
ZONING/LAND USE ARTICLES

ARTICLE 3: AMEND ZONING BY-LAW – NEEDHAM CENTER OVERLAY DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, as follows:

- (a) Amend Section 1.3 Definitions, by adding the following terms and definitions in appropriate alphabetical order as follows:

“Affordable Housing Unit: A dwelling unit that is affordable to and occupied by a household with income at or below eighty (80) percent of the area median income that applies to subsidized housing in the Town of Needham, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD), and meets all applicable requirements for inclusion on the Chapter 40B Subsidized Housing Inventory. Except as may be provided elsewhere in this bylaw, each affordable housing unit shall be eligible for inclusion in the Chapter 40B Subsidized Housing Inventory, in accordance with regulations or policies of the Massachusetts Department of Housing and Community Development (DHCD). As used in this bylaw, “affordable housing unit” and “affordable unit” shall have the same meaning.

Affordable Housing Restriction: A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Needham, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, and be enforceable under the provisions of M.G.L. c.184, ss. 31-33 or other applicable state law. The Board of Selectmen of the Town of Needham may accept, hold, and enforce affordable housing restrictions.

Green Building: A building designed, constructed, and operated and maintained throughout its life cycle to conserve energy and water, reduce environmental impacts, and protect the health of the general public and occupants of the building.

Mixed-Use Building: A building in the Needham Center, Chestnut Street or Garden Street Overlay District in which the ground floor facing the street is used for such retail or restaurant uses as may be permitted by right or by special permit in the applicable overlay district, and other ground-floor and upper-floor space is used for other commercial use(s) or dwelling unit(s).

Mixed-Use Development: Two (2) or more buildings in the Chestnut Street Overlay District on one lot, with retail use(s) or mixed-use buildings facing the street and other buildings for commercial use(s), mixed uses or multi-family dwelling(s) located to the rear of the lot, connected by walkways, landscaping and pedestrian amenities, and shared parking.

Dwelling, Multi-Family: A building in the Needham Center, Chestnut Street or Garden Street Overlay District containing three or more dwelling units, which building houses only residential uses.

Needham Center Off-Street Parking Fund: A special revenue fund established under chapter 438 of the acts of 2008 to support the provision of off-street parking in the area governed by the act.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“NC -- Needham Center Overlay”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.8, Needham Center Overlay District, to read as follows:

“3.8 Needham Center Overlay District

3.8.1 Purposes of District

The purposes of the Needham Center Overlay District are to encourage redevelopment of existing properties and infill development of an appropriate scale, density, mix of uses and design for a suburban downtown, substantially as set forth in the Needham Center Development Plan dated March 30, 2009, and to establish sub-districts in which to achieve these purposes in a manner compatible with surrounding areas; to create and sustain a vibrant, walkable downtown area; and to create opportunities for housing within walking distance of goods and services, public transportation, and the civic life of the town. Toward these ends, development in the Needham Center Overlay District shall be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning district(s) provided that such development complies with the design guidelines and all other requirements of this Section.

3.8.2 Scope of Authority

In the Needham Center Overlay District, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that a proponent wishes to develop in accordance with the regulations hereunder, the rules and regulations of the Needham Center Overlay District shall apply, and by filing an application for a Special Permit, site plan review or building permit under this Section 3.8, the owner shall be deemed to accept and agree to them. In such event, where the provisions of the Needham Center Overlay District are silent on a zoning regulation that applies in the underlying district, the requirements of the underlying district shall apply.

If the proponent elects to proceed under the zoning provisions of the underlying district, the zoning bylaws applicable in the underlying district shall control and the provision of the Needham Center Overlay District shall not apply.

3.8.3 Use Regulations

3.8.3.1 Permitted Uses

The following uses are permitted in the Needham Center Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.

- (d) Mixed-use building, not exceeding five dwelling units per building, with dwelling units allowed above the ground floor only.
- (e) Accessory uses permitted as of right in the underlying district.

3.8.3.2 Special Permit Uses

The following uses are permitted in the Needham Center Overlay District only upon the issuance of a Special Permit by the Planning Board under such conditions as it may require:

- (a) Business uses allowed by special permit in the underlying district.
- (b) Mixed-use building containing six or more dwelling units, with dwelling units located on floors above the ground floor or on the ground floor, provided that:
 - (1) Entrances to ground-floor dwelling units are located on the side or rear of the building, not from any side facing the street, or the entrances may be from a first-floor lobby serving other uses in the building; and
 - (2) The ground floor of the front façade contains only retail or restaurant uses allowed as of right or by special permit.
- (c) Accessory uses permitted by special permit in the underlying district.

3.8.3.3 Multiple Buildings and Uses

In the Needham Center Overlay District, more than one use may be located on a lot as a matter of right and/or more than one building may be located on a lot by special permit, provided that each building and/or its use(s) are in compliance with the requirements of Section 3.8 of this By-Law.

3.8.3.4 Enclosed Parking

Enclosed parking in the Needham Center Overlay District shall conform to the requirements for the Center Business District in Section 4.4.6.

3.8.4 Dimensional Regulations

3.8.4.1 Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Needham Center Overlay District:

- (a) Minimum Lot Area: 10,000 square feet.
- (b) Minimum Lot Frontage: 80 feet.
- (c) Minimum Front Setback: 0 feet from the front property line.
- (d) Maximum Front Setback: The lesser of 3 feet from the front property line, or the average setback of existing buildings within 100 feet on the same side of the street as the proposed development. The Planning Board may grant a Special Permit to waive this requirement

when the applicant proposes to provide a pedestrian plaza, outdoor cafeteria or similar amenity in front of a building facing Great Plain Avenue, Highland Avenue, Chestnut Street, or Chapel Street.

- (e) **Minimum Side and Rear Setback:** For lots abutting a residential district, fifty (50) feet; for all other lots, no minimum yard setback shall apply. Where side and rear yard setbacks of fifty (50) feet are required, no accessory uses shall be located within twenty-five (25) feet closest to the district boundary and all other requirements of Sections 4.4.8.3 and 4.4.8.5 shall apply. The remaining twenty-five (25) feet may be used for an accessory use, not including a building or structure. By special permit from the Planning Board, however, an underground parking structure may be permitted within the fifty (50) foot side and rear yard setbacks provided that the garage structure shall be located entirely below the grade of the existing lot and set back at least ten (10) feet from the district boundary or ten (10) feet from the lot line, whichever is greater, and the twenty-five (25) feet closest to the district boundary shall be suitably landscaped over the surface of the garage structure in accordance with Section 4.4.8.5.

3.8.4.2 Building Height Requirements

The maximum building height in the Needham Center Overlay District shall be as follows:

- (a) In Sub-District A: The minimum building height shall be two stories and twenty-seven feet and the maximum building height shall be two and one-half stories and thirty-five feet as of right. By Special Permit from the Planning Board, the maximum height of a building may be increased up to the following limits: three stories and thirty-seven (37) feet, or four stories and forty-eight (48) feet, provided that the fourth story is contained under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines under Subsection 3.8.8 below.
- (b) In Sub-District B: The maximum building height shall be thirty-five (35) feet and two and one-half stories as of right, or by Special Permit from the Planning Board, thirty-seven (37) feet and three stories, provided that the third story is contained under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines under Section 3.8.8 below.

Buildings developed under the regulations of the Needham Center Overlay District shall not be further subject to the maximum height regulations of the underlying district, as contained in Section 4.4.3.

3.8.4.3 Building Bulk and Other Requirements

Except as provided in subsections (a) and (b) below, the maximum floor area ratio in the Needham Center Overlay District shall be the same standard that applies in the Center Business District under Section 4.4.2(b), except that the area of a building devoted to underground parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Needham Center Overlay District shall not be subject to any other limitations on floor area ratio or building bulk in Section 4.4.2.

- (a) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 2.0 in Sub-Districts A and B, subject to the decision standards in Section 3.8.7.

- (b) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 3.0 in Sub-Districts A and B, subject to the decision standards in Section 3.8.7 and the following additional requirements:
 - (1) Off-street parking located on the site or provided through a shared agreement on another property within 1,000 feet of the site, in a form acceptable to the Planning Board, shall be required as a condition of special permit approval; and
 - (2) No waivers of minimum parking requirements or payment of fees in lieu of off-street parking spaces under Section 3.8.5 shall be allowed.

3.8.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in the Central Business District in Section 4.4.6 shall apply in the Needham Center Overlay District.

