ARTICLE II
Administration

§ 205-4.Enforcement officer.

This Zoning B~~ordinance~~ bylaw shall be administ~~rated~~ered and enforced by the Building ~~Inspector~~ Commissioner as provided by G. L. c. 40A ~~of the Town of Plymouth with the assistance of such other persons as the Board of Selectmen or Town Meeting may direct. Duties of the Building Inspector under this bylaw shall include the receiving of applications, issuing building and zoning permits, inspection of premises, issuing certificates of occupancy, action on violations, and any other lawful actions necessary to assure conformance with this bylaw.~~

§ 205-5.Building and zoning permits.

A. **Building and zoning permits required.**

(1) No building or other structure shall be erected, structurally altered, added to, or moved, ~~nor shall any cutting of trees, clearing of land, or excavation of soil be carried out, whether or not for purposes of construction,~~ nor shall any change of land use be made unless a zoning permit has been issued, and no building permit, as required by the Building Code, shall be issued without having first obtained ~~an approved~~ a zoning permit. The Building ~~Inspector~~ Commissioner shall issue no permit except for work in conformity with the provisions of this bylaw ~~unless he receives a written order from the Zoning Board of Appeals allowing otherwise as follows hereinafter,~~. ~~§ 205-9~~.

(2) The following procedures and requirements shall apply to uses and structures on all lots whether ~~sub~~divided prior to or subsequent to the enactment of this bylaw and to all lots not requiring subdivision approval in accordance with the ~~MGL~~G. L. c. 41, § 81L, except that any lots protected by the ~~MGL~~G. L. c. 40A, § 6 may be submitted under the zoning provisions existing at the time of Planning Board endorsement of said lots. [Amended 4-6-1978 ATM by Art. 59]

B. **Procedures for zoning permits.**

(1) **Application plan.** ~~Formal~~ A~~a~~pplication for a zoning permit shall be made in ~~four copies on~~quadruplicate on ~~standard~~the official form~~s~~ provided by the Building ~~Inspector~~ Commissioner and shall include four copies of ~~a~~the plan as may be required by subsection (a) or (b) below~~of the proposed development~~. ~~This application plan shall be~~ drawn to at least ~~useable~~ scale of 1inch = ___ feet, normally not smaller than one inch =~~equals~~ 10 feet for small proposals or one inch equals 40 feet for ~~large~~ proposals larger in area. [Amended 4-5-1977 ATM by Art. 50; 4-6-1978 ATM by Art. 55; 10-25-2001 STM by Art. 22]

Notice to utilities. Accompanying the application plan shall be certification, on a form provided by the Building Commissioner that notification of any proposed excavation in abutting streets, private ways, rights-of-way and easements has been given to all appropriate public utility companies as determined by the Building Commissioner, including but not limited to utility companies providing electricity, gas and telephone service.

(a) General ~~Such~~ plan ~~shall show~~requirements:

[1] Locus detail~~ation map~~;

[2] Actual size and shape of lot;

Comment [EAL1]: This goes without saying.; however, the Building Commissioner may not delegate the duties of the office.

Comment [EAL2]: Unnecessary to state this.

Comment [EAL3]: NB: Many questions need be addressed before making more extensive edits to this section.

Comment [EAL4]: BC questions why delete this – Is it because it is dealt with in § 18, Natural Features Conservation?

Comment [EAL5]: What is the purpose of this reference?

Comment [EAL6]: My guess is that it was not intended to exempt pre-existing nonconforming lots from the requirement to obtain a zoning permit prior to application for a building permit - ?

Comment [EH7]: Check with TC

Comment [EAL8]: Define: of up to ___sq. ft. in area?

Comment [EAL9]: For discussion: the intent and practical application of this provision.

Comment [EAL10]: Substitute name of the officer responsible for approving form.

Comment [EH11]: Check with Building Dept.

[3] Existing conditions and characteristics of the lot, including contours, ~~at five-foot intervals,~~ trees and other significant natural features (see § 205-18, Natural features conservation requirements), and roads and structures;

[4] Existing conditions on ~~adjacent~~ abutting lots, including generalized topography, tree coverage, and distance of existing structures from lot lines;

[5] Schematic plan of proposed uses of land and exact size, shape and location of all proposed structures, including walls and fences;

[6] Parking, screening, landscaping and any other site elements required under this bylaw;

[7] Proposed finish grading ~~at two-foot contour intervals~~ and all provisions for drainage affecting the site or adjacent properties;

[8] (9) Such other information as the Building ~~Inspector~~ Commissioner may reasonably require, including a plan of the entire subdivision in the case of a development of multiple single-family homes.

(b) Small project plan requirements:

For additions to existing single-family homes, or for additions of less than 500 square feet in area to other uses or structures~~which would be less than 500 square feet in area~~, ~~which would not be~~ not located in any required yard, the Building ~~Inspector~~ Commissioner may require less information, at a minimum,~~only~~ the size and shape of the lot, the existing structure and the proposed addition and notice to utilities.

~~(c) Notice to utilities. Accompanying the application plan shall be certification, on a form provided by the Building Department, that notification of any proposed excavation in abutting streets, private ways, rights-of-way and easements has been given to all appropriate public utility companies as determined by the Building Inspector, including but not limited to utility companies providing electricity, gas and telephone service.~~

(2) **Approved plan.**

(a) Within 14 days of the receipt of complete application for a single-family detached or two-family detached dwelling, and within 30 days for other uses, and after proper review and consideration of any decisions rendered by Town boards having jurisdiction, the Building ~~Inspector~~ Commissioner shall mark and sign all copies of the plans as approved, approved conditionally, or disapproved. He may mark minor required changes in red in the case of conditional approval or may require the plans to be redrawn with corrections. Where the plans or other materials suggest potential site problems, the Building ~~Inspector~~ Commissioner shall make an inspection of the site prior to issuing a zoning permit. The Building ~~Inspector~~ Commissioner shall give detailed reasons in the case of disapproval, and resubmission shall be necessary for further consideration, ~~unless appeal is taken to the Board of Appeals.~~ Any plan approved or approved with conditions shall be designated an approved plan and all work shall be done exactly in conformance with such plan. One copy of the approved plan and the building and zoning permit, if issued, shall be sent to the applicant, one copy retained by the Building ~~Inspector~~ Commissioner, one copy filed with the Planning Board, and one copy filed with the Board of Health. [Amended 4-6-1978 ATM by Art. 55]

Comment [EAL12]:

Comment [EAL13]: Substitute name of the officer responsible for approving form.

