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Revised Subdivision Procedures, Standards and Regulations for the Town of Southold, New York

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REVISED SUBDIVISION PROCEDURES,
STANDARDS AND REGULATIONS
FOR
THE TOWN OF SOUTHDOLD,
NEW YORK

BY
MELISSA ANN SPIRO

A RESEARCH PROJECT SUBMITTED IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF
COMMUNITY PLANNING

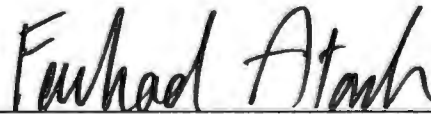
UNIVERSITY OF RHODE ISLAND

1991

MASTER OF COMMUNITY PLANNING
RESEARCH PROJECT
OF
MELISSA ANN SPIRO

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CHAPTER 1

INTRODUCTION

New York State Enabling statutes provide that local governments may authorize local Planning Boards to review and approve subdivisions. The Town Code of the Town of Southold authorizes the Southold Town Planning Board to review and approve subdivisions within the Town boundaries. The Town Code contains a chapter entitled "Subdivision of Land" which sets forth the subdivision regulations. This chapter has not been updated in many years, and is in dire need of revision.

The Planning Board has been following procedures and policies which are in the best interest of the Town. However, many of these procedures and policies are not spelled out in the Subdivision of Land chapter of the Town Code. The regulations must be revised in order to have any legal standing.

In addition, because many of the processes and policies of the Planning Board are not reflected in the Subdivision of Land chapter, the subdivider is unable to follow and understand the subdivision review process. The subdivider is not made aware in advance as to the items which will be required during the subdivision review process. The subdivider must be able to obtain from the Planning Board a clear explanation as to the subdivision review process and the items which will be required during the subdivision process.

The revised Subdivision of Land chapter, which is contained in this document, is to be presented to the Town of Southold as a revision to the existing chapter. The adoption of the document by the Planning Board and the Town Board will allow the subdivision review process to be well documented in the Town Code. The Planning Board's rules and

regulations will be included, as will all State and County requirements. The subdivision of land process will be clear to all potential subdividers.

In order to present documentation including all aspects of subdivision review, a comprehensive review of all statutes pertaining to subdivision review in New York State was conducted. For comparison, Subdivision Regulations from similar Towns in New York State were reviewed. The existing Subdivision Regulations were critically examined for inconsistencies with the statutes and with the practices and policies of the Planning Board's current review process.

After the brief overview of Southold Town contained in this Chapter, Chapters 2 and 3 review the history and purpose of subdivision regulations, explain the statutes involved with subdivision review, and critique Southold Town's existing Subdivision of Land chapter. Chapter 4 contains the complete documentation of the proposed regulations, with additional explanation where necessary. Chapter 5 concludes the study with a summary of the review.

Description and Location

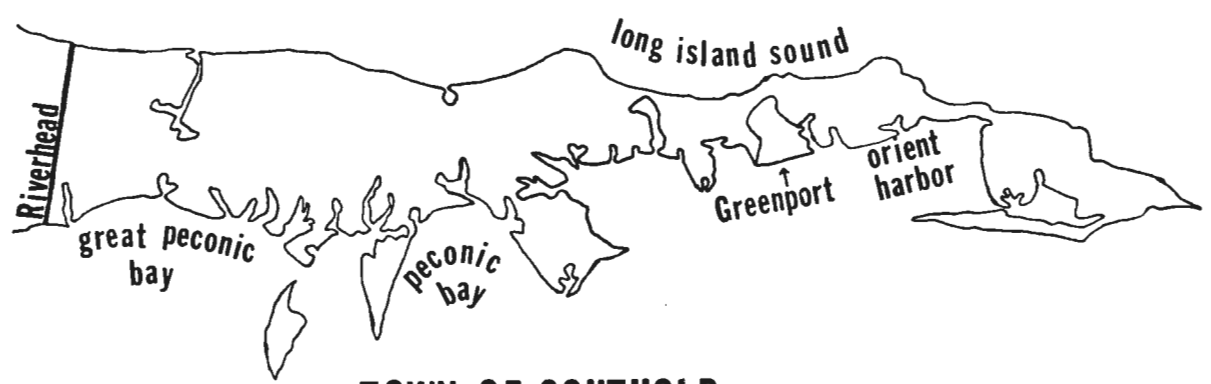
The Town of Southold is located in the County of Suffolk, in the State of New York. It is approximately 100 miles or 2 hours driving time east of New York City.

Southold Town is approximately 54 square miles in area,¹ and has a distinctive long and narrow shape. It extends 21 miles from its western border at Riverhead Town to its eastern tip at Orient Point. The widest point is only 3 miles in width (See Figure 1).

¹ RPPW, Inc., Master Plan Update - Background Studies.



LONG ISLAND



TOWN OF SOUTHOLD

FIGURE 1

Southold is bordered by Riverhead Town, Greenport Village and by water. The northern shore is bordered by Long Island Sound and the southern shore is bordered by the bay and the many creeks and inlets associated with the bay. The land contained within the Town is, for the most part level or gently sloping. The major exception is on the northern shore where there are steep bluffs overlooking the Long Island Sound.

Southold's population has always been influenced by a second-home, seasonal population. However, as the remaining open lands in the vicinity of New York City are developed, the pressures of development in Southold Town have been, and still are, on the rise. With the increasing year round population, Southold's characteristics are changing from a rural community to a suburban one. The 1990 census data for the Town shows a population of 19,836, with a seasonal increase of 27,700 additional people.

Agriculture and tourism are predominant characteristics of Southold Town. Potatoes and cauliflower were the major crop. However, the nature of the agriculture has changed with potatoes on the decline and vineyards, nurseries and vegetable farms on the increase.² The tourism has revolved around the rural aspects of the Town and the recreational uses associated with the water.

²RPPW, Inc., Master Plan Update - Background Studies

Governmental Structure

The Town government consists of an elected Town Supervisor and Town Board. Also elected are the Board of Town Trustees, the Tax Assessors and the Highway Superintendent. Appointed by the Town Board are the Planning Board, the Zoning Board of Appeals and numerous advisory committees.

A brief explanation is required in reference to the Town Trustees. The Town Trustees have jurisdiction over all land immediately adjacent to a tidal wetland, and lying within 75 feet landward of the most landward edge of a tidal wetland. This jurisdiction was established with the original creation of the Town. Southold Town was created by a Colonial Charter dated October 31, 1676 known as the Andros Patent. This patent conveyed and granted lands and lands under water in the Town of Southold to certain persons as patentees. In 1818 the legislature authorized the election by the property owners of trustees and vested said trustees with power to manage the Town but specifically reserved to the Trustees "the management of the waters, fishing and seaweed and the production of the waters for the benefit of said proprietors as they had power to do before the passing of the Act".³

The Town does not have a Planning Department. Until 1987, the Planning Board was assisted by one Secretary and an outside consulting firm. Although the Town Board has since hired three Planners and one Secretary to work for the Planning Board, it does not consider this a Planning Department.

The Town also has no Natural Resource Department, or staff to do environmental reviews. Although subdivision plans are referred by the Planning Board to the Board of Town Trustees when wetlands are located on or near the subject property, the Trustees, although knowledgeable, are not wetland experts, and only have jurisdiction over certain areas. A

³An Informational Folder Prepared by the Southold Town Trustees

majority of the environmental review is thus referred to an outside consultant.

Also, there is no Engineering Department. Until recently all drainage review was performed by an outside engineering firm. A road inspector was recently hired. Although he is directly responsible to the Highway Superintendent, he also performs drainage reviews and prepares bond estimates for the Planning Board.

Master Plan

The Town and its consultants began working on an updated Master Plan in 1982. As with most proposed major revisions, there was great controversy involved. In February of 1989, the Town adopted a revised Zoning Map. Although this was and is commonly referred to as a revised Master Plan, the only section formally adopted was the revised Zoning Map and the amended Zoning Code. The "Master Plan" was adopted in 1989 with the acknowledgment that it would undergo further revisions. There has been talk of revising some sections, but so far there have not been any major revisions made. The adoption of the plan spurred a lawsuit by numerous citizen and environmental groups who felt, among other things, that many areas were not properly zoned. The lawsuit, as of this date, has not been settled.

Although the subdivision regulations have been revised throughout the years, this has been done in a piecemeal fashion. During the preparation of the Master Plan update, the Town's consultant prepared a proposal to update the Subdivision Regulations, however, this document was never adopted. The subdivision regulations will be discussed in detail further in the text.

CHAPTER 2

STATE STATUTORY REGULATION OF THE SUBDIVISION OF LAND

Subdivision Regulations: History and Evolution

Land has always been subdivided in one fashion or another. Control of the division of land has progressed from filing requirements to a means of fashioning development in defined ways and in prescribed methods. The focus of subdivision controls have evolved to become a way of regulating the use of private land in the public interest.

Originally, subdivision controls consisted of platting requirements and functioned mainly as a means of consumer protection. Lots could not be sold without reference to a filed map. The regulations provided an efficient method of selling land; lots were numbered and easily referenced. However, there was no mechanism to force the subdivider to make it possible to live on the referenced lot. All improvements were left to the municipality to install.

In 1928, the United States Department of Commerce published the Standard City Planning Enabling Act. This Act was offered as a partial answer to the problems created by land speculation and premature development. The enabling act included provisions dealing with the "arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces of traffic, utilities, access of fire fighting apparatus, recreation, light, and air, and for avoidance of congestion of population, including minimum width and area of lots."¹ It shifted the concept of subdivision regulations from a device for land recordation to one of providing a means to implement a comprehensive

¹Model Subdivision Regulations, Text and Commentary, p. 2 [Standard City Planning Enabling Act Section 14 (1928)]

community plan.² The Standard City Planning Enabling Act, gave impetus to the adoption of community planning and the adoption of regulations controlling subdivision development throughout the United States.³

Subdivision regulations which initially included only design standards for the lots and blocks which were being created, began to include design and construction standards for subdivision improvements.⁴ As development pressures continued, subdivision regulations evolved to focus on the impact of the subdivision on the community as a whole, and required that community facilities, such as roads, sidewalks, water supply and sewage disposal systems, and parklands were financially guaranteed, constructed to community standards, and inspected prior to the sale of any lots or the dedication of public facilities to the community.

The power to regulate development through subdivision regulations is derived from the police power. The police power is generally defined as the power to legislate for the health, morals, safety, and welfare of the community, and this power can be exercised even though it imposes burdens on the use and enjoyment of private property.⁵ The relationship of subdivision regulations to health, safety, and the general welfare, through requirements for adequate sewage, drainage, streets, parks and recreation is well established. As subdivision regulations are being expanded to include such things as impact fees, protection against environmental degradation and requirements for development outside the actual subdivision, the boundaries of the police power are being established by the courts. The courts are continually called upon to uphold and establish what

²Model Subdivision Regulations, Text and Commentary, p. 2

³The Law of Zoning and Planning, 64-5

⁴The Practice of Local Government Planning, p. 198

⁵Land Use in a Nut Shell

constitutes the limits of the police power and what constitutes a taking without just compensation in reference to subdivision regulations. Subdivision regulations, and the subdivisions which are an outcome of these regulations, play a large part in determining the nature of the community. The general constitutionality of reasonable subdivision regulations is based upon the community's right to give proper direction to growth and development.⁶ It is important therefore that a community adopt proper Subdivision Regulations to insure that growth will reflect sound planning practices and the long term goals of the community, and will not become a detriment to the community.

State Enabling Regulation

Subdivision controls are designed to complement zoning regulations and other land-use restrictions. The statutes which delegate to cities, towns, and villages the power to regulate the subdivision of land authorize the use of such power to provide for the future growth and development of the municipality, and to afford "adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population."⁷

State Enabling statutes provide that local governments may authorize local Planning Boards to review and approve subdivisions. While the statutes list in some detail the items to be considered and the general procedures to be followed, it is not their purpose to cover the detail necessary for the efficient carrying out of these powers. A Planning Board therefore

⁶Model Subdivision Regulations, Text and Commentary, p. 16

⁷New York Zoning Law and Practice, Section 21.12 (quote -City, Village and Town Law)

has the authority to adopt rules and regulations with respect to procedure and with respect to any subject matter over which it has jurisdiction.

The rules and regulations set forth in the state enabling statutes must be reflected in the local subdivision regulations. However, there are also reviews and in many cases, subsequent approvals which are required from other agencies and other town departments that must be completed prior to subdivision approval. Subdivision controls are imposed through statutes which prohibit the filing or recording of a plat until it has been approved by a planning board empowered to approve such plats.⁸ In some cases, if a subdivision is approved without a certain review or approval, it can be deemed null and void.

The timing of these additional review procedures and subsequent approvals, must be coordinated within the guidelines set by the enabling statutes. However, the enabling statutes give no guidance on how to accomplish this coordination. The enabling statutes have not been changed to reflect the change in focus of subdivision regulations from "buyer protection" to "community protection". The statutes, and the actual practice of planning which has evolved need to be brought into conformance. All laws and regulations must be considered in the review process. However, no one law describes the subdivision process and all of the other laws and regulations influencing the process in its entirety. This forces the Planner and Planning Board to coordinate the reviews and to make legal judgements without the benefit of background statutes. Because most subdivision regulations do not contain direct reference to these other laws, regulations and procedures, the courts have established guidelines on which laws and regulations have priority, and the time periods in the review

⁸New York Zoning Law and Practice, Section 21.04

process during which these must be considered. The different laws, regulations and procedures which must be considered in the subdivision review process will be described in the following sections.

Town Law

The state enabling legislation in New York authorizes the governing bodies of cities, towns and villages to appoint a Planning Board and to authorize that Board to review and approve subdivisions. Sections 265a, 276-278 and 281-282, of the New York State Town Law pertain to Subdivision Control. The law prescribes in some detail standards which shall govern the approval or disapproval of plats. The Town Law will be described generally in the succeeding sections. Particular circumstances will be described within the text of the proposed subdivision regulations where applicable.

The Town Law has not been revised to reflect changes in other laws pertaining to land division and the current practices of subdivision review. For example, the law does not contain direct reference to environmental review and the regulations pertaining to such review. It also does not allow a realistic time frame for adequate review. Revising the Town Law is not an easily accomplished task, as New York State covers an extremely large area, and contains many towns with varying goals and plans for achieving these goals. However, it is not an unrealistic goal to accomplish, as many of the problems with the Town Law are universal ones. Until such time that the Town Law is revised, local government must abide by what is written in the Law, and the precedents set by the courts.

Town Law - Time Frames

The Town Law establishes maximum time frames for review of subdivision applications. It establishes two review processes; one for a preliminary plan, and one for a final plan. The first submission is the preliminary plan. A public hearing is required within 45 days of this submission, and a decision is required within 45 days of completion of the public hearing. For a final plat, again the requirement is that a hearing, if held, must be conducted within 45 days of submission, and a decision must be rendered within 45 days of conclusion of the hearing. The law states that if the Planning Board fails to take action within the prescribed time that the plat shall be deemed approved and that the plat may be endorsed by the Town Clerk.

Most Towns have incorporated another step in the subdivision review process to allow for more than the two 45 day time periods to review the proposal. This stage usually consists of a sketch plan. The Towns vary on the level of detail required for the sketch plan and the emphasis placed on it. The Town Law appears to be a timely structure for review. The time frames were set to avoid unnecessary administrative delay. However, neither the other laws and regulations which affect the subdivision review process nor the time it takes to do a detailed review, are taken into account in the time frames set forth. When the other laws, regulations and procedures are taken into consideration, the Town Law sets for the most part, unrealistic time frames. These other laws and regulations will be discussed in the subsequent sections.

Town Law - Environmental Review

The Town Law is silent when it comes to environmental review. The State Environmental Quality Review Act (SEQRA) mandates that the

planning board can not take any action until certain provisions of SEQRA have been complied with. However, the time frames set by Town Law and those set by SEQRA clash. The SEQRA process will be discussed further in the section pertaining to this law.

Town Law - Standards

The Town Law states that the Planning Board shall require sufficient streets and that "land shown on such plats 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..."⁹ The Law does not set forth standards for the streets or roads. It allows the Planning Board to define these standards within its own Subdivision Regulations.

Town Law - Dedications and Exactions

Town Law allows the Planning Board to require land to be located for a playground or for other recreational purposes. If it is determined that a suitable park of adequate size can not be located, a payment is to be made in lieu of the land dedication. The law does not determine the amount of land, or fee which is to be required.

The Town Law also allows the Planning Board to require a performance bond to cover the full cost of all required improvements. The law details the format and terms of the performance bond. This will be discussed further in the section of the proposed regulations pertaining to the performance bond.

⁹Town Law Section 277

Town Law - Flexibility of Design

Section 281 of the Town Law empowers the Town Board to authorize the Planning Board in their review of subdivisions, to modify applicable provisions of the zoning ordinance, subject to certain conditions. The most important condition being that in no case shall the number of building lots exceed the number which would be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning ordinance. The purposes of this section are such to "enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands."¹⁰ The application of such "cluster" techniques will be described in detail in the cluster section of the proposed regulations.

The State Environmental Quality Review Act (SEQRA) and Subdivision Review

The New York State Environmental Quality Review Act (SEQRA) was derived in most respects from the National Environmental Policy Act (NEPA).¹¹ SEQRA was enacted in 1975 with the intent that all agencies conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.¹²

¹⁰Town Law Section 281

¹¹Environmental Impact Review in New York

¹²SEQRA Section 617.1(b)

SEQRA mandates the consideration of environmental factors in the existing planning, review and decision making processes of State, regional and local governmental agencies at the earliest possible time. To accomplish this goal, SEQRA requires that all agencies determine whether the actions they directly undertake, fund or approve, may have a significant effect on the environment, and if it is determined that the action may have a significant effect, prepare or request an environmental impact statement.¹³ Briefly, the SEQRA for subdivision review involves a coordinated review process between involved agencies. When the Planning Board receives an application it must send the completed Environmental Assessment Form to agencies which may be involved with some aspect of the application (for example, the Department of Environmental Conservation, the Health Department, the Town Trustees). Within 30 days, the Planning Board, or one of the other involved agencies, must establish itself as Lead Agency. This agency then takes a "hard look" at the application, and makes a determination as to whether or not it will significantly affect the environment. If a determination of non-significance is made, the SEQRA process is complete. If a determination of significance is made, an Environmental Impact Statement must be prepared and reviewed. The outcome will be mitigating measures which must be incorporated into the subdivision plan, if such development is to occur. The actual process of SEQRA is beyond the scope of this study. However, the interaction of SEQRA and the subdivision review process will be discussed.

¹³SEQRA Section 617.1(c)

State Environmental Quality Review Act - Time Frames

As stated in the previous section, SEQRA is to be incorporated into existing planning, review and decision making processes at the earliest possible time. However, it is almost impossible to review any substantial project in accordance with SEQRA within the time frames set by Town Law. Case law has set the precedent for the starting of the time periods which are established in the Town Law and how they pertain to incorporating SEQRA. The interplay between environmental review statutes and those provisions of subdivision control statutes which provide for automatic approval resulting from the failure of the Planning Board to act within a certain time frame was considered by the Appellate Division of the New York Supreme Court in *Sun Beach Real Estate Development Corp. v Anderson* (98 A.D. 2d 367 aff'd 62 N.Y. 2d 965). The subdivider's attempts to establish that the subdivision was automatically approved by inaction within the statutory period failed because procedures under the environmental statutes were held to permissibly delay the running of the mandatory time for action.¹⁴ The Sun Beach Decision established the precedent that specific time frames for other mandated municipal review procedures may be interrupted in order to complete the SEQRA process. The court held in Sun Beach that when the planning agency has determined that an environmental impact statement must be filed, the application for the preliminary plat approval is not complete so as to start the running of the mandatory time for action upon the plat until the Environmental Impact Statement has been filed and accepted by the agency as satisfactory in scope and content. In effect, this means that in most cases the Town Law review clock should not be started until either a Negative Declaration or a Draft Environmental Impact

¹⁴Law of Zoning and Planning, 65-36

Statement has been accepted by the Planning Board or Lead Agency. This holding has consistently been followed by other courts.¹⁵

SEQRA has been established by the courts to be an integral part of the subdivision review process. Town Law states that the time frame begins upon the submission of a preliminary plat. However, it does not establish what the submission of the preliminary plat includes. The Town Law, and consequently, local subdivision regulations should define what the "submission of a preliminary plat" consists of. This definition should include reference to SEQRA as detailed above. It should be stated that only when a complete "submission of preliminary plat" has been received will the time frames set forth be in effect.

Suffolk County Planning Commission Review

General Municipal Law Section 239-n requires Towns and Villages in

Suffolk County to refer proposed subdivisions that lie wholly or partly within 500 feet of certain areas (for example, the town boundary, a county right-of-way, a water body) to the Suffolk County Planning Commission for review. The Planning Commission is authorized to review these subdivision plats, and to adopt such rules and regulations as are necessary to perform this function. These rules and regulations are to be in accordance with the requirements set forth in the sections of the Town Law which pertain to subdivision control.

The Planning Board is required to refer proposals to the County upon receipt of an application for preliminary approval. The Suffolk County Rules and Regulations state that the Planning Commission will take action

¹⁵Environmental Impact Review in New York, Section 3.12[4][a]

on a proposed subdivision, either to approve, disapprove, or approve it subject to conditions, within forty-five days after receipt of a complete referral. Until December 1988, planning boards within Suffolk County were not required to refer proposed subdivision plans to the Suffolk County Planning Commission until the final stages of the subdivision process. In December 1988, the Suffolk County Department of Planning, in an effort to adhere to the requirements of the Suffolk County Administrative Code and the Suffolk County Charter, amended the Suffolk County Department of Planning Informational Bulletin Number 9, which pertains to the Rules and Regulations for the Referral of Proposed Subdivision Plats to the Suffolk County Planning Commission, to require that proposed plans be submitted at the preliminary stage.¹⁶

If a plan receives approval by a municipality without referral to the Planning Commission, the proposed subdivision may be deemed null and void. The regulations contained in Informational Bulletin Number 9 do not specify whether this approval refers to a municipality's preliminary approval or final approval. However, the preface to these regulations state that it is the purpose of the Suffolk County Planning Commission to provide input at the beginning of the subdivision planning process rather than at the end when costly design and review has been all but completed. Because the regulations specify that the plan is to be submitted to the Commission upon receipt of the preliminary plat, preliminary approval should not be granted until receipt of the Commission's review. If preliminary approval were to be granted prior to receipt of this review, it would be in direct conflict with the preface of the regulations, in that the Commission's input would be incorporated at the end of the review process rather than at the beginning.

¹⁶Suffolk County Department of Planning Informational Bulletin No. 9

Suffolk County Planning Commission - Time Frames

If strictly adhered to, the time frames set forth in the Town Law and in the General Municipal Law, although not directly conflicting each other, are unrealistic. The Town Law allows the Planning Board 45 days from the receipt of the preliminary submission to hold a hearing. The General Municipal Law allows the Planning Commission 45 days from receipt of a complete referral to make a decision. The Planning Board is responsible for referring the preliminary plat to the Planning Commission. This means that even if the Planning Board mails the preliminary plan on the same day it is received (an unrealistic occurrence for any busy Planning office) the time it takes for the mail to reach the Planning Commission and the additional time it takes for them to mail their report back, will cause the Planning Board's 45 day time period to be exceeded. Thus, in all likelihood, the Planning Board would be holding a preliminary hearing without receipt of the Planning Commission report.

The courts have recently clarified this time frame discrepancy. In *King v. Chmielewski* [76 N.Y. 2d 182 (1990)] the Court of Appeals concluded that the 45 day period mandated by Town Law, within which a Planning Board must act, does not begin to run until referral is made to the County Planning Agency and either that agency has acted or their time period for acting has expired.

Review by the Suffolk County Planning Commission is an integral part of the subdivision review process in Suffolk County. Town Law states that the Planning Board must set a preliminary hearing within 45 days of receipt of the preliminary plat, and must make a determination on the preliminary plat within 45 days from the date of the public hearing. As stated in the preceding section, the Planning Board may not be able to obtain

a review from the County within this time frame. Town Law and the local subdivision regulations should incorporate the time frame for the County's review.

Suffolk County Department Of Health Services

In addition to subdivision approval by the local planning board, the subdivider must obtain approval of the Suffolk County Department of Health Services. This is to insure adequate water supply and sewage facilities in subdivisions to protect the public's health, safety and welfare.

Southold Town does not have the infrastructure to provide public water and sewer to the entire town. Public water is available in the neighboring Village of Greenport. Greenport has a franchise area which incorporates some of Southold Town. The Suffolk County Water Authority is responsible for providing public water to the remainder of the Town. The Authority runs only two water systems within the Town. Individual wells provide the source of potable water for most areas. Sewage disposal is available in only a very limited area within and adjacent to the incorporated Village of Greenport, therefore individual septic systems are used throughout the majority of the Town.

Approval from the Suffolk County Department of Health Services must be received before the Planning Board can grant final subdivision approval. The Health Services' review is coordinated with that of the Planning Board. For example, the Planning Board will be making a determination under SEQRA as to whether or not the proposed project will significantly effect the environment. The Health Services Department will not grant their approval until they have received a SEQRA determination from the Planning Board. Also, the Health Services Department bases its determination of approval on the number of lots and the size of the lots. If the

number changes, or the size of the lots is reduced to below 40,000 square feet, the proposal has to be re-reviewed by the Health Services Department. The Planning Board does not oversee the procedures for obtaining Health Department approval. It is the subdividers responsibility to obtain the Health department approval. As stated previously, the health department approval must be obtained within the time frames set by Town Law. Therefore, it is important that the subdivider proceed with the health department application in a timely fashion. Because Southold Town does not provide public water and sewers, there may be subdivision proposals for pieces of land that do not contain potable water or that may require more detailed, time consuming testing. Therefore, in practice, many subdivision proposals are "held up" because of the difficulty in receiving Health Department approval. The time frames set in Town Law do not specifically allow for extensions of time where a subdivider has diligently pursued health department approval, but has exceeded the time limits set forth. This should be accounted for in the State's enabling statutes for subdivision regulations.

CHAPTER 3

THE SUBDIVISION OF LAND IN SOUTHOLD TOWN

The Southold Town Board, on September 26, 1967, adopted Chapter A106, entitled the Subdivision of Land (hereafter referred to as the Subdivision Regulations). Within this chapter, the Town Board authorized and empowered the Planning Board to approve subdivision plats, with or without streets, within the limits of the Town.