- (a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
 - (1) For retail stores or services, there shall be one space per 300 square feet of floor area, except that no parking spaces shall be required for a retail establishment with less than eight hundred (800) square feet of floor area.
 - (2) For any building in which more than forty (40) percent of the usable floor area is located above the ground floor, the minimum number of off-street parking spaces for upper-story business uses shall be eighty (80) percent of the number of spaces that would be required under Section 5.1.2, except that this reduction shall not apply to medical, dental and related health services or clinics.
 - (3) For dwelling units in a mixed-use building, the minimum number of off-street parking spaces shall be one and one-half spaces per dwelling unit except as provided in Section 3.8.6(h).
- (b) In addition to the requirement for bicycle racks under Section 5.1.3(n), for a mixed-use building, bicycle racks facilitating locking shall be provided to accommodate one bicycle for every two (2) dwelling units.
- (c) Except as provided in Section 3.8.4.3(b)(2) above, the Planning Board may grant a Special Permit to waive the requirements of Section 5.1.2 or Section 5.1.3, or the requirements of subsection (a) above, if a proposed development satisfies the conditions set forth in Section 5.1.1.6 and Section 3.8.5.1.

3.8.5.1 Needham Center Off-Street Parking Fund

- (a) A Special Permit may be granted to allow payment of a fee in lieu of the minimum number of off-street parking spaces required under this Section, if the Planning Board determines that:
 - (1) The applicant has reasonably demonstrated that it is uneconomic to accommodate all of the required parking spaces on the lot, given the area and shape of the lot, or under the building, given the size of the project;

- (2) The applicant has reasonably demonstrated that it is infeasible to accommodate the required number of parking spaces through a combination of on-site parking and shared parking with an adjoining property; and
 - (3) The project has been designed to the extent feasible to reduce the required number of off-street parking spaces, e.g., by the inclusion of space for retail establishments with less than 800 sq. ft. of floor area, or a multi-story building with upper-story uses that qualify for reduced parking, as provided under Section 3.8.5(a).
- (b) The fee shall be computed on a per-space basis and paid into a special revenue fund known as the Needham Center Off-Street Parking Fund, to be used solely for the purpose of providing shared or public parking benefiting uses within the area covered by the Needham Center Development Plan.
 - (c) The fee shall be determined by the Planning Board in accordance with the Needham Center Development Plan or the Town of Needham Capital Improvements Plan, as applicable, and paid by the applicant in two installments: one-half prior to the receipt of a building permit and one-half prior to receipt of a certificate of occupancy, unless the applicant chooses to pay the entire fee prior to receipt of a building permit.

3.8.6 Affordable Housing

Any mixed-use building with six or more dwelling units shall include affordable housing units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes affordable units:

- (a) The floor area of the affordable units shall not be counted for purposes of determining the maximum floor area permitted under Section 3.8.4.3.
- (b) For a development with not more than ten dwelling units, at least one unit shall be an affordable unit; and for a development with eleven or more dwelling units, at least ten percent shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number.
- (c) If the applicant provides at least one-half of the affordable units for households with incomes at or below fifty (50) percent of area median income, the remaining affordable units may be sold or rented to households with incomes up to 100 percent of area median income even if the latter units are not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.
- (d) Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size and energy efficiency to the development's market-rate units.
- (e) The affordable units shall be constructed in proportion to the number of market-rate units in the development. Proportionality shall be determined by the number of building permits or certificates of occupancy issued for the affordable units and market-rate units, as applicable, or otherwise in accordance with a schedule set by the Planning Board in conditions imposed on the Special Permit.

- (f) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.
- (g) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.
- (h) For affordable units with not more than one bedroom, the minimum number of parking spaces under section 3.8.5 shall be reduced to one space per unit.

3.8.7 Site Plan Review

For any project seeking a Special Permit under Sections 3.8.4.1, 3.8.4.2, or 3.8.4.3, or for any project proceeding under these overlay district provisions which also constitutes a Major Project under Section 7.4.2, the Planning Board shall consider, in addition to the factors set forth in Section 7.4.6, the following criteria:

- (a) The adequacy of existing facilities to serve the proposed development, including but not limited to water supply, sewer, natural gas and electric service;
- (b) The degree to which the proposed project, viewed in its entirety, will make a significant contribution to the urban design and economic development goals set forth in the Needham Center Development Plan;
- (c) The degree to which the proposed project is consistent with the purposes of the Needham Center Overlay District and conforms to the Design Guidelines in Section 3.8.8;
- (d) The degree to which the applicant's proposal has been designed to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking;
- (e) For applications involving an increase in building height or bulk by special permit, the degree to which the applicant has reasonably demonstrated that the additional height or floor area is desirable for the redevelopment of the site, considering the site's location and physical characteristics and the condition of existing improvements;
- (f) The degree to which the proposed project incorporates as many green building standards as practical, given the type of building and proposed uses;
- (g) The degree to which the proposed project provides a significant public benefit through its inclusion of at least one of the following:
 - (1) Affordable housing units;
 - (2) Use of one or more renewable energy sources in the operation of the project;
 - (3) Off-street parking sufficient to accommodate the proposed uses, located on the site or provided through a shared parking arrangement acceptable to the Planning Board; or

through payment of fees in lieu of off-street parking spaces except where such payment of fees is not allowed for a Special Permit under Section 3.8.4.3(b).

3.8.8 Design Guidelines

The Design Guidelines for the Needham Center Overlay District shall be as adopted by the Planning Board and available on file in the Needham Planning Department.”

- (d) Amend Section 7.4 Site Plan Review as follows:

Make the following changes to Section 7.4.2 Definitions:

Under MAJOR PROJECT:

Add a new paragraph after Neighborhood Business District to read as follows:

“In the Needham Center Overlay District a MAJOR PROJECT shall be as defined above in the Center Business District.”

Under MINOR PROJECT, add a new paragraph after Medical Overlay District to read as follows:

“In the Needham Center Overlay District a MINOR PROJECT shall be as defined above in the Center Business District.”

- (e) Amend Section 7.6 Planning Board as follows:

Under Section 7.6.1 Special Permit Granting Authority, amend the first sentence by inserting a reference to Section 3.8 between “3.4” and “4.2.4,” such that the revised sentence shall read:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 4.2.4, 4.2.5, 4.2.6, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this By-Law.”

- (f) Amend Section 7.7 Design Review as follows.

Under Section 7.7.2.2 Authority and Specific Powers, amend the first sentence of the second paragraph by inserting after “Center Business District” the words, “Needham Center Overlay District” such that the paragraph will read:

“The Design Review Board shall review permit applications for all new structures and outdoor uses, exterior additions, exterior alterations and exterior changes in all areas zoned as a Business District, Chestnut Street Business District, Center Business District, Needham Center Overlay District, Avery Square Business District, Hillside Avenue Business District, Neighborhood Business District, New England Business Center District, Highland Commercial-128 District, Mixed Use-128 District, Industrial District, Industrial-1 District, Industrial Park District or Institutional District (excluding single and two-family uses), which require a building permit under the Massachusetts State Building Code – but which are not related to projects previously reviewed as “Major” or “Minor Projects” under Site Plan Review.”

Under Section 7.7.4 Design Criteria, add the following paragraph after the paragraph which begins, “In addition to paragraph (4) above...”

“For requests for site plan reviews and special permits in the Needham Center Overlay District, the Design Review Board shall consider, in addition to paragraphs (1) through (5) above, the design guidelines set forth in Section 3.8 of this By-Law.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Articles 3-8 Introduction: *Articles 3-8 represent a package of proposed Zoning Bylaw amendments that stem from more than two years of work by the Planning Board and the Downtown Study Committee to prepare the Needham Center Development Plan. Articles 3-5 propose the creation of three new overlay districts in areas located within the existing Center Business and Chestnut Street Business Districts, and Articles 6-8 provide the boundary descriptions for each overlay district. Together, the proposed zoning changes support a comprehensive vision for revitalizing the downtown area. In concert with other elements of the Needham Center Development Plan, the overlay districts have been designed to address several needs, issues and constraints: traffic and circulation; the shape and physical form of the downtown area; parking supply, location, and needs of various users; existing property rights; the value of existing assets that must be accounted for in designing incentives to encourage redevelopment; and the quality of life in the adjacent residential neighborhoods.*

Needham Center is a much loved and used downtown, but it has untapped economic potential and represents missed opportunities to improve the built environment, public realm, traffic, and parking. During Needham Center’s heyday in the late 1800s and early 1900s, many beautifully designed buildings of two and three stories, and even some of four-stories, stood within a block of Town Hall and the Common. During the past century, however, our increasing use of the automobile along with the promulgation of zoning laws that reflect that auto dependence have promoted a suburban land use pattern with widely distributed commercial development that detracts from the focus on and livability of the Center. Today, Needham Center’s built environment has more than its share of one-story buildings with undistinguished facades. Despite a beautiful town common and pockets of attractive and pleasant streetscape, the public environment is marred by an overall unattractiveness, sidewalks that do not cater to pedestrians, inconsistent building setbacks, a lack of trees and green space, inadequate crosswalks, an excessive number of curb-cuts, and too many parking lots that face the street.

