

Sec. 4.2. Mixed Use Districts

4.2.1. District Intent

- A. Mixed Use 1 and 2 District.** [Reserved]
- B. Mixed Use 3/Transit-Oriented Development.** The purpose of the Mixed-Use 3/Transit-Oriented district is to allow the development of a mixed-use center on a parcel of no less than 911 acres near the terminus of a mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect the Newton Lower Falls and Auburndale neighborhoods from impacts of development, allow sufficient density to make development economically feasible while ensuring that the district is appropriately designed and scaled, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.
- C. Mixed Use 4 District.** The purposes of the Mixed Use 4 district are to:
1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
 2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
 3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
 4. Expand the diversity of housing options available in the City.
 5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

(Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-6, 10/01/12)

4.2.2. Dimensional Standards

A. Applicability.

1. The density and dimensional controls in Sec. 4.2.2 and Sec. 4.2.3, apply to all buildings, structures and uses in each of the listed districts.
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

Mixed Use District	MU1	MU2	MU3/TOD	MU4
Lot Area Per Unit	10,000 sf	10,000 sf	1,200 sf	1,000 sf

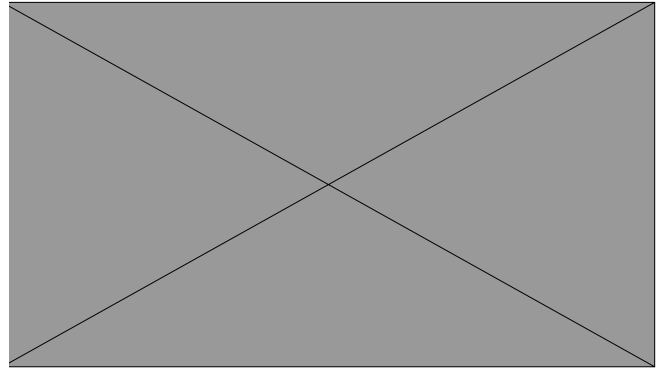
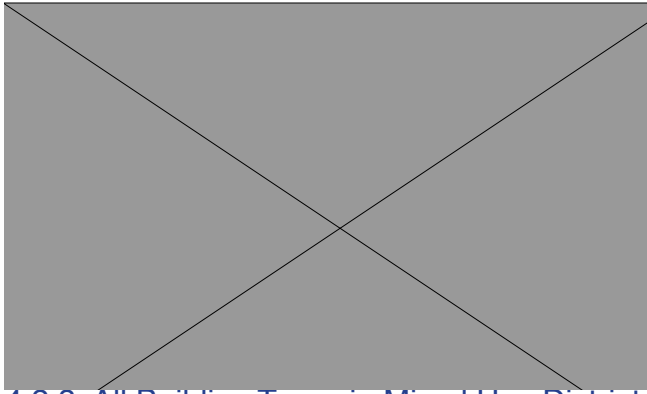
3. Where a density or dimensional control is not set forth in the following tables for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the City Council.

B. Approval Process.

1. **Special Permit Required.** A special permit is required for any development in a mixed use district of 20,000 square feet or more.
2. **Site Plan Review Required.** A site plan is required for any development in a mixed use district that ranges from 10,000 to 19,999 square feet of new gross floor area. After August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings, structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.
3. **Stories.** A special permit is required based on stories according to the following table:

Stories	MU1	MU2	MU3/TOD	MU4
2 stories	P	P	NA	P
3 stories	P	SP	NA	--
3 stories, mixed use residential	NA	NA	NA	P
4 stories	SP	SP	NA	SP
5 stories, mixed use residential	NA	NA	NA	SP

P = Allowed by Right
 SP = Special Permit by City Council Required
 NA = Not Applicable, -- Not Allowed



