

Suggested Amendments to the Subdivision Law (November 2012)

TOWN OF WHITE CREEK SUBDIVISION REGULATIONS /

ARTICLE I. GENERAL PROVISIONS

By the authority of the resolution of the Town Board of the Town of White Creek adopted on December 14, 1993 as Local Law #1 of 1993 pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of White Creek is authorized and empowered to approve Plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the clerk of the county and to conditionally approve preliminary plats, within the Town of White Creek.

Section 1-2 Citation

These regulations which shall be known as, and which may be cited as, the "Town of White Creek Subdivision Regulations" have been adopted by local law.

Section 1-3 Effective Date

These regulations shall take effect immediately.

Section 1-4 Application

No subdivision of any lot, tract or parcel of land shall be effected; no street, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use and travel, or the common use of occupants of buildings abutting thereon except in strict accordance with the provisions of these regulations.

All plans for subdivisions shall be submitted to the Town of White Creek Planning Board for review and recording in the Planning Board's minutes.

The provisions contained herein shall apply to all land within the limits of the Town of White Creek and outside of any incorporated village within the Town.

Section 1-5 Policy

1-5.1

It is declared to be the policy of the Planning Board to consider Land Subdivision Plats as part of a plan for the orderly, efficient and economical development of the Town of White Creek.

Suggested Amendments to the Subdivision Law (November 2012)

This means among other things:

- (A) Land hereafter subdivided and to be used either now or in the future for residential or commercial building development by the present or future owner(s) of the subdivision, or any resubdivision thereof 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 provisions shall be made for water supply, drainage, sewerage and other needed public improvements and utilities.
- (C) Proposed streets shall compose a convenient system conforming to the Official Map* and Development Plan*.
- (D) Streets shall be of such width, grade and location as to accommodate present and prospective traffic, and shall comply with the requirements listed herein and the Town Highway Ordinance, if such exists.
- (E) All development shall facilitate adequate fire fighting protection and provide access for, firefighting equipment and other emergency equipment.
- (F) Open space for parks, playgrounds and green areas of suitable location, size and character shall be provided whenever appropriate.

~~(A)~~ The proposed development shall be aesthetically compatible with the existing development and rural character of the town.

(G) That proper provisions be made for the protection of the Town's natural resources and to retain undeveloped natural areas and corridors to mitigate any adverse environmental impacts of subdivision, to sustain a diversity of native vegetation and wildlife, to prevent pollution of air, streams and other waterbodies including wetlands and aquifers, and to encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the community and the value of the land, including but not limited to, wetlands, aquifers, and protection against erosion.

~~(B)~~(H) To preserve the natural beauty and topography of the town and to ensure appropriate development with regard to these features.

~~(C)~~(I) To protect farmlands and to encourage and enhance the agricultural economy of the Town.

Comment [N1]: Added in to link law with plan better.

Suggested Amendments to the Subdivision Law (November 2012)

* Where, or as may be, approved.

1-5.2

Nothing in these regulations shall prohibit the subdivision from self-imposed restrictions, not in violation of these regulations on the development. All sSuch restrictions, however, shall be indicated on the Plat.

Section 1-6 Inconsistency with Town Law

Except as otherwise expressly set forth herein, should any of these regulations conflict or be inconsistent with any provision of the Town Law, such provision of the Town Law shall apply.

Section 1-7 Separability Clause

Should any section or provision of these regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

Section 1-8 Issuance of Building Permits

No building permits shall be issued for the erection of any building within the proposed subdivision until said subdivision has been duly approved by the Planning Board and filed in the office of the County Clerk. No site disturbance such as road construction or grading, except that which is directly related to obtaining required approvals (e.g., surveying, test pits, and the location of stakes) related to the proposed improvements for the subdivision shall take place that would alter, remove or relocate any existing features including, but not limited to, stone walls, steep slopes, rock outcroppings, trees, general vegetation, streams, and watercourses This section shall not apply to continuing use of legally established improvements or uses on the subject property.

Comment [N2]: Added in typical language to clarify that there will also be no site disturbance until approvals.

ARTICLE II. PROCEDURE FOR FILING SUBDIVISION APPLICATIONS

Whenever any subdivision of land is proposed to be made, and before any contract for the sale or lease of, or any offer to sell or lease any lot in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such

Suggested Amendments to the Subdivision Law (November 2012)

proposed subdivision in accordance with the procedures described in sections 2-1 through 2-1.5. Before preparing a sketch plan, ~~it is recommended that the~~ applicants shall meet with the planning board to discuss the procedure for approval of a subdivision and the requirements as they may pertain to general layout of lots, new roads, reservation of lands, road improvements, drainage, sewer, fire protection and other similar matters.

The applicant will also be advised of the necessary forms for sketch plan review and of the requirements for compliance with New York State Environmental Quality Review Act and the Agriculture and Markets Law procedures. The Planning Board shall classify the subdivision at the sketch plan pre-application meeting as a major, minor, exempt or agricultural subdivision.

Section 2-1 Pre-Application Review

Any owner of land shall, prior to subdividing or re-subdividing land, submit to the clerk of the planning board at least ten (10) days prior to the regular meeting of the board ~~seven (7) two (2)~~ copies of a sketch plan of the proposed subdivision which shall comply with the requirements of Article IV, for the purposes of classification (major, minor, exempt or agricultural) and preliminary discussion.

Comment [N3]: I didn't think that 2 were enough. If you have a 7 person board, you should have a set for each. I didn't know if you were 5 person or 7.

2-1.2 Other Governmental Agency Requirements

Any owner of land shall determine the requirements of the appropriate Governmental Agencies whose approval is required by these Regulations, and which must eventually approve any subdivision plat coming within their jurisdiction.

2-1.3 Discussion of Requirements and Classifications

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information made on the Sketch Plan.

Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor, major, exempt or agricultural subdivision, as defined by these regulations. When the subdivision is classified by the Planning Board as a major, minor, exempt or agricultural subdivision a notation to that effect shall be made on the Sketch Plan. The Board may require, however, when it deems

Suggested Amendments to the Subdivision Law (November 2012)

necessary for protection of the public health, safety and welfare, that a Minor Subdivision comply with all or some of the requirements specified for a Major Subdivision. If the Sketch Plan is classified as a Minor Subdivision, the subdivider shall then comply with the procedure outlined in Article III and Section 2-2 of these regulations. If it is classified as a Major Subdivision, the subdivider shall then comply with the procedures outlined in Article III and Sections 2-3 & 2-4 of these regulations. If it is classified as an exempt or agricultural subdivision, the subdivider shall then comply with the procedures set forth in Section 2.5 of these regulations.

Comment [N4]: Changes to definition of minor subdivision, and issues related to exempt or agricultural subdivisions were not addressed yet. To be discussed. See my explanation in the cover letter.

2-1.4 Combined Subdivision Plats and Site Plans

Applications for subdivision approval may file a combined subdivision plat and site plan application that complies with the standards of both the Town of White Creek subdivision and site plan laws. Such applications may be processed concurrently.

2-1.5 Study of Sketch Plan

The Planning Board shall determine whether the Sketch Plan meets the purposes of these regulations within sixty-two (62) days of the sketch plan meeting and shall, where it deems necessary, make specific recommendations, in writing, to be incorporated by the applicant in the next submission to the Planning Board.

2-1.65 Sketch Plan Evaluation.

The Planning Board shall review the Sketch Plan within the context of the requirements of the Regulations. Particular attention shall be given to the arrangement, location and width of roads, their relationship to the topography of the land, sewage disposal, drainage, lot sizes and arrangements, the potential development of adjoining land, the relationship to agricultural activities and environmental features, and the goals and objectives of White Creek's Comprehensive Plan.

The Planning Board may require the applicant to provide additional materials or to consult with appropriate technical agencies (such as, but not limited to, the Soil and Water Conservation District, the Department of Environmental Conservation, the Army Corps of Engineers, and the State Health Department) to determine appropriate measures to mitigate or eliminate any problems or conflicts. The findings or recommendations of such agencies shall not be binding on the Planning Board or applicant. The Planning Board may recommend that design techniques, such as conservation

Suggested Amendments to the Subdivision Law (November 2012)

subdivision (Article X), be used to avoid development in sensitive areas.

2-1.7 Fees

There shall be no payment of fees with the filing of a Sketch Plan.

Section 2-2 Approval of Minor Subdivision

2-2.1 Application for Plat Approval

Within six months after classification of the Sketch Plan as a Minor Subdivision by the Planning Board, the subdivider shall submit an application for approval of a Subdivision Plat. Failure to submit a complete application for plat approval within the six-month period shall require resubmission of the Sketch Plan to the Planning Board for reclassification. All plats submitted to the Planning Board for approval of a minor subdivision shall be in final form unless the subdivider elects to submit or the Planning Board requires submission of a preliminary plat for consideration. The minor subdivision plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board. Said⁺ application shall conform to the requirements listed in Article IV.

2-2.2 Fees

All applications for Plat approval for a Minor Subdivision shall be accompanied by a fee ~~of Fifty (50) Dollars~~ as may be established by the Town Board. Such fee shall be paid to the Town Clerk.

Comment [N5]: It is better to not list the dollar amount in the law. The Town Board can set their fees each year and then you don't have to change the law to do so.

2-2.3 Number of Copies

~~Three (3)~~ Seven (7) copies of the Subdivision Plat shall be presented to the clerk of the Planning Board at least ten (10) days prior to a scheduled monthly meeting of the Planning Board.

2-2.4 Subdivider to Attend Planning Board Meeting

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Subdivision Plat.

2-2.5 When Officially Submitted

The time of submission of the Subdivision Plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten days prior to which the application for Plat approval, complete and accompanied by the required fee and all data required by Article IV of these regulations, has been filed with the clerk of

Suggested Amendments to the Subdivision Law (November 2012)

the Planning Board.

