

SECTION IV

Intensity Regulations

IV-A Schedule of Dimensional Requirements

No lot shall be created or subdivided and no building or structure shall be built, enlarged or located in such manner as does not conform to the requirements set forth in Sections IV-A, IV-B and IV-C of this By-Law.

<u>minimum lot size</u>		<u>maximum height</u>		<u>maximum percentage which may be covered by all buildings</u>	<u>minimum yard dimensions</u>			<u>special requirements applicable to each district</u>
<u>area</u>	<u>frontage</u>	<u>feet</u>	<u>stories</u>		<u>front</u>	<u>side</u>	<u>rear</u>	
RESIDENCE DISTRICT A								
20,000 sq. ft.	125'	35'	2½		25'	15'	15'	6, 9, 10, 13, 16
RESIDENCE DISTRICT B								
30,000 sq. ft.	150'	35'	2½		35'	20'	20'	6, 9, 13, 16
RESIDENCE DISTRICT C								
40,000 sq. ft.	150'	35'	2½		50'	20'	20'	6, 9, 13, 16
FLEXIBLE RESIDENTIAL DEVELOPMENT IN RESIDENCE DISTRICTS A THROUGH C								
All dimensional requirements for projects in Residence Districts A through C authorized by a Flexible Residential Development Special Permit under Section IV-D are set forth in Section IV-D.								
TOWN HOUSE IN RESIDENCE DISTRICT D								
5,000* sq. ft.	30' per dwelling unit	35'	2½	20%	50'	20'	20'	6, 9, 10, 11, 12, 16
*Per dwelling unit of one bedroom. For each additional bedroom, an additional 1,000 square feet of lot area is required.								
RESIDENCE DISTRICT E								
30,000 sq. ft.	150'	35'	2½		35'	20'	20'	6, 9, 10, 16

IV-A Schedule of Dimensional Requirements (continued)

<u>minimum lot size</u>		<u>maximum height</u>		<u>maximum percentage which may be covered by all buildings</u>	<u>minimum yard dimensions</u>			<u>special requirements applicable to each district</u>
<u>area</u>	<u>frontage</u>	<u>feet</u>	<u>stories</u>		<u>front</u>	<u>side</u>	<u>rear</u>	
BUSINESS DISTRICT A								
	20'		3		10'			6, 9, 10
BUSINESS DISTRICT B								
	100'		3	25%	40'	25'	25'	2, 3, 6, 10
BUSINESS RECREATION DISTRICT								
10,000 sq. ft.	150'		2½	25%	40'	25'	25'	6, 2
WATERFRONT BUSINESS DISTRICT *								
10,000 sq. ft.	100'	20'		25%	40'	25'	10'	6
*For Waterfront Business District, yard dimensions are measured as follows:	Front:	40 feet – measured horizontally at right angles to the sideline of the public way.						
	Side:	25 feet – of which a yard space not less than 5 feet wide shall be maintained opened and not parked upon, including parking overhang, along the entire length of each side lot line. Where adjacent property is below the mean high water line, the rear yard limitation shall apply, even if the adjacent property is subsequently filled to raise it above the mean high waterline.						
	Rear:	10 feet measured horizontally from the shoreline which shall be maintained open and not parked upon along the entire length of the rear lot line.						
WATERFRONT RECREATION DISTRICT								
3 acres	150'	35'	3	20%	40'	25'	40'	5, 6

IV-A Schedule of Dimensional Requirements (continued)

<u>minimum lot size</u>		<u>maximum height</u>		<u>maximum percentage which may be covered by all buildings</u>	<u>minimum yard dimensions</u>			<u>special requirements applicable to each district</u>
<u>area</u>	<u>frontage</u>	<u>feet</u>	<u>stories</u>		<u>front</u>	<u>side</u>	<u>rear</u>	
INDUSTRIAL DISTRICT								
80,000 sq. ft.	200'		3	40% / floor area ratio of 0.35 permitted; 0.50 allowed by Special Permit A2	40'	25'	25'	1, 3, 6
MIXED USE PROJECT IN INDUSTRIAL DISTRICT								
All dimensional requirements for projects in the Industrial District authorized by a Mixed Use Special Permit under Section IV-G are set forth in Section IV-G.								
RETAIL GROUP IN INDUSTRIAL DISTRICT								
5 acres	300'	30'		30% / floor area ratio 0.60	40'	30'	30'	1, 2, 3, 4, 6, 7, 8
INDUSTRIAL PARK DISTRICT								
2 acres	250'	40'		40% / floor area ratio 0.35 permitted; 0.45 allowed by Special Permit A2	35'	35'	50'	1, 2, 3, 6, 14
RETAIL GROUP IN INDUSTRIAL PARK DISTRICT								
15 acres	500'	30'		20%	50'	50'	50'	1, 3, 4, 5, 6, 7, 8, 14
OFFICE PARK DISTRICT								
5 acres	200'	35'		Floor area Ratio of 0.15	100'	50'	50'	5, 6, 14
LIMITED INDUSTRIAL PARK DISTRICT								
2 acres	250'		30' not to exceed 2 stories	30% / floor area ratio of 0.35	35'	35'	50'	1, 2, 3, 6
OFFICIAL AND OPEN SPACE DISTRICT								
	20'	35'		10%	40'	40'	40'	1, 2, 5, 6, 15

IV-B Special Requirements to Schedule of Dimensional Requirements

1. No building, structure, parking area or septic system shall be constructed within 100' of a residence district, except where the zoning district boundary is in a street, in which case the setback from said boundary shall be 50'. A natural or landscaped vegetative barrier as approved under site plan review shall be retained or created and maintained within this setback.
2. A minimum of 15% of the area of each lot shall not be built upon, paved or parked upon, and shall be maintained either in its natural state or landscaped. Along the entire street frontage of each lot a green or landscaped strip not less than 15' wide shall be maintained in its natural state or landscaped with grass, trees and shrubs, not paved except for driveways, not parked upon and not built upon except for signs. The required 15% may include the 15' green strip.
3. Any yard space or area required to be kept open and unbuilt upon may, nevertheless, if otherwise lawful, be used for off-street automobile parking, or for outdoor storage of packaged articles, packaged supplies or packaged materials, provided any such outdoor storage space shall be effectively screened from view by some substantial means such as an ornamental wall an ornamental lattice or a dense planting. A green strip not less than thirty (30) feet wide on which to grow grass, bushes, flowers or trees, shall be maintained open and green, unbuilt upon, unused and unpaved and not parked upon, all along each side or rear property line of such a lot wherever it abuts land residentially zoned.
4. Frontage specified shall be the minimum width to a depth of 200'.
5. A green yard space not less than twenty (20) feet wide shall be maintained open and green with grass, bushes, flowers or trees or any combination of them, along the entire length of each side lot line or rear lot line of such a lot and (except for entrance and exit driveways) along the entire street frontage of such lot, and such yard space shall not be built on nor paved nor used for automobile parking. Not less than 80% of the land area of such a lot shall remain open and unbuilt on, but such open space may be used for automobile off-street parking, driveways, sidewalks and store service yards, except that such use shall not be permitted in any part of the 20' wide green perimeter strip above specified. Notwithstanding the foregoing, a green yard space not less than fifty (50) feet wide shall be maintained open and green with grass, bushes, flowers, trees, or in an undisturbed natural condition, or any combination of the foregoing, along the entire length of each side lot line and rear lot line of such lot where such side lot line or rear lot line abuts a Residence A or Residence B or Residence C District.
6. Site Plan Review, as defined in Section I-I, shall be conducted by the Planning Board or its designee and may be subject to professional consultant review consistent with Section I-F.3, for all projects which meet the following criteria:
 - a. all non-residential projects which are estimated to cost \$20,000 or more;
 - b. all projects that 1) create a land disturbance or an alteration of drainage patterns over an area greater than 5,000 square feet; or 2) create a land disturbance of more than 1,000 square feet in areas with slopes greater than 10% provided, however, that projects creating a disturbance or an alteration of drainage over an area greater than 5,000 square feet but less than 20,000 square feet, or more than 1,000 square feet in slopes greater than 10% shall be eligible for Limited Site Plan Review as defined below;
 - c. all projects that are part of a larger common plan of development or sale that would disturb more than one acre in the aggregate;

- d. notwithstanding the foregoing, the following types of projects shall be exempt from site plan review under subsection b:
- i. normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act, Massachusetts General Laws Chapter 131, Regulation 310 CMR 10.04;
 - ii. routine maintenance of existing landscaping, gardens or lawn areas;
 - iii. the construction of fencing that will not alter existing terrain or drainage patterns;
 - iv. installation of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain, ground cover, or drainage patterns;
 - v. projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions under the Wetlands Protects Act, Massachusetts General Laws Chapter 131, Section 40, the Town of Hingham Wetlands Protection By-Law, and/or the Rivers Protection Act.; or
 - vi. road widening or improvement projects; provided that road projects that (i) increase the amount of impervious area by greater than or equal to a single lane width, (ii) disturb more than one acre, and (iii) discharge to the Town's municipal stormwater system, shall meet the applicable requirements of the Town of Hingham MS4 Permit.