4.2.3. All Building Types in Mixed Use Districts

Mixed Use Districts	MU1	MU2	MU3	MU4
Lot Dimensions				
Ⓐ Lot Area (min)				
2 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
3 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
4 stories	40,000 sf	10,000 sf	9 ac	10,000 sf
5 stories	--	--	9 ac	10,000 sf
Ⓑ Lot Coverage (max)	--	--	--	--
Ⓒ Beneficial Open Space	--	--	n/a by right; 15% by special permit	See Sec. 4.2.5
Building Setbacks				
Ⓓ Front (min)				
1 story	15'	15'	See Sec. 4.2.4	See Sec. 4.2.5
2 or more stories	total ht of bldg	total ht of bldg		
Parking Setback	20'	15'		
Ⓔ Side (min)				
Abutting residential or Public Use district	Greater of ½ bldg ht or 20'	Greater of ½ bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	7.5'		
Parking setback	5'	5'		
Ⓕ Rear (min)				
Abutting residential or Public Use district	Greater of ½ bldg ht or 20'	Greater of ½ bldg ht or 20'	See Sec. 4.2.4	See Sec. 4.2.5
Not abutting residential or Public Use district	7.5'	0'		
Parking setback	5'	5'		
Building and Structure Height				
Ⓖ Height (max)				
2 stories	36'	24'	36' by right;	24'
3 stories	36'	36'	135' by	36'
4 stories	48'	48'	special permit	48'
5 stories	--	--		60'
Ⓖ Stories (max) see also Sec. 4.2.2	3	4	4	8
Floor Area Ratio				
Floor Area Ratio (max)				
2 stories	1.50	1.00	up to 36' = 1.0	1.00
3 stories	1.50	1.50	up to 135' =	1.50
4 stories	2.00	2.00	2.4	2.00
5 stories	--	--		2.50

* Average setback is described in [Sec. 1.5.3](#)

-- Not Allowed

4.2.4. Additional Standards in MU 3/TOD

Any development permitted by special permit must meet the following requirements and the requirements of Sec. 4.2.3. The City Council may grant a special permit to allow exceptions to the by-right dimensional standards of the MU 3/TOD, provided that the requirements of this Sec. 4.2.4. are met and no dimension exceeds those allowed in Sec. 4.2.3 for the mixed-use development special permit.

A. Building Height and Setbacks. Buildings in the MU3/TOD district must conform to the following: ~~Any structure or building must be set back a distance equal to at least half the height of that structure or building from any lot line, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a Commonwealth of Massachusetts instrumentality, the setback may be 0 feet for nonresidential uses. To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks. In accordance with the procedures provided in Sec. 7.3, the City Council may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.~~

1. Grove Street Corridor Building Height. The following rules apply to buildings along the Grove Street Corridor according to the area in which they are located as shown in Figure x.x.

- a. For the purposes of this section 4.2.4.A.1 building height for those buildings in areas A through E is measured as the vertical distance between the lowest grade of the Grove Street right of way closest to the subject building at a point perpendicular to the subject building to the highest point of the roof. For all other areas in the MU3/TOD district, height is measured as described in Section 1.5.4.
- b. The following maximum building heights apply within the different areas as shown in Figure x.x:
 - i. Area A. 74 feet, provided that the top story is set back a minimum of 10 feet

from the building facade along Grove Street.

- ii. Area B. 64 feet, provided that the top story is set back a minimum of 10 feet from the building facade along Grove Street.
 - iii. Area C. 50 feet.
 - iv. Area D. 55 feet.
 - v. Area E. 76 feet, provided that the top story is set back a minimum of 10 feet from the building facade along Grove Street.
 - vi. Area F. 70 feet.
- c. For the purposes of this section 4.2.4.A.1, height excludes parapets, HVAC equipment, elevator overrides and elements, stair towers, and the exclusions from height set forth in Section 1.5.4.A.1.a through d.
 - d. Height Modifications. A special permit may be granted to allow for increases in building height in the Grove Street Corridor areas A through F of no more than 4 feet if the City Council finds that the proposed buildings are consistent with, and not in derogation of, the size, scale, and design of other structures.

2. Height Generally. Buildings in the MU3/TOD district must not exceed the 170 foot height limit, including all rooftop mechanical equipment, whether or not enclosed.

3. Grove Street Corridor Setback.

- a. The setback along Grove Street is 25 feet excluding those portions of Grove Street that are part of a state highway right-of-way or land owned by a Commonwealth of Massachusetts instrumentality.
- b. Balconies and canopies may project into the setback.
- c. By special permit, the setback in areas C, D, and E may be reduced to 20 feet if it is determined that the proposed setback is adequate to protect abutting uses.

d. There are no other required setbacks in the MU3/TOD district.

