

# Baldwin Overlay Report

## **BCA Interest in Transit Oriented Development**

Since 2011 the BCA has worked tirelessly to implement transit oriented development (TOD) to insure Baldwin's community continues to attract businesses and create housing stock to match the interest of our young people, our empty nesters and our community members who choose to rent and commute to New York City.

The BCA understands the complexity of creating public policy and the result of the collaboration of the TOH and Baldwin community is the Baldwin Revitalization Project of which the Baldwin Mixed Use Zoning Overlay District (B-MX-DISTRICT) is the framework toward streamlining the development process. Our allies advocating for the B-MX-DISTRICT are local professional firms, realtors, community stakeholders, our young people, and TOH-contracted consultants Vision Long Island and Vanessa Hangen Brustlin, Inc. (VHB).

The B-MX-DISTRICT and its sub-districts are the mechanism through which local property owners and developers can re-imagine their individual projects. The BCA facilitated some of the community outreach and is the first to advocate for a zoning overlay, although we did not participate in the discussions about the guidelines for development.

## **Baldwin Density Development**

According to Vision Long Island and VHB, the guidelines for development were achieved according to best practice in industry and discussions with developers about zoning elements crucial in developing a TOD environment specific to Baldwin. The guidelines recommended are similar to those implemented in the hamlet of Bayshore and the villages of Patchogue and Farmingdale in Suffolk County. From those discussions the Generic Draft Environmental Impact Statement (GDEIS) and Proposed Amendment of the B-MX-DISTRICT was drafted in August 2019 to be adopted as a TOH resolution to enact the framework, a first in Nassau County.

Further, Baldwin received more good news in August 2019; the granting of the \$10 million Downtown Revitalization Initiative (DRI) from New York State. The B-MX-DISTRICT was prominently featured in the TOH application for the DRI award, as the zone framework is a departure from prior years of TOH bidding process and awarding one developer rights to buy and create mixed use projects.

After the award was granted, there was no communication from TOH about the B-MX-DISTRICT, but the topic shifted to discussion of the DRI. Soon thereafter, the TOH Supervisor and Council elections gain more attention, and the BCA had little to no communication from the Town about the proposed zoning until after the election. It was then that the BCA learned that the B-MX-DISTRICT had to pass the TOH board by January 2020 to insure the Baldwin community would not forfeit the DRI grant award.

On January 21, according to the TOH website, the resolution establishing the B-MX-DISTRICT passed.

The B-MX District purpose and legislative intent:

(1) In response to the needs of the Baldwin community, and following the recommendations put forth in the DCCR Study, the Town of Hempstead hereby enacts a new Article of the Town of Hempstead Building Zone Ordinance, which will create a new overlay district to be known as the “Baldwin Mixed-Use Overlay District (B-MX).”

(2) The primary goal of the B-MX District is to facilitate private investment, public benefits and economic development within downtown Baldwin. The new overlay district seeks to leverage the area’s proximity to public transportation by promoting mixed-use transit-oriented development around the Baldwin LIRR station to meet increasing demands for housing and retail uses, drive foot traffic, implement transportation and infrastructure improvements necessary to accommodate future growth and enhance the visual quality and pedestrian amenities through the implementation of design guidelines, which are contained as an appendix to the Building Zone Ordinance (see “Baldwin Mixed-Use Zoning Overlay District (B-MX) Design Guidelines”).

(3) The B-MX District regulations, as an overlay district, have been designed to minimize the creation of non-conformities with underlying zoning.

(4) With the stated goals in view, this article is enacted with the intention of promoting the health, safety and general welfare of the Town of Hempstead and its residents.

