



 JOINT PUBLIC HEARING

Tuesday evening, July 6, 2021. Joint Public Hearing of the City Council and Planning Board, held in the City Council Chamber, was called to order by President Elizabeth Kazinskas at 7:00 o'clock p.m. for the purpose to consider amending the Code of the City of Gardner, Chapter 675, Section 530, entitled "Development Overlay District 1".

President Elizabeth Kazinskas read aloud the Public Hearing Notice, as follows:

CITY OF GARDNER
NOTICE OF JOINT PUBLIC HEARING
ZONING AMENDMENTS

Pursuant to M.G.L. c.121A §6B, notice is hereby given that the Gardner City Council and Planning Board will hold a joint public hearing on **Tuesday, July 6, 2021 at 7:00 P.M** in the City Council Chamber, City Hall 2nd Floor, 95 Pleasant Street, Gardner, MA 01440, to consider amending the Code of the City of Gardner, Chapter 675, Section 530, entitled "Development Overlay District1". The proposed Amendment is available for viewing in the City Clerk's Office, the Department of Community Development & Planning (DCDP), or on the City Council's webpage - <https://www.gardner-ma.gov/324/City-Council> under *Informational Documents*. All Persons interested in this matter and desire to offer testimony are invited to attend the hearing.

TITI SIRIPHAN
 CITY CLERK

City Clerk Titi Siriphan called the Roll. Present were:

Members of the City Council (9)

Elizabeth Kazinskas, President
 James S. Boone
 Nathan R. Boudreau
 Craig R. Cormier
 Ronald F. Cormier
 Aleksander Dernalowicz
 Scott Joseph Graves
 Karen Hardern
 George Tyros

Members of the Planning Board (4)

Mark M. Schafron Chairman
 Robert J. Bettez
 Paul A. Cormier
 Stephen E. Cormier
 Robert J. Swartz

JOINT PUBLIC HEARING

President Elizabeth Kazinskas announced that Community Development Director Trevor Beauregard is here and request that he speak on this item.

Director Beauregard said that the Planning Board met on May 11th regarding the issue for the first time. The Planning Board felt that they did not have sufficient information to make a recommendation on the recent amendment request. The board has since not receive any other additional information when they met again at the June 8th meeting. The board recommended not approving for sending a recommendation to the City Council for lack of information.

President Kazinskas asked if Councillor Graves would like to speak since this was his amendment.

Councillor Scott Joseph Graves said “Thank you President Kazinskas, I appreciate everybody from Planning Board for coming. I feel responsible for all you guys coming out, so thank you for that. Director Beauregard, is correct I wasn't quite clear why the planning board needed more information because it's pretty simple and obvious and it's in our packet for tonight, so everybody knows what I'm talking about. What happened was that there was a developer who wanted to develop the property at 525 Parker Street. I believe it was treatment development that was just recently last fall. The developer came to the City Council, not the Planning Board, came to the City Council because the developer needed a zoning amendment. The confusion started because the developer and somebody else was actually requesting a renewal of an overlay district that the City Council had granted in 2006. The Welfare Committee got the referral from the City Council so we're looking at it and where do you start? You start by trying to figure out exactly what the developer is looking for in this case the developer wanted to build a multi multi-family homes on that property. We go to the ordinance book chapter 675-530. That's where the development overlay district that they're requesting is contained. In that section, multi-family use is allowed. The citizen and the developers looking at our city code book and that's already allowed. Why do I have to go to the city council? It's already been allowed 2006. You could do a multi-family, why am I going to the city council? We're asking ourselves, why are they coming to us when they can already do this? Come to find out in 2006, the city council, not the planning board, the city council put conditions on that overlay district. The conditions were that they could only do three and four unit condominiums. We had no idea that happened. I was on the city council at the time but i didn't remember. The thing is, how do I find out what these conditions are? There is no way to find out because you go to the code book. That's where everything has to be contained. By the way, everything has to be updated by the city, any zoning ordinance, amendments, has to be contained in that code. This one was not contained in the code book. It's still not contained in the code book and it's not on the zoning map, unless you guys just

