



Town of Lexington
Planning Board

Charles Hornig
Gregory Zurlo
Richard L. Canale
Anthony G. Galaitsis
Wendy Manz

1625 Massachusetts Avenue
Lexington, MA 02420
Tel (781) 862-0500 Ext. 245
Facsimile (781) 861-2748

April 2009

PLANNING BOARD REPORT TO THE 2009 ANNUAL TOWN MEETING

ARTICLE 44-46
Amend Zoning By-law
Commercial Development on Hartwell Avenue

The Planning Board Reports to Town Meeting convey the required Planning Board positions on these articles. They contain details regarding the proposals that are intended to inform decision-making and to provide helpful knowledge to the public and all interested parties.

| Article | Subject | Recommended Action |
|---------|-----------------------------|--------------------|
| 44 | CM and NFI District Changes | Approve |
| 45 | Traffic | Approve |
| 46 | Zoning Map Revision | Approve |



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Charles Hornig, Chair
Gregory Zurlo, Vice Chair
Wendy Manz, Clerk
Richard L. Canale
Anthony G. Galaitsis

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PLANNING BOARD REPORT TO THE 2009 ANNUAL TOWN MEETING

ARTICLES 44-46

AMENDMENT TO ZONING BYLAW

RECOMMENDATIONS

Article 44 }
Article 45 } **Approve**
Article 46 }

SUMMARY

Articles 44 through 46 represent a group of articles aimed at allowing increased economic development within the Commercial Manufacturing District, or CM District, along Hartwell Avenue. Because these articles are so interrelated, the Board felt it appropriate to discuss them together, but they can be divided for the vote if that is the preference of Town Meeting.

The major components of this effort comprise changes to:

- Introduce a Site Plan Review process for developments below the proposed thresholds, which concurrently re-emphasizes the “special” aspect of the special permit process;
- Allow a greater mix of commercial uses within the CM district;
- Eliminate, town-wide, the need for a special permit in the National Flood Insurance District by requiring the standards as part of the building permit process;
- Adjust the dimensional controls, including an increase to the floor area ratio (FAR);
- The rules regarding traffic mitigation in order to create an alternative mitigation scheme that is sensitive to all modes of travel and to residents living near development areas; and
- Establish a Traffic Management Overlay District (TMOD).

BACKGROUND

These articles are the result of years of study and discussion regarding the amount of commercial development in the Town. In 1984, Town Meeting approved a zoning amendment that introduced the concept of FAR, and in the following year applied it to the CM district, establishing a maximum FAR of 0.20. In 1987, the Town Meeting approved a citizen’s petition to reduce the maximum permitted FAR to 0.15 in both the CRO (Regional Office) and the CM (Manufacturing) districts. These reductions had the practical effect of freezing commercial

development in the district. Local businessmen have characterized many buildings on Hartwell Avenue as functionally obsolete and claim that the current FAR provides no opportunity for redevelopment. The 2002 Comprehensive Plan pointed out that “the real limitation [on business growth] results from rules that Town has chosen for controlling such development, not from basic limitations inherent in location or the land...the key limitation on added business development is the allowed ratio of building floor area to lot area, or ‘FAR’.”¹ At that time the Plan expressed satisfaction with the status quo regarding commercial development, but the changing share of the taxes borne by residents has led to a reevaluation of that vision for Lexington.

In 1990, the non-residential share of assessed valuation was 22%, but by 1997, that had fallen to less than 13% as residential property values boomed. Between 1984, the year FAR was first instituted, and this past year, commercial valuation increased by just over 4% per year while residential valuations increased at over 8% per year.

In 2006, the Vision 2020 Steering Committee and the Board of Selectmen established the Economic Development Task Force (EDTF) and charged it with investigating and promoting discussion of the issues surrounding economic development. The EDTF’s final report, issued in August 2008, recommended zoning changes that would encourage higher value developments, make commercial development approvals predictable and equitable, and develop traffic management strategies encouraging alternative modes of transportation.²

Last year a coalition of interested parties led by the Chamber of Commerce, consisting of commercial property owners, developers and citizens, brought forward a series of articles to the 2008 Annual Town Meeting. These articles sought to spur commercial development, primarily in the CM district, through several amendments of the zoning bylaw. While the Board recognized that a majority of Town Meeting supported the idea that Hartwell Avenue could *and should* bring in more tax revenue, they could not support the Chamber’s proposal. They did not feel enough weight had been given to mitigating the burden placed on the residents of adjacent neighborhoods and on the Town by increased traffic congestion and other development-related impacts.³

In addition, the Town had not yet reviewed the results of the EDTF’s report (mentioned above), or that of its consultant, the Cecil Group. The Board wanted the benefit of these reports before proceeding with major changes to the rules governing the commercial districts. It is in this context that the Planning Board has attempted to craft zoning amendments to encourage economic growth in the Hartwell Avenue area while ensuring that the negatives associated with it would be appropriately mitigated.

Published in June 2008, *The Lexington Commercial Zone Analysis and Build Out Study*, commonly known as the Cecil Report, outlined key findings that the Planning Board took into consideration, including the following:

¹ *The Lexington We Want*, March 2002, p.65.

² Lexington Vision 2020, *Economic Development Task Force, Final Report*, August 2008, p. 9

³ In fact, the Chamber’s main article fell only eight votes shy of the two-thirds majority required for passage.

- Land is substantially underdeveloped relative to its potential
- Land is strategically located to favor new development while limiting traffic impacts within the Town.
- Land is favorably located relative to high value clusters of research and development and other uses.
- The Town's existing zoning and other regulations are the only critical, controlling constraints on expanded development within the area.
- Any zoning changes relative to the permitted densities must be carefully considered to ensure that they will achieve their intended purposes.
- Permitting densities at approximately 0.35 FAR would be very closely aligned with real estate economics associated with moderate densities of suburban-type commercial development.
- Expanding development capacity may require some additional infrastructure capacity.
- Determining the actual future capacity of the commercially-owned land to absorb additional development is effectively in the hands of the community.

