

SECTION I

Administration and Procedure

[Omitted I-A through I-D]

I-F Special Permits A1 and A2

1. Procedures for Application, Hearing and Decision

Each application to the Board of Appeals for a Special Permit A1 or A2 shall be filed with the Town Clerk, with duplicate copies submitted in accordance with the regulations of the Board of Appeals. The Board of Appeals shall hold a public hearing on the application, as provided in Massachusetts General Laws Chapter 40A, within 65 days of the filing of a complete application.

The Board of Appeals may grant, grant with conditions, deny, or grant leave to withdraw an application for a Special Permit. A copy of the decision shall be filed with the Town Clerk and the Planning Board, and shall be furnished the applicant and property owner, in accordance with Massachusetts General Laws Chapter 40A.

The applicant shall be responsible for filing a certified copy of the decision in the Registry of Deeds or, where applicable, in the Land Court. Prior to the issuance of a Building Permit, the applicant shall present to the Building Commissioner evidence of such recording.

2. Approval Criteria

An applicant is not entitled to a Special Permit or a Special Permit with site plan review. The Board of Appeals may approve such application for a Special Permit A1 or A2 if it finds that, in its judgment:

- a. use of the site is in harmony with the general purpose and intent of this By-Law;
- b. the proposed use complies with the purposes and standards of the relevant specific sections of this By-Law;
- c. the specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area;
- d. the use as developed and operated will create positive impacts or potential adverse impacts will be mitigated;
- e. there will be no nuisance or serious hazard to vehicles or pedestrians;
- f. adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use; and
- g. the proposal meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.

3. Costs

The costs of professional consultants, experts or assistance incurred by the Board of Appeals or Planning Board shall be borne by the applicant. However, the costs to be paid by the applicant shall not exceed the reasonable and usual charges of said

consultants or other experts for such services. The applicant shall deposit with his application an appropriate portion of the anticipated review costs as determined by the Boards' administrators as security for payment on such costs. No occupancy permit may be issued in accordance with Section I-C of this By-Law until the applicant has paid or reimbursed the Town for all such costs.

I-G Special Permits with Site Plan Review

Site plan review is required for all Special Permits designated A2 and A3 in this By-Law or any modifications of a Special Permit A-2 or A-3. Such site plan review is conducted by the Planning Board in accordance with Section I-I. Joint hearings of the Board of Appeals and the Planning Board may be held at the discretion of the Boards.

I-H Building Permits with Site Plan Review

All building permit applications for work subject to Special Requirement 6 of Section IV-B shall first be submitted to the Planning Board and shall be subject to site plan review. The Planning Board shall review and investigate each such application in accordance with the criteria and standards for site plan review listed in Section I-I. The provisions of Section I-D, 4 and I-F, 3 of this By-Law shall apply to all applications for Site Plan Review under this Section I-H.

I-I Site Plan Review

1. Purpose

The purpose of this Section is to provide a comprehensive procedure for development projects to ensure compliance with the provisions of the Zoning By-Law, to minimize adverse impacts of such development, and to promote development which is harmonious with surrounding areas.

2. Procedures

Applicants for site plan approval shall submit seven (7) hard copies and an electronic file of the site plan and submittal materials to the Planning Board for review, except that only two hardcopies of the drainage report are required. The department staff shall notify the Board of Health, Building Commissioner, Conservation Commission, Department of Public Works, HMLP, Water Company, Sewer Department, Fire Department and Police Department of the application and request their advisory review and comments. Notice of a site plan review hearing in connection with any application also requiring a Special Permit A2 from the Board of Appeals shall be given in accordance with M.G.L. c. 40A, Section 11.

The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, and notify the applicant of its decision. The decision of the Planning Board shall require an affirmative vote of three members and shall be in writing. If public notice is required, the Planning Board shall act within seventy-five (75) days of its receipt of the Site Plan Review application, provided that, if the Planning Board or its review consultants have requested (no later than forty (40) days after receipt of the application) additional information or submittals from the applicant, such supplemental information shall be delivered no later than sixty (60) days after receipt of the application. If such additional information is not received by such sixtieth day, the Planning Board may extend its period of review until the date that is fifteen (15) days after receipt of all such supplemental information from the applicant. If public notice is not required, the Planning Board shall act within forty-five (45) days of its receipt of the

