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**ZONING BY-LAWS**

**OF THE**

**TOWN OF WARWICK**

**MASSACHUSETTS**

Proposed Changes for May 2008  
Annual Town Meeting

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## SECTION ONE: GENERAL PROVISIONS

A. PURPOSE: These By-laws have been enacted and shall be administered to satisfy one or more of the following purposes:

1. To promote the health, safety, financial security and general welfare of residents of the Town;
2. To assure adequate transportation, traffic flow, water supplies, drainage, waste disposal, schools, municipal services, parks, recreational facilities and other amenities of the Town;
3. To encourage the most appropriate use of land and prevent undue concentration of population or other inappropriate use of land;
4. To maintain the character of the Town as a small New England village and maintain the rural character of neighborhoods and natural areas within the Town;
5. To control uses of buildings, structures or land that have an impact on the Town's natural, fiscal and practical capacities;
6. To conserve natural resources, protect open space and preserve the environment;
7. To retain the natural beauty, aesthetic appeal, historic value and scenic attraction of the Town for both residents and tourists;
8. To protect the value of land, buildings and structures in the Town;
9. To promote long-range neighborhood, community and regional planning;
10. To satisfy other lawful needs in accordance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

B. DESIGNATION: The entire area of the Town is designated as a primarily residential-agricultural district ~~divided into four zones for the purpose of administering Section 7~~.

C. ADMINISTRATION:

1. Enforcement: These By-laws shall be enforced by the Building Inspector.

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2. Penalties: Any violator of any provision of these By-laws may be fined not more than \$100.00 per day for each day of each violation commencing ten days after the date upon which the Building Inspector sends a notice of violation to the violator by certified mail or delivers such a notice to the violator in hand or, if the Building Inspector is not able to identify or locate the violator, posts such a notice at the site of the violation. In addition, the Town may seek injunctive relief in Court against any such violator either with or without prior notice to the violator.

3. Validity: The invalidity of any section or provision of these By -laws shall not invalidate any other section or provision of these By-laws; *provided, that if requirements of Section 6 are invalidated such that the overall requirements of Section 6 are substantially modified, a moratorium on approval of conservation developments shall automatically be put into effect for one year for the purpose of permitting the town to consider modification or repeal of Section 6.*

## **SECTION TWO: PERMITTED AND PROHIBITED USES**

A. USE OF BUILDINGS, STRUCTURES AND LAND: Any person may construct, alter or use any building, structure or area of land for any lawful purpose which is not injurious, noxious, offensive or detrimental to a neighbor or neighborhood, which does not violate the provisions of any applicable permit and which is not restricted by these By-laws, other Town regulations or By-laws or the laws or regulations of the Commonwealth of Massachusetts.

B. PROHIBITED USES: The following uses are prohibited:

1. The commercial sale of used motor vehicles.
2. Junk yards and motor vehicle junk yards.
3. Mobile home parks, camper parks or accumulations of three or more temporary living facilities on a lot or at a site.
4. Mobile homes, except as stated in Section Five of these By-laws.
5. Drive-in motion picture theaters.
6. Commercial sewage disposal or treatment plants, or commercial dumping sites for waste or refuse, unless operated by the town or mandated by applicable law.
7. The outdoor collection or storage in commercial quantities of salt, de-icing materials, pesticides or herbicides.
8. Commercial wood preserving and furniture dip-stripping operations.

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9. The collection, treatment, storage, burial, incineration, or disposal of radioactive waste, including but not limited to matter classified as high-level or low-level radioactive waste under the provisions of any law or regulation of the United States or the Commonwealth of Massachusetts.

10. The collection, treatment, storage, burial, incineration, or disposal of hazardous waste in any amount exceeding the minimum threshold amount requiring compliance with the Massachusetts Department of Environmental Quality Engineering Hazardous Waste Regulations.

11. More than one principal structure or use on a lot except compatible uses as provided in Section 2(C)(3) associated with a dwelling.

12. More than two (2) dwelling units in a principal structure.

**C. USES ALLOWED BY SPECIAL PERMIT:** The following uses are allowed only by a Special Permit issued by the Zoning Board of Appeals (or, where indicated, by the Planning Board) in accordance with these By-laws and Chapter 40A of the Massachusetts General Laws

1. Uses involving two or more full-time employees or more than 400 employee-hours per month on the premises.

2. Uses involving or requiring parking, either on or off the site, for four or more motor vehicles, unless all of the vehicles involved are registered vehicles parked in connection with a [~~single family~~] dwelling *or dwellings on a lot* and are owned or used by residents of that dwelling *or dwellings* or their family or social guests.

3. Any commercial or industrial use, provided that no Special Permit shall be required for a commercial or industrial use which would otherwise be allowed and that, in the determination of the Building Inspector, is solely agricultural or satisfies all of the following criteria:

(a) Such use is accessory to a dwelling located on the same lot.

(b) The primary use of the lot is residential.

(c) Such use is owned and operated by one or more residents of the dwelling on the lot.

(d) Such use is consistent with the residential use of the lot.

(e) Such use is not detrimental to the neighborhood in which it is located or to the Town.

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4. Uses involving the construction or alteration of one or more structures containing a total area of more than 10,000 square feet.

5. Uses rendering impervious by any means more than 20% of the area of any lot, *or 10,000 square feet (excluding roads in a subdivision), whichever is less.*

6. Uses involving the commercial transmission, manufacture or storage of high-tension electrical power, fuel oil, gasoline, natural gas or other liquefied or gaseous petroleum products or requiring a permit for bulk storage of combustible materials or fuels for resale.

~~7. Lumbering or sawmill operations exceeding one year on a site.~~

~~7~~<sup>8</sup>. The raising of pigs, fur-bearing animals or poultry for commercial purposes (not applicable to parcels of land of more than five acres).

~~8~~<sup>9</sup>. The conversion of a single-family dwelling into two dwelling units *or the conversion of a portion of a single-family dwelling into an Accessory Apartment or the addition of an Accessory Apartment in a new or existing accessory structure. "Accessory Apartment" is defined in Section Eleven.*

~~9~~<sup>10</sup>. The use of any lot for two dwelling units in the same principal structure, *except for two-family dwelling units in the Conservation District, which shall conform to the applicable Minimum Requirements of Section Six, D.*

~~10~~<sup>11</sup>. The use of any structure as an inn, lodging house, bed-and-breakfast, hotel or motel, provided that no such use shall be allowed unless it is licensed under applicable provisions of the Massachusetts General Laws.

