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IN MA WITH MASTER

PLAN/OVERLAY APPROACH

WESTWOOD PLANNING BOARD – JULY 10, 2012

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TOWN OF BERLIN
Excerpt from Zoning Bylaw

420 REGIONAL SHOPPING CENTER OVERLAY DISTRICT

421 Purpose and General Requirements

This Section 420 establishes a Regional Shopping Center Overlay District (the "RSCO District") in addition to the districts listed in Section 210. The RSCO District is created for the purpose of permitting a large-scale, integrated regional shopping center on a large site with convenient highway access, in accordance with the Development Plan. The RSCO District is established as a special district which overlays another nonresidential zoning district or districts.

The RSCO District permits the development of a Regional Shopping Center subject to specific regulations in this section and regulations in other sections that are not modified by the provisions of this section. The regulations of this section relating to use, building and lot dimensions, development intensity, parking, signage, and Site Plan Approval shall apply only to a Regional Shopping Center, and not to any other use that is allowed or permitted in the underlying zoning district.

422 Location

The boundary of the RSCO District is shown on a map of land entitled "Regional Shopping Center Overlay District," filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this by-law.

423 Relationship to Underlying Districts and Regulations

423.1 The RSCO District shall overlay all underlying districts, so that any parcel of land lying in a RSCO District shall also lie in the district or districts in which it is otherwise classified by this by-law.

423.2 With the exception of Article 6, Article 8, Article 11, Section 1120 and Section 1360, all regulations of the underlying zoning district(s) shall apply within the RSCO District except to the extent that they are specifically modified or supplemented by other provisions of this Section 420. To the extent the provisions of this Section 420 or matters shown on the Development Plan are in conflict with or are inconsistent with other provisions of the Zoning By-law, the provisions of this Section 420 and the Development Plan shall govern and prevail. Without limiting the foregoing, to the extent other provisions of this by-law would, in their application, prohibit or require a special permit for the Regional Shopping Center uses permitted by this Section 420 in the RSCO District, the provisions of this Section 420 shall govern and the use shall be treated as permitted under this by-law.

423.3 The provisions of the RSCO District apply only to a Regional Shopping Center as defined herein. Any other building, structure or use of land included in the RSCO District shall conform to the regulations and requirements applicable to the underlying district(s) without modification by this Section 420.

424 Permitted Uses; Application of Requirements

424.1 Land within the RSCO District may be used for a Regional Shopping Center that is (a) in conformance with the Development Plan approved by the Town, as the same may be modified by the Planning Board through the Site Plan Approval process; and (b) in compliance with the requirements of this Section 420.

424.2 In case of a Regional Shopping Center that is partly within the Town of Berlin and partly in an adjacent municipality or municipalities, the entire Regional Shopping Center shall comply with the requirements of the Development and Dimensional Controls in Section 420.6 the Parking and Loading provisions of Section 420.7, and the Signage standards in Section 950. The portion of the Regional Shopping Center in the adjoining municipality or municipalities shall be included for purposes of determining such compliance.

424.3 Utility buildings and structures serving the Regional Shopping Center need not be connected to the main structure.

424.4 A tire, batteries and auto accessories store which is operated incident to a retail store having not less than 40,000 square feet of gross leasable area in the Regional Shopping Center and which does not provide for the changing of oil or lubrication of motor vehicles shall be permitted to be operated as of right, and shall not require the issuance of the special permit otherwise required under this by-law for a public garage or station garage as defined in Article 14 of this by-law and may be located in a building not connected to the main structure.

424.5 Floor area used for offices or other non-retail services shall not comprise more than five percent of the gross leasable area of any building in the Regional Shopping Center. This limitation shall not apply to customer service and management offices ancillary to retail establishments, or to services intended for the convenience of retail customers or employees.

424.6 No portion of a Regional Shopping Center shall be used for manufacturing or research and development, except pursuant to a special permit issued pursuant to paragraph 424.7.

424.7 A building or structure originally constructed and used as a Regional Shopping Center shall continue to be used as a Regional Shopping Center in conformance with the approved Development Plan, as the same may be modified by the Planning Board through the Site Plan Approval process, except as follows:

(a) A building or structure may be converted to a use or uses permitted in the underlying zoning district, subject to a special permit and Site Plan Approval under this Zoning By-Law and submission of a report documenting the community and environmental impacts of such conversion, including a traffic impact analysis conforming to generally accepted standards for such studies.

(b) If the conversion would increase the projected traffic generation by more than five percent (5%) in the weekday afternoon or Saturday peak hour, as compared with the then-permitted use or uses of the building or structure, appropriate mitigation of the increase in off-site traffic shall be included in the conditions for any special permit granted under this procedure.

(c) This paragraph (7) shall not be construed as permitting any expansion of a building or structure for any use that is not permitted in the RSCO District.

(d) A building or structure may be converted pursuant to this paragraph (7) notwithstanding that the building or structure or the lot on which the building or structure is located, or the signage or parking, do not conform to the requirements of Section VI of this By-Law, to the extent permitted by the special permit for the conversion.

424.8 The Regional Shopping Center may be developed in phases and may be developed under one or more building permits and occupancy permits. Amendments to the Site Plan Approval will be permitted in order to accommodate a phased development. A violation of the terms of a building permit, occupancy permit or Site Plan Approval for a building or buildings which is a part of the Regional Shopping Center, shall not affect or impact the validity of any other permit or approval for any other portions of the Regional Shopping Center that were constructed under a different building permit, in conformity with a Site Plan Approval, or operated under another occupancy permit, provided that the violation does not materially affect the structural integrity of the portion of the Regional Shopping Center that is otherwise in compliance, and provided that such other portion continues to meet fire and health safety codes.

425 Development and Dimensional Controls

425.1 The Regional Shopping Center shall be developed in conformance with the Development Plan approved by Town Meeting, as the same may be modified by the Planning Board through the Site Plan Approval process. The final location of buildings and improvements shall be fixed upon the issuance of Site Plan Approval for the Regional Shopping Center, as such Site Plan Approval may be amended or modified, and shall be located within the areas identified as follows.

(a) All buildings, other than parking structures as permitted in (b) below, in the Regional Shopping Center shall be located in the "permissible building area" delineated on the Development Plan.

(b) All parking structures in the Regional Shopping Center shall be located within the "permissible parking structure area" delineated on the Development Plan and may be located within the areas of overlap of the "permissible parking structure area" and the "permissible building area" delineated on the Development Plan.

(c) All surface parking areas, access roads, driveways, loading areas and other paved areas, except for an emergency helicopter landing pad and necessary access to the pad as approved by the Planning Board through the Site Plan Approval process, shall be located within the "permissible impervious surface area" and may be located within the "permissible building area" or the "permissible parking structure area" delineated on the Development Plan.

425.2 The areas that are not used for the purposes set forth in paragraphs (a), (b) or (c) above shall be managed for stormwater management, landscaping, visual screening, underground utilities or drains, or other purposes as set forth in a management plan approved by the Planning

Board through the Site Plan Approval process. In addition, the areas referred to in (a), (b), or (c) above, or this subsection 425.2, may be used for such other purposes.

425.3 A Regional Shopping Center shall be subject to the dimensional controls as set forth below:

LOTS

Minimum area of each lot comprising the Regional Shopping Center: 2 acres

Minimum combined area of all lots comprising the Regional Shopping Center : 20 acres

Minimum frontage on a public way open to public use:

Regional Shopping Center (all lots combined): 1,000 feet

Individual lot: 20 feet

Minimum lot width for individual lots: 20 feet

Minimum side, front and rear yards (other than at the perimeter of the Regional Shopping Center): None required

Minimum combined green area of all lots (green area not to include buildings, structures, the non-landscaped portions of parking areas whether hard top paved or other surface, paved sidewalks, road pavement, driveways, wetlands, or more than 25% of lands included in the Flood Plain District): 25 percent

BUILDINGS

Combined Gross Leasable Area of all buildings in the Regional Shopping Center:

Minimum: 250,000 square feet

Maximum: 1,200,000 square feet

Maximum height (measured from the lowest finished floor of the building or structure to the highest point of the ceiling of the top story of such building or structure):

Areas designed for human occupancy and parking structures: 42 feet

(a) Maximum elevation not to exceed 280 feet above mean sea level.

Skylights, parapets (including architectural and decorative features and details incorporated into such parapets) and mechanical penthouses: 54 feet

(a) Horizontal area not to exceed 35 percent of total building footprint.

(b) Mechanical penthouses exceeding 42 feet in height shall be no closer than 30 feet to the exterior wall of any building.

(c) Maximum elevation not to exceed 295 feet above mean sea level.

All other architectural and decorative features and details: 80 feet

(a) Horizontal area not to exceed 10 percent of total building footprint

(b) Maximum elevation not to exceed 320 feet above mean sea level,

Notwithstanding the foregoing, the height of a building or structure located within the permissible basement area shall be measured from the lowest finished floor of the level located directly above the basement level provided however, the gross leaseable area of the permissible basement area shall not exceed 35,000 square feet.

No signage or lighting fixtures shall be affixed to parapets in the Town of Berlin or the City of Marlborough facing residentially zoned districts in the Town of Berlin, provided, however, parapets at entranceways (excluding customer pick-up entrances) shall not be subject to this limitation. Notwithstanding the above, if such signage is located above the roof line of a building on a parapet at such entranceways and such signage identifies an occupant of the building, then signage on walls adjacent to such entranceways which identifies such occupant, shall not be permitted, except, however, signage utilized for safe and efficient access and use of buildings such as directional, customer pick-up and loading area signage shall be permitted.

426 Parking and Loading

A Regional Shopping Center shall be subject to the off-street parking and loading requirements set forth below:

426.1 Off-street parking shall be provided at the rate of one (1) parking space for each 225 square feet of Gross Leasable Area.

426.2 Loading spaces shall be provided at the rate of one (1) loading space for each 110,000 square feet of Gross Leasable Area.

426.3 Parking areas shall be landscaped and paved as required by the Planning Board through the Site Plan Approval process.

426.4 The amount of parking and loading area that shall be constructed shall be as shown on the Development Plan, as the same may be modified by the Planning Board through the Site Plan Approval process.

426.5 Section 710 of this By-Law shall not be construed to apply to any common driveway shown on the Development Plan.

427 Site Plan Approval

427.1 Purpose: The intent of Site Plan Approval is to further the purposes of this by-law and to ensure that the Regional Shopping Center is developed in conformance with the Development Plan.

427.2 Applicability:

(a) The proposed use of land in the RSCO District for a Regional Shopping Center shall be subject to the Site Plan Approval procedures and standards set in this section.

(b) No building permit shall be issued for any building in a Regional Shopping Center unless a site plan has been endorsed by the Planning Board, after further consultation with other boards, including but not limited to the following: Building Inspector, Board of Health, Board of Appeals, Board of Selectmen, Conservation Commission, Highway Department, Town Clerk, Fire Department, and Police Department.

427.3 Application:

(a) The application for Site Plan Approval shall be submitted to the Planning Board by the owner of record, accompanied by ten (10) copies of the site plan.

(b) The Planning Board shall obtain with each submission a Site Plan Approval Fee, to be determined by the Planning Board. Such fee will be used to cover any expenses connected with public hearing costs and the review of plans, including the costs of any legal, engineering, planning or other consultant services necessary for review procedures. Any unused portion of the review fee will be returned to the applicant. Any such expenses that the Planning Board comes to anticipate during the Site Plan Approval Process shall be paid into such fund by the applicant upon request by the Planning Board. Furthermore, any such expenses incurred by the Town in excess of such fee as so supplemented shall be reimbursed by the applicant.

427.4 Required Site Plan Contents: All site plans shall be prepared by a registered architect, landscape architect, and/or professional engineer. All site plans shall be on standard 24" by 36" sheets, unless otherwise permitted and shall be prepared at a sufficient scale to show:

(a) The location and boundaries of the Development Lot, adjacent streets or ways and the location and owner's names (from Town Assessors' records) of all adjacent properties.

(b) Existing and proposed topography of the Development Lot including contours, the location of wetlands, streams, water bodies, drainage swales, areas within the Flood Plain District, and unique natural land features.

(c) Existing and proposed structures within the Development Lot and existing structures within one hundred (100) feet of the boundaries of the Development Lot, including dimensions and elevations.

(d) The location of parking and loading areas, driveways, walkways, access and egress points.

(e) The location and description of all existing and proposed septic systems, water supply, stormwater management systems, utilities, and refuse and other waste disposal methods.

(f) Proposed landscape features including the location and a description of screen, fencing, and plantings.

(g) The location, dimensions, height, and characteristics of proposed signs.

(h) The location and description of proposed green areas.

(i) The location and description of proposed exterior lighting and the hours it will be in use.

427.5 Additional Application Materials: The following materials shall be submitted with the application for Site Plan Approval:

(a) Building elevation plans for all exterior facades of buildings and structures, at a scale of one-sixteenth inch equals one foot ($1/16" = 1'0"$), or such scale as may be required by the Planning Board for detail drawings, indicating surface materials and colors.

(b) Perspective drawing at an appropriate size to show the Development Lot and all buildings and structures, parking and circulation facilities, and other improvements.

(c) A tabulation of the areas of the proposed site elements, including buildings (footprints, gross floor area and gross leasable area), parking decks and surface parking areas (square footage and number of parking spaces), stormwater management facilities, and landscaped areas (square footage, number of trees and other plantings). Such tabulation shall be provided for the Regional Shopping Center as a whole and separately for the portions within the Town of Berlin and the City of Marlborough.

427.6 Procedures for Site Plan Review:

(a) The Planning Board shall refer copies of the application within five (5) days to the Conservation Commission, Board of Appeals, Board of Health, Building Inspector, Board of Selectmen, Fire Department, Police Department and Highway Department, who shall review the application and submit their recommendations and comments to the Planning Board. Failure of boards or officials to make recommendations within thirty (30) days of the referral of the application shall be deemed to be neither opposition nor support.

(b) The Planning Board shall hold a public hearing within forty-five (45) days of the receipt of an application and after due consideration of the recommendations of other boards and officials, shall take final action within sixty (60) days from the time of hearing.

427.7 Final Action: The Planning Board's final action shall consist of either:

(a) A determination that the site plan for the Regional Shopping Center is consistent with the Development Plan and is in compliance with the criteria and requirements set forth in this Section 402:

(b) If the Planning Board finds that the Site Plan is not consistent with the Development Plan or with the criteria and requirements set forth in this Section 402, the Planning Board shall have the authority to impose, as part of its consistency determination, conditions to assure consistency with the Development Plan and the criteria and requirements of this Section 402. Failure of the Planning Board to make any determination within sixty days of its hearing, as such hearing may be extended by consent of the applicant, shall constitute a determination of consistency.

427.8 The conditions of any site plan approval under this Section 420 shall include all conditions included in any development agreement which the Town shall have accepted in relation to the development of the Regional Shopping Center. In issuing a site plan approval under this by-law, the Planning Board shall not have the authority to relieve the developer of any obligations imposed under any such development agreement.

427.9 Amendment or Modification: The Planning Board may amend or modify its Site Plan Approval following the requirements and procedures set forth in this Section 420, provided that if a modification is, in the determination of the Planning Board, minor in nature, such modification may be approved without a hearing upon the submission of plans and information that may, at the discretion of the Planning Board, be less extensive than the plans and information required in this Section 420.

427.10 Building Design Standards: The following design standards shall apply:

(a) Exterior Materials

(1) Exterior walls for the Regional Shopping Center shall use a combination of architectural masonry materials, including but not limited to brick, glass, stone, stucco, EIFS, precast concrete architectural panels, stainless steel, split face block. No standard scored or flat face block will be allowed.

(2) Colors shall be medium values of natural building materials such as earth, stone, etc. Extremes of colors shall not be used except as accents at entrances, etc.

(b) Facade treatments

(1) To avoid long unbroken expanses of wall, the architecture shall incorporate, as appropriate, design features providing horizontal and vertical relief including projections, building jogs, architectural detailing, and changes in surface materials.

(2) The design of public entrance ways shall incorporate architectural features and elements to emphasize the entrance locations and interrupt long stretches of building facade.

(c) Relationships among structures and components

(1) Buildings and parking structures shall be designed with common elements that both create a sense of unity and express a relationship to the interior (for example, using ornamentation to reflect floor levels). These elements may include the horizontal spacing of bays, columns and windows; and the vertical alignment and spacing of floors.

(2) Architectural detailing and surface textures and colors of adjoining components of the Regional Shopping Center (for example, anchor stores, mall structure, parking structures, footbridges) should be related and contribute to an overall sense of cohesion within the Center. While a variety of design treatments is encouraged to avoid monotony, individual components shall be designed to avoid overly strong contrasts.

