the satisfactory completion of all improvements required by its site plan approval, exclusive of those being made to privately owned structures. The Planning Board, or its designee in the case of a minor site plan review, may also require a formal commitment of future compliance, including a monitoring program post-permit issuance for compliance purposes for a time specified in the site plan approval.

#### 9.2.5 Disapproval.

The Board, or its designee in the case of a minor site plan review, may disapprove an application where:

1. The application is incomplete, as determined by the Board or its designee in the case of minor site plan approval, and the applicant has been so notified and has failed to remedy the application; or
2. The imposition of reasonable conditions will not ensure the project's compliance with the substantive requirements of these regulations; or
3. The imposition of reasonable conditions will not adequately protect the health, safety, convenience and general welfare of the inhabitants of the Town of Lexington, or the public interest; or
4. The project, as proposed, does not comply with the Zoning Bylaw.

#### 9.2.6 Lapse.

Site plan approval by the Board lapses if building permits for development of the project, where required, have not been issued within two years from the date of

approval. The Board may grant an extension of time upon the written request of the applicant for good cause.

### **9.3 MINOR SITE PLAN.**

#### **9.3.1 Applicability.**

An application made under §135-9.5.2 of the bylaw and not considered a major site plan under §176-9.4 will be considered a minor site plan.

#### **9.3.2 Required submittals.**

An applicant must submit one copy of its application for review of a minor site plan to the Town Clerk and five copies of the application to the Planning Board designee, the Planning Director in the case of minor site plan approval. The designee may require a minor site plan to include, or be accompanied by, any information, and items required by these regulations. However, minor site plans must normally be required to contain only a plot plan, showing the location of all buildings and structures on the lot and including existing conditions and proposed changes.

#### **9.3.3 Decision by the designee.**

The designee under the standards set forth here, reviews minor site plans. The designee must, after review of the minor site plan, file a written decision in 60 days of receipt of the application in the office of the Town Clerk, and notify the applicant of his/her decision. The required time limits for the filing of such decision may be extended by written agreement of the applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk. Failure by the designee to act in the sixty-day period is considered approval of the minor site plan. The applicant who seeks such approval because of the failure of the designee to act in the time prescribed must notify the Town Clerk, in writing, in 14 days from the expiration of said 60 days or extended time.

#### **9.3.4 Appeal.**

The decision of the designee on a minor site plan may be appealed to the Planning Board. Such appeal must be filed with the Board in 14 days of the filing of the designee's decision with the Town Clerk. The decision of the Planning Board must be filed with the Town Clerk in 60 days of the date the appeal is filed. All costs of mailed notice and publication of notice must be borne by the party appealing the decision.

### **9.4 MAJOR SITE PLAN**

#### **9.4.1 Applicability.**

An application made under §135-9.5.4.1 of the bylaw will be considered a major site plan when:

1. Exterior construction or expansion of structures which results in an increase of more than 5,000 square feet of total building gross floor area in any three-year period; or
2. The available parking on the site is increased by more than 20 parking spaces in any three-year period.

#### 9.4.2 Required submittals.

An applicant must submit one copy of its application for review of a major site plan to the Town Clerk and five copies of the application to the Board, including, unless waived, all of the following materials as described in 176-5.0:

1. A definitive site development plan, however, applicants may omit a property rights plan and traffic analysis.
2. A landscaping plan;
3. A lighting plan;
4. If applicable, the Parking and Transportation Demand Management (PTDM) plan described in §135-7.2.6 of the bylaw and proof of payment of the transportation mitigation fee described in §135-7.2.5 of the bylaw.
5. Proposals for mitigating measures or the construction of improvements to address the impacts, except traffic impacts, of the proposed development and to provide adequate capacity in Town facilities and services.
6. A checklist showing compliance with, or waivers sought from, the design standards of Subsection E. Any waiver request must be accompanied by a written statement indicating why such waiver should be granted.
7. A list indicating which items on the LEED Core and Shell Checklist, or equivalent scorecard, are intended to be included in the design and construction of the building(s).
8. A copy, if any, of the determination of applicability issued by or the notice of intent filed with the Conservation Commission of the Town of Lexington under MGL c. 131 §40, or Chapter 130 of the General Bylaws of the Town of Lexington.