~~11~~<sup>12</sup>. The conversion of any preexisting nonconforming seasonal dwelling or camp to a dwelling occupied or intended to be occupied for more than eight months in a calendar year.

~~12~~<sup>13</sup>. The creation of a lot having less than the required area or frontage under the provisions of Section 4(F) of these By-laws.

~~13~~<sup>14</sup>. The use of a nonconforming dwelling, mobile home or temporary living facility during construction under the provisions of Section 5(A)(3) of these By-laws.

~~14~~<sup>15</sup>. The use of a temporary living facility under the provisions of Section 5(B) of these By-laws.

~~15~~<sup>16</sup>. ~~[The establishment of a Conservation Development under the provisions of Section 6 of these By-laws (Planning Board is permit granting authority).]~~ *At the request of the Applicant, the Planning Board may consider granting a Special Permit allowing the Common Open Land, which includes the Protected Open Space and Environmentally Sensitive Areas under the provisions of Section 6 of these By-laws, to be held by a private individual or a trust owned by private individuals provided that the interests of the*

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*residents of the Conservation Development will be protected as outlined in the requirements of the Conservation Restriction (Planning Board is permit granting authority). The Conservation Restriction would be held by the Town, the state, or a land trust.*

~~17. The establishment of special needs housing under the provisions of Section 7(C)(3) of these By-laws (Planning Board is permit granting authority).~~

16~~18~~. Construction or alteration of surface features or contours on excessive slopes under the provisions Section 8(A)(1) of these By-laws.

17~~19~~. Earth removal under the provisions of Section 8(B) of these By-laws.

18~~20~~. Design or construction of a nonconforming new driveway under the provisions of Section 8(C)(9) of these By-laws.

19~~21~~. Exceeding the allowed number or square footage of signs under the provisions of Section 8(D)(5) of these By-laws.

20~~22~~. Displaying directional or identification signs under the provisions of Section 8(D)(7) of these By-laws.

**D. ISSUANCE OF SPECIAL PERMITS:**

No Changes proposed

**SECTION THREE: PREEXISTING USES**

No Changes proposed for this Section

**SECTION FOUR: LOTS AND BUILDINGS**

**A. APPLICATION**

5. A lot used or intended to be used for more than one dwelling unit must comply with all provisions of this Section, *except lots created under Section Six, Conservation Development*, without regard to when the lot was created before any building permit for residential construction or any Special Permit authorized by these By-laws may be issued.

*7. The requirements for Lot Area, Lot Frontage and Setbacks may be reduced for Conservation Developments in accordance with Section 6.*

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**B. LOT AREA:** Soil, drainage and topographical conditions, the lack of any public water or sewer systems and other factors prevalent throughout the Town make necessary the following requirements:

1. No lot shall be created or altered to contain less than 87,120 square feet (two acres) of area, except by Special Permit as provided in this Section *or as provided in Section 6.E.1.*
2. Lots allowed by Special Permit to be used two dwelling units shall provide an additional 87,120 square feet (2 acres) of buildable land, *except a lesser amount is allowed under the provisions of Section 6.E.1, Conservation Development.*
3. The conversion of a Single Family Dwelling built prior to the effective date of this bylaw amendment, May 22, 2006, into two dwelling units shall not require any additional acreage provided the footprint of the building remains the same.

**C. LOT FRONTAGE AND ACCESS:** Soil, drainage and topographical conditions, the lack of any public water or sewer systems and other factors prevalent throughout the Town make necessary the following requirements

1. No lot shall be created or altered to have less than 300 feet of frontage, measured along the front lot line as defined in these By-laws, except by Special Permit as provided in this Section *or as provided in Section 6.E.*

**D. SETBACK REQUIREMENTS:** No lot shall have less than the following front, side and rear yard distances, *except for Conservation Development lots as provided in Sections 6.D.8. and 6.E.2.*

**E. MAXIMUM BUILDING HEIGHT:**

**F. SPECIAL PERMITS:**

**SECTION FIVE: MOBILE HOMES AND TEMPORARY LIVING FACILITIES**

**No changes to these provisions and sections.**

**SECTION SIX: CONSERVATION DEVELOPMENT**

**A. GENERAL PROVISIONS:**

1. Definition: A Conservation Development shall mean a *development consisting of single and/or two family* ~~residential development~~ *dwelling*s in which the houses are clustered ~~together~~ into one or more groups within the development, and separated from adjacent properties and other groups by undeveloped land. This type of development may ~~occur as either a standard subdivision or as lots begin created on an existing public way.~~ *be utilized for new subdivisions and access to the Conservation Development shall be from a new road constructed for the subdivision. This optional bylaw provides residents*

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*and developers of land in Town with an alternative to a standard subdivision development that is often incompatible with agricultural and forested land use and operations. The building lots are of a reduced size and concentrated together, taking up only a portion of the parcel of land. A permanent conservation restriction preventing future development is placed on the open space to be preserved.*

2. Purpose: The purpose of a Conservation Development is to encourage the preservation of common land for conservation, agriculture, open space, forestry and recreational use; to preserve historical or archaeological resources; to protect existing or potential municipal water supplies; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to promote better utilization of land in harmony with its natural features and with the purposes of these By-laws through a greater flexibility in design; and to allow more efficient provision of municipal services.

