

Mixed Use

Are apartments above commercial (mixed use) allowed in any district?

Issue Overview

Traditionally, zoning has served as a tool for segregating uses – isolating noxious industrial uses from other uses, for example, or business uses from residential. Increasingly, municipalities are zoning for mixed uses with dwelling units and businesses in the same buildings – either through conventional use regulations, planned unit developments, or mixed use overlays.

Many zoning bylaws/ordinances include explicit provisions for combining dwellings with other uses, usually retail or office. In a few cases, zoning allows multi-family housing and retail in the same district, but does not specify whether the uses are allowed in the same building, although the municipality may in practice allow mixed use. The provisions for mixed use can be found in a range of sections in zoning bylaws/ordinances. Some municipalities list “combined dwelling/retail” as an allowed use in the “table of use regulations.” Some specify in a footnote to the table of uses that any individual uses allowed in the same district can be permitted in the same building. Some municipalities have detailed provisions for mixed use through overlay districts (mixed use district, downtown overlay, or planned unit development). Some mixed use is allowed as a part of conversion – for example allowing retail and housing in a former mill.

Research Coding

In some bylaws/ordinances, the language is vague about whether mixed uses are allowed in the same building. In many cases the researcher relied on the answers provided in surveys completed by municipal planners. In a few cases, the researcher emailed or spoke with the planner to clarify. The researcher coded Yes when dwelling units are allowed in combination with another use, but some bylaws are vague about the number of dwelling units that would be allowed under the heading “combined retail and dwelling units.” Such language could refer to one or two dwellings over shops.

Researcher found the answer by reading the table of uses, use regulations, sections on PUDs and overlays, and footnotes to the table of uses.

Some “mixed use” provisions refer to mixed commercial and industrial uses, not including residential. Such “mixed use” districts are not included in the study.

Abington

Are apartments above commercial (mixed use) allowed in any district?

Yes

§ 175-37. Transit Oriented Development District.

C. Uses.

(1) Mixed-use developments in accordance with the uses identified in § 175-21, Table of Use Regulations. Residential uses are allowed within the district only as part of a larger, mixed-use development and not as a stand-alone principal use except by special permit from the Planning Board. Residential components may not exceed 25% of the total gross floor area of a proposed development except where the residential use is located on the upper floors of commercial buildings in accordance with § 175-37C(2).

(2) Residential units may be located on the upper floors of commercial buildings as part of a mixed-use development without limitation as to percentage of total gross floor area provided that:

- (a) The building is connected to the public sewer system.
- (b) One parking space is provided for each dwelling unit.

- (c) No units are located on street level or within a basement.
 - (d) There shall be no more than two bedrooms per unit.
 - (e) Units must have a means of egress separate from the commercial use. No access to the units shall be through a commercial establishment.
 - (f) All units must meet the minimum requirements of the building and health codes for habitable space.
- (3) Residential uses within the TOD District are not subject to the requirements of Article VII, § 175-32A, B, C, D or E of this Zoning Bylaw. The following supersede those standards.
- (a) For each dwelling unit constructed on a lot/premises, except those in accordance with § 175-37C(2), a minimum of 2,500 SF of lot area shall be provided for each unit in addition to the minimum lot area required by Article VI, § 175-29.
 - (b) All buildings shall be a minimum of 15 feet from any parking area.
 - (c) All buildings shall be a minimum of 25 feet from any lot line that abuts the proposed development including the street line.
- (4) No single retail use shall exceed 2,000 SF of total floor area [exclusive of any residential use in accordance with Subsection C(2) above], except by the issuance of a special permit from the Planning Board.
- (5) The maximum floor area for retail and/or commercial use on a single lot shall not exceed 20,000 SF unless approved as part of a master site development plan approved by special permit by the Planning Board.

§ 175-39. Multiple Use Planned Development District.

A. Purpose and intent. The purpose of the Multiple Use Planned Development District is to establish areas and standards for the overall planned development of land with mixed-uses. The District attempts to accommodate low-impact activities in an overall low density but with intensive use clusters, making use of natural features and vegetation, screening and setbacks to have minimal impact on surrounding land uses. The following regulations strive to allow a more flexible planned development process than is possible through strict conventional zoning regulations. For the purpose of this district and section the Planning Board shall be the special permit granting authority for special permit uses identified in § 175-21, Table of Uses.

B. Design considerations.

- (1) Parking is prohibited in the front yard area and shall only be located in the side and/or rear yard. The number of parking spaces shall be provided according to the following requirements that supersede the requirements of Article VIII of this Zoning Bylaw.
- (2) Common access driveways and shared parking shall be provided where possible.
- (3) Pedestrian connection to adjacent building and properties shall be provided.
- (4) Bicycle racks shall be provided as part of the parking plan.
- (5) Landscaping and architectural elements of the proposed use(s) shall include features to minimize visual impacts on surrounding lands.

C. Uses. Uses including mixed-uses consistent with the § 175-21 may be permitted provided that:

- (1) Residential uses (not including transient accommodations) may only allowed as part of a larger, mixed-use development and shall not exceed 20% of the gross floor area of the proposed development.
- (2) Not more than 10% of the gross floor area may be devoted to retail use and commercial services for supporting the overall development unless by special permit of the Planning Board.

D. Tract area and frontage. The tract shall be in single or consolidated ownership at the time of application and shall be at least 10 acres in size with a minimum of 200 feet of frontage. If proposed developments are to be subdivided under the Rules and Regulations Governing the Subdivision of Land each resulting lot shall comply with the requirements of this section. All internal driveways providing access to parking areas and buildings shall comply with the design and construction standards of the Rules and Regulations Governing the Subdivision of Land, as amended, whether or not the driveway network constitutes a subdivision.'

E. Parking. Developments shall be served by common parking areas with a common exit and entrance. A reduction in parking space requirements for common parking area shall not exceed more than 15% of those required under normal application of requirements for the particular uses proposed in Article VIII, § 175-52, unless a special permit is granted by the Planning Board in accordance with § 175-53. Applicants should note in particular the visual relief requirements in Article VII, § 175-50.

F. Drainage. See Article X, § 175-63.

G. Building design. Uses may be contained in one continuous building or groupings of buildings where such groupings are consistent with the safety of the users of the development and the intent of this section.

H. Floor area and lot coverage. The total gross floor area of all buildings shall not exceed 50% of the total lot area except by special permit from the Planning Board. Gross floor area may be increased to 60% of the total lot area provided that a parking garage is provided for the use(s). Lot coverage shall not exceed 30% of the total lot area.

I. Dimensional requirements.

(1) Buildings shall be located a minimum of:

- (a) Two hundred feet from any existing lot line or existing street line;
- (b) Twenty-five feet from any proposed parking area; and
- (c) Be not more than forty 40 feet in height except by special permit from the Planning Board.

(2) Parking areas shall be located a minimum of 100 feet from any existing lot line or existing street line.

Acton *Are apartments above commercial (mixed use) allowed in any district?*

Yes 3.5 Business USES

3.5.6 Combined Business and Dwelling - A LOT used for business USES and for not more than four DWELLING UNITS. Business USES and DWELLING UNITS may be in the same BUILDING or in separate BUILDINGS. In the EAV District, the limit of four DWELLING UNITS shall not apply provided that the DWELLING UNITS are in the same BUILDING as business USES, or that not more than four DWELLING UNITS are within a multifamily dwelling. In the NAV District the limit of four DWELLING UNITS shall not apply where dwelling units are created through the application of Sections 5.4 and 5:5.

Amesbury *Are apartments above commercial (mixed use) allowed in any district?*

Yes Yes, there is mixed use zoning. The intent of the multifamily special permit is to allow for multifamily development in the Central Industrial and Central Business Districts either by conversion of existing industrial and commercial buildings, creation of residential over commercial, or construction of new residential.

"L. Planned Unit Development (PUD) Districts:

1. Permitted Uses: In Planned Unit Development (PUD) Districts shown on the Zoning Map, the following uses are permitted as of right:

- a. Multi-family dwellings and attached dwellings of all types; provided, however, that except for preexisting buildings or structures on a lot, all multifamily dwellings and attached dwelling units shall be limited to four (4) dwelling units for each building or structure
- b. All other uses, including mixed uses, permitted in Section V.D.,

Table of Use Regulations.

2. Applicability of Section XI: In addition to special conditions set forth in other sections of this Bylaw, in Planned Unit Development (PUD) Districts shown on the Zoning Map, only the provisions of Section X.B, C, G., H.16, H.18, and H.19 shall be applicable."

Amesbury Zoning Bylaw and Map, Adopted April 12, 1971 with Revisions Through October 14, 2003. Section XII.

Mixed Use: For the purposes of this Bylaw mixed use shall apply to those developments that are a combination of commercial and residential uses in the

same structure.

"XI.J. Multi-Family Special Permit:

1. Objectives: The objective of this subsection are to:

a. Allow maximum flexibility for the provision of housing in Amesbury, and
b. In the Central Industrial (IC) and Central Business District (CBD) zones only, allow for mixed residential and commercial uses in existing, or expanded multi-story buildings and further to allow for the conversion of existing, or expanded mixed use, industrial or commercial buildings to residential buildings.

2. Applicability: The Planning Board may grant a special permit for dwelling units located over commercial use in existing, or expanded multi-story buildings in the Central Business District and the Central Industrial zones. In no instance, however, may a permit be granted that would allow industrial and residential uses to occupy the same structure.

3. Procedural Requirements: These procedural requirements shall be in addition to the general requirements for a special permit specified in Section X.J of this Bylaw.

a. Pre-Application Review: Potential applicants are encouraged to meet with the Planning Board and describe their project. The Planning Board shall then specify the written or mapped material they may require.

b. Application: The applicant shall submit to the Planning Board an original and ten (10) copies of all materials requested by the Planning Board, and all materials required for a Site Plan Review as described in Section XI.C of this Bylaw.

c. Parking Plan: Applicant for this special permit shall submit an original and ten (10) copies of a parking plan at a scale no larger than 1"= 100 feet which shall clearly show the relationship of off-street parking requirements to the building concerned. Such plan shall indicate lighting and landscaping if required by the Planning Board.

4. Permit Criteria:

a. Number of dwelling units: The maximum allowable number of units shall be determined by the Planning Board. The decision of the Planning Board in this regard shall consider: 1) size and location of commercial space, if any; 2) physical limitations of building and lot; 3) provision of off-street parking; 4) traffic conditions in the general area; and 5) other conditions specified by the Planning Board.

b. Allowable Uses: All Commercial uses allowed by the district in which the building is located and residential dwelling units located over commercial uses in multi-story buildings, or conversion of existing buildings into free standing residential buildings. Construction of new free standing multifamily structures is not allowed.

c. Dimensional Regulations: The building and lot shall meet the dimensional regulations for commercial or industrial uses in the zoning district in which the building and lot are located except that the Planning Board may increase in part or totally said dimensional regulation when, in their opinion, the public interest would be served.

d. Parking Requirements: The Planning Board may require that offstreet parking spaces and loading requirements for commercial uses shall be the same as required in Section VIII of this Bylaw. In addition the applicant shall provide one and a half (1 1/2) off-street parking space for each residential dwelling unit therein either on the lot or in a public offstreet parking area located within 500 feet of the building and lot. Applicants planning to use public off-street parking areas to meet the requirements of this subsection must be prepared to demonstrate that prior special permits granted for this use do not exceed the capacity of the public off-street parking area. The Planning Board may choose to limit the amount of parking in public off-street parking areas, if in their opinion, there would not be sufficient space to serve the general public."

Andover

Are apartments above commercial (mixed use) allowed in any district?

No

7.2. PLANNED DEVELOPMENT

7.2.1. Applicability. The Planning Board may grant a special permit for Planned Development-Multifamily Dwelling (PD-MD) or Planned Development-Mixed Use (PD-MU) for the following types of structures and uses:

1. PD-MD. (a) conversion or expansion of existing nonresidential structure(s) to multifamily dwellings; or (b) new multifamily dwelling construction;

2. PD-MU. (a) redevelopment, conversion or expansion of existing structure(s) to a combination of multifamily and business uses or a combination of nonresidential uses permitted in the zoning district; or (b) new construction for combined multifamily and business uses or new construction for a combination of nonresidential uses permitted in the zoning district.

a. Exemption from Special Permit Requirement. Any mixed use development comprised only of nonresidential uses shall not require a PD special permit under this section of the by-law if the lot area is less than two acres in size.

7.2.2. Density. The maximum allowable density shall be determined by calculating the required lot area per dwelling unit as follows:

1. General Business District. Two thousand square feet of lot area per dwelling area unit.

2. Mixed Use District. Three thousand square feet of lot area per dwelling unit. The Planning Board may, in its discretion, according to the

characteristics of any particular lot, require less than the maximum allowable density.

7.2.3. Dimensional Requirements.

1. **Building Height.** Any addition or new construction shall not exceed the maximum height allowed by Appendix A, Table 2 of this by-law.

2. **Building Coverage.**

a. **General Business District:** In a General Business District, an existing structure occupying more than two-thirds (2/3) of the lot area shall not be expanded. New structures shall not exceed two-thirds (2/3) of the lot area within the General Business district.

b. **Mixed Use District:** In a Mixed Use District, maximum building coverage shall not exceed forty percent (40%) for new construction or expansion.

3. **Building Setbacks.**

a. **General Business District:** In a General Business District, building setbacks shall be determined in accordance with Section 4.1.4.2.b of this by-law.

b. **Mixed Use District:** In a Mixed Use District, new construction or building expansion shall be set back twenty feet from all property lines.

4. **Minimum Lot Frontage.** In a Mixed Use District only, the lot shall have a minimum frontage of fifty feet on an existing public way.

5. **Setbacks From Residential Dwellings.**

a. **General Business District:** No building in a General Business District shall be erected within fifteen feet of a residential building.

b. **Mixed Use District:** In a Mixed Use District, no structure shall be constructed nearer than fifty feet from the outside wall of an existing residential dwelling.

7.2.4. **Affordability.** No application for a PD-MD or PD-Mu which contains residential use shall be approved unless at least fifteen percent (15%) of the total dwelling units proposed are devoted to affordable housing, or such percentage as may be required by state or federal subsidy programs; provided, however, that such applications requesting three or fewer dwelling units are exempt from this requirement. "Affordable housing" shall be defined as any housing subsidized by the federal or state government under any program to assist the construction of affordable housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization. The calculation of affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.

7.2.5. Design Standards.

1. **Access.** Parking lot driveways shall not provide access onto North Main Street or Main Street unless granted a special permit by the Planning Board in accordance with Section 5.1.10.

2. **Parking Requirements.**

a. There shall be two parking spaces per dwelling unit. Visitor parking shall be determined by the Planning Board with reference to the number of dwelling units proposed.

b. For mixed use developments, the parking required for each use shall be calculated and added to the total.

c. Upon the issuance of a special permit by the Planning Board, the required number of parking spaces on a common lot may be reduced if it can be shown that the parking needs for the uses are such that a lower total will serve all uses adequately. The Planning Board shall use the criteria under Section 5.1.12.S of this by-law in its review of the proposed parking alternatives).

d. Parking lots and driveways shall be designed as per Section 5.1 of this by-law. The Planning Board, in its discretion, may allow alternative dimensional designs for parking spaces and parking aisles if the Board finds that the design satisfies the objectives of Section 5.1.1 of this by-law.

e. Parking areas, driveways and pedestrian walkways shall be designed to ensure safe separation of vehicles and pedestrians and sufficient on-site traffic circulation and control in relation to surrounding streets and pedestrian ways. Pedestrian walkways shall be designed to link parking areas to buildings and, where applicable, to provide access along waterways and to abutting open space.

3. **Landscaping, Screening and Lighting.** where a parking lot exceeds fifty parking spaces, at least five percent (5%) of the parking lot interior shall be landscaped. "Landscaping" is defined as planted trees, shrubs and ground covers in a prepared planting area. Landscaping shall be used to: (a) buffer adjacent properties; (b) provide separation between buildings and parking areas; and (c) provide shading within parking areas.

a. Parking areas shall be screened by landscaping, fencing or berming to minimize headlight glare. Lighting shall be designed and screened to prevent light overspill onto abutting properties and ways.

4. **Disposal Areas.** Adequate provision shall be made for snow disposal areas and dumpsters where appropriate. Dumpsters shall be screened by fencing

or landscaping.

5. Access and Utilities.

- a. The lot shall have frontage on an existing public way with sufficient capacity to safely accommodate the projected traffic volume;
- b. There shall be town water and sewer available with sufficient capacity to serve the project.
- c. Emergency vehicles shall have sufficient access to each structure.

7.2.6. Open Area. In a Mixed Use District, at least twenty percent (20%) of the lot shall be maintained as open area. Open area shall include landscaped yard setbacks, natural areas, recreation areas, pedestrian walkways, conservation areas, landscaping around buildings and interior landscaping for parking lots.

7.2.7. Procedure. Twelve copies of an application for a special permit for PD-MD or PD-MU shall be filed with the Planning Board. An interdepartmental review shall be conducted by staff of Planning, Conservation, Health, Public Works, Building, Police and Fire. Comments from the staff meeting shall be submitted in writing to the Planning Board. The application shall include the following information:

1. Analysis of the existing conditions on the site, including but not limited to wetlands, existing topography, soil conditions, areas within the one hundred year flood, trees over eight inches in diameter and any other significant natural features;
2. Site plan, which shall be prepared and stamped by a registered professional engineer, shall contain at least the following information: location, bulk and height of all existing and proposed buildings and accessory buildings and uses; existing and proposed topography; driveways and parking provisions; proposed landscaping plan, including continued use of existing vegetation, new plantings, screening, fencing, etc.; proposed lighting, signs, service areas, refuse and waste disposal areas;
3. Calculation of building footprint and impervious surface area for internal driveways and parking lot areas;
4. Calculation of parking requirements and analysis of proposed parking alternative(s) if a reduction in the number of parking spaces is being requested;
5. Description of extent to which the plan's design takes advantage of natural terrain;
6. Description and calculation of the open area(s) and its utility to the proposed development (size, shape, location and accessibility);
7. Projected size of each dwelling unit (square feet and number of bedrooms); description of the number and location of the affordable and market rate units;
8. Information on the subsidizing programs to be used and comments in writing from the subsidizing agency;
9. Plan for maintenance of open space, waste disposal drainage systems, roadways and snow removal;
10. Elevation of building exterior, description of building materials and type of construction and interior layout;
11. Description of the neighborhood in which the site is located, including utilities and other public facilities, and projected impacts of the proposed development on these;
12. Traffic analysis, which shall be conducted under the supervision of town staff. If consultant services are deemed by the town to be necessary, all costs shall be borne by the applicant;
13. A master sign plan showing the location, size and design of all signs proposed for the project site;
14. Those requirements not applicable to the proposed project shall be noted in the application.

7.2.8. Special Permit. The Planning Board may grant a special permit if it finds all of the following:

1. That the design standards and review criteria in this section have been met;
2. The provisions for parking and vehicular circulation on the site and access onto adjacent roadways will promote safe traffic control and flow,;
3. The provision for landscaping and screening will provide an adequate buffer for adjoining properties and will minimize the impact of the proposed uses and parking areas, and the effect of the bulk and height of buildings and structures;
4. Any provision for pedestrian ways will provide safe and convenient access on-site with linkage to adjacent pedestrian areas;
5. The project will provide for adequate drainage, water and sewer facilities with sufficient capacity to serve the planned development;

6. The intersections and roadways likely to be affected by the proposal are of sufficient capacity and design to accommodate the planned development.

7.2.9. Conditions. In granting a special permit, the Planning Board may impose reasonable conditions and safeguards which may include, but shall not be limited to, the following:

1. Requirements for reasonable off-site improvements to offset the impacts on the capacity and safety of adjacent roadways and intersections, and the capacity of the water, sewer and drainage systems affected by the proposed development;
2. Conditions to minimize impacts on environmental quality;
3. Requirements on the site design of the planned development to ensure compatibility with existing structures and neighboring properties;
4. Controls on the location and type of vehicular and pedestrian access.

Arlington

Are apartments above commercial (mixed use) allowed in any district?

Yes

ART. 68, ATM 3/77 ||
8.19 Up to three dwelling units in a building containing a business or service ||
use in accordance with the residential ||
standards for that district ART. 68, ATM 3/77; ART. 5, ATM 4/00

R4 R5 R6 R7 | B1 B2 B2A B3 B4 B5 | PUD
SP SP Yes Yes | SP Yes SP Yes SP Yes | SP

Zoning Bylaw Town of Arlington, Section 3.02 (on Arlington website as of August, 2004)

PUD - Planned Unit Development District

The Planned Unit Development District is composed of that area so designated on the official zoning map. Large scale, multi-use development is permitted upon approval of a development plan and the assembly of a large amount of land.

From ordinance.com (including 2004 updates):

R4 - Town House Districts

The Town House District is composed of all those areas so designated on the official zoning map. It is located along arterials or in the Center area. The predominant uses are one- and two-family dwellings in large, older houses. Conversions of these old homes to apartments or offices is allowed to encourage their preservation. Town house construction is permitted at the same density as the apartment conversions, and at a scale in keeping with the older houses. Uses which would detract from the desired residential character, or otherwise interfere with the intent of this bylaw, are discouraged.

R5 - Apartment District - Low Density

The Low-Density Apartment District is composed of all those areas so designated on the official zoning map. The predominant use is two- to three-story garden apartments located along or near principal arterials. Small-scale offices would be allowed on principal arterials only. Uses which would detract from the desired residential character, consume large amounts of land, or otherwise interfere with the intent of this bylaw, are discouraged.

R6 - Apartment District - Medium Density

The Medium Density Apartment District is composed of all those areas so designated on the official zoning map. The predominant use is apartments up to four stories high with offices permitted at a smaller scale. Locations are principally Massachusetts Avenue and Pleasant Street. Uses which would detract from the desired residential and office character, or otherwise interfere with the intent of this bylaw, are discouraged. (ART. 91, ATM 3/79)

R7 - Apartment District - High Density

The High Density Apartment District is composed of those areas so designated on the official zoning map. The predominant use is apartments up to 5 stories high, although offices are also permitted at the same scale. Locations are principally within or adjacent to Arlington center. Uses which would

detract from the desired character, such as large-scale retail uses, or otherwise interfere with the intent of this bylaw, are discouraged. (ART. 93, ATM 3/78)

B1 - Neighborhood Office District

The Neighborhood Office District is composed of all those areas so designated on the official zoning map. Predominant uses include one- and two-family residences, houses with offices on the ground floor, or office structures which are in keeping with the scale of adjacent houses. With most locations on or adjacent to Massachusetts Avenue, the district is intended to encourage preservation of small-scale structures to provide contrast and set off the higher density, more active areas along the Avenue. Uses which would detract from the desired low level of activity, consume large amounts of land, or otherwise interfere with the intent of this bylaw, are discouraged.

B2 - Neighborhood Business District

The Neighborhood Business District is composed of all those areas so designated on the official zoning map. Predominant uses include small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic. Locations are almost all along Massachusetts Avenue or Broadway. Uses which would detract from this small-scale business character, or otherwise interfere with the intent of this bylaw are discouraged.

B2A - Major Business District

The major Business District is composed of all those areas so designated on the official zoning map. Located along Massachusetts Avenue, Mill Street, Summer Street and Broadway, these areas generally contain uses that are retail and service to serve the needs of a large neighborhood area. Customers generally arrive by car so there is ample parking to serve the retailer. Housing is also permitted at a medium density due to the proximity of the zone to residential uses. Automotive uses; some office uses, wholesale business and storage uses are prohibited.

B3 - Village Business District

The Village Business District is composed of all those areas so designated on the official zoning map. Predominant uses include retail, service and office establishments catering to both convenience and comparison-goods shoppers and oriented to pedestrian traffic. Multi-use development is encouraged, such as retail with office or business and residential. The three locations include portions of the principal business areas of Arlington: Lake Street, Arlington Center, and Arlington Heights. Businesses which consume large amounts of land and activities which interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this bylaw are discouraged.

B4 - Vehicular Oriented Business District

The Vehicular Oriented Business District is composed of all those areas so designated on the official zoning map. Uses include establishments primarily oriented to automotive traffic which require large amounts of land in proportion to building coverage; or establishments devoted to the sale or servicing of motor vehicles, the sale of vehicular parts and accessories, and service stations. Arlington has an overabundance of automotive and automotive accessory sales and service establishments; thus when one of these businesses closes, the conversion of the property to other retail, service, office or residential use is encouraged. (ART. 83, ATM 4/80)

B5 - Central Business District

The Central Business District is composed of all those areas so designated on the official zoning map in Arlington Center. It includes retail, service, and office uses, and provides for large-scale development. The scale is intended to reinforce the Center's role as the focus of activity in Arlington. Multi-use development is encouraged, such as the combining of residential and business uses. Activities shall be oriented to pedestrian traffic and to centralized parking. Businesses which consume large amounts of land and interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this bylaw are discouraged. (ART. 6, ATM 4/88)

MU-Multi-Use

The Multi-Use District is composed of all those areas so designated on the official zoning map. Districts must contain at least one acre, and must include a significant medical use component. The district allows larger scale development only when controlled by the Arlington Redevelopment Board through urban renewal plans and Environmental Design Review.

**Webmasters Note: The previous district has been amended as per an update approved at a town meeting held on 9/20/04.

A lot or structure located in the R6, R7, B1, B2, B2A, B3, B4, B5, PUD, I, H, and T districts may contain more than one principal use as listed in Section 5.04 "Table of Use Regulation." For the purposes of interpretation of this Bylaw, the use containing the largest floor area shall be deemed the principal use and all other uses shall be classified as accessory uses. In the case of existing commercial uses, the addition or expansion of residential use within the existing building footprint shall not require adherence to setback regulations for residential uses even if the residential use becomes the principal use of the property. (ART. 10, ATM 4/98, ART. 11 4/98)

Ashland

Are apartments above commercial (mixed use) allowed in any district?

Yes

Section 282-45 Wildwood Mixed Use Special District

A. Purpose. The Wildwood Mixed Use Special District in Ashland is established to:

- (1) allow for a high aesthetic design standard for development that encourages interaction among activities located within this district, to enhance business vitality, and encourage residential uses in conjunction with commercial activities in a park like setting in order to create an active street life, and reduce vehicular traffic;
- (2) encourage a blend of land uses that are compatible and create a livable community that includes multi-unit housing, senior housing, continuing care facilities, retail, offices, light industrial, commercial, and municipal uses;
- (3) promote opportunities for a mixture of uses within buildings in this district;
- (4) encourage a more pedestrian-friendly environment;
- (5) promote the development of flexible space for small and emerging businesses within the buildings in this district;
- (6) preserve the district's unique natural setting with its wetland, scenic, and historic assets by encouraging the development of open spaces and civic areas to accommodate workers, residents, student populace, pedestrians, shoppers, and others;
- (7) advocate the originality, flexibility, and innovation in site design and development within the district;
- (8) facilitate the integration of physical design and promote a high level of aesthetic design quality for architecture and landscaping within this district; and,
- (9) ensure that the appearance and effects of buildings and uses are harmonious with the character of the area in which they are located.

B. This district is to be applied to the area referenced on the Zoning Map as Mixed Use Special District

In the Wildwood Mixed Use Special District, the following uses are allowed (among others):

Age restricted, attached (as defined in 282-49C)... by right in A and B, not allowed in C.

Age restricted, mixed use building - defined as including one, a portion of a building containing more than one dwelling unit used for occupancy by individuals living independently of each other containing at least one dwelling unit owned or occupied by at least one person who is fifty-five years of age or older; and no more than one additional occupant who may be under fifty five years of age, unless otherwise qualifying as a handicapped adult; two, as portion of the building for occupancy of commercial uses... by right in A and B, not in C.

Age restricted, multifamily (as defined in 282-49C)... by right in A, not in B or C.

Dwelling, multifamily... by right in A, not in B or C.

Dwelling, multifamily in a mixed use building - defined as including one, a portion of a building containing more than one dwelling unit; two, a portion of the building for occupancy of commercial uses.... by right in A and B, not C.

Public housing for the elderly... by right in A

Affordable housing (defined as housing meeting affordability standards of the Commonwealth of Massachusetts Department of Housing and Community Development)... by right in A.

Attleboro

Are apartments above commercial (mixed use) allowed in any district?

Yes

7. Mixed Residential/Business uses where all dwelling units are above the first floor level and the business use is permitted by-right or is allowed by special permit: permitted in CB, by special permit in GR

Auburn *Are apartments above commercial (mixed use) allowed in any district?*

Yes 4.4.4 Permitted Uses – In a Mixed Use Development, the following uses are permitted:
4.4.4.1 Residential – Apartments, only on floors above the ground floor. However, in areas where the multi-use project abuts a residential zone, apartments are allowed on all floors on the side of the parcel facing the residential zone.

Avon *Are apartments above commercial (mixed use) allowed in any district?*

No

Ayer *Are apartments above commercial (mixed use) allowed in any district?*

Yes According to the table of uses:
"Apartments over commercial space" by right in A1, A-2, GR, DB, GB, LI, HI. [This does not make a lot of sense since the following is in another part of the table...]
"Apartments over office/commercial space" by right in DB, GB.

Bedford *Are apartments above commercial (mixed use) allowed in any district?*

Yes Researcher located provisions for multifamily in the Mixed Business and Residential zone, on ordinance.com:
4.5.16 Mixed Business and Residential
The use of an existing or a new structure for mixed business and residential uses provided the following conditions are met:
(a) All dwelling units shall be above the first floor level (the street level which faces the street with the highest traffic use);
(b) Business uses mixed with residential uses on the same floor shall be limited to office uses only;
(c) Business uses shall be limited to only those business uses allowed by right in the district in which the building is located;
(d) Mixed business and residential uses shall be regulated by the parking requirements of section 7.4.1.12;
(e) Balconies and decks, other than those required for access or by the State Building Code, shall not be placed on the front of the building;
(f) Extra floors added to the building shall be in harmony with the design and character of the existing structure and the area. The maximum height shall not exceed the height limitations for the district;
(g) The design and size of each unit shall conform to all applicable building, health, and other codes, and the gross floor area shall not exceed 750 square feet;
(h) Mixed uses shall comply with the site plan review requirements of Section 7.5.

Table 1 Use Regulations -

Mixed Business and Residential is allowed in LB and GB business districts by right, with site plan review.

Researcher found provisions for multifamily housing by special permit in the Industrial Mixed Use zone.

Town of Bedford Zoning Bylaw, Section 15 (from ordinance.com, updated 2002)

15. INDUSTRIAL MIXED USE

15.1 Purpose

Industrial Mixed Use allows by Special Permit from the Planning Board an alternative pattern of land development to the pattern normally permitted in the underlying District. It is intended to create mixed commercial, residential, and open space areas 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 curbs, minimizing the amount of paved parking surface area, and reducing traffic congestion.

15.2 Authority.

The Planning Board shall be the Special Permit Granting Authority for Industrial Mixed Use developments. 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 development. This authority continues subsequent to occupancy.

15.3 Permitted Uses

The following types of uses (and non other) shall be permitted in Mixed Use developments. These uses may be commingled into a single structure or structures or may be located in separate structures on the site.

15.3.1 Business and Professional Office

15.3.2 Research Facility

15.3.3 Multifamily Dwellings

No less than 25 percent of the total number of units shall be affordable to households at or below 80 percent of the median household income for the Boston Metropolitan Area as determined by the most recent calculation of the United States Department of Housing and Urban Development. The affordable units must be subject to Use Restrictions to ensure that the units remain available in perpetuity, exclusively to persons with qualifying incomes. The units must be sold or rented on a fair and open basis and the owners of the units must adopt an affirmative fair marketing plan. The minimum area for any of the residential units within the Mixed Use Overlay District shall be no less than 550 square feet and the maximum area shall not exceed 1000 square feet. The average size shall be 750 square feet (plus or minus 25 square feet). Residential Units shall be developed under the Local Initiative Program of the Massachusetts Department of Housing and Community Development or another subsidy program that allows the housing to count towards the affordable housing requirements of Chapter 40B of the Massachusetts General Law.

15.3.4 Retail Store not exceeding 2000 square feet of sales floor area

15.3.5 Personal Service Shop

15.3.6 Restaurant

15.3.7 Child Care Facility

15.3.8 Bank

15.3.9 Private Recreation

15.3.10 Municipal Use

15.3.11 Underground and Above Ground Utilities

15.3.12 Parking Facility

Paragraph 7.3.2.2 of this bylaw applies with respect to the Planning Board's consideration of the grant of a Special Permit for the Mixed Use Overlay development.

15.4 Density.

15.4.1 The following uses shall be permitted a maximum combined floor area ratio (FAR) of 25 percent. A minimum of 5% FAR shall be provided for these uses. Any of the allowable floor area not provided for these uses may be added to the Multifamily Dwellings FAR.

15.4.1.1 Business and Professional Office

15.4.1.2 Research Facility

15.4.2 Multifamily Dwellings shall have a maximum FAR of 15 percent exclusive of the allocation of additional area allowed under 15.4.1.

15.4.3 The following uses shall have a maximum combined FAR of 10 percent.

15.4.3.1 Retail Store not exceeding 2000 square feet of sales floor area

15.4.3.2 Personal Service Shop

15.4.3.3 Restaurant

15.4.3.4 Child Care Facility

15.4.3.5 Bank

15.4.3.6 Private Recreation

15.4.3.7 Municipal Use

15.5 Dimensional Requirements

The dimensional requirements below shall apply.

15.5.1 Minimum contiguous area of the Industrial Mixed Use development shall be 4 acres (Paragraph 6.2.2 applies.). The site of any new principal structure shall be completely within an ellipse which ellipse shall :

1. Be completely within the lot;
2. Have an area of at least 3 acres.
3. Have a minor diameter of at least 200 feet.
4. The ratio of the minor diameter to the major diameter shall be no greater than 5.

15.5.2 Minimum lot frontage shall be 200 feet.

15.5.3 Minimum lot width shall be 200 feet.

15.5.4 The maximum front yard shall be 20 feet and there is no minimum front yard.

15.5.5 Minimum rear yard shall be 15 feet and there is no minimum side yard. There shall also be at least 15 feet separation between any two structures in the development and the areas behind and between all structures shall be clear and accessible to the Town's fire suppression vehicles.

15.5.6 Maximum height shall be 42 feet.

15.5.7 Maximum lot coverage shall be 35 percent.

15.5.8 Minimum landscaping shall be 25 percent, and shall meet the requirements of Section 6.2.12 of these bylaws.

15.5.9 Maximum floor area ratio shall be 50 percent.

15.6 Parking and Curb Cut Requirements

Parking and circulation requirements shall be in accordance with Section 7.4 of this Bylaw except as described below.

15.6.1 In all Mixed Use developments 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 complementary 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

15.6.2 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. Parking spaces must be assigned to specific uses (including shared uses) at the time of the submission of the Final Plan.

15.6.3 Parking shall be primarily located at the rear or at the side of buildings.

15.6.4 There shall be only one curb cut providing access to the development from any public way. A development having frontage on two of more streets may be permitted additional curb cuts if deemed necessary by the Planning Board. Whenever possible there shall be shared curb cuts with adjacent

developments.

15.6.5 There shall be 1.5 parking spaces for each dwelling unit.

15.6.6 Section 7.4.3 concerning the granting of relief from parking regulations by the Zoning Board of Appeals shall not apply. See paragraph 15, 2.

15.7 Application

Any person who desires a Special Permit for a Mixed Use development shall submit 14 copies of the application in such form as the Planning Board may require which shall include the following:

15.7.1 Development Statement

A Development Statement shall consist of a petition, a list of the parties in interest with respect to the tract, a list of the development team and a written statement describing the major aspects of the proposed development.

15.7.2 Development Plans

Development plans bearing the seal of a Massachusetts Registered Architect, Registered Civil Engineer or similar professional as appropriate and consisting of

- (a) Site plans and specifications showing all site improvements and meeting the requirements set forth for a Site Plan under Section 7.5.
- (b) Site perspective, sections, elevations 1/8 inch= 1 foot.
- (c) Detailed plans for disposal of sanitary sewage and surface drainage; and
- (d) Detailed plans for landscaping.

15.7.3 Additional information as the Board may determine.

15.8 Planning Board Findings

A special permit shall be issued under this Section if the Planning Board finds that the development 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 Bylaw otherwise applicable to the Industrial District in which the development is located.

15.9 Amendments

After approval, the 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 amended special permit application.

**Webmasters Note: The previous section, 4.5.17 Industrial Mixed Use, has been added as per Case No. 1977 from town meeting date 3/25/02.

Bellingham *Are apartments above commercial (mixed use) allowed in any district?*

No

Belmont *Are apartments above commercial (mixed use) allowed in any district?*

No

Researcher did not find references to mixed use in the Belmont zoning bylaw. In the survey received from Belmont on 3/23/05, the answer to this question is marked "by special permit."