#### 9.4.3 Procedures.

1. Public hearing. The Planning Board must conduct a public hearing after publication, posting and notice per MGL c. 40A §11.
2. Majority required. The decision of the Planning Board must be by majority vote of the Board as constituted (i.e., three affirmative votes).
3. Filing; time limits. The Planning Board must provide a written decision, by majority vote, and file such decision in the office of the Town Clerk in 60 days of the date of application. The required time limits for the filing of such decision may be extended by written agreement of the applicant and the Board, and a copy of such agreement must be filed in the office of the Town

Clerk. Failure by the Board to act in the sixty-day period is considered approval of the major site plan. The applicant who seeks such approval by reason of the failure of the Board to act in the time prescribed must notify the Town Clerk, in writing, in 14 days from the expiration of said sixty days or extended time, if applicable, of such approval and that notice has been sent by the applicant to parties in interest as defined in MGL c. 40A §11. The applicant must send such notice to parties in interest by mail, and each notice must specify that appeals, if any, must be made under MGL c. 40A §17 and must be filed in 20 days after the date the Town Clerk received such written notice from the applicant that the Board failed to act in the time prescribed.

#### 9.4.4 CHANGE TO AN APPROVED SITE PLAN:

Any proposed exterior construction or expansion of a structure resulting in an increase of 500 square feet or more of total building gross floor area or an increase in 500 SF or greater of site coverage; or any change to approved lighting plans; or any increase in the number of parking spaces; or any change to approved landscaping plans. Approved site plan also means any previously approved special permit with site plan review.

#### 9.4.5 Appeal.

Any person aggrieved by a decision of the Board made under this Chapter 176-8.0, may appeal said decision to a court of competent jurisdiction under MGL c. 40A §17.

### 9.5 DESIGN STANDARDS

The following standards apply to applications for site plan review:

#### 9.5.1 Lighting.

Lighting standards are the same as those in §135-5.4.4 through §135-5.4.6 of the Zoning Bylaw. However, the applicant must also demonstrate that internal lighting does not cause overspill onto abutting properties, the street, or into the night sky.

#### 9.5.2 Signs.

The signage standards are the same as §135-5.2.8 of the bylaw.

#### 9.5.3 Noise.

Noise standards are the same as §80-4 of the Code of Lexington, as may be amended.

#### 9.5.4 Landscaping.

Landscaping standards are the same as those of §135-5.3.4 through §5.3.10, §5.3.13, §5.3.14 and §5.1.13.9 of Zoning Bylaw, as may be amended.

#### 9.5.5 Stormwater management.

Stormwater management standards are the same as those per Chapter 114 of the Code of Lexington and the rules and regulations of the Board of Health, as may be amended. In addition, all stormwater management facilities must comply with the

Department of Environmental Protection's Stormwater Management Regulations, 314 CMR 21.00 et seq., as may be amended.

#### 9.5.6 Aesthetics.

In determining the appropriateness of buildings, design elements of proposed buildings must be evaluated in relation to existing buildings adjacent or surrounding buildings. The Planning Board may not consider interior arrangements. The back and sides of each building must be given architectural care particularly if available for view by the public.

### **9.6 SITE DEVELOPMENT STANDARDS**

#### 9.6.1 Land disturbance.

Site and building design must preserve natural topography outside of the development footprint to reduce unnecessary land disturbance and to preserve natural drainage on the site.

#### 9.6.2 Clearing for utility trenching.

Clearing for utility trenching must be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be used wherever feasible to protect root systems of trees.

#### 9.6.3 New sites.

Placement of new buildings, structures, or parking facilities must blend with the natural landscape. New building sites must be directed away from the crest of hills, and foundations must be constructed to reflect the natural terrain. Sites must be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site, and to maintain contiguous forested areas.

#### 9.6.4 Archeological or historical resources.

The proposed development must be consistent with the applicable standards of the Historical Commission and the Massachusetts Historical Commission.

#### 9.6.4 Preservation of existing vegetation.

Priority must be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees. Understory vegetation beneath the drip line of preserved trees must be retained in an undisturbed state. During clearing and construction activities, all vegetation to be retained must be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers must be large enough to encompass the essential root zone

of all vegetation to be protected. All vegetation inside the protective fencing must be retained in an undisturbed state.

