

Appendix A
 Guidance Plan
 Zoning Recommendations¹

Comparison of Existing to Proposed Zoning Districts by Acres

Primary Districts

<u>Existing District</u>	<u>Acres</u>	<u>Guidance Plan Districts</u>	<u>Acres</u>
Agricultural-Residential	4,652	Agricultural-Residential	3,624
Suburban-Residential	325	Suburban-Residential	325
Residential	213	Residential	213
Mobile Home	35	Mobile Home	35
Commercial	222	Rural Highway	198
<u>Industrial/Light Industrial</u>	<u>197</u>	Highway Services	13
		Conservation-Agricultural	1,060
		Industrial/Light Industrial	197
		Village Center	<u>17</u>
Total	5,681	Total	5,681

Overlay Districts

<u>Existing District</u>	<u>Acres</u>	<u>Proposed District</u>	<u>Acres</u>
Groundwater Protection District	1,286	Groundwater Protection District	1,286
		Village Residential Overlay District	351
		Conservation-Institutional Overlay District	1,298

¹ The recommendations contained in Appendix A were reorganized and modified somewhat after a May 2002 meeting of the Master Plan Steering Committee. The zoning recommendations that are presented in the Master Plan report reflect these changes. However, Appendix A provides a more detailed analysis of each proposed zoning district and amendments to the town's existing regulations. Zoning proposals were discussed with the Master Plan Steering Committee in December 2001, January-March 2002, and May 2002.

A. Description of Primary Zoning Districts (Proposed; Guidance Plan)

A.1 Village Center District (VC)

Purpose. The purpose of the Village Center (VC) District is to protect the physical form and built fabric of Merrimac Square by encouraging investment in preservation and appropriate reuse of existing properties, and discouraging development that detracts from the district’s historic character. In all cases, development within the Village Center District shall make every feasible effort to use and reuse existing buildings over new construction.

VC Dimensional Criteria

Minimum Lot Area	10,000 ft ²
Minimum Frontage	50 ft
Lot Width	50 ft
Maximum Height	3 Stories/40 ft
Front Yard Setback	None
Side Yard Setback	None ²
Rear Yard Setback	20 ft ³

Off-Street Parking. Commercial development must provide one space per 400 ft² of gross floor area. Parking is prohibited in the front of buildings and in side yards within 40 feet of the front lot line. For mixed-use residential, parking shall be provided at one space per one-bedroom dwelling unit and 1.5 spaces per two bedrooms, two spaces for three bedrooms and over.

Allowed Uses (By Right)

- Residential uses above the ground floor of a commercial building
- Bed and breakfast
- Home occupation
- Shop for custom work involving the manufacture of articles to be sold on the premises
- Live/work space, e.g., artist’s residence and studio
- Municipal use approved by town meeting
- Business, professional or administrative office
- Bank
- Restaurant
- Retail business or service
- Accessory uses

² No side yard setback required when a side yard abuts a public right of way or another commercial building within the VC district. However, when abutting a residential zoning district boundary, without an intervening public right of way, the side-yard setback shall be 50 feet. Off-street parking may be located within 10 feet of an abutting residential district boundary, but not less than 40 feet from the front lot line.

³ When abutting a residential district boundary the rear yard setback shall be 50 feet. However, off-street parking may be located within 10 feet of an abutting residential district boundary.

Uses Allowed by Special Permit

- Funeral home
- Restaurant with drive-through facility
- Indoor recreation or amusement facility
- Cinema or theatre
- Newspaper or job printing
- Hotel

Prohibited Uses

All uses not explicitly allowed as of right or by special permit.

Special Requirements

- All uses are subject to site plan approval and design review by the Planning Board.
- All uses involving whole or partial demolition of an existing building are subject to review for applicability of the demolition delay bylaw by the Merrimac Historical Commission.
- Applicants may seek relief from strict compliance with the bylaw’s parking requirements by obtaining a special permit from the Planning Board. The Planning Board may grant relief by (a) reducing the number of required spaces, (b) accepting from the applicant an in-lieu-of payment to the Merrimac Square Parking Fund,⁴ or (c) a combination thereof.

A.2 Rural Highway District (RH)

Purpose. The purposes of the Rural Highway District are to attract and retain well-planned, attractive, and safe commercial and mixed-use development in designated areas on Route 110, to assure that Route 110 is developed in a manner compatible with Merrimac’s rural character, to meet the needs of local and area residents for goods and services, and to provide for a range of employment.

Dimensional Criteria: RH District

Minimum Lot Area	80,000 ft ²
Minimum Frontage	200 ft
Lot Width	180 ft
Maximum Height	3 Stories/40 ft
Building Coverage	15%
Front Yard Setback	60
Side Yard Setback ⁵	20 (1)
Rear Yard Setback ⁶	40 ft (2)

⁴ The provision would require that the town establish an off-street parking fund.

⁵ No side yard setback required when a side yard abuts a public right of way or another commercial building within the VC district. However, when abutting a residential zoning district boundary, without an intervening public right of way, the side-yard setback shall be 50 feet. Off-street parking may be located within 10 feet of an abutting residential district boundary, but not less than 40 feet from the front lot line.

⁶ When abutting a residential district boundary, the rear yard setback shall be 50 feet. However, off-street parking may be located within 10 feet of an abutting residential district boundary.

Parking. See also, “Parking Requirements.” In the RH District, no parking will be located in the front yard, or in front of any new development, or in any side yards within 20 feet of the front façade of the principal building.

Allowed Uses (By Right)

- Municipal use approved by town meeting
- Bed and breakfast
- Hospital, nursing home
- Licensed child care facility providing day care to more than six children (licensure subject to M.G.L.c28A)
- Health care office or clinic for outpatient services
- Cemetery
- Golf course, livery stable, riding stable
- Roadside farm stand
- Restaurant without drive-through facilities
- Business, professional or administrative office
- Retail
- Establishment for personal, consumer or business services
- Bank
- Newspaper or job printing
- Funeral home
- Home occupation (accessory use)
- Trade, professional or other educational facility conducted as a gainful business

Uses Allowed by Special Permit

- Public utility
- Sale of merchandise other than at retail if incidental to the operation of a retail establishment, including processing and assembly of merchandise when clearly accessory to the sale of such merchandise on the premises
- Mixed-use development, subject to “Special Requirements” below.
- Convenience store
- Restaurant with drive-through facilities
- Hotel
- Antenna/telecommunication towers
- Dog kennel or veterinary hospital
- Repair garage or body shop for motorized vehicles
- Auto sales, service, refueling

Prohibited Uses

All uses not explicitly allowed as of right or by special permit.

Special Requirements

- All uses are subject to site plan approval and design review by the Planning Board.
- The residential portion of a mixed-use development shall not exceed 40% of gross floor area.

A.3 Highway Services District (HS)

Purpose. The purpose of the Highway Services District is to provide an orderly mix of land uses that serve local and regional highway traffic in a manner compatible with adjacent land uses and zoning districts.