Comment [EH14]: Check with Building Dept.

Comment [EAL15]: "or for additions to other uses which would be less than 500 square feet in area"? See above at B (1) (b).

Comment [EAL16]: See §6, below.

Comment [EH17]: ? BOH? Engineers? Assessors

(b) No zoning permit shall be issued until an application for a certificate of occupancy has been filed and until appropriate fees have been paid to Town Clerk, as required in § 205-14.

(c) For uses other than single-family detached and two-family ~~detached~~ dwellings, the Building ~~Inspector~~ Commissioner ~~(now known as the "Building Commissioner")~~ shall transmit copies of the application and application plans to the Planning Board for its review and comment~~s. The Board shall render its report~~ within 21 days of its receipt of such application.

(d) For a nonresidential building or use in an open space mixed-use development (OSMUD) pursuant to a master plan special permit granted under § 205-63 and/or pursuant to a development plan, in addition to copies of the application and application plans referenced in this subsection, the Building ~~Inspector~~ Commissioner shall transmit to the Planning Board all certifications, reports, studies, test results and other documentation submitted by the applicant to the Building ~~Inspector~~ Commissioner with respect to such building, and the Planning Board's report to the Building ~~Inspector~~ Commissioner regarding the zoning permit application for that building or use shall specifically address, among other comments, conformance of the building with the design standards of § 205-63(J)(1), the master plan, the master plan special permit decision, and/or the development plan; applicability and compliance of the site on which the building is to be situated ~~with Plymouth's Subdivision Rules and Regulations~~with any condition endorsed pursuant to the Subdivision Control Law; and compliance of the building with applicable state permits. ~~Notwithstanding the above provisions of this subsection, only applications for nonresidential buildings within an OSMUD are required to be transmitted to the Planning Board.~~ [Added 4-21-1974 ATM by Art. 65; amended 6-7-2000 STM by Art. 3]

(3) Expiration.

If the use or construction described in any zoning permit has not begun within one year of the date of issuance and, in the case of construction, is not continued through to completion as continuously and expeditiously as possible, the zoning permit shall expire, the Building Commissioner shall give written notice thereof to the persons affected and work shall cease until a new zoning permit has been issued in conformance with the Zoning Bylaw in effect at the time of reissue

C. **Procedures for special permit uses.**

(1) **Initial submission to Building ~~Inspector~~ Commissioner.** For any use or structure requiring a special permit, the applicant shall first make application to the Building ~~Inspector~~ Commissioner for a zoning permit as provided above~~normally required~~, at which time the Building ~~Inspector~~ Commissioner shall advise the applicant as to the particular requirements of the Zoning Bylaw regarding the proposed use. [Amended 10-25-2001 STM by Art. 22]

(2) **Schematic plan.** [Amended 4-21-1974 ATM by Art. 65; 10-25-2001 STM by Art. 22]

(a) In the case of special permit uses~~, and special permit uses which are subject to environmental design conditions prescribed in § 205-9~~, four copies of a schematic plan shall be submitted to the Building ~~Inspector~~ Commissioner with the zoning permit application shall not be required to comply with the requirements for ~~which may be less detailed than~~ the preliminary plan required by §205-9 for formal submission to the Board of Appeals ~~(see § 205-9). This schematic plan is intended to save the applicant~~

Comment [EH18]: ? Requirement for CO and payment to Town Clerk

Comment [EAL19]: Note suggestion from BI that Town charge for OCs. Hanover fee is $50, e.g.

Comment [EH20]: ? Information to Planning Board and define "other" uses – pool, shed, deck, etc.

Comment [EAL21]: Q: Is this the intent?

Comment [EAL22]: By separating OSMUD and non-OSMUD applications, this sentence becomes unnecessary.

Comment [EAL23]: Define this in §205-3?

~~time and expense in preparing plans which will be suitable for submission to the Board of Appeals.~~

[1] The schematic plan shall~~is intended to be a~~ clear presentation of the preliminary plan concept and the basic character of the proposed development. It is not intended to be a detailed or final drawing with engineering calculations or explicit architectural designs.

Comment [EAL24]: "preliminary plan concept"?

[2] The application for a zoning permit and the schematic plan shall be filed in four copies.

~~(b) The schematic plan sh~~all~~ould~~ be accompanied by a drawing showing the approximate size and location of the site~~ in the Town and by photographs of representative portions of the site at a size of eight inches by 10 inches.~~, ~~The site plan should be carefully sketched~~drawn to scale and ~~should clearly show~~ indicating the size and shape of the site, the topography at five-foot intervals, other general characteristics of the property, including basic tree coverage, proposed uses of the land, the proposed vehicular circulation system ~~and how it~~and relation~~es~~ to the surrounding street pattern, the proposed system of pedestrian circulation and ~~how~~ its relation~~es~~ to that of surrounding properties, the location of all open space and an indication of its intended character, the ~~general~~ approximate? number and density of dwelling units, if any, indicating the types of dwelling units~~ envisioned~~, location of clusters or complexes of dwelling units by type, the location and general characteristics of nonresidential land uses or facilities, if any, any significant accessory~~ies~~ structures, and other pertinent features of the plan.

(d) The Building ~~Inspector~~ Commissioner shall transmit copies of the schematic plan to the Planning Board and may advise the applicant of a suitable time for submitting the application for special permit to the Board of Appeals.

