

## **Memorandum**

**TO      Zoning Advisory Committee**  
**Re      Status and timing of Legacy Farms**  
**Date    October 23, 2007**

### **OSMUD Zone**

The purposes of the Open Space Mixed Use Development Overlay District (OSMUD District) are to balance conservation and development goals and protect and enhance the character of natural and cultural resources while promoting an economical and finance-able use of the land. Toward that end, the OSMUD District permits the clustering of residential and commercial uses on large tracts of land which have open space as an integral characteristic, and ensures quality site planning designed to accommodate a site's physical characteristics including topography, vegetation, water bodies, wetlands, open spaces, historic resources and major scenic views.

Attributes of this are:

- Article 17A Open Space Mixed Use District (OSMUD)
- OSMUD Design Guidelines
- Related Amendments
- Zoning Map
- Master Plan – scope and Table of Contents

### ***Resource driven design through local jurisdiction >***

### **Wetlands & Conservation**

- ANRAD for Legacy Farms. Hearing continued to November 19
- Peer review per request of Conservation Commission
- RDA for Alprilla Farm well heads – Subject to Alprilla Farms License
- RDA for Weston Nurseries. Filing TBD

### **Civil Engineering**

- Subject to ANRAD - finalize “Proof Plan” metrics
- Advance Master Plan consistent with Spring town meeting, vote and OSMUD

### **Hydro Geology and hydraulics**

- Monitoring wells, piezometers and staff gauges installed
- Ground water modeling results - TBD
- Area - wide testing and alternative analysis- Subject to Alprilla Farms License

### **Waste Water Disposal**

- Formulating and gathering for BRP WP 06 filing
- Peer review per request of DPW

**Water System including Hopkinton Water System benefits.**

- Pending Alprilla Farms Well Access license
- Formulating and gathering for BRP WS 17 filing
- Peer review per request of DPW

**Traffic Impact Study**

- Field Work Complete
- Drafting Traffic Impact Access Study (TIAS)

**Architecture**

- Testing concepts, developing vernacular and confirming mix

**Fiscal**

- Town wide due diligence in process – to develop detailed model

*Resource driven design through state and federal jurisdiction >*

**Wetlands & Conservation**

- Army Corps of Engineers

**MEPA**

- Environmental Notification Form – anticipate filing by month's end

## ARTICLE XVIIA

### **Open Space Mixed Use Development Overlay District**

#### **§210-116.1 Development and Design Objectives**

The purposes of the Open Space Mixed Use Development Overlay District (OSMUD District) are to balance conservation and development goals and protect and enhance the character of natural and cultural resources while promoting an economical use of the land. Toward that end, the OSMUD District permits the clustering of residential and commercial uses on large tracts of land which have open space as an integral characteristic, and ensures quality site planning designed to accommodate a site's physical characteristics including topography, vegetation, water bodies, wetlands, open spaces, historic resources and major scenic views.

#### **§210-116.2 District and Sub-District Delineations; Applicability**

- A. The OSMUD District is shown on the Official Zoning Map. The OSMUD District may contain Residential Subdistricts (R), Commercial Subdistricts (C), and a Village Center Subdistrict (VC), all as shown on a map included in the Master Plan.

The OSMUD District is an overlay district that is superimposed over the underlying zoning districts. At the option of the applicant, development of land within the OSMUD District may be undertaken pursuant to this Article XVIIA or pursuant to the provisions of this Chapter applicable to the underlying zoning districts. However, from and after the issuance of a building permit for a building within a Development Project located northerly of East Main Street approved in accordance with this Article XVIIA, the provisions of the underlying zoning shall no longer be applicable to the portions of the OSMUD District located north of East Main Street, and from and after the issuance of a building permit for a building within a Development Project located southerly of East Main Street approved in accordance with this Article XVIIA, the provisions of the underlying zoning shall no longer be applicable to the portions of the OSMUD District located south of East Main Street.

- B. Notwithstanding anything to the contrary in this Chapter, development undertaken pursuant to this Article XVIIA shall not be subject to the following provisions of this Chapter: Article XVIB, Subdivision Phasing. Development undertaken pursuant to this Article XVIIA shall be subject to the following provisions of this Chapter only to the extent provided for and as modified in this Article XVIIA as more specifically set forth in Sections 210-116.6, 210-116.8, 210-116.11, 210-116.12 and 210-116.13: Article XI, Flexible Community Development By-law; Article XII, Water Resources Protection Overlay District; Article XVIII, Supplementary Provisions; Article XIX, Nonconforming Uses; Article XX, Site Plan Review; and Article XXI, Design Review.

#### **§210-116.3 Definitions**

As used in this Article, the following terms shall have the meanings indicated:

**COMMERCIAL USES**-- "Commercial Uses" shall refer to all uses other than Dwelling Uses, Retail Uses or Open Space Uses.

**DESIGN GUIDELINES**-- The Design Guideline for the OSMUD. The Design Guidelines are hereby made part of the Town of Hopkinton Zoning Bylaw and are on file with the office of the Town Clerk. The Design Guidelines are subject to modification as provided in Section 210-116.13.

**DEVELOPMENT PROJECT**--A development undertaken under this Article XVIIA. A Development Project shall be shown on a site plan which is submitted to the Planning Board for Site Plan Review under Section 210-116.12 and may consist of one or more lots. A Development Project may be located in more than one subdistrict, provided the applicable provisions of this Article are met with respect to each subdistrict.

**DWELLING USES**-- Use as Dwelling Units as defined in Section 210-4.

**HEIGHT**--Vertical distance from the mean finished grade of all sides of building or structure to the highest point of the roof for flat roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs, excluding chimneys, spikes, towers, wireless communication facilities, screens, parapet walls, and other structures, equipment, or projections not used for human occupancy.

**LANDOWNERS' ASSOCIATIONS** -- A corporation, trust or other legal entity owned by the owners of all lots within the OSMUD, or a corporation, trust or other legal entity owned by owners of lots in a specified area of the OSMUD, as the context would permit or require.

**MASTER PLAN** –The Master Plan for the OSMUD containing the information set forth in Section 210-116.10 approved by Town Meeting as of the date of adoption of this Article. The Master Plan is hereby made part of the Town of Hopkinton Zoning Bylaw and is on file with the office of the Town Clerk. The Master Plan is subject to modification as provided in Section 210-116.10.

**OPEN SPACE and OPEN SPACE USES**--Includes land left substantially in its natural state, restored or landscaped, maintained and preserved for such use; active and passive recreational land and facilities, whether public or private; conservation land; pedestrian, bicycle and equestrian trails or walkways; land used for forestry, agriculture or horticulture and accessory structures; cemeteries with flat headstones; irrigation, detention and/or retention ponds or stormwater catchment areas; utilities and other facilities necessary for the convenience and enjoyment of the OSMUD or the Town; and structures accessory to any of the foregoing such as utility plant buildings, restrooms, and food preparation and sales areas operated in connection with recreational fields. Open Space shall not include land set aside for road and/or parking uses. Open Space may be public Open Space designed and intended for the use and enjoyment of the Town, or private Open Space designed and intended for the use and enjoyment of the occupants of the OSMUD and/or occupants of and/or invitees of owners of specified areas within the OSMUD.

**RETAIL USES**-- For purposes of determining the parking requirements, "Retail Uses" shall refer to sale of goods or services to the public including restaurants, but excluding home businesses and excluding any outdoor selling areas.

**WATER AREA** -- As used in the definition of "Lot Area" under Section 210-4, man-made ponds, retention ponds or irrigation ponds shall be included in Lot Area.

## **§210-116.4 Permitted Uses**

The following land uses and building uses shall be permitted, subject to the intensity of use limitations set forth in Section 210-116.5 and Site Plan Review pursuant to the provisions of Section 210-116.12. The sub-headings set forth below are for ease of reference only, and are not intended to modify the definitions of Dwelling Use, Commercial Use, Retail Use and Open Space Use applicable to this Article.

(1) **Residential Uses:**

- A. Dwelling units of all types, including without limitation Single Family Dwellings, multifamily residences, garden apartments, and age-restricted housing
- B. Home Occupations, licensed home day-care provider
- C. The renting of rooms and/or the furnishing of table board in a dwelling occupied as a private residence

(2) **Commercial Uses and Retail Uses:**

- A. Bed-and-Breakfast Establishments
- B. Business or professional offices and banks
- C. Commercial recreational uses of buildings, structures or land
- D. Commercial saddle horses or riding stables
- E. Conference Center, with or without a residential dormitory
- F. Drive-in, drive-through or drive-up uses including an open-air ATM but exclusive of dispensing of food and drink
- G. Gasoline service stations
- H. Health club
- I. Hotel, motel, apartment hotel and inns
- J. Light manufacturing and/or assembly with associated professional, administrative and/or clerical offices
- K. Live commercial entertainment and places of assembly
- L. Membership clubs, lodges, social recreational and community center buildings and grounds for games and sports, whether or not carried on as a business
- M. Parking facilities
- N. Research center and laboratories, including genetic, biological and chemical research centers, and laboratories and manufacturing and processing plants
- O. Restaurants
- P. Retail business: retail service or public utility uses involving manufacturing, clearly incidental and accessory to a retail use on the same premises
- Q. Retail stores and retail service shops, including outdoor selling areas and including take-out food establishments exclusive of drive-in, drive-up or drive-thru take-out food
- R. Theaters, hall and clubs
- S. Storage facility

(3) **Health Care Uses:**

- A. Adult day care
- B. Continuing care retirement community, assisted living facilities, or similar institutions.
- C. Group homes
- D. Hospital, long-term acute care, nursing home, extended care facilities, rehabilitation facilities, or similar institutions
- E. Medical Center
- F. Medical offices
- G. Veterinary Clinic

- (4) Institutional Uses:  
A. Cemetery  
B. Churches and other places of worship, parish houses and Sunday school buildings<sup>1</sup>  
C. Funeral homes and mortuaries  
D. Public or semipublic institutions of a philanthropic or charitable character
- (5) Public, Educational or Municipal Uses:  
A. Child-care center  
B. Municipal buildings and buildings used for governmental purposes  
C. Public and private educational uses, including schools, public libraries and museums  
D. Public and private recreational uses (indoor)  
E. Telecom and telephony facilities  
F. Public transportation facilities, such as bus stop  
G. Utilities facilities, including water supply and sewerage treatment and alternate power and co-generation
- (6) Agricultural Uses:  
A. Agricultural and horticultural uses  
B. Farms of all kinds including nurseries, gardens, greenhouses and livestock, except fur farms  
C. Farm stands  
D. Landscaping Business and Storage/Staging Facility  
E. Wood lots, portable wood working mills and machinery
- (7) Open Space Uses:  
A. All Open Space Uses as defined in this Article  
B. Equestrian facilities
- (8) Miscellaneous:  
A. Mixed use buildings comprised of commercial space or retail space on the first floor, and a different category of use on one or more upper floors  
B. Accessory uses to any permitted use, whether on the same lot or on a lot within 300 feet of principal use  
C. Signs in connection with authorized uses, subject to such limitations as may be contained in the Design Guidelines  
D. Any business or service similar in character to the forgoing permitted uses and not specifically permitted

## **§210-116.5 Intensity of Use Limitations**

- A. Dwelling Uses within the OSMUD shall be limited to 940 new Dwelling Units constructed after the effective date of this Article. The dwelling units at 80, 82, 83 and 90 East Main Street, 26 Clinton Street and 44 Wilson Street in existence as of the effective date of this Article shall not be included as Dwelling Units for the purposes of this Intensity of Use limitation. Any Accessory Family Dwelling Unit for which a special permit is granted by the Board of Appeals under Section 210-126 also shall not be included as a Dwelling Unit for purposes of this Intensity of Use limitation.

- B. Commercial Uses and Retail Uses within the OSMUD shall be limited to 450,000 SF of Gross Floor Space, which shall be allocated among the Subdistricts and between Commercial and Retail Uses as set forth in the Master Plan.

The following shall not be included as Gross Floor Space for purposes of this Intensity of Use limitation: (i) The buildings at 80, 82, 83 and 90 East Main Street, 26 Clinton Street and 44 Wilson Street in existence as of the effective date of this Article in the event any such building is converted from Dwelling Use to Commercial Use and the building at 97 East Main Street (the Pearson House); (ii) structures accessory to or as amenities for the Dwelling Uses, such as clubhouses, recreational amenities and management or marketing space; (iii) structures accessory to Open Space Uses, including, but not limited to, utility buildings and structures accessory to recreational uses; (iv) structures accessory to agricultural and horticultural use, including greenhouses, except that 40% of area of a greenhouse which is appurtenant to retail use in an adjacent building shall be considered as Gross Floor Space.