Dimensional Criteria: HS District

Minimum Lot Area	20,000 ft ²
Minimum Frontage	100 ft
Lot Width	100 ft
Maximum Height	2.5 Stories/35 ft
Building Coverage	15%
Front Yard Setback	40 ft
Side Yard Setback.	20 ft
Rear Yard Setback	20 ft

Parking. See also, “Parking Requirements.” No parking shall be located within the first 10 feet of the front yard setback as measured from the front lot line.

Allowed Uses (By Right)

- Retail sales and service, less than 2,500 gross square feet of total floor area
- Bank with or without a drive-through facility
- Restaurants with or without drive-through facilities, with less than 2,500 square feet of total floor area

Uses Allowed by Special Permit

- Gasoline service stations
- Automobile service and parts
- Car wash facility, provided that all operations are conducted within an enclosed building
- Retail sales and service, greater than 2,500 gross square feet of total floor area
- Bank
- Business, professional or administrative office
- Commuter or commercial parking lot, subject to appropriate screening from adjacent residential uses
- Restaurants with or without drive-through facilities greater than 2,500 square feet of total floor area
- Full-service dry cleaning operation
- Self-service laundry or dry cleaning operation

Prohibited Uses

All uses not explicitly allowed as of right or by special permit.

A.4 Conservation-Agricultural District

Purposes. The purpose of the Conservation-Agricultural District is to protect the town’s working landscapes, scenic vistas and associated natural features, to provide housing choice and preserve open space, and to retain agriculture as an enduring element of the town’s economy.

Relationship to Subdivision Control. Development in the Conservation-Agricultural District is subject to all applicable subdivision regulations of Merrimac Planning Board.

Dimensional Criteria: C-A District

Minimum Lot Area ⁷	5 acres
Minimum Frontage	200 ft
Lot Width	180 ft
Maximum Height ⁸	2.5 Stories/35 ft
Lot Coverage	15%
Front Yard Setback ⁹	60 ft
Side Yard Setback	See “Special Requirements”
Rear Yard Setback	See “Special Requirements”

Allowed Uses (By Right)

- Over-55 housing, at a density of up to 5 units/acre, subject to “Special Requirements”
- The following institutional/residential uses, on contiguous parcels of 10 acres or more under common ownership, subject to “Special Requirements” and standards described under “Assisted Living”:
 - Assisted living facility
 - Congregate care facility
- Agricultural business
- Conversion of an agricultural outbuilding or an accessory structure (such as a carriage house) to a residential use or an artist residence/studio
- Municipal use approved by town meeting
- Facility for the conservation of natural resources, for the preservation of historic sites or for parks or recreation purposes, when held for public use by a private non-profit organization

Uses Allowed by Special Permit

- Planned development of mixed residential uses, including detached single-family, two-family, townhouse and multi-family units on a tract of land with 10 contiguous acres or more under common ownership, subject to “Special Requirements” below.

⁷ Except that the minimum lot size for institutional uses shall be at least 20 acres. Conversion of existing structures shall be exempt from yard set back requirements.

⁸ Except that the maximum height for institutional uses shall be three stories and 40 feet unless the Planning Board grants a special exception.

⁹ See “Special Requirements” for use-specific front, side and rear yard setback requirements.

- The keeping and boarding of horses, ponies or other large domestic animals, charging fees for riding, training, lessons, breeding or related uses of the premises, subject to “Special Requirements” below.
- Outdoor recreation club or camp operated in whole or in part as a commercial enterprise, on a tract of land with 50 contiguous acres or more under common ownership, subject to “Special Requirements” below
- Farmland Preservation Development, consisting of a mix of townhouse and multi-family units at a density of up to 5 units/acre, or a planned mix of residential and permitted institutional uses, on a tract of land with 30 contiguous acres or more under common ownership, provided that 70% of the site is retained in active agriculture or otherwise secured from development by an Agricultural Preservation Restriction
- Over-55 housing at a density no greater than 6 units/acre, provided that a minimum of 10% of the housing units are restricted in perpetuity as affordable to low- and moderate-income elderly persons

Prohibited Uses

All uses not explicitly allowed as of right or by special permit.

Special Requirements

- All uses subject to site plan approval and design review by the Planning Board.
- To the maximum extent feasible, development in the C-A District shall preserve views from the road. Care will be taken in locating and designing buildings to protect view sheds and enhance the rural character of the site and surrounding properties.
- In planned developments, the following rules shall apply: (a) detached single-family residences may constitute no more than 40% of all units in an individual project; (b) dwellings other than detached single-family residences are restricted in size to one- and two-bedroom units, and multiple-unit buildings (townhouse, multi-family) may not exceed a gross floor area of 5,000 ft²; (c) buildings shall be not less than 40 feet from any point of the parcel boundary, but parking areas may be located within 20 feet of the parcel boundary line, and (d) no townhouse or multi-family building shall be closer than 40 feet to another building. Density shall be calculated as follows: 1 single-family home/1.5 acres, 4 townhouse units/1.5 acres, 5 multi-family units/1.5 acres. Each project must provide at least 50% of the site as common open space, of which not more may be wetlands as defined in M.G.L. c.131, Section 40. The area used for private on-site sewer treatment facilities, where required, shall be counted toward the project’s required open space. A deed restriction shall be recorded preventing any further subdivision or use of the open space.
- “Over-55” housing shall provide at least 50% of the site as common open space, of which not more than 10% shall be wetlands as defined in M.G.L. c.131, Section 40. The open space shall be used primarily for passive recreation purposes but active recreation facilities may be allowed on up to 20% of the total open space provided by the project. Active recreation facilities shall be at least 150 feet from of any portion of the Conservation-Agricultural District boundary. The area used for private on-site sewer treatment facilities, where required, shall be counted toward the project’s required open space. A deed restriction shall be recorded preventing any further subdivision or use of the open space.
- Projects shall make every reasonable effort to preserve the view from the road.
- Institutional uses (assisted living, congregate care) shall preserve at least 70% of the site as permanent open space, preferably through a conservation restriction granted to the Merrimac Conservation Commission.

- For uses such as outdoor recreation clubs, camps, conservatories or auditoriums, all structures and paved areas (not including driveways) and other intensively developed portions of the site shall be set back at least 100 feet from every street and property line, and any commercial activities shall be clearly incidental to the principal use.
- Facilities for keeping and boarding large animals, i.e., commercial stables, shall provide a minimum of two acres for the first animal, a minimum of one acre for each additional animal, suitable structures for housing of animals, located at least 50 feet from any property line, and fencing adequate to restrain such animals, installed no closer than five feet to the property line.