(3) The facades of parking structures shall be designed to a standard of architectural finish consistent with other buildings within the Regional Shopping Center. All exterior walls shall be designed and finished with a material allowable under Section 4.(a) (1) so as to maintain a consistent architectural character with adjoining buildings.

(d) Rooftop mechanical features (heating and air conditioning units, vents, stacks, mechanical penthouse(s)) shall be screened by use of parapet walls or similar elements.

(e) Service areas such as loading areas, dumpsters, etc. Shall be shielded consistent with vehicular access, to provide visual screening.

(f) The initial site plan submitted for review under the Site Plan Approval process shall include specific reference to these design standards and shall include a memorandum describing compliance with the design review standards.

427.11 Performance Standards:

(a) The Regional Shopping Center shall be served with adequate water supply and waste disposal and other utility systems.

(b) The plan shall maximize the convenience and safety of vehicular traffic and pedestrian movement within the site and in relation to adjacent ways. The plan shall describe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.

(c) The site plan shall show adequate measures to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased run-off and potential for flooding. Drainage shall be designed so that run-off shall not be increased, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

(d) Electric, telephone, cable TV, and other such utilities shall be underground, except for transformers and gas meters which may be above ground.

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- (d) To provide open space areas within easy access of all users. All parts of the system shall be appropriate to their functions as buffers, large natural areas, open fields, and developed recreational areas. Such characteristics as area, breadth and nature of foliage shall be considered by the Planning Board in determining whether the open space areas satisfy the standards and intent of the RDD.
- (2) **Ownership and maintenance.** The plans and documentation submitted to the Planning Board shall include description of all open space areas as required in § 205-59. The open space, recreation and RD standards shall apply to RDD's.
- I. **Nonresidential uses.**
 - (1) Public and quasi-public. Public parks and community recreation centers, Town buildings and uses and utilities as allowed by special permit under Articles IV, V and VI or § 205-27 may be permitted uses in RDD's, subject to the prescribed standards and any conditions required by the Planning Board under the procedures for the RDD.
- J. **Administration.** In reviewing an RDD proposal, the Planning Board shall be governed by the special permit and environmental design conditions and procedures as specified in § 205-9.
- K. **Transfer of development rights.** Residential density permitted in an RDD may be increased with the transfer of development rights from other parcels of land, whether contiguous or noncontiguous, within any Rural Residential Zoning District or Large Lot Zoning District and as specified in § 205-70, Transfer of Development Rights. [Added 4-10-2002 ATM by Art. 23; Amended 10-26-2004 FATM by Article 19]

§ 205-63. Open space mixed-use development (OSMUD). [Added 4-11-1996 ATM by Art. 25; Amended 9-1-1998 STM by Art. 1; 4-1-2000 STM by Art. 11; 6-7-2000 STM by Art. 3; 4-4-05 SPTM by Art. 31; 4-3-10 STM by Art. 39]

- A. **Intent.** The intent of this section is to provide a mixture of open space and various land uses on large, well-buffered sites, to allow more effective and efficient use of land in rural areas, to focus vehicular traffic to the highest capacity adjacent transportation corridors of Plymouth, to minimize service responsibilities, to reduce housing where it could be allowed, and to increase the net tax base of the Town. All nonresidential structures and related facilities shall be constructed in a campus-style development utilizing attractive landscaping and a village marketplace design and must be in harmony with the topographical, vegetative, archaeological, and historic character of the land.
- B. **Definitions.** Except as noted hereinafter, all definitions are as provided in the Zoning Bylaw. As used in this section, the following terms shall have the meanings set forth below:

CAMPUS-STYLE DEVELOPMENT — Shall encourage a mixture of retailers of varying sizes.

- (1) The maximum single retailer sizes allowed are as follows:
 - (a) One forty-thousand-square-foot single retailer (except for retail food, which may be 55,000 square feet); two twenty-five-thousand-square-foot single retailers; no maximum less than twenty-thousand-square-foot single retailers; or
 - (b) One forty-thousand-square-foot single retailer (except for retail food, which may be 55,000 square feet); one thirty-thousand-square-foot single retailer; no maximum less than twenty-thousand-square-foot single retailers.

- (2) Large buildings shall be articulated to create an image of smaller buildings attractively joined together. Multiple buildings (at least four) shall be required as part of the campus-style development. Buildings may be connected by open or closed walkways. Except in any neighborhood green area established under Subsection E below, in parking areas exceeding 1/4 acre but less than one acre landscaped islands containing trees of greater than six feet in height shall be provided at a rate of at least one per three parking spaces, and when the total amount of parking exceeds one acre, the parking shall be separated into smaller lots or segments of not more than 20,000 square feet each with dividers at least 10 feet in depth and planted with ground cover and tall trees at a rate of at least one per three parking spaces. Buildings shall be related in ways that result in the creation of enclosed walkways or open-air pedestrian spaces that are not crossed by vehicular roads.
- (3) Traditional building materials such as wood shingles, clapboard, and white trim are the preferred exterior materials. Buildings shall reflect traditional New England roof styles.

OPEN SPACE MIXED-USE DEVELOPMENT (OSMUD) — An area of land designed and developed as a unit, with open space as an integral characteristic, and which departs from the zoning regulations conventionally required in the Rural Residential (RR) District concerning uses of land or buildings, lot size, bulk or type of structure, or other requirements. Not less than 200 acres of an open space mixed-use development shall be "reserved land" as defined herein.

- (1) An open space mixed-use development may include a mixture of common open space or facilities, single- and multifamily residential in limited occupancy communities and planned retirement communities, commercial (high technology planned unit development uses), general commercial, retail, agricultural and recreational uses, and a variety of building types and designs, on well-buffered sites of at least 3,000 acres where access to the open space mixed-use development from a limited access highway such as Route 3 is by a major street. For the purposes of this section, the 3,000 acres in the open space mixed-use development may consist of adjacent parcels in compact, nonlinear shape, zoned Rural Residential, and divided only by highways, public and private roadways, and easements, and may include land subject to special permits for other overlay districts such as high technology PUD or recreational development. For purposes of this section, parcels on opposite sides of a roadway shall be deemed to be adjacent parcels in compact, nonlinear shape, if said parcels have at least 200 feet of frontage directly opposite each other on a highway or public or private roadway.
- (2) Notwithstanding other sections of this bylaw, common open space or facilities in the open space mixed-use development may include dedicated open space; open space within any component of the OSMUD; reserved land; recreational uses, including passive recreation facilities such as nature trails and active recreation facilities such as golf courses, tennis clubs, and sports fields; agricultural uses; buffers from roadways; common areas in residential developments; public and quasi-public uses as described in Subsection I(2) below, including municipal uses; roadways; water supply and wastewater treatment facilities to service the OSMUD and other districts (provided that water supply will not service land outside of Plymouth); and uses accessory to the foregoing.

RECREATIONAL USES — Consist of indoor or outdoor recreational facilities, passive recreational facilities such as nature trails, and active recreational facilities such as ball fields (baseball, football, and soccer) or other play and sporting areas, tennis courts, golf courses, swimming pools and the like, and other such customary accessory uses, structures, and facilities.

RESERVED LAND — Land designated to be left undeveloped in a substantially natural state.

- (1) It is intended that reserved land be dedicated to the control of the Town of Plymouth. Reserved land shall not be used for any use other than passive recreation, subject to the reservation of appropriate easements for underground utilities, roadways and passages to service adjacent properties, and signage. The Town of Plymouth shall be offered all such reserved land in accordance with the provisions of Subsection H(2) of this section. If the Town declines to accept all or part of such reserved land, the part not accepted shall be offered to the state or federal government or a nonprofit organization existing prior to January 1, 1995, whose purpose is to own, maintain and preserve land as open space and to conserve and protect the natural environment, provided that the state or federal government or such nonprofit organization shall agree that such land shall be left undeveloped in a substantially natural state and not be used as a water supply for any area outside Plymouth.
- (2) Lots included in the open space mixed-use development that are contiguous to existing property used for public schools shall only be used for reserved lands. Water supply and wastewater treatment facilities to service the OSMUD shall not be placed upon existing lots that are contiguous to existing property used for public schools.

C. Objectives.

- (1) To preserve unique natural topography and provide meaningful open space.
- (2) To ensure appropriate high-quality design and site planning and a high level of environmental amenity.
- (3) To minimize all Town service responsibilities, including Town services for streets, utilities, fire protection and police.
- (4) To allow flexibility and creativity in the design of development through a carefully controlled special permit process of negotiation of a master plan.
- (5) To establish significant buffers between the higher intensity commercial and retail uses and abutting residential areas by the planning of reserved land and common open space or facilities.
- (6) To reduce the number of conventional single-family residential units which would otherwise be allowed in the RR District and to substitute therefor limited occupancy communities and planned retirement uses and thereby encourage alternative forms of single- and multifamily housing development which will meet the changing needs of a maturing population.
- (7) The objectives set forth in this Subsection C shall be considered as guidelines by the Planning Board in its grant of a master plan special permit under this section but are not intended to establish any specific requirements beyond those set forth in other subsections of this section.

D. Uses.

- (1) Under the master plan special permit described in this section, the following uses or any combination thereof, meeting the dimensional and intensity regulations of the open space mixed-use development, may be allowed:
 - (a) All allowed uses, special permit uses, and special permit uses subject to environmental design conditions permitted in the RR District (§ 205-40).

- (b) All allowed uses, special permit uses, and special permit uses subject to environmental design conditions permitted in the Recreational Development (RD) District (§ 205-59).
- (c) High technology planned unit development as permitted in the RR District (§ 205-40D).

(d) Nonresidential uses (hereinafter referred to as "NR uses"), in keeping with the nature and intent of this section and the character of the open space mixed-use development, such as agricultural uses; open space; recreational uses, including passive recreation such as nature trails and active recreation facilities such as golf courses, tennis clubs, and sports fields; planned shopping centers; utilities, including but not limited to roadways and water supply and wastewater treatment facilities serving the OSMUD and other districts, including utility company facilities; all commercial and residential allowed uses, special permit uses, and special permit uses subject to environmental design conditions under the General Commercial (GC) District (§ 205-49), except as expressly prohibited in this Subsection D, but without limit as to ground floor area coverage or total floor area or date of construction of a building except as provided in this section; and one filling or service station (as defined in § 205-3B) subject to the following:

[1] Such use shall be subject to all applicable state and local laws, regulations and permits, including but not limited to the Commonwealth of Massachusetts Board of Fire Protection Regulations 527 CMR 9.00 governing the construction, installation, operation maintenance and repair of underground fuel storage tanks and systems;

[2] Such use shall not be permitted within any Zone 2 public drinking water aquifer protection area;

[3] The scope of building permit review under § 205-5(B)(2)(c) shall include review by the Planning Board with respect to compliance with the requirements of the OSMUD bylaw, with recommendations from the Conservation Commission (if applicable), Fire Department and Department of Public Works;

[4] The scope of building permit review under § 205-5(B)(2)(c) shall include, but not be limited to environmental review of the impact of any such use with respect to ground water; and

[5] The scope of building permit review under § 205-5(B)(2)(c) shall also include traffic circulation, architectural design and landscape design, including certification by the applicant that such building is in compliance with the design and appearance criteria in § 205-12D and the design, scale, density, and character of the building shall strictly incorporate the intent of the OSMUD bylaw, including the following design criteria:

- [a] All structures shall have red cedar or architectural asphalt roof shingles;
- [b] All structures shall be constructed with traditional New England building materials in brick, cedar shingles or wood clapboard siding;
- [c] Varied exterior details including; columns, roof soffits and trim details are encouraged;
- [d] Exterior colors pallet must be pre-approved by the Planning Board;
- [e] No plate-glass windows shall be allowed, and all windows shall have "true" mullions/grilles; and
- [f] Structures shall exhibit historic or period-style architecture and appropriate materials shall be used to maintain the integrity of the style.

These elements should vary to enhance the sense of a village that has grown with the landscape and the neighborhood.

- (e) Planned retirement communities for households in which at least one permanent occupant is 55 years of age or older, but not limited to congregate care facilities, rest homes, convalescent homes, homes for the elderly, nursing homes, elderly housing, and independent living units, provided that they are planned as a community. A social recreation center is required to serve as a focal point for the community. Appropriate medical and transportation facilities are also required.
 - (f) Limited occupancy communities (LOC's) designed for households of a limited number of members in which the following requirements apply:
 - [1] No dwelling unit shall contain more than three bedrooms, except for the following: [a] five (5%) percent of the total number of LOC dwelling units permitted pursuant to any approved Master Plan Special Permit for Open Space Mixed Use Development issued before April 4, 2005 and/or permitted under any Development Plan for an Open Space Mixed Use Development approved and/or amended before April 4, 2005 (the "Currently Permitted LOC Homes"), which may have more than three (3) bedrooms, provided that each such dwelling unit must contain a minimum of 3,000 square feet of living area; [b] after fifty (50%) percent of such units described in subsection [a] hereof are constructed, if authorized by the Planning Board by Special Permit or permitted under any Development Plan or amendment(s) thereto, an additional five (5%) percent of the total number of Currently Permitted LOC Homes (above those authorized by subsection [a] hereof) may have more than three (3) bedrooms, provided that each such dwelling unit must contain a minimum of 3,000 square feet of living area; and [c] provided that authorization under subsection [b] has been secured, after fifty (50%) percent of such units described in subsections [a] and [b] hereof are constructed, if authorized by the Planning Board by Special Permit or permitted under any Development Plan or amendment(s) thereto, an additional five (5%) percent of the total number of Currently Permitted LOC Homes (above those authorized by subsections [a] and [b] hereof) may contain more than three (3) bedrooms, provided that each such dwelling unit must contain a minimum of 3,000 square feet of living area;
 - [2] The master bedroom in each detached or townhouse dwelling unit shall be on the first floor and no more than two additional bedrooms shall be on the first floor; except for dwelling units within the neighborhood green district that contain three (3) bedrooms or less, which need not have the master bedroom on the first floor;
 - [3] Recreational amenities provided for an LOC as part of the common open space or facilities shall be oriented toward an adult population and shall not include playgrounds.
- (2) All of the above uses shall be subject to the general requirements of this Subsection D that the property owners, individually and/or through a viable association, shall be obligated for the development, operation, and maintenance of common water supply, wastewater

disposal, and internal vehicular and pedestrian circulation systems, and other utilities (e.g. telecommunications/cable services).

- (3) Land located within the Aquifer Protection District is subject to the provisions and restrictions outlined in § 205-57 of the Zoning Bylaw, subject to the following:
- (a) The term "underlying zoning districts" as used in § 205-57 shall include both zoning districts and overlay zoning districts;
 - (b) For the purposes of § 205-57D(4), any dwelling permitted in this district may be connected to a municipal or privately owned sewer treatment facility;
 - (c) For the purposes of § 205-57D(5), any dwelling unit, inn or lodging house permitted in this district shall be allowed at a gross density of one dwelling unit (or four bedrooms in the case of an inn or lodging house) not connected to a sewer treatment facility per 40,000 square feet of land; gross density in this case shall be calculated upon the total land area in the Aquifer Protection District, including land connected to a municipal or privately owned sewer treatment facility;
 - (d) For the purposes of § 205-57F(1)(o), the term "treatment works" shall not include subsurface sewage disposal systems permitted under § 205-57D(5), as modified hereunder, or wastewater collection and treatment systems that transport wastewater to and/or treated water from outside the Aquifer Protection District; and
 - (e) Installation of treatment works, including but not limited to sewage treatment, collection and disposal facilities, is permitted within any portion of an OSMUD located within the Aquifer Protection District.
- (4) Drive-through establishments shall be allowed for financial institutions, but only two other drive-through establishments shall be allowed. [Amended 4-3-10 by Art. 39]
- (5) The following uses are prohibited in the open space mixed-use development: retail or wholesale sales or bulk storage (except for on-site use), and except for one filling or service station as set forth in § 205-63D(1)(d)) of petroleum-based fuels, including but not limited to home heating oil, diesel fuel, kerosene, or gasoline; sales, services, rentals, repairs, storage, or salvage of motor vehicles, recreational vehicles, or other gasoline- or diesel-powered engines, motors or generators; automotive service stations (except for one filling or service station as set forth in § 205-63D(1)(d)); drive-in movie theaters; exterior storage of products or merchandise in substantial quantities; exterior storage of junk, scrap, salvage, or any secondhand materials; major automotive garages; body shops; any garage which conducts repairs out of doors; tire recapping and retreading; storage of bulk petroleum products (except for on-site use, and except for one filling or service station as set forth in § 205-63D(1)(d)); any use which the Planning Board determines to be potentially dangerous or offensive to persons in the district or who pass on the public ways by reason of emission, odor, smoke, fumes, particulate matter, noise, vibration, glare, radiation, electrical interference, threat of fire or explosion, or disposal of solid waste; storage and/or transmission of refined petroleum products in such a way that rupture of the storage tank will result in direct leakage into the ground; disposal of liquid or leachable wastes, including landfilling of sludge and septage; use of septic cleaners containing toxic organic chemicals; open and/or leachable storage of road salt or de-icing chemicals; use of sodium chloride for ice control; disposal or stockpiling of snow or ice from outside the district; storage, generation, treatment or disposal of hazardous wastes; production, manufacture or warehousing of hazardous or toxic substances; dumping,

filling, excavation, grading, transferring or removing gravel, sand, loam, material, or rock, prior to obtaining all permits and approvals for final development; landfills or open dumps; storage of commercial fertilizers except in approved storage structure; storage of animal manure unless covered; any industrial uses unless specifically provided for in the zone; automobile salvage yards; and storage of any products, materials or vehicles in connection with manufacturing or commercial uses outside the district; massage parlors; casinos; betting establishments, gaming establishments, and race tracks; trucking and freight terminals; freestanding laundromats; firing ranges; wrestling and boxing establishments; adult uses, including adult bookstores, adult motion picture theaters, adult dance clubs, adult paraphernalia stores, adult video stores and other such uses as provided by MGL c. 40A, § 9A, and adult dance clubs, including entertainment establishments which permit a person or persons to perform in a state of nudity as defined by MGL c. 272 and c. 31. Family-oriented entertainment shall be encouraged, but freestanding mechanical or video amusement centers, and freestanding pool or billiard parlors, and outdoor performance utilizing amplification equipment (except in a neighborhood green), are not encouraged.

