LAND SUBDIVISION LAW

Town of Poughkeepsie, New York

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Chapter 177 – SUBDIVISIONS
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ARTICLE I
GENERAL PROVISIONS

§ 177-1. Legislative authority; intent, purpose.

A) By the authority of the Town Board of the Town of Poughkeepsie, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Poughkeepsie is authorized and empowered to approve plats showing lots, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the Office of the Dutchess County Clerk and to conditionally approve preliminary plats, within that part of the Town of Poughkeepsie outside the limits of any incorporated village.

B) The Planning Board of the Town of Poughkeepsie is also hereby authorized and empowered, pursuant to Town Law §276(2), to approve the development of plats, entirely or partially undeveloped, which were filed in the Office of the Dutchess County Clerk prior to the appointment of the Planning Board. The term "undeveloped" shall mean those plats where twenty (20%) percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

C) Pursuant to the §10 of the Municipal Home Rule Law this local law is also intended to supersede and amend inconsistent provisions of Town Law §276(8) by eliminating the provisions for default approval resulting from the Planning Board's failure to take any action or hold any hearing on a preliminary or final plat within the statutory time periods.

D) The Town of Poughkeepsie has authorized its Planning Board to approve plats showing lots, blocks or sites, with or without streets or highways, as a complete or as a partial development of land, and to approve such plats for filing with the Office of the Dutchess County Clerk as provided in these regulations. The Clerk of the Town of Poughkeepsie shall immediately file a certificate of that fact with the Office of the Dutchess County Clerk.

E) It is declared to be the policy of the Town Board to consider land subdivisions as part of the orderly and desirable development of land. These regulations provide procedures and standards for the Planning Board in its review of subdivision plats. The intent of these regulations is to encourage the most appropriate and best development of land in order to protect and promote the general health, safety and welfare, which is intended to include the following:

1) To assure that land to be subdivided will produce building sites of such character and area that will permit their development for homes or buildings without danger to health or peril from fire, flood or other menace

2) To facilitate the adequate and efficient provision of community facilities, services and utilities and require the most desirable and appropriate systems for drainage, water supply, sewage disposal and other needed improvements, including any appropriate parks and playgrounds.

3) To promote the safe and convenient circulation of vehicles and pedestrians, and to promote the efficient design, location and construction of roads, streets, sidewalks, pathways, and driveways so as to accommodate current and future needs.

4) To minimize the destruction of the natural character of the land and promote the conservation of all elements of topography and vegetation which contribute to the natural beauty of the land.

5) To provide, through all subdivision planning and development, for the privacy of family residents while enhancing the general appearance of the community

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F) This Chapter may be amended by the Town Board after due notice and public hearing.

§ 177-2. Greenway Connections.

A) By Local Law No. 14-2000 of the Year 2000 the Town of Poughkeepsie has adopted "Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities", as amended from time to time, as a statement of land use policies, principals, and guides to supplement other established land use policies of the Town. In its consideration of any discretionary action(s) under this Chapter, the Planning Board should take into account said statement of polices, principles and guides, as appropriate. Adoption of the Greenway Connections is not intended, and shall not be construed, so as:

1) To limit the Town's home rule authority pursuant to the Municipal Home Rule Law; or

2) To authorize any other local, county, or state agency or department to supersede the Town authority under this Chapter, Chapter 210 or any other chapter of the Town of Poughkeepsie Town code; or

3) To prevent the Town in its sole discretion from adopting a local law at a later date for the purpose of withdrawing, in whole or in part, from the Greenway Compact or Greenway Connections.

§ 177-3. Title.

A) This chapter shall be known and may be cited as the "Land Subdivision Law of the Town of Poughkeepsie, Dutchess County, New York."

§ 177-4. Severability.

B) If any clause, sentence, paragraph, section or part of this Chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered or as determined by such judgment.

§ 177-5. Effective Date

A) This Chapter shall take effect upon filing with the Secretary of State.

ARTICLE II
DEFINITIONS AND WORD USAGE

§ 177-6. Word usage.

A) Except where specifically defined herein, all words in this local law shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural, and words used in the plural shall include the singular, unless context clearly indicates otherwise.

B) The word "shall" is always mandatory. The word "may" is permissive. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

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§ 177-7. Definitions.

A) The definitions as set forth in §210-9, "Zoning" are hereby incorporated by reference. In the event of a conflict between the meaning of a word or phrase as set forth in this Chapter and Chapter 210 the meaning as set forth in this Chapter shall apply.

B) As used in this Chapter, the following terms shall have the meanings indicated:

APPLICANT, SUBDIVIDER -- Any person, firm, corporation, partnership, association or other entity who shall lay out any subdivision or resubdivision, or part thereof, either on behalf of himself or for another or others.

ATTORNEY or TOWN ATTORNEY -- The Attorney of the Town of Poughkeepsie.

BOARD -- The Planning Board of the Town of Poughkeepsie.

BUILDABLE AREA – The space remaining on a lot after the minimum yard, area and bulk requirements of this Chapter have been met, or that area of the lot for which a variance from said minimum yard, area and bulk requirements has been granted by the Zoning Board of Appeals.

BUILDABLE LOT – A lot having a buildable area capable of accommodating proposed principal and accessory improvements, and including, where required, an on-site water supply facility and sewage treatment system that meet the standards of the Dutchess County Department of Health. A buildable lot shall also adjoin and have access to an improved street, or shall adjoin and have access to a paper street that will be improved as part of the development plan for the lot.

BUILDABLE YIELD – The number of potential building lots or the maximum unit density for a proposed subdivision after deduction of constrained land areas and public improvements on the parent parcel and the minimum yard, area and bulk requirements for each proposed lot have been met.

BUILDING CODE -- The official New York State Uniform Fire Prevention and Building Code as adopted by the Town Board or together with any and all amendments thereto.

BUILDING INSPECTOR -- The official appointed by the Town Board to administer the building code.

BUILDING PERMIT -- An application form for a building permit or use permit obtainable from the Building Inspector or his or her appointed assistant.

CERTIFICATE OF OCCUPANCY -- A permit to occupy and use a building.

CLUSTER SUBDIVISION -- A residential subdivision pursuant to Town Law §278 where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be concentrated on a smaller and more compact portion of land, and where a majority of the remaining land is left in its natural open space condition in perpetuity. Cluster development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

CONCEPTUAL SUBDIVISION PLAN -- A conceptual sketch made on a topographic survey map, showing the proposed subdivision in relation to existing conditions and with reference to the minimum lot and area requirements of the zoning district in which the property is located.

CONCEPTUAL SUBDIVISION PLAN REVIEW -- The review of a conceptual layout of a proposed subdivision by the Planning Board. The review is limited to ensuring that the proposed subdivision meets the minimum lot and area requirements as set forth in the Chapter 210, subject to approval of the plat in preliminary and/or final form in accordance with the provisions of this Chapter.

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CONDITIONAL APPROVAL -- Approval by the Planning Board of a preliminary or a final plat subject to such conditions as may be set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County Clerk or Registrar as herein provided.

CURB -- A low barrier usually along the pavement line of a street, road or highway, controlling surface drainage and separating vehicular areas from pedestrian and/or landscaping areas.

DIRECTOR OF PLANING, TOWN PLANNER -- The duly appointed head of the Town of Poughkeepsie Planning Department.

EASEMENT -- A recorded acquired right of use on the property of another.

ENGINEER or TOWN ENGINEER -- The duly designated engineer of the Town of Poughkeepsie or, the Superintendent of Highways, or the consultant or engineer employed by or assigned to the Planning Board.

FINAL PLAT -- A drawing prepared by a New York State Licensed Professional Engineer or Land Surveyor (with appropriate certification), in a manner prescribed by this local law, showing a proposed subdivision and containing, in such additional detail as shall be provided by these regulations, all information required to appear on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of a preliminary plat of such proposed subdivision if such preliminary plat has been so approved and which, if approved, may be filed or recorded by the Owner in the Office of the Dutchess County Clerk.

FINAL SUBDIVISION PLAT APPROVAL -- The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the Office of the County Clerk.

GRADE, ESTABLISHED -- The elevation of the centerline of the streets as officially established by the town authorities.

GRADE, FINISHED -- The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GRADING -- The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling to a depth greater than six (6) inches.

INCENTIVE ZONING - Adjustments to the maximum unit density requirements of the Town Zoning Law in exchange for the preservation of significant open space and/or the provision of improvements, facilities or amenities deemed to be of benefit to the Town.

INTERIOR LOT -- A lot enclosed on all sides by other lots and not abutting a public street.

LOT -- Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum area and width required by Chapter 210 for a lot in the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of state law to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT LINE REVISION, LOT LINE AMENDMENT – A change in the location of a boundary between two or more lots within a previously approved plat, filed in the Dutchess County Clerk's Office. See also Local Law No. ____ of 2007 "Town of Poughkeepsie Lot Line Revision Law".

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LOT, CORNER -- A lot which has an interior angle of less than one hundred thirty-five degrees (135°) at the intersection of two street lines. A lot abutting upon a curved street shall be considered a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than one hundred thirty-five degrees (135°).

LOT, FLAG -- a lot which has sufficient frontage on a public street to comply with the minimum lot frontage requirements of this Chapter, but which is shaped in such a manner that the portion of the lot closest to the street can only be used for access purposes and not as a yard or buildable area, and whose width some distance back from the right-of-way is sufficient to provide proper space to meet the yard and setback requirements.

LOT, HOUSE -- In cluster subdivisions, that portion of the subdivision reserved as a development area for the location of dwelling units and constituting lands outside of the protected open space areas.

LOT, INTERIOR -- A lot other than a corner lot.

LOT, THROUGH -- An interior lot having frontage on two parallel or approximately parallel streets, but which is not a corner lot.

OFFICIAL MAP -- A map established by the Town Board, showing street, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the Town Board or additions thereto resulting from approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

OPEN SPACE -- Land left in a natural state for conservation and agricultural purposes or land landscaped for scenic purposes, devoted to active or passive recreation, or devoted to the preservation of distinctive architectural, historic, geologic or botanic sites. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure. Open space may be included as a portion of one (1) or more large lots, or may be contained in a separate open space lot but shall not include private yards within one hundred (100) feet of a principal structure.

OPEN SPACE, USABLE -- An unenclosed portion of the ground of a lot which is not devoted to driveways, access roads, parking spaces, or required landscaping; which is free of structures of any kind; which is no less than eight feet in width at any point; which is available and accessible to all occupants of the building or buildings on said lot, or on a separate dedicated lot as part of a common development scheme, for purposes of active or passive outdoor use; and where not less than seventy percent (70%) of the lands is continuous and unbroken by intervening lot lines, boundary lines, or structures.

OWNER -- The owner of record of a tract or parcel, the subdivision of which requires approval of the Planning Board, or a person or persons holding an option to purchase a tract or parcel, contingent only upon receipt of Planning Board approval of a proposed subdivision of such tract or parcel. The "owner" may be represented by a duly authorized agent or representative in the conduct of business before the Board, except in those instances specified hereafter that require the appearance of the "owner" in person.

PARENT PARCEL – A parcel of land legally in existence on the effective date of this Chapter. For purposes of this Chapter the parent parcel shall be deemed to be that lot, parcel or tract of land owned by the person or persons as shown on the records of the Town of Poughkeepsie Assessor's Office as of the effective date of this Chapter.

PLAT -- The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording. (See §§ 276, 277, 278 and 279 of Town Law.)

PRELIMINARY LAYOUT -- A preliminary drawing showing the proposed layout of a subdivision which is submitted to the Planning Board for its consideration and conditional approval.

PRELIMINARY PLAT -- A drawing prepared in the manner prescribed in this Chapter showing the layout of a proposed subdivision including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities, including preliminary plans and profiles, at suitable scale and in such detail as this Chapter requires.

PRELIMINARY PLAT APPROVAL -- The approval of a proposed subdivision as set forth in a preliminary plat, but subject to the approval of the final plat in accordance with the provisions of this Chapter.

RESOURCE ANALYSIS – A map depicting the environmental conditions of a lot including, but not limited to, the location of soils, wetlands, water bodies, rock outcrops, vegetation, slopes, and man-made improvements on a lot, prepared as part of a Conceptual Subdivision Plan Review.

RESUBDIVISION – The further subdivision of lots or the relocation of lot lines of any lot or lots, including the alteration of any streets or the establishment of any new streets, within a subdivision previously approved by the Planning Board and which has been filed in the Office of the Dutchess County Clerk.

ROADWAY -- The portion of the street which is paved and ordinarily used for vehicular traffic. (Also see "street.")

STEEP SLOPE – All ground areas having a topographical gradient equal to or greater than twenty (20) percent measured by utilizing two (2) foot contours.

STREET -- A way for vehicular traffic, whether designated as a street, highway, throughway, thoroughfare, avenue, boulevard, road, parkway, right-of-way, lane, place or court or however otherwise designated. An existing public way which affords principal means of access to abutting properties and is suitably improved; or a proposed access way shown on a plat approved by all appropriate official agencies.

A) ALLEYS -- Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

B) ARTERIAL STREETS AND HIGHWAYS -- Those streets which are used primarily for fast or heavy traffic.

C) COLLECTOR STREETS -- Those streets which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

D) DEAD-END STREETS or CULS-DE-SAC -- Those streets which are closed to traffic at one end.

E) MARGINAL ACCESS STREETS -- Minor streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection for through traffic.

F) MINOR STREETS -- Those streets which are used primarily for access to the abutting properties.

