



**PLANNING BOARD**

**Report to Town Meeting**

**Article 31. Mixed-Use Buildings – Standards & Conditions  
(Planning Board)**

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To see if the Town will amend the Standards and Conditions for Section 3.325 of the Zoning Bylaw, by deleting the ~~lined out~~ language and adding the language in *bold italics*, as follows:

~ SEE WARRANT LANGUAGE ~

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Purpose

The Planning Board is bringing several amendments to the 2013 Annual Town Meeting which propose to adjust the regulations for mixed use buildings and dimensions in the town's existing mixed-use center districts. These amendments are intended to encourage a wider mix of uses, including residential uses, and to make Amherst's mixed-use centers more viable overall.

This is a broader and more incremental approach to improving the viability of Amherst's centers than the Planning Board's previous proposals to rezone specific village centers, but it is in implementation of the same public purposes expressed in the 2010 Amherst Master Plan. These proposed amendments do not involve creating any new zoning districts or changing the boundaries of existing zoning districts, but are focused instead on adjusting the regulations for mixed-use buildings and dimensions in existing districts. Part of the intent of these changes is to make modest adjustments to the character of some of these zoning districts so that they can more readily encourage the development of vibrant village centers.

The first of these, Article 31, proposes to change the way mixed-use buildings are regulated in two mixed-use districts—the Limited Business (B-L) and Commercial (COM) Districts.

Recommendation

The Planning Board voted unanimously 9-0 to recommend that Town Meeting adopt Article 31.

### Background

There is general community agreement on the need to have economically and socially successful mixed-use centers. Yet in recent decades, very few new mixed-use buildings have been built in Amherst's centers. In addition to market forces, a principal obstacle to the development of mixed use buildings has been the limitations imposed by the current regulations for these buildings in the mixed-use center districts.

### Upper Floor Residential Thresholds

The current regulations nominally allow mixed-use buildings under a by-right Site Plan Review (SPR) approval permit but include thresholds in the B-L and COM districts which have the effect of requiring a discretionary Special Permit: 1) if the gross floor area of upper floor residential uses exceeds either the ground floor area devoted to commercial uses or 6,000 sq. ft. in area, or 2) if the number of dwelling units on upper floors exceeds six (6) units. Since mixed-use buildings are permitted to have three floors, these thresholds are almost automatically exceeded. In effect, mixed-use buildings in these districts are restricted to being allowed only under a Special Permit.

Article 31 proposes to remove the gross floor area limitations, which are too small and serve only to discourage this use. Article 31 increases the number of upper floor units allowed without a Special Permit from six (6) to ten (10) units. This has several effects. Depending on the size of the building, more units can mean fewer bedrooms per unit and in the building as a whole. Having fewer bedrooms can be a way to limit both overall levels of occupancy and to direct the character of occupancy. A few large upper floor apartments with numerous bedrooms can house large families or large groups of unrelated persons. In the latter instance, the likelihood of large apartments with numerous bedrooms becoming a behavioral problem for the building and the neighborhood is increased. Smaller units with fewer bedrooms—including studio apartments—can be more attractive to down-sizing seniors and small families or households of all kinds.

### Lower Floor Thresholds

The current regulations for mixed-use buildings limit first floor residential uses to ten percent (10%) of the gross floor area, and can involve only ancillary uses such as stairwells and elevators serving upper floor residential uses. Local architects have indicated that, for some buildings, ten percent (10%) is too small an area to serve even the limited purposes allowed.

Mixed-use buildings containing both businesses and residences can enable people to live in the same building as their business. Additionally, ground floor residential units are part of the desired diverse mix of attractive, useful residential dwellings available in a mixed-use center.

For these reasons, Article 31 proposes to allow up to forty percent (40%) of the gross floor area of the ground floor of a mixed-use building in the B-L and COM Districts to be occupied by residential uses, including both residential units and space. The 40% would include a maximum of fifteen percent (15%) of the total ground floor area for stairs and elevators serving upper floor residences, meaning that only about 25% of the total ground floor area could be used for actual first floor residences when stairs and elevators are involved. The less ground floor area that is occupied by stairs and other feature supporting upper floor dwelling units, the more room there would be—up to 40% of the ground floor—for ground floor dwelling units. Residential units would be permitted in the rear only, to maintain a business-oriented streetscape in B-L and COM districts, as well as to separate dwellings from the impacts of commercial activity.

### Public Hearing

The Planning Board held a public hearing on Article 31 on March 6 and continued that hearing to March 20. The Zoning Subcommittee reported its support for the article and the reasoning behind the different elements of the amendment.

At the March 6 hearing several members of the public, including residents of North Amherst and the Lincoln/Sunset/Fearing neighborhood, expressed concern about the overall impact of this and other zoning amendments taken together, saying that the student housing market was powerful and that pervasive problems with unruly tenants have not yet been solved. On that basis, they objected to any zoning changes which would result in expansion of residential uses. There was also objection to any amendment of zoning regulations applicable to the COM District in North Amherst village center. Instead, it was argued that measures should be taken to promote missing businesses and services, to encourage targeted residential uses such as senior housing, and to improve infrastructure, first, before changing the rules to encourage new development.

Board members pointed out in response that the only residential uses currently allowed in COM District are mixed-use buildings, and that the proposed new regulations simply raise the threshold number of dwelling units beyond which a developer would need a Special Permit from 6 to 10. Under the current regulations, no new mixed-use buildings have been built in North Amherst for decades. The amendment would apply broadly to business zones throughout the town. In addition, the town is not able to “intervene in the marketplace” to compel certain types of development to occur. All the town can do is “open the door” by creating zoning that allows or encourages certain uses to be developed.

State grants needed to pay for the infrastructure and intersection work needed in village centers. State grants are awarded contingent on there being smart growth zoning in place and actual project proposals “in the pipeline”—as a result of and benefitting from any proposed physical improvements. If the zoning does not change, and there are no projects, there will be no state

grant funds available to the town to make the desired improvements.

There was no public comment at the March 20 hearing.

Under Article 31, any mixed-use building containing up to 10 units would be allowed by right through Site Plan Review (SPR) approval. Any mixed-use building with 11 or more units on upper floors would require a Special Permit. The amount of space on ground floors serving upper floor units would increase from 10% to 15%, and a few residential units would be permitted to occupy ground floor area (approximately 25%).

Under the current regulations, there have been only a handful of individual new mixed-use buildings built in the last 30 years—on College Street (1998), Belchertown Road (1998), Pomeroy Village (2002-2003), and Boltwood Place in the downtown (2012). None have been built in North Amherst since the 1970s. If Amherst wants vibrant mixed-use development in its centers, then the rules need to be changed to make mixed-use buildings feasible.

After further discussion, the Planning Board voted unanimously, 9-0, to recommend that Town Meeting adopt Article 31.