

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

## MEMO

DATE: July 24, 2019

TO: Windham Town Council

THROUGH: Don Gerrish, Interim Town Manager

FROM: Amanda Lessard, Planning Director *AL*

Cc: Long Range Planning Committee  
Jennifer Curtis, Planner  
Ben Smith, AICP, North Star Planning

RE: Planning Board Recommendation: Ordinance Amendment – Chapter 140 Land Use Sections 400 & 900, related to Conservation Subdivisions and Country Estate Subdivisions

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At the Planning Board's meetings on July 8 and July 22, 2019, the Board discussed the proposed ordinance changes that were developed by the Long Range Planning Committee (LRPC), who were charged by the Council to review and revise the boundaries and standards of the areas designated as Rural Areas in the Comprehensive Plan Update, adopted in June 2017. For the purposes of this effort, the existing Farm and Farm Residential Zoning Districts were chosen as the limits of work, as these zoning districts generally match up with the Rural Areas designated in the Comp Plan. Given that half of the development that occurs in Windham happens in subdivision development, the LRPC has proposed the attached amendments to the Land Use Ordinance to address subdivision development in the Farm and Farm Residential zoning districts. This proposal does not address the rate of development in rural Windham or the number of lots that could be created in a subdivision; the LRPC is continuing to work on changes to Farm and Farm Residential district standards that could change the allowed net density.

The proposed revisions are intended to be an enhanced approach to the open space subdivision process by requiring subdivisions to be designed as either a Conservation Subdivision or a Country Estate Subdivision. When designing a conservation subdivision, a developer would first focus on the conservation priority areas that must be included in open space before considering how the development will fit into its rural landscape. The ordinance also establishes a specific design process that each subdivision project must complete prior to final review to ensure that those areas of a property that have the highest natural resource and rural character value are included in the Open Space. If a developer does not opt for an open space approach to developing a subdivision they are limited to a subdivision with very large lots (Country Estate).

A summary of the proposed ordinance amendments is included in the attached May 30, 2019 memo.

At the June 11, 2019 meeting, the Council suggested that it would be helpful to see an example of a recently approved subdivision and how it could be laid out utilizing the proposed conservation subdivision standards. A sample sketch plan that reimagines the Majestic Woods Subdivision is enclosed. The existing subdivision on 82.29 acres was approved in three phases and consists of a total 34 lots and 21.21 acres of open space. The concept plan utilizing the proposed conservation subdivision standards results in 30 lots and 53.21 acres of open space.

At the Planning Board's meeting on July 8, 2019, a public hearing was held on the proposed ordinance changes. Nine members of the public commented on the proposed amendments. All were in favor of creating open space and requiring trails. Two people expressed concern that private property rights are slipping away and standards that are proposed for developers may eventually apply to single lots. Three people commented that the minimum lot sizes were too small and didn't look rural and questioned the environmental impact of smaller lots. There were also comments that the Country Estate lot size was arbitrary and no developer would choose that option while another comment was that larger lots are more rural. Two people also supported removing the 5 acre minimum applicability in the Farm zone.

During Planning Board discussion on July 8, 2019 members of the Board commented that keeping trail systems in mind in the open space and the setbacks from roads and wetlands were good ideas, cluster development hasn't been getting what the Town has been looking for in rural areas, and that the lot sizes for both the Conservation and Country Estate Subdivision were of concern. The Board also was concerned that this proposal does not direct growth away from rural areas or otherwise incentivize development in growth areas. The Board requested additional information on how these amendments would fit in with the Long Range Planning Committee's other recommended zoning changes for the Farm and Farm Residential Zoning Districts.

At the meeting on July 22, 2019 Planning Board members discussed the July 10, 2019 LRPC public forum on rezoning the Farm and Farm Residential Zoning Districts where the public was asked for input on what the right net density and maximum lot size is for rural Windham and to let the LRPC know if it's on the right track with regard to zoning map changes and use changes. At the meeting there was no consensus about what the right number is for rural density, but there appeared to be agreement that the state context alternative was not appropriate and too rural for Windham. The Board also allowed additional public comment. The Board discussed that the proposed setbacks and buffers would help rural character, but the Country Estate lot size was too large, the lot sizes in a Conservation Subdivision should not be reduced, that the lower infrastructure costs to build a subdivision were not directing growth from rural areas and the need for more encompassing changes to keep rural Windham rural. These changes may be a piece of the puzzle but they should fit in to the big picture.

Following discussion of the proposed changes, on July 22, 2019 the Board made the following motion:

To not recommend the approval of the proposed amendment to Sections 400 and 900 of the Land Use Ordinance related to Conservation Subdivisions and Country Estate Subdivisions.

Motion: Michael Devoid

2<sup>nd</sup>: Keith Elder

Vote: 6-0

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

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fax 207.892.1916

## MEMO

DATE: July 17, 2019

TO: Windham Planning Board  
FROM: Amanda Lessard, Planning Director  
Cc: Jenn Curtis, Planner  
Long Range Planning Committee

RE: Ordinance Amendment: Sections 400 District Standards, 900 Subdivision  
Review, related to Conservation Subdivisions and Country Estate Subdivisions  
Planning Board Meeting – July 22, 2019

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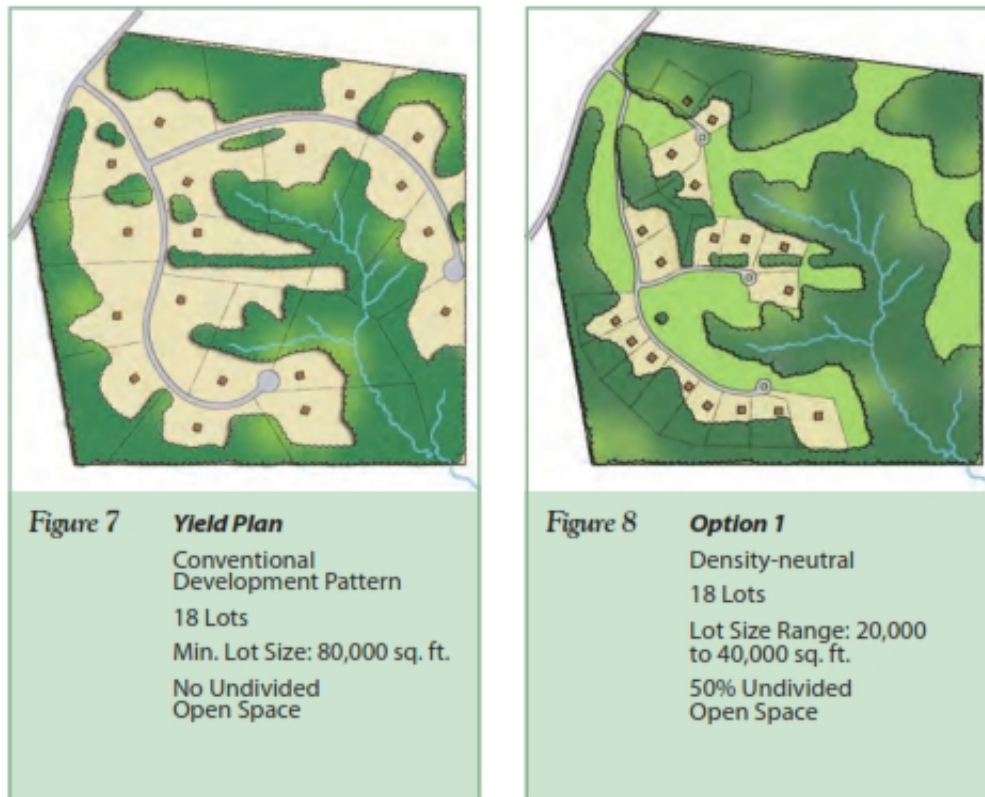
### Overview

At their meeting on June 11, 2019, the Town Council voted to forward the enclosed proposed ordinance changes to the Board for review and recommendation. The proposed ordinance revisions were developed by the Long Range Planning Committee (LRPC), who were charged by the Council to review and revise the boundaries and standards of the areas designated as Rural Areas in the Comprehensive Plan Update, adopted in June 2017. For the purposes of this effort, the existing Farm and Farm Residential Zoning Districts were chosen as the limits of work, as these zoning districts generally match up with the Rural Areas designated in the Comp Plan.

