



Town of Day Subdivision Control Law

Adopted October 11, 2012

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APPENDIX A: TOWN ROAD CROSS-SECTION

ARTICLE 1 - AUTHORITY AND DECLARATION OF POLICY

Section 110 Enactment

Pursuant to the authority granted to the Town in Articles 2 and 3 of the Municipal Home Rule Law the Town Board of the Town of Day authorizes and empowers the Planning Board of the Town of Day to approve or disapprove applications for subdivision plat approval within the Town of Day.

Section 120 Title

This law shall be known and cited as the Town of Day Subdivision Control Law.

Section 125 Prior Regulations

This law shall replace and supersede the prior existing "Town of Day Subdivision Law" as amended January 8, 2001, and any amendments thereto.

Section 130 Purpose

The standards and procedures contained herein are intended to insure that (a) land to be subdivided is suitable for building purposes without creating dangers to health, or peril from fire, flood, traffic hazard, or other hazard, (b) lots are created such that adequate provision can be made for sewage disposal, water supply, emergency vehicle access, storm water drainage, utility service, and other needed improvements, (c) roads are constructed to Town standards and are suitable to accommodate the expected volume of traffic, and (d) the rural and scenic character of the Town is preserved in accordance with the Town Vision Statement as stated in the town of Day Comprehensive Plan:

"The vision of the future of the Town of Day is grounded in the past, and in the present. Simply put, 20 years from now, the Town of Day should look and feel as it does now – rural, rustic, quiet and unspoiled with woods and lake and mountain views."

Section 140 Applicability

- A. This law regulates all subdivisions as defined herein.
- B. The Town of Day Planning Board shall review all proposed subdivisions. It shall have the authority to approve all subdivisions except Class A Regional Subdivisions which shall be reviewed and approved by the Adirondack Park Agency in accordance with Section 3.6.
- C. Whenever any subdivision of land is proposed to be undertaken, the subdivider shall make application for and receive final approval of such proposed subdivision in accordance with this local law before any lot is leased or sold any land is cleared or vegetation removed (except vegetation removed for surveying, engineering tests and inspection), any permit is issued for a structure in the subdivision, and any building, utility installation, road construction or other new land use or development within the subdivision is undertaken.
- D. Pursuant to Article 16 of the Town Law, the Planning Board is hereby authorized to review and approve the development of plats which were filed in the Office of the Saratoga County Clerk prior to November 16, 1989 and which are undeveloped. "Undeveloped" means that 20 percent or more of the lots within the plat are unimproved or that the plat or a portion thereof has been determined by the Adirondack Park Agency not to qualify as a "pre-existing" subdivision. The procedure for approval of development of any such plat shall be the same as

for a proposed new subdivision under this local law, as may be appropriately modified by the Planning Board.

Section 150 Fees

Application review and inspection fees shall be established by resolution of the Town Board.

ARTICLE 2 - DEFINITIONS

For the purpose of this law, the following words and terms shall have the meanings indicated:

APA - Means Adirondack Park Agency.

Board - Means the Planning Board of the Town of Day.

Comprehensive Plan – The Town of Day Comprehensive Plan, as most recently adopted and/or amended.

Conservation Subdivision – A subdivision that conserves important open space and/or recreation lands on a development site by placing buildings and facilities to avoid such areas, and that provides for permanent preservation of open space.

Construction - Refers to paving, utility and miscellaneous construction in public rights-of-way or easements as shown on the subdivision Development Map and not privately owned construction covered by building permits.

Double Frontage Lots - Are lots with the rear and front lot lines abutting existing or proposed roads.

Final Plat - Means the final map upon which the owner's plan of subdivision is presented to the Planning Board for approval, and which, if approved shall be submitted to the county clerk for recording. The Final Plat is submitted as part of the Final Submission.

Final Review - Refers to the complete process of reviewing a Final Submission and issuing a final approval or disapproval by the Board.

Final Submission - Refers to the Final Plat and all other documents the subdivider is required to submit for Final Review of a subdivision by the Board.

Letter of Credit - Is a letter taken out by the owner from a bank which guarantees the Town that a specific amount of money will be kept available for the completion of subdivision construction to be drawn on only by the Town.

Lot Corner - A lot located at the intersection of, or fronting on, two or more intersecting roads and having an interior angle at the corner of less than one-hundred thirty five (135) Degrees.

Owner - Means the owner, or his agent, of the land proposed to be subdivided.

Parcel - Means any land acquired by the applicant in an arm's length transaction in a single deed or other single instrument of conveyance.

Performance Bond - An obligation issued by a Surety Company in writing and under seal, approved in form and amount by the Town Board, binding the obligor to pay a sum of money to the Town if the obligor fails to satisfactorily install and/or maintain improvements as required under Section 277 (1) of the Town law.

Preliminary Plat - Means a drawing showing the salient features of a proposed subdivision submitted to the Planning Board for its consideration prior to submission of the Final Plat. The

Preliminary Plat is submitted as part of the Preliminary Submission.

Preliminary Review - Refers to the complete process of reviewing a Preliminary Submission and issuing a conditional approval, conditional approval with modifications, or disapproval by the Board.

Preliminary Submission - Refers to the Preliminary Plat and all other documents required for Preliminary Review of a Subdivision by the Board.

Principal Building - Means any one of the following:

- (a) a single family dwelling constitutes one principal building;
- (b) a manufactured home constitutes one principal building;
- (c) a tourist cabin or similar structure for rent or hire involving three hundred square feet or more of floor space constitutes one principal building;
- (d) each dwelling unit of a multiple family dwelling constitutes one principal building;
- (e) each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than three hundred feet of floor space, constitutes one-tenth of a principal building;
- (f) each commercial use structure and each industrial use structure in excess of three hundred square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each eleven thousand square feet of floor space, or portion thereof, of such commercial use structures constitutes one principal building;
- (g) all agricultural use structures and single family dwellings or manufactured homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as a single principal building;
- (h) any other structure which exceeds twelve hundred fifty feet of floor space constitutes one principal building;
- (i) a structure containing a commercial use which is also used as a single family dwelling constitutes one principal building.

An accessory structure does not constitute a principal building.

Public Road – A Town, County, State, or Federal Highway.**Regional Subdivision** - Refers to any subdivision which would be a Class A regional project or a Class B regional project under the Adirondack Park Agency Act.

Roadway - Refers to the portion of a road which is designated for vehicle use.

Subdivision – Means (1) the division of any parcel of land by any person, or by any other person controlled by under the common control with or controlling such person, or by any group of persons acting in concert as part of a common plan or scheme, into two or more lots, plots, sites or other parcels of land for immediate or future sale or lease or for building development whether or not the subdividing creates a road, or (2) the construction of an additional principal building on a lot already containing an existing principal building.

- (a) The term "Subdivision" is used to denote the act of subdividing or the property which is subdivided.
- (b) The sale of a landowner's entire ownership on one side of a dedicated public road will not be considered a subdivision requiring approval. Any lot created pursuant to the preceding sentence will be deemed created as of the date of the conveyance which divides the lands along the road. Any lots so created, therefore, will not be preexisting lots under the Town Zoning Ordinance, and will not be buildable lots unless they meet the requirements of the Zoning Ordinance.
- (c) The division of any parcel of land by bona fide gift, devise or inheritance by and between natural persons shall be deemed a subdivision pursuant to this law.