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- Site Plan Review application, provided that, if supplemental information requested by the Planning Board or its review consultants (no later than twenty days after receipt of the application) is not delivered to the Planning Board by the thirtieth day after receipt of the application, the Planning Board may extend its period of review until the date that is fifteen (15) days after receipt of all such supplemental information from the applicant. The foregoing timeframes do not preclude the Planning Board from requiring (after such fortieth or twentieth date, as applicable) submission of supplemental information not previously requested.
- a. Application for Building Permit. An application for a building permit to perform work as set forth in Special Requirement 6 of Section IV-B shall be accompanied by an approved site plan unless the Planning Board's review (including any extensions thereto) has expired without any action by the Planning Board.
 - b. Application for Special Permit A2. Applications for a Special Permit A2, or any modification of a Special Permit A2, and for site plan review shall be filed simultaneously. The Board of Appeals shall not make a decision on a Special Permit A2 application until it has received the Planning Board's site plan review decision, or until the Planning Board's review period (including any extensions thereto) has expired without any action by the Planning Board.
 - c. The conditions imposed by the Planning Board shall be incorporated in any Special Permit A2 issued by the Board of Appeals. The Board of Appeals may add additional conditions to the issuance of a special permit, but may not remove any conditions imposed by the Planning Board or modify any condition except as follows. The Board of Appeals may propose to the Planning Board the modification or removal of a site plan condition imposed by the Planning Board. Failure of the Planning Board to issue a revision to the site plan conditions within twenty-one (21) days shall be deemed a denial of that proposal.
 - d. Application for Special Permit A3. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.
 - e. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.
 - f. A final certificate of occupancy shall not be issued until the applicant has complied with or satisfied all conditions to the Special Permit A2 or, in the case of building permits with site plan review, all conditions of the site plan review decision, except for those conditions which by their terms are intended to be satisfied after occupancy of the structures for which the certificate of occupancy is sought.
3. Pre-Application Submittal
Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board.
 4. Submittal Requirements
Each application for a Building Permit or Special Permit with site plan review shall include the following information prepared by qualified registered professionals, either shown on wet-stamped and signed plans or other supporting documentation:

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- a. locus plan; diagram and statement of the ownership, area, dimensions, boundaries and principal elevations of the subject property; location of structures within 100 feet of property line;
 - b. scaled and dimensioned plan of the location and footprint of existing and proposed buildings and structures; if applicable, building elevations and floor layouts;
 - c. if applicable, plan showing proposed circulation of traffic within the development and in all adjacent public ways; dimensioned plan of loading and parking areas, aisles and driveways; plan with detail sheets if appropriate, profile and representative cross sections of proposed driveways and parking areas;
 - d. analysis of compliance with all relevant dimensional provisions of this By-Law;
 - e. detailed information on utilities, landscaping, refuse storage and removal;
 - f. grading plan, estimated net import/export of material, drainage analysis and traffic analysis, as applicable;
 - g. analysis of the capacity of Town soils, water supply, ways and services to absorb the impact of the proposed development;
 - h. analysis of compliance of the construction activities and the proposed project, including the extent the project incorporates low impact design and green infrastructure solutions, with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Policy and Standards including (i) the Massachusetts Stormwater Handbook, (ii) Massachusetts Erosion Sediment and Control Guidelines, and (iii) if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system;
 - i. an erosion control plan and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements;
 - j. Site Lighting Plan showing the location, height, photometrics, orientation, and specifications for all outdoor site lighting, including information on the intensity and range of illumination for each source of light proposed; and
 - k. such other materials necessary to enable Town boards to make a positive determination on the proposed development.
5. Upon written request of the applicant, the Planning Board may waive any of the submittal requirements set forth in Section I-I, 6 deemed by the Planning Board to be not necessary for its review of the application. In addition, the Planning Board may waive other such requirements of this Section I-I, including the requirement for a public hearing, where the Planning Board determines that the project constitutes a minor site plan. In order to constitute a minor site plan, the proposed work must be limited to (a) interior renovations to a building or structure which do not include a change of use for which a Special Permit A2 or A3 is required and/or (b) modifications to the site which, in the Planning Board's determination, do not materially or adversely affect conditions governed by the site plan review standards set forth in Section I-I, 6 below.

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The Planning Board may, by a majority vote of the Board, delegate to the town planner and/or to a designated Board member the determination of whether a project constitutes a minor site plan pursuant to Section 5(a) above and, if so, the authority to waive site plan therefor.

6. Review Standards and Approval

Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the objectives of this with subsection 6. In reviewing each such application the Planning Board shall study the site plan with reference to the health, safety and welfare of the prospective occupants, the occupants of neighboring properties, and users of the adjoining streets or highways, and the welfare of the Town generally, including its amenities. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives.

