

Article 12 Special Permit and Site Plan Reviews

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ARTICLE 12 SPECIAL PERMIT AND SITE PLAN REVIEWS

SECTION 12.0 PURPOSE

The purpose of Special Permits and Site Plan Review is to provide a predictable and expeditious development review process, tailored to the scale of a proposed DEVELOPMENT, to enable the City to promote economic development while ensuring compatibility of different uses and minimizing the impact of proposed uses on their surroundings. Such review is also intended to ensure that DEVELOPMENT is designed in a way that fulfills the purposes of this Ordinance.

SECTION 12.1 APPLICABILITY AND GENERAL PROVISIONS

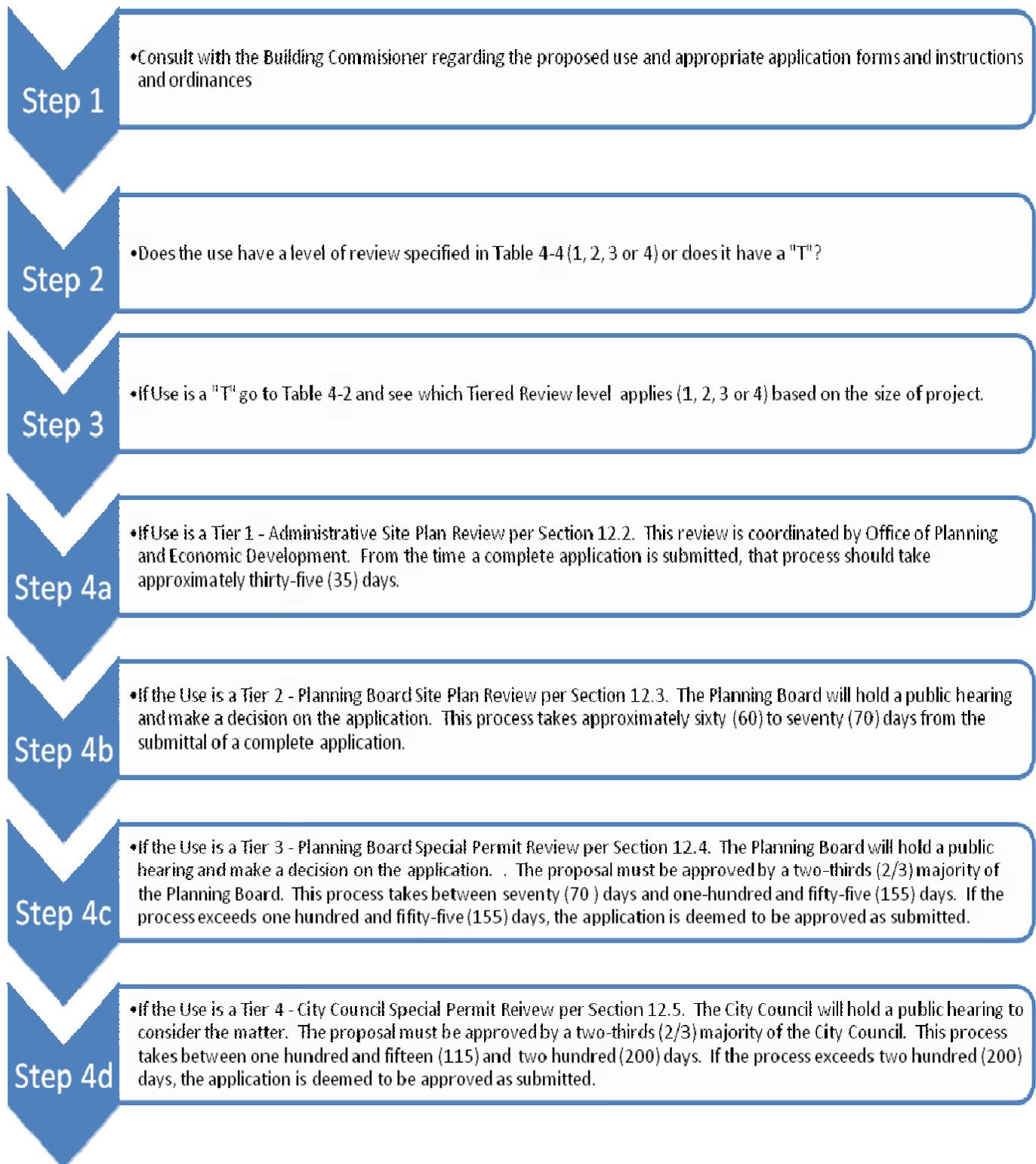
Section 12.1.10 Applicability

This Ordinance includes four (4) tiers of review as set forth in Section 4.2 – TIERED REVIEW System.

Section 12.1.20 Sequence of Steps

12.1.21 The following list provides the sequence of steps for the applicant as summarized in Diagram 12.1:

- A. An applicant for any type of DEVELOPMENT review is advised to first contact the BUILDING COMMISSIONER 'S Office for advice as to which type of review is required, as provided in Section 11.1.11. The BUILDING COMMISSIONER'S Office will make an initial screening review of the proposed project and indicate to the applicant whether one of the TIERED REVIEWS will apply to the application, and if so, which one.
- B. Based upon that initial review, the applicant will be directed to make a specific type of application either to the BUILDING COMMISSIONER 'S Office for a USE AS OF RIGHT, or to the Office of Planning and Economic Development for all development review tiers.
- C. If a proposed STRUCTURE or USE requires Site Plan Review and/or a Special Permit, after such approval has been issued, the applicant shall submit a BUILDING PERMIT or USE PERMIT application to the BUILDING COMMISSIONER 'S Office, consistent with all conditions and requirements of such approval. The BUILDING COMMISSIONER, in reviewing the application, shall ensure that all such conditions and requirements have been satisfied, including any required performance guarantees, and shall process the application as provided in Section 11.1.15.

