

Appendix B
Proposed Town Code Amendments

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PROPOSED TOWN CODE AMENDMENTS

1. Article II, § 104-6 (“Definitions”) of Chapter 104 (“Subdivision of Land”) of the Town of Ballston Code is hereby amended as follows:

A. The definition of the term “Minor Subdivision” is hereby amended to read as follows:

Minor Subdivision: Any division of a parcel of land into not more than four (4) lots that also meets the following prerequisites: (1) said parcel must not have been previously subdivided, or have been part of a subdivision, for a minimum of a five-year period prior to the submission of the application for a minor subdivision; (2) each of the proposed lots must have at least the minimum lot size as required by the Zoning Law; (3) each lot must front on an existing public street; and (4) the proposed subdivision must not involve any new street or road or the extension of municipal facilities. The remaining portion of the original or parent parcel shall be considered as a lot and included as one (1) of the four (4) lots comprising the subdivision.

B. The reference to “three-year period” in the second sentence of the definition of the term “Major Subdivision” is hereby changed to “five-year period”.

C. The definition of the term “Parcel” is hereby replaced to read as follows: Any tract or piece of land that is described in a deed of conveyance recorded in the Saratoga County Clerk’s office and for which a tax map parcel identification number has been assigned.

D. The following terms and their respective definitions are added as follows:

Comprehensive Plan. The Town of Ballston Comprehensive Plan, dated _____, 2006, and adopted by the Town Board on _____, 2006.

Traditional Neighborhood Design (or “TND”). A set of design standards applied to subdivisions and developments in the Hamlet and Ballston Lake Residential Districts for the purpose of promoting pedestrian friendly and compact residential neighborhoods.

Conservation Subdivision. A subdivision that varies the dimensional zoning requirements in order to promote flexibility of lot design and layout for the purposes of conserving open space and enhancing rural character. This type of subdivision is

also referred to as a 'cluster development or subdivision' and is authorized pursuant to Town Law § 278.

Flag Lot. A lot so shaped and designed that the main portion of the lot is set back from the street or road on which it fronts and is situated behind one or more lots and is connected to such frontage road or street only by means of a narrow strip of land.

Frontage (also 'road frontage' or 'street frontage'). The distance along which a lot adjoins a road or street at the right of way line. A road or street which provides frontage may be a State, County or Town road or a ~~private road~~ or street that has been approved by the Planning Board as part of a subdivision plat.

Open Space. Any land or area, the preservation of which in its present state or use would: (1) conserve and enhance natural or scenic resources; or (2) protect streams or water supply; or (3) promote conservation of soils, farmland, wetlands; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreation opportunities.

2. Article IV (“General Design Requirements”) of Chapter 104 (“Subdivision of Land”) of the Town of Ballston Code is hereby amended in its entirety to read as follows:

Article IV
Subdivision Design Requirements

§ 104-11. Introduction; Compliance.

This Article sets forth general design requirements for all subdivisions no matter where they are located as well as specific design requirements for certain subdivisions depending on their type or Zoning District location. The subdivision applicant shall observe and design the proposed subdivision, and the Planning Board shall review and make decisions on the proposed subdivision, in accordance with the following requirements as applicable.

§ 104-12. General Design Requirements.

The requirements set forth in this section shall apply to all subdivisions located in any area of the Town.

A. 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.

B. Conformity to Zoning Law

Subdivisions shall conform to the Zoning Law. In case of a conflict between this local law and the Zoning Law, the Zoning Law shall control.

C. Preservation of Existing Features

The Planning Board shall, wherever practical, require preservation of all existing features which are important to the natural, scenic, rural and historic character of the Town or which add value to residential development, such as large trees or groves, watercourses, waterfalls, beaches, scenic views, historic places, and similar irreplaceable assets. The Planning Board may impose restrictions designed to preserve such features, including the limitation of structures to designated building envelopes or the delineation of areas where building or site alteration is prohibited, as a condition of subdivision approval. Development shall be designed to minimize disturbance to the existing landscape.

D. Lots [insert existing § 104-15 here]

E. Flag Lots. The Planning Board in its discretion may approve the inclusion of one or more flag lots within any conventional subdivision design. In making its determination of allowing the inclusion of flag lots, the Planning Board will review the general design and configuration of the subdivision, the site topography and impact on adjoining properties along with those proposed in the subdivision in order to ensure that the flag lot is properly designed. ~~Flag lots shall only be allowed in the Rural District~~ and shall have a minimum lot size of 2 acres with a minimum road frontage of 60 feet, taken at the right-of-way line. There shall be at maximum only 1 flag lot for every 3 frontage lots. For any subdivision that proposes to include a flag lot, all housing envelopes must be shown on the plat and the flag lot housing envelope must be at a minimum of 150 feet from any other housing envelope or existing house and a minimum front yard setback of 100 feet, taken at the closest rear yard property line of the abutting parcel(s). Flag lots may be approved with or without shared driveways.

*Per my plan
March 11 03*

F. Easements [insert existing § 104-13 here]

G. Streets [insert existing § 104-12 here]

H. Public Sites and open spaces [insert existing § 104-17 here]

I. Street trees [insert existing § 104-16 here]

J. Specifications for Required Improvements

All required infrastructure improvements shall be constructed or installed to conform to applicable Town specifications established by the Town Board or obtained from the Town Engineer.

K. Completion of Improvements. No lot shall be conveyed and no building permit shall be issued for any lot within a subdivision in which a new road or street, or other infrastructure, is proposed until such road, street or infrastructure is completed, inspected and approved by the Building Department.

L. Character of the Development

In making any determination regarding streets, parks, and other required improvements, the Planning Board shall take into consideration the character and intensity of the development as well as the lands surrounding the proposed subdivision.

M. Reserve Strips

Reserve strips of land that may prevent access from any portion of a subdivided property to streets or adjoining property shall not be permitted, unless the Planning Board finds such strips to be necessary for the protection of public health or safety. Reserve strips of land or easements for the purpose of future connections with other tracts of land or for future accommodation for blocks, roads, pedestrian or bike paths, may be required where appropriate.

N. Open Space System

Existing natural features and open space resources shall be identified and connected in a coherent open space system that maintains to the maximum extent practical the integrity of ecosystems, watersheds, wildlife corridors, and other environmental resources.

- O. Emergency Service Compliance. Compliance with 911 emergency requirements for posting lot or building 911 numbers shall be required for all driveways and lots. All shared driveways or private roads shall have sufficient width and/or pull-off areas to allow access for emergency vehicles.

20' width / 500'
40' length

- P. Stormwater Management. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Articles 1 and 2 of Chapter 91 (entitled "Stormwater Management") of the Town Code shall be required prior to, or as a condition of, Final Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of Chapter 91. The layout and features of the Plat must also be consistent with the provisions of Chapter 91.

§ 104-13. Rural Development Standards

The following design standards apply to all subdivisions in the Rural Zoning Districts of the Town and shall be implemented by the Applicant and/or required by the Planning Board wherever feasible. The purpose of these design standards is to maintain and enhance the rural features existent in the aforesaid Districts.

- a. Existing stone walls, hedgerows and mature tree lines shall be preserved and utilized, for establishment of lot lines and considered in the lot layout.
- b. The placement of buildings shall be located in such a manner as to avoid placement in the middle of open fields to the extent feasible. Building locations should be encouraged at the edges of fields or in cleared areas next to fields wherever practical.
- c. Buildings shall be located where existing vegetation and/or topography provides a natural buffer and screening from roads and neighboring properties.

- d. Clearing of vegetation and trees along roads shall be minimized as much as possible so long as adequate site distances for driveways are maintained. The use of curves in driveways shall be encouraged to screen buildings so long as right-angle intersections with roads are maintained ~~for the last 50-100 feet of the driveway.~~
- e. Buildings *shall* be sited so that existing vegetation and topography can be used as a background or integrated into the building design to reduce the prominence of the structure.
- f. The above-listed design standards shall be applied to the extent that the site features and constraints allow. The Planning Board shall have discretion to waive one or more of the aforesaid standards if in its opinion such waiver is (1) justified given the site conditions and other circumstances that may apply to the subdivision and (2) does not circumvent the purpose and intent of this section and the Rural Zoning Districts.

§ 104-14. Traditional Neighborhood Design (“TND”) Standards

The following design standards apply to all subdivisions in the Hamlet Residential and Ballston Lake Residential Zoning Districts of the Town. This section is divided into: (A) design standards that will be required of any subdivision in the aforesaid Districts and shall be implemented by the Applicant and/or required by the Planning Board wherever feasible; and (B) design standards, density bonuses and other requirements for major subdivisions of 15 lots or more (or planned unit developments of 15 units or more) where the applicant wishes to create a traditional neighborhood and/or the Planning Board determines that a traditional neighborhood is warranted. A Planned Unit Development shall be required for any proposal of more than 100 residential units. An applicant has the option to apply for a Planned Unit Development for any proposal less than 100 residential units.

Purpose. The purpose of these standards is to allow the optional development and redevelopment of land in the Hamlet Residential and Ballston Lake Residential Zoning Districts consistent with the design principles of traditional neighborhoods. A traditional neighborhood:

1. Is relatively compact;
2. Is designed for the human scale;
3. Provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another within the neighborhood;
4. Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes;
5. Incorporates a system of relatively narrow, interconnected streets with sidewalks or pedestrian paths, bikeways, and transit that offer multiple routes for motorists,

pedestrians, and bicyclists and provides for the connections of those streets to existing and future developments;

6. Retains existing buildings with historical features or architectural features that enhance the visual character of the community;

7. Incorporates significant environmental features into the design;

8. Is consistent with the Town's Comprehensive Plan.

A. General TND Standards for all Subdivisions. These minimum standards shall apply to all subdivisions, regardless of the number of lots proposed, in the Hamlet Residential and Ballston Lake Residential District so as to accommodate future development in such districts consistent with the TND design concept.

a. Easements with a minimum width of ten (10) feet shall be required along front of lots for provision of off-street sidewalks or paths, lighting and utilities.

b. Reserve strips of land or easements for provision of future streets and creation of blocks shall be required in locations that are consistent with traditional neighborhood design.

c. The layout of lots shall accommodate future development consistent with traditional neighborhood design.

d. In determining the layout of lots, the accommodation for future sidewalks, blocks and streets, the standards set forth in paragraph B below, should be utilized as guidance.

B. TND Standards For Specific TND Subdivisions. The traditional neighborhood development ordinance is an alternative set of standards for development within the Hamlet Residential and Ballston Lake Residential District for new development of 15 lots or more. *OR ANJUS TO EXISTING TND*

1. Incentive Bonus: For those subdivisions which utilize the TND requirements set forth below, the allowable density as calculated pursuant to a conventional subdivision may be increased up to ~~fifty percent (50%)~~ in the discretion of the Planning Board depending on the extent of design standards utilized in the subdivision. For purposes of increasing density, the Planning Board is hereby expressly authorized to increase density in such cases where furtherance of the traditional neighborhood design is accomplished.

1. In areas devoted to mixed residential uses:

a. The number of single-family detached dwellings permitted shall be up to 6 dwellings per net acre;

b. The number of multi-family units shall be up to 12 dwelling units per net acre.

c. Secondary dwelling units shall not be permissible under this section..

