Resident's *Quick* Guide to the Third Version of the Proposal

2018 ATM Article 38

Keep Our Lexington

KEEPOURLEXINGTON.ORG

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Ver. 1.3

Executive Summary

This *Guide* along with its three Tables and Chart provides residents with an analysis of 2018 ATM Article 38 ("the proposal" to create a new neighborhood commercial zone at Marrett Rd. & Spring St.) that shows, in part, that the proposal is characterized by:

- Little to no outreach to the neighborhood and broader community by the owner
- No demonstrated benefit to the community
- A rushed process and moving target with the latest proposal only days before the final Public Hearing and only weeks before Town Meeting (see Chart 1)
- Highly technical and opaque proposals not fully decipherable by most residents
- Sweeping and over-reaching proposals with no actual planning rationale and no plans to mitigate against potential higher risks and costs to the Town of zoning mistakes

Executive Summary

Specifically, the third and latest proposal of February 28, 2018 does the following (not an exhaustive list):

- Appears to increase density by allowing for buildings up to and greater than 10,000 s.f. in gross floor area (see Table 2)
- The 15 new Principal Uses contained in the proposal represent 5 times the number of new Principal Uses (i.e., 3) the owner has claimed is needed to meet leasing challenges (see Table 1)
- 9 (60%) of the new Principal Uses are ones that are *not currently allowed anywhere in the neighborhood commercial district*, including both the CS zone and the CN zone across the street
- Wherever there are restrictions on development (i.e., Principal Use, Development Standard or Operating Standard) on a new Principal Use in the district today (either not allowed or restricted) the restrictions are greatly reduced or eliminated in the new CSX zone

Executive Summary

- For 4 key standards (i.e., controls/restrictions) that might be of greatest concern to residents, the proposal eliminates most of them (see Table 2)
- Thus, for all 15 Principal Uses, the proposal allows:
  - Building > 10,000 s.f. gross floor area
  - Outdoor operations
  - Permanent outdoor storage of equipment
- In addition, for 7 of the 15 Principal Uses the proposal allows:
  - Permanent outdoor product displays
- This is an elimination of standards (i.e., restrictions on development) unlike any other neighborhood commercial zone in Lexington
- Moreover, many existing uses such as taxicab garage, auto junk yard and ambulance service would be grandfathered into this neighborhood commercial district
  - Regardless of whether or not that might make sense in a zone embedded in a residential community
  - Despite most of these uses not being permitted in other neighborhood commercial zones in Town other than CS
- In addition, the proposal forecloses on the possibility of mixed-use in the future in a neighborhood commercial zone already zoned for some residential uses

Introduction

- This *Guide* along with its three Tables and Chart provides residents with a ***quick analysis*** of 2018 ATM Article 38 ("the proposal" to create a new neighborhood commercial zone at Marrett Rd. & Spring St. by converting the existing CS (south, Commercial Service Business) zone into a new, expanded CSX (Commercial Service Expanded) zone
- The existing CS zone is directly across the street from a CN (north, Commercial Neighborhood Business) zone
- The *Guide* covers both those aspects of the third and latest proposal for 2018 ATM Article 38 (version dated February 28, 2018) that are stated in the proposal itself as well as those aspects that are not stated but are buried deep within the technical tables within the proposal
- To decode the proposal, it has been necessary to compare the tables in the proposal to Lexington's Zoning Bylaw and Zoning Map, particularly Table 1 of the Bylaw entitled "Section 3.4, Permitted Uses and Development Standards"
- Should you wish to get a ***quick introduction*** to the issues without reading the background and explanatory material, please feel to go directly to **Tables 1 and 2** and consult either the *Executive Summary* or summaries of the Tables (slides 11 to 14). These two Tables contain the essence of this analysis in easily understandable format. After reviewing those two Tables, you may wish to return to the background information to answer any questions.

