TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, CMC, CMMC

Town Clerk
Justice of the Peace
Notary Public

POSTING DATE: July 1, 2013

NORFOLK, SS.

TO EITHER OF THE CONSTABLES IN THE TOWN OF WESTWOOD IN SAID COUNTY:

GREETING:

In the name of the Commonwealth of Massachusetts you are hereby directed to post in at least eight public places in the Town and in one or more public places in each of the four precincts a copy of the attached Amendments to the Town by-laws.

These amendments were voted under Articles 1, 4 and 5 of the Warrant for the 2013 Special Town Meeting, which meeting was held on May 6, 2013.

Any claim of invalidity by reason of any defect in the procedure of adoption or amendment of the aforementioned bylaws may only be made within ninety days of the date of the posting of this notice. Copies of the bylaws are available in the office of the Town Clerk, Town Hall, 580 High Street, Westwood, Massachusetts.

Hereof fail not and make due return upon this warrant with your action thereon to the Town Clerk.

Attest:

Dorothy A. Powers, CMC, CMMC
Town Clerk

By virtue of this warrant, I have this day posted attested copies of the amendments to the Bylaws of the Town of Westwood voted under the aforementioned articles of the 2013 Special Town Meeting, on eight bulletin boards erected by the town and in one or more public places in each of the four precincts of the Town.

Constable

Town Hall 580 High Street, Westwood, MA 02090 Telephone: 781-326-3964 Facsimile: 781-329-8030
dpowers@townhall.westwood.ma.us

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

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TOWN CLERK
TOWN OF WESTWOOD

July 1, 2013

Ms. Dorothy A. Powers, Town Clerk
Town of Westwood
580 High Street
Westwood, MA 02090

Re: Westwood Special Town Meeting of May 6, 2013 ------ Case # 6696
Warrant Article # 1 (Zoning)
Warrant Article 4 and 5 (General)

Dear Ms. Powers:

Articles 4, and 5 - We approve the amendments adopted under these Articles on the warrant for the Westwood Special Town Meeting that convened on May 6, 2013.

Article 1 - We approve the amendments adopted under Article 1 and the map pertaining to it, except as provided below. **[See pages # 2-4 for Disapproval # 1 of 1]** Our comments on Article 1 are provided below.

In addition to amending Section 2, "Definitions" and the Town's Official Zoning Map, the amendments adopted under Article 1 add to the Town's zoning by-laws a new Section 9.8, "University Avenue Mixed Use District ('UAMUD')."

I. General Overview of Section 9.8.

The new Section 9.8 creates the UAMUD, which is an overlay district. The purpose of the UAMUD is to encourage the development of mixed use projects in an area that provides proximate access to major highways and public transportation. Projects developed pursuant to the new Section 9.8 must have a Master Development Plan ("MDP") approved by two-thirds of Town Meeting in accordance with the procedures for adoption or changing zoning by-laws under G.L. c. 40A, § 5. The MDP includes uses allowed as of right and by special permit and delineates a Core Development Area ("CDA"). The CDA shall undergo Conformance Determination review by the Planning Board. All other areas and phases of the approved UAMUD shall undergo a Project Development Review in

accordance with Section 9.8.12.2.2 of the by-law.[1]

II. Comments on Specific Provisions in Section 9.8.

A. Section 9.8.5 "Water Resource Protection Overlay District (WRPOD) Requirements".

Section 9.8.5 imposes standards and requirements for uses in the UAMUD that are also located in the Town's WRPOD. Specifically, Section 9.8.5.2 "WRPOD Standards and Requirements" includes a number of provisions that purport to regulate the application of fertilizers. Section 9.8.5.2 provides in pertinent part as follows:

> To the extent the requirements of Section 9.3, Water Resource Protection Overlay District (WRPOD), are inconsistent with the requirements of this Section 9.8.5.2, the requirements of this section shall govern a UAMUD project.
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> * * *
>
> 9.8.5.2.7. Public Water Supply.
>
> * * *
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> Within the Zone I area, the following limitations shall apply. To the extent that any other provisions of the Bylaw are inconsistent with the limitations set forth below, the limitations set forth below shall control.
>
> * * *
>
> b. No **fertilizers,** herbicides, or insecticides shall be used within the Zone I area, except for organic and/or low-phosphorous alternatives that are appropriate for use in sensitive areas and have been approved in writing by the Town Planner after consultation with the Dedham Westwood Water District.

The Legislature has recently made clear that the regulation of plant nutrient application (including fertilizer) is primarily a matter for the Department of Agricultural Resources, and not a city or town (with some exceptions not applicable here and explained below). *See* Chapter 262 of the Acts of 2012. For this reason, we must disapprove and delete the text in underline and bold above from Section 9.8.5 because the proposed by-law text conflicts with this legislation.

Chapter 262 of the Acts of 2012 ("Chapter 262") amends G.L. c. 128, § 2, "Certain Powers and Duties Defined," to make clear the grant of authority to the Commonwealth's Department of Agricultural Resources ("Department") to enforce and regulate the application of plant nutrients as follows:

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[1] We acknowledge the June 14, 2013 letter from Attorneys Daniel J. Bailey III and Gareth I. Orsmond, who serve as special town counsel to the Town, in support of the by-law. This letter has assisted us in our review of the by-law.

k. Maintain authority to regulate and enforce the registration and application of plant nutrients put on or in soil to improve the quality or quantity of plant growth, including, but not limited to, fertilizer, manure and micronutrients in the commonwealth.

The department shall promulgate regulations that specify when plant nutrients may be applied and locations in which plant nutrients shall not be applied. Subject to appropriation, the department may also develop regulations regarding the use of plant nutrients designed to mitigate significant risks to human health and the environment. The department may limit the scope of those regulations regionally as appropriate. The department shall work in conjunction with the University of Massachusetts Amherst Extension to ensure any regulations of the department relative to plant nutrients are consistent with the program's published information, educational materials and other public outreach programs relative to nutrient management and fertilizer guidelines. [2]

Section 7 of Chapter 262 also amends G.L. c. 128 by adding a new Section 65A, which provides as follows:

(a) No person shall purchase and apply or authorize any person, by way of service contract or other arrangement, to apply in the commonwealth any phosphorus containing fertilizer on lawn or non-agricultural turf, except when: (1) a soil test indicates that additional phosphorus is needed for growth of that lawn or non-agricultural turf; or (2) the phosphorus fertilizer is confirmed to be used for establishing a new lawn or new non-agricultural turf area.

(b) The department shall promulgate regulations to implement subsection (a) and may, consistent with subsection (a) and in consultation with the department of environmental protection, develop additional regulations designed to limit non-point source pollution from plant nutrients including, but not limited to, phosphorous and nitrogen. Such regulations may require retailers of phosphorus containing fertilizer to display such fertilizers separately and post signs specifying when and where phosphorus containing fertilizer may be applied.

(c) Regulations promulgated under this section shall be designed to maximize credits provided to municipalities by the United States Environmental Protection Agency relative to stormwater discharge and similar permits, which the Environmental Protection Agency may require of municipalities.

(d) Violations of any regulations promulgated under this section shall be subject to the penalties set forth in subsection (k) of section 2.

Section 8 of Chapter 262 of the Acts of 2012 includes a "grandfather clause" ensuring the continued enforceability of nutrient-management and fertilizer guideline by-laws adopted *prior to July 31, 2012*, strongly indicating that all such town by-laws *adopted on or after July 31, 2012* are not enforceable:

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[2] Chapter 262 directs DAR to issue regulations by January 1, 2014. No regulations have been published as of the date of this decision.

> Section 8. Notwithstanding subsection (k) of section 2 of chapter 128 of the General Laws, any rule, regulation, ordinance or by-law relative to nutrient management and fertilizer guidelines: (i) of a city or town in existence prior to July 31, 2012, shall remain enforceable by that city or town. . . .

The legislative history of Chapter 262, which is available in summary form at http://www.malegislature.gov/Bills/187/House/H4306/History, confirms that, on and after July 31, 2012, municipalities were not intended to have authority to regulate the application of plant nutrients (except in limited circumstances not applicable here – *see* note 3 *infra*). The legislation began as 2011 House Bill No. 3270, *see* http://www.malegislature.gov/Bills/187/House/H3270, which proposed to amend G.L. c. 128 by inserting a new Section 65A, including the following text:

> Any municipality may enact more stringent standards for the application of fertilizer for lawn or non-agricultural turf than set forth in this section; provided, however, that the municipality that enacts such standards after January 1, 2013 must demonstrate to the [Department of Agricultural Resources] prior to enactment that additional or more stringent standards are necessary to address water quality conditions.

Importantly, this text was deleted from the next version of the legislation, 2011 House Bill No. 4306. (*See* http://www.malegislature.gov/Bills/187/House/H4306). The Legislature thus specifically rejected the proposal to allow municipalities to adopt their own standards (including by-laws such as this one) for the application of fertilizer. The final version adopted by the Legislature, Chapter 262 of the Acts of 2012, demonstrates an intent to allow regulation only by the Department, and specified other Commissions and entities (*see* Section 9 of Chapter 262), at no less than the regional level, and only if consistent with UMass Amherst Extension standards.

Because the text underlined above in Section 9.8.5 purports to regulate the application of fertilizers, and because the by-law was not adopted until May 6, 2013 (long after the July 31, 2012 cut-off date selected by the Legislature), this by-law text is not enforceable based upon the clear language of Chapter 262 of the Acts of 2012. Therefore, the text in underlined and bold above in Section 9.8.5 conflicts with state law and must be disapproved.

B. Section 9.8.10 "Signage".

Section 9.8.10 establishes the regulations for signs[3] in the UAMUD and provides in pertinent part as follows:

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[3] Section 9.8.10 provides that "[a]ll signs shall be as defined in Section 9.5.11.1. Section 9.5.11.1 does not include a definition for "temporary signs" However, Section 6.2.2 of the Town's sign zoning by-laws "defines "Temporary Sign" as follows:

> A sign that is used temporarily and is not permanently mounted. Posters, construction signs, seasonal business signs, real estate signs, yard sale signs, special event signs, banner signs and open house signs are all considered to be temporary signs. Hand-held signs are excluded.

9.8.10.9 Prohibited Signs. . . . *Temporary signs* are prohibited except as provided in Section 9.8.10.8[4] or in connection with special events and seasonal displays.

Section 9.8.10.9 prohibits temporary signs, except for temporary construction signs. Because neither Section 9.8.10 nor Section 9.5.11.1 provides a definition for "temporary sign" it is unclear whether Section 9.8.10.9 prohibits non-commercial temporary signs. It is impermissible for the Town to prohibit temporary non-commercial signs because it cannot regulate noncommercial speech more restrictively than commercial speech. *See Tauber v. Town of Longmeadow*, 695 F. Supp. 1358, 1361 (D. Mass. 1988) ("By favoring commercial speech over noncommercial speech, the Longmeadow bylaws clearly violate the First Amendment of the Constitution."). We suggest that the Town discuss with Town Counsel the application of Section 9.8.10.9's prohibition to those temporary signs that enjoy constitutional protection.

