

**First Supplemental Report of the Advisory Committee
2008 Annual Town Meeting
April 28, 2008**

ARTICLE 27

COMMENT: Subsequent to the Advisory Committee's vote on the Zoning By-law amendment proposed in Article 27, an inconsistency was discovered in the language originally approved. In the revised version of the amendment printed below, the words “, or the expansion of existing structures,” have been added to the first line of Paragraph 8.i in Item 1, in order to make this Paragraph mutually consistent with Paragraph 8.ii, which also contains this phrase. The remainder of the proposed amendment is unchanged, and the rationale for approving the entire proposed amendment remains as originally stated in the Comment contained in the Warrant book.

RECOMMENDED: That the Town amend the Zoning By-Law of the Town of Hingham, adopted March 10, 1941, as heretofore amended, as follows:

Item 1: At Section III-B, Special Conditions to Schedule of Uses, add a new Subsection 8 as follows:

8. The uses allowed in Section III-A, Subsections 3.1, 3.2, 3.3 and 3.4, to the extent provided under M.G.L. c.40A, §3, are allowed as of right, but subject to Site Plan Review in accordance with Section I-I. The site plan review under this Section III-B (8) shall apply to:

i. land or structures, or the expansion of existing structures, used for religious purposes, or for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation;

ii. land or structures, or the expansion of existing structures, used for the primary, accessory or incidental purpose of operating a child care facility; and

shall be limited to developing guidelines and to determining compliance with regulations under this By-Law concerning bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements, or such other matters subject to reasonable requirements under M.G.L. c.40A §3 as the same may be from time to time amended. A building permit shall only issue upon the completion of the site plan review in accordance with Section I-I.

Item 2: At Section III-A, Subsections 3.1, 3.2, 3.3 and 3.4, add the following phrase after each use description: “, subject to Special Condition 8 of Section III-B.”

ARTICLE 33

COMMENT: The Zoning By-Law amendment printed in the Warrant book under Article 33 is an early draft of the Hingham Smart Growth Overlay District amendment proposed for incorporation into the By-Law under the provisions of M.G.L Chapter 40R. Subsequent to the preparation of this earlier draft, the Planning Board held a number of public hearings on the proposed amendment. At the conclusion of this series of hearings, the language of the proposed amendment was revised to read as printed below. The Planning Board voted to recommend favorable action on this amendment. State enabling legislation requires that the Commonwealth's Department of Housing and Community Development (DHCD) review and approve the exact language of a 40R zoning provision, and the language of the amendment, as endorsed by the Planning Board and printed below, has received the required approval from DHCD. The Advisory Committee held public hearings on the proposed amendment and determined that, on balance, it is not in the best interest of the Town to amend the Zoning By-Law as proposed.

The amendment of the Zoning By-Law recommended by the Planning Board is as follows:

That the Town amend the Zoning By-Law of the Town of Hingham adopted March 10, 1941, as heretofore amended, as follows:

Item 1. On the "Zoning Map, Part A, of the Town of Hingham, Massachusetts," indicate the location of the Hingham Smart Growth Overlay District (HSGOD) as shown on the map entitled "Town of Hingham Smart Growth Overlay District Zoning Map, April 7, 2008," on file in the Town Clerk's Office.

Item 2. At the end of Section II-B, add the following new entry:

6. Hingham Smart Growth Overlay District – HSGOD.

Item 3. Add the following new Section III-J:

SECTION III-J HINGHAM SMART GROWTH OVERLAY DISTRICT (HSGOD)

1. Purpose

It is the purpose of this Section III-J to establish a Hingham Smart Growth Overlay District (HSGOD) and to encourage smart growth in accordance with the purposes of G.L. Chapter 40R. Other objectives of this Section are to:

- a. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
- b. Provide for a range of housing choices for households of differing incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
- c. Increase the production of a range of housing units to meet existing and anticipated housing needs;
- d. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
- e. Establish development standards to allow context-sensitive design and creative site planning;
and
- f. Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with G. L. Chapter 40R, 760 CMR 59.06, and additional Chapter 70 aid in accordance with G.L. Chapter 40S arising from the development of housing in the HSGOD.

2. Definitions

For purposes of this Section III-J, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section III-J. To the extent that there is any conflict between the definitions set forth in this Section III-J and the Enabling Laws, the terms of the Enabling Laws shall govern.

Affordable Homeownership Unit - an Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing - housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, Section 31 and the requirements of Section III-J(4)(e).

Affordable Rental Unit - an Affordable Housing unit required to be rented to an Eligible Household.

As-of-right Project or Project - means a residential or a mixed-use development allowed under Section III-J(5) without recourse to a special permit, variance, zoning amendment, or other form of zoning relief.

DHCD – The Department of Housing and Community Development of the Commonwealth of Massachusetts or any successor agency.

Eligible Household - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws - G.L. Chapter 40R and 760 CMR 59.00.

Multifamily Dwelling - Dwelling containing four or more dwelling units.

Open Space - the part or parts of land within a Project which are reserved or restricted for permanent open space. This space shall exclude parking areas and stormwater detention areas, but include required setbacks and walkways. The Open Space shall be open and unobstructed to the sky; however; trees, planting, arbors, flagpoles, sculptures, fountains, swimming pools, outdoor recreational facilities, such items as streetscape elements (lights, planters, benches, etc.), and decorative surface treatments for sidewalks and other hard surfaces (such as pavers, cobblestones or concrete surface treatments designed to resemble pavers or cobblestones) and similar objects shall not be considered obstructions.

Plan Approval- standards and criteria which a Project in the HSGOD must meet under the procedures established herein and in the Enabling Laws.

