



To: Town Council

Fr: Paul Bockelman, Town Manager
Christine Brestrup, Planning Director

Dt: June 25, 2021

Re: Amendments to Zoning Bylaw Article 3: Use Regulations
Section 3.323: Apartments and
Article 12: Definitions

Executive Summary

I request that the Town Council review and adopt amendments to Article 3: Use Regulations, Section 3.323: Apartments and Article 12: Definitions of the Amherst Zoning Bylaw.

These amendments have been drafted by Town staff, led by Planning Director Christine Brestrup and Building Commissioner Robert Morra, who also produced the content of this memorandum.

The purpose of this zoning amendment is to amend the Zoning Bylaw to change Apartments to change the definition of Apartments, so as not to limit the number of dwelling units in Apartments, and to change the permitting requirements for Apartments in the R-VC and B-G zoning districts.

Background

During the entire year of 2020 the Planning Board and the Community Resources Committee (CRC) of the Town Council worked together on a list of zoning priorities that they hoped to develop to present to Town Council. This work culminated in a list of zoning priorities. On January 4, 2021, the Town Council voted to direct the Town Manager to present zoning amendments to the Town Council.

At the same time, the Planning Department and Building Commissioner had developed a list of zoning priorities, some of which overlapped with those developed by the Planning Board and the CRC.

Since February 2021, Planning Department staff and the Building Commissioner have been working with the Community Resources Committee and the Planning Board to develop zoning amendments to address these zoning priorities, along with priorities of the Planning Department and the Building Commissioner.

Revising the Apartments bylaw was one of the Town Council priorities. It is now ready to be presented to Town Council.

History

Apartments have been part of the Amherst landscape for generations. For many years this use was not controlled by zoning.

In the 1927 Zoning Bylaw, Apartments were defined as “Apartment Houses: A dwelling designed for or occupied by more than two families under one roof, or for one or more families above a first floor used for non-residential purposes.” At that time Apartment Houses were permitted in Business Districts and Industrial Districts.

By 1958 Apartment Houses were combined in a use category defined as “Row house, apartment house, or other structure or group of structures designed for two or more dwelling units on a single lot”. They were allowed in the Central Business (B-C) district, Central Residence (R-12) district and Limited Business (B-L) district by right and in the Half-acre Residence (R-20) by Special Exception.

By 1966 the definition had changed slightly: “Row house, apartment house or other structure designed for a total of three or more dwelling units, except that a dwelling structure having a maximum length of more than 200 feet is expressly excluded.” At that time Apartments were allowed by Special Permit in the Neighborhood Residence (R-N), General Residence (R-G), Campus Residence (C-R), General Business (B-G) and Limited Business (B-L) districts.

By 1980 Apartments were a separate use category, under Section 3.323 of the Zoning Bylaw. They were no longer allowed in the R-N zoning district, but were allowed by Special Permit in the R-G, C-R, B-G, B-L and Village Center Business (B-VC) zoning districts.

The 1980 Zoning Bylaw lists the following standards and conditions for Apartments:

- 3.3231 – The site or lot upon which one or more apartment buildings are proposed to be located shall be located: close to a heavily travelled street or streets, close to a business, commercial or educational district or in an area already developed for multi-family use;
- 3.3232 – Each building shall have no fewer than 3 nor more than 24 dwelling units;
- 3.3233 – Each building shall be connected to the public sewer system prior to occupancy;
- 3.3234 – Dimensional regulations in Article 6 shall be observed. In addition, the following requirements shall apply...

And the bylaw went on to list additional side and rear yard requirements per floor, FAR or Floor Area Ratio requirements and minimum landscape or natural open space for Apartments in the C-R and B-VC zoning districts. The regulations went on to describe what “minimum landscape or natural open space” meant and where it could be located.

- 3.3235 – No more than 50% of the total number of dwelling units shall be or any one size (i.e. # of bedrooms)

One can see that the current Apartments use category and standards and conditions have not changed much in 30 years.

After a flurry of construction of Apartments in the 1960's and 1970' in response to the growth of the University, by 1980 Apartments could no longer be built in the R-N zoning district.

Currently buildings that are considered to be Apartments are mostly congregated in the R-N zoning districts, along East Hadley Road and in North Amherst. There have been some recent examples of Apartments being built, such as the new Aspen Heights building on Northampton Road, but because of non-conformities related to pre-existing uses on the site, this building did not need to comply with the limitation of a maximum of 24 dwelling units per building.

Rationale

Developers are attracted to the Mixed-use Building format, rather than Apartments, particularly in the B-G zoning district, because of the lack of limitation on the number of dwelling units that are allowed in a Mixed-use Building. Unlike Apartments, which are currently limited to 24 units per building, Mixed-use Buildings allow as many dwelling units as can fit within the structure that is allowed by the dimensional regulations of the zoning district in which the building is located. In other words, the size of the building is limited by the dimensional requirements of the particular zoning district in which the building is located, but the number of units that a developer can fit within the building is only limited by the size of the building and the lot area requirement per dwelling unit.

The Community Resources Committee (CRC) and the Planning Board have been studying these uses (Apartments and Mixed-use Buildings) in relation to each other in an effort to coordinate the definitions, permitting structure and standards and criteria of Mixed-use buildings and Apartments, and are now proposing changes to the Zoning Bylaw to clarify requirements for both Mixed-use Buildings and Apartments to better meet the housing needs of the town and region as outlined in the Housing Production Plan (2013) and Housing Market Study (2015).

