



Town of Leicester PLANNING BOARD

3 Washburn Square
Leicester, Massachusetts, 01524-1333
Phone: 508-892-7007 Fax: 508-892-7070
www.leicesterma.org

RECEIVED
2024 FEB -5 AM 8:12
TOWN CLERK'S OFFICE
LEICESTER, MASS.

PLANNING BOARD AGENDA **AMENDED**

Tuesday, February 6, 2024, 7 PM
Meeting Room 3

- **Administrative**
 - Approval of minutes from June 20, 2023, August 15, 2023, September 5, 2023 and January 2, 2024
- **ANR**
 - **ANR-2024-01** 546 Stafford Street (Stafford & Auburn Streets), Map: 35, Parcels: C7.1 and C12.0, Zoning District: Business Residential (BR-1). Planning Board will make a determination of whether or not this plan requires their approval under the Subdivision Control Bylaw
- **Old Business**
 - 190 Main Street - Status
 - 700 and 704 Main St – Cultec system install status
- **New Business**
 -
- **Town Planner Report/General Discussion**
 - Building Inspector – discussion on sign bylaw (1621 Main St.)
 - Zoning Bylaw and use table review
 - Accessory Apartments
 - Flexible Business Development bylaw (Charlton)
- **Adjourn**

**Note: Agenda times for items that are not public hearings may be taken out of order.*

“The listings of matters are those reasonably anticipated by the Chair 48 hours before said meeting, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

MINUTES

Leicester Planning Board Meeting Minutes June 20, 2023

Location: Leicester Town Hall, Meeting Room 3

Member Present: James Reinke, Joshua Campbell, Sharon Nist, Anthony Escobar, Lee Dykas

Members Absent:

Staff Members Present: Mike Silva, Building Inspector/ZEO

Members of the Public in Attendance: Stephen Balsevich, James Bernardino, Jan Parke, Randall Gardner, Jessica White, and Hannan Rhodes

Call to Order: Chairman Reinke called the meeting to order at 7:00 PM

Board Re-Organization

Mr. Reinke introduced new member, Lee Dykas.

Motion by Ms. Nist to nominate Joshua Campbell as Chair and Mr. Reinke as Vice-Chair.

Second: Mr. Escobar

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed	
Approved 5 to 0	

Mr. Campbell took over as Chair.

1. ANR

6 Brickyard Road, request to change lot lines and lot area

Applicant: Belmira Mendes and Susan Nuamah

Stephen Balsevich from Land Planning, Inc. was present to represent the project. ANR plan to reconfigure the Lot 3 L, 84530. The plan shows a three segment line that changes along the westerly boundary starting at the existing cul-de-sac. The portion removed will be combined and joined to a piece of property owned by the applicant. Mr. Balsevich said the Plan meets zoning and setbacks.

Mr. Reinke asked what the frontage is for the combined lot. Mr. Balsevich said the new frontage is 204.58' of the proposed lot. Mr. Balsevich circulated the record plan for the Board to review the proposed lot line changes for clarity. Mr. Escobar said that Lot 3 was not buildable before and it's not buildable now and Mr. Balsevich said that's correct. Mr. Reinke asked about centerline of potential future road. Mr. Balsevich said the applicant may want to

use that as an option but at this time it's not going to be acted upon and they are basically just reconfiguring the lot. Mr. Reinke said they would have to come back to the Board. Mr. Balsevich said they want to include it, so they don't pigeonhole themselves. Mr. Silva said the intent would be to come back with a subdivision and Mr. Balsevich said yes. Ms. Nist asked what that frontage is of the other parcel. Mr. Balsevich said it abuts Sunset Street but he doesn't have an answer for it, but it continues to Sunset and they did not survey locate any of those lines. Mr. Reinke asked Mr. Silva is it meets the criteria for an ANR and he confirmed that it does and anything coming in the future would have to be reviewed. Mr. Silva said the scope of the review by the Planning Board is hard to deny.

Mr. Campbell asked if there were any more comments. Ms. Parke said she has walked this property with the former owner and it is very long and goes down to the stream and she wanted to share that.

Motion by Mr. Reinke to approve the ANR Plan for 6 Brickyard Road.

Second: Ms. Nist

Discussion: Mr. Dykas said he abuts 3L so he is recusing himself. Mr. Dykas said that he spoke to the owner and their intent is to do a subdivision at some point.

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Recused
Four (4) in Favor. None (0) Opposed. One (1) Recused. Approved 5 to 0	

2. 7:15 PM Public Hearing, Special Permit Amendment - Continued

11 Hankey Street, request to amend special permit SP2021-03 for makerspace, Applicant: The WorcShop

Motion by Mr. Reinke to open the Public Hearing for 11 Hankey Street.

Second: Ms. Nist

Discussion: None.

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed. Approved 5 to 0	

The Public Hearing was opened at 7:17 PM.

Randal Gardner, Owner, Jessica White, Operations Director, and Hannan Rhodes, new owner, were present for the WorcShop. Mr. Gardner said they have submitted everything including the floor plan of the shop layout for the automotive area. Mr. Gardner said the WorcShop is hosting a Haunted House and is collaborating with other community groups.

Mr. Reinke wants to start from the beginning on the amendments as it's been a long time. Mr. Gardner pointed out the highlighted areas noted in the Special Permit with the boldfaced items being the changes to the Special Permit. Mr. Gardner summarized the amendment requests:

- Change of owner and addresses
- Change of parking spaces from 45 to 53 as per parking plan
- Occupancy Permit change based on the buildings current use and occupancy load to reflect what is already there
- Hours are 24/7 which was already approved by the first Special Permit
- Some new uses: automotive repair in Building 3, electric hybrids. New Certificate of Occupancy will be issued for each building and they will work that out with the building inspector.

Ms. Nist asked the applicant to identify Buildings 1, 2, and 3. Mr. Gardner pointed these out on the plan. Building 3 and 4 are listed together on the Certificate of Occupancy as F1 storage and business but it will be split out on the new Certificate of Occupancy. Mr. Dykas said he is familiar with the building and asked about the 18 10'x20' yard spaces. Mr. Gardner said they are exterior yard spaces. Mr. Dykas asked what types of businesses they will be used for. Mr. Gardner referred to the WorcShop policy 27.2 regarding their goals to operate as a makerspace. Outside yard space would be for such things as shipping containers, large vehicle modifications, pre-fab buildings, tiny houses, high energy processes, and fire art testing. Mr. Gardner said there is no camping or living on premises, outside storage needs pre-authorization, area must be kept clean, no fluid storage outside, members must adhere to WorcShop approvals. Leicester Fire Dept. will do regular inspections to ensure no one is living on the premise and if found, a cease and desist will be ordered.

Mr. Gardner wants to amend their Special Permit to utilize the makerspace category under zoning. Mr. Campbell asked about marijuana, but Mr. Gardner said that was in the bylaw they were using and that nothing to do with marijuana is being requested. Ms. Nist asked if they planned to develop housing on the property and Mr. Gardner said yes, they are trying to determine if it's feasible and this Special Permit amendment makes it more palatable to investors. Ms. Nist asked if the zoning allows for residency and Mr. Gardner said yes it does as they are Greenville District, CB and R-2 zones and Hankey St., is already residential. Mr. Reinke wants to circle back to each of the special permit amendment requests.

Mr. Gardner said a new parking area would need to be reviewed by the Planning Board. Mr. Gardner said they want their occupancy number to be based upon their occupancy permit and not the 200 members called out in the original Special Permit so if they have 1,000 members their occupancy is based on the spaces. Mr. Silva is concerned about the parking to make sure there is enough parking for what is being proposed. Mr. Silva said the existing special permit

allows 42 parking spaces and asked how the occupancy permit allows 53 spaces. Mr. Gardner said he did not realize there was a parking discrepancy so they just used the paved spaces. Mr. Reinke said that is not the WorcShop's property and Mr. Gardner said they were just using what was existing since 1997 and no one has objected to its use as parking. Mr. Reinke said that they can't legally approve parking on someone else's property. Mr. Reinke said they would have to file an adverse possession claim and win to retain that right. Mr. Reinke and Mr. Silva suggested Mr. Gardner consider getting a land use attorney.

Mr. Silva said he met with Mr. Gardner and advised him to put forward a site plan showing the parking to go along with the request to amend the Special Permit. Mr. Silva said a site plan would show stormwater, landscaping, lighting, drainage, residential housing, etc. Mr. Gardner would like to work with Conservation to add trails and community spaces along the river. Mr. Reinke said again that they need to put forth a plan. Mr. Gardner said he would be happy to bring drawings. Mr. Silva said they are asking to add a lot of items to the Special Permit and he is concerned that it's becoming a brand new plan and not just an amendment to the Special Permit. Mr. Reinke said they asked them before to come in front of the Board with a set of site plans for all the proposed changes.

Mr. Gardner said they have an in ground holding tank installed for automotive waste or spills and they want the change of use for automotive. Mr. Silva asked about the 24/7 hours and Mr. Gardner said that was already approved by the Board. Mr. Dykas asked about the square footage and Mr. Gardner responded 54,000 s.f. Mr. Dykas asked about income and Mr. Gardner said they have members and 150 students. Ms. Nist asked what would prevent someone from doing a side business to do their own car repair or some other business. Mr. Gardner said it's far too expensive and no one would be able to do that as it's makerspace and they share tools and space and have to set aside a time to use the space, but they could start a business and then start their own shop somewhere else with dedicated tools.

Mr. Campbell said they have been through the list of amendments and wants to go through one by one. Mr. Reinke said he wants a plan first. Mr. Gardner said he wants to get through some of the amendments and then come back with a plan. Mr. Reinke wants to hear from police and fire first to see if they have any comments. Mr. Gardner said they already had technical review and Mr. Silva came down and has no problem and will enforce Planning Board decisions. Mr. Gardner said they replaced the roof and want to utilize the space for automotive which doesn't require any additional buildout. Mr. Silva wants to know which of these amendments does the Board want comments from police and fire. Mr. Reinke said if he has comments, they don't need them. Ms. Nist asked what the police and fire comments are on the amendments. Mr. Gardner said the comments were with regard to these proposed amendments. Ms. Nist asked about #21 regarding tree removal as they would have to go to Conservation. Mr. Gardner asked if he could remove the tree that fell in the French River and the Board said no, he'd have to go through Conservation. Mr. Silva said that the Board would be looking at amendments #12, #13, and #14. Mr. Silva suggested that Mr. Gardner have a land use attorney draft something up regarding the parking so the Board knows it's legal.

Mr. Dykas said the parking has been with the building and they have been operating there for a long time so there is a lot going on in a small space. Mr. Dykas said there used to be a WRTA bus stop near Hankey Street and since there is limited parking, they should see if WRTA would

put a stop there again. Mr. Gardner said he'd like to do that and asked if the Board would help facilitate a stop. Mr. Dykas asked if there was a ratio of parking spaces to membership. Mr. Silva said it's usually all the combined uses added up and that's where you get the minimum parking based on each use and parking needed for each use. Mr. Gardner said there is contamination on the property and he wants to add parking in that area. Mr. Dykas said that anyone wanting to invest would like 200 members and enough parking and he is trying to find a way to make that work. Mr. Gardner would like to see amendments for owner name, and #13, and #14 get approved today.

Motion by Ms. Nist to continue the public hearing for the special permit amendment at 11 Hankey St. to July 18th at 7pm.

Second: Mr. Reinke

Discussion:

- Mr. Reinke - wants Mr. Gardner to leave with a clear list of what they need for the next meeting including a write up by a qualified individual on the tank
- Mr. Silva – consult with a land use attorney
- Mr. Gardner said he would attend any other tech review if necessary and amendments would be for change of owner, #12, #13, and #14, and rest of amendments will need a plan.

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

3. Public Hearing, Special Permit, Site Plan Review, & Stormwater Permit

778 Main Street (SP2022-07), 25-unit multi-family residential development, Applicant: Charlton Road Realty, LLC

Motion by Mr. Reinke to open the public hearing for Special Permit, Site Plan Review and Stormwater Permit for 778 Main Street.

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

The public hearing was opened at 8:23 pm

Mr. Silva said Mr. Bernardino is before the Planning Board first for the revised project and then will go to Conservation and ZBA. Mr. Bernardino, P.E. from CMG is present for 778 Main Street. Mr. Bernardino said they were in front of the Planning Board, Conservation, and ZBA for a 25 unit development located in 3 buildings, but the ZBA did not vote in favor of the development as proposed as the property is located in the Water Resource Overlay District. The new plan has been reduced and is more in line with a town house style and not an apartment style building. It has 6 buildings, 5 duplexes and 1 triplex, with a total of 13 units. They removed the connection to Waite Street due to abutter concerns, maintained the primary access drive to Route 9, and addressed fire department comments regarding site lines. Mr. Bernardino said it's less building, less traffic, and less development overall. He said they are still working with Conservation as well. Mr. Bernardino said they have also improved the stormwater design. All units will be two bedrooms and there will be more parking than is required by zoning.

Mr. Bernardino said they were asked about the impact of children for the school system and he estimated about 8 children. He also addressed the salts to be used for snow melt and said those impacts have been reduced as there are less impervious area. They also have a stormwater collection system that will collect all the snow melt and drainage so there will be no discharge to wetlands. Mr. Bernardino said there were questions about weed control in the pond. He said that there are no regulatory requirements for the owner to do that but the owner said he will participate in any program initiated by the lake association to assist with the pond. He said the modified site layout allowed them to get further out of the flood plain and Conservation will take a closer look at that.

The Board had the following comments:

- Mr. Escobar asked what material would be used for the fence to provide visual buffer for the abutters. Mr. Bernardino said opaque 6ft high wood fence will run across the entire back perimeter, the rest is tree line, and they will also plant scrub brush. Mr. Escobar asked what height the trees would be on purchase. Mr. Bernardino said 6-8 ft tall at the time of planting and would grow a couple feet a year. Mr. Silva asked who would be responsible for watering the trees the first year and half to make sure they are growing. Mr. Bernardino said the owner would do the watering or possibly hire a property manager, and eventually it would be turned over to the homeowner's association or individual unit owner.
- Mr. Bernardino said they are waiting on comments from Graves but expects them to be minor. Mr. Silva said fire and police have no comments.
- Mr. Reinke asked where the fire hydrant was located and if it had to be moved. Mr. Bernardino said no it didn't need to be moved. Mr. Reinke asked if overflow could be directed away from abutting property. Mr. Bernardino said they looked at that but it was not practical.
- Mr. Reinke asked about sidewalks, trash receptacles accessible by the roadway only. Mr. Bernardino said sidewalks would go to the doors and he will talk to the applicant as trash cans would be in the unit garages as its private trash pickup.

- Mr. Escobar asked about signage for traffic flow. Mr. Bernardino pointed out the signage and said traffic will flow to the right and allow for fire department access. Mr. Silva asked about adding an apron. Mr. Bernardino said it wasn't necessary as the trash and fire trucks can access.
- Mr. Dykas asked about the double dumpster enclosure. Mr. Bernardino said he's talk to the Applicant about dumpsters versus individual cannisters and it would mean less impervious as the dumpsters would be removed.
- Mr. Reinke wants something in writing saying the homeowner's association documents, if one is formed, are provided to the Town.
- Mr. Bernardino is working the MassDOT on the entrance to Route 9 through the Access Permit process. Mr. Reinke wants that called out on the plan. Ms. Nist asked if they had received MassDOT permit approval. Mr. Bernardino said that MassDOT won't issue approval until town has issued their approvals.
- Mr. Silva asked that the Building Elevations plan be added to the Site Plans. Mr. Silva asked if the roadway was going to remain private in perpetuity and Mr. Bernardino said yes. Mr. Silva suggested that as a condition of approval. Mr. Silva asked that a condition of approval be that the dumpsters won't be over 6 feet so they will stay screened.
- Mr. Reinke confirmed with Mr. Silva and Mr. Bernardino that police and fire had no comments or concerns.

Motion by Ms. Nist to continue the public hearing for Special Permit, Site Plan Review and Stormwater Permit for 778 Main Street, SP2022-07 to July 18th at 7 pm.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

4. Approval of Minutes

- 04/26/2022
- 03/07/2023
- 04/18/2023
- 06/12/2023

Motion by Ms. Nist to approve the minutes of 4/26/22.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Abstain
Lee Dykas	Abstain
Three (3) in Favor. Two (2) Abstained. None (0) Opposed Approved 3 to 0	

Motion by Ms. Nist to approve the minutes of 3/7/23.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Abstain
Four (4) in Favor. One (1) Abstained. None (0) Opposed Approved 4 to 0	

Motion by Ms. Nist to approve the minutes of 4/18/23.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Abstain
Four (4) in Favor. One (1) Abstained. None (0) Opposed Approved 4 to 0	

Motion by Ms. Nist to approve the minutes of 6/12/23.

Second: Mr. Escobar

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Abstain
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Abstain
Three (3) in Favor. Two (2) Abstained. None (0) Opposed Approved 3 to 0	

General Discussion

Mr. Silva said that because tonight's two public hearing were continued and Mr. Dykas had missed meetings, he was not eligible to vote on the two special permits so those projects would need unanimous votes by the rest of the members. Mr. Campbell asked if the Board had an associate member. Mr. Reinke said Duke Martin may be interested. Mr. Silva said that Mr. Dykas would be able to vote on new projects.

Ms. Nist said the property next to St. Joe's on Main Street was supposed to put up a fence and nothing has been done. Mr. Silva said he'd look into it.

Ms. Nist asked about 190 Main St. She would like all parties including fire, police, building inspector, tenant, and owner all come to a meeting. Mr. Silva suggested July 18th. Mr. Silva said there are violations there that fire and building are aware of. Ms. Nist suggested giving them an ultimatum and then a cease and desist or fine.

Mr. Reinke asked if the Board wants to set an end time for meetings. Mr. Silva asked if the Board would consider meeting at 6pm or 6:30pm. There was general discussion about steam-lining and limiting the agenda, public comments, and meeting length that might be better managed.

Motion by Ms. Nist to adjourn.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

Meeting adjourned at 9:13 p.m.

Respectfully Submitted by:
Lisa Westwell, Administrative Assistant
to the Planning Department

Date Approved: _____

Planning Board Signatures

Joshua Campbell, Chair

Anthony Escobar

James Reinke, Vice Chair

Lee Dykas

Sharon Nist

Leicester Planning Board Meeting Minutes August 15, 2023

Location: Leicester Town Hall, Meeting Room 3

Member Present: Joshua Campbell, James Reinke, Sharon Nist, Anthony Escobar, Lee Dykas

Members Absent: None

Staff Present: Donna Main, DIS Assistant

Others Present: Jim Bernardino, Damien Berthiaume, Esq., Mark Borenstein, Esq.

Call to Order: Chairman Campbell called the meeting to order at 7:00 PM

1. **ANR Plan** – 1 Breezy Green Road, request for lot division following receipt of special permit from ZBA for limited frontage.

Applicant: Sean O’Neil

Mr. Reinke said the ANR plan met the criteria and that it was a limited frontage lot and a special permit was approved by the ZBA on May 15, 2023.

Motion: Mr. Reinke moved to approve the ANR Plan

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

2. **Public Hearing Continued – SP2021-03 11 Hankey Street - WorcShop**

Applicant has requested a continuance to November.

Motion: Mr. Reinke moved to continue the public hearing to September 5, 2023 at 7:00 pm

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye

Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

Town Planner Report/General Discussion

- Mr. Reinke said Zoning Bylaws, General Bylaws, City and Town Ways, ANR Guidelines, The Zoning Act, and Subdivision Control Bylaws should be made available to new members.
- Mr. Reinke and Mr. Campbell have spoken to Town Administrator, David Genereux, about the new Town Planner position. The review group had issues with the applicants so they wanted to wait six months to see what would happen and that the DIS applicant they thought was going to accept the position said they didn't want to do it. He said there is another applicant that has been running the town planning office in the Town of Ware with a year of experience. Mr. Reinke doesn't think that's optimal but he's not sure the Town Planner career is popular as there are 18 town planner positions open right now. Mr. Reinke said the application for Town Planner got good reviews from Ware.
- General discussion about Planning, Zoning and Conservation agenda items and getting them on the next few agendas to keep things moving while they wait for the new town planner.

3. Public Hearing, Special Permit, Site Plan Review & Stormwater Permit

778 Main Street (SP2022-07), 25 unit multi-family residential development

Applicant: Charlton Road Realty, LLC

Mr. Bernardino was present to represent the project. He said the Conservation Commission approved the project with some minor conditions and they are waiting for the final Order of Conditions. They have received approval from the ZBA for the Water Resource Overlay District. They received comments from Quinn Engineering and did some slight modifications to the site plan and grading plan proposing a retaining wall closer to the roadway that created a greater undisturbed area for the abutters. Mr. Bernardino said he received a response from Quinn Engineering addressing the revised submission and Quinn had no further comments. The project is subject to MassDOT design and Quinn suggested low level shrubbery to maintain site lines onto Route 9 and that was fine. Ms. Main said town staff had no comments on the revised plans.

Damien Berthiaume, attorney, was present to address conditions the Board requested. Mr. Berthiaume offered proposed conditions.

- Concern about modifications of plans to allow additional bedrooms. Proposed condition: In the event that there are requests for future modifications to building floor plans to allow for additional bedrooms, such modifications shall not be permitted unless a site plan modification providing additional visitor parking spaces in compliance with the site plan regulations is provided to, and approved by, the Planning Board.
- Concern about trash bins. Proposed condition: All trash bins shall be stored in residents garages or in reasonable proximity to the houses or screened from view.
- Discussion on condos in the future. The permit runs with the land and would be attached to any condo association. Proposed condition: In the event that at any future time the proposed

development, or any portion thereof, is subjected to M.G.L. Chapter 183A Condominium Act, the applicable Homeowners Association created shall be specifically required to assume all operations and maintenance obligations set forth in the permit, as it may be amended from time to time.

Mr. Reinke likes all the proposed conditions as it helps the planning board enforce their conditions. Mr. Reinke would like all trash bins stored in the house/garage until it's due to be picked up by the hauler. Ms. Nist agreed as it also keeps the wildlife out. Mr. Reinke thinks the condition for additional bedrooms and increasing parking is good so there aren't too many cars for the area.

Mr. Berthiaume said that he believes all of the criteria for the special permit have been met. Mr. Reinke asked about detectable warning mats, but Mr. Bernardino said that has not been added to the plans but could be added as a condition. Mr. Reinke and Ms. Nist discussed time frames for trash bins to remain outside. Mr. Berthiaume said they can add a condition that trash bins cannot stay out for more than 24 hours dependent on trash pickup schedule. Mr. Reinke asked about low growing shrubs along the main street property line, and he'd like to condition that to maybe no more than 36" tall. Mr. Bernardino talked to the landscape architect to remove the taller things and leave the shorter native plantings.

Mr. Reinke proposed the following conditions in addition to the three offered by Mr. Berthiaume:

- Installation of native species plantings do not exceed 36" in height located along the Main Street property line.
- Detectable warning mats shall be installed at the easterly and westerly approach to the driveway.

Motion: Mr. Reinke moved to approve the Special Permit, Site Plan Review & Stormwater Permit For 778 Main Street (SP2022-07) 13 unit multi-family residential development from Charlton Road Realty LLC as delineated in plans revision date 7/24/23 with following conditions:

1. In the event that there are requests for future modifications to building floor plans to allow for additional bedrooms, such modifications shall not be permitted unless a site plan modification providing additional visitor parking spaces in compliance with the site plan regulations is provided to, and approved by, the Planning Board.
2. All trash bins shall be stored in residents' garages. Any and all leases concerning the units shall require such storage to be specifically stated herein. Bins shall not be left outside for more than 24 hours consecutively and shall only be left out on trash collection days.
3. In the event that at any future time the proposed development, or any portion thereof, is subjected to M.G.L. Chapter 183A Condominium Act, the applicable Homeowners Association created shall be specifically required to assume all operations and maintenance obligations set forth in the permit, as it may be amended from time to time.
4. Installation of native species plantings do not exceed 36" in height located along the Main Street property line.
5. Detectable warning mats shall be installed at the easterly and westerly approach to the driveway.

Second: Ms. Nist
Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

4. 190 Main Street, Cherry Valley

Mr. Reinke said there is an on-site inspection scheduled for August 22, 2023 at 4pm and he would like it posted and wants 190 Main Street on the September 5, 2023 agenda.

Mark Borenstein, Esq. with Bowditch and Dewey was present to represent the project. Mr. Borenstein said there is no application or petition in front of the Planning Board but instead he was notified by the Town Administrator to attend the Planning Board meeting. Mr. Borenstein said the meeting they had with town officials did not go well and he apologized on behalf of the clients. Mr. Borenstein said he submitted a letter to the Planning Board regarding permitting for modifications and upgrades to the property. It has a current permit for storage uses only and owner wants to get changes approved.

Mr. Reinke asked if Mr. Borenstein and his client would be open to inviting the Board inside to see the whole building and he said yes, and that it was his understanding that the Town Administrator has already scheduled a site visit and the owners would be happy to accommodate whatever the board wanted. Mr. Borenstein asked if there was anything specific. Mr. Reinke said that he, BOH, Building, Fire, and Town Administrator were all at the last site visit. The issue is that the applicant is not following the conditions of the permit for the last 5 years or so and that there are serious life safety issues there. Mr. Borenstein said Lee Morse is now the majority owner and wants to work with the Board to make sure the property complies with the conditions. Mr. Borenstein said Mr. Morse has engaged an engineering firm to evaluate a new water line to the property, and update the fire systems, and he hopes the upgrades will solve safety concerns. Mr. Reinke said there has been ongoing unpermitted work going on there. There are safety issues, conservation issues (possible contaminants near the river), an unpermitted diesel tank adjacent to wetlands, and numerous building code infractions including propane tanks to unpermitted heaters, and poor structural work. Mr. Reinke said the Town is culpable now that they have seen these things and they need to be corrected.

Mr. Borenstein said Mr. Morse wants to bring everything into compliance and this is an opportunity to fix the issues, make the site better, and benefit the owner, the tenants, and the Town. Mr. Borenstein has reach out to the Building Inspector with the proposed scope of work. Mr. Reinke asked if they had engaged with an architect or structural engineer. Mr. Borenstein said he

was not aware of those individuals being hired, but he does know they have someone looking at the water hookups as they come from Worcester. Mr. Borenstein said they would like a new water line from Route 9 to allow for better water pressure.

Mr. Reinke said he was going to do a walk through on August 22nd and he anticipates this will be continued but he is hoping that the next time they meet, the owner has an engineer and contract they can share with the Board showing they are moving towards a real resolution. Mr. Borenstein clarified about hiring an architect for code compliance and Mr. Reinke said yes, they need an engineer and architect. Mr. Escobar asked if they were at full capacity for tenants and Mr. Borenstein said no that the building is 27,000 s.f and only 12,000 s.f is leased. Mr. Escobar feels the propane tanks needs to be removed from the inside of the building immediately, before the walk through, as it's dangerous. Mr. Reinke pointed out that they never pulled a permit for it. Mr. Borenstein said he and the property manager will be there on the 22nd. Mr. Reinke asked Mr. Borenstein to identify whether or not that business is registered with the Town. Mr. Dykas said the Special Permit only allows storage so none of the other stuff is allowed. Mr. Escobar said the last correspondence from the Fire Dept. was from May 2023 and those items have not been addressed. Mr. Borenstein said he does not have copies of any of those letters. Mr. Borenstein said nothing should be operating there except storage and he will provide a list of tenants.

Mr. Escobar prefers not to shut them down, but asked what options they have. Mr. Reinke said they could order a cease and desist especially for safety issues. Mr. Dykas said he's seen dump trucks dumping dirt there and it could be dirty and runoff into the stream. Mr. Dykas asked about liability to the Town even though Mr. Borenstein and Mr. Morse are willing to make the changes, they are in violation and the special permit could be revoked. Mr. Dykas wants clarification from Town Counsel. Mr. Reinke proposed taking the following immediate steps:

- Removing propane tanks
- Removing fuel storage tank off property
- Removing any construction spoils, dirt, millings off the site and put in authorized location
- More than 2 dozen unregistered vehicles are there that need to be removed as there is no outside storage per the conditions. Mr. Reinke is ok with registered vehicles staying but that's all.
- RV appearing to be used as residence needs to be gone by August 22nd or face a \$220 per day fine until it's removed.

Mr. Borenstein would recommend to his client that he reminds all his tenants that this is for storage only and they need to stop doing anything else and told they will be bringing this property into compliance. Mr. Borenstein will try to do as much of that as they can do by the 22nd. Mr. Borenstein said there is a tree removal business that has two registered vehicles stored there and he understands the millings were used for the recent resurfacing of the parking lot. Mr. Escobar said the amount of millings there would be hard to move by the 22nd so tenants need to be alerted. Ms. Nist said there has been no application or approval for an earth fill or removal permit so they are in violation of that as well. Mr. Escobar asked for wattles to be installed around the millings. Mr. Dykas said the history of the property was Eller's Restaurant, and a store and the whole back was storage of lumber. Mr. Borenstein said they will work to bring this into compliance as fast as possible and he will talk to his client.

Mr. Reinke would amend his suggestion of the 22nd for all of the items listed based on Mr. Escobar's comments. Mr. Reinke said to have the following removed by the 22nd:

- The propane tanks removed from the building
- Fuel storage tank is portable and should be removed
- The RV should be removed.
- Wattles or accessible containment measures approved by Conservation to surround spoils piles including millings should be done.
- Suggested site visit on September 15th and hope to see spoils piles gone, unregistered vehicles gone or stored inside.
- Mr. Reinke said the keys to doors need to be in the Knox-box and properly labeled by the 22nd.

Mr. Reinke wants to continue this to September 5th and wants to see the contracts for engineers and architects to show that they are moving to compliance so they can remain open while the rest is done. If these things are not met by September 15th, they would start imposing fines. Mr. Borenstein said thirty days sounds reasonable and he will relay this to his client. Mr. Escobar said as long as they continuously see progress, they would work with them. Mr. Reinke said they are looking for compliance instead of fines but the business must be legitimate.

Motion: Mr. Reinke made a motion to allow the continued use of the property in its current state with the following conditions to be met by August 22, 2023:

1. The propane tanks shall be disconnected and moved to a compliant area offsite
2. Keys to all exterior doors shall be properly labeled and stored in the Knox-box
3. The fifth wheel RV shall be removed off site
4. The large capacity fuel storage unit shall be moved off site

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed	
Approved 5 to 0	

Mr. Reinke asked if the previous motion should have a monetary component.

Motion: Mr. Reinke moved to amend the previous motion to add a condition number 5. that if these conditions are not met by the August 22nd inspection, fines will be imposed at \$300 per day.

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

Motion: Mr. Reinke made a motion to allow the continued use of the property, as a storage facility, if the following conditions are met by September 15, 2023:

1. That all the conditions of the August 22nd have been met.
2. That all unregistered vehicles be moved offsite
3. That all construction site work spoils including millings and dirt be removed from the site or properly contained with erosion control measures and inspected by the Conservation Commission
4. If those conditions are not met by September 15, 2023 deadline, a \$300/day fine will be imposed.

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

Mr. Reinke said to Mr. Borenstein that he wants to emphasize that they really want to work with his client and they could be very successful if they see progress towards compliance. Mr. Dykas said if you review the original hearing notes, the water/sewer was a real issue. Mr. Borenstein said that's why they are working with the engineer, Morse Engineering (MEC), to connect to water/sewer. Mr. Borenstein said he is looking forward to working with the Board towards compliance.

Motion: Ms. Nist moved to continue the discussion on 190 Main St. to September 5, 2023 at 7pm or thereafter.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

General Discussion

Ms. Nist:

- What's happening across from Walmart. Ms. Main said she hasn't heard anything new but thinks its supposed to be Burger King and possibly a Starbucks. Mr. Reinke heard they were building the storage component.
- Chapel Street Mill – people living there. Ms. Main said she let the building inspector know.

Mr. Reinke:

- Main St. property (700s) - lack of shrubbery at property next to Skyview and the church on Main St. Ms. Nist recalled they were supposed to put up some type of fencing.
- Main St. duplexes across the street were supposed to have Cultec chambers put in and needs follow up.
- G&L auto had to change their site plan around to change ADA spot so we need an as-built plan.
- MBTA deadline to come up with something to allow affordable housing along the MBTA route.

Mr. Dykas:

- Asked if building inspector wrote a letter to Brickyard Road re: AirBnB or wedding venue which is not allowed in zoning. Ms. Main said she hasn't seen a letter.

Motion: Ms. Nist moved to adjourn.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

Meeting adjourned at 8:58 p.m.

Respectfully Submitted by:
Lisa Westwell, Administrative Assistant
to the Planning Department

Date Approved: _____

Planning Board Signatures

Joshua Campbell, Chair

Anthony Escobar

James Reinke, Vice Chair

Lee Dykas

Sharon Nist, Clerk

Leicester Planning Board Meeting Minutes September 5, 2023

Location: Leicester Town Hall, Meeting Room 3

Member Present: Joshua Campbell, James Reinke, Sharon Nist, Anthony Escobar, Lee Dykas

Members Absent:

Staff Members Present: Kristen Jacobsen, Town Planner, Elena Ion, CMRPC

Members of the Public in Attendance: Eric and Stephanie with Joe's Auto, Justin Eisnor, Mark Borenstein, Esq., Edward Kooyomjian, Jan Parke

Call to Order: Chairman Campbell called the meeting to order at 7:00 PM

Economic Development Commission Meeting Update

- Mr. Reinke said they discussed how to streamline the permitting process and that most of the bylaws are built around the safety aspect and Master Plan. He said that the center of Leicester is not designed for the traffic and it's hard to see the business as you jockey around so he was looking into on-street parking on Route 9 corridors in other Towns.
- EDC also talked about the challenges of the central business district and how it's mixed use and needs to be revamped by getting all folks on same page. EDC discussed how the Boards interact for projects and how they can make the permitting process easier. Ms. Nist is the main problem with Route 9 is it's a state highway and can't have parking.
- Mr. Campbell said they talked about an application checklist and that it would be good to have a checklist for these projects.

1. Public Hearing, Special Permit Amendment – Continued – 11 Hankey Street

Request for amend special permit SP2021-03 for makerspace

Applicant: The WorcShop

There is no one present to represent the project. Mr. Campbell said they are looking to amend several waivers that they had in their original special permit and asked if anyone wanted to speak on it. Mr. Reinke said in light of the recent change of staff, he thinks they should continue this to their next meeting and ask the new Town Planner to reach out to the Applicant.

Motion by Ms. Nist to continue the public hearing for the special permit amendment SP2021-03 for 11 Hankey St. to September 19, 2023, at 7pm or thereabouts.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye

Lee Dykas	Aye
Four (4) in Favor. None (0) Opposed. One (1) Absent. Approved 4 to 0	

2. Joe's Auto – 81 Huntoon Memorial Highway

Ms. Jacobsen said the Applicant asked to be added to the agenda today for conversation on what the next steps would be for their project. Eric from Joe's Auto was present. Eric said dating back to October 2022 he met with Dept. of Inspectional Services and asked for them to visit the site to view his proposed changes. Eric said at that time everybody let him know that the property had been broken up and had some wetland issues as the previous owner had put junk vehicles on the lot, and they had an auto dealer license with a 100 car parking permit. Eric said his partner, Joe, bought the property from Paul and for Eric to move forward he had to clean out the wetlands. Eric said he had Glenn Krevosky delineate the wetlands and he cleaned up the wetlands. On November 30, 2022, they put together the application to become an automobile repair shop and used car sales business for the Town and they have been in business 18 years.