[FOR DISCUSSION – POSSIBLE PROVISIONS FOR LIMITED SITE PLAN REVIEW FOR SMALL PROJECTS]

- e. Limited Site Plan Review - Limited site plan review shall be required in connection with projects as identified in subsection b above. Limited site plan review shall not apply to site plan review required pursuant to subsection b.3 above, or in connection with a Special Permit A3 Flexible Residential Development or other development projects consisting of more than one single-family or two-family dwelling for which site plan review is required.
- i. Procedures: Applicants shall schedule a preliminary meeting with the town planner to discuss the project, identify potential concerns and discuss the application and review process. A site visit may be scheduled to review the scope of the project.
 - ii. Submittal Requirements: Each application for Limited Site Plan Review shall include the information detailed in Section I-I.6(a), (b), (f, excluding traffic analysis), and (h).
 - iii. Review: The scope of the site plan review shall be limited to the criteria set forth in Section I-I.6(a) and (e) through (i) as to the impact of the construction of the project and the site plan design on abutting properties, and adjoining public ways, and the Town's municipal stormwater system as to erosion, surface water drainage, and the disposal of refuse and other wastes, and may be subject to professional consultant review consistent with Section I-F.3.
 - iv. Decision: The Planning Board or its designee (under Section I-I.5.c) shall review the application and shall file a written decision not later than 45 days after receipt of a completed application in the office of the Town Clerk and notify the applicant of the decision. The required time limits for the filing of such decision may be extended by written agreement of the applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk. Failure by the Planning Board or its designee to act in the 45 day period shall be deemed approval of the site plan. An applicant who seeks such approval because of the failure of the

Planning board or its designee to act in the time prescribed shall notify the Town Clerk in writing within 14 days from the expiration of said 45 days or extended time.

7. Each free standing structure, regardless of use, shall be not less than 1500 sq. feet lot coverage gross horizontal dimension. Each structure may be divided into street floor retail occupancy units not smaller than 750 sq. feet each, or into business, professional or personal service occupancy units not smaller than 350 sq. feet each.
8. No more than two driveways of 26' width each shall be permitted on the total street frontage of each retail store group.
9. In all residence districts and Business District A, the front setback may be as near the street as the average of the buildings or structures in the adjoining lots. For a vacant lot, the front setback line shall be the minimum front setback required in the district.
10. In the case of land used for housing the elderly persons of low income, or persons of low and moderate income, pursuant to the provisions of subsection 1.5 of Section III-A, the following provisions shall apply:
 - a. There shall be no less than three thousand (3,000) square feet of lot area per dwelling unit.
 - b. No more than forty percent (40%) of the lot area shall be occupied by the buildings.
 - c. A green yard space, no less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers, or trees, or any combination thereof, along the entire length of each side lot line and rear lot line and (except for driveways) along the entire street frontage, and such green yard space shall not be built upon nor paved nor used for storage or for vehicle parking, but signs and fences not otherwise prohibited by law may be erected and maintained thereon.
 - d. There shall be a minimum distance of thirty (30) feet between all buildings on such land.
 - e. There shall be reserved sufficient areas to provide parking spaces for vehicles at the rate of one such space per dwelling unit. So much of said area or areas shall be paved as may be deemed necessary by the Board of Appeals. In making such determination, the Board of Appeals shall give due consideration to the location of the land, the probable number of vehicles parking thereon, the probable age, economic resources, and parking requirements of the occupants of such dwelling units, and such other factors as said Board may deem pertinent in each case. From time to time the Board of Appeals may, upon the petition of the Board of Selectmen, the Building Commissioner or the Planning Board, and after notice and hearing as provided by subsection 3 of Section I-D, determine the necessity for additional paving of such reserved area or areas and may order additional paving in accordance with such determination.
11. No side yard is required where a dwelling unit shares a party wall with a building constructed at the same time.
12. Not over 20% of the required minimum lot area may be met by land in the Floodplain Protection Overlay District.
13. No portion of the minimum lot area may be met by land that is:
 - a. Wetlands as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act;

- b. Wetlands as defined by the Town of Hingham’s Wetlands Protection By-Law;
- c. Land subject to flooding as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act;
- d. Land within the Floodplain Protection Overlay District as defined by Section III-C of the Zoning By-Law of the Town of Hingham.

In addition, the required minimum lot area shall be contiguous.

- 14. Properties zoned Industrial Park or Office Park and contained within the South Hingham Development Overlay District are subject to the intensity regulations set forth in Section III-E, South Hingham Development Overlay District.
- 15. Contiguous parcels separately deeded to the Town shall be considered a single parcel in application of minimum yard dimensions.
- 16. In no event shall the Height of any residential Building be higher than thirty-five (35) feet measured from Grade Plane, and in no event shall the highest roof surface, peak or parapet be more than forty (40) feet above Finished Grade where it intersects the perimeter wall at any point. See also the Building Height Diagram in annex A.

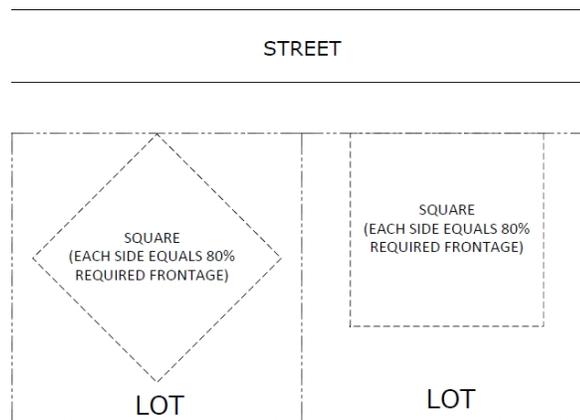
IV-C General Intensity Provisions

1. Frontage

Lot frontage in all districts shall be measured at the street line, except that frontage shall be measured at the front setback line if the street is an arc of a curve with a radius of two hundred (200) feet or less. For this purpose, the setback line shall be the minimum front setback required in that district.

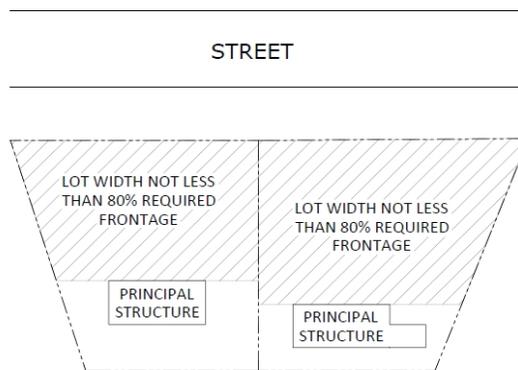
2. Lot Shape

- a. In addition to the required frontage and area, each lot shall be laid out so that a square with each side equal to eighty (80) percent of the required frontage for the zoning district in which it is located can be placed within the lot lines with at least one point on the front lot line.



- b. In addition, at no point between the front lot line or primary front lot line and the front wall of the principal structure shall the lot have a width of less than eighty (80) percent of

the required frontage. Lot width is the horizontal distance between side lot lines, measured parallel to the lot frontage.



3. **Location of Accessory Buildings**
Accessory buildings shall not be located nearer the lot line than the minimum dimensions of the front, side, or rear yards and shall be no more than two stories and not exceed 30 feet in height.
4. **Appurtenant Open Space**
No yard or other open space required for a building by this By-Law shall, during the existence of such building, be occupied by or counted as open space for another building.
5. **Density**
Unless otherwise expressly permitted in this by-law, no more than one dwelling unit shall be located on any single lot.
6. **Exempted Lots**
 - a. **Residential**
A lot or parcel of land in a residential district having an area or frontage less than that required by this section may be developed for a single residential use provided that such lot or parcel complies with the specific exemptions of Section 6 of Chapter 40A of the Massachusetts General Laws.
 - b. **All Other Districts**
In non-residential districts, the lot area and lot frontage requirements shall not apply to any lot of less area or frontage already existing in a particular ownership as shown by plan or deed lawfully of record on or prior to the date of this By-Law.
7. **Corner Lot and Clearance**
A corner lot and any other lot abutting a street in more than one location shall maintain front yard setback requirements for each and every street. Within the area formed by the line of intersecting ways and a line joining points on such lines fifteen (15) feet distant from their point of intersection, or in the case of rounded corners, the point of intersection of their tangents, no building structure, fence, wall, planting, or other feature that would interfere with a clear and unobstructed view across the corner shall be maintained between a height of two and a half (2 1/2) feet and a height of eight (8) feet above the plane through their curb grades.
8. **Projections**
Nothing herein shall prevent the projection of steps, gutters, bay windows, terraces, outside chimneys, stoops, piazzas or porches not exceeding thirty (30) square feet in area, eaves, cornices,

window sills or belt courses of the main structure or accessory buildings into any front, side or rear yard spaces; provided, however, that any device that supplies usable floor area to a structure shall not constitute a projection for the purpose of this By-Law.

9. Height Exceptions

Chimney, ventilators, elevators, mechanized or motorized equipment which is used to ventilate, heat or cool a building or structure, poles, spires, tanks, towers and skylights and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed, provided, however, that (a) no wireless communications tower or antenna shall be erected except in compliance with Section V-E of this By-Law, and (b) with respect to dwellings in residential districts, (i) the area of such projections where they intersect the height limit shall not exceed five percent of the horizontal plane of the roof area in the aggregate, measured at the uppermost full floor of the dwelling, and (ii) this provision shall not be construed to exempt a parapet, wall or railing from the height requirements set forth in Section IV-B.16.

