



# TOWN OF HUDSON

## Planning Board

Glenn Della-Monica, Chairman

Marilyn McGrath, Selectmen Liaison



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### **PUBLIC MEETING TOWN OF HUDSON, NH December 13, 2017**

The Town of Hudson Planning Board will hold a regularly scheduled meeting on Wednesday, December 13, 2017 at 7:00 p.m. in the "Buxton Community Development Conference Room" at Town Hall. The following items will be on the agenda:

- I. CALL TO ORDER BY CHAIRMAN AT 7:00 P.M.
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. SEATING OF ALTERNATES
- V. MINUTES OF PREVIOUS MEETING(S)
  - 8 November 2017 Meeting Minutes – Decisions
- VI. CORRESPONDENCE
- VII. OLD BUSINESS/PUBLIC HEARINGS
- VIII. NEW BUSINESS/PUBLIC HEARINGS
  - Public Hearing on Proposed Amendments Chapter 334, Hudson Zoning Ordinance  
Purpose of Proposed Amendments:  
Article III, §334-10 to modify lot area & frontage requirements for lots with multiple uses.  
Article III, §334-15.1 to eliminate 800-foot separation between retail gasoline sales.  
Article III, §334-16.1 to delegate to Zoning Administrator authority to approve change of use involving land use categories within land use classifications.  
Article II, § 334-6 & Article V, §334-21 to eliminate the land use category of "major commercial," defined as buildings that are larger than 100,000 sq. ft.  
Article VIII, §334-32 to eliminate the requirement to merge non-conforming lots of record.  
Article XV, §334-82 to extend the time limit for acting on a variance or special exception from 1 year to 2 years.
- IX. OTHER BUSINESS
- X. ADJOURNMENT

Proposed amendments are available for review in the Planning Office. Comments may be submitted in writing until 10:00 a.m. on the Tuesday prior to the day of the meeting. The public is invited to attend.

George Theborge AICP  
Land Use Director

# DRAFT

## MINUTES/DECISIONS OF THE PLANNING BOARD MEETING DATE: NOVEMBER 8, 2017

In attendance = X; Alternates Seated = S; Partial Attendance = P; Excused Absence = E

Glenn Della-Monica Chairman <u>  X  </u>	Timothy Malley Vice-Chair <u>  X  </u>	William Collins Secretary <u>  X  </u>	Charles Brackett Member <u>  X  </u>
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Jordan Ulery Member <u>  X  </u>	Dillon Dumont Member <u>  X  </u>	Elliott Veloso Alternate <u>  X  </u>	Ed Van der Veen Alternate <u>  S  </u>
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Ethan Meinhold Alternate <u>  E  </u>	Marilyn McGrath Select. Rep. <u>  E  </u>	David Morin Alt. Select. Rep. <u>  S  </u>
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**I. CALL TO ORDER BY CHAIRPERSON AT 7:00 P.M.**

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

**IV. SEATING OF ALTERNATES**

Chairman Della Monica appointed Mr. Morin as a voting member in the absence of Ms. McGrath.

**V. MINUTES OF PREVIOUS MEETING(S)**

- **25 OCT 17 Meeting Minutes – Decisions**

Mr. Dumont moved to approve the draft 25 OCT 17 Meeting Minutes.

Motion seconded by Mr. Brackett. 7 yeas, 0 nays and 0 abstentions. Motion carried.

**VI. CORRESPONDENCE**

**VII. PERFORMANCE SURETIES**

- **K&M Developers – Chestnut St Bond Reduction**

Mr. Malley moved to reduce the established surety of \$268,068.75 to \$92,061.75 for Chestnut St. and from \$457,716.25 to \$170,887.25 for Lucier Park Dr. and Eayer Pond Rd Map 247/Lots 045 051; this surety reduction is in accordance with the written

recommendation of the Town Engineer, Elvis Dhima's email in file, dated 18 OCT 2017, together with the Road Guarantee Estimate Form, dated 9 SEPT 2017.

Motion seconded by Mr. Dumont. 7 yeas, 0 nays and 0 abstentions. Motion carried.

### VIII. OLD BUSINESS/PUBLIC HEARINGS

- **Change of Use & Minor Site Plan – Domino's Pizza – Map 182/Lot 68 – MSP #03-17, SP# 15-17**

#### **WAIVER MOTIONS:**

HR 276-11.1.B (12) & (25) – Restrictions on parking within property line setbacks

Mr. Malley moved to grant the requested waiver of HR §276-11.1.B (12) & (25) – Restrictions on parking within property line setbacks based on the testimony of the Applicant's representative here this evening, and in accordance with the language included in the submitted Waiver Request Form for said waiver.

Motion seconded by Mr. Dumont. 7 yeas, 0 nays and 0 abstentions. Motion carried.

