

ARTICLE VI  
Permitted Uses in Districts

§ 135-601. Table of Principal Uses.

(Editor's Note: The Table of Principal Uses is now located at the end of this chapter.)

§ 135-602. Accessory uses; conditions.

Accessory uses shall be such that they do not alter the character of or impair the neighborhood. They shall be on the same lot with the principal use. (See definition, § 135-102.)

§ 135-603. Permitted accessory uses in residential districts.

- A. There shall be permitted as accessory uses a garage for not more than three cars, a shed and a swimming pool. Other buildings or structures may be authorized by the special permit granting authority (SPGA).
- B. It shall be permitted for a household to park on its driveway one registered motor vehicle per household, plus one registered motor vehicle per household resident having a valid driver's license. Each vehicle shall be 10,000 pounds gross weight or less.
- C. The outdoor storage of one unregistered motor vehicle (not defined as junk) with a valid inspection sticker for a period not to exceed 90 days within one calendar year. [Added 5-10-2004 ATM by Art. 38]
- D. The storage of one of the following items registered to the address of the site on which it is stored — one camper, one recreational vehicle, or one registered boat on a trailer — and no longer than 35 feet in length, provided that said storage is not located closer than 10 feet from a front lot line and five feet from a side lot line. [Added 5-10-2004 ATM by Art. 38]

§ 135-604. Uses not considered accessory in residential districts (not allowed). [Amended 5-27-1998 ATM by Art. 40; 5-10-2004 ATM by Art. 39]

- A. The parking or storage of more than one commercial motor vehicle registered or unregistered.
- B. The accommodation of, or the renting of space to, more than three lodgers, boarders or paying guests.
- C. Roadside stands.

- D. An advertising sign, except a temporary real estate sign less than four square feet advertising the property on which it is placed.
- E. The outdoor storage at any time of parts or bodies of motor vehicles.
- F. The outdoor storage of "junk," as defined in § 135-102.
- G. Common driveways are not allowed for more than two lots, except for cluster or multifamily developments.

**§ 135-605. Accessory uses in business and commercial districts. [Amended 5-3-1993 ATM by Art. 40; 10-29-1996 STM by Art. 20]**

- A. Exterior kiosks shall not be considered accessory uses.
- B. Drive-through windows shall not be considered accessory uses. They shall be considered part of the principal use.
- C. Accessory uses shall not adversely impact the flow of traffic on or off site.

**§ 135-607. Establishment of fire districts.**

- A. To assure protection from damage by fire, the Town of Braintree is hereby divided into two fire districts. Said districts shall be superimposed over existing zones and shall be shown on Zoning Maps.
- B. The following fire districts are hereby established:
  - (1) Fire District No. 1.
    - (a) North by a line from Ivory Street to Franklin Street, through Union Place and Central Avenue, westerly by Franklin Street and Washington Street to Plain Street, southerly by Plain Street to Ivory Street Extension, easterly by Ivory Street to the point of beginning.
    - (b) Southerly by a line from Washington on Church Street to Conrail Tracks to Clark Street, easterly by Clark Street across Washington Street, to a point on Hollis Avenue 100 feet west of Washington Street, northerly by a line 100 feet west of and parallel to Washington Street to the point of beginning.
    - (c) North by the Penn Central tracing, easterly by Smelt Brook and Weymouth line, southerly by a line 200 feet south of and parallel to Commercial Street, westerly by Peregrine Road and a line from the junction of Peregrine Road and Commercial Street to the junction of Shaw Street and the railroad.
  - (2) Fire District No. 2. All areas not included in Fire District No. 1.

**§ 135-608. Wetlands and Floodplain Protection Districts.**

- A. Purpose. The purpose of Wetlands and Floodplain Protection Districts is to:

- (1) Protect the health and safety of persons and property against one-hundred-year-frequency flooding and the hazard of water inundation;
- (2) Control one-hundred-year-frequency flooding and regulate the development of land and the construction of buildings and structures within the district;
- (3) Preserve and maintain the groundwater table. Since these areas contribute to the natural storage of water during times of maximum rainfall, it is intended that the areas be controlled and conserved in as near their present state as possible, and that any change therein as herein provided shall not substantially affect surface or ground water levels nor jeopardize the public health or safety nor derogate from the intent and purpose of this district.

B. Wetland and Floodplain District.

- (1) For the purpose of this section, Wetlands and Floodplain Protection Districts shall be all land surfaces that will be covered by floodwaters that will theoretically result from the statistical one-hundred-year-frequency storm.
- (2) The boundaries of the Wetlands and Floodplain District shall be determined as follows:
  - (a) By use of flood profile data from the Flood Insurance Study and the Flood Insurance Rate Map (FIRM) as most recently produced by the National Flood Insurance Program administered by the Federal Emergency Management Agency (FEMA).
  - (b) Through recorded observation of maximum observed flood elevations.