Diagram 12-1 Sequence of Review Process

Section 12.1.30 Payment of Review Costs

In connection with any application for a Special Permit or Site Plan Review involving review by the Planning Board, Zoning Board of Appeals or City Council (i.e. Tiers 2 through 4), the applicant may be required to pay fees in advance to the City Treasurer to cover the reasonable costs of outside consultant review of such application. Such costs may include consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other professional and technical services required for a proper and thorough review of the application. No permit shall be issued until all costs have been paid. The City Treasurer shall deposit such fees into a segregated account and return unexpended funds to the applicant as provided in M.G.L. Chapter 44, Section 53G and any regulations adopted pursuant thereto by the respective boards.

Section 12.1.40 Coordination of Reviews

12.1.41 The Office of Planning and Economic Development shall ensure that all agencies, boards, commissions, and departments with jurisdiction over a project are informed of any pending applications and invited to participate in the decision process under this Article. The Office of Planning and Economic Development shall keep a list of neighborhood councils designated by the Planning Board, who shall be notified of Tier 2, 3, and 4 applications submitted to the Office of Planning and Economic Development within ten (10) days of the date the application is deemed complete by the Office of Planning and Economic Development. Such notification of neighborhood councils shall supplement the required notification of abutters, newspaper publication, and other forms of public notice contained in Sections 12.3.34, 12.4.33, and 12.5.34.

12.1.42 The Office of Planning and Economic Development shall coordinate all required reviews involving Site Plan Review, Special Permits, Subdivisions, and other forms of division of land and real property, including establishment of CONDOMINIUMS and Land Divisions classified as “APPROVAL NOT REQUIRED” under the Land Subdivision Regulations (Springfield City Ordinance Title 10), and other permits and approvals of City, State, and Federal agencies.

Section 12.1.50 Judicial Review

Judicial review of all final actions of the Planning Board, Zoning Board of Appeals, or City Council undertaken pursuant to this Article, shall be undertaken pursuant to M.G.L. Chapter 40A, Section 17.

Section 12.1.60 Withdrawal without Prejudice

An applicant for any form of approval described in this Article, may withdraw, without prejudice, any application prior to a final decision by the reviewing board or official. Such withdrawal shall be accomplished by sending written notice to the Office of Planning and Economic Development by certified mail, return receipt requested, or by delivering such notice in person in duplicate to the Office of Planning and Economic Development and obtaining a receipt from the Department for such notice. A withdrawn application may be resubmitted at any time.

Section 12.2 Administrative Site Plan Review (Tier 1)

Administrative Site Plan Review shall be conducted by the Office of Planning and Economic Development in cooperation with the BUILDING COMMISSIONER'S Office, Department of Public Works, and other departments that have jurisdiction or an interest in the application. Tier 1 projects that are classified as exempt from review by the Office of Planning and Economic Development pursuant to Section 12.2.60 shall be reviewed as provided in Section 12.2.60.

Section 12.2.10 Submission Requirements

12.2.11 An applicant for Administrative Site Plan Review shall submit a complete application for Administrative Site Plan Review, including a plan of the subject PARCEL on a location map (e.g. a tax map) showing boundaries and dimensions of the PARCEL and identifying contiguous properties and STREETS that are within fifty (50) feet of a proposed STRUCTURE as well as any easements or rights-of-way. If the application is deemed exempt under Section 12.2.60, no further information shall be required, except as may be necessary to establish the exemption or as may be required by the BUILDING COMMISSIONER'S Office for a Building Permit.

12.2.12 In addition, the Office of Planning and Economic Development may require, in its discretion, some or all of the following additional information:

- A. Existing features of the site lying within one hundred (100) feet of any proposed land alteration or STRUCTURE, including land and water areas, water or sewer systems, and the approximate location of all STRUCTURES within 100 feet of the proposed STRUCTURES.
- B. The proposed location and arrangements of STRUCTURES and uses on the site, including means of ingress and egress, parking, circulation of traffic, and outdoor REFUSE storage areas.

- C. A sketch of any proposed STRUCTURES (including SIGNS), showing exterior dimensions and elevations of front, side, and rear views; copies of available plans or drawings of existing and proposed STRUCTURES.
- D. A concise narrative description of the project describing the intended USE of land and proposed STRUCTURES, DEVELOPMENT (including SIGNS) and any changes in the existing topography and natural features.
- E. The name, mailing address, telephone number, and email address for the applicant and any professional advisors, and the authorization of the property owner if the applicant is not the owner.
- F. If the parcel contains a stream, wetland, or floodplain, a copy of the floodplain map and wetland map that corresponds with the boundaries of the property, as well as all materials required for submission to the CONSERVATION COMMISSION pursuant to Chapter 10.20 10 of the City Ordinance.

12.2.13 Application materials may be prepared by a licensed professional engineer, architect, land surveyor, or landscape architect, but the Office of Planning and Economic Development shall not require this unless the services of such professionals are necessary to provide accurate information or are otherwise required by law.

Section 12.2.20 Administrative Site Plan Review Criteria

12.2.21 In order to grant administrative approval of a site plan, the Office of Planning and Economic Development must find that the application complies with this Ordinance and other applicable laws, including applicable design, site and use standards.

12.2.22 In making its decision, the Office of Planning and Economic Development may refer for guidance to the review criteria in Section 12.3.60 Planning Board Site Plan Review Criteria.

12.2.23 The Office of Planning and Economic Development shall not deny approval of an application that meets all applicable requirements.

12.2.24 The Office of Planning and Economic Development may impose reasonable conditions to ensure compliance with applicable standards and any other applicable provisions of this Ordinance. These conditions shall be incorporated

into the BUILDING PERMIT conditions or other approval issued by the City related to the proposed DEVELOPMENT.

