

MIXED USE BY-LAW

MIXED USE OVERLAY DISTRICT

8500 Purpose

The Mixed Use Overlay District (sometimes referred to herein as a “MUOD”), allows by Special Permit from the Planning Board an alternative pattern of land development to the pattern normally permitted in the underlying District(s). A Mixed Use District Overlay shall be permitted by Special Permit in the Commercial or Industrial Districts provided the area to be so designated shall have at least five (5) acres (inclusive of wetlands). It is intended to create mixed commercial, residential, and open space areas, called Mixed Use Developments (sometimes referred to herein as MUD”), where the visual and physical dominance of the automobile is made secondary to pedestrian needs; to encourage pedestrian activity by creating a pleasant, rich and diverse experience for pedestrians; to reduce traffic congestion and air pollution by providing opportunities for retail services, housing and employment in close proximity; and to encourage the sharing of parking lots and driveway curb cuts, minimizing the amount of paved parking surface area, and reducing traffic congestion. For the purposes of this section, a “Mixed Use Development (MUD)” shall mean any eligible use set forth in Section 8530, below, which may be commingled into a single structure or structures with other eligible uses or may be located in separate structures on the site, all subject to the issuance of a Special Permit as set forth in Section 8590.

8510 Authority

The Planning Board shall be the Special Permit Granting Authority for a MUD. The Planning Board may vary the dimensional and parking requirements of this section if, in its opinion, such change will result in an improved design of the MUD. This authority continues subsequent to occupancy by Special Permit issued by the Planning Board. Section 9300 et. seq. of this Zoning By-Law applies with respect to the Planning Board’s consideration of the grant of a Special Permit for the MUD.

8520 Exclusivity/Control

All other uses and provisions not otherwise impacted by this Section (8500 et. seq.) shall continue to remain in full force and effect. This Section (8500 et. seq.) of the By-Law shall exclusively control development of any MUD and shall take precedence over any other provision of the Zoning By-Law (except the provision of any other applicable overlay district). In the event of any conflict between the provisions of this Section 8500 et. seq. and the Zoning By-Laws, the provisions of this Section shall govern and control. Upon the construction and operation of a MUD pursuant to a Special Permit granted under this Section 8500, the underlying zoning regulations shall be superseded by the MUD Special Permit.

8530 Eligible Uses

Except as noted below, all uses permitted in a Commercial District shall be eligible for consideration as part of a MUD. In addition to the foregoing, the following types of uses shall be eligible for consideration as part of a MUD:

8530.1 Multifamily Dwellings - defined as a structure or structures containing three or more residential units.

8530.2 Municipal Facilities - defined as facilities owned or operated by the Town of Pepperell.

8530.3 Underground and Above Ground Utilities

8530.4 Parking Facility - defined as a structure or structures permitting above ground or below grade parking including parking at or below grade under a building.

8535 Prohibited Uses

Notwithstanding the foregoing, the following uses shall be expressly PROHIBITED in the Mixed Use Overlay District:

- (i) Motor vehicle sales and rental
- (ii) Motor vehicle light service
- (iii) Motor vehicle general and body repair
- (iv) Car Wash
- (v) Commercial Kennel
- (vi) Flea Market
- (vii) Drive through service for fast food establishments

8540 Density

8540.1 Business Professional Office or Retail uses shall comprise a minimum of 10% of the floor area of permitted uses in a MUD.

8550 Dimensional Requirements

The dimensional requirements below shall apply to the Mixed Use Overlay District:

8550.1 Minimum contiguous area required for a Mixed Use Overlay District shall be five (5) acres. A Mixed Use Overlay District shall consist of one or more lots.

8550.2 Minimum lot frontage shall be 100 feet for lots within the Mixed Use Overlay District.

8550.3 Minimum lot width shall be 100 feet for lots within the Mixed Use Overlay District.

8550.4 The minimum front yard for lots within the Mixed Use Overlay District shall be 30 feet.

8550.5 The minimum Side Yard and Rear Yard for lots within the Mixed Use Overlay District shall be as set forth in Section 4140 of the By-Law for the underlying zoning district.

8550.6 There shall also be at least 15 feet separation between any two structures in the MUD and the areas behind and between all structures shall be clear and accessible to the Town's fire suppression vehicles.

8550.7 Maximum height shall be 60 feet.

8550.8 Maximum lot coverage shall be 70 percent for lots within the Mixed Use Overlay District.

8550.9 Screening - When a Mixed Use Overlay District abuts a residential district, there shall be appropriate screening as approved by the Planning Board between the Mixed Use Overlay District and residential district.

8560 Parking and Curb Cut

Parking and Curb Cut Requirements. Unless as provided below, parking and circulation requirements shall be in accordance with Section 5000 et. seq. of this By-Law except as described below for Mixed Use Developments:

8560.1 General - In a MUD adequate off-street parking shall be provided. The Planning Board and the applicant shall have as a goal for the purposes of defining adequate off-street parking, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall consider complimentary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in permitted reductions in the parking requirements.

8560.2 Parking Locations - Parking may be provided at ground level, underground or in a parking garage. Parking garages can be free standing or as part of buildings dedicated to other permitted uses.