Building on the work of the EDTF and with the information provided by the Cecil Report, the Planning Board spent the last year focused intently on the Hartwell Avenue area and is bringing the following zoning articles to the 2009 Annual Town Meeting.

ARTICLE DESCRIPTIONS

An annotated version of the combined motion is attached as Appendix A.

Article 44 – Changes to the CM and NFI Districts

This article touches on many aspects of the zoning bylaw, but its major points, which will be explained in detail below, are to:

1. Create a site plan review process for CM proposals (below the maximum FAR);
2. Allow for a greater mix of commercial uses within the CM District;
3. Amend several types of dimensional controls within the CM District;
4. Increase the CM's development potential;
5. Move the required elements for floodplain development from Special Permit to by right, town-wide; and
6. Allow more by-right signage.

Site Plan Review. A significant part of spurring growth is having a permitting process that yields predictable and consistent outcomes. Heavy reliance on special permits and/or rezonings for almost every development proposal in the CM provides neither. Special permits, and to a lesser extent rezonings, will still be an option, but only in the case of extraordinary developments or specific uses that need more control. Site plan review by the Planning Board will ensure that typical developments receive an appropriate level of review. In cases where an activity or use

requires both site plan review and one or more special permits, the Planning Board would be the special permit granting authority (SPGA).⁴

Site plan review is a means of controlling the aesthetic and environmental impacts of land use by the regulation of permitted uses, not their prohibition. Its purpose is to assure protection of the public interest consistent with a reasonable use of the site for the purposes permitted in the district. Site Plan Review will be required for any exterior construction or expansion of a structure that results in an increase of 500 SF or greater. Once a project has an approved site plan, any future changes to the site must also be reviewed.

Should this motion pass, the Planning Board will adopt detailed site plan review standards in its regulations addressing the following:

- Siting of facilities
- Design practices
- Open space and natural features
- Circulation
- Water quality
- Town character and historic significance
- Impact on public services and facilities
- Signage
- Energy efficient site design
- Potential adverse effects

Greater Mix of Uses. This article also adds to the uses permitted in the CM zone, allowing service uses that are seen as amenities and sought after by high value businesses, keeping the district competitive in the regional market. This aspect of the Board's proposal was discussed with the Lexington Center Committee in the context of retaining the Center's primacy. As there is no intent to create any competition, some of these uses, such as food-related uses or retail uses exceeding 2,000 square feet, would still require a special permit.

Amended Dimensional Controls. In order to encourage the kind of high-quality development the Board and the community envision for the area various existing dimensional rules in the CM District should be amended in order to provide siting flexibility and more efficient use of the land.

As noted in the table below, many of these dimensional controls may be waived by special permit. This will allow exceptional developments to only go forward under the protections of the special permit process, which requires approval by a super majority of the Board.

| | Current | Proposed | Comments |
|----------------------|---------|----------|------------------------|
| Lot Area (min.) | 3 Acres | 3 Acres | No change |
| Frontage (min. feet) | 200 | 200 | No change |
| FAR (max.) | 0.15 | 0.35 | More by special permit |
| Site coverage (max.) | 25% | NR | Limit removed |
| Building Setbacks | | | |

⁴ Currently the SPGA for commercial special permits is the Zoning Board of Appeals.

| | Current | Proposed | Comments |
|-------------------------------|---------|----------|------------------------|
| Front | 75 | 25 | |
| Side | 30 | 25 | Less by special permit |
| Rear | 50 | 25 | Less by special permit |
| Height (max. stories) | 3 | NR | |
| Height (max. feet) | 45 | 65 | More by special permit |
| Parking Setbacks (min. feet) | | | |
| Front | 50 | 25 | |
| Side/Rear | 10 | 0 | |
| Residential District | 50 | 50 | No change |
| Landscaped buffer (min. feet) | | | |
| Front | 50 | 25 | |
| Side/rear | 0 | 0 | No Change |
| Residential District | 50 | 50 | No Change |

Increased Development Potential. When discussing the Board's proposal with the public, the one amendment most often mentioned is the increase to the FAR, a quick and easy proxy for maximum development potential, which will go from 0.15 to 0.35. As noted in the Cecil Report, this is in keeping with standard suburban commercial districts.

What is important to understand however is that due to the history of the district described above, the existing FAR of the area is already 0.25. This means that the Board is proposing a 40% increase to the maximum development potential of the District. If every parcel in the CM zone were to develop to the maximum allowed by this amendment, it would mean an additional 751,178 square feet of gross floor area. (See Appendix B, Build Out Data.)

National Flood Insurance District. The National Flood Insurance (NFI) District is an overlay district that covers much of the Hartwell Avenue CM district and is present in many other areas of town as well (See Appendix C). The current bylaw requires all development within the NFI to obtain a special permit to confirm that it complies with state and federal laws. The requirement for this special permit will be eliminated and development within the NFI will be required supply proof of conformance with these laws in order to obtain a building permit. This change simply eliminates a layer of permitting.

Signage. There is a proposed minor change to permitted signage within the CM district that would allow ground-mounted signs currently allowed only via special permit. Such signs would now be permitted as part of the site plan review process. Already permitted by right are a primary and a secondary wall sign. If more signs are desired, they would still require a special permit.

Article 45 – Transportation Management Overlay District (Text Amendment)

The existing bylaw's focus on continually increasing the level of service for single-occupancy vehicles seems out of synch with the wishes of the community, is no longer state-of-the-practice traffic planning, and places a high cost on the first developer choosing to develop. To ensure that future commercial development in the Hartwell Avenue area is appropriately mitigated by infrastructure improvements, especially for those nearby residential areas that might otherwise

bear a disproportionate burden, the Planning Board is proposing a Transportation Management Overlay District (TMOD). The guiding principles of the district are:

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

Before any developer may opt into the TMOD, the Planning Board *must first* conduct and adopt a district-wide transportation study containing an infrastructure improvement and implementation plan. The information in the study is then used as the basis to develop a transportation mitigation fee formula. Equally important to the study is the element containing the parking and transportation demand management (TDM) requirements.