E. Location and density.

- (1) The minimum area of a tract eligible for an open space mixed-use development is 3,000 acres in a single or consolidated ownership or control at the time of the original application, and the tract must have 2,000 feet of direct frontage on a major street, as designated by the Zoning Bylaw. Subsequent to the original application, applications for amendments to the boundaries of the OSMUD shall not require that the land be in a single or consolidated ownership or control. The open space mixed-use development may provide for a centralized area (the "neighborhood green") in which a full range of mixed uses, including but not limited to retail, service, office, hotel, lodging house, conference centers with overnight accommodations, recreation, and single- and multifamily residential in planned retirement communities and limited occupancy communities, can function in efficient fashion to their mutual advantage and that of the community. Tables 11, 12 and 13 describe the type of development, minimum size, maximum overall density, minimum lot size allowed, intensity of use, and dimensional requirements.
- (2) Retail uses, because of their front yard buffer distances from major streets and limited access highways, must have access from a major street and be located within 3,000 feet of a limited access highway; provided, however, that no more than four penetrations of the buffers on any major street shall be permitted for access to a contiguous area (not separated by major streets, scenic streets, or limited access highways) of a neighborhood green, any portion of which contains retail uses. Retail uses shall be contiguous (not separated by major streets, scenic streets, or limited access highways) and shall not be dispersed within the open space mixed-use development and shall be well buffered from existing residential uses. All buffers shall be designated in the master plan.
- (3) In calculating the intensity of use and allocation of open space, the following procedures shall be used:
 - (a) Land or water areas contained in the flood hazard areas designated as Zones A, A1-30, and B as defined in § 205-58C shall be subtracted from the total lot area before calculating densities in development parcels.
 - (b) Roads shall not be subtracted from the total area in determining net densities. For preliminary and general planning purposes, roads may be estimated as 15% of total

area. For definitive plans, all lot sizes and densities as specified herein shall be net figures with rights-of-way for streets figured exactly.

Table 11

Location and Density Requirements of OSMUD	
	Requirement
Zone	Rural Residential (RR)
Minimum area	3,000 acres
Maximum floor area ratio	0.2
Maximum building coverage	10%
Area to be in common open space or facilities	70% of total open space mixed-use development
Minimum lot width	2,000 feet on major streets
Note: For the purposes of the open space mixed-use development, the contiguous parcels making the 3,000 acres minimum property may be divided by highways or public or private roadways and may include land subject to special permits for other overlay districts such as high technology PUD or recreational development.	

Table 12

Perimeter Buffer and Setback Requirements for Contiguous Parcels Making Up the 3,000 Acres in OSMUD	
	Requirement
Scenic streets buffer	300 feet ^{1,4}
Major streets buffer	500 feet ^{1,4}
Rear yard buffer	200 feet ²
Side yard buffer	200 feet ²
Limited access highways buffer	200 feet ^{1,3,4}
Limited access highways setback	500 feet ⁴

¹.These requirements only apply to distances from major streets and scenic streets existing at the time of the application for the master plan special permit for an open space mixed-use development. The five-hundred-foot front yard buffer from major streets may be penetrated for the creation of new internal ways or new ways to connect an open space mixed-use development to the existing public roadway system. Any buffer may be penetrated for utility easements, agricultural purposes, recreational purposes, carpaths, emergency access or property maintenance, or for vehicular access, the primary purpose of which is to serve nonretail uses. These buffers shall be measured the required distance from the street line and shall not restrict the development of residential lots fronting on existing ways. All of the above are subject to limitation by the Planning Board in the master plan special permit.

².These requirements only apply to retail and high technology uses. These requirements only apply to distances from property lines existing at the time of application for the master plan special permit for an open space mixed-use development separating the open space mixed-use development from land not in common ownership.

³. The two-hundred-foot limited access highway buffer is included within the five-hundred-foot setback requirement.

⁴. In the master plan special permit, the Planning Board may approve a reduction in the width of buffers or setbacks to allow (i) no less than a two-hundred-foot buffer or setback from existing major streets, limited access highways, and existing scenic streets, and (ii) within the area of permitted retail uses under Subsection E(2), no less than a one-hundred-fifty-foot buffer or setback from existing major streets and limited access highways consisting of 100 feet of undisturbed land measured from existing major streets and/or limited access highways, except for penetrations for ways, utilities, etc. as provided in Footnote 1 to this Table 12. [Amended 4-3-10 by Art. 39]

Table 13
Uses Allowed in the Remaining Area (Maximum 30%) of the Total OSMUD May Be Used as Follows

Internal Development Requirements						
Use	Intensities	Area (square feet) (inclusive of easements within such area)	Min. Lot Width	Min. Front Yard ¹	Min. Side Yard ¹	Min. Rear Yard ¹
Limited Occupancy Communities (LOC) Dimensional and intensity requirements for the LOC uses within the OSMUD shall be as in the Rural Residential (RR) Zone or the Recreational Development (RD) Overlay Zone as in effect as of November 14, 1995, or the rural density development or this section	Shall not exceed 1,897 LOC dwelling units (du) maximum for 3,000 acre OSMUD; shall not exceed 1 LOC du for each gross acre above 3,000	6,000	25 feet	10 feet	0 feet	10 feet
Planned Retirement Dimensional and intensity requirements for a planned retirement community within the OSMUD shall be as in this section	Shall not exceed 920 planned retirement units	6,000	25 feet	10 feet	0 feet	10 feet
Commercial Dimensional and intensity requirements	The aggregate of	60,000	200 feet	50 feet	30 feet; parking	30 feet; parking

Internal Development Requirements						
Use	Intensities	Area (square feet) (inclusive of easements within such area)	Min. Lot Width	Min. Front Yard ¹	Min. Side Yard ¹	Min. Rear Yard ¹
for the commercial areas within the OSMUD shall be as outlined in the high technology planned unit development or this section, subject to the limitation in the column of this Table 13 labeled "Intensities"	commercial and retail uses shall not exceed 1,300,000 square feet gross leasable area ²				areas and driveways shall comply with the minimum side yard requirement	areas and driveways shall comply with the minimum rear yard requirement
Retail Dimensional and intensity requirements for the retail areas within the OSMUD shall be as in the GC District or this section, subject to the limitation in the column of this Table 13 labeled "Intensities"	Shall not exceed 220,000 square feet gross leasable area ²	40,000	90 feet	40 feet	150 feet if abutting residential or 40 feet other uses; parking areas and driveways shall comply with the minimum side yard requirement	150 feet if abutting residential or 30 feet other uses; parking areas and driveways shall comply with the minimum side yard requirement
Neighborhood Green (all uses), subject to the intensity limitations of this Table 13 for the aggregate amount of any uses in the OSMUD ^{3,4}			0 feet	0 feet	0 feet	0 feet

¹Setbacks are in addition to the buffers noted in Table 12.

²No single retailer shall exceed 40,000 square feet (except for retail food, which may be 55,000 square feet). Within the open space mixed-use development single buildings in excess of 10,000 square feet are subject to certification to the Building Commissioner, as specified in Subsection J(1) below, that such buildings are in compliance with the design and appearance criteria in § 205-12D and that the design, scale, density, and character of all buildings shall strictly incorporate the intent of the open space mixed-use development bylaw. The term "gross leasable area" as used herein shall mean net floor area minus covered walkways, gazebos, or other amenities acceptable to the Planning Board to make the development pedestrian-oriented.

³The neighborhood green may be established as provided in Subsection E.

⁴Height within the neighborhood green may be 50 feet in the case of a flat roof or 55 feet in the case of a sloping roof, including ornamental structures normally constructed above the roofline, such as cupolas, and other appurtenances, such as air-conditioning units (with the exception that height may

not exceed 35 feet, within the one-hundred-fifty-foot to two-hundred-foot reduction of buffers or setbacks measured from major streets, limited access highways and scenic streets, and may not exceed 45 feet (i) from the two-hundred-foot to five-hundred-foot reduction of buffers or setbacks from major streets, limited access highways and scenic streets, or (ii) within 500 feet of the property line existing at the time of application for the master plan special permit for an open space mixed-use development separating the open space mixed-use development from land not then in common ownership, or (iii) beyond 1200 feet from a major street.) [Amended 4-3-10 by Art. 39]

F. Planning principles and requirements.

- (1) **Land uses and open space.** The common open space or facilities system shall serve to unify the entire development visually and functionally, to normally buffer different types of uses within the development, to appropriately buffer the development from surrounding land uses, and to visually separate buildings or groups of buildings, whether on or off site. It is intended that the different types of uses within an open space mixed-use development shall be related to each other in a logical manner such that all uses function compatibly.
- (2) **Relationship to land use.** Uses shall be located and designed to serve the intended population efficiently.
- (3) **Vehicular circulation.** Streets within the open space mixed-use development shall be designed to the then current standards of the Planning Board rules and regulations. To reflect the rural character of the existing scenic streets and overall area, the Planning Board shall allow collector streets within a residential portion of the OSMUD to have a paved surface width of 22 feet with or without Cape Cod berms and minor streets within a residential portion of the OSMUD to have a paved surface width of 18 feet with or without Cape Cod berms. Required granite shall be installed in the neighborhood green along the perimeter of the green and where sidewalks abut the street. Meandering pedestrian paths, rather than paved sidewalks, are encouraged within the OSMUD. The Planning Board shall encourage flexibility in roadway design, length of cul-de-sac, steepness of grade, and construction standards based upon the topography of the land and this bylaw's intent to minimize the disturbance of the natural site by any proposed development.
 - (a) All lots developed within the OSMUD shall contain a reference in the title to the fact that the road systems and drainage areas shall remain in private ownership in perpetuity. Furthermore, any proposal for or petition for repairs, improvements, or modifications to the road and/or drainage systems by the Town of Plymouth, or any other public entity, after the initial construction of the road and drainage systems shall be considered by the Town of Plymouth, or any other public entity, if and only if the repairs, improvements, or modifications are financed through a municipal betterment to the private residential and commercial landowners.
 - (b) The major streets, scenic streets, limited access highways, and intersections serving the open space mixed-use development shall be identified in the site's master plan.
- (4) **Pedestrian circulation.** The presence of a common open space or facilities system throughout the development creates the opportunity for a pedestrian and bicycle circulation system separate from the street system. Pedestrian and bicycle paths through open space can be safer, more pleasant, and often more direct than conventional sidewalks which must follow vehicular rights-of-way. Wherever possible and appropriate, pedestrian and bicycle circulation shall be provided within the common open space or facilities system, minimizing street crossings and reducing the need for streetside walkways. Where

paths in the open space can appropriately take the place of sidewalks, the Planning Board may waive the conventional sidewalk requirement specified in the Subdivision Regulations.

- (5) **Protection of public safety.** Open space mixed-use development proposals shall be designed and located so as not to endanger its occupants or the public. The design shall include adequate water supply distribution and storage for fire protection. Vehicular circulation shall consider the access needs of emergency and public safety vehicles. In the case of uses adjacent to large amounts of forested areas, the design shall also consider fire breaks and trail access. The adequacy of the foregoing public safety measures shall be to the reasonable satisfaction of the Plymouth Chief of Police and Fire Chief, in their respective fields.
- (6) **Surface water drainage and wastewater disposal.** It is intended that open space mixed-use developments permitted under this bylaw shall not pollute the groundwater. All systems which deliver or may discharge water into the ground shall be sufficient to treat said water and to monitor said treatment so as to achieve any and all applicable effluent standards of the Board of Health or the Massachusetts Department of Environmental Protection, as applicable, in light of the particular structure, its proposed use and the soil and groundwater conditions of the proposed site. Surface water drainage and wastewater disposal areas shall not be placed upon reserved lands.
- (7) **Protection of the environment.** Open space mixed-use development proposals shall include a complete inventory and analysis of any features of the environment which are unique or peculiar to the area. Open space requirements shall be satisfied first by protecting such features. These features include species or complexes of flora or fauna or their habitats, areas of high visual quality, soils, geology and topography. Where large acreage is involved, this section is intended to be satisfied through study only of those areas to be actually developed. Interruption of systems of environmental importance such as trails to food, water or habitats is of particular concern, however. Maintenance of common open space or facilities and reserved land shall include specific provisions to protect the natural environment as it exists.
- (8) **Water resources protection.** It is intended that open space mixed-use developments permitted under this bylaw shall not adversely affect the common aquifer or other users of that resource. Proposals for a master plan special permit shall include a satisfactory water resource study performed by a qualified engineering consultant which assesses the effects of proposed water usage upon ponds, bogs, wetlands, public and private wells, and the other natural resources dependent upon the common aquifer. Such water withdrawals and usage shall meet all the applicable regulations and standards of the Board of Health and the Massachusetts Department of Environmental Protection.
- (9) **Outdoor lighting.** It is intended that nonresidential development permitted under this bylaw shall not unreasonably interfere with the use and enjoyment of property within an open space mixed-use development and surrounding areas and with astronomical observations. With respect to nonresidential development within an open space mixed-use development, outdoor electrically powered illuminating devices, lighting practices, and systems which will reduce light pollution and conserve energy while maintaining reasonable nighttime safety and security shall be employed.
- (10) **Signage.** Signs shall be provided for in § 205-19 of this bylaw. For purposes of § 205-19 within the OSMUD, the Planning Board shall serve as the special permit granting authority. The Planning Board may by special permit allow signs of such size and height

as appropriate for identification and safety in relation to a proposed use and in relation to the intensity, buffers, and setbacks of such use. Internally lit signs are prohibited.

(11) **Parking and loading.**

- (a) Notwithstanding any provisions of § 205-23A, parking requirements may be met by a combination of parking interior to lots and on street, as is appropriate to a pedestrian-oriented commercial center, and may be located greater than 400 feet from the principal building served.
- (b) Notwithstanding any provisions of § 205-23D, more than two driveways may be allowed on any street frontage, and driveways may be less than 30 feet apart or shared. For multifamily use, driveways should have a minimum width of eight feet.
- (c) Notwithstanding any provisions of § 205-23E, G and H, off-street parking spaces may be perpendicular, head-in or angled on streets or lots adjacent to the street.
- (d) Notwithstanding any provisions of § 205-23F, secondary parking areas may consist of turf, gravel or stone dust surfaces, which shall be included in common open space or facilities.
- (e) Notwithstanding any provisions of § 205-23G, parking lanes may be separated by spaced landscaped islands, with or without curbs. Parking spaces shall not be less than eight feet by 17 feet in size, and driveways within the parking areas shall not be less than 18 feet in width.
- (f) Within a neighborhood green, landscaping and parking area dividers consistent with the standards of § 205-23H shall be provided.
- (g) Notwithstanding any provisions of § 205-23K, for nonresidential uses, one parking space for each 400 square feet shall be sufficient to provide adequate parking, by taking into account multiple complementary uses in order to reduce excessive pavement.
- (h) Notwithstanding any provisions of § 205-24A, one loading space for each building or shared loading spaces meeting the loading space requirement of the table contained within § 205-24A shall be sufficient to provide adequate loading areas. Notwithstanding any provisions of § 205-24D and E, loading spaces may be designated on the streets for smaller commercial establishments.