10. Fencing and Screening

In an Industrial or Business District, except as otherwise required by Special Requirement 3 of Section IV-B, Special Requirements to Schedule of Dimensional Requirements, the outdoor storage of goods, products, materials or equipment, if visible at normal eye level from a public way or from any point in an abutting residential district less than 500 feet away, shall be screened from view by an ornamental lattice, opaque fence, or sight-obscuring plantings or screenings (except retail goods when being offered for sale during business hours, vehicles offered for sale or stored by a licensed auto dealer and boats offered for sale, in storage, or under repair). Plantings shall be maintained in healthy growing condition, and fencing shall be maintained in good repair by the land owner.

IV-D Flexible Residential Development (FRD) - Special Permit

1. Purposes

- a. To encourage the permanent preservation of open space, water bodies and supplies, wetlands and other natural resources, and historical and archeological resources;
- b. To preserve and enhance community character by allowing for greater flexibility, creativity and open space within residential developments;
- c. To provide for a diversified housing stock, including Moderately-Sized Homes and Low or Moderate Income Housing;
- d. To facilitate the construction and maintenance of housing, streets, utilities and public service facilities in an economical and efficient manner; and
- e. To minimize the total amount of disturbance on the site.

2. Definitions

Capitalized terms used herein and not otherwise defined herein shall have the same meanings ascribed to such terms in Section VI of this By-Law.

Additional Dwelling Units

As defined in Section IV-D, 7.

Conventional Yield

The number of Single-Family Dwellings that would be permitted under Massachusetts General Laws Chapter 41, Sections 81K - 81GG (The Subdivision Control Law) and which could reasonably be expected to be developed in full conformance with applicable zoning, subdivision rules and

regulations, wetland by-laws, Board of Health rules and regulations and all applicable rules and regulations of the Town of Hingham.

Existing Protected Open Space

Open space not located within the site which is protected in perpetuity by legal restriction or form of ownership (e.g., land which is under the control of the Conservation Commission, owned by a non-profit organization the principal purpose of which is the conservation of open space, or subject to a conservation restriction).

Flexible Residential Development (or “FRD”)

An alternative development plan to a conventional subdivision which permits flexibility in the layout and design of a subdivision and Additional Dwelling Units in exchange for the preservation of a significant portion of the site as open space and the construction of diversified housing.

Low or Moderate Income Housing

Dwelling Units restricted for a period of not less than thirty (30) years to occupancy by persons or families who qualify as low or moderate income, as those terms are defined for this area by the Massachusetts Department of Housing and Community Development (DHCD) and which are affordable to such persons in accordance with applicable regulations of DHCD or the Department of Housing and Urban Development. For the purpose of this Section IV-D, any Dwelling Unit intended to be considered as Low or Moderate Income Housing shall have the following minimum specifications:

	Single Family Dwelling	Two-Family Dwelling
Gross Floor Area:	1,800 sq. feet	2,400 SF
# Bedrooms	Two	4 (2 per dwelling unit)
Garage Spaces	One	2 (one per dwelling unit)

Moderately-Sized Home

For the purpose of this Section IV-D, any Dwelling Unit intended to be considered as a Moderately-Sized Home shall have the following maximum specifications:

	Single Family Dwelling	Two-Family Dwelling
Gross Floor Area:	2,200 sq. feet	3,000 SF
# Bedrooms	Three	6 (3 per dwelling unit)
Garage Spaces	Two	4 (two per dwelling unit)

Open Space

Land within the site that is prohibited from development (except as specifically provided herein), and managed under the requirements set forth in Section IV-D, 8 hereof.

Unrestricted Dwelling Units

As defined in Section IV-D, 7.

3. Eligibility

Sites that meet the following criteria are eligible for a Special Permit A3:

- a. Sites containing a minimum of three (3) acres and a Conventional Yield of not less than three (3), provided, however, that no Additional Dwelling Units (as defined in Section IV-D, 7) shall be permitted on sites containing less than five acres.

- b. Sites located in Residential Districts A, B and C.

c. Sites with the proposed use permitted in the District in which the site is located, except that if the proposed FRD includes Low or Moderate Income Housing, Two-Family Dwellings shall also be permitted instead of, or in combination with, Single-Family Dwellings.

d. Sites consisting of a single parcel or two or more contiguous parcels. For the purposes of this Section IV-D, parcels physically separated by a street or way (other than a Major Street as defined in Section 4 of the Planning Board Rules and Regulations) may be considered contiguous parcels, provided that (i) the parcels on each side of such street or way are each at least three (3) acres and (ii) the frontage of the parcels on such street or way shall be parallel for a distance of not less than fifty (50) feet.

e. The site may be a subdivision or a division of land pursuant to Massachusetts General Laws Chapter 41, Section 81P, provided, however, that a FRD may also be permitted on a site intended as a condominium and not so divided or subdivided.

4. Application and Review Procedure

The review procedure for a Flexible Residential Development (FRD) consists of two steps: 1) Preliminary Flexible Residential Development Plan ("Preliminary FRD Plan") review; and 2) Definitive Flexible Residential Development Plan ("Definitive Plan") review. In the first step, the applicant shall file a Preliminary FRD Plan, as described below, which describes the overall development proposal for the site. The Planning Board shall grant or deny a Special Permit A3 based on the information contained in the Preliminary FRD Plan application.

If the Special Permit A3 is granted, the applicant shall submit a Definitive Plan, as described below, based on the Preliminary FRD Plan. The Planning Board shall then review the Definitive Plan as a definitive subdivision plan. Two separate public hearings shall be held, one for the Special Permit and one for the Definitive Plan.

The applicant is encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite all relevant boards and committees to attend, including but not limited to the Conservation Commission, Board of Health and, if applicable, Sewer Commission, Historic Districts Commission and Housing Partnership Committee. The purpose of the pre-application hearing is to minimize the applicant's cost of engineering and other technical experts, and to obtain the input and direction of the Planning Board prior to filing the application. At the pre-application review the applicant shall outline the proposed FRD and seek preliminary feedback from the Planning Board and/or its technical experts. The applicant is also encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review. If such a site visit is requested, all applicable boards and committees will also be notified and invited to attend.

5. Preliminary Flexible Residential Development Plan Review

a. An application for Preliminary FRD Plan review shall include the following:

- i. Site Context Map. A map illustrating the larger context in which the site is located, including associated or adjacent neighborhoods, natural features, roads and zoning districts.
- ii. Existing Conditions/Site Analysis Map. Based on existing data sources and field inspection, this map should contain all zoning classifications applicable to the site, all physical and natural features including water bodies, streams, wetlands, areas of greater than 40% slope, vistas, geological and topographical features, topography at 2' intervals, unique vegetation, historic features, large boulders or ledge outcroppings, wooded and open areas, trees with a caliper of 6 inches or greater and stone walls.

- iii. Preliminary Plan. The preliminary development plan, prepared by a professional landscape architect registered in the Commonwealth of Massachusetts, and/or a professional civil engineer registered in the Commonwealth of Massachusetts, which complies with the requirements of Section 3, B (1) and (2) of the Planning Board Rules and Regulations. The Planning Board may waive specific requirements relative to the content of the Preliminary Plan as the Planning Board deems appropriate. The Preliminary Plan shall also identify the proposed location and size of structures to be built on the site.
 - iv. Conventional Yield Sketch Plan. A sketch plan showing the Conventional Yield.
 - b. The applicant shall file the Preliminary FRD Plan with the Town Clerk and Planning Board, and submit copies of the Preliminary FRD Plan to the Board of Health, Conservation Commission, Fire Department, and Department of Public Works. The applicant shall also submit copies of the Preliminary FRD Plan to such other Town boards and agencies as the Planning Board shall request. The applicant shall file with the Town Clerk and submit to the Planning Board one or more transmittal letter(s), as required, certifying that it has forwarded such copies to the Town boards and agencies as provided in this subparagraph and as may be requested by the Planning Board.
 - c. The Town boards and agencies receiving copies of the Preliminary FRD Plan shall submit written recommendations to the Planning Board within 35 days after filing of the Preliminary FRD Plan. Failure to report to the Planning Board within 35 days shall be deemed a lack of objection to the application. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the Preliminary FRD Plan during the review period.
 - d. The Planning Board, within 60 days or such further time as may be agreed upon in writing by the applicant, may grant a Special Permit A3 if it determines that the proposed FRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan, promotes the preservation of Open Space and natural resources, reduces the total amount of disturbance on the site, facilitates the efficient delivery of services and complies with the requirements of this Section IV-D.
 - e. All Open Space shall be dedicated at the time the Special Permit holder commences construction under a Building Permit.
- 6. Definitive Flexible Residential Development Review
 - a. If the Special Permit A3 is granted by the Planning Board, the applicant shall file with the Planning Board an application for a Definitive Plan in accordance with the Rules and Regulations of the Planning Board relative to the submission of a Definitive Plan (Section 3, C). In addition, the applicant shall submit a list of all waivers requested from the Planning Board Rules and Regulations.
 - b. The Planning Board shall review the Definitive Plan to determine its compliance with the Subdivision Control Law, and hold a public hearing as required by Massachusetts General Laws Chapter 41, Section 81T. The Special Permit A3 shall be reconsidered if there is a substantial variation between the Definitive Plan and the Preliminary FRD Plan. A substantial variation shall be defined as an increase in the number of Lots or Dwelling Units, a decrease in the amount of Open Space and/or a change in the development pattern which adversely affects natural landscape features and Open Space, or surrounding residential properties. If the Planning Board finds that a substantial variation exists, it may reopen the Special Permit A3 public hearing to

review the modifications to the Preliminary FRD Plan and, based on its findings, may approve, modify or revoke the Special Permit A3.

