



TOWN OF NATICK

Diane B. Packer
Town Clerk
dpacker@natickma.org

CERTIFICATE OF VOTE

I, Diane Packer, Town Clerk of Natick Massachusetts, do hereby certify the following vote:

ARTICLE 38: Amend Zoning By-Law to Change and/or to Specify SPGA Designations and Procedures (Paul Griesmer et al)

To see what action(s) the town will take to amend the Zoning By Law in regard to Special Permits and Site Plan Review under the Zoning By Law regarding the following:

- 1) to change the assignments of Special Permit Granting Authority (SPGA) in Section VI-DD-2 including changing existing SPGA assignments and/or
- 2) to insert, to specify and/or to provide for ,within Section VI-DD-2, SPGA assignments for any zoning district(s), including overlay district(s), for which districts the existing Zoning By Law i) provides for uses by Special Permit but ii) fails to designate, identify, specify and/or authorize any SPGA (including without limitation the Downtown Mixed Use zoning district) and/or
- 3) to establish, to provide for and/or to include language in Section VI-DD for purpose, intent, administration, applicability, general requirements, procedures, approval criteria , standards, etc. for Special Permits and /or
- 4) to clarify and/or to specify in Section VI DD that the granting and/or issuance and/or processes for Special Permits are part of and/or included within the Site Plan Review process when uses allowed by Special Permit are involved and/or that the processes for granting or issuing Special Permits shall include the Site Plan Review Process
- 5) to create new definitions for Site Plan Review, Site Pan Review Procedures, Special Permit Granting and/or Special Permit Granting Procedures or Processes and/or to include these definitions in the Definitions Section of the Zoning By Law and/or to have these definitions refer to Section VI-DD as revised for the above and /or to apply and use these definitions in Section VI-DD and/or
- 6) Make any other changes in the Zoning By Law consistent with the purpose of a) providing that an SPGA is assigned the responsibility and authority for Special Permits and/or Site Plan Review for any and all districts and/or overlay districts where uses are allowed by special permit in the existing Zoning By Law and b) providing that the Zoning By Law has provisions covering the broad topics in 3), 4) and/or 5) above for Special Permits or otherwise act thereon.

MOTION (requires two-thirds vote)

Moved by Mr. Evans, seconded by Mr. Hayes to amend the zoning by law by inserting the words "SPECIAL PERMIT PROCEDURES AND" in the title of Section VI-DD before the words "SITE PLAN REVIEW"

and by inserting immediately after "1. Purpose and Intent Administration" a.) the words:

"The purpose of the following Special Permit section of this zoning bylaw is to authorize the hearing of and decisions on Special Permit applications, authorize the issuance of Special Permits, establish criteria and procedures for the issuance of Special Permits and set forth matters which can be addressed and regulated in a Special Permit decision. Unless specifically exempted in Section VI- DD2.B., all uses requiring Special Permits under this Zoning By-Law shall require Site Plan Review in accordance with VI-DD 2.B."

And by inserting in subsection VI-DD 1 b) the words:

"Special Permit Procedure and the" after the first word "The" and before the words "Site Plan Review" in the first line of VI-DD 1b)

and by deleting the word "is" in the first line of VI-DD 1b) and replacing it with the word "are"

and by inserting the words "A and Section 2.B." after the words "Section 2" and before the word "hereafter." in the last line of VI-DD 1b)

and by inserting the words:

"2. A. Special Permits" as the title of a new subsection immediately after the conclusion of VI-DD 1c)

and by inserting the following words as the text of new subsection 2.A. Special Permits:"

a. Special Permit Granting Authority. As designated in this By-Law, the Board of Appeals or the Planning Board shall act as the Special Permit Granting Authority (SPGA) for hearing and deciding all matters pertaining to Special Permits and for issuance of such Special Permits. The specific assignments are listed below.

1. The Planning Board shall act as the SPGA in the following Districts:

- Highway Mixed Use - I
- Highway Mixed Use II
- Highway Mixed Use III
- Highway Planned Use
- Town House Cluster Development -RSA
- Single Family Town House Cluster Development - RSB
- Single Family Town House Cluster Development - RSC
- Hospital (H)
- Inclusionary Housing Option Program (IHOP)
- Regional Center Overlay District
- Highway Corridor Overlay District
- Planned Cluster Development - PCD
- Mall Center (MC) Overlay District
- Housing Overlay Option Plan - I (HOOP I)
- Housing Overlay Option Plan - II (HOOP II)
- Regional Center Mixed-Use Overlay District
- Historic Preservation
- Administrative and Professional (AP)
- Commercial II (C-II)
- Industrial I (In-I)
- Industrial II (In-II)
- Downtown Mixed Use (DMU)

