

**New Shoreham Planning Board Public Hearing  
Proposal to Amend the New Shoreham  
Land Development and Subdivision Regulations**

**Wednesday, October 12, 2011**

**Town Hall, Old Town Road, Block Island**

**8:00 p.m.**

**The New Shoreham Planning Board is considering amending the New Shoreham Land Development and Subdivision Regulations. (See language below)**

**Before acting on the proposal and/or amendments to it, the Planning Board will hold a Public Hearing at 8:00 p.m., Wednesday, October 12, 2011 at Town Hall, Old Town Road, New Shoreham at which time all persons for or against may be heard. The proposed ordinance may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.**

**TOWN OF NEW SHOREHAM**

**PROPOSED ZONING ORDINANCE AMENDMENTS**

**Replace “Major Residential Development” with “Flexible Design Residential Development”**

**As Approved by the Planning Board, May 31, 2011**

## **ARTICLE 2 – DEFINITIONS**

### **Section 202 – Definitions**

**Add the following definition:**

**Flexible Design Residential Development:** An alternative residential subdivision which makes use of flexible zoning and site sensitive design standards. See Section 402.

**Delete the following definition:**

**Major Residential Development:** – A subdivision resulting in three or more buildable lots (except those restricted from residential use by the Zoning Ordinance or by other town enforceable restriction). (See Section 402 – Major Residential Development).

**Amend the following definition:**

**Street:** A public or private thoroughfare used, or intended to be used, for passage or for travel by motor vehicles. Streets are classified, in addition to the functional classifications of the RI Department of Transportation, as follows by hierarchy according to function (see “Street Classification” as defined in the New Shoreham Land Development and Subdivision Regulations), and may be one of

**the following:**

**a. State Road:** A right of way owned and maintained by the State of Rhode Island, and dedicated for use by the public.

**b. Town Road:** A right of way which has been improved to Town road standards, has been dedicated for use by the public and has been accepted for maintenance by the Town.

**b. Subdivision Street:** A right of way dedicated for access to the subdivision but not accepted for maintenance by the Town.

**c. Private Lane Road:** A right of way paved or unpaved, not maintained by the Town or the State and not dedicated for use by the public.

**As used herein, the term “road” shall be synonymous with street.**

#### **ARTICLE 4 – CRITERIA FOR SPECIAL USE PERMITS**

**Replace “Major Residential Development” with “Flexible Design Residential Development”**

#### **Section 402 – Major Flexible Design Residential Development**

**A. Purpose:** The purpose of Major Flexible Design Residential

**Development provisions is to allow greater flexibility and creativity in residential development in order to gain:**

**1. Permanent preservation of open space, particularly in large contiguous areas within the site or linked to off-site protected areas;**

**2. Protection of natural or cultural resources, including agricultural land and historic and archeological assets;**

**3. Protection of the character of the community through preserving Block Island through preservation of open space within view from public roads, preservation of stone walls and other historic landscape features, and through siting of dwellings at low-visibility locations;**

**4. Protection of street road appearance and capacity by avoiding development close to or egressing directly onto such streets roads;**

**5. Location of development on sites best suited for development, and avoidance of development where potentially damaging to environmentally fragile or historically important locations;**

**6. Low impact development by minimizing roadway length and width, making use of non-structural drainage facilities, and siting dwellings to allow efficient use of alternative energy (solar and wind);and**

**6. Efficient patterns for provisions of public services;**

**7. Privacy for residents of individual lots; and**

**7. Avoidance of unnecessary development costs.**

**B. Applicability: Major Residential Development (see definition) is allowed only if approved by the Planning Board as a Land Development Project in accordance with the following procedures and requirements. Subdivisions not meeting the definition of a Major Residential Development may, at the owner's option, be considered to be one and employ the following provisions.**

**Flexible Design Residential Developments (see definition) are approved by the Planning Board under the review and approval procedures contained in the New Shoreham Land Development and Subdivision Regulations. Such developments are permitted in the RA and RB Zones, and can be proposed as an alternative design for either a minor or a major subdivision.**

**C. Procedures:**

**1. Major Residential Developments shall be acted upon in accordance with the procedures established for Major Land Development by R.I. General Laws Development Review Act, Sections 45-23-25 through 45-23-74. Those procedures entail one or more pre-application meetings, master plan review, preliminary plan review, final plan**

review, a public informational meeting, and a public hearing. Submittals for Major Residential Development shall be as required by the Town of New Shoreham Subdivision Regulations.