Berkley Are apartments above commercial (mixed use) allowed in any district?

No

Berlin Are apartments above commercial (mixed use) allowed in any district?

No

Beverly Are apartments above commercial (mixed use) allowed in any district?

Yes According to the Table of Principal Uses, the following uses are allowed:
Multifamily/commercial... by right in CN, CC, CG.

Billerica Are apartments above commercial (mixed use) allowed in any district?

No

Blackstone Are apartments above commercial (mixed use) allowed in any district?

No Survey received from Blackstone on 5/17/05. Survey completed by Philip Herr.
"Yes Sec 123-12.F"

Blackstone Zoning Bylaw:
F. Multiple principal uses on the same lot each must meet the dimensional requirements of Section 123-13 without counting any area, frontage, or yard twice. Not more than one (1) principal building shall be erected on a lot unless each such building is served by access and services determined by the Building Inspector to be functionally equivalent to those required for separate lots by the Planning Board in its Subdivision Regulations.(7) [Added by 12-28-72 STM, Art. 4]

Multifamily housing is allowed by special permit in the C district where many commercial uses are allowed by right.

Bolton Are apartments above commercial (mixed use) allowed in any district?

No 2.3.3 Mixed Uses
No business, commercial, or industrial building or outdoor storage (except for agriculture, horticulture, or floriculture) shall be established on a lot on which a dwelling exists.

Boxborough**Are apartments above commercial (mixed use) allowed in any district?****No**

Boxborough Zoning Bylaw (Adopted 1965, Amended 2004)

Mixed-use shall mean any combination of two or more of the following principal uses:
retail, office, dwelling.

2260. Single-family Dwellings in the Town Center District.

2261. Purpose. In order to promote mixed uses in Town Center District and to discourage the conversion of a majority of undeveloped Town Center land to residential uses, single-family dwellings shall only be permitted by special permit in conjunction with commercial development in a Mixed Use Development.

2262. Applicability. The Planning Board shall be the special permit granting authority for single-family dwellings in the Town Center. Single-family dwellings in existence prior to the effective date of this By-Law shall not be subject to this By-Law nor shall any extension or alteration to any existing single-family dwelling or a single-family dwelling previously approved under this By-Law, provided that such extension or alteration complies with the applicable dimensional requirements of the Zoning By-Law. Building permits for new single-family dwellings may be withheld unless such singlefamily dwelling complies with the provisions of the By-Law and any special permit rendered hereunder.

New single-family dwellings may only be permitted as part of a Mixed Use Development. Mixed Use Developments may include any use permitted as of right in the Town Center District, or any use for which a special permit has been granted by the Board of Appeals, as well as single-family dwellings.

2263. Criteria. Prior to the issuance of a special permit for single-family dwellings in a Mixed Use Development, the Planning Board shall find the following:

- The proposal is consistent with the Master Plan;
- The proposal meets all the applicable dimensional requirements of the Zoning By-law;
- The proposed commercial uses are compatible with single-family residential uses;
- No more than 30 percent of the Gross Floor Area of the Mixed Use development may be used for single-family purposes;
- The commercial development will be constructed at the same or greater pace than the residential development on a square footage basis;
- Each single-family dwelling is located on its own lot;

Boxborough Zoning Bylaw May 2004 ATM Update 11

- Buildings meet the architectural standards in Section 5469 for the Town Center District.

2333. For dwelling unit incidental to commercial use in TC district, density of the dwelling units shall not exceed 2 units/acre, and the proposed commercial use shall not adversely affect the residential units.

Boxford**Are apartments above commercial (mixed use) allowed in any district?****No**

Boylston Are apartments above commercial (mixed use) allowed in any district?

No

Braintree Are apartments above commercial (mixed use) allowed in any district?

No

Bridgewater Are apartments above commercial (mixed use) allowed in any district?

No

Brockton Are apartments above commercial (mixed use) allowed in any district?

No

Brookline Are apartments above commercial (mixed use) allowed in any district?

Yes "Within a multiple dwelling, hotel or hospital containing more than 50 sleeping rooms or an office building in an O District: newsstand, barber shop, dining room, and similar service primarily for occupants thereof, provided such use is conducted within and entered only from within the principal building. * Not permitted in M-0.5 Districts." - by right in the business and industrial districts and by special permit in M.

Burlington Are apartments above commercial (mixed use) allowed in any district?

No

Cambridge Are apartments above commercial (mixed use) allowed in any district?

Yes ARTICLE 14.000 MIXED USE DEVELOPMENT DISTRICT: CAMBRIDGE CENTER
14.10 SCOPE AND INTENT

14.11 Scope. This Article regulates development within the Cambridge Center Mixed Use Development (MXD) District, located within the Kendall Square Urban Renewal Project Area, as shown on the Zoning Map, as amended.

14.12 Intent. The purpose of the District is to allow a diversity of land uses in close proximity, within a limited area; to promote a balance of land uses; to facilitate development proposals responsive to current and future market conditions; to facilitate integrated physical design; and to encourage interaction

among activities located within the District.

14.13 Approach. This Article is designed to fulfill the above purposes of the Cambridge Center MXD District by establishing controls which will facilitate development while protecting the public interest; by setting regulations which limit the aggregate amount of development within the District or set other district wide requirements while permitting flexible development scale and configuration on individual lots within the District; by allowing a broad set of land uses within the District; and by encouraging development of appropriate density for each class of land use.

14.20 USE REGULATIONS

14.21 Permitted Uses. The following uses, except as explicitly prohibited are permitted in the Cambridge Center MXD District. All uses not listed within one of the use groups in this section shall be prohibited. All uses within the District shall comply with the environmental protection standards of Section 14.23.

14.21.1 Light Industry

(1) Manufacturing: fabrication, assembly, finishing work (including packaging and bottling, but only as an accessory use) without limit as to category or product.

(2) Wholesale business, only if affiliated with and accessory to another use or located on the same lot as other nonwholesale uses. Development on any lot in the district shall not be devoted exclusively to wholesale uses.

(3) Printing, binding, or related establishment.

(4) Storage warehouse, cold storage building, as an accessory use only and not exceeding twenty thousand (20,000) square feet, but not including storage or bailing of junk scrap metal, rags, paper or other waste materials and not including outside storage of products or materials.

14.21.2 Office Uses and Biotechnology Manufacturing Uses

(1) Business or professional offices.

(2) Bank, trust company, or other financial institution

(3) Research and development office.

(4) Research, experimental and testing laboratory.

(5) Radio or television studio.

(6) Manufacturing of biotechnology and pharmaceutical products, including

(a) Fabrication, assembly, finishing work (including packaging and bottling, but only as an accessory use).

(b) Wholesale business, only if affiliated with and accessory to another use or located on the same lot as other nonwholesale uses.

(c) Storage warehouse, cold storage building, as an accessory use only.

14.21.3 Retail and Consumer Service Establishments

(1) Store for retail sale of merchandise, but not a sales place for automobiles or trucks.

(2) Eating and/or drinking establishment, whether or not liquor is sold or consumed, including restaurant, bar, lunchroom, cafeteria and food commissary.

(3) Fast order food establishment only if it is not located in a separate structure, it does not exceed three thousand (3,000) square feet gross feet area, and there will be no more than three (3) such establishments within the District; and it is granted a Special Permit, as provided in Section 10.40 and 11.30.

(4) Consumer service establishment, including but not limited to hairdresser, barber shop, laundry or dry cleaning pick up establishment, self-service laundry, shoe repair or tailoring shop, or photography studio.

(5) Rental agency for autos or other products, but not including taxi companies. Such agencies shall be operated entirely within a building and no major automobile repairs shall be made on the premises.

(6) Automobile service station, provided that it is located within or attached to a parking garage or other structure as an accessory use, that no major repairs are made on the premises, and that all lubrication and repairs are carried out within the building.

14.21.4 Residential Uses

(1) Multifamily dwelling

(2) Hotel or Motel

14.21.5 Entertainment and Recreational Uses

(1) Indoor commercial entertainment establishments including but not limited to cinema, theater, concert hall, cabaret and night club.

(2) Recreation facilities including bowling alley, indoor or outdoor tennis courts, public recreation building, health club, or skating rink. Such recreation facilities shall be allowed only if they are located in or attached to structures containing other principal uses.

(3) Hall, auditoriums and similar spaces used for public gatherings.

(4) Park or playground

14.21.6 Institutional Uses

(1) Religious purposes

(2) Educational purposes exempt by statute

(3) Library or museum as an accessory use only.

(4) Governmental offices and facilities, including post office, fire station and police station.

(5) Clinic licensed under Section 51, Ch. 111, General Laws but not a hospital licensed under said Chapter.

14.21.7 Transportation, Communication and Utility Uses

(1) Bus, subway or railroad passenger station.

(2) Automobile parking lot or parking garage.

(3) Distribution center, parcel delivery center or delivery warehouse as accessory uses only.

(4) Telephone exchange, as an accessory use.

(5) Radio or television transmission station.

(6) Transformer station, substation, gas regulator station, or pumping station and related utility uses designed primarily to serve development within the District.

14.22 Multiple Uses in the Same Structure. Within the District there shall be no restriction on combining different categories of use within the same building other than those imposed by the State Building Code or other federal, state or local regulations other than the Zoning Ordinance.

14.23 Environmental Protection Standards. No activity shall be permitted in the District unless it shall be in conformity with the following standards for environmental protection.

14.23.1 All dust, fumes, odors, smoke or vapor shall be effectively confined to the premises or so disposed of as to avoid air pollution.

14.23.2 Any noise, vibration or flashing shall not be normally perceptible without instruments at a distance of one hundred (100) feet from the premises.

14.23.3 All development proposals shall comply with Federal and State air pollution and water pollution control regulations, the City of Cambridge Ordinances, and other applicable environmental laws.

14.23.4 Except during construction activity on the lot all refuse and other waste materials shall be stored within buildings prior to collection and disposal.

14.30 INTENSITY OF DEVELOPMENT REQUIREMENTS

14.31 Applicability. The amount and density of development within the Cambridge Center MXD District shall be governed by the provisions of this Section 14.30.

14.32 District Development Limitations. There shall be limitations on the overall amount of development within the District as specified below.

14.32.1 The aggregate gross floor area (GFA) of development in the District shall not exceed two million, seven hundred and seventy three thousand

(2,773,000) square feet plus two hundred thousand (200,000) square feet that shall be limited to residential uses as permitted in Section 14.21.4(1). The two hundred thousand (200,000) square feet of GFA restricted to housing uses, however, may only be used in that portion of the MD district located between Main Street and Broadway. Aggregate GFA of development in the District is at any time the sum of the GFA (as defined in Article 2.000 of this Ordinance) of all buildings

(i) which are then located in the District,

(ii) which are being constructed or may be constructed in the District pursuant to then effective building permits, and

(iii) which, pursuant to then outstanding contracts (including options) with Cambridge Redevelopment Authority and so stated in certificates from the Authority to the Superintendent of Buildings, may be constructed in the District in the future. Notwithstanding the definition in Article 2.000 for Gross Floor Area and the provisions of Section 5.25, parking garages and accessory parking facilities shall be exempt from the requirements as to Floor Area Ratio and shall not be included in the calculation for Gross Floor Area on a lot.

14.32.2 In addition to the aggregate GFA limitation establishment in Section 14.32.1, the cumulative GFA for each of the use groups shall not exceed the respective amounts stated below, except as provided in Subsection 14.32.2(5). Cumulative GFA for a use group is at any time the sum of GFA (as defined in Article 2.000 of this Ordinance) of all portions, occupied or to be occupied by uses within such use group, of all building

(i) which are then located in the District,

(ii) which are being constructed or may be constructed in the District pursuant to then effective building permits, and

(iii) which pursuant to then outstanding contracts (including options) with Cambridge Redevelopment Authority and so stated in certificates from the Authority and so stated in certificates from the Authority to the Superintendent of Buildings, may be constructed in the District in the future.

(1) Industrial uses permitted by Section 14.21.1 of this Article: Cumulative GFA=770,000 square feet.

(2) Office Uses and Biotechnology Manufacturing Uses permitted by Section 14.21.2 of this Article: Cumulative GFA=1,305,000 square feet.

(3) Retail and consumer service uses permitted by Section 14.21.3 of this Article: Cumulative GFA=150,000 square feet.

(4) Residential uses permitted by Section 14.21.4 of this Article:

(a) Multifamily housing: Cumulative GFA=300,000 square feet

(b) Hotel/Motel: Cumulative GFA=440,000 square feet

(5) Entertainment, recreation, institutional, transportation, communication and utility uses permitted by Sections 14.21.5, 14.21.6 and 14.21.7 and additional development of industrial, office and biotechnology manufacturing uses, retail, consumer service and hotel/motel uses exceeding the cumulative GFA limitations of paragraphs (1), (2), (3), and (4b) above: Cumulative GFA=973,000 square feet.

14.32.3 Any construction or change of use within the District which would cause aggregate or cumulative GFA limitations of subsections 14.32.1 and 14.32.2 to be exceeded shall not be allowed.

(1) Compliance with this Section 14.32.3 shall be determined by the Superintendent of Buildings at all times including at the time of issuance of a building permit and at the time of issuance of a certificate of occupancy under Section 9.20 of this Ordinance.

(2) The Superintendent of Buildings shall maintain a record of the aggregate GFA within the District and a record of cumulative GFA for each use group specified in Section 14.32.2. These records shall be adjusted as appropriate, from time to time, including upon issuance, revocation or expiration of a building permit or certificate of occupancy and upon receipt of a certificate from Cambridge Redevelopment Authority as to an outstanding contract (including option) for the construction of a building.

(3) In determining cumulative GFA for a building containing uses in more than one use group, spaces to be utilized by users in more than one of the use groups, such as lobbies, interior courts, elevator shafts and basement storage areas shall be apportioned to each use group in proportion to the share of space that use groups will occupy within the building.

(4) Each applicant for a building permit or a certificate of occupancy shall submit to the Superintendent of Buildings information, including the following, as appropriate to the application, in order to determine compliance with this Section 14.32 and to demonstrate that the proposed construction and/or occupancy will not violate or be inconsistent with any outstanding contract or deed:

(a) measurement of total gross floor area of the building or building additions;

(b) in a building containing uses in more than one use group, the measurement of gross floor area(s) by use group, for spaces to be devoted exclusively to uses in such group and the measurement of gross floor area of spaces to be shared by users in more than one use group;

(c) measurement of gross floor areas of renovations or use changes within existing buildings;

(d) measurement of future development commitments or limitations on the lot specified in deed restrictions, covenants or comparable legal instruments.

14.32.4 Applicability of Section 19.20 for Residential Uses.

Notwithstanding the provisions of Section 19.22 (1), a structure, any portion of which contains residential uses as set forth in Section 14.21.4 (1) above, shall be subject to the provisions of Section 19.20 Project Review Special Permit.

14.33 Lot Density Limitation. In addition to the aggregate and cumulative GFA limitation established in Section 14.32, there shall also be a density limitation for each lot within the District. The following floor area ratios (as defined in Article 2.000) for each lot shall not be exceeded, except as provided in Section 14.33.6. The area of the lot to be counted in determining FAR shall include land dedicated by the owner or former owner of the lot as public open space under Section 14.42.

14.33.1 Industrial and Wholesale uses: FAR 4.0

14.33.2 Office Uses and Biotechnology Manufacturing Uses: FAR 8.0

14.33.3 Retail and Consumer Services uses: FAR 5.0

14.33.4 Residential uses:

(1) Multifamily housing: FAR 4.0

(2) Hotel/Motel: FAR 6.0

14.33.5 Other uses: FAR 4.0

14.33.6 If development on a lot is to include activities in more than one of the use groups above, the maximum FAR for the lot shall be the FAR for the use group containing the largest proportion of space on the lot.

14.34 Building Height Limitation. The maximum building height in the District shall be two hundred and fifty (250) feet. This requirement shall not apply to chimneys, water towers, air conditioning equipment, elevator bulkheads, skylights, ventilators and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy, nor to domes, towers or spires above buildings if such features are not used for human occupancy and occupy less than ten percent (10%) of the lot area, nor to wireless or broadcasting towers and other like unenclosed structures which occupy less than ten percent (10%) of the lot area.

14.40 OPEN SPACE REQUIREMENTS

14.41 Definition of OPEN SPACE . For purposes of this Section 14.40, open space shall mean a portion of a lot or other area of land associated with and adjacent to a building or group of buildings in relation to which it serves to provide light and air, or scenic, recreational or similar purposes. Such space shall, in general, be available for entry and use by the occupants of the building(s) with which it is associated, and at times to the general public, but may include a limited proportion of space so located and treated as to enhance the amenity of development by providing landscaping features, screening or buffering for the occupants or neighbors or a general appearance of openness. Open space shall include parks, plazas, lawns, landscaped areas, decorative plantings, pedestrian ways listed in Section 14.45, active and passive recreational areas, including playgrounds and swimming pools. Streets, parking lots, driveways, service roads, loading areas, and areas normally inaccessible to pedestrian circulation beneath pedestrian bridges, decks or shopping bridges shall not be counted in determining required open space.

14.42 District Public Open Space Requirement. A minimum of one hundred thousand (100,000) square feet within the District shall be reserved or designated as public open space. No development shall be allowed which would reduce public open space in the District below one hundred thousand (100,000) square feet. Public open space shall be open space reserved for public use and enjoyment as guaranteed through one or more of the following:

14.42.1 Retention by the Cambridge Redevelopment Authority;

14.42.2 Dedication to and acceptance by the City of Cambridge or other public entity;

14.42.3 Easements or deed restrictions over such land sufficient to ensure its perpetual reservation for public open space purposes.

14.42.4 Dedication, by covenant or comparable legal instrument, to the community use of the residents, lessees and visitors to the District for reasonable amounts of time on a regular basis:

14.42.5 Lease agreements of ninety-nine (99) years or longer from the private developer or owner to the City or other public entity.

14.43 Lot Minimum Open Space Requirement. The minimum amount of open space to be provided on each lot within the District shall be as shown on Table 1, subject to the reduction provided in Section 14.44. When development on a lot includes uses in more than one of the use categories in Table 1, the requirement for each use category shall be calculated and totaled to determine a total requirement for the lot. Some or all of this required open space may be designated and also serve as public open space, if reserved by one of the methods specified in Section 14.42.

Canton

Are apartments above commercial (mixed use) allowed in any district?

Yes

The Mixed Use Overlay District was added in 2004.

Canton Zoning Bylaw (Amended 2004)

(118) 5.10 Inserted ATM 2004 under Article 38

5.10 Mixed Use Overlay District 118 5.10.1 Purpose. The purpose of the Mixed-Use Overlay District (MOD) is to: a. Encourage mixed-use development, including professional offices, retail shops, and multi-family housing in areas other than the Central Business District. b. Encourage the mix of commercial and residential uses that help to contain traffic within business and industrial areas and by so doing limit impacts to residential portions of the community. c. Create regulatory procedures for determining appropriate locations for uses defined herein. d. Provide for development in a manner that strives to maintain the residential character of the MOD and nearby neighborhoods while striving to conserve environmental features, woodlands, wet areas, open spaces, areas of scenic housing beauty, views and vistas. 5.10.2 Applicability. The MOD shall be construed as an overlay district. This district may be applied as an overlay to any parcel of land which has been designated by a town meeting vote. All requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements of the MOD are less restrictive or provide for uses or structures not otherwise available in the underlying district(s). In such cases the requirements of the MOD may supercede the underlying zoning regulations upon the issuance of a special permit from the Zoning Board of Appeals. 5.10.3 Locations and Eligibility. No parcel shall be placed in the MOD unless it contains two (2) contiguous upland acres and abuts a Business District other than the Central Business District. 5.10.4 Definitions of Terms a. Applicant – The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of an MOD project, hereunder. The applicant must own or be the beneficial owner of all the land included in the proposed

-144-

MOD site or have authority from the owner(s) to act for the owner(s) or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site. b. Buffer – An area within the MOD adjacent to the boundaries, streams and ponds, which may not be developed except as provided herein. c. Development Schedule – A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the MOD site, separated into stages where applicable. d. Open Space – Any such area of land containing no building, structure, or impervious surface material. In the event natural materials (i.e. brick, stone, pavers, etc.) are used in the construction of walkways, courtyards, patios, etc. the area of these surfaces can be credited towards the open space requirement. e. Professional Office – The office of one skilled in an occupation that primarily services clients or patients rather than customers including but not limited to the office of a lawyer, doctor, dentist, architect, engineer, real estate agent, insurance agent or the studio of an artist, musician or teacher, or the workroom of a dressmaker, milliner, or photographer. f. Regulations – The applicable rules and regulations of the Zoning Board relative to special permits and site plans. The Zoning Board of Appeals, as the Special Permit Granting Authority, reserves the right to modify and/or waive any and all requirements described in this section. g. Upland Acres – Land without a wet area and not subject to flooding. h. Wet Areas – All land subject to the provisions of G.L. c. 131, s. 40 and 40A. 5.10.5 Mixed Uses. The use of property within a MOD may be authorized by a special permit issued by the Zoning Board of Appeals pursuant to this Section and in compliance with the standards set forth herein. a. The use shall be a “mixed use,” which is defined as a use which utilizes a minimum of sixty (60%) percent and a maximum of seventy-five (75%) percent of a building or buildings as residential use and a minimum of twenty-five (25%) percent and a maximum of forty (40%) percent as non-residential use. At least twelve (12%) percent of the residential use shall be for affordable housing as defined in M.G.L. c. 40B.

-145-

b. Non-Residential uses shall include but not necessarily be limited to the following: (1) Professional office as defined in Section 4, above. (2) A retail store consistent with a residential neighborhood. (3) A restaurant with the conditions that any bar or cocktail lounge be located within the restaurant; shall be solely for the purpose of servicing luncheon or dinner customers; and not to compromise more than twenty (20%) percent of the floor area of the restaurant. (4) Bank or similar financial institution. c. The following uses are specifically excluded: (1) Fast food establishments as defined in Section 1.15.19 of the by-laws. (2) Drive-through for the sale of food. Any other drive-through shall require a separate special permit from the Zoning Board in addition to the Special Permit for the Mixed Overlay District general use. d. There shall be no deliveries or pick-ups between midnight and 6:00 a.m. Monday through Friday. There shall be no deliveries or pick-ups between midnight and 7:00 a.m. on weekends. 5.10.6 Application. An application for a special permit for construction within a MOD shall be submitted to the Zoning Board of Appeals on forms furnished by the Zoning Board of Appeals, accompanied by (a) the fees set forth below, (b) the following information and data, and (c) a development plan as described below: a. All of the information required for site plan approval pursuant to Zoning By-laws Section 3.01; b. The name(s) and address(es) of the Applicant and all legal and beneficial owners of the site and an instrument executed by all persons owning property within the site consenting to the development of the subject property, as applied for. c. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion. d. A narrative report prepared by qualified professionals, detailing the impact of the development on the Town’s capacity to furnish services, including, but not limited to, roads, water and sanitation.

-146-

e. Information regarding the number and kind of units and other structures (including signs) proposed, their location, the number of units planned for each use (residence, office, retail), the type of material to be used in construction and other projections pertaining thereto. The architecture of the structures shall be sensitive to the abutting structures and residences. f. Areas to be set aside for building structures, parking areas, and any easements. g. A Traffic Study and all other information that the Zoning Board of Appeals may reasonably require in a form acceptable to said Board to assist in determining whether the Applicant’s proposed development plan meets the objectives of this Section. 5.10.7 Standards. In order to be eligible for consideration for a special permit, the MOD proposal shall meet all of the following standards: 5.10.7.1 MOD Coverage 7.1(a) Residential District: The Zoning Board of

Appeals may approve a MOD with no more than 30% lot coverage. 7.1(b) Industrial; Limited Industrial; Business Districts: The Zoning Board of Appeals may approve a MOD with no more than 40% lot coverage. 7.1(c) In all districts: There shall be no less than 20% "open space" as defined in Section 4d. 5.10.7.2 Dimensional Regulations. All dimensions shall comply with the lot dimensional regulations of this subsection. In addition, the applicant shall prepare a "Development and Use" plan in accordance with design standards submitted and approved by the Zoning Board of Appeals. 7.2.(1) Residential District Requirements: a. Lot Area: Minimum Two (2) Acres. b. Frontage: Each lot shall have a minimum of Two Hundred and Fifty (250) feet of frontage. c. Lot Width: Each lot shall have a lot width of not less than Two Hundred (200) feet. d. Setback and Side Yard: Each lot shall have a setback distance of not less than sixty (60) feet and a side yard width of not less than twenty (20) feet from the nearest point on any exterior wall of the building. However, a corner lot shall have frontage on only one street, as designated on the site plan, and those portions of the lot

-147-

paralleling the second street shall be considered sidelines. e. Rear Yard Setback: Each lot shall have a rear yard setback of not less than twenty-five (25) feet. 7.2(2) Business, Industrial, Limited Industrial Districts a. Lot Area: Minimum Two (2) Acres. b. Frontage: Each lot shall have a minimum of One Hundred Fifty (150) feet of frontage. c. Lot Width: Each lot shall have a lot width of no less than One Hundred Seventy Five (175) feet. d. Setback and Side Yard: Each lot shall have a setback distance of not less than sixty (60) feet and a side yard width of not less than fifteen (15) feet from the nearest point on any exterior wall of the building. However, a corner lot shall have frontage on only one street, as designated on the site plan, and those portions of the lot paralleling the second street shall be considered sidelines. e. Rear Yard Setback: Each lot shall have a rear yard setback of not less than twenty five (25) feet. 5.10.7.3 Height Regulations 7.3.1 No Building shall be constructed to exceed thirty-six (36) feet or three (3) stories, whichever is lower, for either commercial or residential use. Maximum building height shall be measured as set forth in the State Building Code 780 CMR. 7.3.2 Structures erected on a building and not used for human occupancy, such as chimneys, heating, ventilating or air conditioning equipment, solar or photovoltaic panels, elevator housings, antennas, skylights, cupolas, spires, or other such roof structures and the like may exceed the maximum height of the building provided that no part of the structure is more than fifteen (15) feet higher than the upper elevation of the building and the total horizontal coverage of such structure on the building does not exceed twenty-five (25%) percent. 5.10.7.4 Landscaping A buffer area of ten (10) feet shall be provided at the perimeter of the MOD site. No vegetation in this buffer area shall be disturbed, destroyed or removed, except for normal maintenance. Applicant shall file a landscape plan, prepared by a Landscape Architect, that demonstrates sufficient plantings to provide adequate screening.

-148-

The landscaping plan shall strive to be consistent with the requirements of Section 4.06.2(G) in terms of the percent of the total interior landscape area. The Zoning Board of Appeals may reduce the width of the required buffer and modify other landscaping requirements where the applicant demonstrates that suitable screening will be provided by other means. 5.10.7.5 Parking The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The applicant shall conform to existing parking requirements for residence, office and retail spaces. All parking shall be confined to the site except as allowed under Section 4.05. Parking for residents of the MOD residences must be reserved exclusively for their use. The applicant shall demonstrate sufficient off-street loading space to insure that all loading operations take place off the public way. Below grade structured automobile parking shall be permitted within the basement of buildings. There shall be one parking space provided for every four (4) seats in a restaurant including any seat or stool in the bar or lounge area. 5.10.7.6 Utilities All on-site services including electric, gas, telephone and water distribution lines shall be placed underground. 5.10.7.7 Lighting All lights and other sources of illumination (whether interior or exterior) and all intense light emanating from operations or equipment shall be shielded from direct view at normal eye level from streets and residential districts. 5.10.7.8 Signage All signs and awnings shall conform to the maximum area, height, number, setback and illumination requirements set forth in the Zoning By-laws Section 4.14. 5.10.7.9 Noise Regulation No activity or use shall be allowed which causes exterior noise levels to exceed a day-night average sound level of 65 decibels (65 Ldn) at the lot line; no dwelling unit shall be located where exterior

-149-

noise levels exceed a day-night average sound level of 65 decibels (65 Ldn); and no dwelling unit shall be constructed which allows interior noise levels to exceed a day-night average sound level of 45 decibels (45 Ldn). The day-night average sound level (Ldn) is the 24-hour average sound level, in decibels, resulting from the accumulation of noise from all sources contributing to the external noise environment of the site (with 10 decibels added to sound levels occurring from 10:00 AM to 7:00 PM). The day-night average sound level (Ldn) shall be determined in accordance with The Code of Federal Regulations, Title 24 – Housing and Urban Development, Part 51 – Environmental Criteria and Standards (24 CFR 51). 5.10.8 Fees. Any fees submitted for an MOD permit shall be reviewed by the Planning Board, pursuant to Section 3.03 of the Canton Zoning By-laws. 5.10.9 Accessibility. The facility shall comply with all state and federal requirements for handicap access. 5.10.10 Municipal Improvements. The Town of Canton Zoning Board of Appeals, as Special Permit Granting Authority, may require the applicant to make such improvements to the infrastructure as are reasonably required to develop the land and the buildings in accordance with a joint plan of action. 5.10.11 Public Transportation. Any MOD permit granted under this section shall be for a site proximate to public transportation or Applicant shall provide shuttle service to nearby public transportation facilities. 5.10.12 Decision. The Zoning Board of Appeals shall conduct a public hearing within sixty-five (65) days after filing of the application with the Zoning Board of Appeals and Town Clerk. Said hearing shall be in compliance with M.G.L. c. 40A, s.9 and the Rules and Regulations of the Zoning Board. The decision of the Board and any extension, modification, or renewal thereof, shall be filed with the Zoning Board of Appeals and Town Clerk within ninety (90) days following the closing of the public hearing. The Zoning Board of Appeals may issue a Special Permit for a MOD where it finds that the proposed use is in harmony with the purpose and intent of the bylaw and the proposal shall be subject to general or specific provisions set forth herein. Any such permit issued may also impose reasonable conditions, safeguards and limitations of time and use. The Zoning Board of Appeals as Special Permit Granting Authority reserves the right to amend, modify or revoke any permit granted for non-compliance of aforesaid conditions. A site plan pursuant to the provisions of Section 3.0 of the Zoning By-laws shall be required. 5.10.13 Notwithstanding the foregoing, the Town of Canton Planning Board shall be the permitting authority as stated in Sections 4, 5, 6, 6g, 7.1a, 7.1b, 7.2, 7.4,

-150-

10, and 12 solely for the ten parcels totaling 2.7 acres on Royall Avenue as described in Assessors Map 69, Lots 7-16.

No

Carver Are apartments above commercial (mixed use) allowed in any district?

No According to Jack Hunter (5/24/05) mixed use was passed at Town Meeting in 2005, and is allowed in GB, HC, V.

Chelmsford Are apartments above commercial (mixed use) allowed in any district?

Yes ARTICLE XVIII Center Village Zoning
[Added 10-21-1999 ATM by Art. 28]
Section 195-98.1. Purpose.

CV (Center Village) zoning is intended to aid in revitalizing, preserving and expanding the village character of Chelmsford's traditional business districts.

A. The qualities that make up the character of a traditional New England village center are encouraged through:

- (1) Maximum retail floor area to strengthen small business development.
- (2) Shared parking to minimize curb cuts and maximize pedestrian safety.

B. Residential uses are allowed as an accessory use to reinforce downtown village character.

Chelsea Are apartments above commercial (mixed use) allowed in any district?

Yes Dwelling above the first floor of a building containing retail or office use - by right in BR.

Section 7.2 PLANNED DEVELOPMENT

7.2.1 Purpose. Planned Development may be authorized by special permit for the following purposes:

1. to encourage intensive development in the waterfront area along Chelsea Creek;
2. to provide a mix of uses and activities, which in turn provide a healthy economic environment;
3. to provide and preserve views of the Boston skyline and waterfront activity;
4. to provide waterfront access and view areas;
5. to assure development which is compatible with the Waterfront Plan;
6. to maximize the locational advantage of proximity to Boston and to Logan International Airport;
7. to encourage appropriate development;
8. to encourage efficient allocation, distribution, and maintenance of open space; to assure economical and efficient street, utility and public facility installation, construction, and maintenance;
10. to assure land use harmonious with natural features;
11. to promote purpose enumerated in the Everett Avenue Urban Renewal Project.

7.2.2 Special Permit. A special permit may be granted for a planned development, subject to the provisions of this Section 7.2 and subject to site plan approval, for the following purposes; provided, however, that where the planned development is located in the Everett Avenue Urban Renewal Area, it shall be subject to the provisions of. Section 7.2.2 to 7.2.9.

7.2.3 Eligible Uses. Any combination of the following uses is eligible for consideration

1. Apartment buildings and town houses;
2. Residential Care Facility;
3. Hotels; motels;
4. Restaurants with or without alcoholic beverages;
5. Trade and craft shops;
6. Professional, business and governmental offices;
7. Retail and personal service establishments;
8. Live/Work Studio; Work/Live Studio and Work only studio's
9. Uses accessory to permitted uses, including accessory business uses, onsite parking, and off- street loading.

7.2.4 Minimum Acreage.

1. The site for a planned development shall have a-minimum of four (4) contiguous acres above the high water line in Residential 1 and Residential 2 Districts outside of the Everett Avenue Urban Renewal Area.
2. The site for a planned development shall have a minimum of two (2) contiguous acres above the high water line in all other Districts and in the Everett Avenue Urban Renewal Area.
3. Such acreage shall be of a shape deemed reasonable for the purpose by the Department of Planning and Development in accord with the provisions of Sections 7.2.7 and 7.2.8, or in the case. of a planned development in the Everett Avenue Urban Renewal District, Section 7.2.7.

7.2.5 Intensity of User Intensity of use shall be determined by the Zoning Board of Appeals after a recommendation from the Department of Planning and Development in accordance with the provisions of Sections 7.2.7 and 7.2.8.

7.2.6 Miscellaneous Conditions.

1. The area shall be in one ownership and shall be developed as a single parcel under one ownership, by an individual, corporation, partnership or trust.
2. If the planned development is to be constructed in phases, each phase after the first must be constructed contiguous and adjacent to a preceding phase or phases. Phases separated only by streets or ways shall be considered contiguous.
3. Setback requirements for the district in which the planned development is located shall be applicable.

7.2.7 Procedures.

1. An applicant for approval of a planned development shall apply to the Department of Planning and Development for design review and recommendation in accordance with the provisions of Section 7.2.8, prior to submission to the Special Permit Granting Authority.
2. The application for site plan approval can be filed simultaneously with the application for design review, if in the opinion of the applicant such filing will expedite processing of the application.
3. A developer desiring to obtain a special permit to construct a .planned development may, prior to submitting an application for the special permit, request a pre application conference. The purpose of the conference is for both parties to become familiar with the proposed planned development. The proponent shall not be required to present any written or graphic materials at the pre application conference.
4. At the pre-application conference, the Department shall familiarize the proponent with the process for obtaining a special permit for a planned development and explain issues that should be considered in planning the project. The proponent may discuss the range of options concerning development and inform the Department of the development concept.
5. A developer who wishes to apply for a Special Permit for a Planned Development must submit to the Department of Planning and Development an, application obtained from the Department and a Development Proposal. The purpose of the Development Proposal shall be to provide the Department with an opportunity for a preliminary but substantive review of the Planned Development prior to making a recommendation to the Special Permit

Granting Authority.

6. The written and graphic information specified in Section 7.2.8, and for Planned Development in the Everett Avenue Urban Renewal District, must be submitted for the entire proposed planned development when applying for a special permit.

7. No building permit shall be granted until the design approval and recommendations are given, site plan approval and a special permit have each been granted. Where the special permit attaches conditions which necessitate modification of site plan approval, a revised site plan must be approved.

7.2.8 Design Review. Design review shall be required for all uses in a planned development except for construction, reconstruction or repair which does not involve a change in design, material, color or the outward appearance of an existing building; or construction, reconstruction or alteration of any feature which the Inspector of Buildings shall certify is required for the public safety because of an unsafe or dangerous condition.

1. Within a period of thirty (30) days after the filing of the plans and application for the design review, the Department of Planning and Development shall determine whether the proposed construction, reconstruction, alteration, restoration, or moving of the buildings, structures or appurtenant fixtures involved will be appropriate in terms of the purposes and conditions contained in this Section, and will report to the Special Permit Granting Authority with or without recommendations.

2. In considering such application for a design review, the Department of Planning and Development may consult an architect, city planner or urban designer at the expense of the applicant, providing that in no case the applicant is charged by the Department of Planning and Development more than one (1) percent of the construction costs for the costs of processing an application for a Design Certificate.