(3) **Final submission to Building ~~Inspector~~ Commissioner.** Once a special permit has been issued by the Board of Appeals, the application for a zoning permit shall be filed again with the Building ~~Inspector~~ Commissioner accompanied by the ~~definitive~~ final approved plan, if any, approved by the Board of Appeals. In cases where ~~the setbacks of single-family houses~~conditions have been prescribed in the special permit, the Building ~~Inspector~~ Commissioner shall verify that the zoning permit application for each lot is in conformity with the special permit.

D. **Expiration of Building P~~p~~ermit~~s~~.** [Amended 4-6-1978 ATM by Art. 59]

~~(2) **Building permits.**~~ If the ~~use or~~ construction authorized by a building permit is not commenced within the time ~~frame~~ specified in ~~MGL~~G. L. c. 40A, § 6 or, in the case of construction, is not continued through to completion as continuously and expeditiously as is reasonable, ~~then~~ the building permit shall expire, ~~and~~ the Building ~~Inspector~~ Commissioner shall give written notice thereof to the persons affected, and ~~.~~ ~~W~~work shall not proceed until a new building permit has been issued pursuant to a valid zoning permit.in conformance with the Zoning Bylaw in effect at the time of reissue.

E. Certificate of occupancy required.

~~(1) It shall be unlawful to use or occupy or to change occupancy of any structure or premises or part thereof for which a zoning permit is required until a certificate of occupancy or temporary certificate of occupancy has been issued by the Building Inspector~~.

(a) All nonconforming uses and structures shall be issued a certificate of nonconformance as required in § 205-25 which shall describe any conditions of nonconformance affecting or restricting occupancy.

(b) A temporary certificate of occupancy may be issued for a period not exceeding six months during alterations of a presently occupied building or for partial occupancy of a building.

(c) ~~A public record of all certificates of occupancy shall be filed in the office of the Building Inspector.~~

Comment [EAL25]: Unnecessary to restate Public Records Law requirements.

(2) Application procedure. Application for a certificate of occupancy shall be made on standard forms provided by the Town at the time of application for a zoning permit, if any, or prior to occupancy or change of occupancy of any existing premises. Any such application not accompanying the plans required for a zoning permit application shall include three copies of approved plans as described in Subsection C of this section.

Comment [EH26]: ? filing Zoning permit and Occupancy at the same time.

(a) The applicant shall notify the Building ~~Inspector~~ Commissioner of the completion date of any work described in the application for a certificate of occupancy prior to occupancy, and preferably at least five days prior to completion. As soon after completion of work as possible the Building ~~Inspector~~ Commissioner shall perform his final inspection and shall determine whether or not work is in compliance with all regulations and whether the certificate of occupancy has been issued. The Building ~~Inspector~~ Commissioner shall issue no certificate of occupancy unless it has been signed by ~~the Public Safety Commission and~~ all other Town bodies having jurisdiction, indicating that the work has been completed in conformance with all applicable regulations.

(b) In case of noncompliance, the Building ~~Inspector~~ Commissioner shall notify the applicant in writing, stating detailed reasons for noncompliance. No certificate of occupancy shall be issued until compliance with all zoning requirements is accomplished. Failure to obtain a certificate of occupancy shall be deemed a violation of this bylaw, as covered in § 205-15.

~~F. **Right of appeal.** If any request for a zoning permit is disapproved or if any certificate of occupancy is denied, the applicant may appeal the decision of the Building Inspector to the Zoning Board of Appeals.~~

Comment [EAL27]: State law does not require a right of local appeal of a zoning permit.

§ 205-6.Zoning Board of Appeals.

~~A.~~ **Establishment and membership.** ~~There shall be a~~As ~~Zoning Board of Appeals in accordance with MGL c. 40A and as~~ provided by the Charter, the Zoning Board of Appeals~~. Said Board of Appeals~~ shall consist of five members and two ~~alternate~~associate members ~~who shall be residents of the Town~~ and who shall be appointed by the Selectmen for overlapping terms of three years each, or until their successors are appointed. ~~The present Board of Appeals shall continue as existing under the present Zoning Bylaw.~~ Members may be removed for cause by the Selectmen ~~following~~ upon written charges and after a public hearing. Vacancies shall be filled forthwith by appointment by the Selectmen for the unexpired term of any member whose position becomes vacant. [Amended 4-6-1978 ATM by Art. 59]

Comment [EAL28]: This requirement not in the Charter and

Comment [EAL29]: Check G. L. for continuation in office

B. **Public hearing; notices.** ~~Upon receipt of an appeal, t~~The Board shall ~~set a reasonable time for~~ hold a hearing on an appeal, application or petition within 65 days of receipt of notice of such ~~filing~~ appeal pursuant to G. L. c. 40A, §15, and shall give notice thereof in accordance with G. L. c. 40A, §11~~applicable statutory provisions~~. [Amended 4-6-1978 ATM by Art. 59]

Comment [EAL30]: This requirement applies generally.

C. **Stay of proceedings.** An appeal stays all proceedings in furtherance of the action concerned, unless the Building ~~Inspector~~ Commissioner from whom the appeal is taken certifies to the Board that, by reason of facts stated in the certification, a stay would cause imminent peril to life or property. ~~In such a case proceedings shall not be stayed except by a restraining order which may be granted by the Board of Appeals or a court of record upon application by the Building Inspector.any party of interest.~~

Comment [EAL31]: Recommend reconsideration of this provision.

Comment [EH32]: Review with TC

Comment [EAL33]: This is unnecessary to say.

Comment [EH34]: Add section on Variances.

§ 205-7.Associate member of Planning Board. [Added 4-23-1990 ATM by Art. 27]

A. The Planning Board may appoint ~~a~~one ~~Planning Board~~ associate member for the purpose of acting on special permit applications, to~~. The associate member shall~~ be appointed annually, and who ~~. The associate member~~ may be removed for cause by the Planning Board ~~following~~upon ~~-~~written charges and after a public hearing. Any vacancy~~Should the associate member position become vacant, it~~ shall be filled forthwith by the Planning Board for the unexpired term.