2. Pending New Shoreham's adoption of regulations pursuant to R.I. General Laws Development Review Act, Sections 45-23-25 through 45-23-74, procedures for Major Residential Development shall be based upon those of Subdivision Regulations: New Shoreham, R.I. as revised August 1987, as follows:

a. A pre-application conference shall be held, as provided in the Subdivision Regulations.

b. A master plan for the development, with contents as provided by R.I. General Laws Section 45-23-40 (A), shall be submitted, reviewed, and approved or denied using procedures as outlined by R.I. General Laws Section 45-23-40.

c. Following Master Plan approval or approval with changes and/or conditions, procedures shall be as provided in the Subdivision Regulations for a Major Subdivision, beginning with a Preliminary Submission.

Flexible Design Residential Developments shall be acted upon in accordance with the procedures established by the R.I. Land Development and Subdivision Review Act, governing the subdivision

and development of land, and as contained in Section 403 of the Subdivision Regulations.

**D. Dimensional Requirements:** Development within a Major Flexible Design Residential Development shall be subject to the following in lieu of the lot area, frontage and lot width requirements of Article 3.

**1. Number of Lots** The total number of building lots created from any parcel shall be no greater than the number which reasonably could be expected to be built upon that parcel under a conventional subdivision plan. This must take into consideration how much of the land is actually buildable in compliance with all applicable town and state development requirements of the Town and State, based upon review of a sketched conventional plan concept plan submitted by the applicant (possibly one of the pre-application concept plans) showing division in compliance with the dimensional standards of Article 3.

**2. Lot Area** There is no categorical minimum lot area required. Individual lot area need only be that necessary for meeting building envelope location requirements, off-street parking, and location of any on-site water supply and sewage disposal facilities. While variations in lot size and configuration are encouraged in order to preserve open space and protect important site features, the following minimum lot areas are required:

**a. RA Zone – 15,000 square feet**

**b. RB Zone – 10,000 square feet**

**In approving the creation of lots, the Planning Board shall ensure that sufficient land area is provided to allow an adequate building envelope, meet off-street parking needs, and locate on-site water supply and sewage disposal facilities.**

**3. Road Frontage** There is no categorical minimum frontage along either a public or private road required. The frontage provided need only be that necessary to meet building envelope location requirements and to provide for adequate access to the building site. Where shared driveways or other circumstances render frontage on a street road to be of no importance not necessary for physical access to the lot, none is required.

**4. Existing Street Road Protection** Lots having reduced area or frontage shall not have frontage on a street road other than one created by the development involved, unless specifically authorized by the Planning Board where justified by peculiar site circumstances.

**5. Building Envelope Dimensions** Proposed principal and accessory buildings shall be located within a building envelope to be designated for each lot on the land development plan, but are not otherwise subject to setback requirements. The designated envelope shall not exceed forty percent (40%) of the lot area or 20,000 square feet,

**whichever is larger, and shall be located consistent with the following: All existing and proposed buildings shall be located within a building envelope to be designated for each lot on the land development plan, approved by the Planning Board, subject to the following dimensional requirements:**

**a. The envelope shall include no land within any setback required by Article 3 at any boundary line at the perimeter of the Major Flexible Design Residential Development, including the existing street line.**

**b. The envelope shall comply with any minimum setback required under a provision of the Zoning Ordinance other than Article 3 that applies to the parcel or to the use of the parcel, or any setback required as a specific condition of a previous zoning approval.**

**c. At a minimum, the envelope shall have a 15 foot front, side and rear yard setback for a lot in the RA Zone, and a 10 foot front, side and rear yard setback for a lot in the RB Zone.**

**6. Building Envelope Standards** In addition to the dimensional requirements above, the designation of a building envelope shall be subject to the following site standards:

**a. The envelope shall include no land within any wetland, flood plain, or slope in excess of twenty-five percent (25%).**

**b. The envelope shall avoid areas of critical environmental importance, such as habitats of species listed as endangered, threatened, or of special concern by the Rhode Island Natural Heritage Program.**

**c. The envelope shall be located so as to avoid damage to areas of visual importance, such as ridge lines, open fields, or dense vegetation buffering development from existing roads.**

**d. The envelope shall be located so as to avoid damage to agricultural land or historic or archaeological assets.**

**E. Utilities** In order to meet the purposes of this section and to facilitate innovative and sustainable design, the use of shared on-site wastewater treatment systems and shared wells shall be encouraged, and, where practicable, individual electrical meters shall be consolidated in one physical location and screened.

**F. Open Space** Any land proposed as reserved open space within the Development shall be conveyed to a corporation or trust owned or to be owned by the owners of the lots within the development, or to the Town or a non-profit organization, as provided at Section 45-24-47(B) of the Zoning Enabling Act, and as chosen and approved by the Board, following consultation with the affected parties. The land permanently protected from development as part of a Flexible Design Residential Development shall be designated as open space.