Section 12.2.30 Administrative Site Plan Review Procedures

- 12.2.31 No public hearing shall be held for an Administrative Site Plan Review.
- 12.2.32 The Office of Planning and Economic Development shall make an initial review of the application for completeness and shall inform the applicant within five (5) business days whether the application is complete or whether any additional information will be required. Once the Office of Planning and Economic Development has determined the application to be complete, the Office of Planning and Economic Development shall circulate it to all other agencies and departments that have jurisdiction or an interest in the application as determined by the Office of Planning and Economic Development.
- 12.2.33 If the Office of Planning and Economic Development fails to act within the five (5) business day period, the application shall be deemed complete. If the application is deemed incomplete and resubmitted, the Office of Planning and Economic Development shall review it using the same process to determine completeness described in this subsection.
- 12.2.34 The Office of Planning and Economic Development shall review the complete application and coordinate as necessary with other City Departments, which shall have a maximum of twenty (20) days to comment. The Office of Planning and Economic Development shall make its decision within thirty (30) days of finding that the application is complete.
- 12.2.35 The Office of Planning and Economic Development's decision shall include any conditions reasonably necessary to ensure compliance with this Ordinance and other applicable laws and regulations. If the Office of Planning and Economic Development fails to act within the thirty (30) day period, approval shall be deemed constructively granted and the applicant may file an application for a BUILDING PERMIT in the same manner as for an AS OF RIGHT use. Such BUILDING PERMIT application shall be accompanied by a signed statement setting forth dates of the filing of the application and the date of the completeness finding (if one has been made within the required five (5) day period). The thirty (30) day period may be extended with the written consent of the applicant.

- 12.2.36 The Office of Planning and Economic Development's decision shall be mailed to the applicant within two (2) business days and shall be simultaneously filed with the City Clerk and the BUILDING COMMISSIONER 'S Office.
- 12.2.37 The applicant shall file a BUILDING or USE PERMIT application within two (2) years of receiving administrative Site Plan approval. If no application is filed within this time period, the Office of Planning and Economic Development may require a new application for administrative Site Plan Review to be filed. The Office of Planning and Economic Development may grant a six (6) month extension if the applicant files a request for such extension within the original two (2) year period, stating the reason for requesting such extension. Such extension by the Office of Planning and Economic Development shall not be unreasonably denied.

Section 12.2.40 Conditions, Limitations, and Safeguards

The Office of Planning and Economic Development may impose any of the conditions, limitations, and safeguards contained in Section 12.3.70.

Section 12.2.50 Appeals

- 12.2.51 An applicant may appeal a decision of the Office of Planning and Economic Development to the Planning Board by filing a request for review within ten (10) business days of the filing of the Office of Planning and Economic Development's decision in the City Clerk's Office. In such a case the Planning Board shall follow the procedures and timelines in Section 12.3.
- 12.2.52 The applicant shall be given an opportunity to appear before the Planning Board, but no public hearing shall be required for an appeal of an administrative Site Plan Review. No additional information shall be required to be submitted unless the Planning Board determines that additional information is necessary to make an informed decision.
- 12.2.53 If the Planning Board determines that more information is needed, it shall so inform the applicant at the meeting at which the appeal is discussed, and all applicable timelines shall be suspended until the applicant provides the required information. Upon submission of the required information, the appeal shall be decided at the regular meeting of the Planning Board occurring at least seven (7) days after submission of the material. If the information is not provided within sixty (60) days of the Planning Board meeting during which the request for additional information was made, the appeal shall be denied.

- 12.2.54 The criteria for decision making applied by the Planning Board shall be those in Section 12.2.20.

Section 12.2.60 Exempt Projects

- 12.2.61 The Office of Planning and Economic Development may establish classes of Tier 1 projects which, because of their size and scale, and because of staffing limitations in the Office, are deemed not to require full Administrative Site Plan Review. Such classes may be established and may be modified from time to time as workload and staffing levels require or permit. Such classification of projects shall use the same categories used in the tiered review system thresholds in Table 4-2, but with lower thresholds than indicated in Table 4-2 for Tier 1. (For example, new structures designated “T” on the Use Table with 3 – 5 dwelling units, or non-residential uses with less than 10,000 square feet of floor area may be classified as exempt under this Section 12.6.60.) When establishing such exemption classifications, the Office of Planning and Economic Development shall post such classifications on the City’s website and shall place copies of the classification system on the front counter of the Office.
- 12.2.62 Applications classified as exempt by the clerk at the front counter of the Office of Planning and Economic Development, based upon the posted classification system shall be stamped “Exempt from Site Plan Review” and sent forthwith to the BUILDING COMMISSIONER’S Office. Such applications shall require no further review by the Office of Planning and Economic Development. The counter clerk shall make a notation of the applicant’s name, tax parcel number, and other identifying information required by Office of Planning and Economic Development for purposes of record-keeping. The applicant shall have the option of bringing such applications directly to the BUILDING COMMISSIONER’S Office upon receipt of the exemption stamp and recording of the identifying information described above. Exempt applications shall not be required to comply with any of the provisions of Section 12.2, except that information necessary to establish the application’s exemption from Tier 1 Site Plan Review shall be submitted
- 12.2.63 The Office of Planning and Economic Development shall monitor and evaluate the exemption process and may make adjustments to the exemption thresholds from time to time. Such modifications may include limiting exemptions or establishing different exemption thresholds by zoning district and/or use category.

SECTION 12.3 PLANNING BOARD SITE PLAN REVIEW (TIER 2)

Section 12.3.10 Applicability

- 12.3.11 The Site Plan Review provisions of this Section shall apply to all STRUCTURES and USES that are required by Table 4-4 (Use Table) to have Planning Board Site Plan Review (Tier 2).
- 12.3.12 The submission requirements, review criteria and findings requirements in Sections 12.3.40, 12.3.50, and 12.3.60 shall also apply to Planning Board Special Permit Review (Tier 3) and City Council Special Permit Review (Tier 4).

