

**AGENDA
CARRBORO BOARD OF ALDERMEN
TUESDAY, JANUARY 4, 1994
7:30 P.M., TOWN HALL BOARD ROOM**

Approximate Time*

7:30 - 7:35 A. APPROVAL OF MINUTES OF PREVIOUS MEETING: December 14, 1993

7:35 - 7:45 B. RESOLUTIONS, PROCLAMATIONS AND CHARGES

7:45 - 7:55 C. REQUESTS FROM VISITORS AND SPEAKERS FROM THE FLOOR

D. PUBLIC HEARING

7:55 - 8:00 (1) Voluntary Annexation/Clifton Pendergrass Property
NP

This is a public hearing to consider a request for voluntary annexation submitted by Clifton Pendergrass. Mr. Pendergrass' property is located at the intersection of Rock Haven Road and Smith Level Road. The area to be annexed is contiguous to the town and consists of 2.23 acres.

E. OTHER MATTERS

8:00 - 8:15 (1) Request for Conditional Use Permit Modification/Arcadia
P/5 Subdivision

The Chapel Hill/Carrboro Co-Housing Association has requested a modification to the conditional use permit for the Arcadia Subdivision that would allow the bridge serving the architecturally integrated subdivision to be narrowed from 22 feet to 18 feet.

8:15 - 8:20 (2) Budget Amendment
NP

The administration recommends adoption of an ordinance amending the 1993-94 budget as follows:

- a. To transfer funds from a non-departmental account to the various departments to cover service level benefits granted in December;
- b. To transfer funds from the Planning Department's budget to the Town Manager's Office to cover the salary and expenses associated with the position of Community and Economic Development Officer which has been re-assigned to the Manager's Office; and

- c. To transfer funds from contingency to the Police Department's budget to cover the trade-in costs of two surplus weapons being retained by the town.

8:20 - 8:25
NP

(3) Appointments to Boards

The chair of the Appearance Commission recommends that Brother Peacemaker be appointed to the vacant seat on the Appearance Commission. The chair of the Downtown Development Commission recommends that James Morgan be appointed to the vacant seat on the DDC.

8:25 - 8:45
P/5

(4) Open Space Ordinance Review

On June 22, 1993 the Board of Aldermen received a staff report regarding open space zoning concepts. Following its review, the Board of Aldermen requested that a worksession be scheduled to provide further review of the open space zoning concept.

8:45 - 8:55 **BREAK**

8:55 - 9:55
NP

(5) Worksession: Revisions to Table of Permissible Uses

The purpose of this agenda item is for the Board to continue its discussion of problems, concerns and possible changes to the Table of Permissible Uses of the Carrboro Land Use Ordinance. This is the first of several worksessions scheduled for the Board to review and discuss the Table of Permissible Uses.

9:55 - 10:05
NP

(6) Cancellation of January 11th Board Meeting

The administration recommends that the Board cancel its meeting scheduled for January 11, 1994 as there are no agenda items scheduled for that meeting.

10:05 - 10:15 **F. MATTERS BY MANAGER**

10:15 - 10:25 **G. MATTERS BY TOWN ATTORNEY**

10:25 - 10:35 **H. MATTERS BY BOARD MEMBERS**

*The times listed on the agenda are intended only as general indications. Citizens are encouraged to arrive at 7:30 p.m. as the Board of Aldermen at times considers items out of the order listed on the agenda.

BOARD OF ALDERMEN

ITEM NO. D(1)

AGENDA ITEM ABSTRACT

MEETING DATE: January 04, 1994

SUBJECT: Public Hearing: Voluntary Annexation of the Commercial Property Located at the Corner of Rock Haven Road and Smith Level Road

| | | |
|---|---|--------------|
| DEPARTMENT: PLANNING DEPARTMENT | PUBLIC HEARING: YES _____ NO <u>x</u> | |
| ATTACHMENT: Petition for Annexation Ordinance Location Map | FOR INFORMATION CONTACT: Roy M. Williford, 968-7713 | |
| THE FOLLOWING INFORMATION IS PROVIDED: | | |
| () Purpose | (x) Action Requested | () Analysis |
| (x) Summary | () Recommendation | |

SUMMARY

Clifton W. Pendergrass submitted a petition for annexation on December 07, 1993. The petition for annexation is for commercial property located at the intersection of Rock Haven Road and Smith Level Road. The area to be annexed is contiguous to the Town of Carrboro and consist of 2.23 acres.

ACTION REQUESTED

The Administration requests that the Board of Aldermen adopt the attached ordinance which annexes the 2.23 acres of commercial property located at the intersection of Rock Haven Road and Smith Level Road into the town limits. The effective date of annexation will be January 31, 1994.

TOWN OF CARRBORO, NORTH CAROLINA

PETITION FOR ANNEXATION OF CONTIGUOUS PROPERTY

TO THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

1) The undersigned, being the owner of all real property located within the area described in paragraph two below, requests that such area be annexed to the Town of Carrboro, North Carolina.

2) The area to be annexed is contiguous to the Town of Carrboro, and is located at CORNER of Rock Haven Rd & Smith Level Rd. The boundaries of such territory are as shown on the metes and bounds description attached hereto.

3) A map (no larger than 18" x 24") of the foregoing property, showing its relationship to the existing corporate limits of the town, is also attached hereto.

4) The total acreage and dwellings units located on this property are as follows:

2.23 Acres

8 Dwelling Units

Respectfully submitted this 7 day of DEC, 1993.

Clifton W. Pendergrass
Name

600 Smith Level Rd
Address

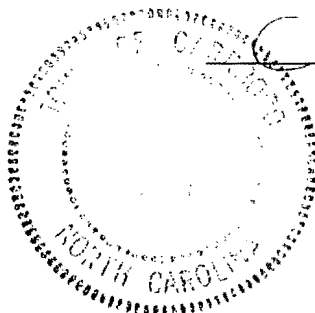
Clifton W. Pendergrass
Owner/President

Attest: _____
Secretary

I, Sarah C. Williamson, Town Clerk of the Town of Carrboro, do hereby certify that the sufficiency of the above-referenced petition has been checked and found to be in compliance with G.S. 160A-31.

This the 9th day of December, 1993.

Sarah C. Williamson
Town Clerk



The following ordinance was introduced by Alderman Randy Marshall and duly seconded by Alderman Jacquelyn Gist.

AN ORDINANCE ANNEXING
PROPERTY OWNED BY CLIFTON PENDERGRASS
Ordinance No. 28/93-94

WHEREAS, a petition was received requesting the annexation of the Clifton Pendergrass property; and

WHEREAS, the petition was signed by the owners of all the real property located within such area; and

WHEREAS, a public hearing on the question of annexation was held on January 4, 1994, following notice of such hearing published in The Chapel Hill Newspaper on December 24, 1993.

NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. The Board of Aldermen finds that a petition requesting the annexation of the area described in Section 2 was properly signed by the owners of all the real property located within such area and that such area is contiguous to the boundaries of the Town of Carrboro, as the term "contiguous" is defined in G.S. 160A-31(f).

Section 2. The following area is hereby annexed to and made a part of the Town of Carrboro:

Beginning at an iron pipe in the northern right-of-way of Smith Level Road (N.C.S.R. 1919), a common corner of The Village Apartments and Clifton W. Pendergrass, running thence along said right-of-way South 43 degrees 57' 26" West, 115.31 feet to a point; thence South 43 degrees 04' 14" West, 100.71 feet to a point; thence South 40 degrees 53' 08" West, 101.51 feet to a point, thence South 37 degrees 28' 59" West, 24.98 feet to a point; thence along the arc of a circular curve to the right which has a radius of 45.00 feet, and arc length of 41.95 feet, a chord of South 64 degrees 11' 26" West, 40.45 feet to a point in the right-of-way of Rock Haven Road (a private 60' road); thence along said right-of-way North 89 degrees 06' 08" West, 258.72 feet to an iron pipe; thence along the common line of Rock Creek Apartments and Pendergrass; North 40 degrees 47' 36" East, 536.06 feet to an iron pipe in the line of The Village Apartments; thence with said line South 51 degrees 34' 01" East, 223.83 feet to the point and place of beginning, containing 2.23 acres more or less as shown on a topographic survey by The John R. McAdams Company, Inc., dated October 19, 1993.

Section 3. The area within the street right-of-way (to the center of the street) immediately adjacent to the boundaries of the above-described area is also annexed to the Town of Carrboro.

Section 4. This ordinance shall become effective on January 31, 1994.

Section 5. The Town Clerk shall cause to be recorded in the Office of the Register of Deeds of Orange County and in the Office of the Secretary of State an accurate map of the annexed territory described in Sections 2 and 3 together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Orange County Board of Elections as required by G.S. 163-288.1.

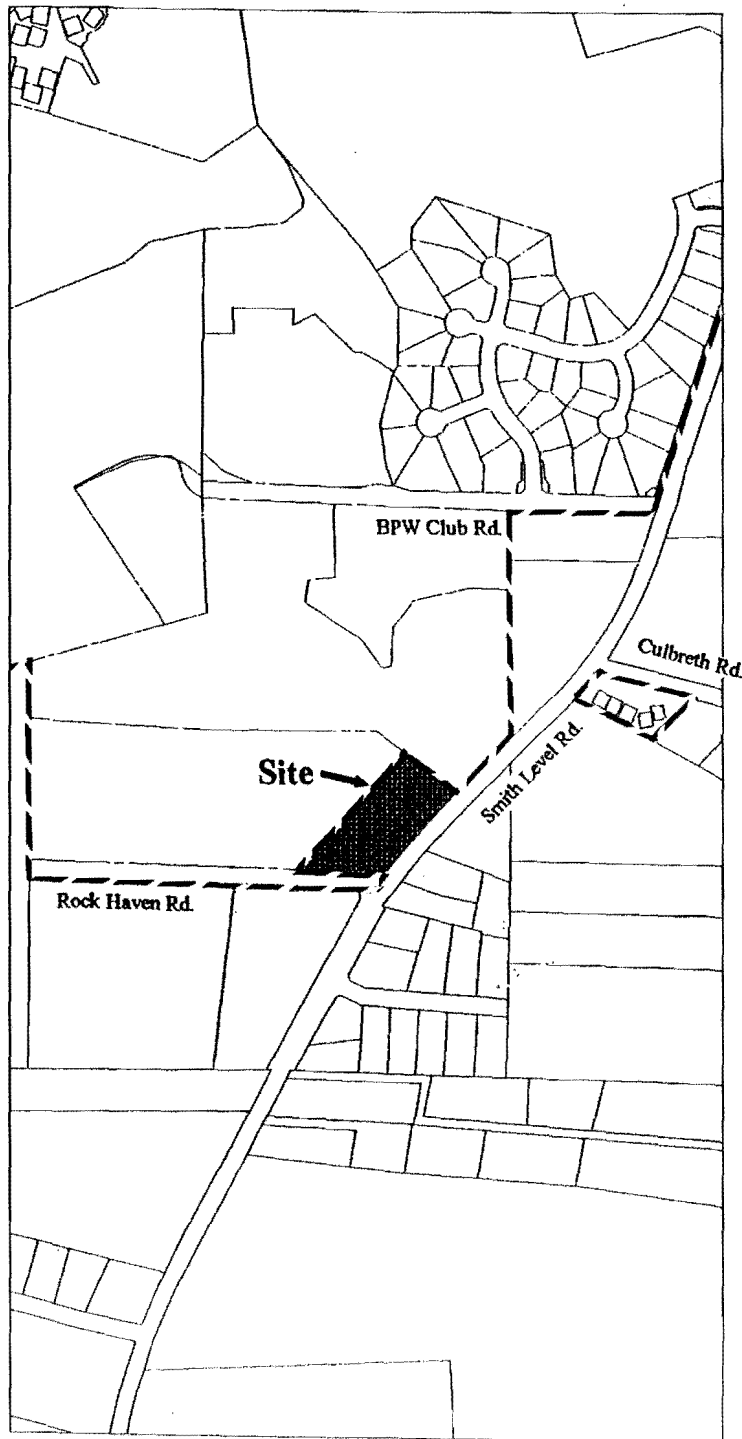
The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this 4th day of January, 1994:

Ayes: Michael Nelson, Randy Marshall, Hank Anderson, Eleanor Kinnaird, Frances Shetley, Jacquelyn Gist, Jay Bryan

Noes: None

Absent or Excused: None

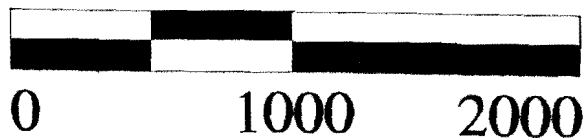
Annexation of Clifton Pendergrass Property



