

TOWN OF CLAVERACK

PROPOSED LOCAL LAW NO _____ -2017

**A LOCAL LAW AMENDING THE ZONING LAW TO ADD A NEW CHAPTER 15-A
“PLANNED DEVELOPMENT DISTRICTS”**

Section 1. Legislative Purpose

The Town of Claverack hereby finds and determines that:

- a) When coordinated with the Town’s comprehensive plan, planned development districts can be an effective tool for guiding development in ways that support community goals and priorities.
- b) Planned development districts provide a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Unattainable with traditional municipal zoning techniques, planned development districts provide flexibility in the regulation of land use development in order to (i) encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures; (ii) enhance efficiency in the use of land, natural resources, energy, community services and utilities; (iii) encourage open space preservation and protection of natural resources, historic sites and structures; (iv) facilitate the provision of housing and improved residential environments; and (v) enhance the ability of municipalities to promote business and employment opportunities.
- c) The Town’s comprehensive plan contained several Recommendations to Enhance Subdivision and Zoning Administrative Procedures including number 15 which recommended that the Town’s Planned Residential Development section of the Zoning Law then in effect be rewritten to provide more detailed processes and procedures.
- d) The Town’s Zoning Law, as adopted 12/10/2015 removed the references to Planned Residential or Industrial Development so that there are no authorization for or processes or procedures in the current Zoning Law with respect to planned development districts.
- e) In addition to other powers and authority to plan and regulate by zoning, Section 261-c of the Town Law specifically authorizes towns to provide for

planned development districts. Therefore, the Town Board of the Town of Claverack hereby enacts requirements for the review of planned development plans and the establishment and simultaneous mapping of planned development districts pursuant to the provisions of this local law.

Section 2. The Zoning Law of the Town of Claverack is hereby amended to add a new Chapter 15-A to read as follows:

CHAPTER 15-A – PLANNED DEVELOPMENT DISTRICTS

§15-A.1. Definitions. As used herein:

- A. “Authorized board or body”, means the Town of Claverack Planning Board designated by the Town Board to review and act on final planned development district plans.
- B. “Planned development district site” means a site upon which residential, commercial, industrial or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the Town of Claverack comprehensive plan.
- C. “Planned development district (“PDD”)” means an independent, freestanding zoning district, wherein the zoning regulations need not be uniform for each class or type of land use, but where the use of land shall be in accordance with a preliminary planned development plan approved by the Town Board.
- D. “Preliminary planned development plan” means a proposal for a planned development prepared in a manner described in section 15-A.4 hereof showing the layout of the proposed project including, but not limited to, maps, plans, or drawings relating to proposed land uses, approximate location and dimension of buildings, all proposed facilities, including preliminary plans and profiles, at suitable scale and in such detail as is required by this chapter; architectural features, lot sizes, setbacks, height limits, buffers, screening, open space areas, lighting, signage, landscaping, parking and loading, traffic circulation, protection of natural resources, public or private amenities, adjacent land uses and physical features, and such other elements as may be required by the Town Board.
- E. “Preliminary planned development plan approval” means the approval with conditions, if any, of the layout of the proposed planned development as set forth in a preliminary plan and the simultaneous amendment of the zoning law by the Town Board to create and map a planned development district encompassing the preliminary plan; subject to the approval of the plan in final form pursuant to the provisions of this local law.

- F. "Final planned development plan" means an approved preliminary planned development plan prepared at such additional detail and showing information as is required by this chapter, and the modifications, if any, required by the Town Board at the time of approval of the preliminary planned development plan, if such preliminary plan has been so approved.
- G. "Final planned development plan approval" means the signing of a final plan by the Chairman of the Town Planning Board pursuant to a motion granting final approval to the plan or after conditions, if any, specified in said motion granting conditional approval of the plan are completed. Such final approval qualifies the plan for filing in the office of the Town Clerk as provided herein.

