

# Report on Uses for North Lancaster MOU Committee

## Russ Williston, 12/18/2021

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## Background

On December 17<sup>th</sup>, 2021, the “North Lancaster MOU Ad-Hoc Committee” met for the first time; the goal of the committee was to draft a Memorandum for the town to present to the Capital Group. The committee chair requested recommendations on use restrictions to include in a draft agreement.

## Objective of this Report

- Report on the uses allowed in the EZ.
- Identify any existing special restrictions on uses allowed in the EZ.
- Establish a methodology for determining which EZ zone uses to restrict via the Memorandum of Understanding.
- Make a subjective assessment as to whether individual allowed uses are more-or-less desirable than the average.
- Recommend specific uses for restriction.

## Methodology: How to weigh which Enterprise Zone Uses should be restricted?

Because the Capital Group is open to agreeing to a “Memorandum of Understanding” to encourage the town to modify the Enterprise Zone district to include all their property, the town has the opportunity to impose additional use restrictions. Without these additional restrictions the Capital Group would be able to use all the Enterprise Zone uses anywhere on their parcels, as allowed, or restricted by the town’s zoning bylaws.

My presumption is that the uses that should be further restricted are those that:

- Would be objectionable to direct abutters, due to their nuisance potential: noise, odor, etc.
- Would be objectionable to that area, due to traffic burden.
- Would be objectionable to the town due to economic burden.

On the other hand, we might refrain from restricting a use in cases where the use:

- Is perceived to be useful to town residents. (Provides products or services residents could use.)
- Is perceived to be especially desirable economically.

I won't attempt to do anything more thorough than a subjective appraisal of these factors. Most of the objectionable factors could ultimately be controlled by local bylaws (traffic) or state statutes (odors, noise) – I will only attempt to flag uses that are unavoidably somewhat more objectionable than others.

## Review of the Primary uses allowed in the Enterprise Zone

220-8.1 RESIDENTIAL USES							
Use	How Allowed?	Restrictions	Objectionable to Direct Abutters?	Traffic Burden	Economic Burden	Has local utility?	Economically Desirable?
C. Living Facilities for Seniors	PB SP	220-9A: Lot frontage, size and more	Average	Average	Average	Above Average	Average

**Summary:** there doesn't seem to be any need to restrict residential uses further, unless the town desires to limit the number of units or height of Living Facilities for seniors.

220-8.2 RURAL USES							
Use	How Allowed?	Restrictions	Objectionable to Direct Abutters?	Traffic Burden	Economic Burden	Has local utility?	Economically Desirable?
A. Agriculture, horticulture, floriculture and viticulture exempted from prohibition by MGL c. 41A. 3	By Right		Average	Average	Average	Yes	Below Average

C. Retail sales of produce from agricultural and related uses, greenhouses, cider mills, sawmills, if not exempted by MGL c. 40A, § 3	By Right		Average	Average	Average	Yes	Average
D. Boarding, training, or veterinary care of more than two animals within a structure if not exempted by MGL c. 40A, § 3	PB SP		Above Average	Average	Average	Yes	Average
E. Farmers Market	By Right		Average	Average	Average	Yes	Below Average

**Summary:** it seems unlikely that the proponent will want to use most of these uses.

220-8.2 D, the animal boarding use, could be objectional to abutters but is by special permit only.

220-8.3 RECREATION AND AMUSEMENT USES							
Use	How Allowed?	Restrictions	Objectionable to Direct Abutters?	Traffic Burden	Economic Burden	Has local utility?	Economically Desirable?
C. Facilities for active outdoor recreation utilizing motorized equipment	PB Special Permit		High	Average	Average	Yes	Below Average
D. Other active outdoor recreation facilities in a predominantly natural setting	By Right		Average	Average	Average	Yes	Below Average
E. Commercial indoor amusement or recreation place or place of assembly	By Right	220-36A disturbance standard	Average	Average	Average	Yes	Average

H. Health and Fitness Center	By Right		Average	Average	Average	Yes	Average
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**Summary:** mostly uses of little concern except:

220-8.3 C, Facilities for active outdoor recreation utilizing motorized equipment, would be objectionable to direct abutters due to noise and is likely a use with little direct economic value. It is a special permit use but could be restricted further.

