

DRAFT Master Plan Development Overlay Zoning District

1. Purposes

1. The purposes of the Master Plan Development Overlay District include but are not limited to:

- 1.1. Promoting a range and balance of land uses;
- 1.2. Encouraging integrated physical design and interaction among activities;
- 1.3. Establishing controls which will facilitate development while protecting the public interest;
- 1.4. Permitting flexible development;
- 1.5. Promoting site features and layouts conducive to walking and bicycling;
- 1.6. Promoting a pedestrian-friendly business, living and working environment.

2. Definitions

2.1. In the Master Plan Development District (MPDO), the following definitions apply in addition to the Definitions in Section 1.3 of the Acton Zoning Bylaw:

Concept Plan

A required submittal for a mixed-use project master special permit, which provides a preliminary site plan for the mixed-use project, describing the proposed character, uses, site layout, and public amenities incorporated therein. The requirements for the submittal of a concept plan are set forth in Section 4 [or in the Rules and Regulations of the Special Permit Granting Authority filed with the Town Clerk].

Master Plan Special Permit Plan

A required submittal for a mixed-use project proposed under this bylaw which, as described in the Special Permit

Granting Authority's Rules and Regulations for the MPDO, defines in detail the site, the site plan, the proposed uses, site improvements, traffic impacts and their mitigation, environmental impacts and their mitigation, future division of the property, and other information required for the public and boards of the Town. Compliance with the Master Special Permit Plan, as approved by the SPGA, shall be a condition of any development of a mixed use project proposed under this bylaw.

Mixed Use Project

A combination of retail, office, service establishments, residential uses, and public facilities as may be approved by the Special Permit Granting Authority for the MPDO by the issuance of a project Master Plan Special Permit, defined below.

Master Plan Special Permit

The initial special permit that an applicant must obtain before or concurrently with obtaining any site plan approvals, as provided for in Section 4.

Master Plan Development Overlay District (MPDO)

The Master Plan Development Overlay District comprising the land as shown on the Official Zoning Map, a copy of which is on file in the office of the Town Clerk.

3. Overlay District and Applicability

3.1 The MPDO may be applied to project proposals meeting the following standards:

3.1.1 The proposed project is a Mixed Use Project

3.1.2 The parcel subject to the MPDO is at least [250,000 sq ft] in size

3.1.3 The proposed Mixed Use Project is at least [100,000 sq ft] in floor area

3.2. The MPDO is an overlay district superimposed on all underlying zoning districts. Upon grant of a Master Plan Special Permit, the allowances and requirements of the underlying zoning, including allowed uses, dimensional standards, and other requirements may be superseded by specific terms in the grant of the Master Plan Special Permit, except where specifically identified in this Zoning By Law. At

the time of the issuance of the first building permit in conformance with the Master Plan Special Permit, the underlying zoning, shall no longer be applicable in the MPDO.

3.3 All uses permitted by right or by special permit in the pertinent underlying zoning district shall be similarly permitted in the MPDO, subject to the further provisions of this Section. Where the MPDO authorizes uses not otherwise allowed in the underlying district, the provisions of the MPDO shall control. The Planning Board shall be the special permit granting authority (SPGA) for every Master Special Permit and any other special permit required in the MPDO. The Planning Board shall also serve as the SPGA for special permits required under any other applicable standards of the Zoning Bylaw.

Note: The above recommends the SPGA as a single entity for all reviews and as the Planning Board

4. Approvals Process

4.1. Overview.

4.1.1. Prior to applying for a building permit for a mixed-use project, the applicant submits the following to the SPGA:

4.1.1.1. Concept plan;

4.1.1.2. Master plan special permit application;

4.1.1.3. Site plan review application.

Note: This is a multi-level review process depending on the mix of uses and complexity of the proposed project

4.1.2. Where special permits other than the Master Plan Special Permit are sought under this Section, such special permits may be applied for concurrently with, or at any time after, the application for the Master Plan Special Permit. Any pending special permit application shall be considered concurrently with the Master Special Permit application and the site plan review application, rather than sequentially, where doing so would promote efficiency and timeliness.

4.1.3. All proceedings of the SPGA under this Section shall proceed reasonably expeditiously under the circumstances and in light of the SPGA's responsibilities under this Section, and the SPGA and the applicant should avoid unnecessary delay.

4.2. Concept Plan.

Note: The Concept Plan step is a review for informational purposes only

4.2.1. With or prior to the application for the Master Special Permit, the applicant must file a concept plan with the SPGA for review. The concept plan shall generally define the proposed character, uses, site layout, and public amenities of the proposed mixed-use project. The SPGA shall determine whether the concept plan substantially conforms with the provisions of this Section.