4. Building Spacing. A principal building that fronts on Grove Street must be a minimum of 15 feet from any other principal building in the district that also fronts on Grove Street.

B. **Beneficial Open Space.** At least ~~50 percent~~ 42,450 square feet of the beneficial open space required by Sec. 4.2.3 for a mixed-use development must be freely open to the public. Any portion of the beneficial open space designated as open to the public must be:

1. At least 400 square feet and at least 20 feet in width and 20 feet in length;
2. Not on rooftops or other elevated portions of buildings; and
3. Designed to accomodate public congregation and use, including any necessary amenities or infrastructure. Examples of such spaces include plazas, parks, playgrounds, playing fields, and community gardens.

C. **Exclusion of Public Structures from Zoning Requirements.** Any portion of a development parcel for the proposed development owned by a Commonwealth of Massachusetts instrumentality and devoted to a governmental function from which the general public is excluded (including, but not limited to, a rail yard, maintenance facility, or railroad right-of-way) and any portion of a building or structure ~~dedicated for public use used or leased~~ by a State instrumentality (such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority, or office space up to 10,000 square feet) shall not be included in the calculation of:

1. The quantity of beneficial open space required;
2. Minimum lot area; or
3. Gross Floor area ratio Area.

D. **Impacts of Takings by or Conveyances to a Public Entity.** The provisions of Sec. 7.8.4 shall apply to any taking by or conveyance of land within the development parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

E. **Establishment of a Development Parcel.** The area developed under a special permit must be

organized into a development parcel as defined in Article 8. The development parcel may contain more than 1 lot or a portion of a lot, together with any easement areas located on adjacent parcels of land. The provisions of this Chapter shall apply to the development parcel as it exists on the date that the special permit is granted as if the development parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit, the ownership may be further divided (subject to the establishment of an organization of owners defined below) and any interior lot lines shall be disregarded for zoning purposes. The development parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the resulting development parcel is not less than 9 11 acres in size and does not create or expand any nonconformities.

F. **Intensity of development.**

1. The development must have at least one use from each of the three categories (A, B, and C) plus a community use space.
 - a. Category A: Office (including research and development, business incubator, medical office, and other similar uses);
 - b. Category B: Retail sales, personal services, restaurants, banking, health club, place of entertainment and assembly, theater, lodging, hotel, motel; and
 - c. Category C: Multi-family, live/work space, single room occupancy, single person occupancy, assisted living, nursing home.
2. Notwithstanding paragraph G. below, any development that proposes an aggregate gross floor area of 20,000 or more square feet among all buildings within the development parcel shall require a special permit for a mixed-use development.

G. Maximum Gross Floor Area. The total gross floor area of all uses in the MU3/TOD district must not exceed 1,025,000 square feet. The total square footage of Category C uses must comprise no less than 60 percent of the total square footage of Categories A, B, and C uses. Category A uses must not exceed 300,000 square feet of gross floor area. The square footage in each category shall not exceed the maximums listed below, except, where approved by special permit, the maximums may be adjusted

~~by up to 10 percent in each category, so long as the total gross floor area of all uses, excluding accessory parking, does not exceed 580,000 square feet;~~

- ~~1. Category A shall not exceed 225,000 square feet (excluding offices incidental to residential, retail or community uses) the majority of which must be contained within one structure;~~
- ~~2. Category B shall not exceed 20,000 square feet, excluding those uses that are accessory to a use listed in Category A or C as determined by the Commissioner of Inspectional Services;~~
- ~~3. Category C shall not exceed 335,000 square feet not to exceed 290 dwelling units.~~

H. Organization of Owners. Prior to exercise of a special permit, an organization of all owners of land within the development parcel, except for owners of land subject to easements benefiting the mixed-use development, shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the City or its representatives regarding compliance with this Chapter. The organization shall serve as the liaison between the City and any owner, lessee, or licensee within the development parcel governed by a special permit. Such organization shall be the primary contact for the City in connection with any dispute regarding violations of this Chapter and, in addition to any liability of individual owners, shall have legal responsibility for compliance of the development parcel with the terms of the special permit for a mixed-use development, site plan approval, and other applicable provisions of this Chapter. In addition, any special permit shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and the organization of owners to assure continued compatibility of the uses and activities within the development parcel and its neighbors during and after construction. Membership of this advisory council shall be provided for in the special permit and shall be structured to ensure all neighborhood interests are represented.