The Town’s current zoning contributes to these problems by posing barriers to redevelopment. While some Needham Center properties still have room to expand, most have already reached or exceeded their maximum development potential. As a result, there is no incentive for new investment, which is critical for economic growth, increased property values, and the ability to provide public benefits such as traffic mitigation and parking. Creating opportunities to increase the size and massing of buildings will help to better define and improve the village spaces of the downtown area along the major streets.

The proposed overlay districts are designed to address these needs. The key trade-off for allowing more development and a wider range of uses in the overlay districts is mandating adherence to design guidelines. In exchange for complying with the new Needham Center design guidelines, property owners may pursue a special permit for more intensive use of existing properties, provide market-rate or mixed-income housing in a more encouraging environment than that which exists today, and gain some relief from existing parking requirements. In addition, a special permit will be considered for taller buildings in

some parts of the downtown area. The special permit is important because it will allow the Planning Board to evaluate the impact of the visual change being proposed, both from immediate and distant vantage points.

The proposed zoning amendments are part of a long-term plan to guide the gradual redevelopment of Needham Center. For each proposed project, the Planning Board will hold public hearings, consider the proposal's consistency with the Needham Center Development Plan, and weigh the proposal's benefits against potential adverse impacts. The Planning Board will have the authority to deny a special permit if appropriate. The Board will not grant a special permit if the road system or parking infrastructure is insufficient to handle the projected impacts of a proposed development.

Article 3 Explanation: *Article 3, in combination with Article 6, proposes to create the Needham Center Overlay District. Article 3 lays out the regulatory framework for the new overlay district while Article 6 describes its geographic boundaries. The boundaries of the Needham Center Overlay District match the boundaries of the present Center Business District. Since Article 3 involves the creation of an overlay district, property owners in the Center Business District retain their existing zoning rights in the underlying zone. The Needham Center Overlay District creates additional choices by placing supplemental provisions on top of those which already exist in the underlying Center Business District. The overlay district's key provisions are summarized below.*

Designation of the District

The Needham Center Overlay District is bounded on the north by May Street and the existing zoning boundary line between the Center Business District and residentially zoned districts; on the east by Pickering Street and the existing zoning boundary line between the Center Business District and residentially zoned districts; on the south by the existing zoning boundary line between Center Business and residentially zoned districts, and by Keith Place; and on the west by the existing zoning boundary line between the Center Business District and the Single Residence B District, and by Eaton Square and the MBTA commuter railroad right-of-way.

Purpose of the District

The purpose of the Needham Center Overlay District is to encourage at an appropriate scale, density, mix of uses and design the redevelopment and infill development of existing properties in order to ensure a vibrant suburban village downtown that offers a diverse and sustainable mix of goods, services and housing informed by "smart growth" and transit-oriented development principles, substantially as set forth in the Needham Center Development Plan. The zoning seeks to encourage a more walkable downtown area; housing that is within walking distance of goods and services, public transportation, and the civic center of the town; and improved traffic flow and parking. The zoning for the district draws on a vision of historic Needham Center and the traditional New England village for inspiration and interprets it for contemporary life.

Definitions

New terms that appear in the package of zoning amendments but not elsewhere in the zoning bylaw are presented in alphabetical order: affordable housing unit; affordable housing restriction; green building; mixed-use building; mixed-use development; Needham Center off-street parking fund.

Permitted Uses

The Needham Center Overlay District lists the uses that are allowed as-of-right or by special permit. The use schedule largely mirrors that of the underlying Center Business District with one notable exception: the allowance of up to five upper-story housing units as-of-right, with additional units allowed by special permit.

Lot Area and Frontage

The Needham Center Overlay District requires the same minimum lot area (10,000 sq. ft.) and minimum lot frontage (80 ft.) as the underlying Center Business District.

Minimum Side and Rear Setbacks

For lots adjacent to the MBTA right-of-way, the minimum yard setback is twenty-five (25) feet from the lot line abutting the MBTA right-of-way. The ten (10) feet of the setback closest to the MBTA right-of-way must be suitably landscaped and not used for any other purpose except surface parking, if approved by special permit from the Planning Board. The remaining fifteen (15) feet may be used for an accessory use, not including a building or structure, but an underground parking structure would be allowed if located entirely below the grade of the existing lot.

For lots abutting a residential district, the minimum yard setback is fifty (50) feet from the district boundary. The twenty-five (25) feet closest to the district boundary must be suitably landscaped and not used for any other purpose. By special permit from the Planning Board, however, an underground parking structure may be permitted within the fifty (50) foot setback provided the garage structure is located entirely below the grade of the existing lot and is set back at least ten (10) feet from the district boundary or ten (10) feet from the lot line, whichever is greater. The twenty-five (25) feet closest to the district boundary must be suitably landscaped over the surface of the garage structure.

Building Height Requirements

The Needham Center Overlay District has been divided into two sub-districts, A and B, in order to accommodate different height regulations. The proposed regulations allow increased heights in Sub-District B to 2+1 stories and in Sub-District A to 3+1 stories. The “+1” designation means that the top floor is allowed if contained under a pitched roof or stepped back from the façade.

- (a) In Sub-District A, which lies along a portion of Great Plain Avenue, the minimum building height is two stories and twenty-seven (27) feet and the maximum building height allowed as-of-right is two and one-half stories and thirty-five (35) feet. The Planning Board has authority to grant a special permit to increase the maximum height to three stories and thirty-seven (37) feet, or four stories and forty-eight (48) feet if the fourth story is contained under a pitched roof or recessed from the face of the building. This type of fourth story is known as 3+1.*
- (b) In Sub-District B, which principally abuts the Town Hall and Town Common, the maximum building height is two and one-half stories and thirty-five (35) feet as-of-right. The Planning Board has authority to grant a special permit to increase the maximum height to three stories and thirty-seven (37) feet if the third story is contained under a pitched roof or recessed from the face of the building. This type of third story is known as 2+1. A reduced height profile was established for Sub-District B in order to enhance the Town Common as an urban open space while at the same time not overwhelming the Town Hall.*

Building Bulk and Other Requirements

One way to regulate density is through the use of a measurement called the Floor Area Ratio (FAR), which is the ratio of a building's total floor area to the area of the lot. In the overlay district, the FAR calculation excludes underground parking. The FAR regulations encourage building massing that helps to define the street edge, which serves as a backdrop to the streetscape. The proposed maximum as-of-right FAR is 1.0. However, the Planning Board has authority to grant special permits for two "tiers" of increases in the FAR. For the first tier, the FAR can be increased to 2.0 in Sub-Districts A and B, subject to the following standards:

- (a) The adequacy of existing facilities to serve the proposed development;*
- (b) The degree to which the proposed project, viewed in its entirety, will make a significant contribution to the urban design and economic development goals set forth in the Needham Center Development Plan;*
- (c) The degree to which the proposed project is consistent with the purposes of the Needham Center Overlay District and conforms to the design guidelines for the district;*
- (d) The degree to which the applicant's proposal has been designed to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking;*
- (e) For applications involving an increase in building height or bulk by special permit, the degree to which the applicant has reasonably demonstrated that the additional height or floor area is desirable for the redevelopment of the site, considering the site's location and physical characteristics and the condition of existing improvements;*
- (f) The degree to which the proposed project incorporates as many green building standards as practical, given the type of building and proposed uses;*
- (g) The degree to which the proposed project provides a significant public benefit through its inclusion of at least one of the following: (i) Affordable housing units; (ii) Use of one or more renewable energy sources in the operation of the project; (iii) Off-street parking sufficient to accommodate the proposed uses, located on the site or provided through a shared parking arrangement acceptable to the Planning Board; or through payment of fees in lieu of off-street parking spaces, except where such payment of fees is not allowed for a special permit.*

For the second tier, the Planning Board has authority to grant a special permit to increase the maximum FAR to 3.0 in Sub-Districts A and B, subject to the decision standards listed above and the following additional requirements:

- (a) Off-street parking located on the site or provided through a shared agreement on another property within 1,000 feet of the site, in a form acceptable to the Planning Board; and*
- (b) No waivers of minimum parking requirements or payment of fees in lieu of off-street parking spaces shall be allowed.*

Parking Waivers and the Off-Street Parking Fund

The proposed zoning provides for a special permit to waive strict compliance with off-street parking requirements if the applicant makes a mitigation payment to the Off-Street Parking Fund. Mitigation payments are to be based on a "cost per space" formula. The mitigation revenue may be used as a

contribution toward the design or construction of new parking facilities, to lease parking spaces, or for parking management. The objectives of this provision are to facilitate redevelopment and enlist private-sector assistance with increasing the supply of public parking in Needham Center.