Plan Approval Authority - For purposes of reviewing Project applications and issuing decisions on development Projects within the HSGOD, the Plan Approval Authority (PAA), consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Zoning Board of Appeals and the Planning Board, jointly. The PAA is authorized to approve a site plan to implement a Project.

Recreational Uses - Active recreational uses, including but not limited to ballfields; and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized uses shall not be considered eligible recreational uses.

Single-family Dwelling – A free-standing, detached dwelling, excluding house trailers and mobile homes, intended and designed to be occupied by a single household.

Smart Growth Overlay District Design Standards – See Section III-J(8).

Townhouse Dwelling - Two or three attached dwelling units separated by a continuous vertical firewall that is constructed so that each unit (a) has at least two sides of the building with outside exposure; (b) has separate entrances from the outside; (c) reaches from the foundation to the roofline; and, (d) is designed as a residence for one family.

Zoning By-Law - the Zoning By-Law of the Town.

3. Overlay District

a. Establishment. The Hingham Smart Growth Overlay District is an overlay district having a land area of approximately 12.18 acres, being portions of Assessors' Map 69, Lot 44, and Assessors' Map 36, Lot 160, that is superimposed over the underlying zoning district, as shown on the Zoning Map.

b. Underlying Zoning. The HSGOD is an overlay district superimposed on the underlying zoning districts. Except with respect to Projects approved under this Section III-J, the underlying zoning shall remain in full force and effect.

c. Applicability of HSGOD. In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the HSGOD may seek Plan Approval in accordance with the requirements of this Section III-J. In such case, then notwithstanding anything to the contrary in this Zoning By-Law, such Plan Approval shall not be subject to any other provisions of this Zoning By-Law, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits. When a building permit is issued for a Project approved in accordance with this Section III-J, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan submitted pursuant to Section III-J(6) for such Project.

4. Housing and Affordability

a. Marketing Plan. Prior to granting Plan Approval for housing within the HSGOD, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with an application for Plan Approval pursuant to Section III-J(6), below, shall include details about construction related to the provision, within the Project, of units that are accessible to the disabled.

b. Number of Affordable Housing Units. For all Projects where the Affordable Units proposed are Homeownership Units, not less than twenty percent (20%) of the total housing units constructed in a Project shall be Affordable Housing. For all Projects where the Affordable Units proposed are Rental Units, not less than twenty five percent (25%) of total housing units in any building containing rental units shall be Affordable Housing; provided, however, that 20% of such units may be affordable where restricted to households earning less than 50% of area median income. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit.

c. Requirements. Affordable Housing shall comply with the following requirements:

1. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.

2. For an Affordable Homeownership Unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

3. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

4. The HSGOD shall not include the imposition of restrictions on age upon any Project.

d. Design and Construction. Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and be comparable in initial construction, quality and exterior design to other housing units in the development. The total number of bedrooms in the Affordable Housing shall be proportionate to the total number of bedrooms in all the units in the development of which the Affordable Housing is part.

e. Affordable Housing Restriction. Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

1. specification of the term of the affordable housing restriction which shall be not less than ninety-nine years but which may, as a requirement of Plan Approval, be for a longer period of time;
2. the name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;
3. a description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.
4. reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection for the Affordable Housing Units; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;
7. a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the Monitoring Agent;
8. provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
9. provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the Town, in a form approved by municipal counsel, and shall limit initial sale and resale to and occupancy by an Eligible Household;
10. provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and the Town, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
11. provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the affordability provisions of this By-Law and containing such other information as may be reasonably requested in order to ensure affordability;
12. a requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

f. Monitoring Agent. A Monitoring Agent which may be the Local Housing Authority, or other qualified housing entity shall be designated by the PAA as the Monitoring Agent for all Projects in the HSGOD. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon

certification of this fact by the PAA or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a certificate of occupancy for a Project within the HSGOD, and on a continuing basis thereafter, as the case may be:

1. prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
2. income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. the housing marketing and resident selection plan conforms to all requirements and is properly administered;
4. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.

g. Housing Marketing and Selection Plan. The housing marketing and selection plan shall make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements, as set forth in Section III-J(4).

h. Phasing. For any Project that is approved and developed in phases, the proportion of Affordable Housing Units and the proportion of market rate units shall be consistent across all phases.

i. Computation. Prior to the granting of any Plan Approval of a Project, the applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town.

j. No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section III-J(4) shall not be waived.

5. Permitted and Prohibited Uses; Density

a. Permitted Uses. The following uses are permitted as of right in the HSGOD:

- Subzone A: Multifamily Dwellings
- Subzone B: Single-family Dwellings
Townhouse Dwellings

Accessory uses customarily incidental to such permitted uses are also allowed.

b. Density.

- Subzone A: Multifamily Dwellings with a density of 30 dwelling units per acre of developable land.
- Subzone B: Single-family Dwellings and/or Townhouse Dwellings with a density of 12 dwelling units per acre of developable land.