2-2.6 Public Hearing

A public hearing shall be held by the Planning Board within sixty-two (62) days after receipt of a complete application for minor subdivision approval. Such hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days prior to such hearing. The Planning Board shall also send a notice of the public hearing to all farmland owners identified in the Ag Data Statement, if one has been submitted. If the subdivision is subject to an environmental impact statement pursuant to SEQRA 6NYCRR Part 617, then the public hearing shall be noticed for 14 days before a hearing held jointly on subdivision and SEQRA. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of the minor subdivision plan. The hearing on the plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

Comment [N6]: Added in public hearing language from State law for consistency.

Consistent with the requirements of 239-nn of the General Municipal Law, the Planning Board shall give notice to an adjacent municipality when a hearing is held relating to minor subdivision review and approval on property that is within 500 feet of the adjacent municipality. Such notice shall be sent by mail or via electronic submission to the Town Clerk in the adjacent municipality at least ten (10) days prior to the hearing. The adjacent municipality may appear and be heard.

2-2.7 SEQRA

All requirements of SEQRA 6NYCRR Part 617 shall be met prior to subdivision approval. A minor subdivision plan shall not be deemed a complete application 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 regulations implementing SEQRA (see definition of "complete application"). The time period for review of a minor subdivision shall begin upon filing of the negative declaration or notice of Draft Environmental Impact Statement completion.

Comment [N7]: Added in SEQRA to clarify its role

2-2.8 County Referral

Prior to approval, the clerk of the Planning Board shall refer the minor subdivision application to the Washington County Planning Board pursuant to Section 239-n of the General Municipal Law if any subdivision is within 500 feet of a municipal boundary; the boundary of any existing or proposed

Comment [N8]: Added in the county referral since it was hardly mentioned in the process.

Suggested Amendments to the Subdivision Law (November 2012)

county or state park or other recreation area; the right-of-way of any existing or proposed county or state parkway, thruway, expressway, street or highway; the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated, the Planning Board shall refer such application to the Washington County Planning Board for review and report.

Within 30 days of receipt of such notification, the Washington County Planning Board shall report to the Town on its approval or disapproval, or on its approval subject to stated conditions, of the proposed subdivision plat. If the county planning agency disapproves, or recommends modification of such a proposed subdivision plat, the Planning Board shall not, in approving the final plat, act contrary to such disapproval or recommendation or modification except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting

2-2.8 Action on Subdivision Plat

The Planning Board shall, within sixty-two (62) days from the date of the public hearing approve, modify and approve or disapprove the Subdivision Plat. The Planning Board shall not approve a subdivision plat which has failed to adequately address critical resource concerns like soils, potable water, flood hazards, erosion, steep slopes, wetlands, and other natural resources.

(a) The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the record of the Planning Board.

(b) Filing of decision. Within five (5) business days from the date of the adoption of the resolution stating the decision of the board on the minor subdivision plan, the Planning Board Chairman or duly authorized representative of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk. A copy shall also be mailed to the owner. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements which when completed, will authorize the signing of the plat. Upon completion of those requirements, the plat shall be filed in the office of the town clerk.

(c) Conditional approval of the final plat shall expire within 180 days after the approval unless all requirements stated in the

Comment [N9]: Added in the filing requirements as per State law.

Suggested Amendments to the Subdivision Law (November 2012)

approval have been certified as completed. The Planning Board may extend by not more than two additional periods of 90 days each, the time in which a conditionally approved plat must be submitted for signature, if in the Planning Board's opinion, such extension is warranted by the particular circumstances.

Section 2-3 Approval of Major Subdivision

2-3.1 Application and Fee

Prior to the filing of an application within a six (6) month period from the pre-application sketch meeting for the approval of a Major Subdivision Plat, the subdivider shall file an application for the consideration of a Preliminary Plat of the proposed subdivision, in the form described in Article II, Section 3, hereof. The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of Sections 276 and 277 of the Town Law, and Article IV, Section 4 of these regulations.

The application for conditional approval of the Preliminary Plat shall be accompanied by a fee of Three Hundred Seventy Five (375) Dollars, plus Two Hundred Fifty (250) Dollars as established by the Town Board per lot for each lot in the proposed subdivision. Such fee shall be paid to the Town Clerk. The applicant shall have paid all actual costs attributable to the review process before final approval is given to the subdivision.

(a) The Planning Board may require establishment of an escrow account to receive funds to cover all review costs associated with the major subdivision application. Such escrow shall cover all legal, engineering, planning, and other review costs associated with the major subdivision.

Comment [N10]: Added to give you details on setting up an escrow account.

1. The applicant shall provide funds to the Town for deposit into such account in an amount to be determined by the Planning Board with the advice and recommendation of the Town's Engineer, Attorney and/or Planner based on their evaluation of the nature and complexity of the application.

2. The fee shall be in an amount sufficient to cover the consultant services costs necessary to review the application and plans upon submission, and to offer recommendations to the reviewing board as to the amount of the initial escrow deposit. Thereafter, as part of a complete application, the applicant shall provide the recommended amount to the Town for the escrow account.

Suggested Amendments to the Subdivision Law (November 2012)

3. The applicant shall be provided with copies of vouchers submitted for payment by the consultants for such services as they are submitted to the Town for payment.
4. All sums paid by the applicant shall be deposited in the escrow account by the Town from which withdrawals shall be made. Any balance remaining after approval or final action on any subdivision application and payment of fees for all consultant services shall be returned to the applicant within forty five (45) days.
5. When the balance in the escrow account is reduced to one-third (1/3) of its initial amount, the Town shall advise the applicant and the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within ten (10) business days after the applicant is notified in writing of the requirement for such additional deposit, the Planning Board may suspend its review of the application and deny its approval.
6. A building permit, certificate of occupancy, or other permit, approval or action being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been funded by the applicant.

2-3.2 Number of Copies

~~Five~~ Seven (7) copies of the Preliminary Plat shall be presented to the clerk of the Planning Board at least ten days prior to a regular monthly meeting of the Planning Board.

2-3.3 Subdivider to Attend Planning Board Meeting

The subdivider, or a duly authorized representative shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

2-3.4 Conservation Subdivision Design and Traditional Neighborhood Design

(a) All major subdivisions may be designed as a conservation subdivision in accordance with the requirements and provisions of Article X of this local law.

(b) Major subdivisions in or adjacent to the hamlet of White Creek are encouraged to be designed as a traditional neighborhood with smaller lot sizes, shallower front setbacks, and other lot design features consistent with development patterns seen in the hamlet. Conservation subdivision design can

Comment [N11]: Added in a voluntary conservation subdivision provision and it is in a new Article X, at the end.

Suggested Amendments to the Subdivision Law (November 2012)

also be used in this area as well to result in a new cluster of hamlet-style residential lots along with open space suitable for continued farming.

Comment [N12]: This can only be suggested. Without zoning, you can't do much to require this, but I thought if it were in there, it might open the door for discussions with the Planning Board.

2-3.54 Study of Preliminary Plat

The Planning Board shall study the practicability of the Preliminary Plat taking into consideration the requirements of the community 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, drainage, lot sizes and arrangements, the future development of adjoining land as yet unsubdivided, the impacts on adjacent farms or farms within the NYS Agricultural District, if any, the protection of natural resources, the consistency with the rural character of the Town, and the requirements of the ~~Master Comprehensive~~ Plan, the Official Map, and Zoning Regulations, if such exist.

Comment [N13]: Added in more language to boost role of ag in the review process as per plan.

2-3.65 When Preliminary Plat Officially Submitted

The time of submission of the Preliminary Plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten days prior to which the application for conditional approval of the preliminary plat, complete and accompanied by the required fee and all data required by Article IV, Section 3 of these regulations, has been filed with the Clerk of the Planning Board.

2-3.76 Public Hearing on Preliminary Plat

The Planning Board shall hold a public hearing within sixty-two (62) days after the receipt of a complete application for preliminary plat approval by the Clerk of the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days prior to such hearing. The Planning Board shall also have a notice of the public hearing sent to all farmland owners identified in the Ag Data Statement, if one has been submitted. If the subdivision is subject to an environmental impact statement pursuant to SEQRA 6NYCRR Part 617, then the public hearing shall be noticed for 14 days before a hearing held jointly on subdivision and SEQRA. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of the major preliminary subdivision plan. The hearing on the plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

Comment [N14]: Added in public hearing notice to be consistent with state law. And boosted and clarified the role of the ag data statement in process.

Suggested Amendments to the Subdivision Law (November 2012)

Consistent with the requirements of 239-nn of the General Municipal Law, the Planning Board shall give notice to an adjacent municipality when a hearing is held relating to minor subdivision review and approval on property that is within 500 feet of the adjacent municipality. Such notice shall be sent by mail or via electronic submission to the Town Clerk in the adjacent municipality at least ten (10) days prior to the hearing. The adjacent municipality may appear and be heard.

2-3.87 SEQRA. The Planning Board shall meet all requirements pursuant to SEQRA 6NYCRR Part 617 prior to any approval.

2-3.9 Approval of the Preliminary Plat

- (a) Within sixty-two (62) days after the public hearing on the preliminary plat, the Planning Board shall take action to approve with or without modification, or disapprove such preliminary place and the ground of any modification required or the ground for disapproval shall be stated upon the records of the Planning Board. The Planning Board shall not approve a subdivision plat which has failed to adequately address critical resource concerns like soils, potable water, flood hazards, erosion, steep slopes, wetlands, and other natural resources.
- (b) Failure of the Planning Board to act within such sixty-two (62) day period shall constitute approval of the preliminary plat. Notwithstanding the foregoing deadlines, the period by which the Planning Board must take action on a preliminary plat may be extended by mutual agreement of the Board and the subdivider.
- (c) When granting conditional approval to a preliminary plat, the Planning Board shall state the conditions of such approval, if any, with respect to (1) the specific changes which it will require in the Preliminary Plat (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals, and general welfare, (3) the amount of improvement or the amount of all bonds therefore which it will require as a prerequisite to the approval of the Subdivision Plat.
- (d) The action of the Planning Board plus any conditions attached thereto shall be noted on three copies of the Preliminary Plat. One copy shall be returned to the subdivider, one retained by the Planning Board and one forwarded to the Town Board.