9.6.5 Location of construction activities.

To minimize the clearing and grading on a site associated with construction activities such as parking of construction vehicles, offices/trailers, stockpiling of equipment/materials, such activities may be limited to areas already planned for permanent structures. Topsoil may not be stockpiled in areas of protected trees, and wetlands or their vegetated buffers.

9.6.6 Limit of clearing.

Development envelopes for structures, driveways, wastewater disposal, lawn areas, and utility work must be designated to limit clearing and grading. Clearing of vegetation and alteration of topography must be replicated with native vegetation planted in disturbed areas.

9.6.7 Removal of invasive species.

The removal of invasive species will be required except when their removal would lead to unnecessary or unneeded clearing, such as a large stand of mature trees.

9.6.8 Finished grade.

Finished grades in disturbed areas should be limited to no greater than a 3:1 slope (rise over run), while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible. Finished grade must be no higher than the trunk flares of trees to be retained, unless tree wells are used.

9.6.9 Phasing of development.

The extent of a site exposed at any one time through phasing of construction operations must be limited. Effective sequencing must occur inside the boundaries of natural drainage areas.

9.6.10 Revegetation.

Proper revegetation techniques must be employed during construction using native plant species, proper seedbed preparation, fertilizer and mulching to protect germinating plants. Revegetation must occur on cleared sites in the first planting season appropriate to the selected plant species. Proposed landscaping must include native and drought-tolerant species and prohibit invasive or nonnative plants.

9.6.11 Topsoil.

A minimum of six inches of topsoil must be placed on all disturbed surfaces, which are proposed to be planted.

9.6.12 Irrigation.

In general, the need for irrigation must be avoided by appropriate planting. The Planning Board may require that water to irrigation must be provided by an on-site well, cisterns, or other acceptable and feasible method.

## **9.7 PEDESTRIAN AND VEHICULAR ACCESS; TRAFFIC MANAGEMENT**

### 9.7.1 Access.

Access via roadways abutting residential districts must be avoided where possible. Entry to and exit from a development with frontage on more than one street must be in a way that causes the least impact to the surrounding neighborhoods as determined by the Planning Board.

### 9.7.2 Driveways.

All driveways must be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.

### 9.7.3 Curb cuts.

Curb cuts must be limited to the minimum width for safe entering and exiting. The location of driveway openings in relation to traffic and to adjacent streets must provide for the convenience and safety of vehicular and pedestrian movement inside the site. The number of curb cuts must be minimized.

### 9.7.4 Interior circulation.

The proposed development must assure safe interior circulation inside its site by separating pedestrians, bikeways, and vehicular traffic. Internal circulation must be planned to accommodate existing or planned transportation demand management services such as, but not limited to, public transit, ride sharing, and shuttle services. Traffic calming measures such as crosswalks, bike lanes, rumble strips, and landscaped islands will be required, where appropriate, inside the site to maximize pedestrian and cyclist safety.

### 9.7.5 Transportation plan approval.

Developments where the applicant elects to proceed under the provisions of §135-7.2.5 of the Zoning Bylaw must be consistent with both the Parking and Transportation Demand Management (PTDM) plan described in §135-7.2.6 of the bylaw and the TMO District plan described in §135-7.4.2 of the bylaw.

### 9.7.6 Sight distance.

Acceptable sight distance must be provided and maintained at all entrance and exit locations. At a minimum, these site distances must meet the stricter of the

Massachusetts Highway Department and American Association of State Highway Transportation Officials standards for safe stopping sight distances.

#### 9.7.7 Maximum parking.

The development should provide no more parking than the minimum number required within the Zoning Bylaw.

#### 9.7.8 Pedestrian and bicycle safety.

Pedestrian and bicycle circulation, and the amenities required, on and off site, must be under §135-5.1.8 of the Zoning Bylaw and the following requirements:

1. All development and redevelopment must provide for pedestrian and bicyclist connections on the property and allow for possible future connections with adjoining properties.
2. Pedestrian access must connect to all building entrances with further connections to local pedestrian arteries.
3. Proposed development and redevelopment must provide enough rights-of-way on their properties to accommodate expected needs for bicycle and pedestrian use.
4. Sidewalks, crosswalks, walkways, bike racks, or other pedestrian access must be provided to allow access to adjacent properties and between individual businesses inside a development.
5. If the property abuts a public bikeway/right-of-way, a paved access route to the bikeway may be required.