6. Application for Plan Approval

a. Preapplication. Prior to the submittal of a site plan, a "Concept Plan" may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

1. Permissible building areas;
2. Areas to remain undeveloped, including but not limited to open space;
3. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and the other requirements of the HSGOD.

b. Application. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA. An application shall show the proposed buildout of the entire Project whether the Project will be phased or not.

c. Required Submittals. The application for Plan Approval shall be accompanied by the following plans and documents:

1. Properly executed application form, and (if applicable) all materials necessary for facilitating a public hearing on the application;
2. A filing fee of \$300.00 to cover administrative costs.
3. List of any requested waivers from the requirements of this Section III-J, including a detailed explanation/justification of the reason for such request.
4. A Site Plan prepared by a professional architect or registered professional engineer, at a scale of one inch equals forty feet (1" = 40'), or at other scale as may be necessary to show all detail clearly and accurately. Sheet sizes shall not exceed twenty-four inches by thirty-six (24" x 36"), and shall not be less than eleven inches by seventeen inches (11" x 17"). If multiple sheets are used they shall be accompanied by an index sheet showing the entire parcel at an appropriate scale. If the plans submitted are 11" x 17" in size, a total of twenty-five (25) copies of the plans shall accompany the application. If the plans prepared exceed 11" x 17" in size, a total of five (5) copies of such plans and twenty (20) sets of reduced-size copies (11" x 17") shall be submitted. The Plan shall include the following information:

- a. Name and address of the person or entity submitting the application;
- b. Name and address of the owner of the subject property, if different;
- c. Present use of the land and description and use of existing building thereon, if any;
- d. Proposed use of the land;
- e. Proposed use of existing buildings, if any;
- f. Description and proposed use of the proposed building, if any;
- g. Zoning District in which the parcel is located, including floodplain if applicable;
- h. Locus Map (scale of 1"=1,000') and north arrow;

- i. Title Block containing: name of the project; applicant; property owner; property address and Assessors' Map/Lot number; date (with revisions); name, address and phone number, and the signature and seal of the professional architect or engineer preparing the plan;
- j. Wetlands, Ponds, Streams, or other water bodies, including all applicable buffer zones as certified by a professional engineer;
- k. Ownership of all abutting land and approximate location of buildings, driveways, and parking areas thereon within a maximum distance of two hundred feet (200') of the property lines;
- l. Existing and proposed topography at two-foot (2') elevation intervals;
- m. All property lines of the subject property, and all setbacks of buildings and parking areas from said lines, and existing and proposed easements, if any;
- n. Extent and type of all existing and proposed surfaces (pervious and impervious) on the property, including specific materials;
- o. Lot coverage calculations showing percentage of buildings, percentage of pavement, and percentage of open space/landscaped areas;
- p. Parking calculations for proposed use, including all existing use that will continue to exist on the property, if applicable;
- q. Calculations of the volume of earth material to be removed or filled on the property, and delineation of the location of such activity;
- r. Driveways and driveway openings/entrances;
- s. Parking and loading spaces;
- t. Service areas and all facilities for screening;
- u. Landscaping;
- v. Lighting;
- w. Proposed signs (business, traffic, etc.);
- x. Sewage, refuse and other waste disposal;
- y. Stormwater management facilities (drainage);
- z. All structures and buildings associated with the proposed and existing use(s) on the property;
 - aa. Exterior storage areas and fences;
 - bb. Utilities and their exterior appurtenances (e.g., fire connections);
 - cc. Provisions for dust and erosion control and;
 - dd. Any other details or information deemed necessary by the PAA due to the particular nature of a proposed use or the subject property;

5. A stormwater management hydrological study prepared in accordance with Massachusetts Department of Environmental Protection State Stormwater Standards.

6. A report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity. Depending upon the volume of material to be removed or filled, the PAA may require the Applicant to submit additional information (if not submitted in the report) regarding, but not limited to, the following: the hours of fill/removal activity; proposed route of transporting materials to and from site; measures for dust and erosion control (both on- and off-site) for the activity.

7. Scaled architectural drawings showing all proposed development, including site plans, elevation drawings, and floor plans. Drawings should clearly and comprehensively illustrate all aspects of the project and detail conformance with the Design Standards.

7. Procedures

a. Filing. An applicant for Plan Approval shall file the application and all required submittals with the Town Clerk and shall also file forthwith 20 copies of the application and the other required submittals with the PAA including notice of the date of filing with the Town Clerk.

b. Circulation to Other Boards. Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, Affordable Housing Trust, Sewer Department, Aquarion Water Company, Hingham Municipal Light Plant and other municipal officers, agencies or boards designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

c. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.

d. Peer Review. In addition to the application fee, the applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R, s. 11. This technical review fee shall be paid at the time of the application. The initial deposit shall be \$10,000 and shall be subject to replenishment as needed. Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant.

8. Design Standards

a. Design Standards. In order to preserve and augment the HSGOD's architectural qualities, historic character and pedestrian scale, the "Smart Growth Overlay District Design Standards," are incorporated herein as an appendix hereto, and are applicable to all Projects within the HSGOD. Said design standards are intended to be applied flexibly by the PAA as part of the Plan Approval process. All applications for Plan Approval shall comply, except where a specific waiver is granted, to said design standards.

b. Amendments. The Plan Approval Authority may adopt, by majority vote, amendments to the Design Standards which shall be applicable to all Projects subject to Plan Approval by the Plan Approval

Authority. Such amendments must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off-street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, require any amendment to the Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

c. DHCD Approval. Before adopting any Design Standard, the PAA shall submit the proposed Design Standard to DHCD for approval. Any amendment to the Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting a proposed Design Standard for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standard will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other interested party indicating that the Design Standard will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project shall not constitute sufficient documentation. At its discretion, DHCD may disapprove a Design Standard if it finds that the PAA has not adopted objective Design Standards or has not submitted such documentation.

d. Plan Approval. An application for Plan Approval that has been submitted to the Town Clerk pursuant to Section 6 shall not be subject to Design Standards that have not been approved by DHCD and filed with the Town Clerk.