G. **Natural features protection.** Because open space is a critical feature of the open space mixed-use development, all developments shall have primary importance attached to the natural features conservation requirements prescribed in § 205-18. Additional standards concerning the character and quality of the recreational areas are prescribed herein. Failure to comply with the intent of these standards and guidelines shall constitute grounds for disapproval.

H. **Open space and common facilities.**

- (1) **Design and location.** The common open space and facilities system shall be designed to accomplish the following objectives:
 - (a) To maintain as much land as possible in its natural state, or for specific active or passive recreational purposes, and in large parcels that would not be possible in lot by lot ownership, and with access to common open space and facilities which are not included within lots used for residential uses guaranteed to all users of the

development (although use may be conditioned on payment of a fee). The objectives of this Subsection H(1)(a) shall be presumed to be met if not less than 200 acres of the proposed open space mixed-use development is dedicated to reserved land.

- (b) Upon consideration of such characteristics of the common open space or facilities system as area, topography, breadth and nature of foliage, the Planning Board may approve a reduction in the width of buffers for nonretail uses to allow no less than a two-hundred-foot buffer from existing major streets, limited access highways, and existing scenic streets. Notwithstanding the definitions of buffers elsewhere in the Zoning Bylaw, in the open space mixed-use development, buffers along scenic streets may be penetrated for utility easements, agricultural purposes, recreational purposes, cartpaths, emergency access or property maintenance, or for vehicular access, the primary purpose of which is to serve nonretail uses. All of the above are subject to limitation by the Planning Board in the master plan special permit. The front yard buffer along limited access highways and between major streets and any neighborhood green shall consist of natural open space for a distance of 100 feet from the street line of the limited access highway or major street, except for agricultural uses, water features and roadway penetrations and the following items at the street line: landscaping, signage, and site appurtenances. The front yard buffer from limited access highways or major streets may be penetrated (subject to the limitation on buffer penetration in Subsection E) for the creation of new internal ways or new ways to connect an open space mixed-use development to the existing public roadway system.
 - (c) To distribute the open space, common facilities, and recreational and agricultural areas such that the entire development is unified functionally and visually by such space.
 - (d) To provide open space, common facilities, and recreational and agricultural areas within easy access of all users. All parts of the common open space or facilities system shall be appropriate to their functions as buffers, large natural areas, open fields, developed recreational areas or yards for buildings. Such characteristics as area, topography, breadth and nature of foliage shall be considered by the Planning Board in determining whether the common open space or facilities system satisfies the standards and intent of the open space mixed-use development.
- (2) **Ownership and maintenance.** The plans and documentation submitted to the Planning Board shall include a description of all common open space or facilities as follows:
- (a) **Plans.** The plans and/or any necessary supporting documents submitted with an application for a master plan special permit shall show the general location, size, character, and general area within which common open space or facilities will be located.
 - (b) **Dedication to Town.** The Town may at any time accept the dedication of any said land, facilities or any interest therein for public use, benefit or maintenance, but the acceptance for public use shall not be required as a condition for approval of the open space mixed-use development. If the Town Meeting fails to accept the offered land within two years of the receipt of the offer or such other time as the parties may agree, then the offeror shall offer the reserved land to the state or federal government or a nonprofit organization as specified in the definition of "reserved land" herein or shall use another method identified herein for guaranteeing the

reserved land and the common open space or facilities system as approved by the Planning Board.

(c) **Covenant.**

- [1] Any land or facilities designed as part of the reserved land shall be made subject to a covenant acceptable to the Planning Board and benefiting a nonprofit organization existing prior to January 1, 1995, whose purpose is to own, maintain and preserve land as open space and to conserve and protect the natural environment, which covenant shall be recorded in the Plymouth County Registry of Deeds or the Plymouth County Registry District of the Land Court, whichever is applicable, and shall run with said land in perpetuity.
- [2] Any land or facilities designed as part of the common open space or facilities system which are not dedicated to the Town or governmental or nonprofit agency as provided herein shall be made subject to a covenant acceptable to the Planning Board, which covenant shall be recorded in the Plymouth County Registry of Deeds or the Plymouth County Registry District of the Land Court, whichever is applicable, and shall run with said land in perpetuity. Such common open space or facilities may consist of entire lots or portions of lots, provided that the common open space or facilities are made subject to a covenant recorded with the Plymouth County Registry of Deeds or the Plymouth County Registry District of the Land Court, whichever is applicable, which shall run with the land in perpetuity. Said instrument shall prohibit change of the use of such space to any use not in keeping with the common open space or facilities requirements without the approval of the Planning Board. The covenant may be recorded in phases, so that at all times 70% of the portion of the open space mixed-use development area with respect to which building permits have been issued shall be made subject to such covenant. The covenant may provide that land may be released from the restrictions of the covenant by an instrument executed by the owner and recorded, provided that not less than an equivalent area of land is made subject to the covenant and substituted therefor.

I. **Nonresidential uses.**

- (1) **General conditions.** Nonresidential uses may be specifically authorized under the master plan special permit in the open space mixed-use development. Inadequate relation of such uses to the overall plan of the development, incompatibility among adjacent uses, or insufficient buffer areas shall be sufficient ground to deny any such use. Plans and other documents for nonresidential uses should be submitted as an integral part of those submitted for the open space mixed-use development master plan special permit.
- (2) **Public and quasi-public.** Day-care centers, public parks and community recreation centers, buildings and uses and utilities as allowed by special permit under Articles IV, V and VI or § 205-27 are permitted uses in open space mixed-use developments.
- (3) **Agricultural uses.** Agricultural uses such as the creation and maintenance of cranberry bogs, ponds, ditches, and irrigation systems for cranberry culture which require the removal of sands and gravel within the Aquifer Protection Overlay District (§ 205-57) shall be allowed within an open space mixed-use development district only by special permit issued by the special permit granting authority subject to environmental design

review (§ 205-9C). In an open space mixed-use development, such sand and gravel removal for the creation of new open space facilities and cranberry agriculture may be considered incidental to a permitted use and, notwithstanding any such wording in § 205-57, may be allowed by special permit consistent with environmental design conditions, provided access is not provided through reserved land and/or by way of scenic streets.

J. **Administration.** In reviewing an open space mixed-use development, the Planning Board shall be the special permit granting authority and shall be governed by the special permit and environmental design conditions and procedures as specified in § 205-9.

(1) **Special permit for an open space mixed-use development required.** No building permit for a building within the open space mixed-use development shall be issued until a special permit for an open space mixed-use development master plan has been granted by the Planning Board. No building permit shall be issued which does not conform to the original special permit for an open space mixed-use development master plan unless said special permit is appropriately modified and reissued by the Planning Board. In addition to the submissions to the Building Commissioner otherwise required under § 205-5B in connection with an application for a zoning permit, the applicant shall file with the Building Commissioner a certification documenting the manner in which the requirements of the master plan special permit under Tables 11, 12 and 13 and under all other provisions of this section and the master plan special permit are met by each application for a zoning permit. Copies of all certifications and other material so filed with the Building Commissioner shall be provided to the Planning Board.

- (a) A special permit for an open space mixed-use development master plan shall not entitle the applicant to any building permits but is a necessary prerequisite to the issuance of any building permit for any construction.
- (b) Following the approval of a master plan for an open space mixed-use development, no building permit for an open space mixed-use development pursuant to this section shall be issued (unless expressly authorized by the Planning Board) until adequate legal documentation has been approved and executed to guarantee that not less than 200 acres of the open space mixed-use development is dedicated to reserved land as defined herein; provided, however, that such documentation shall not be recorded until all governmental permits and licenses necessary to construct a building greater than 10,000 square feet have been issued without appeal and recorded, where required, with the Plymouth County Registry of Deeds. No building permits shall be issued for an open space mixed-use development until copies of the recorded documentation are delivered to the Town, unless expressly authorized by the Planning Board.
- (c) Retail uses shall be configured in a campus-style development. No single retailer shall exceed 40,000 square feet (except for retail food, which may be 55,000 square feet). Within the open space mixed-use development no building permit for a single building in excess of 10,000 square feet shall be issued until the applicant has filed with the Building Commissioner, with copies to the Planning Board, certification that such building is in compliance with the design and appearance criteria in § 205-12D and that the design, scale, density, and character of all buildings within the open space mixed-use development incorporate the intent of the open space mixed-use development bylaw, which certification shall be based upon a study prepared at the landowner's expense by a qualified independent architect or engineer. Approval

shall not be given to the construction of the first retail use unless the applicant has certified to the Building Commissioner, with copies to the Planning Board, that:

- [1] The major intersections and roads in the vicinity of such development are operating and will continue to operate at an acceptable level of service (LOS) based on the impact of vehicular traffic from all previously constructed buildings within the open space mixed-use development together with the impact of the traffic from all retail to be constructed, based upon a traffic study prepared at the landowner's expense by a qualified independent traffic engineer which examines such matter; and
 - [2] The projected economic impact of all retail to be constructed will be of economic benefit to the Town, based upon an economic impact report based on quantitative economic criteria prepared at the landowner's expense by a qualified independent economic research firm which examines said impact.
- (d) Approval shall not be given to construction of any building greater than 55,000 square feet for any commercial use other than retail unless the applicant has certified to the Building Commissioner, with copies to the Planning Board, that the major intersections and roads in the vicinity of such development are operating and will continue to operate at an acceptable LOS based upon the additional impact of such building based on a traffic study prepared at the landowner's expense by a qualified independent traffic engineer.
- (2) Application for special permit for an open space mixed-use development master plan. Following initial submission to the Building Commissioner as specified in § 205-5, a plan shall be filed with the Town Clerk and the Planning Board with all information required as follows:
- (a) The entire area of land to be developed including all adjacent land owned by the applicant, and all land under option to purchase agreement by the applicant, and all land owned by the applicant within 1,000 feet of the proposed open space mixed-use development.
 - (b) The topography of the land to be developed at five-foot contours, vegetative cover, soil types, wetlands and water bodies, roads and ways, the general location, size and shape of structures to be removed and the exact location, size and shape of structures to remain, and generalized planting plans.
 - (c) The general land area, number of buildings or units within buildings and approximate floor area ratio shall be specified for the total site, for all common land, and for each area devoted to a different type of building or use, as delineated on the plan.
 - (d) The general location, size, and intended use of all common open space or facilities and the firm or organization intended to own and/or maintain same.
 - (e) The general location and size of all proposed structures, including a schedule of various land use types, the general location of all roads, pedestrian circulation systems, method of water supply, sewage disposal, public utilities, and method of surface water drainage disposal.

- (f) A schedule showing the generally proposed times within which applications for groupings of building permits are to be applied for, which schedule may be subject to variation depending on market forces.
 - (g) A written statement by the landowner setting forth the reasons why an open space mixed-use development would be in the public interest and consistent with the objectives of this section.
 - (h) Draft legal documents, as required, to provide for reserved land and common open space or facilities.
- (3) **Processing of application for special permit for an open space mixed-use development master plan.** Application shall be processed, heard and acted upon as with any other application for a special permit, subject to environmental design conditions. When deemed necessary by the Planning Board, an independent consultant may be retained by the Town at the expense of the applicant to review the findings of any report or submissions made hereunder.
- (4) **Special permit for an open space mixed-use development master plan.** The Board may include, as a condition of the permit, the schedule of applications for groupings of building permits and any additional drawings, specifications and form of performance bond that shall accompany such applications. The applicant shall, within 20 days after receiving a copy of the written permit of the Planning Board, notify the Planning Board of his acceptance of or his refusal to accept all said conditions. In the event the landowner refuses to accept any or all said conditions, the Planning Board shall be deemed to have denied approval of the application. In the event the landowner does not, within said period, notify the Planning Board of his acceptance of or his refusal to accept all said conditions, approval of the plan with all said conditions shall stand as granted. Nothing contained herein shall prevent the Planning Board and the landowner from mutually agreeing to a change in such conditions, and the Planning Board may, at the request of the landowner, extend the time during which the landowner shall notify the Planning Board of his acceptance or refusal to accept the conditions.
- (5) **Status of plan after approval of application for special permit for an OSMUD master plan.** In the event that a plan is given approval for an OSMUD master plan and thereafter, but prior to approval of building permits for all buildings, the landowner shall elect to abandon part or all of said OSMUD master plan and shall so notify the Planning Board in writing, the OSMUD master plan approval shall be deemed to be revoked with respect to the area included in the OSMUD master plan for which building permits have not issued and which is not subject to recorded covenants for common open space or facilities, and such area included in the OSMUD master plan for which building permits have not issued and which is not subject to recorded covenants for common open space or facilities shall be subject to all conventional zoning and subdivision requirements otherwise applicable thereto. The issuance of a building permit for a building under an OSMUD master plan special permit within two years of the date of filing of the decision with the Town Clerk (or the date of final resolution of any appeal of such decision) shall be deemed to constitute substantial use of rights under an OSMUD master plan.
- (6) **Zoning freeze provisions.** If a definitive subdivision plan, or a preliminary subdivision plan followed within seven months by a definitive plan, was submitted to the Planning Board for approval under the Subdivision Control Law and written notice of such submission was given to the Town Clerk before November 14, 1995, the land shown on such subdivision plan shall be governed by the zoning regulations in effect on the date of

such notice to the Town Clerk and by the approved subdivision plan (as it may be modified) which was the subject of such notice to the Town Clerk, notwithstanding the issuance or recording of a special permit for an open space mixed-use development master plan; provided, however, that in the event that all or any part of the OSMUD master plan is abandoned by the landowner, such zoning regulations applicable to land so abandoned shall govern such land for a period of eight years after the date of abandonment.

(7) **Modifications to environmental design conditions.** In an OSMUD the following modifications to environmental design conditions shall apply:

- (a) Notwithstanding the provisions of § 205-9C(3)(a) and (c), plans may be drawn to the scale of no greater than one inch equals 400 feet where practical and appropriate to the size of the proposal, and locus maps may be drawn to the scale of no greater than one inch equals 100,000 feet.
- (b) Notwithstanding the provisions of § 205-9C(3)(b), topography may be shown at no greater than five-foot contour intervals, and tree depiction and photograph sizes shall be as practical and appropriate to the size of the proposal.
- (c) Notwithstanding the provisions of § 205-9C(3)(d), plans submitted in connection with a master plan special permit shall contain a level of detail consistent with a master plan perspective and shall not be required to indicate the precise location or contain all the elements otherwise required under § 205-9C(3)(d).

(8) **Other requirements.**

- (a) Waivers with respect to dimensional and similar requirements in an OSMUD, or any other section of the Zoning Bylaw which may be incorporated by reference into this section, may be authorized by the Planning Board in the special permit for the OSMUD master plan and/or in a special permit for any building within an OSMUD upon a demonstration that the proposed waiver or modification is of high standards and that any departure from the general criteria will not violate the intent of the Zoning Bylaw.
- (b) A special permit for an OSMUD master plan or a master plan issued under any other section of this Zoning Bylaw may be amended by the Planning Board as requested by and with the consent of the landowner under this section as in effect as of the date of such amendment, provided that the requirements of this section are met by such special permit, as amended. In the case of any such amendment to a special permit for an OSMUD master plan or a master plan issued under any other section of this Zoning Bylaw, where such amendment includes the addition of a gross acre (or gross acres) above 3,000, the provisions of § 205-63(D)(1)(f) to the contrary notwithstanding, the applicant and the Planning Board shall determine whether any additional LOC dwelling unit or units permitted under such amendment may contain more than three (3) bedrooms.
- (c) The provisions of this Section 205-63, as amended on June 7, 2000, shall be applicable to a Master Plan Special Permit for an Open Space Mixed Use Development (or any modification or phase thereof), whether issued before or after June 7, 2000. To that end, notwithstanding references to further phase special permits or other actions or approvals for phases of construction in any Master Plan Special Permit for an Open Space Mixed Use Development issued before June 7, 2000, the Building Commissioner shall be authorized to issue building permits for

construction within an Open Space Mixed Use Development subject to a Master Plan Special Permit (or any modification or phase thereof) issued before June 7, 2000 without reference to further phase special permits or other actions or approvals for phases of construction.