Eric said he wants to build a new building and have a used car dealership and was told he had a restriction to 30 cars. Joe carried over the 30 car number on the new parking plan, but Eric was told to get a new plan so he hired DiPrete Engineering in January of 2023 to do an existing conditions plan, contacted water/sewer, and submitted it for further review. The Planner told him there was a 50' setback and needed a variance. Eric said it got complicated and now they are stalled on the parking plan. The 50' setback renders the property useless if they can't park within the setback. Eric said he submitted the plans to the Town Clerk and Fire and the rest of the departments. Eric wants to build a 7,400 s.f. building. Eric said the existing building is also within the setback and the elevation in the back would not fit 100 cars and meet the front setback. Eric said he cleaned out the back of the property and had the plans revised and submitted them again in May 2023 for a used car dealership and then the Town Planner left again.

Eric said he is hoping for a temporary permit for the parking lot because he is still waiting on approval from the DMV. He said Ms. Ion instructed them to get a waiver from the ZBA for the variance and he said DiPrete submitted it, and he can submit a copy. Eric said he only has two weeks until he needs to get things started.

Mr. Campbell apologized for the turnover. Eric said he is also working with the abutting property own to get some more land. Ms. Nist asked about the letter from Mike Silva and asked about a date. Eric said there was lots of correspondence from the Town with no date. Ms. Jacobsen said there is no record of a submittal in the Planning Dept., Town Clerk, or on the website. Ms. Nist also has no recollection of the submittal. Ms. Jacobsen said there is no application for the ZBA variance and no plans. Eric gave copies of his paperwork to Ms. Jacobsen. Ms. Jacobsen said the documents were from the Worcester County Registry of Deeds, motor vehicle license for repair, and insurance, and quote form Glenn Krevosky, but no application for a ZBA variance.

Mr. Reinke also apologized but said there is a process that they follow under Mass. General Law and step one is permitting and if he has it all, re-submit it to the Board. Mr. Reinke said the new Town Planner is here and ready to help him get the application and plan in order and submitted.

Mr. Reinke said the Town's peer review engineer will have to review his plans. Eric said he understands the process, he's all for it, and he'll gather everything up and bring it in again. Mr. Reinke said they want to get him in the right direction so to sit with the Town Planner, get existing and proposed conditions, and talk to his engineer about what phases he wants to go with for the project. Mr. Reinke said the variance information would be submitted to the ZBA, not the Planning Board and that he needs stamped plans from an engineer and an application. Mr. Reinke said they want to help him be compliant with the bylaws and regulations and they need his application(s) and all of his engineered plans. Mr. Reinke said the Tech Review team and town peer reviewer will review everything.

Eric said he bought a steel building to move the paint booth and showed some preliminary drawings and asked if he can get a temporary permit to pour the concrete. Mr. Reinke said he needs a building permit and the variance so doing anything would be at his own risk. Ms. Nist said the pouring of concrete would still need a site plan review for a new building. Ms. Jacobsen said he may need to go to Planning, Zoning and Conservation. Mr. Campbell said they are looking forward to working with Joe's Auto.

3. 190 Main St., Cherry Valley

Mr. Mark Borenstein, Esq. is present for the applicant. Mr. Borenstein said he emailed Donna Main to talk about next steps but never heard back. The Board informed him she was no longer with the Town and Kristen Jacobsen is the new Town Planner. Mr. Borenstein said the three documents are: two confirmations from professionals the applicant has engaged for engineering and architectural, and a proposal from a performance consultant for fire suppression. Mr. Borenstein said the property owner has done the following:

- has a dumpster on the property to remove the scrap metal
- is working with the engineer to install straw wattles around the millings as they want to use the millings so are keeping them on site
- filed an electrical permit town today for wiring running along the side of the property and into the ground to connect the wiring to be compliant

Mr. Campbell asked Mr. Borenstein if the following punch list had been done and he replied yes to all:

- propane tank removed
- storage tank removed
- RV removed
- Containers for scrap metal and spoils
- Unregistered vehicles
- Contract with engineers

Mr. Reinke asked about the millings and said they did agree to have the wattles placed around them but didn't understand using it for grading. Mr. Borenstein said millings would be used for parking surfaces. Mr. Reinke said that is not allowed by bylaws or conservation and the parking would have to be done with asphalt. Mr. Borenstein wants to confirm what they want to do and have Kevin Quinn review and then go to the Board. Mr. Borenstein said they do not want to conduct any site work until the Board approves the plan. Mr. Reinke said the vision for the building is more

than just storage and suggests they come back with their vision and everything they will need to go along with their plans. The plan should show the building, use, and surrounding structures and that will drive the parking requirements. Mr. Borenstein said they want to meet all of the permitting requirements. Ms. Nist said the runoff from the west side of the building was discussed and needs to be taken care of with detention/retention. Mr. Reinke suggested they explore the uses allowed in the zone and decide what they want to do and also discuss their plans with their neighbors to address any issues they may have with traffic. Mr. Borenstein said a lot of the proposed parking areas are a common parking lot with the other businesses.

Mr. Campbell said the only open item now is the millings. Mr. Reinke suggested the Board extend completion of the list to September 19, 2023 and get an update from Mr. Borenstein. Ms. Nist asked where the millings came from and, if they are going to be removed, do they need an earth removal permit. Mr. Reinke said it's not soil so they do not need an earth removal permit. Mr. Borenstein said he doesn't know where the millings came from or how they will be used but if they were going to remain, they would explain to the Board why they were keeping them there and if they need Conservation permitting.

Motion by Mr. Reinke to continue the discussion on 190 Main St., Cherry Valley to September 19, 2023 at 7:05 pm or soon thereafter with anticipation that we will be receiving update and narrative on purpose and intent of the millings needing to stay on site.

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

Town Planner Report/General Discussion

Mr. Reinke asked Ms. Jacobsen what her goals were for this year and she said to get this into a nice well oiled machine and get it cleaned up as there were some database issues.

Grandview Estates: Mr. Campbell invited Edward Kooyomjian, Jr. to be heard. He said he emailed Donna Main as well because his father received a registered letter from the Planning Board about Grandview Estates on Route 56. He wrote to Donna that his father passed away 3 years ago. He said he was a manager working on the project from 2005-2008 and Donna asked him to appear at this meeting. Mr. Kooyomjian summarized the letter saying it said: in response to a recent request for a reduction in surety to Grandview Estates, it's requested that you attend the meeting to discuss the project and the surety. Mr. Kooyomjian said this was closed out with Country Bank over 10 years ago so he doesn't understand why the letter was sent.

Ms. Nist said it's the road and as she recalls the road was supposed to be done in phases and only Phase 1 was done so she thinks it's a housekeeping item to make sure the road is the way it's supposed to be. Mr. Kooyomjian said that makes sense as the original surety was around \$100,000 and was last at about \$30,000 and was probably tied to a punch list with the Board. Mr. Kooyomjian said the road itself was that the cul-de-sac was temporary and would go away and the road would connect to Pleasant St. Mr. Kooyomjian said the cul-de-sac still exists but was not part of the permit. Mr. Dykas said stormwater was a concern on that. Ms. Nist suggested sending Kevin Quinn out to look at the road and if it's good, the Board could release the surety.

Ms. Jacobsen asked if Mr. Kooyomjian owned the property or if the bank owned it. He said Country Bank conducted an action and he doesn't know who owns it. Mr. Dykas thinks there's a homeowner's association and they were requesting the bond so maybe they own the land. Mr. Kooyomjian doesn't know if they own vacant land lots 2 and 3 or if it was conveyed to the association but the master deed might spell that out. Mr. Kooyomjian asked if there was a statute of limit on a surety letter and said that Leicester Estates Corporation is no longer in business. Ms. Jacobsen said that since Mr. Kooyomjian and his father are no longer owners, the Planning Department will look into ownership. Mr. Reinke asked who sent the letter asking for a reduction in the surety. Mr. Dykas said it was the homeowners association, but Mr. Campbell said Donna was supposed to look into who requested the surety so they didn't know. Ms. Jacobsen asked who would be entitled to get the money back now. Mr. Reinke said Quinn Engineering had some small things and as he recalled, it was stormwater related. Mr. Kooyomjian said the project was foreclosed upon and suggested contacting Country Bank or the homeowners association.

Motion by Ms. Nist to adjourn.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Aye
Lee Dykas	Aye
Five (5) in Favor. None (0) Opposed Approved 5 to 0	

Meeting adjourned at 8:14 p.m.

Respectfully Submitted by:
Lisa Westwell, Administrative Assistant
to the Planning Department

Date Approved: _____

Planning Board Signatures

Joshua Campbell, Chair

Anthony Escobar

James Reinke, Vice Chair

Lee Dykas

Sharon Nist

Leicester Planning Board Meeting Minutes January 2, 2024

Location: Leicester Town Hall, Meeting Room 3

Member Present: Joshua Campbell, James Reinke, Sharon Nist, Lee Dykas

Members Absent: Anthony Escobar

Staff Members Present: Lisa Westwell, Administrative Assistant to the Planning Department

Members of the Public in Attendance: See attached Sign in Sheet

Call to Order: Chairman Campbell called the meeting to order at 7:03 PM

Approval of Minutes from December 19, 2023

Motion by Ms. Nist to approve the December 19, 2023 minutes.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Absent
Lee Dykas	Aye
Four (4) in Favor. None (0) Opposed Approved 4 to 0	

Old Business

3 Blueberry Lane – Patriot Storage

Mr. Campbell confirmed with Ms. Westwell that Mr. Zuffante, owner, was working with his engineer, Jay Dubois, and would get back to the Board. Mr. Reinke said he took a call from Jay Dubois on Friday, December 29, 2023. Mr. Dubois wanted to clarify what the Board was looking for. Mr. Reinke told Mr. Dubois to clarify that the storage project was built correctly and send a stamped engineering letter itemizing any issues and that he did not need to do an as-built. Mr. Reinke also asked Mr. Dubois to look at the southerly and westerly swale. Mr. Reinke said the letter would be less expensive for the owner than an as-built but wants to see a letter and as-built as a condition of projects moving forward.

New Business

Appointment of Alternate to Planning Board

Chris Clark was present as the applicant to be appointed. Mr. Campbell said Mr. Clark has applied for the Alternate member position. Ms. Nist noted that the application should say “Associate Member” of the Planning Board. Mr. Clark said he applied for the position because he wants to

help the town. Ms. Nist noted that the application did not have a spot for Associate Member and he should let the Town Administrator's office know what position is correct for the appointment.

Motion by Ms. Nist to recommend to the Selectboard to appoint Mr. Clark as Associate Member to the Planning Board.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Absent
Lee Dykas	Aye
Four (4) in Favor. None (0) Opposed	
Approved 4 to 0	

Mr. Clark asked about his responsibilities as far as attending meetings and voting. Mr. Reinke explained to Mr. Clark that the associate member can only vote on Special Permits. Ms. Westwell will contact the Selectmen's office about the appointment and put together guidelines for Mr. Clark to pick up and review and get familiar with the various types of projects heard by the Planning Board.

Town Planner Report/General Discussion

- Salvation Army, 1606 Main Street – Ms. Westwell said that this is a new project located to the right of Walmart if you are looking at Walmart's driveway. She said they are proposing to build a Salvation Army retail space, 14,000 s.f., and plan to submit February time frame. Mr. Dykas asked what happened to the one in Spencer. Ms. Nist said she heard that the Salvation Army didn't want to sign a five year lease so they left and she doesn't know what's going in there.
- 190 Main Street – Ms. Westwell said they reached out to the Fire Department and Building Inspector with Jay Gallant's (architect) report and asked them to review and comment. Ms. Jacobsen did a site visit on 12/20/23 and the Planning Department comments are in the memo. The Fire Department comments are included with all past correspondence from the Fire Dept. The Building Inspector is waiting for direction from the Planning Board for enforcement action. Ms. Westwell suggested putting this on the next agenda so the Board has time to review the information and consider options for enforcement.

Ms. Westwell said that M.G.L. allows a \$300 per day fine, but Town bylaws allow for \$100 for each offense and each day if the Board was considering a monetary fine. Mr. Campbell asked if M.G.L. was per offense and Ms. Westwell said the Town couldn't fine more than \$300 per violation per day. Mr. Reinke said the Building Inspector has his way to do things. Mr. Reinke said, for him, fining someone is always a last resort if they aren't

being communicative. He would like to see the owner or their attorney come before the Board again and tell them where they stand, particularly in regard to safety. They have gotten notices since 2017 that they are not in compliance, so they need to come before the Board on a regular basis. Mr. Reinke said it's great that they've hired an architect, but wants to know what has been done because they still have safety and building code violations.

Ms. Nist noted the site visit photograph shows they are back to using the area for outside storage. Mr. Reinke said he has spoken with them and said the registered commercial vehicles could remain, but the un-registered vehicles had to be removed and they are still not in compliance. Mr. Campbell asked if they could come to one of the next two meetings as they have attended with their attorney before and tried to work with the Board. Mr. Reinke suggested they attend within 30 days.

Motion by Mr. Reinke that a representative come to the February 6, 2024 Planning Board meeting at 7pm to update the Board on property with existing conditions and timeline to correct.

Second: Ms. Nist

Discussion:

- Mr. Campbell asked if we wanted a list. Mr. Reinke said no, they have a list and know what they are supposed to do.
- Mr. Dykas said they were very compliant, and they needed fixes won't happen overnight, like the sprinklers, but agreed it would be good to find out where they are at.
- Mr. Reinke said the Board has standards that need to be met and they are still not in compliance.
- Mr. Nist said the last correspondence was July 24, 2023 and they were on the August and September agendas continued to September 19th but then not on that agenda. Ms. Nist said they haven't had any updates since then.
- Mr. Campbell said safety issues need to be addressed.
- Mr. Reinke's biggest concern is the heavy trucks and pedestrian traffic danger.
- Mr. Campbell agreed that they need to come back before the Board so they can get reacquainted with the project.

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Absent
Lee Dykas	Aye
Four (4) in Favor. None (0) Opposed	
Approved 4 to 0	

- 704 Main St. – Ms. Westwell informed the Board that that property was sold to Mark Farnham and she emailed him 12/21/23 asking for install information and photos but had not heard back. Mr. Reinke asked if it was sent any other way than email and Ms. Westwell said no, but she would follow up. Mr. Reinke wants to add this project to the next agenda if we have not received a response within 30 days.

Motion by Mr. Reinke to put the properties purchased and build up by Mark and Buddy Farnham on the February 6, 2024 meeting agenda for further deliberation and possible enforcement.

Second: Ms. Nist

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Absent
Lee Dykas	Aye
Four (4) in Favor. None (0) Opposed Approved 4 to 0	

- 25 a/b Pleasant Street – Ms. Westwell said she emailed Peter DiGioia and got a response on 12/27/23 that he was working on sending info on the Cultec system and test pit data as the Board requested. Mr. Reinek said this was actually within the ZBA purview as it was a ZBA Special Permit and that Board should follow up.
- HB1 Memo and Zoning Map

The Board reviewed the current HB1 Zoning Map put together by Ms. Jacobsen, Town Planner. Comments:

- Mr. Campbell said the biggest one would be the mixed use.
- Mr. Reinke said he didn't want to change the entire HB1 zone, but just change it westerly from Cumberland Farms west possibly to Town line for mixed use development. There are some small single families until you get to Cumbies then it has the potential to turn over to more mixed use. There is also the Water Resources Protection Overlay District and its restrictive. Mr. Reinke said he and Ms. Jacobsen would like to see the zone stay with the property lines instead of a random wide swath of land.
- Mr. Dykas said the zone line vs width would depend on how taxes were being paid as HB1 pays higher taxes.
- Mr. Reinke would make Cumbies west mixed use district and leave the HB1 Cumbies east the way it is now.
- Jan Parke, attendee, asked how far down Burncoat Street the HB1 zone goes as it becomes residential. She said there was some conversations between the owner of one of the parcels and the Common Ground Land Trust to possibly create a pocket park and connected trails to Burncoat Park so she would like to see the potential revisions to HB1 zone not as deep in width.
- Mr. Reinke said to Jan's point, he wants to look at the properties, so it meshes well and consider how the individual properties relate to Route 9. He wants to consider zone changes in a meaningful way and have something for Spring Town Meeting.

Mr. Dykas left the meeting at 7:45 pm for an appointment.

- Mr. Reinke said this is important for business development and preserving open space so there is a balance. He also said they need to consider the MBTA component. Mr. Campbell concurred. Mr. Reinke said single family homes in the zone wouldn't have to change but the zone would be there for them for future use. Mr. Campbell hopes this will have a positive impact for the Town.

Main St. - Ms. Nist asked about pile of lumber at Laney's property across from Cumberland Farms. Mr. Reinke said he thinks they are staging materials for the gas station parcel. Ms. Nist asked if it had something to do with the red house they are tearing down.

Hammond St. - Ms. Nist asked about Hammond St. and if Ms. Jacobsen was able to find out anything. Ms. Westwell said she hadn't heard anything since last week. Ms. Nist said that if Hammond St. was accepted as a public way it should be on one of the town meetings as the town would have had to accept it, maybe around 2008 or 2017. She thinks they compromised by doing a cul-de-sac and it also came up as a lawsuit against the Planning Board. Ms. Nist did not remember the applicant.

Smuggler's Cove - Ms. Nist asked about Smugglers Cove as it's for sale and asked what was going to happen to the open space. Mr. Reinke said the open space was never recorded. Ms. Parke said the land trust, lake association, and landowner have all had informal conversations. She said Smugglers Cove open space was to be gifted to the town, but it didn't happen and now it's on the market. Mr. Reinke said it's for sale for two separate lots. Ms. Parke said the land trust has reached out to the owner and asked to walk the property to come up with a plan or decisions for the future, but the owner has asked them to wait as he wants to build a house. Mr. Reinke said the open space residential subdivision was not built so there is no way to convey the open space and the subdivision plan expires in 7 years. Ms. Westwell said that Charlton Heritage Preservation Trust in Charlton does a lot of flexible open space subdivisions in Charlton and they require the open space to be conveyed before any work starts, and they work very closely with the Charlton Planning Board. Ms. Westwell said historically that has happened with older subdivisions where open space hasn't been conveyed so they have specific criteria. Mr. Reinke said Leicester hasn't had an open space flexible subdivision that's been built yet. Ms. Westwell also mentioned that Charlton has a flexible business development bylaw where businesses can set aside open space and Tree House was once such project. Mr. Reinke asked if Ms. Westwell would send the Business Flexible bylaw with the Board so they can look at it. Mr. Reinke said his vision of the drive-in property and others like it, such as Burncoat Park, would be nice to tie in with open space and TIF mechanisms. Ms. Parke said Burncoat Park connects to the Mid-State trail and that developers have done some great projects that set aside open space.

Mr. Reinke would like to put accessory dwelling units on the February 6th meeting. He said that right now we have accessory apartments that go through the ZBA. Mr. Reinke would like to take away the requirements that it be attached to the structure and that it can be a separate unit. Mr. Reinke said he would like to see it allowed with Special Permit in R-2 and allowed by right in the SA, R-1 zones as long as there is a connection to sewer. Mr. Reinke said that the reality is that many families are living together, kids are coming back home, and this might be a steppingstone where

kids can have their own place or a benefit to homeowners to rent out an accessory structure as long as owner lives in primary residence on property. Ms. Nist asked how that would affect the driveway bylaw as the bylaw doesn't allow for shared driveways. Mr. Reinke said it would be a shared driveway as it's on the same parcel.

Motion by Ms. Nist to adjourn.

Second: Mr. Reinke

Discussion: None

Record of Vote:

Joshua Campbell	Aye
James Reinke	Aye
Sharon Nist	Aye
Anthony Escobar	Absent
Lee Dykas	Absent
Three (3) in Favor. None (0) Opposed Approved 3 to 0	

Meeting adjourned at 8:05 p.m.

Respectfully Submitted by:
Lisa Westwell, Administrative Assistant
to the Planning Department

Date Approved: _____

Planning Board Signatures

Joshua Campbell, Chair

Anthony Escobar

James Reinke, Vice Chair

Lee Dykas

Sharon Nist

ANR – Stafford/Auburn Sts.

GRAZ Engineering, L.L.C.



323 West Lake Road • Fitzwilliam, NH 03447 • Telephone (603) 585-6959 • Fax (603) 585-6960

Transmittal

To: Planning Board
Company: Town of Leicester
Address: 3 Washburn Square
City/State: Leicester, MA 01524
Subject: Stafford & Auburn Streets
ANR - Form A Submittal
Date: January 30, 2024
Transmitted: ☒ Email ☒ Hand ☐ Mail

- | | |
|--|---|
| <input checked="" type="checkbox"/> For Your Approval | <input checked="" type="checkbox"/> Which You requested |
| <input checked="" type="checkbox"/> For Your Review | <input type="checkbox"/> Approved |
| <input type="checkbox"/> For Your Signature | <input type="checkbox"/> Approved As Noted |
| <input checked="" type="checkbox"/> For Your Information | <input type="checkbox"/> Revise And Resubmit |
| <input type="checkbox"/> For Your Files | <input type="checkbox"/> Not Approved |

5	copies	Form A, ANR Application & Checklist dated 1/30/24
1	copies	Stafford & Auburn Streets ANR Plan dated 1/30/2024 (24"x 36", Mylar)
3	copies	Stafford & Auburn Streets ANR Plan dated 1/30/2024 (24"x 36", Bond)
6	copies	Stafford & Auburn Streets ANR Plan dated 1/30/2024 (11"x 17", Bond)
1	check	Project Review Fee Check for \$ 160.00
	copy	
	copy	

Comments: Enclosed is the Form A, ANR Application & Checklist for creating two lots (Lot 1 & Remaining Land) off from and located at the northeasterly corner of Stafford & Auburn Streets for Southwest Holdings, Ltd. (Wayne Richard). The land to be divided is depicted on Assessors Map 35, as Parcels C7.1 & C12.0.

I trust that this submittal meets the requirements of the Board and look forward to discussing this project at your next regularly scheduled meeting. Should you have any questions or require any additional information, please call my cell at 508-769-9084.

Respectfully yours,
GRAZ Engineering, L.L.C.

Brian MacEwen, P.L.S., B.S.C.E.
Project Manager

cc: Robert W. Richard, Owner/Applicant



TOWN OF LEICESTER

Planning Department
3 Washburn Square, Leicester, Massachusetts 01524

t. 508.892.7000 ext.120

Planning Board ANR Plan Content & Submittal Checklist

Name of Owner Southwest Holdings, Ltd.
Location Stafford & Auburn Streets
Representative GRAZ Engineering, LLC Phone Number 508-769-9084 (Brian)
Number of Lots 2 Submittal Date 1/30/24 Meeting Date 2/6/24

Filing Fee (\$160.00 Check payable to Town of Leicester)	<input checked="" type="checkbox"/>	Zone <u>BR-1, Structure</u>	<input checked="" type="checkbox"/>
Application & Checklist (5 Copies)	<input checked="" type="checkbox"/>	Frontage (show totals)	<input checked="" type="checkbox"/>
Mylar & 3 Paper Copies (Full Size)	<input checked="" type="checkbox"/>	Lot Area (Sq ft and Acres)	<input checked="" type="checkbox"/>
6 Reduced Copies of Plans (11x17")	<input checked="" type="checkbox"/>	Metes and Bounds	<input checked="" type="checkbox"/>
Owner and address of record	<input checked="" type="checkbox"/>	Abutters	<input checked="" type="checkbox"/>
MA Surveyor stamp and signature	<input checked="" type="checkbox"/>	Electronic Copy	<input checked="" type="checkbox"/>
Endorsement Box	<input checked="" type="checkbox"/>	Existing Structures, driveways, wells	<input checked="" type="checkbox"/>
Registry Box	<input checked="" type="checkbox"/>	Other non-lot parcels	<input type="checkbox"/>
Plan and Deed references	<input checked="" type="checkbox"/>	Variance	<input type="checkbox"/>
Certifications of standards and survey	<input checked="" type="checkbox"/>	Book <u>28790</u> Page <u>68</u> (Parcels C & D)	
Scale, legend and date	<input checked="" type="checkbox"/>	Matters for Conservation to Review	<input type="checkbox"/>
Locus and north arrow	<input checked="" type="checkbox"/>		
Way a. Public	<input checked="" type="checkbox"/>		
b. Private uses & certified	<input type="checkbox"/>		
c. Suitable & pre-existing	<input type="checkbox"/>		

Notes:

Planning Board

Kristen Jacobsen

Town Planner

Town of Leicester

Planning Department

Application for ANR

(Approval Not Required under the Subdivision Control Law)

ANR 20____ - ____



3 Washburn Square
Leicester, MA 01524
508.892.7000 ext. 120
www.leicesterma.org

Applicant

Name of Applicant (primary contact): _____
Address: _____
Phone: _____ Cell: _____
Email Address: _____

Owner

Parcel ID _____ Name _____ Address _____	Parcel ID _____ Name _____ Address _____
--	--

Surveyor

Name of Surveyor: _____
Company: _____
Address: _____
Phone: _____ Email: _____

Request

Check one: ☐ Boundary Line Adjustment ☐ Create new lot(s); indicate total number including original parcel: _____
Description of proposal: _____

Property

Location of Property: _____
Assessor's Tax Map/Lot Number Affected: _____
Deed References – Hampshire District Registry of Deeds Book/Page Number: _____
Plan References – Hampshire District Registry of Deeds Book/Plan Number: _____
Zoning District: _____

Sign

Note: All affected owners must sign the application.

Applicant's signature: _____

Date: 1/30/2024

Owner's Signature (s): _____

Date: 1/30/2024

Date: _____

Town Clerk's Stamp:

Official Use Only:

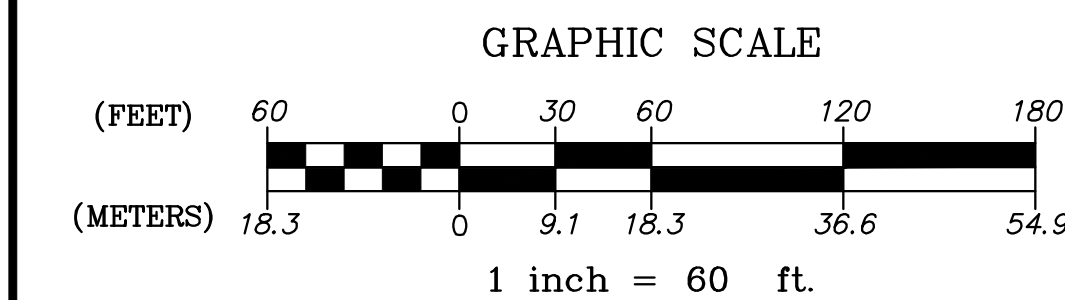
Fee: \$ _____ Date Paid: _____ Check #: _____



Meeting Date: _____

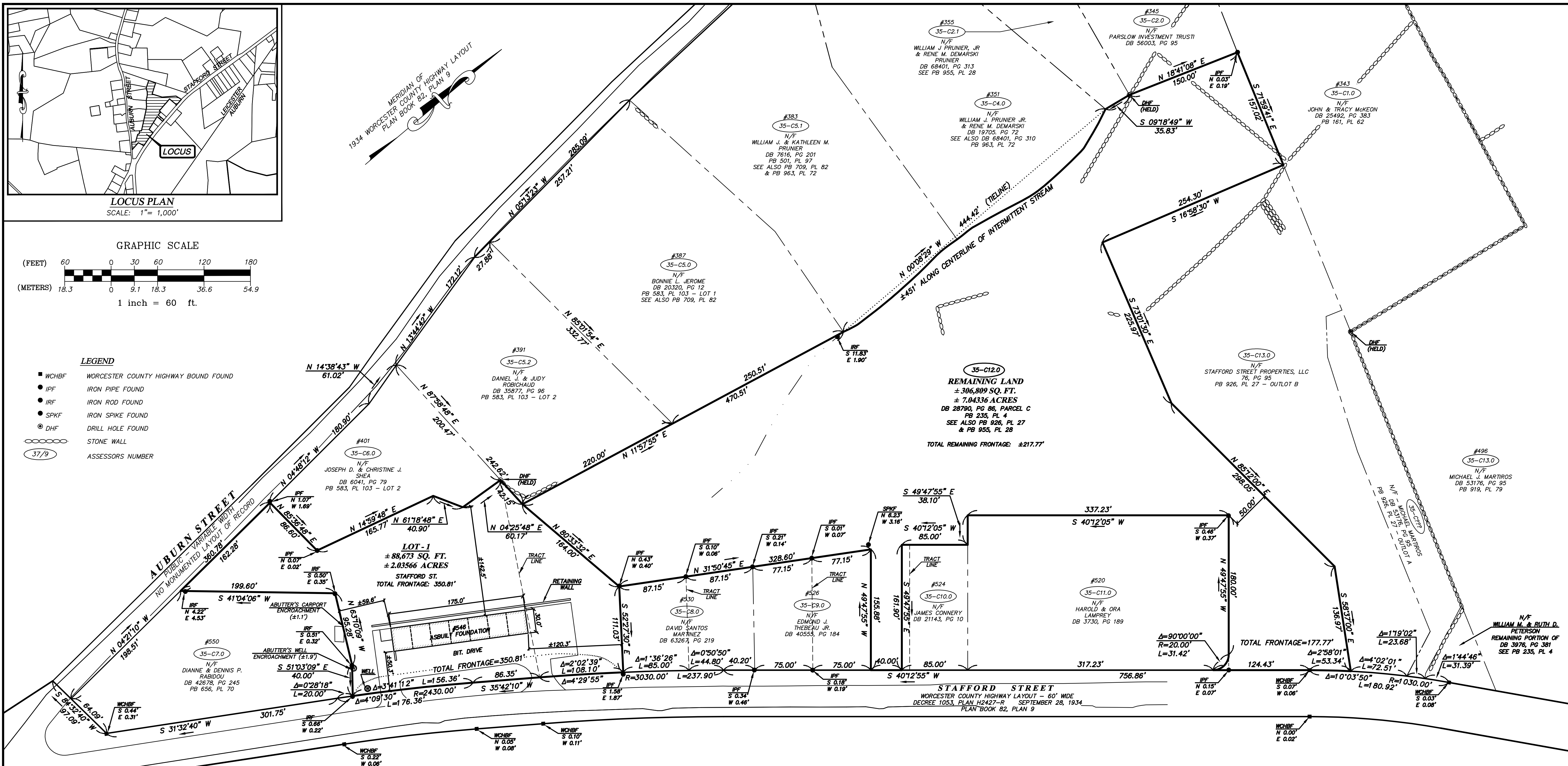
Date of Decision: _____

Planning Board Decision: _____

Submitted to Assessors' Office on: _____



- | <u>LEGEND</u> | |
|---|--------------------------------------|
| ■ WCHBF | WORCESTER COUNTY HIGHWAY BOUND FOUND |
| ● IPF | IRON PIPE FOUND |
| ● IRF | IRON ROD FOUND |
| ● SPKF | IRON SPIKE FOUND |
| ⊙ DHF | DRILL HOLE FOUND |
|  | |
| STONE WALL | |
|  | |
| ASSESSORS' NUMBER | |



NOTES:

- 1) THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A FULL TITLE REPORT AND IS SUBJECT TO ANY AND ALL RIGHTS AND ENCUMBRANCES THAT SUCH A REPORT MAY DISCLOSE.
- 2) THIS PLAN WAS PREPARED FROM THE DEEDS AND PLANS OF RECORD CITED HEREON AND ACTUAL ON THE GROUND FIELD SURVEYS PERFORMED WITH ROBOTIC INSTRUMENT AND NETWORK RTK-GNSS METHODS BY GRAZ ENGINEERING, LLC IN 2012-2024.
- 3) THE HORIZONTAL DATUM IS NAD 83, MASSACHUSETTS MAINLAND GRID BASED ON NGS OPUS POST PROCESSED STATIC GPS OBSERVATIONS TAKEN AT THE SITE.

PURPOSE STATEMENT:

- 1) THE PURPOSE OF THIS PLAN IS TO DEPICT THE COMPLETE METES & BOUNDS OF THE REMAINING LANDS LOCATED ON THE NORTHWESTERLY SIDE OF STAFFORD STREET AND THE EASTERLY SIDE AUBURN STREET AS CURRENTLY OWNED BY SOUTHWEST HOLDINGS, LTD. AND BEING DESCRIBED IN WORCESTER DISTRICT REGISTRY OF DEEDS BOOK 28790, PAGE 68 AS PARCELS C & D AS WELL AS BEING DEPICTED ON LEICESTER ASSESSOR'S MAP 35 AS PARCELS C7.1 & 12.0.
- 2) IN ADDITION, THIS PLAN CREATES TWO (2) FRONTAGE LOTS (LOT 1 & REMAINING LAND) FROM THE ALL OF THE REMAINING LANDS NOTED ABOVE.
- 3) LOT 1 SHALL BE CREATED FROM ALL OF THE LANDS DEPICTED AS MAP 35, PARCEL C7.1 (DEED BOOK PARCEL D) AS WELL AS A PORTION OF THE LANDS DEPICTED AS MAP 35, PARCEL C12.0 (DEED BOOK PARCEL C).
- 2) LOT 1 HAS LEGAL FRONTAGE AND ACCESS ON STAFFORD STREET WITH ADDITIONAL FRONTAGE ON AUBURN STREET
- 3) THE REMAINING LAND OF MAP 35, PARCEL C12.0 (DEED BOOK PARCEL C) HAS TWO (2) SEPARATE POINTS OF FRONTAGE ON STAFFORD STREET, NAMELY THE 177.77' AND 40.00' RESPECTIVELY, THIS PROVIDING ADEQUATE FRONTAGE TO CREATE CONFORMING LOT FOR THE BUSINESS RESIDENTIAL (BR-1, STRUCTURE) ZONING DISTRICT.

PROPERTY INFORMATION

OWNER OF RECORD: SOUTHWEST HOLDINGS, LTD.
LOT ADDRESSES: STAFFORD STREET & AUBURN STREET
ASSESSORS NOS.: MAP 35, PARCELS C7.1 & C12.0
LOCUS DEED: BOOK 28790, PAGE 68 - PARCELS C & D
LOCUS PLAN: PLAN BOOK 235, PLAN 4

ZONING DISTRICT:

BUSINESS RESIDENTIAL (BR-1, STRUCTURE)

DIMENSIONAL DATA:

	REQUIRED	PROVIDED (LOT 7)
LOT AREA:	20,000 SQ. FT.	88,673 SQ. FT.
FRONTAGE:	150'	350.81' (STAFFORD ST) 162.28' (AUBURN ST)
FRONT YARD:	50'	50.3'
SIDE YARD:	40'	59.6'
REAR YARD:	40'	142.5'
MAX. BUILDING COVERAGE:	30%	5.9%

CERTIFICATIONS

THE CERTIFICATIONS SHOWN HEREON ARE INTENDED TO MEET THE
REGISTRY OF DEEDS REQUIREMENTS AND ARE NOT A CERTIFICATION OF
THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF
ADJOINING PROPERTIES ARE SHOWN ACCORDING TO THE CURRENT TOWN
ASSESSOR'S RECORD OF CURRENT RECORDED DEEDS.