Suggested Amendments to the Subdivision Law (November 2012)

(e) Approval of a Preliminary Plat shall not constitute approval of the Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations and the conditions of the approval, if any. Prior to approval of the Subdivision Plat, the Planning Board may require additional changes as a result of further study of the subdivision in final font' or as a result of new information obtained at the public hearing.

(f) Filing of decision. Within five (5) business days from the date of the adoption of the resolution stating the decision of the board on the minor subdivision plan, the Planning Board Chairman or duly authorized representative of the Planning Board shall file a copy of such resolution in the office of the Town Clerk. A copy shall also be mailed to the owner. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements which when completed, will authorize the signing of the plat. Upon completion of those requirements, the plat shall be filed in the office of the town clerk.

Comment [N15]: Added in proper filing rules as per state law.

Section 2-4 Final Plat for Major Subdivision

2-4.1 Application for Approval of Final Plat

The subdivider shall, within six months after the conditional approval of the Preliminary Plat, file with the Planning Board an application for approval of the Subdivision Plat in final form, using the approved application blank available from the Clerk of the planning Board. All applications for plat approval for major subdivisions shall be accompanied by a fee ~~of two hundred and fifty (250) dollars~~ as may be established by the Town Board per lot payable to the Town Clerk. If the final plat is not submitted within six months after the conditional approval of the Preliminary Plat, the Planning Board may refuse to approve the final plat and require re-submission of the preliminary plat.

2-4.2 Number of Copies

A subdivider intending to submit a proposed Subdivision Plat for approval of the Planning Board shall provide the clerk of Planning Board with a copy of the Application and three copies copy in ink on mylar) of the Plat, the original and one true copy+ all offers of cession, covenants, and agreements, and two prints of all construction drawings, at least ten days in advance of regular monthly Planning Board meeting at which it is to officially

Suggested Amendments to the Subdivision Law (November 2012)

submitted.

2-4.3 When Final Plat Officially Submitted

The time of submission of the Subdivision Plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten days prior to which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article IV, Section 4 of these regulations, has been filed with the clerk of the Planning Board.

2-4.4 Endorsement of State and County Agencies

Water and sewer facility proposals contained in the Subdivision Plat shall be properly endorsed and approved by the New York State Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the Subdivider with all necessary Town, County and State agencies. Endorsement and approval by the New York State Department of Health shall be secured by the subdivider before official submission of the Final Subdivision Plat. The applicant shall also show proper endorsement and approval by other agencies that have jurisdiction including, but not limited to the Department of Transportation (curb cuts), NYS DEC (stormwater, wetland permits, stream bank disturbances), or the Army Corps of Engineers (wetlands).

2-4.5 Public Hearing on Final Plat

A public hearing shall be held by the Planning Board within sixty-two (62) days after receipt of a complete final plat by the Clerk of the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days prior to such hearing. The Planning Board shall also send a notice of the public hearing to all farmland owners identified in the Ag Data Statement, if one has been submitted. If the subdivision is subject to an environmental impact statement pursuant to SEQRA 6NYCRR Part 617, then the public hearing shall be noticed for 14 days before a hearing held jointly on subdivision and SEQRA. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of the major subdivision plan. The hearing on the plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

Consistent with the requirements of 239-nm of the General Municipal Law, the Planning Board shall give notice to an adjacent municipality when a hearing is held relating to minor subdivision review and approval on property that is within 500 feet of the adjacent municipality. Such notice shall be sent by mail or via

Comment [N16]: Same procedural steps fleshed out and added in to the major subdivision process.

Suggested Amendments to the Subdivision Law (November 2012)

electronic submission to the Town Clerk in the adjacent municipality at least ten (10) days prior to the hearing. The adjacent municipality may appear and be heard.

2-4.6 Action on ~~Proposed~~ Final Subdivision Plat

(a) County Referral

Prior to approval, the clerk of the Planning Board shall refer the minor subdivision application to the Washington County Planning Board pursuant to Section 239-n of the General Municipal Law if any subdivision is within 500 feet of a municipal boundary; the boundary of any existing or proposed county or state park or other recreation area; the right-of-way of any existing or proposed county or state parkway, thruway, expressway, street or highway; the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated, the Planning Board shall refer such application to the Washington County Planning Board for review and report.

Within 30 days of receipt of such notification, the Washington County Planning Board shall report to the Town on its approval or disapproval, or on its approval subject to stated conditions, of the proposed subdivision plat. If the county planning agency disapproves, or recommends modification of such a proposed subdivision plat, the Planning Board shall not, in approving the final plat, act contrary to such disapproval or recommendation or modification except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting

(b) The Planning Board shall, within sixty-two (62) days from the date of the public hearing on the Subdivision Plat, approve, modify and approve or disapprove the Subdivision Plat. However, the Subdivision Plat shall not be signed by the authorized officers of the Planning Board for recording until the subdivider has complied with the provisions of Article V of this regulation and has met any condition imposed prior to final approval. Conditional approval of a final plat shall expire one hundred eighty (180) days after the date of the resolution granting conditional approval.

2-4.7 Final Approval and Filing

Suggested Amendments to the Subdivision Law (November 2012)

Upon completion of the requirements in Sections 2 and 3 as well as completion of all other requirements herein stated and noted to that effect upon the Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Planning Board (Chairman or Co- Chairman) and may be filed by the applicant in the Office of the County Clerk. Any Subdivision Plat not so filed or recorded within ninety (90) days of the date upon which such Plat is approved or considered approved by reasons of failure of the Planning Board to act, shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of ninety (90) days.

2-4.8 Plat Void if Revised After Approval

No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Planning Board and such Board approves any modifications. 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 Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

2-4.9 Public Acceptance of Streets/Roads

The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of White Creek of any street, road, easement, or open space shown on such Subdivision Plat.

Section 2-5 Application, Conditions and Deferred Review

Any applicant for subdivision seeking to qualify as an "Exempt subdivision" or "Agricultural subdivision" as defined in these subdivision regulations, shall submit an application to the Planning Board in accordance with the requirements of this section 2.5 and the sketch plan requirements in Article IV. Upon classification by the Planning Board, the full subdivision review procedure may be deferred provided that the applicant complies with the following additional conditions:

- (a) The sketch plan shall be accompanied by a copy of the proposed deed for the parcel to be transferred and recorded in the office of the County Clerk which contains a deed restriction stating the following:

"Development or use of the parcel described in this deed,

Comment [N17]: I think there is much discussion to be had related to exempt or agricultural subdivisions. See cover letter for details.

Comment [N18]: The Town has little ability to enforce a deed restriction and even less authority to enforce or even know whether it is family members receiving transfers of land. This part of the law defers subdivision review and I have outlined my concerns over this in the cover letter. Until you discuss this, I have not made any changes to this section.

Suggested Amendments to the Subdivision Law (November 2012)

including but not limited to construction, excavation or use for commercial, retail (except agricultural) or residential purposes, shall not occur without a new application being made to the Planning Board of the Town of White Creek for subdivision review and approval."

- (b) (1) A copy of a field survey must be submitted to the Town of White Creek Planning Board. The survey must contain the boundary lines of the tract giving complete description data by bearings and distances made and certified by a New York licensed land surveyor. The map shall be drawn at a scale of not less than fifty (50) feet to one inch and not more than one hundred (100) feet to one inch. The corners of the tract shall be located on the ground and marked by monuments or as otherwise approved by the Planning Board. The monuments shall be referenced and shown on the map.

(2) The survey requirement in subsection 2.5.(b)(1) above may be deferred by the Planning Board in the case of a subdivision for the purpose of transfer of property to an immediate family member (father, mother or their children). The application must be accompanied by a copy of the proposed deed containing an accurate and complete metes and bounds description for the parcel to be transferred and to be recorded in the office of the County Clerk which contains a deed restriction, in addition to the deed restriction required under subsection 2.5(a) above, stating the following:

"Transfer of the parcel described in this deed to any person other than an immediate family member (husband, wife or their children) shall not occur without submission and approval of a new application to the Planning Board of the Town of White Creek."

In the event that resulting parcel is to be transferred to a person other than an immediate family member, approval of the Planning Board is required, and the survey requirement must be met prior to such transfer.

- (c) (1) In the event that the transferred parcel of land approved by the Planning Board as an "Exempt subdivision" is proposed to be developed or used, including but not limited to construction, excavation, or use for commercial, retail or residential purposes, full subdivision review, fees and prior approval of the Planning Board of the Town of White Creek is required.
- (2) In the event that the transferred parcel of land approved by

Suggested Amendments to the Subdivision Law (November 2012)

the Planning Board as an "Agricultural subdivision" is proposed to be developed or used for non-agricultural purposes, full subdivision review, fees and prior approval of the Planning Board of the Town of White Creek is required.

- (d) No application fee will be charged for subdivisions which qualify as Exempt or Agricultural Subdivisions, except that a fee will be charged by the Planning Board to cover the cost of monument inspection only where applicable. A fee will be charged for review of the metes and bounds description by the Planning Board engineer in the case of family transfers where the survey requirement is deferred.
- (e) None of the provisions in this Section 2.5 will be construed as a waiver or nullification of the White Creek Town subdivision regulations.

ARTICLE III. REQUIREMENTS AND DESIGN STANDARDS FOR ALL SUBDIVISIONS

Section 3-1 General Requirements

3-1.1 Character of Land

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. Land which the Planning Board finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, shallow depth to bedrock, utility easements, or other features which will reasonably be harmful to the safety, health or general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the subdivider, and approved by the Planning Board, to remediate the harmful conditions imposed by the unsuitable land conditions.

Comment [N19]: Added in additional requirements and design standards as called for in the Plan.

3-1.2 Conformity to Official Map and ~~Master-Comprehensive~~ Plan

Subdivisions shall conform to the Official Map, if one exists of the Town and shall be in harmony with the Master Comprehensive Plan of the Town., ~~if either exists.~~

3-1.3 Specifications for Required Improvements

All required improvements shall be constructed or installed to conform to the Town specifications, which may be obtained from

Suggested Amendments to the Subdivision Law (November 2012)

the Engineer authorized by the Town.