- (d) Notwithstanding any other provisions of this Section 205-63, by a two-thirds (2/3) vote of Town Meeting, the Town may approve a Development Plan for an Open Space Mixed Use Development under this Section 205-63 whether or not a Master Plan Special Permit for an Open Space Mixed Use Development has been granted. Upon such approval, all requirements of this Section 205-63 regarding a Master Plan Special Permit shall be considered with reference to such Development Plan, and no further or separate Master Plan Special Permit shall be required. Any Development Plan so approved may subsequently be modified either by two-thirds (2/3) vote of Town Meeting or by a Special Permit issued by the Planning Board, under the standards applicable to a modification of a Master Plan Special Permit, and in such event the requirements applicable to the land shall be determined with reference to whichever provision is less restrictive. In the case of any such amendment to a Development Plan, where such amendment includes the addition of a gross acre (or gross acres) above 3,000, the provisions of § 205-63(D)(1)(f) to the contrary notwithstanding, the Town Meeting shall determine whether any additional LOC dwelling unit or units permitted under such amendment may contain more than three (3) bedrooms.
- (e) Residential dwelling units within an Open Space Mixed Use Development shall be exempt from the Building Permit limitation provisions of Section 205-11.
- (f) The provisions of this § 205-63, as amended on April 4, 2005 and as further amended on April 3, 2010, shall be applicable to a Master Plan Special Permit for an Open Space Mixed Use Development (or any modification or phase thereof) and any Development Plan for an Open Space Mixed Use Development (or any modification thereof), whether issued before or after April 4, 2005, or before or after April 3, 2010. [Amended 4-3-10 by Art. 39]

§ 205-64. Municipal Wastewater District (MWD). [Added 11-20-1996 STM by Art. 3]

- A. **Intent.** The intent of this section is to promote the public health, safety, and general welfare by defining specific and appropriate areas for the location of municipal wastewater facilities. This designation is intended to protect persons and property and to encourage the appropriate siting of necessary municipal wastewater facilities.
- B. The Municipal Wastewater District (MWD) shall be considered as overlaying other zoning districts and is as delineated on Zoning Map No. 1.
- C. **Allowed uses.**
 - (1) All uses provided for in the underlying district.
 - (2) Notwithstanding any other use restrictions of the Zoning Bylaw, a municipal wastewater facility as defined in § 205-3 shall be allowed within this district.
- D. **Special permit uses.** All special permit uses and special permit uses subject to environmental design conditions as provided for in the underlying district.

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- B. Maximum floor area; floor area ratio. The maximum net floor area on a lot shall not exceed the product of the developable site area and the maximum floor area ratio set forth in Table 2, Schedule of Dimensional Controls, for the district in which the lot is located. To simplify the determination of net floor area, 80% of the gross floor area may be used.
- C. Determination of maximum floor area for a structure with a child care facility. The floor area of any structure shall be measured exclusive of any portion of such structure in which a day-care center or school age child care program (See definitions.) is to be operated as an accessory or incidental use, and the otherwise allowable floor area of such structure shall be increased by an amount equal to the floor area of such child care facility up to a maximum increase of 10%. In any case where the otherwise allowable floor area of a structure has been increased pursuant to the provisions of this section, the portion of such structure in which a child care facility is to be operated as an accessory or incidental use shall not be used for any other purpose unless, following the completion of such structure, the Board of Appeals shall have granted a variance, with the written concurrence of the State Office for Children, that the public interest and convenience do not require the operation of such facility. (See also Chapter 40A, § 9C, the Zoning Act, MGL, as amended for other provisions dealing with child care facilities operated as an accessory or incidental use.) [Added 3-27-1991 ATM by Art. 33]

ARTICLE VIII

Special Zoning Districts

[Amended 4-4-1983 ATM by Art. 12; 4-4-1984 ATM by Art. 14; 4-8-1985 ATM by Art. 11; 4-14-1986 ATM by Art. 40; 5-4-1987 ATM by Art. 42; 5-6-1987 ATM by Art. 43; 5-3-1993 ATM by Art. 26; 3-30-1998 ATM by Art. 39; 3-22-1999 ATM by Art. 39; 4-9-2008 ATM by Art. 49]

§ 135-42. Planned development districts.

- A. Objective. A planned development district is intended:
- (1) To permit considerable flexibility in the development of tracts of land by requiring few predetermined standards;
 - (2) To permit a developer to propose, and for the Town to vote on, a site development and use plan unique to a particular location;
 - (3) To permit the use of development standards more detailed than the more general standards elsewhere in this bylaw;
 - (4) To provide information for the Town to evaluate the potential impacts of a proposed development and to enable the SPGA to require adherence to such site development plans in the granting of a special permit.
- B. Planned Commercial District CD.
- (1) Standards for development. The Planned Commercial District CD does not have predetermined standards for development. Such standards are to be proposed by

the developer, included in the preliminary site development and use plan and approved by the Town Meeting.

- (2) Town Meeting presentation. Each petition presented to the Town Meeting for rezoning land to a CD District shall include a preliminary site development and use plan as described in § 135-14 and shall be filed in accordance with the provisions of that section.
- (3) Uses permitted. No use is permitted and no development may occur in a CD District except in conformity with a preliminary site development and use plan approved by the Town Meeting, the provisions of this section and a special permit with site plan review granted by the SPGA. Uses other than commercial may be in a CD District if clearly identified in the preliminary site development and use plan approved by the Town Meeting.
- (4) SPGA. The Board of Appeals shall be the special permit granting authority. In action upon applications for special permits with site plan review, the SPGA shall be governed by the provisions of § 135-12.

C. Planned Residential Development Districts RD.

(1) Standards for development.

- (a) A number of standards for development in the Planned Residential Development District RD are included here. Additional standards may be proposed by the developer and included in the preliminary site development and use plan and approved by the Town Meeting.

[1] Minimum area of tract to be developed: 125,000 square feet.

[2] Minimum frontage of the tract on an existing street: 100 feet.

[3] Minimum yard setback on perimeter of tract:

[a] Front yard: 40 feet.

[b] Side yard, rear yard: 30 feet.

[4] Maximum impervious surface ratio: .40.

[5] Minimum common open space as percentage of developable site area: 10%.

[6] Maximum height of building: 40 feet.

- (b) In an RD District in which the area of the tract to be developed is not less than 20 acres and the planned residential development involves the redevelopment of existing structures, wherein not less than 25% of such existing structures shall be retained or rehabilitated, the following standards shall be modified as follows:

- [1] Minimum yard setback on the perimeter of the tract:
 - [a] Front yard: eight feet.
 - [b] Side yard, rear yard: 30 feet.
 - [2] Maximum impervious surface ratio: 0.55.
 - [3] Maximum height of dwellings: 60 feet.
- (c) If a street or interior drive in an RD Planned Residential District is located in a minimum yard, there shall be a screen of densely planted vegetation and/or an opaque fence adjacent to the lot line, as provided in Article X of this bylaw, for such distance as the Planning Board may determine in order to provide protection for abutting residential lots.
- (d) Where there are more than 20 dwelling units in an RD District served by a dead-end street or dead-end interior drive, two means of access connected to the public street system, suitable for fire-fighting, medical and other emergency vehicles, shall be provided to each dwelling or dwelling unit. One means of access shall be a street or interior drive that complies with the standards for streets and rights-of-way set forth in the Subdivision Regulations. If not another street, the second means of access may be a paved way, subject to the approval of the Fire Chief, that:
- [1] Is at least 10 feet wide, and constructed in a manner suitable for fire-fighting equipment;
 - [2] Has provision for snow removal and other maintenance to assure year-round access; and
 - [3] May have a gate or other barrier to restrict general motor vehicle traffic, provided there is an easy means of opening such gate or barrier for emergency vehicles.
- (2) Nonresidential uses. In an RD District, the planned residential development may also include commercial uses, provided:
- (a) Such uses serve primarily the residents of the development;
 - (b) Such uses are conducted within and may be entered only from within a principal building;
 - (c) There is no external evidence of such uses visible beyond the development tract; and
 - (d) The appearance and character of the commercial uses are compatible with a residential development.
- (3) Town Meeting presentation. Each petition presented to the Town Meeting for rezoning land to an RD District shall include a preliminary site development and

use plan as described in § 135-14 and shall be filed in accordance with the provisions of that section.

- (4) Development permitted. No types of residential buildings may be constructed and no development may occur in an RD District except in conformity with a preliminary site development and use plan approved by the Town Meeting, the provisions of this article and a special permit with site plan review (SPS) approved by the SPGA.
- (5) Types of buildings permitted in an RD District are: one-family detached, accessory apartment, two-family, townhouse, three-family, four-family, multi-family, rooming house, group quarters, independent living residence, assisted living residence, congregate living facility, long-term facility, and conversion of municipal building.
- (6) SPGA. The Board of Appeals shall be the special permit granting authority. In acting upon applications for special permits with site plan review, the SPGA shall be governed by the provisions of §§ 135-12 and 135-13.

D. Conversion of municipal buildings and surplus municipal land.

- (1) General objectives. This section is intended to allow the conversion of municipal buildings and the development of land on which they are situated and of surplus municipal land in a manner which:
 - (a) Encourages practical residential development in the reuse of existing structures;
 - (b) Is compatible with the adjacent neighborhood;
 - (c) Encourages development of economically priced housing and a variety of types of housing; and
 - (d) Fosters flexibility and creativity in the disposition of surplus municipal property.
- (2) Modified RD procedure. The conversion of a municipal building or the development of surplus municipal land shall follow the same procedures for the rezoning of land for the RD Planned Residential Development District with the following exceptions:
 - (a) The minimum size of the RD Planned Residential Development District and minimum area of the tract to be developed specified above and in Table 2²⁸ may be less than 125,000 square feet; and
 - (b) The minimum frontage of the tract on an existing street specified above and in Table 2 may be less than 100 feet.
- (3) SPGA. The Board of Selectmen shall be the special permit granting authority.

28. Editor's Note: Table 2 is included at the end of this chapter.

E. Rezoning provisions applicable to both CD and RD Districts.

- (1) Filing of preliminary site development and use plan. Two copies of the preliminary site development and use plan which accompanies a petition for a rezoning shall be filed with the Town Clerk and one copy with the Planning Board at least three weeks prior to the Planning Board public hearing required to be held under Chapter 40A. Subsequent to that public hearing, revisions to the preliminary site development and use plan may be filed with the Town Clerk and the Planning Board and must be filed at least seven days prior to the first session of the Town Meeting. The vote of the Town Meeting shall refer to the preliminary site development and use plan and shall be considered part of the rezoning action.
- (2) Amendments to the preliminary site development and use plan. After the filing of the preliminary site development and use plan which accompanies a petition for a rezoning, the Town Meeting shall not take favorable action on a proposed amendment to the preliminary site development and use plan unless:
 - (a) At least seven days prior to the vote of the Town Meeting on the petition the Town Meeting member proposing such amendment:
 - [1] Has filed a copy of the proposed amendment with the Town Clerk and the Planning Board; and
 - [2] Has sent a copy of the proposed amendment by registered mail to the petitioner.
 - (b) The Moderator shall determine that the proposed amendment is within the scope of the petition and the preliminary site development and use plan most recently filed as provided in Subsection E(1); and
 - (c) At least 2/3 of the Town Meeting vote favorably on the proposed amendment.
- (3) Amendments to the preliminary site development and use plan approved by an earlier Town Meeting. The preliminary site development and use plan for an existing planned development district that was approved by an earlier Town Meeting may be amended. The proposed amendments shall be presented and acted upon in the same manner set forth in this section for an original petition.

F. Special permit provisions applicable to both CD and RD Districts.

- (1) Special permit application. The application for an SPS under this section shall comply with § 135-12 and shall be accompanied by:
 - (a) A copy, certified by the Town Clerk, of the preliminary site development and use plan approved by the Town Meeting.
 - (b) Definitive site development and use plan as described in § 135-14.
- (2) Special permit provisions. The SPGA may grant a special permit with site plan review (SPS) for the development of a tract of land in the CD or RD District subject to the following provisions:

- (a) The SPGA makes a determination that the development conforms substantially to the preliminary site development and use plan approved by the Town Meeting and is consistent with the considerations set forth in § 135-12;
 - (b) The SPS incorporates, by reference, the definitive site development and use plan filed with the application for the SPS;
 - (c) The SPS may allow any or all of the uses specified in the plan approved by Town Meeting but no others;
 - (d) The SPGA may, in its discretion, permit revisions from the preliminary site development and use plan approved by Town Meeting provided they do not conflict with the provisions of the text of such plan. Such revisions shall generally be limited to the location of the buildings and changes in the site plan;
 - (e) The SPS shall require that any land designated as common open space on the approved plan shall be either conveyed to the Town or protected by an easement granted to the Town; and
 - (f) The SPS may contain such additional conditions as the SPGA finds will serve the public interest.
- (3) Denial of special permit. The SPGA may deny an application for an SPS and base its denial upon a finding that the proposed development does not conform substantially to the plans for the commercial or residential development of the tract as approved by the Town Meeting.
 - (4) Revision of special permit.
 - (a) Subsequent to an SPS granted by the SPGA, minor revisions may be made from time to time in accordance with applicable laws, bylaws, and regulations, but the commercial or residential development approved under such SPS shall otherwise be in accordance with the preliminary site development and use plan approved by the Town Meeting.
 - (b) If the SPGA determines such revisions not to be minor, it shall order that an application for a revised SPS be filed and a public hearing held in the same manner as set forth in § 135-12.
 - (5) Changes in uses or site development plans. Changes in uses or substantial changes in the site development plan approved by Town Meeting may be made only after approval by Town Meeting of a new site development and use plan according to the procedures used for a zoning amendment, followed by the issuance of an SPS based on the new approved plan.

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Section 6E - NEIGHBORHOOD BUSINESS OVERLAY DISTRICT (NBOD)⁸¹

6E.1 TITLE AND PURPOSE

The Neighborhood Business Overlay District (NBOD) is established to encourage and authorize the mixed-use development of large land areas by means of authorizing and combining a variety of building types and uses with conditions and safeguards to prevent detrimental effects and impacts upon neighboring land uses and upon the Town of Maynard generally.

6E.2 APPLICABILITY

The NBOD is an overlay district superimposed over, rather than replacing, the applicable underlying zoning districts. The NBOD authorizes certain uses not allowed in the underlying base district provided certain special terms and conditions are met regarding the establishment of such uses. Where the NBOD authorizes uses not otherwise allowed in the underlying district, the provisions of the NBOD shall control. Except as provided in this Section 6E, the NBOD does not in any manner alter or remove the zoning rights permitted in the underlying base zoning district(s). Nothing contained in this Section 6E shall prohibit or limit uses otherwise permitted by right or by special permit in the base zoning district(s).

6E.3 REQUIREMENT FOR APPROVAL OF A CONCEPT PLAN AT TOWN MEETING

No development for uses not otherwise allowed in the underlying zoning district shall be permitted on any land within the NBOD without first obtaining approval, by a majority vote at Town Meeting, of a Concept Plan that identifies the proposed development. At the property owner's discretion, one or more Concept Plans may be submitted at different times and a Concept Plan may include development of all, or any smaller portion, of the relevant parcel or lot.

Each Concept Plan submitted for approval at Town Meeting shall include the following information:

- (a) The area of land proposed to be developed under the NBOD regulations, which may be less than the total area of the applicable lot.
- (b) The topography of the land to be developed.
- (c) The location of wetlands and water bodies, if any.
- (d) The location of existing roads and ways serving the land to be developed.
- (e) The general location, size and shape of existing structures to be removed, and the general location, size and shape of existing structures to remain.
- (f) The general location and size of all required buffer areas provided in compliance with Section 6E.8(E) of these Zoning By-Laws.
- (g) The general location and approximate size of all proposed new buildings including the approximate size of each single principal use within said buildings; the final size of each single principal use to be determined via the Town's site plan review process and shall not exceed the dimensional requirements in Table 6-1.
- (h) Examples of amenities and design features to be included as part of the proposed development
- (i) Illustrations of the general architecture of the proposed structures

Each Concept Plan submitted for approval at Town Meeting shall be required to provide the following supporting information:

⁸¹ Article 2: S.T.M., June 12th, 2006

PROTECTIVE ZONING BY-LAWS
Town of Maynard, Massachusetts
Zoning as Amended Through October 27, 2008
Regulations, Fee Schedule, Forms as Amended by the Planning Board Meeting November 25, 2008

- (a) A preliminary traffic impact analysis
- (b) A written proposal from the Property Owner (“Developer”) that addresses, but is not limited to, the following:
 - i. Any proposed exactions, financial gifts, easements or land gifts
 - ii. Payment for consultant review of plans and documents accompanying the Concept Plan
 - iii. The timing of assessment of new improvements
 - iv. The Developer’s payment for design and implementation of traffic improvements
 - v. Transfer of responsibilities and commitments in the event the property is sold

Such proposal shall be incorporated into the terms of a development agreement, which may include other provisions between the Developer and the Town of Maynard acting by and through the Board of Selectmen and the Planning Board before final site plan approval is granted by the Planning Board

Immediately following approval of a Concept Plan at Town Meeting as provided in this Section 6E.3, the owner and/or developer shall be entitled to apply for any other permits and approvals required for all or any portion of the development shown on the Concept Plan, including, without limitation, site plan review.