3. Application for a design review shall be made on a form supplied by the Department of Planning and Development and shall be accompanied by the following items in addition to the items required for site plan and Special Permit submissions:

a. A performance bond of sufficient amount to install improvements which will be dedicated to the City; and a performance bond to guarantee landscaping plant material survival or a contract with a landscaping firm which adequately provides such guarantees.

b. A plan for the phasing of the development and the reasonable time of completion of each phase.

c. Hydrological, soil, flooding and subsurface studies evaluating the site for development.

d. A circulation plan showing the street system and circulation patterns within and adjacent to the proposed development including any special engineering features, such as, but not limited to, median strips, overpasses and underpasses and major pedestrian paths.

e. As built plans will be filed with the Inspector of Buildings within thirty (30) days after the completion of construction pursuant to a Design Certificate.

7.2.9 Design Standards. When considering plans submitted for design review for a planned development, the following factors shall be considered by the Department of Planning and Development:

1. Orientation and Views..

a. Heights of buildings shall be recommended by the Department of Planning and Development after consultation with the Chelsea Fire Department and shall be determined with due regard to maintaining existing view lines.

b. Buildings shall be sited to maintain existing view lines, and to relate to one another and adjacent developments to insure adequate light, air, and privacy.

2. Public Access to the Waterfront.

a. An area shall be provided at least fourteen (14) feet wide adjacent to the mean high tide water edge for the purpose of providing continuous access for pedestrian traffic along the waterfront and for the purpose of providing an easement for underground utilities unless the Department of Planning and Development determines that such an area would be hazardous. It shall be designed to connect with adjacent developments for this purpose. This corridor may not extend over piers, bulkheads, breakwaters or extensions into the Creek, where; in the opinion of the Department of Planning and Development the best interests of the public safety would not be served thereby.

b. A thirty (30) foot setback from the water edge as defined above shall be required. In relation to the waterfront pedestrian corridor, the Department of Planning and Development will encourage, but not require, an additional area adjacent to the thirty (30) foot required minimum setback to enhance the corridor by creating plazas, malls or green areas. The applicant will be encouraged to make maximum use of the waterfront and Boston skyline and also to respect these views for other affected developments.

c. Adequate privacy, light, air, and access will be considered in the development of side, rear and front yard setbacks.

3. Scale.

a. Arrangement of new facilities should be compatible with existing developments landward of the district. The building line should be maintained in infill projects.

b. In the Waterfront District and the Industrial District, from the shore line the silhouette shall follow the general slope of the topography so that on the shore, one or two story structures are to be desired.

4. Landscaping. There shall be a sufficient amount of landscaping; as determined by the Board of Aldermen upon recommendation by the Department of Planning and Development to insure protection of and to enhance the quality of the neighborhoods and, where applicable, to enhance the view from Boston and from the water.

5. Parking/Loading/Service.

a. Parking and loading areas shall be designed and landscaped in accord with the provisions of Section 5.1 to 5.3 unless otherwise recommended by the Department of Planning and Development to accommodate the mix of uses in the planned development.

b. Any point of vehicular access for delivery of goods will be encouraged to respect the character of the pedestrian corridor, where it exists.

c. In the Waterfront District and the Industrial District, water oriented commercial facilities requiring the movement of goods across the pedestrian corridor shall provide controlled points of access. Service may be permitted utilizing the pedestrian corridor. However, this service may be restricted to nonpeak pedestrian hours.

6. Signs. In addition to the provisions of Section 5.4, all signs must be reviewed by the Department of Planning and Development.

7. Activity.

a. When a Planned Development has more than one category of use, e.g., residential, business, industrial, the percentage of each use shall be determined by the Special Permit Granting Authority based on recommendations from the Department of Planning and Development. If necessary to determine the appropriate mix of uses, or in the case of residential use, the size and type of dwelling units, the Department of Planning and Development may require the applicant to submit supporting data and/or studies.

b. In appropriate cases, the Special Permit Granting Authority on a recommendation from the Department of Planning and Development may require a set aside of not more than ten (10) percent of the dwellings units, if any, for low and moderate income housing.

c. In the Waterfront District and the Industrial Districts, facilities which make provision for the periodic outdoor use of waterfront areas by the pedestrian public are desirable. Mixed uses should be encouraged. Activity corridors and linkages with Chelsea Square should be encouraged.

Clinton

Are apartments above commercial (mixed use) allowed in any district?

No

Cohasset

Are apartments above commercial (mixed use) allowed in any district?

Yes

According to the Town of Cohasset Zoning Bylaw, Section 4.1, Use Regulations, (Adopted 1978, Last Amended 2003), multifamily housing is allowed by right in the Downtown/Village Business (DB) district for "dwellings for more than one family including those in combination with stores or other permitted uses."

Concord

Are apartments above commercial (mixed use) allowed in any district?

Yes

According to the Table of Principal Uses, the following multifamily uses are allowed in Concord:

Combined business/residence by right in Commercial B and LB and by special permit in Commercial MP. Site plan approval required.

Combined industrial/business/residence by special permit in Industrial I. Site plan approval required.

4.2 Residential Uses

4.2.7 Planned residential development: Single-family detached or attached dwelling or multi-unit structures of all types in accordance with the provisions of Section 10.

4.2.3 Combined business/residence: A dwelling unit or units may be located on the same lot where commercial uses are conducted provided that:

4.2.3.1 Each such unit is structurally part of the commercial building, having common walls, foundation, roof and floor; and

4.2.3.2 Open space shall be provided on the lot (apart from any paved area) equal to twice the gross floor area of the residential portion of the building provided, however, the Board may grant a special permit for a combined business/residence with open space equal to less than twice the gross floor area of the residential portion of the building if the Board finds significant open space available principally for use by the residents shall be provided on the lot (apart from any paved area) to be at least twenty-five (25) percent of the gross floor area of the residential portion of the building. Decks, balconies and rooftop gardens of greater than thirty (30) square feet shall be considered as open space.

4.2.4 Combined industrial/business/residence: A dwelling unit or units and retail store(s) may be located on the same lot where industrial uses and business uses are conducted provided that:

Danvers

Are apartments above commercial (mixed use) allowed in any district?

Yes

Section 16 VILLAGE DISTRICT

16.1 Purpose

The purpose of the Village District is to provide a convenient center for business persons, professionals, craftsmen and residents to efficiently serve and be served by the community in a way which enhances the historic integrity of the area and the economic health of Danvers and to serve as a transition area between commercial and industrial development along Route 114 Corridor and the residential and historic homes along Centre Street.

16.2 Uses Permitted by Right*

1. Stores or establishments for the sale at wholesale or retail of antiques, business equipment, furniture and supplies, handmade or natural merchandise or goods.
2. Stores or establishments for the sale at retail only of merchandise or goods manufactured on the premises.
3. Stores or establishments for the repair of goods of every nature, light manufacturing, ** research and development and warehousing of products of every nature.
4. offices, stores and establishments for the sale or dispensing of services*** and including offices of all types of business and professions.
5. Caterers.
6. Day-care centers.
7. Tourist and lodging or boarding homes.
8. Up to four (4) residential units per building on second and subsequent floors, with commercial uses and the above-mentioned uses the only allowed use on the first floor. One (1) off-street parking space per residential unit must be provided.
9. Accessory uses normally incidental to permitted uses, including signs

(see Section 40).

**Webmasters Note: The note pertaining to gasoline stations, screen cinemas, vehicle repair or dealerships and public garages has been deleted as per an update approved at a town meeting held on 11/25/02.

*Vehicle/car dealerships shall be excluded

**Webmasters Note: The previous note has been added as per an update approved at a town meeting held on 11/25/02.

**As defined in Section 24.2.1.

***As defined in Section 24.4.1.g.

16.3 Uses Subject to Special Permit to the Zoning Board of Appeals

More than four (4) residential units on second and subsequent floors. one (1) off-street parking space per residential unit must be provided.

16.4 Dimensional and Density Requirements

Minimum lot size 2 acres

Minimum lot frontage 100 feet

Setbacks:

Front 50 feet

Side and rear 25 feet

From residential districts 50 feet

Maximum lot coverage by gross first floor area 50 percent

Maximum lot coverage by gross first floor area, driveways and parking 70 percent

Maximum heights 55 feet

No building or structure shall be more than four (4) stories in height or shall exceed fifty-five (55) feet in height, exclusive of church steeples.

Dedham *Are apartments above commercial (mixed use) allowed in any district?*

No

Dighton *Are apartments above commercial (mixed use) allowed in any district?*

No

Douglas *Are apartments above commercial (mixed use) allowed in any district?*

No

Dover *Are apartments above commercial (mixed use) allowed in any district?*

No

Dracut *Are apartments above commercial (mixed use) allowed in any district?*

No According to Dracut Town Planner, Glen Edwards, the town allows multifamily housing above commercial space. (10/18/04)

Dunstable *Are apartments above commercial (mixed use) allowed in any district?*

Yes Dunstable Zoning Bylaw, 2004

Section 23. Mixed Use District.

A. Purposes:

The purposes of the Mixed Use District (MUD) are to:

- a. allow for greater variety and flexibility in development forms;
- b. encourage the development of affordable housing, rental and ownership;
- c. reduce traffic congestion and air pollution by providing opportunities for housing and employment in close proximity;
- d. encourage more compact and efficient developments.

B. General Description:

A "Planned Unit Development for Mixed Uses" shall mean development containing a mixture of residential uses and building types, including single family and multifamily dwellings, and other uses, as listed under the category "Uses Allowed within a Planned Unit Development for Mixed Uses". A Planned Unit Development for Mixed Uses may be allowed by Special Permit of the Planning Board. The Special Permit may allow the development to exceed the normal density requirements for the district to the extent authorized by this Bylaw provided that standards for the provision of affordable housing and other standards specified herein are met.

C. Uses Allowed within a Planned Unit Development for Mixed Uses:

Planned Unit Developments for Mixed Uses shall be permitted in the Mixed Use District only upon issuance of a Special Permit and Site Plan Approval from the Planning Board.

In a Planned Unit Development for Mixed Uses, the following uses may be allowed:

1. Two-family dwellings;
2. Townhouses, i.e., multiple single family dwellings connected by one or more walls, provided they meet the requirements of affordable housing, which shall be defined as housing meeting the requirements of Section 6.7.5.(O) of this Bylaw;
3. Multifamily dwellings;
4. Business uses which are permitted in the B-1 district;
5. Senior Center;
6. Affordable housing for the elderly (over 55 years).

D. Density and Dimensional Regulations:

The following density and dimensional requirements shall apply to any project in the MUD, subject to adjusted requirements as stated for projects including affordable housing as defined hereinabove:

1. The minimum area allocation for each dwelling unit shall be twenty thousand (20,000) square feet, subject to a reduction of up to twenty (20%) percent in the discretion of the Planning Board for projects including affordable housing;
2. The minimum total land area for a Planned Unit Development shall be (10) acres subject to a reduction of up to twenty (20%) percent in the discretion of the Planning Board for projects including affordable housing ;
3. There shall be no frontage requirements within a Planned Unit Development, provided that the applicant demonstrates to the Planning Board satisfactory legal access to the premises;
4. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements (Section 11 of this Bylaw) shall pertain only to the periphery of the Planned Unit Development;
5. The maximum number of dwelling units per structure shall not exceed eight (8);
6. Dwellings shall make up a minimum of seventy-five percent (75%) of the floor area of development in a Planned Unit Development; the balance of the area shall be business use;
7. Individual commercial areas shall not exceed one thousand five hundred (1,500) square feet each.

E. Utility, Parking, Landscaping and Open Space Requirements:

1. Planned Unit Developments for Mixed Uses must meet the utility, parking, landscaping and open space requirements in Section 6.6 of The Dunstable Zoning Bylaw.
2. A natural protective buffer shall be provided around any water body. Said buffer shall

conform to the development and not exceed 200 (two hundred) feet, provided that, in special circumstances, the Dunstable Planning Board may allow a lesser buffer at certain locations upon a demonstration by the applicant providing clear evidence that with appropriate safeguards the water body can be adequately protected. The Planning Board may impose limitations on any development within such buffer, and strict limitation shall be imposed within the 100 (one hundred) feet of the buffer nearest to the water body.

Duxbury

Are apartments above commercial (mixed use) allowed in any district?

No

11. Dwelling in a business structure above the ground floor.

425.1

f) Bedrooms – Above ground floor apartments in Neighborhood Business Districts 1 and 2 shall be limited to no more than two bedrooms.

421 NEIGHBORHOOD BUSINESS DISTRICT 1 USE AND REGULATION

General: In Neighborhood Business District 1, no structure shall be erected or altered and no building, structure, premises or land shall be used for any purpose or in any manner other than as permitted as follows.

421.1 Permitted Uses and Structures

1. Uses and structures as permitted by Section 410.1 and 410.3 in accordance with all intensity, dimensional, and coverage regulations of Section 410.4.
2. Signs in accordance with Section 601.
3. The keeping of any registered commercial motor vehicle.

421.2 Prohibited Uses and Structures

1. Any use which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in Town. Parks for trailers, travel trailers, tent trailers, trailer coaches and motor homes, auto dismantling, junkyards, privately developed and operated septage waste disposal/treatment facilities are expressly prohibited.
2. All Neighborhood Business District 2 structures and uses.

421.3 Uses and Structures That May Be Permitted Subject to Special Permit and Site Plan Requirement

The following uses shall only be permitted by a special permit from the Board of Appeals when the off-street parking requirement is more than three (3) vehicles and/or off-street loading space is required. If the off-street parking requirement is less than three (3) vehicles and no off-street loading space is required, the Zoning Enforcement Officer may approve the following uses, provided that the provisions of Section 424#2 are complied with:

1. Retail sale of food items, including confectionery, dairy products, fruits, vegetables, groceries and meats.
 2. Sale of baked goods and the manufacture of same for sale.
 3. Sale of dry goods, variety merchandise and handicraft work.
 4. Sale of clothing and clothing accessories.
 5. Sale of hardware, household items including appliances, furniture, furnishings and supplies.
 6. Sale of printed matter, drugs, stationary and photographic supplies.
 7. Professional office for dental, architectural, engineering, legal, medical, and other similar recognized professions; medical and dental clinics, including retail uses
- Printed August 10, 2004 40
accessory thereto providing no more than 25% of the rentable floor space in a principal building exclusive of all storage areas is used therefore.
8. Real estate, insurance and general business office, banks, telephone office.
 9. Shop of an electrician, painter, paper-hanger, plumber, upholsterer, carpenter or cabinet-maker and similar trades.

10. Public transportation passenger station and right-of-way passenger bus terminal.
11. Dwelling in a business structure above the ground floor.
12. Greenhouse that is accessory to a business.

421.4 Special Permit Uses

1. Video tape rental and sales, and rental and sales of related equipment.
2. Restaurant and other places for serving of food or beverages inside or outside the building at tables or counters, including public or private clubs.
3. Take-out food establishment or delicatessen where food is prepared but not consumed on the premises and sold retail; catering services.
4. Service establishment: barber and beauty shop, laundry agency, shoe and hat repair, bicycle and household appliance repair, dressmaking, dry cleaning and pressing or tailor shop where no work is done on the premises for retail outlets elsewhere.
5. Mortuary and funeral parlor.

422 NEIGHBORHOOD BUSINESS DISTRICT 2 USE AND REGULATIONS

General: In a Neighborhood Business District 2, no structure shall be erected or altered and no building, structure, premises or land shall be used for any purpose or in any manner other than as permitted as follows.

422.1 Permitted Uses

All uses permitted in Section 421.1 (Neighborhood Business District 1) shall be permitted in Neighborhood Business District 2. Permitted signs shall comply in all respects with the requirements of Section 601.

422.2 Prohibited Uses and Structures

Any use which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in Town. Parks for trailers, travel trailers, tent trailers, trailer coaches and motor homes, auto dismantling, junkyards, privately developed and operated septage waste disposal/treatment facilities are expressly prohibited.

422.3 Uses and Structures Permitted by Special Permit

The following uses shall only be permitted by a Special Permit issued by the Board of Appeals subject to all regulations and site plan approval for Neighborhood Business Districts.

1. All uses and structures permitted by special permit in Section 421.3 and 421.4.
2. Retail business, services or public utility not involving manufacture on the premises, except of products, the major portion of which is to be sold at retail by the

Printed August 10, 2004 41
 manufacturer to the consumer and provided further that no more than ten (10) operators shall be employed in such manufacture. Such retail businesses may include sales at wholesale, provided that the physical incidents (wholesale transactions) occurring on the premises are of substantially the same character as the physical incidents of its retail sale direct to the consumer and provided further that the major portion in number of its sales shall continue to be retail sales.

3. Automobile sales and services provided that, where it is proposed to dispense, sell or offer for sale, motor fuels directly to users of motor vehicles, all of the following criteria must be met:
 - a) There is no existing salesroom, service station, garage or other establishment dispensing motor fuels within thirteen hundred (1,300) feet;
 - b) No public or private playfield or playground, church or other places of public worship, cemetery, police station, fire station, hall or other place of public assembly, municipal building used for public business meetings or assemblies, Town-owned sites held for future schools, playgrounds or playfields is within five hundred (500) feet of the proposed facility;
 - c) A landscaped safety island parallel to the street line sixty (60) feet in length along the street and twenty-five (25) feet in depth shall be provided;
 - d) On either end of this island, "curb cuts" or access drives of not more than thirty (30) feet and not less than twenty five (25) feet in width at the exterior of the street shall be provided;
 - e) No more than three (3) pumps and/or hoses in one "island" for dispensing leaded gasoline or motor fuel, plus one (1) additional pump and hose for dispensing either diesel fuel or white gasoline, so called, shall be allowed;
 - f) The minimum frontage shall be at least 150 feet.
4. Automobile sales and service including automobile sales, outdoor automobile sales display, service stations, repair and storage garage provided that washing, lubrication and major repair of motor vehicles are performed inside an enclosed building and all dispensing of fuels, lubricants and fluids is done entirely on the

property of the business.
5. Boat sales, service and outdoor business and storage provided that major repair of engines is performed inside enclosed buildings and that all dispensing of fuels, lubricants and fluids is done entirely on the property of the business.
6. Sale of building materials.

East Bridge *Are apartments above commercial (mixed use) allowed in any district?*

No

Easton *Are apartments above commercial (mixed use) allowed in any district?*

Yes Email from Mark Rousseau, Town Planner, on 6/1/05:

"Mixed-use is allowed within a PUD (Planned Unit Development). However, this potential use is limited. In general, apartments over retail will require a special permit from the Zoning Board of Appeals for the apartments in a business zone."

According to Section 5-3 Table of Use Regulations.
Apartments allowed in the Business District by right.

From definitions:

PLANNED DEVELOPMENT A development involving the construction of two or more principal buildings on the same lot for any permitted use.

Entire section on Planned Business Development:

7-6 PLANNED BUSINESS DEVELOPMENT

For planned business development of land subject to maximum building coverage more than the maximum permitted in the Table of Density and Dimensional Regulations and less than the parking requirements contained in the Table of Off-Street Parking Regulations, the following conditions shall apply:

- A) The tract shall be in single or consolidated ownership at the time of application and shall be at least 5 acres in size.
 - B) Uses shall be contained in one continuous building except that groupings of buildings may be allowed by the Planning & Zoning Board where such groupings are consistent with the safety of the users of the development and are further consistent with the overall intent of this section.
 - C) The gross floor area of buildings shall not exceed 50% of the total area.
 - D) The development shall be served by one common parking area and common exit and entrance areas except that the Planning & Zoning Board may allow segmented parking areas.
 - E) Reduction in parking space requirements shall not exceed more than percent of those required under normal application of requirements for particular uses proposed.
 - F) The development shall be served by a public water system.
 - G) Roadway and utility construction shall conform to the Town of Planning Board Subdivision Rules and Regulations except as may be modified or may be waived by the Planning Board.
-

Essex *Are apartments above commercial (mixed use) allowed in any district?*

No

Everett

Are apartments above commercial (mixed use) allowed in any district?

Yes

Section 6. Business districts.

(a) Uses. In any business district; as indicated on the zoning map, buildings or premises may be used in any part for any purpose hereinbefore permitted in any dwelling or apartment district and also for any store or stand or other structure where goods are sold or service rendered, primarily at retail, also for any public building, places of amusement or assembly, restaurant, bank or office, also for any stable, garage or filling station under limitations hereinafter prescribed.

(8) Special Exception. The intent of this paragraph is to provide by special exception granted by the City Council, a mixture of residential apartments: retail trade and services, offices, off street parking, and accompanying accessory uses all within one structure that normally would be in harmony with the general purpose and intent of the requirements of the Business District except building height and area.

On survey received from Everett on 3/24/05, the answer was marked: "Yes - by right in some districts / by special permit in other districts."

Foxboroug

Are apartments above commercial (mixed use) allowed in any district?

Yes

SECTION 9.14 CHESTNUT-PAYSON OVERLAY DISTRICT (CPOD)

B. Purpose

It is the purpose of this Section 9.14 to supplement existing zoning regulations to provide for the following:

1. Permit the implementation of the Reuse Consensus Plan for Foxborough State Hospital Property dated April 20, 1994, Amended September 5, 2002, a copy of which is on file with the Town Clerk. This will permit the total construction of 152 total residential units in the CPOD.
2. Permit maximum flexibility and creativity in design for the development of single or multi-purpose uses on a lot, in a way that will be superior to conventional plans.
3. Promote the most harmonious use of the land's natural features, resources and topography that will promote the general health and safety of the public.
4. Discourage sprawled development, minimize environmental disruption, and provide a shorter network of streets and utilities, which will promote a more efficient distribution of services.
5. Provide for an innovative approach to mixing building types and controlling densities.

C. Special Permit in the Chestnut-Payson Overlay District

In this District, a Special Permit may be granted by the Planning Board to allow for single or multipurpose integrated commercial and/or residential uses on a lot in the CPOD. This Special Permit is not limited to an individual lot, but one application may be submitted and reviewed for a single Special Permit for multiple lots provided that such lots are under single ownership or if it can be demonstrated that all owners within the CPOD have agreed to join in the application for a Special Permit.

D. Uses Allowed and Not Allowed in the Chestnut-Payson Overlay District

1. All uses allowed in the underlying zoning district shall be allowed for those parcels in the CPOD, unless amended by this section.
2. The following uses, as specified in the referenced subsection of Section 4.00 TABLE OF USE, that may be permitted within the underlying zoning district are not permitted within the CPOD:

B.4. Temporary parking lots, whether paved or unpaved, serving uses with seating capacities of over 7,500 people within the Special Use Zoning District.

G.7. Mobile homes/travel trailers.

I.1. Cemeteries

L.2. Seasonal migrant workers quarters, mobile home or watchman's quarters as accessory uses to permitted Industrial uses.

L.6. Outdoor storage or overnight parking of buses, trucks or other vehicles whose Gross Vehicle Weight (GVW) as determined by Mass. Registry of Motor Vehicles, equals or exceeds 10,000 pounds.

3. The following additional uses not specified in Section 4.00 TABLE OF USE may be allowed by Special Permit in the CPOD.

a. Attached Single-family Housing

b. Assisted Living Facilities

c. Open Space Residential Developments

d. Sewage treatment plants and sewage treatment facilities

e. Water tanks and towers, emergency generators, water filtration plants, utility facilities, power plants and substations.

4. The following uses, as specified in the referenced subsection from Section 4.00 TABLE OF USE as not permitted in the underlying zoning district may be allowed by Special Permit in the CPOD:

B.3. Parking lots constructed to the standards found in Article 7 of these by-laws.

C.1. All land and buildings which are used for display and sale purposes involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public, including among others retail stores, shops and sales rooms, restaurants with seating except for other uses specified in this Use Group C. Sale of high hazard materials or products shall be governed by the provisions noted in Use Group A.2. above.

C.2. Mercantile/retail uses, except restaurants with seating, which use more than twenty five percent (25%) of the gross area of a building.

D.1. All land and buildings which are used for the transaction of business, for the rendering of professional or tradesman services or for other services that involve stocks of goods wares, or merchandise in limited quantities for use incidental to office uses or similar purposes, except for other uses specified in this Use Group D.

D.2. Research and Development facilities

D.3. Laundry or dry cleaning facilities

E.1. Theatres

E.4. Museums with or without an auditorium in which persons assemble for amusement, entertainment or recreation and incidental motion picture, dramatic or educational presentations, lectures or similar purposes.

E.7. Private Schools

F.1. All land and buildings for housing people suffering from physical limitations, including among others hospitals, sanitariums, infirmaries, orphanages, and institutions licensed by the Commonwealth of Massachusetts.

G.3. Dormitories

G.4. Multifamily dwellings

I.2. Public Utility facilities and structures necessary to the service of the Town, excluding storage yards, power plants, water filter plants, sewage treatment and refuse facilities.

I.5. Telecommunications/Wireless Communications Facilities (see Section 9.11) as accessory use.

I.6. Commuter rail stations, bus stations, and related or accessory structures and improvements.

J.2. Passive outdoor recreational uses such as beaches, parks, picnic groves, and other similar uses, but not including amusement parks.

J.3. Low density recreational uses which predominantly occur within a building such as swimming, tennis, skating and other similar uses.

J.6. Outdoor recreational uses including, golf driving range, miniature golf course, batting cages, gocarts and bumper boats (except in the Water Resource Protection Overlay District, where such uses shall be prohibited) but not including amusement parks.

L.7. Accessory uses to multifamily dwellings which are located within the principle building and are limited to: eating establishments; personal service establishments; retail sales establishments selling convenience merchandise.

L.8. Accessory Structures to multifamily structures..

L.9. Nonresidential Accessory Uses and structures which do not exceed fifteen percent (15%) of the gross area of the principal building or buildings.

E. Dimensional Requirements for Uses Allowed in the Chestnut-Payson Overlay District

The following additions are to be made to Table 5-1:

Framingha *Are apartments above commercial (mixed use) allowed in any district?*

Yes From definitions in ordinance.com:

MIXED USE COMPLEX : A parcel or contiguous parcels (whether or not in common ownership) of at least five (5) acres with adaptive reuse of historic manufacturing structures for multifamily residential and allowed non-residential uses within the existing historic structures. Such Mixed Use Complex shall have shared parking and integrated facilities and infrastructure. Residential and non-residential uses may be in the same or separate buildings, provided however that neither the total residential uses nor the total non-residential uses shall exceed 80 percent of the gross floor area of the buildings in the Mixed-Use Complex, excluding parking facilities.

**Webmasters Note: The previous definition has been added as per an update approved at a town meeting held on 11/19/02.

b. Mixed-use Developments

Mixed-use developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district.

N. Mixed Use Regulations

(Amended STM 10/25/00, approved 2/9/01)

1. Purpose and Intent

The purpose and intent of these Mixed Use Regulations is to provide an opportunity for Mixed Use development with a residential component within a livable urban environment which supports the commercial revitalization of the Town's commercial areas and encourages the adaptive reuse of existing buildings.

2. Applicability

These regulations shall apply to the development or redevelopment of properties for Mixed Use or for Mixed Use Complex, as defined in Section I.E. Definitions herein, which shall collectively be referred to as Mixed Use development.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 11/19/02.

3. Mixed Use Development Standards

Mixed Use development shall be designed in accordance with the following standards:

a. Conforming Lot and Structure

The lot and structure shall conform to the dimensional regulations for Mixed Use development applicable to the zoning district, as provided under Section IV.G.2 Table of Dimensional Regulations.

b. Parking Requirements

Off-street parking shall be provided in accordance with the requirements set forth in Section IV.B. Special Provisions for parking relief, as provided under Section IV.B.7., may be considered, including exemptions from required number of parking spaces and proximity requirements, as applicable, but the requirement for number of parking spaces assigned to residential uses may not be reduced below 1.25 parking spaces per residential unit. The applicant shall demonstrate that the parking to be provided shall be adequate for the uses proposed. Conditions for Approval of a Special Permit under Section IV.B.7, for a reduction to the required number of parking spaces, may include, at the discretion of the Planning Board, a contribution to a municipal parking program and/or support for public transportation or other transportation demand management programs. Such contribution shall be

directly related to the reduction requested, and shall not exceed 2 percent of the development costs attributed to the residential portion of the proposed development. Such contribution shall be credited to the development under a Site Plan Review approval.

c. Open Space and Recreation Enhancement

A minimum of 200 square feet of usable on-site outdoor open space or dedicated and usable common indoor recreation space for use by unit residents shall be provided for each dwelling unit proposed within a Mixed Use development project. An applicant contribution to a program of off-site public improvements in the area of the proposed development, as set forth below, may be considered by the SPGA in partial satisfaction of this requirement. An applicant may contribute up to 1.5 percent of the development costs attributed to the residential portion of the proposed development to a program of off-site public open space, pedestrian improvements, public amenities, or community and cultural enhancements, in order to enhance the quality of life for residents of the proposed development and the general public. Such contribution for off-site improvements shall be at the discretion of the Planning Board and shall be credited to the development under a Site Plan Review approval.

d. Residential Composition

Residential composition in a proposed Mixed Use development shall be comprised of studios, one-bedroom units and two-bedroom units only. In no case may other rooms in a unit be covered to additional bedrooms. Dwelling units within a Mixed Use development may measure no less than 600 square feet. No more than twenty percent (20%) of the units in a Mixed Use development proposal may consist of studio units. No more than three individuals unrelated by birth, marriage or adoption may occupy a dwelling unit in a Mixed Use development. The Planning Board may require a stipulation of said limit on unrelated individuals be included within all leases, condominium documents, protective covenants and other related documents. (Amended STM 10/25/00, approved 2/9/01)

e. Separation between Residential Uses and Non-Residential Uses

Residential uses and non-residential uses in a Mixed-Use development shall be physically separated. Residential uses shall have the separate and distinct entrances from non-residential uses.

f. Community Impact

A Community Impact Assessment, as set forth under Site Plan Review, Section IV.I.5.g.(4), shall be required of all proposed developments under this Special Permit, regardless of project size, and the SPGA shall consider such Assessment in its review of a proposed Mixed Use development.

4. Building Permit Limitations

Following Special Permit for Use, Site Plan Review and other regulatory processes, and in accordance with an SPGA Decision, the Building Commissioner may issue building permits for Mixed Use development for a maximum of 300 residential units for Mixed Use development per calendar year (with no rollover from a previous year). Of these 300 permitted residential units per year, no more than 250 residential units may be permitted for a specific development application in a given year. The Building Commissioner may not issue Building Permits for additional residential units in Mixed Use development once the number of such units for which building permits have previously been issued reaches three percent (3%) of the total number of dwelling units in the Town of Framingham. Any changes to the Building Permit Limitations, as set forth herein, shall require approval by Town Meeting. Building Permits for Mixed Use development shall be issued in accordance with Section V.B.3. Mixed Use Building Permit Limitation.

5. Planning Board Mixed Use Development Waivers by Special Permit

The Planning Board may, by Special Permit, grant waivers to the Mixed Use Development Standards, as set forth under Section IV.N.3. herein, and the Dimensional Regulations for Mixed Use development, as set forth under Section IV.G.2. herein, for Mixed-Use development. Such Special Permit for Mixed Use Development Waivers shall be granted only if the Planning Board makes the specific required Findings, in writing, as set forth under Section V.E.3. Conditions of Approval of Special Permit, as well as the following Finding. The Planning Board must also find that the proposed project with the waived requirement shall not be substantially more detrimental to the neighborhood than the project without the waiver. As a basis for its decision, the Planning Board shall consider factors which shall include, but not be limited to, the impact of the waiver on traffic and parking; municipal services and facilities; and the character of the neighborhood including environmental and visual features.

4. Central Business District (CB) (Amended STM 11/9/99)

d. The following uses shall require a special permit for use from the Planning Board:

(4) Mixed Use - residential use on any floor above the ground floor of a building combined with an allowed non-residential use or uses on the ground floor and other floors of a building, subject to special regulations Section IV.N. Mixed Use Regulations, herein and Section IV.I. Site Plan Review, herein. (Amended STM 10/25/00, approved 2/9/01)

(5) Mixed Use Complex, subject to special regulations Section IV.N. Mixed Use Regulations, herein and Section IV.I. Site Plan Review, herein.

**Webmasters Note: The previous subsection has been added as per an update approved at a town meeting held on 11/19/02

Franklin

Are apartments above commercial (mixed use) allowed in any district?

No

(3) The General Residential V District (GRV) is intended primarily for single-family and two-family residential uses in a suburban downtown environment. Multifamily and apartment uses may also be permitted. In addition, certain commercial uses may be permitted, but most nonresidential uses are not allowed.

(4) The Residential VI District (RVI) is intended primarily for multifamily and apartment residential uses in a suburban environment. Limited commercial uses may be permitted.

(5) The Commercial I District (CI) is intended primarily for office, retail, service, trade, restaurant, and other commercial uses in a downtown environment. Limited industrial uses may be permitted. Single family, two-family and multifamily and apartment residential uses may also be allowed:

(6) The Commercial II District (CH) is intended primarily for office, retail, service, trade, restaurant, and other commercial uses and limited industrial uses in a suburban commercial environment. Single-family, two-family, and multifamily and apartment residential uses may also be permitted.

Freetown

Are apartments above commercial (mixed use) allowed in any district?

No

Survey received from Freetown on 6/10/05 marks: "allowed in General Use districts or by Special Permit." The bylaw specifies that many uses are allowed in the General Use district, although it does not specify that they are allowed in the same building.

Georgetown

Are apartments above commercial (mixed use) allowed in any district?

No

Gloucester

Are apartments above commercial (mixed use) allowed in any district?

No

Grafton

Are apartments above commercial (mixed use) allowed in any district?

No

Groton

Are apartments above commercial (mixed use) allowed in any district?

No

Groveland

Are apartments above commercial (mixed use) allowed in any district?

No

Groveland Zoning Bylaw (Adopted 1996)

SECTION 800. BUSINESS DISTRICT USES-ZONE B

801. For the purpose of business district use regulations, the zoning board of appeals is designated as the special permit granting authority. In business districts, no building shall be erected or altered, and no building or land shall be used for any purpose that is injurious, noxious, or offensive to the neighborhood, by reason of the emission of odor, fumes, dust, smoke, vibration, noise or other cause, existing or potential, or for any purpose except the following, and then only by a special permit from the zoning board of appeals after a public hearing. The erection of [a] residential building, which complies with frontage and lot size requirements, shall not require a public hearing or a special permit from the zoning board of appeals in the business district. The zoning board of appeals shall have the power to : set restrictions and conditions ; hours of operation ; signs-type, size and number ; off-street parking spaces ; outside lighting ; road setbacks ; side lot lines ; rear lot lines, buffer zones ; require written procedures for the storage or disposal of hazardous materials ; and set fines for permit violations.

801.1. Any permitted or special permit use in the residential districts, provided that no dwelling shall be constructed on a lot having less area and/or less frontage than is required for the least restricted residential district adjacent thereto. A limit of one (1) single-family dwelling unit in the same building as the business is also permitted.

SECTION 850. LIMITED BUSINESS DISTRICT USES-ZONE LBa

851. For the purpose of limited business district use regulations, the zoning board of appeals is designated as the special permit granting authority. In limited business districts, no building shall be erected or altered, and no building or land shall be used for any purpose that is injurious, noxious or offensive to the neighborhood, by reason of the emission of odor, fumes, dust, smoke, vibration, noise or other cause, existing or potential, or for any purpose except the following, and then only by a special permit from the zoning board of appeals after a public hearing. The erection of a residential building, which complies with frontage and lot size requirements, shall not require a public hearing or a special permit from the zoning board of appeals in the limited business district. The zoning board of appeals shall have the power to : set restrictions and conditions ; hours of operation ; signs type, size and number ; off-street parking spaces ; outside lighting ; road setbacks ; side lot lines ; rear lot lines, buffer zones ; require written procedures for the storage or disposal of hazardous materials ; and set fines for permit violations.

851.1. Any permitted or special permit use in the residential districts, provided that no dwelling shall be constructed on a lot having area and/or less frontage than is required for the least restricted residential district adjacent thereto. A limit of one (1) single-family dwelling unit in the same building as the business is also permitted.

SECTION 900.-INDUSTRIAL DISTRICT USES-ZONE C

901. For the purpose of industrial district use regulations, the zoning board of appeals is designated as the special permit granting authority. In business [industrial] districts, no building shall be erected or altered, and no building or land shall be used for any purpose that is injurious, noxious, or offensive to the neighborhood, by reason of the emission of odor, fumes, dust, smoke, vibration, noise or other cause, existing or potential, or for any purpose except the following, and then only by a special permit from the zoning board of appeals after a public hearing. The zoning board of appeals shall have the power to : set restrictions and conditions ; hours of operation ; signs-copy, type, size and number ; off-street parking spaces ; outside lighting ; road setbacks ; side lot lines ; rear lot lines, buffer zones ; require written procedures for the storage or disposal of hazardous materials ; and set fines for permit violations.

