

**SECTION 22: MAPLE STREET TRADITIONAL NEIGHBORHOOD  
DEVELOPMENT SMART GROWTH OVERLAY DISTRICT**

**22.1 Purpose and Intent**

**A. Purpose**

The purpose of the Maple Street Traditional Neighborhood Development Overlay District (MSTND) is to promote opportunities for living units and small to medium size local businesses to be integrated into a traditional neighborhood development pattern that encourages smart growth in accordance with the purposes of G.L. Chapter 40R and is characterized by:

1. Moderate density;
2. Horizontal and vertical mixed use in close proximity to the downtown core;
3. Alternative transportation modes to the private automobile;
4. Public services and recreational amenities; and
5. A transitional area from surrounding residential neighborhoods.

**B. Intent**

The intent of the MSTND is as follows:

1. Provide a mechanism by which residential and mixed-use development can contribute directly to increasing the supply and diversity of housing while meeting existing and anticipated housing needs.
2. Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity.
3. Provide an opportunity for residential, commercial, and mixed-use development within a distinctive, attractive, and livable environment.
4. Promote low impact, sustainable development that is pedestrian friendly, and to integrate the principles of smart growth.
5. Provide development standards to allow context-sensitive design and creative site planning.
6. Ensure predictable, fair, and cost-effective development review and permitting procedures.
7. Generate positive tax revenue while providing the opportunity for new business growth and additional local jobs.
8. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with M.G.L. Chapter 40R, 760 CMR 59.06, and additional Chapter 70 aid in accordance with G.L. Chapter 40S arising from the development of housing in the Maple Street Traditional Neighborhood Development Overlay District.

## 22.2 DEFINITIONS

For purposes of this Section 22, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the M.G.L. Chapter 40R Enabling Laws or this Section 22. Any term not defined in this Section 22 shall be subject to its common definition, unless otherwise expressly approved in writing by DHCD. To the extent that there is any conflict between the definitions set forth in Section 22 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

**ACCESSORY DWELLING UNIT (ADU):** A separate dwelling unit located within a single-family detached dwelling or accessory building that is subordinate in size to and an accessory use to the single-family detached dwelling. The size of the Accessory Dwelling Unit shall not be less than 500 square feet plus 100 square feet for every bedroom over one (1) but not more than 30% of the normally habitable gross floor area of the principal residential structure. Either the Accessory Dwelling Unit or the principal residence shall be occupied by the owner of the lot on which the Accessory Dwelling Unit is located except for bona fide temporary absences. Accessory Dwelling Units must be located on the same site but not necessarily within the principal residential structure.

**ADMINISTERING AGENCY or MONITORING AGENT:** The local housing authority or other qualified housing entity designated by the PAA, pursuant to Section 22.10, to review and implement the Affordability Requirements affecting projects under Section 18.7.

**Affordable Unit:** An Affordable Rental Unit or an Affordable Homeownership Unit - that is affordable to and occupied by an Eligible Household.

**Affordable Housing:** Housing that is affordable to and occupied by Eligible Households.

**Affordable Homeownership Unit:** A dwelling unit providing Affordable Housing that is required to be sold to an Eligible Household in accordance with the requirements of Section 22.9 of this By-Law.

**Affordable Housing Restriction:** A deed restriction of Affordable Housing meeting statutory requirements in M.G.L. Chapter 184, Section 31, and the requirements of Section 22.9 of this Bylaw.

**Affordable Rental Unit:** A dwelling unit providing Affordable Housing that is required to be rented to an Eligible Household in accordance with the requirements of Section 22.9 of this By- Law.

**Applicant:** The individual or entity that submits a project for Plan Approval.

**As-Of-Right Development:** A Development Project allowable under Section 18.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of Section 18.10 shall be considered an As-Of-Right Development.

**Department or DHCD:** The Massachusetts Department of Housing and Community Development.

**Design Standards:** The design standards adopted by the PAA and approved by DHCD, made applicable to projects within the MSTND that are subject to the Plan Approval process.

**Development Site:** One or more building lots which are designated as a Development Site under Section 18.6. Where the Development Site consists of more than a single building lot, the lots, in combination, shall be considered as one Development Project for the purpose of calculating parking requirements; minimum open space; and Dwelling Units per acre. Any Development Project is subject Site Plan Approval as required under the provisions of this Section 22.10. and the Design Standards established under Section 18.9 of this By-Law.

**Development Project or Project:** A Residential, Commercial, Civic, or Mixed-Use Development undertaken under this Section 18.6. A Development Project shall be identified on the Site Plan which is submitted to the Plan Approval Authority for Site Plan Review.

**Dwelling Unit:** One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit inclusive of, if applicable, an Accessory Dwelling Unit. The following types of Dwelling Units are specifically defined:

**Single-Family Detached Dwelling Units:** A detached residential Dwelling unit, other than a mobile home, designed for occupancy by one family/household only and which may or may not be in single ownership. Single-Family Detached Homes include Workers' Cottages, Cottage Courts, and Starter Homes.

**Single-Family Attached Dwelling Units:** An attached residential dwelling unit, designed for occupancy by one family only and on a separate lot where the use of the lot is within the exclusive control of the owner thereof. Single-family homes may also be subject to customary homeowner association controls on architectural design, landscaping, and maintenance, provided such controls do not unduly restrict development under Section 18 and are limited to ensuring compliance with the 40R Design Standards or other requirements under this Section.

**Two-Three Family Dwelling Units or Paired House:** A residential building containing two or three Dwelling Units designed for occupancy by the same number of families/households as the number of Dwelling Units and where the individual Dwelling Units are not located on separate lots. A Paired House is defined in Table 3.C under Section 18.5.

**Multi-Family Dwelling Units:** A residential building containing four or more dwelling units designed for occupancy by the same number of families as the number of dwelling units where the individual dwelling units are not located on separate lots.