The LRPC held two community workshops in November 2018 to present issues to and hear concerns from members of the public on growth in rural Windham. The majority of participants expressed concern related to community character and the balance between the built and natural environment. Participants also commented that recent cluster developments have resulted in development that looks more crowded and less rural. Given that half of the development that occurs in Windham happens in subdivision development, the LRPC has proposed the attached amendments to the Land Use Ordinance to address subdivision development in the Farm and Farm Residential zoning districts. This proposal does not address the rate of development in rural Windham or the number of lots that could be created in a subdivision; the LRPC is continuing to work on changes to Farm and Farm Residential district standards that could change the allowed net density.

The Town of Windham has allowed cluster developments in the Farm and Farm Residential Districts since 1986. The purpose for allowing these types of developments is to promote well-designed subdivisions which preserve open space, respect the physical qualities of the land, and in some instances, reduce the overall development costs of a subdivision. The benefit to the

Town of cluster subdivisions is a smaller developed area (less infrastructure to maintain, less stormwater runoff, less environmental impact) and the creation of large blocks of open space (for recreation, wildlife habitat preservation, and visual buffering). They have been attractive to developers because of the reduced lot size and road frontage. Conventional and cluster development both allow the same number of lots to be built.



Left: A conventional subdivision. Right: A cluster subdivision.

The cluster standards have been amended over the years to provide more guidance on the amount and type of land that must be included in the open space. The existing cluster subdivision standards were last amended in January 2019 by allowing the open space to be retained by the subdivider for agricultural or forestry use, and establishing factors for the Planning Board to review the arrangements of lots on the land to achieve the best possible relationship between the proposed development and the land. No new subdivision applications have been submitted since the amendment became effective. During the Planning Board's review of those amendments the Board was concerned that cluster subdivisions may be incentivizing development in rural areas and contributing to the rate of growth that Windham is experiencing. The Board commented that additional buffers, changes to percentage of open space, net density and lot sizes should be included in the Long Range Planning Committee's work related to proposed revisions to the Land Use Ordinance for the Farm and Farm Residential Districts.

These proposed revisions are intended to be an enhanced approach to the open space subdivision process by requiring subdivisions to be designed as either a Conservation Subdivision or a Country Estate Subdivision. When designing a conservation subdivision, a developer would first focus on the conservation priority areas that must be included in open space before considering

how the development will fit into its rural landscape. The ordinance also establishes a specific design process that each subdivision project must complete prior to final review to ensure that those areas of a property that have the highest natural resource and rural character value are included in the Open Space. If a developer does not opt for an open space approach to developing a subdivision they are limited to a subdivision with very large lots.

A summary of the proposed ordinance amendments is included in the attached May 30, 2019 memo.

Staff has drafted an example of a handout to illustrate the concept of each of these subdivision options. This is a work in progress that will be further refined and supplemented with handouts on the application process to be a guide for landowners or site designers.

At the June 11, 2019 meeting, the Council suggested that it would be helpful to see an example of a recently approved subdivision and how it could be laid out utilizing the proposed conservation subdivision standards. Staff presented a sample sketch plan that reimagines the Majestic Woods Subdivision at the Planning Board meeting on June 8, 2017 and the maps are enclosed. The existing subdivision on 82.29 acres was approved in three phases and consists of a total 34 lots and 21.21 acres of open space. The concept plan utilizing the proposed conservation subdivision standards results in 30 lots and 53.21 acres of open space. In developing the plan, the consultant offered the following comments about the proposed ordinance:

- The plan is well below the allowable number of lots in the net residential calculations (42 allowed, 30 proposed). The biggest obstruction to creating additional lots is the 100' setback from primary conservation areas – 100' from wetlands and steep slopes will eliminate a lot of building sites on many typical development sites in Windham.
  - The Town may wish to consider clarifying the type of wetland that is considered a primary conservation area, based on the Maine NRPA definition of wetlands. The ordinance's wetland definition is very broad and appears to be similar to the Army Corps definition and would include freshwater and forested wetlands. The NRPA definition is limited to freshwater wetlands.
  - Is there a minimum contiguous area of steep slopes? All areas have been mapped with the setback. The Town may wish to consider clarifying steep slopes for the purpose of a primary conservation area, to be similar to the shoreland zoning resource protection definition of areas of two or more contiguous acres.
- Any lots having access to the existing road is essentially eliminated due the language that requires 300 foot spacing from new or existing driveways. The Town may wish to allow the creation of limited lots if the requirement for spacing was just the separation of new driveways on the subdivision property.

## **Planning Board Discussion**

At the Planning Board's meeting on July 8, 2018, a public hearing was held on the proposed ordinance changes. Nine members of the public commented on the proposed amendments. All were in favor of creating open space and requiring trails. Two people expressed concern that private property rights are slipping away and standards that are proposed for developers may eventually apply to single lots. Three people commented that the minimum lot sizes were too

small and didn't look rural and questioned the environmental impact of smaller lots. There were also comments that the Country Estate lot size was arbitrary and no developer would choose that option while another comment was that larger lots are more rural. Two people also supported removing the 5 acre minimum applicability in the Farm zone.

During Planning Board discussion members of the Board commented that keeping trail systems in mind in the open space and the setbacks from roads and wetlands were good ideas, cluster development hasn't been getting what the Town has been looking for in rural areas, and that the lot sizes for both the Conservation and Country Estate Subdivision were of concern. The Board also was concerned that this proposal does not direct growth away from rural areas. The Board requested additional information on how these amendments would fit in with the Long Range Planning Committee's other recommended zoning changes for the Farm and Farm Residential Zoning Districts.

The LRPC held a public forum on July 10, 2019 to present their approach to rezoning the Farm and Farm Residential Zoning Districts based on the public input that was received during the Comprehensive Planning process and two public forums held in November 2018. The approach considers that there are important rural areas in Windham where the value of the land comes from the land and large lots are needed for those rural uses. Other areas will continue to allow for lower density residential development that would be protected from some of the more nuisance rural uses like mineral extraction, sawmills, piggeries, etc. Two new zoning districts would be created from that have greater differences in the types of uses allowed and the permitted net density. The rezoning approach separates net density from minimum lot size and proposes a maximum lot size in order to create large blocks land to remain undeveloped or be used for other non-residential rural land uses. The public was asked for input on what the right net density and maximum lot size is for rural Windham and to let the LRPC know if it's on the right track with regard to zoning map changes and use changes. During discussion at the meeting concerns were expressed about loss of property rights, and lack of focus on slowing the rate of growth or incentives to prevent development in rural Windham. At the meeting there was no consensus about what the right number is for rural density, but there appeared to be agreement that the state context alternative was not appropriate and too rural for Windham.

The public is asked to provide feedback on the questions posed at the forum to the Planning Department by July 24. The video recording of the meeting is available online at <http://www.windhammaine.us/604/Long-Range-Planning-Committee> and the handouts are attached. The LRPC is expected to evaluate the public input over the next six weeks before making a recommendation to the Town Council. It was noted at the meeting that zoning is not going to be the only answer to reducing development in rural areas. Zoning will specify how much, where, and what kind of development will be allowed. There are other programs and policies that could and should be implemented to address the rate of growth and conserving open space in rural Windham.

Additional background information on the benefits of open space and conservation subdivisions can be found online at Beginning with Habitat ([https://www.beginningwithhabitat.org/toolbox/land\\_subdivision.html](https://www.beginningwithhabitat.org/toolbox/land_subdivision.html)), Maine State Planning Office How to Prepare a Land Use Ordinance Appendix D Keeping Rural Areas Rural

([http://digitalmaine.com/spo\\_docs/48](http://digitalmaine.com/spo_docs/48)), and in the attached *[Growing Greener: Conservation by Design](#)* (a program in Pennsylvania but its principles are broadly applicable) and *[Conservation Subdivision Design: Perceptions and Reality](#)*.

### **Amendment Procedure**

Amendments to the Land Use Ordinance require review and recommendation from the Planning Board. In accordance with the Town Charter, the Town Council will need to vote on the proposed changes to the Land Use Ordinance for the changes to be officially approved. The Planning Board may vote on a recommendation to the Town Council similar to the following:

**MOTION:** To (**recommend/recommend with comments/not recommend**) approval of the proposed amendment to Sections 400 and 900 of the Land Use Ordinance related to Conservation Subdivisions and Country Estate Subdivisions.