#### **MOTION TO APPROVE:**

Mr. Malley moved to approve the Site Plan entitled: Domino's Pizza Site Plan, 16 Chase Street, Hudson NH, prepared by OCG Oak Consulting Group, P.O. Box 1123, Newburyport, MA, 01950 dated 14 SEPT 2017 (with revisions through 7 NOV 2017) and consisting of C-1 and C-2:

1. All stipulations of approval shall be incorporated into the Development Agreement, which shall be recorded at the HCRD, together with the Site Plan-of-Record which shall be favorably reviewed by Town Counsel prior to Planning Board endorsement of the Plan.
2. All improvements shown on the Site Plan-of-Record shall be completed in their entirety and at the expense of the Applicant or his assigns.
3. Prior to the issuance of a final certificate of occupancy, a L.L.S. certified "As Built" site plan shall be provided to the Town of Hudson Community Development Department, confirming that the site conforms to the Planning Board approved site plan.
4. The onsite drainage system shall be constructed and maintained in compliance with NHDES requirements for such systems.
5. Construction activities involving the subject lot shall be limited to the hours between 7:00 A.M. and 7:00 P.M., Monday through Saturday. No construction activities shall be allowed on Sundays.
6. Hours of refuse removal shall be exclusive to the hours between 7:00 A.M. and 7:00 P.M. Monday to Friday only and prohibited on Saturday and Sunday.

7. Property owner to enforce no-left turn out of Chase Street entrance/exit during the hours of 3 P.M. and 7 P.M for employees.
8. All signs shall meet the limitations of Zoning Ordinance §§ 334-6 and 334-6 E. for wall signs unless a variance is granted from those requirements.
9. The handicapped accessible ramp shall meet current ADA requirements.

Motion seconded by Mr. Dumont. 7 yeas, 0 nays and 0 abstentions. Motion carried.

## **IX. NEW BUSINESS/PUBLIC HEARINGS**

- **2-Lot Residential Subdivision – 19 Library St – Map 182/Lot 111 – SB#09-17**

Mr. Malley stepped down for this item and Chairman Della Monica appointed Mr. Van der Veen as voting member in his stead. Selectman Morin also stepped down.

Mr. Collins moved to accept the 2-Lot Subdivision application for 19 Library St., Map 182/Lot 111.

Motion seconded by Mr. Ulery. 7 yeas, 0 nays and 0 abstentions. Motion carried.

Mr. Van der Veen moved to approve the subdivision plan entitled: Paliy Subdivision Plan, Tax Map 182, Lot 111, 19 Library St, Hudson, NH, prepared by Edward N. Herbert Assoc., Inc., 1 Frost Rd., Windham, NH, dated: September 2017 (revised through 10-26-17), consisting of Sheets 1 - 2:

1. All stipulations of approval shall be incorporated into the Notice of Decision, which shall be recorded at the HCRD, together with the Plan.
2. A cost allocation procedure (CAP) amount of \$5693 per residential lot shall be paid prior to the issuance of a Certificate of Occupancy for the new lot.
3. All monumentation shall be set or bonded for prior to the Planning Board endorsing the Plan-of -Record.
4. Approval of this plan shall be subject to final engineering review, including the location of the new driveway which shall be located on School Street at a proper distance from the intersection.
5. Construction activities involving the proposed undeveloped lot shall be limited to the hours between 7:00 A.M. and 7:00 P.M., Monday through Saturday. No exterior construction activities shall occur on Sunday.

Motion seconded by Mr. Brackett. 7 yeas, 0 nay and 0 abstention. Motion carried.

## **X. OTHER BUSINESS**

- **Workshop on Draft Amendments to Chapter 334 Hudson Zoning Ordinance**

Mr. Theborge presented the 18 Oct 2017 ZORC meeting synopsis and went through the draft amendments to the Zoning Ordinance to implement the ZORC recommended changes:

Amendment 1 – Amend Article III, General Regulations, § 334-10, subsections A. to eliminate the requirement that multiple uses on a single lot have enough lot area and lot frontage to meet the standards for each individual use, thereby requiring far more land area and frontage than is needed to serve the combined development.

Amendment 2 – Amend Article III, General Regulations, § 334-15.1, to eliminate the requirement that lots with stores selling gasoline at retail be located at least 800 feet from another lot with a store selling gasoline at retail.

Amendment 3 – Amend Article III, General Regulations, §334-16.1 to delegate from the Planning Board to the Zoning Administrator the authority to determine whether a change of land use within land use classifications (e.g., residential, commercial, industrial) requires Planning Board site plan review based on intensity of use and/or anticipated community and neighborhood impacts. Amend Article II, Terminology §334-6 to add a definition of Zoning Administrator.

Amendment 4 – Amend Article VIII, Nonconforming Uses, Structures and Lots, § 334-32 to bring Hudson’s Zoning Ordinance into compliance with New Hampshire statutory requirements for treatment of nonconforming lots of record. Towns can no longer require the merger of contiguous lots not meeting zoning requirements for minimum lot frontage and area.

Amendment 5 – Amend Article XV, Enforcement and Miscellaneous Provisions, § 334-82 to extend the time limit for acting on a variance or special exception approval from one year to two years to bring the Hudson Zoning Ordinance into compliance with New Hampshire statutes.