The Subdivision Regulations have been amended since the time of their adoption, however, there has never been a revision to the document as a whole. The piecemeal additions and deletions have resulted in a document open to varying interpretations and containing conflicting, and often contradictory sections, both within the Subdivision Regulations and between other chapters of the Town Code. A copy of Chapter A106, the Subdivision of Land is in Appendix A.

This chapter addresses some of the major problems with the current subdivision regulations. It addresses the regulations in general rather than by particular section. It also discusses the procedures followed by the Planning Board, and by other agencies and Town Departments during the subdivision review process, and how these procedures are, or are not contained in the regulations. The next chapter will present the revised subdivision regulations, along with a more detailed and section specific commentary.

Organization and Lack of Information

The Subdivision Regulations do not contain all of the information, procedures and regulations which may be required or followed throughout the subdivision review process by the Planning Board. The subdivider must

refer to other sections of the Zoning Code, particularly the Cluster Ordinance and the Highway Specifications, and other State and County laws and regulations to find all of the requirements of the subdivision process. The average applicant cannot understand the Planning Board's procedures. Further, the purchaser of the Subdivision Regulations is not getting all the information which is needed to proceed with a subdivision application. This requires that the Planning Staff and Planning Board continually inform the subdivider as to the procedures and requirements, many of which are not clearly confirmed in the Subdivision Regulations.

Cluster Provisions

Section 281 of Town Law allows the Town Board to authorize the Planning Board to modify applicable provisions of the zoning ordinance, "to enable and encourage flexibility of design and development of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands."¹ The Planning Board's power to modify the zoning ordinance is subject to several conditions, one of which is that the permitted number of building plots or dwelling units shall not exceed the number of lots allowed if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning ordinance applicable to the district in which the

The provisions of Section 281 are incorporated into Southold Town's Zoning Code in the Cluster Development section. This section requires clustering on all lots of ten or more acres in all residential zones. Although the Planning Board is authorized to review subdivision proposals by the 'Subdivision of Land' chapter, the cluster provisions are contained in the

¹Town Law, Section 281

Zoning Code. Most major subdivisions that the Planning Board reviews are on parcels greater than 10 acres, and are therefore required to be clustered. This means that the provisions of the cluster section must be followed. However, there is no mention of the cluster provision in the subdivision regulations! The cluster provisions should be included as a section of the Subdivision Regulations.

Highway Specifications

The specifications for drainage and other required public improvements such as roads, street trees, and lights are spelled out in detail in other sections of the Code, but are only generally mentioned in the Subdivision Regulations. There is a section in the subdivision regulations pertaining to street design. There is also a section of the Town Code entitled Highway Specifications which addresses some aspects of street design. The two sections are not clear, and often contradict each other. The road requirements, both current and proposed, will be further described in the proposed regulations section. The subdivision regulations should contain all parts of the highway specifications that are applicable to subdivisions. There should not be two sections containing partial, or conflicting requirements.

Ambiguous Definitions and Requirements

As described in the next sections, the Planning Board's classification of type of subdivision and the requirements for each type are not clearly outlined in the regulations. Design requirements are either missing, contradictory, or not clear. Justification for many of the Planning Board's policies is found in definitions for other sections of the Town Code.

Planning Board's Classification of Subdivisions

The Planning Board reviews four different kinds of subdivision proposals; major subdivisions, minor subdivisions, set off proposals, and lot line changes. A major subdivision is defined as: "All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of five or more lots, or any subdivision requiring the construction of a new street or the extension of municipal facilities." A minor subdivision is defined as: "Any subdivision containing not more than four lots fronting on an existing street or not requiring the extension of municipal facilities, and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map or Zoning Ordinance, if such exists, or these regulations." A set off is defined in the definition of subdivision. It says that the term "subdivision" shall not include the setoff or creation of a single lot from a parcel of land, provided that before any such setoff or creation shall take place, the owner shall submit such proposal to the Planning Board for its approval and determination of whether such setoff or creation constitutes a subdivision. It then goes on to list eight general requirements to assist the Planning Board in making its determination. A lot line change is not defined in the regulations.

Although the definition of major subdivision includes any subdivision requiring the construction of a street, the Planning Board has traditionally been processing most subdivision proposals of less than 4 lots as minor, rather than major subdivisions. The major difference between the two procedures is that the Board, holds only one public hearing for a minor subdivision. The code should be changed so that all 4 lot subdivisions are classified as minor subdivisions.

The "set-off" procedure was originally added to the subdivision regulations to allow a farmer to "set-off" a parcel of land for himself, or for his relatives, or to be able to sell off one lot for income to maintain the farm. The definition of "set-off" is general and the Planning Board now interprets it to encompass any subdivision whereby a lot, conforming to the minimum requirements of the zoning district is created, leaving a much larger lot, or where there exist two dwelling units on one lot and the proposal is to create two lots, each to contain one of the existing dwelling units. This policy is not clearly defined in the subdivision regulations, and is open to much interpretation. A subdivision of land, even if only "setting-off" one lot can set the stage for future subdivisions. For example, if a set-off is created whereby proper access is not left to the remaining parcel, this can limit how the parcel can be subdivided in the future. It is important therefore, that the Planning Board do a detailed review of all subdivision proposals.

The subdivision regulations also do not set forth a procedure for review of a set-off. The Planning Board currently reviews a set-off in the same way it does a minor subdivision. The regulations should clarify this by requiring that a set-off be processed in the same manner as a minor subdivision and not be a separate classification. However, taking into consideration that most two lot subdivisions are not, in actuality, a "development" a reduced application fee should be established for those two lot subdivisions, that for all intended purposes, fulfill the original intent of a "set-off". This fee structure will be further detailed in the Application Fee section.

The procedures, and requirements for a Lot Line change should be included within the subdivision regulations. The Planning Board should not be processing applications without a detailed list of requirements in the subdivision regulations.

Design Requirements and Standards

The subdivision regulations contain a section on design standards. This section is unorganized. It contains information that is also addressed in other sections and it does not include many of the standards which are used by the Planning Board. The Planning Board has established numerous policies in regard to design standards and requirements. These are neither reflected in the Design Standards section of the Subdivision Regulations nor in any other section of the Regulations.

The Planning Board requires conservation easements, scenic easements, and buffers in certain situations. However, where these will be required, and the terms for such areas are not addressed. Since the Planning Board frequently imposes such restrictions, they should be defined.

The Planning Board in some cases requires flag lots and/or common driveways. The requirements for such design are not addressed, and are therefore left open for interpretation. These design methods should be addressed in the Subdivision Regulations.

Coordination Procedures

The subdivision regulations do not adequately set forth the procedures that will be followed by the Planning Board. The time frames for these procedures, and the times at which referrals will be made to other agencies or Town Departments are not clarified in the regulations. General referrals will be addressed below. The specific referral procedures will be detailed in the proposed subdivision regulations.

Wetland Review

Due to the fact that Southold Town is surrounded by water, there are many wetlands, both tidal and fresh located throughout the Town. The Planning

Board refers all proposals involving wetlands, either on, or adjacent to the subject property, to the Board of Town Trustees for review.

The Planning Board can not make any final determinations on a subdivision proposal on which wetlands are located, without a review from the Trustees. The Trustees are elected officials, but not full time employees. Although knowledgeable about wetlands, the Board is not composed of wetland experts. The Board has thus hired an outside consultant to assist them in their review of the wetlands.

The Trustees review of subdivision proposals is not directly mentioned in the subdivision regulations. Thus, the average subdivider is not aware that such review will be required. The subdivision regulations should state that the Planning Board will be referring subdivision proposals to the Board of Trustees if wetlands are located on or adjacent to the subject parcel.

In addition, the coordination procedures between the Planning Board and the Town Trustees for wetland review should be included in the Subdivision Regulations. Time frames should be set so that the Trustee review is completed within the time frames mandated by Town Law.

Engineering and Drainage Review

In order to assure that the drainage for new developments is designed correctly, all plans must be reviewed by an engineer. In addition, where a bond estimate is required, although it is prepared by the subdivider, it must be reviewed by the Town to see that it has been prepared in conformance with the final drainage plan and that it contains all required improvements. Because the Town does not have an Engineering Department, all plans must be forwarded to a consulting engineering firm, or to the Road Inspector who works for the Highway Superintendent. Although the Town Law allows for such review of the drainage and bond estimate, the time frames set forth

not take into consideration the time it takes for coordination with outside consultants. The Planning Board members themselves do not have (and are not required to have) the expertise to review the drainage. Therefore, in order to protect the public health and welfare, the Planning Board must refer the plans to an outside consultant. The subdivision regulations should be rewritten so as to include time frames for the engineering review and for review of the bond estimate, as well as to advise the subdivider that such review will take place.

Approvals for Access to Proposed Subdivisions

The Planning Board can not approve a subdivision unless there is adequate access to all lots. If only a part of the subdivision has access to an existing street, the Planning Board will require that a road be built in conformance with a set of Town Standards to provide access to all proposed lots. However, if the subdivision fronts on a State or a County Road, approvals from the State Department of Transportation or County Department of Transportation may be required. If the subdivision does not front directly on an existing street, a 280-a variance from the Zoning Board of Appeals may be required.

Town Law, Section 280-a requires that before a building permit is issued, all lots must have access either to an existing street, or to one previously approved by the Planning Board. If the parcel to be subdivided does not have such access, a subdivider must appeal to the Zoning Board of Appeals for a variance to this section. Although Section 280-a addresses building permits, and not the creation of lots, the Planning Board requires this access approval prior to granting subdivision approval. The Planning Board requires this approval because if the access is not approved for some reason,

the Planning Board would then have created a subdivision with landlocked, and thus unbuildable lots.

Where applicable, the subdivider is responsible for supplying the curb cut approvals from the State or the County, and the 280-a access approval, prior to final subdivision approval. The subdivision regulations should clearly state that such approvals may be required prior to endorsement of the subdivision.

Summary

Subdivision Regulations perform many functions; they play a part in controlling and shaping the growth of community, they establish the basis for the Planning Board's review, and they set forth the information that will be required by the subdivider, and the procedures that will be followed by the Planning Board. If the Subdivision Regulations are not clear, the basis for the Planning Board's requirements will not be clear to the subdivider. If the Planning Board does not have its policies confirmed in the regulations, the Board will neither have a basis to insure that subdivisions will provide the improvements which are required for the public's health, safety and welfare, nor will they be able to require that subdivisions are designed so that they shape the development in a manner that will be consistent with the goals of the Town.

The preceding sections describe only the general problems with the existing regulations. There are more specific problems which will be addressed in the Proposed Subdivision Regulations in the next chapter.

As seen from the analysis, the Subdivision Regulations can be revised to conform to the current practices, policies and design standards required by the Planning Board. They can also be amended to reference the additional

approvals and requirements which may be necessary from agencies other than the Planning Board.

CHAPTER 4

PROPOSED SUBDIVISION REGULATIONS FOR SOUTHDOLD TOWN

This chapter contains the proposed revisions to the subdivision regulations. The document is presented as a complete revision to the existing Subdivision of Land Chapter.

The structure of the existing regulations has been changed in the revised document. However, some sections from the existing regulations are used verbatim in the proposed regulations. These sections are presented with "plain" text. Sections which do not exist in the current regulations, or sections which contain wording that has been significantly changed, are underlined. Additional explanation and/or commentary is also presented throughout the document. This is presented in *italics*.

The proposed regulations will be presented to the Town. Although the Planning Board has the power to amend the Subdivision of Land Chapter of the Code, many of the proposed revisions involve other sections of the Code that are within the jurisdiction of the Town Board. The document will first be presented informally to the Planning Board. Upon endorsement of the Planning Board, it will be presented by the Planning Board to the Planning and Zoning Committee and the Legislative Committee. These Committees are made up of Town Board members and members of different Departments in the Town. Upon endorsement from these committees, the document will be formally presented to the Town Board. A public hearing will be held to present the revised document. It is likely that a joint public hearing will be held between the Town Board and the Planning Board because the proposal will revise both the Subdivision Regulations and the Town Code. After the hearing, the Boards will determine whether to accept

the revised document. If it is adopted, it will then be filed with the state and will take the place of the existing Subdivision of Land Chapter of the Town Code.

The above mentioned process is beyond the scope of this study. The proposed Subdivision Regulations contained in this document are a cumulation of review of the laws governing subdivision controls, review of information regarding all aspects of subdivision review processes, and review of Subdivision Regulations from other Towns. It is certain that revisions will take place during review by the public, the Town Board and the different committees. However, these revisions, for the most part, will be beyond the control of this author.

ARTICLE (I)
General Provisions

Section (1) Authority of Planning Board

By the authority of the resolution of the Town Board of the Town of Southold adopted on September 26, 1967, pursuant to the provisions of Article 16 of the Town Law of the State of New York, Chapter 63 of the Consolidated Laws of New York, the Planning Board of the Town of Southold is authorized and empowered to approve plats, with or without streets, for subdivisions within the limits of said Town.

Section (2) Declaration of Policy

It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the town. This means, among other things:

- A. That 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. That proper provision shall be made for drainage, water supply, sewage and other needed improvements.
- C. That all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties.

- D. That the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Comprehensive Town Plan, as may be in existence from time to time, and shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection and to provide access of fire-fighting equipment to buildings.
- E. That proper provision shall be made for open spaces, including parks and playgrounds.
- F. That a proper relationship be maintained between the proposed subdivision and the general land form, topography and geologic character, natural drainage and groundwater recharge.¹
- G. That flexible subdivision design be encouraged to promote the planning objectives of the Master Plan, to realize development and maintenance economies and to provide for a variety of housing types.
- H. That provision be made for such facilities as are desirable adjuncts to the contemplated use, such as parks, recreation areas, school sites, firehouses, fire wells and off-street parking.

¹This addition, and the additions below are adapted from RPPW's Proposed Subdivision Regulations.

- I. That priority be given to preservation and protection of such natural resources and assets as lakes, ponds, streams, tidal waters, marshes, freshwater wetlands, beaches, dunelands, steep slopes, bluffs, prime agricultural soils, flora, fauna, general scenic beauty and historic features of the Town.
- J. That adequate provision shall be made to conserve the natural beauty of the Town.
- K. That detailed review shall be afforded to development plans for waterfront property.
- L. That future development shall bear a fair share of capital costs to the Town of municipal improvements necessary to service such new development.

Section (3) Short Title; Adoption

In order that land subdivisions may be made in accordance with this policy, these regulations, which shall be known as, and which may be cited as, the "Town of Southold Land Subdivision Regulations", have been adopted by the Planning Board on _____, and approved by the Town Board on _____.

Section (4) Definitions

The existing definition section has been amended to eliminate terms which are either not used in the Subdivision Regulations, or are also defined within the Subdivision Regulations. Many of the existing

definitions conflict with the text contained within the Subdivision Regulations due to the piecemeal additions which have taken place over the years. In addition, new definitions have been added where appropriate.

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

BOND:

- A. MAINTENANCE BOND - A personal bond executed by the subdivider with security acceptable to the Town Board, furnished by the subdivider to guarantee workmanship, materials and maintenance of all required improvements for a period of one (1) year from the date of release of the performance bond by the Town.

- B. PERFORMANCE BOND - A personal bond executed by the subdivider, with security acceptable to the Town Board, posted by the subdivider to ensure the completion of the public improvements in accordance with an estimate approved by the Town Engineer.

CLUSTER SUBDIVISION - A subdivision designed in accordance with the provisions of Section 281, Town Law, and Article (V), in which the lot size is reduced in order to achieve a better design, reduce the length of road, reduce infrastructure, preserve open space and protect the environment; or in which lot requirements have been modified; and in each case without resulting in an increase in density of the site.

CONDITIONAL APPROVAL OF A FINAL PLAT - Approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of County Clerk of Suffolk County. [Added 5-8-73]

CUL-DE-SAC - A street terminating in a vehicular turnaround area.

DRAINAGE FACILITY - Any structure, component, element or appurtenance that constitutes part of a system for collecting and disposing of surface or subsurface water, including ditches, swales, gullies or other depressions in the earth, whether or not man-made.

EASEMENT - A restriction or grant established in a real estate deed to permit the use of private land by a public agency, a public utility, a corporation or particular persons, for specified purposes, or to protect some special quality of the private land for specified purposes, such as scenic easements.

FINAL PLAT - A drawing prepared in a manner prescribed by these regulations, showing a proposed subdivision and containing, in such additional detail as shall be provided by these regulations, all information required to appear on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of a preliminary plat of such proposed subdivision if such preliminary plat has been so approved. [Amended 5-8-73]

FINAL PLAT APPROVAL- The signing of a final plat by a duly authorized officer of the Planning Board after a resolution granting final approval of the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the Suffolk County Clerk's office. [Added 5-8-73]

LOT - The unit or units into which land is divided either as undeveloped or developed sites, regardless of how they are conveyed. "Lot" shall also mean "parcel," "plot," "site," or any similar term.

LOT LINE AMENDMENT - A change to a lot line in any approved or recorded subdivision plat, or in any map or plan legally established prior to the adoption of any regulations controlling subdivision, whereby the proposed change does not create any additional lots.

MAJOR SUBDIVISION- See Subdivision, Major

MASTER OR TOWN PLAN - A plan for the development of all or portions of the Town of Southold, prepared by the Planning Board pursuant to Section 272-a of the Town Law, which plan indicates the general locations recommended for various public works, places and structures and the general physical development of the town, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts therein.

MEAN HIGH WATER - Average height of high waters datum reported by the U.S. Geological Survey.

MEAN LOW WATER or MEAN LOW TIDE - Average height of low waters datum reported by the U.S. Geological Survey.

MINOR SUBDIVISION - See Subdivision, Minor

OFFICIAL MAP - The map established by the Town Board pursuant to Section 270 of the Town Law, showing streets, highways, parks and drainage rights- of-way, both existing and proposed.

PLANNING BOARD or BOARD - The Planning Board of the Town of Southold, Suffolk County, New York.

PRELIMINARY PLAT - A drawing prepared in the manner prescribed by these regulations, showing the layout of a proposed subdivision, including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, wetlands, waterbodies, bluffs, including preliminary plans and profiles, at suitable scale and in such detail as these regulations require. [Amended 5-8-73]

PRELIMINARY PLAT APPROVAL - Approval by the Planning Board of the layout of the proposed subdivision as set forth in a preliminary plat, but subject to the approval of the plat in final form in accordance with the provisions of Section 276 of the Town Law. [Added 5-8-73]

PRESUBMISSION CONFERENCE - A meeting of the subdivider and planning staff and/or Planning Board, to enable the subdivider to save time and expense by reaching a general agreement with the Planning Board and

with the staff as to the general form and layout and the objectives of the subdivision regulations prior to the sketch plan submission.

SKETCH PLAN - A pre-preliminary submission of a proposed subdivision, showing the information specified in these regulations.

STREET - A public or private way for vehicular and pedestrian traffic, whether designated as a street, road, avenue, lane or other way. The term "street" includes land located between right-of-way lines, whether improved or unimproved and may comprise pavement, shoulders, sidewalks, planted strips and parking areas.

SUBDIVIDER or APPLICANT - Any landowner or agent, contract purchaser or other person authorized in writing to act for the landowner who shall layout, for the purpose of sale or development, any subdivision or part thereof, as defined herein.

SUBDIVISION - The division of any parcel of land into two (2) or more lots, blocks or sites, whether or not such division creates new streets or extends existing streets, and includes resubdivision.

A. SUBDIVISION, MAJOR - Any division of land which creates five (5) or more lots, with or without new streets.

A. The existing Subdivision Regulations do not define major and minor subdivisions in this manner. The revised definitions will be described in detail in the applicable sections of the revised document.

B. SUBDIVISION, MINOR - Any division of land which creates no more than four (4) lots, with or without new streets.

TAP STREET - A street designed to provide a connection to possible future development outside the subdivision so that continuity of traffic circulation can be maintained.

TOWN ATTORNEY - The Town Attorney of the Town of Southold, or any duly appointed Assistant Town Attorney.

TOWN ENGINEER - A licensed professional engineer, or engineering consultant firm, retained or employed by the Town of Southold.

WETLANDS:

These definitions are taken from the Wetland Chapter of the Town Code.

A. Tidal wetlands:

- (1) All lands generally covered or intermittently covered with, or which border on waters or lands lying beneath tidal waters, which at mean low tide, are covered by tidal waters to a maximum depth of five (5) feet; including, but not limited to banks, bogs, salt marsh, swamps, meadows, flats or other low lying lands subject to tidal action; and/or

- (2) All banks, bogs, meadows, flats and tidal marsh subject to such tides, and upon which grows or may grow some or any of the following: salt hay, black grass, saltworts, sea lavender, tall cordgrass, high bush, cattails, groundsel, marsh mallow, and low marsh cordgrass; and
- (3) All land immediately adjacent to a tidal wetland as defined in A (2) above and lying within seventy-five (75) feet landward of the most landward edge of such a tidal wetland.

B. Freshwater wetland:

- (1) Freshwater wetlands as defined in Article 24, Title I, 24-0107, Subdivisions 1(a) to 1(d) inclusive, of the Environmental Conservation Law of the State of New York; and
- (2) All land immediately adjacent to a freshwater wetland, as defined in B(1) above, and lying within seventy-five (75) feet landward of the most landward edge of a freshwater wetland.

ZONING ORDINANCE or ZONING - Chapter 100, The Zoning Local Law of the Town of Southold.

ARTICLE (II)

Procedures and Required Documents

Section (5) General Requirements

These regulations are established to require that every person or corporation, who, as owner or agent, subdivides real property into lots, plots, blocks or sites with or without streets, regardless of how they are conveyed or for what kind of land use they are intended, shall apply to the Planning Board for approval of such proposed subdivision, and shall receive such approval in accordance with the requirements and pursuant to the procedures set forth in these regulations.

The existing regulations do not present the fact that every land division must come before the Planning Board for approval. The above paragraph clarifies this.

The existing regulations do not include Letters "A", "B", and "C" below. These sections are proposed to give the average reader an overview of the regulations. The procedures and requirements are detailed in the particular sections of the Subdivision Regulations.

A. Familiarization with regulations.

Prior to filing an application, the subdivider shall familiarize him/her self with these subdivision regulations and the Zoning Ordinance of the Town of Southold. These are available, at a cost, at the office of the Town Clerk.

B. Compliance with regulations.

- (1) All applications, all procedures and all specifications relating to subdivisions shall conform in all respects to the provisions of these regulations unless otherwise authorized by the Planning Board in accordance with Article (IX).**
- (2) The Planning Board shall not approve with modifications and/or conditions any application for a proposed subdivision of land unless all buildings, structures and lots shown on said plan comply with the Zoning Ordinance of the Town of Southold or unless a variance from the terms thereof has been granted by the Board of Appeals, or by the Planning Board as authorized under provisions of Section 281 of Town Law.**

C. Referrals to be made by Planning Board

- (1) As described in detailed in the applicable sections of the Subdivision Regulations, the Planning Board shall refer applications for subdivision approval to the Town Engineer, an outside Engineering Consultant, the Superintendent of Highways, the Board of Town Trustees, the Conservation Advisory Council, the Building Department, an outside Environmental Consultant, the New York State Department of Transportation, the Suffolk County Department of Public Works, the Soil and Water Conservation Authority, or any**

Conservation Authority, or any other outside consultant or local agency, for review.

- (2) All land located within the Board of Trustees jurisdiction shall be forwarded to that Board for review;
- (3) The Planning Board shall process all applications in accordance with the rules and regulations of the New York State Environmental Quality Review Act.
- (4) Matters to be referred to the Suffolk County Planning Commission.

The subdivision regulations do not advise the subdivider that the Planning Board will be referring applications to the Suffolk County Planning Commission for review. This proposal spells out exactly when an application is referred, and the procedures for such review. If the Planning Board does not properly refer an application to the Planning Commission, an approval could be deemed null and void.

- (1) Any subdivision, or resubdivision which would affect any property lying within one mile of an airport or nuclear power plant, or within a distance of five-hundred (500) feet of the following shall be referred to the Suffolk County Planning Commission by the Planning Board for their recommendations. Major

subdivisions shall be referred upon receipt of the preliminary application. Minor subdivisions shall be referred upon receipt of sketch plan approval. The Suffolk County Planning Commission shall respond within 45 days of their receipt of a complete application.

The wording of the above is taken from the Suffolk County Department of Planning Informational Bulletin No. 9, Adopted December 7, 1988.

- (i) The boundary of any village or town;
- (ii) The boundary of any existing or proposed county, state, or federal park or other recreation area;
- (iii) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
- (iv) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;
- (v) The existing or proposed boundary or any other county, state or federally owned land, held or to be held for governmental use;

(vi) The Atlantic Ocean, Long Island Sound, any bay in Suffolk County or estuary of any of the foregoing bodies of water.

(2) If any question arises as to whether or not a proposed subdivision is subject to review by the Suffolk County Planning Commission the proposed subdivision should be referred to the Planning Commission. A determination will be made by the Subdivision Review Division and the referring agency will be notified of the determination.

(3) Suffolk County Planning Commission recommendation.

If the Suffolk County Planning Commission fails to report its recommendations within forty-five (45) days after receipt of a complete application, the Planning Board shall construe such inaction as approval of the proposed subdivision and may act without such a report.

(4) Effect of Negative Report.

If the Suffolk County Planning Commission disapproves the proposed subdivision, or recommends modification thereof, the proposed subdivision shall not be approved except by a vote of a majority plus one of all

all members of the Planning Board and after the adoption of a resolution fully setting forth the reasons for such action.

D. Permits to be obtained by the subdivider

The subdivider shall be responsible for obtaining the following permits:

- (1) Suffolk County Health Department approval or exemption;
- (2) If the parcel is located on a State Road: New York State Department of Transportation approval.
- (3) If the parcel is located on a County Road: Suffolk County Department of Public Works approval.
- (4) Where applicable, a permit from the New York State Department of Environmental Conservation.

Section (6) Presubmission

Prior to the Sketch Plan Submission the subdivider shall be entitled to one presubmission conference with the Planning staff and, if necessary, one additional presubmission conference with the Planning Board at a public meeting. The purpose of this presubmission conference is to enable the subdivider to save time and expense by reaching a general agreement with the Planning Board and with the staff as to the general form and layout and the objectives of the subdivision regulations prior to the sketch plan submission. The presubmission conference shall take place within thirty (30) calendar days from the date of written request thereof.