Annexed Areas
 ■ Area to be Annexed
 □ Unannexed Area
 --- City Limits
 ~~~ Property Lines

This map was not prepared by a  
 registered land surveyor. *SW*

2.23 Acres  
 Annexation effective 1-31-94  
 Map prepared by Deborah Squires



# BOARD OF ALDERMEN

ITEM NO. E(1)

## AGENDA ITEM ABSTRACT

MEETING DATE: January 04, 1994

**SUBJECT: Modification to Conditional Use Permit Issued for the Arcadia Subdivision**

|                                                                                                           |                                                                                              |                                   |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|-----------------------------------|
| DEPARTMENT: <b>PLANNING DEPARTMENT</b>                                                                    | PUBLIC HEARING: YES _____ NO <u>X</u>                                                        |                                   |
| ATTACHMENTS:<br><b>NC Fire Prevention Code, Section 602.6.1</b><br><b>Memorandum from Kenneth Withrow</b> | FOR INFORMATION CONTACT:<br><b>Wayne King, 968-7712</b><br><b>Roy M. Williford, 968-7713</b> |                                   |
| THE FOLLOWING INFORMATION IS PROVIDED:                                                                    |                                                                                              |                                   |
| <input type="checkbox"/> Purpose                                                                          | <input checked="" type="checkbox"/> Action Requested                                         | <input type="checkbox"/> Analysis |
| <input checked="" type="checkbox"/> Summary                                                               | <input checked="" type="checkbox"/> Recommendation                                           |                                   |

### SUMMARY

The Chapel Hill/Carrboro Co-Housing Association was granted a Conditional Use Permit that would allow for the construction of an architecturally integrated subdivision (33 units) on 16.51 acres at the May 25, 1993 Board of Aldermen meeting. The property is zoned R-20 and is located north of the Barrington Hills subdivision. The parcels are identified as Tax Map 108, Lot 2 (partial, 6.5 acres) and Tax Map 108, Lot 2A (10 acres). Only one road will service this subdivision. The twenty two foot wide bridge design approved during construction plan review supported an eighteen foot wide, two lane travel portion and two foot shoulders on either side of the travel lanes. Giles Blunden representing the group that will comprise the Arcadia Homeowners Association approached the Board of Aldermen at the meeting on December 14, 1993 and requested a modification to the issued conditional use permit that would allow a reduction from the approved twenty two foot wide bridge to an eighteen foot wide bridge.

### ACTION REQUESTED

Consideration of a modification to an issued conditional use permit

### RECOMMENDATION

The Administration's recommendations are noted in the attached staff report



STAFF REPORT

TO: Board of Aldermen

DATE: January 4, 1994

SUBJECT: Arcadia - Conditional Use Permit,  
Modification to CUP issued 5/25/93

APPLICANT: Chapel Hill/Carrboro Co-  
Housing Association  
c/o Giles Blunden  
116 E. Main St.  
Carrboro, NC 27510

PURPOSE: To allow a modification to an issued CUP  
that would allow the bridge servicing an  
Architecturally Integrated Subdivision  
(33 units) to be narrowed from twenty two  
feet to a total width of eighteen feet.

EXISTING ZONING: R-20 (Residential)

TAX MAP NUMBER: Tax Map 108, portion of Lot 2 (6.5 acres)  
and Lot 2A (10 acres).

LOCATION: The property is located north of  
Barrington Hills.

SIZE: 16.51 acres

EXISTING LAND USE: Vacant

SURROUNDING LAND USE: North R-15 Vacant  
South R-20 Single-family,  
(Barrington Hills)  
East R-15 Vacant, Single-  
R-20 family (Wexford)  
West R-20 Vacant

ZONING HISTORY: 1988 to present zoned R-20  
(Prior to 1988 this property was in  
Orange County's jurisdiction)

**PARTICULARLY RELEVANT ORDINANCE SECTIONS**

|                          |                                                                   |
|--------------------------|-------------------------------------------------------------------|
| <u>Section 15-187</u>    | <u>Architecturally Integrated Subdivisions</u>                    |
| <u>Section 15-210</u>    | <u>Streets and Sidewalks</u>                                      |
| <u>Section 15-220(b)</u> | <u>Public Streets and Private Roads in</u><br><u>Subdivisions</u> |

Arcadia, CUP Modification request to The Board of Aldermen  
January 4, 1994

**BACKGROUND**

The Chapel Hill/Carrboro Co-Housing Association was granted a Conditional Use Permit that would allow for the construction of an architecturally integrated subdivision (33 units) on 16.51 acres at the May 25, 1993 Board of Aldermen meeting. The property is zoned R-20 and is located north of the Barrington Hills subdivision. The parcels are identified as Tax Map 108, Lot 2 (partial, 6.5 acres) and Tax Map 108, Lot 2A (10 acres). Only one road will service this subdivision. The twenty two foot wide bridge design approved during construction plan review supported an eighteen foot wide, two lane travel portion and two foot shoulders on either side of the travel lanes.

**SPECIAL INFORMATION**

Arcadia is a pedestrian oriented residential community of 33 units clustered around a common open space and a commons building. The commons building will provide space for dining, meeting, socializing and recreation. Thus, fostering cooperative efforts and discouraging duplication of private facilities. The development will cluster the thirty three dwelling units on the northern portion of the 16.51 acres.

**REQUESTED MODIFICATION**

Giles Blunden representing the group of homeowners that will comprise the Arcadia Homeowners Association approached the Board of Aldermen at the meeting on December 14, 1993. His request is for a modification to the issued conditional use permit that would allow a reduction in the total width of the bridge servicing this subdivision from twenty two feet to a total width of eighteen feet. The Board requested that staff report back to them about the possibility of this reduction. In the review, The Board requested that the Planning Staff confer with Police and Fire Departments on this issue.

**RECOMMENDATIONS**

After reviewing this situation with The Fire Department, The Police Department, The Public Works Department, conversation with North Carolina Department of Transportation, staff recommends the use of a twenty two foot wide structure that will accommodate the required bridge tonnage rating and meet The North Carolina State Fire Prevention Code. If the Board of Aldermen does allow an eighteen foot wide bridge crossing the travel lane should be a one way, fourteen feet wide lane with two foot shoulders on either side. A signalized crossing

Arcadia, CUP Modification request to The Board of Aldermen  
January 4, 1994

will be needed for this bridge to control one-way traffic. The Town's consulting engineer will need to review the revised structure.

The following points were considered in this review:

1. The Interim Fire Chief, Wayne Lacock indicated that the bridge will not meet The North Carolina State Fire Prevention Code. The North Carolina State Fire Prevention Code section 602.6.1 states that;  
"Every building hereafter constructed shall be accessible to fire department apparatus by way of access roadways with all-weather driving surface of not less than twenty feet of unobstructed width, with adequate roadway turning radius capable of supporting the loads of fire apparatus and having a minimum vertical clearance of thirteen feet, six inches."  
At least on the paved roadway one can pull to either side to avoid an accident or make room for oversized loads. On an eighteen foot wide bridge a motorist will not be able to move out of the travel lane.
2. Due to an approaching curve and hills shown on the construction plans, it appears that the eighteen foot wide bridge may not align with the lanes of the road as it enters and exits the structure. Staff questions if large moving vans, fire apparatus, or a garbage truck will be able to negotiate the bridge due to vehicle length and overhang.
3. The bridge must be designed to accommodate a 46,000 pound fire apparatus. The Town's consulting engineer will need to review the revised structure.
4. The Town's Transportation Planner contacted Mr. Norm Miller of the North Carolina Department of Transportation's Structures/Design Division regarding the potential of an eighteen foot wide structure. Mr. Miller stated that the eighteen foot wide bridge does not meet current state and federal standards for bridge width. The minimum width for a bridge built by the state is twenty four feet. Mr. Miller stated that he felt such a narrow bridge will be unsafe. While such a bridge may be feasible for a subdivision, the bridge could become an obstacle to emergency vehicles and regular traffic attempting to cross the structure in opposite directions. For example, if a vehicle is stalled or has an accident while on the bridge. The width of this bridge (distance

Arcadia, CUP Modification request to The Board of Aldermen  
January 4, 1994

between the handrails) is exactly the same distance as the width of the paved road surface. As a vehicle approaches the bridge the vehicle would need to be moving away from the edge of the pavement or this may present a problem. This road is narrower than an average twenty foot wide garage. Imagine having two feet less to negotiate with two vehicles travelling in opposite directions.

5. During a conversation with Dave Poythress, Street Supervisor of Carrboro Public Works, Mr. Poythress stated that a signalized crossing could be placed at the bridge to eliminate traffic crossing in each direction at the same time. A device in the pavement would activate a signal as a vehicle approached the bridge and allow traffic to cross while oncoming traffic waited for the signal so they may then cross. Additionally, emergency vehicles or evacuation of the site would be facilitated by such a crossing. Mr. Poythress suggested this idea without complete knowledge of other federal, state and local rules that may apply to this situation. During snow clearing activities, plowing the snow would lessen the travel width of the bridge due to additional snow layered on the sides of the bridge.
6. During a conversation with Carrboro Police Captain John Butler, he expressed concerns about a slightly impaired person meeting oncoming vehicles on the narrow bridge.

## **CHAPTER 6**

### **FIRE PROTECTION**

#### **601 RESERVED FOR FUTURE USE**

#### **602 FIRE CONTROLS**

##### **602.1 Removal Of Fire Equipment**

No person shall remove, tamper with, or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of this Code except for the purpose of extinguishing fire, training purposes, recharging, or making necessary repairs, or when permitted by the Fire Official. Whenever a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished.

##### **602.2 Tampering With Barriers, Etc.**

No person, unless authorized or a public officer acting within the scope of his public duties, shall remove, unlock, destroy, tamper with, or otherwise molest in any manner any lock, gate, door, barricade, chain, enclosure, sign, tag or seal which has been lawfully installed by the Fire Official or by his order or under his control.

##### **602.3 Obstructing Fire Hydrants**

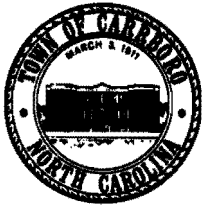
No person shall place or keep any fence, growth, trash or other material near any fire hydrant that would prevent such hydrant from being immediately discernible or in any other manner hinder the Fire Department from gaining immediate access to a fire hydrant. A clear space of not less than 3 feet shall be provided on all sides of a fire hydrant.

#### **602.4 - 602.5 RESERVED FOR FUTURE USE**

##### **602.6 Access To Buildings By Fire Apparatus**

**602.6.1** Every building hereafter constructed shall be accessible to fire department apparatus by way of access roadways with all-weather driving surface of not less than 20 ft of unobstructed width, with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum vertical clearance of 13 ft 6 inch. During construction, when combustibles are brought on to the site in such quantities as deemed hazardous by the Fire Official, access roads and a suitable temporary supply of water acceptable to the Fire Department shall be provided and maintained.

**602.6.2** The required width of access roadways shall not be obstructed in any manner, including the parking of vehicles. Installation of No Parking signs or other appropriate notice, or of approved obstructions inhibiting parking, may be



## TOWN OF CARRBORO

NORTH CAROLINA

### MEMORANDUM

TO: Mr. Wayne King, Zoning Specialist

FROM: Kenneth W. Withrow, Transportation Planner *KWW*

SUBJECT: Arcadia Bridge

DATE: December 20, 1993

I talked with Mr. Norm Miller in the North Carolina Department of Transportation's Structures/Design Division regarding potential problems faced when using eighteen foot wide bridges. Mr. Norm explained to me initially that eighteen foot wide bridges do not meet current federal and state standards for bridge width. The minimum width for a bridge to be built by the state is twenty-four feet. He also explained to me that such a narrow bridge is unsafe. While such a bridge may be feasible for a private subdivision, the bridge could become an obstacle to emergency vehicles attempting to access the site; and could be hazardous to both emergency vehicles and regular traffic attempting to access the bridge while trekking to opposite destinations. Pedestrian traffic would also be placed in a dangerous position if railing that would separate vehicle traffic from the pedestrian was not in place. The minimum specifications for bridges with pedestrian access include a five foot sidewalk and a twenty-seven foot wide bridge.

# BOARD OF ALDERMEN

ITEM NO. E(2)

## AGENDA ITEM ABSTRACT

MEETING DATE: January 4, 1994

**SUBJECT: Budget Amendment**

|                                                                                                                               |                                                    |
|-------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| DEPARTMENT: <b>Administrative Services</b>                                                                                    | PUBLIC HEARING: YES ____ NO <u>X</u>               |
| ATTACHMENTS: Budget Amendment                                                                                                 | FOR INFORMATION CONTACT: Larry Gibson,<br>968-7701 |
| THE FOLLOWING INFORMATION IS PROVIDED:<br>( x ) Purpose ( ) Summary ( ) Analysis<br>( ) Recommendation ( x ) Action Requested |                                                    |

### PURPOSE

The purpose of this item is as follows:

- (1) To amend the budget to transfer funds from a non-departmental account to the various departments to cover service level benefits granted in December;
- (2) To amend the budget to transfer funds from the Planning Department to the Town Manager's Office to cover the salary and expenses associated with the position of Community and Economic Development Officer which has been re-assigned to the Manager's Office; and
- (3) To amend the budget to transfer funds from contingency to the Police Department to cover the trade-in costs of two surplus weapons being retained by the town, pursuant to action taken by the Board at its December 14th meeting.

### ACTION REQUESTED

The administration requests that the Board adopt the attached ordinance amending the FY'1993-94 budget.

## BOARD OF ALDERMEN

ITEM NO. E(3)

### AGENDA ITEM ABSTRACT

MEETING DATE: January 4, 1994

**SUBJECT: Appointments to Boards**

|                                                                                                                 |                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| DEPARTMENT: n/a                                                                                                 | PUBLIC HEARING: YES ____ NO <u>x</u> __                                                                       |
| ATTACHMENTS: Applications from Trip Overholt, Jeanne Duggan, James Morgan, Alex Zaffron, and Brother Peacemaker | FOR INFORMATION CONTACT: Giles Blunden, Chair, Appearance Commission; David Summer, Chair, Downtown Dev. Com. |
| THE FOLLOWING INFORMATION IS PROVIDED:<br>( x ) Purpose<br>( x ) Recommendation                                 |                                                                                                               |
| ( x ) Summary<br>( ) Action Requested                                                                           |                                                                                                               |
| ( ) Analysis                                                                                                    |                                                                                                               |

#### PURPOSE

To make appointments to the Appearance Commission and Downtown Development Commission.

#### SUMMARY

There is currently one vacant seat each on the Appearance Commission and Downtown Development Commission. The Town Clerk forwarded applications currently on hand for these commissions to the chairs for review.

#### RECOMMENDATION

The Chair of the Appearance Commission recommends that Brother Peacemaker be appointed to the vacant seat on the Appearance Commission. The Chair of the Downtown Development Commission recommends that James Morgan be appointed to the vacant seat on the Downtown Development Commission.



TOWN OF CARRBORO  
APPLICATION FOR MEMBERSHIP ON ADVISORY BOARDS

Name TRIP OVERHOLT Date 10/7

Address 540A Dogwood Drive Chapel Hill NC 27516

Is this address located within the corporate limits of the Town of Carrboro? NO

Phone (Home) 967-9311 (Business) 929-7844

Date of Birth 06/21/57 Race W Sex M

Occupation OWNER- EARTHWALES

Community Activities and Organizational Memberships NONE

Are you a registered voter of Orange County? YES

Length of residence in Orange County 3 yrs Town of Carrboro 0

\*\*\*\*\*

I wish to be considered for appointment to the following advisory board(s):

|                                                                        |                                                                     |
|------------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Board of Adjustment                           | <input type="checkbox"/> Planning Board                             |
| <input type="checkbox"/> Appearance Commission                         | <input type="checkbox"/> Transportation Advisory Board              |
| <input type="checkbox"/> Cable T.V. Committee                          | <input type="checkbox"/> Parks & Recreation Commission              |
| <input type="checkbox"/> Human Services Commission                     | <input type="checkbox"/> Cemetery Commission                        |
| <input type="checkbox"/> OWASA Board of Directors                      | <input checked="" type="checkbox"/> Downtown Development Commission |
| <input type="checkbox"/> Orange County Economic Development Commission |                                                                     |
|                                                                        | <input type="checkbox"/> Other                                      |

If you apply for membership on more than one advisory board, please indicate your preference by number, with 1 being your first choice (please limit your selection to two boards). Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Experience to aid you in working on these advisory boards: BUSINESS OWNER

Reason(s) you wish to be appointed: IMPROVE DOWNTOWN BUSINESS ENVIRONMENT

Have you ever served on any Town of Carrboro advisory board? If so, which one(s)? NO

RECEIVED OCT 7 1993

TOWN OF CARRBORO  
APPLICATION FOR MEMBERSHIP ON ADVISORY BOARDS

Name Jeanne P. Duggan Date 10-17-93  
Address 506 Bolin Creek Mailing address: Box 936  
Carrboro, NC  
Is this address located within the corporate limits of the Town of Carrboro? Yes 27570  
Phone (Home) 919-929-5497 (Business) 919-968-1800  
Date of Birth 4-26-26 Race White Sex Female  
Occupation Travel Agent  
Community Activities and Organizational Memberships \_\_\_\_\_

Are you a registered voter of Orange County? Yes

Length of residence in Orange County 15 yrs Town of Carrboro 14 yrs

\*\*\*\*\*

I wish to be considered for appointment to the following advisory board(s):

|                                                                        |                                                                     |
|------------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Board of Adjustment                           | <input type="checkbox"/> Planning Board                             |
| <input type="checkbox"/> Appearance Commission                         | <input type="checkbox"/> Transportation Advisory Board              |
| <input type="checkbox"/> Cable T.V. Committee                          | <input type="checkbox"/> Parks & Recreation Commission              |
| <input type="checkbox"/> Human Services Commission                     | <input type="checkbox"/> Cemetery Commission                        |
| <input type="checkbox"/> OWASA Board of Directors                      | <input checked="" type="checkbox"/> Downtown Development Commission |
| <input type="checkbox"/> Orange County Economic Development Commission | <input type="checkbox"/> Other _____                                |

If you apply for membership on more than one advisory board, please indicate your preference by number, with 1 being your first choice (please limit your selection to two boards). Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Experience to aid you in working on these advisory boards:

I own a business in "Downtown" Carrboro & am vitally interested in keeping & attracting new businesses to Carrboro  
Reason(s) you wish to be appointed: I know the downtown merchants & some of the problems to be addressed & hopefully solved.  
Have you ever served on any Town of Carrboro advisory board? If so, which one(s)? Yes - Human Services Adv. Board

RECEIVED OCT 19 1993

TOWN OF CARRBORO  
APPLICATION FOR MEMBERSHIP ON ADVISORY BOARDS

Name James Morgan Date 11/30/93

Address 115 Hidden Valley Chapel Hill NC 27516

Is this address located within the corporate limits of the Town of Carrboro? NO

Phone (Home) 967-3788 (Business) 967-8505

Date of Birth 16/1/50 Race C Sex M

Occupation Architectural Designer

Community Activities and Organizational Memberships \_\_\_\_\_

Member, Nat. Trust for Historic Preservation, North Carolina Solar Energy Assn., etc.

Are you a registered voter of Orange County? NO

Length of residence in Orange County \_\_\_\_\_ Town of Carrboro \_\_\_\_\_

In business in Carrboro since March 1993. Resident of local area since Oct. 91  
\*\*\*\*\*

I wish to be considered for appointment to the following advisory board(s):

- |                                                                        |                                                                     |
|------------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Board of Adjustment                           | <input type="checkbox"/> Planning Board                             |
| <input type="checkbox"/> Appearance Commission                         | <input type="checkbox"/> Transportation Advisory Board              |
| <input type="checkbox"/> Cable T.V. Committee                          | <input type="checkbox"/> Parks & Recreation Commission              |
| <input type="checkbox"/> Human Services Commission                     | <input type="checkbox"/> Cemetery Commission                        |
| <input type="checkbox"/> OWASA Board of Directors                      | <input checked="" type="checkbox"/> Downtown Development Commission |
| <input type="checkbox"/> Orange County Economic Development Commission | <input type="checkbox"/> Other _____                                |

If you apply for membership on more than one advisory board, please indicate your preference by number, with 1 being your first choice (please limit your selection to two boards). Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Experience to aid you in working on these advisory boards:  
Have worked with developers & planners as a design professional for over ten years in the U.S. and in Europe.

Reason(s) you wish to be appointed: Have a warm interest in Carrboro's future, I desire to serve the local community, and a wealth of professional expertise to enable me to make a useful contribution.  
Have you ever served on any Town of Carrboro advisory board? If so, which one(s)? NO

RECEIVED NOV 30 1993

TOWN OF CARRBORO  
APPLICATION FOR MEMBERSHIP ON ADVISORY BOARDS

Name R. Alexander Zeffron Date 9/17/93

Address 100 Old Pittsboro Rd., Carrboro

Is this address located within the corporate limits of the Town of Carrboro? yes

Phone (Home) (919) 933-8950 (Business) (919) 929-7759

Date of Birth 02/24/62 Race W Sex M

Occupation Data Specialist - Market Research

Community Activities and Organizational Memberships 2nd Vice-Chair

Orange Co. Democratic Party, Chair, Carrboro Transportation Advisory Board  
Steering Committee, CH-Carrboro Fair Share

Are you a registered voter of Orange County? yes

Length of residence in Orange County 26 yrs Town of Carrboro 5

\*\*\*\*\*

I wish to be considered for appointment to the following advisory board(s):

|                                                                        |                                                                     |
|------------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Board of Adjustment                           | <input type="checkbox"/> Planning Board                             |
| <input type="checkbox"/> Appearance Commission                         | <input type="checkbox"/> Transportation Advisory Board              |
| <input type="checkbox"/> Cable T.V. Committee                          | <input type="checkbox"/> Parks & Recreation Commission              |
| <input type="checkbox"/> Human Services Commission                     | <input type="checkbox"/> Cemetery Commission                        |
| <input type="checkbox"/> OWASA Board of Directors                      | <input checked="" type="checkbox"/> Downtown Development Commission |