B. Proposed Amendments to Existing Zoning Districts

B.1 Industrial Districts: Light Industrial (LI) and Industrial (I)

Proposed Industrial District Dimensional Requirements¹⁰

Minimum Lot Area	87,120 ft ²
Minimum Frontage	200 ft
Lot Width	180 ft
Maximum Height	3 Stories/40 ft
Building Coverage	15%
Front Yard Setback	60 ft
Side Yard Setback	40 ft
Rear Yard Setback	40 ft

Allowed Uses (By Right) – LI and I

- Small-business incubator facility
- Laboratory for research and development work, or an establishment engaged in manufacturing, including fabrication assembly, warehousing and accessory uses; 20,000 gross ft² or less of space
- Shop for custom work involving the manufacture of articles to be sold on the premises
- Licensed child care facility providing day care to more than six children (licensure subject to M.G.L.c28A)
- Municipal use approved by town meeting

Uses Allowed by Special Permit – LI and I

- Building supply or fuel establishment, contractor’s yard or wholesale storage warehouse
- Laboratory for research and development work, or establishment engaged in manufacturing, including fabrication assembly, warehousing and accessory uses, over 20,000 gross ft² of space
- Commercial establishment involving the assembly of people for indoor recreation or amusement for purposes of dining, drinking or dancing; musical or theatrical entertainment; or sporting events or athletic activities

¹⁰ Existing Light Industrial District dimensional requirements should not be changed.

Uses Allowed by Special Permit – I Only

- Adult entertainment

Prohibited Uses

- All uses not explicitly allowed as of right or by special permit.

Special Requirements

- All uses subject to site plan approval and design review by the Planning Board.

B.2 Residential (R) District

Amendments to Uses Allowed by Special Permit

- Eliminate the following from 4.8, Table of Use Regulations:
 - Hospital, nursing home, day care center
 - Dog kennel or veterinary hospital
 - Airport
 - Cemetery
 - Ski tow
 - Multi-family development (note: use should be provided in Village Residential Overlay)

Amendments to Allowed Uses (By Right)

- Add the following to 4.8:
 - Municipal use approved by town meeting

B.3 Suburban-Residential (S-R) District

Amendments to Uses Allowed by Special Permit

- Eliminate the following from 4.8:
 - Hospital, nursing home, day care center
 - Dog kennel or veterinary hospital
 - Airport
 - Cemetery
 - Ski tow

Amendments to Allowed Uses (By Right)

- Add the following to 4.8:
 - Municipal use approved by town meeting

B.4 Agricultural-Residential (A-R) District

Amendments to Uses Allowed by Special Permit

- Eliminate the following from 4.8:

- Hospital, nursing home, day care center
- Airport
- Office building

Amendments to Allowed Uses (By Right)

- Add the following to 4.8:
 - Municipal use approved by town meeting

C. Description of (Proposed) Overlay Zoning Districts

C.1 Village Residential Overlay (VRO)

Purpose. The Village Residential Overlay (VRO) is intended to promote a mix of residential land in established areas of the community, to encourage preservation and reuse of older buildings over new construction, and to guide new or infill development to established areas in support of the major goals of the Master Plan. Further, the VRO is designed to provide diverse housing stock and affordable housing at a scale appropriate for a small rural community.

Applicability. VRO regulations shall apply to all areas designated as “Village Residential Overlay” on the Guidance Plan (Proposed Zoning Map).

Underlying District. The owners of property in designated VRO areas shall retain all development rights and privileges consistent with the underlying zoning district.

Relationship to Subdivision Control. Development under VRO regulations is subject to all applicable subdivision regulations of the Merrimac Planning Board.

Dimensional Criteria: VRO District

	Two-Family	Multi-Family	Senior Housing
Minimum Lot Area	15,000 ft ²	10 acres	See “Over-55 Housing”
Minimum Frontage	100 ft	100 ft	“
Lot Width	90 ft	90 ft	“
Maximum Height	2.5 Stories/35 ft	2.5 Stories/35 ft	“
Front Yard Setback ¹¹	20 ft	See note	“
Side Yard Setback	20 ft		“
Rear Yard Setback	20 ft		“

Parking. See “Parking Regulations.”

Allowed Uses (By Right)

- Conversion of a single-family building to two-family use
- “Over-55 Housing” at a density of up to 5 units/acre

¹¹ For multi-family yard setbacks, no portion of a multi-family building shall be within 50 feet of the boundary of a parcel used for multi-family development. However, off-street parking may be permitted within 20 feet of the parcel boundary.

Uses Allowed by Special Permit from the Planning Board

- “Over-55” or multi-family housing (i.e., not age restricted), at a density of up to 6 units/acre provided that 10% of the units are affordable to low- and moderate-income persons (see “Special Requirements”)
- Accessory apartment, subject to the following restrictions: occupied by a relative OR restricted as an affordable rental unit.
- Artist residence/studio
- A mixed-use building with one residential unit, provided that no more than 50% of the gross floor area is devoted to one of the following non-residential uses: “cottage industry” retail, i.e., principally for the sale of goods produced or assembled on the premises, an art studio, professional offices, or a similar low-impact non-residential use.
- Conversion and adaptive reuse of a historically significant residential or non-residential building to multi-family, rooming house or over-55 housing use, or to a mixed residential-commercial use as described above, when there is no feasible alternative to demolition as defined in the bylaw (see “Special Requirements” and “Demolition Delay”). Conversion projects may be granted relief from front, side or rear yard setbacks when necessary to achieve the purposes of historic preservation.
- Conversion of a historically significant non-residential building to multi-family use, mixed residential-commercial use as described above, or a small business incubator facility, in exchange for one or more of the following public benefits: a façade preservation restriction acceptable to the Merrimac Planning Board, housing units affordable to low- and moderate-income persons or housing units restricted to elderly (over-55) occupants, completion at the applicant’s expense of a historic property survey in accordance with requirements of the State Historic Preservation Officer (SHPO) and, as appropriate, completion of nomination forms for listing on the National Register of Historic Places.

Prohibited Uses

All uses not explicitly allowed as of right or by special permit.

Special Requirements

- Except for single-family to two-family conversions and accessory apartments, uses shall be subject to site plan approval and design review by the Planning Board.
- In over-55 or multi-family developments allowed by special permit, 10% of the units must be low- and moderate-income housing as defined in M.G.L.c.40B, Section 20. Low- and moderate-income units shall be made to qualify as Chapter 40B units by means of a permanent use restriction acceptable to the Town of Merrimac, e.g., the Local Initiative Program (LIP) use restriction. See also, “Affordable Housing” below.
- Conversions and/or adaptive reuse of a historically significant building shall be permitted only when the exterior of the building is preserved or restored in accordance with the U.S. Secretary of the Interior’s Standards for Rehabilitating Historic Buildings. The Planning Board reserves the right to require design consultation with the Merrimac Historical Commission or the Massachusetts Historical Commission.

C.2 Conservation-Institutional Overlay District

Purpose. The Conservation-Institutional Overlay (CIO) is intended to promote community economic development primarily through the provision of cultural facilities, heritage and eco-tourism, and to establish development privileges for large parcels in exchange for public benefits such as positive fiscal impact and permanently protected open space.

Applicability. CIO regulations shall apply to all areas designated as “Conservation-Institutional Overlay” on the Guidance Plan (Proposed Zoning Map).

Underlying District. The owners of property in designated CIO areas shall retain all development rights and privileges consistent with the underlying zoning district.

