

NEEDHAM PLANNING BOARD

Thursday, October 13, 2022

7:00 p.m.

Public Services Administration Building
Charles River Room, 500 Dedham Avenue

AND

Virtual Meeting using Zoom

Meeting ID: **880 4672 5264**

(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **880 4672 5264**

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US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: **880 4672 5264**

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

1. Long-Range Planning Goals, Initiatives and Priorities.
2. Report from Planning Director and Board members.
3. Correspondence.

(Items for which a specific time has not been assigned may be taken out of order.)

NEEDHAM HOUSING PLAN WORKING GROUP – ZONING SUBGROUP

Zoning Recommendations by TOD Neighborhood

(issued 10/07/22)

ZONING CHANGES FOR CONSIDERATION:

Recommendations for specific zoning by-law changes to be considered are listed below. Many of these proposed changes are related to the requirements for the new MBTA / MA G.L. c.40A, s.3A Guidelines and further study will be required to confirm that the final dimensional limits controlling district density will be able to deliver the gross density (units/acre) required by 3A Guidelines. **(Please see the annotated zoning maps in Appendix 6 for further review of proposed zoning changes):**

Needham Heights District (group 1):

Implement **Apartment A-1** zoning in **SRB, GR** or **Industrial** Districts or in locations of non-conforming existing multi-family (MF) or other non single-family (SF) uses. Use Apartment A-1 dimensional limits.

Apartment A-1 – rezone parcels within ½ mile of Needham Heights station, now zoned SRB:

- 1a.** From Hamilton Highlands (Apartment A-1) along Highland Avenue south to Hunnewell Street;
- 1b.** Avery Park Condominium and further south along Highland Avenue to Hunnewell Street and including the Methodist Church at Hunnewell and Highland;
- 1c.** Extend existing Apartment A-1 zoning across Hillside Avenue and along the northerly side of Rosemary Street adjacent to the Industrial District and up to the MBTA right-of-way (see item 1g. below);

Apartment A-1 – rezone parcels within ½ mile of Needham Heights station, now zoned GR:

- 1d.** Convert Hillside School and the rear portions of 5 lots of the Industrial district on Crescent Road that abut the Hillside School;
- 1e.** Convert Brookline Rug parcel to Apartment A-1, but the current use remains as a non-conforming use. It has connection to both Hunnewell and Crescent Road and can be part of a consolidated MF district with the rest of new Apartment A-1 and the Industrial District that is to be rezoned to allow MF by-right as a use (see item 1f. below);

Amend current **Industrial** Districts within 1/2 mile of Needham Heights transit station to allow MF as an additional allowed use with Apartment A-1 dimensional limits.

- 1f.** Add Multi-family housing, at A-1 dimensions, to the uses allowed by right in the Industrial District along Crescent Road;

- 1g.** Add Multi-family housing, at A-1 dimensions, to the uses allowed by right in the Industrial District between Hillside Avenue and the MBTA right-of-way and between West and Rosemary Streets;

Amend current **Hillside Avenue Business** District within 1/2 mile of transit to allow MF by-right and use Apartment A-1 dimensional limits. Allow mixed-use option by Special Permit if not allowed by-right.

- 1h.** Hillside Avenue Business from both sides of the Hunnewell intersection south to the south side of West Street;

Amend current **Avery Square Business** District within 1/2 mile of transit. Adjust / increase current height and story limits where noted. Changes to limits are to be appropriate to their immediate context within their district.

- 1i.** Avery Square Business – increase height from 35’ to 38’ for mixed-use MF allowed by special permit;

Expand **General Residence** over **SRB** area along the Highland Avenue corridor to allow 2-family and SF conversions to 2-family.

- 1j.** Highland Avenue from Rosemary Street to Avery Square Business District.

Needham Center District (group 2):

Amend and extend current **Business** District within 1/2 mile of transit to allow MF by-right and use Apartment A-1 dimensional limits. Allow mixed-use option by Special Permit.

- 2a.** Extend Business District north to Rosemary Street to include portion of Sudbury Farms parcel zoned SRB;
- 2b.** Business District along Highland Avenue from May Street northerly to Rosemary Street to include all of Sudbury Farms parcel;

Implement **Apartment A-1** zoning in **SRB**, **GR** or **Industrial** Districts or in locations of non-conforming existing multi-family (MF) or other non single-family (SF) uses. Use Apartment A-1 dimensional limits.

Apartment A-1 – rezone parcels within ½ mile of Needham Center station, now zoned SRB:

- 2c.** St. Joseph School strip along May Street;
- 2d.** Stephen Palmer former school leased by Town for multi-family housing;
- 2f.** YMCA site on Great Plain Avenue next to Greene’s Field;
- 2g.** 888 Great Plain Avenue (former nursery/garden center);

- 2h. Baptist and Christian Science Church parcels on Great Plain Avenue, near corner of Warren Street;

Apartment A-1 – rezone parcels within ½ mile of Needham Center station, now zoned GR:

- 2e. Lots on Pickering Place together with a portion of St. Joseph School parcel;
- 2i. Consolidate a portion of the Denmark Lane housing project behind the Downtown overlay district, currently zoned GR, and combine it with the small Industrial district along the MBTA right-of-way getting rezoned to Apartment A-1 that is also part of the Denmark Lane MF project area (see item 2j. below);

Apartment A-1 – rezone parcels within ½ mile of Needham Center station, now zoned Industrial:

- 2j. Convert the small Industrial district along the MBTA right-of-way to be combined with the front portion of the parcel being rezoned from GR that is also part of the Denmark Lane housing project area.

Amend current **Center Business** and **Overlay District B** and **Garden Street Overlay** District within 1/2 mile of transit. Adjust / increase current height and story limits where noted. Changes to limits are to be appropriate to their immediate context within their district.

- 2k. Increase height limits in Needham Center Overlay District B for mixed-use MF to 48' & 4 stories with 4th floor setback. No stand-alone MF is allowed in the district; .
- 2m. Rezone Garden Street Overlay District by changing stand-alone MF to be allowed by right, rather than special permit, using the existing dimensional limits.

Note: No further zoning changes are proposed for the rest of the **Center Business** and **Overlay District A**. These areas are critical to Needham as our mixed-use downtown environment where active ground floors for commercial uses need upper levels for commercial and MF opportunities to provide activity and support for our downtown as a vibrant 24/7/365 community. Therefore, stand-alone MF residential is not allowed by-right, but may be allowed by special permit in some locations.

Needham Junction District (group 3):

Amend current **Chestnut Street** District and **Lower Chestnut Street** District within 1/2 mile of transit to allow stand-alone MF by-right, and mixed-use with MF by special permit. Adjust / increase current height and story limits where noted. Changes to limits are to be appropriate to their immediate context within their district.

- 3a.** Chestnut Street Business and Lower Chestnut Street Overlay District changed to allow stand-alone and mixed-use MF by-right to 3-story / 37' dimensional limits, 4-story / 48' limits allowed by special permit;
- 3b.** Extend Chestnut Street Business and Lower Chestnut Street Overlay Districts to include Skilled Nursing Facility (SNF) property on Lincoln Street;

Implement **Apartment A-1** zoning in **SRB, GR** or **Industrial** Districts or in locations of non-conforming existing multi-family (MF) or other non single-family (SF) uses. Use Apartment A-1 dimensional limits.

Apartment A-1 – rezone parcels within ½ mile of Needham Junction station, now zoned Chestnut Street Business, Lower Chestnut Overlay District and SRB:

- 3c.** Rezone the Hartney Greymont site (now partly Chestnut Street Business/Lower Chestnut Street Overlay District and partly SRB) to be Apartment A-1 to allow MF without allowing mixed-use.

Other Zoning changes not specific to Transit Station Districts noted above:

Rezone designated residential areas currently zoned SRA to SRB. These specific SRA areas are adjacent to SRB and currently have parcel sizes that are closer to SRB 10,000 SF lots. This would allow for the use of dimensional controls for setbacks and coverages that are more appropriate for these smaller lots:

- 4a.** East side of Hunting Road on both sides of Kendrick Street down to Cheney Street;
- 4b.** East side of Greendale Avenue across from Meadow Road and Kenney Street;
- 4c.** Brookside Road near Wellesley town line;
- 4d.** Clarke Road / Rolling Lane / Forest Street neighborhood.

Amend two Neighborhood Business Districts – these districts are within 1/2 mile of transit, including 59 bus route, and are proposed to be amended to allow MF by-right using Apartment A-1 dimensional limits. Allow mixed-use option by Special Permit if not presently allowed by-right.

5a. Neighborhood Business District along Reservoir and Central area along 128;

5b. Neighborhood Business District along Great Plain near the Hersey MBTA station.