*Q. - general Housing code
of Affordable + Section Housing units
Elements Determined by the - art 240*

d. For each affordable housing (pursuant to the definition promulgated by the Department of Housing and Urban Development) unit provided under this section, one additional dwelling unit shall be permitted, up to a maximum 15 percent increase in dwelling units.

2. In mixed use areas:

- a. The number of single-family and multi-family dwelling units permitted shall be calculated the same as above.
- b. All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than 10 dwelling units or 10 percent, whichever is greater.
- c. The total ground floor area of nonresidential development uses, including off-street parking areas, shall not exceed 25 per cent of the traditional neighborhood development.

2. Design Requirements

a. Lot and Block Standards.

Introduction. Providing diversity in block and lot size can help to create an environment that is pedestrian friendly. Short blocks in traditional grids create multiple routes and more direct ones for pedestrians, bicyclists, and motorists.

Lot and block design should promote development that is compatible with natural features, minimizes pedestrian and vehicular conflict, promotes street life and activity, reinforces public spaces, promotes public safety, and visually enhances development.

1. Block and lot size diversity. Street layouts should provide for perimeter blocks that are generally in the range of 200-600 feet deep by 400-1200 feet long. A variety of block and lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.

2. Lot Widths. Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.

3. Building Setback, Front - Areas of Mixed Residential Uses. Single-family detached residences shall have a building setback in the front between 15 and 30 feet. Single-family attached residences and multifamily residences shall have a building setback in the front of 15 feet.

4. Building Setback, Rear - Areas of Mixed Residential Uses. The principal building on lots devoted to single-family detached residences shall be setback no less than 30 feet from the rear lot line.

5. Side Setbacks. Provision for zero lot-line single-family dwellings should be made, provided that: a reciprocal access easement is recorded for both lots and townhouses or other attached dwellings; all dwellings have pedestrian access to the rear yard through means other than the principal structure; and building code requirements are complied with regarding firewalls between residential dwellings.

6. Circulation Standards. The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the traditional neighborhood development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development. Dead-end streets or cul de sacs should be discouraged.

a. Pedestrian Circulation. Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the subdivision with the alignment with existing or future pedestrian circulation systems. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, shall be bordered by sidewalks or paths on both sides of the street.

1. The following provisions also apply:

a. Sidewalks in residential areas. Clear sidewalks or walkways, 3-5 feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.

b. Sidewalks in mixed use areas. Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of 5 feet in width.

c. Disabled Accessibility. Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.

d. Crosswalks. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be clearly marked with contrasting paving materials at the edges or with striping.

2. Bicycle Circulation. Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing bicycle routes through the site shall be preserved and enhanced. Facilities for bicycle travel may include off-street bicycle paths (generally shared with pedestrians and other non motorized users) and separate, striped, 4 foot bicycle lanes on streets. If a bicycle lane is combined with a lane for parking, the combined width should be 14 feet.

3. Public Transit Access. Where public transit service is available or planned or where senior housing is planned, convenient access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security and shall be well-lighted. School bus stops may also be planned and accommodated for.

4. **Motor Vehicle Circulation.** Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as “queuing streets,” curb extensions, traffic circles, and medians may be used to encourage slow traffic speeds.

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1. Street Hierarchy. Each street within a traditional neighborhood development shall be classified according to the following (Major Collector (arterial) Streets should not bisect a traditional neighborhood development):

- i. Local Streets. This street provides primary access to individual residential properties and connects streets of lower and higher function. Design speed is 25 mph.
- ii. Marginal Access . This street provides primary access to individual residential properties but are protect from through traffic. Usually they are parallel to and adjacent to arterial streets or County or State highways. Traffic volumes are relatively low, with a design speed of 20 mph.
- iii. Minor Collector Street. This street carries traffic from local streets to a Major Collector Street, including the principal entrance streets of a residential development and streets for circulation within such development. Traffic volumes are higher with a design speed that varies by location and use (30-45 mph).
- iv. Alley. These streets provide secondary access to residential properties where street frontages are narrow, where the street is designed with a narrow width to provide limited on-street parking, or where alley access development is desired to increase residential densities. Alleys may also provide delivery access or alternate parking access to commercial properties.

2. Street Layout. The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:

- i. Intersections shall be at right angles whenever possible, but in no case less than 75 degrees. Low volume streets may form three-way intersections creating an inherent right-of-way assignment (the through street receives precedence) which significantly reduces accidents without the use of traffic controls.
- ii. Corner radii. The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of [15 feet] for local streets and [20 feet] for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of 10 feet.
- iii. Curb cuts for driveways to individual residential lots shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or multifamily residential

Raphan Traffic circles and Roundabouts

Town Refers to Department

uses. Clear sight triangles shall be maintained at intersections unless controlled by traffic signal devices.

iv. The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

c. Parking requirements. Parking areas for shared or community use should be encouraged. In addition:

i. ~~In the mixed-use area,~~ ^{for mixed use areas & commercial} any parking lot shall be located at the rear or side of a building. If located at the side, screening shall be provided.

ii. A parking lot or garage may not be adjacent to or opposite a street intersection.

iii. In the mixed use area, a commercial use must provide one parking space for every 500 square feet of gross building area.

iv. ^{Commercial} Parking lots or garages must provide not less than one bicycle parking space for every 10 motor vehicle parking spaces.

v. Adjacent on-street parking may apply toward the minimum parking requirements.

vi. In the mixed residential ^{commercial} areas, parking may be provided on-site. At least one off-street parking space with unrestricted ingress and egress shall be provided for each dwelling unit.

7. Architectural Standards. A variety of architectural features, building materials and designs should be implemented to avoid uniformity of building design and to give each building or group of buildings a distinct character.

8. Guidelines for New Structures.

a. Height. New structures within a Traditional Neighborhood Development shall be no more than 2 stories for single-family residential, or 3 stories for commercial, multifamily residential, or mixed use.

9. Open Space Guidelines. At least 10-20 percent of the gross acreage of the Traditional Neighborhood Development must be open space. At least 50 percent of the open space must be common open space dedicated to the public for parkland and be useable land for such parkland use. Seventy-five percent of the lots within the areas devoted to mixed residential uses shall be within a 1/3 mile or a 10 minute walk from common open space.

10. Guidelines for lighting.

a. Street lighting shall be provided along all streets. Generally more, smaller lights, as

opposed to fewer, high-intensity lights, should be used and should be on a scale appropriate for a pedestrian environment. Street lights shall be installed on both sides of the street at intervals of no greater than 100 feet.

b. Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.

c. A street lighting district ^{shall} ~~may~~ be required to be created in order that the cost and maintenance of street lighting be assessed against those properties in the district that are benefited by the lighting.

11. Landscaping and Screening Guidelines. Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. Where screening is required by this ordinance, it shall be at least 3 feet in height, unless otherwise specified. Required screening shall be at least 50 percent opaque throughout the year. Required screening shall be satisfied by one or some combination of: a decorative fence not less than 50 percent opaque behind a continuous landscaped area, a masonry wall, or a hedge.

1. Street trees. A minimum of one deciduous canopy tree per 50 feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.

2. Parking area landscaping and screening.

a. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:

i. A landscaped area at least 5 feet wide along the public street or sidewalk.

ii. Screening at least ~~4~~ 5 feet in height and not less than [50] percent opaque.

iii. One tree for each 25 linear feet of parking lot frontage.

b. Parking area interior landscaping. The corners of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped.

Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.

12. Stormwater Management Standards. The design and development of the traditional neighborhood development should minimize off-site stormwater runoff, promote on-site filtration, and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained/protected to the maximum extent practicable. New development and redevelopment shall meet the

following requirements in addition to applicable standards and requirements set forth in Chapter 91 (entitled "Stormwater Management") of the Town Code:

1. Untreated, direct stormwater discharges to wetlands or surface waters are not allowed.
2. Post development peak discharge rates should not exceed pre-development peak rates.
3. Erosion and sediment controls must be implemented to remove 90% of the average annual load of total suspended solids.
4. Areas for snow storage should be provided unless the applicant provides an acceptable snow removal plan.
5. Redevelopment stormwater management systems should improve existing conditions and meet standards to the extent practicable.
6. All treatment systems or BMPs must have operation and maintenance plans to ensure that systems function as designed.

3. Article X (“Residential Cluster/Conservation Development”) of Chapter 104 (“Subdivision of Land”) of the Town of Ballston Code is hereby amended in its entirety to read as follows:

§ 104-28 Purpose and Intent. The purpose of this Article is to provide the ability for development of residential subdivisions to be flexible in design, lot size and layout, to preserve natural site features and provide for green space (with or without community recreational areas) in conjunction with residential development. It is intended that this type of development will result in less impact to natural features, reduce developed area, road construction and impacts to storm drainage. The overall intent is to maintain the prevalent rural character in the Rural District as identified in Section 3 of the Comprehensive Plan by incorporating a subdivision design that conserves certain portions of the land that is to be developed that will add to or maintain the rural character.

§ 104-29. Authority.

A. Pursuant to the powers granted under Section 278 of the Town Law and the Municipal Home Rule Law, the Town Board authorizes the Planning Board to vary the zoning requirements set forth in Chapter 138 of the Town Code simultaneously with the approval of any proposed residential subdivision in order to cluster or to create a conservation design development in furtherance of the purposes and objectives set forth herein subject to the standards and procedures set forth in this Article.

B. An applicant for subdivision approval may propose or the Planning Board, in its discretion, shall require the submission of a conservation subdivision plat where the Planning Board finds that a clustered or conservation design subdivision is appropriate.

C. In addition to its authority to vary zoning requirements for purposes of clustering residential lots and conserving open space, natural features and rural character, the Planning Board is hereby authorized to provide additional density bonuses up to 20% of the number of lots or residential units that would normally be allowed in order to encourage the use of cluster/conservation subdivisions. Additional residential units shall be added if affordable housing units are provided pursuant to § 104-30 (B)(c) below.

§ 104-30. Applicability, Conditions, Bonuses and Requirements.

A. This Article shall apply to Major Subdivisions in the Rural Zoning Districts. Conservation development shall be required only in areas within the Rural Zoning District that is currently serviced by existing municipal water and sanitary sewer service and shall be encouraged in areas outside of such service but only on land which contains soils that will be able to accommodate an individual septic system (either a conventional or raised system) and well on each lot in a cluster design. No privately owned or

operated community water or sanitary sewer systems shall be allowed. Due to condition of soils and concerns about the availability of potable water in much of Rural District, the Planning Board may require third party review of water supply and suitability of soils for placement of septic systems.

- a. A subdivision of land for which existing municipal water and sanitary sewer service is available, the applicant must submit a subdivision plan that conforms to this section.
- b. A subdivision of land for which existing municipal water and sanitary sewer is not available in the Rural Zoning District, the applicant is encouraged to submit a subdivision plan that conforms to this section. If a cluster plan is not submitted the applicant must ~~submit a conservation analysis~~ *submit a conservation analysis* as to why a cluster plan is not appropriate. The Planning Board shall review such analysis and may either require the applicant to submit a cluster plan or allow the applicant to continue with the conventional subdivision plan.
 - i. Conservation analysis. As part of its Preliminary Plat submission for all Major Subdivisions in the Rural District (see Section 104-9.1(C) below), an applicant shall prepare a conservation analysis, consisting of inventory maps, description of the land, and an analysis of the conservation value of various site features. The conservation analysis shall show lands with conservation value, including but not limited to the following:
 - a. "constrained land" as defined in (B)(a)(1) below
 - b. buffer areas necessary for screening new development from ~~adjoining parcels~~ *adjacent parcels*
 - c. land exhibiting present or potential recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.
 - ii. The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site. In the course of its initial Preliminary Plat review, the Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.
 - iii. The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the approved Preliminary Plat showing land to be permanently preserved by a conservation easement. The Preliminary Plat shall also show preferred locations for intensive development as well as acceptable locations for less dense development.
 - iv. The final determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board. Whenever the Planning Board approves a plan

with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land (the "conservation findings"). In determining conservation value, the Planning Board shall make such determination which is consistent with the purpose of the conservation subdivision technique as set forth in § 104-28 above and in the Comprehensive Plan.