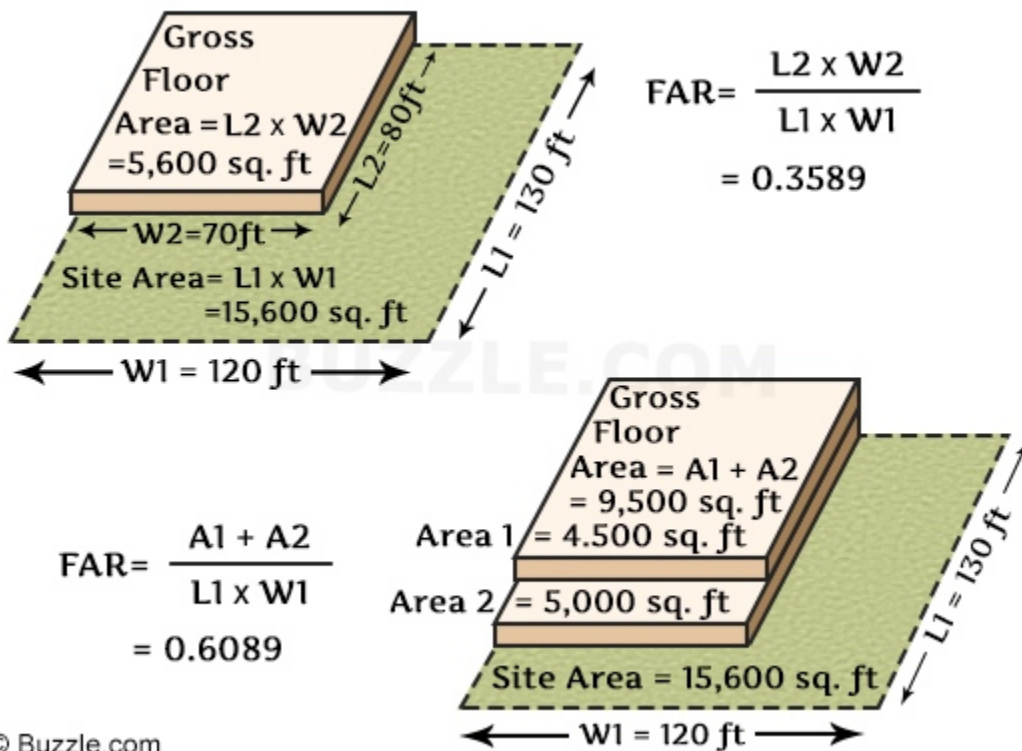
Reviewing the resolution, it seemed very different from the initial legislation discussed and what was submitted in the GDEIS. This review prompted the BCA to ask questions about the changes and to what benefit this was to the development in Baldwin. Many of the questions about the resolution asked of VHB and TOH were answered with it was “public knowledge,” and VHB recommended to TOH the final voted changes and Vision Long Island tacitly agreed. The BCA agrees that information was finally published on the TOH website, but it seemed to us this was done not to inform and involve the public but to comply with legislation rules. Many people who follow this matter in Baldwin did not know about this change until the BCA started asking questions, or those who knew of the changes did not share information with other stakeholders.

The changes that the BCA sought answers about are primarily these:

- Density guidelines of the FAR
- Number of dwelling units per acre

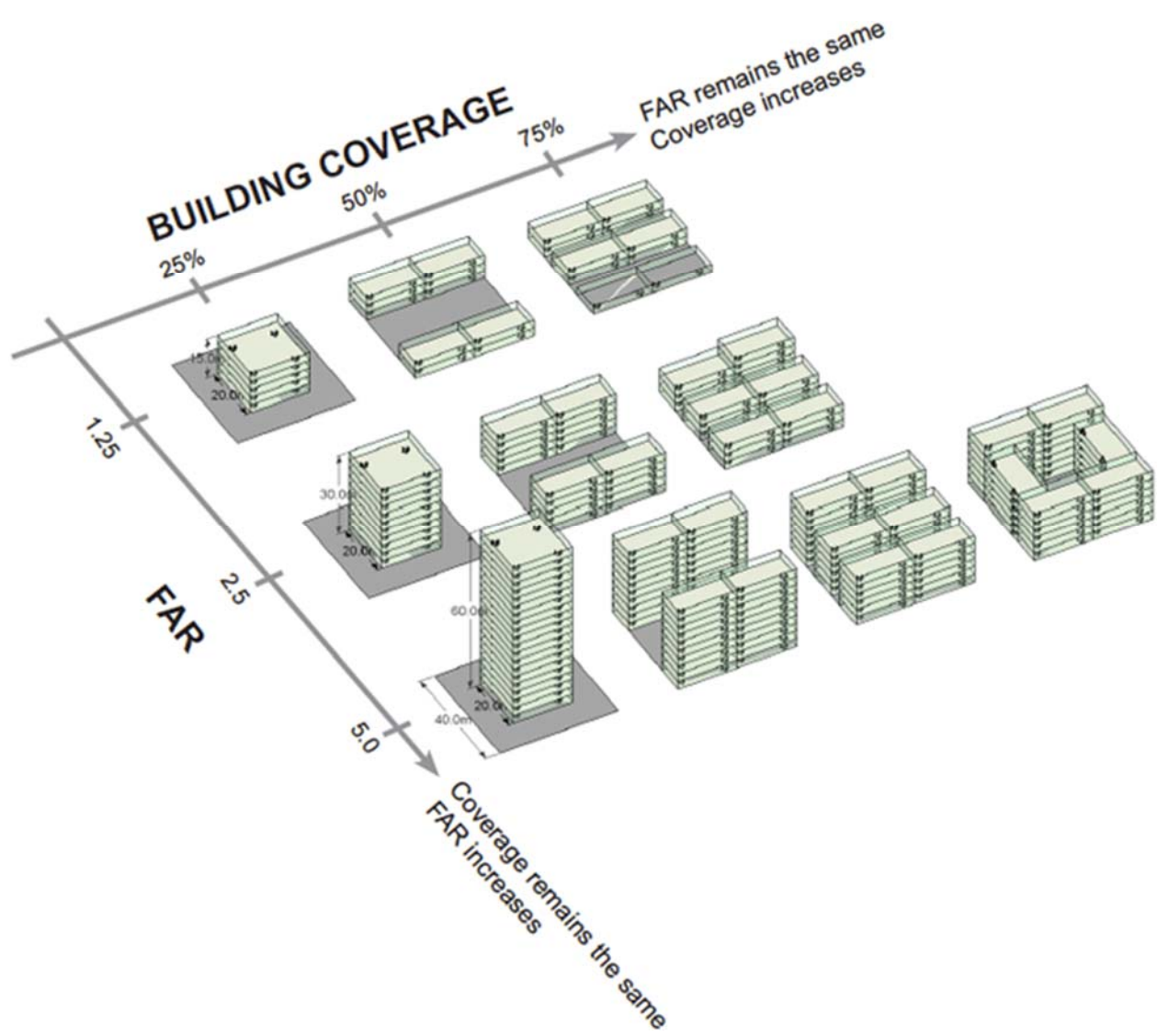
FAR is short for *floor area ratio*, the relationship of the total usable floor area of a building relative to the total area of its lot; a higher ratio is indicative of a dense or highly urbanized area. It is a measure used by planners, regulators and developers to discern the intensity of a development; by itself however, it is not sufficient to define density.

How to calculate FAR:



## FAR and Coverage:

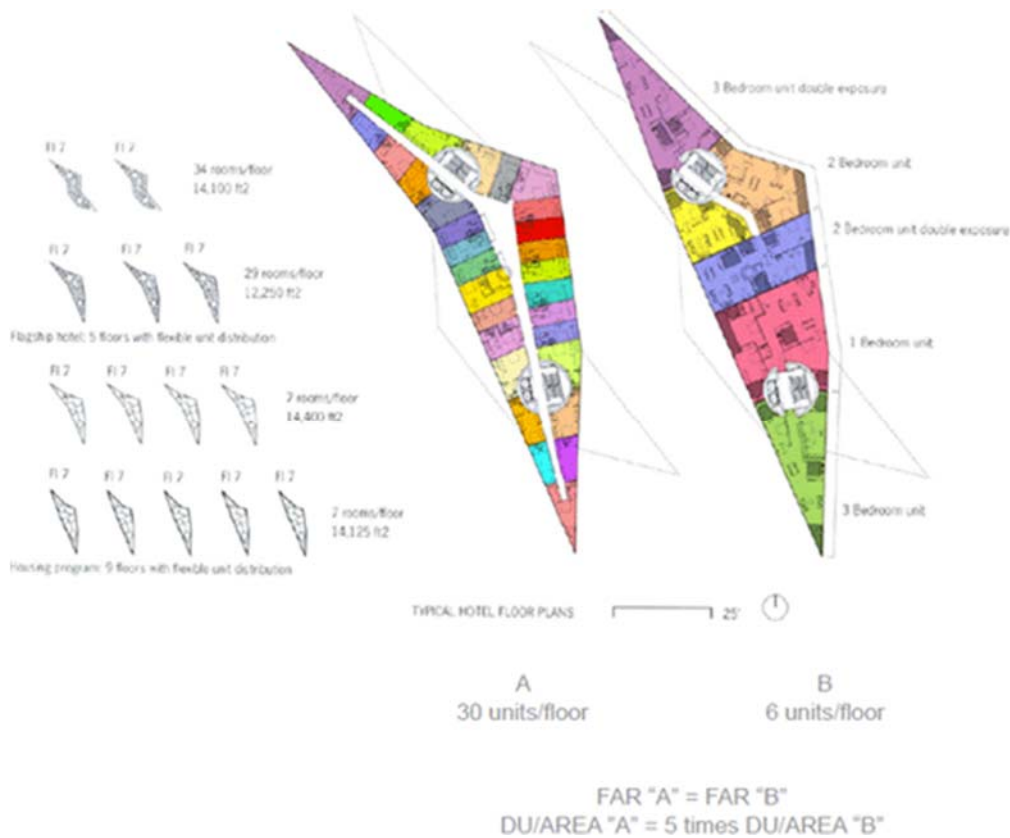
It is often the case that how a structure is built will determine the overall size of a project. Coverage is the relationship between the ground floor area of enclosed buildings and the area of the lot. Development scenarios with the same FAR but different coverage will produce varying types of development; for example, low-rise or high rise.



Another measure of density is the number of units built on a lot, often used by realtors or developers because their focus is the renting or selling number of units. The density of an area can change based on the number of units. Large buildings may take up the same amount of space as small ones, resulting in similar levels of FAR. Is an area filled with McMansions as dense as an area filled with the same number of row houses? The following graphic is a basic density relationship of number of units per square footage.



The next graph shows two plans for the same building, both with the same FAR, or buildable space, but each having a different floor plan with a widely differing number of units.



Picture: Densityatlas.org

The TOH set its density guidelines in the Building Zone Ordinance resolution Article XLII, Baldwin Mixed-Use Overlay District (B-MX), subsection 429, Lot and bulk controls. (Developers whose plans do not conform to the guidelines would have the opportunity to advance their plans through the variance process before the Town Zoning Board as done in the past.) Please see below for abbreviated guidelines submitted for discussion at different times:

**Draft Resolution Abbreviated (Original Discussion Zoning Ordinance) (Exhibit A)**

**August 2018**

§ 429. Lot and bulk controls.

A. Consistent with primary goals of the B-MX District, the following lot and bulk controls allow for greater intensities of development for properties fronting Grand Avenue and Sunrise Highway closest to the Baldwin LIRR station (B-MX, TOD). The lot and bulk controls for the B-MX, B-MRG sub-district facilitate private investment, public benefits and economic development within the area around the intersection of Merrick Road and Grand Avenue. The B-MX, CT sub-district facilitates appropriately scaled mixed-use commercial development in transition areas along the Grand Avenue corridor.