7. Density

The total number of Dwelling Units permitted on the site shall not exceed the Conventional Yield, provided that, if the Planning Board makes a finding that the proposed development complies with all of the provisions of this Section IV-D, the total number of Dwelling Units permitted on this site shall be the greater of (i) one hundred thirty five percent (135%) of the Conventional Yield (rounded to the nearest whole number) or (ii) the Conventional Yield plus two (2). The number of Dwelling Units permitted in excess of the Conventional Yield are referred to herein as the "Additional Dwelling Units".

- a. Subject to (d) through (f) below, at least one third (1/3) of the Additional Dwelling Units shall be Low or Moderate Income Housing;
- b. Subject to (d) through (f) below, at least one-third (1/3) of the Additional Dwelling Units shall be Moderately-Sized Homes;
- c. The remaining Additional Dwelling Units shall be referred to herein as "Unrestricted Dwelling Units";
- d. If the total number of Additional Dwelling Units is less than three (3), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as an Unrestricted Dwelling Unit;
- e. If the total number of Additional Dwelling Units is a number which is not evenly divisible by the number three (3), the number of Additional Dwelling Units represented by the remainder shall be designated as follows: (i) if the remainder is one (1), such Additional Dwelling Unit shall be designated a Moderately-Sized Home, and (ii) if the remainder is two (2), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as either a Moderately-Sized Home or an Unrestricted Dwelling Unit;
- f. The Additional Dwelling Units shall be allocated such that the number of Additional Dwelling Units designated as Unrestricted Dwelling Units shall not exceed the number designated as Low or Moderate Income Housing;
- g. Low or Moderate Income Housing and Moderately-Sized Homes shall not be segregated on the site, and shall be designed in the same architectural style and constructed with building materials comparable to any Unrestricted Dwelling Units constructed on the site;
- h. If the proposed development consists of a mix of Single-Family Dwellings and Two-Family Dwellings, the Low or Moderate Income Housing and the Moderately-Sized Homes (i) shall be developed with a consistent mix of such Single-Family Dwellings and Two-Family Dwellings and (ii) must be evenly distributed among the Single-Family Dwellings and the Two-Family Dwellings constructed on the site. In addition, the number of bedrooms in any Two-Family Dwellings which are designated as Low or Moderate Income Housing shall mirror the number of bedrooms in the remaining Two-Family Dwellings (for example, if there are two market rate Two-Family Dwellings, one with two bedrooms and one with three bedrooms, then the corresponding Two-Family Dwellings designated as Low and Moderate Income Housing shall also contain two bedrooms and three bedrooms, respectively); and
- i. It shall be a condition of the approval of a Definitive Plan that, prior to the issuance of a building permit for the site, the procedure for the sale or rental of the Low or Moderate Income Housing

Dwelling Units shall be in conformance with regulations promulgated by the Massachusetts Department of Housing and Community Development for the inclusion of such units on Hingham's Subsidized Housing Inventory. To the extent permitted by applicable law, local preference shall be given in the sale or rental of Low and Moderate Income Housing.

8. Open Space Requirements

The following Open Space requirements shall apply:

a. A minimum of forty percent (40%) of the site shall be Open Space.

b. The Open Space, or any portions thereof, shall be conveyed to (i) the Town, (ii) a nonprofit organization, the principal purpose of which is the conservation of open space or (iii) a corporation, trust or homeowners' association (hereinafter, a "Trust") owned or to be owned by the owners of Dwelling Units within the site. In any case where Open Space is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall perpetually be kept in an open or natural state consistent with this Section of the By-Law.

If a Trust is utilized to hold title to the Open Space, maintenance of such Open Space and any accessory facilities shall be permanently guaranteed by such Trust, which shall provide for mandatory assessments of maintenance expenses to each Dwelling Unit owner. The deed of trust or articles of incorporation shall include provisions designed to effect these obligations and to grant to the Town an easement to perform such maintenance obligations if the Trust fails to do so, along with the right to record a lien against the Dwelling Units for the collection of all costs associated with performing such maintenance obligations as well as the imposition of any applicable fees. Each individual deed shall incorporate such provisions specifically or by reference. The documents creating such Trust shall be submitted to the Planning Board for its approval and, upon Definitive Plan approval, shall be recorded.

c. The percentage of Open Space that is wetlands (as defined under the Hingham Wetlands By-Law) shall not exceed the percentage of the entire site that is wetlands. For the purposes of this subsection 8(c), surface drainage systems, such as retention and detention ponds, shall be considered wetlands and may be located in the Open Space subject to the limitation of this subsection.

d. The Open Space shall be contiguous and, when possible, should abut and give access to adjacent Existing Protected Open Space so as to help to create a system of protected Open Space. Open Space will be considered contiguous if connected by a street (other than a Major Street), way, walking or bicycle path or non-exclusive easement. Upon a finding by the Planning Board that the quality of the Open Space preserved within the FRD shall be significantly increased by permitting noncontiguous areas of Open Space, such non-contiguous areas may be included within the total required Open Space.

e. The Open Space shall be used for conservation, passive recreation, playground areas, outdoor education, agriculture, forestry, or a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit up to 5% of the Open Space to be paved or built upon for facilities accessory to the dedicated use or uses of such Open Space (such as pedestrian walks, bike paths and playground equipment). The Open Space shall not include land set aside for roads and/or parking uses.

f. Subsurface wastewater and storm water management systems serving the FRD may be located within the Open Space, provided that a sufficient Open Space buffer exists to adequately screen the development from abutting properties in accordance with Section IV-D,9 (c) hereof.

9. Minimum Dimensional Requirements

- a. Where two or more lots are created, the minimum lot size will be determined through the Special Permit process.
- b. The following minimum dimensional requirements shall apply:
 - Maximum Height: 2 1/2 stories and 35 feet
 - Minimum Frontage: 50 feet associated with each detached dwelling
 - Minimum Front Yard Setback: 15 feet; provided that, for dwelling units without individual lots the Front Yard Setback shall be measured from the edge of the sidewalk or, if there is no sidewalk, from the edge of the paved roadway nearest the dwelling unit (the "Implied Front Lot Line").
 - Minimum Rear Yard Setback: 15 feet
 - Minimum Side Yard Setback: 15 feet (no side yard is required for a Two-Family Dwelling which shares a party wall on both sides).

Minimum Distance between detached principal structures on the same lot: 30 feet

c. At least two (2) parking spaces per dwelling unit shall be provided in garages and/or dedicated driveways. At least 23 feet of depth from the edge of the sidewalk or, if there is no sidewalk, from the paved roadway nearest the dwelling unit shall be provided for parking in driveways, and in no case shall driveway parking spaces extend beyond the actual lot line or Implied Front Lot Line as determined in subsection 9.b, above. In addition to the two parking spaces per dwelling unit required hereunder, dedicated guest parking spaces shall be required where building layouts or street design do not provide adequate on-street or off-street guest parking. The number of guest parking spaces required shall not exceed 10% of the total number of parking spaces required for the dwelling units in the development.

d. There shall be an Open Space buffer along the perimeter of the site consisting of trees, shrubs, vegetation, and topographic features sufficient to screen the development from abutting properties and adjacent roadways. This buffer shall be not less than 100 feet in width along abutting properties and not less than 50 feet in width along adjacent roadways, and shall count towards the Open Space requirement. No buffer shall be required along roadways created as part of the FRD. No portion of the Open Space buffer shall be within the boundaries of any Lot. Upon a finding by the Planning Board that a buffer of lesser width would be sufficient to screen and/or separate the FRD from the abutting properties or adjacent roadways, the buffer may be reduced. Upon a finding of the Planning Board that the natural state of the buffer is insufficient to adequately separate and/or screen the site from abutting properties, additional trees, shrubs and/or plantings shall be required.

e. To the extent a specific provision of this Section IV-D is in conflict with any other provisions of this By-Law, the provisions of this Section IV-D shall control. Otherwise, all other provisions of this By-law and of Sections 4, 5 and 6 of the Planning Board Rules and Regulations shall apply to a Flexible Residential Development.