- v. The Planning Board shall deny an application that does not include a complete conservation analysis sufficient for the Board to make its conservation findings.
 - a. The Preliminary Plan for a conservation subdivision shall show the boundaries of the land to be preserved and shall identify whether such land is to be preserved by conservation easement, further development restrictions or some other method.
- vi. If, based upon the conservation analysis, the Planning Board determines in its conservation findings that there is no reasonable basis for requiring a Conservation Subdivision, the Board may approve a conventional development of the site. In order for the Planning Board to make such a determination, the applicant must demonstrate at least one of the following:
 - a. The land contains no substantial resources with conservation value;
 - b. The set aside of open space will not significantly enhance or maintain rural character;
 - c. The acreage is too small to preserve a substantial amount of land with conservation value and that there is no opportunity to link other areas of land in future subdivisions of the same parent parcel or adjacent parcels; or
 - d. The lot configuration is unique and precludes preservation of a substantial amount of land with conservation value.

In order to make the required conservation analysis under (b) or (c) above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result in the preservation of a substantial amount of land with conservation value (including any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.
- vii. An approval of a Conventional Subdivision shall refer to the conservation findings and may be conditioned upon the protection of portions of the site identified in the conservation analysis and findings as having conservation value by no build or no further development restrictions.

B. Density Calculation

- a. The maximum number of residential units allowed on a site (base density) is

calculated by a formula based upon the acreage of "unconstrained land" on the property.

1. To determine unconstrained acreage, subtract from the total (gross) acreage of the proposed development parcel the acreage of "constrained land." Constrained land includes wetlands both state and federal, ~~100-year floodplain~~, lands covered by water, steep slopes greater than 25%, and stream corridors of NYSDEC classified streams (~~50 ft. setback from the center-line of the stream~~). *NATURAL CHANNEL*
 2. To determine the "base" number of allowable residential units on the site, divide the unconstrained acreage by the allowable number of acres per unit required within the zoning district. Round down fractional units of 0.5 or less and round up fractional units greater than 0.5. The resulting number is the "base density" allowed on the site.
- b. As an alternative to the formula based approach described above, the maximum number of residential units allowed on a site (base density) may be calculated using a Yield Plan. The applicant may choose to utilize this alternative, rather than the formula based approach described above, at his/her sole discretion. Yield Plans shall meet the following requirements:
1. A Yield Plan must be prepared as a sketch plan in accordance with the requirements of the Town zoning regulation containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if not served by public sanitary sewer system, the suitability of soils for subsurface sewage disposal.
 2. The Planning Board, at its sole discretion, must determine whether the layout shown on the Yield Plan is realistic, reflecting a development pattern that could reasonably be expected to be implemented under conventional subdivision review. The number of housing lots identified on the Yield Plan then becomes the total number of housing lots allowed.
- C. Lot size. There shall be no minimum or maximum lot size. The Planning Board shall determine appropriate lot sizes pursuant to its review taking into consideration the availability of public water and sanitary sewer service or, if not available, the suitability of soils for individual on-site septic systems and the capacity for on-site individual wells
- D. Other Area and Dimensional Requirements *Eng. Review*

There shall be no required area, bulk, or dimensional standards in a Conservation Subdivision, except building height and where such subdivision abuts an existing residence in a residentially zoned area, a suitable buffer area shall be required by the Planning Board. This buffer shall be at least the same distance as the minimum rear or side yard setback in the district in which the abutting land is located.

- E. NYS Building Codes must be adhered to.
- F. The applicant shall specify dimensional requirements for a proposed Conservation Subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat.
- G. Types of Residential Units. Only single-family residential dwellings shall be allowed.
- H. Fees – insert existing § 104-30H.

§ 104-31. Conservation Subdivision Design Guidelines and Additional Requirements.

1. Introduction: The layout of residential lots and the establishment of open space areas in conservation subdivisions shall conform to the following standards and requirements.
2. Lot layout. The intent of this section is to allow flexibility of design that allows for enhancement of rural character and conservation of open space. Lots need not be uniform in size or shape but should utilize existing land features in arrangement.
3. Amount of open space required: The size of the open space area shall be determined on a case by case basis with the final determination to be made by the Planning Board in its discretion upon review of the subdivision application. The portion of the subdivision tract to be set aside for open space conservation shall be of such minimum dimensions and size as to be functional for its intended purpose taking into consideration environmental, density and other site specific factors. Areas unsuitable or of little or no value for open space preservation shall be excluded in the calculation of the size of the open space area.
4. Location: Open space areas shall be convenient to the dwelling units they are intended to serve and shall be sited with sensitivity to surrounding land features and development. Open space areas shall be integrated wherever possible into a connected open space system within the development as well as outside the development. Open space areas should form a contiguous system with other open space areas in the vicinity of the subdivision development to the maximum extent practicable.
5. Use of Open Space Areas: Open space areas may include features and improvements for active and/or passive recreation provided that such features do not materially detract from the purpose for preservation of the open space. As a general principal, open space areas should be left in its natural state. Accepted conservation management techniques may be

employed to maintain its natural state and allow for passive recreational opportunities such as, but not limited to, hiking trails, cross-country skiing or snow shoeing trails, picnic areas, etc. Where appropriate, active recreational facilities may be included in the open space areas upon approval of the Planning Board taking into consideration the character of the open space land, the amount of area such recreational facilities would require; the nature of the recreational facilities and activities proposed; and the compatibility of such activities and facilities with the development and the intended purpose of the open space area. In addition, farming activities are allowed to continue on open space areas pursuant to an agricultural easement or other suitable arrangements.

6. Deed Restrictions: Any lands set aside for open space purposes shall contain appropriate easements, deed covenants, conditions and restrictions approved by the Planning Board and/or the Town attorney ensuring that:
- a. The open space area or areas will not be further subdivided or developed in the future;
 - b. The use of the open space will continue in perpetuity for the purposes specified;
 - c. Appropriate provisions are made for the continual maintenance, management and use of the open space with the purpose in preserving the open space;
 - d. The delegation of authority for management of the open space area is appropriately placed in an association of property owners or other established entity or governmental body that will exist in perpetuity;
 - e. The open space area will not be able to be converted or used for a for-profit commercial enterprise except for agricultural uses;
 - f. The covenants and restrictions are enforceable by the Town.
2. Open Space Ownership: The type of ownership of the land set aside for open space shall be selected by the Subdivider subject to the approval of the Planning Board. An acceptable type of ownership may include, but is not necessarily limited to, the following:
- a. Land preservation or conservation organizations or trusts;
 - b. Public agencies or governmental bodies;
 - c. The Town, subject to acceptance by the Town Board;
 - d. The owner or owners of an individual lot;
 - e. Homeowner associations with the following requirements:
 - (i) The homeowners association must be established prior to the conveyance of any lot or parcel within the proposed subdivision;
 - (ii) Membership must be mandatory for each lot owner and each lot owner must have an equal voting right within the association;
 - (iii) The association organizational documents must be submitted to, and approved by the Planning Board and/or its attorney, as part of the subdivision approval

process and must also be approved by the Office of the Attorney General of New York State if required by applicable laws, rules or regulations.

- (iv) An estimate of the association annual budget must take into account insurance, property taxes, and maintenance of the open space areas as well as other shared common areas or facilities such as access roads, recreational areas.
- (v) The association must be able to adjust the homeowners fees or assessments on an annual basis and be able to collect and enforce the payment of annual fees or assessments.
- (vi) The association cannot be dissolved without a vote of the association membership and without the conveyance of the open space and common facilities to an entity acceptable by the ~~Planning Board~~. **1b**
- (vii) The deed conveying title to each individual lot in the subdivision must include reference to the fact that conveyance is subject to and includes membership in a homeowners association pursuant to deed covenants either set forth in each deed or recorded against the entire subdivision. Both grantors and grantees should sign deeds of conveyance to ensure purchasers or grantees are aware of the homeowners association requirements, obligations and fees, if any.

7. Exception to or waiver of requirements or standards: The Planning Board may permit minor deviations to, or waive, certain open space requirements or standards when it determines that: (a) the objectives underlying the open space standards and requirements can still be met with such deviations or waivers; and/or (b) because of peculiarities in the tract of land proposed for subdivision or the development proposed, it would be unreasonable to require strict adherence to such requirements or standards.

8 Rural Design Standards. To the maximum extent practicable, the Rural Design Standards set forth in § 104-13 shall be adhered to in designing the layout of the subdivision.

*Town Bd Decree
Own Land*

4. Article II, § 138-3 (“Definitions; word usage”) of Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended as follows:

A. The following terms or definitions are amended as follows:

- a. The term “Drive-In Service” is hereby changed to “Drive-Through Service”.
- b. The reference to “18 inches” in the definition of the term “Swimming Pool” is hereby changed to “24 inches”.

B. The following ~~terms and definitions~~ are added as follows:

- a. Comprehensive Plan. The Town of Ballston Comprehensive Plan, dated _____, 2006, and adopted by the Town Board on _____, 2006.
- b. ~~Frontage (also road frontage and/or street frontage)~~. The distance along which a lot adjoins a road or street at the right of way line. A road or street which provides frontage may be a State, County or Town road or a ~~private road~~ or street that has been approved by the Planning Board as part of a subdivision plat.
- c. Mixed Use. Where more than one use occupies a structure, site or parcel, and may include a variety and mixture of nonresidential uses and/or residential uses.
- d. Parcel. Any tract or piece of land that is described in a deed of conveyance recorded in the Saratoga County Clerk’s office and for which a tax map parcel identification number has been assigned.
- e. Restaurant. Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building, elsewhere on the premises, or via a drive-through service.
- f. Service (or Service Establishment). Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.
- g. Site. The total area to be used for development of a project including but not limited to buildings, parking areas, stormwater detention or drainage areas and other project features. A site may encompass an entire parcel or a portion of a parcel.
- h. Traditional Neighborhood Design (or “TND”). A set of design standards applied to subdivisions and developments in the Hamlet and Ballston Lake Residential Districts for the purpose of promoting pedestrian friendly and compact residential neighborhoods.

200A? →

5. Article III, § 138-4 (“Establishment of Districts”) of Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended as follows:

A. The following Districts are added to subsection A of § 138-4:

- Hamlet Residential
- Ballston Lake Residential District
- Mixed Use Center Districts
- Ballston Lake Waterfront District
- Business Highway District
- Ballston Lake Overlay District
- Rural Business Overlay District.

B. The following Districts are hereby deleted from subsection A of § 138-4:

- Residential District
- Commercial District
- Comercial/Industrial District.