Once this plan is in place only then may a developer elect to utilize the TMOD. The developer is then obligated to pay the transportation mitigation fee and comply with the parking and TDM requirements. The Town is then responsible for implementing the infrastructure improvements according to plan, using some combination of funds from transportation mitigation fees, betterments, town general funds, and state and federal funds.

This system will effectively remove the “trip-wire” that the development community perceives our existing Traffic Bylaw to be, while providing the community with the assurance that future traffic planning projects are not simply geared toward ever increasing through put. This arrangement should produce an environment where both parties can accomplish their respective goals.

Article 46 – Transportation Management Overlay District (Map Amendment)

Article 46 establishes the location and dimensions of the Traffic Management Overlay District through an amendment to the Zoning Map. The TMO District encompasses the CM District along Hartwell Avenue, with only a few departures to exclude land owned by the Federal Government. (See Appendix D)

IMPLEMENTATION

Under Article 9, the Town seeks funding of \$100,000 for professional services to assist the Board in developing the TMOD mitigation plan as well as the regulations and standards connected with the proposed new zoning. If Town Meeting adopts Articles 9, and 44 through 46, the Planning Board will go forward with a public process to create new site plan review, special permit and development regulations and a transportation plan that would enable the Town to carry out the provisions in these new bylaw additions. The Board has already begun developing principles to guide the drafting of these documents.

MEETINGS

The required statutory public hearing was held on March 4, 2009, marking the culmination of almost a year's worth of outreach and deliberation. To finalize the articles into the final motions the Board increased its schedule. Minutes of the meeting when this topic was discussed are listed below and are available in the Planning Office or on the Town's website at www.lexingtonma.gov/planning/minutes.cfm.

| | | |
|---------------------------------------|--------------------|--------------------------|
| April 23, 2008 | September 10, 2008 | February 4, 2009 (Public |
| May 7, 2008 | September 11, 2008 | Information Session) |
| May 27, 2008 | September 15, 2008 | February 18, 2009 |
| June 4, 2008 | October 1, 2008 | February 23, 2009 |
| June 18, 2008 | October 4, 2008 | March 11, 2009 |
| June 24, 2008 | October 15, 2008 | March 18, 2009 |
| June 25, 2008 | November 5, 2008 | March 23, 2009 |
| July 9, 2008 (TDM) | December 17, 2008 | March 25, 2009 |
| July 16, 2008 (Green) | | March 30, 2009 |
| July 23, 2008 (TDR) | January 7, 2009 | April 1, 2009 |
| July 30, 2008 (Permitted Uses) | January 14, 2009 | April 6, 2009 |
| August 6, 2008 (Expedited Permitting) | January 21, 2009 | April 13, 2009 |
| August 13, 2008 | January 28, 2009 | April 15, 2009 |

LEXINGTON PLANNING BOARD

On April 16, 2009, the Planning Board voted 3 to 1 to recommend approval of Articles 44 through 46 to Town Meeting. Mr. Galatsis was opposed and Mr. Zurlo was absent.

Members in Favor of the Recommendation:

Charles Hornig

Richard Canale

Wendy Manz

Appendix A: Consolidated Motion

PLEASE NOTE: The left-hand column of each section includes annotations that are not part of the motion, but have been included to facilitate interpretation.

That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington be amended as follows:

ARTICLE 44

Redefines the CM in keeping with the proposed changes

Penalty for violation of site plan review

Establishes Site Plan Review process

Purpose

Applicability

Special Permits

Procedures

1. Delete § 135-2C(2)(g) in its entirety and replace with the following:

(g) CM Manufacturing: is intended to be a district of higher intensity of development allowing a mix of light manufacturing, research and office uses with related personal and business services.

2. Add the words “, a site plan review decision” to § 135-9B in between the words “a special permit” and “or a special permit with site plan review”

3. Add the following new section following § 135-13:

§ 135-13.1 Site Plan Review

A. Purpose. Site plan review is a means of controlling the aesthetics and environmental impacts of land use by the regulation of permitted uses, not their prohibition. Its purpose is to assure protection of the public interest consistent with a reasonable use of the site for the purposes permitted in the district.

B. Applicability. The following types of activities and uses require site plan review by the Planning Board or its designee:

- (1) Exterior construction or expansion of a structure resulting in an increase of 500 SF or greater of total building gross floor area;
- (2) Any changes to an approved site plan.

C. Special Permits.

- (1) Where an activity or use requires both site plan review and one or more special permits the Planning Board shall be the SPGA.
- (2) When both a special permit and site plan review are required, they shall be considered together under the provisions of § 135-12.
- (3) The Planning Board in its regulations shall establish standards for special permit approval consistent with §135-12B.

D. Procedures for Site Plan Review.

- (1) Applicants shall submit an application for site plan review to the Planning Board.
- (2) The Planning Board may promulgate, after public notice and hearing, rules and regulations to effectuate the purposes and intent of this provision of the by-law, including definitions of major and minor site plans and delegating administrative review to the Board’s designee that will allow site plan review without a public meeting for site plans that

are defined as minor.

- (3) A public meeting shall be required for all major site plans. The meeting will be advertised in the local newspaper once in each of two successive weeks prior to the meeting and a notice will be sent to all abutters to abutters within 300 feet of the affected lot.
- (4) The Planning Board or its designee shall review and act upon the site plan, requiring such conditions as necessary to satisfy the Review Standards, and notify the applicant of its decision. The decision shall be in writing and shall be rendered within 60 days of the date of application.
- (5) The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
- (6) The applicant shall satisfy or comply with all conditions of the site plan review decision prior to the issuance of a building permit except for those conditions that by their terms are intended to be satisfied during construction or later.
- (7) Unless specifically authorized by the terms of the site plan review decision, a final certificate of occupancy shall not be issued until the applicant has complied with or satisfied all conditions of the site plan review decision.

E. Review Standards. The Planning Board in its regulations shall establish standards for site plan review that will at a minimum address the following:

- (1) Siting of facilities
- (2) Design practices
- (3) Open space and natural features
- (4) Circulation
- (5) Water quality
- (6) Town character and historic significance
- (7) Impacts on public services and facilities
- (8) Signage
- (9) Safety
- (10) Energy efficient site design
- (11) Potential adverse effects

Standards for site plan review

Removes SPS requirement if 10,000 SF or more

4. Delete the definition of the symbol “Y YES” in § 135-16B in its entirety and replace with the following:

Y YES: Permitted as of right.