Section 12.3.20 General Provisions

- 12.3.21 No person shall undertake any USE or DEVELOPMENT subject to this section unless a Site Plan approval has been issued by the Planning Board for the proposed DEVELOPMENT in accordance with the requirements of this section.
- 12.3.22 The BUILDING COMMISSIONER shall have the authority to enforce compliance with this provision and with the Site Plan resulting from this process, including any conditions in the Site Plan approval.

Section 12.3.30 Planning Board Site Plan Review application and Review Procedure

- 12.3.31 Applications shall be submitted to the Office of Planning and Economic Development and shall contain the information specified in Section 12.3.40. Applicants are encouraged to meet with the Office of Planning and Economic Development prior to submitting an application in order to determine which of the information requirements in Section 12.3.42 must be satisfied.
- 12.2.32 The Office of Planning and Economic Development may waive specific submission requirements for a Site Plan Review application upon demonstration by the applicant that a requirement is not necessary or is inapplicable to the applicant's project.
- 12.3.33 The Office of Planning and Economic Development shall evaluate an application for completeness within fourteen (14) days of its receipt and shall transmit copies of the Site Plan application to the Planning Board and to such other boards, agencies, committees, and officials as the Office of Planning and Economic Development deems appropriate. These boards, agencies, committees, and

officials shall report their written findings and recommendations to the Planning Board within thirty (30) days. Failure to respond within thirty (30) days shall be deemed to constitute no objection to the application.

- 12.3.34 The Planning Board shall conduct a public hearing within forty-five (45) days of receiving an application deemed complete by the Office of Planning and Economic Development, following the procedures and notification requirements for Special Permit public hearings contained in Section 12.4.30 Special Permit Procedures, including but not limited to notice to abutters and by newspaper publication.
- 12.3.35 If the Planning Board determines that more information is needed to make an informed decision, it may adjourn the hearing to allow the applicant to submit additional information. Upon submission of the required information, the hearing shall be continued at the next regular meeting of the Planning Board occurring at least seven (7) days after submission of the material, and all applicable timelines shall be suspended until the applicant provides the required information. If the information is not provided within sixty (60) days of the initial Planning Board hearing, the application shall be denied.
- 12.3.36 The concurring vote of a majority of the members in attendance at the Planning Board meeting shall be required for any decision on a USE or DEVELOPMENT requiring Site Plan Review only. The Board's written decision shall approve the application as submitted or subject to reasonable conditions or modifications necessary to ensure compliance with the requirements of this Ordinance. The Planning Board may deny an application only where it determines that the application and site plan, with conditions attached, does not comply with zoning requirements or does not contain sufficient information to support a decision.
- 12.3.37 The Planning Board shall render a decision within ten (10) days of the close of the public hearing, and shall notify the applicant in writing within two (2) days of its decision to approve, approve with modifications or conditions, or deny the application. The Planning Board shall also notify the BUILDING COMMISSIONER of its decision within two (2) business days by mail or personal delivery.
- 12.3.38 If the approval is made subject to modifications that require the resubmission of the Site Plan, this time period shall be extended as necessary to enable the applicant to resubmit the Site Plan for further review and to enable the Planning Board a reasonable period of time to review the modifications. An authorized member of the Planning Board shall SIGN any approved Site Plan and transmit it

to the Office of Planning and Economic Development and BUILDING COMMISSIONER within two (2) days of the decision to approve. If the Planning Board fails to render a decision within ten (10) days of the close of the public hearing, approval shall be deemed granted following the procedures for constructive approval of Section 12.4.34 of this Ordinance.

- 12.3.39 Any Site Plan Approval granted under this Ordinance shall expire within two (2) years if no BUILDING PERMIT has been granted or, if no BUILDING PERMIT is required to implement the Site Plan approval, if construction has not begun.

Section 12.3.40 Planning Board Site Plan Review Submission Requirements

- 12.3.41 An application for a Planning Board Site Plan Review under this section shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, a Registered Land Surveyor and/or a Registered Landscape Architect, and shall include the following items and information:

- A. All information listed in Section 12.2.10 in connection with Administrative Site Plan Review.
- B. Such additional information as deemed necessary by the Office of Planning and Economic Development to determine compliance with applicable provisions of this Ordinance and to enable the Planning Board to conduct an informed review pursuant to the criteria in Section 12.3.50 below, including maps, plans, and/or drawings showing the following Existing Conditions and proposed DEVELOPMENT:
 - 1. ZONING DISTRICTS, overlay districts, topography, wetlands, watercourses, soils, existing vegetation, roads, STRUCTURES, driveways, and other relevant site conditions.
 - 2. Proposed driveways, parking areas, sidewalks, landscaping, utilities, lighting, drainage, vehicular circulation, REFUSE disposal storage areas, SIGNS, and BUILDING plans and elevations.
 - 3. If the land will be developed in more than one phase, the Planning Board may require the applicant to present a master plan for an entire property showing intended future DEVELOPMENT and a plan for phasing.

- 12.3.42 An application shall not be considered complete until all information required by Planning Board, as per Section 12.3.40, is submitted. This shall not prevent the

Planning Board from requesting additional information in the course of its review of an application as it deems reasonably necessary.

Section 12.3.50 Planning Board Site Plan Review Criteria

- 12.3.51 The following criteria shall be used by the Planning Board in evaluating the Site Plan and related information submitted as part of the application. The Planning Board may impose conditions designed to ensure that the proposed USE, DEVELOPMENT or STRUCTURE will:
- A. Comply with all applicable provisions and requirements of this Ordinance, including all use, dimensional, site, utility, and design standards.
 - B. Avoid significant detrimental environmental impacts, including stormwater runoff, erosion or sedimentation.
 - C. Ensure adequate light and air quality for adjacent properties and minimize detrimental visual impacts on adjacent uses and public STREETS, parks, BUILDINGS, and other public places.
 - D. Not impair pedestrian safety or overload existing roads, considering their current width, surfacing, and condition.
 - E. Provide adequate access for fire, police, and emergency vehicles.
 - F. Minimize noise, dust, odors, solid waste, glare, or any other nuisances in accordance with the City Ordinance.
 - G. Avoid significant detrimental impacts to historic resources such as demolition and inappropriate alteration.