I. Vehicular Access. Any development in the MU3/TOD district must provide for vehicular access with the following requirements and limitations:

1. Must provide a minimum of 2 primary means of vehicular non-emergency access.

2. No means of vehicular non-emergency access shall be located within 450 linear feet along Grove Street from the northeast corner of the development parcel.
3. 1 of the primary means of vehicular non-emergency access must provide access to and from Route 128/I-95 northbound without utilizing Grove Street.

(Ord. No. Z-108, 04/17/12)

4.2.5. Additional Standards in MU4

A. Design Standards for the Mixed Use 4 District.

Notwithstanding any provisions of this Article to the contrary, buildings and structures in the Mixed Use 4 district shall conform to the following standards:

- 1. Height.** Buildings in the Mixed Use 4 district shall be a minimum of 2 stories and shall conform to the limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 4 stories and 48 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district.
- 2. Mixed-Use Residential Incentive.** Buildings that meet the definition of mixed-use residential buildings shall conform to the specific limits for building height and stories established in Sec. 4.2.3. The City Council may grant a special permit to allow up to 5 stories and 60 feet of building height by finding that the proposed structure is compatible in visual scale to its surroundings, does not adversely affect its surroundings by creating shadows or blocking views, and advances the purposes of this district.
- 3. Residential Density.** The City Council may grant a special permit to waive the lot area per dwelling unit requirement of Sec. 4.2.3, by finding that the proposed density creates a beneficial living environment for the residents, does not adversely affect the traffic on roads in the vicinity, and better achieves the purposes of this district than strict compliance with these standards.

7.3.5. Special Requirements in MU3/TOD

A. Additional Filing Requirements. In addition to the provisions of Sec. 7.3 and Sec. 7.4, applicants for a special permit under Sec. 4.2.4 shall submit:

1. ~~Conceptual Plans. Prior to submittal of an application for a special permit in the Mixed-Use 3/Transit-Oriented Development (MU3/TOD), which will include subsection 2. to 12. below, applicants shall present conceptual plans for review by the Land Use Committee of the City Council at a public meeting. The Land Use Committee shall provide a forum for a public presentation whereby the Land Use Committee and public may ask questions, gain an understanding of the project proposal, and provide feedback that can inform further development of the project. Submittal for conceptual review shall not require engineered plans, but shall include the following:~~
 - a. ~~Project description, including project purpose or design rationale;~~
 - b. ~~Project statistics, including zoning, current and proposed uses on site, total square footage for each use proposed, area to be covered by structures, FAR, number of bedrooms in all dwelling units, percentage of affordable units, percentages of open space with breakdown of beneficial and publicly-accessible open spaces;~~
 - c. ~~Preliminary site plan, including dimensioned property lines and all building setbacks and building footprints, impervious surfaces, location of waterways, top of bank and distance from waterways, proposed demolitions, location and number of parking spaces, landscaping and open spaces, trees to be removed, any access proposed to adjacent public property, whether or not it is currently available for public use, north arrow and scale; and~~
 - d. ~~Other information as may be requested by City staff to perform a zoning review and preliminary impact analyses;~~
2. A 3D computer-generated model that shows the relationship of the project to its surroundings consistent with Sec. 7.3.1.B.;
3. Narrative analysis describing design features intended to integrate the proposed mixed-use development into the surrounding neighborhood, including the existing landscape, abutting commercial and residential character and other site-specific considerations, as well as an explanation of how the proposed mixed-use development satisfies each criterion in Sec. 7.3.6.B.;
4. Statement describing how the beneficial open space areas, to the extent open to the public, are intended to be used by the public;
5. Site plans showing any by right or zoning-exempt alternatives;
6. A roadway and transportation plan reflecting the "EOEEA Guidelines for EIR/EIS Traffic Impact Assessment" with further attention to public transportation and exceptions, subject to review by the Commissioner of Public Works, Director of Planning and Development, and peer review consultants. The plan should include the following:
 - a. Graphic and narrative description of existing and proposed means of access to and within the site, including motor vehicular, pedestrian, bicycle, and public or private transportation alternatives to single-occupant vehicles.
 - b. Description of a proposed transportation demand management (TDM) program identifying commitments, if any, to a designated TDM manager, employer contributions to employee public transportation passes, shuttle bus capital contribution, car pool, van pool, guaranteed ride home, flex hours, promotional programs, support for off-site pedestrian and bicycle accommodations, and similar efforts.
 - c. Detailed analysis and explanation for the maximum peak hour and daily motor vehicle trips projected to be generated by the mixed-use development, documenting:
 - i. The projected base volume of trips to and from the mixed-use development based upon the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers or other sources, such as comparable projects in Newton or nearby communities, acceptable to