8560.3 Parking at Buildings - Parking shall be primarily located at the rear, side or under buildings.

8560.4 Parking Spaces for Each Dwelling Unit - There shall be a minimum of 1.5 parking spaces for each dwelling unit.

8560.6 Granting of Relief from Parking Regulations - The Planning Board may waive any of the foregoing requirements or the requirements of Section 5000 et. seq. if it makes a finding that to do so will enhance the overall design of the MUD.

8570 Signage

As part of the Special Permit Application, the applicant shall submit for review and approval a signage plan to govern signage in the MUD.

8580 Application

An application for a Special Permit for a Mixed Use Development shall comply with the requirements of Section 9300 et. seq. of the Zoning By-Laws.

8590 Planning Board Findings

A Special Permit shall be issued under this Section if the Planning Board finds that the MUD is in harmony with the purpose and intent of this Section and that it contains a compatible mix of uses sufficiently advantageous to the Town to render it appropriate to depart from the requirements of the By-Law otherwise applicable to the underlying district in which the MUD is located.

8600 Affordable Housing

8610 Any MUD which will result in the creation of ten (10) or more residential dwelling units, shall include as a condition of said permit that:

8611 At least 10% of the units, and in no case less than one unit, be priced for qualified affordable housing purchasers;

8612 The mix of affordable dwelling units and rate of affordable dwelling units built in any one year shall be equivalent to the overall mix for the entire MUD. It is intended that the affordable dwelling units authorized under the provisions of this By-Law be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth of Massachusetts or its agencies, and that said units count toward Pepperell's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended.

8613 Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth of Massachusetts or its agencies, shall be placed on the appropriate property to ensure that affordable dwelling units created under this section shall remain affordable dwelling units in perpetuity or for as long a period as is allowed by law.

8620 Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Mixed-Use By-Law.

8630 Affordable dwelling units required under Section 8610 may be provided in any one or combination of methods described below, subject to the approval of the Planning Board.

- A. Constructed on the locus subject to the Special Permit;
- B. Constructed on a locus different than the one subject to the Special Permit;
- C. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen may accept, donations of land in fee simple, on or off-site that the Planning Board determines are suitable for the construction of an equivalent number of affordable dwelling units. The Planning Board may require, prior to acceptance of land by the Town, satisfaction of the requirements of this By-Law, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of value;
- D. For fractional affordable dwelling units, the applicant may round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units proportionate to the percentage of the unit required; and
- E. Preservation of existing market-rate dwelling units as affordable dwelling units through the purchase of deed restrictions.

8640 All affordable dwelling units that are constructed on-site under this By-Law shall be situated within the MUD so as not to be in less desirable locations than market-rate units in the MUD and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Site Plan shall identify those lots/locations selected for affordable dwelling units.

8650 With the approval of the Planning Board, as an alternative to the requirements of Section 8610, an applicant subject to the By-Law may develop, construct or otherwise provide affordable dwelling units equivalent to those required by Section 8610 off-site. To the maximum extent practicable, all requirements of this By-Law that apply to on-site provision of affordable dwelling units shall apply to provision of off-site affordable dwelling units. In addition, the Planning Board shall approve the location of the off-site units to be provided as an integral element of the Special Permit review and approval process.

8660 As an alternative to the requirements of Section 8610 and as allowed by law and with the approval of the Planning Board, an applicant may contribute an amount in cash equal to the costs of construction such affordable dwelling units, and satisfactory to the Planning Board in consultation with other relevant Town boards, to the Town Housing Authority or its designee for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town Boards, in lieu of constructing and offering affordable dwelling units within the locus of the proposed development or off-site, as set forth in Section 8670, below.

8670 The applicant for a MUD subject to this By-Law may pay fees-in-lieu of the construction. For the purposes of this By-Law, the fees-in-lieu of the construction or provision of each affordable dwelling unit is determined to be three (3) times 80% of the median income for a household of four (4), as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

8700 Standards for Roadways and Drainage

8710 Roadways - MUD roadways to be accepted by the Town of Pepperell as public ways shall be designed and constructed in accordance with the Rules and Regulations for the Subdivision of Land in the Town of Pepperell. Private ways within the MUD, to the extent feasible, shall be constructed using the methods and materials prescribed in the Rules and Regulations for the Subdivision of Land in the Town of Pepperell, but shall not be required to conform to the dimensional requirements thereof, provided that those private roadways shall be adequate for the intended vehicular and pedestrian traffic and shall be maintained by the owner/developer or an association of owners.

8711 Storm Water Management System - The MUD shall have a storm water management system designed in accordance with the Rules and Regulations for the Subdivision of Land in the Town of Pepperell and the Department of Environmental Protection's Storm Water Management Guidelines, as amended.

8800 Amendments

After approval, the owner/developer may seek amendments to the approved plan. Minor amendments may be made by a majority vote of the Planning Board. It shall be a finding of the Planning Board, not subject to dispute by the applicant, whether a requested amendment is deemed to be major or minor. A major amendment shall require the filing of an application pursuant to Section 9300 of the Zoning By-Law.