5. Add a new symbol “R” in § 135-16B after the symbol “Y” and its definition, as follows:

Defines “R”

R: Site plan review required (see § 135-13.1).

*Allows additional uses
in the CM district*

6. Delete the words stricken through and change the letter under the CM column in the lines of Table 1 (Permitted Uses and Development Standards), Part B (Commercial Uses) as shown below:

*Uses now allowed
without SPS*

*Person, Business
Services*

*Sales or Rental of
Goods, Equipment*

*Eating, Drinking,
Transient
Accommodations*

*Commercial
Recreation*

| Line | | CM |
|-------|---|------------------------|
| B.21 | Uses and structures with less than 10,000 square feet of gross floor area including the area of any existing structures but not including any floor area devoted to off-street parking, on a lot provided the use is permitted and complies with the operating and development standards in this table | Y <u>R</u> |
| B.22 | Uses and structures with 10,000 or more square feet of gross floor area including the area of any existing structures but not including any floor area devoted to off-street parking, on a lot provided the SPGA grants an SPS as provided in § 135-12 and 135-13 | SPS <u>R</u> |
| ... | | |
| 7.11 | Beauty salon, barber shop | N <u>Y</u> |
| 7.12 | Laundry or dry cleaning | N <u>Y</u> |
| 7.13 | Tailor, dressmaker, shoe repair | N <u>Y</u> |
| ... | | |
| 7.15 | Bank, credit union b. with drive-up window or auto-oriented branch bank | SP <u>Y</u> |
| ... | | |
| 8.11 | Convenience good often bought on a daily basis such as food, candy, newspapers, tobacco products | N <u>Y</u> |
| ... | | |
| 8.13 | Food, but not that intended for consumption on the premises, includes delicatessen or bakery, but not a takeout or fast-food service | N <u>Y</u> |
| ... | | |
| 8.17 | Other retail goods such as books, stationery, drugs, sporting goods, jewelry, photographic equipment and supplies, flowers, novelties, cards, footwear, and the like which are typically of a size that a customer can carry by hand | N <u>Y</u> |
| ... | | |
| 8.21 | Sale or rental of equipment and supplies such as office furniture, to other businesses | N <u>Y</u> |
| ... | | |
| 8.31 | Stores with less than 2,000 square feet of floor area per establishment | N <u>Y</u> |
| 8.32 | Stores with 2,000 or more square feet of floor area per establishment | N <u>SP</u> |
| 8.33 | All sales or rental conducted entirely within a fully enclosed building; temporary display of products outdoors during operating hours permitted | N <u>Y</u> |
| 8.34 | Sales or rental conducted in part outdoors with permanent display of products during non-operating hours; subject to screening requirements in Article X | N <u>SP</u> |
| ... | | |
| 9.12 | Fast-food or takeout service serving enough food to comprise a meal | N <u>SP</u> |
| 9.13 | Takeout or fast-food service serving food or beverages, such as coffee, snacks, ice cream, or donuts, but not enough to comprise a meal | N <u>SP</u> |
| 9.14 | Caterer or other establishment preparing meals for groups of people | N <u>Y</u> |
| ... | | |
| 9.16 | Hotel, motel | SP <u>Y</u> |
| ... | | |
| 10.12 | Indoor athletic and exercise facilities, weight reduction salon | N <u>Y</u> |

7. Amend § 134-43B as follows:

Uses in Nation Flood Insurance District no longer need SP but still subject to same requirements

Delete the first paragraph of subsection (4) in its entirety and replace with the following:

Requirements. Construction or substantial improvements within the district are subject to the following requirements.

In subsection (4)(b), delete the words “for a special permit” and the delete the words “the SPGA with”.

In the first paragraph of subsection (4)(c)[1], delete the words “SPGA shall grant no special permit for the” between the words “as a floodway, the” and “following encroachments” and add the words “are not permitted” between the words “following encroachments” and “unless”, so as to read as follows:

[1] Within those areas designated as a floodway, the following encroachments are not permitted unless a registered professional engineer or architect certifies that such encroachments will not result in any increase in the flood level during the occurrence of the one hundred-year flood discharge:

Requirements are the same, just not a part of an SP process

Required transition area reduced

8. In § 135-54C, change the depth or width of the transition area for the street line in the CM district from 50 feet to 25 feet.

Allows off-street parking in a common lot by right

9. Delete § 135-65D in its entirety and replace with the following:

D. Off-street parking spaces required for two or more buildings, uses, or establishments on a single lot may be provided in a common lot.

Allows for the instances when the Planning Board is the SPGA

10. In § 135-66A, delete the words “Board of Appeals” and replace with the word “SPGA”.

11. In § 135-67B(2), remove the "," after CRO, CLO and establish a separate line for the CM district with the following setbacks:

Residential District Line 50*, Street Line 25, All other Lot lines N.R., Wall of a Principal Building 5.

The table will now read as follows:

Reduces the setback for parking lots from the street line from 50' to 25' in the CM district

| District | Residential District Line | Street Line | All Other Lot lines | Wall of a Principal Building |
|-----------------|---------------------------|-------------|---------------------|------------------------------|
| RS, RO, RT | N.R. | 25 | 5 | 5 |
| RD, RM | N.R. | 25 | 8 | 5 |
| CRO, CLO | 50* | 50 | 10 | 5 |
| CM | 50* | 25 | N.R. | 5 |
| CRS, CS, CB, CN | 20* | 10 | N.R. | 5 |

*No requirement where the residential district line is coterminous with the line of the right-of-way now or formerly of the Boston and Maine Railroad or the right-of-way of State Route 2 or State Route 128.

Allows for the instances when the Planning Board is the SPGA

12. In § 135-69, delete the words “Board of Appeals” and replace with the word “SPGA”.

Allows for one standing sign per lot by right in the CM District

13. Add a new sentence at the end of § 135-77A(3) as follows:

In the CM District one standing sign, not to exceed 50 square feet in

area and 5 feet in height, shall be permitted by right on each lot.