6. Article V (“Residential District Regulations”) of Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended to read as follows:

Article V

Hamlet Residential District Regulations.

§ 138-8. Uses Permitted.

All uses permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Hamlet Residential District Table located at the end of this chapter.

§ 138-8.1. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Hamlet Residential District Table located at the end of this chapter.

§ 138-8.2. Purpose and Intent of District.

The Hamlet Residential Districts (as described in the Comprehensive Plan, section 3.3) serves as a transition between the Mixed Use Center Districts and/or the Highway Business District which they surround and the less densely developed Rural District. As such, open space preservation gives way to neighborhood parks or playgrounds, trails, and walkways in order to promote pedestrian friendliness and the traditional neighborhood feel. Higher density is allowed with the expectation that more amenities will be required in order to enhance or create traditional-type neighborhoods

§ 138-8.3. TND – Traditional Neighborhood Design

A. For all subdivisions proposed in the Hamlet Residential Districts, the standards set forth in § 104-14 of Chapter 104 (“Subdivision of Land”) of the Town Code.

B. For all other development that does not include residential subdivisions such as Planned Unit Developments, the design standards set forth in § 104-14 of Chapter 104 (“Subdivision of Land”) of the Town Code shall also apply.

C. Density bonuses may be applied by the Planning Board as set forth in § 104-14 of Chapter 104 (“Subdivision of Land”) of the Town Code, if in the Planning Board’s discretion, such density bonuses are (1) necessary to encourage, facilitate and/or offset additional development costs incurred by the impositions of the TND design standards; (2) will not adversely effect adjacent properties, the surrounding neighborhood and the objectives in creating traditional style neighborhoods; and (3) adequate infrastructure is available or to be made available in order to support the increased densities.

7. Article VI (“Commercial District Regulations”) of Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended to read as follows:

Article VI
Mixed Use Center District Regulations

Allowance in Table

§ 138-9. Uses Permitted.

All uses permitted and all uses requiring site plan approval, a special permit or planned unit development approval are listed on the Uses, Area, Frontage and Setback Requirements for Mixed Use Center District Table located at the end of this chapter. For purposes of this Article and the Mixed Use Center Districts, more than one principal use and/or structure is allowed on any one lot or parcel.

§ 138-9.1. Area requirements.

Area requirements for each use are indicated on the Uses, Area, Frontage and Setback Requirements for Mixed Use Center District Table located at the end of this chapter and are set forth in this Article.

§ 138-9.2. Purpose and Intent of District.

Section 3.2 of the Comprehensive Plan provides, in detail, the land-use policies and goals behind the establishment of the Mixed Use Center Zoning Districts. Generally, these Districts, identified as North and South, are established for the purpose of creating a commercial and social core for the Town emphasizing a ‘small-town’ feel. This requires a balancing of a variety of uses on a scale and design so that the various uses can not only co-exist but complement each other to create a vital and active community of shopping, service, social and residential opportunities. It is the intent of these Districts to encourage growth and development but on a scale and design that is pedestrian friendly, calms traffic, discourages large parking lots and promotes vertical development and integration of land uses rather than separation. The only difference between the North and South Districts is one of scale. Since much of the South District has already been developed, it is necessary to keep the scale and density consistent with existing development patterns. Thus, future development in the South District will be restricted to smaller scale buildings on a less dense basis than what is encouraged in the North District where is appropriate to have a higher density of development and taller buildings.

§ 138-9.3. Review Requirements for Uses with Building Size Thresholds.

In order to effectuate the purpose and intent of the Mixed Use Center Zoning Districts, the particular type of use together with its proposed building footprint size will dictate the required review and approval process. Since building scale is crucial to these Districts, one of three different review processes will be triggered based on use and building footprint size. As scale increases, issues that directly affect the purposes of these Districts such as community character, compatibility with surrounding properties and harmony with present and future development become heightened thereby triggering a heightened level of the applicable review process. For purposes of this Article, the term "site" means the total area to be used for development of a project including but not limited to buildings, parking areas, stormwater detention or drainage areas and other project features. A site may encompass an entire parcel or a portion of a parcel. Generally, the review requirements can be summarized as follows:

A. Mixed Use Center - North

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included):
 - a. ~~Site Plan~~ review shall be required for proposals that include buildings with an aggregate single-floor footprint of ~~20,000~~ square feet or less and/or sites of 1 acre or less;
 - b. ~~A Special Permit~~ shall be required for proposals that include buildings with an aggregate single-floor footprint greater than ~~20,000~~ square feet and less than or equal to ~~50,000~~ square feet and/or sites of 8 acres or less.
 - c. A ~~Planned Unit Development~~ District shall be required for proposals that include buildings with an aggregate single-floor footprint ~~greater than 50,000~~ square feet and/or sites of more than 8 acres. *50,000 to 99,000*
2. For all residential projects (without any non-residential uses mixed in):
 - a. Site Plan review shall be required for proposals that include no more than 8 residential units and/or sites of 1 acre or less;
 - b. A Special Permit shall be required for proposals that include more than 8 residential dwelling units but no more than 64 dwelling units and/or sites of 8 acres or less.
 - c. A Planned Unit Development District shall be required for proposals that include more than 64 residential units and/or sites of more than 8 acres.

B. Mixed Use Center - South

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included):

a. Site Plan review shall be required for proposals that include buildings with an aggregate single-floor footprint of 14,000 square feet or less and/or sites of 1 acre or less;

b. A Special Permit shall be required for proposals that include buildings with an aggregate single-floor footprint greater than 14,000 square feet and less than or equal to 35,000 square feet and/or sites of 8 acres or less.

c. A Planned Unit Development District shall be required for proposals that include buildings with an aggregate single-floor footprint greater than 35,000 square feet and/or sites of more than 8 acres.

2. For all residential projects (without any non-residential uses mixed in):

a. Site Plan review shall be required for proposals that include no more than 6 residential units and/or sites of 1 acre or less;

b. A Special Permit shall be required for proposals that include more than 6 residential dwelling units but no more than 45 dwelling units and/or sites of 8 acres or less.

c. A Planned Unit Development District shall be required for proposals that include more than 45 residential units and/or sites of more than 8 acres.

§ 138-9.4. General Rules - Maximum Building Footprint Size

The various thresholds set forth in § 138-9.3 above are not maximum limitations but merely direct what type of review will apply to a given project depending on the proposed aggregate building footprint or the size of the site. There is no prohibition on the size of the site, the total aggregate square footage of buildings, or the number of dwelling units allowed on any one site (for either single-floor or multi-story buildings) except that the site must be able to accommodate all of the features of the project including the parking areas, stormwater detention or drainage areas, landscaping, buffers, sidewalks and other site features that may be applicable. However, there is a maximum footprint size of any single building that is applicable to the Mixed Use Center Districts that no building can exceed. Thus, the following sets forth the maximum footprint size of

any one building that will be allowed in the Mixed Use Center Districts and such maximum limitations must be adhered to regardless of the review process applicable. A variance for such maximum limitations must be made to the Zoning Board of Appeals and shall only be granted by the Zoning Board of Appeals if an applicant meets the test for a use variance as set forth in § 138-93 and subsection 2 of § 267-b of the Town Law.

A. Mixed Use Center – North

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included): No buildings shall be allowed that have a single floor footprint greater than 90,000 square feet and/or greater than 300 feet in length.
2. For all residential projects (without any non-residential uses mixed in): No residential building shall be allowed that have a single floor footprint greater than 15,000 square feet and/or greater than 200 feet in length.

B. Mixed Use Center – South

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included): No buildings shall be allowed that have a single floor footprint greater than 60,000 square feet and/or greater than 300 feet in length.
2. For all residential projects (without any non-residential uses mixed in): No residential building shall be allowed that have a single floor footprint greater than 15,000 square feet and/or greater than 200 feet in length.

§ 138-9.5. Design Standards for all uses in Mixed Use Center Districts.

The design standards that are applicable for all uses in the Mixed Use Center Districts are set forth in Appendix 1 of this Chapter.

8. Article VII of Chapter 138 (“Rural District Regulations”) of the Town of Ballston Code (“ZONING”) is hereby amended to read as follows:

§ 138-10. Uses Permitted.

All uses permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Rural District Table located at the end of this chapter.

§ 138-10.1. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Rural District Table located at the end of this chapter.

§ 138-10.2. Purpose and Intent of District. As set forth in Section 3.1 of the Comprehensive Plan, the area of the Town defined by this District is “highly valued for its rural character and contributions to the Town’s overall quality of life.” It is “characterized by working landscapes and open spaces, with single family residential development along the road frontage and an occasional small scale commercial parcel.” Although many working farms are present, the vitality of agriculture in this area has been reduced by recent economic trends. Much residential development pressure to replace existing farmland and open spaces is expected. Compounded by difficult soils for development and the lack of public sewer and water, such development pressure has the potential to alter the valued rural character and lifestyles which currently predominate. However, it is recognized that the land itself, like many agricultural areas, “remains the primary asset of many landowners in this area.” Thus, the purpose of the Rural District is to appropriately balance the future development of this District with preserving its open spaces and rural character.

§ 138-10.3. Design Standards - Conservation and Rural Design

In this District, the following principles shall be observed for the siting of residences, businesses, and accessory structures.

A. Wherever feasible, retain and reuse existing old farm roads and country lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)

B. Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.

C. Where feasible and practical avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields, however.

D. Unless buildings are designed traditionally and located close to the road in the manner historically found in the Town, use existing vegetation and topography to buffer and screen them.

E. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.

F. Site buildings so that they do not protrude above treetops and crestlines of hills as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.

G. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas. Use best management practices for erosion and sedimentation control, as recommended by the Saratoga County Soil and Water Conservation District or other natural resource agencies.

H. For subdivisions in this District, the rural design standards set forth in Chapter 104 shall be applied in addition to the above for all subdivisions and the provisions of Article X of Chapter 104 shall apply to all cluster/conservation subdivisions.

9. Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended by adding a new Article as “Article VIIA” to read as follows:

Article VIIA

Ballston Lake Waterfront District Regulations.

§ 138-11. Uses Permitted.

All uses permitted and all uses requiring either site plan approval or a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Ballston Lake Waterfront District Table located at the end of this chapter.

§ 138-11.1. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Ballston Lake District Table located at the end of this chapter.

§ 138-11.2. Purpose and Intent of District. The Ballston Lake District is created to protect the visual environment of the Ballston Lake Shoreline and, along with the Watershed Protection Overlay District (Article XA of this chapter), protect the water quality of Ballston Lake.

§ 138-11.3. Site plan approval required. For all new construction, shoreline alteration, shared shoreline access and/or site clearing within this District, site plan approval by the Planning Board is required pursuant to the standards set forth below.

§ 138-11.3. Design Standards.

A. General Standards:

- a. All structures, except docks and boathouses, shall be screened by vegetation, landscaped and/or placed in such a manner so that the view of the structures from the water and to the water is filtered or obscured and the visual impact is minimized.
- b. All parking, loading, access driveways, patios or service areas shall be constructed of permeable materials wherever practicable.
- c. All construction activities shall be carried out the shortest time possible and in such a manner so as to minimize the erosion that may be caused by such activities. Best practice erosion and storm water management shall

*Shoreline Alteration to 9th
to 22nd Dist. 4/11/06*

be required. A plan for such management shall be approved by the ~~Building Inspector~~ and implemented prior to the commencement of any construction activities.

