

# Town of Upton



## Zoning By-Laws

*DRAFT – FOR DISCUSSION*

*THE EXISTING SECTION 6.4 PLANNED VILLAGE DEVELOPMENT  
IS REPLACED WITH NEW SECTION 6.4  
VILLAGE CENTER DEVELOPMENT DISTRICTS A & B*

*AUGUST 18, 2016*

***DRAFT VILLAGE CENTER DISTRICTS – FOR DISCUSSION***

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**Commented [cmrpc1]:** This page is included in order to preserve the number formatting in the new Section 6.4

**Commented [cmrpc2]:**  
FORMATTING NOTE: The preceding pages contain some formatting issues that will be resolved (bullet locations, spacing, etc.).  
Some of the formatting issues are created by the inclusion of the new Section 6.4 within the formatting patterns of the existing bylaw.

## ***DRAFT VILLAGE CENTER DISTRICTS – FOR DISCUSSION***

### **6.4 VILLAGE CENTER DEVELOPMENT DISTRICTS A (VCD-A) and B (VCD-B)**

- 6.4.1 **Intent.** The Town of Upton finds that the revitalization of our village centers will benefit the general health and welfare of our residents and the region by fulfilling existing housing, economic development, transportation and employment needs. Therefore, the Town implements this bylaw and establishes certain zoning districts as Village Center Development Districts to encourage economic and residential growth that fits the character of the Town and to help achieve the Town’s objectives for the village center regarding use, design and functionality.

#### Village Center Development District

The purposes of the Village Center Development District A and B are to:

- 1) Build upon the historic development patterns in existing village centers to create attractive, vibrant, compact, and pedestrian-oriented neighborhoods;
- 2) Permit greater flexibility and more creative and imaginative design for the development of municipal, commercial, retail, general business, and residential mixed-use areas than is generally possible under conventional zoning provisions.
- 3) Encourage adaptive reuse of abandoned, vacant, or underutilized buildings or structures where consistent with the character, massing, and density of the neighborhood;
- 4) Allow for a mix of land uses that are appropriate to both the needs of the community and the scale of structures in the surrounding neighborhoods;
- 5) Provide for the development of housing that allows for a full range of housing opportunities for various family, age, ethnic, income, disability, stage of life, and social situations to promote unmet housing needs including affordable housing and handicap barrier free housing;
- 6) Provide incentives to develop larger parcels at higher densities and in a coordinated, planned approach;
- 7) Maintain a consistently high level of design quality throughout the district;
- 8) Further the Region’s and the Town’s economic development potential by encouraging a vibrant town and village center areas where people can live, shop, eat, conduct business, and enjoy arts and cultural activities; and
- 9) Create new development and redevelopment that is designed to follow traditional New England village development in terms of its physical design, scale, mix of uses, and visual character but with modern amenities and services
- 10) The particular purpose of Village Center Development District A is to allow for denser residential, commercial, and mixed use development while embracing village center design principals to encourage compatible development, redevelopment, adaptive reuse, and targeted preservation that enhances the economic base, encourages pedestrian activity, and attracts visitors.

**Commented [cmr3]:** This section outlines the purpose and intent of the new Village Center Districts. The major impetus for this re-zoning is outlined in numerous sections of the 2005 Master Plan which specifically states the following:

Section 3.8. Land Use Recommendations (p. 26) –

“Create Village Scale Zoning District for Town Centers and West Main Street - Upton cherishes the village feel of the town center and the connecting neighborhoods along West Main Street. However, the existing zoning mandates a strip commercial style of development that is inconsistent with the traditional village scale and design of the area. The neighborhood could see continued disinvestment, particularly if the Planned Village Development west of the two town centers creates a new destination for shopping and services. Therefore, in an effort to preserve the existing neighborhood, create additional and appropriate economic development, and to permit small scale mixed use structures, complete with apartments on the upper stories, the town should create a new zoning district for the town centers and the connecting segment of West Main Street. This new zoning district would allow for small scale commercial and mixed use structures with minimal front yard and side yard setbacks. Parking should be on street or to the side or rear of the structures.”

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11) The particular purpose of Village Center Development District B is to create a transition between the denser VCD-A areas and the residential areas of SRA and to generally protect, maintain, and enhance the existing primarily residential low density and historical character of the Main Street corridor while allowing for targeted and compatible development and redevelopment that enhances the economic base and facilitates compatible and complementary uses throughout the corridor.

