

**ARTICLE 400
USE, INTENSITY, DIMENSIONAL AND COVERAGE
REGULATIONS FOR ALL DISTRICTS**

401 BASIC REQUIREMENTS FOR ALL DISTRICTS

401.1 Prohibited Uses

In any district, no use will be permitted which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in the Town. Parks for trailers, travel trailers, tent trailers, trailer coaches and motor homes; auto dismantling, junkyards, privately developed and operated septage waste disposal/treatment facilities and refuse disposal facilities are expressly prohibited.

The provisions of this Bylaw shall not apply to lands in excess of five (5) acres actively devoted to agriculture, horticulture, floriculture or viticulture, nor to use of pesticides when used on such lands in accordance with G. L. c. 132b.

401.2 Nonconforming Uses

Any lawful building or structure, or lawful use of a building, structure, or part thereof, existing at the time of adoption of this Bylaw, or existing at the time of an amendment to this Bylaw, which does not conform to the regulations thereof may be continued as a nonconforming use, subject to the following provisions. For the purpose of this 401.2, a use or structure shall not be deemed to not conform to such regulations simply because the lot on which the use or structure exists itself does not conform.

1. Discontinuance

Any nonconforming use which has been discontinued for more than two (2) years or any nonconforming buildings, structures, or land used primarily for agriculture, floriculture or horticulture which has been discontinued for more than five (5) years, shall not be re-established and any future use shall conform to the regulations of this Bylaw.

2. Restoration

A nonconforming structure or structure occupied by a nonconforming use which has been destroyed by fire or other casualty may be reconstructed; provided that the reconstruction is substantially completed within three (3) years of the date of destruction. Reconstruction of nonconforming structures on land used primarily for agriculture, horticulture or floriculture must be substantially completed within five (5) years of the date of destruction. Any extensions or alterations shall comply with the requirements of Sections 401.2.3 and 401.2.4, as applicable.

3. Changes of Use and Limitation on Intensity and Size of Use - Other Than Single or Two-Family Residential Dwellings:

As provided in G. L. c. 40A, sec. 6, a lawfully pre-existing nonconforming use and/or structure, other than a single or two-family residential dwelling, may be reconstructed, altered or extended only if: (1) said reconstruction, alteration or extension itself conforms with all the provisions of the Zoning Bylaw; (2) there is a finding by the Board of Appeals that such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use; (3) that said extension, alteration or change is in accordance with the standards noted below; and (4) that the Board of Appeals grants a special permit as provided in Section 906.2.

- a) Guidelines for Review of Extensions, Alterations or Changes to Preexisting, Nonconforming Uses and Structures: Recognizing the need to provide guidelines for determining relative impacts upon the Town and the immediate neighborhood from an expansion, alteration or change of pre-existing nonconforming uses and structures, and recognizing the basis and consistent principles of zoning with respect to minimizing nonconforming uses and structures, the following shall apply to the review of special permit applications under this Section:
 - (i) The Board of Appeals shall encourage extensions, alterations or changes to nonconforming structures and uses toward greater, if not complete, conformance with the provisions of the Zoning Bylaw and to reduce the degree of nonconformity;
 - (ii) The Board of Appeals shall not encourage the expansion of a nonconforming structure or use as measured by either the:
 - (aa) amount of floor space or land area used, or
 - (bb) volume of activity, including but not limited to an increase in the intensity of use and/or a change in the nature of purpose of the use;
 - (iii) The Board of Appeals shall prohibit the expansion of nonconforming structures and uses unless there will be no demonstrable adverse impacts on abutting properties and those properties that generally characterize the neighborhood or locus within which the expansion is sought, and;
 - (iv) The Board of Appeals shall not encourage the expansion of nonconforming structures and uses if the expansion will negatively impact the Town of Duxbury's ground, coastal or surface waterbodies.
- b) Table of Presumptively Not More Detrimental Extensions, Alterations, or Changes to Preexisting, Nonconforming Uses and Structures: An extension, alteration or change to a lawfully preexisting nonconforming use or structure shall be presumed not to be substantially more detrimental to the neighborhood if the guidelines and standards of Section 401.2.3 (a) are met and if the extension, alteration or change also is in compliance with the following:

**TABLE OF PRESUMPTIVELY NOT MORE DETRIMENTAL EXTENSIONS,
ALTERATIONS, OR CHANGES TO OTHER THAN SINGLE OR TWO-FAMILY
RESIDENTIAL DWELLINGS**

Issue	Presumptively Allowable Changes, Alterations, or Extensions
If current site coverage requirements are exceeded.	The extension, alteration, or change decreases the percentage of site coverage.
If the structure exceeds current height requirements.	The extension, alteration, or change decreases the violation of the current height requirements.
If the structure or use exceeds current parking or loading area requirements.	The requirements of section 603 of the Zoning Bylaw are met or if the Board of Appeals determines that the existing use and proposed expansion or site conditions do not warrant the number of parking spaces required by Section 603.
If the structure or use exceeds, or is in violation of, or violates any other provision of the Zoning Bylaw.	The extension, alteration, or change meets the guidelines specified in Section 401.2.3 above.

4. Alteration, Reconstruction, Extension or Structural Changes to Preexisting Nonconforming Single and Two-Family Residential Structures.

- a) As provided for in G. L. c. 40A sec. 6, a nonconforming single or two-family dwelling or structure accessory thereto may be altered, reconstructed, extended or otherwise structurally changed provided that: (1) the proposed alteration, extension or structural change itself conforms to the requirements of the present Bylaw and does not intensify any existing non-conformities or result in any additional non-conformities in which event the Zoning Enforcement Officer may issue a building permit and an application to the Board of Appeals need not be made; or (2) as provided below the Board of Appeals finds that (i) there is no substantial increase in the nonconforming nature of **said structure; and (ii) such** reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

Recognizing the need to provide guidelines for determining the meaning of the phrases "increase the nonconforming nature of said structure" and "substantially more detrimental to the neighborhood," the following shall apply to the review of applications **subject to this provision** to alter, reconstruct extend or structurally change a preexisting nonconforming single- and two-family residential structure:

- (i) An application must be made to the Board of Appeals to expand or change the structure;
- (ii) The Board of Appeals must make a determination as to the particular respect or respects in which the existing structure or lot does not conform to the requirements of the present Bylaw;
- (iii) Should the Board of Appeals conclude that the proposed change would substantially increase the nonconforming nature of the structure or lot, the applicant will not be entitled to the issuance of a special permit;
- (iv) If the Board of Appeals determines, that the proposal will not substantially increase the nonconforming nature of the structure or the lot, the applicant will also be required to show that the change will not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood;
- (v) If the Board of Appeals determines that the proposal will be more substantially detrimental to the neighborhood, the special permit sought will be denied unless the Board of Appeals determines that a special permit can be approved with conditions that would make the change substantially not more detrimental, in which case the Board of Appeals may approve a special permit with such conditions.
- (vi) For the purposes of this Section, determination of "substantially more detrimental to the neighborhood" shall include consideration of and impacts to, the general and immediate neighborhood from the resulting height, building coverage, impervious coverage, and width of the altered, reconstructed, extended or structurally changed structure. Additionally, a determination whether an altered, reconstructed, extended or structurally changed structure will be "substantially more detrimental to the neighborhood" shall include the resulting impacts to views and vistas from abutting properties and public and private ways, increase in traffic, noise, surface water runoff and related site planning issues.

5. Alteration to Dwellings on a Single Lot

Any alteration, extension, reconstruction or structural change to a dwelling on a lot containing more than one (1) dwelling shall require a special permit and a finding by the Board of Appeals that such alteration, extension, reconstruction or structural change shall not be more detrimental to the neighborhood than the existing dwelling, in accordance with the procedure outlined in Section 401.2.4 above.

401.3 Municipal Uses

Municipal uses shall be established by a two-thirds (2/3) vote of Town Meeting in accordance with the General Laws of the Commonwealth of Massachusetts. All buildings or structures for an approved municipal use shall meet all applicable dimensional, density, and design requirements of this Bylaw.

401.4 Permitted Uses

1. No building or other structure shall be erected and no building, structure, or land shall be used for any purpose or in any manner other than as regulated and as permitted and as set forth herein for each district.

2. Uses permitted and uses allowed by the Board of Appeals, or any other Special Permit Granting Authority (SPGA) authorized by this Bylaw, shall be in conformity with all the density and dimensional regulations and any other pertinent requirements of this Bylaw as set forth herein for each district.
3. A building, use or structure not specifically permitted shall be deemed prohibited.

401.5 Building or Use Permit

No building or structure shall be used, constructed, relocated, added to or demolished without a building permit having been issued by the Zoning Enforcement Officer. No such permit shall be issued until such construction, alteration, or use, as proposed complies in all respects with the provisions of this Bylaw or with a decision rendered or special permit granted by the Board of Appeals or any other Special Permit Granting Authority (SPGA) authorized by this Bylaw.

