

RESOLUTION

Councilman \_\_\_\_\_ introduced the following local law:

TOWN OF WASHINGTON LOCAL LAW NO. \_\_\_\_ OF THE YEAR 2007, A LOCAL LAW ADOPTING LAND SUBDIVISION REGULATIONS FOR THE TOWN OF WASHINGTON

WHEREAS, on December 27, 1989, pursuant to the procedure of former Town Law Section 272, the Town of Washington Planning Board adopted Land Subdivision Regulations and the same were approved by the Town of Washington Town Board on that date, and

WHEREAS, the Town Law has since been amended and existing Town Law Section 271(13) provides that subdivision regulations are to be adopted by the Town Board by local law or ordinance.

BE IT ENACTED by the Town Board of the Town of Washington as follows:

Section 1. The Town of Washington Land Subdivision Regulations are hereby adopted, and read in their entirety as follows:

ARTICLE I - GENERAL PROVISIONS

Pursuant to the provisions of Article 16 of the Town Law, the Town Board of the Town of Washington has, by resolution, authorized the Town of Washington Planning Board to review and approve or disapprove plats showing lots, blocks, or sites, with or without roads, within the area of the Town of Washington outside the Village of Millbrook.

Section 10. ENACTMENT

In order that land in the Town of Washington may be subdivided in accordance with the policy set forth herein, these regulations are hereby adopted and shall be known and may be cited as the “Town of Washington Land Subdivision Regulations.”

## Section 11. POLICY

It is declared to be the policy of the Town of Washington Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town of Washington, consistent with the Town of Washington Master Plan (hereinafter "Master Plan"), the Town of Washington Zoning Law (hereinafter "Zoning Law"), and the requirements of the State Environmental Quality Review Act (SEQR). This shall be interpreted to include the following objectives which shall guide the Planning Board's decisions:

- (a) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace.
- (b) Proper provision shall be made for drainage, water supply, sewerage, and other needed improvements and utilities.
- (c) Proposed streets shall compose a convenient system conforming to the Official Map, if any, and shall be properly related to the proposals, if any, shown on the Master Plan.
- (d) Streets shall be of such width, grade, and location as to accommodate prospective traffic, to afford adequate light and air, and to facilitate fire protection, and shall be designed to cause no more disruption of the natural environment than is reasonably necessary.
- (e) Park or other natural areas of suitable location, size, and character for playground or other passive or active recreational purposes shall be shown on the subdivision plat, wherever appropriate.
- (f) Proper provision shall be made for leaving undeveloped natural areas and corridors to mitigate the adverse environmental impacts of subdivision and to sustain a diversity of native vegetation and wildlife, to protect water resources, agricultural land and scenic viewsheds, and to implement the Town's policies of protection of its environmental and cultural resources pursuant to the Master Plan and Zoning Law.

Section 12.INCONSISTENCY WITH TOWN LAW

Should any of these regulations conflict or be inconsistent with any provision of the Town Law, such provision of Town Law shall apply.

Section 13.SEPARABILITY CLAUSE

The invalidity of any provision of these regulations shall not invalidate any other part thereof.

Section 14.SELF-IMPOSED RESTRICTIONS

Nothing in these regulations shall prohibit the subdivider from placing self-imposed restrictions, not in violation of these regulations, on the development. Such restrictions, however, shall be indicated on the Plat.

Section 15.GREENWAY CONNECTIONS

By Local Law No. 1 of the Year 2007, the Town of Washington 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, principles and guides to supplement other established land use policies in the Town. In its discretionary actions under these Subdivision Regulations, the Planning Board should take into consideration said statement of policies, principles and guides, as appropriate.

ARTICLE II - PROCEDURE

Whenever any subdivision or re-subdivision of land in the Town of Washington is proposed, the subdividing owner, his authorized agent, or an authorized contract vendee or his agent, shall apply for and secure approval of such proposed subdivision before any sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this Article.

Section 20.SKETCH PLAN

20.1 Applicant Responsibilities

Before filing an application and before preparing a preliminary plat pursuant to

Section 21, the applicant should:

- (a) Obtain such forms and guidelines as may be prescribed by the Planning Board to implement the provisions of these Regulations, available in the office of the Town Clerk.
- (b) Attend a regular meeting of the Planning Board to discuss his intentions and to determine the Board’s requirements; the applicant

should present a Vicinity Map, Sketch Plan and General Information as specified in Section 41 of these Regulations.

- (c) Determine the applicability of Sections 60 and 61 of these Regulations and of Sections 220, 314, 315, 316, 328, and 341 of the Town of Washington Zoning Law.
- (d) Determine the requirements of the Dutchess County Department of Health, whose approval is required by these regulations, and which must eventually approve any final plat coming within its jurisdiction.
- (e) Pay such fees and escrow deposits as may be required under fee schedules established by the Town Board.

## 20.2 Minor Subdivisions and Lot Line Adjustments

- (a) If the Subdivision is a Minor Subdivision or Lot Line Adjustment, as defined in Article VII, the applicant may request and the Planning Board may grant waivers from informational and procedural requirements in these Regulations, provided that such waivers do not violate the provisions of Sections 276 and 277 of the Town Law.
- (b) The Planning Board may, in its discretion, adopt a list of standard waivers that will normally be granted for minor subdivisions and lot line adjustments, respectively.
- (c) No lot created through a minor subdivision approval shall be treated as a minor subdivision again until ten years after final approval.

## 20.3 Planning Board Action

- (a) The Planning Board shall determine whether to proceed pursuant to the provisions of Section 61.2 of these Regulations. If the Sketch Plan meets the “Cluster Preference” criteria in Section 61.2(b), the Section 61.2 procedures shall be followed.
- (b) If the Planning Board finds the Sketch Plan acceptable in concept, it shall, by resolution, approve said Sketch Plan, subject to such conditions as it may determine to be necessary.
- (c) If the applicant requests waivers pursuant to Subsection 20.2 above, the Planning Board shall clearly indicate which requirements, if any, of these Regulations shall be waived and the reasons for such waivers.

## 20.4 Election to Bypass Sketch Plan Approval

An applicant may proceed directly with an application for Preliminary Plat approval. However, such Preliminary Plat application will be reviewed as both a Sketch Plan and a Preliminary Plat and must satisfy all procedural and substantive requirements of Sections 20, 21, 41 and 42 of these Regulations, including the procedures in Section 61.2, if applicable.

## Section 21 PRELIMINARY PLAT

### 21.1 Application Procedure

At any time after approval of a Sketch Plan, the applicant may file an application for the approval of a Preliminary Plat. The application shall be generally consistent with the approved Sketch Plan and shall:

- (a) Be made on forms available at the Office of the Town Clerk.
- (b) Include all land which the applicant proposes to subdivide.
- (c) Be received at least ten (10) days prior to the date of the Planning Board Meeting.
- (d) Include eight (8) copies of:
  - (1) The Application Form
  - (2) The Preliminary Plat and Supplementary Material described in Section 42
  - (3) Short Form or Long Form Environmental Assessment Form (EAF), as appropriate.
  - (4) Such other materials or reports as are required by these Regulations, the instructions accompanying the Application Form, the Zoning Law, and SEQR. Six copies of these materials shall be submitted directly to the Planning Board Secretary, and two copies shall be submitted directly to the Planning Board's designated consultant.
- (e) Comply in all respects with the requirements specified in Article III of these Regulations and with the provisions of Sections 276, 277, and 278 of the Town Law and the State Environmental Quality Review Act (SEQR).