- d. Shoreline areas, excepting beaches, shall not be exposed without vegetation for longer than the time period designated by the Building Inspector, and when exposed for such allowable time period, shall adequately be protected from erosion using best management practices.
- e. Lighting devices shall be oriented and limited so as to minimize disturbances on surrounding properties and so as not to unreasonably diminish or obstruct views from the water or to the water.

B. Shoreline Alteration: No person shall construct, place, expand, or alter or replace any retaining wall or bulkhead without first applying for, and obtaining, site plan approval from the Planning Board. In addition, site plan approval is required for any filling, grading, lagooning, dredging, ditching and/or excavating within the District where such activities affect an area greater than 200 square feet. The following standards shall apply to the foregoing activities:

- a. General Standards.
 - i. The activity shall not alter the natural contours of the shoreline.
 - ii. The activity shall not disturb shoreline vegetation except in a minimal way. Where vegetation is destroyed, harmed or removed, it shall be restored or replaced with indigenous vegetation. Stabilization shall be in accordance with the U.S. Soil Conservation Service Engineering standards and specifications.
 - iii. The activity shall be carried out in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
 - iv. The activity shall be designed and carried out to preserve or enhance the aesthetic features of the shoreline area to be disturbed and the shoreline and not aesthetically detract from the shoreline areas in the immediate vicinity of the area to be disturbed.
 - v. All applicable federal, state and other governmental agency permits shall be obtained.
- b. Specific Standards:
 - i. Filling. No fill shall be placed in the this District except as associated with shoreline protective structures, beach replenishment, agricultural uses or other uses approved by the planning Board. Any fill placed in the this District shall be protected against erosion.
 - ii. Dredging. There shall be no removal or rearrangement of

materials in the water, except at those locations where such removal or rearrangement is found to be beneficial to existing shoreline conditions, uses, and water quality and clarity. Where dredging is permitted by the Planning Board, soil materials shall not be deposited in this District unless approved by the Planning Board.

- iii. Retaining Walls/Bulkheads. The addition, expansion or replacement of any type of retaining wall or bulkhead shall be discouraged, except in the case where the alternative of shoreline restoration to a natural state is impossible due to excessive slope or severe erosion problems, a condition to be determined by the Planning Board. Construction of retaining walls or bulkheads shall not be permitted for only aesthetic reasons. When permitted, retaining walls or bulkheads shall not exceed 16 feet in height, as measured from the stationary mean high water mark, and shall be constructed of native stone or wood. When treated lumber is used for the construction of a retaining wall or bulkhead, it shall be the sealed non-leaching type.
- c. Tree cutting and land clearing regulations. The purpose of the tree cutting and land clearing regulations is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreline area. These provisions shall not apply to the removal of dead, diseased or dying trees or to other vegetation that present safety or health hazards. Within this District, the removal of vegetation, including trees, shall be permitted on shorefront lots provided a Development Permit is issued by the Planning Board and the following standards are met:
 - i. Within 35 feet extending inland from all points along the mean high-water mark no more than 25 percent of the trees in excess of six inches diameter at breast height existing at any time may be cut over any ten-year period.
 - ii. Within six feet inland of the mean high-water mark no more than 30 percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to Subsection (i) above.
 - iii. The general exception to the above standards shall be an allowance for lake access and beaches. The creation of a contiguous clear-cut opening in the buffer strip shall not exceed 20 percent of the shoreline frontage on any individual lot or a maximum of 75 linear

feet, whichever is less. The clear-cut should be angled across the lot so as to allow for a view and access, but reduce runoff. The pathway created should be constructed or surfaced to be effective in controlling erosion.

iv. ~~The above cutting standards shall not prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.~~

v. As an alternative to the above standards, a cutting plan allowing greater or different cutting may be permitted by the Planning Board by review and approval of a cutting site plan. Such site plan shall include a sketch of the lot and provide information on the topography and existing vegetation of the area in question, a proposed cutting plan and proposed re-vegetation plan. The Planning Board may approve such plan only if it finds that the cutting plan:

1. Will not cause undue erosion or destruction of scenic beauty;
2. Will provide that natural vegetation is preserved as far as practicable and, where removed, is replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty;
3. Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the ~~Building Inspector~~ ^{PB} may require the submission of a bond which will guarantee the performance of the replacement plantings by the lot owner.
4. Will not violate the standards of the shoreline restrictions of the other governmental agencies, if applicable.
5. Where a shoreline lot owner violates this section, the ^{PB} ~~Building Inspector~~ may require total re-vegetation so as to create a buffer strip area which is in compliance with this section.

d. Provisions for Access. Within this District, the following minimum shoreline frontages shall be required for deeded, easement, right-of-way or other contractual access to the shoreline of Ballston Lake for three or more lots, parcels, or sites or multi-family dwelling units not having separate and distinct ownership of shore frontage:

i. Site plan review and approval by the Planning Board pursuant to

the standards below.

- ii. A plan shall be submitted showing areas for swimming, recreation, docking, building placement, parking and landscaping.
- iii. Compliance with the provisions of this section and this zoning law
- iv. Such use shall not significantly impair the natural appearance of said parcel; does not overcrowd the parcel or the adjacent water surface; does not produce unreasonable noise or glare to the surrounding properties; and does not pose any substantial hazards.
- v. The first three (3) lots, sites or dwelling units shall require a total of not less than 75 feet and each additional lot, site or dwelling unit shall require an additional five (5) feet of shoreline frontage.
- vi. Waterfront parcels may be developed for contractual access for five (5) or more lots or units only if those lots or units are part of an overall development plan for land that is located adjacent to the waterfront parcels.
- vii. Each parcel used for contractual access shall measure at least the minimum lot area for the zoning district where the access is proposed and shall measure an average depth of 100 feet from the mean high water mark.
- viii. No structures other than toilet, changing facilities, picnic shelters shall be constructed on the waterfront parcel. The total combined square footage of all structures shall not exceed 1000 square feet.
- ix. Commercial activities of any kind are prohibited.
- x. Parking areas shall be landscaped and shall be set back from the shoreline a minimum of 75 feet.

9. Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended by adding a new Article as “Article VIIB” to read as follows:

Article VIIB

Business Highway District (1 & 2)

§ 138-12. Uses Permitted.

All uses permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Highway Business District Table located at the end of this chapter.

§ 138-12.1. Area requirements.

Area requirements for each use are indicated on the Uses, Area, Frontage and Setback Requirements for Highway Business District Table located at the end of this chapter and are set forth in this Article.

§ 138-12.2. Purpose and Intent of District.

This District is created to provide for commercial uses that traditionally are located along highway corridors and which require a large flow of traffic and ease of access while at the same time requiring new development and re-development to conform to design standards that will effectively manage access points along Route 50 for safety and function and that will maintain community character. Given the lack of depth of this District from Route 50, building size and site features should remain relatively small in scale. Since the Business Highway Districts provide the main connection with the Mixed Use Centers (North and South), a similar review process based on the scale of development will also be incorporated.

§ 138-12.3. Design Standards

The design standards that are applicable for all uses in the Mixed Use Center Districts are set forth in Appendix 1 of this Chapter.

§ 138-12.4. Review Requirements Maximum for Uses with Building Size Thresholds.

For purposes of this Article, the term “site” means the total area to be used for

development of a project including but not limited to buildings, parking areas, stormwater detention or drainage areas and other project features. A site may encompass an entire parcel or a portion of a parcel. Generally, the review requirements can be summarized as follows:

A. Business Highway 1

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included):
 - a. Site Plan review shall be required for proposals that include buildings with an aggregate single-floor footprint of 20,000 square feet or less and/or sites of 1 acre or less;
 - b. A Special Permit shall be required for proposals that include buildings with an aggregate single-floor footprint greater than 20,000 square feet and less than or equal to 50,000 square feet and/or sites of 8 acres or less;
 - c. A Planned Unit Development District shall be required for proposals that include buildings with an aggregate single-floor footprint greater than 50,000 square feet and/or sites of more than 8 acres.
2. For all residential projects (without any non-residential uses mixed in):
 - a. Site Plan review shall be required for proposals that include no more than 8 residential units;
 - b. A Special Permit shall be required for proposals that include more than 8 residential dwelling units but no more than 64 dwelling units;
 - c. A Planned Unit Development District shall be required for proposals that include more than 64 residential units.

B. Business Highway 2

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included):
 - a. Site Plan review shall be required for proposals that include buildings with an aggregate single-floor footprint of 14,000 square feet or less and/or sites of 1 acre or less;
 - b. A Special Permit shall be required for proposals that include buildings with an aggregate single-floor footprint greater than 14,000 square feet and less than or equal to 35,000 square feet and/or sites of 8 acres or less.
 - c. A Planned Unit Development District shall be required for proposals that

include buildings with an aggregate single-floor footprint greater than 35,000 square feet and/or sites of more than 8 acres.

2. For all residential projects (without any non-residential uses mixed in):
 - a. Site Plan review shall be required for proposals that include no more than 6 residential;
 - b. A Special Permit shall be required for proposals that include more than 6 residential dwelling units but no more than 45 dwelling units;
 - c. A Planned Unit Development District shall be required for proposals that include more than 45 residential units.

§ 138-12.5. General Rules - Maximum Building Footprint Size

The various thresholds set forth in § 138-12.5 above are not maximum limitations but merely direct what type of review will apply to a given project depending on the proposed aggregate building footprint or the size of the site. There is no prohibition on the size of the site, the total aggregate square footage of buildings, or the number of dwelling units allowed on any one site (for either single-floor or multi-story buildings) except that the site must be able to accommodate all of the features of the project including the parking areas, stormwater detention or drainage areas, landscaping, buffers, sidewalks and other site features that may be applicable. However, there is a maximum footprint size of any single building that is applicable to the Highway Business Districts that no building can exceed. Thus, the following sets forth the maximum footprint size of any one building that will be allowed in the Highway Business Districts and such maximum limitations must be adhered to regardless of the review process applicable. A variance for such maximum limitations must be made to the Zoning Board of Appeals and shall only be granted by the Zoning Board of Appeals if an applicant meets the test for a use variance as set forth in § 138-93 and subsection 2 of § 267-b of the Town Law.

A. Highway Business District 1

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included): No buildings shall be allowed that have a single floor footprint greater than 90,000 square feet and/or greater than 300 feet in length.

2. For all residential projects (without any non-residential uses mixed in): No residential building shall be allowed that have a single floor footprint greater than 15,000 square feet and/or greater than 200 feet in length.

B.Highway Business District 2

1. For all non-residential projects (includes any project involving non-residential uses regardless of whether residential dwelling units are also included): No buildings shall be allowed that have a single floor footprint greater than 60,000 square feet and/or greater than 300 feet in length.
- 2.For all residential projects (without any non-residential uses mixed in): No residential building shall be allowed that have a single floor footprint greater than 15,000 square feet and/or greater than 200 feet in length.

10. Article VIII (“Industrial District Regulations”) of Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended by adding the following new sections to read as follows:

§ 138-13.1A. Purpose and Intent of District.