When conflicts exist between (a) and (b) above, the special permit granting authority (SPGA) may require that the boundary be determined by a registered professional engineer.
  - (c) In the absence of (a) and (b) above and if the SPGA determines that flooding exists the Wetlands and Floodplain District boundary shall be 50 feet from any wetlands as defined in MGL c. 131. Wet meadows, marshes, swamps or bogs that have an area less than 1,000 square feet shall be exempt from this section. In determining whether a site is within a Wetlands and Floodplain District, the SPGA may require an applicant to submit flood studies prepared by a registered professional engineer.
- (3) In Zone A, Zone A1-30, and Zone AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. [Added 5-3-2004 STM by Art. 18]
- (4) In unnumbered A Zones, base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is less. [Added 5-3-2004 STM by Art. 18]

C. Uses.

- (1) For the purpose of this section, the Wetlands and Floodplain Protection District shall be considered to be overlaid on the other zoning districts.
- (2) In the Wetlands and Floodplain Protection District, no permit shall be issued for development in any area designated as a floodway.
- (3) No permit shall be issued for the construction of a critical facility within the five-hundred-year floodplain.
- (4) In the Wetlands and Floodplain District, no building or structure shall be constructed, improved, altered or modified and no land shall be filled, excavated or otherwise changed in grade except pursuant to a special permit authorized by the SPGA. Any alteration to an existing structure which does not affect flood storage or the floodway shall not require a special permit under this section.

D. Application for a special permit.

- (1) Each applicant for a special permit under this section shall file for a special permit in accordance with the provisions of Article V of this chapter and with any rules and regulations as may have been adopted by the SPGA. All applications for special permits shall be processed in accordance with the provisions of Article V of this chapter.
- (2) In addition to the submission requirements stipulated in Article V, the plan(s) submitted shall show:
  - (a) The location, dimensions and elevation [based on National Geodetic Vertical Datum (NGVD)] of existing and proposed buildings and structures;
  - (b) Existing and proposed contours at one-foot intervals of the land based on NGVD datum;
  - (c) A contour delineating the one-hundred-year-storm frequency elevation shall be distinctly designated;
  - (d) Other information deemed necessary by the SPGA to indicate the complete physical characteristics of the area and the proposed construction and/or grading.

E. Criteria for approval. The SPGA may issue a special permit pursuant to this section provided the SPGA finds that:

- (1) The proposed construction and/or change in grade will not derogate from the intent and purpose of the Wetlands and Floodplain District;
- (2) The proposed construction and/or change in grade will not endanger the health and safety of the public;
- (3) The lowest floor, including the basement or cellar, of any new or substantially improved residential building shall be at least one foot above the base flood elevation;
- (4) Nonresidential construction or improvements shall be elevated or floodproofed to one foot above the base flood elevation;
- (5) The proposed construction and/or change in grade shall not:

- (a) Obstruct or divert flood flow;
  - (b) Reduce natural storage or increase stormwater runoff to the extent of raising the base flood elevation. Written certification of such shall be provided by a registered professional engineer;
  - (6) The proposed system of drainage and sewage disposal shall not cause pollution or otherwise endanger public health;
  - (7) The proposed structures shall be constructed to counteract any buoyancy or water impacts;
  - (8) The proposed construction shall have street or other appropriate access at least one foot above the base flood elevation.
- F. Conditions of permit. In granting a special permit consistent with uses permitted in the district in which the site is located, the SPGA shall impose conditions designed to:
- (1) Safeguard the health and safety of occupants of the premises and of other land in and adjacent to the district; and
  - (2) Ensure that the requirements of all government agencies from which approval is required have been met regarding, but not limited to, the following:
    - (1) Placement of building or structure;
    - (2) Type of foundation such as posts with blowout panels;
    - (3) Elevation of floors;
    - (4) Method of anchoring building to foundation;
    - (5) Design of drainage system, including private sewage disposal work;
    - (6) Occupancy of buildings;
    - (7) Area and depth of any excavation or fill;
    - (8) All floodproofing methods or proposals.
- G. Compliance with other regulations. All development in the district including structural and nonstructural activities whether permitted by right or by special permit must be in compliance with the following (where applicable):
- 780 CMR 3107.0 of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas [Amended 5-3-2004 STM by Art. 19]
  - 310 CMR 10.00, Wetlands Protection Regulations, Department of Environmental Protection (DEP)
  - 302 CMR 6.00, Inland Wetlands Restriction, DEP
  - 310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP

## H. Administration.

- (1) The SPGA shall maintain complete and accurate records of issuance of special permits, including records of elevation and floodproofing levels for all new or substantially improved structures, whether or not such structures contain a basement.
- (2) The SPGA shall require the developer, at his or her expense, to provide as-built floodproofing certifications by a registered profession engineer. Such certification shall be in conformance with the requirements of the Federal Insurance Administration Rules and Regulations, Title 24, Code of Federal Regulations Chapter 10, Subchapter B, Section 1910.3(c)(4).
- (3) Prior to the alteration of or relocation of any river or watercourse, the SPGA shall notify:

Adjacent Communities

NFIP State Coordinator  
 Massachusetts Office of Water Resources  
 251 Causeway Street<sup>1</sup>  
 Suites 600-700  
 Boston, MA 02114-2104

NFIP Program Specialist  
 FEMA Region I, Rm. 462  
 J.W. McCormack Post Office and Courthouse  
 Boston, MA 02109

**§ 135-609. Watershed Protection District.**

- A. Purpose of district. A Watershed Protection District (WPD) is established for the following purposes:
  - (1) To protect, preserve and maintain the water table and water recharge areas within the Town and potential sources of water supply for public health and safety;
  - (2) To preserve and protect lakes, ponds, streams, brooks, wetlands, and other water bodies and watercourses within the district;
  - (3) To protect the community from the detrimental uses of land and waters within the district; and
  - (4) To conserve the watershed areas for the health, safety, welfare and enjoyment of the public.
- B. Establishment and definition of district.

<sup>1</sup> Editor's Note: Address amended 5-3-2004 STM by Art. 19.

- (1) The WPD shall include all lands which comprise the catchment or drainage areas for Braintree's water supply. The district includes all areas designated on the Watershed Protection District Map for the Town of Braintree as most recently amended. Said map is hereby made part of the Town Zoning Map(s).
  - (2) The WPD is an overlay district and shall be superimposed on the other districts established by this chapter. Uses not authorized in the underlying district are not authorized within the overlay district.
- C. Permitted uses. The following uses are authorized within the WPD:
- (1) Conservation of soil, water, plants and wildlife.
  - (2) Outdoor recreation, nature study, boating and fishing.
  - (3) Boat docks, landings, footpaths, bicycle paths, horse paths and bridges.
  - (4) Proper operation and maintenance of existing dams, splash boards and other water control, supply and conservation devices.
  - (5) Residential development as authorized in the underlying districts. Said development shall have a minimum lot size of one acre and such lot shall not have more than 20% impervious surface.
  - (6) Repair, maintenance and reconstruction of structures and uses lawfully existing prior to the May 1982 adoption of this section.
    - (a) Preexisting dwellings in residential districts may be expanded provided said expansion is in compliance with the dimensional and density requirements for

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the underlying zoning district set forth in § 135-701, and provided that coverage by impervious surface does not exceed 50% total lot area.

- (b) Preexisting structures in General Business and Highway Business Zoning Districts may be expanded provided said expansion:

[1] Is in compliance with density and dimensional requirements for the underlying zoning districts as set forth in § 135-701; and

[2] Does not increase the amount of impervious surface by 2,000 square feet or by 10% of the existing impervious surface, whichever is less.

- (7) Farming, gardening, nursery, conservation, forestry, harvesting and grazing.

- D. Prohibited uses. The following uses are prohibited within the Watershed Protection District:

- (1) Landfills and the storage of salt and road deicing chemicals.
- (2) Disposal of leachable solid waste other than brush.
- (3) Disposal of hazardous wastes.
- (4) Dumping of snow brought in from outside the district.
- (5) Junkyards and salvage operations.
- (6) Animal feedlots, pastures or confinement areas, the storage of manure or drainage from such activities if the site is also located within the one-hundred-year floodplain as defined by the National Flood Insurance Program.

- E. Special permit uses. The issuance of a special permit shall be in accordance with § 135-609F, Article V, and any additional conditions the special permit granting authority (SPGA) may impose. The SPGA may allow by special permit the following uses within the WPD:

- (1) Development in a commercial district, provided that there is a minimum lot size of 43,560 square feet and that 40% open space per total area is retained;
- (2) Development in business districts, provided that there is a minimum lot size of 43,560 square feet and that a minimum of 30% open space per total lot area is retained;
- (3) The construction of dams or other water-control devices, excluding the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning;
- (4) Creating ponds or other changes in water bodies or watercourses for swimming, fishing or other recreational uses, agricultural uses or drainage improvements.