I CERTIFY THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



BRIAN C. MACEWEN
P.L.S. NO.: 37736

FOR REGISTRY USE ONLY

APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED
PLANNING BOARD OF
LEICESTER, MA

DATE: _____

*"NO DETERMINATION OF COMPLIANCE WITH
ZONING HAS BEEN MADE OR INTENDED
BY THE PLANNING BOARD'S ENDORSEMENT"*

REV.	DATE	DESCRIPTION		BY
JOB NUMBER:		SURVEY DATE: DEC 2012 - JAN 2024	FIELD BOOK NO. PAGES	
COMPUTED: BCM		CHECKED: PPG & BCM	DRAFTED: BCM	
SCALE: 1" = 60'		PLAN DATE: JANUARY 30, 2024	SHEET 1 OF 1	

PLAN OF LAND ON
STAFFORD STREET & AUBURN STREET
LEICESTER, MASSACHUSETTS

*PROPERTY OWNER
SOUTHWEST HOLDINGS, LTD.*

PREPARED FOR
SOUTHWEST HOLDINGS, LTD.
6017 PINE RIDGE ROAD, SUITE 255, NAPLES, FL 34119

GRAZ Engineering, L.L.C.

323 West Lake Road, Fitzwilliam, NH 03447 (603) 585-6959

190 MAIN STREET



Town of Leicester PLANNING BOARD

3 Washburn Square
Leicester, Massachusetts, 01524-1333
Phone: 508-892-7007 Fax: 508-892-7070
www.leicesterma.org

MEMORANDUM

To: Planning Board
From: Kristen Jacobsen, Town Planner
Date: February 1, 2024
Re: 190 Main Street – Special Permit 2011

Below are excerpts from the August 15, 2023 and September 5, 2023 Planning Board meeting minutes regarding discussion the Board had with Applicant's attorney, Mark Borenstein, about Special Permit compliance issues. All motions passed unanimously. Observations and photos from a site visit conducted on January 25, 2024 are included at the end of this memo.

August 15, 2023 Minutes

Motion: Mr. Reinke made a motion to allow the continued use of the property in its current state with the following conditions to be met by August 22, 2023:

1. The propane tanks shall be disconnected and moved to a compliant area offsite
2. Keys to all exterior doors shall be properly labeled and stored in the Knox-box
3. The fifth wheel RV shall be removed off site
4. The large capacity fuel storage unit shall be moved off site

Motion: Mr. Reinke moved to amend the previous motion to add a condition number 5. that if these conditions are not met by the August 22nd inspection, fines will be imposed at \$300 per day.

Motion: Mr. Reinke made a motion to allow the continued use of the property, as a storage facility, if the following conditions are met by September 15, 2023:

1. That all the conditions of the August 22nd have been met.
2. That all unregistered vehicles be moved offsite
3. That all construction site work spoils including millings and dirt be removed from the site or properly contained with erosion control measures and inspected by the Conservation Commission
4. If those conditions are not met by September 15, 2023 deadline, a \$300/day fine will be imposed.

September 5, 2023 Minutes

Mr. Borenstein said the property owner has done the following:

- has a dumpster on the property to remove the scrap metal
- is working with the engineer to install straw wattles around the millings as they want to use the millings so are keeping them on site
- filed an electrical permit town today for wiring running along the side of the property and into the ground to connect the wiring to be compliant

Mr. Campbell asked Mr. Borenstein if the following punch list had been done and he replied yes to all:

- propane tank removed
- storage tank removed
- RV removed
- Containers for scrap metal and spoils

- Unregistered vehicles
- Contract with engineers

Motion by Mr. Reinke to continue the discussion on 190 Main St., Cherry Valley to September 19, 2023 at 7:05 pm or soon thereafter with anticipation that we will be receiving update and narrative on purpose and intent of the millings needing to stay on site.
Passed unanimously.

Status:

190 Main Street was not on the September 19, 2023 agenda. There has been discussion about status but no other motions since September 5, 2023.

During a site visit conducted by Kristen Jacobsen and Lisa Westwell on Thursday, January 25, 2024, the following was observed:

- Millings are still on site. Confirming erosion control was not possible due to snow cover.
- Two large boats, trailers, and small construction vehicles (bobcat, rough terrain vehicle) are being stored on site.
- Scrap metal container full.



/lw

ZONING BY-LAW & USE TABLE REVIEW

ZONING BYLAWS FOR LEICESTER AS AMENDED THROUGH JUNE 2, 2020

TABLE OF CONTENTS **NEEDS EDIT**

SECTION 1: GENERAL	3
1.3 DEFINITIONS – Definitions merged from other sections	3
1.4 NONCONFORMITY	17
SECTION 2: ESTABLISHMENT OF DISTRICTS	19
2.1 Types of Districts.....	19
2.2 Locations of Districts	19
2.3 District Boundries	19
2.4 Districts	20
2.5 Uses Prohibited in all Districts	20
2.6 Residential 1&2	20
2.7 Suburban - Agricultural	20
2.8 Central Business District (CB) was 3.34	20
2.9 Business & Central Business District Site Development Standards was 5.8 <i>[Amended @ ATM 5-5-2015]</i>	21
2.9.7 Special Permits in the Business (B) and Central Business (CB) Districts.....	23
2.9 Greenville Village Neighborhood Business District (NB) Was 5.6.....	24
2.11 Highway Business Industrial District (HB-1) (WAS 3.31).....	29
2.12-Additional Use Reglations Specific to the Highway Business Industrial District-1(HB-1) was 3.33-added uses to use table section not needed?	33
2.13 Highway Business Industrial District 2(HB-2) was 3.31.....	33
2.14 Recreational Development District was 2.3.05.....	33
2.15 RESIDENTIAL INDUSTRIAL BUSINESS ZONE (RIB) ZONE was 3.32.....	38
2.16 Adaptive Reuse Overlay District (AROD) , Was 5.10 <i>[Amended ATM 5/5/2008 and ATM 6/2/2020]</i>	40
2.16 Floodplain District (formerly 5.2.04/ formerly 5.2.09) <i>[Amended @ ATM 5-7-2008, 5-2-2023]</i>	44
2.18 Water Resource Protection Overlay District (WAS 7.1).....	48
SECTION 3: USE REGULATIONS.....	53
3.2.07 SIGNS ¹ 54	
SECTION4: DIMENSIONAL REQUIREMENTS	55
4.1 Basic Requirements	55
4.2 Schedule of Dimensional Requirements.....	55
Schedule of Dimensional Requirements – TABLE II*	56

4.3 Modifications to Dimensional Requirement.....	57
4.4 Landscaping.....	57
SECTION 5: SPECIAL REGULATIONS.....	58
5.1 Parking & Loading Requirements.....	58
5.2-Parking of Commercial Vehicles was 3.2.08.....	58
5.3 Driveway Bylaw was 6.2A.....	59
5.5 -OPEN SPACE RESIDENTIAL DEVELOPMENT was 5.13.....	61
5.6 Senior Village Developments was 5.7	65
5.7 Stormwater Management was 5.9.....	69
5.8-Wireless Communications Bylaw was 5.4	69
5.9-Ground Mounted Solar Energy Systems was 5.14	70
5.10-Large Wind Facilities was 5.11	76
5.11 Small Wind Facilities-was 5.12.....	80
5.12 Medical Marijuana Treatment Centers & Marijuana Establishments- Was 5.15.....	83
5.13 Earth Filling & Removal was 5.16.....	88
5.17 Livestock & Backyard Chickens.....	93
5.18 Outdoor Storage.....	94
5.19 Adult Entertainment.....	95
SECTION 6: ADMINISTRATION.....	96
6.1 Enforcement.....	96
6.2 Building Permits.....	96
6.3 Certificate of Occupancy.....	96
6.4 Board of Appeals.....	96
6.12 Site Plan Review.....	99

ZONING BY-LAWS OF LEICESTER

~~As Amended through June 2, 2020~~

SECTION 1: GENERAL

1.1 AUTHORITY

This Zoning By-Law is adopted in accordance with the provisions of the General Laws, Chapter 40-A, "The Zoning Act."

1.2 PURPOSE –

To promote the health, safety, convenience, morals and general welfare of its inhabitants, to lessen the danger from fire and congestion, and to improve the Town under the provisions of the General Laws, Chapter 40-A. The use, construction, repair, alteration, and the height of buildings and structures and the use of premises in the Town of Leicester, Massachusetts, are hereby restricted and regulated as hereinafter provided.

1.3 DEFINITIONS – DEFINITIONS MERGED FROM OTHER SECTIONS

In this By-Law, the following terms shall have meanings as described below:

A PLACE OF AMUSEMENT-CARNIVAL or CIRCUS: except for a period of less than seven (7) days, theme park or recreation park providing mechanical rides. *Use table?*

ABANDONMENT: Any voluntary relinquishment or disclaimer of a use of a lot or structure which is non-conforming or the discontinuation of such use for a period of two (2) or more years shall be considered an abandonment and such lot or structure shall not be used again except for a conforming use.

ACCESS: Access shall mean the actual or potential provision of vehicular entry onto a lot by means of its frontage on a street to a degree consistent with the use or potential use of the lot. In the case of a residential lot, access shall mean that (1) there is sufficient right of vehicular passage onto the lot from the street on which it has frontage and (2) vehicular passage is or may be provided between the frontage and the dwelling unit on the lot. (See also LOT, FRONTAGE, STREET)

ACCESSORY APARTMENT: The provision and regulation of accessory apartments units in one-family dwellings is intended to :

- A. increase the diversity of housing options for town residents in response to demographic changes, particularly the demand for housing for senior family members;
- B. encourage better utilization of existing housing stock, while maintaining the appearance and character of the town's single family neighborhoods; and
- C. eliminate the continued construction of illegal unregulated apartment units.

An accessory apartment is a dwelling unit constructed within and/or added onto a one-family dwelling or attached garage. Accessory apartments must be complete, separate housekeeping units that can be isolated from the original unit of the one-family dwelling. An accessory apartment shall not have more than one (1) bedroom. Only one (1) accessory apartment will be allowed within or added onto a one-family dwelling or its attached garage **accessory building or structure**. The owner(s) of the residence in which or for which the accessory apartment is created shall reside on the premises. An accessory apartment shall be designed to maintain the appearance of a single-family residence as to the one-family dwelling of which it is a part, and shall be clearly subordinate to the one-family dwelling. Any exterior entrance to the apartment shall be located on the side or rear of the one-family dwelling, or of its **garage accessory building or structure**. Any additions containing the apartment, in whole or in part, shall not increase the square footage of the original structure of the one-family dwelling by more than

700 square feet, nor shall space in an existing structure that is converted to an accessory apartment exceed 700 square feet. No more than two (2) persons may occupy an accessory apartment.

ACCESSORY USE: A subordinate use of the premises, a building, other structure, or land incidental to, subordinate to, and located on the same lot with the principal use building, other structure or principal use (or located on a lot adjacent to such lot, if in the same ownership), and which does not constitute in effect, conversion of the principal use of the premises to one not permitted.

ACCESSORY USE BUILDING OR STRUCTURE: A detached building or structure, the use of which is incidental and subordinate to that of the principal use building, and which is located on the same lot with the principal use building or principal use (or located on a lot adjacent to such lot, if in the same ownership) and not for human habitation.

ADULT BOOKSTORE: an establishment having a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Ch 272, Sec. 31.

ADULT DAY CARE FACILITY: A facility that offers to seniors daytime programs, health care and assessment, personal care, social programs, recreational activities, and meals and transportation, but does not provide a residence or overnight accommodations.

ADULT ENTERTAINMENT SIGNS: any pictures, publications, video movies, covers or other implements, item or advertising that fall within the definition of Adult Book Store, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture theatre or establishment which displays live nudity for its patrons or are erotic, prurient or related to violence, sadism or sexual exploitation shall neither be displayed in the window of or on the building of, nor be visible to the public from pedestrian sidewalks or walkways or from other areas public or semi-public outside such establishments.

ADULT LIVE ENTERTAINMENT ESTABLISHMENT : an establishment which provides live entertainment for its patrons, which includes nudity, as that term is defined according to M.G.L., Ch. 272, Sec. 31.

ADULT MOTION PICTURE THEATER: an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L., Ch. 272, Sec. 31.

ADULT PARAPHERNALIA STORE: an establishment having a substantial or significant portion of its stock de- vices, objects, tools, toys which are distinguished or characterized by their emphasis depicting, describing, relating to sexual conduct or sexual excitement as defined in M.G.L., Ch. 272, Sec. 31.

ADULT VIDEO STORE: an establishment having a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L., Ch 272, Sec 31.

ALTERATION: Any exterior construction, reconstruction, or other action resulting in a change in the structural parts or height, number of stories or exits, size or location of a building or other structure.

AQUIFER: A geologic formation that can store and transmit significant amount of potable water.

ASSISTED LIVING OR CONGREGATE LIVING RESIDENCE FACILITY(a Senior Village Development Residential Use): An assisted living residence facility, as defined by M.G.L. Chapter 19D, Section 1.

BACKYARD CHICKENS: Raising and keeping of up to fifteen (15) hens per lot depending on lot size in accordance with Section 5.17 and accessory to a one-family or two-family dwelling for personal consumption and enjoyment.

BASE FLOOD: the flood having a one percent chance of being equaled or exceeded in any given year.

BED AND BREAKFAST: A house, or portion thereof, where up to six (6) short-term lodging rooms and breakfast are provided. No meals other than breakfast shall be served. No breakfast shall be served nor shall any retail and consumer services be provided to any member of the public not lodged as an overnight guest. The operator of the bed and breakfast shall live on the premises or in adjacent premises. The use as a bed and breakfast shall not substantially alter the appearance of the house as a residential dwelling. No exterior alterations shall be made to the building other than those required to ensure the safety of the structure or to provide improved accessibility for the handicapped. Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes. Bed and breakfasts are intended for guests on intermittent visits and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off- street.

BREWERY, DISTILLERY, WINERY: Establishment primarily engaged in the on-site manufacture, blending, fermentation, processing, and packaging of alcoholic beverages including beer, wine, hard cider and distilled beverages, for wholesale or retail distribution, as allowed by state law. The establishment may include accessory uses such as: tasting room for on-site consumption of the product produced on-site, retail sales of the product produced on-site and related goods, and/or tours of the production facility, provided that all production, processing, distribution, and storage activities are to be conducted within an enclosed building. Within the Suburban Agricultural (SA) district this shall mean an establishment that produces less than 15,000 barrels annually (a barrel being equivalent to 31 gallons). Such use in the SA district shall only be permitted on parcels containing a minimum of five (5) acres.

BREW PUB: Restaurants, licensed under the relevant state and federal statutes, to produce and sell beer, ale and/or hard cider at the location and whose primary business is the sale and preparation of food to be consumed on the premises. Malt beverages including beer, ales and hard ciders produced on the premises may be sold to other establishments but shall not exceed 25 percent of the establishment's production capacity.

BUILDING: A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering whether or not permanent in nature.

BUILDING ACCESSORY: A subordinate building, the use of which is incidental to that of a principal building and not to be used for human habitation.

BUILDING HEIGHT: The vertical distance from the established lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line adjoining the building to the highest point of the roof (or Parapet) for flat or shed roofs to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, top and gambrel roofs. Not included are spires, cupolas, television antennae, or other similar structures.

CHICKEN: A type of domesticated fowl, a subspecies of red junglefowl.

CHILD CARE FACILITY: a child care center or a school-aged child care program, as defined in MGL Chapter 15D, Section 1A and regulated by MGL Chapter 40A, Section 3.

CLEAN FILL: Clean fill shall be friable soil containing no stumps or roots greater than 4" in diameter and shall not contain concrete, brick, asphalt, metal or other trash or debris and shall be free of contamination as defined by the Massachusetts Department of Environmental Protection (DEP).

C.M.R.: Commonwealth of Massachusetts Regulation

CONTRACTOR'S YARD: A lot used by an individual building contractor or sub-contractor for storage of equipment (including commercial landscaping equipment), supplies, and sub-assemblies, or parking of registered construction vehicles.

CONTINUING CARE OR LIFE CARE RETIREMENT FACILITY: (a Senior Village Development Residential Use): A facility that includes a combination of types of dwellings or a lifetime continuum of

accommodations and care for senior residents, including independent living, assisted/congregate living, and long-term care facilities.

DISPOSAL: The deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material into or on any land or water so that such hazardous material may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

DEVELOPMENT: any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DRIVE-IN ESTABLISHMENT: The term “drive-in” includes drive in eating establishments where food is purchased from a building on the lot but is consumed in the vehicle or off the lot; and drive in service establishments such as banks, a car wash, or similar business establishments where patrons conduct business without getting out of their vehicle.

DRIVEWAY: shall mean privately owned access to and from a way.

DWELLING: A building erected for occupancy as a place of continuous residence for an individual or family, or designed for such occupancy on a site intended as the permanent location of such a building.

DWELLING UNIT:

- a) a single dwelling unit for single family homes, duplex housing, townhouse style housing or other multi-family housing,
- b) a room or group of rooms considered a single dwelling unit for Assisted Living, Independent Living or Congregate Living Residence Facility such as an efficiency apartment, or
- c) a single room in a Long Term Care Facility.

EARTH: This term shall include soil, loam, sand, gravel, clay, peat, rock, or other earth material in solid form.

EARTH FILLING OPERATION: the permanent filling of land that involves greater than 1,000 cubic yards of or more of earth and/or fill material per calendar year (January through December)

EARTH REMOVAL OPERATION: Any commercial mining, stripping, quarrying, filling, digging or blasting of earth originating from the Town of Leicester and its transportation into or out of the Town of Leicester.

EATING ESTABLISHMENT: Any establishment that sells food for on or off-premise consumption; may include the sale of alcoholic beverages. Examples include restaurants, drive-ins, fast food establishments, yogurt or ice cream shops and coffee shops. Note: establishments preparing food that is not for immediate consumption and that do not have accommodations for on-premises consumption, such as catering businesses, are classified as retail businesses.

EATING ESTABLISHMENT, HIGH TURN-OVER: A sit-down eating establishment with turnover rates generally of less than one hour. Generally, these restaurants serve breakfast, lunch and dinner. This type of restaurant is often moderately priced, and frequently belongs to a restaurant chain.

EATING ESTABLISHMENT, LOW TURN-OVER: A sit-down eating establishment with turnover rates generally of more than one hour. Generally, these restaurants do not serve breakfast, and many serve only dinner.

EATING ESTABLISHMENT, DRIVE-IN OR DRIVE-THROUGH: A high turn-over establishment that includes either drive-in or drive-through facilities; it may include seating indoors and/or outdoors.

EATING ESTABLISHMENT, TAKE-OUT: a high turn over eating establishment which does not provide for on premises dining.

FAMILY CHILD CARE HOME- a family child care home or large family child care home, as defined in MGL Chapter 15D, Section 1A and regulated by MGL Chapter 40A, Section 3.

FARMERS' MARKET: A temporary market, usually held out-of-doors, where farmers can sell their produce, other edible farm products, flowers, preserves and similar products to the public. Products at such markets should be locally and/or regionally grown. Farmers' Markets shall not include the construction of permanent structures and are limited to no more than 52 total days per calendar year. Written approval of the property owner is required. All signs, trash and debris shall be removed from the site upon the termination of the activity. Farmers' Markets must be located on a site with adequate ingress and egress and sufficient parking as determined by the Zoning Enforcement Officer. Farmers' Markets are subject to regulation by the Board of Health. The Board of Selectmen may adopt Farmers' Market Rules and Regulations.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): administers the National Flood Insurance Program (NFIP). FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FILL MATERIAL: Any geologic, man-made, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, peat and sediment. Material meeting the Federal and/or State definition of solid or hazardous waste or as toxic, infectious, radioactive, corrosive, or reactive material is specifically excluded.

FILLING OF LAND: The importation, use, redistribution, alteration or movement of earth and or fill material on or within any land area or water body within the Town of Leicester.

FLOOD BOUNDARY AND FLOODWAY MAP: and official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway.

FLOOD INSURANCE RATE MAP (FIRM): an official map of a community in which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: and examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY: the channel or river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

FUNCTIONALLY DEPENDENT USE: a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

GASOLINE STATION : a commercial gas station providing fuel to primarily passenger vehicles, not to include vehicle service or repair.

GRAVEL: Loose fragments of rock or coarse aggregate resulting from natural disintegration and abrasion of rock or processing of weakly bound conglomerate.

GROUNDWATER: All water beneath the surface of the ground.

HAZARDOUS AND TOXIC MATERIALS: Any substance or combination of substances including liquefied petroleum products, that because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential threat to water supplies or to human health if disposed of, into or on any land or water in this Town.

HAZARDOUS WASTE: Those substances listed in M.G.L. Chapter 21C.

HEN: An egg-bearing chicken or female chicken beyond 16 weeks of age

HEIGHT: The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height

HIGHEST ADJACENT GRADE: the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE: any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior or
 2. Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

HOME OCCUPATION: An accessory use which by custom has been carried on entirely within a dwelling or accessory building unit, and is incidental and subordinate to the dwelling use. Such use shall not in any manner change the residential character of the building or premises, except as provided under Section 6.4.02 of this By- Law.

HOTEL: An establishment that provides temporary lodging for transient guests and usually includes a public dining room, and may provide facilities for entertainment and various personal services for guests

IMPERVIOUS AREA: A surface covered by materials or structures on or above the ground that severely limits the amount of precipitation that infiltrates the underlying soil, including, but not limited to, asphalt, roofed buildings, etc.

INDEPENDENT LIVING RESIDENCE FACILITY (a Senior Village Development Residential Use): A facility that provides residential accommodations for senior adults who do not require medical or skilled nursing care. Residents shall have individual dwellings with living and bathroom facilities, and which may have individual kitchen facilities. The Independent Living Residence Facility may include a Senior Village Community Center or Community Building(s), or similar common areas such as a common dining facility, and space for the provision of social, psychological, and educational programs. The facility may provide home health care or other community-based services on an individual basis and offer meals, linen, and housekeeping services. The Independent Living Residence Facility may

provide residence for a superintendent or for maintenance staff, but there shall be no on-site residence of medical or other staff.

INTENSITY REGULATIONS: Regulations relating to the size of a lot and to the spacing of buildings upon the lot.

KENNEL, COMMERCIAL: The owning, boarding or housing of dogs three months old or over for the purpose of breeding, grooming, boarding, sale, training, or any other use which is considered to be part of a commercial business, whether or not operating for profit. Any kennel or other structure used by dogs shall be no closer than 50 feet to any lot line and no closer than 75 feet to any existing dwelling located beyond any lot line. A commercial kennel shall be located in a separate structure not used for human habitation. In accordance with Leicester's General By-laws and Massachusetts General Law, a kennel license is required for this use. Disposal of animal waste must comply with state and local board of health regulations as applicable.

KENNEL, PRIVATE: The keeping of more than three (3) dogs three months old or over owned or kept by a person on a single premise for the private use of the owner for show, hunting, or domestic pets and not for the purpose of breeding, grooming or any other use which is considered to be part of a commercial business. The keeping of more than six (6) dogs for any purpose shall be considered a commercial kennel for the purposes of this zoning bylaw, except that a separate structure is not required. In accordance with Leicester's General Bylaws and Massachusetts General Law, a kennel license is required for this use. Disposal of animal waste must comply with state and local board of health regulations as applicable.

LARGE WIND FACILITY: On-site Wind Facilities and Utility-Scale Wind Facilities (as defined herein) with a rated nameplate capacity of more than 60 kilowatts and any wind turbine over 150 feet, or multiple small wind facilities on a single lot.

LIMITED FRONTAGE LOT: By Special Permit from the Zoning Board of Appeals, a lot may be considered a build-able lot if it has a minimum frontage of fifty (50) feet in the residential zones R1, R2, BR1 and SA, provided that the lot area is at least equal to or greater than the required amount of area for said zone. No part of the lot between the front line of the building and the street line may be less than fifty (50) feet in width. All other dimensional requirements of the district on which the lot is located shall be met. Any additional division of said parcel of land would be subject to the subdivision regulations in existence at the time. Access must be across the front of the lot and in accordance with the Zoning By Laws of the Town of Leicester. The driveway to the dwelling on the lot shall not be more than 500 feet in length and must be gravel if not paved and installed in accordance with the Town of Leicester Zoning Bylaws. The provisions of this Section shall not apply to any lot shown on a definitive subdivision plan under M.G.L. c41, sec 81(O) or to a lot which being owned in common with other lots could be configured to conform to the dimensional requirements of the zoning district.

LIVESTOCK - animals raised for domestic use including horses, cattle, goats, sheep, llamas, donkeys, chickens, geese, ducks, turkeys, rabbits, and other similar animals kept for food or labor excluding swine and fur-bearing animals.

LOAM OR TOPSOIL: A soil consisting of a friable mixture of varying proportions of clay, sand, silt, and organic matter.

LONG-TERM CARE FACILITY (a Senior Village Development Residential Use): A building or group of buildings which is licensed or approved by the Massachusetts Department of Public Health to provide 24-hour, intensive, skilled and supportive nursing care, convalescent, or chronic care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. A Long-Term Care Facility also typically provides personal care services in a supervised environment, and may contain common areas for therapy, recreation and dining. Further, the facilities may also include on-premise medical offices and treatment facilities related to the care of the residents

LOT: A single or continuous parcel of land held in the same ownership throughout.

LOT, CORNER: A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in the case of a curved street, extended lot lines, being not more than 135 degrees.

LOT, DEPTH: The mean horizontal distance between the front lot line and the rear lot line.

LOT, FRONTAGE: The continuous distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line.

LOT, FRONTAGE, STREET: A street which provides the required lot frontage for a building and the primary access to the lot. The principal permitted building on the lot shall be numbered on such frontage street. When a lot is bounded by more than one street, any one of them, but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement. When a lot is bounded by another municipality, the principal permitted building in Leicester must be numbered on a street within Leicester and gain access from said street. (See definitions of ACCESS and STREET)

LOT, NONCONFORMING: A lot lawfully existing at the effective date of this by-law, or any subsequent amendment thereto, which is not in accordance with all provisions of this by-law.

LOT, WIDTH: The width measured along a straight line so placed as to constitute the minimum distance between the side lot lines and upon which no point shall be closer than the required setback to the street.

LOT LINE, FRONT: The property line dividing a lot from a street (right of way). On the corner lot the owner shall designate one street line as the front lot line.

LOT LINE, REAR: The lot line opposite from the front lot line.

LOT LINE, SIDE: Any lot line not a front or rear lot line.

MAKERSPACE: a collaborative incubator workspace for making, learning, exploring in a variety of artistic, industrial, or light industrial activities such as machining, plasma cutting, sandblasting, ventilated painting, forging, casting, ceramics, and various other industrial processes. Such workspace may include a variety of low-tech and high-tech tools and equipment including but not limited to 3D printers, laser cutters, cnc machines, soldering irons, blacksmith equipment, and woodworking machinery. Makerspaces may include training and educational activities, including training related to vehicle repair, and may also include live-work spaces. *[new ATM 6/2/2020]*

MAXIMUM BUILDING COVERAGE: Maximum building coverage shall be computed as the percentage of the total lot area which may be covered by all principal and accessory buildings and structures.

MARIJUANA: Marijuana or Marihuana means all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided that "Marijuana" shall not include: (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes marijuana products except where the context clearly indicates otherwise.

MARIJUANA CULTIVATOR: an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

MARIJUANA ESTABLISHMENT: a licensed Marijuana Cultivator, Marijuana Testing Facility, Marijuana Product Manufacturer, Marijuana Retailer, or any other type of licensed marijuana-related business or businesses at a single location except a medical marijuana treatment center.

MARIJUANA ESTABLISHMENT, NON-RETAIL: a marijuana establishment that does not involve on-site retail sales to consumers, including Marijuana Cultivators, Marijuana Product Manufacturers that only sell to Marijuana Establishments but not consumers, Marijuana Testing Facilities, and Marijuana Transportation or Distribution Facilities. Not to include Marijuana Outdoor Cultivator. **[amended ATM 6/2/2020]**

MARIJUANA RETAILER, CONSUMER SALES ONLY: a marijuana establishment that involves on-site retail sales to consumers, excluding Marijuana Social Consumption Operators.

MARIJUANA OUTDOOR CULTIVATOR: a marijuana establishment that involves the cultivation of mature Cannabis outdoors without the use of artificial lighting in the canopy area, except to maintain immature or vegetative Mother Plants, including but limited to open air, hot house, or cold frame greenhouse production, which is not (a) for personal use or (b) conducted by a licensed caregiver, in amounts not to exceed the state imposed limits for individuals or caregivers. **[new ATM 6/2/2020]**

MARIJUANA PRODUCT MANUFACTURER: an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

MARIJUANA PRODUCTS: products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA SOCIAL CONSUMPTION FACILITY: a “Marijuana Social Consumption Establishment” that is licensed by the Cannabis Control Commission where single servings of marijuana may be sold for consumption on the premises.

MARIJUANA SOCIAL CONSUMPTION OPERATOR: a marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishment and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises only.

MARIJUANA TESTING FACILITY: An Independent Testing Laboratory as defined in 935CMR 500.002 licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

MARIJUANA RETAILER: an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

MARIJUANA TRANSPORTATION OR DISTRIBUTION FACILITY: an entity with a fixed location not otherwise licensed by the Cannabis Control Commission, that is licensed to purchase, obtain and possess cannabis or marijuana products solely for the purpose of transporting and temporarily storing the same on the premises for sale and distribution to Marijuana Establishments, but not consumers.

MEDICAL MARIJUANA TREATMENT CENTER: a not-for-profit entity registered under 105 CMR 725.100, also known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use.

M.G.L.: Massachusetts General Law

MIXED-USE DEVELOPMENT, VERTICAL MIX: An integration of commercial and residential uses in a single building in which the residential uses are located above the ground floor.

MIXED-USE DEVELOPMENT, HORIZONTAL MIX: An integration of commercial and multifamily residential uses in a development comprised of two or more buildings on the same lot, or in a single building where residential use is on the ground floor. This may include a single residential unit combined with a commercial use. *[Amended ATM 6/2/2020]*

MOTEL: An establishment which provides temporary lodging for transient guests and in which the rooms are usually directly accessible from an outdoor parking area.

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

ON-SITE WIND FACILITY: A wind project, which is located at a commercial, industrial, agricultural, institutional, or public facility that will consume more than 50% of the electricity generated by the project on-site.

OWNER: The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

PERSON: shall include a corporation, society, association and partnership.

PET GROOMING: An establishment that offers pet grooming services. In residential districts (SA, R1, and R2), such use shall only be allowed as an accessory use carried out entirely within a dwelling or accessory structure and incidental and subordinate to the dwelling use. Such use shall not include boarding or other animal-related activity.

PROCESSING: The sorting or separation of earth into distinct categories based on particle size or type usually through the use of a screening process, not including stone crushing.

RATED NAMEPLATE CAPACITY: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

RECHARGE AREA: Any area of porous, permeable geologic deposits, but not exclusively, deposits of stratified sand and gravel, through which water from a source drains into an aquifer, and includes any wetland or body of surface water surrounding or adjacent to such area, together with the watershed of any wetland or body of surface water adjacent to such area.

RECORDED: Recorded in the Worcester Registry of Deeds or registered in the Land Court.

RECREATIONAL AREA: is a parcel(s) of land or an area(s) of water, or a combination of land and water within the site designated for a **Recreational Development**, maintained and preserved for active or passive recreational uses (such as a park, tennis courts, ball fields, swimming pools, golf courses, etc.), or for buffer areas, and designed and intended for the use or enjoyment of occupants of the Recreational Development and, in certain circumstances, the general public. Recreational Areas may contain such structures and improvements as are appropriate under the provisions of this Section.

RECREATIONAL DEVELOPMENT: (RD) is an area of land, designed and developed as a unit, with Recreational Areas as integral characteristics and which departs from the zoning regulations conventionally required in the Residential 1, Residential 2 or Suburban-Agricultural Districts concerning use of land or buildings, lot size, bulk or type of structures, or other requirements. Unless specifically prescribed, any combination of residential and compatible uses may be allowed.

RECREATIONAL VEHICLE: a vehicle which is:

- a. Built on single chassis;

- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY: see FLOODWAY.

ROOSTER: A male chicken over the age of 16 weeks

SENIOR VILLAGE COMMUNITY CENTER or COMMUNITY BUILDING(S): A building or group of buildings, erected solely for the use of the residents of a Senior Village Development and their guests, that provides educational, recreational, or social services such as: adult education center, adult day care facility, library, place of worship, game room, entertainment room, sewing room, kitchen, cafeteria or dining room, laundry facilities, exercise room, pool, toilet facilities, locker rooms for men and women, and similar facilities.

SENIOR VILLAGE MULTI-FAMILY RESIDENTIAL UNITS: (a Senior Village Development Residential Use): Multi-family senior residential units, which may include townhouses, duplexes, triplexes, garden-style apartments, or other multi-family buildings.

SENIOR VILLAGE RESIDENTIAL SERVICE(S): A nursing home; transportation services for residents; laundry facilities; financial services; barber/beautician; medical evaluation; home health care; adult day care facility; meals on wheels program; exercise or physical therapy center; recreational and educational activities; and other similar services or activities. All Resident Services shall be operated primarily for the benefit of residents of the Senior Village Development.

SENIOR VILLAGE RESIDENTIAL SUBDIVISION (a Senior Village Development Residential Use): A subdivision of land within a Senior Village Development that results in creation of individual lots upon which individual single-family dwellings are to be constructed for residency by Seniors. The individual single-family dwellings may be detached homes, attached townhouses, or other building type(s) approved by the Planning Board that is/are each designed for occupancy by an individual family.

SENIOR: An individual who is 55 years of age or older.

SENIOR VILLAGE TOWNHOUSE (a Senior Village Development Residential Use): A residential building of two or more stories in height containing a single dwelling that is one of a group of three or more such buildings that are attached or semi-attached to one another, sharing at least one common or party or fire wall, and with each building having at least one floor at ground level with a separate entrance.

SIGN: Any structure, device, billboard, placard, painting, drawing, poster, letter, word, model, banner, pennant, insignia, trade flag or representation used as or which is in the nature of an advertisement, announcement or direction, or is designed to attract the eye by intermittent or repeated motion or illumination and which is visible from a street. House numbers shall not be deemed to be signs within the meaning of this by-law.

SIGN, AREA OF:

- (a) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting framework or bracing which are incidental to the display itself.

- (b) The area of a sign consisting of individual letters, designs or symbols attached to or painted on a surface, building, wall, or window, shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs, and symbols.
- (c) In computing the area of signs, both sides of V-shaped signs, but only one side of back-to-back signs, shall be counted.

SIGN, STANDING: Any accessory sign that is not attached to a building.

SIGNIFICANTLY GREATER CONCENTRATION: The concentration of a substance in earth or fill materials as measured by Federal or State-approved analytical methods, which is one order of magnitude or greater in concentration than the same substance measured in existing, pre-fill earth materials.

SILT: Loose sedimentary material with rock particles usually less than 1/16 mm or less in diameter based on the Wentworth scale of measurement.