401.6 Plot Plan Accompanying Application

1. Minimum Requirements

Any application for a building, structure or use permit or a certificate of occupancy shall be accompanied by a plot plan in triplicate, accurately drawn to a scale of one (1) inch equals forty (40) feet, showing the actual shape, area and dimensions of the lot to be built upon, the exact location and size of any buildings or structures already on the lot, the location of proposed alterations to and enlargements of existing buildings or structures, driveways, the location of new buildings or structures to be constructed together with the lines within which all buildings or structures are to be erected or enlarged, the existing and intended use of each building or structure and all streets and ways on or adjacent to the lot, the delineation of any Wetland Protection Overlay District, Flood Hazard Areas Overlay District, or Aquifer Protection Overlay District areas located within a lot, or include a statement on the plan stating, "No part of lot is within zoned Wetlands Protection Overlay District, Flood Hazard Areas Overlay or Aquifer Protection Overlay Districts" and such other information as the Zoning Enforcement Officer may determine is necessary. In the case of a building or use permit for interior improvements to a building or structure, a plot plan shall not be required.

2. Additional Requirements

In addition, for all new buildings and structures, and all existing buildings and structures to be externally enlarged or expanded in ground area to an extent greater than thirty percent (30%) of internal floor areas or ground coverage, or six hundred (600) square feet, whichever is larger, plot plans shall show existing and approved abutting street grades, the proposed elevation of the top of the foundation of existing and proposed buildings or structures, existing and proposed topography, existing septic disposal systems, private wells, wetland boundary delineations as approved by the Conservation Commission, gas, water and other public utilities in the abutting street and the zoning classification of the abutting properties. Plot plans shall also show such other information as may be necessary to provide for the verification of compliance with the applicable provisions and the enforcement of this Bylaw, including, but not limited to, off street parking, screening and fencing. Plot plans shall be certified by a registered professional engineer or land surveyor. A

record of all applications, plans, and permits shall be kept on file by the Zoning Enforcement Officer.

401.7 Lot Requirements for Nonresidential Uses

In a Residential Compatibility District and Planned Development Districts, all nonresidential uses permitted therein shall be located on lots not less than the minimum standards set forth for residential uses in the district in which the lot is located.

401.8

Exemptions for recorded lots are set forth in MGL, Chapter 40A, Section 6.

401.9 Lots in Two Towns

When a lot in one ownership is situated so that a part of it is in the Town and part is in an adjacent town, the provisions of this bylaw shall be applied to that portion of the lot which lies in the Town in the same manner as if the entire lot were situated therein; i.e., the entire area and frontage shall be considered in determining conformity to the dimensional requirements herein. The use of the portion of the lot in the Town shall conform to the provisions herein.

401.10 Reduction of Minimum Requirements

No lot, yard, court or other open space already having less than the minimum requirements in this Bylaw shall be further divided or reduced with respect to such minimum requirement and requirements.

402 FLOOD HAZARD AREAS OVERLAY DISTRICT

1. The Flood Hazard Areas Overlay District shall be considered an overlay district throughout the Town. It shall include all special flood hazard areas within the Town, as shown and set forth in the Duxbury Flood Insurance Rate Map (DFIRM), dated May 17, 2005, on file in the office of Town Clerk, and shall include all land and areas within the flood elevation established under Title 44 Chapter 1, Part 67, Code of Federal Regulations and the Flood Insurance Study and elevations published in the Federal Register at 49 FR 40916 on May 13, 1986.
2. The Flood Plain Management Regulations, that meet the standards of Section 60.3(e) of the National Flood Insurance Program (44CFR59, etc.) are incorporated herein by reference, and shall apply and shall be enforced in all special flood hazard areas. All Flood Management Regulations are on file in the Planning Board offices.
3. Flood Elevations in Flood Hazard Areas: For construction in a Wetlands Protection Overlay District, the lowest floor (including basement) of new residential and nonresidential structures and substantial improvements of existing structures shall be elevated to or above the level of the one-hundred year flood elevation, except as allowed in the state building code.

All new construction and substantial improvements to existing structures in flood hazard areas shall be located landward of a boundary line of the Wetlands Protection Overlay District, except those structures allowed by section 404.11 or 404.9, and

shall be elevated on adequately anchored piles and columns to the one hundred-year flood elevation and shall be securely anchored to such piles or columns, except as allowed in the state building code. The space below the lowest floor shall remain open and free from obstruction.

403 DUNES PROTECTION DISTRICT

403.1 General

This section does not grant any property rights, it does not authorize any person or persons to trespass, infringe upon or injure the property of another, and it does not excuse any person of the necessity of complying with other sections of this Bylaw or other applicable laws, regulations or Bylaws.

403.2 Boundary Line Plot Plan

Whenever an application is made for a permitted use or a special permit in the Dunes Protection District which the Zoning Enforcement Officer believes may be affected by flooding, there shall be provided as part of such application a plan certified by a registered land surveyor of the lot for which the permit has been requested showing existing and proposed elevations at one-foot intervals. In the cases of a building permit for an interior improvement, this paragraph is not applicable.

403.3 Permitted Uses

1. Conservation and restoration of dunes and beach vegetation.
2. Wildlife management shelters and enclosures.
3. Outdoor recreation, nature study, boating, fishing including shell fishing.
4. Fences to prevent the erosion of beaches and dunes and to delineate rights-of-way acceptable for pedestrian and vehicular travel, and appropriate non-commercial signs not exceeding thirty-two (32) square feet, notwithstanding the provisions of Section 601 Sign Regulations.
5. Harvesting kelp and seaweed.
6. Footpaths.
7. Conservation of soil, water, plants, and wildlife.
8. Maintenance and replacement of existing roadways and parking areas.
9. Temporary storage of materials or equipment for a period not to exceed three (3) months in any calendar year; said permit to be renewable for one additional three-month period only.

403.4 Prohibited Uses and Structures

1. Dumping, filling, excavating or transferring of any material, which will substantially alter said district, interfere with the natural flow patterns of the tidal areas, be detrimental to dune areas or interfere with stabilization efforts within said district are prohibited, except as authorized by a special permit granted under Section 403.5, and those activities allowed as permitted uses in Section 403.3.
2. Residential dwellings.
3. Structures except as authorized by a special permit under Section 403.5.

403.5 Uses and Structures Permitted by Special Permit

1. New parking areas, roadways and enlargement of existing parking areas and roadways of the Town or a non-profit organization.
2. Structures providing access to the beach in accordance with applicable state or federal laws.
3. Accessory use to an existing residential home or commercial structure located on that lot, such as a footbridge or plank walk.
4. Accessory use to an existing residential or commercial structure located on that lot, such as a boat landing and boathouse, the latter not to exceed twenty (20) feet in height or one hundred (100) square feet in total ground coverage.
5. Wireless Telecommunications Services Facility in accordance with Section 610.

403.6 Special Permit Goals

Whenever the Board of Appeals is authorized to grant a special permit in the Dunes Protection District said Board shall assure to a degree consistent with a reasonable use of the location that any permitted structure or use conserves the land and any structures, and protects and preserves the marshes, dunes, beaches and other adjoining wetlands in order to regulate development, to protect marine life, to preserve land and water for recreation purposes and to encourage the most appropriate uses of the land.

403.7 Special Permit Procedures

1. The Board of Appeals shall refer a special permit application to the Conservation Commission, the Board of Health, and the Planning Board for written comments and recommendations before taking final action on said special permit application. In addition to the above noted boards, the Board of Appeals may refer a special permit application to any other Town agency/board/department for comments and recommendations if it so desires before taking final action on said special permit application.

Any such board or agency to which applications are referred for comment shall make its written recommendations and comments and send copies thereof to the Board of Appeals and to the applicant within thirty-five (35) days of receipt of the referral request by said board or agency or there shall be deemed no opposition or desire to comment. The Board of Appeals shall not act upon said special permit until either comments from referred boards or agencies have been received or said thirty-five (35) days have elapsed, which ever is sooner.

2. The Board of Appeals shall explain any departures from the recommendations of the other boards or agencies in its decision.

403.8 Exemptions:

The following are specifically exempt from the provisions of Section 403:

All residential dwellings, commercial and business buildings existing in the Dunes Protection District on April 4, 1978, or building permits for which were issued prior to April 4, 1978, and those portions only of the lots needed to repair, rebuild, modify or enlarge, any such buildings, including but not limited to, the addition of garage and living space and construction of appurtenant outbuildings, together with such filling, diking, and/or drainage as may be necessary for the protection of said structures from flood inundation, provided

that all construction of any type is consistent with the laws of the Commonwealth of Massachusetts, in compliance with all other zoning requirements, and does not affect the natural flow pattern of any watercourse.