Temples, churches and in general, houses of worship - these properties are located throughout Needham, often on prominent parcels at major intersections. Although most are vibrant and thriving communities, these sites may, someday in the future, be re-imagined, often as MF housing opportunities. With this proactive outlook, we are considering whether the town should propose to rezone these parcels as Apartment A-1, with those dimensional limits, or if they should remain as currently zoned in SRB or GR. Another approach for redevelopment could be through the Local Initiative Program (LIP), or “friendly 40B”, process. A sampling of sites are listed below:

6a. Congregational Church on Great Plain Avenue and Linden Street;

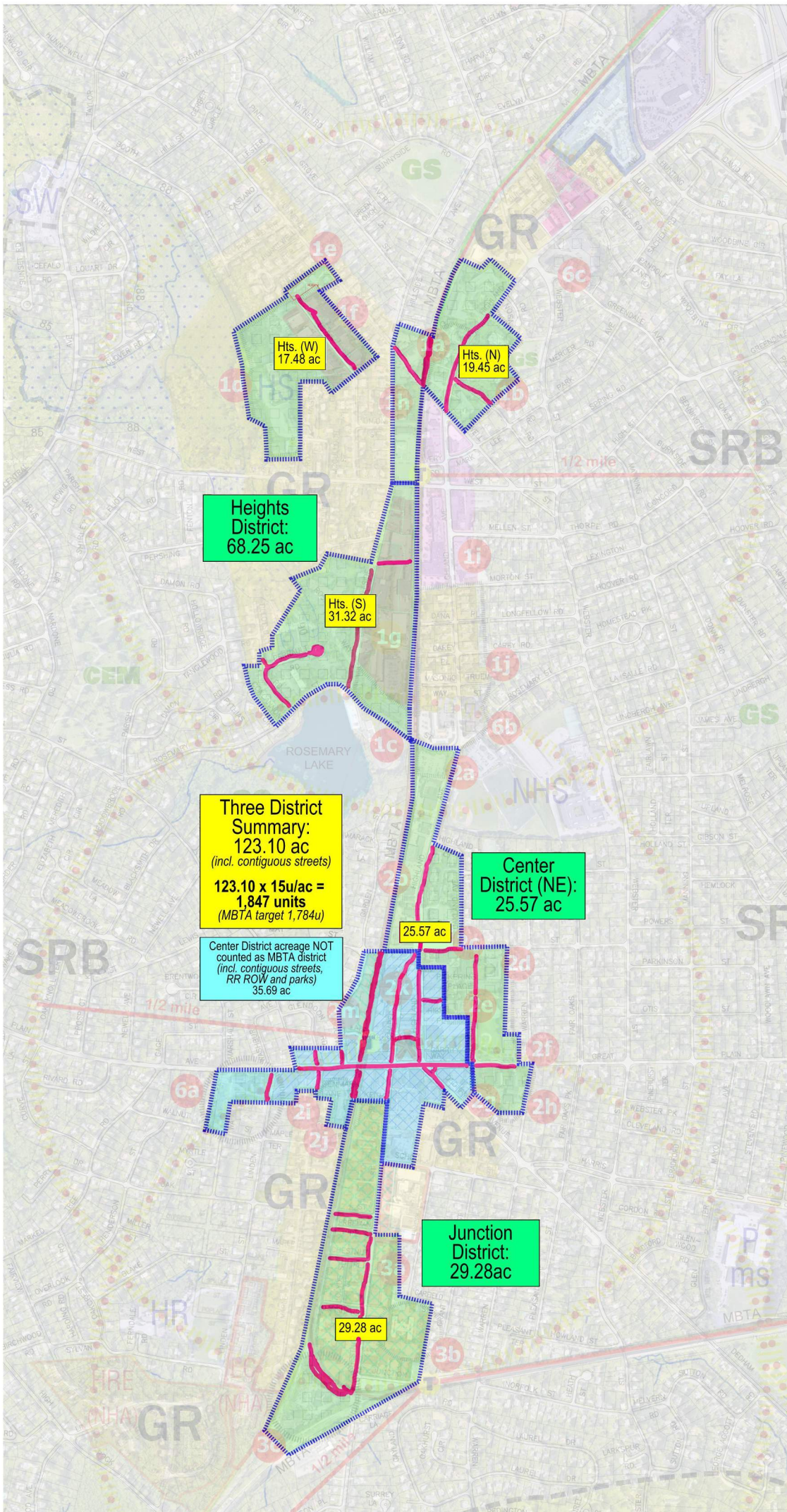
6b. Christ Episcopal Church at Rosemary Street and Highland Avenue;

6c. Temple Beth Shalom at Webster Street and Highland Avenue;

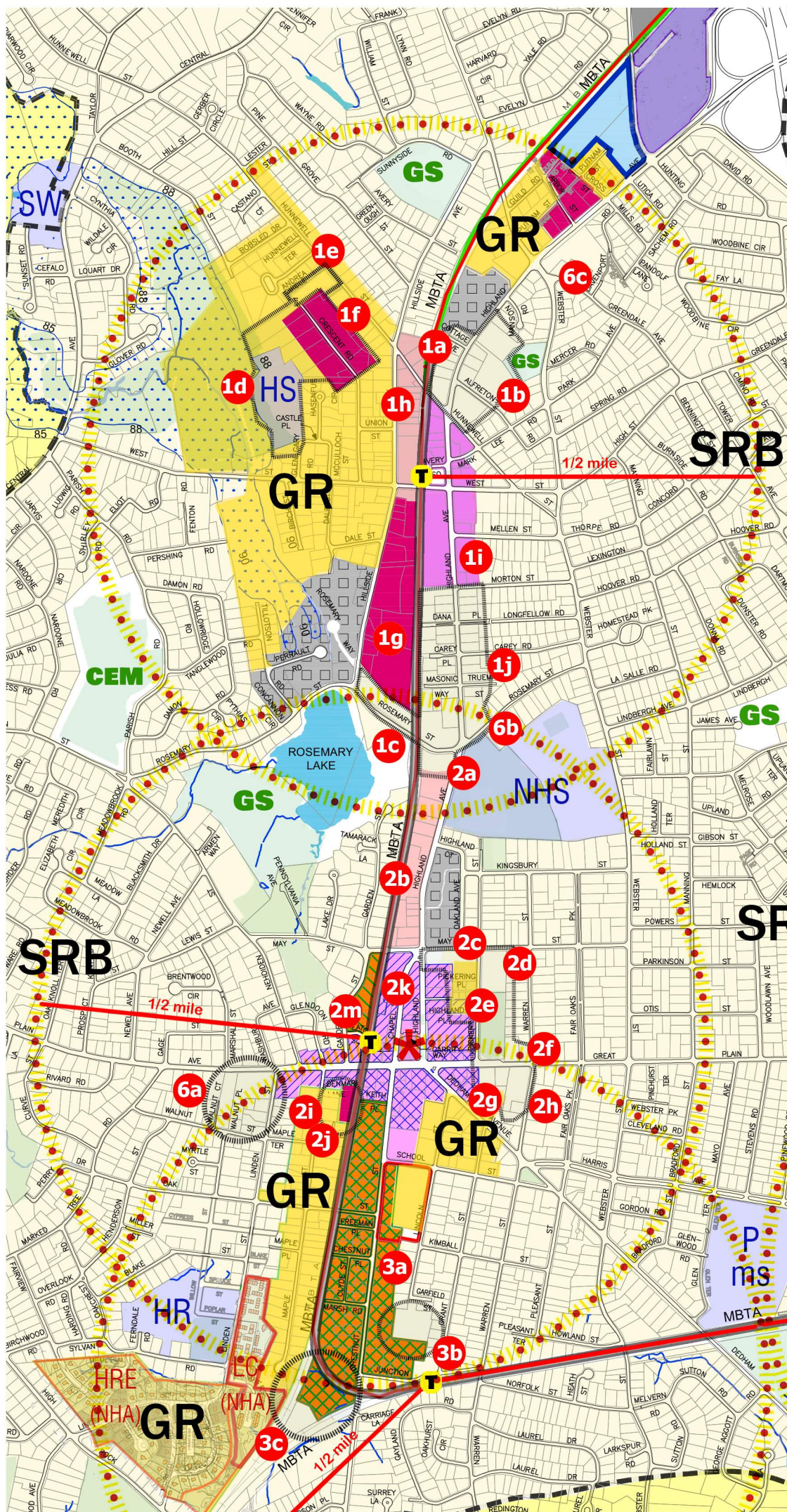
6d. Presbyterian Church at Central and Great Plain Avenues.

