SECTION 12

SITE PLAN REVIEW

12.1 Purpose

The purpose of this section is to provide a comprehensive review procedure for construction projects, herein defined, to insure compliance with the goals and objectives of the provisions of this zoning ordinance, to minimize deleterious impacts of such development, and to promote development which is harmonious with surrounding areas.

12.2 Requirements

Site Plan Review shall be required for the following types of projects:

1. Restaurant, Fast Food; (amended 7/28/2003)
2. Garden apartments, townhouses; and elevator apartments;
3. Office buildings designed to accommodate primarily medical offices;
4. Any construction project which involves the construction of fifteen thousand (15,000) or more square feet gross floor area, or an increase in gross floor area of 5,000 square feet or more, or any increase in gross floor area individually or collectively, which would cause a building with gross floor area of less than fifteen thousand (15,000) square feet to exceed fifteen thousand (15,000) square feet of gross floor area, or results in the creation of 100 or more parking spaces.

12.3 Authority

1. In cases where Site Plan Review is required by this section but no Special Permit is required under Section 5 of this ordinance, Site Plan Review shall constitute a Special Permit for which the Planning Board shall be the Special Permit granting authority.

2. In cases where both Site Plan Approval under this section, and a Special Permit under Section 5 is required, Site Plan approval shall constitute review by the Planning Board of the application for Special Permit, as specified in Section 11.3.2., and the City Council shall be the special permit granting authority.

12.4 Procedures

1. Procedures for Projects which require Site Plan Review under this section, but no Special Permit under Section 5.

   1.) The applicant shall submit a written application for Site Plan Review, accompanied by a site plan, required submission items, per subsection 12.5 - Content of the Application for Site Plan Review - as well as a completed Form "B" - Submission Checklist for Site Plan Applications Requiring Special Permits. A copy of said Form "B" is included in Section 15 - Illustration Addendum - of this Ordinance. Note: Nineteen (19) copies of all required site plan materials shall be submitted with the City Clerk at the time of submission of the application (amended 5/17/1988, amended 10/21/1997)(Note reference to Section 15 as passed, however Illustration Addendum is Section 16).

   2.) The City Clerk, within three business says of receipt of the application, shall distribute 9 copies of the application to the City Council, 1 copy each to the Conservation Commission, and City Engineer for review and comment, and 7 copies to the Planning Board. (amended 5/17/1988).

   3.) Boards and departments shall transmit comments and recommendations to the Planning Board within 45 days of receipt of the application. Failure to comment will be deemed a lack of objection. (amended 5/17/1988).

   4.) The Planning Board may provide for a schedule of fees in connection with the review procedure in accordance with State law.

   5.) The Planning Board shall, within sixty-five (65) days of the filing of the application, hold a public hearing, notice of which shall be published in a local newspaper once in each of two successive weeks with the first publication to be not less than fourteen (14) days before the date of the hearing and shall be mailed to all "parties of interest" as defined in G.L. Chapter 40A, Section 11, and to any other property owners deemed by the Planning Board to be affected thereby.

   6.) The Planning Board shall, within ninety (90) days following the public hearings, but not until it has received comments from the City Council, Conservation Commission, and City Engineer, or until 45 days have elapsed without such reports being submitted, issue its findings in writing as to the conditions specified in Section 12.6 below and in other sections of this ordinance, and shall certify in writing that the application is approved as submitted, approved subject to modification or conditions, or denied.(amended 5/17/1988).

7.) The Planning Board may issue its approval subject to the condition that the developer provide safeguards, limitations and/or improvements which may include, without limitation, the following: improvements in existing water and sewerage facilities; improvements in existing intersections or streets. including storm drainage, reconstruction of ways and/or streets, traffic controls and pedestrian walkways.

8.) The Planning Board may issue its approval subject to the condition that certain permits, such as those required from the Mass. Department of Environmental Engineering, be obtained.

9.) If the Planning Board fails to issue its findings within ninety (90) days, the application shall be deemed approved.

10.) Approval of the Site Plan shall require a two-thirds vote of the Planning Board.

11.) If the application is denied, the applicant shall not submit substantially the same proposal for two (2) years, except as provided under G.L. Chapter 40A.

12.) Approvals granted under this section shall lapse within two (2) 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 Planning Board may grant an extension for good cause and shall grant an extension if the delay has been caused by the need to seek other permits.

13.) Construction or operations under Site Plan Review shall conform to any subsequent amendment to this ordinance unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

14.) In cases where the Planning Board is the Special Permit granting authority under Section 12 of this ordinance, the Board, by a two-thirds (2/3) vote, shall have the power to modify, amend or rescind its approval of a Special Permit, or to require a change in the approved Special Permit as a condition of its retaining the status of an approved Special Permit. All of the provisions of the issuance of a Special Permit, relating to its submission and approval shall, so far as apt, be applicable to the approval of the modification, amendment or rescission of such approval

of a Special Permit which has been changed under this section (added 12/1/1992).

2. Procedures for projects which require both Site Plan Review and Special Permits under Section 5.

1.) Site plan review of such projects, shall be performed by the Planning Board as part of its review of Special Permit Applications specified in Section 11.3.2 of this ordinance.

2.) The following procedures are in addition to the procedural requirements for Special Permits contained in Section 11.

3.) The applicant shall submit a written application for Site Plan Review, accompanied by a site plan, required submission items, per subsection 12.5 - Content of the Application for Site Plan Review - as well as a completed Form "C" - Submission Checklist for Site Plan Applications Requiring Special Permit. A copy of said Form "C" is included in Section 15 - Illustration Addendum - of this ordinance. Note: Nineteen (19) copies of all required site plan materials shall be submitted with the City Clerk at the time of submission of the application. (amended 5/17/1988, amended 10/21/1997)(Note reference to Section 15 as passed, however Illustration Addendum is Section 16).