404 WETLANDS PROTECTION OVERLAY DISTRICT

404.1 Purpose

The foundation of the Wetlands Protection Overlay District is to afford safeguards for both the coastal and inland wetlands located within the Town of Duxbury. The district encompasses both wetland areas and an upland buffer zone located along the edge of the wetlands as depicted on the Wetlands and Watershed Protection Map, as amended. These upland areas are vital components to ensuring the proper function of the wetlands serving to recharge the Town's groundwater resources. This Bylaw serves to minimize any potential adverse impacts in the Wetlands Protective Overlay District and afford protection to the community's groundwater and environmentally sensitive areas.

This section does not grant any property rights, it does not authorize any person to trespass, infringe upon or injure any property of another, and it does not excuse any person of the necessity of complying with other sections of this Bylaw or other applicable laws, regulations and Bylaws.

404.2 Location of District

The location and boundaries of the Wetlands Protection Overlay District shall be as shown on map entitled "Map of Wetlands and Watershed Protection District in the Town of Duxbury, Massachusetts," dated March 4, 1971, as revised and amended to date and on file in the office of Town Clerk, and said map with all its contents is a part of Duxbury Protection Zoning Map and Bylaw.

All land within twenty-five (25) feet, measured horizontally, of the high water line of all waterbodies, the mean high tide line and the banks of all watercourses is within the Wetlands Protection Overlay District, except when specifically excluded. Where contours are used on the Wetlands and Watershed Protection District Map as the boundaries of the district, their location on the ground shall be determined by their elevation based on the datum irrespective of their delineated location on the zoning map.

Where a boundary line shall include a numerical figure followed by the letters M.S.L., it is at that number of feet above Mean Sea Level. The basic source for determining such a line shall be the United States Geological Survey as interpreted by the Zoning Enforcement Officer or subsequent field surveys.

404.3 Boundary Line Plot Plan

Whenever an application is made for a building or use permit which the Zoning Enforcement Officer believes may involve the use of land in the Wetlands Protection Overlay District boundary, there shall be provided as part of such application a plan certified by a registered land surveyor of the lot on which such building or structure is intended to be built, showing the exact location of the Wetlands Protection Overlay District boundary as described in the "Wetlands and Watershed Protection District Map, dated March 4, 1971" as amended to date and the Duxbury zoning map dated March 4, 1971.

404.4 Permitted Uses and Structures

1. Conservation of soil, water, plants and wildlife.
2. Outdoor recreation, including play and sporting areas, hunting where legally permitted, including duck blinds and foot-bicycle-horse paths.
3. Proper operation and maintenance of dams and other water control devices, including temporary alteration of the water level for agricultural, emergency or maintenance purposes or for propagation of fish.
4. Forestry, grazing, farming, nurseries, truck gardening and harvesting of crops including but not limited to such crops as cranberries, marsh hay, seaweed, berries, fruits and seeds and nonresidential buildings or structures used only in conjunction with fishing, shellfishing or the growing, harvesting or storage of crops raised on the premises.
5. Flower or vegetable garden, lawn and fence.
6. Conservation and restoration of dunes and beach vegetation.
7. Wildlife management shelters.
8. Harvesting kelp and weeds.
9. Fences to prevent the erosion of beaches and dunes and to delineate rights of way acceptable for pedestrian and vehicular travel, and appropriate non-commercial signs not exceeding thirty-two (32) square feet, notwithstanding the provisions of Section 601 Sign Regulations.
10. Nature Study, boating, fishing including shellfishing.

404.5 Prohibited Uses and Structures

1. Dumping, filling, excavating or transferring of any materials which will alter any marsh, wetland or bog or which will reduce the natural water storage capacity of the land, interfere with the natural flow patterns of any watercourse or tidal areas, or degrade the quality of surface or groundwater within this district is prohibited.
2. Private or public wells.
3. On site wastewater disposal septic tanks or leaching fields.
4. Buildings or structures except those permitted by Sections 404.4 and permitted by special permit by Sections 404.6 and 404.9.

404.6 Uses Permitted by Special Permit

Upon issuance of a special permit by the Board of Appeals, and subject to such special conditions and safeguards as the Board of Appeals may impose, the following uses and structures may be permitted:

1. Accessory use or structure to a residential home located on that lot or an adjoining lot in common ownership, such as a footbridge, plank walk or pier.
2. Temporary storage of materials or equipment for a period of not to exceed three (3) months in any calendar year; said permit to be renewable for one additional three-month period only.
3. Dams, excavations, or changes in watercourses to create ponds, pools for swimming, fishing, wildlife or other recreational or agricultural uses, scenic features or for drainage improvements.

4. Accessory use to residential or commercial structure located on that lot, such as a boat landing and boathouse, the latter not to exceed twenty (20) feet in height or one hundred (100) square feet in the total ground coverage.
5. Utilities installation.
6. Parking areas enlargement of existing parking areas.
7. Wireless Telecommunications Services Facility in accordance with Section 610.

404.7 Special Permit Goals

Whenever the Board of Appeals is authorized to grant a special permit in the Wetlands Protection Overlay District, said Board shall assure to a degree consistent with a reasonable use of the location that said use: conserves the value of land, buildings and structures; facilitates the protection and provision of a water supply through preservation and maintenance of the groundwater table; protects and preserves the inland marshes, bogs, ponds and watercourses and their adjoining wetlands in order to prohibit development and thereby to safeguard their purity, protect marine life and reserve for recreation purposes; and encourages appropriate uses of the land.

404.8 Special Permit Procedures

1. The Board of Appeals shall refer a special permit application to the Conservation Commission, the Duxbury Bay Management Commission, the Board of Health, and the Planning Board for written comments and recommendations before taking final action on said special permit application. In addition to the above noted boards, the Board of Appeals may refer a special permit application to any other Town agency/board/department for comments and recommendations if it so desires before taking final action on said special permit application.
2. Any such board or agency to which applications are referred for comment shall make its written recommendations and comments and send copies thereof to the Board of Appeals and to the applicant within thirty-five (35) days of receipt of the referral request by said board or agency or there shall be deemed no opposition or desire for comment. The Board of Appeals shall not act upon said special permit until either comments from referred boards or agencies have been received, or said thirty-five (35) days have elapsed, whichever is sooner.
3. The Board of Appeals shall explain any departures from the recommendations of the other Town boards or agencies in its decision.

404.9 Special Permit for Use and Construction

The Board of Appeals may grant a special permit for the use and construction on land in the Wetlands Protection Overlay District despite the prohibition of Section 404.5 provided that:

- a. The proposed use is allowed in the Residential Compatibility District or, if more restrictive, the zoning district in which the majority of the remainder of the parcel lies;
- b. All other requirements of the Bylaw are met;
- c. The Board makes a determination, following referral to the Conservation Commission, Board of Health, and Planning Board, that:
 - The location is not within the wetland as defined either under Section 40, chapter 131 M. G. L., or by soils type (very poorly drained, poorly drained or alluvial) as determined by the USDA Soils Conservation Service or on-site investigation by a qualified soil scientist, and

- The site is not subject to inundation in a one-hundred year flood, and
 - The use will not endanger health or safety.
- d. The Conservation Commission acting within the scope of its jurisdiction has approved such use and construction.

The Conservation Commission, Board of Health and the Planning Board shall report their written recommendations to the Board of Appeals within thirty-five (35) days of receipt of the referral. The Conservation Commission shall be deemed to have approved such use and construction unless its written disapproval is received by the Board of Appeals within such thirty-five (35) days. The Board of Appeals shall explain any departures from the recommendations of other Town agencies in its decision.

404.10 Special Requirements for Utility Installation

Any other Bylaw or regulation to the contrary notwithstanding, no construction requiring any utility, including electric line, water line, gas line and telephone line, or waste disposal or drainage facilities shall be permitted within the Wetlands Protection Overlay District unless the Board of Appeals shall determine that all utilities are located, elevated and constructed so as to minimize or eliminate flood damage and that methods of disposal for sewage, refuse and other wastes and methods of providing drainage are adequate to reduce flood hazards and prevent pollution.

404.11 Exemptions

The following are specifically exempt from the provisions of Section 404:

All residential dwellings, commercial and business buildings existing in the Wetlands Protection Overlay District on March 13, 1971, or building permits for which were issued prior to March 13, 1971, and those portions only of the lots needed to repair, rebuild, modify or enlarge, any such buildings, including but not limited to, the addition of garage and living space and construction of appurtenant outbuildings, together with such filling, diking, and/or drainage as may be necessary for the protection of said structures from flood inundation, provided that all construction of any type is consistent with the laws of the Commonwealth of Massachusetts, in compliance with all other zoning requirements, and does not affect the natural flow pattern of any watercourse.

404.20 Determination of Suitability of Residential Piers

New residential piers require a special permit and must conform to the following criteria:

1. The pier shall be located and constructed consistent with safety and navigational concerns.
2. The pier shall not exceed two hundred (200) feet in length and must extend the full distance over any salt marsh used to access the water's edge. The width of the pier shall not exceed four (4) feet.
3. The platform at the seaward end of the pier shall not exceed six (6) feet by ten (10) feet, i.e.: two (2) feet by ten (10) feet wider than the walkway. All pile bents shall be no less than ten (10) feet on center from each other except the last bent on the landward end.