| <input type="checkbox"/> Orange County Economic Development Commission | <input type="checkbox"/> Other                                      |

If you apply for membership on more than one advisory board, please indicate your preference by number, with 1 being your first choice (please limit your selection to two boards). Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Experience to aid you in working on these advisory boards: I have  
had experience on both sides of the fence in downtown development - we  
involved in attempting to open a new business in Carrboro, and have participated 2-over

Reason(s) you wish to be appointed: I have an intense interest in  
promoting the continued vitalization of Carrboro's downtown business  
district

Have you ever served on any Town of Carrboro advisory board? If so, which one(s)? yes - T.A.B. Appointed 1990 - Served 1990 - present

Currently also serve on the Small Area Planning Work Group

RECEIVED SEP 17 1993

TOWN OF CARRBORO  
APPLICATION FOR MEMBERSHIP ON ADVISORY BOARDS

Name Brother Peacemaker Date 11-5-93  
<sup>Business</sup>  
Address 405 B East Main Street

Is this address located within the corporate limits of the Town of Carrboro? Yes

Phone (Home) 544 3519 (Business) 967 1526

Date of Birth 10-8-46 Race African American Sex Male

Occupation Auto Body Repair

Community Activities and Organizational Memberships \_\_\_\_\_

President - Chatham Youth Baseball League, Carrboro Art Guild

Are you a registered voter of Orange County? No

Length of <sup>Past</sup> residence in Orange County 5yrs Town of Carrboro 5yrs

\*\*\*\*\*

I wish to be considered for appointment to the following advisory board(s):

|                                                                        |                                                          |
|------------------------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Board of Adjustment                           | <input type="checkbox"/> Planning Board                  |
| <input checked="" type="checkbox"/> Appearance Commission              | <input type="checkbox"/> Transportation Advisory Board   |
| <input type="checkbox"/> Cable T.V. Committee                          | <input type="checkbox"/> Parks & Recreation Commission   |
| <input type="checkbox"/> Human Services Commission                     | <input type="checkbox"/> Cemetery Commission             |
| <input type="checkbox"/> OWASA Board of Directors                      | <input type="checkbox"/> Downtown Development Commission |
| <input type="checkbox"/> Orange County Economic Development Commission | <input type="checkbox"/> Other _____                     |

If you apply for membership on more than one advisory board, please indicate your preference by number, with 1 being your first choice (please limit your selection to two boards). Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Experience to aid you in working on these advisory boards: Expertise and artistic talent used in refurbishing autos, designing and constructing art forms, appreciation of beauty

Reason(s) you wish to be appointed: to become actively involved in decision making process, to pay tribute to community

Have you ever served on any Town of Carrboro advisory board? If so, which one(s)? No

RECEIVED DEC 2 1993

Prior to being appointed to an advisory board, the Board of Aldermen asks each applicant to attend a meeting of the advisory board in which he or she has an interest. This helps each applicant to be more aware of the work of the advisory board. If you have not attended any meetings of the advisory board which you are interested, the chairperson of that board will extend an invitation to you. If you have attend a meeting of an advisory board, please indicate which board(s) Appearance Commission

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For further information on the duties and responsibilities of the various advisory boards, please contact the Town Clerk's Office, P.O. Box 829, Carrboro, N.C. 27510 (968-7705).

# BOARD OF ALDERMEN

ITEM NO. E(4)

## AGENDA ITEM ABSTRACT

MEETING DATE: January 04, 1993

SUBJECT: OPEN SPACE ORDINANCE REVIEW

|                                                                                                                                                                                                                                                                    |                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| DEPARTMENT: <b>PLANNING DEPARTMENT</b>                                                                                                                                                                                                                             | PUBLIC HEARING: YES _____ NO <u>X</u>                         |
| ATTACHMENTS:<br>1) Comparison of Open Space Zoning Ordinances<br>2) Sample Ordinance: Loudoun County, Va.; West Tisburg, MA.; Livingston County, MI.; Grafton, MA.; East Lyme, CT.<br>3) June 22, 1993 Staff Report - Open Space Zoning and Development Techniques | FOR INFORMATION CONTACT:<br><b>Roy M. Williford, 968-7713</b> |
| THE FOLLOWING INFORMATION IS PROVIDED:                                                                                                                                                                                                                             |                                                               |
| (x) Purpose<br>( ) Summary                                                                                                                                                                                                                                         | (x) Action Requested<br>( ) Recommendation<br>(x) Analysis    |

### PURPOSE:

On June 22, 1993 the Board of Aldermen received a staff report regarding open space zoning concepts. Following their review, the Board of Aldermen requested that a worksession be scheduled to provide further review of the open space zoning concept. Furthermore, the Board requested that they receive copies of ordinances from other municipalities that have mandatory open space ordinances.

### ANALYSIS:

Ordinances from the following localities have been provided for review by the Aldermen:

- (1) Loudoun County Rural Hamlet Zoning Ordinance. Loudoun County Virginia has a population of 86,129 and is located in northern Virginia, west of Fairfax, Virginia. The county seat is Leesburg, Virginia with a population of 16,202.
- (2) West Tisburg, Massachusetts Flexible Development Ordinance. West Tisburg is located on the island of Martha's Vineyard and has a population of 1,704 people.
- (3) Livingston County Michigan's PEARL (Protect Environmental, Agricultural and Rural Landscape) Ordinance. Livingston County is located between Lansing and Detroit off of I-96 and has a population of 115,645 people. Howell, Michigan is the county seat and has a population of 8,184 people.
- (4) Grafton Massachusetts "Flexible Development Ordinance. Grafton is located in central part of the state between Boston and Worcester off of the Massachusetts Turnpike (I-90). Grafton has a population of 13,035 people.
- (5) East Lyme Connecticut Open Space Cluster Development Ordinance. East Lyme is located off of I-95 near New London Connecticut and Mystic Seaport. East Lyme has a population of 15,340 people.

The attached matrix provides a comparison of the enclosed open space ordinances.

### ACTION REQUESTED:

The staff has provided open space ordinances for the Board's review and discussion. No action other than direction from the Board is needed for this item.

|                                   | Loudoun County, VA<br>Rural Hamlet Zoning Ordinance                                                                                                                                                                                           | West Tisbury, MA<br>Flexible Development Ordinance                                                                                                                                         | Livingston County, MI<br>PEARL (Protect Environmental,<br>Agricultural & Rural Landscape)                       | Grafton, MA<br>Flexible Development Amendment                                                                                                                      | East Lyme, CT<br>Open Space/Cluster Development                                                                 |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Minimum tract size                | 40 acres                                                                                                                                                                                                                                      | none                                                                                                                                                                                       | none                                                                                                            | no                                                                                                                                                                 | 10 acres (Planning Commission may require OS/CD use for projects of 20+ acres)                                  |
| Maximum tract size                | none                                                                                                                                                                                                                                          | none                                                                                                                                                                                       | none, but only 10 units allowed per cluster                                                                     | no                                                                                                                                                                 | no                                                                                                              |
| 2 concept plan versions required? | not mentioned                                                                                                                                                                                                                                 | environmental impact statement is required                                                                                                                                                 | not mentioned                                                                                                   | yes, conventional and flexible layouts must be compared                                                                                                            | yes, for projects of 20+ acres                                                                                  |
| Base Zoning                       | A-3 (equivalent to 1 du per 3 acres)                                                                                                                                                                                                          | can be applied to all current residential zoning                                                                                                                                           | Overlay district to be applied on current zoning                                                                | permitted in certain residential zones with a Flexible Development Special Permit                                                                                  | permitted in certain rural residential zones                                                                    |
| Commercial uses allowed           | Only Agriculture & Home Occupations                                                                                                                                                                                                           | not mentioned                                                                                                                                                                              | other than agriculture, not mentioned                                                                           | not mentioned                                                                                                                                                      | not mentioned                                                                                                   |
| How is density calculated?        | Potential number of hamlet and conservancy lots is based upon either: 1) 1 DU per 10 net acres; excluding acreage in floodplains and slopes greater than 25%; or 2) the number of DU's which could be built in a conventional A-3 development | 0.9 times the qualifying land area divided by the minimum lot size for a single family dwelling in the base zoning district. (qualifying land area is defined as the net developable land) | based upon the number of units which could be realized in a conventional subdivision plan under the base zoning | based upon the number of units which could be realized in a conventional subdivision plan under the base zoning                                                    | based upon the number of units which could be realized in a conventional subdivision plan under the base zoning |
| Density Bonuses available?        | Yes, for each conservancy lot greater than 50 acres in size, 1 DU is added.                                                                                                                                                                   | no                                                                                                                                                                                         | no                                                                                                              | 15% bonus for using 6 of the Design Guidelines<br>20% bonus for using 9 of the Design Guidelines<br>25% bonus for using all Design Guidelines                      | no                                                                                                              |
| Public Utilities required?        | no                                                                                                                                                                                                                                            | no                                                                                                                                                                                         | no                                                                                                              | no                                                                                                                                                                 | not mentioned                                                                                                   |
| Design Guidelines                 | yes                                                                                                                                                                                                                                           | yes                                                                                                                                                                                        | yes                                                                                                             | yes                                                                                                                                                                | no                                                                                                              |
| How much open space is required?  | Minimum of 90% of the tract must be in open space. Can include eased land as well as land conserved outright.                                                                                                                                 | no specific percentage given                                                                                                                                                               | minimum of 50%                                                                                                  | minimum of either 40% or 50%, depending on the base zoning district                                                                                                | a minimum of 33% to 50%, depending on the base zoning district                                                  |
| How is open space defined?        | Hamlet green/square<br>Common Open Space (7 ac. min.)<br>Conservancy Lot (30 ac. min.)                                                                                                                                                        | Dedicated Open Land: restricted from building or further subdivision; can be used for conservation, passive recreation, agriculture                                                        | Emphasizes natural areas, woods, agricultural areas, places which contribute to rural character                 | Common Land: shall be dedicated & used for conservation, historic preservation, education, recreation, park, agriculture, horticulture, forestry, or a combination | emphasizes natural areas, wetlands, and slopes over 25%                                                         |
| Homeowners Association required?  | Yes                                                                                                                                                                                                                                           | yes                                                                                                                                                                                        | yes                                                                                                             | depends on how common land is handled                                                                                                                              | depends on how common land is handled                                                                           |



ZOAM 90-01  
LOUDOUN COUNTY  
RURAL HAMLET ZONING ORDINANCE  
ADOPTED 6.19.90

601.7.3.1.

\* A-3 zoning  
is equivalent to  
1 dwelling unit  
per 3 acres.

Purpose and Intent. The primary purpose of the rural hamlet option is to provide an alternative to conventional A - 3\* district subdivision in rural areas. Such clustered development is intended to better harmonize rural development with surrounding agricultural activities recognizing that it is the County's primary goal to preserve and enhance farming and farmland in rural Loudoun by the most feasible, effective and equitable methods available. This option is intended to conserve agricultural, forestal and open space land, historic and natural features at the time that such land realizes the development potential currently allowed in the A - 3 district. Such clustered development is intended to place no greater burden on the natural environment, the rural road network, public services and facilities than would be generated by sprawl A - 3 and is intended to permit the compact grouping of homes located so as to blend with the existing landscape - such as the rise and fall of the topography, hedgerows and wooded areas - and to preserve to a greater extent the agricultural, forestal and visual character of the landscape.

601.7.3.2.

Rural Hamlet Permitted. Rural hamlets are permitted in the A - 3 district. A - 3 district regulations shall apply to the extent not in conflict with the regulations contained herein.

601.7.3.3.

Rural Hamlet Defined. A rural hamlet is characterized by the configuration of all or a portion of the density permitted on a tract of land under A - 3 district regulations, into a grouping of smaller residential lots on a portion of the tract. More than one rural hamlet may be located on a tract, provided that all the requirements are met, independently and exclusively, for each rural hamlet and that each group of clustered lots is physically separated. A rural hamlet shall consist of the following categories of land:

- a. Hamlet lots. Smaller residential lots located in a contiguous group, with adjacent and fronting lots oriented towards each other in some ordered geometric way - as on a street, a green or a paved square - and forming a distinct boundary with the

surrounding countryside. Such lots are subject to certain lesser minimum lot standards than otherwise provided in the A - 3 district regulations.

No fewer than five and no more than twenty five hamlet lots may be grouped together as a rural hamlet. Hamlet lots may consist of two categories of land, that which is designated for development called the building area (see section 6 a) and that which is in permanent open space easement.

- b. Common open space. Optional land contiguous to and on the outer periphery of a rural hamlet, owned in common by hamlet lot owners and which is in permanent open space easement. The common open space shall be required only if wastewater disposal cannot be accomplished on individual hamlet lots.
- c. Hamlet green/square. Optional land, located in the interior of a rural hamlet, which is owned in common by hamlet lot owners and which is in a permanent open space easement.
- d. Conservancy lots. The residual portion of the tract, excluding the hamlet lots, common open space and/or hamlet green/square, which will remain as large parcel(s), the bulk of which is in permanent open space easement and a portion of which is designated a building area (see Section 6.d).

601.7.3.4.

Permitted Uses. The following uses are permitted in the various categories of rural hamlet land.

- a. i. Building Area of Hamlet and Conservancy Lots:
  - 1. Single Family Detached Dwelling
  - 2. Bed and Breakfast - Homestay.
  - 3. Home Occupations.

## Illustration of Hamlet Lot and Building Area

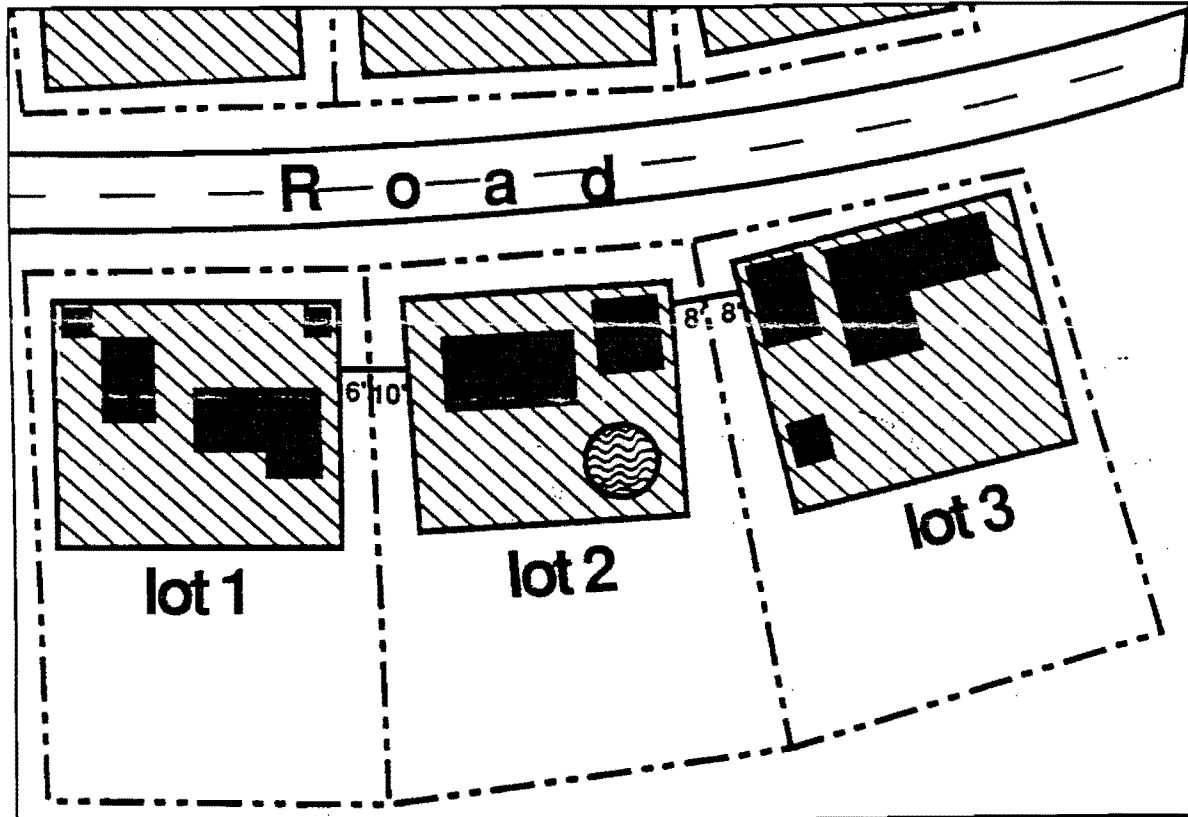
Hamlet Building Area  
(min.  $\frac{1}{6}$  acre / max  $\frac{1}{3}$  acre)



Structure located on  
Hamlet Lot Building Area



Hamlet Lot Eased Open Space



4. Guest House.

5. Uses and structures which are customarily accessory and clearly incidental and subordinate to the principal permitted single family detached use including but not limited to: swimming pools, tennis courts, garages.

ii. Open Space Eased Area of Hamlet Lots:

1. Agriculture, forestry and fisheries provided that no such use shall be permitted which, because of location or manner of operation, is not consistent with public health or safety.

2. Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses allowed in the hamlet lot building areas, which present a minimal above grade intrusion on the landscape and which include but are not limited to: swimming pools, tennis courts and small, generally open, ornamental garden structures and wayside stands with a building footprint of less than 250 square feet.

iii. Open Space Eased Area of Conservancy Lots:

1. Same as 4.a.ii above recognizing that farming, forestry and fisheries are the primary uses for conservancy lots.

2. Barns, silos, stables and other structures related to permitted agricultural, forestry and fishery uses.

b. Common Open Space and Hamlet Green/Square Lots.

1. Agricultural, forestry and fisheries as 4.a.iii. above.

2. Recreational uses for residents of the development which are customarily and

clearly accessory, incidental and subordinate to the hamlet, including but not limited to: swimming pools, tennis courts, equestrian facilities, picnic areas or community rooms and which are located so as to minimize visual intrusion on the landscape from within and outside the hamlet and/or to reinforce the hamlet design.

601.7.3.5. Minimum Tract Size. A rural hamlet shall be located on a tract, or portion thereof, at least forty (40) acres in size.

601.7.3.6. Minimum Lot Requirements.

a. Hamlet lots.

Minimum lot size: 1/3 acre

Minimum building area: 1/6 acre

Maximum building area: 1/3 acre

Minimum lot width: 64 feet

Maximum length/width: 5/1

Minimum front & rear yards: 6 feet

Minimum side yards: 6 feet so long as adjacent side yards add to 16 feet

Building side yard restriction line: Dwellings, guest houses, garages and other such structures shall not trespass into minimum side yards, nor penetrate a theoretical inclined plane based on the side property boundary and extending into the lot at an angle of 3 feet in height per 1 horizontal foot.

b. Common Open Space.

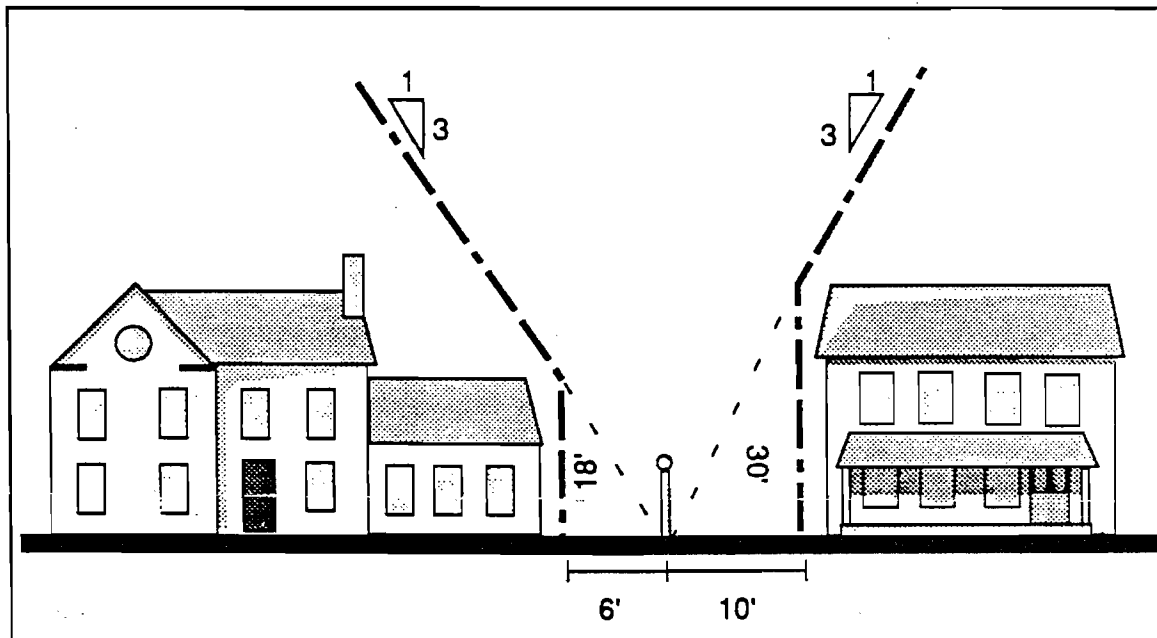
Minimum lot size: 7 acres

Minimum lot width: 300 feet

Maximum length/width 5/1

## **Illustration of Side Yard and Building Restriction Line**

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c. Hamlet Green/Square.

Maximum distance between building areas  
of cluster lots facing across a hamlet  
green/square: 350 feet.

d. Conservancy Lots.

Minimum Size: 30 acres

Minimum lot width: 300 feet

Maximum length/width: 5/1

However, where a conservancy lot shares a boundary of no less than 300 feet with no more than two other conservancy and/or common open space lots subject to permanent open space easement and where these three or fewer lots total at least 30 acres in size, then the minimum conservancy lot may be reduced to 7 acres with a minimum width of 300 feet and a with a maximum length/width ratio of 5/1. Moreover one building area per 30 acre conservancy lot or one building area per 30 acres of eased conservancy, large hamlet and common open space land is allowed. The building area of a conservancy lot should be located so as to minimize visual intrusion on the landscape and/or reinforce the hamlet design.

Minimum Building Area: 1/6 acre

Maximum Building Area: 1/3 acre

Building Area Minimum Front Yard: 6 feet

Building restriction line: Dwelling, guest houses, garages and other such structures shall not trespass within 16 feet of lot boundaries nor penetrate a theoretical inclined plane based on the lot boundary and extending into the lot at an angle of 3 feet in height per 1 horizontal foot.

601.7.3.7. Determination of Density. The potential number of hamlet and conservancy dwelling units shall be based on either of the following, at the option of the landowner:

- a. One (1) dwelling unit per ten (10) net acres. The net acreage of the tract shall exclude floodplain as provided in section 740.12 and shall exclude slopes of twenty-five (25%) or greater.
- b. The number of dwelling units permitted at a minimum lot size of three (3) acres under the A - 3 district regulations, based on a tract's natural features, such as topography and floodplain and availability of septic drainfields. Such estimates may be prepared by the applicant for review of accuracy by the County Department of Natural Resources, or prepared by that Department. In either case, such estimates will be submitted to the Loudoun County Health Department for approval.
- c. For each conservancy lot of fifty (50) acres or greater in size, one additional dwelling unit shall be included in the determination of density.

601.7.3.8. Open Space Requirements.

- a. Minimum Open Space Surrounding the Hamlet:

The following lands surrounding the hamlet in permanent open space easement shall sum to no less than 70% of the tract:

1. Common open space;
2. Eased portions of Conservancy lots;
3. The eased portion of one lot in hamlets of 5 -15 dwellings in size and two lots in hamlets of 15 - 25 dwellings with a minimum eased area of 3 acres and a minimum eased width of 300 feet.

- b. Minimum Total Open Space:

Furthermore, all open space lands noted above and all hamlet lot and hamlet green/square lands in permanent open space easement shall sum to no less than 80% of the tract.



c. Minimum Open Space Widths Surrounding the Hamlet.

There shall generally be a minimum of 400 feet width of land in open space easement between the outside boundary of hamlet lot building areas and the tract boundary. There shall generally be a minimum of 800 feet between the hamlet lot building area boundaries of two hamlets on the same tract. Reduction of these dimensions may be permitted by the County Board of Supervisors, see 607.3.7.12.

d. Maximum Hamlet Building Area Depth.

The outside boundaries of the building areas of hamlet lots facing one another across a street shall not exceed 300 feet. The outside boundaries of the building areas of hamlet lots facing one another across a hamlet green/square shall not exceed 550 feet.

601.7.3.9. Utilities and Public Facilities Requirements.

a. Water. Hamlet lots shall be served either by:

i. Individual wells on each lot, or

ii. a community water system constructed by the developer which will be owned and operated by the Loudoun County Sanitation Authority, or

iii. connection with an existing town if located within an area designated for such connection in the Comprehensive Plan, or

iv. connection with an existing/proposed rural village water system.

The water system selected will be a function of the type and location of the wastewater treatment proposed for the tract and hydrogeological conditions. Every community water system shall conform with Loudoun County Sanitation Authority, State and Local Health Department requirements and the Loudoun County Land Subdivision and Facilities Standards Manual. Health Department approval of both a safe and

adequate water supply system and the designated backup well sites based on hydrogeological studies, pursuant to these regulations and a County Commission Permit in the case of community water systems, is a condition of County Preliminary Plat approval. Health Department and Sanitation Authority approval of the community water supply and distribution system and backup well sites is a condition of record plat approval.

- b. Wastewater. Each rural hamlet lot not developed in association with an existing Town or an existing/proposed rural village, shall be served by a sewage disposal system located on the lot or off-lot in the perpetually eased common open space.

Rural hamlet lots located within an area designated for potential connection with a town sewage system, or an existing or new rural village with public wastewater treatment capacity may be connected with that wastewater treatment plant upon receipt of a County Commission Permit and/or the town's approval. All such community wastewater disposal systems shall be owned and operated by either the Loudoun County Sanitation Authority or by the town.

Health Department approval of all proposed drainfields is a condition of Preliminary Plat approval. Health Department approval of all proposed sewage disposal systems, design and location is a condition of County record plat approval. The Health Department shall evaluate sewage disposal proposals and base its approval pursuant to this ordinance on the Land Subdivision Development Ordinance and Facilities Standards Manual, State and Local Sewage Disposal Regulations and other general and specific wastewater disposal standards/criteria promulgated for use in rural hamlets in order to minimize potential public health and environmental impacts.

- c. Fire Protection. Every hamlet shall have all weather access for a pump truck to an adequate pond with a water withdrawal main or to a water tank of sufficient capacity for fire protection.

- d. Roads. Seven (7) rural hamlet lots or less may be served by a private 50 foot easement with an 18 foot gravel surface. Twenty five (25) rural hamlet lots or less may be served by a VDOT fixed generation, tertiary Class II road. All other roads shall be VDOT Class II roads. Roads serving two or more hamlets, with a combined traffic loading exceeding 250 vehicles per day, shall generally have two access points to the existing rural road network. The Planning Commission may waive the two access requirement upon finding special topographic or other circumstances which preclude implementation, but may in this eventuality require alternative configurations of road design, such as a divided median. Every hamlet lot shall include offstreet parking for at least four (4) cars.

601.7.3.10. Home Owners' Association Requirements. The holding and maintaining of private roads, common open space, fire protection pond and fire protection dry mains, septic drainfield easements in the common open space according to guidelines provided by the Health Department and sewage disposal system operations permits and other commonly held property and improvements shall be the responsibility of a Home Owners' Association. The Home Owners' Association documents shall be submitted as part of the record plat application and shall provide for adequate assessments to fund the maintenance of common property and improvements and shall define communal and individual property maintenance responsibilities.

601.7.3.11. Plat and Deed Notations. Record plats and deeds for rural hamlet subdivisions shall include a statement, in a form approved by the County Attorney, that agricultural operations enjoy the protection of the Right to Farm Act, Va. Code Section 3.1-22.28 et seq.

601.7.3.12. Modification of Regulations.

- a. Where there are conflicts between the rural hamlet provisions herein and the general zoning, subdivision or other regulations and requirements, the rural hamlet regulations shall apply.
- b. In addition the Board of Supervisors may allow reasonable modifications as follows:
  - i. Reduction of the open space width requirements, as provided in Section 607.3.7.8.c; otherwise

cluster regulations shall not be modified.

4i. Modification of the subdivision, general zoning, or facilities manual regulations upon finding that:

- (a) These other regulations serve public purposes to a lesser degree than the rural hamlet, and
- (b) The designs or solutions proposed by the applicant, although not literally in accord with these other regulations, satisfy public purposes to a greater degree, and
- (c) The strict implementation of these other regulations would prevent well designed rural hamlet development.

Such modifications may be granted by the Board of Supervisors by special exception, in accordance with Article 12. Such modifications may be sought prior to filing a preliminary plan of subdivision. The landowner shall include a sketch plan of the proposed hamlet as part of the application for modification and shall demonstrate the reasons for the request.

## Example of Hamlet Calculations and Ratios

---

Assume an 88 acre tract of land with 22 drain fields and that the developer opts for a mix of cluster lot sizes but a maximum sized building area of  $\frac{1}{3}$  acre.

*Table 1. Lot Calculations*

---

| Lot Type                  | # | Total Area | Building Area      | Eased Area           |
|---------------------------|---|------------|--------------------|----------------------|
| Hamlet $3\frac{1}{2}$ ac. | 2 | 7 ac.      | $\frac{2}{3}$ ac.  | $6\frac{1}{3}$ ac.*  |
| Hamlet 2 ac.              | 1 | 2 ac.      | $\frac{1}{3}$ ac.  | $1\frac{2}{3}$ ac.+  |
| Hamlet $1\frac{1}{3}$ ac. | 3 | 4 ac.      | 1 ac.              | 3 ac.+               |
| Hamlet 1 ac.              | 8 | 8 ac.      | $2\frac{2}{3}$ ac. | $5\frac{1}{3}$ ac.+  |
| Hamlet $\frac{2}{3}$ ac.  | 6 | 4 ac.      | 2 ac.              | 2 ac.+               |
| Hamlet Green              | 1 | 3 ac.      | -                  | 3 ac.+               |
| Conservancy 20 ac.        | 2 | 40 ac.     | $\frac{2}{3}$ ac.  | $39\frac{1}{3}$ ac.* |
| Common Open               | 1 | 17 ac.     | -                  | 17 ac.*              |
| Road R-O-W                | 1 | 3 ac.      | -                  | -                    |

Eased open space land surrounding Hamlet ( $6\frac{1}{3} + 39\frac{1}{3} + 17$ ) =  $62\frac{2}{3}$  ac.

Total eased open space land ( $62\frac{2}{3} + 1\frac{2}{3} + 3 + 5\frac{1}{3} + 2 + 3$ ) =  $77\frac{2}{3}$  ac.

Percentage of eased land surrounding Hamlet ( $62\frac{2}{3} \div 88 \times 100$ ) = 71.2%

Percentage of total eased land ( $77\frac{2}{3} \div 88 \times 100$ ) = 88.3%

\* Eased land surrounding the Hamlet

+ Eased land within the Hamlet

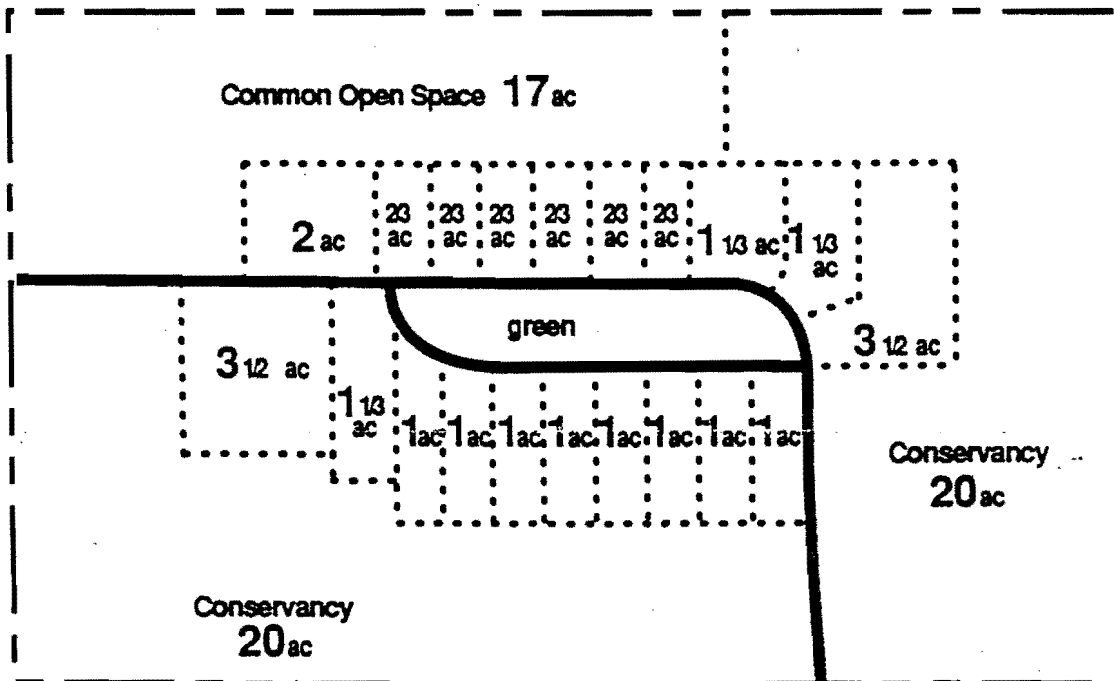
## Example of Hamlet Calculations and Ratios

Figure 1. Hamlet Example Summary

88 ac. / 20 Hamlet and 2 Conservancy lots

71% eased perimeter land

88% all eased land

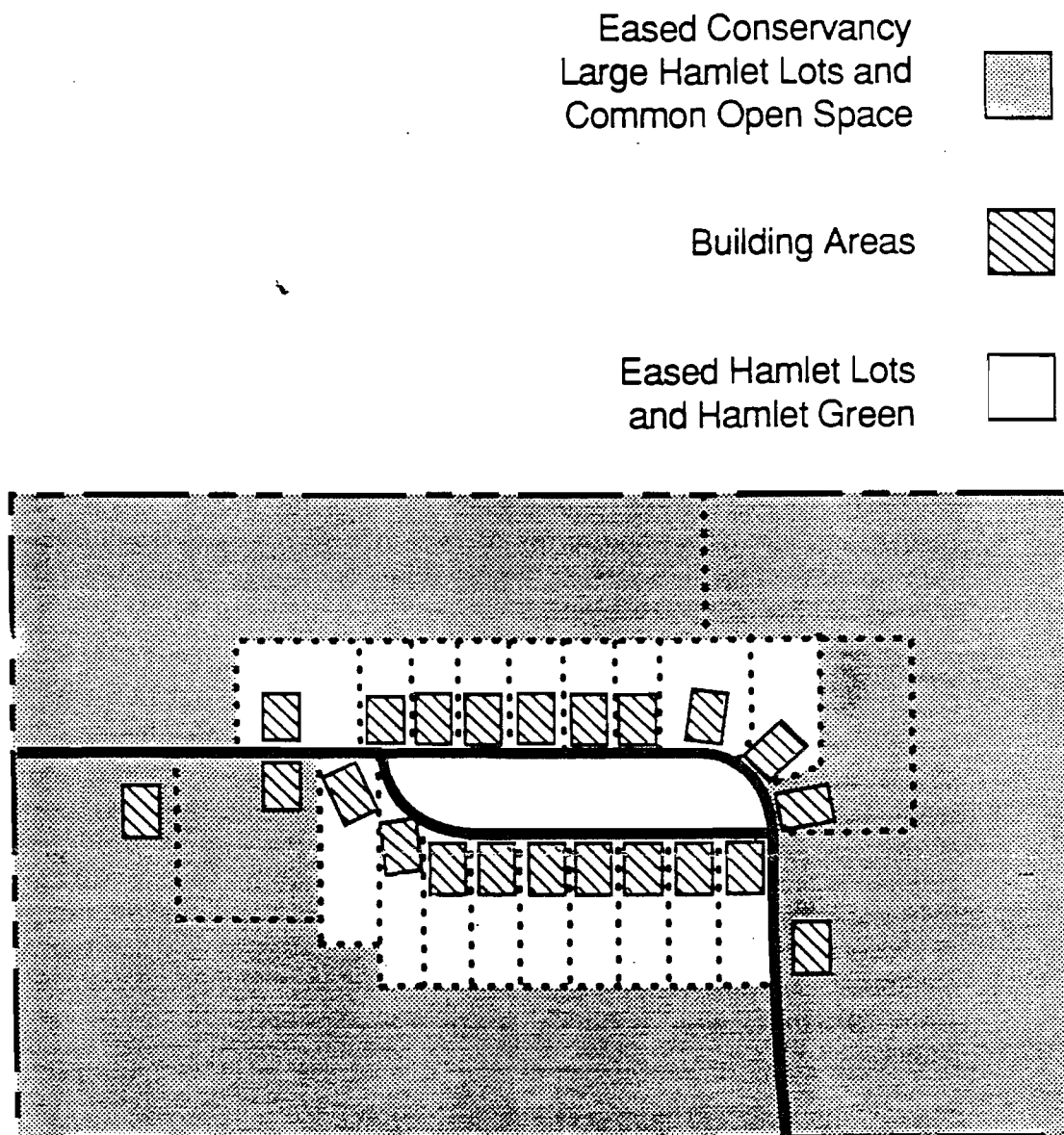


## Example of Hamlet Calculations and Ratios

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*Figure 2. Illustration of Eased land and Building Areas in Hamlet*

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## **ADDENDUM ADVISORY RURAL HAMLET SITING AND DESIGN GUIDELINES**

Loudoun County recognizes that every rural hamlet design will be a custom response to the unique assets and constraints of each tract. As a consequence, the County has only incorporated in the Rural Hamlet Ordinance those siting and design rules required to preserve open space and to allow the clustering of dwellings. However, the County does wish to encourage design consistent with Loudoun's past in rural Loudoun and appends the following general design guidelines as a suggestion to rural hamlet designers.

### **SITING**

Rural hamlets should be sited so as to nestle, or blend in a subordinate way, into the existing landscape and should be designed to create a traditional farm or rural hamlet massing profile.

To this end, rural clusters should not be placed on the crest of a ridge where the houses would read against the sky; but rather should be located in a dip of the land or on the side of a hill, as were traditional farmhouses whose inhabitants thereby sought weather protection and immediate access to springwater.

### **LANDSCAPING**

Again, following traditional rural siting practice, rural hamlet designs should incorporate a mix of evergreen trees, generally located to the north and west for winter wind protection, and deciduous trees, located to the west and south, for summer shade. Given the time required for trees to attain maturity, existing stands of trees and hedgerows should be incorporated in the new hamlets whenever possible. New plantings of evergreen and deciduous trees should be native to the northern Piedmont - such as yellow poplar, northern red and white oak, hickory, white ash, black gum, hemlock, spruce and eastern red cedar among others.

### **GROUND MODELING AND SCREENING**

In those circumstances where natural contours, subsurface conditions and tract boundaries prevent discreet hamlet placement, hamlet designers should seek to reduce the development's apparent presence by locating naturalistic earth berms near adjacent roadways and/or planting screens of trees simulating mature hedgerows.

### **GROUPING OF STRUCTURES**



Traditional farm buildings, such as the farmhouse, barns, sheds, silos, smoke houses and milking parlors were typically clustered into compact masses for more efficient work and animal management. While some structures, such as the barn and milking parlour were actually linked, fire and flexibility considerations generally lead to the regular, close but not attached arrangement of these structures. Dwellings in traditional rural hamlets were likewise placed in proximity to one another and to their common well or spring. Overall these structures present a definite edge to the surrounding countryside and new rural hamlets should seek through similar compact massing a comparable profile.

**RESOLUTION  
INNOVATIVE WASTEWATER TREATMENT SYSTEMS**

**WHEREAS:** Loudoun County recognizes that an environmentally safe innovative wastewater treatment system, which did not require labor intensive and consequently expensive maintenance might reduce the overall amount of farmland converted from farm uses to rural hamlet use. The Loudoun County Planning Commission has noted this in their rural hamlet draft ordinance transmittal and wrote the wastewater section of the cluster ordinance in order to permit this eventuality, **AND:**

**WHEREAS:** The Board of Supervisors recognizes that:

- a. It will take some time before the County has determined precisely what generic system might be appropriate; and that:
- b. It will be some time before the County reaches an understanding concerning maintenance feasibility and cost; and that:
- c. It will be some time before the County completes the Comprehensive Plan reviews appropriate to allow such systems and to provide the criteria required to evaluate the needed Commission and other Permits.

**AND:**

**WHEREAS:** Rural subdivisions are taking place now, and there are now no real alternatives to subdivision A - 3 platting.

**THEREFORE:** The County has decided to pursue the implementation of a "Basic Hamlet" comparable in review procedure with a regular, "ministerial" rural subdivision.

**AND:**

**THEREFORE:** The County has accordingly written and adopted a "Basic Hamlet" as a development option which would use standard septic drainfields and which might also link with existing sewage treatment plants if and when the County deemed the connections appropriate.

**AND:**

**THEREFORE:** As the long term effectiveness of innovative wastewater systems are sorted out and criteria for their implementation

are established in the Comprehensive Plan and codified in Commonwealth and County Ordinances, these can be added as further options to the "Basic Hamlet".

AND:

THEREFORE: In the meantime, the "Basic Cluster" will provide a valuable alternative to conventional A - 3 subdivision and will give both the County and the private sector a chance to understand and refine cluster parameters.

AND:

NOW: The Loudoun County Board of Supervisors directs County Staff to explore the possibilities and opportunities of innovative wastewater treatment systems.

CLSORD.4

## " FLEXIBLE DEV'T ", WEST TISBURY MA

RETRACT OF PROPOSED AMENDMENTS TO THE WEST TISBURY ZONING BYLAW  
FOR FLEXIBLE DEVELOPMENT 1/26/89

Amend the Zoning Bylaw by adding the following definitions to Section IX (to be inserted in alphabetical order):

**Bedroom:** Any portion of a dwelling which is so designed to furnish the minimum isolation necessary for use as a sleeping area and includes, but is not limited to, bedroom, den, study, sewing room, sleeping loft, or enclosed porch, but does not include kitchen, bathroom, dining room, halls or unfinished cellar.

**Conventional development plan:** A division of land into lots each of which meets the minimum dimensional requirements set forth in Table IV. A. 1. and other applicable requirements of the West Tisbury zoning bylaw and subdivision and Board of Health regulations.

**Dwelling unit:** A building or portion of a building intended as living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both a refrigerator or a sink) not shared with any other unit.

**Dedicated open land:** Land, under the terms of a flexible development special permit, which is restricted from building or further division by conveyance to the Town of West Tisbury for conservation /passive recreational use or to a non-profit land conservation organization, approved by the Planning Board, or by a permanent conservation restriction which conforms to the standards of the Division of Conservation Services and is enforceable by the Town or a non-profit organization as described above.

**Major residential development:** The creation in an A-R zone of more than five buildable lots, by subdivision or otherwise, or the construction of more than five dwelling units within a five-year period on a property or contiguous set of properties in common ownership as of 1/1/88 (unless such construction is on pre-existing lots which are subject to the provisions of Section III.D. Rate of Development).

**Minor residential development:** Division of a parcel or parcels of land in an A-E zone into buildable lots, whether a subdivision or not, at a rate of lot creation lower than the threshold rate for a major residential subdivision.

**Qualifying land area.** The area of a tract of land which is to be used in calculating the basic development density under a flexible development plan. Said area shall be determined by a registered land surveyor and shall equal the total area of the tract of land minus wetlands as defined in Sec. 40,

5 dwellings  
in  
5 years

Ch. 131, G.L. to the extent that such wetlands would make up more than 25% of the qualifying land area: minus land otherwise prohibited from development by local or state by-law, regulation or statute; minus land previously prohibited from development under a conservation or easement restriction recorded in the Dukes County Registry of Deeds; minus the area of any lot designated on the development plan for use other than residential or dedicated open land.

and to further amend by deleting existing Section V. CLUSTER DEVELOPMENT and substituting a new Section V. SPECIAL REGULATIONS FOR RESIDENTIAL DEVELOPMENT

#### A. Flexible Residential Development

1. **Purpose:** The purpose of flexible residential development is to ensure that residential development in West Tisbury to the maximum possible extent respects the natural features of the land including wetlands and watercourses, the rural character of the community which is exemplified by its open fields, pastures, stone walls, and working farms, those lands identified as sites of significant species of plants and/or wildlife, the integrity of ancient ways, scenic views and vistas, historic sites and the tradition of recreational access to resource lands. In the interest of promoting these objectives, development shall be permitted in A-R zones on lots of lesser dimension than would otherwise be required by Table IV. A. 1. if the conditions set forth elsewhere in this section are met.

#### 2. Applicability:

a. To major residential development: In order to further the objectives of flexible residential development enumerated above, major residential development shall only be allowed by special permit from the Planning Board. The requirements and standards for such special permit are enumerated below.

b. To minor residential development: At the owner's option, an application can be made for a flexible development special permit for a minor residential development in preference to filing a conventional development plan.

#### 3. Special Permit Application

a. The Applicant shall file with the Planning Board the following:

1) Twelve (12) copies of a plan of the proposed development plan showing the information required by the subdivision regulations for preliminary plans, or at the option of the applicant, the special permit application can be filed with a definitive plan for the development.

2) Twelve (12) copies of an environmental impact statement (EIS) as required by the Subdivision Regulations which includes a specific comparison of the impacts of a flexible development plan to those that would result from conventional development of the property, or if the application is for a conventional development plan, the EIS should discuss the specific site characteristics which make the conventional plan the best development option, given the purpose and design guidelines for flexible development.

3) Additional information necessary to make the determinations and assessments cited below.

4) A lesser number of copies of the required plans and/or reports may be allowed by vote of the Planning Board.

b. The Applicant shall also file with the Board of Health development plans for water supply and sewage disposal, along with reports on soil test pits and percolation tests and an analysis of groundwater flow on the site.

#### 4. Standards for Special Permit

##### a. Basic development density:

1) The number of residential building lots or dwelling units (if more than one dwelling unit is to be constructed per lot) created on a parcel by a flexible development plan shall equal 0.9 times the qualifying land area (as defined in Section IX) divided by the minimum lot area requirement for a single-family dwelling in the district.

2) Any lot(s) created by a flexible development plan shall be counted as buildable unless restricted from residential use.

3) The total number of bedrooms permitted under a flexible development plan shall be limited to the number calculated by dividing the qualifying land area, minus the area of any land that is defined as wetlands by Sec. 40, Ch. 131 G.L. and the area of land on the development plan dedicated to subdivision ways, by 15,000 sq. ft.

b. Design guidelines: Lots shall be laid out, to the greatest extent feasible, to achieve the following objectives (listed below in order of priority, as it is recognized that some may conflict with others on any given site):

1) Preserve and maintain existing fields, pastures, other land in agricultural use and sufficient buffer areas to minimize conflict between residential and agricultural use.

2) Maintain or create a buffer of natural vegetation of at least 100 feet in width adjacent to surface waters and wetlands and a buffer area free of residential structures of at least 200 feet in width adjacent to surface waters.

100' buffer  
200' setback

3) Leave unblocked or uninterrupted scenic views and vistas, particularly as seen from public roads, special places or scenic roads.

4) Protect the habitat areas of species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program.

5) Preserve historic and prehistoric sites and their environs in so far as needed to protect the character of the site.

6) Maintain the visual integrity of hilltops and ridgelines by siting development so that building silhouettes will be below the ridgeline or hilltop or if the area is heavily wooded, the building silhouette will be at least 10 feet lower than the average canopy height of trees on the ridge or hilltop.

7) Leave land defined and mapped as prime farmland by the U.S. Soil Conservation Service in "Soil Survey of Dukes County, Massachusetts" (Sept. 1956) available for future agricultural use.

c. Minimum lot size: The special permit may provide that the area of residential lots be less than 60,000 sq. ft., if such clustering of development will significantly contribute to fulfillment of the design guidelines and if the Board of Health advises the Planning Board in writing of its preliminary approval of provisions for water supply and sewage disposal for lots of lesser area. However, preliminary approval by the Board of Health shall not relieve the developer from the necessity of obtaining Board of Health approval of specific well and septic system designs and locations as required to obtain building permits.

d. Lot frontage. Lot frontage requirements for residential lots shall be as set forth in Section IV. E. except that implementation of the design guidelines may also be considered as a reason for approving lots which have less than the minimum frontage.

e. Building setbacks: All buildings or other structures to be constructed must at least meet the minimum setback requirements of Table IV. A.1. in regard to abutting properties or ways. To protect abutting properties from undue impact from the clustering of dwelling units, the Planning Board may require greater building setbacks and the maintenance and/or planting of buffers of native vegetation. The Planning Board's decision, however, may provide that setbacks for structures from interior lot lines be of lesser dimension than that established by Table IV. A. 1.

f. Dedication of open land: Any proposed agricultural or open land, unless conveyed for conservation/passive recreational use to the Town of West Tisbury or a non-profit land conservation organization, approved by the Planning Board, shall be covered by a restriction enforceable by the Town or non-profit land conservation organization providing that such land shall be used only for the purposes specified in the special permit. Such restriction shall conform to the standards of the State Division of Conservation Services and shall provide that the lot be kept in its natural state or be used for woodland and agricultural operations, including, but not limited to, the cultivation and harvesting of crops, flowers and hay, the planting of trees and shrubs and the mowing of grass, the grazing of livestock, the construction and maintenance of fences necessary or appropriate in connection therewith, provided such activities are in accordance with good woodland and agricultural management practices. Such restrictions may provide for easements for underground utilities, including wells and septic systems, to service lots in the development.

g. Commonly owned land and facilities:

1) If dedicated open land or community recreation facilities, subject to restrictions established by the special permit, are to be owned jointly or in common by the owners of lots or dwelling units, maintenance of the common land or facilities shall be permanently guaranteed through the establishment of an incorporated homeowner's association which provides for mandatory membership by the lot or homeowners, assessments for maintenance expenses, and lien to the Town of West Tisbury in the event of lack of maintenance. Documents creating such association shall be submitted to the Planning Board for review and shall be recorded in the Registry of Deeds as a condition of the special permit.