STREET JOG – Opposing streets that have their centerlines off-set to each other rather than lined up directly opposite to each other.

STREET LINE -- The dividing line between the street right-of-way and a lot.

STREET, PAPER -- A street that has never been built but is shown on an approved plan, subdivision plat, tax map, or Official Map of the Town of Poughkeepsie.

STREET PAVEMENT -- The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH -- The width of the right-of-way or the distance between property lines, on opposite sides of a street.

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SUBDIVIDER -- Any person, firm, corporation, partnership or association which shall lay out, for the purpose of development and/or sale, any subdivision, as defined herein, either for himself, herself, itself or for others.

SUBDIVISION -- The division of any parcel of land into two or more lots, plots, sites or other division of land, with or without streets, for the purpose of immediate or future sale or building development. Under this Chapter there are two types of subdivisions:

A) MINOR SUBDIVISION -- Any subdivision containing not more than two lots, each of at least the minimum size as permitted by Chapter 210, each fronting on an existing public street, not involving any new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining properties and not in conflict with any provision or portion of the Town Plan.

B) MAJOR SUBDIVISION -- A subdivision not classified as a minor subdivision.

SUPERBLOCK -- An oversize residential block wherein private open space, undisturbed by automobile traffic, is provided for the common use of all residents in the block.

SUPERINTENDENT -- The duly elected Superintendent of Highways of the Town of Poughkeepsie, New York.

TOWN PLAN, MASTER PLAN, COMPREHENSIVE PLAN -- A comprehensive plan that indicates the general locations recommended for the various functional classes or public works, places and structures and for the general physical development of the Town of Poughkeepsie and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

ARTICLE III
APPLICATION AND REVIEW PROCEDURES

§ 177-8. Approval required; Compliance with provisions.

A) Applications for subdivision and resubdivision approval under this Chapter shall comply fully with the applicable provisions of Article 16 of the Town Law, the Public Health Law, and this Chapter. Due care in the preparation of the maps and other information called for will expedite the process of obtaining approval of a subdivision or resubdivision.

B) When any subdivision or resubdivision of land is proposed, and before any contract for the sale of land or any offer to sell such subdivision or resubdivision, or any part thereof is made, or any grading, clearing, construction or other improvement is undertaken therein, the owner or his duly authorized agent shall have received the prior approval of the Planning Board for such subdivision or resubdivision in accordance with the procedures set forth in this Chapter.

C) An application for a resubdivision shall be referred to the agency or department that first approved the original subdivision. See also Local Law No. _____ of 2007 "Town of Poughkeepsie Lot Line Revision Law".

D) Each lot created pursuant to this Chapter shall be a Buildable Lot as defined herein.

E) The creation or establishment of "flag lots" as defined herein is prohibited.

§ 177-9. Pre-application review and classification.

A) Prior to filing a formal application for approval or conditional approval of a final layout or a preliminary layout that has not previously been reviewed by the Planning Board, the applicant shall:

1) Determine the requirements of the Town of Poughkeepsie Planning Board, the Dutchess County Highway Department (where development is proposed along a county road), the Town Highway Department (where development is proposed along a town road), the Dutchess County Health Department (where approval is required pursuant to the Sanitary Code of Dutchess County and the laws of the State of New York), and the New York State Department of Transportation (where development is proposed along a state road).

2) Submit to the Board and its designated representative plans and data as specified in Article V of this Chapter.

B) This step does not require a formal application, a fee or filing of a plat with the Board. The submission is made in order to discuss the appropriateness of the proposed layout, the suitability of the land for development, the general requirements for improvements, and conformity with the Town Plan and with Chapter 210.

§ 177-9A. Pre-application procedure.

A) Prior to submittal of an application for subdivision approval all applicants are required to submit a Resource Analysis and a Conceptual Subdivision Plan, and shall participate in a discussion with the Planning Board about the Resource Analysis and Conceptual Subdivision Plan. The Resource Analysis and the Conceptual Subdivision Plan shall be depicted on separate maps.

B) Twelve (12) copies of the Resource Analysis and Conceptual Subdivision Plan shall be submitted to the Planning Board. There shall be no statutory time limit for the review of the Resource Analysis, nor the need to make a determination of whether the subdivision application is complete. The Planning Board, in its discretion, may waive a Resource Analysis review. All applicants are required to submit a Conceptual Subdivision Plan for review prior to submitting an application for subdivision approval.

1) In conjunction with a submission of a Conceptual Subdivision Plan, an applicant shall submit a Resource Analysis and shall participate in a discussion with the Planning Board to determine the appropriateness of the applicant's conceptual plan. The submission shall include an identification of the primary assets and limitations of the property proposed to be subdivided. This will provide an opportunity for the owner and Planning Board to discuss the appropriate range of and intensity of development; the general locations intended for improvements; areas planned to remain undeveloped; and general access and utility plans. It is also expected that the applicant will have performed an on-site assessment of the parcel(s) proposed to be created. The applicant should therefore be prepared to discuss possible subdivision concepts based on what has been learned from the Resource Analysis. No statement, comment or other communication made during this review shall be binding upon any party.

2) The pre-application process is required to ensure that town development goals are recognized as they may apply to the property in question. This should help expedite the formal subdivision review before the applicant has made a substantial investment in the application process.

C) Resource Analysis and Conceptual Subdivision Plan review. All parties concerned with a proposed subdivision or resubdivision of land will benefit from a pre-application discussion. Accordingly, the applicant shall present the following information:

1) The proposed subdivision name or identifying title, and the words "Town of Poughkeepsie, Dutchess County, New York" in the lower right corner of the plans.

2) The name of the property owner(s) and the authorized applicant, if different from the

property owner(s).

3) Aerial map at a scale of one inch equals four hundred feet (1" = 400'), showing the location of the proposed parcel with respect to all streets and property within one thousand (1,000) feet its boundary and superimposed with 10' contours, regulated freshwater wetlands, floodplains, streams, slopes of 20% or greater, water bodies and public trails and recreation areas.

4) List of all natural features on the parcel including but not limited to, historic buildings, stone walls, rock outcrops, significant trees and stands of trees, potential wildlife habitats and viewsheds. This list is a preliminary step in identifying natural features and is subject to modification and interpretation by the Planning Board.

5) Provide an 8 ½ x 11 soils map indicating if Prime and/or Statewide important soils, as defined by the Soil Survey of Dutchess County New York, exist on the property.

6) General subdivision information necessary to explain and/or supplement the Aerial Map.

D) Study of Resource Analysis and Conceptual Subdivision Plan. The Planning Board shall discuss the proposed subdivision with the applicant and shall determine how the subdivision meets the objectives of the Town Plan, the Zoning Law, and this Chapter. The Planning Board shall consider the areas of proposed development and their relation to one another, the natural constraints of the land, and the protection of important environmental features and open space, and the potential effect of development on important viewsheds.

E) The Planning Board shall make recommendations for modification or redesign to be incorporated by the applicant in the next submission to the Planning Board, and shall indicate to the applicant the priority resources to be preserved. Any requirements of these regulations which the applicant requests to be waived should be discussed at this time.

F) The Resource Analysis and Conceptual Subdivision Plan discussion shall not be construed to be an approval of the development plan by the Planning Board, and does not allow the filing of a plan with the County Clerk or authorize the sale or lease, or any offer to sell or lease, any lots in such proposed subdivision or any part thereof. The Resources Analysis and Conceptual Subdivision Plan discussion is only a precursor to a formal application for subdivision approval.

G) State Environmental Quality Review. No environmental review of the project pursuant to Article 8 of the Environmental Conservation Law shall be commenced until the discussion of the Resource Analysis and Conceptual Subdivision plan have been completed and an application for preliminary or final subdivision approval has been submitted.

§ 177-10. Procedure for minor subdivision plat approval.

A) Purpose. The proposed final minor plat, together with drawings and documents, shall constitute the complete development of the subdivision proposal, shall include any conditions of the Planning Board's Conceptual Subdivision Plan approval, and shall include the detailed layout drawings for the improvements and utilities. After approval by the Planning Board of this submission, the performance surety and the general liability insurance policy as approved by the Town Board shall become the basis for the construction of the subdivision and the inspection services by the Town Engineer, the Director of Planning, and other designated Town official. The final plat itself must be recorded with the County Clerk to have legal status, and an unrecorded plat shall not be a valid basis for site improvements or other commitments. The final plat shall be an accurate survey record of the properties resulting from the subdivision and shall bear the seal and signature of the licensed land surveyor responsible for its preparation.

B) Notation on plat. If the subdivision is classified by the Planning Board as a minor

subdivision, a notation to that effect shall be made on the proposed final plat.

C) Submittal to the Planning Board. Twelve (12) copies of a minor subdivision plat shall be submitted to the Planning Board, or its designated representative within six (6) months of endorsement of the Conceptual Subdivision Plan. Failure to do so shall require resubmission of the Conceptual Subdivision Plan to the Planning Board for reclassification. If the minor subdivision has frontage on, access to or is otherwise directly related to any county or state road, existing or proposed, as shown on the Official County Map, the Planning Board shall take appropriate action in accordance with §239-k of the General Municipal Law.

D) Information Waiver. The Planning Board may grant a waiver from the information requirements of this section where it determines that such information is not relevant to, or is not otherwise required, to conduct the review of the application.

E) Application fee. The submission to the Planning Board for conditional approval of a final layout shall be accompanied by a fee in accordance with the fee schedule approved by the Town Board. The Planning Board shall have the power to waive the application and per-lot fee when it feels it will be in the best interest of the Town. Fees are payable to the Town Clerk and are not refundable.

F) Look-Back provision. In the case of a minor subdivision no more than two lots shall be created either simultaneously or sequentially from a parent parcel within a five (5) year period. Should more than that total number of lots be applied for within five years of the date the minor subdivision is approved, the Planning Board shall require the applicant to provide all of the information required of a major subdivision for the previously subdivided lots as well as for the lots under consideration in the new application, and shall process the application as an application for a major subdivision.

G) Compliance with the State Environmental Quality Review Act. An application for a minor subdivision shall not be considered complete until a negative declaration has been filed or until a notice of completion of a Draft Environmental Impact Statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a minor subdivision plat shall begin upon filing of such negative declaration or such notice of completion. An application for minor subdivision approval that has been determined by the Planning Board to require the preparation of a Draft Environmental Impact Statement shall result in the processing of the application as a major subdivision.

H) Applicant to attend Planning Board meeting. The applicant or his duly authorized representative shall attend meetings of the Planning Board at which the application is considered to discuss the plat. Although not required, applicants are encouraged to commence discussions with the owners of land abutting or in proximity to the project site to ascertain local concerns and local development issues early in the project design process.

I) When officially submitted. An application submitted under this section shall be deemed received at the next regular meeting of the Planning Board at which the application is to be considered. An application shall be placed on the Planning Board agenda only upon payment of the application and escrow fees as set by the Town Board along with the number of copies of the plat as specified by the Planning Board, an environmental assessment form, and a completed application form, along with any other information required by the Planning Board during the pre-application review.

J) Agricultural data statement. If any portion of the project is located on property within an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, the application must include an agricultural data statement containing the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within

the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

K) Referral to Neighboring Municipalities. Pursuant to General Municipal Law §239-nn, for a subdivision review under this section involving property located within five hundred (500) feet of an adjacent municipality notice of any public hearing shall be given by mail or electronic transmission to the clerk of the adjacent municipality not less than ten (10) days prior to the date of said hearing.

L) Public hearing on minor subdivision. The hearing on the minor subdivision plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five (5) days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat, including the prominent placement of one or more signs on the premises that is the subject of the application notifying interested persons that an application for a subdivision approval is under consideration by the Board. All notices shall include the name of the subdivision, the name of the applicant, the location of the land to be subdivided, and the date, place, time and subject of the public hearing. Such notice shall not be required for adjourned dates. The hearing on the minor subdivision plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

M) Action on minor subdivision plat. The Planning Board shall, within sixty-two (62) days from the date of the public hearing, approve, conditionally approve with or without modification, or disapprove a complete application for minor subdivision plat approval. When conditionally approving a minor subdivision plat with or without modifications, the Planning Board must state in writing the modifications, if any, it deems necessary before the plat will be endorsed by the Chairman. The Board shall specify in writing its reasons for any disapproval.

N) Filing of notice of action. Written notice of the action of the Planning Board, plus any conditions attached thereto, shall be provided to the applicant, and a copy of such notice shall be filed with the Town Clerk within five (5) days of the date of approval.

O) Duration of conditional approval of minor subdivision plat. Conditional approval of the minor subdivision plat shall expire within one hundred eighty (180) days after the date of adoption of the resolution granting such approval. The Planning Board may extend by not more than two additional periods of ninety (90) days each the time in which a conditionally approved plat must be submitted for signature if, in the Board's opinion, such extension is warranted by the particular circumstances. A failure to complete the conditions of minor subdivision approval within the required time period(s) shall result in the approval becoming null and void.

P) Filing of minor subdivision plat; expiration of approval. The applicant shall file the approved minor subdivision plat in the Office of the County Clerk within sixty-two (62) days from the date of final approval or such approval shall expire. The signature of the Chairman or Vice-Chairman, or other duly authorized officer of the Planning Board signifying final approval and completion of conditions of final approval by the Planning Board shall constitute approval.

Q) Endorsement of the Chairman. Upon approval of the minor subdivision plat, the applicant shall carry out the following steps prior to obtaining the Chairman's signature of approval:

1) Provide proof of compliance with Department of Health standards and approval of the plan for water supply and sewage disposal.