Relationship to Subdivision Control. Development under CIO regulations is subject to all applicable subdivision regulations of the Merrimac Planning Board.

Dimensional Criteria: CIO District

Minimum Size: Qualifying Tract of Land	10 contiguous acres under common ownership
Open Space ¹²	50% of total parcel area
Minimum Frontage: Qualifying Tract of Land	200 ft
Minimum Width: Qualifying Tract of Land	180 ft
Maximum Height	3 Stories/40 ft
Building Coverage	15%
Front Yard Setback	60 ft
Side Yard Setback	20 ft
Rear Yard Setback ¹³	25 ft

Parking. See “Parking Regulations.”

Allowed Uses (By Right)

- Facility for the conservation of natural resources, for the preservation of historic sites or for parks or recreation purposes, when held for public use by a private non-profit organization

Uses Allowed by Special Permit

- Conversion of a historically significant residential or non-residential building to a mixed residential-commercial use when there is no feasible alternative to demolition as defined in the bylaw (see “Special Requirements” and “Demolition Delay”) or in exchange for one or more of the public benefits listed at “Village Residential Overlay District”
- Educational or cultural institution, e.g., a museum, exhibit space or library
- Conservatory for fine or performing arts studies, including educational, administrative and residence facilities; minimum lot size: 50 acres (see also, “Special Requirements”)
- Theatre or auditorium for live dramatic or musical performances, except that adult entertainment uses are explicitly prohibited

¹² Not more than 15% of the required common open space may be situated in a flood plain or consist of land classified as wetlands under M.G.L. 131, Sec.40.

¹³ Rear yard setback shall be increased to 50 ft for sites adjacent to a residential zoning district.

- Conference center or retreat house
- Philanthropic or charitable organization use

Prohibited Uses

All uses not explicitly allowed as of right or by special permit.

Special Requirements

- All uses subject to site plan approval and design review by the Planning Board.
- Institutional uses shall preserve at least 70% of the site as permanent open space by entering into a conservation restriction with the Merrimac Conservation Commission or permanently restricting the land by covenant.
- For uses such as conservatories and auditoriums, all structures and paved areas (not including driveways) and other intensively developed portions of the site shall be set back at least 100 feet from every street and property line.
- Conversion of a historically significant non-residential building to multi-family use, mixed residential-commercial use as described above, or a small business incubator facility, in exchange for one or more of the following public benefits: a façade preservation restriction acceptable to the Merrimac Planning Board, housing units affordable to low- and moderate-income persons or housing units restricted to elderly (over-55) occupants, completion at the applicant's expense of a historic property survey in accordance with requirements of the State Historic Preservation Officer (SHPO) and, as appropriate, completion of nomination forms for listing on the National Register of Historic Places.

D. Description of Special Use Regulations

D.1 Conservation-Residential Development (CR)

Purposes. The purposes of Conservation-Residential Development are to encourage alternative forms of single-family development and simultaneously protect open space, wildlife habitat, and other natural resources in the Agricultural-Residential District; to protect Merrimac’s rural character by encouraging more efficient use of the land and discouraging sprawl; and to promote environmentally sensitive development consistent with the Merrimac Master Plan.

<u>Dimensional Requirements for CR Development</u>		
<u>Standard</u>	<u>Single-Family CR</u>	<u>Over-55 CR</u>
Minimum Size: Qualifying Tract of Land	10 contiguous acres under common ownership	10 contiguous acres under common ownership
Common Open Space ¹⁴	50% of total parcel area	70%
Minimum Frontage: Qualifying Tract of Land	N/A	200 ft
Minimum Width: Qualifying Tract of Land	N/A	200 ft
Density (Units/Acre)	Effective density: one dwelling unit/87,120 ft ²	5 units/acre, provided that no building exceeds 5,000 ft ² gross floor area
Minimum Lot Size	Variable on a site-by-site basis, but not less than minimum required by state law.	See above
Minimum Frontage	100 ft	See above
Lot Width	180 ft	See above
Maximum Height	2.5 Stories/35 ft	2.5 Stories/35 ft
Lot Coverage	15%	15%
Front Yard Setback	20 ft	
Side Yard Setback ¹⁵	Determined by lot size and height of adjacent buildings	See note
Rear Yard Setback	25 ft	See note

Application. CR development of single-family homes or over-55 housing shall be allowed by special permit from the Planning Board for qualifying parcels of land in the Agricultural-Residential (AR) district.

¹⁴ Not more than 15% of the required common open space may be situated in a flood plain or consist of land classified as wetlands under M.G.L. 131, Sec.40.

¹⁵ For single-family CR developments, all buildings shall be not less than 40 feet from any point of the parcel boundary, but parking areas may be located within 20 feet of the parcel boundary line. For over-55 CR developments, no building shall be closer than 40 feet to another building and all buildings shall be not less than 50 feet of any point of the parcel boundary, although parking or other paved areas may be located within 20 feet of the parcel lot line.

Relationship to Subdivision Control. All development using the RC shall be subject to the Merrimac Planning Board's subdivision regulations and shall follow all procedures required by the Zoning Bylaw.

Cul-de-Sac Streets. CR developments may contain cul-de-sac streets as defined and regulated by the Merrimac Planning Board's subdivision regulations, except that a CR development may have cul-de-sac streets up to a linear distance of 1000 feet.

Future Subdivision. No lot shown on a CR development plan may be further subdivided, and a notation to this effect shall be placed on the plan of record, which shall be recorded at the registry of deeds.

Pre-Submission Meeting. All developers seeking a CR special permit shall schedule a pre-submission meeting with the Planning Board to review the scope of the project and the site for which it is proposed. The Planning board shall endeavor to invite as many Town department heads as possible to the pre-submission meeting. Additional pre-submission meetings may be held if both the Planning Board and the developer agree. At a minimum the intent of the pre-submission meeting shall be as follows:

- Identify the key natural features of the proposed development site.
- Identify any historic or culturally important aspects of the site.
- Identify any safety, traffic, or public infrastructure issues directly related to the site.
- Identify those areas that the town would prefer to see preserved for open space or view shed purposes.
- Discuss overall site plan issues and any issue relative to the town's site plan review process or criteria.
- Discuss any issues relevant to CR development.
- Assist the developer in understanding all related permitting issues required for the project.

Relation to Site Plan Review. All CR developments shall be subject to Section ____, Site Plan Review, and the following additional site plan criteria. To the maximum extent practical:

- All CR developments shall maintain natural features and vegetation for a depth of at least 40 feet along all public ways in existence prior to October 1, 2002.
- All open space resulting from CR development shall, as much as possible, be designed to connect with other public open space, private open space protected from development, other public land, and in general attempt to foster the goals and objectives of the most current Open Space and Master Plans.
- All CR developments shall be designed to protect from development significant upland features and any important views of the local landscape.
- All locally historic sites, buildings or stone walls shall be preserved as part of CR development.
- As much as possible, preserve and protect agriculturally significant lands.
- Grade changes shall be in keeping with the general appearance of the neighboring developed areas.
- Streets shall be designed and located in such a manner as to preserve natural topography, cover, significant landmarks, trees, and to minimize cut and fill.

