Article Guide

Zoning Articles

Planning Board Public Hearing

January 29, 2019

(snow date January 31, 2019)

Powers Hall, Needham Town Hall

7:15 p.m.

1. Amend Zoning By-Law – Highway Commercial 1 Zoning District.
2. Amend Zoning By-Law – Map Change to Highway Commercial 1.
3. Amend Zoning By-Law – Accessory Dwelling Unit.

8:00 p.m.

4. Amend Zoning By-Law – Dimensional And Use Regulations For The Transit Oriented Development Sub-District Of The Lower Chestnut Street Overlay District.
5. Amend Zoning By-Law – Map Change to Chestnut Street Business District and Lower Chestnut Street Overlay District.
6. Amend Zoning By-Law – Map Change to Transit Oriented Development Sub-District of Lower Chestnut Street Overlay District.

RE: Article 1: Amend Zoning By-Law – Highway Commercial 1 Zoning District

Article Information: Article 1, in combination with Article 2, proposes to create the new Highland Commercial 1 zoning district. Article 1 lays out the regulatory framework for the new district while Article 2 describes its geographic boundaries. The geographical boundaries of the new Highland Commercial 1 zoning district is bounded on the north by the Massachusetts Bay Transit Authority (M.B.T.A.) commuter railroad right-of-way, on the east by the Circumferential Highway, known as Route 128/95, on the south by Highland Avenue and on the west by Gould Street. The subject land is currently located in the Industrial-1 zoning district. A locus map and site map both entitled "Highland Commercial 1 District" are attached at the end of this handout as Exhibits 2 and 3 respectively. The planning goals for the district along with an overview of the district's key provisions are summarized below.

The Council of Economic Advisors, which was created by the Select Board to evaluate Town-wide economic conditions and makes recommendations to promote and encourage new and existing businesses, undertook a review of all Industrial Zoning Districts in 2012, and, after focusing its efforts on three different areas along Route 128, held numerous public meetings with residents, neighbors, public officials, businesses and landowners in 2014 about potential zoning initiatives. As requested during those discussions, the CEA obtained a build-out analysis, a traffic impact report based on that analysis, and elevation drawings to better understand the impact of any proposed development. After examining the results of those reports, the CEA in 2017 reached out again to the various stakeholder groups and presented its preliminary recommendations to upgrade the zoning adjacent to Route 128 in order to make these areas more economically competitive. The Planning Board, having reviewed the proposals from the CEA, determined to move forward on only one area at this time; the area circumscribed by Route 128, Highland Avenue, Gould Street, and the railroad track. The proposed use and dimensional changes to this area, to be rezoned Highway Commercial 1 ("HC1"), are detailed below.

The amendments to Section 3.2 detail the uses allowed by right (Section 3.2.7.1) and those by special permit (Section 3.2.7.2). In addition, by listing the uses rather than referencing the current somewhat antiquated table of uses, the uses can be clarified and brought up to date. Key changes to the use table include allowing bigger retail stores by right (10,000 sq. ft. or less, up from 5,750 sq. ft.) and allowing by special permit retail of more than 10,000 sq. ft. but less than 25,000 sq. ft. (currently a special permit is required for more than 5,750 sq. ft.); clarifying medical services allowed by right and by special permit (as was done in the Needham Crossing zoning); standardizing the medical laboratory and research and development defined uses; allowing by right more than one use and more than one building on a lot; changing live-performance theaters, bowling alleys, skating rinks, billiard rooms and similar commercial amusement or entertainment places from as of right to special permit; deleting indoor movie theaters from allowed uses; deleting single family detached dwelling as an allowed use; and precluding certain industrial uses in the district including, among others, commercial garages, contractor's yards, lumber or fuel establishments, medical clinics, and previously allowed manufacturing and industrial services. The purpose of the use changes are: (1) to insure that uses allowed by right or by special permit will maximize the economic value of redevelopment to the Town; and (2) to subject certain uses presently allowed by right to the special permit process so that they may be properly vetted by the permit granting authority as to impacts and mitigation.

The amendments to Section 4 would create the dimensional requirements for the new Highway Commercial 1 zone. The proposal under new Section 4.11 would change the front setback to 5' unless the building height exceeds 54', in which case the front setback increases to 15', or the building sits on Highland Avenue or Gould Street where a 20' landscaped vegetative buffer is proposed. (Current front setback is 20' except along Gould and Highland where a 50' building setback is imposed.) The side

setback would change to 10' unless the building height exceeds 54', in which case the side setback is 20'. (The current side setback is 20'.) The maximum height is increased to 70' except that a building within 50' of Highland Avenue and/or Gould Street is limited to a height of 54' unless the additional height is contained under a pitched roof or recessed from the face of the building in a manner approved by the Planning Board. The 54' height or four story profile is consistent with the height allowed in the Elder Services District across Gould Street from the new HC1. By special permit, the height may increase along Route 128 to 84', which, given the topography of these lots (they pitch down near the highway), appears as four stories along the street fronts of Gould Street and Highland Avenue. (The current zoning allows only 30' or two stories.)

