



**Town of Hamilton Planning Board  
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**9.4 ESTATE OVERLAY DISTRICT (EOD).**

**9.4.1 Purpose.** The purpose of the Estate Overlay District (“EOD”) is:

1. To allow for the preservation of the buildings of large estate properties that characterize and distinguish the Town of Hamilton, while allowing for appropriate development which has a positive net fiscal benefit to the Town and is an alternative to the subdivision of an estate property;
2. To allow for the efficient use of such land in harmony with the natural features of the district while preserving open space for conservation, agricultural, or passive recreational use, and providing appropriate public access to open space;
3. To protect natural features that are important to the character of the Town, including public vistas of fields, lakes, and rivers from town roads as well as the existing non-vehicular connections through trails and pathways;
4. To protect cultural features, such as architectural materials and details as well as the sites and settings, such as gardens, stone walls, fences and other landscape features;
5. To protect Hamilton’s rural and agricultural New England character and provide for its continued uses by permitting a mix of commercial and residential development in a manner which is in harmony with Hamilton’s historic development patterns; and
6. To allow for a varied housing stock, including attached and detached dwelling units of various sizes and affordability.

**9.4.2 Overview.** The Estate Overlay District By-law is a special district overlaying the R-1a, R-1b and RA districts. The By-law is an Estate House Adaptive Reuse Permit, which allows for new commercial and/or residential uses in the existing Estate House as well as in existing accessory buildings. Additions to the Estate House (New Floor Space) are allowable under certain conditions as listed in Section 9.4.22 of this By-law. The New Floor Space may allow for residential and/or commercial uses as permitted in Section 9.4.21 in additions to the Estate House, existing accessory buildings, and/or in new construction on the lot as a bonus for

rehabilitating the estate house as is indicated in Section 9.4.19. The By-law shall allow development via a Special Permit issued from the Planning Board.

9.4.3 **Applicability.** A property in the EOD is eligible for a Special Permit if it has a minimum lot size of fifteen (15) acres. In calculating the Lot size:

1. Contiguous Lots may be combined provided that:
  - a. At least one (1) of the lots contains an Estate House of over five thousand (5,000) Residential Gross Square Feet of living area, built before December 31, 1950;
  - b. The Lots as combined have the required acreage; and
  - c. The Lots have been under common ownership prior to July 1, 2010.
3. Lots may be considered combined regardless of whether a private or public road dissects the parcels.
4. Land restricted by conservation easements/restrictions or wetlands will count toward the fifteen (15) acre thresholds.

**9.4.4 Access Requirements for the EOD.** Access to the Lot must be through existing frontage on a public way or through existing frontage on a private way if all abutters to the entire length of the private way agree in writing to the development proposal.

**9.4.5 Open Space Requirement.** An EOD project must contain a minimum of forty (40) percent open space. The following options shall be used to meet this requirement:

1. A minimum of forty (40) percent of the parcel must already be or shall be conveyed to the Town and/or accepted by it for open space use;
2. A minimum of forty (40) percent of the parcel must be made subject to a conservation restriction prepared in accordance with the provision of G.L. c. 184, ss. 31-33, running in favor of either the Town or, upon the approval of the Board of Selectmen with advice from the Planning Board, to a non-profit corporation or the Hamilton Conservation Commission, the principal purpose of which is the conservation of open space;
3. Land that has already been made subject to a conservation restriction as delineated above shall count toward the forty (40) percent threshold;
4. No more than fifty (50) percent of the required open space shall consist of resource areas subject to the Wetlands Protection Act, G.L. c. 131, s. 40, (excepting the resource area "isolated land subject to flooding") or land within the Conservancy District;

5. Land used for common or shared septic systems may not be counted toward the minimum common open space requirement unless authorized by the Planning Board.