C. Section 9.8.12 "Administration".

Section 9.8.12.6 authorizes the Planning Board to adopt rules and regulations for the administration of the new UAMUD by-law. Local boards, including the Planning Board, do not have the power to adopt rules and regulations which are inconsistent with state law. "A town may not promulgate a regulation that is inconsistent with State law." *American Lithuanian Naturalization Club v. Board of Health of Athol*, 446 Mass. 310, 321 (2006). We suggest that the Planning Board discuss with Town Counsel any proposed rules and regulations to ensure they comply with state law.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

Kelli E. Gunagan

Kelli E. Gunagan
Assistant Attorney General
By-law Coordinator, Municipal Law Unit
Office of the Attorney General Martha Coakley
Ten Mechanic Street, Suite 301
Worcester, MA 01608

cc: Town Counsel Thomas P. McCusker (via electronic mail)

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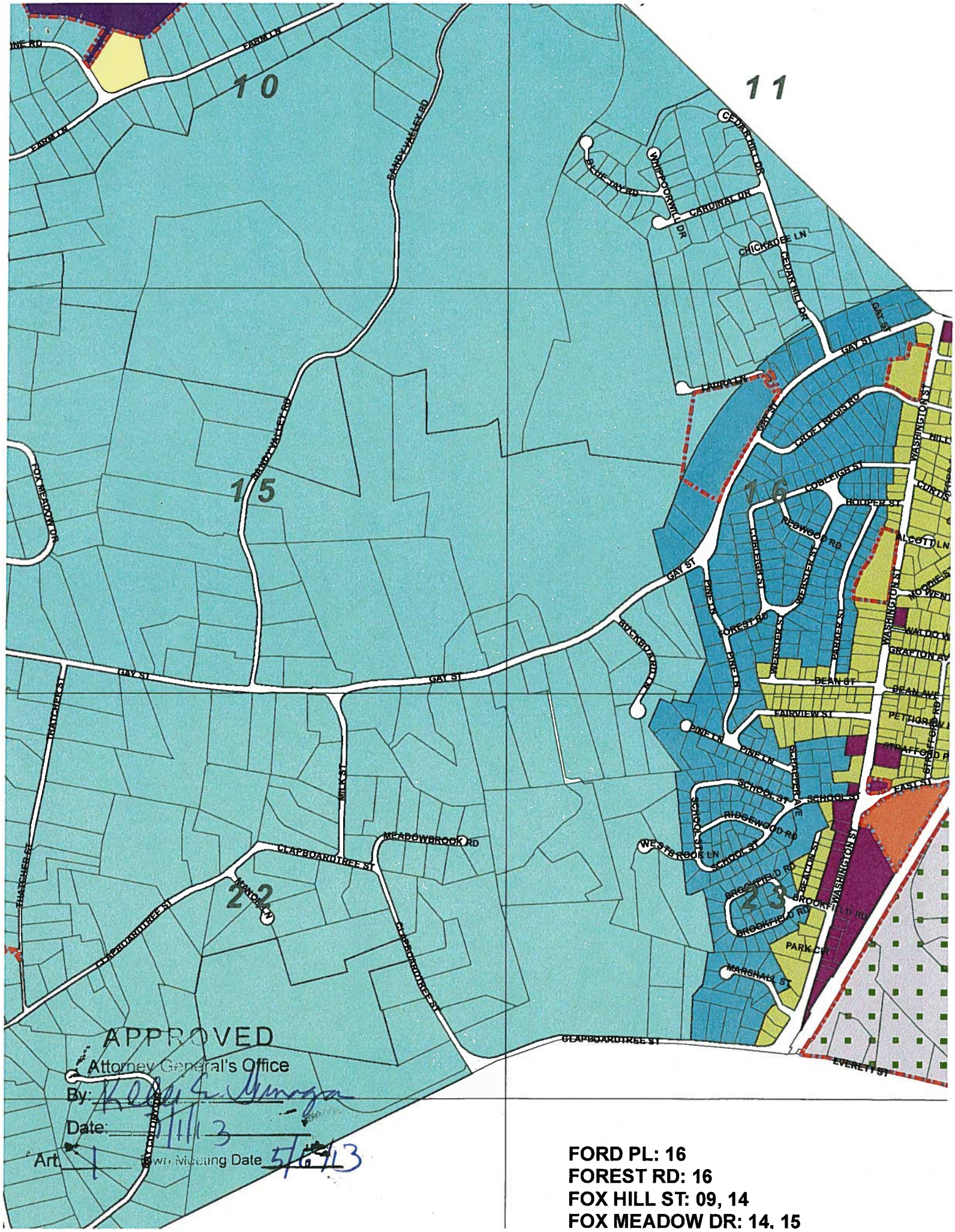
[4] Section 9.8.10.8 allows temporary construction signs subject to certain dimensional regulations.



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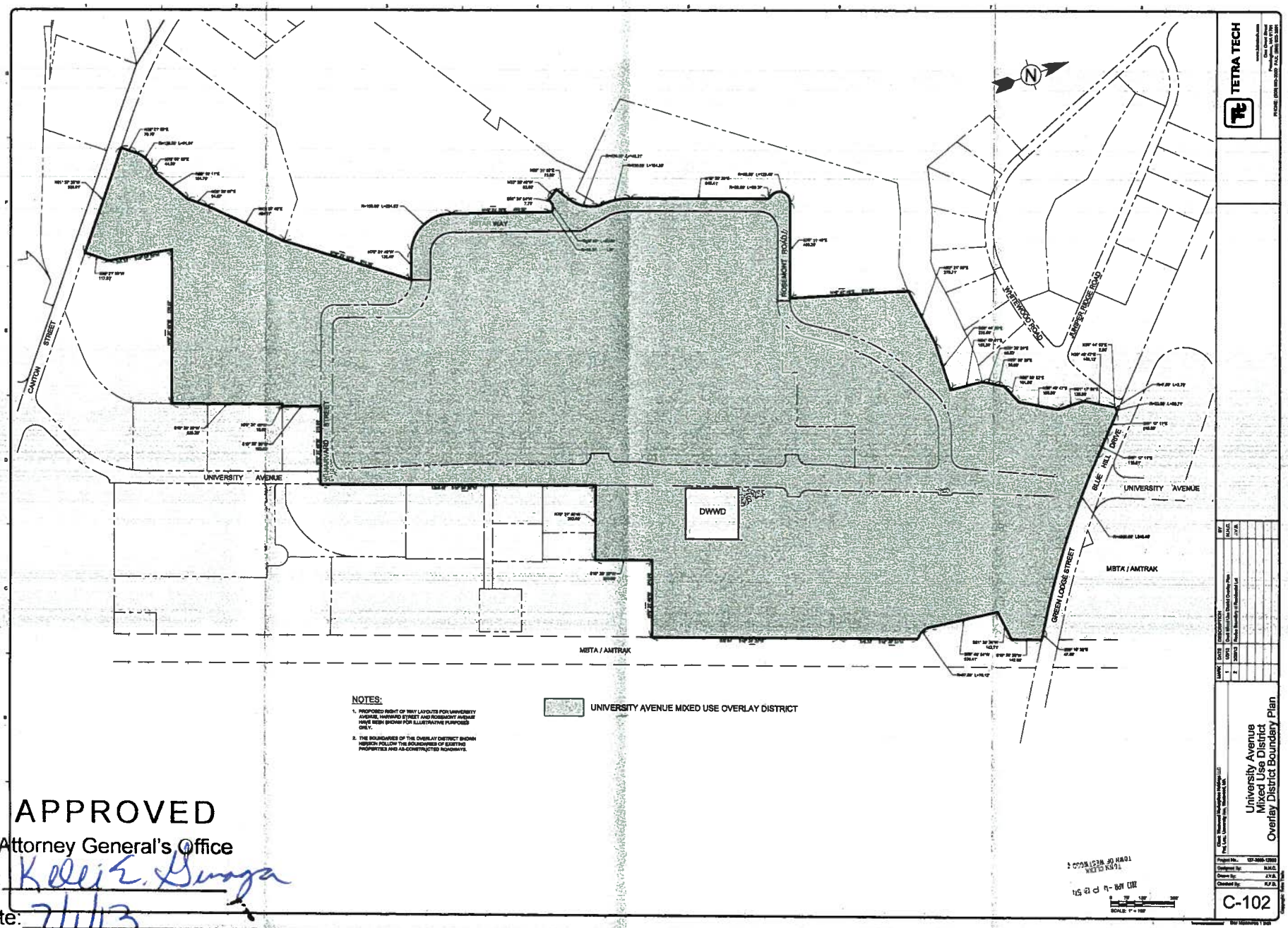

APPROVED
Attorney General's Office
By: Kelli E. Gunagan
Date: 7/1/13
Art. 1 Town Meeting Date 5/6/13

TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, CMC/CMMC

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 1 of the Warrant for the Special Town Meeting held on May 6, 2013.

Special Town Meeting, Article 1. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to approve certain amendments to the Westwood Zoning Bylaw (the "Zoning Bylaw") and Official Zoning Map (the "Zoning Map"), and to approve a Master Development Plan for the so-called University Station project, as follows:

(i) To amend the Zoning Bylaw by adopting a new bylaw Section 9.8, entitled University Avenue Mixed Use District ("UAMUD"):

9.8 UNIVERSITY AVENUE MIXED USE DISTRICT (UAMUD)

9.8.1 **Purpose**. The University Avenue Mixed Use District (UAMUD) is an overlay district established to encourage the development of mixed use projects in an area that provides proximate access to major highways and public transportation. The UAMUD provisions are intended to promote creative, efficient, and appropriate solutions for the development of complex sites, and facilitate the development of a mix of complementary land uses, including both residential and nonresidential development, that will address Town and regional interests in additional employment, housing, and tax revenue.

9.8.2 **Location**. The UAMUD boundary is as shown on a map of land entitled "University Avenue Mixed Use District," filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this Bylaw.

9.8.3 **Master Development Plan**. The project developed pursuant to this Section 9.8 must have a Master Development Plan adopted by a two-thirds vote of a town meeting in accordance with the procedures for adoption or change of zoning ordinances or by-laws set forth in M.G.L. Chapter 40A, section 5. As used in this Section 9.8, the term "UAMUD project" refers to the project that is depicted on this Master Development Plan, entitled "University Avenue Mixed Use District Master Development Plan," prepared by Tetra Tech, dated November 30, 2012, revised December 11, 2012, further revised March 22, 2013, the term "UAMUD project area" refers to the geographic area for the project delineated on the Master Development Plan, and the term "proponent" refers to the proponent or developer of the proposed UAMUD project or any phase or portion thereof.

9.8.3.1. **General Plan Requirements.** The package of Master Development Plan materials submitted for approval at Town Meeting shall include the following information, which shall be on file with the Town Clerk and available for review:

(a) The area of land proposed to be developed under this Section 9.8.

(b) A plan of existing conditions showing the topography and features, including wetlands and water bodies, if any, of the land to be developed, as well as the boundaries of the Water Resource Protection Overlay District (WRPOD) in relation to the land to be developed.

(c) Plans showing the location and width of the existing and proposed roads and ways that will serve the land to be developed, together with a description of the means by which the proposed roads and ways are to be laid out, including whether such roads and ways are to be created through the Subdivision Control Law and/or as public ways to be laid out through town meeting approval.

(d) Bicycle and pedestrian pathways, including the expected circulation routes.

(e) A mix of complementary land uses, including both residential and nonresidential development.

(f) A summary plan showing the location of permissible building areas, with the following indicated for each: designated Use Type(s), as defined in Section 9.8.3.4; maximum building height for buildings in each development area (i.e., each area restricted to certain Use Types as identified on the plan); maximum floor area ratio (FAR) for the overall development; a schedule showing the overall number of parking spaces to be provided for the development, subject to adjustment based upon use changes and tenancy requirements; and aggregate maximum developable gross floor area and unit count, as applicable, for each use category for the entire UAMUD project.

(g) The location, size, and designated use of dedicated open space, recreational, and buffer areas, including the general nature of the proposed buffer.

(h) Illustrated descriptions of amenities and design features, such as streetscape improvements, landscaping, and signage, to be included as part of the proposed development.

(i) Illustrations of the general architecture of the proposed structures. For structures located within 300 feet of residentially-zoned areas, the illustrations must show the height of the proposed structures in relation to surrounding buildings and topography.