Note: The following information may instead be included in the SPGA Rules and Regulations

The submission shall, at a minimum, include:

4.2.1.1. A preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the approximate location and anticipated size of footprint(s) of all proposed buildings, general site grading with finish floor elevations, parking, landscaping, roads, walkways and accessways, open space, and wetlands.

4.2.1.2. A preliminary utilities plan showing the location of water lines, hydrants and wastewater utilities; and the location and type of stormwater facilities.

4.2.1.3. A preliminary lighting plan including a photometric plan and general information regarding light poles, bases and fixtures.

4.2.1.4. A preliminary signage plan.

4.2.1.5. A preliminary subdivision plan, if applicable.

4.2.1.6. A plan showing proposed buildings as to approximate location, proposed categories of uses, general architectural design, and anticipated size.

4.2.2. The SPGA shall solicit public comment on the concept plan. Thereafter, the SPGA shall determine that (i) the concept plan is in substantial conformity with the provisions of this Section; or (ii) it would be in substantial conformity if it includes

modifications suggested by the SPGA or agreed upon by the applicant; or (iii) it is not in substantial conformity. If the concept plan is submitted prior to an application for a Master Plan Special Permit, the SPGA shall advise the applicant of the SPGA's determination within 60 days following submittal of the concept plan, unless such time period is extended by written agreement of the SPGA and the applicant. If the SPGA determines the submitted concept plan is not in substantial conformity with the provisions of this Section, it shall provide the reasons for its determination. The determination of the SPGA on the submitted concept plan shall be advisory in nature and shall be without binding effect on either the SPGA or the applicant.

Note: The Conceptual Plan decision is not binding, and is intended as a preliminary review before the Master Plan Special Permit application.

4.3. Master Plan Special Permit.

4.3.1. Every mixed-use project meeting the thresholds of this Section within the MPDO may obtain a Master Plan Special Permit issued by the SPGA. The Master Plan Special Permit (a) specifies the mixed-use project's design, architectural character, public amenities, site improvements, traffic improvements, mitigation, location of buildings, and categories of uses for buildings; and (b) defines uses that will not require additional Site Plan Review under Section 4.4, and by omission defines the uses subject to Site Plan Review.

Note: The Master Plan Special Permit is issued when the design standards and uses have been agreed to by the SPGA.

4.3.2. The application for a Master Plan Special Permit shall include, at a minimum, the following submittals:

Note: The list of information required for Master Plan review to be listed here, or again, included in the SPGA's Rules and Regulations

4.3.2.1. A Master Plan Special Permit plan, containing a site development plan (signed by a registered architect or other pertinent design/ engineering professional) showing the location, size of footprint(s) of all buildings; site grading with finish floor elevations; parking; landscaping; roads, walkways and other internal ways; open space and wetlands.

4.3.2.2. A utilities plan showing the location of hydrants and wastewater facilities; the location and type of

stormwater facilities; and the sources of water to be used on the site.

4.3.2.3. A lighting plan including a photometric plan and information regarding light poles, bases and fixtures.

4.3.2.4. A signage plan for the mixed-use project, which plan must include existing and proposed signage throughout the MPDO.

4.3.2.5. A subdivision plan(s), if applicable.

4.3.2.6. A plan showing the location, elevations with heights, proposed categories of uses, general architectural design, and sizes of all buildings and structures.

4.3.2.7. Reference to any separate special permit(s) being requested in conjunction with the Master Plan Special Permit.

4.3.2.8. A table of Allowed Uses. All uses not listed shall be prohibited.

4.3.2.9. A table of Dimensional Standards.

4.3.3. No Master Plan Special Permit shall be granted unless the mixed-use project is in compliance with the use, dimensional and design standards set forth in this section.

4.3.4. The Master Plan Special Permit shall govern (a) all future development in a particular mixed-use project; and (b) the uses of all ways within the mixed-use project and connections that provide access between the mixed-use project and any street. All construction and associated improvements must be in compliance with the Master Plan Special Permit.

4.3.5. The applicant must supply the SPGA with sufficient copies of the application for a Master Plan Special Permit, along with all supporting documents and plans, as are necessary to provide to other local boards, agencies, and officials, and others as designated in the SPGA's rules and regulations for the MPDO, for their review and comment.

4.3.6. Following issuance of the Master Plan Special Permit, any application for revisions or amendments to the Master Plan Special Permit shall be submitted in writing to the SPGA, which

shall determine and notify the applicant in writing whether such revisions or amendments are minor or major within 30 days.

4.3.6.1. Revisions or amendments proposing only changes that (i) do not significantly affect major exterior elements; (ii) do not significantly impact the public interest, as determined by the SPGA in writing; and (iii) are consistent with the purposes of this Zoning Bylaw, shall be considered minor.

4.3.6.2. Revisions or amendments to the Master Plan Special Permit that are not deemed minor may be made by the SPGA in accordance with the same procedures as are applicable hereunder to the initial approval of the Master Plan Special Permit.

