

Article #33 Frequently Asked Questions and Responses

1. What is Article 33?

Article 33 is a proposed revision of the portion our zoning bylaw that deals with special residential developments.

Conventional subdivisions are defined by state law and may be built by right, wherever a builder can find an appropriate parcel of land to subdivide. Market forces have tended to produce conventional subdivisions of large single family homes on individual lots, with large amounts of impervious surface and little protection of natural features.

In 2008, the Planning Board created the Special Permit Residential Development bylaw to encourage development of alternatives to conventional subdivisions with more diversity of housing types. It has had very limited success in producing that diversity. Article 33 is a targeted update to the SPRD bylaw to further encourage the type of housing that Lexington wants.

2. Why is this proposal coming forward now?

- In 2018 the Select Board, in response to an initiative from that year's Town Meeting, created an ad hoc committee to develop an improved version of the SPRD bylaw. The Committee made interim reports to Town Meeting in 2019: <http://records.lexingtonma.gov/WebLink/0/doc/490440/Page1.aspx>
- and 2022
<https://www.lexingtonma.gov/DocumentCenter/View/4695/Report-of-the-Special-Permit-Residential-Development-Ad-Hoc-Committee-PDF>.
- After extensive outreach to experts and stakeholders, lengthy deliberations, and a robust public process (see #3 below), the committee has now completed its work and is bringing this proposal to Town Meeting.
- Details of the proposal have been evaluated and are reality-driven from the committee members' diverse professional perspectives, with input from the public, builders, zoning experts, landscape architects, and housing professionals.

3. Did the Committee seek input from the development community and the Lexington community?

Yes. Over the course of more than four years, the SPRD Ad Hoc Committee held multiple open public listening sessions, panel and roundtable discussions with building and planning department staff, relevant committees and commissions, state and local housing advocates and building and real estate professionals experienced with the current SPRD bylaw. All meetings of the committee were taped by Lexmedia. We also sought input from builders and architects who have constructed the type of neighborhoods that Lexington desires and that Article 33 seeks to encourage. The Committee held countless public meetings, revising and adapting their work based on the input received. In 2023 we met with the following groups and incorporated their input:

- February 8: Planning Board public hearing
- February 9: Cluster Housing Study Group
- February 13: Select Board
- February 14: Commission on Disability
- February 15: Planning Board public hearing
- February 21: Housing Partnership Board
- February 23: Community-Wide Meeting at the Community Center
- February 28: Sustainable Lexington Committee
- March 1: SPRD Committee makes changes in response to feedback
- March 1: Planning Board public hearing
- March 2: Town Meeting Members Association Information Session
- March 3: League of Women Voters First Friday forum

4. What does Article 33 change in the existing SPRD bylaw?

The current SPRD bylaw has three development models: Site Sensitive Development (SSD), Balanced Housing Development (BHD) and Public Benefit Development (PBD). An additional model, Open Space Residential Development (OSRD) was approved by the 2022 Special Town Meeting. Only PBD and OSRD require the inclusion of income restricted (affordable) housing.

Article 33 amends the SSD, and replaces the BHD and the PBD with a new model: Compact Neighborhood Development (CND). SSD as amended and

CND both require a percentage of inclusionary housing, allow more variety of housing and creativity in siting than the current bylaw, and use the site plan review process, rather than special permit.

5. This proposal requires SRDs to undergo a major Site Plan Review process with the Planning Board. Why not require a Special Permit?

Throughout the committee's work, we heard feedback that the review process should be clear, consistent, and as predictable as possible. The Site Plan Review process achieves this goal, while retaining the Planning Board's power to thoroughly review and shape a project with appropriate conditions. While approval of conventional subdivisions is straight forward and involves little negotiation with the Planning Board, the Special Permit process has sometimes been open-ended and unpredictable, causing developers to default to the conventional model.

Article 33 requires that SRDs go through the Planning Board's Major Site Plan Review process before a builder can get a building permit. This requires the same abutter notification and public hearings as the current Special Permit process and allows a 150-day review period. The Planning Board's Site Plan Review regulations (<https://ecode360.com/37993657>) have extensive requirements:

All Applicants must submit:

- A definitive site development plan, which includes an existing conditions plan
- A site plan
- A parking plan
- A circulation plan
- A construction plan
- A landscaping plan
- A lighting plan
- An off-street parking and loading plan
- Architectural plans including architectural renderings, building elevations, and a color rendering of the proposed structure from the public way

- A zoning narrative that demonstrates compliance with the applicable requirements of the Zoning Bylaw and the Planning Board Regulations.

A public hearing must be held per Section 9.5.4.3 of the Lexington Zoning Bylaw, including abutter notification, advertised for two weeks prior to the date of the hearing, just as for a Special Permit.

The Site Plan Review process provides consistency and predictability to applicants, abutters, Planning Board members and staff.