§15-A.2 Development Standards by Classification

- H. Residential Planned Development District (RPD). The RPD is predominantly intended to encourage flexible residential development with provisions for recreation, community uses, services and activities normally accessory to residential use, while maximizing the preservation of natural vegetation and character (e.g., existing contours). Clustering, open space preservation, and the most efficient utilization of transportation systems, utilities and public services are intended to be achieved by the RPD. The intent is to support creative and desirable private residential development by providing incentives and flexibility, which encourage the use of innovative planning and design techniques.
 - i. Requirements. The RPD shall be beneficial and not incompatible with the surrounding land uses, the purpose of this chapter and the goals and objectives of the Town Comprehensive Plan.
 - ii. Permitted uses. Within the RPD, the following residential uses or residential accessory uses shall be permitted: any residential or accessory use permitted by right, site plan review and conditional use permit in the RC, RR, RA, and HR Districts.
- I. Mixed Use Planned Development District (MUPD). The Mixed Use Planned Development District (MUPD) is intended to provide a flexible mixture of usage among residential, office, commercial services, light industrial and institutional uses while maximizing the preservation of natural vegetation and character (e.g., existing contours). The commercial uses provided in this district should provide convenient services to the residential uses therein. Clustering, open space preservation, elimination of sprawling complexes and developments, and the most efficient utilization of transportation systems, utilities and public services are intended to be achieved by the MUPD.
 - i. Requirements. The MUPD shall be beneficial and not incompatible with the surrounding land uses, the purpose of this article and the goals and objectives of the Town Comprehensive Plan.

Commented [MRC1]: Consistent with comp plan

ii. Permitted uses. Within the MUPD, the following uses shall be permitted:

- a. Any use permitted by right, site plan review, and conditional use permit in the RR, HR, HC, HB and HB-1 Districts.
- b. Residential condominiums or residential cooperatives, bed and breakfast establishments, senior (over age 55) apartments and retirement communities in such density as set by the Town Board in the approval of the preliminary plan.
- c. Nursing homes, proprietary rest homes, assisted living facilities and retirement communities. Buildings with more than one use. (e.g. residential and commercial or retail and office).
- d. Golf courses and clubs.
- e. Warehouse or self-storage facilities.
- f. Parks, playgrounds, basketball courts and trails.
- g. Health clubs, spa facilities or other indoor recreation facilities.
- h. Any other residential office, light industrial or commercial use where it can be demonstrated that such use will be beneficial and not incompatible with the other uses of the MUPD considering the entire plan, the surrounding area and where it is further demonstrated that the purpose of this article and the goals and objectives of the Town Comprehensive Plan are maintained and furthered.

Commented [MRC2]: B&Bs can be added back

Commented [MRC3]: This is meant to mean individual buildings with mixed uses but is not really necessary since 10.1D allows multiple uses on a parcel or in a building in the HC.

Commented [MRC4]: Golf courses and clubs can be added back

Commented [MRC5]: Harmonious is a less definite term which is more subjective. In a mixed use district, there can be a non-traditional mix that some might harmonious means all similar.

Commented [MRC6]: Assisted living can be added

J. Recreation/Tourism Planned Development District (RTPD). The Recreation/Tourism Planned Development District is intended to encourage the development of a centralized area of recreational, cultural, entertainment and tourism facilities.

Commented [MRC7]: I originally thought the RTPD would be appropriate for Claverack.

i. Requirements. The RTPD shall be beneficial and not incompatible with the surrounding land uses, the purpose of this article and the goals and objectives of the Town Comprehensive Plan.

ii. Permitted uses. Within the RTPD, the following uses shall be permitted:

- a. Community or regional recreation facilities, including stadiums, arenas, field houses, playing fields, skating rinks, tennis centers, swimming pools, golf courses, equestrian racetracks or other recreation facilities.
- b. Health clubs, spa facilities or similar types of indoor recreation facilities.
- c. Parks, playgrounds and trails.
- d. Theaters, cinemas, concert halls, museums, amphitheaters, performing arts centers or similar types of entertainment or cultural facilities.
- e. Hotels, motels, bed-and-breakfasts, inns, and restaurants.
- f. Multifamily dwellings.