9. Decision

a. Waivers. Except where expressly prohibited herein, upon the request of the Applicant the Plan Approval Authority may waive dimensional and other requirements of this Section III-J, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the HSGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section.

b. Plan Review. An Application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such Plan Review shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

c. Plan Approval. Plan Approval, or Plan Approval with conditions, shall be granted by a simple majority where the PAA finds that:

1. the applicant has submitted the required fees and information as set forth herein; and
2. the Project and site plan meet the requirements and standards set forth in this Section III-J, or a waiver has been granted therefrom; and
3. extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated by means of suitable conditions.

d. Plan Disapproval. A site plan may be disapproved only where the PAA finds that:

1. the applicant has not submitted the required fees and information as set forth herein; or
2. the Project and site plan do not meet the requirements and standards set forth this Section III-J, or a waiver has not been granted therefrom; or
3. it is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

e. Form of Decision. All decisions of the PAA shall be by a majority vote of the members present and voting, and shall be in writing. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. A copy of the decision shall be provided to the Building Commissioner. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

10. Change in Plans After Approval by PAA

a. Minor Change. After Plan Approval, an applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or permissible building areas of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk. A copy of the decision shall be provided to the Building Commissioner.

b. Major Change. Those changes deemed by the PAA to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section.

11. Enforcement; Appeal

The provisions of the HSGOD and Plan Approval shall be administered by the Building Commissioner, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding an application for Plan Approval shall be governed by the applicable provisions of G. L. c. 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. c. 40A.

12. Severability

If any provision of this Section III-J is found to be invalid by a court of competent jurisdiction, the remainder of Section III-J shall remain in full force. The invalidity of any provision of this Section III-J shall not affect the validity of the remainder of the Town's Zoning By-Law.

APPENDIX A
PLAN APPROVAL AUTHORITY
HSGOD DESIGN STANDARDS

An applicant for plan approval, in accordance with Section III-J(6) of the Zoning By-Law, shall comply with the following minimum criteria:

SUBZONE A

I. Dimensional Requirements

| | |
|--------------------------------------|---------------------------------|
| Maximum size of building | 107,500 s.f. |
| Maximum building footprint | 26,000 s.f. |
| Maximum lot coverage (building only) | 20% |
| Maximum Floor Area Ratio (FAR) | .85 |
| Setbacks from property line: | 20' minimum on all sides |
| Height | No more than 4 Stories or 55' * |

**Parking Facilities within the building shall not be calculated as part of the allowable height. The maximum allowable height allowed for parking facilities shall be nine feet, provided that this shall not apply to free-standing parking garages.*

II. Signage

The following standards shall be in addition to those set forth in Section V-B of the Zoning By-Law for the Residence District, in effect as of April 30, 2007. In the event of a conflict between said Section V-B and these standards, these standards shall control.

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

III. Landscaping

1. The front façade of the building shall have a planted, landscaped entry area of at least 25% the size of the building footprint.
2. The rear and sides of the building shall be separated from surrounding parking areas or roadways by landscaping and/or walkways at least 20' wide.

3. Parking areas shall have at least one tree per 10 spaces.

IV. Parking

1. The number of off-street parking spaces shall be two (2) spaces per dwelling unit.
2. Off Street parking areas shall be laid out as follows:

TABLE OF PARKING DIMENSIONS

Standard Parking Spaces

| | |
|--------|---|
| Width | 9 ft. |
| Length | 18 ft. with overhang 20 ft. without overhang |

Parallel Parking Spaces

| | |
|--------|--------|
| Width | 9 ft. |
| Length | 22 ft. |

Loading Spaces

| | |
|------------------|--------|
| Width | 12 ft. |
| Height Clearance | 14 ft. |

Aisle Width

| | | | | | |
|---------------|-----------|-----------|-----------|-----------|----------|
| Parking Angle | 45 degree | 60 degree | 75 degree | 90 degree | Parallel |
| | 14 ft. | 18 ft. | 22 ft. | 24 ft. | 14 ft. |

Minimum Driveway Widths

One way - 12 ft.
Two way - 20 ft.

3. All parking areas designated for a use other than single-family residential shall be designed to provide safe and convenient vehicular and pedestrian access, circulation and maneuverability and pedestrian activity, in accordance with this Section.
4. Loading spaces shall be provided for all commercial activities.
5. Space shall be designated for access to loading and service doors separate from all parking areas and without obstruction to travel on streets, driveways and aisles.
6. Required parking and loading facilities shall be laid out so that each vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. In no case shall parking or loading spaces be located as to require the backing or maneuvering of a vehicle onto a sidewalk, or public or private way in order to leave the space. Driveways should be located and designed so that queues do not obstruct use of aisles and parking spaces.
7. Parking space overhangs are not permissible beyond a property line, over a sidewalk, into a fire lane, or adjacent to a structure where a minimum clear distance of four feet cannot be provided.
8. A bumper of masonry, steel or heavy timber, or concrete or granite curb, or berm curb which is backed shall be placed at the edge of the surfaced areas except driveways to protect abutting structures, properties, sidewalks and screening materials.
9. Any illumination of parking areas or loading or service areas shall be directed so as not to shine upwards or on abutting properties or public or private ways.
10. Parking spaces shall be delineated by white pavement markings.
11. Handicap spaces shall be provided in accordance with the Architectural Access Board regulations (521 CMR) for all parking areas exceeding 15 spaces.

12. The layout of the parking area shall provide space for the storage of plowed snow unless removal by other means is assured.
13. The maximum parking lot grade shall be 4 percent and the minimum 1 percent. Parking areas shall be surfaced with asphalt, concrete, or similar nonerosive surface, and drained in a manner to prevent erosion or excessive water flow across public and private ways or abutting properties as well as graded and drained such that stormwater runoff does not accumulate on the ground surface. The drainage system shall be designed to control the 10-year storm event, and stormwater management shall conform to the Stormwater Performance Standards and Guidelines of the Massachusetts Department of Environmental Protection.
14. Parking lots containing 10 or more parking spaces shall have at least one live tree per 10 spaces, such trees to be located within or around the parking area . Trees and landscaped plots shall be so designed and located to screen the parking lot from adjoining properties. Trees shall be at least a three inch (3") caliper, with a clear trunk at least five feet (5') from the ground, and planted in raised plots providing a minimum of fifty square feet of seeded or landscaped permeable area per tree, whether planted singly or in groves. Any landscaped areas may be included in the calculations for open space areas.