Comment [EAL35]: Recommend reconsideration of such a short term. Has this proven workable?

~~B. The Planning Board Chairman may designate the associate member to sit on the Board for purposes~~ of acting on a special permit application in the case of~~:~~

~~(1) The~~ absence~~, of a regular member.~~

~~(2) The~~, ~~-~~inability ~~of a regular member~~ to act ~~.~~or

~~(3) A~~ conflict of interest on the part of a Member of the Planning Board, or in the event of ~~of a regular member.~~

(4) A~~a~~ vacancy on the Board.

§ 205-8.Electronic plan formatting. [Added 4-7-1999 ATM by Art. 29]

A. **Special permit plan requirements.** A~~ll~~ special permit ~~uses and special permit uses subject to environmental design conditions~~ application shall ~~submit~~ be accompanied by as-built plans in electronic format compatible with standards to be established by the Town.

Comment [EAL36]: Since application is not after the fact, what is intended here – proposed post-construction plan?

Comment [EAL37]: Is there a regulation in effect to cite to here?

§ 205-9.Special permits.

A. **Procedures.** [Amended 4-5-1977 ATM by Art. 46; 4-6-1978 ATM by Art. 59; 4-20-1982 ATM by Art. 46; 4-4-1988 ATM by Art. 53; 4-10-1989 ATM by Art. 33]

(1) The special permit granting authority may grant a special permit for certain uses and structures as authorized in ~~Articles III, IV, V and VI of~~ this bylaw, subject to conditions and procedures set forth herein and in other applicable sections of the bylaw.

(2) Following application to the Building ~~Inspector~~ Commissioner for a zoning permit, the applicant shall file a request for a special permit with the Town Clerk. Copies of the application, including the date and time of filing, certified by the Town Clerk, shall be filed forthwith by the applicant with the designated SPGA~~appropriate special permit granting authority~~ and such officer or board whose order or decision is being appealed. Application for a special permit shall be filed with required number of copies indicated on forms provided by the ~~special~~ SPGA ~~permit granting authority~~ and ~~should~~ must include any plans or other documents advised previously by the Building ~~Inspector~~ Commissioner. The SPGA ~~special~~

Comment [EAL38]: This is confused and confusing – the intent is not to have all uses apply for a special permit, certainly.

~~permit granting authority~~ may require additional information as it deems necessary to adequately evaluate the application~~judge the merits of the request~~.

(3) Applications for special permits shall be distributed immediately as prescribed in the Special Permit Granting Authority's regulations to the Planning Board, the Design Review Board, Fire Chief, Board of Health, and the appropriate Village Steering Committee. The reports of the Design Review Board, Board of Health, and Village Steering Committee, which are advisory, shall be submitted to the Planning Board within ~~21~~ 35 days of filing of the applications. The Planning Board shall transmit all such advisory reports to the ~~Board of Appeals~~SPGA within ~~35~~ 45 days of the filing of the applications. [Amended 4-10-2001 ATM by Art. 21]

Comment [EH39]: ? DRB report to Planning Board - ? TC – failure to comply with the following shall not result in cause for appeal.

(4) Within ~~30~~ 35 days of filing of a special permit with the ~~Board of Appeals~~SPGA~~,~~ ~~the Planning Board~~ shall evaluate the proposal with regard to the conditions and standards set forth herein and in the rules of the Board of Appeals and shall submit an advisory report in writing to the Board of Appeals. The Planning Board shall forward, with its report, copies of all recommendations received from other boards, commissions or departments. The Planning Board shall send a copy of its full report and recommendations, including copies of those received by it, to the applicant. The Board of Appeals shall not render a decision without considering the report of the Planning Board unless ~~30~~ 45 days expire without the receipt of such report.

(5) A public hearing shall be held as prescribed in ~~§ 205-6B~~State law.

(6) The special permit granting authority shall make a decision on the special permit within 90 days following a public hearing for which notice has been given. The time limit for public hearings and taking of action by the special permit granting authority may be extended by written agreement between the petitioner and the special permit granting authority, with a copy filed with the Town Clerk. With respect to each special permit, the special permit granting authority shall establish a reasonable period, not to exceed two years, after which, if substantial use or construction permitted by the permit has not been commenced and is not continued, the special permit shall expire. This time period will begin on the date on which the permit is filed with the Town Clerk. The time period shall automatically be extended by the amount of time required to pursue and await the determination of an appeal.

(7) Decision.

(a) The decision of the special permit granting authority shall be distributed ~~as follows~~in accordance with State law and the SPGA regulations:

Comment [EH40]: ? adding other agencies as prescribed by SPGA regulations

~~[1] Copies of its decision together with the detailed reasons therefor shall be filed with the Town Clerk, the Planning Board and the Building Inspector~~ Commissioner~~;~~

~~[2] A certified copy of its decision shall be mailed to the owner and to the applicant if other than the owner;~~

~~[3] A notice of the decision shall be sent to the parties of interest and to persons who requested a notice at the public hearing.~~

~~(b) In addition, copies of the detailed records of the proceedings indicating the vote of each member and setting forth the reasons for said vote shall be filed at the office of the Town~~

~~Clerk within 14 days of said decision and all of the above shall be completed within 90 days after the public hearing date.~~

(8) No special permit shall take effect until notice of approval is recorded with the title of the land in question in the Plymouth County Registry of Deeds or the Plymouth Land Registry District and until a certified copy of said recording is transmitted to the Board of Appeals by the Registry. The responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question. A petitioner who seeks approval because of the special permit granting authority's failure to act, ~~on an appeal, variance, or special permit~~ must notify the Town Clerk in writing, within 14 days from the expiration of said time limit for a decision, of such approval and that notice ~~be~~ has been sent by the petitioner to the parties in interest by mail which shall specify that appeals, if any, shall be made pursuant to ~~MGL~~G. L. c. 40A, § 17 and shall be filed within 20 days after the date of filing the request for approval with the Town Clerk by the petitioner.

