

ARTICLE 42

**AMEND ZONING BYLAW
SPECIAL PERMIT RESIDENTIAL DEVELOPMENTS**

To see if the Town will vote to amend the Zoning Bylaw to alter the rules for special permit residential developments to require affordable and age restricted housing; to limit the developable site area, unit size, and number of units allowed; and to set standards for the preservation of environmental features and other site attributes; or act in any other manner in relation thereto.

(Inserted by Matthew Daggett and 9 or more registered voters)

DESCRIPTION

This article proposes revisions to the regulation of discretionary Special Permit Residential Developments, authorized under § 135-6.9 of the Zoning Bylaw. The intent of the proposal is to amend the Bylaw to better address specific residential development needs in Lexington that are not being met by the current regulatory framework. The premise for these revisions is to ensure that the Town, its residents, and applicants all share in the benefits from residential developments achieved through relaxed dimensional controls, enabled by the special permitting process. The proposal amends the bylaw in 3 primary ways:

1. Balanced Housing Developments (BHD) and Public Benefit Developments (PBD) are combined into Shared Benefit Developments (SBD), a new special permit type that requires affordable housing units, units built to accessibility standards, smaller unit sizes and minimum requirements for public open space.
2. The total Gross Floor Area (GFA) on site for SBDs is reduced to a percentage of that allowed in a conventional development.
3. A limit is placed on the total number of dwelling units that will be allowed on a site in a SBD, as currently there is no maximum.

PROPOSED MOTION

That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended as follows:

1. Amend § 135-3.4, Table 1, Permitted Uses & Development Standards, as follows:

Table 1: Permitted Uses and Development Standards				
		RO	RS	RT
A. RESIDENTIAL USES				
A.1.0 PRINCIPAL RESIDENTIAL USES				
A.1.05	Balanced housing development, public benefit development, site sensitive development Site Sensitive Development, Shared Benefit Development	SP	SP	SP

2. Replace the phrase “Balanced Housing Development” in § 135-10 with “Shared Benefit Development”.
3. Delete the Definition of "Public Benefit Development" in § 135-10.

4. Replace § 135-6.9, Special Permit Residential Developments, with the following:

6.9. SPECIAL PERMIT RESIDENTIAL DEVELOPMENTS.

6.9.1 Purpose. Special permit residential developments are intended to:

1. Ensure that the development of multiple dwellings does not detract from the livability, scale, character or economic value of existing residential neighborhoods;
2. Encourage greater diversity of housing opportunities in Lexington to meet the needs of a population which is diversified with respect to number of persons in a household, stage of life, and income;
3. Encourage the development of affordable housing;
4. Promote development proposals designed with sensitivity to the characteristics of the site that otherwise might be limited by application of uniform, largely geometric standards;
5. Permit different types of structures and residential uses to be combined in a planned interrelationship that promotes an improved design relationship between new buildings and public facilities and common open space;
6. Preserve historically or architecturally significant buildings or places;
7. Encourage the preservation and minimum disruption of outstanding natural features of open land and to minimize impacts on environmentally sensitive areas;
8. Encourage sustainable development through the use of green building practices and low-impact development techniques;
9. Promote the efficient and economical provision of public facilities such as utilities and streets and facilitate a detailed assessment by Town officials and the public of the adequacy of such facilities and services for the proposed level of development.

6.9.2 Applicability. A special permit residential development is a project in which one or more lots, tracts, or parcels of land are to be improved for use as a coordinated site for housing. No special permit residential development shall be initiated without first obtaining a special permit in accordance with the provisions of this section. The purpose of the special permit is to provide detailed review of residential developments that have a substantial impact upon the character of the Town, adjacent residential areas and the provision of public facilities and services.

6.9.3 Types of Special Permit Residential Development.

1. A Site Sensitive Development (SSD) is the development of a parcel with configurations of lots allowing flexibility and creativity in residential development

through reductions in minimum lot area and frontage requirements in order to minimize site disturbance, preserve historic and sensitive natural resources, and allow for efficient patterns of construction to lower development cost. The number of dwellings in a site sensitive development may not exceed the number of dwellings that could be constructed in the development of a conventional subdivision.