Parking lot trees must be maintained in a growing condition at all times. The property owner is responsible for regular trash removal, weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any tree which dies shall be removed promptly and replaced within the next planting season.

Parking lot trees shall not be cut down or removed when a parking lot is reconstructed or enlarged. Said trees may be moved to another location on the lot upon approval of a site plan modification by the PAA.

SUBZONE B

I. Landscaping

Existing trees and other vegetation shall be saved, where feasible.

II. Screening

Screening shall exceed 100' in width from Beal Street and provide a dense and varied buffer.

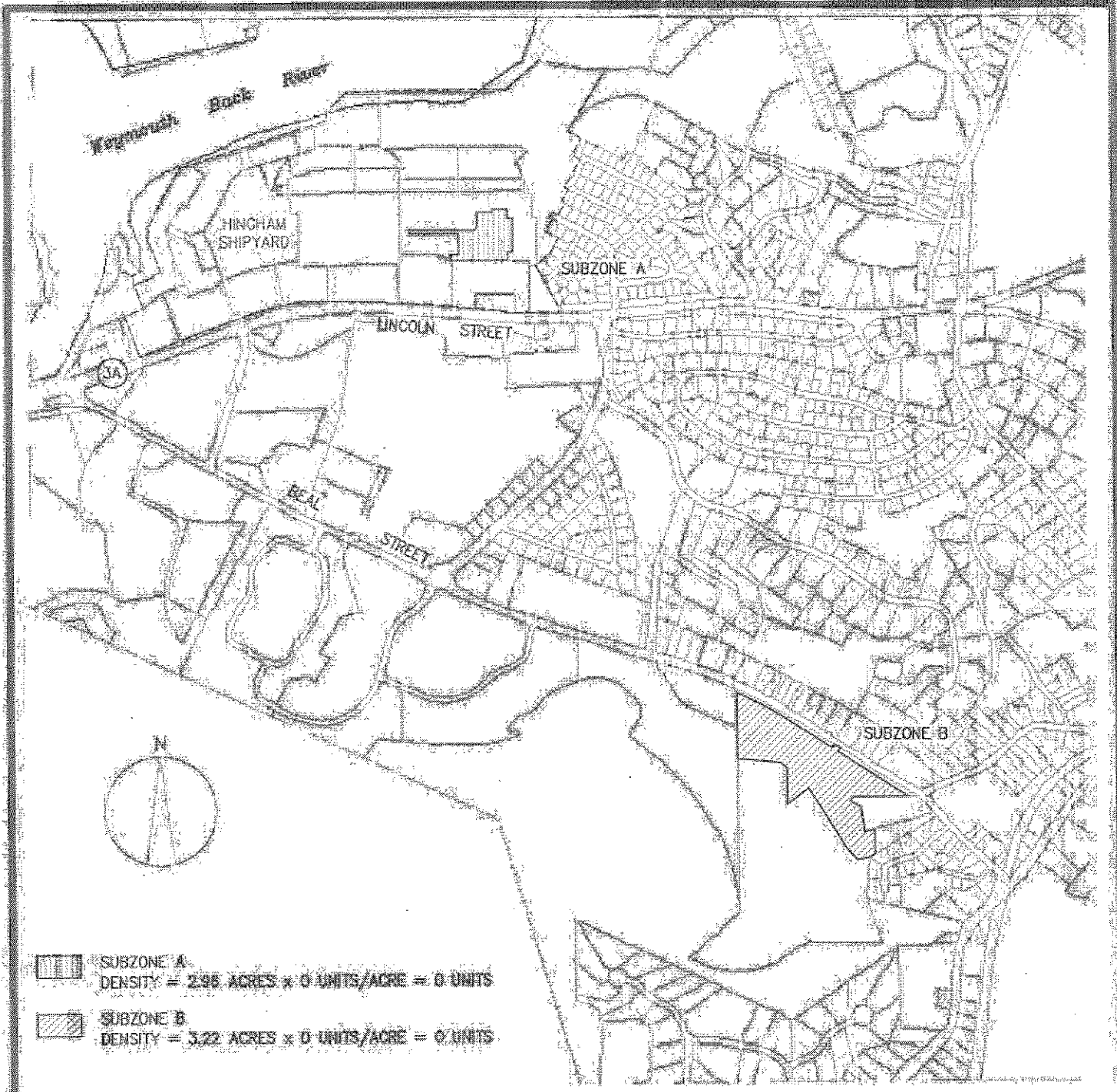
III. Parking



The number of off-street parking spaces shall be two (2) spaces per dwelling unit.

IV. Signage

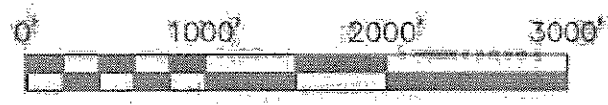
The standards set forth in Section V-B of the Zoning By-Law for the Residence District, in effect as of April 30, 2007, shall apply, except that any sign normally requiring a special permit, as indicated by a "Z" in the "Permit Procedure" column of the Schedule of Sign Regulations, shall be permitted as of right.

RECOMMENDED: That no action be taken on this article.