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## MEMO

DATE: May 30, 2019

TO: Windham Town Council  
THROUGH: Don Gerrish, Interim Town Manager  
FROM: Amanda Lessard, Planning Director *ALL*  
Cc: Long Range Planning Committee  
Ben Smith, AICP, North Star Planning  
Jennifer Curtis, Planner

RE: Conservation Subdivision Amendments

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On September 25, 2018 the Town Council directed the Long Range Planning Committee (LRPC) to review and revise the boundaries and standards of the areas designated as Rural Areas in the Comprehensive Plan Update, adopted in 2017. The goal of the review and revisions are to bring town zoning ordinances more into compliance with the policy to generally direct new residential growth away from Rural Areas. For the purposes of this effort, the existing Farm and Farm Residential Zoning Districts were chosen as the limits of work, as these zoning districts generally match up with the Rural Areas designated in the most recent Comprehensive Planning efforts. The Committee held two community workshops in November 2018 to present issues to and hear concerns from members of the public on growth in rural Windham. The majority of participants expressed concern related to community character and the balance between the built and natural environment. Participants also commented that recent cluster developments have resulted in development that looks more crowded and less rural.

Given that half of the development that occurs in Windham happens in subdivision development, the LRPC has proposed the attached amendments to the Land Use Ordinance to address subdivision development in the Farm and Farm Residential zoning districts. These revisions are intended to be an enhanced approach to the open space subdivision process by requiring subdivisions to be designed as either a Conservation Subdivision or a Country Estate Subdivision. When designing a conservation subdivision, a developer would first focus on the conservation priority areas that must be included in open space before considering how the development will fit into its rural landscape. The ordinance also establishes a specific design process that each subdivision project must complete prior to final review to ensure that those areas of a property that have the highest natural resource and rural character value are included in the Open Space. If a developer does not opt for an open space approach to subdivision they are limited to a subdivision on very large lots.



Staff has drafted an example of handout to illustrate the concept of each of these subdivision options. This is a work in progress that will be further refined and supplemented with handouts on the application process to be a guide for landowners or site designers.

Additional highlights of the changes are as follows:

#### **Section 400 – District Standards**

- Reduction of minimum lot size, removal of maximum lot size requirements for Conservation Subdivision. This is intended to recognize that the priority for the developing a conservation subdivision is delineating and designing the open space so greater flexibility will be needed to fit lots within the landscape.
- Establish a minimum lots size and a net residential density for a Country Estate Subdivision.
- All subdivision in the Farm and Farm Residential Districts must be designed as a Conservation Subdivision or a Country Estate Subdivision.
- Remove cluster subdivision references in the RL and RM. Conservations Subdivisions continue to be optional in these districts.

#### **Section 910 – Submission Requirements**

- Remove cluster subdivision references
- Require the submission of an Existing Resources Inventory and Site Analysis Sketch Plan for Conservation Subdivisions.

#### **Section 911.K – Conservation Subdivision Standards**

##### Purpose

- Expanded purpose statement to describe the Open Space preservation priorities of Conservation Subdivision.

##### Applicability

- All subdivision in the Farm and Farm Residential Districts must be designed as a Conservation Subdivision or a Country Estate Subdivision. Subdivisions in other residential districts may be designed as a Conservation Subdivision or a traditional development.

##### Procedure

- Establishes a specific design process that each subdivision project must complete prior to final review:
  - delineating the open space
  - designing the open space: defines continuity and integrity, must include all primary conservation areas, buffer along the existing public street required to be in open space
  - locating the building sites: 100 foot buffer/setback from priority conservation areas, 50 foot setback from secondary conservation areas, 100 foot setback from existing public and private streets
  - aligning streets and trails: construction of a trail system is required
  - drawing the lot lines.

##### Standards

- Removes prohibition on density bonuses in the Highland Lake watershed as density bonuses are no longer permitted in the Farm and Farm Residential Districts.
- Allows for driveways to cross the required buffer from existing public and private streets but requires a 300 foot separation.

#### Open Space Requirements

- Establishes Primary and Secondary Conservation Priorities for Land Included in Open Space.

#### Country Estate Subdivision

- As an alternative to Conservation Subdivisions, large residential lots are required in order to meet Town goals of protecting water quality and wildlife habitats and preserving rural character.

**406 Zoning Districts****A. Farm District (F)****1. Intent**

The Farm district is intended primarily for rural and residential land uses. Development is restricted in order to protect farmlands, woodlands, open space, wildlife habitat and scenic areas.

**2. Permitted Uses**

The following uses, as they are defined in Section 300, shall be permitted in the Farm District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Agriculture, Piggery
- Agriculture, Poultry Facility
- Building, Accessory
- Campground, Commercial
- Campground, Personal
- Cemetery
- Child Care, Family Home
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Forestry
- Golf Course
- Home Occupation 1
- Home Occupation 2
- Kennel, Minor
- Mineral Extraction
- Place of Worship
- Public Building
- Research Laboratory
- Retail Sales, Nursery
- Riding Stable
- Sawmill, Permanent
- Sawmill, Temporary
- Service Business, Landscaping
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

**3. Conditional Uses**

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Assisted Living Facility
- Bed and Breakfast Inn
- Boarding Home for Sheltered Care
- Kennel, Major
- Medical Office
- Nursing Home
- Public Utility Facility

- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Rooming House

#### 4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

#### 5. Dimensional Standards

The following dimensional standards shall apply in the Farm District:

- |   |                        |
|---|------------------------|
| (a) Minimum Lot Size:   |                        |
| (1) Standard <del>(Non-Cluster)</del>   | 80,000 s.f.            |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision:   |                        |
| (a) All Subdivision lots connected to public water  | <u>130,000 s.f.</u>    |
| (b) Subdivision served by wells or a private system   | <u>230,000 s.f.</u>    |
| <u>(3) Country Estate Subdivision</u>   | <u>8 acres</u>         |
| <del>(34)</del> Rooming House   | 4 acres                |
| <del>(b) Maximum Lot Size:</del>  |                        |
| <del>(1) Cluster Subdivision</del>  | <del>50,000 s.f.</del> |
| <del>(2) Cluster Subdivision: one (1) lot within subdivision</del>  | <del>60,000 s.f.</del> |
| (c) Net Residential Density:  | 60,000 s.f.            |
| <u>(1) Country Estate Subdivision</u>   | <u>250,000 s.f.</u>    |
| (d) Minimum Frontage:   |                        |
| (1) Standard <del>(Non-cluster)</del>   | 200 ft.                |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision  | 100 ft.                |
| (3) <del>Cluster</del> <u>Conservation</u> Subdivision, where frontage is entirely on cul-de-sac  | 50 ft.                 |
| (e) Minimum Front Setback:  |                        |
| (1) Standard <del>(Non-cluster)</del>   | 40 ft.                 |
| (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot. |                        |
| (2) <del>Cluster</del> <u>Conservation</u> sSubdivision   | 25 ft.                 |
| (3) Non-Residential Use: Minimum Landscaped Buffer Strip  | 15 ft.                 |
| (f) Minimum Side Setback:   |                        |
| (1) Standard <del>(Non-cluster)</del>   | 10 ft.                 |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision:   | 10 ft.                 |

- (g) Minimum Rear Setback:
  - (1) Standard ~~(Non-cluster)~~: 10 ft.
  - (2) ~~Cluster~~ Conservation Subdivision: 10 ft.
- (h) Maximum Building Height: 35 ft.
  - (1) Agriculture, Public Buildings, Church Steeples: No Limit
- (i) Maximum Building Coverage: 25%

## 6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Farm District:

- (a) Automobile Repair Services in existence prior to August 7, 2014.
  - (1) All repair operations shall be conducted inside an enclosed building.
  - (2) No more than three vehicles shall be serviced or stored on the property at any one time.
  - (3) Hours of operation shall be Monday through Saturday from 8:00 A.M. to 5:00 P.M.
- (b) ~~Cluster~~ Subdivision. ~~(See Sec. 900 Subdivision Review w.w.)~~ All submissions for subdivisions in the Farm District must be designed as a Conservation Subdivision or a Country Estate Subdivision.
  - (1) ~~Cluster~~ Conservation sSubdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.
- (c) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Farm District
- (d) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
  - (1) No more than three (3) dwelling units may be created per lot.
  - (2) All dwelling units shall have a minimum area of 500 s.f.
- (e) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.
- (f) Research Laboratory. This use in the Farm District must conduct investigative research that is primarily related to the items defined in the definition of, “Agriculture.” Refer to Section 300 Definitions.