Affordable Housing

There was considerable discussion about affordable housing when the Needham Center Development Plan was prepared. In response, the proposed zoning requires affordable housing in larger mixed-use developments, i.e., those with six or more dwelling units. At least one affordable unit is required for a development with six to ten units. For a development with eleven or more units, at least 10 percent must be affordable. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. Floor area devoted to affordable housing is exempt from the total floor area used to calculate maximum FAR.

ARTICLE 4: AMEND ZONING BY-LAW – LOWER CHESTNUT STREET OVERLAY DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, as follows:

- (a) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“LC -- Lower Chestnut Street Overlay”

- (b) Amend Section 3, Use Regulations, by adding a new Subsection 3.9, Lower Chestnut Street Overlay District, to read as follows:

“3.9 Lower Chestnut Street Overlay District

3.9.1 Purposes of District

The purposes of the Lower Chestnut Street Overlay District are to encourage redevelopment of existing properties in a manner that brings buildings close to the street, with landscaping and layouts and designs of sites and buildings conducive to pedestrian use; to reorganize and consolidate curb cuts through appropriate access management controls; and to create opportunities for Chestnut Street to serve as an attractive, safe, pedestrian-friendly street, substantially as set forth in the Needham Center Development Plan dated March 30, 2009. Toward these ends, development in the Lower Chestnut Street Overlay District shall be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning district(s) provided that such development complies with the design guidelines and all other requirements of this Section.

3.9.2 Scope of Authority

In the Lower Chestnut Street District, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that a proponent wishes to develop in accordance with the regulations hereunder, the rules and regulations of the Lower Chestnut Street Overlay District shall apply, and by filing an application for a Special Permit, site plan review or building permit under this Section 3.9, the owner shall be deemed to accept and agree to them. In such event, where the provisions of the Lower Chestnut Street Overlay District are silent on a zoning

regulation that applies in the underlying district, the requirements of the underlying district shall apply.

If the proponent elects to proceed under the zoning provisions of the underlying district, the zoning bylaws applicable in the underlying district shall control and the provisions of the Lower Chestnut Street Overlay District shall not apply.

3.9.3 Use Regulations

3.9.3.1 Permitted Uses

The following uses are permitted in the Lower Chestnut Street Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) All uses permitted as of right in the underlying district.
- (c) Mixed-use building, not exceeding five dwelling units per building, with dwelling units allowed above the ground floor only.
- (d) Accessory uses permitted as of right in the underlying district.

3.9.3.2 Special Permit Uses

The following uses are permitted in the Lower Chestnut Street Overlay District only upon the issuance of a Special Permit by the Planning Board under such conditions as it may require:

- (a) Business uses allowed by special permit in the underlying district, excluding an automobile service station.
- (b) Mixed-use building containing six or more dwelling units in a building, with dwelling units located on floors above the ground floor or on the ground floor, provided that:
 - (1) Entrances to ground-floor dwelling units are located on the side or rear of the building, not from any side facing the street, or the entrances may be from a first-floor lobby serving other uses in the building; and
 - (2) The ground floor of the front façade contains only retail, restaurant or office uses allowed by right or by special permit.
- (c) Mixed-use development, provided that at least sixty (60) percent of the front side of the lot facing Chestnut Street, measured in percentage of linear feet of frontage, shall be occupied by a building or buildings located within twenty (20) feet of the street line, said building(s) to contain permitted business uses and which may contain upper-story dwelling units. Free-standing multi-family dwelling(s) associated with a mixed-use development shall be located toward the rear of the site and be connected to building(s) facing the street by means of landscaped walkways or a courtyard.
- (d) Accessory uses permitted by special permit in the underlying district.

3.9.3.3. Multiple Buildings and Uses

In the Lower Chestnut Street Overlay District, more than one use may be located on a lot as a matter of right and/or more than one building may be located on a lot by special permit, provided that each building and/or its use(s) are in compliance with the requirements of Section 3.9 of this By-Law.

3.9.3.4 Special Permit, Parking Garage

The Planning Board may issue a Special Permit for a parking garage or parking structure for more than three (3) vehicles, including both enclosed and open structures, above and below ground, serving uses within the area covered by the Downtown Development Plan, where the parking garage or structure is located within 1,000 feet of the uses it serves, subject to such setback requirements as the Planning Board may impose.

3.9.4 Dimensional Regulations

3.9.4.1 Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Lower Chestnut Street Overlay District:

- (a) Minimum Lot Area: 15,000 square feet.
- (b) Minimum Lot Frontage: 100 feet.
- (c) Minimum Front Setback: The lesser of 5 feet from the front property line or the average setback of abutting buildings within 100 feet on the same side of the street as the proposed development.
- (d) Maximum Front Setback: 15 feet from the front property line.
- (e) Minimum Side and Rear Setback:
 - (1) For lots abutting a residential district, fifty (50) feet from the lot line abutting the residential district; for all other lots, no minimum yard setback shall apply. Where side and rear yard setbacks of fifty (50) feet are required, the twenty-five (25) feet closest to the district boundary and all other requirements of Sections 4.4.8.2 and 4.4.8.5 shall apply. The remaining twenty-five (25) feet may be used for an accessory use, not including a building or structure. By special permit from the Planning Board, however, an underground parking structure may be permitted within the fifty (50) foot side and rear yard setbacks provided that the garage structure shall be located entirely below the grade of the existing lot and set back at least ten (10) feet from the district boundary or ten (10) feet from the lot line, whichever is greater, and the twenty-five (25) feet closest to the district boundary shall be suitably landscaped over the surface of the garage structure in accordance with Section 4.4.8.5.
 - (2) For lots adjacent to the MBTA right-of-way, there shall be a minimum yard setback of twenty-five (25) feet from the lot line abutting the MBTA right-of-way, and the first ten (10) feet of the setback shall be suitably landscaped and not used for any other purpose, including an accessory use, except that within said ten (10) feet the Planning Board may

grant a special permit for surface parking, provided that the parking area is suitably landscaped. The remaining fifteen (15) feet may be used for an accessory use, not including a building or structure, except that within said fifteen (15) feet an underground parking structure is permitted if located entirely below the grade of the existing lot.

3.9.4.2 Building Height Requirements

The maximum building height in the Lower Chestnut Street Overlay District shall be two and one-half stories and thirty-five feet as of right. For lots having the required minimum frontage on Chestnut Street, the Planning Board may grant a Special Permit for a maximum building height of three stories and thirty-seven feet or four stories and forty-eight (48) feet, provided that the fourth story is located under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines under Section 3.9.8 below.

Buildings in the Lower Chestnut Street Overlay District shall not be further subject to the maximum height regulations of the underlying district, as contained in Section 4.4.3.

3.9.4.3 Building Bulk and Other Requirements

The maximum floor area ratio in the Lower Chestnut Street Overlay District shall be 0.70, except that for lots having the required minimum frontage on Chestnut Street, the Planning Board may grant a Special Permit to increase the maximum floor area ratio as provided in subsections (a) and (b) below. The area of a building devoted to underground parking shall not be counted as floor area for purposes of determining the maximum floor area ratio under this section. Uses in the Lower Chestnut Street Overlay District shall not be subject to any other limitations on floor area ratio or building bulk such as those contained in Section 4.4.2.

- (a) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 1.5, subject to the decision standards in Section 3.9.7.
- (b) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 2.0, subject to the decision standards in Section 3.9.7 and the following additional requirements:
 - (1) Off-street parking located on the site or provided through a shared agreement on another property within 1,000 feet of the site, in a form acceptable to the Planning Board, shall be required as a condition of special permit approval; and
 - (2) No waivers of minimum parking requirements or payment of fees in lieu of off-street parking spaces under Section 3.9.5 shall be allowed.

3.9.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 shall apply in the Lower Chestnut Street Overlay District.

- (a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
 - (1) For any building in which more than forty (40) percent of the usable floor area is located above the ground floor, the minimum number of off-street parking spaces for upper-story

business uses shall be eighty (80) percent of the number of spaces that would be required under Section 5.1.2, except that this reduction shall not apply to medical, dental and related health services or clinics.

- (2) For dwelling units in a mixed-use building or mixed-use development, the minimum number of off-street parking spaces shall be one and one-half spaces per dwelling unit.
- (b) In addition to the requirement for bicycle racks under Section 5.1.3(n), for a mixed-use building or mixed-use development, bicycle racks facilitating locking shall be provided to accommodate one bicycle for every two (2) dwelling units.