### 21.2 Study of Preliminary Plat

The Planning Board will carefully study the practicability of the Preliminary Plat, taking into consideration the requirements of the community, the best use of the land being subdivided, environmental constraints, and the policies set forth in Section 11. Particular attention will be given to: the proposed arrangement, location, and width of streets; the relation of proposed streets to the topography of the land; sewage disposal; drainage; proposed lot sizes, shapes, and layout; location of proposed house sites; protection of natural and scenic resources; future development of adjoining lands as yet unsubdivided; the requirements of the Master Plan and the Zoning Law; and matters enumerated in Section 277 of the Town Law.

### 21.3 Determination of Significance

Before an application for Preliminary Plat approval is deemed complete, the Planning Board shall make a Determination of Significance under SEQR. If the Planning Board finds that the proposed subdivision may have a significant effect on the environment, it shall issue a Positive Declaration and direct the Applicant to prepare an environmental impact

statement pursuant to the procedures established under SEQ. The Preliminary Plat application shall not be deemed complete until either a Negative Declaration has been filed or an environmental impact statement has been accepted as complete by the Planning Board.

21.4 Public Hearing.

Before the Planning Board acts on any Preliminary Plat, it shall hold a public hearing thereon. The public hearing shall be held within forty-five (45) days after receipt of a complete application for approval of a preliminary plat by the Secretary of the Planning Board in accordance with Section 276(3) of the Town Law. The Applicant shall ensure that Notice of Public Hearing is published in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing.

21.5 Approval of Preliminary Plat

Within forty-five (45) days after the close of the public hearing, the Planning Board shall approve, approve with modification, or disapprove the Preliminary Plat. The Board shall advise the applicant, in writing, of its decision and if the Board approves with modification, include (1) the specific changes it will require in the Plat, and (2) the character and extent of improvements and reservations which it will require as a prerequisite to approval of the Final Plat to be submitted subsequently. In approving with modifications or in disapproving the Preliminary Plat the Board shall state the reasons upon the record. If the Board fails to act within the time prescribed, the Preliminary Plat will be deemed approved pursuant to the provisions of Section 276 of the Town Law.

Section 22 FINAL PLAT

22.1 Application Procedure

Within six (6) months of approval of the Preliminary Plat, the applicant shall file with the Planning Board an application for approval of a Final Plat. The application shall:

- (a) Be made on forms provided by the Planning Board.
- (b) Include the entire subdivision, or a section thereof, which derives access from a street improved to Municipal standards, or for which street a bond covering such improvement is held by the Municipality.
- (c) Be accompanied by eight (8) copies of the Final Plat and supplementary materials as described in Section 43 of these Regulations. The Final Plat shall be submitted to the Planning Board Secretary and the Planning Board's consultant in the same manner and time frame as the Preliminary Plat. The Final Plat shall be properly endorsed by the Dutchess County Department of Health as meeting the standards of the State or County Sanitary Code.

- (d) Comply in all respects with the Preliminary Plat, with any modifications, improvements, and reservations required by the Planning Board in its approval of the Preliminary Plat.
- (e) Have plans for the proposed streets approved by the Town Superintendent of Highways, Town Engineer, and Commissioner of Public Works. In addition, if the proposed street(s) will intersect or connect with a State, County, or Village highway, plans must also have the approval of the appropriate governmental unit.
- (f) Comply with the improvement requirements of Section 51 of these Regulations.
- (g) Be submitted to the Secretary (clerk) of the Planning Board.

22.2 Public Hearing

Except as provided in Section 22.3, before the Planning Board acts on the Final Plat, it shall hold a public hearing thereon. The public hearing shall be held within forty-five (45) days after receipt of a complete application for approval of a Final Plat by the Clerk of the Planning Board in accordance with Section 276(4) of the Town Law. The Applicant shall ensure that Notice of Public Hearing is published in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing.

22.3 Waiver of Public Hearing on the Final Plat

The Planning Board may waive the public hearing required under Section 22.2 if, following receipt of the application for approval of a final plat, the Board finds the final plat to be in substantial agreement with the preliminary plat approval including any modifications or requirements imposed.

22.4 Action on Proposed Final Plat

After careful study, the Planning Board shall, by resolution, within forty-five (45) days of the date of closing of the public hearing on the Final Plat, or, if the hearing is waived pursuant to Section 22.3, within forty-five (45) days of receipt of the application for approval of a final plat approve, conditionally approve, conditionally approve with modifications, or disapprove such Plat and shall advise the applicant, in writing, of its decision. The grounds for disapproval of any Plat shall be stated in the resolution of the Planning Board. If the Board fails to act within the stated time period, the Final Plat shall be deemed approved pursuant to Section 276 of the Town Law.

22.5 Signing of Plat

- (a) Every Final Plat approved by the Board shall carry a written endorsement of the Planning Board signed by the Chairman. In the

absence of the Chairman, the Acting Chairman, the Secretary, or Acting Secretary may sign in his place.

(b) In granting conditional approval with or without modifications, the Board shall state in its resolution the requirements that must be completed before the Final Plat can be signed. A Plat granted conditional approval must be so certified by the clerk of the Planning Board within five (5) days of the date of the resolution and a copy filed in the office of the clerk and a certified copy of the Plat and resolution mailed to the owner. Upon completion of the requirements, the Plat shall be signed by the duly authorized officer of the Board.

22.6 Plat Void If Revised After Approval

No changes, erasures, modifications, or revisions shall be made on any Final Plat after approval has been given by the Board. In the event that any Final Plat, when recorded, contains any such changes, the Plat shall be considered null and void, and the Board shall institute proceedings to have said Plat stricken from the records of the County Clerk and the Town Clerk.

22.7 Filing of Approved Subdivision Plat

Within sixty (60) days of the signing, the approved Final Plat shall be filed with the Dutchess County Clerk's Office or become null and void. A duplicate copy of such plat shall also be filed in the office of the Town Clerk and the Town Assessor. Plats presented for filing must be thirty-six inches by forty-eight inches (36" x 48") or less in size, and must be printed or drawn with pen and India ink upon transparent tracing cloth or printed on mylar or polyester film or be photographic copies on the same material.

22.8 Public Acceptance of Proposed Streets and Park Areas

The approval by the Planning Board of a Final Plat shall not be deemed to constitute or imply the acceptance by the Municipality of any street, park, playground, or other open space shown on said Plat. 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 park or playground area.

ARTICLE III - GENERAL REQUIREMENTS AND DESIGN STANDARDS

The Planning Board, in considering an application for the subdivision of land, shall be guided by the policy considerations specified in Section 11 of these Regulations and the following standards.

Section 30. GENERAL

- 30.1 Preservation of Existing Features  
Existing features which would add value to residential development or whose preservation would benefit the Town, such as groves of mature trees, large individual trees, scenic vistas, watercourses, historic areas and similar irreplaceable assets, should be preserved, insofar as possible, through sensitive design of the subdivision and conservation easements, as defined in Article VII. Lands designated for protection under provisions of the Zoning Law or other applicable local laws relating to wetlands, aquifers, scenic vistas, agricultural soils, and other environmental and cultural resources shall also be preserved, insofar as possible, through the subdivision process. The Planning Board may, in order to ensure the preservation of such resources, and to mitigate potentially adverse impacts of land subdivision, require that a subdivider place conservation easements upon such lands as should be protected, as a condition of subdivision approval.