3-1.4 Preservation of Existing Features

Existing features which would add value to residential development, such as large trees, watercourses, historic spots and structures as well as similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision. Development shall cause minimum disturbance to existing landscaping.

- (1) The subdivision shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater through careful planning of vegetation and land disturbance activities.
- (2) Disturbance to streams, wetlands, and areas with seasonally high water tables shall be avoided.
- (3) Existing plants and animals shall be preserved to the maximum extent practical.
- (4) Wooded areas along roadways, property lines, streams and hedgerows that screen views of development from public travel ways, especially scenic roads, shall be preserved to the maximum extent practical.
- (5) Preferred locations for development include soils that have not been designated as prime farmland soils or soils of statewide importance and locations where development may be screened from public view.
- (6) Disturbances to steep slopes shall be avoided. Grading on slopes greater than 15% shall be minimized wherever practicable and avoided where slopes are greater than 25%.
- (7) The subdivision layout shall be designed to protect historic resources to the maximum extent practicable.
- (8) There should be compatibility with adjacent and nearby active agricultural activities. The Planning Board shall determine if a proposed subdivision will negatively impact farms by considering if there will be substantial conflicts with existing farms, if there will be limitations on a farmer's access to farmlands, if traffic will be generated that will interfere with agricultural equipment and travel, if the subdivision will induce future non-farm growth, or if significant lands will be removed from agricultural use.

Suggested Amendments to the Subdivision Law (November 2012)

Section 3-1.5 Low Impact Design Standards to Reduce Runoff

During project design, the Planning Board may require incorporation of low-impact development standards wherever feasible. One or more of the following low-impact development techniques:

- (1) Bioretention/rain garden.
- (2) Soil amendments.
- (3) Grassed swale.
- (4) Disconnectivity (rain barrel).
- (5) Permeable pavers.

Section 3-2 Street Layout

3-2.1 Width, Location and Construction

Streets shall be of sufficient width, suitably located, and adequately constructed to conform with the ~~Master Comprehensive Plan, if such exists,~~ and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no Undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

3-2.2 Relation to Topography

Streets shall be logically related and conform insofar as possible to the original topography. They shall be arranged so as to obtain as many as possible of the building sites at or above the grade of the streets. A combination of steep grades and sharp curves shall be avoided.

3-2.3 Block Size

Block dimensions shall be at least twice the minimum lot depth and generally not more than 12 times the minimum lot width. In long blocks, the Planning Board may require the reservation, through the block, of a 25 foot wide easement to accommodate utilities or pedestrian traffic. Blocks at least 4900 feet long are recommended with an easement in blocks exceeding 1,0500 feet.

Comment [N20]: Shortened the block length as the ones here are too big and suburban in scale.

3-2.4 Intersections

Intersections of major streets by other streets shall be at least

Suggested Amendments to the Subdivision Law (November 2012)

800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided, except at important traffic intersections. A distance of at least 150 feet shall be maintained between offset intersections. Within 40 feet of an intersection, streets shall be approximately at right angles, (but in no instance shall the angle be less than 70 degrees) and grades shall be limited to 1%. All street intersection corners shall be rounded by curves of at least 25 feet in radius at the property line.

3-2.5 Visibility at Intersections

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.

3-2.6 Design Standards

Streets shall meet the following standards, unless otherwise indicated on the Town Plan, if one exists.

Street Classification	Minor Streets	Collector & Secondary
a) Minimum Width of Right-of-way	50 feet	60 feet
b) Minimum Width of Pavement	206 feet	236 feet
c) Minimum Radius of Horizontal Curves	150 feet except for street intersection corners	400 feet
d) Minimum Length of Vertical Curves as measured from center line of ROW	100 feet, but not less than 20 feet for each 1% algebraic difference of grade	200 feet, but not less than 60 feet for each 1% algebraic difference of grade
e) Minimum Length of Tangent Between Reverse Curves	100 feet except where excessive grades may be reduced to reasonable grades by shortening tangent	200 feet

Comment [N21]: Narrowed new roads as per plan.

Suggested Amendments to the Subdivision Law (November 2012)

f) Maximum Grade	12%	8%
g) Minimum Grade	12%	8%
h) Minimum Sight Distance (Vertical)	150 feet	250 feet

3-2.7 Construction Requirements

All subdivision streets shall be constructed to the following specifications:

- a) Road base - The road base shall comply with the specifications set forth by the Washington County Highway department specifications for Town Roads or the Town of White Creek's Town Road specifications, whichever is greater.
- b) Road Bed - Surfacing with compacted gravel to a depth of not less than 12".
- c) Pavement - Gravel primed with 3/10 gallon per square yard of bituminous material covered with No. 1 stone at a rate of 15 lbs. per square yard. This prime to be followed by a single surface treatment consisting of an application of bituminous material applied at a rate of 4/10 gallon per square yard covered with No. 1A stone at a rate of 25 lbs. per square yard rolled and well compacted.
- d) Road Alignment - Horizontal and Vertical alignment to be consistent with characteristics of the terrain and meet approval of the Town Board, Town Superintendent of Highways and the engineer authorized by the Town.
- e) Drainage - Provide for adequate drainage facilities with roadside ditching to a minimum depth of 18" below edge of pavement in all cases.
- f) Roadway Slopes - Roadway slopes to be constructed to a maximum slope of 1 foot vertical to 1 foot horizontal or not exceeding the angle of repose for material being worked with.
- g) Roadside Obstacles - Any trees, stumps, or utility poles shall be a minimum of 21 feet from centerline.

3-2.8 Continuation of Streets into Adjacent Property

Suggested Amendments to the Subdivision Law (November 2012)

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 Town Plan, if such exists. 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 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.

3-2.9 Permanent Dead-End Streets (cul-de-sacs)

Where a 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 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 20 foot wide easement to accommodate pedestrian traffic or utilities. A "T" or "Y" turnaround shall be provided at the end of a permanent dead-end street. Use of cul-de-sacs shall be minimized, but when such is the only feasible alternative as determined by the Planning Board, a circular turn-around with a minimum right-of-way radius of ~~45~~65 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 ~~6~~800 feet.

Comment [N22]: Updated to allow for other dead end treatments to get away from the cul-de-sac.

3-2.10 Street Names

All streets shall be named, and such names shall be subject to the approval of the Town Planning Board. Names shall be sufficiently different in sound and spelling from other streets and roads in the Town so as not to cause confusion. A street which is continuation of an existing street shall bear the same name.

3.2-11 Improvements

Streets shall be graded and improved with pavement, and may be required by the Planning Board to be improved with street signs, sidewalks, street lighting standards, curbs, gutters, trees, water mains, sanitary sewers, storm drains, fire hydrants, and underground

Suggested Amendments to the Subdivision Law (November 2012)

electric and telephone services. ~~, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite to the interest of the public health, safety and general welfare. Sidewalks, street lighting, curbs, trees, and other such improvements shall be required however, whenever a major subdivision includes clustered lots or is designed as a traditional hamlet or neighborhood such as in or around the hamlet of White Creek.~~

Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location and repair of utilities. The subdivider shall install underground service connections to the property line of each lot before the street is paved.

Grading and improvements shall conform to the specifications contained herein and any Town Road Standards as have been adopted by the Town Board and shall be approved as to design and specifications by the authorized Town Engineer or other duly designated Town Official.

Section 3-2.12 Shared Driveways.

The Planning Board may allow for use of shared driveways to accommodate access to up to four residences.

Section 3-3 Lots

3-3.1 Arrangement

The size, width, depth, shape and arrangement of lots shall be such that there will be no foreseeable difficulties for reasons of topography, soil character, flooding, or other conditions, in locating a building on each lot and in providing access to buildings on such lots from an approved street. Lots shall be able to be in compliance with this law, the New York State Fire Prevention and Building Code, and the New York State Health Department. The Planning Board may require placement of building envelope(s) on the survey map indicating the developable portions of land to be subdivided. Buildable land shall not include areas exceeding 20% slope, wetlands, the stream corridor, or any floodway.

3-3.2 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 Town

Comment [N23]: Added other standards that I thought would be helpful. These may be more than you wanted, but I wanted you to see what was in most subdivision laws.

Suggested Amendments to the Subdivision Law (November 2012)

authorized Engineer or a duly designated Town Official. All NYS DEC requirements for stream crossings shall be met.

3-3.3 Side Lot Lines and Setbacks

Side lot lines shall be at right angles to the street lines unless a variation from this rule will give a better street or lot plan. There shall be a 50 foot setback from adjacent property lines for all new structures.

Comment [N24]: See also site plan law. This is the setback suggested in the Plan. The site plan law also establishes setbacks, but I used the ones from the mobile home law, which might be too big. This is an area that needs discussion. See cover letter for more explanation.

3-3.4 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 combined access drive in order to limit possible traffic hazard on such street.

3-3.5 Lot Dimensions

Lots shall be of sufficient size to accommodate water supply, buildings and individual sanitary sewage disposal systems designed in accordance with minimum specifications of any applicable State (Table 2, NYSDOH Appendix 75-A), County, Town or New York City agencies having jurisdiction.

Comment [N25]: This is where we can put other lot dimensions...size, road frontage, etc. if you want.

3-3.6 Access from Private Roads

The area proposed to be subdivided and all proposed lots shall have frontage on and direct access to a public road or private road which conforms to Town Law and construction specifications as prescribed in this Regulation. Such required improvements to a private road shall be a condition of subdivision approval.

3-3.7 Soils, Erosion and Sediment Control

Land to be subdivided shall be designed in reasonable conformity to existing topography in order to minimize grading, cut and fill; to retain the natural contours; to limit storm water runoff; and to conserve the natural vegetative cover and soil.