Section 12.3.60 Planning Board Site Plan Review: Specific Findings Required

- 12.3.61 In order to grant approval of a site plan, the Planning Board shall find that the application complies with this Ordinance, including any applicable design, site and use standards, including the review criteria in Section 12.3.60, and other applicable local, state, and federal laws and regulations.
- 12.3.62 The Planning Board may not deny approval of an application that meets all zoning requirements, but it may impose reasonable conditions to ensure compliance with these requirements and other provisions of this Ordinance. These conditions shall be incorporated into any BUILDING PERMIT or other approval issued by the City.

- 12.3.63 Prior to granting approval of the Site Plan Review application, the Planning Board shall make written findings that the proposed DEVELOPMENT is in conformance with this Ordinance, and if applicable, that with conditions imposed, the review criteria in Section 12.3.50 will be satisfied.
- 12.3.64 Such findings shall pertain to the entire proposed DEVELOPMENT, including any Site Plan or design modifications requested by the Planning Board as a condition of its approval, and any off-site improvements proposed by the applicant or required by the Planning Board as condition of its approval.
- 12.3.65 If any application for Planning Board Site Plan Review is denied, such denial shall be accompanied by written findings of the Planning Board setting forth the reason for denial.

Section 12.3.70 Planning Board Site Plan Review Conditions, Limitations and Safeguards

- 12.3.71 In granting approval of an application, the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be part of such approval. Such conditions may include, among other matters and subjects:
- A. Access to the site;
 - B. Requirements for off-site improvements to improve the capacity and safety of roads, intersections, pedestrian ways, water and sewer, drainage and other public facilities which will be affected by the proposed DEVELOPMENT;
 - C. Requirements for donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widenings or improvements;
 - D. Requirements for securing and performance of proposed work and improvements, including but not limited to installation of pavement, sidewalks, utilities, lighting, landscaping, drainage, and traffic management improvements, to the extent determined necessary by the DEPARTMENT OF PUBLIC WORKS. Such requirements may be satisfied by either or both of the following methods as determined by the Planning Board:
 - 1. A performance bond, a deposit of money, letter of credit acceptable to the City Treasurer, or bank passbook in an amount

determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements required as conditions of approval. In all such cases, the Planning Board shall not accept any form of security that has an expiration date, unless provisions are made to guarantee the City's performance security beyond the date of expiration.

- E. Conditions to minimize off-site impacts on traffic and environmental quality during construction.
- F. More restrictive dimensional requirements to ensure compliance with the review criteria in Section 12.3.50 provided that such requirements do not have the effect of denying the requested USE of the property. If such stricter dimensional requirements are applied in the context of a Special Permit Review pursuant to Section 12.4, they may have the effect of denying the USE.

Section 12.3.80 Planning Board and Site Plan Review Administration and Appeals

- 12.3.81 The Planning Board shall establish and may periodically amend Rules and Regulations relating to the administration of this section, including additional regulations relating to the scope and format of reports required hereunder.
- 12.3.82 The Planning Board shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be accepted for review unless accompanied by the application fees.
- 12.3.83 The BUILDING COMMISSIONER shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.
- 12.3.84 Planning Board Site Plan Review conditions, limitations and safeguards imposed under Section 12.3.70 or pursuant to any other provision of this Ordinance shall be enforced by the BUILDING COMMISSIONER as provided in Section 11.1.20.
- 12.3.85 All Site Plan approvals shall be conditioned upon the applicant granting consent to the BUILDING COMMISSIONER to monitor and inspect the property for compliance with this Ordinance, the Site Plan Approval, and any conditions imposed under it, as well as any other applicable land use or environmental laws and regulations.

12.3.86 A final decision on a Site Plan approval or disapproval may only be appealed pursuant to M.G.L. Chapter 40A, Section 17, to the Superior Court, the Land Court, or the Hampden County Housing Court, within twenty (20) days of the filing of the decision with the City Clerk.

Section 12.4 Planning Board Special Permit Review (Tier 3)

Special Permits authorized by this Ordinance to be granted by the Planning Board shall be granted only after application to and a hearing by the Planning Board as SPECIAL PERMIT GRANTING AUTHORITY (SPGA), pursuant to the provisions of M.G.L. Chapter 40A and this Ordinance.

The PLANNING BOARD shall adopt and from time to time amend Rules and Regulations relative to the issuance of Special Permits and shall file a copy of these rules in the office of the City Clerk.

Section 12.4.10 Relationship to Planning Board Site Plan Review

Any applicant for a Special Permit from the Planning Board under this Ordinance shall also comply with the submission requirements and review criteria for Planning Board Site Plan Review contained in Section 12.3 unless this Ordinance specifies otherwise. The Planning Board Special Permit review process shall include within it the Planning Board review of the site plan and there shall be no separate Site Plan Review process in a combined Tier 3 review. Where the Special Permit review criteria are stricter than the Site Plan Review criteria, the Special Permit criteria shall apply.

Section 12.4.20 Submission Requirements for Special Permits

Submission requirements for Special Permits shall be as specified in the rules adopted by the Planning Board. A Special Permit application shall include a statement explaining how the application complies with the review standards for Special Permits contained in Section 12.4.50 Special Permit Administration. In addition to submitting the materials required for Special Permit applications under the Planning Board's rules, all applications for Special Permit shall comply with applicable submission requirements for Planning Board Site Plan Review in Section 12.3.40, unless the applicant is exempted from specific requirements by the Planning Board.

Section 12.4.30 Special Permit Procedures

12.4.31 Application for a Special Permit shall be made to the Office of Planning and Economic Development on forms provided for that purpose, accompanied by the required fee. Specific rules governing the application and fee shall be adopted by the Planning Board along with its rules of procedure. When the application has been received in a completed form as defined by the rules, a copy shall be

forwarded to the City Clerk. The stamp of the City Clerk shall designate the date of filing.