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2) Provide proof of compliance with all other required local, state and federal agency permits and approvals including but not limited to: stream disturbance; wetland and wetland buffer disturbance; highway work; curb cuts; storm water connections; SPDES permit discharges; dams and impoundments, etc.

3) Make all required corrections or changes to the minor subdivision plat map as outlined in the resolution of the Planning Board and provide five (5) copies of the corrected final plat to the Planning Department for final review and approval by the Department, the Town Engineer and other designated Town officials for compliance with the resolution of the Planning Board. The applicant shall also complete all applicable conditions of the Planning Board resolution approving the final plat.

4) Provide Mylar and paper copies of the minor subdivision plat in such quantity as specified by the Planning Board to the Planning Department for the endorsement of the Chairman. After the Chairman has signed the Mylar and the paper copies of the plat the Secretary shall immediately notify the applicant of the availability of the minor subdivision plat map. The applicant is solely responsible for filing of the minor subdivision plat with the County Clerk.

5) Pay all outstanding escrow fees and inspection fees. Recreation and inspection fees, if applicable, are due and payable prior to the Chairman endorses the final plat map.

R) Filed plat map. Within seven (7) days of the date the minor subdivision plat is filed with the County Clerk the applicant shall submit to the Planning Department two (2) copies of the plat showing the endorsement of the County Clerk.

S) Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made to any subdivision plat after endorsement of said plat by the Chairman of the Planning Board unless the said plat is first resubmitted to the Planning Board and the Board approves any modifications. Such modified plat shall be resubmitted to the Planning Board for re-stamping and signature. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

T) Fees. All application fees are in addition to any required escrow fees, and do not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). If the Board requires professional review of the application by a designated private planning, engineering, legal or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the proposed application, reasonable fees shall be paid for by the applicant and an escrow deposit will be required in accordance with Chapter 105.

U) Building Permits. Upon receipt of a copy of the final subdivision plat certified by the County Clerk, the Building Inspector may issue building permits for lots within the subdivision. No changes, erasures, modifications or revisions other than those required by the County Health Department, shall be made on any subdivision plat after final approval has been given by the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any plat so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 177-11. Procedure for conditional approval of preliminary layout for a major subdivision.

A) Purpose. The preliminary layout, the application, and all supporting documents for a

proposed subdivision constitute the material to be officially submitted to the Planning Board. On the basis of the general design of the subdivision and any proposed or required public improvements, the Planning Board will indicate its approval or disapproval of the preliminary plat prior to the time that the final plat, including the design and detailing of the improvements and utilities is completed. Approval of the preliminary layout does not constitute an approval of the final plat, nor shall it be considered a valid basis for filing of the preliminary plat with the County Clerk, nor the construction of site improvements, or for other commitments which depend upon detailed design characteristics.

B) Notation on plat. If the subdivision is classified as a major subdivision by the Planning Board, a notation to that effect shall be made on the proposed preliminary plat.

C) Submittal to the Planning Board. On reaching conclusion regarding the feasibility of the Conceptual Subdivision Plan and the applicant's general program and objectives, the subdivider shall cause to be prepared a preliminary layout, together with improvement plans and other supplementary material as specified in Article V prepared in accordance with the general requirements and design standards specified in Article IV, and Article IV.

D) When officially submitted. An application submitted under this section shall be deemed received at the next regular meeting of the Planning Board at which the application is to be considered. An application shall be placed on the Planning Board agenda only upon payment of the application fee as set by the Town Board along with an environmental assessment form and the number of copies of the plat map as specified by the Planning Board.

E) Applicant to attend Planning Board meeting. The applicant or his duly authorized representative shall attend meetings of the Planning Board at which the application is considered to discuss the preliminary plat. Although not required, applicants are encouraged to commence discussions with the owners of land abutting or in proximity to the project site to ascertain local concerns and local development issues early in the project design process.

F) Information Waiver. The Planning Board may grant a waiver from the information requirements of this section where it determines that such information is not relevant to, or is not otherwise required, to conduct the review of the application. A request for waiver of information shall be submitted by the subdivider, in writing, to the Planning Board at the time the application for preliminary subdivision approval is made.

G) Study of preliminary plat. The Planning Board shall study the proposed preliminary plat, taking into consideration the goals and polices of the Town Plan for the district in which the parcel is located, the needs of the community, the requirements of the Town Zoning Law and this Chapter, and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, vehicular and pedestrian access, preservation of natural resources, relationship to improvements on adjacent and neighboring land, drainage, lot sizes and arrangement, and the future development of adjoining lands as yet unsubdivided including those lands depicted on the Official Map.

H) Look-Back provision. Within any ten (10) year period no more than 49 lots may be created either simultaneously or sequentially from a parent parcel for which both central sewer and water services do not exist or have not been provided. Should more than that total number of lots be applied for within ten years of the date of subdivision approval involving the parent parcel the Planning Board may require the applicant to include a plan for providing central sewer and water services to the previously subdivided lots at no additional costs to their present owners as part of the new application for subdivision approval.

I) Compliance with the State Environmental Quality Review Act. A preliminary plat application shall not be considered complete until a negative declaration has been filed or

until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act.

J) Planning Board As Lead Agency Under the State Environmental Quality Review Act: Public Hearing; Notice; Decision.

1) Public Hearing on Preliminary Plats. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act as follows:

a) If such board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within sixty-two (62) days after receipt of a complete preliminary plat by the Planning Department; or

b) If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, a public hearing on the preliminary plat shall be held within sixty-two (62) days of filing the notice of completion.

2) Public Hearing Notice. The hearing on the preliminary plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five (5) days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat, including the prominent placement of one or more signs on the premises that is the subject of the application notifying interested persons that an application for a subdivision approval is under consideration by the Board. All notices shall include the name of the subdivision, the name of the applicant, the location of the land to be subdivided, and the date, place, time and subject of the public hearing. Such notice shall not be required for adjourned dates. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

3) Decision. The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

a) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within sixty-two (62) days after the close of the public hearing; or

b) If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing on the preliminary plat. Within thirty (30) days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.

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4) Grounds For Decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

K) Planning Board Not As Lead Agency Under the State Environmental Quality Review Act: Public Hearing; Notice; Decision.

1) Public Hearing On Preliminary Plats. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with their lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the preliminary plat within sixty-two (62) days after receipt of a complete preliminary plat by the Planning Department.

2) Public Hearing Notice. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing is held independently of the hearing on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat, including the prominent placement of one or more signs on the premises that is the subject of the application notifying interested persons that an application for a subdivision approval is under consideration by the Board. All notices shall include the name of the subdivision, the location of the land to be subdivided, and the date, place, time and subject of the public hearing. Such notice shall not be required for adjourned dates. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

3) Decision. The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plat within sixty-two (62) days after the close of the public hearing on such preliminary plat.

a) If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within sixty-two (62) days after the close of the public hearing on the preliminary plat.

b) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the preliminary plat within sixty-two (62) days after the close of the public hearing on such preliminary plat or within thirty (30) days of the adoption of findings by the lead agency, whichever period is longer.

4) Grounds For Decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

L) Agricultural data statement. If any portion of the project is located on property within an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, the application must include an agricultural data statement containing the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

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M) Referral to Neighboring Municipalities. Pursuant to General Municipal Law §239-nn, for a subdivision review under this section involving property located within five hundred (500) feet of an adjacent municipality notice of any public hearing shall be given by mail or electronic transmission to the clerk of the adjacent municipality not less than ten (10) days prior to the date of said hearing.

N) Filing of notice of action. Written notice of the action of the Planning Board, plus any conditions attached thereto, shall be provided to the applicant, and a copy of such notice shall be filed with the Town Clerk within five (5) days of the approval of the preliminary plat. Approval of the preliminary plat shall not constitute approval of the final plat, but shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of the Town Zoning Law and this Chapter, and the conditions of the approval of the preliminary plat, if any. Prior to approval of the final subdivision plat the Planning Board may require additional changes as a result of further study of the final subdivision plat, or as a result of new information obtained at the public hearing.

O) Expiration of approval. Planning Board approval of a preliminary layout submission shall expire six (6) months after the date the decision of the Board is filed with the Town Clerk. Prior to the expiration of preliminary approval the applicant shall request in writing an extension of the preliminary approval, and shall state the reasons for such extension. The Planning Board may extend by not more than two additional periods of ninety (90) days each the time for expiration of the preliminary plat if, in the Board's opinion, such extension is warranted by the particular circumstances. In addition, such extension shall be granted only if the proposed subdivision fully conforms to the zoning regulations in effect at the time such extension is applied for.

P) Fees. All application fees are in addition to any required escrow fees, and do not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). If the Board requires professional review of the application by a designated private planning, engineering, legal or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the proposed application, reasonable fees shall be paid for by the applicant and an escrow deposit will be required in accordance with Chapter 105.

§ 177-12. Procedure for final approval of major subdivision plat.

A) Purpose. The proposed final plat, together with drawings and documents, shall constitute the complete development of the subdivision proposal, shall include the conditions of the Planning Board's preliminary subdivision approval, and shall include the detailed layout drawings for the public improvements and utilities. The final plat shall be in conformity with the approved preliminary plat. After approval by the Planning Board of this submission, the approved performance surety and the general liability insurance policy as approved by the Town Board shall become the basis for the construction of the subdivision and the inspection services by the Town Engineer, the Director of Planning, or other designated Town officer. The plat itself must be recorded with the County Clerk to have legal status, and an unrecorded plat shall not be a valid basis for site improvements or other commitments. The plat shall be an accurate survey record of the properties resulting from the subdivision and shall bear the seal and signature of the licensed land surveyor responsible for its preparation.

B) Application for approval and fee. The applicant shall, within six (6) months of the date of filing of the preliminary plat approval with the Town Clerk, file with the Planning Board an

application for approval of all or part of the subdivision plat in final form. All applications for plan approval shall be in writing and on forms and in such quantity as may be prescribed by the Planning Board together with a fee as set by the Town Board. Said application shall also conform to the requirements of Article IV, Article V, and Article VI as applicable.

C) When officially submitted. An application submitted under this section shall be deemed received at the next regular meeting of the Planning Board at which the application is to be considered. An application shall be placed on the Planning Board agenda only after payment of the application fee as set by the Town Board and submission of the specified number of copies of the final plat map and any specified supporting documentation.

D) Applicant to attend Planning Board meeting. The applicant or his duly authorized representative shall attend meeting(s) of the Planning Board at which the application is considered to discuss the final plat.

E) Final Plats Not In Substantial Agreement With Approved Preliminary Plats or When No Preliminary Plat is Required To Be Submitted. When a final plat is submitted that the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this section, or when no preliminary plat is required to be submitted and a final plat clearly marked "final plat" is submitted conforming to the definition provided by this section the following shall apply:

1) Planning Board As Lead Agency: Public Hearing; Notice; Decision.

a) Public Hearing On Final Plat: The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:

(i) If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat, or on a final plat when no preliminary plat is required to be submitted, shall be held within sixty-two (62) days after the receipt of a complete final plat by the Planning Department; or

(ii) If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within sixty-two (62) days following filing of the notice of completion.

2) Public Hearing Notice. The hearing on the final plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five (5) days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat, including the prominent placement of one or more signs on the premises that is the subject of the application notifying interested persons that an application for a subdivision approval is under consideration by the Board. All notices shall include the name of the subdivision, the location of the land to be subdivided, and the date, place, time and subject of the public hearing. Such notice shall not be required for adjourned dates. The hearing on the final plat shall be close upon

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motion of the Planning Board within one hundred twenty (120) days after it has been opened.

3) Decision. The Planning Board shall make its decision on the final plat as follows:

   a) If such board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within sixty-two (62) days after the date of the public hearing; or

   b) If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing on the final plat. Within thirty (30) days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of the such plat.

4) Grounds for Decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

5) Planning Board Not As Lead Agency; Public Hearing; Notice; Decision.

   a) Public Hearing On Final Plat. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the final plat within sixty-two (62) days after the receipt of a complete final plat by the Planning Department.

   b) Public Hearing Notice. The hearing on the final plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five (5) days before such hearing is held independently of the hearing on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat, including the prominent placement of one or more signs on the premises that is the subject of the application notifying interested persons that an application for a subdivision approval is under consideration by the Board. All notices shall include the name of the subdivision, the location of the land to be subdivided, and the date, place, time and subject of the public hearing. Such notice shall not be required for adjourned dates. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

   c) Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within sixty-two (62) days after the close of the public hearing on such final plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

      (i) If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within sixty-two (62) days after the close of the public hearing on the final plat.

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(ii) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within sixty-two (62) days after the close of the public hearing on such final plat or within thirty (30) days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

F) Filing of notice of action. Written notice of the action of the Planning Board, plus any conditions attached thereto, shall be provided to the applicant, and a copy of such notice shall be filed with the Town Clerk within five (5) days of the date of approval.

G) Approval of plat in sections. In granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided and developed in two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to insure the orderly development of the plat shall be completed before said sections may be signed by the Chairman. Any section shall encompass at least 10% of the total number of lots shown on the plat. No plat which is an extension, section or portion of any previously submitted plat shall be approved until and unless all conditions necessary for approval of such previously submitted plat have been satisfied and final approval shall have been granted in accordance with these regulations.

H) Duration of conditional approval of final plat. Conditional approval of the final plat shall expire within one hundred eighty (180) days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of ninety (90) days each the time in which a conditionally approved plat must be submitted for signature if, in the Board's opinion, such extension is warranted by the particular circumstances.