**6.4.2** Special Permit Granting Authority. Permit Procedures & Authority. The Planning Board shall act as the administering authority for any Site Plan Review procedure associated with this bylaw (See Section 9.4, SITE PLAN APPROVAL). The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in the VCD-A and VCD-B districts or any use requiring a Special Permit pursuant to Section 4 except as otherwise noted. Where standards or other requirements listed as part of this overlay district may conflict with those in the underlying district, the overlay provisions shall apply.

**6.4.3** Prohibited Uses: In addition to the uses indicated with an “N” in Table 3.1.3, the following uses are specifically not permitted in VCD-A:

- 1) Drive-through restaurants;
- 2) Auto related uses, such as auto repair/sales and gas stations;
- 3) Adult entertainment uses.

**6.4.4** Development Requirements.

- 1) **Development Thresholds:** Development of property in the Village Center Development District shall proceed based on the following five (5) scenarios:
  - a. **Use Change/No Development or Redevelopment:** For projects that propose a change in use but no physical alteration of the structure or site, site plan review is only required should the change in use require additional parking, loading, or other site element;
  - b. **Use Change/ Minor Physical Modification:** For projects that propose a change in use and/or only minor physical alteration of the structure or site, site plan review is required but no special permit. Minor physical alterations include changes to parking configurations, minor building additions (equal to or less than 1000 square feet nor more than an additional 25% of the floor area):

**Commented [cmrpc4]:** The purpose and intent of this section is to ensure that changes in use that do not require significant changes to an existing building or site can occur with minimal permitting requirements. This section is intended to relate to the Town's existing Minor Site Plan Review Rules and Regulations.

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- c. Major Physical Modification: For projects that propose a change in use and/or a major physical alteration of the structure or site including a building addition, both site plan review and special permit are required. Major physical modifications include major site work and/or building additions in excess of 1000 square feet or more than 25% of the current floor area);
- d. Redevelopment: For projects that propose a redevelopment of an existing site, both site plan review and a special permit are required. Redevelopment is the removal, replacement, complete rehabilitation or adaptive reuse of an existing structure or structures with a change in building footprint, or of land from which previous improvements have been removed.
- e. New Development/Property Consolidation: For projects that propose a new development of an existing undeveloped site or new development through the consolidation of separate sites, both site plan review and a special permit are required;

Collectively, development thresholds c-e. shall be referred to as “large-scale development”.

**6.4.5 Parking.**

- 1) Parking minimums. With the exception of residential uses, parking shall be provided according to the schedule or parking requirements outlined in Section 5.10 of the Zoning Bylaw. Residential parking minimums are outlined below.
  - a. Parking spaces for one use shall not be considered as providing the required spaces for any other use, except as hereinafter provided. As part of the special permit process for this district, the applicants are encouraged to request reductions to minimum requirements or alternative methods for meeting the required parking.
  - b. When units or measurements that determine the number of required parking or loading spaces result in a requirement of a fractional space, a fraction over ½ shall require one parking or loading space.

**Commented [cmrpc5]:** This section adds a minimum requirement for new residential uses and allows for shared parking, both of which are commonly found in village center zoning bylaws.

The section also adds several design components, the primary one is a requirement that parking be located at the side or rear of any new commercial/residential building. While this is waivable (see Section 6.4.21), the purpose and intent is to, overtime, remove or reduce the automobile-oriented development patterns and replace them with more pedestrian oriented development found in traditional village center areas.

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c. Parking Minimums for Residential uses

Use	Minimum Parking Spaces
Studio, efficiency, and One bedroom unit	1 space
2 bedrooms or more	1.5 spaces

2) Shared, Leased and Off-Site Parking. Applicants for a Site Plan Review approval or Special Permit may request to share and/or lease parking spaces and/or locate parking spaces off-site, based on the following conditions:

a. Amount

- (1) Parking spaces to be shared represent the difference between peak parking needs generated by on-site uses occurring at different times. This may include reductions in parking use resulting from employees, tenants, patrons or other parking users of the site being common to and shared by more than one different use on the site, and/or:
- (2) Parking spaces to be shared represent the difference between current levels of peak parking utilization and anticipated lower future levels of peak parking utilization, said difference to be generated in whole or in part by a parking management plan approved by the permit granting authority. Said plans shall include and implement measures such as car and van pooling, bicycling and public transit. The permit granting authority may require periodic documentation of reductions in parking utilization realized as a result of the parking management plans.