- (g) Service Business, Landscaping. This use shall be an accessory use to a Retail Sales, Nursery use under the following conditions:
  - (1) The Service Business, Landscaping use shall not exceed fifty (50) percent of the gross area (both interior and exterior areas) occupied by the principle Retail Sales, Nursery use.
- (h) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
  - (1) Boarding Home for Sheltered Care
  - (2) Medical Office
  - (3) Nursing Home
  - (4) Retail Sales, Convenience
  - (5) Retail Sales, Nursery
  - (5) Service Business, Landscaping

## **B. Farm-Residential District (FR)**

### **1. Intent**

The Town, as a rapidly growing community, recognizes that certain areas of the town will experience residential growth while the basic rural agricultural orientation remains. It is the intent of this chapter to allow these uses to coexist and develop harmoniously.

### **2. Permitted Uses**

The following uses, as they are defined in Section 300, shall be permitted in the Farm-Residential District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Building, Accessory
- Campground, Commercial
- Campground, Personal
- Cemetery
- Child Care, Family Home
- Dwelling, Two-Family
- Dwelling, Multifamily
- Dwelling, Single-Family Detached
- Forestry
- Golf Course
- Home Occupation 1
- Home Occupation 2
- Kennel, Minor
- Mineral Extraction
- Place of Worship
- Public Building
- Sawmill, Temporary
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

### **3. Conditional Uses**

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture, Piggery
- Agriculture, Poultry Facility
- Assisted Living Facility
- Bed and Breakfast Inn
- Boarding Home for Sheltered Care
- Kennel, Major
- Medical Office
- Nursing Home
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Retail Sales, Nursery
- Riding Stable
- Sawmill, Permanent



#### 4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

#### 5. Dimensional Standards

The following dimensional standards shall apply in the Farm-Residential District:

- |   |                           |
|---|---------------------------|
| (a) Minimum Lot Size:   |                           |
| (1) Standard <del>(Non-cluster)</del>   | 50,000 s.f.               |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision:   |                           |
| (i) All subdivision lots connected to public water  | <del>20</del> 10,000 s.f. |
| (ii) Subdivision served by wells or a private system  | 20,000 s.f.               |
| <del>(b) Maximum Lot Size:</del>  |                           |
| <del>(1) Cluster Subdivision</del>  | <del>35,000 s.f.</del>    |
| <del>(2) Cluster Subdivision, one (1) lot within subdivision</del>  | <del>45,000 s.f.</del>    |
| (c) Net Residential Density:  | 40,000 s.f.               |
| (1) <u>Country Estate Subdivision</u>   | <u>250,000 s.f.</u>       |
| (d) Minimum Frontage:   |                           |
| (1) Standard <del>(Non-cluster)</del>   | 150 ft.                   |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision  | 75 ft.                    |
| (3) <del>Cluster</del> <u>Conservation</u> Subdivision, where Frontage is entirely on cul-de-sac  | 50 ft.                    |
| (e) Minimum Front Setback:  |                           |
| (1) Standard <del>(Non-cluster)</del>   | 30 ft.                    |
| (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot. |                           |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision  | 25 ft.                    |
| (3) Non-Residential Use: Minimum Landscaped Buffer Strip  | 15 ft.                    |
| (f) Minimum Side Setback:   |                           |
| (1) Standard (Non cluster)  | 10 ft.                    |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision:   | 10 ft.                    |
| (g) Minimum Rear Setback:   |                           |
| (1) Standard (Non cluster):   | 10 ft.                    |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision:   | 10 ft.                    |
| (h) Maximum Building Height:  | 35 ft.                    |
| (1) Agriculture, Public Buildings, Church Steeples  | No Limit                  |

(i) Maximum Building Coverage:

20%

## 6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Farm-Residential District:

- (a) Agriculture, Poultry Facility
  - (1) A facility may raise twenty-five (25) or fewer birds at any one time.
- (b) Agriculture, Piggery. Piggeries shall conform with the standards for “Agriculture, Piggery” in Section 503 of the Performance Standards.
- (c) ~~Cluster Conservation~~ Subdivision (*See Sec. 900 Subdivision Review*)
  - (1) ~~Cluster Conservation~~ Subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area:
    - (i) Lots completely contained by the FR District: 5 acres
    - (ii) Lots with area in both the F and FR Districts: 5 acres
- (d) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Farm Residential District
- (e) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
  - (1) No more than three (3) dwelling units may be created per lot.
  - (2) All dwelling units shall have a minimum area of 500 s.f.
- (f) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.
- (g) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
  - (1) Boarding Home for Sheltered Care
  - (2) Medical Office
  - (3) Nursing Home
  - (4) Retail Sales, Convenience
  - (5) Retail Sales, Nursery

### C. Light-Density Residential District (RL)

#### 1. Intent

It is the intent of this district to ensure the proper development of residential areas by encouraging the formation of community units while developing, protecting, and preserving open spaces.

#### 2. Permitted Uses

The following uses, as they are defined in Section 300, shall be permitted in the Light-Density Residential District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Building, Accessory
- Cemetery
- Child Care, Family Home
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Forestry
- Home Occupation 1
- Home Occupation 2
- Place of Worship
- Public Building
- Sawmill, Temporary
- Shipping Container
- Use, Accessory
- Wireless Telecommunications Tower and Facility

#### 3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Assisted Living Facility
- Bed and Breakfast Inn
- Boarding Home for Sheltered Care
- Hotel
- Nursing Home
- Medical Office
- Mineral Extraction
- Motel
- Public Utility Facility
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Retail Sales, Nursery

#### 4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

#### 5. Dimensional Standards

The following dimensional standards shall apply in the Light-Density Residential District:

- |   |                        |
|---|------------------------|
| (a) Minimum Lot Size:   |                        |
| (1) Standard <del>(Non-cluster)</del>   | 40,000 s.f.            |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision:   |                        |
| (i) All subdivision lots connected to public water  | 20,000 s.f.            |
| (ii) Subdivision served by wells or a private system  | 20,000 s.f.            |
| <del>(b) Maximum Lot Size:</del>  |                        |
| <del>    (1) Cluster Subdivision</del>  | <del>30,000 s.f.</del> |
| <del>    (2) Cluster Subdivision, one (1) lot within subdivision</del>  | <del>35,000 s.f.</del> |
| (c) Net Residential Density:  | 30,000 s.f.            |
| <del>(e)(b)</del>   | <del>M</del>           |
| Minimum Frontage:   |                        |
| (1) Standard <del>(Non-cluster)</del>   | 150 ft.                |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision  | 75 ft.                 |
| (3) <del>Cluster</del> <u>Conservation</u> Subdivision, where Frontage is entirely on cul-de-sac  | 50 ft.                 |
| (e) Minimum Front Setback:  |                        |
| (1) Standard <del>(Non-cluster)</del>   | 30 ft.                 |
| (i) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot. |                        |
| (2) <del>Cluster</del> <u>Conservation</u> Subdivision  | 25 ft.                 |
| (3) Non-Residential Use: Minimum Landscaped Buffer Strip  | 15 ft.                 |
| (f) Minimum Side Setback:   | 10 ft.                 |
| (g) Minimum Rear Setback:   | 10 ft.                 |
| (h) Maximum Building Height:  | 35 ft.                 |
| (1) Agriculture, Public Buildings, Church Steeples  | No Limit               |
| (i) Maximum Building Coverage:  | 20%                    |

## 6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Light-Density Residential District:

- (a) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Light-Density Residential District
- (b) Dwelling, Two-Family and Dwelling, Multifamily. These uses shall only be allowed for the conversion of an existing dwelling or accessory building that was in existence prior to May 13, 1986. The following standards shall apply:
  - (1) No more than three (3) dwelling units shall be erected per lot.
  - (2) All dwelling units shall have a minimum area of 500 s.f.
- (c) ~~Cluster~~ Conservation Subdivision (*See Sec. 900 Subdivision Review*)
  - (1) ~~Cluster-s~~ Conservation Subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.
  - (2) ~~Cluster-s~~ Conservation Subdivisions are eligible for a density bonus of 20% to be applied after the Net Residential Density calculation, if the subdivision open space meets the criteria in Section 911.K.4.e.2.
- ~~(d)~~(c) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.
- (e) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
  - (1) Boarding Home for Sheltered Care
  - (2) Medical Office
  - (3) Retail Sales, Convenience
  - (4) Retail Sales, Nursery

## **D. Medium-Density Residential District (RM)**

### **1. Intent**

It is the intent of this ordinance to assure the proper development of residential areas by encouraging the formation of community units while developing and preserving open space.