- It has clear rules and a predictable process similar to that of conventional subdivisions instead of an open-ended, uncertain negotiation in which applicants can never be sure what they might be asked to do in order to receive approval through the Special Permit process.
- To get the variety of homes that Lexington wants, **Article 33 levels the playing field by making SRDs more competitive with conventional subdivisions while maintaining community input.**
- Site Plan Review provides policy implementation consistent with our goals, our comprehensive plan, and our housing production plans, and does so in a consistent manner regardless of who is sitting on the Planning Board.

The Similarities between the Site Plan Review and Special Permit Requirements

	Site Plan Review	Special Permit
Public hearing required?	Yes	Yes
Abutter notification required?	Yes	Yes
Ability to continue hearing?	Yes	Yes
Standards	Specific standards	General goals
Approval if all standards are met?	Yes	Less predictable
Can Planning Board attach conditions?	Yes	Yes

6. What Can the Planning Board do to modify a project under site plan review?

The Planning Board has created regulations and may impose conditions to ensure compliance with its regulations. The current list of regulations governs many elements, including landscaping, building planning and design, parking and transportation, construction standards and outdoor lighting. See §176-12 for the full list -<https://ecode360.com/37993657>.

7. What type of homes are allowed in SRDs by Article 33?

Both SSD and CND subdivision models permit a variety of housing types, including several homes within house-sized buildings. Depending on the configuration of the parcel, there might be traditional single-family homes, cottage homes, town homes, and two to four-unit multi-family homes.

8. Will homes in Special Residential Developments have Universal Design for accessibility?

Accessibility requirements are controlled by state regulations, and they become more rigorous as the number of homes created increases. The multi-family buildings envisioned for SRDs are subject to stricter accessibility requirements than one- and two-family homes.

9. Will homes in Special Residential Developments be sustainably built, heated and cooled?

All new SRDs must comply with the state’s Stretch Energy Code and the new municipal opt-in stretch energy code adopted by Town Meeting this year, as well as all other Lexington sustainability requirements.

10. Will SRDs provide for the preservation of open space?

Yes. All SRDs will require 15% of buildable land to be reserved for common open space. In addition, SSD regulations make specific provision for the preservation of natural features such as trees, slopes, and wetlands.

11. Are SRDs in Article 33 subject to Historic Districts Commission oversight, the Historical Commission Demolition Delay Bylaw and Conservation Commission wetlands permitting?

Yes.

12. What is the maximum building size allowed in SRDs by Article 33?

The maximum building size is smaller than that allowed in conventional subdivisions (section 4.4.2). In the RO residential zoning district, buildings in

an SRD in Article 33 would be a maximum of 9,350 square feet. In the RS and RT zoning districts, maximum building size would be 7,030 square feet.

13. What is the maximum size for an individual home in an SRD under Article 33?

In the Compact Neighborhood Development model, the largest home could not exceed 2,800 square feet GFA (which can be significantly larger than the actual living area, see Question 14 below)). The average home size could not exceed 2,250 square feet GFA, leading to smaller homes than are currently being built.

In the Site Sensitive Development model, the maximum home size could not exceed the maximum building size allowed. Historic structures are exempt from this limit.

14. What is Gross Floor Area (GFA)?

GFA is defined by the Lexington Zoning Bylaw. The amount of building that is permitted to be built on an individual lot or subdivision parcel is calculated by square footage – gross floor area. In Lexington, the gross floor area of an individual home, includes all floors, and is defined to include basements, porches, garages and half stories or walk-up attics. Actual living area is significantly less, depending on the design of the home.

15. Is affordable housing required by Article 33?

Yes, both the SSD model and the CND model require construction of inclusionary housing, or a payment in lieu of construction into Lexington's Affordable Housing Trust. In each model, after calculation of the base GFA permitted in the development, an additional GFA of 15% is added specifically for affordable housing. Two thirds of this square footage must be in housing units affordable to households making up to 80% of the Area Median Income (AMI), which will be eligible for inclusion on our Subsidized Housing Inventory (SHI). The remainder may be workforce housing (generally affordable to households making up to 150% of the AMI).

16. Why Are Payments in Lieu allowed for developments of six or fewer homes?

- a. The question of payments in lieu of construction of affordable units will only arise in the case of Site Sensitive Developments, since the smaller size of homes in a Compact Neighborhood Development will naturally accommodate inclusionary units. For smaller Site Sensitive Developments, fitting in additional affordable units may make it more difficult to preserve the natural features of the parcel. Meeting the requirement of 15% GFA for affordable homes might result in a portion of a home, or one markedly smaller than the others. The bylaw makes clear that inclusionary homes should not be distinguishable from market rate homes, and allowing a payment into the Lexington Housing Trust avoids this problem. The payment for a development will be set by the Planning Board, pursuant to regulation and will be based on the cost of constructing 15% of allowed GFA. The SPRD Committee's intent, and prior practice of the planning board, is that the calculation not be limited to hard construction costs.
- b. These payments are an important source of continuing funding for Lexington's newly established Housing Trust. The money will be available to help fund the purchase of small homes for use as affordable units, or it will be applied to the creation of affordable homes in larger developments. When made, such payments will provide a source of funds for the Trust, supplementing Town appropriations.
- c. Providing this option to builders is a key part of the compromise consensus reached by the Committee in creating a zoning option that will actually be used. While it is tempting to zone only for our most favored option, if it discourages developers from building these projects, we are left with the by-right conventional subdivisions we are seeing now, which contribute neither funds nor units toward our affordable housing goals.