Allows for the instances when the Planning Board is the SPGA

14. In § 135-85 delete the words “the Board of Appeals, acting as” after the words “Article III,”.

In the CM District reduces setbacks, allows 65' height, and Far of .40 with ability to exceed by SP

15. Amend Table 2 (Schedule of Dimensional Controls) by changing the CM column and the footnotes as shown in the strike throughs and substitutions below:

| Districts | RO | RS & RT | RM & RD (a) | CN | CRS | CS | CB | CLO | CRO | CM |
|---|---------|---------|-------------|--------|--------|--------|--------|--------|---------|--------------------------|
| Uses permitted in RS & RT Districts shall conform to provisions of § 135-35B | | | | | | | | | | |
| Minimum lot area in square feet | 30,000 | 15,500 | 125,000 | 15,500 | 15,500 | 15,500 | NR | 30,000 | 5 acres | 3 acres |
| Minimum lot frontage in feet | 150 | 125 | 100 | 125 | 125 | 125 | 20 | 175 | 300 | 200 |
| Minimum front yard in feet (b), (c), (j), (k) | 30 | 30 | 50 | 30 | 30 | 30 | NR (d) | 50 | 100 | 75 25 |
| Minimum side yard in feet (k) | 15 (e) | 15 (e) | 40 | 20 | 20 | 15 | NR | 30 | 50 | 30 25 (h) |
| Minimum rear yard in feet (k) | 15 (e) | 15 (e) | 40 | 20 | 20 | 20 | 10 | 30 | 50 | 50 25 (h) |
| Minimum side and rear yard adjacent to, or front yard facing a residential district in feet (f) | 15 | 15 | 40 | 30 | 30 | 30 | 30 | 50 | 100 | 100 (h) |
| Maximum floor area ratio (FAR) | NR (i) | NR (i) | NR (i) | 0.20 | 0.20 | 0.20 | 2.0 | 0.25 | 0.15 | 0.15 0.35 (h) |
| Maximum percentage site coverage | 15% (g) | 15% (g) | 25% | 20% | 25% | 25% | NR | 20% | 25% | 25% NR |
| Public and institutional buildings, maximum height: In stories: | 2.5 | 2.5 | 2.5 | 3 | 3 | 3 | 2 | 3 | 3 | 3 NR |
| Public and institutional buildings, maximum height: In feet: | 40 | 40 | 40 | 45 | 45 | 45 | 30 | 45 | 45 | 45 65 (h) |
| Other buildings, maximum height: In stories | 2.5 | 2.5 | NR | 1 | 2 | 2 | 2 | 2 | 3 | 3 NR |
| Other buildings, maximum height: In feet: | 40 | 40 | 40 | 15 | 25 | 25 | 25 | 30 | 45 | 45 65 (h) |

As used in the Schedule of Dimensional Controls, symbol "NR means no requirements, "s.f." means square feet, and "ft." means linear feet.

(FOOTNOTES CONTINUED ON NEXT PAGE)

- a. Development of new multifamily dwellings is not permitted in the RM District; these standards apply to RM Districts in existence in January 1985. Minimum lot areas in RM Districts shall be 3,000 sq. ft. per dwelling unit containing one room used for sleeping; 3,500 sq. ft. per unit with two such rooms; and 4,000 sq. ft. per unit with three or more such rooms. For RD Districts see §135-42C.
- b. Where lawfully adopted building lines require yards in excess of these requirements, the building line shall govern.
- c. The minimum front yard for any other street, which is not the frontage street (see definition), shall be 2/3 of that required for the frontage street, except that in the case of a street laid out after January 1, 1987, or in the case of nonresidential uses (see ~~Table 1, lines 2.11 through 4.14~~) located in the RO, RS or RT Districts (see Table 1, lines 2.11 through 4.14) or for uses located in the CM district, the minimum front yard facing all streets shall be the same as that for the frontage street.
- d. Except ten-foot yard on Muzzey Street, Raymond Street, Vine Brook Road and Wallis Court for lots abutting these streets.
- e. For institutional uses (see Table 1, lines 2.11 through 2.19) the minimum setback for a building shall be the greater of 25 feet or a distance equal to the height of the building as defined in §135-39. For other nonresidential uses (see Table 1, lines 3.11 through 3.15 and 4.11 through 4.14), increase the required side yard to 20 ft. plus one ft. for every ½ acre (or fraction thereof) over ½ acre lot area.
- f. See Article X, Landscaping, Transition and Screening.
- g. Applicable only to uses permitted by special permit.
- h. ~~Reserved. This limit may be waived by special permit.~~
- i. For institutional uses (see Table 1, lines 2.11 through 2.19), the maximum floor area ratio shall be 0.25.
- j. Along the southwesterly side of Bedford Street between the Northern Circumferential Highway (Route 128) and Hartwell Avenue there shall be a front yard of 233 feet measured from the base line of Bedford Street as shown on the Commonwealth of Massachusetts layout 4689, date June 3, 1958, and shown as auxiliary base line "F" on the State Highway Alteration layout 5016, dated August 30, 1960.
- k. A structure in an RD Planned Residential Development must comply with minimum yard setback on perimeter of tract as required by §135-42C(1). In a special permit conventional subdivision, dwellings which have a gross floor area of 2,500 square feet or more are required to have a greater minimum side and rear yard; see §135-46A.

16. Amend the first paragraph of §135-43 by inserting “specifically provided otherwise in this By-Law” at the end of the first sentence and deleting the second sentence so that it reads as follows:

ARTICLE 45

Allows specific requirements of an overlay district to replace those of the underlying district

“An overlay district is a special purpose zoning district which is superimposed over another zoning district so that the land contained within the overlay district is subject to the requirements of both the overlay district and the zoning district in which it is located, unless specifically provided otherwise in the By-Law.”