The Planning Board shall limit the proposed development so that its impact on each of the municipal services, ways, utilities and other resources does not exceed its existing design capacity. This limitation shall be imposed upon the proposed development regardless of the intensity of development otherwise permitted by this Zoning By-Law.

In conducting a site plan review, the Planning Board shall consider the following:

- a. protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting.
- b. convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles;
- c. adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law;
- d. adequacy of open space and setbacks, including adequacy of landscaping of such areas;
- e. adequacy of the methods of disposal of refuse and other wastes during construction and resulting from the uses permitted on the site including but not limited to discarded building materials, concrete truck wash out, chemicals, litter and sanitary wastes; provided, that discharge of refuse or other wastes into the municipal stormwater system shall be expressly prohibited;
- f. prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources;
- g. assurance of positive stormwater drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and stormwater pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts

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Department of Environmental Protection's Stormwater Management Policy and Standards including the Massachusetts Stormwater Handbook, the Massachusetts Erosion and Sediment Control Guidelines and, if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system.

h. assurance that appropriate Best Management Practices have been incorporated to minimize the amount of disturbed areas and protect natural resources, stabilize sites when projects are complete or operations have temporarily ceased, protect slopes on the construction site, protect storm drain inlets and armor all newly constructed outlets, install perimeter controls at the site, stabilize construction site entrances and exits to prevent off-site tracking of material, and to provide for regular inspection of stormwater controls at consistent intervals.

i. protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations: and

j. minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.

8. Lapse

Site plan approval shall lapse after two years from the grant thereof if a substantial construction or use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

9. Conditions of Approval

In addition to such other conditions as may be imposed by the Planning Board under this Section I-I, all site plan approvals shall be subject to the following conditions:

a. Pre-Construction Meeting

A pre-construction review meeting with inspection of the erosion control installation and marked limits of clearing shall be required as a condition of approval for all projects. Projects that disturb one or more acres individually, or cumulatively if phased development is proposed, shall be required as a condition of any approval to provide a Stormwater Pollution Prevention Plan for review by the Planning Board or their designee not less than three weeks prior to the start of any work.

b. Inspections

Inspections shall be required during construction, and prior to issuance of a certificate of occupancy, of all elements of the project related to or affecting erosion control during construction and the approved drainage and stormwater system installed for the project. The Planning Board may require, at the applicant's expense, the establishment of a consultant fee account pursuant MGL Chapter 44, Section 53G, to fund the cost of such inspections.

c. As Built Plan Requirement

Upon project completion an as-built plan must be submitted to the Building Commissioner prior to the issuance of a certificate of occupancy, and in no event later than two years after the completion of construction. In addition to such other requirements as are imposed by the Building Commissioner, the as built plan must

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demonstrate substantial conformance with the storm water system design and performance standards of the approved project plans.

10. Regulations
The Planning Board may adopt and from time to time amend reasonable regulations for the administration of this Section I-I.

I-J Planning Board - Special Permit A3

1. Powers
The Planning Board shall have the power to hear and decide an application for a Special Permit A3 for uses in specified districts that are in harmony with the general purposes and intent of this By-Law. A Special Permit A3 shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use. One associate member of the Planning Board shall be appointed in the manner herein provided for a term of one (1) year to act on Special Permit A3 applications if necessary. The associate member of the Planning Board shall be appointed by the following procedure: (a) the Planning Board shall appoint a then current associate member of the Board of Appeals; or (b) if no then current associate member of the Board of Appeals is appointed by the Planning Board, the Planning Board and the Board of Selectmen shall jointly appoint an associate member to the Planning Board, provided that preference shall be given to former Planning Board members and former regular or associate members of the Board of Appeals. No member of the Planning Board shall act on any matter in which the member may have a personal or financial interest, and in such event, the associate member shall be designated to serve on the Planning Board and to act upon the matter.
2. Peer Review and Consulting Fees:
The provisions of Section I-F, 3 shall apply to all applications for a Special Permit A3.
3. Repetitive Petitions
The provisions of Section I-D, 4 of this By-Law shall apply to all applications for a Special Permit A3, provided, however, that in connection with an application for a Special Permit A3, all references to the Board of Appeals in such Section shall be deemed to refer to the Planning Board.
4. Procedures for Application, Hearing and Decision
Each application to the Planning Board for a Special Permit A3 shall be filed with the Town Clerk, with duplicate copies submitted in accordance with the regulations of the Planning Board. The Planning Board shall hold a public hearing on the application, as provided in the Massachusetts General Laws Chapter 40A, within 65 days of the filing of a complete application.