B. General Special Permit **Conditions ~~and safeguards~~.**

(1) The Board of Appeals shall not grant any special permit unless ~~necessary~~ all special permit conditions are satisfied, including but not limited to the following: [Amended 5-13-1981 ATM by Art. 36; 4-10-2001 ATM by Art. 21]

(a) The proposed use is appropriate in the zone and specific site in question, more particularly to promote the most appropriate use of land throughout the Town in accordance with a Comprehensive Plan;

(b) Adequate and appropriate facilities will be provided for proper operation of said use;

(c) There will be no hazard to pedestrians or vehicles;

(d) There will be no nuisance or adverse effect upon the neighborhood;

(e) ~~In the case of high technology planned unit developments the requirements of § 205-28 and particularly § 205-28D, Overall planning principles and requirements, are fully satisfied.~~

(2) The Board of Appeals may require conditions and safeguards deemed necessary to protect the neighborhood or the Town, including but not limited to the following:

(a) Requirement of front, side or rear yards greater than the minimum otherwise prescribed by this bylaw;

(b) Requirement of screening of service or parking areas or other areas of the site by walls, fences, planting, or other approved means;

(c) Limitation of signs or other advertising features;

(d) Limitations of number or density of occupants, times or nature of operation, size, scale, or other characteristics of use or facilities;

(e) Regulation of the number, design and location of access drives or circulation facilities;

(f) Requirements of off-street parking, loading or other features beyond the minimum otherwise required by this bylaw;

(g) Requirement that developments be done in stages or that appropriate Town or private services and facilities are available prior to the issuance of a building permit for any part of the proposed development. In the case of high technology planned unit

Comment [EAL41]: §205-28 deleted in toto- ?

Comment [EAL42]: How many, if any, of (a) through (h) have been applied to special permits?

Comment [EH43]: ? Is it necessary to list a through h

developments, these required services shall include, but not be limited to, streets, their traffic-carrying capacity between the site and a limited access highway, water supply and distribution system, solid waste disposal facilities, electric, gas and telephone services, fire and police protection service, sewage disposal facilities, and surface water drainage. [Added 4-2-1974 ATM by Art. 69; amended 5-13-1981 ATM by Art. 36]

Comment [EAL44]: This PUD deleted?

(h) Requirement that adverse effect, if any, to the subterranean water table and to the ecology in the vicinity of the proposed development be minimized to the extent possible. [Added 4-22-1974 ATM by Art. 69]

C. **Environmental design conditions.**

(1) **Intent.** For certain uses prescribed in each zoning district ~~in Articles IV, V and VI~~ and in § 205-27, upon receipt of an application for a special permit subject to the conditions and safeguards set forth in Subsection B of this section, the Board of Appeals may determine that, due to the location, complexity, scale, or characteristics of operation of the proposed use, the application shall be subject to environmental design review for the protection of the health, safety and general welfare of the Town and its inhabitants by minimizing traffic generation, impact upon the landscape and natural ecological processes, visual prominence, and/or other possible negative effect upon the character or environmental integrity of the Town, ~~the Board of Appeals~~SPGA ~~shall not grant any special permit unless~~. The SPGA may refer a special permit application for environmental design review and comment by other Town boards or officers and/or consultants (2) **Administration of environmental design conditions.** [Amended 4-17-1975 ATM by Art. 68; 4-6-1978 ATM by Art. 59; 5-20-06 ATM by Art. 25]

(a) Procedures shall be as prescribed the regulations of the SPGA.

(b) Any ~~of these~~ board~~s~~ or officer~~ials desiring to offer~~ in receipt of a referral ~~advisory~~for advisory comments shall submit a report in writing to the referring SPGA Planning Board ~~within 21 days~~as prescribed in Subsection A. The Planning Board shall submit its advisory report to the Board of Appeals as normally prescribed in Subsection A of this section. The Planning Board shall submit its report and recommendations together with copies of all other reports and recommendations received by it to the Board of Appeals and the applicant as normally prescribed in Subsection A.

Comment [EAL45]: SPGA – ZBA, Pl Bd?

(3) **Information required.**

(a) The plan submitted shall be titled "preliminary plan" and shall be accurately drawn to a scale of one inch equals 20 feet, one inch equals 40 feet or one inch equals 100 feet where practical and appropriate to the size of the proposal.

Comment [EAL46]: Confusing term, in light of meaning under SCL.

(b) There shall be submitted at the same scale as the site plan a professionally surveyed plan of existing site features, including the size of the property, the topography at two-foot contour intervals, general soil types, vegetation cover, including accurate locations of wooded areas and major trees (see § 205-18), as well as roads, structures or other significant features. A locus map shall be included to indicate the location of the property within the Town. For small sites or projects of a relatively simple nature, this information may be provided on the site plan [see Subsection ~~C(~~C (3~~)(~~) (d) below] at the discretion of the Board of Appeals.

(c) In order to allow adequate consideration of the surroundings, a plan of adjacent properties shall be presented at a scale of not less than one inch equals 100 feet or at

the same scale as the proposed site plan if practical. This plan shall show the general characteristics of all lands within 200 feet of the proposed site or such other distance as may be reasonably required, including structures, parking areas, driveways, pedestrian ways, and natural characteristics. Any structures or significant change in topography within 50 feet of the lot line shall be located precisely on said plan.