- the Commissioner of Public Works and Director of Planning and Development;
- ii. The projected adjusted volume of trips net of reductions resulting from internally captured trips; access by public transport, ridesharing, walking or biking; and through the TDM program cited above; but without adjustment for “pass-by” trips, and noting how those reductions compare with the mixed-use development guideline of adjusted volume being at least 10 percent below the base volume on weekday evening peak hours;
 - iii. The means of making mitigations if it is found pursuant to the monitoring under Sec. 7.3.6.D5.E. and Sec. 7.3.6.E. that the trips counted exceed the projected adjusted volume by 10 percent or more; and
 - iv. The projected trip reduction adjustment based on “pass-by” trips for use in projecting impacts on street traffic volumes.
- d. Analysis of traffic impacts on surrounding roadways, including secondary roads on which traffic to the mixed-use development may have a negative impact, analysis of peak traffic flow and circulation within a proposed development project, and analysis of traffic impacts during site-specific high-traffic events, such as Red Sox home games. Results are to be summarized in tabular form to facilitate understanding of change from pre-development no-build conditions to the build-out conditions in trip volumes, volume/capacity ratios, level of service, delays, and queues. Analysis shall include:
- i. The assumptions used with regard to the proportion of automobile use for travel related to the site, the scale of development and the proposed mix of uses, and the amount of parking provided; and
 - ii. Analysis of projected transit use and description of proposed improvements in transit access, frequency and quality of service.
- e. All transportation-related studies, reports, submissions, or filings required to be submitted to any state or federal agency in connection with a proposed mixed-use development, including those required as a result of any required or proposed roadway changes or traffic mitigation measures.
7. A shared-parking analysis that demonstrates that the number of parking spaces to be provided is appropriate to the context, taking into consideration the mix of uses; the demand for parking spaces at different times of day, week, and year; availability of alternative modes of transportation; and other site- specific influences on parking supply and demand, such as, but not limited to, Red Sox home games.
 8. Water, sewer, and storm water impact analysis. The analysis shall be subject to review by the Commissioner of Public Works, Director of Planning and Development, and peer review consultants and shall include the following:
 - a. A study of the proposed project’s surface water runoff relating to the Charles River and associated deep marsh system that shows how all storm water will be infiltrated on site, and which explores all feasible methods of reducing impervious surfaces, including underground parking and/or more compact site layouts, as well as the possibility of roof water harvesting for irrigation reuse, including:
 - i. A conceptual drainage plan demonstrating the consistency of the drainage infrastructure plan with the Massachusetts Department of Environmental Protection’s “Stormwater Management Handbook” and the City’s “Requirements for On-Site Drainage (Stormwater Management)”;
 - ii. A drainage analysis based on the City’s 100-year storm event of seven inches over a 24 hour period, showing how runoff from impervious surfaces will be infiltrated on-site;
 - iii. An on-site soil evaluation identifying seasonal high groundwater elevation and percolation rate and locations of these tests shown on the site plan;

