

Proposed Large Lot Condominium Zoning (7/15 /15 draft)

To see whether the Town will vote to amend Section 10 of the General Bylaws, known as the Zoning Bylaws, by adding the following subsection M to Section III so that the new subsection M shall read:

M. LARGE LOT CONDOMINIUM DEVELOPMENT

The Planning Board may grant a Special Permit for a Large Lot Condominium Development ("LLCD") upon satisfaction of all requirements specified in this Subsection and upon such other requirements, terms and conditions deemed necessary or appropriate by the Planning Board

1. **Definition.** As used herein "Large Lot Condominium Development" or "LLCD" means a planned unit development, as defined in G.L. c. 40A Sec. 9, in which residential use and open space use are mixed. Dwelling units in a LLCD are situated in groupings, containing 3 or more dwelling units, each grouping separated from each other and from a parcel's perimeter lines by dedicated open space (herein referenced as "Open Land").
2. **Purpose.** The purpose of this subsection is to permit condominium development on large parcels containing at least 435,600 square feet (10 acres) of non-wetland land with at least 300 feet of frontage in a Residence A district or Residence AA district. The development should preserve significant open space and provide open space buffers at least 60 feet wide between the new dwelling units and lot lines of the dwellings of abutters. Insofar as reasonably possible the development should be designed with respect for existing topography in a substantially wooded setting. The architecture of the buildings should be appropriate for and complement its setting and its neighborhood and have a pleasing appearance both from outside and within the development.
3. **Site Determination.** An Application for a Large Lot Condominium Development (LLCD) may be made for a lot (including abutting lots in one ownership) if the lot contains at least 435,600 square feet (10 acres) of nonwetland land with at least 300 feet of frontage in a Residence A or Residence AA district provided that the lot is in a neighborhood which is represented by a neighborhood association (a) which is a voluntary association or other membership association open to membership by any

resident in the area constituting the neighborhood; (b) which has been established for at least 5 years; (c) which has a then current membership of at least 50 residents; (d) which holds regular meetings regarding neighborhood issues; and (e) which has identified the lot as a Developable Condominium Parcel by a majority vote of participating members at a meeting called for the purpose upon at least two weeks' notice to the members. A neighborhood association's vote to identify a lot as a Developable Condominium Parcel may contain terms and conditions regarding what shall constitute acceptable development of the Developable Condominium Parcel. A vote, including any terms and conditions identifying a lot as a Developable Condominium Parcel, shall be reflected in a writing signed by the head of the neighborhood association and filed with the Planning Board and shall be effective for 2 years unless sooner modified or rescinded by vote taken in the manner specified above. The Planning Board shall determine whether an identification of a lot as a Developable Condominium Parcel is effective, and, if so, condominium development of the lot pursuant to this subsection shall be subject to any terms and conditions in the vote so identifying the lot as well as subject to the provisions of this subsection. There shall be no inconsistency.

4. Siting Considerations. (a) All buildings in an LLCD shall be set back at least 60 feet from the lot lines of abutting lot owners, and this setback area shall be well-tended wooded Open Land providing significant screening, provided that access driveways, sidewalks and utility services may be sited to pass through this area and provided that underground structures for drainage and septic disposal may be sited in this area if reasonably necessary. (b) In the event that a parcel contains one or more pre-1938 dwellings designated by the historical commission as architecturally or historically significant and deserving of preservation, the exterior and interior appearances of each such dwelling shall be preserved provided that exterior and interior changes which are necessary or appropriate to rehabilitation or conversion of the dwelling and in keeping with the building's design and architecture shall be permitted. Each such dwelling so preserved shall be sited within Open Space in a landscaped setting sufficiently large to give an adequate visual presentation of the dwelling. (c) In the event that there are views (by off-site observers on adjoining streets) of important features on the lot which can be reasonably preserved, provision shall be made for preservation of such views.