Allows the creation of a TMO District

17. Add the following to the end of § 135-43:

C. Transportation Management Overlay District

Purpose and guiding principles of the TMOD

- (1) Purpose. The Town may create Transportation Management Overlay (TMO) Districts that allow greater opportunity for facilitating effective multi-modal transportation networks that increase the quality of life in Lexington through improved traffic management and mitigation to that outlined in Article XI, Off-street Parking and Loading, and Article XII, Traffic, of the Zoning Bylaw consistent with the following principles:
 - (a) Multimodal Consideration. To ensure that the safety and mobility of all users of the circulation and transportation systems, including vehicles, public transit, pedestrians and cyclist, are considered equally;
 - (b) Context Sensitive Design. To incorporate, throughout project planning, design, and construction, the overarching principles of Context Sensitive Design, including attention to scenic, aesthetic, historic, and environmental resources; and

(c) Clear Process. To develop and implement plans adopted through a broad-based, clear and transparent process.

Allows election of TMO district requirements

(2) District superimposed over other districts. A TMO District shall not supersede other zoning districts except as indicated in § 135-43C(3) below, but shall be deemed to be superimposed over these other zoning districts. The boundaries of TMO Districts shall be indicated on the Town's official Zoning Map.

Establishes an alternative to Article XII, Traffic but only after a plan for the district has been adopted

(3) Applicability. The provisions of this section shall apply to developments located within a TMO District that elect to comply with the requirements of this section, § 135-43C, instead of complying with §§ 135-71 through 73. Notwithstanding anything set forth herein to the contrary, an applicant may not make such an election until a plan for the TMO District has been adopted by the Planning Board as described below. A final certificate of occupancy shall not be issued unless or until all provisions of § 135-43C have been satisfied, except for those conditions that by their terms are intended to be satisfied after occupancy of the structures for which the certificate of occupancy is sought.

(4) Prior Planning Study Required.

(a) The Planning Board, after consultation with the Board of Selectmen and an advertised public meeting, shall adopt a specific plan for each TMO District containing the following elements:

- [1] Analysis of existing capital improvement plans or the facilities element of a plan adopted under Massachusetts General Law, c. 41, sec. 81D;
- [2] Assessment of the impacts of reasonably anticipated future development in the TMO District, including estimated mitigation payments to the Town made under this section § 135-43C, based on the current zoning bylaws and other legal and physical constraints;
- [3] Determination of and cost projections for transportation infrastructure improvements required to address the impacts generated by the anticipated development in the TMO District, including the potential impact on nearby residential streets and neighborhoods;
- [4] Determination of the amounts of transportation mitigation fees in accordance with a methodology determined pursuant to this study;
- [5] Establishment of off-street parking and loading requirements for the TMO District;
- [6] Establishment of required Parking and Transportation Demand Management techniques reasonably calculated to reduce the number of vehicle trips generated by developments in the TMO District; and

Each TMO District must have a mitigation plan

[7] An implementation program that defines and schedules the specific municipal actions necessary to achieve the objectives of the plan.

Plan to be updated

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

(5) Transportation Mitigation Fee.

(a) The payment of a transportation mitigation fee is required when an applicant elects to proceed under this section. The imposition of a transportation mitigation fee shall not prevent the Town from imposing fees it may otherwise impose under local bylaws.

(b) Timing of Payment. Payment of the transportation mitigation fee shall be in cash, under terms and conditions specified in the TMO District plan.

(c) Payment Use. Any transportation mitigation fees paid to the Town are intended to be used to fund transportation infrastructure improvements that are necessitated by the proposed development of the applicant. Examples of appropriate uses include the costs related to the provision of equipment, infrastructure, facilities, services, or studies associated with the following: traffic mitigation; public transportation; bicycle and pedestrian accommodations or other transportation-related improvements. Except where deficiencies are exacerbated by the new development, in which case the fee may be assessed only in proportion to the deficiency so exacerbated, the fee shall not be expended for personnel costs, normal operation and maintenance costs, or to remedy deficiencies in existing facilities. The expenditure of the fees without Town Meeting appropriation is prohibited.

(d) Rough Proportionality and Reasonable Benefit to Fee Payer. The transportation mitigation fee shall be determined by the TMO District plan described in § 135-43C(4). The fee shall be roughly proportionate to the impacts created by the development. The purposes for which the fee is expended shall reasonably benefit the proposed development.

Required payment of mitigation fee

(6) Parking and Traffic Demand Management.

(a) Submission of a Parking and Transportation Demand Management (PTDM) plan which is consistent with the TMO District plan described in § 135-43C(4) above is required when an applicant elects to proceed under this section, § 135-43C. Compliance with the submitted PTDM plan shall be a condition of any permit approvals.

(b) Enforcement. Compliance with the PTDM plan submitted with an approved permit application may be enforced through § 135-9.

Parking and Transportation Demand Management plan required

Special permit approval

(7) Special Permits. Where a development electing to proceed under this

*must be conditioned to
include the fee and
PTDM measures*

section also requires a special permits or special permits with site plan review, the SPGA shall not grant the special permits unless it either determines that the development was anticipated in the current TMO District plan or imposes conditions, including transportation mitigation fees and parking and traffic demand management requirements beyond those included in the current plan, to meet the goals of the TMO District plan.

18. Add a new entry to the list of zoning districts in § 135-2B(1) with the symbol, “TMO” and the title “Transportation Management Overlay.”

19. Amend the Zoning Map of the Town of Lexington by creating a new Traffic Management Overlay District (TMO-1) as shown on the map entitled “Traffic Management Overlay District” dated April 3, 2009, and encompassing the parcels listed in the document entitled “Parcels in the TMO-1 District”, dated April 3, 2009.