Subdivisions shall be designed to minimize off-site stormwater by minimizing grading, cutting and filling; minimizing the use of impermeable surface materials on roads, driveways and other improved areas; retaining existing vegetation; using gently sloped vegetated swales; and employing other non-structural or structural measures including retention or detention basins. All New York State Department of Environmental Conservation requirements for stormwater

Suggested Amendments to the Subdivision Law (November 2012)

shall be met.

Where stormwater cannot be retained on-site through appropriate design measures, the applicant may be required to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

All subdivisions involving wetlands shall comply with the New York State Department of Environmental Conservation or U.S. Army Corps of Engineers regulations governing wetlands, as applicable.

3.3-7 Water and Septic

Where a public water system is not available, the Planning Board may require the use of individual wells or a central water system. An adequate supply of potable water shall be available to every lot in the subdivision. Wells and central water systems must conform to Part 75 of New York State Department of Health Regulations and other applicable regulations governing community water systems.

If the applicant is proposing to install a community sanitary sewer facility, it shall be installed in accordance with the regulations of the New York State Health Department and the New York State Department of Environmental Conservation, where applicable.

When individual systems are planned, all lots shall be of sufficient size, width and depth to ensure that an individual on-site sewage disposal system may be installed in compliance with New York State Department of Health standards. Deep test pits and percolation tests shall be required on all new parcels to assure compliance with NYSDOH standards for individual septic systems.

Section 3-4 Reservations and Easements

3-4.1 Parks, Playgrounds, and Other Recreational Uses

The Planning Board may require adequate, convenient and suitable areas for parks, playgrounds, or other recreational uses, 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 "Reserved for Parks, Playgrounds, or other Recreational Purposes".

Suggested Amendments to the Subdivision Law (November 2012)

If the Planning Board determines that a suitable park or parks, playgrounds or other recreational uses 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 in the amount of 10% of the appraised market value of the land to be subdivided. Such money shall be deposited in a trust fund to be used by the Town for parks, playgrounds, or other recreational purposes including the acquisition of property.

3-4.2 Realignment or Widening of Existing Streets

Where the subdivision borders an existing street, and the Official Map ~~(if one exists)~~, or Town Comprehensive Plan ~~(if either exists)~~ indicates plans for realignment or widening of the streets that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the Plan "Reserved for Street Alignment (or Widening) Purposes".

3-4.3 Utility and Drainage Easements

The Planning Board may require that utilities, including but not limited to gas, electric power, telephone, and cable, be located underground. Where the Planning Board deems it appropriate, existing utility facilities located aboveground, except those existing on public roads and rights-of-way, shall be removed and placed underground. Utilities, existing and proposed, shall be shown on the final plan. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Board, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.

3-4.4 Easements for Pedestrian Access

The Planning Board may require, in order to facilitate pedestrian access from street to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least eight (8) feet in width.

3-4.5 Responsibility for Ownership of Reservation

Ownership shall be clearly marked on Plat on all reservations.

Suggested Amendments to the Subdivision Law (November 2012)

ARTICLE IV. REQUIRED DATA AND PLATS

Section 4-1 Sketch Plan

4-1.1 The sketch plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than 50 feet to the inch) to enable the entire tract to be shown on one sheet. The sketch plan shall be submitted, showing the following directions:

- (1) The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest street intersection. Include names of owners of land to be subdivided.
- ~~(2)~~ (2) All existing structures, wooded areas, streams and other significant physical or natural features including but not limited to railroad or utility right of ways, flood hazard areas, wetlands, quarries or excavations, and bedrock outcrops, within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than five (5) feet. For purposes of the sketch plan, the topography and slope can be depicted from the existing Town of White Creek maps included in the Comprehensive Plan.
- (3) The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
- (4) The tax map sheet, block and lot numbers, if available.
- (5) All structure utilities available, and all streets which are either proposed, mapped or built.
- (6) The proposed pattern of lots (including lot width and depth), street and driveway layout, recreation areas, systems of drainage, wells, stormwater management, sewerage, and water supply within the subdivided area.
- (7) All existing restrictions on the use of land including easements, covenants, or zoning lines.
- (8) Identification of active farmlands within 500 feet and notation as to whether the proposed subdivision is located within a certified New York State Agricultural District.
- (9) An agricultural data statement, available from the Town Clerk

Suggested Amendments to the Subdivision Law (November 2012)

which identifies farmland owners that are adjacent to or within 500 feet of the proposed subdivision.

~~(7)~~(10) The Environmental Assessment Form, Part 1 pursuant to SEQRA 6 NYCRR Part 617.

Section 4-2 Minor Subdivision Plat

4-2.1 In the case of Minor Subdivision ONLY, the Subdivision Plat application shall include seven copies (7) of the following information:

(1) All information required for and included on the sketch plan.

~~(1)~~(2) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

~~(2)~~(3) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by monuments, and shall be referenced and shown on the Plat.

(3) All on-site sanitation and water supply facilities shall be identified, located and designed to meet the minimum specification of the State Department of Health, and the Washington County Sanitary Ordinance (if such exist) and a note to this effect shall be stated on the Plat and signed by a licensed engineer.

(4) Proposed subdivision name, name of the Town and County in which it is located.

(5) Location, dimensions, and areas of all proposed or existing lots.

(6) The location, dimensions and areas of all proposed or existing lots and suggested location of buildings.

(7) Proposed location and width of existing and proposed streets, driveway and curb cut.

(8) The Planning Board may require identification of the building envelope showing areas to be disturbed for lawns, driveways, and structures. All requirements of a residential site plan pursuant to the Town of White Creek Site Plan Law shall also be included.

(9) Natural features such as wetlands, streams, floodplains, steep slopes > 20%, and other natural features.

Suggested Amendments to the Subdivision Law (November 2012)

(10) The Planning Board may also require the following information:

(a) Offer of dedication in a recordable instrument form approved by the Town Board and Town Attorney of all land included in easements, drainage easements, and parks and playground areas not specifically reserved by the owner.

(b) Copies of all applications for approval of proposed water supply and wastewater disposal facilities.

(c) Protective covenants in form for recording, including covenants governing the maintenance of public spaces that are not proposed for dedication to the Town.

(d) Such other and further material and documentation as the Planning Board deems necessary for review of the subdivision or its SEQRA review.

Section 4-3 Major Subdivision Preliminary Plat and
Accompanying Data

The following documents shall be submitted for the Conditional Approval:

4-3.1 ~~Five~~ Seven (7) copies of the preliminary plat prepared at a scale of not more than fifty (50) feet to the inch, showing:

(1) All information required for and on the sketch plan and that of Section 4-2.

~~(1)~~(2) Proposed subdivision name, name of Town and County in which it is located, date, true north point, scale, name and address of record owner, subdivider and engineer or surveyor, including license number and seal.

~~(2)~~(3) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.

~~(3)~~(4) Zoning District (if such exist), including exact boundary lines of district, if more than one district, and any proposed changes in the zoning district lines and/or the zoning ordinance text applicable to the area to be subdivided.

~~(4)~~(5) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

~~(5)~~(6) Location of existing property lines, easements, buildings, water courses, marshes, rock outcrops, wooded areas, and other

Suggested Amendments to the Subdivision Law (November 2012)

significant existing features for the proposed subdivisions and adjacent property district, if more than one.

- ~~(6)~~(7) Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- ~~(7)~~(8) Contours with intervals of 5 feet or less as required by the Board, shown on a topographical overlay map, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two (2) feet.
- (9) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan (if such exists) within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
- (10) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law. Profiles of all proposed water and sewer lines.
- (11) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.
- (12) Plans and cross-sections showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.
- (12) Preliminary design of any bridges or culverts which may be required.
- (13) The proposed lot lines with approximate dimensions and area of each lot.
- (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements Over or under private property, which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to an existing

Suggested Amendments to the Subdivision Law (November 2012)

public highway or other public highway or public open space shown on the subdivision or the official map.

- (15a) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by substantial permanent monuments, and shall be referenced and shown on the Plat.
- (15b) If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than fifty (50) feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of subdivider's entire holding submitted shall be considered in the light of the entire holding.
- (15c) A copy of such covenants of deed restrictions as are intended to cover all or part of the tract.

Section 4-4 Major Subdivision Final Plat and Accompanying Data

The following documents shall be submitted for Plat approval:

4-4.1 The Plat to be filed with the County Clerk shall be printed upon mylar. The sheets shall include a margin for binding of two inches, outside of the border, along the left side and a margin of one inch outside of the border along the remaining sides. The Plat shall be drawn at a scale of no more than 100 feet to the inch and oriented with the north point at the top of the map. 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.

The Plat shall show:

- (1) Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor.
- (2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- (3) Sufficient data acceptable to the Town's authorized

Suggested Amendments to the Subdivision Law (November 2012)

engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.

- (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The Plat shall show the boundaries of the property, location, graphic scale and true north point.
- (5) Permanent reference monuments shall be shown, and shall be constructed in accordance with specifications of the Town's authorized engineer. When referenced to the State system of plane coordinates, they shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the Town's authorized engineer and their location noted and referenced upon the Plat.
- (6) All lot corner markers shall be permanently located to the satisfaction of the Town's authorized engineer, at least one (1) inch (if metal) in diameter and at least 36 inches in length, and located in the ground. Concrete may be used to form a permanent monument only if steel rod may not practically be used.
- (7) Monuments shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town's authorized engineer.

4.4-2 Construction drawings including plans, profiles and typical cross-sections, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and sub-base, manholes, catch basins and other facilities.

ARTICLE V. REQUIRED IMPROVEMENTS AND AGREEMENTS

Section 5-1 Improvements and Performance Bond

Before the Planning Board grants final approval of the Subdivision

Comment [N26]: This bonding section, and Article V is adequate. Certainly not the most detailed it could be, but I think it has what you need. If this has been problematic, I can add more detail in.

Suggested Amendments to the Subdivision Law (November 2012)

Plat, the subdivider shall follow the procedure set forth in either subparagraph 5-1.1 OR subparagraph 5-1.2 below:

5-1.1 In an amount set by the Planning Board the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements OR the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the Town Law and shall be satisfactory to the Town Board and a Town authorized engineer as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.

