

Article #PB 02 –FLEXIBLE DEVELOPMENT

Article #PB 02: To see if the Town will vote to amend in the Zoning By-Law **Section 5 USE REGULATIONS**, Subpart (D) **Use Regulations Schedule** to provide for Flexible Development to be permitted subject to Site Plan Review instead of Special Permit; and **Section 7 SUPPLEMENTAL DISTRICT REGULATIONS**, Subpart (J) **Flexible Development** to revise the provisions related to Flexible Developments including but not limited to eliminating the requirement that all Flexible Developments be subject to a Special Permit as detailed in the Planning Board’s Report to Town Meeting or take any other action relative thereto.

The proposed changes are as follows:

1. In **Section 5, USE REGULATIONS**, Subpart (E) **Use Regulations Schedule**, in regard to the “Residential Uses” classification,
 - a. Change the requirement for a Special Permit for “Flexible Residential Developments, as provided in Section 7” to a requirement for Site Plan Review in regards to “Flexible Residential Developments, as provided in Section 7” in the Residence A-1, Residence A-2, Residence B, Residence C, Agricultural, and Water Supply Protection Overlay District
2. In **Section 7 SUPPLEMENTAL DISTRICT REGULATIONS**, Subpart (J) **Flexible Development**, delete the existing Subpart (J) **Flexible Development** in its entirety and replace with the following:

(J) Flexible Development

1. Purposes.

Flexible Development is the preferred form of development in the Residence A-1, Residence A-2, and Agricultural districts. It is designed to encourage:

- a. Development of diverse and affordable housing types while preserving natural open space.
- b. Preservation of natural open space for its scenic qualities and for its use for agriculture, ecosystem services, forestry, protection of water resources, and recreation.
- c. Protection and enhancement of property values.
- d. Housing located sensitive to a site’s environmental assets and constraints.
- e. Housing developments which minimize the construction of public infrastructure.

- f. Maintenance of existing visual corridors and views of natural community assets (such as, views of Mount Holyoke, Mount Tom, Connecticut River, and agricultural activities).
 - g. Environmentally sound use of preserved open space by residents of a development and the community.
2. **Applicability.** The Planning Board may permit creation of a Flexible Development for any parcel or set of contiguous parcels held in common ownership and located entirely within the Town of South Hadley in accordance with the provisions of this Section 7J of the Zoning By-Law. Creation of a Flexible Development requires approval of a Site Plan (where no subdivision is involved) or of a Definitive Subdivision Plan as specified herein
3. **Resource Analysis Design Process.** Flexible Development allows flexibility in dimensional standards and residential density in order to facilitate preservation of open space and cultural resources of significance to the Town. The design process described below is essential to achieving the purposes of the Flexible Development provisions of the Zoning By-Law. All applications for Flexible Development shall follow the multi-step design process below. Applicants shall demonstrate that they have followed this design process in developing a proposed development plan and that such a plan is consistent with the conservation findings.

The Resource Analysis design process includes the following steps:

- a. **Inventory and assessment of the site.** As an initial step, the applicant shall inventory existing site features giving special attention to the site's natural, scenic, and cultural resources and the interrelationships of the important features to each other, including but not limited to the items listed in subsection (5)(c) below.
- b. **Evaluation of site context.** The next step involves an evaluation of the site in its larger context by identifying environmental, transportation, utility, drainage, and cultural elements and relationships to surrounding land uses and activities. This evaluation must include an assessment of the types and densities of adjoining developments.
- c. **Designation of preservation areas and conservation findings.** The third step is to identify the open space and cultural areas of the site to be preserved and/or enhanced. These areas should include the most important and unique environmental and scenic resources. To the extent appropriate, areas that serve to extend neighborhood and community open space networks and trail systems shall be included in these areas.

In designating preservation areas, the applicant and the Planning Board shall consult the Town of South Hadley Master Plan and Open Space and Recreation Plan. The Planning Board may also refer the application to appropriate municipal departments and agencies for guidance as to areas that should be preserved and the Town's priorities with respect to protecting and enhancing these areas. Following receipt of the applicant's submittal and comments from appropriate departments and agencies, the Planning Board shall review the proposed designation of preservation areas and make its own determination as to which areas should be preserved.

At the end of this step, the Planning Board shall make written "conservation findings" which indicate to the applicant which portions of the property must be preserved, which portions may be developed, and which portions may require environmental restoration.

The Planning Board shall deny any application that does not include sufficient information to make conservation findings or that does not preserve land that the Planning Board determines should be preserved from development as a result of the Resource Analysis and findings.