The new zoning creates a maximum lot coverage requirement of 65% and an open space requirement of a minimum of 20%. (The current zoning contains no such requirements.) Changes are also proposed to the maximum floor area ratio ("FAR"): a maximum FAR by right would be 1.00; the FAR may be increased up to 1.75 by special permit provided certain findings are made. The amendment clearly sets out the specific factors which will allow the exercise of the Board's special permit granting authority. The proposed zoning also sets out the maximum uninterrupted façade length that is allowed—300'. (The current zoning allows an FAR of only 0.5 and only in very limited special circumstances allows 0.65-0.75.)

Because the CEA has concluded that the future development of this critical commercial area along Route 128 depends on Needham's ability to be responsive to the requirements of new or proposed uses or construction, it recommended the adoption of Section 4.11.3 which tracks the language from the Needham Crossing zoning adopted in 2011. Successful office parks flourish due to the flexibility of their zoning provisions. This amendment will impart greater flexibility in the Zoning By-Law by allowing the Planning Board to relax dimensional requirements up to a maximum of 25%, except with regard to height, by special permit but only after making very specific findings as to the propriety of the waivers as to a particular project, use and location.

Based on the build-out analysis, traffic report, dimensional analysis, consultant findings and information, and meeting testimony, the CEA and Planning Board confirmed that certain dimensional requirements, including front setback, height, floor area ratio, and side setbacks, and use requirements were constraining development. The current zoning effectively precludes additional development. As the CEA's consultant concluded, realistic development expansion potential under the current zoning is essentially zero, and, given the properties' regionally prime commercial location along Route 128, they are significantly underperforming economically, to the detriment of the Town. With rezoning, in time, this area should attract significant high value redevelopment, which will be overseen by the Planning Board under its site plan review and special permit obligations.

RE: Article 2: Amend Zoning By-Law – Map Change to Highway Commercial 1

Article Information: Article 2 describes the geographical area proposed to be placed in the new Highway Commercial 1 zoning district. The affected area is generally bounded on the north by the Massachusetts Bay Transit Authority (M.B.T.A.) commuter railroad right-of-way, on the east by the Circumferential Highway, known as Route 128/95, on the south by Highland Avenue and on the west by Gould Street. The subject land is currently located in the Industrial-1 zoning district. A locus map and site map both entitled "Highland Commercial 1 District" showing the location of the geographical area proposed to be placed in the new Highway Commercial 1 zoning district are attached at the end of this handout as Exhibits 2 and 3 respectively.

RE: Article 3: Amend Zoning By-Law – Accessory Dwelling Unit

Article Information: Article 3 establishes a special permit process to enable the Board of Appeals to permit accessory dwelling units (ADUs) in single-family homes for occupancy by family member(s) related to the owners of the property and caregivers of family members, subject to specified standards and procedures. It is also the intent of this zoning to assure that the single-family character of a neighborhood will be maintained and that the necessary accessory unit remains subordinate to the principal use of the living quarters. ADUs will be allowed in all zoning districts with the exception of the Chestnut Street Business District, Center Business District, Mixed-Use 128 District, Highland Commercial 128 District, and New England Business Center District. In these zoning districts single-family homes are not currently permitted.

Under Article 3, the accessory dwelling unit (ADU) is defined as an apartment that is a second, self-contained dwelling unit as part of a single-family detached dwelling serving as a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. The ADU must be subordinate in size to the principal dwelling unit on a lot, and constructed to maintain the appearance and essential character of the single-family dwelling.

To accomplish this, the by-law restricts size, occupancy, and exterior conditions. In regards to size, the ADU is limited to one-bedroom and 850 square feet with no more than one ADU per lot. Additionally, the ADU must be located in the primary structure, not in an accessory building. In regard to occupancy, at least one of the units must be owner-occupied; and occupancy of the unit that is not owner-occupied is limited to a member of the owner's family related by first degree of kinship, marriage or adoption or by a caregiver for a member of the owner's family. Temporary absence of an owner of a property containing an accessory dwelling unit is permitted for a period of less than two years during which time the owner may rent the owner's unit as well as the second unit during the temporary absence provided: 1) Written notice is made to the Building Commissioner on a form prescribed by him. 2) The owner shall be resident on the property for at least two years prior to and between such temporary absences. With respect to exterior appearance, the by-law requires separate ingress and egress to the outside of each unit that do not detract from the single-family appearance of the dwelling. Moreover, all stairways must be enclosed within the exterior walls of the structure and only one exterior entrance is allowed on the front façade with other exterior entrances to the side or rear of the structure. An interior door way is also required for access between each unit for purposes of supervision and emergencies. There must also be sufficient off-street parking, defined as a minimum of one space per unit with appropriate screening.

Applications to create an ADU must be submitted to the Building Commissioner with floor plans and a certified site plan. Beyond the special permit from the Board of Appeals, building and occupancy permit approvals are required from the Building Commissioner. All units must be in compliance with Board of Health and State Building Code regulations.