(j) Accompanying technical reports and studies, consisting of a (i) stormwater and drainage report, (ii) fiscal impact study (including the impact on tax revenue of the proposed mix of commercial and residential uses), (iii) traffic study, (iv) noise study, and (v) utilities report.

(k) A summary of the proposed mitigation and traffic improvements, including concept plans for proposed offsite mitigation, exactions, financial contributions, easements, land grants, alternative affordable housing arrangements, if applicable, and other items to be addressed through the Development Agreement required to be entered into with the Town.

9.8.3.2. **Core Development Area Requirements.** The Master Development Plan shall delineate a Core Development Area (CDA), which shall include Open Space Uses in addition to Retail/Service Uses and other Use Types, as defined in Section 9.8.3.4 below. With respect to the CDA, the Master Development Plan submittals shall show the following additional details:

(a) The location of the CDA, together with the location of buildings within that area.

(b) A narrative describing all significant details of the CDA.

(c) The layout of parking, loading, and landscaped areas, and pedestrian and bicycle paths.

(d) Roadway, drainage and utility infrastructure servicing the CDA.

(e) Architectural elevations or perspectives of all buildings and parking structures.

(f) With respect to any proposed residential development, (i) the location of residential building(s), (ii) the total number of units allocated by bedroom type in each residential building, (iii) the number of Affordable Housing units in each residential building, and (iv) the number of dwelling units designed for inclusion on the Massachusetts Department of Community Development (DHCD) Subsidized Housing Inventory.

(g) The FAR of the CDA.

(h) A description of the anticipated use(s) of each building within the CDA, including identification of any anticipated uses that would require a special permit, which shall be provided for informational purposes only.

(i) Documentation, including, without limitation, plans, letters, and/or memoranda, that any proposed work within the WRPOD complies with the requirements of Section 9.8.5.

(j) An initial estimated development timeline for the CDA, which shall be provided for informational purposes only.

(k) A list of the sustainable development measures to be included in the project.

(l) The titles and dates of all submittals intended to satisfy the requirements of this Section 9.8.3.2.

9.8.3.3. **Additional Details for Non-CDA Areas.** To the extent available, the Master Development Plan shall include the type of details required for the CDA pursuant Section 9.8.3.2 for the non-CDA portions of the Master Development Plan.

9.8.3.4. **Use Types.** For the purposes of this Section 9.8, the UAMUD Use Types set forth below shall be established and identified on the Master Development Plan where applicable. Multiple Use Types may be contained within a single building or structure or on a single lot.

9.8.3.4.1. **Retail/Service Use Type.** Includes uses that involve the sale of goods and/or provision of services to the public, which uses are typically found in a shopping center or mixed-used development with a retail component.

9.8.3.4.2. **Restaurant/Entertainment Use Type.** Includes uses that involve preparation, service, and sale of meals for consumption by the public and/or that otherwise provide recreational or entertainment opportunities to the public.

9.8.3.4.3. **Office/R&D Use Type.** Includes uses that involve the provision of office space to individuals and businesses, including businesses that are involved in research and development, which uses are typically found in an office building or mixed-used development with an office component.

9.8.3.4.4. **Hotel/Commercial Lodging Use Type.** Includes commercially-oriented lodging and senior living uses, such as conventional and extended-stay hotels, assisted living, memory care and nursing or convalescent facilities (including hospice care).

9.8.3.4.5. **Residential Use Type.** Includes multi-family dwellings.

9.8.3.4.6. **Municipal Use Type.** Includes all facilities that are owned or operated by or for benefit of the Town of Westwood or other governmental authority.

9.8.3.4.7. **Open Space Use Type.** Includes all green, landscaped, and open space areas, wellhead protection areas, and stormwater management areas designed to serve stormwater control, recreational, buffering and/or open space purposes. Such areas may include, without limitation, underground utilities, stormwater control infrastructure, and sidewalks and paths to be used for pedestrian and/or bicycle circulation and/or active or passive recreation.

9.8.4 **Permitted Uses.** The land and buildings shown on an approved Master Development Plan may be used for any use permitted as of right or by special permit as set forth below, provided that the use is located in an area where the applicable Use Type is designated on the Master Development Plan (subject to the exceptions identified below as being allowed anywhere on the Master Development Plan). Multiple uses may be contained within a single building or structure or on a single lot, provided that each such use is either permitted by right or has been granted a special permit where required by this Section 9.8.4.

9.8.4.1. **Principal Uses Permitted By Right**

9.8.4.1.1. **<u>Retail/Service Use Type</u>**. See Section 9.8.3.4.1

a. Bank or Financial Institution, including Drive-Through Service
b. Business Services Establishment
c. General Services Establishment
d. Personal Services Establishment
e. Professional Services Establishment
f. Printing/copy/publishing establishment

g. Retail sales and services establishment, including pharmacy with Drive-Through Service

9.8.4.1.2. **Restaurant/Entertainment Use Type**. See Section 9.8.3.4.2

a. Coffee Shop, which may include Drive-Through Service, provided that any Coffee Shop located in Development Area A, as shown on the Master Development Plan, shall be accessory to, and located within the same building as, an Office/R&D Use.
b. Fast Order Restaurant, provided that any Fast Order Restaurant located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.
c. Fitness or Health Club, provided that any Fitness or Health Club with an outdoor recreation component shall be located solely within Development Area C.
d. Ice Cream Parlor, provided that any Ice Cream Parlor located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.
e. Restaurant with or without entertainment, less than 10,000 square feet, provided that any Restaurant less than 10,000 square feet located in Development Area A shall be accessory to, and located within the same building as, an Office/R&D Use.

9.8.4.1.3. **Office/R&D Use Type**. See Section 9.8.3.4.3

a. Business Services Establishment
b. Data Storage Facility
c. Educational Use, Non-Exempt
d. General Office
e. Medical Center or Clinic
f. Office of Health Care Professional
g. Professional Services Establishment
h. Research and Development

9.8.4.1.4. **Hotel/Commercial Lodging Use Type**. See Section 9.8.3.4.4

a. Assisted Living Residence
b. Memory Care Facility
c. Motel or Hotel
d. Nursing or Convalescent Home (including hospice care)

9.8.4.1.5. **Residential Use Type**. See Section 9.8.3.4.5

a. Multi-Family Dwelling in accordance with Section 9.8.4.5, Residential Use Requirements, provided that no more than 350 units total are permitted without a special permit.

9.8.4.1.6. **Municipal Use Type**. See Section 9.8.3.4.6

a. Municipal Facilities

9.8.4.1.7. **Uses Allowed Anywhere on the Master Development Plan**

a. Commercial Parking Garage
b. Child Care Facility
c. Cultural Facility
d. Educational Use, Exempt
e. Essential Services

f. Shuttle Service

9.8.4.2. **Uses Permitted By Special Permit**

9.8.4.2.1. **Retail/Service Use Type**. See Section 9.8.3.4.1

a. Drive-Through Service, unless identified in Section 9.8.4.1, provided that the later addition of Drive-Through Service to a Bank or Financial Institution, a pharmacy, or a Coffee Shop shall require Project Development Review pursuant to Section 9.8.12.2.2 of this Bylaw if the building containing such use was not originally built so as to provide Drive-Through Service.

9.8.4.2.2. **Residential Use Type**. See Section 9.8.3.4.5

a. Multi-family Dwelling in accordance with Section 9.8.4.5, Residential Use Requirements.

9.8.4.2.3. **Restaurant/Entertainment Use Type**. See Section 9.8.3.4.2

a. Restaurant with or without entertainment, 10,000 square feet or more
b. Commercial Recreation, Indoor, except for Fitness or Health Club, which is allowed by right pursuant to Section 9.8.4.1.2.c. Such uses include, but are not limited to, movie theater, music venue, bowling alley, and other entertainment uses that are not accessory to a use permitted by right.
c. Commercial Recreation, Outdoor

Notwithstanding any other provision of this Zoning Bylaw, the Planning Board shall be the special permit granting authority for all uses set forth above.

9.8.4.3. **Prohibited Uses**

Any use(s) not expressly allowed pursuant to Sections 9.8.4.1 or 9.8.4.2 shall be prohibited unless the Building Commissioner, in consultation with the Town Planner, determines that a proposed use is substantially similar in both its characteristics and its impact on abutting properties to either a use listed as permitted by right or a use listed as permitted by special permit, and provided further that if the use is substantially similar to a use listed as permitted by special permit, a special permit shall be required, and the Planning Board shall be the special permit granting authority. Prohibited uses include, but are not limited to, the following uses.

9.8.4.3.1. Earth removal or mining operations, except for site work and excavation activity in connection with the construction of buildings and structures, including building pads, roadway construction, or the installation of utilities or other development infrastructure
9.8.4.3.2. Junkyard or Automobile Graveyard
9.8.4.3.3. Landfills and open dumps, as defined in 310 CMR 19.006
9.8.4.3.4. Landfilling of sludge and septage
9.8.4.3.5. Light Manufacturing
9.8.4.3.6. Manufacturing
9.8.4.3.7. Motor Vehicle General Repairs and Body Repair
9.8.4.3.8. Motor Vehicle Light Service

9.8.4.3.9. Motor vehicle sales and rentals; motor vehicle general and body repairs; motor vehicle light service

9.8.4.3.10. Self-Storage or Mini-Storage Facilities

9.8.4.3.11. Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice which has been removed from roadways located outside of the UAMUD project area

9.8.4.3.12. Warehouse, wholesale, or distribution facility with or without outdoor storage, provided that warehouse-type retail sales and home improvement stores are a permitted Retail/Service Use Type. An existing warehouse, Light Manufacturing, wholesale, or distribution facility within the UAMUD project area that is in existence as of the date of adoption of this Section 9.8 is an allowed use, provided that any expansion of the building containing this use requires a special permit issued by the Planning Board pursuant to Section 10.3, Special Permits.

9.8.4.4. **Accessory Uses**. Any use that is incidental to, or customarily used in connection with, any principal use permitted within the UAMUD project shall be permitted as an accessory use, provided that such use would not be prohibited within the UAMUD project as a principal use. Without limiting the foregoing, the following accessory uses shall be permitted:

9.8.4.4.1. **Accessory Uses Permitted By Right**

a. Outdoor display, storage, sales, and seating, provided that the requirements of Section 9.8.7.3 are met
b. Automated Teller Machines (ATMs)
c. Sales, service, and installation of mobile automotive audio provided in connection with a principal retail use
d. Medical Center or Clinic in connection with a principal retail use
e. Pet grooming, veterinary services, and boarding provided in connection with a principal retail use
f. Retail Take-Out Counter
g. Uses within an office building that support office uses, including, without limitation, health and fitness centers, restaurants/cafeterias, dry cleaner drop-off service, and small-scale retail stores

9.8.4.4.2. **Accessory Uses Permitted By Special Permit**

a. Within the area off Harvard Street shown as Development Area C on the Master Development Plan, and upon the issuance of a special permit by the Planning Board pursuant to Section 10.3, Special Permits, sales and installation of automotive tires, batteries, and similar accessories provided in connection with a principal retail use, provided that no general repair of automobiles, including body work and oil/lubrication services, shall be permitted; provided further that, if such accessory automotive use is located within the WRPOD, then the applicable special permit shall be issued pursuant to Section 9.3, with the Planning Board designated as the special permit granting authority.

b. Storage of calcium chloride, chemically treated abrasives or other chemicals, but not sodium chloride, solely to be used for the removal of snow or ice on the roadways, walkways, or parking lots within the UAMUD project area, provided that these chemicals are stored in a structure with an impermeable cover and impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

c. With the exception of (i) outdoor commercial recreation and (ii) entertainment accessory to restaurant of less than 10,000 square feet, any accessory use that would require a special permit if conducted as a primary use shall also require a special permit if conducted as an accessory use.