3. *Reviewing* ~~[Permit Granting]~~ Authority: The Planning Board may *approve a Site Plan* ~~[grant a Special Permit]~~ for a Conservation Development as provided in this Section *and Section Ten Site Plan Review.*

4. *Common Open Land: For the purposes of Section Six, Common Open Land is defined as Protected Open Space and Environmentally Sensitive Areas. Protected Open Space is defined as the land area which is at least 35% of the total parcel area that is set aside as permanently protected open space pursuant to Section Six F. The area designated as Protected Open Space will be in addition to any portion of the parcel identified as Environmentally Sensitive Areas, such as wetlands, waterbodies, floodplains, slopes greater than twenty-five percent (25%), and other land prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by these By-laws, applicable regulations of the Department of Environmental Protection, applicable requirements of the Board of Health, and the provisions of the Wetlands Protection Act.*

**B. PROCEDURES:** A Conservation Development *shall follow the application procedures set forth in this Section and those set forth in Section Ten Site Plan Review.* ~~[be permitted only if the procedures set forth in this Section have been followed.]~~ *The Planning Board may approve a Site Plan for the construction of a Conservation Development in any district, subject to the regulations and conditions set forth under this section, Section Ten Site Plan Review, and Warwick's Regulations Governing the Subdivision of Land.*

1. Filing of Application: *Each application for a Conservation Development shall follow the Procedures and Required Contents as identified in this Section and Section Ten Site Plan Review.* ~~[a Special Permit for a Conservation Development shall be filed with the Planning Board, with a copy filed forthwith with the Town Clerk, and shall be accompanied by 10 copies of a Site Analysis Development Plan of the entire parcel under consideration. At its option, the Planning Board may require the plan to be prepared by a~~



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~~professional architect, engineer, landscape architect, or registered land surveyor.]~~

Applicants are encouraged to meet with the Planning Board prior to submitting a formal application *to promote better communication. Applicants are also encouraged to submit a Conceptual Plan for review by the Planning Board prior to the application for Site Plan Review. Materials and information to be submitted with the Conceptual Plan shall be agreed upon by the applicant and the Board.*

2. Contents of Application: ~~Said application and plan shall be prepared in accordance with requirements for a definitive subdivision plan contained in the Rules and Regulations of the Planning Board then in effect, whether or not the development constitutes a subdivision, and shall include proposed location, bulk and height of all proposed buildings.]~~ *Applicants for Site Plan approval for a Conservation Development shall submit nine (9) copies of a Site Plan and the narrative required to meet the requirements of this Conservation Development Bylaw, Section Ten Site Plan Review, and the requirements of Warwick's Subdivision Rules and Regulations for a Preliminary Plan. The Preliminary Plan shall show locations of proposed streets, building envelopes, Environmentally Sensitive Areas, and Protected Open Space. The plan shall be prepared by a professional engineer, registered architect, registered landscape architect, or registered land surveyor.* In addition, the applicant shall provide the following information:

a. The number of dwellings which could be constructed under this By-law *according to Section 6 D.2.* ~~by means of a conventional development plan considering the whole parcel, exclusive of water bodies, slopes greater than twenty five percent (25%), wetlands, flood plain, and land prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by these By laws, applicable regulations of the Department of Environmental Quality Engineering, applicable requirements of the Board of Health, the provisions of the Inland Wetlands Protection Act and all other applicable laws, regulations or requirements.]~~

b. A ~~map~~ *map and analysis of the site, including wetlands, a Forest Type Map prepared by a Licensed Professional Forester, water bodies, slopes greater than twenty-five percent (25%), soil types, areas within the 100 year flood zone as shown on the Federal Insurance Administration (FIA) Flood Hazard Boundary Maps for Warwick dated January 24, 1975, prevailing winds, solar aspect diagram, land prohibited from development by legally enforceable restrictions, easements or covenants, and such other natural features as the Planning Board may request.* ~~As well, an existing topographic map and a proposed topographic map at two feet intervals must be provided.]~~

c. A summary of the environmental concerns relating to the proposed plan.

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d. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan on them.

e. *The proposed use (e.g. farming, forestry, etc.), size, shape, location, and natural resource value of the land to be permanently protected*  ~~[Evaluation of the conservation land proposed]~~  within the Conservation Development,  ~~[with respect to use, size, shape, location, natural resource value,]~~  and accessibility by residents of the Town or of the Conservation Development.

f. Materials indicating the landowner's interest in the land to be developed, the form of organization proposed to own and maintain the common land, the substance of covenants and grants of easements to be imposed upon the use of land and structures and a development schedule.

g. *A preliminary septic system design;*

h. *Measures to prevent soil erosion, increased runoff, and flooding;*

i. *Preliminary drainage calculations (definitive calculations to be included with definitive subdivision plan);*

j. *Projected traffic flow patterns and the total number of building lots;*

k. *Proposed design features intended to integrate the proposed development into the existing landscape;*

l. *Preliminary location(s) of the public water supply;*

m. *Fire protection provisions;*

n.  ~~[g.]~~  If necessary to determine compliance with the requirements or intent of this provision *or evaluate complex site conditions*, the Planning Board may require further *reasonable* engineering or environmental analysis to be prepared at the expense of the applicant

o. *A "metes and bounds" description of the land to be set aside as protected space.*

p. *A copy of a draft application filed either simultaneously with or prior to the conservation development application, for a conservation restriction on the common land as described in Section 2.C.16, meeting the requirements of MGL Chapter 184 Sections 31 through 33; which application may be contingent upon approval of the conservation development and site plan review.*

~~[h. Other reasonable requirements requested by the Planning Board.]~~

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3. Review of Other Boards: *Upon receipt of the application, the Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, the Board of Health, the Historical Commission, the Open Space Committee, the Highway Superintendent, the Fire Chief, the Police Chief, and the Building Inspector. Town Boards and municipal officials other than the Planning Board shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations. The Fire and Police Chief will review the application to ensure that the proposal provides adequate emergency vehicle access to all lots. If necessary to ensure compliance with this section, the Planning Board may require further reasonable engineering or environmental analysis to be conducted at the expense of the applicant.*

~~[Before acting upon the application, the board shall submit it with the plan to the chairman of the following boards, which may review it jointly or separately: the selectmen, zoning board of appeals, board of health, the conservation commission, the fire department, and the highway department. Any such board or agency to which petitions are referred for review shall submit such recommendations as it deems appropriate to the Planning Board and the applicant. Failure to make recommendations within 45 days of receipt shall be deemed lack of opposition.]~~