The Planning Board may grant, grant with conditions, deny, or grant leave to withdraw, an application for a Special Permit A3. A copy of the decision may be filed with the Town Clerk and the Planning Board, and shall be furnished the applicant and property owner, in accordance with Massachusetts General Laws Chapter 40A.

The applicant shall be responsible for filing a certified copy of the decision in the Registry of Deeds or, where applicable, in the Land Court. Prior to the issuance of a Building Permit, the applicant shall present to the Building Commissioner evidence of such

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recording.

5. Approval Criteria

An applicant is not entitled to a Special Permit A3. The Planning Board may approve such application for a Special Permit A3 if it finds that, in its judgment, the proposed use is consistent with the criteria set forth in Section I-F, 2 (a) through (g) of this By-Law, with the exception of Special Permit A3 Parking Determinations. The approval criteria for Special Permit A3's related to off-street parking are described in Section V-A 6.

6. Lapse

Except for good cause, a Special Permit A3 shall lapse in two (2) years after the date of issue, or such shorter period as may be specified by the Planning Board, which shall not include any time required to pursue or await the determination of an appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17.

[OMITED I-K THROUGH I-M]

IV-B Special Requirements to Schedule of Dimensional Requirements

1. No building, structure, parking area or septic system shall be constructed within 100' of a residence district, except where the zoning district boundary is in a street, in which case the setback from said boundary shall be 50'. A natural or landscaped vegetative barrier as approved under site plan review shall be retained or created and maintained within this setback.
2. A minimum of 15% of the area of each lot shall not be built upon, paved or parked upon, and shall be maintained either in its natural state or landscaped. Along the entire street frontage of each lot a green or landscaped strip not less than 15' wide shall be maintained in its natural state or landscaped with grass, trees and shrubs, not paved except for driveways, not parked upon and not built upon except for signs. The required 15% may include the 15' green strip.
3. Any yard space or area required to be kept open and unbuilt upon may, nevertheless, if otherwise lawful, be used for off-street automobile parking, or for outdoor storage of packaged articles, packaged supplies or packaged materials, provided any such outdoor storage space shall be effectively screened from view by some substantial means such as an ornamental wall an ornamental lattice or a dense planting. A green strip not less than thirty (30) feet wide on which to grow grass, bushes, flowers or trees, shall be maintained open and green, unbuilt upon, unused and unpaved and not parked upon, all along each side or rear property line of such a lot wherever it abuts land residentially zoned.
4. Frontage specified shall be the minimum width to a depth of 200'.
5. A green yard space not less than twenty (20) feet wide shall be maintained open and green with grass, bushes, flowers or trees or any combination of them, along the entire length of each side lot line or rear lot line of such a lot and (except for entrance and exit driveways) along the entire street frontage of such lot, and such yard space shall not be built on nor paved nor used for automobile parking. Not less than 80% of the land area of such a lot shall remain open and unbuilt on, but such open space may be used for automobile off-street parking, driveways, sidewalks and store service yards, except that such use shall not be permitted in any part of the 20' wide green perimeter strip above specified. Notwithstanding the foregoing, a green yard space not less than fifty (50) feet wide shall be maintained open and green with grass, bushes, flowers, trees, or in an undisturbed natural condition, or any combination of the foregoing, along the entire length of each side lot line and rear lot line of such lot where such side lot line or rear lot line abuts a Residence A or Residence B or Residence C District.
6. Site Plan Review, as defined in Section I-I, shall be conducted by the Planning Board or its designee, for all projects which meet the following criteria:
 - a. all non-residential projects which are estimated to cost \$20,000 or more;
 - b. all projects which 1) create a land disturbance or an alteration of drainage patterns over an area greater than ~~20,000~~5,000 square feet; or 2) create a land disturbance of more than ~~2500~~1000 square feet in areas with slopes greater than 10%; or 3) are part of a larger common plan of development or sale that would disturb more than one acre in the aggregate; provided, however, that the following types of projects shall be exempt from site plan review under this subsection b:

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- i. normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
- ii. routine maintenance of existing landscaping, gardens or lawn areas;
- iii. the construction of fencing that will not alter existing terrain or drainage patterns;
- iv. installation of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain, ground cover, or drainage patterns;
- v. projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions under the Wetlands Protection Act, MGL c. 131, s. 40, the Town of Hingham Wetlands Protection By-Law, and/or the Rivers Protection Act.; or
- vi. road widening or improvement projects; provided that road projects that (i) increase the amount of impervious area by greater than or equal to a single lane width, (ii) disturbs more than one acre, and (iii) discharges to the Town's municipal stormwater system, shall meet the applicable requirements of the Town of Hingham MS4 Permit.