12.4.32 The Planning Board shall hold a public hearing within sixty-five (65) days after the application has been stamped by the City Clerk.

12.4.33 In all cases notice of public hearing shall be given by the City Clerk by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks; the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in City Hall and Office of Planning and Economic Development for a period of not less than fourteen (14) days before the day of such hearing. Notice to parties of interest shall be sent, postage prepaid, to “Parties of interest.” “Parties of interest” as used herein shall mean the applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Building Commissioner, the City Law Department, the Department of Public Works, the Department of Parks and Recreation, the Planning Board if the hearing is not a hearing of the Planning Board, and the Planning Board of every abutting city or town. The required publications and notices shall contain the name of the applicant, a description of the area or premises, street address, or other adequate identification of the location of the premises, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested.

12.4.34 The Planning Board shall act within ninety (90) days after the close of the public hearing. Failure to take final action upon an application for a Special Permit within said ninety (90) days shall be deemed a grant of the permit as provided in M.G.L. Chapter 40A, Section 9. Special Permits shall require a two-thirds (2/3) vote of the entire membership of the Planning Board.

12.4.35 Upon the granting of a Special Permit, a written copy of the decision shall be issued to the owner or applicant if other than the owner, certified by the Planning Board. The Planning Board shall make a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason for its decision and of its official actions, copies of all of which shall be filed within fourteen (14) days in the office of the City Clerk and the Office of Planning and Economic Development.

12.4.36 The Planning Board's decision shall be deemed a public record, and notice of the decision shall be mailed forthwith to the applicant, to the parties in interest designated in M.G.L. Chapter 40A, Section 11, and to every person present at the hearing who requested that notice be sent and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of filing of such notice in the office of the City Clerk. No Special Permit shall take effect until a copy of the decision is recorded in the Hampden County Registry of Deeds as provided in M.G.L. Chapter 40A, Section 11.

Section 12.4.40 Special Permit Duration

A Special Permit shall lapse if a substantial USE thereof has not commenced within one (1) year, or in the case of construction, if construction has not begun within two (2) years. An exception may be granted for good cause by the Planning Board upon the filing of a request for an extension for a maximum of one (1) year with the Planning Board prior to the lapse of such Special Permit.

Section 12.4.50 Special Permit Administration

12.4.51 The Planning Board shall establish and may periodically amend rules and regulations relating to the administration of this Section 12.4, including additional regulations relating to the scope and format of reports required hereunder.

12.4.52 The Planning Board shall establish and may periodically amend a reasonable schedule of fees for all applications under this section. No application shall be considered completed unless accompanied by the required fees.

12.4.53 The Planning Board shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.

Section 12.4.60 Special Permit Review Standards

12.4.61 Special Permits shall be granted by the Planning Board only upon its written determination that the beneficial effects of the proposed USE will outweigh its adverse impacts to the City or the neighborhood, in view of the particular characteristics of the site, and the suitability of the proposal to that site. In addition to any specific factors that may be set forth in this Ordinance in relation to a particular use, the determination shall include consideration and written determinations on each of the following:

- A. The need for economic development;
- B. Traffic flow and safety, including parking and loading, both on-site and off-site;
- C. Adequacy of utilities and other public services including water, sewer, fire protection and police protection;
- D. Character and intensity of surrounding land uses;
- E. Impacts on the health, safety and welfare of the surrounding area;
- F. Impacts on the natural environment;
- G. Impacts on historic resources;
- H. Potential fiscal impact, including impact on City services, tax base, and employment; and
- I. Consistency with any adopted Master Plan, design guidelines, or area plans for portions of the City.

Section 12.4.70 Conditions Attached to Special Permit Approvals

12.4.71 In approving a Special Permit, the Planning Board may attach any conditions permitted in connection with Site Plans under Section 12.3.70, as well as such other conditions and safeguards as are deemed necessary to protect the neighborhood including, but not limited to, the following:

- A. Require additional SCREENING of OFF-STREET PARKING areas or other parts of the premises from adjoining premises or from the STREET, by WALLS, FENCES, plantings, or other devices.
- B. Modify the exterior features or appearances of the STRUCTURE;
- C. Limit the size, number of occupants, method or time of operation, or extent of facilities.
- D. Regulate the number, design, and location of ACCESS DRIVES or other traffic features.

Section 12.4.80 Effect of Denial of Special Permits

If the SPGA denies the USE applied for, no further application for the same USE will be entertained by the Planning Board for a period of two (2) years from the date of said denial except as provided in M.G.L. Chapter 40A, Section 16.

Section 12.4.90 Special Permit Appeals

A final decision on a Special Permit application may only be appealed pursuant to M.G.L. Chapter 40A, Section 17, to the Superior Court, Land Court, or the Hampden County Housing Court, within twenty (20) days of the filing of the decision with the City Clerk.

Section 12.5 City Council Special Permit Review (Tier 4)

Special Permits authorized by this Ordinance shall be granted only after application to and a hearing by the SPECIAL PERMIT GRANTING AUTHORITY (SPGA), pursuant to the provisions of M.G.L. Chapter 40A and this Ordinance. The SPGA shall be the City Council unless otherwise specified in this Ordinance. References to the City Council in this Section 12.5 shall apply to any other SPGA that may be designated in this Ordinance to conduct Special Permit reviews. The SPGA and Site Plan Review authority for Tier 4 applications shall be the City Council. The City Council shall adopt and from time to time amend rules relative to the issuance of Special Permits and shall file a copy of these rules in the office of the City Clerk.

Section 12.5.10 Relationship to Site Plan Review

Any applicant for a Special Permit under this Section 12.5 shall submit all materials required for Site Plan Review as provided in Section 12.3. The Site Plan Review by the City Council shall be incorporated into the same Special Permit proceeding.