#### **§210-116.6 Affordable Housing**

Affordable Housing Units shall be provided within the OSMUD as provided under either sub-section A or B below:

- A. If Affordable Housing Units are developed on an ownership basis, Affordable Housing Units shall be provided as provided in Article XI, Flexible Community Development Bylaw, except that provision of Affordable Housing Units shall be as set forth in the Master Plan for ownership units and shall not require a Special Permit from the Planning Board.
- B. If Affordable Housing Units are developed on a rental basis, not less than sixty (60) dwelling units shall be developed as Affordable Housing Units. The Affordable Housing Units may be contained in a single Development Project or in multiple Development Projects, provided that not more than twenty-five percent (25%) of any single Development Project shall consist of Affordable Housing Units. No more than 650 certificates of occupancy for market-rate Dwelling Units within the OSMUD shall be issued prior to the issuance of building permits for a Development Project to contain Dwelling Units developed on a rental basis which will contain not less than sixty (60) Affordable Housing Units.
- C. The Affordable Housing Units shall be integrated with the rest of the Development Project in which they are located, and shall be compatible in design, exterior appearance, construction and quality of materials with other units in the Development Project. The number of bedrooms in Affordable Housing Units shall be in proportion to the total number of bedrooms in the market-rate units in the Development Project in which they are located.

#### **§210-116.7 Dimensional Requirements**

- A. The following size and setback requirements shall apply for each lot within each of the Subdistricts, subject to the buffering requirements set forth in sub-section B, the Open Space requirements set forth in Section 210-116.9 and Site Plan Review pursuant to the provisions of Section 210-116.12.

	Residential Subdistrict (R)	Commercial Subdistrict (C)	Village Center Subdistrict (VC)
Minimum lot frontage	25 feet	100 feet	100 feet
Minimum lot area	4,000 SF	30,000 SF	30,000 SF
Minimum setback from street line	10 feet	25 feet	25 feet
Minimum side yard width	0	0	0
Minimum rear yard depth	10 feet	10 feet	10 feet
Maximum building height	Single family dwellings and townhouses: 35' or 3 stories, whichever is less; All other dwellings or structures: 48' or 4 stories, whichever is less	48' or 4 stories, whichever is less	35' or 3 stories, whichever is less

- B. Where a lot within the OSMUD in the Commercial Subdistrict abuts land in another district used for residential purposes other than permanent open space, a buffer of no less than 100 feet shall be provided or screening shall be provided in accordance with the Design Guidelines. For the purposes of this Section, land shall not be considered to be abutting land from which it is separated by a public way. Where a Commercial Subdistrict abuts a Residential Subdistrict within the OSMUD District, a buffer of no less than 10 feet shall be provided in the Commercial Subdistrict.
- C. The intensity of Commercial Uses within the VC Subdistrict shall not exceed 150,000 SF of Gross Floor Space. No single building within the VC Subdistrict shall exceed 45,000 SF of Gross Floor Space.
- D. In determining height of multi-family buildings, the area above the mean finished grade and below the floor of the first occupiable story, not to exceed 14 feet, shall be excluded from measurement of height and of stories
- E. Multiple buildings on a lot shall be permitted.

#### **§210-116.8      Parking**

- A. The requirements of Section 210-124(B) (1) relating to the minimum number of parking spaces will apply in the OSMUD with the following modifications:

Dwelling Uses:	
Single family detached	2 spaces per dwelling unit
Single Family attached and multi-family	Dwellings with up to 1 bedroom: 1.5 spaces; Dwellings of more than 1 bedroom: 2.0 spaces

Residential Component of a Mixed Use Building	1 space per dwelling unit
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- B. The following shall not be included as Gross Floor Space for purposes of the minimum parking requirements: structures accessory to agricultural and horticultural use, including greenhouses, except that 40% of area of a greenhouse which is appurtenant to retail use in an adjacent building shall be considered as Gross Floor Space.
- C. Where parking uses have peak user demands at different times or where different uses are accommodated by a shared parking space, as certified by a registered traffic engineer, shared parking facilities may be provided which are designed and intended to serve more than a single use shown on a Site Plan.
- D. Minimum parking requirements may be reduced by the Planning Board during Site Plan Review if the Planning Board finds that the lesser amount of parking will not cause excessive congestion or endanger public safety, or that the lesser amount of parking will provide positive environmental or other benefits.
- E. The parking requirements may be met by a combination of parking interior to lots and on streets, as is appropriate to a pedestrian-oriented environment, subject to Site Plan Review under Section 210-116.12.

#### **§210-116.9 Open Space**

- A. Prior to the issuance of a building permit for a building within a Development Project located to the north of East Main Street and approved in accordance with this Article XVIIA, the applicant shall record an Open Space Covenant with the Town ensuring that the area designated on the Master Plan as the “North Parcel Greenway” remains as Open Space in substantially its natural state, restored or landscaped.
- B. Applications for Site Plan Review of Development Projects shall designate an area to remain as Open Space equivalent to not less than 60% of the area of the Development Project. The Open Space so designated may be located within the Development Project or may be located on another parcel within the OSMUD, and may consist of an entire lot or of a portion of a lot. Open Space Covenants to be held by the Town under G.L. c. 184 Sec. 26 shall be recorded in the Registry of Deeds ensuring that the Open Space so designated remains as Open Space. Except with respect to the North Parcel Greenway which may not be released from the Open Space Covenant, the Open Space Covenants may provide, however, that land may be released from an Open Space restriction by an instrument executed by the owner and recorded, provided that not less than an equivalent area of land is made subject to an Open Space Covenant and substituted therefor. The North Parcel Greenway may be designated as Open Space to meet the Open Space requirement for other parcels within the OSMUD.
- C. Open Space shall be a) owned by a Landowners’ Association and ownership shall pass with the conveyance of the lots, b) owned by the owners of specified lots or areas within the OSMUD in which such Open Space is located, c) owned by a non-profit corporation, a principal purpose of which conservation of Open Space or provision of recreational facilities, or d) conveyed to the Town. Required Open Space shall in all cases be subject to the obligations of the Open Space Covenants.

- D. The Master Plan shall include a program describing how the Open Space will be maintained in perpetuity. The program shall provide for maintenance of Open Space by a Landowners' Association or by the owners of specified lots or areas within the OSMUD in which such Open Space is located, or, in the case of the grant of an easement or conveyance to the Town or another entity for use of the Open Space, by the holder of such easement or owner. With respect to the Open Space to be maintained by the Landowners' Association or by the owners of specified lots or areas within the OSMUD, the applicant shall provide as part of the Open Space program in the Master Plan an agreement empowering the Town to perform maintenance of such Open Space in the event of failure to comply with the program for maintenance of the Open Space, after thirty (30) days notice to the Landowners Association and failure of the Landowners Association to cure such failure; provided that, if the Town elects to perform any maintenance work, the Landowners Association or owners of the lots responsible therefor shall pay the cost thereof, which the cost shall constitute a lien, subordinate to any mortgage or other statutory lien, upon the properties responsible for such maintenance under the documents governing the Landowners' Association until the cost has been paid.
- E. The foregoing shall not restrict the applicant from imposing additional restrictions on the Open Space consistent with the use of the land as Open Space. For example, an Open Space Covenant may restrict a specific parcel of Open Space for use as athletic or recreational facilities.

#### **§210-116.10 Master Plan**

- A. The Master Plan shall contain the following information relating to the development of the OSMUD:
  - (1) Identification of the entire area of land to be developed under the OSMUD;
  - (2) The existing topography of the land, vegetative cover, soil types, wetlands and water bodies, roads and ways, the general location, size and shape of structures to be removed and the location size and shape of structures to remain;
  - (3) The general location within which structures will be constructed, including a schedule of various land use types including Dwelling Uses, Retail Uses, other Commercial Uses, Mixed Use buildings, and/or buildings devoted to Open Space uses including common facilities or utilities;
  - (4) The general location and size and intended use of all Open Space and the Landowners Association or organization intended to own and/or maintain same;
  - (5) The general location of all roads, pedestrian, bicycle and equestrian trails, water supply system, wastewater system, storm water drainage, and utilities;
  - (6) An analysis assessing the impact of the development on surface and ground water quality, groundwater recharge, wildlife habitat and corridors, wetlands and bodies of water, including streams and rivers, both localized and general, and an evaluation of pre-development conditions and post-development conditions;

- (7) A traffic impact and access study on the effect of the development on the operation, safety and overall convenience the development will have on the roadway system providing access to the OSMUD, including impacts on both vehicular and pedestrian travel, and proposed mitigation and trip reduction techniques, if applicable;
  - (8) A phasing schedule indicating the generally proposed times within which construction of improvements within the OSMUD is anticipated, which schedule may be modified by the land owner(s) from time to time depending on market forces and other criteria;
  - (9) The reasons that an Open Space Mixed Use Development will be in the public interest and consistent with the objectives of this Article;
  - (10) Plans included in the Master Plan shall contain a level of detail consistent with a master plan perspective.
- B. Amendment of the Official Zoning Map to add additional land to or remove land from the OSMUD or amendment of this Article XVIIA shall require approval of Town Meeting. The Master Plan may be amended, upon the petition of landowner, either by Town Meeting or by a Special Permit issued by the Planning Board. If the Master Plan is amended as a Special Permit, the issuance of a building permit for a building under the Master Plan within six (6) months of the date of filing of the decision with the Town Clerk (or the date of final resolution of any appeal of such decision) shall be deemed to constitute substantial use of rights under the Master Plan, as so amended, and construction based on the phasing schedule set forth in the Master Plan, as modified by applicant based on market forces and other criteria, shall be deemed to constitute continuous and expeditious continuance to completion.

### **§210-116.11 Design Guidelines**

To ensure that Development Projects shall be of quality design, the Site Plans for Development Projects within the OSMUD shall be based on the Design Guidelines, which shall supersede any inconsistent provisions of design guidelines adopted under Article XXI. The Design Guidelines may incorporate different provisions applicable to Development Projects in each sub-district.

### **§210-116.12 Site Plan Review**

- A. *Applicability:* The initial construction of all Development Projects shall be subject to Site Plan Review by the Planning Board in accordance with the procedures of this Section 210-116.12, which shall supersede the provisions of Article XX. Site Plan Review shall not apply to the alteration or reconstruction of a Development Project, which shall be subject to the procedures of Clause I below, and shall not apply to the enlargement of residential buildings, provided that such enlargement does not encroach on required Open Space.
- B. *Procedure:* (1) An applicant for Site Plan Review for a Development Project shall file with the Planning Board an application and submission materials as required by the Site Plan Review Submission Requirements and Procedures adopted by the Planning Board and filed with the Town Clerk. To the extent any such materials are included in the Master Plan; the application may refer to and incorporate the applicable provisions of the Master Plan.

(2) As part of the Site Plan Review, the applicant and/or licensed professionals engaged by applicant also shall file with the Planning Board a certification indicating the manner in which the Development Project complies with the provisions of this Article XVIIA, the Master Plan and the Design Guidelines.

(3) The Planning Board shall, within five days of receipt of a Site Plan Review application, transmit copies of the application and the site plan to the Director Municipal Inspections, Conservation Commission, Board of Health, Design Review Board, and Director of Public Works for comments and recommendations.

(4) The Planning Board shall hold a hearing within 45 days of the filing of any application for Site Plan Review within the OSMUD, and shall file a decision within 90 days of the filing of the application, subject to extensions agreed to by the applicant. Notice of the time, place and subject matter of the hearing shall be given by the Planning Board to owners of any land outside the OSMUD abutting the land subject to the application for Site Plan Review as appearing on the most recent tax list on file at the Assessors' Office, but shall not be required to be given to other owners of land within the OSMUD. In addition, in the case of a Development Project containing more than 25 Dwelling Units or 10,000 or more SF of Gross Floor Space, the Planning Board shall also publish notice of the time, place, and subject matter of the public hearing, by advertisement in a newspaper of general circulation in the Town, once in each of two successive weeks, the first publication being not less than 14 days before the date of such hearing. The time within which the Planning Board must act on an application may be extended upon mutual agreement in writing between the Planning Board and the applicant. Failure to act within the time limitations established in this Section shall be deemed constructive approval of the application.

(5) Final action, which shall be a "Decision for Site Plan Review" that is filed in the Office of the Town Clerk and the Director of Municipal Inspections, shall consist of either:

(a) A written approval of the application, including a finding and determination that the proposed Development Project meets the criteria of Clause D and E below, or

(b) A written denial of the application stating the reasons for the denial.

