

# TOWN OF SOMERSET PLANNING BOARD

## Rules and Regulations Governing Special Permits for Mixed Use Development

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**RULES AND REGULATIONS  
GOVERNING  
SPECIAL PERMITS FOR MIXED USE DEVELOPMENT**

**SECTION I. GENERAL PROVISIONS**

**A. Purpose and Authority**

The Planning Board of the Town of Somerset (hereinafter "the Board") hereby adopts these Rules and Regulations as the Special Permit Granting Authority (SPGA) for Mixed Use Developments, under the Home Rule Authority of Article 89 of the amendments to the Massachusetts Constitution, section 9.4.3.A of the Zoning By-Laws of the Town of Somerset and M.G.L. Chapter 40A, § 9 of the Massachusetts General Laws.

These Rules and Regulations are adopted for the purpose of establishing uniform procedures and requirements for the granting of Special Permits for certain uses within the Town of Somerset, to notify applicants of the administration and review procedure, and to regulate the uses allowed by the issuance of any such Special Permit.

**B. Adoption and Amendment**

These Rules and Regulations may be adopted and, from time to time, amended by a majority vote of the Board after a Public Hearing duly advertised in a newspaper of general circulation in the Town of Somerset. Notice of said hearing shall appear once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the hearing, and such notice shall be posted in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before such hearing. Amendments, once adopted by the Board, shall be filed in the office of the Town Clerk.

**C. Effective Date**

These Rules and Regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements such as:

Date of adoption:

Date filed with Town Clerk:

**D. Application (Petitioner)**

An application or petition for a Mixed Use Development Special Permit may be brought by a property owner, agent or prospective purchaser who submits certification of property interest and authority to file such an application.

Any development requiring a Mixed Use Development Special Permit from the Planning Board shall comply with the provisions of these Rules and Regulations. If the project requires more than one special permit for which the Planning Board is the SPGA, then the Planning Board shall consider the multiple special permits at the same time and the public hearing notices shall reference all special permits being considered.

#### **E. Pre-Application Conference**

The Planning Board may hold pre-application conferences at any regular or special meeting of the Board. Preliminary plans may be submitted for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of the Zoning By-law and the Rules and Regulations for Special Permit.

#### **F. Fees**

All Mixed Use Development Special Permit applications shall be subject to an administrative and project review fee, pursuant to M. G. L. chapter 44, section 53G, of \$300 plus \$50 per dwelling unit and/or \$100 per 2,500 square feet of commercial use, minimum \$100 for commercial. If there is an increment of less than 2,500 commercial square feet, the fee shall be prorated. This fee shall be filed with an application. The applicant is responsible for the costs of advertising, notification of parties in interest, and recording of the Special Permit and any regulatory or other agreements.

#### **CONSULTANT REVIEW FEE**

When reviewing, analyzing and processing an application for action, the Planning Board may require the assistance of outside consultants according to the size, scale, complexity or potential impacts of a proposed project, or because the Town lacks the necessary expertise to perform the review work related to application for Mixed Use Development Special Permit. The Planning Board can require that the Applicant pay a "review fee" consisting of the reasonable costs initially estimated to be incurred by the Planning Board and actually incurred over the initial estimate for the employment of outside consultants engaged by the Planning Board to assist in the review of an application for a Mixed Use Development Special Permit. The applicant shall be responsible for depositing with the Board an amount sufficient to cover the anticipated expenses for Consultant Review.

Depending on the nature of the application, the Consultant Review Fee (CRF) may be set by the Board's fee schedule or by cost estimate by the consultant and Board. Funds received by the Planning Board pursuant to this section shall be deposited with the Town Treasurer, to be deposited into a special account as enabled by M.G.L. Chapter 44, 53G, referred to herein as the Consultant Review

Fee (CRF) Account. Failure of an applicant to pay a review fee shall be grounds for denial of the application.

Review fees may only be spent for services rendered in connection with the specific application for which they were collected without further appropriation. Accrued interest may also be spent for this purpose. The applicant shall be notified by the Board of all expenditures from this account. At the completion of the review by the Board of an application, any excess amount in the account, including interest, attributable for a specific application, shall be repaid to the applicant or the successor in interest to the applicant. A final report of said account shall be made available to the Applicant or the Applicant's successor in interest within 30 days after the expiration of the applicable appeal period from the filed decision. For the purpose of this regulation, any person or entity claiming to be a successor in interest to an applicant shall provide the Board with documentation establishing such succession in interest.

The Board may engage engineers, planners, lawyers, designers, or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws and regulations and with professional engineering, legal and design practice. Review by the consultant(s) may include, but is not limited to: technical review and analysis of the application; monitoring and periodic inspection of a project or site for compliance with the Board's decision and regulations; inspection of a project during construction or implementation; and review of contracts, agreements or other legal documents or issues.

Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be filed within seven (7) days following notification to the applicant by the Board of the selection of the consultant. The grounds for such an appeal shall be limited to claims that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of any educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

If the plan is approved, the Planning Board may decide that the assistance of outside consultants is warranted to observe and inspect the construction of required infrastructure and/or required improvements that are not within the purview of the Building Inspector or other Town inspectors, due to the size, scale or complexity of the approved plan or because of its impact on the Town. If the Planning Board determines that construction observation/inspection services are required, the applicant shall pay a construction observation/inspection fee prior to

the issuance of a building permit. This fee shall not be a fixed amount but will vary with the costs incurred. This fee shall be the reasonable costs to be incurred to observe and inspect the construction of the proposed improvements including a contingency fee and shall be based on an estimate provided by the consultant.

All consultants shall provide monthly invoices to the Planning Board for approval of services and shall report directly to the Planning Board as to his findings, investigations, scope of work, and actions. The Planning Board Office shall inform the applicant of the need to deposit additional funds if at any time the Town's obligation to its consultant shall exceed the funds held in escrow for the review purposes. Pursuant to the Town's By-law regarding non-payment of local taxes, fees, or other charges, release of approval and building permits shall not be given until the Town has been compensated in full for review for review costs as outlined herein.

Upon final action (filing certificate with the Town Clerk) the Planning Board shall return the balance of funds in escrow to the applicant, but shall retain sufficient funds to cover the unpaid portion of any approved, outstanding invoice until such payment is made, and shall notice the applicant in writing.

## **SECTION II. APPLICATIONS FOR MIXED USE DEVELOPMENT SPECIAL PERMITS.**

### **A. Completion of Application**

Before the Planning Board may act on an application filed pursuant to these Rules and Regulations, the Board shall first determine whether the submitted application is complete and properly submitted. In order for an application to be considered a proper submittal, the provisions of the Application requirements (Section II, B.1), Submission requirements (Section II, C. 1, 2), the Form SP, the contents requirements (Section II, C. 3) and Fee requirements (Section I, F) shall be fulfilled.

If an application is determined not to be a proper submittal, written notice shall be forwarded to the applicant detailing the reasons the Planning Board may be considering the submittal to be an incomplete or improper application. If the applicant fails to correct the situation, by the close of the required public hearing, this may be cause for denial of the application for a special permit.

### **B. Application**

#### **Official Application Form**

The applicant must submit a properly executed FORM SP (Appendix 1), which shall be furnished by the Town Clerk's Office upon request. All information

indicated on the form shall be supplied by the applicant in the manner prescribed (fully and correctly) and must be accompanied by the following:

- a. Abutters List. A list of the names and addresses which shall include the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to abutters within three hundred feet (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list;

Said list shall be presented on a properly executed list of abutters certified by the Board of Assessors. Applicant(s) shall submit envelopes addressed to each abutter along with Certified Mail, return receipt requested slips, to be filled out for each abutter. The prepared certified mailing shall be delivered to the Planning Board Office not less than fifteen (15) days before the date of the hearing for review and mailing. The return address on both the envelopes and green slips shall be:

Somerset Planning Board,  
140 Wood Street  
Somerset, MA 02726

- b. An administrative and project review fee per Section I (F) Fees shall be filed with an application.
- c. One (1) copy of all local, state, and federal approvals, if obtained, prior to site plan approval and any variances obtained prior to site plan approval.
- d. Written permission from the owner of the property to apply for a Mixed Use Development Special Permit if the applicant is not the owner.

### **C. Plans and Other Pertinent Information**

#### **1. General**

For the purpose of furnishing sufficient information upon which to base a decision of the Board, the petitioner shall submit one original plan and ten (10) copies of the project plans to the Planning Board through the Town Clerk. All such plans shall be prepared by a Registered Land Surveyor, or a Professional Engineer, shall be oriented to true north and identified by date and name of the petitioners and contain such other information as the Board may request.

#### **2. Date of Submission**

An application shall be considered submitted on the date it is filed with the Town Clerk. A copy of said application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Planning Board as the SPGA.