3.9.5.1 Needham Center Off-Street Parking Fund

- (a) A Special Permit may be granted to allow payment of a fee in lieu of the minimum number of off-street parking spaces required under this Section, if the Planning Board determines that:
 - (1) The applicant has reasonably demonstrated that it is uneconomic to accommodate all of the required parking spaces on the lot, given the area and shape of the lot, or under the building, given the size of the project;
 - (2) The applicant has reasonably demonstrated that it is not feasible to accommodate the required number of parking spaces through a combination of on-site parking and shared parking with an adjoining property; and
 - (3) The project has been designed to the extent feasible to reduce the required number of off-street parking spaces, e.g., a multi-story building with upper-story uses that qualify for reduced parking, as provided under Section 3.9.5(a).
- (b) The fee shall be computed on a per-space basis and paid into a special revenue fund known as the Needham Center Off-Street Parking Fund, to be used solely for the purpose of providing shared or public parking benefiting uses within the area covered by the Downtown Needham Development Plan.
- (c) The fee shall be determined by the Planning Board in accordance with the Needham Center Development Plan or the Town of Needham Capital Improvements Plan, as applicable, and paid by the applicant in two installments: one-half prior to the receipt of a building permit and one-half prior to receipt of a certificate of occupancy, unless the applicant chooses to pay the entire fee prior to receipt of a building permit.

3.9.6 Affordable Housing

Mixed-use buildings or mixed-use developments with six or more dwelling units shall include affordable housing units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes affordable units:

- (a) The floor area of the affordable units shall not be counted for purposes of determining the maximum floor area permitted under Section 3.9.4.3.
- (b) All other requirements of Section 3.8.6 shall apply.

3.9.7 Site Plan Review

For any project seeking a Special Permit under Sections 3.9.4.1, 3.9.4.2 or 3.9.4.3, or for any project proceeding under these overlay district provisions which also constitutes a Major Project under Section 7.4.2, the Planning Board shall consider, in addition to the factors set forth in Section 7.4.6, the following review criteria:

- (a) The adequacy of existing facilities to serve the proposed development, including but not limited to water supply, sewer, natural gas and electric service;
- (b) The degree to which the proposed project, viewed in its entirety, will make a significant contribution to the urban design and economic development goals set forth in the Needham Center Development Plan;
- (c) The degree to which the proposed project is consistent with the purposes of the Lower Chestnut Street Overlay District and conforms to the Design Guidelines under Section 3.9.8;
- (d) The degree to which the applicant's proposal has been designed to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking;
- (e) For applications involving an increase in building height or bulk by special permit, the degree to which the applicant has reasonably demonstrated that the additional height or floor area is desirable to redevelopment of the site, considering the site's location and physical characteristics and the condition of existing improvements;
- (f) The degree to which the proposed project incorporates as many green building standards as practical, given the type of building and proposed uses;
- (g) The degree to which the proposed project provides a significant public benefit through its inclusion of at least one of the following:
 - (1) Affordable housing units;
 - (2) Use of one or more renewable energy sources in the operation of the project;
 - (3) Off-street parking sufficient to accommodate the proposed uses, located on the site or provided through a shared parking arrangement acceptable to the Planning Board; or provided through payment of fees in lieu of off-street parking spaces except where such payment of fees is not allowed for a Special Permit under Section 3.9.4.3(b).

3.9.8 Design Guidelines

The Design Guidelines for the Lower Chestnut Street Overlay District shall be as adopted by the Planning Board and available on file in the Needham Planning Department.”

- (c) Amend Section 7.4 Site Plan Review as follows:

Make the following changes to Section 7.4.2 Definitions:

Under MAJOR PROJECT:

Amend the paragraph after Neighborhood Business District by inserting after “Needham Center Overlay District” the words “and Lower Chestnut Street Overlay District” such that the paragraph will read as follows:

“In the Needham Center Overlay District and Lower Chestnut Street Overlay District, a MAJOR PROJECT shall be as defined above in the Center Business District.”

Under MINOR PROJECT, amend the paragraph after Medical Overlay District by inserting after “Needham Center Overlay District” the words “and Lower Chestnut Street Overlay District” such that the paragraph will read as follows:

“In the Needham Center Overlay District and Lower Chestnut Street Overlay District, a MINOR PROJECT shall be as defined above in the Center Business District.”

(d) Amend Section 7.6 Planning Board as follows:

Under Section 7.6.1 Special Permit Granting Authority, amend the first sentence by inserting a reference to Section 3.9 between “3.8” and “4.2.4,” such that the revised sentence shall read:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 4.2.4, 4.2.5, 4.2.6, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this By-Law.”

(e) Amend Section 7.7 Design Review as follows.

Under Section 7.7.2.2 Authority and Specific Powers, amend the first sentence of the second paragraph by inserting after “Chestnut Street Business District” the words, “Lower Chestnut Street Overlay District” such that the paragraph will read:

“The Design Review Board shall review permit applications for all new structures and outdoor uses, exterior additions, exterior alterations and exterior changes in all areas zoned as a Business District, Chestnut Street Business District, Lower Chestnut Street Overlay District, Center Business District, Needham Center Overlay District, Avery Square Business District, Hillside Avenue Business District, Neighborhood Business District, New England Business Center District, Highland Commercial-128 District, Mixed Use-128 District, Industrial District, Industrial-1 District, Industrial Park District or Institutional District (excluding single and two-family uses), which require a building permit under the Massachusetts State Building Code – but which are not related to projects previously reviewed as “Major” or “Minor Projects” under Site Plan Review.”

Under Section 7.7.4 Design Criteria, amend the paragraph after the paragraph which begins, “In addition to paragraph (4) above...” by inserting after “Needham Center Overlay District” the words, “and the Lower Chestnut Street Overlay District and by revising the “Section 3.8” reference to read “Sections 3.8 and “3.9” such that the paragraph will read:

“For requests for site plan reviews and special permits in the Needham Center Overlay District and the Lower Chestnut Street Overlay District, the Design Review Board shall consider, in addition to paragraphs (1) through (5) above, the design guidelines set forth in Sections 3.8 and 3.9 of this By-Law.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: Article 4, in combination with Article 7, proposes to create the Lower Chestnut Street Overlay District. Article 4 provides the overlay district's regulatory framework while Article 7 describes its geographic boundaries. The boundaries of the Lower Chestnut Street Overlay District coincide with the boundaries of the present Chestnut Street Business District south of Great Plain Avenue. The Lower Chestnut Street Overlay District is very similar to, and frequently cross-references, the Needham Center Overlay District described in Article 3 above.

Designation of the District

The Lower Chestnut Street Overlay District is bounded on the north by Keith Place and the northern property line of the Fire-Police Station Building; on the east by the existing zoning boundary line between the Chestnut Street Business District and residentially zoned districts; on the south by Junction Street and the MBTA commuter railroad right-of-way; and on the west by the same commuter railroad right-of-way, which also serves as the existing zoning boundary line between the Chestnut Street Business and General Residence District.

Purpose of the District

The purposes of the Lower Chestnut Street Overlay District are to encourage infill development and redevelopment of existing properties in a manner that brings buildings closer to the street, resulting in layouts and designs of sites, and buildings and landscaping that are conducive to more enjoyable use by pedestrians; to reorganize and consolidate curb cuts through appropriate access-management controls to improve both vehicular and pedestrian safety; and to create opportunities for Chestnut Street to emerge as an attractive, safe, pedestrian-friendly street, substantially as set forth in the Needham Center Development Plan.

Permitted Uses

Uses allowed as-of-right in the underlying Chestnut Street Business District are also allowed as-of-right in the Lower Chestnut Street Overlay District. In addition, a mixed-use building with up to five dwelling units is allowed as-of-right in the overlay district. With the exception of automobile service stations, the special permit business uses in the underlying district are allowed in the overlay district. Mixed-use buildings with more than five dwelling units and mixed-use developments, or developments with multiple buildings containing a mix of uses, are allowed by special permit as well.

Lot Area and Frontage

The Lower Chestnut Street Overlay District requires a larger minimum lot area (15,000 sq. ft.) and more lot frontage (100 ft.) than the Chestnut Street Business District (10,000 sq. ft. and 80 ft.). The purpose of these dimensional standards is to encourage parcel assembly and consolidate curb cuts.

Minimum Side and Rear Setbacks

For lots adjacent to the MBTA right-of-way, the minimum yard setback is twenty-five (25) feet from the lot line abutting the MBTA right-of-way. The ten (10) feet of the setback closest to the MBTA right-of-way must be suitably landscaped and not used for any other purpose except surface parking, if approved by

special permit from the Planning Board. The remaining fifteen (15) feet may be used for an accessory use, not including a building or structure, but an underground parking structure would be allowed if located entirely below the grade of the existing lot.