(6) A vote of a simple majority of the membership of the Planning Board shall be sufficient to adopt a Decision of Site Plan Review.

(7) Any person aggrieved by a Decision of Site Plan Review by the Planning Board may appeal such Decision to the Board of Appeals within 30 days of the date of the Decision. All Decisions of Site Plan Review issued by the Planning Board shall include a brief notice of such rights of appeal.

C. *Permissible Building Areas:* For the purposes of Site Plan Review under this Article, a Site Plan may show an area within which structures may be constructed (a "Permissible Building Area") and specify the maximum SF of Gross Floor Space to be constructed within such Permissible Building Area. Although the Site Plan may show a proposed building, the Site Plan approval shall apply as long as the structure or other site features

are constructed within the Permissible Building Area indicated therefor. After the issuance of a Certificate of Occupancy for a building, the amount by which such building is less than the maximum SF of Gross Floor Space allocated thereto or the amount by which Dwelling Units constructed are less than the Dwelling Units proposed shall be available for reallocation to other proposed buildings or Dwelling Units within the OSMUD.

- D. *Decision Criteria:* The Planning Board shall approve a Development Project upon the following findings:
- (a) The applicant has submitted the required information as set forth in this Article;
  - (b) The proposed Development Project described in the application meets all of the requirements and standards set forth in this Article XVIIA, the Master Plan and applicable Design Guidelines, or a waiver has been granted therefrom; and
  - (c) Extraordinary adverse potential impacts of the Development Project have been adequately mitigated.
- E. *Conditions of approval; building permits.* Site Plan Review may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary to meet the criteria of Clause D above. For any Development Project within the OSMUD that requires Site Plan Review, no building permit shall be issued unless and until the applicant has complied with the provisions relating to Site Plan Review, and the conditions, modifications, and restrictions contained in the Decision of Site Plan Review are referenced and incorporated in, and made an express condition of, such building permit.
- F. *Performance guarantee.* As a condition of site plan approval, the Planning Board may require that a performance bond, secured by deposit of money or negotiable securities in the form approved by the Planning Board be posted with the Town to guarantee completion of those ways and improvements to be accepted by the Town of Hopkinton as public roads or to be approved under the Subdivision Control Law as private subdivision roads. The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all improvements in a manner satisfactory to the Board 90 days from the date of required completion as set forth in the approval, but in no event earlier than two years from the date of approval, or the final date of the last extension of the approval, if any.
- G. *Duration of approval.* Site Plan approvals under this Article for a Development Project shall remain in effect as to a Development Project as long as a building permit for not less than one (1) building in the Development Project is issued within two (2) years of issuance of the Site Plan approval (or the date of final resolution of any appeal of such issuance).
- H. *Fees.* Site Plan Review fees shall be governed and set by the Planning Board and shall be assessed to the owner and/or the applicant. Such fee may include a deposit for review by a consultant selected by the Town.
- I. *Minor Modifications:* After the grant of Site Plan Approval for a Development Project, the Planning Board or the Planning Director as its designee shall have the authority to

approve minor modifications to the Site Plan Approval, including modifications related to alteration or reconstruction of a Development Project after initial construction. Minor modifications shall be changes which involve minor Permissible Building Area adjustments, utility or building orientation adjustments, or minor adjustment to parking, landscaping, open space or other building or site details, or other changes which do not increase the SF of Gross Floor Space of Commercial and Retail Uses within a Development Project or the number of Dwelling Units in a Development Project by more than 10%. Minor modifications may be approved by the Planning Board at any regularly scheduled public meetings, without the need to hold a public hearing, or by the Planning Director as designee of the Planning Board.

#### **§210-116.13    Miscellaneous**

- A. Modifications to Article XII, Water Resource Protection Overlay District. In the OSMUD, the following modifications to the provisions generally applicable to the Water Resource Protection Overlay District shall apply:
  - (1) For purposes of Section 210-70(C) (1), the term “Development Project” shall be substituted for the term “lot.”
  - (2) In Section 210-70(D) (2), insert the following clause (c): “(c) Below ground related to a subsurface parking facility.”
  - (3) The provisions of Section 210-70(D) (9) shall not apply to any facilities in existence as of the date of adoption of this Article or replacements of such facilities.
- B. Modifications to Article XVIII, Supplementary Provisions. In an OSMUD, the following modifications to the Supplementary Provisions shall apply:
  - (1) The provisions of the Design Guidelines shall govern the width of driveways notwithstanding any contrary provisions in Section 210-119.1.
  - (2) Except as specifically provided for in 210-116.8, Section 210-124 (Off-Street Parking) shall not apply in the OSMUD.
  - (3) Sections 210-125 (Conversions of Residential Property) and 210-126.1 (Residential Subdivisions of 10 acres or more) shall not apply in the OSMUD.
- C. Modifications to Article XIX, Nonconforming Uses: In the OSMUD, alteration, reconstruction, extension or structural alteration to a single or two-family residential structure which does not increase the nonconforming nature of such structure shall not require a Special Permit from the Board of Appeals.
- D. Requirements set forth in this Article and in the Design Guidelines may be waived by the Planning Board as part of the Site Plan Review process based on a finding that such modifications are necessary or appropriate to meeting the development and design objectives of this Article.
- E. However, the Planning Board acting under Clause D above may not waive following specific conditions: (i) the limitations on intensity of uses; (ii) the number of Affordable Housing Units required; and (iii) the amount of required Open Space.

- F. All land within the OSMUD as of the date of the approval of the first Development Project shall be subject to the provisions of this Chapter and of the Design Guidelines as in effect as of such date.

## **Open Space Mixed Use Development District Design Guidelines**

The Open Space Mixed Use Development District (OSMUD) Design Guidelines (the “**Design Guidelines**”) are adopted under Article XVIIA of the Zoning Bylaw to govern Site Plan Review for Development Projects within the OSMUD.

The Design Guidelines describe the physical attributes of the OSMUD District and the improvements which may be constructed under Article XVIIA. The Design Guidelines are intended to guide the appropriate execution of the permitted development within each of the subdistricts of the OSMUD District. The objectives of the Design Guidelines are to encourage and allow quality design and execution of infrastructure, transportation, landscape and building architecture for development within the OSMUD. These Design Guidelines endeavor to balance conservation and development goals and to protect the character of the site while promoting an economical use of the land. The Design Guidelines are meant to ensure quality site planning by addressing a site's physical characteristics, including topography, vegetation, water bodies, wetlands, open spaces, historic resources, and major scenic views.

Site plans requiring review for each Development Project shall be designed and submitted for review based upon these Design Guidelines.

### **1 Easements**

The integrated nature of on-site uses require establishment of easements for access, and for utility installation and operation. Easements may include, but are not limited to:

- Emergency access
- Water Supply Distribution
- Waste Water Disposal
- Storm Water Disposal and infiltration
- TeleCom & Telephony
- Electrical, Natural Gas and other “Dry Utilities”
- Vehicular access and parking
- Pedestrian and other non motorized access
- Pedestrian, Bicycle and Equestrian Trails
- View protection

### **2 Housing Types**

Several different residential types and sizes with varying lot sizes and configurations will be constructed to create varying neighborhoods within the OSMUD, as briefly described below:

**2.3.1 Single Family Home** - A detached dwelling on an individual lot.

**2.3.2 Townhouse** — Detached, attached or zero lot line dwellings grouped on common lots in a single structure. Each dwelling is individually accessed via an exterior doorway and typically includes an attached garage.

**2.3.3 Multi-Family Building.** A structure where each dwelling is accessed through a common entry. This structure may contain as many as four stories and either on grade or below-grade parking.

See **Figure \_\_** for illustrations of the housing types.

### **3 Roadway Standards**

#### Intent

This section presents the standards for the design and construction of roads and parking areas within the OSMUD. Roadway Standards shall be coordinated with the requirements of Stormwater Management.

#### **3.1 Functional Classifications**

All roads will be classified according to anticipated traffic use, volume, adjacent land use, and land access requirements. Standards for road design and construction fall into five functional classifications:

- Major Street - a road primarily designed to accommodate traffic both internal to the OSMUD and traffic traversing the site.
- Minor Street - roads primarily designed to accommodate the larger volumes of internal OSMUD traffic and which generally discourages through traffic.
- Rural Street - roads typically linking development areas exclusive of the Minor Streets.
- Non-Residential Street – roads designed and constructed, or proposed, to serve property either used or zoned only for business.
- Common Drive – a secondary way designed and constructed to access a limited number of residences.

See **Figure \_\_** for illustrations of roadway cross-sections.

#### **3.2 Roadway Design Guidelines**

#### Policy

Road layouts will compliment the character of the OSMUD and its land uses by following existing topography to the extent practicable. In certain situations, based upon the topography of the land and the intent to minimize the disturbance of the site by any proposed development, flexibility in the roadway design, length of cul-de-sac, steepness of grade, relaxed shoulder widths, and construction standards may be considered. One of the objectives of the roadway design will be to encourage compatibility between the varied transport modes and land uses.

**Table 3.2**  
**Roadway Design Guidelines**

	<b>Major</b>	<b>Minor</b>	<b>Rural</b>	<b>Non-Residential</b>
Minimum Centerline Radius (Rmin)	150'	150'	150'	150'
Minimum Road Grade (Smin)	0.50%	0.50%	0.50%	0.50%
Maximum Road Grade (Smax)	7%	9%	9%	7%
Minimum Pavement Width (excluding parking)	24'	20'	18'	24'
Minimum Site Distance: Horizontal Curve*	200'	155'	80'	200'
Minimum Site Distance: Vertical Curve**	200'	160'	150'	200'
Turnaround: Maximum Grade	5%	5%	5%	5%
Design Speed	30 mph	25 mph	15 mph	30 mph

TABLE NOTES:

\* SSD on horizontal Roadway (AASHTO 2001)

\*\* Double the minimum length of sag controls vertical curves. From Policy on Geometric Design of Highway Streets, 2001. (200 foot curve is twice the minimum for a 30 mph design speed)

Common Drives shall have a maximum width of 12 feet and may be paved or pervious. Parking is prohibited within Common Drives.

In order to protect pedestrian safety and control stormwater runoff, vertical curbing may be provided in the Village Center Subdistrict and other areas where appropriate.

### 3.3 Intersection Design Guidelines

#### Policy

Intersections shall be designed to provide clear lines of sight for turning movements, either through alignment design or through the creation of buffer areas in which obstructive plantings, buildings and/or signage will be avoided.

No street shall intersect any other street at less than 60 degrees. Property lines at street intersections shall be rounded or cut back to provide for a curb line radius of not less than 15 feet. The minimum spacing between intersecting Minor Streets and Major Streets shall be 200 feet except in the Village Center Sub district. Driveway cuts onto Minor Streets will not be within 55 feet of an intersection with a Major Street. Where the grade of any street at the approach to an intersection exceeds 5%, a leveling area shall be provided and have no greater than 3% grades for

a distance of 75 feet measured from the nearest right-of-way line or edge of traveled way, whichever is greater, from the intersecting street.

### **3.4 Dead-End Streets**

Dead-end streets shall not exceed 1,000 feet, where practicable. A turn-around, such as a cul-de-sac, hammerhead or "T" turn, designed to accommodate fire apparatus shall be provided at the closed end of all dead-end streets. Wherever feasible, a secondary emergency access shall be provided at dead-ends. The secondary access does not have to be paved, but shall be engineered to accommodate emergency apparatus.

A cul-de-sac may include the placement of a circular interior landscaped island with a radius having a minimum diameter of 20 feet and/or a rumble strip. The unpaved area of all cul-de-sacs must be landscaped with low maintenance trees and shrubbery.

### **3.5 Design of Parking Areas**

Parking requirements as stated in Article XVIIA of the Zoning Bylaw shall be met by a combination of parking interior to lots and on-street. Off-street parking spaces may be perpendicular, head-in or angled on streets or lots adjacent to the street. Parking design shall be in accordance with the Institute of Transportation Engineers' (ITE) *Parking Generation*, 3<sup>rd</sup> Edition (or most recent edition).

Design of all parking areas shall be a mix of compact spaces and "standard" spaces. The ratio shall be one compact space for every three standard spaces. Standard spaces shall be a minimum of 9 feet in width by 18 feet in length. Compact Spaces shall be a minimum of 8 feet in width by 17 feet in length. For perpendicular spaces, parking aisle widths shall be 24 feet for two-way double loaded bays and 18 feet for one-way single loaded bays. Where a parking space abuts a landscaped area of not less than four (4) feet, two (2) feet of the parking space may overhang into the landscaping. Parking and loading areas and access ways shall be designed to provide for adequate drainage, snow removal, maneuverability and curb cuts.