220-8.4 PUBLIC, HEALTH, EDUCATIONAL AND INSTITUTIONAL USES							
Use	How Allowed?	Restrictions	Objectionable to Direct Abutters?	Traffic Burden	Economic Burden	Has local utility?	Economically Desirable?
A. Underground or overhead communications, gas, electrical, sewerage, drainage, water, traffic, fire, and police system services, appurtenant equipment, and installations	Government or Public Service corps by right,  PB SP Otherwise	220 XI for wireless in wireless overlay district	Above Average	Below Average	Average	No	Below Average

B. Religious and educational uses	By Right		Average	Average	Average	Yes	Below Average
C. Nonprofit community centers, places of public assembly, lodges, service or fraternal or civic corporations	By Right if < 500 square feet for assembly and not a business. PB SP Otherwise.		Average	Average	Average	Yes	Below Average
D. Long-term care facility	PB Special Permit	220-9B: Frontage, lot size and parking restrictions	Average	Average	Average	Yes	Average
G. Marijuana Establishment (excluding marijuana retailers)	PB Special Permit	220 XVIII restrictions on location	Above Average	Average	Average	No	Above Average

**Summary:** given that the town views this site as an area for economic development, the town might request to disallow:

220-8.4 C. Nonprofit community centers, places of public assembly, lodges, service or fraternal or civic corporations

220-8.5 RETAIL, SERVICE AND OFFICE USES

Use	How Allowed?	Restrictions	Objectionable to Direct Abutters?	Traffic Burden	Economic Burden	Has local utility?	Economically Desirable?
A. Retail stores: craft, consumer, professional or commercial establishments dealing directly with the general public, unless more specifically listed below	<p>Only permitted in EZ-A Subdistrict.</p> <p>By Right: gross floor area is less than 5,000 sq. ft.</p> <p>PB SP: gross floor area is between 5,000 and 100,000 sq. ft.</p>		Average	Average	Average	Yes	Average
B. Shopping Center	Only in EZ-A Subdistrict	220-3 Definition	Average	Average	Average	Yes	Average
C. Gasoline Service Stations, including minor repairs only	PB Special Permit		Above Average	Average	Average	Yes	Average
D. Sales, rental, and repairs of	By Right		Average	Average	Average	Yes	Average



motor vehicles, mobile homes, farm implements or boats							
E. Car washing establishments	PB Special Permit		Above Average	Average	Average	Yes	Average
F. Dry-cleaning and laundry establishments	PB Special Permit		Above Average	Average	Average	Yes	Average
G. Funeral parlor, undertaking establishments	PB Special Permit		Average	Average	Average	Yes	Average
H. Hotels, motels, inns	PB Special Permit		Average	Average	Average	Yes	Above Average
I. Restaurants	No drive through or entertainment: By Right.  W/Drive-Through or Entertainment: PB Special Permit		Above Average	Average	Average	Yes	Average
J. Medical clinics	PB Special Permit		Average	Average	Average	Yes	Average
K. Administrative offices of	By Right		Average	Average	Average	Yes	Below Average

non-profit organizations							
L. Other offices, banks	By Right		Average	Average	Average	Yes	Average
M. Art Galleries	By Right		Average	Average	Average	Yes	Average

**Summary:** The town might ask to restrict these uses within several hundred feet of the Residential Zone, to protect direct abutters:

- 220-8.5 C. Gasoline Service Stations, including minor repairs only
- 220-8.5 E. Car washing establishments
- 220-8.5 F. Dry-cleaning and laundry establishments
- 220-8.5 I. Restaurants

The town might also request to restrict the following uses, given the desire for economic development in this area:

- 220-8.5 K. Administrative offices of non-profit organizations

Depending on the town's tastes, the town might ask to restrict the type of restaurants allowed by :

- 220-8.5 I. Restaurants

220-8.6 INDUSTRIAL USES							
Use	How Allowed?	Restrictions	Objectionable to Direct Abutters?	Traffic Burden	Economic Burden	Has local utility?	Economically Desirable?

A. Printing, publishing, and assembly, finishing, or packaging of products	By Right	220-9E: restricts some hazardous uses	Average	Average	Average	No	Average
B. Other general industrial uses, including manufacturing and processing	PB Special Permit	220-9E: restricts some hazardous uses	Average	Average	Average	No	Average
C. Structures for storage and distribution of goods, supplies, equipment and machinery	By Right		Average	Average	Average	No	Average
E. Open storage facilities for lumber, stone, brick, gravel, cement or other bulk materials and contractor's yards	PB Special Permit	All outdoor storage to be separated from any district line and from any lot line of a dwelling existing prior to adoption of this bylaw either by a screen or by a strip of at least 100 feet	Above Average	Average	Average	Yes	Below Average

		of dense natural vegetation.					
F. Earth products removal	SB Special Permit	See Article IX.	Above Average	Above Average	Average	Yes	Below Average
H. Research and development, engineering, assembly and construction of models, prototypes, samples and experimental products in connection with research, engineering, or development activities	PB Special Permit		Average	Average	Average	No	Average
I. Solar Energy Facilities	PB Special Permit	See Article XVII	Above Average	Below Average	Average	No	Below Average

**Summary:** The town might ask to restrict these uses within several hundred feet of the Residential Zone, to protect direct abutters and to reinforce the desire for economic development in this area:

220-8.6 E Open storage facilities for lumber, stone, brick, gravel, cement or other bulk materials and contractor's yards

220-8.6 F Earth products removal

## Review of the Accessory uses allowed in the Enterprise Zone

Of the accessory uses, the most likely to be objectionable in relation to an allowed use is outdoor storage. It would be visually intrusive to neighbors. It's allowed by Planning Board Special Permit in the Enterprise Zone. The town might request to restrict this use:

220-8.6 BB Outdoor storage accessory to a principal use.