4. The most seaward piles shall not extend more than two (2) feet seaward of the salt marsh except to allow the attached float to be located seaward of any vegetation.
5. Floats attached to piers shall not exceed two hundred (200) square feet unless permitted by the Duxbury Conservation Commission and the Duxbury Harbormaster.
6. Rails shall not exceed thirty-six (36) inches in height off the pier and shall have a top rail five (5) inches or less in vertical dimension and a mid-rail three and one-half (3 ½) inches or less in vertical dimension.
7. Piers, floats and gangways must be made principally out of wood or other materials of a color and reflective quality similar to natural wood.
8. All new piers shall be setback twenty-five (25) feet from abutting property lines unless this single requirement would otherwise prevent a new pier from being approved. In no case shall the setback be less than fifteen (15) feet.
9. All new piers shall be located no closer than fifty (50) feet from the nearest sideline of a Town Landing or Way to the Water.
10. New piers shall be constructed no higher above the salt marsh than the minimum standard for construction permitted by State and Federal regulations. The height of the pier deck shall not exceed fifteen (15.0) feet mean low water unless required by Federal or State regulations.
11. A reconstruction of a pre-existing residential pier does not need to comply with the above requirements; however the reconstructed pier shall conform to these requirements in as much as the pre-existing pier did.

404.30 Reconstruction of a Pre-existing Pier

The reconstruction of a Pre-existing Pier that has been licensed under Chapter 91 and recorded at the Registry of Deeds shall be reconstructed with design standards as approved in the Chapter 91 license. In the event such pier does not have a Special Permit, subject to the provisions of 404.2 (11.), the Zoning Board of Appeals shall accept the design standards as approved in the Chapter 91 license as meeting the requirements of the Zoning Bylaw and issue a Special Permit to such structure.

404.40 Shared Piers

Shared Piers shall comply with all suitability criteria for new piers, except as noted below:

1. All piers constructed, utilizing the shared pier permitting criteria, shall require deed restrictions on each owner's lot prohibiting another pier on those owners' lots and deeded easements granting each owner access to the shared pier, so long as the shared pier in which the owner has rights exists.
2. The Pier location shall not be required to access the water over the shortest distance of salt marsh coverage. The pier may be located on one (1) or more lots and may cross any internal lot lines of the owners. The pier shall be required to meet the sideline setback of the property lines of abutting properties.
3. Float sizes of two hundred (200) square feet per owner shall be permitted up to a maximum of six hundred (600) square feet total, unless permitted by the Duxbury Conservation Commission and the Duxbury Harbormaster.

404.50 Waterfront Scenic Area Overlay District (WSA)

Any new pier in the WSA shall comply with the following special criteria in addition to the other applicable criteria in Section 404.20:

1. A pre-existing pier shall not be reconstructed as a new pier unless the cost to repair the existing pier is greater than fifty percent (50%) of the cost of a new pier on the same footprint.
2. Repairs to a pre-existing pier shall be made subject to no increase in pier length, height, width, footprint or modification of the railing dimension.
3. New piers shall be limited to three and one-half (3.5) feet in width, may have a handrail only on one (1) side of the pier with its upper rail member having a profile of no greater than one and one-half (1.5) inches viewed horizontally and a mid-rail member having a profile of no greater than one-quarter (1/4) inch viewed horizontally.
4. New piers shall be constructed no higher above the salt marsh than the minimum standard for construction permitted by State and Federal regulations.

405 PUBLICLY OWNED LAND OVERLAY DISTRICT

This district consists of land owned by the Town and voted by a Town Meeting to be added to this district and shown on the Zoning Map. The municipal uses of this publicly owned land are as established by vote of a Town Meeting, and, if that vote includes action to amend the zoning map, such land is shown on the Duxbury Zoning Map. In accordance with Section 401, all buildings and structures for approved municipal uses shall meet all applicable dimensional, density, and design requirements of this Bylaw.

406 AQUIFER PROTECTION OVERLAY DISTRICTS

406.1 Findings

The Town of Duxbury finds that:

1. The ground water underlying this Town is the sole source of its existing and future drinking water supply. The ground water aquifer is integrally connected with, and flows into, the surface waters, lakes, streams and coastal estuaries which constitute significant recreational and economic resources of the Town used for bathing and other water-related recreation, shellfishing and fishing.
2. Accidental spills and discharges of petroleum products and other toxic and hazardous materials and sewage discharge have repeatedly threatened the quality of such groundwater supplies and related resources throughout towns in Massachusetts, posing potential public health and safety hazards and threatening economic losses to the affected communities.

406.2 Aquifer Protection Overlay Districts

There are hereby established within the Town certain groundwater protection areas consisting of aquifers or recharge areas and approved Zone I, Zone II and Zone III areas which are shown on a map entitled "Aquifer Protection Districts, Town of Duxbury dated March 24, 1993" being an amendment of the Aquifer Protection District Map dated December 4, 2002. This map is hereby made a part of the Duxbury Zoning Bylaw and is on

file in the office of the Town Clerk. The Aquifer Protection Overlay Districts, as shown on the maps described above, as well as the above-noted Zone I, II and III areas, shall be considered to be superimposed over any other district established in this Bylaw.

406.3 Relationship to Other Laws

This Bylaw is supplementary to other laws and Bylaws within Duxbury. Where this Bylaw or any portion thereof imposes a greater restriction than is imposed by other regulations, the provisions of this Bylaw shall control. Where this Bylaw references statutes or regulations promulgated by the Commonwealth or its agencies, the statute or regulation shall be that in effect as of January 1, 2002.

406.4 Determination of Location with the Aquifer Protection Overlay District

In determining the location of properties and facilities within the Aquifer Protection Overlay District, the following rules shall apply:

1. Properties located wholly within one (1) zone reflected on the Aquifer Protection Overlay District maps shall be governed by the restrictions applicable to that zone.
2. Properties located such that the site lies within more than one (1) zone as reflected on the Aquifer Protection Overlay District maps shall be governed by the restrictions applicable to the zone in which the activity, structure or sewage disposal system is located.

406.5 Definitions

"Applicant" means any person filing an application.

"Department" means the Massachusetts Department of Environmental Protection (DEP).

"Person" means any agency or political subdivision of the federal government or the Commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, and any officer, employee, or agent or such person, and any group of persons.

"Toxic or Hazardous Materials" means any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, organic chemicals, petroleum products, heavy metals, radio-active or infectious wastes, acids and alkalis, and include products such as pesticides, herbicides, solvents and thinners. Waste generated by the following activities, without limitation, are presumed to be toxic or hazardous unless and except that anyone engaging in such an activity can demonstrate this contrary to the satisfaction of the Board of Health and the Water Advisory Board.

- Airplane, boat and motor vehicle service and repair
- Chemical and bacteriological laboratory operation
- Cabinet making
- Dry cleaning
- Electronic circuit assembly
- Metal plating, finishing and polishing

- Motor and machinery service and assembly
- Painting, wood preserving and furniture stripping
- Pesticide and herbicide application
- Photographic processing
- Printing

“Zone I” means the four hundred (400) foot protective radius required by the Department around a public water supply well or wellfield.

“Zone II” means that area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (one hundred eighty [180] days of pumping at safe yield, with no recharge from precipitation), as defined in 310 CMR 22.00. It is bounded by the groundwater divides, which result from pumping the well, and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

“Zone III” means that land area beyond the area of Zone II from which surface water and groundwater drain into Zone II, as defined in 310 CMR 22.00. The surface drainage area as determined by topography is commonly coincident with the groundwater drainage area and will be used to delineate Zone III. In some locations, where surface and groundwater drainage are not coincident, Zone III shall consist of both the surface drainage and the groundwater drainage areas.

406.6 Prohibited Uses and Structures

Land in an Aquifer Protection Overlay District may be used for any purpose otherwise permitted in the underlying district, subject to the additional restrictions presented herein. This Bylaw shall not apply to land or activities located outside of the corporate boundaries of the Town, but shall apply to Zones I, II and/or III areas to wells located in adjacent municipalities that fall within the Town.

Within the Aquifer Protection Overlay District, the following uses are specifically prohibited:

1. Sanitary landfills.
2. Junkyards.
3. Municipal sewage treatment facilities with on-site disposal of primary or secondary-treated effluent.
4. Package sewage treatment plants.
5. Car washes.
6. Road salt stockpiles.
7. Dumping of snow from outside the district.
8. Dry cleaning establishments.
9. Boat and motor vehicle service and repair.
10. Metal plating.
11. Chemical and bacteriological laboratories.
12. All underground storage tanks.