### 3. Plan Contents

Plans shall contain the following:

- a. The site plan(s) shall be at a scale of 1" = 40', except for building elevation plans, which shall be at a scale of 1/8" = 1' or 1/4" = 2', drawn on a standard 24" x 36" sheet(s); and shall include plans and profiles of each individual street at a scale of one inch (1") equals forty feet (40') horizontal and one inch (1") equals four feet (4') vertical.
- b. A title, appearing in the lower right-hand corner of the plan, showing the name of the project, if any; the date; scale; the names and addresses of the applicant, and the names of the designer, engineer and surveyor who made the plan; space for the Planning Board endorsement.
- c. A Locus map at a scale of 1" = 1000' which shall show all streets, bodies of water, landscape features, historic sites, habitats for endangered species within the parcel and within two hundred (200) feet of the parcel and all buildings within the parcel and within two hundred (200) feet of the parcel;
- d. The north arrow, benchmark, and boundaries of the project shall be shown;
- e. Location of all permanent monuments properly identified as to whether existing or proposed.
- f. Zoning District(s) boundary lines of the locus and all land within two hundred feet (200') of the parcel, including overlay districts and other districts not specifically mentioned; other districts such as: Floodplain, Water Resource Protection, Watershed and Zoning District boundary lines. Other features including; slope, geological features, unique vegetation, existing; (six (6) trunk diameter or greater measured four (4) feet above grade) trees, stone walls, easements, fencing, cemeteries, buildings (including historic background if any), septic systems, rock outcroppings, vistas and other natural features.
- g. The location of all wetlands and swamps based on a vegetative analysis as prescribed by MGL, Ch 131, s. 40 shall be flagged and depicted on the plan;
- h. On-site and abutting lot lines; names of all abutters as they appear in the most recent tax list. All contiguous property owned by the applicant shall be included;
- i. The location of existing or proposed building(s) on the lot(s) and off-street parking areas as required by the Somerset Zoning By-laws shall

be shown with the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings; existing and proposed location(s) of loading areas, driveways, access and egress points;

- j. The location and name of all existing and proposed streets, ways, lots, lot numbers or other designation of each lot, easements or restrictions applying to the land and their purposes, whether or not within the project boundaries including any decision on appeal or any variances or exceptions made by the Zoning Board of Appeals applicable to the land or any building thereon;
- k. Existing and proposed topography contour lines at two (2) foot intervals on the parcel to be developed and within fifty (50)' thereof. Information and location of benchmark(s) used shall also be provided;
- l. Suitable space to record the action of the Planning Board and the signatures of the five (5) members of the Planning Board;
- m. Information on the location, size, type and number of existing and proposed landscape features. A Landscaping Plan shall be provided. Said plan may be required to be prepared, stamped and signed by a Landscape Architect registered in the Commonwealth of Massachusetts;
- n. Information on location, size and capacity of existing and proposed on-site and abutting utilities (water, sewer, drainage, electrical, cable, etc.);
- o. A Zoning Chart with the minimum area requirements per the Somerset Zoning By-laws;
- p. Elevation and façade treatment plans of all proposed buildings. A listing of materials to be used;
- q. Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, access within the property and percent open space of the site;
- r. A Development Impact Statement will be required in accordance with Section IV.
- s. Plan(s) must be prepared, signed and stamped by a Professional Engineer and a Professional Land Surveyor both of whom must be registered in the Commonwealth of Massachusetts. The land surveyor shall perform an instrument boundary survey and who shall certify the

accuracy of the locations of the building, setbacks and all other required dimensions, elevations and measurements and shall be signed under the penalties of perjury;

- t. The applicant shall submit information on existing and proposed on-site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse and recycling containers and location and capacity of septic systems and estimated amounts of water consumption and sewer discharge, including: all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding. An erosion control plan showing method(s) and location(s) to be used shall also be submitted;
- u. Existing and proposed signs; noting height, size, location and manner of lighting (applicant is encouraged to include photograph(s) and /or sketch(s));
- v. A lighting plan showing the parcel to be developed and within fifty (50) feet thereof. The plan shall include the following: location of all existing and proposed exterior light(s), including building, grounds, and parking lot light(s); noting height, photometric foot-candle readings on the ground to twenty (20) feet onto abutting properties and data on the types of fixtures to be used;
- w. The application shall also furnish a narrative summary of the vital statistics of the project, such as but not limited to the acreage, the proposed uses within the project, number of dwelling units, square feet of commercial use, etc.;
- x. Any additional information, which the Board may reasonably require. The Board may review the application plan for completeness and correctness.

### **SECTION III. PERFORMANCE STANDARDS AND DEVELOPMENT GUIDELINES**

#### **A. Performance Standards**

No use shall be permitted that causes or results in dissemination of dust, smoke, gas or fumes odor, noise, vibration or excessive light under standards set forth in the performance criteria in these Rules and Regulations. Any other performance standards of the town shall apply to the Mixed Use Development in addition to these.

##### **1. Access and Traffic Impacts**

- a. Traffic and safety impacts to the existing and proposed roads shall be minimized.

- b. Access shall be provided to the extent feasible through an existing side street or a shared driveway; curb cuts shall be limited.
- c. Pedestrian and vehicular traffic shall be separated; walkways shall be provided for access to adjacent properties and between businesses.

2. Noise

- a. Residential buildings to be constructed or rehabilitated shall be designed to filter out noise through construction employing, but not limited to, such techniques as applying soundproofing material.
- b. Residential units shall be constructed so that interior noise levels do not exceed an Ldn of 45 dB in any habitable room.
- c. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line of the sound source:

District	7AM – 10PM	10PM – 7AM
General Business	65	50
Commercial & Industrial	70	55
Multi-Unit & Residential	55	40

Source Pressure Level Limits Measured in dB (A's)

- i. Sound pressure level shall be measured at all major lot lines, at a height of at least four feet (4)) above the ground surface. Noise shall be measured with a sound level meter meeting the standards of the American Standards Institute, ANSI SI.4-1961 "American Standard Specification for General Purpose Sound Level Meters." The instrument shall be set to the A-weighted response scale. Measurements shall be conducted in accordance with ANSI SI.2-1962 "American Standard Meter for the Physical Measurement of Sound".
  - ii. Sound levels specified shall not be exceeded for more than 15 minutes in any one-day, except for temporary construction or maintenance work, agricultural activity, church bells, emergency warning devices, parades, or other special circumstances.
- d. No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.
  - e. Commercial uses shall be designed and operated, and hours of operation limited where appropriate, so that neighboring residents are not exposed to offensive noise, especially from traffic or late-night activity. No amplified music shall be audible to neighboring residents.
  - f. Common walls between residential and non-residential uses shall be constructed to minimize the transmission of noise and vibration.

3. Vibration, Smoke, Heat, Glare, and Odor:
  - a. Vibration shall not be discernible to any human's sense of feeling for three minutes in any one hour for a total of 15 minutes in any one-day, or producing an acceleration of more than 0.1 G.
  - b. Smoke shall not be visible beyond a shade darker than No. 1 on the Ringleman Smoke Chart. Heat and glare shall not be discernible from the outside of any structure.
  - c. Odor, dust, and fumes shall be effectively confined to the premises or so disposed as to avoid air pollution.
  
4. Lighting:
  - a. All outdoor lighting shall be designed so as not to adversely impact surrounding uses, while also providing a sufficient level of illumination for access and security purposes. Such lighting shall not blink, flash, oscillate or be of unusually high intensity of brightness.
  - b. Parking areas shall be illuminated to provide appropriate visibility and security during hours of darkness.
  - c. Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries, and shall be directed toward the object to be illuminated. Light shall be directed away from residences.
  
5. Storage:
  - a. All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire underwriters and shall be screened from view from public ways and abutting properties.
  - b. Storage facilities shall be located no closer than 10 feet from the property line.
  
6. Waste Disposal:
  - a. Waste disposal shall follow State Board of Health regulations.
  - b. Storage of waste and waste facilities shall be screened from view from public ways and neighboring properties.
  - c. Appropriate provisions shall be made for the disposal of trash, which may include, but shall not be limited to, the provision of trash compactors within the building or on site, as well as a submission of a signed annual contract for rubbish removal.
  
7. Loading/Unloading

The SPGA may require that operations, including loading and unloading shall be limited to weekdays between the hours of 8 A.M. and 7 P.M. only.

8. Walkways

- a. For public convenience a pedestrian and/or bicycle way shall connect various uses and otherwise provide appropriate circulation or continuity to an existing pedestrian or bicycle circulation system. These uses include, but are not limited to residential, parking, transit, bicycling, industrial, recreation, and commercial.
- b. Walkways must conform to requirements of the American with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB).

9. Vehicular Access, Parking and Loading

See Section 6.7 Off-Street Parking Requirements and Loading Requirements for the required parking and loading spaces. To promote parking areas that are subordinated in relation to buildings, landscaping, and pedestrian access, parking is encouraged to be located to the side or rear of building and not located in the planting strip adjacent to the sidewalk or within the front setback of any lot.

**B. Development Design Guidelines**

These guidelines are intended to provide a framework within which a variety of options may be designed and proposed and are intended to guide development in such a manner so as to result in a more cohesive physical environment and a higher aesthetic quality.

New construction design shall follow the typical New England character. Buildings or structures that are listed or eligible for inclusion on the National Register of Historic Places and/or the Massachusetts Register of Historic Places or within a local historic district as established by M.G.L. Chapter 40C, shall be converted, constructed, reconstructed, restored or altered to maintain or promote the status of the building or structure on, or eligibility for inclusion on the State or National Register of Historic Places.

1. Lighting.

Goal: Provide safe and attractive illumination of the mixed-use development without creating excessive light impacts by minimizing the glare from headlights and lighting intrusion and light overspill into the night sky.

- a. Pedestrian-Scale Lighting Guidelines.  
*Objective:* To provide lighting at a scale and intensity that creates a comfortable, attractive and safe evening environment for pedestrians as well as vehicles.
  - i. Lighting should be designed to light the sidewalk area and buildings, not the street or the sky or adjacent residential properties.
  - ii. For pedestrian walkways and plazas, lights in bollards (3'-4' high posts) should be considered if appropriate.
  