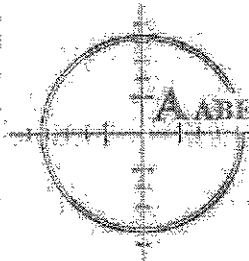


- 
 SUBZONE A
 DENSITY = 2.98 ACRES x 0 UNITS/ACRE = 0 UNITS
- 
 SUBZONE B
 DENSITY = 3.22 ACRES x 0 UNITS/ACRE = 0 UNITS

TOWN OF HINGHAM
SMART GROWTH OVERLAY DISTRICT
EXISTING ZONED UNITS PLAN
 (ATTACHMENT 4-1)



SCALE: 1"=1,000'



AABERG ASSOCIATES INC.

Professional Land Surveyors

| | |
|---|---|
| 50 Washington St Unit C-17 Norwell, MA 02061 Phone: (781) 878-6163 Fax: (781) 878-9383 | 7480 Acushnet Avenue Norwell, MA 02061 Phone: (508) 995-6675 Fax: (508) 995-6687 |
|---|---|

ARTICLE 34.

COMMENT: Over the past several years, the Hingham Development and Industrial Commission, with the support of the Selectmen, has led efforts to improve the Downtown experience by enhancing the streetscape and creating a pedestrian-friendly walkway from upper North Street to the Harbor area. Improvements have been made to the upper North Street area, including new sidewalks making it more accessible and friendly.

This article supports those initiatives to make improvements to the intersection of North Street and Station Street. Currently, that intersection is characterized by an expanse of asphalt that results in unclear intersection markings and subpar pedestrian access that deters people from venturing on to the lower portion of North Street. If approved, this article would allow the owners of "Settles Glass" property to build a new building along the edge of the new sidewalk being constructed by the Town and which will line up with the existing buildings on North Street.

The proposed agreement, between the Town and the landowners calls for the building of a restaurant and/or retail space subject to approval by the Board of Selectmen and the Town's permitting process. The landowners will pay the Town fifty thousand dollars (\$50,000) for the discontinuance of the town way in two installments: \$25,000 within thirty (30) days of the completion of the permitting process; and \$25,000 one year thereafter.

Time frames have been established for periodic reviews and completion of the project. The land will revert back to the Town should the project not be completed.

The Advisory Committee supports the project and this article to continue the enhancement of the Downtown experience and the walkway to the Harbor area.

RECOMMENDED: That the Town (1) discontinue, as a Town Way, a portion of the ways known as North and Station Streets, beginning at the intersection of the easterly sideline of Station Street with the southern sideline of North Street, said intersection being the southwest corner of the herein described parcel located on Assessors' Map 61, Lot 79; thence running from existing HHB N26° 55'10"W, a distance of 20.00 feet along the easterly sideline; thence turning and running N119° 29'13"W, a distance of 79.21 feet along the southern sideline of North Street; thence turning and running south along an arc length of 83.70' with a radius of 41.78'; thence turning and running Southeast along an arc length of 33.58' with a radius of 83.08'; thence turning and running east along an arc length of 33.46' with a radius of 52.33' to an existing HHB located on the north side of Station Street. The above-described parcel contains an area of 3,098.99 square feet and is shown on a plan entitled "Roadway Discontinuance Plan, Station Street, Hingham, Mass." dated Monday, January 28, 2008, and the Board of Selectmen has determined that the common convenience and necessity no longer requires the Town be bound to keep this portion of said way in repair; and (2) authorize, but not require, the Board of Selectmen to transfer, convey or release the land shown on such plan to an adjoining property owner for the intended use of the combined property to construct a building thereon for use as a restaurant and/or retail space and uses authorized in the Zoning By-Law as set forth in an Agreement between the Town and 6 Station Street LLC, and upon such other terms and conditions as the Board determines are in the best interests of the Town.

ARTICLE 39.

COMMENT: The Hingham Wetland Protection By-Law (Article 22) was adopted in 1984 and is administered by the Hingham Conservation Commission in tandem with Massachusetts General Laws Chapter 131, Section 40, The Wetland Protection Act, as amended, and regulations thereunder.

The state law and the local wetland by-law protects public water supply, private water supply, groundwater and surface water supply, flood control, storm damage prevention, prevention of pollution, protection of shellfish, protection of fisheries, wildlife protection, recreation and open space, and aesthetics. The original state law was promulgated in 1973 and has been amended many times to include the Rivers Protection Act (1996), The Stormwater Management Act (2008) and other resources.

Meanwhile the local by-law, which is structured on the state law and its regulations, has not kept pace and it was last amended in 1988. The proposed changes align the local by-law with the current state by-law and regulations and provide additional clarity to the application process.

Under the Home Rule Petition local communities can have more thorough regulations than the state Wetland Protection Act. These regulations can be tailored to address challenges posed by different soils, topography, natural resources and local land use patterns.

The proposed new by-law, in addition to conforming to state law and regulations, would add the following provisions:

Vernal Pools:

All vernal pools would be protected, not just those that are in flood plains or within other wetland resources.

Fines:

Fines could be levied (\$100.00) per violation, per diem. While DEP has had the ability to fine violators, the Hingham Conservation Commission has not under the local by-law.

Show Cause Hearing:

The Commission would have the ability to require a violator who is not responding to an Enforcement Order under the local by-law to attend a show cause hearing.