5-1.2 The subdivider shall complete all required improvements to the satisfaction of the Town's authorized engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed the subdivider shall file with the Town Clerk a bond or certified check covering the costs of any such improvements and the cost of satisfactorily installing any improvement not approved by a Town authorized engineer. Any such bond shall be satisfactory to the Town Board and the Town's authorized engineer as to form, sufficiency, manner of execution, and surety.

5-1.3 The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town's authorized engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to subparagraph 5-1.2 then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in subparagraph 5-1.1 such bond shall not be released until such a map is submitted.

Section 5-2 Modification of Design of Improvements

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town's authorized engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, a Town authorized engineer may, upon approval by a previously delegated member of the Planning Board, authorize

Suggested Amendments to the Subdivision Law (November 2012)

modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. A Town authorized engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

Section 5-3 Inspection of Improvements

At least five (5) days prior to commencing construction of required improvements the subdivider shall notify the Town Board in writing of the time when he proposes to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

Section 5-4 Proper Installation of Improvements

If a Town authorized engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, and the Planning Board and, if necessary, the bonding company, and shall take all necessary steps to preserve the Town's rights under the bond. No Plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plat.

Section 5-5 Utilities

The Planning Board may accept assurances 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 with the approved Subdivision Plat.

Section 5-6 Monuments

Permanent monuments shall be set at block corners and at the beginning and end of all curves and at such other points as are necessary to establish definitely all lines of the Plat, except those outlining individual lots. In general, permanent monuments shall be placed at all critical points necessary to correctly lay out any lot in the subdivision. Permanent monuments shall be

Suggested Amendments to the Subdivision Law (November 2012)

constructed of concrete with a three-quarter inch iron rod insert, having ground level dimensions at 5 inches square, and 36 inches long tapering to 6 inches square at the subsurface level. Four such monuments at the periphery of the plot shall have a brass cap accurately set and identified as a bench mark with the elevation labeled thereon. At the corners of each lot an iron pin one inch in diameter and 36 inches long shall be placed into the ground at grade level.

ARTICLE VI. VARIANCES AND WAIVERS Section 6-1 Variances

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may ~~vary-waive~~ the regulations ~~so that substantial justice may be done and the public interest secured;~~ provided that such ~~variations~~ waivers will not have the effect of nullifying the intent and purpose of the Subdivision Law, the Official Map, the Master-Comprehensive Plan, or the Zoning Ordinance, as if such exists.

Section 6-2 Waivers

Where the Planning Board finds that, due to the special circumstances of a particular Plat, the provision of certain required improvements is not requisite in 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. A petition for any such waiver shall be submitted in writing by the subdivider at the time when the sketch plan is filed for the consideration of the Planning Board. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Section 6-3 Objectives

In granting ~~variances-waivers~~ and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

ARTICLE VII. AMENDMENTS

These regulations may be amended by the Town Board by way of enactment of local law. Any proposed preliminary subdivision plat

Suggested Amendments to the Subdivision Law (November 2012)

which has not received conditional approval prior to the effective date of the amendment to these regulations, or any conditionally approved preliminary subdivision plat where an application for final plat approval has not been received within six (6) months of the date of conditional approval, shall fully comply with any amendment to these regulations.

ARTICLE VIII. ENFORCEMENT

Section 8-1 General enforcement guidelines

- (a) It shall be the responsibility of the Planning Board, the Town Board members, the Town's authorized engineer and the Town Superintendent of Highways to bring to the attention of the Town Board any violations or lack of compliance herewith.
- (b) No owner, agent or the owner, of any parcel of land located in a proposed subdivision shall transfer or sell such parcel before a plat of such subdivision has been approved by these regulations, and filed with the County clerk.
- (c) The subdivision of any lot or parcel of land, by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations.
- (d) No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations.

Section 8-2 Enforcement

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, or prevent unlawful construction to remove damages, to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure or premise; and these remedies shall be in addition to the penalties described in a separate local law.

ARTICLE IX. TERMINOLOGY AND DEFINITIONS

Section 9-1 Use and Interpretation of Words

Except where specifically defined herein, all words used in these

Suggested Amendments to the Subdivision Law (November 2012)

Regulations shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. A "building" includes all other structures of every description except fence and walls, regardless of dissimilarity to conventional building forms. The word "lot" includes the word "plot" or "parcel". The word "person" includes a corporation as well as an individual.

The phrase "used for" includes "arranged for", "designed for", "intended for", and "occupied for".

Section 9-2 Definitions

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

Agriculture - The production, keeping, or maintenance, for sale, lease or personal use, of plants and animals including but not limited to forages, grains and seed crops, dairy animals, poultry, livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals, bees and apiary products, fur animals, fish farming, fish hatcheries, fruits, vegetables, nursery, greenhouse, or flowers.

Agricultural subdivision - A subdivision classified in accordance with the application requirements in Article II and the sketch plan requirements in Article IV of these subdivision regulations, and which pertains to the division of five acres or more of land, not involving new streets or easements of access, for use or sale for agricultural purposes, including development of structures to be used for agricultural activities.

Arterial street - See major street

Aquifer - An underground collection of potentially drinkable water.

Block - The land adjoining one side of a street between two consecutive junctions of said street with roads, railway rights-of-way or waterways crossing or meeting said side of street.

Suggested Amendments to the Subdivision Law (November 2012)

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 Greene County Department of Health.

Building Envelope - The space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations and minimum yard setbacks and includes all areas of disturbance, including yards, septic fields, well fields, and driveways.

Buffer Area - An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

Collector 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.

Complete Application: An application for development that includes all required documents and submittals pursuant to this ordinance, and where a negative declaration has been made or a draft environmental impact statement has been accepted by the reviewing agency.

Comprehensive Plan - The long-range plan intended to guide growth and development of the Village, expressing official policy on the course of its housing, public utilities, community facilities, transportation and land use distribution and intensity and adopted according to New York State Town Law.

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 until the Chairperson of the Planning Board or Building Inspector certifies that all conditions have been met.

Conservation Subdivision - A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner, where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation

Suggested Amendments to the Subdivision Law (November 2012)

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.

Clustered subdivision - A flexible subdivision technique where all the residences to be built on a parcel are located together on smaller lots in order to preserve open space or environmental features on the parcel.

Dead-end-street - (cul-de-sac) A street or a portion of a street with only vehicular outlet and with a turn-around at its terminus.

Development - A major or minor subdivision.

Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Engineer or Licensed Professional Engineer - means a person licensed as a professional engineer by the State of New York.

Environmental Assessment Form (EAF): A form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental features and the project's magnitude, either a short or full SEQRA Environmental Assessment Form will be completed.

Erosion - The process by which the surface of land is worn away by the action of water, wind and/or rain.

Erosion And Sediment Control Plan - A plan showing mitigation measures, such as vegetation and structures, in sufficient quantity and substance to prevent erosion and sedimentation; also includes a schedule for the implementation of such plan.

Exempt subdivision - A subdivision classified in accordance with the application requirements in Article II and the sketch plan requirements in Article IV of these subdivision regulations, where the resulting parcels have frontage on existing roads and will not require extension of municipal facilities, and which pertains to (1) the transfer of land in accordance with court-approved probate, or (2) division of one parcel of land for transfer from an original, wholly-owned parcel to an immediate family member (one parcel per immediate family member), or (3) bulk sale or exchange of land of forty acres or more, or (4) transfer of parcels of land between owners of adjoining parcels if added lots are not created and there is no intention of creating a new residential building site or new

Suggested Amendments to the Subdivision Law (November 2012)

business.

Farm - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial, for profit enterprise, including a commercial horse boarding operation as defined in this local law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

Final Plat - A drawing prepared by a New York State licensed professional engineer or land surveyor (with appropriate certification), in a manner prescribed by these regulations, 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 County Clerk.

Immediate family member - Father, mother and their children.

Lot or parcel - A tract or parcel of a subdivision or other parcel of land, intended for the purpose of immediate or future sale, lease, donation or separate use.

Low-Impact Development - Low-impact development (LID) is an innovative stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source using uniformly distributed, decentralized, microscale controls. LID's goal is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source and limit municipal management of source stormwater. LID addresses stormwater through small, cost-effective landscape features located at the lot level.

Major street - means a street which serves or is designed to serve heavy flows of traffic and which is primarily used as route for traffic between communities and / or other heavy traffic generating areas.

Master or Comprehensive Plan - means a comprehensive plan, prepared by the Planning Board pursuant to Section 272-A of the Town Law which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the Town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts

Suggested Amendments to the Subdivision Law (November 2012)

therein.

Minor Street - A street intended to serve primarily as an access to abutting residential properties.

Official Map - means the map established by the Town Board pursuant to Section 270 of the Town Law, showing streets, highways and parks and drainage, both existing and proposed.

Official Submittal Date - The time of submission of the Subdivision Plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten days prior to which the application for approval of the, subdivision plat, complete and accompanied by the required fee and all data required by these regulations has been filed with the clerk of the Planning Board.

Open Space - Land left in a natural state for conservation and agricultural purposes or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and that is devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, used for playgrounds or manicured recreational lands such as ball fields, or occupied by any structure except agricultural buildings. Open space may be included as a portion of one or more large lots provided the lot(s) are greater than 5 acres in size, and are contiguous to form a larger un-fragmented open space area, or may be contained in a separate open space lot but shall not include private yards within 50 feet of a principal structure.

Planning Board - the Town Planning Board.

Preliminary Plat - means a drawing or drawings clearly marked "Preliminary Plat" showing the salient features of a proposed subdivision, as specified in these regulations, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

Primary Conservation Area - The area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to streams, floodplains, wetlands, critical habitats, steep slopes, areas with rocky outcrops, and groundwater recharge areas.

Prime Soils - Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed,

Suggested Amendments to the Subdivision Law (November 2012)

forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, an acceptable level of acidity or alkalinity, an acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding.