Notwithstanding any other provision of this Zoning Bylaw, the Planning Board shall be the special permit granting authority for all accessory uses set forth above.

9.8.4.4.3. **Accessory Use Not Located on the Same Lot as Principal Use.** An accessory use may be located on a different lot from its associated principle use provided that the accessory use remains reasonably proximate to the principal use. The location of an accessory use on a different lot than the principal use shall require the Planning Board's determination, at an administrative meeting, that such accessory use is generally compatible with the surrounding development area.

9.8.4.5. **Residential Use Requirements**. All residential components of a UAMUD project shall comply with the below provisions. Except as provided in Section 9.8.4.5.3.b below, for purposes of this Section 9.8.4.5, an Assisted Living Residence, Memory Care Facility, and Nursing or Convalescent Home shall not be considered a residential component, with the exception of any such facilities that are independent dwelling units because they have independent kitchens and bathrooms or any such facilities that contain multiple independent dwelling units within one structure.

9.8.4.5.1. **Dwelling Units.** The aggregate of all residential components shall not exceed a maximum of 650 dwelling units. A maximum of 350 dwelling units shall be allowed by right. Any dwelling units above the 350 dwelling units allowed by right shall require a special permit from the Planning Board pursuant to Section 9.8.4.5.4.

9.8.4.5.2. **Design**. All residential components shall be appropriately integrated with the overall development through the use of sidewalks, crosswalks, and other pedestrian connections, and shall be of a scale and character that both enhances and complements the overall development and ensures the advancement of smart growth initiatives so as to enable safe, attractive, and comfortable access and travel for all users, including pedestrians, bicyclists, motorists and public transport users of all ages and abilities.

9.8.4.5.3. **Affordable Housing**. All of the following requirements for affordable housing must be satisfied:

a. Of the three hundred and fifty (350) residential units allowed by right in the CDA, a minimum of two hundred and twenty-one (221) units plus ten percent (10%) of all units in excess of two hundred and twenty-one (221) must, in the determination of the Planning Board, be designed for inclusion on the DHCD Subsidized Housing Inventory.

b. A minimum of ten percent (10%) of total dwelling units in excess of the 350 dwelling units allowed by right, if any, must be Affordable Housing units. In addition, if the units within any Assisted Living Residence, Memory Care Facility, or Nursing or Convalescent Home are included in the Town's total number of housing units on the DHCD Subsidized Housing Inventory, then ten percent (10%) of these units shall be Affordable Housing units, unless the proponent satisfies the alternative requirements provided in Section 9.8.4.5.3.c below.

c. In the alternative to Section 9.8.4.5.3.b above, for each Affordable Housing unit required but not included within the UAMUD project, the Planning Board, in its discretion, may allow the proponent: (i) to provide an Affordable Housing unit at an off-site location; or (ii) to make a payment to the Town's Affordable Housing Trust Fund in an amount that the Planning Board determines adequate to offset the lack of the Affordable Housing unit within the UAMUD project area.

d. All Affordable Housing units provided under this Section 9.8.4.5.3 must be permanently encumbered so as to be maintained as Affordable Housing units in perpetuity.

9.8.4.5.4. **The Special Permit Requirement**. Development of dwelling units above the initial 350 dwelling units requires a special permit to be issued by the Planning Board pursuant to this Section 9.8.4.5.4. No special permit for such additional residential development shall be issued until at least 60% of the initial 350 dwelling units have been occupied.

a. **Application and Administrative Requirements**. The requirements of Sections 10.3.2 and 10.3.4 through 10.3.9 of this Bylaw shall apply to any special permit required under this section provided that the Planning Board shall have the discretion to waive applicable filing requirements based upon information already provided to the Planning Board in connection with prior UAMUD project reviews.

b. **Decision**. A special permit shall be granted by the Planning Board only upon its written determination that the adverse effects of the proposed residential component will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In making this determination, the Planning

Board may make such findings as are deemed relevant by the board for consideration of the potential adverse effects and beneficial impacts associated with a particular project. However, no special permit shall be granted unless the board finds, at a minimum, that:

1. The residential use is physically and functionally integrated with surrounding uses and provides appropriate access to public transportation infrastructure.

2. The residential use is one component of a larger, coherent plan for a project component in which it shares public spaces, amenities, and pedestrian circulation.

3. The residential use is part of, supports, or complements a predominantly nonresidential project component.

4. The dwelling units diversify the housing choices within the UAMUD project area and the community.

5. With the inclusion of the residential component, the overall UAMUD project still results in net fiscal benefits to the Town, and the proponent has adequately mitigated any adverse fiscal impacts of the proposed residential use.

6. The residential use adequately accommodates and addresses traffic flow and safety, is adequately serviced by utilities and other public services, and does not pose unacceptable and unmitigated impacts on the environment.

7. The residential use meets the affordable housing requirements of Section 9.8.4.5.3.

9.8.4.6. **Determination of Permitted Uses.** All individual uses shall be subject to the requirements of Sections 9.8.4, including special permit requirements where applicable. In the event of an uncertainty as to whether an individual use is included within a Use Type set forth in Section 9.8.3.4, which Use Type is specified as a Permitted Use Type for the relevant section of the Master Development Plan, the Building Commissioner, after consultation with the Town Planner, shall make a determination as to whether such use is appropriately included.

9.8.5 **Water Resources Protection Overlay District (WRPOD) Requirements**

9.8.5.1. **Special Permit Granting Authority.** Except as provided in Section 9.8.5.2 below, any use allowed pursuant to Section 9.8.4 shall, if located within the WRPOD, satisfy the requirements of Section 9.3 of this Bylaw. Where a WRPOD special permit is required under the provisions of this section, the Planning Board shall be the special permit granting authority, and the requirements of Sections 9.3.8 through 9.3.12 shall apply to such special permits, except that all references to the Board of Appeals in those sections shall, for purposes of this provision, be deemed references to the Planning Board.

9.8.5.2. **WRPOD Standards and Requirements**. To the extent the requirements of Section 9.3, Water Resource Protection Overlay District (WRPOD), are

inconsistent with the requirements of this Section 9.8.5.2, the requirements of this section shall govern a UAMUD project.

9.8.5.2.1. **Storage.** The following storage uses shall not require a special permit pursuant to Section 9.3.5 or be subject to the requirements of Section 9.3.7.5, unless expressly stated otherwise, provided that they satisfy the general requirements of Section 9.8.5.2.10.

a. Hazardous Materials. The storage of Hazardous Materials in greater than household quantities solely for sale at the same retail store where these materials are stored. For purposes of this provision, Hazardous Materials shall include liquid petroleum products packaged for consumer use.

b. Liquid Petroleum Products. The storage of liquid petroleum products solely for use in an emergency or back-up generator. In addition, liquid petroleum products in the fuel tanks of vehicles parked in parking structures or on lots within the UAMUD project area shall not be considered the storage of liquid petroleum products pursuant to Section 9.3.5.2 or the storage of hazardous materials pursuant to Section 9.3.7.5.

c. Commercial Fertilizers. Storage of commercial fertilizers and soil conditioners solely for sale at the same retail store where these materials are stored.

d. Snow or Ice Removal Chemicals. Storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice solely for sale at the same retail store where these materials are stored.

9.8.5.2.2. **Construction-Related Excavation**. The removal of soil, loam, sand, gravel or any other mineral substances for excavation for construction-related activities in conformance with approved plans, including the construction of roadways, utilities, and other infrastructure, shall be permitted by right and shall not be restricted in any way by Section 9.3.6.6.

9.8.5.2.3. **Minimum Lot Area.** Minimum lot area for a lot within the WRPOD shall be the minimum lot area required in Section 9.8.7.1.

9.8.5.2.4. **Drainage**. The requirements for the recharge of storm drainage may be met across the aggregate of all land within the UAMUD project area, but do not have to be met on each individual lot. All drainage shall meet the stormwater management standards adopted by the Massachusetts Department of Environmental Protection (DEP). The WRPOD is a "critical area" under these standards.

9.8.5.2.5. **Vegetation.** No less than twenty percent (20%) of the overall UAMUD project area shall be maintained as a green or vegetated area. Such green or vegetated area may be provided (a) within the

UAMUD project area and/or (b) within areas outside such UAMUD project area, but within the UAMUD, that are or will be subject to a recorded easement, restriction or covenant, or other instrument deemed appropriate by the Planning Board.

9.8.5.2.6. **Impervious Areas.** If a UAMUD project includes areas both within and outside of the WRPOD, then all stormwater runoff from buildings shall be directed to recharge systems anywhere within the UAMUD project area, in accordance with applicable DEP regulations, and all other runoff shall be required to comply with the stormwater management standards adopted by DEP.

9.8.5.2.7. **Public Water Supply**. The location and use of new buildings, structures, parking areas, disposal facilities, point source discharges, and other infrastructure within the Zone I area that extends outward in a 400-foot radius from any public water supply well shall be reviewed and approved as part of the approval of the Master Development Plan and, to the extent outside of the CDA, as part of Project Development Review pursuant to Section 9.8.12.2.2 of this Bylaw and shall not require a special permit pursuant to Section 9.3.5; provided that the Planning Board may, in its discretion, require a special permit pursuant to Section 9.3.5 if it determines that any changes to the approved Master Development Plan within the Zone I area may pose material adverse impacts to water quality. A special permit shall not be required for minor adjustments in the location and configuration of the buildings, parking areas and other site features which are considered de minimis by the Building Commissioner.

Within the Zone I area, the following limitations shall apply. To the extent that any other provisions of the Bylaw are inconsistent with the limitations set forth below, the limitations set forth below shall control.

a. No portion of a building containing a home improvement store or any retail use that will store or sell toxic or hazardous materials regulated under Section 9.3 of the Zoning Bylaw on substantially the same scale as, or in similar quantity to, a home improvement store shall be located within the Zone I area.

b. Any commercial dumpsters or commercial compactors located outdoors within the Zone I shall have an impermeable lid or cover integral to the dumpster or compactor itself and shall be located on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

c. Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals is prohibited within the Zone I area.

d. No emergency or back-up generators, nor storage of liquid petroleum products for use in an emergency or back-up generator, shall be located within the Zone I area.

9.8.5.2.8. **Storage and Use of Snow Removal Materials.** Within any portion of the UAMUD project area within the WRPOD, the storage of calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roadways, but not sodium chloride, may be allowed by special permit, consistent with Section 9.8.4.4.2.b, provided that these chemicals are stored in a structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water. In addition, only calcium chloride shall be used in such areas, provided that the Town Planner, after consultation with the Dedham Westwood Water District, may approve in writing the use of a snow removal agent shown to be less harmful to the environment.

9.8.5.2.9. **Wastewater**. All UAMUD uses located within the WRPOD requiring wastewater disposal shall be connected to a public sewer system or be served by a local area or on-site treatment facility approved by the Planning Board by special permit pursuant to Section 10.3, Special Permits.