2) Provisions for maintenance of roads shall be in accordance with the subdivision regulations. Common facilities for water supply or sewage disposal are subject to the regulations and approval of the Board of Health.

h. Multiple dwellings per lot: The special permit may provide that there be multiple dwellings per lot, either as attached or unattached dwelling units, for the purpose of providing affordable housing in accordance with the requirements of section V. B. Provision of Affordable Housing.

5. Review:

a. The Planning Board shall submit copies of the special permit application and related documents to the Board of Health and Conservation Commission for an advisory opinion in accordance with Section 11. Ch. 40A.

b. In reviewing the Major Residential Development special permit, the Planning Board shall consider the following:

1) The degree to which the purposes of the Special Overlay Districts are met (e.g. Coastal, Roads, Special Places etc.);

2) The enhancement of the community interests listed in the purpose section and expressed in the design guidelines;

3) If the development is clustered, the degree of the development's impact on immediate abutters and the surrounding neighborhood in comparison to the impacts of a conventional development plan;

4) Maintenance of agricultural activity on the site;

5) Future management of special habitat (flora and fauna) areas;

6) The impact on ground and surface water quality;

7) Protection of historic sites or sites of prehistoric or archeological significance.

6. Decision: The Planning Board shall approve the special permit for flexible residential development or approve it with conditions if it finds that the development plan on balance will better serve the Town and the neighborhood surrounding the development than the development likely without such approval.

a. Conditions: The Planning Board may set forth conditions in its decision including but not limited to the following:

- 1) Granting of a covenant or easement to ensure that existing fields or pastures will be plowed or mowed periodically with attention given to the requirements of existing animal and plant species;
- 2) Granting of an easement providing and defining rights of public access;
- 3) Designation of no-cut or limited clearing areas on lots;
- 4) Measures to ensure the maintenance of scenic views and vistas;
- 5) If the number of lots or dwelling units approved is less than the basic development density calculated in accordance with Section V. A. 4. a., the decision shall state whether there is potential for a future increase in density, and if so, the conditions under which such an increase would be approved.
- 6) Specific approval of the uses allowed in designated open space and recreational areas including the requirement that before construction or any recreational structures such as tennis courts, swimming pools or accessory clubhouses, plans be submitted to the Planning Board for site plan approval;
- 7) An alternative or less restrictive rate of development schedule than that of Section III. D.
- 8) Building setback requirements different from those of Section IV. A.1.
- 9) A schedule assigning the maximum number of bedrooms to be allowed for each lot in the development consistent with the total number of bedrooms at full development permitted under Section V. 4. a. 3). Subsequent to the approval of the special permit, minor reallocation of the bedrooms per lot can be permitted by vote of the Planning Board upon the written request of all affected lot owners.

b. Relation to Subdivision Approval: Planning Board approval of a Special Permit for Major Residential Development shall not be deemed an approval under the Subdivision Control Law. In so far as the development constitutes a subdivision, plans must be submitted, reviewed and approved in accordance with the Subdivision Rules and Regulations of the Town of West

Tisbury. Whenever practical, the Planning Board shall hold a joint public hearing on the special permit and subdivision applications.

And further, to redesignate existing sections III. A.3 and III. A.4 as sections III. A.4 and III. A.5 respectively and to add a new section III. A.3 as follows:

III. A. 3. Uses which may be permitted by special permit from the Planning Board.

a. Multiple dwelling containing no more than four dwellings per structure and only in accordance with the requirements of Sections V. A. Flexible Residential Development and V. B. Provision of Affordable Housing.

And further, to revise existing Section III. B. 2. to eliminate all reference and requirements for cluster zoning, as follows:

In the first sentence delete "and the CLUSTER ZONING section";

Delete sections VIII. B. 2. b and d in their entirety, and redesignate the remaining sections c and e as b and c respectively.

And further, to revise section IV. E. 1) by deleting the words "or to lots created by special permit in accordance with Section V. of the Zoning By-law (Cluster Zoning)." so that it reads "The frontage requirement shall not apply to any lot shown on a deed recorded at the Registry of Deeds prior to May 19, 1987."

PROTECT ENVIRONMENTAL, AGRICULTURAL  
AND RURAL LANDSCAPE  
(PEARL)  
PROVISIONS FOR OPEN SPACE ZONING

November 21, 1991

Livingston County Planning Department

Howell, MI

PEARL  
OPEN SPACE ZONING ORDINANCE

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In 1990, the Livingston County Planning Department began to investigate the possibility that rural housing clusters, if linked with permanently dedicated open space, could provide an alternative to conventionally designed suburban subdivisions. Livingston County is rapidly growing and is rapidly losing its rural character to an onslaught of large lot residential development. Could a rural cluster design approach help maintain the rural character that is drawing new residents to the County?

Review of existing source materials convinced the staff that a rural open space/cluster approach is a practical, viable option for Livingston County communities. It is not the only alternative for maintaining the rural landscape, but it is one of the most promising.

In order to explain the rural open space cluster to local officials and to document its practicality, Planning staff embarked on a process involving community input, research, and publications. Staff also gave the rural clusters a readily identifiable name. PEARL is shorthand for protecting environment, agriculture, and rural landscape, the overriding objective of the concept.

Each township, city and village received a presentation on the approach and completed a survey describing the characteristics they perceive as essential to a rural landscape. They also asked probing questions which drove later research into the application of PEARL relative to taxes, sewer, water, roads, etc. Presentations were made to the public also. Planning commissioner and citizen questions drove the preparation of the PEARL Document. The report provides the basis for understanding rural clustering. What is it? How does it fit into a master plan? Can it meet sanitary code requirements? How are open spaces taxed? These questions and many others are addressed. The PEARL Document is an essential primer for defending the approach.

An associated report is the PEARL Design Manual. It is a supplement to the Pearl Document and a prerequisite for development of the model zoning ordinance. At this stage, suggestions for identification of open space, appropriate open space improvements, cluster design and orientation, etc. are made. Communities must be aware of basic design principles as they draft ordinance requirements, so they avoid ordinances that enforce suburban design on rural housing. A PEARL ordinance that contains suburban requirements for setbacks or lacks open space isn't a rural approach at all - It is a restatement of the design principles that currently haunt rural development.

This paper is the PEARL Model Zoning Ordinance. Borrowing heavily from an open space community ordinance adopted by Hamburg Township in Livingston County, the model ordinance provides basic zoning language necessary to enact PEARL. The model takes a simple, straightforward approach in its text and provides more complex variations relating to wetlands, roads, cluster distances, etc. in its appendices. The model assumes the reader has a high familiarity with basic planning and zoning concepts, has reviewed the sections on zoning in the PEARL Document (pages 61-78), and has reviewed the Design Manual. Communities are encouraged to revise the Model with the assistance of the planning commission, professional planners, legal counsel and citizens and to tailor it to their special needs.

If there are questions regarding the PEARL approach, please contact the Livingston County Planning Department, 304 East Grand River Avenue, Howell, Michigan, 48843 (telephone 517-546-7555).

## ARTICLE 0.0 PEARL DISTRICT

**DEFINITION:** The grouping of single family homes onto part of a parcel, with the remaining acreage preserved as open lands. Open space developments emphasize the preservation of natural environment as a basis for grouping of dwellings. Homes are separated from adjacent property or other groupings of dwellings by the substantial open space that is permanently protected from development.

### SECTION 001 PURPOSE

The intent of the PEARL Overlay District is to permit residential development that results in an enhanced living environment through the preservation of agriculture, environment, and rural landscape. The provisions set forth encourage innovative and liveable housing environments within residential districts through both permanent dedication of open space and a planned reduction of individual lot area requirements. The overall density remains the same as would be found in a traditional development in the underlying zone. ★

Increasing suburban development of rural areas has produced a need for more environmentally sensitive and cost efficient single family development. The PEARL Overlay District meets this need as dwelling units are grouped onto part of the parcel so the remaining acreage can be preserved as open lands.

The following provisions are intended to result in residential development which is consistent with zoning ordinance standards, yet allows for modifications from the general standards to insure appropriate, fair and consistent decision making.

### SECTION 002 OBJECTIVES

The following objectives shall be considered in the review of any application for a PEARL Zoning District development.

- ★ A. To provide a more environmentally sensitive residential environment by preserving the natural character of open fields, stands of trees, ponds, streams, hills and similar natural features.
- ★ B. To preserve the rural landscape and protect environmentally sensitive lands from the disruptive effects of traditional subdivision developments.
- ★ C. To provide a more efficient and aesthetic use of open space by allowing developers to reduce lot sizes while maintaining the residential density required in the underlying zoning district.

- D. To allow a more flexible and economical residential layout and street design.
- E. To assure the permanent preservation of open space, rural lands and natural resources.

#### SECTION 003 ESTABLISHMENT OF OVERLAY DISTRICT

The PEARL Districts are herein established as overlay districts. The PEARL Districts are described on the Township zoning map as open space protection districts within the single family residential zones. This district includes open space lands of state and local significance. Determination of open space significance is based upon a combination of factors including soil type, topography, existing vegetation and habitat, historic use of land, size of parcel, use of land for agricultural purposes and character of the surrounding area.

#### SECTION 004 PRINCIPAL PERMITTED USES

- A. All types of attached and detached single family residential dwellings are permitted. Attached dwellings shall number no more than twenty five (25) percent of the total number of dwellings and shall not exceed four (4) dwelling units in one building.
- B. Agriculture, horticulture or floriculture excluding farm based agribusiness and intensive livestock raising operations, stables, or veterinary hospitals or clinics.
- C. Accessory uses and buildings incidental to the principal permitted uses including recreational activities which are passive and occur on common open space lands only.

#### SECTION 005 SITE LOCATION PRINCIPLES

The following general principles shall be utilized to evaluate the proposed location of any PEARL development within a permitted district. These principles shall be applied by the Planning Commission as a general guideline to help assess the impact of the development.

- A. Protecting Natural Features. The purpose of PEARL is to maintain the rural, natural and scenic qualities of the Township. Toward this end, all PEARL developments shall be designed to promote the preservation of natural features. Significant wildlife habitats, sensitive environmental lands and scenic vistas are to be protected.
- B. Single Ownership Control. The proposed development in the PEARL District shall be under single ownership or control, such that a single person or entity has proprietary responsibility for the completion of the development. The

applicant shall provide documentation of ownership or control in the form of agreements, contracts, covenants and/or deed restrictions that indicate the development will be completed as proposed.

- C. Access to Public Roadway. PEARL developments shall have one property line abutting a public roadway. All entrances and exits shall be directly onto or from said roadway.

#### SECTION 006 DEVELOPMENT REQUIREMENTS

##### A. Density Standards

1. The total number of dwelling units permitted in a PEARL development shall be determined by submittal of a conventional subdivision plan identifying the lots and buildable lands. After Planning Commission review of the conventional subdivision plan, the maximum number of lots for the PEARL development will be determined. In no case shall the maximum residential density specified for the zoning district in which PEARL is located be increased. (See Appendix A for alternative provision.)
2. Lots not served by a public or common sanitary sewer shall be at least 30,000 square feet in area. Lots served by public or common sanitary sewers or served by a common public water well system shall have a minimum lot area of 15,000 square feet.
3. Lots may vary in size but in no case shall they consume, on average, more than two (2) acres per dwelling including roads.
4. Dwelling units shall be grouped so that open space within a development is at least fifty (50) percent of the total area of buildable land. (May require revision if alternative approaches for density standards or wetland credits are adopted.)
5. No more than ten (10) dwelling units per cluster shall be permitted within a development.

##### ★ B. Open Space Standards ★

1. Areas Not Considered Open Space. The following areas shall not be calculated as dedicated open space:
  - a. Open space shall not include areas devoted to public or private streets or rights-of-way or any land that has been or is to be conveyed to a public agency.
  - b. Any area devoted to natural or improved flood control channels, or those areas encumbered by floodway or county drain easements. ★

\* c. All area in surface water bodies or wetlands shall not be considered dedicated open space. (See Appendix A for alternative provision.)

2. Calculating Open Space. Except as noted above, any undeveloped land area within the boundaries of the parcel may be included as required open space.

C. Use Of Open Space. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, an approved land improvement, or is not considered open space as defined above shall be considered dedicated open space and shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Further subdivision of open space lands, or their use for other than recreation, conservation or agriculture shall be prohibited.

D. Preservation Of Open Space. Open space shall be set aside by the developer through an irrevocable conveyance that is acceptable to the Planning Commission. Forms of dedicating open space may include:

1. A recorded deed restriction,
2. Covenants that run perpetually with the land, or
3. A conservation easement established per Public Act 197 of 1980, as amended.

Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space.
  2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
  3. Provide standards for scheduled maintenance of the open space.
  4. Provide for maintenance to be undertaken by the Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of cost upon the property owners.
- E. Structures Built In Open Space Areas. Any structure(s) or building(s) accessory to recreation, conservation or agriculture may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or buildings shall not exceed, in the aggregate, one (1) percent of the required open space area.

F. Access To Open Space. Open space intended for recreation or use by the residents shall be easily accessible to pedestrians. Accessibility shall meet the needs of the handicapped and older citizens.

## SECTION 007 DESIGN STANDARDS

### A. Location of Lots

1. Residential lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:

- a. On the most suitable soils for subsurface septic disposal.
- b. Within a woodland contained in the parcel or along the far edge of open fields adjacent to any woodland.
- c. In locations least likely to block or interrupt scenic vistas, as seen from public roadway(s).

### B. Setbacks. The following design parameters will be used to establish setbacks.

1. Front, rear and side yard setbacks may be staggered to provide for maximum variety in the size of such yards.
2. The minimum distance between dwellings shall be sixty (60) feet.
3. Maximum possible rear yards onto open space shall be provided.
4. Dwelling placement shall be as far as possible from open space.

### C. Lot Width. Eighty (80) feet as measured from the front building line.

D. Open Space Between Clusters. Open spaces between clusters, including those spaces used as recreation areas, shall be at least one hundred (100) feet wide and shall be protected with an irrevocable conveyance that is found acceptable to the Planning Commission. (See Appendix A for alternative provisions.)

### E. Landscaping and Buffering.

1. Buffer zones at least one hundred (100) feet in width shall be required between residential and agricultural areas and shall be planted with fast growing native shrubs and trees to create an effective barrier separating yards from fields and pastures.
2. Landscaped or natural vegetative cover shall provide a screened buffer between dwellings and neighboring properties.

- F. Dwelling Placement. Dwelling units shall be carefully located and designed in accordance with community plans, inventories and mapping in order to avoid conflicts with neighboring land uses. Dwelling placement shall be planned to screen homes from off-site vantage points, away from environmentally sensitive areas, existing agricultural uses, sites suitable for open space and upwind from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.
- G. Natural Features Preservation. The development shall be designed to promote the preservation of natural features. Individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural environment.
- H. Compatibility With Adjacent Land Uses. Individual lots, buildings, and units shall be arranged and situated to relate to surrounding properties, to improve the view from public roadways and to blend into the existing natural landscape.
- I. Preserving Rural Character. The design of open space should show consideration for the character of the open space reserve. Wildlife habitats shall be preserved by leaving open space in single blocks of land. Prime agriculture and woodlands shall be preserved in such a way to ensure continuing feasibility of agriculture and forestry.
- J. Vehicular and Open Space Access. Cluster homesites shall provide vehicular access from an interior common area. The interior common area shall be connected to the common open space system by an open space corridor.
- K. Waterway and Wetlands Buffering. All dwellings, accessory structures and roadways shall be no less than one hundred (100) feet from lakes, ponds, streams and wetlands. The one hundred (100) foot area shall be part of the dedicated open space and shall not be in private ownership.
- L. Preserving Roadway Frontage. All dwellings and accessory structures shall be no less than one hundred (100) feet from the edge of the major arterial and that one hundred (100) foot area shall be maintained in native plants and trees so as to create a buffer between the roadway and the development.

#### SECTION 008 ROADWAY STANDARDS

- A. Access. PEARL developments shall have direct access to a public roadway. Any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection as measured from the nearest right-of-way line.

#### B. Internal Roads.

- 1. Construction of private roads or private access drives as a means of providing access and circulation is encouraged. Private roadways within an open space community are exempted from the design requirements of the Township Private Road Ordinance, if the following findings are made by the Planning Commission.
  - a. A deed restriction is placed on the project site that perpetually vests fee simple of the land area in the parties adjoining the road and prohibits future transfer to the public, prohibits future lot splits; and
  - b. A maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, is reviewed and approved by the Township Planning Commission.

#### SECTION 009 PEARL STANDARDS FOR APPROVAL

In considering any application for approval of a PEARL site plan, the Planning Commission shall make their determination on the basis of the standards for site plan approval set forth in Article \_\_\_\_, as well as the following standards and requirements.

- A. The overall design and land use proposed in connection with the PEARL development shall be consistent with the PEARL District objectives in Section 2, as well as with specific development requirements and standards set forth herein.
- B. A PEARL site plan shall set forth in detail specifications with respect to height, setback, density, parking, circulation, landscaping, views and other design features that illustrate the relationship of the proposed development to surrounding properties, the character of the parcel, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
  - 1. The bulk and placement of proposed structures.
  - 2. Vehicular and pedestrian circulation.
  - 3. Location and screening of proposed dwelling units from neighboring property.
  - 4. Provision of landscaping and other site amenities.
- C. The usefulness of open space intended for recreation, conservation or agricultural purposes shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the parcel.

APPENDIX A  
ALTERNATE PROVISIONS

- D. Open space shall include irreplaceable natural features located on the parcel, such as but not limited to stream beds, significant stands of trees, and individual trees of significant size.
- E. The suitability of open space intended for scenic value purposes shall be determined by its visibility from a significant number of units or buildings.
- F. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.

SECTION 006 DEVELOPMENT REQUIREMENTS

A. Density Standards

- 1. The total number of dwelling units permitted in a PEARL development shall be determined by dividing the total buildable land area of the development by the maximum lot area requirement for the applicable zoning district before lot area modification. In no case shall the maximum residential density specified for the zoning district in which PEARL is located be increased.

Buildable area shall not include:

- a. Area devoted to public or private streets or rights-of-way, or any land that has been or is to be conveyed to a public agency or public utility.
- b. Any area devoted to natural or improved flood control channels, surface water body, or areas encumbered by floodway or county drain easement.
- c. Wetlands as calculated below.
  - Option 1) Wetland areas shall be excluded from the density calculation and shall be considered unbuildable area in determining the maximum density of an open space development, OR
  - Option 2) To encourage wetland preservation and provide an incentive for property owners with wetlands to incorporate wetlands into a larger open space network, a twenty five (25) percent wetland credit shall be permitted in determination of maximum density. Twenty five (25) percent of wetlands acreage shall be credited toward buildable acreage for the purpose of establishing the gross density of a residential development. For example, a site with 20 acres of wetlands may include 5 acres of this wetland as part of the buildable area calculation, OR
  - Option 3) Wetland acreage, when incorporated as part of a larger open space network, may be used in determining the gross density of an open space development.

## SECTION 006 DEVELOPMENT REQUIREMENTS

### B. Open Space Standards

#### c. Area of surface water bodies except as calculated below.

To encourage preservation of shoreland areas and to provide an incentive for property owners to incorporate the areas surrounding water bodies into an open space network, a shoreline credit (as defined below) shall be permitted in determining open space.

Step 1: Measure the linear distance of the open water shoreline, excluding canals branching from the shoreline, the distance of rivers or streams contributing to or leaving the body, and wetland areas that are not open water.

Step 2: Multiply the linear distance by twenty (20) feet.

Step 3: The resulting area shall be dedicated open space and included in the required open space percentages subject to permanent open space dedication.

## SECTION 007 DESIGN STANDARDS

### D. Open Space Between Clusters

Each cluster of single family homes shall be separated from any other cluster by a distance as set forth in the following table. The Planning Commission may modify the strict application of the separation distances in those instances where it is found that natural amenities would be destroyed or topographical or soil conditions limit a practical dimension separation between clusters.

|                                              |      |     |     |     |     |     |     |