I) Filing of final plat; expiration of approval. The applicant shall file the approved final plat, or a section of such plat, in the Office of the County Clerk within sixty-two (62) days from the date of final approval or such approval shall expire. In the event the applicant shall file only a section of such approved plat with the County Clerk, the entire approved plat shall be filed within thirty (30) days of the filing of such section with the Town Clerk. Such section shall encompass at least ten percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed with the County Clerk within three years of the date of filing of the first section. The signature of the Chairman or Vice-Chairman or other duly authorized officer of the Planning Board signifying final approval and completion of conditions of final approval by the Planning Board shall constitute final approval.

J) Endorsement of the Chairman. Upon approval of the final plat, the applicant shall carry out the following steps prior to obtaining the Chairman's signature of approval:

1) Provide proof of compliance with Department of Health standards and approval by the Department of the plan for water supply and sewage disposal.

2) Provide proof of compliance with all other required local, state and federal agency permits and approvals including but not limited to: stream disturbance; wetland and wetland buffer disturbance; highway work; curb cuts; storm water connections; SPDES permit discharges; dams and impoundments, etc.

3) Make all required corrections or changes to the final plat map as outlined in the resolution of the Planning Board and provide two copies of the corrected final plat to the Planning Department for final review and approval by the Department, the Town Engineer and other designated Town officials for compliance with the resolution of the Planning Board.

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4) Complete all applicable conditions of final approval as set forth in the resolution of the Planning Board.

5) Provide Mylar and paper copies of the final plat in such quantity as specified by the Planning Department for the endorsement of the Chairman. After the Chairman has signed the Mylar of the plat the Secretary shall immediately notify the applicant of the availability of the final plat map. The applicant is solely responsible for filing of the final plat with the County Clerk.

6) Obtain a performance surety in the amount of the estimate prepared by the Town Engineer, the Town Planner, or the Superintendent of Highways for the improvements and a general liability insurance policy and submit them to the Planning Board Attorney for approval as to form.

7) Pay all outstanding escrow fees and inspection fees to the Planning Board Secretary or to the Town Clerk. Recreation and inspection fees, if applicable, are due and payable prior to the time the Chairman endorses the final plat map.

K) Filed plat map. Within seven (7) days of the date the final plat is filed with the County Clerk the applicant shall submit two (2) copies of the final plat showing the endorsement of the County Clerk to the Planning Department.

L) Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made to any subdivision plat after endorsement of said plat by the Chairman of the Planning Board. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

M) Fees. All application fees are in addition to any required escrow fees, and do not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). If the Board requires professional review of the application by a designated private planning, engineering, legal or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the proposed application, reasonable fees shall be paid for by the applicant and an escrow deposit will be required in accordance with §105.

N) Performance; Surety. The subdivider shall follow one of the procedures set forth in Subsection (1) or (2) below:

1) Where a performance bond or surety is required the subdivider shall file with the Town a performance bond to cover 95% of the cost and a certified check to cover 5% of the cost of the required improvements in the amount estimated by the Superintendent, the Planner and the Town Engineer. Such bond shall be satisfactory to the Town Attorney as to form, sufficiency, manner of execution and surety. If the bond is not filed within 45 days of the date of final subdivision approval or such other time limit as set by the Planning Board, the plat shall be deemed void. Adequate roads certified passable by the Superintendent of Highways shall be provided prior to the issuance of a building permit. All required improvements shall be completed to the satisfaction of the Superintendent, Town Engineer, and Town Planner within four (4) months after the date of initial title transfer with respect to any dwelling fronting on an unimproved street erected in the subdivision, failing which the Town Board may call the bond and existing building permits. In the case of exceptionally large subdivisions, the Board may grant a reasonable extension of time beyond said four-month period or, alternately, may approve the completion of only a portion of the required improvements within the period specified. The bond shall be released only upon certification by the Superintendent, the Town Engineer, and the Town Planner that all the required improvements have been completed to their

satisfaction, and in cases where approval of the plat by the Board is contingent upon the establishment of a water, sewer or drainage system, as the case may be, is turned over to and approved by the Town.

2) Where no performance bond or surety is required the subdivider shall complete all required improvements to the satisfaction of the Superintendent, the Plumbing Inspector, Town Engineer, and Town Planner prior to the issuance of any building permits. If such improvements are not completed within one (1) year of the date of final approval the plat shall be deemed void.

3) Upon receipt of written notification from the Superintendent, the Town Engineer, and the Town Planner that all required improvements have been satisfactorily installed, or upon receipt of a written notification from the Town Attorney that an acceptable bond has been filed, the Chairman of the Board shall sign the plat as approved by the Board. Such approval in no way constitutes an acceptance by the Town of the dedication of any streets, parks or open public spaces. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future title, dedication and provision for the cost of grading, development, equipment and maintenance of any streets parks or playground areas.

O) New Streets. After the establishment of a County Official Map, no subdivision plat shall be approved when such proposed structures or proposed new streets shall have frontage on, access to or be otherwise directly related to any county road, existing or proposed, as shown on the County Official Map, except in accord with §239-k of the General Municipal Law. The Town Planning Board shall notify the County Department of Planning, the County Superintendent of Highways and the State Department of Transportation of such subdivision. The County Planning Department shall report to the Town Planning Board within thirty (30) days on its approval or disapproval or on its approval subject to stated conditions. The final plat may be approved by the Town Planning Board subject to stated conditions, notwithstanding such report, when the application of such report will act to deprive the owner of the reasonable use of his or her land.

P) Building Permits. Upon receipt of a copy of the final subdivision plat certified by the County Clerk, the Building Inspector may issue building permits for lots within the subdivision. No changes, erasures, modifications or revisions other than those required by the County Health Department, shall be made on any subdivision plat after final approval has been given by the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any plat so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

Q) Inspection of required improvements. The Town Engineer shall be responsible for inspecting required improvements during construction to ensure their satisfactory completion and, upon such completion, shall furnish the Planning Board with a statement to that effect. The applicant shall pay to the Town the costs of said inspection, to defray the costs of the inspection. If the Town Engineer determines that any of the required improvements have not been constructed in accordance with the approved plan, the applicant shall be responsible for correcting and properly completing said improvements. Failure of the Town Engineer to carry out inspections of required improvements during construction shall not in any way relieve the applicant or the bonding company of their responsibilities related to the proper construction of such improvements.

§ 177-13. Enforcement.

A) Enforcement of approved plats. For any minor and major subdivision the applicant, the

landowner, and the contractor shall all be responsible for the successful implementation and completion of an approved subdivision plat, including, but not limited to:

1) Installation and maintenance of erosion control measures and/or a SWPPP as depicted on the approved plat; and

2) Protection and preservation of non-disturbance areas, whether temporary or permanent, as depicted on the approved plat; and

3) Reclamation of disturbed areas as depicted on the approved plat; and

4) Installation and completion of site improvements in the location(s) and in the manner as depicted on the approved plat unless approved as a "field change" amendment by the Town Engineer, the Town Planner, or the Planning Board, as the case may be; and

5) Implementation and completion of environmental mitigation measures as required under any Negative Declaration or Findings Statement adopted for the project pursuant to Article 8 of the Environmental Quality Review Act (SEQRA), whether such mitigation measures are depicted on the approved plat or not; and

6) Implementation and completion of any other permits and approvals issued by any other agency.

B) Responsible parties. The applicant, the landowner, and the contractor shall be jointly and severally liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with the approved subdivision plat. Approval of the subdivision plat and commencement of any work related to the approved plat shall constitute express permission by the applicant and the landowner for the Director of the Planning Department and/or her designee(s), or other authorized Town officials, to enter the property for the purposes of inspection for compliance with the approved subdivision plat, whether or not any other permits have been applied for or issued for the project. The approval of the subdivision plat and the commencement of work related to the approved plat is an express waiver of any objection to such authorized Town official(s) entering the property for the purpose of conducting an inspection.

C) Nuisance. Any deviation from the approved subdivision plat, unless prior approved as a "field change" amendment by the Planning Board, or the Town Engineer, or the Town Planner, shall be deemed a public nuisance and may be restrained by an order to stop work, and/or injunction, and/or direct action by the Director of the Town Planning Department and/or her designee(s), or other authorized Town officials, to cease, abate, or cure the condition in any other manner provided by law. The Director may issue a "stop-work" order for the entire construction and site work/disturbance project, or any specified portion thereof, if the Director determines that any of the following conditions exist:

1) The erosion control measures and/or a SWPPP as depicted on the approved plat are not, or have not, been implemented or are not being properly maintained; and

2) Non-disturbance and protected buffer areas as depicted on the approved plat are not, or have not, been adequately protected and preserved; and

3) Disturbed areas are not, or have not, been reclaimed as depicted on the approved plat; and

4) Site improvements are not, or have not, been installed in the location(s) and in the manner as depicted on the approved subdivision plat and no approval for a "field change" amendment has been issued; and

5) Environmental mitigation measures required for the project pursuant to Article 8 of the Environmental Quality Review Act (SEQRA) are not, or have not, been implemented;

and

6) Other required permits and approvals from any other agency have not been issued or obtained by the applicant, the landowner, or the contractor.

D) Notice of violation. For purposes of this section, a stop work order is validly issued by posting a copy of the order on the site of the construction or site work/disturbance activity in reasonable proximity to said construction or site work/disturbance, and in a location where the posted order is visible. Additionally, a copy of the order, in the case of work for which a permit has been issued, shall be mailed by first class mail, certified return receipt, and one copy of the order shall be mailed by regular first class mail, to the address listed by the applicant and to the landowner as the case may be. In the case of work for which no permit has been issued, a copy of the order shall be mailed by first class mail, certified return receipt, and one copy of the order shall be mailed by regular first class mail, to the person listed as owner of the property according to the latest roll maintained by the Town Assessor's Office.

1) If the applicant and/or the landowner does not immediately cease the activity and comply with the provisions of this Chapter within one (1) day of the date of the order, the Director may request that the Town Attorney seek injunctive relief. In addition, the Director may revoke all or any portion of any other permits issued in accordance with the Town Code, including building permits, affecting the property. Upon a showing of compliance with the terms of this Chapter and proper implementation of the approved subdivision plat, the Director may reinstate any other permit(s) that may have been revoked.

E) As-built plans. At the completion of construction, and prior to issuance of a Certificate of Occupancy, the owner/applicant shall provide to the Planning Board and the Building Inspector a certification prepared by a professional engineer licensed by the State of New York that all site work has been carried out and completed in substantial compliance with the approved Subdivision plat for the project. Additionally, the applicant shall provide to the Planning Board and the Building Inspector an "as built" survey of the completed development.

F) Site maintenance. The premises for which a subdivision plat has been approved shall, at all times, be maintained in accordance with the approved subdivision plat. Failure to keep the premises in a condition that is consistent with the approved subdivision plat may result in a revocation of the Certificate of Occupancy for the premises. Development projects may periodically be inspected for conformance to the approved subdivision plat, including maintenance of the landscaping and plantings required as part of the subdivision plat approval. If there is non-conformance to the approved subdivision plat, or if any of the conditions of subdivision plat approval are not fulfilled, no Certificate of Occupancy shall be issued. Where a development project reverts to non-conformance with the approved subdivision plat after issuance of the Certificate of Occupancy or Certificate of Completion, the non-conformance shall be deemed a violation of this Chapter.

§ 177-14. Cluster Subdivisions.

A) Statement of policy. The Town of Poughkeepsie hereby establishes a policy of encouraging the use of cluster subdivision design to preserve open space, agricultural land, water supplies, and other environmental resources identified in the Town of Poughkeepsie Town Plan, and to harmonize new development with the traditional open, wooded, agricultural and hamlet landscapes of the Town. These principles allow the Planning Board to modify the applicable area and bulk provisions of this Chapter and Chapter 210 in order to preserve open space and encourage more sensitive and efficient development patterns than would be

possible by strict adherence to the conventional specifications.

B) Grant of authority. The Town Board of the Town of Poughkeepsie hereby grants to the Planning Board of the Town of Poughkeepsie the authority to modify applicable area, yard and bulk provisions of the Zoning Law as they apply to a specific plat when, in the Planning Board's sole discretion, doing so would be consistent with the goals and objectives of the Town Plan pertaining to cluster subdivisions and this Chapter. This grant of authority shall not be construed so as to permit the Planning Board to vary the minimum buffer setbacks required for proposed lots adjacent to existing residential uses as set forth in the Design Standards for the zoning districts. To the extent that any provisions of this Chapter are inconsistent with §278 of the Town Law, the Town Board of the Town of Poughkeepsie hereby declares its intent to supersede those sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law Section 10(1)(ii)(d)(3) *et seq*.

C) Purposes. This section encourages flexibility in the design and development of land in order to promote its most appropriate use and to preserve as permanent open space important natural features and resources, wildlife habitat, water resources, ecological systems, and scenic areas for the benefit of present and future residents. A cluster subdivision plan may involve grouping development on one or more portions of a parcel, and modifying the minimum lot, area, setback or frontage requirements in order to achieve one or more of the following specific purposes:

1) Long-term protection of natural and man-made resources identified in the Town Plan and this Chapter.

2) Compatibility with surrounding land uses and the overall character of the neighborhood in which the property proposed for subdivision is located.

3) Provision of adequate setbacks and visual buffers from adjoining properties.

4) Contribution to Town-wide open space planning by creating a system of permanently preserved open spaces providing linkages between existing and potential future open space areas.