SITE(Earth Removal): A distinct portion of contiguous lots, under the same or different ownerships, on which an earth removal and/or fill operation is conducted, or is proposed to be conducted, under the Permit.

SMALL WIND FACILITY: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and a wind turbine, which has a rated nameplate capacity of 60 kW or less and which is intended to provide power primarily for on-site uses as opposed to generation for sale to the commercial power grid. (More than one small wind facility on a lot would be considered a large wind facility.)

SMALL-SCALE GROUND MOUNTED SOLAR ENERGY SYSTEM- a ground-mounted solar energy system that occupies 1,000 square feet of surface area or less.

SOLAR ENERGY SYSTEM- Any solar collector or other solar energy device, including appurtenances, mounted on a building or on the ground, the primary purpose of which is to provide for the collection, storage, conversion and distribution of solar energy for space heating or cooling, water heating or generation of electricity.

SPECIAL FLOOD HAZARD AREA: the land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE, or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION: the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STONE CRUSHING: The mechanical operation which creates smaller sized stones or stone products from larger sized stones, boulders or particles typically using a crushing plant or similar machinery.

STREET- A street shall be

- 1) an improved public way laid out by the Town of Leicester, or the Worcester County Commissioners, or the Commonwealth of Massachusetts; or
- 2) a way which the Leicester Town Clerk certifies is maintained by public authority and used as a public way; or
- 3) a public or private way, improved in accordance with a plan approved and endorsed by the Planning Board under the Leicester subdivision rules and regulations and the subdivision control law; or
- 4) a way in existence as of the date of adoption of the Subdivision Control Law having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicular traffic anticipated by reason of the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings or structures erected or to be erected thereon.

STRUCTURE- A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or the like.

STRUCTURE: for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

STRUCTURE, FLOODPLAIN: for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

STRUCTURE, NONCONFORMING: A structure lawfully existing at the effective date of this by-law or any subsequent amendment thereto, which does not conform to one or more provisions of this by-law.

SUBSTANTIAL DAMAGE: damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed.

SUBSTANTIAL REPAIR OF A FOUNDATION: when work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

SUPERINTENDENT: shall mean Superintendent of the Highway Department.

TAXI OR LIMOUSINE SERVICE: A for-profit transportation service providing a taxi cab or limousine for hire that is used in the business of transporting passengers for compensation. Such service is not allowed as a home occupation. Not to include a private vehicle used for ridesharing services.

TRAILER OR MOBILE HOME: A trailer or mobile home shall mean any vehicle or object on wheels so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks or other foundations, and shall include the type of vehicle commonly known as a Mobile Home, which shall be defined to mean a dwelling unit built on a chassis and containing complete electrical, plumbing sanitary facilities

and designed to be installed on a temporary or permanent living quarters; and being less than 20 feet in width in its completed habitable form, but specifically excluding camping trailers.

TRUCKING DEPOT: a facility for parking and service of or tractor-trailer trucks or buses, which may include fuel services.

USE: The purpose for which a structure or lot is arranged, designed or intended to be used, occupied or maintained.

USE, ACCESSORY: The use of a building or premises for the purpose customarily incidental to the main or principal use permitted in the district.

USE, NONCONFORMING: A use lawfully existing at the effective date of this by-law or any subsequent amendment thereto which does not conform to one or more provisions of this by-law.

UTILITY-SCALE WIND FACILITY : A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

VARIANCE: a grant of relief by a community from the terms of a floodplain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VEHICLE SERVICE OR REPAIR FACILITY: an establishment providing services to primarily passenger vehicles. Not to include a junk yard or open storage of abandoned vehicles.

VEHICLE STORAGE YARD: site for open storage of abandoned or unregistered vehicles

VETERINARY CLINIC: An establishment maintained and operated by a licensed veterinarian solely to provide out-patient medical care to animals. The establishment shall not be used as a kennel or animal daycare. There shall be no boarding of animals and no outdoor facilities to house or exercise animals unattended.

VETERINARY HOSPITAL: An establishment maintained and operated by a licensed veterinarian solely to provide medical care to animals, which may include the boarding of animals limited to short-term care incidental to the hospital use. The establishment shall not be used as a kennel or animal daycare. There shall be no outdoor facilities to house or exercise animals unattended.

VIOLATION: the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

WAY: shall mean a public or private way

WIND FACILITY: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines

WIND MONITORING OR METEOROLOGICAL TOWER (Met Towers): A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

WIND : A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

WIRELESS COMMUNICATION FACILITY: shall mean transmitters, structures (including but not limited to towers) and other types of installations including but not limited to antennae and accessory structures used for the provisions of wireless services, including but not limited to all commercial mobile services. This section does not apply to "direct to home" satellite services or other similar antennae which are no greater than six feet in diameter. A wireless communication facility may be allowed in

zoning districts as specified under SECTION 3.2.05 upon the issuance of a special permit by the Zoning Board of Appeals.

YARD, FRONT: A space extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

YARD, REAR: A space, unoccupied, except by accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building and the rear lot line.

YARD, SIDE: A space, unoccupied, except by an accessory structure or accessory use as herein permitted, extending for the full length of the building between the nearest building wall and the side lot line.

ZONE A: the 100-year floodplain where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

ZONE A1-A30: The 100-year floodplain where the base flood elevation has been determined.

1.4 NONCONFORMITY

1.4.1 CHANGE OF NONCONFORMING USE-

Any nonconforming use of a structure may be changed to another nonconforming use provided that the change use is not a substantially different use, and approval for the change is granted by a Special Permit by the Board of Appeals. For the purpose of this section, a substantially different use is a use which by reason of its normal operation would cause readily observable differences in patronage, service, sight, noise, employment or similar characteristics from the existing nonconforming use or from any permitted use in the district under question.

1.4.2 ALTERATION AND EXTENSION OF NONCONFORMING STRUCTURES OR USES:

A. General

Except where alteration, reconstruction, or extension of a single-family or two-family residential structure would not increase the nonconforming nature of said structure (see Section 1.4.02.2), a nonconforming structure or use shall be altered, extended, or reconstructed only upon issuance of a special permit by the Zoning Board of Appeals. No such alteration, reconstruction, or extension shall be permitted unless the Zoning Board of Appeals finds after a public hearing that such alteration, reconstruction, or extension would not be substantially more detrimental to the neighborhood than the existing nonconformity.

B. One Family & Two Family Dwellings

Notwithstanding any other provisions of these Bylaws, alteration, reconstruction, extension or structural change (collectively "alteration") of a pre-existing, nonconforming single-family or two-family residential structure will be deemed not to increase the nonconforming nature of such a structure, and shall be permitted as of right, if:

1. the structure is located on a conforming lot, and the proposed alteration will comply in all respects with the By-laws, specifically the requirements for front setback, side and rear setbacks, building coverage, lot coverage, maximum floors and maximum heights; or
2. the structure is located on a legally nonconforming lot, and the proposed alteration will retain the structure's existing footprint; or
3. the structure is nonconforming solely because of insufficient lot frontage or lot area, or both, and the proposed change shall meet all dimensional requirements for front setback, side and rear setbacks, building coverage, lot coverage, maximum floors and maximum height.

1.4.3 RESTORATION

If any nonconforming structure is damaged by fire or other causes to the extent of more than fifty percent of its replacement value, it shall not be repaired or rebuilt unless such restoration is begun within one year from the time of the damage or destruction.

1.4.4 ABANDONMENT

Any nonconforming use of a structure or lot which has been discontinued abandoned or not used for a continuous period of two or more years shall not be used again except for a conforming use.

1.4.5 OTHER

Where not addressed in this section 1.4 or elsewhere in Leicester's Zoning Bylaw, non conforming lots, uses, and structures shall be regulated as provided in Massachusetts General Laws, Chapter 40A, Section 6.

1.5 ACCESSORY BUILDINGS

No accessory building or structure shall be located in the space extending for the full width of the lot between the front line of the nearest building wall and the front lot line unless otherwise provided for under Sec.6.4.02 of this by-law. No accessory building shall be located in any side yard area nearer to the side lot line than ten (10) feet, or in a rear yard area nearer the rear lot line than ten (10) feet, or nearer to another principal or accessory building than ten (10) feet.

1.6 SWIMMING POOLS-

Swimming pools will be considered as an accessory use for the purpose of this by- law and all dimensional requirements will come under this section.

1.7 CORNER CLEARANCE

Within the area formed by the lines intersecting streets and a line joining points on such lines twenty-five (25) feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of their tangents, no structure and no foliage shall be maintained between a height of three (3) feet and a height of eight (8) feet above the plane through their curb grades.

SECTION 2: ESTABLISHMENT OF DISTRICTS

2.1 Types of Districts

For the purpose of this by-law, the Town of Leicester is hereby divided into the following types of use districts:

FULL NAME	SHORT TERMS
Residential 1	R1
Residential 2	R2
Suburban-Agricultural	SA
Business	B
Industrial	I
Business-Industrial-A	BI-A

FULL NAME	SHORT TERMS
Recreational Development	RD
Business Residential-1	BR-1
Residential Industrial Business	RIB
Highway Business-Industrial District 1	HB-1
Highway Business-Industrial District 2	HB-2
Greenville Village Neighborhood Business Dist	NB
Central Business	CB

2.2 Locations of Districts

Said districts are established as shown, defined and bounded on the map entitled. "Zoning Map of Leicester, Massachusetts". Said map and all explanatory matter thereon are hereby made a part of this by-law.

2.3 District Boundries

- A. Where the boundary of a district is shown on a map to follow the course of a street or road, the center line of such a way shall be the boundary line.
- B. A boundary line located outside of such a street or road and shown on the map as approximately parallel to the center line and distances shown on the map between such a boundary line and the street or road are the distances in feet from the boundary line to the center line of the street or road, such distances being measured at right angles to the center line unless otherwise indicated.
- C. In all cases which are not covered by the forgoing provisions of this section, the location of boundary lines shall be determined by the distances in feet, if given, from other lines upon said map, by use of identifications as shown on the map, and by directions and distances as they may be scaled and measured from the map.
- D. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portion of such lot may extend not more than thirty (30) feet into the more restricted portion, provided only that such lot has the required minimum frontage on a street in the less restricted portion for the existing or intended use of the premises.

2.4 DISTRICTS

2.5 Uses Prohibited in all Districts

- A. Dumping of other than clean fill. Dumping of refuse, contaminated or combustible materials except as a municipal function. See definition of Clean Fill (Section 1.3) and Section 5.16 (Earth Filling & Removal).
- B. The keeping of a trailer on any lot within the Town for the use as a dwelling, except during the construction of a residence on the property and then with a time limit of one (1) year. This time may be extended for one (1) year periods under conditions by Special Permit, Section 6.4.02.
- C. A cellar hole dwelling.
- D. The stripping and removal of topsoil for use outside of the Town of Leicester boundaries. See Section 5.16 (Earth Filling & Removal)

2.6 Residential 1&2

Purpose & Intent

2.7 Suburban - Agricultural

Purpose & Intent

2.8 Central Business District (CB) was 3.34

2.8.1 Purpose & Intent

- A. The purpose of the Central Business District is to encourage development and redevelopment of Leicester Center while preserving the area's pedestrian-oriented characteristics, mixed uses, and existing structures of historical significance.
- B. New construction should complement the existing historical nature of the Central Business District. Projects which interrupt the continuity of pedestrian circulation, require large expanses of land, or involve demolition of historic structures are discouraged.
- C. The requirement for a special permit for most commercial development in this district is intended to allow the Town to address the unique character of Leicester Center and is not intended to discourage commercial development in general.

2.8.2 Central Business District Requirements

- A. The Central Business District shall comply with Business District Site Development Standards (Section 2.4.5).
- B. The Planning Board shall be the special permit granting authority for all special permits in the CB district.

2.9 Business & Central Business District Site Development Standards was

5.8[Amended @ ATM 5-5-2015]

2.9.1 Purpose

To encourage commercial development that enhances the community and improves the tax base while minimizing adverse impacts to abutting residential properties.

2.9.2 Applicability

The following site development standards shall apply to all new construction of non-residential uses, expansions of more than 25% of the existing non-residential uses and increases of more than 10 parking spaces

2.9.3 Site Development Standards

[Amended STM 11/14/2017, Article 11]

2.9.4 Parking Requirements

- A. Off-Street parking facilities sufficient to accommodate the motor vehicles of all employees, customers and other persons normally visiting the site shall be provided in accordance with the Planning Board's Parking Regulations.
- B. Adequate turning and maneuvering space shall be provided for loading areas without encroachment into parking areas.
- C. Adequate illumination shall be provided for the comfort and safety of persons using parking and loading areas.
- D. Parking and loading area lighting shall not shine beyond the property lines, except for driveway entrances where light may shine onto the immediate area of the street right-of-way.
- E. Provision for safe and convenient pedestrian access shall be incorporated into plans for new parking areas.
- F. Parking areas for all commercial uses shall be hard paved
- G. Parking areas shall include handicapped-accessible parking spaces as required by 521 CMR, Architectural Access Board Code, as may be amended from time to time.
- H. To the maximum extent feasible, parking and loading areas shall be located to the side or rear of the primary structure.

2.9.5 Landscaping and Screening

- A. A landscaped area of at least five (5) feet shall be provided along any side of the lot with road frontage to visually separate the building and its parking area from the road.
- B. A landscaped buffer zone of at least ten (10) feet shall be provided where a non-residential use abuts a residential use. The Planning Board may require an opaque landscaped buffer if the Board determines that the nature of the commercial use requires complete screening from the abutting residential use. An opaque fence or other comparable method may be allowed at the discretion of the Planning Board rather than a landscaped buffer where site constraints do not allow for the 10-foot landscaped buffer.
- C. Large parking areas shall be subdivided with landscaped islands. At least one shade tree per thirty-five (35) parking spaces shall be provided. Trees planted within parking areas shall be planted in protected pervious plots of at least 60 square feet in area. At the discretion of the Planning Board, shade trees may be clustered or planted adjacent to the parking area.
- D. Landscaped areas shall be planted with ground cover, medium height shrubs, and shade trees. Landscaped areas shall include both deciduous and evergreen shrubs and trees and shall be designed to maintain traffic visibility.
- E. At the discretion of the Planning Board, existing vegetation may be permitted in lieu of new plantings in required landscaped areas and buffer zones.
- F. Existing trees, shrubs, and other naturally occurring vegetation may not be removed without express written permission from the Planning Board. Permission may be granted by the Planning Board for the selective removal of dead, dying, or diseased trees within landscaped areas or buffer zones upon submission of documentation certifying that such removal is necessary to protect the health of the surrounding forest and/or to protect the public health, safety and welfare.
- G. All landscaped areas and buffer shall be maintained in good condition and shall be kept free of refuse and debris. Shrubs or trees that die shall be replaced within one growing season. Appropriate water management procedures shall be followed to serve all landscaped areas, including irrigation systems if warranted.
- H. An opaque buffer shall be provided to screen exposed storage areas, machinery, garbage “dumpsters,” service areas, truck loading areas, and utility buildings and structures from the view of abutting properties using plantings, fences, or other methods approved by the Planning Board.
- I. The Planning Board may require a bond to ensure that required landscaping improvements are maintained and survive for at least one growing season following the completion of planting.
- J. The Planning Board shall have the authority to adopt from time to time suitable landscaping regulations, which may include the required height and spread of trees and shrubs in buffer zones and parking areas.

2.9.6 Design

- A. The Planning Board shall have the authority to adopt from time to time suitable regulations to specify design standards within the Business District and Central Business District. Such standards may include regulation of building form and features, architectural details, and historic buildings.

2.9.7 Special Permits in the Business (B) and Central Business (CB) Districts

2.9.8 Requirements and Procedures

- A. The special permit granting authority for all special permits in the B and CB Districts shall be the Planning Board except where such authority is specifically delegated to the Zoning Board of Appeals. No building, use or occupancy permits for any construction of any use designated "SP" (Special Permit) under the B and CB Districts shall be issued, except in accordance with the terms of a special permit as set forth herein. This shall apply to new construction, change in use to a use requiring a special permit, and resumption of any use requiring a special permit where the use has been discontinued or abandoned for more than two (2) years.
- B. Applicants for Special Permits under this section shall submit plans in compliance with the Leicester Planning Board Rules & Regulations for Special Permit Applications.
- C. Procedures for Special Permits (filing, hearing notification, and decision timelines) shall follow MGL Ch.40A, Section 9, Special Permits, and Section 11, Notice for Public Hearing.

2.9.9 Special Permit Review Criteria

- A. Provision shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and property. The service level of adjacent streets shall not be significantly reduced due to added traffic volume or type of traffic in accordance with the most recent edition of the Massachusetts Highway Department Highway Capacity Manual.
- B. The proposed use shall not overload the capacity of water and sewer systems, storm water drainage, solid waste disposal facilities, and other public facilities.
- C. The design of the project shall provide for adequate methods of disposal of sewage, refuse, or other wastes generated by the proposed use.
- D. The project shall comply with all applicable environmental laws and regulations.
- E. The proposed project shall be consistent with Leicester's Master Plan; and,
- F. The project shall comply with all the above B and CB District Site Development Standards.

G. In the Central Business (CB) district, the following additional special permit criteria apply:

1. The proposed project shall be consistent with the purpose & intent of the Central Business District
2. New construction or expansions of more than 25% of commercial and multi-family structures shall substantially conform to any design guidelines adopted for the CB district. In the absence of design guidelines, the Board shall evaluate the degree to which the applicant has designed new construction to be compatible in style and scale to existing abutting properties.
3. Parking areas for new structures shall be located to the side or rear of new structures except where there is no practical alternative.
4. The project shall, to the maximum extent feasible, minimize demolition of historically significant buildings. For the purposes of this bylaw, historically significant buildings shall include all structures subject to the Town of Leicester demolition delay bylaw as well as any other properties otherwise eligible for or on State or Federal Register of Historic Resources. Where demolition is unavoidable, the Board shall evaluate how demolition is proposed to be mitigated by the project proponent.

2.9 Greenville Village Neighborhood Business District (NB) Was 5.6

[Amended ATM 6/2/2020]

2.10.1 Purpose and Intent

To enable the development and redevelopment of Leicester's Greenville area in keeping with the historic development pattern including the size and spacing of structures by allowing, in addition to residential uses, convenient small-scale retail, service and other small-scale commercial uses compatible with nearby residential areas, which minimize traffic, parking visibility, late hour operations, destruction of historic buildings or architectural features, or other characteristics not compatible with the existing character of the surrounding residential neighborhood, and further providing that no such use shall be permitted which would be detrimental or offensive by reason of odor, noise, excessive vibration or danger of explosion or fire.

2.10.2 Permitted Uses

- A. No building or structure shall be used and no change shall be made in the use of land or premises, except for one or more of the following purposes:
- B. All uses that are permitted in the Residential 1 District (R1), under Section 3.2, Schedule of Use Regulation, except that the Planning Board shall be the Special Permit Granting Authority for all uses listed as requiring a special permit, and unless otherwise regulated in this Section 5.6.
- C. All non-residential projects, of any size, shall require site plan review (See Section 5.2) in the Neighbor- hood Business (NB) district.
- D. The following uses are allowed with site plan review by the Planning Board, provided that no individual establishment shall exceed 3,000 square feet in gross floor area, except as regulated under Section below.

1. Retail services, including but not limited to a drug or package store; grocery, variety, clothing or shoe store; hardware or household appliance sales and services; music store; computer store; book, card, or stationery store; news dealer.
2. Professional or administrative offices.
3. Office or clinic for medical or dental examination or treatment of persons as outpatients, including laboratories incidental thereto.
4. Financial institution, such as bank or credit union.
5. Personal services, including but not limited to a barber or beautician; pickup or self-service laundry or dry cleaning; garment or shoe makers and repairers; florist; printing, publishing or photocopying; or photographer's studio
6. Artisans, Jewelry Makers, Handicrafts, Artists Studios
7. Mortuary, undertaker, or funeral establishment.
8. Shop of a plumber, carpenter, electrician, upholsterer or similar workshop or repair establishment conducted entirely within an enclosed structure.
9. Restaurant, lunchroom, or other eating establishment primarily for on-premises consumption, not to include fast food establishment.
10. Delicatessen, traditional bakery, confectionery, caterer, and other similar establishments, which incidentally sell retail food and beverages in disposable containers for off-site consumption.
11. Small-Scale Ground-Mounted Solar Energy Systems (Medium-Scale and Large-Scale Ground-Mounted Solar Energy Systems are prohibited.)

2.10.3 Special Permit Allowed Uses

A. The following uses shall require a special permit for use from the Planning Board:

B. Business uses as listed in Section 3.2.03, which are not listed above in Section 2.4.6.2, provided that no individual establishment shall exceed 3,000 square feet in gross floor area, except as regulated under Section 2.4.6.3.B

1. **Drive-through**
2. **Take-out establishments** primarily engaged in the sale, dispensing or serving of food, refreshments or beverages for consumption off the premises or consumption in vehicles temporarily parked on the premises, or at tables, benches or counters, the majority of which are out of doors, not to include establishments commonly known as fast food establishments.
3. Establishments that exceed 3,000 square feet in gross floor area per establishment, provided that in no event may a special permit be issued for individual establishments in excess of 6,000 square feet in gross floor area.

2.10.4 Prohibited Uses:

- A. Any use not expressly permitted above.
- B. Vehicle-related uses (sales, service and repair of all vehicle types including but not limited to trucks, boats and recreational vehicles, towing companies, taxi or limousine service, etc.).
- C. All types of Marijuana Establishments regulated by Section 5.15.

2.10.5 Site Development Standards

- A. All non-residential use, or conversion to a non-residential use, within the NB district shall comply with all Site Development Standards in Section 2.4.6.6 through 2.4.6.8 described below:

2.10.6 Parking & Loading

- A. Non-residential uses within a NB district shall provide parking and loading facilities in compliance with Section 5.1, PARKING AND LOADING AND UNLOADING SPACE, and the following additional requirements:
 - 1. Parking facilities sufficient to accommodate the motor vehicles of all employees, customers and other persons normally visiting the site at any time shall be provided on the lot and off the street.
 - 2. In determining the appropriate number of parking spaces required, the Planning Board may give consideration to the hours of usage of the proposed use/structure, the opinion of municipal officials or consultants as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use/structure, as well as other relevant information to assist the Planning Board in determining the need for additional parking for motor vehicles.
 - 3. All parking shall be provided on the same lot with the principal use or on a contiguous lot within the same zoning district, provided that no space is counted as meeting the requirements of more than one building or use.
 - 4. Parking shall be located to the side or rear of the primary structure.
 - 5. Parking areas serving all non-residential structures shall be hard-paved.
 - 6. Parking areas shall include handicap accessible parking spaces as required by 521 CMR, Architectural Access Board Code, as may be amended from time to time.
 - 7. To the maximum extent feasible, loading areas shall be located at the rear of the building, off the street right-of-way.
 - 8. Adequate turning and maneuvering space shall be provided for loading areas, without encroachment into parking areas.
 - 9. Parking area lighting may not shine beyond the property lines, except for driveway entrances where light may shine onto the immediate area of the street right-of-way.

2.10.7 Landscaping

- A. A landscaped buffer zone, of at least the width of the required setback, continuous except for approved drive- ways, shall be established along any side of the lot with road frontage to visually separate the building and it's parking areas from the road.
- B. A landscaped buffer zone along the side and rear of each lot, of at least the width of the required side and rear setback, shall be provided where a proposed non-residential use abuts a residential use.
- C. A landscaped buffer zone of at least 50 feet shall be provided where a NB district boundary abuts a Residential District (R1, R2, and SA).
- D. The buffer zones shall be planted with grass, ground cover, medium height shrubs, and shade trees planted at least every fifty (50) feet. The buffer zone shall include both deciduous and evergreen shrubs and trees. Trees and shrubs at driveway intersections shall be set back a sufficient distance from such intersections so as not to obstruct traffic visibility.
- E. An opaque buffer shall be provided to screen exposed storage areas, machinery, garbage "dumpsters", service areas, truck loading areas, utility buildings and structures from the view of abutting properties and streets, using plantings, fences and other methods compatible with the goals of this regulation.
- F. Parking shall not be located within required buffer areas.
- G. All landscaped areas and buffers shall be maintained in good condition and shall be kept free of refuse and debris. Shrubs or trees that die shall be replaced within one growing season.
- H. Appropriate water management procedures shall be followed to serve all landscaped areas, including irrigation systems if warranted.
- I. The Planning Board may require a bond to ensure that required landscaping improvements are maintained and survive for at least one growing season following the completion of planting.
- J. The Planning Board shall have the authority to adopt from time to time suitable landscaping regulations, which may include the required height and spread of trees and shrubs in buffer zones and parking areas.

2.10.8 Design

- A. The Planning Board shall have the authority to adopt from time to time suitable regulations to specify design standards within the Greenville Village Neighborhood Business District. Such standards may include regulation of building form and features, architectural details, and historic buildings.

2.10.9 Special Permits – NB District

A. Requirements and Procedures

1. The special permit granting authority for all special permits in the NB District shall be the Planning Board except where such authority is specifically delegated to the Zoning Board of Appeals. No building, use or occupancy permits for any construction of any use designated “SP” (Special Permit) under the NB District shall be issued, except in accordance with the terms of a special permit as set forth herein. This shall apply to new construction, change in use to a use requiring a special permit, and resumption of any use requiring a special permit where the use has been discontinued or abandoned for more than two (2) years.
2. Applicants for Special Permits under this section shall submit plans in compliance with the Leicester Planning Board Rules & Regulations for Special Permit Applications.
3. Procedures for Special Permits (filing, hearing notification, and decision timelines) shall follow MGL Ch.40A, Section 9, Special Permits, and Section 11, Notice for Public Hearing.

2.10.10 Special Permit Review Criteria

- A. The Planning Board shall grant a special permit only after finding that the proposed use will be consistent with the purpose and intent of this bylaw, and that the proposed use or structure is in conformance with the following criteria:
 1. Provision shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and property. The service level of adjacent streets shall not be significantly reduced due to added traffic volume or type of traffic in accordance with the most recent edition of the Massachusetts Highway Department Highway Capacity Manual;
 2. The proposed use shall not overload the capacity of water and sewer systems, stormwater drainage, solid waste disposal facilities, and other public facilities;
 3. The design of the project shall provide for adequate methods of disposal of sewage, refuse, or other wastes generated by the proposed use;
 4. The project shall be compatible in character and scale with existing uses and other uses allowed by right in the district.
 5. The project shall comply with all applicable environmental laws and regulations;
 6. The proposed project shall be consistent with Leicester's Master Plan;
 7. The project shall comply with all Site Development Standards required in the NB district.

2.11 Highway Business Industrial District (HB-1)(WAS 3.31)

2.11.1 Purpose and Intent

To provide for the development and redevelopment of Leicester's highway business corridors by allowing a mix of commercial, office, research, and light industrial activities that create employment opportunities and expand the tax base, while protecting existing development, conserving natural resources, and protecting and enhancing the environment.

2.11.2 Site Development Standards

All non-residential use, or conversion to a non-residential use, within the HB-1 district shall comply with all Site Development Standards in Sections 5.5.02.1 through 5.5.02.3 described below:

2.11.3 Parking, Loading Areas, and Access

Non-residential uses within the HB-1 Zone shall provide parking and loading facilities in compliance with Section 5.1, PARKING AND LOADING AND UNLOADING SPACE, and the following additional requirements:

2.11.4 General Requirements for Parking and Loading Areas

- A. Parking facilities sufficient to accommodate the motor vehicles of all employees, customers and other persons normally visiting the site at any time shall be provided on the lot and off the street.
- B. All parking and loading areas shall be located to the rear of the required front setback, as defined in Section 4.2.
- C. All parking shall be provided on the same lot with the principal use or on a contiguous lot within the same zoning district, provided that no space is counted as meeting the requirements of more than one building or use.
- D. To the maximum extent feasible, parking and loading areas shall be located to the side or rear of the primary structure.
- E. Adequate turning and maneuvering space shall be provided for loading areas, without encroachment into parking areas.
- F. Adequate illumination shall be provided for the comfort and safety of persons using parking and loading areas.
- G. Parking and loading area lighting shall not shine beyond the property lines, except for driveway entrances where light may shine onto the immediate area of the street right-of-way.
- H. Provision for safe and convenient pedestrian access shall be incorporated into plans for new parking areas.

2.11.5 Minimum Parking Space Requirements

- A. A minimum of two hundred (200) square feet (10' x 20'), exclusive of drives and other access ways, shall be considered one (1) off-street parking space.
- B. In determining the appropriate number of parking spaces required, the Planning Board may give consideration to the hours of usage of the proposed use/structure, the opinions of municipal officials and consultants as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use/structure, as well as other relevant information to assist the Planning Board in determining the need for additional parking for motor vehicles.
- C. Parking areas serving all non-residential structures shall be hard-paved.
- D. Parking areas shall include handicap accessible parking spaces as required by 521 CMR, Architectural Access Board Code, as may be amended from time to time.

2.11.6 Access & Driveway Requirements

- A. Non-residential uses within the HB-1 Zone shall provide driveways in compliance with Section 6.2A, DRIVEWAY BY-LAW, and the following additional provisions:
 - 1. To limit the number of curb cuts in the street right-of-way, shared driveways serving more than one lot are permitted, and strongly encouraged, in the HB-1 district. To the maximum extent feasible, only one (1) curb cut shall serve each lot. No more than two (2) curb cuts shall be permitted per lot, or per establishment if on more than one lot. Curb cuts abutting residential properties shall be at least twenty-four (24) feet from abutting properties.
 - 2. All driveways serving any non-residential use must be at least twenty (20) feet wide where separate access and egress driveways are provided; all driveways must be at least twenty-five (25) feet wide where a common access/egress driveway is provided.
 - 3. The slope of driveways shall be no greater than five percent (5%).

2.11.7 Landscaping

- A. A landscaped buffer zone at least twenty (20) feet wide, continuous except for approved driveways, shall be established along any side of the lot with road frontage to visually separate the building and its parking areas from the road.
- B. A landscaped buffer 50 feet shall be provided where a non-residential use abuts a residential use.
- C. A landscaped buffer of at least 100 feet shall be provided where an HB-1 district boundary abuts a Residential District (R1, R2, SA).
- D. At the sole discretion of the Planning Board, the width of the required buffers under paragraphs B and C above may be reduced to 20 feet and 50 feet respectively where site constraints do not allow for the full required buffer and an opaque fence and/or

- other comparable method is provided to adequately buffer the abutting residential use or district.
- E. Access drives may be allowed in the buffer areas under paragraph B and C above, except that the Board may require an opaque fence and/or additional plantings to adequately buffer the abutting residential use or district.
 - F. The buffer zones shall be planted with grass, ground cover, medium height shrubs, and shade trees planted at least every fifty (50) feet. The buffer zone shall include both deciduous and evergreen shrubs and trees. Trees and shrubs at driveway intersections shall be set back a sufficient distance from such intersections so as not to obstruct traffic visibility.
 - G. An opaque buffer shall be provided to screen exposed storage areas, machinery, garbage “dumpsters”, service areas, truck loading areas, utility buildings and structures from the view of abutting properties and streets, using plantings, fences and other methods compatible with the goals of this regulation.
 - H. Parking shall not be located within required buffer areas.
 - I. Parking areas with more than thirty (30) spaces shall contain plantings of trees, shrubs, and/or groundcovers within the parking area in landscaped islands, so that the total amount of landscaped area within the parking lot is equal to a minimum of 5% of the area of parking spaces provided (i.e. 10 square feet per parking space for a standard 200 square foot parking space). At the discretion of the Planning Board, the amount of landscaping within a parking area may be reduced where an equivalent amount of landscaping (above what is required elsewhere in Section 5.5) is provided elsewhere on the lot, or where the proposed use abuts a residential district or use where the 50 foot and 100 foot buffers are required. At least one shade tree per thirty-five (35) parking spaces shall be provided. Trees planted within parking areas shall be planted in protected pervious plots of at least 60 square feet in area.
 - J. All landscaped areas and buffers shall be maintained in good condition and shall be kept free of refuse and debris. Shrubs or trees that die shall be replaced within one growing season.
 - K. Appropriate water management procedures shall be followed to serve all landscaped areas, including irrigation systems if warranted.
 - L. The Planning Board may require a bond to ensure that required landscaping improvements are maintained and survive for at least one growing season following the completion of planting.
 - M. The Planning Board shall have the authority to adopt from time to time suitable landscaping regulations, which may include the required height and spread of trees and shrubs in buffer zones and parking areas.

2.11.7 Surface Water Run-Off

- A. The Planning Board may review projects for compliance with DEP Stormwater Management policy.
- B. All slopes exceeding 15% resulting from site grading shall be stabilized.

- C. Projects shall be designed to minimize soil erosion and sedimentation.

2.11.8 Special Permits in the HB-1 District

Wherever in this bylaw and the related sections of the Town of Leicester Zoning Bylaw a permitted use in the HB-1 district requires a Special Permit, the administrative procedures described below shall govern the procedure for issuance of this Special Permit.

2.11.9 Requirements and Procedures

- A. The special permit granting authority for all special permits in the HB-1 District shall be the Planning Board except where such authority is specifically delegated to the Zoning Board of Appeals. No building, use or occupancy permits for any construction of any use designated "SP" (Special Permit) under the HB-1 District shall be issued, except in accordance with the terms of a special permit as set forth herein. This shall apply to new construction, change in use to a use requiring a special permit, and resumption of any use requiring a special permit where the use has been discontinued or abandoned for more than two (2) years.
- B. Applicants for Special Permits under this section shall submit plans in compliance with the Leicester Planning Board Rules & Regulations for Special Permit Applications.
- C. Procedures for Special Permits (filing, hearing notification, and decision timelines) shall follow MGL Ch.40A, Section 9, Special Permits, and Section 11, Notice for Public Hearing.

2.11.10 Special Permit Review Criteria

The Planning Board shall grant a special permit only after finding that the proposed use will be consistent with the purpose and intent of this bylaw, and that the proposed use or structure is in conformance with the following criteria:

- A. Provision shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and property. The service level of adjacent streets shall not be significantly reduced due to added traffic volume or type of traffic in accordance with the most recent edition of the Massachusetts Highway Department Highway Capacity Manual;
- B. The proposed use shall not overload the capacity of water and sewer systems, stormwater drainage, solid waste disposal facilities, and other public facilities;
- C. The design of the project shall provide for adequate methods of disposal of sewage, refuse, or other wastes generated by the proposed use;
- D. The project shall comply with all applicable environmental laws and regulations;
- E. The proposed project shall be consistent with Leicester's Master Plan;
- F. The project shall comply with all Site Development Standards required in the HB-1 District.

2.11.11 Allowed Uses

Uses shall be allowed and regulated as specified in Section 3.2 and Section 3.33. Signs shall be allowed and regulated as specified in Section 3.2.07 for the Business (B) District.

2.11.12 Severability

If any provision of this Section 5.5 of Leicester's Zoning By-Law is held invalid by a court of competent jurisdiction, the validity of the remainder of the bylaw shall not be affected thereby.

2.12-Additional Use Regulations Specific to the Highway Business Industrial District-1(HB-1) was 3.33-added uses to use table section not needed?