**Eligible Household:** An individual or household whose annual income is below eighty percent (80%) of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**Enabling Laws:** M.G.L. Chapter 40R and 760 CMR 59.00.

**Family or Household:** One (1) or more persons living together, such as an Eligible Household, in one (1) Dwelling Unit, but not including sororities, fraternities and other communal living arrangements.

**Home Office:** The use of a room or rooms in a Dwelling Unit as an office or studio by a resident provided not more than one other person is regularly employed therein in connection with such use and that not more than 25% of the gross floor area, not in excess of 600 square feet, is regularly devoted to such use.

**Household Income, Median:** The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

**Live/Work Unit or Live/Work Shophouse:** The use of a building or series of buildings devoted to commercial and residential use where the first floor of the building is primarily devoted to commercial use and the upper floors are primarily devoted to residential use. A Live/Work Unit must be occupied by no more than one family and the property owner.

**MSTND:** The Maple Street Traditional Neighborhood Development Overlay District established in accordance with this Section 22.

**Mixed-Use Development Project:** A Project containing a mix of principal residential uses and principal nonresidential uses, as allowed in Section 22.5, and subject to all applicable provisions of Section 22.

**PAA Regulations:** The rules and regulations of the PAA adopted pursuant to Section 22.10.

**Plan Approval:** Standards and procedures which Projects in the MSTND must meet pursuant to Sections 22.10 and the Enabling Laws.

**Plan Approval Authority (PAA):** The Planning Board of the Town of Danvers acting as the approving authority designated to conduct the Plan Approval process for the purposes of reviewing Project applications within the MSTND and issuing Plan Approval decisions under this Section 22.10 and M.G.L. C. 40R, §11.

**Shared Parking Facilities:** Off-street parking facilities designed and intended to serve more than a single use as shown on a Site Plan.

**Site Plan:** A plan depicting a proposed Development Project for all or a portion of the MSTND and which is submitted to the Plan Approval Authority for its review and approval in accordance with the provisions of Section 22.10 of this By-Law.

**Site Plan Approval:** The Plan Approval Authority's authorization for a proposed Development Project based on a finding of compliance with Section 22.10: Administration and the CBZD Design Standards after the conduct of a Site Plan Review.

**Site Plan Review / Plan Review:** The review procedure established by this Section 22.10 and administered by the Planning Board of the Town of Danvers as the Plan Approval Authority.

**Street Lines:** The dividing line between a street right-of-way and a lot.

**Sub-District:** A specific and defined area of land within the MSTND that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the MSTND. The boundaries and the names of the Sub-Districts are referred to in Section of this By-Law.

**Underlying Zoning:** The zoning requirements adopted pursuant to M.G.L. C.40A that are otherwise applicable to the geographic area in which the MSTND is located, as said requirements may be amended from time to time.

**Unrestricted Unit:** A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.

**Use, Accessory:** A use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the MSTND. Accessory uses are permitted or prohibited in the MSTND to the same extent as if such uses were Principal Uses.

**Use, Principal:** The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section 22.5. More than one principal use is permitted as-of-right on a lot or within a Development Project in the MSTND as prescribed under Section 22.5.

**Zoning Bylaw:** The Zoning Bylaw of the Town of Danvers as said bylaw may from time to time be amended.

## **22.3 AUTHORITY AND APPLICABILITY**

### **A. General Authority**

The MSTND is an overlay district superimposed on all Underlying Zoning districts including the Industrial-1 (I-1), Commercial-1 (C-1) and Residential-1 (R-1) Base Zoning Districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the Underlying Zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section 22. Within the boundaries of the MSTND, a developer may elect either to develop a Project in accordance with the requirements of the MSTND, a Smart Growth Zoning District under M.G.L. Chapter 40R and 760 CMR 59.00, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the Underlying Zoning district(s).

### **B. Applicability**

In accordance with the provisions of M.G.L. Chapter 40R and 760 CMR 59.00, an Applicant may seek development of a Project located within the MSTND in accordance with the provisions of the Enabling Laws and this Section 22, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential Dwelling Units related to a rate of development or

phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or Dwelling Unit limitations. Unless otherwise expressly approved in writing by DHCD, until such time that DHCD has confirmed eligibility with respect to a number of Bonus Units developed within the MSTND at least equal to the number of Incentive Units recognized as part of any corresponding final approval of the MSTND by DHCD and corresponding Zoning Incentive Payment received by the Town of Danvers, any references in this Section 22 to standards or requirements standards and requirements contained in other sections of the Zoning Bylaw, shall be limited to the specific respective versions in effect on August 30, 2016, as certified in writing by the Town Clerk on August 30, 2017. Such references to standards and requirements contained in other sections of the Zoning Bylaw shall include but not be limited to the references contained in Section 22.10.B.4 and 22.10.B.5.

**C. Utilization of the MSTND**

If an owner elects to utilize the MSTND to develop or redevelop land, the Development Project shall conform to all applicable requirements of this Overlay District. When a building permit is issued for any Development Project approved in accordance with this Section 22, the provisions of the Underlying (base) Zoning district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 22 for such Development Project.

**22.4 OVERLAY DISTRICT ZONING MAP AND REGULATING PLAN**

**A. Establishment**

The Maple Street Traditional Neighborhood District (MSTND) is an Overlay District superimposed over the underlying Industrial-I (I-1), Commercial-1 (C-1), Commercial-1A (C-1A) and Residential-1 (R-1) Base Zoning Districts. The MSTND has a land area of approximately 16.26 acres in size with frontage on the following public and private ways: Maple Street, Hobart Street, Locust Street, North Putnam Street, Maple Avenue, Putnam Court, Butler Avenue, Oak Street, and Charter Street.