Parking areas containing 25 or more spaces shall have at least one shade tree per 8 parking spaces, such trees to be a minimum of 2.5 inches in caliper and located either in the parking area or within 10 feet of it. At least 5% of the interior of any parking area with 25 or more spaces shall be maintained with landscaping including trees, in plots of at least 9 feet in width when located within a parking bay. Further, no more than 25 spaces shall be provided in a row without separation by a landscaped area containing at least one shade tree. Smaller parking lots with fewer than 25 spaces shall use landscaping to break up large areas of pavement and trees and shrubs shall be used, to the extent feasible.

Shared parking or gravel parking may be used to reduce impervious area.

### **3.6 Curb Cut and Driveway Standards**

The number of curb cuts on roads shall be minimized. Curb cuts shall be limited to the minimum width for safe entering and exiting.

All driveways shall be designed to afford motorists exiting to roadways with safe sight distance.

## **4 Open Space**

### **Intent**

All Open Space shall be designed to complement the visual character of the OSMUD.

### **Policy**

Open space and landscaped areas should be designed to complement, enhance or screen the building and parking areas. Natural features should be incorporated within Open Space areas where possible. Site design is encouraged to complement the OSMUD with designs that are practical and functional.

### **Standards**

Relationships with other surrounding Open Space should be considered when planning Open Space and landscaping designs. Areas of Open Space located near each other but not contiguous, shall be connected, where feasible. Pedestrian amenities such as benches, picnic areas, and bicycle racks shall be incorporated in Open Space, where appropriate. Trees shall be planted along streets and sidewalks, such trees to be a minimum of 2.5 inches in caliper and planted in sufficient number and spacing to create canopies at maturity for environmental and spatial impact.

## **5 Pedestrian, Bicycle and Equestrian Trails**

### **Intent**

Site design shall encourage pedestrian, bicycle and other non-motorized travel by providing connections among varying residential, commercial, retail areas and open space facilities.

### **Policy**

A network of trails shall provide access to various points of interest, including recreation areas, unique vistas, and historic sites both within and outside the OSMUD and shall link existing and potential open space areas. Wherever possible and appropriate, the trail circulation shall minimize street crossings.

### **Standards**

The surface composition of trails shall vary depending on the environmental setting and the anticipated use. Trails shall typically be created with leaf litter, mulch, bark chips, gravel or stone dust. New trails shall not exceed grades of 20%, as practicable.

In some instances, the pedestrian trails will also serve as secondary access roads for emergency vehicles. These secondary access trails will be engineered to support the emergency apparatus. Vehicular access on these trails by other than emergency and maintenance vehicles shall be prohibited.

See **Figure \_\_** for typical trail cross-sections.

## **6        Stormwater Management**

### **Intent**

Development within the OSMUD should provide environmentally sensitive and well engineered stormwater management infrastructure that promotes long-term water quality.

### **Policy**

Best Management Storm Water Practices shall be employed both during construction and as part of the permanent operation and maintenance of the OSMUD.

### **Standards**

Ponds and watercourses may function as stormwater treatment facilities, sources of water for irrigation, and aesthetic enhancement. Surface water and ground water quality shall be protected by implementing best management practices (BMPs) to remove sediments and contaminants from the water prior to discharging off-site or infiltrating into the ground in conformance with Massachusetts Stormwater Management Policy and Low Impact Design (LID) strategies, where applicable.

Landscape strategies such as swales, biofiltration, detention basins, and pervious paving shall be used to treat stormwater on-site. Biofiltration shall be used where possible to ensure groundwater recharge and to reduce out-of-basin transfer through stormwater drains. Infiltration shall be encouraged using bioretention ponds, wet swales, filter strips and infiltration trenches and install dry wells for roof run-off, where practical.

Sidewalks, driveways and parking lot stormwater flows shall be designed to avoid containment by way of street gutter and subsurface piped systems. An objective of the OSMUD is for stormwater to be cleansed via vegetated swales and / or bioretention areas. Except in the Village Center Subdistrict, roads, parking areas and trails shall be curb-less, where possible.

See **Figure \_\_** for illustrations of Stormwater Management techniques.

## **7        Design Criteria**

The Design Criteria established for the OSMUD are further discussed in this section. These Criteria acknowledge and look to the discretion of the professional designer.

### **7.1      Site Treatment and Landscaping**

#### **Intent**

The design of the OSMUD shall utilize the site features, complement the terrain, scale and architecture of the OSMUD, and use natural and native materials with low water consumption requirements, to the extent practicable.

#### **Policy**

Landscaping should be designed with consideration to the relationship of buildings, walkways and parking areas. Selection of the elements shall reinforce the character of the OSMUD and shall include streetscape details, street furniture (such as lighting, signage, and seating), grading, and the use of plant materials to separate uses, frame vistas, and direct views. Landscape elements include all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and necessary infrastructure. The landscape plan shall strive to create a complementary environment of natural and manmade hardscape, softscape and architecture.

### **Standards**

#### A. *All Subdistricts*

Landscaping should be used to either strengthen or buffer the visual relationship with the surrounding area.

Modification of the topography shall be permitted where it contributes to appearance and is encouraged to accommodate adequate and safe pedestrian or vehicular movements.

Plant groupings should be included in the landscaping plan to effectively break up paved areas and façades, strengthen vistas, and provide shade. Plant materials should be chosen for longevity, hardiness and functional ability. Indigenous species shall be used where feasible and appropriate. Plans should include the size and types of materials proposed.

Site features such as trees, berms and stone walls can be used to shelter and enhance buildings.

Landscaping of parking lot perimeters and interiors should incorporate trees, berms and other landforms where appropriate. Where landscaping is not practical, fences, walls and paving are allowed provided they have a natural texture.

Roadway and driveway slopes should be maintained at 9% grades or less where possible. The inclusion of street trees in pedestrian walkways and sidewalks should be considered where potential streetscape impacts exist.

Street furniture and sidewalk enhancements such as planters, benches and bicycle racks are encouraged and shall be of a consistent style, character, material and manner of placement with similar features in the OSMUD.

Buildings shall be sited in order to provide for adequate planting and safe vehicular and pedestrian movement. Planted trees shall be placed in front setbacks and side yards (where applicable).

Newly installed utility services shall be underground.

Streets should be designed to accommodate the everyday needs of the site, including alternative transportation uses (pedestrians, bicyclists), automobiles, and delivery vehicles.

*B. Village Center Subdistrict*

The Village Center should have a village or pedestrian scale. Village or pedestrian scale is defined as designed in such a fashion to encourage pedestrian utilization and enjoyment.

Street level frontage should be primarily devoted to the retail experience of entrances, shop windows, or other displays.

Commercial buildings shall have entries which are clearly identified.

**7.2 Buildings**

**Intent**

Proposed buildings shall relate to the Development Project in which they are located with respect to height, street façade, rhythm of solids and voids, spacing of buildings or signage, materials, textures, color, roof slopes and scale.

**Policy**

New development, renovations and additions should be designed to complement the designed site topography and relate well to the scale of OSMUD buildings. Particular attention should be paid to street façade s to ensure that the buildings and landscaping enhances the streetscape. Building styles do not have to be identical to existing styles or mimic historic styles, but should be complementary and enhance the appearance of the area.

**Standards**

*A. General*

Unadorned exposed foundation walls should be minimized.

Rooftop equipment should be arranged in an orderly manner, set back from roof edges and screened from view where practicable. Screens and parapet walls should be considered to conceal rooftop equipment.

Buildings should be designed to complement the adjacent areas and their anticipated use. Energy efficient design and use shall be instituted, where feasible and economic.

The use of natural textures is encouraged.

Architectural style is not restricted. Local and regional models should be considered in building form, window spacing, architectural detailing, selection of materials, roof form, and façade composition. Variation of detail, form and siting shall be used to provide visual interest.

In areas of multiple buildings, variable siting and orientation of individual buildings are encouraged. Adjacent buildings shall be distinguishable from each other, while maintaining harmony in design.

Colors (including accents) shall be compatible with adjacent buildings and the neighborhood.

*B. Historic*

**Intent**

Removal of historic or significant structures or architectural elements shall be minimized wherever practical. Replication or mimicry of historic buildings is not the intent, but rather structures should complement each other in size, scale and materials and fit appropriately into the character of the OSMUD. Historical structures in the OSMUD are defined as: 82 East Main Street, 83 East Main Street, 26 Clinton Street, and the Pearson House located east of Frankland Road.

**Policy**

Structures, mature trees and plantings, stone walls, fences and other elements of a historic nature should be preserved and maintained where possible. New construction and changes to existing structures should be of a style and scale that complement each other.

**Standards**

Construction in a particular historical style should employ elements of that style and be in keeping with the historic time period of the era.

Colors used in the restoration of historical buildings should be related to the time period. New construction colors should be harmonious with the surrounding structures. Neon and bold colors are discouraged.

**7.3 Lighting**

**Intent**

Exterior lighting shall enhance the building design, landscape, and open space.

**Policy**

Lighting standards and building fixtures shall be of a design and size compatible with the needs, tasks, and uses of buildings and adjacent areas.

**Standards**

Lighting shall be restrained in design and excessive brightness avoided, with slipover to surrounding property and celestial up lighting discouraged. Lighting should be directed toward the intended use, object, or building.

Exterior fixtures, standards, and all exposed accessories shall be harmonious with architectural design of the OSMUD.

## **7.4 Signs**

### **Intent**

Signage within the OSMUD shall identify, direct and inform.

### **Policy**

Signs should be conspicuous but integrated into the scale and structure of the building and site.

### **Standards**

Wayfinding and identification shall be strategically placed and easily read.

Signs may be mounted flat against the façade or projecting from the façade. Freestanding signage is permitted, where appropriate.

Signs should complement and highlight architectural elements of a building and should not obliterate or detract from those elements.

Signs should be in keeping with the scale and character of the surrounding area.

The variety of materials, proportion, shape, siting and verbiage shall be compatible with the OSMUD's character. When there is a group of buildings or businesses in one building, signs need not be identical but should be compatible.

Lighting of signs should be of a subdued and modest nature and should be directed toward the structure and away from nearby windows and passing traffic. Flashing signs, moving signs, roof signs, and neon signs are prohibited. Internally illuminated signs may only have a dark background.

The colors and materials of signs shall be harmonious with the building and site to which it principally relates.

Retail and commercial signs extending over the sidewalk shall be located a minimum of 8 feet above the pedestrian pathway to provide clear passage for pedestrians.

Awnings may be used for signage as long as no more than 40% of the awning surface is used.

Within the OSMUD signs are not intended to convey advertising and business slogans. Signs may describe products sold or services provided.

Sign dimensions: TBD.

## **8.0 Energy Efficiency and Low Impact Design**

Energy efficient design and execution (including design under programs such as Leadership in Energy and Environmental Design (“LEED”), Energy Crafted Home (“ECH”), Low Impact Design (“LID”) or the like) shall be investigated and instituted, where feasible.

## **RELATED AMENDMENTS TO ZONING BYLAW**

1. By amending Article I, General Provisions, Section 210-4, Definitions, by substituting the following for the definition of AFFORDABLE HOUSING UNIT -- A dwelling unit that meets the requirements of a subsidized housing unit as in effect as of the date of adoption of this definition [\_\_\_\_\_, 2007] for purposes of listing in the Subsidized Housing Inventory.
2. In Section 210-70(D) (5), insert the following at the end of the clause: “and except for excavations related to site work.”

**Open Space Mixed Use Development District  
(OSMUD)  
Legacy Farms / Weston Nurseries  
A +/- 729 Acre  
Mixed Use Zone & associated Master Plan  
In  
Hopkinton, Massachusetts**

Submitted October 23, 2007

## ARTICLE XVIIA

### Open Space Mixed Use Development Overlay District

#### **§210-116.1 Development and Design Objectives**

The purposes of the Open Space Mixed Use Development Overlay District (OSMUD District) are to balance conservation and development goals and protect and enhance the character of natural and cultural resources while promoting an economical use of the land. Toward that end, the OSMUD District permits the clustering of residential and commercial uses on large tracts of land which have open space as an integral characteristic, and ensures quality site planning designed to accommodate a site's physical characteristics including topography, vegetation, water bodies, wetlands, open spaces, historic resources and major scenic views.

#### **§210-116.2 District and Sub-District Delineations; Applicability**

- A. The OSMUD District is shown on the Official Zoning Map. The OSMUD District may contain Residential Subdistricts (R), Commercial Subdistricts (C), and a Village Center Subdistrict (VC), all as shown on a map included in the Master Plan.