5) Preservation of open space where the preserved lands border active agricultural land or land which is suitable for agricultural use.

6) Protection of ground and surface water, regulated wetlands, steep slopes, floodplains or unique areas of natural, scenic or historic significance.

7) Mitigation of significant environmental impacts identified through application of the State Environmental Quality Review Act requirements.

8) Reduction of the number of new roads or driveways obtaining access from existing public roads and reduction of the amount of new road that may be required to be dedicated to the Town.

9) Protection of a designated Critical Environmental Area.

D) Preservation of land. A cluster subdivision accomplishes the purposes set forth above by reducing the generally applicable minimum lot size and bulk requirements of this Chapter and Chapter 210 for the zoning district in which the property is located, and by grouping residences in those areas where development would have the least impact on identified natural and community resources. The approved cluster subdivision plat shall identify, with specificity, the location and type of resource(s) to be preserved. The resource(s) shall then be permanently preserved through the use of a conservation easement(s).

E) Applicability. This section shall be applicable only to land parcels within the R-4A, R-2A, R-1.5A, or R-20,000 districts which are twenty-five (25) acres in size or greater. Nothing herein shall be construed as to prevent the use of cluster subdivision design for lots of lets than

twenty-five acres. An applicant for a major subdivision involving a parcel or parcels of 25 acres or greater in size which is partially or wholly located in the R-4A, or the R-2A, or the R-1.5A, or the R-20,000 district shall, at the time an application for preliminary subdivision approval of a conventional subdivision is submitted, include a conceptual layout of a cluster subdivision plan in accordance with the requirements for a cluster subdivision as set forth in this Chapter. An application for preliminary subdivision approval shall not be deemed accepted until the conceptual layout for a cluster subdivision has been received. The Planning Board, in its sole discretion, shall determine whether to require implementation of the cluster subdivision plan, or whether to allow implementation of the conventional subdivision plan. An applicant may also request the Planning Board to allow the implementation of a cluster subdivision plan. However, the decision to permit the implementation of a cluster subdivision is at the sole discretion of the Planning Board.

F) Cluster preference criteria. The use of a cluster subdivision plan is specifically encouraged when the parcel contains, in whole or in part, one or more of the following:

1) The property abuts a Center district.

2) Town, State and/or federal freshwater wetlands occupy twenty-five (25%) percent or more of the site.

3) Slopes of greater than twenty (20%) percent occupy twenty-five (25%) percent or more of the site.

4) The site contains a Flood Plain or Flood hazard area as mapped by the Federal Emergency Management Agency's Flood Insurance Maps.

5) The site contains, or is contiguous to, a Critical Environmental Area.

6) The site contains an identified scenic views or scenic vistas.

7) The total amount of land included in the subdivision is thirty (30) acres or more.

8) The total number of lots is 10 or more.

9) All or part of the lot or parcel is included within an Agricultural District.

10) All or part of the lot or parcel is under a Forestry Management Plan.

G) Required plans. An application for cluster development shall include all plans and materials required for approval of a conventional preliminary subdivision as set forth in this Chapter. The maximum number of residential lots that may be permitted and approved within a cluster development shall not exceed the maximum number of lots capable of being developed within a conventional subdivision layout of the same property prior to the application of incentive densities pursuant to §210-76 of the Town Zoning Law. Lots shown on the conventional layout shall be fully consistent with the lot, area and bulk requirements for the zoning district in which the land is located, and all applicable requirements of this Chapter and Chapter 210.

H) Planning Board findings. In order to approve a cluster subdivision, the Planning Board must find that the cluster subdivision will benefit the Town and will fulfill the applicable purposes stated in this Chapter.

I) Determination of development density and minimum acreage. Upon receipt of an application for a major conventional preliminary subdivision the Planning Board shall review the proposed plan and shall, in accordance with §177-15 below, determine the number of building lots or dwelling units that could be practically created pursuant to said plan. The determination of the maximum density units for a conventional subdivision of the property shall also be a determination of the maximum density unit for the cluster subdivision of the same property.

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J) Minimum open space set-aside. The following formula shall be used to determine the Minimum Open Space Set Aside for a Cluster Subdivision:

a) With public water and public sewer: T - (W +F+S+I) x .50 = OS

b) With private wells and/or septic: T - (W +F+S+I) x .35 = OS

Where

T = Total land area (acres) inside the boundary lines of the project parcel.

W = Total land area (acres) inside the boundary lines of the project parcel and within a Town, or a NYSDEC, or a USACOE regulated wetland (exclusive of any buffer area).

F = Total land area (acres) inside the boundary lines of the project parcel and within the 100 Year Flood Plain area where the base elevations and flood hazard are determined exclusive of any flood area within a regulated state or federal wetland.

S = Total land area (acres inside the boundary lines of the project parcel and containing slopes of 20 percent or greater.

I = The total acreage of required public improvements (i.e. roads, sidewalks, storm water management facilities).

OS = Minimum land area (acres) required for Open Space.

K) Incentive density. Notwithstanding any contrary provision of the Town Law, this Chapter, or Chapter 210 that may limit or restrict the maximum residential density of a proposed cluster subdivision, an applicant proposing a cluster subdivision may also apply for an incentive adjustment to the maximum density requirements of this Chapter in exchange for providing benefits to the Town in accordance with §210-76 "Incentive Zoning" of the Town Zoning Law. In authorizing the incentive adjustment to the maximum unit density pursuant to said section the Town Board shall ensure that the benefit to the Town is permanent, and may require such easements, surety or other performance guarantees that the Town Board, in its sole discretion, deems necessary. Before authorizing an incentive adjustment the Planning Board and the Town Board shall each make a determination, in writing, that the preserved open space and other amenities meet the requirements of §210-76 of the Town Zoning Law, as applicable, and that the additional unit density would not have a significant adverse environmental impact.

L) Existing structures. A proposed cluster plat may be denied where the Planning Board finds that the location of proposed boundary lines, relative to existing principal or accessory structure(s) located on the parcel, or the location of proposed means of ingress and egress for such existing structure(s) relative to proposed new lots and adjoining property would create a conflict with the orderly development and use of the lots of the cluster subdivision, or of adjoining lots, or would not fulfill the purpose and intent of this Chapter.

M) Minimum acreage per lot. The Planning Board shall determine the minimum lot area and yard setbacks for each lot created as part of a cluster subdivision. In establishing the minimum yard requirements for each lot the Planning Board shall avoid creation of any "flag lots" by requiring that the minimum lot width for each lot be maintained back to the building line.

N) Dwelling unit type and location. Single family detached dwellings, single family semi-attached dwellings, and Town House dwellings, shall be the only dwelling unit types permitted in a cluster subdivision. The Planning Board is specifically authorized to require a mix of dwelling unit types within the cluster subdivision. In addition, where the development property abuts a Center or a Hamlet district the Planning Board may require

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the clustering of the units along the boundary of said Center or Hamlet district, and is specifically authorized to reduce the otherwise applicable yard setback and buffer setback distances to ensure that the units are placed in close proximity to the district boundary line so as to appear as an extension of the Center or Hamlet district.

O) Location of open space. The Planning Board is authorized to require the reconfiguration of a cluster subdivision to ensure that the open space to be protected under the plan generally consists of large contiguous land tracts unbroken by intervening lots, structures, roads or driveways. In order to achieve a continuity of open space lands and avoid fragmentation, not less than seventy percent (70%) of the lands so preserved shall be continuous and unbroken by intervening lot lines or boundary lines, and no part of any open space shall, at its narrowest point, be less than thirty (30) feet in width.

P) Pedestrian access. The Planning Board may require that the cluster subdivision layout include sidewalks and trails for pedestrian circulation. Such pedestrian access ways shall be designed and installed to meet the needs of the residents of the cluster subdivision.

Q) Water supply and sewage disposal. Water supply and sewage disposal facilities serving the cluster subdivision shall be designed in accordance with all applicable County Health Department standards and shall be prepared by a licensed professional engineer.

R) Utilities. All telephone, natural gas, electric and similar utilities serving the cluster subdivision shall be located underground.

S) Open space preservation requirements. All open space land not included in a cluster development plat as building lots, roads or parkland areas shall be set aside as permanent open space. The creation, preservation and management of open space to be protected as part of a cluster subdivision development shall be as follows:

1) Ownership. The preserved open space area may be:

a) Created as a separate parcel owned in common by the residents of the cluster subdivision through a homeowner's association (HOA) formed in accordance with state law and approved by the Office of the State Attorney General; or

b) Created as a separate parcel owned in fee by the Town of Poughkeepsie or by a qualified not-for-profit conservation organization acceptable to the Town Board; or

c) Owned by one or more of the owners of the lots of the cluster subdivision wherein the open space may comprise part of one or more of the lots of the subdivision with appropriate restrictions and covenants placed in the deed(s) to said lot(s) to ensure the permanent preservation of the open space.

T) Prohibited use. No portion of the open space shall be used for roads, building lots, utility structures, driveways, or any principal or accessory structures, except for utility lines and connections installed underground. In addition, no part of the open space shall be used for residential, industrial, or commercial purposes except in connection with active agricultural and forestry use.

U) Preservation and enforcement. Open space set aside in a cluster subdivision shall be permanently preserved as required by this section. Each lot created as part of the cluster subdivision shall be granted individual rights to enforce the covenants and restrictions of the conservation easement(s) protecting and preserving the open space. In addition the open space shall be protected by a perpetual conservation easement restricting development of the open space land and allowing use only for active agriculture, forestry, active or passive recreation or protection of natural resources, pursuant to §247 of the General Municipal Law and/or §§49-0301 through 49-0311 of the Environmental Conservation Law. Said conservation easement may be granted to the Town with the approval of the Town Board, or to a not-for-profit conservation organization qualified pursuant to §49-0303 of the

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Environmental Conservation Law and acceptable to the Town Board. Such conservation easement shall be reviewed and approved by the Planning Board and be required as a condition of plat approval hereunder.

V) Plat notations. Open space created by a cluster subdivision must be clearly labeled on the Final Plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land. The Plat shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the liber and page of any conservation easements or restrictive covenants required to be filed to implement such reservations or restrictions.

W) Recording. The conservation easement shall be recorded in the Office of the Dutchess County Clerk's prior to or simultaneously with the filing of the Cluster Subdivision final plat in the County Clerk's Office.

§ 177-15. Maximum density calculation for a major subdivision.

A) Maximum Density Unit calculation. The maximum number of Density Units (i.e. units per acre or "DU") in a major subdivision shall not exceed the maximum allowable DU, as calculated below, for the district in which the property is located prior to the application of any incentive densities pursuant to §210-76 of Chapter 210. Any regulations contained in this Chapter and in Chapter 210 restricting the number of dwelling units permitted in a conventional subdivision shall also restrict the number of dwelling units permitted in a cluster development. The maximum DU for a major cluster subdivision shall not exceed the maximum DU for a major conventional subdivision of the same lot. The calculation of Buildable Yield ("BY") for any major conventional subdivision shall be based on the following formula which shall be applicable to all major conventional subdivisions as defined in this Chapter and in Chapter 210. The Buildable Yield shall be used to determine the number of Density Units pursuant to the area, yard and bulk chart.

1) The BY calculation shall be determined by subtracting the Constrained Land areas of the property (i.e. Town, NYSDEC and USACOE regulated wetlands, and lands within the 100 year Flood Plain area, and steep slope areas of greater than 20%) for which the applicant has not secured and has not submitted to the Planning Board permits or approvals that would allow development in such Constrained Land areas, and the areas required for public improvements (i.e. roads, sidewalks, storm water management facilities, etc.), as follows:

(a) $T - (W+F+S+I) = BY$

Where

T = Total acreage inside the boundary lines of the project parcel.

W = Total acreage inside the boundary lines of the project parcel and within a Town, a NYSDEC, or a USACOE regulated wetland (exclusive of any buffer area).

F = Total acreage inside the boundary lines of the project parcel and within the 100 Year Flood Plain area where the base elevations and flood hazard are determined exclusive of any flood area within a regulated town, state or federal wetland.

S = Total acreage inside the boundary lines of the project parcel and containing slopes of 20 percent or greater.

I = Total acreage of required public improvements (i.e. roads, sidewalks, storm water management facilities).

BY = Maximum number of acres that can be developed and that form the basis for determining the maximum number of residential dwellings that may be created per the area, yard and bulk chart.

2) The BY calculation set forth above shall be adjusted to include, in whole or in part, the Constrained Land area(s) for which the applicant has secured the necessary permits or approvals from applicable local, state or federal agencies authorizing development in such area(s) and has submitted copies of said permits or approval to the Planning Board. If the parcel is not proposed for connections to central sewage disposal facilities the plan shall also include an assessment and certification by a Professional Engineer as to the suitability of the soils to accommodate individual sewage disposal systems. The Planning Board in its sole discretion shall determine whether the plan is realistic and reflects a development pattern that could reasonably be implemented.

§ 177-16. Reserved.

ARTICLE IV
GENERAL REQUIREMENTS AND DESIGN STANDARDS

§ 177-17. Construal of provisions; waiver.

A) The following shall be deemed to be minimum requirements and will ordinarily be waived by the Board only under circumstances set forth in Article VII hereof.

§ 177-18. Streets.

A) The arrangement, character, extent, width, grade and location of all streets shall conform to the Official Map and the Town Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.

B) Where such is not shown in the Official Map or Town Plan, the arrangement of streets in a subdivision shall either:

1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

2) Conform to a plan for the neighborhood approved or adopted by the Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable or undesirable.