4. Public Hearing: After the opportunity for *a 45 day review by [for]* other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of Chapter 40A, Section ~~11[9]~~, of the Massachusetts General Laws, the provisions of these By-laws, *Section Ten Site Plan Review* and the regulations of the Planning Board. ~~[The hearing shall be held within 65 days after filing of the application with the Planning Board and the Town Clerk. Notice shall be given by publication and posted and by first class mailings to "parties in interest" as defined in Chapter 40A, Section 11, of the Massachusetts General Laws. The decision of the board, and any extension, modification or renewal thereof, shall be filed with the Planning Board and the Town Clerk within 90 days following the closing of the public hearing. Failure of the board to act within 90 days shall be deemed a grant of the permit applied for. Issuance of the permit requires an affirmative vote of four members of a five member board.]~~

5. Relation to Subdivision Control Act: Planning Board approval of a *Site Plan [Special Permit hereunder]* shall not substitute for compliance with the subdivision control act, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for board consideration under that law. However, in order to facilitate processing, the Planning Board may, insofar as practical under existing law, adopt regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the board's regulations under the subdivision control act. *In addition, to the extent permitted by law, the Planning Board shall coordinate the public hearing requirement for a Conservation Development with the Public Hearing required for a Definitive Subdivision Plan.*

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**C. CRITERIA:** *Approval of a Conservation Development Site Plan shall be granted only if the Planning Board determines that the requirements of the Conservation Development and Site Plan Review bylaws have been complied with. ~~[The Planning Board may grant a Special Permit under this section only if it finds that the applicant has demonstrated the following:]~~*

~~1. That the Conservation Development plan will be in harmony with the purposes and requirements of these By laws and Chapter 40A of the Massachusetts General Laws;~~

~~2. That it will have a less detrimental impact on the neighborhood and the Town than a regular subdivision containing an equal amount of dwelling units;~~

~~3. That it will be designed with due consideration for health and safety;~~

~~4. That it is superior to a conventional plan in preserving land;~~

~~5. That it minimizes environmental disruption;~~

~~6. That it meets the specific requirements of the following provisions of this section.]~~

**D. MINIMUM REQUIREMENTS:**

1. The minimum area of land required for a Conservation Development shall be ten (10) acres ~~[for a subdivision lacking the necessary frontage, or six (6) acres for lots on an existing public way]~~ and the parcel shall be held in single ownership or control at the time of application.

2. ~~[The maximum number of dwellings for the development shall not exceed that which is normally allowed in the district under a conventional plan.]~~ *The maximum density of a Conservation Development shall not exceed the allowed density for a conventional subdivision in any zoning district except as described in Section 6 H. Bonus Incentives. In a Conservation Development, the maximum number of building lots will be determined by one of the following methods at the Applicants option:*

*a. Method 1 - The maximum density for the Conservation Development under Method 1 shall be calculated by taking the parcel area and subtracting out any acreage that is wetlands, floodplains, existing permanently protected open space, land with slopes greater than 25%, other land prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by these By-laws with 10% of the total parcel area subtracted for roads and drainage to find the Net Parcel Area. The Net Parcel Area shall be divided by the Minimum Lot Area of the zoning district in which the parcel is located to*

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*determine the maximum number of lots allowed. All wetlands shall be defined under the supervision of the Conservation Commission and in accordance with the provisions of the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40.*

*b. Method 2 - A preliminary plan for a conventional (non-Conservation Development) subdivision for the site shall be submitted illustrating the number of lots that could be created under a conventional subdivision (2 acre lots and 300 feet of frontage) and the results of deep hole and perc tests indicating how many of these lots would be buildable. The proposed road grade(s) shown on the preliminary plan must meet the standards of Warwick's Subdivision Rules and Regulations. The perc tests shall be conducted under the supervision of the Board of Health, and in conformance with Title 5, percolation tests. The number of buildable lots will equal the maximum density of the Conservation Development.*

3. The development shall include single and/or two-family dwellings only. *Only one principal structure is permitted on each building lot.*

4. Each lot shall have adequate access on an approved private way. *The Planning Board shall determine that each lot shown on the plan has practical access from the way upon which the lot fronts, in that there are no legal or physical impediments which will prevent access particularly for emergency vehicles such as fire engines and ambulances. The road serving the Conservation Development shall be a new road that complies with the Design Standards of Warwick's Subdivision Regulations unless such compliance is waived by the Planning Board pursuant to Section 3.5 of the Subdivision Regulations.*

5. Each lot shall comply with the minimum dimensions required in *Section Six* ~~[this provision]~~.

6. Each lot shall be of a size and shape to provide a building site which shall be in harmony with the natural terrain and other features of the land.

7. At least thirty-five percent (35%) of the total parcel of land shall be set aside as *Protected Open Space. To the extent possible the preserved land shall form a contiguous tract to maintain or enhance wildlife habitat or enable continued farming or forestry operations. The minimum required Protected Open Space will be in addition to existing permanently protected open space, roadways, accessory uses, Environmentally Sensitive Areas such as wetlands, floodplains, and land with slopes greater than 25%, other land prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by these By-laws, applicable regulations of the Department of Environmental Protection, applicable requirements of the Board of Health, and the provisions of the Wetlands Protection Act, or the 50 foot buffer required under Section 6. D. 8. except that the portion of the 50 foot buffer which is contiguous to the Protected Open Space may be counted.* ~~[common land, not including wetlands, water~~

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bodies, flood plains, slopes greater than twenty five percent (25%), roadways, and land prohibited from development by legally enforceable restrictions, easements or covenants, and other constraints dictated by these By laws, applicable regulations of the Department of Environmental Quality Engineering, applicable requirements of the Board of Health, the provisions of the Inland Wetlands Protection Act and all other applicable laws, regulations or requirements.

8. All residential structures and accessory uses within the development shall be set back from the *parcel* boundaries [of the development] by a buffer strip of at least fifty (50) feet in width to be kept in a natural or landscaped condition.

9. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, facilities, roadways, driveways, and parking. There shall be no parking in the buffer strip.

10. Design of roads, utilities, and drainage shall be functionally equivalent to the standards contained in the Planning Board's Subdivision Control Regulations insofar as reasonably applicable, but the Board may vary those standards to meet the particular needs of the Conservation Development.