2. Zoning Board of Appeals shall act as the SPGA in the following Districts:

- Limited Commercial (LC)
- Subsidized Housing (SHA)
- Non Conforming Uses in accordance with Section V-A

3. In the event of a failure of this zoning by law to designate an SPGA, the Planning Board shall be authorized to act and serve as SPGA.

b. Decision Criteria. The following criteria shall be the minimum basis for all decisions on special permits, in addition to criteria as may be more specifically provided elsewhere in this By-Law. Special permits shall be granted by the Special Permit Granting Authority as specified herein only upon its written determinations for each of the following factors that the proposed use will not have adverse effects which outweigh its beneficial effects for both the neighborhood and the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determinations shall be made separately for and indicate consideration of each of the following criteria:

1. Social, economic, or community needs which are served by the proposal;
2. Adequacy of traffic flow and safety, including parking and loading,
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment;

6. Potential fiscal impact, including impact on town services, tax base, and employment; and
7. Conformity with the purposes and objectives of both this zoning by law and the district which the property is situated.

The applicant shall show to the satisfaction of the special permit granting authority that the use, building, or structure for which application is made shall not be against the public interest, shall not derogate from the character of the neighborhood in which such use, building, or structure is to occur and shall not be detrimental or offensive because of noise, vibration, smoke, gas, fumes, odor, dust or other objectionable features and that such use, building, or structure shall not otherwise be injurious to the inhabitants of the Town or their property or dangerous to the public health or safety.

Consideration of traffic flow and safety and parking and loading shall consider affects on nearby and collector streets at both peak and off peak hours. When the foregoing criteria are not so satisfied, the special permit granting authority shall deny the application.

In addition to these criteria, the special permit granting authority may impose conditions, safeguards and limitations on time and use.

- c. Procedures. Each application for a special permit, together with copies of supporting plans and other materials, shall be filed by the petitioner with the Town Clerk. Fifteen copies of said application, including one having the date and time of filing certified by the Town Clerk, shall be filed forthwith by the applicant with the Special Permit Granting Authority, together with five (5) copies of the supporting plans and other materials, and one copy of all materials in digital (PDF) format.
- d. Referral to Other Officials and Agencies. The Special Permit Granting Authority shall refer notice of all applications immediately upon receipt to the Town Administrator, Building Commissioner, Planning Board (when it is not the SPGA), Town Engineer, DPW, Board of Health, Conservation Commission, Police Department, Fire Department, and to any other involved Town official or agency.

The Special Permit Granting Authority shall also transmit copies of the submitted plans and support documentation to all agencies having requested such documentation for either that specific project or for such projects generally, and to any other authorities whose review is judged appropriate by the Building Commissioner, for technical review and comment. Failure of any official or agency to make recommendation within thirty-five days of receipt of the application and support documentation shall be deemed lack of opposition thereto.

- e. Decision. A special permit, if granted, shall be subject to any general or specific rules prescribed herein, and it may be made subject to appropriate conditions, safeguards, and limitations on time or use. When the Special Permit Granting Authority determines that a special permit may be granted if accompanied by conditions specially designated to safeguard the neighborhood and the Town, it shall impose such conditions and make them a part of the decision, and they shall be made a part of the building permit issued by the Building Commissioner.
- f. Lapse. A special permit granted under this Section shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.”

and by inserting the words “.B” after the number 2 and the words “Site Plan Review” before the word “Applicability” in the title “2. Applicability and SPGA Designation”

and by inserting the words “Downtown Mixed Use (DMU)” after the words “Industrial II (In-II)” in current Section VI- DD.2

and by inserting the words “ The following zoning districts shall be subject to the Site Plan Review Procedures described herein, to be administered the Zoning Board of Appeals acting as the SPGA

Limited Commercial (LC)
Subsidized Housing (SHA)”

and after the words ‘b) All uses, other than Uses No. 46, 47, 48 and 54 which are permitted or allowed under the Use Regulation Schedule in the Commercial II (C-II) zoning districts, shall be subject to the Site Plan Review procedure described herein’ by deleting the words “with the following SPGA designations:

- 1) The Board of Appeals shall act as the SPGA for all such review procedures involving less than 150,000 square feet of new or rehab construction floor space, or the development of a parcel of land having such area limitation.
- 2) The Planning Board shall act as the SPGA for all such review procedures involving more than 150,000 square feet of new or rehab construction floor space, or the development of a parcel of land having such area limitation, or when a combination of uses, as described in the Use Regulation Schedule, is sought.”