- b. Lighting style guidelines.  
*Objective:* To select a style of fixtures that is compatible and complementary to the surrounding architectural style and desired character.
  - i. Choose lighting fixtures that complement and enhance the surrounding streetscape.
  - ii. Consider installing light poles with brackets for banners or hanging baskets.
  
- c. Lighting Intensity.  
*Objective:* To provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties. (see Section 9.4.8.E)
  - i. Lighting should not cast glare onto streets, public ways, or adjacent properties. Lighting crossing property lines should not exceed ambient levels.
  - ii. Lighting should provide an even illuminating level. Seek to maintain balanced light levels on-site and between adjacent properties.
  - iii. In order to minimize glare and excess brightness consider fixture design, mounting heights and the elevation of potential viewers.
  - iv. White spectrum lighting is encouraged. Sodium light sources should be avoided. Fluorescent sources should be avoided except for "PL" lamp types. Colored lighting is strongly discouraged.
  - v. Signage should be illuminated by shaded gooseneck lamps.
  
- d. Parking Lot Illumination.  
*Objective:* To provide safe levels of parking lot illumination using fixtures of a high design quality and pedestrian scale.
  - i. Lighting fixtures should not exceed 15 feet in height in smaller parking lots (fewer than 40 spaces), along pedestrian paths, and at building entrances. Elsewhere, fixtures should not exceed 24 feet in height.
  - ii. If taller light poles are provided in the parking lot, more pedestrian-oriented fixtures should be placed along paths connecting the lot to sidewalks and buildings.

- iii. Select lower mounting heights (below the tree canopy) rather than high mounted fixtures which can create shadows or dark spots. Also when poles are lower than or at the same height as adjacent trees, the visual impact is much better than when the light poles are taller than the trees.
- iv. Staggering light poses in parking areas, rather than aligning the poles, allows for a more uniform distribution of illumination with fewer fixtures.

## 2. Signs.

Goal: To encourage signage that enhances the physical appearance of the mixed-use development and avoids clutter, while providing necessary information.

- a. Signs in a Mixed-Use Development shall be permitted as follows:
  - i. Signs associated with residential uses shall conform to Zoning By-law section 6.5.3 Signs in Residential Districts, subject to the other provisions herein.
  - ii. Signs for commercial uses shall conform to Zoning By-law section 6.5.4 Signs in Business and Industrial Districts, subject to the other provisions herein.
  - iii. Mixed-Use Developments are subject to the provisions of Zoning By-law section 6.5.12 Prohibited Signs.
- b. Sign Illumination is permitted as follows:
  - i. Residential signs shall be illuminated per Zoning By-law section 6.5.3.8
  - ii. Illumination shall conform to Zoning By-law section 6.5.7.
- c. Additional guidelines:
  - i. When more than one sign is provided, their designs should be coordinated in terms of graphic style, color and materials.
  - ii. Signs should be interesting, creative and unique. The design of signs should try to incorporate their message in artistic ways.
  - iii. Signs are encouraged to be artistic, expressing their message in their design. Signs should be very graphic, expressive and individual.
  - iv. Signs should convey the product and/or service offered by the business in a unique, bold and graphic manner.
  - v. Signs constructed of natural materials such as metal or wood are preferred.
  - vi. Wall signs should be designed to fit within the architectural features of the building façade, such as cornices, horizontal trim, storefront bays, etc. A wall sign should not cover architectural features of the building.

- vii. Wall signage for businesses in multi-tenant buildings should be consistent in scale and position, though not necessarily identical in color and design. Creating a sign band above the ground floor can establish a framework within which individual business signs can exhibit imagination and variety.
- viii. Where a building's façade consists of multiple bays, the design and placement of wall signs should reinforce the rhythm of the façade.
- ix. Projecting signs oriented toward pedestrians are strongly encouraged.
- x. Non-verbal devices as projecting signs are effective means to communicate with individualism; for example, eyeglasses for an optometrist or a teacup for a tea shop.
- xi. To avoid clutter, only one free-standing sign should be placed on a single lot. A free-standing directory sign should be used instead of multiple free-standing signs for individual businesses.
- xii. Free-standing signs should be creative and distinctive. Using graphic images that are representative of the business can be effective, but national trademarks and logos are inappropriate for signs in a mixed-use development.
- xiii. Free-standing signs should have the minimum amount of wording needed to identify the business or building. Signs with movable or changeable text are not appropriate.
- xiv. Free-standing signs should be illuminated only by spot lighting directed downwards and so as not to shine directly on pedestrians or motorists.

### 3. Open Space and Landscaping Guidelines.

Goal: Integrate meaningful open space into all developments and parking areas.

#### a. Open Space Amount and Location.

*Objective:* To enhance the mixed use development's appearance and environment and the pedestrian's experience by incorporating significant amounts of landscaped pervious surface and plantings.

- i. The landscaped area shall be a minimum of 25% of the lot per Zoning By-law section 9.4.6.C.1.
- ii. Any street frontage of a mixed-use development shall be planted with one shade tree for every thirty feet of side frontage, except that the Planning Board may allow the substitution of other landscaping of a suitable nature. Solid shade trees or landscaping shall be located in a strip five feet wide along the frontage of the lot. (See Zoning By-law Section 6.10. 2.b)
- iii. Additional Guidelines:
  - Landscaping should be provided along and against all buildings. The majority of this landscaping should be in-ground. Container planting is acceptable when used to accentuate architectural features or enhance pedestrian areas.

- Landscaping on sites at street corners should have special features.
  - The use of imaginative landscaping throughout the mixed-use development is encouraged through landscaped strips, flower boxes, planters and hanging baskets.
  - Cleaning up and landscaping and providing access to park areas in adjacent areas adds to the attractiveness of the center.
- b. Open Space Design guidelines.
- Objective:* To ensure that landscaped areas contribute to the pedestrian experience over the long term and on a year-round basis.
- i. Plant materials should be hardy and resilient to harsh weather and high traffic volumes.
  - ii. Where possible, incorporate some evergreen plants for year-round greenery.
  - iii. Proper maintenance of plants is required. This includes timely replacement of dead or deteriorating plants.
  - iv. Commissioning a piece of environmental sculpture or fountain or other such public art combined with landscaping can contribute to the visual quality and thus attractiveness of the area.
- c. Parking Lot Landscaping Guidelines.
- Objective:* To minimize visual intrusion by controlling the visibility of parking, storage, HVAC or other outdoor service areas viewed from public ways or premises residentially used or zoned (see Zoning By-law Section 9.4.8) by enhancing the aesthetics and environmental quality of off-street parking facilities, which minimizes their negative impacts on surrounding properties.
- i. Parking areas shall be screened from adjacent residential uses (see Zoning By-law Section 6.10.2.a), streets, and walkways using trees and shrubs adapted to the region, of specimen quality conforming to the American Standard for Nursery Stock, American Standards Institute, Inc., 230 Southern Building, Washington, DC 20005, and shall be planted according to accepted horticultural standards. Berms may be used for screening along the street in conjunction with plant materials.
  - ii. Additional Guidelines:
    - Consider providing bike racks
    - Landscaping should be provided along pedestrian pathways linking parking lots to building entrances or sidewalks.
    - The landscaped perimeter area should be at least ten feet wide.
    - Landscaping should be provided for interior vehicular use areas to provide visual and climatic relief from broad expanses

of pavement and to channelize and define logical areas for pedestrian and vehicular traffic.

- The interior parking area should be landscaped with sufficient shade trees to provide 50% shade within fifteen (15) years of installation.
- The use of porous pavement and/or perforated brick or block should be used to the extent feasible to increase on-site water retention for plant material, groundwater supplies, and to reduce problems associated with runoff.
- Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six (6) months from the time of project completion.

d. Screening of Utilities Guidelines.

*Objective:* To enhance the appearance of buildings and sites by screening service and utility areas from public view.

- i. All service, loading and trash collection areas should be screened from public view with architectural treatments or dense landscaping.
- ii. Clustering trash containers to serve several stores can result in a more attractive and less cluttered appearance.
- iii. Appropriate screening methods include enclosures made of wood or masonry, and plantings.
- iv. Using trellises to add to the screening of service and utility areas can be effective.

4. Maintenance of landscaping and screening.

- a. The property owner shall maintain all landscaping and screening.
- b. Landscaping and screening plant materials shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic.
  - i. Shrubs or trees that die shall be replaced within one growing season.
  - ii. If the property owner fails to do so, the town reserves the right to maintain the landscaping and screening after notifying the owners, agents, renters, or lessees by certified mail at their last known address or at the subject property address, that it shall be removed or trimmed within seven days of the notice by the Building Inspector/Zoning Enforcement Officer.
  - iii. The town shall assess the owners, agents, renters, or lessees for the cost of trimming or removal plus an additional amount of up to 20% of the charges for administrative costs, to the owner and to the lessee, agent, occupant, or other person in possession and control of the property.

5. Circulation and Parking.

Goal: Maximize pedestrian and vehicular safety both on the site and egressing from it (Zoning By-law Section 9.4.8)

a. Parking Lot Location:

*Objective:* To locate parking areas away from the street in order to maintain a continuous and active pedestrian streetfront and minimize interruptions to pedestrian flow.