901.1. Any permitted or special permit use in the residential districts or business district, except the erection of any residential dwellings with the provision that a limit of one (1) single-family dwelling unit in the same building as a business is permitted.

Halifax

Are apartments above commercial (mixed use) allowed in any district?

No

Hamilton

Are apartments above commercial (mixed use) allowed in any district?

No

Hanover

Are apartments above commercial (mixed use) allowed in any district?

No

Hanson

Are apartments above commercial (mixed use) allowed in any district?

Yes

Town of Hanson Zoning Bylaw

SECTION VI Use Regulations

H. Flexible Zoning Bylaw/Special District
[Amended 10/5/98]

The flexible zone district of this bylaw is intended to provide for a mixture of residential, agricultural, business, commercial and industrial, and mixed uses provided such use does not detract from the livability and aesthetic qualities of the environment:

...

Additional Uses Allowed By Special Permit

In the flexible zone district, the following uses may be allowed by special permit.

Uses permitted:

- a. mixed use in one (1) structure (ie. residence & business).
- b. assisted living residence at a limit of six (6) in one structure

Density Requirements:

- a. The minimum lot size for all structures shall be 35,000 square feet. (At least eighty percent (80%) of the minimum lot size shall be upland (i.e., not a bank, bog, dune, marsh, swamp or wet meadow under the Massachusetts General Law, Chapter 131, Section 40.)
- b. The minimum frontage in feet for all structures shall be 150 feet. Measured at the street line. Where a lot has frontage on two streets only one-half of the linear distance on the curve at the intersection shall be computed as frontage on any street. Both frontages shall meet the requirements of minimum lot frontage for a depth of one hundred (100) feet.
- c. The minimum front yard shall be thirty-five (35) feet from lot line or the average of the front set back of the buildings on lots on the same side of the street and within three hundred (300) feet of the subject lot, which front yard set back line shall be less.
- d. The minimum side yard shall be twenty (20) feet from the lot line.
- e. The minimum rear yard shall be fifteen (15) feet from the lot line.
- f. The maximum percent building coverage shall be 20%
- g. The maximum total gross coverage shall be 75%

Harvard

Are apartments above commercial (mixed use) allowed in any district?

Yes

CODE OF THE TOWN OF HARVARD v2 (Updated 2004)

Z. Mixed-use village development (MUVD)

- (1) Multifamily residential use, where such use is integrated with a commercial use constituting thirty percent (30%) or more of the proposed development or total gross floor area.
- (2) Grocery store greater than 15,000 square feet of gross floor area, subject to the issuance of an Ayer Road Village Special Permit, § 125-52.
- (3) Eating establishments with live musical entertainment.
- (4) Small screen arts theatre with not more than one (1) screen.

**Webmasters Note: The previous subsection, Z., has been added as per an update approved at a town meeting held on 3/27/04.

Haverhill**Are apartments above commercial (mixed use) allowed in any district?****No**

According to Bill Pillsbury, Economic and Planning Director, the city has recently done a lot of downtown revitalization that includes mixed-use housing. (11/23/04)

Hingham**Are apartments above commercial (mixed use) allowed in any district?****Yes**

IV-H Mixed Use Special Permit in Industrial District

1. General

In order to permit a mixture of retail residential open space, general commercial limited industrial and office uses, and a variety of building types, tracts of land within the Industrial District may be developed under a Special Permit granted by the Board of Appeals as herein defined and limited.

2. Special Permit Authority

The Board of Appeals (Board) may grant a Special Permit for construction of a mixed use project in the Industrial District. The Special Permit shall conform to this By-Law and to Massachusetts General Laws Chapter 40A, Section 9 and to regulations which the Board may adopt for carrying out its requirements hereunder.

(a) Review Board - The Planning Board shall function as a review board to review each proposed mixed use permit.

(b) Purpose - The purpose of the mixed use Special Permit is to provide for a mixture of residential open space, retail general commercial and limited industrial uses within an Industrial District in order to foster greater opportunity for the construction of quality developments on large tracts of land by providing flexible guidelines which allow the integration of a variety of land uses and densities in one development, provided that such land usage is shown to be for the public good and:

(i) will improve the physical and aesthetic qualities of the Industrial District and improve and/or reinforce the liveability and aesthetic qualities of the surrounding neighborhood and/or environment, and

(ii) is consistent with the objectives of the Zoning By-Law.

3. Review Procedure for Mixed Use Special Permit Applications

The review procedure for a mixed use Special Permit consists of three steps: (1) a pre-application conference, (2) submission by the applicant and review by the Planning Board of a Preliminary Plan for the proposed mixed use development, and (3) submission by the applicant and review by both the Planning Board and the Board of Appeals of an application and final plan for a mixed use Special Permit.

(a) Pre-Application Conference - Nor to the submission of an application for a mixed use Special Permit, the applicant must confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

(b) Procedure for Preliminary Plan

(i) The applicant shall file with the Town Clerk, at least seven (7) days before a regularly scheduled meeting of the Planning Board, the original and one (1) copy of the preliminary plan accompanied by the form entitled "Submission of preliminary planned Uses". The applicant shall at the same time submit to the Planning Board eight (8) copies of the preliminary plan.

(ii) A fee of \$100.00 (certified check) made out to the 'Town of Hingham' shall accompany the submission of the preliminary plan to the Town Clerk.

(iii) The applicant shall also, at the time the preliminary plan is filed, submit copies of the preliminary plan to the Hingham Highway Department, Board of Health, Fire Department, Conservation Commission, Harbor Development Committee, Tree and Park Department, Sewer Commission, Industrial and Development Commission, Light Board, Water Company and to the consulting engineer of the Planning Board. The applicant shall also submit copies of the preliminary plan to such other Town boards and agencies as the Planning Board deems appropriate, at such time and to such Town boards and agencies as the Planning Board shall in writing state to the applicant. The applicant shall file with the Town Clerk and submit to the Planning Board one or more transmittal letter(s), as required, certifying that it has forwarded copies of the preliminary plan to the Town boards and agencies as provided in this subparagraph and in any written request by the Planning Board that copies be submitted to other Town boards and agencies.

(iv) The applicant shall meet with the Planning Board to discuss the preliminary plan.

(v) The Town boards and agencies receiving copies of the preliminary plan shall submit to the Planning Board written recommendations on the preliminary plan within 35 days after filing of the preliminary plan. Failure to report to the Planning Board within 35 days shall be deemed lack of objection to the application.

(vi) The applicant is encouraged to meet with the Town boards and agencies receiving copies of the preliminary plan during the review period.

(vii) The Planning Board within 45 days from filing of the preliminary plan shall review and determine whether the proposed project is consistent with the development of the Town and this By-Law. The Planning Board may suggest modifications and changes to the development described in the preliminary plan and shall make a written report of its recommendations to guide the applicant in the preparation of the final plan. The written report of the Planning Board shall be filed in the Town Clerk's office; after such filing the applicant may proceed to file its final plan.

(viii) If the Planning Board fails to file its written report within 45 days after filing of the preliminary plan, the applicant may proceed to file its final plan.

4. Contents of Preliminary Plan

A preliminary plan shall comprise the graphic and narrative materials described below.

(a) Graphic materials shall include plans of sufficient number, character and clarity to show the proposed development and the existing conditions on the site. Such graphic materials shall show at least:

(i) boundaries of the proposed mixed use parcel north arrow, date, scale, legend, and title "Preliminary Plan: Mixed Use", the name or names of applicants and engineer or designer;

(ii) names of all abutters as defined in Massachusetts General Laws Chapter 40A, Section 11, existing site conditions, proposed land uses and improvements, and approximate location and width of all adjacent streets;

(iii) existing and proposed lines of streets, ways, utility and all easements, and any public areas within or next to the parcel;

(iv) the approximate boundary lines of existing and proposed lots with appropriate areas and dimensions;

(v) the proposed system of drainage, including adjacent existing natural waterways;

(vi) the existing and proposed topography of the site at five foot or smaller contour intervals;

(vii) existing and proposed buildings, significant structures and proposed open space and proposed site amenities, and proposed circulation patterns; and,

(viii) an analysis of the natural features of the site, including wetlands, flood plain, slopes over 10%, soil conditions and other features requested by the Planning Board or required by any regulation of the Board.

(b) Written materials shall include the following:

(i) a description of the proposed mixed use development, showing the planning objectives and the character of the development to be achieved through the mixed use Special Permit;

(ii) a description of the neighborhood in which the parcel lies, including utilities and other public facilities and the general impact of the proposed mixed use upon them; and,

(iii) a summary of environmental concerns.

5. Submission of Final Plan

(a) The applicant shall file the original application for a mixed use Special Permit and the original of the final plan (which plan shall comply with the substantive Rules and Regulations of the Planning Board), together with one (1) copy of those materials, with the Town Clerk. The applicant shall also submit to the Planning Board and to those boards and agencies set forth in subparagraph 3 (b) (iii) of this Section at the time the application is filed with the Town Clerk, a copy of the application and the final plan. The applicant shall also submit an application for site plan review under Section I-I of this By-Law.

(b) The applicant shall file with the Town Clerk and submit to the Planning Board a transmittal letter certifying that it has forwarded copies of the final plan to the boards and agencies as provided.

(c) The Town boards and agencies receiving copies of the final plan shall submit to the Planning Board written recommendations on the application and final plan within 30 days of the filing of the transmittal letter certifying that copies of the final plan have been forwarded. Failure to report to the Planning Board within such 30 days shall be deemed lack of objection to the application.

(d) The applicant is encouraged to meet with the Town boards and agencies receiving copies of the final plan during the review period.

(e) Within 50 days of the filing of the final plan with the Town Clerk, the Planning Board shall submit to the Board, accompanied by the written recommendations of the other Town boards and agencies described in subparagraph 3 (b) (iii), a written report discussing the consistency of the proposed development with paragraph 2 (b) and the Rules and Regulations of the Planning Board. Copies of such written report shall also be mailed to the applicant and filed with the Town Clerk at the time it is submitted to the Board. Failure by the Planning Board to file such written report with the Town Clerk within 50 days shall be deemed a finding that the final plans are consistent with the By-Law.

(f) The Board upon receipt of the report of the Planning Board, but, in any case, within 65 days of the filing of the final plan with the Town Clerk, shall hold a public hearing, notice of which shall be given in the manner and to the parties provided in Section I-D (3) of this By-Law and Massachusetts General Laws Chapter 40A, Section 11, and to any other property owners deemed by the Planning Board to be affected thereby.

(g) The Board shall, within 90-days following the public hearing, issue a written decision setting forth the reason or reasons for its decision or actions. Such written decision may provide that the application is approved as submitted, is approved subject to modifications or conditions, or is denied. A copy of the Board's decision shall be filed within fourteen days with the Town Clerk and shall be mailed forthwith to the applicant.

(h) Approval of a Special Permit for a mixed use shall require a unanimous vote of the Board.

(i) The final plan, as approved by the Board, shall be filed with the Town Clerk and recorded with the Plymouth Registry of Deeds or the Plymouth Registry District of the Land Court, as appropriate.

(j) If the application is denied, the developer shall not submit an application for substantially the same project for two years, except as provided under Massachusetts General Laws Chapter 40A, Section 16.

(k) Special Permits granted under this Section shall lapse in two years, excluding time required to pursue or await the determination of an appeal from the grant thereof if a substantial use has not sooner commenced or if construction has not been begun. The Board may grant an extension for good cause after a hearing, as provided in Massachusetts General Laws Chapter 40A, Section 11, and shall grant an extension if the delay has been caused by the need to seek other permits related to the development.

(l) No construction or reconstruction except as shown on the recorded final plan, or as provided in Section 12 hereof Amendments, shall occur without a further submission of plans to the Board; and a notation to this effect shall appear upon the recorded final plan and upon deeds to any property within the mixed use parcel.

(m) Following filing with the Hingham Town Clerk and recording with the Plymouth Registry District, a final plan which has been approved pursuant to the provisions of this By-Law shall be deemed to run with the land, as provided in this Section of the By-Law.

6. Contents of Final Plan

An application for a mixed use Special Permit and a final plan (hereafter a final plan application) shall include an application for a mixed use Special Permit under Massachusetts General Laws Chapter 40A and this By-Law, a site plan as specified in Section I-G of this By-Law, a final plan as specified in paragraph (a) below, and narrative materials as provided in paragraph (b) below. Plans submitted to the Board pursuant to Section I-I of this By-Law, where applicable, as part of the site plan review shall be sufficient for submission under this subsection 6.

(a) Final plans shall include the following:

(i) a scale of one inch equals forty feet unless another scale is requested and found suitable by the Planning Board;

(ii) preparation by and bearing the seals of an appropriate registered professional engineer, registered architect, registered land surveyor, and registered landscape architect;

(iii) the registered land surveyor indicated on the final plan shall certify the accuracy of the location of the buildings, setback and all other required dimensions, elevations and measurements;

(iv) a utilities and drainage plan prepared and stamped by a registered professional engineer;

(v) the scale, date, and north arrow;

(vi) lot numbers, dimensions of lots in feet, size of lots in square feet, and width of abutting streets and ways;

(vii) all easements within the lot and abutting thereon;

(viii) the location of buildings existing or proposed for the development, which shall be prepared by and bear the seal of a registered architect as provided in subparagraph (ii), including the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required;

- (ix) the location of existing wetlands, water bodies, wells, 100-year flood plain elevation, and other natural features requested by the Planning Board in their written report on the preliminary plan;
 - (x) the distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot;
 - (xi) percent of the building lot coverage;
 - (xii) average finished grade of each building at the base of the building; the elevation above average finished grade of the floor and ceiling of the lowest floor of each building;
 - (xiii) existing and proposed contour lines at two-foot intervals;
 - (xiv) the uses proposed for the mixed use development by building or part thereof including proposed open space, recreation areas, or other amenities;
 - (xv) proposed provisions for parking;
 - (xvi) height of all buildings, above average finished grade of abutting streets;
 - (xvii) a landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size and species of plantings; and,
 - (xviii) a model or models illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevation as well as the general height, bulk and appearance of structures.
- (b) Narrative information concerning the development's impact on the community shall be provided to include, at a minimum, the following:
- (i) a description of the proposed mixed use development, showing the planning objectives and the character of the development to be achieved through the mixed use Special Permit;
 - (ii) a parking and traffic plan to be prepared by a traffic engineer. The traffic plan shall include information on the type and number of vehicles generated on average and peak periods of uses, the impact on traffic intersections, and major roads servicing the project area. The parking plan shall comply with Section V-A of the By-Law;
 - (iii) a description of the neighborhood in which the tract lies and the impact of the development on the neighborhood and the community. Such description shall include information concerning the impact to local schools and school districts, the local tax base, housing supply, sewer, water, and other utility systems, and other public facilities. When so requested by the Board's written report, other impact information shall be provided; and,
 - (iv) evidence of ownership or interest in the land for which the Special Permit is sought.

7. Minimum Requirements

The mixed use Special Permit shall be subject to the following conditions, and the Board of Appeals shall make a determination that the project meets the requirements of Massachusetts General Laws Chapter 40A, Section 9 and this mixed use By-Law as to all the following conditions:

- (a) the mixed use is consistent with the purpose set out in paragraph 2 (b) of this Section of the By-Law;
- (b) the mixed use has received site plan approval as described in Section I-G of the By-Law;
- (c) execution, delivery and recording of such covenants, agreements and instruments running with the land and binding on the owner of the parcel its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board may require, and in form and substance satisfactory to it, in order to insure adherence to the terms of the Special Permit issued hereunder;
- (d) the prior approval of detailed plans for the project including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel all ways and utilities serving the same (which plans shall comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, a model or models, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board deems desirable in order to assist it in making its determination;
- (e) the Board may, in appropriate cases, impose dimensional and setback requirements in addition to those required by this By-Law; and,
- (f) the Board may, in appropriate cases, impose a requirement that a motor vehicular and pedestrian easement for access and egress be provided from a street, road or other way over which the public has access, to the navigable waters bordering the tract of land.

8. Permitted and Intensity of Use

(a) Residential - Commercial Option

(i) Retail uses as allowed by paragraph 8 (c) shall not exceed 6% of the total allowable project square footage.

(ii) Residential use as allowed by paragraph 8 (c) shall not exceed 15% of the total allowable project square footage, with an allowed maximum of 200 units for the entire project area. Further, the number of three-bedroom units shall not exceed 15% of the total number of units constructed. No residential units with over three bedrooms will be allowed in a mixed use project.

(iii) General commercial as allowed by paragraph 8 (c) shall comprise 79% or less of the total allowable project square footage.

(iv) Limited industrial use as allowed by paragraph 8 (c) shall not exceed 20% of the total allowable project square footage. Further, for each square foot of limited industrial space developed, there shall be a reduction of one square foot of allowable general commercial activities.

(b) Commercial Option

(i) Retail uses as allowed by paragraph 8 (c) shall not exceed 6% of the total allowable project square footage.

(ii) General commercial and limited industrial uses as allowed by paragraph 8 (c) may comprise up to 100% of total allowable project square footage. The specific mixture of general commercial and limited industrial uses and square footages shall be the prerogative of the developer, subject to design and site plan review powers accorded to the Board of Appeals.

(c) Permitted Uses

(i) Residential: Residential units, free standing or attached, are a permitted use; further, residential units may be allowed as part of mixed use buildings.

(ii) Retail:

Building materials and hardware General merchandise Food stores and bakeries Liquor stores Automotive, marine craft and aircraft accessories Apparel and accessories Furniture, home furnishings and home appliances Eating and drinking establishments Books and stationery Drug stores

(iii) General Commercial:

Dry goods and apparel (wholesale) Electrical goods (wholesale) Hardware, plumbing, heating and equipment supplies (wholesale) Professional equipment and supplies (wholesale) Service establishments, equipment and supplies (wholesale) Drugs and allied products (wholesale) Tobacco and tobacco products (wholesale) Beer, wine, and distilled alcoholic beverages (wholesale) Paper and paper products (wholesale) Furniture and home furnishings (wholesale) Commercial fishing General business office space Laundering establishments Personal services establishments Research, development and testing services Equipment rental services Medical and dental health services, excluding those uses enumerated in paragraph 3.8 of Section III-A, Schedule of Uses Hotels, motels, and motels: are permitted as part of an originally approved final plan. A change in use from any other allowed use to a hotel motel or motel requires a Special Permit from the Board. At a minimum the applicant must show that the proposed new use meets all parking requirements and is consistent with the remaining land uses in the mixed use. Museums Theaters and public assembly

Sales of marine craft and aircraft Marinas including storage, sales and service of marine craft Sports facilities, clubs, and similar activities

(iv) Limited Industrial:

Assembly and production General warehousing (non-food items) Apparel manufacture Furniture manufacture Professional scientific and research facilities

(d) Other Uses:

(i) Accessory uses as defined in Section III-H of the By-Law shall be permitted.

(ii) Uses not listed in paragraph 8 (c), subparagraphs (i)-(iv) may be permitted as part of the originally approved final plan if, in the judgment of the Board, the proposed use does not create health, traffic or safety problems for the remainder of the development area and abutter areas and is consistent with the remaining land uses in the mixed use area.

(iii) Uses not listed in paragraph 8 (c), subparagraphs (i)-(iv), if requested after approval of the final plan, may be permitted as an amendment to the original mixed use Special Permit as provided in subsection 12.

(iv) Open space as provided in paragraph 9 (c) below.

9. Dimensional Requirements

(a) Site Area Requirements - A minimum of 25 acres is required under one ownership within the Industrial District. The parcel shall be contiguous; however, a public transportation, utility, parking area or public ways shall not constitute a boundary or property line in computing the size of the contiguous parcel. The public transport, utility, parking area or public way, however, shall not be used in the calculation of the total project area.

(b) Floor Area Ratio - Maximum floor to area ratio shall be 1 to 1.

(c) Usable Open Space - The part or parts of land or structure within a mixed use which are reserved for permanent active or passive recreation use. This space shall exclude parking areas, streets, alleys, required setbacks, waterways, and sidewalks; and shall be open and unobstructed. Trees, plantings, arbors, flagpoles, sculpture, fountains, covered walkways, and similar objects shall not be considered obstructions.

In all mixed use developments that are new construction, at least 15% of the land shall be set aside as permanent usable open space, available to the project's users or the community. The required open space shall be subject to reasonable restrictions, covenants, the maintenance arrangements imposed by and legally enforceable by the Town to assure access and maintenance as provided in this Section.

(d) Height - No building within the mixed use development shall exceed 40 feet in height above the average finished grade of abutting properties, except that a 55-foot height may be allowed not closer than 200 feet from major highways such as Route 3A and any residential district. Parking facilities within the building shall not be calculated as part of the allowable height. The maximum additional height allowed for parking facilities shall be nine feet, provided that this shall not apply to free standing parking garages.

10. Parking Requirements

(a) In all mixed use developments adequate off-street parking shall be provided. The Board and the applicant shall have as a goal for the purposes of defining adequate off-street parking for the development, 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 make provision for complementary 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 reductions in the parking requirements set out in this subsection of the By-Law. The parking may be at ground level underground or in a parking garage. Parking garages can be free standing (in which case 55 feet is the allowed maximum height) or as part of buildings with commercial or residential purposes. If a free standing parking structure is proposed, the spaces must be assigned to specific uses at the time of the submission of the final plan.

(b) Parking requirements for the mixed use development shall be in accordance with Section V-A of this By-Law.

11. Signs

Signs in mixed use development are permitted subject to the following requirements and standards.

(a) The proposed location and size of all signs must be indicated at the time of submission of the final plan.

(b) Dimensional controls for signs in mixed use development are as follows:

(i) Development and Directory Signs

One free standing permanent development sign per entrance to the development shall be permitted not to exceed 50 square feet in area and 20 feet above ground level for the purpose of identifying the name of the development; provided, however, that not more than two such signs shall be permitted per total completed mixed use development. As an alternative to one of the foregoing development signs, directory-type signs, a directory-type sign not exceeding 80 square feet in area and 16 feet above ground level identifying the name of the development and any nonresidential use therein shall be permitted at the entrance which is the primary entrance for the nonresidential uses of the mixed use district; provided, that any identification of an individual non-residential use shall not exceed 10% of the total area of such directory type sign. Any such sign shall be within the mixed use development and, where adjacent to any contiguous residential classification or use, shall be located at least 100 feet from the interior boundary between the mixed use development and such residential classification or use.

(ii) Retail, General Commercial and Industrial Buildings

(a) Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade, and in no instance shall they exceed 100 square feet in total sign space.

(b) Parallel signs shall not extend more than one foot from the wall to which they are attached.

(c) Perpendicular signs shall not exceed six square feet in total size and the area of the perpendicular sign shall be deducted from the total parallel sign space allowed, thus reducing the total square footage allowed for a parallel sign.

(d) Perpendicular signs shall be affixed to the building wall by hardware that extends no more than eight inches from the building wall.

(iii) Residential Buildings

(a) Parallel signs affixed to the facade of the structure shall not exceed 30 square feet. Further, the location of said sign is limited to the first floor of the building. Awnings at entrances shall not be considered signs; however, the area used to denote the name of the building on the awning shall not exceed 30 square feet.

(b) Perpendicular signs are not allowed on residential buildings.

(c) Free standing signs, located in an area clearly associated with the residential structure, are allowed. In no instance will the sign be more than 30 square feet or 6 feet in height or within 20 feet of a roadway.

(iv) Buildings Including Residential As Well As Retail General Commercial or Industrial Uses (mixed use buildings)

(a) Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade. In no instance shall the sign area exceed 50 square feet. In calculating the 10% of building facade, the residential portions of the building must be excluded.

(b) Perpendicular signs are allowed on mixed use buildings but shall not exceed six square feet in size, and shall be attached by hardware that does not extend from the wall more than eight inches. Further, the sign area used by perpendicular signs shall be subtracted from the allowable sign area for parallel signs.

(v) The prohibitions of Section V-B of this By-Law shall apply to the mixed use district.

12. Amendments - After approval of the mixed use Special Permit by the Board, the developer may seek amendments to the final plan as approved by the Board as provided below:

(a) Minor amendments shall be defined and administered in accordance with regulations adopted by the Board.

(b) An application for a major amendment shall be filed with the Town Clerk. The applicant shall also submit copies of the application for a major amendment with the Building Commissioner, the Planning Board and the Board of Appeals. An application for a major amendment shall comply with subsections 5 and 6 of this Section.

**Webmasters Note: Section IV-I has been repealed in its entirety as per Annual Town Meeting dated 4/23/01.

Holbrook

Are apartments above commercial (mixed use) allowed in any district?

No

Holden

Are apartments above commercial (mixed use) allowed in any district?

Yes

There is mixed use zoning through three special use developments: "Mixed Use Development", "Village Zoning", and "Retirement Community".

"Mixed use development" by special permit in C, BO-P.

Zoning Bylaws of the Town of Holden (Adopted 1954, Amended 2004)

i. Mixed Use Development

(1) Intent The intent of Mixed Use Development is to provide for the coordinated and mixed development of residential, commercial and business office-professional uses in certain sections of the community, to foster a classic village appearance and development, to make such mixed uses accessible to pedestrian traffic while improving the appearance of the community, and to encourage expanded use of the Main Street corridor

(2) A Mixed Use Development shall require a Special Permit from the Planning Board pursuant to Section XI J All uses permitted in the C and BO-P zoning districts are permitted in a Muted Use Development except as set forth in Section XI ,1 31 (3) Notwithstanding the provisions of Section V F Table 1 USE REGULATIONS the following uses are permitted in a Mixed Use Development

(a) two, three and four family dwelling

(b) duplex

(e) townhouse

(3) The following uses are prohibited in a Mixed Use Development notwithstanding the provisions of Section V F Table 1 USE REGULATIONS

- (a) an automobile repair service and garages
- (b) construction industry including supplies
- (c) open storage of construction equipment
- (d) adult book store, adult dance club or adult theaters

(4) Dimensional Requirements

(a) The Dimensional requirements of the zoning district in which the Mixed Use Development is located, as set forth in Section VI, Table 2, shall apply, except as hereinafter provided

(b) Residential use in a Mixed Use Development shall not exceed three (3) dwelling units, notwithstanding Section V F TABLE OF USE REGULATIONS regarding residential development, and shall not exceed fifty percent (50%) of the total gross floor area of the Mixed Use Development

(c) The minimum lot area for a Muted Use Development shall be computed as follows

(i) If the residential use is located in the same building as the commercial/ business office-professional use, the minimum lot area for the Mixed Use Development shall be that required for the commercial/business office-professional use, and no increase in the minimum lot area shall be required due to the residential use

(ii) If the residential use is not located within the same budding as the commercial/business office-professional use, the minimum lot area for the Muted Use Development shall be the minimum lot area for the commercial/ business office-professional use, plus 3,500 square feet for each dwelling unit

(iii) Parking shall be provided for each use in the Muted Use Development in accordance with the requirements of Section VIII, Table 4, but may be reduced by the Planning Board in accordance with the provision of Section VIII B 5 in connection with the issuance of a special permit pursuant to Section XIJ3i(2)

**Webmasters Note: The previous subsection has been added as per Case No. 1629 Annual Town Meeting Dated 5/21/01.

Holliston

Are apartments above commercial (mixed use) allowed in any district?

Yes

V-K VILLAGE CENTER COMMERCIAL DISTRICT

(Amended May 2001-ATM, Arts. 43&44. Previously amended June 1982-STM, Art. 12)

4. Mixed Use Requirements - The following requirements apply to apartment and multifamily dwellings in the VC District in lieu of the requirements of Section V-G. Apartment and multifamily dwellings shall be allowed only if located above first floor commercial use of a building. More than one dwelling unit is permitted on a lot. Buildings constructed shall be designed to incorporate architectural elements used in surrounding neighborhood and shall have similar massing. No village residential units shall be constructed unless a Special Permit has been granted by the Planning Board in accordance with the requirements of MGL, c. 40A, s. 9.

Hopedale

Are apartments above commercial (mixed use) allowed in any district?

No

PERFORMANCE RESIDENTIAL DEVELOPMENT BY-LAW

ARTICLE I. TITLE AND PURPOSE.
Division 1000.0 Title.

This section of the Zoning By-Laws of the Town of Hopedale, shall be known as and may be referred to as the "Hopedale Performance Residential Development By-Law."

Division 1001.0 Purpose.

The purpose of Section 16 is the implementation of performance criteria to a mixed use residential district to promote the health, safety, and general

welfare of the present and future inhabitants of Hopedale; in accordance with the provisions of Chapter 808, Acts 1975, of the Commonwealth of Massachusetts and any amendments thereof.

Uses listed (some by special permit, some by right):

Village unit
Cottage dwelling
Estate dwelling
Residential office
Professional office
Community center
Non-profit library, museum, art gallery

Hopkinton *Are apartments above commercial (mixed use) allowed in any district?*

No

Hudson *Are apartments above commercial (mixed use) allowed in any district?*

Yes Town of Hudson Protective Zoning Bylaw (Amended 2003)

Uses Allowed by Special Permit in the C_1 District

5.3.4.1 The conversion of existing structures for multiple dwellings where the first floor is devoted to commercial use except for the access to the upper floors, provided that:

- a) The first floor is not used for food service or entertainment establishments.
 - b) The structure was in existence at the time of the adoption of this subsection November 21, 1983.
 - c) The exterior facade of structures listed in the Hudson Historic Survey is not altered, except to meet the State Building Code requirements.
 - d) Each dwelling unit has a minimum of 500 square feet of net floor area.
 - e) Public or private off_street overnight parking is available within 400 feet of the structure.
 - f) Balconies and decks, other than those required for access or by the State Building Code, are placed in the rear of the structure.
 - g) Extra floors added to the structure are of a design in harmony with the character of the area and no higher than the height of the lowest abutting building.
 - h) The first floor of the building is retained as commercial use.
-

Hull *Are apartments above commercial (mixed use) allowed in any district?*

Yes Town of Hull Zoning Bylaws, Section 32, Section 34, and Section 35(2003)

34-1. Permitted uses for Business District and Mixed Use Residential District.

g. Mixed Multi-family Residential and Business, provided, however, that not less than 30 percent of the gross floor area be for business uses, such as office, bank, and restaurant, or any wholesale, retail or service business except places of amusement, not involving manufacture on the premises except of products the major portion of which are sold on the premises by the producer to the consumer, with the remainder to be for rental residential use. Said

residential use to be restricted to units of not more than four rooms, excluding bath, with no more than two of said rooms to be bedrooms. Except for the residential means of egress, no residential unit shall be permitted on the front street side of the level of exit discharge. Height shall be limited to 40 feet and density to a maximum of 15 residential units per acre, in proportion to the actual area of the lot, or take any other action relative thereto.

Town of Hull Zoning Bylaws, Section 43 (2003)

Section 43 - Flexible Plan Development

43-1. Purpose

For the purpose of promoting the more efficient use of land in harmony with its natural features and in furtherance of the general intent of this bylaw to protect and promote the health, safety, convenience and general welfare of the inhabitants of the town, the Board of Appeals may grant a special permit for a Flexible Plan Development subject to the regulations and conditions contained in this section.

43-2. Permitted Use

In a Flexible Plan Development, the following uses is permitted:

- a. Multi-family residential use, including garden apartments and town houses.
- b. Hotels, motels, inns and marinas.
- c. Convenience commercial uses normally found servicing multi-family residential use such as foods, hardware, office, banks, news store, drug store, luncheonette, laundry, barber and beauty shops and variety store.
- d. Accessory uses normally associated with permitted uses in Paragraph 35-1A such as cocktail lounge, restaurant, beauty and barber shop, drug store, news stand, and similar uses designed to serve transient patrons provided such uses are located in the confines of the principal building.
- e. Public open space and recreation.

43-3. Application for special permit

Each application for a special permit for a Flexible Plan Development shall be accompanied by a site plan and building elevations at an appropriate scale. Such site plan shall show the entire project area at a scale of 1"= 100' and shall be prepared by a registered architect or registered professional engineer. The site plan and three (3) copies thereof shall be submitted to the Board of Appeals and shall show at least the following:

[...]

Ipswich

Are apartments above commercial (mixed use) allowed in any district?

Yes

Town of Ipswich Protective Zoning Bylaw (Adopted 1977, Amended 2004)

11. The number of dwelling units obtained by this requirement may be increased by special permit of the Planning Board if the Planning Board determines that the multi-family dwelling shall provide significant public benefit to the Town. Public benefit shall mean affordable housing as defined in IX.I. of this bylaw. Under no circumstances shall the Planning Board waive the density and dimensional requirements to exceed 5,000 square feet plus 2,000 square feet per unit in overall density for multi-family, and 3,000 square feet plus 1,500 square feet in overall density for mixed residential/business use. (Amended by 10/20/03 Special Town Meeting; approved by Attorney General 1/22/04)

D. Table of Use Regulations

The Table of Use Regulations on accompanying pages is a part of this bylaw. The regulations are divided into two (2) parts - those uses permitted as principal uses and those uses permitted as accessory uses. Mixed uses shall be allowed providing each principal use is separately allowed in the Table of Use Regulations.

From Ipswich Community Development Plan:

H1-4. Mixed-Use Developments: Continue to encourage mixed-use developments in the business districts in the town center. Currently, the Town allows multi-family housing in the business districts by special permit from the Planning Board. This housing could be stand-alone or part of a mixed use development with commercial and retail uses on the ground floor. In order to further encourage mixed-use developments downtown, the Town could designate multi-family housing as an allowed use, providing that it is not located on the ground floor.

Kingston *Are apartments above commercial (mixed use) allowed in any district?*

No

Lakeville *Are apartments above commercial (mixed use) allowed in any district?*

No "7.5.3 Permitted Uses as Principal Activities in the Mixed Use Development District

Those uses permitted in the respective underlying zoning district(s), as well as the following uses, shall be permitted within the Mixed Use Development District:

- 1) Office Buildings.
- 2) Medical Facilities, including Medical or Dental Offices.
- 3) Research and Development (R&D; Facilities, provided that, in the absence of municipal sewerage, laboratory operations associated with such facilities are limited to so-called "dry" operations for developing and testing certain electronic and other "hi tech" products, along with prototype production. In a case where the R&D;use is served by a municipal sewerage, so-called "wet" laboratory operations, in conjunction with biotech and other similar uses, shall be permitted.
- 4) Age-Qualified Housing, in which each Dwelling Unit contains, at the commencement of occupancy, at least one occupant who is at least fifty-five years of age. Age-Qualified Housing shall provide a minimum of one parking space per Dwelling Unit.
- 5) Supermarket, as a retail business use, but only if a retail business use is permitted in the underlying zoning district.

All permitted uses are subject to Section 7.5.5, "General Regulations in the Mixed Use Development District".

7.5.4 Accessory Uses

The following uses shall be allowable as accessory to the above principal activities:

- 1) Restaurant or Cafeteria.
- 2) Warehouse and Distribution, as accessory to Office or Research and Development uses.
- 3) Parking and Access Drives for all permitted uses in the Mixed Use Development District, as well as any and all utilities necessary to support such permitted uses, whether or not on the same lot as the principal use."

- Lakeville, Massachusetts Zoning By-Law, 1958, As ammended through 6/14/04.

Lancaster *Are apartments above commercial (mixed use) allowed in any district?*

No

Lawrence *Are apartments above commercial (mixed use) allowed in any district?*

Yes According to the City of Lawrence Zoning Ordinance, Section 29-9(z). (Adopted 1943, Last Amended 2002), Table of Use Regulations:

"(z) Planned unit development.

(1) The use may include a combination of retail businesses, offices, light industrial uses or multiple-family dwellings or residential dwellings in one or more buildings or structures together with parking facilities and open space within the defined development area.

(2) There is 35% of the premises dedicated to open space, and passive and active recreational uses are provided in the open space.

(3) The traffic circulation pattern for the use is safe and convenient, and links all uses in a logical manner.

(4) Other uses provided are accessory to the principal uses.

(5) The minimum size of the premises is the lesser of 60,000 square feet or five times the minimum lot size of the zoning district.

(6) The minimum frontage of the premises is not less than two times the minimum frontage provided in the zoning district.

(7) The boundaries of the use are surrounded by a vegetated buffer the size of which shall be determined by the planning board.

(8) The lot coverage by the buildings is no more than 50%.

(9) The height of any building or structure does not exceed the height requirement in the zoning district where the building or structure is to be constructed.

(10) Parking and loading spaces are provided for each use as required by Tables 4 and 5.

(11) The open space is to be maintained by a private association.

(12) The density for residential use is no greater than 1 1/4 times the density for residential uses permitted in the R-3 district, for residential uses and lot area, frontage and setbacks shall not be less than 75% of the requirements for residential uses permitted in the R-3 district."