Disclaimer

- Please note that we are residents and not planning professionals. This *Guide* was written by residents and for residents.
- It should be further noted that the proposals should *not require* interpretation by professionals. They should be written and presented in such a manner that the general public can understand them. The fact that the proposals require this level of decoding – both as presented herein and elsewhere on this website – to be understandable to residents is a reflection of the lack of planning in constructing the proposals.
- At the time of this writing, the Planning Board had not yet issued its formal report and recommendation on the proposal
- Please also note that this *Guide* may be updated from time-to-time as we obtain new information, so please check the website periodically for the most up-to-date version
- Please refer to the Lexington website lexingtonma.gov for official information. **KEEPOURLEXINGTON.ORG** has direct links to Town Resources to make it easier to find official documents related to the proposal

Warrant Article

- The proposal is an Owner's Citizen Zoning Petition that was published in the Town Warrant and will be voted on by Town Meeting after Town Meeting begins on March 26, 2018
- Warrant Article 38 (2018 ATM Article 38, proposed new neighborhood commercial zone at Marrett Rd. & Spring St.) reads as follows:

  "To see if the Town will vote to amend the Zoning Bylaw and Map to allow additional uses and density in the commercial district along Marrett Road near Spring Street by creating a new zoning district replacing the existing CN and CS districts; or act in any other manner in relation thereto."
- As noted in the 2018 Warrant:

  "The purpose of the Warrant is to inform citizens of the issues to be discussed and does not provide for detailed information about the Articles."

  The content of the proposals posted online constitute such "detailed information."

(see the Town Meeting website at lexingtonma.gov for the official version of the Warrant)

Proposal Status and Timeline

- On February 28, 2018, the Planning (Zoning) Board closed the Public Hearing on 2018 ATM Article 38 ("the proposal")
- The Planning Board voted to recommend that Town Meeting refer the proposal back to the Board.
- The Planning Board's formal report and recommendation is tentatively scheduled to be voted on at its March 14, 2018 meeting.
- The final version of the proposal is due to be submitted to the Town Manager by March 8, 2018
- The proposal will be presented to Town Meeting members at a Town Meeting Members Association Information Session on March 21, 2018, which is open to the public
- Town Meeting begins on March 26, 2018
- In addition, it should be noted that a neighborhood petition was presented to the Planning Board for its February 28, 2018 Public Hearing
  - 93 signatories from 78 households on 13 streets
  - Opposed Town Warrant Article 38
  - Stated the need for "deliberate and productive discussion" with the owner; and
  - Further stated that "this sweeping zoning change without adequate community input is not appropriate for the neighborhood nor fair to the neighbors"

Proposal Content

- The third and latest version of the proposal issued on February 28, 2018 is reduced in scope compared to the previous two versions
  - Proposes 15 new Principal Uses[1]
  - Limits additional new uses to the CS zone only (i.e, it does not touch the CN zone)
  - Does not alter dimensional controls (e.g., heights of buildings and distances from property lines)
- However, the third proposal
  - Proposes new Principal Uses far beyond what the owner has said is needed to meet leasing challenges
  - Appears to increase density by allowing for buildings greater than 10,000 s.f. in gross floor area
  - Eliminates or nearly eliminates all standards and controls (i.e., restrictions) on development and operations
- At the February 28 Public Hearing, the commercial property owner assured the Board that the current proposal and any future proposals would not change density
- It should, however, be noted that
  - The current proposal does appear to allow for bigger buildings, which would increase density (see above)
  - all 3 versions of the proposal remain posted on the Planning Board's website
  - Amendments to the proposal can reportedly be offered on the floor of Town Meeting, including the substitution of one proposal for another

[1] A "Principal Use" is a category of uses in the Zoning Bylaw that covers multiple uses. For example, the Principal Use "Restaurant" encompasses a restaurant/bar, deli, bakery, coffee shop and more. There are no separate listings in the Bylaw for these subcategories of "Restaurant".