RECOMMENDED: That the Town amend the General By-Laws of the Town of Hingham, adopted March 13, 1939, as heretofore amended, by deleting Article 22 and replacing it with a revised Article 22, as follows:

**TOWN OF HINGHAM
WETLANDS PROTECTION BY-LAW**

ARTICLE 22

SECTION 1: PURPOSE AND PROTECTABLE RESOURCES

The purpose of this By-Law is to protect the foreshores, wetlands, and groundwater supply of the Town of Hingham by controlling activities deemed to have a significant effect on wetland and water quality values, including, but not limited to, the following:

Public or private water supply, groundwater, flood control, erosion control, storm damage, water pollution, fisheries, shellfish, wildlife, recreation and aesthetics. No person shall remove, fill, dredge, or alter any bank, freshwater wetland, coastal wetland, beach, dune, bog, flat, marsh, meadow, vernal pools or swamp, or any estuary, creek, river, stream, pond, lake, or the ocean, or the land under or bordering on said waters or wetlands, or any land subject to tidal action, coastal storm flowage, or flooding, or Riverfront Area without first filing written notice of his or her intention to so remove, fill, dredge, or alter by sending a separate letter, by certified mail, or by hand delivery to the Hingham Conservation Commission (hereinafter referred to as the "Commission") or its authorized agent, and without receiving and complying with an Order of Conditions, and provided all appeal periods have lapsed. Such Notice of Intent shall include such plans as required, from time to time, by the Commission and as may be necessary to describe such proposed activity and its effect on the environment. The same plans and specifications required to be filed by an applicant under Massachusetts General Laws, Chapter 131, Section 40, will be accepted as fulfilling the requirements of this By-Law.

The Commission may hear any oral presentation under this By-Law at the same public hearing required to be held under the provision of said Chapter 131, Section 40 of the Massachusetts General Laws. Definitions set forth in said chapter and section of the General Laws and in the regulations issued, as amended from time to time, by the Department of Environmental

Protection, or any successor thereto, are hereby made a part of this By-Law. The Commission may, from time to time, adopt such additional definitions, regulations, and performance standards as it may deem necessary to further the purpose and protect the interests of this By-Law. Said definitions shall become effective upon publication following a public hearing.

This Article 22 is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and regulations thereunder, 310 CMR 10.00. Activities that may not require review or permitting under the Wetlands Protection Act, the Rivers Protection Act, or other federal, state or local statutes are not assumed to be exempt from this By-Law.

SECTION 2: REGULATED ACTIVITIES

2A. Except as permitted by the Commission or as otherwise provided in this By-Law, no person shall remove, fill, dredge, alter or build upon or within one hundred (100') feet of any resource area, as outlined in Section 1 of this By-Law or within the two hundred foot (200') Riverfront Area, as defined in 310 CMR Section 40 10.58. The provisions of this By-Law shall not apply to any removing, filling, dredging, or altering necessary in the course of maintaining or repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone or telecommunication services. In no case shall any removal, filling, dredging or altering authorized by such certification extend beyond the time necessary to abate the emergency.

The provisions of this By-Law shall not apply to any mosquito control work done under the provisions of clause thirty-six (36) of section five of Chapter 40, or Chapter two hundred and fifty-two (252) or to work performed for normal maintenance or improvement of lands in agricultural use as of the effective date of this By-Law.

2B. Except as authorized by the Commission, no activity or alteration shall be permitted within a fifty (50') foot Buffer strip between any wetland resource , bordering vegetated wetland, coastal dune or bank, and/or isolated vegetated wetland and any proposed site disturbance. Prohibited activities shall include, but are not limited to, the following: (1) new construction of any buildings, decks, in-ground and above-ground swimming pools, sheds and/or driveways of any nature or type (excepting water dependent structures expressly approved by the Commission); (2) alteration, reconstruction or relocation of existing buildings, sheds and/or driveways of any nature or type; and (3) activities which involve or result in the removal, filling or altering of land within the buffer strip, including vegetation removal and grading. Nothing herein shall preclude the maintenance of an existing, lawfully constructed structure located within the BUFFER ZONE. The Commission may allow the prohibited activities upon an express determination that the applicant has made a clear and convincing showing that the proposed work in the BUFFER STRIP and its natural and consequential impact and effects will not adversely affect the wetland values of this By-Law.

2C. Except as authorized by the Commission, no activity or alteration shall be permitted within one hundred (100') feet of a vernal pool, whether it be certified or uncertified but accompanied by credible evidence of its viability as a vernal pool. The one hundred feet (100') around the defined vernal pool boundaries shall be known as "Vernal Pool Protection Zone".

Isolated Vegetated Wetlands, Isolated Land Subject to Flooding, and the adjacent 100 feet surrounding these depressions are protected under the Hingham Wetlands Protection By-Law. Vernal Pool Habitat is defined as confined basin depressions which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations, as well as the area within 100 feet of the mean annual boundaries of such depressions.

SECTION 3: DEFINITIONS

The term "person" as used in this By-Law shall include any individual, group of individuals,

association, partnership, corporation, company, business, organization, trust, estate, the Commonwealth or political subdivision thereof, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agents or assigns.

SECTION 4A: REQUEST FOR DETERMINATION

The Commission may make a determination as to whether or not this By-Law applies to a specific situation prior to the filing of a written Notice of Intent under the provisions hereof within twenty-one (21) days of the receipt of a written request by certified mail, or by hand, from any person desiring such a determination. The Commission, its agents, officers, and employees, may enter upon the land on which the proposed work is to be done in response to a Request for Determination, or for the purpose of carrying out its duties under this By-Law, and make, or cause to be made, such examination or survey as it deems necessary.

