

## **Proposed Mixed-Use Condominium Zoning (7/15 /15 draft)**

To see whether the Town will vote to amend Chapter 10 of the General Bylaws, known as the Zoning Bylaws, by adding the following Subsection \_\_ to Section III so that the new subsection \_\_ shall read:

### **\_\_. MIXED-USE CONDOMINIUM ZONING**

The Planning Board may grant a Special Permit for a mixed-use project containing retail at the street level and/or second level and residential uses on upper floors, otherwise known as a Neighborhood Mixed-use Development (“NMD”) upon satisfaction of all requirements specified in this Subsection and upon such other requirements, terms and conditions deemed necessary or appropriate by the Planning Board

#### **1. Definition.**

As used herein Neighborhood Commercial Mixed-use Development (“NMD”) is a commercial zoning classification that permits, rather than mandates, a vertical mix of commercial and residential uses within the same building. The district is intended to accommodate a physical pattern of development often found along village main streets and in neighborhood commercial areas of established communities.

#### **2. Purpose.**

The purposes of this subsection are:

- (1) Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and/or second floor and residential units above the nonresidential space;
- (2) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets;
- (3) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
- (4) Promote the development of alternative housing types in Milton to complement existing single-family housing stock;
- (5) To promote development in transit-oriented areas

#### **3. Permitted Uses.**

- (a) Uses permissible in the Business District may be permitted except that converting to the following uses shall not be permitted: used car lots, motor vehicle dealerships, gasoline stations, car repair businesses, Adult Live Entertainment Establishments, Adult Theaters, and Sexually Oriented Businesses provided that in a non-business district, business uses shall only be allowed on the first and second floors and only in the context of a mixed-use project containing residential units on upper floors.

4. Hours of Operation.

In a business district, hours of operation shall be limited to the earlier and later of (a) 7AM to 11 PM or (b) the average opening and closing times of similar businesses located within 1,000 feet of the property

In a non-business district, hours of operation shall be limited to 7AM to 9PM

5. Location.

An NMD shall be allowed:

- (1) In a Business District; or
- (2) On parcels of land containing at least 80,000 square feet within ¼ mile of a Massachusetts Bay Transportation Authority (“MBTA”) bus or train station and within 1,000 feet of a Business District

6. Commercial Establishment Limits.

- (1) The gross floor area of a single commercial establishment shall be less than 12,500 square feet;
- (2) No commercial establishment shall be located above the second floor;
- (3) All commercial activities must be conducted within completely enclosed buildings unless otherwise expressly authorized herein. This requirement does not apply to off-street parking or loading areas;

7. Housing Types.

The housing types in a NMD shall be condominium or rental building units. In rental units, short-term occupancy (less than 6 months) will not be allowed. Each unit must contain its own kitchen and bathroom facilities. Studio, 1-bedroom, 2-bedroom and 3-bedroom units shall be permitted. The minimum square footage per building unit shall be 300 square feet.

8. Building Coverage and Floor Space.

In a Business District, no building, alone or in combination with other buildings, on the same lot or on adjacent lots in common ownership, shall cover an area in excess of 90% of the total area of such lot or lots. The gross floor area in such building or buildings shall not exceed 300% of the total area of such lot or lots.

In a non-business district, the Building Coverage and Floor Space shall conform to underlying zoning.

9. Setbacks.

*Front Setback:*

In a Business District, the entire building façade must:

- (1) Abut front and street side property lines;
- (2) Be located within 10 feet of such property lines if the NMD includes outdoor seating, display areas, stoops or sidewalk widening; or
- (3) Align with the frontage line of an abutting property.

Notwithstanding the foregoing, all buildings must be setback to accommodate a sidewalk of at least 8' in front of the building.

In a non-business district, the front setback shall conform to underlying zoning.

*Rear Setback:*

In a Business District, the rear setback shall be 10% of the property depth but in no case shall be less than 10 feet.

When a property's rear property line abuts with a residential district, then the rear setback shall conform with the rear setbacks of such abutting district.

In a non-business district, the rear setback shall conform to underlying zoning.

*Side Setback:*

In a Business District, the side setback shall be 0 feet.

When a property's side property line abuts with a residential district, then the side setback abutting the residential district shall conform with the side setbacks of such abutting district.

In a non-business district, the side setback shall conform to underlying zoning.