For lots abutting a residential district, the minimum yard setback is fifty (50) feet from the district boundary. The twenty-five (25) feet closest to the district boundary must be suitably landscaped and not used for any other purpose. By special permit from the Planning Board, however, an underground parking structure may be permitted within the fifty (50) foot setback provided the garage structure is located entirely below the grade of the existing lot and is set back at least ten (10) feet from the district boundary or ten (10) feet from the lot line, whichever is greater. The twenty-five (25) feet closest to the district boundary must be suitably landscaped over the surface of the garage structure.

Building Height Requirements

Much like the Needham Center Overlay District, the Lower Chestnut Street Overlay District provides for a special permit to increase the maximum building height from the as-of-right standard of two and one-half stories and thirty-five (35) feet to three stories and thirty-seven (37) feet or four stories and forty-eight (48) feet, i.e., a 3+1 story building. However, the special permit option applies only to properties with conforming frontage on Chestnut Street. In the Lower Chestnut Street Overlay District, “conforming frontage” means 100 ft.

Building Bulk and Other Requirements

The proposed maximum FAR in the Lower Chestnut Street Overlay District is 0.7. For lots with conforming frontage (100 ft.) on Chestnut Street, the Planning Board has authority to grant special permits for an increase in the maximum FAR to 1.5 or 2.0, subject to the same two-tier standards that apply in the Needham Center Overlay District.

Parking Waivers and the Off-Street Parking Fund

The Lower Chestnut Street Overlay District contains the same provisions for parking waivers and Off-Street Parking Fund payments that apply in the Needham Center Overlay District.

Affordable Housing

The Lower Chestnut Street Overlay District contains the same affordable housing provisions that apply in the Needham Center Overlay District.

ARTICLE 5: AMEND ZONING BY-LAW – GARDEN STREET OVERLAY DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law, as follows:

- (a) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“GS -- Garden Street Overlay”

- (b) Amend Section 3, Use Regulations, by inserting a new Subsection 3.10, Garden Street Overlay District, to read as follows:

“3.10 Garden Street Overlay District

3.10.1 Purposes of District

The purposes of the Garden Street Overlay District are to encourage redevelopment and a modest intensification of use of existing properties in a manner compatible in scale and design with adjacent residential neighborhoods, with layouts and designs of sites and buildings conducive to pedestrian use, substantially as set forth in the Needham Center Development Plan dated March 30, 2009.

3.10.2 Scope of Authority

In the Garden Street Overlay District, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that a proponent wishes to develop in accordance with the regulations hereunder, the rules and regulations of the Garden Street Overlay District shall apply, and by filing an application for a Special Permit, site plan review or building permit under this Section 3.10, the owner shall be deemed to accept and agree to them. In such event, where the provisions of the Garden Street Overlay District are silent on a zoning regulation that applies in the underlying district, the requirements of the underlying district shall apply.

If the proponent elects to proceed under the zoning provisions of the underlying district, the zoning bylaws applicable in the underlying district shall control and the provisions of the Garden Street Overlay District shall not apply.

3.10.3 Use Regulations

3.10.3.1 Permitted Uses

Uses permitted as of right in the Lower Chestnut Street Overlay District shall also be permitted as of right in the Garden Street Overlay District, excluding retail establishments.

3.10.3.2 Special Permit Uses

The following uses may be allowed by Special Permit in Garden Street Overlay District:

- (a) Multi-family dwelling.
- (b) Mixed-use building that includes six or more dwelling units or any retail use allowed in the underlying district, subject to the requirements of Section 3.9.3.2(b).

3.10.3.3 Multiple Buildings and Uses

In the Garden Street Overlay District, more than one use may be located on a lot as a matter of right and/or more than one building may be located on a lot by special permit, provided that each building and/or its use(s) are in compliance with the requirements of Section 3.10 of this By-Law.

3.10.4 Dimensional Regulations

3.10.4.1 Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Garden Street Overlay District:

- (a) Minimum Lot Area: 15,000 square feet.
- (b) Minimum Lot Frontage: 80 feet.
- (c) Minimum Front Setback: The lesser of 10 feet from the front property line or the average setback of abutting buildings within 100 feet on the same side of the street as the proposed development.
- (d) Minimum Side and Rear Setback: 10 feet.

3.10.4.2 Building Height Requirements

The maximum building height in the Garden Street Overlay District shall be two and one-half stories and thirty-five (35) feet or, by Special Permit from the Planning Board, three stories and thirty-seven (37) feet, provided that the third story is contained under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines in Section 3.10.8 below. Buildings in the Garden Street Overlay District shall not be further subject to the maximum height regulations of the underlying district as contained in Section 4.4.3.

3.10.4.3 Building Bulk and Other Requirements

The maximum floor area ratio in the Garden Street Overlay District shall be 0.70. By Special Permit from the Planning Board, the maximum floor area ratio may be increased to 1.20 for a mixed-use building(s) and to 1.0 for a multi-family dwelling(s). The area of a building devoted to underground parking shall not be counted as floor area for purposes of determining the maximum floor area ratio under this section. Uses in the Garden Street Overlay District shall not be subject to any other limitations on floor area ratio or building bulk such as those contained in Section 4.4.2.

3.10.5 Off-Street Parking

The off-street parking regulations that apply in the Lower Chestnut Street Overlay District shall also apply in the Garden Street Overlay District.

3.10.6 Affordable Housing

Any building or combination of buildings with six or more dwelling units on the lot shall include affordable housing units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes affordable units:

- (a) The floor area of the affordable units shall not be counted for purposes of determining the maximum floor area permitted under Section 3.10.4.3.

(b) All other requirements of Section 3.8.6 shall apply.

3.10.7 Site Plan Review

For any project seeking a Special Permit under Section 3.10.4.2 or Section 3.10.4.3, or for any project proceeding under these overlay district provisions which also constitutes a Major Project under Section 7.4.2, the Planning Board shall consider, in addition to the factors set forth in Section 7.4.6, the following review criteria:

- (a) The adequacy of existing facilities to serve the proposed development, including but not limited to water supply, sewer, natural gas and electric service;
- (b) The degree to which the proposed project, viewed in its entirety, will make a significant contribution to the urban design and economic development goals set forth in the Needham Center Development Plan;
- (c) The degree to which the proposed project is consistent with the purposes of the Garden Street Overlay District and conforms to the Design Guidelines under Section 3.10.8;
- (d) The degree to which the applicant's proposal has been designed to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking;
- (e) For applications involving an increase in building height or bulk by special permit, the degree to which the applicant has reasonably demonstrated that the additional height or floor area is desirable for redevelopment of the site, considering the site's location and physical characteristics and the condition of existing improvements;
- (f) The degree to which the proposed project incorporates as many green building standards as practical, given the type of building and proposed uses;
- (g) The degree to which the proposed project provides a significant public benefit through its inclusion of at least one of the following:
 - (1) Affordable housing units;
 - (2) Use of one or more renewable energy sources in the operation of the project;
 - (3) Off-street parking sufficient to accommodate the proposed uses, located on the site or provided through a shared parking arrangement acceptable to the Planning Board; or provided through payment of fees in lieu of off-street parking spaces.

3.10.8 Design Guidelines

The Design Guidelines for the Garden Street Overlay District shall be as adopted, and as may be amended from time to time, by the Planning Board and available on file in the Needham Planning Department.”

- (c) Amend Section 7.4 Site Plan Review as follows:

Make the following changes to Section 7.4.2 Definitions:

Under MAJOR PROJECT:

Amend the paragraph after Neighborhood Business District by deleting the word “and” between “District” and “Lower” and inserting after “Lower Chestnut Street Overlay District” the words “or Garden Street Overlay District” such that the paragraph will read as follows:

“In the Needham Center Overlay District, Lower Chestnut Street Overlay District, or Garden Street Overlay District, a MAJOR PROJECT shall be as defined above in the Center Business District.”

Under MINOR PROJECT, amend the paragraph after Medical Overlay District by deleting the word “and” between “District” and “Lower” and inserting after “Lower Chestnut Street Overlay District” the words “or Garden Street Overlay District” such that the paragraph will read as follows:

“In the Needham Center Overlay District, Lower Chestnut Street Overlay District, or Garden Street Overlay District, a MINOR PROJECT shall be as defined above in the Center Business District.”

- (d) Amend Section 7.6 Planning Board as follows:

Under Section 7.6.1 Special Permit Granting Authority, amend the first sentence by inserting a reference to Section 3.10 between “3.9” and “4.2.4,” such that the revised sentence shall read:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 4.2.4, 4.2.5, 4.2.6, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this By-Law.”

