

G. Commercial Overlay District (added May 2009)

1.0 Purpose and Intent

The purposes of the Commercial Overlay District (COD) are to encourage planned and orderly development of land within the boundaries of the COD. These areas are designated for special land use, planning, environmental, and access considerations that warrant careful control of development under a special permit procedure using appropriate standards. The specific purposes of the COD are the following:

- a. To support land uses and activities that will promote economic development in Hamilton, thereby generating non-residential tax revenue from new business growth and additional local jobs.
- b. To allow for the phased development of new uses and activities that are appropriate and desirable for the COD, based on planning and market opportunities identified in the Hamilton Master Plan, and consistent with the goals and objectives in the Hamilton Open Space Plan.
- c. To provide for mitigation of any negative impacts caused by new development, including but not limited to transportation and environmental impacts.
- d. To incorporate into the design review and permitting process input from Hamilton's land use boards, nearby residential abutters and citizens.
- e. To incorporate into the design review and permitting process the special provisions necessary to ensure that redevelopment of a former landfill site will not degrade important regional water resources.

2.0 Applicability and Location

The Commercial Overlay District shall consist of the area designated as such on the Hamilton Zoning Map dated 2001 and amended by approval of Town Meeting in May 2009, and incorporated by reference herein.

In the Commercial Overlay District, all requirements of the underlying district shall remain in effect except where this COD bylaw provides an alternative to such requirements, in which case these regulations shall supersede. In the event that an applicant wishes to develop in accordance with this COD bylaw hereunder, the rules and regulations of the Commercial Overlay District shall apply, and **if required**, by filing an application for a Special Permit under this Section V.G , the owner shall be deemed to accept and agree to them. In such event, where the provisions of the Commercial 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 Commercial Overlay District shall not apply.

3.0 Permitted Uses

The following uses shall be permitted **by right under Site Plan Review** in the COD:

- **Wind Energy Conversion Systems (Refer to Section VI.I.B of the Zoning By-law)**

The following uses shall be permitted **by issuance of a special permit** in the COD:

- Research and development
- Light manufacturing and assembly
- Office
- Medical
- Life Sciences
- Biotechnology
- Ancillary retail and commercial services that serve the primary uses
- Public Spaces
- Athletic facilities
- Accessory infrastructure facilities.
- *Wind Energy Conversion Systems (This COD bylaw shall supersede Section VI.I of the Zoning By-law) **Remove this point***
- Communication Towers and Telecommunications Antenna Facilities (This COD bylaw shall supersede Section VI.J of the Zoning By-law)

4.Administration

The Planning Board shall be the Special Permit Granting Authority **and Site Plan Review authority** in the COD. An applicant may file an application with the Planning Board in conformance with M.G.L. Chapter 40A, (the Zoning Act) Sections 9 and 11, this Bylaw section, and Planning Board COD Rules and Regulations.

5.Planning Board Rules & Regulations

The Planning Board shall adopt and from time to time may amend Commercial Overlay District Rules and Regulations to implement this Bylaw section. Such regulations shall include but will not be limited to Submission Requirements, Plan Requirements, such as size, form, number and contents; Development Standards, Site Standards, and Standards for Building Placement and Design. Such rules and regulations are required and authorized under M.G.L. Ch. 40A, s. 9, and shall be adopted after proper notice, posting, public hearing and vote by the Planning Board.

6.Pre-Application Conference

The applicant shall request and attend a pre-application review at a regular business meeting of the Planning Board. The Planning Board shall invite the Board of Health, Board of Selectmen, Building Inspector, Conservation Commission and Open Space Committee, Department of Public Works, Fire Chief, Police Chief, Zoning Board of Appeals, Economic Development Committee and Landfill Steering Committee to attend. The primary purpose of the pre-application conference is to provide an information exchange and feedback regarding how the applicant intends to use the site. The secondary purposes of a pre-application review are to minimize the applicant's cost of engineering and other technical experts, to commence discussions with the Planning Board at the earliest possible stage of development, and to set a timetable for submittal of a formal application. Meetings may be held by mutual agreement of the Planning Board and the applicant.

7.Review Procedures for COD Special Permit

- a. The applicant shall furnish a copy of the application to the Town Clerk.