- g. Conference and/or trade exposition centers.
- h. Any use not specifically identified above but otherwise permitted by right, site plan review and special exception in the zoning district that is to be changed to RTPD to accommodate the development.
- i. Any other commercial use where it can be demonstrated that such use will be beneficial, compatible and harmonious with the uses of the RTPD and the surrounding area and where it is further demonstrated that the purpose of this chapter and the goals and objectives of the Town Comprehensive Plan are maintained and furthered.

§15-A.3. General Development Standards

- A. No earth work, land clearing, construction or development shall take place on any property in a Planned Development District except in accordance with the subdivision and/or site plan approved by the Planning Board in accordance with this Zoning Law, the Town's Subdivision Law and the procedures and standards for site plan approval set forth in this chapter.
- B. In cases in which a proposed project also involves the subdivision of land, no development may proceed until the Planning Board has granted final subdivision approval in accordance with the standards and procedures of this chapter and the Town's Subdivision Law.
- C. Unless restricted otherwise herein, minimum yard setbacks, buffers, allowable lot coverage, residential density, maximum height, or other dimensional requirements for any of the structures devoted to uses listed in this article shall be set by the Planning Board and delineated on the approved plan rather than determined by any other provisions of this Zoning Law, but shall in no event be more restrictive than those dimensions set forth on the preliminary planned development plan submitted in accordance with § 15-A of this Zoning Law, and upon which the Town Board placed reliance in approving the planned development amendment.
- D. On-site parking and access requirements shall be determined by the Planning Board based upon reasonable planning standards. Parking and access requirements shall not be less than those shown on the preliminary planned development plan unless the Town Board shall, by resolution, consent to any such reduction.
- E. Open space in a Planned Development District is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owner and the occupants of the individual building sites or the public in general. Where open space exists, the ownership of such property shall be either public or private. Where such property exists in private ownership, the applicant must address the issue of ownership and maintenance of such

Commented [MRC8]: In order to provide clustered development and the flexibility needed when dealing with mixed uses, the approving entity should not be hamstrung by the normal standards.

Commented [MRC9]: Consistent with those outlined in article 14 of the Zoning Law.

Commented [MRC10]: This first sentence is the definition of common property. It should instead be the definition of open space as clarified in F.

permanent open space lands. The Town Board may establish such conditions on ownership and maintenance, as it deems necessary, to assure the preservation of such lands for their intended purpose. A percentage of the acreage of any Planned Development District shall include land for open space for recreational purposes and/or preserved as natural open space. Such areas shall encompass land having meaningful ecological, aesthetic and recreational characteristics, with access, shape, dimensions, location, topography and nature and extent of improvements suitable in the opinion of the Town Board for the intended purposes. Minimum percentages of common property shall be afforded each Planned Development District classification as follows:

- iii. Residential: 25%.
- iv. Mixed Use: 25%.
- v.

Commented [MRC11]: Change to 40% with stream & wetlands included

Commented [MRC12]: Change to 35%

F. Natural and recreational open space.

- i. The open-space system shall be developed to provide the following:
 - (a) Passive and active recreation spaces and facilities adequate to meet requirements based upon projected population and age distribution.
 - (b) Undeveloped open space as necessary to preserve outstanding natural features.
 - (c) Water areas to the extent appropriate for user needs.
 - (d) Such complementary structures, improvements and equipment as necessary and appropriate for the benefit and enjoyment of its users.
- i. The final planned development plans for all planned developments shall contain or be supplemented by such material as required to establish the method by which the open space system shall be defined, maintained and administered. The final plans and other materials shall be construed as a contract between the landowners and the Town and shall be specifically noted on all deeds.
- ii. All land held for open space shall be so designated and noted on the plat.
- iii. The final plans shall designate the use of open space, the type of maintenance to be provided and a landscape planting plan or schedule. In designating use and maintenance, the following categories may be used:
 - (a) Recreation area. An area designed and developed for a specific recreation use, including but not limited to tennis, swimming, shuffleboard, playfield and playground. Such areas shall be maintained so as to avoid creating a hazard or nuisance.
 - (b) Lawn. A grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed

regularly to ensure a tidy appearance.