- iv. If a connection to the City's drainage system is proposed, a closed-circuit television (CCTV) inspection, prior to approval of this permit, which shall be witnessed by the Engineering Division of Public Works; the applicant shall provide the City inspector with a video or CD prepared by a CCTV specialist hired by the applicant. A post-construction video inspection shall also take place and be witnessed as described above; and
 - v. An evaluation of hydraulic capacity of the downstream drainage system submitted to the Engineering Division of Public Works to determine any impact to the municipal drainage system.
- b. A master plan and schedule of the sanitary sewer system improvements, including:
- i. A plan showing a reduction in infiltration and inflow into the sanitary sewer system to the satisfaction of the Commissioner of Public Works;
 - ii. A calculation of the life cycle cost of the proposed sanitary system;
 - iii. A quantitative analysis of the capacity to dispose, verified by the Massachusetts Water Resource Authority (MWRA); and
 - iv. A study showing how the developer will comply with the City's cross connection control program relating to sewer and drain pipes.
- c. A 21E Environmental Site Investigation Report that evaluates the site for any contaminants related to underground fuel or oil tanks, creosote, leachate from existing trolley tracks, cleaning and/or washing facilities, or local dry wells.
- d. A solid waste master plan, including a detailed explanation of how the uses will control solid waste through reduction, reuse, recycling, compaction and removal that demonstrates compliance with Revised Ordinances Chapter 11, Recycling and Trash, and the Massachusetts Department of Environmental Protection Waste Ban. The plan shall provide estimates of the expected solid waste generation by weight and volume for each of the uses proposed for the site with consideration to peak volumes.
- e. A quantitative analysis that demonstrates that the water demands of the proposed development will not overburden the water supply of existing infrastructure provided by the City, including fire flow testing for the proposed fire suppression system, as well as domestic demands from the entire development. The applicant must coordinate this test with both the Fire Department and Utilities Division of Public Works; representatives of each department shall witness the testing and test results shall be submitted in a written report. Hydraulic calculations shall be submitted to the Fire Department for approval. Hydraulic analysis for both domestic and fire suppression will be required via hydraulic modeling in a format acceptable to the Director of Utilities.
9. Fiscal impact analysis that includes new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.
10. Preliminary construction management plan including: Proposed phasing schedule, including infrastructure improvements.
- a. Proposed phasing schedule, including that for infrastructure improvements;
 - b. Mitigation of construction impacts from any development and associated roadway improvements on Newton Lower Falls and Auburndale; and
 - c. Accommodation of parking and other needs of commuters using the MBTA station during construction.
11. Shadow study showing shadow impacts on the surrounding properties for four seasons at early morning, noon, and late afternoon.
12. Submittal in electronic form of all documents required by Sec. 7.3 and Sec. 7.4 and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant to the City Council and pertaining to the special permit application, unless the applicant demonstrates to the

satisfaction of the Director of Planning and Development that electronic submission or compliance with that standard is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS “Standard for Digital Plan Submittal to Municipalities,” or successor standard. Electronic submission must be contemporaneous with submission by any other means. The Director of Planning and Development will arrange to have electronically submitted documents posted on the City website within a reasonable time after receipt.

- B. Review Criteria.** The provisions of Section 7.3.3 apply to all special permit applications in the MU3/TOD district. No special permit may be granted unless all of the criteria set forth in Section 7.3.3.C are met, including but not limited to Section 7.3.3.C.2, which states that, “The use as developed and operated will not adversely affect the neighborhood.” As applied in the MU3/TOD district, the neighborhood to be considered includes Newton Lower Falls and Auburndale.

Additional special permit criteria for a mixed-use development in the MU3/TOD district. In granting a special permit for a mixed-use development under Sec. 4.2.4, the City Council shall not approve the special permit unless it also finds, in its judgment, that the proposal meets all of the following criteria in addition to those listed in Sec. 7.3.3:

1. **Not inconsistent with the City’s Comprehensive Plan.** The proposed mixed-use development is not inconsistent with the City’s Comprehensive Plan in effect at the time of filing an application for a mixed-use development and applicable general laws relating to zoning and land use.
2. **Housing, Public Transportation, Parking, and Utility Infrastructure Improvements.** The proposed mixed-use development offers long-term public benefits to the City and nearby areas including:
 - a. Improved access and enhancements to public transportation;
 - b. Improvements to parking, traffic, and roadways;
 - c. On- and off-site improvements to pedestrian and bicycle facilities, particularly as they

facilitate access to the site by foot or bicycle;