Resubdivision - A change in a subdivision plat or resubdivision plat filed in the Office of the County Clerk which change (a) affects any area reserved thereon for public use, (b) affects any street layout shown on such plat, or (c) diminishes the size of any lot shown thereon.

Secondary Conservation Area - The area delineated in a conservation subdivision to have secondary resource areas to be conserved including, but not limited to healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetation features representing the site's rural past, historic structures or sites, and visually prominent features such as knolls, or hilltops.

Sensitive Environmental Features and Areas - Refers to natural resource locations that have a high potential for significant damage or degradation from direct or cumulative impacts arising from new development or shifts in existing land uses. Typical examples include but are not limited to: wetlands, streams/river corridors, steep slopes, floodplains, highly erodible soils, and aquifer recharge and discharge areas, and habitats of rare or endangered species.

Sketch Plan - A free-hand sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions.

Slope - The vertical distance, in feet, between the highest elevation of a lot or development and the lowest elevation of a lot or development, divided by the horizontal difference between these two elevations, in feet, said horizontal distance ordinarily to be the natural course of stormwater runoff.

Suggested Amendments to the Subdivision Law (November 2012)

Soils of Statewide Importance - This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. Criteria for defining and delineating this land are determined by New York State. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some states, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.

Street - A right-of-way for vehicular traffic, including road, avenue, lane, highway, or other way.

Street Pavement - The wearing or exposed surface of the roadway used by vehicular traffic.

Street Width - The distance between property lines.

Subdivider - Any person, firm, corporation, partnership, or association, who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for him/herself or for others.

Subdivision - The division of any parcel of land into two or more lots, including the original lot, plots, sites, or other division of land, with or without streets, for the purpose of immediate or future sale, transfer of ownership or development. The term "subdivision" shall include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the County Clerk or County Register. Subdivisions may be defined as "major", "minor", "exempt" or "agricultural", according to the review procedures and criteria set forth in these subdivision regulations.

Minor Subdivision - Any subdivision containing not more than 2 lots, 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 Master Plan (if one exists).

Major Subdivision - Any subdivision not classified as a minor subdivision.

Subdivision Plat or Final Plat - means a drawing in final form, showing a proposed subdivision containing all information or

Suggested Amendments to the Subdivision Law (November 2012)

detail required by law and by these regulations to be presented to the Planning Board for approval, and which if approved, must be duly filed or recorded by the applicant in the Office of the County Clerk or Register.

Town Authorized Engineer - means the duly designated person authorized to do engineering work for the Town.

Traditional Neighborhood Design - A development pattern that reflects the characteristics of small, older communities of the late 19th and early 20th centuries. Traditional neighborhood designs result in communities that are characterized by mixed of housing types, smaller lots, shorter front setbacks, inclusion of small scale commercial businesses, grid street patterns, pedestrian circulation, greens or other open spaces, and buildings with consistent architectural character.

Surveyor - means a person licensed as a land surveyor by the State of New York.

Suggested Amendments to the Subdivision Law (November 2012)

Article X Conservation Subdivision Design

Section 10-1 Purposes

A purpose of this section is to plan for the orderly, economic, aesthetic, environmentally sound and efficient development of the Town that is consistent with its community character and the continuing needs of its people for conservation of agriculture, open space, natural and cultural resources, quality residential building sites and enjoyable open space. The Town of White Creek is home to important agricultural lands, significant natural areas, natural beauty, and rural landscapes. This section has been carefully designed in recognition of the need to protect such resources as part of the land development process. Other purposes are to achieve the following goals and policies:

- (a) To protect and conserve elements of the Town's rural character and to conserve open land, including those areas containing agriculture and unique and sensitive natural features such as but not limited to steep slopes, streams, stream sides, floodplains, and wetlands, by setting them aside from development when major subdivisions are proposed.
- (b) To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads and the amount of paving required.
- (c) To provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups.
- (d) To protect agricultural areas.
- (e) To create neighborhoods with direct visual or physical access to open land and that have strong neighborhood identity that is consistent with the rural character of White Creek.
- (f) To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties.

Section 10-2 Applicability. Any major subdivision may be designed as a conservation subdivision pursuant to this

Comment [N27]: Added as per the Plan as a voluntary procedure that an applicant could use if they wanted. The Plan coupled this with a density requirement and density bonus as an incentive. That is a separate law and not part of a subdivision so if you want to do that second part, that could come next. See also cover letter.

Suggested Amendments to the Subdivision Law (November 2012)

section.

Section 10-3 Compliance with Other Laws

This section of the Subdivision Law shall function in coordination with all provisions of the Town of White Creek Subdivision Law. The Planning Board shall integrate or run in parallel as many of the applicable procedures and submission requirements as is reasonably practicable so as not to delay review and decision-making.

Section 10-4 Dimensional Standards

Use of the conservation subdivision technique pursuant to this section does not change the development potential of any parcel. The permitted number of dwelling units in a conservation subdivision shall not exceed the number of units that would be permitted according to the density requirements of the Town of White. The Planning Board shall allow alteration of lot dimensions within a conservation subdivision in order to properly accomplish the purposes of the Town of White Creek Comprehensive Plan and this local law to preserve the maximum amount of open space when a major subdivision is planned. Lots shall be arranged in a way that preserves open space, agriculture, and promotes land conservation as described in this sub-section.

(a) A major subdivision must preserve at least fifty percent (50%) of the parcel's acreage as open space land.

(b) Minimum street frontage per lot shall be thirty-five (35) feet.

(c) Minimum lot size. The minimum lot size in major subdivisions where individual wells and septic systems are required shall be equal to that required by the New York State Department of Health to meet standards for water and septic system approvals. For lots in major subdivisions that do not need individual well and septic systems, the minimum lot size shall be fifteen thousand (15,000) square feet, on average.

(d) Maximum impervious surface shall be twenty (20%) on each lot.

(e) Maximum height of any building or structure to be placed

Suggested Amendments to the Subdivision Law (November 2012)

on a lot shall be thirty-five (35) feet.

(f) Setbacks from active cropland or pasture land shall be one hundred (100) feet. The setback from barnyards housing livestock shall be three hundred (300) feet. Other setbacks shall be determined at the time of subdivision.

(g) Stream buffers. There shall be a minimum 100' vegetated buffer along all streams. The applicant shall submit a plan that details maintenance or creation of this vegetated buffer that preferably includes use of trees. Buffers may also be required to be maintained along wetlands, vernal pools and other hydrologically sensitive areas where there shall be no structure, soil removal or disturbance, clearing, filling or vegetation disturbance.

Section 10-5 Sketch Plan and Site Analysis

(a) All requirements and procedures of the Town of White Creek Subdivision Law shall be followed in addition to this section.

(b) Sketch Plan. The following additional information shall be submitted by the applicant as a basis for informal discussions with the Planning Board regarding the design of a proposed major subdivision. The Planning Board shall evaluate the proposed subdivision during the sketch meeting. The Planning Board shall determine whether the Sketch Plan meets the purposes of this section. Complete and complex engineered plans and architectural drawings are premature and not required at this phase. The sketch plan shall contain:

1. The subdivision name or title, if any; the scale, which shall be no less than one (1) inch equals one hundred (100) feet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Concept Plan."

2. The subdivision boundaries and the owners of all contiguous properties.

3. The land use classification and tax map number(s) of the property to be subdivided.

4. The total acreage of the subdivision and the proposed number and locations of lots. Lots shall be generally located using the four-step design process of SECTION 8.

Suggested Amendments to the Subdivision Law (November 2012)

5. All existing streets, mapped or built, adjacent to the tract.
6. All existing restrictions on the use of land, including easements and covenants, if any.
7. All existing structures, general location of agricultural fields and wooded areas, watercourses, and other significant physical features of the parcel and within two hundred (200) feet of the parcel boundaries.
8. If applicable, the location and required setbacks, if any, as may be required by this Local law, the Town of White Creek Floodplain Law, or State or Federal laws from watercourses, wetlands, and floodplains.

Section 10-6 Site Design

(a) Step 1. Do Site Analysis

1. Site Analysis. A site analysis shall include an identification of primary and secondary conservation lands within a parcel(s), as defined below. The site analysis shall include a Site Analysis Map with the information listed below. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from governmental agencies, or from aerial photographs. The applicant shall review all White Creek maps, plans and studies including but not limited to the Comprehensive Plan in conducting its site analysis. The applicant may obtain advice and assistance from an accredited land trust or environmental organization when preparing the site analysis. The site analysis is not intended to be a highly engineered or exact document, but a general sketch and description illustrating the location and type of environmental features that are present on the site including features such as:
 - a. Areas having slopes of twenty percent (20%) or greater.
 - b. Wetlands, areas of hydrological sensitivity including but not limited to aquifer and aquifer recharge areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any. The Site Analysis Map shall delineate the minimum 100' required streamside vegetated buffer.

Suggested Amendments to the Subdivision Law (November 2012)

- c. Agricultural lands including farmland within, and adjacent to, a New York State certified Agricultural District, soils classified as being prime farmland or soils of statewide significance, if any, and the Land Prioritization Score found on the Town of White Creek Farmland Prioritization Map.
- d. Sites where community sewer, community water, or community water and sewer are available or planned, if any.
- e. Lands contiguous to publicly owned or designated open space areas, or privately preserved open spaces, if any.
- f. Historic structures or areas of national, state or local importance, if any, and specifically identifying those structures which are listed on either the federal or New York State Register of Historic Places.
- g. Sites in, or bordering on, known scenic locations identified in the Town's Comprehensive Plan, if any.
- h. Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species, or unique natural or geological formations, if any.
- i. General description and locations of the vegetative cover on the property according to general cover type including cultivated land, grass land, old field, hedgerow, woodland and wetland, and showing the actual line of existing trees and woodlands.
- j. Lakes, ponds or other significant recreational areas, or sites designated as such in the Town's Comprehensive Plan, if any.
- k. Existing trails, inactive railroad beds, bikeways, and pedestrian routes of Town, State or County significance or those indicated in any Town, County or State plan for future trail development, if any.
- l. Location of all existing streets, roads, buildings, utilities and other man-made improvements.
- m. All easements and other encumbrances of property

Suggested Amendments to the Subdivision Law (November 2012)

which are or have been filed of record with the Washington County Clerk's Office.

n. In addition to compliance with the requirements of this law, all other procedures and requirements of the Town of White Creek Subdivision Regulations related to Preliminary and Final Plat Approvals shall be followed.