- (d) For the purpose of determining jurisdiction based on the number of lots and whether a subdivision is a Class A or B regional project all lots, including those to be retained by the subdivider, and those located in the same land use area whether or not separated by private or public road, or railroad or other right of way owned in fee shall be considered and counted as part of the same ownership. If any lots created were part of a larger ownership on August 1, 1973, all lots created from that ownership shall count in determining jurisdiction.
- (e) If two or more adjacent parcels were held in common on May 22, 1973, the sale of any property from that aggregation shall constitute a subdivision for purposes of determining whether a Class A or B Regional Subdivision exists.
- (f) Development of plats or subdivisions filed in the office of the Clerk of Saratoga County prior to the effective date of this law shall not be commenced without the approval of the Planning Board pursuant to this law, if such plats are entirely or partially undeveloped. "Undeveloped" shall mean those plats where twenty percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

Subdivision - Major - Means any subdivision not classified as a Minor Subdivision, including but not limited to, subdivisions of three (3) or more lots, or any size subdivision which requires any new road or extension of municipal facilities. For the purpose of determining whether a subdivision is a major subdivision, all lots, including those to be retained by the subdivider, and those located in the same land use area whether or not separated by private or public road, or railroad or other right of way owned in fee shall be considered and counted as part of the same ownership. If any lots created were part of a larger ownership on the effective date of this ordinance, all lots created from that ownership shall count in determining jurisdiction.

Subdivision - Minor - Means any subdivision containing not more than two (2) lots fronting on an existing road, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property.

Town - Means the Town of Day, acting through its Town Board or other authorized official.

ARTICLE 3 - PROCEDURE

Section 3.1 General

- A. Whenever a time limit is specified in this law, the Board may extend the limit upon request by the Owner provided the Board is legally empowered to do so.
- B. When any Subdivision of land is proposed to be made within the Town and before any contract for the sale of, or any offer to sell such subdivided land, or any part thereof, is made, and before any construction is begun, and before any building permit shall be granted, the owner shall submit his Subdivision for review by the Planning Board.
- C. Four steps are prescribed for the subdivision review process. The entire process is described in this article and the detailed requirements of each step are described in Articles 3, 4, 5 and 6.

Section 3.2 Step One, (Sketch Plan) Pre-application Conference

The purpose of this step is to determine feasibility of the project before the Owner has invested a substantial amount of money. The Owner shall present such information as the Board may require. The Board will inform the Owner of general Subdivision requirements.

Section 3.3 Step Two, Preliminary Review

- A. The Owner shall present a Preliminary Submission at a Planning Board meeting. The date of

the Preliminary Submission shall be the date of the meeting at which a completed application therefore is presented.

- B. A field walk by the Board with the Owner may be required. Temporary stakes showing road centerlines may be required.
- C. The Board shall hold a public hearing on the proposed subdivision within sixty-two (62) days of the date of the Preliminary Submission or within such other time as may be required by state law. Notice of such public hearing shall be advertised in a newspaper of general circulation in the Town at least ten (10) days before such hearing. All adjacent land owners shall be notified by certified mail to their current address of record by the applicant. Adjacent landowners shall be considered those property owners within 500' of the proposed subdivision. The applicant shall present at the public hearing proof of such notification.
- D. The Board shall render its decision and shall communicate same to the Owner in writing within sixty-two days after the public hearing. If the Preliminary Submission is approved, the Board shall express its approval as "conditional approval" and state specific modifications, if any, which shall be required in the Final Submission. If modifications are required, the reasons therefore shall be given.
- E. If the Preliminary Submission is disapproved, the Board will state the reasons for its disapproval.
- F. The action of the Board shall be noted on two (2) copies of the Preliminary Submission form, to which shall be attached reference statements of any conditions and requirements determined by the Board. One (1) copy shall be returned to the Owner and the other retained by the Board.

Section 3.4 Step Three, Final Review

- A. If the Preliminary Submission is approved, the Owner within six (6) months of the date of conditional approval shall present a Final Submission at a Planning Board meeting.
- B. In the event that a Final Submission of the entire subdivision or part of it is not made within six (6) months from the date of conditional approval, the application may be considered withdrawn and any conditional approval or waivers of required improvements by the Board may be considered lapsed.
- C. The date of the Final Submission shall be the date of the meeting at which a completed application is presented.
- D. The Final Submission shall conform to the approved Preliminary Submission and shall contain any modifications specified by the Board. If desired by the Owner, it may include only that portion of the approved Preliminary Plat which he proposed to record and develop at that time, provided that such portion conforms to all requirements of this law.
- E. The owner shall submit a Letter of Credit or Performance Bond as specified by the Board at the time of Final Submission to cover the full cost of required improvements. The amount of the Letter of Credit or Performance Bond shall be determined by a construction Cost Estimate prepared by the Owner and approved by the Town or its authorized representative. The amount shall also reflect an additional minimum of twenty-five (25) percent to cover the required post dedication maintenance bond.
- F. The Board may hold a second public hearing, and, in a case where the Final Submission differs significantly from the Preliminary Approval the Board shall hold a second public hearing on the proposed subdivision within sixty-two (62) days of the date of the Final Submission. Notice of such public hearing shall be advertised in a newspaper of general circulation in the Town at least five (5) days before such hearing. All adjacent land owners shall be notified by certified

mail to their current address of record by the applicant. Adjacent landowners shall be considered those property owners within 500' of any point of the proposed subdivision. The applicant shall present at the public hearing proof of such notification.

- G. Within sixty-two (62) days from and after the time of the public hearing, the Board shall approve, modify and approve, grant conditional approval, or disapprove, the Final Submission and communicate its decision to the Owner in writing.
- H. Where the Final Submission does not differ significantly from the Preliminary Approval, the Board may waive this second hearing. In the event the hearing is waived, such Board action shall be within sixty-two (62) days of submission.
- I. If the Final Submission is approved by the Board, an appropriate notation to that effect shall be made on the face of the original or tracing cloth prints of the Final Plat submitted to the Board. One (1) copy shall be returned to the Owner and one (1) copy shall be retained by the Board for its records.
- J. The Owner shall file the approved Final Plat with the county clerk within sixty (60) days after approval by the Board. If the Final Plat is not filed within this time, the approval shall expire, as provided in the Town Law.
- K. The Owner may obtain building permits and begin building construction only after filing of the Final Plat.