### **2. Permitted Uses**

The following uses, as they are defined in Section 300, shall be permitted in the Medium-Density Residential District as a matter of right. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Agriculture
- Building, Accessory
- Cemetery
- Child Care, Family Home
- Dwelling, Single-Family Detached
- Dwelling, Two-Family
- Dwelling, Multifamily
- Forestry
- Home Occupation 1
- Home Occupation 2
- Housing for Older Persons
- Place of Worship
- Public Building
- Sawmill, Temporary
- Shipping Container
- Use, Accessory

### **3. Conditional Uses**

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Assisted Living Facility
- Bed and Breakfast Inn
- Boarding Home for Sheltered Care
- Medical Office
- Mineral Extraction
- Nursing Home
- Recreation Facility, Indoor
- Recreation Facility, Outdoor
- Retail Sales, Convenience
- Public Utility Facility

### **4. Prohibited Uses**

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.



## 5. Dimensional Standards

The following Dimensional standards shall apply in the Medium-Density Residential District:

Type	Public Water	Well
(a) Minimum Lot Size:		
(1) Standard:	20,000 s.f.	30,000 s.f.
(2) Housing for Older Persons	None	n/a
(3) <del>Cluster</del> <u>Conservation</u> Subdivision	20,000 s.f.	20,000 s.f.
<del>(b) Maximum Lot Size in Cluster Subdivision</del>	<del>30,000 s.f.</del>	<del>30,000 s.f.</del>
<del>(1) Cluster Subdivision, one lot within the</del>		
<del>Cluster subdivision</del>	<del>35,000 s.f.</del>	<del>35,000 s.f.</del>
(c) Net Residential Density:		
(1) Standard:	15,000 s.f.	15,000 s.f.
(2) Housing for Older Persons:		
(a) One (1) Bedroom Unit:	8,000 s.f.	n/a
(b) Each Additional Bedroom:	6,000 s.f.	n/a
(d) Minimum Frontage:	100 ft.	100 ft.
(1) <del>Cluster</del> <u>Conservation</u> Subdivision:	50 s.f.	50 s.f.
(e) Minimum Front Setback:	30 ft.	30 ft.
(1) The minimum front Setback of a lot may be reduced to the average setback distance of the existing buildings located on the lots to either side of said lot.		
(2) Non-Residential Use:		
Minimum Landscaped Buffer Strip	15 ft.	15 ft.
(f) Minimum Side Setback:	10 ft.	10 ft.
(g) Minimum Rear Setback:	10 ft.	10 ft.
(h) Maximum Building Height:	35 ft.	35 ft.
(i) Maximum Building Coverage:	20%	20%

## 6. District Standards

In addition to Section 500, Performance Standards, these standards shall apply to the following uses in the Medium-Density Residential District:

- (a) Curb Cuts. See “Curb Cuts and Driveway Openings” in Section 500 Performance Standards for standards applicable to the Medium-Density Residential District
- (b) ~~Cluster~~ Conservation Subdivision (*See Sec. 900 Subdivision Review*)
  - (1) ~~Cluster-s~~ Conservation Subdivisions shall only be permitted on lots with a minimum of 5 acres of gross land area.
  - (2) ~~Cluster-s~~ Conservation Subdivisions are eligible for a density bonus of 20% to be applied after the Net Residential Density calculation, if the subdivision open space meets the criteria in Section 911.K.4.e.2.
- (c) Housing for Older Persons. The State of Maine Minimum Lot Size Law of 12 M.R.S.A. §4807 to §4807-G shall apply to the Housing for Older Persons use.
- (d) Medical Office. See “Medical Office” in Section 500 Performance Standards for size limitations.
- (e) Buffer Requirements for Specific Non-residential Uses. The following uses shall provide a buffer strip, as defined, from all abutting properties that are solely occupied by a residential dwelling(s):
  - (1) Boarding Home for Sheltered Care
  - (2) Medical Office
  - (3) Nursing Home
  - (4) Retail Sales, Convenience

## SECTION 900 – SUBDIVISION REVIEW

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- (d) If the balance in the observation fee account shall be drawn down by 75 percent, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of remaining work before any such remaining work is undertaken.
- (1) The Town shall continue to notify the applicant and require that any such additional amount(s) be deposited whenever the balance of the account is drawn down by 75 percent of the original deposit.
- (e) Any and all unused inspection fee funds shall be returned to the applicant.
- 6. This Subsection 909.C. shall be administered by the Planning Director or other Town employee responsible for administering the ordinance under which review is sought.
  - (a) No building permit, commencement of any construction or site preparation, or certificate of occupancy may be issued or released until all fees assessed hereunder have been paid in full.
- D. Establishment of Fees. The Municipal Officers may, from time to time, establish the appropriate fees following posting of the proposed schedule of fees and public hearing.

## 910 Submission Requirements

### A. Minor and Major Subdivisions

#### 1. *Sketch Plan*

A Sketch Plan shall be required for both Minor and Major Subdivision applications. The Sketch Plan shall show, in simple form, the proposed layout of the subdivision. The Sketch Plan shall show site conditions and identify important or unique natural areas and site features. The intent of the Sketch Plan is to provide the applicant and the Planning Board with a flexible and low-cost means to understanding the site, and to create a development plan that reflects the site's opportunities and constraints.

The Sketch Plan submission shall contain five (5) copies of the following information, including full size plan sets, along with one (1) electronic version of the entire submission:

- (a) A complete Sketch Plan application form,
- (b) A narrative describing the existing conditions of the site, the number and size of lots, and the constraints and opportunities of the site. The narrative should outline any traffic studies, utility studies, market studies or other applicable work that will be conducted as part of the Preliminary Plan (Major Subdivision) or Final Plan (Minor Subdivision) application.

- (c) Name, addresses, and phone numbers of the record owner and the applicant.
- (d) Names and addresses of all consultants working on the project.
- (e) Evidence of right, title, or interest in the property.
- (f) Evidence of payment of the Sketch Plan application fee and escrow deposit.
- (g) Any anticipated requests for waivers from the submission requirements for the Preliminary Plan (Major Subdivision) or Final Plan (Minor Subdivision) application (*See Sec. 908 Waivers*).
- (h) A copy of a portion of the U.S.G.S. topographic map of the area showing the boundaries of the proposed subdivision.
- (i) A copy of that portion of the Cumberland County Medium Intensity Soil Survey covering the proposed subdivision. The boundary of the proposed subdivision site must be shown.
- (j) A plan of the parcel, with an accurate scale, showing at a minimum the information listed, below.
  - (1) Name of the subdivision, north arrow, date and scale.
  - (2) Boundary and lot lines of the subdivision.
  - (3) Approximate location, width and purpose of easements or restrictions (if applicable).
  - (4) Streets on and adjacent to the tract.
  - (5) Approximate location and size of existing utilities on and adjacent to the tract (if none, so state).
  - (6) Existing buildings, structures, or other improvements on the site (if none, so state).
  - (7) The major natural features of the site, approximated by the applicant, including wetlands, streams, ponds, floodplains, groundwater aquifers, treelines, significant wildlife habitat and fisheries or other important natural features (if none, so state).
- (k) An Existing Resources Inventory and Site Analysis Sketch Plan for Conservation Subdivisions as described in Section 911.K.3.