~~11. No Conservation Development shall be approved unless the applicant can show to the satisfaction of the Planning Board that the potential for groundwater pollution is no greater from the proposed Conservation Development than would be expected from a conventional subdivision with single and/or two family houses on lots meeting the normal lot size requirements located on the same parcel. The burden of proof shall be on the applicant.~~

11. ~~12.~~ All structures which require plumbing that may be connected to a public sanitary sewer, if available, or to a communal septic system serving the development or a portion thereof shall be in compliance with [not exceed sewage flow of 15,000 gallons per day (as determined under] Title 5 [Section 15.02,] of the Massachusetts Environmental Code[)]. [Septic systems shall be placed in the development to maximize the distance between systems and may be placed within common open areas rather than on individual lots.] With the Definitive Subdivision Plan, the applicant shall submit a septic system design for the Conservation Development prepared by a Registered Professional Engineer and approved by the Board of Health, in conformance with Title 5 of the State Environmental Code, and a plan illustrating the location of water supply wells. A Conservation Development may utilize shared septic systems designed, installed and maintained in accordance with the State Environmental Code Title 5, 310 CMR. Septic systems shared or otherwise should be located outside of all agricultural land supporting farming operations to the maximum extent possible.

12. Every Conservation Development shall include a condition that the approved and recorded Definitive Subdivision Plan of said Conservation Development shall have



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*endorsed upon it a statement that the subdivision is an approved Conservation Development and that no land within the subdivision may be further subdivided so as to increase the number of building lots, and shall contain a reference to the approved Site Plan for the Conservation Development.*

#### E. DIMENSIONAL AND DENSITY REQUIREMENTS:

1. Building lot sizes shall not be less than one-half acre for a single dwelling unit in a principal structure or 1 acre for two dwelling units in a principal structure.

2. In no instance shall a building lot have less than 100 feet of frontage on an approved public or private way.

3. ~~Minimum front, rear and side yard setbacks shall be the same as required by Section 4(D) of these By laws.~~ *The minimum Setbacks for Yard Dimensions for each building lot shall be as follows:*

a. *Not less than 25 feet for the Front setback;*

b. *Not less than 10 feet for the Rear setback; and*

c. *Not less than 10 feet for the Side setback except that two single family dwelling units may be attached on one side having no Side Yard setback (zero setback). The other Side Yard of an attached single family unit (the nonattached side) shall be at least 10 feet. Nonattached single family units shall have a minimum Side Yard setback of 10 feet.*

4. *The maximum height of dwelling units and structures shall be 35 feet.*

#### F. REQUIRED CONSERVATION LAND:

1. ~~All land not devoted to dwellings, accessory uses, roads, or other development shall be set aside as~~ Common *Open* Land *may be used* for *passive* recreation, *forestry*, conservation, or agricultural uses which preserve the land in essentially its natural condition. In general, natural resource land such as wetlands ~~not suitable for any public use~~, or land that is suitable for extensive public recreational use, should be conveyed to the town or to a *qualified conservation organization*; whereas land which will be principally used by the residents of the Conservation Development should be conveyed to a home owners association. *The area to be preserved as Common Open Land shall be made subject to a perpetual restriction of the type described in M.G.L. c.184 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town of Warwick. To ensure this, a Conservation Restriction in*

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*accordance with M.G.L. Chapter 184 Sections 31 to 33 shall be imposed on the Common Open Land and recorded in the Registry of Deeds by the applicant at the time the approved Definitive Plan is submitted to the Registry of Deeds for recording. The applicant shall notify the Planning Board in writing within ten (10) days after the Conservation Restriction and the Definitive Plan, as approved and endorsed, have been recorded at the Franklin County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, of such recording, noting book, page number and date of recording. The purpose of the Conservation Restriction will be to clearly identify the uses and restrictions which apply to the Common Open Land in order to protect the value of the property within the development. Approval of a Conservation Development will be contingent upon final adoption of the Conservation Restriction, and no building permit shall be granted under the the conservation development until such final adoption.*

2. Further subdivision of the Common Open Land or its use for other than the above listed uses, except for easements for underground utilities and septic systems, shall be prohibited. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but shall not exceed 5 % *coverage of the Protected Open Space or 10,000 square feet, whichever is less, [such common open land].*

3. Such Common Open Land shall be conveyed to one or more of the following entities:

a. A corporation or trust owned or to be owned by the owners of lots within the development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity;

b. A nonprofit organization, the principal purpose of which is the conservation or preservation of open space;

c. The Town, at no cost, provided that the Town accepts the land for a park or open space use. Such conveyance shall be at the option of the Town and shall require the approval of the voters at a Town Meeting.

*d. The Planning Board, at the request of Applicant, may consider granting a Special Permit to have the Protected Open Space or Environmentally Sensitive Areas retained by a private individual or a trust owned by private individuals provided that the interests of the residents of the Conservation Development will be protected as outlined in the requirements of the Conservation Restriction. Such Special Permit shall meet the requirements of Section Two Permitted and Prohibited Uses, paragraphs C.15 and D., of the Zoning Bylaws and other requirements to be determined by the Planning Board.*

4. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded to ensure that such land and/or frontage shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways. Such restrictions shall further provide for maintenance of



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the Common *Open* Land in a manner which will ensure its suitability for its function, appearance, cleanliness and proper maintenance of drainage, utilities and the like.

5. If the Common *Open* Land is to be conveyed to the lot owners within the development, ownership and maintenance of such land shall be permanently assured through an incorporated nonprofit homeowner's association, covenant, or other land agreement through which each lot owner in the development is automatically a member and each lot is subject to a charge for a share of the maintenance expenses or through a comparable arrangement satisfactory to the Planning Board. Such land agreement documents shall be submitted with the *Site [Development]* Plan and shall be subject to approval by the Planning Board and Town Counsel. These covenants shall also include provisions for the maintenance of all common facilities and utilities.

6. Such covenants shall specify how the organization will be governed and how costs will be assessed and that the organization shall remain under the control of the developer until a majority of the lots are conveyed to permanent owners.