Amendment 6 – Amend Article V, Permitted Uses, § 334-21 Table of Permitted Principal Uses to move “Membership club, civic, social, professional, or fraternal organization” from “Commercial” land use classification to “Community Facilities” where it fits better. Also eliminate “Major commercial project” (> 100,000 sq. ft.) from the list of Commercial Uses and from Article II, § 334-6 Definitions. This category and definition were added in 2007 in an attempt to limit “big box” stores, but it only limits such stores in the Business District and the impacts are more effectively addressed by other regulations.

After discussion, the Planning Board decided to drop the proposed changes to membership clubs etc. from the proposed list of recommended amendments and to schedule the first required public hearing for December 13, 2017.

- **Discussion of Condominium Approvals by the Planning Board**

Mr. Theborge presented a legal opinion from NHMA legal staff and examples of condominium projects in Hudson that lead to a conclusion that the Planning Board currently has no jurisdiction to review condominiums as subdivisions. Current regulations give subdivision approval authority for divisions of land and site plan approval authority for development of non-residential, and multi-family residential projects.

## **XI. ADJOURNMENT**

Mr. Ulery moved to adjourn the meeting.

Motion seconded by Mr. Malley. 7 yeas, 0 nay and 0 abstention. Motion carried.

Meeting adjourned at 8:50 p.m.

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William Collins  
Secretary

## Thebarge, George

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**From:** Normand Martin <norm91370@msn.com>  
**Sent:** Thursday, November 9, 2017 5:29 PM  
**To:** Thebarge, George; Maryellen Davie; Bruce Buttrick  
**Subject:** Comments relative to Case 119-116 23 Roosevelt Ave

Hello George

At the ZBA's meeting on 10/26/2017 we heard the following case:

Case 119-116 23 Roosevelt Ave.

A majority of the members felt that we should send an email regarding their concerns on this case and wish to have you forward them in a staff report to the planning board members. Considerations should be made for the proposed cross fit gym's hours of business, trash pickup schedules and signage. Based on numerous negative abutter testimony for the proposed use.

Kind Regards

Norm Martin  
Chairman Hudson Zoning Board of Adjustment

# Public Hearing on Draft Zoning Amendment Warrant Articles for the 2018 March Town Meeting

Staff Report  
13 December 2017

At the November 8 meeting I presented a synopsis from the last Zoning Ordinance Review Committee (ZORC) meeting that reflects the direction taken at their final meeting on October 18<sup>th</sup>. ZORC is an ad hoc committee made up of Planning Board and Zoning Board members tasked with reviewing the Zoning Ordinance and making recommendations for changes to be considered each year at Town Meeting. Although there was not complete consensus or closure on many potential land use issues ZORC discussed, the items listed in the meeting synopsis represented the topics and potential changes ZORC made the most progress on and considered to be workable for Town Meeting warrants.

## **Planning Board Recommended Changes**

At the workshop session on November 8, the Planning Board considered the direction of amendments recommended by ZORC and the draft language for amendments and warrant articles prepared by staff to implement the ZORC recommendations. As a result of the Planning Board workshop, minor wording changes were made to some of the proposed amendments and proposed changes to the use table related to non-profits and service organizations were dropped. The draft amendments in Attachment A include those Planning Board recommended changes.

## **ZORC Member Maryellen Davis Recommended Changes**

I have reviewed comments submitted by ZORC member Maryellen Davis and see merit to many of her editing recommendations for how the proposed amendments are explained on the ballot. She has also suggested substantive changes to a few of the proposed Zoning Ordinance amendments. I am attaching an email from Maryellen dated Oct. 27, 2017 along with a set of draft amendments that incorporate her recommendations (Attachment B). Since the ZORC process concluded in October, the Planning Board can consider this input as public comment at the public hearing. The Board can vote on whether to incorporate any or all of Maryellen's recommendations into the draft warrant articles.



## **2017-2018 Calendar for Zoning Ordinance Amendments**

The calendar in Attachment C provides the timeline for meeting statutory requirements related to Zoning Ordinance amendments. The amendments in Attachment A have been posted for the public hearing on December 13, 2017. If substantive changes are made as a result of the public hearing, the Planning Board must post the new draft amendments and schedule a second public hearing, which can be held in January and meet the calendar requirements.

After considering public comment, the Planning Board should deliberate on whether to make changes to the draft amendments. If changes are approved and those changes are substantive, the Board should vote to conduct a second public hearing in January.

### **ATTACHMENTS:**

- 1) Draft Zoning Amendments with Planning Board input – Attachment “A”.
- 2) Email from Maryellen Davis & proposed changes – Attachment “B”.
- 3) 2017-2018 Zoning Amendment Calendar – Attachment “C”.