The current regulations do not have anything called a presubmission conference. However, the Planning staff has been holding what may be termed a presubmission conference upon request of the subdivider. Many subdividers take advantage of this so called presubmission conference, by requesting numerous meetings prior to making a formal application. The proposed revisions allow for one presubmission conference with staff, and if necessary, with the Planning Board. The conference will not be mandatory, however, it will be beneficial as staff can review the entire subdivision process with the subdivider. It will be to the subdivider's advantage to discuss with the planning staff and/or Planning Board, the general layout and the improvements which will be required, so that initial plans and information submitted are in conformance with the regulations.

Section (7) Sketch Plan Submission

- A. The subdivider shall submit the following to the Planning Board Secretary:

(1) A completed Sketch Plan Application Form.

- (1) *At present, the subdivider is presented with an application form that is included in a lengthy application "packet." Much of the information contained in the packet is not relevant at the beginning of the review process. In many cases, especially with major subdivisions, the initial application form is not updated to reflect subsequent changes that are made to the map. The proposed revision will change the application procedure so that it more closely reflects the actual stages of subdivision review. A separate application form will be required for each stage of review. Thus each stage will be prefaced with a clarification as to the current owner, the number of lots, and other pertinent information which may have changed during the time of review. In addition, the time at which a complete submission is received is important for determining time frames for reviews. Requiring a separate application form for each stage of review will aid in making a determination as to when an application is complete.*

(2) A Sketch Plan Application Fee as noted in Article (III).

- (2) *The current code requires the total fee at the preliminary stage for major subdivisions, and at the final stage for minor subdivisions. However, a substantial part of the*

Planning Board's review is done at the sketch plan stage. The proposed revision will require partial payment with the sketch plan application. Town Law allows the Planning Board to require an applicant to pay the reasonable costs of processing the application. The law does not detail when the payments are to be required. Application fees are discussed in detail in the Section pertaining to fees.

- (3) Four (4) copies of the Environmental Assessment Form. The Long Environmental Assessment Form is required for all subdivisions.
- (3) *In most cases the Board does a coordinated review under the State Environmental Quality Review Act, which requires that the environmental assessment form be submitted to different agencies . Requiring 4 copies of the assessment form will eliminate some of the paper work for the office Secretary.*
- (4) A statement in affidavit form setting forth the names and addresses of all persons, corporations, partnerships and associates having an interest, direct or indirect, in the subdivision, and the nature of such interest.
- (5) A statement, in affidavit form, from the owner(s) of the property granting permission for a contract vendee to act on behalf of the owner(s).

- (6) A statement, in affidavit form, from the owner(s) of the property granting permission for an agent to act on behalf of the owner(s).
- (7) A copy of any existing Declarations of Covenants and Restrictions that may effect all, or any part of the parcel being subdivided.
- (8) The deed(s) for the property, including metes and bounds description.
- (9) A copy of any riders to the deed granting rights of access that may effect all, or any part of the parcel being subdivided.
- (10) Twelve (12) copies of the sketch plan of the proposed subdivision prepared in accordance with Section (8) below. Additional maps may be requested if necessary.
- (10) *Twelve copies have been requested because the Planning Board typically forwards plans where applicable to :*
 - (3) *Suffolk County Planning Commission*
 - (2) *Fire Commissioner*
 - (2) *Conservation Advisory Council or Trustees*
 - (1) *Superintendent of Highways or Engineer*
 - (1) *Environmental Consultant*

The three remaining copies are for Planning Board review purposes.

Also, the Board has the right to request additional maps if necessary.

(11) For subdivisions designed in accordance with the Cluster Provisions (Article V), twelve (12) copies of a standard yield plan and twelve (12) copies of the cluster plan, or plans, shall be provided. The standard yield plan shall be used to determine the total lot yield. Both the standard yield plan and the cluster plan shall be prepared in accordance with all requirements of Section (8).

(11) Currently, the Cluster Ordinance is not part of the subdivision regulations. It is a separate section contained within Zoning Code. Although clustering is mandated on parcels larger than 10 acres, the provisions of, and procedures for clustering are not mentioned at all in the subdivision regulations. Yet, the cluster concept is an integral part of the subdivision process. It is important, therefore, that this section be included within the subdivision regulations. In this manner, all options of subdividing a parcel will be contained in the same section. The requirements for clustering will be included in a different section of the Subdivision Regulations. Clustering will be discussed further in that section.

Section (8). Sketch Plan Requirements

A. The sketch plan shall be prepared in the following manner, and shall show the following information:

- (1) It must be based on the town tax map, at a scale of one (1) inch equals one hundred (100) feet. The map size must be eighteen (18) inches by twenty (20) inches or twenty (20) inches by thirty six (36) inches.**

- (1) The Planning Board has been requiring that all plans be prepared at this scale. In this manner, the Board can study plans for adjacent parcels in an efficient manner. Real Property Law, Section 335 , requires that subdivision maps be of the size stated above for filing purposes.*

- (2) It must be prepared, stamped and signed by a licensed land surveyor or engineer.**

- (3) It must be appropriately marked "Sketch Plan of Minor Subdivision", "Sketch Plan of Major Subdivision", or "Yield Plan". The name of the subdivision shall be stated on the map and shall change only if the property has changed owners. No name shall be accepted by the Planning Board if another application exists under the same, or similar name.**

- (4) A key map, at a scale of one (1) inch equals six hundred (600) feet, showing the location of the proposed subdivision and the distance to the nearest existing street intersection.
- (5) A tie line to an existing street.
- (6) The name of the Hamlet, Town and County in which the parcel is located.
- (7) The North point, whether true or magnetic; if magnetic, show the date of reading.
- (8) The Suffolk County tax map number (section, block and lot).
- (9) The zoning district(s); the school district number; the fire district, the post office district, and the census district.
- (10) Name and address of owner, subdivider and engineer or surveyor.
- (11) The name of all adjoining property owners as listed on the town tax map.
- (12) Contours shall be indicated at intervals of not more than five (5) feet. Two foot contours may be required by the Planning Board where drainage or other problems are deemed to exist. Contours at two (2) foot intervals will be required on the preliminary plans for major subdivisions.

- (13) Location of available and proposed utilities and or proposed, mapped or existing streets within two hundred (200) feet thereof. Streets must be labeled as paper, private, or public. Both the right-of-way widths and the pavement widths must be shown.
- (14) The acreage of the entire parcel and of each building zone district within the parcel.
- (15) Notations of all existing restrictions on the use of land, including easements, covenants and restrictions, and rights-of-ways.
- (16) Systems of drainage and land for drainage purposes.
- (17) Test hole data must be submitted for all proposed drainage areas.
- (17) *Test hole data will be reviewed in order to check that the proposed drainage is in an appropriate area, that the soils are suitable for drainage and that the level to groundwater is enough to handle septic systems.*
- (18) Existing buildings and structures located on and within two hundred (200) feet of the site.
- (19) Existing wooded areas.

- (20) Existing wetlands (tidal and fresh), marshes, bogs, swamps, ponds, lakes, streams, kettleholes, or any other water bodies, on the subject property, and within five-hundred feet (500) thereof. The above mentioned areas which are located outside of the property boundary, but are located within five-hundred feet of such property, may be located on the key map.
- (21) Horizontal areas of slopes which exceed a grade of twenty (20) percent.
- (22) Horizontal areas of escarpments, bluffs, or the seaward faces of primary dunes.
- (23) Beaches below mean high water, as defined by the United States Coast and Geodetic Survey.
- (24) The Coastal Erosion Hazard Line if the subject property is adjacent to Long Island Sound.
- (25) The one hundred (100) year floodplain as designated by the Federal Emergency Management Agency.
- (26) Any other significant physical feature(s) not listed above, within the area to be subdivided and within two hundred (200) feet thereof.

(27). The proposed lot and street layout. Dimensions and areas of all proposed lots must be shown. The layout must be in accordance with the design standards as described in Article VI.

Section (9) Study of Sketch Plan

- A. If wetlands of any kind are located on the subject property, or if the Planning Board suspects that wetlands may be located on the subject parcel, the map shall be referred to the Board of Town Trustees for review. No action shall be taken by the Planning Board on the sketch map until written receipt of a report from the Board of Town Trustees.
- A *This is presently a policy of the Board. However, this policy is not clearly stated in the Code. The Trustees have jurisdiction over Town owned underwater land, wetlands and the area within seventy-five (75) feet of these areas. Thus, the Planning Board must refer certain plans to this Board for review.*
- B. The Planning Board may require temporary staking of the center line of all proposed roads in order to facilitate field inspection and review of the site prior to a determination on the sketch map. The Board shall notify the subdivider when staking is required.
- C. A Chain of Title may be required where in the opinion of the Planning Board there is a question as to ownership or single and separate status.

- D. The Planning Board shall determine whether a subdivision sketch plan meets the purposes of these regulations. Any changes to be made on the proposed subdivision map required by the Planning Board shall be submitted, in writing, to the subdivider. All such changes shall be incorporated in the subdivider's next submission to the Planning Board.

Section (10) Action on Sketch Plan

- A. When the Planning Board has determined that the sketch plan submission meets the purposes of the subdivision regulations, when the submission is complete and when all items as contained in these regulations, and those items requested by the Planning Board are presented appropriately on the map, the application shall be scheduled for the next Planning Board meeting for a sketch determination. At this meeting, the State Environmental Quality Review process, if it has not already been initiated, shall be initiated. The applicant shall be notified of the scheduled meeting at least five business days prior to the meeting, and shall be notified in writing, within five business days, as to any determinations made at the meeting. The sketch plan can be modified or revised at the Planning Board's request during preliminary or final plan processing. However, this plan shall be considered as meeting the minimum requirements for development subject to the findings of the environmental review.
- B. The subdivider must make either the preliminary submission for major subdivisions, or the final submission for minor subdivisions within six (6) months after the date of the Planning

Board's sketch, or conditional sketch approval. Failure to do so shall automatically terminate the application.

Section (11) Minor Subdivision Final Submission

- A. Within six months after the date of the Planning Board's sketch, or conditional sketch approval, the subdivider shall submit a complete Final Submission as described in Subsection "B" below. If such plan is not so submitted, approval of the sketch plan shall be revoked by the Planning Board by resolution at a public meeting. No Planning Board action will be taken after such revocation until a new Sketch Plan Submission is submitted.
- B. The final plan submission shall be considered complete and officially submitted only when the following have taken place and/or have been submitted complete and in good form:
- B. *Town Law, Section 276, states that the Planning Board shall hold a hearing on the final map within 45-days of submission unless the final hearing has been waived. However, in Southold, the minor subdivision process does not provide for a preliminary review stage. Therefore, the final hearing will not be waived. However, the Law does not specify what a final submission consists of. It just states that maps must be submitted in "final form." Thus, local subdivision regulations should define the term "final form" in order to determine when the time frame begins.*
- (1) A completed Minor Subdivision Final Plan Application Form.

- (2) A Minor Subdivision Final Application Fee as noted in Article (III).
- (3) Where applicable, four (4) copies of the drainage designs, grading plans and street profiles, all prepared in accordance with Article (VI). In addition, a draft bond estimate for all required improvements prepared in accordance with the Draft Bond Estimate Form and Unit Price Form both of which are available at the Planning Board office.
- (4) Twelve (12) copies of the Final Plan prepared in accordance with Section (12) Minor Subdivision Final Plan.
- (5) A Negative Declaration has been issued pursuant to the State Environmental Quality Review Act (SEQRA), if the Planning Board has determined that the development of the subdivision will not significantly affect the environment.
- (6) A Draft Environmental Impact Statement has been accepted pursuant to the State Environmental Quality Review Act (SEQRA), by the Planning Board as satisfactory in scope and content, if the Planning Board has determined that the development of the subdivision might significantly affect the environment.
- (7) The subdivider has erected a sign(s), and submitted an affidavit stating that the sign(s) have been erected on the

subject parcel Such signs shall be displayed on the parcel upon which the application is made, facing each public street on which the property abuts, giving notice that an application has been made to the Planning Board for subdivision approval. The sign shall not be located more than ten (10) feet from the street line and shall not be less than two (2) nor more than six (6) feet above the natural grade at the street line. The sign(s) shall be available at the Planning Board Office, and only such sign(s) shall be used.

- (7) *The present code does not require this type of advertising. However, as per Town Law, the Planning Board may advertise a hearing in such manner as it deems most appropriate for full public consideration of the preliminary plat. If possible, the poster should state the date of the final hearing. If not, it should at least state that hearing dates will be posted in the local papers. The purpose of the poster will be to alert the public to an application which is before the Planning Board in the early planning stages. Under the current practice, the public is not made aware of the hearing until it is advertised in the paper, just five days prior to the hearing date.*
- (8) The subdivider shall submit a letter from each public utility company whose facilities are proposed to be installed in the proposed subdivision. The subdivider shall be required to install, or to cause to be installed, the

underground service connection to the property line of each lot. Such letter shall include a statement as to the availability of such utility so that service will be available when required.

- (9) Where applicable, letters directed to the Chairman of the Planning Board, signed by a responsible official of the New York State Department of Transportation or the Suffolk County Department of Public Works, approving proposed construction on state or county rights-of-way and indicating that the necessary permits will be issued upon submission of the appropriate permit fees.
- (10) If 280-A access approval is required from the Zoning Board of Appeals, such approval must be obtained and submitted to the Planning Board.
- (11) Where applicable, draft documentation for all properties to be offered for dedication and conveyed to the Town.
- (12) Where a Homeowners Association is required, a draft of such Association, prepared in accordance with all requirements of Article (V).
- (13) A draft of any Declaration of Covenants and Restrictions which has been required by the Planning Board. If the subdivision proposal is to be reviewed by the Suffolk County Planning Commission, the Declaration of Covenants and

Restrictions will not be required until receipt of the report from such Commission.

(14). The items listed in Subsection 14 (a) and 14 (b) below, shall be required before the final plan shall be considered complete and officially submitted. However, the Planning Board may grant a six (6) month extension of sketch plan approval upon written request from the subdivider, only if the items listed below are the sole items outstanding.

(a) At least one (1) mylar final subdivision map containing a valid signature and approval by the Suffolk County Department of Health Services, or where applicable, must contain a stamp of exemption from that Department.

(a) *Town Law does not specify exactly when maps with Health Department approval must be submitted. It is essential that Health Department approval be obtained before final approval of the subdivision is granted, especially since most land being subdivided in this Town does not have access to public water or sewer.*

The time it takes a subdivider to obtain Health Department approval varies. In some cases a variance is required and the application must go through an appeals process. However, this section allows for an extension of sketch approval if the

subdivider can prove that he/she is diligently pursuing an application before the Health Department, and provided this, and perhaps (b) below, are the only outstanding items for final plat submission.

- (b) One (1) certified copy of the Greenport Utility or other water or sewer district contract indicating that mains will be installed and water will be transmitted to the subdivision and that a sewerage hookup will be permitted, if public water and/or sewers are to be provided.

Section (12) Minor Subdivision Final Plan Requirements

A. The final plan shall be prepared in the following manner, and shall show the following information:

- (1) All information required to be shown on the sketch plan.**
- (2) The layout shown on the sketch plan including any modifications made by the Planning Board.**
- (3) The subdivision name and the phrase "Minor Subdivision Final Plan".**
- (4) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed engineer or**

land surveyor. The corners of the tract shall also be located on the ground and marked by substantial stone monuments or concrete monuments and shall be referenced and shown on the plan. The distance to the nearest street intersection and the number of the nearest telephone pole number shall be shown.

- (5) The location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- (6) Contours at intervals of two (2) feet.
- (7) Elevations of existing roads.
- (8) The approximate location and size of all proposed water lines, valves, hydrants and/or firewells, and sewer lines; connections to existing lines or alternate means of water supply or sewage disposal and treatment, as provided in the Public Health Law; and profiles of all proposed water and sewer lines.
- (9) Building envelopes and driveway locations for all lots as required in Article (VI).
- (10) The names of all proposed streets. Streets shall have names and not numbers or letters (such as "1st", "First" or "A" Street. Proposed street names shall be substantially

different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than ninety (90) degrees without a change in the street name.

Section (13) Study of Minor Subdivision Final Plan

- A. The Planning Board shall study the practicability of the Final Plan by taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, particularly their relationship to the topography of the land, the water supply, the sewage disposal, the drainage, the lot sizes and their arrangement, the future development of adjoining lands and the requirements of the Master Plan, the Official Map and Zoning Ordinance.
- B. The Planning Board shall forward one set of maps and the bond estimate to the Town Superintendent of Highways, the Town Engineer, or other duly appointed reviewer, for review. The Engineer shall review the final drainage plans, grading plans street profiles and performance bond estimate and shall request revisions where appropriate. He shall deliver the approved or revised bond estimate to the Planning Board along with his approval and/or recommendations on the drainage plan and street profiles within thirty-five (35) days of receipt. Failure to respond within the thirty five (35) day time period will not result in

a default of review. However, this will not cause the Planning Board to delay the scheduling of a final public hearing within the allotted forty-five (45) day time period.

- C. The draft Homeowner's Association, the draft Declaration of Covenants and Restrictions, and any offers of dedication will be forwarded to the Town Attorney for review. The Town Attorney shall review the draft documentation, and shall request revisions where appropriate. He shall deliver the documentation with his approval and/or recommendations within thirty-five (35) days of receipt. Failure to respond within the thirty five (35) day time period will not result in a default of review. However, this will not cause the Planning Board to delay the scheduling of a final public hearing within the allotted forty-five (45) day time period.

- D. The Planning Board shall forward the appropriate number of maps to the Suffolk County Planning Commission, if applicable as defined in Article (II), Section (5). The Final Plan Submission shall not be considered complete until receipt of the Commission's report, unless the Commission defaults on their review.

- E. The Planning Board shall forward two (2) sets of maps to the Fire Commissioner of the District in which the subdivision is located for a determination as to if a fire hydrant or well is required.

- F. The Planning Board may require temporary markers locating the basic layout in the field.

Section (14) Hearing on Minor Subdivision Final Plan

- A. Within forty-five (45) days after the receipt of a complete Final Plan Submission, the Planning Board shall hold a public hearing thereon, which shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing is held, and by means of erecting posters at the site as described in Section (11) (B7). The subdivider shall provide an affidavit stating that such posters have been erected. Failure to submit such affidavit shall result in the adjournment of the final public hearing.

Section (15) Action on Minor Subdivision Final Plan

- A. Within forty-five (45) days after the date of such hearing, the Planning Board shall approve, with or without modification, or disapprove such final plan, and the ground for a modification, if any, or the grounds for disapproval shall be stated in the records of the Planning Board. Notwithstanding the foregoing provisions hereof, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board. If a Positive Declaration has been issued in conformance with the State Environmental Quality Review Act, the hearing shall not be closed until the Final Environmental Impact Statement has been accepted.
- B. If the final plat is approved, or approved with modification, the subdivider shall carry out the steps listed below prior to obtaining the Chairman's signature of approval at a public meeting. All steps shall be completed within one hundred eighty (180) days of the Planning Board's formal action. An additional period of up to one

hundred eighty (180) days may be granted upon petition to the Planning Board if such period is found to be justified. If all steps are not completed within this time frame, the approval, or approval with modification shall expire. Expiration of an approval shall mean that any further action will require resubmission of all Minor Subdivision - Final Submission requirements, which will allow the Planning Board to review and change all previous findings.

B The 180 day time limits are established by Town Law.

- (1) Make all required corrections or modifications to the satisfaction of the Planning Board.
- (2) Deliver to the Planning Board a deed suitable for recording, together with a certificate of title and release of mortgage, if applicable, for the required parkland dedication, or pay the fee in lieu thereof.
- (3) Where applicable, pay an inspection fee in the amount equal to 6% of the approved bond estimate.
- (4) Where applicable, obtain a performance bond, letter of credit, or equivalent security, in the amount of the bond estimate and submit the same to the Town Clerk and the Planning Board in accordance with Article (VIII). The performance bond must be prepared in accordance with

Article (VIII) and must be accepted by the Town Board to fulfill this conditions.

- (5) Submit a filed copy of the Homeowner's Association, if such Association has been required.
- (6) Submit a filed copy of the Declaration of Covenants and Restrictions, if such a Declaration has been required by the Planning Board. The Liber and Page number of the filed document must be noted on all final maps.
- (7) Submit permit approvals from the New York State Department of Transportation or the Suffolk County Department of Public Works, if such permits are required.
- (8) Submit copies of the corrected final plat as follows. All copies must contain a valid stamp of Health Department approval, or where applicable, Health Department exemption, and must indicate the location of the firewell(s) if such have been requested and/or the location of the fire hydrant(s) if public water is to be provided.
 - (a) Five (5) complete paper sets containing the final subdivision plan, the final drainage plans, the final grading plans and the final road profiles.
 - (b) Two (2) Mylar copies of the final subdivision plan.

C. Planning Board approval of the final plat shall not be deemed an acceptance by the Town of any street or other land shown as offered for dedication to public use.

D. The signature of the Chairman constituting final approval of the plan shall expire sixty (60) days after the date of such signature, unless within such time the final plan shall have been filed in the office of the County Clerk. An unrecorded plat shall have no legal status.

(1) If the subdivider does not file the map within the above mentioned sixty (60) days, and requests a re-endorsement of the map because the Health Department approval must be updated before filing in the office of the County Clerk, or because the maps have been changed to conform to one or more of the filing procedures of the office of the County Clerk, the procedure listed in (a) through (e) below shall be followed. If any changes to the design or layout have been made, maps shall not be re-endorsed without the scheduling of a public hearing in accordance with all procedures of the Subdivision Regulations.

(1) *The Planning Board Chairman frequently is asked to re-endorse maps. In most cases this is because the subdivider has neglected to file the maps in the allotted time. Therefore, before the maps can be filed in the office of the County Clerk, the subdivider must obtain updated Health Department approval, and another endorsement from the*

Planning Board. The Planning Board currently re-endorses maps at a public meeting. However, before the maps are re-endorsed, the Board reviews them to make sure that the design and layout have not been changed.

These revisions set a procedure for the Board to follow when a subdivider requests re-endorsement of an approved subdivision map.

- (a) The subdivider must submit a letter requesting the Chairman to re-endorse said map. Said letter shall set forth the reasons why the map must be re-endorsed, and shall state all changes, if any, made to the map.
- (b) Five complete paper sets, containing the final subdivision plan, the final drainage plans, the final grading plans and the final road profiles, shall be submitted. All final subdivision plans shall contain a valid stamp of Health Department approval, or where applicable, Health Department exemption.
- (c) Two (2) Mylar copies of the final subdivision plan, both containing a valid stamp of Health Department approval, or where applicable, Health Department exemption.
- (d) A fifty (50) dollar processing fee must be submitted.

(e) Upon submission of the items listed above, the Planning Board Chairman will endorse the maps at the next scheduled Planning Board meeting.

- E. No changes, modifications or revisions shall be made to any final plat or on the existing real property that said plat describes after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board in accordance with all requirements of these Subdivision Regulations. In the event that any such final plat is recorded without complying with this requirement, the same shall be considered null and void, the Building Inspector shall not issue building permits and the Town shall institute proceedings to have the plat stricken from the records of the County Clerk.

Section (16) Major Subdivision Preliminary Plan Submission

A. Within six months after the date of the Planning Board's sketch, or conditional sketch approval, the subdivider shall submit a complete Preliminary Plan Submission as described in Subsection "B" below. Failure to do so shall automatically terminate the application and shall require the resubmission of the entire Sketch Plan Submission.

A. *The current regulations also have a six month expiration date. It has been a policy of the Board to grant two additional six month extensions of sketch approval, if such is requested by the subdivider. In most cases, this request has been made for minor subdivisions, where the subdivider has been unable to obtain Health Department approval within the six months. This expiration date will be different for minor subdivisions. Health Department approval is not required at the preliminary stage for major subdivisions, thus the six month extension should not be a hardship. The subdivider should be required to pursue the proposal in a timely fashion.*

B. The preliminary plan submission shall be considered complete and officially submitted only when the following have taken place and/or have been submitted complete and in good form:

B. *Town Law sets time frames for the preliminary review process. Thus, it is important to define exactly when an application has been officially submitted. The current code does not establish*

requirements for the preliminary submission beyond submission of the preliminary plat.

- (1) A completed Major Subdivision Preliminary Plan Application Form.
- (2) A Preliminary Application Fee as noted in Article (III).
- (3) Four (4) copies of the preliminary drainage designs, grading plans and street profiles, all prepared in accordance with Article (VI) Design Standards.
- (4) Twelve (12) copies of the Preliminary Plan prepared in accordance with Section (17).
- (5) A Negative Declaration has been issued pursuant to the State Environmental Quality Review Act (SEQRA), if the Planning Board has determined that the development of the subdivision will not significantly affect the environment.
- (6) A Draft Environmental Impact Statement has been accepted pursuant to the State Environmental Quality Review Act (SEQRA), by the Planning Board as satisfactory in scope and content, if the Planning Board has determined that the development of the subdivision might significantly affect the environment.

(6) *In Sun Beach Real Estate Development Corp. v. Anderson* the court concluded that "when the planning agency has determined that development of the subdivision might significantly affect the environment, the application for preliminary approval is not complete until a Draft Environmental Impact Statement (DEIS) has been filed and has been accepted by the agency as satisfactory in scope and content."² The court held that the 45-day time period set forth in the Town Law does not commence to run until the application is "complete" pursuant to the State Environmental Quality Review Act (SEQRA), this does not occur until a negative declaration has been issued or a DEIS has been accepted by the Lead Agency.³ Based on this court case, it is important to define exactly what constitutes a "complete" application.

C. The subdivider shall erect a sign, which shall be displayed on the parcel upon which the application is made, facing each public street on which the property abuts, giving notice that an application has been made to the Planning Board for subdivision approval. The sign shall not be located more than ten (10) feet from the street line and shall not be less than two (2) nor more than six (6) feet above the natural grade at the street line. The sign(s) shall be available at the Planning Board Office, and only such sign(s) shall be used. The sign(s) shall be erected at the time the preliminary plan

²Matter of Sun Beach Real Estate Development Corp. v. Anderson

³Environmental Impact Review in New York p. 3-176

submission is made. An affidavit stating that the posters have been erected on the subject parcel must be submitted to the Planning Board prior to the scheduling of the preliminary public hearing.

- (C) *The present code does not require this type of advertising. As per Town Law, the Planning Board may provide that the hearing be advertised in such manner as it deems most appropriate for full public consideration of the preliminary plat. Although it will not be required that the poster state the date of the preliminary hearing, it will be stated on the poster that hearing dates will be posted in the local papers. The purpose of the poster will be to alert the public to the application which is before the Planning Board in the early planning stages. Under the current practice, the public is not made aware of the hearing until it is advertised in the paper, which is only five days prior to the hearing date.*

Section (17) Major Subdivision Preliminary Plan Requirements

- A. The preliminary plan shall be prepared in the following manner, and shall show the following information:
- (1) All information required to be shown on the sketch plan.
 - (2) The layout shown on the sketch plan including any modifications made by the Planning Board.
 - (3) The subdivision name and the phrase "Preliminary Plan".