7. Such covenants shall provide that in the event that the organization established to own and maintain the Common Open Land or any other commonly owned facilities or utilities or any successor organization fails to maintain the Common Open Land or any other commonly owned facilities or utilities in reasonable order and condition in accordance with the *Site [Analysis/Development]* Plan, the Town may, after notice to the organization and public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the development and to prevent the Common *Open* Land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed proportionately against the properties within the development and shall become a charge on said properties enforceable as a real estate tax and that such charge shall be paid by the property owners within thirty (30) days after receipt of a statement therefor.

*8. If land subject to the Conservation Restriction is contiguous to other land which is or might become similarly restricted, or to publicly owned land, or if beneficial for maintenance of town options for future trail development, the Planning Board may request that public easements for hiking or equestrian trails be granted by the applicant within the protected open space for access to existing or potential trails on such adjacent lands, and the applicant shall be awarded 10 bonus points for the grant of such easements.*

#### **G. FURTHER REQUIREMENTS:**

1. There shall be no amendments or changes to an approved *Site [Analysis/Development]* Plan without review and approval from the Planning Board.

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2. No lot within an approved ~~Open Space~~ Conservation Development may be further subdivided so as to increase the number of lots, and a notation to this effect shall be shown on any Definitive Plan of a subdivision and on the approved Site ~~Analysis/Development~~ Plan if not a subdivision under the Subdivision Control Law.

3. No use other than residential, agricultural, forestry or *passive* recreation~~all~~ shall be permitted.

4. The Board may *approve a Site Plan* ~~grant a Special Permit~~ hereunder for Conservation Development even if the proposed development is not subject to the Subdivision Control Law.

5. Upon approving the creation of a Conservation Development, the Planning Board shall ~~cause a notice specifying applicable conditions and limitations to be recorded at the expense of the applicant in the Franklin County Registry of Deeds and shall~~ provide a copy of *the Definitive Plan and notice required in Section Six F.1.* ~~said notice~~ to the Board of Assessors of the Town, who shall cause the information contained in said notice to be recorded on the Town Assessors' map and in the official records of the Town.

*6. Wherever it is feasible, all residential buildings shall be located away from agricultural soils that are classified by the U. S. Natural Resources Conservation Service as prime farmland and soils of state and local importance and placed on soils the least suitable for production of crops and livestock. This provision does not apply to the location of on-site septic disposal systems that must be placed on soils meeting the Massachusetts Environmental Code Title 5.*

*7. The layout and construction of utilities, drainage systems, and roads shall be located to have the least possible impact on agricultural lands and uses or mature forest stands.*

*8. To minimize conflict with agricultural operations, all residential lot lines shall be located at least one hundred (100) feet from agricultural activities. This area shall be made up of a buffer strip of trees or open space*

*9. To the maximum extent possible, residential units should be integrated into the landscape to avoid interrupting the view of agricultural or scenic landscapes from adjacent public ways. Structures should be sited within any woodland contained on the parcel, along the edges of fields, or in locations where structures can be visually screened or absorbed into natural vegetative or topographic features. Vegetative and structural screening, landscaping, grading, and building placement on the lot should be used to minimize visual interference with pre-existing landscape features.*

*10. Residential units shall, to the maximum extent feasible, have a solar and wind orientation which encourages energy conservation. If all dwelling units are Energy Star Homes 10 bonus points will be earned.*

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*11. Either modification of the site plan as described or approved deviation from the site plan by the definitive plan shall be approved under the same criteria and with the same required finds as approval of the site plan itself.*

**H. BONUS INCENTIVES AND DISINCENTIVES:** *Creating a subdivision development using the Conservation approach is often less expensive for the developer as roads are shorter and utilities are grouped together. Thus, Warwick's provision of a Conservation Development option should be considered an incentive unto itself. However, to further encourage Conservation Development the following "point incentive system" has been developed. A Site Plan that meets any of the following criteria will earn the number of points listed. Depending on the total number of points earned, a developer may earn a bonus in the form of extra building lots allowed within the development. The Planning Board will determine, upon review of the Site Plan, the bonus point total.*

*A Site Plan that earns at least 40 points will earn a 10% building lot bonus above the basic number of building lots allowed under Section Six D. A Site Plan that earns 60 points or more earns a 20% building lot bonus above the basic number of building lots allowed under Section Six D. If the point total results in a building lot bonus of a fractional number, the bonus building lot total will be rounded down to the next lower whole number. The total number of bonus lots cannot exceed 20% of the maximum number of building lots allowed under Section 6.D. before the addition of bonus lots (e.g., 2 bonus lots for a 10 lot subdivision for a total of 12 lots).*

*1. Any development that increases the amount of land permanently preserved by 5% above the 35% requirement for Protected Open Space earns 10 points. Each additional 5% increase in preserved land results in an additional 10 points. The bonus points will only be awarded for additional Protected Open Space that is contiguous to the Common Open Land. For example, if a developer permanently protects 40% of the total parcel area as Protected Open Space and the acreage that comprises the additional 5% is contiguous to the 35% required Protected Open Space or other Common Open Land, 10 points would be earned.*

*2. If a minimum of 5 acres of protected agricultural land is set aside with an Agricultural Management Plan acceptable to the Planning Board that ensures sustainable agricultural production for a 10-year term, 10 points would be earned.*

*3. If a minimum of 10 acres of protected forestland is set aside with a sustainable Forest Management Plan for a 10-year term that is prepared by a Licensed Professional Forester, 10 points would be earned.*

*4. A Conservation Development plan that permanently protects land in a tract that is at least 10 acres in size and contiguous to an already protected area so as to increase the area of forestland, wildlife habitat, working agricultural land, or other land approved by*

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*the Planning Board as meeting the purposes of Section Six. A. 2. of this bylaw, earns 10 points.*

*5. A development plan that permanently screens structures from view from a public way as evidenced by cross sections of the definitive plan at a scale of 1 inch = 10 feet earns 10 points.*

*6. Architectural designs for the single-family or two-family structures that match the historic character of the area earn 10 points. Architectural elevation drawings of the single-family or two-family homes must accompany the site plan to be eligible to receive points in this category.*