- (c) Natural area. An area of natural vegetation undisturbed during construction or replanted after construction. Such areas may contain pathways. Maintenance may be minimal but shall prevent the excessive growth of weeds and undesirable plants. Litter shall be removed and streams kept in free-flowing condition.
- iv. Designated landscape planting and recreation development within the open space areas shall be provided by the developer. A performance bond or other guaranty may be required to cover the costs of installation in accordance with this chapter.
- v. At the pleasure of the Town Board, any of the following methods may be used to preserve, own or maintain the open space areas: fee simple dedication, homeowners' association, condominium, dedication of development rights, formation of a special park district or developer owned. The following specific requirements are associated with each of these methods as well as any other provisions deemed necessary by the Town Board:
 - (a) Fee simple dedication. The Town may, but not be required to, accept any portion or portions of the open space, provided that:
 - 1. Such land is freely accessible to the public.
 - 2. There is no cost involved.
 - 3. The Town agrees to and has access to maintain such lands.
 - (b) Homeowners' association. The open space may be held in common ownership by a homeowners' association. This method shall at a minimum be subject to all of the provisions for homeowners' associations and such other provisions as may be required by the Town Board.
 - (c) Condominium. The open space may be controlled through the use of condominium agreements. All open space land shall be held as a "common element." Such land shall be eligible for sale to another method of ownership permitted under this section, but only where there is no physical change in the open space. All plats required by this article shall show required open space area, whether this land is to be conveyed or not.
 - (d) Dedication of development rights. The Town may accept, but shall not be required to accept, title to the development rights or easements to any portion or portions of open space. In such cases, the land shall remain in the ownership of the individual, condominium or homeowners' association while the development rights are held in public ownership.
 - (e) Special park district. Application must be made in a suitable form for establishment of a special park district. All cost associated with establishment of such a district shall be borne

- by the developer.
- (f) For a MUPD, ownership of all open space designated on the approved site plan may remain with the developer or successive owner(s).

§15-A.4. Methods of Procedure

A Planned Development District may be authorized where the Town Board finds that the development will be beneficial, compatible and harmonious with the surrounding land uses and not have a significant impact upon the environment. The siting of a Planned Development District shall also be consistent with the purpose of this chapter and the goals and objectives of the Comprehensive Plan.

In its review and approval of applications to create planned development districts pursuant to this local law, the Town Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations.

- A. Establishment of a planned development district.
 - i. Preliminary Application. The applicant shall have the option to provide a preliminary application to the Town Board before a formal application is made. The preliminary application shall be used for Sketch Plan review and shall include the following:
 - a. A map identifying the boundaries and significant physical characteristics of the proposed PDD.
 - b. A short project narrative describing the location, conceptual design and proposed use of any lots and structures.
 - c. The proposed location and use, if any, of common or open space.
 - d. Any proposed changes to existing topography and/or natural features.
 - e. The location of the site with respect to nearby streets, rights of way, adjacent properties, easements and other relevant features within 200 feet of the boundaries of the proposed PDD.
 - ii. Application. Application for establishment of a planned development district shall be made in writing to the Town Board. Application shall be made by the owner(s) of the land(s) to be included in the district or by a person or persons holding an option to purchase the lands contingent only upon approval of the application for the change of zone. In the event an application is made by a person or persons holding an option to purchase the lands, the application shall be accompanied by a statement signed by all owners of such land indicating concurrence with the application.
 - iii. Application materials and planned development district plan. In order for the Town Board to reach an understanding of the appropriateness of

rezoning at the earliest opportunity, the applicant shall submit a planned development district plan of the proposed PDD in sufficient quantity as determined by the Town. The district plan to be complete shall consist at minimum of the following:

Commented [MRC13]: Contents of the plan for the PDD

- (a) A description of the proposed district by reference to the tax parcel identification numbers.
- (b) A survey of the parcel prepared and certified by a licensed land surveyor.
- (c) A map drawn to scale showing existing conditions of the parcel, including:
 - Name and address of the owner of record (and applicant, if different);
 - Name of the person or firm preparing the map;
 - Date;
 - North arrow and map scale
 - Names of owners of abutting parcels;
 - Acreage of parcel and county tax map number
 - Boundaries of the parcel plotted to scale.
 - Location and width of existing and proposed state, county, or Town highways or streets and rights-of-way abutting or within 200 feet of the parcel.
 - Location and outline of existing structures both on the parcel and within 100 feet of the property line.
 - Location of any existing storm or sanitary sewers, culverts, waterlines, hydrants, catch basins, manholes, etc., as well as other underground or aboveground utilities within or adjacent to the parcel.
 - Existing zoning and location of zoning boundaries.
 - Location and outline of existing water bodies, streams, marshes or wetland areas and their respective classification as determined by the appropriate governmental regulatory body.
 - Approximate boundaries of any areas subject to flooding or storm water overflow.
 - Existing contours at an interval of five feet (or less) and extending for a distance of no less than 50 feet onto adjoining property. (Note: Two-foot contour intervals will be required at the time of detailed site plan or subdivision review of the project. To the extent that a two-foot contour interval is available, or has been obtained, the applicant is encouraged to submit this information at the redistricting phase of the review.)
 - Identification of any other significant natural features.
 - A map depicting the total developable acreage of the

project site.

- (d) A preliminary plan for development of the district, drawn approximately to scale, though it need not be to the precision of a finished engineering drawing, clearly showing the following:

Commented [MRC14]: Contents of the preliminary PDD plan

- The approximate location and dimensions of proposed principal and accessory buildings on the site, their relationship to one another and to other structures in the vicinity, as well as the number of dwelling units by housing type, size, and number of bedrooms, plus a calculation of the density, in dwelling units per acre.
 - The location, scale, approximate dimensions, floor area, and type of any commercial, service or other nonresidential use proposed for the site and its relationship to residential uses and adjoining properties.
 - The approximate location, layout and dimensions of vehicular traffic circulation features of the site, including proposed roadways, internal driveways, parking and loading areas and proposed access to the site.
 - The approximate location, type, layout and nature of proposed pedestrian circulation systems on the site.
 - The proposed location, type and layout and approximate size of playgrounds, recreational areas, and open space proposed for the site and the general location of such facilities in respect to the proposed buildings to be erected on the site.
 - The approximate height, bulk and intended use of buildings on the site and an architectural concept plan prepared in sufficient detail to show the mass, form and general architectural style of proposed buildings on the site and their compatibility with nearby land uses. Single-family detached homes shall be exempt from this requirement unless the Planning Board or Town Board specifically requires an architectural concept plan for such housing.
- (e) The proposed safeguards to be provided to minimize possible detrimental effects of the proposed development on adjacent properties and the neighborhood in general, including any proposed concept plan for landscaping, tree preservation and/or for buffering to adjacent properties.
- (f) Brief narrative describing the proposed source of water supply (public or private) and how it will be brought to the site
- (g) Brief narrative describing the type of system to be utilized for the collection and disposal of sanitary wastes from the site.
- (h) Brief narrative describing the storm water management plan and a statement that applicant's plan will comply with the N.Y.S.

Department of Environmental Conservation Storm water Management Manual.