b. Location

- (1) Separate from, or in conjunction with shared parking provisions contained herein, an applicant may use off-site parking to satisfy their parking requirements in accordance with the following conditions: Off-site parking shall be within 500 of the front entrance of the use it is proposed to serve as measured along an easily accessible and well-lit pedestrian pathway, except that in the case of parking spaces for employees only, the distance may be increased to 800 feet. In order to satisfy this requirement, an

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applicant may propose improvements to an existing pedestrian access within the permitting process, with any such improvements completed prior to issuance of certificate of occupancy.

- (2) The shared or leased parking is suitably located in the neighborhood in which it is proposed, as deemed appropriate by the permit granting authority.
- (3) The shared parking spaces may only be located in a zone in which the parking area is permitted.

c. Agreements

- (1) An agreement, lease, deed, contract or easement establishing shared or leased use of a parking facility shall be submitted to and approved by the Planning Board. The approved agreement shall be recorded in the Registry of Deeds prior to the issuance of an occupancy permit for the project.
- (2) In the event that a shared or leased parking agreement is terminated, those uses with less than the required number of spaces shall notify the Planning Board within fourteen (14) days and do one of the following:
  - Provide at least fifty (50) percent of the required parking within sixty days and provide the remaining required parking within six (6) months following termination of the shared use agreement; or
  - Demonstrate to the Planning Board, using a study deemed reliable by the Board, that the available parking is sufficient to accommodate the use’s peak parking demand.

3) Parking area design and access.

- a. Parking areas shall be located to the side and rear of the structure. No parking shall be within the front yard setback.
- b. Parking areas shall provide effective screening of the parking area from adjacent streets or properties. Such screening may be accomplished by: depressions in grade 3 feet or more; a hedge or wall; or any type of appropriate natural or artificial permanent division. Any required screening barrier shall not be less than 3 feet high. Screening shall not be located to obstruct driver visions so as to impair safety at intersections or driveway entrances or exits.

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- c. Parking areas shall provide adequate exterior lighting. All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property.
- d. Individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces.
- e. To minimize turning movements onto adjacent public ways, developers are encouraged to provide internal circulation systems that connect to adjacent developments. When several adjacent lots front onto one street, the Board may require such lots to share a single driveway, or that the lots be accessed by an internal service road. Where such sharing cannot be achieved in the short run, the means and location for future long term inter-parcel connections shall be required through right-of-way reservation and/or dedication. Thought should be given to continuing such internal ways between two public ways to facilitate town-wide traffic flow. The Board may waive height, open space, or other requirements of this by-law to achieve such purposes.
- f. Where a property is re-developed as a Major Physical Modification, existing curb cuts shall be re-designed to improve traffic flow. To the extent feasible, multiple curb cuts shall be combined to minimize traffic entry points onto adjacent streets.
- g. To the extent feasible, parking areas as part of a Major Physical Modification shall also be designed in accordance with the Planning Board’s Village District Design Standards and Guidelines.

6.4.6 Dimensional Requirements. In order to permit site planning best tailored to the land under consideration, there are no predetermined dimensional requirements except for Section 4.2 Table E above and the following:

- 1) Each request to develop *or redevelop* in this district shall be given individual consideration in regards to setbacks, buffers and screening, and other dimensional requirements to ensure that infill and replacement dwellings are compatible with the dimension of the adjacent dwellings, the block and the neighborhood.
- 2) Where a property in the Village Center Development District adjoins residential property in an adjacent residential zoning district, a buffer area shall be provided and delineated on a Village Center Development District project site plan.

**Commented [cmrpc6]:** This section is added to provide the Planning Board with the ability to require a buffer between new development in either of the Village Center Districts and the existing Single Family Residential districts.