- b. The applicant shall furnish sufficient copies of the special permit application to the Planning Board to distribute for review to the Board of Health, Board of Selectmen, Building Inspector, Conservation Commission and Open Space Committee, Department of Public Works, Fire Chief, Police Chief, Zoning Board of Appeals, Economic Development Committee, and Landfill Steering Committee.
- c. Reports from the above-named boards and officials shall be submitted to the Planning Board within thirty (30) days of receipt by the reviewing party. In the event that the public hearing by the Planning Board is held prior to the expiration of the 30-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 30-day period. Public hearing procedures shall comply with the requirements of M.G.L. Ch. 40A, Sections 9 and 11.
- d. Planning Board members shall conduct a site visit with the applicant prior to or during the public hearing.
- e. A COD Special Permit may be issued only following a public hearing held within 65 days after filing an application with the Planning Board.
- f. Once a COD Special Permit application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, dredging or filling and no construction of buildings or structures shall be done on any part of the site until the application has been reviewed and decided as provided by these regulations.
- g. In the event of any conflicts with this section 7 then M.G.L. Ch. 40A procedures shall apply.

8. General Requirements

- a. **General Compliance.** A proposal must comply with all other applicable Town Bylaws, and the applicable rules, regulations, and requirements of all departments, boards, and commissions.
- b. **Low Impact Development.** The use of low-impact development techniques is required, where applicable. The Applicant shall employ meaningful low impact techniques which will result in less impervious area, direction of roof runoff toward rain gardens and swales, and plantings not limited to but including those indigenous to the area. The use of recycled or recaptured rainwater is encouraged.
- c. **Minimizing Disturbance.** The Applicant is encouraged to maintain as much of the site as possible in its natural state. The Applicant is urged to incorporate horticultural and landscape design that reduces the need for supplemental irrigation and chemical fertilization, e.g. minimizing lawn area. Streets within the site shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks and trees; to minimize cut and fill; Building shall be designed to relate harmoniously to the terrain.
- d. **Location of Wastewater Treatment.** All wastewater shall be treated and discharged on-site. Off-site wastewater treatment may be allowed if a suitable tie in can occur with an available sewer system.
- e. **Paths and Trails.** Shall be connected, preserved, and increased when possible.
- f. **Visual Appearance From Offsite.** The orientation of individual buildings and structures shall be designed to preserve and enhance views and vistas on or off the subject property.

9. Building and Design Standards

a. Setbacks.

- i. All structures shall be so located as to be at least 25 feet from the perimeter of the COD.
- ii. Internal Building Separation: the minimum distance between all freestanding buildings in the COD shall be at least 20 feet, free of any obstruction which would interfere with the passage of a fire-safety vehicle.

b. Height.

- i. Buildings located in the COD shall not exceed fifty (50') feet in height, except that spires, water tanks, communication towers, chimneys, exhaust stacks, flagpoles, mechanical penthouses and other structures normally built above the roof and not devoted to human occupancy may be erected to such heights as are necessary to accomplish the purpose they are normally intended to serve. The height of a building shall be the vertical distance measured from the mean finished grade of the ground adjoining the front of the building, as determined by the Building Inspector, to the top of the structure of the highest occupied floor in the case of a flat roof, to the deck line of a mansard roof, and to the top of the plate of a gable, hip or gambrel roof.
- ii. Buildings located in excess of 200' from the lot lines of the COD may at the Planning Board's discretion be up to sixty (60') feet in height, as measured in 9.b.i above.

c. Parking. Within the COD District off-street parking shall be provided sufficient to serve the needs of the various uses, based upon the nature of the use and the number of persons occupying and using the facilities.

- i. With respect to parking for all uses, with particular attention for the office, research, development and manufacturing, medical, life sciences, and biotechnology uses parking shall be required in amounts that conform with the latest use-specific parking recommendations published by the Institute of Traffic Engineers (ITE).
- ii. Parking areas shall be located so as to serve the uses to which they are related, and may be designed to serve more than one use or facility; shall be located and laid out so as to provide turning radii, sight lines, and separation from through traffic, consistent with public safety; shall be paved or, if approved by the Planning Board, surfaced with other non-dusting material; and shall, unless otherwise approved by the Planning Board, be striped with spaces of at least 8½ feet width and 19 feet length.

d. Lighting. All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be localized and of full cut-off design, with light which shall be retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare.

e. Signs.

- i. The Business District provisions of Section VI.E shall apply for all building specific signage (tenants identification, directory, parking, etc) within the Commercial Overlay District.
- ii. Site Signage for the Commercial Overlay District
 1. Site Signage at the main entrance to the entire project for identification of the Project is permitted, to be located on free standing structure. Such

sign shall not exceed 36 square feet in size and shall be mounted a maximum of 2 feet to the underside of the sign and a maximum of 10 feet to the top of the sign measured from the average grade of the locus of the sign.