4.4. Uses by Special Permit and Site Plan Review

4.4.1. Within a mixed-use project, the uses available are to be set forth in the Master Plan Special Permit. Some of the uses may be allowed only by Special Permit. All other uses not listed shall be prohibited. In the Master Plan Special Permit, the SPGA may coordinate applications for site plan review and individual special permits to ensure an orderly development process. Once a Master Plan Special Permit has been issued, all uses designated in the Master Plan Special Permit shall be allowed. Uses may be designated as Special Permit uses and shall be allowed subject to issuance of a requisite special permit under Section 4.4.2.

Note: A table of uses is to be included in the approved application. Some uses may require additional review if identified as special permit uses.

4.4.2. Special Permits.

4.4.2.1. The prerequisite for a special permit for uses shall be designated as such in Master Plan Special Permit. Applications for the special use permit may be filed with the Master Plan Special Permit application or following the grant of the Master Plan Special Permit; and in conjunction with Site Plan Reviews.

4.4.2.2. Any special permits required for Dimensional Requirements in the Master Plan Special Permit may be incorporated into the Master Plan Special Permit and may be obtained during the Master Plan Special Permit approval process or in a subsequent application. These

dimensional special permits may also be applied for in conjunction with Site Plan Reviews.

Note: A table of dimensional standards shall be included in the approved application

4.4.3. Changes of Use.

4.4.3.1. Any change of use after the Master Plan Special Permit is granted shall require a separate special permit under the following circumstances:

(a) The change of use covers 10,000 square feet or more of gross floor area; or

(b) The change of use, when aggregated with all other changes of use made after the Master Plan Special Permit, totals 10,000 square feet or more of gross floor area.

4.4.3.2. If a separate special permit is required for a change of use under this Section 4.4.3 and such change of use also involves other changes requiring site plan review, then the special permit and the site plan review may be applied for and considered together.

4.4.4. Site Plan Review.

Note: This Site Plan Review would not be a Special Permit. This is proposed as a review for conformance with the Master Plan Special Permit, on specific uses, dimensions and designs.

4.4.4.1. The purpose of the site plan review is to ensure that any proposed building or site improvement is in compliance with the Master Plan Special Permit. Prior to the issuance of a building permit for the construction of a building which will contain a use listed as allowed in the Master Plan Special Permit, the SPGA shall conduct a Site Plan Review. The Site Plan Review at a minimum shall include the components approved in the design standards under Section 9, and compliance with the Master Plan Special Permit. Site Plan Review may be completed concurrent with Master Plan Special Permit review and approval.

4.4.4.2. The applicant shall submit an application and plans showing: building design and elevations; signs; landscaping; lighting; parking; compliance with the Master Plan Special Permit; and any other documents

required by the Master Plan Special Permit and the SPGA's rules and regulations for the MPDO. The SPGA shall review the application and plans to determine whether the proposed building(s) and associated improvements are consistent with the design standards set forth in Section 9 and the specific conditions of the Master Plan Special Permit. The SPGA shall hold its first hearing only after receipt of a complete application. The SPGA shall render a written decision and file it with the Town Clerk within 60 calendar days after the first hearing, unless such time period is extended in writing by agreement of the SPGA and the applicant. Any appeal from a decision of the SPGA shall be made to a court of competent jurisdiction in accordance with the provisions of MGL Chapter 40A, §17.

4.4.4.3. The applicant shall submit an application and plans showing proposed changes subject to this Bylaw, and any other documents required by the Master Plan Special Permit and the SPGA's rules and regulations for the MPDO. The SPGA shall review the application to determine whether the proposed changes are consistent with the Master Plan Special Permit, the site plan approval, and the design standards approved under Section 9. The SPGA shall hold its first hearing only after receipt of a complete application. The SPGA shall render a written decision and file it with the Town Clerk within 60 calendar days after the first hearing, unless such time period is extended in writing by agreement of the SPGA and the applicant. Any appeal from of a decision of the SPGA shall be made in accordance with the provisions of MGL c. 40A, §17.

5. Special Permit Decision

5.1. Any special permit shall be subject to the requirements and conditions set forth in the Zoning Bylaw.

Note: The remainder of this section adds criteria for issuing a Master Plan Special Permit.

5.2. When the application is for a Master Plan Special Permit, the SPGA shall consider the following criteria, in addition to the requirements and conditions set forth elsewhere in the Zoning Bylaw:

5.2.1. The mixed-use project must comply with the allowed uses according to Section 4, the dimensional requirements, and the design standards, according to Section 9.

5.2.2. The Master Plan Special Permit shall be granted by the SPGA only upon the Board's written determination that the adverse effects of the proposed mixed-use project will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site.