- F. Procedures for issuance of special permit.

- (1) Each applicant for a special permit under this section shall file for a special permit in accordance with the provisions of Article V of this chapter and with any rules and regulations as may have been adopted by the SPGA. All applications for special

permits shall be processed in accordance with the provisions of Article V of this chapter.

- (2) The SPGA may grant a special permit provided that it finds that the proposed use:
  - (a) Is in harmony with the purpose and intent of this bylaw and will promote the purpose of the WPD;
  - (b) Is appropriate to the natural topography, soils and other characteristics of the site to be developed;
  - (c) Will not, during construction or thereafter, have an adverse impact on any water body or watercourse in the district; and
  - (d) Will not adversely affect an existing or potential water supply.

#### § 135-610. Cluster Zoning I, II, III.

A. Purposes. Cluster development districts are established for the following purposes:

- (1) To promote the more efficient use of land in harmony with its natural features;
- (2) To encourage the preservation of valuable open space;
- (3) To promote diverse and energy-efficient housing at a variety of costs;
- (4) To protect water bodies and water supplies, wetlands, floodplains, agricultural lands, wildlife and other natural resources;
- (5) To promote aesthetics and other amenities;
- (6) To permit greater flexibility and creative design.

B. Rezoning criteria.

- (1) Permitted density in a cluster zone shall be determined at the time land is rezoned and shall be based on the following:
  - (a) The current zoning in adjacent areas;
  - (b) The current zoning of the site being rezoned;
  - (c) The suitability of the land for an increase or decrease in the intensity of development, including:
    - [1] Extent of wetlands and drainage areas.
    - [2] Availability of utilities, including sewer and water.
    - [3] Impact on roads, on schools and/or on other public facilities.
    - [4] Other overlay zoning districts which affect the area to be rezoned.
    - [5] Extent of steep slopes and ledge or other topographical characteristics of the land.

C. Density requirements. Cluster zoning map shall permit a density of development as follows:

- (a) Cluster I Zone: one unit per 43,560 square feet of developable land.
- (b) Cluster II Zone: one unit per 25,000 square feet of developable land.
- (c) Cluster III zone: one unit per 15,000 square feet of developable land.

Developable land shall include all the land in the parcel excluding that area defined as wetlands in MGL c. 131, § 40, and floodplain areas as shown on the National Flood Insurance Program Flood Boundary and Floodway Map (as most recently amended).

D. Regulations. The special permit granting authority (SPGA) shall adopt regulations for carrying out its duties under this section.

E. Procedures for issuance of special permit.

- (1) Each applicant for a special permit under this section shall file for a special permit in accordance with the provisions of Article V of this chapter and with any rules and regulations as may have been adopted by the SPGA. All applications for special permits shall be processed in accordance with the provisions of Article V of this chapter.
- (2) Contents of application. Applications for cluster development shall include a plan prepared in accordance with the provisions of Article V and § 135-711 of this chapter. In addition, the applicant shall provide the following information:
  - (a) The number of dwellings which could be constructed by means of a conventional development plan, considering the whole tract.
  - (b) An environmental analysis of the site to include at a minimum wetlands, slopes, soil conditions, areas within the one-hundred-year flood, trees over five inches in diameter at 4.5 feet above the ground and such other natural features as the SPGA may request. A copy of the environmental impact report shall be furnished with the application if required by law.
  - (c) A description of the neighborhood adjacent to the project, including the adequacy of utilities and other public facilities and the impact of the proposed development upon them.
  - (d) Evaluation of the open land proposed within the development with respect to its size, shape, location, natural resource values and accessibility to the residents of both the Town and the cluster development.
  - (e) Traffic report if required by Article XIV of Braintree Zoning Bylaw or by the SPGA.
- (3) Relation to Subdivision Control Act.<sup>6</sup> SPGA approval of a special permit shall not substitute for compliance with the Subdivision Control Act, nor obligate the Planning Board to approve any related definitive plan for subdivision, nor reduce any time

<sup>6</sup> Editor's Note: See MGL c. 41, § 81K et seq.

periods for Board consideration under the law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, act concurrently on a request for both definitive subdivision plan and special permit approval.

F. Findings of the Board. In addition to the requirements specified in Article V, the Board may grant a special permit under this section only if it finds that the cluster development meets the following criteria:

- (1) It is in harmony with the general purpose of this bylaw, the requirements of MGL c. 40A, and the long-range plan(s) of the Town.
- (2) It will not have a detrimental impact on the neighborhood.
- (3) It is designed with due consideration for health and safety and is superior to conventional development in preserving open space, minimizing environmental disruption, allowing for more efficient provisions of services or allowing for greater variety in prices or types of housing.
- (4) The plan meets the requirements specified in § 135-610G, H and I.