13. Any other use which involves, as a principal activity, the manufacture, storage, use, transportation or disposal of toxic or hazardous materials, except as allowed by special permit in Section 406.8 below.

In addition, the following uses as contained in 310 CMR 22.00 et seq. are prohibited within the Aquifer Protection Overlay District:

14. Automobile graveyards and junkyards, as defined in G. L. c. 140B, sec. 1.
15. Stockpiling and disposal of snow or ice removed from highways and streets located outside of Zone II that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.
16. Storage of sodium chloride, chemically treated abrasives or other chemicals used for removal of ice and snow on roads, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
17. Storage of commercial fertilizers, as defined in G. L. c. 128, sec. 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
18. Storage of animal manure, unless such storage is covered or contained in accordance with the specifications of the Natural Resource Conservation Service.
19. Landfills and open dumps, as defined in 310 CMR 19.006.
20. Landfills receiving only wastewater residuals and/or septage approved by the Department pursuant to G. L. c. 21 sec. 26-53; G. L. c. 111, sec. 17; G. L. c. 83, sec. 6-7; and any regulations promulgated thereunder.
21. Petroleum, fuel oil and heating oil bulk stations and terminals, including, but not limited to, those listed as of January 1, 2002 under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the U.S. Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and any subsequent amendments thereto.
22. Treatment or disposal works subject to 314 CMR 5.0 for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) Title 5, except the following:
 - (i) publicly owned treatment works (POTWs).
23. Individual sewage disposal systems handling more than 110 gallons per day per 10,000 square feet of land area.
24. Facilities that generate, treat, store or dispose of hazardous waste that are subject to G. L. c. 21C and 310 CMR 30.000 except for the following:
 - (i) very small quantity generators, as defined by 310 CMR 30.00,
 - (ii) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390, or
 - (iii) waste oil retention facilities required by G. L. c. 21, sec. 52A.
25. Treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.
26. Any floor drainage systems in existing facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas, which discharge to the ground without a Department permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the State Plumbing Code, 248 CMR 2.00), connect the drain to a

- municipal sewer system (with all appropriate permits and pre-treatment), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies.
27. Storage of sludge and septage, as defined in 310 CMR 32.05, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31.
 28. Storage of liquid hazardous materials, as defined in G. L. c. 21E, and/or liquid petroleum products unless such storage is:
 - (i) above ground level, and
 - (ii) on an impervious surface; and either (i) in container(s) or above-ground tank(s) within a building, or (ii) outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed and operated to hold either ten percent (10%) of the total possible storage capacity of all containers, or one hundred ten percent (110%) of the largest container's storage capacity, whichever is greater; however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.
 29. Land uses that result in the rendering impervious of more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater, unless a system for artificial recharge of precipitation is provided in accordance with Best Management Practices.
 30. The removal of soil, loam, sand, gravel or any other mineral substances within six (6) feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for the construction of building foundations or the installation of utility works.
 31. Commercial outdoor washing of vehicles.
 32. Commercial car washes.
 33. Motor vehicle repair operations.
 34. Solid waste combustion facilities or handling facilities as defined at 310 CMR 16.00.

406.7 Density Regulations

Residential dwellings shall be permitted at a density not to exceed one (1) dwelling unit per sixty thousand (60,000) square feet of upland lot area as defined in Section 300, providing:

1. The individual on-site wastewater disposal system does not exceed one hundred ten (110) gallons per day design flow for each ten thousand (10,000) square feet of upland, and
2. All land uses, buildings, and accessory structures shall not render impervious more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater, unless a system of artificial recharge of precipitation is provided in accordance with Best Management Practices.

406.8 Uses and Structures Permitted By Special Permit

Within the Aquifer Protection Overlay District, the following shall be allowed only upon receipt of a special permit:

1. Any use involving toxic or hazardous materials in quantities greater than associated with normal household use.

2. Golf courses, either private or public use.
3. Residential Conservation Cluster Developments permitted by Section 540.

406.9 Special Permits

1. **Special Permit Granting Authority.** The special permit granting authority (SPGA) under Section 406 of this Bylaw shall be the Planning Board. Such special permit shall be granted if the SPGA determines in conjunction with other Town agencies as specified in Section 406.9.2 below, that the intent of the Bylaw as well as its specific criteria are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality that would result if the control measures failed. The SPGA shall explain any departures from the recommendations of other Town agencies in its decision.
2. **Review by Other Town Agencies.** Upon receipt of the special permit application the SPGA shall transmit one (1) copy to the Director of Public Works, the Water Advisory Board, the Town Manager, the Zoning Enforcement Officer, the Board of Health, the Conservation Commission, and any other relevant Town board/agency or department for their written recommendations. Failure to respond in writing within thirty (30) days shall indicate approval or no desire to comment by said agency. The applicant shall furnish the necessary number of copies of the application.
3. **Special Permit Criteria.** Special Permits under Section 406.8 shall be granted only if the SPGA determines in conjunction with the comments from the above noted agencies that ground-on-site operations will not fall below Federal or State standards for drinking water at the down gradient property boundary, except for nitrate nitrogen which shall not exceed five (5) parts per million.
4. The SPGA may withhold approval of a special permit for the construction of any new structures or structures intended for residential use requiring a special permit under Section 406.8 (Residential Conservation Cluster) which are located on a lot or lots that lie within a zoned Aquifer Protection Overlay District if, after weighing all pertinent facts and evidence the SPGA finds that:
 - a) The existing condition of the receiving waters is at or above critical eutrophic levels or in case of well recharge areas, nitrate nitrogen concentration in the groundwater exceed five (5) parts per million, and;
 - b) The nutrient combination from the proposed development, when added to the existing and potential nutrient level of developments within the specific recharge area, will generate on a pounds per acre basis, nutrient waters' critical eutrophic level or, in the case of well recharge area, nitrate nitrogen concentrations in the groundwater in excess of five (5) parts per million. It shall be the responsibility of the applicant to demonstrate to the SPGA that proposed mitigating measures will work as designed, and the SPGA may require the applicant to demonstrate on an annual basis that the said mitigating measures are operating satisfactorily.
5. **Submittals.** In applying for a special permit required by this section, the information listed below shall be submitted.

- a) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of methods proposed to protect all storage containers/facilities from vandalism, corrosion and leakage, and to provide for control of spills.
- b) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods.
- c) Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) of any industrial waste treatment or disposal system of any wastewater treatment system over ten thousand gallons per day capacity.
- d) Projections of downgradient concentrations of nitrogen and other relevant chemicals at property boundaries and other locations deemed pertinent by the SPGA. Projections shall be based upon appropriate groundwater models and the following information/standards;
 - (i) Nitrogen Loading Calculations:
 - Wastewater per person: five pounds (5 lbs.) nitrogen per year; twenty-five pounds (25 lbs.) phosphorus per year.
 - Persons per dwelling unit = three (3).
 - Lawn Fertilizers: Three pounds (3 lbs.) nitrogen per one thousand (1,000) square feet of lawn (assume 15,000 square feet of lawn area).
 - Road Run-off: 0.19 lbs. nitrogen per curb mile per day.
 - Background Nitrogen Concentration: Actual field measurements.
 - (ii) Groundwater Flow and Impacts to Drinking Water Supply Wells:
 - Identify probable impacted water supply wells by constructing flow lines downgradient of the proposed site on the Duxbury Water Table Map (1986).
 - Recharge Rate: Sixteen (16) inches per year for sand and gravel; nine (9) inches per year for till.
 - Hydraulic Conductivity: Listed value for closest downgradient public supply well in Duxbury Aquifer Protection Plan (1986).
 - Saturated Thickness: Saturated Thickness Map (1986) supplemented by site-specific borings.
 - Groundwater Gradient: Duxbury Water Map (IEP, 1986) supplemented with site-specific measurements.
- e) Analysis of Development Impact which at a minimum includes the following:
 - (i) The existing conditions of the waterbody or water supply, including physical characteristics and water chemistry.
 - (ii) The expected change in the condition of the water supply as a result of the proposed development.
 - (iii) The comparison, on a per acre basis, of the total nutrient loading from the proposed development with:
 - The existing and potential loading from all other developments and acreage within the recharge area of the water supply of the waterbody.
 - The loading rate which would be expected to produce critical eutrophic levels in a waterbody or in the case of a water supply the loading rate which would produce nitrate nitrogen levels in excess of five (5) parts per million in the groundwater.

- (iv) In determining the impact of nutrient loading from a development, the following standards and definitions shall be used:
- Loading per person: five (5) pounds nitrogen per person per year; twenty-five (25) pounds phosphorus per person per year for sewage disposal systems within three hundred (300) feet of the shoreline.
 - Loading from lawn fertilizers: three (3) pounds nitrogen per one thousand (1,000) square feet of lawn area per year.
 - Loading from road runoff: 0.19 pounds nitrogen per curb mile per day; 0.15 pounds phosphorous per curb mile per day.
 - Critical eutrophic levels: fresh water concentrations; total nitrogen: 0.75 mg/liter.