Section 31. STREETS

- 31.1 Relation to Topography  
Streets shall be logically related and conform as far as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.
- 31.2 Block Size  
Block dimension shall be at least twice the minimum lot depth and generally not more than twelve (12) times the minimum lot width required by the Zoning Law. In long blocks, the Planning Board may require the reservation through the block of a twenty (20) foot wide easement to accommodate utilities or pedestrian traffic.
- 31.3 Intersections  
Intersections of major streets by other streets shall be at least eight hundred (800) feet apart, if possible. Cross (four-cornered) street intersections shall be avoided, except at major traffic intersections. A distance of at least one hundred fifty (150) feet shall be maintained between offset intersections. Within forty (40) feet of an intersection, streets shall be approximately at right angles, and grades shall be limited to one-and-one-half percent (1.5%). All street intersection corners shall be rounded by curves of at least thirty-five (35) feet in radius at the property line.
- 31.4 Visibility at Intersections  
Within the triangular area formed at corners by the intersecting street lines, for a distance of seventy-five (75) feet from their intersection and the diagonal connecting the endpoints of these lines, visibility for traffic

safety shall be provided by excavating, if necessary. No fences, walls, hedges, or other landscaping shall be permitted to obstruct such visibility.

31.5 Design Standards

Streets shall meet the following standards and the standards of the Town Highway Specifications for the Town of Washington, unless an exception is granted by the Planning Board in accordance with Section 63.2 of these Regulations.

<u>Street Classification</u> <u>Commercial</u>	<u>Rural or Suburban</u>	<u>Collector or Major</u>	
(a) Minimum Width of feet Right-of-Way	50 feet	60 feet	60
(b) Minimum Width of feet Pavement	20 to 28 feet*	34 feet	40
(c) Minimum Radius of feet Horizontal Curves	150 feet except for street intersection corners	400 feet	400
(d) Minimum Length of feet Vertical Curves as measured from center line of right-of-way	100 feet, but not less than 20 feet for each 1% algebraic difference of grade	200 feet, but not less than 30 feet for each 1% algebraic difference of grade	200
(e) Minimum Length of feet Tangents between Reverse curves	100 feet except where excessive grades may be reduced to reasonable grades by shortening tangent	200 feet	200
(f) Maximum Grade	10%	8%	6%

<u>Street Classification</u> <u>Commercial</u>	<u>Rural or Suburban</u>	<u>Collector or Major</u>	
(g) Minimum Grade	1%	1%	1%
(h) Minimum Sight feet Distance	150 feet	250 feet	250

Note: Standards are not shown for arterial streets, as they would in all probability be built by the State or County.

- *depending upon the length, number of houses, and degree of permanent restriction on further subdivision. Width of pavement shall be established by the Planning Board, upon the advice of the Highway Superintendent, the Town Engineer, and the Planning Board's consultant. The Planning Board shall weigh concerns of long-term cost to the Town, safety, environmental disruption, and aesthetics in making this determination. The Planning Board may waive the requirement of pavement upon a satisfactory showing that, if the maximum number of anticipated future users of the road were actually using it, traffic loads would not necessitate a paved surface.*

- 31.6 Continuation of Streets into Adjacent Property  
Streets shall be arranged to provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and particularly where such continuation is in accordance with the Master Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turn-around a minimum of fifty (50) feet in radius shall be provided on all temporary dead-end streets, with the notation on the Plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.
- 31.7 Permanent Dead-End Streets (cul de sacs)  
Where a public or private street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than one hundred (100) feet. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property; however, the Planning Board may require the reservation of a twenty-foot (20) wide easement to accommodate pedestrian traffic or utilities. A circular turn-around with a minimum right-of-way radius of fifty (50) feet shall be provided at the end of a permanent dead-end street. For greater convenience to traffic, and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to one thousand, two hundred (1,200) feet. This limit may be waived in the case of conservation density subdivisions not exceeding eight lots.
- 31.8 Street Names  
All streets shall be named, and such names shall be subject to the approval of the Planning Board. Names shall be sufficiently different in sound and in spelling from other street names in the Municipality so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.
- 31.9 Improvements (See also: Article V)
- (a) Streets shall be graded and improved with pavement, street signs, sidewalks, street lighting standards, curbs, gutters, trees, water mains, sanitary sewers, storm drains, and fire hydrants, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of public health, safety, and general welfare. Waivers shall be encouraged in those areas where such improvements would detract from the rural and scenic character of the Town.

- (b) Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location and repair of the lines, and the subdivider shall install underground service connections to the property line of each lot before the street is paved.
- (c) Grading and improvements shall conform to the Town Highway Specifications and shall be approved as to design and specifications by the Highway Superintendent.

Section 32. LOTS

32.1 Arrangement

The arrangement of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in locating a building on each lot and in providing access to buildings on such lots from an approved street.

32.2 Access Across a Watercourse

Where a watercourse separates the buildable area of a lot from the access street, provision shall be made for the installation of a culvert or other structure, of a design approved by the Highway Superintendent.

32.3 Lot Dimensions and Area

Lot Dimensions and area shall be equal to or greater than the minimum specified in the Zoning Law except as authorized in Article VI.

32.4 Side Lot Lines

Side lot lines shall be at right angles to street lines unless a variation from this rule will give a more appropriate street or lot plan.

32.5 Street Frontage

Every building lot shall abut an improved public or private street.

32.6 Rear Lots

Rear lots are allowed in any residential zone pursuant to Section 353 of the Zoning Law. Such lots may be approved only where they will not endanger public health and safety, and will advance the purposes of these regulations and the Zoning Law including, in particular, the preservation of natural and scenic resources.

- (a) The minimum area of rear lots shall be one hundred fifty percent (150%) of the lot size as required by the Zoning Law for the applicable zoning district. The area of the accessway shall not be included in the calculation of the required minimum lot area for the rear lot.
- (b) Each rear lot must have a minimum frontage of twenty-five (25) feet on an improved street to provide for an accessway as required by these regulations.

- (c) Except for (a) and (b) above, rear lots must meet all other requirements for a lot in the applicable zoning district.
- (d) No more than two (2) accessways to rear lots may abut, and abutting accessways must share one (1) private drive over the accessways.
- (e) A minimum distance of twice the minimum lot frontage of the applicable district is required between non-abutting accessways at their intersection with the improved street.
- (f) The accessway shall be owned in fee simple by the owner of the rear lot.
- (g) In considering the best use of land in a subdivision, the Board may reasonably limit the number and location of such rear lots and the length of the accessways.
- (h) The applicant shall show that the design and layout of the subdivision with the proposed rear lots will be in keeping with the Town of Washington Master Plan.
- (i) The applicant shall show that the proposed interior lots will, through the use of conservation easements, preserve important natural resource and landscape features identified in the Master Plan, Zoning Law, and Visual Resources Mapping Series (Section 220 of the Zoning Law), including but not limited to wetlands, agricultural land, scenic views, and ridgetops.
- (j) When necessary to satisfy the above-stated criteria, the subdivision plan shall limit, on the rear lot, the area within which the house and driveway may be constructed. The Planning Board may require that such limitation of the building site be implemented through a conservation easement.
- (k) In addition to the provisions of this Subsection 32.6, rear lots may also be created pursuant to Subsection 63.1 of these Regulations.