(d) A site plan and any other drawings necessary shall precisely indicate the area of the site; the proposed uses of the land; the vehicular circulation system, including pavement widths, right-of-way, and how the system relates to the surrounding street pattern; all parking and required screening; the pedestrian circulation system and other pedestrian facilities and how they relate to surrounding pedestrian circulation; all proposed structures, including their exact location, relation to the topography, plan configuration, height, bulk, materials, elevations, and other necessary design information; the number and type of dwelling units, if any, and their density or land use intensity within specific clusters and over the entire site; service access and facilities for all structures or uses, including garbage and trash disposal facilities; the location of all open space, including its intended use, natural trees and foliage to be maintained, specific new planting by size and location, finish contours of the topography and an indication of types of ground cover and other precautions to stabilize all slopes; all site drainage, including natural courses and storm drains; significant site appurtenances such as walls, light poles, recreation areas and facilities; and any other items reasonably prescribed by the Board of Appeals.

(e) In order to evaluate the impact of the proposed development on Town services and the welfare of the community, there shall be submitted an impact statement which describes the impact of the proposed development on all applicable Town services, including but not limited to schools, sewer system, water system, parks, playgrounds, and fire and police protection; the projected generation of traffic on the roads of and in the vicinity of the proposed development; the subterranean water table, including the effect of proposed septic systems; and the ecology of the vicinity of the proposed development. The impact statement shall also indicate the means by which Town or private services required by the proposed development will be provided, such as by private contract, extension of municipal services by a warrant approved at Town Meeting, recorded covenant, or by contract with a homeowners' association. [Added 4-22-1974 ATM by Art. 69]

(f) Where appropriate there shall also be submitted any drawings or documents necessary to establish the feasibility of proposals for water supply, waste and storm water disposition, the feasibility of planting proposals, and all easements or restrictions to be proposed for open space, utilities or other purposes.

(g) In rendering a decision, the ~~Board of Appeals~~SPGA shall title the plan a "definitive plan" and mark the same as approved, approved with conditions, or disapproved.

(4) **General conditions and standards.** All developments subject to environmental design conditions shall be designed and evaluated with consideration for the following general standards as well as specific standards prescribed in other sections or in the rules of the ~~Board of Appeals~~SPGA.

(a) **Natural features conservation.** Disruption of existing site features, including particularly the clearing of trees and undergrowth and the changing of natural topography, shall be kept to an absolute practical minimum. Where tree coverage does not exist or has been removed, new planting may be required. Finish site contours shall

approximate the character of the natural site and surrounding properties. See § 205-18 and sections concerning specific land uses.

(b) **Relation to surroundings.** The location, scale, and characteristics of proposed land uses on the site; the design, siting, and scale of structures; and the circulation and other characteristics of the development shall be in harmony with surrounding properties and land uses.

(c) **Vehicular and pedestrian circulation.** Pedestrian walkways, streets, driveways, and parking areas shall be carefully designed with respect to topography, proper relation to surrounding streets and ~~pedestrianways~~pedestrian ways, number of access points to public streets, provision of a clear and efficient street system on the site, adequate widths of drives and street, separation and attractive parking areas, and proper relationship of circulation elements to structures and other site features.

(d) **Siting of structures.** All buildings and other structures shall be sited to minimize disruption of the topography and to facilitate natural surface drainage and shall be properly designed for the particular site conditions. Strict attention shall be given to proper functional, visual, and spatial relationship of all structures, landscape elements, and paved areas.

(e) **Design of structures.** All structures shall be of high design and construction quality and shall be compatible with the neighborhood and the Town as to design characteristics, including but not limited to scale, massing, proportions, height, roofs, colors, and materials.

(f) **Surface water drainage.** All surface water drained from roofs, streets, parking lots and other site features shall be disposed of in a safe and efficient manner which shall not create problems of water runoff or erosion on the site in question or on other sites. Insofar as possible natural drainage courses, swales properly stabilized with plant materials or paving when necessary, and drainage impounding areas shall be utilized to dispose of water on the site through natural percolation.

(g) **Utilities.** All electrical utility lines, including but not limited to telephone, power, and cable television, shall be placed underground in new developments. The installation shall be done in accordance with the specifications of the utility company concerned and shall be subject to all applicable provisions of its terms and conditions of service as filed with the Department of Public Utilities of the Commonwealth of Massachusetts. The placement of electrical lines and other underground utility lines, such as water, sewerage and gas, shall be coordinated whenever possible and desirable. Placement of utilities, including sanitary sewers and disposal facilities, shall be done so as to minimize disruption of topography and cutting of trees or undergrowth. The proposed method of sanitary sewage disposal shall be shown precisely on plans.

(h) **Signs.** Signs and outdoor advertising features shall be subject to the regulations of § 205-19, Signs. Such signs shall be reviewed as an integral element in the design and planning of all developments and shall be in harmony with the proposed and nearby developments.

(i) **Other site features.** All service areas, loading areas, outdoor storage, utility structures, mechanical equipment, garbage disposal facilities, or other service or utility facilities shall be located or visually screened so as not to create hazards or visual or other nuisances. Light fixtures, walls, fences, benches, recreation facilities and other such

site appurtenances shall be harmoniously designed, constructed, and located in relation to other site features.

(b) The ~~Board of Appeals~~SPGA ~~-~~shall adopt rules to aid in the conduct of its duties which may include additional conditions and safeguards which supplement those prescribed in this section or the above section. ~~Such rules shall be available to the public~~.

(~~6~~5) **Modification of criteria for excellence of design.** The environmental design conditions described herein embody the basic goals of the Zoning Bylaw. They are intended to minimize the possibility of poor design and site planning and therefore to ensure that the character of specific developments is, in fact, consistent with the overall development objectives of the Town and the particular neighborhood. These principles are intended as general tools for use by the Board of Appeals and Planning Board in reviewing projects and are not to be seen as inflexible standards. These guidelines are not to be applied in a manner which will place undue restraints upon the design of a project because of unforeseen conditions peculiar to such project. If a particular development is proposed which departs from the general criteria in basic concept or in detail, the Board of Appeals may waive or modify the general criteria upon a demonstration that the proposed design is of high standards and that any departures from the general criteria will not violate the intent of the Zoning Bylaw or the environmental design conditions.