**B. Regulating Plan**

The Regulating Plan is an enhanced zoning overlay district map and the controlling instrument for implementing growth and development in the area. The Regulating Plan contains Subdistricts which are areas where specific uses, development patterns, and building characteristics are desired or intended to be protected. Subdistricts have specific development standards for development sites and individual lots. The MSTND Regulating Plan/Zoning Map below illustrated the district boundaries as set forth in the Danvers Zoning Bylaw. This map is hereby made a part of the Danvers Zoning Bylaw and the Danvers Official Zoning Map on file in the Office of the Town Clerk.

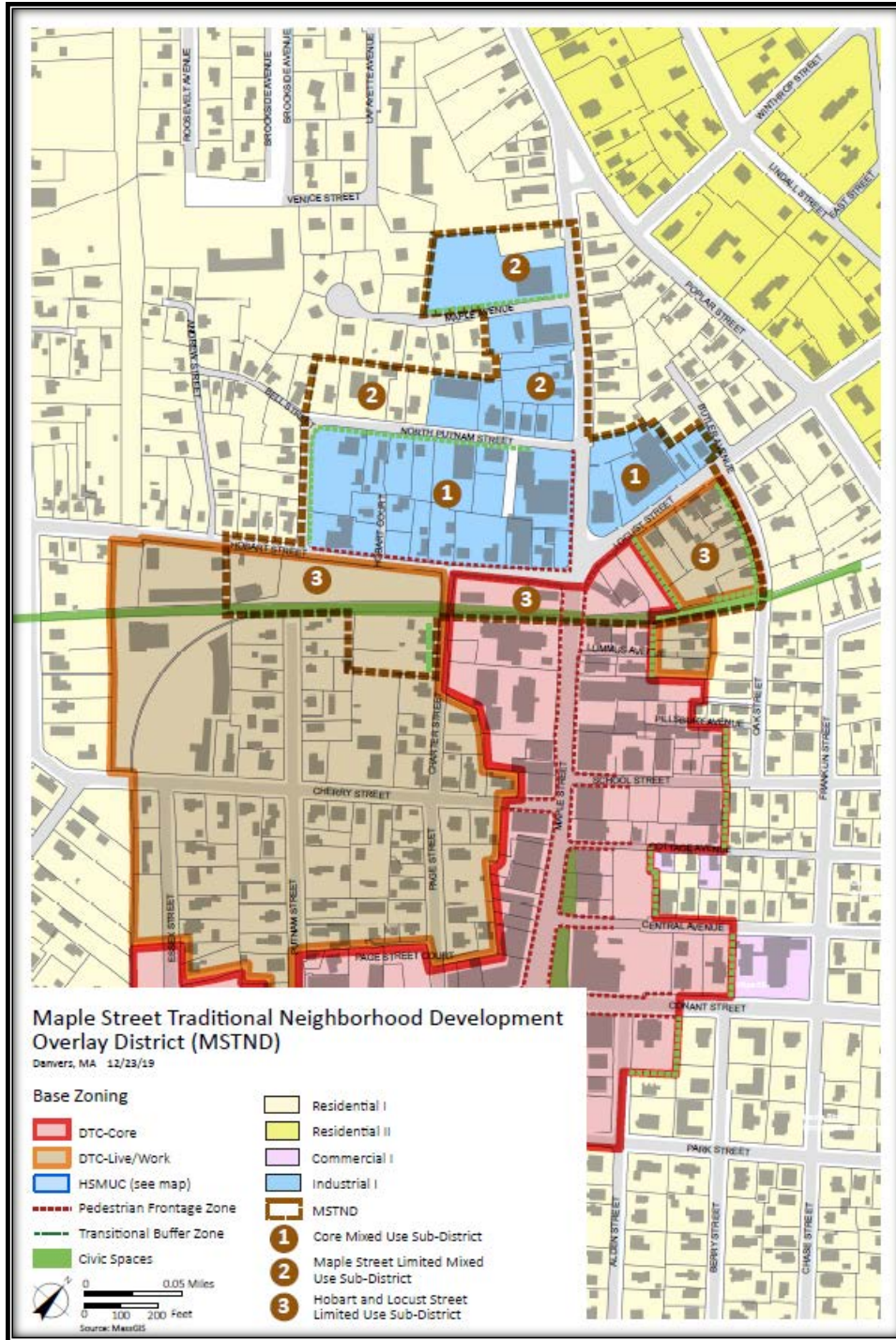
**C. Subdistricts**

1. **Subdistrict Parcels and Acreage:** The MSTND Regulating Plan Subdistricts include the following:

<b>Requirement</b>	<b>Sub-District</b>		
	<b>1. Core Mixed Use Sub-District</b>	<b>2. Maple Street Limited Mixed-Use Sub-District</b>	<b>3. Hobart and Locust Street Limited Mixed-Use Sub-District</b>
Underlying Base Zone	I-1, R-1	I-1, R-1	C-1, C-1A, R-1
Total Sub-District Parcels	23	17	17
Total Sub-District Acres	6.23	5.35	5.23
Total No. of Existing Dwelling Units	18	28	22
Total Existing Non-Residential Development (GFA) <sup>1</sup>	166,890	29,298	13,902

*1. Mixed Use Buildings were estimated to be equally divided between commercial and residential floor area, and the estimated residential GFA was subtracted from the total.*

Section 22 – Maple Street Traditional Neighborhood Development Smart Growth Overlay District





**Subdistrict Purpose:** The MSTND Subdistricts have the following purposes:

1. Core Mixed Use Sub-District: Intended to encourage a mix of uses, scale and densities, with predominant density beginning at the intersection of Maple and Hobart Street, moving to a more moderate density and scale where the district meets the adjoining residential area at the intersection of North Putnam and Hobart Street.
2. Maple Street Limited Mixed-Use Sub-District: Intended to be predominantly residential at a scale and density that is compatible with the surrounding neighborhoods along Maple Street and Maple Avenue.
3. Hobart and Locust Street Sub-Districts: Intended to be predominantly residential at a scale that is compatible with the surrounding neighborhoods. Future development along this corridor should relate to and complement the Rail Trail corridor.