406.10 Design and Operations Guidelines

The following design and operation guidelines shall be observed within the Aquifer Protection Overlay District.

1. **Safeguards.** Provisions shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as: prohibition of underground fuel storage tanks; spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the ground water.
2. **Location.** Where the premises are partially outside of the Aquifer Protection Overlay District, potential pollution sources such as on-site waste disposal systems shall be located outside the district to the extent feasible.
3. **Disposal.** For any toxic or hazardous wastes to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods that are in conformance with G. L. c. 21C.
4. **Drainage.** All runoff from impervious surfaces shall be recharged on the site diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

406.11 Violations

The Zoning Enforcement Officer shall provide written notice of any violation of this Bylaw to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than thirty (30) days be allowed to either compliance or finalization of a plan for longer-term compliance.

406.12

The provisions of this Bylaw shall not apply to lands in excess of five (5) acres actively devoted to agriculture, horticulture, floriculture or viticulture, nor to use of pesticides when used on such lands in accordance with G. L. c. 132b.

410 RESIDENTIAL COMPATIBILITY DISTRICT

410.1 Permitted Uses and Structures

Residential Compatibility District shall include all areas designated on the Duxbury Zoning Map dated March 13, 1973 as revised and amended to date on file in the office of Town Clerk, as Residential Compatibility District established by Section 201. The following regulations shall apply.

In a Residential Compatibility District no building or accessory structure shall be erected or altered and no building, accessory structure or land shall be used for any purpose or in any manner other than is permitted and set forth herein.

1. Detached, single-family dwelling.
2. Religious.
3. Educational.
4. Accessory use and accessory structures on the same lot which are customarily incidental to a single-family residence.
5. Trailer for a temporary residential occupancy only for a period totaling not more than six (6) months on a premises whose dwelling has been destroyed by fire with a permit from the Zoning Enforcement Officer.
6. The keeping of one (1) service type vehicle not to exceed ten thousand (10,000) pounds gross weight by a resident who carries on a trade or profession away from his/her premises.

410.2 Prohibited Uses and Structures

1. Garage, attached or unattached, for the storage of more than three (3) vehicles.
2. Use of a trailer coach, travel trailer, motor home, tent trailer or mobile home on a residential lot.
3. Except on a farm, outdoor storage of any unregistered motor vehicle for more than ninety (90) days.
4. Advertising signs, as regulated by Section 601, except temporary signs pertaining to the lease, sale, or rental of a lot or building on which they are placed and not exceeding six square feet in area, or as allowed by Section 410.7(b).
5. Any use which will produce a nuisance or hazard from fire or explosions, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radio-activity, offensive noise or vibration, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property in Town.
6. Parks for trailers, travel trailers, tent trailers, trailer coaches and motor homes; auto dismantling, junkyards, privately developed and operated septage waste disposal/treatment facilities and refuse disposal facilities are expressly prohibited.
7. Planned Development.

410.3 Uses and Structures Permitted by Special Permit

The following uses and structures are permitted, and only to the extent authorized, by a Special Permit from the Board of Appeals. The Planning Board shall be the Special Permit Granting Authority for Residential Conservation Cluster Developments:

1. Stand for the sale of produce raised on the premises.
2. Home occupation in accordance with Section 410.7.
3. Conversion of a single-family dwelling in existence for ten (10) years prior to the application for a special permit in accordance with Section 410.6.
4. Cemetery.
5. Golf course.
6. Hospital, convalescent home, sanatorium, institution, including a continuing care or similar assisted living retirement facility for persons age 62 and over operated in connection with a skilled nursing facility subject to state licensure. Any such use to be reviewed pursuant to the applicable provisions of Article 800 of the Protective Bylaw, or philanthropic use.
7. Riding stable.
8. Bed and Breakfast/Guest House within existing footprint of an existing single-family dwelling, in which the operator resides.
9. Private club not conducted for profit and not containing sleeping quarters for more than four (4) persons.
10. Residential Conservation Cluster Development in accordance with Section 540.
11. Wireless Telecommunications Services Facility in accordance with Section 610.

410.4 Residential Compatibility District Intensity, Dimensional and Coverage Regulations

No building or structure shall be located, constructed, changed, enlarged or permitted and no use of premises in Residential Compatibility District shall be permitted except in conformity to the intensity and dimensional regulations as set forth herein. If a lot is determined by the rules of Section 406.4 to be within an Aquifer Protection Overlay District, then the more restrictive regulations of Section 406 Aquifer Protection Overlay District shall prevail.

Lot Size/Lot Frontage – In a Residential Compatibility District no dwelling shall be erected on a lot unless such lot has an area of forty thousand (40,000) square feet or more of upland and shall have a frontage measurement on a way equal to or greater than two hundred (200) feet. Frontage cannot accrue from a limited access highway.

Lot Area – The horizontal and contiguous area of the lot exclusive of any area in a public or private way open to the public uses. Land under any waterbody, bog, swamp, wet meadow or marsh, as defined in G. L. c. 131 sec. 40, and/or land within the Wetlands Protection Overlay District and/or land within any overhead easement the purpose for which is the transmission of high voltage electricity, shall not be included in the horizontal and contiguous portion of the lot area required for zoning compliance. If the distance between any two (2) points on lot lines is less than fifty (50) feet, measured in a straight line, the smaller portion of the lot, as divided by that line, shall not be included in lot area unless the two points are separated by less than one hundred fifty (150) feet along lot line. (See drawing in section 300.)

Lot Shape – The following shall apply to all lots for residential use except those created under special permits, such as created in Planned Development and Residential Conservation Cluster Developments.

1. Lot width shall be at least one hundred sixty (160) feet at the required setback line, to the way. (1987)
2. The lot shall contain at least four thousand five hundred (4,500) square feet between the required setback line and the right-of-way line from which the lot takes its frontage.
3. Each single-family dwelling shall be located on a lot containing an imaginary circle one hundred fifty (150) feet in diameter within its lot lines. (1987)

Intensity – The maximum density shall be one single family dwelling per 40,000 square feet or more of upland.

Front Setback – In a Residential Compatibility District, where the way is forty (40) or more feet in width, no building, roadside stand, or accessory structure shall be erected or placed within twenty-five (25) feet of a right-of-way and if the way is less than forty (40) feet in width no building, roadside stand, or accessory structure shall be erected or placed within forty-five (45) feet from the center line of the way. Where present buildings on adjoining lots are less than twenty-five (25) feet from the right-of-way line, new buildings may be placed as near the right-of-way lines as the average of the buildings on said adjoining lots.

In a Residential Compatibility District, the minimum front setback shall be measured from a right-of-way line of the way giving legal access to any lot where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan, from a line twenty (20) feet from and parallel with the centerline of the traveled way. In the case of a corner lot, the distance of the front setback shall apply to any structure adjacent to either right-of-way.

Minimum front setbacks shall apply to swimming pools, tennis courts, and other accessory structures.

Side and Rear Setbacks – In a Residential Compatibility District no dwelling or accessory structure, other than a swimming pool or tennis court shall be built within fifteen (15) feet of a side or rear lot line. No swimming pool or tennis court shall be built within ten (10) feet of a side or a rear lot line.

Projections – Nothing herein shall prevent the projection of steps, stoops not exceeding thirty (30) square feet in area, cornices, window sills or belt courses into any setback.

Height – In a Residential Compatibility District, no dwelling shall be more than thirty (30) feet in height. No detached structure or building shall be closer than its height to any other. The limitations of height in feet shall not apply to chimneys, elevators, poles, ventilators, skylight, tanks, bulkheads, and other accessory structural features usually carried above roofs, nor to domes, towers, or spires of churches or other buildings provided such features are in no way used for living purposes and further provided that

no such structural feature of any building shall exceed a height of sixty-five (65) feet from the ground.

Coverage – In a Residential Compatibility District, building coverage as defined in Section 302 shall be no more than fifteen percent (15%) of the total area of the lot (as defined in Section 302 and not "Lot Area"), except that in the case of a lot having a total area of less than twenty thousand (20,000) square feet the Board of Appeals by Special Permit may permit additional building coverage in an amount not greater than three percent (3%) of the difference between the total area of the lot and twenty thousand (20,000) square feet.

Corner Clearance – Within the triangle formed by the lines of intersecting ways and a line joining points on such lines fifteen (15) feet distance from their point of intersection, or in case of a rounded corner, the point of intersection of their tangents, no structure and no foliage shall be maintained between a height of three and one-half (3-1/2) feet and a height of eight (8) feet above the plane through their curb grades.

Reduction of Minimum Requirements – In a Residential Compatibility District no lot, setback, or other open space already having less than the minimum requirements in this Bylaw shall be further divided or reduced with respect to such minimum requirement or requirements.

Parking Regulations for Residential Compatibility District – Off-street parking for a minimum of two (2) motor vehicles shall be provided.