The OSMUD District is an overlay district that is superimposed over the underlying zoning districts. At the option of the applicant, development of land within the OSMUD District may be undertaken pursuant to this Article XVIIA or pursuant to the provisions of this Chapter applicable to the underlying zoning districts. However, from and after the issuance of a building permit for a building within a Development Project located northerly of East Main Street approved in accordance with this Article XVIIA, the provisions of the underlying zoning shall no longer be applicable to the portions of the OSMUD District located north of East Main Street, and from and after the issuance of a building permit for a building within a Development Project located southerly of East Main Street approved in accordance with this Article XVIIA, the provisions of the underlying zoning shall no longer be applicable to the portions of the OSMUD District located south of East Main Street.

- B. Notwithstanding anything to the contrary in this Chapter, development undertaken pursuant to this Article XVIIA shall not be subject to the following provisions of this Chapter: Article XVIB, Subdivision Phasing. Development undertaken pursuant to this Article XVIIA shall be subject to the following provisions of this Chapter only to the extent provided for and as modified in this Article XVIIA as more specifically set forth in Sections 210-116.6, 210-116.8, 210-116.11, 210-116.12 and 210-116.13: Article XI, Flexible Community Development By-law; Article XII, Water Resources Protection Overlay District; Article XVIII, Supplementary Provisions; Article XIX, Nonconforming Uses; Article XX, Site Plan Review; and Article XXI, Design Review.

#### **§210-116.3 Definitions**

As used in this Article, the following terms shall have the meanings indicated:

**COMMERCIAL USES**-- "Commercial Uses" shall refer to all uses other than Dwelling Uses, Retail Uses or Open Space Uses.

**DESIGN GUIDELINES**-- The Design Guideline for the OSMUD. The Design Guidelines are hereby made part of the Town of Hopkinton Zoning Bylaw and are on file with the office of the Town Clerk. The Design Guidelines are subject to modification as provided in Section 210-116.13.

**DEVELOPMENT PROJECT**--A development undertaken under this Article XVIIA. A Development Project shall be shown on a site plan which is submitted to the Planning Board for Site Plan Review under Section 210-116.12 and may consist of one or more lots. A Development Project may be located in more than one subdistrict, provided the applicable provisions of this Article are met with respect to each subdistrict.

**DWELLING USES**-- Use as Dwelling Units as defined in Section 210-4.

**HEIGHT**--Vertical distance from the mean finished grade of all sides of building or structure to the highest point of the roof for flat roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs, excluding chimneys, spikes, towers, wireless communication facilities, screens, parapet walls, and other structures, equipment, or projections not used for human occupancy.

**LANDOWNERS' ASSOCIATIONS** -- A corporation, trust or other legal entity owned by the owners of all lots within the OSMUD, or a corporation, trust or other legal entity owned by owners of lots in a specified area of the OSMUD, as the context would permit or require.

**MASTER PLAN**--The Master Plan for the OSMUD containing the information set forth in Section 210-116.10 approved by Town Meeting as of the date of adoption of this Article. The Master Plan is hereby made part of the Town of Hopkinton Zoning Bylaw and is on file with the office of the Town Clerk. The Master Plan is subject to modification as provided in Section 210-116.10.

**OPEN SPACE and OPEN SPACE USES**--Includes land left substantially in its natural state, restored or landscaped, maintained and preserved for such use; active and passive recreational land and facilities, whether public or private; conservation land; pedestrian, bicycle and equestrian trails or walkways; land used for forestry, agriculture or horticulture and accessory structures; cemeteries with flat headstones; irrigation, detention and/or retention ponds or stormwater catchment areas; utilities and other facilities necessary for the convenience and enjoyment of the OSMUD or the Town; and structures accessory to any of the foregoing such as utility plant buildings, restrooms, and food preparation and sales areas operated in connection with recreational fields. Open Space shall not include land set aside for road and/or parking uses. Open Space may be public Open Space designed and intended for the use and enjoyment of the Town, or private Open Space designed and intended for the use and enjoyment of the occupants of the OSMUD and/or occupants of and/or invitees of owners of specified areas within the OSMUD.

**RETAIL USES**-- For purposes of determining the parking requirements, "Retail Uses" shall refer to sale of goods or services to the public including restaurants, but excluding home businesses and excluding any outdoor selling areas.

**WATER AREA** -- As used in the definition of "Lot Area" under Section 210-4, man-made ponds, retention ponds or irrigation ponds shall be included in Lot Area.

## **§210-116.4 Permitted Uses**

The following land uses and building uses shall be permitted, subject to the intensity of use limitations set forth in Section 210-116.5 and Site Plan Review pursuant to the provisions of Section 210-116.12. The sub-headings set forth below are for ease of reference only, and are not intended to modify the definitions of Dwelling Use, Commercial Use, Retail Use and Open Space Use applicable to this Article.

(1) **Residential Uses:**

- A. Dwelling units of all types, including without limitation single family homes, multifamily residences, garden apartments, and age-restricted housing, but not including mobile homes or trailers as defined in the State Building Code
- B. Home business, including home business workshop, professional office, home personal service, home specialty retail, licensed home day-care provider
- C. The renting of rooms and/or the furnishing of table board in a dwelling occupied as a private residence

(2) **Commercial Uses and Retail Uses:**

- A. Bed-and-Breakfast Establishments
- B. Business or professional offices and banks
- C. Commercial recreational uses of buildings, structures or land
- D. Commercial saddle horses or riding stables
- E. Conference Center, with or without a residential dormitory
- F. Drive-in, drive-through or drive-up uses including an open-air ATM and dispensing of food and drink
- G. Gasoline service stations
- H. Health club
- J. Hotel, motel, apartment hotel and inns
- K. Light manufacturing and/or assembly with associated professional, administrative and/or clerical offices
- L. Live commercial entertainment and places of assembly
- M. Membership clubs, lodges, social recreational and community center buildings and grounds for games and sports, whether or not carried on as a business
- N. Parking facilities
- O. Research center and laboratories, including genetic, biological and chemical research centers, and laboratories and manufacturing and processing plants
- P. Restaurants
- Q. Retail business: retail service or public utility uses involving manufacturing, clearly incidental and accessory to a retail use on the same premises
- R. Retail stores and retail service shops, including take-out food establishments exclusive of drive-in, drive-up or drive-thru uses, and including outdoor selling areas
- S. Theaters, hall and clubs
- T. Storage facility
- U. Wireless communication facilities

(3) **Health Care Uses:**

- A. Adult day care
- B. Continuing care retirement community, assisted living facilities, or similar institutions.
- C. Group homes
- D. Hospital, long-term acute care, nursing home, extended care facilities, rehabilitation facilities, or similar institutions

- E. Medical Center
- F. Medical offices
- G. Veterinary Clinic

(4) **Institutional Uses:**

- A. Cemetery
- B. Churches and other places of worship, parish houses and Sunday school buildings<sup>1</sup>
- C. Funeral homes and mortuaries
- D. Public or semipublic institutions of a philanthropic or charitable character

(5) **Public, Educational or Municipal Uses:**

- A. Child-care center
- B. Municipal buildings
- C. Public and private educational uses, including schools, public libraries and museums
- D. Public and private recreational uses (indoor)
- E. Telecom and telephony facilities
- F. Public transportation facilities, such as bus stop
- G. Utilities facilities, including water supply and sewerage treatment and alternate power and co-generation

(6) **Agricultural Uses:**

- A. Agricultural and horticultural uses
- B. Farms of all kinds including nurseries, gardens, greenhouses and livestock, except fur farms
- C. Farm stands
- D. Landscaping Business and Storage/Staging Facility
- E. Wood lots, portable wood working mills and machinery

(7) **Open Space Uses:**

- A. All Open Space Uses as defined in this Article

(8) **Miscellaneous:**

- A. Mixed use buildings comprised of commercial space or retail space on the first floor, and a different category of use on one or more upper floors
- B. Accessory uses to any permitted use, whether on the same lot or on a lot within 300 feet of principal use
- C. Signs in connection with authorized uses, subject to such limitations as may be contained in the Design Guidelines
- D. Any business or service similar in character to the forgoing permitted uses and not specifically permitted

**§210-116.5 Intensity of Use Limitations**

- A. Dwelling Uses within the OSMUD shall be limited to 940 new Dwelling Units constructed after the effective date of this Article. The dwelling units at 80, 82, and 83 East Main Street, 26 Clinton Street and 44 Wilson Street in existence as of the effective date of this Article shall not be included as Dwelling Units for the purposes of this Intensity of Use limitation. Any Accessory Family Dwelling Unit for which a special

permit is granted by the Board of Appeals under Section 210-126 also shall not be included as a Dwelling Unit for purposes of this Intensity of Use limitation.

- B. Commercial Uses and Retail Uses within the OSMUD shall be limited to 450,000 SF of Gross Floor Space, which shall be allocated among the Subdistricts and between Commercial and Retail Uses as set forth in the Master Plan.

The following shall not be included as Gross Floor Space for purposes of this Intensity of Use limitation: (i) The building at 44 Wilson Street in existence as of the date of this Article in the event such building is converted from Dwelling Use to Commercial Use; (ii) structures accessory to or as amenities for the Dwelling Uses, such as clubhouses, recreational amenities and management or marketing space; (iii) structures accessory to Open Space Uses, including, but not limited to, utility buildings and structures accessory to recreational uses; (iv) structures accessory to agricultural and horticultural use, including greenhouses, except that 40% of area of a greenhouse which is appurtenant to retail use in an adjacent building shall be considered as Gross Floor Space.

#### **§210-116.6 Affordable Housing**

Affordable Housing Units shall be provided within the OSMUD as provided under either sub-section A or B below:

- A. If Affordable Housing Units are developed on an ownership basis, Affordable Housing Units shall be provided as provided in Article XI, Flexible Community Development Bylaw, except that provision of Affordable Housing Units shall be as set forth in the Master Plan for ownership units and shall not require a Special Permit from the Planning Board.
- B. If Affordable Housing Units are developed on a rental basis, not less than sixty (60) dwelling units shall be developed as Affordable Housing Units. The Affordable Housing Units may be contained in a single Development Project or in multiple Development Projects, provided that not more than twenty-five percent (25%) of any single Development Project shall consist of Affordable Housing Units. No more than 650 certificates of occupancy for market-rate Dwelling Units within the OSMUD shall be issued prior to the issuance of building permits for a Development Project to contain Dwelling Units developed on a rental basis which will contain not less than sixty (60) Affordable Housing Units.
- C. The Affordable Housing Units shall be integrated with the rest of the Development Project in which they are located, and shall be compatible in design, exterior appearance, construction and quality of materials with other units in the Development Project. The number of bedrooms in Affordable Housing Units shall be in proportion to the total number of bedrooms in the market-rate units in the Development Project in which they are located.

#### **§210-116.7 Dimensional Requirements**

- A. The following size and setback requirements shall apply for each lot within each of the Subdistricts, subject to the buffering requirements set forth in sub-section B, the Open Space requirements set forth in Section 210-116.9 and Site Plan Review pursuant to the provisions of Section 210-116.12.

	Residential Subdistrict (R)	Commercial Subdistrict (C)	Village Center Subdistrict (VC)
Minimum lot frontage	25 feet	100 feet	100 feet
Minimum lot area	4,000 SF	30,000 SF	30,000 SF
Minimum setback from street line	10 feet	25 feet	25 feet
Minimum side yard width	0	0	0
Minimum rear yard depth	10 feet	10 feet	10 feet
Maximum building height	Single family dwellings and townhouses: 35' or 3 stories, whichever is less; All other dwellings or structures: 48' or 4 stories, whichever is less	48' or 4 stories, whichever is less	35' or 3 stories, whichever is less

- B. Where a lot within the OSMUD in the Commercial Subdistrict abuts land in another district used for residential purposes other than permanent open space, a buffer of no less than 100 feet shall be provided. Where a Commercial Subdistrict abuts a Residential Subdistrict within the OSMUD District, a buffer of no less than 10 feet shall be provided in the Commercial Subdistrict.
- C. The intensity of Commercial Uses within the VC Subdistrict shall not exceed 150,000 SF of Gross Floor Space. No single building within the VC Subdistrict shall exceed 45,000 SF of Gross Floor Space.
- D. In determining height of multi-family buildings, the area above the mean finished grade and below the floor of the first occupiable story, not to exceed 14 feet, shall be excluded from measurement of height and of stories
- E. Multiple buildings on a lot shall be permitted.