C) Minor streets shall be so laid out that their use by through traffic will be discouraged.

D) Where a subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

E) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Board may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

F) Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board shall require that streets and lots be laid out to permit future resubdivision in accordance with the requirements contained in these regulations. The Board may waive this requirement where:

1) A condition of final approval is that said large lot(s) will not be further subdivided; and

2) A notation is placed on the final subdivision plat stating that the lot(s) will not be further subdivided; and

3) A restrictive covenant is filed in the Office of the Dutchess County Clerk prohibiting the further subdivision of the parcel and granting the Town the right to enforce the prohibition.

G) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the Town under conditions approved by the Board. Certain proposed streets may be required to be extended to the boundary line of the tract to be subdivided to provide adequate access to tracts which may be subdivided in the future.

H) The creation of dead-end or loop residential streets and superblocks may be permitted wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area, provided that interior parks are covered by appropriate covenants as to maintenance. Subdivisions containing 50 lots or more shall have at least two connections with an existing or proposed improved public street(s).

I) Street jogs with center-line offsets of less than 125 feet shall not be permitted except with the approval of the Board.

J) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and may be required on all other streets.

K) When connecting street lines on minor streets deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius at the center line of the street of at least 125 feet. On collector and arterial streets, in identical circumstances, the following center-line curve functions shall be used:

Central Angle	Tangent (feet)
0°01'to 15°00'	100
15°01' to 30°00'	150
30°01' to 40°00'	200

Intersecting angles exceeding 40° will be given special consideration by the Board in the case of all streets.

L) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60°.

M) Property lines and curbs at street intersections shall be rounded with a radius of 25 feet or of a greater radius where the Board may deem it necessary. The Board may permit comparable cutoffs or chords in place of rounded corners.

N) Street right-of-way widths shall be as shown on the Official Map or Town Plan and where not shown therein shall not be less than as follows:

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Street Type	Right-of-Way (feet)
Arterial	70
Collector	60
Minor, for row houses and apartments	60
Minor, for other residences	50
Dead-end	50
Marginal access	50

O) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Board finds it will be practicable to require the dedication of the other half when adjoining property is subdivided. Wherever an approved half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

P) Dead-end streets shall not exceed 400 feet in length as measured from the intersection with an existing public highway to the center of the cul-de-sac circle, and shall be provided at the closed end with a turnaround having an outside roadway diameter of not less than 100 feet, or a diameter of less than 100 feet upon approval of the Town Highway Superintendent.

Q) No street names shall be used which will duplicate or which may be confused with the names of existing streets, either in the city or in the Town. Street names shall be subject to the approval of the Board.

R) Street grades.

1) Street grades, wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves:

Street Type	Maximum Percent Grade
Arterial	7
Collector	7
Minor and dead-end	10
Marginal access	7
Alleys	4
Pedestrian walkways	20

S) Wherever the grade of pedestrian walkways exceeds 20%, steps of an acceptable design shall be required.

1) No street grade shall be less than 1%.

2) Within the triangular area formed at corners by the intersecting street lines, for a distance of 40 feet from their intersection and the diagonal connecting the end points of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Nothing in the way of fences, walls, hedges or other landscaping shall be permitted to obstruct such visibility.

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3) All changes in street grade shall be connected by vertical curves of a minimum length equal to 15 times the algebraic difference in the rate of grade.

4) It is the purpose of these specifications to establish minimum acceptable methods of street construction including widths and development of right-of-way, paved roadway, storm drainage and other utilities in the Town of Poughkeepsie. Dedication of the right-of-way will not be accepted until the developer's professional engineer or licensed land surveyor and the Town Superintendent of Highways shall have certified to the Town Board that the development of the street has been completed in accordance with the approved plans which shall conform to the following specifications. Upon receipt of a request to accept a road as a town road, the Town Board shall refer said request to the Planning Board and the Town Engineer for a report thereon, and the Planning Board and the Town Engineer shall issue recommendations to the Town Board within thirty (30) days of the date of said referral.

5) The plan of the proposed street shall be prepared by a qualified engineer properly licensed by the State of New York. The plan shall clearly define the limits of the proposed right-of-way and shall include the location, profile and grades of proposed roadways, storm drainage, including culverts and other drainage structures, and the location of easements and utilities. The plan shall first be submitted to the Town Superintendent of Highways and/or Town Engineer, and then to the County Superintendent of Highways when any street drains toward a county highway, and then to the Town Planning Board for review and approval under the applicable subdivision regulations of the Town. Such plans so submitted shall not be altered or amended after having been approved by the Planning Board, except after amended plans have been resubmitted and approved as above. However, the developer shall, at his or her own expense, provide additional storm drainage facilities as may be ordered by the Town Superintendent of Highways if, during the progress of the work, in the opinion of the Town Superintendent of Highways, the Town Engineer and/or the County Superintendent of Highways, such additional structures or facilities are necessary to assure the durability of pavement and future maintenance of right-of-way.

§ 177-19. Alleys.

A) Alleys shall be provided in commercial and industrial districts, except that the Board may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

B) The width of an alley shall be not less than 20 feet.

C) Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D) Dead-end alleys shall be avoided where possible, but if unavoidable shall be provided with adequate turnaround facilities at the dead end, as determined by the Board.

§ 177-20. Easements.

A) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 12 feet wide. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible.

B) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be

adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

§ 177-21. Blocks.

A) The lengths, widths and shapes of blocks shall be determined with due regard to:

1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

2) Zoning requirements as to lot sizes and dimensions.

3) Needs for convenient access, circulation, control and safety of street traffic.

4) Limitations and opportunities of topography.

B) Block lengths shall not exceed 1,000 feet (unless specified by the Planning Board).

C) Pedestrian crosswalks, not less than 10 feet wide, may be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

§ 177-22. Lots.

A) The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B) Lot dimensions shall be such as to conform to the rules and regulations of the State Department of Health and the requirements of Chapter 210, Zoning.

1) Residential lots shall conform to the requirements of Chapter 210, Zoning.

2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C) All corner lots shall provide yards equal to the front yard depth required in the zoning district in which such lots are situated along both streets and along any required pedestrian walkway.

D) The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

E) Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet and across which there shall be no right of access shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

F) Side lot lines shall be substantially at right angles or radial to street lines.

G) No lots shall be platted on land subject to flooding for residential or any other use where danger to life or property or an aggravation of the flood hazard may result. Such land may be set aside for such uses as shall not be endangered by periodic or occasional inundation.

§ 177-23. Reserved.

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§ 177-24. Parks and playgrounds.

A) The Planning Board may require adequate, convenient and suitable areas for parks and playgrounds or other recreational purposes to be reserved on the plat but in no case more than 10% of the gross area of any subdivision. The area shall be shown and marked on the plat "Dedicated for Park or Playground Purposes."

B) If the Planning Board determines a suitable park or parks of adequate size cannot be properly located in any such plat or is otherwise not practical, the Board may require, as a condition to approval of any such plat, a payment to the Town of Poughkeepsie in the sum of $5,000 per lot (e.g., a ten-lot subdivision: $50,000), and such money shall be used by the Town for park and recreation purposes, including the acquisition of property. The current provision which provides that said provision shall not be applicable to subdivisions of two lots or less means that said lots do not pay a recreation fee.

C) In requiring the set-aside of land for recreation or the payment of a fee in-lieu of recreation land the Planning Board shall adhere to the requirements of §277, Subdivision 4, of the Town Law, which provides for the reservation of parkland on subdivision plats containing residential units.

§ 177-25. General grading.

A) No final slope on the property shall exceed the normal angle of repose of the soil of such slope and, except where slope consists of a natural rock formation, in no case shall it be greater than 1:3 unless such slope is sodded and/or supported by a retaining wall of a design acceptable to the Planning Board.

§ 177-26. Reserved.

§ 177-27. Reserved.

ARTICLE IV
DOCUMENTS TO BE SUBMITTED

§ 177-28. Pre-application plans and data; minor and major subdivisions.

A) The following documents shall be submitted prior to a formal application for conditional approval:

1) General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information may include data on existing covenants, land characteristics, and available community facilities and utilities and information describing the subdivision proposal, such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park area and other public areas, proposed protective covenants and proposed utilities and street improvements.

2) The topographic survey shall show the proposed layout of streets, lots and other features in relation to existing conditions.

§ 177-29. Preliminary layout and accompanying data; major subdivisions.

A) The following documents shall be submitted for preliminary plat approval:

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1) Subdivision application must be completed in full.

2) Consent of Property Owner(s) form must be completed in full with original signatures.

3) Fourteen (14) Full Environmental Assessment Forms must be completed in full.

4) Three (3) photographic enlargements at a minimum scale of 1 inch = 100 feet. Clearly outline subject parcel, street that it is on and adjacent streets. Label the back of the map with the project name and grid number.

5) Fourteen (14) folded copies of the plot plan at a scale of not less than 1 inch = 50 feet on a 24" x 36" sheet. Plus, 14 copies of the plot plan reduced in scale on 11" x 17" paper in addition to the full size set of plans. The plot plan shall show:

   a) Proposed subdivision name, date, North point, scale, name and address of record owner, subdivider and engineer or surveyor.

   b) Site data table listing the name of any school, fire or special districts, zoning designations of parcel, required and proposed lot area, required and proposed lot width, required and proposed road frontage. Lot sizes must be shown in square feet and acres.

   c) Location map: scale 1 inch = 400 feet. Tax map is acceptable.

   d) Location of existing water courses, marshes, rock outcrops, wooded areas, single trees with a diameter of 8 inches or more and other significant existing features.

   e) Location of existing sewers, water mains, culverts, driveways and drains on the property with pipe sizes, grades and direction of flow.

   f) Existing contours with intervals of five feet or less.

   g) Location of existing property lines, streets, easements and buildings.

   h) All proposed streets with profiles indicating grades, lots, easements and public or community areas, with approximate dimensions.

   i) The approximate location of all proposed water lines, valves and hydrants and of all sewer lines with profiles indicating connections with existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law.

   j) Storm drainage plan.

   k) The names of all proposed streets and alleys and the cross sections of proposed streets showing the width of roadways, the location and width of sidewalks, and the locations and size of utility lines.

   l) Deeds of cession of streets, rights-of-way, easements and any sites for public use and copies of agreements, covenants or other documents showing the manner in which areas to be reserved for the common use of the residents of the subdivision is to be maintained, all certified as to their legal sufficiency by the Town Attorney.

   m) If the application covers only a portion of the applicant's entire holding, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to one inch showing an outline of the plotted area must be shown on the plans.

   n) Names, addresses, and tax identification numbers of all adjacent property owners.

   o) Sanitary and Sewer Notes, Water Notes and Special Notes for Plans required by the Town of Poughkeepsie Engineer, to be incorporated in the plans (if applicable).

   p) If the application covers only a part of the applicant's entire holding(s), together with

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all parcels owned in whole or in part by the applicant must be disclosed on the plans.

6) Copies of such covenants or deed restrictions as are intended to cover all or any part of the tract.

7) A storm water pollution prevention plan (SWPPP) consistent with the requirements of Chapter 173, Part 2, Articles II, III and IV, shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 173, Part 2, Articles III and IV. The approved preliminary subdivision plat shall be consistent with the provisions of Chapter 173, Part 2, Storm water Control.

§ 177-30. Plat and accompanying data; minor and major subdivisions.

A) The following documents shall be submitted for final plat approval:

1) The plat shall be drawn in ink on tracing cloth in sheets not exceeding 24 inches by 36 inches and at a scale of not less than 100 feet to the inch. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.

2) The plat shall show:

a) Subdivision name, date, scale and North arrow.

b) Certification of title showing ownership.

c) Names of owners of adjacent land.

d) Certification by a licensed engineer or surveyor as to the accuracy of the survey and plat.

e) Primary control points (wherever possible including monuments included in the state system of plane coordinates or reference points previously established by public authority) or descriptions and ties to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.

f) Boundaries of the property; building or setback lines if different from those required in Ch. 177, Zoning, and lines of streets, lots, reservations, easements and areas to be dedicated to public use; lengths and deflection angles of all straight lines; radii, lengths, central angles, long chords and tangent distances of all curves. All lengths shall be in feet and decimals of a foot, and all angles shall be given to the nearest 10 seconds or closer if deemed necessary by the surveyor. The error of closure shall not exceed one to 10 thousand.

g) Area of all lots in square feet.

h) The location, material and size of all permanent monuments.

i) Proposed street names.

j) Designation and purpose of all areas to be dedicated or reserved for public use and of any streets which are not to be dedicated.

3) Deeds of cession of streets, rights-of-way, easements and any sites for public use and copies of agreements, covenants or other documents showing the manner in which areas to be reserved for the common use of the residents of the subdivision are to be maintained, all certified as to their legal sufficiency by the Town Attorney.

4) Cross sections and profiles of all proposed streets showing existing and proposed grades. The cross sections shall show pavements and, where required, gutters, curbs and sidewalks.

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5) Street trees are to be planted by the subdivider, planting plans showing the types and spacing of trees.

6) A storm water pollution prevention plan consistent with the requirements of Chapter 173, Part 2, Articles II, III and IV, and with the terms of preliminary plan approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 173, Part 2, Articles III and IV. The approved final subdivision plat shall be consistent with the provisions of Chapter 173, Part 2, Storm water Control.

§ 177-31. Reserved.

ARTICLE VI
STREETS

§ 177-32. Preparation and submission of highway plan.