5. **Housing Types.** The housing types in a LLCD shall be condominium dwelling units in an architectural style appropriate for their setting. The units shall be developed for individual ownership with each unit intended to be separately owned and occupied. Units shall be located in groupings, each of which shall contain at least 3 dwelling units with provision for parking for at least 2 automobiles per unit and for at least 1 bicycle per unit with provision for yard space for the residents.
6. **Access.** Access to the LLCD shall be provided by one or more streets which meet the construction standards and other requirements for a street, as specified in the Planning Board's Rules and Regulations with such waivers as the Planning Board may find to be desirable and appropriate. Adequate provision shall be made for the safety of bicyclists and pedestrians.
7. **Number of units** The number of units permissible in a LLCD, exclusive of affordable units, shall not exceed an average density of 2 units per acre of non-wetland land. The number of affordable units, determined as provided in Paragraph 10, shall be added to this number of market-rate units, and the total shall be the maximum number of units.
8. **Setbacks and Height** All buildings shall be set back at least 60 feet from the street and the lot lines of abutting lot owners and this setback area shall be wooded Open Land provided that access for driveways, sidewalks and utility services may be sited to pass through the setback area and underground structures for drainage and waste disposal may be sited in the setback area if reasonably necessary. All buildings shall be set back from any new street at least 30 feet or such other distance as is deemed appropriate by the Planning Board. No building in a LLCD shall exceed 40 feet in height.
9. **Drainage and Septage Disposal** Drainage in a LLCD shall meet the standards and requirements for a subdivision. Appropriate provision, approved by the Board of Health, shall be made for on-site disposal of waste in the absence of a municipal sewer to which suitable connection can be made.
10. **Affordable Housing Units** In a LLCD containing less than ten market-rate dwelling units, an application may provide for one additional dwelling unit to be used for an affordable dwelling unit suitably restricted so as to count on the state's Subsidized Housing Inventory (SHI) or its future equivalent, or in lieu thereof the application may provide for a monetary contribution to the Town's Affordable Housing Trust Fund in an amount which is reasonable, as

determined by the Planning Board under the relevant circumstances. In a LLCD containing more than ten dwelling units, a number of dwelling units equal to 10% of the number of market-rate dwelling units (rounded to the nearest whole number) shall be suitably restricted affordable units so that these units shall count on the SHI or its future equivalent. When application of the 10% requirement, leaves a fractional share of $\frac{1}{2}$ or less, an appropriate monetary contribution to the Affordable Housing Trust Fund determined by the Planning Board shall be required.

11. **Parking** There shall be 2 parking spaces per dwelling unit. At least 50% of parking for residents shall be within suitable structures that may or may not be attached to individual dwelling units. An additional number of spaces, equal to 25% of the number of the resident parking spaces, shall be provided for visitors and service providers. In its discretion the Planning Board may permit parking on the main driveway which shall count towards the parking requirements. Suitable provisions shall be made for ownership and maintenance of separate parking areas by the condominium association (as hereafter defined) if such separate areas are provided to serve nonresident parking needs.
12. **Open Land** (a) Every LLCD shall include Open Land. Open Land in the setback area from abutting lot lines shall be wooded land, suitably maintained and tended with deadwood and invasive species controlled and new plantings established as needed for an attractive visual effect and for some effective screening. When Open Land is created in areas where construction has disturbed the natural features of the site, creation of such Open Land shall respect the terrain of the site, its environs and the character of the surrounding neighborhood. Open Land shall not be used for parking, streets or driveways but may include permeable paths and walkways. Insofar as permitted hereunder and subject to the approval of the Planning Board. Open Land may be used to provide access to underground utility services. The Planning Board may permit Open Land to be utilized for the coursing or temporary retention of storm drainage and associated underground drainage structures. As reasonably necessary Open Land may be used for underground structures for on-site waste disposal. No other structure may be erected or maintained on Open Land except as may be reasonably necessary for and incidental to the use of the Open Land, such as lamp posts, benches, small sheds, stone walls and fences. The number, characteristics and location of structures in the Open Land, if any, shall be subject to approval by the Planning Board.

(b) At least 33% of the total land area shall be Open Land.

(c) Open Land shall be designed and located on the lot so that the purposes of this subsection are met. Open Land shall be located in the setback area as herein provided. Building groupings shall be located towards the center of the site but they shall be separated from each other by Open Land. Narrow strips of land, which are not necessary for a high quality site design, shall not be a part of the Open Land.

(d) Open Land in a LLCD shall be owned and properly maintained by a duly organized condominium association.