2. A single project tenant Directory Sign is permitted, to be located on a free standing structure. Such Directory Sign shall for each of the COD's commercial buildings' main tenants not exceed 36 square feet in size and shall be mounted a maximum of 2 feet to the underside of the sign and a maximum of 10 feet to the top of the sign measured from the average grade of the locus of the sign.
 3. Site directional signage is allowed provided each such sign may be no larger than 3 square foot in size; such signs may be posted not closer than 25 feet on center.
 4. No other additional signs or increases in sign dimensions are allowed except by Special Permit from the Zoning Board of Appeals.
- f. **Water Supply.** The project shall use either Town of Hamilton and/or Town of Manchester (if available and acceptable to the Town of Manchester) water supply and shall comply with any inter-town agreements that govern water access rights.
- g. **Buffer Areas.**
- i. A vegetated buffer area of 25' minimum may be required at the following locations:
 1. perimeter of the property where it abuts a lot in residential use.
 2. certain resource areas on or adjacent to the tract such as rock outcrops, ledge, agricultural or recreational fields, and land held for conservation purposes.
 - ii. A landscape plan will be required and shall address buffers to ensure screening from abutting properties. Additions to existing plantings may be required by the Planning Board.
 - iii. The Planning Board may waive the buffer requirement when it determines that a small buffer (or no buffer) will suffice to accomplish the objective set forth herein.

10. Site Access, Roadway Design and Management

- a. All structures located within the Commercial Overlay District development shall be accessed by the project's proposed private access road. No access to or from the site will be permitted to the abutting residential area to the north along Chebacco Road.
- b. All access roadways and associated infrastructure improvements shall be private and shall not be owned or maintained by the Town of Hamilton.
- c. A traffic study shall be provided by the applicant to ensure public safety on and around Chebacco Road and to address the adequacy of the internal road and parking infrastructure.

11. Stormwater Management & Erosion Control

- a. The peak rate of storm water runoff from the Commercial Overlay District shall comply with Department of Environmental Protection's Stormwater Management Handbook, and the provisions General Bylaw XXIX, Stormwater Management Bylaw.

- b. General soil erosion of the proposed development site shall be minimized by integrating the development into the existing terrain and by reasonably retaining natural grades and soil cover. During grading and construction of all improvements, including all structures and infrastructure improvements, erosion of soil shall be minimized using best management practices.

12. Open Space and Natural Resources

A Commercial Overlay District development which includes any open space components must provide that land area as permanently protected, usable, common open space that is functional for purposes intended by this Bylaw section. The common open space shall have no structures, parking, private yards, patios, or gardens that are restricted for the exclusive or principal use by the tenants or users of the commercial properties.

13. Conditions of Approval

The Planning Board may impose conditions, safeguards, requirements, and other standards as part of its approval.

14. Findings and Decision of the Planning Board for COD Special Permit

The Planning Board may grant a special permit after conducting a public hearing only where such grant would not be detrimental to the public health, safety, welfare, comfort or convenience of the community, would not be adverse to the Town's economy and environment, and is in harmony with the intent and purpose of this bylaw, and where the proposed development includes satisfactory provisions to:

- a. Mitigate impact to abutting land and natural resources by reason of air or water pollution, noise, dust, vibration, or stormwater runoff.
- b. Provide safe and convenient access to the site from existing or proposed roads, and to proposed structures thereon, with particular reference to pedestrian and vehicular safety, traffic flow and control, and access in case of fire or emergency.
- c. Provide for adequate capacity for public services, facilities, and utilities to service the proposed development such as water pressure and septic/sewer capacity.
- d. Provide for visual and noise buffering of the development to minimize impact to abutting properties.
- e. Provide for the perpetual preservation and maintenance of any open space and recreation areas.

The Planning Board shall take one of the following actions within 90 days following the date of the public hearing unless extended by written agreement between the Planning Board and the applicant in accordance with M.G.L. c.40A, Section 9, and Section VIII.C of this Bylaw:

- f. The Planning Board may grant a COD Special Permit with any conditions, safeguards, and limitations, considering each of the following:
 - i. The degree to which the conceptual design and layout of the proposed COD is projected to attain the purpose of generating positive net tax revenue and local employment,
 - ii. The degree to which the proposed COD protects the local neighborhood and regional water resources,
 - iii. The degree to which the COD promotes permanent preservation of open space, agricultural land, forestry land, existing and proposed trails, other natural resources including water bodies and wetlands,
 - iv. The degree to which the COD furthers the goals and policies of the Master Plan; and the purposes of this Bylaw section.,

- g. The Planning Board may deny a special permit upon finding that the application does not comply with the provisions of this Bylaw section.

15.Duration of Special Permit

A Commercial Overlay District Special Permit is granted for a period of two years from the date of its approval and shall lapse if at least one building permit has not been issued by such date, except for good cause shown.