Use, Shape and Location of Common Open Space. The following rules apply to common open space in a CR development:

- The open space shall consist of one or more contiguous parcels of land of appropriate size, shape and location for its intended use.
- The open space shall be used for conservation, agriculture, or passive recreation purposes.
- The open space may be used to site a common or joint septic system subject to the provisions of Title V.
- The Planning Board has authority to review and approve the location of open space as part of the site plan review process. As much as possible, all open space shall be designed to add to the visual amenities of the CR development and surrounding area.
- The Planning Board shall require that each parcel of common open space have adequate access.

Ownership of Common Open Space. Common open space shall be held in common by the owners of all the units in the CR. However, the town may require that title be transferred to the Merrimac Conservation Commission, or to a non-profit corporation or trust whose purpose is the perpetual preservation and maintenance of open space, or that a restriction of the type described in M.G.L. Ch.184, Sec. 31 running to and enforceable by the Town of Merrimac be recorded in respect to the common open space. At minimum, the restriction shall provide that the common open space be retained in perpetuity for one or more of the following uses conservation, agriculture, or passive recreation purposes. A notation shall be made on approved plans that all open space areas shall not be further subdivided. Any land within the common open space area that is used for a shared, combined, or joint septic system shall be retained by the owners of all the units in the CR development.

Off Street Parking Requirements. All dwelling units shall be required to provide two off street parking spaces per unit.

Determination of Development Capacity. To arrive at the amount of single-family lots permitted in a CR development, the applicant shall divide the parcel size by the minimum lot area requirement of the AR district. In the instance of a fraction, a fraction may be counted as an additional lot if the fraction is over one half.

Conservation-Residential and Over-55 Housing. Housing units permanently restricted for occupancy by individuals at least 55 years of age may be permitted by special permit in the Agricultural Residence District (AR) and as part of CR special permit subject to the additional site plan criteria established for CR single-family development.

Determination of Development Capacity. Over-55 housing in a CR development may be authorized up to a maximum of 5 units/acre. In the instance of a fraction, a fraction may be counted as an additional dwelling if the fraction is over one-half.

D.2 Reduced Lot Frontage

Purpose. A reduction in lot frontage may be permitted in order to encourage flexible development, preserve rural character and reduce overall density.

Requirements. By special permit, the Planning Board may reduce lot frontage consistent with the following criteria:

- All lots must have a continuous public or private street frontage of not less than one hundred (100) feet.
- The area of a lot with a reduced frontage shall be at least two (2) times the minimum lot size of the zoning district in which it is located.
- The lot shall have at least one area suitable for the construction of a dwelling that can accommodate a circle with a diameter of 200 feet.
- Not more than two reduced frontage lots shall abut each other.
- Reduced frontage lots shall be located such that they will not block future extensions or connections of a dead end street, does not interfere with the use and enjoyment of an abutting lot, and does not adversely affect the neighborhood.
- Notwithstanding any other provision, a reduced frontage lot created by special permit from the Planning Board shall not be further subdivided, or reduced in area, or changed in size or shape. The Planning Board shall require deed restrictions to insure the aforementioned criteria.

D.3 Common Driveways

By special permit, the Board of Appeals may authorize common driveways consistent with the following:

Purpose and Approval. A common driveway shall not be permitted unless it is determined by the Board of Appeals to provide a reasonable public benefit that would not otherwise be obtained without use of a common driveway. Public benefits or purposes may include reduction in the number of curb openings or driveways onto major streets or at unsafe or unsuitable locations, protection of stone walls, protection of significant natural features, preservation of historic landscapes or views, and/or other safety and environmental concerns which can be avoided by provision of common or shared driveways.

Number of single-family lots. No more than three single-family residential lots shall be served by a common or shared driveway.

Number of lots other than single-family lots. The number of lots, other than single-family lots, shall be determined on a case-by-case basis, based upon determination that safety will be adequately protected and that commonly employed engineering and planning standards have been met in full.

Frontage. The length of a common driveway shall never be used to satisfy zoning frontage requirements. All the proposed building lots sharing a common driveway must have frontage on an acceptable way as defined in MGL C.40 §81-L, and each lot frontage must also provide the possibility of reasonable practical access from the proposed structure or use to the way without using a common driveway.

Point of Access. The location of the common driveway and any easement or easement conditions obtained by the property owners over an abutting lot shall be subject to the approval of the Board of Appeals.

Address. The address of any lot using a common driveway shall be the public or private way that provides legal frontage for the lot in question, as determined by the Planning Board.

Covenants. The Board of Appeals shall require covenant restrictions for the proper maintenance of common driveways by all affected property owners. All covenants and deed restrictions shall be recorded.

Construction. Common driveways shall meet construction standards of the Town of Merrimac for new roadways, except curbing, as required in the Planning Board's subdivision regulations. The paved width of common driveways shall not exceed 16 feet.

D.4 Affordable Housing

Purpose. The purpose of the affordable housing regulations is to provide housing affordable to a broad range of incomes, particularly for persons of low- and moderate-income as defined in M.G.L. c.40B, Section 20.

Special Requirements

- To assure that units created pursuant to affordable housing density bonuses are added to the town's subsidized housing inventory, they shall be protected by a permanent use restriction such as the Local Initiative Program (LIP) model developed by DHCD. A special permit will be granted only if the applicant agrees to enter into the LIP restriction and record it at the registry of deeds.
- The town may, at its discretion, sponsor or support applications to one or more housing subsidy programs in order to increase the number of affordable housing units in an over-55 or multi-family development, improve the feasibility of converting/reusing an existing building for affordable housing, or reduce the costs of rent and utilities or monthly mortgage payments to a level affordable to very-low-income persons.

D.5 Site Plan Review

Purpose and Intent. To ensure that the design and layout of new development will not be detrimental to surrounding land uses. The intent of the site plan review process is to regulate rather than prohibit uses through reasonable conditions which may be recommended by the Merrimac Planning Board (Site Plan Review Committee, SPRC) concerning location of buildings, signs, open space, landscaping, parking areas, access an egress, drainage, sewage, water supply and fire safety.

Applicability. A site plan review is required for all new commercial and industrial construction and any commercial and industrial additions or reconstructions exceeding 1000 sq. ft. Further, all Conservation Residential development, Senior Housing, Assisted Living Facilities, public buildings, institutional uses, and all uses requiring a special permit shall also be subject to site plan review.

Relationship to Special Permit Process. In the instances where a project requires a special permit and a site plan review the SPRC and the appropriate Special Permit Granting authority shall hold joint public meetings to expedite the review process and review both aspects of the proposal. Further, within the proscribed review periods, the SPRC and the appropriate Special Permit Granting Authority shall take the separate actions relative to the proposal as required by the zoning bylaw.

Relationship to the Building Permit. The building inspector shall not issue a building permit unless and until a site plan review has been completed, and a letter with site plan conditions, if any, has been forwarded to the building inspector by the SPRC.