Section 3.5 Step Four, Final Inspection and "As-Built" Drawings:

- A. Upon approval of the Final Submission and after construction of houses are substantially completed, the Owner shall construct the road pavement wearing course in accordance with the Final Approval and the Subdivision law at a time authorized by the Town. Minor changes at the discretion and approval of the Board, from the development map and plan/profiles as required by conditions of the work site may be allowed in the actual construction.
- B. Upon completion of construction a final inspection shall be held by the Town. When construction has been approved, final plats and plan/profiles shall be corrected by the Owner to show all construction "as-Built." The Letter of Credit or Performance Bond may be reduced by the Town as construction progresses. It shall not be reduced to less than the amount determined for that construction which is still uncompleted, plus twenty-five (25%) of the amount determined for that construction which is completed and approved. It shall be kept in effect for two (2) years after the final inspection or until seventy-five (75%) of the total lots within the subdivision have been developed, whichever is greater. It shall then be released provided the Owner has prepared "As-Built" plans as approved by the Board.

Section 3.6 Regional Subdivisions.

- A. When a proposed subdivision is a Regional Subdivision, the provisions of this section shall apply in addition to all other provisions of this law. For the purpose of this law, if a subdivision constitutes both a Class B Regional Subdivision and a Class A Regional Subdivision it shall be deemed a Class A Regional Subdivision in its entirety.
- B. Special Requirements for Approval of Class B Regional Subdivisions.
 - 1. When a proposed subdivision is a Class B Regional Subdivision, the Planning Board shall not render approval or conditional approval under this law unless the Board first determines that the subdivision will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Town or the Adirondack Park or upon the ability of the public to provide supporting facilities and services made necessary by the subdivision taking into account the commercial, industrial,

residential, recreational or other benefits that might be derived from the subdivision. In making this determination, the Planning Board shall consider those factors pertinent to the subdivision contained in the development considerations set forth in this Subsection III.B, and in doing so, the Planning Board shall be guided by the development objectives and general guidelines set forth in this law.

2. When the Planning Board renders final approval of a Class B Regional Subdivision under Section III of this law, the Board shall issue a permit authorizing the subdivider to undertake the subdivision in accordance with any terms and conditions set forth therein. The Planning Board, in conjunction with its approval of any Class B Regional Subdivision, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure that guidelines as to intensity of development as provided in the Town of Day Zoning Ordinance shall be respected, and the imposition of reasonable conditions to insure that the subdivision will be adequately supported by services and improvements made necessary thereby and to insure that the subdivision will be completed in accordance with the terms of the approval and permit. In addition, the Planning Board may incorporate any such requirements and conditions in the permit issued with regard to such Class B Regional Subdivision.

C. Special Additional Procedures Regarding Class B Regional Subdivisions.

When a proposed subdivision is a Class B Regional Subdivision, promptly following receipt of a completed application under Section III of this law, the Planning Board shall furnish the Adirondack Park Agency a copy of the application and plat together with such further pertinent information as the Adirondack Park Agency may deem necessary. The Planning Board shall also mail a copy of the notice of public hearing on the subdivision to the Adirondack Park Agency at least ten days before such hearing. The Adirondack Park Agency shall be a full party in interest with standing to participate in the hearing and other proceedings pursuant to this Subsection III.B relative to Class B Regional Subdivisions.

D. Criteria and Procedures for Adirondack Park Agency Review of Class A Regional Subdivisions

1. The Adirondack Park Agency's review of Class A Regional Subdivisions within the Town pursuant to and in accordance with Section 809(9) of the Adirondack Park Agency Act, shall be governed by the criteria and certain procedures herein set forth, as well as those set forth in the Adirondack Park Agency Act and the applicable Adirondack Park Agency rules and regulations.
2. As soon as reasonably practical following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A Regional Subdivision, the Planning Board or one or more designees thereof shall consult with the Adirondack Park Agency for the purpose of analyzing the application and formulating advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the Town land use program. Not later than 30 days following receipt by the Planning Board from the Adirondack Park Agency of such notice of application completion with regard to a Class A Regional Subdivision, or such shorter period as may be agreed upon in writing between the Adirondack Park Agency and the Town, the Planning Board shall, by certified mail, provide the Adirondack Park Agency its advisory recommendations as to whether the subdivision meets all of the pertinent requirements and conditions of the Town land use program. Should the Planning Board fail to provide such recommendations within such 30 day or otherwise agreed upon period, the Adirondack Park Agency may make the finding required by Subsection III.B.4.c. of this law without receipt of such recommendations.

3. The Adirondack Park Agency shall not approve a Class A Regional Subdivision unless it first determines, after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the subdivision that the subdivision would comply with all the pertinent requirements and conditions of the Town land use program.
4. In making the determination required by Section 809 of the Adirondack Park Agency Act as to the impact of a Class A Regional Subdivision upon the resources of the Adirondack Park including the ability of all levels of government to provide supporting facilities and services made necessary by the subdivision, the Adirondack Park Agency shall consider those factors pertinent to the subdivision contained in the development considerations set forth in this section, and in doing so, shall make a net overall evaluation of the subdivision in relation to the development objectives set forth in this law.

E. Establishment of Joint Procedures with the Adirondack Park Agency for Review of Class A Regional Subdivisions

The Planning Board may establish with the Adirondack Park Agency whatever joint procedures for review of Class A Regional Subdivisions which the Planning Board in its discretion deems desirable to minimize duplication and generally expedite the review process.

F. Development Considerations

The following are those factors which relate to potential for adverse impact upon the Adirondack Park's natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources and which shall be considered, as provided in this Subsection III.B., before any Regional Subdivision is undertaken. Any burden on the public in providing facilities and services made necessary by such Regional Subdivision shall also be taken into account, as well as any commercial, industrial, residential, recreational, or other benefits which might be derived therefrom:

1. *Natural Resource Considerations.*

(a) Water.

- (1) Existing water quality.
- (2) Natural sedimentation or siltation.
- (3) Eutrophication.
- (4) Existing drainage and runoff patterns.
- (5) Existing flow characteristics.
- (6) Existing water table and rates of recharge.

(b) Land.

- (1) Existing topography
- (2) Erosion and slippage.
- (3) Floodplain and flood hazard.
- (4) Mineral resources.
- (5) Viable agricultural soils.
- (6) Forest resources.
- (7) Open space resources.
- (8) Vegetative cover.
- (9) The quality and availability of land for outdoor recreational purposes.

(c) Air.

- (1) Air quality.

(d) Noise.

- (1) Noise levels

(e) Critical resource areas.

- (1) Rivers and corridors of rivers designated to be studied as wild, scenic, or

- (2) Recreational in accordance with the environmental conservation law.
- (3) Rare plant communities.
- (4) Habitats of rare and endangered species and key wildlife habitats.
- (5) Wetlands.
- (6) Unique features, including gorges, waterfalls, and geologic formations.
- (f) Wildlife.
 - (1) Fish and wildlife.
- (g) 7. Aesthetics.
 - (1) Scenic vistas.
 - (2) Natural and man-made travel corridors.
- 2. *Historic Site Considerations.*
 - (a) Historic factors.
 - (1) Historic sites or structures.
- 3. *Site Development Considerations.*
 - (a) Natural site factors.
 - (1) Geology.
 - (2) Slopes.
 - (3) Soil characteristics.
 - (4) Depth to ground water and other hydrological factors.
 - (b) Other site factors.
 - (1) Adjoining and nearby land uses.
 - (2) Adequacy of site facilities.
- 4. *Government Considerations.*
 - (a) Ability of government to provide facilities and services.
 - (b) Municipal school or special district taxes or special district user charges.
- 5. *Conformance with other government controls.*

Section 4.3 Planning Board Review

The Planning Board shall advise as to feasibility and any special considerations for the Subdivision design. A field walk with the Owner may be required.