- i. Parking lots should be located behind or besides the principal building to keep shops in the pedestrian flow and make window shopping possible.
- ii. Do not locate parking lots on a street corner. This breaks up the street edge and creates a large gap in the pedestrian experience.

b. Pedestrian Connections in Parking Lots:

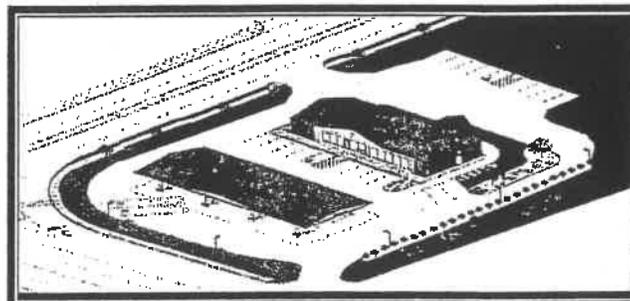
*Objective:* To provide for safe and attractive pathways for walking between parking spaces, businesses and sidewalks.

- i. Provide clearly defined pedestrian connections between parking lots and building entrances.
- ii. Pedestrian connections should be at least 5 feet wide.
- iii. Where possible, provide sidewalks at the back of buildings and connect these to pedestrian paths that transverse the parking lot.

c. Access Drives:

*Objective:* To balance safe and convenient vehicular access with maintenance of a high-quality pedestrian environment, by limiting the number and width of access drives to the extent possible. (See Zoning By-law Sections 6.7.2 and 9.4.8.B)

- i. No open parking or loading space shall be located less than five feet from any lot line. (Zoning By-law Section 6.7.2)
- ii. Each lot may have one access driveway through its frontage. (Zoning By-law Section 6.10.2.c)
- iii. The maximum width of access drives shall be 35 feet. (Zoning By-law Section 6.10.2.c)
- iv. Additional guidelines:
  - Access points should be located away from intersection.



Note restrictive median along roadway to the upper left-hand side.

- Sharing driveways among adjacent developments is encouraged.
- The sidewalk paving pattern should carry across the driveway.

6. Appearance/Architectural Design.

Goal: To ensure that buildings are attractive, varied, interesting and do not dominate the streetscape or the pedestrian experience, as well as to minimize unreasonable departure from the scale of buildings in the vicinity, as viewed from public ways and places (Zoning By-law Section 9.4.9.H)

a. Building Height (see Zoning By-law Section 9.4.6.B)

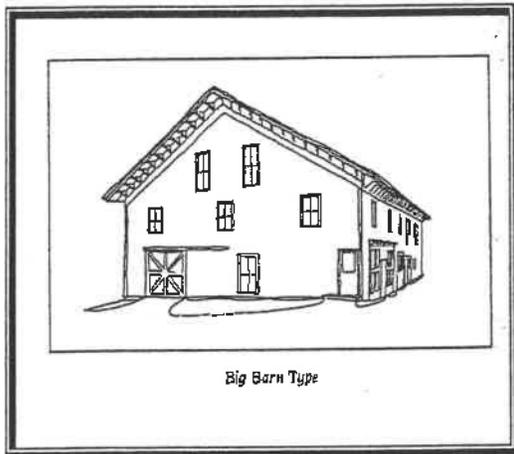
*Objective:* To promote one and one-half story to three-story buildings in Mixed-Use Developments in order to accommodate increased floor area, encourage a mix of uses, and strengthen the sense of enclosure.

- i. Minimum building height shall be 1.5 stories (18 feet)
- ii. Maximum building height shall be 3 stories (35 feet)

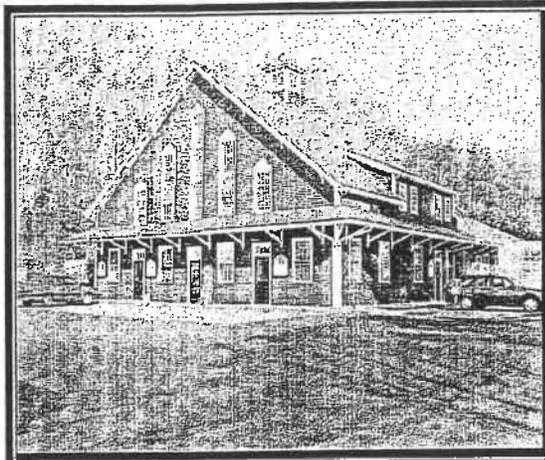
b. Building Mass

*Objective:* To reduce the apparent bulk of large buildings so as to emphasize pedestrian scale.

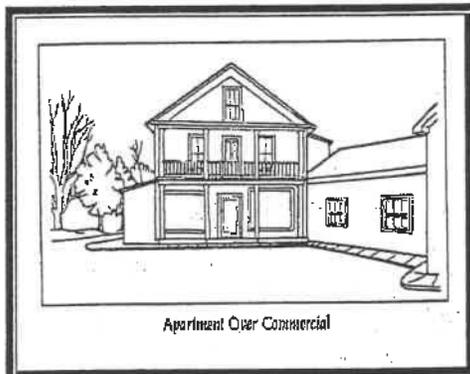
- i. To reduce a building's perceived mass, divide it into smaller scale horizontal or vertical components.
- ii. Treating the "bottom", "middle" and "top" zones of a building differently enhances the pedestrian experience.
- iii. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony.
- iv. Buildings should have a distinct "base" at the ground level which can be defined through the use of special materials such as stone, masonry or decorative concrete.
- v. The upper zone of the building should be treated with a distinct outline with elements such as a parapet, cornice or other projecting element.
- vi. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation, and separation between buildings.



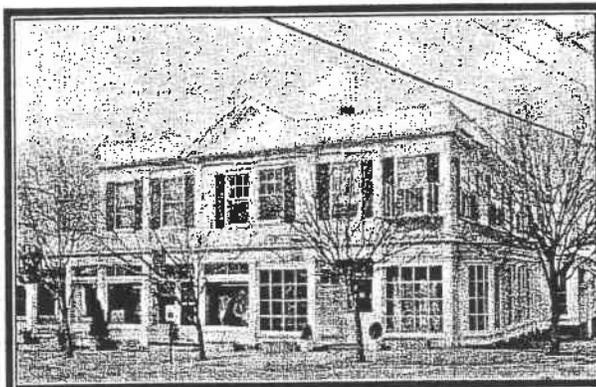
Big Barn Type



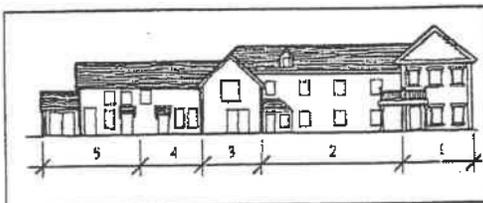
Commercial Buildings could be design to resemble large barns.



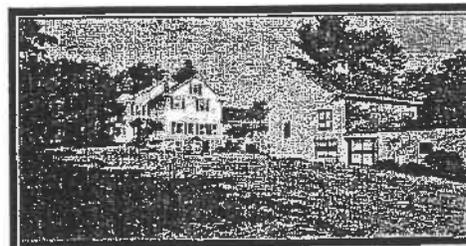
Apartment Over Commercial



Commercial Buildings could be design to allow apartments or office on the second story.



Extended Farm House

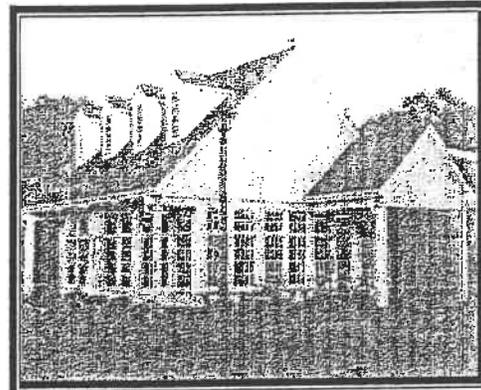


Commercial /office buildings could be designed as extended farmhouses.

c. Building Width.

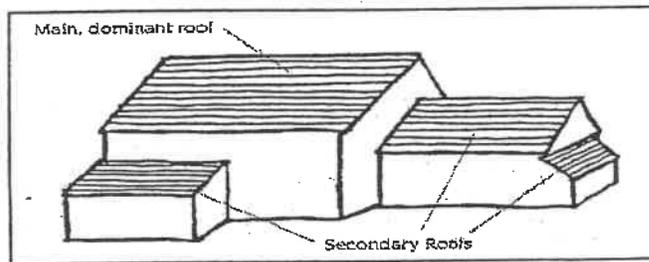
*Objective:* To reinforce a small-scale character by breaking up long facades.

- i. A building more than 45 feet in width should be divided into increments no more than 45 feet wide through articulation of the façade. This can be achieved in a number of ways including:
  - Break in the materials used

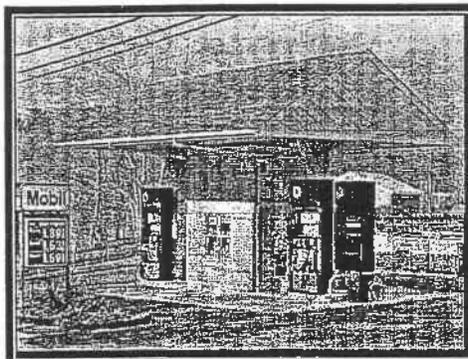


Appropriate exterior materials, proportion and scale

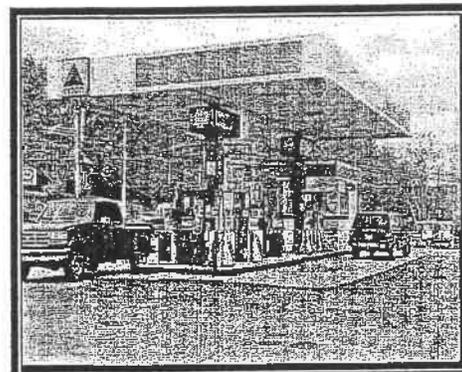
- Window bays
- Separate entrances and treatment of entries
- Variation in roof lines: in larger buildings more complex roofs are encouraged, however, the secondary roofs should be smaller and lower than the main roof line.