A) Plans including profiles and construction details of the proposed highways shall be prepared by a qualified professional engineer properly licensed by the State of New York. The plans shall clearly define the limits of the proposed right-of-way and shall include the location, widths, profiles and grades of proposed roadways, typical road sections, storm drainage, including culverts and other drainage structures, and the location of easements and utilities. Plans shall first be submitted to the Town Planner for review and approval under the applicable subdivision regulations of the Town. When any proposed highway drains toward or may otherwise affect a county or state highway, plans shall be submitted to County Commissioner of Public Works or New York State Department of Transportation for their review and comments. Such plans so submitted shall not be altered, modified or amended after having been approved by the Planning Board unless revised plans are resubmitted and approved by all proper authorities. If construction has not been started within one year from the date of final approval by the Town Planning Board, plans shall be resubmitted and approved as above.

B) Security; performance bond.

1) Prior to the start of construction of any approved highway, the developer shall deposit with the Town Clerk a performance bond by a bonding company licensed to do business in New York of acceptable surety or shall deposit with the chief fiscal officer of the Town acceptable negotiable government bonds, cash or certified check drawn upon a national or state bank payable at sight to the Town Board, guaranteeing that:

2) Within two years, the developer will complete the construction of all required improvements within the right-of-way in accordance with the approved plans and these specifications.

3) Upon certification by the developer's professional engineer and by the Town Superintendent of Highways that the construction of the highway has been completed in accordance with the approved plans and specifications, the developer will dedicate the highway free and clear of all liens and encumbrances. This guaranty of dedication shall apply to the owner of the property as well as the developer where the two are not synonymous.

4) The developer shall maintain to the satisfaction of the Town Superintendent of Highways such improvements for a period of one year from the official date of acceptance of such construction.

5) As guaranty for the performance of the above requirements, the developer shall deposit,

as heretofore set forth, a surety bond, negotiable government bonds, cash or a certified check in the amount of 100% of the total construction cost. This amount shall be determined by the Town Superintendent of Highways. Upon certification by the Town Superintendent of Highways that the construction of the right-of-way has been completed by the developer in accordance with the plan and the Town specifications and after the Town Board has been satisfied that the stipulated guaranties have been complied with, the Town Board may release the bond, surety, cash or certified check to the developer or his or her assigns, except that the Town Board shall require a maintenance bond in the amount of 10% of the original road bond for a period of one year from the date of such official completion as guaranty that the developer shall maintain such completed right-of-way as set forth herein. At the expiration of the one-year maintenance period the Town Board shall release such maintenance guaranty to the developer or his or her assigns, provided that prior to such final release of guaranty, the Town Board may deduct from such deposit all just charges for any maintenance, exclusive of charges for plowing of snow which the Town may have incurred for work on such right-of-way during the one-year period. The Town Superintendent of Highways will request a hold harmless agreement for any damage done during winter maintenance operations such as sanding, salting or plowing.

C) Insurance. The developer shall procure and maintain at his or her own expense and without expense to the Town, until final acceptance by the Town of the work covered by approved plan and specifications, insurance for damages imposed by law, of the kinds and in amounts hereafter provided, in insurance companies authorized to do such business in the state covering all operations under the approved plan and specifications, whether performed by him or her or subcontractors. Before commencing the work, the developer shall furnish to the Town a certificate or certificates of insurance in form satisfactory to the Town showing that he or she has complied with this subsection, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days' written notice has been given to the Town. The kind and amount of insurance is as follows:

D) Liability and property damage insurance: Unless otherwise specifically required by special specifications, each policy shall have a combined single limit of $3,000,000.

E) Inspection. The developer shall afford the Town Superintendent of Highways the opportunity to inspect the work in order that he or she, the Superintendent, may assure himself or herself that these minimum specifications are being complied with. Such inspections shall occur at the following listed places in order of construction, and the developer shall give the Superintendent at least two (2) days' notice, in writing, of such expected completions and shall not proceed to the next order of work until the Superintendent or his or her agent has approved the work inspected:

1) Upon completion of the subgrade.

2) Upon completion of the foundation course, at which time the developer shall furnish the Superintendent with men and equipment to dig or have dug test holes to establish and confirm the depth and quality of the foundation course.

3) The Superintendent or his or her representatives shall be given access to the work at all times in order that he or she may inspect the work as it progresses.

F) Maintenance during development construction prior to final acceptance. It is expected and it is understood that as part of conditions of approval of the subdivision, the developer shall agree to maintain the roads giving access to the houses in such condition that the residents shall have safe, convenient access. The minimum conditions for such access are listed below:

G) Paved surface.

1) The edges of the road (i.e., the gutter line) shall be kept free and clear of debris, stone,

gravel or any material which prevents the free flow of water. Driveways shall be so constructed that the flow line remains clear.

2) The storm sewer system shall be kept clean and operational.

3) The surface pavement shall be maintained on a continuing basis. Soft spots or other structural defects shall be repaired immediately by excavation and replacement with approved material. "Immediate" shall be considered to be 24 hours from the time of oral or written notification by the Superintendent to the developer, unless arrangements are made, satisfactory to the Superintendent, to protect the traveling public by lights and barricades until such time as repairs can be made. Potholes and edge raveling shall be remedied on a continuing basis or as ordered by the Superintendent. Repairs shall be made with asphalt concrete (hot mix when available).

4) Permits. No certificate of occupancy shall be issued unless the three-inch asphalt concrete base course has been completed back to the nearest paved road.

5) All lots must have preliminary plot plans furnished to the Building Inspector, indicating house location and drainage flow patterns with elevations relative to road surface before building permit can be issued.

H) Before a certificate of occupancy is issued, a final plot plan must be furnished to the Building Inspector for his or her review. A certified plat plan may be required and must include the stamp and signature of a licensed professional engineer or land surveyor where deemed necessary by the Building Inspector.

I) Dedication. Conditions to be satisfied before the Town Board considers the acceptance of a new highway:

J) A set of as-built plans of the highway, showing right-of-way lines, drainage and water and sewer easements where installed by the developer, and a road center-line profile must be submitted to the Town Engineer and Highway Superintendent. These plans must bear the stamps of a licensed professional engineer.

K) Metes and bounds description of all rights-of-way and easements prepared by a licensed land surveyor must be submitted to the Town Clerk.

L) The plans and descriptions must be reviewed by the Town Engineer and Highway Superintendent who shall indicate his or her approval either by letter to the Town Board or by the stamping of said plans and descriptions. This shall be done within five (5) working days.

M) The submitted deeds must be checked by the Town Attorney as to form and sufficiency. A title insurance policy may be substituted in lieu of a title search if approved by the Town Attorney.

N) The work completed on the highways at the date of submittal must be approved by the Town Highway Superintendent, and the Town Board shall be notified of this approval.

O) Approved permanent concrete or granite monuments shall be set according to the Town highway specifications or as directed by the Town Engineer, and their locations shall be shown on the road plan. A copper rod embedded in concrete shall also be acceptable as a permanent monument. These monuments must be physically shown to the Highway Superintendent and/or Engineer if requested within two weeks after their installation.

§ 177-33. Reserved.

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§ 177-34. Construction specifications.

A) Right-of-way layout. The developer shall establish and clearly mark on site the limits of highway right-of-way and easements, the center line and grades of the road pavement and the location and elevation of drainage and drainage structures if and when required by the Town Engineer or Highway Superintendent.

B) Clearing and grubbing.

1) The developer shall clear the entire area within the limits of:

a) The highway right-of-way, unless certain trees or other features have been identified on the approved plans, or the negative declaration, or findings statement as features to be preserved.

b) Stream channels and ditches.

c) Easement areas.

2) All roots and stumps shall be grubbed, excavated and removed from the above areas.

C) Excavation, filling and rough grading.

1) The developer shall complete the shaping of the highway right-of-way, streams and ditches and easement areas to the line and grade as shown on the approved plan and as otherwise may be directed by the Town Superintendent of Highways. All unsuitable or unstable materials shall be completely excavated and removed from the right-of-way.

2) Where fills are necessary to complete the required line and grade, the materials incorporated in the work shall be acceptable to the Town Superintendent of Highways and shall be placed in layers not exceeding twelve-inch depth, each layer to be thoroughly compacted by rolling. All compaction shall continue until the fills are firm and unyielding. Special care shall be exercised in placing and compacting material immediately adjacent to pipes in order to avoid damage to the pipe and to prevent pipe misalignment.

3) The area between the road shoulder edge or curbing and the right-of-way line must be graded and seeded in order to prevent erosion.

4) The rough grade of the road pavement and curb areas shall be completed within one inch above or below finished subgrade as shown on the approved cross section of the right-of-way improvement.

5) Earth shoulders and flow line of ditches and gutters shall be maintained in satisfactory condition at the developer's expense at all times during the course of construction of the subdivision and until such time as the Town Board has accepted dedication of the right-of-way.

D) Trench excavation, laying and backfilling.

1) The width of the trench in which the pipe is placed shall be sufficient to permit thorough tamping of the backfill under the haunches and around the pipe. Where rock in either boulder or ledge formation is encountered, it shall be removed below grade and replaced with suitable materials in such a manner as to provide an earth cushion having a thickness under the pipe of not less than eight inches; and where there are excessively heavy fills over the top of the pipe, the Town Superintendent of Highways may specify that a sand cushion up to one-half (1/2) inch in thickness per foot of fill be placed over the top of the pipe. In no case shall the tip of any drainage pipe be less than 18 inches below the finished grade of the pavement unless written permission is received from the

Superintendent of Highways. Where soft, spongy or other unstable soil is encountered at the grade established, all such unstable soil under the pipe and for a width of one diameter on each side of the pipe shall be removed and replaced with run-of-bank gravel or other acceptable material. In all cases the bed shall be thoroughly compacted and shall provide a firm foundation for the pipe.

2) Pipe line shall be laid to a true line and grade. Pipe laying shall begin at the downstream end and progress upstream, unless particular conditions require otherwise.

3) Any additional drainage facilities not shown on the approved plan may be ordered by the Town Superintendent of Highways or Town Engineer, in any case where the lack of such additional drainage would adversely affect the pavement of right-of-way. These additional facilities shall be constructed by the developer at the developer's expense and in accordance with these specifications.

E) Restoration of disturbed areas. All disturbed easements shall be restored to their original condition. All debris shall be removed, including dead trees.

F) Areas shown on the approved plans, or identified in the negative declaration or findings statement as "non-disturbance area", or "area to be remain undisturbed", or identified by similar language, shall be staked out prior to the commencement of any construction and left in an undisturbed state during and after construction.

G) Grades and vertical curves. All roads shall be designed so that finished tangent grades are between 1% and 10%. Every change in grade shall be accomplished with a proper fitting vertical curve.

§ 177-35. Drainage requirements.

A) Drainage assessment. Each lot in each approved subdivision will be assessed an amount as set forth in Chapter 105, Fees, as its representative share of the cost of the off-site drainage work, whether or not this work is immediately required and whether or not this particular subdivision will receive any future benefit from this assessment.

B) Drainage report.

1) A hydraulic design report prepared by a professional engineer shall be submitted to the Town Engineer and Highway Superintendent together with the drainage plan. This report shall contain the basic design data required to compute the size and type of all drainage structures and shall include such information as volume of runoff before and after development, capacity of receiving pipes or streams, storm frequency and severity, percolation data, velocities, etc. It will be the responsibility of the developer's engineer to produce a drainage plan that will so contain or control the additional runoff that is generated by this development that no property damage shall result off-site because of it. The design engineer under his or her professional liability insurance will be liable for all legitimate claims of damage that may result due to a change in natural drainage patterns that was caused by this development.

2) If, in the opinion of the Town officials, the drainage plan as submitted is inadequate for the above purposes, approval will be denied.

3) There should be enough information shown on plans and profiles to properly construct all the required drainage facilities. Type and size of culvert, end treatments of inlet and outlet, the gauge of metal pipe or class of concrete pipe, invert elevation of inlet and outlet, ditch and channel section, gutters, channel protection and alignment of ditches are some of the information required on plan and profiles.

C) Drainage easements. The developer shall dedicate to the Town by recordable instrument all

easements as shown on the plot. All drainage easements must have a minimum width of 20 feet and shall include the right to enter upon said property for the purposes of installing, maintaining and repairing the ditches and pipes as placed in such easement.

D) Pipe.

1) Storm drain and culvert pipe may be aluminum corrugated, coated corrugated metal, reinforced concrete or asbestos cement type with a minimum diameter of 12 inches.

2) Round corrugated steel pipe and pipe arches, fully bituminous coated, and end sections shall conform to Section 707-02 of the current Standard Specifications of the State of New York Department of Transportation, with the following exceptions:

a) All collars or connecting bands shall be 12 inches wide and shall be furnished with bolts six inches long.

b) Round corrugated aluminum pipe, pipe arches and end sections shall conform to Section 707-13 of the current Standard Specifications of the State of New York Department of Transportation.

c) Reinforced concrete pipe and asbestos cement pipe shall conform to Sections 706-02 and 706-10, respectively, of the current Standard Specifications of the State of New York Department of Transportation.

d) All reinforced concrete pipes shall be manufactured with slip joints or bell and spigot joints.

e) Corrugated metal pipe and pipe arch connections for making field joints shall consist of corrugated bands, so constructed as to lap on equal portions of each culvert section to be connected.

f) Asbestos cement pipe joint assemblies with proper accessories shall be constructed in accordance with manufacturer's standards and instructions. When plastic couplings are used, the asbestos cement pipes shall be pulled together until the machined shoulder of each pipe contacts the plastic coupling. The couplings and joint shoulder configuration shall be such that the maximum space between the ends of the pipe inside the couplings shall not be greater than one-half (1/2) inch.

g) Height of the fill and pipe classes shall be designed to meet the minimum requirements of H-20 Highway Loading.

