



## The Mill Redevelopment Overlay District (1) “Master Plan Approach”

### Model Bylaw

*The Smart Growth / Smart Energy Toolkit presents two model bylaws to help address mill redevelopment issues. The structure of this bylaw accounts for a Master Plan approach to re-development of a mill complex and may be better suited to areas where discussions with developers or market pressures indicate that this is a viable option. The bylaw therefore requires an applicant to specify a general ‘use program’ that will provide a general framework for the development over time. If a community is faced with a situation in which they want more specific controls over individual uses, or if market indicators suggest that a more piecemeal approach is necessary to re-occupying the mill complex, the “Use Specific” model bylaw offered in the Toolkit may be a better choice.*

*The re-use of mill buildings is an important redevelopment strategy for many communities across the Commonwealth. Since mill revitalization districts rely on existing infrastructure, fit into historic development patterns and neighborhoods, and do not stimulate sprawl on undeveloped land, reuse of these places clearly fits the goals of smart growth.*

*It is important for practitioners to approach mill revitalization from a neighborhood perspective for two primary reasons. First, many historic mill developments include unique mill housing neighborhoods and access to rivers as part of their larger context. Second, the redevelopment of these large buildings can have significant impacts on neighboring roads and residential neighborhoods. This bylaw attempts to address some of these concerns by framing the approach as an overlay district and providing design specifications that ensure thoughtful connections and transitions between properties.*

*One of the greatest challenges to mill revitalization is accommodating redevelopment that will likely include new buildings alongside older historic structures that have non-conforming heights, layouts, parking areas and other site elements. Perhaps the most important aspect of codifying these efforts is building high levels of flexibility and permitting discretion into the bylaw. Bylaws will also need to account for the following opportunities:*

- *Adaptive re-use of existing structures;*
- *Demolition of existing structures;*
- *New development of individual structures;*
- *Development or re-development of multiple structures in a coordinated fashion; and*
- *The re-occupation of buildings that have been successfully permitted.*

*In an effort to account for each of these possibilities, this bylaw uses an overlay district in concert with Special Permit processes to allow for a tremendous amount of discretion on the part of the permitting authority. Within this framework, it will be important for local practitioners to balance the use profile within the district to ensure that an over abundance of residential or commercial does not preclude opportunities for a more vibrant district that is active throughout the day and into evening hours. The goal should be to activate a mill district to the greatest extent possible and create a true economic **and** residential center.*

*Because mill complexes represent such a wide variety of opportunities (e.g. housing, environmental improvement, economic development, etc.) communities should consider this model bylaw to be an essential component of a larger suite of tools. The use of innovative financing techniques, such as District Improvement Financing and Tax Increment Financing, can help these areas become more marketable to the development community. It should also be noted that many of these provisions could easily be adjusted to fit within the framework of a 40R Smart Growth Overlay district.*

*Several bylaws and ordinances were used in the preparation of this model Mill Redevelopment Overlay District Bylaw including Worcester, MA; Providence, RI; Millbury, MA; Lawrence, MA; Nashua, NH; Manchester, NH; Lowell, MA; Easthampton, MA; and Holyoke, MA. In addition to “Mill Redevelopment Overlay Districts” bylaws may also be named as “Adaptive Re-use”, “Mixed Use Mill District” or districts identified by intended purpose, such as “Arts Districts”.*

## **1.0 Purpose**

[INSERT NAME OF CITY/TOWN] finds that the revitalization of our existing mills will benefit the general health and welfare of our residents and the region by fulfilling existing housing, transportation and employment needs. Therefore, the Town implements this bylaw and designates certain zoning districts as Mill Redevelopment Overlay Districts to encourage adaptive reuse and economic and residential growth that fits the character of the Town.

The purposes of the Mill Redevelopment Overlay District are to:

- A. Provide for the coordinated and mixed development of residential, business, industrial, manufacturing and/or institutional uses;
- B. Encourage adaptive reuse of abandoned, vacant or underutilized business or manufacturing buildings or structures;
- C. Allow for a mix of new land uses that are appropriate to both the needs of the community and the scale of surrounding neighborhoods as identified in the Town’s Comprehensive Plan and Planned Production Plan;
- D. Create major new mixed used areas in planned locations at appropriate densities, heights and mixtures of use;
- E. Encourage flexibility in site and architectural design, restoration and building bulk;
- F. Encourage building reuse and infill to create higher densities; and
- G. Maintain a consistently high level of design quality.