Section 12.5.20 Submission Requirements for Special Permits

Submission requirements for Special Permits shall be as specified in the rules adopted by the City Council. A Special Permit application shall include a statement explaining how the application complies with the review standards for Special Permits contained in Section 12.5.60. In addition to submitting the materials required for Special Permit applications under the City Council's Special Permit rules, all applications for Special Permits shall also comply with applicable submission requirements for Site Plan approval in Section 12.3.40, unless the applicant is exempted from specific requirements by the City Council based upon a recommendation from the Office of Planning and Economic Development.

Section 12.5.30 Special Permit Procedures

12.5.31 Application for a Special Permit shall be made to the Office of Planning and Economic Development on forms provided for that purpose, accompanied by the required fee. Specific rules governing the application and fee shall be adopted by

the City Council along with its rules of procedure. When the application has been received in a completed form as defined by the rules, a copy shall be forwarded to the City Clerk. The stamp of the City Clerk shall designate the date of filing.

- 12.5.32** A subcommittee of the City Council shall hold a public meeting within thirty (30) days after the application has been stamped by the City Clerk, to allow the applicant to present the proposed plan and to receive oral comments from the Office of Planning and Economic Development and other City departments. Within thirty (30) days of this meeting, the City Council subcommittee and the Office of Planning and Economic Development shall submit written reports to the City Council.
- 12.5.33** The City Council shall hold a public hearing within sixty-five (65) days after the application has been stamped by the City Clerk as provided in M.G.L Chapter 40A, Section 11. The reports of the subcommittee and all City departments who have submitted comments shall be read into the record of the public hearing. The Office of Planning and Economic Development may revise its reports in response to comments made at the public hearing within fourteen (14) days of the close of the public hearing. The City Council may act in the absence of a report from the Office of Planning and Economic Development if no report is submitted within fourteen (14) days of the close of the public hearing.
- 12.5.34** In all cases notice of public hearing shall be given by the City Clerk by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks; the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in City Hall and Office of Planning and Economic Development for a period of not less than fourteen (14) days before the day of such hearing. Notice to parties of interest shall be sent, postage prepaid, to “Parties of interest.” “Parties of interest” as used herein shall mean the applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Building Commissioner, the City Law Department, the Department of Public Works, the Department of Parks and Recreation, the Planning Board if the hearing is not a hearing of the Planning Board, and the Planning Board of every abutting city or town. The required publications and notices shall contain the name of the applicant, a description of the area or premises, street address, or other adequate identification of the location

of the premises, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested.

- 12.5.35 The City Council shall act within ninety (90) days following the public hearing. Special Permits shall require a two-thirds (2/3) vote of the entire membership of the City Council.
- 12.5.36 Failure to take final action upon an application for a Special Permit within said ninety (90) days shall be deemed a grant of the permit as provided in M.G.L. Chapter 40A, Section 9.
- 12.5.37 Upon the granting of a Special Permit under this section, a copy of the decision shall be issued to the owner or applicant if other than the owner, certified by the City Council. The City Council shall make a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason for its decision and of its official actions, copies of all of which shall be filed within fourteen days in the office of the City Clerk and the Office of Planning and Economic Development.
- 12.5.38 The City Council's decision shall be deemed a public record, and notice of the decision shall be mailed forthwith to the applicant, to the parties in interest designated in M.G.L. Chapter 40A, Section 11, and to every person present at the hearing who requested that notice be sent and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed within (20) days after the date of filing of such notice in the office of the city clerk. No Special Permit shall take effect until a copy of the decision is recorded in the Hampden County Registry of Deeds. In order for such recording to occur, the City Clerk must certify that twenty (20) days have elapsed and no appeal has been filed, or that if an appeal has been filed, that it has been dismissed or denied.

Section 12.5.40 Special Permit Duration

A Special Permit shall lapse if a substantial USE thereof has not commenced within two years, or in the case of construction, if construction has not begun within two (2) years. Exception may be made for good cause by the City Council upon the filing of a request for an extension with the City Council prior to the lapse of such Special Permit.

Section 12.5.50 Special Permit Administration

- 12.5.51 The City Council shall establish and may periodically amend rules and regulations relating to the administration of this section 12.5, including additional regulations relating to the scope and format of reports required hereunder.
- 12.5.52 The City Council shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be considered completed unless accompanied by the required fees.
- 12.5.53 The BUILDING COMMISSIONER shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.

Section 12.5.60 Special Permit Review Standards

- 12.5.61 Unless otherwise specified in this Ordinance, Special Permits shall be granted by the City Council only upon its written determination that the beneficial effects of the proposed USE will outweigh its adverse impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of suitability of the proposal to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration and written determinations on each of the following:
 - A. The need for economic development;
 - B. Traffic flow and safety, including parking and loading, both on-site and off-site;
 - C. Adequacy of utilities and other public services including water, sewer, fire protection and police protection;
 - D. Character and intensity of surrounding land uses;
 - E. Impacts on the health, safety and welfare of the surrounding area;
 - F. Impacts on the natural environment;
 - G. Impacts on historic resources;
 - H. Potential fiscal impact, including impact on city services, tax base, and employment;

- I. Consistency with any adopted Master Plan, design guidelines, or area plans for portions of the City; and

Section 12.5.70 Conditions attached to Special Permit Approvals

12.5.71 In approving a Special Permit, the City Council may attach any conditions permitted under Section 12.4.70, as well as such other conditions and safeguards as are deemed necessary to protect the neighborhood including, but not limited to, the following:

- A. Require larger FRONT, SIDE or REAR YARDS than the minimum required by this Ordinance.
- B. Require additional SCREENING of OFF-STREET PARKING areas or other parts of the premises from adjoining premises or from the STREET, by WALLS, FENCES, plantings, or other devices.
- C. Modify the exterior features or appearances of the STRUCTURE;
- D. Limit the size, number of occupants, method or time of operation, or extent of facilities.
- E. Regulate the number, design, and location of ACCESS DRIVES or other traffic features

Section 12.5.80 Effect of Denial of Special Permit

If the City Council denies the USE applied for, no further application for the same USE will be entertained by the City Council for a period of two (2) years from the date of said denial except as provided in M.G.L. Chapter 40A, Section 16.