## Review of additional restrictions included in the sample "Maynard Crossings" memorandum of agreement:

Referring to the sections in the Maynard "Memorandum of Agreement" I found the following restrictions:

**III A. 1. Residential Apartments:** The Maynard agreement restricted the number of apartments and bedrooms.

This is not applicable: residential units are not allowed in the Enterprise Zone district.

**III A. 2. Independent Living or Continuing Care Retirement Community.** The Maynard agreement restricted the number of units.

We do allow facilities for seniors in the Enterprise Zone district; I'm not aware of any reason to restrict this use.

**III A. 3. Retail/office/commercial space including supermarket.** The Maynard agreement restricted this use by square footage.

This use is allowed in the Enterprise Zone district; I'm not aware of any reason to restrict this use.

**III. L. Affordability:** The Maynard Agreement seems to exempt the proponent from their inclusionary zoning unit requirement in exchange for an agreement to not apply to build a 40B on the site.

The town should request an agreement not to apply to build a 40B on the site. The inclusionary zoning unit requirement might only be relevant to housing for seniors in the Enterprise Zone (no other type of housing is allowed) but the town should not offer any exemption from our inclusionary zoning bylaw.

**III P. Adult Entertainment Uses:** The Maynard Agreement disallows “Adult Entertainment Uses” on the site.

This should be included in a Lancaster agreement; it probably is redundant to local bylaws.

**III Q 1-3 The Maynard Agreement restricts certain fast-food tenants.** It restricts drive through restaurants by number and restricts fast food restaurants by number and limits them to certain pads on the site.

Lancaster could request similar restrictions, if there is a preference regarding the position, number, and tenant of fast-food restaurant sites.

**III Q. 4-5 The Maynard agreement limits the height and bedrooms of residential structures.**

This does not seem relevant in the Enterprise zone, unless the town wants to restrict the buildings uses for housing for seniors.

## Final Recommendation

After a review of the primary and accessory uses allowed in the Enterprise Zone and a review of the additional restrictions included in the Maynard Memorandum of Agreement, I recommend that we ensure that any North Lancaster agreement include the following:

1. Disallow the following uses, or restrict the following uses to the area nearest Lunenburg Road to avoid abutter friction:
  - a. 220-8.2 D Boarding, training, or veterinary care of more than two animals within a structure if not exempted by MGL c. 40A, § 3

- b. 220-8.3 C, Facilities for active outdoor recreation utilizing motorized equipment
  - c. 220-8.5 C. Gasoline Service Stations, including minor repairs only
  - d. 220-8.5 E. Car washing establishments
  - e. 220-8.5 F. Dry-cleaning and laundry establishments
2. Disallow the following uses, which are not economically compatible with the towns goal for the area:
    - a. 220-8.4 C. Nonprofit community centers, places of public assembly, lodges, service or fraternal or civic corporations
    - b. 220-8.5 K. Administrative offices of non-profit organizations
  3. Disallow the following uses, which are not economically desirable, which would be objectionable to abutters, and which would be a traffic burden to area:
    - a. 220-8.6 E Open storage facilities for lumber, stone, brick, gravel, cement or other bulk materials and contractor's yards
    - b. 220-8.6 F Earth products removal
  4. Disallow or severely restrict the following accessory use, which would be objectionable to abutters. A restriction should disallow (specifically if necessary) the outdoor storage of cars related to a Class II or Class III motor vehicle dealer license.
    - a. 220-8.6 BB Outdoor storage accessory to a principal use.
  5. Request any desired restrictions on the following use. The Maynard sample agreement included restrictions on number of fast food restaurants, number of drive-through restaurants, location of restaurant pads. Maynard's agreement disallowed certain tenants.
    - a. 220-8.5 I. Restaurants
  6. The town could request restrictions on the height and number of units in any senior housing on the site, as Maynard did, as the Enterprise Zone does allow housing for seniors. That would apply to the following use:
    - a. 220-8.1 C Living Facilities for Seniors
  7. The town should, in exchange for approving any rezoning at the site, obtain an agreement that the applicant will not pursue a 40B project on the site. Presumably language like what Maynard used would be acceptable.
  8. Any agreement should disallow "Adult Entertainment Uses" as Maynard's did, by disallowing them as defined in MGL c. 40A s. 9A.