*Commentary: The Purposes listed above are used as part of the decision making criteria for the Planning Board, so communities must be careful to craft these according to their vision for the mill redevelopment district. Where the district may be used to leverage affordable housing development, these goals should be clearly incorporated into this section.*

## **2.0 Establishment**

The Mill Redevelopment Overlay District is hereby established and consists of those areas shown on [INSERT TITLE OF MAP] on file with the Town/City Clerk and dated [INSERT DATE MAP IS ADOPTED BY THE CITY/TOWN].

## **Section 3.0 Definitions**

**Commercial Parking Facilities.** Parking facilities created for the purpose of generating income from paid parking, but not including commuter parking lots owned by the transit operator.

**Mixed-Use.** Development contained on a single parcel or adjoining parcels that includes different, complimentary uses (both residential and non-residential) and which provide for a variety of activities throughout the day.

**Overlay Zoning District.** A zoning district that encompasses one or more underlying zoning districts, and imposes additional or alternative requirements or provisions than required by the underlying zoning.

**Pedestrian-Friendly Design.** The design of communities, neighborhoods, streetscapes, buildings and other uses that promotes pedestrian comfort, safety, access and visual interest.

**Primary Sign.** A sign used for a non-residential or mixed use building that is the primary notification of the tenant(s) therein and is generally located by the main entrance(s) to said building.

**Shared Parking.** Parking that is utilized by two or more different uses that generate different peak period parking demand.

*Commentary: These definitions may be included in this overlay bylaw or may be folded into the larger “Definitions” section of the overall Zoning Bylaw.*

## **4.0 Authority**

The Planning Board shall act as the Special Permit Granting Authority for any development proposals requiring a Special Permit subject to Section 5. Where standards or other requirements listed as part of this overlay district may conflict with those in the underlying district, the overlay provisions shall apply.

*Commentary: This bylaw uses the Special Permit process not only because of the unique economic and preservation opportunities associated with mill complexes, but also to provide significant levels of discretion to the permitting authority to account for site specific conditions and unforeseen circumstances.*

## 5.0 Mill Redevelopment Master Plan-Special Permit

### A. Eligibility

An applicant may apply for a Special Permit to redevelop all or portions of the Mill Redevelopment Overlay District in a coordinated fashion subject to the following criteria:

- 1) The area included in the special permit application must wholly occupy existing or proposed structures. Partial redevelopment of existing structures or partial programming of proposed structures shall not be eligible for a Special Permit under this Section of the Bylaw;
- 2) The proposed development shall occupy a Gross Floor Area of more than [ten thousand (10,000) square feet]; and
- 3) The proposed development shall lie completely within the Mill Redevelopment Overlay district.

*Commentary: These eligibility requirements may be adjusted based on the dimensions and overall size of existing structures. Although the ideal scenario for this type of development is a coordinated approach to several buildings, A.2 ensures that a single large structure could also have the opportunity for the flexible provisions in this bylaw.*

### B. General Mixed Use Profile

An applicant for a Special Permit for a Mill Redevelopment Master Plan shall restrict the development to a specific general use profile that complies with the parameters listed below. Area of a particular use shall be determined by dividing its Gross Floor Area by the total Gross Floor Area in the development. The Special Permit Granting Authority shall include continued compliance with the proposed use profile as a condition of any Special Permit granted under this Section of the Bylaw.

- 1) The development area shall not contain residential use in more than 10% of the total ground floor area in multi-story buildings;
- 2) The development area shall not contain more than [sixty percent (60%)] residential use.
- 3) The proposed development area shall not contain more than [forty percent (40%)] office use;
- 4) The proposed development area shall not contain more than [forty percent (40%)] retail use; and
- 5) The proposed development area shall not contain more than [thirty percent (30%)] service industry use.

The Planning Board may impose stricter limits or conditions on particular types of uses as it deems necessary to ensure a reasonable degree of harmony between the uses authorized by the special permit and to advance the purposes of this Bylaw.