The Industrial District is that portion of the Town which has been utilized by, and set aside for, uses that involve production, manufacturing, distribution or fabrication activities and is an area where pedestrians are few and where uses are set back far from the frontage roads with natural buffering. This District is addressed in the Comprehensive Plan at section 3.5, where it is noted that the District should also allow for a mixture of uses compatible with industrial uses especially in the gateway areas of this District.

11. Article VIIIA of Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended by deleting the provisions under that Article and replacing them with the following new sections so that said Article VIIIA reads as follows:

Article VIIIA

Ballston Lake Residential District.

§ 138-21.1. Uses Permitted.

All uses permitted and all uses requiring site plan approval or a special permit are listed on the Uses, Area, Frontage and Setback Requirements for Ballston Lake Residential District Table located at the end of this chapter.

§ 138-21.2. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for Ballston Lake Residential District Table located at the end of this chapter.

§ 138-21.3. Purpose and Intent of District.

The Ballston Lake Residential District (as described in the Comprehensive Plan, section 3.4) is an area that is conducive to greater density for residential dwelling purposes due to its location and proximity to infrastructure particularly water and sewer connections via extensions from existing systems. It also is nearby or adjacent to areas of higher density in neighboring Town of Malta. As such, this District is appropriate for future residential development and traditional neighborhood design features should be implemented so as to further the provision of neighborhood amenities such as small parks and playgrounds, trails, walkways in order to promote pedestrian friendliness and the traditional neighborhood feel. Higher density is allowed with the expectation that more amenities will be required in order to enhance or create traditional-type neighborhoods.

§ 138-21.4. Design Standards.

A. For all subdivisions proposed in the Ballston Lake Residential District, the standards set forth in § 104-14 of Chapter 104 (“Subdivision of Land”) of the Town Code.

B. For all other development that does not include residential subdivisions including Planned Unit Development, the standards set forth in § 104-14 of Chapter 104 (“Subdivision of Land”) of the Town Code shall also apply.

§ 138-21.5. Design Bonuses for TND design

Density bonuses may be applied by the Planning Board set forth in § 104-14 of Chapter 104 (“Subdivision of Land”) of the Town Code, if in the Planning Board’s discretion, such density bonuses are (1) necessary to encourage, facilitate and/or offset additional development costs incurred by the impositions of the TND design standards; (2) will not adversely effect adjacent properties, the surrounding neighborhood and the objectives in creating traditional style neighborhoods; and (3) adequate infrastructure is available or to be made available in order to support the increased densities.

12. Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended by adding a new Article as “Article XA” to read as follows:

Article XA

Ballston Lake Overlay District

§ 138-27.1. Location and Applicability

The Ballston Lake Overlay District is superimposed over the basic zoning districts as set forth on the zoning map of the Town of Ballston. The regulations presented in this Article shall only apply to those lands located within the boundaries of this Overlay District as depicted on the Town of Ballston Zoning Map. In this Overlay District, proposed land uses are subject to the requirements set forth in this section, in addition to those requirements and standards ordinarily applicable to the underlying districts. In case of conflict, the more restrictive regulation requirements shall apply.

§ 138-27.2. Purpose and Intent of District.

The purpose of this Ballston Lake Overlay District is to provide additional requirements and standards for protection of the quality of the water in this particular area of the Town that is identified on the Town Zoning Map. The Town of Ballston finds that special protection of Ballston Lake and its nearby lands within the District where from surface and ground waters flow into Ballston Lake is necessary to minimize the ecological degradation of the Town’s waterways, to preserve the Lake’s scenic character, to provide active and passive recreational opportunities in a clean environment, and to reduce the risk of harm to property and life from flooding. The Overlay District regulations are intended to ensure the adequate protection of Ballston Lake, its nearby lands, and the waters that flow from these lands. Within the Overlay District as shown on the Town of Ballston Zoning Map, the underlying zoning shall remain in effect, except as modified below in this section.

Findings of Fact. It is hereby determined that:

Hydrologic Response to Overall Land Use. Land development activities, loss of native vegetation, and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, pollution rates, and sediment transport and deposition;

Hydrologic Response from Construction Activities. In particular, clearing and grading during construction and other land development activities tends to increase soil

erosion and add to the loss of native vegetation necessary for viable terrestrial and aquatic habitats; Furthermore, land development activities and associated increases in site impervious cover diminishes water percolation into the soil, thereby decreasing groundwater recharge and stream baseflow;

Hydrologic Response to Vegetated Cover. Preserving vegetative cover can affect runoff and erosion rates in the following manner: (a.) Tree canopies and ground covers protects soil surfaces from the erosive impacts of rain drops; (b.) the surface cover provided by roots, leaves, and other plant matter slows the flow of water thereby reducing its sediment carrying capability; and (c.) that suitable plant matter cover can increase the amount of water infiltration into the ground that occurs, thereby reducing runoff and increasing ground water recharge;

Pollutants of Concern. Pollutants of concern having a deleterious impact on water quality are known to originate from construction activities and land development, from other land alteration activities, and from the use of substances necessary for domestic, commercial, agricultural, and industrial activities. These pollutants of concern include but are not limited to silt, human and animal pathogens, herbicides, pesticides, fungicides, fertilizers, solvents, paints, varnishes, oil, gasoline, diesel, other liquid by-products from petroleum, automotive fluids, dissolved or particulate heavy metals (e.g., from batteries, automotive parts, and paints), and garbage.

Impact from runoff. Increased runoff negatively impacts receiving waters by changing the physical, biological and chemical composition of water resulting in unhealthy environments for aquatic life, other desirable species, and humans.

Recognize adverse economic impacts. The adverse impacts on the waters of the municipality can result in substantial economic losses and harm public health and safety;

Recognize that regulation works and is necessary. These negative impacts can be controlled and minimized through the appropriate regulation of land development and other activities within the Overlay District, insofar that these activities negatively impact water quality.

§ 138-27.3. Definitions:

The District. The Ballston Lake Overlay District.

Exempt Discharges. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated

pumped ground water, foundation or footing drains (~~and~~ including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, ornamental or landscaped water basins, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

Graywater Systems. Graywater systems treat water from activities such as bathing, laundry, dish cleaning, and routine domestic cleaning, and exclude water from toilets or water to otherwise dispose of either human or domestic animal excrement.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system or to the surface waters of Ballston lake or onto nearby lands within the Overlay District.

Illicit Connections. An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Pollutant. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, fungicides, and fertilizers; sewage, fecal coliform and pathogens from human or animal waste; dissolved and particulate metals; wastes and residues that result from constructing a building or structure; and sediments and aqueous suspended particulates originating from disturbed soil surfaces, often associated with construction and other land improvement activities.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities,

retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures. Also referred to as Municipal Separate Storm Sewer System or MS4.

Surface Waters. All water occurring above ground. This includes wetlands, lakes, rivers, and streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, wet meadows, or ponds.

~~§ 138-27.4 Regulations Applicable to the Ballston Lake Overlay District~~

In addition to the requirements of this local law, applicants and persons shall comply with all applicable requirements of the New York State DEC and the U.S. Army Corps of Engineers.

A. Prohibited Uses. Within the Ballston Lake Overlay Zone (BLOD), the permitted uses, special permit uses, accessory uses, dimensional standards and special requirements established by the underlying zoning district shall apply, unless specifically modified by this ordinance. The following uses shall be specifically prohibited within the BLOD areas:

Storage or production of hazardous materials as defined in either or both of the following, including amendments thereto:

Superfund Amendment and Reauthorization Act of 1986; and

Identification and Listing of Hazardous Wastes, 40 C.F.R. section 261 (1987).

Disposal of hazardous materials or solid wastes;

Treatment of hazardous material, except rehabilitation programs authorized by a government agency to treat hazardous material present at a site prior to the adoption of this ordinance;

Dry-cleaning, dyeing, printing, photo processing and any other business that stores, uses, or disposes of hazardous material, unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous materials and have undergone an inspection to certify they are in compliance within hazardous material regulations;

Disposal of septage or septic sludge;

Automobile service and fueling stations;

Junkyards.

B. Other Regulated Activities. The following activities are prohibited within the BLOD:

The dumping or disposal of snow or ice collected off-site from roadways or parking areas into any surface waters;

The storage of automotive and engine fluids, batteries, fuels, hazardous cleaning agents, pesticides, herbicides, or fungicides in an environment where weather, human activities, and other disturbances may reasonably be anticipated to cause such substances to spill, leak over time or otherwise be dispersed into the environment in a manner inconsistent with its intended use;

The bulk storage of coal or salt, except in a watertight structure constructed on an impervious material;

All mining unless permitted by New York State Department of Environmental Conservation.

C. Disposal of hazardous substances. The disposal or discharge of any hazardous substance, petroleum, or radioactive material onto any lands, waters, stormwater conveyances, or disposal conveyances for subsequent treatment or otherwise within the District is prohibited except as allowed by a valid permit per regulations promulgated under the NYS Environmental Conservation Law Articles 1, 3, 8, 15, 17, 19, 23, 27, 52, and 70 and the NYS Public Health Law Section 225 and amendments thereto. This includes:

The disposal of toxic substances or hazardous materials by means of discharge to a septic system;

The use of septic system cleaners, which contain toxic substances or hazardous materials;

Land spreading of septage or septic waste without a valid permit from the New York State Department of Environmental Conservation.

D. Illicit Discharge into the Municipal Separate Storm Sewer System (MS4). The regulating of illegal discharges and illicit connections into the MS4 by Chapter 91 of the Town Code, which were enacted by the Town pursuant to, or identified by the New York State Department of Environmental Conservation as complying with, the requirements of *SPDES General Permit for Stormwater Discharges from MS4s* (GP-02-02; section IV.C.3) and amendments thereto shall apply to all areas within the Ballston Lake Overlay District.

E. Exempt Discharges. Exempt discharges, as identified in the definitions section of this Article, shall be disposed on site in a manner that minimizes or eliminates

Descriptions of the locations and general infiltration characteristics of soil types on the site.

Descriptions of the locations, materials, dimensions, grades, and flow directions of finished pavements and other impervious surfaces, including but not limited to streets, curbing, driveways, sidewalks, steps, paths, compacted earth, roofs, and decks.

The location, proximity to surface waters and steep slopes, and general characteristics of areas of existing vegetation including the identification of all individual trees with a diameter of eight (8) inches or greater, measured at a height of four (4) feet from the ground, as well as stands of trees and wooded areas, within areas of proposed disturbance.

Descriptions of proposed measures to protect trees during construction, including but not limited to any of the following: (a.) conspicuous marking that avoids damage to the tree bark; (b.) fencing along the drip line; (c.) the prohibition of parking or storage of construction equipment and materials under the tree canopy; and (d.) the prohibition of excavations deeper than six inches except for digging necessary for site landscaping inclusive of sidewalks, paths, and decks and where the original grade is restored

Existing vegetation buffers within ten (10) feet of surface waters, which shall remain unaltered by construction activities.

Proposed vegetation buffers within ten (10) feet of surface waters, which shall reduce the impacts of stormwater runoff from the proposed site alterations.

Proposed location, phasing, and type of construction and stormwater control practices to be implemented on site for ~~proposed land disturbances greater than 200 square feet~~, which are design to (a.) ensure no increase in turbidity that will cause a substantial visible contrast to the natural condition of receiving surface waters; (b.) ensure no increase in suspended, colloidal and settleable solids that will cause deposition or impair receiving surface waters for their best usages as defined by the New York State Water Quality Classifications; (c.) ensure no residue from oil and floating substances, nor visible oil film, nor globules of grease; and, (d.) ensure that the rate of stormwater runoff into receiving surface waters from the site does not exceed pre-development conditions.