Section 4.4 Reimbursable Costs

Costs incurred by the Planning Board for consultation fees or other expenses in connection with the review of a subdivision plat shall be charged to the applicant. Prior to incurring such costs the Planning Board shall discuss such costs with the applicant, and may require that an escrow account be established for such purpose.

ARTICLE 4 - PRE-APPLICATION CONFERENCE

Section 4.1 Time

The pre-application conference may take place at any time acceptable to the Board.

Section 4.2 Sketch Plan

The Owner shall furnish nine (9) copies of a sketch plan of the proposed Subdivision and all adjacent land owned by the Owner or under option to him. The sketch shall include a road layout and drainage plan. The sketch shall be to a scale not less than one hundred (100) feet per inch.

ARTICLE 5 - PRELIMINARY SUBMISSION

Section 5.1 Preliminary Submission for a Major Subdivision

The application shall include the following in triplicate.

Preliminary Plat at a scale not smaller than fifty (50) feet to the inch drawn accurately to scale with approximate dimensions shown and including all the information required for a Major Subdivision Final Plat except monuments and iron pipes and the certification of standards of accuracy.

1. In addition, highways or other major public or private improvements planned for future construction on or near the proposed subdivision, including those shown on the Official Map.
 2. All contiguous land owned or under option by the Owner shall be shown with a road and lot plan for its development.
 3. Water elevations and subsurface information including groundwater elevation shall be noted where appropriate.
- A. Plan/Profile for each road with a horizontal scale of forty (40) feet to the inch and vertical scale of four (4) feet to the inch showing all the information required for the Final Submission of a plan/profile except that approximate stationing may be shown. In addition, profiles of present surface shall be shown on centerline and both right-of-way lines of all roads and on centerline of all easements.
- B. All Sheets shall be 30" x 42", 22" x 34", 17" x 22" or 8 ½" x 14" in size. When more than one sheet is required, all shall be the same size and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.
- C. Additional Information - In addition to the required drawings the following information shall be submitted as part of the Preliminary Submission.
1. Completed Town of Day Preliminary Submission form;
 2. Conditions of dedication of areas proposed to be dedicated to public use;
 3. Preliminary design of bridges and culverts, and proposed water supply and sewerage facilities.
 4. Draft of any protective covenants whereby the owner proposes to regulate land use in the Sub-division and otherwise protect the proposed development; and,
 5. Completed Environmental Assessment Short Form.
 6. Copy of the most recent deed to the premises.
- D. A fee shall be paid with the Preliminary Submission which shall be determined from time to time by the Town Board
- E. More detailed information may be required by the Planning Board as a part of the Preliminary

Submission for a Major Subdivision in special cases.

- F. Preliminary and Final Approval may be granted simultaneously if the Preliminary Plans meet the Final submission requirements.

Section 5.2 Preliminary Submission for a Minor Subdivision

The application shall include the following in triplicate.

- A. Preliminary Plat to a scale not smaller than fifty (50) feet to the inch drawn accurately to scale with approximate dimensions shown and including all the information required for a Minor Subdivision Final Plat except monuments and iron pipes and the certification of standards of accuracy.
1. All contiguous land owned or under option by the Owner shall be shown with a road and lot plan for its development.
 2. Water elevations and subsurface information including groundwater elevation shall be noted where appropriate.
- B. All Sheets shall be 30" x 42", 22" x 34", 17" x 22" or 8 ½" x 14" in size. When more than one sheet is required, all shall be the same size and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.
- C. Additional Information - In addition to the required drawings the following information shall be submitted as part of the Preliminary Submission.
1. Completed Town of Day Preliminary Submission form;
 2. Conditions of dedication of areas proposed to be dedicated to public use;
 3. Preliminary design of bridges and culverts, and proposed water supply and sewerage facilities.
 4. Draft of any protective covenants whereby the owner proposes to regulate land use in the Sub-division and otherwise protect the proposed development; and,
 5. Completed Environmental Assessment Short Form.
 6. A fee shall be paid with the Preliminary Submission which shall be fixed from time to time by resolution of the Town Board.
- D. More detailed information may be required by the Planning Board as a part of the Preliminary Submission for a Minor Subdivision in special cases.
- E. Preliminary and Final Approval may be granted simultaneously if the Preliminary Plans meet the Final submission requirements.

ARTICLE 6 - FINAL SUBMISSION

Section 6.1 Final Submission for a Major Subdivision

The application shall include the following:

- A. Final Plat, including two (2) reproducible copies on mylar plus five (5) prints to a scale not smaller than fifty (50) feet to the inch showing the following:
1. All existing and proposed property lines, present zoning and building setback lines, easement and right-of-way lines with dimensions, azimuths or angle data, and curve data;
 2. All monuments, iron pipes and bench marks;
 3. Names of owners of all adjacent property;
 4. Road names;
 5. All property reserved by the owner or dedicated to the public use;
 6. A house number for each lot;

7. A North arrow;
 8. Standard title block;
 9. Key map;
 10. Proposed use of each lot;
 11. Standards of accuracy meeting Day requirements shall be noted on the map and certified by a land surveyor registered in New York State;
 12. Contour lines at two (2) foot intervals to U.S.G.S. datum;
 13. Watercourses, marshes, wetlands (regulated or non-regulated), rock outcrops and other important land features;
 14. Right-of-way lines, road paving and road stationing;
 15. Sanitary sewers, storm drains, gas lines, water lines, telephone lines, electric lines and cable television lines with all appurtenances; and proposed water supply and sewerage facilities;
 16. If an on-site water supply is to be utilized, a note so stating.
 17. Road name signs. (A Letter of Intent to install signs in locations approved by the Town may be accepted as a substitute);
 18. Standards of accuracy of elevations meeting Day requirements shall be noted on the map. The final plat shall contain the signature and seal of a professional engineer and of a land surveyor, both registered in New York State, or a qualified land surveyor under Section 7208, paragraph (n) of the Education Law.
- B. Plan/Profile of each road and utility easement, including one (1) reproducible copy on mylar plus five (5) prints, with a horizontal scale of forty (40) feet to the inch and vertical scale of four (4) feet to the inch showing the following:
1. All pavement, storm drains, sanitary sewers, gas lines and water lines, telephone lines, electric lines and cable television lines with appurtenances;
 2. Pavement and utility stationing including all horizontal and vertical control points and grades;
 3. Signature and seal of a professional engineer and of a land surveyor, both registered in New York State, or a qualified land surveyor under Section 7208, paragraph (n) of the Education Law;
 4. A North arrow; and,
 5. Standard title block.
- The Final Plat, and plan/profiles shall show all facilities which the subdivision standards require. All lettering shall be neat and legible.
- C. All Sheets shall be 30" x 42", 22" x 34", 17" x 22" or 8 ½" x 14". When more than one (1) layout sheet is required all shall be the same size and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.
- D. Additional Information - In addition to the required drawings, the following documents shall be submitted as a part of the Final Submission.
1. Completed Town of Day Final Submission form;
 2. Offer of cession in a form approved by the Board of all land included in roads, walks, easements, recreation areas and passive open spaces not specifically reserved by the Owner. If required by the Board there may be a payment in lieu of the offer of recreation or open areas. Approval of the plat does not constitute acceptance of the offer or cession;
 3. Certificate of adequacy of the proposed water supply and sewerage service as required by the Public Health Law and/or the Environmental Conservation Department of New York State, or, where acceptable to the Board, a legend on the map stating what the water supply will be;
 4. Statement by the appropriate Town representative certifying that certain improvements have been installed and approved;