**Identification of the open space land shall meet the purposes of this section, and be approved by the Planning Board as part of the subdivision review and approval process.**

**1. Minimum Open Space Required** Although the amount of open space land may vary depending upon the characteristics of the parcel proposed for Flexible Design Residential Development, a minimum of fifty percent (50%) of the developable land area (See Section 304) must be set aside as protected open space.

## **2. Open Space Design Standards**

**a. Wherever possible, open space within a Flexible Design Residential Development should be integrated with and provide access to Block Island's open space network.**

**b. All open space not dedicated as conservation land shall be accessible to all dwellings in the development and shall be designed to provide passive recreational benefits to all residents of the development.**

**c. The site plan shall indicate any portion of open space intended as conservation land, the nature of the restrictions to be imposed, and the entity to which the conservation land is to be dedicated. All open space conservation land shall be so restricted in perpetuity.**

**d. Existing woods, stone walls, fields and wetlands shall be maintained as part of the open space design and plan.**

**e. Open space shall be of a size, shape and location suitable for the designated uses and shall be comprised of contiguous parcels whenever possible. Narrow strips of open space shall be allowed only as part of a pathway system open to the public or for residential pedestrian or vehicular access, or as buffer along site perimeters.**

**3. Allowable Uses in the Open Space** Uses within the open space shall be limited to the following, and must be approved by the Planning Board as part of an open space plan:

**a. Conservation, i.e., land in its natural state set aside for wildlife habitat, species preservation or similar purposes, and which has limited access;**

**b. Passive recreation, i.e., land used for picnicking, or with trails for horse back riding or hiking, or similar non-intrusive uses;**

**c. Active recreation, i.e. land used as a playground, playing field or gathering spot with temporary facilities, or similar uses, provided such land does not utilize more than fifteen percent (15%) of the total open space area;**

**d. Placement of on-site water supply and sewage disposal facilities, if**

**determined by the Planning Board that such placement is necessary for protection of important site features elsewhere on the parcel or to achieve the best design for the subdivision;**

**e. On-site drainage facility, provided it meets the standards for Low Impact Design (see Article 10) and does not utilize more than fifteen percent (15%) of the total open space area; and**

**f. Utility, drainage or access easements determined to be necessary to protect a public interest or to provide a clear public benefit.**

#### **4. Open Space Ownership and Management Standards**

**a. Open space necessary to meet the minimum requirements of this section shall be owned by a homeowners association, which shall be a corporation or trust of which all lot owners of the cluster development are shareholders or beneficiaries. Open space other than that necessary to meet the minimum requirements of this section may be owned by either the homeowners association, the Town or a non-profit organization chosen by the developer and approved by the Planning Board. A conservation easement restricting the uses allowed on all or any part of the open space within a cluster development may be held by the Town or a non-profit organization chosen by the developer and approved by the Planning Board.**

**Open space provided for under a Flexible Design Residential**

**Development shall be owned either by the owners of the lots or units in the development, appurtenant to their ownership interest, the Town of New Shoreham, or a non-profit organization chosen by the developer and approved by the Planning Board. In the case of an easement restricting development, such easement may be held by either the Town or non-profit organization approved by the Planning Board.**

**b. When open space is to be privately owned by a private association or organization, the following shall be required:**

**(1) Rights within such organization shall be appurtenant to the lots in the cluster development and shall run with the land;**

**(2) A restriction enforceable by the Town shall be recorded providing that development of such open space, except as provided in this section, shall be restricted in perpetuity;**

**(3) A covenant enforceable by the Town shall be recorded providing for maintenance of the open space in perpetuity to standards satisfactory to the Planning Board and further providing that the Town shall have the right to maintain the open space at the cost of the lot owners, payment of which shall be enforceable by liens on the lots.**

**c. Prior to the formation of a homeowners' association, the developer**

**shall be responsible for maintenance of all roads and other common areas.**

**G. Planning Board Decision** The Planning Board shall approve the Major Flexible Design Residential Development or approve it with conditions provided that it meets all applicable standards of the Zoning Ordinance and Land Development and Subdivision Regulations, and reflects a good faith effort to satisfy the purposes of this Section. Ordinance (Section 102) and of Major Residential Development (Section 402.A) doing so better than would other reasonable alternatives, including the alternative concept plan submitted as required at Section 402.C(2). The Planning Board shall not approve a Flexible Design Residential Development, if in their determination, the plan as proposed does not meet said purposes, is not a suitable design according to the desirable development patterns of the surrounding area, or is otherwise inconsistent with the Comprehensive Plan.

**Posted: Sept 21, 2011**

**Hearing: October 12, 2011**