The occupancy permit will be provided for a five-year period after which succeeding five-year periods will be allowed assuming continued compliance with zoning requirements. The occupancy permits will not be transferable upon a change of ownership or occupancy unless an affidavit affirming continuing compliance with the conditions of the occupancy permit is received and approved by the Building Commissioner. In the case of violations of the terms of the special permit or the expiration of the lawful use of the ADU, the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the components that create a separate dwelling unit such as living, sleeping, cooking and eating, returning the unit to a lawful single-family dwelling.

RE: Article 4: Amend Zoning By-Law – Dimensional and Use Regulations for the Transit Oriented Development Sub-District of the Lower Chestnut Street Overlay District.

Article Information: Articles 4-6 represent a package of proposed zoning by-law amendments that stem from more than two years of work by the Planning Board. The articles seek to secure implementation of the Needham Center Development Plan dated March 30, 2009, by enabling the development of housing at a location proximate to transit at the Needham Junction MBTA Commuter Rail Station and within walking distance to Needham Center and the Chestnut Street businesses. Article 4 proposes the creation of a new Transit Oriented Development Sub-District (TODD) within the Lower Chestnut Street Overlay District and lays out the regulatory framework for the new sub-district. Article 6 describes the geographical boundaries of the TODD. The affected area comprises 433 Chestnut Street and the land located directly to the south and the west of 433 Chestnut Street, owned by the M.B.T.A. and shown as Parcel 2 on a plan entitled "Re-zoning Plan of Land", prepared by Beals and Thomas, dated April 3, 2018. The land located at 433 Chestnut Street is currently located in the Chestnut Street Business District and the Lower Chestnut Street Overlay District. The land located directly to the south and the west of 433 Chestnut Street and owned by the M.B.T.A., is currently located within the Single Residence B zoning district. This later parcel is proposed to be rezoned to the Chestnut Street Business District and the Lower Chestnut Street Overlay District under Article 5 so that the TODD provisions may be extended to that location. A copy of the plan showing the M.B.T.A. land (Parcel 2) and entitled "Re-zoning Plan of Land" prepared by Beals and Thomas, dated April 3, 2018 is attached at the end of this handout as Exhibit 5. A locus map and site map both entitled "Transit Oriented Development Sub-District" showing the boundary of the TODD are attached at the end of this handout as Exhibits 7 and 8 respectively. The planning goals for the sub-district and its key provisions are summarized below.

The rezoning seeks to allow a multi-family housing development of up to 148 units to be developed at 433 Chestnut Street and on the adjacent M.B.T.A. property. This gateway location at the southern end of Chestnut Street is challenged by the train tracks that surround the site, limited frontage and a difficult site configuration. These challenges have limited the desirability of the property to be utilized for retail development (due to a lack of visibility), condominium development (due to the adjacencies of the rail tracks and the Eversource electric transmission facility to the south), or an active commercial user other than the existing landscape business, which is a benefit to the Town, but which does not provide any benefit to the streetscape or activation for adjacent businesses. The Town's current zoning contributes to these problems further by posing use and dimensional barriers to redevelopment. Specifically, the existing zoning allows for multi-family development in the Chestnut Street Overlay District, but requires an increased frontage, limits height to 4 stories, and requires ground floor retail uses, which are all challenges for development as this location. Additionally, the existing zoning establishes minimum side and rear yard setback standards from residential district boundaries and the MBTA right-of-way which are inappropriate at a site where the proposed use is exclusively residential and does not include a commercial component.

The proposed TODD is designed to address these development constraints by placing supplemental provisions on top of those which already exist in the Lower Chestnut Street Overlay District thereby creating additional opportunities for development at the subject location. The TODD's key provisions are summarized below.

Permitted Uses

Uses allowed as-of-right and by special permit in the Lower Chestnut Street Overlay District are also allowed as-of-right or by special permit in the TODD of the Lower Chestnut Street Overlay District. In addition, development of multi-family units at grade is permitted in the TODD by special permit. Current

zoning in the Lower Chestnut Street Overlay District allows multi-family development by special permit but requires commercial use at the ground floor level.

Lot Area and Frontage

The Lower Chestnut Street Overlay District still requires a minimum lot area of 15,000 sq. ft. and lot frontage of 100 feet. The TODD of the Lower Chestnut Street Overlay District requires a minimum lot area of 15,000 sq. ft. but reduces lot frontage to 50 feet. The frontage requirement in the TODD has been reduced to 50 feet as the subject development site (due to the railroad tracks that surround the site) has less than 100 feet of frontage on Chestnut Street.

Minimum Front Setback

The minimum front yard setback in both the TODD of the Lower Chestnut Street Overlay District and the Lower Chestnut Street Overlay District is the lesser of 5 feet from the property line or the average setback of abutting buildings within 100 feet on the same side of the street as the development.