*Note:* Major Subdivision Applications. If the applicant decides to survey the property as part of the Sketch Plan submission, please refer to the GIS requirements for a Major Subdivision Final Plan review. It may be in the applicant's best interest to obtain the required GIS data while the surveyor is on site.

- (18) For ~~Cluster~~ Conservation Subdivisions that are proposed that do not maximize the development potential of the property being subdivided, a conceptual master plan for the remaining land shall be submitted.
- i. The conceptual master plan will show future road, Open Space, and lot layout consistent with the requirements of 911.K., ~~cluster~~ Developments Conservation Subdivisions.
- (c) Submission Information for which a Waiver may be Granted. The following items shall be submitted as part of the Final Plan application, unless the applicant submits, and is granted by the Planning Board, a written waiver request as part of the Sketch Plan application review (*See Sec. 908 Waivers*)
- (1) Contour lines at intervals of 5 feet, or at lesser intervals as the Planning Board may require.
- (2) Description of how stumps and demolition debris will be disposed of.
- (3) A surface drainage plan or stormwater management plan with profiles and cross-sections showing the design of all facilities and conveyances necessary to meet the stormwater management standards set forth in Section 900 (Subdivision Review). The plan shall be drawn by a Maine Licensed Professional Civil Engineer, and shall include a written statement indicating that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or on adjacent properties. Changes in runoff shall be calculated by using the TR-55 or TR-20 method or subsequent revisions.
- (4) A soil erosion and sediment control plan prepared by a Maine Licensed Professional Engineer or a Certified Professional in Erosion and Sediment Control (CPESC).
- (5) If subsurface wastewater disposal systems (septic) are proposed, a hydrogeologic assessment prepared by a Maine Licensed Site Evaluator or Certified Geologist regarding the ability of the site to meet the performance standards and approval criteria for subsurface wastewater disposal.
- (6) The location of driveways, if requested by the Planning Board.

C. Major Subdivision

1. ***Preliminary Plan***

The Preliminary Plan submission shall include five (5) copies of the following information, including full size plan sets, along with one (1) electronic version of the entire submission. The Board may waive the submission information that is listed in Subsection 910.C.1.(c) all dimensions shown in feet or decimals of a foot, drawn to a



- (26) For ~~Cluster Conservation~~ Subdivisions that are proposed that do not maximize the development potential of the property being subdivided, a master plan for the remaining land shall be submitted.
- (i) The master plan will show future roads, Open Space and lot layouts consistent with the requirements of 911.K., ~~Cluster Developments~~Conservation Subdivisions.
- (c) Submission Information for which a Waiver May be Granted. The following items shall be submitted as part of the Preliminary Plan application, unless the applicant submits, and is granted by the Planning Board, a written waiver request as part of the Sketch Plan application review (*See Sec. 908 Waivers*). The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of 30-A M.R.S.A. §4404 are met.
- (1) A high-intensity soil survey by a Certified Soil Scientist.
- (2) A landscape plan including a list of proposed plant species and their size at the time of installation and maturity.
- (3) Hydrogeologic assessment:
- (i) A hydrogeologic assessment prepared by a Certified Geologist or Maine Licensed Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
- a) Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
- b) The subdivision has an average density of more than one dwelling unit per 100,000 square feet.
- (ii) The Board may also require a hydrogeologic assessment in cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. The hydrogeologic assessment shall be conducted in accordance with the provisions of Subsection 911.H. Impact on Ground Water Quality or Quantity, below.
- (iii) If a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
- a) A map showing the basic soils types.
- b) The depth to the water table at representative points throughout the subdivision.
- c) Drainage conditions throughout the subdivision.
- d) Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
- e) An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-

## K. Conservation Subdivisions ~~Cluster Developments~~

### 1. ***Purpose***

This section establishes standards and procedures for developing Conservation Subdivisions that set aside a significant portion of the site as Open Space that is permanently protected while allowing the homes to be grouped on smaller lots on the portions of the site that have the least natural, cultural, or historical resource value for conservation purposes. The standards are intended to ensure that those areas of the site that are not developable or that have natural resource value are included in the Open Space.

Development under this provision is intended to promote imaginative, well-designed subdivisions which preserve open space, forests and agricultural uses, and an overall rural character. Additionally, Conservation Subdivisions should provide public access to land for passive and active recreation, protect natural features, environmentally sensitive areas and wildlife cover, respect the physical qualities of the land, and, in some instances, reduce the overall development costs of a subdivision. The standards for ~~cluster development~~ Conservation Subdivisions allow for the creation of lots that are smaller than those that would otherwise be required by the applicable zoning district regulations and in some cases can be combined with density bonuses to allow additional lots, in return for setting aside the balance of the property as permanent Open Space.

These provisions are designed to ensure that Conservation Subdivisions developed in the Town:

- a. Preserve those areas of the site that have the highest natural resource value for conservation purposes (refer to the Primary and Secondary listed below);
- b. Preserves rural character and functions in rural portions of Windham;
- c. Provide an well-designed approach to the overall roadway and site layout that results in a landscape that provides a sense of a unique and appealing place;
- d. Preserve identified historic, archeological, and cultural features located on the site;
- e. Locate the buildings and structures on those portions of the site that are most appropriate for development;
- f. Create continuous open spaces or “greenways” by linking the Open Spaces in adjoining subdivisions wherever possible; and,
- g. Minimize the impact of residential development on the Town, neighboring properties, and the natural environment.

In addition to all applicable standards of this Ordinance, the Planning Board may approve a single-family ~~cluster subdivision~~ Conservation Subdivision provided the following conditions are met:

### 2. ***Applicability Procedure***

- ~~(a) (a)~~ ~~Application Requirements.~~ All submissions for single-family subdivisions in the Farm zoning district and Farm Residential zoning district that meet the space and bulk requirements listed in the appropriate zoning district ~~may~~ must be designed as a ~~cluster-s~~ Conservation Subdivision or a Country Estate Subdivision.
- ~~(b)~~ All submissions for subdivisions in all other zoning districts that meet the space and bulk requirements listed in the appropriate zoning district may be designed as a Conservation Subdivision or a traditional subdivision.
- ~~(a)(c)~~ Property located within more than one residential zoning district. The overall density of the subdivision shall not exceed the combination of the density requirements of the districts in which the subdivision is located, before density bonuses are applied.

### 3. Procedure for Conservation Subdivisions

#### (a) Design Process for Conservation Subdivision Open Space

##### (1) Delineation of Open Space

a. The area to be designated as Open Space or otherwise preserved as part of the development shall be delineated based upon the Primary and Secondary Conservation Areas. The proposed Open Space in Conservation Subdivisions shall be identified in accordance with the following:

- i. The minimum percentage and acreage of required Open Space shall be calculated by the applicant and submitted in accordance with the provisions of this ordinance and of the Zoning Ordinance.
- ii. The proposed Open Space shall be designated using an Existing Resources Inventory and Site Analysis Sketch Plan as a base. This Plan shall describe the property proposed to be subdivided and analyze the opportunities and constraints for open space preservation and development. This should be submitted for pre-application review with planning staff prior to submitting a formal application for subdivision approval.
- iii. The Primary Conservation Areas on the site shall be delineated and shall be incorporated into the Open Space. The Primary Conservation Areas shall include floodplains, wetlands, and areas with sustained slopes over 25 percent.
- iv. The Secondary Conservation Areas on the site shall then be delineated. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to lowest suitability for inclusion in the proposed Open Space based upon the priorities set forth in [Section 911.K.6.c.](#)

- v. On the basis of those priorities and practical considerations related to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, sufficient Secondary Conservation Areas shall be identified to be included in the Open Space to meet at least the minimum area percentage requirement for Open Space. This delineation shall clearly indicate the boundaries as well as the types of resources included within them.
- vi. The proposed Open Space shall include all Primary Conservation Areas and the Secondary Conservation Areas with the highest resource significance as identified. For subdivisions that are not Conservation Subdivisions, the Primary and Secondary Conservation Areas shall be identified using the Existing Resources Inventory and Site Analysis Sketch Plan as a base. The layout of the subdivision shall consider these resources and shall preserve them to the extent reasonable.