ARTICLE 46

*Sets out the boundaries
of the TMO District*

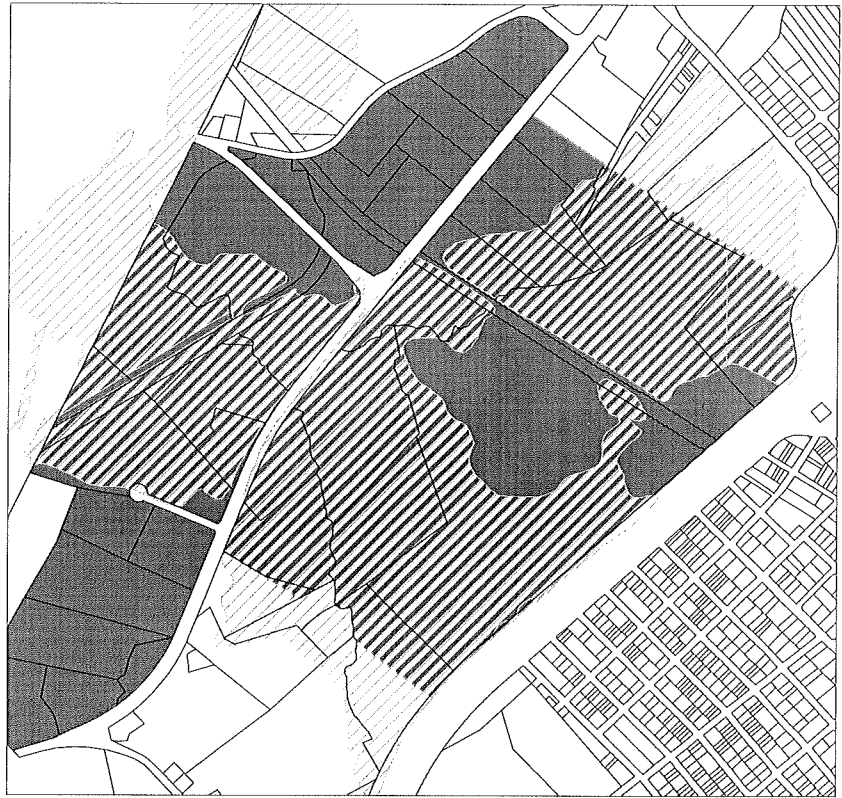
Appendix B: Build Out Data

| Parcel | Street | Lot Area | Dev. Area | GFA | 0.15 FAR | | | 0.35 FAR | | |
|---------------|---------------------|------------------|------------------|------------------|------------------|-------------|---------------|---------------|----------------|----------------|
| | | | | | NFA | FAR | Add. NFA | Add. GFA | Add. NFA | Add. GFA |
| 007300009A | 94 Hartwell Avenue | 380,279 | 129,120 | 12,827 | 10,262 | 0.08 | 9,106 | 11,383 | 34,930 | 43,663 |
| 0074000010 | 125 Hartwell Avenue | 175,093 | 160,027 | 38,022 | 30,418 | 0.19 | - | - | 25,591 | 31,989 |
| 007400006A | 131 Hartwell Avenue | 217,800 | 212,272 | 79,344 | 63,475 | 0.30 | - | - | 10,820 | 13,525 |
| 007400008A | 113 Hartwell Avenue | 435,600 | 260,511 | 102,096 | 81,677 | 0.31 | - | - | 9,502 | 11,877 |
| 007400007+9 | 121 Hartwell Avenue | 439,956 | 384,962 | 86,677 | 69,342 | 0.18 | - | - | 65,395 | 81,743 |
| 0079000051 | 44 Hartwell Avenue | 209,088 | 62,726 | 26,533 | 21,226 | 0.34 | - | - | 728 | 910 |
| 0080000005 | 4 Maguire Road | 348,480 | 152,982 | 54,077 | 43,262 | 0.28 | - | - | 10,282 | 12,852 |
| 008000004A | 81 Hartwell Avenue | 361,548 | 289,238 | 72,258 | 57,806 | 0.20 | - | - | 43,427 | 54,284 |
| 008000004B | 83 Hartwell Avenue | 144,184 | 71,444 | 41,444 | 33,155 | 0.46 | - | - | - | - |
| 008000010B | 101 Hartwell Avenue | 199,069 | 199,069 | 40,600 | 32,480 | 0.16 | - | - | 37,194 | 46,493 |
| 008000010C | 91 Hartwell Avenue | 652,093 | 456,465 | 117,676 | 94,141 | 0.21 | - | - | 65,622 | 82,027 |
| 008000010D | 4 Hartwell Place | 200,376 | 149,000 | 40,000 | 32,000 | 0.21 | - | - | 20,150 | 25,188 |
| 0084000080A | 17 Hartwell Avenue | 228,690 | 228,690 | 30,104 | 24,083 | 0.11 | 10,221 | 12,776 | 55,959 | 69,948 |
| 0084000080B | 25 Hartwell Avenue | 182,081 | 177,897 | 33,339 | 26,671 | 0.15 | 14 | 17 | 35,593 | 44,491 |
| 0084000083B | 32 Hartwell Avenue | 265,716 | 117,000 | 67,568 | 54,054 | 0.46 | - | - | - | - |
| 0084000084A | 40 Hartwell Avenue | 304,920 | 149,000 | 30,351 | 24,281 | 0.16 | - | - | 27,869 | 34,836 |
| 0085000012 | 80 Westview Street | 8,712 | 8,712 | 4,355 | 3,484 | 0.40 | - | - | - | - |
| 0085000015 | 10 Maguire Road | 696,960 | 418,784 | 296,028 | 236,822 | 0.57 | - | - | - | - |
| 0085000016 | Maguire Road | 121,968 | 121,968 | - | - | 0.00 | - | - | 42,689 | 53,361 |
| 0085000021 | 35 Hartwell Avenue | 130,680 | 130,680 | 46,784 | 37,427 | 0.29 | - | - | 8,311 | 10,389 |
| 008500010B | 27 Hartwell Avenue | 185,566 | 185,566 | 57,942 | 46,354 | 0.25 | - | - | 18,594 | 23,243 |
| 008500013A | 20 Maguire Road | 586,753 | 234,701 | 101,690 | 81,352 | 0.35 | - | - | 793 | 992 |
| 008500017A | 1 Maguire Road | 143,312 | 143,312 | 25,664 | 20,531 | 0.14 | 966 | 1,207 | 29,628 | 37,035 |
| 008500018A | 45 Hartwell Avenue | 203,425 | 203,425 | 49,880 | 39,904 | 0.20 | - | - | 31,295 | 39,118 |
| 008500020A | 60 Westview Street | 163,350 | 163,350 | 40,200 | 32,160 | 0.20 | - | - | 25,013 | 31,266 |
| 008500020C | 70 Westview Street | 144,619 | 144,619 | 61,324 | 49,059 | 0.34 | - | - | 1,558 | 1,947 |
| | | | | | | | | | | |
| TOTALS | | 7,130,318 | 4,955,520 | 1,556,783 | 1,245,426 | 0.25 | 20,306 | 25,382 | 600,942 | 751,178 |