10. Additional Requirements

- a. Roadways and Lots shall be designed and located in such a manner as to maintain and preserve existing tree cover, natural topography and significant natural and cultural resources,

to minimize cut and fill, and to preserve and enhance views to and from the site and the Dwelling Units.

b. The removal or disruption of historic, traditional, or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

c. When site conditions permit, the use of "soft" (non-structural) storm water management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate shall be required.

d. Walkways and bicycle paths shall be provided to link Dwelling Units with the Open Space and with any parking areas, recreation facilities and Existing Protected Open Space and paths and/or sidewalks on adjacent land where appropriate.

e. No lot shown on a plan for which a Special Permit is granted under this Section IV-D may be further subdivided and a notation to this effect shall be shown on the plan.

f. No building permit shall be issued for the construction or modification of any Moderately-Sized Home that would result in a violation of any of the maximum specifications set forth in the definition of Moderately-Sized Home.

g. For Two-Family Dwellings, the exterior design of the structure shall maintain the appearance and character of a Single-Family Dwelling.

IV-E Residential Multi-Unit Development

1. Town houses, garden apartments and apartment houses shall be subject to the following standards and conditions.

a. There shall be a minimum of 5 acres of land within any parcel to be developed for town houses, garden apartments or apartment houses.

b. The average number of dwelling units per acre in any development shall not exceed eight (8).

c. The shortest distance between any two structures shall not be less than 35 feet. Courts shall be completely open on one side. The Board of Appeals may waive the separation requirements if the design of the proposed development is benefited by closer spacing.

d. There shall be set aside, not to be built upon, unpaved, landscaped and/or left natural, with an acceptable balance of trees, shrubs and grass, site area equal to 2000 square feet per dwelling unit. The buffer area described in subparagraph (f) below shall not be considered as living space in computing the 2000 sq. ft. of living space per dwelling unit.

e. In addition to the 2000 square feet of living space required in (d) above, 1000 square feet of open space per dwelling unit shall be provided, which may include open paved areas, and one-half the area of covered parking or garage areas.

f. There shall be provided a landscaped side or rear yard buffer area of at least 50 feet in width adjacent to each property line of the parcel to be developed. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of ten feet.

- g. There shall be set aside, suitably prepared, protected and equipped for organized recreational activities, site areas equal to 300 square feet per dwelling unit, which are not to be included in the buffer area.
 - h. Each dwelling unit shall consist of at least one room, exclusive of hall, kitchen and bathroom, and there shall be at least 525 square feet of enclosed floor space for a one-room unit. For each additional room an additional 125 square feet shall be required.
 - i. Two parking spaces shall be provided for each dwelling unit. Such spaces shall be within 200 feet of the intended users. No parking shall be permitted within the buffer area. In addition to the two parking spaces per dwelling unit required hereunder, dedicated guest parking spaces shall be required where building layouts or street design do not provide adequate on-street or off-street guest parking. The number of guest parking spaces required shall be determined during the Site Plan Review process and shall not exceed 10% of the total number of parking spaces required for the dwelling units in the development.
 - j. All dwelling units shall be connected to public sanitary sewer. The Board of Appeals may waive this requirement with respect to land in the former Hingham Naval Ammunition Depot to the extent that such land is not within the North Sewer District and the applicant makes a satisfactory showing that its proposed sewage disposal system will not have adverse ecological impact.
 - k. All utilities shall be underground.
 - l. No space below ground level shall be approved for dwelling purposes.
 - m. The placement, size, arrangement and use of access routes to public or private streets shall be adequate to serve residents and provide no hindrance to the safety of existing or proposed streets. Pedestrian walkways with all-weather surfacing may be required where the density of population or school bus routes make such advisable for convenience and safety. Street and parking lot grading, drainage and surfacing shall comply with the specifications of the Subdivision Rules and Regulations.
2. Each application for a Special Permit A2 for the town house, garden apartment and/or apartment house development shall be subject to the provisions of Section I-I, Site Plan Review, and to the extent not already included therein, to the following additional provisions:
- a. the site plan required in Section I-I shall be prepared by a registered engineer, landscape architect, or architect and shall be accompanied by four (4) prints of a complete development plan at a minimum scale 1" = 40' and by the plans and information required in subparagraphs (b) through (h) below;
 - b. a sketch plan showing generally existing topography, existing vegetation and existing major structures within the site and within 500 feet of the boundaries of the site;
 - c. a grading plan and, in a schematic manner, proposed utilities and drainage systems including water for fire protection and public sanitary and storm sewers;
 - d. a plan containing schematic renderings and table to show the extent and location of the proposed structures and, generally, the appearance of representative structures within the development, the number and type of units and the number and size of rooms per unit with proposed tolerances and the specific exterior material proposed to be used;

- e. a sketch plan of all areas showing generally the location, types and sizes of trees and shrubs; the exterior lighting pattern to include description and location of lighting fixtures, and description, size and location of signs within the development;
 - f. a sketch plan illustrating the relationships on the site of the motor vehicle and pedestrian traffic patterns;
 - g. copies of any covenants and/or restrictions to be recorded before the Building Permit is issued to assure the development and maintenance of the property in substantial accordance with the complete development plan; and
 - h. such other information as the Board of Appeals may reasonably request to carry out the high standards of development contemplated by this Section.
3. Town houses, garden apartments and apartment houses shall be exempt from provisions of Section IV-C, 4.
 4. The issuance of a Special Permit A2 for a town house, garden apartment or apartment house development shall be subject to the following provisions and procedures.
 - a. The Board of Appeals may approve a development plan to be completed in stages. The Board of Appeals may grant approval limited to each such stage of development. Each stage shall conform to the standards of this Section and each shall be capable of independent existence without the completion of succeeding stages.
 - b. The development plan shall consist of those plans and other representations, tables, covenants, restrictions and conditions as may be determined by the Board of Appeals. Such development plan as approved by the Board of Appeals and bearing the signature of the Chairman of the Board of Appeals shall be retained by the Board of Appeals, and copies of such development plan bearing the signature of the Chairman of the Board of Appeals shall forthwith, upon approval, be filed by the Board with the Town Clerk, the Planning Board and the Building Commissioner. The foregoing requirements are in addition to and not in substitution for any applicable provision of statute. Upon the approval of a development plan, the Board of Appeals shall issue to the landowner a notice, certified by the Chairman or Clerk, containing the name and address of the landowner, identifying the land affected and stating that approval has been granted which is set forth in the office of the Town Clerk. Such notice shall be recorded in the Plymouth County Registry of Deeds within ninety (90) days of the date of the Board of Appeals' decision. If such notice is not recorded within such ninety (90) days, such approval shall be void.
 - c. No building or use permit shall be issued with respect to any building in any town house, garden apartment or apartment house development except in specific compliance with the approved filed development plan.
 - d. In order to insure compliance with the approved development plan, the developer shall cause the author or authors of the plan (i.e., designer, architect, engineer, site planner, etc.) or their successors to supervise and inspect the construction prior to inspections carried out by the Town.
 - e. No change in content in the approved development plan shall be effective until such change shall have been approved by the Board of Appeals and the change shall have been filed as provided in subparagraph (b) above.
 5. Affordable Units

- a. All Residential Multi-Family Developments, as defined in this Section IV-E shall include Low or Moderate Income Housing as defined in Section IV-D, provided that the minimum specifications shall be as set forth herein. With projects with six or less dwelling units per acre, at least ten percent (10%) of such units shall be Low and Moderate Income Housing. For projects with more than six dwelling units per acre, at least fifteen (15%) of such units shall be Low or Moderate Income Housing. In the event such percentage results in a fractional number, such number shall be rounded up.
- b. Any Town House dwelling unit intended as Low or Moderate Income Housing shall have a minimum gross floor area of 1200 square feet. Any dwelling unit in a Garden Apartment or Apartment House development intended as Low or Moderate Income Housing shall have the minimum square footage set forth in subsection 1.h hereof.
- c. The number of studio, one, two, or three bedroom Low and Moderate Income dwelling units shall be in direct proportion to the such dwelling rate market units within the development (e.g., if 20% of the market rate dwelling units are two bedrooms, then 20% of the Low and Moderate Income Housing dwelling units must be two bedrooms).
- d. Low or Moderate income Housing
 - i. shall not be segregated on the site
 - ii. shall be designed in the same architectural style and constructed with building materials comparable to any market dwelling units constructed on the site, and
 - iii. shall be constructed simultaneously and in the same proportion as the construction of market rate dwelling units in the development; and
- e. It shall be a condition of the approval of a Special Permit that, prior to the issuance of a building permit for the site, the procedure for the sale or rental of the Low or Moderate Income Housing Dwelling Units shall be in conformance with regulations promulgated by the Massachusetts Department of Housing and Community Development for the inclusion of such units on Hingham's Subsidized Housing Inventory. Local preference shall be given in the sale or rental of Low and Moderate Income Housing to the extent permitted by applicable law.

The applicant shall cooperate in all respects, at applicant's sole cost and expense, with any Local Initiative Program application to be filed by the Town in connection with such development and such cooperation shall be a condition to the issuance of any certificate of occupancy for any dwelling unit within the development.