In addition to Section 3.2, SCHEDULE OF USE REGULATIONS, the HB-1 District shall also be regulated as follows:

2.12.1 Additional Permitted Uses (Y)

1. Business and Professional Offices
2. Medical Offices
3. Consumer service establishments (dry cleaner, beauty salon, etc.)
4. Lumber and building material establishments Contractors Yards?
5. Miniature golf establishments

2.12.2 Additional Uses allowed by Special Permit (SP)

1. Movie Theaters no other mentions in the Zoning Bylaw
2. Veterinary Hospitals Veterinary Clinic?

2.12.3 Prohibited Uses (N)

1. Any use not expressly permitted in Section 3.2 and 3.33.
2. Cemeteries
3. Tanneries
4. Meatpacking
5. Slaughterhouses
6. Hazardous material processing

2.13 Highway Business Industrial District 2(HB-2) was 3.31

The Highway Business-Industrial District 2 (HB-2) shall comply with all requirements for the Highway Business- Industrial District 1 (HB-1), except that the minimum lot size for HB-2 shall be 45,000 square feet.

2.14 Recreational Development District was 2.3.05

(A) Intent	(F)	Planning Principles and Requirements
(B) Definitions	(G)	Natural Features Protection
(C) Objectives	(H)	Recreation Areas
(D) Uses	(I)	Non-Residential Uses
(E) Location and Density	(J)	Administration

2.14.1 INTENT

The intent of this section is to provide recreational opportunities for the residents of Leicester, to allow more effective and efficient use of large tracts of land in the rural areas of Leicester, and to minimize Town service responsibilities.

Added to Definitions DEFINITIONS ~~"Recreational Area" is a parcel(s) of land or an area(s) of water, or a combination of land and water within the site designated for a~~ **Recreational Development**, ~~maintained and preserved for active or passive recreational uses (such as a park, tennis courts, ball fields, swimming pools, golf courses, etc.), or for buffer areas, and designed and intended for the use or enjoyment of occupants of the Recreational Development and, in certain circumstances, the general public. Recreational Areas may contain such structures and improvements as are appropriate under the provisions of this Section.~~ **"Recreational Development"** (RD) is an area of land, ~~de-~~signed and developed as a unit, with Recreational Areas as integral characteristics and which departs from the zoning regulations conventionally required in the Residential 1, Residential 2 or Suburban Agricultural Districts concerning use of land or buildings, lot size, bulk or type of structures, or other requirements. Unless specifically prescribed, any combination of residential and compatible uses may be allowed.

2.14.4 Objectives

- A. To preserve natural topography and provide useable space for recreational facilities.
- B. To insure appropriate, high quality design and site planning and a high level of environmental amenity
- C. To eliminate Town service responsibilities for streets and utilities. (4) To allow flexibility and creativity in the design of developments through a carefully controlled Special Permit process of negotiation of particular plans.
- D. To allow flexibility and creativity in the design of developments through a carefully controlled Special Permit process of negotiation of particular plans.

2.14.3 Uses

Under the Special Permit described in this Section, only the following uses may be allowed

- A. Recreational Areas
- B. All Allowed Uses, Special Permit Uses, and Special Permit Uses Subject to Environmental Design Criteria under the B District (Section 3.2.02. 2, 2A, 4, 5. and 6.)
- C. All allowed Uses, Special Permit Uses, and Special Permit Uses Subject to Environmental Design Conditions under the B District (section 3.2.03. 2, 3, 6.)
- D. Non-residential uses (hereinafter referred to as "NR Uses", which would consist of a pro shop, clubhouse or other recreational-type facilities or establishments in keeping with the nature and intent of this Section and the residential character of the RD.

2.14.4 Location & Density

An RD may be established only in the SA, R1, or R2 Districts by Special permit issued by the Planning Board (which for purposes of this Section is designated as the Special Permit Granting Authority), provided that all proposed RD's shall comply with the standards of environmental design review. The density shall be 85% of that allowed for in the R1 District, EXCEPT as provided below. The minimum area of a tract eligible for an RD is two hundred (200) acres in a single or consolidated ownership or control at the time of application, and the tract must have five hundred (500) feet of direct frontage on a major street, as designated by the Zoning By-Law. Other dimensional requirements for a single-family dwelling or an NR Use within an RD are as follows:

Minimum Lot Size	20,000 Square Feet
Minimum Lot Front/feet	100'
Minimum Front Yard Setback	25'
Minimum Rear Yard	25'
Minimum Side Yard	15'

Other dimensional requirements for multi-family structures shall be governed by the provisions of Section 4.2, RIB, except that no more than 45% of the units within an RD may be multi-family, and all such units must be of a town- house type with separate entrances and with a maximum of eight (8) attached units per building. In calculating intensity of use and allocation of Recreational Areas, the following standards shall be used:

- A. NR uses shall be subtracted from the total land area before calculating residential densities.
- B. 50% of land and water areas contained in Flood Hazard Areas shall be subtracted from the total land area before calculating densities.
- C. Areas which are considered by the Planning Board as marginal or unsuitable for building, such as flood plains, inaccessible wetlands and water areas, aquifer buffer zones and restrictive easement areas, steep slopes (25% or greater), highly erodible or poorly drained areas, areas of very shallow bedrock or of very high water table shall, as a general rule, be included in the Recreational Areas.
- D. Roads shall be subtracted from total area in determining net densities. For preliminary and general planning purposes, roads may be estimated as fifteen percent (15%) of total area. For definitive plans, all lot sizes and densities as specified herein shall be net figures with rights of way for streets figured exactly.
- E. The total number of dwelling units in an RD shall be no greater than 85% of the total number of units that would otherwise be allowed by the Zoning By-Law in the B District. The Planning Board, however, may authorize additional units upon a finding that the proposed development includes proportional on-site and/or off-site improvements, including but not limited to Recreational Areas, roadways, sidewalks, and other such amenities, and based upon the ownership and maintenance of such facilities.
- F. In making the determination as to the number of allowable units, the Planning Board may require that the applicant provide satisfactory evidence that the number of units shown on the RD plan is no greater than the number that could otherwise be developed, including soil and other such tests.
- G. The Planning Board shall not grant a Special permit for an RD unless it is adequately demonstrated that the RD is superior in design and land use to a conventional development, and that the proposed RD is consistent with the objectives of this section. The Planning Board shall have the power to waive or exceed design standards and conditions in any circumstance deemed appropriate.

2.14.5 Planning Principles & Requirements

A. Land Uses and Recreational Areas:

The Recreational Areas shall serve to unify the entire development visually and functionally, to buffer different types of uses within the development, to appropriately buffer the development from surrounding land uses, and to visually separate buildings or groups of buildings, whether on or off-site. It is intended that the different types of uses within an RD shall be related to each other in a logical manner such that all uses function compatibly.

B. Relationship of Land Uses

Uses shall be located and designed to serve the intended population efficiently.

C. Vehicular Circulation

Streets in the RD shall serve the functions and be designed to the standards prescribed in the Subdivision Rules and Regulations of the Town of Leicester. Collector and major streets shall normally be fronted on both sides by open space and shall have no direct frontage by single-family lots. Streets shall be designed to the standards of the current Leicester Subdivision Rules and Regulations, provided that the Planning Board may waive any part thereof which it deems inappropriate in specific instances.

D. Pedestrian Circulation

The presence of Recreation Areas throughout the development creates the opportunity for a pedestrian circulation system separate from the street system. Pedestrian paths through the Recreational Areas can be safer, more pleasant and often more direct than conventional sidewalks which must follow vehicular rights of way. Wherever possible and appropriate, pedestrian circulation shall be provided within the Recreational systems, minimizing street crossings and reducing the need for street side walkways. Where paths in the Recreational Areas can appropriately take the place of sidewalks, the Planning Board may waive the conventional side-walk requirement specified in the subdivision regulations.

E. Natural Features Protection

Because Recreational Areas are critical features of the RD, all Rd's shall have primary importance attached to natural feature, conservation requirements. Additional standards concerning the character and quality of the Recreational Areas are prescribed herein. Failure to comply with the intent of these standards and guidelines may constitute grounds for disapproval of the RD.

2.14.6 Recreational Areas

2.14.7 Design and Location

A. The Recreational Systems shall be designed to accomplish the following objectives:

1. To maintain as much land as possible in its natural state, or in an attractive, landscaped manner with emphasis on hardy flowers and shrubs, or for specific active or passive recreational purposes, and in large parcels that would not be possible in lot by lot ownership, with access guaranteed to all users of the development.
2. To create buffers between residential and non-residential uses.
3. To distribute the Recreational Areas such that the entire development is unified functionally and visually by such space.

4. To provide Recreational Areas within easy access of all users. All parts of the system shall be appropriate to their functions as buffers, large natural areas, ponds and streams capable of harboring or sustaining compatible natural species, open fields, developed recreation areas or yards for buildings. Such characteristics as area, breadth, and nature of foliage shall be considered by the Planning Board in determining whether the Recreational Areas satisfy the standards and intent of the RD.

2.14.8 Ownership and Maintenance

The plans and documentation submitted to the Planning Board shall include a description of all Recreational Areas as Follows:

- A. **Plans** The plans and/or any supporting documents shall show the exact location, size, specific character and general use of all Recreational Areas.
- B. **Dedication to Town** The Town may at any time accept the dedication of any of said land, facilities, or any interest therein for public use, benefit or maintenance, but the dedication of public use shall not be required as a condition for approval of the RD. If the Town Meeting fails to accept the offered land within two (2) years of the receipt of the offer, then the offer shall use another method identified herein for guaranteeing the Recreation Areas as approved by the Planning Board.
- C. **Covenant** Any land or facilities designed as part of the Recreational system which are not dedicated to the Town shall be made subject to a covenant acceptable to the Planning Board, which covenant shall be recorded in the Worcester District Registry of Deeds, or the Worcester County Registry District of the Land Court, whichever is applicable, and shall run with said land in perpetuity. Said instrument shall prohibit further subdivision of such space or change of its use to any use not in keeping with the RD as approved without the approval of the Planning Board. Said instrument shall also prohibit denial of access to any part of said space by any occupant of the RD (although use may be conditioned on payment of a fee).

2.14.9 Organization Owning Recreational Areas

Ownership of all or any portion of the Recreational Areas not dedicated to the Town shall be retained by a corporation or trust owned or to be owned by the owners of lots or units in the RD, subject to the following standards:

- A. The Town may enter upon said property at reasonable times for the purpose of inspection in order to insure compliance with the Special Permit.
- B. Membership in said corporation or trust shall be automatic and shall pass with conveyances of the lots or units and be inseparable therefrom. The RD presentation shall include a complete description of said organization and the methods by which it shall be established and maintained, and the method by which fees and property taxes shall be collected and enforced. The presentation may provide that the property owners' association may lease back such land to the developer, his assigns, or to any other person or corporation, for operation and maintenance of the same.
- C. Prior to the release of lots or units for sale or construction, the following documents are to be submitted to the Planning Board for approval:

1. A sample Purchase and Sale Agreement which shall be used for the purchase of the individual lots and/or units. Said Agreement shall include in conspicuous type the following: that the property is part of a Recreational Development subject to Section 2.3.05 of the Zoning By-Laws of the Town of Leicester; that the purchaser and subsequent owners of the units are subject to the requirements therein contained; that the purchaser shall be required to be a member of a homeowner's association, shall be subject to rules and regulations of said association and shall be liable for any applicable assessment made by or against said association. The Purchase and Sale Agreement shall further contain a statement by the seller that the purchaser has been provided with a copy of the rules and regulations of the homeowner's association, copies of any proposed management policies, copies of restrictions or covenants running with the land in the development, and a prospectus which shall be a summarization in layman's language of the information contained in other documents.
2. Copies of any documents or proposed documents creating the homeowner's association, the By-Laws and the rules and regulations of the homeowner's association, any management policies or proposed management policies, copies of any restrictions or covenants running with the land in the development, and the prospectus which shall be a summarization in layman's language of the information contained in the filed documents. Said homeowner's association documents shall include a provision stating that, in the event of failure of a lot or unit owner to render to the association an established fee amount proportionate for its share of the reasonable and appropriate maintenance and property tax for the Recreational Areas, the association or the Town of Leicester may place a lien upon the lot or unit in order to assure payment, with said lien to include related legal expenses.

2.14.10 Non-residential Uses

A. General Conditions

NR uses may be specifically authorized under the Special Permit as auxiliary supporting uses in the RD. Inadequate relation of such uses to the overall plan of the development, incompatibility with adjacent uses, insufficient buffer areas or undue traffic generation shall be sufficient grounds to deny any such use. Plans and other documents for NR uses should be submitted as an integral part of those submitted for the RD.

B. Public and Quasi-Public

Day care centers, public parks and community recreation center, Town buildings and uses and utilities as allowed may be permitted uses in RD's, subject to the prescribed standards and any conditions required by the Planning Board under the procedures for the RD.

2.14.11 Administration

In reviewing an RD proposal, the Planning Board shall be governed by the Special Permit procedures as specified in Section 6.4.02 of the Zoning By-Laws. For purposes of this RD section, the Planning Board is designated as the Special Permit Granting Authority. In addition, the Planning Board, as the Special Permit Authority for the RD Section, shall be governed by Massachusetts General Laws Chapter 40A, Section 9.

2.15 RESIDENTIAL INDUSTRIAL BUSINESS ZONE (RIB) ZONE was 3.32

Dimensional requirements per Section 4.2 Table 1. The Special Permit Granting Authority in the RIB District shall be the Planning Board.

2.15.1 Intent:

It is the intent of this section to provide for residential uses in somewhat higher density than in other residential zones and to provide and increase the value of residential property situated in the vicinity of operating businesses, to protect the community from the detrimental effects of development not suited to location near residences, to protect persons and property against the hazards of pollution; to conserve natural conditions and open spaces; to separate and otherwise divide potentially conflicting property uses and to provide a harmonious relationship between residential and commercial development.

2.15.2 Permitted Residential Uses Within This Zone Are:

- A. Detached one family dwelling subject to dimensional requirements set forth in Section 4.2 Table
- B. Two family dwelling by Special Permit. Subject to dimensional requirements set forth in Section 4.2 Table 1.
- C. Multi-family (more than 2 family dwelling) - by Special Permit. Dimensions for residential use are set forth in Section 4.2 Table 1.
- D. Permitted Business uses within this Zone are as follows:
 1. Light manufacturing or light assembly facility limited to small scale assembly and manufacturing industries which are not injurious, noxious or offensive, or tend to reduce residential property values in the same or adjoining districts by reason of emission of odor, fumes, dust, smoke, vibration, sewerage, and/or industrial waste, noise, danger of explosion, fire or otherwise. Manufacturing allowed in this paragraph shall not include heavy industrial operations such as steel manufacturing, heavy forging presses and the like and shall be for utilizing hand labor or quiet machinery and process.
 2. Landscaping services involving equipment purchasing.
 3. Nursing home; extended or intermediate care facility licensed or approved to provide full time convalescent or chronic care.
 4. Child Care Facility and Family Child Care Home.
 5. The dimensional requirements for the business uses in this zone shall be the same as the BR-I Zone Section 4.2 Table 1.
 6. Senior Village Developments are allowed by special permit from the Planning Board.
 7. Accessory Apartment
 8. Rental enclosed storage facilities by special permit issued by Planning Board.
 9. Uses allowed in the HB-1 district under sections 3.2.03 , 3.2.04, 3.2.05, 3.2.06, and 3.33, only by special permit issued by the Planning Board. Uses prohibited under

Section 3.33.3 are also prohibited in the RIB district.

10. Small Wind Facilities by Special Permit from the Planning Board.
11. Farmers' Market
12. Small-Scale and Medium-Scale Ground-Mounted Solar Energy Systems
13. Large-Scale Ground-Mounted Solar Energy Systems by Special permit from the Planning Board
14. Backyard Chickens
15. Vehicle Sales or Rental, up to 30 vehicles (30 more by special permit)
16. Taxi or Limousine Service

2.15.3 Development within the RIB District

Shall comply with Sections 5.5.02 through 5.5.04, except that the landscaped buffer specified in Section 5.5.02.2.C shall be 50 feet, rather than 100 feet. At the discretion of the Planning Board, the width of the required fifty (50) foot landscaped buffers from an abutting residential use or district may be reduced to a minimum of twenty (20) feet where site constraints do not allow for the 50-foot buffer and an opaque fence is provided to provide screening from the abutting residential use or district.

2.16 Adaptive Reuse Overlay District (AROD). Was 5.10 [Amended ATM 5/5/2008 and ATM 6/2/2020]

2.16.1 Purpose

of the Adaptive Reuse Overlay District (AROD) is to:

- A. Provide specific regulations allowing for the reuse of municipal, religious, and historic mill buildings in a way that promotes public health, safety and welfare and is in keeping with the adjacent character of the neighborhood.
- B. Provide regulatory flexibility and intensification of use in municipal, religious, and historic mill buildings to prevent disinvestment or deterioration of buildings that have become obsolete for their original purposes.
- C. Allow for the reuse of municipal, religious, and historic mill buildings as a means to increase the town's overall tax base, create employment opportunities and ensure efficient use of municipal services so as to not create a burden on these services.
- D. Encourage the adaptive reuse of historic buildings where such reuse would more effectively promote, preserve, and enhance the architectural character of the surrounding neighborhood than would the redevelopment of the site following the demolition of these landmark structures.

2.16.2 Eligibility for Conversion

- A. The following shall be eligible for conversion to those uses listed in Section D of this bylaw:

- B. A municipal building located in any zoning district if it was used for not less than fifteen (15) years for municipal use.
- C. Any existing structure having not less than 10,000 square feet constructed more than sixty (60) years ago and historically part of a mill complex.
- D. Any existing structure used for one or more of the following religious uses for not less than fifteen (15) years: churches, convents, schools, rectories, and parish halls.

2.16.3 Scope of Authority

The AROD is superimposed over all the underlying zoning districts in the Town. Except as specified in this Section 5.10, the provisions of the underlying zoning districts shall remain in effect. The regulations of this overlay district shall govern reuse, reconstruction or expansion of those buildings eligible for conversion as describe in Subsection B above. The Special Permit Granting Authority for an Adaptive Reuse Development (ARD) under this section shall be the Planning Board. Adaptive Reuse Developments which utilize any of the provisions of this Section 5.10 relative to use, parking, and/or dimensional controls shall require a special permit from the Planning Board. Applicants for Special Permits under this section shall submit plans in compliance with the Leicester Planning Board Rules & Regulations for Special Permit Applications.

2.16.3 Uses Permitted

A. Uses allowed by right

The following uses be allowed by-right:

- 1. Any uses permitted by right in the underlying zoning district in which the structure is located.
- 2. Conversion of former municipal buildings to private medical or professional offices.

B. Uses allowed by Special Permit

The following uses are allowed by special permit and subject to site plan review:

- 1. Senior Village Development residential uses, Adult Day Care Facilities, and Senior Village Community Centers as defined under Section 5.7.03
- 2. Multi-family
- 3. Professional or administrative offices
- 4. Community recreational center or personal training centers
- 5. Medical Clinic, Dental Office, Veterinarian Office, and Ancillary Offices and Facilities
- 6. Community center or conference center with meeting rooms
- 7. Studios for art, drama, speech, dance, or music

8. Retail
 9. Indoor commercial recreation or health club
 10. Research and Development uses including ancillary office use and electronic and computer laboratories, but not including ancillary manufacturing, assembly, sale or resale or storage for sale or resale of any goods, items, or material
 11. Mixed-Use Development, Vertical Mix
 12. Mixed-Use Development, Horizontal Mix
 13. Brewery, Distillery, Winery
 14. Brew Pub
 15. Makerspace
- C. Multiple or Mixed Uses: Any combination of uses allowed by right in D(1), and uses allowed by special permit in D(2), may be allowed provided they are compatible with each other and maintain the public health, safety and welfare of the community.
- D. Uses required by MGL c40A, Section 3, such as public and private non-profit religious and educational institutions are allowed in the AROD by right subject to Site Plan Review.

2.16.5 Parking Requirements

- A. For all new buildings and structures and for reuse or substantial restoration of existing buildings or structures within the Adaptive Reuse Overlay District, the parking requirement of Section 5.1 of the Zoning Bylaw shall apply.
- B. The Planning Board shall be authorized to modify parking, loading requirements, dimensional requirements for off-street parking and loading areas; layout requirements and the number of required spaces in conjunction with the grant of a special permit pursuant to this Section 5.10. This provision shall only apply to uses in the Adaptive Reuse Overlay District which are located in buildings or structures in existence as of the date of the adoption of this Section of the Leicester Zoning Bylaw. In determining the appropriate reduction, the Planning Board may give consideration to the hours of operation and/or usage of the proposed uses within the development, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the surrounding area, as well as other relevant information. The decrease in number of required spaces shall not create undue congestion, traffic hazards, or a substantial detriment to the neighborhood, and shall not derogate the intent and purpose of this Bylaw.

2.16.6 Dimensional and Other Requirements

- A. The Planning Board, by Special Permit, shall have the authority to waive or modify dimensional controls set forth in Section 4 of the Zoning Bylaw.
- B. The Site Development Standards for the underlying district are applicable. Where the underlying district does not have Site Development Standards, the standards for the Business (B) District shall apply. The Board, through the ARD special permit, may allow

for modifications of Site Development Standards where not feasible due to existing site constraints.

- C. For multi-family projects, the maximum number of dwelling units shall be established by the Planning Board after reviewing the following criteria:
 - 1. Existing structures
 - 2. Proposed method and efficacy of stormwater disposal
 - 3. Availability of water and sewer
 - 4. Trip generation, traffic safety and internal site traffic
 - 5. Character of the proposed ARP and its relation to the surrounding neighborhood(s)
 - 6. Character of the existing buildings and the potential for reuse thereof
 - 7. Applicability of the Water Resource Protection Overlay District
 - 8. Reports of the technical consultants of the Planning Board and all other reviewing boards
- D. Existing Buildings may be expanded provided that such expansion is consistent with the building's historic character and scale and does not cause substantial detriment.
- E. New Buildings may be constructed on the ARD site provided that the number, type, scale, architectural scale, and uses within such new buildings shall be subject to Planning Board approval. For all new structures or buildings, the dimensional requirements of the underlying zoning district shall apply and, if applicable, to the extent that the dimensional requirements vary dependent upon the use of the building, the pre-dominant use based upon gross floor area utilized shall govern.
- F. All proposed signs shall comply with Section 3.2.07 of the Bylaw, except that if the building and land on which situated are located in a single family district (SA, R1, R2), the Planning Board may permit a sign of no larger than 10 square feet which identifies only the building and its occupants.

2.16.7 Standards for Approval

- A. As a condition of any special permit for the an Adaptive Reuse Project that proposes 10 or more multi-family dwelling units, a minimum of ten (10%) of the total number of dwelling units shall be required, in perpetuity, to be restricted to persons qualifying as moderate income in accordance with the Massachusetts Department of Housing and Community Development definitions of low and moderate incomes. This affordability requirement is recommended but not required for live-work spaces associated with makerspaces.
- B. The proposed project preserves or enhances the historic significance of existing buildings on or eligible to be on the State or National Register of Historic Places and, where applicable, the

eligibility of the same for listing on the State or National Register of Historic Places as an individual property or a contributing property to an area.

- C. Any expansion of existing buildings on or eligible to be on the State or National Register of Historic Places is consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation, as determined by the Leicester Historical Commission.
- D. The project shall have sufficient local infrastructure to accommodate the proposed development.
- E. The proposed ARD does not cause substantial detriment to the neighborhood after considering the following potential consequences.
 - 1. noise, during the construction and operational phases,
 - 2. pedestrian and vehicular traffic,
 - 3. environmental harm,
 - 4. visual impact caused by the character and scale of the proposed structure(s), and
- F. The SPGA may attach such additional conditions and limitations to a Special Permit granted under this Section as may be necessary to protect the neighborhood surrounding the property, and as may be necessary to encourage the most appropriate use of the land and building to be converted

2.16 Floodplain District (formerly 5.2.04/ formerly 5.2.09)) [Amended @ ATM 5-7-2008, 5-2-2023]

2.17.1 Purpose

The purpose of the Floodplain District is to:

- A. Ensure public Safety through reducing the threats to life and personal injury.
- B. Eliminate new hazards to emergency response officials.
- C. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
- D. Avoid the loss of utility service which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
- E. Eliminate costs associated with the response and cleanup of flooding conditions.
- F. Reduce damage to public and private property resulting from flooding waters.

2.17.2 Definitions

SEE SECTION 1.3

2.17.3 Floodplain District

- A. **The Floodplain District** is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Leicester designated as Zones A and AE, on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the Floodplain District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and the Department of Development and Inspectional Services. The Floodplain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with MGL c. 131, § 40 and with the requirements of Massachusetts State Building Code, 780 CMR as well as the Department of Environmental Protection Regulations, 310 CMR.

2.17.4 Permits Required

A permit is required for all proposed construction or development in the Floodplain District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

2.17.5 Designation of Community Floodplain Administrator

The Town of Leicester hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.

2.17.6 Permit Review Process

Leicester's permit review process includes the use of a Floodplain Development Review Form in addition to the traditional building permit. The proponent must acquire all necessary local, state, and federal permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

2.17.7 Variances to Building Code Floodplain Standards

- A. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files.
- B. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the

signature of a community official that:

1. The issuance of a variance to construct a structure below the base flood level may result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 2. Such construction below the base flood level increases risks to life and property.
- C. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

2.17.8 Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

Variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if:

- A. Good and sufficient cause and exceptional non-financial hardship exist;
- B. the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- C. the variance is the minimum action necessary to afford relief.

2.17.9 Unnumbered A Zones

In the absence of FEMA BFE data and floodway data, the applicant shall obtain any existing flood elevation and floodway data available from a federal, state, or other source, to be reviewed by the Building Commissioner and utilized to determine compliance with this bylaw and the State Building Code.

2.17.10 Floodway Encroachment

In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2.17.11 Subdivision Proposals

Subdivision proposals shall be reviewed to assure that:

- A. Such proposals minimize flood damage.
- B. Public utilities and facilities are located and constructed so as to minimize flood damage.
- C. Adequate drainage is provided.

2.17.12 Base Flood Elevation Data for Subdivision Proposals.

Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres. Where there are not already base flood elevations (BFEs) for each parcel, then the developer must provide BFEs for each parcel so that flood-resistant standards can be appropriately applied.

2.17.13 AO and AH Zones Drainage Requirements

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

2.17.14 Recreational Vehicles

In A1-30, AH, AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

2.17.15 Watercourse Alterations or Relocations in Riverine Areas

In a riverine situation, the following parties shall be notified of any alteration or relocation of a watercourse:

- A. Adjacent communities
- B. Bordering states (possibly)
- C. NFIP State Coordinator, Massachusetts Department of Conservation and Recreation
- D. NFIP Program Specialist, Federal Emergency Management Agency, Region I

2.17.16 Requirement to submit new technical data

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within six months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

- A. NFIP State Coordinator, Massachusetts Department of Conservation and Recreation

B. NFIP Program Specialist, Federal Emergency Management Agency, Region I

2.17.17 Abrogation and greater restrictions

The floodplain management regulations found in this Floodplain District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

2.17.18 Disclaimer of liability

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

2.17.19 Severability

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the bylaw shall be effective.

2.18 Water Resource Protection Overlay District (WAS 7.1)

2.18.1 Purpose

The purpose of this section is to prevent the contamination of those areas within Leicester that contribute ground or surface water to existing or planned public water supplies.

2.18.2 Establishment Of District

There is hereby established a Water Resource Overlay District consisting of aquifers, recharge areas and watersheds, which is delineated on a map titled "Leicester Water Resources Protection Overlay District." This map is hereby made a part of this by-law and is on file in the Town Clerk's Office. This district shall be considered as overlying other zoning districts. Any area within this overlay district is subject to the more restrictive designation of either the overlay district or the underlying district. Uses not permitted in the underlying districts shall not be permitted in the overlay districts.

Where the limits of the Water Resources Protection Overlay District are in doubt or in dispute, the burden of proof shall be on the owner(s) of the land in question to show where the bounds should properly be located, based on the criteria stated above. At their own expense, property owners may engage a hydrogeologist or other qualified professional to determine more accurately the location and extent of an aquifer, recharge area or watershed.

For parcels partially located in the Water Resources Protection Overlay District, the provisions of Section 2.3.04 of this by-law shall apply.

2.18.3 Definitions See Section 1.3

2.18.4 Use Regulations

2.18.5 Permitted Uses

- A.** The following uses shall be permitted by right in the Water Resources Protection Overlay District:
1. conservation of soil, water, plants and wildlife;
 2. outdoor active and passive recreation;
 3. normal operation and maintenance of roads, utilities and other structures provided there is no significant increase in impervious pavement;
 4. normal operation and maintenance of water bodies and water control, supply and conservation devices;
 5. residential development permitted in the underlying district, provided that the limitations of subsurface, sewage disposal and percent of property rendered impervious, as defined in this section are not exceeded.
 6. farming, gardening, nursery, conservation, forestry and other similar uses provided that storage of fertilizers, soil conditioners, herbicides, pesticides, manure and other leachable materials is accomplished as defined in this section.

2.18.6 Special Permit Uses

- A.** The following uses are permitted in the Water Resource Protection District with the issuance of a Special Permit. The Special Permit Granting Authority for uses under this section shall be the Board of Appeals.
- B.** the rendering impervious of more than 15% or 2500 square feet of any lot, but not greater than 30% of any lot; for uses with impervious areas greater than that specified by the By-Law, appropriate measures must be taken to insure that the increase in storm-water runoff (over that amount generated by a lot with the specified impervious area) must be artificially recharged into the ground water. This may be done through such methods as dry wells, infiltration trenches, retention basins, etc. Runoff from these areas shall include facilities for trap- ping oil, gas and other contaminants before recharge into the ground. These facilities shall be maintained by the owner on an annual basis.
- C.** the application of pesticides or fertilizers that are non-domestic and non-agricultural, provided precautions are taken to minimize adverse impacts on surface and ground-water resources;
- D.** any commercial or industrial use permitted in the underlying district which involves as a principal activity the manufacture, storage, use, or transport of toxic or hazardous materials provided the activity is in conformance as defined in Section 7.1.04 (3) (I) Hazardous Waste Facilities and Section 7.1.04 (3) (0) Storage of Liquid Hazardous Materials, of this By-Law;
- E.** Medium-scale or large-scale ground-mounted solar energy systems

2.18.7 Prohibited Uses The following uses are prohibited in the Water Resources Protection District:

- A. disposal or processing of solid or hazardous waste, including but not limited to, transfer stations, landfills and open dumps as defined in 310 C.M.R. 19.006;
- B. automobile salvage or graveyards, and junkyards as defined in M.G.L. c.140B, s.1;
- C. landfilling of sludge and septage, as defined in 310 C.M.R. 32.05;
- D. storage of sludge and septage, as defined in 310 C.M.R. 32.05 unless such storage is in compliance with 310 C.M.R. 32.30 and 310 C.M.R. 32.31;
- E. on-site disposal of process or non-sanitary waste;
- F. individual sewage disposal systems that are designed in accordance with 310 C.M.R. 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewerage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design;
- G. storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal, stockpiling or disposal of snow or ice removal from highways and streets located outside Zone II that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;
- H. treatment works subject to 314 C.M.R. 5.00 except the following:
 - 1. the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
 - 2. the replacement of any existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);
 - 3. treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground or surface waters; and
 - 4. if the Massachusetts Department of Environmental Protection amends 314 C.M.R. 5.00 on the basis of the Final Generic Environmental Impact Report (FGEIR) on Privately Owned Sewage Treatment Facilities (PSTFs), permitted in accordance with 314 C.M.R. 5.00 as amended.
- I. facilities that generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c.21C and 310 C.M.R. 30.00, except for the following:
 - 1. very small quantity generators, as defined by 310 C.M.R. 30.00;
 - 2. household hazardous waste collection centers or events operated pursuant to 310 C.M.R. 30.390;
 - 3. waste oil retention facilities required by M.G.L. c.21, s.52A; and
 - 4. treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 C.M.R. 5.00 for the treatment of contaminated ground or surface waters.

- J. commercial earth removal, or the removal of soil, loam, sand gravel or any other mineral substances within four (4) feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey), unless the substances removed are redeposited within forty-five (45) days of removal on site to achieve a final grading greater than four (4) feet above the historical high water mark, and except for excavations for the construction of building foundations or the installation of utility works;
- K. gasoline station, auto or boat repair or body shop;
- L. storage of commercial fertilizers and soil conditioners, as defined in M.G.L.c.128, s.64, herbicides and pesticides unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate,
- M. storage of animal manures, unless such storage is covered and contained in accordance with the specifications of the United States Soil Conservation Services;
- N. underground storage of liquid hazardous materials, including home heating fuel;
- O. storage of liquid hazardous materials, as defined in M.G.L. c.21E, unless such storage is either in a free standing container within a building or in a free standing container above ground level with protection adequate to contain a spill the size of the container's total storage capacity;
- P. storage of liquid petroleum products of any kind, except those incidental to (1) normal household use and out- door maintenance or the heating of a structure, (2) waste oil retention facilities required by M.G.L. c.21, s. 52A, (3) emergency generators required by statute, rule or regulations, or (4) treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 C.M.R. 5.00 for the treatment of contaminated ground or surface waters, provided that such storage is either in a freestanding container within a building or in a freestanding container above ground level with protection adequate to contain a spill the size of the container's total storage capacity.

2.18.8 Nonconforming Uses

Any use that is made nonconforming by the adoption of this section may continue, provided, however, that any change, alteration reconstruction, expansion or enlargement of such use is subject to a special permit from the Board of Appeals.

In considering special permit applications for the expansion of nonconforming uses under this section, the Board of Appeals shall not grant a special permit unless it finds that the proposed expansion will not be substantially more detrimental to groundwater supplies than the existing use.

2.18.9 Special permit procedures

- A. Applicants for a special permit under this section shall submit an application to the Town Clerk for transmittal to the Board of Appeals accompanied by five (5) copies of any supporting information or plans.

- B. The special permit application shall contain the following information: existing property boundaries, existing and proposed structures and buildings, existing and proposed topography, all facilities for surface drainage and erosion control, all impervious areas, and those areas left in a natural state. Also, a complete list of all potentially toxic or hazardous materials to be used generated or stored on the premises in quantities greater than those normally associated with household use, accompanied by a description of measures proposed to protect from vandalism, corrosion, leakage and spills.
- C. The Board of Appeals shall refer copies of the application to the Board of Health, Building Inspector, Conservation Commission, the applicable Water District, and any other party deemed appropriate. These Boards have thirty-five (35) days in which to review the application and submit their comments and recommendations. Failure to respond in writing within that time shall be deemed lack of opposition to the granting of the Special Permit.
- D. The Board of Appeals shall hold a public hearing within sixty-five (65) days of the filing of the application in conformance with the provisions of M.G.L. chapter 40A, Section 9.
- E. The Board of Appeals may grant a special permit provided that it finds the proposed use:
 - 1. is in harmony with the purpose and intent of this by-law and will promote the purposes of the Water Resource Protection Overlay District,
 - 2. is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
 - 3. will not, during construction or thereafter, have an adverse environmental impact on the aquifer, recharge area or watershed; and.
 - 4. will not adversely affect an existing or potential water supply.
- F. In granting such a Special Permit, the Board of Appeals may attach such conditions as they deem reasonable in enforcing the purpose of this Section.