And inserting in their place the words “with the Planning Board acting as SPGA”

So that VI DD Site Plan Review header, subsections 1a, 1b, new section 2.A., and renumbered Section 2.B. a) and b) including their respective sub-headers now read as follows:

“VI-DD SPECIAL PERMIT PROCEDURES AND SITE PLAN REVIEW

1. Purpose and Intent Administration

- a) The purpose of the following Special Permit section of this zoning by-law is to authorize the hearing of and decisions on Special Permit applications, authorize the issuance of Special Permits, establish criteria and procedures for the issuance of Special Permits and set forth matters which can be addressed and regulated in a Special Permit decision. Unless specifically exempted in Section VI-DD 2.B., all uses requiring Special Permits under this Zoning By-Law shall require Site Plan Review in accordance with VI-DD 2.B. The purpose of the Site Plan Review Procedure hereby established is to protect the safety, public health, convenience and general welfare of the inhabitants of the Town by providing a comprehensive review of plans for those uses and structures which have a significant impact upon the character of the Town and upon traffic, utilities and property values therein. Factors to be considered are the placement of buildings and utilities, surface and groundwater drainage, wetlands, water supply, parking, loading, landscaping, lighting, dust and noise control, access to the development, acceptable sanitary conditions and the proper provision for open areas. It is intended to insure that the design and layout of those developments so subject to this procedure in this by-law will constitute suitable development and will not result in a detriment to the neighborhood or to the environment. It is also intended hereby to assist those wishing to build projects within the Town by providing them with the necessary information about all of the Town's requirements affecting their project prior to the start of any construction or the issuance of the permits.
- b) The Special Permit Procedure and the Site Plan Review Procedure are to be administered by a Special Permit Granting Authority ("SPGA") in those uses and/or districts, and in the manner as indicated in this Section VI-DD. Those Town Agencies who may function as the SPGA hereunder are: The Board of Appeals and the Planning Board. The specific assignments given to each SPGA are set forth in Section 2A and Section 2B, hereafter.

2.A. Special Permits

- a. Special Permit Granting Authority. As designated in this By-Law, the Board of Appeals or the Planning Board shall act as the Special Permit Granting Authority (SPGA) for hearing and deciding all matters pertaining to Special Permits and for issuance of such Special Permits. The specific assignments are listed below.
 1. The Planning Board shall act as the SPGA in the following Districts:
 - Highway Mixed Use - I
 - Highway Mixed Use II
 - Highway Mixed Use III
 - Highway Planned Use
 - Town House Cluster Development –RSA
 - Single Family Town House Cluster Development – RSB
 - Single Family Town House Cluster Development - RSC
 - Hospital (H)
 - Inclusionary Housing Option Program (IHOP)
 - Regional Center Overlay District
 - Highway Corridor Overlay District
 - Planned Cluster Development - PCD
 - Mall Center (MC) Overlay District
 - Housing Overlay Option Plan - I (HOOP I)
 - Housing Overlay Option Plan - II (HOOP II)
 - Regional Center Mixed-Use Overlay District
 - Historic Preservation
 - Administrative and Professional (AP)
 - Commercial II (C-II)
 - Industrial I (In-I)
 - Industrial II (In-II)
 - Downtown Mixed Use (DMU)
 2. Zoning Board of Appeals shall act as the SPGA in the following Districts:
 - Limited Commercial (LC)
 - Subsidized Housing (SHA)
 - Non Conforming Uses in accordance with Section V-A
 3. In the event of a failure of this zoning by law to designate an SPGA, the Planning Board shall be authorized to act and serve as SPGA
- b. Decision Criteria. The following criteria shall be the minimum basis for all decisions on special permits, in addition to criteria as may be more specifically provided elsewhere in this By-Law. Special permits shall be granted by the Special Permit Granting Authority as specified herein only upon its written determinations for each of the following factors that the proposed use will not have adverse effects which outweigh its beneficial effects for both the neighborhood and the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determinations shall be made separately for and indicate consideration of each of the following criteria:
 1. Social, economic, or community needs which are served by the proposal;
 2. Adequacy of traffic flow and safety, including parking and loading,
 3. Adequacy of utilities and other public services;
 4. Neighborhood character and social structures;
 5. Impacts on the natural environment;
 6. Potential fiscal impact, including impact on town services, tax base, employment; and
 7. Conformity with the purposes and objectives of both this zoning by law and the district in which the property is situated

The applicant shall show to the satisfaction of the special permit granting authority that the use, building, or structure for which application is made shall not be against the public interest, shall not derogate from the character of the neighborhood in which such use, building, or structure is to occur and shall not be detrimental or offensive because of noise, vibration, smoke, gas, fumes, odor, dust or other objectionable features and

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that such use, building, or structure shall not otherwise be injurious to the inhabitants of the Town or their property or dangerous to the public health or safety.