## (2) Open Space Design

- a. All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed. At least 75 percent of the Open Space shall be contiguous to another Open Space area. For the purposes of this subsection, areas shall be considered contiguous if they are within 100 feet of each other and there are no impediments to access between the areas.
- b. Open Space shall, to the greatest extent possible, protect site features identified in the Existing Resources Inventory and Site Analysis Sketch Plan.
- c. Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or to restore their overall condition and natural processes.
- d. No area of Open Space shall be less than 50 feet in its smallest dimension and less than 10,000 square feet in area. Open space not meeting this standard is allowed as an added project enhancement, but shall not be counted toward the required project Open Space.
- e. The boundaries of Open Spaces shall be marked by natural features wherever possible, such as hedgerows, stone walls, edges of woodlands, streams, or individual large trees. Where no such existing demarcations are present, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where the Open Space ends and private lot areas begin. Where structural demarcations, such as fences are used, they shall be the minimum needed to accomplish this objective.
- f. Open Space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these

streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

(3) Location of Building Sites

- a. Potential building sites shall be tentatively located taking into consideration the proposed Open Space and/or the Primary and Secondary Conservation Areas identified in 911.K.6.(c), as well as other relevant data from the Existing Resources Inventory and Site Analysis Sketch Plan, such as topography and soils.
  - i. Building envelopes should generally be located at least 100 feet from Primary Conservation Areas and at least 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences and other uses.
  - ii. Buildings shall be set back at least 100 feet from existing Public and Private Streets. This buffer may be part of the Conservation Subdivision Open Space. When buildings will be visible from the existing streets, the applicant shall minimize the visual impact of new development through larger setbacks or screening with elements such as low walls, split-rail fencing, trees or other plantings.

(4) Alignment of Streets and Ways and Creation of a Trail System

- a. Based upon the designated building sites, a circulation plan shall be designed to provide vehicular and pedestrian access to each site. The street layout shall bear a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and minimizing cut and fill. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from buildings in different parts of the subdivision. A trail system shall be created within the Open Space to provide access from the subdivision homes to the open space network created by the subdivision.

(5) Drawing in the Lot Lines

- a. Upon completion of the preceding steps in 911.K.3.(a).1-4, lot lines shall be drawn as required to delineate the boundaries of individual lots. Lots shall be designed in keeping with the standards for individual lots found in Section 400 and shall be further designed to provide each residence with a clear delineation of its property bounds and with useable yard spaces.

34. Basic Standards for ~~Cluster~~ Conservation Subdivisions

(a) ~~(a)~~ Cluster developmentsConservation Subdivisions shall meet all applicable requirements of the Land Use Ordinance.

~~(b)~~ ~~(b)~~ The Planning Board shall allow lots within Conservation Subdivisions to be reduced from standard subdivision standards as specified in the applicable zoning district. In return for the reduction in the requirements for lot area, frontage, and structure setbacks, the applicant shall provide common Open Space.

~~(c)~~ In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage of the parcel shall be divided by the net residential density standard of the applicable zoning district. Density bonuses are applicable, per the appropriate zoning district standards (see Section 400.)

~~(1) Density Bonuses are not applicable in the Highland Lake watershed.~~

~~(b)~~~~(d)~~ ~~(e)~~ A landowner may choose not to maximize the development potential of a tract of land in the first subdivision application and reserve remaining development rights for a future subdivision application. In this instance, a conceptual master plan showing the location of future lots must be submitted. The conceptual master plan shall include the minimum information required for a sketch plan submission.

(1) The subdivider may retain ownership of the remaining land from which the subdivision lots are to be created provided the portion of the remaining land counted toward the subdivision Open Space is subject to a permanent conservation or agricultural easement, or the subdivider may transfer ownership of the Open Space to a 3<sup>rd</sup> party per Section 911.E.2.

~~i.~~ The land remaining will be a numbered lot within the subdivision.

~~(2)~~

~~(2)~~~~(3)~~ The Open Space standards in Section 911.K.5 shall apply.

~~(e)~~~~(e)~~ ~~(f)~~ Each building envelope shall be an element of an overall subdivision plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of building envelopes and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.

~~(d)~~~~(f)~~ For ~~cluster-s~~Conservation Subdivisions that are not served by a public water supply, the applicant must demonstrate on the plan that it is possible to locate a subsurface wastewater disposal field and a well on each lot. When determined that it is necessary for specific lots, by the Planning Board, as a Condition of Approval, the location of these elements shall be elements of the

subdivision plan, and any future changes to the location of these elements will require an amended subdivision plan review.

~~(g) — The Planning Board shall allow lots within cluster developments to be reduced from standard subdivision standards as specified in the applicable zoning district. In return for the reduction in the requirements for lot area, frontage, and structure setbacks, the applicant shall provide common Open Space.~~

~~(g)~~ (h) — Up to 30% of individual lots or dwelling units may have direct vehicular access onto a ~~public~~ Public road ~~Street~~ existing at the time of development.

- a. Driveways may cross the buffer and must run essentially perpendicular to the street.
- b. Driveways serving individual lots in a Conservation Subdivision on an existing Public Street must be separated from new or existing driveways at street intersections by 300 feet.

~~(e)~~(h) Streets within a Conservation Subdivision must meet the Major Private Road Standard.

#### 45. Arrangement of Lots

(a) Diversity and originality in lot layout and individual building site design shall be encouraged to achieve the best possible relationship between the proposed development and the land under consideration.

~~(a)~~(b) Factors considered by the Planning Board when evaluating the proposed arrangement of lots shall include, but not be limited to:

- (1) Arrangement of roads, stormwater facilities, wastewater and other utilities in conformance with the natural features of the parcel, minimizing changes to the topography.
- (2) Minimization of impervious cover.
- (3) Protection of stream corridors and other important habitat areas.
- (4) Protection of wetlands
- (5) Feasibility of continued or future agricultural use.
- (6) Feasibility of continued or future forest management.
- (7) Relationship to neighboring property, including conservation easements or natural, cultural, recreational or scenic features.

#### 56. *Open Space Requirements for Conservation Subdivisions*

~~(a)~~(a) The Open Space provided by the ~~cluster-subdivision~~ Conservation Subdivision shall be identified on the recorded ~~-~~subdivision plan as “Open Space - Reserved for Recreation, Agricultural and/or Conservation Purposes.”

(a)



~~(b) (b) — Minimum Amount Required – The amount of Open Space provided within the subdivision shall be equal to or greater than the sum of the following:~~

- ~~(1) All of the areas of the parcel that are deducted from the gross area of the site to determine the Net Residential Area (see Section 536 – Net Residential Area or Acreage); plus,~~
- ~~(2) At least fifty percent (50%) of the remaining land that is not deducted from the calculated Net Residential Area (see Section 536 – Net Residential Area or Acreage).~~

~~The total area of Open Space within the development shall equal or exceed 50% of the gross land area of the property to be subdivided.~~

~~(1) — Open Space shall not include road rights of way, streets, drives, or parking.~~

~~(2) — At least fifty percent (50%) of the land suitable for development (see Section 534 – Net Residential Area or Acreage) shall be included in the Open Space.~~

~~(c) (e) — Priorities for Land Included in Open Space – The land set aside in the Open Space shall be selected based upon the following priorities:~~

~~(1) Primary Conservation Priorities~~

- ~~i. Streams, wetlands, floodplains, vernal pools, and areas with a slope in excess of 25%. Buffers that are required by ordinance along these protected resources shall also be considered Primary Conservation Areas.~~
- ~~ii. Areas that maintain the rural character of roadsides.~~
- ~~iii. Scenic resources including viewsheds and agricultural fields along with the forested margin adjacent to these resources.~~
- ~~iv. Areas that are adjacent to other protected open space.~~

~~(2) Secondary Conservation Priorities~~

- ~~i. Areas that provide protection for unique or irreplaceable resources including the habitat of rare, significant, or endangered species, archaeological or historic sites, landmarks, and cemeteries.~~
- ~~ii. Areas that provide for the continuation of resource systems into or through the site such as shorelands, river or stream corridors, wildlife travel corridors, trails, and unfragmented habitat blocks. The width of such corridors shall be as follows:~~
  - ~~1. Shorelands, river or stream corridors - 100% of the width of any required vegetative buffer in addition to the required buffer~~
  - ~~2. Wildlife travel corridors – 300 feet~~
  - ~~3. Recreational Trail Corridors – 25 feet on either side of the trail Unfragmented habitat blocks shall have a minimum contiguous area of 150 acres.~~
- ~~iii. Areas that encompass groups of small wetlands not included in Primary Conservation Areas, as well as streams or ponds in a continuously forested area.~~

iv. Other Secondary Conservation Areas including fields, aquifer recharge areas, deer yards, and other identified habitat.