10. Building Height

The maximum building height shall be:

- (1) 40 feet for mixed-use buildings; or
- (2) Equal to an adjacent building's height even if such height exceeds the maximum height; or
- (3) Equal to the average height of all buildings in a contiguous block even if such height exceeds the maximum height

Height shall not include parapets, cupolas, or other decorative features occupying up to 10% of the roof area provided such features do not exceed 10% of the building's overall height

11. Off-street Parking.

Business District:

Parking standards for ground-floor commercial uses may be reduced/waived at the discretion of the Planning Board if there is municipal parking provided within 1000 feet and such parking is deemed to be sufficiently available for the proposed use. Otherwise, parking requirements shall meet the requirements of the business district requirements.

Parking may be provided on site or on a private non-adjacent lot within 1,000 feet with proof of ownership or long-term control of the lot through lease or easement.

Off-street parking spaces may be located inside a building or structure but may not be located on the first floor. Subsurface parking areas shall not count towards gross floor area and may not count towards a retail parking requirement.

Non-business district:

Parking may be provided on site or on a private non-adjacent lot within 1,000 feet with proof of ownership or long-term control of the lot through lease or easement.

Parking requirements:

Residential – 1 per unit

Office – 1:1,000

Retail – 4:1,000

Restaurant: 1:3 seats

Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to minimize visibility from public right-of-way or residential zoning districts.

For the purposes of calculating the parking requirements for restaurants, each outdoor seat shall count as 0.5 seat

12. Drainage and Septage Disposal.

Appropriate provision, approved by the Board of Health, shall be made for on-site disposal of waste in the absence of a municipal sewer to which suitable connection can be made.

13. Affordable Housing Units

An NMD must comply with any inclusionary zoning bylaw in existence at the time of application

If no such bylaw exists, in an NMD containing less than ten market-rate building units, an application shall provide for one additional building unit to be used for an affordable building unit suitably restricted so as to count on the state's Subsidized Housing Inventory (SHI) or its future equivalent, or in lieu thereof the application may provide for a monetary contribution to the Town's Affordable Housing Trust Fund in an amount which is reasonable, as determined by the Planning Board under the relevant circumstances. In a NMD containing more than ten building units, a number of building units equal to 10% of the number of market-rate building units (rounded to the nearest whole number) shall be suitably restricted affordable units so that these units shall count on the SHI or its future equivalent. When application of the 10% requirement, leaves a fractional share of  $\frac{1}{2}$  or less, an appropriate monetary contribution to the Affordable Housing Trust Fund determined by the Planning Board shall be required.

An NMD may replace one affordable building unit as required herein with affordable commercial unit(s) totaling at least 1,000 SF. Such affordable commercial unit(s) shall meet the following criteria:

- (1) Affordable commercial units must be located on the second floor;
- (2) Individual affordable commercial units must be at least 250 square feet
- (3) Rent must be equal to or less than 50% of the market rate charged in the building or in similar buildings within 1,000 feet;
- (4) Leases may not be for less than one year nor longer than three years
- (5) Users of affordable commercial units must be registered 501(c)3 charitable organizations or organizations with the purpose of providing community services to the Town of Milton

14. Green Space

(1) Every NMD shall include Green Space. Green Space shall be pervious areas dedicated to vegetation, lawns or public spaces. Insofar as permitted hereunder and subject to the approval of the Planning Board. Green Space may be used to provide access to underground utility services. The Planning Board may permit Green Space to be utilized for the coursing or temporary retention of storm drainage and associated underground drainage structures. Low Impact Design techniques are strongly encouraged. As reasonably necessary Green Space may be used for underground structures for on-site waste disposal. No other structure may be erected or maintained on Green Space except as may be reasonably necessary for and incidental to the use of the Open Land, such as lamp posts, benches, small sheds, stone walls and fences. The number, characteristics and location of structures in Green Space, if any, shall be subject to approval by the Planning Board. Green Space shall not be used for parking or roadways but may include permeable paths and walkways.

(2) In a Business district, At least 10% of the total land area shall be Open Land.

(3) In a non-business district, at least 33% of the total land area shall be Open Land.

15. Design Standards for Buildings

(1) All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 12 feet;

- (2) Any commercial units provided on the ground floor of a mixed-use building must contain at least 800 square feet
- (3) A minimum of 75% percent of the street-facing building façade area between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas.
- (4) The bottom of any window or product display window used to satisfy the transparency standard of paragraph (1) above may not be more than 2 feet above the adjacent sidewalk.
- (5) Product display windows used to satisfy these requirements must be internally lighted.
- (6) Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.
- (7) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.
- (8) Exterior lighting fixtures shall be appropriate to the architecture, be approved by the International Dark Sky Association, or, if such an association is no longer active, by a similar organization designated by the Planning Board, and be appropriately shielded to prevent any significant lighting over-spill into adjoining residential areas. If there is a lighting control bylaw in existence at the time of application, then such bylaw shall dictate
- (9) Sound shall be controlled such that no more than 50 decibels is audible beyond the property lines or in accordance with any noise regulation bylaw in existence at the time of application
- (10) Outdoor seating areas are encouraged in business districts