*Commentary: The general use categories listed above assume that the Use Table of the Zoning Bylaw is divided into more general categories. Practitioners looking to use this approach must take a very close look at how these categories will be interpreted to ensure that the permitting authority and potential applicants will understand these categories in the same way.*

*The percentages are provided as a ceiling for each general use category and can therefore add up to more than 100%. The threshold values provided above illustrate an approach geared toward a very balanced mixed use profile. The values provided push an applicant strongly in the direction of integrating residential with non-residential use.*

### C. Infill

After a Special Permit has been already been issued for a Mill Redevelopment Master Plan, an applicant may propose a new structure within the previously permitted development envelope and receive by-right permission to develop and occupy said structure under the conditions listed below. Proposed infill development that does not meet any single condition listed below shall require a Special Permit. Proposed infill development that does not comply with more than one of the conditions below shall not be allowed.

- 1) The existing wastewater, water supply and stormwater utilities shall have been designed in the approved Redevelopment Master Plan to provide for the needs of the proposed infill structure and use;
- 2) The applicant shall demonstrate compliance with the Dimensional Requirements listed in Subsection 6 of this Bylaw;
- 3) The applicant shall demonstrate compliance with the Parking Requirements under Subsection 8 of this Bylaw;
- 4) The applicant shall demonstrate compliance with the Design Standards in Subsection 9 of this Bylaw;
- 5) The applicant shall demonstrate that the proposed structure and use are compliant with any special conditions contained within the Special Permit issued for the Redevelopment Master Plan; and
- 6) The relative percentage of any general use specified within the original development program shall not exceed the maximum allowed values listed in Subsection 5.B of this Bylaw. Where this condition may be revisited through a Special Permit application, the relative percentage of a particular use shall not exceed any threshold in Subsection 5.B of this Bylaw by more than [ten percent (10%)]. Any permitted increase in the relative percentage of an individual use shall serve as the new threshold for that use within the development area.

*Commentary: These provisions allow for future infill development by right within an area already redeveloped under this Special Permit. Basic assurances are provided to ensure that the parking and design requirements are met while allowing for some infill by-right. These provisions provide a significant amount of incentive to continue pushing the development potential of a mill site even after the first stages of rehabilitation have already taken place. Local authorities concerned with ancillary impacts to surrounding*

*neighborhoods from increased traffic or viewshed impacts may want to consider not using this clause or perhaps installing it at a later date after initial redevelopment efforts have taken place.*

#### D. Re-occupation

Spaces previous permitted as part of a Special Permit for a Mill Redevelopment Master Plan may be re-occupied by-right under the conditions listed below. Proposed re-occupation that does not meet any single condition listed below shall require a Special Permit. Proposed re-occupation that does not comply with more than one of the conditions below shall not be allowed.

- 1) The existing wastewater, water supply and stormwater utilities shall have been designed in the approved Redevelopment Master Plan to provide for the proposed use;
- 2) The applicant shall demonstrate compliance with the parking requirements under Subsection 8 of this Bylaw;
- 3) The applicant shall demonstrate compliance with the design requirements in Subsection 9 of this Bylaw;
- 4) The applicant shall demonstrate that the proposed use is compliant with any special conditions contained within the Special Permit issued for the Redevelopment Master Plan; and
- 5) The relative percentage of any use specified within the original development program shall not exceed the maximum allowed values listed in Subsection 5.B of this Bylaw. Where this condition may be revisited through a Special Permit application, the relative percentage of a particular use shall not exceed any threshold in Subsection 5.B of this Bylaw by more than [ten percent (10%)]. Any permitted increase in the relative percentage of an individual use shall serve as the new threshold for that use within the development area.