#### **§210-116.8      Parking**

- A. The requirements of Section 210-124(B) (1) relating to the minimum number of parking spaces will apply in the OSMUD with the following modifications:

Dwelling Uses:	
Single family detached	2 spaces per dwelling unit
Single Family attached and multi-family	Dwellings with up to 1 bedroom: 1.5 spaces; Dwellings of more than 1 bedroom: 2.0 spaces
Residential Component	1 space per dwelling unit

of a Mixed Use Building	
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- B. The following shall not be included as Gross Floor Space for purposes of the minimum parking requirements: structures accessory to agricultural and horticultural use, including greenhouses, except that 40% of area of a greenhouse which is appurtenant to retail use in an adjacent building shall be considered as Gross Floor Space.
- C. Where parking uses have peak user demands at different times or where different uses are accommodated by a shared parking space, as certified by a registered traffic engineer, shared parking facilities may be provided which are designed and intended to serve more than a single use shown on a Site Plan.
- D. Minimum parking requirements may be reduced by the Planning Board during Site Plan Review if the Planning Board finds that the lesser amount of parking will not cause excessive congestion or endanger public safety, or that the lesser amount of parking will provide positive environmental or other benefits.
- E. The parking requirements may be met by a combination of parking interior to lots and on streets, as is appropriate to a pedestrian-oriented environment, subject to Site Plan Review under Section 210-116.12.

#### **§210-116.9 Open Space**

- A. Prior to the issuance of a building permit for a building within a Development Project located to the north of East Main Street and approved in accordance with this Article XVII A, the applicant shall record an Open Space Covenant with the Town ensuring that the area designated on the Master Plan as the “North Parcel Greenway” remains as Open Space in substantially its natural state, restored or landscaped.
- B. Applications for Site Plan Review of Development Projects shall designate an area to remain as Open Space equivalent to not less than 60% of the area of the Development Project. The Open Space so designated may be located within the Development Project or may be located on another parcel within the OSMUD, and may consist of an entire lot or of a portion of a lot. Open Space Covenants to be held by the Town under G.L. c. 184 Sec. 26 shall be recorded in the Registry of Deeds ensuring that the Open Space so designated remains as Open Space. Except with respect to the North Parcel Greenway which may not be released from the Open Space Covenant, the Open Space Covenants may provide, however, that land may be released from an Open Space restriction by an instrument executed by the owner and recorded, provided that not less than an equivalent area of land is made subject to an Open Space Covenant and substituted therefor. The North Parcel Greenway may be designated as Open Space to meet the Open Space requirement for other parcels within the OSMUD.
- C. Open Space shall be a) owned by a Landowners’ Association and ownership shall pass with the conveyance of the lots, b) owned by the owners of specified lots or areas within the OSMUD in which such Open Space is located, c) owned by a non-profit corporation, a principal purpose of which conservation of Open Space or provision of recreational facilities, or d) conveyed to the Town. Required Open Space shall in all cases be subject to the obligations of the Open Space Covenants.

- D. The Master Plan shall include a program describing how the Open Space will be maintained in perpetuity. The program shall provide for maintenance of Open Space by a Landowners' Association or by the owners of specified lots or areas within the OSMUD in which such Open Space is located, or, in the case of the grant of an easement or conveyance to the Town or another entity for use of the Open Space, by the holder of such easement or owner. With respect to the Open Space to be maintained by the Landowners' Association or by the owners of specified lots or areas within the OSMUD, the applicant shall provide as part of the Open Space program in the Master Plan an agreement empowering the Town to perform maintenance of such Open Space in the event of failure to comply with the program for maintenance of the Open Space, after thirty (30) days notice to the Landowners Association and failure of the Landowners Association to cure such failure; provided that, if the Town elects to perform any maintenance work, the Landowners Association or owners of the lots responsible therefor shall pay the cost thereof, which the cost shall constitute a lien, subordinate to any mortgage or other statutory lien, upon the properties responsible for such maintenance under the documents governing the Landowners' Association until the cost has been paid.
- E. The foregoing shall not restrict the applicant from imposing additional restrictions on the Open Space consistent with the use of the land as Open Space. For example, an Open Space Covenant may restrict a specific parcel of Open Space for use as athletic or recreational facilities.

#### **§210-116.10 Master Plan Criteria**

- A. The Master Plan shall contain the following information relating to the development of the OSMUD:
- (1) Identification of the entire area of land to be developed under the OSMUD, including an agreement by all owners of such land to be bound by the terms of the Master Plan;
  - (2) The topography of the land, vegetative cover, soil types, wetlands and water bodies, roads and ways, the general location, size and shape of structures to be removed and the location size and shape of structures to remain, and generalized planting plans;
  - (3) The general land area and the number of buildings or Dwelling Units within buildings shall be specified for the entire site, for all structures devoted to common facilities or utilities, and for each area devoted to a different type of building or use, as delineated in the Master Plan;
  - (4) The general location and size and intended use of all Open Space and the Landowners Association or organization intended to own and/or maintain same;
  - (5) The general location and size of all proposed structures, including a schedule of various land use types, the general location of all roads, pedestrian, bicycle and equestrian trails, water supply system, wastewater system, storm water drainage, and utilities;
  - (6) An analysis assessing the impact of the development on surface and ground water quality, groundwater recharge, wildlife habitat and corridors, wetlands and bodies of

water, including streams and rivers, both localized and general, and an evaluation of pre-development conditions and post-development conditions;

(7) A traffic impact and access study on the effect of the development on the operation, safety and overall convenience the development will have on the roadway system providing access to the OSMUD, including impacts on both vehicular and pedestrian travel, and proposed mitigation and trip reduction techniques, if applicable;

(8) A phasing schedule indicating the generally proposed times within which construction of improvements within the OSMUD is anticipated, which schedule may be modified by applicant from time to time depending on market forces and other criteria;

(9) A description of the documents intended to govern the Landowners' Association(s) and the manner in which the documents will provide for the ownership and maintenance of Open Space;

(10) A written statement by the applicant setting forth the reasons that an Open Space Mixed Use Development will be in the public interest and consistent with the objectives of this Article;

(11) Plans submitted in connection with the Master Plan shall contain a level of detail consistent with a master plan perspective.

- B. Amendment of the Official Zoning Map to add additional land to or remove land from the OSMUD or amendment of this Article XVIIA shall require approval of Town Meeting. The Master Plan may be amended, upon the petition of landowner, either by Town Meeting or by a Special Permit issued by the Planning Board. If the Master Plan is amended as a Special Permit, the issuance of a building permit for a building under the Master Plan within six (6) months of the date of filing of the decision with the Town Clerk (or the date of final resolution of any appeal of such decision) shall be deemed to constitute substantial use of rights under the Master Plan, as so amended, and construction based on the phasing schedule set forth in the Master Plan, as modified by applicant based on market forces and other criteria, shall be deemed to constitute continuous and expeditious continuance to completion.

#### **§210-116.11 Design Guidelines**

To ensure that Development Projects shall be of quality design, the Site Plans for Development Projects within the OSMUD shall be based on the Design Guidelines, which shall supersede any inconsistent provisions of design guidelines adopted under Article XXI. The Design Guidelines may incorporate different provisions applicable to Development Projects in each sub-district.

#### **§210-116.12 Site Plan Review**

- A. *Applicability:* The initial construction of all Development Projects shall be subject to Site Plan Review by the Planning Board in accordance with the procedures of this Section 210-116.12, which shall supersede the provisions of Article XX. Site Plan Review shall not apply to the alteration or reconstruction of a Development Project, which shall be subject to the procedures of Clause I below, and shall not apply to the enlargement of residential buildings, provided that such enlargement does not encroach on required Open Space.

- B. *Procedure:*
- (1) An applicant for Site Plan Review for a Development Project shall file with the Planning Board an application and submission materials as required by the Site Plan Review Submission Requirements and Procedures adopted by the Planning Board and filed with the Town Clerk. To the extent any such materials are included in the Master Plan; the application may refer to and incorporate the applicable provisions of the Master Plan.
- (2) As part of the Site Plan Review, the applicant and/or licensed professionals engaged by applicant also shall file with the Planning Board a certification indicating the manner in which the Development Project complies with the provisions of this Article XVIIA, the Master Plan and the Design Guidelines.
- (3) The Planning Board shall, within five days of receipt of a Site Plan Review application, transmit copies of the application and the site plan to the Director Municipal Inspections, Conservation Commission, Board of Health, Design Review Board, and Director of Public Works for comments and recommendations.
- (4) The Planning Board shall hold a hearing within 45 days of the filing of any application for Site Plan Review within the OSMUD, and shall file a decision within 90 days of the filing of the application, subject to extensions agreed to by the applicant. Notice of the time, place and subject matter of the hearing shall be given by the Planning Board to owners of any land outside the OSMUD abutting the land subject to the application for Site Plan Review as appearing on the most recent tax list on file at the Assessors' Office, but shall not be required to be given to other owners of land within the OSMUD. In addition, in the case of a Development Project containing more than 25 Dwelling Units or 10,000 or more SF of Gross Floor Space, the Planning Board shall also publish notice of the time, place, and subject matter of the public hearing, by advertisement in a newspaper of general circulation in the Town, once in each of two successive weeks, the first publication being not less than 14 days before the date of such hearing. The time within which the Planning Board must act on an application may be extended upon mutual agreement in writing between the Planning Board and the applicant. Failure to act within the time limitations established in this Section shall be deemed constructive approval of the application.
- (5) Final action, which shall be a "Decision for Site Plan Review" that is filed in the Office of the Town Clerk and the Director of Municipal Inspections, shall consist of either:
- (a) A written approval of the application, including a finding and determination that the proposed Development Project meets the criteria of Clause D and E below, or
- (b) A written denial of the application stating the reasons for the denial.
- (6) A vote of a simple majority of the membership of the Planning Board shall be sufficient to adopt a Decision of Site Plan Review.
- (7) Any person aggrieved by a Decision of Site Plan Review by the Planning Board may appeal such Decision to the Board of Appeals within 30 days of the date of the

Decision. All Decisions of Site Plan Review issued by the Planning Board shall include a brief notice of such rights of appeal.

- C. *Permissible Building Areas:* For the purposes of Site Plan Review under this Article, a Site Plan may show an area within which structures may be constructed (a “Permissible Building Area”) and specify the maximum SF of Gross Floor Space to be constructed within such Permissible Building Area. Although the Site Plan may show a proposed building, the Site Plan approval shall apply as long as the structure or other site features are constructed within the Permissible Building Area indicated therefor. After the issuance of a Certificate of Occupancy for a building, the amount by which such building is less than the maximum SF of Gross Floor Space allocated thereto or the amount by which Dwelling Units constructed are less than the Dwelling Units proposed shall be available for reallocation to other proposed buildings or Dwelling Units within the OSMUD.
- D. *Decision Criteria:* The Planning Board shall approve a Development Project upon the following findings:
- (a) The applicant has submitted the required information as set forth in this Article;
  - (b) The proposed Development Project described in the application meets all of the requirements and standards set forth in this Article XVIIA, the Master Plan and applicable Design Guidelines, or a waiver has been granted therefrom; and
  - (c) Extraordinary adverse potential impacts of the Development Project have been adequately mitigated.
- E. *Conditions of approval; building permits.* Site Plan Review may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary to meet the criteria of Clause D above. For any Development Project within the OSMUD that requires Site Plan Review, no building permit shall be issued unless and until the applicant has complied with the provisions relating to Site Plan Review, and the conditions, modifications, and restrictions contained in the Decision of Site Plan Review are referenced and incorporated in, and made an express condition of, such building permit.
- F. *Performance guarantee.* As a condition of site plan approval, the Planning Board may require that a performance bond, secured by deposit of money or negotiable securities in the form approved by the Planning Board be posted with the Town to guarantee completion of those ways and improvements to be accepted by the Town of Hopkinton as public roads or to be approved under the Subdivision Control Law as private subdivision roads. The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all improvements in a manner satisfactory to the Board 90 days from the date of required completion as set forth in the approval, but in no event earlier than two years from the date of approval, or the final date of the last extension of the approval, if any.
- G. *Duration of approval.* Site Plan approvals under this Article for a Development Project shall remain in effect as to a Development Project as long as a building permit for not less than one (1) building in the Development Project is issued within two (2) years of

issuance of the Site Plan approval (or the date of final resolution of any appeal of such issuance).