16. Site Plan

A site plan for a NMD shall be part of the special permit application. The site plan may contain one or more plans prepared in a form suitable for recording by a Registered Professional Engineer or a Registered Land Surveyor, and in accompanying text and materials. Applicants are encouraged to secure the assistance of a Registered Architect or Landscape Architect in preparation of a

Site Plan. A Site Plan approved by the Planning Board is a prerequisite of a special permit granted under this subsection, and construction shall be in accordance with the approved Site Plan. The Site Plan shall contain:

- a. An existing condition plan showing:
  - i. The existing topography of the land showing two foot contours.
  - ii. A mapping of all wetlands, a description of all wetlands and any proposed alteration of wetlands.
  - iii. Major site features such as large trees, wooded areas, rock-ridges and outcroppings, water bodies, meadows, stone walls and buildings, a description of these features and any proposed removal or changes in these features.
- b. A proposed site conditions plan, including a detailed landscaping plan showing:
  - i. The siting, grading, and landscaping plan for all proposed streets, Open Land, parking areas, paths, walkways, driveways, and structures.
  - ii. A written description of the landscape characteristics of the site and its contiguous neighborhood and of the effects of the NMD on such characteristics, including the passage of water through the site and to and from contiguous property.
  - iii. A written description of the site's current uses, such as watershed, wildlife habitat, woodland or meadowland and of the effect of the NMD on such uses and a written description of all measures proposed to deal with these impacts.
  - iv. A statement of all significant impacts which the NMD is likely to cause and a description of all measures proposed to deal with these impacts.
  - v. The design of all structures. The plans should make the appearance of each building on its sides and rear at least equal in amenity and design to the appearance of the building on its front.
  - vi. Storm water and drainage calculations and the design and location of adequate storm water and drainage systems.
  - vii. Utility Plan including designs for and locations of water, electric, gas, telephone and cable systems.
  - viii. Septage disposal plan, including the design and location of any on-site sewage treatment facility.



17. Submission of Permit Application to Other Boards

Every application for a special permit for a NMD under this subsection shall be referred to the Conservation Commission, the Historical Commission and the Board of Health. The Conservation Commission and Board of Health shall act upon the referral in the same manner as upon an application for subdivision approval under the Subdivision Control Law. The Historical Commission shall advise regarding buildings and any site features as specified herein.

18. Application Filing, Hearing and Decision

Every application for a special permit for a NMD shall be filed with the Town Clerk and ten copies of the application (including the date and time of filing with the Town Clerk) shall be filed forthwith with the Planning Board. The Planning Board shall forthwith transmit a copy of the application to the Conservation Commission and the Board of Health and shall specify the date of the public hearing. After due publication and notice, the Planning Board shall hold a public hearing within 65 days of filing of the application or within such further time as may be permitted by G.L. c. 40A, Section 9 (or a successor statutory provision) or within such further time specified by written agreement between the applicant and the Planning Board filed with the Town Clerk. After hearing, the Planning Board, subject to whatever terms and conditions which it deems necessary or appropriate, shall grant a special permit for a NMD pursuant to the authority of and subject to the standards set out in Section IX.C if it finds that those standards and all the requirements of this subsection have been met.

19. Permit Amendment

After a special permit for a NMD has been granted, the development may be altered or amended only upon an application for such alteration or amendment complying with the pertinent requirements of this subsection and after notice and public hearing and a finding by the Planning Board that the alteration or amendment: (a) meets the requirements and purposes of this subsection; (b) is financially practical and in reasonable probability will be completed; and (c) is desirable or reasonably necessary. In permitting an alteration or amendment, the Planning Board may impose such conditions or restrictions which it deems to be reasonably necessary to accomplish the purpose or satisfy the requirements of this subsection.

20. Expiration of Permit

In the event no substantial use of a special permit granted under this subsection is made and no substantial construction has commenced within two years of the Planning Board's decision (excluding any time involved in judicial review of the decision), the special permit shall expire, except for good cause. The Planning Board may set reasonable limits for completion of parts or of the whole of the development and may determine the order of construction.

21. Recording of Permit

The Special Permit issued by the Planning Board shall be recorded with the Registry of Deeds by the Applicant at the Applicant's expense within thirty days after the Town Clerk has certified that the time for appealing the special permit has expired. A copy of the recorded document with the recording information shall be provided to the Town Planner promptly after recording.

Submitted by the Planning Board