## ATTACHMENT "A"

Article Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

Amend Article III, General Regulations, § 334-10, subsections A. to eliminate the requirement that multiple uses on a single lot have enough lot area and lot frontage to meet the standards for each individual use, thereby requiring far more land area and frontage than is needed to serve the combined development. (Approved by the Planning Board by a vote of 0-0-0)

### *Alternative Explanatory Language*

*Amend Article III, General Regulations, § 334-10, subsections A. to allow multiple principal uses on the same lot without requiring the lot to meet area and frontage requirements for each individual use, provided that all individual uses meet all other performance standards. (Approved by the Planning Board by a vote of 0-0-0)*

This Article is further explained in its entirety as follows:

Proposed amendment indicated by ~~strikethrough text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-10. Mixed or dual use on a lot.

- A. Multiple uses on a lot are permitted, ~~only as follows:~~ **provided that the lot meets the area and frontage requirements for the principal use for the district in which it is located and each use is in conformity with all other requirements set forth in this chapter pertaining to that use.**
- ~~(1) The lot has sufficient frontage to satisfy the minimum frontage requirement for the principal use requiring the most frontage and not less than 100% of the minimum frontage requirement for each additional principal use, except as provided by special exception under Article VI, § 334-26.~~
  - ~~(2) The lot is of sufficient size to satisfy the minimum lot size requirements of each use independently.~~
  - ~~(3) Each use is in conformity with all other requirements set forth in this chapter pertaining to that use.~~
- B. For the purposes of this chapter, multiple commercial or industrial uses/activities developed as part of a single site are considered a single principal use.
- C. For the purposes of this article, the addition of accessory uses to a principal use does not result in a dual or mixed use of property.

Article

Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

Amend Article III, General Regulations, § 334-15.1, to eliminate the requirement that lots with stores selling gasoline at retail be located at least 800 feet from another lot with a store selling gasoline at retail. (Approved by the Planning Board by a vote of 0-0-0)

This Article is further explained in its entirety as follows:

Proposed amendment indicated by ~~striketrough-text~~ for wording to be deleted and **bold text** for wording to be added.

~~§ 334-15.1 Retail gasoline sales.  
[Added 3-12-2002 by Amdt. No. 1]~~

~~Any lot used for the sale of gasoline at retail shall not be located within 800 feet of any other lot used for the sale of gasoline at retail.~~

Article

Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

Amend Article III, General Regulations, §334-16.1 to delegate from the Planning Board to the Zoning Administrator the authority to determine whether a change of land use within land use classifications (e.g., residential, commercial, industrial) requires Planning Board site plan review based on intensity of use and/or anticipated community and neighborhood impacts. Amend Article II, Terminology §334-6 to add a definition of Zoning Administrator. (Approved by the Planning Board by a vote of 0-0-0)

This Article is further explained in its entirety as follows:

Proposed amendment indicated by ~~strike through text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-16.1 Site plan approval.  
[Added 3-4-2000]

No person, persons, partnership, proprietorship, company, trust or corporation shall commence a new use, change a use or commence any site development activity (other than one- or two-family residential activity) without first securing site plan approval from the Hudson Planning Board pursuant to this chapter. These regulations shall apply to the development or change or expansion of use of tracts for nonresidential uses or for "multifamily dwelling units," which are defined as any structures containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site. ~~For the purpose of this chapter, change of use occurs~~ **Planning Board approval shall be required** when the use of any land or building is changed from one land use classification to another **land use classification (e.g., residential changes to commercial).** ~~or from one~~ **If a change of use is from one** category to another category within a land use classification as specified in this chapter (e.g., ~~grocery store changes to food service establishment~~ **e.g., business office changes to restaurant**), **The ZONING ADMINISTRATOR, with input from Planning, Engineering, and Building Inspectional Services staff shall evaluate whether increased intensity of use and/or potential community or neighborhood impacts warrant Planning Board review as part of a Zoning Determination.** No building permits shall be issued until site plan approval has been obtained from the Town of Hudson Planning Board and is recorded with the Hillsborough County registry of Deeds.

§ 334-6 Definitions.

**ZONING ADMINISTRATOR - The person holding the title of Zoning Administrator for the Town of Hudson, NH, and, under his or her supervision, any Town administrative, clerical and legal personnel who are engaged by or are employees of the Town and are responsible for the interpretation, administration, and enforcement of this ordinance.**

Article

Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

Amend Article VIII, Nonconforming Uses, Structures and Lots, § 334-32 to bring Hudson's Zoning Ordinance into compliance with New Hampshire statutory requirements for treatment of nonconforming lots of record. Towns can no longer require the merger of contiguous lots not meeting zoning requirements for minimum lot frontage and area. (Approved by the Planning Board by a vote of 0-0-0)

This Article is further explained in its entirety as follows:

Proposed amendment indicated by ~~strikethrough text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-32\_Nonconforming lots. [Amended 3-4-2000]