Rezone Needham Housing Authority properties – several NHA properties are in the early planning and design phases of a renovation and redevelopment campaign. Final recommendations for appropriate zoning changes for dimensional and density limits will be addressed when the design and planning goals are more defined. The Linden-Chambers and High Rock Homes developments are within a ½ mile of the Needham Junction transit station, and density of at least 15 units / acre is assumed, though the projects may have age limits for occupancy, the zoning need not impose such limits. Seabeds Way and Captain Robert Cook Drive developments are beyond ½ mile from transit stations but could still be counted as part of the 10% of the area of multi-family districts that can be beyond the ½ limit.

Rezone East Militia Heights property – this property currently in negotiation to be sold by the U.S. Army to Charles River Center, perhaps in partnership or lease arrangement with the Needham Housing Authority – As with NHA properties, it is not clear at this time what dimensional and density provisions will work for Militia Heights redevelopment.



TOD Neighborhood study - MBTA Districts



USE DISTRICTS

- SRA SINGLE RESIDENCE - A
- SRB SINGLE RESIDENCE - B
- GR GENERAL RESIDENCE
- APARTMENTS A-1
- APARTMENTS A-2
- RURAL RESIDENCE - CONSERVATION
- INSTITUTIONAL
- BUSINESS
- HIGHWAY COMMERCIAL - 1
- INDUSTRIAL
- INDUSTRIAL - 1
- AVERY SQUARE BUSINESS
- CENTER BUSINESS
- CHESTNUT STREET BUSINESS
- HIGHLAND COMMERCIAL - 128
- HILLSIDE AVENUE BUSINESS
- MIXED USE - 128
- NEIGHBORHOOD BUSINESS
- NEW ENGLAND BUSINESS CENTER
- ELDER SERVICES ZONING DISTRICT

OVERLAY DISTRICTS

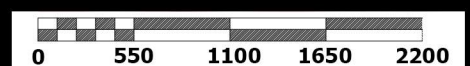
- WIRELESS COMMUNICATIONS FACILITIES TOWERS OVERLAY DISTRICTS
- ADULT USE OVERLAY DISTRICT
- MEDICAL OVERLAY DISTRICT
- AQUIFER PROTECTION DISTRICT
- NEEDHAM CENTER OVERLAY DISTRICT A
- NEEDHAM CENTER OVERLAY DISTRICT B
- LOWER CHESTNUT STREET OVERLAY DISTRICT
- GARDEN STREET OVERLAY DISTRICT
- LARGE SCALE GROUND MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION OVERLAY DISTRICT
- TEMPORARY METEOROLOGICAL TOWERS OVERLAY DISTRICT
- MIXED USE OVERLAY DISTRICT (MOUD)
- AVERY SQUARE OVERLAY DISTRICT
- July 17, 2012 - FLOOD PLAIN DISTRICT (ALL ELEVATIONS REFER TO U.S.G.S MEAN SEA LEVEL DATUM)

- GS GREEN SPACE (parks, fields etc)
- CEM GREEN SPACE (cemetery)

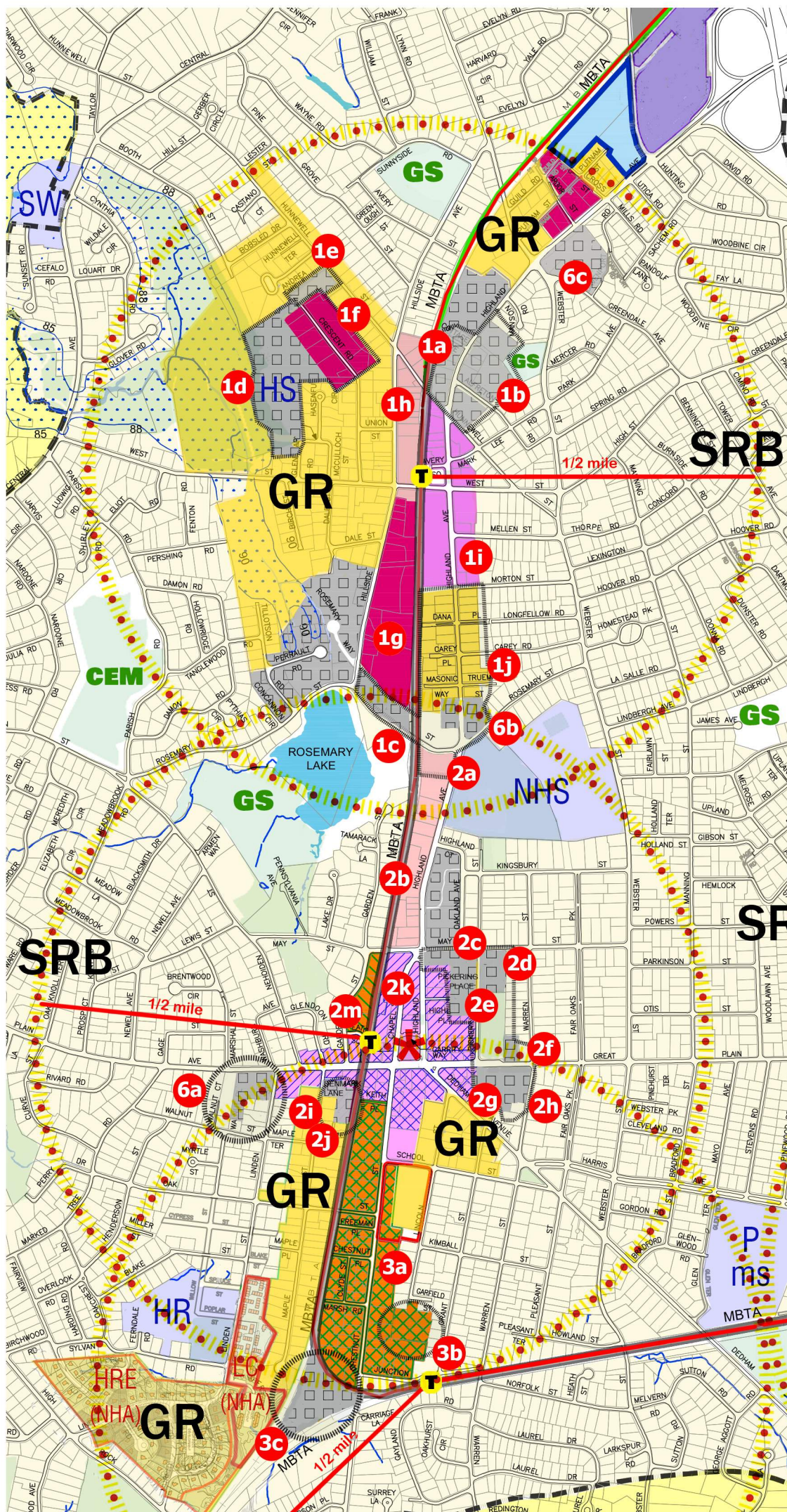
- TOWN BOUNDARY
- PARCEL
- * TOWN HALL
- SCHOOL SITES
- NHA SITES (Needham Housing Authority)



scale: 1" = 1100 ft



Existing Zoning Map w/ Proposed Changes
(by TOD Neighborhood)



USE DISTRICTS

- SRA SINGLE RESIDENCE - A
- SRB SINGLE RESIDENCE - B
- GR GENERAL RESIDENCE
- APARTMENTS A-1
- APARTMENTS A-2
- RURAL RESIDENCE - CONSERVATION
- INSTITUTIONAL
- BUSINESS
- HIGHWAY COMMERCIAL - 1
- INDUSTRIAL
- INDUSTRIAL - 1
- AVERY SQUARE BUSINESS
- CENTER BUSINESS
- CHESTNUT STREET BUSINESS
- HIGHLAND COMMERCIAL - 128
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OVERLAY DISTRICTS

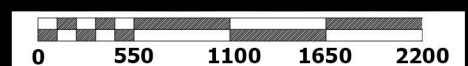
- WIRELESS COMMUNICATIONS FACILITIES TOWERS OVERLAY DISTRICTS
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- * TOWN HALL
- SCHOOL SITES
- NHA SITES (Needham Housing Authority)



scale: 1" = 1100 ft



Proposed Zoning Map w/ Changes shown
(by TOD Neighborhood)

2. Broaden Requirements for Accessory Dwelling Units (ADUs)

Lead Entity: Planning Board

Timeframe: Near Term

Requires Town Meeting Approval: Yes (Simple Majority)

Level of Complexity: Medium

Background: The 2019 Special Town Meeting approved the bylaw to permit the creation of accessory dwelling units (ADUs) by Special Permit of the Board of Appeals. The bylaw limits the units to single-family homes that are occupied “by the Owner; Family members related to the Owner by blood, adoption or marriage (spouse, parent, sibling, child, or a spouse of such persons); and Caregivers of Family members who look after an elderly, chronically ill or disabled Owner who needs assistance with activities of daily living or a Family member who needs such assistance, subject to specified standards and procedures.”¹ The bylaw also defined the ADU as “an apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and 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.”² . A total of /eight ADUs were permitted as of August 2022.