The Planning Board's conservation findings shall:

- i. be incorporated into its decision to approve, approve with conditions, or deny an application.
 - ii. include a map showing land to be permanently preserved by a conservation restriction, as well as recommended conservation uses, ownership, and management guidelines for such land.
 - iii. indicate preferred general locations for development.
- d. Delineation of development features. The fourth step is to delineate with greater precision the locations/areas to be used for the development features, such as building sites, streets, trail corridors for pedestrians and bicyclists, parking areas, paths, utility infrastructure corridors, and drainage infrastructure. This process should integrate new development with surrounding development in keeping with historical development patterns.
- e. Lot lines. If the development involves division of the property into building lots, the next step is delineation of the lot lines followed by the submission of a preliminary plan and then a definitive plan pursuant to the Town's Subdivision Regulations.
4. Approval Procedures. Flexible Development is permitted by right where so indicated on the Use Table. Where a Flexible Development

involves a subdivision, as defined in the Subdivision Regulations, the procedures in the Subdivision Regulations shall be followed for the review and approval of the Flexible Development, as further elaborated below. Where a Flexible Development does not involve subdivision, either because the lots have existing road frontage and subdivision approval is not required (ANR) or because the development will be in condominium ownership and no lots will be subdivided, the procedures for Site Plan Review in Section 12 shall apply. An applicant for a flexible development shall file a site plan review application under Section 12, and all criteria in Section 12 as well as in this Section 7J, as well as other applicable laws and regulations, must be satisfied.

- a. Concept Review. All applicants are strongly encouraged to submit a concept plan for review by the Planning Board. Where a subdivision is involved, the concept plan shall be submitted at a pre-application meeting if possible, but no later than at the point of preliminary plan submission as provided in Section 4.00 of the Subdivision Regulations. Where no subdivision is involved, the concept plan shall be treated as a pre-application submission for site plan review. Materials for this informal review shall be submitted at least fifteen calendar (15) days prior to the date of the Planning Board meeting at which the review is to be undertaken. The materials to be provided for this concept review should be sufficient to demonstrate the applicant has, on at least a preliminary basis, completed the Design Process detailed in subsection 3 above.
- b. Subdivision Plan. Where a Flexible Development project will involve approval of a Subdivision Plan, the applicant must submit and obtain approval of a Definitive Plan in accordance with the South Hadley Subdivision Regulations.
- c. Supplemental Contents. In addition to the requirements specified in the Subdivision Regulations and Appendix B of the Zoning By-Law, applications for a Flexible Development must include the following information:
 - i. Boundaries of areas subject to regulation by the South Hadley Conservation Commission.
 - ii. Topographic contours (existing and proposed) at intervals of ten feet or less.
 - iii. Cultural and historic features on the property to include, but not limited to, stonewalls, archeological and historic sites and structures, and significant trees.

- iv. Scenic views (as defined in Section (J)3 above) as determined by on-site observations from public roads and vantage points within the development site.
 - v. Historic sites listed on the National Register of Historic Places or Sites.
 - vi. Description of proposed dimensional standards.
 - vii. Description of how the proposed development reflects compliance with the Resource Analysis design process, design standards, and consideration of the Town of South Hadley Master Plan and Open Space and Recreation Plan.
5. Housing Types Permitted. To further the purposes of this Section 7J, the Planning Board may permit the following types of residential uses:
- a. Single-family detached
 - b. Single-family attached
 - c. Multi-family (if permitted in the underlying district)
 - d. Two-family
 - e. 55 & over communities
 - f. Zero-Lot Line housing
 - g. Customary accessory structures and uses, including common buildings and storage buildings.
6. Dimensional Standards.
- a. Minimum tract size. The minimum size of tract that may be considered for a Flexible Development is 5 acres. The Planning Board may waive this requirement for land that is adjacent to an existing conservation area where the protected open space in the Flexible Development could benefit the conservation area.
 - b. Internal dimensional standards. Lots and buildings without direct access to pre-existing public roadways may be developed with dimensional requirements other than those of the underlying zoning district. Therefore, for lots and buildings within a Flexible Development without direct access to pre-existing public roadways, the applicant shall propose dimensional standards including, the minimum lot area, minimum lot frontage, maximum lot coverage, and minimum yard setback requirements to create building sites which differ from those specified for the underlying zoning district. These internal dimensional standards are subject to Planning Board approval. The applicant shall have the burden of demonstrating, to the Planning Board's satisfaction, that the proposed dimensional standards are appropriate for the site's natural and cultural attributes and in keeping with the purposes of this section of the Zoning By-Law.