2. A Shared Benefit Development (SBD) is a development allowing deviation from the dimensional standards that apply to developments in conventional subdivisions in order to achieve a spectrum of housing choices for a diversity of household types and sizes in a manner that benefits both the applicant and the Town. Instead of determining density by minimum lot area and frontage requirements, the amount of residential development for the tract as a whole is derived from a fully complying conventional development proof plan, based on the number of individual proof lots and calculations of gross floor area and impervious surface area.

6.9.4 Scale of Development and Dwelling Unit Count. An applicant is not entitled to the maximum development, nor is the applicant entitled to approval of a special permit residential development. The amount of development permitted will be based on a fully complying proof plan and the Special Permit Granting Authority's (SPGA) evaluation of the extent to which the proposed development complies with the criteria set forth below.

1. Site Sensitive Developments. The number of dwellings in a SSD shall not exceed the number of dwellings shown on the proof plan.
2. Shared Benefit Developments. The number of dwellings in a SBD shall have a unit multiplier of either 1.5 or 2 times the number of proof plan lots. The required number shall be rounded up.

6.9.5 Accessible Housing. Certain dwelling units must be constructed to comply with the applicable accessibility standard practices as defined by the Massachusetts Architectural Access Board. Applicable standards will be determined by the SPGA, and applied as follows:

1. Site Sensitive Developments. SSDs shall not require units be built to accessible standards.
2. Shared Benefit Developments. SBDs with a unit multiplier of 1.5 shall require a minimum of 15% accessible units and SBDs with a unit multiplier of 2 shall require a minimum of 20% accessible units. The required number shall be rounded down.

6.9.6 Affordable Housing. Certain dwelling units must be eligible for inclusion on the Massachusetts Department of Housing and Community Development's (DHCD) Subsidized Housing Inventory (SHI), as follows:

1. Site Sensitive Developments. SSDs shall not require affordable units.

2. Shared Benefit Developments. SBDs with a unit multiplier of 1.5 shall require a minimum of 15% affordable units, and SBDs with a unit multiplier of 2 shall require a minimum of 20% affordable units. The required number shall be rounded up. Affordable units must comply with the following criteria:
 - a. An affordable unit shall be subject to maximum household income established for that unit, based on the Area Median Income (AMI) as annually determined by the U.S. Department of Housing and Urban Development, assuming one more person in the household than the number of bedrooms in the unit. Eligible households shall have incomes no greater than 80% of the AMI.
 - b. Affordable units can be built to accessible standards, provided that no unit may be counted as both an affordable unit and an accessible unit to satisfy the minimum percentages required.
 - c. Affordable units must be interspersed throughout the site with the non-affordable units, and cannot be clustered into one area of the development.
 - d. Construction may not be phased such that an affordable dwelling unit is the last unit(s) to receive a Certificate of Occupancy in the development.

6.9.7 Dimensional Standards. The requirements of § 135-4.0 are modified as follows:

1. Lot area. There is no minimum lot area required. Individual lot area shall be sufficient to meet off-street parking requirements of this bylaw and the installation of any on-site water supply and sewage disposal facilities.
2. Frontage. There is no minimum frontage required. Frontage for each lot shall be sufficient to provide for adequate access to the building site. Where shared driveways or other circumstances render frontage on a street to be of no importance, none is required.
3. Yard and Height Requirements. Yards required by § 135-4.0 and the height limit of § 135-4.3.5 apply to the perimeter of the site, but are not applicable within the site.
4. Site coverage. There is no maximum site coverage limit for individual lots. Site coverage for the development tract as a whole is limited as described below.

6.9.8 Gross Floor Area Standards.

1. Site Sensitive Developments. The total gross floor area (GFA) in a SSD may not exceed the sum of the GFA that would be permitted on each of the lots shown on the proof plan under § 135-4.4 of this bylaw.
2. Shared Benefit Developments. The total GFA in a SBD may not exceed 90% of the sum of the GFA that would be permitted on each of the lots shown on the proof plan

under § 135-4.4 of this bylaw for a unit multiplier of 1.5, and shall not exceed 80% proof plan GFA for a unit multiplier of 2.