5. Deed description and proof of ownership of the land to be subdivided along with title report and guaranteed title;
 6. Protective covenants in form for recording, including covenants governing the maintenance of unceded public spaces or reservations;
 7. Final design of bridges and culverts unless included in Preliminary Submission; and,
 8. Such other certificates, affidavits, endorsements or agreements as may be required by the Planning Board in the enforcement of this law.
- E. A fee shall be paid with the Final Submission, upon approval, which shall be fixed from time to time by resolution of the Town Board. In addition, the applicant will be responsible for any costs incurred by the Town above and beyond those covered by the stated subdivision fee. Said fee shall be waived where the second public hearing and final approval have been waived.
- F. More detailed information may be required by the Planning Board as a part of the Final Submission for a Major Subdivision in special cases.

Section 6.2 Final Submission for a Minor Subdivision

The application shall include the following:

- A. Final Plat, including two (2) reproducible copies on mylar plus five (5) prints to a scale not smaller than fifty (50) feet to the inch showing the following:
1. All existing and proposed property lines, present zoning and building setback lines, easement and right-of-way lines with dimensions, azimuths or angle data, and curve data;
 2. All monuments, iron pipes and bench marks;
 3. Names of owners of all adjacent property;
 4. Road names;
 5. All property reserved by the owner or dedicated to the public use;
 6. A house number for each lot;
 7. A North arrow;
 8. Standard title block;
 9. Key map;
 10. Proposed use of each lot;
 11. Standards of accuracy meeting Day requirements shall be noted on the map and certified by a land surveyor registered in New York State;
 12. Watercourses, marshes, wetlands (regulated or non-regulated), rock outcrops and other important land features;
 13. Right-of-way lines, road paving and road stationing;
 14. Sanitary sewers, storm drains, gas lines, water lines, telephone lines, electric lines and cable tv lines with all appurtenances and proposed water supply and sewerage facilities;
 15. If an on-site water supply is to be utilized, a note so stating;
 16. The final plat shall contain the signature and seal of a professional engineer and of a land surveyor, both registered in New York State, or a qualified land surveyor under Section 7208, paragraph (n) of the Education Law.

The Final Plat shall show all facilities which the subdivision standards require. All lettering shall be neat and legible.

- B. All Sheets shall be 30" x 42", 22" x 34", 17" x 22" or 8 ½" x 14". When more than one (1) layout sheet is required all shall be the same size, and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.
- C. Additional Information - In addition to the required drawings the following documents shall be submitted as a part of the Final Submission.
1. Completed Town of Day Final Submission form;

2. Offer of cession in a form approved by the Board of all land included in roads, walks, easements, recreation areas and passive open spaces not specifically reserved by the Owner. If required by the Board there may be a payment in lieu of the offer of recreation or open areas. Approval of the plat does not constitute acceptance of the offer or cession;
 3. Certificate of adequacy of the proposed water supply and sewerage service as required by the Public Health Law and/or the Environmental Conservation Department of New York State;
 4. Statement by the appropriate Town representative certifying that certain improvements have been installed and approved;
 5. Deed description and proof of ownership of the land to be subdivided along with title report and guaranteed title;
 6. Protective covenants in form for recording, including covenants governing the maintenance of unceded public spaces or reservations;
 7. Final design of bridges and culverts unless included in Preliminary Submission; and,
 8. Such other certificates, affidavits, endorsements or agreements as may be required by the Planning Board in the enforcement of this law.
- D. More detailed information may be required by the Planning Board as a part of the Final Submission for a Minor Subdivision in special cases.

ARTICLE 7 - INSPECTIONS, FINANCIAL GUARANTEES, TOWN ACCEPTANCE OF HIGHWAYS

Section 7.1 Inspections, Financial Guarantees

- A. Various items of construction may be inspected and approved upon their completion and the amount of the Letter of Credit may be reduced provided it does not become less than the amount described in twenty (20) percent of the value of the completed work.
- B. Final Plat and Plan/Profile shall be corrected as built and one (1) reproducible copy on mylar plus one (1) print shall be furnished to the Town. Upon approval of "as built" drawings, the Town shall release the Letter of Credit or Performance Bond provided one (1) year has passed without any construction failure since the Final Inspection.

Section 7.2 Town Acceptance of Highways, Land, Public Improvements

- A. Final Plat approval by the Planning Board shall not be deemed an acceptance by the Town of any public highway, public improvement or public land dedicated by the subdivider.
- B. When the Town Engineer or Town Highway Superintendent, following final inspection of the project, certifies to the Planning Board and the Town Board that all public highways and improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept some or all of the improvements.
- C. All highways to be dedicated to the Town must be accepted by the Town Board no earlier than the first Town Board meeting in May and no later than the first Town Board meeting in November.
- D. The following items are required for dedication of highways to the Town of Day.
 1. One (1) set of reproducible mylars of the "as-built" drawings of the roads and utilities.
 2. Two (2) year Maintenance Bond or Letter of Credit with a minimum of twenty-five (25) percent of the original approved cost estimate.
 3. Offer of Cession.
 4. Original and two (2) copies of the proposed Deed. The deed should state that the Town of Day is a municipal corporation, organized and existing by virtue of the laws of the State of

New York". The first paragraph of the deed should state, not only the date and title and preparer of the survey, but also the date of filing thereof in the Saratoga County Clerk's office and the drawer number assigned thereto.

5. An up-to-date Abstract of title along with guaranteed title.
6. Certification from the Owners Engineer/Architect/Surveyor etc. That all construction has been performed in accordance with the Final Plans.

As approved by the Planning Board, the above mentioned items should be submitted to the Town Clerk Office in accordance with the above Time Schedule.

ARTICLE 8 - GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND

Section 8.1 Relationship to Land Features

Subdivision design shall preserve, insofar as is possible, the natural features, terrain and drainage of the land to be developed. Accordingly, proposed subdivisions which are to be located in areas characterized by steep slope, wet soils, shallow soils or other physical limitation for development shall be presumed to have significant problems requiring special design features or mitigating measures if such problems are to be satisfactorily overcome. In general, future uses upon land to be subdivided should be able to blend harmoniously with the surrounding topography, vegetation, and other natural features, and should avoid the need for costly land alterations or intricate engineering to overcome adverse site conditions.