#### **D. Pedestrian Frontage Zones**

1. **Purpose:** The Pedestrian Frontage Zones are established in Section 18.8.D and identify block faces along certain streets as places prioritized for pedestrian activity and active ground floor uses.
2. **Incorporation:** Pedestrian oriented block faces are identified as Pedestrian Frontage Zones on the MSTND Regulating Plan/Official Zoning Map.
3. **Requirements:** Buildings fronting on the designated street segments shall be subject to the following ground floor limitations:
  - a. Ground floor areas shall be reserved for retail, restaurant, and publicly-oriented personal service, office, repair, and municipal uses.
  - b. Residential and other non-residential uses not oriented to public access units shall be allowed to have access at the street line by an entrance that leads to the upper floors of the building.
  - c. Residential and other non-residential uses shall be allowed on ground floors on mixed use sites or in mixed-use buildings only where:
    - i. The use is set back 40 feet from the street line;
    - ii. The residential portion of the first floor of a building is set behind street-front retail/office/restaurant uses within the same building; or
    - iii. Where the Board determines that street-front residential uses will not have an adverse impact on the continuity and vitality of the commercial street- front uses.

#### **E. Residential-Transitional Frontage Zones**

1. **Purpose:** The Transitional Frontage Zones are established in Section 18.8.D and identifies certain street segments as places prioritized for low to moderate density residential uses and building types to create a compatible transition with the surrounding neighborhoods.

2. **Incorporation:** Residential-Transitional Frontage Zones are identified on the MSTND Regulating Plan/Official Zoning Map.
3. **Permitted Building Types:** Buildings Types fronting on the designated street segments may include the following:
  - a. Workers' Cottage/Cottage Court
  - b. S.F. Attached - Rowhouse/Townhouse
  - c. Paired House (2 and 3 DUs)
  - d. Multi-Family Building (4 or More DUs)
  - e. Live-Work/Shop House
4. **Maximum Density and Height:** The maximum density for Buildings Types permitted on parcels fronting on a Residential-Transitional Frontage Zone street segment is twelve (12) dwelling units per acre and the maximum building height is 3 stories and 35 feet.

## **22.5 BUILDING STANDARDS AND USES**

The Building Type and Use Standards regulate the physical character of buildings through placement, form, design, and utilization. These standards aim to provide the minimum level of control necessary to meet the Purpose and Intent of the MSTND while providing a range of standards appropriate to the context of each Sub-District. The General Standards for Building and Lots in the MSTND are referenced below:

**A. Buildings Placement and Orientation – See Section 18.4.A**

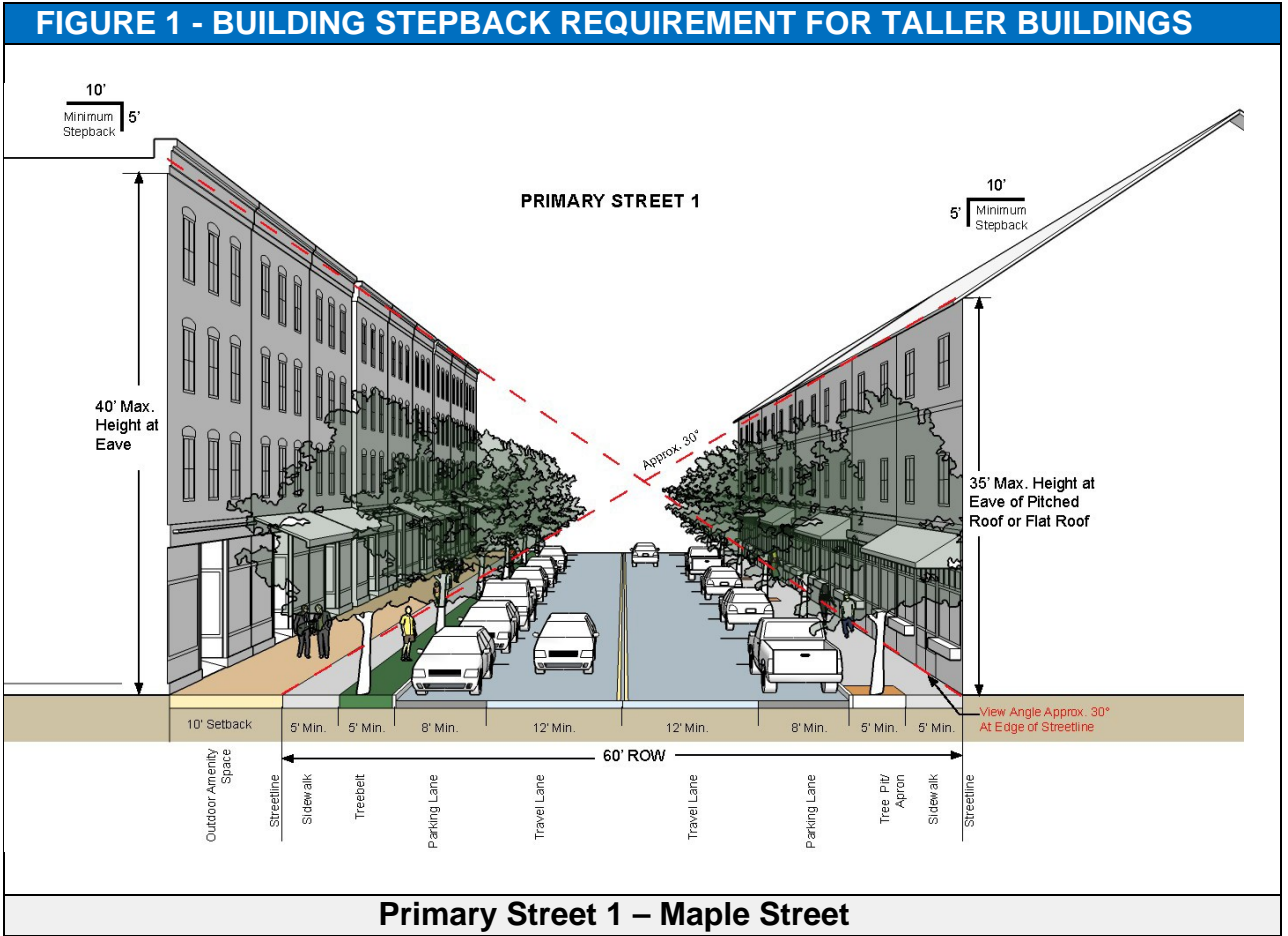
**B. Building Height – See Section 18.B**