410.5 Residential Plot Plan Required for Building Permit

No building permit shall be issued for new construction, reconstruction, or enlargement of existing residential buildings and other structures without a Site Plan being submitted as part of an application for a building permit and approved by the Zoning Enforcement Officer. In addition to the requirements set forth in Section 905.1, such plot plan shall, to the extent deemed necessary by the Zoning Enforcement Officer or the Board of Appeals, show the dimensions and shape of the lot; delineate any Wetlands Protection Overlay District, Flood Hazard Areas Overlay District or Aquifer Protection Overlay District areas located within the lot; location of all existing and proposed structures or additions; location of existing and/or proposed septic disposal systems including leaching field and reserve area; existing and proposed contours at two foot intervals. The Zoning Enforcement Officer may require additional information or documentation of materials submitted.

410.6 Accessory Apartment Special Permit Regulations and Restrictions

1. General – No accessory apartment shall be constructed in a single family dwelling without a special permit from the Board of Appeals as provided hereunder. For the purpose of this provision, single-family dwellings authorized under a special permit for a Residential Conservation Cluster or Planned Development shall be ineligible for an accessory apartment. Application for a special permit may be made to the Board of Appeals in the usual manner. The Board of Appeals may grant a special permit under 906.2 and Site Plan approval under 410.5 provided the following conditions are met. No construction shall commence without issuance of a building permit by the Zoning

Enforcement Officer and no use or occupancy of the accessory apartment may occur until the Zoning Enforcement Officer has issued a certificate of occupancy.

2. The Board of Appeals may approve an application for a special permit to construct an accessory apartment where:
 - a) The accessory apartment does not exceed eight hundred fifty (850) square feet in area.
 - b) The accessory apartment does not require alteration or addition to the single-family dwelling in such a manner that there is any exterior change to the dwelling, so that the accessory apartment is located wholly within the building footprint in existence at the time of the special permit application. For the purpose of this section, exception shall be made only for installation of exterior doorways and means of egress at grade in conformance with Massachusetts Building Code.
 - c) The area of the lot on which the single-family dwelling is located shall not be less than twenty thousand (20,000) square feet.
 - d) Sufficient parking area shall be provided, including at least one (1) additional space to serve the accessory apartment. Said addition space shall have access to the driveway serving the dwelling.
 - e) The applicant shall be an owner-occupant of the premises, and shall remain an occupant of either the principal dwelling or the accessory apartment.
 - f) The Board of Health certifies that the existing or proposed septic system and expansion area comply with the requirements of Title 5 of the State Environmental Code and the Rules and Regulations of the Duxbury Board of Health, and is capable of serving both the single-family dwelling and the accessory apartment.
 - g) The applicant submits floor plans of the proposed accessory apartment, a site plan in conformance with Section 410.5 and a plot plan as required under Section 905, all being acceptable to the Board of Appeals.
 - h) The single-family dwelling is at least ten (10) years old at the time of the application for an accessory apartment special permit, and no additions or alterations as would have created additional living space were constructed in the single-family dwelling within five (5) years of the date of application for special permit hereunder.

410.7 Home Occupation Special Permit Regulations

1. In a Residential Compatibility District, the Board of Appeals may issue a special permit for the use of a portion of a dwelling as a principal location for the practice of their occupation by a person (such as an architect, counselor, consultant, dentist, doctor, engineer, insurance broker, investment counselor, lawyer or real estate broker) who is a resident therein, provided that:
 - a) The home occupation use shall be clearly incidental and subordinate to the residential use and not more than twenty-five percent (25%) of the floor area of the dwelling shall be devoted to the home occupation use;
 - b) There shall be no change in the exterior appearance of the premises, nor any visible evidence of the conduct of the home occupation other than one (1) non-illuminated sign not to exceed two (2) square feet in area if such sign has been allowed under a special permit granted by the Board of Appeals;

- c) A special permit has been granted by the Board of Appeals under the standards of Section 906.2.
2. A home occupation, which will have no clients or pupils calling, will have no extraordinary deliveries of mail or packages, will have no signage, and will employ only residents of the dwelling, may obtain a permit for such use from the Zoning Enforcement Officer.

420 NEIGHBORHOOD BUSINESS DISTRICTS

The Town shall have two designated Neighborhood Business Districts as established by Section 201, described herein and as shown on the Zoning Map dated March 13, 1973 as revised and amended to date and on file in the office of the Town Clerk, and as defined in and subject to Section 421, through and including Section 425.

421 NEIGHBORHOOD BUSINESS DISTRICT 1: USE AND REGULATIONS

General: In Neighborhood Business District 1, no structure shall be erected or altered and no building, structure, premises or land shall be used for any purpose or in any manner other than as permitted as follows.

421.1 Permitted Uses and Structures

1. Uses and structures as permitted by Section 410.1 and 410.3 in accordance with all intensity, dimensional, and coverage regulations of Section 410.4.
2. Signs in accordance with Section 601.
3. The keeping of any registered commercial motor vehicle.

421.2 Prohibited Uses and Structures

1. Any use which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in Town. Parks for trailers, travel trailers, tent trailers, trailer coaches and motor homes, auto dismantling, junkyards, privately developed and operated septage waste disposal/treatment facilities are expressly prohibited.
2. All Neighborhood Business District 2 structures and uses.

421.3 Uses and Structures That May Be Permitted Subject to Special Permit and Site Plan Requirement

The following uses shall only be permitted by a special permit from the Board of Appeals when the off-street parking requirement is more than three (3) vehicles and/or off-street loading space is required. If the off-street parking requirement is less than three (3) vehicles and no off-street loading space is required, the Zoning Enforcement Officer may approve the following uses, provided that the provisions of Section 424#2 are complied with:

1. Retail sale of food items, including confectionery, dairy products, fruits, vegetables, groceries and meats.
2. Sale of baked goods and the manufacture of same for sale.
3. Sale of dry goods, variety merchandise and handicraft work.
4. Sale of clothing and clothing accessories.
5. Sale of hardware, household items including appliances, furniture, furnishings and supplies.
6. Sale of printed matter, drugs, stationary and photographic supplies.
7. Professional office for dental, architectural, engineering, renewable and alternative energy research and development, legal, medical, and other similar recognized professions; medical and dental clinics, including retail uses accessory thereto providing no more than twenty-five percent (25%) of the rentable floor space in a principal building exclusive of all storage areas is used therefor.
8. Real estate, insurance and general business office, banks, telephone office.
9. Shop of an electrician, painter, paper-hanger, plumber, upholsterer, carpenter or cabinet-maker and similar trades.
10. Public transportation passenger station and right-of-way passenger bus terminal.
11. Dwelling in a business structure above the ground floor.
12. Greenhouse that is accessory to a business.

421.4 Special Permit Uses

1. Video tape rental and sales, and rental and sales of related equipment.
2. Restaurant and other places for serving of food or beverages inside or outside the building at tables or counters, including public or private clubs.
3. Take-out food establishment or delicatessen where food is prepared but not consumed on the premises and sold retail; catering services.
4. Service establishment: barber and beauty shop, laundry agency, shoe and hat repair, bicycle and household appliance repair, dressmaking, dry cleaning and pressing or tailor shop where no work is done on the premises for retail outlets elsewhere.
5. Mortuary and funeral parlor.
6. Wireless Telecommunications Services Facility in accordance with Section 610.

422 NEIGHBORHOOD BUSINESS DISTRICT 2: USE AND REGULATIONS

General: In a Neighborhood Business District 2, no structure shall be erected or altered and no building, structure, premises or land shall be used for any purpose or in any manner other than as permitted as follows.

422.1 Permitted Uses

All uses permitted in Section 421.1 (Neighborhood Business District 1) shall be permitted in Neighborhood Business District 2. Permitted signs shall comply in all respects with the requirements of Section 601.

422.2 Prohibited Uses and Structures

Any use which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or

vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in Town. Parks for trailers, travel trailers, tent trailers, trailer coaches and motor homes, auto dismantling, junkyards, privately developed and operated septage waste disposal/treatment facilities are expressly prohibited.

422.3 Uses and Structures Permitted by Special Permit

The following uses shall only be permitted by a Special Permit issued by the Board of Appeals subject to all regulations and site plan approval for Neighborhood Business Districts.