Note: The next section would add any variations permissible by Special Permit under this bylaw

5.3. Where the application is for a special permit for building height in excess of 35 feet, in addition to the criteria set forth in § 5.2, in order to grant a special permit, the SPGA must find that such additional height will facilitate architectural variety, visual interest, and building scale in relation to other buildings and the district.

6. Special Permit Conditions

6.1. In any special permit granted by the SPGA, the Board may, pursuant to MGL c. 40A, § 9, and this Zoning Bylaw, as amended from time to time, impose additional reasonable conditions, safeguards, and limitations on time and use, which conditions may include but are not limited to the following:

6.1.1. A phasing schedule for construction of each component part of the project which ensures integration of residential, nonresidential, and municipal uses.

6.1.2. A demolition and construction schedule, including a construction traffic management plan.

6.1.3. Hours of operation, delivery times, and lighting schedule.

6.1.4. A requirement that special permits and site plans be recorded in the Registry of Deeds and, if registered land, in the Land Court, prior to the issuance of any building permits.

6.1.5. Compliance with plans approved in the Master Plan Special Permit and with all applicable federal, state, and local laws, rules, regulations, and bylaws;

6.1.6. If circumstances so warrant, a requirement to continue monitoring off-site impacts to traffic and the environment in

appropriate locations with regard to the locus of the MPDO development; and

6.1.7. The right of the SPGA, or its designated representative, to make inspections during the construction process.

6.1.8. Restrictions on use of the ways within the mixed-use project, and all ways that allow access between the mixed-use project and any public way.

7. Time Limits

Note: This section clarifies the relationship between the underlying zoning and the MPDO, and the expiration of the Special Permit issued under the MPDO

7.1. Until such time as a Master Plan Special Permit is issued for a mixed-use project, and the appeal period following the decision has expired, the provisions of the underlying zoning shall solely govern the use and development of the property comprising the MPDO.

7.2 The Master Plan Special Permit will be governed as a special permit under the provisions of the State Zoning Act and these Bylaws.

8. Dimensional Requirements

8.1. The dimensional requirements set forth in the Master Plan Special Permit will apply to all mixed-use projects and, to the extent these standards conflict with the dimensions listed in the table of Dimensional Requirements for the underlying zoning, the Master Plan Special Permit shall prevail. The following minimum criteria apply to the Dimensional Requirements:

Note: This section lists over-riding dimensional standards. A Master Plan Special Permit Table of Dimensional Standards is to be included in the approved plan. These would be the minimum standards.

8.1.1. Minimum total area. All land considered under the MPDO must be located entirely within the MPDO.

8.1.2. Maximum building height. Height shall be measured in accordance with the otherwise applicable provisions of the Zoning Bylaw. No building shall be permitted with a height higher than 45 feet.

8.1.3. Maximum building size. The total building area in a single project shall not exceed a Floor Area Ratio of 1.0.

8.1.4 Maximum parking ratios. The total number of parking spaces for a commercial use, shall not exceed 4 spaces per 1,000 SF GFA, and for a residential use shall not exceed 2 spaces per residential unit. Shared parking shall be allowed according to the Zoning Bylaws.

8.1.5 Minimum commercial use/ maximum residential use. For those buildings within 100 feet of the primary LOT frontage, the first floor shall be restricted for non-residential uses, with the exception of residential entrances, vertical circulation, and building systems. The maximum floor area committed to residential use in any project shall not exceed 70 percent of the total floor area (Gross Floor Area).

9. Design Standards

Note: The following is a list of design criteria that would apply in the MPDO. Any special design standards for the district would be added under this provision.

9.1. Design standards shall be included as part of the Master Plan Special Permit submission and any approval. At a minimum the approved standards will include the following categories of design elements:

1. Landscaping
2. Massing
3. Screening and Buffers
4. Signs
5. Stormwater Management
6. Ways and Access
7. Parking and Loading
8. Lighting
9. Usable Open Space
10. Underground Utilities

9.2 In the absence of a standard applying to a project approved under a Master Plan Special Permit, the standards of the underlying zoning pertaining to that design element shall prevail.

10. Rules and Regulations

10.1. The SPGA shall adopt and may, from time to time, amend, reasonable rules and regulations for special permit applications and site plan reviews in the MPDO and for the implementation of this Section. Such rules and regulations shall take effect upon their filing with the Town Clerk. Applications must be submitted on a form provided by the SPGA and must be in accordance with those rules and regulations in effect at the time of such application. If later amendments of the SPGA's rules and regulations for the MPDO change any of the submittal requirements, the SPGA can request additional submittals from the applicant to the extent that doing so is reasonable and appropriate.

11. Relation to Other Requirements.

11.1. The submittals required by this Section shall be in addition to any submittals required by the Massachusetts Subdivision Control Law and the Planning Board's rules and regulations on subdivision control.