SECTION 4B: NOTICE OF INTENT

The same Notice of Intent, plans and specifications required to be filed by an applicant under Massachusetts General Laws, Chapter 131, Section 40, will be accepted as fulfilling the filing requirements of the By-Law. Within twenty-one (21) days after receiving a Notice of Intent, the Commission shall hold a public hearing on the proposed activity. Notice of the date, time and place of said hearing shall be given by the Commission at the expense of the applicant not less than five (5) days prior to such hearing by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant by mail. The applicant may be present at said hearing and may be represented by counsel and shall be entitled to present evidence, call witnesses, and question any witnesses appearing at the hearing. The Commission shall make and keep a record of its proceedings and, upon request, shall furnish copies at reasonable cost. Said hearing shall be conducted simultaneously with the public hearing required to be held under the provisions of said Chapter 131, Section 40, and in conformity with said regulations promulgated by the Department of Environmental Protection. The Commission, its agents, officers, and employees, may enter upon the land on which the proposed work is to be done in response to a Request for Determination, or for the purpose of carrying out its duties under this By-Law, and make, or cause to be made, such examination or survey as it deems necessary.

SECTION 5: AUTHORIZATION OF COMMISSION TO DENY PROJECT

The Commission is empowered to deny permission for any removal, dredging, filling or altering on subject lands within the Town if, in its judgment, such denial is necessary to preserve the environmental quality and to protect the wetland and water quality values of either or both the subject lands and contiguous lands. Due consideration shall be given to possible effects of the proposal on all values to be protected under this By-Law and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

SECTION 6: ISSUANCE OF AN ORDER OF CONDITIONS

The Commission may, as an alternative to denial, impose such conditions as it deems necessary to contribute to said protection and preservation of subject and contiguous lands in accordance with the purpose of this By-Law and may issue an Order of Conditions. Any Order of Conditions issued under this By-Law shall be considered a "permit obtainable by local by-law", as defined in Massachusetts General Laws, Chapter 131, Section 40 and its regulations.

SECTION 7A: EMERGENCY WORK AND OTHER EXEMPTIONS

Notice required by Section 1 of this By-Law shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of the Commonwealth and to be performed or ordered to be performed by an agency of the Commonwealth of Massachusetts or of the Town. An emergency project shall mean any project certified to be an emergency by the Commission or its authorized agent. If the Commission or its authorized agent, as the case may be, fails to act within twenty-four hours of receipt of a Request for Certification of an emergency project, said project may be certified by the Hingham Board of Selectmen or its authorized agent. In no case shall any removal, filling, dredging, or altering commence prior to any emergency certification nor extend beyond the time necessary to abate the emergency.

SECTION 7B: FILING FEES:

The Commission is authorized to establish filing fees to defray costs incurred in conducting hearings under the Wetlands Protection By-Law and to adopt rules and regulations regarding the establishment and collection of such fees. Such rules and regulations may be adopted or amended at any regularly scheduled meeting of the Commission subject to the approval of the Board of Selectmen. Upon such approval they shall be published once in a newspaper of general circulation in the Town, shall thereafter be posted for seven consecutive days in five conspicuous places, and shall become effective upon the expiration of said seven (7) days.

The Commission may waive fees when an application fee for a permit, filing, or request for determination or applicability or other application is made by a government agency, municipality or not-for-profit organization.

SECTION 8: ESTABLISHMENT OF SURETY BONDS

The Commission may require the posting of security, running to the Town, including, without limitation, a letter of credit, cash, and bond with surety, in such form and amount and with such conditions as may be determined in the sole opinion of the Commission, after recommendation by its Town Counsel. Such security shall secure faithful and satisfactory performance on work required by any final "Order of Conditions", but shall not be an amount greater than the estimated cost of the work required for the restoration of affected lands and properties if the work is not performed as required.

The Commission may also consider a Conservation Restriction, easement or other covenant enforceable in a court of law as a way to secure adherence to conditions imposed by the Commission. Such covenant shall be executed and duly recorded by the owner of record, running with the land to the benefit of the Town, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

SECTION 9: ENTRY TO PROPERTY FOR REVIEW PURPOSES

The Commission, its agents, officers and employees shall have the authority to enter upon privately owned land pursuant to warrant, court procedure, or another appropriate administrative order for the purpose of performing their duties under the Bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.

SECTION 10: BURDEN OF PROOF

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the application and depicted on the plans will not have unacceptable significant or cumulative effect upon the wetland values protected by this Article 22.

SECTION 11 ESTABLISHMENT OF ENFORCEMENT AUTHORITY

SECTION 11A:

The Commission shall have the authority to enforce this By-Law, its regulations, and permits issued thereunder by enforcement orders, violation notices, administrative orders, and civil and criminal court actions. Upon request of the Commission to, and with the approval of, the Board of Selectmen, the Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

SECTION 11B: ESTABLISHMENT OF FINES

Any person including, but not limited to, the property owner, landscaper, contractors and tree cutting services, who violates any provision of this By-Law, its regulations or any conditions of a permit issued pursuant to it shall be punished by a fine which shall be set by the Commission. The fine shall be \$100.00 (one hundred dollars) per violation. Each day or portion thereof during which a violation continues shall constitute a separate violation and each By-Law, regulation or

permit violated shall constitute a separate offense. A Hingham police officer or the Conservation Commission or its agent may enforce this By-Law by noncriminal complaint pursuant to M.G.L. Chapter 40, Section 21D. Upon request by the Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this By-Law and permits issued pursuant to it.

SECTION 11C: SHOW-CAUSE HEARINGS

The Commission may require a Wetlands By-Law violator to attend a “Show-Cause” Hearing at a scheduled time and date certain if, in the Commission’s judgment, the violator has failed to respond to an Enforcement Order, cooperate with the Commission’s request for remedial actions or take required steps necessary for ensuring protection of the resources and associated buffer zones in a timely manner.

SECTION 12: SEVERABILITY

Should any section or provision of this By-Law be found invalid, the validity of any other section or provision thereof shall not be affected, nor shall it invalidate any permit, approval or determination which previously has been issued.

ARTICLE 54

RECOMMENDED: That no action be taken on this article.

ARTICLE 55

RECOMMENDED: That no action be taken on this article.