- (4) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed engineer or land surveyor. The corners of the tract shall also be located on the ground and marked by substantial stone monuments or concrete monuments of such size as approved by the Town Superintendent of Highways, and shall be referenced and shown on the plan. The distance to the nearest street intersection and nearest telephone pole number shall be shown.
- (5) The location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- (6) Contours at intervals of two (2) feet.
- (7) Elevations of existing roads.
- (8) The approximate location and size of all proposed water lines, valves, hydrants and/or firewells, and sewer lines; connections to existing lines or alternate means of water supply or sewage disposal and treatment, as provided in the Public Health Law; and profiles of all proposed water and sewer lines.

- (9) Building envelopes and driveway locations for all lots as required in Article (VI).

Section (18) Study of Preliminary Plan

- A. The Planning Board shall study the practicability of the Preliminary Plan taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands and the requirements of the Master Plan, the Official Map and Zoning Ordinance.
- B. The Planning Board shall forward one set of maps to the Town Superintendent of Highways, the Town Engineer, or other duly appointed reviewer, who will review all aspects of the drainage design and street layout, and will submit a report to the Planning Board with his/her recommendations within thirty-five (35) days of receipt of the drainage plans and road profiles. Failure to respond within the thirty-five (35) day time period, will not result in a default of review. However, this will not cause the Planning Board to delay the scheduling of a preliminary public hearing within the allotted forty-five (45) day time period.

- C. The Planning Board shall forward the appropriate number of maps to the Suffolk County Planning Commission, if applicable as defined in Article (II), Section (5).
- D. The Planning Board shall forward two (2) sets of maps to the Fire Commissioner of the District in which the subdivision is located for a determination as to if a fire hydrant or well is required.
- E. The Planning Board may require temporary markers locating the basic layout in the field.

Section (19) Hearing on Preliminary Plan

- A. Within forty-five (45) days after the receipt of a complete Preliminary Plan Submission, the Planning Board shall hold a public hearing thereon, which shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing is held, and by means of erecting posters at the site as described in Section (16) (C). The subdivider shall provide an affidavit stating that such posters have been erected. Failure to submit such affidavit shall result in the adjournment of the preliminary public hearing.

Section (20). Action on Preliminary Plan

- A. Within forty-five (45) days after the date of such hearing, the Planning Board shall approve, with or without modification, or disapprove such preliminary plan, and the ground for a modification, if any, or the grounds for disapproval shall be

stated upon the records of the Planning Board. Notwithstanding the foregoing provisions hereof, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board. If a Positive Declaration has been issued in conformance with the State Environmental Quality Review Act, the hearing shall not be closed until the Final Environmental Impact Statement has been issued. When approving a preliminary plan, the Planning Board shall state in writing modifications, if any, that it deems necessary for submission of the plan in final form.

- A. *In the Sun Beach decision the court clarified that an application was not complete until a Negative Declaration had been issued, or until a DEIS had been accepted as satisfactory as to scope and content. The court also concluded that preliminary approval determines important design features of a subdivision. The court "implied that preliminary plat approval may be granted on the basis of a DEIS, with the Planning Board postponing preparation of the Final Environmental Impact Statement (FEIS) until after receipt of a proposed final plat.. This was inconsistent with the court's interpretation of the relative importance of preliminary plat approval and the limited authority afforded to the Planning Board to reject a final plat that conforms to an approved preliminary plat." ⁴ "The court's recommended procedure would allow the Planning Board to take the more important of the two*

⁴Environmental Impact Review in New York p. 3-176

actions (preliminary plat approval, as distinguished from final plat approval) without benefit of an FEIS and without having to issue SEQRA findings. It seems doubtful that the court would have suggested this approach if these issues had been brought to its attention." ⁵

It would appear that the Planning Board should not make a final determination on the preliminary plat application until an FEIS has been prepared, and SEQRA findings have been issued. If an FEIS can not be prepared and the SEQRA findings issued with the 45-day time period for acting on the preliminary map, the Board can, and should request an appropriate extension of time from the applicant. The applicant would have to agree to such extension because any approval granted on an application could be overturned if SEQRA is not completed. However, if the applicant is unwilling to grant an extension, the board can refuse to close the hearing on the preliminary plat until the FEIS has been issued.

- B. Within five (5) days of the approval of such preliminary plat, it shall be certified by the Planning Board Secretary as having been granted preliminary approval. One copy shall be returned to the subdivider, one retained by the Planning Board.

⁵Environmental Impact Review in New York p. 3-177

- C. Approval of a preliminary plat shall not constitute approval of the final subdivision plan, but rather it shall be deemed an expression of approval of the layout submitted on the preliminary plan as a guide to the preparation of the final plan.
- D. Within six (6) months of the approval of the preliminary plan, the owner must submit a complete final application submission. If such plan is not so submitted, approval of the preliminary plan may be revoked by the Planning Board by resolution at a public meeting. No Planning Board action will be taken after such revocation until a new preliminary plan Submission is submitted. The Planning Board may grant a six (6) month extension of preliminary plat approval upon written request from the subdivider, who shall present adequate reasons for the delay of the final plat submission.
- D. *The Planning Board has a current policy of allowing only two extensions of preliminary approval. "D" above ,with the exception of the underlined portion, is a provision from Town Law. The Board should allow only one extension as stated above. If there is legitimate reason for the request, it should be granted. If there is not reason for the request, then the preliminary approval should be revoked and the subdivider should re-submit a complete Preliminary Plan Submission. The Planning Board should not be granting extensions without adequate reasons. The above mentioned time limit gives the subdivider one year to submit the final application.*

Section (21) Major Subdivision Final Submission

A. The final plan shall be considered officially submitted only when the following have been submitted complete and in good form.

A. *Town Law, Section 276, states that the Planning Board shall hold a hearing on the final map within 45-days of submission unless the final hearing has been waived. However, the Law does not specify what a final submission consists of. It just states that maps must be submitted in "final form." Thus, the regulations should define the term "final form" in order to determine when the time frame begins.*

(1) A completed Major Subdivision Final Plan Application Form.

(2) Four (4) sets of maps; each set is to include a final subdivision map, a final drainage plan, a final grading plan and final street profiles where applicable. At least one (1) final subdivision map must contain a valid signature and approval by the Suffolk County Department of Health Services, or where applicable, must contain a stamp of exemption from that Department.

(2) *Four sets of maps are requested; one set will be forwarded to the engineer for final review, the remaining maps will be retained for the Planning Board's review.*

Town Law does not specify exactly when maps with Health Department approval must be submitted. It is important that Health Department approval be required before final approval of the subdivision, especially since most land being subdivided does not have access to public water or sewer. However, it is difficult to fit the requirement for Health Department approval into the subdivision review time frames set by Town Law. The time it takes to obtain Health Department approval varies. In some cases a variance is required and the application must go through an appeals process. However, as discussed in the time frames for preliminary approval, an extension of preliminary approval will be granted if the subdivider can prove that he/she is diligently pursuing an application before the Health Department, provided this is the only outstanding item for final plat submission.

- (3) One (1) certified copy of the Greenport Utility or other water or sewer district contract indicating that mains will be installed and water will be transmitted to the subdivision and that a sewerage hookup will be permitted, if public water and/or sewers are to be provided.**
- (4) The subdivider shall be required to install, or to cause to be installed, the underground service connection to the property line of each lot within the subdivision for such required utilities before the street is paved. The subdivider**

shall submit a letter from each public utility company whose facilities are proposed to be installed in the proposed subdivision. Such letter shall include a statement as to the availability of such utility so that service will be available when required.

- (5) Letter directed to the Planning Board, signed by a responsible official of the school district in which the subdivision is to be located acknowledging receipt of subdivision plans and indicating availability of school facilities for new pupils or any needed facilities or sites that relate to the subdivision area.
- (5) *The current code does not require any review by the school system. There should be some input from the schools as the development could affect the system.*
- (6) Where applicable, letters directed to the Chairman of the Planning Board, signed by a responsible official of the New York State Department of Transportation or the Suffolk County Department of Public Works, approving proposed construction on state or county rights-of-way and indicating that the necessary permits will be issued upon submission of the appropriate permit fees.

- (7) If 280-A access approval is required from the Zoning Board of Appeals, such approval must be obtained and submitted to the Planning Board.
- (8) Draft documentation for all properties to be offered for dedication and conveyed to the Town.
- (9) A draft bond estimate for all required improvements. The estimate is to be prepared using the Draft Bond Estimate Form and Unit Price Form available at the Planning Board office.
- (10) Where a Homeowners Association is required, a draft of such Association, prepared in accordance with all requirements of Article (V).
- (11) A draft of any Declaration of Covenants and Restrictions which have been required by the Planning Board.

Section (22) Major Subdivision Final Plan Requirements

A. The final plan shall be prepared in the following manner, and shall show the following information:

- (1) All information required to be shown on the preliminary plan.

- (2) The layout shown on the preliminary plan, including any modification made by the Planning Board.
- (3) The location of the firewell(s) if such have been requested. The location of the fire hydrant(s) if public water is to be provided.
- (4) The subdivision name and the phrase "Final Plan"
- (5) The names of all proposed streets. Streets shall have names and not numbers or letters (such as "1st", "First" or "A" Street. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than ninety (90) degrees without a change in the street name.

Section (23) Study of Major Subdivision Final Plan

- A. The Planning Board shall forward one set of maps and the bond estimate to the Town Superintendent of Highways, the Town Engineer, or other duly appointed reviewer, for review. The Engineer shall review the final drainage plans, grading plans street profiles and performance bond estimate and shall request revisions where appropriate. He shall deliver the approved or revised bond estimate to the Planning Board along with his

approval and/or recommendations of the drainage plan and street profiles within thirty-five (35) days of receipt. Failure to respond within the thirty five (35) day time period will not result in a default of review. However, this will not cause the Planning Board to delay the scheduling of a final public hearing within the allotted forty-five (45) day time period.

- B. The draft Homeowner's Association, the draft Declaration of Covenants and Restrictions, and any offers of dedication will be forwarded to the Town Attorney for review. The Town Attorney shall review the draft documentation, and shall request revisions where appropriate. He shall deliver the documentation with his approval and/or recommendations within thirty-five (35) days of receipt. Failure to respond within the thirty five (35) day time period will not result in a default of review. However, this will not cause the Planning Board to delay the scheduling of a final public hearing within the allotted forty-five (45) day time period.

Section (24) Hearing on Major Subdivision Final Plan

- A. Within forth-five (45) days of the receipt of a complete final plan submission, a hearing shall be held by the Planning Board thereon, which shall be advertised at least once at least five (5) days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with the preliminary plat as approved and/or as modified in accordance with requirements of approval, the

Planning Board may waive the requirements for such final public hearing.

Section (25) Action on Major Subdivision Final Plan

- A. Within forty-five (45) days after the date of the hearing on said final plat, or in the event that such hearing was waived, within forty-five (45) days of the submission of the plat in final form for approval, the Planning Board shall take formal action either approving, disapproving or approving with modification, the final plat, and a written notification of such action shall be given to the subdivider. Notwithstanding the foregoing provisions hereof, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board.
- B. If the final plat is approved, or approved with modification, the subdivider shall carry out the steps listed below prior to obtaining the Chairman's signature of approval at a public meeting. All steps shall be completed within one hundred eighty (180) days of the Planning Board's formal action. An additional period of up to one hundred eighty (180) days may be granted upon petition to the Planning Board if such period is found to be justified. If all steps are not completed within this time frame, the approval, or approval with modification shall expire. Expiration of an approval shall mean that any further action will require a resubmission of the final plan and all requirements of Sections (21) through (25), an

additional filing fee in the amount described in Article (III) Section 26 (B2), as well as a review of all previous findings.

C. *The 180 day time limits are established by Town Law.*

- (1) Make all required corrections or modifications to the satisfaction of the Planning Board.
- (2) Deliver to the Planning Board a deed suitable for recording, together with a certificate of title and release of mortgage, if applicable, for the required parkland dedication, or pay the fee in lieu thereof.
- (3) Pay an inspection fee in the amount equal to 6% of the approved bond estimate.
- (4) Obtain a performance bond, letter of credit, or equivalent security, in the amount of the bond estimate and submit the same to the Town Clerk and the Planning Board in accordance with Article (VIII). The performance bond must be prepared in accordance with Article (VIII) and must be accepted by the Town Board to fulfill this conditions.
- (5) Submit a filed copy of the Homeowner's Association, if such Association has been required.

- (6) Submit a filed copy of the Declaration of Covenants and Restrictions, if such a Declaration has been required by the Planning Board. The Liber and Page number of the filed document must be noted on all final maps.
- (7) Submit permit approvals from the New York State Department of Transportation or the Suffolk County Department of Public Works, if such permits are required.
- (8) Submit copies of the corrected final plat as follows. All copies must contain a valid stamp of Health Department approval, or where applicable, Health Department exemption.
- (a) Five (5) complete paper sets containing the final subdivision plan, the final drainage plans, the final grading plans and the final road profiles.
- (b) Two (2) Mylar copies of the final subdivision plan.
- D. If the final plat is to be filed with the County Clerk in sections, the subdivider will file the final plat with the Town Clerk
- E. Planning Board approval of the final plat shall not be deemed an acceptance by the Town of any street or other land shown as offered for dedication to public use.

F. The signature of the Chairman constituting final approval of the plan shall expire sixty (60) days after the date of such signature, unless within such time the final plan or a section thereof shall have been filed in the office of the County Clerk. An unrecorded plat shall have no legal status.

(1) If the subdivider does not file the map within the above mentioned sixty (60) days, and requests a re-endorsement of the map because the Health Department approval must be updated before filing in the office of the County Clerk, or because the maps have been changed to conform to one or more of the filing procedures of the office of the County Clerk, the procedure listed in (a) through (e) below shall be followed. Maps shall not be re-endorsed without the scheduling of a public hearing in accordance with all procedures of the Subdivision Regulations if any changes to the design or layout have been made.

(1) Many times the Planning Board is asked to re-endorse maps. In most cases this is because the subdivider has neglected to file the maps in the allotted time. Therefore, before the maps can be filed in the office of the County Clerk, the subdivider must obtain updated Health Department approval, and another endorsement from the Planning Board. The Planning Board currently re-endorses maps at a public meeting. However, before the maps can be re-endorsed, the Board must review them to

make sure that the design and layout have not been changed.

These revisions set a procedure for the Board to follow when a subdivider requests re-endorsement of an approved subdivision map.

- (a) The subdivider must submit a letter requesting the Chairman to re-endorse said map. Said letter shall set forth the reasons why the map must be re-endorsed, and shall state all changes made to the map.

- (b) Five complete paper sets, containing the final subdivision plan, the final drainage plans, the final grading plans and the final road profiles, shall be submitted. All final subdivision plans shall contain a valid stamp of Health Department approval, or where applicable, Health Department exemption.

- (c) Two (2) Mylar copies of the final subdivision plan, both containing a valid stamp of Health Department approval, or where applicable, Health Department exemption.

- (d) A fifty (50) dollar processing fee must be submitted.

(e) Upon submission of the items listed above, the Planning Board Chairman will endorse the maps at the next scheduled Planning Board meeting.

- G. No changes, modifications or revisions shall be made to any final plat or on the existing real property that said plat describes after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board in accordance with all requirements of these Subdivision Regulations. In the event that any such final plat is recorded without complying with this requirement, the same shall be considered null and void, the Building Inspector shall not issue building permits and the Town shall institute proceedings to have the plat stricken from the records of the County Clerk.

ARTICLE (III)

Fee Schedule

Section (26) Application Fees

The current code does not have a separate fee section. The application fees are contained within the sections for each type of subdivision. Fees for outside consultants to do an environmental review or an engineering review, are not specified in the code, although the Planning Board has been charging the subdivider for the environmental review and for part of the engineering review. The revisions contain two sections which pertain only to fees. One section pertains to application fees, and the other section pertains to fees for outside consulting services.

An in depth critique of the amount of the application fees required was not done. The fee schedule was amended in November 1988, and there have been no requests or justified complaints in reference to the amount of the fees. A survey done in 1989 by planning staff⁶ concluded that Southold's fees were similar in amount to those of other Towns, and no adjusting was necessary. This section does not revise the actual amount of the fee, however, it restructures the time at which the fee is required.

There is a discrepancy in the current code which in some cases causes the application fee for a minor subdivisions to be more than that for a major subdivision. The current fees are calculated on a per lot basis for minor

⁶ Robert Kassner, Planning staff, conducted a phone survey of some of the Towns in Suffolk County. It was difficult to compare the fees, as the Towns varied in the way and times at which they required the fees. Some Towns included a park and recreation fee in their application fee, some included the inspection fee, etc.

subdivisions and a per acre basis for major subdivisions. Changing these fees so that they are consistent, either both per lot or both per acre was considered to try to eliminate the above mentioned discrepancy. However, although such a change would eliminate the discrepancy, it would have the potential to cause other problems, such as the Planning Board having to refund money if the number of lots changed. A change in the number of lots is usually not a problem with minor subdivisions, however, it is a frequent occurrence with major subdivisions. Also, such a change would result in changes to the amount of the fee, and as stated above, there is no immediate reason to change the amount of the fees required. It was concluded therefore, to leave the fees as they exist; on a per lot basis for minor subdivisions, and on a per acre basis for major subdivisions.

A. Minor Subdivision Application Fee.

(1) The application fee shall be two hundred and fifty dollars (\$250.) only if the proposal is for a two lot subdivision that meets the requirements listed in either Subsection (a) or Subsection (b) below and there has been no other subdivision, whether by deed or by prior Planning Board approval of the parcel in question.

(1) The current subdivision regulations allow for a division of land which is classified as a set-off. Although the set-off is not referred to throughout the regulations, it is included and detailed in the Definition Section as a subset of the definition for Subdivision. Also included in this

Definition Section is the fee for a set-off. From discussions with Planning Board members, it appears that the original intent of the set-off was to allow a parcel to be "set-off" from an existing farm. In this manner, the farmer could create housing for his family or sell off one lot while still maintaining the farm.

Since the intent of a set-off is not clearly defined in the regulations, the average reader does not know the difference between a set-off and a two lot subdivision.

In many cases, the two lot subdivision, or 'set-off' will affect how the remainder of the property can be subdivided. Thus, it is important that the Planning Board review all subdivisions of land, even if they are only for two lots.

Looking at the true intent of the set-off it is evident that some mechanism should allow a parcel to be set off without all of the usual expenses of the subdivision process. However, it is also important to allow the Planning Board to have an in-depth review of all proposals. The revised Code, while requiring that the plans be reviewed in all respects like a minor subdivision, provides a special fee for what was classified as a set-off by clearly stating what types of subdivisions will qualify for the reduced application fee. In effect, this reflects what the Planning Board is currently doing.

- (a) The proposed subdivision will create two lots to allow two pre-existing, currently habitable dwellings, which exist on one lot, to be located, one on each proposed lot.
- (b) The proposed subdivision will create:
- (i) One lot which conforms to all requirements of the Zoning Code and the Subdivision Regulations; and is less than twice the minimum requirements of the Zoning District in which the parcel is located; and
 - (i) *The lot must be of a size so that it can not be further subdivided to create another lot in conformance with the minimum requirements of the Zoning District.*
 - (ii) A second lot other than that described in (i) above, which will be ten (10) acres or more in area;
 - (ii) *Ten acres was chosen as this is the smallest parcel of land which will allow the parcel to remain in an agricultural district for tax purposes.*
- (2) For all minor subdivisions which do not meet the requirements of Subsection (1) above, the application fee shall be as follows:

- (2) *The current code requires that the application fee be submitted in total with the final application for minor subdivisions and with the preliminary application for major subdivisions. However, a majority of the Planning Board's review is done prior to the granting of sketch plan approval. As a policy, the Board has been requiring that application fees be submitted prior to the granting of sketch plan approval. However, this is not reflected in the code.*

The split application fees will enable the Planning Board to require the payment of an established fee if a certain level of approval has expired. Also, in the event that the application fees are increased during the course of review, the subdivider will be responsible for submitting an updated fee if that stage of the application has not yet been submitted. This will eliminate the Planning Board's processing of applications with outdated fees.

- (a) Five hundred dollars (\$500) plus two hundred and fifty dollars (\$250) per proposed lot, to be submitted as part of the sketch plan submission;
- (b) Five hundred dollars (\$500) plus two hundred and fifty dollars (\$250) per proposed lot, to be submitted as part of the final plan submission;

- (c) An inspection fee of 6% of the bond estimate, if any type of road is required. The inspection fee must be submitted prior to endorsement of the map, and/or prior to construction of the road.
- (3) Where applicable, all minor subdivisions shall be subject to outside consulting fees as specified in Section (27) of this Article, and a fee in lieu of land dedication for park and playground purposes as specified in Article (VII).

B. Major Subdivision Application Fee

- (1) Five hundred dollars (\$500) plus fifty dollars (\$50) per acre or part there of, to be submitted with the sketch plan application:
- (2) Five hundred dollars (\$500) plus fifty dollars (\$50) per acre or part there of, to be submitted with the preliminary plan application:
- (3) An inspection fee of 6% of the bond estimate. The inspection fee must be submitted prior to endorsement of the map.
- (4) All major subdivisions shall be subject to, where applicable, outside consulting fees as specified in Section (27) of this Article, and a fee in lieu of land dedication for park and playground purposes as specified in Article (VII).

C. Lot Line Amendment Application Fee

- (1) The application for a Lot Line Change shall be fifty dollars (\$50):
- (2) All Lot Line applications shall be subject to, where applicable, outside consulting fees as specified in Section (27) of this Article.

Section (27) Fees For Outside Consulting Services

- A. In performing reviews of subdivisions, the Planning Board may refer such applications to such engineering, technical, planning, or environmental consultants as it shall deem reasonably necessary to enable it to review such applications as required by law.
- B. The applicant shall, in addition to payment of application fees set forth in Section (26) above, submit payment for any outside consulting services required. A cost estimate will be sent to the subdivider prior to the commencement of any work. Payment will be required prior to the Planning Board authorizing the outside consultant to proceed with the review.

ARTICLE (IV)

Lot Line Amendments

Section (28) General Requirements

Prior to changing a lot line in any approved or recorded subdivision plat, or in any map or plan legally established prior to the adoption of any regulations controlling subdivisions, whereby the proposed change does not create any additional lots, the requirements of this Article shall apply.

The Planning Board has a procedure for reviewing lot line changes. There is a set application fee, and certain requirements which must be met prior to approval of such change. However, these requirements are not contained in the Town Code or the Subdivision Regulations. These revisions present a separate section to set forth the requirements for such applications.

This section is basically a shortened and amended version of the requirements for subdivision approval. Therefore, so as not to be redundant, the commentary has not been repeated in this section.

Section (29) Presubmission

Prior to submission of the Lot Line Amendment application, the applicant(s) shall be entitled to one presubmission conference with the Planning staff, and, if necessary, one additional presubmission conference with the Planning Board at a public meeting. The purpose of this presubmission conference is to enable the applicant(s) to save time and expense by reaching a general agreement with the Planning Board and with the staff as to the general form and layout and the objectives of

these procedures prior to submission of the application. The presubmission conference shall take place within thirty (30) calendar days from the date of written request thereof.

Section (30) Lot Line Amendment Submission

A. The applicant shall submit the following to the Planning Board Secretary:

- (1) A completed Lot Line Amendment Application Form**
- (2) A Lot Line Amendment Application fee as noted in Article (III).**
- (3) Four copies of the Short Environmental Assessment Form. The Long Environmental Assessment Form will be required for any applications located within a Critical Environmental Area.**
- (4) A statement in affidavit form setting forth the names and addresses of all persons, corporations, partnerships, and associates having an interest, direct, or indirect, in the application, and the nature of such interest.**
- (5) Where applicable, a statement in affidavit form from the owner(s) of the property granting permission for an agent to act on behalf of the owner(s).**

- (6) A copy of any existing Declarations of Covenants and Restrictions that may effect all, or any part of the subject parcels.
- (7) The deeds for all the effected properties, including metes and bounds description.
- (8) A copy of any riders to the deed granting rights of access that may effect all, or any part of the parcel being subdivided.
- (9) An affidavit that upon the Planning Board's approval of the lot line amendment, no new building lot will have been created, and any land involved in the proposed application will be merged with one of the existing lots involved in the proposal.
- (10) Twelve (12) copies of the lot line plan prepared in accordance with Section (31) below.

Section (31) Lot Line Amendment Map Requirements

A. The map for the lot line amendment shall be prepared in the following manner and shall show the following information:

- (1) It must be based on the town tax map, at a scale of one (1) inch equals one hundred (100) feet.

- (2) It must be prepared, stamped and signed by a licensed land surveyor or engineer.
- (3) It must be appropriately marked "Lot Line Amendment" and shall contain the name of all property owners involved in the application.
- (4) A key map showing the location of the parcels, including a tie line to an existing street.
- (5) The name of the Hamlet Town and County in which the parcels are located.
- (6) The North point, whether true or magnetic; if magnetic, the date of reading.
- (7) The Suffolk County tax map number (section, block and lot).
- (8) The zoning district(s)
- (9) Name and address of owners, and engineer or surveyor.
- (10) The name of all adjoining property owners as listed on the town tax map.
- (11) Contours shall be indicated at intervals of not more than five (5) feet.

- (12) The total acreage of each parcel as existing and as proposed.
- (13) Notations of all existing restrictions on the use of land, including easements, covenants and restrictions, and rights-of-way.
- (14) Existing buildings and structures located on the site.
- (15) Existing wooded areas.
- (16) Existing wetlands (tidal and fresh), marshes, bogs, swamps, ponds, lakes, streams, or any other water bodies, on the subject properties, and within five-hundred feet (500) thereof. The above mentioned areas which are located outside of the property boundary, but are located within five-hundred feet of such property, may be located on the key map.
- (17) Horizontal areas of slopes which exceed a grade of twenty (20) percent.
- (18) Horizontal areas of escarpments, bluffs, or the seaward faces of primary dunes.
- (19) Beaches below mean high water, as defined by the United States Coast and Geodetic Survey.
- (20) The Coastal Erosion Hazard Line if the subject property is adjacent to Long Island Sound.

- (21) The one hundred (100) year floodplain as designated by the Federal Emergency Management Agency.