JOINT PUBLIC HEARING

put it in the last couple of weeks. That overlay district is not on the zone map. No one would have any idea one where development overlay districts are located in the city. Director Beauregard, can correct me if I'm wrong, I think this is the only development overlay district? This one is not on a zoning map and it's not in the code book. I couldn't get my hands on the 2006 vote by the city council. Finally former City Clerk Alan Agnelli dug it out for me and I looked at the votes and that's exactly what it said. The city council set these conditions. Now this had nothing to do with the planning board. It's all city council stuff, which should be in the code book and it's not. Then I finally got my hands on it after our Welfare Meeting and then I figured out what was going on. They wanted to do the multi-family which is allowed in that district but it wasn't allowed for their specific development because they had conditions set by the city council in 2006. My ordinance here, my proposal here is to simply at the end of the section, you all have in your packet, that the section has 675-30 goes up to 'G' and I propose to add "H" saying these are the overlay districts in the city and if there's any conditions associated with the overlay district, they'll be listed. If any developer or any citizen wanted to challenge you and you were an abutter or you lived around that neighborhood, you're a citizen and you wanted to object to that development, you could have went right to the zoning with my amendment, if passed. This you could have went right to the zoning book. As of right now, you have no idea the citizen, the developer have no idea if that if that particular section of the city got an overlay district and if it did what the conditions are. This is my proposal, simply giving the citizen, in compliance with our obligation to do so, information about the full comprehensive extent of our zoning ordinances and keep it updated. I just thought it was a housekeeping matter. The condition is not going to be every condition that the planning board puts on. The only conditions are going to be there and it's probably going to be rare like this one. Rare ones that the city council places a restriction or condition on. Everything would be found in one place. The City Clerk had to go to the vault to find this so and that's ridiculous. We should just have it all in one place. That's my idea, it's not earth shattering, it's not the biggest ordinance in the world, I just thought it was kind of a housekeeping and a good idea so that the citizens would have all the information in one place."

President Kazinskas opened up the hearing to the public attending and asked twice if there is anyone here from the public who would like to speak or ask questions on the topic of this public hearing.

No one from the public spoke.

Councillor James Boone said he supports Councillor Scott J. Graves amendment but wanted more clarification why the Planning Board is rejecting this amendment.

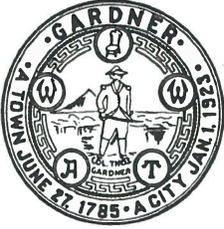


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Director Beauregard responded that the overlays are tracked in the zoning method. They will have their final response to the Council after the hearing.

There being no others asking to testify, President Kazinskas declared the Hearing closed at 7:26 p.m.

Accepted by the City Council: October 4, 2021



**CITY of GARDNER
MASSACHUSETTS 01440-2630**

**OFFICE OF THE
CITY CLERK**

RECEIVED

2021 JUN 22 PM 5:16

CITY CLERK'S OFFICE
GARDNER, MA

**CITY OF GARDNER
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ZONING AMENDMENTS**

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TITI SIRIPHAN
CITY CLERK

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

Manca Annex, 115 Pleasant Street, Room 201 Gardner, Massachusetts 01440

Phone: (978) 630-4014 ♦ Fax: (978) 632-1905 ♦ CDBG (978) 632-3800



June 17, 2021

President Elizabeth J. Kazinskas
C/o Titi Siriphan, City Clerk
City Hall
95 Pleasant Street
Gardner, MA 01440

RECEIVED
2021 JUN 17 PM 3:34
CITY CLERK'S OFFICE
GARDNER, MA

Subject: Zoning Amendment - Development Overlay District 1

Dear President Kazinskas:

At the Planning Board meeting held on Tuesday, June 8, 2021, the Planning Board voted unanimously to recommend not approving the amendment to the Development Overlay District 1 referenced above. The Planning Board was not provided sufficient information to make a determination to support this amendment.

Please do not hesitate to contact Trevor Beauregard, Director of Community Development and Planning, if you have any questions or need additional information.

Sincerely,

Mark Schafroon
Chairman

Cc: Mayor
Planning Board
City Council
Trevor Beauregard, Director

ORDINANCE

An Ordinance to Amend the Code of the City of Gardner, Chapter 675, Section 530, Entitled "Development Overlay District 1" to add a subsection "H" as follows:

H. The following areas have been designated by the City Council as Development Overlay District I. The terms and/or conditions not consistent with the general language of this Chapter 675, Section 530, if any, are referenced within the listing of the specific property to which such terms and/or conditions relate): [and then each property (with any terms and conditions - like 525 Parker Street's) that has obtained Development Overlay District I designation will be listed, and the list will be continuously updated, in accordance with law].