- H. *Fees.* Site Plan Review fees shall be governed and set by the Planning Board and shall be assessed to the owner and/or the applicant. Such fee may include a deposit for review by a consultant selected by the Town.
- I. *Minor Modifications:* After the grant of Site Plan Approval for a Development Project, the Planning Board or the Planning Director as its designee shall have the authority to approve minor modifications to the Site Plan Approval, including modifications related to alteration or reconstruction of a Development Project after initial construction. Minor modifications shall be changes which involve minor Permissible Building Area adjustments, utility or building orientation adjustments, or minor adjustment to parking, landscaping, open space or other building or site details, or other changes which do not increase the SF of Gross Floor Space of Commercial and Retail Uses within a Development Project or the number of Dwelling Units in a Development Project by more than 10%. Minor modifications may be approved by the Planning Board at any regularly scheduled public meetings, without the need to hold a public hearing, or by the Planning Director as designee of the Planning Board.

#### **§210-116.13    Miscellaneous**

- A. Modifications to Article XII, Water Resource Protection Overlay District. In the OSMUD, the following modifications to the provisions generally applicable to the Water Resource Protection Overlay District shall apply:
- (1) For purposes of Section 210-70(C) (1), the term “Development Project” shall be substituted for the term “lot.”
  - (2) In Section 210-70(D) (2), insert the following clause (c): “(c) Below ground related to a subsurface parking facility.”
  - (3) The provisions of Section 210-70(D) (9) shall not apply to any facilities in existence as of the date of adoption of this Article or replacements of such facilities.
- B. Modifications to Article XVIII, Supplementary Provisions. In an OSMUD, the following modifications to the Supplementary Provisions shall apply:
- (1) The provisions of the Design Guidelines shall govern the width of driveways notwithstanding any contrary provisions in Section 210-119.1.
  - (2) Except as specifically provided for in 210-116.8, Section 210-124 (Off-Street Parking) shall not apply in the OSMUD.
  - (3) Sections 210-125 (Conversions of Residential Property) and 210-126.1 (Residential Subdivisions of 10 acres or more) shall not apply in the OSMUD.
- C. Modifications to Article XIX, Nonconforming Uses: In the OSMUD, alteration, reconstruction, extension or structural alteration to a single or two-family residential structure which does not increase the nonconforming nature of such structure shall not require a Special Permit from the Board of Appeals.

- D. Requirements set forth in this Article and in the Design Guidelines may be waived by the Planning Board as part of the Site Plan Review process based on a finding that such modifications are necessary or appropriate to meeting the development and design objectives of this Article.
- E. However, the Planning Board acting under Clause D above may not waive following specific conditions: (i) the limitations on intensity of uses; (ii) the number of Affordable Housing Units required; and (iii) the amount of required Open Space.
- F. All land within the OSMUD as of the date of the approval of the first Development Project shall be subject to the provisions of this Chapter and of the Design Guidelines as in effect as of such date.

## **Open Space Mixed Use Development District Design Guidelines**

The Open Space Mixed Use Development District (OSMUD) Design Guidelines (the “Design Guidelines”) are adopted under Article XVIIA of the Zoning Bylaw to govern Site Plan Review for Development Projects within the OSMUD.

The Design Guidelines describe the physical attributes of the OSMUD District and the improvements which may be constructed under Article XVIIA. The Design Guidelines are intended to guide the appropriate execution of the permitted development within each of the subdistricts of the OSMUD District. The objectives of the Design Guidelines are to encourage and allow quality design and execution of infrastructure, transportation, landscape and building architecture for development within the OSMUD. These Design Guidelines endeavor to balance conservation and development goals and to protect the character of the site while promoting an economical use of the land. The Design Guidelines are meant to ensure quality site planning by addressing a site's physical characteristics, including topography, vegetation, water bodies, wetlands, open spaces, historic resources, and major scenic views.

Site plans requiring review for each Development Project shall be designed and submitted for review based upon these Design Guidelines.

### **1 Easements**

The integrated nature of on-site uses require establishment of easements for access, and for utility installation and operation. Easements may include, but are not limited to:

- Emergency access
- Water Supply Distribution
- Waste Water Disposal
- Storm Water Disposal and infiltration
- TeleCom & Telephony
- Electrical, Natural Gas and other “Dry Utilities”
- Vehicular access and parking
- Pedestrian and other non motorized access
- Pedestrian, Bicycle and Equestrian Trails
- View protection

### **2 Housing Types**

Several different residential types and sizes with varying lot sizes and configurations will be constructed to create varying neighborhoods within the OSMUD, as briefly described below:

**2.3.1 Single Family Home** - A detached dwelling on an individual lot.

**2.3.2 Townhouse** -- Detached, attached or zero lot line dwellings grouped on common lots in a single structure. Each dwelling is individually accessed via an exterior doorway and typically includes an attached garage.

**2.3.3 Multi-Family Building.** A structure where each dwelling is accessed through a common entry. This structure may contain as many as four stories and either on grade or below-grade parking.

See **Figure \_\_** for illustrations of the housing types.

### **3 Roadway Standards**

#### Intent

This section presents the standards for the design and construction of roads and parking areas within the OSMUD. Roadway Standards shall be coordinated with the requirements of Stormwater Management.

#### **3.1 Functional Classifications**

All roads will be classified according to anticipated traffic use, volume, adjacent land use, and land access requirements. Standards for road design and construction fall into five functional classifications:

- Major Street - a road primarily designed to accommodate traffic both internal to the OSMUD and traffic traversing the site.
- Minor Street - roads primarily designed to accommodate the larger volumes of internal OSMUD traffic and which generally discourages through traffic.
- Rural Street - roads typically linking development areas exclusive of the Minor Streets.
- Non-Residential Street – roads designed and constructed, or proposed, to serve property either used or zoned only for business.
- Common Drive – a secondary way designed and constructed to access a limited number of residences.

See **Figure \_\_** for illustrations of roadway cross-sections.

#### **3.2 Roadway Design Guidelines**

##### Policy

Road layouts will compliment the character of the OSMUD and its land uses by following existing topography to the extent practicable. In certain situations, based upon the topography of the land and the intent to minimize the disturbance of the site by any proposed development, flexibility in the roadway design, length of cul-de-sac, steepness of grade, relaxed shoulder widths, and construction standards may be considered. One of the objectives of the roadway design will be to encourage compatibility between the varied transport modes and land uses.

**Table 3.2**  
**Roadway Design Guidelines**

	Major	Minor	Rural	Non-Residential
Minimum Centerline Radius (Rmin)	150'	150'	150'	150'
Minimum Road Grade (Smin)	0.50%	0.50%	0.50%	0.50%
Maximum Road Grade (Smax)	7%	9%	9%	7%
Minimum Pavement Width (excluding parking)	24'	20'	18'	24'
Minimum Site Distance: Horizontal Curve*	200'	155'	80'	200'
Minimum Site Distance: Vertical Curve**	200'	160'	150'	200'
Turnaround: Maximum Grade	5%	5%	5%	5%
Design Speed	30 mph	25 mph	15 mph	30 mph

TABLE NOTES:

\* SSD on horizontal Roadway (AASHTO 2001)

\*\* Double the minimum length of sag controls vertical curves. From Policy on Geometric Design of Highway Streets, 2001. (200 foot curve is twice the minimum for a 30 mph design speed)

Common Drives shall be have a maximum width of 12 feet and may be paved or pervious. Parking is prohibited within Common Drives.

In order to protect pedestrian safety and control stormwater runoff, vertical curbing may be provided in the Village Center Subdistrict and other areas where appropriate.

### 3.3 Intersection Design Guidelines

#### Policy

Intersections shall be designed to provide clear lines of sight for turning movements, either through alignment design or through the creation of buffer areas in which obstructive plantings, buildings and/or signage will be avoided.

No street shall intersect any other street at less than 60 degrees. Property lines at street intersections shall be rounded or cut back to provide for a curb line radius of not less than 15 feet. The minimum spacing between intersecting Minor Streets and Major Streets shall be 200 feet except in the Village Center Sub district. Driveway cuts onto Minor Streets will not be within 55 feet of an intersection with a Major Street. Where the grade of any street at the approach to an intersection exceeds 5%, a leveling area shall be provided and have no greater than 3% grades for

a distance of 75 feet measured from the nearest right-of-way line or edge of traveled way, whichever is greater, from the intersecting street.

### **3.4 Dead-End Streets**

Dead-end streets shall not exceed 1,000 feet, where practicable. A turn-around, such as a cul-de-sac, hammerhead or "T" turn, designed to accommodate fire apparatus shall be provided at the closed end of all dead-end streets. Wherever feasible, a secondary emergency access shall be provided at dead-ends. The secondary access does not have to be paved, but shall be engineered to accommodate emergency apparatus.

A cul-de-sac may include the placement of a circular interior landscaped island with a radius having a minimum diameter of 20 feet and/or a rumble strip. The unpaved area of all cul-de-sacs must be landscaped with low maintenance trees and shrubbery.

### **3.5 Design of Parking Areas**

Parking requirements as stated in Article XVIIA of the Zoning Bylaw shall be met by a combination of parking interior to lots and on-street. Off-street parking spaces may be perpendicular, head-in or angled on streets or lots adjacent to the street. Parking design shall be in accordance with the Institute of Transportation Engineers' (ITE) *Parking Generation, 3<sup>rd</sup> Edition* (or most recent edition).

Design of all parking areas shall be a mix of compact spaces and "standard" spaces. The ratio shall be one compact space for every three standard spaces. Standard spaces shall be a minimum of 9 feet in width by 18 feet in length. Compact Spaces shall be a minimum of 8 feet in width by 17 feet in length. For perpendicular spaces, parking aisle widths shall be 24 feet for two-way double loaded bays and 18 feet for one-way single loaded bays. Where a parking space abuts a landscaped area of not less than four (4) feet, two (2) feet of the parking space may overhang into the landscaping. Parking and loading areas and access ways shall be designed to provide for adequate drainage, snow removal, maneuverability and curb cuts.

Parking areas containing 25 or more spaces shall have at least one shade tree per 8 parking spaces, such trees to be a minimum of 2.5 inches in caliper and located either in the parking area or within 10 feet of it. At least 5% of the interior of any parking area with 25 or more spaces shall be maintained with landscaping including trees, in plots of at least 9 feet in width when located within a parking bay. Further, no more than 25 spaces shall be provided in a row without separation by a landscaped area containing at least one shade tree. Smaller parking lots with fewer than 25 spaces shall use landscaping to break up large areas of pavement and trees and shrubs shall be used, to the extent feasible.

Shared parking or gravel parking may be used to reduce impervious area.

### **3.6 Curb Cut and Driveway Standards**

The number of curb cuts on roads shall be minimized. Curb cuts shall be limited to the minimum width for safe entering and exiting.

All driveways shall be designed to afford motorists exiting to roadways with safe sight distance.

## **4 Open Space**

### **Intent**

All Open Space shall be designed to complement the visual character of the OSMUD.

### **Policy**

Open space and landscaped areas should be designed to complement, enhance or screen the building and parking areas. Natural features should be incorporated within Open Space areas where possible. Site design is encouraged to complement the OSMUD with designs that are practical and functional.

### **Standards**

Relationships with other surrounding Open Space should be considered when planning Open Space and landscaping designs. Areas of Open Space located near each other but not contiguous, shall be connected, where feasible. Pedestrian amenities such as benches, picnic areas, and bicycle racks shall be incorporated in Open Space, where appropriate. Trees shall be planted along streets and sidewalks, such trees to be a minimum of 2.5 inches in caliper and planted in sufficient number and spacing to create canopies at maturity for environmental and spatial impact.

## **5 Pedestrian, Bicycle and Equestrian Trails**

### **Intent**

Site design shall encourage pedestrian, bicycle and other non-motorized travel by providing connections among varying residential, commercial, retail areas and open space facilities.

### **Policy**

A network of trails shall provide access to various points of interest, including recreation areas, unique vistas, and historic sites both within and outside the OSMUD and shall link existing and potential open space areas. Wherever possible and appropriate, the trail circulation shall minimize street crossings.

### **Standards**

The surface composition of trails shall vary depending on the environmental setting and the anticipated use. Trails shall typically be created with leaf litter, mulch, bark chips, gravel or stone dust. New trails shall not exceed grades of 20%, as practicable.

In some instances, the pedestrian trails will also serve as secondary access roads for emergency vehicles. These secondary access trails will be engineered to support the emergency apparatus. Vehicular access on these trails by other than emergency and maintenance vehicles shall be prohibited.

See **Figure \_\_** for typical trail cross-sections.

## **6      Stormwater Management**

### **Intent**

Development within the OSMUD should provide environmentally sensitive and well engineered stormwater management infrastructure that promotes long-term water quality.

### **Policy**

Best Management Storm Water Practices shall be employed both during construction and as part of the permanent operation and maintenance of the OSMUD.