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- 3) Maximum Front Yard: New structures shall not be set back more than ten (10) feet or more than the average of the front yard setbacks of existing buildings on the abutting lots on either side, whichever is less. The Planning Board reserves the right to seek to establish new norms for block setbacks as may be appropriate.
- 4) Existing structures, or those for which valid building permits have been issued, as of (*Insert Town Meeting date here*), with front, side, and rear setbacks that do not meet the requirements herein shall be permitted to maintain those setbacks.
- 5) Lot coverage, open space, and density requirements for large scale development shall be flexible and evaluated and determined on a lot by lot basis based on the following guidelines:
  - a. Buildings and sites should be developed and improved based on the purpose and intent of this Section 6.4 and therefore be harmonious or consistent with historic New England town center densities and site massing.
  - b. Thus, as appropriate, certain sites may be good candidates for additional density, bulk and massing, and height provided that the additional development fits with the character of the area and the block in which it is situated, or conversely, establishes a new norm that is more in conformity with said purpose and intent. Additional bulk or density may be granted by the Planning Board based on:
    - (1) Meeting one or more of the purpose and intent elements of Section 6.4.1;
    - (2) Providing a public good such as a plaza, public art, day care center, space for public meetings, public parking, or other amenity that serves the public;
- 6) Open Space: Open Space should generally be planned as contiguous areas that promote the objectives of this By-Law while retaining the natural features of the site most worthy of preservation in a natural state.
  - a. Categories: Open space in a Village Center Development District shall consist of three (3) categories:
    - (1) Open space for active and/or passive recreational pursuits including but not limited to ball fields, soccer fields, trail systems, parks, etc., that would be transferred to the town, state, or other non-profit agency;

**Commented [cmrpc7]:** This section is added to encourage new buildings to be located closer to the street and to remove and eliminate the auto-mobile oriented development patterns with large areas of parking adjacent to the street and buildings at the rear of a property. This is a key component of allowing for the creation, overtime, of a more pedestrian oriented pattern of development. Similar to the parking requirement, this requirement can be waived or modified by the Planning Board under Section 6.4.21

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- (2) Open space associated with retail/office and/or municipal uses such as pocket parks or plazas;
- (3) Open space consisting of landscaped or natural vegetation that shall serve as buffers between incompatible uses.

The first two categories of open space would generally provide for public access, which would be defined through covenants approved by the Planning Board as part of the special permit process.

- b. Requirements: Minimum open space for parcels within a VCD-A or VCD-B districts shall generally be limited to the existing lot coverage except that the Planning Board, by special permit, may allow additional lot coverage.

Open Space requirements for property requiring a special permit shall be as follows:

- (1) No less than 15% of the Developable Area within a new development / redevelopment site shall be designated as open space.
- (2) No less than 15% of a new development / redevelopment site shall be designated as upland open space that shall not consist of wetlands as defined by G.L. c. 131, s.40.
- (3) Wetland areas shall be incorporated into open space to the greatest extent possible.
- (4) No less than half of the a new development / redevelopment site classified as upland open space shall be dedicated as publicly accessible and useable open space that shall not consist of wetlands as defined by G.L. c. 131, s.40.
- (5) Undevelopable or hard to develop lands such as ledge or steep slopes should be dedicated as open space.

- c. Public dedication of open space: Generally, dedicated open space shall be evaluated on a case by case basis where it may be appropriate and best contribute to the greater open space network of the Town, provide critical light and air to neighboring properties where appropriate, serve as permeable surface for groundwater, or add an aesthetic element to the area in which it is situated.

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6.4.7 Building Design.

6.4.7.1. – New buildings shall be designed in keeping with the desirable historical patterns of a village center. Architects should research building types and layouts that typify the village center patterns and incorporate details in their structures based on examples from the region.

6.4.7.2.– New buildings should contain variation in detail to provide visual interest and to avoid monotony.

6.4.7.3.– New buildings should be of quality design and construction and shall be compatible with the neighborhood and the Town as to design characteristics, including but not limited to scale, massing, proportions, height, roofs, colors, and materials.

6.4.7.4.– Architecture based upon generic franchise design is discouraged. Rather, where franchise buildings of national chains are proposed, architects should rely upon the Upton Design Guidelines to incorporate alternative design options.

6.4.7.5. – Where existing buildings are to remain and are part of a major site plan review project, their facades shall be renovated incorporate desirable elements of the Upton Design Guidelines.

6.4.8 Unmet Housing Needs. In order to promote the intent and purpose of this By-Law, the Planning Board shall require development projects resulting in ten or more housing units to contribute ten (10) percent of these housing units toward the town’s stock of affordable housing units.

Affordable housing units are housing units which are affordable for rent or purchase by households making 80% of the median household income for Upton, as calculated by the U.S. Department of Housing and Urban Development, with adjustments for family size. These affordable housing units must meet the eligibility standards for inclusion on the MGL Chapter 40B Massachusetts Subsidized Affordable Housing Inventory.