*Commentary: This provision is specifically designed to allow for easy re-occupation of space that has already been successfully redeveloped using this bylaw. The strength of this provision is allowing what was once a Special Permit use to re-occupy a space by right. This allows for easier movement of tenants and keeps the redeveloped space more economically competitive. It also keeps new tenants from developing the plan requirements in later sections of the Bylaw, which are better suited to large-scale redevelopment. The potential disadvantage of this provision is allowing a new tenant into a redeveloped space that not well-suited to operating with other established adjacent uses. For example, a new Sports Bar may end up adjacent to apartments in a way that could create a nuisance for residents. Practitioners are cautioned to examine the lists of allowed uses and Special Permit uses to ensure that no major conflicts could occur in the future as a result of this provision.*

## 6.0 Dimensional Allowances for Mill Redevelopment Master Plan

- A. Setbacks for Non-residential and Mixed Use: Maximum setbacks shall be the lesser of the minimum setbacks required in the underlying district or the average setback between two buildings that pre-date this zoning bylaw and are either currently occupied or shall be re-occupied as part of a coordinated development plan. The Planning Board may reduce front, side and rear yard setbacks to as low as zero (0) feet as part of a Special Permit application as long as the following conditions are met:
- 1) Primary entrances to proposed and existing buildings are situated on pedestrian amenities (e.g., sidewalks, plazas or open space) with a minimum width of 10 feet;
  - 2) The setback is consistent with the fabric of the existing street and does not preclude pedestrian access;
  - 3) Adequate parking is provided pursuant to Section 8;
  - 4) Adequate access for loading and emergency vehicles is maintained on one side of the building;
  - 5) Adequate natural lighting and air circulation for businesses and residents is maintained;
  - 6) Adequate management strategies for stormwater and waste management are provided;

*Commentary: These setback provisions leverage better design through the incentive to reduce setbacks and increase development potential.*

*Although many practitioners are familiar and comfortable with zero front yard or side yard setbacks, applying this to the rear yard may seem unnecessary. However, the purpose of this flexibility is to, again, allow for the often bizarre lot configurations associated with redeveloped mill complexes. The zero rear yard setback can be used in conjunction with off-site parking allowances to encourage innovative site design and ownership arrangements.*

- B. Setbacks for Residential Uses (Exclusive): The setbacks for proposed development that is exclusively residential shall comply with the setback requirements in the underlying zoning districts.

*Commentary: Although this model bylaw defaults to the underlying zoning for residential development, local practitioners may want to closely examine the existing housing in the area to ensure that older mill house neighborhoods are left “non-conforming” within the overlay as a result of this default approach. Also, practitioners may want to consider encouraging more higher density housing adjacent to the mill such as three-family homes or townhouses. This approach can create the effect of a “planning transect” within the overlay district. This term denotes a fundamental new urbanist concept where, in the case of a mill district, a high density mixed use core would gradually taper to lower densities in outlying single family neighborhoods.*

- C. Height Limitations for Non-residential and Mixed Use: Building height for mixed use or non-residential use shall not exceed [fifty (50) feet] and no building shall have more than [four (4)] stories.

*Commentary: The height and number of stories for existing mill structures must obviously be considered in this provision. The goal is to make these structures as conforming as possible to ease permitting. Practitioners may wish to separate height limitations for new development and redevelopment if existing structures that are very tall set an unreasonable standard.*

- D. Height Limitations for Residential Uses (Exclusive): Building height limits for proposed development that is exclusively residential shall comply with the restrictions in the underlying zoning districts.

*Commentary: See Commentary under “B” above.*

- E. Frontage: As part of any Special Permit application, the Planning Board may authorize frontage as low as [forty (40)] feet.

*Commentary: The flexibility for frontage is designed to accommodate the often irregular configuration of existing buildings in mill complexes. In order to transfer ownership of poorly accessible, but high-quality buildings, it may be necessary to allow for irregularly shaped lots such as the so-called “flag” or “pork chop” lots. Communities should also examine requirements for “lot width” to ensure that these irregular lot configurations can take place.*

## **7.0 Intensity of Use**

Applicants may propose more than one principal building per lot as part of a Special Permit application. Configuration of these buildings is subject to the Dimensional Requirements listed in Section 6 and the Design Standards listed in Section 9 of this Bylaw.

## **8.0 Parking Requirements for Mill Redevelopment Overlay District**

The base parking standards for the underlying Zoning Districts shall apply to individual uses in the Mill Redevelopment Overlay District. As part of a Special Permit Application within this overlay district, the applicant may request reductions to minimum requirements or alternative methods for meeting the required parking. Available innovative parking strategies include:

- A. Shared On-Site Parking
  - 1) Non-competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to [75%] of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap.

- 2) Competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to [30%].