**C. Roofs Types and Design – See Section 18.D**

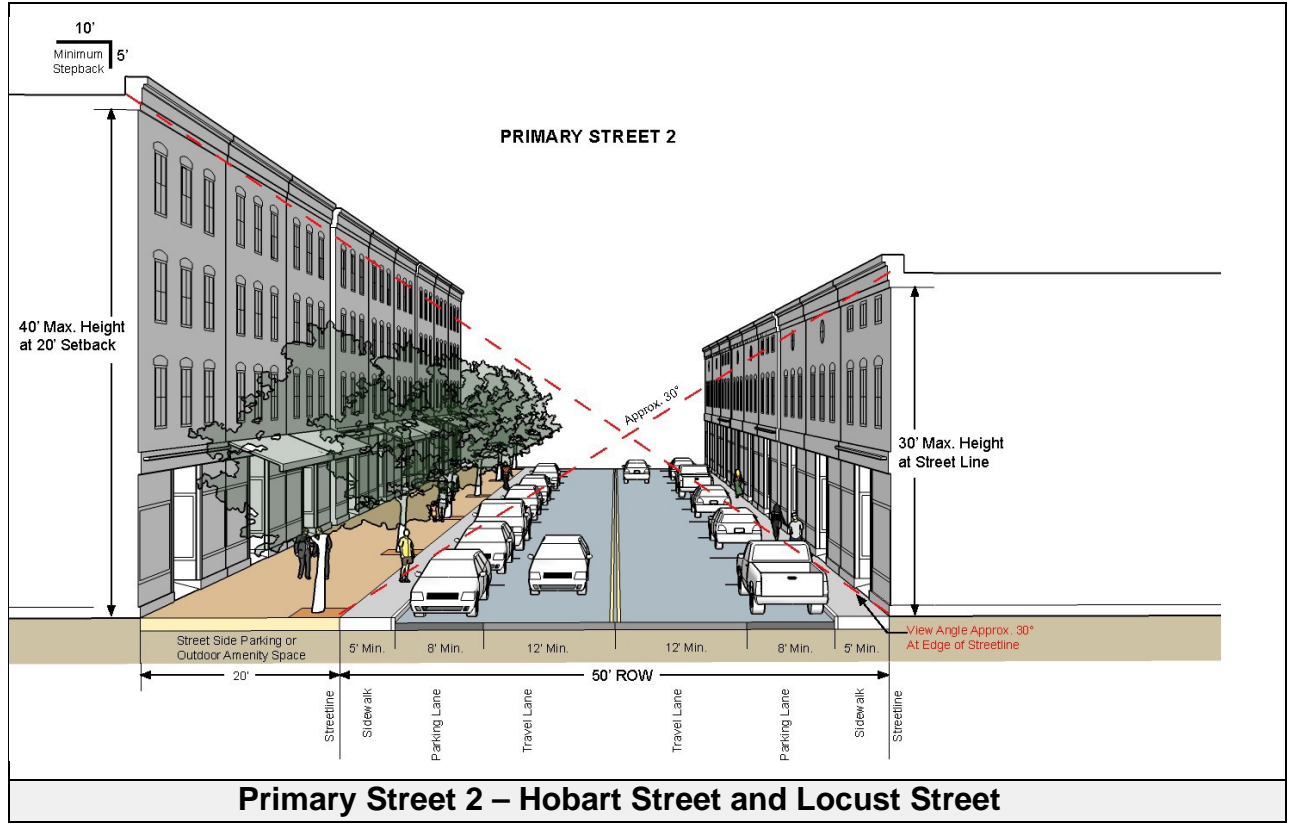
**D. Façade Composition for Commercial and Mixed-Use Buildings – See Section 18.E**

**E. Building Stepback and Street Enclosure**

As an exception, any building in the MSTND fronting on a Primary or Secondary Street shall be required to meet the building height, setback and stepback requirements in Figure 10A and 10B. For the purposes of this standard, Primary Street 1 shall include Maple Street; Primary Street 2 shall include Hobart Street and Locust Street; and Secondary Streets shall include N. Putnam Street, Maple Ave., Charter Street, and Oak Street.



Section 22 – Maple Street Traditional Neighborhood Development Smart Growth Overlay District



**Secondary Streets – North Putnam Street, Maple Ave., Oak Street, Charter Street**

**F. Principal Building Types**

The Principal Building Types allowed in each of the MSTND Sub-Districts are listed in Table 2 below. Specific lot and design standards for each building type are defined in Table 22-1.