### 32.7 Access from Major Streets

Lots shall not, in general, derive access exclusively from a major street. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a common drive in order to limit possible traffic hazards on such street.

### 32.8 Driveways and Common Drives

The Planning Board shall assure that driveways are of a sufficient length and width for a passenger (i.e. non-commercial) vehicle to turn around in order to prevent vehicles from backing out onto improved streets, are suitably laid out to provide safe access to improved streets, taking into consideration the rural character of the Town and the expressed policies of minimizing environmental disruption. Where common drives are used, the Planning Board shall assure that safe access is feasible over the improved common drive travel way. If such access is acceptable, and legally adequate recorded common drive maintenance agreements are required as conditions of subdivision approval, the Planning Board may

approve a subdivision in which lots served by a common drive have road frontage that is not physically suitable for the placement of a driveway.

Section 33. RESERVATIONS AND EASEMENTS

33.1 Parks, Playgrounds, and Open Space

- (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 ten percent (10%) of the gross area of any subdivision. The area shall be shown and marked on the Plat “Reserved for Park or Playground Purposes.” The Planning Board may require that the applicant grant a conservation easement on such land to assure that it remains undeveloped.
- (b) If the Planning Board determines that a suitable park or parks, or that open space 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 such Plat a payment to the Town of a sum to be determined by the Town Board. The sum shall be placed in a trust fund to be used by the Town exclusively for park, playground, or recreation purposes including the acquisition of property.

33.2 Realignment and Widening of Existing Streets

Where the subdivision borders an existing street, and the Official Map or Master Plan indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the Plat “Reserved for Street Alignment (or Widening) Purposes.”

33.3 Utility and Drainage Easements

Where topography or other conditions make inclusion of utilities or drainage facilities within street rights-of-way impractical, perpetual unobstructed easements at least twenty (20) feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.

33.4 Easements for Pedestrian Access

The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds, natural areas set aside for the benefit of the public, or other nearby streets, perpetual unobstructed easements at least twenty (20) feet in width.

33.5 Responsibility for Ownership of Reservations

Ownership shall be clearly indicated on all reservations.

ARTICLE IV - REQUIRED DATA AND PLANS

Any subdivider who proposes to develop a subdivision in the Town of Washington shall submit plans and documents as provided in this Article.

#### Section 40. GENERAL REQUIREMENTS

The following general requirements are applicable to both the Preliminary Plat and the Final Plat submittal.

- (a) Plats shall be clearly and legibly drawn on transparent linen tracing cloth with black waterproof ink at a convenient scale of not more than one hundred feet to the inch (100' = 1").
- (b) Drawings shall be submitted on uniform size sheets, not larger than thirty-six inches by forty-eight inches (36" x 48"). When more than one (1) sheet is required to show the Plat an index map of the same size shall be submitted.
- (c) All submissions shall indicate: the proposed subdivision name or identifying title; the words "Town of Washington, Dutchess County, New York"; the name and address of the record owner and/or subdivider; the name, address, and seal of the licensed engineer or land surveyor responsible for the Plat; the date, approximate true north point, and graphic scale.

#### Section 41. SKETCH PLAN

A Sketch Plan submission shall contain the following information:

- (a) Vicinity Map sketched at a scale of two thousand feet to the inch (2,000' = 1") indicating the relationship of the proposed subdivision to existing community facilities which serve it, such as roads, shopping areas, schools, etc. Such a sketch may be superimposed upon a U.S.G.S. Topographic Map of the area.
- (b) Sketch Plan on a topographic survey of the proposed area to be subdivided showing in simple sketch form the proposed layout of streets, lots, the open space system showing conservation easement areas, and other features, including those mapped pursuant to Sections 220, 314-316, 328, and 342 of the Zoning Law.
- (c) General subdivision information necessary to explain and/or supplement the Vicinity Map and Sketch Plan.
- (d) If the "cluster preference" criteria in Section 61.2(b) apply, the land inventory information listed in Subsection 42(p) and the report described in Section 61.2(a).

#### Section 42. PRELIMINARY PLAT

The Preliminary Plat, clearly titled as such, submitted to the Planning Board shall show or be accompanied by the following information, except where specific requirements have been waived.

- (a) Data required by Section 40, paragraph (c) and Section 41.
- (b) Location, bearings, and distances of tract boundary.
- (c) Topography at a contour interval of five (5) feet or less, unless waived by the Planning Board.
- (d) Names of all adjoining property owners of record or the names of adjacent developments.
- (e) Location, name, and dimensions of existing streets, easements, property lines, buildings, parks, and public properties.
- (f) Location of existing sewers, water mains, culverts, and storm drains, if any, including pipe sizes, grades, and direction of flow.
- (g) Zoning district(s) in which the proposed subdivision is located and zoning districts of adjoining properties, including overlay zones and floating zones.
- (h) Area Map at a scale of one inch equals four hundred feet (1" = 400') showing location of proposed subdivision with respect to all streets and property within one thousand (1,000) feet of the applicant's tract and identifying all property in the area held by the applicant.
- (i) Location, width, and approximate grade of all proposed streets with approximate elevations shown at the beginning and end of each street, at street intersections, and at all points where there is a decided change in the slope or direction.
- (j) Proposed provision of water supply, fire protection, sanitary waste disposal, storm water drainage, street trees, street light fixtures, street signs, and sidewalks.
- (k) Approximate shaped, dimensions, and area of all proposed or existing lots and suggested location of buildings.
- (l) Approximate location and dimensions of all property proposed to be reserved for park or public use.
- (m) Areas to be placed under permanent conservation easement to implement applicable provisions of the Zoning Law and the open space reservations required by these Regulations.
- (n) Any reports or applications submitted to other local, county, state or federal agencies in connection with the subdivision or development of the property.
- (o) Other data which must be available for consideration of the subdivision at this stage.
- (p) Land inventory information relating to natural features on and within 500 feet of the property as follows:
  - (1) Wetlands including all DEC mapped wetlands and soils classified as very poorly drained or permanently wet by the U.S. Department of Agriculture, Soil Conservation Service; wetlands as defined or mapped in any local law; and wetlands as defined by the criteria established by the U.S. Army Corps of Engineers.
  - (2) Streams, drainage channels, and other watercourses indicating, where applicable, any DEC water quality classifications;

- (3) One-hundred-year Floodplain as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Maps (and Floodway Maps);
- (4) Slopes in excess of twenty percent (20%);
- (5) "Agricultural soils" as defined in the Zoning Law;
- (6) Soils with three (3) feet or less depth to bedrock or seasonally high water table;
- (7) Forested areas with general description of species type;
- (8) Tree lines and hedge rows;
- (9) Open fields and meadows;
- (10) Trees greater than eight (8) inches in diameter at breast height that are not within forests or tree lines;
- (11) Scenic vistas from public roads, and any designated scenic roads;
- (12) Designated Critical Environmental Areas.
- (13) Aquifers, if the Town has adopted an aquifer map pursuant to Section 314 of the Zoning Law.
- (14) Environmental Preservation Districts adopted pursuant to Section 316 of the Zoning Law, together with the applicable Development Guidelines Report.