#### B. Off-Site Parking

Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements in accordance with the following conditions:

- 1) Off-site parking shall be within [five hundred (500)] feet of the property for which it is being requested.
- 2) Off-site parking spaces shall be subject to a legally binding agreement that will be presented to the Planning Board as a condition of the Special Permit. Where an agreement shall expire within a specified timeline, the applicant or current property owner shall continue to provide evidence to the Zoning Enforcement Agent that the agreement has been extended.
- 3) The Planning Board, at its discretion, may allow spaces within a public lot to be used as a supplement to other acceptable parking arrangements. Public parking shall not account for more than [75%] of the required parking spaces after all other parking reduction strategies have been applied.

### 9.0 Design Standards

The Design Standards in this section shall be applied to development within the Mill Redevelopment Overlay District where applicable. The Planning Board may waive any of these standards if the applicant can provide compelling evidence that the waiving of Design Standards shall work to preserve the historic quality of existing buildings and sites or shall otherwise further the goals of this Bylaw.

#### A. Buildings

- 1) Where existing structures of architectural value are to remain in use, the architectural integrity of these existing structures shall not be significantly altered through the use of different signage, building materials or other architectural features.
- 2) All buildings shall have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal façade and/or entry;
- 3) Building finish materials shall be appropriate to traditional New England architecture and may include, but shall not be limited to brick or high-quality brick face, wood, stone or high-quality stone-

face. The use of vinyl, unfinished metal or fiberglass as a primary finished surface shall be prohibited;

- 4) Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls;
- 5) New retail buildings shall have one of the following features along the front surface at intervals sufficient to provide a continuity to pedestrians: awning, marquee, arcade and/or colonnade; and
- 6) Flat roofs are prohibited on single story buildings and may be allowed on multi-story buildings as long as the roofline projects outward from the building surface as a decorative cornice or parapet.

#### B. Signs

- 1) Primary signs shall be flat against the façade, or mounted projecting from the façade;
- 2) Signs that project from buildings shall have at least ten (10) feet of clearance from the ground level;
- 3) Freestanding directory signs may be permitted as part of coordinated development proposals in which several non-residential operations are accessed through a common vehicular entrance and shall not exceed 10 feet in height;
- 4) Signs shall be externally lit from the front. Back lighting of signs shall not be used;
- 5) Neon, flashing signs, moving signs and roof signs shall not be used;
- 6) Temporary signs with a specific date of expiration, such as sandwich boards, shall be allowed, after approval by the Zoning Enforcement Officer;
- 7) Signs shall be made of attractive materials consistent with the character of the district. Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint/engraved on façade surface;
- 8) Pre-existing signs that do not conform to the provisions of the Zoning Bylaw may be allowed through the Special Permit application. The Special Permit Granting Authority shall require, as a condition of the permit, that the applicant sign an agreement to maintain the sign on a schedule agreeable to the Board.
- 9) Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

#### C. Site Design

- 1) Street level frontage shall be devoted to entrances, shop windows or other displays;

- 2) Clear pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district;
- 3) Where residential neighborhoods abut commercial, office or mixed use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features;
- 4) Low Impact Development stormwater Best Management Practices shall be used to the greatest practicable extent throughout the site for the purposes of reducing the amount of runoff generated on the site and the level of pollutants within stormwater runoff that is recharged on site or discharged from the site. Stormwater treatment practices shall comply with the latest version of the *Massachusetts Stormwater Manual*; and
- 5) Where a site abuts the [INSERT NAME OF RIVER], the applicant shall ensure that existing public access to the river is preserved and maintained. Where public access to the river does not exist, the applicant is strongly encouraged to provide access.

## 10.0 Pre-Application Meeting

In order to facilitate review of the Special Permit at the pre-application stage, applicants are strongly encouraged to submit the information below using readily available GIS information or other mapping resources such as USGS Quadrangles and aerial photography. This information need not be developed by a qualified design professional.

- A. Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or developed features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
- B. Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy site resources including existing buildings, parking areas, street names and natural features.

## 11.0 Application Requirements

Applicants for a Special Permit within the Mill Redevelopment Overlay District shall provide, at a minimum, the information Specified for an Existing Conditions Plan and a Concept Plan below.