13. Condominium Association In a LLCD, a condominium association shall be established to manage and own property, streets, separate parking areas and Open Land and shall be controlled by the owners of the dwelling units. Each such owner's interest in the condominium association shall be subject to the LLCD special permit issued pursuant to this subsection and shall pass with the conveyance of the dwelling unit. The condominium association shall be responsible for the maintenance of the streets, parking areas and Open Land and in no event shall the Town of Milton be responsible for such maintenance. Each deed to a dwelling unit shall obligate the owner and the owner's successors in title to pay a pro rata share of the expenses of the condominium association. The condominium association, by a provision in its charter and trust indenture, shall (a) be obligated to maintain the streets and Open Land; (b) be prohibited from mortgaging or pledging the Open Land; (c) be prohibited from conveying or assigning the Open Land; (d) require that all buildings and dwelling units be kept in good order and repair. In the event that a condominium association shall be legally terminated, another corporation or trust constituted pursuant to the requirements of this paragraph, subject to the rights and obligations provided herein, shall take title to the streets, parking areas and Open Land. The condominium documents which will establish and control the condominium association shall be submitted with the special permit application for review by Milton Town Counsel who may require amendment so as to effectuate the purpose of this subsection and shall not be amended so as to change the conditions of the special permit without the consent of the Milton Planning Board.

14. Design Standards for Buildings (a) The buildings containing the condominium dwelling units in a LLCD shall meet the following design

standards:

- i. The architecture of each building shall be consistent and coherent in all its elements and compatible with and complementary to its surroundings, in form, scale and massing. The rear and sides of buildings shall be given the same careful attention as the front.
- ii. The scale of each building shall complement its landscaped context.
- iii. Windows and Doors shall be surrounded by appropriate architectural elements setting the windows and doors off from the plane of the façade. Vents or grills for air conditioner units, if any, shall be incorporated into the architectural elements surrounding the window units so as to present a coherent visual whole.
- iv. Each door, doorway, window or window grouping shall be suitably proportioned to the building. Each unit shall have windows that open. Small windows, disruptive to architectural continuity, shall not be used.
- v. Exterior lighting fixtures shall be appropriate to the architecture, be approved by the International Dark Sky Association, or, if such an association is no longer active, by a similar organization designated by the Planning Board, and be appropriately shielded to prevent any significant lighting over-spill into adjoining residential areas.
- vi. Roof lines shall be visually coherent and architecturally well defined. Pitched roofs, cornices, and other appropriate architectural elements should be used.
- viii. Building walls shall not present unrelieved flat surfaces. Windows, doors, dormers, window bays, porches and architectural elements should project or be recessed. Dormers and/or gables which break the planes of the roof should be used where appropriate.
- ix. Small accessory buildings needed for condominium operations and maintenance shall be permissible if attractive in design and sited inconspicuously.
- x. A garage door or garage doors shall not be the dominant architectural feature of the façade of any building as it is viewed from the street providing access to the building.

15. Site Plan (a) A site plan for a LLCD shall be part of the special permit application. The site plan may contain one or more plans prepared in a form suitable for recording by a Registered Professional Engineer or

a Registered Land Surveyor, and in accompanying text and materials. Applicants are encouraged to secure the assistance of a Registered Architect or Landscape Architect in preparation of a Site Plan. A Site Plan approved by the Planning Board is a prerequisite of a special permit for LLCD granted under this subsection, and construction of the LLCD shall be in accordance with the approved Site Plan. The Site Plan shall show:

- a. An existing condition plan showing:
 - i. The existing topography of the land showing two foot contours.
 - ii. A mapping of all wetlands, a description of all wetlands and any proposed alteration of wetlands.
 - iii. Major site features such as large trees, wooded areas, rock-ridges and outcroppings, water bodies, meadows, stone walls and buildings, a description of these features and any proposed removal or changes in these features.
- b. A proposed site plan layout and detailed landscaping plan indicating:
 - i. The siting, grading, and landscaping plan for all proposed streets, Open Land, parking areas, paths, walkways, driveways, and structures.
 - ii. A written description of the landscape characteristics of the site and its contiguous neighborhood and of the effects of the LLCD on such characteristics, including the passage of water through the site and to and from contiguous property.
 - iii. A written description of the site's current uses, such as watershed, wildlife habitat, woodland or meadowland and of the effect of the LLCD on such uses and a written description of all measures proposed to deal with these impacts.
 - iv. A statement of all significant impacts which the LLCD is likely to cause and a description of all measures proposed to deal with these impacts.
 - v. The design of all structures. The plans should make the appearance of each dwelling on its sides and rear at least equal in amenity and design to the appearance of the dwelling on its front.
 - vi. Storm water and drainage calculations and the design and location of adequate storm water and drainage systems.

- vii. Utility Plan including designs for and locations of water, electric, gas, telephone and cable systems.
- viii. Septage disposal plan, including the design and location of any on-site sewage treatment facility.