G. Minimum dimensional requirements.

- (1) The minimum lot size for a cluster development shall be five acres.
- (2) A cluster development shall meet all the dimensional and density requirements as set forth in § 135-701 of this chapter.
- (3) All single-family detached dwellings within a cluster development shall have:
  - (a) A minimum side yard separation between buildings of 20 feet;
  - (b) A minimum rear yard separation between buildings of 40 feet;
  - (c) A minimum front yard setback from the edge of pavement on accessways of 15 feet.
- (4) All multifamily two-family dwellings within a cluster development shall have:
  - (a) A minimum side yard separation between buildings of 20 feet;
  - (b) A minimum rear yard separation between buildings of 40 feet;
  - (c) A minimum front yard setback from the edge of pavement on accessways of 15 feet.

H. Required open land.

- (1) At least 50% of the site, exclusive of land set aside for accessways and parking, shall be open space. At least 30% of the open space shall be suitable for passive or active recreational use.
- (2) The open space and such other facilities as may be held in common shall be conveyed to one of the following with notification to the SPGA:

- (a) To a corporation or trust comprising a homeowners' association whose membership includes the owners of individual lots or units contained in the tract.
    - [1] The developer shall include in the deed to owners of individual lots or units beneficial rights in said open land. The developer shall grant a conservation restriction to the Town of Braintree over such land pursuant to MGL c. 184, §§ 31 to 33, to ensure that such land be kept in an open or natural state. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by MGL c. 184, § 33.
    - [2] In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the homeowners' association assumes said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall record at the Norfolk Registry of Deeds a declaration of covenants and restrictions which shall provide for the following: mandatory membership in an established homeowners' association as a requirement of ownership of any lot or unit in the tract and provisions for maintenance assessments of all lots or units in order to ensure that the open land is maintained in a condition suitable for the approved uses.
  - (b) To a nonprofit organization, the principal purpose of which is the conservation of said open space. The developer or charity shall grant a conservation restriction as set out in (a) above.
  - (c) To the Conservation Commission of the Town for open space use. Said conveyance shall be subject to the approval of the Selectmen, with a trust clause ensuring that it be maintained as open space.
- (3) Subject to the above, the open space may be used for recreational purposes including golf courses, riding trails, tennis courts, gardens and swimming pools.

I. Further requirements.

- (1) No use other than residential or recreational shall be permitted in a cluster development.
- (2) Any lot shown on a plan for which a permit for cluster development has been granted shall not be further subdivided, and a notation to this effect shall be shown upon the plan.
- (3) A certificate of occupancy shall not be issued by the Building Inspector until he/she has certified to the SPGA that the premises have been built in accordance with the plan as approved by the SPGA.
- (4) The SPGA may impose conditions, safeguards, limitations on time and use.
- (5) The SPGA may grant a special permit for clustering even if the proposed development is not subject to the Subdivision Control Law.<sup>2</sup>

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<sup>2</sup> Editor's Note: See MGL c. 41, § 81K et seq.

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- (6) Subsequent to granting of a special permit, the SPGA may permit relocation of lot lines within the cluster. However, any change in overall density, street layout, or open space layout will require further public hearings.

§ 135-611. (Reserved)<sup>3</sup>

**§ 135-612. Planned unit development regulations applying to Planned Unit Development (PUD) Districts. [Amended 5-1991 ATM by Art. 36]**

A. Purpose. The intent of the Planned Unit Development (PUD) Districts is to provide a greater degree of flexibility for the development of large tracts of land which provide residential, commercial, and business activities on the same parcel of land in a planned, controlled environment. A PUD proposal may contain both individual building sites and common property which are developed as an integrated mixed land use unit. The purposes of the PUD bylaw are to:

- (1) Allow for greater variety and flexibility in the development of housing types.

(Cont'd on page 13539)

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<sup>3</sup> Editor's Note: Former § 135-611, Commercial day care, was repealed 5-3-2004 STM by Art. 20.