- (e) Amend Section 7.7 Design Review as follows.

Under Section 7.7.2.2 Authority and Specific Powers, amend the first sentence of the second paragraph by inserting after “Lower Chestnut Street Overlay District” the words, “Garden Street Overlay District” such that the paragraph will read:

“The Design Review Board shall review permit applications for all new structures and outdoor uses, exterior additions, exterior alterations and exterior changes in all areas zoned as a Business District, Chestnut Street Business District, Lower Chestnut Street Overlay District, Garden Street Overlay District, Center Business District, Needham Center Overlay District, Avery Square Business District, Hillside Avenue Business District, Neighborhood Business District, New England Business Center District, Highland Commercial-128 District, Mixed Use-128 District, Industrial District, Industrial-1 District, Industrial Park District or Institutional District (excluding single and two-family uses), which require a building permit under the Massachusetts State Building Code – but which are not related to projects previously reviewed as “Major” or “Minor Projects” under Site Plan Review.”

Under Section 7.7.4 Design Criteria, amend the paragraph after the paragraph which begins, “In addition to paragraph (4) above...” by adding a reference to the “Garden Street Overlay District” and “Section 3.10” of the By-Law such that the paragraph will read:

“For requests for site plan reviews and special permits in the Needham Center Overlay District, the Lower Chestnut Street Overlay District and the Garden Street Overlay District, the Design Review Board shall consider, in addition to paragraphs (1) through (5) above, the design guidelines set forth in Sections 3.8, 3.9 and 3.10 of this By-Law.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: Article 5, in combination with Article 8, proposes to create the Garden Street Overlay District. Article 5 provides the overlay district’s regulatory framework while Article 8 describes its geographic boundaries. The boundaries of the Garden Street Overlay District coincide with the boundaries of the present Chestnut Street Business District north of Great Plain Avenue.

Designation of the District

The Garden Street Overlay District is bounded on the north by May Street, on the east by the MBTA commuter railroad right-of-way, on the south by Eaton Square, and on the west by Garden Street.

Purpose of the District

The purpose of the Garden Street Overlay District is to encourage redevelopment and a modest intensification of use of existing properties in a manner compatible in scale and design with adjacent residential neighborhoods, with layouts and designs of sites, and buildings and landscaping that are conducive to pedestrian use, substantially as set forth in the Needham Center Development Plan.

Permitted Uses

Uses allowed as-of-right in the Lower Chestnut Street Overlay District and in the underlying Chestnut Street Business District are also allowed as-of-right in the Garden Street Overlay District, with the exception of retail establishments. Retail establishments, as well as multi-family dwellings and mixed-use buildings with more than six units are allowed only by special permit. Finally, unlike the Chestnut Street Business District, restaurant uses are not permitted by special permit in the Garden Street Overlay District.

Lot Area and Frontage

The Garden Street Overlay District requires the same minimum lot area (10,000 sq. ft.) as the underlying Chestnut Street Business District, but increases the minimum lot frontage requirement from (80 ft.) to (100 ft.) as is the case in the Lower Chestnut Street Overlay District.

Minimum Side and Rear Setbacks

In the Garden Street Overlay District, a minimum side and rear yard setback of 10 ft is required.

Building Height Requirements

The Garden Street Overlay District provides for a special permit to increase the maximum building height from the as-of-right standard of two and one-half stories and thirty-five (35) feet to three stories and thirty-seven (37) feet as long as the third story is contained under a pitched roof or recessed from the face of the building, i.e., a 2+1 story building.

Building Bulk and Other Requirements

The Garden Street Overlay District includes a maximum FAR of 0.7, just like the underlying Chestnut Street Business District. The Planning Board may issue a special permit to increase the maximum FAR to 1.0 for multi-family dwellings and 1.2 for all other uses.

Parking Waivers and the Off-Street Parking Fund

The Garden Street Overlay District contains the same off-street parking provisions as the Lower Chestnut Street Overlay District.

Affordable Housing

In the Garden Street Overlay District, mixed-use buildings and multi-family dwellings are subject to the same affordable housing provisions that apply in the Lower Chestnut Street Overlay District.

ARTICLE 6: AMEND ZONING BY-LAW – MAP CHANGE TO NEEDHAM CENTER OVERLAY DISTRICT, NEEDHAM CENTER OVERLAY SUB-DISTRICT A AND NEEDHAM CENTER OVERLAY SUB-DISTRICT B

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map as follows:

- (a) Place in the Needham Center Overlay District all that land described under Article 12 of the May 9, 1990 Annual Town Meeting, superimposing that district over the existing Center Business District, said description being as follows:

“ Beginning at a point on the boundary line between the existing Business District and a Single Residence B District, where said boundary line coincides with the intersection of the centerlines of Great Plain Avenue and Pickering Street; then running northerly along said zoning boundary line to a point where it intersects with the boundary line between the existing Business District and a General Residence District; then running westerly and northerly along said zoning boundary line to a point where it intersects with the boundary line between the existing Business District and a Single Residence B District; then running westerly along said zoning boundary line to a point where it intersects with the centerline of Highland Avenue; then running northerly along said centerline of Highland Avenue to a point where it intersects with the centerline of May Street; then running westerly along said centerline of May Street to a point where it intersects with the centerline of the right-of-way of the MBTA commuter railroad line; then running southerly along said right-of -way centerline to a point where it intersects with a line drawn through the southernmost point of Parcel 17, Assessors’ Plan 51 and also drawn perpendicular to the centerline of Eaton Square; then running westerly along said drawn line to a point where it intersects with the centerline of Eaton Square; then running northerly, northwesterly and westerly

along said street centerline to a point where it intersects with the centerline of Garden Street; then running southerly along the centerline of Garden Street, which coincides with the boundary line between the existing Business District and a Single Residence B District to a point where said zoning boundary line turns westerly; then running westerly, northerly, westerly, northerly and westerly along said zoning boundary line to a point where it intersects with the centerline of Nehoiden Street; then running southeasterly along said street centerline, which coincides with the boundary line between the existing Business District and a Single Residence B District, to a point where it intersects with the centerline of Great Plain Avenue; then running westerly along said street centerline, which coincides with the boundary line between the existing Business District and a Single Residence B District, to a point where it intersects with the centerline of Linden Street; then running southerly along said street centerline, which coincides with the boundary line between the existing Business District and a Single Residence B District, to a point where said zoning boundary line turns easterly; then running easterly along said zoning boundary line to a point where it intersects with the boundary line between the existing Business District and a General Residence District; then running northerly and easterly along said zoning boundary line to a point where it intersects with the boundary line between the existing Business District and an Industrial District; then running northerly and easterly along said zoning boundary line to a point where it intersects with the centerline of the right-of-way of the MBTA commuter railroad line, which coincides with the boundary line between the existing Business District and an Industrial District; then running southerly along said right-of-way centerline to a point where it intersects with the extended centerline of Keith Place; then running easterly along said street centerline to a point where it intersects with the centerline of Chestnut Street; then running southerly along said street centerline to a point where it intersects with the boundary line between the existing Business District and a Single Residence B District; then running easterly along said zoning boundary line to a point where it intersects with the boundary line between the existing Business District and a General Residence District; then running northerly along said zoning boundary line to a point where it turns easterly; then running easterly along said zoning boundary line to a point where it intersects with the centerline of Lincoln Street, which coincides with the boundary line between the existing Business District and a General Residence District; then running northerly along said zoning boundary line to a point where it intersects with the centerline of Dedham Avenue, which coincides with the boundary line between the existing Business District and a General Residence District; then running southeasterly along said boundary line to a point where it turns northeasterly; then running northeasterly, southeasterly, and northeasterly along said zoning boundary line to a point where it intersects with a boundary line between the existing Business District and a Single Residence B District; then running westerly and northerly along said zoning boundary line to a point where it intersects with the centerline of Great Plain Avenue, which coincides with the boundary line between the existing Business District and a Single Residence B District; then running westerly along said zoning boundary line to the beginning point.”