While the bylaw limited occupancy to family members or caregivers, it still promotes greater housing diversity in the community by allowing small apartments in existing dwellings, enabling extended family members to live together, and also providing opportunities for live-in support for people with disabilities.

Major provisions of the current bylaw include the following:

- Available by Special Permit from the Board of Appeals, good for 3 years, renewable by Special Permit. If there is a new owner of the home, they have to go through the Special Permitting process to keep the ADU.
- At least one of the units (the primary residence or the ADU) must be owner-occupied and occupancy of the second residence must be limited to a member of the owner’s family or a caregiver and such caregiver’s family.
- No more than five persons who are not family members of the owner can live in the primary residence and the ADU combined.
- There can be no more than one ADU on a lot, and it must be located within the single-family detached dwelling and **not** in a separate building.
- To the extent possible, exterior entrances and access ways shall not detract from the single-family appearance of the dwelling. No stairs for access to upper floors of the ADU shall be on the outside. There must be an interior doorway between each living unit for safety purposes in an emergency.
- The size of the ADU is limited to 850 sq. ft., and it can have no more than one bedroom.
- Off-street parking must be provided with at least one parking space per dwelling unit.

¹ Section 3.15 of the Needham Zoning By-law.

² Ibid.

It is important to emphasize that ADUs provide a number of important benefits to the community, diversifying the housing stock and allowing Needham to be part of a regional effort to contribute to the urgent need for additional smaller, more affordable housing unit production. As documented in this Housing Plan, Needham's housing is increasingly less affordable without a sufficient range of housing choices that offer smaller unit sizes with more affordable rental costs for employees, new residents or families, or for existing, mostly senior, residents.

- ADUs can provide additional, affordable studio and one-bedroom rentals, by expanding the housing opportunities for
 - Seniors and other residents to remain in their homes
 - Young adults who want to stay in or return to Needham
 - Employees of Needham businesses
 - Potential newcomers to the Needham community
- ADUs can allow homeowners to stay in their homes by providing needed rental income to assist with housing costs including taxes, utilities and other housing expenses.
- Homeowners of small homes that cannot easily be enlarged can benefit from ADU income by converting a smaller building on their lot, such as a detached garage, into an ADU.
- ADUs provide additional housing while maintaining existing single-family neighborhoods.
- ADUs are encouraged by the Massachusetts Executive of Energy and Environmental Affairs and advocated by Needham's Council on Aging, Board of Health and Department of Public Health and Human Services.
- Owners will be responsible landlords because they must reside in the property and always provide emergency egress freely through the main unit from the ADU.
- ADUs can provide important services for the owner such as snow removal or errands for seniors or babysitting for families for example.

It is important to note that ADUs are not:

- ADUs in Needham are not to be used for short-term rentals (i.e., Airbnbs) **because** rentals must be for at least 6 months.
- ADUs will not be built in large numbers throughout the town **because** the data from our Town and others in Massachusetts shows small numbers of ADUs even when regulations are less restrictive.
- ADUs will not change the look of our single-family neighborhoods **because** the appearance maintains that of a single-family dwelling.
- ADUs will not be unattractive **because** they will have to comply with specific building design guidelines that have them in keeping with the architectural design character of the main building, which will be reviewed by the Town's Design Review Board. (Will this be the case? It's not usually done in other communities.)

(Any zoning amendment would address the role of Needham's Design Review Board to review ADU submissions for compliance with building appearance requirements and report to the Building Commissioner on design guideline compliance as a pre-condition to the issuance of a building permit for a by-right ADU or report to the Zoning Board of Appeal as a pre-condition to the issuance of an ADU special permit).

ADUs are allowed in many Massachusetts communities. For example, of the 100 cities and towns in the Metropolitan Area Planning Council (MAPC) region outside the City of Boston, 37 allow a homeowner to create an accessory apartment and rent it to persons other than family members or caregivers. Moreover, in the last decade, almost half of the 100 Boston-area municipalities have adopted either a master plan or housing production plan that recommends allowing ADUs with fewer restrictions. For example, Belmont and Hudson voted to allow ADUs unrestricted to relatives. Lexington, Newton, Carlisle, and other municipalities voted to allow ADUs in detached structures. Burlington, Bedford, and Acton, among other towns, allow ADUs by-right. Most recently, Wellesley's Town Meeting voted to adopt an ADU by-law without any residency restrictions, allowing both attached and detached ADUs by-right with a minimum unit size of 900 square feet.

Homeowners who want to add an ADU to their home under the current by-law must obtain a special permit, which involves unnecessary time for both the applicant and the Zoning Board of Appeals. Review of proposed building plans for attached ADUs by the Building Commissioner should suffice to ensure compliance with the by-law. (This makes sense instead of adding Design Review Committee involvement.)

Recommendations: This Housing Plan recommends amending the ADU by-law to allow for unrestricted lessee residency requirements (owner must occupy the property and allow as rental property with a 6-month minimum lease), using a by-right process. In addition, the Town should consider allowing stand-alone (detached) ADUs using the special permit process for existing accessory buildings using the current design and building code regulations.

This Housing Plan recommends that the Zoning Bylaw be amended to incorporate the following new ADU definition:

An accessory dwelling unit (ADU) is an apartment on a single-family-zoned lot that is a second, self-contained, complete, separate housekeeping unit containing provisions for living, including 1 bedroom, cooking and eating. ADUs come in three different forms: Existing portions of a home can be converted into a separate apartment; an outward addition could create a new unit within an existing home, or a detached living space, such as a garage or carriage house, can be renovated to create a new unit if the detached structure already exists (a detached ADU would require a special permit approval process).

This Housing Plan recommends the following zoning changes to better encourage the creation of ADUs:

- Allow attached ADUs by-right rather than by special permit, eliminating delay and perhaps legal costs for the homeowner, while still requiring that building and design guidelines be met. ADUs must meet all zoning dimensional requirements for a single-family home.
- Eliminate the residency restriction (i.e., the unit can be rented to anyone).
- Allow ADUs in detached dwellings on the property if the detached structure to be renovated and converted already exists. Such detached ADUs would be by the special permit process.
- ADU rentals must be leased for at least 6 months, so that ADUs will be used for rental housing rather than short-term accommodations.
- This Housing Plan also suggests that there be some consideration for allowing the new construction of ADUs in detached structures in the Single Residence A districts under a special permit process and certain conditions, including approval by the Design Review Committee.

Frequently Asked Questions: Accessory Dwelling Units (ADUs)

What is an Accessory Dwelling Unit?

An ADU is a small apartment or housing unit on the same lot as a single-family home and are frequently referred to as “in-law apartments.” They can be attached or detached from the principal dwelling. They are owned, bought, and sold together with the principal dwelling on the lot, and at least one of the units on the property (either the ADU or the “principal dwelling”) must be owner-occupied.

What are the benefits of ADUs for Wellesley?

- Community Development:
 - To facilitate low-impact, sustainable housing production, diversity, and affordability in the Town’s neighborhoods that don’t require expansions of Town infrastructure.
- Diversity & Inclusion:
 - To allow older adults to remain in Wellesley by providing a potential income stream, enabling sharing of a home with the next generation, and making home maintenance and mobility easier.
 - To allow greater opportunities for smaller families, young professionals, and the Town’s workforce to become part of the community.
 - To better accommodate adult children and people with disabilities.
- Sustainability:
 - To use energy, water, materials, and the Town’s infrastructure more efficiently by increasing the Town’s housing supply through focused, small-scale development.
 - To advance the town’s climate change goals by facilitating lower carbon footprints for residents
- Historic Preservation:
 - To preserve historic homes, carriages houses, and barns by providing an alternative option to a tear down.
- Demographic Change:
 - To accommodate evolving lifestyles and multi-generational living
- Recognition of Existing Units:
 - To establish a procedure to allow residents with unauthorized ADUs to ensure the units conform to health standards and building codes

Do other communities in Greater Boston have ADUs?

Yes. Nearby communities where ADUs are currently allowed include Arlington, Dedham, Dover, Lexington, Lincoln, Needham, Newton, Waltham, Wayland, and Weston. Many require a special permit for all ADUs, while more recent ones, such as Arlington's, allow certain ADUs as of right.

Do ADUs align with the Town's plans/goals?

The Town's Unified Plan and Housing Production Plan both indicate the need to increase the types of housing options and increase housing overall in Wellesley. Both plans recommend the adoption of an ADU bylaw as a means of diversifying the types of housing in town.

Will ADUs impact the look and feel of Wellesley's neighborhoods?

ADUs are to be subordinate in appearance to the principal dwelling to minimize any impact on existing neighborhoods. ADUs must match the style and architecture of the principal dwelling. Many ADUs are internal to existing houses and thus don't change the external appearance of the property. Detached ADUs are most often converted garages or carriage houses.