#### Section 43.FINAL PLAT

The Final Plat submitted to the Board shall show or be accompanied by the following information;

- (a) Data required by Section 40, paragraph (c), Section 41, paragraph (a), and Section 42, paragraphs (b) through (h).
- (b) Location, width, and name of each proposed street and typical cross-sections showing street pavement, and, where required, curbs, gutters, and sidewalks.
- (c) Lengths and deflection angles of all straight lines and radii, length, central angles, chords, and tangent distances of all curves for each street proposed.
- (d) Profiles showing existing and proposed elevations along the centerlines of all proposed streets and the elevations of existing streets for a distance of one hundred (100) feet on either side of their intersection with a proposed street.
- (e) Present elevations of all proposed streets shown every one hundred (100) feet at five (5) points on a line at right angles to the center line of the street; said elevation points being indicated at the center line of the street, each property line, and points thirty (30) feet inside each property line (only when required by the Board because of the existence of steep slopes).
- (f) Setback lines.
- (g) Endorsement of the Dutchess County Department of Health indicating its approval of the proposed septic systems on all lots under five (5) acres.
- (h) Location, size, and invert elevations of existing and proposed storm water drains and sanitary sewers; the exact location of utilities and fire hydrants.

- (i) Location of street trees, street lighting standards, and street signs.
- (j) Area of all lots in hundredths of an acre.
- (k) Location, material, and size of all permanent monuments.
- (l) Accurate location of all property to be offered for dedication for public use, with the purpose indicated thereon, of all property to be reserved by deed covenant for the common use of the property owners of the subdivision, and of all property to be preserved as open space by perpetual conservation easement, together with notes indicating the liber and page number of any documents required to be recorded as conditions of subdivision approval.
- (m) Sufficient data, acceptable to the Highway Superintendent, to readily determine the location, bearing, and length of all street, lot, and boundary lines, and to reproduce such lines upon the ground.
- (n) Necessary agreements in connection with required easements or releases.
- (o) Formal offers of cession to the Town of all streets and public parks.
- (p) Key map showing the location of the subdivision.
- (q) An erosion and sedimentation control plan prepared pursuant to the requirements of Section 341, Erosion and Sedimentation Control, of the zoning law.
- (r) Conservation easements, deed restrictions, homeowners' association by-laws, or other documents required by the Planning Board to assure the preservation and proper ownership and management of areas preserved as open space or recreational land.

## ARTICLE V - REQUIRED IMPROVEMENTS AND AGREEMENTS

Prior to an action by the Planning Board approving a Final Plat, the applicant shall be required to complete, in accordance with the Planning Board's decision and to the satisfaction of the appropriate Town Departments, all the street and other improvements specified in the action approving said Plat, or, as an alternative, to file with the Town Board bond in an amount estimated by the Planning Board to secure to the Municipality the satisfactory construction and installation of the uncompleted portion of the required improvements. All required improvements shall be made by the applicant at his expense without reimbursement by the Municipality or any District therein.

### Section 50. PERFORMANCE BONDS

Performance bonds shall comply with the requirements of Section 277 on the Town Law, and shall be satisfactory to the Town Board as to form, sufficiency, and manner of execution. A period of one (1) year, or such other period as the Planning Board may determine appropriate, within which required improvements must be completed, shall be specified by the Planning Board and expressed in the bond. The bond shall also provide that an amount determined adequate by the Planning Board shall be retained for a period of one (1) year after the date of completion of the required improvements to assure their satisfactory condition.

### Section 51. IMPROVEMENTS

51.1 Inspection

The Municipality may employ an inspector to act as agent of the Planning Board for the purposes of assuring the satisfactory completion of improvements required by the Planning Board, and shall determine an amount sufficient to defray costs of inspection. The applicant shall pay the Town costs of inspection before the Final Plat is signed for filing. If the Planning Board or its agent finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved drawings, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications.

51.2 Utilities

The Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Board, stating that such public utility company will make the installations necessary for the furnishing of its services within a specified time, in accordance with the approved Subdivision Plat.

51.3 Monuments

Permanent monuments shall be set at block corners and at intervals of approximately five hundred (500) feet, or such other distance as the Planning Board may determine appropriate, and their location shall be shown on the Subdivision Plat. Such monuments shall be set so as to prevent their movement due to normal frost upheaval pressures and movements. Iron pipes shall not be considered permanent monuments for the purpose of these regulations.

ARTICLE VI - OPEN SPACE SUBDIVISIONS

Section 60. GENERAL

60.1 Policy and Authority

It is the policy of the Town of Washington, as expressed in Section 340 of its Zoning Law, to encourage the modification of applicable provisions of the Zoning Law and Subdivision Regulations in order to preserve open space and harmonize new development with the traditional open, rural, wooded, agricultural, and hamlet landscapes of the Town. To that end, the Town Board of the Town of Washington, through its resolution approving these Subdivision Regulations, hereby adopts the provisions of Section 281 of the Town Law of the Consolidated Laws of New York, and hereby grants to the Planning Board of the Town of Washington the full authority set forth in that section to modify applicable provisions of the Zoning Law as they apply to a specific plat, including the authority to require an applicant to modify a plat in a manner consistent herewith. The

regulations contained in this Section shall constitute the rules and regulations required by Section 281(a) of the Town Law, setting forth criteria pursuant to which a cluster subdivision may be required. The Planning Board also maintains the authority to waive or modify applicable provisions of these Subdivision Regulations for the purposes indicated in Section 60.2.

#### 60.2 Purposes

This provision encourages flexibility in the design and development of land in order to promote the most appropriate use of land, to preserve, as permanent open space, agricultural land, important natural features, wildlife habitat, water resources, ecological systems, and scenic areas for the benefit of present and future residents. An open space subdivision plan may involve grouping development on one or more portions of a parcel to permanently preserve other portions of it (“cluster development”), modifying road design and frontage requirements in return for permanent open space preservation measures (“conservation density subdivision”), or a combination of these approaches. An open space subdivision shall achieve the following specific purposes:

- (a) Better protection of natural and scenic resources identified in the Master Plan and Zoning Law than would be provided by a conventional subdivision plan;
- (b) Compatibility with surrounding land uses and the overall character of the area;
- (c) Provision of adequate buffers for adjoining properties;
- (d) Contribution to Town-wide open space planning by creating a system of permanently preserved open spaces, both within large parcels of land and among such parcels throughout the town, providing linkages between existing open space areas; and
- (e) Preservation of land suitable for agriculture, particularly where the open space subdivision borders active agricultural land or land suitable for agriculture.

#### 60.3 Types of Open Space Subdivisions

- (a) Cluster Subdivisions. A cluster subdivision accomplishes the purposes in Section 60.2 above by reducing the lot size and bulk requirements contained in the Zoning Law, clustering homes in those areas where they will have the least impact on identified environmental resources. These resources are then permanently preserved through the use of conservation easements. The cluster principle can be applied not only to large subdivisions but also to subdivisions of four or fewer lots (“mini-clusters”), enabling the subdivided lots to be smaller than the zoning would normally require, provided that compensating buildable

land is placed under open space conservation easement to maintain the overall density at or below the level permitted by the Zoning Law.

(b) Conservation Density Subdivisions. Conservation Density Subdivisions

achieve the goals of Section 60.2 through the creation of lots that average at least five (5) times the minimum size required in the Zoning District. This low density is maintained in perpetuity through the use of permanent conservation easements running with the land. To encourage the establishment of these permanent low densities, the Planning Board may modify road specifications and frontage requirements that would otherwise apply.