6. Land dedicated as open space shall be contiguous to the greatest extent practicable.

**9.4.6 Open Space Access.** Unless the applicant can provide a compelling reason to the Planning Board why public access would be infeasible, a portion of the open space shall be available for public access and use, for example, wildlife corridors, water protection, view-sheds, trails or other access which provides a public benefit. The Planning Board shall take into account the size of the parcel, the customary and agricultural uses, and whether or not it can provide adequate parking and other facilities to allow for public use. If the property size or structure cannot meet public parking requirements, or if public use does not fit with the character of the neighborhood, the Planning Board may permit restriction of public use.

**9.4.7 Review Criteria.** The Planning Board is the SPGA for the EOD and shall apply the provisions of Section 10.5.2 consistent with the purposes set forth in Section 9.4.1.

**9.4.8 Advisory Opinions.** Within ten (10) days of the receipt of a special permit application in the EOD, the Planning Board shall transmit copies of the application to the Historical District Commission, Board of Health, Department of Public Works, Conservation Commission, Zoning Board of Appeals, and the Fire and Police Departments for their review and advisory opinions, which shall be submitted within thirty (30) days. If the proposal includes a commercial use component, the application shall also be forwarded to the Hamilton Development Corporation (HDC) for its review and advisory opinion.

**9.4.9 Phasing.** Phasing in the EOD, as approved by the Planning Board, shall be permitted either pursuant to phasing described in the initial special permit application or in a subsequent special permit application. The special permit approval shall not be deemed to have lapsed as long as the applicant shall have commenced use of the phasing time frames set forth in the special permit application. The Planning Board shall have the authority to require one or more performance bonds or other similar mechanisms if it determines that such mechanisms are necessary to ensure that the key components or phase of a project are satisfactorily completed.

**9.4.10 Pre-Application Conference.** The applicant shall request and attend an EOD pre-application review at a regular business meeting of the Planning Board. The Planning Board shall invite the Board of Health, Building Commissioner, Conservation Commission and Open Space Committee, Department of Public Works, Fire Chief, Police Chief, Historic District Commission, Office on Disability, and Zoning Board of Appeals to attend the pre-application conference. The primary purpose of the EOD special permit pre-application conference is to identify the site's natural or historically important features, riding or walking trails on the site and abutting parcels, public safety, traffic or infrastructure issues, and areas the Town prefers to see preserved as open space, for agricultural or equestrian uses. The secondary purpose of a pre-application review is to minimize the applicant's cost of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage of development. A site walk and meetings will be held by mutual agreement of the Planning Board and the applicant. At the pre-application review, the applicant shall outline the proposed Estate

Overlay District proposal, seek preliminary feedback from the Planning Board and other Boards, and set a timetable for submittal of a formal application. At the expense of the applicant, the Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for an Estate Overlay District special permit.

#### **9.4.11 EOD Special Permit Design Process.**

1. *Identify Conservation Areas.* The first step in the design process requires identification of conservation areas on the site, including wetlands, areas located in the Hamilton Conservancy District, riverfront areas, and floodplains regulated by state, federal, or local law, unprotected natural landscape features such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and wildlife corridors or connections thereto, cultural features such as historic and archeological sites and scenic views, and recreational features such as established trails used for horseback riding, walking and cross-country skiing. To the maximum extent feasible, conservation areas shall include areas identified by the Planning Board during the pre-application conference and site walk after receiving comments from other Boards.
2. *Identify and Delineate the Proposed Development Area.* The second step in the design process is to define and delineate the area that will contain buildings, roadways, other site improvements and amenities for the development. To the maximum extent feasible, the proposed development area shall consist of land outside the identified conservation areas.
3. *Locate Dwelling and Commercial Units.* The third step in the design process is to identify and delineate the approximate location of Dwelling Units or commercial units in the existing Estate House and in the proposed development area. The location, height, density, and architectural treatment of all Buildings proposed for construction, renovation or re-use should be included.
4. *Locate Open Space.* The fourth step in the design process is to identify and delineate the open space to be dedicated along with any potential uses.
5. *Roads and Trails.* The fifth step in the design process is to identify and delineate the approximate location of roads, parking area and trails. Roads shall be aligned to access the Dwelling Units and commercial units. The layout of new trails should anticipate internal and external connections to existing and/or potential future roads, trails and sidewalks.
6. *Utilities.* The type and probable location of the proposed utilities should be included.