In the case where the applicant seeks to utilize existing or planned off-site stormwater management facilities, the applicant shall provide a written certification that the owner of the off-site facilities will accept the runoff and be responsible for its adequate treatment to a level acceptable to the Town Planning Board.

A certificate acceptable to the Planning Board or officially designated official that all materials to be used in construction within the district are free of leachable toxic substances. ~~Pressure treated lumber not containing chromated copper arsenate (CCA) shall be deemed to be free of leachable toxic substances.~~

B. Waivers. Waivers to the provisions of this section may be granted at the discretion of the Town Planning Board if the Board is reasonably assured that the proposed site development activities and alterations will not result in stormwater runoff impacts on surface or ground waters within the District. The intent is not to require information that is not relevant for the purpose of making an informed decision nor to become unduly burdensome on those projects where the level of detail is not warranted. Thus, if the Planning Board finds that any of the information requirements as set forth above are not necessary to conduct an informed review, it may waive such information requirements, as it deems appropriate. Any such waiver shall be made in writing, and shall contain statements of the reasons why the waived information requirements are not necessary for an informed review under these circumstances. The Planning Board may grant such waivers on its own initiative or at the request (that sets forth the specific requirements that are requested to be waived and the reasons for the requested waiver) of an applicant.

C. Site Plan Review. In considering and approving a site plan within the District, the Planning Board shall consider the following matters as they relate to the proper protection of surface waters in the District from erosion, increased rates of surface water runoff, flooding, and nonpoint sources of pollution:

The preservation of trees and vegetation on site likely to reduce the impacts of stormwater runoff into surface waters.

The relations among topography, soil types, surface waters, proposed impervious surfaces, proposed temporary or permanent stormwater control practices, and proposed uses for the site, which may allow the

soil erosion and significant flows into surface waters or the MS4. Fire fighting activities are exempt from the conditions of this clause.

- F. Leaks or Spills. Any spill, leak, or discharge or other release to the environment, actual or suspected, must be reported to the New York State Department of Environmental Conservation Spill Hotline (800-457-7362) pursuant to the New York State Chemical Bulk Storage Regulations (6NYCRR Part 595) and Petroleum Bulk Storage Regulations (6NYCRR 611-614), within two hours of release

Spill Response. Should a spill occur, the owner and/or operator must take immediate action to stop the spill and restore the environment in accordance with the Town of Ballston Emergency Spill Response Plan.

- G. ~~Construction Activities. The regulating of stormwater runoff from construction and land development activities by Chapter 91 (Stormwater Management) of Town Code and amendments thereto shall apply to all site plans for projects within or partially within the District, and which reasonably anticipate land disturbances greater than one-half (0.5) acre.~~

- H. Flow to Surface Waters. Any surface waters within the district shall not receive stormwater flows, which are untreated by stormwater controls identified in a certified Stormwater Pollution Prevention Plan (SWPPP) for the site.

- I. Penalties. Town penalties identified in Chapter 91 (Stormwater Management) of Town Code and amendments thereto for violations identified therein shall apply in addition to penalties levied by New York State Department of Environmental Conservation.

§ 138-27.5. Site Plan Information and Review. The following requirements shall apply to ~~all permitted site alteration projects~~ within the District.

- A. Site Plan Information. An applicant shall include in all site plans submitted for review and approval by the Town Planning Board the following information in addition to all applicable information requirements of the Town's site plan review regulations:

Topography and characteristics of the natural runoff on the site.
Clear indication of steep slopes, surface waters, and shorelines.

board to reasonably determine that the impacts of stormwater runoff into surface waters are minimized or eliminated.

The size, appearance, character, suitability, and safety of proposed temporary or permanent stormwater control practices and facilities.

The ability of off-site stormwater control facilities to receive, control, or otherwise treat stormwater runoff from the site.

The minimization or elimination of potential flood damage to public utilities and facilities.

The temporary or permanent use of specific materials on site and their likely contributions of pollutants to surface waters.

§ 138-27.6. Shoreline Restrictions. The following ~~site alterations~~, equipment, and substances are ~~prohibited within one hundred (100) feet of Lake Ballston and within fifty (50) feet of all other surface water shorelines and embankments within the District.~~

~~Construction of structures~~ and related improvements exclusive of stationary docks and construction activities identified in site plans officially submitted for review by Town's [reviewing board] before the adoption of this Article;

~~Expansion of existing structures;~~

Grade changes;

Any foot paths either wider than three (3) feet or requiring soil excavations deeper than six (6) inches;

The storage, disposal, or abandonment of all the following exclusive of docked boats and on-board substances necessary for its operation: automobiles; all other engines, mechanical generators, and fluids necessary for their operation; batteries; liquid fuels; hazardous cleaning agents; paints; solvents; fertilizers; pesticides; herbicides; fungicides; all other chemical substances unfit for human consumption;

The application of fertilizers, pesticides, herbicides, and fungicides in a manner and quantity inconsistent with its proper use;

The removal of more than twenty (20) percent of vegetation within ten (10) feet of all surface water shorelines and embankments, exclusive of trimmings and removal of vegetation that pose a safety hazard to life or property;

~~§ 138-27.7. Property Transfer and Septic System Inspection.~~ The following requirements apply to sales and transfers of properties where septic systems and

graywater treatment systems are situated on or leach by design through a leaching field on lands within the District. For the purposes of this Law, septic systems, graywater systems, and similarly functioning on-site water treatment systems are hereinafter referred to as on-site water treatment system.

- A. Inspection. Prior to the transfer of property title, an on-site water treatment system inspector shall inspect on-site systems and its associated leaching field. Existing plans and information for the on-site system shall be offered to the certified inspector for consideration preceding inspection.
- B. Inspection Report. The inspector shall determine and report in writing all of the following:
- Whether the system is in compliance with all applicable Town and State ordinances;
 - Whether the system is functioning in the manner that it was designed to function, or is otherwise appropriately functioning in the reasonable judgment of the inspector;
 - For systems installed on or after the effective date of an applicable ordinance, the actions needed to bring the system into compliance with the ordinance;
 - For systems installed prior to the effective date of an applicable ordinance, the actions needed to allow the system to function in the manner that it was designed or believed by the inspector to function.
- C. Certified Systems. On-site water treatment systems that are inspected and require no action shall be considered certified. A certified inspection will be valid for two years. When an on-site system is pumped on an annual basis after a certified inspection and the pumping records are concurrently available, an inspection is valid for three years. A certified inspection report may be used for multiple sales of the same property, if the certification is valid at the time of transfer.
- D. Inspection Costs. All costs for the inspection will be borne by the seller. A copy of the inspection report shall be submitted to the buyer before the sale is completed. The buyer and seller understand that an inspection report requiring no action is not a guarantee that the on-site system will continue to function adequately at a later date.

E. Compliance Costs. Prior to the transfer of title, the seller assumes responsibility for all actions and costs necessary to bring the system into compliance. As a condition of sale or transfer of the property, the buyer may assume responsibility for all, or part of, actions and costs necessary to bring the on-site system into compliance. In any case, the on-site water treatment system must be in compliance within six (6) months of the transfer of title.

F. Exceptions. The following real property title changes and transfers do not require a septic system inspection:

Transfers pursuant to court order;

Mortgage refinancing, whether or not the lending agency remains the same;

Transfers effected by mortgage default or foreclosure;

Transfers administered through a family estate, will, or intestacy;

Transfers from one co-tenant to one or more other co-tenants;

Transfers made to a spouse, parent, grandparent, child, or grandchild;

Transfer of property into a family trust or changes in the proportionate interests among family trust beneficiaries;

Transfers between spouses resulting from a judgment of divorce or a judgment of separate maintenance;

Transfers or exchanges to or from any governmental entity;

Transfers of newly constructed structures that have not been inhabited.

Transfers for properties where the owner thereof has signed an enforceable agreement with the Town to upgrade the system, connect to a sanitary sewer, or connect to a certified shared system within two years.

§ 138-27.8. Liability. Nothing in this ordinance shall be construed to imply that the Town of Ballston has accepted any of an owner's or applicant's liability if a permitted activity, facility, or use contaminates groundwater or surface water.

13. Chapter 91 of the Town of Ballston Code (“SITE PLAN REVIEW”) is hereby repealed and Chapter 138 of the Town of Ballston Code (“ZONING”) is hereby amended by adding a new Article as “Article XXVI” entitled “Site Plan Review” to read as follows:

**ARTICLE XXVI
SITE PLAN REVIEW**

§ 138-102 Applicability: Site Plan review and approval is required for certain uses as indicated on the use tables set forth at the end of this Chapter or where Site Plan approval is required as part of the criteria for a Special Permit. In such cases the site plan approval must be obtained prior to the issuance of a building permit for construction.

§ 138-103 Sketch Plan. A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. No fee is required to schedule a sketch plan conference but a written request for such a conference must be made in writing to the Planning Board Chairman and delivered to the Building Department at least three weeks prior to the next regularly scheduled Planning Board meeting in order to get on the agenda for that meeting. The intent of such a conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan, and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. As such, an applicant is strongly encouraged to schedule and attend the sketch plan conference. In order to accomplish these objectives, the applicant should provide the Planning Board with as much information or detail as is practicable. In this regard, the following is suggested:

- A. A sketch or map of the area which shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features; and
- B. A sketch plan showing proposed site improvements, including the locations and dimensions of proposed structures, parking areas, water service, wastewater disposal, conceptual stormwater management, anticipated changes in the existing topography and other natural features; and
- C. A topographic or contour map of adequate scale and detail to show site topography and significant site features such as wetlands, surface waters, existing structures or improvements on the site and any other information that may be pertinent to the design and layout of the site.

At the option of the applicant, more than one sketch plan conference may be scheduled in order to have sufficient opportunity to exchange ideas, provide recommendations, if any, and further develop the proposal.

§ 138-104 Conceptual Site Plan.

At the option of the applicant, a conceptual site plan may be submitted for preliminary review and analysis by the Planning Board. This conceptual review process is intended to afford the applicant another opportunity to fine-tune the proposal prior to submission of a formal site plan. It is an optional, voluntary process that may be appropriate with certain applications, particularly those that may involve a large-scale or complex development proposal. The purpose of the concept plan is to provide the Planning Board with more detailed information and a fuller understanding of the proposal so that a more detailed recommendation can be provided by the Planning Board. It is the goal of this review stage, that the applicant and the Planning Board can reach a consensus on exactly what will be required with the submission of a formal site plan application and what is acceptable regarding the conceptual features of the proposal thereby streamlining the process for the formal site plan review.

A. Submission for conceptual site plan review. An application for conceptual site plan shall be made in writing to the Planning Board Chairman and delivered to the Building Department at least 3 weeks prior to the next regularly scheduled Planning Board meeting in order to get on the agenda for that meeting. The Application shall include the following:

- (1) A narrative description of the proposed project, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the town in general (traffic generation, population, utilities aesthetics and land use compatibility) and including the following:
 - (a) Address of site (street and number).
 - (b) Name of applicant.
 - (c) Name of proposed tenant/business.
 - (d) Site zoning.
 - (e) Description of existing site and use.
 - (f) Description of intended site development and use.
 - (g) Proposed gross floor area.
 - (h) Building height and number of floors.
 - (i) Number of guest rooms or dwelling units where applicable.
 - (j) Number of employees.
 - (k) Hours and days of operation.
 - (l) Proposed number of parking spaces.
 - (m) Site coverage statistics (building coverage, paved areas, green area, by percentage of site and square footage).
 - (n) Impact on adjoining property: noise, visual, drainage, other.