B. B-MX District

|   |         |
|---|---------|
| Transit Oriented Development (LIRR) B-MX, TOD | FAR 1.5 |
| Merrick Road Gateway B-MX, MRG                | FAR 1.0 |
| Commercial Transition Zone B-MX, CT           | FAR .5  |

1. Maximum floor area ratio: 1.5, 1.0, .5, and

3. Maximum residential density for multifamily and mixed-use buildings: 60 units/acre, 45 units/acre, 30 units/acre

**Generic Draft Environmental Impact Statement density submission to New York State (Exhibit B)**

**GDEIS-2 Tables abbreviated (August 2019)**

Table 2-1: Summary of B-MX Lot and Bulk Controls

B-MX, District

|   |                         |
|---|-------------------------|
| Transit Oriented Development (LIRR) B-MX, TOD | FAR 1.5 Benefit FAR 2.0 |
| Merrick Road Gateway B-MX, MRG                | FAR 1.0 Benefit FAR 1.5 |
| Commercial Transition Zone B-MX, CT           | FAR .5 Benefit FAR 1.0  |

Maximum floor area ratio (with FAR Development Bonus) 1.5 (2.0), 1.0 (1.5), 0.5 (1.0), and

Maximum residential density for multifamily and mixed-use buildings N/A\* 45 units/acre, 30 units/acre

\* To be determined by the Town Board upon review of application in accordance with the provisions of this Article.

Table 3-43: B-MX Lot and Bulk Controls

B-MX, TOD B-MX, MRG B-MX, CT

|  |                     |
|--|---------------------|
| Transit Oriented Development (LIRR)B-MX, TOD | FAR 1.5 Benefit 2.0 |
| Merrick Road Gateway B-MX, MRG               | FAR 1.0 Benefit 1.5 |
| Commercial Transition Zone B-MX, CT          | FAR .5 Benefit 1.0  |

Maximum floor area ratio (with FAR Development Bonus) 1.5 (2.0) 1.0 (1.5) 0.5 (1.0), and

Maximum residential density for multifamily and mixed-use buildings N/A\* 45 units/acre, 30 units/acre

\* To be determined by the Town Board upon review of application in accordance with the provisions of this Article.

**Passed Density Resolution abbreviated (Exhibit C)**

**TOH Passed Density Resolution (January 21, 2020)**

§ 429. Lot and bulk controls.

- A. Consistent with primary goals of the B-MX District, the following lot and bulk controls allow for greater intensities of development for properties fronting Grand Avenue and Sunrise Highway closest to the Baldwin LIRR station (B-MX, TOD). The lot and bulk controls for the B-MX, MRG sub-district facilitate private investment, public benefits and economic development within the area around the intersection of Merrick Road and Grand Avenue.

The B-MX, CT sub-district facilitates appropriately scaled mixed-use commercial development in transition areas along the Grand Avenue corridor.

- B. B-MX, District

|   |         |
|---|---------|
| Transit Oriented Development (LIRR) B-MX, TOD | FAR 1.5 |
| Merrick Road Gateway B-MX, MRG                | FAR 1.0 |
| Commercial Transition Zone B-MX, CT           | FAR .5  |

1. Maximum floor area ratio (FAR)\* 1.5, 1.0, .5 and

3. Maximum residential density for multifamily and mixed-use buildings N/A\*\* N/A\*\* N/A\*\*

\* For purposes of this Article, the floor area ratio (FAR) shall exclude any structure, or portion of a structure, exclusively dedicated for off-street parking.

\*\*To be determined by the Town Board upon review of any application that it must review and approve in accordance with the provisions of this Article.

From draft to final resolution the FAR changed to include community benefit and the maximum residential density units per acre was removed from the resolution.

The maximum density units per acre removal drew the BCA's attention because both the FAR and maximum density per zone are mathematically interdependent, controlling density in Baldwin.

Though the FAR is independent of the density units, it controls the size of any building, thus restricting the density of that lot in that zoning district. An example of the interdependence:

- An acre is 43,560 sq ft divided by 60 units per acre (B-MX-TOD guidelines), resulting in 732 sq ft as a factor for each unit on any given site in the TOD zone.
- Using the 732 sq ft unit factor: a 5,000 sq ft lot multiplied by a FAR of 2.0 (B-MX TOD guidelines) results in 10,000 sq ft of buildable space. Divided by 732 sq ft/unit, the result is 13.66, or 14 units to be built on that site. Having both FAR and maximum density control would allow a small developer to increase the density for a site. Most sites in Baldwin are less than an acre.