- (j) Preliminary identification of areas that will be disturbed by project implementation and areas that will remain undisturbed.
 - (j) Other information as may be required by the Town Board or Planning Board.
 - (k) A vicinity map showing the proposed use in relation to existing zoning and land use within 1/4 mile of the site.
 - (l) A narrative describing the proposed project, including the desirability and/or public benefit of the proposed land use in the proposed location; the existing character, land use and zoning of the surrounding neighborhood; and the need for the project in the context of the Comprehensive Plan.
 - (m) A completed environmental assessment form.
- iv. SEQRA review for rezoning to PDD. As the agency "principally responsible for undertaking, funding or approving" [6 NYCRR 617.2(u)] the PDD zoning amendment, the Town Board is hereby designated the lead agency pursuant to 6 NYCRR 617 for review of all applications to establish or amend a PDD or district plan. The SEQRA review shall be processed in accordance with 6 NYCRR Part 617 and in accordance with the following:
- (a) Town Board as lead agency. The Town Board shall assume and shall carry out all of the required duties of a lead agency as specified in 6 NYCRR 617, including but not limited to classification of the action, issuance of a determination of significance, adoption of a negative, conditioned negative or positive declaration, and adoption of a findings statement after completion of the applicable environmental review process. In performing these duties the Town Board shall, as early in the consideration of the project as possible, rely on the expertise of the Planning Board to identify the relevant environmental issues and the severity of potential impacts associated with the PDD application. The Town Board may, consistent with the requirements of SEQRA, adopt the recommendations of the Planning Board and/or the Department on any matter related to the environmental review, including the implementation of project changes or mitigation measures to avoid or to minimize the potential adverse environmental effects of the PDD project.
 - (b) Planning Board as involved agency. As an involved agency the Planning Board has the responsibility to review the potential environmental effects of the proposed PDD; provide the Town Board with its recommendation and any supporting information it may have that may assist the Board in making its determination

Commented [MRC15]: The SEQRA statute and rules will dictate the classification of the action and the process the Town Board will follow.

of significance; identify potentially significant adverse impacts that should be considered; review and comment in a timely manner if it has concerns which need to be addressed; and participate as may be needed in any public hearing. The Planning Board shall make a recommendation to the Town Board as to whether any specific documents should be prepared and shall include a written statement of reasons to support its recommendation.

v. Application fees. An application shall be accompanied by an application fee as set by the Town Board. All application fees are in addition to any required escrow fees and do not cover the cost of environmental review. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of the State Environmental Quality Review Act (SEQRA). In addition, if the Board requires professional review of the application by designated private planning, engineering, legal or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the proposed application, the reasonable cost of said reviews shall be funded by the applicant with deposits made to an escrow account established for this purpose.

Commented [MRC16]: Note the applicant covers the Town's review costs.

vi. Town Board Review. Upon the receipt of an application, preliminary plan for the establishment of a planned development district and the appropriate fee, the Town Board shall review the application and preliminary plan in consultation with the Town Planning Board, as follows:

Commented [MRC17]: This section starts the discussion of the PDD review process.

- (a) Within sixty (60) days of receiving the application, and prior to acting on a zoning amendment to create a planned development district, the Town Board shall hold one or more public hearings on such proposed preliminary plan and amendment. Notice of the public hearing shall be published in a newspaper of general circulation at least ten calendar days in advance of the hearing. The proposed zoning amendment and preliminary plan shall be made available for public review at the office of the Town Clerk and may be made available on the Town's website or at the Town library.
- (b) At least ten days prior to the public hearing, the Town Board shall cause notices thereof to be mailed to the applicant and the county planning department, as required by section 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section 239-m of the General Municipal Law.
- (c) Within sixty-two (62) days after holding public hearings, the Town Board shall act to approve, approve with modifications and/or conditions or deny the application, and if approved amend the local law or zoning ordinance to establish and map a planned

development district. Upon taking such action, the Town Board shall advise the applicant, the Town Planning Board and the County Planning Department, in writing of its determination within five business days after such action is taken and place a copy of such letter/notice on file in the office of the Town Clerk.

- (d) Criteria for rezoning to planned development district. In determining whether or not to approve a planned development district, the Town Board shall consider the extent to which, consistent with the intent and objectives of this chapter, the proposed PDD and district plan meet the following criteria:
1. The proposal should conform to the Town Comprehensive Plan.
 2. The proposal should meet the purposes of this article.
 3. The proposal should meet a community need or otherwise provide a significant benefit to the community and conform to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements.
 4. There should be adequate public services and utilities available or proposed to be made available in the construction of the development.
 5. The site should be served by both public water and public sanitary sewer facilities, and said facilities shall be adequate to accommodate the additional demand placed upon them by the proposed development.
 6. The site should be well-drained, and stormwater generated by development of the site should not place an undue burden on existing facilities or contribute to downstream flooding.
 7. The portion of the site designated for residential purposes should be located in an area suitable for residential purposes (unless no residential use is being proposed) and should be reasonably free of objectionable conditions, such as odors, noise, dust, air pollution, high traffic volumes, incompatible land uses and other environmental constraints.
 8. The site should be located within reasonable proximity to public transportation service, or, in the alternative, shuttle bus or other transportation service should be available to the site.
 9. The site should be located such that access to it can be obtained from a public street that meets current engineering standards of the Town with respect to roadway width and alignment and acceptable sight distances can be developed at the site entry/exit and at intersections in the vicinity of the site.