6E.4 PERMITTED PRINCIPAL USES

The following uses are allowed by right in the Neighborhood Business Overlay District:

- A. Healthcare Facility
- B. Health Club
- C. Restaurant
- D. Garden Center
- E. Personal Service Establishment
- F. Supermarket
- G. Retail Business
- H. Wholesale Business
- I. Mixed Use with fewer than 5 dwelling units⁸²

Multiple principal uses may exist on a single lot or parcel within the NBOD.

6E.5 PERMITTED ACCESSORY USES

The following uses shall be available as accessory to the above principal uses and as accessory to uses permitted in the underlying district(s).

- A. Outdoor storage of recreational equipment.
- B. Outdoor recreational facilities including athletic field and tennis and basketball courts.
- C. Outdoor storage, display and sales of merchandise accessory to a permitted principal retail use.
- D. Bank automated teller machine.
- E. Management or maintenance office related to the principal use
- F. Parking and accessory drives for all permitted uses in the underlying, base Zoning District, as well as any and all utilities necessary to support such permitted uses, whether or not on the same lot as the principal use.
- G. Uses and structures customarily incidental to any permitted principal use.

⁸² Article 5: S.T.M., October 16th, 2006

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Town of Maynard, Massachusetts
Zoning as Amended Through October 27, 2008
Regulations, Fee Schedule, Forms as Amended by the Planning Board Meeting November 25, 2008

6E.6 PERMITTED BY SPECIAL PERMIT OF THE PLANNING BOARD

- A. Multi-family Dwelling
- B. Parking Structures⁸³
- C. Mixed use with 5 or more dwelling units⁸⁴

6E.7 NBOD DIMENSIONAL REQUIREMENTS

Table 6-1 lists the dimensional requirements for each single Principal Use within the NBOD. Uses listed in Table 6-1 in which N/A is identified have no corresponding dimensional requirement.

TABLE 6-1: NBOD Dimensional Requirements⁸⁵

Principal Use	Maximum Gross Floor Area
Multi-Family Dwelling	N/A
Healthcare Facility	N/A
Health Club	30,000 s.f.
Restaurant	10,000 s.f.
Garden Center	25,000 s.f.
Personal Services Establishment	5,000 s.f.
Supermarket	75,000 s.f.
Retail Business	35,000 s.f.
Wholesale Business	35,000 s.f.

The total gross floor area for all Principal Uses within the NBOD, including non-residential portions of Mixed Use structures, excluding Multi-Family Dwellings, Healthcare Facilities, and residential components of Mixed Use structures, shall not exceed 175,000 s.f.⁸⁶

The maximum number of housing units in the NBOD shall not exceed one-hundred (100).⁸⁷

6E.8 DESIGN CRITERIA APPLICABLE TO PRINCIPAL USES ESTABLISHED WITHIN THE NBOD

In addition to provisions in other sections of these Zoning By-laws, the criteria listed in this Section 6E.8 shall apply to any action in the NBOD requiring Site Plan Approval under Section 14.

(A). Lighting⁸⁸. These standards are intended to: promote a lighting design for all development within the NBOD to ensure public safety and welfare; and protect the night sky from unnecessary ambient light. Any lighting plan submitted as part of a Site Plan Review application, shall include the following:

1. All lighting installations shall be designed to achieve no greater than the minimum luminance levels for the activity as recommended in the most recent standards established by the Illuminating Engineering Society of North America (IESNA);
2. To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cut-off (*Full-cutoff means that no light is emitted above the horizontal plane that intersects the lowest part of the fixture*). Where necessary to prevent light or glare, accessories such as

⁸³ Article 19: S.T.M., October 16th, 2006

⁸⁴ Article 5: S.T.M., October 16th, 2006

⁸⁵ Article 5: S.T.M., October 16th, 2006

⁸⁶ Article 5: S.T.M., October 16th, 2006

⁸⁷ Article 5: S.T.M., October 16th, 2006

⁸⁸ Article 3: S.T.M., October 16th, 2006

PROTECTIVE ZONING BY-LAWS
Town of Maynard, Massachusetts
Zoning as Amended Through October 27, 2008
Regulations, Fee Schedule, Forms as Amended by the Planning Board Meeting November 25, 2008

hoods and shields shall be used on lighting fixtures. The source of light shall be so arranged and shielded as to prevent direct glare from the light source into any public street or onto adjacent property;

3. Security lighting shall be shielded and directed at a downward angle.
4. As part of any application for Site Plan Review, the applicant shall prepare a lighting study showing that the development will meet these standards.

(B). Utilities Underground. All new, non-municipal utilities (such as electricity, telephone, gas, fiber optic cable) shall be placed underground.

(C) Setbacks/Buffers⁸⁹. For the construction of any new building, a setback area of **one-hundred (100) feet** shall be provided at the perimeter of any lot or parcel in the NBOD where it abuts the property line of any residentially zoned or occupied properties, except for fences twelve (12) feet in height or less and driveways necessary for access and egress to and from the new building(s); provided, however, that existing structures and existing access roadways and paved areas are exempt from this requirement. Notwithstanding the preceding, existing structures and paved areas shall not be made more non-conforming except for American with Disabilities Act (ADA) compliance. A buffer area of **forty-five feet (45)** shall be provided where the property line of any land within the NBOD is contiguous to the property line of another lot within an existing residential district. The buffer shall be landscaped and screened by way of fences, walls, and/or plantings (including existing vegetation and trees) to reasonably and substantially shield abutting land from parking and loading areas and buildings. Any such fences or walls may, in the reasonable determination of the Planning Board, provide openings to allow safe pedestrian access and egress between the development site and the adjacent neighborhood.

(D) Parking. Required parking shall be 4 spaces per one thousand (1,000) square feet of gross floor area for retail and supermarket uses. For outdoor sales and display areas of a Garden Center uses, required parking shall be one space per three thousand (3,000) square feet of outside merchandise display area. For all other allowed uses, the parking requirement for such use shall be in accordance with the schedule of parking uses set fourth in Section 16.3 of this by-Zoning Law.

6E.9 REQUIREMENT FOR SITE PLAN APPROVAL BY THE PLANNING BOARD

The provisions of Section 14, Site Plan Approval, shall apply to uses, buildings and structures permitted by right or by special permit in the NBOD.

All new development pursuant to the NBOD shall be subject to Site Plan Approval from the Planning Board. The Planning Board may not issue such Approval unless the proposed Site Plan substantially conforms to the Concept Plan approved by the Town Meeting. The Planning Board may permit minor modifications to the proposed development in connection with its site plan review, provided that the Planning Board finds, in its reasonable discretion and in writing, that any such modifications do not materially conflict with the general intent of the Concept Plan as approved.

6E.10 SIGNAGE

The provisions of Section 10 (signs) of this by-Zoning By-Law for the underlying base zoning district shall govern signage for projects built under the NBOD provisions.

⁸⁹ Article 21: S.T.M., October 16th, 2006

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ZONING BYLAWS



Town of Burlington
Massachusetts
01803

As Amended Through
January 2011

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SECTION 11.7.0 RESIDENTIAL 2 (R2) DISTRICT

11.7.1 Purposes

The Residential 2 (R2) District is intended:

To stimulate more affordable housing units through the creation of two family or duplex development on individual lots, or on a larger single lot in which internal lot lines may have been drawn and established and where open space and other site amenities may be held or used in common by all unit owners.

To permit a developer, public agency, or developer in conjunction with a public agency, to propose two family or duplex development and units which shall be affordable to individuals of low and moderate incomes, and to first time home buyers, as defined by the Massachusetts Housing Finance Agency, the Executive Office of Communities and Development, or the income and price guidelines for Middlesex County, and as may be periodically amended.

To help the community to meet the requirements and objectives of Massachusetts General Laws, Chapter 40B, S20-23.

To achieve a broader range of housing choice within the community.

To permit such development on parcels which can be divided into numerous lots, or which can contain numerous units, so as to form a well-planned district rather than a single or substantial deviation from surrounding land uses and neighborhood pattern.

To encourage such development on parcels zoned for industrial and commercial purposes, but which may be appropriate for residential purposes.

11.7.2 Uses by Special Permit and Permitted Uses in an R2 District

The following use shall require a special permit as set forth in Section 13.1.7:

(a) Two Family Dwellings: The following uses shall be permitted by right without need of a special permit once R2 zoning is obtained:

1. One family dwellings and one family dwellings purchased or erected and maintained by the Burlington Housing Authority or any other nonprofit housing development agency developing affordable housing as described in Section 4.2.1.6 of the Zoning Bylaw.
2. Places primarily used for religious purposes, including rectories and parish houses as described in Section 4.2.2.1 of the Zoning Bylaw.
3. Public parks as described in Section 4.2.2.8 of the Zoning Bylaw.

11.7.3 Dimensional Requirements

Where lots within an R2 District are proposed for subdivision, all two family structures/dwellings must be situated on individual lots which conform to the density and dimensional regulations of an RO- One Family Dwelling District specified in Article V, Section 5.2.0 of these Bylaws.

All two family structures/dwellings which are proposed to be developed within a single consolidated parcel must also be developed and laid out so that all two family structures within the site conform to the density and dimensional regulations of an RO- One Family Dwelling District specified in Article V, Section 5.2.0 of these Bylaws.

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11.7.4 General Requirements

No land shall be rezoned to R2 unless a Concept Plan as described in Subsection 13.1.6 is presented to Town Meeting and approved as part of the Warrant Article with the rezoning petition.

No development may occur in an R2 District except in conformity with the Concept Plan approved by Town Meeting.

Further, two family development in an R2 District may only occur by obtaining an R2 Special Permit as described in Section 13.1.7. The obtaining of a special permit as outlined in Section 13.1.7 must commence within two years or the property shall be governed by the provisions presently in effect in the zoning district for which the land was zoned immediately prior to its inclusion in the R2 District.

Where a subdivision plan shall not be presented and proposed, Site Plan review will occur concurrently with the review of the special permit process outlined in Section 13.1.7.

11.7.5 Procedure for Rezoning to an R2 District

The developer and property owner, if different from the developer, shall submit a Concept Plan to the Board of Selectmen together with a letter petitioning for a rezoning to the R2 District requesting that the matter be placed on the next Town Meeting warrant.

The Board of Selectmen shall refer the rezoning application and the Concept Plan to the Planning Board within 14 days, and within 65 days of receiving the rezoning application from the Board of Selectmen and the Concept Plan, the Planning Board shall hold a public hearing on the requested rezoning.

Following the public hearing, the Planning Board shall prepare a detailed report regarding the requested rezoning and Concept Plan and shall recommend to Town Meeting whether the requested rezoning should be approved, amended and approved or denied.

In order to be approved a rezoning to the R2 District must receive a two-thirds vote at Town Meeting.

11.7.6 Submission Requirements for an R2 District Rezoning

The application for an R2 District rezoning shall include a Concept Plan and the required submission fee.

(a) **Submission Fee:** The Planning Board shall specify submission fees for an R2 District Rezoning in its Rules and Regulations. In no case shall the fee be less than \$350, however the Planning Board may waive the fee if the developer is the Town or other public agency. The required fee shall be submitted with the rezoning request and Concept Plan.

(b) **Concept Plan Requirements:** A Concept Plan shall include the following:

1. In addition to the submission requirements outlined in this section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for an R2 District Rezoning.

2. A preliminary site plan showing in a general manner:

The location of buildings; number of stories, approximate floor area and maximum height of each building.

Existing and proposed contours.

Proposed lot lines.

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Grading and landscape treatment.

The location and dimensions of driveways and anticipated parking areas and capacity.

The location and characteristics of any common open space or usable open space to be conveyed to the Town or to be dedicated for use by adjoining lots and the general neighborhood.

The proposed drainage system.

General building elevations (cross section including a general rendering and building treatment.)

The approximate location of the affordable units.

(c) A project narrative which details specific project conditions and amenities proposed. The narrative shall also include information about the project development team and marketing approach to attract individuals and families seeking affordable housing within the community.

Further, the project narrative shall specify which affordable housing program(s) and/or guidelines are being utilized within the development to achieve the thirty (30%) percent low/moderate income unit affordability which will be required as part of the granting of the R2 Special Permit.

The applicant shall agree not to file a subdivision plan or plan showing a division of land pursuant to M.G.L. Chapter 41.

(d) Special conditions, if any, applicable to the proposed development which may include grants of benefits to the Town such as land for public purposes, construction of improvements (or financial contributions therefore) in behalf of the Town.

(e) A table showing:

1. Total land area.
2. Developable site area.
3. Common or usable open space, if any.
4. Site coverage of buildings.
5. Area covered with impervious surface.
6. Impervious surface ratio.
7. Gross floor area of all proposed two family buildings.

(f) A locus-context map of all land within 500 feet of any part of the tract and showing:

1. All dwellings and principal buildings.
2. The land use of each lot.
3. Lot and right-of-way lines.
4. Existing contours at two-foot intervals.
5. Principal natural features in general use such as:

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Significant rock outcroppings.

Water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the 100-year flood elevation).

Significant vegetation (including mature trees, unique specimens of vegetation, and vegetation that indicates wetness).

6. Zoning district boundaries.
 7. Recorded easements on the site and within the 500 feet locus.
 8. Public facilities, such as conservation or recreation land, footpaths, bicycle paths, or streets.
 9. Significant noise/visual impact (including views from the site and sources of noise affecting the site).
 10. Historically or architecturally significant structures and sites on or adjacent to the site.
- (g) A property rights and dimensional standards plan showing:
1. The location of existing easements or other property rights affecting the development.
 2. The approximate location of any sections of the land to which the Town would be granted property right, either easements or transfer of ownership for street, utility, conservation or other purposes.
 3. The anticipated size and dimensions of each lot to be certified, and internal lot lines when applicable.
 4. The minimum yard setback lines and distances from the adjacent zoning district boundaries.
 5. The boundaries of any common open space or usable open space.
- (h) The following information shall be required for all R2 rezonings which shall not involve the presentation and proposal of a subdivision plan after rezoning:
1. The location and size of the Town's existing water mains, fire hydrants, sanitary sewers, and storm drains.
 2. The proposed location and the approximate size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development.
- (i) A traffic analysis to be conducted by a traffic engineer who will certify that he/she qualifies for the position of member of the Institute of Transportation Engineers (ITE). The analysis shall include:
1. Traffic counts on arterial streets that provide access to the development site showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into fifteen-minute segments);
 2. Intersection turning movement counts at intersections likely to be affected by the proposed development (conducted for two hours in the a.m. peak and the p.m. peak divided into fifteen-minute segments);
 3. An inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their conditions and existing traffic control devices;

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4. Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and a typical one hour off-peak trip generation;
5. The estimated distribution of new trips by approach streets and each intersection likely to be affected;
6. The effect of additional traffic generated by the development on traffic "levels of service" on each approach street;
7. Estimated off-street parking and loading requirements and time of peak accumulation.

11.7.7 Special Permit Requirements

Two family development pursuant to an R2 District rezoning is subject to the approval of R2 Special Permit as outlined in this subsection.

Application for an R2 Special Permit under this section shall be made to the Town Clerk by submitting ten (10) copies of all submission material and paying the required application fee. Circulation of the R2 Special Permit application to Town departments shall be outlined in subsection 9.2.2.1.

The application for an R2 Special Permit under this section shall include a Site Development Plan as described in this section together with the required submission fee.

Application for an R2 Special Permit under this section shall include a project narrative and Site Development Plan which specifies that no less than thirty (30%) percent of all proposed units will be set aside for persons of low and moderate income levels.

(a) **Submission Fee:** The Planning Board shall specify a submission fee for an R2 Special Permit in its Rules and Regulations and in no case shall the fee be less than \$350.