9.8.5.2.10. **General Requirements within the WRPOD**

a. Hazardous Materials, commercial fertilizers and soil conditioners, and sodium chloride, calcium chloride, chemically treated abrasives or other chemicals offered for sale at a retail store must be individually packaged in household quantities within covered, leak-proof containers designed for consumer purchase and use. Except as provided in subsection (b) below, such retail containers must be stored above-ground within a fully-enclosed structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

b. Commercial fertilizers and soil conditioners offered for sale may be stored within the garden center or similar section of a home improvement store or similar retail operation, provided that they are sited in a structure with an impervious cover and on an impervious surface with a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water.

c. Liquid petroleum products used for emergency or back-up generators must comply with Section 9.3.7.5, Storage of Hazardous Materials.

d. Any home improvement store, and any retail use that will store or sell toxic or hazardous materials regulated under Section 9.3 on substantially the same scale as, or in similar quantity to, a home improvement store, shall file with the Building Commissioner a Spill Prevention and Contingency Plan to prevent, contain, and control the spill of oil and/or hazardous materials. Any such store shall also (a) maintain an emergency services agreement with a licensed hazardous materials clean-up contractor to respond to a release at a store location, including any loading dock or outdoor loading area associated with the store location, and (b) ensure that its employees receive such hazardous material training as is required by law.

e. All loading docks shall be fully sealed so that loading and unloading activities occur within the applicable building. Loading dock areas shall benefit from a drainage system sufficiently designed to prevent the discharge of contaminated run-off or leachate into the soil, groundwater, or surface water, to include catch basins with oil/gas/sand interceptors providing at least 200 gallons of storage. Shut-off valves on proposed drain lines must be accessible above ground, clearly labeled, properly maintained, and located so as to prevent accidental damage. Spill response requirements must be posted within the loading dock. Employees using the loading dock shall receive training in the use of shut-off valves and the containment of spills.

9.8.5.2.11. **Building Commissioner Review**. Prior to issuance of a Certificate of Occupancy for any use subject to this Section 9.8.5, the Building Commissioner shall review and confirm compliance with the foregoing standards and requirements. Nothing in this provision shall preclude the Planning Board from reviewing compliance with these standards and requirements as part of its Project Development Review.

9.8.6 **Protection of Existing Uses**. Except for existing warehouse uses as provided in Section 9.8.4.3.12, the requirements of this Section 9.8 shall not apply to any existing building(s) within the Master Development Plan project area unless such building(s) are redeveloped, expanded, or changed in use as part of the UAMUD project, and such existing buildings and the existing use(s) thereof shall be treated as nonconforming uses and structures in accordance with Section 4.5, Nonconforming Uses and Structures.

9.8.7 **Dimensional Standards and Requirements**. The alternative dimensional and other requirements set forth in this Section 9.8.7 shall be used for a UAMUD project rather than the requirements provided elsewhere in this Bylaw, including, without limitation: Section 5.2, Table of Dimensional Requirements; Section 5.3, Notes for Table of Dimensional Requirements; Section 5.4, Height Regulations; Section 5.5.4, Corner Clearance; Section 5.5.5, Uses within Setbacks; Section 5.5.6, Creation of Ways; Section 6.3.2, Buffer Areas in Nonresidential Districts; Section 6.3.9, Screening Standards; Section 6.5, Floor Area Ratio Limitation; and Section 7.1, Earth Material Movement.

9.8.7.1 **Table of Dimensional Requirements**

Minimum Lot Area	15,000 square feet
Maximum Building Height ^ *	
Development Area A+	70 feet
Development Area B	80 feet
Development Area C	60 feet
Development Area D	60 feet
Core Development Area 1	60 feet
Core Development Area 2	70 feet
Core Development Area 3	60 feet
Core Development Area 4	60 feet
Maximum Floor Area Ratio**	1.0

^ In no event shall the height of a building exceed one hundred seventy-eight and one-half (178½) feet above the North American Vertical Datum of 1988 (NAVD88).

* Unoccupied mechanical features such as chimneys, clock towers, ventilators, skylights, tanks, bulkheads, penthouses, antennae, green energy infrastructure, rooftop screening elements, and functional, decorative, or architectural features carried above the roof line are exempted from the limitations on building height provided they do not collectively cover more than thirty percent (30%) of the roof area of the building, provided that no such features exceed one hundred seventy-eight and one-half (178½) feet above NAVD88. Upon issuance of a special permit by the Planning Board pursuant to Section 10.3, Special Permits, an increase in building height to a maximum of 120 feet shall be permitted in the development area located to the south/east of University Avenue, identified as Development Area B on the Master Development Plan, provided that no building, including unoccupied mechanical structures, shall exceed one hundred seventy-eight and one-half (178½) feet above NAVD88.

+ Development Areas and Core Development Areas are shown on the Master Development Plan.

** The floor area ratio on individual lots within the UAMUD project area may exceed the limits set forth herein, provided that the aggregate FAR of all lots in the overall UAMUD project otherwise complies with such limit.

9.8.7.2 The buffer and screening requirements set forth in Sections 6.3.2 through 6.3.10 of this Bylaw shall not apply. Instead, wherever the UAMUD project area abuts or is within twenty (20) feet of the boundary line of any Residential District, there shall be a buffer area with a minimum width of one hundred (100) feet. Said buffer area may include streets, access drives, and other means of public access comprising no more than ten percent (10%) of the applicable buffer area, and shall be used to minimize visual impact on any adjacent residential uses through the use of plantings, berms, and/or fencing, or alternatively may be developed as a publicly accessible open space area with walkways and other opportunities for passive recreation.

9.8.7.3 Outdoor seating for retail use, restaurants, and other uses shall not be subject to Section 6.3.1, Enclosure Requirements in Highway Business and Industrial Districts. However, the following standards shall apply to all outdoor seating, sales, and display areas within a UAMUD project:

(a) In all cases, sufficient clearance of at least six (6) feet shall be maintained for safe and efficient public access along sidewalks, access drives, and roadways.

(b) Such areas shall be appropriately separated from streets and sidewalks by means of fencing, plantings, or other similar measures.

(c) Outdoor sales and display areas shall be maintained in a neat and orderly condition at all times.

All proposed outdoor seating, sales, and display areas within an UAMUD project must be approved in writing in advance by the Building Commissioner and, once implemented, shall be reconfigured upon the order of the Building Commissioner as the Building Commissioner deems necessary to address public safety, convenience, order, or appearance.

9.8.7.4 More than one (1) building shall be permitted on any lot.

9.8.7.5 The owner of any lot shown on the approved Master Development Plan shall be entitled to lawfully divide such lot, including without limitation by virtue of plans endorsed by the Planning Board pursuant to M.G.L. Chapter 41, section 81P, without modifying the approved Master Development Plan and without the need for other approvals under this Bylaw, provided that any such lot must have minimum frontage of 50 feet at the street line. To the extent consistent with the Subdivision Control Law, M.G.L. Chapter 41, section 81K, et seq., lots within an approved UAMUD project may be separated by a public or private way.

9.8.7.6 Except where otherwise expressly provided in this Section 9.8.7, all dimensional requirements applicable to a UAMUD project shall be calculated across the entire UAMUD project area, irrespective of individual lot lines within the UAMUD development. Consistent with typical site configurations for larger, complex mixed-use developments, individual buildings within the UAMUD development may be located immediately adjacent to individual lot line boundaries. Without limiting the foregoing, there shall be no minimum corner clearance, lot width, setback requirements, minimum non-wetland area, maximum building coverage, maximum impervious surface, or lot coverage requirements for a project developed under this Section 9.8, provided that a minimum setback and corner clearance may be required by the Planning Board to preserve acceptable sightlines for traffic safety.

9.8.8 **Parking and Loading**. The alternative parking requirements set forth in this Section 9.8.8 shall be used for a UAMUD project rather than the requirements applicable to the underlying district as provided under applicable Planning Board regulations and/or elsewhere in this Bylaw, including, without limitation, Sections 6.1.1 through 6.1.26.

9.8.8.1 Expected parking requirements for the UAMUD project shall be as set forth on a schedule included with the Master Development Plan (the "Parking Schedule"), rather than by reference to Section 6.1.2. The number of parking spaces within a UAMUD project or any portion thereof shall be approved by the Planning Board as part of a Conformance Determination, as defined in Section 9.8.12.2.1, or as part of a Project Development Review (PDR) Approval, as defined in Section 9.8.12.2.2, as applicable, and the actual aggregate number of spaces approved by the Planning Board may vary from the Parking Schedule. The number of spaces contained within the UAMUD project may change from time to time, based upon changes in use and tenant requirements. Such adjustments in spaces may be accomplished without the need for further Planning Board review or approval, unless on-site parking has been deemed inadequate by the Building Commissioner. Such parking shall be deemed inadequate if the on-site parking area is often substantially full and there is frequent parking of vehicles in access drives or on streets within or near the UAMUD project area. In such case the Planning Board shall review the issues at an administrative meeting and determine whether to require PDR Approval for parking modifications.

9.8.8.2 If accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.8.12.2.1, or as part of a PDR Approval, as defined in Section 9.8.12.2.2, for other phases or areas shown on the Master Development Plan, shared off-street parking arrangements, which may include structured parking, shall be permitted and may be located on contiguous lots or on separate lots that are within the UAMUD Project area.

9.8.8.3 There shall be no minimum parking setback requirements as required in Section 6.1.18 except at any boundary line at the perimeter of the overall Master Development Plan area. The number of entrances and exits shall be the minimum necessary for safe and efficient traffic circulation.

9.8.8.4 Parking lot landscaping, both internal and perimeter, for a UAMUD project shall be substantially as shown on the approved Master Development Plan and as accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.8.12.2.1, or as part of a PDR Approval, as defined in Section 9.8.12.2.2. Where provided, trees shall be spaced, on average, not more than twenty-seven (27) feet on center.

9.8.8.5 Parking may be provided through any combination of at grade, on street, and/or structured parking facilities, both stand-alone and part of other buildings. Parking for cars and bicycles shall be as accepted by the Planning Board as part of a Conformance Determination, as defined in Section 9.8.12.2.1, or as part of a PDR Approval, as defined in Section 9.8.12.2.2. Bicycle racks for parking shall comply with standards adopted by the Planning Board in the Rules and Regulations promulgated under this Section 9.8.

9.8.8.6 Sidewalks or multipurpose pedestrian ways and facilities shall connect each parking lot or facility to buildings, public spaces, or other destination points within the development.

9.8.8.7 Adequate loading areas shall be provided for all businesses and other applicable uses containing more than ten thousand (10,000) square feet of net floor area. When exclusive loading areas are provided, such areas shall be designed so as to have unobstructed access and shall be configured so that no trucks or other vehicles are parked on a public street while loading or unloading, or while waiting to load or unload.

9.8.9 **Transportation Demand Management (TDM).** A TDM program, satisfactory to the Planning Board, shall be provided, including the following:

(a) The appointment of a TDM Coordinator for the project, or separate TDM Coordinators for individual components of the project;

(b) The submission of a TDM plan for the project, or separate TDM plans for individual components of the project, to include programs and techniques designed to reduce single-occupancy vehicle use, and to facilitate the use of alternative means of transportation, and which may include membership in the Neponset Valley Transportation Management Association or its successor, or a similar organization approved by the Planning Board.

9.8.10 **Signage**. The alternative sign requirements set forth in this Section 9.8.10 shall be used for a UAMUD project rather than the signage requirements applicable to the underlying district as provided elsewhere in this Bylaw. All signs shall be as defined in Section 9.5.11.1.

9.8.10.1. **Development Identification Sign**. A UAMUD project shall be allowed to install and maintain development identification signs in the vicinity of each substantial gateway(s) or entrance(s) to the project from neighboring streets, which signs may be installed at on-site and/or off-site locations. Such development identification sign may include the name and/or logo of the development project, as well as the names and/or logos of any occupants within the development. Development identification signs may have two (2) faces, each of which shall not exceed two hundred (200) square feet of copy area, excluding frame and borders. Development identification signs shall not exceed twenty-five (25) feet in height. Development identification signs shall include appropriate materials and landscaping to ensure an attractive entrance(s) to the development.

9.8.10.2. **Wall or Awning Signs**. Any combination of Wall Signs and Awning Signs shall be permitted such that the aggregate of all such Wall Signs and Awning Signs associated with each individual business establishment shall not exceed two (2) square feet of signage for each one (1) linear foot of facade associated with said establishment, measured across the longest facade in the case of establishments with more than one street facade. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Awning Signs shall have at least 8 feet clearance above the pedestrian grade.