Won't this encourage the proliferation of short-term rentals, such as Airbnb's in Wellesley?

The driving purpose of allowing ADUs is to create new, stable housing, not to encourage Airbnb's. The proposed bylaw requires a minimum leasing period of 30 days and does not allow leasing more than once every thirty days, reducing the ability to rent the units for short-term stays.

How will ADUs make Wellesley's housing more affordable?

ADUs will increase housing options in Wellesley. The proposed bylaw specifically mandates that ADUs are smaller units (a maximum of 900 square feet), which will create market rate units in Wellesley at a lower price point than is commonly found today. For the homeowner, creating an ADU will allow for a potential revenue stream, and a sharing of household expenses, making an existing home more affordable.

What are the environmental benefits of ADUs?

ADUs are explicitly intended to have a small building footprint, as reflected in the maximum permitted size of 900 square feet. ADUs may also allow homeowners, and renters, to move closer to both their places of work and to public transportation than they otherwise would have, thus reducing transportation-related emissions. More broadly, development in established neighborhoods helps reduce the need for creating new infrastructure, increased development, and habitat destruction related to new development.

Will Wellesley's building and zoning requirements apply to ADUs?

Yes. Any dimensional requirements, setbacks, and other provisions of the Zoning Bylaw and Town Bylaws will apply to ADUs, just like they would apply to a single-unit home. Projects on non-conforming lots require ZBA approval. Also changes to non-conforming structures will require ZBA approval unless the change is for an entrance and small landing.

How big can ADUs be in Wellesley?

In January 2021, Governor Baker signed An Act Enabling Partnerships for Growth which allows communities to adopt certain housing provisions by a simple majority, rather than the standard 2/3 majority, including allowing communities to allow ADUs of up to 900 square feet, which is why Wellesley has chosen 900 square feet as a maximum size. The proposed bylaw also stipulates that ADUs must have a minimum size of 250 square feet, a figure borrowed from Newton's bylaw.

Where in Wellesley will ADUs be allowed?

ADUs may be built in Single Districts and in other districts, such as General Residence, where Single Residence Uses are allowed. Only one ADU will be allowed for each single-family home. ADUs are not allowed in Two-Family Dwellings, Town Houses, or other buildings with multiple dwellings.

Can the homeowner live in the ADU while renting out the "principal dwelling"?

Yes. The proposed bylaw intentionally allows the owner to live in either the ADU or the principal dwelling in anticipation that some seniors will want to downsize inside their own homes and rent out the principal dwelling to another person.

Can both the principal dwelling and ADU be rented out at the same time?

No. The proposed bylaw aims to prevent this by requiring one of the housing units on the property to be owner-occupied.

Where will ADU residents park?

Wellesley's overnight parking ban, enforced between 2 AM and 6 AM, ensures that ADU residents will not be allowed to park on the street overnight. The proposed bylaw does not require any additional parking to be designated specifically for ADUs due to concerns that doing so would increase impervious surfaces in town. Tenants could be able to park in the existing driveway or garage, or the owner may create additional on-site parking, but this is up to the owner.

How does this bylaw effect current noncompliant ADUs in town?

If a homeowner has an existing ADU it is violation of Town bylaws and will remain in violation until brought into compliance with the ADU bylaw and applicable building codes. Homeowners may be able to avoid some penalties for addressing existing violations if building permits for such work are issued by December 31, 2024, and construction is completed by December 31, 2025.

How would I get permission to build an ADU?

Under the proposed bylaw, a building permit application will be required to state than an ADU is being proposed. Upon receipt of the building permit application, or the Building Inspector determining that the plans include an ADU, the Building Department will notify the Planning Department of the proposed ADU.

The Planning Department will determine whether the ADU will comply with the operational and ownership requirements of the bylaw. The applicant will also be required to file a notice in the Registry of Deeds that the property contains an ADU subject to the requirements of the ADU. The Planning Department will advise the Building Department that the ownership and operational requirements have been met. The process will be similar to the process used for determining whether homes are subject to the Historic Preservation Demolition Delay Bylaw.

Detached ADUs will require a special permit from the ZBA.

Once the Planning Department has reviewed the application and ZBA approval, if needed, is issued, the Building Department will then issue a building permit if the project complies with the State Building Code and other Zoning Bylaw requirements.

How would the ADU bylaw be enforced after an ADU is constructed?

ADU owners would be required to submit an annual certification to the Planning Department verifying that the ADU complies with the bylaw. They would also be required to notify the Planning Department when the property is sold. If an ADU does not conform to the bylaw, the Building Inspector may order the removal of certain features that facilitate permanent residence, such as kitchens.

Can ADUs be built in new structures?

Yes. There is nothing in the bylaw that prevents a resident from building a new home with an ADU, whether attached or detached, at the same time. However, all provisions of the ADU Application and verification process and other provisions of the Zoning Bylaw still apply to such a scenario.

How many ADUs will be built in Wellesley per year?

It's hard to know for sure. There may be a surge in ADU production shortly after legalization due to people acting on pent-up interest and coming forward with existing unauthorized ADUs. However, Newton, a city three times Wellesley's size, builds 7 per year on average.

If adopted at Town Meeting, when will this new bylaw take effect?

The bylaw will take effect on September 1, 2022.

5.13. ACCESSORY DWELLING UNITS

A. Purpose

The purposes of providing for Accessory Dwelling Units include:

- i. To facilitate housing production, diversity, and affordability in the Town's neighborhoods;
- ii. To allow older adults and households with disabled persons to remain in the Town and to better accommodate young families;
- iii. To use energy, water, and materials more efficiently by increasing the housing supply through concentrated, small scale development; and
- iv. To preserve historic homes, carriage houses, and barns by providing greater flexibility to homeowners.

B. Ownership. An Accessory Dwelling Unit shall not be owned separately than the Principal Dwelling with which the Accessory Dwelling Unit is associated. A Building with an Accessory Dwelling Unit may not be divided into condominiums, even if owned by the same person or entity.

C. Physical Requirements: The Accessory Dwelling Unit shall:

- i. Satisfy the requirements to be a Dwelling Unit as set forth in this Zoning Bylaw, the State Building Code and the State Fire Code, and any applicable health regulations, including having a separate entrance sufficient to meet requirements for safe egress.
- ii. Remain subordinate appearance to the Principal Dwelling including:
 - (A) Any detached Accessory Dwelling Unit or modifications to the exterior of the existing One-Unit Dwelling to accommodate the Accessory Dwelling Unit must match the style and architecture of the Principal Dwelling, including siding, roof pitch, trim, windows, and doors.
 - (B) Exterior doors of the Accessory Dwelling Unit shall not be on any building elevation which presents to a public street or private way, except that Accessory Dwelling Units which are built in detached structures existing as of the date of adoption of this Section 5.13 may have exterior doors in a building elevation presenting to a public street or private way.
 - (C) Exterior staircases must not be visible from a public way and shall be designed to complement the Principal Dwelling.
 - (D) Construction of an Accessory Dwelling Unit shall not increase the height of the structure beyond the height of the Principal Dwelling prior to construction of the Accessory Dwelling Unit.

- iii. An Accessory Dwelling Unit may be detached from the Principal Dwelling, but any detached Accessory Dwelling Unit may be located only in the Rear Yard and/or Side Yard of the principal dwelling or in a building on the lot which existed prior to the adoption of this Section 5.13.
- iv. (A) Contain at least 250 square feet of gross floor area and no more than the lesser of (i) 900 sq. ft. of gross floor area or (ii) 50% of the gross floor area of the Principal Dwelling, not including the Accessory Dwelling Unit, or basement, garage, or unenclosed deck or patio areas, and (B) otherwise meet the requirements of the definition of “Accessory Dwelling Unit” in Section 1A of chapter 40A of the General Laws.
- v. Subject to the provisions of Sections 17 and 25, comply with all area and yard regulations applicable to the lot on which it is located.

D. Operational Requirements

- i. The ADU Property Owner shall record in the Registry of Deeds a notice, in a form approved by the Planning Board, stating that the property includes an Accessory Dwelling Unit subject to the provisions of the Zoning Bylaw.
- ii. The ADU Property Owner must reside in either the Principal Dwelling or the Accessory Dwelling Unit on the lot for at least 184 days of each calendar year. The ADU Property Owner may not lease the Owner Unit for any duration during periods when the ADU Property Owner is not residing in the Owner Unit.
- iii. The minimum leasing term for the unit that is not occupied by the ADU Property Owner shall be the greater of 30 days or such other period governing short term rentals which may be set forth from time to time in the Town Bylaws. The Accessory Dwelling Unit may not be leased more than once in any 30-day period.
- iv. There shall be no pickup or delivery of products and/or articles at the premises that is not customary in a residential area.
- v. The Accessory Dwelling Unit may not be used for a Home Occupation.