17. What is a density bonus and how does it affect the number of homes that can be built in SRDs?

SRDs are required to add 15% to the allowable GFA in a development to be devoted to inclusionary housing. Because inclusionary housing units are deed-restricted to sell for prices well below market rate, they are built at a loss. To help defray the cost of building these units in a subdivision, SRDs permit a builder to construct an additional 15% square footage of market rate housing over the base GFA permitted.

18. How many acres of lots in Lexington would currently qualify for a Special Residential Development under the proposed bylaw?

An SRD can only be built where a conventional subdivision would be allowed. This requires a tract of land with at a minimum two contiguous lots that meet the dimensional and other requirements of the existing bylaw. If an owner of a large lot subdivided their lot, or purchased the lot next to them in order to construct housing under this bylaw, all lots would need to be fully compliant with existing dimensional requirements, be on a public street, and not be constrained by wetlands or flood plain.

19. Does Article 33 help discourage teardowns of smaller homes to be replaced with large ones?

This article does not address teardowns. It is an amendment to the specific part of the zoning bylaw which governs residential subdivisions and offers an alternative to conventional by-right subdivisions. This article creates incentives for a developer to build smaller and more varied home types rather than large single-family homes.

20. What is the projected impact on schools?

A study of past trends finds that the number of students enrolling in LPS is not directly correlated with the number of homes in Lexington. See Open Letter, Enrollment Working Group:
<https://www.lexingtonma.gov/DocumentCenter/View/8545/School-Enrollment-Working-Group-Response-PDF?bidId=>

21.What is the difference between Article 33 and Article 34?

Article 33 amends the existing Special Permit Residential Development bylaw, as requested by the Town Meeting in 2018. It further encourages the use of alternatives to conventional subdivisions to support the Town's housing goals. Conventional subdivisions, and hence SRDs, may be developed on any parcel in town large enough to subdivide into multiple fully compliant lots that meet existing zoning requirements.

Article 34 creates a new path for multi-family housing on lots in specific limited districts, as required by state law.

22.Does Article 33 require a simple majority or a super majority to pass?

Article 33 requires a simple majority for approval by Town Meeting.

23.If Article 33 passes, would subsequent revisions require a simple majority or a super majority?

Generally, if an amendment makes it easier to develop housing, it will require a simple majority.

24.Who is on the SPRD Ad hoc Committee?

The Committee includes housing advocates, real estate lawyers, local real estate professionals, local builders, members of the Planning Board and neighborhood advocates. Members were appointed by the Select Board to represent diverse perspectives so as to encourage a consensus proposal that would realistically be implemented in Lexington.

The current committee members are:

- Jill Hai, Chair and Select Board representative
- Scott Cooper, commercial real estate attorney
- Heather Hartshorn, Executive Director, Lexington Chamber of Commerce
- Charles Hornig, Planning Board representative
- Wendy Manz, attorney, former Planning Board member, Lexington Housing Partnership Board member, former Community Preservation Committee

- Joyce Murphy, Lexington real estate agent
- Richard Perry, Lexington builder
- Betsey Weiss, Lexington Housing Partnership Board Vice-Chair, former Community Preservation Committee,

Previous committee members are:

- Richard Canale, Planning Board representative
- Matt Daggett- Comprehensive Plan Advisory Committee
- Taylor Singh-

25. Some Definitions

- Affordable Housing is housing that costs less than 30% of a household's monthly income. It is defined by household size.
- Subsidized Housing is subsidized by someone to bring the rent or purchase price down and make it affordable to households at a certain income level, usually expressed as a percentage of the Area Median Income (AMI).
- The Subsidized Housing Inventory (SHI) is a list of homes maintained by the Department of Housing and Community Development (DHCD) that meet certain requirements. In most cases they must be restricted to households making less than 80% of the Area Median Income (AMI) and be subsidized to be affordable to households with income 10% of the AMI less than the restriction income. Some market-rate rental homes may also be included under the statute.
- Low Income Housing is subsidized to be affordable for households making between 50% and 80% of the AMI. There is also Very Low-Income Housing (30%-50% of AMI) and Extremely Low Income Housing (<30% of AMI).
- Workforce Housing is subsidized to be affordable for households with incomes between 80% of the AMI and the lower end of affordability of available market-rate housing. Lexington is currently using 150% of AMI as the upper bound.
- Inclusionary Zoning requires some subsidized homes in a new housing development as a condition of approval.