A nonconforming lot is a lot lawfully existing at the effective date of this chapter, or any subsequent amendment thereto, which is not in conformity with all provisions of this chapter. Notwithstanding the minimum lot area requirements set forth in Article VII, § 334-27, Table of Minimum Dimensional Requirements, in any district in which structures are permitted, a structure may be erected on a lot which ~~was~~ **is** a lot of record, even though such lot fails to meet the present requirements for frontage or area, or both, that are applicable for that use in the district allowed; ~~provided, however, that such lot is not contiguous with another lot or lots in the same ownership,~~ provided that the property is either on Town sewer or the property owner obtains a state and/or municipal septic permit, and further provided that the zone's minimum front, side and back yard setbacks are satisfied. ~~Where two or more contiguous lots are under single or joint ownership at the time this section takes effect March 14, 2000, and either or both lots are nonconforming, the lots involved shall be considered as a single undivided lot of record for the purposes of this chapter. No structure or building shall be erected on any nonconforming lot if the owner of said lot owns any adjoining vacant land which would create a more conforming lot if said vacant land were combined with the lot deficient in area.~~ Where a question exists to the applicability of this **section merger rule**, the Zoning Administrator shall make any administrative determination **with reference RSA 674:39-a and 674:39-aa.**

Article

Are you in favor of the adoption of Amendment No. 5 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

Amend Article XV, Enforcement and Miscellaneous Provisions, § 334-82 to extend the time limit for acting on a variance or special exception approval from one year to two years to bring the Hudson Zoning Ordinance into compliance with New Hampshire statutes. (Approved by the Planning Board by a vote of 0-0-0)

This Article is further explained in its entirety as follows:

Proposed amendment indicated by ~~striketrough text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-82 Time limit.

[Added 3-14-1995 by Amdt. No. 13]

- A. A grant of a variance or special exception by the Hudson Zoning Board of Adjustment shall be valid ~~for~~ **if exercised within** a period of ~~one year~~ **two years** following the vote of approval by the Zoning Board of Adjustment.
- B. If subsequent Planning Board action is needed before work or activity may be commenced pursuant to the variance or special exception, the applicant or his/her successor in interest must gain application acceptance by the Hudson Planning Board within six months of the ZBA vote of approval regarding the granting of the special exception or variance in order to stay the ~~one-year~~ **two-year** limitation period set forth in Subsection A above. The term "application acceptance" is defined pursuant to Planning Board regulation and the New Hampshire Revised Statutes Annotated.
- C. For variances or special exceptions which require subsequent Planning Board review and which have gained application acceptance within six months of the original variance or special exception vote of approval, the variance or special exception shall be valid for a period of ~~one-year~~ **two years** from the Planning Board vote to give conditional or final approval to the applicant's plan, unless active and substantial development or building has begun on the site in accordance with the terms of the approved plan. If conditional approval precedes final approval, the ~~one-year~~ **two-year** time period shall run from the vote of conditional approval.
- D. For variances or special exceptions which do not require subsequent Planning Board review, all variances and special exceptions shall expire within ~~one-year~~ **two years** of the vote of approval as specified in Subsection A above, unless active and substantial development or building has begun on the site in accordance with the special exception, variance or building permit or the variance or exception granted from the terms of this chapter has been

otherwise exercised by the applicant or successor in interest.

- E. If an applicant who has been granted a variance or special exception fails to gain Planning Board application acceptance within six months of the vote of approval for the special exception or variance, the applicant shall not gain any exemption for the running of the ~~one-year~~ **two-year** time period which governs the grant of a variance or special exception.

Article Are you in favor of the adoption of Amendment No. 6 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

Amend Article V, Permitted Uses, § 334-21 Table of Permitted Principal Uses to eliminate “Major commercial project” (> 100,000 sq. ft.) from the list of Commercial Uses and from Article II, § 334-6 Definitions. This category and definition were added in 2007 in an attempt to limit “big box” stores, but it only limits such stores in the Business District and the impacts are more effectively addressed by other regulations. (Approved by the Planning Board by a vote of 0-0-0)

This Article is further explained in its entirety as follows:

Proposed amendment indicated by ~~strikethrough text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-21 Table of Permitted Principal Uses.

<b>D. COMMERCIAL USES</b>	R-1	R-2	TR	B	I	G	G-1
<del>27. Major commercial project</del>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>P</b>	<b>P</b>	<b>P</b>

§ 334-6 Definitions.

**MAJOR COMMERCIAL PROJECT**

~~A retail, hotel, office, research, warehouse or industrial facility(ies) proposed on a parcel or adjoining parcels, which individually or in the aggregate exceed(s) 100,000 square feet of gross building area. [Added 3-13-2007 by Amdt. No. 1]~~



**Thebarge, George**

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**From:** maryellen davis <maryellen.davis@oracle.com>  
**Sent:** Friday, December 1, 2017 1:07 PM  
**To:** Thebarge, George; DAVIS,MARYELLEN  
**Cc:** glenn@gdellamonica.com; Marilyn McGrath; Malizia, Steve; Dave Morin  
**Subject:** MED Update: Draft Zoning Ordinance Amendments  
**Attachments:** Amendment 1 - Mixed Use Lot Requirements.pdf; Amendment 2 - 800 ft Retail Gas Separation.pdf; Amendment 3 - Change of Use Approval.pdf; Amendment 4 - Nonconforming Lot Merger.pdf; Amendment 5 - Time Limit for Variance & Special Exception.pdf; Amendment 6 - Major Commercial Project.pdf

Hi George -

Many thanks for reaching out to me, I appreciate the opportunity to provide my inputs.