(b) Step 2: Delineate Open Space Areas. Proposed open space areas shall be designated as follows:

1. Primary Conservation Areas shall be delineated and designated on a map. House lots shall not encroach upon Primary Conservation areas.

2. Secondary Conservation Areas shall be delineated and designated on a map. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the parcel in terms of their highest to least suitability for inclusion in the proposed open space in consultation with the Planning Board. Secondary Conservation Areas shall be delineated on the basis of those priorities and practical considerations given to the parcel's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives. These features shall be clearly noted, as well as the types of resources included within them, on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the parcel.

3. The primary and secondary conservation areas, together, constitute the total open space areas to be preserved, and the remaining land is the potential development area.

(c) Step 3. Specify Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.

(d) Step 4. Align Streets and Trails. After designating the

Suggested Amendments to the Subdivision Law (November 2012)

building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified in this Local Law and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands, traversing steep slopes, and fragmenting agricultural lands. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All applicable requirements of the Town of White Creek Highway Law, if applicable, shall be met.

(e) Step 5. Draw Lot Lines. Upon completion of the preceding steps, lot lines are then drawn as required to delineate the boundaries of individual residential lots.

(f) Alternate Design Process. The Planning Board is authorized to require use of traditional neighborhood design (TND) if such layout is appropriate for the parcel proposed to be developed and if it will result in a more effective open space design. For those subdivisions designed to be a TND, the design process shall be a variation on a conservation subdivision outlined in this local law. Just as with non-TND developments, the first step is to identify open space lands, including both Primary and Secondary Conservation Areas. However, in TND's, where traditional streetscape is of greater importance, steps 2 and 3 above may be reversed, so that streets and squares are located before house sites specified. TND's typically have higher density of development, reduced lot sizes, narrow front setbacks, narrow streets, sidewalks, and have a clear demarcation between built and unbuilt lands at the edge of the neighborhood.

Section 10-7 Site Design Criteria

a. Residential structures in a major subdivision should be located according to the following guidelines, which are listed in order of significance. If any of the guidelines below conflict with each other on a particular site, the Planning Board may use its discretion to resolve such

Suggested Amendments to the Subdivision Law (November 2012)

conflicts. The lots, house sites, roads and other infrastructure in a proposed subdivision shall avoid or minimize adverse impacts by being designed:

1. On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use.
2. Away from the boundaries of any farm preserved with a conservation easement or other permanent protection, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm.
3. So that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses.
4. To cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table by avoiding placement of impervious surfaces where water is most likely to infiltrate and recharge the groundwater.
5. To avoid disturbance to streams and drainage swales, floodplains, vernal pools, wetlands, and their buffers. Native vegetation shall be maintained to create a buffer of at least 100' of wetlands and surface waters, including creeks, streams, springs and ponds.
6. All grading and earthmoving on slopes greater than twenty percent (20%) shall be minimized and shall only be to create a house site, driveway and area for a septic system. Such grading shall not result in cut and fills whose highest vertical dimension exceeds eight (8) feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill.
7. To avoid disturbing existing cultural and scenic features. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. Where these scenic views or vistas exist, a deep non-vegetated buffer is recommended along the road where those views

Suggested Amendments to the Subdivision Law (November 2012)

or vistas are prominent or locally significant.

8. To be as visually inconspicuous as practicable when seen from state, county and local roads, and in particular, from designated scenic routes. The subdivision shall preserve woodlands along roadways, property lines, and lines occurring within a site such as along streams, swales, stone fences, and hedgerows to create buffers with adjacent properties. Preservation shall include ground, shrub, understory and canopy vegetation.

9. To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads. House lots shall generally be accessed from interior streets, rather than from roads bordering the parcel. New intersections with existing public roads shall be minimized. Although two (2) access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two (2) entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.

10. On suitable soils for subsurface sewage disposal (where applicable).

11. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland, to enable new residential development to be visually absorbed by the natural landscape.

12. Around and so as to preserve sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.

13. To protect biodiversity and wildlife habitat areas of species listed as endangered, threatened, or of special concern by either the United States Department of the Interior or the New York State Department of Environmental Conservation, or critical habitats listed on the DEC White Creek Habitat Summary or the White Creek Biodiversity Map.

(b) Open space standards:

1. The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly

Suggested Amendments to the Subdivision Law (November 2012)

minimize disturbance of these environmentally sensitive areas. The lot layout shall show how those sensitive areas will be protected by the proposed subdivision plan. Secondary Conservation Areas shall be included in the required open space area to the greatest extent practicable such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.

2. Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to, preserving wetlands.
3. Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the parcel.
4. Open space land shall, to the maximum extent practicable, be contiguous to avoid fragmentation and to create a critical mass of land either available for agriculture or left in a natural state.
5. Open space lands shall be designated as one or more individual conservation lots owned in common, or designated and included as part of one or more house lots. A portion of any house lot five (5) acres or more in size may be used for meeting the minimum required open space land provided that there is a permanent restriction enforceable by the Town that states the future use shall be restricted to open space such as undisturbed wildlife habitat, managed agricultural field, brush-hogged fields, or managed forest, and that prevents development of, that portion of the parcel, and that is contiguous to other lands to form unfragmented open spaces. Any house lot less than five (5) acres does not qualify as contributing to open space.
6. Walkways, trails, play areas, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection may be

Suggested Amendments to the Subdivision Law (November 2012)

included in the preserved open space lands.

7. The required open space may be used for community septic systems.

8. Stormwater management ponds or basins and lands within the rights-of-way for underground utilities may be included as part of the minimum required open space.

9. Recreation lands such as ball fields, golf courses, and parks shall not be considered part of the required open space unless such land is open to the public. Such recreational lands with access only to residents shall not be counted towards the open space requirements, but shall be counted towards any recreation land requirement as per the Town of White Creek Land Subdivision Regulations.

10. Open space shall be directly accessible or viewable from as many home sites as possible.

Section 10-8 Streets, Driveways and Trails

a. Common driveway access may be provided. A pedestrian circulation and/or trail system shall be sufficient for the needs of residents, unless waived by the Planning Board.

b. New streets shall meet the Town Highway Specifications. Where appropriate, the Planning Board shall work with the Highway Department to ensure that the Town of White Creek Highway Specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a conservation subdivision.

c. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.

d. Bike paths and other pedestrian trails are encouraged.

Section 10-9 Protection of Open Space

a. All required open space shall be depicted and noted on the site plan as protected open space and restricted from further subdivision through one of the following methods

Suggested Amendments to the Subdivision Law (November 2012)

to be proposed by the applicant and approved by the Planning Board:

1. A permanent conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office. Due to the enforcement responsibilities carried out by easement grantees, this is the preferred method of ensuring permanent protection.
 2. A declaration of covenants or deed restriction, in a form acceptable to the Town and recorded in the County Clerk's Office.
- b. Open space land may be held in any form of ownership that protects its conservation values, such as where the open space is owned in common by a homeowner's association (HOA).
1. Open space may also be dedicated to the Town, County or State governments, transferred to a qualified non-profit organization including a land trust, or held by single or multiple private owners. The applicant shall provide proof that the receiving body agrees to accept the dedication.
 2. The Town seeks to ensure long-term maintenance of privately-owned lots dedicated to open space. When open space lands are proposed to be privately owned on a lot dedicated for open space use, and such lands are not subject to a conservation easement or are not to be transferred to a qualified non-profit organization or municipality, such lands shall be owned by an HOA, or shall be designated as a house lot allowing only one residence. This house lot shall be considered part of, and not in addition to, the allowed density the parent parcel is eligible for. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.
 3. If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.

Suggested Amendments to the Subdivision Law (November 2012)

- a. If land is held in common ownership by a homeowners association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs. The Planning Board shall find that the HOA documents satisfy the conditions above.
- b. The homeowners association shall be operating before the sale of any dwelling units in the development. The proposed homeowners association shall be established by the applicant and shall comply with the requirements of Section 352-e of the New York State General Business Law, and have an offering plan for the sale of lots in the subdivision approved by the New York State Department of Law, if required. In the event that the NYS Department of Law grants an exemption from the requirement of an offering plan, the applicant shall have in place a maintenance agreement acceptable to the Town that ensures perpetual maintenance of the open space.
- c. Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.
- d. The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
- e. The association shall have adequate resources to administer, maintain, and operate such common facilities.
- c. The conservation easement, declaration of covenants or deed restriction, or approved subdivision plan shall permanently restrict development of the open space and shall specify the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board shall approve the form and content of any easement, declaration, restriction, or subdivision plan. Regardless of which method of protecting the required or designated open space is selected, the restriction shall be made a

Suggested Amendments to the Subdivision Law (November 2012)

condition of the final plat approval.

d. A conservation easement will be acceptable if:

1. The conservation organization is acceptable to the Town and is a *bona fide* conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
2. The conveyance contains appropriate provisions for proper reverting or re-transfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.
3. A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space.
4. The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

Section 10-9 Maintenance Standards

- a. The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space.
- b. Failure to adequately maintain any improvements located on the undivided open space and keep them in reasonable operating condition is a violation of the Local Law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or in the case of an HOA, the owners of properties within the development, and if unpaid, shall become a tax lien on such property.

Section 10-11 Future Subdivisions

When an applicant includes only a portion of landowner's entire parcel, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that

Suggested Amendments to the Subdivision Law (November 2012)

subdivision may be accomplished in accordance with this section and to allow the Planning Board to adequately assess segmentation under the State Environmental Quality Review Act. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.

DRAFT