- (d) For Open Space not retained by the subdivider, one principal access point having a minimum width of twenty (20) feet shall be provided from the road network within the ~~cluster subdivision~~Conservation Subdivision. Additional, secondary points of access having a minimum width of ten (10) feet may be provided from individual lots when these lots abut or are located within a portion of the ~~common Open Space~~Open Space area.
- (1) The size and location of the principal and secondary access points shall be reviewed and approved by the Planning Board as part of the Board's review of the ~~cluster subdivision~~Conservation Subdivision.
- (2) In order to be eligible for any density bonus described in the applicable zoning district standards, the following conditions must be met:
- a. The Open Space must be open for general public use, not just homeowners within the subdivision or the subdivider, and
    - i. The Open Space must either be accessed from an existing public street or
    - ii. Access is from an abutting property that is public, permanent Open Space or recreation land, or
    - iii. Access must be formalized in easement language if access is to be provided over the new subdivision street or streets until such time as the subdivision street or streets are adopted by the Town.
      1. Access easements for the Open Space must be recorded at the registry prior to the issuance of building permits.
- (de) The required Open Space shall not be used for commercial recreation or for private clubs whose membership is different from the homeowners association.
- (ef) ~~Open Space areas shall be contiguous.~~ The proposed location of Open Space areas should also be considered in relation to other Open Space areas on abutting properties, and logical connections to and from Open Space areas on abutting properties should be given consideration by the Planning Board.
- (f) ~~When reviewing the location and type of Open Space designated in the subdivision, the Planning Board shall consider the following criteria:~~
- ~~(1) Individual lots, building envelopes, streets and parking areas shall be designed and situated to minimize alteration of any natural features to be preserved.~~
  - ~~(2) The usability of the cluster's Open Space intended for recreation or public use shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site.~~

- ~~(3) — Irreplaceable natural features located on the property proposed for subdivision shall be included in the Open Space. This includes, but is not limited to: stream beds and other water courses, significant stands of trees, (including the size of the trees), and rock outcroppings.~~
- ~~(4) — The suitability of all land areas designated as Open Space intended for scenic value and purposes shall be determined by its visibility from a significant number of units or buildings within the subdivision, or length of streets.~~

## 6. Country Estate Subdivisions

As an alternative to Conservation Subdivision design in the Farm zoning district and the Farm Residential zoning district, an applicant may choose a Country Estate Subdivision design. This alternative does not include the reservation of Open Space or the level of site analysis and design required by a Conservation Subdivision. As a result, large residential lots are required in order to meet Town goals of protecting water quality and wildlife habitats and preserving rural character. (g) — The land areas designated as Open Space on the subdivision plan shall meet the following criteria:

- ~~(1) — Open Space areas that can be combined with existing Town-owned property dedicated for recreational use, dedicated Open Space on abutting property, land trust properties and public or private conservation easements, or with future land dedication potential shall be given priority.~~



## Conservation Subdivisions - Town of Windham

### Example from Falmouth, Maine

Windham has developed a provision in its land use ordinance for developments that preserve more natural features than called Conservation Subdivisions. This kind of development sets aside more a of the development site as Open Space that is permanently protected while allowing homes to be grouped on smaller lots on the portions of the site that have the least natural, cultural, or historical resource value for conservation purposes.

The standards are intended to ensure that those areas of the site that are not developable or that have natural resource value are included in the OpenSpace. Development under this provision is intended to promote imaginative, well-designed subdivisions which preserve open space, forests and agricultural uses, and an overall rural character. Additionally, Conservation Subdivisions should provide public access to land for passive and active recreation, protect natural features, environmentally sensitive areas and wildlife cover, respect the physical qualities of the land, and, in some instances, reduce the overall development costs of a subdivision.



#### Conservation Subdivision Facts

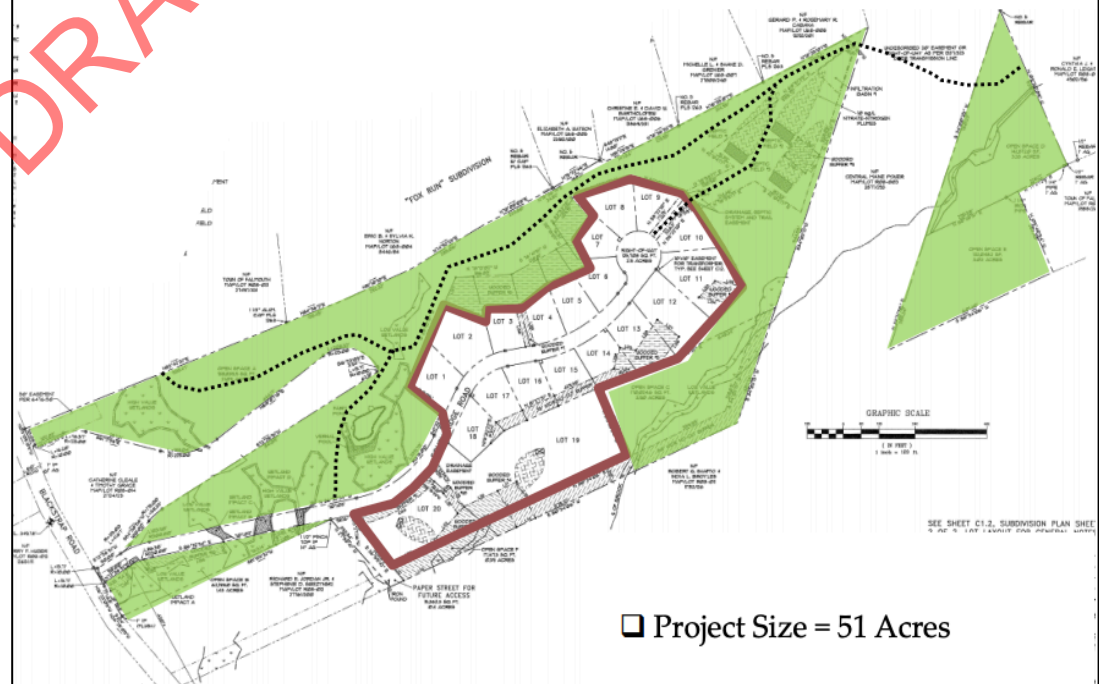
Project Size	51 Acres
Year approved	2013
Number of Lots	19
Lot sizes	
Features	Partial apple orchard preserved Forest preserved

Open Space	33 acres
Trail connections	3 to adjacent sites
Other ...	

#### Notes or other narrative

- Sidewalk
- Wetland and vernal pool
- Common space
- Etc...

### Preserve at South Ridge



Project Size = 51 Acres

Open Space = 33 Acres (65%)





## Country Estates Subdivisions - Town of Windham

### Example from Falmouth, Maine

Windham has developed a provision in its land use ordinance for developments that preserve more natural features than conventional subdivisions called Country Estate Subdivisions. A conservation subdivision, this kind of development has larger lots and sets aside more area as Open Space that is permanently protected. Homes are allowed on portions of the large lots with the least natural, cultural, or historical resource values for conservation.

Development under this provision is intended to promote imaginative, well-designed subdivisions which preserve open space, forests and agricultural uses, and an overall rural character. Additionally, Country Estates should protect natural features, provide wildlife cover, respect the physical qualities of the land, and, in some instances, reduce the overall development costs of a subdivision.

### Twin Meadows Lane Country Estates Conservation Subdivision Facts

Project Size	66 Acres
Year approved	2015
Number of Lots	5
Lot sizes	8 acre minimum
Lot width	300-foot minimum
Setback	75-foot
Features	Wetlands preserved Forest preserved
Open Space	34 acres
Other ...	



#### Notes or other narrative

- 4-Step Design Process determines Building Envelope
- Streetscape and perimeter buffers apply
- other