I've listed my concerns below noting by proposed Amendment number, I am available M/W/TH/F mornings next week (8:30am - ~10am) if you'd like to discuss.

Sometimes talking through the items is easier/clearer than email.

**Amendment #1**

This proposal eliminates the area and frontage requirements for multiple uses on a mixed or dual use lot as long as the lot has sufficient frontage and area for the principle use.

I believe we would be better served if we required the area and frontage requirement for the district for the principle use and then a TBD % of that requirement for each additional use to prevent overcrowding on lots and congestion throughout Town (especially in cases where you have multiple uses on a lot which includes multiple drive thru activities).

**Amendment #2**

I don't think the wording is clear under the 2nd paragraph 'to eliminate the requirement that lots with stores selling gasoline at retail' as people do not refer to gas stations as stores selling gasoline.

Why can't we just say 'to eliminate the requirement that lots with gasoline being sold at retail be located at least 800 feet from another lot with a gasoline being sold at retail' ?

**Amendment #3**

I believe you need to insert 'category' into the second paragraph to make the change clearer:  
' Amend Article III, General Regulations, Section 334-16.1 to delegate from the Planning Board to the Zoning Administrator the authority to determine whether a change of land use Category (e.g., general retail to garaging or parking of heavy equipment) within the land use Classifications (e.g., Residential, Commercial, Industrial) requires Planning Board site plan review based on intensity.....etc.

BTW - I am opposed to this change as I believe it puts too much authority/responsibility onto one person who cannot possibly (in my humble opinion) make a determination based on a written request as to what the intensity of use and/or anticipated community and neighborhood impacts will be.

**Amendment #4**

okay as is

### **Amendment #5**

I think that item D can be reworded a little as -

*'Variances or Special Exceptions which do not require subsequent Planning Board review shall expire within two years'....etc.*

BTW - While the intent is to change the time limit from one to two years, this does not address the issue of what happens when development starts then stops - what happens to the Var, SE or Building Permit. Is it valid indefinitely and who is going to determine what 'substantial development' is?

### **Amendment #6**

Please note that the Category 'Major Commercial Project' was not intended solely to limit 'big box' stores but to ensure that any developments that may be considered a regional impact would be captured and that development within zones that have a blend of business/residential would be limited.

We need to be very clear that by eliminating this category, we have no coverage for 'lifestyle centers' or malls as these are not defined anywhere and, more importantly, we are opening up the 'B Zone' to more significant development.

Currently, a 'major commercial project' is not allowed in the B zone. 'General Retail' is, which is most department, home improvement, etc. stores and malls are, so you are opening up areas in Town to some significant development which may not be appropriate given the residential overlay within the B district.

Also, if you couple this with Amendment 1 which is reducing the area and frontage of mixed use on a lot to just the requirement for the principle use, you are creating a potential situation within Town of small lots with multiple uses that lead to overcrowding, huge traffic issues and an inferior quality of life along with the opportunity of malls, lifestyle centers and big box stores in the B district. If I lived in the neighborhood pockets along Derry, Lowell, Webster etc. streets, I wouldn't want this.

Regards,  
me

----- Forwarded Message -----

**Subject:**Draft Zoning Ordinance Amendments

**Date:**Thu, 30 Nov 2017 15:57:43 +0000

**From:**Thebarge, George <[gthebarge@hudsonnh.gov](mailto:gthebarge@hudsonnh.gov)>

**To:**[maryellen.davis@oracle.com](mailto:maryellen.davis@oracle.com) <[maryellen.davis@oracle.com](mailto:maryellen.davis@oracle.com)>

**CC:**Glenn Della-Monica <[glenn@gdellamonica.com](mailto:glenn@gdellamonica.com)>, Marilyn McGrath <[mmcgpei2@gmail.com](mailto:mmcgpei2@gmail.com)>, Malizia, Steve <[smalizia@hudsonnh.gov](mailto:smalizia@hudsonnh.gov)>

Maryellen,

I have reviewed your Oct. 27 email to Glenn Della-Monica on your concerns about the draft amendments to the Zoning Ordinance. I am attaching the drafts that will go for a public hearing at the December 13 Planning Board meeting.

Is there a time that we could get together or speak by phone to talk about your input? The purpose of the public hearing is to determine whether changes are needed, and a second public hearing can be scheduled if changes are made.

George

George Thebarg AICP  
Land Use Director  
Town of Hudson  
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Hudson, NH 03051  
603-816-1268

# ALTERNATIVES PROPOSED BY ZORC MEMBER MARYELLEN DAVIS

December 2017

Article Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

## As Proposed by ZORC with Planning Board Input

Proposed amendment indicated by ~~strikethrough text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-10. Mixed or dual use on a lot.