6.4.9 Procedures & Administration. Applications for projects within the VCD-A and VCD-B districts shall be followed based on the type of project as follows:

- 1) Use Change (See Section 6.4.4 (a) for definition). Provided that a change in use does not require additional parking requirements or other improvements and said use is an as-of-right use, no reviews will be required. A change in use from one special permit use to another shall require the applicant to follow the special permit requirements of section 9.3 and the site plan review requirements of Section 9.4;

**Commented [cmrpc8]:** This section is added to provide the Planning Board with the ability to ensure that building design, both in terms of architecture and siting, will be compatible with its surroundings.

Numerous sections of the 2005 Master Plan identified the importance of considering the design of new buildings, for example:

Section 3.8, Land Use Recommendations (p. 18):

“Create Design Review Guidelines, Bylaw, and Review Committee - The Design Review process is a complement to the existing Site Plan review process. Site Plan Approval addresses technical criteria such as conformance with zoning, proper drainage, and safe access. Design Review focuses on aesthetic criteria. The Design Review Guidelines is a written document that identifies what types of building designs, building materials, and landscape treatments are preferred in the town. In Upton’s case, preferred designs would probably be consistent with the rural development patterns and historic structures. The Guidelines give developers an up-front idea of what the town is looking for and ensures that the Design Review process is as objective as possible.”

**Commented [cmrpc9]:** This section requires the provision of affordable housing units for any project containing 10 or more new dwelling units. Once a project contains 10 or more new units, 10% of those units would need to be permanently set aside as affordable as defined by the Massachusetts Department of Housing and Community Development (DHCD).

This section helps to fulfill several of the housing strategies identified in the Town’s 2011 Housing Production Plan:

- Promote greater diversity and density of permitted housing types
- Promote mixed-use development
- Develop an inclusionary or incentive Zoning Bylaw

It should be noted that to provide affordable units as part of a new development will increase the costs for a developer. Depending on the residential market demand, this requirement could prevent some projects from creating more than nine units.

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- 2) Minor Physical Modification (See Section 6.4.4 (b) for definition). Minor physical modifications shall follow the procedures for *minor* site plan approval;
- 3) Large scale development: Major Physical Modifications (See Section 6.4.4 (c) for definition), Redevelopment (See Section 6.4.4 (d) for definition), and New Development/Property Consolidation (See Section 6.4.4 (e) for definition) all require both a special permit and site plan review as per the procedures noted below and shall be described as large scale development.

6.4.10 Application Procedure for Large Scale Development. The application procedure shall consist of two (2) steps and be filed in accordance with the Site Plan Review Rules and Regulations of the Planning Board. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Planning Board.:

- 1) Submission of a conceptual site plan to the Planning Board for pre-application review.
- 2) Submission of an application for approval of a VCD-A and VCD-B special permit to the Planning Board, which shall include the following:
  - a. A special permit application cover letter form.
  - b. A preparation of plans with a designer certificate.
  - c. A development impact statement.
  - d. Development plans as specified herein this special permit By-Law.

6.4.11 Pre-Application. To be eligible to apply for a VCD-A and VCD-B special permit, applicants are first required to have submitted a conceptual site plan prepared by a landscape architect, a registered architect, and a registered professional engineer for review at a scheduled Planning Board meeting. The Planning Board may conduct its review of a conceptual site plan at more than one meeting. The conceptual site plan shall include a detailed analysis of site topography, wetlands, unique land features, soil type, site layout and building design. The purpose of this requirement is to help applicants and Town officials develop a better understanding of the property and to help establish an overall design approach that respects the intent of this By-Law.

As an integral part of the pre-application process and prior to its formal review conducted in its capacity as SPGA, the Planning Board shall set forth its preliminary findings pursuant to its review of a conceptual site plan. These findings may include but not be limited to suggestions related to the design, scope, building, use, or development program, open space, infrastructure, or other components related to an anticipated VCD-A or VCD-B large scale development project proposal for the subject property.

**Commented [cmrpc10]:** Except for the last section, Section 6.4.21, Waivers and Modifications, the remaining text was carried over from the Planned Village Development section. The only changes were adding references to Village Center Development Districts instead of Planned Village Development.

