

**Proposed Amendment to Article 34 by Todd Burger, TMM, Precinct 9 – *Amended Text is in red italics.***

**7.5 VILLAGE AND MULTI-FAMILY OVERLAY DISTRICTS.**

7.5.3 Procedures and Regulations. Development under this section, *for the VO and VHO districts and the North Bedford Street portion of the MFO district*, requires *Major* Site Plan Review by the Planning Board under § 9.5. The Planning Board shall adopt regulations to facilitate site layout, building design, and outdoor amenity spaces. All site plan review standards applicable to developments under this section shall be consistent with the purposes of this section and DHCD’s current *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act* as amended.

*Development under this section for the Lexington Center portion of the MFO district shall be subject to special permit approval from the Planning Board for all uses in accordance with the provisions of §9.4.*

**7.5.5 Dimensional controls.**

10. Except as noted below, the maximum height in feet of buildings is:

District MFO VO VHO Height in feet 52 40\* 70\*

- a. \*In the VO District, where at least 30% of the total net floor area of the street floor of the development is occupied by nonresidential principal uses, the maximum height is 60 feet if the nonresidential uses are permitted in the underlying district or 52 feet if the nonresidential uses are not permitted in the underlying district.
- b. \*In the VHO District where at least 50% of the total net floor area on the lot is occupied by nonresidential principal uses permitted in the underlying district, the maximum height is 115 feet.
- c. *\*In the Lexington Center portion of the MFO district, any floor area above the third floor on the northerly face of the building may be set back at least 6’ from*

*the facade fronting on Massachusetts Avenue of lower floors to minimize shadowing on public spaces and nearby commercial and residential properties.*

### **Why I am proposing this Amendment to Article 34**

My overall concern is that Article 34 may be unacceptable to a majority of town meeting and fail to pass. If that happens, at least two other amendments that may be submitted eliminate Lexington Center, aka the Center Business District or CBD entirely or defer it substantially, despite the recent statement by one of the Planning Board members and by many TMMs, that the center is the best place for multifamily housing in town in terms of transport, access to services and schools. So, I would like to address what may be the top 3 concerns for many with Article 34, that if addressed either in an amendment or by the discussion below, may make the Article acceptable to a majority and potentially negate the need for pursuing other amendments. I see these as the three main concerns about Article 34 as proposed:

1. The unnecessary lack of adequate controls over CBD development.
2. The lack of required step-backs in CBD development to prevent “canyonization” and undue shadowing in our center. [Note: I am referring to upper floor step-backs, not set-backs.]
3. Concern that without controls, new multifamily housing will quickly overwhelm our schools, especially the proposed new high school.

### **Controls over CBD Development**

1. Article 34 includes Lexington Center, aka the Center Business District or CBD, as being subject to “by right” as opposed to special permit regulations. Yet, the CBD district (part of the MFO overlay) does not appear compliant with the MBTA Communities housing choice regulations which preclude requirements of ground floor space to be commercial as the proposed Article 34 does. I agree this ground floor commercial stipulation should remain, but since the 20 acres of the CBD do not play any role in meeting the state requirements, why should we allow it to be developed “by right” and risk eliminating the charm of the center? A member of the Planning Board recently suggested that the state might choose to include the acreage of the CBD in spite of previous definitions and guidance that suggest otherwise, but this does not seem to be enough reason to merit designating the CBD as “by right”.
2. The largest single contiguous property owner in the center, is now the Town of Lexington with its Meriam Street lot. For that reason, a project on the Meriam Street lot is more likely to come together before others. And any significant redevelopment of the center should start with the Meriam Street parking lot, because without a coherent

parking solution, most other CBD projects have the potential to either create parking problems or be sub optimal as they would be designed to address parking concerns that could be radically different if the Meriam Street parking lot were substantially altered.

3. Since the town is likely to lead the way in CBD redevelopment, a special permit requirement would be unlikely to slow it down. Further, if the town leads the way in CBD development, it can set a tone for what and how it would like to see the CBD be redeveloped. And this redevelopment need not start near, or even later impact, our newly resurfaced sidewalks.

### **Canyonization and Shadowing**

The majority of the buildings in our center today are 1 or 2 stories. The proposed zoning limit of 52' allows for construction of four-story buildings. Anything built above the third floor could create a real canyon feel to the center, especially if built on both sides of Massachusetts Avenue to that height. It may be that the Historical District Commission could play a role in the implementation of Article 34 that would address this issue, but that is not entirely clear.

After using architectural tools to look at precise shadowing impacts, I believe we should require setbacks for building elements above a third floor of at least 6' on the north faces of any building in the CBD. This would prevent excessive shadowing on the north side of Mass Avenue and on properties abutting any construction in the Meriam Street lot and on the pedestrian areas behind buildings on the north side of Massachusetts Avenue. These step-backs could be used as small deck areas behind nearly invisible code-compliant cable railing, making the units above the fourth floor potentially as valuable or more so, even with less climate-controlled space. That means no impairment of sales value or tax collections, but also less impairment of natural light in the CBD.

### **Pace of Change and Potential Impacts**

While I personally think it will take a decade or more before we see much change from Article 34, I have been listening to my constituents in Precinct 9 who have expressed real concerns about the pace of growth and change. However, I recently learned that our high school plans as approved by the Massachusetts School Building Authority (MSBA), already include a forecast of growth by 1231 housing units, removing much of the concern about the volume of housing that might be built in a relatively short period potentially overwhelming our high school, so I have not modified the article in that respect, beyond trying to establish more control over CBD development.

## **Closing**

Lexington is in a good position to contribute to a housing crisis solution while remaining aligned with the town's comprehensive planning objectives. We just don't need to sacrifice the quality and charm of our center or defer its improvement for 5, 10 or more years while responding to this crisis. We now have great sidewalks in the center, but our center would be healthier and the variety of storefronts likely more diverse if we had a few more residents traversing those sidewalks.

Thank you for considering this proposed amendment.

Todd Burger, TMM Precinct 9