*Shed & Gable Additions to Gable-Roofed Buildings*

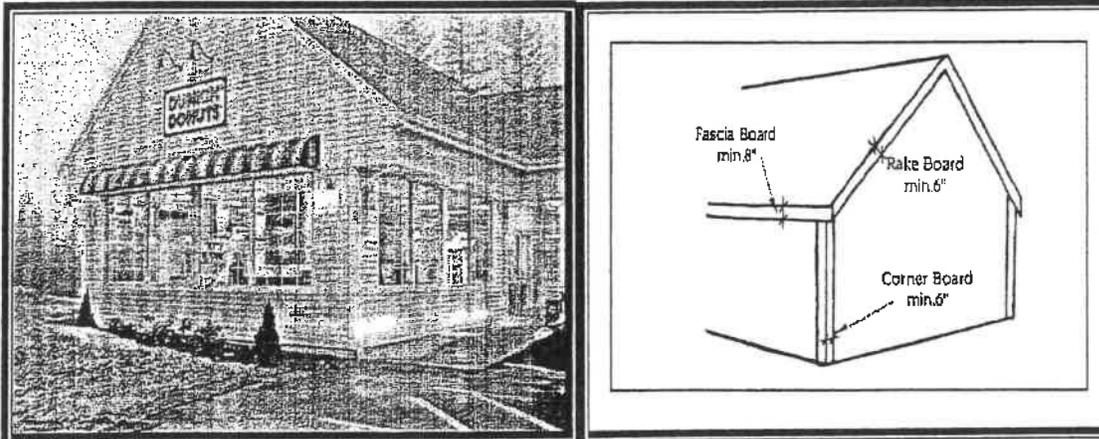


Appropriate roof pitch



Inappropriate roof

- Variation in building setbacks
- Consider using awnings, signage and color to vary the façade and emphasize architectural features.



Appropriate Architectural details, muntins and awnings

7. Facades and Storefronts.

**Goal:** To provide visual interest, a sense of vitality and connection to insides of buildings, and to ensure that walking past buildings is a pleasant experience by minimizing unreasonable departure from the character and materials of buildings as viewed from public ways and places (Zoning By-law Section 9.4.9.H).

a. **Building Materials.**

**Objective:** To promote high quality design and construction through the use of long-lasting and traditional building materials.

- i. The use of materials used in traditional New England architecture, including brick, wood clapboard, and shingles is encouraged for the front facades of buildings.
- ii. The main features of the architectural treatment of the building front facades, including the materials used, should be continued around all sides of the building that are visible from a street or pedestrian plaza.

b. **Transparency.**

**Objective:** To promote maximum transparency of storefronts in order to attract patrons, encourage window shopping, and thereby increase pedestrian activity.

- i. At least 30% of any ground floor commercial building façade that is visible from the primary frontage should be comprised of windows with clear glass allowing views into the interior.
- ii. At least 15% of any ground floor façade that is visible from and fronting on any other street, not the primary frontage, should be comprised of windows with clear glass allowing views into the interior.
- iii. Reflective glass or glass tinted more than 40% is discouraged.
- iv. Windows on upper stories should be vertically-oriented and provide privacy.

c. Ground Level Detail.

*Objective:* To provide visual interest to passersby and to orient buildings to pedestrians by introducing elements at the ground floor which relate to those walking past.

- i. Facades of commercial and mixed-use buildings should include some combination of the following:
  - Projecting sills.
  - Projecting signs
  - Canopies
  - Plinths
  - Planters
  - Tile work
  - Medallions
  - Artwork
- ii. A canopy or awning should be provided, especially over the principal entry to a store or restaurant.
- iii. Canopies and awnings should project at least 5 feet from the building, and should never project less than 3 feet.
- iv. Awnings should be constructed of durable, protective and water repellent material (but plastic awnings are not appropriate). Illuminating awnings is not allowed.
- v. Retractable or operable awnings are encouraged.
- vi. Awnings should not extend across multiple storefronts and/or multiple buildings. Long expanses of awnings should be broken into segments that reflect the door or window openings below them.

d. Rear Entrances.

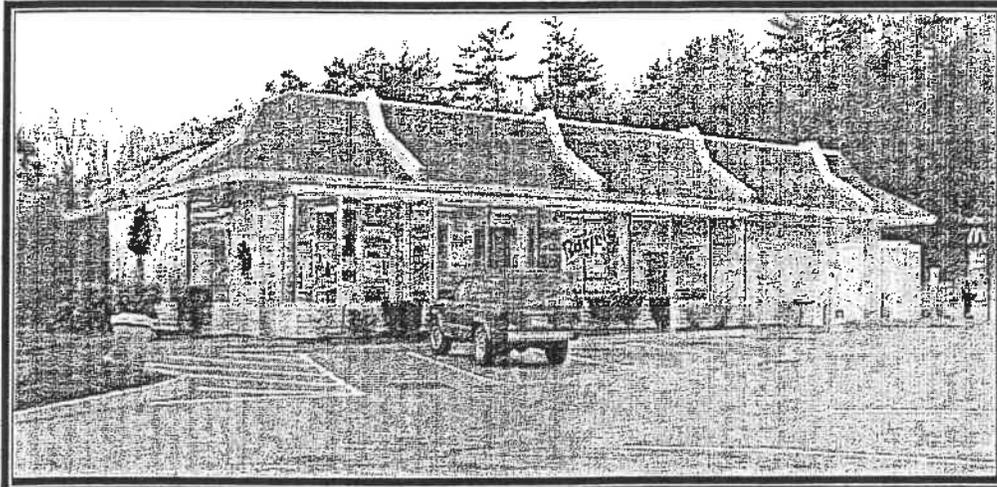
*Objective:* To enhance the pedestrian environment in parking areas as well as on the sidewalk frontage.

- i. All service, loading and trash collection areas shall be screened by a combination of decorative walls of masonry, wood and planting. (See Zoning By-law sections 9.4.8 and 9.4.9 D)
- ii. Additional Guidelines:
  - 1 Rear entrances should be clean, free of obstruction and well maintained.
  - 2 Utility and service enclosures should be designed to be compatible with the architecture of the adjacent building.
  - 3 Create inviting rear entrances by including: signage, canopies or awnings, paved paths, display windows.

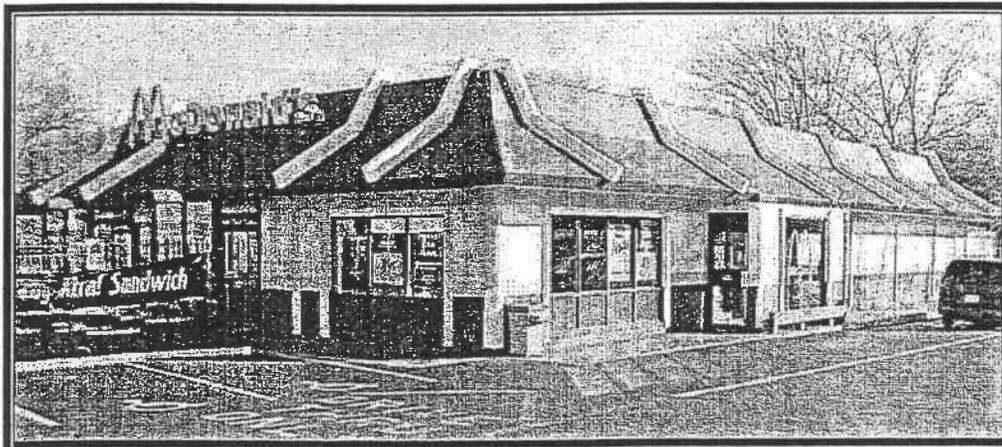
e. Chains and Franchises.

*Objective:* To ensure that chains and franchise stores conform to the character of the Mixed Use Development rather than importing distinguishing styles, colors or signage.

- i. Chains and franchise stores should not impose their standard architecture, signage and colors. Instead, they should adapt these to fit in with Somerset's character and guidelines.

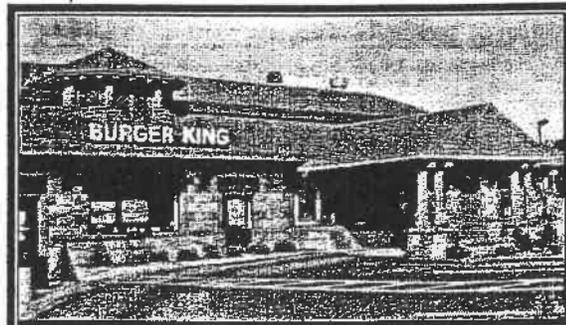


Appropriate Building Colors



Inappropriate Building Colors

- ii. When a drive-through is proposed on a property with an historic building, the architectural character defining the exterior elements of the historic building shall be preserved. Signage should be compatible with the historic character of the building.