- A. Multiple uses on a lot are permitted, ~~only as follows:~~ **provided that the lot meets the area and frontage requirements for the principal use for the district in which it is located and each use is in conformity with all other requirements set forth in this chapter pertaining to that use.**
- ~~(1) The lot has sufficient frontage to satisfy the minimum frontage requirement for the principal use requiring the most frontage and not less than 100% of the minimum frontage requirement for each additional principal use, except as provided by special exception under Article VI, § 334-26.~~
  - ~~(2) The lot is of sufficient size to satisfy the minimum lot size requirements of each use independently.~~
  - ~~(3) Each use is in conformity with all other requirements set forth in this chapter pertaining to that use.~~

**Staff Note on Alternatives:** The following two alternatives attempt to provide balance to the total removal of the increased lot size and frontage for properties with multiple uses. The first alternative scales the lot size (not frontage) with increased intensity of development. The second alternative establishes the industrial and commercial setbacks from residential property in the Land Use Regulations as zoning setbacks. In mixed use developments, any reduction in those setbacks, which apply to all improvements, would require a variance from the ZBA as well as a waiver from the Planning Board. This would only apply where a project abuts residential property. Either alternative would be a substantive change to the amendments that were posted for public hearing.

## Alternative 1 Proposed by Maryellen Davis

Proposed amendment indicated by ~~strikethrough text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-10. Mixed or dual use on a lot.

- A. Multiple uses on a lot are permitted, ~~only as follows:~~ **provided that the lot meets the area and frontage requirements for the principal use for the district in which it is located, the lot area is increased by fifty (50%) percent for a second use on the same lot, and by twenty five (25%) percent for each additional use, and each use is in conformity with all other requirements set forth in this chapter pertaining to that use.**
- ~~(1) The lot has sufficient frontage to satisfy the minimum frontage requirement for the principal use requiring the most frontage and not less than 100% of the minimum frontage requirement for each additional principal use, except as provided by special exception under Article VI, § 334-26.~~
  - ~~(2) The lot is of sufficient size to satisfy the minimum lot size requirements of each use independently.~~
  - ~~(3) Each use is in conformity with all other requirements set forth in this chapter pertaining to that use.~~

## Alternative 2 Proposed by Maryellen Davis

Proposed amendment indicated by ~~strikethrough text~~ for wording to be deleted and **bold text** for wording to be added.

§ 334-10. Mixed or dual use on a lot.

- A. Multiple uses on a lot are permitted, ~~only as follows:~~ **provided that the lot meets the area and frontage requirements for the principal use for the district in which it is located and each use is in conformity with all other requirements set forth in this chapter pertaining to that use and the setback requirements from residential properties contained in Hudson Land Use Regulations §276-11.1 B. (12).**
- ~~(1) The lot has sufficient frontage to satisfy the minimum frontage requirement for the principal use requiring the most frontage and not less than 100% of the minimum frontage requirement for each additional principal use, except as provided by special exception under Article VI, § 334-26.~~
  - ~~(2) The lot is of sufficient size to satisfy the minimum lot size requirements of each use independently.~~
  - ~~(3) Each use is in conformity with all other requirements set forth in this chapter pertaining to that use.~~

Article Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

**As Proposed by ZORC with Planning Board Input**

Amend Article III, General Regulations, § 334-15.1, to eliminate the requirement that lots with stores selling gasoline at retail be located at least 800 feet from another lot with a store selling gasoline at retail. (Approved by the Planning Board by a vote of 0-0-0)

**Staff Note on Alternative: The following language just simplifies the amendment explanation and is not a substantive change.**

**Alternative Proposed by Maryellen Davis**

Amend Article III, General Regulations, § 334-15.1, to eliminate the requirement that lots with ~~stores selling~~ gasoline being sold at retail be located at least 800 feet from another lot with ~~a store selling~~ gasoline being sold at retail. (Approved by the Planning Board by a vote of 0-0-0)

Article Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

**As Proposed by ZORC with Planning Board Input**

Amend Article III, General Regulations, §334-16.1 to delegate from the Planning Board to the Zoning Administrator the authority to determine whether a change of land use within land use classifications (e.g., residential, commercial, industrial) requires Planning Board site plan review based on intensity of use and/or anticipated community and neighborhood impacts. Amend Article II, Terminology §334-6 to add a definition of Zoning Administrator. (Approved by the Planning Board by a vote of 0-0-0)

**Staff Note on Alternative: The following language gives an example of a category change in the explanation as provided in the text of the amendment and is not a substantive change.**

**Alternative Proposed by Maryellen Davis**

Amend Article III, General Regulations, §334-16.1 to delegate from the Planning Board to the Zoning Administrator the authority to determine whether a change of land use category (e.g., business office changes to restaurant) within land use

classifications (e.g., residential, commercial, industrial) requires Planning Board site plan review based on intensity of use and/or anticipated community and neighborhood impacts. Amend Article II, Terminology §334-6 to add a definition of Zoning Administrator. (Approved by the Planning Board by a vote of 0-0-0)

Article Are you in favor of the adoption of Amendment No. 5 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

**As Proposed by ZORC with Planning Board Input**

- D. For variances or special exceptions which do not require subsequent Planning Board review, all variances and special exceptions shall expire within ~~one year~~ **two years** of the vote of approval as specified in Subsection A above, unless active and substantial development or building has begun on the site in accordance with the special exception, variance or building permit or the variance or exception granted from the terms of this chapter has been otherwise exercised by the applicant or successor in interest.