|----------------------------------------------|------|-----|-----|-----|-----|-----|-----|
| Total Dwelling Units<br>In Opposing Clusters | 10   | 9   | 8   | 7   | 6   | 5   | 4   |
| Minimum Distance<br>Between Clusters         | 100' | 95' | 90' | 85' | 80' | 75' | 70' |

## APPENDIX A: Flexible Development Amendment

AMEND SECTION 1.5.1 (SPECIAL PERMITS, PLANNING BOARD) AS FOLLOWS:  
Replace the words "(Residential Cluster Development)" with the phrase "(Flexible Development)".

AMEND SECTION 3.2.3.1, USE REGULATION SCHEDULE, RESIDENTIAL USES, .7 AS FOLLOWS:

Replace ("Residential Cluster Development") with the phrase "Flexible Development" Ag R40 R20 RMF all others  
ADD .8 "Minor Residential Development" Y Y Y S N  
.9 "Major Residential Development" S S S S N

AMEND SECTION 5.1 AS FOLLOWS:

Replace the phrase "Residential cluster development" with the words, "Flexible Development" and delete the words "as outlined in Sections 5.3.2.1".

ADD TO SECTION 2 DEFINITIONS:

**Conventional Development Plan:** A Conventional Development Plan conforming to the requirements of a preliminary subdivision plan under the Subdivision Rules and Regulations of the Planning Board ("Subdivision Rules) showing a conventional lot layout. Such plan shall also indicate wetlands, proposed topography, and, except where Town sewers will be utilized, the results of deep soil test pits and percolation tests at a rate of one per every five acres, but in no case fewer than five per Major Residential Development.

**Major Residential Development:** The creation in a residential district (R-20, R-40, Agri., RMF) of more than five (5) buildable lots, by subdivision or otherwise, or the construction of more than five (5) single family dwelling units within a (two-year) period on a lot or set of contiguous lots in common ownership on or after 1/1/91.

**Minor Residential Development:** Any single family development in a Residential District (R-20, R-40, Agricultural, RMF) which does not constitute a Major Residential Development.

**Flexible Development:** A Flexible Development shall mean a Major Residential Development in which the single family dwelling units are clustered together into one or more groups on the lot and the clusters are separated from each other and adjacent properties by permanently protected open space.

Delete the existing section 5.3, cluster development and replace it with a new section 5.3, Flexible Development as follows:



### 5.3

#### Flexible Development

5.3.0 GENERAL : Flexible Development shall be permitted in the residential districts (R-20, R-40, Agricultural, RMF) only upon issuance of a Special Permit from the Planning Board, as specified in Sections 1.3.3 and 1.5 of this Bylaw, and in accordance with the additional requirements specified herein.

5.3.1 DEFINITION: Flexible Development as set forth in this Section is authorized by The Zoning Act, M.G.L. c. 40A, Section 9, and is based on the general concept of "Cluster Development" described therein. A Flexible Development shall mean a Major Residential Development in which the single family dwelling units are clustered together into one or more groups on the lot and the clusters are separated from each other and adjacent properties by permanently protected open space.

5.3.2 PURPOSES: The purposes of Flexible Development are to:

- a. Allow for greater flexibility and creativity in the design of residential developments;
- b. encourage the permanent preservation of open space, agricultural and forestry land, and other natural resources;
- c. maintain the Town of Grafton's traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands;
- d. protect scenic vistas from Grafton's roadways and other places;
- e. preserve unique and significant natural, historical and archeological resources;
- f. facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner;
- g. protect existing and potential municipal water supplies;
- h. encourage a less sprawling form of development.

#### 5.3.3 APPLICABILITY:

a) To Major Residential Development: In order to further the purposes of Flexible Development enumerated above, Major Residential Development shall only be allowed after issuance of a Flexible Development Special Permit, hereinafter referred to as "FDSP", or a special permit for Major Residential Development utilizing Conventional Development, hereinafter known as "CDSP", by the Planning Board.

b) To Minor Residential Development: At the owner's option, an application can be made for a FDSP for a Minor Residential Development.

#### 5.3.4. DATA SUBMISSION REQUIREMENTS FOR ALL MAJOR RESIDENTIAL DEVELOPMENTS:

a) Pre-Application Review: To promote better communication and to avoid misunderstanding the applicant is encouraged to meet with the Planning Board prior to filing its Application for a special permit for a Major or Minor Residential Development.

b) Applicants for Major Residential Special Permits shall file with the Town Clerk; one (1) copy, and with the Planning Board, twelve (12) twelve copies, of the following documents to have been prepared by an interdisciplinary team including a registered land surveyor, a professional engineer, and either a registered architect, landscape architect, or land planner:

1. A Conventional Development Plan conforming to the requirements of a preliminary subdivision plan under the Subdivision Rules showing a conventional lot layout. Such plan shall also indicate wetlands, proposed topography, and, except where Town sewers will be utilized, the results of deep soil test pits and percolation tests at a rate of one per every five acres, but in no case fewer than five per Major Residential Development.

2. A Flexible Development Plan in the same detail as the Conventional Development Plan but showing development of the lots so as to maximize the purposes of Flexible Development.

3. A Land Use Plan, as required under Section 5.3.11.a, showing the proposed use of the Common Land.

4. A brief comparison of the impacts of a Flexible Development Plan to those that would result from the Conventional Development Plan, or if the application is for a CDSP, the analysis should discuss the specific site characteristics which make the Conventional Development Plan the best development option, given the purpose and design guidelines for Flexible Development.

5. A list of requested waivers from the Subdivision Rules.

6. A lesser number of copies of the required plans and /or reports may be allowed by vote of the Planning Board.

5.3.5 Flexible Development STANDARDS -The following standards shall apply to all Flexible Developments:

5.3.5.1 Number of Dwelling Units Permitted - The maximum number of dwelling units allowed shall equal the number of dwelling units which could reasonably be expected to be developed on the property under a Conventional Development Plan in full conformance with zoning, Subdivision Rules, health codes, wetlands bylaws, and other applicable requirements.

5.3.5.1.1 Where the property lies in more than one zoning district, the number of dwelling units allowed shall be calculated as above for each district and added to give an overall allowable total.

5.3.5.1.2 The Planning Board shall consider the recommendations of the Board of Health, the Conservation Commission and the Engineering Department of the Town of Grafton in making said determination.

5.3.5.2 BONUS PROVISION - The Planning Board shall issue a FDSP containing more than the number of dwelling units permitted under section 5.3.5.1 above, upon the Board's determination that the proposed development, through the quality of its site selection, programing and design, displays sensitivity to the purposes of Flexible Development. The increase over the number of dwelling units permitted under section 5.3.5.1 shall not exceed: (a) 15% of the total permitted under that section if the proposed development complies with at least 6 of the Design Guidelines specified in Section 5.3.5.13; (b) 20% of the total permitted under that section if the proposed development complies with at least 9 of the Design Guidelines; and (c) 25% if the proposed development complies with all of the Design Guidelines. Design Guidelines which are not applicable to the site shall not be counted in determining the bonus.

5.3.6 MINIMUM DIMENSIONAL REQUIREMENTS FOR LOTS WITHIN A Flexible Development

a) Average Lot Area: In the R-20 District not less than 10,000 square feet; in the R-40 District not less than 20,000 square feet; and in the Agricultural District not less than 30,000 square feet.

b) Minimum Lot Area: The minimum lot area for all building lots in a Flexible Development in the R-20 District shall not be less than 8,000 square feet; in the R-40 District not less than 12,500 square feet and in the Agricultural District not less than 20,000 square feet.

c) Minimum Frontage: Not less than 80 feet. Lots located on the turnaround of a dead-end street shall have a minimum of fifty (50) feet of street frontage providing a front building line is designated on the Plan for such a lot and the width of the lot at this building line is at least equal to the minimum frontage requirement.

d) Front Yards: Front Yards may be staggered to provide a variety in the size of such yards. The minimum average of all front yards shall be twenty (20) feet; however, no front yard shall be less than fourteen (14) feet. The front yard setback shall be measured from the nearest edge of pavement or sidewalk as appropriate.

e) Side Yards: Side Yards shall be a minimum of (7) seven feet.

f) Rear Yards: Rear Yards shall be a minimum of fifty (50) feet.

g) The front, side and rear setback lines shall be shown on the Definitive Subdivision and or Approval Not Required plan.

h) Buffer Areas: All dwellings and structures shall be located a minimum of 50 feet from adjacent tracts of land and adjacent or on site farmland.

i) The portions of the buffer strip between the residential and farmland portions of a Flexible Development may be counted as usable Common Land for Flexible Development residents, provided such use will not impact adversely on adjacent farming activity and is consistent with Section 5.3.2 of the Bylaw.

j) Accessory Uses: Accessory uses are not allowed in front yards. Accessory uses such as storage sheds and swimming pools can be located within the side and rear setbacks. No accessory uses may be located within ten (10) feet of the rear lot line.

5.3.7 REQUIRED AMOUNT OF Common Land - Not less than 40% in the R-20 District, 40% in the R-40 District, and 50% in the Agricultural District of the total area of the tract of land to be developed as a Flexible Development shall be dedicated as Common Land. The following additional restrictions shall apply:

a) At least 50% of the required amount of Common Land shall be Upland and shall be dedicated and used for a purpose listed in 5.3.11.

b) Up to 50% of the required Common Land may be composed of land classified as bordering vegetated and isolated wetlands, as defined by M.G.L. c. 131 section 40 and 40A

and the Town of Grafton Wetlands Bylaw, and the existing surface area of water bodies, as long as the proposed uses of this Common Land are found to be consistent with section 5.3.11.

c) Right of Way for streets shall be excluded from counting as Common Land.

**5.3.8 Flexible Development CONSIDERATIONS** - In evaluating the proposed Flexible Development the Planning Board shall consider the general objectives of the Bylaw and of Flexible Development including, but not limited to, the existing and probable future development of surrounding areas; the appropriateness of the proposed layout of the lots and the proposed layout and use of the Common Land in relation to the topography, soils and other characteristics and resources of the tract of land in question. The Planning Board shall grant a FDSP if it finds that the Flexible Development and the proposed uses:

- a) comply in all respects to the requirements of the Bylaw and enhance the purpose and intent of Flexible Development,
- b) are in harmony with the existing and probable future uses of the area and with the character of the surrounding area and neighborhood,
- c) are on balance more beneficial to the Town than the development likely without such approval,
- d) comply with the requirements of Section 1.5.5. for granting special permits.
- e) will be connected to public sewer except in such instances, when in the opinion of the Board of Health, the development can be adequately served by the use of on-site subsurface sewage disposal systems and in furtherance of the purposes of the Flexible Development and protection of the environment.

#### **5.3.9 REQUIREMENTS FOR Major Residential Development**

The Planning Board shall review the data required in Section 5.3.4 above, and shall hold a public hearing within 65 days of a complete filing as defined in Section 1.3.3.5 (Plan Acceptance) and comply with the procedures for special permits as required under M.G.L. Chapter 40A, Section 9 and Section 1.5 of the Bylaw. The Board shall recommend the development plan that it considers the most beneficial to the Town. The Applicant shall then elect which plan s/he wishes to pursue and the Board may approve such plan with or without conditions. The Board shall disapprove both plans only if it determines that the Flexible Development Plan is not a good-faith design, or that the plan the Applicant elects to pursue does not conform to the requirements of the

Bylaw.

#### **5.3.10 PROCEDURAL REQUIREMENTS**

**5.3.10.1** When a Major Residential Development Special Permit is approved for a Conventional Development Plan submitted in accordance with Section 5.3.4.b.1 above, all subsequent submissions, requirements and approvals will be specified in the Subdivision Rules, as applicable. No development of land within a Major Residential Development shall occur unless the land is in fact subdivided into lots with each dwelling having a separate lot described on an approved subdivision or approval not required plan.

**5.3.10.2.** When a FDSP is approved for a Flexible Development Plan submitted in accordance with Section 5.3.4.b.2-5. All subsequent submissions, requirements and approvals will be governed by the requirements of the Subdivision Rules. If Definitive Subdivision approval is required, the FDSP shall contain a condition that a Definitive Subdivision Plan complying with the Subdivision Rules subsequently submitted to the Planning Board. Where applicable, the provisions of Flexible Development shall supersede any other provisions of the Bylaw and the Subdivision Rules to the contrary. No development of land within a Flexible Development shall occur unless the land is in fact subdivided into lots with each dwelling having a separate lot described on an approved subdivision or approval not required plan.

**5.3.10.3** - The Planning Board may require changes to the "Flexible Development Plan" or Conventional Development Plan and impose additional conditions, safeguards, and limitations as it deems necessary to secure the objectives of the Bylaw.

**5.3.10.4-** Revisions and Amendments of Flexible Development Plans and Conventional Development Plans" - Subsequent to granting of a FDSP or CDSP and approval of a Definitive Plan of subdivision, the Planning Board may permit without initiating a new Special Permit proceeding the relocation of lot lines within the development. Any change in the layout of streets; in the use, ownership and layout of the Common Land; or any other conditions stated in the original Special Permit shall require written approval of the Planning Board. The Planning Board may, upon its determination, require a new Special Permit if it finds that the proposed changes are substantial in nature and of public concern.

**5.3.11 USE OF THE Common Land** - The Common Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of those uses. No other uses shall be allowed in the Common Land except as provided herein:

a) The proposed use of the Common Land shall be specified on a Land Use Plan and appropriate dedications and restrictions in a form satisfactory to the Planning Board shall be recorded in the Worcester District Registry of Deeds. The Planning Board shall have the authority to approve or disapprove particular uses proposed for the Common Land in order to enhance the specific purpose of Flexible Development.

b) The Common Land shall remain unbuilt upon, provided that an overall maximum of five (5) percent of such land may be subject to pavement and structures accessory to the dedicated use or uses of the Common Land, and provided that the Common Land may be subject to temporary easements for the construction, maintenance, and repair of roads, utilities serving the Flexible Development, and sewer or drainage facilities serving the Flexible Development or adjacent land.

c) The Common Land may be in one or more parcels and shall be reasonably usable for the allowed uses. Access at least forty (40) feet wide shall be provided to each parcel of Common Land from one or more streets in the development and shall be contiguous across proposed rights of way.

d) A portion of the Common Land may also be used for the construction of retention and detention facilities and leaching areas, if associated with drainage or septic disposal systems serving the Flexible Development, and if such use, in the opinion of the Planning Board, enhances the specific purpose of Flexible Development to promote better overall site planning. Easements shall be no larger than reasonably necessary and the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the lot owners within the Flexible Development.

e) A portion of the Common Land may also be used for ways serving as pedestrian walks and bicycle paths, if such a use, in the opinion of the Planning Board, enhances the general purpose of Flexible Development and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Common Land.

**5.3.12 OWNERSHIP OF THE Common Land-** The Common Land shall, at the owner's election, be:

1. Conveyed in whole or in part to the Town of Grafton and accepted by it for one of the uses specified in 5.3.11;

2. Conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and uses to which the Common Land may be dedicated;

3. Conveyed to a corporation or trust to be owned jointly or in common by the owners of lots or dwelling units within the Flexible Development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or dwelling units in perpetuity. Maintenance of the Common Land and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot or residential unit. Each such trust or corporation shall be deemed to have assented to allow the Town of Grafton to perform maintenance of the Common Land and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement over Common Land to do so. In such a case, the Town of Grafton shall first provide fifteen days written notice to the trust or corporation as to the maintenance that is lacking, and, if the trust or corporation fails to complete said work, the Town may perform it. The owner of each lot or residential unit shall be deemed to have assented to the Town filing a lien against each lot or residential unit in the development for the full cost of such maintenance, which liens shall be released upon payment to the Town of same. Each individual deed, as well as the deed of trust or articles of incorporation, shall include provisions to carry these provisions into effect. Documents creating such trust or corporation shall be submitted to the Planning Board for approval and shall be recorded in the Registry of Deeds as a condition of the FDSP.

4. Retained by the owner or other entity for use or lease for one of the purposes specified in 5.3.11 provided that the owner conveys the development rights of that open space in a conservation restriction prohibiting further development of the property.

If the Common Land or any portion thereof is not conveyed to the Town of Grafton, a perpetual conservation restriction conforming to the standards of the State Division of Conservation Services, approved by the Planning Board and enforceable by the Town of Grafton, shall be imposed on the use of such land, providing that the land be kept in its open or natural state and that the land shall not be built upon, developed or used except in accordance with the provisions of the FDSP. Such restrictions shall further provide for maintenance of the Common Land in a manner which will ensure its suitability for its function, appearance, cleanliness and proper maintenance.

The proposed ownership of all the Common Land shall be shown on the Land Use Plan for Flexible Development. At the time of its conveyance, the Common Land Shall be free of all encumbrances, or other claims except as to easements, restrictions and encumbrances required by this bylaw.

5.3.13 DESIGN GUIDELINES - In evaluating the layout of lots and Common Land, the following criteria will be considered by the Planning Board as indicating design appropriate to the natural landscape and meeting the purpose of Flexible Development.

- a) Preserve and maintain existing fields, pastures, other land in agricultural use and sufficient buffer areas to minimize conflict between residential and agricultural use. For example, tucking houselots and driveways into wooded areas is recommended.
- b) Maintain or create a buffer of natural vegetation of at least 100 feet in width adjacent to surface waters and wetlands.
- c) Leave unblocked or uninterrupted scenic views and vistas, particularly as seen from public roads, special places as designated in the Town of Grafton Open Space and Recreation Plan, or scenic roads. For example, a 100 foot deep "no build buffer" is recommended to screen homes from the street (and vice versa).
- d) Protect the habitat areas of species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program.
- e) Preserve historic and prehistoric sites and their environs in so far as needed to protect the character of the site.
- f) The elements of the Flexible Development Plan (buildings, circulation, Common Land, landscaping, etc.) are arranged favorably with and so as to protect valuable natural environments such as stream valleys, outstanding vegetation, water bodies or scenic views.
- g) Protection of major street appearance and capacity by avoiding development fronting such streets while contributing to the overall aesthetic quality of the development.
- h) Landscaping screens areas of low visual interest, such as utility boxes, trash containers, and parking areas, and treats pedestrian systems and open space areas in a manner which contributes to their use and visual appearance.

i) Active recreational areas are suitably located and accessible to the residential units and adequate screening ensures privacy and quiet for neighboring residents. Where called for in the Grafton Open Space and Recreation Plan and where warranted by the criteria established in that plan, and where feasible on a site, a large playing field is to be provided for recreational use.

j) The pedestrian circulation system is designed to assure that pedestrians can move safely and easily on the site and between properties and activities within the site and neighborhood.

k) The Common Land shall be reasonably contiguous, coherent and if the tract of land abuts adjacent Common Land or other permanently protected open space, the Common Land shall be connected with such adjacent Common Land and with such permanently protected open space.

l) Access to the Common Land shall be delineated by the use of design elements such as stone walls, woodland paths surfaced with bark mulch, etc.

5.3.14 WAYS, INTERIOR STREETS, AND UTILITIES- The construction of all ways, interior streets and utilities shall be in accordance with the standards specified in the Subdivision Rules. The Planning Board is strongly encouraged to waive those sections of the Subdivision Rules in the interests of good design if it determines that adequate access will be provided to all lots in the development by ways that will be safe and convenient for travel. While each development proposal is unique, the Planning Board is encouraged to waive standards for cartway width (5.2.2.1), curbing (4.2, 5.7.3), Right of Way (4.1.4.1), Dead End Streets (4.1.6), Sidewalks (4.1.4.3), Drainage (4.7.9.2) and to use a 25 mile per hour Design Speed to establish engineering criteria for minimum grade (4.1.5.1), maximum grade (4.1.5.2), minimum tangent length between reverse curves (4.1.3.3) and maximum grade within 50 feet of an intersection (4.1.5.6).

changes as of 12/6/90

East Lyme, CT

~~Berlyne, CT~~

SECOND DRAFT OF POSSIBLE REVISIONS TO SUBDIVISION REGULATIONS  
OPEN SPACE/CLUSTER DEVELOPMENT

(Additions are printed all in capital letters; existing language  
is in lower case type.)

DEFINITIONS

2-2-4a CONVENTIONAL SUBDIVISION - A SUBDIVISION OF LAND IN WHICH ALL LOTS MEET THE MINIMUM AREA FOR DIMENSIONAL REQUIREMENTS OF THE ZONING REGULATIONS FOR THE DISTRICT IN WHICH THE SUBDIVIDED PARCEL IS LOCATED, WITHOUT APPLICATION OF THE OPEN SPACE/CLUSTER DEVELOPMENT PROVISIONS OF THOSE REGULATIONS.

SECTION 4  
APPLICATION PROCEDURE

4-1 CONCEPT REVIEW - AS AUTHORIZED BY SECTION 8-25 OF THE CONNECTICUT GENERAL STATUTES AND BY THE EAST LYME ZONING REGULATIONS, THE PLANNING COMMISSION MAY REQUIRE THAT THE PROVISIONS OF THE ZONING REGULATIONS PERTAINING TO OPEN SPACE/CLUSTER DEVELOPMENT BE UTILIZED IN THE SUBDIVISION OF ANY PARCEL OF LAND WITH A GROSS AREA OF 20 OR MORE ACRES LOCATED IN A RURAL RESIDENTIAL DISTRICT. PERSONS CONTEMPLATING THE SUBDIVISION OF PARCELS GREATER THAN 20 ACRES IN SIZE ARE STRONGLY ENCOURAGED, ALTHOUGH NOT REQUIRED, TO SEEK INFORMAL REVIEW BY THE PLANNING COMMISSION PRIOR TO PREPARATION OF DETAILED PLANS AND SUBMISSION OF A FORMAL APPLICATION.

THE PURPOSES OF CONCEPT REVIEW ARE: (1) TO ENABLE THE PLANNING COMMISSION TO MAKE A PRELIMINARY DETERMINATION AS TO WHETHER THE PROPERTY SHOULD BE DEVELOPED AS A CONVENTIONAL OR AN OPEN SPACE/CLUSTER SUBDIVISION; (2) TO DETERMINE THE MAXIMUM NUMBER OF LOTS THAT WOULD BE ALLOWED IN A CLUSTER SUBDIVISION UNDER THE OPEN SPACE/CLUSTER PROVISIONS OF THE ZONING REGULATIONS; AND (3) TO RECOMMEND CHANGES OR IMPROVEMENTS IN THE PLANS FOR THE GUIDANCE OF THE POTENTIAL APPLICANT. THEREFORE, PERSONS SEEKING CONCEPT REVIEW ARE REQUESTED TO SUBMIT CONCEPTUAL DESIGNS FOR BOTH CONVENTIONAL AND OPEN SPACE/CLUSTER SUBDIVISION OF THEIR PROPERTY MEETING THE STANDARDS OF SECTION 4-2-3 OF THESE REGULATIONS.

THE PLANNING COMMISSION MAY REFER CONCEPT PLANS TO THE EAST LYME CONSERVATION COMMISSION AND TO THE EAST LYME DEPARTMENT OF HEALTH FOR THEIR COMMENTS. PERSONS SUBMITTING CONCEPT PLANS FOR SUBDIVISIONS NOT TO BE SERVED BY THE MUNICIPAL SANITARY SEWER SYSTEM SHOULD PROVIDE SUFFICIENT SOIL TESTING DATA TO ENABLE THE SANITARIAN TO RENDER A PRELIMINARY OPINION ON THE SUITABILITY OF THE SITE FOR OPEN SPACE/CLUSTER AND CONVENTIONAL DEVELOPMENT.