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6.4.11-Special Permit Application. Applicants are required to submit a special permit application and site plan, conforming to the requirements of this By-Law, to the Planning Board for approval

Contents of special permit application: The application for a VCD-A or VCD-B large scale development project special permit shall be accompanied by a site plan including all of the plans and information listed below.

- 1) A special permit application cover letter form.
- 2) A preparation of plans, designer certificate.
- 3) A Development Impact Statement, as defined in this By-Law.
- 4) Development plans as specified herein this special permit By-Law.
- 5) Payment of any application fee(s) required under the Planning Board's Rules and Regulations for the administration of this By-Law
- 6) A request for waivers from the application requirements or provisions based on scale and type of development.

6.4.12 VCD-A and VCD-B large scale development project Special Permit - Rules and Regulations. The Planning Board shall adopt reasonable rules and regulations for the administration of this By-Law, which may be amended from time to time.

6.4.13 Public Hearing. The Planning Board shall hold a public hearing on any application for a VCD-A large scale development project special permit within sixty-five (65) days from the date of filing of the special permit application. The Planning Board shall provide notice of hearings in accordance with G.L. c. 40A, s.9 and G.L. c. 40A, s.11.

6.4.14 Basis for Approval, and Required Findings and Determinations.

- 1) Upon receipt of the application and required plans, the Planning Board shall transmit one copy each to the Board of Selectmen, Board of Health, Conservation Commission, Public Works Department, Fire Department, and Police Department for recommendations consistent with the intent of this By-Law as set out in Section 6.4.1. Failure of such boards and officials to make any recommendation within thirty-five (35) days of receipt of the special permit application by such boards and officials shall be deemed lack of opposition to the special permit. The Planning Board shall act on applications according to the procedures specified in G.L. c. 40A, s.9.
- 2) The decision of the Planning Board shall be made within ninety (90) days following the date of such public hearing. The required time limit for a public hearing and said action may be extended by written agreement between the petitioner and the Planning Board. A copy of such agreement shall be filed in the office of the Town Clerk as required by G.L. c. 40A, s.9. The Planning Board shall file its special permit granting decision with the Town Clerk as required by G.L. c. 40A, s.9.

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- 3) Special permits shall be granted by the Planning Board, unless otherwise specified herein, upon its written determination that:
  - a. The proposed development is consistent with the intent of this By-Law, as set out in 6.4.1
  - b. Municipal services such as water, sewer or other services are adequate or will be adequate at the time of completion of the development
  - c. The benefit to the Town and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site.
- 4) In addition to the determination listed above, prior to granting approval of the VCD-A large scale development project, the Planning Board shall also give consideration of each of the following:
  - a. Social, economic, or community needs that are served by the proposal;
  - b. Adequacy of vehicular and pedestrian traffic safety on and off the site, and adequacy of parking and loading areas;
  - c. Adequacy of utilities and other public services;
  - d. Impacts on neighborhood character and social interaction;
  - e. Impacts on the natural environment; and
  - f. Potential fiscal impact, including impact on municipal services, tax base, and employment.
- 5) The Planning Board shall not grant approval when:
  - a. Municipal services such as water, sewer or other services are not adequate or will not be adequate at the time of completion of the development. Proof of adequacy of municipal services shall be the burden of the developer. The Planning Board shall determine, based on all evidence submitted, what constitutes adequate municipal services.
  - b. A VCD-A or VCD-B large scale development project does not meet the specified intent of this By-Law.

6.4.15 Conditions. The special permit may be granted with such reasonable conditions, safeguards, or limitations on time or use, performance guarantees, site construction requirements, inspection requirements, and owner/occupancy reporting requirements to satisfy compliance with the special permit. The Planning Board may require additional conditions as it finds reasonably appropriate to safeguard the health, safety, and welfare of the existing neighborhoods and the Town of Upton or otherwise serve the intent of this By-Law.

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6.4.16 Change in Plans after Grant of Special Permit. No change in any aspect of the approved plans shall be permitted unless approved by the Planning Board. A new or amended special permit will be required if the Planning Board determines any proposed change to be substantial. The Planning Board shall hold a public hearing if the proposed change is determined to be substantial, within the provisions of this By-Law.

No land for which a special permit for a VCD-A or VCD-B large scale development project has been granted shall be further subdivided without action by the Planning Board.