- (2) Make housing units available to moderate-income residents who might otherwise have difficulty finding homes within the Town.
  - (3) Promote the permanent preservation of open space.
  - (4) Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
  - (5) Promote retail and service uses closely related to the residential sections of the PUD in a manner which blends all land uses into an aesthetically complementary whole.
- B. Authority to grant permits. The Planning Board as special permit granting authority (SPGA) may grant a special permit for the construction of a PUD in a PUD Zoning District. A special permit granted under this section shall conform to MGL c. 40A, § 9, to § 135-502 of the Braintree Zoning Bylaw, and to any rules and regulations which the SPGA shall from time to time adopt for the purpose of carrying out its requirements under this section.
- C. Minimum standards. To implement the intent of the PUD provision, the following criteria shall be met:
- (1) The site under review shall be located in a PUD zoning overlay district as approved by Town Meeting.
  - (2) The proposed project areas shall encompass a contiguous minimum land area of three acres.
  - (3) The concept plans for the property must be submitted to Town Meeting for approval prior to submission to the SPGA.
  - (4) In no case shall there be less than 25% of the total land area in open space and greater than 25% lot coverage. The SPGA shall have the right, based on the individual project, to increase the above minimum standards.
  - (5) Retail/service activities shall be planned and constructed in a manner architecturally similar and complementary to the residential units within the proposed development.
  - (6) The site under review shall be in single or consolidated ownership at the time of application.
  - (7) The PUD shall contain at a minimum two of the following uses: residential, open space, business, or commercial.
  - (8) The PUD shall have a minimum frontage of 100 feet.
- D. Submission process.
- (1) Preapplication conference. Prior to the submission of an application for a special permit under this section, the applicant shall confer with the SPGA to obtain information and guidance on the preparation of plans, surveys and other data.
  - (2) Application process:
    - (a) The applicant for a PUD shall submit an application for a special permit as required in § 135-502 of the Braintree Zoning Bylaw. Said application shall be

acted upon in accordance with the provisions set forth in § 135-502 of the Braintree Zoning Bylaw.

- (3) Information required. An application for a PUD shall include a plan or plans which meet the following specifications and provide the following data:
- (a) All plans shall be drawn at a scale of one inch equals 40 feet by a professional engineer, registered architect or registered landscape architect.
  - (b) The boundary plan shall be stamped by the registered land surveyor who shall certify the accuracy of the location of the buildings, setbacks and all other required dimensions, elevations and measurements.
  - (c) PUD district boundaries, North arrow, date, scale, legend and project title, the name or names of applicants and engineer or designer.
  - (d) Names of all abutters, abutting land uses, and the approximate location and width of all adjacent streets.
  - (e) The location and extent of all proposed land uses including open space, the number and types of residential units, the density for each housing type, and overall project density.
  - (f) All interior streets, roads, easements and their planned public or private ownership, as well as all points of access and egress from existing public rights-of-way.
  - (g) Description of the manner in which any areas that are not publicly owned are to be maintained, including open space, streets, lighting and others according to the proposal.
  - (h) The location of existing or proposed buildings on the lot which shall include the total square footage and dimensions of all buildings (including height), all building elevations and floor plans, and perspective renderings, which depict the materials and colors to be used.
  - (i) The location of the natural features of the site, including wetlands, floodplains, slopes over 10%, soil conditions and other features requested by the SPGA or required by the regulations of the SPGA.
  - (j) The overall water and sanitary sewer system with proposed points of attachment to existing systems. The proposed stormwater drainage systems and their relation to the existing systems.
  - (k) The boundary lines of existing and proposed lots with areas and dimensions. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
  - (l) Existing and proposed topographical lines at two-foot intervals.
  - (m) The location and number of parking spaces, loading spaces, and handicapped spaces.

- (n) A landscape plan which shall include the total square feet of all landscape and recreation areas, and a depiction of materials to be used, including the quantity, size and species of all plantings.
  - (o) A description of the neighborhood in which the tract lies, including utilities and other public facilities and the general impact of the proposed PUD upon them.
  - (p) Deed or other recorded instrument that shows the applicant to be the owner of the land to be designated as a PUD or proof that the applicant has the site under a purchase and sales agreement.
  - (q) If the development is to be phased, a description and graphic representation of the phasing of the entire proposal in terms of length of time, type and manner of units or activities completed per phase.
  - (r) Evidence as required by the reviewing boards of the applicant's ability to complete the proposed PUD.
  - (s) A written statement by the applicant setting forth the reason why, in his opinion, the proposal would be in the public interest and would be consistent with the Town goals and objectives.
  - (t) A description of any covenants, grants of easement, or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
  - (u) A traffic report as required under Braintree Zoning Bylaw Article XIV.
  - (v) The applicant shall provide graphic and/or narrative descriptions of the differences, if any, that would occur if the site were not to be developed with a special permit under this chapter.
- E. Density and dimensional requirements.
- (1) A PUD shall meet the lot size, the open space, lot coverage and frontage requirements as set forth in § 135-611C of the Braintree Zoning Bylaw.
  - (2) Other dimensional and density requirements, including but not limited to residential density, yard and height requirements, and parking and loading dock requirements, shall be determined by the SPGA. In no case shall there be less than 25% of the total land area in open space and greater than 25% lot coverage. In determining other dimensional and density requirements, the SPGA shall consider the following factors:
    - (a) Character of development in the abutting neighborhoods.
    - (b) Individual characteristics of the project and the site.
    - (c) Degree of open space proposed and the quality of the open space.
    - (d) The percentage of lot coverage.
    - (e) The public amenities to be provided.
    - (f) The amount of affordable housing to be provided.