Maximum Front Setback

The Lower Chestnut Street Overlay District requires a maximum front yard setback of 15 feet from the front property line. This was imposed in an effort to establish a strong building line along the street edge of Chestnut Street. The TODD of the Lower Chestnut Street Overlay District establishes a maximum front yard setback of 150 feet from the front property line due to the shape of the affected parcel and its limited frontage at Chestnut Street.

Minimum Side and Rear Setbacks

In the TODD of the Lower Chestnut Street Overlay District a reduction in the minimum side and rear yard setback from the lot line abutting the MBTA (25 feet reduced to 5 feet) is afforded for multi-family development only, with the 5 foot area to be suitably landscaped and not used for any other purpose. For all other development in the TODD the rules of the Lower Chestnut Street Overlay District apply as follows. For lots adjacent to the MBTA right-of-way, the minimum yard setback is 25 feet from the lot line abutting the MBTA right-of-way. The 10 feet of the setback closest to the MBTA right-of-way must be suitably landscaped and not used for any other purpose except surface parking, if approved by special permit from the Planning Board. The remaining 15 feet may be used for an accessory use, not including a building or structure, but an underground parking structure would be allowed if located entirely below the grade of the existing lot.

In the TODD of the Lower Chestnut Street Overlay District a reduction in the minimum side and rear yard setback from the lot line abutting a residential district (50 feet reduced to 5 feet) is afforded for multi-family development only with the 5 foot area to be suitably landscaped and not used for any other purpose. For all other development in the TODD the rules of the Lower Chestnut Street Overlay District apply as follows. For lots abutting a residential district, the minimum yard setback is 50 feet from the district boundary. The 25 feet closest to the district boundary must be suitably landscaped and not used for any other purpose. By special permit from the Planning Board, however, an underground parking structure may be permitted within the 50 foot setback provided the garage structure is located entirely below the grade of the existing lot and is set back at least ten 10 feet from the district boundary or 10 feet from the lot line, whichever is greater. The 25 feet closest to the district boundary must be suitably landscaped over the surface of the garage structure.

Building Height Requirements

In the TODD of the Lower Chestnut Street Overlay District the maximum by right building height remains unchanged from that of the Lower Chestnut Street Overlay District at two and one-half stories and thirty-five feet. For lots in the TODD having the required minimum frontage of 50 feet on Chestnut Street, the Planning Board may grant a Special Permit for a maximum building height of 6 stories and 80 feet, provided that the sixth story is located under a pitched roof or is recessed from the face of the building. Current zoning for the Lower Chestnut Street Overlay District authorizes by special permit a maximum building height of 4 stories and 48 feet for lots having 100 feet of frontage on Chestnut Street.

Building Bulk and Other Requirements

The maximum as-of-right Floor Area Ratio (FAR) in both the TODD of the Lower Chestnut Street Overlay District and the Lower Chestnut Street Overlay District is 0.7. For lots with conforming frontage (50 ft. in the case of the TODD and 100 ft. in the case of the Overlay) on Chestnut Street, the Planning Board has the authority to grant special permits for an increase in the maximum FAR to 1.5 or 2.0. In the case of the Lower Chestnut Street Overlay District the increase in the maximum FAR is subject to the same two-tier standards that apply in the Needham Center Overlay District. In the case of the TODD of the Lower Chestnut Street Overlay District an exception to the two-tier standard is afforded so to permit waivers of minimum parking requirements and payment of the in lieu off-street parking fee.

Off-Street Parking

For dwelling units in a multi-family dwelling-only development within the TODD of the Lower Chestnut Street Overlay District, the minimum number of off-street parking spaces is one space per bedroom. For dwelling units in a mixed-use building in the Lower Chestnut Street Overlay District, the minimum number of off-street parking spaces is one and one-half space per dwelling unit with a reduction to 1 space provided for affordable units of one bedroom or less.

Affordable Housing

The TODD of the Lower Chestnut Street Overlay District contains the same affordable housing provisions that apply in the Lower Chestnut Street Overlay District which requires affordable housing in larger mixed-use developments, i.e., those with six or more dwelling units. At least one affordable unit is required for a development with six to ten units. For a development with eleven or more units, at least 10 percent must be affordable. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. Floor area devoted to affordable housing is exempt from the total floor area used to calculate maximum FAR.

Summary

A table entitled “Summary of Existing and Proposed Zoning” which summaries the zoning provisions of the TODD of the Lower Chestnut Street Overlay District and compares them to the existing zoning provisions of the Chestnut Street Business District and the Lower Chestnut Street Overlay District is attached at the end of this handout as Exhibit 1.