IV-F Residential Multi-Unit Development in Residence District D

1. A Special Permit A2 for town house exception shall be subject to the following conditions:
 - a. Prior to the submission of an application for a Special Permit A2 from the Board of Appeals, the applicant shall submit to the Planning Board a development plan of the parcel of land which is to be the subject matter of such application.
 - b. Said parcel of land shall contain a minimum of 20 acres and shall be located in Residence District D.
 - c. Development of said parcel shall be subject to the provisions of Section I-I, Site Plan Review.

d. Yard dimensions, area and height requirements shall be as required for town houses in Section IV-A.

e. All utilities shall be underground.

f. Except as provided in subsection (j) below, the maximum number of dwelling units that may be permitted on the parcel by grant of Special Permit shall be determined by the Board of Appeals in accordance with the following formula:

$$\begin{aligned} D &= (A - W) \text{ times } 0.9; \\ D &= \text{The maximum number of dwelling units;} \\ A &= \text{The number of acres in the parcel;} \\ W &= \text{The number of acres of wet areas} \end{aligned}$$

(defined as water areas and other land in either of the following categories:

- i. All lands within the Floodplain Protection Overlay District; and,
- ii. All lands being wetlands as defined by the Wetlands Protection Act, Chapter 131, Section 40, Massachusetts General Laws.)

g. Any development hereunder shall be subject to and must comply with the provision of Section IV-E of this By-Law, except that the requirement of Section IV-E, 1 (j) may be waived by the Board of Appeals if it makes the following determination:

- i. that no part of the parcel abuts a sanitary sewer line of sufficient capacity to serve the parcel; and,
- ii. that the parcel's subsurface characteristics are sufficient to absorb waste generated by the proposed development on the parcel without material ecological degradation. The Board of Appeals, as part of the application, may require the submission of such studies and reports relating to this issue, bearing such certification by a professional engineer, and in such form as may be satisfactory to it.

h. No dwelling unit shall be erected or maintained, and except for reasonable common access way or ways to the parcel, no land may be paved within a strip of land one hundred (100) feet wide along then existing public ways, parks, streams or rivers upon which said parcel abuts nor along the property line of said parcel.

i. No dwelling unit shall contain more than three bedrooms, and no more than 15% of the maximum number of dwelling units permitted on said parcel shall contain three bedrooms.

j. The Board of Appeals, if so requested in the application may, but is not obligated to, permit an increase of one or more additional dwelling units on said parcel to the maximum extent stated below, for the reasons and in the manner hereinafter provided, and upon showing to the Board's satisfaction that the particular project, (including such additional units as requested in accordance with this subsection (j)), is of exceptional environmental economic, architectural and aesthetic benefit to the Town, and permits the municipal services without imposing an increased financial burden on its citizens, and so long as all of the following conditions, safeguards and limitations are met and fulfilled.

- i. Inclusive of the increase of one or more additional dwelling units, as provided in this subsection (j), the total number of dwelling units on the parcel shall not exceed 1.2 times the number of acres in the parcel minus the number of acres of wet areas as

defined in Section IV-F, 1 (f) hereof. In the event that application of this formula results in a figure which contains a fraction, then the maximum number of dwelling units permitted shall be the closest whole number to the figure obtained.

- ii. Any additional dwelling unit or units shall be under the same character as the units permitted under subsection (f) above.
- iii. Without limitation upon the power of the Board of Appeals provided under the Massachusetts General Laws or elsewhere in this By-Law, the power to condition any approval of an increase of one or more additional dwelling units up to the maximum number allowed under subsection (j) (i) hereof may be conditioned upon any or all of the following:
 - a. the submission of the reports, studies and other data referred to in subsection (j) (iii) above, in the form and substance and with the certification and verification as required by the Board;
 - b. completion of the project in accordance with the plans and specifications submitted to and approved by the Board, except for any non-material deviation; and
 - c. execution, delivery and recording of such covenants, agreements and instruments running with the land and binding upon the owner of the parcel, its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board of Appeals may require, and in form and substance satisfactory to it, in order to insure adherence to the development plan, to assure the continued compliance with the terms and conditions of the Special Permit issued hereunder, to insure maintenance of the project throughout its useful life, and, in the case of a condominium project, the execution, delivery and recording of condominium documents in form and substance satisfactory to the Board of Appeals.
- k. To the extent that a specific provision of this Section IV-F, 1 is in conflict with a provision of Section IV-E, this Section IV-F, 1 shall control.
- l. In addition to the requirements of Sections IV-F, 1 (a), IV-E and I-I, any application pursuant to this Section IV-F shall include the following:
 - i. detailed plans for the project, including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel, all ways and utilities serving the same (which plans shall comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, a model or models, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board of Appeals deems desirable in order to assist it in making its determination;
 - ii. data, satisfactory to the Board of Appeals, as to the applicant's financial and professional capacity to complete the project in accordance with the plans and specifications, and the applicant's capacity to maintain the project throughout its useful life;
 - iii. in the event that the application seeks waiver of the requirement of Section IV-E, 1 (j), studies and reports relating to the capacity of the parcel to absorb waste

generated by the parcel without material ecological degradation, bearing such certification by a registered professional engineer and in such form as may be satisfactory to the Board of Appeals;

- iv. traffic and/or utility reports or studies containing such professional certification and/or verification as may be required by the Board of Appeals; and
- v. any and all other information, documents, studies, reports and similar data with respect to the project which the Board of Appeals may require, in form acceptable to it, including such financial data and projections as the Board deems satisfactory, in order that the Board may make the determinations required under this Section.

2. Open Land

All land shown on a plan for which a Special Permit A2 is granted under this Section IV-F which is not included in building lots or rights-of-way shall be open land.

- a. The total area of open land shall be not less than 10,000 square feet per dwelling unit and shall be in one or more parcels of not less than 40,000 square feet each.
- b. All open land shall have access from a public way.
- c. The amount, ownership and use of open land shall be as required in Section IV-D, 8.

IV-G Mixed-Use Special Permit in Industrial District

1. General

In order to permit a mixture of retail, residential, open space, general commercial, limited industrial and office uses, and a variety of building types, tracts of land within the Industrial District may be developed under a Special Permit granted by the Board of Appeals as herein defined and limited.

2. Special Permit Authority

The Board of Appeals (Board) may grant a Special Permit for construction of a mixed-use project in the Industrial District. The Special Permit shall conform to this By-Law and to Massachusetts General Laws Chapter 40A, Section 9 and to regulations which the Board may adopt for carrying out its requirements hereunder.

- a. Review Board - The Planning Board shall function as a review board to review each proposed mixed-use permit.
- b. Purpose - The purpose of the mixed-use Special Permit is to provide for a mixture of residential, open space, retail, general commercial and limited industrial uses within an Industrial District in order to foster greater opportunity for the construction of quality developments on large tracts of land by providing flexible guidelines which allow the integration of a variety of land uses and densities in one development, provided that such land usage is shown to be for the public good and:
 - i. will improve the physical and aesthetic qualities of the Industrial District and improve and/or reinforce the livability and aesthetic qualities of the surrounding neighborhood and/or environment, and
 - ii. is consistent with the objectives of the Zoning By-Law.

3. Review Procedure for Mixed Use Special Permit Applications

The review procedure for a mixed use Special Permit consists of three steps:

1. a pre-application conference,
 2. submission by the applicant and review by the Planning Board of a Preliminary Plan for the proposed mixed-use development, and
 3. submission by the applicant and review by both the Planning Board and the Board of Appeals of an application and final plan for a mixed-use Special Permit.
- a. Pre-Application Conference. Prior to the submission of an application for a mixed-use Special Permit, the applicant must confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.
- b. Procedure for Preliminary Plan
- i. The applicant shall file with the Town Clerk, at least seven (7) days before a regularly scheduled meeting of the Planning Board, the original and one (1) copy of the preliminary plan accompanied by the form entitled "Submission of Preliminary Plan Mixed-Uses". The applicant shall at the same time submit to the Planning Board eight (8) copies of the preliminary plan.
 - ii. A fee of \$100.00 (certified check) made out to the "Town of Hingham" shall accompany the submission of the preliminary plan to the Town Clerk.
 - iii. The applicant shall also, at the time the preliminary plan is filed, submit copies of the preliminary plan to the Hingham Highway Department, Board of Health, Fire Department, Conservation Commission, Harbor Development Committee, Tree and Park Department, Sewer Commission, Industrial and Development Commission, Light Board, Water Company and to the consulting engineer of the Planning Board. The applicant shall also submit copies of the preliminary plan to such other Town boards and agencies as the Planning Board deems appropriate, at such time and to such Town boards and agencies as the Planning Board shall in writing state to the applicant. The applicant shall file with the Town Clerk and submit to the Planning Board one or more transmittal letter(s), as required, certifying that it has forwarded copies of the preliminary plan to the Town boards and agencies as provided in this subparagraph and in any written request by the Planning Board that copies be submitted to other Town boards and agencies.
 - iv. The applicant shall meet with the Planning Board to discuss the preliminary plan.
 - v. The Town boards and agencies receiving copies of the preliminary plan shall submit to the Planning Board written recommendations on the preliminary plan within 35 days after filing of the preliminary plan. Failure to report to the Planning Board within 35 days shall be deemed lack of objection to the application.
 - vi. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the preliminary plan during the review period.
 - vii. The Planning Board within 45 days from filing of the preliminary plan shall review and determine whether the proposed project is consistent with the development of the Town and this By-Law. The Planning Board may suggest modifications and changes to the development described in the preliminary plan and shall make a written report of

its recommendations to guide the applicant in the preparation of the final plan. The written report of the Planning Board shall be filed in the Town Clerk's office; after such filing the applicant may proceed to file its final plan.