Section 8.2 Lots

- A. Conformance with Zoning. All lots shall meet the minimum area and dimensional requirements for a building lot as specified in the Town of Day Zoning Law unless approved as a Conservation Subdivision.
- B. Lots to be Buildable. There shall be a buildable area on each proposed lot of sufficient size and suitably located for (a) a building, (b) an on-site waste water disposal system consistent with the requirements of the "On-Site Sewage Disposal Ordinance" of the Town of Day, and (c) a well. Such buildable area shall be free from such restrictions as wetlands, wet soils, ponded or wet areas, flood hazard, slope greater than fifteen (15) percent, rock outcrops, soil with bedrock close to the surface, and other conditions which would create difficulties for home construction and/or for sewerage treatment.
- C. Access to Highways. Each lot shall have access onto a public road by means of direct frontage upon such road as specified by the minimum highway frontage requirement of the Town of Day Zoning Law.
- D. Driveway Locations. Each lot shall have a location for a driveway that complies with Section 8.14, Driveways, of the Town of Day Zoning Law.
- E. Shape. Extremely narrow elongated lots shall be avoided. The average depth of a lot shall generally not be greater than four (4) times its average width.
- F. Lot Lines. Side lot lines shall generally be approximately at right angles to the road or road except to follow natural features.
- G. Corner Lots. Corner lots for residential use shall have extra width to permit required building setback from both roads.

Section 8.3 Preservation of Natural and Cultural Features

Features such as historic landmarks and buildings, existing trails, country lanes, rock outcrops, cliffs, hill top lookouts, rock gorges, unique stands of vegetation, significant wildlife habitats, and similar features of physical or cultural value that provide a sense of uniqueness to the site shall be preserved where practicable. Shorelines of streams, lakes, and ponds shall be left in their natural state except for areas where vegetation is removed in compliance with shoreline vegetative cutting regulations of the Town of Day Zoning Law. The Planning Board may require the provision of a green space buffer around such features.

Section 8.4 Tree Removal

Removal or damage to existing mature trees shall be avoided to the extent practicable.

Section 8.5 Road Design Standards

A. All standards in this section are minimum requirements. The Planning Board may require additional design standards, or vary these standards, in any particular case based upon the recommendation of the Town Highway Superintendent or Town Engineer.

B. Standards.

Minimum width of right-of-way	50 feet
Pavement surface width	20 feet
Shoulder width	4 feet
Width, total roadbed	28 feet
Surface material	See Appendix A
Minimum horizontal and vertical alignment sight distance. (a)	300 feet
Minimum sight distance at intersections	300 feet
Maximum grade over any 150 feet length	10 %
Maximum grade at intersections	3 %

(a) At all points along a road, there shall be an unobstructed line of sight in each direction for the distance specified.

C. Relation to Terrain. All roads shall be logically related to the existing topography, soils, vegetation, and other natural features and shall be coordinated into a logical and efficient system. Areas with steep slopes, shallow soils, soils with a water table at or near the surface, and soils that are highly susceptible to erosion or slippage shall be avoided insofar as practical. Roads shall be designed to be parallel to natural land contours where possible. Long stretches of road straight downhill should be avoided in order to minimize erosion problems, and for safety reasons. All roads shall be arranged so as to obtain a maximum number of building sites at or above the grade of the roads. Road layout shall minimize stream crossings.

D. Intersections. Roads shall intersect one another at right angles. No proposed intersection with an existing road shall be less than 125 feet from any existing intersection unless the proposed intersection is directly opposite the existing intersection so as to create a four-way intersection..

E. Dead End Roads. Dead-end roads shall be provided at the closed end with a tee type turn-around deemed sufficient for snow plowing and fire trucks by the Town Highway Superintendent.

- F. Access to adjoining property. In order to make possible the extension of roads or utilities into neighboring properties, the arrangement of roads in a subdivision shall provide for connection to adjoining lands which may be subdivided in the future.
- G. Names and Numbers. Names of new roads shall not duplicate existing or platted roads. New roads which are extended or in alignment with existing roads shall bear the name of the existing roads.
- H. Road Signs. The sub divider shall provide and erect road signs of a type to be approved by the Town Board at all road intersections prior to acceptance of the constructed roads.
- I. Utilities. Installations of utility distribution and service lines shall be planned at the time road layout is determined.

Section 8.6 Road Construction Standards

All subdivision roads shall be constructed in accordance with the standards specified in Appendix A - "Town Road Cross-Section."

Section 8.7 Future Access to Interior Property

The Planning Board may require that one or more 50 feet rights-of-way be reserved in order to provide for future road access to interior land.

Section 8.8 Sight Distance at Driveways and Intersections

- A. To the extent practicable, all intersections with any public road, including driveway intersections, shall be designed so that minimum safe sight distances and other standards set forth in "Policy and Standards for Entrances to State Highways," State of New York Department of Transportation publication number M.A.P. 7.12-34, shall be maintained. As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

Design Speed of Highway	Left Turn	Right Turn
30 mph	396 feet	286 feet
40 mph	583 feet	484 feet
50 mph	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road.

- B. If the location of one or more proposed driveways is such that a traffic hazard is created on an existing roadway due to inadequate sight distance, the Planning Board may require an alternative lot arrangement making use of a shared driveway or short access road which enters the existing roadway at a safer location.
- C. This section is intended to insure that the best location for a driveway or entrance to a roadway is chosen given the unique circumstances of the lot to be subdivided. It is not intended to prevent the subdivision of a lot, but to minimize any possible hazard.

Section 8.9 Drainage and Storm Water Runoff

- A. Off-site storm water runoff shall not create damage or difficulty to downstream properties, shall not overload downstream culverts and other drainage facilities, and shall not introduce significant amounts of pollutants to surface waters of the Town of Day. Features of the natural terrain shall be used to the extent practical to reduce runoff from the site. Retention basins, dry wells and other infiltration structural devices to reduce runoff from the site may be required by the Planning Board.

- B. All major subdivisions as defined herein, and any subdivision that involves one acre or more of land disturbance, shall comply with applicable Storm water Phase II Permit and State Pollution Discharge Permit requirements of the New York State Department of Environmental Conservation, including the preparation of a Storm water Pollution Prevention Plan (SWAPP), and the construction and/or implementation of all drainage control measures prescribed by such SWAPP.
- C. Ditch bottoms shall be constructed and maintained to minimize soil erosion by means of sodding, mulching, netting, stone paving, rip-rap, or other suitable materials.
- D. All cleared areas associated with the construction of roads and installation of utilities, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas, and all cut and fill slopes including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions.
- E. Areas on which vegetation has been destroyed or removed, excluding roadways, driveways, building sites and parking lots, shall be successfully re-vegetated or otherwise stabilized with structural erosion control measures.
- F. Upon completion of final grading of any area, mulching and re-vegetation operations shall begin within five (5) working days and shall be completed within ten (10) working days, provided however that where this is not possible or desirable because of weather conditions or other circumstances, such re-vegetation operations shall be performed as soon as reasonably possible.
- G. Re-vegetation measures shall be evaluated for compliance between 180 and 360 calendar days from the date of planting. Corrective action shall be instituted and completed within fifteen (15) working days upon determination of unsatisfactory compliance. In making their determination the Planning Board or designee thereof shall consider rills, gullies, loss of mulch, loss of seed, or failure of seed germination as evidence of unsatisfactory compliance.