Consideration of traffic flow and safety and parking and loading shall consider affects on nearby and collector streets at both peak and off peak hours. (Consideration of the natural environment shall include not creating additional shadow or causing additional blockage of sunlight and/or view on or from existing buildings, constituting the primary use, on adjacent properties to a greater extent than could result from the construction of a permitted use (i.e. a use not requiring special permit) in full compliance with all applicable dimensional and intensity regulations on the parcel for which the special permit is sought.) When the foregoing criteria are not so satisfied, the special permit granting authority shall deny the application.

In addition to these criteria, the special permit granting authority may impose conditions, safeguards and limitations on time and use.

- c. Procedures. Each application for a special permit, together with copies of supporting plans and other materials, shall be filed by the petitioner with the Town Clerk. Fifteen copies of said application, including one having the date and time of filing certified by the Town Clerk, shall be filed forthwith by the applicant with the Special Permit Granting Authority, together with five (5) copies of the supporting plans and other materials, and one copy of all materials in digital (PDF) format.
- d. Referral to Other Officials and Agencies. The Special Permit Granting Authority shall refer notice of all applications immediately upon receipt to the Town Administrator, Building Commissioner, Planning Board (when it is not the SPGA), Town Engineer, DPW, Board of Health, Conservation Commission, Police Department, Fire Department, and to any other involved Town official or agency.

The Special Permit Granting Authority shall also transmit copies of the submitted plans and support documentation to all agencies having requested such documentation for either that specific project or for such projects generally, and to any other authorities whose review is judged appropriate by the Building Commissioner, for technical review and comment. Failure of any official or agency to make recommendation within thirty-five days of receipt of the application and support documentation shall be deemed lack of opposition thereto.

- e. Decision. A special permit, if granted, shall be subject to any general or specific rules prescribed herein, and it may be made subject to appropriate conditions, safeguards, and limitations on time or use. When the special permit granting authority determines that a special permit may be granted if accompanied by conditions specially designated to safeguard the neighborhood and the Town, it shall impose such conditions and make them a part of the decision, and they shall be made a part of the building permit issued by the Building Commissioner
- f. Lapse. A special permit granted under this Section shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

2.B. Site Plan Review Applicability and SPGA Designation

All uses, other than Uses Nos. 1, 3, 5, 8, 9, 17, 18, 46, 47 and 48, permitted or allowed in the following Zoning districts, shall be subject to the Site Plan Review Procedure described herein, to be administered by the Planning Board, acting as the SPGA:

Highway Mixed Use - I
Highway Mixed Use- II
Highway Mixed Use- III
Highway Planned Use
Town House Cluster Development – RSA
Single Family Town House Cluster Development – RSB
Single Family Town House Cluster Development – RSC

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Hospital (H)
Inclusionary Housing Option Program (IHOP)
Regional Center Overlay District (Art. 7, STM. #1, 2/3/93)
Highway Corridor Overlay District (Art. 7, STM. #1, 2/3/93)
Planned Cluster Development - PCD (Art. 2, STM. #2, 10/11/00)
Mall Center (MC) Overlay District (Art. 1, STM. #2, 12/03/02)
Housing Overlay Option Plan-I (HOOP -1) (Art. 27, Spring ATM, 4/15/04)
Housing Overlay Option Plan-II (HOOP-II) (Art.27, 2004 Spring ATM,
4/15/04)
Regional Center Mixed-Use Overlay District (Art. 1, Fall STM #1, 10/18/05)
Historic Preservation (Art. 37 Fall ATM 10/21/14)
Industrial I (In-I)
Industrial II (In-II)
Downtown Mixed Use (DMU)

The following zoning districts shall be subject to the Site Plan Review Procedures described herein, to be administered the Zoning Board of Appeals acting as the SPGA:


Limited Commercial (LC)
Subsidized Housing (SHA)

b) All uses, other than Uses No. 46, 47, 48 and 54 which are permitted or allowed under the Use Regulation Schedule in the Commercial II (C-II) zoning districts, shall be subject to the Site Plan Review procedure described herein with the Planning Board acting as SPGA.”

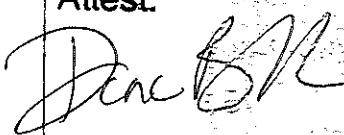
Mr. Griesmer spoke to this article and explained that the purpose of this article is to make the Planning Board the Special Permit Granting Authority for the C-2 and DMU, to restore authority within the zoning bylaw to issue Special Permits in the Downtown Mixed Use (DMU) district, to add authorization and criteria for issuing Special Permits separate and apart from Site Plan Review and to add missing districts to the list for which Special Permits and Site Plan Review can be conducted.

The main motion under Article 38 passed unanimously (128-0-0).

This vote was taken at the May 9th session of the 2017 Spring Annual Town Meeting.



Diane B. Packer

A True Copy
Attest:

Town Clerk, Natick