- viii. If the Planning Board fails to file its written report within 45 days after filing of the preliminary plan, the applicant may proceed to file its final plan.

4. Contents of Preliminary Plan

A preliminary plan shall comprise the graphic and narrative materials described below.

a. Graphic materials shall include plans of sufficient number, character and clarity to show the proposed development and the existing conditions on the site. Such graphic materials shall show at least:

- i. boundaries of the proposed mixed-use parcel, north arrow, date, scale, legend, and title "Preliminary Plan: Mixed Use", the name or names of applicants and engineer or designer;
- ii. names of all abutters as defined in Massachusetts General Laws Chapter 40A, Section 11, existing site conditions, proposed land uses and improvements, and approximate location and width of all adjacent streets;
- iii. existing and proposed lines of streets, ways, utility and all easements, and any public areas within or next to the parcel;
- iv. the approximate boundary lines of existing and proposed lots with appropriate areas and dimensions;
- v. the proposed system of drainage, including adjacent existing natural waterways;
- vi. the existing and proposed topography of the site at five foot or smaller contour intervals;
- vii. existing and proposed buildings, significant structures and proposed open space and proposed site amenities, and proposed circulation patterns; and,
- viii. an analysis of the natural features of the site, including wetlands, flood plain, slopes over 10%, soil conditions and other features requested by the Planning Board or required by any regulation of the Board.

b. Written materials shall include the following:

- i. a description of the proposed mixed-use development, showing the planning objectives and the character of the development to be achieved through the mixed-use Special Permit;
- ii. a description of the neighborhood in which the parcel lies, including utilities and other public facilities and the general impact of the proposed mixed use upon them; and,
- iii. a summary of environmental concerns.

5. Submission of Final Plan

a. The applicant shall file the original application for a mixed use Special Permit and the original of the final plan (which plan shall comply with the substantive Rules and Regulations of

the Planning Board), together with one (1) copy of those materials, with the Town Clerk. The applicant shall also submit to the Planning Board and to those boards and agencies set forth in subparagraph 3 (b) (iii) of this Section at the time the application is filed with the Town Clerk, a copy of the application and the final plan. The applicant shall also submit an application for site plan review under Section I-I of this By-Law.

b. The applicant shall file with the Town Clerk and submit to the Planning Board a transmittal letter certifying that it has forwarded copies of the final plan to the boards and agencies as provided.

c. The Town boards and agencies receiving copies of the final plan shall submit to the Planning Board written recommendations on the application and final plan within 30 days of the filing of the transmittal letter certifying that copies of the final plan have been forwarded. Failure to report to the Planning Board within such 30 days shall be deemed lack of objection to the application.

d. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the final plan during the review period.

e. Within 50 days of the filing of the final plan with the Town Clerk, the Planning Board shall submit to the Board, accompanied by the written recommendations of the other Town boards and agencies described in subparagraph 3 (b) (iii), a written report discussing the consistency of the proposed development with paragraph 2 (b) and the Rules and Regulations of the Planning Board. Copies of such written report shall also be mailed to the applicant and filed with the Town Clerk at the time it is submitted to the Board. Failure by the Planning Board to file such written report with the Town Clerk within 50 days shall be deemed a finding that the final plans are consistent with the By-Law.

f. The Board upon receipt of the report of the Planning Board, but, in any case, within 65 days of the filing of the final plan with the Town Clerk, shall hold a public hearing, notice of which shall be given in the manner and to the parties provided in Section I-D (3) of this By-Law and Massachusetts General Laws Chapter 40A, Section 11, and to any other property owners deemed by the Planning Board to be affected thereby.

g. The Board shall, within 90 days following the public hearing, issue a written decision setting forth the reason or reasons for its decision or actions. Such written decision may provide that the application is approved as submitted, is approved subject to modifications or conditions, or is denied. A copy of the Board's decision shall be filed within fourteen days with the Town Clerk and shall be mailed forthwith to the applicant. Failure by the Board to issue a written decision taking final action on the application within 90 days following the public hearing shall be deemed to be a grant of the application and the Town Clerk shall issue forthwith, upon request, a certificate of such failure to act.

h. Approval of a Special Permit for a mixed-use shall require a unanimous vote of the Board.

i. The final plan, as approved by the Board, shall be filed with the Town Clerk and recorded with the Plymouth Registry of Deeds or the Plymouth Registry District of the Land Court, as appropriate.

j. If the application is denied, the developer shall not submit an application for substantially the same project for two years, except as provided under Massachusetts General Laws Chapter 40A, Section 16.

k. Special Permits granted under this Section shall lapse in two years, excluding time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use has not sooner commenced or if construction has not been begun. The Board may grant an extension for good cause after a hearing, as provided in Massachusetts General Laws Chapter 40A, Section 11, and shall grant an extension if the delay has been caused by the need to seek other permits related to the development.

l. No construction or reconstruction except as shown on the recorded final plan, or as provided in Section 12 hereof Amendments, shall occur without a further submission of plans to the Board; and a notation to this effect shall appear upon the recorded final plan and upon deeds to any property within the mixed-use parcel.

Following filing with the Hingham Town Clerk and recording with the Plymouth Registry District, a final plan which has been approved pursuant to the provisions of this By-Law shall be deemed to run with the land, as provided in this Section of the By-Law.

6. Contents of Final Plan

An application for a mixed-use Special Permit and a final plan (hereafter a final plan application) shall include an application for a mixed-use Special Permit under Massachusetts General Laws Chapter 40A and this By-Law, a site plan as specified in Section I-G of this By-Law, a final plan as specified in paragraph (a) below, and narrative materials as provided in paragraph (b) below. Plans submitted to the Board pursuant to Section I-I of this By-Law, where applicable, as part of the site plan review shall be sufficient for submission under this subsection 6.

a. Final plans shall include the following:

- i. a scale of one inch equals forty feet unless another scale is requested and found suitable by the Planning Board;
- ii. preparation by and bearing the seals of an appropriate registered professional engineer, registered architect, registered land surveyor, and registered landscape architect;
- iii. the registered land surveyor indicated on the final plan shall certify the accuracy of the location of the buildings, setback and all other required dimensions, elevations and measurements;
- iv. a utilities and drainage plan prepared and stamped by a registered professional engineer;
- v. the scale, date, and north arrow;
- vi. lot numbers, dimensions of lots in feet, size of lots in square feet, and width of abutting streets and ways;
- vii. all easements within the lot and abutting thereon;
- viii. the location of buildings existing or proposed for the development, which shall be prepared by and bear the seal of a registered architect as provided in subparagraph (ii), including the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required;

- ix. the location of existing wetlands, water bodies, wells, 100-year flood plain elevation, and other natural features requested by the Planning Board in their written report on the preliminary plan;
 - x. the distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot;
 - xi. percent of the building lot coverage;
 - xii. average finished grade of each building at the base of the building;
 - xiii. the elevation above average finished grade of the floor and ceiling of the lowest floor of each building;
 - xiv. existing and proposed contour lines at two-foot intervals;
 - xv. the uses proposed for the mixed-use development by building or part thereof, including proposed open space, recreation areas, or other amenities;
 - xvi. proposed provisions for parking;
 - xvii. height of all buildings, above average finished grade of abutting streets;
 - xviii. a landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size and species of plantings; and,
 - xix. a model or models illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevation as well as the general height, bulk and appearance of structures.
- b. Narrative information concerning the development's impact on the community shall be provided to include, at a minimum, the following:
- i. a description of the proposed mixed-use development, showing the planning objectives and the character of the development to be achieved through the mixed-use Special Permit;
 - ii. a parking and traffic plan to be prepared by a traffic engineer. The traffic plan shall include information on the type and number of vehicles generated on average and peak periods of uses, the impact on traffic intersections, and major roads servicing the project area. The parking plan shall comply with Section V-A of the By-Law;
 - iii. a description of the neighborhood in which the tract lies and the impact of the development on the neighborhood and the community. Such description shall include information concerning the impact to local schools and school districts, the local tax base, housing supply, sewer, water, and other utility systems, and other public facilities. When so requested by the Board's written report, other impact information shall be provided; and,
 - iv. evidence of ownership or interest in the land for which the Special Permit is sought.

7. Minimum Requirements

The mixed-use Special Permit shall be subject to the following conditions, and the Board of Appeals shall make a determination that the project meets the requirements of Massachusetts General Laws Chapter 40A, Section 9 and this mixed-use By-Law as to all the following conditions:

- a. the mixed use is consistent with the purpose set out in paragraph 2 (b) of this Section of the By-Law;
- b. the mixed use has received site plan approval as described in Section I-G of the By-Law;
- c. execution, delivery and recording of such covenants, agreements and instruments running with the land and binding on the owner of the parcel, its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board may require, and in form and substance satisfactory to it, in order to insure adherence to the terms of the Special Permit issued hereunder;
- d. the prior approval of detailed plans for the project including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel, all ways and utilities serving the same (which plans shall comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, a model or models, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board deems desirable in order to assist it in making its determination;
- e. the Board may, in appropriate cases, impose dimensional and setback requirements in addition to those required by this By-Law; and
- f. the Board may, in appropriate cases, impose a requirement that a motor vehicular and pedestrian easement for access and egress be provided from a street, road or other way over which the public has access, to the navigable waters bordering the tract of land.