6.9.9 Dwelling Unit Count and Limitations on Unit Size.

1. Site Sensitive Developments. The number of dwellings in a SSD shall not exceed the number of dwellings shown on the proof plan.
2. Shared Benefit Developments. At least 25% of the dwelling units must have a GFA not larger than 2,100 square feet, and at least 50% of the dwelling units must have a GFA not larger than 2,700 square feet. The remaining 50% of the dwelling units must have a total GFA no larger than the remainder of the total reduced allowable site GFA as defined under § 6.9.8 less the total GFA from the 50% of units required to be less than 2,700 square feet in size. This residual GFA can be distributed among the remaining 50% of the units allowed under § 6.9.4, with no units larger than 7,030 square feet in the RS or RT districts, or 9,350 square feet in the RO district.

6.9.10 Impervious Surface Standards.

1. Site Sensitive Developments. The impervious surface limit in a SSD is based on the proof plan. The limit for the development as a whole is calculated as follows:

Step 1: Determine the area in square feet of each lot shown on the proof plan. For each lot in a RS or RT District, multiply its lot area by 0.20; for each lot in the RO District, multiply its lot area by 0.12.

Step 2: Determine the total area of the impervious surfaces contained on the proof plan that are not contained within lots, such as roads, sidewalks, and similar surfaces.

Step 3: The impervious surface limit for the SSD is the sum of the impervious surface calculations from Steps 1 and 2.

2. Shared Benefit Developments. The impervious surface limit in a SBD is calculated in the same manner as that of a SSD.

6.9.11 Site Coverage Standards.

1. Site Sensitive Developments. The site coverage limit is based on the proof plan. The limit for the development as a whole is calculated as follows:

Step 1: For each lot on the proof plan, multiply its lot area in square feet by 0.15 for lots in RS and RT Districts, and by 0.09 for lots in RO Districts.

Step 2: The site coverage limit for the SSD as a whole is equal to the sum of the individual lot site coverage calculations determined in Step 1.

2. Shared Benefit Developments. There is no site coverage limit.

6.9.12 Common Open Space Standards.

1. Minimum common open space. At least 35% of the developable site area in a SBD shall be set aside as common open space for a unit multiplier of 1.5, and at least 40% of the developable site area for a unit multiplier of 2. A maximum of 20% of common open space may be devoted to parking or structures used for, or accessory to, active outdoor recreation, provided such parking or structures are consistent with the open space uses of such land. No common open space is required for a SSD.
2. Location; condition. Where required or provided, common open space shall be land that may be in one or more parcels of a size and shape appropriate for the intended use and available for use by all occupants of a development.
3. Easement. When such open space is conveyed to persons or entities other than the Town, an easement over such land shall be granted to the Town to ensure its perpetual use as open space, conservation, recreation, or park land.

6.9.13 Ownership of Open Space. Common open space may be conveyed to:

1. The Town, which shall have the first right of refusal of ownership, and subject to acceptance, to ensure its perpetual use as open space, conservation, recreation or park land; or
2. A legal association comprised of the owners of the development, which may include homeowners or owners of condominium or cooperative units; or
3. A nonprofit organization, the principal purpose of which is the conservation of open space.

6.9.14 Streets and Drives. The objective of this section is that adequate access for fire-fighting, medical, and other emergency operations be provided from the public street system to each Site Sensitive or Shared Benefit Development, as follows:

1. Connection to public street system. Each street and interior, drive, or system of streets or interior drives, shall connect to a public street.
2. A dead-end interior drive will be treated in the same manner as a dead-end street, and is subject to the provisions governing dead-end streets that are found in the Subdivision Regulations.
3. In a development served by a dead-end street or dead-end interior drive, a secondary means of access may be required in order to provide adequate access for fire-fighting, medical, and other emergency vehicles. The Fire Chief will be consulted as to the adequacy of the access.