[FOR DISCUSSION – POSSIBLE PROVISIONS FOR LIMITED SITE PLAN REVIEW FOR RESIDENTIAL PROJECTS]

- c. in connection with a single-family dwelling or two-family dwelling project which requires site plan review pursuant to subsection b.1 or b.2 above, site plan review shall be limited to the criteria set forth in Section I-1.6(a) and (e) through (i) as to the impact of the construction of the project and the site plan design on abutting properties, and adjoining public ways, and the Town's municipal stormwater system as to erosion, surface water drainage, and the disposal of refuse and other wastes. This subsection c. shall not apply to site plan review required pursuant to subsection b.3 above, or in connection with a Special Permit A3 Flexible Residential Development or other development projects consisting of more than one single-family or two-family dwelling for which site plan review is required.
7. Each free standing structure, regardless of use, shall be not less than 1500 sq. feet lot coverage gross horizontal dimension. Each structure may be divided into street floor retail occupancy units not smaller than 750 sq. feet each, or into business, professional or personal service occupancy units not smaller than 350 sq. feet each.
 8. No more than two driveways of 26' width each shall be permitted on the total street frontage of each retail store group.
 9. In all residence districts and Business District A, the front setback may be as near the street as the average of the buildings or structures in the adjoining lots. For a vacant lot, the front setback line shall be the minimum front setback required in the district.
 10. In the case of land used for housing the elderly persons of low income, or persons of low and moderate income, pursuant to the provisions of subsection 1.5 of Section III-A, the following provisions shall apply:
 - a. There shall be no less than three thousand (3,000) square feet of lot area per dwelling unit.

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- b. No more than forty percent (40%) of the lot area shall be occupied by the buildings.
 - c. A green yard space, no less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers, or trees, or any combination thereof, along the entire length of each side lot line and rear lot line and (except for driveways) along the entire street frontage, and such green yard space shall not be built upon nor paved nor used for storage or for vehicle parking, but signs and fences not otherwise prohibited by law may be erected and maintained thereon.
 - d. There shall be a minimum distance of thirty (30) feet between all buildings on such land.
 - e. There shall be reserved sufficient areas to provide parking spaces for vehicles at the rate of one such space per dwelling unit. So much of said area or areas shall be paved as may be deemed necessary by the Board of Appeals. In making such determination, the Board of Appeals shall give due consideration to the location of the land, the probable number of vehicles parking thereon, the probable age, economic resources, and parking requirements of the occupants of such dwelling units, and such other factors as said Board may deem pertinent in each case. From time to time the Board of Appeals may, upon the petition of the Board of Selectmen, the Building Commissioner or the Planning Board, and after notice and hearing as provided by subsection 3 of Section I-D, determine the necessity for additional paving of such reserved area or areas and may order additional paving in accordance with such determination.
11. No side yard is required where a dwelling unit shares a party wall with a building constructed at the same time.
12. Not over 20% of the required minimum lot area may be met by land in the Floodplain Protection Overlay District.
13. No portion of the minimum lot area may be met by land that is:
- a. Wetlands as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act;
 - b. Wetlands as defined by the Town of Hingham's Wetlands Protection By-Law;
 - c. Land subject to flooding as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act;
 - d. Land within the Floodplain Protection Overlay District as defined by Section III-C of the Zoning By-Law of the Town of Hingham.
- In addition, the required minimum lot area shall be contiguous.
14. Properties zoned Industrial Park or Office Park and contained within the South Hingham Development Overlay District are subject to the intensity regulations set forth in Section III-E, South Hingham Development Overlay District.
15. Contiguous parcels separately deeded to the Town shall be considered a single parcel in application of minimum yard dimensions.

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16. In no event shall the Height of any residential Building be higher than thirty-five (35) feet measured from Grade Plane, and in no event shall the highest roof surface, peak or parapet be more than forty (40) feet above Finished Grade where it intersects the perimeter wall at any point. See also the Building Height Diagram in annex A.

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