- c. Perimeter dimensional standards. For lots and buildings within a Flexible Development which abut lots or roadways adjoining the proposed development, the dimensional standards of the underlying zoning district as specified in Section 6(B) of the Zoning By-Law shall be applicable.
 - i. Waiver. The Planning Board may permit a vegetated buffer and/or screening fence to be provided to sufficiently screen the proposed residences from the existing developments in lieu of compliance with the underlying zoning district's dimensional standards. Where such a buffer is permitted as provided in this waiver provision, the following conditions shall apply:
 - 1) The Planning Board may require the buffer area to extend around the perimeter of the subject tract.
 - 2) The Planning Board may require the buffer area to be equal to or greater than double the required rear yard setback of the underlying zoning district.
 - 3) Any required buffer area shall be left undisturbed except to permit maintenance of vegetation and fencing, and the applicant shall provide for its maintenance in perpetuity.
 - 4) If the existing vegetation is inadequate to provide a visual buffer, the Planning Board may require the applicant to add vegetation sufficient to provide a buffer.
7. Density Standards. The base number of dwelling units which may be allowed or permitted in a Flexible Development shall not exceed the approximate number of lots which could reasonably be permitted in the underlying zoning district in accordance with the dimensional standards specified in Section 6B of the Zoning By-Law, following one of the two methods described in subsection (b) below.
- a. Multiple zoning districts. If the subject property is located within multiple zoning districts, the base number of dwelling units shall be based on the acreage situated in each of the respective zoning districts. However, the location of the approved number of dwelling units is not subject to the boundaries of the underlying zoning district.
 - b. Determining base number of dwelling units. The base number of dwelling units shall be determined by either of the following methods at the applicant's election:
 - i. Preliminary Plan Method. If the applicant elects to use the Preliminary Plan Method, the applicant shall submit a Preliminary Plan which demonstrates the number of dwellings

which could reasonably be situated on the site subject to the underlying zoning district's dimensional requirements and the physical constraints of the site, including wetlands, floodplains, steep slopes, riverfront areas, and utility easements. The Planning Board shall review the Preliminary Plan and issue its determination as to how many dwellings could be reasonably situated on the site taking into account these considerations.

- ii. Formula Method. If the applicant elects to use the Formula Method, the applicant shall subtract 70% of the acreage of wetlands as defined herein (not including jurisdictional or non-disturbance areas) and then multiply the resulting acreage of the subject site by the following maximum density standard for the subject zoning district:

<u>Zoning District</u>	<u>Number of Units per Acre</u>
Agricultural	0.75 or 0.90*
Residence A-1	1.20
Residence A-2	2.00
Residence B	3.25

*If the property is located within the Water Supply Protection District and lacks public water and sewer services, the lower density figure will apply. However, if the subject property is provided with public water service and either public sewer service or an alternative sewage disposal system pursuant to Section J(10)(d)(ii) below, the higher number of 0.90 units per acre may be used.

- c. The formula for determining the number of dwelling units for special permit uses in the Dimensional Tables in Section 6B shall not apply to uses in a Flexible Development.
8. Density Bonuses. The Planning Board may permit the following density bonuses to increase the number of dwelling units beyond the base number of dwelling units allowed by Subsection 7.
- a. Additional open space and/or public access. For each additional ten percent of the site (over and above the required percentage in subsection 11(a) below) set aside as protected open space with demonstrated conservation value based upon the Resource Analysis described in Section 7J(3) above, a density bonus of one additional unit may be awarded; provided that this density bonus shall not exceed 50 % of the base number of dwelling units. Vegetated areas required as buffer areas between the subject development and adjoining properties or roadways shall not

qualify for this additional open space density bonus. The provision of public access to protected open space in a flexible development or to a significant connection between protected publicly accessible open space areas or pedestrian trails shall also entitle the applicant to a density bonus of one additional unit if the Planning Board finds that such public access is practical and consistent with the Master Plan. .

- b. Affordable housing units. For developments in which at least 10% of the dwelling units are permanently restricted as affordable housing as provided in Section 7Y below, the Planning Board may permit a density bonus of a maximum of 25% of the base number of dwelling units. None of these bonus units is required to be restricted as affordable housing pursuant to Section 7(AA).
- c. Limits on bonuses. Density bonuses allowed under subsections 8(a) and 8(b) above shall not cumulatively exceed 50% of the base number of dwelling units. No bonus units are required to meet affordability requirements.

9. Site Design Standards.

a. Building and lot orientations.

- i. Principal structures shall be oriented toward the street serving the premises and not the required parking areas.
- ii. Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archeological sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops.

b. Roadways.

- i. Conformity to standards. The principal roadway(s) serving the site shall be designed to conform with the standards set forth in the Town of South Hadley Subdivision Regulations.
- ii. Waiver(s). The applicant may request waiver of roadway and related standards as provided for in the Town of South Hadley Subdivision Regulations. However, the Planning Board may restrict such waivers to proposed private roadways.

c. Parking. Each dwelling unit shall be served by off-street parking spaces as provided in Section 8(G) of the Zoning By-Law.

not require that the restriction permit public access or access by residents of the development to the protected open space land.