D. **Adequate facility conditions.** In addition to the preceding standards and design criteria, provisions relative to adequate facilities are as provided for in § 205-67. [Added 4-7-1987 ATM by Art. 69]

§ 205-10.~~District boundary interpretation.~~ Reserved.

~~The Board of Appeals shall have the authority to interpret district boundaries where there is some question in interpretation of the rules in § 205-35 or where boundaries on the ground are unclear or at variance with those on the Official Zoning Maps.~~

§ 205-12.Design Review Board; appearance code.

A. **Establishment and membership.** A Design Review Board is hereby established, consisting ~~. Said Design Review Board shall consist~~ of five members ~~who shall be~~ appointed by the ~~Selectmen in the manner prescribed herein. Members of the Design Review Board shall~~to include, where possible in order of preference, an architect, a landscape architect, a designee of the Planning Board, a lawyer, a realtor, a nominee of any of the local historical or pilgrim societies, or a contractor. ~~. Members shall~~ to serve for three years or until their successors are appointed. ~~, except that of the five members first appointed two shall serve for two years and two shall serve for one year.~~ Members may be removed for cause by the Selectmen following written charges and ~~a properly advertised~~ public hearing. Vacancies shall be filled forthwith by ~~appointment by~~ the Selectmen for the unexpired term of ~~members whose positions become~~ the vacant position.

B. **Organization and proceedings.**

~~(1)~~ The Design Review Board shall elect from among its members a Chairman and Vice Chairman and shall arrange for the services of a Secretary and such other officers or employees as deemed necessary. Each shall serve for a term of one year. The Design Review Board shall adopt such rules and guidelines as are considered necessary to the conduct of its responsibilities ~~which shall be a matter of public record~~. Meetings shall be held at the call of the Chairman or by vote of the Members. ~~and at such other times as the Board may determine~~.

Comment [EH47]: May need better location

Comment [EAL48]: Unneccessary, as required by Public Records Law.

Comment [EAL49]: Unnecessary provision, since G.L. c. 40A, §7 requires the initial determination to be made to by the Building Inspector, with an appeal possible to the ZBA pursuant to §8..

Comment [EAL50]: Compress this text. Before suggesting additional edits, recommend consultation re: to what extent this section continues to function as desired, or should be replaced in full or in part.

Comment [EAL51]: Is this requirement workable?

Comment [EAL52]: Clarify by stating specific source for appointment. .

Comment [EAL53]: Now obsolete.

Comment [EAL54]: Member secretary, or staff person?

Comment [EAL55]: Officer? Employee?

Comment [EAL56]: No other mechanism available.

~~(2) The Board shall keep records of its proceedings showing the vote of each member on every question, of the fact of his absence or failure to vote, and the final decision of the Board. Records shall also be kept of all plans, photographs, and any other drawings or documents pertaining to each case, as well as all examinations, findings, determinations, and any other official action, including all reasons for all decisions and conditions prescribed, and all such items shall be a matter of public record.~~

Comment [EAL57]: Unnecessary, since Open Meeting Law so provides.

C. **Duties and procedures of Design Review Board.** The Design Review Board shall assist the Board of Appeals and Planning Board in reviewing and providing its advisory report on all applications and plans for special permits as prescribed in § 205-9 and in reviewing such other plans and applications as the Planning Board or Board of Appeals may request. ~~Applications for variances and appeals of Building Inspector decisions shall not be the subject of comment by the Board.~~ When reviewing plans~~ for special permits~~, the Design Review Board shall ~~submit a written advisory~~ report to the Planning Board within ~~21~~ 35 days of the filing ~~date of the special permit~~ with the Board of Appeals, which report shall be transmitted to the Board of Appeals by the Planning Board. Guidelines established in Subsection D of this section constitute appropriate review criteria. For uses subject to environmental design conditions, § 205-9C, the Design Review Board shall evaluate the proposal with regard to the conditions prescribed therein and to other ~~appropriate~~ requirements of this bylaw or of the Board of Appeals. The Design Review Board may request meetings with the applicant and may enlist the services of appropriate assistants or consultants. ~~Decisions of the Design Review Board shall be by simple majority. All decisions and reports of the Design Review Board shall be advisory only.~~

Comment [EAL58]: Consider revising this multi-step process.

Comment [EAL59]: Majority vote applies by operation of law when no other quantum established.

(1) In addition to the review of special permits, the Design Review Board is to review all applications and plans filed with the Building ~~Inspector~~ Commissioner which are not the subject of Board of Appeals action prior to issuance of a building permit for the erection or enlargement of any principal building or the construction of any new or remodeled exterior facade. Accessory structures are excluded from this requirement, as well as new or remodeled exterior facades and/or signs in the Downtown/Harbor District. The Design Review Board is to review said applications and plans in accordance with the guidelines established in Subsection D, Appearance code. [Amended 4-8-1992 ATM by Art. 24]

(2) Specifically exempt from this requirement are single- and two-family dwellings, and structures within the Light Industrial Zone which do not front on major roads.

~~(3) It is not a requirement of this bylaw that plans be approved by the Design Review Board.~~

Comment [EAL60]: What is the purpose of this statement ?

(4) The Board shall, subsequent to an advertised public hearing, adopt requirements and procedures for the general submission of materials to the Board for review. Failure by an applicant to submit required information found to be necessary for Board review shall constitute reason for the withholding of a building permit.

D. **Appearance code.** The purpose of this subsection is to establish a checklist of those items that affect the physical aspect of the Town's environment. These criteria are not intended to restrict imagination, innovation, or variety but rather to assist in focusing on design principles which can result in creative solutions that will develop a satisfactory visual appearance within the Town, preserve taxable values, and promote the general purpose of the Zoning Bylaw.

(1) **Relationship of building to site.**

(a) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting and safe vehicular and pedestrian movement.