*7. If all houses are certified as Energy Star Homes, 10 points will be earned.*

*8. If a minimum of 20% of the housing units will be certified to meet MGL Chapter 40B (Affordable Housing) requirements, 10 points will be earned.*

*9. If the Planning Board requests an easement for hiking or equestrian trails and such an easement is included in the Conservation Restriction as described in Section 6.F.8., 10 bonus points will be earned.*

*10. Development in prime agricultural land as described in Section 6.G.6 or failure to comply with Section 6.G.8 will result in **subtracting** 10 bonus points.*

*11. If residential units are not integrated into the landscape to avoid interrupting the view of the agricultural or scenic landscapes from adjacent public ways as described in Section Six G.9., then 10 bonus points will be subtracted.*

**No changes were made to Sections 7 through 9, so they are not included:**

**SECTION SEVEN: RATIONAL GROWTH BYLAW**

**SECTION EIGHT: PARTICULAR USES**

**A. EROSION CONTROL**

**B. EARTH REMOVAL:**

**C. DRIVEWAYS:**

**D. SIGNS:**

**E. INCOMPLETE MOTOR VEHICLES:**

**SECTION NINE: ZONING BOARD OF APPEALS.**

***SECTION TEN: SITE PLAN REVIEW***

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**A. PURPOSE:** *The purpose of Site Plan Review is to ensure that new development is designed in a manner which protects the environmental and scenic qualities of the neighborhood and the Town and is consistent with Section One A. 4, 5, 6, and 7.*

**B. SITE PLAN REVIEW PROCESS:** *The Site Plan Review process will be conducted by the Planning Board.*

**C. APPLICABILITY:** *Site Plan Review shall be required for:*

*1. Conservation Developments (see Section Six).*

**D. PROCEDURES:** *An applicant for Site Plan Review shall file a completed application, in paper and electronic format, with the Town Clerk. The Town Clerk shall acknowledge receipt of the plans by signing and dating the application form. The application submitted to the Town Clerk shall include nine (9) copies each of an application form, Site Plan and any narrative documents as outlined in the submittal requirements. The Town Clerk shall transmit copies of the application to the Planning Board, the Conservation Commission, the Board of Health, the Historical Commission, the Open Space Committee, the Highway Superintendent, the Fire Chief, the Police Chief, and the Building Inspector. These Town Boards and municipal officials shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations, and failure to respond or provide comments within 45 days shall be deemed to constitute no objection to the application. No building permits for projects requiring Site Plan Review shall be issued until the Planning Board has approved the Site Plan or unless the required time period for taking action on a Site Plan has lapsed without action from the Planning Board.*

*The concurring vote of a majority of the membership of the approving board shall be required for any decision pursuant to Section Ten G. on a use requiring Site Plan Review only.*

*Conditions or modifications that may be imposed include, but are not limited to the following:*

- 1. Controls on location and type of access to the site.*
- 2. Requirements to screen or relocate buildings and parking/loading areas and provide buffers to protect adjoining property.*
- 3. Requirements to reduce the traffic impact of the proposed project.*
- 4. Requirements to minimize impacts on the capacity of infrastructure serving the site.*
- 5. Requirements to minimize environmental degradation during construction.*
- 6. Modifications to the proposed size and scale of the project.*
- 7. Other reasonable conditions designed to mitigate a project's impacts and ensure compliance with applicable review criteria, including the installation of on-site and off-site improvements.*

*For the purpose of securing the installation of required site improvements, including landscaping and on-site and off-site improvements, the approving board may require a performance bond, deposit of money, letter of credit, or other security in an amount determined by the board to be sufficient to cover the cost of all or any part of improvements required in a form acceptable to Town Counsel and consistent with the Town of Warwick's Regulations*

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*Governing the Subdivision of Land. Such security shall be under the control of the Town but not in its possession.*

*Any site plan approved under this bylaw shall lapse in two years if construction has not begun, or is not carried forward to completion as continuously and expeditiously as is reasonable.*

*Decisions of the approving board regarding Site Plan Approval may be appealed as set forth in M.G.L., Chapter 40A, Section 17.*

**E. PUBLIC HEARING:** *The Planning Board shall hold a recorded (videotaped and/or audiotaped) public hearing within 65 days after the filing of a completed application and shall take final action on an application for Site Plan approval within 90 days of the close of the public hearing. Notice and posting of the public hearing shall comply with the provisions of M.G.L. Chapter 40A, Section 11, regarding notice for public hearings. To the extent permitted by law, the public hearing should be coordinated with any other public hearing required for a Definitive Subdivision Plan.*

**F. REQUIRED CONTENTS OF A SITE PLAN:** *All Site Plans shall be prepared by a registered architect, registered land surveyor, registered landscape architect, or professional engineer. The Site Plans shall be consistent with the map requirements from Section Six, B.2. A locus map at a scale of 1" = 100 feet shall be provided showing parcels and roads within 300 feet of the property line. The Site Plans shall be on standard sheets of 24 inches by 36 inches and prepared at a scale of 1"=40 feet or finer. Each sheet shall be signed and stamped by a registered architect, registered land surveyor, registered landscape architect, and/or professional engineer, as applicable. The Site Plan and accompanying narrative shall contain the following:*

- 1. Name of project, boundaries, locus map(s) showing the site's location in Town, date, north arrow and scale of plan;*
- 2. Name(s) and address(es) of the owner(s) of the land, the developer (if applicable), and/or their designee;*
- 3. Name, title, and address of person(s) who prepared the plan;*
- 4. Names and addresses of all owners of record of abutting lots and those within 300 feet of the property line;*
- 5. All existing lot lines, easements and rights of way;*
- 6. A plan of existing site conditions that shows all site features, including topography, existing natural drainage and stormwater flow paths, wetland resource areas, forested areas, and agricultural areas.*
- 7. Location and use of buildings, structures, and roads within 300 feet of the site;*
- 8. Location and use of all existing and proposed buildings and structures, including approximate height and floor area;*
- 9. Location of wetlands on site and within 300 feet of the property line;*
- 10. Location and a description of all proposed septic systems, sewer connections, water supplies, storm drainage systems, utilities and other waste-disposal methods;*
- 11. Location of water sources, cisterns, hydrants, and pipes for fire protection;*