Orientation to the Tables

- The three Tables herein provide a ***quick overview*** of the content of the proposal as well as its possible impacts
- The first two Tables may seem complicated at first, however, they have been designed specifically to make them as readily comprehensible as possible
- Part of the evident complexity of the Tables lies in the complexities of Table 1 of the Zoning Bylaw and the proposal
- Table 1 of the Zoning Bylaw is not for the faint-hearted. Generating the three Tables in this *Guide* took hours of study of the proposal alongside Table 1 and other sections of the Zoning Bylaw
- It is only through doing such detailed study that the proposal can be decoded by a layperson

Summary of Table 1

- Table 1 lists the owner's stated need for 3 new Principal Uses as he has represented to neighbors as needed to meet leasing challenges
- Table 1 also lists the 15 new Principal Uses contained in the proposal itself, representing 5 times the number of new Principal Uses the owner has claimed is needed
- Table 1 also shows that 9 (60%) of the new uses are ones that are *not currently allowed anywhere in the neighborhood commercial district*, including both the CS zone and the CN zone across the street

Summary of Table 1

- Table 1 further shows that the proposal goes far beyond adding 15 new Principal Uses, as far-reaching as that may be
- What the proposal also does, but doesn't say, is that it changes standards (i.e., Development Standards and Operating Standards, which act like controls or restrictions) to all but eliminate controls and restrictions
- Table 1 shows that wherever there is a restriction in the district on a use today (either not allowed or restricted) the restrictions are relaxed or eliminated in the new CSX zone
- That is, for all but one new use (Special Permit for fast-food) all standards are relaxed to become mostly unrestricted or entirely unrestricted
- Residents might be confused because the proposal states that it *adds* 5 new Development Standards. These standards apply to the 3 new Principal Uses for Commercial Offices. Because the use codes that would apply to these 5 Development Standards are "Y" (in 4 cases) and "SP" (in one case), that means that *all but the last restriction are eliminated by right*. The only remaining restriction on Commercial Offices is a requirement for a Special Permit to allow for one company to occupy greater than 50% and up to 100% of floor area in a building.

What Does This Mean?

- What Table 1 means is shown at a more detailed level in Table 2
- Table 2 shows that for 4 key standards (i.e., controls or restrictions) that might be of greatest concern to residents, the proposal eliminates most of them
- The four standards include restrictions on:
  - Size of buildings (i.e., gross floor area)
  - Outdoor operations during business hours
  - Permanent outdoor storage of equipment
  - Permanent outdoor product displays
- Thus, for example, there could be, by right:
  - A furniture store of 10,000 s.f. or more with lawn furniture on permanent display
  - A department store of 10,000 s.f. or more with goods on permanent display
  - A big grocery store, pharmacy, medical clinic or business office, to name a few
- Also, the proposal sets the stage for a big liquor store, restaurant/bar and fast-food restaurant by changing them *from not allowed now to allowed* by Special Permit
- Moreover, the mostly unrestricted uses for the 3 Principal Commercial Office Uses is extraordinary because
  - This extent of freedom from Commercial Office standards is unique for neighborhood commercial zones in Lexington
  - Is not even allowed for CLO (Local Office) zones, the primary zones intended for local offices
  - Is only allowed for peripheral office parks and manufacturing zones along Route 128 that are not neighborhood commercial zones

What Does This Mean?

- Table 2 shows that the only key standard or restriction retained by the proposal is prohibition of permanent outdoor product displays for 8 of the 15 new Principal Uses
- Thus, Tables 1 and 2 together show that the proposal effectively opens the door to virtually unrestricted development for the 15 new Principal Uses in the new CSX zone

What is the Rationale?

- The only rationale offered in the proposal for these sweeping zoning changes is that the “new zoning district will better meet the needs of the surrounding neighborhood”
- However, there is no information in the proposal to substantiate this claim
- There are no studies or focus groups or surveys or polls or other outreach that might show that
- There are now 6 documents the owner has posted on the Planning Board’s website and not a single one explains what the proposal is actually doing, much less why it is doing it

Why is this Important?