Leicester *Are apartments above commercial (mixed use) allowed in any district?*

No

Leominster *Are apartments above commercial (mixed use) allowed in any district?*

No

Lexington *Are apartments above commercial (mixed use) allowed in any district?*

No

Lincoln Are apartments above commercial (mixed use) allowed in any district?

No

Littleton Are apartments above commercial (mixed use) allowed in any district?

No

Lowell Are apartments above commercial (mixed use) allowed in any district?

Yes According to the Lowell Zoning Ordinance, Section 4.2 Table of Use Regulations (adopted 2003), multifamily housing is allowed by right in the following districts:

Business B4 District- B4- Mixed Retail/Residential or Office/Residential
Planned Development – Mixed Use (PD-MU) – see Section 10.2

Lunenburg Are apartments above commercial (mixed use) allowed in any district?

No

Lynn Are apartments above commercial (mixed use) allowed in any district?

Yes 6.5. MULTI-FAMILY/RETAIL

In multi-family residential buildings with Multi-Family/sixty units or more, one newsstand, barbershop, retail beauty salon laundry and dry cleaning service center, and dining room for occupants thereof when conducted and entered only from within the building and where no signs advertising the same are visible from the outside of the building.

Researcher did not find other references to mixed use in the zoning ordinance.

The surevey received from Lynn on 2/24/05 marks the answers as "yes."

Lynnfield Are apartments above commercial (mixed use) allowed in any district?

No Recommendation in 2002 Lynnfield Master Plan:

"2. Mixed Use Zones: Mixed-use zones should be established in both locations, which encourage 2nd floor dwelling units. Mixeduse zoning allowing office parks, lodging, residential and recreation facilities should also be established on the Colonial Golf

Course property. This property is important for increasing the tax base of Lynnfield."

Also in the master plan:

"The Lynnfield Zoning Bylaw has been the basis for the current mix of land uses... It does not encourage mixed uses. Commercial uses are not allowed in residential areas and residential uses are not allowed in commercial areas."

Malden

Are apartments above commercial (mixed use) allowed in any district?

Yes

400.2 Multiple Uses

For the purpose of interpreting the intensity regulations with regard to multi-use buildings or lots, the most stringent controls of the uses of the lot shall prevail, except for the following: coverage principal building, coverage accessory building, and maximum height; where the maximum control shall apply. However, lots with gasoline filling and service stations in combination with the retail sale of food shall require a special permit by the Planning Board in conformance with the following controls:

- . 1 Compliance with the dimensional and parking controls of the multiple uses.
- . 2 The proposal must not endanger the public health.
- . 3 The proposal must be in harmony with the surrounding land uses.
- . 4 The proposal must not, in any way, create a traffic or safety hazard.
- . 5 There must be adequate protection against the creation and spread of litter and debris.
- . 6 The proposal must be in the interest of the common good

300.5 Planned Unit Development hereafter erected, placed, constructed, altered, converted , or otherwise changed may be allowed only by special permit in Residence C and Residential Office (RO) Districts by the Board of Appeal in conformance with the following controls :

- . 1 In addition to those uses permitted in a Residential Office (RO) District, the following uses shall be permitted:
 - . 1 Day Nursery.
 - . 2 Recreation for Gainful Business.
 - . 3 Restaurants, excluding "Fast Food."
 - . 4 Convenience Retail Sales.
 - . 5 Convenience Retail Services.
- . 2 The minimum and maximum dimensional control requirements of this ordinance shall be in full compliance unless specifically changed in this section.
- . 3 Minimum of fifty (50) dwelling units.
- . 4 Maximum building coverage of the principal building or buildings of any lot is to be thirty (30) percent of the total lot area, except this maximum coverage may be exceeded by twenty (20) percent for a total combined maximum building coverage of fifty (50) percent providing that the offstreet parking is to be in the basement and/or cellar of the building and the land that would normally be used for offstreet parking would be devoted to usable open space as required in the dimensional controls.
- . 5 Maximum gross floor area of business services shall be twenty (20) percent of the gross floor area of all buildings containing dwelling units in the development.
- . 6 The Board of Appeal must find that this special permit will not adversely affect the surrounding area.

300.26 Residential Incentive Overlay (RIO).

A RIO, consistent with the recommendations of the Malden Square Zoning and Design Plan dated March 1998, may be applied over parcels within the Central Business (BC) District. The overlay shall not restrict property owner rights relative to the underlying zone. However, if the owner elects to use the RIO for development purposes, development shall conform to the following regulations, and other regulations that may apply consistent with the ordinances of the City of Malden:

- .1 The RIO shall permit multi-family residential use by right up to 12 stories and a height of 120 feet from the highest point of the established grade.
- .2 The RIO shall permit all allowed uses in the underlying Central Business Zone at street level. These uses shall not exceed 650 of the total floor area of any floor(s) at grade/street level.
- .3 All non-residential uses shall be subject to the same offstreet parking requirements as the underlying Central Business Zone. However, residential uses in the RIO shall require 1.5 parking spaces per unit. If such residential property is located within 2000 feet of the property line of a MBTA rapid transit or train station the RIO development shall require 1.25 off-street parking spaces per unit. Parking shall be provided on site or in an off-site facility within 400 feet of any property line of the residential property. In the instance where parking is provided off site, but within 400 feet of the residential property, the Malden Traffic Commission shall certify that said parking is available for use. In no instance shall more than 300 of the required off street parking be permitted in an off-site location.
- .4 Dimensional Requirements. All allowed uses in the RIO shall be subject to the dimensional requirements contained in Section 400.1 and Section 400.3 (but shall not be subject to the provisions contained in Section 300.21), with the exception of minimum usable open space requirements, which shall be a minimum of 50 square feet per dwelling unit, and density requirement (sf/du) which shall be a minimum of 150 square feet in the RIO. However, the minimum area and frontage requirements, shall apply.
- .5 Historic Structures. If the RIO is used at a site where a building or buildings have been designated as historic structures by local, state, or federal historic designation statutes, the historic facade or facades of the building or buildings shall be incorporated into-the design for-the reuse of the building or buildings in question.
- .6 Building Materials and Colors. RIO development shall have masonry veneer as the majority of the building facade material. The facade shall be defined as the exterior, above grade surface area of the vertical plane of all exterior building walls, not including openings, penetrations, doors, windows and door and window frames and trim. At least 850 of the masonry veneer shall be brick or stone and/or brick or stone facing or other similar products. No more than 15% of the building facade shall be exposed concrete. Roughhewn cedar shingles, textured exterior plywood, vinyl siding, and reflective glass shall not be used. Masonry shall not be painted..
- .7 An area of passive recreation accessible to the public shall be required of all residential developments greater than 6 stories.
- .8 Commercial space located at the street level of an RIO development shall have large display windows and transparent doors along the street level facade to maintain strong visual connections between the interior and exterior. Provide a minimum of 50% of the linear frontage of the commercial facade for doors and windows with non-reflective glass. Install doors with a minimum of 50% of their area in clear glass.
- .9 Refuse Removal Facilities. All multi-family residential developments in the RIO shall provide a trash compactor room and facility on the premises and adequate access shall be provided for the servicing of said room and facility. Other provisions for the disposal of refuse may be permitted at the discretion of the Building Inspector, including dumpsters, if in the opinion of the Building Inspector a trash compactor room and facility cannot be adequately sited on the premises or is not deemed necessary for the safe and adequate removal of refuse given the provision of existing municipal trash collection services. However, if the Building Inspector permits dumpsters they shall be subject to the provisions contained in section 500.3.8 of this ordinance.
- .10 Traffic. The project proponent shall demonstrate that traffic and circulation shall be adequate following project development. The applicant shall supply a traffic study of the existing traffic on surrounding streets as well as projected loads resulting from the construction of the proposed building. Such studies shall be performed by a qualified traffic engineer in conformance with the criteria established by the Transportation Research Board of the National Research Council, and shall include AM and PM hourly peaks. For any proposal within the RIO, "Adequate" shall mean a level of service of "D" or better.
- .11 Shadow. The project proponent shall demonstrate that the proposed structure will create no significant new adverse shadow impact for any residential properties of two units or fewer in Residence A and B Zoning Districts. To insure the protection of solar access, the developer must provide shadow analysis, drawn by a registered architect, for 9:00 AM, 12:00 noon, and 3:00 PM based on Standard Time, for the winter solstice (December 21), Spring and Fall equinoxes (March 21 and September 21) and summer solstice (June 21).
- .12 The project proponent shall demonstrate that water, sewer and drainage systems will be adequate following project development and that adequate provisions have been made for solid waste removal and recycling. The applicant shall provide studies, performed by a registered professional engineer, showing the impact the proposed development will have on existing water, sewer and drainage systems. For any proposal within the RIO, a sewer shall be deemed "adequate" if its capacity is sufficient to accept discharge equivalent to the maximum discharge per dwelling unit, as set forth in the Department of Environmental Protection standards; a drainage system shall be deemed "adequate" if its capacity is sufficient to accept post-development runoff resulting from a 10 year storm; a water system shall be deemed "adequate" if development will result in no reduction to existing pressure and volume.

.13 All RIO developments are subject to site plan review, see section 300.28

Email from Michelle Romero on 6/21/05 marks the answer "Yes."

Mancheste *Are apartments above commercial (mixed use) allowed in any district?*

No

Mansfield *Are apartments above commercial (mixed use) allowed in any district?*

Yes According to the table of uses, the following are also listed under "classification of other uses":

- "Mixed bus/res use", by right in business district 1, and by special permit from the planning board in business district 2 and industrial district 3.

3.7 CLASSIFICATION OF OTHER USES

3.7.2 Mixed Business and Residential Use: In the Business 1 (B1), Business 2 (B2) and Industrial 3 (I3) Districts, both non-residential and residential uses are permitted on the same lot in conformance with Section 4.2.2.

Marblehead *Are apartments above commercial (mixed use) allowed in any district?*

Yes According to Table 1 Land Use Regulations, the following multifamily uses are allowed:

Combined residential and non residential... by right in H, and by special permit in B, U & SU, B1 and B-R.

Marlborough *Are apartments above commercial (mixed use) allowed in any district?*

No

Marshfield *Are apartments above commercial (mixed use) allowed in any district?*

Yes Survey received from Marshfield Town Planner Angus Jennings on 6/8/05 marks that Marshfield does allow mixed use.

Town of Marshfield Zoning Bylaw (Amended 2004)

Section 11.05 Planned Mixed-Use Development

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 4/26/04.

3. Applicability and Uses: In addition to the uses allowed in the I-1 zone, the following uses may be allowed by special permit: Limited retail (including

Grocery Store); Eating and drinking places excluding drive-in establishments; Bank within or as a liner to the main retail building; Membership club; Other amusement / recreation service; Housing for the elderly not to exceed 3 units per acre (subject to Section 11.08); Nursing, rest or convalescent home not to exceed 24 beds per acre.

Article II Definitions

MIXED USE DISTRICT : A zoning district where the location of more than one permitted principal use in one building may be allowed by special permit. Mixed-Use Districts include the B-1 Business-Mixed-Use zoning district and the Planned Mixed-Use Development overlay district.

**Webmasters Note: The previous definition has been added as per an update approved at a town meeting held on 10/27/03.

RESIDENTIAL BUSINESS : A structure in the RB Zone consisting of business uses on the ground floor with a single accessory residential unit within the structure, with sufficient on-site parking for both uses.

Section 4.04 Mixed Uses

In cases of mixed occupancy, the regulation for each use each apply to the portion of the building or land so used. Allowable residential densities and non-residential square footage requirements shall apply to each use individually per lot provided, however, that building bulk, height, setbacks and other dimensional characteristics shall comply with the standards set forth in Sec. 6.10: Table of Dimensional and Density Regulations.

**Webmasters Note: The previous section has been amended as per an update approved at a town meeting held on 10/27/03.

Section 6.08 Other General Dimensional and Density Provisions

In addition to the regulations in Section 6.01 through 6.07, the following regulations shall apply;

1. Existing and permitted residential uses in the "B" or "I" District shall be subject to the dimensional density regulations of the nearest residential district as determined by the Building Inspector or, in the case of an Age-Restricted Adult Village as authorized under Sec. 11.08, shall be governed by the dimensional density regulations set forward therein and as approved by the SPGA;

**Webmasters Note: The previous subsection has been amended s per an update approved at a town meeting held on 10/27/03.

Maynard

Are apartments above commercial (mixed use) allowed in any district?

No

Medfield

Are apartments above commercial (mixed use) allowed in any district?

No

Medford

Are apartments above commercial (mixed use) allowed in any district?

Yes

The following is part of the text of the zoning for mixed use districts.

DIVISION 4. MIXED USE ZONING DISTRICTS

Sec. 94-211. General provisions.

Any land contained within the mixed use zoning district shall be subject to all of the provisions of this division, and to all of the other provisions of the this chapter, except where the provisions of this division conflict with other provisions of the this chapter, in which event the provisions of this division shall govern. Without limiting the foregoing, the provisions of article V, (Signs), shall apply in the mixed use zoning district. (Ord. No. 522, § 5(10A.1), 2-2-1988)

Sec. 94-212. Height limitations.

Any building or structure in an MUZ district shall not exceed 100 feet or seven stories in height (exclusive of mechanical and elevator penthouses), except that: A building principally devoted to hotel or multiple dwelling residential use adjacent to a public open space may have a height which does not exceed the lesser of 130 feet or 12 stories. A building shall be considered to be adjacent to a public open space if it is on a lot which abuts land held for or devoted to recreational use open to the public, such as a park, marina or forest, and there exists no principal structure between such building and such land so held or devoted. (Ord. No. 522, § 5(10A.2), 2-2-1988; Ord. No. 701, § 5, 6-3-2003)

Sec. 94-213. Landscaped open space; lot coverage.

Sec. 94-217. Uses.

The table of uses set forth in subsection 94-148(d) governs the use of land in an MUZ district. In addition to the requirements of that section the following additional requirements shall apply:

- (1) Use item 3C, (private entertainment and recreational facilities), are limited to health clubs.
- (2) Use item 6, (hospital, not operated as a gainful business). In no event shall any hospital, whether or not operated as a gainful business, be permitted in an MUZ district.
- (3) Use item 28, (outdoor automobile sales and storage). In no event shall outdoor storage of automobiles, whether or not associated with automobile sales, be permitted in an MUZ district.
- (4) Use item 35 (manufacturing, including assembly, fabrication and processing and reprocessing of materials) is permitted in an MUZ district only to the extent (i) that such use is light industrial in nature (such as the manufacture, fabrication, processing, assembling and testing of products), (ii) is accessory to a principal use, and (iii) does not exceed 25 percent of the gross floor area of the structure; any manufacturing which is not accessory to a main use or exceeds 25 percent of the gross floor area of a structure shall be permitted only upon the grant of a special permit by the city council pursuant to section 94-220, provided that in any event only manufacturing which is light industrial in nature shall be permitted.
- (5) Use item 35A (accessory day care center), and day care under Use Item 11, is permitted in an MUZ district only to the extent that there is provided, on the same lot or on another lot in the same MUZ district or in an ROS district, an outdoor play area conforming to size requirements under 102 CMR 7.00 (Commonwealth of Massachusetts Standards for the Licensure or Approval of Group Day Care Centers). To the extent that an outdoor play area which services a day care use in an MUZ district is located in an ROS district, such use of an ROS district for an outdoor play area is permitted, notwithstanding anything to the contrary in subsection 94-148(d) (Table of Uses).
- (6) Notwithstanding anything to the contrary contained in subsection 94-148(d) (Table of Uses), any private way included in a MUZ district may be used for ingress, egress and access to industrial uses in adjacent districts. (Ord. No. 522, § 5(10A.7), 2-2-1988; Ord. No. 615, § 1, 3-25-1997)

Sec. 94-220. Special permit.

Whenever the grant of a special permit is authorized pursuant to this division, the following procedures and standards shall govern.

- (1) In each instance in which the grant of a special permit is authorized pursuant to this division, the city council shall decide such questions as are involved in determining whether special permits should be granted, hear applications for special permits, and grant a special permit when all necessary conditions are met or deny that special permit when all necessary conditions are not met, or when the matter which requires a special permit is, in their judgment, not in harmony with the general purpose and intent of this chapter. Special permits shall only be issued following public hearings held as provided for in M.G.L.A. c. 40A, § 9.
- (2) The city council shall act within 90 days following a public hearing for which notice has been given by publication and posting as provided in M.G.L.A. c. 40A, § 11 and by mailing to all parties in interest.
- (3) The city council, upon receipt of an application for a special permit, shall:
 - a. Forward such application to the community development board.
 - b. The community development board shall, within 45 days, review said application and make recommendations as it deems appropriate and send copies thereof to the city council and to the applicant. Failure of the board to make recommendations within 45 days of receipt by said board of the petition shall be deemed lack of opposition thereto.
- (4) A special permit granted under this section shall lapse within two years, and including such time required to pursue or await the determination of an appeal referred to in M.G.L.A. c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.
- (5) Applications for special permits shall not be approved unless the following standards are met and the city council so finds:

- a. That the use of the structures is permitted as of right or by special permit.
- b. That the use and structures are so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.
- c. That the use and structures will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- d. That the use and structures will be compatible with adjoining development and the proposed character of the zone district where it is to be located.
- e. That adequate landscaping and screening is provided as required herein so as to minimize the impact of the proposed use or structure and any incidental effects thereof.
- f. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
- g. That the use conforms with all applicable regulations governing the district where located.
- h. That such other requirements under M.G.L.A. c. 40A for the grant of a special permit have been satisfied.

(6) In granting a special permit, additional specific conditions, safeguards and limitations on time or use as are deemed necessary to insure compliance with the intent of this chapter or to protect the neighborhood may be attached. (Ord. No. 522, § 5(10A.10), 2-2-1988)

Sec. 94-221. Site plan review in an MUZ district.

(a) Purpose of site plan review. For the purposes of insuring that there shall be no development in an MUZ district except in conformity with the provisions of this chapter, in an MUZ district no structure shall be constructed, reconstructed or used, and no improvements to any lot shall be made, unless such development is in conformity with a site plan which has been reviewed by the community development board (CDB) in accordance with the provisions of subsections 94-221(c) through 94-221(k).

(b) Preliminary site plan. When a petition is filed with the city council for a zone change from the text or map of this chapter, an applicant shall submit three black or blue line copies of a preliminary site plan with such application. Additional copies of plans may be requested by the CDB for distribution to other concerned departments or agencies. A preliminary site plan shall consist of:

Medway

Are apartments above commercial (mixed use) allowed in any district?

No Note: the mixed use in the adaptive use overlay district only allows for up to two dwelling units above stores.

W. ADAPTIVE USE OVERLAY DISTRICT

1. Purpose: The purpose of the Adaptive Use Overlay District is to promote economic development while maintaining community character by streamlining the permitting process for conversion of existing buildings within the district to commercial or commercial and two-family residential uses while maintaining the architectural integrity of the buildings and preserving the character of the district. The specific purposes of the Adaptive Use Overlay District are:

- a) To provide for limited business uses within certain portions of residential districts subject to standards designed to preserve community character.
- b) To encourage the preservation of historic buildings by providing economic uses for buildings that may no longer function well as single-family residences.
- c) To implement certain goals of the Master Plan including encouraging economic development, protecting small town character, preserving historic sites, and updating zoning to maintain consistency.

2. General Requirements:

- a) Location: The Adaptive Use Overlay District is superimposed on that portion of the ARII district along the north side of Main Street between Mechanic Street and Winthrop Street and along the south side of Main Street between a line formed by the extension of the centerline of Mechanic Street across Main Street and the western boundary of the CII district at Elm Street.
- b) Main Street Frontage: Only properties with a minimum of 50 feet of frontage on Main Street within the boundaries of the overlay district shall qualify for a special permit granted by the Planning Board (hereinafter referred to as a "Adaptive Use Special Permit").

c) Rules and Regulations: The Planning Board shall develop Adaptive Use Overlay District Rules and Regulations which shall more fully define the application requirements, identify supporting information needed, and establish reasonable application, review and inspection fees, and performance bond requirements.

3. Permitted Uses

a) Uses Allowed As of Right: All uses allowed as of right in the underlying ARII district shall remain as of right within the Adaptive Use Overlay District

b) Uses Allowed by Special Permit: The following uses shall be permitted upon the granting of a Adaptive Use Special Permit by the Planning Board under the provisions of Massachusetts General Laws Chapter 40A, Section 9.

1) Offices for business or professional uses, including, but not limited to accountants, architects, attorneys, counselors, engineers, insurance agents, medical practitioners, planners, real estate sales, and similar uses.

2) Two-family residences in conjunction with commercial uses.

3) Studios for artists, photographers, interior decorators and similar design-related uses.

4) Retail sales for handcrafted merchandise, original art or copies of original art objects, antiques, and second hand goods.

5) Food services including, but not limited to bakeries, cafes, coffee shops, delicatessens, frozen dessert shops, pastry shops, or sandwich shops.

6) Repair shops for small electronic equipment, appliances or tools.

7) Personal care services such as barber shops, beauty parlors and nail salons.

8) Florists

c) Prohibited Uses: The following uses shall be prohibited from the Adaptive Use Overlay District:

1) Motor vehicle sales, repair, or sales of parts

2) Manufacturing

3) Drive-through windows of any kind

4) Exterior storage of equipment or materials

4. Adaptive Use Special Permit Site Development Standards: The following site development standards shall apply to all Adaptive Use Special Permit developments:

a) Each lot subject to the Adaptive Use Special Permit shall have a building or buildings located on it that was constructed prior to May 10, 2004.

b) All developments must include the restoration or enhancement of the primary existing building(s) to maintain or restore its original architectural integrity.

c) Unless determined by the Planning Board to be not feasible, all parking shall be to the rear and side of the building and not in the front yard. Parking areas shall be screened from the public way and abutting properties by structures and/or landscaping. Adequate provisions for on-site retention and treatment of storm water shall be included. Parking areas shall include provisions for current or future shared and/or linked parking with adjacent properties when such linking can be accomplished without significant degradation of the character of the neighborhood.

d) Lighting shall be of residential scale, architecturally compatible with the building, and shall be designed to ensure that no glare is produced on abutting properties or the public way.

e) No new curb cuts shall be added and no existing curb cut shall be expanded, unless the Planning Board finds that such changes are necessary to ensure safe access to the property.

f) Significant pedestrian and bicycle access (including bicycle parking) shall be provided.

g) All developments shall include a landscape plan that maintains or enhances the residential character of the property. The landscape plan shall also provide, in the opinion of the Planning Board, a buffer zone (including one or more of shrubs, trees, grass and fencing) appropriate for the proposed use along any property boundaries with an adjacent residential use, as well as screening for parking, loading and refuse storage facilities.

h) For every 300 square feet of gross floor space, at least one (1) off-street parking space shall be provided, unless the Planning Board finds that a lesser number is adequate based on site characteristics and the proposed use.

i) For every residential unit in a building with multiple residences or mixed commercial and residential uses, at least two (2) off-street parking spaces

shall be provided, unless the Planning Board finds that a lesser number is adequate based on site characteristics and the proposed use.

5. Procedures for Special Permit: Projects that are granted an Adaptive Use Special Permit shall be exempt from Site Plan Approval as required in SECTION V. USE REGULATIONS, Sub-Section C of this Zoning Bylaw. However, only the specific uses and improvements for which an Adaptive Use Special Permit is granted shall be exempt from Site Plan Approval.

6. Procedures for Special Permit: Applications for Adaptive Use Special Permits shall be made to the Planning Board on forms provided for that purpose, accompanied by the required fee. Copies, of the completed application shall be distributed to those boards and departments specified in the Rules and Regulations, and shall include, but not be limited to: the Selectmen, Inspector of Buildings, Conservation Commission, and Design Review Committee. A complete application shall include the following items:

a) Application Form

b) Application and Plan Review Fees

c) Certified Abutters List

d) A plan of the property prepared by a Professional Engineer (PE) and Registered Land Surveyor (RLS), certified by same with their seal, stamp and signature, at the discretion of the Planning Board. The plan shall show, among other things, all of the following existing and proposed site features: buildings, structures and roadways; freestanding signs including traffic control signs; driveways, walkways and parking spaces; service areas; utility lines; landscape features, including trees; fences and walls; open spaces and buffer areas; storm water drainage design, existing topography; and natural features, including wetlands.

e) A locus plan showing existing buildings, structures, freestanding signs, driveways and walkways on abutting properties.

f) Design features of the building(s) and structures, including, as appropriate, elevations, materials, colors, etc.

g) A narrative statement discussing how the proposed project complies with the purposes and requirements of the Adaptive Use Special Permit

7. Special Permit Standards and Criteria: In considering an application for a Adaptive Use Special Permit, the Planning Board shall make the following findings:

a) The proposed use is allowed under the provisions of 3. b).

b) The site is adequate for the proposed use in terms of size, configuration, and uses of abutting properties.

c) Provisions for traffic and parking are adequate for the proposed use.

d) Provisions for pedestrian and bicycle access are adequate, based on site characteristics and the proposed use.

e) The proposal restores or enhances the aesthetic appeal of the primary building and its site.

f) The impact on neighborhood visual character, including views and vistas, is positive.

g) The provisions for utilities, including sewage disposal, water supply and storm water management are adequate.

h) The proposed project complies with the goals of the Master Plan and the purposes of this section of the Zoning Bylaw.

**Webmasters Note: The previous subsection, W., has been added as per an update approved at a town meeting held on 6/28/04.

Melrose

Are apartments above commercial (mixed use) allowed in any district?

Yes

According to the Table of Use Regulations, Section 5.4, on ordinance.com:

"Mixed residential/business uses where all dwelling units are above the first floor level (Ord. of 5/1/95)" is allowed by special permit in UR-B, UR-C, UR-D and by right in BA-1, BC, BD.

Mendon

Are apartments above commercial (mixed use) allowed in any district?

No

Merrimac *Are apartments above commercial (mixed use) allowed in any district?*

Yes Merrimac Zoning Bylaw 2004

9.3. Uses and Structures Permitted by Special Permit.

In the Rural Highway District, the Planning Board may issue a special permit and site plan approval for the following uses:

9.3.8. Residential uses

9.3.8.2. Multi-family dwelling when carried out in a MIXED-USE development that includes permitted commercial uses, subject to "Regulations for Multi-Family Housing in the Rural Highway District" at Section 9.10 of this Bylaw.

9.10. Regulations for Multi-Family Housing in the Rural Highway District

The Planning Board may grant a SPECIAL PERMIT for MULTI-FAMILY housing in the Rural Highway District under the following conditions:

9.10.1. Multi-family housing in the Rural Highway District is intended to be part of a MIXED-USE development and contribute to the MIXED-USE character of the district as a whole. To qualify for a MULTI-FAMILY housing SPECIAL PERMIT, the applicant must integrate dwelling units with a proposed commercial development. Integration may be achieved by one or both of the following methods:

9.10.1.1. Locating units above the ground floor of a commercial building, i.e., an accessory dwelling in a structure occupied principally for commercial uses.

9.10.1.2. Constructing "free-standing" or separate MULTI-FAMILY buildings on the same lot, provided they are located behind a commercial development that is oriented toward Route 110 and are connected to the commercial development by pedestrian walkways, appropriate landscaping, lighting and other elements of the site plan.

9.10.1.3. The Town strongly prefers that some of units be located above the ground floor of one or more commercial buildings in a development, and the Planning Board may require the same as a condition of SPECIAL PERMIT approval.

9.10.2. The following density and dimensional rules shall apply to MULTI-FAMILY housing:

9.10.2.1. No more than 60% of the GROSS FLOOR AREA of a proposed MIXED-USE development shall be used for MULTI-FAMILY dwelling units.

9.10.2.2. Multi-family dwellings shall not exceed eight units or sixteen bedrooms per acre.

9.10.2.3. A building designed exclusively for MULTI-FAMILY use shall contain no more than six units, and shall not exceed a building height of 35 feet and two and one half stories.

9.10.2.4. Buildings designed exclusively for MULTI-FAMILY housing shall avoid monotonous, look-alike designs and promote high standards of exterior quality and appearance.

9.10.3. Parking. Applicants shall provide 1.5 parking spaces per one-bedroom unit and 2 parking spaces per two- or three-bedroom unit. At least one space per unit shall be located so as to provide convenient access to its assigned dwelling unit. Parking garages will be permitted as a parking space if located and designed so as to complement the building design and site layout.

9.10.4. Setbacks. All buildings must be located at least 50 feet from any side or rear LOT line and 50 feet from any established street layout or, where applicable, any defined street line of a public road, which street setback area shall be undeveloped and/or landscaped. Upon a finding by the Planning Board that a setback of lesser width would be sufficient to screen and/or separate the development from adjacent property, the setback may be reduced. The Board may require no-cut easements, conservation restrictions or the like where the setback has been reduced. Buildings shall be located at least 20 feet from interior roadways and driveways that are not considered streets or public roads.

9.10.5. Distance between STRUCTURES. The distance between two STRUCTURES shall be no less than their average height or 35 feet, whichever is greater. Such distance shall include any garages or other accessory STRUCTURES.

9.10.6. Road construction. Roads that serve MULTI-FAMILY housing in a MIXED-USE development shall be constructed in accordance with the standards of the Subdivision Rules and Regulations of the Town of Merrimac with the exception of width, which shall be determined by the Planning Board. Inspection of the roads during construction shall be in accordance with the procedures contained in the Subdivision Rules and Regulations and the inspection process shall be administered by the Planning Board. Such procedure shall include the payment of any fees or deposits for the inspections as required by the Subdivision Rules and Regulations at the time of site plan submittal.

9.10.7. SPECIAL PERMIT granting criteria. Before the Planning Board may issue a SPECIAL PERMIT for MULTI-FAMILY housing in the Rural Highway District, it shall consider the following criteria:

9.10.7.1. Consistency with the Merrimac Master Plan.

9.10.7.2. Compliance with all applicable provisions of this Bylaw.

9.10.7.3. Desirability of architectural design.

9.10.7.4. Desirability of the number and mix of units proposed, and the provision of housing units accessible to persons with disabilities.

9.10.7.5. Protection of adjoining premises against detrimental or offensive uses on the site.

9.10.7.6. Adequacy of space for vehicular access to the site and off-street parking and loading/unloading on the site.

9.10.7.7. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent WAYS and land.

9.10.7.8. Adequacy of water supplies and distribution for domestic use fire protection.

9.10.7.9. Adequacy of the methods of

- 9.10.7.9.1. Disposal of sanitary sewage, as determined by the Board of Health or regulations of the Merrimac Sewer Commission where applicable. Connection to the municipal sewer system is required for property located in a designated sewer service area.
 - 9.10.7.9.2. Storage and disposal of refuse and solid wastes resulting from the uses permitted on the site.
 - 9.10.7.9.3. Drainage and retention of surface water.
-

Methuen *Are apartments above commercial (mixed use) allowed in any district?*

Yes Methuen Zoning Ordinance

4. Mixed Use Developments

A. Purposes:

- 1. To promote a better utilization of existing buildings and properties by allowing a mixture of residential and commercial uses in the same building.
- 2. To meet the affordable housing needs of the Town.
- 3. To promote diverse and energy efficient housing at a variety of costs.

B. Applicability:

An application for a Mixed Use Development shall be allowed in the CBD, and BL zoning districts.

C. Procedural Requirements:

a. Application: Applicants for a Mixed Use Development Special Permit shall submit to the Community Development Board an original and eleven (11) copies of an application and a site plan (12) copies as described in Section XI-C, 8(B). If the application for a special permit involves land with more than one ownership, each owner of the land included in the plan shall be party to the application, and upon approval, subject to its provisions.

b. Procedures and Considerations: The procedures for obtaining a Mixed Use Development Special Permit are specified in Section XI-E. In order to grant a special permit for a Mixed Use Development, the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled, the specific requirements of Section XI-D, 4(D) have been fulfilled and the proposed uses of the building or property will not impact the health, safety or welfare of the abutters to the property or the users of the building and property.

A Mixed Use Development shall comply with the following requirements:

a. Allowable Density: The residential portion of the development shall comply with the maximum density requirements for the zoning district in which the development will be located. The maximum gross density of dwelling units (du) per gross acre of land for the applicable zoning district shall be as follows: CDB (6du), and BL (4du). A density bonus may be approved by the Community Development Board in accordance with Section XI-D, 7 hereof.

b. Allowable Uses: All residential, retail, service and office uses as described in Section V-D shall be allowed in a Mixed Use Development. In cases where a use is allowed only by a special permit and the use is being sought under a Mixed Use Development then the Community Development Board shall as part of the Mixed Use Development Special Permit serve as the Special Permit Granting Authority for the use.

c. Dimensional and Other Requirements:

- 1. The minimum dimensional controls for the zoning district in which the development will be located shall be as follows:
 - 2. The minimum parking, loading and sign regulations shall be as specified in Sections VI, VII, and VIII.
 - 3. The Community Development Board shall have the right to require additional dimensional, parking, loading, signage, and landscaping requirements as well as reasonable on-site and off-site infrastructure improvements as a condition for granting a Mixed Use Development Special Permit.
-

Middlebor *Are apartments above commercial (mixed use) allowed in any district?*

Yes Middleborough Zoning Bylaw

B. BUSINESS DISTRICT

1. Permitted Uses

d. Multiple dwellings situated above the street level floors of buildings in existence on May 4, 1981, by special permit of the Zoning Board of Appeals to be obtained pursuant to the provisions of subsection C of Section VII of these By-laws.

Middleton *Are apartments above commercial (mixed use) allowed in any district?*

No

Milford *Are apartments above commercial (mixed use) allowed in any district?*

No

Millbury *Are apartments above commercial (mixed use) allowed in any district?*

Yes Town of Millbury Zoning Bylaws (Updated 2003)

Section 48. Route 146 Highway Corridor Overlay District.

48.3 Classified Uses. All uses within the 146 HCOD shall be subject to the use limitations as described in section 48.30 through 48.34 of this section. All uses exclusively permitted shall be permitted only where incorporated into a coordinated development with an aggregate lot area so designated by the node classification chart.

48.31 Node Classification I. Node classification I shall be any parcel in the 146 HCOD which contains a minimum lot area of sixteen (16) contiguous acres.

Uses Permitted by Special Permit:

Theaters, museums, cultural and/or social community facilities, convention centers.

Research and development.

Business and professional offices.

Child/elderly day care facility.

Retail sales and services.

Restaurant.

Motel or hotel.

Parking to service a permitted use but not having more than one (1) commercial vehicle or any construction equipment or any truck over one and one-half (1 1/2) tons.

Personal services.

Indoor and outdoor recreational facilities.

Multifamily dwellings.

48.34 Mixed Use. A concentration of complementary land uses that combine uses in a compact area, in one or separate structures on the same node, are strongly encouraged. These uses would be physically integrated by road and pedestrian systems. All uses allowed by the Route 146 Highway Corridor Overlay District requires access be obtained on accessory roads.

Millis *Are apartments above commercial (mixed use) allowed in any district?*

Yes

Email received from Planning Board Administrator Camille Standley on 6/2/05:

"1. Mixed use only allowed in one zone located downtown ("Millis Center Economic Opportunity District")"

Millis Zoning Bylaw 2004

P. Mixed Use Development (Millis Center Economic Opportunity District)

1. Purpose

The purpose of this bylaw is to establish a Millis Center Economic Opportunity District (MCEOD) Zoning By-Law. The benefits of the MCEOD By-Law accrue only to those parcels located entirely within the boundaries of the MCEOD. The MCEOD shall hereby be established for that portion of the C-V District between Plain Street and Auburn Road, on both the North and South sides of Route 109. A special permit process is established with the intent of enabling the redevelopment of this area into a mixed use village center, to provide alternatives to single family housing and to promote economic development of the town center.

2. General Regulations

(a) Objectives: In addition to the specific criteria contained within this section, the Millis Planning Board shall issue a special permit for development within the MCEOD only after consideration of the following:

1. adequacy of the site in terms of the size of the proposed structure(s);
2. adequacy of the provision of open space, its accessibility to the general public, and/or its association with adjacent or proximate open space areas;
3. suitability of the site for the proposed uses(s);
4. impact on traffic, pedestrian flow and safety and access for emergency vehicles;
5. impact on the visual character of the neighborhood;
6. adequacy of utilities, including sewage disposal, water supply and storm water drainage;
7. degree to which the proposed project complies with the goals of the latest Millis Master Plan and the, provisions of this section.

(b) Uses Permitted: Within the Millis Center Economic Opportunity District, the Planning Board may issue a special permit for the following uses either solely or in combination:

1. Apartment houses or buildings. Residential uses are restricted to second floor and above, where facing the Main Street.
2. Retail stores and offices including salesrooms and showrooms, consumer service establishments, business and professional offices, executive and administrative offices, banks and other institutions.
3. All uses allowed by right or by special permit in the underlying zoning district.
4. No building or structure shall be designed, arranged or constructed and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the primary uses herein set forth as permissible by special permit. A building having a combination of uses will be subject to Planning Board determination as to both the appropriateness of the character, the number of uses and the compatibility of adjacent or combined uses.
5. Drive through Windows are not Permitted.
6. Light Industrial/Manufacturing Uses are not Permitted.