SECTION 3: USE REGULATIONS

3.1 Basic Requirements

Except as provided in Section 1.4 of this by-law, no building or structure shall be constructed, and no building, structure or land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such a building, structure or land is located, or set forth as permissible by Special Permit in said district and so authorized and in accordance with the following notation: Y – Use Permitted N – Use Prohibited SP – Use allowed by Special Permit. Except where specifically noted in Section 3.2 or elsewhere in the bylaw, the Special Permit Granting Authority for uses listed in Section 3.2 is the Zoning Board of Appeals in the SA, R1, R2, I, and BI-A districts and the Planning Board in the B, CB, HB-1, and HB-2 districts. Any use NOT listed is prohibited.

3.2 Schedule of Use

NOTE: See the following sections for permitted uses in the following districts:

District	Bylaw Section
BR-1	3.30
HB-2	3.31 & 3.32
RIB	3.32
HB-1	3.32
NB	5.6

Storage & Distribution Facilities		SA	R1	R2	B	CB	I	BI-A	HB-1	HB-2	BR-1	RIB	NB
Self Storage Rental Facility ¹⁴	Planning Board SPGA	N	N	N	SP	SP	SP	SP	SP	SP		SP	N
Distribution Facility											Y		
Contractor's Yard		SP	N	N	SP	N	Y	Y	Y	Y	Y	N	N
Enclosed Storage Facility											SP		
(from BR-1) description													
Marijuana (Cannabis)		SA	R1	R2	B	CB	I	BI-A	HB-1	HB-2	BR-1	RIB	NB
Medical Marijuana Treatment Center *Planning Board SPR required		N	N	N	Y	N	Y	Y	Y	Y	SPR	Y	N
Marijuana Retailer, Consumer Sales Only (Special Permits issued by the Planning Board)		N	N	N	SP	N	SP	SP	SP	SP	SP	SP	N
Marijuana Establishment, Non-Retail (Planning Board Site Plan Review Required)		N	N	N	SPR	N	SPR	SPR	SPR	SPR		SPR	N
Marijuana Social Consumption Facility		N	N	N	N	N	N	N	N	N		N	N
Marijuana Outdoor Cultivator		SP	N	N	N	N	N	N	N	N		N	N
Industrial Uses		SA	R1	R2	B	CB	I	BI-A	HB-1	HB-2	BR-1	RIB	NB
Manufacturing or Industrial ⁷		N	N	N	N	N	Y	Y	Y	Y	SP ²⁰	Y ²¹	
Research Laboratory		N	N	N	N	N	SP	SP	Y	Y		Y	
Construction Headquarters ⁸		N	N	N	N	N	Y	Y	Y	Y		Y	
Storage Warehouse		N	N	N	SP	N	Y	Y	Y	Y		Y	
Contractor's Yard		SP	N	N	SP	N	Y	Y	Y	Y	SP	Y	N
Earth Removal Operation													
Earth Filling Operation													
Transportation & Communication		SA	R1	R2	B	CB	I	BI-A	HB-1	HB-2	BR-1	RIB	NB
Aviation Field		SP	N	N	N	N	N	N	N	N		N	
Taxi or Limousine Service		N	N	N	SP	N	Y	Y	Y	Y		Y	
Trucking Depot		N	N	N	SP	N	SP	SP	SP	SP		SP	
Vehicle Rental Facility													
Radio or TV broadcasting or relat station		SP	N	N	N	N	N	N	SP	SP		SP	
Wireless Communication		SP	SP	SP	SP	SP	SP	SP	SP	SP		SP	
Energy & Utility		SA	R1	R2	B	CB	I	BI-A	HB-1	HB-2	BR-1	RIB	NB
Large Wind Facility		SP	N	N	N	N	N	N	SP	SP	SP	SP	
Small Wind Facility		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Large-Scale Ground Mounted Solar Energy		SP	N	N	SP	N	Y	Y	Y	Y			N
Medium-Scale Ground Mounted Solar Energy		SP	SP	SP	Y	N	Y	Y	Y	Y		Y	N
Small-Scale Ground Mounted Solar Energy		Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	SPR (?)

3.2.07 SIGNS¹

[Amended @ ATM 5-7-08]

¹All special permits for signs in all zoning districts are issued by the Zoning Board of Appeals. Signs in the HB-1 and HB-2 zoning districts shall follow the requirements of the Business (B) district.

3.2.07 SIGNS ¹		USE	BR-1	RIB	SA	R1	R2	B	I	BI-A
3.2.07-1 No sign shall contain any moving, flashing or animated lights or visible moving parts, indicators of time and/or temperature or automatically changing messages. *And upon recommendation by the Chief of Police			SP*	SP*	N	N	N	SP*	SP*	SP*
A.	Real-estate sign advertising rental, lease sale of premises on which sign is located or displaying name of builder, providing the sign does not exceed twelve (12) square feet in area.		Y	Y	Y	Y	Y	Y	Y	Y
B.	Sign incidental to permitted uses, provided that it does not exceed four (4) square feet in area.		Y	Y	Y	Y	Y	Y	Y	Y
C.	Neon or illuminated tube type signs or marquee signs. Where allowed by Special Permit, the lighting of any advertising shall be placed or hooded as to prevent direct light from shining onto any street or adjacent property.		SP	SP	N	N	N	SP	SP	SP
3.2.07-2 One standing sign or display for advertising goods or services available on the lot, provided no sign or display shall project nearer than one (1) foot from the lot line, or shall not have a gross exceeding thirty (30) square feet.			Y	Y	N	N	N	Y	Y	Y
A.	Increase up to fifty (50) square feet by Special Permit under Section 6.4.02 of this by-law.		SP	SP	N	N	N	SP	SP	SP
3.2.07-3 Wall sign (including awning signs) not to exceed 15% of the front perimeter wall.			Y	Y	N	N	N	Y	Y	Y
A.	Wall signs (including awning signs) on one other wall not to exceed 10% of wall area by Special Permit under Section 6.4.02		SP	SP	N	N	N	SP	SP	SP
3.2.07-4 Advertising sign not located on principal premises shall not exceed twelve (12) square feet in area, and shall not project nearer than one (1) foot from the lot line.			N	N	N	N	N	Y	Y	Y
3.2.07-5 Commercial billboards as regulated under Section 29-33, Chapter 93 of the General Laws			N	N	N	N	N	SP	SP	SP

SECTION 4: DIMENSIONAL REQUIREMENTS

4.1 Basic Requirements

No building or structure erected in any district shall be located on a lot having less than the minimum requirements set forth in Table I and II. No more than one dwelling shall be built upon such lot, except where specifically allowed elsewhere in the Zoning Bylaws. In the BR-1 and RIB districts a lot may contain a single dwelling unit in addition to a commercial structure on the same lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Table I and II.

4.2 Schedule of Dimensional Requirements

District	Minimum Area (SQ. FT)	Frontage (FT)	Front (FT)	Side (FT)	Rear (FT)	Max height of building in feet ¹	No. of stories	Maximum Building Coverage (%)
R1	50,000 ²	150	25	15	25	35	2½	30
R2	20,000	125	25	15	25	35	2½	30
SA	80,000	200	40	40	40	35	2½	30
B	15,000 ³	100	25	10	25	35	2½	30
CB	15,000 ³	100	10	10	25	35	2½	30
BI-A single family	30,000	175	40	40	40	55	5½	30
BI-A structure	20,000	150	50	40	40	55	5½	30
BR-1 single family	50,000	200	40	40	40	55	5½	30
BR-1 structure	20,000	150	50	40	40	55	5½	30
I single family	40,000	150	50	40	40	55	5½	30
I structure	10,000	100	25	10	25	55	5½	50
RIB single family	30,000	175	40	40	40	55	5½	33
RIB Two family	30,000	175	25	25	25	55	5½	33
RIB Multi-family	30,000	250	25	15	25	55	5½	33
RIB Multi-family Each add'l apt up to and include 5	10,000	250	25	15	25	55	5½	33
RIB Multi-family Each add'l apt after 5th apt.	2,500	250	25	15	25	55	5½	33

HB-1	60,000	200	50	50	50	55	5½	40
HB-2	45,000	200	50	50	50	55	5½	40
NB	20,000	100	25 ⁴	15	25	25	2	40

¹ No building over 35 feet in height shall be used for habitation (See Section 4.2.06)

² The minimum lot size in the R1 district shall be 40,000 square feet for lots served by public water and sewer.

³ See also Table II

⁴ In Neighborhood Business Districts (NB), if the alignment of existing principal buildings on adjacent lots on each side of a lot fronting the same street in the same district is nearer to the street line than the required front setback, the average of the existing alignments of all such buildings within 500 feet of said lot shall be the required front setback.

Schedule of Dimensional Requirements – TABLE II*

District	Minimum Area (SQ. FT)	Frontage (FT)	Front (FT)	Side (FT)	Rear (FT)	Max height of building in feet ¹	No. of stories	Maximum Building Coverage (%)
<u>B & CB</u> Multi-family, 1st apt	15,000	100	25	15	25	35	2½	30
<u>B & CB</u> Multi-family, each additional apt. up to & including 5	7,500	100	25	15	25	35	2½	33
<u>B & CB</u> Multi-family, each additional apt. after 5th apt.	2,000	100	25	15	25	35	2½	30

*The requirements of Section 4, Table II shall apply to Mixed-Use Developments, except as follows:

- a. Mixed-use developments with a single dwelling unit proposed in buildings in existence prior to the adoption of this Section of the Leicester Zoning Bylaw are exempt from the dimensional requirements of Section 4.
- b. The Planning Board, by special permit, may waive or modify dimensional controls set forth in Section 4 for Mixed-use developments that are proposed in buildings or structures in existence as of the date of the adoption of this section of the Leicester Zoning Bylaw.

4.2.01 A lot or parcel of land having an area or a frontage of lesser amounts than required by this table may be considered as coming within the area and frontage requirements of this section, provided such lot or parcel of land was shown on a plan or described in a deed duly recorded or registered at the time of the adoption of this by-law and did not at the time of such adoption adjoin other land of the same owner available for use in connection with such lot or parcel.

4.2.02 To be measured at right angles to the principal structure. Measurement is from the right-of-way line where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan, from a line 25 feet from and parallel with the center line of the traveled way.

4.2.03 The limitations on height of buildings shall not apply in any district to chimneys, ventilators, towers, spires, roof-mounted solar energy systems, or other ornamental features of buildings which features are in no way used for living purposes.

4.2.04 Side yard dimension will be fifty (50) feet when adjacent to a Residential District or a Suburban- Agricultural District. This requirement shall not apply to the CB district.

4.2.05 Rear yard dimension will be fifty (50) feet when adjacent to a Residential District or a Suburban- Agricultural District. This requirement shall not apply to the CB district.

4.2.06 Height Restriction for Habitation. No building over 35 feet in height shall be used for human or animal habitation.

4.3 Modifications to Dimensional Requirement

4.3.01 No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Section 4.2.

4.3.02 Upon granting of a Special Permit by the Planning Board, the dimensional requirements of this bylaw shall not apply to any uninhabited structures for public utilities owned by the Town of Leicester or Municipalities within the Town.

4.4 Landscaping

A lot in the BR-1, and RIB Zones shall not contain more than two-third (2/3) impervious area and not less than 1/3 for greenery. The greenery must extend 20' from boundary of lot. All business and/or multiple family uses set forth in the BR-1, and RIB Zones shall be subject to the Site Plan Review By-Law.

SECTION 5: SPECIAL REGULATIONS

5.1 Parking & Loading Requirements

[Amended STM 11/14/2017, Article 11]

- 1) No use of land for either residential or non-residential purposes in any district in the Town will be permitted which does not provide off-street parking and loading and unloading space adequate for its customary needs.
- 2) The Planning Board is authorized to adopt from time to time Parking Regulations to regulate parking and to define adequacy for off-street parking and loading and unloading space for residential and non-residential use
- 3) Parking shall be located on the same lot as the principal use or on a contiguous lot within the same zoning district or in an adjacent zoning district in which such parking is permitted provided that no space is counted as meeting the requirements for more than one building or use except in accordance with the shared parking requirements in the Planning Board's Parking Regulations.
- 4) In the Business (B) and Central Business (CB) districts all parking shall be provided on the same lot as the principal use or on another lot within a radius of 300 feet in the same zoning district or in an adjacent zoning district in which such parking is permitted provided that such parking is located on a lot on the same side of a major road (e.g. Route 9, Pleasant Street, Stafford Street) as the principal use and that no space is counted as meeting the requirements of more than one building or use except in accordance with the shared parking requirements in the Planning Board's Parking Regulations. Properties within the CB District shall not be required to comply with the 300 foot limitation and may share parking anywhere within the CB District on the same side of a major road. By Special Permit, the Planning Board may allow parking on the opposite side of the road in the CB district.

5.2-Parking of Commercial Vehicles was 3.2.08

[New Bylaw accepted ATM 5-4-2009]

A. Commercial Vehicles Accessory to Principal Residential Use

- 1) The continued and regular parking of one (1) commercial vehicle owned or operated by a resident of the premises is permitted by right in all zoning districts. Commercial vehicles in this bylaw do not include tractor trailers or construction vehicles (backhoes, bulldozers, dump trucks and the like), but shall include tractor trailer cabs. Nothing herein shall be construed to authorize a business at the location where such vehicles are parked. The commercial vehicle shall be parked in a driveway or in an enclosed structure.
- 2) Up to two (2) additional commercial vehicles as stated above accessory to a principal residential use may be allowed by special permit from the Planning Board, subject to the requirement that the vehicles are enclosed in a garage. The Planning Board may impose other conditions to protect abutting residential uses and the surrounding neighborhood.

B. Other Parking of Commercial Vehicles

- 1) Outdoor storage of commercial vehicles as a primary use is allowed by right in the HB-2 district, and requires a special permit in HB-1, I, BI-A, and BR-1 districts. This use is prohibited in all other zoning districts.
- 2) The continued and regular parking of commercial vehicles, tractor trailers, and construction vehicles (including but not limited to tractors, backhoes, bulldozers, dump trucks, etc.),

where accessory to a lawfully permitted commercial use, is allowed by right in all commercial zoning districts (B, CB, I, BI-A, HB-1, HB-2, BR-1, and RIB).

- 3) Parking of commercial and construction vehicles (including but not limited to tractors, backhoes, bulldozers, dump trucks, etc) related to a Contractor's Yard where a special permit is required is subject to the requirement that such vehicles be stored in a garage in the Suburban Agriculture (SA) district, or screened by fencing or landscaping in the Business (B) district. The Planning Board may impose other conditions to protect abutting residential uses and the surrounding neighborhood.
- 4) The continued and regular parking of commercial vehicles, tractor trailers, or construction vehicles (including but not limited to tractors, backhoes, bulldozers, dump trucks, etc) accessory to a special-permitted commercial use in residential districts (SA, RA, and RB) will be addressed through the special permit process for the primary use. The Zoning Board of Appeals may impose reasonable conditions to protect abutting residential uses and the surrounding neighborhood.

C. Other Requirements for Parking of Commercial Vehicles

- 1) Parking and use of commercial vehicles related to the primary purpose of agricultural, horticulture, floriculture, or viticulture as described under MGL Ch.40A, Section 3 exempt under state law on parcels over 5 acres.
- 2) Operation, including idling, of construction vehicles where permitted in residential districts is prohibited between the hours of 11:00 PM and 6:00AM, except in case of emergency. The Planning Board may adjust this as needed to minimize negative impacts on abutting residential uses and the surrounding neighborhood through the special permit process.
- 3) Where a special permit is required, the Special Permit Granting Authority will use the special permit criteria for the applicable zoning district, and where there are none, the requirements of 6.4.02.3

5.3 Driveway Bylaw was 6.2A

5.3.1 ~~Section 4~~ Definitions **See Section 1.3**

5.3.2 ~~Section 2~~ Prohibitions

No person shall construct a driveway which opens on a way unless the owner of the said land on which the driveway is to be constructed has first obtained a written permit from the Superintendent and no person shall construct such a driveway except in accordance with the terms and conditions of such permit and the regulations adopted by the Superintendent pursuant to Section 5 of this By-Law.

5.3.3 ~~Section 3~~ Applications & Fees

- A. Each application for a driveway permit shall be made to the Superintendent by the owner of the land on which the driveway is to be constructed.
- B. Each application shall include and be accompanied by the following information and supporting documentation:
 1. The complete name and residential address of the owner of the land.
 2. The complete street address of the land.
 3. The plot plan of the land showing, among other features the proposed driveway, the way on which the driveway is open and all buildings and other structures located or proposed to be constructed or placed on the land.

4. Such other information and documentation as may be required by the Superintendent.
3. Each application shall be accompanied by a check made payable to the Town of Leicester in the sum of twenty-five dollars for the permit fee which the Superintendent shall pay over on receipt to the Town Treasurer.

5.3.4 ~~Section 4~~ Permits

Each permit issued by the Superintendent shall include the following:

- A. A provision that the driveway/curb cut permit shall be issued and approved by the Superintendent before a building permit can be issued. A copy of this By-Law shall be presented to each applicant applying for a building permit with the Building Inspector and shall be considered by the Planning Board during their consideration of plans in accordance with M.G.L. Chapter 40 & 41A.
- B. Such terms and conditions as the Superintendent deems reasonably necessary to prevent an undue volume of surface water and eroded materials draining and being carried from the land on which the driveway is to be constructed onto the abutting public way.
- C. A description of any surface water drainage and erosion prevention facilities which the Superintendent shall require to be installed to insure surface water caused by driveways is properly managed. The Superintendent may require the owner of the property to obtain impact calculations stamped by a registered engineer, together with sufficient written detail to determine the projected impact of surface water drainage on the land of the Town of Leicester and any abutting properties.

5.3.5 ~~Section 5~~ Regulations

- A. The Superintendent shall consider the requirements of State DPW manual on Uniform Traffic Control Devices, but shall modify these to accord with:
 1. Local Conditions
 2. Compatibility with local road design
- B. Driveways shall be located to the best advantage with regard to alignment with the way, profile, sight distance and the like. Unless conditions require it, a driveway shall not be located at the extreme edge of a property.
- C. Each lot shall be served by a separate driveway opening onto an approved right of way on which it derives its frontage.
- D. A driveway shall be at least 10 feet wide throughout its entire length and shall be compact gravel, hot top or similar materials that will not erode or cause unnecessary dust.
- E. Standard street signs shall not be permitted to designate driveways.

5.3.6 ~~Section 6~~ Enforcement & Penalties

- 1) The Superintendent shall enforce the provisions of this bylaw and take appropriate action in the name of the Town of Leicester to prevent, correct, restrain or abate violations of the bylaw and its Rules and Regulations. Any person who violates any provision after ten days of written notice

of violation by the Superintendent shall be liable to a penalty of \$50.00. Each day that such a violation continues after said ten day period shall constitute a separate offense.

- 2) Each and every application for construction within or connection to a town way shall be accompanied by the application fee of twenty-five dollars. Construction within or connecting to a town way which has commenced or was completed without a proper permit described in Section 4 shall pay an application fee of fifty dollars. Such construction or connection must meet all provisions of these regulations. The commencement or completion of construction of a driveway, without a proper permit described in Section 4, connecting to or within a Town way shall pay an application fee of fifty dollars.
- 3) Permits shall expire one year from issuance. All work must be completed within that time frame. Permits associated with new construction shall be valid as long as the building permit remains in force and has not expired.

5.5 - OPEN SPACE RESIDENTIAL DEVELOPMENT was 5.13

[New bylaw voted ATM 5-4-2009, REVISED 5-1-2018]

5.5.1 Purpose

As an alternative to a conventional subdivision and in order to provide for the public interest by the preservation of open space and natural and historic landscape features in perpetuity and to promote variety in single-family residential housing patterns by encouraging development which is designed to accommodate a site's physical characteristics, such as topography, vegetation, water bodies, wetlands, open spaces, such as farmlands and meadows, historic resources major scenic views and wildlife habitats, the following bylaw is established. It is not the intent of this bylaw to make undevelopable land developable or to permit an increase in the number of building lots that would otherwise be possible on a conventional plan but rather to encourage the preservation of important site features.

5.5.2 Applicability

Open Space Residential Developments shall be allowed within Suburban Agriculture (SA), Residential 1 (R1), Residential 2 (R2), Residential-Industrial-Business (RIB), Business Residential-1 (BR-1) and Business Industrial-A (BI-A) districts, subject to the requirements of this section for those districts, and in accordance with the additional requirements specified herein.

5.5.3 General requirements

- A. Any parcel of land located within a zone permitting Open Space Residential Development containing 10 or more acres, or five or more acres if located adjacent to permanent open space which will be expanded by the proposed plan, and which may be developed as a conventional subdivision, may be considered for an Open Space Residential Development subject to a special permit issued by the Planning Board.
- B. After an Open Space Residential Development application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and approved as provided by this bylaw.

5.5.4 Permitted uses**Permitted uses shall be as follows:**

- A. Detached single-family dwellings, as defined, including all accessory uses as permitted in this Section for the district in which the land lies.
- B. Uses permitted within the required open space as described in this bylaw.
- C. Recreational facilities consistent with Open Space Residential Development purposes.

5.5.4 Minimum requirements

- A. Size: The total area of the tract proposed for Open Space Residential Development shall be at least 10 acres.
- B. Density: The total number of building lots on the tract proposed for Open Space Residential Development shall not exceed the number that would be allowed on a site using the standard Zoning Bylaws or Subdivisions Rules and Regulations. The total number of building lots on the tract proposed for Open Space Residential Development shall be calculated using the following equations. The resulting number of lots shall be a guide, and the total number of lots shall be determined by the Board using the following as guidelines:
 - (1) Conventional subdivision plan submitted by the applicant.
 - (2) Information provided by the applicant indicating the development potential of the land.
 - (3) The following equation. The variables for total parcel area and wetlands shall be entered in square feet. When the total number of lots calculated by the equation results in a fraction, the total number of lots shall be rounded down.

$$\text{Total Number of Lots} = \frac{\text{Total Parcel Area} - (.5X \text{ Wetlands}) - (.1X \text{ Total Parcel Area})}{\text{Standard Minimum Lot Size in Applicable District}}$$

- C. Land Division. To be eligible for consideration as an OSRD, the project must constitute a subdivision as defined by MGL Ch. 41, Section 81L.

5.5.5 Intensity regulations

- A. The Planning Board may grant a reduction of all intensity regulations of the underlying zoning regulations for all portions of an Open Space Residential Development if the Planning Board finds that such reduction will result in better design, improved protection of historic, natural and scenic resources and will otherwise comply with these regulations, provided that in no instance shall any lot deviate from the following Table of Minimum Requirements.

TABLE OF MINIMUM REQUIREMENTS

	SA	R1 BR-1	R2 RIB, BI-A
Minimum area (square feet)	20,000	15,000	10,000
Minimum frontage (feet)	100	100	100
Minimum setbacks(feet)	20	20	20

- B. The lot width requirement contained in Section 1.3, Definitions, definition of "lot frontage," may be waived by the Planning Board in order to achieve the purposes of this article.
- C. Dead-end streets may be permitted in an Open Space Residential Development but shall not exceed 1,000 feet in length. No dead-end street shall provide access to more than 10 building lots.

- D. The Planning Board may also grant a reduction of minimum subdivision standards, such as road pavement width or sidewalk requirements if the Board finds that such waivers will result in better site design, improved protection of historic, natural and scenic resources, and will be consistent with the purpose of this Section 5.13. Such waivers shall be subject to further review at the Definitive Subdivision Plan Stage when more detailed engineering information is available.

5.5.6 Open space use and design standards.

- A. Within an Open Space Residential Development, no less than 50% of the land area shall be devoted to open space. The open space shall not include land set aside for roads and/or parking uses. The Planning Board may reduce the open space requirement to 30%, if it is demonstrated that a minimum lot area of 45,000 square feet is required because of soils and topographical conditions. No more that 50% of the open space shall contain wetlands as defined by MGL c. 131, §40.
- B. The required open space shall be designed and maintained in accordance with the following standards:
- (1) Areas to remain as naturally existing woods, fields, meadows and wetlands shall be maintained and may be improved in accordance with good conservation practices.
 - (2) Open space shall be planned as large, contiguous units wherever possible. Strips of narrow parcels of open space shall be permitted only when necessary for access or as vegetated buffers along the site's perimeter.
 - (3) Open space may be in more than one parcel, provided that the size, shape and location of such parcels are suitable for the designated uses.
 - (4) No more than 10% of the open space shall be covered by man-made impervious surfaces.
 - (5) Open space may be used for active and passive recreation, conservation, forestry, agriculture, natural buffers, structures necessary for approved uses, utilities and other facilities necessary for the convenience and enjoyment of the residents, subject to approval by the Planning Board.
 - (6) If detention and/or retention ponds are necessary for the construction of the improvements shown on the subdivision plan, such detention and/or retention ponds shall not be located within the open space shown on such plan. The Planning Board may waive this requirement if the Board finds that the integrity and significance of the open space and the benefit of the open space to the Town are not compromised, and that the open space created conforms to the intent and purpose of this article. In no case, however, shall permanent clearing for drainage improvements or utilities, including detention and/or retention ponds, exceed 5% of any open space parcel.
- C. **Buffer areas.**
- (1) There shall be a land area known as a "buffer" at the perimeter of the site consisting of trees, shrubs, vegetation and topographic features sufficient to separate and/or screen the development from abutting properties. This buffer shall be no less than 100 feet in width. The buffer shall be considered open space and shall be restricted in accordance with Section 5.13.08 below. Upon a finding by the Planning Board that a buffer of lesser width would be sufficient to screen and/or separate the development from adjacent property, the buffer may be reduced.
 - (2) The Board may require no-cut easements, conservation restrictions or similar land use restrictions where the buffer requirement has been reduced. These easements and restrictions shall be on private property, shall not be considered a buffer and shall not be included in open space calculations.

- (3) Retention and/or detention ponds may be permitted in the buffer area upon approval of the Planning Board.
- (4) Buildings, as defined by the Leicester Zoning Bylaw, shall not be permitted in the buffer area unless they are pre-existing. Other structures, as defined by the Leicester Zoning Bylaw (such as pump stations, retaining walls, etc.), may only be allowed upon approval of the Planning Board.
- (5) Buffer areas shall remain in their current natural state. If in the opinion of the Planning Board the current natural state is insufficient to adequately separate and/or screen the site from abutting properties, additional trees, shrubs and/or plantings shall be required.

5.5.7 Open space ownership and management

- A. Open space in any Open Space Residential Development shall, at the Planning Board's election, be conveyed to: a) the Town or the Town's Conservation Commission for open space use; b) a nonprofit corporation, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or c) a corporation or trust owned or to be owned by the owners of lots within the development. If a corporation or trust owned by the owners of lots is utilized, ownership thereof shall pass with the conveyances of the lots. In any case where such land is not conveyed to the town, a conservation restriction enforceable by the Town shall be recorded, which shall provide that such land shall be kept in an open or natural state and shall not be built upon for residential use or developed for accessory uses, such as parking or roadway.
- B. All open space shall be dedicated as soon as practical and the specific deadline for each project shall be addressed in the decision of the Planning Board.
- C. If the open space is not to be conveyed to the town, the applicant for an Open Space Residential Development special permit must include a program describing how the open space will be maintained in perpetuity to standards satisfactory to the Planning Board. The applicant shall also provide as part of the open space proposal an agreement empowering the Town to perform maintenance of the open space in the event of failure to comply with the program included in the application pursuant to the preceding sentence, provided that, if the Town is required to perform any maintenance work, the owners of lots within the Open Space Residential Development shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid.
- D. The Planning Board may require that all or such part of the open space as the Planning Board deems appropriate shall be clearly identified and marked on the ground prior to the commencement of any construction activity.

5.5.8 Application and review process

- A. The application process for an Open Space Residential Development is comprised of two steps. In the first step, the applicant submits a special permit application, which describes the overall development plan. The Planning Board shall grant or deny a special permit based upon the information contained in the special permit application. If the special permit is granted, the applicant then submits a definitive plan, as described below, based upon the concept plan. The Planning Board then reviews the plan as a Definitive Subdivision Plan. Two separate public hearings, one for the special permit and one for the Definitive Plan, must be held. Applicants shall submit applications for an OSRD Special Permit in accordance with the Planning Board's Special Permit Rules and Regulations.

B. Special Permit Criteria

The special permit shall be granted only if the Planning Board finds each of the following:

- (1) The development meets the purpose of an Open Space Residential Development as described in Section 5.13.01.

- (2) The site design shall preserve and, where possible, enhance the historic and natural features of the property, including scenic views, by adapting the location and placement of structures and ways to the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance to the landscape and surrounding properties.
- (3) The site design shall identify and ensure preservation of significant and special historic and natural features.
- (4) The open space is designed in accordance with the standards set forth in this Section 5.13.
- (5) The parcel could be developed as a conventional subdivision under existing local, state and federal land use regulations.
- (6) The Open Space Residential Development provides for efficient use and delivery of municipal and other services and infrastructure.

C. Definitive plan.

If the Open Space Residential Development special permit is granted, the applicant shall submit a plan in conformity with the requirements and procedures for definitive plan submission and review under the Subdivision Rules and Regulations of the Planning Board. The overall concept shall only be reconsidered if there is substantial variation between the definitive plan and the concept plan. A substantial variation shall be defined as an increase in the number of lots, a decrease in the open space acreage, a change in the layout which causes dwelling units or roadways to be placed closer to a dwelling unit within 500 feet of the project and/or a change in the development pattern which adversely affects natural landscape features and open space. If the Planning Board finds that a substantial variation exists, it must hold a public hearing on the modifications of the concept plan.

5.5.9 Duration of approval

Notwithstanding anything to the contrary within/without this article, any special permit granted by the Planning Board for an Open Space Residential Development shall lapse and terminate automatically within two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in MGL c. 40A, § 17, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for good cause.

5.6 Senior Village Developments was 5.7

5.6.1 Intent and Applicability

The purpose of this section is to encourage development of master-planned residential communities for persons fifty-five (55) years of age and older, by allowing a greater variety of uses and building types at a higher density than would normally be allowed to promote affordable housing and the preservation of open space within the development. It is intended that this section provide a mechanism for development of a range of housing types and facilities that are responsive to the socio-cultural, health care, and recreational needs of senior residents; to achieve land development that is responsive to an analysis of the environmental assets and constraints of a site; and to encourage well-integrated development in terms of land use and major design elements such as buildings, roads, utilities, drainage systems and open space.

5.6.2 Senior Village Developments

As used in this bylaw, a Senior Village Development shall mean a master-planned development ("planned unit development") of land, as a unified, self contained, residential community, constructed expressly for use and residency by persons who have achieved a minimum age requirement for residency of fifty five (55) years of age or older in accordance with M.G.L. Chapter 151B, Section 4, Subsection 7, and also incorporating the preservation of natural open space areas as an integral element of the development. A Senior Village Development shall include at least one (1) type of Senior Village Development Residential Use, which may include detached or attached dwellings of any combination, and may include any of the following: Adult Day Care Facilities, Senior Village Resident Services and Senior Village Community Centers as defined in Section 5.7.03.

A Senior Village Development, as defined herein, shall be permitted within the following zoning districts: R1, R2, SA, BR-1, RIB, BI-A and B upon the granting of a special permit by the Planning Board. Senior Village Developments shall also be allowed as part of a Recreational Development under Section 2.3.05 of Leicester's Zoning By-law upon the granting of a special permit by the Planning Board.

5.6.3 Definitions: See Section 1.3

5.6.4 General Development Standards and Dimensional Requirements

An application for a special permit for a Senior Village Development must conform to the following standards:

A. General Standards

1. **Age Restriction.** All dwellings in a Senior Village Development shall be subject to an age restriction described in a deed/deed rider, restrictive covenant, or other document approved by the Planning Board that shall be recorded at the Registry of Deeds or the Land Court. The age restriction shall restrict occupancy of the dwelling units to seniors age 55 or older, and their spouses/partner of any age and provide for live-in care providers consisting of a family member, partner, or medical professional and limited guest visitation rights if the Planning Board so approves and specifies this in its Special Permit. In the event of the death of a qualifying owner/occupant of a unit in a Senior Village Development, the surviving occupant of a qualifying owner/occupant, regardless of age, shall be allowed to remain until death or remarriage/union to a non-qualifying individual.
2. **Lot Coverage.** Building footprints and all other impervious surfaces shall not exceed twenty-five percent (25%) of the total acreage of any Senior Village Development.
3. **Open Space Requirement.** A minimum of twenty-five percent (25%) of the total acreage of a Senior Village Development shall be set aside as common open space for the use of the senior residents and/or the general public. It is the intention of this bylaw that the common open space shall generally consist of a large, single, contiguous area of open space with logical boundaries, which shall retain those natural features of the site most worthy of preservation in their natural state, and which connect with existing or potential conservation or open space areas on adjoining parcels whenever possible. Not more than twenty-five percent (25%) of the common open space shall consist of inland wetlands, as defined pursuant to MGL Ch.131, Section 40. The common open space shall be dedicated and used for conservation, recreation, or park purposes, or for a combination of those uses, as may be permitted or required by the Planning Board. The developer or applicant shall record an open space restriction in the Registry of Deeds in favor of the Town of Leicester.

4. **Maximum Number of Senior Village Development Units.** The maximum number of permitted housing units with- in all permitted Senior Village Developments in the Town of Leicester shall be six hundred (600).
5. **Streets, Utilities, and Lighting.** All roads, driveways, utilities, and drainage facilities within a Senior Village Development shall be designed and constructed in conformance with the Leicester Subdivision Controls Rules and Regulations (Subdivision Regulations). Submission and approval of a Definitive Subdivision Plan shall be required as a condition of any Special Permit granted under this Section 5.7. The Planning Board shall require a performance guarantee consistent with the Leicester Subdivision Regulations for required improvements for streets, ways, drainage, erosion control, utilities and other items specified by the Planning Board as a condition of its approval.
6. **Design.** The Planning Board shall have the authority to adopt from time to time suitable regulations to specify design standards within the Senior Village Developments. Such standards may include regulation of building form and features, architectural details, and historic buildings.
7. **Parking.** For Senior Village Developments consisting of single family homes, duplex housing, townhouse style housing, multi-family housing, or Independent Living Residence Facility, there shall be at least two (2) off-street parking spaces per principal dwelling unit. Assisted Living or Congregate Care Facilities shall provide a minimum of one (1) off-street parking space per dwelling unit. Long-Term Care Facilities shall have at least one-half (.5) off- street parking space per bed or dwelling unit. Additional parking in proximity to any other Senior Village Use serving residents in common, or guest parking, may be required, as determined by the Planning Board. The Planning Board may waive the minimum parking requirements, at the request of the applicant, if sufficient evidence of the adequacy of the proposed parking is provided. In determining the adequacy of proposed parking, the Planning Board may give consideration to the hours of usage of the proposed use(s) and structure(s), the opinion of municipal officials or consultants as to the adequacy or inadequacy of parking spaces within the specific area of the pro- posed use(s) and structure(s), as well as other relevant information to assist the Planning Board in determining parking demand.