Section (32) Study of Lot Line Amendment

- A. When the application has been submitted in accordance with the requirements of Sections (30) and (31) above, the Planning Board shall initiate the environmental review in accordance with the New York State Environmental Quality Review Act (SEQRA).
- (1) Pursuant to SEQRA, the Planning Board shall issue a Negative Declaration if it has been determined that the proposed application will not significantly affect the environment.
- (2) Pursuant to SEQRA, the Planning Board shall issue a Positive Declaration if it has been determined that the proposed application will significantly affect the environment. If such determination is made, a Draft Environmental Impact Statement must be accepted by the Planning Board as being satisfactory in scope and content, prior to the application being deemed complete.
- B. The Planning Board shall review the application based upon the circumstances presented, along with the overall development, neighborhood character, topographic and natural features of the land and other requirements as stated in Article (VI).

- C. The Planning Board shall forward the appropriate number of maps to the Suffolk County Planning Commission, if applicable, as defined in Article (II), Section (5). The application shall not be deemed complete until receipt of a report from such Commission, unless such Commission has defaulted on its review.
- D. The Planning Board may require that a Declaration of Covenants and Restrictions be filed in the office of the County Clerk to insure the implementation of all requirements of Article (VI) Design Standards.

Section (33) Final Submission

When all requirements of Section (30) through Section (32) above have been fulfilled, and if the Planning Board has requested any changes to the map, five (5) corrected final plans have been submitted, the application shall be deemed complete.

Section (34) Final Hearing

Within forty-five (45) days after the application has been deemed complete, the Planning Board shall hold a public hearing thereon, which shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing is held.

Section (35) Action on Lot Line Amendment

- A. Within forty-five (45) days after the date of such hearing, the Planning Board shall approve, with or without modification, or disapprove such application, and the grounds for a modification, if

any, or the grounds for disapproval shall be stated in the records of the Planning Board.

B. If the final plan is approved, or approved with modification, the applicant shall carry out the steps listed below before to obtaining the Chairman's signature of approval at a public meeting. All steps shall be completed within one hundred eighty (180) days of the Planning Board's formal action. An additional period of up to one hundred eighty (180) days may be granted upon petition to the Planning Board if such period is found to be justified. If all steps are not completed within this time frame, the approval, or approval with modification shall expire. Expiration of an approval shall mean that any further action will require resubmission of requirements of this Article.

(1) Make all corrections or modifications noted in the Board's conditions of approval to the satisfaction of the Planning Board.

(2) Submit a filed copy of the Declaration of Covenants and Restrictions, if such a Declaration has been required by the Planning Board. The Liber and Page number of the filed document must be noted on all final maps.

(3) Submit five (5) paper copies of the final plan.

C. No changes, modifications or revisions shall be made to any final plan after approval has been given by the Planning Board and

endorsed in writing on the plan, unless the said plat is first resubmitted to the Planning Board in accordance with all requirements of this Article.

ARTICLE (V)
Cluster Development

The requirements for a Cluster Development are currently contained in the Zoning Code in Article XVIII. However, it presently is not referenced in the Subdivision Regulations.

Section 281 of New York Town Law allows the Town Board to authorize the Planning Board to modify applicable provisions of the Zoning Ordinance to "enable and encourage flexibility of design and development of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands." ⁷

It is proposed that the current Cluster Development section be included in the Subdivision Regulations. The sections of the Subdivision Regulations pertaining to map requirements will include the requirements for cluster developments and will also refer the subdivider to this Section. For the most part, the Cluster Development section has not been revised. All changes are underlined.

Section (36) Purpose

The purpose of this Section is to encourage flexibility and innovation in the design of residential development that cannot be achieved on many sites through adherence to traditional zoning and subdivision

⁷Town Law, Section 281

regulations. Further, the application of the cluster development technique is intended to achieve:

- A. Maximum reasonable conservation of land and protection of groundwater supply and groundwater recharge areas.
- B. Preservation of agricultural activity by encouraging retention of large continuous areas of agricultural use.
- C. Variety in type and cost of residential development, thus increasing the choice of housing types available to town residents.
- D. Preservation of trees, wetlands and outstanding natural features, prevention of soil erosion, creation of usable open space and recreation areas and preservation of scenic qualities of open space.
- E. A shorter network of streets and utilities and more efficient use of energy than would be possible through strict application of standard zoning.

Section (37) Applicability

Town Law Section 281 states that the Town Board, in empowering the Planning Board to allow cluster developments , shall specify the lands to which this procedure may be applicable. This section describes where cluster developments must be applied, and where they may be applied.

A. On lots of ten (10) or more acres in the A-C Agricultural-Conservation, the R-40 and R-80 Districts and the Low Density Residential R-120, R-200 and R-400 Districts, clustering will be required, subject to the following conditions:

- (1) The residential use will be single-family detached homes for lots sizes of thirty thousand (30,000) square feet or larger and detached or attached houses for lot sizes less than thirty thousand (30,000) square feet.
- (2) The density of these homes will be as specified in the particular district and determined as indicated in Section (38) below.
- (3) The minimum lot size shall be:
 - (a) Without public water and sewer: thirty thousand (30,000) square feet.
 - (b) With public water: twenty thousand (20,000) square feet.
 - (c) With public water and sewer: ten thousand (10,000) square feet.

- B. In the Low-Density Residential Districts, to wit, the A-C Agricultural-Conservation, R-80, R-120, R-200 and R-400 Districts, clustering is permitted and may be mandated by the Planning Board in the exercise of discretion.

Section (38) Determination of Density and Zoning Modification

- A. An application for cluster development shall include a map or maps showing the proposed cluster design or designs offered for consideration by the Planning Board, together with a map which shall be prepared for consideration as a standard yield plan conforming to all requirements of the Zoning Code and Subdivision Regulations of the Town of Southold. All maps shall conform to all requirements of Section (7) Sketch Plan Submission.
- B. The total building lot yield of the standard yield plan shall be used to determine the yield in the number of building lots which the Planning Board may grant in a cluster development. A cluster development design may be prepared for any contiguously owned holdings, whether or not they are separated by an existing street offering direct access to such holdings. In all other cases, the holdings shall be considered as separate parcels.
- C. In a cluster development, lot area, width, depth, front yard, rear yard and side yards may be reduced to less than the minimum requirements set forth in the bulk schedule, provided that such

modification or changes shall not result in a greater average density or coverage of dwelling units than is permitted in the zoning district wherein the land lies. Building envelopes, delineating the front yard, rear yard and side yards for each lot shall be indicated.

Section (39) Requirements

- A. The area of a cluster development shall be in a single ownership or under unified control.

- B. Prior to the issuance of a building permit in a cluster development, a site plan shall be submitted to, and approved by, the Planning Board in accordance with Article XXV (Site Plan Approval) of the Zoning Code and the conditions listed in Subsections (1) and (2) below, unless the Planning Board waives the requirement for a site plan and instead requires that the cluster development be in accordance with all requirements of the Subdivision Regulations.

- B. *Town Law, Section 281 requires a site plan. Although the current Cluster Development Article requires a site plan, the Planning Board does not exercise this authority, and instead treats cluster subdivisions, for review purposes, as a subdivision. The majority of the cluster subdivisions in Southold are single family homes in a two-acre zone (the lots are clustered to one acre and the remainder is left as open space). However, if a plan for attached homes is submitted, the Planning Board may wish to*

exercise the option to require a site plan. This section should be amended, however, to allow the Board the option to waive the site plan. The way the Article reads currently, the Planning Board is to require a site plan, but is also to proceed in accordance with the Subdivision Regulations.

- (1) Said site plan shall include areas within which structures may be located, the height and spacing of buildings, the location of open spaces and their landscaping, off-street open and enclosed (if any) parking spaces and streets, trails, site easements and recreation facilities, driveways and any other physical features relevant to the proposed plan and determined to be necessary by the Planning Board.
 - (2) Said site plan shall include a statement setting forth the nature of all proposed modifications of existing zoning provisions.
- C. Nothing contained in this Article shall relieve the subdivider of a proposed cluster development from receiving final plat approval in accordance with all other requirements of the Subdivision Regulations.
- A. The Planning Board shall establish such conditions on the ownership, use and maintenance of common areas, including

open space, as it deems necessary to assure the preservation of such areas for their intended purpose. Common areas and/or open space may either be retained by a condominium corporation or it may be deeded to a homeowners' or homes association comprised of the residents of the subdivision and reserved for their use or other mechanism acceptable to the Town Board and Town Attorney. Said common areas may be used for agricultural use, for passive recreational uses, for visual amenity and/or nature study or for necessary accessory uses such as parking.

- B. A cluster development shall be organized as one (1) of the following: a condominium corporation; a homes or a homeowners' association approved by the Federal Housing Administration for mortgage insurance as a planned unit development and the Planning Board; a homes association approved by the Town Attorney and Planning Board; or any other arrangements approved by the Town Attorney and Planning Board as satisfying the intent of this chapter. Whenever a homes association is proposes, the Planning Board shall retain the right to review and approve the Articles of Incorporation and the charter and bylaws of said homes association and any amendments or revisions thereof and to require whatever conditions deemed necessary to ensure that the intent and purpose of this Section is carried out. In consideration of said approval, the Planning Board shall, in part, require the cluster development to meet the following conditions:

B. The term "Planning Board" was substituted for the term "Town Board" in the above section.

- (1) A homes association shall be established as a not-for-profit corporation operating under recorded land agreements through which each lot owner, and any succeeding owner according to the deed to each unit, is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, including real property taxes and the maintenance of the common land and facilities. Each lot shall be subject to a lien in the event of nonpayment by the owner thereof of his proportionate share of the expenses for the association.
- (2) Title to all common property shall be placed in the homes association or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time.
- (3) Each lot owner shall have equal voting rights in the association and shall have the right to the use and enjoyment of the common property.
- (4) Once established and title to the common land is conveyed to the homes association, all responsibility for operation

and maintenance of the common land and facilities shall lie with the homes association.

- (5) Dedication of all common areas shall be recorded directly on the final plat an/or be reference on that plat to a dedication in a separately recorded document. Resubdivision of such areas is prohibited. The dedication shall:
- (a) Save the title to the common property to the homes association free of any cloud of implied public dedication.
 - (b) Commit the developer to convey the areas to the homes association at an approved time.
 - (c) Grant easement of enjoyment over the area to the lot owners, subject to restrictions as shall be imposed by recorded restrictive covenants.
 - (d) Give to the homes association the right to borrow for improvements upon the security of the common areas.
 - (e) Grant to the homes association the right to suspend membership rights for nonpayment of assessments or infraction of established rules.

- C. Covenants shall be established, limiting all lots to one-family use and all common lands to open space uses approved by the Planning Board. No structures may be erected on such common lands except as shown on the approved site plan or subdivision plat and approved by the Planning Board. Such deed restriction or covenant shall specifically prohibit any development for other than open space or agricultural use on the specified open land and/or conservation area.
- D. Each deed to each lot sold shall include by reference all recorded declarations and other restrictions, including assessments and the provision for liens for nonpayment of such.
- E. The homes association shall be perpetual; it shall purchase insurance, pay taxes, specify in its charter and bylaws an annual homeowner's fee , make provision for assessments and provide that all such charges become a lien on each lot in favor of said association. The association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it shall also have the right to commence action against any member for the collection of any unpaid assessment in any court of competent jurisdiction.
- F. The developer shall assume all responsibilities as previously outlined for the homes association until a majority of the dwelling sites are sold, at which time the homes association shall be automatically established by the developer at the developer's

expense and title to the common area conveyed by the developer to the homes association.

G. Prior to plat approval, the developer shall file a performance bond in accordance with Article (VIII), with the Town Board to ensure the proper installation of all required improvements, including recreation improvements, and a maintenance bond to ensure the proper maintenance of all common lands until the homes association is established and title to the common lands is conveyed to the homes association. The amount and terms of said bonds and the form, sufficiency, manner of execution and sufficiency of the surety shall be approved by the Town Board and the Town Attorney.

H. The certificate of incorporation of the organization and its bylaws shall contain the following provisions, and notice of said provisions shall be specifically given in any brochure or prospectus issued by the developer:

(1) That such organization is established to own and maintain common open space or common elements and that, if such organization or any successor organization shall, at any time after title to such common land and other common elements is conveyed to it, fail to maintain the common open space and other common elements in reasonable order and conditions in accordance with the plan proposed, the Town Board may cause a written notice

to be served by certified mail upon such organization, at its address as shown upon the last completed town assessment roll, or in the same manner upon the owners of the lots in such subdivision at their address as shown upon the last completed assessment roll, which such notice shall set forth:

- (a) The particulars in which the common open space and other common elements have not been maintained in reasonable order and condition;
- (b) A demand that such deficiencies in maintenance shall be remedied within thirty (30) days from the date of such notice:
- (c) That, upon the failure to remedy such default in maintenance within the time specified, the Town Board will hold a hearing upon the matter upon not less than five (5) days' notice in writing sent by certified mail to such organization or to such lot owners;
- (d) That, after such hearing, the Town Board may take such action as it deems appropriate to provide for the proper maintenance of such common open space and common elements; and

- (e) That any and all costs and expenses incurred by the town for such purposes may be assessed upon all of the lots in such subdivision and be collected in the same manner and at the same time as real property taxes are collected in the Town of Southold.
- I. The Planning Board and Town Board, in order to ensure that the open space will be used for its intended purposes, shall have the continuing right to impose building controls and restriction on the use and maintenance of the common open space lands.
- J. Notwithstanding the foregoing, the Town Board may, in its discretion, accept an offer for dedication to the town of the open space and/or common lands created by use of the provisions of this Article.

ARTICLE (VI)
Design Standards

Section (41) Detailed Index

<u>Brief Outline of Specifications for Streets</u>	<u>Section (45-G)</u>
<u>Building Envelopes</u>	<u>Section (48-A)</u>
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<u>Dead End Streets/Cul-De-Sacs</u>	<u>Section (45-B)</u>
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<u>Double Frontage and Reverse Frontage Lots</u>	<u>Section (43-E)</u>
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<u>Drainage</u>	<u>Section (46)</u>
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<u>Right-of-Way Width, Pavement Width,</u>	
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<u>Street Arrangement</u>	<u>Section (45-A)</u>
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Section (42) General Requirements

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements.

Subdivision design shall preserve and protect, insofar as possible, natural terrain features, such as salt and freshwater wetlands, beaches, prime agricultural soils, steep slopes, bluffs, unique vegetation and animal habitat, floodplains, groundwater and natural drainage patterns in accordance with the Master Plan, Zoning Ordinance and other applicable ordinances of the Town of Southold.

Section (43) Lot and Block Arrangement, Standards and Specifications

A. Compliance With Zoning Ordinance

All building lots shall at least comply with the requirements of the Zoning Ordinance of the Town of Southold.

B. Lot Yield and Lot Area⁸

- B. The present code is not clear on what can and can not be excluded from the total lot yield or the individual lot area. It has been the Planning Board's policy to exclude wetlands, land under water, bluffs, easements preventing use of land for the construction of buildings, or any other unbuildable area, from the individual lot area. However, the authority to do this is not definitively included in the Subdivision Regulations and whether or not the areas can be excluded from the total lot yield or the individual lot area is left open to interpretation.*

Buildable land is defined in the Zoning Code as "the net area of a lot or parcel after deducting wetlands, streams, ponds, slopes over fifteen percent (15%), underwater land, easements or other restrictions preventing use of such land for construction of buildings or development. However, this definition is not contained in the Subdivision Regulations. Nor do the subdivision regulations specify whether this land can be included in the minimum lot area required by the applicable zoning district..

Planning Literature recommends that as a general rule, placement of lots, buildings, and roads should complement and preserve the natural features of the site, such as bodies of water, environmentally sensitive areas, scenic views, and existing

⁸Parts of this section adopted with amendments from Southampton Code, Riverhead Code, and RPPW Proposed Subdivision Regulations

stands of trees.⁹ Land unsuitable for development and of a fragile environmental nature should be protected, a restriction that can be justified on the grounds of protecting the health, safety, and welfare of the public. ¹⁰ The literature is not clear on exactly what should be excluded from lot area, and what standards should be used. In view of the Supreme Court decisions on takings, however, restrictions for environmental reasons must be carefully determined.

This section attempts to define as precisely as possible the areas that should be preserved and where development should be avoided. It also defines total lot yield and lot area. Precise definition is important; the delineation between developable areas, undevelopable areas, and areas which can or can not be contained within individual lot boundaries, must be clear, consistent, and based on sound, not capricious, reasons in order to avoid legal challenges and in order that all parties understand exactly where development is proscribed.

The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties. All lots shall be designed in accordance with the following:

The areas listed in Subsection B (1) through B (12) shall be excluded from consideration as areas contributing to total lot

⁹The Subdivision and Site Plan Handbook, page 25

¹⁰The Subdivision and Site Plan Handbook, Page 25

yield. For the purposes of this section, the "area contributing to total lot yield" and "lot area" shall not have identical meaning. The "total lot yield" shall be the total number of lots which will result from the division of a parcel of real property. The "lot area" is the total area circumscribed by the boundaries of a particular lot. The "lot area" may include areas described in Subsection B (1) through B (9) listed below, provided that each lot shall have the minimum lot area required by the respective zoning district, exclusive of those areas described in Subsection B (1) through B (9) listed below.

(1) Water surfaces

(1) Water surfaces are universally considered to be unbuildable.

(2) Tidal Wetlands as defined below:

(2) The definition of Tidal Wetland is taken from the Wetlands Chapter of the Town Code. The definition also includes all land immediately adjacent to such tidal wetland and within seventy-five (75) feet landward of the most landward edge of such wetland. This section of the definition was not included. Although this land must be protected to insure the protection of the wetland area, this area is not unbuildable land. Therefore, it should be considered a part of the lot area. However, this area should be placed in a conservation easement with restrictions on

disturbance of any kind. This type of restriction will be discussed in a subsequent section.

(a) All land generally covered or intermittently covered with, or which border on, tidal waters, or lands lying beneath tidal waters, which at mean low tide are covered by tidal waters to a maximum depth of five (5) feet, including but not limited to banks, bogs, salt marsh, swamps, meadows, flats or other low lying lands subject to tidal action;¹¹

(b) All banks, bogs, meadows, flats and tidal marsh subject to such tides and upon which grows or may grow some or any of the following: salt hay, black grass, saltworts, sea lavender, tall cordgrass, high bush, cattails, groundsel, marshmallow and low marsh cordgrass.¹²

(3) Freshwater Wetlands as defined below:

(3) This reference is taken from the Wetland Section of the Town Code. The freshwater definition also includes land lying within seventy-five (75) feet landward of the landward edge of such wetland. As with Tidal Wetlands, this area will be placed in a conservation easement, rather than be excluded from lot area.

¹¹Section 97-13, Southold Town Code

¹²Section 97-13, Southold Town Code

- (a) Freshwater wetlands as defined in Article 24, Title 1, Section 24-0107, Subdivisions 1(a) to 1(d) inclusive, of the Environmental Conservation Law of the State of New York¹³
- (4) Horizontal area of beach, escarpments, bluffs or the seaward faces of primary dunes
- (4) *Building in these areas would not only require special building materials, but would have the potential to cause environmental degradation, such as erosion.*
- (5) Any land below mean high water and any land lying between this line and the unbuildable areas outlined in Subsection (4) above.
- (5) *Again, building in such areas could cause environmental degradation such as erosion and water pollution.*
- (6) Horizontal areas of slopes which exceed a grade of fifteen (15) percent.
- (6) *The literature does not present a universal decision on severity of slope. With proper building material, buildings can be placed on almost any type of slope. However, the*

¹³Section 97-13, Southold Town Code

Planning Board should not create lots which will require special types of building procedures and which will promote erosion. A slope of 15% is commonly considered a high constraint to development.

- (7) Areas of special flood hazard as shown on the Federal Emergency Management Agency Maps.
- (7) *Lots created in flood hazard zones will require special types of building procedures. Again, the Planning Board should not be creating lots which require special building procedures. Also, building in these areas results in changes to topography which may affect drainage patterns on and off the site.*
- (8) Areas required for rights-of-way and the streets within these rights-of-way as per Section (45-F) provided that this area is not to be dedicated to the Town or retained by a Homeowner's Association.
- (8) *Rights-of-way and the streets contained within them will either be dedicated to the Town, owned and maintained by a Homeowners Association or owned by an individual lot owner with access rights granted to the other lots. If the area is dedicated to the Town, or owned by a Homeowners Association, it cannot be included as part of the individual lots. However, if neither of the above is to occur, the right-of-way should not remain as a separate parcel. It should*

therefore be included in each lot. However, because this area is unbuildable in the sense that all other property owners will have access over this right-of-way, this area should not be included in the individual lot area.

- (9) Areas required for existing or proposed utilities for public facilities, except minor utility easements of direct service to the subdivision.
- (9) *Long Island Lighting Company has transmission lines located within a right-of-way running through part of the Town. This land is unbuildable, therefore it should be excluded from the total lot yield. This area also should be excluded from lot area. However, this is not realistic because the lots will have to be designed with this right-of-way passing through them.*
- (10) Areas required for park dedication pursuant to Article (VII).
- (10) *If a park and playground area is required, it will be owned by either a Homeowner's Association or the Town. Therefore, such area can not be included in the individual lot area.*
- (11) Areas required for recharge basins or for natural area recharge.

- (11) *Such areas will be retained by a Homeowner's Association or dedicated to the Town. Therefore these areas can not be included in the individual lot area.*
- (12) Areas required for rights-of way and the streets within these rights-of-way as per Section (45-F) provided that this area is to be either dedicated to the Town or retained by a Homeowners Association.
- (12) *As stated in Number 8 above, if the area is dedicated to the Town, or owned by a Homeowners Association, it cannot be included as part of the individual lots.*

C. Corner Lots.

- (1) Corner lots shall be designed to ensure sufficient size for front yards on each street, one (1) rear yard and one (1) side yard, and leaving adequate building area for an average house.
- (2) Where practicable, corner lots shall be so laid out that their driveways have access to that street which carries or is intended to carry the lesser amount of traffic.

D. Side Lines.

All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variation from this rule will give a better street or lot plan.

E. Double Frontage and Reverse Frontage Lots.

Double frontage and reverse frontage lots should be avoided except to preclude driveway access onto a major thoroughfare. Reverse frontage lots which have their rear yard abutting a collector or major street shall be provided with screening of sufficient depth along the full width of the rear property line to screen the rear yard from adjacent traffic.

F. Flag Lots

Flag lots shall be allowed only where lot design in accordance with these standards would cause undue hardship, unnecessary length of road, or environmental harm. A flag lot shall have access thereto by means of an accessway, having a width of not less than fifteen (15) feet, serving only such lot. The area of the accessway shall not be included in determining the lot area of any lot. The front yard of any lot having access to a street by means of an access way shall be the required front yard specified for the district in which the lot is located and shall be measured from the rear lot line to the front lot.

F. Flag lots should be used only in certain cases. The use of flag lots in all subdivisions is not beneficial. Flag lots have the potential

to create inferior lots that are designed as such just to add to the number of lots being created. Flag lots also have the potential to cause safety problems if the access is not adequate. In some cases, however, flag lots are beneficial. They allow for greater flexibility of layout and design which may be helpful in environmentally sensitive properties. They can enable the road length to be reduced and even eliminated in some situations. Parts of this section on flag lots were in the Zoning Code. The section should be only in the Subdivision Regulations.

G. Provision for Future Resubdivision

Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which the subdivision is located, the Planning Board shall require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations. When an application is before the Planning Board for a partial division of a parcel, the Planning Board may require that a layout be designed for the entire parcel.

Section (44) Standards for Lot Access

A. General Access to Lots

(1) Proposed lots shall be designed with access to one of the following:

(a) An existing state, county or town highway;

(b) A street shown on the plat to be approved by the Planning Board:

(c) A street shown on a plat approved by the Planning Board.

(2) Where the enforcement of the provisions of A-(1)(a) through A-(1)(c) above would entail practical difficulty or unnecessary hardship, or where the circumstances of the subdivision do not require the lot(s) to be related to existing or proposed streets or highways, the subdivider may appeal from the decision of the administrative office having charge of the issue of permits to the board of appeals.¹⁴

(2) *This section alerts the subdivider to the provisions of Section 280-a of the Town Law.*

B. Lots on County or State Roads

When more than two lots are proposed to be subdivided from a parcel with frontage on a County or State road, frontage for all must be on internal streets where practical, and, not on the County or State highway. Each lot permitted to front on a County or State road must provide for an improved on -site turnaround so as to obviate

¹⁴Section 280-a Town Law, with amendments

the necessity of any vehicles backing onto such roadway. Common driveways shall be designed where practical.

C. Driveways

- (1) Where lots will access an off-site public street, common driveways shall be used where practical to minimize the number of curb cuts required.
- (2) All lots using common driveways shall provide a driveway maintenance agreement to be reviewed and approved by the Planning Board and Town Attorney.
- (3) Driveway grades between the street pavement and building setback line shall not exceed ten (10) percent.
- (4) A 10' x 30' turnout shall be required for every 500' of driveway. The exact location of the turnout(s) shall be determined by the Planning Board with the review of the fire department, and shall be indicated on the subdivision map.

Section (45) Street Design and Specifications

The section on streets in the existing Subdivision Regulations is unorganized. Information on street design and road specifications is contained in numerous sections of the Subdivision Regulations and also in the Highway Specifications, which is a separate Chapter of the Town Code.

The Subdivision Regulations and the Highway Specifications contain confusing and often conflicting information.

Originally, there were three classifications of streets: major, secondary or collector, and minor. Most subdivisions were designed with minor streets, as the definition of a minor street was one of limited continuity intended to serve the local needs of a neighborhood or a section thereof. In a major subdivision (any subdivision requiring the construction of a new street) the road is generally built to the minor specifications only. Over the years, the Town adopted "alternate" road specifications to allow roads with specifications less than that required for the minor road. At first, there was only one "alternate" road specification. In November 1990, the Town adopted numerous classifications of the "alternate" road. However, the piecemeal fashion of these additional specifications resulted in one section of the Code referring to one set of "alternate" specifications, and other sections referring to the original "alternate" specification. To further confuse matters, these "alternate" specifications were not classified other than by the required width.

Another source of confusion has been the use of the terms "Major Subdivision", "Major Street," and "Minor Subdivision" and "Minor Street". As stated above, a major subdivision does not necessarily require a major street, and a minor subdivision does not necessarily require a minor street.

The proposed revision addresses these problems by giving each type of road a separate classification. These roads are all classified as Local Streets. The

different pavement width is represented by the letters "A" "B""C"or "D". Further, all road specifications are presented in one table.