9.8.10.3. **Projecting Signs**. One Projecting Sign may be permitted for any individual business establishment. A projecting sign shall have two (2) legible faces, each of which shall not exceed sixteen (16) square feet in area. Logos and/or graphic representations shall be counted toward the maximum permitted sign area. Projecting Signs must have at least eight (8) feet of clearance above the pedestrian grade, and shall not project more than six (6) feet from a building facade.

9.8.10.4. **Window Signs**. Window Signs shall be permitted such that the aggregate of all such Window Signs associated with an individual business establishment shall not exceed a

total of one (1) square foot of signage for each one (1) linear foot of facade associated with said establishment, measured across the longest facade in the case of establishments with more than one street façade, up to a maximum of fifty (50) square feet of window signage per business establishment. Logos and/or graphic representations shall be counted toward the maximum permitted sign area.

9.8.10.5. **Directional Signs**. Directional Signs shall be allowed throughout a development. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic safety. Directional Signs shall not exceed four (4) square feet in area and shall have a maximum height of eight (8) feet above ground. Directional Signs may be post-mounted, ground-mounted, or mounted on a building or structure, and shall provide adequate clearance for vehicular and/or pedestrian traffic.

9.8.10.6. **Way Finding Signs**. Way Finding Signs shall be allowed throughout a development, and may be allowed both on site and at off-premises locations. The number of such signs, and the size of each sign, shall be the minimum necessary to ensure traffic and pedestrian safety. Way Finding Signs shall be post-mounted, ground-mounted, or mounted on a building or structure, and shall not exceed thirty-two (32) square feet in area and shall have a maximum height of eight (8) feet above ground. All Way Finding Signs located throughout a development shall be consistent in material, color and lettering style. Way Finding Signs shall not contain individual business identification logos. Way Finding Signs may include electronically changed lettering as appropriate to provide directions and/or indicate availability of public parking. Such changeable signs must be static displays that do not flash, or exhibit changes in lighting levels, or offer multiple messages on a cyclical basis.

9.8.10.7. **Directory Sign**. One or more Directory Signs shall be permitted within the UAMUD project area. Directory Signs shall not exceed thirty-five (35) square feet in area and shall have a maximum height of eight (8) feet above ground.

9.8.10.8. **Temporary Construction Signs**. Temporary Construction Signs for both owners and occupants of lots within the approved Master Development Plan shall be permitted. Temporary Construction Signs shall not exceed thirty-two (32) square feet in area and shall have a maximum height of six (6) feet above ground. Temporary Construction Signs shall be removed within thirty (30) days of the completion of construction.

9.8.10.9. **Prohibited Signs**. Roof signs, flashing signs, variable lit signs, variable message signs, except as permitted in Section 9.8.10.6, flags, balloons, streamers, pennants, banners, strings of lights, ribbons, spinners and other similar devices, shall be prohibited in any UAMUD project. Temporary signs are prohibited except as provided in Section 9.8.10.8 or in connection with special events and seasonal displays. No sign which indicates the time, date and temperature shall be considered a flashing sign provided such sign meets all other provisions of this Section 9.8.10.

9.8.10.10. **Sign Materials**. Signs shall be manufactured using industry standard materials that are consistent with a high quality project. Structurally necessary brackets, posts or other supports may be visible if compatible with the appearance of the sign they support. Conduit, tubing, raceways, conductors, transformers and similar equipment shall be concealed from view.

9.8.10.11. **Sign Illumination**. Indirect illumination of a sign by properly shielded light fixtures, or by edge-lighting, or by halo lighting, or internal illumination of only the lettering, wording or insignia portions of a sign, shall be permitted. In all cases indirect

illumination shall only be permitted by steady white light. Notwithstanding the above, Awning Signs shall not be internally illuminated.

9.8.10.12. **Project-Specific Signage Alternative.** In recognition of the interrelated nature of signage systems in complex, mixed-use projects, and the importance of clear, adequate, and effective signage to the safe and efficient operation of such projects, notwithstanding the provisions of Sections 9.8.10.1 through 9.8.10.11 of this Bylaw, the Planning Board may, as part of its Conformance Determination for the CDA or PDR Approval for all other areas and phases of the UAMUD project, approve an alternative signage package or alternative signs for the UAMUD project, provided that the Planning Board finds that the alternative adequately addresses the needs of the development and traffic safety while appropriately balancing any impacts on the surrounding environment.

9.8.11 Design and Performance Standards. The following design and performance standards shall apply to UAMUD projects. These standards shall be reflected in the Master Development Plan submittals for the CDA and, to the extent practicable, for the non-CDA areas. The standards and requirements set forth in this Section 9.8.11 shall override any other standards and requirements imposed elsewhere in this Bylaw, except as expressly provided in Section 9.8.

9.8.11.1. **Building Design**

(a) **General.** Structures shall be designed to create a visually pleasing, unifying and compatible image for the development as a whole. Any combination of architectural design elements may be employed to meet this standard, including building color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and elements such as door and window size and location, and door and window detailing.

(b) **Exterior Materials.** Exterior walls for the project shall use a combination of architectural masonry materials, including but not limited to brick, glass, stone, stucco, exterior insulation and finishing system (EIFS), high quality siding and shingles, precast concrete architectural panels, stainless steel, split face block. No standard scored or flat face block will be allowed. Stainless steel shall be used solely as accents at entrances or windows, unless otherwise approved by the Planning Board as part of its Conformance Determination or PDR Approval. Colors shall be medium values of natural building materials such as earth, stone, etc. Extremes of colors shall not be used except as accents at entrances.

(c) **Facade Treatments.** To avoid long unbroken expanses of wall, the architecture shall incorporate, as appropriate, design features providing horizontal and vertical relief including projections, building jogs, elements of transparency or windows, architectural detailing, and changes in surface materials. The design of public entrance ways shall incorporate architectural features and elements to emphasize the entrance locations and interrupt long stretches of building facade. The facades of parking structures shall be designed to a standard of architectural finish consistent with other buildings within the project. All exterior walls shall be designed and finished with materials that maintain a consistent architectural character with adjoining buildings. Complementary use of public pedestrian spaces may also be considered as a contributory element.

(d) **Relationships Among Structures and Components**. Buildings and parking structures shall be designed with common elements that both create a sense of unity and express a relationship to the interior. An example is using ornamentation to reflect floor levels. These elements may include the horizontal spacing of bays, columns, and windows; and the vertical alignment and spacing of floors. Structures shall relate harmoniously to the existing landscape and to the scale and architecture of existing buildings that have a functional and/or visual relationship to the proposed structures. Special attention shall be paid to reduce the effect of shadows on an abutting property, public open space or street, or to otherwise lessen any negative visual impacts of a proposed structure.

(e) **Detailing**. Architectural detailing and surface textures and colors of adjoining components of the UAMUD project, such as anchor stores, residential structures, and parking structures, should be related and contribute to an overall sense of cohesion within the project. While a variety of design treatments is encouraged to avoid monotony, individual components shall be designed to avoid overly strong contrasts.

(f) **Rooftops**. Rooftop mechanical features, heating and air conditioning units, vents, stacks, mechanical penthouse(s) shall be screened by use of parapet walls or similar elements

9.8.11.2. **Visual Mitigation and Screening of Infrastructural Elements**. Exposed storage areas, exposed machinery or electric installations, common service areas, truck loading areas, utility structures, trash/recycling areas and other elements of the project infrastructure shall be subject to reasonable visual mitigation requirements, including, but not limited to, screen plantings or buffer strips, combinations of visually impermeable fencing and plantings, or other screening methods necessary to assure an attractive visual environment.

9.8.11.3. **Utilities**. All new, permanent utilities such as electricity, telephone, gas, and fiber optic cable to be installed in connection with the UAMUD development shall be placed underground. All UAMUD developments, and all principal buildings within them, shall be connected to the public water supply. Sewage collection shall be by the public sewage collection system or by a local area or on-site treatment facility approved by the Planning Board by special permit pursuant to Section 10.3, Special Permits. Access easements to any utility connections shall be granted to the Town to assure maintenance and emergency repair.

9.8.11.4. **Land Uses and Common Areas**. Open space or publicly-accessible common areas shall be included within the development, to encourage pedestrian activity and to visually separate buildings or groups of buildings. When reasonably feasible, independently sited common areas shall be connected to other nearby open space and common areas by use of pathways and other similar pedestrian connections.

9.8.11.5. **Street Design**. Streets, interior drives and related infrastructure within the proposed development shall be designed in accordance with applicable engineering standards, and shall be designed with sufficient capacity to accommodate anticipated trip generation and turning movements, to provide for adequate access by public safety vehicles and maintenance equipment, and to safely maintain and encourage pedestrian and bicycle circulation.

9.8.11.6. **Circulation, Traffic Impact & Public Street Access**. A UAMUD development shall provide for a comprehensive, interconnected, safe and efficient system of circulation that adequately incorporates varied transportation modes, both vehicular and non-vehicular. This system shall include the layout of roadways, interior drives, automobile and bicycle parking facilities and shall include pedestrian and bicycle circulation and directional signage. Review of site circulation shall include: entrances and approaches, ramps, walkways, interior drives, and parking access. Traffic planning shall consider the surrounding system of public streets, the existing and future vehicular trip volume, the number and location of proposed access points to public streets, and existing and proposed traffic controls and management measures. The impact of volume increases on adjacent residential districts and business areas shall be mitigated to the satisfaction of the Planning Board using traffic engineering and traffic calming techniques. Drive-Through Services shall not impede the circulation of traffic on roadways or within parking lots in a way that gives rise to congestion or safety hazards. The proponent shall provide plans identifying potential locations for future shuttle or bus stops in the event that a shuttle or public bus service becomes available.

9.8.11.7. **Public Safety**. UAMUD projects shall be designed and located so as not to endanger their occupants or the public. The design shall include adequate water supply distribution and storage for fire protection. Vehicular circulation shall consider the access needs of emergency and public safety vehicles.

9.8.11.8. **Stormwater Management**. Stormwater management systems serving the proposed development shall be designed in conformance with DEP Stormwater Standards, as amended from time to time, to efficiently collect runoff from all impervious surfaces, roofs, and canopies in a manner that avoids adverse drainage impact on any neighboring property. A plan for controls that are appropriate and specific to the site and the project, and which includes both pre-construction and post-development measures, shall be employed to mitigate erosion and sedimentation impacts. Where space, topography, soils, and the character of the proposed development make it practical, low impact designs (LID) that capture and recharge runoff to the groundwater shall be used as an alternative to closed systems.

9.8.11.9. **Outdoor Lighting**. Lighting shall be designed so as to avoid any material light trespass and glare on adjacent neighborhoods, business areas, and streets. Exterior lighting fixtures shall be of the full-cutoff type, and hoods and shields shall be incorporated as needed to prevent light trespass and glare. Lighting in minimally-used areas shall be reduced after business hours. The project shall incorporate lighting practices and systems that will reduce light pollution and conserve energy, while maintaining reasonable nighttime safety and security. Section 6.4 shall not be applicable to a UAMUD project.

9.8.11.10. **Mixed Uses and Activities**. A UAMUD project must contain a mix of uses. Proponents are strongly encouraged to include a beneficial mix of commercial and non-commercial uses. Compatibility between uses shall take into account peak hours of use and parking for individual components.

9.8.11.11. **Energy Efficiency**. A UAMUD project shall incorporate energy-efficient technology in building materials, lighting, heating, ventilating and air conditioning systems, as well as use of renewable energy resources, and shall adhere to the principles of energy-conscious design with regard to building orientation, shading,

landscaping and other elements. Efforts shall be made to harmonize energy-related components with the character of a building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.