10. The architectural style of the proposed development, including exterior materials, finishes, color and the scale of the buildings, should be consistent with existing community and neighborhood character.
11. The development of the site should not produce undue adverse effects on the surrounding neighborhood.
12. To the extent affordable housing is made available, the scope and design of the project should establish a worthwhile asset for the area of the Town in which it is located and the community as a whole.

- (e) Upon approval of the application by the Town Board, a final planned development plan shall be submitted by the applicant to the Town Planning Board for review and approval, or approval with modifications and/or conditions. Review of the final planned development plan by the Town Planning Board shall take into consideration the preceding action of the Town Board on the preliminary planned development plan.
- (f) In the final planned development plan, the applicant may propose to phase construction of the planned development over a period of up to five years. The plan must be specific with regard to phasing and timetable. Further, the construction and provisions of all of the common open spaces and public and recreation facilities, which are shown on the final site plan, must proceed at the same rate as the construction of dwelling units. The Building Inspector or Code Enforcement Officer shall examine the rate of construction and may revoke the building permit and recommend to the Town Board revocation of the planned development amendment, if he finds that the rate of construction of dwelling units is greater than the rate at which common open space has been provided.
- (g) The Planning Board's review shall follow the procedure outlined in Chapter 16 of this Zoning Law for Full Site Plans except as to SEQRA review which shall be conducted as outlined in this chapter.
- (h) The Planning Board's determination on the final planned development plan shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy mailed to the applicant.

B. Request for changes in district plan.

- i. Planning Board authority. If in the final planned development plan site plan review process it becomes apparent that certain elements of the final plan do not conform to the preliminary district plan, as it has been approved by the Town Board, or where it is shown that certain elements of the final

district plan are unfeasible and in need of modification, the applicant shall present the proposed changes to the Planning Board. The Planning Board shall then determine whether or not the proposed modifications to the preliminary district plan are significant, or whether the modifications are still in keeping with the intent of the zoning amendment that established the PDD.

- (a) If the Planning Board finds that the proposed modifications are not in substantial conformance with the preliminary district plan, the final plan's site plan shall be considered as disapproved. The developer may then, if he wishes, produce another site plan in conformance with the approved preliminary district plan.
 - (b) If the Planning Board finds that the proposed modifications are in substantial conformance with the district plan, the Planning Board may approve said modifications as part of its final planned development plan, provided that the Board makes written findings identifying the approved modifications and the justification for each. If an affirmative decision is reached, the Planning Board shall so notify the Town Board, stating all of the particulars of the matter and its reasons as to why the project should be continued as modified.
- ii. Town Board application. Nothing contained in the preceding subsections shall prevent an owner/applicant from making application directly to the Town Board for an amendment to the district plan. Said applications should be reserved for significant changes in concept and design of the PDD. Applications to the Town Board for amendment of an approved district plan shall be processed in the manner of the original application that established the district.

Other provisions.

C. PDD legislation repealer.

- i. The Town Board may act to return the property to its prior zoning district classification if it finds that:
 - (a) Performance requirements which may have been specified by the Town Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development, have not been met; unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.
 - (b) The PDD approval has expired by the failure of the applicant to

make substantial and continuing progress in the development of the project for more than three years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Town Board, which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.

- ii. If a planned development district is repealed, any buildings constructed or used may continue as a nonconforming use and such shall continue to be bound by the previous PDD approval.

Section 7

Effective Date

This Local Law shall take effect, as provided by law, upon filing with the Secretary of State.

DRAFT