8. Permitted Uses and Intensity of Use

a. Residential - Commercial Option

- i. Retail uses as allowed by paragraph 8 (c) shall not exceed 6% of the total allowable project square footage.
- ii. Residential use as allowed by paragraph 8 (c) shall not exceed 15% of the total allowable project square footage. Further, the number of three-bedroom units shall not exceed 15% of the total number of units constructed. No residential units with over three bedrooms will be allowed in a mixed-use project.
- iii. General commercial as allowed by paragraph 8 (c) shall comprise 79% or less of the total allowable project square footage.
- iv. Limited industrial use as allowed by paragraph 8 (c) shall not exceed 20% of the total allowable project square footage. Further, for each square foot of limited industrial space developed, there shall be a reduction of one square foot of allowable general commercial activities.

b. Commercial Option

- i. Retail uses as allowed by paragraph 8 (c) shall not exceed 6% of the total allowable project square footage.
- ii. General commercial and limited industrial uses as allowed by paragraph 8 (c) may comprise up to 100% of total allowable project square footage. The specific mixture of general commercial and limited industrial uses and square footages shall be the prerogative of the developer, subject to design and site plan review powers accorded to the Board of Appeals.
- c. Permitted Uses
 - i. Residential:
Residential units, free standing or attached, are a permitted use; further, residential units may be allowed as part of mixed-use buildings.
 - ii. Retail:
 Building materials and hardware
 General merchandise
 Food stores and bakeries
 Liquor stores
 Automotive, marine craft and aircraft accessories
 Apparel and accessories
 Furniture, home furnishings and home appliances
 Eating and drinking establishments
 Books and stationery
 Drug stores
 - iii. General Commercial:
 Dry goods and apparel (wholesale)
 Electrical goods (wholesale)
 Hardware, plumbing, heating and equipment supplies (wholesale)
 Professional equipment and supplies (wholesale)
 Service establishments, equipment and supplies (wholesale)
 Drugs and allied products (wholesale)
 Tobacco and tobacco products (wholesale)
 Beer, wine, and distilled alcoholic beverages (wholesale)
 Paper and paper products (wholesale)
 Furniture and home furnishings (wholesale)
 Commercial fishing
 General business office space
 Laundering establishments
 Personal services establishments
 Research, development and testing services
 Equipment rental services
 Medical and dental health services, excluding those uses enumerated in paragraph 3.8 of Section III-A, Schedule of Uses
 Hotels, motels, and motels: are permitted as part of an originally approved final plan. A change in use from any other allowed use to a hotel, motel or motel requires a Special Permit from the Board. At a minimum, the applicant must show that the proposed new use meets all parking requirements and is consistent with the remaining land uses in the mixed-use.
 Museums

Theaters and public assembly
Sales of marine craft and aircraft
Marinas including storage, sales and service of marine craft
Sports facilities, clubs, and similar activities

- iv. Limited Industrial:
 - Assembly and production
 - General warehousing (non-food items)
 - Apparel manufacture
 - Furniture manufacture
 - Professional, scientific and research facilities

d. Other Uses:

- i. Accessory uses as defined in Section III-I of the By-Law shall be permitted.
- ii. Uses not listed in paragraph 8 (c), subparagraphs (i)-(iv) may be permitted as part of the originally approved final plan if, in the judgment of the Board, the proposed use does not create health, traffic or safety problems for the remainder of the development area and abutter areas and is consistent with the remaining land uses in the mixed-use area.
- iii. Uses not listed in paragraph 8 (c), subparagraphs (i)-(iv), if requested after approval of the final plan, may be permitted as an amendment to the original mixed-use Special Permit as provided in subsection 12.
- iv. Open space as provided in paragraph 9 (c) below.

9. Dimensional Requirements

a. Site Area Requirements - A minimum of 100 acres is required, and a maximum of 140 acres is permitted, within the Industrial District. The parcel shall be contiguous; however, a public transportation, utility, parking area or public ways shall not constitute a boundary or property line in computing the size of the contiguous parcel. The public transport, utility, parking area or public way, however, shall not be used in the calculation of the total project area.

b. Floor Area Ratio - Maximum floor to area ratio shall be 1 to 1.

c. Usable Open Space - The part or parts of land or structure within a mixed use which are reserved for permanent active or passive recreation use. This space shall exclude parking areas, streets, alleys, required setbacks, waterways, and sidewalks; and shall be open and unobstructed. Trees, plantings, arbors, flagpoles, sculpture, fountains, covered walkways, and similar objects shall not be considered obstructions.

In all mixed-use developments that are new construction, at least 15% of the land shall be set aside as permanent usable open space, available to the project's users or the community. The required open space shall be subject to reasonable restrictions, covenants, and maintenance arrangements, imposed by and legally enforceable by the town to assure access and maintenance as provided in this section.

d. Height - No building within the mixed-use development shall exceed 40 feet in height above the average finished grade of abutting properties, except that a 55-foot height may be allowed not closer than 200 feet from major highways such as Route 3A and any residential district. Parking facilities within the building shall not be calculated as part of the allowable height. The

maximum additional height allowed for parking facilities shall be nine feet, provided that this shall not apply to free standing parking garages.

10. Parking Requirements

a. In all mixed-use developments adequate off-street parking shall be provided. The Board and the applicant shall have as a goal, for the purposes of defining adequate off-street parking for the development, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall make provision for complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in reductions in the parking requirements set out in this subsection of the By-Law. The parking may be at ground level, underground or in a parking garage. Parking garages can be free standing (in which case 55 feet is the allowed maximum height) or as part of buildings with commercial or residential purposes. If a free standing parking structure is proposed, the spaces must be assigned to specific uses at the time of the submission of the final plan.

b. Parking requirements for the mixed-use development shall be in accordance with Section V-A of this By-Law.

11. Signs

Signs in mixed use development are permitted subject to the following requirements and standards.

a. The proposed location and size of all signs must be indicated at the time of submission of the final plan.

b. Dimensional controls for signs in mixed-use development are as follows:

i. Development and Directory Signs

One free standing permanent development sign per entrance to the development shall be permitted not to exceed 50 square feet in area and 20 feet above ground level for the purpose of identifying the name of the development; provided, however, that not more than two such signs shall be permitted per total completed mixed-use development. As an alternative to one of the foregoing development signs, a directory-type sign not exceeding 80 square feet in area and 16 feet above ground level identifying the name of the development and any nonresidential use therein shall be permitted at the entrance which is the primary entrance for the nonresidential uses of the mixed-use district; provided, that any identification of an individual non-residential use shall not exceed 10% of the total area of such directory-type sign. Any such sign shall be within the mixed-use development and, where adjacent to any contiguous residential classification or use, shall be located at least 100 feet from the interior boundary between the mixed-use development and such residential classification or use.

ii. Retail, General Commercial and Industrial Buildings

a. Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade, and in no instance shall they exceed 100 square feet in total sign space.

b. Parallel signs shall not extend more than one foot from the wall to which they are attached.

- c. Perpendicular signs shall not exceed six square feet in total size and the area of the perpendicular sign shall be deducted from the total parallel sign space allowed, thus reducing the total square footage allowed for a parallel sign.
- d. Perpendicular signs shall be affixed to the building wall by hardware that extends no more than eight inches from the building wall.

iii. Residential Buildings

- a. Parallel signs affixed to the facade of the structure shall not exceed 30 square feet. Further, the location of said sign is limited to the first floor of the building. Awnings at entrances shall not be considered signs; however, the area used to denote the name of the building on the awning shall not exceed 30 square feet.
- b. Perpendicular signs are not allowed on residential buildings.
- c. Free standing signs, located in an area clearly associated with the residential structure, are allowed. In no instance will the sign be more than 30 square feet or 6 feet in height or within 20 feet of a roadway.

iv. Buildings Including Residential As Well As Retail, General Commercial or Industrial Uses (mixed use buildings)

- a. Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade. In no instance shall the sign area exceed 50 square feet. In calculating the 10% of building facade, the residential portions of the building must be excluded.
- b. Perpendicular signs are allowed on mixed-use buildings but shall not exceed six square feet in size, and shall be attached by hardware that does not extend from the wall more than eight inches. Further, the sign area used by perpendicular signs shall be subtracted from the allowable sign area for parallel signs.

v. The prohibitions of Section V-B of this By-Law shall apply to the mixed use district.

12. Amendments - After approval of the mixed use Special Permit by the Board, the developer may seek amendments to the final plan as approved by the Board as provided below:

a. Minor amendments shall be defined and administered in accordance with regulations adopted by the Board.

b. An application for a major amendment shall be filed with the Town Clerk. The applicant shall also submit copies of the application for a major amendment with the Building Commissioner, the Planning Board and the Board of Appeals. An application for a major amendment shall comply with subsections 5 and 6 of this Section.