9.8.11.12. **Sustainability**. Tenants shall be encouraged to adopt energy-efficient construction methods and technologies using a Tenant Energy Efficiency Manual that identifies green requirements, initiatives, and goals for the UAMUD project. The Tenant Energy Efficiency Manual is to be prepared by the proponent and provided to each tenant within the UAMUD project. The UAMUD project shall also voluntarily submit to a state-level review of its greenhouse gas impacts, and, in connection with such review, shall incorporate sustainable measures and practices, potentially including white roofing, daylighting, photovoltaics, LED technology, water using fixtures that meet WaterSense or equivalent standards, and similar measures, that demonstrate a measurable reduction in such impacts.

9.8.11.13. **Public Gathering Areas**. A UAMUD development shall include one or more areas, exclusive of wetlands, to which the public has at least visual access, and preferably physical access, including landscaped areas and features such as pedestrian walks, landscaped pedestrian spaces and plazas, and incidental support structures, but excluding vehicular travelways, driveways, and parking surfaces. These public gathering areas shall be designed to maximize visibility for persons passing the site or viewing it from nearby properties.

9.8.11.14. **Air Quality, Noise, Vibration, Etc**. The approved project, when open, shall comply with applicable DEP standards as to the project's environmental impacts. Under no circumstances shall the project result in "noxious" impacts to the environment or the community, and the air quality, noise, and vibration impacts associated with the project shall be appropriate for the project and the character of surrounding uses, with the sole exception of any temporary impacts associated with public gatherings or special events, emergency and public safety vehicle operations, construction, and similar activities. Section 6.6 shall not be applicable to UAMUD projects.

9.8.11.15. **Construction Solid Waste Management**. The proponent shall make arrangements for the disposal of tree stumps and debris resulting from construction, and shall arrange for appropriate on-site storage of refuse pending its removal. Such on-site storage shall be screened from public view, secure from birds or other animals, protected from wind and other weather conditions, and located so as to present minimal hazard in the event of fire and minimal threat to water quality in the event of container failure.

9.8.11.16. **Water Quality.** The requirements with respect to uses and structures within the WRPOD are addressed in Section 9.8.5.

9.8.11.17. **Spill Prevention and Response.** The proponent shall provide an operation and maintenance plan and an emergency response and contingency plan that identify design and operational controls and measures to prevent and respond to potential releases, discharges, and spills of oil and/or hazardous material within the UAMUD project area that are appropriate in view of the proximity to public water supply.

9.8.11.18. **Water Efficiency.** A UAMUD project shall incorporate water-efficient technology in building materials, air conditioning systems, irrigation systems, and plumbing

fixtures and appliances, and shall, where reasonably feasible, utilize EPA WaterSense or equivalent labeled toilets, faucets, urinals, showers, pre-rinse nozzles and irrigation controllers.

9.8.12 Administration

9.8.12.1. **Development Agreement**. A UAMUD project shall mitigate the impacts of the development to the satisfaction of the Town both through seeking grants and incentives from state and/or federal agencies and the proponent's mitigation commitments and contributions. The mitigation and other general project commitments of the proponent shall be memorialized in a Development Agreement entered into between the proponent and the Board of Selectmen. No building permit shall be issued until the Development Agreement has been executed.

9.8.12.2. **Project Review**

9.8.12.2.1. **Conformance Determination.** The CDA shall undergo Conformance Determination review simultaneously with the Planning Board's review and recommendation of this Section 9.8 for purposes of Town Meeting approval. In the event that the Planning Board requires additional information or materials prior to approving the CDA, and the proponent is not able to deliver such materials sufficiently in advance of Town Meeting, then the CDA shall undergo Conformance Determination following the receipt of such materials by the Planning Board. All other areas and phases of the approved UAMUD project shall undergo Project Development Review in accordance with Section 9.8.12.2.2 below. The Planning Board shall issue the Conformance Determination if it finds that the final plans and materials (i) materially conform to the approved Master Development Plan materials, and (ii) are otherwise compliant with the standards and requirements set forth in this Section 9.8. The Conformance Determination shall be conclusive evidence of such findings. No building permit shall be issued with respect to the CDA prior to the issuance of a Conformance Determination for the CDA.

9.8.12.2.2. **Project Development Review**. Following approval of the Master Development Plan for a UAMUD project by Town Meeting, the proponent shall undergo Project Development Review for any phase or area of the approved UAMUD project other than the CDA prior to issuance of a building permit for such phase or area. The Planning Board shall issue a Project Development Review (PDR) Approval for a phase of the UAMUD project if it finds that the following criteria have been met with respect to the project or the phase thereof for which a building permit is being sought:

(a) Conformance. The project or applicable phase thereof materially conforms to the approved Master Development Plan submittals submitted pursuant to Section 9.8.3, as the same may be modified pursuant to this Bylaw.

(b) Impact. (i) Any previously-developed portion of the UAMUD project has not resulted in material adverse impacts

that have caused a condition that does not comply with applicable regulatory requirements or, in the opinion of the Planning Board, is substantially detrimental to the public health or safety or the environment; (ii) the project or applicable phase thereof does not pose new material adverse impacts or materially exacerbate existing adverse impacts to any adjacent property or the proximate neighborhood that have not already been addressed through mitigation required by the Development Agreement, as the same may be amended from time to time, or a prior PDR Approval; and (iii) the project component for which PDR Approval is sought results in net fiscal benefits to the Town and the proponent has adequately mitigated any adverse fiscal impacts.

(c) Design. The project or applicable phase thereof complies with the standards and requirements set forth in this Section 9.8, including but not limited to the performance and design standards set forth in Section 9.8.11.

The findings required under paragraphs (b) and (c) above may be satisfied through the Planning Board's imposition of mitigation measures and other requirements pursuant to Section 9.8.12.2.5 that, if satisfied, will cause the project or applicable phase thereof to conform to these criteria.

A PDR Approval shall be conclusive evidence of the Planning Board's findings under this section.

9.8.12.2.3. **Submittal Requirements.** An application for a Conformance Determination or PDR Approval shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board in the manner and quantity specified in the Rules and Regulations adopted pursuant to Section 9.8.12.6 of this Zoning Bylaw (the "Rules and Regulations").

9.8.12.2.4. **Review Procedure.** The Planning Board's review and consideration of an application for a CDA Conformance Determination or PDR Approval shall be in accordance with the Rules and Regulations.

9.8.12.2.5. **Supplemental Development Standards and Mitigation.** In issuing a PDR Approval, the Planning Board may include, as part of its written report, mitigation measures, supplemental development standards, requirements, safeguards, limitations, and specifications that address specific components of the approved development, such as lighting, signage, and landscaping. The Planning Board may include requirements for post-approval monitoring of certain development impacts, as well as performance guarantees, self-reporting commitments, and other measures to ensure compliance with the approved plans and submittals.

9.8.12.2.6. **Waivers**. In connection with a PDR Approval, the Planning Board, in its discretion, may waive the dimensional requirements of Section

9.8.7, except for height and FAR, if it determines that (i) the waiver will substantially improve the UAMUD project; (ii) the project or applicable phase thereof satisfies the performance and design standards set forth in this Section 9.8; and (iii) the granting of a waiver will not nullify or substantially derogate from the intent or purpose of this Section 9.8. A waiver shall not be granted if it would cause the UAMUD project to become inconsistent with the approved Master Development Plan submittals pursuant to Section 9.8.3 of this Bylaw.

9.8.12.2.7. **Denial.** In the event that the Planning Board denies a Conformance Determination, PDR Approval, or waiver, the proponent shall either (i) withdraw the development proposal; (ii) modify its plans to make them consistent with the Planning Board's findings and submit the modified plans to the Planning Board for reconsideration of the Conformance Determination, PDR Approval, or waiver; (iii) seek approval of a modification of the Master Development Plan by the Planning Board pursuant to Section 9.8.12.12 or Section 9.8.12.13, followed by a Conformance Determination for the CDA or a PDR Approval for development outside of the CDA; or (iv) seek, at its option, either (a) a Special Permit for modification of the Master Development Plan pursuant to Section 9.8.12.14 of this Bylaw or (b) approval of a revised Master Development Plan by a majority vote at Town Meeting. Additionally, where a Conformance Determination is denied, the proponent may, at its option, submit additional materials and undergo full Project Development Review in accordance with Section 9.8.12.2.2.

9.8.12.3. **Phased Development**. An approved UAMUD project may be constructed in one or more phases, provided that such phased development complies with the requirements of Section 9.8.12.2.1, with respect to the CDA, or the requirements of Section 9.8.12.2.2 with respect to other phases or areas shown on the approved Master Development Plan. Upon the granting of a Conformance Determination for the CDA or a PDR Approval for any other phase of the approved UAMUD project, such phase shall be deemed to be in compliance with the requirements of this Bylaw at the time such finding is made, notwithstanding the status of any other phase of the development and/or any noncompliance of such other phase with the requirements of this Section 9.8.

9.8.12.4. **Application of Requirements to Individual Lots**. The requirements of Section 9.8 of this Bylaw shall not be applied to the individual lots or ownership units within an approved UAMUD project, but shall be applied as if the entire plan area were a single conforming lot, whether or not the same is in single or multiple ownership. Any violation of this Bylaw by an owner or occupant of a single lot or ownership unit or demised premises within an approved UAMUD project shall not constitute a violation by any other owner or occupant; provided, however, that the foregoing shall not be deemed to affect the Planning Board's right to impose conditions on development phases subsequent to the CDA to address adverse project impacts related to any previous phase.

9.8.12.5. **Relationship to Underlying Districts and Regulations**. The UAMUD is established as an overlay district superimposed over, rather than replacing, the applicable underlying zoning district(s). Except as otherwise noted in this Section 9.8, the provisions and requirements of other applicable overlay districts, including, without limitation, Section 9.5, Flexible Multiple Use Overlay District (FMUOD), and Section 9.6, Mixed Use Overlay District (MUOD), and any rules and regulations or design standards of the Planning Board, shall not apply to any project developed pursuant to this Section 9.8.

Except as provided elsewhere in this Section 9.8, special permit and similar approvals/criteria otherwise required under this Bylaw shall not be required for a UAMUD development, including, without limitation, any such approvals/criteria required pursuant to: Section 7.1, Earth Material Movement; Section 7.2, Major Business Development (MBD); Section 7.3, Environmental Impact Design Review (EIDR); Section 8.4, Senior Residential Development (SRD); Section 8.5, Residential Retirement Community (RRC); and Section 9.2, Flood Area Overlay District. The requirements of Section 9.3, Water Resource Protection Overlay District, as applied to a UAMUD project are addressed elsewhere in this Section 9.8.

Upon approval of a Master Development Plan, the use regulations of the underlying zoning district(s) shall not apply to the area within the Master Development Plan, but all other regulations of the underlying zoning district(s) shall apply except to the extent that they are inconsistent with, supplemented by, or modified by the provisions of this Section 9.8. In the event of any conflict or inconsistency between the other provisions of this Bylaw and this Section 9.8, the provisions of this Section 9.8 shall prevail.

Development of any or all lots within an approved Master Development Plan may be pursued under other applicable underlying zoning and overlay districts, subject to receipt of approvals, if any, required under such other regulations only if the Planning Board, in its discretion, votes to release the lot or lots from the Master Development Plan.

9.8.12.6. **Rules and Regulations.** The Planning Board may adopt rules and regulations for the administration of this section, which shall be limited to defining the application and submittal requirements, fees, reimbursement for consultants, performance guarantees, and procedural requirements for any approvals required pursuant to Section 9.8. The Planning Board may also adopt bicycle rack standards required by Section 9.8.8.5.