60.4 Applicability

This section shall be applicable only to land zoned for residential uses, including areas subject to EP designation and areas included in the APO and AQ Overlay Districts, pursuant to the Zoning Law.

Section 61. PROCEDURES

61.1 Voluntary Application

If a Sketch Plan application involves review under the provisions of this Section, the Planning Board, in its discretion, may use its authority to permit open space subdivisions if, in the Planning Board's judgement, the use of this authority will achieve the purposes in Subsection 60.2 above and benefit the Town. The Planning Board may require that the applicant submit the land inventory information listed in Subsection 42(p) above at the Sketch Plan stage to assist in making such a judgement. The Planning Board may also hold a public hearing and may refer the Sketch Plan application to the Conservation Advisory Commission following the procedure in Subsection 61.2(c) below. If the Planning Board grants Sketch Plan approval to the proposed open space subdivision, it shall proceed through the review process for the proposed subdivision using the procedures contained in Article II of these Regulations.

61.2 Planning Board's Option to Require a Cluster Plan

(a) If a Sketch Plan application for a conventional subdivision meets any of the

"cluster preference" criteria in Subparagraph (b) below, the applicant shall include, as part of the Sketch Plan submission, a brief report that describes how the proposed subdivision plan achieves the purposes listed in Subsection 60.2 above, and why a cluster plan prepared under this Section would not better achieve these purposes.

(b) Criteria for cluster preference.

(1) Total land included in the proposed subdivision is fifty (50) acres or more;

(2) Total number of lots is five (5) or more, or three (3) or more in the APO

District;

(3) Average lot size (excluding residual land) is under twenty (20) acres;

(4) The property includes one (1) or more of the following features;

a. Freshwater wetlands and watercourses as mapped pursuant to Section

328 of the Zoning Law;

b. Flood hazard area as mapped on the Federal Emergency Management

Agency's Flood Insurance Rate Maps;

c. Critical Environmental Areas designated by the Town Board;

d. Sand and gravel, limestone, and limestone overlaid with sand and

gravel aquifer as identified on the Town's official Aquifer Protection Map;

e. Slopes in excess of twenty-five percent (25%)

f. Critical environmental features as identified in the Visual Resource

Mapping Series, sheet entitled "Resource Report," or as may be identified by the Planning Board; or

<sup>+</sup>g. Areas within designated EP Districts.

(c) Upon receipt of a Sketch Plan for a conventional subdivision that meets the

criteria in Subsection (b) above, the Planning Board shall direct the applicant to submit the land inventory information listed in Subsection 42(p) above. Upon receipt of that information, the Planning Board shall refer the application, including the land inventory, to the Conservation Advisory Commission (CAC) for its comments on the adequacy of the Plan to fulfill the objectives of Subsection 60.2 above and to protect the natural resources on and adjoining the property. The CAC shall submit its comments to the Planning Board within twenty-five (25) days of its receipt of such Sketch Plan. Failure of the CAC to make its report within that period shall be deemed a waiver of its comments on the Sketch Plan as submitted. The Planning Board may hold a public hearing, to be held after receipt of the CAC's comments.

(d) Within forty-five (45) days of receipt of a Sketch Plan hereunder, the Planning

Board shall determine whether the conventional subdivision accomplishes the purposes in Section 60.2 of these regulations, whether it needs to be modified, and whether the applicant shall be required to apply for a cluster subdivision. In making its determination the Planning Board shall consider the application and supporting materials presented, the purposes stated in Subsection 60.2

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<sup>+</sup> Listed in Subdivision Regulations Book as "h". Should be "g".

above, the comments of the CAC, and public comments at any hearing that has been held.

- (e) Following this determination, the Planning Board shall advise the applicant, in writing, of its decision on the submitted Sketch Plan. If the Planning Board's decision is to require a cluster plan it shall deny the submitted Plan, and in its written decision, it shall state its reasons for requiring a cluster plan and specifically identify those portions of the property proposed for development which should be set aside as protected open space.
- (f) The applicant shall then prepare a cluster subdivision plan and proceed pursuant to Subsection 61.1 above.

## Section 62. CLUSTER SUBDIVISION REQUIREMENTS

### 62.1 Required Plans

An application for cluster subdivision shall include all plans and materials required for a conventional subdivision under the Land Subdivision Regulations. In addition, a Preliminary Plat of a conventional subdivision of the property conforming to the applicable minimum lot size, density requirements, and all other normally applicable requirements of the district shall be submitted.

### 62.2 Allowable Density

The Planning Board shall review the conventional subdivision plan required in Subsection 62.1 above and shall determine the number of building lots or dwelling units that could be practically created pursuant to said plan, considering the requirements of these Regulations and the Zoning Law, the requirements of the Dutchess County Departments of Health and Public Works, and the limitations of soils, topography, wetlands, and other environmental features, but not including the limitations imposed by the APO Overlay District. In no case shall the number of building lots or dwelling units permitted in the cluster exceed one hundred twenty-five percent (125%) of this number of lots or units, as permitted in Section 340, Cluster Development, of the Zoning Law.

### 62.3 Types of Dwelling Units

Dwelling units in a cluster development may be provided, at the discretion of the Planning Board, in one-family or two-family dwelling structures.

### 62.4 Maximum Lot Sizes and Dimensional Requirements

- (a) For parcels not subject to the APO District regulations (Section 315 of the Zoning Law) building lots shall be grouped and have an average building lot size for the subdivision not to exceed the following:

- (1) RR-10 -- Four (4) acres;
  - (2) RL-5 -- Two (2) acres;
  - (3) RM-2 -- Fifty thousand (50,000) square feet; and
  - (4) RH-1 -- Thirty thousand (30,000) square feet.
- (b) For parcels subject to the APO district regulations of Section 315 of the Zoning Law, the building lots shall be grouped, and on average consume no more than fifty percent (50%) of the lot sizes listed in Subsection (a) above or one (1) acre of buildable land per residential lot, whichever is greater.
- (c) The Planning Board may vary the requirements in (a) and (b) above, if necessary, to ensure adequate separation distances between water supply and sewage disposal facilities. Such facilities may be located on lots or portion of lots to be set aside as permanent open space.
- (d) Any lot fronting on a previously existing public road shall have frontage of not less than one hundred fifty (150) feet.
- (e) Distance between dwelling units shall not be less than sixty (60) feet.

62.5 **Layout and Siting Standards in the APO District**  
 In the APO District, the building lots on a parcel shall be laid out and the residences shall be sited in a manner consistent with the standards established in Section 315(7) of the Zoning Law.

62.6 **Open Space**  
 All lands identified as having special resource value and/or not included in a cluster development plat as building lots or roads shall be set aside as permanent open space pursuant to Section 64 below.

**Section 63. CONSERVATION DENSITY SUBDIVISIONS**

The Planning Board is hereby empowered to modify applicable provisions of the Zoning Law for the purpose of encouraging the preservation of large tracts of open space by affording flexibility to landowners in road layout and design and road frontage requirements, if and only if such landowners commit to the permanent preservation of significant open space resources. The following standards and procedures shall be followed by the Planning Board in reviewing applications for approval of a conservation density subdivision.