#### 9.7.9 Location of parking areas.

Where feasible, parking areas must be located to the side or behind buildings to provide an appropriate setting for the building inside the context of the site and neighborhood and allow parking areas to be shared with adjacent businesses. The Planning Board may require alternative studies of parking lot layouts. Except where physical constraints, site configuration, or safety considerations preclude strict compliance, all parking must be accessible by driveways to the parking lots of adjacent nonresidential uses and land zoned for nonresidential uses.

### 9.8 UTILITIES

#### 9.8.1 Wastewater.

There must be adequate capacity to meet the flow demands of the proposed use under the standards of the Department of Public Works, the Board of Health, and the Massachusetts Department of Environmental Protection.

#### 9.8.2 Water. The Department of Public Works must confirm that there is adequate water capacity to meet the flow demands of the proposed use.

#### 9.8.3 OTHER UTILITIES.

DRAFT

Planning Board Zoning Regulations As of October 14, 2016

All electrical, cable and telecommunications services must be installed underground.

## SECTION 175-10.0

**TRANSPORTATION MANAGEMENT OVERLAY DISTRICT PLANS****10.1 GENERAL PROVISIONS**

10.1.1 Purpose. Per §135-7.2 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 Section 135-5.1, Off-Street Parking and Loading, and Section 135-5.5, Traffic, of the Zoning Bylaw.

10.1.2 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.

10.1.3 Effective Date. 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.

10.1.4 Enforcement. A final certificate of occupancy may not be issued unless or until all provisions of §135-7.2 have been satisfied.

**10.2 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 §135-7.2.4 of the Zoning Bylaws, 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. 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.

10.2.1 Applicability. The provisions contained in the TMO-1 District Plan, and these regulations, apply to developments located inside the TMO-1 District that elect to comply with the requirements of §135-7.2 of the Zoning Bylaw and the specific requirements of the TMO-1 District Plan, instead of the special permit process outlined in §§135-5.1 and 5.5.

10.2.2 FAR. When a development electing to proceed under this section also requires a special permit 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 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.

### 10.2.3 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 must be paid in five days of the issuance of the building permit, site plan review (when applicable) or special permit, whichever occurs first. The remainder of the fee must be received in full, no later than the issuance of an Occupancy Permit.

### 10.2.4 Off-street Parking and Loading Requirements.

1. Except as otherwise provided in this section, the parking and loading standards in the TMO-1 District must be calculated and applied per Section 135-5.1 of the Zoning Bylaw for the underlying district.
2. The preferential parking spaces required by §135-5.1.7 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 must provide one bicycle parking space for each 15 motor vehicle parking spaces, with a minimum of two bicycle parking spaces

### 10.2.5 Parking and Transportation Demand Management Plans (PTDM Plans).

1. Developments located in the TMO-1 District that elect to comply with the requirements of the TMO-1 District Plan must create and carry out 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 may not be issued unless a complying PTDM plan has been submitted.
2. Types of PTDM Plans. Projects that require major site plan review or a special permit must submit a full PTDM plan, as described in §175-10.2.5.4. 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 §175-10.2.5.3, or a full PTDM plan.
3. 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. Small Project PTDM plans must provide a description of the specific demand management techniques that will be used to achieve a reduction in single occupancy vehicle use.
4. Full PTDM Plans. Full PTDM plans are reviewed by the Planning Board. Full PTDM plans must include membership in, or a contract with, a local Transportation Management Association (TMA) that provides transit services in the Transportation Overlay District to reduce the use of single occupancy

vehicles. Full PTDM plans must provide a description of the specific demand management practices that will be used to achieve a maximum of 85 % of site trips being in single occupancy vehicles. These must include the use of financial incentives that encourage the use of alternative commuting modes of travel 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.

5. Both small and full PTDM plans require annual reports to the Town. Unless a different arrangement is made with the Town, reports are due to the Planning Department on July 1, or the first business day afterwards. Annual reports must include:
  - a. An Employee and/or patron mode split survey;
  - b. Biennial counts of parking occupancy and driveway traffic counts; and
  - c. The results of the selected PTDM measures and goal attainment.