8. Erosion and Sedimentation.

1. General Requirements

- a. All applications for a Mixed Use Development Special Permit shall include an erosion and sedimentation analysis unless a waiver is granted. Approval of a special permit application may be denied until the existing average annual erosion and the expected average annual erosion during and after construction is determined. The developer shall present an erosion and sediment control plan a plan that demonstrates compliance with the Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Standards, including the preparation of a Storm Water Management Plan and a Stormwater Pollution Prevention Plan (SWPP).

In addition, projects that disturb one acre of land or more are required to obtain coverage under the NPDES Construction General Permit issued by EPA and prepare a Stormwater Pollution Plan (SWPP)

- b. Procedure. (May be modified by the Planning Board to suit problems and needs of a particular special permit application.)
- i. Using the methods described in "The Massachusetts Erosion and Sedimentation Control Guidelines for Urban and Suburban Areas", (Massachusetts Executive Office of Environmental Affairs) the developer shall use the Universal Soil Loss Equation to estimate the present annual soil loss from the site, as well as the estimated annual soil loss from the site while under construction and after construction is completed.
- ii. The developer shall submit as part of the special permit application, a soil erosion and sedimentation control plan, if the board determines that erosion due to development activity will be excessive or significant to wetlands, streams, ponds, or other water bodies. This plan shall consist of a drawing certified by a registered civil engineer, identifying appropriate control measures and their location. Also, the drawing shall show all natural drainage ways and water bodies in and adjacent to the proposed subdivision. The drawing shall be at a scale of one inch (1") equals forty feet (40'), and show the existing and proposed topography at two-foot (2') contour intervals. All Mixed Use Development Special Permit applications for projects located in the Watershed Protection District shall be required to include a soil erosion and sedimentation control plan.
- iii. If erosion and sedimentation control measures are required, they shall be adequate to retain all erosion within the boundaries of the site and away from nearby water bodies, both during and after

construction. A timetable outlining anticipated construction activity and associated erosion and sedimentation control measures shall be submitted to the Planning Board. All work shall be subject to periodic inspection by the Planning Board or the Board's agents.

- c. Regulations of the MassDEP for Surface Water Supplies. All special permit applications in the Watershed Protection District shall conform to the regulations of the MassDEP for surface water supplies (310 CMR Section 22.20B Surface Water Supply Protection). (See Appendix B)

## 9. Drainage

Design Standards. Stormwater runoff management shall be designed according to the Massachusetts Stormwater Handbook (Massachusetts Department of Environmental Protection, MassDEP).

- a. A drainage plan shall be prepared by a Registered Professional Engineer showing existing and proposed streets, lots, two (2') foot contours, and other pertinent data; the drainage limits and acreage of the area tributary to each stormwater inlet and culvert; location and type of inlets proposed; and location, size, length, invert elevations, and slope of proposed drains and culverts, structural details of inlets, manholes, pipe, headwalls, and all other drainage structures required to complete the plan shall be attached. (The grading plan may be used provided that it includes all the information required here.)
- b. Post-development peak discharge rates shall not exceed pre-development rates and shall be retained or detained within the development, rather than being piped to existing surface waters. Calculations must be submitted and approved by the Planning Board verifying that the peak discharge after development is not more than the peak discharge from the site prior to development from the 2 year, and the 10 year 24-hour storms. The peak discharges from the 100-year, 24-hour storm shall also be evaluated and if there is increased off-site flooding, then BMPs must also be provided to attenuate these discharges. Satisfactory evidence of this in the form of calculations shall be submitted to the Planning Board for verification.
- c. Storm drains and cross culverts shall be designed based on a 25-year frequency storm. Detention/retention basins shall be designed based on a 100-year frequency storm. All stormwater shall pass through an oil separator manhole prior to outfall. The manhole shall have convenient, paved vehicular access.
- d. Drainage outfalls shall not discharge untreated stormwater directly to/or cause erosion in wetlands or waterbodies.

- e. Prior to discharge, all stormwater shall pass through a sedimentation basin capable of removing 80 percent of the average annual post-development load of Total Suspended Solids (TSS). Permanent easements and provisions for vehicular access shall be provided along the entire length of ditches and storm drain lines.
- f. Post-development peak discharge rates shall not exceed pre-development rates. Evidence of this shall be submitted to the Planning Board in the form of calculations for pre-development versus post development for all channels leaving the site and any other design points required by the Board.
- g. The runoff calculations shall be developed using TR 20 and 55, which are guides for estimating the effects of land use changes on runoff volume and peak rates of discharge published by Natural Resource Conservation Service (NRCS).
- h. All drainage systems shall submit an operation and maintenance plan and supporting written report.
- i. Prior to issuing a Mixed Use Development Special Permit, the Planning Board, as SPGA, shall make the following findings:
  - The granting of a special permit shall not adversely affect water quality or water storage capacity;
  - The design and layout of the requested use shall not increase the hazard of flooding or inundation;
  - The design and layout of the requested use shall not significantly reduce property values by damage to the environment;
  - The design and layout of the requested use shall not pose a threat to the public health, safety or welfare;
  - The design and layout of the requested use protects adjacent wetlands and water bodies;
  - The design provides adequate erosion and sediment protection,
  - The design and construction of the requested use provides for the protection of surface and groundwater quality, and;
  - The design, construction and maintenance of the on-site infiltration methods shall approximate the parcel's pre-development recharge.

## **SECTION IV. DEVELOPMENT IMPACT STATEMENT**

### **A. Applicability**

A Development Impact Statement is required, in whole or in part as determined by the Planning Board as SPGA, for projects with the following characteristics:

- ◆ Mixed use projects consisting of five (5) or more residential units,

- ◆ Mixed use projects consisting of five thousand (5,000) or more square feet of floor area in commercial uses,
  - ◆ Mixed use projects on three or more acres of land area;
  - ◆ All projects which generate more than one hundred vehicle trips per day.
1. Purpose: The intent of DIS is to enable Town officials to determine and evaluate those methods to be used by the applicant to promote the environmental health of the community and to minimize the environmental degradation of the Town's natural resources.
  2. Procedure: The Planning Board may waive in part, or in whole, any requirements contained in the Statement, which it deems inapplicable to the project proposal. The applicant should discuss the requirements with the Planning Board for preparation of the Statement, preferably prior to submission of a tentative plan. The Planning Board can waive the DIS for projects that require a Massachusetts Environmental Policy Act (MEPA) review; however, the Planning Board may require specific information in the DIS that the Board deems was not adequately addressed in the MEPA review.

## **B. Environmental Impact Assessment**

1. Purpose: To describe the impacts of the proposed development with respect to on-site and off-site environmental quality.
2. Scope:
  - a. A written description of existing, general physical conditions of the site, including topography, location and varieties of vegetation and geologic type, scenic and historical features, trails and open space links, impact of stormwater runoff on adjacent and downstream surface water bodies, subsurface groundwater and the water table and indigenous wildlife; the potential dangers of erosion and sedimentation caused by the operation and maintenance of the proposed development;
  - b. Description of proposed measures for mitigation of any potential adverse impacts on the natural environment.
  - c. Environmental Impact Standards  
Required:
    - i. The proposed development shall not create any significant emission of noise, dust, fumes, noxious gases, radiation, or water pollutants, or any other similar significant adverse environmental impact(s). The Board may require emissions tests be conducted to establish background emission levels. If emission tests are conducted for various pollutants, the Board may seek a Professional(s) opinion (at the applicant's expense) as to the potential impacts associated with those pollutants. In some cases

more than one professional may be required to assess the potential impacts.

- ii. The proposed development shall not increase the potential for erosion, flooding or sedimentation, either on-site or on neighboring properties; shall not discharge untreated stormwater directly to/or cause erosion in wetlands or waterbodies; shall not increase the pre v. post rates of runoff from the site. Furthermore, shall not increase the pre v. post volume of runoff from the site and shall use on-site infiltration measures to approximate the parcel's pre-development recharge. Provision for attenuation of runoff pollutants and for groundwater recharge shall be included in the proposal.
- iii. The design of the proposed development shall minimize the destruction of unique natural features.
- iv. The design of the development shall minimize earth removal. Cuts of more than 4 feet shall be prohibited, unless otherwise waived by the Planning Board. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- v. The design of the development shall minimize the area over which existing vegetation is to be removed. Tree removal shall be minimized, and special attention shall be given to the planting of replacement trees. By replacing any tree that is removed over 6" trunk diameter. All trees that are removed over 6" trunk diameter measured 4 feet above grade shall be replaced and incorporated into the landscape plan for the site.

**C. Fiscal Impact Assessment**

1. Purpose: To evaluate the fiscal and economic impacts of the proposed development on the Town.
2. Scope:
  - a. Projections of costs arising from increased demands for public services and infrastructure. Cost factors include the following: Project effect on police and fire protection, highway, water, sewer, solid waste disposal facilities, educational services, recreation facility impact, and health services.
  - b. Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided. Revenue factors include the following: Project effect on

property taxes, vehicular taxes, licenses and fees, fines and miscellaneous taxes.

- c. Projections of the impacts of the proposed development on the values of adjoining properties.
- d. Five-year projection of Town revenues and costs resulting from the proposed development.
- e. Fiscal Impact Standards
  - Required: None.
  - Recommended: Projected positive net fiscal flow for first five years after design year of occupancy.