- d. Public safety improvements;
 - e. On-site affordable housing opportunities, except where otherwise allowed in Sec. 5.11; and
 - f. Water, sewer, and storm water infrastructure improvements which increase capacity and lower impacts on the surroundings.
3. **Fiscal Impacts.** The proposed mixed-use development has a positive fiscal impact on the City after accounting for all new tax revenue and expenses related to, but not limited to, school capacity, public safety services, and public infrastructure maintenance.
 4. **Improved Access Nearby.** Pedestrian and vehicular access routes and driveway widths are appropriately designed between the proposed mixed-use development and abutting parcels and streets, with consideration given to streetscape continuity and an intent to avoid adverse impacts on nearby neighborhoods from such traffic and other activities generated by the mixed-use development as well as to improve traffic and access in nearby neighborhoods.
 5. **Enhanced Open Space.** Appropriate setbacks, buffering, and screening are provided from nearby residential properties; the quality and access of beneficial open space and on-site recreation opportunities is appropriate for the number of residents, employees and customers of the proposed mixed-use development; and meaningful bicycle and pedestrian connections to open spaces, recreational areas, trails, and natural resources, including the banks of the Charles River and adjacent public property, whether or not they are currently available for public use, are provided and take full advantage of the unique opportunities of the site and its nearby natural features for use and enjoyment by the community at large.
 6. **Excellence in Place-Making.** The proposed mixed-use development provides high quality architectural design and site planning so as to enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the mixed-use development and its surroundings.

7. Comprehensive Signage Program.

Notwithstanding the requirements of Sec. 5.2, all signage for the proposed mixed-use development shall be in accordance with a comprehensive signage program developed by the applicant and approved by the City Council, which shall control for all purposes, shall supersede any other sign requirements, and shall be complementary to the architectural quality of the mixed-use development and character of the streetscape.

8. Pedestrian Scale. The proposed mixed-use development provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation; features buildings with appropriately spaced street-level windows and entrances; includes appropriate provisions for crossing all driveway entrances and internal roadways; and allows pedestrian access appropriately placed to encourage walking to and through the development parcel.

9. Public Space. The proposed mixed-use development creates public spaces as pedestrian-oriented destinations that accommodate a variety of uses, promote a vibrant street life, make connections to the surrounding neighborhood, as well as to the commercial and residential components of the mixed-use development, to other commercial activity, and to each other.

10. Sustainable Design. The proposed mixed-use development at least meets the energy and sustainability provisions of Sec. 7.3.3.C.5. and Sec. 7.4.5.B.8.

11. Adequacy of Parking. Parking for the site is appropriate to the intensity of development, types of uses, hours of operation, availability of alternative modes of travel and encourages the use of alternatives without over-supplying parking.

12. Pedestrian and Neighborhood Considerations. If the proposed mixed-use development project proposes any of the measures listed below, and if such measures, singly or in combination, create a negative impact on pedestrians or surrounding neighborhoods, the applicant has proposed feasible mitigation measures to eliminate such negative impact:

- a. Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
- b. Removal of pedestrian crossing, bicycle lanes, or roadway shoulder;
- c. Traffic signal additions, alterations, or roundabouts; and
- d. Relocation or alterations to public transport access points.

13. Accessible Design. Consideration is given to issues of accessibility, adaptability, visitability, and universal design in development of the site plan.

14. Post Construction Traffic Mitigation Measures. The traffic mitigation measures set forth in the special permit application pursuant to Section 7.3.5.A.6.c.iii, if required to be implemented, are expected to allow a development project in the MU3/TOD district to meet the trip generation standards set forth in Section 7.3.5.E.1.c.

15. Construction Impacts. The preliminary construction management plan includes appropriate mitigation of construction impacts of development, including any roadway changes, to the neighborhoods of Newton Lower Falls and Auburndale, and accommodates the parking and other needs of commuters using the MBTA station during construction.

C. Project Phasing. Any development subject to a special permit under Sec. 4.2.4 may be built in multiple phases over a period of time, in accordance with the terms of the special permit granted, provided that all off-site improvements and enhancements to public roadways are completed prior to issuance of any occupancy permits.

D. Adequacy of Public Facilities.

1. Transportation, utilities, water, sewer and storm water infrastructure, public safety, schools including capacity, and other public facilities and infrastructure shall serve the mixed use development appropriately and safely and without deterioration in service to other locations. To determine the adequacy of public facilities, impact studies of the following must be undertaken by the applicant as part of the special permit application process under Sec. 4.2.4 with the project scope determined by the