**TABLE 22-1: BUILDING TYPES ALLOWED BY MSTND SUB-DISTRICT**

Building Types	Character-Based Zoning Districts		
	1. Core Mixed Use Sub-District	2. Maple Street Limited Mixed-Use Sub-District	3. Hobart and Locust Street Limited Mixed-Use Sub-District
A. Workers' Cottage/Cottage Court	P	P	P
B. S.F. Attached - Rowhouse/Townhouse	P	P	P
C. Paired House (2 and 3 DUs)	P	P	P
D. Multi-Family Building (4 or More DUs)	P	P	P
E. Live-Work/Shop House	P	P	P
F. General Commercial Building	SP	SP	SP
G. Mixed-Use Building	P	P	SP
H. Flex Space/Fabrication Building	P	P	SP
I. Gas Backwards			SP
J. Civic Buildings	SP	SP	SP
K. Other Building Types	SP	SP	SP

*P = Allowed by Right*

*SP = Allowed by Special Permit from the Planning Board*

**G. Allowable Uses**

Uses permitted in the MSTND Sub-Districts and Primary Building Types by right and by Special Permit are identified in Section 18.7.D – Building and Property Uses Allowed by CBZD. All measurements in square feet refer to Gross Floor Area (GFA) as per Section 40 of the Danvers Zoning Bylaw. In the MSTND, the Planning Board will be the Special Permit Granting Authority for all uses requiring a Special Permit.

**H. Development Types**

See Section 18.7.B – Development Types

**22.6 SITE PLANNING AND DEVELOPMENT STANDARDS**

The site planning and development standards under Section 22.6 shall apply to new development or to expansion, exterior alteration, or construction of existing buildings in the MSTND district. These standards shall supersede related site development standards under the Site Plan Approval process in Section 4 of Danvers Zoning Bylaws.

**A. Parking and Access**

See Section 18.5.D

**B. Sustainable Site Design Standards**

See Section 18.5.E

**C. Outdoor Amenity Space**

Outdoor Amenity Space is the part or parts of land within a Building Type or Development Site which are reserved or restricted for permanent open space. This space shall exclude parking areas and stormwater detention areas but include required setbacks and walkways. Open Amenity Spaces permitted by Building Types and Development Types are identified in Section 18. Supplemental design guidelines for Outdoor Amenity Spaces are included in the CBZD Design Standards.

**D. Sustainable Development and Low Impact Design**

See the CBZD Design Standards for sustainable development and low impact design applications for the MSTND.

**22.7 DESIGN STANDARDS**

To ensure that new development shall be of high quality and generally consistent with MSTND Illustrative Master Plan prepared by the Town of Danvers and the PAA adopted the CBZD Design Standards & Guidelines relative to the issuance of Site Plan Approvals for Development Projects within the MSTND. These design standards and guidelines are intended to clarify the permitting review process, and to define expectations for the size, bulk, exterior sheathing, open space, and placement of structures. In addition to the other standards set forth in Sections 18 and 22, the physical character of Development Sites within the MSTND Smart Growth Overlay District shall comply with the CBZD Design Standards.

**22.8 RESIDENTIAL DENSITY AND MAXIMUM DEVELOPMENT**

**A. Maximum Residential Density**

The number of residential units shall be determined by the building type and shall not be greater than the density defined in Section 18.4.A – Residential Density By CBZD.

**B. Maximum Development by MSTND Subdistrict**

The aggregate number of Dwelling Units that may be constructed in the MSTND is 211 and is calculated for each of the Sub-Districts below. The maximum non-residential development including commercial, fabrication, and civic uses permitted in the Table of Allowable Uses in Section 22.5 is measured in gross square feet shall not exceed 170,864. Notwithstanding the preceding allowance for 170,864 gross sq. ft. of non-residential use under this Section 18, non-residential development permitted under this Section 18, including the non-residential portions of any Mixed-Use Projects, may not authorize non-residential development that, when the development potential of the remaining Developable Land within the District is calculated, would preclude the District as a whole from accommodating at least the minimum number of units required to qualify for any corresponding Zoning Incentive Payment received by the Town of Danvers in conjunction with any corresponding Letter of Approval or Conditional Letter of Approval, as applicable, issued by DHCD, with such calculation taking into account those eligible Bonus Units completed or under construction as well as any Bonus Units still developable As-of-Right based on the remaining Developable Land within the MSTND. The amount of non-residential development is calculated for each Sub-District in the table below.

**TABLE 3: MSTND REGULATING PLAN SUBDISTRICTS - MAXIMUM DEVELOPMENT**

Requirement	Sub-District		
	1. Core Mixed Use Sub-District	2. Maple Street Limited Mixed-Use Sub-District	3. Hobart and Locust Street Limited Mixed-Use Sub-District
Underlying Base Zone	I-1, R-1	I-1, R-1	C-1, C-1A, R-1
Total Sub-District Parcels	23	17	17
Total Sub-District Acres	6.23	5.35	5.23
Total No. of Existing Dwelling Units	18	28	22
Max Number of New Dwelling Units <sup>1</sup>	94	67	50
Max. GFA of New Non-Residential Development <sup>2,3</sup>	67,845	58,262	44,758
<i>1. Maximum Number of New Dwelling Units is based on a Density Ratio of 20 DU/Acre except for parcels in the Res-Trans Frontage Zone which are based on 12 DU/Acre. Existing Dwelling Units were then subtracted from the gross number of units calculated under the Density Ratios.</i>			
<i>2. Maximum GFA of New Non-Residential Development is based on an Overall Floor Area Ratio (FAR) of .25</i>			
<i>3. Maximum Number of New Dwelling Units and GFA of New Non-Residential Development excludes the Hobart Street Municipal Parking Lot in Subdistrict 3 which is not considered a developable property.</i>			

**C. Density Bonus Requirements**

See Section 18.4.C

**22.9 FAIR HOUSING AND AFFORDABILITY REQUIREMENTS**

**A. Number of Affordable Housing Units**

For all Projects, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit. The total number of Affordable Housing units constructed in the District shall equal not less than twenty percent (20%) of the total number of all units constructed within Projects in the District. A Project shall not be segmented to evade the Affordability threshold set forth above.