- This is a **Town-wide issue**, not just a local neighborhood zoning issue, since commercial property owners in other CS zones in Lexington will possibly wish to have equal treatment and wish to similarly convert their CS zones to CSX
- Also, once the door is opened to personally tailored commercial zoning of this scope and magnitude without the need for actual planning, all neighborhood commercial zones in Lexington, whether CS, CN, CLO (Local Office) or CRS (Retail Shopping), will be at risk of this type of personally tailored zoning
- Real planning takes time and expertise and is a way in which to reduce risks and costs to residents, the Town and its taxpayers as well as ensure sustainable economic development
- Real planning is what has, at least in part, given us the vibrant and beautiful residential community we have today
- By contrast, the type of far-reaching, personally tailored zoning being proposed here is broadly recognized as almost a surefire way in which to make zoning mistakes, increase risks and costs to the Town and have unsustainable economic growth

TABLE 1, LISTS OF NEW PRINCIPAL USES PROPOSED FOR NEW COMMERCIAL ZONE (MARRETT RD. @ SPRING ST.)

Owner 's List of Needed New Principal Uses	Actual List of New Principal Uses in Written Proposal (for CS)	Currently Allowed in CN Zone across the street?	Proposed New Standards By Right in New Zone (CSX)[a]
Medical or Dental office	Medical or Dental office	RESTRICTED	MOSTLY UNRESTRICTED
Deli, Bakery, Coffee Shop	Restaurant/Bar	NO	SPECIAL PERMIT
Business Office	Business Office	NO	MOSTLY UNRESTRICTED
	Apparel	RESTRICTED	UNRESTRICTED
	Fast-food	SPECIAL PERMIT	SPECIAL PERMIT
	Grocery Store	RESTRICTED	UNRESTRICTED
	Other Retail/Pharmacy	RESTRICTED	UNRESTRICTED
	Real Estate Sales	RESTRICTED	MOSTLY UNRESTRICTED
	Artisan Work	NO	UNRESTRICTED
	Department Store	NO	UNRESTRICTED
	Furniture Store	NO	UNRESTRICTED
	Liquor Store	NO	SPECIAL PERMIT
	Medical Office plus Lab	NO	MOSTLY UNRESTRICTED
	Medical Outpatient Clinic	NO	MOSTLY UNRESTRICTED
	Travel Agency	NO	MOSTLY UNRESTRICTED

[a]"Mostly Unrestricted" means permanent outdoor product displays not allowed (see Table 2)

TABLE 2, KEY STANDARDS PROPOSED TO BE ELIMINATED BY RIGHT FOR COMMERCIAL DISTRICT (MARRETT RD. @ SPRING ST.)

Proposed New Principal Use	> 10,000 sf Gross Floor Area	Outdoor Operations	Permanent Outdoor	
			Equipmt. Storage	Product Displays
Business Office	✓	✓	✓	
Medical/Dental office	✓	✓	✓	
Medical Office plus Lab	✓	✓	✓	
Medical Outpatient Clinic	✓	✓	✓	
Real Estate Sales	✓	✓	✓	
Travel Agency	✓	✓	✓	
Apparel	✓	✓	✓	✓
Artisan Work	✓	✓	✓	✓
Department Store	✓	✓	✓	✓
Furniture Store	✓	✓	✓	✓
Grocery Store	✓	✓	✓	✓
Liquor Store	✓	✓	✓	✓
Other Retail/Pharmacy	✓	✓	✓	✓
Fast-food	✓	✓	✓	
Restaurant/Bar	✓	✓	✓	