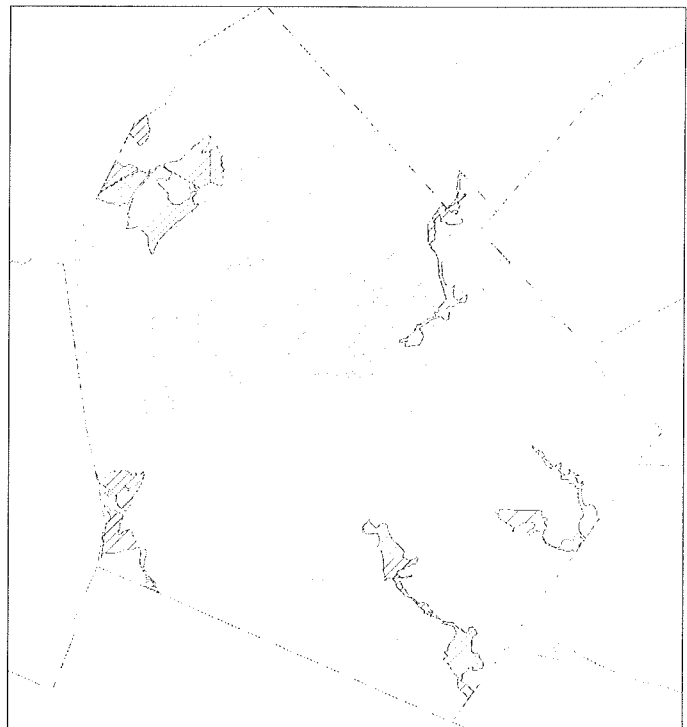
Source: Lexington Planning Department, Economic Development Office and Assessors Office

Appendix C: National Flood Insurance District Maps

The NFI District in the
Hartwell Area →



The NFI District Town wide →



Appendix D: Transportation Management Overlay District Map

Transportation Demand Managements Overlay District, April 3, 2009



Parcels in the TMO-1 District, April 3, 2009

| MapLot1 | NUMBER_ | STREET_NAM | STREET_DES |
|---------|---------|------------|------------|
| 84-81 | 7 | HARTWELL | AVE |
| 74-8A | 113 | HARTWELL | AVE |
| 85-20A | 60 | WESTVIEW | ST |
| 80-10C | 91 | HARTWELL | AVE |
| 74-9 | 113 | HARTWELL | AVE |
| 85-17A | 1 | MAGUIRE | RD |
| 74-10 | 125 | HARTWELL | AVE |
| 80-8 | | | |
| 85-13A | 20 | MAGUIRE | RD |
| 74-7 | 113 | HARTWELL | AVE |
| 85-21 | 35 | HARTWELL | AVE |
| 84-80B | 25 | HARTWELL | AVE |
| 84-80A | 17 | HARTWELL | AVE |
| 85-13A | 20 | MAGUIRE | RD |
| 85-20C | 70 | WESTVIEW | ST |
| 85-12 | 80 | WESTVIEW | ST |
| 80-10B | 101 | HARTWELL | AVE |
| 85-15 | 10 | MAGUIRE | RD |
| | 70 | WESTVIEW | ST |
| 85-16 | | | |
| 85-11 | 75 | WESTVIEW | ST |
| 85-10B | 27-33 | HARTWELL | AVE |
| 85-18A | 45 | HARTWELL | AVE |
| 80-9 | | | |
| 80-10D | 4 | HARTWELL | PL |
| 80-4B | 83 | HARTWELL | AV |
| 80-11 | 4 | MAGUIRE | RD |
| 80-5 | 4 | MAGUIRE | RD |
| 80-6 | | | |
| 80-4C | 81 | HARTWELL | AVE |
| 74-6A | 131 | HARTWELL | AVE |
| 73-14 | | | |
| 84-84A | 40 | HARTWELL | AVE |
| 73-12 | | | |
| 73-9A | 94 | HARTWELL | AVE |
| 73-11 | 110 | HARTWELL | AVE |
| 73-10A | | | |
| 79-49 | | | |
| 79-50 | | | |
| 80-1 | | | |
| 80-2 | | | |
| 79-47A | 350 | BEDFORD | ST |
| 84-59 | | | |
| 84-70C | 12-18 | HARTWELL | AVE |
| 84-40A | 420 | BEDFORD | ST |
| 84-83B | 32 | HARTWELL | AVE |

Planning Board Report on Articles 44 – 46

| MapLot1 | NUMBER_ | STREET_NAM | STREET_DES |
|---------|---------|------------|------------|
| 84-61 | | | |
| 84-62A | | | |
| 84-69 | 476 | BEDFORD | ST |
| 84-68 | 476 | BEDFORD | ST |
| 84-67 | 476 | BEDFORD | ST |
| STREET | 476 | BEDFORD | ST |
| 84-56 | 476 | BEDFORD | ST |
| 84-66 | | | |
| 84-70A | 482 | BEDFORD | ST |
| 84-41G | 450 | BEDFORD | ST |
| 84-55A | 459 | BEDFORD | ST |
| 84-60A | | | |
| 79-51 | 44 | HARTWELL | AVE |
| 84-70E | 24 | HARTWELL | AVE |
| 84-63A | | | |
| 84-41F | 436-440 | BEDFORD | ST |
| 84-57 | 459 | BEDFORD | ST |
| 84-58 | 459 | BEDFORD | ST |
| 84-65 | | | |
| 73-8 | | | |
| | 45 | HARTWELL | AVE |
| 80-3 | | | |