(c) Standards and Criteria

1. Minimum Lot Size

A. The minimum lot size is not less than 30,000 square feet of "buildable lot area". The lot must contain the "buildable lot area" in a single, contiguous site within the boundaries of the Millis Center Economic Opportunity District.

B. No portion of a way or street, as defined by the by-law may be included in computing the minimum required "buildable lot area".

2. Lot Coverage No building shall be constructed so as its total footprint covers, together with the footprint of any other building on the lot, more than fifty (50) percent of the "buildable lot area".

3. Minimum Lot Frontage and Access Lots with over 60,000 S.F. of "buildable lot area" shall have a minimum frontage of one hundred twenty feet (120) feet and at least one means of ingress/egress. Each means of ingress/egress shall have a continuous frontage or not less than sixty feet..

4. Density

A. No buildings(s), structure(s) or land shall be used, in whole or in part, which exceeds the densities specified below for residential and non-residential uses. For the purpose of this section, "gross square feet of non-residential floor area" means the total non-residential floor area contained within exterior walls but does not include basement space used solely for heating and utilities, storage or for automobile parking.

1. One dwelling unit per 2,000 S.F. of "buildable lot area"

2. Three thousand (3,000) gross "buildable lot area".

5. Setbacks and Yard Regulations for Buildings A. No building shall be constructed so as to be nearer to the lot line of any street than the "required setback distance" or nearer to the side lines of its lot than the "required side yard width" or nearer to the rear line of its lot than the "required rear yard depth" specified below:

1. Required Setback Distance: Min. 5 feet and Max. 15 feet.

2. Required Side Yard Width: None

3. Required Rear Yard Depth: Min 25 feet

B. The required setback distance shall be measured from the nearest exterior line of the street in question.

C. No storage or display of goods, products, materials or equipment, vending machines or similar commercial devices shall be located nearer to the line of any street than the permitted setback distance for a building on the lot.

6. Height Regulations A. No building shall be constructed to exceed thirty-five (35) feet or two and one half stories whichever is lower.

7. Common Open Land A. Each site is encouraged to have Common Open Land for use by the general public. The open space shall have a shape, dimension, character and location suitable to assure its use for park or open space purposes by the general public.

B. The Planning Board may permit a density bonus of one (1) dwelling unit per 2,000 S.F. of Common Open Land provided the area in Common Open Land shall equal at least fifteen (15) percent of the total area.

8. Parking Requirements

A. In the Millis Center Economic Opportunity District, there shall be provided and maintained improved off-street automobile parking in connection with the erection, establishment or increase in units or dimensions of buildings, structures and uses, in the following amounts:

1. For dwelling units one parking space per each one bedroom unit and two parking spaces per each unit having two bedrooms or more.

2. For retail stores and offices including salesrooms and showrooms, consumer service establishments, public administration buildings, business and professional offices, executive and administrative offices, banks and other financial institutions one parking space for each two hundred fifty (250) square feet of gross floor area. For the purpose of this section, "gross floor area" means the total floor area contained within exterior walls, but does not include basement space used for heating and utilities, storage or for automobile parking.

3. Uses not listed in this section Parking Requirements, shall comply with the parking space requirements of the Millis Zoning By-law Section VIII: Off-Street Parking and Loading Regulations.

4. In the case of mixed uses, the parking spaces required shall be the sum of the requirement for the various individual uses, computed separately in accordance with this section. Parking spaces for one use shall not be considered as providing the required parking spaces for any other use unless it can be clearly demonstrated to the Planning Board that the need for parking occurs at different times.

5. Off-street automobile parking spaces, to the extent required in this section, may be provided either on the same lot or premises with the parking generator or on any lot or premises associated therewith a substantial portion of which at least is within three hundred (300) feet of the generator.

6. Off-street parking facilities and connecting drives between such facilities and the street shall be designed to insure the safety and convenience of persons traveling within or through the parking area, and between the parking facility and the street. The provisions of Section VIII. C. Parking and Loading Lot Standards shall be considered the minimum criteria for evaluating such design.

9. Signs and Advertising Devices The provisions of Section VII Signs is adopted for the regulation and restriction of bill boards, signs and other advertising devices within the MCEOD.

10. Stormwater Management Each applicant shall have the burden of demonstrating that the project shall comply with both Best Management Guidelines for the management of stormwater and any applicable EPA, DEP, or town stormwater management guidelines.

11. Miscellaneous The Application to the Special Permit Granting Authority for a Special Permit pursuant to this section shall include written certification from both, the Fire Chief and the Board of Health that the proposed use will meet all state and local health and safety requirements. It is the obligation of the applicant to obtain this information and to pay for any related costs thereto.

3. Findings

The Special Permit Granting Authority may issue a Special Permit for a Mixed Use Development subject to the requirements stated herein as well as the requirements listed in Section XII, Q. 1.a. through h.

4. Conditions

Said Special Permit may be issued subject to such conditions as the Planning Board may deem appropriate and shall terminate upon the happening of any of the following events, whichever is sooner:

a. Sale of property;

b. Change of use

**Webmasters Note: The previous subsection, P., has been added as per an update approved at a town meeting held on 5/10/04.

Millville *Are apartments above commercial (mixed use) allowed in any district?*

No

Milton *Are apartments above commercial (mixed use) allowed in any district?*

Yes Zoning Bylaws Town of Milton

I. Planned Unit Development

In the Milton Village/Central Avenue Business District on a lot of no less than 80,000 square feet of land, exclusive of wetlands, all of which is no less than 50 feet from any residential zoning district in the town a mixed residential and business use may be permitted by a special permit for planned unit development issued by the Planning Board upon such terms and conditions as the Planning Board shall deem to be reasonable and appropriate. In the event that a special permit for planned unit development shall be issued for a lot of land, no use of the lot may be made except as specifically authorized by the special permit. As used in this subsection I, the word "lot" shall be deemed to include a combination of adjacent lots in more than one ownership. A special permit for planned unit development shall not lapse following substantial completion of construction but may be modified or amended by the Planning Board.

Nahant *Are apartments above commercial (mixed use) allowed in any district?*

No

Natick *Are apartments above commercial (mixed use) allowed in any district?*

Yes

From ordinance.com:

Section 105 - PURPOSE OF HIGHWAY MIXED USE -II (HM-II) DISTRICTS

Within the purposes expressed in Section 100 and in General Laws Chapter 40A, the particular intent of these Bylaws relating to HM-II Districts is to provide for large-scale development which may have an intermixture of office, residential and/or commercial uses and to provide flexibility for creative land planning on large parcels, of land along or near major highways. (Art. 3, S.T.M. #1, March 20, 1979) (Art. 1 S. T. M. #2, 10/10/00)

III-E DOWNTOWN MIXED USE DISTRICT DM

1. PURPOSE AND INTENT:

To establish a compact business center which does not include noxious or land expansive uses, is centrally located, and is designed primarily for pedestrian shoppers. Some multi-family dwellings may be included to provide economic viability to such center while adding to the housing stock of the community. The DM District is intended to apply only to the central business area in the vicinity of the intersection of Routes 135. and 27.

323.2 Mixed-use Developments

Mixed-use developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district.

323.3 Certain Multi-family Residential Uses

In the RC district, hotels, motels, assisted living facilities, and similar multifamily development may be allowed by Special Permit granted by the Planning Board, subject to all requirements of the underlying district(s), and modified by the dimensional and other intensity regulations of Sections 324 and 326. Combinations of such residential and nonresidential uses may also be allowed in the RC district, subject to the requirements of each individual use as set forth elsewhere in this Bylaw. (Art 5, S.T.M. #2, 10/10/00)

Needham

Are apartments above commercial (mixed use) allowed in any district?

Yes

Multifamily units are allowed by special permit in Needham's business districts -- CSB, CB, ASB, and HAB. In the CSB and CB, apartments are limited to the second floor only; consistent with density requirements for A-1.

Newbury

Are apartments above commercial (mixed use) allowed in any district?

No

Newburypo

Are apartments above commercial (mixed use) allowed in any district?

Yes

Under the "business" heading, "mixed use" is allowed by special permit in B-2, B-3, I-2, WMD, WMU.

City of Newburyport Zoning Ordinance, Amended 2004

Newton

Are apartments above commercial (mixed use) allowed in any district?

Yes DIVISION 3. BUSINESS, MIXED USE and MANUFACTURING DISTRICTS
(a) Allowed Uses.
(11) Dwelling units above the first floor, provided that the first floor is used for a use allowed in section 30-11(a)(1)-(11);
(d) Special Permits.
(8) Multi-family dwelling;
Sec. 30-13. Mixed Use Districts.
(b) Special Permits in Mixed Use 1 Districts
(10) Multi-family dwelling;
(c) Allowed Uses in Mixed Use 2 Districts.
(13) Dwelling units above the first floor, provided that the first floor is used for an allowed use described above;
(e) Special Permits in Mixed Use 2.
(9) Multi-family dwelling.

Norfolk *Are apartments above commercial (mixed use) allowed in any district?*

Yes In the B-1 district, "Residential DWELLINGS located above the ground floor of BUILDINGS, provided that a ground floor use exists prior to residential occupancy" is permitted.

Norfolk 2004 Community Development Plan:

Town Actions Since Adoption of 1992 Master Plan and 2002 Growth Management Project

"Age-Restricted Housing- In the early 1990's, the Town adopted a Zoning Bylaw amendment that provided for age-restricted housing as part of a mixed use zoning district in the area of Holbrook Street and Route 115. More recently, the Town created a second mixed-use district that allows age-restricted housing as well. These zoning districts allow greater density (up to 3 units per acre) for housing units restricted to persons 55 years of age or older, and it encourages mixed uses (including limited commercial development). Such developments are authorized through a special permit granted by the Planning Board. One 43-unit project was granted a special permit by the Planning Board in 2002 and is currently under construction. A second development of 136 units plus some commercial development is currently in the approval process.

Apartments in Town Center – In an attempt to provide housing for young people, the town amended its Zoning Bylaw to allow one-bedroom apartments within its Town Center on the upper floors of commercial buildings. A conceptual plan for such apartments was approved by the Planning Board. However, the developer who presented the conceptual plan later proposed a stand-alone condominium project of 36 units. Working with the Town, this became 44 units that are better integrated into the commercial aspects of the Town Center to more closely achieve the Town's goal of mixed-use development."

North And *Are apartments above commercial (mixed use) allowed in any district?*

Yes 4.124 Residence 5 District
14. Town houses.
17. Multi-family dwellings.
18. Professional offices on the ground floor of multi-family dwelling structures. (Floor area utilized for offices shall reduce the total floor space ordinarily permitted for residential use on a proportional basis. Each one-thousand (1000) square feet or part thereof of such floor space shall reduce the permitted number of dwelling units by one).
4.127 Business 2 District

15. Multi-family dwelling and town houses (with Special Permit).

20. Residential use where such use is not more than fifty percent (50%) of the total floor space in the structure.

North Attle *Are apartments above commercial (mixed use) allowed in any district?*

Yes Mixed residential/business uses where all dwelling units are above the first floor level - in existing structure ... by special permit in R-10, R-10S, C-75, IC-30.

Mixed residential/business uses where all dwelling units are above the first floor level - in new development... by special permit in C75, IC-30.

Town of North Attleborough Zoning Bylaw (Adopted 1974, Amended 2001)

North Read *Are apartments above commercial (mixed use) allowed in any district?*

No Robert Rogers, Planning Director, (6/3/05) said that mixed use is allowed through PUD. One PUD was built and it included a golf course, country club and condominiums. It did not include any mixed uses (residential/commercial) in the same building. PUD requires 100 acres to be built.

Definition of mixed use in zoning bylaw:

49. MIXED USES : The use of a building, structure, lot or portion thereof for more than one permitted use.

Zoning Bylaw Town of North Reading, Chapter 11 (from ordinance.com as of August, 2004)

CHAPTER ELEVEN- PLANNED UNIT DEVELOPMENT

Section 11.1 - Special Permit Required

The Community Planning Commission may grant a Special Permit for the utilization of a tract of land in a Residential "E" (RE) District as a Planned Unit Development subject to all requirements and conditions contained in this Chapter.

Section 11.2 - Definition of a Planned Unit Development

A Planned Unit Development is development of a tract of land for mixed use which land is developed as an entity by the landowner and which land is not subject to the Table of Dimensional and Density Regulations of Section 12.7 but which is governed instead by the requirements of this Chapter.

Section 11.3 - Purpose of Planned Unit Development

The particular intent of this Chapter is to provide for a mixture of housing types at certain locations and in certain districts in the Town at somewhat greater densities than would normally be allowed in the district without detracting from the livability and aesthetic qualities of the environment but, rather, encouraging;

1. The general purpose of this Zoning Bylaw as contained in Section 1.2;
2. The preservation of open space and the promotion of more efficient use of the land in harmony with its natural features;
3. A more creative approach to land development;
4. Land use which is harmonious with the environment and which conserves natural resources and scenic qualities;
5. The provision of more desirable, esthetic and functional open space, both public and private and its efficient allocation, distribution, use and

maintenance;

6. Diversity and variety in the development pattern of the community;
7. Better design and land planning resulting in economical and efficient street utility and public facility installation, construction and maintenance; and
8. The development of real property values for the long-range future.

Section 11.4 - Permitted Uses

A. The following uses shall be permitted:

1. Residential (one-family and multi-family dwellings);
2. Community facilities (religious or education institutions, charitable or philanthropic institutions, public utilities and service uses, public recreation or open space, hiking and riding trails);
3. Commercial (retail or service establishment not exceeding five-thousand (5,000) square feet in gross floor area); and
4. Appropriate accessory uses as allowed and regulated in Section 8.5.

Section 11.5 - Dimensional and Density Requirements for Planned Unit Development

A. For a proposed Planned Unit Development not to be subject to the Table of Dimensional and Density Regulations of Chapter 12, of this Zoning Bylaw, the following criteria must be met:

1. Minimum

The tract of land shall be at least one-hundred (100) contiguous acres in single ownership.

1. Provision of Useable Open Space

At least twenty (20) percent of the total tract area shall be set aside as Common Land and shall consist of useable open space. At least seventy-five percent of the useable open space shall be neither wetlands nor over five (5) percent slope land.

(a) For purposes of this Chapter, the term "useable open space" shall mean the land area in a Planned Unit Development to be used for scenic, landscaping or recreational purposes within the development and includes the following:

(1) Land area of the site not covered by buildings, parking facilities or accessory structures, except recreational structures; and

(2) Land which is accessible and available to all occupants of dwelling units for whose use the space is intended.

(b) Useable open space shall include:

(1) Proposed street right-of-ways;

(2) Open parking areas and driveways for the dwellings;

(3) Commercial areas and buildings, accessory buildings and parking and loading facilities therefor;

(4) Surface area of any pond or lake;

(5) Required yards, setbacks, or other such dimensional requirements of this section; and

(6) Easements for above-ground utilities.

3. Maximum Residential Density

The maximum residential net density for the Planned Unit Development shall be one (1) dwelling unit per gross acre.

4. Maximum Land Cover=

Not more than twenty (20) percent of the gross land area shall be covered by dwellings.

5. Percentage of Dwellings of One T=

Not more than seventy (70) percent of the total number of dwelling units shall be of either single-family detached dwellings or multi-family dwellings.

6. Dimensional Requirements:

(a) Buildings shall be at least fifty (50) feet from any property line not coincident with a street line, at least twenty-five (25) feet from any street line or parking area, and at least twenty-four (24) feet apart, or apart by a distance at least equal to the sum of their heights, whichever is greater;

(b) The maximum allowable height shall be thirty-five (35) feet for all permitted uses;

(c) No building of more than thirty-five (35) feet shall be erected within one-hundred and twenty-five (125) feet of any zoning boundary line of a Planned Unit Development; and

(d) No commercial establishment shall exceed five-thousand (5,000) square feet in gross floor area.

7. Maximum Percentage of Commercial Development

A maximum of five (5) percent of the total residential gross floor area at one time may be devoted to commercial gross floor area.

Section 11.6 - Mandatory Provisions of Special Permits for Planned Unit Development

A. This Special Permit shall contain the following mandatory conditions with respect to Common Land:

1. Insuring the Continued Existence of Common Land Provisions shall be made so that all Common Land shall be:

(a) Restricted to recreational, agricultural, conservation and/or park uses;

(b) Open to such uses by at least the owners and occupants of the lots whom the Common Land is designed to serve; and

(c) Restricted so that no structure shall be erected thereon except as an incident to the above uses.

2. Insuring the Maintenance of Common Land

The continued maintenance of Common Land shall be insured by one or more of the Following methods:

(a) The sale of individual lots or parts of the Planned Unit Development shall include in the deed a requirement obligating purchasers to participate in a home-owners' association and to support maintenance of the Common Land, accessible to the purchasers or their guests only, by paying assessments to the association. The organization of such homeowners' association shall be on file with the Town Clerk along with an annual report including the names and addresses of officers, to be submitted to the Town Clerk by February 15 of each year.

(b) Public maintenance only after dedication in fee to the Town of North Reading of open space such as, but not limited to, parks, playgrounds, trails or public building sites. This shall not preclude the Town from refusing to accept such land subsequent to a report from the Community Planning Commission.

(c) In cases of cooperative ownership, management by a membership association. The organization of such membership club shall be on file with the Town Clerk along with an annual report including the names and addresses of officers, to be submitted to the Town Clerk by February 15 of each year.

(d) In cases of rented property, the owner shall retain Common Land maintenance responsibilities.

(e) Leaseholds on lands under a single ownership, with Common Land maintenance provided for in the long-term lease.

3. Insuring the Availability of Common Land

Common Land shall have street access suitable for all occupants of dwelling units for whose use the space is intended.

4. Plan for Insuring Useable Open Spa=

Approval of the Site Plan shall also be conditioned on a provision for insuring the continued existence of Common Land in accordance with Section II.6.A.1., and for the maintenance of such land, the buildings thereon, and all other improvements pursuant to Section 11.6.A.2. Such provision shall be the posting of an annual maintenance in the case of a single owner or the formation of an automatic homeowners' association with the obligation of maintenance, in the case of individual owners. The requirements regarding assessments and the filing of an annual report shall be the same as in Section II. 6. A. 2.

B. The Special Permit shall also include the following mandatory conditions:

1. Street Acceptance

The principal streets shall be offered for acceptance as public ways. Where retained as private ways, they shall be posted as such by standard street signs.

2. Construction in Phases

If the Planned Unit Development is to be constructed in phases, each phase after the first must be constructed contiguous and adjacent to a preceding phase or phases. Phases separated by streets or ways shall be considered contiguous. A deviation of thirty-three (33) percent from the required amount of open space in any phase may be permitted if that deviation is fully restored in the next constructed phase.

3. Circulation

Within the Planned Unit Development, vehicular, and pedestrian circulation shall be provided in accordance with the Rules and Regulations of the Community Planning Commission.

4. Environmental Compatibility

The plan for a Planned Unit Development shall preserve a unified and organized arrangement of buildings and service facilities and improvements, such as landscaping, fencing, screening and buffering, to insure compatibility with adjacent development, and to insure conformance with the regulations in Section 15.1.

5. Boundary Fencing

No perimeter security fencing, walls or similar barriers to prevent access to and egress from the Planned Unit Development shall be erected.

Section 11.7 - Site Plan Requirements

A. Any application for a Special Permit for a Planned Unit Development shall be accompanied by a Site Plan depicting the land to be affected. In addition to complying with the Minimum Site Plan Requirements of Section 6.6.D., the Site Plan shall conform to the following specifications:

1. The plan shall indicate reasonable periods for the phasing of the Development and the reasonable time of completion of each phase and include hydrological, soil and subsurface studies evaluating the site for development;

2. Accompanying each copy of the plan shall be a typical architectural plan showing the types of buildings, preliminary architectural plans and elevations of typical buildings and structures, indicating the general height, bulk, general appearance and number of dwelling units. Perspective drawings of the development may be required. The architectural plan hereby required may be varied during construction provided that the Community Planning Commission finds the new architectural plan to be compatible with previous construction.

3. The applicant shall submit a general circulation plan indicating the proposed movement and relative volumes of vehicles, goods and pedestrians within the area and to and from public thoroughfares;

4. The applicant shall also submit a plan drawn to scale and showing any areas proposed to be dedicated or reserved for interior circulation, public parks, school sites, public buildings or otherwise dedicated or reserved and useable open spaces to which development rights area proposed to be dedicated to private groups or to the public and

5. Accompanying each copy of the site plan shall be:

(a) Tables showing the total number of acres and their distribution by use, the percentage designated for each dwelling type and for non-residential uses, including off-street parking, streets, parks, playgrounds, schools and useable open space;

(b) Tables showing the over-all density of proposed residential development and showing density by dwelling types; and

(c) Tables showing the total commercial gross floor area and showing how such total commercial gross floor area relates, as a percentage, to the total residential gross floor area.

Northboro

Are apartments above commercial (mixed use) allowed in any district?

Yes

Town of Northborough Zoning Bylaw

Mixed residential and office (offices on first floor only; residences on second floor only) [Amended 5-16-1988 ATM, Art 50; 5-21-1990 ATM, Art. 48; 5-22-1991 ATM, Art. 33B]

Mixed residential uses, office uses and/or uses allowed within a retail group or shopping center (residential on floors above nonresidential uses) [Amended 5-21-1990 ATM, Art. 48]

BUSINESS DISTRICT A

Uses Allowed as an Exception Under Special Permit by the Zoning Board of Appeals:

- Mixed residential and office (offices on first floor only; residences on second floor only) [Amended 5-16-1988 ATM, Art 50; 5-21-1990 ATM, Art. 48; 5-22-1991 ATM, Art. 33B]
- Mixed residential uses, office uses and/or uses allowed within a retail group or shopping center (residential on floors above nonresidential uses) [Amended 5-21-1990 ATM, Art. 48]

Recommendation in Northborough 2004 Community Development Plan:

"2. Amend the Zoning Bylaw to allow multi-family housing as part of a mixed-use development in the BB-East and BB-West Districts.

Allow dwelling units above the ground floor of a commercial building by right, subject to inclusion of affordable units (vertical mixed-use).

Allow multi-family units in separate buildings on the same lot as a permitted commercial use, subject to 25% affordable units (horizontal mixed-use).

Establish a maximum percentage of gross floor area that may be devoted to residential uses, e.g., 60%."

Northbridg

Are apartments above commercial (mixed use) allowed in any district?

Yes

From ordinance.com, section adopted 2004:

ARTICLE XIX Historic Mill Adaptive Reuse Overlay District
Section 173-XXX Purpose.

The intent of this section is to create an overlay district that allows for the adaptive reuse of historic mills in the Town of Northbridge that are underutilized. The primary purposes for Historic Mill Adaptive Reuse Overlay District are:

To promote the economic health and vitality of the Town by encouraging the preservation, reuse and renovation of underutilized or abandoned historic mill properties;

To allow for the conversion of Northbridge's historic mills in a way that preserves the character of nearby residential and commercial neighborhoods; and

To encourage mixed-use development that includes, but is not limited to, offices, retail and/or service establishments, community facilities, and multi-family housing.

Section 173-XXX Overlay District.

The Historic Mill Adaptive Reuse Overlay District is hereby established as an overlay district. All requirements pertaining to the underlying district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide an alternate to such requirements.

Section 173-XXX Location.

A. The Linwood Mill on Linwood Avenue, consisting of Assessors Map 5, Parcel(s) 39 & 47.

B. The John Whitin Mill on Douglas Road, consisting of Assessors Map 2, Parcel 7.

Section 173-XXX Permitted Uses.

A. All uses permitted in the underlying zoning districts are permitted uses in the Historic Mill Adaptive Reuse Overlay District;

B. All applications for a special permit under this section must provide an area within the mill for education of the history of the property.

C. Multi-family dwelling units shall only be permitted in conjunction with one or more of the nonresidential uses permitted under this section;

- (1) Office for administrative, executive, professional, sales and other similar uses;
- (2) Retail, service, and restaurant;
- (3) Institutional (museum, educational use, charitable or philanthropic institution, municipal use, club or lodge);
- (4) Recreational (indoor commercial recreation); and
- (5) Appropriate accessory uses.

Section 173-XXX Special Permit Required.

The proposed adaptive reuse of a historic mill within the Historic Mill Adaptive Reuse Overlay District may be conducted upon the issuance of a special permit by the Planning Board, in accordance with § 173-47, Special Permits, and upon site plan approval pursuant to § 173-49, Site Plan Review, subject to the requirements set forth, herein. No other use or structures shall be permitted in conjunction with the conversion of a historic mill, except as specifically provided herein.

Section 173-XXX Special Permit Granting Authority.

The Planning Board shall serve as the Special Permit Granting Authority (SPGA) pursuant to this Article.

Section 173-XXX Application.

A. Pre-application review. The applicant is strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board prior to submitting a formal application. The purpose of a preapplication review is to minimize the applicant's costs of engineering and to commence discussions with the Planning Board at the earliest possible stage in the development. At the preapplication review, the applicant may outline the proposed project for adaptive reuse, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. No formal filings are required for the pre-application review; however, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the scale and overall design of the proposed project.

B. Special Permit/Site Plan Review. An application for a special permit for the adaptive reuse of a historic mill shall be submitted to the Planning Board on forms furnished by the Planning Board in accordance with § 173-47, Special Permits. Each such special permit application shall be accompanied by a site plan conforming to the requirements of § 173-49.1, as well as the following:

- (1) A floor plan to scale for each building indicating, if applicable:
 - (a) Proposed use of floor space;
 - (b) Number of units;
 - (c) Number of bedrooms;
 - (d) Square footage for each unit or space;
- (2) A plan describing the care, custody and control of all dams and water rights;
- (3) A plan, for any waste water treatment facility, if applicable;
- (4) Narrative reports describing the following:
 - (a) A proposed development schedule (including start date, rate of development, phases, estimated completion date);
 - (b) Information pertaining to any organization which the applicant proposes to form where the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;
 - (c) Copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;
 - (d) A concise narrative prepared by a preservation consultant including any and all historical information shall be submitted to the Northbridge Planning Board and the Northbridge Historical Commission for comment.

Section 173-XXX Development Standards.

In order to be eligible for consideration for a special permit pursuant to this Article, the proposed development shall meet all of the following standards:

A. Density. For the conversion of a historic mill that proposes multi-family dwelling units, the maximum number of dwelling units shall not exceed ten (10) units per gross acre of the combined parcels of the development. The Planning Board may grant a density bonus under the following provision:

(1) Affordability: For each affordable dwelling unit provided above the minimum required 10%, two (2) additional dwelling units may be permitted.

B. Parking. Number of Parking Spaces. The Applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of § 173-27. The Planning Board may allow a reduction of the required number of spaces by up to twenty-five percent (25%) if it can be demonstrated that two (2) or more uses within the development can share parking spaces. In determining the appropriate reduction, if any, the Planning Board may give consideration to the hours of operation and/or usage of the proposed uses within the development, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the surrounding area, as well as other relevant information.

C. Expansion of Existing Buildings. Existing buildings, through a special permit under this section, may be expanded provided that such expansion is consistent with the existing building's historic character and scale and does not cause substantial detriment after considering the factors set forth herein.

D. New Buildings. New buildings, through a special permit under this section, may be constructed provided that the number, type, scale, architectural style, and uses within such new buildings shall be subject to Planning Board approval.

E. Affordable Dwelling Units. As a condition of any special permit for the conversion of a historic mill that proposes multi-family dwelling units, a minimum of ten (10%) of the total number of dwelling units shall be required, in perpetuity, to be restricted to persons qualifying as moderate income in accordance with the Massachusetts Department of Housing and Community Development definitions of low and moderate incomes.

Affordable units shall be dispersed throughout the development and shall be indistinguishable from market rate units. The Town of Northbridge, through its Housing Authority and/or Office of Community Development, shall be responsible for selecting purchasers or tenants, and monitoring and insuring the long-term affordability of the units.

Section 173-XXX Action by the Planning Board.

The Planning Board, after considering reports from consultants and other Boards and/or Commissions, may grant a special permit for the conversion of a historic mill where it makes the following findings:

A. The proposed adaptive reuse constitutes an appropriate renovation as defined above; and

B. The proposed conversion does not cause substantial detriment to the neighborhood or Town after considering the traffic, environmental, fiscal, and community impacts.

**Webmasters Note: The previous Article has been added as per an update approved at a town meeting held on 6/8/04.

Norton *Are apartments above commercial (mixed use) allowed in any district?*

No

Norwell *Are apartments above commercial (mixed use) allowed in any district?*

No

Norwood *Are apartments above commercial (mixed use) allowed in any district?*

Yes "Dwelling units in combination with stores or other permitted commercial purposes (three or more dwelling units) are allowed by special permit only in the CB, GB, and HB business districts. (One or two dwelling units in combination with commercial development is allowed by right in the business districts.)

Paxton *Are apartments above commercial (mixed use) allowed in any district?*

No

Peabody *Are apartments above commercial (mixed use) allowed in any district?*

No 4.4.10 Mixed use overlay district special requirements.
(a) Uses allowed in the overlay zone are those of the underlying zoning, as set forth in section 4.2.
(b) BH and BR uses are allowed in the IL or IP zone by special permit, provided those uses do not exceed thirty (30) percent of total building space to be developed.
(c) PRD, or IL and IP uses are allowed in the BH or BR zone by special permit, provided the residential or the industrial uses individually do not exceed thirty (30) percent of total building space to be developed on the site.
(d) Landscaping for MU uses must meet requirements of the underlying zoning as required in section 6.5 of the ordinance. When the proposed use in the MU district requires a special permit the landscape plan shall be approved by the special permit granting authority.
(e) Dimensional standards for MU district uses will remain as set forth in section 5.2 of the ordinance for the underlying use category. However, in the overlay zone a waiver of up to thirty (30) percent of those standards, including height limitations, and front, side, and rear yard setbacks, can be granted as part of the special permit by the special permit granting authority.

Pembroke *Are apartments above commercial (mixed use) allowed in any district?*

No

Pepperell *Are apartments above commercial (mixed use) allowed in any district?*

Yes According to the Table of Principal Uses:
"Multifamily dwelling" - by special permit from the planning board in UR, C.
"Dwelling units above first floor" - by right in C.

Plainville *Are apartments above commercial (mixed use) allowed in any district?*

No

Plymouth

Are apartments above commercial (mixed use) allowed in any district?

Yes

Town of Plymouth Zoning Bylaw 2004

§ 205-49. General Commercial (GC).

B. Allowed uses. The following uses are allowed provided that they occupy no more than 4,000 square feet of ground floor area and 6,000 square feet total floor area, provided further that, in the Cedarville Village Service Area, any building containing or serving such uses is to be no larger than 24,000 square feet in total gross floor area. [Amended 4-7-1990 STM by Art. 9; 4-12-1994 ATM by Art. 23]

(16) Multifamily dwelling units which:

- (a) Contain a minimum net floor area of 600 square feet for one-bedroom units, 720 square feet for two bedroom units, and $(720 + 100X)$ square feet for $(two + X)$ bedroom units.
- (b) Are located within the net floor area of buildings in existence as of January 1, 1990; and
- (c) Are located within stories of such buildings other than the street level story thereof.

§ 205-54. Downtown/Harbor District (DH). [Added 4-6-1991 STM by Art. 17]

B. Allowed uses.

- (1) Single-family, two-family, and multifamily dwellings, containing fewer than nine units on the same lot, provided that:
 - (a) Each unit contains a minimum floor area of 600 square feet for one-bedroom units, 720 square feet for two-bedroom units, and $(720 + 100X)$ square feet for $(two + X)$ bedroom units; and
 - (b) Such uses are not allowed on the street floor of a building located on a state-numbered highway, as designated as of January 24, 1991.

§ 205-53. Light Industrial/Waterfront (LI/WF). [Added 4-10-1980 ATM by Art. 64]

A. Intent. [Amended 4-4-1988 ATM by Art. 52]

(1) This district is intended to encourage the development of certain waterfront-related uses and to allow for a mix of uses, including commercial uses of a light intensity and clean operational nature, residential uses and compatible industrial uses. The special permit mechanism is provided to allow for a broader range of retail, service and other commercial uses. The special permit mechanism will also allow for establishment of heavier industries which would not be detrimental to waterfront activities or other uses in the zone or to adjoining zones by reason of their location within the district, special site characteristics and safeguards or for other reasons which can best be determined on a case-by-case basis.

D. Special permit subject to environmental design conditions. [Amended 4-4-1988 ATM by Art. 52]

- (1) Restaurants and outdoor eating facilities.
- (2) Recreational, social, or cultural facilities, such as a theater, playhouse, band shell, outdoor pavilion, nightclub, or community center.
- (3) Hotel, motel, or other tourist-related facility.
- (4) Specialty shopping facilities such as art galleries, gift shops, antique shops, import shops, and leather and natural goods stores, as part of a pedestrian-oriented shopping arcade or center.
- (5) Uses of a more general commercial nature allowed or authorized by special permit in the General Commercial Zone which do not detract from the purposes of this district.
- (6) Multifamily and single-family attached residential, provided complexes are designed not to preclude public access to and along the shoreline.

Plympton

Are apartments above commercial (mixed use) allowed in any district?

No

No explicit mention of mixed-use zoning in the bylaw.

Building Inspector Fred Svenson (10/18/04) said that the town has a couple of mixed use buildings in town (commercial space on first floor and apartments upstairs.)

Princeton

Are apartments above commercial (mixed use) allowed in any district?

No

Quincy

Are apartments above commercial (mixed use) allowed in any district?

Yes

2. Multifamily residence and mixed use of a building are permitted within a Business A and B district with the issuance of a special permit in accordance with the standards and procedures of Sections 17.04.170 through 17.04.200 by the zoning board of appeals. Residential buildings and uses within Business A districts obtaining special permits, as provided herein, shall conform to all requirements of Residence B districts. Residential buildings and uses within Business B districts obtaining special permits, as provided herein, shall conform to all the requirements of Residence C districts. Multifamily residences and mixed use of a building are permitted within a Business C district; provided, that residential buildings and uses within a Business C district have a maximum FAR of three and five tenths, minimum lot size of forty-two thousand square feet, minimum lot area per dwelling unit of three hundred twenty-five square feet, minimum front, rear and side yards of one quarter the height of the building, minimum lot frontage and lot width of one hundred feet and minimum open space per dwelling unit of one hundred square feet. The site plans of buildings containing twelve units or more must be reviewed by the planning board.

Randolph

Are apartments above commercial (mixed use) allowed in any district?

No

Letter received from Mary McNeil, Building Commissioner, on 5/17/05:

"No new mixed uses are currently allowed. There is a proposed article to allow this in the downtown business district before this spring town meeting."

Raynham

Are apartments above commercial (mixed use) allowed in any district?

No

Reading

Are apartments above commercial (mixed use) allowed in any district?

No

Email received on 6/2/05 from Town Planner Chris Reilly confirmed that mixed use is not allowed in Reading.

In the section on municipal building re-use:

4.7.2.3. For mixed use development, the following provisions shall apply:

- a. The density and dimensional standards of Section 4.7.2.1. shall apply;
 - b. Allowed mixed uses may consist of any of the following uses, singly or in combination:
 - (1) Residential,
 - (2) Housing for the elderly;
 - (3) Child care facility;
 - (4) Elder care facility;
 - (5) Medical clinic and ancillary offices and facilities;
 - (6) Public and Quasi-Public Uses as set forth in Section 4.2.2., Table of Uses.
-

Rehoboth *Are apartments above commercial (mixed use) allowed in any district?*

No

Revere *Are apartments above commercial (mixed use) allowed in any district?*

Yes 17.20.150 Permitted uses.

In a PUD, the following uses are permitted:

- A. Residential: apartments, only on floors above the ground floor;
-

Rockland *Are apartments above commercial (mixed use) allowed in any district?*

Yes "Multifamily residences, except on or below street level floors" is allowed by right in B-1.

Rockport *Are apartments above commercial (mixed use) allowed in any district?*

No

Rowley *Are apartments above commercial (mixed use) allowed in any district?*

No

Salem

Are apartments above commercial (mixed use) allowed in any district?

Yes

According to the survey received from Salem on 4/22/05, mixed use is allowed in the B5 district (downtown.)

ARTICLE III. ESTABLISHMENT OF DISTRICTS
Sec.3.1. Types of districts.

(9) B-5 District: Central development district is intended to be a composite district of major businesses, residential use and civic and cultural use.