- F. Factors to be considered by the SPGA. The SPGA review of a PUD application shall include, but is not limited to, the following considerations:
- (1) Relationship of the PUD to the abutting neighborhoods to insure the PUD is in harmony with and does not derogate from the neighborhoods.
  - (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, and traffic control.
  - (3) Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience.
  - (4) Location, arrangement, size and design of buildings, lighting and signs.
  - (5) Location, arrangement, appearance, and sufficiency of off-street parking and loading.
  - (6) Adequacy, type, and arrangement of trees, shrubs and other landscaping constituting visual and/or noise-detering buffer between adjacent land uses and adjacent land.
  - (7) In the case of multiple-family dwellings, the adequacy of usable open space for playgrounds and informal recreation.
  - (8) Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
  - (9) Protection of adjacent properties against noise, glare, unsightliness, or other objectionable features.
  - (10) The presence of fair housing policies and a marketing plan to promote fair housing.
- G. In a PUD overlay district, all the zoning requirements of the underlying zoning districts shall apply unless and until a special permit for a PUD has been issued by the SPGA.

**§ 135-613. Village Zoning Overlay District. [Added 5-7-2002 STM by Art. 12]**

- A. **Definition.** The Village Zoning Overlay District is a set of requirements which are superimposed on selected portions of the existing General Business Zoning District centered around the intersections of Pearl Street and Hancock Street and Washington Street in South Braintree Square and Elm Street and Washington Street in Braintree Square (as referenced on the Braintree Zoning Map).
- B. **Purpose.**

The purpose of the Village Zoning Overlay District is to regulate the quality and scale of future development in selected areas of the General Business District in order to maintain and/or create a harmonious and consistent image for the development along Washington Street and adjacent streets.

The regulation specifically preserves the predominant scale and character of the existing development by allowing site dimensions tailored for the Village Zoning Overlay District.

The regulation specifically provides a set of development standards which promote a collective identity and encourage visual harmony.

C. Applicability.

As SPGA, the Planning Board may grant a special permit for nonresidential construction in the Village Zoning District Overlay area. The provisions of the Village Zoning Overlay District shall apply in addition to the standard application requirement of special permits of the Braintree Zoning Bylaw.

A special permit granted under this section shall apply in accordance with MGL c. 40A, § 9 and Article V, § 135-502 of the Braintree Zoning Bylaw (site plan review), and to any rules and regulations which the SPGA shall from time to time adopt for the purpose of carrying out its requirements under this section.

Provisions of the Braintree Zoning Bylaw and the following criteria shall apply to development within the Village Zoning District Overlay District. Where conflict exists between this section and other sections of the Braintree Zoning Bylaw, the Village Zoning Overlay District criteria shall supersede.

D. Permitted uses. Except as herein provided, all uses allowed, regulated, or prohibited in the underlying General Business Zoning District shall be allowed, regulated, or prohibited in the Village Zoning Overlay District.

E. Prohibited uses. No single use business structure of 10,000 square feet or more shall be allowed.

F. Dimensional requirements.

(1) General Business District requirements.

(2) Under this section, the SPGA may waive strict compliance with dimensions as established in § 135-701 of the Braintree Bylaw. If SPGA waives compliance with § 135-701, then the SPGA shall determine dimensions within the range established below during the public hearing process.

**GB**

|                  |                 |
|------------------|-----------------|
| Minimum lot size | 5,000 to 15,000 |
| Lot width        | 25 to 50        |
| Minimum frontage | 25 to 50        |
| Minimum depth    | 60 to 85        |
| Maximum setback  | 15              |
| Front yard       | 0 to 10         |
| Side yard        | 0 to 10         |
| Rear yard        | 20              |
| Maximum height   | 45/50*          |

**GB**

|                           |     |
|---------------------------|-----|
| Maximum stories           | 3   |
| Maximum building coverage | 80% |
| Maximum lot coverage      | 90% |
| Minimum open space        | 10% |

\* In business districts, the height limitation is 50 feet for habitable buildings and 45 feet for nonhabitable buildings.