#### **D. Community Impact Assessment**

1. Purpose: To evaluate the impact of the proposed project on Town services and surrounding neighborhood.
2. Scope:
  - a. Site design and neighborhood impact: Evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character and intensity of use (e.g., scale, mass, materials, color, location and size of doors and windows, setbacks, roof and cornice lines, and other major design elements); and of the location or configuration of proposed structures, parking areas, and open space with respect to neighboring properties.
  - b. Historic impact: identification of impacts on significant historic properties, or archeological resources (if any) in the vicinity of the proposed development.
  - c. Evaluation of impacts on the water system, sewage system, the school system, fire protection, police protection, libraries, and parks and recreation facilities, and proposed methods of mitigation for any adverse impacts.
3. Community Impact Standards:

Required:

  - a. Design elements shall be compatible with the character and scale of neighboring properties and structures.
  - b. The design of the development shall minimize the visibility of visually degrading elements such as trash collectors, loading docks, etc.

- c. The design of development shall be consistent or compatible with existing local plans (if any); including plan elements adopted by the Planning Board, Conservation Commission, and other Town bodies having such jurisdiction.
- d. The location and configuration of proposed structures, parking areas and open space shall be designed so as to minimize any adverse impact on temperature levels or wind velocities on the site or adjoining properties.
- e. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties.

**E. Traffic Impact Assessment**

- 1. Purpose: To document existing traffic conditions in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures proposed to mitigate any adverse impacts on traffic. A registered professional engineer experienced and qualified in traffic engineering shall prepare the traffic impact assessment.
- 2. Scope:
  - a. Document the methodology and sources used to service existing data and estimations;
  - b. Existing traffic conditions- average daily and peak hour volumes, average and peak speeds, sight distances, accident data for the previous 3 years, and levels of service (LOS) of intersections and streets affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries, and shall be no more than 12 months old at the date of application, unless other data is specifically approved by the Board.
  - c. Projected traffic conditions for design year of occupancy shall include: statement of design year of occupancy, average annual background traffic growth, impacts of proposed developments which have already been approved, under construction and /or are pending before a town board.
  - d. Projected impacts of the proposed development shall include: Projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the

intersections of the proposed access connection and adjacent streets; existing and proposed traffic controls in the vicinity of the proposed development; and the projected post development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development.

- e. Proposed mitigation shall include: A plan (with supporting text) to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means; and an interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems. Measures shall be proposed to achieve the following post-development standards:

- All streets and intersections to be impacted by the project shall have the same Level of Service or better than pre-development conditions.

3. Traffic Impact Standards

Required: The "level of service" (LOS) of all impacted intersections and streets shall be adequate following project development. For purposes of this standard:

- a. "Level of service" (LOS) shall be determined according to criteria set forth by the Highway Capacity Manual;
- b. "Impacted" means located within 1,000 feet of the closest boundary of the project site and projected to receive at least five percent (5%) of the anticipated average daily or peak hour traffic generated by the proposed development;
- c. "Adequate" shall mean a level of service of "B" or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and "D" or better for all other streets and intersections; and

*Recommended:* The proposed site plan shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

- d. Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.
- e. Where possible, driveways shall be located opposite similar driveways.
- f. Sharing of access driveways by adjoining properties and uses is encouraged.
- g. Left-hand turns and other turning movements shall be minimized.

- h. Driveways shall be so located and designed as to discourage the routing of vehicular traffic to and through residential streets.
- i. Pedestrian and bicycle circulation shall be separated from motor vehicle circulation as far as practicable.

## **SECTION V. PROCEDURES**

### **A. Public Hearing**

A public hearing notice shall be given by publication in a newspaper of general circulation once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of such hearing. The Board shall send written notice by certified mail, return receipt requested to all direct abutters. Applicant is responsible for preparing envelopes to abutters. The legal ad and abutter notification shall include, at a minimum, the following information and shall be at the expense of the applicant:

1. The name, and if applicable, the business name and address of the applicant;
2. The street address and the assessor's map and lot number of the property as specified on the Mixed Use Development Special Permit Application on which construction or expansion is planned;
3. A brief description of the type of construction or expansion planned;
4. The designated Town Office where the Application and plans can be reviewed;
5. The date, time and place of the public hearing.

### **B. Representation at Hearing**

An applicant, or a party in interest, may appear in his/her own behalf or may be represented by an authorized agent or attorney. In the absence of an appearance on behalf of an applicant at a scheduled hearing, without cause, the Planning Board may deny an application or decide on the basis of available information otherwise received.

## **SECTION VI. DISPOSITION OF APPLICATION**

### **A. Referral to other Boards, Commissions, Committees**

Copies of the application, together with such information as the Board deems appropriate, shall be submitted for review and recommendations to the Board of Health, the Building Inspector, the Highway Superintendent, the Conservation Commission, the Board of Water and Sewer Commissioners (in the case of applications in the Watershed Protection District), and to such other municipal

Boards, Departments, and Officials as the Board determines within fourteen (14) days of the filing of the application. Failure of any such Board, agency or official to make recommendations within thirty-five (35) days of receipt of such notice shall be deemed lack of comment.

## **B. Decision**

The Planning Board's approval may consider comments received from various municipal reviewers. Additionally, proposed methods of mitigating impacts associated with each project will be incorporated into the Board's approval. In addition, the following criteria must be addressed to the Planning Board's satisfaction. Such findings shall pertain to the entire proposed development, including any site plan or design modifications imposed by the Planning Board as a condition of its approval, and off-site improvements proposed by the applicant or required by the Planning Board as a condition of its approval.

1. **Time Limit.** Applications for Mixed Use Development Special Permits shall be approved or disapproved within ninety-(90) days after the date of the public hearing. The Planning Board's failure to act does not release the applicant from meeting the requirements of the Special Permit By-law. The Planning Board, upon written request of the applicant, may extend the ninety (90) day time limit.
2. **Voting.** This Board is constituted of five (5) members. The affirmative vote of at least four (4) members of the Board shall be required to authorize a Special Permit.
3. The Planning Board shall file a copy of its decision with the Town Clerk. It shall retain a copy of the decision in its own files. A certified copy of the decision shall be mailed to the applicant and owner if other than the applicant.
4. The Special Permit decision shall contain:
  - a. Name of the owner;
  - b. An identification of the land affected;
  - c. A description of how the Special Permit complies with the statutory requirements for issuing the special permit and related findings;
  - d. Certification that copies of the decision have been filed with the Planning Board and the Town Clerk;
  - e. Specification that appeals, if any, shall be made pursuant to Chapter 40A, Sec. 17 and shall be filed within 20 days after the date of filing the decision with the Town Clerk.

### **C. Withdrawal of Application**

An application may be withdrawn without prejudice by an applicant by notice in writing to the Clerk of the Board at any time prior to the first publication of the notice of the public hearing. After such public notice withdrawal of an application shall be permitted only by majority vote of the Board. Such a vote shall not constitute unfavorable action.

### **D. Reconsideration**

No vote on an application may be reconsidered after the meeting has adjourned.

### **E. Appeals**

Any person aggrieved by a decision of the Board as Special Permit Granting Authority may appeal such decision as provided in MGL 40A Section 17 within twenty days (20) after such decision has been filed in the office of the Town Clerk.

### **F. Reapplication**

No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a Special Permit within two (2) years after the date of the said final unfavorable action unless the Board finds by vote of four (4) members, specific and material changes in the conditions upon which the previous unfavorable action was based and such changes are described in the record of the Board's proceedings, and after notice is given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in Section III of these Rules and Regulations.

### **G. Lapse of Special Permit**

No Mixed Use Development Special Permit shall be authorized by the Board without the express condition that it will lapse if substantial use under the permit is not commenced within two (2) years from the date of final action by the Board except for good cause or the final determination of an appeal.

### **H. Extension of Mixed Use Development Special Permit**

Approval in all cases is granted for a two (2) year period from the date of the filing of such approval with the Town Clerk. If a development is not completed in its entirety in that time, the applicant must again petition the Planning Board for re-approval. The applicant shall apply for re-approval sixty days prior to the lapse of the special permit. All applications under this section must comply with the bylaw and its rules and regulations in force at the time of application.

## **I. Effective Date of Special Permit**

No special permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk, that twenty (20) days have elapsed after the filing of the decision and no appeal has been filed, is recorded in the Registry of Deeds and is indexed under the name of the record owner of the land.

## **J. Building Permits and Special Permits**

Subsequent to the approval of a subdivision or the endorsement of a plan not requiring subdivision approval, it is the responsibility of the owner of the lot to obtain a building permit from the building inspector. To ensure that lots so approved or endorsed may be used as intended, the owner should carefully review the requirements of the Somerset Zoning By-law (as amended) as to dimensional requirements, permitted uses, and whether the proposed use or any portion of the lot is subject to a special permit or variance requirement. In instances where a special permit is required (e.g., the lot or a portion of the lot is in the Watershed Protection District or the Water Resources Protection District or the project is a Mixed Use Development under the Zoning By-law), the Building Inspector will not issue a building permit. In these instances, the owner of the lot must apply for a special permit from the designated Special Permit Granting Authority which will review the application in accordance with its rules and regulations for special permits. Subsequent to the approval of a special permit, it is again the responsibility of the owner of the lot to obtain the necessary permits (including the building permit) or licenses from the building inspector or other appropriate boards (conservation commission, etc.). In some instances a project or portion thereof, requires a variance from a Zoning By-law provision. A variance to a provision of the Zoning By-law must be sought through the Somerset Zoning Board of Appeals.

## **SECTION VII. OTHER PROVISIONS**

### **A. Performance Guarantee**

As a condition to a Mixed Use Development Special Permit, the applicant may be required by the Planning Board to post a bond or provide other safeguards in the form and amount or penal sum acceptable to the Board prior to the expiration of the twenty (20) day appeal period unless the Board shall specify otherwise. If the applicant is not the owner and must purchase to assume such obligations, he/she shall comply within twenty (20) days following the date of purchase.