- 6.9.15 Preservation of trees. For Shared Benefit Developments, substantial effort, including revisions to site layout and grading plans, should be made to preserve existing trees in the interior of development parcels, where possible.
- 6.9.16 Compliance with Other Rules and Regulations. The construction of community services, such as utilities, and of streets and interior drives shall comply with the requirements of the Planning Board's Subdivision Regulations.
- 6.9.17 Modification by Special Permit. The SPGA may, as part of the grant of a special permit, modify the requirements of § 6.9.10 and § 6.9.11, and the following provisions, as they may apply to individual dwellings or lots within a special permit residential development:

Bylaw Provisions	SSD	SBD
Number of dwellings on a lot	No	Yes
Lot width	Yes	Yes
Contiguous developable site area	Yes	Yes
Location of off-street parking spaces	Yes	Yes
Setbacks required for parking spaces and driveways	Yes	Yes
Subdivision of land in relation to lots or buildings that are nonconforming or would not comply with this bylaw as a result of the proposed development	Yes	Yes

- 6.9.18 Types of Dwellings. The SPGA may, as part of the grant of a special permit, allow the following types of dwellings:

Type of Dwelling	SSD	SBD
One-family detached	Yes	Yes
Two-family (*Yes in RT District)	No*	Yes
Townhouse, Multifamily	No	Yes

- 6.9.19 Accessory Apartments. The SPGA may authorize accessory apartments, as described in § 135-6.7, to be created within a SSD.
- 6.9.20 Conversion. The SPGA may in connection with a Special Permit under this section, authorize an existing structure, that was constructed at least 10 years prior to the date of application for approval of the special permit, to be converted to a residential use not otherwise permitted. The special permit shall incorporate by reference the building design and definitive site development plans filed with the application for a special permit, and, where applicable, any legally binding document that has been submitted to ensure the completion and continued availability of any proposed improvement or

compliance with special conditions. In order to grant the permit the SPGA shall determine that:

1. The structure can be modified for a residential use that does not have adverse impacts on any adjacent one-family neighborhood;
2. The exterior character of the structure is maintained and is compatible with any adjacent neighborhood of one-family dwellings;
3. Modification of the existing structure maintains more of the site as open space than the alternative of removal of the structure and further subdivision of the lot into house lots.

6.9.21 Special Permit Granting Authority. The Planning Board shall be the SPGA for all special permit residential developments. The Planning Board may grant any special permits that are required for the special permit residential development, notwithstanding provisions of this bylaw designating a different special permit granting authority.

6.9.22 Criteria. The SPGA may only grant a special permit if it makes a determination that the proposed development is consistent with the standards and criteria set forth in § 135-9.4.2 and the following additional criteria:

1. Where there is common open space, it shall include, as applicable:
 - a. Some, or all, of the outstanding natural features of the site and of the man-made features, including but not limited to stone walls, that enhance the land form;
 - b. Land that increases visual amenities for residents of the development and of the adjacent neighborhood;
 - c. One or more paths or entry points specifically designed for access purposes.
2. The dwellings are sited and oriented in a complementary relationship to: each other, the common open space, and the adjacent properties with respect to scale, mass, setback, proportions and materials;
3. Negative visual impacts of the development, if any, are screened from adjacent properties and nearby streets by landscaping or other site planning techniques;
4. Where opportunities exist, improved access is provided to, or additional links and connections are developed to, a Town system of public facilities, such as open space, recreation facilities, footpaths or bicycle paths;
5. Any building which contains more than one dwelling unit is designed so that either:
 - a. The building has the exterior appearance of a one-family dwelling; or

- b. If two-family dwellings and/or townhouses are constructed, each individual dwelling unit has access to ground level and an opportunity for a private yard, patio, or other private outdoor space;
6. There are provisions for common facilities, such as recreation or parking, or for services such as the maintenance of streets, walkways or paths, utilities, landscaping or recreation facilities;
7. Where there are sufficient dwelling units, the layout of the street(s) and interior drive(s) will accommodate vehicles, other than automobiles, that are used in local transportation services.
8. To the extent practicable, sustainable development techniques, including green buildings, have been utilized.
9. A Shared Benefit Development shall meet the following criteria:
 - a. There are sufficient benefits to the adjacent neighborhood and the Town generally to warrant an increase in the maximum development otherwise permitted; and
 - b. Legally binding documents have been submitted that ensure that affordable units as defined by § 6.9.6 will continue to be available to eligible households in perpetuity.

(04/06/2018)