E. Permitting Requirements

- i. Any person or entity applying for building and occupancy permits under the State Building Code for a building which will include an Accessory Dwelling Unit shall state in the application that the project proposes to include an Accessory Dwelling Unit. The Inspector of Buildings shall not issue a building permit for construction of such building or issue a certificate of occupancy for such building until the Planning Department, in accordance with Rules and Regulations adopted by the Planning Department, certifies that the building is in compliance with the provisions of Section 5.13.D

- ii. All detached Accessory Dwelling Units and all Accessory Dwelling Units which are constructed as part of other accessory structures on a property, including carriage houses, barns, or detached garages, will require a Special Permit to be issued by the Zoning Board of Appeals as Special Permit Granting Authority in accordance with Section 6.3.
 - iii. The ADU Property Owner must submit an annual certification to the Planning Department, in a form determined by the Planning Board, that the Accessory Dwelling Unit has been constructed and is owned and operated in compliance with all provisions of the Zoning Bylaw.
 - iv. Notice of Sale of the property containing the Accessory Dwelling Unit must be provided to the Planning Department.
 - v. If the Accessory Dwelling Unit has been built or is being operated in violation of the provisions of this Section the Inspector of Buildings may, in addition to other remedies, order the removal of any one or more of the provisions that create a separate dwelling unit, such as living, sleeping, cooking, and eating.
- F. Rules and Regulations. The Planning Board shall adopt and may from time to time amend Rules and Regulations to implement this Section 5.13.
- G. Effective Date.
 - i. This Section 5.13 shall apply to all building permits issued after September 1, 2022, for alteration of existing One-Unit Dwellings or construction of new One-Unit Dwellings.
 - ii. Any One-Unit Dwelling which was constructed prior to the date of adoption of this Section 5.13 and contains a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling shall be brought into compliance with this Section 5.13 and if building permits for such work are issued prior to December 31, 2024, and associated construction completed by December 31, 2025, shall not be subject to penalties otherwise applicable to correction of non-conforming structures.

From: [Jeanne McKnight](#)
To: [Lee Newman](#); "[Adam Block](#)"
Cc: [Alexandra Clee](#)
Subject: FW: Third Car Garages
Date: Tuesday, October 11, 2022 12:01:14 PM

Lee: forwarding this for discussion tonight.

Jeanne

From: Jeanne McKnight <jeannemcknight@comcast.net>
Sent: Friday, February 18, 2022 10:31 AM
To: 'Jon Schneider' <jondschneider@gmail.com>
Cc: 'Lee Newman' <LNewman@needhamma.gov>; 'Daphne Collins' <dcollins@needhamma.gov>
Subject: RE: Third Car Garages

Jon:

I'll be glad to pick this issue up again. As you may recall, a few years ago I made a study of the permitting for 3-car garages and made a few recommendations for allowing by right 3-car garages that meet certain standards. I don't recall whether one of the standards was being in the SRB (one-acre) zone. I'm on vacation this week but when I'm back next week I'll follow up with this. The ZBA response to my report at the time was lukewarm, as I recall, so I didn't pursue it further.

I understand how frustrating it must be to have "the tail wagging the dog" on this when what abutters are really concerned about is any kind of change in their neighborhood. We should also have a stronger tree by-law, and that might help – there has been renewed interest in a tree by-law recently.

Timing is tight to bring anything before the 2022 Annual Town Meeting, but I'll leave it to Lee to respond to you on timing.

Jeanne

From: Jon Schneider <jondschneider@gmail.com>
Sent: Thursday, February 17, 2022 9:03 PM
To: Jeanne McKnight <jeannemcknight@comcast.net>
Cc: Lee Newman <LNewman@needhamma.gov>; Daphne Collins <dcollins@needhamma.gov>
Subject: Third Car Garages

I want to renew my request that the Planning Board propose an amendment that will allow a third garage without a special permit in Single Residence B. If it were restricted to lots that are conforming or meet a minimum size, it would be ok - although I do not think that we need that limitation.

We had another extended hearing tonight on a third car garage that took almost an

hour. An abutter hired an attorney to raise issues of what trees are to be cut, asking for a landscaping plan and wanting to know details of grading. These issues have nothing to do with a third garage. The applicant is building a structure that is allowed of right. The only issue is whether there will be a garage door or a wall on part of the structure.

The real issue in these cases are that abutters are unhappy with the size of the new house or the style of the house. The abutters see the hearing on a special permit as leverage or a chance to complain. Under the criteria in the By-Law, I see no basis for denying these third car garages. Three garages are typical with the size of houses being built in this era.. I have never seen a case in 28 years on the ZBA where a third garage would have an adverse effect on the value of a neighbor's property. We waste a lot of hearing time on these cases.

We discussed this request a couple of years ago and I thought there was agreement to making this change. Unfortunately, nothing has happened. Can it happen this year?

Thank you.

Jon D Schneider

210 South Street

Needham, MA 02492

Home: (781) 449-2513

Cell: (617) 233-3070

6326 N. Ventana View Place

Tucson, AZ 85750

Cell: (617) 233-3070

DRAFT PROPOSAL

Zoning Bylaw Amendment

Amendments are being proposed in the following sections:

- 2.2 Definitions
- 4.2 Use Table, Principal Uses
- 4.4 Accessory Uses
- 4.7 Prohibited Uses
- 4.8.9 Solar Photovoltaic Generating Installations
- 5.2 Interpretation notes for area

2.2 Definitions

Accessory Use: A use which is customarily incidental, subordinate to, and supporting of the principal use of a lot or structure and is located on the same parcel or contiguous parcels as the principal structure or use.

~~Accessory Use or Building: A use or building which is subordinate and customarily incidental to the principal use or building and is located on the same lot as the principal use or building~~

Open Field: Unoccupied or undeveloped area with natural vegetation with no windbreaks over 50-feet

Principal Use: The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this bylaw. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this bylaw shall be considered an accessory use.

Pasture: Land on which animals graze that is managed to provide feed value

4.2 Use Table, Principal Uses

Zoning District	RR	SR	LR	VR	TC	C	I	Refer to Section
H. Other Principal Uses								
6. Roof Mounted Solar Photovoltaic Generating Installation	Y	Y	Y	Y	Y	Y	Y	4.8.9
7. Small Scale ground mounted (15 Less than 20kW) DC solar Photovoltaic Generating Installation	SPP SPZ	SPP SPZ	N SPZ	N SPZ	N SPZ	SPP SPZ	SPP SPZ	4.8.9
8. Medium Scale (greater than 15kW or 200 kW DC Photovoltaic Generating Installation	SPP	N	N	N	N	SPP	SPP	4.8.9
9. Large Scale ground mounted (15 20 kW or greater) solar Photovoltaic Generating Installation	SPP	N SPP	N SPP	N SPP	N	N SPP	SPP	4.8.9
10. Battery Energy Storage System	N	N	N	N	N	N	N	4.8.9

4.4 Accessory Uses

4.4.1 The following uses are permitted as indicated below as accessory uses to the primary use of the property. In no case shall such uses exceed 40% of the property, determined by square footage of the structure in which it is located or square footage of the area of the parcel, whichever is the appropriate measure. All Special Permits required under this section shall be issued by the Zoning Board of Appeals except that the Planning Board shall issue them in cases where Site Plan Review and/or a Planning Board Special Permit in Section 4.2 Use Table, Principal Uses is required. (Amended 11/17/16 Art. 14)

A. Private garage, greenhouse, shed, swimming pool, tennis court, or other similar structures or uses on residential properties for the use of the residents are permitted subject to compliance with the dimensional requirements of Article 5 of the Zoning Bylaw.

- I. Large Scale Ground-Mounted Solar Photovoltaic Generating Installations are allowed as accessory uses in all zoning districts, with the exception of Town Center, by special permit from the Planning Board.

Small Scale Ground-Mounted Solar Photovoltaic Generating Installations are allowed as accessory uses in all zoning districts by special permit from the Zoning Board of Appeals. There shall be a limit of one small-scale ground-mounted solar voltaic installation accessory to a single primary use.

4.7 Prohibited Uses

4.7.1 Any use not included in the Table of Uses is prohibited, including, but not limited to the specific uses below, which are spelled out as a matter of clarification. For specific uses which are not listed but are clearly within a category listed in the Table, the Building Inspector/Zoning Enforcement Officer shall make the determination as to whether the proposed use is permitted, and if so, which category it will be classified as.

A. Recreational vehicle or mobile home, or recreational vehicle or mobile home park. This shall not be construed to mean a homeowner cannot park his own recreational vehicle on his lot for storage purposes.