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12. *Location and date of all registered "perc" tests on the site;*
13. *Location of all proposed new lot lines;*
14. *Existing and proposed topography at a two-foot contour interval for the proposed grading and landscape plan;*
15. *Location of proposed public and private ways on the site;*
16. *Location and size of proposed parking and loading areas, driveways, walkways, pedestrian safety measures, and access and egress points;*
17. *Location and a description of proposed open space or recreation areas;*
18. *Location of areas with slopes greater than or equal to 25%, the 50-foot buffer area, and the boundaries of the land to be protected by the Conservation Restriction.*
19. *Size and location of existing and proposed sign(s);*
20. *Surface drainage strategy that prevents increased drainage off-site or pollution;*
21. *Existing vegetation that will be left undisturbed and proposed landscape features, including the location and a description of screening, fencing and plantings using non-invasive species;*
22. *Design features which will integrate the proposed development into the existing landscape, maintain neighborhood character, and screen objectionable features from neighbors and roadways;*
23. *A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;*
24. *Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and cleanup procedures;*
25. *Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;*
26. *Estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for both vehicles and pedestrians, showing adequate access to and from the site, adequate circulation within the site, and pedestrian safety measures.*
27. *Information necessary to determine compliance with paragraphs 4, 5, 6, and 7 of the Purpose Section (Section One. A.) of this bylaw.*
28. *Information necessary to review the plan under Section Ten, paragraph J.*

**G. DECISION:** *The Planning Board's action shall consist of one of the following:*

1. *Approval of the site plan based upon the determination that the proposed project is in compliance and consistent with the criteria set forth in this By-law;*
2. *Approval of the site plan subject to conditions, modifications, and restrictions as the Planning Board may deem necessary; or*
3. *Denial of the site plan based upon specific findings such as a determination that there was insufficient information submitted with the proposal to allow for adequate*

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*review it or that the project is inconsistent with the purposes or requirements of these Zoning By-laws.*

*The decision of the Planning Board shall be filed with the Town Clerk within 90 days of the close of the Public Hearing and the written record of the decision including any approved Site Plan shall be filed with the Town Clerk within 14 days of the final vote or sooner to meet the 90 day maximum time frame. A copy of any approved Site Plan and the decision of the Planning Board shall be sent by the Town Clerk to the Building Inspector and to the Registry of Deeds. The subsequent Definitive Plan submitted under Warwick's Subdivision Rules and Regulations must be in complete accordance with the approved Site Plan. Any deviation from the approved Site Plan will require approval from the Planning Board. Any modifications to the Site Plan approved by the Planning Board during the Definitive Plan process must also be sent to the Town Clerk, the Building Inspector and to the Registry of Deeds.*

**H. ADMINISTRATION AND WAIVERS.** *The Planning Board may adopt and from time to time amend regulations for the submission and approval of site plans. The Planning Board may waive any of the requirements for site plan submittal and approval if the simplicity or scale of the project warrants such action. The Planning Board may also request any additional information it should need to render a decision. For large or complex projects, the Planning Board shall have the right to retain a registered professional engineer, planner, designer or other professional to advise the Board regarding any or all aspects of the Site Plan. The applicant shall be responsible for the costs of such advice.*

**I. COMPLIANCE WITH OTHER BYLAWS:** *The site plan shall comply with any zoning by-laws for parking, loading, dimensions, environmental controls and all other provisions of the Zoning By-law. Before approval of a site plan, the Planning Board may request that the applicant make modifications in the proposed design of the project to ensure that the above criteria are met.*

**J. REVIEW CRITERIA:** *The Planning Board's evaluation of the proposed Site Plan shall include, when applicable, the following criteria:*

- 1. Compliance with all applicable provisions and requirements of these bylaws.*
- 2. Avoidance of excessive noise, dust, odors, solid waste, glare, electrical interference, or any other nuisances.*
- 3. Screening or location of unsightly features so as to be unobtrusive from neighboring properties and public roadways.*
- 4. Adequacy, arrangement, and safety of vehicular traffic access and circulation, and accessibility for fire, police, and emergency vehicles, including intersections, road widths, pavement surfaces, dividers and traffic controls.*
- 5. Adequacy and arrangement of pedestrian traffic access and circulation, pedestrian walkways, control of intersections with vehicular traffic and overall pedestrian safety and convenience.*



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6. *Protection of the supply and quality of groundwater and surface water and natural resources and ecosystems.*
7. *Provision of open spaces and pedestrian amenities available to the public.*
8. *Avoidance of erosion or sedimentation.*
9. *Integration of the project into the existing terrain and surrounding landscape by minimizing impacts on wetlands, steep slopes, and hilltops; protecting visual amenities and scenic views; preserving unique natural or historical features; minimizing tree, vegetation and soil removal; minimizing grade changes, and integrating development with the surrounding neighborhood in a manner that is consistent with the prevailing pattern, design, and scale of development and that protects historic structures and features.*
10. *Provision of underground utilities or conduits where feasible.*
11. *Location, arrangement, appearance and sufficiency of off-street parking and loading.*
12. *Location, arrangement, size, design and general site compatibility of buildings, lighting and signs in relation to the terrain and to the use, scale, and proportions of existing and proposed buildings in the vicinity.*
13. *Provision of open spaces and pedestrian amenities available to the public.*
14. *Location of buildings to provide a solar and wind orientation which encourages energy conservation.*
15. *Adequacy of stormwater and drainage facilities, including avoidance of adverse impacts of stormwater runoff from the site. Drainage shall recharge groundwater to the extent practical, and surface waters flowing off-site shall not adversely affect drainage on adjacent properties or roads.*

## SECTION ~~ELEVEN~~ ~~[TEN]~~: DEFINITIONS

*ACCESSORY APARTMENT: An additional dwelling unit in an existing dwelling. An accessory apartment may also be located in a new or existing structure accessory to a dwelling, such as a garage, guest house or barn. The size of the apartment shall not exceed 800 square feet. The owner of the property shall occupy the principal dwelling unit or the accessory apartment. Adequate off-street parking shall be provided, and parking shall be to the side and rear of the principal structure to the maximum extent possible.*