Site Plan Submission Criteria

The applicant shall submit 7 copies of a site plan proposal drawn at a scale not to exceed one inch equals 40 feet (1"=40'). The site plan review materials shall be submitted to the Town Clerk, said

office shall forward all materials to the Site Plan Review Committee. A registered surveyor or engineer must stamp the submitted site plan. Specifically, the water and sewer portion of the site plan must be stamped by a registered engineer. At a minimum, the submittal materials shall include the following items as applicable:

- Cover letter generally describing the nature and location of the project;
- Parcel lot lines for the proposed project and surrounding parcels;
- Height and use of all buildings abutting the proposed project, including a building or buildings directly across from the proposed project but separated by a public or private right of way;
- Proposed parking plan including location of access and egress;
- Estimated average daily traffic and peak hour traffic to be generated by the proposal. Further, a traffic impact plan indicating impacts, if any, to surrounding intersections servicing the project site if the proposed project generates more than 250 vehicular trips per day.
- Location of existing and proposed buildings and public/private ways on the project site;
- Rendering of all facades of proposed buildings;
- Foundation lines of the proposed buildings, gross floor area, and building height;
- Location of solid waste containers;
- Existing and proposed topography, including location of wetlands, streams, and waterbodies, if any;
- Areas subject to a 100-year flood, if any;
- Provisions for drainage and sewage;
- Proposed landscaping, including all screening and buffering of adjacent residential areas;
- Location of all required open space
- Location of all historic structures, walls or similar features; including an indication of their protective status, if any;
- Location of town water resource areas, if within 1000 feet of the development area;
- Fencing, walls, and existing and proposed lighting;
- Location, material, and size of all signs.

Site Plan Review Criteria

The SPRC shall, at a minimum, review all site plans for the following:

- Consistency with the design and character of the surrounding area.
- Consistency with sign, design guideline, landscaping and buffering requirements, Open Space and Master Plan of the Town of Merrimac.
- Protection and enhancement of important existing site features, natural and man-made.
- Protection of adjoining premises against detrimental uses by provision of surface water drainage, sound and light barriers, preservation of light and air, and preservation of views when possible.
- Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic and/or adjacent streets.
- Adequacy and arraignment of parking and loading spaces, and the ability of the site plan to accommodate parking in areas other than the front of the building.

Site Plan Review Committee: Composition

The Site Plan Review Committee (SPRC) shall be comprised of 7 members, including all members of the Merrimac Planning Board, the Building Inspector, and a Conservation Commission designee. Further, the SPRC may request assistance of architects and engineers and other professionals during its deliberations. However, only SPRC members may be party to any vote or binding agreement. A majority vote of the full SPRC shall be required to approve all site plan review conditions.

Review Schedule

The SPRC shall hold a public project review meeting with the applicant no later than 35 days after submission of the proposed site plan to the Planning Board. The SPRC shall hold as many meetings as necessary within a 90-day review period to review the proposal. However, within 90 days of the submission the SPRC shall provide recommendations in writing to the Building Inspector. If no action is taken within 90 days, the application shall be deemed approved as submitted.

Appeals

Applicants for a site plan review may appeal any and all conditions approved by the SPRC to the Merrimac Board of Appeals.

D.6 Assisted Living Facility

Applicability. An assisted living facility may be authorized in the Conservation-Institutional Overlay District by special permit from the Planning Board, subject to site plan review.

Dimensional Criteria: Assisted Living Facility

Minimum Size: Qualifying Tract of Land	10 contiguous acres under common ownership
Open Space ¹⁶	70% of total parcel area
Minimum Frontage: Qualifying Tract of Land	200 ft
Minimum Width: Qualifying Tract of Land	180 ft
Maximum Height	2.5 Stories/35 ft
Building Coverage	20%
Maximum Lot Coverage	20%
Maximum Number of Units	150 ⁷ see “Special Requirements”
Front Yard Setback ¹⁷	See note
Side Yard Setback	See note
Rear Yard Setback	See note

Special Requirements

- Parking. Parking shall be provided at a minimum of 0.5 spaces per unit.
- Number of Units. At the discretion of the Planning Board, the site of an assisted living facility may include a nursing home, in which case units may be substituted at a rate of two nursing home beds for every one assisted living unit, up to a maximum of 50 nursing home beds.

¹⁶ No more than 15% of the open space may be wetlands as defined in M.G.L. c.131, Section 40

¹⁷ No specified setbacks, except that no building shall be located closer than 50 ft to any property line.

- Design Considerations. At intervals of no less than 75 feet, any continuous building façade shall be interrupted by architectural elements running the full height of the building that create a clear and obvious three-dimensional change in the façade design.
- Walking Trails. If adjacent publicly accessible walking trails would benefit by a connection across the assisted living site, the Planning Board shall require the applicant to provide a publicly accessible walking trail, provided that no trail shall be located within 200 feet of any assisted living unit. If a publicly accessible walking trail can be accommodated by the project, the Planning Board shall require the developer to provide a permanent conservation easement to the Town.

D.7 Demolition of Historically Significant Buildings

Intent and purpose: The purpose of this Demolition Delay by-law is to preserve and protect significant buildings within the Town of Merrimac. Such buildings reflect distinctive features of the architectural, cultural, economic, political or social history of the Town, and their preservation promotes the public welfare by making Merrimac a more attractive and desirable place to live and work.

The intent of the by-law is not to prevent demolition permanently. Rather, it is to provide opportunities to develop preservation solutions for properties threatened with demolition. The by-law is intended to encourage owners and residents of the town to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town. Toward these ends, the Merrimac Historical Commission ("the Commission") is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this by-law, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.

Definitions:

"Building" - any combination of materials forming a shelter for persons, animals, or property.

"Demolition" – any act of pulling down, destroying, removing, razing or moving a building or any portion thereof, or commencing the work of moving or of total or substantial destruction of a building or portion thereof, with the intent of completing the same.

"Significant Building" – any building, in whole or in part, which is at least fifty (50) years old or is of unknown age, and which meets one or more of the following three criteria:

- a) is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register, or is eligible for such listing; or
- b) is determined by vote of the Commission to be of historical or architectural significance by reason of period, style, method or building construction, either on its own or in the context of a group of buildings or structures, or
- c) is associated with a particular architect, or a builder, or with a person or event of importance to the Town's history.

"Commission" - the Merrimac Historical Commission.

"Business Day" - any day which is not a legal municipal holiday, Saturday or Sunday.

“Preferably Preserved” - Any historically or architecturally significant building which the Commission determines is in the public interest to be preserved or rehabilitated rather than to be demolished.

Procedures

No demolition of a building, or any portion of a building, which is at least 50 years old, or which is of an indeterminate age, shall be permitted except in conformity with the provisions of this by-law. Upon receipt of an application for a demolition permit for any building, or portion thereof, which is at least 50 years old or which is of indeterminate age, the Building Inspector shall forward a copy thereof to the Commission within ten (10) business days, and shall notify the applicant in writing of this action. No demolition permit shall be issued at that time.

