APPENDIX J

Proposed Protective Zoning By-Law
Section 8 – Administration

Section 8.5 - Special Permits Issued by the Planning Board

8.5 **Special Permits Issued by the Planning Board**

8.5.1 **Authority**

The Planning Board may issue a Special Permit for certain uses and structures as authorized in Sections 3 and 4, subject to the conditions and procedures set forth herein and in other applicable sections of this Bylaw, and in accordance with M.G.L. c.40A, Section 9.

8.5.2 **Procedures**

a. Application for a special permit shall be filed with required number of copies indicated on forms provided by the Planning Board. For uses that require both a Special Permit and Site Plan Review under Section 7, the application for a Special Permit shall be a consolidated submission and the Planning Board's Site Plan Review decision shall be incorporated in the Special Permit Decision.
b. The Planning Board may require additional information as necessary to adequately judge the merits of the request.
c. Applications for special permits shall be distributed to the Board of Health, the Conservation Commission, the Fire Chief, the Police Chief and the Director of Public Works. Reports from the same shall be submitted to the Planning Board within 35 days of filing of the applications.
d. The Planning Board shall evaluate the proposal with regard to the conditions and standards set forth herein.
e. The Planning Board shall hold a public hearing in conformance with the provisions of M.G.L. c.40A, Section 9, and with the provisions of this Bylaw.
f. The public hearing shall be held within 65 days after the filing of the application.
g. Notice shall be given by publication and posting and by first class mailings to parties of interest as defined in M.G.L. c. 40A, Section 11.
h. The Planning Board shall make a decision on the special permit within 90 days following a public hearing for which notice has been given. The time limit for public hearings and taking of action may be extended by written agreement between the petitioner and the Planning Board, with a copy filed with the Town Clerk. With respect to each special permit, the Planning Board shall establish a reasonable period, not to exceed two years, after which, if substantial use or construction permitted by the permit has not been commenced and is not continued, the special permit shall expire. This time period will begin on the date on which the permit is filed with the Town Clerk. The time period shall automatically be extended by the amount of time required to pursue and await the determination of an appeal.

8.5.3 **Decision**

a. The decision of the Planning Board shall be distributed as follows:
    1. Copies of the decision together with the detailed reasons for it shall be filed with the Town Clerk and the Building Inspector;
    2. A certified copy of its decision shall be mailed to the owner and to the applicant if other than the owner;

3. A notice of the decision shall be sent to the parties of interest and to persons who requested a notice at the public hearing.
4. In addition, copies of the detailed records of the proceedings indicating the vote of each member and setting forth the reasons for said vote shall be filed at the office of the Town Clerk within 14 days of said decision and all of the above shall be completed within 90 days after the public hearing date.

b. No special permit shall take effect until notice of approval is recorded with the title of the land in question in the Middlesex County Registry of Deeds and until a certified copy of said recording is transmitted to the Planning Board by the Registry. The responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question. A petitioner who seeks approval because of the Planning Board's failure to act must notify the Town Clerk in writing, within 14 days from the expiration of said time limit for a decision, of such approval and that notice has been sent by the petitioner to the parties in interest by mail, which notice shall specify that appeals, if any, shall be made pursuant to M.G.L. c. 40A, Section 17 and shall be filed within 20 days after the date of filing the request for approval with the Town Clerk by the petitioner.

8.5.4 **Conditions and safeguards**

a. The Planning Board shall not grant any special permit unless necessary conditions are satisfied, including but not limited to the following:
   1. The proposed use is appropriate in the zone and specific site in question, more particularly to promote the most appropriate use of land throughout the Town in accordance with the Master Plan;
   2. Adequate and appropriate facilities will be provided for proper operation of said use;
   3. There will be no hazard to pedestrians or vehicles;
   4. There will be no nuisance or adverse effect upon the neighborhood;

8.5.5 The Planning Board may require conditions and safeguards deemed necessary to protect the neighborhood or the Town, including but not limited to the following:

a. Requirement of front, side or rear yards greater than the minimum otherwise prescribed by this bylaw;
b. Requirement of screening of service or parking areas or other areas of the site by walls, fences, planting, or other approved means;
c. Limitation of signs or other advertising features;
d. Limitation on hours of operation of a nonresidential use on land abutting a residential zoning district, when necessary to insulate residential uses from the adverse effects of noise, traffic or other activity;
e. Limitations of number or density of occupants, times or nature of operation, size, scale, or other characteristics of use or facilities;
f. Regulation of the number, design and location of access drives or circulation facilities;
g. Requirements of off-street parking, loading or other features beyond the minimum otherwise required by this bylaw;
h. Requirement that developments be done in stages or that appropriate Town or private services and facilities are available prior to the issuance of a building permit for any part of the proposed development.
i. Requirement that adverse effect, if any, to the water table and to the ecology in the vicinity of the proposed development be minimized to the maximum extent possible.

8.5.6 For any special permitted use that requires the provision of affordable housing units or encourages the same through a density bonus, the Planning Board may impose conditions necessary to assure that the affordable units qualify for inclusion on the M.G.L. Chapter 40B Subsidized Housing Inventory as Local Initiative Units.