63.1 **Waiver of Road Frontage Requirements**  
 In addition to the provisions of Section 32.6, Rear Lots, and Section 353 of the Zoning Law, minimum road frontage requirements of the Zoning Law may be waived by the Planning Board pursuant to this Section, provided that all of the following requirements are met:

- (a) The average lot size in the proposed subdivision is at least five (5) times the minimum lot size required in the Zoning District;
- (b) A permanent conservation easement is placed on the land to be subdivided, to maintain its natural and scenic qualities and to assure that it will not be subdivided to a density higher than that permitted in Subsection (a) above.
- (c) In the Planning Board's judgement, such a modification will maintain or enhance the rural quality of the area, benefit the Town, and accomplish the purposes in Section 60.2 above; and
- (d) Adequate access to all parcels can be assured by private roads and/or common drives.

### 63.2 Private Roads

The Planning Board may grant an exception to the road design standards of Section 31.5 and approve private roads to provide access to lots in conservation density subdivisions. In granting such exceptions, the Board must find that the proposed subdivision accomplishes the purposes set forth in Section 60.2 above, and meets all of the conditions of this section and such other conditions as the Planning Board deems appropriate under the particular circumstances.

- (a) The average size of the lots within the subdivision (including any residual land) must be at least five (5) times the lot size required within the applicable zone and in no event less than a ten (10) acre minimum average lot size.
- (b) The maximum number of lots using the proposed private road shall be ten (10).
- (c) The applicant shall submit to the Planning Board as part of the Application for Preliminary Plat approval, a professional engineer's drawings showing the exact location, dimensions, and grade of the road, as well as the specifications setting forth the proposed composition of the road. The Planning Board shall be entitled to retain its own engineer to review these plans and specifications and make further recommendations for consideration to the Planning Board. The Planning Board's engineer shall be paid for by the applicant.
- (d) Written approval from the Town Superintendent of Highways and the Town's engineer shall be secured before approval of any private roads.
- (e) The private road may never be offered for dedication to the Town of Washington unless it conforms to Town Highway specifications in effect on the date of the offer of dedication. In the event such dedication becomes necessary to assure public safety, the cost of bringing the road up to Town Highway specifications shall be borne by the homeowners' association (HOA).
- (f) A homeowners' association must be created to own and provide for the perpetual care and maintenance of the private road. Such HOA shall meet all requirements for an open space HOA set forth in Section

64.4(b)(1-6) below. The HOA must have the power to assess the subdivision lot owners for their share of the maintenance costs of the private road. The HOA shall contract directly with the Town of Washington or a qualified road contractor to assure that the road will always be maintained and kept open to permit emergency vehicle access. In the event that a private road contractor does not properly maintain the road, the Town of Washington may assume maintenance responsibilities and charge the HOA for all reasonable costs thereof. Such costs, if unpaid for more than sixty (60) days, shall become a lien on the property and enforceable in the same manner as a property tax lien. The Planning Board shall have discretion to determine whether the applicant should be required to establish a maintenance fund at the time of approval and, if so, how much of a deposit should be required. The Planning Board shall also have discretion to determine whether a performance bond must be posted by the applicant to assure the proper completion of the private road and, if so, how much the performance bond shall be and what form it shall take.

- (g) The HOA shall contract with the Town of Washington to provide at regular intervals (to be determined by the Planning Board) a written certification from a licensed professional engineer that the physical integrity of the private road is adequate to meet its present needs and the needs which can reasonably be anticipated in the future.
- (h) The lots in the private road subdivision shall be restricted by conservation easement so that they may never be subdivided beyond the lesser of ten (10) lots or five (5) times the zoning density at the time of subdivision approval. Regardless of whether the private road remains a private road.
- (i) The subdivision map shall show the street clearly labeled “private street.”
- (j) Design Standards. The following are minimum standards for construction of private roads and of private drives for rear lots:
  - (1) All construction shall be in accordance with these regulations and shall be under the immediate inspection, supervision and approval of the Planning Board.
  - (2) The accessway for a private road shall be not less than fifty (50) feet in width with a wearing surface not less than eighteen (18) feet in width.
  - (3) Whenever possible and as far as practicable streets shall follow natural contours.
  - (4) Minimum curve radius shall be one hundred (100) feet, minimum tangent distance between reverse curves shall be fifty (50) feet.
  - (5) Grade shall not exceed twelve percent (12%) nor be less than one percent (1%). Grade shall not be greater than three percent (3%) within fifty (50) feet of an intersection.

- (6) The subgrade and foundation course shall be constructed as required by the Town Highway Specifications for the Town of Washington.
- (7) The wearing surface shall consist of two (2) inches of crushed gravel.

These conditions are not meant to be exclusive, and the Planning Board may specify additional conditions for approval.

## Section 64. PERMANENT OPEN SPACE

Open space set aside in a cluster subdivision or a conservation density subdivision shall be permanently preserved as required by this Section.

### 64.1 Open Space Uses

Open space shall be preserved and maintained for one (1) or more of the following uses, which shall be noted on the Plat for each open space subdivision.

- (a) On parcels subject to APO District regulations, open space shall be preserved principally for agriculture. Secondary open space uses include but are not limited to recreation and conservation of water, plants, or wildlife, consistent with the purposes specified in 315.1 of the Zoning Law. Land preserved for agricultural purposes but not in active production shall, if required by the Planning Board, be mowed or plowed at least once annually.
- (b) On all other parcels, open space uses shall be appropriate to the site, including but not limited to passive and active recreation (including trail use), forestry, and agriculture. When the principal purpose of preserving the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, mature forests, wildlife habitats, and stream corridors, open space uses shall be limited to those which are no more intensive than passive recreation.

### 64.2 Notations on Plat

Open space created by the use of this Article 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 not be platted for building lots, and shall indicate the liber and page of any conservation easements or deed restrictions required to be filed to implement such reservations.

### 64.3 Preservation in Perpetuity

A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, active or passive recreation, watershed protection, wildlife habitat or other open space use, and prohibiting residential, industrial, or commercial use of such open space land, pursuant to Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be reviewed and approved by the Planning Board and be required as a condition of plat approval hereunder. Said conservation easement shall not be amendable to permit commercial, industrial, or residential development, and shall be recorded in the Dutchess County Clerk's office prior to filing an approved open space subdivision Final Plat.

#### 64.4 Ownership of Open Space Land

- (a) Open space land may be owned in common by a homeowner's association (HOA), dedicated to the Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds adequate to fulfill the purposes of this Article VI. The appropriate form of ownership shall be based upon the purpose of the open space reservation as stated pursuant to Subsection 64.1 above.
- (b) If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
  - (1) The HOA must be set up before the lots are sold and must comply with all applicable provisions of the General Business Law;
  - (2) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities;
  - (3) The open space restrictions must be in perpetuity;
  - (4) The HOA must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities and private roads;
  - (5) Property owners must pay their *pro rata* share of the costs in (4) above, and the assessment levied by the HOA must be able to become a lien on the property;
  - (6) The HOA must be able to adjust the assessment to meet changed needs;
  - (7) The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the property

owners' association to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes; and

- (8) Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
- (9) The attorney for the Planning Board shall find that the HOA documents presented satisfy conditions (1) through (8) above and such other conditions as the Planning Board shall deem necessary.

#### 64.5 Maintenance Standards

- (a) Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to assure that the open space land does not detract from the character of the neighborhood. Such maintenance standards may include the obligation to mow open fields to maintain their scenic character.
- (b) If the Town Board finds that the open space set aside is being maintained in such a manner as to constitute a public nuisance, it may, upon thirty (30) days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the owner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on said properties.