(b) **Site Development Plan and Application Requirements:** The Site Development Plan and Special Permit Application shall include all of the material and information contained in the Concept Plan with the following modifications, additions, and provisions:

1. All information typically required on a site plan in accordance with Planning Board Site Plan Rules and Regulations.
2. Long-term provisions, in the form of a recordable instrument to provide for retention of all affordable housing units proposed.
3. The location and size of the Town's existing water mains, sanitary sewers, storm drains and fire hydrants.
4. Proposed utilities, including the location, size of mains, materials and any proposed connection to existing Town facilities.
5. A property rights plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement.
6. A site grading plan showing proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common open space.
7. A traffic analysis including proposed mitigating measures, if any, to maintain an acceptable traffic level of service.

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8. An assessment of the impacts that the proposed project will have on community character, the environment, and municipal finances.
9. Such other information as the Planning Board may specify in its Rules and Regulations from time to time for special permits pursuant to an R2 District rezoning.

11.7.8 Public Hearing

The Public Hearing shall be held in accordance with the provisions of Section 9.6.0.

11.7.9 Criteria for Approval

The Planning Board may approve the R2 Special Permit if the Board finds that all the following conditions are met:

1. The Site Development Plan is substantially in conformance with the Concept Plan approved by Town Meeting, and meets the affordable housing criteria and objectives set forth in Sections 13.1.1 and 13.1.7 of this Article. The Planning Board may permit minor changes in light of the more detailed survey and engineering design, provided that they do not conflict with the intent of the Concept Plan, but the Board shall not approve any change in proposed setbacks, maximum building height, or maximum total square feet of two family development.
2. The Concept Plan approved by Town Meeting and the Site Development Plan are incorporated into the R2 Special Permit by reference.
3. Methods satisfactory to the Planning Board of ensuring the performance of any special conditions included in the Concept Plan have been submitted by the developer.
4. Any land designated as common space on the Concept Plan shall be either conveyed to the Town or protected by an easement granted to the Town.

The Planning Board in granting an R2 Special Permit may impose such additional conditions as the Planning Board finds will serve the public interest and are consistent with the intent of the Concept Plan approved by the Town Meeting.

The Planning Board may deny an application for R2 Special Permit and base its denial on the finding that the development proposed in the Site Development Plan did not meet one or more of the four criteria for approval.

11.7.10 Changes in a Site Development and Use Plan

Substantial changes in the site development from that shown on the Site Development Plan referenced in the R2 Special Permit are not permitted without the approval by Town Meeting of a new Concept Plan in accordance with the procedures outlined in Section 13.1.5 followed by the issuance by the Planning Board of a new R2 Special Permit based on the new plan.

SECTION 11.8.0 INCLUSIONARY ZONING REQUIREMENTS FOR MULTIFAMILY HOUSING

11.8.1 Purpose and Intent

The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the 2004 Burlington Community Development Plan, G.L. c. 40B sec. 20-23 and ongoing initiatives of the Burlington Housing Partnership to promote a reasonable percentage of housing that is affordable to low and moderate income buyers. It is intended that the affordable housing units that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Massachusetts Department of Housing and

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ARTICLE XII: PLANNED DEVELOPMENT DISTRICT

SECTION 12.1.0 PLANNED DEVELOPMENT DISTRICT

12.1.1 Purposes

The Planned Development (PD) District is intended:

To permit a developer to propose, and for the Town to vote on, a development proposal that specifies a mixture of commercial, industrial, residential, open space or other uses and the site development requirements to be used for a specific site.

To permit considerable flexibility in the development of individual tracts of land by requiring few predetermined standards.

To permit the use of development standards tailored to a specific site and more detailed than those for the standard zoning districts.

To permit the Town to evaluate the potential impacts of a proposed development and to authorize the Planning Board, as the Special Permit Granting Authority, to require that the development of the site substantially conform to site development standards approved as part of the rezoning to PD District and intended to mitigate or compensate for the potential impacts.

12.1.2 General Requirements

No land shall be rezoned to PD District unless and until a Concept Plan as described in Section 12.1.4 has been submitted to Town Meeting and approved.

No use is permitted and no development may occur in a PD District except in conformity with the Concept Plan approved by the Town Meeting, the provisions of Section 12.1 and a Special Permit with Site Plan review pursuant to a PD District rezoning (hereinafter referred to as a "PD Special Permit") granted by the Planning Board.

The development and uses approved in a rezoning to PD District must be commenced by obtaining a PD Special Permit as required in Section 12.1.5 within two years. Until such time as the required PD Special Permit is granted and recorded by the property owner or if a PD Special Permit is not obtained within two years, the development of the property shall be governed by the provisions presently in effect in the zoning district for which the land was zoned immediately prior to its inclusion in the PD District. The foregoing two (2) year time period shall not be applicable to any Planned Development (PD) District established prior to January 1, 2003 and which involves land owned by the Town on January 1, 2003 as part of the original PD rezoning proposal. For any such Planned Development (PD) District involving such Town-owned land as part of the original PD rezoning proposal, the zoning established by the Planned Development (PD) District shall be effective upon the date of approval by Town Meeting.

The PD District does not have any minimum lot size and there is no minimum lot area required to seek a rezoning to the PD District.

12.1.3 Procedure for Rezoning to "PD" District

The developer and property owner if different from the developer shall submit a Concept Plan to the Board of Selectmen together with a letter petitioning for a rezoning to the PD District requesting that the matter be placed on the next Town Meeting warrant.

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The Board of Selectmen shall refer the rezoning application and the Concept Plan to the Planning Board within 14 days.

Within 65 days of receiving the rezoning application and Concept Plan, the Planning Board shall hold a public hearing on the requested rezoning.

Following the public hearing, the Planning Board shall prepare a detailed report regarding the requested rezoning and Concept Plan and shall recommend to Town Meeting whether the requested rezoning should be approved, amended and approved or denied.

In order to be approved a rezoning to the PD District must receive a two-thirds vote at Town Meeting.

12.1.4 Submission Requirements for a PD District Rezoning

The application for a PD District Rezoning shall include a Concept Plan and the required submission fee.

1. **Submission Fee:** The Planning Board shall specify submission fees for a PD District rezoning in its Rules and Regulations. In no case shall the fee be less than \$350. The required fee shall be submitted with the rezoning request and Concept Plan.

2. **Concept Plan Requirements:** A Concept Plan shall include the following:

(a) In addition to the submission requirements outlined in this section, the Planning Board may impose additional submission requirements through the adoption of Rules and Regulations for a PD District rezoning.

(b) A preliminary site construction plan showing in a general manner:

1. The location of buildings; number of stories, approximate floor area and maximum height of each building; the distance in feet between buildings.
2. Existing and proposed contours.
3. Proposed lot lines.
4. Grading and landscaping.
5. The location and dimensions of drives and parking areas.
6. The location and characteristics of any common open space or usable open space.
7. The proposed drainage system.
8. Proposed landscaping.
9. Building elevations.

(c) Uses to be permitted or allowed by special permit in the buildings, which may be a narrative describing the type and character of uses and/or a listing, by cross reference, of uses to be permitted as they appear in Section 4.2.0, 4.3.0 and 4.4.0 "Use Regulations Schedules."

Other zoning provisions; this may be a narrative describing special regulations unique to the development and/or a cross reference to provisions of this Bylaw that will apply to the PD District.

(d) Special conditions, if any, applicable to the proposed development which may include grants of benefits to the Town such as land for public purposes, construction of improvements (or financial

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contributions therefor) in behalf of the Town, or other development limitations such as aesthetic features.

(e) A table showing:

1. Total land area.
2. Developable site area.
3. Common or usable open space, if any.
4. Site coverage of buildings.
5. Area covered with impervious surface.
6. Impervious surface ratio.
7. Gross floor area of all nonresidential buildings.
8. Floor area ratio if applicable.
9. Density of dwelling units, or their equivalent, if applicable.
10. Number of off-street parking spaces and, if applicable, loading bays.

(f) A locus-context map of all land within 500 feet of any part of the tract and showing:

1. All dwellings and principal buildings.
2. The land use of each lot.
3. Lot and right-of-way lines.
4. Existing contours at two-foot intervals.
5. Principal natural features in general such as:
 - Significant rock outcroppings.
 - Water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the 100-year flood elevation.)
 - Significant vegetation (including mature trees, unique specimens of vegetation, and vegetation that indicates wetness.)
6. Zoning district boundaries.
7. Recorded easements on the site and within the 500-foot locus.
8. Public facilities, such as conservation or recreation land, footpaths, bicycle paths, or streets.
9. Significant noise/visual impact (including views from the site and sources of noise affecting the site.)
10. Historically or architecturally significant structures and sites on or adjacent to the site.

(g) A property rights and dimensional standards plan showing:

1. The location of existing easements or other property rights affecting the development.
2. The approximate locations of any sections of the land to which the Town would be granted property rights, either easements or transfer of ownership for street, utility, conservation or other purposes.

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3. The anticipated division of the property into parcels in private ownership, if any, if it affects zoning provisions.
4. The yard setback in feet for buildings and parking lots from lot lines and where applicable, a zoning district boundary, a brook or a pond.
5. The boundaries of any common open space or usable open space.

(h) A utilities analysis showing:

1. The location and size of the Town's existing water mains, fire hydrants, sanitary sewers, and storm drains.
2. The proposed locations and the approximate size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development.

(i) A traffic analysis to be conducted by a traffic engineer who will certify that he/she qualifies for the position of member of the Institute of Transportation Engineers (ITE). The analysis shall include:

1. Traffic counts on arterial streets that provide access to the development site showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into fifteen-minute segments;)
2. Intersection turning movement counts at intersections likely to be affected by the proposed development (conducted for two hours divided into fifteen-minute segments;)
3. An inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their conditions;
4. Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and a typical one hour off-peak trip generation;
5. The estimated distribution of new trips by approach streets;
6. The effect of additional traffic generated by the development on traffic "levels of service" on each approach street;
7. Estimated off-street parking and loading requirements and time of peak accumulation.

12.1.5 PD Special Permit Requirements

Development pursuant to a PD District rezoning is subject to the approval of PD Special Permit as outlined in this subsection.

Application for a PD Special Permit under this section shall be made to the Town Clerk by submitting nine (9) copies of all submission material and paying the required application fee. Circulation of the PD Special Permit application to Town departments shall be as outlined in Subsection 9.2.2.1.

The application for a PD Special Permit under this section shall include a Site Development and Use Plan as described in this section together with the required submission fee.

1. **Submission Fee:** The Planning Board shall specify a submission fee for a PD Special Permit in its Rules and Regulations and in no case shall the fee be less than \$350.00.

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2. Site Development and Use Plan Requirements: The Site Development and Use Plan shall include all of the material and information contained in the Concept Plan with the following modifications and additions:

- (a) All information typically required on a site plan in accordance with Planning Board Site Plan Rules and Regulations.
- (b) A utilities plan showing the location, size, materials and connections to the Town's utilities.
- (c) A property rights plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement.
- (d) A site grading plan showing proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common open space.
- (e) A traffic analysis including proposed mitigating measures, if any, to maintain an acceptable traffic level of service.
- (f) Preliminary drafts of any deed, easement, offer or agreement to carry out any special condition.
- (g) Such other information as the Planning Board may specify in its Rules and Regulations from time to time for special permits pursuant to a PD District rezoning.

12.1.6 Public Hearing

The Public Hearing shall be held in accordance with the provisions of Section 9.6.0. Additionally, notice of the public hearing shall be mailed, by the applicant, post prepaid, to all current Town Meeting Members, based on the active list of Town Meeting Members as maintained by the Town Clerk at the time of submission of the Petition.

12.1.7 Criteria for Approval

The Planning Board shall approve the PD Special Permit if the Board finds that all the following conditions are met:

- 1. The Site Development and Use Plan is substantially in conformance with the Concept Plan approved by Town Meeting. The Planning Board may permit minor changes in light of the more detailed survey and engineering design provided that they do not conflict with the intent of the Concept Plan but the Board shall not approve any change in minimum setbacks, maximum building height, maximum total square feet of development, or uses.
- 2. The Concept Plan approved by Town Meeting and the Site Development and Use Plan are incorporated into the PD Special Permit by reference.
- 3. Methods satisfactory to the Planning Board of ensuring the performance of any special conditions included in the Concept Plan have been submitted by the developer.
- 4. Any land designated as common open space on the Concept Plan shall be either conveyed to the Town or protected by an easement granted to the Town.
- 5. The Planning Board reserves the right to: require that up to 30% of all new housing units be made affordable to persons of low and moderate income according to the standards of the State and/or Town of Burlington as determined by the Planning Board.

The Planning Board in granting a PD Special Permit may impose such additional conditions as the Planning Board finds will serve the public interest and are consistent with the intent of the Concept Plan approved by Town Meeting.

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The Planning Board may deny an application for PD Special Permit and base its denial on the finding that the development proposed in the Site Development and Use Plan did not meet one or more of the four criteria for approval.

No changes to the obligations contained in the special conditions or to the specifications contained in the Zoning Table, or changes in uses as reflected on the Preliminary Site Plan, shall be permitted except by a vote of Town Meeting.

12.1.8 Changes in a Site Development and Use Plan

Changes in uses or substantial changes in the site development from that shown on the Site Development and Use Plan referenced in the PD Special Permit are not permitted without the approval by Town Meeting of a new Concept Plan in accordance with the procedures outlined in Section 12.1.3 followed by the issuance by the Planning Board of a new PD Special Permit based on the new plan.

12.1.9 Use Allowed by Special Permit in the PD District

Application for a special permit for a particular use within a PD District shall be made concurrent with a PD Special Permit or subsequent to its approval. The approval criteria for the special permit for a particular use shall be those set out in Section 9.2.0.

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- (2) All uses in the MCDOD shall comply with the off-street parking and loading regulations in § 7-09-030.
 - (3) Signs in the MCDOD shall comply with provisions that apply to the Highway Business District in § 7-09-040.
- G. Special permits. The Zoning Board of Appeals may grant a special permit for any use listed under subsection D(2) above, or a special permit with site plan approval for a development in the MCDOD, subject to any conditions it deems appropriate, upon finding that the proposal meets the criteria for approval in § 7-03-030 and where applicable, § 7-03-050, and the following additional criteria:
- (1) The proposed development will not result in insufficient domestic water pressure or fire flows in off-site locations, based upon review by the Department of Public Works or an outside consultant of a water system impacts analysis submitted by the proponent;
 - (2) Major street intersections and roads within a minimum radius of two (2) miles of the boundary of the development will provide sufficient capacity to accommodate current and projected future traffic in a safe and efficient manner;
 - (3) Major street intersections affected by the proposed development which currently operate at an acceptable level of service (LOS), defined as LOS "D" or better, will continue to operate under such conditions or better upon completion and occupancy of the project, as determined by an independent review of a traffic impacts analysis submitted by the proponent;
 - (4) Adequate traffic improvements are either in place or, as a condition of the special permit, will be required to be constructed and completed prior to or subsequent to the issuance of any certificate of occupancy for any portion of the project in order to satisfy the criteria under (2) and (3) above; and
 - (5) The proposed development will provide a positive fiscal impact on the town, defined as a development that generates more local revenue than the total cost to the town to provide municipal services to the development, as determined by an independent review of an economic and fiscal impact analysis submitted by the proponent.

7-07-040 Residential-Open Space Planning Overlay District.

- A. Purposes. The purposes of the Residential-Open Space Planning Overlay District (ROPOD) are to encourage the preservation of open space by providing for a range of residential uses in exchange for a substantial amount of protected land; to provide flexibility in the development of land in an environmentally sensitive area; to assure that the Town has sufficient information to evaluate the impacts of proposed developments; and to encourage innovative concepts for developments that are subject to fewer predetermined requirements and provide more community benefits than those associated with development under the provisions of the underlying zoning.

- B. Applicability. The ROPOD is an overlay district superimposed upon land located in the Residence B district in the vicinity of the Southwest Connector, as shown on the Zoning Map-Town of Northborough. Within the ROPOD, a tract of land as defined below may be placed in a Planned Residential Development District (PRDD) by a two-thirds vote of town meeting, in accordance with M.G.L. c. 40A, § 5. Each PRDD shall be numbered sequentially, such as PRDD-1, PRDD-2, and so forth. Unless land in the ROPOD is placed within a PRDD and a property owner chooses to develop land in accordance with the provisions of a PRDD, the use, density and dimensional regulations shall be those in effect in the underlying Residence B district. In the event that a proponent wishes to develop in accordance with the regulations of a PRDD, the rules and regulations of the PRDD as approved by town meeting shall apply, and by filing an application for a special permit, site plan approval, or building permit under this § 7-07-040, the owner shall be deemed to accept and agree to them.