6.4.17 Lapse. The special permit shall lapse if a substantial use thereof or construction hereunder has not begun, except for good cause, within 24 months following the filling of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s.17, from the grant thereof) with the Town Clerk.

6.4.18 Appeal. An aggrieved party may appeal a Planning Board decision pursuant to G.L. c. 40A, s.17.

6.4.19 Validity. If any provision of this By-Law is determined to be invalid, it shall not affect the validity of the remaining provisions.

6.4.20 Development Impact Statement. At the discretion of the Planning Board, the submittal of a Development Impact Statement may be required at the expense of the applicant. The Planning Board may deny a special permit when the Development Impact Statement discloses that the proposed use does not comply with the provisions of this By-Law or would be detrimental to the Town or its citizens. The Development Impact Statement shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Civil Engineer, Registered Surveyor, and a Land Planner, and may include all or some of the following information.

1) Physical Environment

- a. Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, locations of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.
- b. Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

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- 2) Surface Water and Subsurface Conditions.
  - a. Describe locations, extent, and types of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.
  - b. Describe any proposed alterations of shorelines or wetlands.
  - c. Describe any limitations imposed on the project by the site's soil and water conditions.
  - d. Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.
  
- 3) Vehicle Circulation System
  - a. Project the number of motor vehicles to enter or depart the site per average day and during peak hours. Also state the number of motor vehicles to use streets adjacent to the site per average day and during peak hours. Such data shall be sufficient to enable the Planning Board to evaluate: existing traffic on streets adjacent to or approaching the site; traffic generated by or resulting from the site; and the impact of such additional traffic on all ways within and providing access to the site.
  - b. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for producing the study shall be attached to the Development Impact Statement.
  
- 4) Support Systems
  - a. Water Distribution: Discuss the water system proposed for the site, and the means of providing water for fire fighting, and any problems unique to the site.
  - b. Sewage Disposal: Discuss the sewer system to be used, and evaluate impact of sewage disposal on the wastewater treatment facility.
  - c. Refuse Disposal: Discuss the location and type of facilities, the impact on existing Town refuse disposal capacity, hazardous materials requiring special precautions.
  - d. Protection Service: Discuss the distance to the fire station, police station, and emergency medical service, and the adequacy of existing equipment and manpower to service the proposed site.
  - e. Recreation: Discuss the distance to and type of public facilities to be used by the residents of the proposed site, and the type of private recreation facilities to be provided on the site.
  - f. School System: Project the increase to the student population for nursery, elementary, middle school, and high school levels.

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- 5) Phasing. Where development of the site will be phased over more than one [1] year, indicate the following:
  - a. Describe the phasing of the construction with a dated time line with dated milestones.
  - b. Describe the approximate size and location of the portion of the parcel to be cleared at any given time and the length of time of exposure.
  - c. Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.
  - d. Describe how the site will be separated into work areas and made safe for workmen and residents.
  
- 6) Preparation of Plans. A Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect shall prepare plans, as appropriate, which shall be clearly and legibly drawn in black line on white paper. Dimensions and scale shall be adequate to determine that all requirements are met and to enable complete analysis and evaluation of the proposal. Sheet size shall be as specified in the Planning Board Site Plan Rules and Regulations. If multiple sheets are used, an index sheet showing the entire Planned Village Development, adjacent streets, and abutting properties shall accompany them.
  
- 7) Contents of Plans. Contents of Plans shall include:
  - a. Plan form and content shall be as specified in the Planning Board's Site Plan Rules and Regulations.
  - b. A written statement indicating the estimated time required to complete the proposed project and any and all phases thereof shall accompany the plan. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.
  - c. A written summary of the contemplated project(s) shall be submitted with the plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this By-Law.

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- d. Storm drainage design and roadways, private and public, must conform to the durability requirements and other requirements of the Town of Upton subdivision rules and regulations, unless another standard is specified by the Planning Board. When in the public interest, and to meet the objectives of this By-Law, alternative road width and other requirements varying from the subdivision rules and regulations may be specified in the granting of a Planned Village Development.

6.4.21 –Waivers and Modifications - The Board may modify or waive any requirement of this section upon finding that due to topography, location or other unusual conditions affecting the property, the requirements of this section would unreasonably restrict the use of the property or would be detrimental to the orderly development of the area. In granting such modification or waiver, the Board may impose conditions it deems necessary to protect the public interest and to insure that the development will be consistent with the purpose of this section.

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