§ 675-530. Development Overlay District 1.

- A. Purpose. The purpose of this district is to increase redevelopment options consistent with City-wide growth and development policies within economically stressed areas zoned Industrial 1 and/or Commercial 1 by providing for additional uses as a matter of right or special permit and altering dimensional requirements.
- B. Scope of authority.
- (1) The Development Overlay District 1 may be applied over some or all existing parcels that are zoned Industrial 1 and/or Commercial 1; it may not be applied over any other zoning district.
 - (2) Any use permitted by right or special permit in the underlying districts, as provided for by this chapter, shall continue to be permitted in addition to all other uses permitted by the Development Overlay District 1.
- C. Designation of Development Overlay District 1.
- (1) The City Council retains sole authority to designate an area as Development Overlay District 1. Such designation is limited to areas zoned Industrial 1 and Commercial 1 that clearly exhibit the impacts of economic stress. Criteria for measuring economic stress include vacancy rates, incidences of arson, declining property values, Building Code violations, property tax delinquencies and inclusion in ongoing revitalization efforts.
 - (2) The Planning Board shall make a recommendation to the City Council on a proposed designation of a Development Overlay District 1 in accordance with the provisions of MGL c. 40A, § 5, only after consultations with relevant agencies and a public hearing. The request for designation shall contain a report of finding.
- D. Additional uses.
- (1) Properties zoned Industrial 1 and designated a Development Overlay District 1 shall be permitted the following uses as a matter of right:
 - (a) Library, museum, art gallery or civic center.
 - (b) Country or tennis club, lodge building or other nonprofit social, civic, conservation or recreational use.

- (c) Professional office and retail store.
 - (d) Indoor amusement or recreation place of assembly, provided that the building is so insulated and maintained as to confine noise to the premises.
 - (e) Commercial clubs and/or recreational establishments such as swimming pools, tennis courts, ski clubs, camping areas, skating rinks or other commercial facilities offering outdoor recreation.
- (2) Properties zoned Industrial 1 and designated a Development Overlay District 1 shall be permitted the following uses under a special permit by the Planning Board as provided in § 675-1170, Special permits:
- (a) Three- or four-family dwelling, multifamily dwelling and mixed use.
 - (b) Eat-in restaurant serving food or beverages.
 - (c) Eat-in restaurant serving food or beverages with live or mechanical entertainment.

E. Dimensional requirements.

- (1) Any new structure, substantial improvement or alternative to an existing structure involving more than 50% of that structure's gross floor area shall be subject to the following:
- (a) Minimum lot size: 5,000 square feet.
 - (b) Minimum frontage: none. However, recorded documentation of legal access to the property shall be required.
 - (c) Front yard setback: none.
 - (d) Side yard setback: 10 feet, or none if abuts commercial or industrial use.
 - (e) Rear yard setback: 20 feet.
 - (f) Maximum building height: five stories or 60 feet.
 - (g) Maximum lot coverage shall not exceed 85%.
- (2) Improvements or alterations to an existing structure involving less than 50% of that structure's gross floor area shall not be subject to dimensional requirements, except that the minimum lot size shall not be less than 5,000 square feet

and the structure shall not expand in terms of percentage of lot coverage.

- F. Parking requirements. Off-street parking shall be provided according to the schedule of parking uses, § 675-750, except as follows:

Parking Requirements: Development Overlay District 1	
Use	Parking Spaces Required
Retail store	1 space per 250 square feet gross floor area
Business or professional office	1 space per 300 square feet gross floor area
Restaurant, lodge or club, or other place of assembly	1 space per 4 seats
Library, museum, art gallery or civic center	2 spaces per 1,000 square feet gross floor area
Three-, four-family and multifamily dwelling units	1 space per dwelling for units not exceeding 1 bedroom. 2 spaces per dwelling for units with two or more bedrooms
Mixed use	Sum of various uses computed separately

- G. Site plan review. The site plan review and approval provisions of § 675-1010, Site plan review, shall apply to the following types of structures and uses in a Development Overlay District 1:

- (1) Any new structure or group of new structures under the same ownership on the same or contiguous lots that consists of 2,500 square feet or more of gross floor area.
- (2) Any improvement, alteration, or change in use which results in an increase of 2,500 square feet or more of gross floor area.