- A. Existing Conditions Plan

- 1) The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan;
- 2) The names, approximate location, and widths of adjacent streets;
- 3) The underlying Zoning District(s);
- 4) Existing topography at 2-foot contour intervals.
- 5) All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the Existing Conditions Plan.
- 6) If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ground water levels.
- 7) A description of any Site Assessment activities that have taken place on contaminated sites and a summary of those findings and activities.

**B. Concept Plan and Related Information**

- 1) The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan;
- 2) Identification of buildings to be restored, rehabilitated, or constructed;
- 3) Identification of buildings to be removed;
- 4) Proposed uses including the density or intensity of the proposed use;
- 5) Proposed internal and external traffic and circulation patterns;
- 6) Proposed parking needs, including provisions for shared parking between uses, if applicable;
- 7) Proposed location and, where applicable, sizing of utilities including water supply, sewer, electrical and communications service, stormwater, and solid waste containment and disposal;
- 8) Proposed landscaping, lighting and signage features;
- 9) A narrative description of items 2 through 8 in the Concept Plan;
- 10) Architectural elevations for proposed new buildings; and
- 11) Where more than 20,000 square feet of new development or redevelopment is proposed, a traffic study showing the impact of the proposed development on the surrounding area shall be provided. The traffic study shall include existing and expected volumes at build-out, the expected directional distribution of vehicles to and from the site, and existing and expected levels of service at all intersections located within 3,000 feet of the site.

*Commentary: Traffic studies can be helpful to communities entertaining large scale redevelopment. However, a more pro-active approach to adopting this bylaw would be for the community to perform a planning study that identifies potential traffic problems that might arise from the new zoning provisions at build-out. Communities with this information could begin targeting roadway and circulation improvements before*

*redevelopment through a variety of state-level grant opportunities including, but not limited to, the Community Development Action Grant, District Improvement Financing and Public Works Economic Development programs.*

- C. Other Information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a Special Permit within the Mill Redevelopment Overlay District with the public hearing required for approval of a definitive subdivision plan.

## **12.0 Procedure**

- A. General. Whenever an application for a Special Permit is filed with the Planning Board pursuant to the requirements of this overlay, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Historical Commission, Building Inspector, Highway Department, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.
- B. Site Visit. The Planning Board [shall/may] conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

## **13.0 Decision Criteria for the Planning Board**

The Planning Board may approve, approve with conditions or deny an application for a Special Permit within the Mill Redevelopment Overlay District. The criteria for this decision are as follows:

- A. The degree to which the proposed development furthers the purposes of this Bylaw as listed in Section 1;
- B. Compliance with the Parking Requirements listed in Section 8;
- C. Compliance with the Design Standards in Section 9;

- D. The ability of the neighborhood to absorb the level of traffic that will result from the proposed development; and
- E. The ability of the Town to provide water and sewer service as proposed.

*Commentary: The approval criteria listed above represent the most basic criteria that should be enforced within the bylaw. Local boards may want to consider using more sophisticated criteria relative to LID techniques energy efficiency to encourage these practices.*

#### **14.0 Relationship between Concept Plan and Definitive Subdivision Plan.**

Any Special Permit that is granted pursuant to the provision in this overlay and shows a subdivision must be followed by the submittal of a Definitive Subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:

- 1) An increase in the number of building lots;
- 2) An increase in the number of housing units by more than [five percent (5%)];
- 3) A significant decrease in the proposed use of pedestrian amenities including, but not limited to, pathways, awnings, sidewalks, and open space;
- 4) A proposed change in use that will result in a significant decrease in the LOS at any of the intersections identified in the Concept Plan traffic analysis;
- 5) A significant change in the general development pattern which adversely affects the overall function of the site and/or neighborhood;
- 6) The removal of existing access to the [INSERT NAME OF RIVER];
- 7) Significant changes to the stormwater management facilities such as the removal of landscaping designed to treat or convey stormwater, the use of a different technology to treat and discharge stormwater or the resizing of any facilities by more than 20% of the originally proposed scale;
- 8) Significant changes in the wastewater management systems or an increase in wastewater flow that will call into question the capacity of the municipal sewer system to accommodate the flow; and/or
- 9) Removal of any proposed public gathering places.

#### **14.0 Severability.**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.