9.8.12.7. **Enforcement.** The Building Commissioner shall have jurisdiction to enforce compliance with the standards and requirements of a Conformance Determination for the CDA and PDR Approval for all other areas and phases of the approved UAMUD project, both before and after construction, and may institute legal proceedings or take such other actions as are necessary to ensure compliance.

9.8.12.8. **Issuance of Building Permit**. Following the Planning Board's issuance of a Conformance Determination for the CDA or PDR Approval for all other areas and phases of the approved UAMUD project, the proponent shall submit copies of the Planning Board's Conformance Determination or PDR Approval and accompanying reports to the Building Commissioner, along

with other required building permit application materials and fees, and a building permit may thereafter be issued for the approved project, or any individual component thereof, without the need for any further approvals under this Bylaw, except where this Section 9.8 specifically requires further approval. Building permits may be sought and issued for individual components of an approved project, and nothing in this Section 9.8 shall obligate the proponent to construct all of the improvements shown on an approved Master Development Plan, except that all construction associated with public roadways, infrastructure, utilities, and open space shall be substantially complete prior to the issuance of any building permit for a building outside of the CDA unless adequate performance guarantees have been incorporated into the Development Agreement.

9.8.12.9. **Issuance of Occupancy Permit**. All construction associated with public roadways, infrastructure, utilities, and open space shall be substantially complete prior to the issuance of any occupancy permit for a building within the CDA unless adequate performance guarantees have been incorporated into the Development Agreement.

9.8.12.10. **Transfer of UAMUD Approvals**. UAMUD approval of a project, or any individual portion thereof, may be freely transferred between lots and between owners, provided that the transferee complies with the provisions of this Section 9.8.

9.8.12.11. **Post-Construction Development Review.** Following completion of construction of any portion of the UAMUD project, PDR Approval from the Planning Board pursuant to Section 9.8.12.2.2 shall be required for the following within such UAMUD area: (i) construction of any new building not previously approved; (ii) an expansion of an existing building that increases the gross floor area of such building by 3,000 square feet or more or by 10% or more of the existing gross floor area, whichever is less; or (iii) any exterior alteration to an existing building that is deemed by the Planning Board not to constitute a minor modification because it would have the effect of materially changing the overall character of the applicable portion of the UAMUD project.

9.8.12.12. **Minor Modifications of the Master Development Plan**. Once a Master Development Plan has been approved at Town Meeting, the Planning Board may, in its discretion, approve a minor modification of the Master Development Plan by a majority vote at a public meeting. For purposes of this subsection, a plan modification is "minor" if the changes proposed, considered in the aggregate with all minor modifications previously approved:

(a) Are consistent with the requirements and standards set forth in this Section 9.8 and do not have a material adverse effect on the overall design and implementation of the UAMUD project;

(b) Do not increase by more than ten percent (10%) the maximum gross floor area limitations for each category of use as noted in the approved Master Development Plan or the size of any individual permissible building area;

(c) Do not result in the aggregate floor area ratio of all lots on the approved Master Development Plan exceeding 1.0;

(d) Do not increase the land area included within the Master Development Plan by more than ten percent (10%);

(e) Do not adversely affect the storm water quality of the development;

(f) Do not increase projected vehicle trips by more than five percent (5%), unless it is demonstrated that such increase (i) for any intersection in the vicinity of the development that operates at LOS D or better would not result in a reduction of overall intersection level of service below LOS D and (ii) would not otherwise cause vehicular traffic to operate in an objectively unsafe manner, or cause queue lengths that block intersections, unless any such impacts are addressed with adequate traffic mitigation, as certified by the proponent's Registered Traffic Engineer and approved by the Planning Board; and

(g) Do not include any residential dwelling units in excess of the limits established by this Section 9.8.

Minor adjustments in the location and configuration of the buildings, parking areas, and other site features within an approved development area, shall not require further Planning Board approval, as long as such adjustments are considered de minimis by the Building Commissioner, do not exceed individual gross floor area requirements, and would not have the effect of changing the overall character of the applicable portion of the UAMUD project.

9.8.12.13. **Permitted Modifications to Retail and Office Uses.** In addition to minor modifications pursuant to Section 9.8.12.12, the Planning Board may, in its discretion, approve modification of the Master Development Plan by a majority vote at a public meeting if the modification meets one of the following criteria:

(a) An increase in Office/R&D Uses to a maximum of 550,000 square feet and/or increase in Retail/Service and Restaurant/Entertainment Uses to a maximum of 900,000 square feet, provided that (i) the increase does not trigger any of the thresholds in Section 9.8.12.12, with the exception of the limits set forth in Sections 9.8.12.12(b) and (d), which may be exceeded with the approval of the Planning Board; and (ii) any traffic and parking impacts attributable to any such increase(s) are mitigated to the satisfaction of the Planning Board.

(b) Substitution of Office/R&D Uses for any other uses outside of the CDA, except Open Space Uses, provided that (i) the substitution does not trigger any of the thresholds in Section 9.8.12.12, with the exception of the limits set forth in Sections 9.8.12.12(b) and (d), which may be exceeded with the approval of the Planning Board; and (ii) any traffic and parking impacts attributable to any such increase(s) are mitigated to the satisfaction of the Planning Board.

9.8.12.14. **Master Development Plan Special Permit.** In the event that the Planning Board determined that a proposed change in the Master Development Plan does not meet the requirements for approval pursuant to Section 9.8.12.12 or Section 9.8.12.13, or in the event that the Planning Board exercised its discretion not to approve a proposed modification pursuant to those sections, then the proponent shall have the option of seeking either (A) an amendment of the Master Development Plan at Town Meeting, or (B) a special permit for modification of the Master Development Plan pursuant to Section 10.3 of this Bylaw authorizing the final development plans to be implemented as proposed. The Planning Board shall be the special permit granting authority for any such special permit.

9.8.12.15. **Lapse**. A Master Development Plan approval shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within three (3) years following the date of approval by Town Meeting. The Planning Board may extend such approval, for good cause, upon the written request of the proponent. Substantial use, including, without limitation, the filing of a building permit application for construction, of any portion of the approved Master Development Plan shall permanently vest the Master Development Plan and it shall not thereafter lapse for any reason.

(ii) To amend Section 2.0 [Definitions] to remove all subsection numbers, and to add the following new definitions to the list of previously included definitions, in the appropriate alphabetical order: Commercial Parking Garage; Cultural Facility; Data Storage Facility; Educational Use, Exempt; Fast Order Restaurant; Fitness or Health Club; General Office; Medical Center or Clinic; Memory Care Facility; Office of Health Care Professional; Shuttle Service.

Commercial Parking Garage A structure or portion of a structure that provides for parking within, below, or on top of the structure which is open to the general public and is not accessory to a particular commercial or industrial establishment.

Cultural Facility Any building or structure used for programs or activities involving the arts, humanities, and/or sciences or other endeavors that encourage refinement or development of the mind through observation and interaction, including art galleries or museums, but excluding movie theaters and venues for the performing arts such as music venues or stage theaters.

Data Storage Facility A building that houses computing and communications systems and hardware that provide off-site records and media storage, backup services, and data retrieval, delivery, and destruction services.

Educational Use, Exempt Use of land or structures for educational purpose on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation

Fast Order Restaurant A Restaurant that serves Fast Order Food, excluding Fast Order Food Establishments that have Drive-Through Service or that customarily have Drive-Through Service even if such Drive-Through Service would not be provided at the location in question.

Fitness or Health Club A use providing exercise equipment and athletic and recreational facilities for use by patrons, including individualized personal training, sports fields, playing courts, climbing walls, and group exercise classes based on aerobics, cycling (spin cycle), boxing, yoga, pilates, weightlifting, muscle training, and similar activities. A Fitness or Health Club may include a sauna, steam shower, spa services, wellness areas, swimming pool, accessory health-shops, snack bars, child-care facilities, and member lounges and cafes. Outdoor exercise facilities and activities may be included provided that they are accessory to the indoor uses. The inclusion of accessory retail uses shall not cause a Fitness or Health Club to be considered a retail use.

General Office A building in which one or more establishments conducts business, clerical, or professional activities on a regular basis and which does not come within the definitions of Business, Services Establishment, General Services Establishment, and Professional Services Establishment.

Medical Center or Clinic A building designed and used for the diagnosis and treatment of human patients that does not include substance rehabilitation or overnight care facilities

Memory Care Facility A facility that provides housing and specialized care for residents needing memory care for dementia, Alzheimer's or other cognitive impairments.

Office of Health Care Professional An office for a medical doctor, dentist, psychologist, chiropractor, acupuncturist, or similar physical or mental health care professional, including clinical and laboratory analysis activities directly associated with such medical office use, but excluding offices within Medical Centers or Clinics.

Shuttle Service The operation of buses or similar motor vehicles designed for the transport of groups of people, together with a covered garage for parking shuttle vehicles and shelters at shuttle stops.

(iii) To amend the Zoning Map to include a new UAMUD overlay district, the boundaries of which are shown on the plan entitled, "University Avenue Mixed Use Overlay District," prepared by Tetra Tech, as most recently filed with the Town Clerk; and
(As described in Section 9.8.2 above)

(iv) To approve the Master Development Plan, entitled, "University Station – University Avenue Redevelopment, Master Development Plan," prepared by Tetra Tech, as most recently filed with the Town Clerk, for the UAMUD project area.

Witness my hand and seal of the Town of Westwood this 1st day of July, 2013.

Attest:

Dorothy A. Powers

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk
*As approved by the Attorney General 7/1/2013

TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, CMC CMMC

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 4 of the Warrant for the Special Town Meeting held on May 6, 2013.

Special Town Meeting, Article 4. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to amend Section 321-1 of the General Bylaws of the Town of Westwood by adding the following sentence at the end of said Section 321-1:

> Notwithstanding the foregoing, nothing contained within this Chapter 321 shall be deemed to prohibit or limit a retail business from conducting interior activities that are accessory to the operation of the retail business, such as cleaning, stocking, food preparation and other supporting operations between the hours of 12:00 midnight and 6:00 am, provided that (i) truck deliveries shall not occur during the hours of 12:00 midnight to 4:00 am; (ii) during the hours of 4:00 am to 6:00 am truck deliveries shall be made solely to sealed loading docks, with no exterior loading or unloading permitted; and (iii) waste removal shall in all events not occur between 12:00 midnight and 6:00 am.

Witness my hand and seal of the Town of Westwood this 1st day of July, 2013

Attest:

Dorothy A. Powers

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk

**Approved by the Attorney General 7/1/2013

Town Hall 580 High Street, Westwood, MA 02090 Telephone: 781-326-3964 Facsimile: 781-251-2504
dpowers@townhall.westwood.ma.us

TOWN OF WESTWOOD

COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE TOWN CLERK

Dorothy A. Powers, CMC CMMC

Town Clerk
Justice of the Peace
Notary Public

To Whom It May Concern:

I hereby certify the following action taken under Article 5 of the Warrant for the Special Town Meeting held on May 6, 2013.

Special Town Meeting, Article 5. The Finance and Warrant Commission recommended and the Town voted by a 2/3 vote in favor declared by the Moderator to amend Section 179-1 of the General Bylaws of the Town of Westwood by inserting a new subsection 179-1(C), as follows:

> (C) Notwithstanding any general, zoning, or other bylaw, rule or regulation to the contrary, the provisions of this Chapter 179 shall not apply to the service or consumption of alcohol within any Licensed Premises, inclusive of outdoor seating areas, that are located within the University Avenue Mixed Use District, and subject to an approved Master Development Plan under Section 9.8 of the Westwood Zoning Bylaw.

Witness my hand and seal of the Town of Westwood this 1st day of July, 2013

Attest:

Dorothy A. Powers

Dorothy A. Powers, CMC, CMMC
Westwood Town Clerk

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