- (b) Place in the Needham Center Overlay as Sub-District A the area bounded and described as follows:

“Beginning at the point of intersection of the centerlines of Great Plain Avenue and Pickering Street; thence running northerly along the centerline of Pickering Street to a point 75 feet north of the northerly sideline of Great Plain Avenue; thence turning and running westerly along a line parallel to and 75 feet distant from the northerly sideline of Great Plain Avenue to the centerline of Highland Avenue; thence turning and running southerly along the centerline of Highland Avenue to the point of intersection of the centerlines of Highland Avenue and Great Plain Avenue; thence turning and running westerly along the centerline of Great Plain Avenue to the point of intersection of the centerlines of Great Plain Avenue and Chapel Street; thence turning

and running northerly along the centerline of Chapel Street to a point 75 feet north of the northerly sideline of Great Plain Avenue; thence turning and running westerly along a line parallel to and 75 feet distant from the northerly sideline of Great Plain Avenue to the centerline of the MBTA railroad right of way; thence turning and running southerly along the centerline of the MBTA railroad right of way to the point of intersection of the centerline of the MBTA railroad right of way and the centerline of Keith Place; thence turning and running easterly along the centerline of Keith Place to the point of intersection of the centerlines of Keith Place and Chestnut Street; thence turning and running southerly along the centerline of Chestnut Street to a point opposite the property line dividing the Needham Police and Fire Station property (Assessor's Map 47 Parcel 56) and the property shown on Assessor's Map 47 Parcel 57, said property line being more fully described as the southerly property line on a plan recorded at the Norfolk County Registry of Deeds as Plan 18 of 2008; thence turning and running easterly along said southerly property line a distance of approximately 249.99 feet to the easterly property line as shown on said plan; thence turning and running northerly along said easterly property line a distance of approximately 100.29 feet as shown on said plan; thence running in a northerly direction to a stone bound located at the southwesterly property corner of the First Parish Church property, said property corner being more fully described on a plan recorded in the Norfolk County Registry of Deeds (NCRD) as Plan 538 of 1944; thence turning and running easterly along the southerly property line of the said First Parish Church property a distance of approximately 157.65 feet as shown on said plan; thence running easterly to a point on the centerline of Lincoln Street opposite the southerly property line of the said First Parish Church property; thence turning and running northerly along the centerline of Lincoln Street to the point of intersection of the centerlines of Lincoln Street and Dedham Avenue; thence turning and running easterly along the centerline of Dedham Avenue to a point opposite the property line dividing the Town of Needham Parking Area property (Assessor's Map 47 Parcel 8) recorded in the NCRD as Lot 7A on plan 1570 of 1952 and the property shown on Assessor's Map 47 Parcel 5 and recorded in the NCRD as Lots 8A and 7D on plan 885 of 1961; thence turning and running northerly along said dividing property line approximately 139.55 feet to the northwesterly property corner of Lot 7A shown on NCRD plan 1570 of 1952; thence turning and running easterly along the northeasterly property line of Lot 7A recorded in NCRD as plan 1570 of 1952 a distance of approximately 95.17 feet; thence turning and running northerly a distance of approximately 22.73 feet to the northeasterly property corner of Lot 7B as shown on a plan recorded in the NCRD as plan 1570 of 1952; thence turning and running westerly along the northerly property line of said Lot 7B and the northerly property line of the property recorded in the NCRD as plan 885 of 1961 to a point at the southeasterly corner of the property recorded in the Norfolk County Land Court as Case 11330; thence turning and running northerly along the easterly property line of Land Court Case 11330 a distance of approximately 156.80 to the northeasterly property corner; thence continuing northerly to a point on the centerline of Great Plain Avenue opposite the northeasterly property corner of Land Court Case 11330; thence turning and running westerly along the centerline of Great Plain Avenue to the point of beginning."

- (c) Place in the Needham Center Overlay as Sub-District B all that land described under Article 12 of the May 9, 1990 Annual Town Meeting, excepting the area described above in paragraph (b) as "Sub-District A".

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: This article describes the geographical boundaries of the new Needham Center Overlay District (Sub-District A and Sub-District B), which is bounded on the north by May Street and by the existing zoning boundary line between the Center Business and residentially zoned districts; on the east by Pickering Street and by the existing zoning boundary line between the Center Business and residentially zoned districts; on the south by the existing zoning boundary line between the Center Business and residentially zoned districts, and by Keith Place; and on the west by the existing zoning boundary line between the Center Business and Single Residence B District, and by Eaton Square and the MBTA commuter railroad right-of-way.

ARTICLE 7: AMEND ZONING BY-LAW – MAP CHANGE TO LOWER CHESTNUT STREET OVERLAY DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map to place in the Lower Chestnut Street Overlay District all that land described in paragraph (a) under Article 10 of the May 9, 1990 Annual Town Meeting, superimposing that district over the existing Chestnut Street Business District, said description being as follows:

“Beginning at a point on the boundary line between the existing Business District and a Single Residence B District, where said boundary line coincides with the intersection of the centerlines of School Street and Chestnut Street; then running northerly along the centerline of Chestnut Street to a point where it intersects with the centerline of Keith Place; then running westerly along the centerline of Keith Place to a point where it intersects with the centerline of the right-of-way of the MBTA commuter railroad line, said right-of-way centerline being the boundary line between the existing Business District and an Industrial District; then running southerly along said boundary line between the existing Business District and a General Residence District; then running southeasterly along said boundary line between the existing Business District and a Single Residence B District; then running northerly, easterly, northerly, easterly, northerly, westerly, northerly, westerly, northerly, westerly and northerly along said zoning boundary line to a point where it coincides with the boundary line between the existing Business District and a General Residence District; then running northerly, westerly and northerly along said zoning boundary line to a point where it intersects with the boundary line between the existing Business District and a Single Residence B District, which is coincidental with the centerline of School Street; then running westerly along said street centerline to the beginning point.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: This article describes the geographical boundaries of the new Lower Chestnut Street Overlay District, which is bounded on the north by Keith Place and by the northern property line of the Fire-Police Station Building; on the east by the existing zoning boundary line between the Chestnut Street Business and by the residentially zoned districts; on the south by Junction Street and the MBTA commuter railroad right-of-way; and on the west by the same commuter railroad right-of-way, which also serves as the existing zoning boundary line between the Chestnut Street Business and General Residence District.

ARTICLE 8: AMEND ZONING BY-LAW – MAP CHANGE TO GARDEN STREET OVERLAY DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map to place in the Garden Street Overlay District all that land described in paragraph (b) under Article 10 of the May 9, 1990 Annual Town Meeting, superimposing that district over the existing Chestnut Street Business District, said description being as follows:

“Beginning at a point on the boundary line between the existing Business District and a Single Residence B District, where said boundary line coincides with the intersection of the centerlines of May Street and Garden Street; then running southerly, southwesterly and southeasterly along said zoning boundary line, which coincides with the centerline of Garden Street, to a point where it intersects with the centerline of Eaton Square; then running easterly, southeasterly and southerly along the centerline of Eaton Square to a point where it intersects with a line drawn perpendicular from the southernmost point of Parcel 17, Assessors’ Plan 51; then running easterly along said perpendicular drawn line to a point where it intersects with the centerline of the right-of-way of the MBTA commuter railroad line; then running northerly along said right-of-way centerline to a point where it intersects with the centerline of May Street, said street centerline being the boundary line between the existing Business District and a Single Residence B District; then running westerly along said zoning boundary line to the beginning point.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: This article describes the geographical boundaries of the new Garden Street Overlay District, which is bounded on the north by May Street; on the east by the MBTA commuter railroad right-of-way; on the south by Eaton Square; and on the west by Garden Street.

ARTICLE 9: AMEND ZONING BY-LAW – DIMENSIONAL REGULATIONS (LIMITED EXCEPTION TO LOT COVERAGE REGULATIONS BY SPECIAL PERMIT)

To see if the Town will vote to amend the Zoning By-Law, Section 4.7.5, Reduction in Dimensional Regulations by Special Permit, by adding the following underlined language to the title and first and second paragraphs thereof so that the entire section shall now read as follows (new language underlined):

“4.7.5 Change in Dimensional Regulations by Special Permit

In Single Residence A, Single Residence B, and General Residence Districts, the minimum front setback and the minimum side and rear line setback requirements may be reduced by not more than 10 percent, or the maximum lot coverage allowed may be increased by not more than 10 percent over the square footage allowed, provided that the increase in the area of lot covered may not exceed 150 square feet, by special permit granted by the Board of Appeals where the Board finds that the special permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this By-Law and subject to the provisions of Section 7.5.2.

This Section 4.7.5 shall apply only to buildings and structures that have been constructed pursuant to a building permit issued by the Building Inspector. The purpose of this Section is to allow relief only in those unusual cases where excusable neglect or inadvertence have resulted in the construction of portions of buildings or structures in required setback areas, or in excess of maximum lot coverage requirements.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Explanation: The purpose of this article is to allow in the Single Residence A, Single Residence B, and General Residence Districts, relief from the maximum lot coverage requirements of the district in those unusual cases where excusable neglect or inadvertence have resulted in the construction of a portion of a building or structure in excess of said coverage requirements. The relief granted would be limited to not more than 10 percent of the square footage otherwise allowed, not to exceed 150 square feet, by special permit granted by the Board of Appeals.