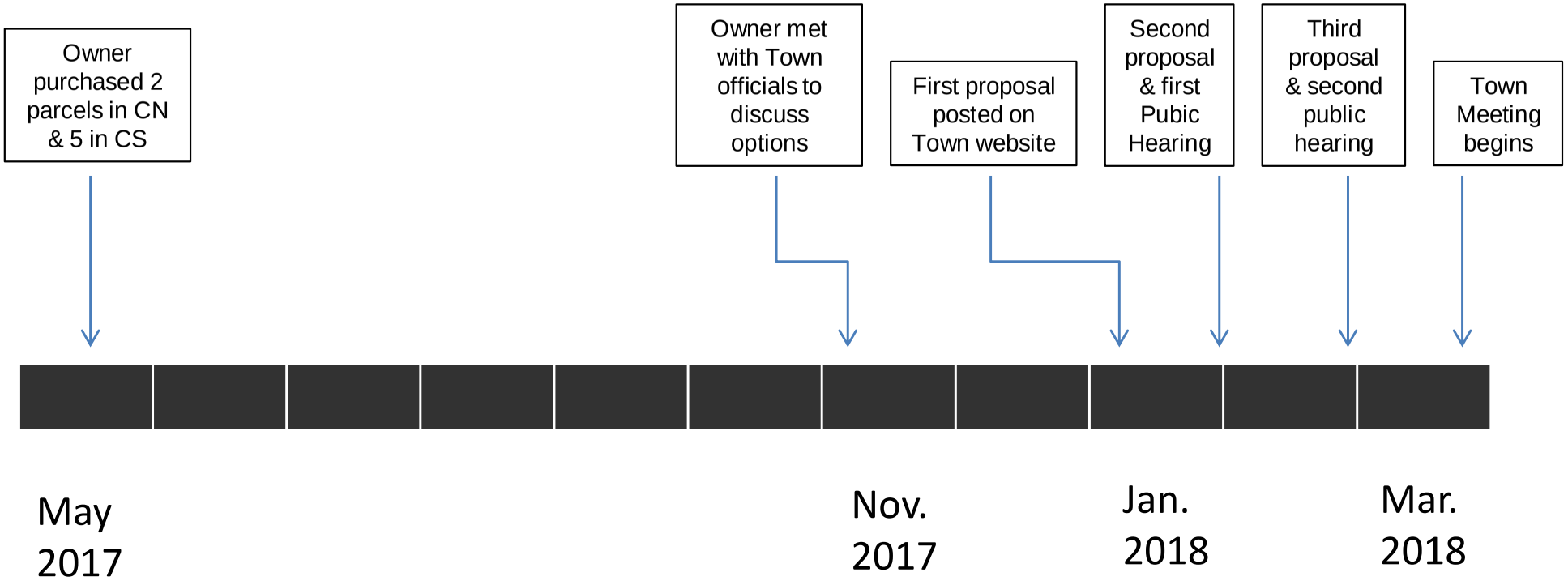
Summary of Table 3

- In planning a new neighborhood commercial zone, it is a best practice to consider not just adding new uses but also deleting uses that no longer make sense for today and for the future
- This consideration, however, isn't taken in this proposal
- Instead, as shown in Table 3, uses such as taxicab garage, auto junk yard and ambulance service would be grandfathered into this neighborhood commercial district embedded in a residential community regardless of whether or not that might make sense
- Most of these uses are not permitted in other neighborhood commercial zones in Town other than CS
- Yet, they will be grandfathered and incorporated into a new CSX zone by this proposal

TABLE 3, SOME PRINCIPALUSES BEING GRANDFATHERED INTO PROPOSED NEW NEIGHBORHOOD COMMERCIAL ZONE (MARRETT RD. @ SPRING ST.)

Some Principal Uses Being Grandfathered into Proposed New Neighborhood Commercial Zone (CSX)	Currently Allowed in other Neighborhood Commercial Zones?
Ambulance service	NO
Auto junk yard	NO
Bus garage	NO
Building materials	✓
Funeral parlor	NO
Gas station	✓
Taxicab garage	NO
7 industrial uses such as machine shop, welding, fuel oil dealer	NO

Chart 1: Timeline of 2018 ATM Article 38 (proposed new commercial zone)



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