(g) B-5 Districts.

The following are permitted uses in the central development districts:

- (1) All uses permitted in B-1 Districts, subject to all the provisions specified for such uses.
- (2) Other retail stores and service establishments, except those permitted in B-4 Districts.
- (3) Places of commercial recreation and entertainment, such as theaters and bowling alleys.
- (4) Restaurants and other eating and drinking places.
- (5) Nonprofit clubs, lodges and fraternal associations.
- (6) Philanthropic and charitable institutions
- (7) Music and dancing studios.
- (8) Trade and business schools.
- (9) Hotels, motels and inns.
- (10) Business and professional offices.
- (11) Off-street parking and loading facilities.
- (12) Buildings and facilities for housing projects built under the jurisdiction of the Salem Housing Authority and financially aided by either the U.S, Public Housing Administration And/or the Commonwealth of Massachusetts Department of Commerce-Division of Public Housing.
- (13) Retail-wholesale contractors supply establishments, provided, however, that the wholesale operation does not consist of over fifty (50) percent of the business.
- (14) Studios, workrooms and shops of artists, artisans and craftsmen, provided that all products of the artistic endeavor or craft activity are primarily for sale on the premises or by specific off-premises commission from a sponsor or client.
- (15) Publishing and printing establishments.
- (16) One-family, two-family and multifamily residential uses as primary uses in townhouse, row house, flats or multistory arrangements, including high-rises, and as secondary uses in upper floors of structures primarily used for retail, personal service or office purposes.
- (17) Accessory uses generally in support of the above permitted uses.

Salisbury

Are apartments above commercial (mixed use) allowed in any district?

No

Saugus

Are apartments above commercial (mixed use) allowed in any district?

No

Scituate *Are apartments above commercial (mixed use) allowed in any district?*

Yes According to the survey received from Scituate on 3/21/05, "mixed use" is allowed in Scituate.

Planned Development District

A planned development district shall mean an area of land in which a mixture of residential, open space, commercial and/or other uses, and a variety of building types and designs, are determined to be sufficiently advantageous to render it appropriate to grant a special permit, to the extent authorized by zoning bylaw and by Massachusetts General Laws, Chapter 40A, Section 9.

490 Planned Development District

490.1 Purpose

The purpose of the Planned Development District (PDD) is to encourage a mix of land uses and activities, including an 18 hole golf course and a community recreation complex, a mix of residential land uses, including permanent affordable housing, and building types that complement each other; to provide for the development of these uses in a comprehensive manner instead of piecemeal to save open space that otherwise would be lost or wasted; to promote more efficient use of land while protecting natural resources such as wetlands, water bodies, ground water and native vegetation; all in conformity to the provisions of Massachusetts General Laws, Chapter 40A, Section 9 for "planned unit developments". The planning board shall be the special permit granting authority in the PD District.

Seekonk *Are apartments above commercial (mixed use) allowed in any district?*

No 9.3 MIXED USE ZONE

9.3.1 DEFINITION AND INTENT

A mixed use zone is an overlay zone which is superimposed upon residential zones along major designated traffic routes. The purpose of this zone is to preserve the rural character along Seekonk's major roadways, to prevent strip commercial development and its associated problems, to concentrate commercial activity in clusters, to preserve and enhance the Environmental assets of the Town, and to promote well planned viable commercial development in the community.

Sharon *Are apartments above commercial (mixed use) allowed in any district?*

Yes From ordinance.com:

2320. Business Districts.

2326. Uses and Accessory Uses Allowed on Special Permit from the Board of Appeals:

c. Apartments over non-residential establishments (see Subsection 4230).

4230. Apartments in Business Districts.

Apartments in excess of two dwelling units, including services related thereto, over non-residential establishments may be authorized in Business Districts on Special Permit from the Board of Appeals, provided that no dwelling unit shall be located below the second floor, in accordance with the following:

4231. Number of bedrooms shall not exceed sixteen (16) per acre. For the purposes of this calculation, a studio apartment shall be considered a one bedroom apartment.

4232. Usable open space shall be provided on the same site to at least the following amounts per unit:

- Studio apartment.....400 square feet
- One bedroom apartments.....600 square feet
- Two bedroom apartments.....800 square feet
- Three bedroom apartment or more.....1,200 square feet

Recommendation in Town of Sharon Community Development Plan 2004:

"H. Create a mixed-use overlay district to encourage multifamily housing in conjunction with retail areas by special permit of the Planning Board. Mixed-use developments that combine multifamily housing with retail are beginning to replace old-fashioned malls and strip shopping centers. A mixed use district applied over Shaw's Plaza, the Heights, and the Post Office Square area can promote redevelopment of these areas into more village-like environments. The overlay district should include a definition of acceptable uses and percentages of uses, design and development performance standards, and a requirement for 10% affordable units. In this case, because additional density will already be provided, a density bonus for affordable units would not be necessary."

Sherborn *Are apartments above commercial (mixed use) allowed in any district?*

No

Shirley *Are apartments above commercial (mixed use) allowed in any district?*

Yes Shirley Zoning Bylaw

14. MIXED USE ZONING OVERLAY DISTRICT
14.1 General in order to permit a mixture of residential and commercial uses and a variety of building types, tracts of land within the Mixed Use Development Overlay District may be developed under a Special Permit with site plan approval granted by the planning Board as hereinafter defined and limited. The Mixed Use Development Overlay District shall only pertain to the area of the Town known as C-1 Commercial Village.

14.2 Special Permit Authority

The Planning Board may grant a Special Permit with site plan approval for construction of a Mixed Use structure in the Mixed Use Development Overlay District. The Special Permit shall conform to this Section and to M.G.L. Chapter 40A, Section 9 and to regulations, which the Board shall adopt for carrying out its requirements hereunder. The Board shall consider and make recommendations regarding, among other things, the architectural value and significance of the site, building or structure, the general design, arrangement and texture, materials and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Board shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity. Further, the Board may, in appropriate cases, impose dimensional and set back requirements in addition to those required by this Section. The Board shall not consider interior arrangements or architectural features not subject to public view.

14.3 Applicant Requirements

Applicants requesting Special Permits under this Section shall submit to the planning Board, all documents and fees as required by Section 7.4 of the Town of Shirley Zoning Bylaw. In addition, every applicant must furnish proof of ownership of the property regarding the application. If the application for a Special Permit involves land under more than one ownership, each owner of the land included in the plan shall be party to the application, and upon approval, subject to its provisions. Signatures of all parties shall be required to process the application.

14.4 Permitted Uses

In a Mixed Use Development Overlay District, the following uses shall be permitted:

- a. Residential, only on floors above the ground floor.
- b. Business, only within the first two floors.
 1. Restaurants.
 2. Theaters.
 3. General retail sales and services (excluding retail sales of motor vehicles, boats, mobile homes and house trailers, automobile service stations and drive through banking facilities).
 4. Banks and financial services.
 5. Business and professional offices.
 6. All other uses as permitted in the MU Schedule of Use Regulations, Section 2 of the Zoning Bylaw.
 7. No drive-through services shall be allowed for any use.
- c. Expansion of existing buildings

Special Permits may be granted to a Mixed Use Development project that would permit upper floor additions to buildings provided that the square footage of each completed upper floor be equal to at least eighty (80) percent of the total square footage of the first floor and if the project meets all the parking and site plan criteria required by the Board and meets State Building Code requirements.

Shrewsbury *Are apartments above commercial (mixed use) allowed in any district?*

Yes Town of Shrewsbury Zoning Bylaw (Adopted 1967, Amended 2004)

M. LAKEWAY OVERLAY DISTRICT (5/19/2004)

5. Permitted Uses and Structures.

a. Mixed-Use Development: Vertical Mix. Uses permitted (Y) in the Commercial Business District or Limited Business District, when integrated with one or more of the following uses in a single structure: 1. Dwelling units above the ground floor of a commercial building.

2. Live-and-work space, e.g. artist's residence and studio.

3. In a vertical mixed-use development, permitted commercial uses shall constitute at least 30% of the total gross floor area of the structure. c. No use listed as a prohibited use under Section M.7 of this Bylaw may be included in a vertical mixed-use development or a one-family conversion.

6. Uses and Structures Permitted by Special Permit. a. Mixed-Use Development by Special Permit: Horizontal Mix. In the Lakeway Overlay District, the Planning Board may issue a special permit for a development that includes more than one structure on a single lot and integrates permitted or special permitted uses in the Commercial Business District or Limited Business District with the following additional uses:

1. Multi-family garden-type apartments (SP-PB), subject to a new footnote to Table I: (28) Multi-family use is allowed as part of a mixed-use development subject to the requirements of Section

VII-M. Lakeway Overlay District. Multi-family units may be located above the ground floor of a commercial building, accessed by an entrance separate and distinct from commercial uses, in a multi-family building to the side or rear of the same lot, or a combination thereof. Multi-family building disposition

84

(placement) in relation to the principal commercial structure shall be subject to the approval of the Planning Board.

2. Multi-family townhouse-type structures (SP-PB), subject to a new footnote to Table I: (29) Use allowed by special permit subject to the requirements of Section VII-M. Lakeway Overlay District. b. Marinas. c. No use listed as a prohibited use under Section M.7 of this Bylaw may be included in a horizontal mixed-use development.

9. Development Regulations for the Lakeway Overlay District. Development, redevelopment and reuse will generally be deemed consistent with the purposes of the Lakeway Overlay District when it meets the following objectives:

- (a) provides appropriate scale, design, operation and visual character for a New England downtown or central business district,
- (b) avoids "big box" development,
- (c) consolidates and minimizes curb cuts, subordinates the location of parking to buildings, and provides

86

exemplary architectural design,

(d) strengthens the local economy,

(e) encourages pedestrian and bicycle access along major and side streets, and between commercial or mixed-use properties, and

(f) encourages people to live, work and shop in Shrewsbury by providing a planned mix of uses.

a. Multi-Family Dwellings Multi-family garden-type apartments and multi-family townhouse dwellings may be allowed by special permit from the Planning Board when part of a horizontal mixed-use development in the Lakeway Overlay District, subject to the following requirements:

1. Multi-family garden-type apartments may be located above the ground floor of a building, provided that the ground floor is occupied by permitted or special permitted commercial uses.

2. Multi-family garden-type apartments may be allowed in separate buildings located to the side and rear portions of a lot on which the primary structure facing the street contains a vertical mix of commercial and residential uses, provided that no more than 60% of aggregate gross floor area on the lot is for residential uses. The Planning Board may waive the requirement that the primary structure contain a vertical mix of commercial and residential uses when the height of the primary structure is at least 35 feet and two and one half stories. Multi-family building disposition (placement) in relation to the principal commercial structure shall be subject to the approval of the Planning Board.

3. Multi-family townhouse-type structures may be allowed in separate buildings located to the side and rear portions of a lot on which the primary structure facing the street contains a vertical mix of commercial and residential uses, provided that no more than 60% of aggregate gross floor area on the lot is for residential uses. The Planning Board may waive the requirement that the primary structure contain a vertical mix of commercial and residential uses when the height of the primary structure is at least 35 feet and two and one half stories. Building disposition (placement) in relation to the principal commercial structure shall be subject to the approval of the Planning Board.

4. Multi-family garden-type apartments and multi-family townhouse-type structures must provide affordable housing in accordance with Community Benefits (below).

5. The maximum number of garden-type apartments or townhouse-type units allowed in a single development shall not exceed the limit in Footnote 5 of Table I, Section VI.

6. Aggregate maximum gross floor area of garden-type apartments or townhouse-type units approved by special permit from the Planning Board shall not exceed 40% of aggregate gross floor area of all uses in the Lakeway Overlay District, including permitted or special permitted uses in the underlying district.

10. Special Permits in the Lakeway Overlay District. The special permit Granting Authority (SPGA) for uses and structures in the Lakeway Overlay District shall be the Planning Board.

Somerset

Are apartments above commercial (mixed use) allowed in any district?

No

Somerville

Are apartments above commercial (mixed use) allowed in any district?

Yes

ARTICLE 16: PLANNED UNIT DEVELOPMENT ((PUD)
Section 16.1. Purpose.

The purpose of a Planned Unit Development, or PUD, is to provide for a mixture of land usage at designated locations at greater variety, density and intensity than would normally be allowed. The purpose for a PUD is also to achieve, to the greatest possible degree, land development responsive to an analysis of the environmental assets and liabilities of a site, both natural and man-made. A PUD should be a well-integrated development in terms of land uses, functional activities, and major design elements such as buildings, roads, utilities, drainage systems and open space. A PUD is allowed greater design flexibility so that larger-scale site and master planning for a development may protect natural features and consider most fully the surrounding land use and development context. This may allow for development to be more highly concentrated on one portion of a site than would otherwise be the case, with a resulting lower intensity of development elsewhere on the site. Development should be concentrated in the most suitable and least environmentally sensitive areas of the landscape. Preservation and enhancement of open space is strongly promoted.

The PUD concept is deemed highly appropriate to large scale mixed use development in those districts where it may be permitted, and is strongly encouraged. In those base zoning districts where a PUD is permitted, it is intended that the benefits of Planned Unit Development to the developer will act

to encourage consolidation of unused and/or underutilized land parcels so that comprehensive and responsible site planning will occur. A designated PUD may permit for inclusion certain land uses only allowable in a PUD context under provisions of this Zoning Ordinance. A PUD may be more responsive to economic and market conditions because of greater zoning flexibility and development phasing, resulting in a wider range of product type and development responsive to changes in design technology over time.

16.5.3 Mixed Uses

In reference to the provisions of Article 7 of this Ordinance, when a specific use is permitted within a zoning district only within the context of a PUD, said permitted PUD use shall comply with the following stipulations:

1) the use(s) shall not exceed forty percent (40%) of the total PUD intensity, as measured by floor area ratio or lot area per dwelling unit, whichever is applicable;

2) the use(s) shall not occupy more than forty percent (40%) of the site area, defined as the total PUD lot area exclusive of the PUD minimum landscape area requirement and exclusive of any roads and parking designed within the PUD to serve permitted uses other than or in addition to the use(s) in question. NOTE: § 16.5.2 was re-titled and effective by Ordinance 2000-8 on May 25, 2000.

Section 6.4. Assembly Square Interim Planning District

NOTE: §6.4 was added by Ordinance 2001-5 on March 14, 2001. The provisions of §6.4 shall remain in effect until May 31, 2003.

APPROPRIATE DEVELOPMENT : Development that works toward the goals of the Assembly Square Planning Study, including improving the economic vitality and the accessibility to the region and creating a vibrant twenty-four hour mixed-use district with an environmentally sensitive building environment. Appropriate development emphasizes the creation of as many new jobs and as much local tax base as is practicable given the area's evolving infrastructure and economy, and the desire of Somerville's citizens to have an attractive, mixed-use environment at Assembly Square.

6.1.12. BPA - Business Park Assembly Districts.

Purpose. To provide opportunities for moderate to high intensity economic development in areas with favorable regional access, allowing mixed retail, office, light industrial and other complementary commercial and business uses. It is expected that District development will serve a City-wide or regional population. It is anticipated that users will arrive predominantly by motor vehicle, thus requiring efficient vehicular circulation. However, it is intended that once on-site, users will enjoy a largely pedestrian-oriented environment characterized by appropriate human scale and access to open space.

Southboro

Are apartments above commercial (mixed use) allowed in any district?

No

Sterling

Are apartments above commercial (mixed use) allowed in any district?

No

Stoneham

Are apartments above commercial (mixed use) allowed in any district?

Yes

Mr. Eugene Argiro, Stoneham's Building Inspector, (7/1/04) said that Residence B and Neighborhood Business require Special Permit and Site Plan Review. For Neighborhood Business, it is a max of 5 units and there needs to be a business, above or below the residential unit(s) in the building.

The Land Use Ordinance of Stoneham (Town of)
MIDDLESEX COUNTY, MASSACHUSETTS
CHAPTER 15 ZONING
4.0 USE REGULATIONS

4.3 Residence B District:

4.3.3 Uses Permitted on a Special Permit granted by the Planning Board and Site Plan Approval by the Board of Selectmen: (5-1-95, Art. 11)

4.3.3.1 Multiple family dwellings, including apartment houses, garden apartments, and town houses, provided that:

(a) Apartment sites and improvements and structures thereon, except structures regulated by Chapter 183A, Massachusetts General Laws, shall be constructed and retained as a single entity.

(b) Off-street parking shall be provided as required by Section 6.3, provided that:

1. All parking spaces shall be located to the rear of the front building line.

2. If all the required parking area for a building containing dwelling units is enclosed within the structure of the buildings, the height regulation of Table One may be raised by ten (10) feet for that building.

(c) Each structure shall be connected to and serviced by municipal water and sewer.

(d) There shall be seven hundred and fifty (750) square feet of usable common, open space per dwelling unit. Usable common open space shall mean areas left substantially in a natural state or improved by such landscaping as required in Section 6.5 and primarily designed and intended for the active and passive recreation of the occupants of the dwellings. Usable common open space shall not include street rights-of-way, open parking, or service areas, driveways, easements for above-ground utilities, required minimum front yards, or any other land deemed unsuitable by the Planning Board or the Board of Selectmen for reasons of excessive slope or poor drainage. (5-1-95, Art. 11)

(e) In cases of public open space dedicated in fee to the Town, such as open space shall be maintained as a public area, accessible to the public.

(f) In cases of the sale of individual units as in a condominium, there shall be included, in the deed a requirement obligating the purchasers to join in an organization of unit owners incorporated under Chapter 183A of the General Laws of the Commonwealth of Massachusetts, as amended. The organization shall file a written report, including the names of officers, with the Town Clerk, to be submitted to the Town Clerk by February 15 of each year. Such report may be the same written report rendered to all unit owners referred to in Chapter 183A, Section 10, Paragraph d.

(g) All existing or proposed utilities shall be installed underground at the time of initial construction.

(h) If there is more than one (1) such structure on a lot of record, there shall be at least sixty (60) feet between each structure. The only exception may be that no more than three (3) buildings may each be interconnected by a covered walkway or breeze way for reasons of convenience and shelter from the elements, if such walkway, in the opinion of the Planning Board and the Board of Selectmen, shall not impair services to the buildings by emergency vehicles or equipment. Such buildings so interconnected shall be deemed as separate and individual buildings for the purposes of administering the Rules and Regulations Governing the Subdivision of Land for the Town of Stoneham. (5-1-95, Art. 11)

(i) The applicant must provide documentation that the site is satisfactory as to drainage, water supply, and sewage disposal for the number of units to be constructed, such documentation to be prepared by a registered professional engineer.

Neighborhood Business District:

4.4.3 Uses Permitted on a Special Permit Granted by the Planning Board and Site Plan Approval by the Board of Selectmen: (10-21-85, Art. 15; 5-4-87 - See editor's note below)

4.4.3.2 Combined business-residential use in one building, provided that the residential use shall be permitted above or below the ground floor and further provided that no more than five (5) dwelling units shall be allowed in a building. (5-3-99, Art. 20)

Stoughton

Are apartments above commercial (mixed use) allowed in any district?

No

Stow Are apartments above commercial (mixed use) allowed in any district?

No No reference found in the zoning bylaw to mixed use. According to survey received from Stow on 3/28/05, mixed use is allowed: "Yes - by special permit for age-restricted housing in the Business District." Researcher did not find these provisos in the bylaw.

Sudbury Are apartments above commercial (mixed use) allowed in any district?

Yes According to the table of principal use regulations, the following uses are allowed:
"Residential apartments on second and/or third floors above ground level business uses"... allowed by right in the VBD district only.

Sutton Are apartments above commercial (mixed use) allowed in any district?

Yes Survey received from Sutton in July 2005 marked the answer as "yes." Researcher did not locate the provisions for mixed use in the bylaw. In the village district, retail is allowed by right and multifamily by special permit; it is possible that the town would permit these uses together in one structure.

Swampscot Are apartments above commercial (mixed use) allowed in any district?

No

Swansea Are apartments above commercial (mixed use) allowed in any district?

No Swansea Zoning Bylaw (Adopted 1953, Amended 2002)

Taunton Are apartments above commercial (mixed use) allowed in any district?

Yes City of Taunton Zoning Ordinance
5.1.5 BUSINESS DISTRICT (BD)
The purpose of this district is to designate appropriate areas for commercial uses intended to serve retail sales and service needs at a city wide and neighborhood scale. This district is intended to have architecture with high aesthetic value reflecting the historical character of the business community of Taunton. Multi-family dwelling units are allowed on the upper floors of commercial buildings creating a mixed-use environment.
5.1.13 Central Business District The purpose of this district is to designate appropriate areas for commercial uses intended to serve retail sales and service needs at a city wide/ neighborhood and regional scale. This district is intended to have architecture with high aesthetic value reflecting the historical character of the business community of Taunton. Multi-family dwelling units are allowed on the upper floors of commercial buildings creating a mixed-use environment.
For the purposes of this Ordinance, mixed use shall be defined as two or more uses, as listed and categorized in the Table of Use Regulations, located on one lot at the same time. Two or more uses, as listed in the Table of Use Regulations, may be located on the same lot at the same time provided the necessary variance, special permit, and/or site plan review approval for each use is properly obtained and the requirements for each use regarding all other

applicable zoning requirements including but not limited to parking, landscaping, signs etc. are met.

**Webmasters Note: The previous paragraph has been added as per an ordinance adopted 12/18/01.

SECTION SEVENTEEN MULTI-FAMILY/BUSINESS DISTRICT REGULATIONS
17.1 PURPOSE AND INTENT

The purpose and intent of the Multi-Family/Business District is to provide multi-family dwelling units on the upper floors of commercial buildings allowing for a mixed-use environment in order to benefit the economic development of areas like Downtown Taunton.

17.5.4 No residential uses shall be allowed on any rooftop or below street level. Residential Uses may be permitted by the Special Permit Granting Authority in this overlay district on the 2 through top floors of buildings. In addition, the first floor (ground level) may be utilized for residential purposes only upon a finding by the Special Permit Granting Authority that a commercial use is not economically viable.

**Webmasters Note: The previous subsection has been amended as per an ordinance adopted 12/18/01.

Tewksbury *Are apartments above commercial (mixed use) allowed in any district?*

No Town of Tewksbury Master Plan, Page 5.26. (2003)

"Mixed-use development. Consistent with the Land Use Concept Plan, the Housing Element recommends that Tewksbury allow mixed residential and commercial development on portions of Route 38. The town presently allows over-55 units throughout the Commercial District, but to induce redevelopment and higher property values, Tewksbury should provide more flexibility to developers to build units that respond to market demand. The town could consider setting a maximum percentage of total floor area for residential uses and limiting the allowed residential use to multi-family housing. To assure that units integrate well within a mixed-use development, Tewksbury should adopt guidelines that permit some freestanding multi-family units as long as housing units are also located above the ground floor of a commercial facility."

Topsfield *Are apartments above commercial (mixed use) allowed in any district?*

Yes According to the survey received from Topsfield on 7/5/05, mixed use is allowed in the Business Village District only.

Topsfield Zoning Bylaw

3.09 Uses in the Business Village District.

A. Principal Uses as permitted in the table of Use Regulations

B. Mixed uses shall be allowed in structures in the Business Village District provided that each principal use is separately allowed in the Table of uses for the Business Village District.

C. Buffer Strips shall be required for lots in the Business Village District. Such buffer strips shall conform to the following standards.

1. The buffer strip shall be at least ten (10) feet wide and planted with grass, groundcover, or shrubbery.
2. For lots with multi-family use, the buffer strip shall contain a screen of evergreens no less than six (6) feet in height and five (5) feet in width, or it shall contain a dense man-made screen, or a combination of the above two (2) screens.
3. Where man-made screens are erected, these shall be designed to present an attractive facade which shall reflect the general architectural style of the premises.
4. Whichever screen is proposed, it shall be so located on the buffer strip and be of such dimensions as to effectively protect the premises from exterior lights, noise, scattered refuse, dust, and smoke.

5. Access across buffer strips shall be subject to review and approval of the Permit Granting Authority.

6. The ten (10) foot requirement of Section 3.09 C.1 may be reduced to five (5) feet with the approval of the Permit Granting Authority.

D. Parking requirements shall be calculated according to the separate uses within mixed use structures," or take any other action relative thereto.

E. Severability. All the clauses of this bylaw are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this by-law.

**Webmasters Note: The previous section has been amended as per an update approved at a town meeting held on 5/4/04.

The table of uses notes that multifamily housing is allowed by special permit in the Business Village District.

Townsend *Are apartments above commercial (mixed use) allowed in any district?*

Yes Town of Townsend Zoning Bylaw (Amended 2004)

§145-27. Downtown Commercial District (DCD).

C. DCD uses allowed by special permit from the Board of Appeals (see Article XI):

(2) One to six dwelling units within a structure existing on the lot or for which a building permit has been issued as of January 1989, provided sufficient off-street parking is available on site.

(3) Mixed use (residential/commercial).

§145-28. Neighborhood Commercial District (NCD).

C. NCD uses allowed by special permit from the Board of Appeals (see Article XI):

(1) One to six dwelling units within a structure existing on the lot or for which a building permit has been issued as of January 1989, provided sufficient off-street parking is available on site.

(2) Mixed use (residential and commercial).

Tyngsboro *Are apartments above commercial (mixed use) allowed in any district?*

No Tyngsborough Zoning Bylaw (2003)

According to the Table of Permitted Uses, "Combined Business and Dwelling" is allowed by special permit from the planning board in R-3 and B-1, and by right in B-2

"Business and Dwelling - A building used for business uses and for not more than two dwelling units."

Upton *Are apartments above commercial (mixed use) allowed in any district?*

Yes From ordinance.com (with 2004 amendments):

SECTION XV - DEFINITIONS

PLANNED VILLAGE DEVELOPMENT : A development proposed for a single tract of land, authorized by Special Permit in Commercial and Industrial

District, specifying a mixture of land uses, including residential uses such as single family, multifamily, townhouses, and other uses such as commercial, municipal, civic, or other uses permitted in Single Residence, Agricultural Residential, General Business Districts, and Special Use District.

**Webmasters Note: The previous definition has been added as per an update approved at a town meeting held on 11/30/04.

SECTION III - USE REGULATIONS

E. Commercial and Industrial District.

1. Permitted Uses.

j. The following use(s) if authorized by a Special Permit granted by the Planning Board:

1. Planned Village Development.

**Webmasters Note: The previous subsection, j., has been added as per an update approved at a town meeting held on 11/30/04.

Section XIX Planned Village Development, Special Permit

1.0 Intent

The intent of this Planned Village Development Bylaw is to permit greater flexibility and more creative and imaginative design for the development of municipal, commercial, retail, general business, and residential mixed-use areas than is generally possible under conventional zoning provisions. It is further intended to promote a vibrant, compact, pedestrian friendly development with the virtues of a traditional New England village, but with modern amenities and services, enabling residents of diverse income levels and ages to live, work, or retire in a well planned built and natural environment. In addition, the Town may use this bylaw to promote unmet housing needs, including affordable housing and handicap barrier free housing.

2.0 Special Permit Granting Authority

The Planning Board shall act as the Special Permit Granting Authority (SPGA) for Planned Village Development in the Town of Upton. The Planning Board is authorized to hear and decide upon applications for special permits for Planned Village Development in accordance with the provisions of this zoning bylaw.

3.0 Application in Zoning Districts

A Planned Village Development may only be permitted by a special permit in a Commercial & Industrial District in accordance with the requirements and regulations of this section of the Town of Upton Zoning Bylaws.

4.0 Design Requirements

4.1 Overall Threshold of Development

The maximum area of development or gross floor area of retail / office use or residential units permissible under a Planned Village Development Special Permit and for a Planned Village Development tract of land shall be determined as part of the Concept Plan review and approval process. Based on its review and in order to advance the purpose of this bylaw, to ensure that residential development is not the dominant land use, and mixed-use development is achieved, the Planning Board shall determine the following:

- a. Developable area as defined.
- b. Open space area as defined.
- c. The maximum amount of retail/office density.
- d. The maximum amount of residential density, not to exceed eight (8) dwelling units per developable acre.
- e. The maximum amount of municipal density.
- f. A minimum percentage of gross floor area to be devoted to retail/office and/or municipal uses that advance the purposes of this bylaw.
- g. A maximum ratio of total residential building gross floor area to total commercial and municipal building gross floor area.

4.2 Developable Area

Developable Area shall be defined as an area calculated by a Registered Civil Engineer and/or Registered Land Surveyor that does not include any of the following:

- a. Land within the 100-year flood plain as defined by M.G.L., Chapter 131, §40.
- b. Fresh water wetlands as defined by M.G.L., Chapter 131, §40.
- c. Land subject to the Massachusetts River Protection Act as defined by M.G.L., Chapter 131, §40.
- d. Land having a slope greater than 20%.
- e. Land subject to any local and/or state law or regulation, right of way, public or other restriction, which prohibits development.

4.3 Open Space

Open Space should generally be planned as contiguous areas that promote the objectives of this Bylaw while retaining the natural features of the site most worthy of preservation in a natural state. Open Space in a Planned Village Development shall consist of three categories:

- a. Open space for active and/or passive recreational pursuits including but not limited to ball fields, soccer fields, trail systems, parks, etc., that would be transferred to the town, state, or other non-profit agency;
- b. Open space associated with retail/office and/or municipal uses;
- c. Open space consisting of landscaped or natural vegetation that shall serve as buffers for the residential components of the Planned Village Development.

The first two categories of open space would generally provide for public access, which would be defined through covenants approved by the Planning Board as part of the special permit process.

4.4 Dimensional Requirements

In order to permit site planning best tailored to the land under consideration, there are no predetermined dimensional requirements except for the following:

- a. When the Planned Village Development property adjoins residential property, a buffer area shall be provided and delineated on a Planned Village Development Site Plan.
- b. The minimum frontage of a Planned Village Development property proposed for a Planned Village Development Special Permit shall be 200 feet on an existing Town accepted way.
- c. Open Space requirements for the property proposed for a Planned Village Development special permit shall be as follows:
 - 1. No less than 30% of the Developable Area within the Planned Village Development site shall be designated as open space.
 - 2. No less than 20% of the Planned Village Development site shall be designated as upland open space that shall not consist of wetlands as defined by M.G.L., Ch. 131, § 40.
 - 3. Wetland areas shall be incorporated into open space to the greatest extent possible.
 - 4. No less than half of the Planned Village Development site classified as upland open space shall be dedicated as publicly accessible and useable open space that shall not consist of wetlands as defined by M.G. L., Ch. 131, §40.

4.5 Unmet Housing Needs

In order to promote the intent and purpose of this bylaw, the Planning Board shall determine a percentage of housing built under the bylaw and within a Planned Village Development that, shall be required by covenant or restriction acceptable to the Planning Board to be set aside to meet unmet housing needs, as shall be determined by the Planning Board, including those specified in Section 1.0.

5.0 Procedures & Administration

Applications shall be filed in accordance with the Site Plan Review Rules and Regulations of the Planning Board. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Planning Board.

5.1 Application Procedure

The application procedure shall consists of two steps:

- a. Submission of a conceptual site plan to the Planning Board for pre-application review.

b. Submission of a application for approval of a Planned Village Development Special Permit to the Planning Board, which will include the following:

1. A special permit application cover letter form.
2. A preparation of plans with a designer certificate.
3. A development impact statement.
4. Development plans as specified herein this special permit bylaw.

5.2 Pre-Application

To be eligible to apply for a special permit, applicants are first required to have submitted a conceptual site plan prepared by a landscape architect, a registered architect, and a registered professional engineer for review at a scheduled Planning Board meeting. The Planning Board may conduct its review of a conceptual site plan at more than one meeting.

The conceptual site plan shall include a detailed analysis of site topography, wetlands, unique land features, soil type, site layout and building design. The purpose of this requirement is to help applicants and Town officials develop a better understanding of the property and to help establish an overall design approach that respects the intent of this bylaw:

As an integral part of the pre-application process and prior to its formal review conducted in its capacity as SPGA, the Planning Board shall set forth its preliminary findings pursuant to its review of a conceptual site plan. These findings may include but not be limited to suggestions related to the design, scope, building, use, or development program, open space, infrastructure, or other components related to an anticipated Planned Village Development proposal for the subject property.

5.3 Special Permit - Application

Applicants are required to submit a special permit application and site plan, conforming to the requirements of this bylaw, to the Planning Board for approval.

Contents of special permit application: The application for a Planned Village Development Special Permit shall be accompanied by a site plan including all of the plans and information listed below.

- a. A special permit application cover letter form.
- b. A preparation of plans, designer certificate.
- c. A Development Impact Statement, as defined in this Bylaw.
- d. Development plans as specified herein this special permit bylaw.
- e. Payment of any application fee(s) required under the Planning Board's Rules and Regulations for the administration of this Bylaw

5.4 PVD Special Permit - Rules and Regulations

The Planning Board shall adopt reasonable rules and regulations for the administration of this Bylaw, which may be amended from time to time.

5.5 Public Hearing

The Planning Board shall hold a public hearing on any application for a Planned Village Development Special Permit within sixty-five (65) days from the date of filing of the special permit application. The Planning Board shall provide notice of hearings in accordance with M.G.L., Ch. 40A, §9 and M.G.L., Ch. 40A, § 11.

5.6 Basis for Approval, and Required Findings and Determinations

Upon receipt of the application and required plans, the Planning Board shall transmit one copy each to the Board of Selectmen, Board of Health, Conservation Commission, Public Works Department, Fire Department, and Police Department for recommendations consistent with the intent of this Bylaw as set out in Section 1.0. Failure of such boards and officials to make any recommendation within thirty-five (35) days of receipt of the special permit application by such boards and officials shall be deemed lack of opposition to the special permit. The Planning Board shall act on applications according to the procedures specified in M.G.L., Ch.40A, §9.

The decision of the Planning Board shall be made within ninety (90) days following the date of such public hearing. The required time limit for a public hearing and said action may be extended by written agreement between the petitioner and the Planning Board. A copy of such agreement shall be filed in the office of the Town Clerk as required by M.G.L., Ch. 40A, §9. The Planning Board shall file its special permit granting decision with the Town Clerk as required by M.G.L., Ch. 40A, §9.

Special permits shall be granted by the Planning Board, unless otherwise specified herein, upon its written determination that; (1) the proposed development is consistent with the intent of this Bylaw, as set out in Section 1.0, (2) municipal services such as water, sewer or other services are adequate or will be adequate at the time of completion of the development, (3) the benefit to the Town and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site.

5.6.1 In addition to the determination listed above, prior to granting approval of the Planned Village Development, the Planning Board shall also give consideration of each of the following:

- a. Social, economic, or community needs that are served by the proposal;
- b. Adequacy of vehicular and pedestrian traffic safety on and off the site, and adequacy of parking and loading areas;
- c. Adequacy of utilities and other public services;
- d. Impacts on neighborhood character and social interaction;
- e. Impacts on the natural environment; and
- f. Potential fiscal impact, including impact on municipal services, tax base, and employment.

5.6.2 The Planning Board shall not grant approval for the following:

- a. A Planned Village Development solely for residential use shall not be permitted. Strictly single-family detached residential development shall not be permitted.
- b. A Planned Village Development shall not be permitted when municipal services such as water, sewer or other services are not adequate or will not be adequate at the time of completion of the development. Proof of adequacy of municipal services shall be the burden of the developer. The Planning Board shall determine, based on all evidence submitted to it, what constitutes adequate municipal services.
- c. A Planned Village Development that does not meet the specified intent of this bylaw.

5.7 Conditions

The special permit may be granted with such reasonable conditions, safeguards, or limitations on time or use, performance guarantees, site construction requirements, inspection requirements, and owner /occupancy reporting requirements to satisfy compliance with the special permit. The Planning Board may require additional conditions as it finds reasonably appropriate to safeguard the health, safety, and welfare of the existing neighborhoods and the Town of Upton or otherwise serve the intent of this Bylaw.

5.8 Change in Plans after Grant of Special Permit

No change in any aspect of the approved plans shall be permitted unless approved by the Planning Board. A new or amended special permit will be required if the Planning Board determines any proposed change to be substantial. The Planning Board shall hold a public hearing if the proposed change is determined to be substantial, within the provisions of this bylaw.

No land for which a special permit for a Planned Village Development has been granted shall be further subdivided.

5.9 Lapse

The special permit shall lapse if a substantial use thereof or construction hereunder has not begun, except for good cause, within 24 months following the filling of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. Ch.40A, § 17, from the grant thereof) with the Town Clerk.

5.10 Appeal

An aggrieved party may appeal a Planning Board decision pursuant to M.G.L. Chapter 40A, §17.

5.11 Validity

If any provision of this Bylaw is determined to be invalid, it shall not affect the validity of the remaining provisions.