### ARTICLE VII - DEFINITIONS

For the purpose of these Regulations, certain words and terms used herein are defined as follows:

**ACCESSWAY:** A strip of land twenty-five (25) feet in width, abutting an improved street or a County or State highway, providing access to a rear lot.

**ARTERIAL STREET:** A street which serves or is designed to be used primarily for fast or heavy traffic.

**COLLECTOR OR MAJOR STREET:** A street which carries traffic from minor streets to the major system of secondary or arterial streets; the principal entrance and circulation streets within a development.

**COMMERCIAL STREET:** A street which serves or is designed to serve as an access to abutting business properties.

**COMMON DRIVE:** A driveway normally serving two (2) or three (3) residences which have the amount of road frontage required under the Zoning Law. A common drive may be owned in common or may be created by reciprocal easements.

**CONSERVATION EASEMENT:** A perpetual restriction on the use of land, created in accordance with the provisions of Section 49, Title 3 of the Environmental Conservation Law or Section 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land, and natural, cultural, and scenic resources.

**DEAD-END STREET or CUL DE SAC:** A street or a portion of a street with only one (1) vehicular outlet.

**EASEMENT:** Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**FINAL PLAT:** The final map prepared in accordance with Section 43, conforming to the preliminary plat as approved by the Planning Board, which, if approved, is filed with the County Clerk.

**GREENWAY CONNECTIONS:** the document entitled *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities*, prepared by the Dutchess County Department of Planning, and as amended from time to time

**IMPROVED STREET:** Any street which meets the design and construction standards of these Regulations and the Town Highway Specification for town roads or private roads or the design and construction of which has been approved by the Town Board.

**LAND INVENTORY:** A map or maps showing the natural features on and adjacent to the property to be subdivided as described in Section 42(p).

**LOT LINE ADJUSTMENT:** A modification of parcel boundaries in which a portion of one parcel is combined with an adjoining parcel without increasing the total number of parcels.

**MASTER PLAN:** The plan prepared by the Planning Board for the future preservation and development of the Town of Washington, pursuant to Section 272-a of the Town Law, which identifies the general locations recommended for different types of development, for open space preservation, and for public improvements, including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

**MINOR STREET:** A street intended to serve primarily as an access to abutting residential properties.

**MUNICIPAL, MUNICIPALITY, TOWN:** Refers to the Town of Washington, Dutchess County, New York.

**OFFICIAL MAP:** The map, and any amendments thereto, adopted by the Town Board under Section 270 of the Town Law.

**OPEN SPACE:** An area of land not developed with residential, commercial, or industrial structures and used for recreation, agriculture, or forestry, or left in its natural state.

**PLANNING BOARD, BOARD:** The Town of Washington Planning Board.

**PRELIMINARY PLAT:** The preliminary map or drawing on which the subdivider's proposed layout of the subdivision is presented to the Planning Board for consideration and approval prior to submittal of a final plat.

**PRIVATE ROAD:** A privately owned roadway approved pursuant to Section 63.2.

**REAR LOT:** A lot on which the buildable area is located generally to the rear of other lots having frontage on the same street as said lot, and having access to the street via an accessway.

**RESIDUAL LAND:** That portion of a parcel of land on which a subdivision occurs which remains as an unsubdivided parcel of substantially greater size than the lots that are subdivided.

**RE-SUBDIVISION:** A change in a subdivision plat or re-subdivision plat filed in the Office of the Dutchess County Clerk which (a) affects any street layout shown on such plat, (b) affects any area reserved thereon for public use, (c) constitutes a lot line adjustment as defined herein, or (d) creates any new lots.

**RIGHT-OF-WAY WIDTH:** The distance between property lines reserved for vehicular traffic.

**SECONDARY STREET:** A street which serves or is designed to serve as a route connecting different parts of the Municipality.

**SKETCH PLAN:** A free-hand sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions.

**STREET, ROAD:** A right-of-way for pedestrian and vehicular traffic, including avenue, lane, highway, or other way.

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

**SUBDIVIDER:** Any person, firm, corporation, partnership, or association, who shall lay out, for the purpose of sale, conveyance, or development, any subdivision or part thereof as defined herein, either for himself or for others.

**SUBDIVISION:** The division of any parcel of land into two (2) or more lots, parcels, or plots, with or without streets, for the purpose of building development or conveyance by deed or lease. A division of real property into units of single-family or two-family condominium ownership shall be deemed a subdivision of land.

**SUBDIVISION, CONVENTIONAL:** A subdivision that is not a cluster subdivision or an open space subdivision as defined in Section 60.

**SUBDIVISION, MINOR:** A subdivision which requires no new road construction, and which creates three (3) or fewer new parcels, or six (6) or fewer new parcels if the average parcel size is at least five (5) times the minimum lot size in the zoning district. The number of new parcels shall be calculated based upon lots that were in existence on January 1, 1989 and all subdivisions since that date shall be treated as cumulative for purposes of determining the number of new parcels created.

**SUPERINTENDENT:** The duly elected Highway Superintendent or other such authorized official.

**TOWN LAW:** The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

**ZONING LAW:** The officially adopted Zoning Law of the Town of Washington, together with any and all amendments thereto, in accordance with Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law.

Section 2. This local law shall take effect immediately upon filing with this state's Secretary of State.

Councilman \_\_\_\_\_ advised the Town Board that, pursuant to Municipal Home Rule Law of the State of New York, it was necessary to hold a public hearing upon this local law. Councilman \_\_\_\_\_ offered the following resolution which was seconded by Councilman \_\_\_\_\_ who moved its adoption:

WHEREAS, on July 31, 2007, Councilman \_\_\_\_\_ has introduced this local law for the Town of Washington entitled Local Law No. \_\_\_\_ of the Year 2007, adopting Land Subdivision Regulations for the Town of Washington.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Town Hall, Town of Washington, Reservoir Drive, Millbrook, New York, on September 13, 2007, at 7:30 o'clock, Prevailing time, and that notice of said meeting shall be published in the Poughkeepsie Journal, a newspaper of general circulation in the Town of Washington, by the Town Clerk, at least five (5) days before such hearing and that such notice shall, in sum and substance, be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Washington (the “Town”) will hold a public hearing at the Town Hall, Town of Washington, Reservoir Drive, Millbrook, New York, on September 13, 2007, at 7:30 o’clock, p.m., Prevailing Time, in relation to Local Law No. \_\_\_ of the Year 2007 adopting Land Subdivision Regulations for the Town of Washington.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law, with explanations included, will be available for examination at the Office of the Town Clerk at the Town Hall, Reservoir Drive, Millbrook, New York, between the hours of 9:00 a.m. and 12:00 noon and 1:00 p.m. and 3:00 p.m. on all business days between the date of this notice and date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Millbrook, New York  
July 31, 2007

MARY ALEX, Town Clerk  
Town of Washington

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Prisco \_\_\_\_\_

Councilman Turletes \_\_\_\_\_

Councilman Rappleeya \_\_\_\_\_

Councilman Murphy \_\_\_\_\_

Councilman Audia \_\_\_\_\_

DATED: Millbrook, New York  
July 31, 2007

\_\_\_\_\_  
MARY ALEX, Town Clerk  
Town of Washington