B. Lodging house.

C. Consistent with MGL Ch. 94G, Section 3(a)(2), all types of marijuana establishments as defined in MGL Ch. 94G, Section 1 (j), to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of license marijuana-related businesses, shall be prohibited within the Town of Spencer.
(Amended 5/4/17 Art. 25)

D. Energy Storage System (BESS) not accessory to a permitted Solar Photovoltaic Generating Installation. See Section 4.8.9.

ARTICLE 4.8.9 SOLAR PHOTOVOLTAIC GENERATING INSTALLATIONS

(Amended 11/17/16 Art. 12)

- A. Purpose – The purpose of this bylaw is to facilitate the creation of new Solar Photovoltaic Generating Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on the environment, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations consistent with the intent of Chapter 40A Section 3 of the Massachusetts General Laws.
- B. Applicability – The provisions set forth in this section shall apply to the construction, operation, **modification**, repair and/or removal of Photovoltaic Generating Installations as permitted in Section 4.2. Use Regulations and in Section 4.4. Accessory Uses. All such facilities require a building permit and must comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements and other applicable provisions of Spencer's Zoning Bylaws.

All Roof-Mounted Solar Photovoltaic Generating Installations, and all small scale ground mounted solar photovoltaic generating installations accessory to a principal use, shall comply with the requirements of Section A through E of this Section 4.8.9, and the remaining provisions of the Zoning Bylaw, as applicable, but shall not be required to obtain site plan approval.

Large Scale Ground-Mounted Solar Photovoltaic Generating Installations, and Small scale ground mounted solar photovoltaic generating installations not accessory to a principal use, shall obtain site plan approval, and shall obtain a special permit as required pursuant to Sections 4.2 and 4.4 of this Bylaw.

C. Definitions

Energy Storage System (ESS): a non-generating energy storage system that utilizes batteries and other commercially available technology capable of drawing electric power from existing electrical infrastructure, storing it for a period of time, and thereafter discharging electric power into the existing electrical infrastructure.

Large Scale Ground-Mounted Solar Photovoltaic Generating Installation (LSGMSPGI) : A Solar Photovoltaic installation that is structurally mounted on the ground and has a minimum rated nameplate capacity of 20 kW DC.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Solar Photovoltaic Generating Installation in watts of Direct Current (DC).

Roof-Mounted Solar Photovoltaic Generating Installation: A Photovoltaic Installation that has its electricity-generating solar panels mounted on the rooftop of a residential or commercial building or structure. Any such structure shall have a dedicated use independent of providing support for the Photovoltaic Installation.

Site Plan Review Authority: For purposes of Large-Scale Ground-Mounted Solar Photovoltaic installations and Energy Storage Systems, the Site Plan Review Authority is the Spencer Planning Board.

Small Scale Ground-Mounted Solar Photovoltaic Generating Installation: A Photovoltaic Installation that is structurally mounted on the ground and has a maximum rated nameplate capacity less than 20 kW DC.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (smaller large-scale).

Solar Energy System, Off-Grid: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Photovoltaic Generating Installation (also referred to as a Photovoltaic Installation, Photovoltaic Generating Installation, Solar Electric Generating Facility, or Solar Electric Installation): An active solar energy system that converts solar energy directly into electricity.

D. General Requirements

1. The construction and operation of all Photovoltaic Generating Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a Photovoltaic Generating Installation shall be constructed in accordance with the Massachusetts State Building Code.
2. Photovoltaic Generating Installations shall not be constructed, installed or modified as provided in this section without first obtaining a building permit and paying any required fees.
3. Noise generated by Photovoltaic Generating Installations and associated equipment and machinery shall conform to applicable state and local noise

regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:

- a. Increases the broadband sound level by more than 10 db (A) above ambient, or
- b. Produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP.

- E. The Photovoltaic Generating Installation's owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the Solar Photovoltaic Generating Installation and any access road(s).

The owner or operator shall maintain the property's landscaping. Grass shall not exceed a height of 24".

- F. Required Submission Documents for Large Scale Ground-Mounted Solar Photovoltaic Generating Installation proposed as a primary or accessory use – Special Permit And/or Site Plan Review Applications shall include:

1. A properly completed and executed application form and application fee.
2. Any requested Waivers
3. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.
4. Name, contact information and signature of any agents representing the project proponent.
5. Name, address, and contact information for proposed system installer.

6. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar electric installation.
7. Proposed Hours of Operation
8. Route by which construction materials and equipment will be delivered to site.
9. Blueprints or drawings of the solar electric installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.
10. Utility Notification - evidence that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar electric installation owner or operator's intent to install an interconnected facility and acknowledges receipt of such notification. A copy of an Interconnection Application filed with the utility including a one or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code (527 CMR § 12.00) compliant disconnects and overcurrent devices. Off-grid systems shall be exempt from this requirement. (Amended 11/16/17 Art.9)
11. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc. If the proposed system is located in Aquifer Protection District, documentation must include information on elements of the system that use materials that are in any way either hazardous or toxic.
12. Documentation by an acoustical engineer of the noise levels projected to be generated by the installation.
13. Operation & Maintenance Plan for the operation and maintenance of the Photovoltaic Generating Installation, which shall include measures for maintaining safe access to the installation, storm water and vegetation controls, and general procedures for operational maintenance of the installation.
 1. Abandonment & Decommissioning Plan - Any Photovoltaic Generating Installation which has reached the end of its useful life or has been abandoned (i.e. when it fails to operate for more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of

abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. The Abandonment & Decommissioning Plan shall include a detailed description of how all of the following will be addressed:

- (a) Physical removal of all structures; equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (d) Description of financial surety for decommissioning - Proponents of Solar Electric Generating Facilities shall provide **cash security**, either through **escrow account, deposit agreement, or other form** approved by the Planning Board **and allowing for withdrawal of funds only upon Planning Board approval**, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Spencer Planning Board. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. The Planning Board may review the surety at any time on form and/or amount of surety be adjusted as required to insure that adequate security is maintained. Each new owner or operator of the Facility shall provide good evidence to the Planning Board immediately upon assuming ownership or responsibility that it is the principal for or has otherwise provided and is responsible for the required decommissioning security.

- (e) All legal documents required to enable the Town to exercise its rights and responsibilities under the plan to decommission the site, enter the property and physically remove the installation.

14. Ownership Changes – If the Applicant, Owner, Manager, or Operator of the **Ground-Mounted Solar Photovoltaic Generating Installation changes** or the owner of the property changes, the site plan approval shall remain in effect provided that the successor Owner or Operator assumes in writing all of the obligations of the Site Plan Approval, Operation and Maintenance Plan, and Decommissioning Plan. A new Owner or Operator of the Ground-Mounted Solar Photovoltaic Installation shall notify the Planning Board and local emergency personnel of such change in ownership or Operator within [30] days of the ownership change. Together with such notification, the new owner or operator shall provide good evidence that it is the principal for or has otherwise provided and is responsible for the required decommissioning security,

15. Proof of liability insurance.

16. A Site Plan with stamp and signature of Professional Engineer licensed to practice in Massachusetts that prepared the plans including;

- (a) Everything required under Section 7.4 Site Plan Review, plus all of the following;
- (b) Existing Conditions Plan, showing property lines, map and lot from the Assessor's records, and physical features, including roads and topography, for the entire project site signed and sealed by a Registered Massachusetts Land Surveyor;
- (c) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation, fencing or structures including their height and placement of system signed and including, solar arrays and required appurtenances;
- (d) An estimate of earthwork operations listing the amount of soil material to be imported or exported from the site.
- (e) Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP);
- (f) Locations of Floodplain area, as well as Aquifer Protection District (Zone 2)

- (g) Existing isolated trees 10" caliper or larger and shrubs.
- (h) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose).
- (i) Materials, delivery, equipment staging area.
- (j) Proposed installation of screening vegetation or structures

G. Design and Performance Standards

1. Minimum Dimensional and Setback Requirements For Solar Electric Generating Facilities Appurtenant Structures (including but not limited to, equipment shelters, storage facilities, transformers, fencing, parking and substations):
 - b) Setbacks: The solar installation and all appurtenant structures shall have a setback from front property lines and public ways of at least 200 feet, and a setback from side, and rear property lines and public ways of at least 100 feet. If the solar installation abuts an open field, farm, or pasture it shall have a setback from front, side, and rear property lines and public ways of at least 300 feet. This may be reduced at the discretion of the Planning Board if sufficient natural vegetation exists in the setback area, but to not less than 100 feet. No facilities are permitted between the front of the principal building and the front lot line. An **Energy Storage System shall have a setback from front property lines and public ways of at least 300 feet, and a setback from side, and rear property lines and public ways of at least 200 feet. If the solar installation abuts an open field, farm, or pasture the battery storage shall have a setback from front, side, and rear property lines and public ways of at least 400 feet.**
 - (c) Maximum Height of Structures
 - Residential Districts: 10'
 - Non-Residential Districts: 15'
2. All appurtenant to Solar Electric Generating Facilities shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.
3. Visual Impact Mitigation - The visual impact of the solar installation and all appurtenant structures shall be mitigated to the maximum extent feasible. All

appurtenant structures shall be architecturally compatible with each other and joined or clustered. Structures shall be shielded from view to avoid adverse visual impacts as deemed necessary by the Planning Board, utilizing methods such as landscaping, natural fences and opaque fencing.