**Staff Note on Alternative: The following language removes the awkward wording of the current regulation and is not a substantive change.**

**Alternative Proposed by Maryellen Davis**

- D. ~~For~~ Variances or special exceptions which do not require subsequent Planning Board review, ~~all variances and special exceptions~~ shall expire within ~~one year~~ **two years** of the vote of approval as specified in Subsection A above, unless active and substantial development or building has begun on the site in accordance with the special exception, variance or building permit or the variance or exception granted from the terms of this chapter has been otherwise exercised by the applicant or successor in interest.

Article Are you in favor of the adoption of Amendment No. 6 as proposed by the Planning Board for the Town Zoning Ordinance as follows?

**As Proposed by ZORC with Planning Board Input**

Amend Article V, Permitted Uses, § 334-21 Table of Permitted Principal Uses to eliminate “Major commercial project” (> 100,000 sq. ft.) from the list of Commercial Uses and from Article II, § 334-6 Definitions. This category and definition were added in 2007 in an attempt to limit “big box” stores, but it only limits such stores in the Business District and the impacts are more effectively

addressed by other regulations. (Approved by the Planning Board by a vote of 0-0-0)

**Staff Note on Alternative: Out of concern for the potential impacts on existing residences within and adjacent to the Business District, Maryellen proposes elimination of this amendment in its entirety, which would leave the category of Major commercial project in the Zoning Ordinance. Her concerns would be lessened if her proposed limitations on mixed use developments are considered in Amendment 1. This would be a substantive change to the amendments that were posted for public hearing.**



2017 Zoning Amendment Calendar - March Official Ballot Referendum Towns ("SB2" towns)

NH Office of Strategic Initiatives

\*An official copy of any final proposal must be placed on file in the town clerk's office not later than the fifth Tuesday before town meeting (February 6), but must also be prepared in time for the posting of the warrant (last day is January 30). ***It is strongly recommended that the final public hearing be held BEFORE January 30 and to adjust all preceding posting and hearing dates accordingly.*** Also see other calendars of important dates published by the [New Hampshire Municipal Association](#). Please call us if you have any questions. 271-2155.

**November**

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
			<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>
<b>12</b>	<b>13</b> First day to accept petitioned zoning amendments. <a href="#">[675:4]</a>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>
<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>
<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>		

**2017**

2017 Zoning Amendment Calendar - March Official Ballot Referendum Towns ("SB2" towns)  
NH Office of Strategic Initiatives

**December**

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
					<b>1</b>	<b>2</b>
<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>
<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b> Last day to accept petitioned zoning amendments. <a href="#">[675:4]</a>	<b>14</b>	<b>15</b>	<b>16</b>
<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>
<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>
<b>31</b>						

**2017**

2017 Zoning Amendment Calendar - March Official Ballot Referendum Towns (“SB2” towns)  
 NH Office of Strategic Initiatives

# January

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b> Last day to post and publish notice of first public hearing if a second hearing is anticipated.* <a href="#">[675:3.7]</a>	<b>5</b>	<b>6</b>
<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
<b>14</b>	<b>15</b> Last day to hold first public hearing if a second hearing is anticipated.* <a href="#">[675:3.7]</a>	<b>16</b>	<b>17</b>	<b>18</b> Last day to post and publish notice of final public hearing.* <a href="#">[675:3.7]</a>	<b>19</b>	<b>20</b>
<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>
<b>28</b>	<b>29</b> Last day to hold final public hearing and determine final form of amendments.* <a href="#">[675:3.7]</a>  Last day for selectmen to post warrant and budget. <a href="#">[40:13,II and II-a (d)]</a>	<b>30</b>	<b>31</b>			

**2018**

2017 Zoning Amendment Calendar - March Official Ballot Referendum Towns (“SB2” towns)  
 NH Office of Strategic Initiatives

# February

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
				<b>1</b>	<b>2</b>	<b>3</b> Earliest date to hold First Session of town meeting. [ <a href="#">40:13,III</a> ]
<b>4</b>	<b>5</b>	<b>6</b> Last day to deliver official copy of the final zoning amendments to the Town Clerk. [ <a href="#">675:3</a> ]	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b> Latest date to hold First Session of town meeting. [ <a href="#">40:13,III</a> ]
<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>
<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>
<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>			

2018

2017 Zoning Amendment Calendar - March Official Ballot Referendum Towns (“SB2” towns)  
 NH Office of Strategic Initiatives

**March**

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
				<b>1</b>	<b>2</b>	<b>3</b>
<b>4</b>	<b>5</b>	<b>6</b> Last day to submit zoning ordinance protest petition. <a href="#">[675:5]</a>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>11</b>	<b>12</b>	<b>13</b> Second Session of annual meeting to elect officers, to vote on all questions on official ballot, and all warrant articles from First Session. <a href="#">[39:1]</a>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>
<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>
<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>

**2018**