B. Dimensional Requirements

1. Maximum height and Number of Stories for Senior Village Developments shall adhere to the requirements of the underlying zoning district as specified in Section 4.2.
2. A Senior Village Development shall be on a site that is a minimum of ten (10) acres in area. The site may consist of a single lot or of multiple, contiguous lots, and may be developed in multiple phases. Each Senior Village Development site shall have frontage on an existing street or way that shall not be less than 50 feet wide and shall maintain a minimum 50 foot wide right-of-way access corridor to the site.
3. Table of Density Requirements:

Type of Senior Village Development	Allowed Units Per Acre*
Single family detached homes	4
Duplexes, Triplexes, Townhouses or other multi-family residential dwelling units	6

Assisted Living, Congregate Care Facility, or Independent Living Facility occupying a single structure	16
Long Term Care Facility	20

* Exclusive of required open space.

4. **Setbacks:** All structures within Senior Village Developments shall be set back a minimum of 50 feet from the outside perimeter property line of the Senior Village Development. This 50 foot setback is intended to act as a buffer and shall not be disturbed from its natural state for the entire distance except for additional plantings or as required by the Planning Board and excepting the access drive(s). All structures shall be setback a minimum of 25 feet from interior roadways.
5. **Distance between Structures:** The distance between structures shall be no less than the average height of the two structures or twenty-five (25) feet, whichever is greater. Structures and associated utilities shall be configured so that future division into separate lots for individual structures is possible.
6. **Individual Lots:** Individual lots within a Senior Village Residential Subdivision shall have a minimum lot area of ten thousand (10,000) square feet and shall have a minimum of fifty (50) feet of frontage. Structures shall be set back at least 15 feet from side and rear lot lines, except where the side or rear lot line is the outside perimeter of the total Senior Village Development parcel, where it must be 50 feet in accordance with Section 5.7.04.2.D.

5.6.5 Special Permits for Senior Village Developments

A. Procedures

1. Senior Village Developments will be authorized only by Special Permit granted by the Planning Board. A special permit shall be required for new construction, change in use to a Senior Village Development, and resumption of use where a Senior Village Development use has been discontinued or abandoned for more than two (2) years.
2. Applicants for Special Permits under this section shall submit plans in compliance with the Leicester Planning Board Rules & Regulations for Special Permit Applications.
3. Procedures for Special Permits (filing, hearing notification, and decision timelines) shall follow MGL Ch.40A, Section 9, Special Permits, and Section 11, Notice for Public Hearing.

B. Special Permit Review Criteria

The Planning Board shall grant a special permit only after finding that the proposed use will be consistent with the purpose and intent of this bylaw, and that the proposed use or structure is in conformance with the following criteria:

1. The plans shall provide adequately for convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property;
2. The proposed use shall not overload the capacity of water and sewer systems, stormwater drainage, solid waste disposal facilities, and other public facilities;
3. The design of the project shall provide for adequate methods of disposal of sewage, refuse, or other wastes generated by the proposed use;

4. The development is an appropriate location and does not significantly alter the character of the neighborhood in comparison to a single-family residential development;
5. The project plan responds to the recommendations of Town Boards and Departments;
6. The project shall comply with all of the provisions of this Section 5.7 in its entirety.
- 7.

The Planning Board may impose such additional conditions as it finds reasonably appropriate to safeguard existing neighborhoods or otherwise serve the purposes of **Section 5.7**.

5.7 Stormwater Management was 5.9

[New Bylaw voted ATM 5/5/2008]

All drainage systems shall be designed in compliance with Massachusetts DEP Stormwater Management policy.

5.8-Wireless Communications Bylaw was 5.4

(New bylaw ATM 5/98)

5.8.1 Purpose

The purpose of these regulations include minimizing adverse impacts of wireless communication facilities on adjacent properties, historic areas and residential neighborhoods, minimize the overall number and height of such facilities to only what is essential, to encourage co-location on a single structure, and avoid damage to adjacent properties from facility failure through engineering and careful siting of facilities.

Definitions - See Section 1.3

5.8.2 Submittal Requirements

In addition to the submittal requirements of the site plan review under section 5.2 of the zoning bylaw, the following items are required to be submitted at the time of application:

- A. The number and type of antennae proposed.
- B. A description of the proposed antenna and all related fixtures, structures, and apparatus, including height, material, color and lighting.
- C. A description of proposed antenna function and purpose.
- D. Direction of maximum lobes.
- E. An evaluation of the feasibility of attaching the proposed facility to existing buildings or utilizing existing facilities for the proposed facility.
- F. Copies of all applicable permits including but not limited to all State and Federal permits required for this project and a certification of compliance with the terms and provision of the license issued for this purpose by the Federal Communications Commission.
- G. Site Justification Statement including a description of the narrowing process that eliminated other potential sites.
- H. A fall zone analysis will be conducted by a registered, professional engineer

5.8.3 General Requirements:

- A. A tower shall be of monopole or similarly unimposing design. The applicant shall successfully demonstrate to the satisfaction of the Board that the proposed facility will have minimal visual impact and constructed so it is reasonably capable of accommodating other users including other wireless communication companies and local police, fire and ambulance companies unless it is determined to be technically infeasible based on the Board's evaluation of information submitted.
- B. No interference to existing television, cable television or radio signals including emergency systems and public safety communication shall be permitted from the tower or components thereon. If interference occurs, it shall be the responsibility of the site owner to immediately remedy it.
- C. Unless otherwise required by the Federal Communication Commission or the Federal Aviation Administration, towers shall be painted a non-contrasting color or camouflaged with some other treatment deemed acceptable by the Board.
- D. No advertising or signage, except no trespassing signs, shall be permitted on the facility.
- E. A security fence of at least 6 feet in height shall be placed around the base of the facility to control access.
- F. Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration.
- G. Structures shall be removed within one year of cessation of use. Town of Leicester fire, police and emergency companies such as ambulance has the right to take over use of tower after abandonment by owner.

Prior to the issuance of a building permit for wireless communication usage, the applicant shall post and submit a bond or other financial surety acceptable to the Town in an amount sufficient to cover the cost of demolishing and/or removing the facility in the event the Building Inspector condemns the property or deems it to have been abandoned or vacant for more than one year. The amount of the bond shall be certified by an engineer, architect or other qualified professional. In the event the bond amount does not cover the cost of removal, the Town may place a lien upon the property covering the difference in cost according to statute.

The Zoning Board of Appeals may modify any provision of the forgoing standards and conditions when in the Zoning Board's discretion it is technically infeasible to meet the standards or conditions or when the strict adherence to the standards and conditions impedes the legitimate purposes of this Bylaw.

The Zoning Board of Appeals shall be the permit granting authority herein and may from time to time adopt such further regulations and interpretive statements and policies as to promote the legitimate purposes of this Bylaw. Such regulations, policies, statements and interpretive statements shall be in writing and be adopted by the Planning Board consistent with general law.

5.9-Ground Mounted Solar Energy Systems was 5.14

[STM 11-8-2011, Revised ATM 5-2-2017, STM 10-30-2018, & ATM 5-7-2019]

5.9.1 Purpose

The purpose of this bylaw is to facilitate and appropriately regulate the creation of ground-mounted solar energy systems by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

5.9.2 Definitions **See Section 1.3**

5.9.3 Applicability

This section applies to ground-mounted solar energy systems proposed to be constructed after the effective date of this section. Roof or wall mounted solar energy systems are not subject to this bylaw. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

5.9.4 General Requirements

Ground-mounted solar energy systems shall be allowed and permitted as described in the table below:

Y= allowed by-right with building permit,
 SPR = Site Plan Review Required (Section 5.2),
 SP = special permit from Planning Board required,
 N = prohibited

Size	SA	R1 & R2	NB & CB	B & RIB	HB-1, HB-2, BR-1, BI- A, and I	Watershed Overlay District
Small-Scale Ground-Mounted Solar Energy System	Y	Y	Y	Y	Y	Y
Medium-Scale Ground-Mounted Solar Energy System	SP	SP	N	SPR ¹	SPR ¹	SP
Large-Scale Ground-Mounted Solar Energy System	SP	N	N	SP	SPR ²	SP

¹ Site Plan Review not required for any project that occupies less than 3,000 square feet of surface area.

² Major Site Plan Review required (Section 5.2.03.3.B) for any project that occupies 240,000 square feet (5.5 acres) or more of surface area or involves 2 acres or more of tree clearing.

Applications for medium-scale and large-scale ground-mounted solar energy systems shall be filed in accordance with the Leicester Planning Board Rules and Regulations for Site Plan Review Applications and/or Special Permit Applications, as applicable. Where a special permit is required, the Planning Board shall use the general standards for Special Permit Approval contained in the Planning Board Rules and Regulations for Special Permit Applications, any district-specific special permit requirements, and the additional standards contained herein.

5.9.5 Development Standards for Small-Scale Ground-Mounted Solar Energy Systems

Small-scale ground-mounted solar energy systems shall conform to the dimensional requirements of the applicable zoning district, except as follows:

- A. Height shall not exceed twelve (12) feet in height above finished grade.

- B. Building coverage limits shall not apply to solar energy systems.
- C. For the purposes of setback requirements, small-scale ground-mounted solar energy systems shall be considered accessory structures (Section 1.5, Accessory Buildings).

No solar energy system shall be constructed without first obtaining a building permit.

5.9.6 Medium-Scale and Large-Scale Ground-Mounted Solar Energy Systems

Unless otherwise expressly provided by this section of the bylaw all requirements of the underlying zoning district shall apply. In addition, the following standards shall apply to all medium-scale and large-scale ground-mounted solar energy systems:

5.9.7 Compliance with Laws, Ordinances and Regulations

Construction and operation shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar energy system shall be constructed in accordance with the State Building Code. No solar energy system shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

5.9.8 Dimensional Requirements

Dimensional requirements (lot size, setbacks, etc.) shall follow the requirements of the applicable zoning district (Section 4.2, Schedule of Dimensional Requirements), except as follows:

- A. The minimum frontage shall be fifty (50) feet
- B. Height shall not exceed fifteen (15) feet in height above finished grade. An increase in height may be granted in commercial districts by special permit.
- C. Building coverage limits shall not apply to solar energy systems.
- D. Setbacks shall be as specified below:

Setback Type	SA, R1, R2	B & I	BI-A, HB-1, HB-2, RIB, & BR-1
Setback from all property lines	100	See Section 4.2 ¹	
Setback where abutting a lot with an existing residential use	100	50	50
Setback from Residential District (SA, R1, R2) Boundaries ²	100	50	100

¹ Dimensional Requirements applicable to commercial structures shall apply in the BI-A, BR-1, RIB, and I districts.

² Where a parcel is split by a residential district boundary, the setback shall be measured from the property line on the relevant side(s) of the parcel.

5.9.9 Utility Notification

No medium-scale or large-scale ground-mounted solar energy system shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid

where the installation is to be located has been informed of the solar energy system owner or operator's intent to install an inter-connected customer-owned generator. Off-grid systems shall be exempt from this requirement.

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar energy system underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

5.9.10 Accessory Structures

Accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Inverters shall be installed as far from abutting structures as feasible to mitigate potential noise impacts. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

5.9.11 Lighting

Lighting of solar energy systems shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

5.9.12 Signage

Signs shall comply with Leicester's sign bylaw. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system.

5.9.13 Emergency Services

The solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to local emergency services. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

5.9.14 Land Clearing, Habitat Protection, and Screening Requirements

A. Land Clearing

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar energy systems or otherwise prescribed by applicable laws, regulations, and bylaws. Vegetation includes all types of vegetation, including trees. Solar energy systems, to the maximum extent feasible, shall be located on previously disturbed sites that do not require tree clearing. Existing vegetation shall remain in required setback areas. In the SA district, land clearing shall not exceed sixty (60%) of the total lot area. Adequate erosion control measures shall be provided for all proposed land clearing. The Planning Board may require phasing of tree clearing to minimize potential erosion control problems.

B. Protection of Natural Resources and Habitat

Medium-scale and large-scale ground-mounted solar energy systems shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. Such systems shall not be located on permanently protected land subject to conservation, preservation, agricultural preservation, and watershed preservation restrictions under MGL Chapter 184, Sections 31-33; Priority Habitat and Bio Map 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage and Endangered Species Program (NHESP); or "Important Wildlife Habitat" mapped by the DEP. Access driveways shall be constructed to minimize grading, removal of stone walls or roadside trees, and to minimize impacts to environmental or historic resources.

C. Screening/Buffering:

Medium-scale and large-scale ground-mounted solar energy systems shall be screened year-round from all abutting properties in residential use in all zoning districts and from public and private ways in residential districts (SA, R1, and R2). For purposes of this section, abutting properties shall include adjacent properties and properties directly opposite on any public or private street or way. Such screening shall be provided in the required setback areas and where existing vegetation in setbacks is insufficient for year-round screening purposes shall consist of dense vegetative screening, fencing, berms, or other methods to adequately screen the facility, depending on site specific conditions. Landscaping shall be maintained and replaced as necessary by the owner/operator of the solar energy system.

5.9.14 Monitoring and Maintenance

The solar energy system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way.

5.9.15 Abandonment or Decommissioning

A. Removal Requirements

Any medium-scale or large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned shall be removed. When the facility is scheduled to be decommissioned, the applicant shall notify the town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the solar facility no more than 150 days after the date of discontinued operations. At the time of removal, the solar facility site shall be restored. More specifically, decommissioning shall consist of:

1. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
2. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation

B. Abandonment

Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Planning Board. The Planning Board shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the solar facility in accordance with the requirements of this section within 150 days of

abandonment or the proposed date of decommissioning, the town shall have the authority to enter the property and physically remove the facility at the owner's expense. The Town may, at its option, impose a lien on the property according to statute for the removal of the solar facility.

C. Financial Surety

The applicant for large-scale ground-mounted energy systems shall provide, prior to commencement of site work, and thereafter maintain a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal and site restoration in the event the town must remove the facility, of an amount and form determined to be reasonable by the Planning Board. The Planning Board may require such surety for medium-scale ground-mounted solar energy systems. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. The owner shall increase or replenish the surety as necessary to maintain an adequate amount, as determined by the Planning Board in accordance with the requirements of this bylaw.

5.9.16 Special Permit Criteria for Ground-Mounted Solar Energy Systems

Where a special permit is required for a medium-scale or large-scale ground-mounted solar energy system, the Board shall consider Site Plan Approval standards, special permit criteria for the applicable district, and the following additional requirements:

- A. The proposed project shall conform to all requirements for ground-mounted solar energy systems
- B. Land clearing has been minimized to the greatest extent feasible and impacts of clearing have been mitigated.
- C. In the case of a residential district location, the visual impact of the installation on its immediate abutters and the nearby neighborhood has been effectively neutralized through appropriate design, landscaping, fences, berms, etc.
- D. In the case of a commercial district location, that the visual impact of the installation on abutting residential uses has been sufficiently mitigated through appropriate design, landscaping, fences, berms, etc.

5.9.17 Zoning Protection for Approved Projects

The amendments to Section 5.14 adopted at the May 2, 2017 Town Meeting shall not apply to any medium-scale or large-scale ground-mounted solar energy system that received Site Plan Approval from the Planning Board before March 21, 2017 except where any such project fails to obtain a building permit within one (1) year from the date of said Site Plan Approval and commence construction of solar arrays authorized under the building permit within six (6) months of the issuance of the building permit.

The total number of medium and large-scale ground-mounted solar energy systems in Leicester shall be limited to twenty (20). Facilities constructed prior to this bylaw are counted in this total. For the purposes of this bylaw, projects on separate parcels are considered separate projects, even if such parcels are under common ownership.

5.10-Large Wind Facilities was 5.11

[New bylaw voted STM 2-18-2009]

5.10.1 Purpose

The purpose of this by-law is to provide for the construction and operation of large wind facilities as an alternative energy source and to provide standards that address public safety for the placement, design, construction, monitoring, modification and removal of wind facilities and minimize impacts on scenic, natural and historic resources of the Town of Leicester.

5.10.2 Definitions See Section 1.3

5.10.3 Applicability

No utility-scale and on-site wind facilities (hereinafter “large wind facilities”) shall be erected, constructed, installed, or modified as provided in this section without first obtaining a special permit from the Planning Board. This section applies to all large wind facilities proposed to be constructed after the effective date of this section. It does not apply to single stand-alone turbines under 60 kilowatts of rated nameplate capacity

5.10.4 Temporary Wind Monitoring Towers

Temporary Wind monitoring shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure and subject to conditions imposed by the Building Inspector.

5.10.5 Development Standards

Unless otherwise expressly provided by this section of the bylaw all requirements of the underlying zoning district shall apply and in addition the following standards shall apply:

A. Visual Impact

The Applicant shall demonstrate to the satisfaction of the Board that the proposed facility will have minimal visual impact

B. Height

Large wind facilities shall be no higher than 400 feet above the current grade of the land.

C. Setback

Wind turbines shall be set back a distance equal to the total height of the wind turbine from all inhabited structures, overhead utility lines, public road or right of way and property boundaries, provided that no setback shall be required from building or buildings which are on the same parcel and which are served by the wind facility.

D. Minimum Lot Size

Utility-scale wind facilities shall be located on a parcel of land that contains a minimum of 5 acres. On-site wind facilities shall be located on a parcel of land that complies with the minimum lot size of the applicable zoning district.

E. Color, Finish & Design

Wind facilities shall be painted a neutral, non-reflective color designed to blend with the surrounding environment, except where FAA regulations require high visibility colors, as demonstrated by the Applicant. Monopole towers are the preferred type of support for all wind facilities.

F. Lighting

Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cut-off fixtures to reduce light pollution. Lighting of other parts of the wind facility, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

G. Shadow/Flicker

Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. (Flicker refers to the temporary blocking of the sun's rays with each pass of a rotor blade.) The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.

H. Signs

There shall be no signs except no trespassing signs, any signs required to warn of danger, or identification of the manufacturer of the wind energy facility. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four hour basis.

I. Unauthorized Access

Wind turbines or other structures part of a wind facility shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

J. Noise

Except during short-term events such as high windstorms or utility outages, noise from the proposed wind turbine shall not exceed 60 dBA as measured from the nearest property line. This standard may be met through a 600-foot setback from the nearest property line and otherwise must be demonstrated by the applicant through scientific analysis to the satisfaction of the Planning Board.

K. Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

L. Monitoring and Maintenance

The applicant shall maintain the wind facility in good condition. The applicant shall maintain the facility in accordance with applicable manufacturers' warranties. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

M. Utility Connections

Reasonable efforts shall be made to locate utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

N. Compliance with Laws, Ordinances and Regulations

The construction and operation of all such proposed wind facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements

O. Accessory Structures

All accessory structures to such wind facilities shall comply with the setback and height requirements of the applicable zoning district. All such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Structures shall only be used for housing of equipment for this particular site. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

5.10.6 Abandonment or Decommissioning

A. Removal Requirements

Any large wind facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind facility is scheduled to be decommissioned, the applicant shall notify the town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than 150 days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:

1. Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
2. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The special permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

B. Abandonment

Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the special permit granting authority. The special permit granting authority shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town shall have the authority to enter the property and physically remove the facility at the owner's expense. The Town may, at its option, impose a lien on the property according to statute for the removal of the wind facility.

C. Financial Surety

The special permit granting authority may require the applicant for utility scale wind facilities to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the facility, of an amount and form determined to be reasonable by the special permit granting authority. Such surety will not be required for municipally or state-owned facilities.

5.10.7 Proof of Liability Insurance

The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

5.10.8 Emergency Services

The applicant shall provide a copy of the site plan to the local emergency services entity, as designated by the special permit granting authority. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan.

5.10.9 Location Preference

The following locations for large wind facilities are ranked in order of preference:

- A. The use of land which has already been developed for another similar purpose is preferred, such sites of other towers or the path of high-power electric lines.
- B. The use of municipal lands which comply with other requirements of this Section, and where visual impact can be minimized and mitigated, shall be encouraged.
- C. The use of land, distant from higher density residential properties, and where visual impact can be minimized shall be encouraged.
- D. Location can be accessed from existing developed roads in order to avoid creation of new roads and disruption of vegetation.

5.10.10 Special Permit Process

A. Application

The application for a wind facility shall be filed in accordance with the Leicester Planning Board Rules and Regulations for Special Permit Applications.

B. Criteria for review and approval.

A special permit may be granted under this section if the Planning Board finds that:

- 1. the requirements for a special permit for the applicable zoning district and each of the standards set forth above have been met
 - 2. the specific site is an appropriate location for such use;
 - 3. the use is not expected to adversely affect the neighborhood;
 - 4. there is not expected to be any serious hazard to pedestrians or vehicles from the use;
 - 5. the size, height and design are the minimum necessary.
- C. The Planning Board shall also impose, in addition to any applicable conditions specified in this section, such conditions as it finds reasonably appropriate to carry out the intentions of the Bylaw, including, but not limited to: screening, lighting, fences, modification of the exterior appearance of the structures, limitation upon size, method of access or traffic features, parking, removal upon cessation of use or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the Planning Board.

5.10.11 Expiration of Permit

- A. The special permit shall lapse if substantial use or construction has not commenced within one year of the date of issuance, except for good cause shown (including but not limited to appeals of the grant of the special permit or litigation enjoining the construction under the permit), and provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time.
- B. The special permit shall lapse if the wind facility is not used for twelve consecutive months.

5.11 Small Wind Facilities-was 5.12

[New bylaw voted STM 2-18-2009]

5.11.1 Purpose

The purpose of this by-law is to provide for the construction and operation of small wind facilities as an alternative energy source and to provide standards that address public safety for the placement, design, construction, monitoring, modification and removal of wind facilities and minimize impacts on scenic, natural and historic resources of the Town of Leicester.

5.11.2 Definitions See Section 1.3

5.11.3 Applicability

No small wind facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a special permit from the Planning Board. This section applies to small wind facilities no greater than 60 kilowatts of rated nameplate capacity proposed to be constructed after the effective date of this section. This by-law is not intended to cover roof-mounted, building-integrated, building-mounted or architectural wind systems; this by-law only covers stand-alone tower mounted systems.

5.11.4 Temporary Wind Monitoring Towers (Met Towers)

Temporary Wind monitoring shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure and subject to conditions imposed by the Building Inspector.

5.11.5 Development Standards

Unless otherwise expressly provided by this section of the bylaw all requirements of the underlying zoning district shall apply and, in addition, the following standards shall apply:

A. Visual Impact

The Applicant shall demonstrate to the satisfaction of the Board that the proposed facility will have minimal visual impact.

B. Height

Small wind facilities shall be no higher than 120 feet above the current grade of the land. The Planning Board may waive this requirement and allow a height of up to 150 feet if the following conditions are met:

- a. The applicant demonstrates that by substantial evidence that such height reflects industry standards for a similarly sited wind facility;
- b. Such height is necessary for the economic feasibility of the project; and
- c. The facility satisfies all other criteria for granting of the special permit under the provisions of this section.

C. Setbacks

Wind turbines shall be set back a distance equal to the total height of the wind turbine from all inhabited structures, overhead utility lines, public road or right of way and property boundaries, provided that no setback shall be required from building or buildings which are on the same parcel and which are served by the wind facility.

D. Minimum Lot Size

Small wind facilities shall be located on a parcel of land that contains a minimum of 80,000 square feet. Only one small wind facility shall be allowed per lot under this bylaw.

E. Color, Finish, and Design

Wind facilities shall be painted a neutral, non-reflective color designed to blend with the surrounding environment, except where FAA regulations require high visibility colors, as demonstrated by the Applicant. Monopole towers are the preferred type of support for all wind facilities.

F. Lighting

Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cut-off fixtures to reduce light pollution. Lighting of other parts of the small wind facility, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

G. Shadow/Flicker

Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. (Flicker refers to the temporary blocking of the sun's rays with each pass of a rotor blade.) The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.

H. Signs

There shall be no signs except no trespassing signs, any signs required to warn of danger, or identification of the manufacturer of the wind energy facility. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four hour basis.

I. Unauthorized Access

Wind turbines or other structures part of a small wind facility shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

J. Noise

Except during short-term events such as high windstorms or utility outages, noise from the proposed wind turbine shall not exceed 60 dBA as measured from the nearest property line. This standard may be met through a 600-foot setback from the nearest property line and otherwise must be demonstrated by the applicant through scientific analysis to the satisfaction of the Planning Board.

K. Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

L. Monitoring and Maintenance

The applicant shall maintain the small wind facility in good condition. The applicant shall maintain the facility in accordance with applicable manufacturers' warranties. Maintenance shall include, but not be limited to, painting, structural repairs, and security measures.

M. Utility Notification

No small wind facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

N. Compliance with Laws, Ordinances and Regulations

The construction and operation of all such proposed small wind facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.

O. Accessory Structures

All accessory structures to such wind facilities shall comply with the setback and height requirements of the applicable zoning district. All such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Structures shall only be used for housing of equipment for this particular site. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

5.11.6 Abandonment or Decommissioning

Any small wind facility which has reached the end of its useful life or has been abandoned shall be removed. A small wind facility shall be considered abandoned when it fails to operate for one year. Upon a Notice of Abandonment issued by the Building Inspector, the small wind facility owner will have 30 days to provide sufficient evidence that the system has not been abandoned or the town shall have the authority to enter the owner's property and re- move the system at the owner's expense.

5.11.7 Proof of Liability Insurance

The applicant shall be required to provide evidence of liability insurance in an amount and for a duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

5.11.8 Special Permit Process

A. Application

The application for a wind facility shall be filed in accordance with the Leicester Planning Board Rules and Regulations for Special Permit Applications.

B. Criteria for review and approval.

1. A special permit may be granted under this section if the Planning Board finds that the requirements for a special permit for the applicable zoning district and each of the standards set forth above have been met and that the location of the wind facility is suitable and that the size, height and design are the minimum necessary for that purpose.

2. The Planning Board shall also impose, in addition to any applicable conditions specified in this section, such conditions as it finds reasonably appropriate to carry out the intentions of the Bylaw, including, but not limited to: screening, lighting, fences, modification of the exterior appearance of the structures, limitation upon size, method of access or traffic features, parking, removal upon cessation of use or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the Planning Board.

5.11.9 Expiration of Permit

1. The special permit shall lapse if substantial use or construction has not commenced within one year of the date of issuance, except for good cause shown (including but not limited to appeals of the grant of the special permit or litigation enjoining the construction under the permit), and provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time.
2. The special permit shall lapse if the wind facility is not used for twelve consecutive months.

5.12 Medical Marijuana Treatment Centers & Marijuana Establishments- Was 5.15

[New Bylaw voted May 7, 2013, Revised 5/1/2018, 5/7/2019, and 6/2/2020]

5.12.1 Purpose and Intent:

To provide for the limited establishment of Medical Marijuana Treatment Centers and Marijuana Establishments in appropriate places and to minimize the adverse impacts of Medical Marijuana Treatment Facilities and Marijuana Establishments on residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said facilities.

5.12.2 Definitions See Section 1.3

5.12.3 Standards:

A. General

All aspects of a Medical Marijuana Treatment Center or Marijuana Establishment except Marijuana Outdoor Cultivators must take place at a fixed location within a fully enclosed building with opaque walls and shall not be visible from the exterior of the building. Except as allowed for Marijuana Outdoor Cultivators, greenhouses with transparent or translucent walls are prohibited: glass or other transparent roofs are allowed. (See related subsection J., Lighting and Section 5.15.04 Marijuana Outdoor Cultivators). No outside storage of marijuana, related supplies, or educational materials is permitted. Medical Marijuana Treatment Centers and Marijuana Establishments are not permitted as a home occupation. Site Plan Review is required for all Medical Marijuana Treatment Centers, Marijuana Outdoor Cultivators and Marijuana Establishments, including when the facility will reuse an existing structure.

B. Buffer Requirements

No Medical Marijuana Treatment Center or Marijuana Establishment may be located within required buffer areas. Buffers shall be 500 feet for Medical Marijuana Treatment Centers and Marijuana Retailers, Consumer Sales Only and 200 feet for Marijuana Establishments, Non-Retail, from the following: residential zoning districts (SA, R1, and R2), and pre-existing public or private schools (pre-school through grade 12), except that buffer from the SA district shall not apply to Marijuana Outdoor Cultivators. Distance shall be measured in a straight line as the shortest between the Medical Marijuana Treatment Center or Marijuana Establishment building and residential district boundaries, and as a straight line from the nearest point of the property line in question to the nearest point of the property line where the Medical Marijuana Treatment Center or Marijuana Establishment is or will be located for schools.

C. Signage

All business signage shall be subject to the requirements of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and the requirements of Leicester Zoning Bylaw

D. Ventilation/Odor

All Marijuana Establishments shall be ventilated in such a manner that no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Medical Marijuana Treatment Center or Marijuana Establishment or at any adjoining use or property

E. Security

All Medical Marijuana Treatment Centers and Marijuana Establishments shall provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.

F. Permitting

All Medical Marijuana Treatment Centers and Marijuana Establishments shall meet all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

G. Private Clubs

Clubs, lodges, or other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products, but not operating as a licensed marijuana social consumption operator are prohibited.

H. Conversion

The conversion of a Medical Marijuana Treatment Center (also known as a registered marijuana dispensary or RMD) licensed or registered not later than July 1, 2017 that is engaged in the cultivation, manufacture or sale of marijuana or marijuana products in Leicester to a marijuana establishment for adult use (also known as recreational use) engaged in the same type of activity shall be permitted by-right (without a special permit), but shall require Planning Board Site Plan Review. Abutters, and abutters to the abutters within three hundred feet of the property line of the applicant, shall be notified of the date and time of the Site Plan Review discussion.

I. Limitations

Marijuana Retailers, Consumer Sales Only shall be limited to 1 establishment in the Town of Leicester.

J. Lighting

Lighting shall not extend beyond property lines. Artificial lighting from within the building(s) shall not create light pollution.

5.12.4 Special Permit Requirements:

The Planning Board shall be the Special Permit Granting Authority for all Marijuana Establishments. Applications shall be submitted in accordance with the Planning Board's Special Permit Regulations. In addition to the special permit approval criteria for the applicable zoning district and the Planning Board's Special Permit Regulations, the Planning Board shall find that the proposed use meets the requirements of this section 5.15.

5.12.5 Marijuana Outdoor Cultivation Requirements**A. Purpose**

The intent of this Section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the Commonwealth following ballot initiatives in 2012 and 2016. The granting of a Special Permit by the Town of Leicester does not supersede state or federal laws or pre-empt an applicant from complying with all relevant state and federal laws. In addition, the purpose of this bylaw is to update the Marijuana Establishment Bylaw and to regulate Marijuana Outdoor Cultivators, to incorporate the recent circular issued by the Cannabis Control Commission entitled "Guidance for Farmers" and to protect the integrity of natural resources in the Town of Leicester.

B. Applicability

A Special Permit under this section shall be required from the Planning Board for any Marijuana Outdoor Cultivator as a principal or accessory use, or combination of uses involving a Marijuana Outdoor Cultivator.

C. Performance Standards:

1. No Marijuana Outdoor Cultivator shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed daycare.
2. The minimum lot size for this use shall be fifteen (15) acres. In addition, the Town establishes the following minimal ratios of acreage for outdoor cultivation based on the following footage of Canopy:

Tier:	Footage of Canopy	Acreage required
Tier 1:	up to 5,000 s.f canopy	15 acres
Tier 2:	5,001 to 10,000 s.f.	25 acres
Tier 3:	10,001 to 20,000 s.f.	30 acres
Tier 4:	20,001 to 30,000	35 acres
Tier 5:	30,001 to 40,000	40 acres
Tier 6:	40,001 to 50,000	45 acres
Tier 7:	50,001 to 60,000	50 acres
Tier 8:	60,001 to 70,000	50 acres
Tier 9:	70,001 to 80,000	50 acres
Tier 10:	80,001 to 90,000	50 acres
Tier 11:	90,001 to 100,000	50 acres

3. No fertilizers, compost, soils, materials, machinery, or equipment shall be stored within the required front, side, and rear yard setbacks.
4. The minimum setback from all property lines shall be 200 feet.
5. Marijuana not grown inside a securable structure shall be enclosed within a minimum of eight (8') foot opaque perimeter security fence to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area.

6. The establishment shall not allow any person under 21 years of age to volunteer or work for the marijuana establishment;
7. The outdoor cultivation facility shall comply in every respect with the requirements of 935 CMR 500.110 (6) which regulates "Security and Alarm Requirements for Marijuana Establishments Operating Outdoors." The outdoor cultivation facility shall:
 - a) Implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana which shall, at a minimum, include:
 - b) A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
 - c) Commercial-grade, nonresidential locks;
 - d) A security alarm system that shall: be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and provide an alert to designated employees of the Marijuana Establishment within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message.
 - e) Video cameras at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, processed, prepared, stored, handled, transferred or dispensed and for the purpose of securing cash. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the Marijuana Establishment or area;
 - f) 24-hour recordings from all video cameras that are available immediate viewing by the Commission on request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
 - g) The ability to immediately produce a clear, color still image whether live or recorded;
 - h) A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;
 - i) The ability to remain operational during a power outage; and
 - j) A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

- k) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
 - l) In addition to the requirements listed in 935 CMR 500.110(4)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.
 - m) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, Law Enforcement Authorities acting within their lawful jurisdiction, police and fire departments, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and shall not be used for any other function.
 - n) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.
 - o) Security plans and procedures shared with Law Enforcement Authorities pursuant to 935 CMR 500.110(1)(o) shall include: a description of the location and operation of the security system, including the location of the central control on the Premises, a schematic of security zones, the name of the security alarm company and monitoring company, if any, a floor plan or layout of the facility in a manner and scope as required by the municipality; and, a safety plan for the Manufacture and production of Marijuana Products as required pursuant to 935 CMR 500.101(1)(d)3.c.
 - p) Each licensee shall file an emergency response plan with the Leicester Fire and Police Department
 - q) No Outdoor Marijuana Cultivation establishment shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from a public place without the use of binoculars, aircraft or other optical aids.
8. In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:
- A. Character of the neighborhood to include visual compatibility with surrounding uses.
 - B. Proximity to other licensed marijuana uses to prevent clustering.
 - C. Relationship to surrounding uses to avoid unnecessary exposure to minors.
 - D. Site design and other development related site impacts.
 - E. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property, except as allowed under a Special Permit granted to a Outdoor Marijuana Cultivator. Outdoor cultivation of

marijuana will implement industry best practice to eliminate any noticeable trace of marijuana odor at the perimeter of property of the cultivator site.

9. Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500(10).

These amendments establish permitting requirements and reasonable regulations for Marijuana Outdoor Cultivators

5.13 Earth Filling & Removal was 5.16

[New Bylaw ATM 5-7-2019, Article 24]

5.13.1 Purpose

The purpose of this bylaw is to regulate filling of land and earth removal operations to protect of public health, safety and welfare, and to protect the integrity of natural resources in the Town of Leicester.

5.13.2 Definitions: See Section 1.3

5.13.3 Applicability

- A. A Special Permit from the Planning Board shall be required for:
 1. The filling of land that involves greater than 1,000 cubic yards of or more of earth and/or fill material per calendar year (January through December).
 2. Earth removal operation that that involves excavation of more than 1,000 cubic yards of earth material per calendar year (January through December).
- B. Contiguous parcels under the same ownership or right of operation shall be considered one location for the purpose of this bylaw.