E) Treatment of culvert ends.

1) Whenever a drain pipe begins or ends in an open ditch, pond or stream, inlet and outlet end shall be designed to protect embankments and channels and to preserve the hydraulic efficiency of the pipe.

2) The following end treatments shall be used for drainage pipes:

a) Prefabricated end sections.

b) Headwall and wingwalls, with or without concrete apron.

c) Beveled pipe ends.

3) Prefabricated end sections shall be of similar material and construction to the pipe. End sections shall be connected to the pipe in the same manner as pipe sections are connected.

F) Underdrains.

1) Underdrains, if required, may be a perforated metal or porous pipe type and placed in trenches and surrounded by material which is both pervious to water and capable of

protecting the pipe infiltration by the surrounding soil.

2) Underdrains must be sloped positively to an outlet such as a drainage channel or a closed drainage system.

3) The underdrains should be placed at the interface of the pavement and shoulder or curb and should intercept the water from the highest water bearing layer of the pavement section.

G) Catch basins and curb inlets. Specification and drawings on Figure 5, in the Appendix, show the minimum acceptable construction for typical catch basins and curb inlets. Whenever, in the opinion of the Town Superintendent, ground conditions or other circumstances require, larger or heavier materials, additional materials, reinforcing or other modifications and improvements in design and construction shall be made as directed by the Town Superintendent at any time prior to paving.

1) Location. Catch basins shall be constructed at all points of change of slope or alignment and at all junction points. Catch basins shall be located in the lows of sag vertical curves as necessary to prevent excess ponding. At no time shall catch basins be spaced further apart than 300 feet on slopes up to 6% and 250 feet on slopes over 6% in steepness.

2) Excavation and construction.

a) Holes for catch basins shall be excavated to a depth of 26 inches below the designated elevation of the invert of the effluent pipe. Crushed stone or run-of-bank gravel to a uniform depth of six inches shall be leveled and compacted over the entire area under the base. On this stone or gravel base an eight-inch-thick slab of 1-2-4 mix portland cement concrete shall be placed. The slab shall extend four inches beyond the outside of the walls of the catch basin on every side and shall be smooth and level.

b) To a maximum depth of 10 feet below the finished surface, the catch basin walls shall be constructed of solid concrete catch basin corner and stretcher blocks eight inches thick or cast-in-place concrete.

c) Below 10 feet from the finished surface, the catch basin walls shall be 13 inches thick and shall be constructed of concrete block or cast-in-place concrete.

d) All blocks forming the catch basin walls shall be laid up with mortar composed of portland cement and mortar sand in the proportion 1:2.

e) Inside dimensions of the catch basin shall remain constant from top to bottom and shall match the frame opening or the curb inlet to be used.

f) All construction and materials shall comply with Section 604 of the current Standard Specifications of the State of New York Department of Transportation.

3) Installation of pipes. Concrete blocks around all pipes entering or leaving the catch basin shall be cut to fit the contours of the pipes as closely as possible. Remaining interstices shall be solidly filled with mortar for the full thickness of the wall. Ends of all pipes shall be cut off flush with the inside surfaces of the catch basin walls and shall project outside a sufficient distance to allow for proper connection with adjoining pipe section.

4) Curb inlets.

a) Wherever required catch basins shall be capped with curb inlets having a minimum frame opening of 36 inches by 48 inches of a type as designated by the Town Superintendent of Highways.

b) Curb-type inlets shall be installed so that the top of the grating shall be flush with the finished grade and the pavement shall be sloped toward the inlet.

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5) Steps for catch basins. Catch basins having a depth greater than 48 inches from the finished surface to the top of the concrete base shall be provided with steps. Steps shall be of wrought iron having a minimum diameter of one inch which shall be hot-bent to shape and hot-dipped galvanized after bending. They shall be solidly set in the masonry at the time of construction and shall extend all the way through the wall. The steps shall extend 4 1/2 inches inside the wall of the catch basin. The top step shall be not more than 18 inches below finished surface, and then to the base steps shall be no more than 18 inches apart.

§ 177-36. Bases and subbases.

A) Subgrade.

1) After completion of the rough grade and prior to the laying of the foundation course, the subgrade shall be shaped to line and grade and thoroughly compacted with an approved self-propelled roller weighing not less than 10 tons. All hollows and depressions which develop under rolling shall be filled with acceptable granular material and again rolled; this process to continue until no depressions develop. The subgrade shall not be muddy or otherwise unsatisfactory when the foundation course is laid upon it.

2) Any soft or unstable portion of the subgrade which develops under the roller shall be completely excavated and removed from the right-of-way and shall be replaced with acceptable granular material and the area regraded and compacted as above.

B) Fine grading. Fine grade shall conform to the prescribed width of pavement and shall extend equidistant from the center line of the road right-of-way and shall conform to the typical cross sections of the road pavement and to the approved line and grade.

C) Foundation course, granular material.

1) After the fine grading has been completed to the satisfaction of the Town Superintendent of Highways, the developer shall furnish and place a foundation course of approved run-of-bank gravel or crusher run gravel, to the depths as called for in these specifications. All materials acceptable for these courses shall be hard, durable and sound and shall be well-graded from coarse to fine. One hundred percent by weight of the particles shall be of such size as will pass through a four-inch square hole; not more than 30% shall pass one-fourth (1/4) inch; not more than 70% by weight shall pass the Number 40 mesh sieve; and not more than 10% by weight shall pass the Number 200 mesh sieve.

2) The materials shall be placed on the finished subgrade in six-inch layers and shall be thoroughly compacted by rolling with a self-propelled ten-ton roller. Water shall be added to the materials in such amounts as the Town Superintendent of Highways may consider necessary for proper compaction. After compaction, the course shall be true to grade and cross sections, and any depressions shall be eliminated by the use of additional granular materials, thoroughly rolled in place. In all cases, the foundation course must be so thoroughly compacted that it will not weave under the roller and the total depth after compaction shall not be less than 12 inches.

§ 177-37. Bituminous pavements.

A) Asphalt concrete (plant mix).

1) The contractor shall construct a two-course bituminous concrete pavement laid to conform to the required grade, thickness and cross section shown on the plans and specifications (three inches base course, two inches top course).

2) Materials and method of construction shall conform to Section 401 of the current

Standard Specifications of New York State Department of Transportation.

3) An asphaltic concrete binder course shall be uniformly spread by a self-propelled mechanical spreader with tamping bars and heating unit in sufficient depth as to provide a finished compacted thickness of three inches after rolling thoroughly with a ten-ton roller.

4) After the binder course has been completed and thoroughly cleaned of foreign material, a tack coat of asphalt emulsion shall be applied to the surface at the rate of 0.1 to 0.2 gallons per square yard in the event that the binder course has been subject to traffic for an extended period of time. A final wearing course of fine asphaltic concrete shall be uniformly spread by a self-propelled mechanical spreader equipped with tamping bars and heating unit and in sufficient depth as to provide the required finished compacted thickness after rolling thoroughly with a two- or three-wheel tandem roller weighing approximately 10 tons.

5) Extreme care shall be exercised in the placing of bituminous concrete to ensure that all longitudinal joints shall be lapped in the placing of adjoining strips and that all lateral joints are trimmed before continuing with the placing of additional materials on that strip.

B) Bituminous surface treatment (double course).

1) The contractor shall construct bituminous surface treatment (double course) as specified in approved plans and meeting the requirements of Section 410-3.02 of the current Standard Specifications of the New York State Department of Transportation.

2) When ordered by the Town Superintendent of Highways, liquid herbicide shall be added to the bituminous surface treatment with the intent of discouraging weed growth on shoulders of Town highways. The herbicide shall be added in the primer oil only, and the concentration shall be determined by the Town Superintendent of Highways.

§ 177-38. Incidental construction.

A) Curbs.

1) Whenever required, portland cement concrete curbs shall be constructed on both sides of the street as shown on Figure 3.

2) Ramps for the handicapped, required by Highway Law §330, shall be provided at each curbed intersection and midblock crosswalk where curbs are constructed.

B) Sidewalks.

1) Whenever required, the developer shall construct sidewalks on both sides of streets as shown on Figures 3 and 4, Appendix. Sidewalks shall be constructed of asphalt concrete. Bituminous material shall meet the requirement of Type 1AC, 1ACF of Section 401 of the current Standard Specifications of the New York State Department of Transportation. Compacted thickness of asphalt concrete shall be a minimum of four inches.

2) All sidewalks shall be constructed on a base of approved gravel or crushed stone of at least four inches depth. Sidewalks shall be constructed with a transverse slope of one-fourth (1/4) inch per foot toward the traveled way, except that the slope may be away from the traveled way if the runoff will not affect adjacent properties. The longitudinal slope of a sidewalk shall not exceed 10%.

C) Driveways.

1) The developer shall so design, lay out and construct all driveways both within and without the limits of the rights-of-way so that the latest models of modern cars may enter

and leave the right-of-way without difficulty.

2) The developer shall obtain all necessary permits and construct all driveway entrances to the satisfaction of the governing agency. No driveway entrance shall be constructed below the level of the finished road without written consent of the Building Inspector.

D) Intersections.

1) A minimum of 275 feet of unobstructed stop line sight distance shall be provided for both approaches along the highway.

2) Stop line sight distance shall be measured from a point on the center line of the approaching lane of the minor road or driveway 12 feet behind the projected edge of roadway of the major road, to a point on the center line of the approaching lane of the major road. The height of eye and height of object shall both be assumed to be 44 inches above the road pavement. Each approach to the intersection shall be considered separately.

E) Road name signs. The developer shall furnish and install a four-way road name sign at every road intersection made by the roads he or she constructs. Signs and posts shall conform to the standards established by the Uniform Traffic Manual of New York State, and street names shall be as designated by the Town.

F) Guide railing. The type and need for guide rail installation shall be approved by the Town Superintendent of Highways. General guidelines for determining the need for guide rails are shown below:

1) Height or dropoff from break of road shoulder slope to the top of slope. Slopes less than one or two having a height dropoff more than 10 feet will be protected with guide rail.

2) Guardrails shall be installed to protect drivers from fixed objects and roadside hazards as shown on the following list:

(a) Guide rail installation shall be in accordance with Sections 710-20, Corrugated beam guide railing, and 710-22, Cable guide railing, of the current Standard Specifications of the New York State Department of Transportation.

G) Traffic signs. All signs, signals, markings and other control devices for maintenance and protection of traffic must conform to the requirements of the New York State Manual of Uniform Traffic Control Devices.

H) Turning circles.

1) Whenever a permanent dead end is allowed on a subdivision highway, a turnaround shall take the form of a circle as required by the Town Planning Board. A snow lane must be provided on all turning circles.

2) If curbs and/or sidewalks are planned, the radius of the right-of-way shall be increased to accommodate the additional width.

I) Berms.

1) In general, the construction of berms will be the primary responsibility of the developer as he or she has posted the road bond and is responsible for the overall operation of the drainage system. Berms will be placed where directed by the Highway Superintendent.

2) In the event that additional berming for individual building lots is required in the future, it shall be the responsibility of the home builder to provide it where directed by the Superintendent of Highways. The material used shall conform to Item SIM of the New York State Highway Specifications.

3) All berms, as well as seeded areas behind the berm, must be maintained by the property

owner.

J) Finish grading and seeding. The surface from the edge of pavement to the property line shall be finish graded with a minimum of four inches of topsoil, and sown with hardy grass seed or planted with ivy, myrtle or other suitable ground cover in sufficient quantity to stabilize any slope present. This area must be maintained by the property owner.

K) Underground utilities. The Planning Board may require that electrical power lines, telephone poles and other utility lines and appurtenances be installed underground.

L) Unauthorized discharges of water.

1) No subdivision, nor any individual lot within a subdivision, shall connect any water drainage pipe into an existing Town catch basin or pipe without prior approval from the Highway Superintendent.

2) Water from basement sump pumps cannot be outletted directly onto a Town road.

M) Street lighting. Lights to be installed in a new subdivision shall be approved by the Town Planning Board. Prior to the Town Planning Board's approval, the proposed lighting design shall be submitted to the Town Engineer. The Town Engineer and Town Planner shall make written recommendations to the Town Planning Board. The proposed lighting plan shall take into account such matters as cost, safety, aesthetics, energy efficiency or any other factor which is appropriate to a given subdivision. Unless demonstrated to be impracticable or impossible, all lighting for subdivisions, applications for which are submitted subsequent to the adoption of this regulation, shall be wired underground. Upon receipt of said recommendations, the Planning Board and its Chairman shall deliberate upon the appropriate lighting to be installed in each subdivision, taking into account the options made available from qualified vendors.

§ 177-39. Reserved.

ARTICLE VII
WAIVERS

§ 177-40. Waiver of regulations.

A) Where the Planning Board finds that certain data and information is not required or are unnecessary to understand the application and the potential effects of proposed development, it may waive the regulations upon written request of the applicant, provided that such waiver will not have the effect of nullifying the intent and purpose of this Chapter, or Chapter 210 of the Town Code, or the State Environmental Quality Review Act.

B) Where the Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not required to further the interest of the public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions as deemed appropriate by the Planning Board.

§ 177-41. Reserved.

§ 177-42. Attachment of conditions.

A) In granting waiver(s), the Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

§ 177-43. Reserved.

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