In our understanding about zoning and density we have learned developers agree both FAR and density maximum can be used to determine density with other factors like building height and building setbacks.

The passed resolution is the result of developers seeking to maximize the FAR and density while the TOH and its consultants are seeking to maintain the physical character of Baldwin within reason based on other zoning overlays enacted across Long Island. The TOH B-MX-DISTRICT is a first and we believe there is trepidation and uncertainty shared by both developers and TOH representatives.

### **Reinstatement of Density Maximums**

With the recent adoption of the new density limits by the TOH on February 25, 2020, the project density of developers would be further restricted. The reinstatement of restrictions was a surprise to the BCA. In our attempt to understand the B-MX changes, we asked about them for clarity and transparency, and to determine best outcomes for Baldwin. The BCA gave no indication of support for the FAR or maximum density per acre changes to the TOH, Vision Long Island, or VHB.

In this context, TOH Board Counsel Richard Regina's testimony from the February 25, 2020 Board meeting can be easily misunderstood. His remarks about the BCA were pursuant to a meeting on January 17, 2020 between Councilman Carini, Mr. Regina, and BCA board members. Having just learned of the B-MX-TOD Subdistrict density changes, the BCA board members asked whether the resolution was open for amendment, and whether its language could be written in plain English as it was initially offered. However, at the February 25 TOH Board meeting, Mr. Regina suggested something different—that the BCA wanted the density caps from the original 2018 resolution. This interpretation was incorrect. The BCA did not demand the limits had to be the same as before, but simply wanted the resolution to have clear and precise language about density as was in the initial resolution. The BCA had hoped for a discussion about the limits with the TOH, Vision Long Island, and VHB, or at least a statement clarifying the administration of density in the B-MX-DISTRICT. Again, the BCA gave no indication of support for FAR or maximum density per acre changes to the TOH, Vision Long Island and VHB; we let the experts determine the compliance guidelines for streamlining the B-MX-DISTRICT development.

Thus, the two *Newsday* articles by Jesse Coburn (dated February 25 and February 28, 2020) do not represent the position of the BCA, and no one from *Newsday* spoke with the BCA for comment or a statement. The *Newsday* article ahead of the TOH Board vote prompted a developer to ask for a meeting with the BCA. The article also gave rise to Baldwin residents thinking that the BCA was against density generally; that belief is completely mistaken.

### **Baldwin Density Redress**

A local developer believed the BCA was opposed to density; in our meeting with the developer we made it clear that we prefer smart density, and that the numbers controlling density in the TOH resolution are not our numbers. The developer's interest in Baldwin was re-established through an offer of change in the FAR and density maximum in the TOH resolution.

The developer stated they understood the lack of communication with TOH because they also experienced such a communication breakdown: they thought the TOH was communicating the

developer's concerns to the community, including the BCA. The crux of their concern was that the FAR and density maximum do not make economic sense for the site they seek to develop. Further complicating the economics is the discovery of additional potential risks on the property site.

Prior to their presentation we learned the developer had a history of doing residential housing and their Baldwin interest is one of many recent mixed use development projects. During the presentation we learned their planned project would not satisfy the B-MX –TOD zoning overlay passed by TOH on January 21, 2020. Further, the project would need to go through a TOH variance hearing; a process the developer wishes to avoid. The TOH density restrictions imposed on February 25, 2020 complicate the developer's negotiation to purchase the site by March 23, 2020. The developer expressed their wish that they had met with the BCA earlier to complete their due diligence and to learn about the interests of us and other community stakeholders.

The good news is now we have learned of their concerns and we believe other developers may share density concerns; the BCA and Baldwin community can discover a different approach to density in the Baldwin Revitalization Project. Our aim is to educate and offer solutions to serve the Baldwin community; we represent the best interest of our community and seek an audience with all whom have an interest in Baldwin.

Darien Ward  
President, Baldwin Civic Association  
March 2020