RE: Article 5: Amend Zoning By-Law – Map Change to Chestnut Street Business District and Lower Chestnut Street Overlay District

Article Information: Article 5 describes the geographical area located directly to the south and the west of 433 Chestnut Street proposed to be placed in the Chestnut Street Business District and the Lower Chestnut Street Overlay District. The affected area comprises land located directly to the south and the west of 433 Chestnut Street, owned by the M.B.T.A. and shown as Parcel 2 on a plan entitled "Re-zoning Plan of Land", prepared by Beals and Thomas, dated April 3, 2018. The land is currently located within the Single Residence B zoning district. A copy of the plan showing the M.B.T.A. land (Parcel 2) and entitled "Re-zoning Plan of Land" prepared by Beals and Thomas, dated April 3, 2018 is attached at the end of this handout as Exhibit 5. A locus map and site map both entitled "Change to CSBD and LCSOD showing the boundary of the land proposed to be placed in the Chestnut Street Business District and the Lower Chestnut Street Overlay District are attached at the end of this handout as Exhibits 4 and 5 respectively.

RE: Article 6: Amend Zoning By-Law – Map Change to Transit Oriented Development Sub-District of the Lower Chestnut Street Overlay District

Article Information: Article 6 describes the geographical area proposed to be placed in the Transit Oriented Development Sub-District of the Lower Chestnut Street Overlay District. The affected area comprises 433 Chestnut Street and the land located directly to the south and the west of 433 Chestnut Street, owned by the M.B.T.A. and shown as Parcel 2 on a plan entitled "Re-zoning Plan of Land", prepared by Beals and Thomas, dated April 3, 2018. The subject land located at 433 Chestnut Street is currently located in the Chestnut Street Business District and the Lower Chestnut Street Overlay District. The subject land located directly to the south and the west of 433 Chestnut and owned by the M.B.T.A. is currently located within the Single Residence B zoning district. This later parcel is proposed to be rezoned to the Chestnut Street Business District and the Lower Chestnut Street Overlay District under Article 5 above. A locus map and site map both entitled "Transit Oriented Development Sub-District" showing the boundary of the TODD are attached at the end of this handout as Exhibits 7 and 8 respectively.

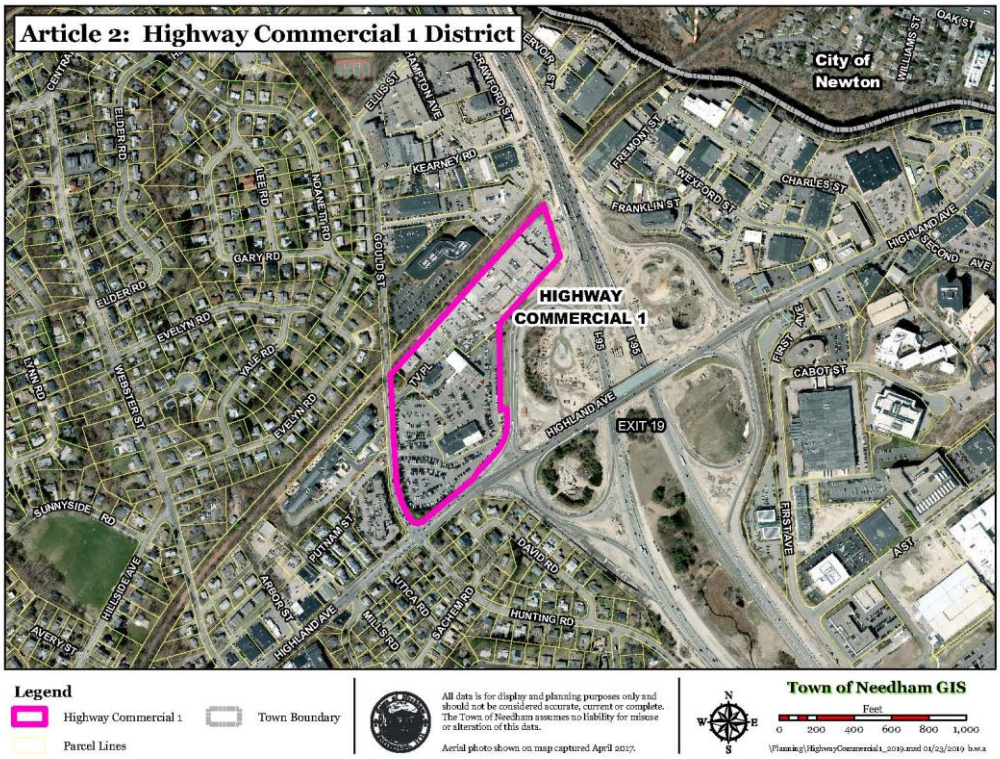
Exhibits:

Exhibit 1

Summary of Existing and Proposed Zoning

Dimensional Standard	Existing Chestnut Street	Existing Lower Chestnut Street Overlay	Proposed TODD
Minimum Lot Area	10,000 SF	15,0000 SF	Same as Lower Chestnut Street Overlay
Minimum Frontage	80 feet	100 feet	50 feet
Maximum Building Height By Right	35 feet 2.5 stories	35 feet 2.5 stories	Same as Lower Chestnut Street Overlay
Maximum Building Height By Special Permit	N/A	For lots with frontage on Chestnut Street: 37 feet 3 stories or 48 feet 3+1 stories	For lots with required frontage on Chestnut Street: 80 feet 6 stories (sixth story under pitched roof or recessed)
Minimum Building Height	N/A	N/A	N/A
Floor Area Ratio By Right	0.70	0.70	Same as Lower Chestnut Street Overlay
Floor Area Ratio By Special Permit		For lots with frontage on Chestnut Street: 1.50 or 2.00.	Same as Lower Chestnut Street Overlay
Front Setback	Minimum 20 feet	Minimum 5 feet or average of setbacks within 100 feet, whichever is smaller Maximum: 15 feet from front property line.	Minimum 5 feet or average of setbacks within 100 feet, whichever is smaller Maximum: 150 feet from front property line.
Side and Rear Setback Adjacent to Residential Zones and MBTA ROW	Minimum 50 feet, including 25-ft landscaped buffer closest to residential boundary	Same as Chestnut Street, except: for lots adjacent to MBTA ROW, minimum 25-ft setback and 10-ft landscaped buffer	Same as Lower Chestnut Street Overlay, except: for Multi-Family Dwelling-only development on lots adjacent to MBTA ROW, minimum 5-ft setback and 5-ft landscaped buffer and for lots abutting residential district, minimum 5-ft setback
Building Coverage	N/A	N/A	N/A
Enclosed Parking	N/A	Underground Parking Exempt from FAR	Same as: Lower Chestnut Street Overlay
Basic Off-Street Parking Requirements	Per ZBL Section 5.1.2 and 5.1.3	Per ZBL Section 5.1.2 and 5.1.3, except: • No parking required for retail <800 SF • Reduced parking for buildings with more than 40% of floor area located in upper stories • Bike racks required for residential uses • Payment in lieu of parking spaces to Needham Center Off-Street Parking Fund	Same as Lower Chestnut Street Overlay, except for Multi-Family Dwelling-only development: • One parking space required per bedroom • Reduced aisle width for one-way traffic within parking area Minimum number of required parking spaces and payment of fees in lieu parking of parking spaces may be waived for all developments having an FAR > 1.50.
Affordable Housing		For developments with not more than 10 dwelling units, at least one unit. For developments with 11 or more dwelling units, at least 10 percent. Floor area of affordable unit not counted towards FAR.	Same as Lower Chestnut Street Overlay

Exhibit 2



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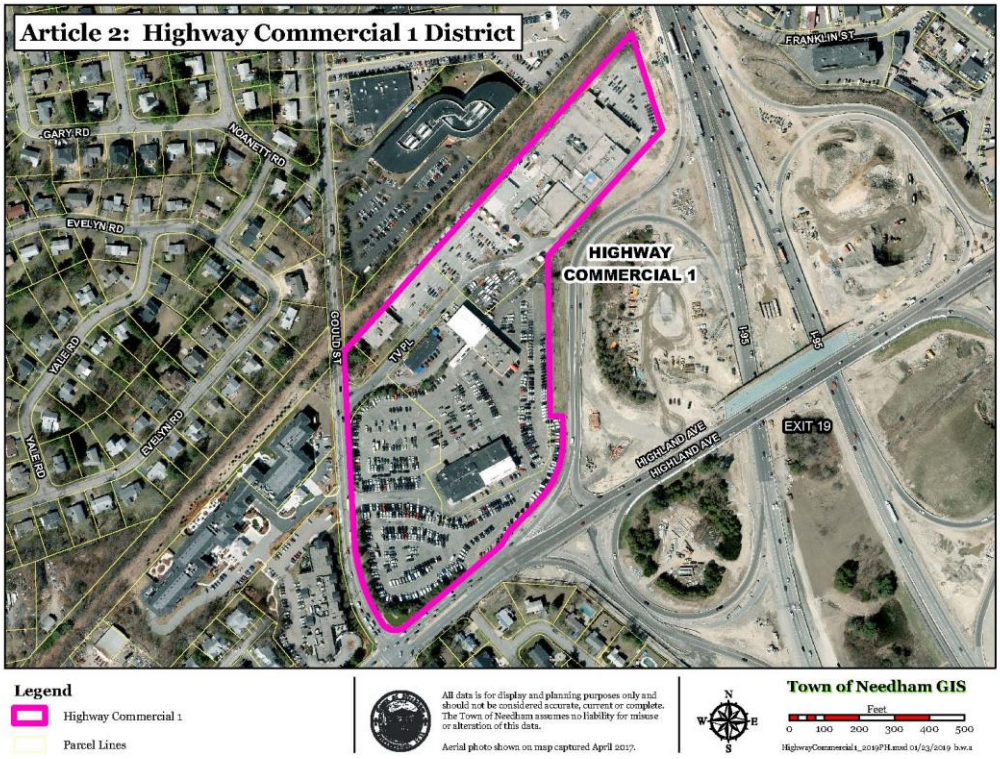