(b) Parking areas shall be treated with decorative elements, building wall extensions, planting berms, or other innovative means so as to provide suitable screening.

(c) Without restricting the permissible limits of the Zoning Bylaw, the height and scale of each building shall be compatible with the site and existing adjoining buildings.

(d) Newly installed utility services should be underground.

(2) **Relationship of buildings and site to adjoining area.**

(a) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.

(b) Attractive landscape transition to adjoining properties shall be provided.

(c) Harmony in textures, lines, and masses is required. Monotony shall be avoided.

(3) **Landscape and site treatment.** Landscape elements included in ~~**this criteria**~~**these criteria** ???consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.

(a) Where natural or existing topographic patterns contribute to beauty and utility of development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good appearance.

(b) Grades of walks, parking spaces, terraces and other paved areas shall provide an inviting and stable appearance.

(c) Landscape treatment shall be provided to enhance architectural features, strengthen vistas, and provide shade.

(d) Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.

(e) Parking areas and traffic ways shall be enhanced with landscape spaces containing trees or tree groupings.

(f) Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of these.

(g) In areas where general plantings will not prosper, other materials such as fences, walls, and ~~pavings~~paving of wood, brick, stone, gravel, and cobbles shall be used.

(h) Exterior lighting, when used, shall enhance the building design and surrounding landscape. Lighting standards and building fixtures shall be of a design and size comparable with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided, with no spillover to occur on streets and surrounding property.

(4) **Building design.**

(a) Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.

(b) Buildings shall have good scale and be in harmony with permanent neighborhood development.

(c) Materials.

[1] Materials shall be selected for harmony of the building with adjoining buildings.

[2] Materials shall be selected for suitability to the type of buildings and the design in which they are used.

[3] In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.

(d) Building components such as windows, doors, eaves, and parapets shall have good proportions and relationships to one another.

(e) Colors shall be harmonious and shall use only compatible accents.

(f) Mechanical equipment or other utility hardware on the roof, ground, or building shall be screened from public view with materials harmonious with the building, or it shall be so located as not to be visible from any public ways.

(g) Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.

(h) Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways, using materials as stated in criteria for equipment screening.

Monotony of design in single- or multiple-building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple-building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

(5) **Signs.**

(a) Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.

(b) Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.

(c) The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.

§ 205-13. Zoning Amendment~~s~~.

All proposed amendments shall be submitted ~~forthwith~~ to the Board of Selectmen for referral to the Planning Board for public hearing ~~, study~~ and recommendation as provided in G. L. c. 40A, §5.

A. **Public hearing.** Within 65 days of receipt of a proposed bylaw from the Board of Selectmen,~~submission of an amendment request~~, the Planning Board shall hold a public hearing which may extend to multiple ~~one or more public~~ hearing sessions, notice and publication of which shall be ~~thereon properly advertised~~ in accordance with ~~MGL~~G. L. c. 40A, § 5. [Amended 4-6-1978 ATM by Art. 59]

B. **Study and recommendation.** After study of the proposed amendment and within ~~20~~ 21 days of the conclusion of public hearings, the Planning Board shall make a report and recommendations in writing to Town Meeting. Such recommendation shall include, but not be restricted to, the following considerations:

Comment [EAL61]: Note that if 21 days elapses without such report, town meeting may proceed to vote on a proposed amendment in the absence of a planning board report.

(1) The need and justification for the change.

(2) When pertaining to a change in the district classification of any property, the effect of the change on property and surrounding properties and also the general amount of undeveloped land of the proposed classification in that district and in the Town.

(3) Whether such change would further or be in conflict with the purposes of this bylaw and the general planning program of the Town.

§ 205-14.Schedule of fees.

A schedule of fees shall be posted in the office of the Building Commissioner, and no permit or certificate shall be issued or any action taken until any required fees have been paid.

§ 205-15.Complaints; remedies; violations and penalties.

A. **Complaints.** Whenever a violation of this ~~ordinance~~ bylaw is alleged to have occurred, any citizen may file a complaint~~. Such complaint shall be filed~~ in writing with the Building Commissioner and shall state fully the nature of the alleged violation. The Building Commissioner shall ~~properly record the complaint,~~ take such enforcement action as provided ~~herein~~by G. L. c. 40A, §7.

B. **Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, moved, maintained, or used or any land is used, excavated, or developed in violation of this bylaw, then the Building Commissioner may ~~institute injunction~~ take action to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, maintenance, excavation, or use and to restore the premises concerned to its original condition insofar as possible. [Amended 4-6-1978 ATM by Art. 59]

C. **Penalties.** Any person who violates this bylaw shall, upon determination of the Building Commissioner, be fined $300 for each offense. Each day such violation continues shall be considered . . . .~~a separate offense. [Amended 4-10-2002 ATM by Art. 26]~~

§ 205-16.Interpretation.

The ~~provisions of the~~ requirement of this bylaw are in addition to those that may be required by other laws and regulations of the Town of Plymouth, the Commonwealth of Massachusetts or laws of the United States.~~, in their interpretation and application, shall be held to be minimum requirements adopted for the promotion of the public health, safety or general welfare. In case the requirements of this bylaw are at variance with other lawfully adopted rules, regulations, or ordinances~~bylaws~~, the most restrictive or those setting the highest standards shall govern~~.

Comment [EAL62]: Note: the foregoing requirements exceed what is required by Chapter 40A. For that reason, the omission of any listed information will not disqualify the report and recommendations as adequate to meet the requirements of Chapter 40A.

Comment [EAL63]: Suggest substituting the following: Fees for any permit or approval pursuant to this Bylaw shall be set by the Board of Appeals, Planning Board or Building Inspector (Director of Inspections(if so defined in§3 Definitions).

Comment [EH64]: ? TC re State Law

Comment [EAL65]: Substitute or refer to Noncriminal disposition as an alternate means of enforcement.

Comment [EAL66]: This provision not necessary, or other wording may be substituted.