Section 8.10 Trail Systems

- A. Where deemed appropriate by the Planning Board, provision shall be made for unimproved walking trails within the subdivision, either as paths or trails wholly within the land to be subdivided or connected to existing or possible future trails through adjacent properties or along roadways.
- B. The Planning Board may require that up to ten (10) percent of the total land area of the subdivision be designated for such trails.

Section 8.11 Clearing and Grading

Clearing and grading for road and utility installations shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills and provide for utility installation.

Section 8.12 Emergency (911) Number Signage

Each building lot shall be provided with an identification number sign for emergency (911) purposes, constructed in accordance with the New York State Building Code.

Section 8.13 Modification of Designs

If at any time before or during construction of improvements it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements, the Chairman of the Planning Board may authorize such modifications, provided these modifications are within the

spirit and intent of the Planning Board's approval and do not amount to a waiver or substantial alteration of any improvements required by the Board. The Chairman shall issue any authorization under this paragraph in writing, and shall submit a copy of such authorization to the Planning Board at their next meeting. If such authorization should result in a modified final plat, the revised final plat shall be filed with the County Clerk.

ARTICLE 9 - CONSERVATION SUBDIVISIONS

Section 9.1 Purpose

The purpose of this article is to allow flexibility in the design and development of land in order to preserve valuable open space, scenic qualities, and environmentally sensitive features, as well as to provide for the economical construction and maintenance of roads and other improvements.

Section 9.2 Planning Board Authority

- A. The Planning Board may, at their discretion, require that a conservation subdivision design be applied to a particular site in order to preserve important environmental features such as scenic views, riparian buffers, historic sites or archeological sites, wildlife habitats, other sensitive environmental areas, and potential public use areas or trails.
- B. The Planning Board may, at their discretion, determine that a conservation subdivision design is not appropriate for a particular site, and may require that a conventional subdivision design be applied where buildings are situated on lots of the minimum size and dimensions required by the Town of Day Zoning Law.

Section 9.3 Conservation Objectives

A conservation subdivision is one that conserves important open space and/or recreation lands on a development site by placing buildings and facilities to avoid such areas, and that provides for permanent preservation of open space. Objectives of a conservation design may include:

- Preservation of large tracks of forested open space and the maintenance of the forested open space character of the town,
- Preservation of scenic views from, and of, the site,
- Providing open space/vegetative buffers between neighboring properties or roads,
- Preservation of wildlife habitat,
- Preservation of historic sites or structures, or archeological resources,
- Preservation of farmland or managed forest land,
- Protection of environmentally sensitive features such as watercourses, shorelines, wetlands, or steep slopes,
- Minimizing erosion and runoff into watercourses by maintaining steeper slopes as forested areas,
- Preservation of natural areas,
- Preservation of lands for planned or potential recreation areas or trails,
- Satisfaction of similar concerns that enhance or preserve the quality of the natural or residential environment, and/or benefit the community at large.

Section 9.4 Lot Size and Lot Width

In order to achieve conservation objectives lot sizes and widths may be smaller than otherwise permitted by the minimum lot size and minimum lot width requirements specified in the Town of Day Zoning Law, provided that:

- A. Only single family dwellings, and their accessory structures, are allowed to be located within the subdivision. Two-family or multi-family dwellings shall not be permitted. Commercial or industrial uses shall not be permitted. Occupied travel trailers shall not be permitted.
- B. The subdivision consists of five (5) or more residential lots.
- C. The minimum lot size for any lot is 60,000 square feet.
- D. The maximum number of residential lots allowable is calculated in accordance with Section 9.5 below.
- E. Minimum front yard, rear yard, and side yard dimensions are as specified in the Town of Day Zoning Law for the zone in which the subdivision is located.
- F. All dwellings and/or structures have frontage, on and have access to, an internal road or drive constructed to serve the Conservation Subdivision, or upon a road or drive constructed to serve a previously approved Conservation Subdivision. No individual lot or dwelling unit shall have direct access upon an existing public road not constructed to serve an approved Conservation Subdivision.
- G. All structures within a Conservation Subdivision are set back a minimum of one hundred (100) feet from any state or county highway. The 100 foot setback area shall be maintained as a vegetated buffer. Existing vegetation shall be retained to the extent practicable in order to screen the development from view of the public road.
- H. The Conservation Subdivision has a minimum frontage of fifty (50) feet upon an existing public road in order to provide road access into the subdivision.
- I. For shoreline parcels to be subdivided, the number of principal buildings proposed to front on the shoreline does not exceed the number which otherwise could front upon such shoreline in a conventional subdivision layout designed in compliance with the minimum shoreline lot width requirements of the Town of Day Zoning Law.
- J. All provisions of New York State Town Law, Section 278 are complied with.

Section 9.5 Number of Permitted Lots

- A. The maximum number of residential lots permitted on the site shall not exceed the number which would otherwise be permitted by application of the required minimum lot size for single family dwellings to the site. Said maximum number shall be calculated by dividing the total area of the site, subject to the rules below, by the required minimum lot size for single family dwellings as required by the Town of Day Zoning Law, and rounding down to the nearest whole number.
- B. The following rules shall apply in calculation of the maximum number of permitted lots:
 - 1. State designated wetlands, water bodies, and lands located within the right-of-way of a public highway or of a proposed public or private road shall be excluded in the calculations.
 - 2. The following shall be counted separately: (a) any lot to be retained by the subdivider, and (b) all lots in the same land use area which are part of one project and which would otherwise be adjoining but which are located on opposite sides of a public or private road, or railroad or right-of-way owned in fee
 - 3. If a parcel is improved with one or more existing principal buildings which were in existence on August 1, 1973, the principal buildings on such lots and any land in the same ownership that is directly related to the principal buildings shall not be considered for purposes of the intensity calculation, which shall apply only to the remaining unimproved land on the parcel or lands improved by other buildings or structures.

- C. The Planning Board, at their discretion, may require the applicant to submit a plan for a conventional subdivision design in order to determine the maximum allowable number of residential lots to be permitted.

Section 9.6 Conservation Features Map

- A. Conservation Features Map. The first step in the conservation design process is to identify and map important environmental and cultural resources and constraints on the site. A Conservation Features map shall be prepared early in the planning process and shall be used by the applicant or his agent in designing the project. It shall be reviewed by the Planning Board during their "Preliminary Review" of the project (see Section 5).

The following features shall be shown on the map as required by the Planning Board, together with accompanying explanation.

- Regulated wetlands or flood hazard areas,
- Steep slope (areas of over 15 percent, and over 25 percent slope),
- Soils unsuitable for development (such as muck or wetland soils),
- Large tracts of forested open space and/or managed forest that are to be preserved,
- Viewshed protection areas (visually sensitive areas), ridgelines,
- Rock outcrops,
- Vegetative buffer areas along watercourses or shorelines,
- Buffer areas from public roads and neighboring properties,
- Sensitive wildlife habitats,
- Notable natural features such as cliffs, gorges, or waterfalls,
- Historic or archeological structures or resources,
- Other valuable open space,
- Proposed or potential recreation areas, such as hiking trails,
- Other features as may be required by the Planning Board.