A tract of land may be placed in a PRDD if it meets all of the following minimum requirements, unless waived or altered by town meeting vote:

- (1) The proposed site is located within the ROPOD;
 - (2) The proposed site contains at least forty (40) acres of land;
 - (3) The proposed site has at least two hundred (200) feet of frontage on a street as defined in § 7-02-040; and
 - (4) The Planning Board has conducted a public hearing on the land owner's proposed concept plan for the site in accordance with the procedures of this section and M.G.L. c. 40A, § 5.
- C. Use regulations. The owner of a qualifying tract of land may propose a PRDD with any of the following uses, which shall be subject to the grant of a special permit from the Planning Board.
- (1) Detached single-family dwelling.
 - (2) Attached single-family dwelling or townhouse.
 - (3) Multi-family dwelling.
 - (4) Assisted living residence.
 - (5) Continuing care retirement community.
 - (6) The following accessory residential uses:
 - (a) Garage or carport accessory to dwellings requiring a special permit.
 - (b) Other accessory structure.
 - (7) Passive recreation, open space, or conservation.

- (8) Other uses approved at the time of town meeting approval of the PRDD.
- D. Concept plan. A land owner seeking to place property in a PRDD shall submit a concept plan to the Planning Board for review as provided in subsection E below. The concept plan shall contain a written submission and plans and drawings. The purpose of the concept plan is to identify and describe all of the use, density and dimensional, and other requirements and restrictions that shall apply to development in a proposed PRDD, to the extent that such requirements differ from the requirements governing development in the underlying district. The contents of the concept plan, as may be revised by the owner during the Planning Board's review process, shall become binding provisions for development in the PRDD upon town meeting's approval of the PRDD.
- (1) Written submission. The narrative submission shall include all of the following information:
- (a) A description of the site, including assessor's parcel identification number(s), total area in sq. ft., and total developable area in sq. ft.;
 - (b) The specific uses proposed for inclusion in the PRDD, which may be any of the uses listed under subsection C above;
 - (c) The specific density and dimensional provisions proposed for the PRDD, including provisions for each type of dimensional requirement in §7-06-020 and the following additional requirements:
 - [1] Maximum number of dwelling units to be constructed in the PRDD,
 - [2] Maximum ratio of gross floor area of all buildings and structures to the total developable area of the site, and
 - [3] Maximum ratio of impervious surfaces to the total developable area of the site;
 - (d) The proposed maximum number of off-street parking and loading spaces, and the proposed number of parking spaces per dwelling unit by unit type;
 - (e) A traffic analysis prepared by a certified professional traffic operations engineer registered as a professional engineer in the Commonwealth of Massachusetts, including:
 - [1] Traffic counts on existing streets that provide access to the proposed PRDD, showing data for average daily traffic (ADT) and a.m. and p.m. peak periods,
 - [2] Intersection turning movement counts at intersections most likely to be affected by development in the proposed PRDD,

- [3] An inventory of roadway characteristics, such as but not limited to the width of existing streets that provide access to proposed PRDD and the presence or absence of public sidewalks on those streets,
 - [4] Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and typical one hour off-peak trip generation, based on the most recent edition of the Institute of Traffic Engineers, Trip Generation,
 - [5] The estimated distribution of new trips by approach streets,
 - [6] The effect of additional PRDD-generated traffic on the level of service (LOS) on each approach street and at intersections likely to be affected by the proposed development, and
 - [7] Estimated off-street parking and loading requirements and time of peak accumulation;
- (f) An analysis of the environmental impacts of development in the proposed PRDD, in general terms, considering wetlands, surface water and groundwater resources, wildlife habitat, air quality, and scenic views;
 - (g) An analysis of the public benefits of the proposed PRDD, such as but not limited to the amount of open space to be preserved, the inclusion of affordable housing, the sustainable design elements of the proposed concept plan, the amount of tax revenue to be generated by development in the PRDD compared with the Town's cost to provide municipal and school services to the development, or other benefits as may be applicable to a particular site or project;
 - (h) A complete, specific list and description of all provisions in this bylaw with which the proposed PRDD will not comply, which list shall not be limited to the use and dimensional regulations of the underlying district;
 - (i) A current list of all abutters within 300 feet of the boundaries of the proposed PRDD, as certified by the assessor's office; and
 - (j) Any additional specifications the owner wishes to propose for the PRDD, which specifications shall be binding to the same extent as the required specifications described above;
- (2) Plans and drawings. The concept plan submission shall include the following plans and drawings:
 - (a) A map showing the boundaries of the proposed PRDD, with dimensions, together with identification of adjacent streets and other information needed to understand the location of the proposed district;

- (b) A plan or plans showing the information required for an open space-residential development special permit under §7-10-010(J)(4), as applicable, and the following additional requirements:
 - [1] Preliminary building plans, showing building types and their approximate locations, and floor plans and typical elevations to scale, for all proposed buildings and structures,
 - [2] Existing and proposed utilities, including water mains, fire hydrants, sanitary sewers, and storm drains adjacent to the land or to which the proposed development will be connected,
 - [3] The areas or approximate delineation of lots that will be used as building areas, and the areas or approximate delineation of lots that are to remain as permanent open space,
 - [4] The yard setback in feet for buildings and parking lots from lot lines and where applicable, a zoning district boundary;
- (c) Any additional drawings which the land owner wishes to include for the proposed PRDD, provided that such additional drawings shall be binding to the same extent as the required drawings.

E. Concept plan submission procedures.

- (1) The proponent wishing to place land in a PRDD is encouraged to meet with the Planning Board prior to submitting a concept plan. The purpose of the pre-submission meeting is to solicit guidance from the Planning Board about the scope and level of detail to be shown in the concept plan.
- (2) The proponent shall submit thirteen (13) complete copies of the concept plan to the Town Clerk at least twenty-one (21) days before the date of the Planning Board hearing concerning a duly filed petition to place the tract of land in a PRDD. The proponent shall distribute a complete copy of the concept plan to each of the Town Clerk, Board of Selectmen, Planning Board (5 copies), Town Planner, Town Engineer, DPW Director, Board of Health Agent, Police Department, and Fire Department.
- (3) Once submitted to the Planning Board, the concept plan shall not be amended except in accordance with this section. A concept plan may be amended in writing, signed by the proponent, if filed with the Town Clerk and the Planning Board at least five (5) days before the date of the town meeting at which the PRDD is to be considered, provided that such amendment has been approved by the Planning Board, as evidenced by certification of the same by the clerk of the Planning Board, as shown on the concept plan amendment.
- (4) The Planning Board will approve an amendment only if it finds that there is good cause for the proposed change and that the change is not inconsistent with information presented at the Planning Board public hearing. The concept plan may

also be amended by town meeting, if determined by the town moderator to be within the scope of the article.

- F. Concept plan public hearing. The Planning Board shall hold a public hearing about the proposed creation of a PRDD in accordance with M.G.L. c. 40A, § 5. The public hearing notice shall be in accordance with M.G.L. c. 40A, s. 5 and in a form approved by the Planning Board. At minimum, the notice shall contain a description of the concept plan in a form sufficient for the public to understand the proposed PRDD, and shall identify the locations at which complete copies of the concept plan may be inspected prior to town meeting. The proponent shall pay the cost of providing complete copies of the concept plan for placement in said locations, and for publication of the public hearing notice.
- G. Town meeting. The concept plan shall be presented to town meeting and shall be identified specifically in any motion to establish the PRDD.
- H. Special permit with site plan approval. The Planning Board may grant a special permit with site plan approval for the development of land within the PRDD, subject to any conditions it may require. The following procedures and decision criteria shall apply in the PRDD.
- (1) Application. The application for a special permit with site plan approval shall be filed with the Planning Board under § 7-03-050. The application shall include a copy of the concept plan approved by town meeting, and shall be in accordance with the rules and regulations of the Planning Board. The site plan submission shall contain sufficient information for the Planning Board to render a decision under § 7-03-050 and subsection (3) below. No application shall be deemed complete without payment of fees by the proponent as determined by the Planning Board.
 - (2) Public hearing. The Planning Board shall hold a public hearing in accordance with M.G.L. c.40A, §§ 9 and 11, and § 7-03-040 of this bylaw. The public hearing notice shall contain a description of the site plan sufficient for the public to understand the proposed development and identify locations at which the special permit application may be reviewed.
 - (3) Decision. The Planning Board shall grant a special permit if it determines that the definitive site plan submission:
 - (a) Is consistent with the concept plan approved as part of the vote to establish the PRDD at town meeting, in that the definitive plan does not exceed the density and dimensional requirements and other restrictions included in the concept plan, or contain any uses other than the uses presented in the concept plan, or provide less than the minimum common open space presented in the concept plan;
 - (b) Provides for a suitable development in harmony with the general purposes and intent of this bylaw and not detrimental to the neighborhood or to the town, and which meets the requirements of § 7-03-050 for a special permit with site plan approval, including without limitation the decision criteria set forth in § 7-03-050(C)(2);

- (c) Provides that any land shown in the approved concept plan as permanent open space shall be conveyed in accordance with M.G.L. c. 40A, § 9, provided that if the land is conveyed to an entity other than the town, the town shall have sufficient rights to enable it to enforce compliance with the restrictions imposed by the Planning Board as conditions of its special permit; and
- (d) Satisfies the following additional design standards and criteria:
 - [1] Insofar as practicable, the site shall be preserved in its natural state by minimizing tree and soil removal, and manmade features such as stone walls shall be maintained with minimal alteration or disruption;
 - [2] The development shall maintain or enhance the character and appearance of the town. Awareness of the existence of a development, particularly a higher-density development, shall be minimized by screening views of the development from nearby streets or single-family neighborhoods by the effective use of existing land forms, or alterations thereto, such as berms, and by existing vegetation or supplemental planting;
 - [3] Wherever possible, the common open space shall be contiguous and linked as a unit, and linked to other existing open space;
 - [4] Without specifying any particular architectural style, the scale, massing and detailing of buildings should be compatible with other buildings prevalent in the neighborhood. Where a multi-family development is located adjacent to a neighborhood of single-family dwellings, the massing scheme and selection of exterior materials for buildings shall be complementary to a single-family neighborhood;
 - [5] The disturbance, removal or substantial alteration of buildings of historic or architectural significance shall be minimized;
 - [6] Buildings shall be located harmoniously with the land form, vegetation and other natural features of the site, effectively for solar and wind orientation for energy conservation, and advantageously for views from the building while minimizing intrusion on views from other buildings;
 - [7] Buildings and their adjoining grounds shall permit safe, efficient access and operation by public safety personnel and equipment;
 - [8] Where applicable, the development shall provide sufficient traffic mitigation to maintain or improve the existing level of service on nearby roadways and intersections affected by the development, as determined by the Planning Board based on its review of the traffic analysis;

- [9] Where applicable, improved access to, or the development of additional links or connectors, shall be made to existing public facilities and services such as conservation areas, recreation facilities, sidewalks or bicycle paths, streets, transportation systems, or utility systems;
 - [10] The development provides for an internal system of routes for pedestrians, including bicycles, with minimal conflicts with vehicles, where feasible;
 - [11] The location of intersections with primary and secondary streets shall be such as to minimize traffic congestion;
 - [12] Utilities shall be underground or as inconspicuous as possible; and
 - [13] Facilities such as storage, refuse disposal, utility buildings, and structures for recreational activities shall be located and screened to minimize visibility from public ways and adjacent residential areas.
- I. Special permit and site plan revisions. Changes involving uses not permitted by the concept plan approved by town meeting or which are not substantially consistent with that plan, or which are otherwise not permitted by this section, may be made only by revision of the concept plan and approval by a two-thirds vote of town meeting.
- J. Use variances. No use variances shall be granted in the ROPOD or within that portion of the Residence B District included within the ROPOD.

7

SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 PLANNED RESIDENTIAL DEVELOPMENT STANDARDS

7.1.1 General. Planned Residential Development is intended to be a well-defined area of higher development density than other residential developments. It is intended to accommodate dwelling units for small households in a variety of dwelling types, all in a planned setting. In order to establish such a development, a comprehensive concept plan must be reviewed and recommended to Town Meeting by the Planning Board, including revisions recommended for approval by Town Meeting. Upon Town Meeting approval, the Planning Board will monitor conformance to the concept plan and Town approval.

All concept plans and the detailed development plans evolving therefrom shall conform to the following standards.

7.1.2 Standards.

1. The overall density in dwelling units shall not exceed 1.5 times the number of dwelling units which could be located within the boundaries of the planned residential development tract in accordance with the applicable conventional zoning, and at least 20 percent of such tract shall be maintained as natural open space in which the existing vegetation and topography shall be preserved to the extent possible, subject only to additional planting and landscaping, but no paving, parking, or buildings.
2. A detailed site development plan conforming to the approved concept plan shall show and identify all changes and construction to the extent required for site plans, including all existing and proposed buildings and structures, and the plans, elevations, and use of all buildings other than one and two family dwellings. The procedure for the review and approval of the detailed development plans shall follow, so far as apt, the approval regulations and procedures for a definitive subdivision plan, including the requirement for a covenant or security to guarantee the performance of all work in accordance with the plan and the schedule approved by the Planning Board. Plan changes not increasing the number, floor area or intensity or type of use of buildings and not reducing the open space may be approved from time to time by the Planning Board; other changes shall require submittal of a new concept plan for Town Meeting approval and of a revised development plan. Building and occupancy permits for each building shall be required in accordance with the applicable state and town regulations.

3. The construction of a planned residential development may proceed in phases, provided that higher intensity or occupancy uses shall not exceed at any time the overall ratio of such uses to one-family dwellings in the entire planned development, and conveyances or leases of all or any part of a planned residential development shall be subject to and shall refer to the conditions of approval of such planned residential development.
4. Performance bond or other security shall provide for the restoration so far as possible of the development or any part thereof not completed in accordance with the approved plan and schedule to pre-development condition.
5. Building facing residential lots conforming to conventional residential zoning across a street shall conform in type and spacing to the applicable conventional zoning standards or shall be located at least 100 feet from such conventional residential lots and be separated therefrom by a dense vegetation or other approved visual screen.

7.2 CONVERSION OF SINGLE FAMILY TO TWO FAMILY DWELLING

7.2.1 General. In the SRA and SRB Districts such conversion shall be subject to the following conditions:

1. Such house is located on a lot which has an area at least 50 percent larger than required for the construction of a single family home in that district.
2. No exterior enlargement is made which together with any changes made during the preceding five years increase the cubic content of the house by 20 percent or more.
3. No exterior change is made which, in the opinion of the Board of Appeals, alters the single family character of the dwelling.

7.3 MULTIFAMILY RESIDENTIAL COMPLEX

7.3.1 General. A Multifamily Residential Complex shall be allowed only in a Single Residence B (SRB) Zoning District and only by Special Permit issued by the Zoning Board of Appeals upon a determination that the following conditions and criteria have been satisfied:

1. Conversion of Existing Buildings/Structures: Except as provided in Paragraph 2 below, all dwelling units in a Multi-Family Residential Complex must be located within buildings or structures in existence as of the effective date of this By-Law (April 12, 1999). The floor area of such existing buildings or structures may be expanded provided that such expansion does not increase the floor area by more than 50% of such building or structure being so expanded and provided further that with respect to any abutting lots not included within the Multi-Family Residential Complex any such expansion shall conform to the minimum front, side or rear yard requirements for SRB Zoning District.

ANTICIPATED PROCESS

AND SUBMITTALS

CONTENTS OF PROJECT
DEVELOPMENT PACKAGE

- **Locus Map**
- **General Layout Map**
- **Existing Conditions Plan**
- **Conceptual Master Plan**
- **Renderings and Elevations**
- **Landscape Plan**
- **Lighting Plan**
- **Project Narrative with Table of Development Data**
- **Storm Water and Drainage Report**
- **Utilities Report**
- **Earthwork Analysis**
- **Traffic Impact and Access Study**
- **Fiscal and Residential Impact Study**

COMPONENTS OF THE

OVERLAY BYLAW

COMPONENTS OF THE OVERLAY BY-LAW

- **Purpose and Objective**
- **Location**
- **Relationship to Underlying Districts and Regulations**
- **Permitted Uses**
 - **Accessory Uses**
 - **Affordability**
 - **Office, Etc.**
- **Development Standards and Requirements**
 - **Dimensional Requirements**
 - **Parking and Loading**
 - **Signage**
 - **Design Standards**
 - **Performance Standards**
 - **WRPOD Standards**
 - **Acknowledge Phased Development**
- **Consistency Determination**
- **Consistency and Completeness Determination**
- **Administration of Project Changes and New Project Components**