4.) The City Clerk, within three business days of receipt of the application, shall distribute 7 copies of the application to the Planning Board, 9 copies to the City Council and 1 copy each to the Conservation Commission, and City Engineer for review and comment. (amended 5/17/1988).

5.) The Planning Board may hold a meeting for involved City Departments and the public to discuss the project.

6.) The Planning Board shall issue a report to the City Council within 45 days from the filing of the Site Plan Review application. Failure to do so shall constitute approval. (amended 5/17/1988).

7.) The Planning Board may recommend appropriate conditions, limitations, safeguards, and improvements which the developer should provide in order to insure compliance with the terms of approval of the Site Plan. The foregoing may include, without limitation, the following: Improvements to existing water and sewerage facilities; improvements to existing intersections or streets.

8.) The City Council shall not issue the Special Permit unless it finds that the conditions specified in Section 11.5, Conditions for Special Permits, have been met, and unless it has considered the comments and recommendations of the Planning Board if such have been submitted. Where the recommendations of the Planning Board have not been accepted, the City Council shall state its reasons in writing.

12.5 Content of the Application for Site Plan Review

Application for Site Plan Review shall include the following:

1. Name and address of the applicant.

2. Statement certifying ownership or prospective ownership of the premises involved, or evidence that the applicant has permission of the owner to make such application.

3. Legal description of, and street address if there is one, of the location of the premises.

4. Plans showing the following:

   1.) existing and proposed buildings.
   2.) existing and proposed contour elevations in two foot increments, or as required by the Planning Board.
   3.) parking areas.
   4.) driveways and access to site.
   5.) facilities for vehicular and pedestrian movement.
   6.) drainage.
   7.) the location, capacity, and projected usage of utilities.
   8.) landscaping, including trees to be retained and removed.
   9.) lighting.
   10.) loading and unloading facilities.
   11.) provisions for refuse removal.

5. Other information, as required by the Planning Board:

   1.) projected traffic volumes and impact.
   2.) parking utilization.
   3.) evidence as to the status of all permit applications to other local, state and federal agencies concerning the project.
   4.) other information as may be necessary to determine compliance with the provisions of this ordinance as required by the Planning Board.

5.) a list of abutters within 300 feet from any property line, as certified by the Board of Assessors.

6) Any plans submitted, deemed as a commercial facility as defined under Title III of the Americans with Disabilities Act (ADA), public accommodation as defined under Title III of the Americans with Disabilities Act (ADA), private club not under Title II of the Civil Rights Act of 1964, or public entity, as defined under Title III of the Americans with Disabilities Act (ADA), with the application shall contain a statement signed by the architect of record as follows: 'These Plans as submitted: 1. _____ Conform to the MAAB Laws and Regulations, 2. _____ Conform to the ADA Law and regulations, 3. _____ Do not conform at this time, 4. Waivers will be filed for the following issue(s) _____. Certified' with the architect's name and stamp affixed thereto. (added 4/25/2005)

12.6 Conditions

In reviewing the site plan submittal, the Planning Board shall consider the following and shall render its approval only upon finding the conditions herein specified are met.

1.) Adequacy of the capacity of local streets to accommodate the traffic to be generated by the proposed use. In making this finding, the Planning Board may consider projections of increased traffic volumes due to the proposed development, and the impact of such increases on the levels of service on existing streets.
2.) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;
3.) Adequacy of the methods or treatment, service and disposal of water, refuse, and other wastes resulting from the uses permitted on the site;
4.) Ability of public infrastructure to service the project, including the City's water supply and distribution system, sewage collection and treatment facilities, fire protection, and streets.
5.) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this ordinance;
6.) Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers, and preservation of views, light, and air;
7.) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly;

8.) The site plans have conformed with the intent of the Zoning Ordinances.

12.7 Application Review Fees - Special Municipal Accounts

When reviewing an application for a Special Permit or Site Plan Review, the Special Permit Granting Authority may determine, by a two-thirds (2/3) majority vote of the sitting quorum, that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts. By said majority vote, the Special Permit Granting Authority may also require that applicants pay a "review fee" consisting of the reasonable costs incurred by the Special Permit Granting Authority for the employment of outside consultants engaged by the Special Permit Granting Authority to assist in the review of an application.

In hiring outside consultants, the Special Permit Granting Authority may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Special Permit Granting Authority in analyzing a project to ensure compliance with all relevant laws, ordinance/bylaws, and regulations. The hiring of said consultants shall be in accordance with the requirements of the Woburn Municipal Code, Title 3, Article II, Section 3-12, entitled: Duties - Purchasing Procedures. Under said procedures, consultants may be contracted for their services for a period not to exceed ten years.

Funds received by the Special Permit Granting Authority pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Special Permit Granting Authority without further appropriation and shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application/permit.

Review fees may only be spent for services rendered in connection with the specific project from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Special Permit Granting Authority's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Special Permit Granting Authority with documentation establishing such succession in interest.

Any applicant may take an administrative appeal from the selection of the outside consultant to the City Council when the Planning Board is the Special Permit Granting Authority and the Planning Board when the City Council is the Special Permit Granting Authority. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Special Permit Granting Authority shall be extended by the duration of the administrative appeal.

In the event that no decision is made by the City Council when the Planning Board is the Special Permit Granting Authority and the Planning Board when the City Council is the Special Permit Granting Authority within thirty days following the filing of the appeal, the selection made by the Special Permit Granting Authority shall stand. A successful appeal to the City Council when the Planning Board is the Special Permit Granting Authority and the Planning Board when the City Council is the Special Permit Granting Authority requires a two-third (2/3) majority vote of the sitting quorum.

(added 5/3/1994, amended 1/29/2001)

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