1. All uses and structures permitted by special permit in Section 421.3 and 421.4.
2. Retail business, services or public utility not involving manufacture on the premises, except of products, the major portion of which is to be sold at retail by the manufacturer to the consumer and provided further that no more than ten (10) operators shall be employed in such manufacture. Such retail businesses may include sales at wholesale, provided that the physical incidents (wholesale transactions) occurring on the premises are of substantially the same character as the physical incidents of its retail sale direct to the consumer and provided further that the major portion in number of its sales shall continue to be retail sales.
3. Automobile sales and services provided that, where it is proposed to dispense, sell or offer for sale, motor fuels directly to users of motor vehicles, all of the following criteria must be met:
 - a) There is no existing salesroom, service station, garage or other establishment dispensing motor fuels within one thousand three hundred (1,300) feet;
 - b) No public or private playfield or playground, church or other places of public worship, cemetery, police station, fire station, hall or other place of public assembly, municipal building used for public business meetings or assemblies, Town-owned sites held for future schools, playgrounds or playfields is within five hundred (500) feet of the proposed facility;
 - c) A landscaped safety island parallel to the street line sixty (60) feet in length along the street and twenty-five (25) feet in depth shall be provided;
 - d) On either end of this island, "curb cuts" or access drives of not more than thirty (30) feet and not less than twenty-five (25) feet in width at the exterior of the street shall be provided;
 - e) No more than three (3) pumps and/or hoses in one "island" for dispensing leaded gasoline or motor fuel, plus one (1) additional pump and hose for dispensing either diesel fuel or white gasoline, so called, shall be allowed;
 - f) The minimum frontage shall be at least one hundred fifty (150) feet.
4. Automobile sales and service including automobile sales, outdoor automobile sales display, service stations, repair and storage garage provided that washing, lubrication and major repair of motor vehicles are performed inside an enclosed building and all dispensing of fuels, lubricants and fluids is done entirely on the property of the business.
5. Boat sales, service and outdoor business and storage provided that major repair of engines is performed inside enclosed buildings and that all dispensing of fuels, lubricants and fluids is done entirely on the property of the business.
6. Sale of building materials.
7. Wireless Telecommunications Services Facility in accordance with Section 610.

424 SPECIAL PERMIT PROCEDURES AND CRITERIA FOR NEIGHBORHOOD BUSINESS DISTRICTS 1 AND 2

1. **The Special Permit Granting Authority:** The special permit granting authority (SPGA) under this Bylaw shall be the Board of Appeals.
2. **Requirements:** An application for a Neighborhood Business Special Permit shall include a written description of the proposal for which a special permit is requested and a Site Plan prepared by a Registered Professional Engineer and/or Registered Land Surveyor at an appropriate scale to clearly show dimensions, legend, and all other information deemed necessary to describe the site and its conditions. Three (3) copies of the Site Plan shall be submitted to each of the following boards: Board of Appeals, Planning Board, Board of Health, Conservation Commission, and DPW. One (1) copy shall be submitted to the Zoning Enforcement Officer and the Design Review Board. To the extent to which the following information is necessary to delineate and describe site conditions related to the purpose for which the special permit is requested, said Site Plan shall show, among other things:
 - a) all existing and proposed buildings, structures, parking spaces, driveways, driveway openings, service areas, and other uses;
 - b) existing and proposed contours at two (2) foot intervals;
 - c) proposed clear-sight distances at all driveway openings, existing and proposed ways;
 - d) existing and proposed water sources and volumes of use;
 - e) existing traffic counts and estimated future traffic volumes;
 - f) abutting land uses;
 - g) all facilities for disposal of sewerage, storage, and disposal of refuse and other waste disposal;
 - h) all facilities for surface water drainage or retention;
 - i) all principle landscape features;
 - j) where applicable, the limits of any defined Aquifer Protection Overlay District areas and/or Wetlands Protection Overlay District areas as specified in this Bylaw and the Zoning Map; and
 - k) all signs, parking and lighting shall be included.

If the proposed business use would add one thousand (1,000) square feet or more of gross floor area to an existing business or would require a total of ten (10) or more parking spaces based upon both existing and new development, or any change of use which under Section 603 requires ten (10) or more parking spaces based only on new business development then the Site Plan shall be governed by the provisions of Section 615.

3. **Referral:** The Board of Appeals shall refer a special permit application to the Planning Board, the Historical Commission, the Board of Health, the Conservation Commission, Design Review Board, and Water Advisory Board for written comments and recommendations before taking final action on said special permit application. Any board or agency to which applications are referred shall make its recommendations and send copies thereof to the Board of Appeals and the applicant within thirty-five (35) days of receipt of the referral request by said board or agency or there shall be deemed no opposition or desire to comment. The Board of Appeals

shall not act upon said special permit until either comments from referred boards or agencies have been received, or said thirty-five (35) days have elapsed, whichever is sooner.

4. **Criteria:** In approving a special permit under this section, the Board of Appeals shall, to the degree consistent with a reasonable use of the site for the purpose permitted within a Neighborhood Business District in which it is located, provide for the following:
 - a) Protection of adjoining premises against detrimental or offensive uses on the site;
 - b) Adequacy of space for vehicular access to the site and off-street parking and loading/unloading on the site;
 - c) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways and land;
 - d) Adequacy of water supplies and distribution for domestic use fire protection;
 - e) Adequacy of the methods of storage and disposal for sewage, refuse and other wastes resulting from the uses permitted on the site and the methods of drainage or retention of surface water;
 - f) Maintenance and promotion of dispersed shade on paved areas through the effective use of established and/or new trees; and
 - g) Conformance to sign regulations in Section 601.

425 INTENSITY AND DIMENSIONAL REGULATIONS FOR ALL NEIGHBORHOOD BUSINESS DISTRICTS

425.1 Lot Area, Frontage, Depth Dimensions and Coverage

1. Minimum lot size for NB-1 and NB-2 is 15,000 square feet.
2. Lot Dimension for NB-1 and NB-2:

Frontage	100 linear feet
Depth	100 linear feet
Front setback	10 linear feet
Side setback	0 linear feet
Rear setback	0 linear feet
3. In a Neighborhood Business District where present buildings are less than forty (40) feet from the right-of way line, new buildings may be placed as near the right-of-way line as the average buildings on said adjoining lots. A vacant lot shall, for this purpose, be treated as though occupied by a building set back forty (40) feet.
4. The minimum front setback shall be measured from the right-of-way giving legal access to any lot where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan, from a line twenty feet from and parallel with the center line of the traveled way. In the case of a corner lot, the distance of the front setback shall apply to any structure adjacent to either right-of-way.
5. In a Neighborhood Business District, no accessory building or structure shall be located within the required front setback. Accessory structures may be appended to the principal building or to another accessory building.
 - a) Corner Clearance – Within the triangle formed by the lines of intersecting ways and a line joining points on such lines fifteen feet distance from their point of intersection, or in the case of a rounded corner, the point of intersection, or in the case of a rounded corner, the point of intersection of their tangents, no

- structure and no foliage shall be maintained between a height three and one-half (3.5) feet and height of eight (8) feet above the plan through their curb grades.
- b) Projections – Nothing herein shall prevent the projection of steps, stoops, not exceeding thirty square feet in any area, cornices, window sills or belt courses into any required setback.
 - c) Height – Maximum height shall be thirty (30) feet in NB 1 and NB 2.
 - d) Exemptions to Height Regulations – The limitations of height in feet shall not apply to chimneys, elevators, poles, ventilators, skylights, tanks, bulkheads, and other accessory structural features usually carried above roofs, nor to domes, towers, or spires of churches or other buildings provided such features are in no way used for living purposes and further provided that no such structural feature of any building shall exceed a height of sixty-five (65) feet from the ground. The Board of Appeals may grant a special permit for greater height for such structures and provided such greater height would not be hazardous or detrimental to the neighborhood.
 - e) Site Coverage – In NB1 and NB2 Districts the maximum site coverage of a lot shall be no more than fifty percent (50%) of the total area of the lot as defined in Section 302 and not "Lot Area."
 - f) Bedrooms – Above ground floor apartments in Neighborhood Business Districts 1 and 2 shall be limited to no more than two (2) bedrooms.
 - g) Reduction of Minimum Requirements – No lot, setback, court or other open space already having less than the minimum requirements in this Bylaw shall be further divided or reduced with respect to such minimum requirement or requirements.

430 PLANNED DEVELOPMENT DISTRICTS

Planned Development District 1, Planned Development District 2, Planned Development District 3 are established by Section 201 of this Bylaw and land zoned Planned Development 1,2, or 3 are designated on the Duxbury Zoning Map dated March 13, 1973 as revised and amended to date.

430.1 Permitted Uses and Structures

Permitted uses and structures in a Planned Development District shall be those permitted by right and by Special Permit in a Residential Compatibility District, Section 410.1 and 410.3, and in accordance with all intensity, dimensional and coverage regulations of Section 410.4.

If any portion of the land of the Planned Development is within the Aquifer Protection Overlay District as determined per Section 406.4, then the stricter intensity, dimensional and coverage regulation of Section 406 shall apply.

430.2 Special Permit Uses

Planned Development as outlined in Section 700 and Section 800 of this Bylaw.

No Planned Developments shall be undertaken without a Special Permit granted by the Board of Appeals as provided for in Section 808 and 906.2 and in accordance with the Design Standards enumerated in Section 700 and Procedures and Regulations for Planned Development as enumerated in Section 800 of this Bylaw.