GB = General Business

- (3) No building shall be located more than 15 feet from the front property line.
- (4) Front yard setbacks may be zero to 10 feet (General Business) if the proposed structure is located in such away that it could form a consistent building line or street wall line\* in relation to directly abutting properties within the Village Zoning Overlay District.
- (5) If a structure is located in such a way that it could form a street wall in the Village Zoning Overlay District, then the lot line adjoining other street wall properties may be zero. This provision may apply in all cases except for structures located adjacent to public open space or driveways.

\* "Street wall line" defined: The main wall of a structure or set of structures that is closest to and most nearly parallel with an adjacent street.

G. Submission requirements. Submission requirement shall be the same as required under Article V, Article VIII, and Article XIV of the Braintree Zoning Bylaw.

H. Criteria for the Village Zoning Overlay District.

- (1) Parking regulation. (See § 135-815.)
- (2) Sign regulation. (See § 135-904.6, Sign Regulations.)
- (3) General provisions.
  - (a) Buildings within the General Business District shall provide pedestrian entrances that open to the front sidewalk and may provide other entrances to the side or rear.
  - (b) For all nonresidential and noninstitutional uses, a minimum of 60% of the first floor level frontage shall be transparent. Additionally, building facades must contain street level windows and main entrances from the sidewalk. The street side facade of a building shall not consist of an unarticulated blank wall or an unbroken series of garage doors.
  - (c) Applicants who wish to build a structure or rehabilitate an existing structure shall select materials and textures which are compatible with and complementary to neighboring buildings. For this reason, the SPGA shall reserve the right to require an elevation view illustration of the proposed improvement.

- (d) New curb cuts on existing public ways shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following methods:
- [1] Through a common driveway serving adjacent lots of premises; or
  - [2] Through an existing side or rear street.
- (e) Refuse containers, heating-ventilation-air conditioning, transformers, lift stations, utility meters, shall be located on the side or at the rear of the principal structure. The record plan or landscaping plan shall include provisions for these items. Screening, to the extent possible, shall be accomplished through:
- [1] Landscaping; and
  - [2] Materials integrating the design, material type, and colors of the existing building with the screening structure.
- If roof-mounted mechanical equipment is used, such equipment shall be screened from public view on all sides.
- (f) Access to buildings through rear entrances from parking lots is encouraged. The rear facade shall receive appropriate design treatment.
- (g) Buffering elements in the form of plantings, walls, fences, screens, and other designed or natural features that provide a logical transition to adjoining existing or permitted uses shall be provided by the applicant.
- (h) In order to maintain consistency in front setbacks, rhythm, and scale, the SPGA shall reserve the right to require revised plans for building setback, spacing, and building width.

**§ 135-614. Conversion of convalescent home or nursing home. [Added 5-10-2006 ATM by Art. 38]**

- A. Applicability. As authorized in § 135-601, Table of Principal Uses, an existing convalescent home or nursing home use may be changed to an apartment house/two-family use provided the following conditions are met:
- 1. A convalescent home or nursing home was in operation on the site for a minimum of 10 years immediately preceding the date of application for conversion.
  - 2. The convalescent home or nursing home was vacant for at least one year immediately preceding the date of application for conversion.
  - 3. The structures housing or being used in support of the convalescent home or nursing home use were not enlarged during the ten-year period immediately preceding the date of application for conversion.
  - 4. The site [lot(s)] containing convalescent home or nursing home use has not been enlarged during the ten-year period immediately preceding the date of application for conversion.

5. The building or buildings which contained the convalescent home or nursing home were in existence as of May 10, 2006.
- B. Affordable units. The conversion of the convalescent home or nursing home shall provide the minimum required percent of the residential units created for low- and moderate-income housing as defined by the Massachusetts Department of Housing and Community Development (DHCD). Said units shall be created through the Local Initiative Program (LIP) 760 CMR 45.00 as amended and administered by DHCD.
- C. Density standards. In granting a special permit the SPGA shall specifically find that the number of residential units to be created through the conversion can be accommodated on site. The density standards set under § 135-705 shall not apply to a conversion of convalescent home or nursing home.
- D. Criteria for granting a special permit. The SPGA shall assure that the following criteria are met:
  1. The size of the site [lot(s)] on which the convalescent home or nursing home is currently located shall not be enlarged for the proposed conversion.
  2. There shall be no expansion of the structures housing or being used in support of the convalescent home or nursing home except for cosmetic alterations such as construction of a foyer. No living space shall be expanded.
  3. Off-street parking shall be provided as required by Braintree Zoning Bylaw § 135-806.
  4. The proposed conversion shall not generate more than 50 vehicle trips for any peak hour.
  5. Adequate screening between the site and abutting properties shall be provided.