- (o) Anticipated impact on services (quantify and discuss impacts): traffic, sewer, water, solid waste.
- (p) Storage and disposal method of chemicals used (solvents, soaps, etc.).
- (2) A conceptual site plan should contain the following:
 - (a) Title block with names of projects, applicant, and map preparer; address of site; date of map; and work record with revision dates.
 - (b) Proposed buildings, other improvements (with building and setback dimensions).
 - (c) Proposed utilities, including lateral locations, sizes and connection points.
 - (d) Proposed landscaping.
 - (e) Proposed parking, circulation, storage, service, display areas, solid waste containment/recycling areas; label minimum parking setbacks from lot lines and buildings
 - (f) Number of parking spaces, including handicapped spaces as required by NYS Uniform Fire Prevention and Building Code.
 - (g) Analysis of parking requirement.
 - (h) Access location.
 - (i) Proposed drainage concept.
 - (j) Approximate limits of clearing and grading.
 - (k) Existing/proposed easements.
 - (l) Site coverage statistics (building coverage, green area, and paved areas by percentage of site and square footage).
 - (m) Building height and number of floors.
 - (n) Existing conditions map.

(3) Environmental assessment form (optional at this stage).

B. Review and conceptual determination. The applicant shall attend the Planning Board meeting at which the concept plan is to be discussed. With the consent of the applicant, more than one meeting may be held on the conceptual site plan and public input may be invited. At the first meeting following the timely submission of the documentation set forth above, the Planning Board shall determine if the submission is complete. Within 62 days after the conceptual plan submission has been determined to be complete, the Planning Board shall provide the applicant with a determination of whether the concept is acceptable and what information must be submitted with the site plan application in order for said application to be complete as well as any specific recommendations that the Planning Board may have with respect to the proposed application. The Planning Board may also make a preliminary SEQRA determination as to classification of the project as a Type I, Type II or Unlisted action, what other agencies may be considered involved agencies, and whether the submitted environmental assessment form is adequate. The conceptual determination is not binding on the applicant nor does it commit the

Planning Board to definite course of future action on the proposal. In other words, the applicant is still entitled to submit a formal site plan that may not be consistent with the accepted conceptual plan and the Planning Board's final decision on the formal site plan submission will be based on the content, record and review of the formal site plan. However, the intent is that after the conceptual plan stage of review, the proposal will be sufficiently reviewed and discussed to afford the applicant with insight as to how to proceed in the formal site plan review stage.

§ 138-105 Application for Site Plan Approval. An application for site plan approval shall be made in writing to the Chairman of the Planning Board and delivered to the Building Department in accordance with the following requirements. It shall be accompanied by information and documentation contained on the following checklist. Where the sketch plan conference was held or the conceptual site plan review process was initiated, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board pursuant to such sketch plan conference or conceptual plan review.

A. Site Plan Submissions Checklist.

- (1) Title of drawing, including name and address of the applicant and person responsible for preparation of such drawing.
- (2) North arrow, scale and date and location map.
- (3) Boundaries of the property plotted to scale.
- (4) Existing watercourses.
- (5) Owners and use of adjacent lands.
- (6) Existing zoning and zoning district requirements.
- (7) Site area in acres and square feet.
- (8) Existing utilities (location and size).
- (9) Location of all easements.
- (10) Site coverage statistics.
- (11) Proposed finished floor elevations.
- (12) Limits of grading and clearing.
- (13) Grading and drainage plan, showing existing and proposed topography at minimum two-foot contour intervals, extending 50 feet from the site, and based on a NAVD 1929 benchmark (shown on plans).
- (14) Location, proposed use, dimensions and height of all buildings, including building setback dimensions to each lot line.
- (15) Location, design and construction materials of all parking and truck loading areas, number of parking spaces and showing ingress and egress.
- (16) Provision for pedestrian access/parking for handicapped.
- (17) Location of outdoor storage, if any.

- (18) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, surface treatments and fences.
- (19) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- (20) Description of the method of stormwater collection and location, design and construction materials of such facilities.
- (21) Description of the method of securing public or private water and location, design and construction materials of such facilities.
- (22) Location of fire and other emergency zones, including the location of fire hydrants.
- (23) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (24) Location, size and design and construction materials of all proposed signs.
- (25) Location and proposed development of all buffer areas, including existing vegetative cover.
- (26) Location and design of outdoor lighting facilities.
- (27) Location of service and equipment, HVAC, refuse, loading, recycling.
- (28) Designation of the amount of building area proposed for retail sales or similar commercial activity.
- (29) General landscaping plan and planting schedule.
- (30) Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permits required for the project's execution.
- (31) Completed and signed application form.
- (32) Required Application Fee.
- (33) Environmental Assessment Form, with Part 1 completed and signed by applicant.

34) SITE PHOTOS SHOWING EXISTING CONDITIONS.
B. Additional Submission Requirements.

- (1) Stormwater. The submission requirements and standards set forth in Chapter 91 (entitled, "Stormwater Management") of the Town Code shall apply and be adhered to by the applicant.

C. **Waivers:** On its own initiative or at the request of the applicant, one or more of the above submission requirements may be waived. The intent is not to require information that is not relevant for the purpose of making an informed decision or to become unduly burdensome on those projects where the level of detail is not warranted. As such, the Planning Board has flexibility in its discretion to determine what shall be required as part of the application submissions. Thus, if the Planning Board finds that any of the information requirements as set forth above are not necessary to conduct an informed review, it may waive such information

requirements as it deems appropriate. Any such waiver shall be made in writing, and shall contain statements of the reasons why the waived information requirements are not necessary for an informed review under the circumstances. The Planning Board may grant such waivers on its own initiative or at the written request (that sets forth the specific requirements that are requested to be waived and the reasons for the requested waiver) of an applicant.

§ 138-106 Review of site plan. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the design standards set forth in this Chapter as applicable to the zoning district where the site is located and the specific use being proposed, as well as the following:

A. General considerations:

- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- (2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (4) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- (5) Adequacy of stormwater and drainage facilities.
- (6) Adequacy of water supply and sewage disposal facilities.
- (7) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- (8) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for plan areas and informal recreation.
- (9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- (10) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- (11) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- (12) Where required by specific design standards or guidelines or where otherwise warranted, the appearance and design of buildings and structures, including but not limited to architectural features, building materials and colors.

B. Consultant review.

The Planning Board may consult with the Town ~~Zoning Enforcement Officer~~, Fire Commissioners, Highway Superintendent, other local county officials and its designated private consultants and engineers, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation. If the Planning Board determines that the site plan application requires the use of its own consultants (such as professional engineer, planner or attorney), it shall require as part of the application fee a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs of a consultant to be retained by the reviewing Board in order to assist the Board in reviewing the application. Said amount shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of services to be provided by such consultant(s). The Town shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the application. The consultant retained shall provide the Town with detailed invoices showing the services rendered for the time-period billed and the Town shall provide the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be required as the review process continues.

C. Required referral.

Prior to taking action on the site plan, the Planning Board shall refer the plan to the County Planning Department for advisory review and a report as applicable and in accordance with § 239-m of the General Municipal Law. Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the Saratoga County Planning Department any application for a site plan affecting real property within 500 feet of the boundary of the Town of Ballston, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

1. No action shall be taken on applications referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Department's review.

2. County Disapproval. A majority-plus-one vote of the Planning Board shall be required to grant any Special Permit which receives a recommendation of disapproval from the County Planning Department because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

3. In the case of a project proposal which also requires a Special Permit, every effort shall be made by the Planning Board to avoid duplication of the County referral process. However, such determination shall be made by the Planning Board in cooperation with the Saratoga County Planning Department, since the Site Plan application may contain issues not addressed in the Special Permit process

D. Compliance with SEQRA.

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act ("SEQRA") under Article 8 of the Environmental Conservation Law and its implementing regulations and shall not make a binding decision on the site plan until the SEQRA process has been completed. Upon receipt of application materials it deems complete, the Planning Board shall initiate the SEQRA process unless the process has been already commenced pursuant to another approval process for the same project. No time periods for decision making in this local law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

E. Agriculture Data Statement.

An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Site Plan application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

F. Application for Area Variance

Where a proposed site plan contains one or more features that do not comply with the dimensional zoning regulations of this Chapter, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to Article XXIII without a decision or determination by the Zoning Enforcement Officer.

§ 138-107 Planning Board Action On Site Plan.

- A. Determination That Application Is Complete. The site plan application together with all of the required submissions outlined in the section 138-107 above, shall be submitted to the Building Department at least three weeks prior to the next regularly scheduled Planning Board meeting in order to get on the agenda for that meeting. At the first meeting upon which the application is on the agenda, the Planning Board shall review the application including the site plan and the supporting documents and information for purposes of determining whether the application is complete for purposes of commencing review. The Planning Board shall make this determination within 31 days from the first meeting date where the application is on the meeting agenda. If the application is not

complete, the Planning Board shall specify to the applicant what omissions or deficiencies there are in the application submissions. The applicant will then have to submit the missing documentation or information until the Planning Board determines that the application is complete.

- B. Decision/Hearing: Within sixty-two (62) days of the acceptance of a complete application for site plan approval, the Planning Board shall either (a) render a decision on the site plan, or (b) schedule and hold a public hearing if in the Planning Board's discretion there are factors present (such as but not limited to potential public controversy, the desirability of input from adjoining property owners or the public at large) that warrant a public hearing. If the Planning Board determines to hold a hearing, it must be held within 62 days of the receipt of a complete application and the decision on the site plan must be made within 62-days from the close of the public hearing. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board.
- C. Content of Decision. The Planning Board has the authority to approve the site plan, approve the site plan with modifications, or disapprove the site plan. The Planning Board also has authority to impose such reasonable conditions and restrictions on the site plan approval as are related to and incidental to the site plan. The Planning Board shall make its decision in writing and shall file said decision with the Town Clerk, and mail or hand-deliver such decision to the applicant within 7 days of the date that the decision is rendered with a copy to the Building Department. The Planning Board's decision may include specifications for the required modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's statement will contain the reasons for such findings.
- D. Procedures after Decision.
 - a. If the site plan is approved without modifications, the approved site plan with any conditions will be the final site plan and will be endorsed accordingly. If conditions are attached to the approval, the site plan will be endorsed as conditionally approved. All conditions must be complied with before occupancy or commencement of the use is allowed.
 - b. If the site plan is approved with modifications, the applicant must submit a final site plan that incorporates said modifications for the Planning Board review and approval. The Planning Board shall act on the final site plan within 62 days after the final site plan is presented to the Planning Board at its regularly scheduled meeting. If the Planning Board's decision was complied with and the modifications are incorporated in the final site plan, the site plan shall be approved as final and endorsed accordingly. Such modifications or conditions that may require the submission and review of a final site plan include, but are not limited to, the following:
 - i. Record of application for and approval status of all necessary