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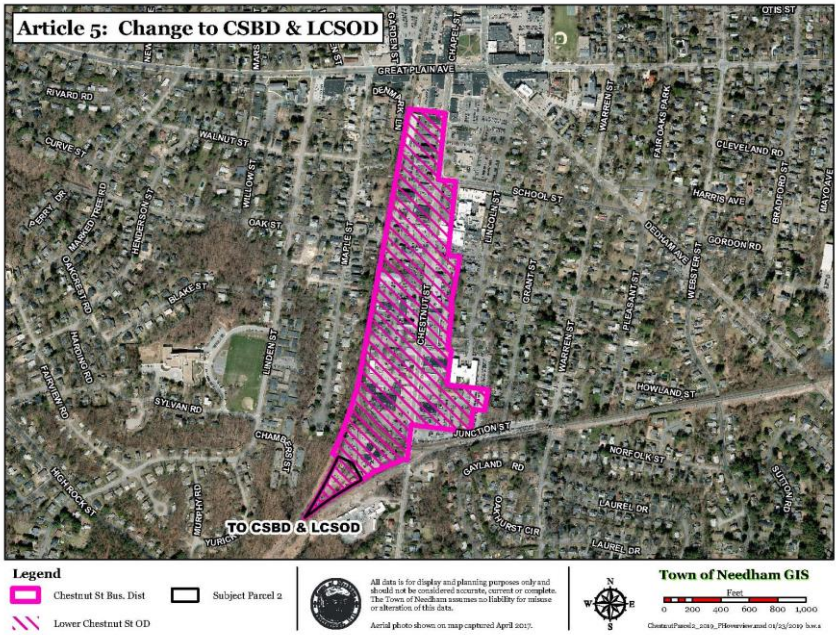


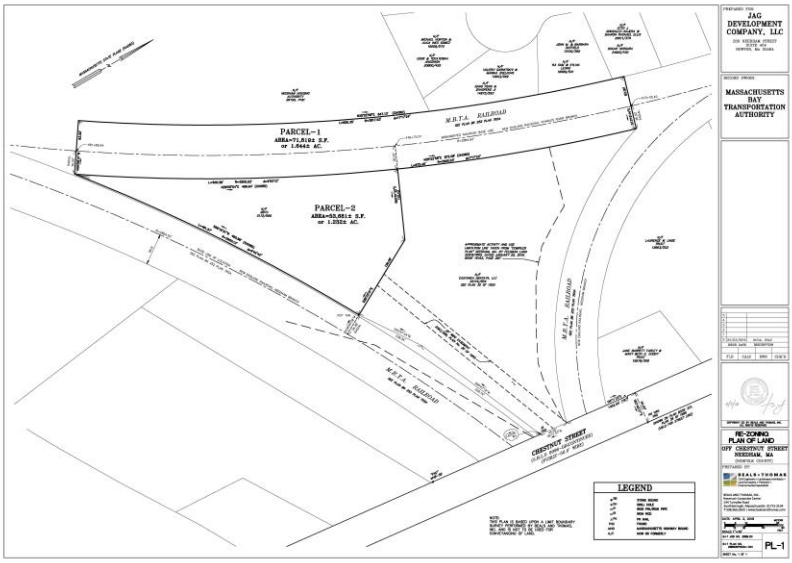
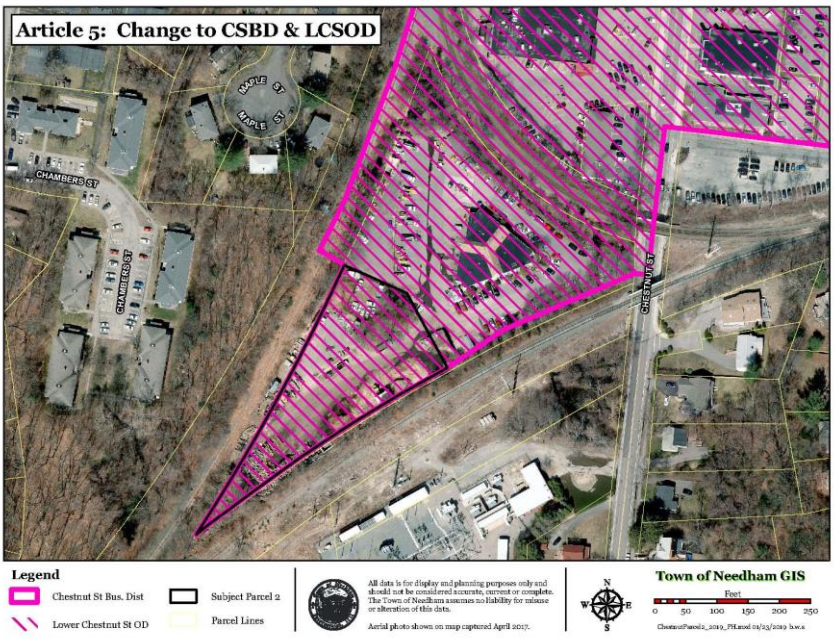