In addition to clarifying the specifications for roads, all other requirements are contained in this section, rather than some in one section and some in another. Any specifications or requirements that are not continued in the subdivision regulations, but are included in the Highway Specifications are referenced as such in the Subdivision Regulations. For example, actual road construction requirements are not within the Planning Board's jurisdiction. Therefore, they are contained in the Highway Specifications, but are referenced in the Subdivision Regulations.

For the most part, this revised section does not change any of the required standards. However, it changes the order in which they are presented and, in many cases, also clarifies the wording. Information which is contained in the existing regulations is presented in " plain text". However, most of this information has been reorganized or copied from the Highway Specifications.

Streets and highways shall be of such width and shall be constructed in such manner as to conform to the standards contained in this Article and the Southold Town Highway Specifications. They shall be located so as to accommodate the prospective traffic, to facilitate access by fire and emergency service vehicles and to comprise a convenient system for road maintenance. Streets and highways shall be properly related to the Master Plan, if such exists, and shall be coordinated with each other.

A. Street Arrangement

- (1) The arrangement of streets in subdivisions shall provide for the continuation of streets on adjoining areas in order to make possible necessary fire protection, movement of traffic and extension of utilities and public services. This may include the provision of tap streets for proper continuation of streets into adjoining properties which are not yet subdivided.
- (2) Local streets shall be laid out so that their use for through traffic will be discouraged. The purpose of local streets shall be to facilitate quick convenient access from arterial roads and through streets to internal roads. Particular attention should be given to eliminating possible bypasses around traffic signals and major intersections.
- (3) Where a parcel is subdivided into lots substantially larger than the minimum size required in the zoning district in which the subdivision is located, the Planning Board shall require that streets be laid out so as to permit future resubdivision.
- (4) Subdivisions containing twenty (20) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the Master Plan, if such exists, or streets on a recorded final plat. If at the time the subdivision is approved, only one of the access points connects with an existing street, some means of secondary

access shall be provided for emergency purposes. This access shall be maintained until such time that the second access is available.

- (4) *Two access points are required for traffic circulation and for emergency reasons. If a road has access on a road from an approved but not built subdivision, this will not serve as a second access point to the proposed subdivision. However, for planning purposes, the future connection may present the best design. It is therefore better to plan for the connection and to provide a second emergency access until such time that the future street is constructed.*

B. Dead End Streets/Cul-de-sacs

- (1) All dead-end streets shall terminate in a circular turnaround (cul-de-sac) having a minimum right-of-way radius of fifty (50) feet and pavement radius of forty-four (44) feet, curb to curb.
- (2) At the end of temporary dead-end streets, a temporary turnaround with a pavement radius of forty-four (44) feet, curb to curb, shall be provided, unless the Planning Board approves or requests an alternate arrangement.
- (3) The Planning Board may require the central area of the cul-de-sac to be planted or to retain its natural plant material when such is found to be acceptable by the Board.

- (4) The Planning Board may require the reservation of a ten foot wide easement to provide for continuation of pedestrian traffic and/or utilities beyond the cul-de-sac, where necessary.
- (5) Where dead-end streets are designed to be so permanently, they should not exceed eight hundred (800) feet in length. Dead-end streets exceeding 800 feet shall be permitted only at the discretion of the Planning Board and shall require that a second access be provided and be maintained for emergency purposes.

C. Intersections

- (1) No more than two proposed streets shall intersect or meet at any one (1) point.
- (2) All streets shall join each other so that for a distance of at least one hundred (100) feet, a street is approximately at right angles to the street it joins.
- (3) Intersections along local streets shall be spaced at least one hundred fifty (150) feet apart, measured from the points of intersection of the center lines.
- (4) Minor or local street openings into a major street shall be at least five hundred (500) feet apart.

- (5) Adequate sight distance shall be required at all intersections. In order to provide visibility for traffic safety, that portion of any corner lot, whether at an intersection entirely within the subdivision or of a new street with an existing street, which is shown shaded on Sketch A, shall be cleared of all growth (except isolated trees) and obstructions above the level three (3) feet higher than the center line of the street. If directed by the Planning Board, the subdivider shall regrade this area.

D. Horizontal alignment

- (1) The recommended minimum center-line radius for a street curve shall be two hundred (200) feet on a local street and four hundred (400) feet on a minor street.
- (2) A tangent distance of at least fifty (50) feet shall be provided between reverse curves.
- (3) Minimum radius at a corner shall be twenty-five (25) feet at the property line, except that a larger radius shall be provided at major intersections.

E. Vertical alignment

- (1) All street gradients shall conform as much as possible to the natural terrain, minimizing excessive cuts and fills.

(2) Street grades shall not be less than one-half of one (0.5) percent nor more than nine (9) percent. Careful consideration shall be given to entrapment of stormwater run off at property lines.

E. Right-of-Way Width, Pavement Width, Curb and Sidewalk Requirements.

F Road specifications are not changed from that which is existing. The information is re-organized in order to present it in a more readable manner. In addition, the different road widths are classified as Local A, Local B, etc.

(1) The following tables (Table A and Table B) prescribe the minimum street right-of-way widths, pavement widths and curb and sidewalk requirements for subdivisions located in various zoning districts of the Zoning Ordinance of the Town.

TABLE A

<u>Type</u> <u>of Street</u>	<u>Right-</u> <u>of-Way</u> <u>Width</u> <u>(feet)</u>	<u>Paving</u> <u>Widths</u> <u>(feet)</u>	<u>Curbs</u> <u>Required</u>
Major	100 ⁺	36 ⁺	yes
Secondary/ Collector	80 ⁺	36 ⁺	yes
Minor	50	28	yes
Local A	50	24	yes
Local B	50	20	yes
Local C	25	16	no*
Local D	25	12	no*

+ It is difficult to interpret from the existing code exactly what these numbers are, as the specifications differ in different parts of the code. However, these specifications are the ones used for the existing roads. In only one or two cases (extensions of these existing roads) would this type of road specification be proposed.

+ (same)

+ (same)

+ (same)

NOTES:

*** Designates road pavement without curbs, utilizing drainage in swales vs. roads with curbing and drainage basins within the pavement area.**

TABLE B

<u>Zoning</u> <u>District#</u>	<u>Number of</u> <u>Lots Serviced</u> <u>by Street</u>	<u>Type</u> <u>of Street</u>	<u>Sidewalks</u> <u>Required</u>
All R zones	1	Local D	no
All R zones	2-4	Local C	no
R-200*, R-400*	5 and over	Local C	no
R-120*, AHD*, HD*	5 and over	Local B	no
R-80, R-40, AHD and HD	5 and over	Local A	+
Industrial and <u>Business</u>	All	Minor Street	+

NOTES:

For a zone district designation or land developed at a density of zone district, i.e., R-80 Zone, but developed at R-120 density, the road width would be as specified in the chart for that density.

* On-site parking as required by the Planning Board.

+ To be determined by Planning Board.

- (2) The Planning Board may require wider roads when necessary.
- (3) The specifications set forth in the Table A and Table B shall apply to all constructed roadways after December 1, 1990.

G. Brief outline of specifications for streets.

Detailed specifications, construction and inspection requirements are contained in the Highway Specifications. Street improvements shall be laid out and constructed in accordance with the standards set forth in the Highway Department's Specifications.

(1) Major, Secondary/Collector, Minor and Local A Streets

1 1/2" Wearing Course

2 1/2" Binder Course

Fine Grade

4" Compacted Base Course

3/4" Stone Blend or Crushed Concrete

(2) Local B, Local C, and Local D Streets

1 1/2" Asphaltic Concrete Wearing Course OR

Bituminous Surface Treatment -Double Coated

2 1/2" Binder Course

Fine Grade

4" Compacted Base Course

3/4" Stone Blend or Crushed Concrete

Section (46) Drainage¹⁵

- A. The drainage design for all subdivisions shall conform to the criteria as outlined in this Section and the Highway Department Specifications.
- B. All stormwater shall be recharged into the subsurface groundwater reservoir, and no system will be allowed which directly discharges such waters into any surface water area or into a fresh or salt water wetland.
- C. Natural drainage or alternate systems may be considered by the Planning Board, provided that they are feasible and ecologically sound.
- D. The subdivider shall establish that adequate provision is made for the disposal of surface or spring water without any damage to the proposed development or to the adjacent or nearby land. The subdivider may be required by the Planning Board to carry away

¹⁵This section taken with amendments from Southampton Town Code and PRRW Proposed Subdivision Regulations. This section will be reviewed by an Engineer prior to presentation of this section.

by pipe or open ditch any spring or surface water that may exist either previous to or as a result of subdivision. Such drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width. A culvert or other drainage facility shall, in each case, be of adequate size to accommodate the potential runoff from the entire upstream drainage area, whether inside or outside the subdivision area. The design and size of this facility shall be subject to the approval of the Highway Superintendent, Town Engineer or other authorized reviewer.

E. Drainage Plan Requirements

A drainage plan prepared by a registered professional engineer shall be required, and shall contain the following:

- (1) Vicinity sketch at a suitable scale showing the area within a half-mile of the perimeter of the land being subdivided showing all existing and proposed watercourses, wetlands, sanitary and storm drains, culverts, recharge basins, ponds (fresh and salt water), and all surface and sub-surface drainage patterns from the property being subdivided.

- (2) An estimate of the quantity of storm water surface runoff flowing from the land proposed to be subdivided and that which would be generated by the proposed subdivision, calculated on a basis of a six (6) inch rainfall in twenty-four

- (24) hours. The Town Engineer, Superintendent of Highways or other authorized reviewer, and the Planning Board shall approve the design and size of facility, based on anticipated runoff.
- (3) An estimate of the quantity of storm water surface runoff entering the subdivision naturally from upstream areas with the watershed under present conditions, calculated on the basis of a six (6) inch rainfall in a twenty-four (24) hour period.
 - (4) A complete drainage system for the entire subdivision .
 - (5) The outline of all street rights-of-way, drainage easements, recharge basins and other related features.
 - (6) Precise street center-line gradients in percent indicated with arrows to establish the direction of flow.
 - (7) Critical street center-line elevations.
 - (8) Boundaries of stormwater runoff watersheds for each major drainage facility and their area in acres.
 - (9) Identification of drainage structures by type and whether existing or proposes.

- (10) All appropriate details and dimensions necessary to clearly explain the proposed construction, including type of construction, material, size, pitch and invert elevations among other things, in accordance with good engineering practice.
- (11) Location of test holes, description of soil conditions and water level at recharge basin locations and other points as required by the Town Engineer and/or Superintendent of Highways shall be shown.
- (12) Data for recharge basins shall include bottom elevations and high water elevation, water capacity and elevations along the top of the berm.

F. Street Profile Requirements

- (1) Drawings shall be made on standard profile paper with the following scales:
 - (a) Horizontal scale: one (1) inch equals fifty (50) feet.
 - (b) Vertical scale: one (1) inch equals ten (10) feet.
- (2) A profile shall be submitted for each proposed street and for any existing street in the subdivision if it will affect the design.

- (3) The center-line profile, existing or natural and proposes, the typical cross section and a system of survey stations shall be included.
- (4) Notations as to percent of gradient, critical elevations and vertical curve data shall be included.
- (5) Location and invert elevation of all proposed drainage structures in street rights-of-way shall be shown.

G. Recharge Basins

- (1) All recharge basins shall be designed in accordance with the requirements of the Highway Specifications.
- (2) All recharge basins shall be screened. Such screening shall be included in the performance bond estimate.

Section (47) Other Improvements

A. Street Trees¹⁶

- (1) Street trees shall be planted in all subdivisions. The Planning Board may waive this requirement if there are existing trees on the property which are to remain, and which are located in such manner to fulfill the requirements of this section.

¹⁶Section A108-41, Southold Town Highway Specifications

- (2) Trees shall be of freshly dug nursery stock and shall have grown for a period of at least two (2) years, under the same climatic conditions as the location of the development.
- (3) Trees shall be of symmetrical growth, sound, healthy, free from insect pests, disease and suitable for street trees.
- (4) The average trunk diameter at a height of four (4) feet above the finished ground level shall be a minimum of two and one-half (2 1/2) inches to three (3) inches, depending on good practice, with reference to the particular species to be planted.
- (5) Trees shall be planted at intervals of from thirty (30) feet to forty (40) feet depending on the species and location of the lot lines along both sides of the proposed street(s), or if no street is proposed, along the existing street. The Planning Board may require that trees be planted along both proposed and existing street(s). Trees shall be planted within the right-of-way where their spacing from the property line will be determined by the Superintendent of Highways and the Planning Board. In order to provide visibility for traffic safety, no trees shall be planted within a minimum length of twenty (20) feet from the ends of the right-of-way curve radius at intersections. Where sidewalks are required, street trees will be planted on private property.

- (6) Only the following species and varieties for street trees area acceptable:

Scientific Name	Common Name	Spacing (feet)
Acer platanoides	Norway maple	40
Acer saccharum	sugar maple	40
Fraxinus americana	white ash	30
fraxinus pennsylvanica	green ash	40
lanceolatus		
Gleditsia triacanthos	honey locust	30
Gleditsia triacanthos	moraine	30
inermis	honey locust	
Quercus borealis	red oak	40
Quercus palustris	pin oak	40
Tilia cordata	little-leaf linden	30
Tilia tomentosa	silver linden	30

- (7) Street trees shall be planted as per the methods specified in the Highway Specifications Section A108-41.

- (7) *In most cases the subdivider is not the person who will be planting the street trees. The subdivider is only interested in how many, and what kind of trees will be required. The actual planting information i.e. the size of the pit and the type of soil, will be contained in the Highway Specifications.*

B. Street Signs

Street identification signs of a type approved by the Superintendent of Highways shall be provided by the subdivider and placed at all intersections in locations within the right-of-way approved by the Superintendent of Highways.

C. Street Lighting Standards

Street lights shall be required at all major intersections in a proposed subdivision. Where required by the Planning Board, street lighting standards of a design conforming to the Town specifications shall be placed in a manner and location approved by the Town Superintendent of Highways. In the case of a subdivision involving a County or State highway, approval shall be obtained from the appropriate highway agency.

D. Firewells

Requirements for firewells, location, type and number of deep or shallow fire wells shall be determined by the Planning Board. In making such determination, the Planning Board shall seek the recommendation of the Commissioners of the Fire District in which the proposed subdivision is located. Where public water supply exists and hookup for hydrants is required, requirements for firewells may be waived.

E. Public Utilities

Local electric power, telephone and cable television line shall be placed underground. Utility companies shall place special emphasis on preserving the vitality and appearance of trees. All utilities to flag lots shall be placed underground.

Section (48) Preservation and Protection of Natural Environment

A. Building Envelopes

A. The Planning Board uses building envelopes to insure that each lot created has a developable building area, and also, in certain situations, to limit the area within a lot that can be developed. However, there are no standards for building envelopes specified in the Subdivision Regulations.

A standard building envelope is the portion of a lot located within the minimum prescribed front, rear, and side yard setback distances. Typical setback requirements allow building envelopes to encompass a large percentage of the lot. Building envelopes should be more narrowly defined in the regulations. They should be used to keep development away from sensitive areas, and to restrict the actual developable area of a lot.

(1) Building envelopes shall show the most suitable areas for development within the required setbacks of the particular zoning district for each lot.

- (2) Building envelopes for all lots adjacent to Long Island sound and upon which there exists a bluff or bank landward of the shore or beach shall be set back not less than one hundred (100) feet from the top of such bluff or bank¹⁷
- (2) *The setbacks contained in numbers 2,3,4 and 5 are currently included in the Zoning Code, in Section 100-239.4 - Building Setback Requirements Adjacent to Water Bodies and Wetlands. The Planning Board is thus required to incorporate these setbacks into the subdivision layout. Although this section of the Zoning Code refers to buildings and not lot lines, the Planning Board must insure that the lot arrangement shall be such that when constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties for reasons of topography or other natural conditions. The setbacks mandated by this section should thus be referenced in the subdivision regulations.*
- (3) Except as otherwise provided in Subsection A (2) above, building envelopes for all lots adjacent to Long Island Sound shall be set back not less than one hundred (100) feet from the ordinary high-water mark of Long Island Sound.¹⁸

¹⁷Section 100-239.4 Zoning Code

¹⁸Section 100-234.4, Southold Town Zoning Code

- (4) All buildings located on lots adjacent to any freshwater body shall be set back not less than seventy-five (75) feet from the edge of such water body or not less than seventy-five (75) feet from the landward edge of the freshwater wetland, whichever is greater.¹⁹
- (5) All buildings located on lots adjacent to any tidal water body shall be set back not less than seventy-five (75) feet from the edge of such water body or not less than seventy-five (75) feet from the landward edge of the tidal wetland, whichever is greater.
- (6) Building envelopes for all lots upon which a bulkhead, concrete wall, riprap or similar structure exists and which are adjacent to tidal water bodies shall be set back not less than seventy-five (75) feet from the bulkhead, concrete wall, riprap or similar structure.²⁰
- (7) Building envelopes shall not be drawn into any area specified in Section (43-B) of this Article.
- (8) Accessory buildings and structures shall be located within the building envelope areas unless otherwise specified on the subdivision plan.

¹⁹Section 100-239.4, Southold Town Zoning Code

²⁰Section 100-239.4, with amendments, Southold Town Zoning Code

- (9) Individual lot grading plans may be required by the Planning Board to assess the extent of disturbance on a lot prior to determination of building envelope placement.
- (10) Building envelopes shall be in locations least likely to block or interrupt scenic vistas as seen from the public roadway(s). Building envelopes for lots on existing streets shall be set back a sufficient distance to provide a visual buffer where practical.

B. Restrictive Easements and Deed Restrictions

B. Restrictive easements can be used to restrict development of a portion of a tract, for environmental protection or as a buffer area. They can also be used as a way to keep the property as open space without the creation of a Homeowners Association if the parcel is not large enough to form a sufficient open space area. Restrictive easements should be used in concert with building envelopes. If applicable, areas outside of building envelopes should be placed in conservation easements.

- (1) The Planning Board may require areas outside of the building envelope to be subject to certain restrictions. The Board may require that existing vegetation be preserved in such areas where disturbance is not necessary outside the building envelope. The Board may limit the types of development that are allowed in the particular area. These areas may be placed in a restrictive easement such as a

conservation easement, scenic easement or similar type of easement. The terms for such easement shall be determined by the Planning Board and shall be contained in a Declaration of Covenants and Restrictions to be approved by the Town Attorney and the Planning Board. All subdivision plats shall contain a reference to such restrictive easements. A deed restriction shall also contain reference to all such restrictions.

- (2) Those areas described in Section (43-B) of this Article shall be located outside building envelopes and use for such areas shall be restricted by restrictive easements.
- (3) Conservation easements shall be required for all wetland areas, and all land lying seventy-five (75) feet landward of such areas. Such areas shall be left in their natural state and shall not be disturbed. Structures shall be located within the building envelope in a manner so that no area of the easement will be disturbed during construction.
- (3) *It is typical for a building envelope to be placed right at the 75 foot setback. It is then possible for a building to be constructed on this setback line. Such placement of the building requires the construction machinery to encroach on the easement area. The last sentence will eliminate such occurrence.*

- (4) Conservation easements shall be required for all transition areas from the bay and sound as specified in Section [48-A(2), A(3), A(4) and A(5)]. Such areas shall be left in their natural state and shall not be disturbed. Structures shall be located within the building envelope in a manner so that no area of the easement will be disturbed during construction.
- (5) Conservation easements shall be used to restrict the area identified as open space on a cluster plan if lot lines have been extended so there is no common open space. These areas are to be deed-restricted against further development.

C. Topsoil

The natural fertility of the soil shall be preserved by disturbing it as little as possible, and no topsoil shall be removed from the site. If any topsoil is removed from its natural position in the process of grading the subdivision site, such topsoil shall be replaced to minimum depth approximately equivalent to that existing prior to such grading, except in streets, driveways and foundation areas.

D. Disturbance to Site

The natural vegetation and soils of a subdivision site shall not be disturbed prior to final plat approval by the Planning Board, except for such minimal disturbance as will be needed and approved by said Board relative to survey boundary work, excavation of

approved test holes and other acceptable minor site preparation needed for engineering and planning evaluation.

E. Erosion and Sedimentation Control

The Planning Board may require such erosion and sedimentation control methods as are needed to protect terrain features, including such methods which are noted in the Erosion and Sediment Control Technical Handbook prepared by Suffolk County Soil and Water Conservation District.

ARTICLE (VII)

Park and Recreation Requirements

Section (49) Park and Recreation Standards and Character of Site

Town Law Section 277 (1) provides the authority to Towns to require that a subdivision plat show park lands available for playground or other recreational purposes, or in the alternative, to require the payment of a fee in lieu of such land to be used by the municipality for such purposes. The existing Subdivision Regulations reflect this. The fee section of the the Subdivision Regulations was revised in May of 1990, to require a set fee per lot, instead of using a variable fee based on an independent appraisal of the entire property.

Providing land or depositing a fee in lieu of land is easily calculated for a conventional subdivision as this type of subdivision does not create any open, or common land. However, when a subdivision is designed as a cluster subdivision in accordance with Town Law Section 281, which then creates open space, the requirements for land for park and playground purposes become less defined. The question which arises is can the open space area be used to fulfill the park and playground requirement?

In a recent court case [Bayswater Realty and Capital Corp. v. Planning Board of the Town of Lewisboro, 76 N.Y.2d 460 (1990)], the Court of Appeals held that "In approving a cluster subdivision plat, the Planning Board is not required to accept the open spaces created by the clustering process in satisfaction of its requirement that the developer either provide recreational land or pay a fee in lieu thereof. Provided the Planning Board makes the determinations called for by Town Law Section 277 (1) to the effect that

additional recreational land is, in fact, needed in the town and that such need will not be met by open lands created within the plat itself, the Board may demand the substitutional monetary payment pursuant to Town Law Section 277 (1) even though, under the authority of Town Law Section 281 (d), it is also requiring the developer to set aside the open lands resulting from the cluster." The court concluded that "Both Section 277(1) and Section 281(d) are intended to serve the general aim of fostering the preservation of open lands, but the focus of Section 277(1) is the reservation of lands needed by the broader community for park and recreational purposes, while the focus of Section 281 (d) is on the preservation of open lands within the subdivision itself."

A key issue in that case was that the Planning Board had the power to require land, or a fee in lieu of such land in cluster subdivisions. However, the Board could only do this if a "proper case" existed. Section 277(1) is designed to meet the needs of the town or the community at large, not the isolated needs within the subdivision, itself. If the Planning Board considers the potential contribution of the open space area in a cluster subdivision, in relation to the recreational needs of the town, and the Planning Board finds that additional recreational land is still needed, the Board is not precluded from requiring, that the developer provide additional land or pay a fee in lieu thereof. The Bayswater decision requires analysis by the Planning Board in support of a mandate that land be set aside for recreational purposes or that payment be made in lieu of such land dedication, in conventional and cluster subdivisions alike.

The existing section in Southold's Subdivision Regulations pertaining to Park and Playground fees does not require much revision other than to

include reference to the analysis required for cluster subdivisions. However, the Bayswater decision certainly affects the methods by which the Planning Board makes their determination of whether to require land for park and playground purposes or a fee in lieu of such dedication. Currently, the Planning Board does not assess recreational needs at all. The Bayswater decision will force the Planning Board to do so. Accordingly, the Subdivision Regulations should present the guidelines for the Planning Board to follow in this analysis.

- A. The Planning Board may require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Town Plan or Official Map, or otherwise located within a proposed subdivision, where it deems that such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography and general character and shall have adequate road access for the particular purposes envisioned by the Planning Board. The area shall be shown and marked on the plat, "Reserved for Recreational Purposes." When recreation areas are required, the Planning Board shall determine the number of acres to be reserved on the basis of providing five (5) acres of recreation area for every one hundred (100) families or dwelling units.²¹ [Amended 5-8-73]
- B. In general, land reserved for recreation purposes shall have an area of at least four (4) acres. If a reservation of less than four (4)

²¹Review of Planning Literature does not reveal a common standard for calculating the amount of land to be reserved for park and playground purposes. This standard was used as this is what is contained in the current regulations.

acres is permitted. the Board shall require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjoining land is subdivided.

- C. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield or other recreation purpose and shall be relatively level and dry. All land to be reserved for dedication to the town for park purposes shall be offered to the Town Board for dedication, and shall be accepted by the Town Board, prior to endorsement of the final subdivision plat.
- D. None of the subsections above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this Article.

Section (50) Park and Recreation Requirements in Cluster

Developments

- A. The Planning Board may accept all or part of the open space area created by cluster developments as satisfying all, or part of, the park and playground requirement, provided that the open space area is suitable, and intended for, recreational use for the town, and use is not limited solely to members of the particular subdivision.
- B. In accepting open space areas created in a cluster subdivision, the Planning Board must consider the potential contribution of these

areas to the town's recreation needs in determining whether additional recreational land is required. If the Planning Board finds that additional recreational land is needed, it may pursuant to the authority of Town Law Section 277(1), require the provision of additional land or a fee in lieu thereof.

Section (51) Alternate Procedure: Money in Lieu of Land

- A. Where the Planning Board deems that a reservation of land would not be of suitable size, dimension, topography or general character, or would not have adequate road access for the particular purposes envisioned by that Board, for park or playground use, either alone or in conjunction with abutting reservations on adjoining subdivision, the Planning Board may waive the requirement for such reservations, with the condition that the subdivider deposit with the Town Board a cash payment in lieu of land reservation. Such deposit shall be placed in a special fund as required by Section 277 of the Town Law, as amended, and separately identified to show the name and location of the subdivision for which the deposit was made.
- B. Such deposit shall be used by the town for the establishment and perpetual maintenance of a neighborhood recreation area, including the acquisition of property. Such deposit must be used within a reasonable period of time and any such expenditure must be for facilities that will be actually available to and benefit the persons in said subdivision along with other residents of the Town, and be located in the vicinity of the subdivision.

- C. The amount to be deposited with the Town Board shall be two thousand dollars (\$2,000.) per lot for each vacant lot in the subdivision. For the purpose of this section, a "vacant lot" shall be construed as a lot that does not contain an existing residential structure at the time the subdivision received final approval. In a subdivision containing lots designated as "affordable" pursuant to the town's affordable housing code, those lots so designated shall be exempt from this computation. [Amended 5-22-1990]

ARTICLE (VIII)

Performance and Maintenance Bond

The present subdivision regulations do not contain a separate section on bonding and the procedures for such. General bonding requirements are mentioned throughout the regulations, however, they are neither specific nor contained in one section. The proposed section clarifies exactly what the procedure is. There will be a separate section listing exactly what improvements are to be included in the bond, or there will be a referral to the applicable sections.