IT SHOULD BE CLEARLY UNDERSTOOD THAT THE CONCEPT REVIEW

ENJOYS NO OFFICIAL STATUS AND THAT CONSENT WITH REGARD TO THE FEASIBILITY OF A CONCEPT PLAN ON THE PART OF THE COMMISSION IN NO WAY MANDATES APPROVAL OF A FORMAL APPLICATION. FURTHER, CONCEPT REVIEW BY THE COMMISSION SHALL NOT BE DEEMED TO CONSTITUTE ANY PORTION OF THE OFFICIAL AND FORMAL PROCEDURE OF APPLYING FOR AND APPROVING SUBDIVISIONS OF LAND UNDER THE PROVISIONS OF CHAPTER 126 OF THE CONNECTICUT GENERAL STATUTES.

4-2 FORMAL APPLICATION REQUIREMENTS - In order to make formal application for approval of a subdivision, the applicant shall submit the following:

4-2-1 Application - The original application, and ten (10) copies of all maps, plans, documents, and data required by these Regulations shall be submitted to the Town Planning Department. The date of receipt of such application shall be determined in accordance with the Connecticut General Statutes and as detailed below. The application for approval of a subdivision shall be made in writing on forms prescribed by the Commission. If the owner, applicant, or subdivider has made previous application for subdivision of subject parcel but was denied, a brief discussion identifying how the new proposal differs from previous applications shall be provided as part of the application. Application blanks are available at the Town Planning Department. The application shall be signed by the applicant and the record owner of the property, if different than the applicant.

4-2-2 Application Fee - A fee of one hundred dollars (\$100.00) or fifty (\$50.00) dollars for each lot within the proposed subdivision, whichever is greater, shall be submitted.

If the subdivision or any portion thereof is in the coastal boundary a fee for processing a coastal site plan review application of twenty-five (\$25.00) or ten dollars (\$10.00) per lot, whichever is greater, shall also be submitted.

4-2-3 CONCEPT PLANS FOR OPEN SPACE/CLUSTER DEVELOPMENT AND FOR CONVENTIONAL SUBDIVISION - TWO CONCEPT PLANS SHALL BE SUBMITTED WITH THE APPLICATION FOR SUBDIVISION OF ANY PARCEL WHICH IS GREATER THAN 20 ACRES IN SIZE AND IS LOCATED ENTIRELY OR PARTIALLY WITHIN A RURAL RESIDENTIAL DISTRICT. ONE PLAN SHALL BE ENTITLED "CONCEPT PLAN FOR CONVENTIONAL SUBDIVISION" AND SHALL SHOW A SUBDIVISION LAYOUT CONFORMING TO THE LOT SIZE AND OTHER DIMENSIONAL REQUIREMENTS SPECIFIED IN SECTIONS 2A, 3, AND 4 OF THE ZONING REGULATIONS FOR THE DISTRICT OR DISTRICTS IN WHICH THE PARCEL IS LOCATED. THE SECOND PLAN SHALL BE ENTITLED "CONCEPT PLAN FOR OPEN SPACE/CLUSTER SUBDIVISION" AND SHALL SHOW A SUBDIVISION CONFORMING TO THE PROVISIONS OF SECTION 23: OPEN SPACE/CLUSTER DEVELOPMENT OF THE ZONING REGULATIONS.

CONTENT OF CONCEPT PLANS - CONCEPT PLANS SHALL CONTAIN SUFFICIENT INFORMATION TO ENABLE THE PLANNING COMMISSION TO DETERMINE WHETHER THE PROPERTY SHOULD BE DEVELOPED AS A CONVENTIONAL OR A OPEN SPACE/CLUSTER SUBDIVISION, AND TO

East Lyme, state, or U.S. bench marks, which shall be noted on the plan.

5-1-8 Existing permanent buildings and structures.

5-1-9 Principal wooded areas and/or the approximate location of all trees measured twenty-four (24) inches or greater in caliper at breast height. The proposed vegetation clearing line shall be shown along with all trees to be retained. The location of all proposed shade trees along the street shall be shown.

5-1-10 Soil classifications, any ledge outcrops and existing, stone walls and fences.

5-1-11 Total acreage of land included in the subdivision.

5-1-12 The limits of any areas proposed for regrading by excavation or filling; and the limits of any areas proposed to be reserved and protected from excavation or filling.

5-1-13 Details of all other proposed improvements or modifications; including a statement specifying the requirements for site preparation for each lot.

5-1-14 Identification of flood elevations, zones and floodplains, as identified on the Federal Insurance Administration Flood Insurance Rate Map dated June 15, 1984, as revised.

5-1-15 When land is to be conveyed to the town for highway purposes, a certificate of title running to the Town of East Lyme is required.

5-1-16 A written statement outlining how the energy efficiency and conservation provisions of Section 6-19 of these Regulations have been met.

5-1-17 Accurate layout of all lots with lot numbers; setback lines and minimum square; existing and proposed open space reserved for parks, playgrounds, stream protection, protection of tidal wetlands and beaches, and other open space, with dimensions, angles, bearings and curve data; square footage of all lots, open spaces, and land included in the subdivision and the total acreage of land included in the subdivision.

5-1-18 Existing and proposed monuments.

5-1-19 Accurate layout of existing and proposed streets, easements or rights-of-way; including those for utilities and drainage either on-or-off site, with accurate bearings and dimensions, including arc length, radii and central angle of all curves.

(Section 5 continues.)

## SECTION 10 OPEN SPACES AND EASEMENTS

10-1 PURPOSE - It is the purpose of this section to (1) maintain and enhance the conservation of natural and scenic resources, (2) protect natural streams or water supply, (3) promote conservation of soils, wetlands, beaches or tidal wetlands, (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (5) enhance public recreation opportunities, and (6) promote orderly development.

10-2 GENERAL - The Planning Commission may with applications involving less than ten (10) acres, and shall with applications involving ten (10) acres or more, require dedication of open space in locations and with public access deemed proper and adequate by the Commission. FOR SUBDIVISIONS NOT UTILIZING THE PROVISIONS OF THE ZONING REGULATIONS PERTAINING TO OPEN SPACE/CLUSTER DEVELOPMENT, dedication of open space shall be in an amount not less than ten (10) percent of the gross land area of the subdivision, UNLESS WAIVED IN ACCORDANCE WITH SECTION 4-13 OF THESE REGULATIONS. FOR SUBDIVISIONS UTILIZING THE PROVISIONS OF THE ZONING REGULATIONS PERTAINING TO OPEN SPACE/CLUSTER DEVELOPMENT, DEDICATION OF OPEN SPACE SHALL BE IN AN AMOUNT NOT LESS THAN THE PERCENTAGE OF THE GROSS PARCEL SIZE SPECIFIED IN THE ZONING REGULATIONS FOR OPEN SPACE/CLUSTER SUBDIVISIONS FOR THE DISTRICT OR DISTRICTS IN WHICH THE PARCEL LIES. If a parcel, or abutting parcels under common ownership, is subdivided in stages, open space shall be dedicated when the cumulative land area subdivided equals or exceeds ten (10) acres, and the amount of open space dedicated shall be not less than THE PERCENTAGE SPECIFIED ABOVE of the cumulative gross land area subdivided. Up to fifty (50) percent of the open space may be land covered by water if, in the Commission's judgment, such water body is deemed suitable for any of the purposes stated in Section 10-1 and has suitable access. In determining the total open space to be required, and what percentage of the gross land area of the subdivision shall be dedicated as open space, the Commission shall consider: the size of the subdivision, the availability of existing parks, playgrounds, recreation areas, and other open space in the vicinity of the subdivision, and the open space and public access recommendations of the East Lyme Plan of Development and the Coastal Area Development Plan. The area required for access shall not be included in lot calculations.

10-3 CONVEYANCE OF OPEN SPACE - The open space area shall be conveyed by the applicant at the stage and in the condition agreed upon in the approved subdivision and may be conveyed by any of the following means as determined by the Commission:

(1) Deeded in perpetuity to the Town of East Lyme after all improvements have been completed.

(2) Deeded to a homeowner's association within the subdivision upon terms and conditions, as approved by the Commission, which will protect the public welfare and assure the continued use of the open space for the intended purpose. A copy of the proposed homeowner's deed and the by-laws of the homeowner's association should be submitted with the application for subdivision.

(3) Open space may be reserved for common use or ownership of all property owners within the subdivision by covenants, as approved by the Commission, in the deeds. A copy of the covenant shall be submitted as a part of the application.

(4) Deeded in perpetuity to the East Lyme Land Conservation Trust.

The deed or covenant shall warrant that such land is dedicated for use only as open space in perpetuity.

#### 10-4 EASEMENTS

10-4-1 The Planning Commission may require, in order to facilitate pedestrian access from the roads to any dedicated open space, perpetual unobstructed easements at least twenty-five (25) feet in width. Easements shall be indicated on the plan and shall be improved as required by the Planning Commission.

10-4-2 Easements for utilities shall be placed along lot lines and shall be at least fifteen (15) feet wide.

10-4-3 Drainage easements shall be a minimum of twenty (20) feet wide and shall be located entirely on one of any two abutting lots.

10-4-4 The applicant shall acquire all drainage rights and shall be responsible for connecting all new drainage to an existing, adequate town drainage system or to an existing natural water course where drainage rights have been acquired.

10-4-5 Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, the Commission may require that there be provided a storm water easement or drainage easement of adequate width to conform substantially to the lines of such watercourse.

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## SECOND DRAFT OF POSSIBLE REVISIONS TO ZONING REGULATIONS OPEN SPACE/CLUSTER DEVELOPMENT

(Additions are printed all in capital letters; existing language is in lower case type.)

### SECTION 1

#### DEFINITIONS

1.65a SUBDIVISION OPEN SPACE - LAND AREA WITHIN A SUBDIVISION DEEDED AS A PARCEL OR PARCELS SEPARATE FROM BUILDING LOTS AND STREETS AND PERPETUALLY DEDICATED FOR CONSERVATION AND/OR RECREATIONAL PURPOSES. THE OWNERSHIP AND PURPOSE OF SUBDIVISION OPEN SPACE IS SPECIFIED BY THE PLANNING COMMISSION IN APPROVING A SUBDIVISION, AND ONLY RECREATIONAL FACILITIES OR OTHER IMPROVEMENTS CONSISTENT WITH THE APPROVED PURPOSE SHALL BE PERMITTED WITHIN SUBDIVISION OPEN SPACE.

### SECTION 23

#### OPEN SPACE/CLUSTER DEVELOPMENT

23.1 PURPOSE - It is the purpose of this section to provide more flexible standards to permit residential lots in specified districts to be reduced in dimension and designed to occupy less than the total tract to be subdivided. The undeveloped portion of the tract shall be designed and dedicated as subdivision open space. It is intended that use of these flexible standards and requirements WILL DIRECT DEVELOPMENT TO THOSE LAND AREAS MOST SUITABLE FOR DEVELOPMENT, will produce a more attractive, creative and efficient use of land, AND WILL achieve the following objectives:

- (A) The preservation of natural or agricultural open space within new residential developments and the maintenance and/or enhancement of the appearance, character and natural beauty of an area.
- (B) The protection of the local ecology and the quality and quantity of underground and surface water; the preservation of significant stands of trees, steep slopes, ridge lines, significant geological features, water bodies, wetlands, watercourses and other areas of environmental value; the minimization of flood hazards; and the prevention of soil erosion.
- (C) THE PROVISION OF ACTIVE AND PASSIVE RECREATION AREAS IN CLOSE PROXIMITY TO RESIDENTS.
- (D) The reduced cost of providing public services and infrastructure.



**23.2 ELIGIBILITY** - The Planning Commission may permit subdivision of property utilizing the provisions of this section upon finding that Open Space/Cluster Development will further the objectives specified in Section 23.1. The Planning Commission may REQUIRE that the provisions of this section be utilized in THE SUBDIVISION OF ANY PARCEL GREATER THAN 20 ACRES IN AREA if it finds that clustering is necessary to ACHIEVE THE PURPOSES AND objectives of Section 23.1 in connection with the development of that parcel. A subdivision under this section shall meet the following requirements:

- (A) Property must be in a RU-120, RU-80, or RU-40 District.
- (B) Property must be minimum of ten (10) acres.
- (C) The Open Space/Cluster Development must not result in the creation of more building lots than would occur in a standard non-clustered subdivision.
- (D) The Open Space/Cluster Development must be consistent with the East Lyme Plan of Development.
- (E) The Open Space/Cluster Development must otherwise comply in all respects with the Zoning and Subdivision Regulations of the Town of East Lyme.

**23.3 PROCEDURE** - Applicants for Open Space/Cluster Development shall submit proposed plans in conformance with the application procedures of the East Lyme Subdivision Regulations.

**23.4 DEVELOPMENT STANDARDS AND CONTROLS**

- (A) **PERMITTED DENSITY** - The total number of building lots in an Open Space/Cluster subdivision shall not exceed the number that could otherwise be developed by application of the lot size requirements of the district or districts in which the parcel is located. The number of building lots that could otherwise be developed shall be determined by the Planning Commission based upon a CONCEPT PLAN FOR CONVENTIONAL SUBDIVISION submitted by the applicant. THE PLANNING COMMISSION SHALL SPECIFY THE INFORMATION TO BE SHOWN ON THE CONCEPT PLAN. Notwithstanding the above, the building lots permitted in a residential cluster development shall not exceed the number resulting from application of the following formula:

GROSS PARCEL SIZE (GPS) LESS 10% OF GPS ALLOWANCE FOR ROADS LESS 10% OF GPS FOR MINIMUM SUBDIVISION OPEN SPACE NORMALLY REQUIRED DIVIDED BY THE MINIMUM LOT AREA REQUIRED UNDER CONVENTIONAL SUBDIVISION FOR THE ZONE IN WHICH THE PARCEL LIES.

- (B) Lots approved under this section shall meet the following minimum dimensional requirements:

|                            |        |
|----------------------------|--------|
| LOT SIZE (SQUARE FEET)     | 20,000 |
| LOT FRONTAGE               | 75'    |
| LOT FRONTAGE (BACK LOTS)   | 25'    |
| LOT WIDTH AT BUILDING LINE | 100'   |
| FRONT YARD                 | 20'    |
| REAR YARD                  | 30'    |
| SIDE YARD                  | 15'    |
| LOT COVERAGE (MAXIMUM)     | 20%    |

- (C) A WOODED OR OTHERWISE landscaped buffer shall be provided along the perimeter of the Open Space/Cluster Development to SCREEN DEVELOPMENT ON the clustered lots from existing contiguous lots. The minimum width of the buffer shall be 40 feet, ANY PORTION OF WHICH MAY BE EITHER SUBDIVISION OPEN SPACE AREA OR AREA CONTAINED WITHIN LOTS. Where variations in topography, natural features, or compatible land uses obviate the need for such a buffer, the Planning Commission may waive this requirement.

**23.5 SUBDIVISION OPEN SPACE STANDARDS AND CONTROLS**

- (A) The Open Space/Cluster Development Plan shall result in preservation of subdivision open space with access, shape, dimension, character, location, and topography to accomplish one or more of the open space purposes specified in Section 23.1, as determined by the Planning Commission.
- (B) OPEN SPACE/CLUSTER DEVELOPMENTS LOCATED IN RU-40 DISTRICTS SHALL CONTAIN SUBDIVISION OPEN SPACE AREA EQUAL TO OR GREATER THAN 20% PERCENT OF THE GROSS LAND AREA OF THE PARCEL TO BE SUBDIVIDED. OPEN SPACE/CLUSTER DEVELOPMENTS LOCATED IN RU-80 AND RU-120 DISTRICTS SHALL CONTAIN SUBDIVISION OPEN SPACE AREA EQUAL TO OR GREATER THAN 50 PERCENT OF THE GROSS LAND AREA OF THE PARCEL TO BE SUBDIVIDED.
- (C) A MAXIMUM OF ONE-THIRD OF THE SUBDIVISION OPEN SPACE AREA IN AN OPEN SPACE/CLUSTER SUBDIVISION SHALL CONSIST OF WETLANDS AND WATERCOURSES, AS DEFINED BY THE CONNECTICUT GENERAL STATUTES, SECTION 22a-38 (15) and (16), AND LAND WITH SLOPES IN EXCESS OF 25 PERCENT. NOTWITHSTANDING THE ABOVE, UP TO FIFTY (50) PERCENT OF THE SUBDIVISION OPEN SPACE MAY BE LAND COVERED BY WATER IF, IN THE PLANNING COMMISSION'S JUDGMENT, SUCH WATER BODY IS DEEMED SUITABLE FOR ACTIVE RECREATIONAL PURPOSES.
- (D) All building lots shall have reasonable access to subdivision open space areas, and the maximum number of

lots compatible with good design shall abut the open space.

- (E) Small areas of subdivision open space scattered throughout the development shall be avoided. To the extent possible, a contiguous system of open spaces shall be achieved by linking open space areas with pedestrian pathways.
- (F) The subdivision open space land shall be shown on the plan and shall be labeled to specify the open space purpose. The plan will specify that the open space land shall not be further subdivided and is permanently reserved for open space purposes.
- (G) The subdivision open space land shall be conveyed by the applicant in accordance with Section 10-3 of the East Lyme Subdivision Regulations.

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## BOARD OF ALDERMEN

ITEM NO. \_\_\_\_\_

## AGENDA ITEM ABSTRACT

MEETING DATE: June 22, 1993

SUBJECT: Open Space Zoning Concepts

|                                |                                                           |
|--------------------------------|-----------------------------------------------------------|
| DEPARTMENT: Planning           | PUBLIC HEARING: YES ____ NO <u>x</u>                      |
| Attachment(s):<br>Staff Report | For Information Contact:<br>Julia A. Trevarthen, 968-7714 |

PURPOSE:

To discuss open space zoning concepts and how they compare with existing development options in Carrboro. This item was requested by the Board of Aldermen at the 1993 Planning Retreat.

SUMMARY:

Open space zoning is a type of cluster development in which the development is required to be concentrated on a portion of the total tract and the remainder is left as permanent open space. Originally conceived as a technique to preserve active agricultural use of lands under pressure for conversion to residential use, open space zoning techniques were intended for use in rural areas. However, the techniques are now being used in some suburban areas to combat suburban sprawl and preserve non-agricultural open space.

The Carrboro Land Use Ordinance (LUO) already allows cluster development in residential zoning districts and requires that open space be set aside in residential developments. None of the existing cluster regulations are mandatory and the open space set-asides are far smaller than those typically found in open space zoning schemes.

ANALYSIS:

See the attached Staff Report.

RECOMMENDATION:

The Administration recommends that if the Board of Aldermen wishes to pursue open space zoning as a development option/requirement, that they schedule a worksession in order to discuss and reach consensus on the issues raised in the Staff Report. It is further recommended that the Planning Board's input be solicited in the design of any open space zoning scheme.

ACTION REQUESTED:

The Administration requests that the Aldermen receive this report and indicate whether they wish to pursue open space zoning as a development option in Carrboro.

### STAFF REPORT

TO: Carrboro Board of Aldermen

FROM: Julia A. Trevarthen, AICP  
Senior Planner

DATE: June 15, 1993

SUBJECT: Open Space Zoning and Development Techniques

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#### **What is Open Space Zoning?**

Open space zoning is a type of cluster development in which the development is required to be concentrated on a portion of the total tract and the remainder is left as permanent open space. Originally conceived as a technique to preserve active agricultural use of lands under pressure for conversion to residential use, open space zoning techniques were intended for use in rural areas. However, the techniques are now being used in some suburban areas to combat suburban sprawl and preserve non-agricultural open space.

Open space zoning and design techniques run the gamut of urban to rural. When developed with mixed housing types and commercial components, projects developed using open space design techniques resemble neo-traditional "new town" developments such as Kentlands, MD or Seaside, FL, designed by Andres Duany. At the rural end of the spectrum are developments such as Cheoctin Ridge in Loudoun County, VA which has only 10 house lots on 57 acres.

The most visible proponent of rural open space zoning has been Randall G. Arendt of the Natural Lands Trust. In 1991, Mr. Arendt gave a local presentation on open space zoning which was underwritten by Carrboro, Chapel Hill, Orange County and others. His presentation was videotaped and the tapes can be checked out from the Planning Department.

Open space zoning uses the following development techniques:

- \* clustering is mandatory;
- \* density bonuses are sometimes given;
- \* commercial uses may or may not be included;

Open Space Zoning  
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- \* development is required to be clustered on 40 to 60 percent of the tract;
- \* the rest of the tract is kept in permanent open space which is often used for active agriculture rather than recreation or left in its natural state;
- \* the land reserved for open space must be more than floodplains, steep slopes, or other undevelopable leftovers, instead a certain percentage must be prime cultivable or developable land; and
- \* open spaces such as fields, pastures, or meadows are considered to be the most important features to preserve; thus, development is usually concentrated in the wooded portions of the tract.

**Comparison with Carrboro's Existing Regulations**

The Carrboro Land Use Ordinance (LUO) already allows cluster development in residential zoning districts and requires that open space be set aside in residential developments. None of the existing cluster regulations are mandatory and the open space set-asides are far smaller than those typically found in open space zoning schemes.

*LUO Options for Clustered Development*

Carrboro's requirements for cluster subdivisions are found in Section 15-186. Developers are allowed to create lots which are smaller than the minimum required if the land which is saved is put into open space. Thus, developers cannot create more lots than would otherwise be permitted under the basic zoning. Developers cannot downsize lots any further than the minimum square footages listed in the following table:

| Zoning District | Standard Lots Minimum Square Feet | Clustered Lots Minimum Square Feet | Percent Diff. |
|-----------------|-----------------------------------|------------------------------------|---------------|
| R-7.5           | 7,500                             | 5,625                              | -25           |
| R-10            | 10,000                            | 7,500                              | -25           |
| R-S.I.R.        | 10,000                            | 7,500                              | -25           |
| R-15            | 15,000                            | 11,250                             | -25           |
| R-20            | 20,000                            | 15,000                             | -25           |
| R-R             | 43,560                            | 20,000                             | -54           |
| WR              | 217,800                           | 43,560                             | -80           |

Source: CLUO Section 15-181 and 15-186

In addition to simple clustering, Carrboro also allows Architecturally Integrated Subdivisions (Section 15-187), a development option which enables developers to set their own lot sizes and setbacks within the project. Developers cannot use the AIS option to create more lots than would otherwise be permitted under the basic zoning, so once again the land which is saved goes into open space. Standard setback requirements apply for those portions of the tract abutting land which is not part of the subdivision.

Carrboro also offers a Planned Unit Development (PUD) zoning district (Section 15-139) which is designed to combine different zoning districts in one project. A planned unit development may have residential, commercial and manufacturing elements contained within a single project. In the residential portions of a PUD cluster or AIS options may be used.

#### *LUO Requirements for Open Space and Recreational Facilities*

The Land Use Ordinance requires that residential developments provide both active recreational facilities and open space for the residents of that development. A point system is used to determine the required number of recreational facilities. Developers may choose to provide sufficient recreational facilities onsite or may provide a payment-in-lieu to the Town for the development of public recreation facilities within a reasonable distance of the development. Many developers choose to combine these two options, providing some recreational facilities onsite and satisfying the remainder of the required recreation points with a payment-in-lieu. Specific requirements for recreational facilities can be found in Article XIII and Appendix G of the Carrboro Land Use Ordinance.

Section 15-198 of the Land Use Ordinance requires that residential developments provide open space which is usable for passive recreation, such as walking or jogging. Residential developments with a density of more than 2 units per acre must provide 15% of the total tract as usable open space; developments with a density of less than 2 units per acre must provide 5% of the total tract. This is in marked contrast to many open space zoning schemes which can require as much as 80% of the tract to remain as open space.

Land which is to be set aside as usable open space must meet certain requirements. At a minimum the land for open space must:

- \* not have any substantial structures on it;
- \* not be used as a roadway, parking area, sidewalk or waste disposal field;

- \* be able to be used for passive recreation;
- \* left in its natural or undisturbed state except for minimal improvements which allow it to be used for passive recreation; and
- \* be accessible to the residents of the development.

The requirement that land used as open space remain in its natural or undisturbed state and be available for use as passive recreation precludes the use of open space for active agriculture. Many of the rural open space zoning schemes allow the open space to be used for cultivation, pasture, forestry, fisheries or other agricultural uses.

The LUO gives certain categories of land preference for use as open space such as:

- \* land which is part of a designated stream buffer or flood hazard area, including floodways and floodplains;
- \* land which has slopes over 15%;