- a. Minimum required. The minimum percentage of a parcel shown on the development plan that shall be protected as open space shall vary depending on the zoning district(s) in which the property is situated as follows:

Agricultural:	50%
Residence A-1:	40%
Residence A-2:	30%
Residence B:	25%
Residence C:	20%

- b. Multiple parcels. The required protected open space may be in multiple parcels, provided that no individual parcel shall be less than 25% of the required protected open space, that the protected open space serves the conservation purposes identified in the Resource Analysis and is not fragmented by splitting into multiple parcels, and all of the parcels are connected via walkways, pathways, roadways, or other means of access. The portion of the connecting accessway located outside of the limits of roadway or roadway right of way may be included in the calculation of the area of the protected open space.
- c. Uses of protected open space. The protected open space shall be used for agriculture, natural education, recreation, conservation, historic, park purposes, or a combination of such uses consistent with the conservation findings. Only structures commonly associated with and incidental to the permitted open space uses shall be permitted in the protected open space areas. Septic leach fields may be placed in protected open space areas if such uses are consistent with the conservation findings.
- d. Composition of protected open space. The Planning Board shall make the final determination of the composition of the protected open space land, which may include wetlands, floodplain land, and steep slope. However, the required open space shall not be comprised exclusively of lands with such physical constraints. As a general guide, at least 50% of the required open space shall be usable for playgrounds, tot lots, community gardens, farms, hiking, horseback riding or jogging trails, athletic fields, and similar facilities. The composition of the proposed protected open space shall be consistent with the Resource Analysis and the purposes of this Section 7J. The Planning Board may treat surface drainage systems (such as retention and detention ponds, swales, etc.) in the

same manner as wetlands in calculating how much of the required open space is usable.

- e. Access from Dwelling units. The Planning Board shall consider the conservation purposes of the protected open space in considering the extent to which proposed dwelling units may abut or have ready access to the protected open space. The Planning Board shall consider recommendations of the Conservation Commission if the protected area is vulnerable to trampling or other disturbance and physical access should be restricted. The Planning Board may require buffers between areas restricted by conservation restrictions pursuant to subsection 13 below and areas that are developed with dwelling units and accessory structures.
- f. Accessory buildings. Structures or buildings accessory to recreation, conservation, or agriculture use may be erected but shall not exceed five percent protected open space area. Accordingly, the applicant may make provision for erection of such structures by subsequent owners of the residences; however, the aggregate size of all such structures shall not exceed the five percent rule. Further, the applicant shall make provisions for maintenance of any accessory structures or buildings (such provisions may include assignment of responsibility to a homeowners association).

11. Ownership of Protected open space.

- a. The required protected open space may be owned, subject to Planning Board approval, by one or more of the following owners or entities, based upon the conservation purposes for which the land was protected:
 - i. The Town or its Conservation Commission and be accepted by the Town for park or open space use.
 - ii. A nonprofit organization, the principal purpose of which is the conservation of open space.
 - iii. A corporation or trust owned by the owners of the lots or residential units within the development. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units and taxes shall be assessed ratably against the owners of units.
 - iv. A private landowner or landowners, which may include the applicant, for the purpose of management of the property as a farm, forest, wildlife preserve, estate, passive recreation area, or other use that advances the conservation purposes of the

protected open space. The protected open space may not be fragmented through subdivision or apportionment into multiple lots in a manner that could frustrate the efficient implementation, administration, and enforcement of the conservation restriction.

b. Restriction. Regardless of the ownership of the open space, the protected open space shall be subject to the conditions of the Planning Board approval of the Flexible Development and subject to a recorded conservation restriction enforceable by the Town or by a non-profit conservation organization qualified to hold such restrictions and approved by the Planning Board, providing that such land shall be:

- i. perpetually kept in an open state;
- ii. preserved for exclusively agricultural, horticultural, educational, or recreational purposes (except for those lands permitted to also be used for a common septic disposal system pursuant to paragraph 7(J)(10)d);
- iii. maintained in a manner which will ensure its suitability for its intended purposes; and,
- iv. prohibited from being further subdivided.

12. Not Subject to Variance. No provision of this section 7J nor any project for which a Site Plan Approval, Subdivision Approval, or Special Permit was granted under this Section 7J, shall be subject of a dimensional variance from the Zoning Board of Appeals. If deviations from the approved dimensional standards become necessary, the Planning Board may amend its approval to accommodate such conditions.