6.0 Development Impact Statement (DIS)

At the discretion of the Planning Board, the submittal of a development impact statement (DIS) may be required at the expense of the applicant. The Planning Board may deny a special permit when the DIS discloses that the proposed use does not comply with the provisions of this bylaw, or would be detrimental to the Town or its citizens. The DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a

Registered Civil Engineer, Registered Surveyor, and a Land Planner, and may include all or some of the following information.

6.1 Physical Environment

a. Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, locations of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.

b. Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

6.2 Surface Water and Subsurface Conditions

a. Describe locations, extent, and types of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.

b. Describe any proposed alterations of shorelines or wetlands.

c. Describe any limitations imposed on the project by the site's soil and water conditions.

d. Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

6.3 Vehicle Circulation System

a. Project the number of motor vehicles to enter or depart the site per average day and during peak hours. Also state the number of motor vehicles to use streets adjacent to the site per average day and during peak hours. Such data shall be sufficient to enable the Planning Board to evaluate (i) existing traffic on streets adjacent to or approaching the site; (ii) traffic generated by or resulting from the site; and (iii) the impact of such additional traffic on all ways within and providing access to the site.

b. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for producing the study, shall be attached to the DIS.

6.4 Support Systems

a. Water Distribution: Discuss the water system proposed for the site, and the means of providing water for fire fighting, and any problems unique to the site.

b. Sewage Disposal: Discuss the sewer system to be used, and evaluate impact of sewage disposal on the wastewater treatment facility.

c. Refuse Disposal: Discuss the location and type of facilities, the impact on existing Town refuse disposal capacity, hazardous materials requiring special precautions.

d. Protection Service: Discuss the distance to the fire station, police station, and emergency medical service, and the adequacy of existing equipment and manpower to service the proposed site.

e. Recreation: Discuss the distance to and type of public facilities to be used by the residents of the proposed site, and the type of private recreation facilities to be provided on the site.

f. School System: Project the increase to the student population for nursery, elementary, middle school, and high school levels.

6.5 Phasing

Where development of the site will be phased over more than one [1] year, indicate the following:

a. Describe the phasing of the construction with a dated time line with dated milestones.

b. Describe the approximate size and location of the portion of the parcel to be cleared at any given time and the length of time of exposure.

c. Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

d. Describe how the site will be separated into work areas and made safe for workmen and residents.

7.0 Preparation of Plans

A Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect shall prepare plans, as appropriate, which shall be

clearly and legibly drawn in black line on white paper. Dimensions and scale shall be adequate to determine that all requirements are met and to enable complete analysis and evaluation of the proposal. Sheet size shall be as specified in the Planning Board Site Plan Rules and Regulations. If multiple sheets are used, an index sheet showing the entire Planned Village Development, adjacent streets, and abutting properties shall accompany them.

8.0 Contents of Plans

Plan form and content shall be as specified in the Planning Board's Site Plan Rules and Regulations.

A written statement indicating the estimated time required to complete the proposed project and any and all phases thereof shall accompany the plan. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

A written summary of the contemplated project(s) shall be submitted with the plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this bylaw.

Storm drainage design and roadways, private and public, must conform to the durability requirements and other requirements of the Town of Upton subdivision rules and regulations, unless another standard is specified by the Planning Board. When in the public interest, and to meet the objectives of this bylaw, alternative road width and other requirements varying from the subdivision rules and regulations may be specified in the granting of a Planned Village Development.

**Webmasters Note: The previous section, Section XIX, has been added as per an update approved at a town meeting held on 11/30/04.

Do the new provisions for Planned Village Development allow for mixed use, specifically dwelling units in the same building as retail or other commercial uses?

Email from Denise Smith on 6/9/05:

"The Planned Village Development bylaw allows mixed use - ie: residential, commercial and municipal. Comprehensive details have been left out to allow for flexibility. If the applicant requests dwelling units above retail or commercial uses it will be considered by the Planning Board."

Uxbridge *Are apartments above commercial (mixed use) allowed in any district?*

No

Wakefield *Are apartments above commercial (mixed use) allowed in any district?*

Yes ARTICLE IV Use Regulations

Section 190-13. Mixed uses.

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used. Combinations of permitted uses within a single building are permitted, provided that health and safety regulations are followed. Proposed new buildings that mix residential and nonresidential uses shall obtain a special permit from the Board of Appeals.

Wakefield Housing Master Plan (2003):

3. The D3 Model proposes a mixed-use housing and retail concept based on traditional New England main street development. New 3-4 story buildings along North Avenue would contain apartments over ground floor retail development. Parking is accommodated below ground and/or in surface lots behind street-front buildings. Residential density is similar to D3 residential development along Richardson Street – see Neighborhood Studies, Section 4.

The current zoning for the site – Business Use – allows up to 36 units per acre by Special Permit.
The proposed 2-3 story housing is extended partway down the side streets, stepping down a story from its height along North Avenue to match the existing residential development along Richardson Avenue.
200 units on 3 floors – 27.9 units per acre.
1,560 square feet of lot area per unit. (from p. 5.26).

Walpole *Are apartments above commercial (mixed use) allowed in any district?*

Yes "The use of a floor other than the ground floor or basement for dwelling units provided that such dwelling units are or will be connected to the public sewer at the time of construction. In a GR zone the requirements of Section 3-B-3-D must be met. (i) within CBD zones, the area used for dwelling units above the ground floor shall not exceed a gross floor area 2.5 times the gross floor area of the ground floor. (ii) within B zones, the area used for dwelling units above the ground floor shall not exceed a gross floor area 2.0 times the gross floor area of the ground floor."... allowed by special permit in GR, B, CBD.

Survey received from Walpole on 4/25/05 marks the answer: "No but depends on your definition."

Waltham *Are apartments above commercial (mixed use) allowed in any district?*

Yes NOTES:

(1) Residential uses shall only be allowed in the BC District on upper floors [floors two (2) through five (5)] unless development occurs as part of a Riverfront Overlay District special permit (see Sec. 8.4). In the BC District, residential uses shall have separate and distinct entrances from any and all commercial uses, and commercial and residential uses shall not be located on the same floor. Further, in instances of new residential construction, excluding rehabilitation or remodeling of existing structures, said residential uses shall be permitted to abut other structures of any type on only one (1) side, and all other sides shall be at least twenty-five (25) feet from all other structures. [Added 12-12-1991 by Ord. No. 27265]

The purpose of the Planned Unit Development Special Permit areas, according to the General Ordinances of the City of Waltham, Article VIII, Section 8.3, is "to provide for developments with a mix of residential and commercial uses, provided that the resulting use can be shown to be in the public good."

8.444.Mixed use. Owners of property within the Riverfront Overlay District may apply for a special permit to allow mixed-use development. Said development shall permit retail stores, restaurants, business offices, personal service establishments and all residential uses permitted by this chapter, except that drive-in customer services (Section 3.225), fast-food establishments (Section 3.229), used car lots (Section 3.240), new car dealerships, retail gasoline stations (Section 3.227) and autobody shops (Section 3.253) are prohibited. Further, the total square feet devoted to nonresidential uses shall not exceed 20% of the total gross floor area of the project, excluding basement parking areas. However, in order to promote commercial redevelopment in the downtown area, projects shall be permitted to include the nonresidential uses allowed in the underlying business district; except that retail gasoline stations and used car lots shall be prohibited. Further, projects whose underlying zoning district is Business B or Business C shall not be subject to the twenty-percent nonresidential development limitation noted above. [Amended 12-9-1991 by Ord. No. 27265]

Watertown *Are apartments above commercial (mixed use) allowed in any district?*

Yes SECTION 5.03 NOTES TO TABLE OF USE REGULATIONS

(2) Multi family uses are allowed in the CB district as of right if at least the first floor of the structure in which they are located is used for retail or other business purposes. However, not more than the first two floors may be used for retail or service related purposes in a mixed use project.

SECTION 5.07 AFFORDABLE HOUSING REQUIREMENTS

(c) Requirements

(1) The provisions of this Article shall apply to all residential and mixed use developments seeking special permits with site plan review to develop more than five (5) dwelling units. The Petitioner shall provide ten percent (10%) of the total units in the subject development as affordable housing units. Nothing in this Section shall preclude a developer from providing more affordable units than the minimum ten percent (10%). In determining a total number of affordable units required, calculation of a fractional unit of .5 or more shall be regarded as a whole unit.

(b) Objectives: The establishment and application of the revitalization overlay special permit is intended to accomplish the following objectives:

- (1) To permit by special permit the orderly redevelopment of a specific area regardless of the various underlying zoning districts;
- (2) To provide for greater flexibility in planning and design;
- (3) To provide the opportunity for mixed use developments that will allow for more efficient and sensitive use of land;
- (4) To promote compatibility between adjoining areas and the proposed development site; and

(5) To promote redevelopment of specific portions of the community consistent with adopted land use plans and policies.

Survey received from Watertown on 6/10/05 marks the answer Yes.

Wayland

Are apartments above commercial (mixed use) allowed in any district?

No

Wellesley

Are apartments above commercial (mixed use) allowed in any district?

No

SECTION XIV.F. RESIDENTIAL INCENTIVE OVERLAY (RIO)

A. Purpose: To provide a residential reuse incentive for parcels where one or more of the following conditions apply:

1. general site conditions and access constraints impede long term successful commercial or industrial use;
2. the parcels that border the residential districts and their residential re-use would extend and complement the character and function of the existing surrounding neighborhood;
3. the parcels border unique natural features, open space, or historic resources which would be better preserved and enjoyed by the public over the long term through residential rather than commercial or industrial uses.

N. Mixed Use Projects: Any combination of conventional housing types is permitted up to a maximum density of 24 units per acre. Further, up to 75 conventional units of any type of housing shall be permitted in conjunction with development of a facility providing at least 100 nursing home beds, 100 beds associated with a skilled nursing facility, or at least 80 assisted living or independent elderly housing units. A mix of residential units comprising independent elderly housing, assisted elderly living, skilled nursing, nursing homes, and any type of conventional housing shall also be allowed, consistent with the dimensional regulations of the RIO. In RIO projects that provide at least 100 elderly dwelling units of any type, including skilled nursing facilities, or at least 50 conventional housing units of any type, up to 10,000

sq. ft. of retail space in a structure or structures separate from the residential units or nursing facility shall be permitted. All such developments shall be consistent with the dimensional and parking requirements for retail business in the Lower Falls Commercial District.

Wenham *Are apartments above commercial (mixed use) allowed in any district?*

No

West Boyls *Are apartments above commercial (mixed use) allowed in any district?*

No

West Bridg *Are apartments above commercial (mixed use) allowed in any district?*

No

The Land Use Ordinance of West Bridgewater
PLYMOUTH COUNTY, MASSACHUSETTS
ZONING BY-LAWS

2.0. DEFINITIONS

2.1. TERMS AND WORDS

DWELLING : Any building, or part thereof, used for human habitation, but not including commercial accommodations for transient occupancy or a trailer or mobile home, however mounted or affixed.

a. Dwelling Unit: One (1) or more rooms with cooking, Living sanitary and sleeping facilities arranged for the use of one (1) or more persons Living together as a single housekeeping unit.

b. Dwelling, Single-Family: A detached structure containing one (1) dwelling unit intended and designed to occupied by a single-family.

c. Dwelling, Multi-Family, Multiple Family House, Apartment or Apartment House: A structure containing two (2) or more separate dwelling units.

4.0. USE REGULATIONS

4.4 Table of Use Regulations

(multifamily not listed)

West Newb *Are apartments above commercial (mixed use) allowed in any district?*

No

Westborou *Are apartments above commercial (mixed use) allowed in any district?*

Yes

Westborough Zoning Bylaw (2004)

4900. DOWNTOWN PLANNING OVERLAY DISTRICT (DPOD)

4910. Purpose. The intent of this Downtown Planning Overlay District, which hereafter may be referred to as DPOD, is to permit greater flexibility and more creative and imaginative design for the development of retail, office, restaurant, residential and open space than is generally possible under conventional zoning provisions. It is further intended to promote and facilitate redevelopment of certain portions of downtown Westborough while providing a harmonious variety of uses, a higher level of amenities, a stimulus to the economic development of the community and providing vitality to the downtown area.

4920. Scope and Authority. The Downtown Planning Overlay District shall be considered as overlaying existing Zoning Districts. At the owner's election, this Overlay District shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses.

4930. Establishment and Delineation of Downtown Planning Overlay District. For the purposes of this District, there is hereby established a Downtown Planning Overlay District area. This DPOD shall be only within twenty- five hundred (2,500) feet of the intersection of the center line of Milk, Main, and South Streets.

4931. Overlay Map. The boundaries of properties within the Downtown Planning Overlay District shall be delineated on a map approved at Town Meeting.

4940. Permitted Uses. Each parcel developed within the DPOD shall be designated by owner either according to the existing underlying Zoning District or Mixed Use by Special Permit. In any Mixed Use development, no building or other structure shall be erected, altered or used and no land shall be used or occupied for any purpose except, under a Special Permit issued by the Planning Board in accordance with the provisions and requirements of this Section and the rules and regulations of the Planning Board.

4950. Rules and Regulations. The Planning Board shall establish, after a Public Hearing, Rules and Regulations concerning the procedure for and content of an application for new building or change of use in a Downtown Planning Overlay District. The Planning Board shall require a filing fee as part of the application, the amount of which shall be prescribed in the Downtown Planning Overlay District Rules and Regulations. The Downtown Planning Overlay District Rules and Regulations shall be effective on the date the Planning Board files them with the Town Clerk.

4951. Public Hearing and Approval. A public hearing shall be required on any Downtown Planning Overlay District Building or Change of Use before any final action can be taken by the Planning Board on the application. The timing of and form of notice of the hearing shall be as prescribed in Massachusetts General Laws, c. 40A, § 11 for Special Permits. After the Public Hearing, the Planning Board shall consider the development for a Special Permit. In its consideration the Planning Board shall determine whether the application meets the purpose of Section 1100, and of the Downtown Planning Overlay District regulations. The Planning Board shall specifically determine whether the development will contribute to the orderly and harmonious development of the Downtown Planning Overlay District Area and is consistent with the character of the neighborhood. The Board may recommend that the developer modify, alter, adjust or amend the development and may recommend such reasonable additional conditions as the Planning Board deems necessary.

4952. Density Requirements. Within the Downtown Planning Overlay District, building lots shall be established by the applicants subject to approval of the Planning Board.

4953. Multiple Buildings. Notwithstanding §2540 of this Bylaw, multiple buildings may be allowed on a lot in a Mixed Use project by Special Permit issued by the Planning Board.

4954. Signage. Notwithstanding Section 3300 of this Bylaw, multiple signs may be allowed on a lot or building in a Mixed Use project by Special Permit issued by the Planning Board. The number, size and locations of signs shall be based on the nature, size, architecture and location of each building or portion thereof.

4960. Site Plan Approval of a Downtown Planning Overlay District. A Downtown Planning Overlay District Development, as herein permitted, shall be made only pursuant to a Site Plan Submission. Within a DPOD, the Board of Selectmen shall approve the Site Plan. All requirements as outlined in the Westborough Zoning Bylaws, Sections 1240 through 1245, shall apply. The Site Plan Submission documentation shall be appropriate to the proposed project to show and convey the level of detail required for review by the Board of Selectmen and shall show at a minimum:

1. Topography and grades both existing and proposed for the site and its relation to surrounding areas
2. Proposed plan and cross sections of all street systems and pedestrian walkways and their relationship to the overall project.
3. Proposed preliminary layout and routing of storm and sanitary sewer systems, water supply, fire protection and power and communications services.
4. Proposed lot(s), their layout and areas.
5. Proposed areas of the site reserved for parks, parkways, playgrounds and other private or public open spaces and their location, use, areas and access.
6. Proposed location of all buildings, their proposed use, size and height and related parking facilities.
7. Tabulation of the total number of acres in the proposed project and, if applicable, the percentage thereof designated for each proposed building and use and related off-street parking, streets, parks and other uses;

8. Tabulation of all buildings and uses and the over-all and per lot coverage and density (Floor Area Ratio).
9. Preliminary plans and elevations of the major buildings, their use, location and floor areas.
10. Environmental issues and mitigation measures if any.
11. Any other items that may be required by the Board of Selectmen.

**Webmasters Note: The previous section, 4900, has been added as per an update approved at a town meeting held on 3/13/04.

4600. PLANNED PARCEL DEVELOPMENT

4610. Purpose. The intent of this Planned Parcel Development section is to permit greater flexibility and more creative and imaginative design for the development of light industrial and mixed use areas than is generally possible under conventional zoning provisions. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of amenities, a stimulus to the economic development of the community while preserving the natural environment and scenic qualities of open spaces which otherwise might be lost.

Planned Parcel Developments solely for residential use shall not be permitted. Single family residential development shall not be permitted.

4611. Definition of Planned Parcel Development. A Planned Parcel Development is a development of structures and uses on a tract of land twenty (20) acres or more containing one (1) or more parcels which are contiguous but for their separation by an existing private way or by a public street. The development shall include all land within the tract which can be used for residences, businesses, light industry, recreation, education, open space, parking and interior streets.

4620. Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority for Planned Parcel Developments in the Town of Westborough, and is authorized to hear and decide upon applications for Special Permits for Planned Parcel Developments in accordance with law and the provisions of this Bylaw.

4630. Applicability of Zone. A Planned Parcel Development shall only apply to a tract of land to be developed of not less than twenty (20) contiguous acres within an existing Planned Parcel Development zone established by Town Meeting. Such zones shall be established by Town Meeting vote as overlying Mixed Use Development zones or as overlying Industrial Planned Parcel Development zones in Industrial zones. Public or private ways shall not be deemed to provide acreage to meeting the twenty (20) acre requirement.

4631. Municipal Services Requirement. Planned Parcel Developments shall not be permitted when municipal services such as water, sewer or other services are not adequate or will not be adequate at the time of completion of the Development. Proof of adequacy of municipal services shall be the burden of the developer. The Planning Board shall determine, based on all evidence submitted to it, what constitutes adequate Town services.

4640. Permitted Uses. Each Planned Parcel Development shall be designated either Mixed Use or Industrial by the developer. In any Planned Parcel Development, no building or other structure shall be erected, altered or used and no land shall be used or occupied for any purpose except one or more of the following:

a. In Mixed Use Planned Parcel Developments:

Those uses permitted in Section 2300 for single Residential (R) and,

1. Multi-family dwelling for three or more families, including town houses, row houses, garden apartments and high-rise apartment buildings;
2. Club, lodge, social and community center building, church, school or recreational center, except those conducted as a business;
3. Building or structure for the display and storage of goods for sale at retail on the premises, or to furnish a service, except motor vehicle service station; provided that such building or structure is for the use of the residents of the Planned Parcel Development. The burden shall be on the applicant to show that any proposed commercial facility can be supported solely by residents of the development. Failure to prove sole support from the development shall be sufficient basis for the Planning Board to deny commercial uses in the development.
4. Accessory use customarily incidental to any use permitted herein, provided such use shall not be deemed by the Planning Board to be hazardous, harmful, offensive or to otherwise adversely affect the environment or the character of the neighborhood or the community.

4650. Density Requirements.

4651. Lot Coverage. Within the Planned Parcel Development (PPD), building lots shall be established by the applicant subject to approval of the Planning Board. The total area of the building lots shall not exceed twenty percent (20%) of the entire parcel for a Mixed Use PPD, nor shall the total area of building lots exceed thirty percent (30%) of the entire parcel for an Industrial PPD. Areas of wetlands, private and public ways and existing easements shall be excluded in calculating the total parcel area. Parking lots and parking areas must be included within the defined building lots.

4652. Lot Size. No lot shall have a frontage less than seventy-five (75) feet on a street, nor an area less than fifteen thousand (15,000) square feet.

Planned Parcel Developments shall be exempt from dimensional requirements as may be required in other sections of this Bylaw and shall be as determined by the Planning Board in accordance with the purposes and intent of this section. The Planning Board may establish, at its discretion, the various dimensional standards, including but not limited to, lot area, frontage, yard, height and building separation, to achieve the purposes and intent of this section and may require modifications or conditions in the plan for the purpose of this section.

4653 Unit Density Ratio. The maximum number of dwelling units in a Mixed Use Planned Parcel Development shall be one (1) for each twenty-five thousand (25,000) square feet of the total parcel area as defined in Section 4651. The Planning Board may authorize a limited increase in the unit density ratio according to the following:

- a. For an increase in open space in excess of the required minimum open space, or a decrease in the computational area requirement from twenty-five thousand (25,000) square feet to fifteen thousand (15,000) square feet.
- b. For distinctiveness and excellence in design and landscaping, a maximum decrease in the computational area requirement from twenty-five thousand (25,000) square feet to twenty-two thousand five hundred (22,500) square feet.

Industrial Planned Parcel Development unit density ratio shall be one (1) facility for each fifteen thousand (15,000) square feet of the total parcel area as defined in Section 4651. The Planning Board may not reduce the minimum unit density ratio below this amount.

4660. Design Standards. A Planned Parcel Development shall meet the following design standards:

4661. Open Space. A minimum area of fifteen percent (15%) of the total parcel area as defined in Section 4651 shall be set aside as open space.

4662. Open Space - Mixed Use. Open space area in a Mixed Use Planned Parcel Development shall be developed such that a minimum of one half of the open space area is dedicated to the active recreational use of the residents therein. Recreational facilities which qualify for the intent of this paragraph are parks, golf courses, playgrounds, ballfields, swimming facilities or other facilities acceptable to the Planning Board. Land areas which are excluded for building purposes under other sections of the Town Bylaw (such as the Flood Plain) will be considered as open space but not for the active recreation portion therein.

4670. Use of Unspecified Planned Parcel Development Land. Land which has not been set aside as private or public ways, building lots or open space use may be held in private ownership of the building lot owner and shall have a covenant which runs with the land.

4680. Site Plan Approval of a Planned Parcel Development. A Planned Parcel Development, as herein permitted, shall be made only pursuant to a site plan submitted to, and approved by, the Planning Board.

4690. Access Ways. All access ways within a Planned Parcel Development shall be required to be equivalent to the specifications of the Town of Westborough Planning Board for ways requiring approval under the Subdivision Control Law, whether or not the Planned Parcel Development is deemed to constitute a "subdivision" under said law.

4695. Application. Every developer shall submit an application for a Special Permit to the Planning Board for a Planned Parcel Development in accordance with the provisions and requirements of this Section and the Rules and Regulations of the Planning Board issued under this Section.

No Planned Parcel Development shall be implemented or carried out unless a Special Permit, issued in accordance with this Bylaw, is granted by the Planning Board.

4696. Rules and Regulations.

4697. Public Hearing and Approval.

Westford

Are apartments above commercial (mixed use) allowed in any district?

No

Weston

Are apartments above commercial (mixed use) allowed in any district?

No

Westwood

Are apartments above commercial (mixed use) allowed in any district?

No

Weymouth

Are apartments above commercial (mixed use) allowed in any district?

Yes

ARTICLE III
Establishment of Zoning Districts

R-2 Low Density (mixed low-density residential and office) [Added May 1990 STM by Art. 1, approved 8-29-1990]

ARTICLE IVA
Resident District R-2
[Added May 1990 STM by Art. 1, approved 8-29-1990]
~ 120-13.1. Purpose.

The purpose of the R-2 District, mixed residential, is to:

- A. Provide for a transitional zone between single-family districts and multifamily or business districts.
- B. Recognize the changing character of major arterial roads by allowing use changes to existing single-family dwellings.
- C. Preserve the residential character of the district while allowing low-density multifamily and office uses.
- D. Limit traffic congestion by limiting the density and intensity of permitted and special permit uses in the district.

~ 120-13.2. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, ~ 120-123E, for site plan review applicability for any of the permitted uses listed in this section. Any of the following uses, or uses customarily accessory thereto, are permitted:

- A. Any use permitted in Resident District R-1.
- B. Two- or three-family dwelling, new construction.
- C. Alteration, but not the expansion, of a dwelling existing at the time of adoption of this bylaw for up to four dwelling units.

~ 120-13.3. Special permit uses by Board of Zoning Appeals.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

- A. Alteration and/or the expansion, not to exceed 10% of the existing gross floor area, of a dwelling or structure existing at the time of the adoption of this bylaw for up to 10 dwelling units.

B. Funeral home.

~ 120-13.4. Special permit uses by Planning Board.

Any of the following uses, or uses customarily accessory thereto, on approval of the Planning Board, subject to the conditions and requirements of Article XXV:

- A. Alteration and/or the expansion, not to exceed 10% of the existing gross floor area, of a dwelling or structure existing at the time of the adoption of this bylaw for office space, not to exceed 2,000 square feet of gross floor area.⁷

ARTICLE VIB
Highway Transition District HT
[Added May 1990 STM by Art. 2, approved 8-29-1990]
~ 120-22.5. Purpose.

The purpose of the Highway Transition District is to:

- A. Provide for a mixed residential, business and commercial development along major arterials in the town.
- B. Allow for redevelopment of former residential areas to limited business and

commercial uses.

C. Control off-site impacts of new development or redevelopment through the site plan review and special permit process.

D. Preserve the scale and character of the existing streetscape by encouraging the reuse of existing residential structures and appropriate site design criteria.

~ 120-22.6. Permitted uses. [Amended May 1993 ATM by Arts. 55 and 56, approved 7-9-1993; May 1997 ATM by Art. 43, approved 8-11-1997]

See Article XXVA, ~ 120-123E, for site plan review applicability for any of the permitted uses listed in this section. Any of the following uses, or uses customarily accessory thereto, are permitted:

A. Any use permitted in Resident District R-1.

B. Two-family dwelling.

C. Conversion of an existing residential structure for use as a clinic or office of a business, professional, medical/veterinarian or financial organization; barbershop; beauty salon; gift shop; antique shop; printer; caterer; or photography studio.

D. Conversion of an existing residential structure for use as retail sales or services with less than 2,000 square feet of gross floor area.

~ 120-22.7. Special permit uses by Board of Zoning Appeals.

Any of the following uses, or uses customarily accessory thereto, on approval of the Board of Zoning Appeals, subject to the conditions and requirements of Article XXV:

A. Private club or lodge.

B. Conversion of an existing dwelling for up to four dwelling units.

~ 120-22.8. Special permit uses by Planning Board.

Any of the following uses, or uses customarily accessory thereto, on approval of the Planning Board, subject to the conditions and requirements of Article XXV:

A. Retail sales or service, except auto-related sales or services that:

(1) Are in a new structure and contain up to a maximum of 5,000 square feet gross floor area.

(2) Are in an existing converted dwelling with a gross floor area between 2,000 square feet and 5,000 square feet.

B. Any permitted use having drive-through service or windows.

C. New structure containing a clinic or office of business, professional, medical/veterinarian or financial organization; barbershop; beauty salon; antique or gift shop; or photography studio.

D. Trade, professional or other for-profit school.

E. Restaurant, except that no drive-through window is allowed.

~ 120-74. Minimum required spaces.

Off-street parking spaces shall be provided in accordance with the following minimum requirements:

Q. Mixed uses in a single building: Where a building has a mixture of uses for which accessory off-street parking space is required, spaces required will be the sum of the requirements of the various individual uses.

Whitman

Are apartments above commercial (mixed use) allowed in any district?

No

Wilmington

Are apartments above commercial (mixed use) allowed in any district?

Yes

From ordinance.com:

3.8.10 Multi-family use in the Central Business District shall be allowed by special permit from the Planning Board subject to the following minimum

special permit criteria.

(a) In existing structures multi-family uses shall be restricted to floors above the ground floor; access to the residential unit shall be secure, separate and clearly distinguishable from any access to any commercial activity; parking shall be provided on-site at a rate of 1 space per unit; residential units shall not be located on any floor containing any commercial use, i.e., all floors used for residential purposes shall be exclusively residential; all commercial signs on any building where residential uses are located above a commercial use shall not be illuminated between the hours of 10 p.m. and 7 a.m.

Winchester *Are apartments above commercial (mixed use) allowed in any district?*

Yes Winchester Zoning Bylaw (2003)

Table of Use Regulations:

Combination of business and residential uses which "are otherwise allowed in Section 4.4 of the Table of Use Regulations in the underlying GBD-2 or GBD-3 (sp with site plan review): GBD, GBD-2, GBD-3.

Winthrop *Are apartments above commercial (mixed use) allowed in any district?*

Yes Winthrop Zoning Bylaw

Section 145-13. Mixed use development.

A. Mixed use development is permitted in districts specified in Section 145-21, Table of Use Regulations, subject to approval of a special permit (with environmental design review) by the Planning Board. "Mixed use development" is defined as combining residential use and nonresidential use on a single lot or in a single building. Combinations of permitted uses within a single building are permitted, provided that all applicable health and safety regulations and all requirements of this chapter are followed. Prior to issuing a special permit for mixed use development, the Planning Board shall make a specific finding that any and all uses proposed in a mixed use development are compatible with one another.

B. Any ground floor uses in the existing building in the mixed use development shall be nonresidential rather than residential use. An existing structure may be used for mixed use development only if residential uses are located in existing space above the ground floor level. No new space specifically for residential use shall be added to an existing structure, although the upper floors of an existing structure may be converted to residential use.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/23/02.

C. Mixed Use Development shall conform to the permitted uses and dimensional regulations in the district where permitted. Multi-dwelling and dwelling unit density shall not exceed one dwelling unit per 2,000 sq. ft. of upland lot area in a mixed-use development. Off street parking shall conform to the requirements of 145-30 Table of Required Off Street Parking.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/23/02.

Woburn *Are apartments above commercial (mixed use) allowed in any district?*

Yes Dwelling units above the first story in a commercial structure (amended 2001) are allowed by right in BD and S1.

Worcester *Are apartments above commercial (mixed use) allowed in any district?*

Yes City of Worcester Zoning Ordinance (Adopted 1991, Amended 2004)

ARTICLE IX MIXED USE DEVELOPMENT OVERLAY ZONE

Section 1 – Purpose

The purpose of the Mixed Use (MU) Development Overlay Zone is intended to provide for the coordinated and mixed development of residential, business, institutional and open/recreational space uses and their support functions in Areas of Special Development Significance (ASDS) of the City of Worcester by:

1. Creating major new mixed use areas in planned locations at appropriate densities, heights and mixture of uses;
2. Encouraging the preservation and rehabilitation of structures of historic or architectural merit in the overlay zones;
3. Encouraging flexibility in architectural design and building bulk;
4. Making recreation areas accessible to residents and visitors;
5. Creating environments conducive to a higher quality of life and environment for residents, businesses, employees and institutions.

Mixed Use Developments in the overlay zone shall require a special permit from the Planning Board.

Section 2 – Establishment Of Mixed Use Zones

Mixed Use (MU) Overlay Zones are hereby established. The boundaries of the MU zones are shown on the Official Zoning Map. In these areas as designated now or in the future by public plans and policies, a mixture of uses and building densities shall be intended to promote and protect public health, safety, convenience, order, prosperity and general welfare of the community as best accomplished by the MU Overlay Zone.

Section 3 - Permitted Uses In A Mixed Use Development Overlay Zone

All uses permitted in the underlying zone whether in Manufacturing (MG, ML), Residential (RS, RL, RG), Business (BO, BL, BG) or Institutional (IN) zones, as provided in Article IV (Table 4.1) are permitted uses in the Mixed Use Overlay Zone, except as otherwise provided in this Article.

108

Section 4 – Mixed Use Development Overlay Zone

It is intended that each Mixed Use Development in the overlay zone contain a variety of land uses and may not be used solely to increase the allowable floor area of a single use permitted in the underlying district. The following uses may be permitted by special permit by the Planning Board within the Mixed Use Development Overlay Zone; provided the following standards are met:

1. Each Mixed Use Development within the overlay zone shall contain at least three (3) uses permitted in Article IV – Table 4.1.
2. The total residential use shall not comprise more than fifty (50) percent of the gross floor area of the development.
3. Any single non-residential use shall not comprise more than seventyfive (75) percent of the gross floor area of the development.
4. In a combined residential and non-residential structure the floor area ratio and square footage requirements per unit established for the underlying zone shall be satisfied within the Mixed Use Development.
5. In a multi-story mixed use development no residential use shall be located on the first floor.
6. Each proposed use within the mixed use development must be an allowed use in the underlying zone. Different uses within the mixed use development may be apportioned between two (2) or more buildings provided all the buildings are functionally integrated through the use of open space and pedestrian walkways. The determination of applicability of uses is the sole discretion of the Planning Board.

Section 5 - Prohibited Uses In A Mixed Use Development

The following are prohibited uses within Mixed Use Developments in Mixed Use Development Overlay Zones:

1. Automobile related facilities, including but not limited to, repair shops, car washes, gasoline stations, auto body shops, lubratoriums;
2. Retail sales of motor vehicles, boats, mobile homes and house trailers;
- 109
3. Warehouse;
4. Trucking company/freight terminal;
5. Public utility;

6. Wholesale business;
7. Heavy industry;
8. Single and two family dwellings;
9. Animal hospital, kennel or veterinarian office;
10. Hospitals;
11. Sanitarium or nursing home;
12. Funeral home;
13. Adult book/merchandise store, adult motion picture theater, nude dancing and/or entertainment;
14. Drive-in establishments where goods or services are rendered directly to the occupants of motor vehicles.

Section 6 – Dimensional Controls

1. The dimensional controls of the underlying zoning district (as provided in Article IV, Table 4.2) shall apply in each Mixed Use Development Overlay Zone, excepting as hereinafter provided.
2. If a mixed use development in a MU Development Overlay Zone is proposed and the proposal meets the thresholds of Section 4, then the permitted use intensity regulations herein described shall apply:
 - A. Permitted uses, as outlined in Article IV, Table 4.1 as single uses within the mixed use development, shall not constitute more than seventy-five (75) percent of the gross floor areas; provided further that a permitted residential use may not constitute more than fifty (50) percent of the gross floor area;
 - B. Space, measured in square feet, devoted to recreation and open space shall be equal to or greater than five (5) percent of the gross floor area devoted to the other proposed uses. At least one-half (1/2) of the recreation and open space must be built as part of the proposed structure(s);
 - C. Recreation and open space includes the provisions of places, activities and/or amenities, either built or natural, which are free and accessible to the public.

Section 7 - Mixed Use Development Overlay Zone Intensity Regulations

1. The dimensional regulations for height and floor area ratio (FAR) for uses provided in Section 4 may exceed the maximum of the underlying district by twenty (20) percent.
2. The gross floor space (in square feet) may be increased on a 1:1 ratio above the maximum provided in Section 4, above, for each square foot of space devoted to a child day care center, provided however that the developer must submit a plan which ensures to the satisfaction of the Planning Board, the initial and continuing operation of the day care facility.
3. Where two (2) or more principal buildings are proposed to be built upon property in one (1) ownership, required front, side and rear yards shall be provided between each building and assumed lot lines shall be shown on the site plan.

Section 8 – Review Standards

In addition to its special permit review criteria under Article II, the Planning Board shall also consider the Mixed Use Development's conformance with the following planning and design objectives:

1. Whether the proposed use furthers the objectives of the mixed use districts;
2. The relationship of the proposal to other planning considerations for the area and the City of Worcester as a whole, including the plans, programs and policies of other departments and agencies of the government;
3. The impact of the proposed site plan on neighborhood properties;
4. The proposed site plan including the relationship of different uses on the site and any other matters that are within the Planning Board's jurisdiction;
5. Consideration of the traffic to be generated and its impact;
6. The location and design of vehicular access and parking facilities;
7. The number of parking and loading facilities;
8. The treatment of public space;
9. The availability of sewer and water capacity;
10. The impact of air quality;

Wrentham

Are apartments above commercial (mixed use) allowed in any district?

No

Recommendation in 2004 Wrentham Master Plan, Page 141:

"• Allow upper-story apartments above ground floor retail in Town Center.

Permitting apartments above shops is an easy way to add housing alternatives and more activity to the town center. However, in many cases wastewater and parking requirements would need to be met through shared resources."

"• Zone the Crosby/FMC sites for a mixed-use planned unit development by special permit.

A PUD allows for detailed master-planning of a mixed-use site by which the developer and the town can agree on a medium to large-scale project. The PUD zoning should set the framework by including requirements for the kinds of uses desired, the proportions of different kinds of uses, general development and design objectives and other purposes. The Crosby/FMC site should allow for multi-family housing with a 20% affordable requirement; retail and office space; open space and civic uses. There is the potential for 250 housing units at an average of 1,000 square feet each."

"• Consider permitting mixed-use redevelopment in the mall area.

Consider an overlay at the mall locations for "lifestyle center" development. This would incorporate residential uses, including affordable units into a village-scale specialty retail area. Residents of apartments and condominiums in this area would have quick access to regional highways. This is a new model of mixed-use development that has proved successful in other parts of the country and is beginning to appear in Massachusetts."