- \* environmentally sensitive lands such as those listed in the Inventory of Natural Areas and Wildlife Habitat of Orange County, NC; and
- \* wooded areas (although this can be waived under certain conditions).

Subdivided residential developments of less than 25 units are exempt from the open space requirement of the LUO unless the Town agrees to accept a portion of the tract as public open space.

#### **Carrboro's Experience with Voluntary Cluster Development Options**

Carrboro has offered cluster development options for a decade. In that time nearly every single family development built in Carrboro has been clustered to some degree. Some projects such as Fair Oaks, Spring Valley, and Quarterpath Trace have been tightly clustered using the architecturally integrated subdivision option. Others such as Cobblestone, Bolin Forest, Berryhill, and Wexford have been clustered to a lesser degree.

In many cases developers have resorted to cluster development in order to get the maximum number of lots out of difficult sites and have downsized lots only to the degree necessary to achieve the desired number of lots. Carrboro's cluster options have worked well as a method of dealing with difficult sites.

### **Open Space Zoning in Carrboro?**

If the Board decides to amend the current LUO in order to have a more complete open space zoning option, it has several policy questions to deal with before an ordinance could be drafted. Issues which should be discussed first include:

- \* What are we trying to preserve through the use of open space development techniques--agriculture, open space, rural views, woodlands and other environmentally sensitive areas, Carrboro's historically compact development pattern? All of these?
- \* Are open space development techniques the best way to achieve our specific preservation goals?
- \* Should an open space development option be a choice just as the current clustering options are? Should it be mandatory?
- \* Should open space development be allowed/required throughout Carrboro's jurisdiction or only in certain areas such as the northern portion of the transition area?
- \* Should commercial uses be included?
- \* How much of each tract should be set aside as open space?
- \* What category of open space is most important--fields or wooded areas? Should active agriculture be allowed or encouraged in open space areas?

### **Recommendation:**

The staff recommends that if the Board of Aldermen wishes to pursue open space zoning as a development option or requirement, that they schedule a worksession in order to discuss and reach consensus on the issues raised in this report. The staff further recommends that the Planning Board's input be solicited in the design of any open space zoning scheme.



# BOARD OF ALDERMEN

ITEM NO. E(5)

## AGENDA ITEM ABSTRACT

MEETING DATE: January 04, 1994

SUBJECT: WORKSESSION: REVISIONS TO THE TABLE OF PERMISSIBLE USES

|                                                                                        |                                                        |
|----------------------------------------------------------------------------------------|--------------------------------------------------------|
| DEPARTMENT: PLANNING DEPARTMENT                                                        | PUBLIC HEARING: YES _____ NO <u>X</u>                  |
| ATTACHMENTS:<br>Staff Report<br>Please bring your Binder for Appendices and Zoning Map | FOR INFORMATION CONTACT:<br>Roy M. Williford, 968-7713 |
| THE FOLLOWING INFORMATION IS PROVIDED:                                                 |                                                        |
| (x) Purpose                                                                            | (x) Action Requested                                   |
| (x) Summary                                                                            | ( ) Analysis                                           |

### PURPOSE:

The purpose of this agenda item is for the Board to continue their discussion of problems, concerns and possible changes to the Table of Permissible Uses, Section 15-146 of the Carrboro Land Use Ordinance. This is the first of several worksessions scheduled for the Board to review and discuss the Table of Permissible Uses.

### SUMMARY:

At their April 14, 1993 meeting the Board of Aldermen identified 52 categories or subcategories in the Table of Permissible Uses for further study. At that time the Board asked that they be provided with current zoning maps and copies of relevant sections of the Land Use Ordinance for their reference in deciding whether or not to change any of the identified uses. The Board also had some questions considering the history and development of the current Table of Permissible Uses.

On October 26, 1993, the staff provided the Board with a 3-ring binder which included copies of the reference materials previously requested by the Board as well as current copies of the Zoning Map and the Table of Permissible Uses for the Board's use in their deliberations.

### RECOMMENDATION:

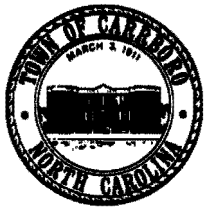
The staff proposes the following process for sorting out the possible changes prior to drafting text amendments. At tonight's meeting the Board could begin by considering each identified category and subcategory in the Table of Permissible Uses and determining by majority vote the specific changes which they wish to take to public hearing. This may require more than one meeting to complete.

Once the staff has received clear and specific direction on both the uses which the Board wants to amend and how they want them amended, text amendments would be drafted and the usual text amendment process would begin.

At that time a public hearing would be scheduled; the proposed text amendments would be taken to the Planning Board (and other Advisory Boards as requested by the Board of Aldermen) for their recommendation; the public hearing would be advertised and finally the Board of Aldermen would hold the public hearing, deliberate and vote on the amendments to the Table of Permissible Uses.

### ACTION REQUESTED:

The Administration requests that the Board of Aldermen begin their review of the Table of Permissible Uses as outlined in the previously stated recommendation.



# TOWN OF CARRBORO

NORTH CAROLINA

## **STAFF REPORT**

**TO:** Carrboro Board of Aldermen  
Town Manager

**FROM:** Julia A. Trevarthen, AICP  
Senior Planner

**DATE:** October 19, 1993

**SUBJECT:** Revisions to the Table of Permissible Uses (Section 15-146) in the Carrboro Land Use Ordinance

### ***Introduction***

At their April 14, 1993 meeting the Board of Aldermen identified 52 categories or subcategories in the Table of Permissible Uses (Section 15-146) for further study. At that time the Board asked that they be provided with current zoning maps and copies of relevant sections of the Land Use Ordinance for their reference in deciding whether or not to change any of the identified uses. The Board also had some questions considering the history and development of the current Table of Permissible Uses. This report endeavors to answer those questions.

Appended to this report are supplemental reference materials per the Board's request. Appendix A contains a separate copy of the Table of Permissible Uses (TPU) for the Board to mark up during their deliberations. This copy of the TPU has been highlighted to show all of the categories and subcategories which the Board identified for further study. Appendix B contains Articles II, IX, X, XI, and XII of the Carrboro Land Use Ordinance. These Articles provide the Board with definitions of specific uses, zoning district designations and permit types as well as density, dimensional, and supplemental requirements for development. Finally, Appendix C contains copies of staff reports and excerpts from Board of Aldermen meeting minutes concerning amendments which have been made to the Table of Permissible Uses over the past ten years. Each staff report explains the rationale for the proposed change and the excerpted minutes indicate how the Board deliberated and voted.

### ***How the Table of Permissible Uses was Originally Designed***

The Table of Permissible Uses was originally created using several basic concepts. The original range of uses included typical urban, suburban, and rural uses and included three different permit types.

## ***Permit Types***

From the adoption of the Land Use Ordinance, Carrboro has had 3 permit types. A Zoning Permit is issued by the Land Use Administrator, a Special Use Permit (SUP) is issued by the Board of Adjustment, and a Conditional Use Permit (CUP) is issued by the Board of Aldermen. The same information is required of the applicant regardless of the permit type. The main differences between these permit types include the application fee and requirements for advisory board review and a public hearing. Because advisory board reviews and public hearings must be scheduled along with a board's other duties, it takes longer to receive a permit which requires these steps. Typically, zoning permits (even with optional advisory board review) can be issued most quickly. SUPs and CUPs both require advisory board review and a full public hearing process including notice by mail to surrounding property owners and newspaper advertisements. The difference between these two permits is ease of scheduling; it is easier to get on the Board of Adjustment's schedule than it is the Board of Aldermen's. Consequently, CUPs generally take longer to receive than SUPs.

The original permit designations (i.e. deciding which permit type to assign to a particular use in a particular zoning district) were made according to the some basic principles. Zoning permits were assigned to routine, site-specific uses such as a single family house in a residential zoning district or to uses which are routine to a particular zoning district. Special Use or Conditional Use Permits were assigned to specific uses which might not be suitable in absolutely all areas in which that use was allowed by zoning designation. CUPs or SUPs were also assigned to the types of use which a board might want to approve only with specific conditions. The decision to assign a use a SUP or CUP was based on the expected degree of impact of the particular use. When the impact of a particular use was expected to be neighborhood-specific, or the use was to occur on a small tract of land in a commercial zoning district it was assigned a special use permit. When the impact of a particular use was expected to be town-wide, or the use was to occur on a larger tract of land in a commercial zoning district it was assigned a conditional use permit.

## ***The Range of Uses Included in the Table of Permissible Uses***

The original range of uses in the Table of Permissible Uses included standard residential, commercial, industrial, office, public facility, recreation, and service use types as well as specific uses already present in Carrboro.

Over the last ten years the range of uses in the TPU has typically been expanded in one of two ways. First, categories of uses have been expanded to include more specific subcategories in order to tailor permit types and zoning district designations. For example, the 8.000 use category for restaurants now has six different more specific subcategories of restaurant types. Second, new categories or subcategories have been created in response to new technology or a specific need. One example of this change is the addition of use 3.250, Freestanding Automatic Teller Machines. When the Land Use Ordinance was adopted ATMs were rare and freestanding ones were virtually nonexistent. Technological advances have made freestanding ATMs far more common, thus the Land Use Ordinance needed to change to encompass them.

## ***Amendments to the Table of Permissible Uses***

Carrboro's Land Use Ordinance has been in effect for over 10 years. During that time more than 30 separate public hearings have resulted in changes both large and small to the Table of Permissible Uses.

While the majority of these changes were made in response to specific requests from citizens, developers or business owners, others were made in response to specific policy changes on the part of the Town. Changes to multiple categories or subcategories of the TPU in response to new policy directions have occurred at least three times. The first set of broad changes was made in response to the policy changes resulting from the Hammer, Siler, George Report and the comprehensive downtown commercial rezoning. The second set was made as part of implementing the University Lake watershed protection regulations, and the third set was made in response to the Doing Business in Carrboro process.

In comparison with the original TPU, the current one reflects several overall differences. First, there are far more CUPs than SUPs even with the changes made in response to the Doing Business in Carrboro process. Secondly, several new zoning districts have been added including the Office and Office/Assembly districts. And thirdly, new subcategories of uses have been added to the mix.

## ***Suggested Process for Amending the TPU***

To date the Board of Aldermen have indicated that they wish to consider 52 separate categories or subcategories of the Table of Permissible Uses for further study and possible amendment. The Board has not yet indicated how they wish these categories or subcategories to be amended. Therefore, staff proposes the following process for sorting out the possible changes prior to drafting text amendments.

At tonight's meeting the Board could begin by considering each identified category and subcategory in the Table of Permissible Uses and determining by majority vote the specific changes which they wish to take to public hearing. This may require more than one meeting to complete. Once the staff has received clear and specific direction on both the uses which the Board wants to amend and how they want them amended, text amendments would be drafted and the usual text amendment process would begin. At that time a public hearing would be scheduled; the proposed text amendments would be taken to the Planning Board (and other Advisory Boards as determined by the Board of Aldermen) for their recommendation; the public hearing would be advertised and finally, the Board of Aldermen would hold the public hearing, deliberate and vote on the amendments to the Table of Permissible Uses.

# BOARD OF ALDERMEN

ITEM NO. E(6)

## AGENDA ITEM ABSTRACT

MEETING DATE: January 4, 1994

**SUBJECT: Cancellation of January 11th Board Meeting**

|                                                                                                                                                                       |                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| DEPARTMENT: <b>Administration</b>                                                                                                                                     | PUBLIC HEARING: <b>YES</b> ____ <b>NO</b> <u><b>x</b></u> __ |
| ATTACHMENTS:                                                                                                                                                          | FOR INFORMATION CONTACT: Robert Morgan,<br>968-7706          |
| THE FOLLOWING INFORMATION IS PROVIDED:<br>( <b>x</b> ) <b>Purpose</b> ( ) <b>Summary</b> ( ) <b>Analysis</b><br>( ) <b>Recommendation</b> ( ) <b>Action Requested</b> |                                                              |

### PURPOSE

To cancel the January 11th meeting of the Board of Aldermen due to the lack of agenda items.

|                                   | Loudoun County, VA<br>Rural Hamlet Zoning Ordinance                                                                                                                                                                                           | West Tisbury, MA<br>Flexible Development Ordinance                                                                                                                                         | Livingston County, MI<br>PEARL (Protect Environmental,<br>Agricultural & Rural Landscape)                       | Grafton, MA<br>Flexible Development Amendment                                                                                                                      | East Lyme, CT<br>Open Space/Cluster Development                                                                 |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Minimum tract size                | 40 acres                                                                                                                                                                                                                                      | none                                                                                                                                                                                       | none                                                                                                            | no                                                                                                                                                                 | 10 acres (Planning Commission may require OS/CD use for projects of 20+ acres)                                  |
| Maximum tract size                | none                                                                                                                                                                                                                                          | none                                                                                                                                                                                       | none, but only 10 units allowed per cluster                                                                     | no                                                                                                                                                                 | no                                                                                                              |
| 2 concept plan versions required? | not mentioned                                                                                                                                                                                                                                 | environmental impact statement is required                                                                                                                                                 | not mentioned                                                                                                   | yes, conventional and flexible layouts must be compared                                                                                                            | yes, for projects of 20+ acres                                                                                  |
| Base Zoning                       | A-3 (equivalent to 1 du per 3 acres)                                                                                                                                                                                                          | can be applied to all current residential zoning                                                                                                                                           | Overlay district to be applied on current zoning                                                                | permitted in certain residential zones with a Flexible Development Special Permit                                                                                  | permitted in certain rural residential zones                                                                    |
| Commercial uses allowed           | Only Agriculture & Home Occupations                                                                                                                                                                                                           | not mentioned                                                                                                                                                                              | other than agriculture, not mentioned                                                                           | not mentioned                                                                                                                                                      | not mentioned                                                                                                   |
| How is density calculated?        | Potential number of hamlet and conservancy lots is based upon either: 1) 1 DU per 10 net acres; excluding acreage in floodplains and slopes greater than 25%; or 2) the number of DU's which could be built in a conventional A-3 development | 0.9 times the qualifying land area divided by the minimum lot size for a single family dwelling in the base zoning district. (qualifying land area is defined as the net developable land) | based upon the number of units which could be realized in a conventional subdivision plan under the base zoning | based upon the number of units which could be realized in a conventional subdivision plan under the base zoning                                                    | based upon the number of units which could be realized in a conventional subdivision plan under the base zoning |
| Density Bonuses available?        | Yes, for each conservancy lot greater than 50 acres in size, 1 DU is added.                                                                                                                                                                   | no                                                                                                                                                                                         | no                                                                                                              | 15% bonus for using 6 of the Design Guidelines<br>20% bonus for using 9 of the Design Guidelines<br>25% bonus for using all Design Guidelines                      | no                                                                                                              |
| Public Utilities required?        | no                                                                                                                                                                                                                                            | no                                                                                                                                                                                         | no                                                                                                              | no                                                                                                                                                                 | not mentioned                                                                                                   |
| Design Guidelines                 | yes                                                                                                                                                                                                                                           | yes                                                                                                                                                                                        | yes                                                                                                             | yes                                                                                                                                                                | no                                                                                                              |
| How much open space is required?  | Minimum of 80% of the tract must be in open space. Can include eased land as well as land conserved outright.                                                                                                                                 | no specific percentage given                                                                                                                                                               | minimum of 50%                                                                                                  | minimum of either 40% or 50%, depending on the base zoning district                                                                                                | a minimum of 33% to 50%, depending on the base zoning district                                                  |
| How is open space defined?        | Hamlet green/square<br>Common Open Space (7 ac. min.)<br>Conservancy Lot (30 ac. min.)                                                                                                                                                        | Dedicated Open Land: restricted from building or further subdivision; can be used for conservation, passive recreation, agriculture                                                        | Emphasizes natural areas, woods, agricultural areas, places which contribute to rural character                 | Common Land: shall be dedicated & used for conservation, historic preservation, education, recreation, park, agriculture, horticulture, forestry, or a combination | emphasizes natural areas, wetlands, and slopes over 25%                                                         |
| Homeowners Association required?  | Yes                                                                                                                                                                                                                                           | yes                                                                                                                                                                                        | yes                                                                                                             | depends on how common land is handled                                                                                                                              | depends on how common land is handled                                                                           |