5.13.4 Exemptions from Special Permit Requirements

- A. Earth removal or placement of fill associated with the installation of septic systems, which shall be governed by the Commonwealth of Massachusetts Environmental Code (Title 5, 310 CMR 15.00).
- B. Earth removal or the placement of fill associated with the installation of foundations for new buildings and/or building additions, which shall be governed by M.G.L. c. 143 and the Commonwealth of Massachusetts Building Code (780 CMR).
- C. Earth removal or the placement of fill associated with grading and/or landscaping in connection with the otherwise lawful construction of new driveways, structures, buildings and/or building additions.
- D. Earth removal or the placement of fill associated with the normal use of a cemetery.
- E. Earth removal or the replacement of fill in connection with commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture compliant with the provisions of MGL c.40A, §3.
- F. Earth removal or the placement of fill, where the operation occurs entirely within an individual parcel or between contiguous parcels under common ownership and where a town-accepted public way is not used for the transportation of the material.
- G. Earth removal or the placement of fill related to a new subdivision road that has been approved by the Planning Board, or by the Zoning Board of Appeals pursuant to M.G.L. c. 40B, where

there is already a bond in place with the Town to ensure performance.

- H. Earth removal or the placement of fill for the construction, maintenance and repair of fire ponds, existing public roadways or the installation of public utilities and appurtenances.
- I. Operations lawfully in existence at the time of adoption of this bylaw to the extent that such operations are protected by MGL c.40A, §6.

5.13.5 Prohibited Activities and Uses:

The following activities and uses are prohibited in the Town of Leicester:

1. Use or importation of earth or fill materials whose quality would either meet Federal or State criteria for definition as being toxic, reactive, radioactive, corrosive, explosive, hazardous, infectious, oil-impacted, or as a hazardous or solid waste.
2. Use or importation of earth or fill containing toxic, reactive, corrosive, hazardous, infectious, or solid waste at individual concentrations, or presence by weight or volume, which would render such material a regulated substance or material subject to M.G.L. c 21E or as a Solid Waste as defined in the regulations promulgated by the Massachusetts Department of Environmental Protection as 310 Code of Massachusetts Regulations (CMR) 19.00.
3. Use or importation of earth or fill at any location not otherwise regulated or permitted for acceptance of earth materials containing toxic, reactive, radioactive, corrosive, hazardous, infectious, oil, solid waste, or metals when such fill materials contain concentrations of these substances less than regulatory criteria established for reporting or special handling purposes but with one or more significantly greater concentrations by weight or volume than existing, pre-fill concentrations.
4. Transport of earth or fill materials in a manner which is prone to release the same during transport.
5. Use of earth or fill materials in a manner which renders the fill area structurally unstable, produces uncontrolled leachate or off-gases, creates nuisance conditions, creates uncontrolled storm water run-off, siltation, or visually apparent erosion of fill materials, or where finished fill grading slopes are not properly stabilized.
6. Construction of permanent structures over or adjacent to areas of fill unless the fill material is structurally stable and free of emissions or other hazardous criteria relative to permanent building construction and use.
7. Use of fill material which may cause chemical or physical impact to off- site ground water, surface water, or wetland resource areas without specific Soil Management Plan and field procedures designed to prevent degradation of these natural resources. This prohibited use specifically includes, but is not limited to, fill materials containing nutrient or salt concentrations at significantly greater concentrations than pre-existing soil conditions on the site.

5.13.6 General Standards

A. Earth Filling Operations:

1. Throughout the length of the project, the applicant must identify the point of earth material origin and receiving location for fill material and must document that 1) that the earth material is not otherwise prohibited from use as fill material in accordance with Leicester's Zoning Bylaw and Regulations or other applicable Federal and State standards, regulations, and guidelines; and, 2.) that a Massachusetts Licensed Site Professional (LSP) has compared analytical results of earth materials to existing, pre-fill conditions specific to the location and determined that the concentrations of substances in the earth materials intended for use as fill do not contain significantly greater concentrations than existing, pre-fill conditions for that location. The

applicant will facilitate off-site inspections at points of origin for earth materials if requested by the Planning Board or its agents.

2. The LSP shall perform site inspections during the course of the project as specified by the Planning Board to ensure compliance with Leicester's Bylaws and Regulations and shall upon completion of work provide written certification signed and stamped stating that all earth materials used for fill comply with Leicester's Bylaws and Regulations and applicable Federal and State Regulations.
3. Should an applicant or Special Permit holder seek an Administrative Consent Order (ACO) from the Massachusetts Department of Environmental Protection to use or deposit earth or fill materials in the Town, the Town reserves all rights to impose additional requirements upon the applicant or Special Permit holder to assure mitigation of all impacts or effects of the activities undertaken pursuant to such ACO.

B. Earth Removal Operations

1. All topsoil and subsoil stripped from operation areas shall be stockpiled, seeded with an erosion control seed mixture, and used in restoring the area.
2. If erosion control structures are utilized, these devices shall be in place and stabilized before excavation can begin in the affected area. These structures shall be inspected and maintained in accordance with the approved plan and the capacity of the structural device.
3. Except for fire ponds, no area shall be excavated so as to cause the accumulation of free-standing water. Drainage shall be provided as needed in accordance with accepted engineering and conservation practices. Measures shall be taken to ensure that silting and sedimentation of nearby streams is not caused by a temporary or permanent drainage systems on site. Drainage shall not lead directly into streams, ponds, abutting properties nor shall drainage from access roads drain directly onto public ways.
4. The active excavation area shall not exceed a total of three (3) acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes.
5. Restoration shall be carried on simultaneously with excavation, so that when any three (3) acre operation area has been excavated, at least two (2) acres shall be restored before work commences on the next contiguous three (3) acres.

5.13.7 Financial Security; Inspection of Conditions

- A. The applicant shall provide financial surety in the form of a cash deposit or bond, or similar financial surety acceptable to the Planning Board, to insure faithful performance of the work to be undertaken pursuant to the conditions of approval or approval with modifications, and conditioned upon completion of the regulated activity in accordance with the conditions established by the Planning Board at the time of granting of the Special Permit or any subsequent changes of such conditions.
- B. The Planning Board may waive or reduce the financial surety requirements, but no such financial surety shall be released, until the applicant has complied with the conditions of approval and this bylaw. The Planning Board shall act on a requested release of the financial surety within sixty-five (65) days of submission of the applicant for such release.

5.13.8 Special Permit Procedures

- A. The Planning Board may adopt and periodically amend its Special Permit Regulations for the implementation of this Bylaw. Such Regulations may set forth performance standards for earth removal and fill operations, impose filing and consultant fees, define additional terms not inconsistent with the Bylaw, and establish administrative procedures. Failure by the Planning Board to adopt such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.
- B. Any person wishing to obtain a Special Permit under this Section shall file a completed application for a Special Permit together with any required supporting data, maps, and the filing fee in accordance with the Planning Board's Special Permit Regulations and Fee Regulations.
- C. Any Permit issued is non-transferable and shall automatically expire upon completion of the earth removal or fill project for which it was issued or at such time as may be specified in said Special Permit. In no case shall a Special Permit be issued initially for a period longer than three years. A Special Permit may be renewed for up to two years or lesser time as determined by the Planning Board after evidence is presented that all conditions of the expiring Special Permit have been complied with and the work has been performed in good faith. There is no limit on the number of Permit renewals an Applicant can apply for. A public hearing may be required by the Planning Board, at its discretion, for renewal of Special Permits.
- D. The applicant shall pay reasonable fees for independent inspection to assess adherence to the Planning Board's special permit conditions in accordance with the Planning Board's Special Permit Regulations and Fee Regulations. Said fee shall be deposited into a Revolving Fund Account pursuant to M.G.L. c. 40, §53G.

5.13.9 Special Permit Criteria for Earth Removal & Fill Operations

- A. The Planning Board shall use the general standards for Special Permit Approval contained in the Planning Board Special Permit Regulations, any district-specific special permit requirements, and the additional standards contained herein
- B. Permits for earth removal and/or fill operations shall be granted by the Planning Board only upon its written determination that the proposed use shall not cause substantial detriment to the neighborhood, or the Town, considering the characteristics of the site and the proposal in relation to the site and surrounding environment. In addition to any specific factors that may be set forth elsewhere in this Bylaw and its associated Regulations, such determination shall include consideration of each of the following:
 - 1. Impacts on the natural environment
 - 2. Traffic flow and safety, including loading and unloading; and
 - 3. Management of stormwater
- C. No Special Permit shall be issued for the removal of earth or the placement of fill in any location if such an operation will:
 - 1. endanger the public safety, public health or constitute a nuisance; or
 - 2. produce noise, dust, or other noxious effects observable at the lot lines of the property in amounts objectionable or detrimental to the normal use of adjacent properties; or
 - 3. result in the transportation of materials in such manner as to cause traffic congestion, dust, spillage, noise, or other nuisances or hazards, particularly on residential streets;

or

4. result in the transportation over ways which will be unduly injured thereby; or
5. cause irreparable harm to or loss of important wildlife, wildlife habitat or rare plant species indigenous to the area; or
6. result in stormwater damage to abutting properties.

5.13.10 Conditions of Special Permit

The Planning Board may impose reasonable conditions on any special permit granted under this bylaw for earth filling or earth removal operations, including but not limited to the following:

1. Limitations on the size, number, and maximum weight of trucks that may access the property in any 24-hour period as well as routes of travel
2. Requirements for site security procedures
3. Limitations on hours of operation
4. Requirements for regular access to the Town of Leicester or its agents for the purpose of inspection of records or field conditions, and enforcement of this Bylaw
5. Implementation of erosion and sedimentation control measures to prevent material from moving offsite or into wetland or water resource areas
6. Limitations on slope
7. Requirements for ongoing monitoring by licensed professionals at the Applicant's expense to document full conformance with this bylaw and any conditions of approval.
8. Requirements for site stabilization and restoration

5.13.11 Violations and Enforcement

1. The Planning Board or its authorized agent shall enforce this Bylaw, its regulations, and the requirements and conditions of Permits issued thereunder, and may pursue civil and criminal remedies for violations of the same including but not limited to fines per Zoning Bylaw 6.5 (Penalty).
2. The Building Inspector or other authorized agent of the Planning Board is authorized to conduct inspections on behalf of the Planning Board. To the extent permitted by law, or if authorized by the owner, operator, or other person in control of the site, the Building Inspector or other agent of the Planning Board may enter on the site to conduct inspections.
3. The Building Inspector or other authorized agent of the Planning Board may issue such orders as are deemed necessary to stop violations and ensure compliance with this Bylaw, its regulations, and Permits, including an order to cease and desist operations.
4. If the violator holds a Special Permit issued under this Bylaw, the Planning Board may without prior hearing order that the violator cease and desist from violations of this bylaw and/or conditions of the Special Permit, or may suspend or revoke the Special Permit after a public hearing, at which point all operations shall cease until such time as the necessary measures are taken to assure compliance with this Bylaw and a new Permit is issued.

5.13.12 Change of Conditions

1. Any change in the activities not included in, or contemplated by, the Special Permit application or approved pursuant to a modification to a Special Permit shall be brought to the attention of the Planning Board or its agents prior to, or immediately following, such change in activities.
2. This notice shall be in writing and include specific actions recommended by the applicant to correct or to demonstrate compliance with the Special Permit and this bylaw. All operations shall be suspended within one operation day following such occurrence and remain suspended until the Planning Board or its agents have reviewed and amended the Special Permit with the applicants recommended change(s). Nothing herewith shall be interpreted to require acceptance of changed conditions or recommended corrective actions by the Planning Board.

5.17 Livestock & Backyard Chickens

[STM 10-30-2018]

5.17.1 Livestock

- A. The Special Permit Granting Authority for Livestock shall be the Zoning Board of Appeals (ZBA) in all Zoning Districts.
- B. The ZBA may limit the total number of livestock allowed per lot. The keeping of chickens on a lot less than 7,000 square feet is prohibited.
- C. Coops, hutches or other such buildings used to house poultry, rabbits, or other small livestock animals shall be situated not less than twenty-five (25) feet from any inhabited dwelling.
- D. The keeping of chickens requiring a special permit shall meet the requirements of Section 5.17.02, subsections E – H, below.

5.17.2 Backyard Chickens

- A. Purpose & Intent: To allow the raising of backyard chickens for the personal consumption of eggs and meat for residents, to protect the rights of abutters, and preserve natural water resources
- B. The keeping of backyard chickens shall comply with Board of Health Regulations and shall require an annual license from the Town Clerk. Backyard chickens that are not licensed shall be subject to a fine. The Zoning Enforcement Officer may delegate enforcement under this section to the Animal Control Officer.
- C. The number of backyard chickens allowed is as follows:

Lot Size	Maximum # of Chickens
Less than 7,000 square ft.	0
Equal or greater than 7,000 square ft. but less than .5 acre (21,780 square ft.)	6
Equal or greater than .5 acre (21,780 square ft.) but less than 1 acre (43,560 square ft.)	10
Equal or greater than 1 acre (43,560 sq. ft.) but less than 1.5 acres (65,340 sq. ft.)	12
Equal or greater than 1.5 acres (65,340 sq. ft.)	15

- C. Keeping of a higher density of chickens per square foot or keeping of roosters shall be considered keeping of livestock and would require a special permit from the Zoning Board of Appeals. The keeping of chickens on a lot less than 7,000 square feet is prohibited.
- D. Poultry and eggs produced under this section shall be for personal consumption only (not for sale).
- E. The keeping of Backyard Chickens shall comply with applicable local, state and Federal wetlands regulations and stormwater management regulations. There shall be no construction of any structure or alteration of land within a protected resource area, and or any unlawful discharges of pollution (i.e. fecal waste) into the wetland or buffer zone area. Coops shall not be constructed within 50 ft. of wells.
- F. Chickens shall be confined to the permit holder's property at all times to prevent wandering and straying onto other properties.
- G. Coops will be considered an accessory structure for the purpose of this by-law and shall adhere to all dimensional requirements for accessory structures and shall be situated not less than twenty-five (25) feet from any inhabited dwelling. All coops shall be of durable construction. Such structures shall be elevated to a height that allows for adequate cleaning and be designed so as to prevent the harborage of rodents and insects. The owner shall provide for tightly covered and vermin-proof storage of dry domesticated animal feed.
- H. Poultry runs shall be situated not less than fifteen (15) feet from adjoining property lines.

5.17.3 Exempt Agricultural Use

Nothing in this section is intended to regulate the keeping, raising, or breeding of livestock as part of a commercial agricultural enterprise on two (2) or more acres meeting the requirements of MGL Chapter 40A, Section 3;

5.18 Outdoor Storage

(Annual Town Meeting 5-11-2021)

5.18.1 Rental Self-Storage Facility with Outdoor Storage

All Rental Self-Storage Facilities with outdoor storage shall be required to meet the following standards:

- A. Outdoor storage areas shall be screened from view from roadways and abutting property owners by an opaque fence at least 6 feet in height.
- B. Storage areas shall not be located in required setbacks from property lines
- C. Outdoor storage areas shall not impede emergency access to the site or structures on the site.
- D. All types of vehicles stored outside shall be in operable condition. Rental outdoor storage areas shall not be used as Vehicle Salvage Yards, which are prohibited in all Zoning districts. Appropriate provisions shall be made to ensure vehicle fuel or other contaminants are appropriately controlled and don't infiltrate the ground.

- E. No commercial activity other than storage shall occur in indoor or outdoor areas, including vehicle maintenance, fueling, or repair work.

5.18.2 Other Outdoor Storage

- A. For parking of commercial vehicles, see Section 3.2.08 (Parking of Commercial Vehicles)
- B. Storage of large equipment or storage containers outside where accessory to a lawfully permitted commercial use on the same site is allowed by right in HB-1, HB-2, B, and I, and by special permit from the Planning Board in CB, RIB, BI-A, and BR-1. Emergency access to structures shall be maintained at all times. Parking sufficient for the uses on site in conformance with the Planning Board's Parking Regulations must remain unobstructed.

5.19 Adult Entertainment

[New Bylaw 5/4/98]

5.19.1 Adult Entertainment Bylaw:

No adult Entertainment Establishment, Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, or Adult Motion Picture Theater may be located within 1,000 feet of a residential zoning district, school, church or other religious use, child care facility, park, playground, or other Adult Live Entertainment Establishment, Adult Bookstore, Adult Video Store, Adult Paraphernalia Store or Adult Motion Picture Theater. Distance shall be measured as the shortest between buildings, or as the shortest distance between the building of the adult use and the lot line of a church, child care facility, school, park, playground or other recreational area.

SECTION 6: ADMINISTRATION

6.1 Enforcement

This by-law shall be enforced by the Zoning Enforcement Officer under the authority of Section 7 of Chapter 40-A of the Massachusetts General Laws.

6.2 Building Permits

No building permit shall be issued until the construction or alteration of a building or structure, as proposed, shall comply in all respects with the provisions of this by-law or with a decision rendered by the Board of Appeals. Any application for such a permit shall be accompanied by a plan accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of the new buildings to be constructed, together with the lines within which all buildings and structures are to be erected, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this by-law.

6.3 Certificate of Occupancy

No building or structure shall be occupied until a certificate of occupancy has been issued by the Building Inspector.

6.4 Board of Appeals

There is hereby established a Board of Appeals of five (5) members and three (3) associate members to be appointed by the Selectmen, as provided in Chapter 40-A of the General Laws, which shall act on all matters within its jurisdiction under this by-law in the manner prescribed in Chapter 40-A of the General Laws. The Board of Appeals shall have the following powers:

6.4.1 Appeals

To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of Chapter 40-A of the General Laws, or by any officer or board of the Town, or by any person aggrieved by any order or decision of the Inspector of Buildings or other administrative official in violation of any provision of Chapter 40-A, General Laws or of this by-law.

6.5 Special Permits

Certain uses, structures or conditions are designated as subject to the issuance of a Special Permit as provided in Section 3.2 and elsewhere in this by-law. Upon application duly made to the Board of Appeals by first filing with the Town Clerk, the Board may, in appropriate cases and subject to the appropriate conditions and safeguards, grant a Special Permit.

A. APPLICATIONS

Written application shall be made to the Board for such permit containing a statement of the proposed use or uses, a site plan showing the proposed site development, and such other related information concerning the proposed use of the premises as the Board shall require.

B. HEARING, ACTION The hearing of the Board shall be conducted in accordance with the provisions of M.G.L. Chapter 40-A, Section 8.

- C. **CONDITIONS** Special permits shall be granted only upon the concurring vote of four (4) or more members, and only after a consideration by the Building Inspector of the specific site as an appropriate location for the use or structure; the adequacy of public sewage and water facilities, or the suitability of soils for on-lot sewage and water systems; the use developed as a possible adverse effect on the neighborhood, undue nuisance or serious hazard to vehicles or pedestrians; and adequate and appropriate facilities to ensure the proper operation of the proposed use, structure or condition. The Board may also provide for any other conditions or safeguards it deems necessary.

If the rights authorized by a Special Permit are not exercised within one (1) year of the date of such Special Permit, they shall lapse, and may be re-established only after notice and new hearing and regulated under Chapter 40-A of the General Laws.

6.6 Variances

- A. The Board of Appeals shall have the power, after a public hearing as provided in Section II of the Zoning Act, to grant upon appeal or upon petition regarding land or structures, a variance from the terms of any applicable section of this By-Law. However, the Board of Appeals shall not grant a variance relating to the use of land or structures.
- B. An application for a variance shall be filed with the Town Clerk, who shall within two (2) business days, transmit a copy of the application to the Board of Appeals.
- C. The decision of the Zoning Board of Appeals shall be rendered within seventy-five (75) days of the filing of the application with the Town Clerk. Failure of the Zoning Board of Appeals to act within said seventy-five (75) days shall be deemed to be the grant of the relief sought in the application, subject to an applicable judicial appeal as provided for in the Zoning Act.
- D. The Zoning Board of Appeals shall not grant a Variance unless it specifically finds that each of the following conditions are fulfilled:
1. That owing to the circumstances relating to the soil conditions, shape, or topography of the land or structure involved and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Zoning By-Law would involve substantial hardship, financial or otherwise, to the applicant: and
 2. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Zoning By-Law.
- E. The Zoning Board of Appeals may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structure, but excluding any condition, safeguard or limitation based upon continued ownership.
- F. Upon the granting of a Variance, or an extension, modification or renewal thereof, the Zoning Board of Appeals shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the Zoning Board Of Appeals, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such Variance and certifying that copies of the decision and all plans referred to in the decision have been filed with the Town Clerk.
- G. No variance or extension, modification or renewal thereof shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed and

no appeal has been filed, or that if an appeal has been filed, it has been dismissed or denied, is recorded in the Worcester County Registry of Deeds and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title. The recording or registration shall be the responsibility of the owner or applicant who shall, thereafter, provide the Zoning Board of Appeals with a copy of the decision bearing the stamp of the Registry of Deeds or Land Court indicating the date and time of recording or registration and the book and page number as- signed the document.

- H. The rights authorized by a Variance shall lapse unless construction is commenced within one (1) year of the grant of the Variance and is continued through to completion as continuously and expeditiously as is reasonable. In the event of such a lapse, the variance may be re-established only after notice and a new hearing.
- I. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the Zoning Board of Appeals in authorizing a Variance without making new application to the Zoning Board of Appeals for approval of such action.

6.7 Penalty

Any person violating any of the provisions of this by-law may be fined not more than \$100.00 dollars for each offense. Each day that such violation continues shall constitute a separate offense.

6.8 Amendment

This by-law may be amended from time to time at an annual or special Town Meeting in accordance with the provisions of Section 5 of Chapter 40-A.

6.9 Validity

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof.

6.10 Effective Date

The effective date of this by-law shall be the date upon which the by-law comes in full force or effect in accordance with the provisions of the General Laws Chapter 40, Section 32, and Chapter 40-A, Section 5, and shall be the date on which such adoption or amendment was voted upon by a Town Meeting; unless said by-law is subsequently disapproved, in whole or in part, by the Attorney General.

6.11 Associate Planning Board Member

In accordance with Massachusetts General Laws, Chapter 40A, Section 9, the Planning Board, acting as Special Permit Granting Authority, is authorized to appoint one Associate Member for the purpose of acting on special permit applications. Said Associate Member shall be appointed by majority vote of the Planning Board and serve a one-year term. The Planning Board Chair may designate the Associate Member to sit on the Board for the purpose of acting on a special permit in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board. In the event of a vacancy in the position of Associate Member, the position shall be filled in the same manner as in the case of the original appointment.

6.12 Site Plan Review

6.12.1 Purpose

The purpose of this Section is to provide for a comprehensive review of site plans for those uses and structures that may have a significant impact on the Town's character, infrastructure, environment and quality of life.

6.12.2 Applicability

6.12.1 Projects Requiring Site Plan Review:

- A. Site Plan Review by the Planning Board shall be required in all zoning districts prior to the issuance of a Building Permit, except as exempted below, for the following:
 - 1. Any new use, or any expansion of an existing use, that results in 3,000 square feet of new floor area, addition or creation of more than 20 parking spaces, or 10,000 square feet of new land area devoted to a use
 - 2. Addition or creation of a drive-in or drive-through establishment
Any building over 35 feet in height
 - 3. Radio or TV broadcasting towers and any structure meeting the definition of a wireless communication facility or large wind facility.
 - 4. All non-residential projects in the Greenville Village Neighborhood Business District (NB) per Section 5.6.02.2 of the Zoning Bylaw
 - 5. All business and/or multiple family uses set forth in the BR-1, and RIB Zones per Section 4.4 of the Zoning Bylaw.
 - 6. Medium-Scale Ground-Mounted Solar Energy Systems that occupy 3,000 square feet or more of surface area and Large-Scale Ground-Mounted Solar Energy Systems.
 - 7. Medical Marijuana Treatment Centers and Marijuana Establishments

B. Exemptions:

Site Plan Review shall not be required for the construction or enlargement of any single-family or two-family dwellings, the construction or alteration of any structure to be used exclusively for agricultural purposes, or for any public buildings or uses of the Town of Leicester.

C. Waivers

When a Special Permit or Site Plan application is for a new use, but involves the reuse, alteration or reconstruction of an existing structure, the Board may waive the submittal of technical information, plans, or documents otherwise required hereunder when in the opinion of the Board said alteration or reconstruction does not substantially change the relationship of the structure to the site and to abutting properties and structures. Upon application as specified in the Site Plan Review Rules & Regulations, such a determination may be made by majority vote of the Board. The involved structure shall be as shown on a site plan previously approved under this Section or on a plan determined by the Planning Board to be sufficient to evaluate the proposed project. Such plan, with all proposed changes shown, shall be included with the application. This waiver provision shall not apply to applications for Adaptive Re- use Developments.

6.12.3 SITE PLAN REVIEW PROCEDURE:

FILING. An applicant for site plan review shall file in accordance with the Planning Board's Site Plan Review Rules & Regulations.

A. Plan Review:

The Planning Board shall refer copies of the site plan application to the Boards and Departments specified in the Board's Sites Plan Review Rules & Regulations. These parties shall have thirty-five (35) days in which to review and comment on the plan. Failure to submit written comments within thirty-five days shall be interpreted as lack of opposition to the approval of the site plan. The Planning Board shall not make a finding and determination upon an application until it has received these recommendations or until thirty-five have elapsed without such recommendation being submitted.

D. Plan Review:

The Planning Board is authorized to retain a professional engineer, architect, landscape architect or other professional consultant to advise the Board on any and all aspects of the site plan. The Planning Board shall adopt, after a public hearing, and may later amend, a fee schedule which accurately reflects the cost of reviewing such plans. The site plan review fee must be paid by the applicant at the time of the plan submission.

E. Decision:

1. **Standard Site Review Applications:** The Planning Board shall deliver its written decision to the Town Clerk and Building Inspector within sixty (60) days of the receipt of the site plan application. This time limit may be extended by written agreement between the applicant and the Planning Board. Failure of the Planning Board to take final action within sixty (60) days, or extended time, shall be deemed to be approval of the application
2. **Major Site Plan Review Applications:** Site Plan Review applications for projects involving new construction or expansion of more than 30,000 square feet of gross floor area, Large-Scale Ground-Mounted Solar Energy Systems that occupy 240,000 square feet (5.5 acres) or more of surface area or Ground-Mounted Solar Energy Systems that involve more than two (2) acres of tree clearing shall require a Planning Board public hearing. Such public hearing shall follow the procedures of MGL, Ch.40A regarding special permits with regard to scheduling, notification, and deadline for a decision. The public hearing shall be scheduled within sixty-five (65) days after the application has been submitted to the Planning Board. Failure of the Planning Board to take final action within ninety (90) days of the close of the public hearing shall be deemed to be approval of the application. These time limits may be extended by written agreement between the applicant and the Planning Board in accordance with the Site Plan Review Rules and Regulations.
3. **Final Action.** The Planning Board's final action shall consist of either:

- a) Approval of the site plan based upon a determination that the plan is in compliance with the standards set forth in this By-Law;
- b) Disapproval of the site plan based upon determination that the proposed project does not meet the standards set forth in this By-Law; in the event of disapproval, the Board shall state the reasons why the plan was not approved and identify the specific corrective measures that must be taken to bring the plan into compliance with the standards; or
- c) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Planning Board which will ensure that the plan meets these standards.

6.13 Site Plans also Requiring a Special Permit:

In cases where a development requires site plan review by the Planning Board and a Special Permit from the Board of Appeals for the same project, the applicant shall file site plan and special permit applications concurrently with the appropriate Board. This requirement shall not apply to special permits for signs. The Planning Board shall review the site plan, and shall submit a report with recommendations to the Board of Appeals within forty-five (45) days of the receipt of the application. The Board of Appeals shall incorporate the Planning Board's recommendations and conditions in its Special Permit decision, or shall state in the decision the reasons why such recommendations or conditions were not followed. In cases where a development requires site plan review and a special permit from the Planning Board, the applicant shall file site plan and special permit applications, along with application and public hearing fees, concurrently with the Planning Board. Where applicable, a combined hearing may be held for Planning Board special permit and site plan review applications for the same project.

6.13.1 Standards for Site Plan Approval:

The Planning Board shall approve a site plan when the following standards are met:

- A. The use complies with all the provisions of the Leicester Zoning By-Law;
- B. The use will not materially endanger or constitute a hazard to the public health and safety;
- C. The use will not create undue traffic congestion or unduly impair pedestrian safety;
- D. Sufficient off-street parking exists or will be provided to serve the use;
- E. The use can be adequately served by water, sewer, and other necessary utilities, or if these are unavailable, that they will be brought to the site at the owner's expense; or, the Planning Board is satisfied that the proposed alternatives will comply with all applicable regulations; and,
- F. The use will not result in a substantial increase of volume or rate of surface water runoff to neighboring properties and streets, nor will result in pollution or degradation to surface water or groundwater;
- G. The use will not result in any undue disturbance to adjoining property owners or the Town caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, etc.

6.13.2 Site Plan Conditions:

The Planning Board may impose conditions, safeguards and limitations on time and use as may be appropriate for the protection of the natural environment, the neighborhood, and the Town. Such conditions shall be imposed in writing on the site plan approval and shall be enforced by the Building Inspector. The applicant may be required to post a bond or other security in an amount satisfactory to the Planning Board for compliance with these conditions. The procedure for reducing or releasing the security shall be the same as those in the Planning Board's Subdivision Rules and Regulations.

6.13.3 Time Limitations:

Construction on a site must be started or substantial activity commenced within one (1) year of the date of the site plan approval. This time may be extended for one additional year at the discretion of the

Planning Board, for good cause, and upon a written request from the applicant prior to the expiration of the original one-year period. Construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. The Planning Board shall include in its decision a deadline to complete construction under an approved site plan, such time not to exceed 2 years from the date of approval, except for Senior Village Developments, which shall have up to 5 years. Such time may be extended for good cause upon the written request of the applicant prior to the specified deadline. If the time period for commencement or completion has elapsed, the rights granted by the site plan approval shall expire and may be reestablished only after another site plan review under this Section.

6.13.4 Modifications

- A.** Modifications of Site Plans shall follow the same procedures as the original submittal, except that the Planning Board, where it is not otherwise inconsistent with this Section or with the Town's Zoning Bylaws, may approve minor engineering changes to a previously approved site plan in accordance with the Site Plan Re- view Rules and Regulations.
- B.** The Planning Board, acting through its Chair and professional staff, may approve insignificant changes to an approved site plan in accordance with the Site Plan Review Rules and Regulations.

FLEXIBLE BUSINESS DEVELOPMENT BYLAW (CHARLTON)

Chapter 200. Zoning

SECTION 5. Special Regulations

§ 200-5.14. Flexible business development.

A. Purpose. The purposes of this section, Flexible business development, are:

- (1) To promote more sensitive siting of commercial and industrial buildings and better overall site planning;
- (2) To perpetuate the appearance of the Town's traditional New England landscape;
- (3) To facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and
- (4) To offer an alternative to standard commercial and industrial development.

B. Definitions. The following terms shall have the following definitions for the purposes of this section:

CONTIGUOUS OPEN SPACE

Open space suitable, in the opinion of the Planning Board, for the purposes set forth herein. Such open space may be separated by the road(s) constructed within a FBDP. Contiguous open space shall not include required yards.

FLEXIBLE BUSINESS DEVELOPMENT PROJECT (FBDP)

A commercial and/or industrial development authorized by special permit as set forth in this § 200-5.14.

C. Applicability. A FBDP may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Business Enterprise Park District as defined in the Zoning Bylaw, subject to the conditions and specifications set forth herein.

D. Procedures. A FBDP may be authorized upon the issuance of a special permit by the Planning Board. An applicant for a FBDP special permit shall file with the Planning Board ten (10) copies of the following:

- (1) A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.^[1]

^[1] *Editor's Note: See Ch. 210, Subdivision of Land.*

- (2) Wetland delineation; where such is in doubt or dispute, the Planning Board may require appropriate documentation.
- (3) Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation. The applicant shall pay for the cost of such review, per procedure established by the Planning Board.
- (4) The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein. The applicant shall pay the cost of such review required of the additional information, per procedure established by the Planning Board.

E. Modification of lot requirements. Applicants for a FBDP special permit may modify lot shape and other dimensional requirements for lots, subject to the following limitations:

- (1) Lots having reduced frontage shall not have frontage on a street other than a street created by the FBDP; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lots are consistent with existing development patterns in the existing neighborhood.
- (2) Side and rear yards shall not be reduced to less than fifty percent (50%) of distances otherwise required.

F. Standards. The following design standards shall apply to a FBDP:

- (1) Types of buildings. The FBDP may consist of any combination of structures on one (1) lot or a subdivision of land; provided, however, that no single office buildings may be constructed unless such single office exceeds twelve thousand (12,000) square feet in gross floor area.
 - (2) Architectural style. The architecture of all buildings is of interest to the Planning Board, and as such the Planning Board shall determine that the design and appearance of all buildings will not be injurious to the established or future character of the vicinity and the neighborhood and that it shall be in harmony with the general purpose and intent of this bylaw. Structures shall be oriented toward the street serving the premises and not the required parking area.
 - (3) Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the Planning Board's Subdivision Control Rules and Regulations.^[2]
- ^[2] *Editor's Note: See Ch. 210, Subdivision of Land.*
- (4) Parking. Each business located within the FBDP shall provide parking as required by § 200-4.2 of this Zoning Bylaw; provided, however, that the Planning Board may reduce the number of required parking spaces in a FBDP by special permit upon a finding that such reduction will not cause substantial detriment.

- (5) Buffer areas. A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement:
 - (a) Where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50) feet in depth, which may include such restricted land area within such buffer area calculation; or
 - (b) Where the land abutting the site is held by the Town for conservation or recreation purposes; or
 - (c) The Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
- (6) Stormwater management. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board^[3] and the DEP's Stormwater Management Policy.

^[3] *Editor's Note: See Ch. 210, Subdivision of Land.*
- G. Contiguous open space. A minimum of twenty-five percent (25%) (or less if in the opinion of the Planning Board such reduction is consistent with the intent of this section) of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.
 - (1) The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Subsection A, above.
 - (2) In no case shall the percentage of contiguous open space which is wetlands exceed fifty percent (50%) of the tract.
 - (3) The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
 - (4) The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to ten percent (10%) of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.
 - (5) Underground utilities to serve the FBDP may be located within the contiguous open space.
- H. Ownership of the contiguous open space. The contiguous open space shall, at the Planning Board's election, be conveyed to:
 - (1) The Town or its Conservation Commission, subject to the public acceptance requirements of the Board of Selectmen and Town Meeting;
 - (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
 - (3) A corporation or trust owned jointly or in common by the owners of lots and/or units within the FBDP, if applicable. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or units in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot/unit. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days' written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it and recover from the trust or corporation the costs of performing the maintenance and all expenses, including attorney fees (Town Counsel otherwise), incurred in enforcing the requirements set forth in this section, which costs and expenses shall constitute a lien upon each of such lots/units. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.
- I. Decision. The Planning Board may approve, approve with conditions, or deny an application for a FBDP after determining whether the FBDP better promotes the purposes set forth in Subsection A than would a conventional commercial or industrial development of the same property.
- J. Relation to other requirements. The submittals and permits of this section shall be in addition to any requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.