Section 9.7 Open Space Preservation.

The approved site plan for a Conservation Subdivision shall delineate areas chosen for permanent open space and or recreation areas. Said areas shall be permanently preserved by one of the following means, or by alternative means acceptable to the Planning Board.

- A. Designated open space areas may be owned privately. Adequate provision shall be made by covenant, deed restriction or other legal means to insure that such open spaces shall remain so in perpetuity. Covenants and deed restrictions shall be enforceable by the Town of Day.
- B. Open space or recreation areas may be owned in common by individuals within the development through the creation of a Home Owners Association or other mechanism. In such case, covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, and any other specifications deemed necessary by the Planning Board.
- C. Open space may be preserved by a conservation easement held by a not-for-profit land trust organization registered in the State of New York, or other appropriate entity.
- D. Open space or recreation areas may be deeded to the Town upon approval by the Town Board.

ARTICLE 10 BOUNDARY LINE ADJUSTMENTS

Section 10.1 Boundary Line Adjustments

A boundary line adjustment is the transfer of real property between adjacent property owners. In such a case the following general procedures and requirements shall apply.

- A. The applicant shall comply with the preliminary submission requirements required for minor subdivisions as provided for in Section 5.2.
- B. The Planning Board shall determine the completeness of the application at its next regularly scheduled meeting after the date on which the application is filed with the Planning Board, and shall determine, within its sole discretion, whether the application constitutes a boundary line adjustment.
- C. All property transferred between adjoining property owners as a result of the boundary line adjustment shall be merged with an existing parcel and become a part thereof.
- D. Whenever an applicant proposes to transfer real property to an adjacent property owner pursuant to a boundary line adjustment, the remaining acreage must, in all cases, satisfy the minimum lot area requirements of the zoning district wherein the property is situated. A boundary line adjustment may not result in the creation of a non-conforming parcel, and a boundary line adjustment may not occur between adjoining property owners whenever the property owner reducing his acreage maintains a non-conforming parcel prior to the proposed adjustment.
- E. In its absolute discretion the Planning Board may waive a public hearing regarding a boundary line adjustment application.
- F. A revised plat and deed showing the boundary line adjustment must be submitted to the Planning Board prior to approval and filing with the county.

ARTICLE 11 - WAIVERS AND MODIFICATIONS

Section 11.1 Waiver of Standards and Required Improvements

- A. Where the Planning Board finds that compliance with these requirements would cause unusual hardship or unreasonable difficulties, and/or where the lots created by subdivision have no reasonable expectation of being used for any use except an open space use such as forestry, agriculture, or open space recreation, the minimum requirements of this article may be waived or modified provided that: (1) the public interest is served, (2) the development is in keeping with the spirit and intent of this law and the Town of Day Comprehensive Plan, and (3) no provisions of the Town of Day Zoning law are waived or modified unless so authorized in the Zoning Law or by variance as provided in said law. and (4) approval standards pursuant to the State Environmental Quality Review Act (SEQR) are not waived.
- B. The Planning Board shall record the reasons for any such waiver in its minutes.

ARTICLE 12 - SEVERABILITY

Section 12.1 Severability

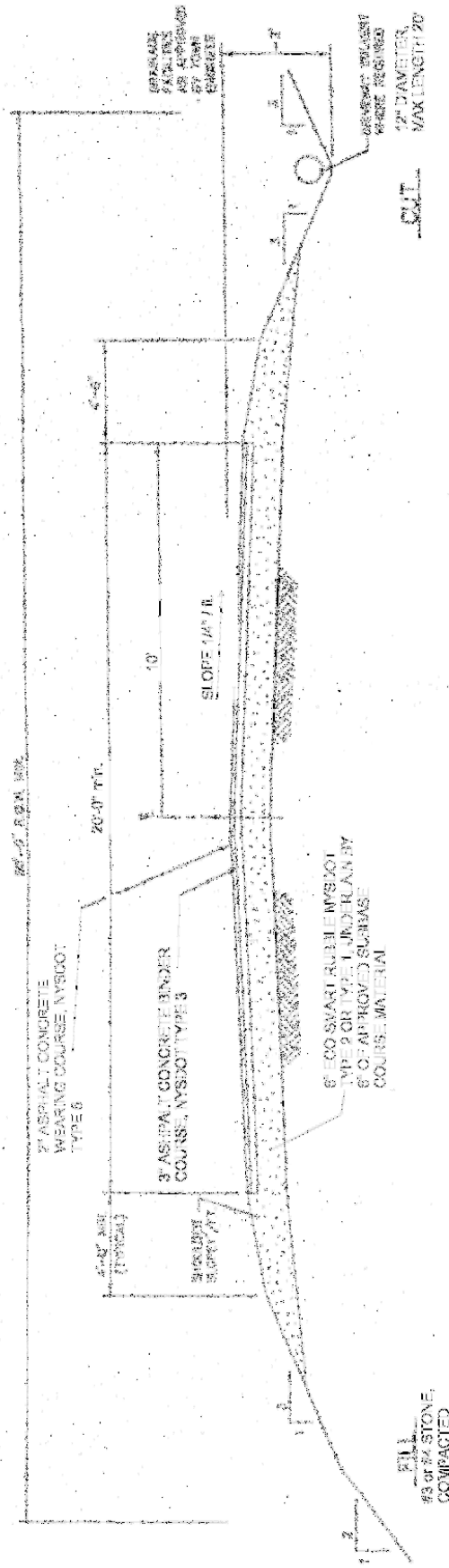
A declaration of the invalidity of any provision contained in this Subdivision Law shall not invalidate or affect any other provision thereof.

ARTICLE 13 - PENALTIES

Section 13.1 Penalties

A violation of this Subdivision Law is declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine of not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Subdivision Law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

APPENDIX A : TOWN ROAD CROSS-SECTION



GENERAL NOTES:

1. Thickness of all courses shown on the drawing are compacted thickness.
2. All materials shall conform to NYSDOT, Section 401-3.
3. Construct asphalt pavement in accordance with DOT Section 401-3.
4. Proof rolling of subgrade shall be witnessed by the Town Highway Superintendent or the Town Engineer. All unsatisfactory areas, as determined by the engineer, shall be excavated and replaced with subbase material to the engineer's satisfaction.
5. Notify the Town of Day 48 hours prior to commencing paving.
6. Tack coat binder before placing top course. Tack coat composition shall conform to NYSDOT Section 407-2. Place tack coat in accordance with NYSDOT Section 407 at application rate of .05 to 10 gallons/square yard.
7. Sub-base material to be approved by Town Highway Superintendent or Town Engineer.
8. Maximum slopes in cuts or embankments may be 2:1 if approved by the Town Highway Superintendent or Town Engineer.
9. All testing for compaction shall be as ordered by the Town Highway Superintendent or Town Engineer. The contractor shall pay for all testing.