**B. Monitoring Agent**

A Monitoring Agent which may be the local housing authority or other qualified housing entity (the “Monitoring Agent”) shall be designated by the PAA. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a building permit for a Project within the MSTND, and on a continuing basis thereafter, as the case may be:

1. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. The housing marketing and resident selection plan conform to all requirements, comply with DHCD’s Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines, and are properly administered;

4. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.

**C. Submission Requirements**

As part of any application for Plan Approval for a Project within the MSTND submitted under Sections 18.10 (or, for Projects not requiring Plan Approval, prior to submission of any application for a building permit), the Applicant must submit the following documents to the PAA and the Monitoring Agent:

1. Evidence that the Project complies with the cost and eligibility requirements of Section 18.7;
2. Project plans that demonstrate compliance with the requirements of this Section 18.7; and
3. A form of Affordable Housing Restriction that satisfies the requirements of Section 18.7.

These documents in combination, to be submitted with an application for Plan Approval (or, for projects not requiring Plan Approval, prior to submission of any application for a building permit), shall include details about construction related to the provision, within the Development Project, of units that are accessible to the disabled and appropriate for diverse populations, including, as applicable, households with children, other households, individuals, and the elderly.

**D. Cost and Eligibility Requirements**

Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
2. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
3. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.

Prior to the granting of any building permit or Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to Danvers.



**E. Design and Construction**

Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed proportionately throughout the Project of which they are part, across all unit types and be comparable in initial construction quality and exterior design to the other housing units in the project. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the total number of bedrooms in the Affordable Housing shall be equal to or greater than the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

**F. Affordable Housing Restriction**

Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate Registry of Deeds or District Registry of the Land Court and which contains the following:

1. Specification of the term of the Affordable Housing Restriction which shall be no less than thirty years;
2. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
3. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in, and able to float subject to approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines.
4. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
7. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over

the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;

8. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Administering Agency;
9. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Administering Agency;
10. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
11. Provision that the restriction on Affordable Rental Units in a rental project or rental portion of a project shall run with the rental project or rental portion of a project and shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
12. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and
13. A requirement that residents in Affordable Housing provide such information as the Administering Agency may reasonably request in order to ensure affordability.

#### **G. Costs of Housing Marketing and Selection Plan**

The housing marketing and selection plan may make provision for payment by the Project Applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed one-half (1/2%) percent of the amount of rents of Affordable Rental Units (payable annually) or one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable.

#### **H. Age Restrictions**

Nothing in this Section 18 shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of a submission under Section 18.10, allow a specific Project within the MSTND designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing units. Any Project which includes age restricted residential units shall comply with applicable federal, state, and local fair housing laws and regulations.

**I. Phasing**

For any Project that is approved and developed in phases in accordance with Section 18.10, unless otherwise expressly approved in writing by DHCD, the proportion of Affordable Housing Units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section 18.9.

**J. No Waiver**

Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 18.7 shall not be waived unless otherwise expressly approved in writing by DHCD.

**22.10 ADMINISTRATION**

The Planning Board shall be the Plan Approval Authority (PAA) for Site Plan Approvals in the MSTND and shall adopt and file with the Town Clerk administrative rules relative to the application requirements and contents for Site Plan Review. Such administrative rules and any amendment thereto must be approved by the Department of Housing and Community Development (DHCD). The Site Plan Review process encompasses the following:

**A. General Provisions**

1. **Plan Approval:** An application for Plan Approval shall be reviewed by the PAA for consistency with the Purpose and Intent of Section 18.1. Such Plan Approval process shall be construed as an As-Of-Right review and approval process as required by and in accordance with the Enabling Laws. The following categories of Projects shall be subject to the Plan Approval process:
  - a. Any new Attached or Detached Single Family Dwelling Unit Project that selects the MSTND Overlay District requirements for Plan Approval.
  - b. Any new Two-Three Family Dwelling Unit Project that selects the MSTND Overlay District requirements for Plan Approval.
  - c. Any Multi-Family Development that selects the MSTND Overlay District requirements for Plan Approval.
  - d. Any Mixed-use Development Project that selects the MSTND Overlay District requirements for Plan Approval.
  - e. All other non-residential Development Projects that select the MSTND Overlay District requirements for Plan Approval.
2. **Plan Approval Authority (PAA):** The Planning Board of the Town of Danvers, consistent with M.G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the MSTND.
3. **PAA Regulations:** The Plan Approval Authority may adopt administrative rules and regulations, including but not limited to Design Standards, relative to Plan Approval.

Such rules and regulations and amendments thereof must be approved by the Department of Housing and Community Development.

4. **Project Phasing:** An Applicant may propose, in a Plan Approval submission, that a Development Project be developed in phases, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased Project shall comply with the provisions of Section 18.
5. **Design Standards:** To ensure that new development shall be of high quality, and compatible with the character of the surrounding neighborhood, all Development Projects shall meet the Design Standards of Section 18.7 unless specific standards are waived by the PAA, which waiver shall evaluate and balance the public good against the development impacts.

## **B. Plan Approval Procedures**

1. **Pre-Application Meeting:** The Applicant is encouraged to participate in a pre-application review at a regular meeting of the Planning Board, serving, in such instances, in its capacity as the PAA. The purpose of the pre-application review is to minimize the applicant's cost of engineering and other technical experts, and to obtain the advice and direction of the PAA prior to filing the application. At the pre-application review the Applicant shall outline the proposal and seek preliminary feedback from the PAA, other municipal review entities, and members of the public. The Applicant is also encouraged to request a site visit by the PAA and/or its designee in order to facilitate pre-application review.
2. **Pre-Application Concept Plan:** Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:
  - a. Overall building envelope areas;
  - b. Open space and amenity areas; and
  - c. General site improvements, groupings of buildings, parking areas, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Purpose and Intent, Design Standards, and other requirements of the MSTND.