### **Standards**

Ponds and watercourses may function as stormwater treatment facilities, sources of water for irrigation, and aesthetic enhancement. Surface water and ground water quality shall be protected by implementing best management practices (BMPs) to remove sediments and contaminants from the water prior to discharging off-site or infiltrating into the ground in conformance with Massachusetts Stormwater Management Policy and Low Impact Design (LID) strategies, where applicable.

Landscape strategies such as swales, biofiltration, detention basins, and pervious paving shall be used to treat stormwater on-site. Biofiltration shall be used where possible to ensure groundwater recharge and to reduce out-of-basin transfer through stormwater drains. Infiltration shall be encouraged using bioretention ponds, wet swales, filter strips and infiltration trenches and install dry wells for roof run-off, where practical.

Sidewalks, driveways and parking lot stormwater flows shall be designed to avoid containment by way of street gutter and subsurface piped systems. An objective of the OSMUD is for stormwater to be cleansed via vegetated swales and / or bioretention areas. Except in the Village Center Subdistrict, roads, parking areas and trails shall be curb-less, where possible.

See **Figure \_\_** for illustrations of Stormwater Management techniques.

## **7      Design Criteria**

The Design Criteria established for the OSMUD are further discussed in this section. These Criteria acknowledge and look to the discretion of the professional designer.

### **7.1     Site Treatment and Landscaping**

#### **Intent**

The design of the OSMUD shall utilize the site features, complement the terrain, scale and architecture of the OSMUD, and use natural and native materials with low water consumption requirements, to the extent practicable.

#### **Policy**

Landscaping should be designed with consideration to the relationship of buildings, walkways and parking areas. Selection of the elements shall reinforce the character of the OSMUD and shall include streetscape details, street furniture (such as lighting, signage, and seating), grading, and the use of plant materials to separate uses, frame vistas, and direct views. Landscape elements include all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and necessary infrastructure. The landscape plan shall strive to create a complementary environment of natural and manmade hardscape, softscape and architecture.

## **Standards**

### *A. All Subdistricts*

Landscaping should be used to either strengthen or buffer the visual relationship with the surrounding area.

Modification of the topography shall be permitted where it contributes to appearance and is encouraged to accommodate adequate and safe pedestrian or vehicular movements.

Plant groupings should be included in the landscaping plan to effectively break up paved areas and façades, strengthen vistas, and provide shade. Plant materials should be chosen for longevity, hardiness and functional ability. Indigenous species shall be used where feasible and appropriate. Plans should include the size and types of materials proposed.

Site features such as trees, berms and stone walls can be used to shelter and enhance buildings.

Landscaping of parking lot perimeters and interiors should incorporate trees, berms and other landforms where appropriate. Where landscaping is not practical, fences, walls and paving are allowed provided they have a natural texture.

Roadway and driveway slopes should be maintained at 9% grades or less where possible. The inclusion of street trees in pedestrian walkways and sidewalks should be considered where potential streetscape impacts exist.

Street furniture and sidewalk enhancements such as planters, benches and bicycle racks are encouraged and shall be of a consistent style, character, material and manner of placement with similar features in the OSMUD.

Buildings shall be sited in order to provide for adequate planting and safe vehicular and pedestrian movement. Planted trees shall be placed in front setbacks and side yards (where applicable).

Newly installed utility services shall be underground.

Streets should be designed to accommodate the everyday needs of the site, including alternative transportation uses (pedestrians, bicyclists), automobiles, and delivery vehicles.

*B. Village Center Subdistrict*

The Village Center should have a village or pedestrian scale. Village or pedestrian scale is defined as designed in such a fashion to encourage pedestrian utilization and enjoyment.

Street level frontage should be primarily devoted to the retail experience of entrances, shop windows, or other displays.

Commercial buildings shall have entries which are clearly identified.

**7.2 Buildings**

**Intent**

Proposed buildings shall relate to the Development Project in which they are located with respect to height, street façade, rhythm of solids and voids, spacing of buildings or signage, materials, textures, color, roof slopes and scale.

**Policy**

New development, renovations and additions should be designed to complement the designed site topography and relate well to the scale of OSMUD buildings. Particular attention should be paid to street façade s to ensure that the buildings and landscaping enhances the streetscape. Building styles do not have to be identical to existing styles or mimic historic styles, but should be complementary and enhance the appearance of the area.

**Standards**

*A. General*

Unadorned exposed foundation walls should be minimized.

Rooftop equipment should be arranged in an orderly manner, set back from roof edges and screened from view where practicable. Screens and parapet walls should be considered to conceal rooftop equipment.

Buildings should be designed to complement the adjacent areas and their anticipated use. Energy efficient design and use shall be instituted, where feasible and economic.

The use of natural textures is encouraged.

Architectural style is not restricted. Local and regional models should be considered in building form, window spacing, architectural detailing, selection of materials, roof form, and façade composition. Variation of detail, form and siting shall be used to provide visual interest.

In areas of multiple buildings, variable siting and orientation of individual buildings are encouraged. Adjacent buildings shall be distinguishable from each other, while maintaining harmony in design.

Colors (including accents) shall be compatible with adjacent buildings and the neighborhood.

*B. Historic*

**Intent**

Removal of historic or significant structures or architectural elements shall be minimized wherever practical. Replication or mimicry of historic buildings is not the intent, but rather structures should complement each other in size, scale and materials and fit appropriately into the character of the OSMUD. Historical structures in the OSMUD are defined as: 82 East Main Street, 83 East Main Street, 26 Clinton Street, and the Pearson House located east of Frankland Road.

**Policy**

Structures, mature trees and plantings, stone walls, fences and other elements of a historic nature should be preserved and maintained where possible. New construction and changes to existing structures should be of a style and scale that complement each other.

**Standards**

Construction in a particular historical style should employ elements of that style and be in keeping with the historic time period of the era.

Colors used in the restoration of historical buildings should be related to the time period. New construction colors should be harmonious with the surrounding structures. Neon and bold colors are discouraged.

**7.3 Lighting**

**Intent**

Exterior lighting shall enhance the building design, landscape, and open space.

**Policy**

Lighting standards and building fixtures shall be of a design and size compatible with the needs, tasks, and uses of buildings and adjacent areas.

**Standards**

Lighting shall be restrained in design and excessive brightness avoided, with slipover to surrounding property and celestial up lighting discouraged. Lighting should be directed toward the intended use, object, or building.

Exterior fixtures, standards, and all exposed accessories shall be harmonious with architectural design of the OSMUD.

## **7.4 Signs**

### **Intent**

Signage within the OSMUD shall identify, direct and inform.

### **Policy**

Signs should be conspicuous but integrated into the scale and structure of the building and site.

### **Standards**

Wayfinding and identification shall be strategically placed and easily read.

Signs may be mounted flat against the façade or projecting from the façade. Freestanding signage is permitted, where appropriate.

Signs should complement and highlight architectural elements of a building and should not obliterate or detract from those elements.

Signs should be in keeping with the scale and character of the surrounding area.

The variety of materials, proportion, shape, siting and verbiage shall be compatible with the OSMUD's character. When there is a group of buildings or businesses in one building, signs need not be identical but should be compatible.

Lighting of signs should be of a subdued and modest nature and should be directed toward the structure and away from nearby windows and passing traffic. Flashing signs, moving signs, roof signs, and neon signs are prohibited. Internally illuminated signs may only have a dark background.

The colors and materials of signs shall be harmonious with the building and site to which it principally relates.

Retail and commercial signs extending over the sidewalk shall be located a minimum of 8 feet above the pedestrian pathway to provide clear passage for pedestrians.

Awnings may be used for signage as long as no more than 40% of the awning surface is used.

Within the OSMUD signs are not intended to convey advertising and business slogans. Signs may describe products sold or services provided.

Sign dimensions: TBD.

## **8.0 Energy Efficiency and Low Impact Design**

Energy efficient design and execution (including design under programs such as Leadership in Energy and Environmental Design ("LEED"), Energy Crafted Home ("ECH"), Low Impact Design ("LID") or the like) shall be investigated and instituted, where feasible.

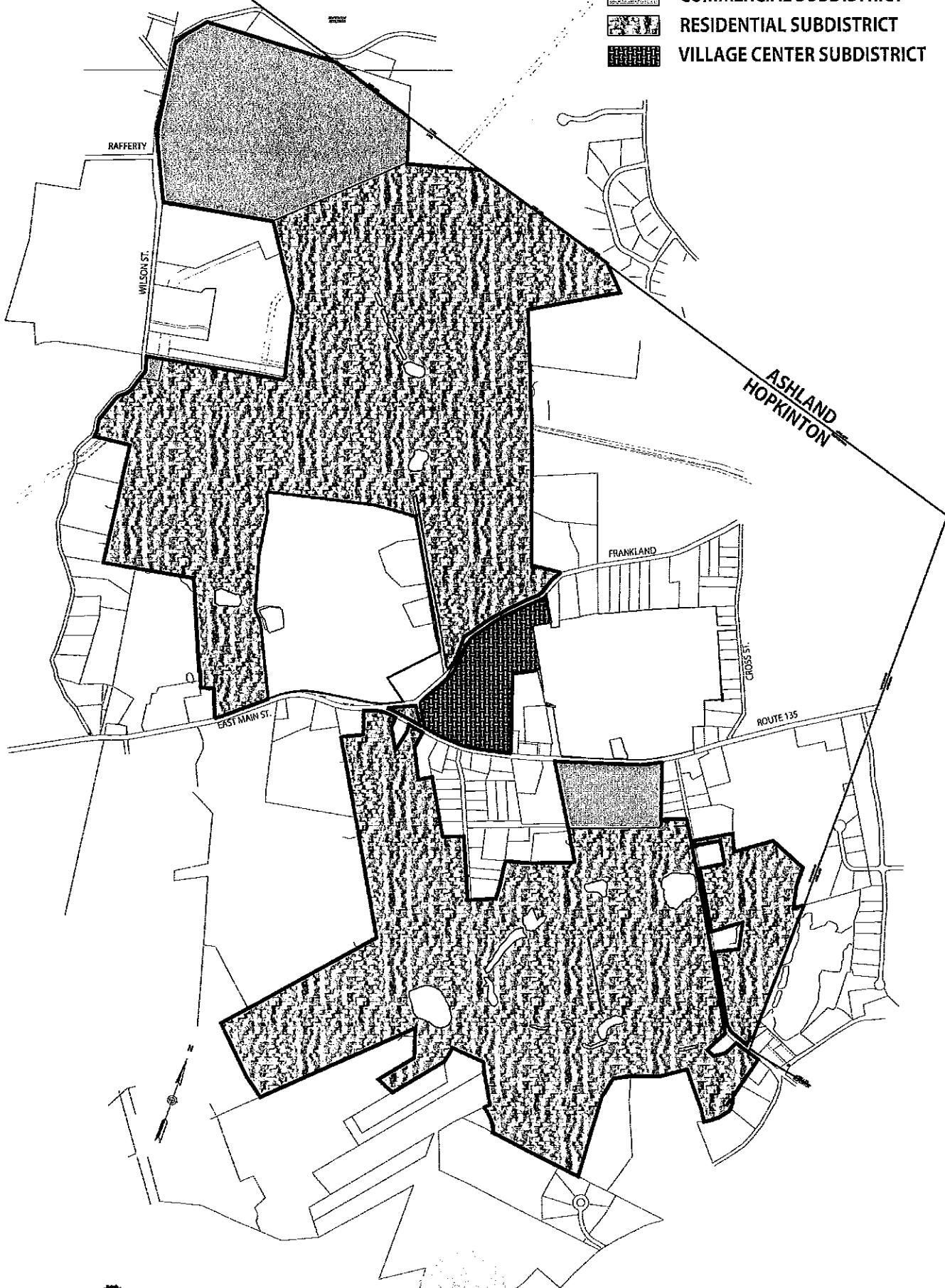
## **RELATED AMENDMENTS TO ZONING BYLAW**

1. By amending Article I, General Provisions, Section 210-4, Definitions, by substituting the following for the definition of AFFORDABLE HOUSING UNIT -- A dwelling unit that meets the requirements of a subsidized housing unit as in effect as of the date of adoption of this definition [\_\_\_\_\_, 2007] for purposes of listing in the Subsidized Housing Inventory.
2. In Section 210-70(D) (5), insert the following at the end of the clause: "and except for excavations related to site work."

OPEN SPACE MIXED USE DEVELOPMENT OVERLAY DISTRICT  
(OSMUD)

10/23/2007

-  COMMERCIAL SUBDISTRICT
-  RESIDENTIAL SUBDISTRICT
-  VILLAGE CENTER SUBDISTRICT



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