In natural (undeveloped) areas, existing vegetation shall be preserved to the maximum extent possible. In developed areas, the design of the installation shall consider and incorporate human-designed landscape features to the greatest extent, including contextual landscaping and landscaping amenities that compliment the physical features of the site and abutting properties. All structures shall be shielded from view by a substantial sight-impervious vegetative screen. As deemed necessary by the Planning Board, the depth of the vegetative screen shall be 30 feet and shall be composed of native or naturalized trees and shrubs staggered for height and density. The landscaping shall be properly maintained and replaced as necessary by the owner/operator of the solar energy system. A diversity of plant species shall be used, with a mix of deciduous and evergreen varieties. The use of pollinator species is encouraged. In the absence of on-site irrigation, a water truck or water bags shall be used for the first three growing seasons to assure plant survival.

Vegetative screening shall reach a mature form to effectively screen the installation within five years of installation. The mature height of the vegetative screen shall be such that the installation's structures are not apparent to a person upon any public road and viewing the installation from a height of 10 feet. This determination will be at the discretion of the Planning Board and/or Building Inspector.

Planting of the vegetative screening shall be completed prior to final approval of the photovoltaic installation by the Building Inspector.

4. Lighting - Lighting of Solar Electric Generating Facilities shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting of the Photovoltaic Generating Installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
5. Signage - Solar Electric Generating Facilities shall not be used for displaying any advertising signage except for reasonable identification of the manufacturer or operator of the solar electric installation. Signs on Solar Electric Generating Facilities shall comply with Spencer's sign bylaw. A sign consistent with Spencer's sign bylaw shall be required to identify the owner, operator and interconnected utility and provide a 24-hour emergency contact phone number.

6. Utility Connections - Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the Photovoltaic Generating Installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

7. Roads - Access roads shall be constructed to minimize grading, removal of stone walls or trees and minimize impacts to environmental or historic resources.

8. Vegetation Management-Herbicides, pesticides, or chemical fertilizers shall not be used to manage vegetation at the Photovoltaic Generating Installation. Mowing, grazing or using geotextile materials underneath the solar array are possible alternatives. In the Aquifer Protection District, low growing grasses are optimal. Other grasses must be regularly mowed or grazed so as to minimize the amount and height of "fuel" available in case of fire. All land associated with the ground-mounted solar installation shall be covered and grown in natural vegetation. All ground surface areas beneath solar arrays and setback areas shall be pervious to maximize on-site infiltration of stormwater. Impervious paving of areas beneath solar arrays is prohibited. To the greatest extent possible, a diversity of plant species shall be used, with preference given to species that are native to New England. Use of plants identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources is prohibited. Herbicides shall be applied only by properly licensed personnel in conformance with all applicable state regulations.

9. Hazardous Materials - If hazardous materials are utilized within the solar electric equipment then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of ground water are required. Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to Mass DEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment.

10. Impact on Agricultural and Environmentally Sensitive Land - The Photovoltaic Generating Installation shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. No more than 50-percent of the total land area proposed for the solar electric field may be occupied by the solar panels, with the remainder of the land remaining as undeveloped open space left in its natural state.

11. Drainage - The design shall minimize the use of concrete and other impervious materials to the greatest extent possible, to minimize erosion and transport of sediment, and prevent contamination of surface water and groundwater from operations on the premises involving the use, storage, handling, or containment of hazardous substances. A permit in accordance with the Spencer Erosion and Sediment Control for Stormwater Management shall be required and can be run concurrent with the approval process under this section.

12. Projects shall be designed to:

- (a) minimize the volume of cut and fill, the number of removed trees 10" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution
- (b) maximize pedestrian and vehicular safety both on the site and entering and exiting the site;
- (c) minimize obstruction of scenic views from publicly accessible locations;
- (d) minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- (e) minimize glare from headlights and light trespass;
- (f) Ensure adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage.

13. Emergency Services - The Photovoltaic Generating Installation's owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Photovoltaic Generating Installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

14. Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Photovoltaic Generating Installation or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slopes greater than 15% in order to minimize erosion. No more than 50% of the land parcel utilized for Solar Electric Generating Facilities shall contain land requiring clearing of forest.

15. No topsoil shall be removed from the land parcel under consideration for Solar Electric Generating Facilities. If earthworks operations are required, topsoil shall be stockpiled within the property bounds and protected against erosion until such time earthwork operations are completed and topsoil can be respread over parcel. Earthworks shall be planned to limit export of soil material (non-topsoil) to 1000 cubic yards per acre affected by installation. A detailed earthworks estimate is a required submittal component proving this quantity is maintained.

16. Large-Scale Solar Photovoltaic Facilities - The total number of Large Solar Energy Facilities concurrently within the Town shall be limited to 25. Included within this number are large facilities that have received a Special Permit to operate from the Spencer Planning Board as of the effective date of this Solar Energy bylaw. The total number of Large Solar Energy Facilities shall be quantified by the personal property bill and/or tax agreements, which is determined by the Town of Spencer's Assessor.

17. Electric Storage System: Applicant-Developer shall submit plans for proposed on-site battery storage unit(s) for review by the Spencer Fire Department and by such consultants as deemed necessary by the Planning Board, at the expense of the applicant. Plans shall include but not be limited to storage unit specifications, battery type, battery storage configuration, and fire extinguishing system.

1. Safety Data Sheets (SDS) shall be included and meet the requirements set forth by Appendix D of 29 CFR 1910.1200.
2. The energy storage system shall be equipped with a fire suppression system capable of extinguishing a fire within the container, and immediate notification of the LSSI owner, the Spencer Fire Department and the Spencer Police Department.
3. Energy storage units shall comply with NFPA 855, Standard for the Installation of Stationary Energy Storage Systems, and with all applicable state and federal regulations.
4. Energy Storage System (ESS) capacity shall not exceed the total nameplate capacity of the permitted LSGMSPGI. Example: an LSSI rated at 20 kWh shall not install battery storage exceeding a total capacity of 20 kWh. An ESS not located on the site of, and connected to, a permitted Large Scale Ground-Mounted Solar Photovoltaic Generating Installation (LSGMSPGI) is prohibited under Section 4.7 Prohibited Uses.

- H. Waivers - The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this sub-section, but must state their reasons for doing so in writing as part of their decision.
- I. Field Reports During Construction - While construction progresses, the applicant shall submit field reports by its civil engineer to the Board on a weekly basis, and before and after every rain event of 0.5 inches or more until the site is completely stabilized. The field report shall include standard field report information, weather conditions, type of inspection, present phase of construction, storm event information since the last inspection, and reports of any stormwater discharges.
- J. The operator shall provide the Planning Board with a yearly operations and maintenance report of the operation status, including but not limited to efficiency of energy production. This report shall be submitted no later than forty-five (45) days after the end of the calendar year. The applicant shall incur the cost for the Town to hire an engineer to review the report. If said report is not submitted, the Town may consider this as evidence that use of the facility has been discontinued or abandoned.
- K. Completion – No large-scale solar photovoltaic generating installation shall commence operation until the Spencer Planning Board has issued a Certificate of Completion for the facility. Certificate of Completion cannot be granted unless all conditions are met from the Decision and a third-party review has been conducted of the as-built plan.

5.2 Interpretation notes for area. The following shall be used to interpret the table of area requirements:

5.2.6 Detached Accessory Structures, including garages, sheds, swimming pools, etc. (see Section 4.4.1.A), on residential lots shall have a 10 foot setback from the side or rear lot line, provided said structure is located within the rear yard (i.e. anywhere behind the house from one side property line to the other). Any future connection of an accessory structure to a primary structure that creates nonconformity with regard to setbacks may be allowed by Special Permit issued by the Zoning Board of Appeals (Amended 11/17/16 Art. 14).

Ground-mounted solar photovoltaic installations that are accessory to a primary use shall have a 10 foot setback from the side and rear lot line, and must be located within the rear yard (i.e. anywhere behind the house from one side property line to the other). Any proposed array that is determined to be nonconforming with regard to setbacks may be allowed by Special Permit issued by the Zoning Board of Appeals. The maximum height of the structures shall not exceed 10' in residential districts or 15' in non-residential districts..