**9.4.12 Certification.** The special permit plan should be accompanied by a certification or letter from the Hamilton Historic District Commission of all Historically, Culturally and/or Architecturally Significant Buildings, landscape features, and supporting Structures located on the site if the applicant intends on using this determination as a way to obtain new floor area.

**9.4.13 Special Permit Application.** All special permit applications for an EOD shall be made and filed with the special permit application form and shall include building plans prepared by a registered architect. For an application to be considered complete, it shall provide all information required by the Planning Board's Rules and Regulations Governing Special Permits. The special permit application shall also be accompanied by certification from the Hamilton Historic District Commission of all Historically, Culturally and/or Architecturally Significant Buildings (if applying for the bonus square footage for renovation), a plan of all existing and proposed buildings, landscape features, and supporting structures located on the site and by nine (9) copies of a site plan development report. The site plan development report should include, at minimum, an inventory and analysis of:

1. Natural resource features, wildlife and their habitat;
2. All buildings and structures;
3. Pedestrian and vehicular access to the site;
4. Public safety issues;
5. Provision of landscaping/buffering;
6. Protection of wildlife habitats;
7. Provision of and design of proposed utilities;
8. Open space and recreation, including trail development and/or maintenance;
9. Water supply and drainage issues;
10. Layout and density of site development;
11. Preservation and rehabilitation of the exterior features, character and structural integrity of the estate house, and the open space, vistas, stonework, gardens, and other historic features and supporting structures;
12. Building design and materials, including exterior elevations of existing and proposed buildings and additions;
13. Proposed uses for commercial space;
14. Trails or pathways provided or maintained to connect pedestrian, equestrian, non-motorized-bicycle riders or skiers to sites within the property and to other public trail systems if possible; and
15. To the extent possible, the information provided in the report shall be shown in plans and map form, accompanied by written narrative.

**9.4.14 Criteria.** In addition to the criteria set forth in Section 10.5.2, the Planning Board shall consider the feasibility of the project given the size, location, and scope of the property, impact to abutters, safety concerns, environmental and visual impacts on the property, and whether the proposed use is compatible with the character of the Town of Hamilton and the neighborhood of the property.

**9.4.15 Modifications.** Any new use or change of use will require an amendment of the EOD special permit by the Planning Board. The Planning Board shall determine at a public meeting whether the new use constitutes the need for such an amendment.

***EOD Estate House Adaptive Reuse.***

**9.4.16** Estate House Adaptive Reuse allows for the estate owner to apply for a special permit from the Planning Board to use the Estate House in accordance with one of the following adaptive reuse criteria. Special permits allow for each application to be considered individually based on their specific location and impact of the project to the existing neighborhood. Throughout this Section, residential dwelling units are limited to a maximum of four (4) bedrooms each.

**9.4.17 Dimensional Requirements for Adaptive Reuse.** A minimum vegetated buffer strip of one hundred (100) feet shall be a minimum provided, provided that the Planning Board may increase the vegetated buffer strip based on factors that shall include, but not be limited to: the size and location of the parcel, the character of the neighborhood and the intended use.

***EOD New Floor Area Construction***

**9.4.18** New Floor Area construction allows for the estate owner to improve the existing Estate House with expanded residential and/or commercial uses while increasing floor space by construction of an addition to the original Estate House, additions to accessory buildings, and/or constructing associated buildings for commercial and/or residential uses as indicated below.

**9.4.19** Methods of Achieving New Floor Area. There are two methods to obtain New Floor Area to construct commercial and/or residential buildings on the property in addition to re-use of the original Estate House. The methods are intended to promote development which encourages preservation of both Hamilton's historic buildings and its open space.