(b) Site Plan Design Standards The Site Plan shall be prepared in conformity with the purpose and specific requirements of this subsection including the following design standards:

- i. The existing terrain shall be preserved insofar as reasonably practical, and earth moving shall be minimized except as may be required for a site design meeting the purpose and requirements of this subsection.
- ii. Existing trees and significant natural features shall be preserved and integrated into the landscape design insofar as reasonably possible and appropriate to the site design meeting the purpose and requirements of this subsection.
- iii. Driveway layouts shall take into account the existing terrain and landscape features and there shall be no extreme or ill-designed cuts or fills. The width, construction and lighting of driveways shall be appropriate for their intended use.
- iv. Creation of an attractive initial view of the PUCD from existing streets in harmony with the neighborhood shall be an objective of overall site design.
- v. The groupings of buildings shall be arranged and oriented to be compatible with the terrain and features of surrounding land.
- vi. The buildings shall not be located in such a manner so as to concentrate groupings of units in the immediate vicinity of any existing dwelling.
- vii. Individually and commonly owned parking areas shall be designed with careful regard to topography, landscaping, ease of access and lighting and shall be developed as an integral part of overall site design.
- viii. There shall be adequate, safe and convenient arrangement of walkways, paths, driveways and parking areas and suitable lighting. Varied construction materials such as brick or stone shall be used when feasible and appropriate to site design.
- ix. Suitable trees, shrubs and other plant materials used for screening or landscaping shall be of a size and number

sufficient for their purpose, ease of maintenance and durability with a preference for native species.

- x. The Site Plan shall specify the location of buildings and their dimensions and the location and dimensions of the dwelling units within each building.
- xi. The Building groupings shall be conveniently accessible from the street without extreme or ill-designed cuts or fills and without removal of trees or other natural features beyond what is reasonably necessary to effecting a site design meeting the purpose and requirements of this subsection.
- xii. The design of a LLCD shall promote reasonable visual and audible privacy for the residents and their neighbors.

16. **Submission of Permit Application to Other Boards** Every application for a special permit for a LLCD under this subsection shall be referred to the Conservation Commission, the Historical Commission and the Board of Health. The Conservation Commission and Board of Health shall act upon the referral in the same manner as upon an application for subdivision approval under the Subdivision Control Law. The Historical Commission shall advise regarding buildings and any site features as specified herein.

17. **Application Filing, Hearing and Decision** Every application for a special permit for a LLCD shall be filed with the Town Clerk and ten copies of the application (including the date and time of filing with the Town Clerk) shall be filed forthwith with the Planning Board. The Planning Board shall forthwith transmit a copy of the application to the Conservation Commission and the Board of Health and shall specify the date of the public hearing. After due publication and notice, the Planning Board shall hold a public hearing within 65 days of filing of the application or within such further time as may be permitted by G.L. c. 40A, Section 9 (or a successor statutory provision) or within such further time specified by written agreement between the applicant and the Planning Board filed with the Town Clerk. After hearing, the Planning Board, subject to whatever terms and conditions which it deems necessary or appropriate, shall grant a special permit for a LLCD pursuant to the authority of and subject to the standards set out in Section IX.C if it finds that those standards and all the requirements of this subsection have been met, that the LLCD will serve an identifiable housing need in a manner which is compatible with the residence district in which the LLCD is located, that

the lot has been properly identified as a Developable Condominium Parcel, and that any terms and conditions of that identification have been met.

18. **Permit Amendment** After a special permit for a LLCD has been granted, the development may be altered or amended only upon an application for such alteration or amendment complying with the pertinent requirements of this subsection and after notice and public hearing and a finding by the Planning board that the alteration or amendment: (a) meets the requirements and purposes of this subsection; (b) is financially practical and in reasonable probability will be completed; and (c) is desirable or reasonably necessary. In permitting an alteration or amendment, the Planning Board may impose such conditions or restrictions which it deems to be reasonably necessary to accomplish the purpose or satisfy the requirements of this subsection.
19. **Expiration of Permit** In the event no substantial use of a special permit granted under this subsection is made and no substantial construction has commenced within two years of the Planning Board's decision (excluding any time involved in judicial review of the decision), the special permit shall expire, except for good cause. The Planning Board may set reasonable limits for completion of parts or of the whole of the development and may determine the order of construction.
20. **Recording of Permit** The Special Permit issued by the Planning Board shall be recorded with the Registry of Deeds by the Applicant at the Applicant's expense within thirty days after the Town Clerk has certified that the time for appealing the special permit has expired. A copy of the recorded document with the recording information shall be provided to the Town Planner promptly after recording.

Submitted by the Planning Board