Exhibit 5

Exhibit 6



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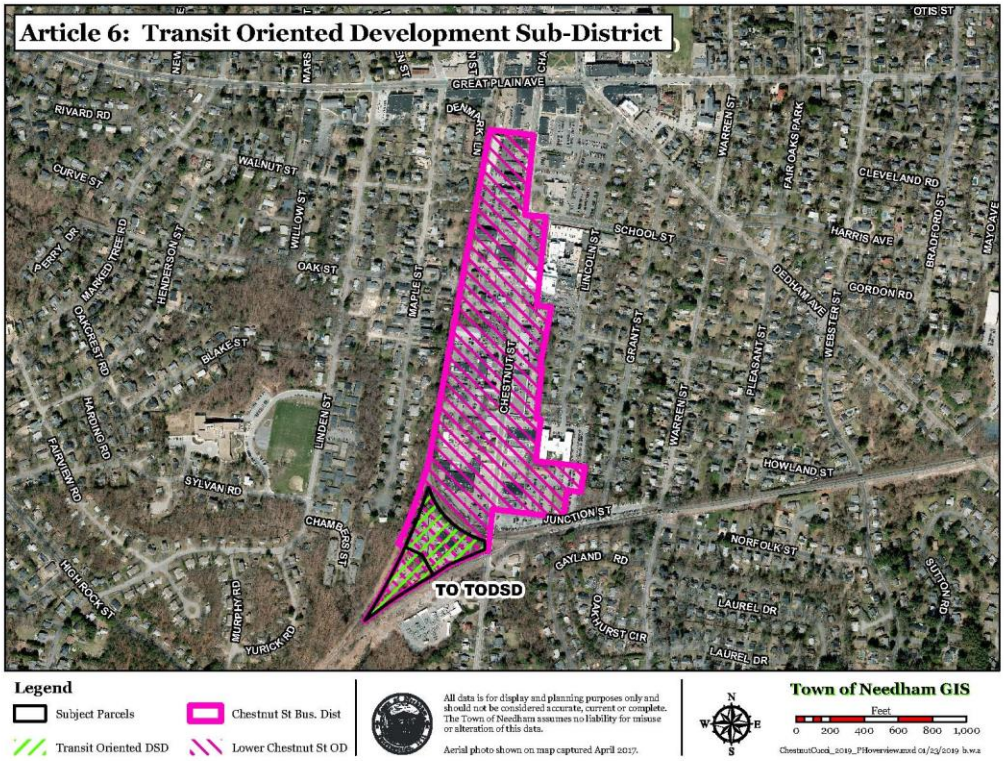
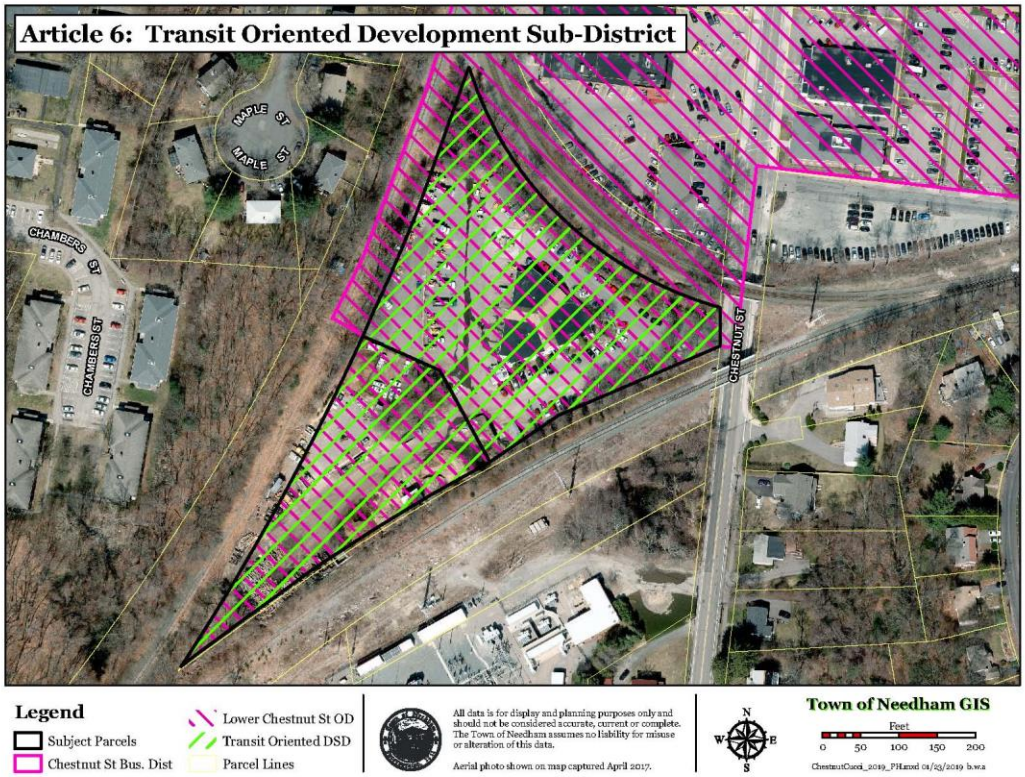
Exhibit 8