Within twenty-one (21) business days of its receipt of a copy of an application for a demolition permit, the Commission shall make an Initial Determination as to the significance of the subject building. The Initial Determination shall be positive if the building, or a portion thereof, meets one or more of criteria (a) through (c) of the above definition of "Significant Building." Otherwise, the Initial Determination shall be in the negative. The Commission shall notify the applicant of the meeting at which it intends to make its Initial Determination at least seven (7) days in advance of said meeting, and the applicant shall be given an opportunity to make a presentation to the Commission.

The Commission shall notify the Building Inspector and the applicant in writing within ten (10) business days of its Initial Determination. If the Initial Determination is in the negative, or if the Commission fails to notify the Building Inspector of its Initial Determination within the said ten (10) business days, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable law, by-laws, rules and regulations, issue a demolition permit.

If the Commission's Initial Determination is positive, the Commission shall, within thirty (30) days of its Determination, conduct a public hearing to determine whether the Significant Building is preferably preserved. The Commission shall give public notice of said hearing by publishing notice, at the applicant's expense, of the time, place, and purpose of the hearing in a newspaper of general circulation in the Town twice, the first notice to be published at least fourteen (14) days before the hearing and the second notice no more than seven (7) days before the hearing, and by mailing a copy of said notice, at the applicant's expense, to the applicant, the owner of the premises on which the Significant Building is located (if other than the applicant), the owners of all property within three hundred feet of the premises on which the Significant Building is located as appearing on the most recent tax list, and such other persons as the Commission shall deem entitled to notice.

If, after a public hearing, the Commission determines that demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant, the owner, if other than the applicant, and the Building Inspector, in writing, within ten (10) business days of such determination. Upon receipt of such notice, or upon the expiration of ten (10) business days from the date of the close of the Commission's public hearing, without having received any notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, by-laws, rules and regulations, issue a demolition permit for the subject building.

If, after the public hearing, the Commission determines that demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered to be a preferably preserved building, and the Commission shall so advise the applicant, the owner if other than the applicant, and the Building Inspector, in writing,

within (10) business days, and no demolition permit shall be issued until six months after the date of such determination by the Commission.

During the six-month delay period following the Commission's determination that a building is to be considered preferably preserved, the Commission shall notify the Massachusetts Historical Commission and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the building which will result in its preservation.

Notwithstanding the preceding paragraphs, the Building Inspector may issue a demolition permit for a preferably preserved significant building at any time after receipt of written advice from the Commission to the effect that:

- a) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
- b) the Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been unsuccessful;
- c) the Commission has determined that the proposed moving or demolition may be conducted in a specified manner so as not to be detrimental to the historical or architectural heritage or resources of the Town.

Responsibilities of the Owner

Once a Significant Building is determined to be a preferably preserved building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the six month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this by-law.

Emergency Demolitions

Notwithstanding the following provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

No provision of this by-law is intended to conflict with or abridge any obligations or rights conferred by G.L.c.143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

Enforcement and Remedies

Except as provided below, whenever a significant building or any portion thereof has been voluntarily demolished in violation of this by-law, and for a period of two years after the date of completion of such demolition, no building permit shall be issued with respect to any premises upon which such demolition has occurred. As used herein, "premises" includes the parcel of land upon which the demolished significant building was located.

Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this by-law better serves the intent and purpose of this by-law, it may,

prior to the expiration of said period of two years, but no sooner than six months from the date of completion of any demolition in violation of this by-law, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this by-law, and may so notify the Building Inspector pursuant to this by-law.

Severability

If any section, paragraph or part of this by-law for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

E. Additional Amendments to the Table of Uses.

The following changes and/or new language should be added to the Table of Uses:

Family Day Care in the R, SR and AR Districts shall be permitted by right in single-family residences if a secure and fenced yard/outdoor play area of at least 3,000 ft² is provided. This requirement should be referenced either as a footnote to the Table of Uses or in an appropriate section of the bylaw.

Child Care Center. A child day care facility for more than six children may be permitted in the Rural Highway District by a special permit from the Planning Board, provided that the lot area used for facility is at least 40,000 ft² and that a safe, fenced yard /outdoor play area is provided in accordance with the center's state license, or a minimum of 10,000 ft² if the license contains no such requirement.

Bed and Breakfast. Allow by right in the R, SR and AR districts.

Mixed-Use Residential. Allow by right in the Village Center District and by special permit in the Rural Highway District and Village Residential Overlay District, subject to density and dimensional controls appropriate to each zone.

F. Definitions.

Add the following to Section 2.2 of the Zoning Bylaw:

Assisted Living Facility: A managed residential community, operating under the provisions of MGL Chapter 19D, and contained in one or more primary buildings consisting of private residential units with or without kitchens. Further, said facilities may provide assistance with activities of daily living, together with meal service, housekeeping services, social and recreational activities and personal care services, transportation services, in a group setting primarily limited to individuals 62 years and older or couples, one of whom is at least 62 years of age, who require help or assistance with activities of daily living but do not require full time nursing care.

Bed and Breakfast. A house, or portion thereof, where up to four lodging rooms, with meals, are provided providing the duration of the guest period is not more than 30 days. The operator shall live on the premises, or in an adjacent premise immediately abutting the residence with the bed and breakfast facility.

Corner Lot. A lot located at the intersection of two or more streets having an angle of intersection of not more than 135 degrees.

Family Day Care. An in-home day care facility for not more than six children.

Child Care Center. A non-residential day care facility for more than six children, licensed under M.G.L. c.28A.

Frontage. (Replaces the existing definition of Lot, frontage). The linear extent of a lot measured along a street right of way from the intersection of one side lot line to the intersection of the other side lot line of the same lot, which can be used for access to the lot but not including any portion thereof devoted to a right of way or a driveway serving more than one lot unless a special permit for a common driveway has been approved by the Planning Board. Further, for lots on a cul-de-sac, or partially on a cul-de-sac, frontage shall be measured as the shortest straight line from side yard line to side yard line that is a tangent to the curve. For lots on curved roads that have curvilinear frontages, frontage shall be determined by measuring the linear distance along the curve.

Maximum Building Coverage. The maximum permissible area that may be covered by the ground floor area of all buildings on a lot; to be measured as a percent of the required minimum lot area in the zoning district where the lot is located.

Maximum Lot Coverage. The maximum permissible area that may be covered by all impervious surfaces on a lot; to be measured as a percent of the required minimum lot area in the zoning district.

Principal Building. A building in which the primary use of the lot on which the building is located is conducted.

Principal Use: The main use of land or structures on a lot, as determined by the Building Inspector.

Over-55 Housing (also, Senior Housing). Dwellings that must be occupied by persons 55 years of age or older, subject to a permanent use restriction.

Mixed-Use Residential. A building with commercial uses on the ground floor and residential units located on the upper floors.

Live/work space (also, artist residence-studio). A residential use where up to 50% of the total floor space may be used for the production of works art and arts and crafts, consistent with all local and state health and safety codes. In no instance shall any retail activity be permitted in a live/work space.