Section 12.5.90 Special Permit Appeals

A final decision on a Special Permit application may only be appealed pursuant to M.G.L. Chapter 40A, Section 17, to the Superior Court, Land Court, or the Hampden County Housing Court, within twenty (20) days of the filing of the decision with the City Clerk.

Section 12.5.100 Special Permit for Scientific Accessory Uses

A Special Permit may be issued for a USE accessory to a USE permitted by right, whether or not on the same parcel, if such ACCESSORY USE is necessary in connection with scientific research or development or related production, provided the board granting the Special Permit finds that the proposed ACCESSORY USE does not substantially derogate from the public good.

SECTION 12.6 SPECIAL PERMIT FOR DIMENSIONAL VARIATIONS

Section 12.6.10 Dimensional Variations Generally

12.6.11 A Special Permit may be granted to vary certain dimensional regulations set forth in this Ordinance, subject to the provisions of this section.

12.6.12 The SPECIAL PERMIT GRANTING AUTHORITY (SPGA) for dimensional variations under this section shall be the Board that is the SPGA for the requested use, if such USE requires a Special Permit. If the requested USE requires a Tier 2 Site Plan approval, the SPGA shall be the Planning Board. If the requested USE does not require a Special Permit or a Tier 2 Site Plan Approval, the SPGA shall be the Zoning Board of Appeals.

Section 12.6.20 Dimensional Regulations which may be varied by Special Permit

12.6.21 A Special Permit may be granted for a dimensional variation that complies with the following conditions in Table 12-1.

Table 12-1 Standards for Dimensional Variations by Special Permit		
Dimension	Maximum Variation Allowed By Special Permit	Required Condition To Support Dimensional Variation
Frontage	Frontage reduction up to 50 percent of the minimum Frontage required in Article 5	Lot Area greater than 115 percent of minimum Area required in Article 5
Lot Width	Lot Width reduction up to 50 percent of the minimum Lot Width required in Article 5.	Lot Area greater than 110 percent of minimum Area required in Article 5
Side Yard	Side Yard reduction up to 50 percent of the minimum Side Yard required in Article 5	Maximum structure height within the Side Yard is 75 percent of the maximum height permitted in Article 5
Rear Yard	Rear Yard reduction up to 50 percent of the minimum Rear Yard required in Article 5	Maximum structure height within the Rear Yard is 75 percent of the maximum height permitted in Article 5

- 12.6.22 A Special Permit shall not be granted for any dimensional variation that exceeds the maximum variation specified in 12.6.21, or does not comply with the corresponding required condition in 12.6.21.

Section 12.6.30 Required Findings for Dimensional Variations

- 12.6.31 The SPGA shall grant a Special Permit for a dimensional variation only if it makes the following findings:
- A. The proposed USE will comply with the zoning ordinance.
 - B. The proposed USE will provide neighborhood benefits, such as improvement of deteriorated or abandoned property.
 - C. The proposed USE with the dimensional variation will not have significant negative impacts on the neighborhood compared with the potential USE without the dimensional variation. In making this finding, the SPGA shall consider the following types of potential impacts of the proposed dimensional variation:
 - 1. Impacts on traffic and parking;
 - 2. Impacts on municipal services, including emergency access and public safety;
 - 3. Impacts on neighborhood character, including environmental and visual features;
 - 4. Impacts on neighborhood congestion;
 - 5. Increase in scale of DEVELOPMENT relative to nearby lots and BUILDINGS;
 - 6. Increase in shadowing on abutting LOTS and BUILDINGS.

SECTION 12.7 SITE PLAN REVIEW OF EXEMPT RELIGIOUS, EDUCATIONAL, AND CHILD CARE USES

Section 12.7.10 Applicability

Religious uses, exempt educational uses, DAY CARE CENTERS, and school age child care programs, as those uses are defined in this Ordinance; which are partially excepted from local zoning regulation by M.G.L. Chapter 40A, Section 3, shall be subject to the modified Site Plan Review provisions of this Section.

Section 12.7.20 Procedures

12.7.21 Demonstration of Qualification

In order to qualify for the modified Site Plan Review procedures of this Section, an applicant must satisfy the requirements of Section 4.6.40 to prove to the satisfaction of the Office of Planning and Economic Development that the USE is exempt under M.G.L. Ch. 40A, Section 3. In order to make this showing, the Office of Planning and Economic Development may require the applicant to furnish, if applicable, copies of the deed to the property, a proposed or existing lease, the articles of organization and bylaws of the applicant organization, the letter of determination granting the applicant tax-exempt status under the Internal Revenue Code, and program materials demonstrating, in the case of an exempt educational institution, that the organization has a bona fide educational purpose and program, including but not limited to the materials in Section 4.7.40. The application for Site Plan Review will not be accepted for review under this Section 12.7 unless the Office of Planning and Economic Development determines that the proposed USE qualifies under the applicable definitions.

12.7.22 Review Procedure

- A. If the application falls within the thresholds for a Tier 1 review, it shall be reviewed by the Office of Planning and Economic Development under the provisions of Tier 1 administrative Site Plan Review in Section 12.2.
- B. If the application exceeds any of the Tier 1 review thresholds, it shall be reviewed by the Planning Board pursuant to the Tier 2 Site Plan Review procedure in Section 12.3.

Section 12.7.30 Review Standards

12.7.31 In approving any Site Plan for of an exempt USE under this section, the Office of Planning and Economic Development or Planning Board shall be limited to imposing reasonable restrictions on:

- A. The bulk and height of STRUCTURES,
- B. YARD sizes and setbacks,
- C. LOT AREA,
- D. OPEN SPACE ,
- E. PARKING, and
- F. BUILDING COVERAGE