Process

The proposed zoning amendment would change the definition of Apartments so that they are no longer limited to a maximum of 24 dwelling units per building. This would allow Apartment buildings to be constructed in zoning districts where the use category is allowed but would provide more density than is currently allowed. Buildings would be allowed to be built that are limited by the dimensional regulations of the particular zoning district in which they are located, but the number of dwelling units per building would be based on how many units could fit within the limits of the building allowed to be built, rather than an arbitrary limit of 24 dwelling units.

Apartments are currently allowed by Special Permit in the Residential Village Center (R-VC), Limited Business (B-L), Village Center Business (B-VC) and Neighborhood Business (B-N) zoning districts. They are allowed by Site Plan Review in the General Business (B-G) zoning district.

The zoning amendment would change the permitting requirement to allow Apartments by Site Plan Review rather than Special Permit in the Village Center Residence (R-VC) district, because Apartments are a completely residential use. It would change the permitting requirement to allow Apartments by Special Permit in the General Business (B-G) district, since it is preferable to have a non-residential use (such as would be found in a Mixed-use Building) on the first or ground floor of the B-G district to enhance the vibrancy of the downtown.

The bedroom count would be changed to read as follows:

Bedroom Count: No more than 50% of the total number of dwelling units shall have the same bedroom count, with the exception of an Apartment building containing less than ten units. The Permit Granting Authority may waive or modify this requirement for projects in which all dwelling units provided are Affordable (See Article 12, Affordable Housing)

Parking on the first or ground floor would be permitted but would be limited to the rear of the building and designed to reduce visibility from the public way or areas customarily used by pedestrians and the public.

There would be an added requirement that the Principles & Standards of the Design Review Board would be required to be applied to new Apartment buildings, whether or not they were in the DRB area of jurisdiction.

Proposal

The Town Manager, led by the Planning Department, is requesting that the Town Council review and adopt the attached amendments to Article 3 and Article 12 of the Zoning Bylaw.

We anticipate the Town Council will refer the proposed amendments to the Planning Board and Community Resources Committee for a public hearing. Town staff stand ready to assist the Planning Board and CRC in their deliberations.

See the following pages for existing language proposed to be repealed and new language proposed to be inserted into the Zoning Bylaw.

PROPOSED ZONING BYLAW AMENDMENTS
SECTION 3.323, APARTMENTS
ARTICLE 12: DEFINITIONS

Bold/Italic text indicates proposed new language.

Bold/Strikethrough indicates proposed deleted removal.

ARTICLE 3 USE REGULATION

SECTION 3.3 USE CLASSIFICATION AND STANDARDS

SECTION 3.323 APARTMENTS

- N = No, the Use is not permitted in that Zoning District
- SPR = The Use is permitted with Site Plan Review (See Section 11.2)
- SP = The Use is permitted with a Special Permit, by the Zoning Board of Appeals (see Section 10.3)

Zoning Districts													
R-O R- LD	R-N	R-VC	R-G	R-F	B-G	B-L	B- VC	B-N	COM	OP	LI	PRP	FPC
N	N	SP SPR	SP	N	SPR SP	SP	SP	SP	N	N	N	N	N

Standards & Conditions:

The site or lot upon which one or more apartment buildings are proposed shall be located: 1) close to a heavily traveled street or streets, 2) close to a business, commercial or educational district, or 3) in an area already developed for multi-family use.

Each building shall have no fewer than 3, ~~nor more than 24~~ **dwelling units**. Each building shall be connected to the public sewer system prior to occupancy. Dimensional regulations in Article 6 shall be observed.

In addition, the following requirements shall apply:

Zoning Districts	Additional Side/Rear Yards per Floor	Floor Area Ratio	Minimum Landscape or Natural Open Space
R-G	2-feet		
B-L	2-feet		
B-VC	2-feet		
B-N	2-feet	0.3	40%

Minimum Landscaped or Natural Open Space: NOTE: "Minimum Landscaped or Natural Open Space" shall include (a) those portions of the lot devoted to plantings, including lawns and grass areas (b) wooded land, and pedestrian-oriented paved or unpaved areas devoted to social or recreational use in common by the residents of the building or complex provided that such areas are kept essentially open to the out-of-doors and are at ground level.

Specifically excluded from this definition are those areas devoted to parking, access, and service drives.

Bedroom Count: No more than 50% of the total number of dwelling units shall *have the same bedroom count, with the exception of an Apartment building containing less than ten units. The Permit Granting Authority may waive or modify this requirement for project in which all dwelling units provided are Affordable (see Article 12, Affordable Housing). be of any one size (i.e. # of bedrooms). For projects in which all dwelling units provided, other than those occupied by resident manager(s), are Affordable (see Article 12, Definitions), the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for this use may waive or modify this requirement.*

~~Management Plan: A management plan, as defined in terms of form and content in the rules and Regulations adopted by the Permit Granting Board or Special Permit Granting Authority shall be included as an integral part of any application under this section.~~

Enclosed Parking: *Parking on the first or ground floor shall be at the rear of the building and designed to reduce visibility from the public way or walkways and areas customarily used by pedestrians and the public.*

Design Review Principles & Standards: *In all districts, the Permit Granting Board or Special Permit Granting Authority shall apply the provisions of Sections 3.2040 and 3.2041 to any construction, renovation, or expansion resulting in the creation of new dwelling units under this section.*

ARTICLE 12 DEFINITIONS:

Add the following language and renumber subsequent sections of Article 12:

12.02 Apartment: A residential use consisting of one or more buildings, each building containing no fewer than three (3), ~~nor more than twenty-four (24)~~ dwelling units. Apartment dwelling units may share internal access ways and entrances and need not have separate exterior entrances on the ground level.