### **B. Severability of Provisions**

The provisions of these Rules and Regulations are severable. If any provision of these Rules and Regulations is held invalid, the other provisions shall not be affected thereby. If the application of these Rules and Regulations, or any of its

provisions to any person or circumstances is held invalid the application of these Rules and Regulations and their provisions to other persons and circumstances shall not be affected thereby.

**C. Waiver of Full Compliance**

Full compliance with these regulations may be waived by the Board provided such waivers are deemed to service the public interest and do not conflict with M. G. L. chapter 40A or the provisions of the Somerset Zoning By-Law.

APPENDIX 1  
TOWN OF SOMERSET  
MASSACHUSETTS  
PLANNING BOARD AS SPECIAL PERMIT GRANTING AUTHORITY

APPLICATION FOR HEARING

DATE: \_\_\_\_\_

NAME OF APPLICANT: \_\_\_\_\_

ADDRESS OF APPLICANT: \_\_\_\_\_

TELEPHONE # OF APPLICANT: \_\_\_\_\_

LOCATION OF PROPERTY: \_\_\_\_\_ ASSESSOR'S  
MAP# \_\_\_\_\_ LOT# \_\_\_\_\_  
(Developer's Lot # & Street)

PROPERTY OWNER: \_\_\_\_\_

APPLICANT IS: \_\_\_\_\_  
(Owner, Tenant, Prospective Purchaser)

IS PROPERTY LOCATED IN THE WATERSHED DISTRICT OR WATER RESOURCE  
DISTRICT Yes \_\_\_\_\_ No \_\_\_\_\_

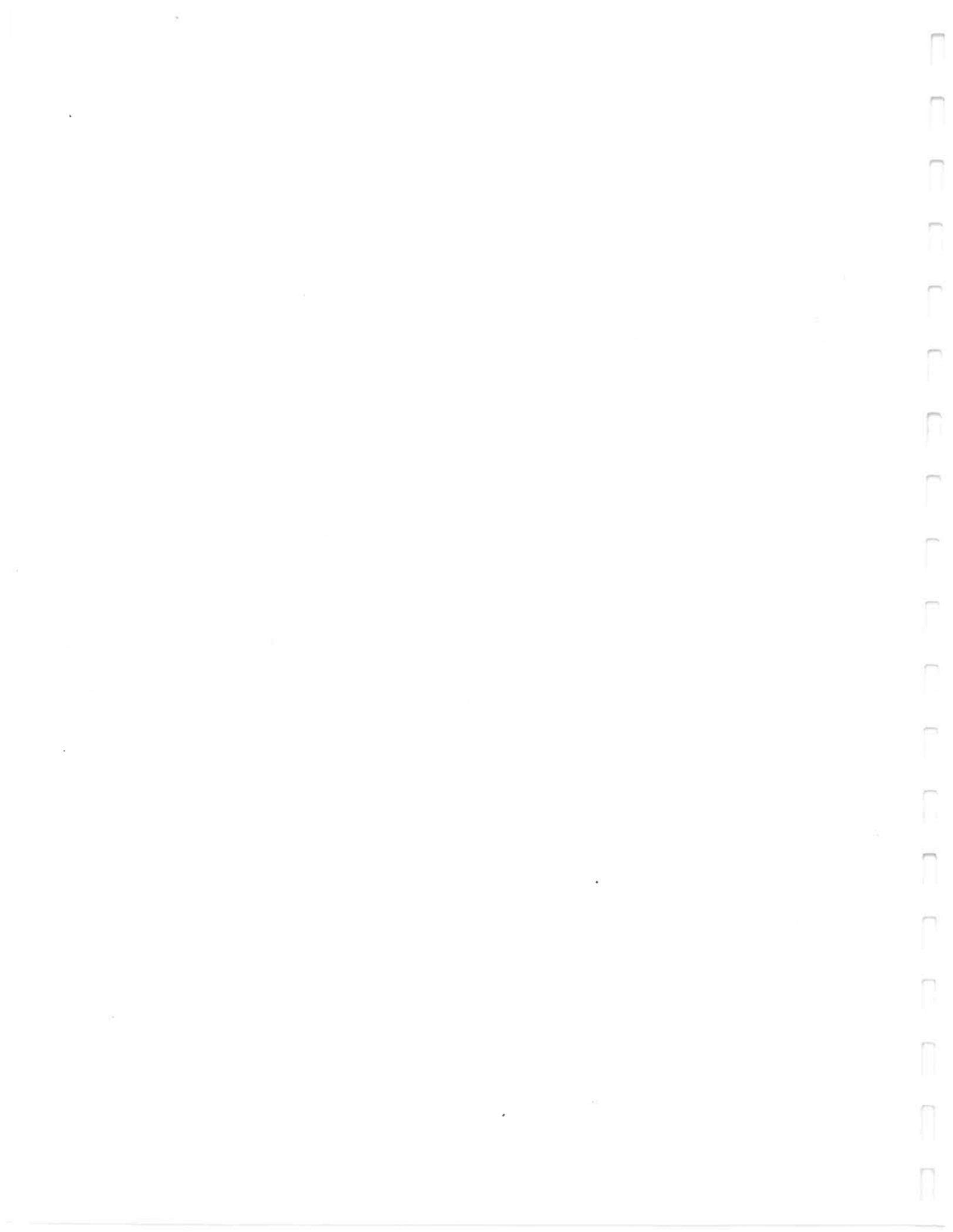
PROPERTY IS LOCATED IN THE: WATERSHED DISTRICT \_\_\_\_\_ WATER RESOURCE  
DISTRICT (Check One)

BRIEF PROJECT DESCRIPTION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Applicant: \_\_\_\_\_

PLEASE BE ADVISED THAT APPLICANTS AND/OR THEIR REPRESENTATIVE MUST BE PRESENT AT THE SCHEDULED HEARING FOR THIS MATTER TO BE CONSIDERED. APPLICANTS WILL BE NOTIFIED BY MAIL OF THE HEARING DATE AND TIME. APPLICANT WILL BE RESPONSIBLE FOR THE COST OF THE LEGAL AD ASSOCIATED WITH THE HEARING.

ALL DECISIONS GRANTED BY THE PLANNING BOARD MUST BE RECORDED AT THE FALL RIVER OFFICE OF THE BRISTOL COUNTY REGISTRY OF DEEDS.



Minutes: August 24, 2010  
Call to Order: 6:00 P.M. Simons Presiding  
Present: Simons, Rebello, Turner, Toulan  
Absent: Ferreira

In accordance with the provisions of M.G.L., chapter 40A, section 9.4.3.A of the Somerset Zoning By-law, the Planning Board will hold a public hearing on Tuesday, August 24, 2010, starting at 6:00 P.M. in the first floor hearing room of the Town Office Building, 140 Wood Street, Somerset, MA to consider adoption of Rules and Regulations Governing Special Permits for Mixed Use Development.

Toulan voiced concern about contents on Page 15, 17 & 34. After some discussion, the board decided that these were guidelines and would be handled case by case. Turner noted that SRPEDD and Town Counsel were happy with the final product. After some discussion, Turner made a motion to accept the Rules & Regulations for Mix-Use, Rebello seconded the motion and all were in favor.

Bruce Sutherland regarding Line of Credit for Sutherland Acres. Seeking to reduce Line of Credit to \$10,000.00 from \$50,000.00. Current Line of Credit is due to expire August 31, 2010. Sutherland was not present for this meeting.

Simons reported that he spoke with Fitzgerald and Sutherland. He reported that the bounds were in and the only thing left was the fence. He stated that the fence should be in by the next meeting. After deliberation, Rebello made a motion to reduce the current Line of Credit to \$10,000.00, Tolan seconded the motion and all were in favor.

Toulan made a motion to accept the Minutes of August 10, 2010 as presented, Turner seconded the motion and all were in favor.

The Board re-scheduled the condo hearing because of the State Primary Elections held on 9-14-10. After discussion, Toulan made a motion to continue the condo hearing until October 26, 2010.

6:25 Motion to adjourn from Rebello, seconded by Toulan and all were in favor.

Sincerely,

---

Paula Ramos, Secretary to the Board

# **SOMERSET PLANNING BOARD**

**MEETING AUGUST 24, 2010**

**6:00 PM AT THE TOWN OFFICE BUILDING**

**1. Public Hearings:**

- In accordance with the provisions of M.G.L., chapter 40A, section 9.4.3.A of the Somerset Zoning By-law, the Planning Board will hold a public hearing on Tuesday, August 24, 2010, starting at 6:00 P.M. in the first floor hearing room of the Town Office Building, 140 Wood Street, Somerset, MA to consider adoption of Rules and Regulations Governing Special Permits for Mixed Use Development.

**2. Form A's:**

**3. Performance Guarantees:**

- Bruce Sutherland regarding Line of Credit for Sutherland Acres. Seeking to reduce Line of Credit to \$10,000.00 from \$50,000.00. Current Line of Credit is due to expire August 31, 2010.

**4. Invoices:**

**5. Planned Developments:**

**6. Minutes:**

- August 10, 2010

**7. Sign Previously Approved Plans:**

**8. New Business:**

**9. Old Business:**

**10. Correspondence:**

**11. Other:**

- State Primary Election 9-14-10 Condo hearing needs to be re-scheduled. Consider scheduling for September 28.