1. *Historic Rehabilitation of the Original Estate House.* An application that proposes to rehabilitate or renovate buildings and supporting structures certified by the Historic District Commission as being Historically, Culturally, or Architecturally Significant may increase New Floor Space by two times the amount of square footage contained in all existing Buildings that are rehabilitated or renovated as part of the EOD development. The Historic District Commission shall base its certification on important cultural, historical, or architectural characteristics in terms of period, style, method of construction, or association with a noted architect, landscape architect or builder, either by itself or in the context of a group of buildings, structures, or

landscape features. The Planning Board shall refer to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings for guidance when reviewing the buildings which have been, or are proposed to be, rehabilitated or renovated.

2. *Non-historic Rehabilitation of Original Estate House.* If the Planning Board determines that the reconstruction or replacement of existing buildings or supporting structures that have not been certified by the Historic District Commission as being Historically, Culturally or Architecturally Significant are more consistent with the building's rehabilitation or renovation, then the applicant may increase New Floor Area by the amount of square footage contained in all existing buildings that are rehabilitated or reconstructed.

**9.4.20 Dimensional Requirements.** The following dimensional requirements apply for New Floor Space:

1. Newly constructed or renovated buildings in an EOD shall be thirty-five (35) feet or lower in height unless the original Estate House is greater than thirty-five (35) feet high in which case, newly constructed or renovated additions or any other new buildings will be limited to the height of the original Estate House, but in no case greater than four (4) stories;
2. In no event will new construction within the one hundred (100) foot buffer be permitted; and
3. A vegetated buffer strip with a minimum depth of three hundred (300) feet shall be provided between the buildings of an EOD and any public or private way provided that the Planning Board may increase the vegetated buffer strip based on factors that shall include, but not be limited to the size and location of the parcel, the character of the neighborhood and the intended use. An entry drive, along with a gate house and appropriate signage, may be permitted within the buffer strip. Buildings viewed from the road must match the architectural style of the main house or blend in with the architectural theme of the main house.

**9.4.21 Permitted Uses.** The following use or a combination of the following uses may be permitted in the Estate House, accessory buildings, or New Floor Space:

1. Any uses listed in the Table of Uses as an allowable use in the zoning district in which the property currently exists, whether by special permit or otherwise;
2. Residential uses shall include single family detached, semi-attached, two family, townhouse, three family, four family and multi-family dwelling units provided that residential units shall be limited to no more than four (4) bedrooms each;

3. For Profit Function Halls, Meeting Rooms, Inns, Bed and Breakfasts, Spas, Restaurants (excluding Fast Food or Drive In or Drive Through Establishments) and Commercial uses deemed appropriate by the Planning Board;
4. For Profit Educational Facilities;
5. Business or Professional Offices;
6. Child Care Centers, Long Term Care Facilities, and Adult Social Day Care age restricted to Elderly Persons.
7. Museums; and/or
8. Non-motorized commercial recreation.
9. Non-profit organizations.

**9.4.22 Required Information.** The special permit application shall include a plan of the existing Estate House, renovation plan for the Estate House, and, if applicable, any new construction or renovation proposed in accessory buildings, and nine (9) copies of a Site Re-use Report. The Site Re-use Report should include an outline of how the following issues and impacts will be addressed by the re-use and, if applicable, new construction or renovation of accessory buildings:

1. Pedestrian and vehicular access to the site including anticipated changes to vehicular traffic patterns;
2. Public safety issues;
3. Provision of landscaping/buffering and plans;
4. Open space and recreation, including trail development and/or maintenance;
5. Water supply and drainage issues and plans;
6. Proposed uses for commercial space, if any;
7. Conceptual floor plans for units within and outside the estate house;
8. Trails or pathways will be provided or maintained to connect pedestrian, equestrian, non-motorized-bicycle riders or skiers to sites within the property and to other public trail systems if possible; and
9. To the extent possible, the information provided in the report shall be shown in building and site plans, accompanied by a written narrative describing the proposed adaptive

reuse of the estate house and any other buildings on the property as well as proposed new construction.