Section (52) Purpose of Performance Bond

A performance bond is posted by the subdivider to guarantee to the town that he/she will faithfully construct or cause to be constructed, the required public improvements which are an integral part of the approved final plat and, further, that the construction shall be completed within a reasonable period of time. For the purposes of this Article, a security shall be defined as a performance bond, passbook, Letter of Credit, or any other form of security approved by the Town Board.

Section (53) Performance Bond

A. Before the Planning Board grants final approval of a subdivision plat, the procedures set forth below shall take place.

- (1) The subdivider shall prepare, or cause to be prepared, an estimate of the total cost of the required capital improvements, including but not limited to roads.

drainage, clearing, street trees, street signs, fire protection and lighting, plus a reasonable estimate of anticipated increased construction costs during the life period of the security. The estimate shall be prepared on the Draft Bond Estimate Form and Unit Price Form available at the Planning Board Office.

- (1) *The Draft Bond Estimate Form and Unit Price Form will set forth the Planning Board's policy on certain improvements (for example, where street lights must be located). It will also set the unit costs for such improvements. The prices and standards will be set by the Planning Board and will be revised on a yearly basis. The Form will be included as part of the final application.*
- (2) The Town Engineer, Superintendent of Highways, or other duly appointed reviewer, will review the estimate and will submit a written itemization of additions and/or reductions to the estimate.
- (3) The Planning Board shall pass a resolution either approving or modifying the performance bond estimate as recommended by the Town Engineer, Superintendent of Highways, or other duly appointed reviewer.
- (3) *The current policy is to send the bond estimate, after approval by the Planning Board, to the Town Board. The*

Town Board acts twice on the bond; the first time on the estimate and the second time on the actual security posted by the subdivider. Town Law requires only that the Town Board accept and approve the bond as to form, sufficiency and manner of execution. The revision eliminates the unnecessary first step.

- (4) The subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the subdivider shall file with the Town Clerk a security in the full cost of the required improvements. A copy of the above shall be submitted simultaneously to the Planning Board Secretary by the subdivider.

- (5) The Planning Board and the Town Attorney shall review the security as to form, sufficiency, manner of execution and surety. The Planning Board office shall place a resolution on the Town Board agenda for the Town Board to accept the security.

- (6) The Town Board shall approve or disapprove the security as presented by the Planning Board. The Town Clerk shall notify the Planning Board, in writing, of the Town Board's action.

- (7) The Chairmen of the Planning Board shall not sign a final plat until notification by the Town Clerk of the Town Board's approval of the security.

Section (54) Expiration and Term of Performance Bond

- A. The security shall run for a term to be fixed by the planning Board, but in no case for a longer term than three years, provided, however, that the term of such performance bond may be extended by the Planning Board with consent of the parties thereto.
- A. *Town Law sets the three year time limit.*
- B. The term of the security may be extended on application to the Planning Board, or by the Planning Board prior to the expiration date of said security. In approving any such extension, the Planning Board shall consider the present costs and anticipated increases during the period of such extension and shall adjust the face amount accordingly. The extension of any security shall be reviewed by the Town Attorney and Planning Board as to form. A formal written declaration of extension by the bonding company or insuring party must be filed prior to the expiration of the existing security. Absent to such extension the Planning Board will recommend to the Town Board that the security be declared in default, so that the Town may proceed to recover funds to complete such improvements.

Section (55) Release of Bond

After construction of the public improvements covered by the performance bond and prior to the release of the bond, the subdivider shall prepare a set of the approved drainage plans and street profiles amended to indicate as-constructed information. The Town Board shall release the bond upon certification of the Town Engineer and/or Superintendent of Highways and the Planning Board.

Section (56) Maintenance Bond

The current code does not have a provision for a maintenance bond. Such bond is beneficial in that it insures that all improvements are functional.

At the time of release of the security, a maintenance bond shall be furnished by the developer to guarantee upkeep and the workmanship and materials of all required improvements for a period of one (1) year from the date of release of the performance bond by the town. This bond shall be in the amount which is one-third of the security estimate. Such bond shall be satisfactory to the Planning Board and Town Attorney as to form, sufficiency and manner of execution.

ARTICLE (IX)
Variances and Waivers

Section (57) Variations in Cases of Hardship

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

Section (58) Waivers of Required Improvements

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

Section (59) Board to Impose Conditions

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

Section (60) Approval of Board of Appeals Actions[Added9-23-80]

Heretofore and between the period from January 1, 1971, and September 5, 1979, the Board of Appeals made certain determinations on appeals to it

involving area variances and/or the relocation of lot lines and/or the set off of lots, all of such determinations being set forth on a schedule caused to be compiled by the Planning board. Many of the Board of Appeals' determinations on said schedule may have required approval by the Planning Board. However, due to misunderstanding, inadvertence or oversight, the owners of the lands involved did not thereafter apply to the Planning Board for its approval. In the intervening time, many of the lands involved in such Board of Appeals' determinations have been sold and/or built upon in reliance upon the Board of Appeals' determination and the subsequent issuance of building permits and/or certificates of occupancy. The Planning Board has reviewed all of the determinations set forth on the aforesaid schedule. In view of the foregoing, the Planning Board (and the Town Board, as evidenced by its approval of this amendment) determines that an extreme hardship would be caused if such owners were, at this time, required to obtain approval from the Planning Board. Accordingly, it is hereby determined that any Planning Board approvals that may have been required with respect to the Board of Appeals determinations set forth on said schedule are hereby deemed to have been granted with the same force and effect as if the same had been submitted to and approved by the Planning Board in accordance with the applicable laws and regulations. It is further determined that said schedule shall be endorsed by the Chairman of the Planning Board and filed in the Town Clerk's office simultaneously with the effective date of this amendment.

CHAPTER 5

SUMMARY AND CONCLUSION

This study has presented the statues pertaining to subdivision review, and the particular regulations involved with subdividing land in Southold Town. Planning Literature involving all aspects of subdivision review, and Model Subdivision Ordinances were examined, along with other Town's Subdivision Regulations. These were all reviewed in accordance with the existing Subdivision of Land chapter of the Southold Town Code. The study resulted in a revised document proposed to take the place of the existing Subdivision of Land chapter.

Although Model Subdivision Ordinances are available for assistance in preparing revised Subdivision Regulations, it is important that such Models be adapted for each individual Town. The revised document for Southold Town was written in accordance with the goals of Southold Town. Although other Town's Subdivision Regulations were reviewed, in many cases, what those Towns were trying to achieve through their regulations differed from that of Southold Town. Therefore, the proposed revision to Southold's Subdivision of Land chapter is particular to Southold Town. However, the revisions included in this study also referenced regulations which are State or County wide. Thus, these parts of the revised document are applicable to other communities on Long Island and in New York State.

The revised document is a complete change to the existing chapter. It reorganizes the contents, and adds the processes and policies which are not addressed in the existing chapter. It is to be presented to the Town to be adopted as a whole document. However, the document will be presented as a working draft, as it is likely that further revisions will be made upon

by the Planning Board, the Town Board, and the citizens of the community.

Subdivision Regulations are not written to be adopted and never amended or revised. Since the time of their adoption, the Subdivision Regulations of Southold Town have been amended in a piecemeal fashion. This has resulted in a document open to varying interpretations and containing conflicting, and often contradictory sections, both within the Subdivision Regulations and between other chapter of the Town Code. The document presented in this study is meant to be adopted by the Town, and continually updated as the practices, policies, laws and regulations pertaining to the subdivision of land and subdivision controls change and evolve.

APPENDIX A

Chapter A106
Subdivision of Land
Town of Southhold

SUBDIVISION OF LAND

Chapter A106

From the

CODE

of the

TOWN OF SOUTHOLD

COUNTY OF SUFFOLK

STATE OF NEW YORK

[Printed as last amended 6-6-89. Consult municipal records for possible amendments adopted thereafter.]

GENERAL CODE PUBLISHERS CORP.

**72 Hinchey Road
Rochester, New York 14624**

1989

SUBDIVISION OF LAND

Chapter A106

SUBDIVISION OF LAND

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- § A106-50. Variations in cases of hardship.
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- § A106-52. Board to impose conditions.
- § A106-53. Approval of Board of Appeals actions.

[HISTORY: Adopted by the Planning Board of the Town of Southold 9-6-67; approved by the Town Board of the Town of Southold 9-26-67. Sections A106-13, A106-27, A106-38F and A106-42A amended during codification; see Ch. 1, General Provisions, Article II. Other amendments noted where applicable.]

GENERAL REFERENCES

Soil removal — See Ch. 81.
Wetlands — See Ch. 97.
Zoning — See Ch. 100.

§ A106-10

SUBDIVISION OF LAND

§ A106-11

ARTICLE I
General Provisions

§ A106-10. Authority of Planning Board.

By the authority of the resolution of the Town Board of the Town of Southold adopted on September 26, 1967, pursuant to the provisions of Article 16 of the Town Law of the State of New York, Chapter 63 of the Consolidated Laws of New York, the Planning Board of the Town of Southold is authorized and empowered to approve plats, with or without streets, for subdivisions within the limits of said town.

§ A106-11. Declaration of policy.

It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the town. This means, among other things:

- A. That 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. That proper provision shall be made for drainage, water supply, sewerage and other needed improvements.
- C. That all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties.
- D. That the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Comprehensive Town Plan, as such may be in existence from time to time, and shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection and to provide access of fire-fighting equipment to buildings.
- E. That proper provision shall be made for open spaces, including parks and playgrounds.

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- F. That adequate provision shall be made to conserve the natural beauty of the town.
- G. That an unusually detailed review shall be afforded to development plans for waterfront property.

§ A106-12. Short title; adoption.

In order that land subdivisions may be made in accordance with this policy, these regulations, which shall be known as, and which may be cited as, the "Town of Southold Land Subdivision Regulations," have been approved by the Town Board on September 26, 1967, and adopted by the Planning Board on September 6, 1967.

§ A106-13. Definitions.

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

CONDITIONAL APPROVAL OF A FINAL PLAT — Approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of County Clerk of Suffolk County. [Added 5-8-73]

CROSSWALKWAY — A right-of-way dedicated to public use, ten (10) feet or more in width, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC (COURT) — A short street having one (1) end open to traffic and being permanently terminated by a vehicular turnaround.

EASEMENT — A grant of the use of a strip of land by the public or by a corporation or persons for specific purposes.

ENGINEER or LICENSED PROFESSIONAL ENGINEER — A person licensed as a professional engineer by the State of New York.

FINAL PLAT — A drawing prepared in a manner prescribed by these regulations, showing a proposed subdivision and containing, in such additional detail as shall be provided by these regulations, all information required to appear on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of a preliminary plat of such proposed subdivision if such preliminary plat has been so approved. [Amended 5-8-73]

FINAL PLAT APPROVAL — The signing of a final plat by a duly authorized officer of the Planning Board after a resolution granting final approval of the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the Suffolk County Clerk's office. [Added 5-8-73]

LOT — A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

MAJOR SUBDIVISION — All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of five (5) or more lots, or any subdivision requiring the construction of a new street or the extension of municipal facilities.

MASTER OR TOWN PLAN — A plan for the development of all or portions of the Town of Southold, prepared by the Planning Board pursuant to Section 272-a of the Town Law, which plan indicates the general locations recommended for various public works, places and structures and the general physical development of the town, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts therein.

MINOR SUBDIVISION — Any subdivision containing not more than four (4) lots fronting on an existing street or

not requiring the extension of municipal facilities, and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map or Zoning Ordinance, if such exists,¹ or these regulations.

OFFICIAL MAP — The map established by the Town Board pursuant to Section 270 of the Town Law, showing streets, highways, parks and drainage rights-of-way, both existing and proposed.

PLANNING BOARD or BOARD — The Planning Board of the Town of Southold, Suffolk County, New York.

PRELIMINARY PLAT — A drawing prepared in the manner prescribed by these regulations, showing the layout of a proposed subdivision, including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as these regulations require. [Amended 5-8-73]

PRELIMINARY PLAT APPROVAL — Approval by the Planning Board of the layout of the proposed subdivision as set forth in a preliminary plat, but subject to the approval of the plat in final form in accordance with the provisions of Subdivision 7 of Section 276 of the Town Law. [Added 5-8-73]

SKETCH PLAN — A rough sketch of the preliminary layout (or final plat, in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Board as to the form of the layout and pursuant to the objectives of these regulations.

STREET — A way for vehicular and pedestrian traffic, whether designated as a street, road, avenue, lane or other way, located between right-of-way lines.

STREET, LOCAL SERVICE — A street running parallel to and in the immediate vicinity of a major highway for the

¹ Editor's Note: See Ch. 100, Zoning.

purpose of relieving traffic on the major highway at the points of crossing.

STREET, MAJOR — A street or highway of great continuity which serves or is intended to serve as a major traffic artery within the town or county, or both, and which is designated on the Town Plan as a main arterial highway, major thoroughfare, parkway or other equivalent term to identify those streets comprising the basic structure of the street plan.

STREET, MINOR — A street supplementary to a major street and of limited continuity which serves or is intended to serve the local needs of a neighborhood or a section thereof.

STREET OR RIGHT-OF-WAY WIDTH — The distance between property lines, measured at right angles to the center line of the street.

STREET, SECONDARY — A street or road of considerable continuity which serves or is intended to serve as the principal or collector trafficway between large and separated areas or districts and which is the main means of access to the major street or primary road system.

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

SUBDIVISION [Amended 9-23-80]:

- A. The division of any parcel of land into two (2) or more lots, plots, blocks, sites or other divisions of land, with or without streets or highways, including any extension of any existing street, for the purpose, whether immediate or future, of sale or building development, and including resubdivision; provided, however, that the term "subdivision" shall not include the setoff or creation of a single lot from a parcel of land, provided that before any such setoff or creation shall take place, the owner shall submit such proposal to the Planning Board for its approval and determination of whether such setoff or creation constitutes a subdivision. In

making such determination, the Planning Board shall give consideration, among other things, to:

- (1) Whether the lot to be set off is of such character as to be suitable for the intended purpose without danger of flood or other perils.
- (2) Whether adequate provision is or will be made for drainage, water supply, sewer disposal and other necessary utilities and improvements.
- (3) Whether the lot to be set off is of such size as to conform with the present or future development of neighboring lands.
- (4) Whether the proposed set off will be consistent with the present or future street layout of the neighborhood.
- (5) Whether the proposed set off will require the extension of municipal facilities or services.
- (6) Whether the proposed set off will be in harmony with the future growth and development of the town.
- (7) Whether adequate means of access and off-street parking are provided.
- (8) Whether the proposed set off will adversely affect the present or future uses of neighboring lands.

B. If the Planning Board grants approval to set off a lot as hereinbefore provided, it may impose such conditions as it deems necessary or appropriate.

C. An application to the Planning Board to set off a lot as herein provided shall be accompanied by a fee of two hundred fifty dollars (\$250.). [Added 4-19-83; amended 3-10-87]

SUPERBLOCK — A block of exceptionally large size in both dimensions, with access to interior lots by culs-de-sac branching in from surrounding streets and providing one (1) or more open spaces.

SURVEYOR — A person licensed as a land surveyor by the State of New York.

**ARTICLE II
Procedures**

§ A106-20. General requirements.

Before making any offer to sell, or before entering into a contract for the sale of, any part of a proposed subdivision, and before any permit for the erection of a structure, removal of topsoil or for dredging any channel in such subdivision shall be granted, and before undertaking any land clearance, grading or channel dredging operations,² the subdivider shall apply to the Planning Board for approval of such proposed subdivision in accordance with the requirements and pursuant to the procedures set forth in these regulations.

§ A106-21. Sketch plan.

A. Submission of sketch plan. The applicant shall submit to the Planning Board at least two (2) weeks prior to the regular meeting of the Board twelve (12) copies of the sketch plan of the proposed subdivision, with road profiles and topographic elevations at five-foot contours and the proposed drainage areas. Such plan shall comply with the requirements of Article IV, § A106-40. [Amended 5-8-73]

B. Discussion of improvements, requirements and classification.

(1) At its meeting with the applicant, the Planning Board should discuss the objectives of these regulations and the requirements for street improvements, drainage, sewerage, water supply, fire protection and other similar aspects. In addition, the review will cover the availability of existing services and other pertinent information.

(2) At this meeting, the Planning Board shall classify the proposed subdivision as a minor or major subdivision, as defined in these regulations. However, when it deems it necessary for protection of the public health,

(Cont'd on page 10609)

² Editor's Note: See also Ch. 81, Soil Removal, and Ch. 97, Wetlands.

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safety and welfare, the Board may require that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If a proposed subdivision is classified and approved as a minor subdivision, the subdivider shall then comply with the procedure outlined in Article II, § A106-22, of these regulations. If it is classified as a major subdivision, the subdivider shall comply with the procedures outlined in Article II, §§ A106-23, A106-24 and A106-25.

- C. Study of sketch plan. The Planning Board shall determine whether a subdivision sketch plan meets the purposes of these regulations. Any changes to be made on the proposed subdivision map required by the Planning Board shall be submitted, in writing, to the applicant or his duly authorized representative. All such changes shall be incorporated in the applicant's next submission to the Planning Board.

§ A106-22. Approval of minor subdivision.

A. Application and fee.

- (1) Within six (6) months after the approval of the sketch plan by the Planning Board, the subdivider shall submit an application for approval of a final plat. If such application is not received within six (6) months, the Planning Board approval of the sketch plan shall expire. The plat shall follow the layout of the sketch plan, as approved by the Board, plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Article IV, § A106-41.
- (2) All applications for plat approval for minor subdivision shall be accompanied by a fee of five hundred dollars (\$500.) per lot, together with an inspection fee of one thousand dollars (\$1,000.). [Amended 4-22-80; 4-9-85; 12-2-86; 11-1-88]

- B. Number of copies. Six (6) copies of the final plat shall be presented to the Planning Board at least two (2) weeks prior to a regularly scheduled Planning Board meeting.
- C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the final plat.
- D. When officially submitted. The final plat shall be considered officially submitted only when all the surveys, plans, required certifications and signatures and other data required in Article IV, § A106-41, are submitted complete and in good form, together with the application and fee, at regular meeting of the Planning Board.
- E. Public hearing. Before the Planning Board shall act on the final plat, it shall hold a public hearing in accordance with § 276 of the Town Law.
- F. Action on subdivision plat. The Planning Board shall, within forty-five (45) days from the public hearing date, approve, approve with modification or disapprove the final plat.

- (2) The application filed with the Town Clerk shall be accompanied by a fee of one thousand dollars (\$1,000.) plus one hundred dollars (\$100.) per acre, or part thereof, in the proposed subdivision. An inspection fee equal to six percent (6%) of the amount of the approved performance bond must be paid after approval of the bond amount by the Town Board and before final approval of the plat. [Amended 4-9-85; 12-2-86; 11-1-88]

(Cont'd on page A10611)

§ A106-23. Preliminary plat for major subdivision. [Amended 5-8-73]

A. Application and fee.

- (1) Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file with the Town Clerk an application in duplicate for the approval of a preliminary plat of the proposed subdivision, in the form prescribed in Article IV, § A106-42. The preliminary plat shall comply with the requirements set forth in these regulations, including Article IV, § A106-42, and §§ 276 and 277 of the Town Law.

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- B. Number of copies. Twelve (12) paper prints of the preliminary plat and the duplicate application shall be filed with the Town Clerk at least two (2) weeks prior to a regularly scheduled Planning Board meeting. The Clerk shall immediately forward to the Planning Board four (4) prints of the plat and a copy of the application.
- C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.
- D. Study of preliminary plat.
- (1) The Planning Board shall study the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, channels, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands and the requirements of the Master Plan, the Official Map and Zoning Ordinance, if such exist.³
 - (2) The Town Superintendent of Highways will review all above aspects of the design of the proposed subdivision, including a field check, and submit a report to the Planning Board with his recommendations prior to the scheduled meeting.
- E. Hearing and action on preliminary plat.
- (1) Within forty-five (45) days after the receipt of such preliminary plat by the Clerk, the Planning Board shall hold a public hearing thereon, which shall be advertised at least once at least five (5) days before such hearing.
 - (2) Within forty-five (45) days after the date of such hearing, the Planning Board shall approve, with or without modification, or disapprove such preliminary

³ Editor's Note: See Ch. 100, Zoning.

plat, and the ground for a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. Notwithstanding the foregoing provisions hereof, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board. When approving a preliminary plat, the Planning Board shall state in writing modifications, if any, that it deems necessary for submission of the plat in final form.

- (3) Within five (5) days of the approval of such preliminary plat, it shall be certified by the Clerk of the Planning Board as having been granted preliminary approval, and a copy shall be filed in his office and a certified copy mailed to the owner.
- (4) Within six (6) months of the approval of the preliminary plat, the owner must submit the plat in final form. If such plat is not so submitted, approval of the preliminary plat may be revoked by the Planning Board.

§ A106-24. Final plat for major subdivision. [Amended 5-8-73]

A. Application for approval.

- (1) The subdivider shall, within six (6) months after the approval of the preliminary plat, file with the Town Clerk an application in duplicate for final plat approval of all or part of the proposed subdivision, using the approved application blank. Thus, the subdivider may develop the subdivision in progressive stages instead of in its entirety. But no subdivision or portion thereof shall be considered unless it has frontage on a public street or abuts an existing street on the town's Official Map or an approved street for which a bond has been filed.
- (2) Failure to submit all or a portion of the final plat for final plat approval within six (6) months shall automatically cancel the preliminary plat approval,

unless a request for an extension of time is granted by the Planning Board. Such extension shall be granted only if the proposed subdivision fully conforms to the zoning regulations in effect at the time such extension is applied for.

- B. Number of copies and date of official submission. In order for a final plat to receive Planning Board approval, the documents listed in Article IV, § A106-43 shall be filed with the Town Clerk, in good form, at least two (2) weeks in advance of the regular meeting at which it is to be considered officially submitted. The Clerk shall immediately forward such maps to the Planning Board, which shall forward one (1) copy to the Town Board Highway Committee.
- C. Endorsement of state and county agencies. Water and sewer facility proposals contained in the final plat shall be properly approved and endorsed by the required county agencies, which such approval and endorsement shall be secured by the subdivider before official submission of the final plat. Three (3) cloth prints of the proposed final plat shall be submitted to said county agencies, together with all other necessary details required by the Planning Board. In addition, applications for approval of plans for sewers or water facilities will be filed by the subdivider with all necessary town, county and state agencies.
- D. Reports of Town Superintendent of Highways and Planning Board Engineer. Within thirty (30) days after said plat is submitted for final approval, the Superintendent shall submit a report to the Planning Board on the highways in the proposed subdivision. The Planning Board's Engineer shall, within said period of time, submit a detailed list of all improvements and construction items and an estimate of the cost of construction.
- E. Public hearing. Within forty-five (45) days of the submission of a plat in final form for approval by the Planning Board, a hearing shall be held by the Planning Board thereon, which shall be advertised at least once at least five (5) days before such hearing; provided, however, that when

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the Planning Board deems the final plat to be in substantial agreement with the preliminary plat approved and modified in accordance with requirements of such approval, if such preliminary plat has been approved with modification, the Planning Board may waive the requirements for such public hearing.

F. Action on final plat.

- (1) Within forty-five (45) days after the date of the hearing on said final plat, or in the event that such hearing was waived, within forty-five (45) days of the submission of the plat in final form for approval, the Planning Board shall, by resolution, conditionally approve, conditionally approve with or without modifications, disapprove or grant final approval and authorize the signing of such plat. Notwithstanding the foregoing provisions hereof, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board.
- (2) In the resolution granting conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat subject to completion of such requirement as may be stated in the resolution. Within five (5) days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, and a copy shall be filed in his office and a certified copy mailed to the owner, including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire within one hundred eighty (180) days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. Notwithstanding the foregoing, the Planning Board may extend the time in which a conditionally approved plat in final form must be

submitted for signature, if in its opinion such intention is warranted by the particular circumstances thereof, for not to exceed two (2) additional periods of ninety (90) days each.

- (3) In all cases where the Planning Board requires the furnishing of a performance bond, the final plat shall not be signed until such bond has been approved by the Town Board and a certified copy of the Town Board resolution approving the same is filed with the Clerk of the Planning Board.

§ A106-25. Required improvements.

- A. Waiver of required improvements. The Planning Board may waive the provision of any or all such improvements and requirements as, in its judgment of the special circumstances of a particular plat or plats, are not requisite in the interests of the public health, safety and general welfare. In the case of each waiver granted, the Planning Board shall enter upon its records the reason why the particular improvement is not necessary and it shall attach appropriate conditions or require such guaranties as may be necessary to protect the public interest. A waiver of any requirements by the Planning Board shall not become effective until approved in writing by the Town Board Highway Committee. [Amended 5-8-73]
- B. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Superintendent of Highways that the unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Superintendent may, with consent of the Planning Board and upon written request of the subdivider, authorize the modifications, provided these modifications are within the spirit and intent of the Planning Board's approval. The Superintendent, in issuing an authorization under this subsection, shall do so in writing and shall transmit a copy of such authorization to

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the Planning Board and Town Board Highway Committee at their next regular meeting. [Amended 5-8-73]

- C. Inspection of improvements. In order to assure that all town specifications and requirements are met during the construction of all required improvements, and to assure the satisfactory completion of improvements and utilities as required by the Planning Board, a construction inspector representing the Board shall inspect the improvements during the progress of construction. It shall be the duty of the subdivider to notify the Planning Board and Highway Department two (2) days prior to the commencement or completion of any work on each stage or operation of the construction of improvements. Said construction inspector shall, after completion of construction, certify to the Planning Board that all required improvements have been constructed as required by the Board. In addition, the subdivider shall furnish a certified set of drawings showing all improvements as constructed, in the same detail as required for the approved final plat, including the method of installation. [Amended 11-7-68 and 5-8-73]
- D. Utilities required. The subdivider shall submit to the Planning Board a letter from each public utility company whose facilities are proposed to be installed in the proposed subdivision. Such letter shall state that the utility company will make the installations necessary for the furnishing of its services.
- E. Proper installation of improvements. If the construction inspector shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Building Inspector and Planning Board. The Planning Board then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the town's rights under the terms of the bond.

