

The Morin-Cameron

GROUP INC.

March 22, 2024

Ms. Jacki Byerley, Planner
Andover Planning Board
Town Office
36 Bartlett Street
Andover, MA 01810

RE: Zoning Opinion – HMOD
Town Yard Development – 11 Lewis Street
Andover, MA

Dear Ms. Byerley and Board Members,

I am writing on behalf of Andover Town Yard, LLC regarding the question of applicability of certain sections of the Andover Zoning Bylaw as it relates to the Town Yard Special Permit Application. Specifically, the question has come up regarding whether parking spaces that require cars to back into Pearson Street can be constructed and whether this requires a variance or waiver under the Zoning Bylaw. It is my opinion that a waiver or a variance are not required. As a basis for this opinion, I have reviewed the Andover Zoning Bylaw available on the Town's website dated May 16, 2023. Section 8.5: Historic Mill Overlay District (HMOD) of the Zoning Bylaw is the focus of this letter.

The HMOD spells out the purpose of the overlay district, use, affordability, density, dimensional parking, and design requirements among other things. Section 8.5.1 discusses the underlying zoning and the applicability of the district:

8.5.2. Overlay District.

The HMOD is an overlay district that is superimposed over the underlying zoning district(s), as shown on the Zoning Map.

1. *Underlying Zoning.* The requirements of the underlying zoning district(s) shall remain in full force and effect, except for Projects undergoing development pursuant to Section 8.5. Within the boundaries of the HMOD, a developer may elect to develop a project in accordance with the HMOD, or to develop a project in accordance with the requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

The bylaw section clearly enables a "developer" to select from either the underlying zoning or the HMOD and clarifies that the underlying zoning remains in full force and effect "except" for projects

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undergoing development pursuant to [the HMOD]. If a developer chooses to adopt the HMOD, the provisions of the HMOD shall be followed, not the underlying zoning. The HMOD addresses parking in Section 8.5.9.

Section 8.5.9 addresses structured parking, off-street parking, shared parking, computation of spaces, and loading areas.

8.5.9. Off-Street Parking and Loading Areas.

There are no dimensional controls for parking spaces, aisle widths or how to access parking spaces contained within this section of the HMOD. Other sections of the HMOD explain why.

Section 8.5.1 explains the Purpose of the HMOD:

8.5.1. Purpose

The purpose of the Historic Mill Overlay District (HMOD) is to encourage smart growth, and to foster a range of housing opportunities within mixed-use development projects, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby transportation systems. Other objectives of this Section 8.5 are to:

Later in this section, it elaborates the following objective:

7. Establish development standards to allow context-sensitive design and creative site planning; and

The intent of the HMOD is to provide flexible design in an effort to promote compact design, preserve open space and provide a variety of transportation options. Adherence to the parking regulations of the underlying zoning would be counter to this purpose. Later in the bylaw, parking is addressed in Section 8.5.7 as it relates to design objectives. There are 2 objectives that apply to parking:

5. Minimize the visual impact of parking areas;
6. Assure safe interior circulation within its site by separating pedestrian, bike, and vehicular traffic;

I want to first discuss visual impacts of the parking proposed at Town Yard, item 5. Off-street parking on Buxton Court, near the proposed dog park, is well screened from vehicles from both directions. The interior parking spaces adjacent to the plaza are well screened as you enter the site from Pearson Street, while not obstructing sight lines at the intersection. The parking spaces proposed along Pearson Street are for public access to the open space and community building. These spaces will be visible from Pearson Street due to the nature of their being dedicated to public use. While discussion is certainly welcome about their design, this section does not prohibit them.

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Item 6 addresses safety of interior circulation. Like Item 5, this section does not prohibit certain best design practices. Rather it states that pedestrian, bike, and vehicular circulation should be safe. While this is discretionary, it again does not prohibit parking spaces along Pearson Street.

Finally, Section 8.5.10.3 addresses waivers.

3. *Additional Submittals.*

- a. *Waivers.* At the written request of the applicant, the Planning Board may waive certain dimensional, design and other requirements as stated in this Section 8.5 (unless expressly prohibited), in the interests of design flexibility and overall project quality, if it finds that the project is consistent with the overall purpose and objectives of the HMOD, or if it finds that the requested waiver will allow the project to achieve a high quality design incorporating a desired mix of open space, affordability, a mix of uses, and/or physical character.

As is the theme throughout the rest of the HMOD bylaw, this provision is for waivers under the HMOD to ensure the approving authority has ultimate discretion in design flexibility. In this case, waivers to parking requirements are not required.

In conclusion, once a developer chooses to develop under the HMOD, the provisions of the HMOD apply and the underlying zoning does not. While the HMOD provides for discretion in design, it does not prohibit the construction of parking spaces that back into Pearson Street. These parking spaces do not require a waiver or variance. They require due diligence by technical professionals, town staff and parties of interest to ensure that they are safe for pedestrians, bikes, and vehicles.

We look forward to discussing this further with the Board at an upcoming meeting.

If you have any questions, please do not hesitate to contact me at (978) 777-8586.

Sincerely

THE MORIN-CAMERON GROUP, INC.



Scott P. Cameron, P.E.

Vice-President

Attachments

cc: Andover Town Yard, LLC