G. Development Cap.

Delete the existing development cap under Section 3.2 of the Zoning Bylaw. It is of dubious legal standing.

H. Parking Regulations

Recommended off-street parking regulations:

Use	Existing	Proposed
1- or 2-family dwelling	1 per unit	2 per unit
3 or more units (multi-family)	1.5, two or more bedrooms	2 per three bedrooms or more
	1.25 less than 2 bedrooms	1 per one bedroom/studio
	0.50 elderly housing	1.5 two bedrooms
Assisted living		No change
Over-55 Senior Housing		0.5 per unit
Restaurant	1 per 3 seats	2.0 per unit
Retail, store, service	6 per 1,000 ft ² net floor area	1 per 4 seats
Office	3 per 1,000 ft ² net area	4 per 1,000 ft ² gross area
Manufacturing	1 for each 2 employees or 1 per 1/000 ft ² gross	3 per 1,000 ft ² gross area
		1 per 1,000 ft ² gross

Compact car spaces. In off-street parking lots of over 5 spaces, allow up to 30% of all spaces as compact car space, i.e., a bay dimension of 8 ft by 16 ft.

Other provisions

The bylaw should provide for an off-street parking fund, limited to the Village Center District.

DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS

Intent and purpose: The purpose of this Demolition Delay by-law is to preserve and protect significant buildings within the Town of Merrimac. Such buildings reflect distinctive features of the architectural, cultural, economic, political or social history of the Town, and their preservation promotes the public welfare by making Merrimac a more attractive and desirable place to live and work.

The intent of the by-law is not to prevent demolition permanently. Rather, it is to provide opportunities to develop preservation solutions for properties threatened with demolition. The by-law is intended to encourage owners and residents of the town to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town. Toward these ends, the Merrimac Historical Commission ("the Commission") is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this by-law, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.

Definitions:

"Building" - any combination of materials forming a shelter for persons, animals, or property.

"Demolition" – any act of pulling down, destroying, removing, razing or moving a building or any portion thereof, or commencing the work of moving or of total or substantial destruction of a building or portion thereof, with the intent of completing the same.

"Significant Building" – any building, in whole or in part, which is at least fifty (50) years old or is of unknown age, and which meets one or more of the following three criteria:

- a) is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register, or is eligible for such listing; or
- b) is determined by vote of the Commission to be of historical or architectural significance by reason of period, style, method or building construction, either on its own or in the context of a group of buildings or structures, or
- c) is associated with a particular architect, or a builder, or with a person or event of importance to the Town's history.

"Commission" - the Merrimac Historical Commission.

"Business Day" - any day which is not a legal municipal holiday, Saturday or Sunday.

“Preferably Preserved” - Any historically or architecturally significant building which the Commission determines is in the public interest to be preserved or rehabilitated rather than to be demolished.

Procedures

No demolition of a building, or any portion of a building, which is at least 50 years old, or which is of an indeterminate age, shall be permitted except in conformity with the provisions of this by-law.

Upon receipt of an application for a demolition permit for any building, or portion thereof, which is at least 50 years old or which is of indeterminate age, the Building Inspector shall forward a copy thereof to the Commission within ten (10) business days, and shall notify the applicant in writing of this action. No demolition permit shall be issued at that time.

Within twenty-one (21) business days of its receipt of a copy of an application for a demolition permit, the Commission shall make an Initial Determination as to the significance of the subject building. The Initial Determination shall be positive if the building, or a portion thereof, meets one or more of criteria (a) through (c) of the above definition of "Significant Building." Otherwise, the Initial Determination shall be in the negative. The Commission shall notify the applicant of the meeting at which it intends to make its Initial Determination at least seven (7) days in advance of said meeting, and the applicant shall be given an opportunity to make a presentation to the Commission.

The Commission shall notify the Building Inspector and the applicant in writing within ten (10) business days of its Initial Determination. If the Initial Determination is in the negative, or if the Commission fails to notify the Building Inspector of its Initial Determination within the said ten (10) business days, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable law, by-laws, rules and regulations, issue a demolition permit.

If the Commission's Initial Determination is positive, the Commission shall, within thirty (30) days of its Determination, conduct a public hearing to determine whether the Significant Building is preferably preserved. The Commission shall give public notice of said hearing by publishing notice, at the applicant's expense, of the time, place, and purpose of the hearing in a newspaper of general circulation in the Town twice, the first notice to be published at least fourteen (14) days before the hearing and the second notice no more than seven (7) days before the hearing, and by mailing a copy of said notice, at the applicant's expense, to the applicant, the owner of the premises on which the Significant Building is located (if other than the applicant), the owners of all property within three hundred feet of the premises on which the Significant Building is located as appearing on the most recent tax list, and such other persons as the Commission shall deem entitled to notice.

If, after a public hearing, the Commission determines that demolition of the Significant Building would not be detrimental to the historical or architectural heritage or resources

of the Town, the Commission shall so notify the applicant, the owner, if other than the applicant, and the Building Inspector, in writing, within ten (10) business days of such determination. Upon receipt of such notice, or upon the expiration of ten (10) business days from the date of the close of the Commission's public hearing, without having received any notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, by-laws, rules and regulations, issue a demolition permit for the subject building.

If, after the public hearing, the Commission determines that demolition of the Significant Building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered to be a preferably preserved building, and the Commission shall so advise the applicant, the owner if other than the applicant, and the Building Inspector, in writing, within (10) business days, and no demolition permit shall be issued until six months after the date of such determination by the Commission.

During the six-months delay period following the Commission's determination that a building is to be considered preferably preserved, the Commission shall notify the Massachusetts Historical Commission and any other interested party in an effort to obtain assistance in obtaining preservation funding or in finding an adaptive use of the building which will result in its preservation.

Notwithstanding the preceding paragraphs, the Building Inspector may issue a demolition permit for a preferably preserved significant building at any time after receipt of written advice from the Commission to the effect that:

- a) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
- b) the Commission is satisfied that for at least six months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been unsuccessful;
- c) the Commission has determined that the proposed moving or demolition may be conducted in a specified manner so as not to be detrimental to the historical or architectural heritage or resources of the Town.

Responsibilities of the Owner

Once a Significant Building is determined to be a preferably preserved building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the six month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this by-law.

Emergency Demolitions

Notwithstanding the following provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

No provision of this by-law is intended to conflict with or abridge any obligations or rights conferred by G.L.c.143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

Enforcement and Remedies

Except as provided below, whenever a significant building or any portion thereof has been voluntarily demolished in violation of this by-law, and for a period of two years after the date of completion of such demolition, no building permit shall be issued with respect to any premises upon which such demolition has occurred. As used herein, "premises" includes the parcel of land upon which the demolished significant building was located.

Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this by-law better serves the intent and purpose of this by-law, it may, prior to the expiration of said period of two years, but no sooner than six months from the date of completion of any demolition in violation of this by-law, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this by-law, and may so notify the Building Inspector pursuant to this by-law.

Severability

If any section, paragraph or part of this by-law for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.