- F. Safeguards during construction. In order to prevent flooding, erosion or any other dangerous or hazardous condition from occurring during the progress and completion of required improvements, the Planning Board may require the developer or his contractor to take such action, including the construction and/or installation of temporary facilities, as the construction inspector may recommend. [Added 4-22-80]

(Cont'd on page A10617)

§ A106-26. Filing of final plat.

- A. Final approval and filing. Upon completion of the above requirements and notation to the effect upon the final plat, it shall be deemed to have final approval, and the plat shall be properly signed by the appropriate officer of the Planning Board and shall be filed by the applicant in the office of the County Clerk. Any plat not so filed or recorded within sixty (60) days of the date upon which such final plat is approved or considered approved by reasons of failure of the Planning Board to act shall become null and void. [Amended 5-8-1973; 1-23-1990]
- B. Plat void is revised after approval. No changes, erasures, modifications or revisions shall be made in any final plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board and such Board approves said modifications. In the event that any such final plat is recorded without complying with this requirement, the same shall be considered null and void, the Building Inspector shall not issue building permits and the town shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ A106-27. Public streets; recreation areas.

- A. Public acceptance of streets. The approval by the Planning Board of a final plat shall not be deemed to constitute or be evidence of any acceptance by the town of any street, right-of-way or easement shown on such final plat. The applicant shall comply with all town rules and regulations regarding the dedication of highways.⁴ (See Section 278 of the Town Law as amended.)
- B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the town of such area. The Planning Board may require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a

⁴ Editor's Note: Specifications for highways to be accepted by the town are on file in the office of the Town Clerk and are available for inspection during regular office hours.

written agreement, in proper form for recording in the County Clerk's office, between the applicant and the Town Board covering future title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

- C. Future status of streets, parks and easements. Acceptance of formal offers of cession of streets, easements and parks shall rest with the Town Board. In the event that the applicant shall elect not to file the plat in the office of the County Clerk within the required period, then such formal offers of cession shall be deemed to be void.
- D. Improvements required before buildings in subdivision may be occupied. Where a permit is desired for the occupancy of a building in the subdivision prior to the completion of the improvements as required in the Planning Board's approval of the final plat, the street serving the proposed building shall be completed to a degree satisfactory to the Planning Board and Town Superintendent of Highways. In general, the extent of said street improvements shall be adequate for vehicular access by the prospective occupant and by police and fire equipment prior to the issuance of an occupancy permit. Where such permit has been issued, the street shall be maintained by the subdivider in such satisfactory condition.
- E. Plats straddling municipal boundaries. Whenever access to the subdivision is required across land in another municipality, the Planning Board may request assurance from the Town Attorney that access is legally established and from the Superintendent of Highways that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross town boundary lines.

(Cont'd on page A10619)

ARTICLE III
Design Standards

§ A106-30. Standards to be minimum requirements.

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements.

§ A106-31. General requirements.

- A. Character of land. Land to be subdivided for building purposes shall be of such a character that it can be used safely without danger to the residents from any menace.
- B. Conformity to Official Map and Master Plan. Any subdivision shall conform to the Official Map of the town, if such exists, and shall be in harmony with the Master Plan.
- C. Specifications for required improvements. All required improvements shall conform to the town specifications, which may be obtained from the Town Clerk. Where approval of the New York State and/or Suffolk County Departments of Public Works and Health are required, specifications for required improvements may be obtained from the respective agencies.

§ A106-32. Street layout.

- A. Width, location and construction. Streets shall be of sufficient width of not less than fifty (50) feet, suitably located and adequately constructed to conform to the Southold Town Highway Specifications and with the Master Plan, if such exists, and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system. [Amended 5-8-73]

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- B. Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of major streets of adjoining areas and for proper projection of such streets into adjoining properties in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or when later required, of needed utilities and public services, such as sewers and water drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified upon written approval of the Town Superintendent of Highways and the Town Board Highway Committee. [Amended 5-8-73]
- C. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- D. Special treatment along major streets. Where a subdivision abuts or contains an existing or proposed major street, the Board may require local service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through from local traffic.
- E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which the subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.⁵
- F. Dead-end streets. The creation of dead-end or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area, provided that interior parks are covered by appropriate covenants as to maintenance. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a ten-

⁵ Editor's Note: For provisions regarding lot sizes in the various zoning districts, see Ch. 100, Zoning.

- foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the Official Map, if such exists, or streets on a recorded final plat.
- G. Block size.
- (1) Blocks shall not be exclusively long. Blocks, generally, shall not be less than four hundred (400) feet in length nor more than one thousand two hundred (1,200) feet in length. In general, the width of a block shall not be less than twice the normal lot depth.
 - (2) In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a ten-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic, where needed or desirable, and may further specify, at its discretion, that a four-foot-wide paved footpath be included. The Planning Board shall require the proper maintenance of any such easement.
 - (3) Irregularly shaped blocks, including superblocks, indented by culs-de-sac and containing interior spaces, will be acceptable when properly designed and coordinated with the overall plat and when adequate provision for the maintenance and ownership of public areas is provided for.
- H. Intersections with major streets. Minor or secondary street openings into a major street shall, in general, be at least five hundred (500) feet apart.
- I. Street jogs. Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall generally not be permitted.
- J. Angle of intersection. In general, all streets shall join each other so that for a distance of at least one hundred (100) feet a street is approximately at right angles to the street it joins.

- K. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or below the grade of the streets. Grades of streets shall conform as closely as possible to the original topography. [Amended 5-8-73]
- L. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or a major street right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

§ A106-33. Street design.

A. Widths. [Amended 6-6-89]

- (1) Widths of rights-of-way. Streets shall have the following widths. When not indicated on the Master Plan or Official Map, the classification of streets shall be determined by the Board.

Type of Street	Minimum Right-of-Way (feet)
Major	100*
Secondary or collector	80*
Minor	50*

* NOTE: Except when the Master Plan specifies a greater or lesser width.

- (2) Width of pavement within rights-of-way. All minor streets in major subdivisions shall be twenty-eight (28)

- feet in width. However, where it is determined that such width is not needed, the Planning Board, in its discretion, may designate that the width be reduced to twenty-four (24) feet in width, provided that the subdivider agrees to covenant that the individual lots will be so designated as to accommodate all off-street parking [at the rate of four (4) spaces per lot, not including each garage space].
- (3) Subdivision roads built to either the twenty-eight- or twenty-four-foot road width shall meet the specifications set forth in Chapter A108, Article III, including Standard Drawing Nos. SD-854A and SD-854M.¹
- B. Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, drainage facilities, water mains, sewers, streetlights and street signs, street trees and fire hydrants and/or firewells. Firewells shall have an eight-inch casing and a twenty-foot stainless steel screen and shall have a pumping capacity of three hundred fifty (350) gallons per minute. There shall be a depth of water of at least forty (40) feet. The number and location of fire hydrants and/or firewells shall be determined by the Planning Board. In making such determination, the Planning Board may seek the recommendation of the Commissioners of the Fire District in which the proposed subdivision is located. Notwithstanding the foregoing, upon request, the Planning Board, upon written approval of the Superintendent of Highways and the Town Board Highway Committee, may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Planning Board. Such grading and improvements shall be approved as to design and specifications by the Town Superintendent of Highways and the Town Board Highway Committee. [Amended 5-8-73; 12-9-75; 4-22-80]

¹ Editor's Note: Department of Highways Standard Drawings are included at the end of Ch. A108, Highway Specifications.

C. Major subdivisions. [Added 10-18-88;² amended 6-6-89]

- (1) In a major subdivision, the roads shall be built to specifications stated in Chapter A108, Article III.
- (2) In a major subdivision where the number of lots to be serviced by a proposed street is four (4) or fewer and, further, there is no likelihood of the street servicing more than four (4) lots, the Planning Board, at its discretion, may waive the major road specifications as they are set forth in Chapter A108, Article III, and, in their place, may substitute alternate road specifications as set forth in § A108-42B.

D. Utilities in streets. The Planning Board may require that underground utilities be placed in the street right-of-way between the paved roadway and the street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved. Such underground utilities shall be located within the sidewalk area. [Amended 5-8-73]

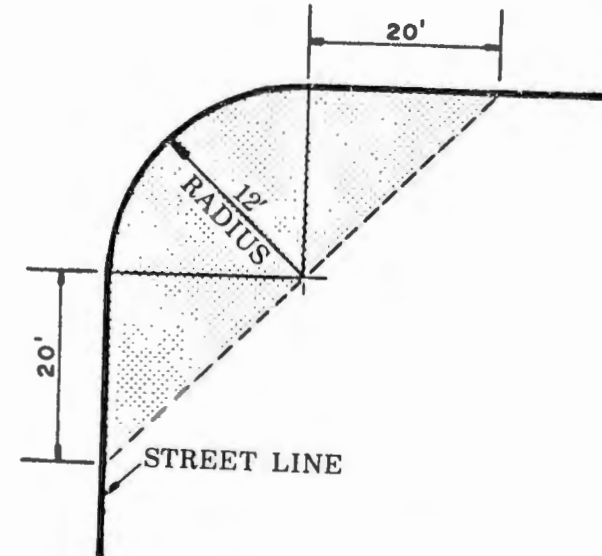
E. Utility easements. Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared, graded and seeded where required. [Amended 5-8-73]

F. Steep curves; visibility at intersections. Sharp curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot, whether at an intersection entirely within the subdivision or of a new street with an existing street, which is shown shaded on Sketch A, shall be cleared of

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² Editor's Note: This resolution also redesignated former Subsection C, D, E, F, G, H and I as Subsections D, E, F, G, H, I and J, respectively.

all growth (except isolated trees) and obstructions above the level three (3) feet higher than the center line of the street. If directed by the Planning Board, the subdivider shall regrade this area.



SKETCH A [Amended 5-8-73]

(Cont'd on page A10625)

- G. Dead-end streets. Where dead-end streets are designed to be so permanently, they should, in general, not exceed eight hundred (800) feet in length and shall terminate in a circular turnaround having a minimum right-of-way radius of fifty (50) feet and pavement radius of forty-four (44) feet, curb to curb. At the end of temporary dead-end streets, a temporary turnaround with a pavement radius of forty-four (44) feet, curb to curb, shall be provided, unless the Planning Board approves an alternate arrangement. [Amended 5-8-73]
- H. Watercourses.
- (1) Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of a design approved by the Town Superintendent of Highways.
 - (2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Superintendent of Highways. [Amended 11-7-68]
 - (3) Necessary drainage structures must be provided to receive all runoff waters from natural drainage areas outside of the subject subdivision which will in any way tend to create a drainage problem within the subdivision area. [Added 11-7-68]
- I. Streets or loading space in commercial developments. Paved rear-service streets of not less than twenty (20) feet in width, or in lieu thereof, adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- J. Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use, or where a change of zoning to permit a commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Board to assure the free flow of through traffic without

interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.

§ A106-34. Street names.

- A. Type of name. All streets shown on a preliminary layout or final plat shall be named by the developer and be subject to approval of the Planning Board. Streets shall have names and not numbers or letters (such as "1st," "First" or "A" Street).
- B. Names to be substantially different. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than ninety degrees (90°) without a change in street name.

§ A106-35. Lots.

- A. Lots to be buildable. The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance⁶ there will be no foreseeable difficulties for reasons of topography or other natural conditions.
- B. Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variation from this rule will give a better street or lot plan.
- C. Corner lots. Corner lots shall be of sufficient dimensions so that any structure placed thereon shall conform to the building setback line of each street.
- D. Driveway access. Where practicable, corner lots shall be so laid out that their driveways have access to that street which carries or is intended to carry the lesser amount of traffic.
- E. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Superintendent

⁶ Editor's Note: See Ch. 100, Zoning.

of Highways as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Superintendent of Highways may require, and their location shall be shown on the final plat.

§ A106-36. Drainage improvements.

- A. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Drainage structure to accommodate potential development. A recharge basin, culvert or other drainage facility

(Cont'd on page A10627)

shall, in each case, be large enough to accommodate potential runoff from its entire drainage area, whether inside or outside the subdivision. The Town Superintendent of Highways, the Town Board Highway Committee and the Planning Board shall approve the design and size of facility based on anticipated runoff from a six-inch rainfall in twenty-four (24) hours' storm under conditions of total potential development permitted by the Zoning Ordinance⁷ in the watershed. [Amended 5-8-73]

- C. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation.
- D. Drainage requirements. The subdivider shall be required to install the facilities for the drainage of streets and lots as required by the Town Superintendent of Highways. Such drainage facilities, including recharge basins, to be installed within the plat area, shall be constructed and completed prior to the installation of any other street improvements required on the plat. All such drainage structures shall be maintained in good operating condition until such time as the land is dedicated and released to the town. All stormwater must be returned to the soil and under no condition should it be allowed to run off into salt water.
- E. Fencing of recharge basins. All recharge basins shall be fenced prior to excavation. All fencing shall be constructed in accordance with requirements and specifications available from the Town Superintendent of Highways.

§ A106-37. Other improvements.

- A. Sanitary sewer facilities and sanitary sewer districts. The subdivider shall install sanitary sewer facilities in a manner

⁷ Editor's Note: See Ch. 100, Zoning.

prescribed by the applicable county agencies. Necessary action shall be taken by the developer to enable the Town Board to extend or create a sanitary sewer district for the purpose of providing sanitary sewers to the subdivision. [Amended 5-8-73]

- B. Street signs. Street identification signs of a type approved by the Superintendent of Highways shall be provided by the subdivider and placed at all intersections in locations within the right-of-way approved by the Superintendent of Highways.
- C. Streetlighting standards. Where required by the Planning Board, streetlighting standards of a design conforming to the town specifications shall be placed in a manner and location approved by the Town Superintendent of Highways and the Town Board Highway Committee. In the case of a subdivision involving a county or state highway, approval shall be obtained from the appropriate highway agency. [Amended 5-8-73]

§ A106-38. Parks, open spaces, school sites and natural features.

- A. Recreation standards. The Planning Board may require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Town Plan or Official Map, or otherwise where it deems that such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography and general character and shall have adequate road access for the particular purposes envisioned by the Planning Board. The area shall be shown and marked on the plat, "Reserved for Recreation Purposes." When recreation areas are required, the Planning Board shall determine the number of acres to be reserved on the basis of providing five (5) acres of recreation area for every one hundred (100) families or dwelling units. [Amended 5-8-73]
- B. Minimum size of park and playground reservations. In general, land reserved for recreation purposes shall have an area of at least four (4) acres. When the reservation in any

particular subdivision would create less than four (4) acres, the Board shall require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjoining land is subdivided.

- C. Recreation sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield or other recreation purpose and shall be relatively level and dry. All land to be reserved for dedication to the town for park purposes shall have prior approval of the Town Board.
- D. Other recreation reservations. None of the subsections above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.
- E. Alternate procedure: money in lieu of land.
 - (1) Where the Planning Board deems that a reservation of land would be inadequate in size for park or playground use, either along or in conjunction with abutting reservations on adjoining subdivisions, the Planning Board may waive the requirement for such reservations, with the condition that the applicant deposit with the Town Board a cash payment in lieu of land reservation. Such deposit shall be placed in a special fund as required by Section 277 of the Town Law, as amended, and separately identified to show the name and location of the subdivision for which the deposit was made.
 - (2) Such deposit shall be used by the town for a neighborhood recreation area, including the acquisition of property. Such deposit must be used within a reasonable period of time and any such expenditure must be for facilities that will be actually available to and benefit the persons in said subdivision and be located in the vicinity of the subdivision.
 - (3) The Town Board shall determine the amount to be deposited based on the following formula: not less

than three thousand dollars (\$3,000.) per gross acre of land that would otherwise be required for recreation purposes or five percent (5%) of the fair market value of the total acreage proposed for subdivision as determined by an independent appraiser retained by the town.

- F. School sites. Upon receipt from the School Board of a letter declaring its interest in a school site of a specific size and location within a proposed subdivision, the Planning Board may require a subdivider to set aside such area. Upon the failure of the proper authorities to purchase such school site within thirty-six (36) months after the date of the approval of the plat, the subdivider, upon application to the Board and approval of such application, shall be relieved of the responsibility of showing such land for public purposes.
- G. Reserve strips prohibited. Reserve strips of land which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.
- H. Preservation of natural features. The Planning Board shall, wherever possible, encourage the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses, beaches, historic spots, vistas and similar irreplaceable assets. In general, all trees on the site, except those situated within proposed areas for building sites, driveways and utility lines and for a distance of ten (10) feet therefrom, shall be preserved.
- I. Street trees. The Planning Board shall require the planting of new street trees in subdivisions. Such trees shall be of such variety and shall be planted in such manner as prescribed by the Board. [Amended 5-8-73]
- J. Streets terminating at tidewater. All streets terminating at or near tidewater shall have a width of not less than one hundred (100) feet for a distance of one hundred (100) feet from their terminus. Appropriate traffic signs and guard-rails shall be installed. Suitable access must be provided

to such tidewater, together with the necessary stairways, walks or other facilities to afford convenient access to such waterway. [Amended 5-8-73]

ARTICLE IV
Documents to be Submitted

§ A106-40. Sketch plan.

- A. The sketch plan initially submitted to the Planning Board shall be based on the town tax map, at a scale of one (1) inch equals one hundred (100) feet. The sketch plan shall be submitted showing the following information:
 - (1) A key map showing the location of the proposed subdivision and the distance to the nearest existing street intersection.
 - (2) All existing structures, wooded areas, streams and other significant physical features within the area to be subdivided and within two hundred (200) feet thereof. Contours shall be indicated at intervals of not more than five (5) feet except for minor subdivisions, where contours will be required only upon request of the Planning Board. Two-foot contours may be required by the Planning Board where drainage problems are deemed to exist.
 - (3) The name of the subdivision property owner and of all adjoining property owners as listed on the town tax rolls.
 - (4) Town tax map, school district number and sheet number.
 - (5) Location of available utilities and of proposed, mapped or existing streets.
 - (6) The proposed lot and street layout, including recreation areas; systems of drainage, sewerage and water supply (see § A106-41C below) within the subdivided area.

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(7) Notations of all existing restrictions on the use of land, including easements, covenants or zoning lines.

B. A statement in affidavit form shall be submitted setting forth the names and addresses of all persons, corporations, partnerships and associates having an interest, direct or indirect, in the subdivision, and the nature of such interest. [Added 5-8-73]

§ A106-41. Minor subdivision plat.

A. In the case of minor subdivisions only, the final plat application shall include all information shown on the approved sketch plan plus the following information:

- (1) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- (2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed engineer or land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Engineer, and shall be referenced and shown on the plat.
- (3) All sanitation and water supply facilities shall be designed to meet the specifications of the County Board of Health, and a note to this effect shall be stated on the plat and signed by a licensed engineer.
- (4) Proposed subdivision name and name of the town and county in which it is located.
- (5) The date, North point, map scale, name and address of record owner and subdivider.

B. If this plat is to be filed with the County Clerk, it shall be printed upon linen or be clearly drawn in india ink upon tracing cloth. The size of the sheets shall not exceed thirty-six by twenty (36 x 20) inches to comply with Section 335 of the Real Property Law.

§ A106-42. Major subdivision preliminary layout.

The following documents shall be submitted for conditional preliminary layout approval:

A. [Amended 5-8-73] Twelve (12) paper prints of the preliminary layout, prepared at a scale of not more than one hundred (100) feet to the inch, showing:

- (1) The proposed subdivision name; name of town and county in which it is located; date; true North point; scale; name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
- (2) The names of all adjoining subdivisions and/or the names of the owners of record of all adjoining property.
- (3) The zoning district, including exact boundary lines of district if more than one (1) district.*
- (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of twelve (12) inches or more as measured three (3) feet above the base of the trunk, and other significant existing features in the proposed subdivision and adjacent property.
- (6) Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- (7) Contours at intervals of two (2) feet, and elevations of existing roads at one-hundred-foot intervals; approximate grading plan if natural contours are to be changed more than two (2) feet.
- (8) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan,

* Editor's Note: See Ch. 100, Zoning.

if such exist, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.

- (9) The approximate location and size of all proposed water lines, valves, hydrants and/or firewells, sewer lines and fire alarm boxes; connections to existing lines or alternate means of water supply or sewage disposal and treatment, as provided in the Public Health Law; and profiles of all proposed water and sewer lines. [Amended 12-9-75]
- (10) A storm drainage plan indicating the approximate location and size of proposed lines and their profiles; connections to existing lines or to stormwater recharge basins.
- (11) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, recharge basins, and the size and type thereof; the character, width and depth of pavements and subbase; the location of manholes, catch basins and underground conduits.
- (12) Preliminary designs of any bridges or culverts which may be required.
- (13) The proposed lot lines with approximate dimensions and suggested location of buildings.
- (14) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed engineer or land surveyor. The corners of the tract shall also be located on the ground and marked by substantial stone monuments or concrete or such size as approved by the Town Superintendent of Highways, and shall be referenced and shown on the plat.
- (15) A certificate or other document issued by the Suffolk County Department of Health Services indicating that the existing or proposed water supply and sewage

disposal facilities in the proposed subdivision will meet the requirements of the Suffolk County Department of Health Services. [Added 4-19-83]

- B. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than one hundred (100) feet to the inch, showing an outline of the platted area with its proposed streets and indications of the probable future street system with its

(Cont'd on page A10635)

grades and drainage in the remaining portion of the tract, and the probable future drainage layout of the entire tract, shall be submitted. The part of the entire holding submitted shall be considered in the light of the entire holding.

- C. A copy of such covenants or deed restrictions as are intended to cover all or any part of the tract.

§ A106-43. Major subdivision plat.

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

- (1) Two (2) copies of the final plat application.
- (2) The original final plat tracing.
- (3) Two (2) cloth prints and three (3) paper prints of the final plat.
- (4) The original and one (1) copy of deeds of cession to streets, rights-of-way, easements or other sites to be devoted to public use, and the original and one (1) copy of agreements, covenants or other documents showing the manner in which streets, parks and other areas are to be reserved and maintained for the common use of the residents of the subdivision, including provisions for homeowner associations and property assessments, if needed, all certified as to their legal sufficiency by the Town Attorney.
- (5) Two (2) prints of all construction and landscaping plans and drawings as required by and in accordance with town specifications.
- (6) An estimate as to the cost of the required improvements, including, but not limited to, streets, curbing, sanitary sewers, storm drain lines, water lines and fire hydrants and/or firewells. [Amended 12-9-75]
- (7) One (1) certified copy of the water company contract indicating that mains will be installed and water will be transmitted to the subdivision when available or required.

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(8) If firewells are to be installed, a copy of the proposed agreement to be entered into with the appropriate fire district to convey title to said firewells to the fire district when completed, together with legal access thereto. [Added 12-9-75]

B. The plat to be recorded with the County Clerk shall be printed upon linen or be clearly drawn in India ink upon tracing cloth. The size of the sheets shall not exceed twenty by thirty-six (20 x 36) inches, including a margin for binding of two (2) inches outside of the border along the left side, and a margin of one (1) inch outside of the border along the remaining sides. The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the North point at the top of the map. When more than one (1) sheet is required, an additional index sheet of the same size shall be filed, showing to scale the entire subdivision with lot and block numbers clearly legible.

C. The plat shall show:

- (1) Subdivision name, date, scale and North point.
- (2) Certification of title showing ownership.
- (3) Names of owners of adjacent land.
- (4) Certification by a licensed surveyor as to the accuracy of the survey and plat.
- (5) Primary control points (wherever possible including monuments included in the state system of plan coordinates or reference points previously established by public authority) or description and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
- (6) Boundaries of the property; building or setback lines if greater than those required in the Zoning Ordinance;⁹ lines of streets, lots, reservations, easements and areas to be dedicated to public use; large trees, groves and other natural features to be

preserved; lengths and deflection angles of all straight lines; radii, lengths, central angles, long chords and tangent distances of all curves. All lengths shall be in feet and hundredths of a foot, and all bearings shall be given to the nearest ten (10) seconds or closer, if

(Cont'd on page A10637)

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⁹ Editor's Note: See Ch. 100. Zoning.

justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or the Zoning Ordinance, if such exist.¹⁰

§ A106-51. Waivers of required improvements.

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

§ A106-52. Board to impose conditions.

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

§ A106-53. Approval of Board of Appeals actions. [Added 9-23-80]

Heretofore and between the period from January 1, 1971, and September 5, 1979, the Board of Appeals made certain determinations on appeals to it involving area variances and/or the relocation of lot lines and/or the setoff of lots, all of such determinations being set forth on a schedule caused to be compiled by the Planning Board. Many of the Board of Appeals' determinations on said schedule may have required approval by the Planning Board. However, due to misunderstanding, inadvertance or oversight, the owners of the lands involved did not thereafter apply to the Planning Board for its approval. In the intervening time, many of the lands involved in such Board of Appeals' determinations have been sold and/or built upon in reliance upon the Board of Appeals' determinations and the subsequent issuance of building permits and/or certificates of occupancy. The Planning Board has reviewed all of the deter-

¹⁰ Editor's Note: See Ch. 100, Zoning.

minations set forth on the aforesaid schedule. In view of the foregoing, the Planning Board (and the Town Board, as evidenced by its approval of this amendment) determines that an extreme hardship would be caused if such owners were, at this time, required to obtain approvals from the Planning Board. Accordingly, it is hereby determined that any Planning Board approvals that may have been required with respect to the Board of Appeals' determinations set forth on said schedule are hereby deemed to have been granted with the same force and effect as if the same had been submitted to and approved by the Planning Board in accordance with the applicable laws and regulations. It is further determined that said schedule shall be endorsed by the Chairman of the Planning Board and filed in the Town Clerk's office simultaneously with the effective date of this amendment.

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deemed necessary by the surveyor. The error of closure shall not exceed one (1) to ten thousand (10,000).

- (7) Computed area of all lots in square feet.
- (8) The location of all permanent monuments.
- (9) Proposed street names as directed by the Board, section, block and lot numbers as directed by the Town Assessor and house numbers as directed by the Building Department.
- (10) Designation and purpose of all areas to be dedicated or reserved for public use and of any streets which are not to be dedicated.
- (11) Location, width and purpose of all easements.
- (12) The proper form for the approval of the Planning Board, with space for Board members' signatures and those of other required officials.

§ A106-44. Accompanying documents and information. [Added 4-19-83]

For the purposes of these regulations, a map, plat, subdivision map, application, referral or request received, submitted or filed with the Town Clerk or the Planning Board or any of its officers or employees shall not be deemed to be received, submitted or filed until all documents and information required by these regulations to accompany the same have been filed with or submitted to the Planning Board.

**ARTICLE V
Variances and Waivers**

§ A106-50. Variations in cases of hardship.

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial

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