3. **General Submittals Requirement:** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fee(s) which shall be as set forth in the PAA Regulations. All application forms and fee schedules must be approved by DHCD and on file with DHCD. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 18.7, the application shall be accompanied by all materials required under Section 18.10. All Site

Plans shall be prepared by a certified architect, landscape architect, and/or a professional engineer licensed in the Commonwealth of Massachusetts. All Landscape Plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All architectural plans and building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts.

4. **Site Development Plans:** All plans shall be prepared and submitted according to the requirements of Section 4.8 – Application Requirements of the Danvers Zoning Bylaws.
5. **Community Impact Assessment:** For Development Plans with building gross floor areas exceeding 20,000 square feet, the submission of a Community Impact Assessment shall be required as described in Section 4.9 of the Danvers Zoning Bylaw.
6. **Design Standards:** All Development Plans submitted under the MSTND Overlay District requirements shall comply with the Design Standards in Section 18.9 which supersede other design standards and guidelines in Section 4, 17, and 30 of the Danvers Zoning Bylaw that do not apply to Projects within the MSTND.
7. **Filing:** An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.
8. **Circulation to Other Boards:** Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Zoning Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, the Monitoring Agent (for any project subject to the Affordability requirements of Section 18.7), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.
9. **Hearing:** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of M.G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.
10. **Peer Review:** The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.

**11. Performance Bond to Guarantee Construction of On- and Off-site Improvements:**

The PAA shall require a performance bond or surety to assure that the proposed improvements including, but not limited to, utilities, public amenities, landscaping, and the Site Plan are constructed as approved.

**12. Inspections During Construction:** The PAA may require the inspection of improvements as per the approved Site Plan and shall require the Applicant to cover the cost of the consultant's services.

**C. Plan Approval Decisions**

**1. Plan Approval:** Plan Approval shall be granted where the PAA finds that:

- a. The Applicant has submitted the required fees and information as set forth in the PAA Regulations; and
- b. The Project as described in the application meets all of the requirements and standards set forth in this Section 18 and the PAA Regulations, or a waiver has been granted therefrom; and
- c. Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 18.7, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 18, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

**2. Plan Disapproval:** A Plan Approval application may be disapproved only where the PAA finds that:

- a. The Applicant has not submitted the required fees and information as set forth in the Regulations; or
- b. The Project as described in the application does not meet all of the requirements and standards set forth in this Section 18 and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
- c. It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

**3. Waivers:** Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 18, including the Design Standards, in the interests of design flexibility and overall project quality, subject to the specific provisions of these Sections and upon a finding of consistency of such variation with the overall Purpose and Intent of the MSTND, or if it finds that such waiver will allow the project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section 18.

4. **Project Phasing:** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise expressly approved in writing by the Department in relation to a specific Project, the proportion of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section 18.9.
5. **Form of Decision:** The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.
6. **Validity of Decision:** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

#### **D. Change in Plans After Approval By PAA**

1. **Minor Change:** After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision and provide a copy to the Applicant for filing with the Town Clerk.
2. **Major Change:** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or

because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section.

**E. Review and Approval of Special Permits**

The Special Permit Granting Authority (SPGA) for all Special Permits related to increased housing density or non-residential uses in the MSTND shall be the Planning Board. The Planning Board shall issue a decision with findings and conditions as regulated under Section 30 of the Danvers Zoning Bylaw and as required under M.G.L Chapter 40A.

**F. Annual Update**

On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the Department of Housing and Community Development (DHCD) in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to M.G.L. c.40S and accompanying regulations. The Town Clerk of the Town of Danvers shall maintain a copy of all updates transmitted to DHCD pursuant to this By-Law, with said copies to be made available upon request for public review.

**G. Notification of Issuance of Building Permits**

Upon issuance of a residential building permit within the MSTND, the Building Inspector of the Town of Danvers shall cause to be filed an application to the Department of Housing and Community Development (DHCD), in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to M.G.L. c.40R. The application shall contain all information required in 760 CMR 59.06(2), as may be amended from time to time, and additional information as may be required pursuant to M.G.L. c.40S and accompanying regulations. The Town Clerk of the Town of Danvers shall maintain a copy of all such applications transmitted to DHCD pursuant to this By-Law, with said copies to be made available upon request for public review.

**22.11 ENFORCEMENT AND APPEAL**

The provisions of this Section 18 shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Section 18.10 shall be governed by the applicable provisions of M.G.L. Chapter 40R. Any other request for enforcement or appeal arising under Section 18 shall be governed by the applicable provisions of M.G.L. Chapter 40A.

**22.12 WAIVER OF REQUIREMENTS**

If the provisions of the MSTND are in conflict with any other sections of the Danvers Zoning Bylaw, the regulations of the MSTND will govern. Subject to compliance with M.G.L. c. 40R, 760 CMR 59.00 and Section 22.9, unless expressly approved otherwise in writing by DHCD, provisions and requirements of the MSTND may be waived at the discretion of the PAA, in the interest of design flexibility and overall project quality, and upon a finding of consistency of such variation with the



overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under Section 18.

**22.13 DATE OF EFFECT**

The effective date of this By-Law shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of M.G.L. C.40A §5. Notwithstanding the preceding sentence, the MSTND Overlay District shall not be considered an Approved District under MGL c. 40R and 760 CMR 59.00 and shall not be eligible for any associated payments under MGL c. 40R or MGL c. 40S, until the DHCD has issued a corresponding Letter of Approval or Letter of Conditional Approval, as applicable.

**22.14 SEVERABILITY**

If any provision of Section 22 is found to be invalid by a court of competent jurisdiction, the remainder of Section 22 shall not be affected but shall remain in full force. The invalidity of any provision of Section 22 shall not affect the validity of the remainder of the Town’s Zoning Bylaw.