

Chapter 213

SUBDIVISION OF LAND

[HISTORY: Adopted 3-28-1996 by the Planning Commission of the Town of Somers. Amendments noted where applicable.]

GENERAL REFERENCES

Capital Region Planning Agency — See Ch. 14.
Flood and Erosion Control Board — See Ch. 29.
Planning Commission — See Ch. 47.
Town property — See Ch. 51.
Building construction — See Ch. 88.
Driveways — See Ch. 104.
Fees for subdivision applications — See Ch. 114, Art. I.
Sewers — See Ch. 155.
Soil erosion and sediment control — See Ch. 161.
Streets and sidewalks — See Ch. 172.
Water — See Ch. 204.
Inland wetlands and watercourses — See Ch. 211.
Zoning — See Ch. 214.

ARTICLE I

Authority and Purpose

§ 213-1. Statutory authority.

These regulations have been prepared and adopted in accordance with Chapter 126 of the Connecticut General Statutes, as amended.¹

§ 213-2. Purpose.

The Planning Commission of the Town of Somers declares that these regulations for the subdivision of land have been designed to provide for the orderly growth and coordinated development of the Town of Somers, to accomplish all of the purposes set forth in Section 8-25 of the Connecticut General Statutes, as amended, and to accomplish the following specific goals:

- A. To assure that the land to be subdivided is of such character that it can be used for building purposes without danger to health or the public safety.
- B. To assure that proper provision is made for water, drainage and sewerage.
- C. To assure that in areas contiguous to brooks, rivers or other bodies of water subject to flooding, proper provision is made for protective flood control measures.
- D. To assure that the proposed streets are in harmony with existing or proposed principal thoroughfares shown in the Plan of Development for the Town of Somers, especially in regard to safe intersections with such thoroughfares, and that such streets are so arranged and of such width as to provide an adequate and convenient

1. Editor's Note: See Connecticut General Statutes Section 8-18 et seq.

system for present and prospective traffic needs.

- E. To assure that adequate provision is made for open spaces, parks and playgrounds.
- F. To assure that proper provision is made for soil erosion and sediment control.
- G. To encourage energy-efficient patterns of development and land use, the use of solar and other renewable forms of energy and energy conservation.
- H. To protect existing and potential public surface and ground drinking water supplies.
- I. To promote with the greatest efficiency and economy the coordinated development of the Town of Somers and the general welfare and prosperity of its people.
- J. To encourage the responsible and appropriate design of subdivisions.
- K. To maximize the preservation of natural terrain and drainage lines and such natural assets as ponds, streams, shrubs and trees, and to ensure that appropriate consideration is given to these natural features in the design of any subdivision.
- L. To assure the provision of adequate utility services and public facilities to serve each subdivision.
- M. To prevent the unreasonable pollution, impairment or destruction of the public trust in the air, water and other natural resources of the Town of Somers.

ARTICLE II

Terminology; General Provisions

§ 213-3. Word usage; construal of provisions.

For the purposes of these regulations, unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural number and vice versa; the word "shall" is always mandatory and not merely directory, and the word "may" is permissive; and the word "herein" means "in these regulations." In the case of any difference of meaning or implication between the text of these regulations and any caption, illustration, summary, table or illustrative matter, the text shall control. The Commission shall make the final determination as to any question of interpretation of any portion of these regulations.

§ 213-4. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

AASHTO — American Association of State Highway Traffic Officials.

APPLICANT — The person proposing a subdivision, either for the applicant's own benefit or as an agent for another.

AQUIFER — Any geologic material, including but not limited to rock (bedrock), sand, gravel and till, capable of yielding usable quantities of water when penetrated by a well. A "major aquifer" (usually but not always composed of sand and gravel) is an aquifer believed to be capable of supplying water to individual wells at sustainable rates of 50

gallons per minute or more.

BUILDING — Any structure having a roof, supported by columns or walls, and intended for the shelter, housing or enclosure of persons, animals or materials. The word "building" shall also refer to any modification, addition or alteration to an existing building.

COMMISSION — The Planning Commission of the Town of Somers, Connecticut.

CONSERVATION EASEMENT — An easement which perpetually prohibits further development or use inconsistent with, or harmful to, the enhancement, preservation, and protection of a defined area for the benefit of fish, wildlife, plants, or other similar ecosystems, or preserves such areas predominantly in their natural scenic or open condition; but which may, in the sole discretion of the Commission, permit recreational and/or agricultural uses which do not involve significant alteration or development of the restricted area in a manner which is inconsistent with, or harmful to, the preservation and protection of the restricted area. [Added 4-9-2009; effective 4-14-2009]

CUL-DE-SAC — A dead-end street terminating in a vehicular turnaround area.

DATE OF RECEIPT — When applied to an application for subdivision approval, the day of the next regularly scheduled meeting of the Commission immediately following the day of submission of such application, or 35 days after such submission, whichever is sooner.

DEVELOPER — The person who has or would have the highest or greatest level of authority in implementing an approved subdivision plan, or any authorized agent of such person.

DIVISION — Any division of a lot or other tract or parcel of land, regardless of whether such division constitutes a subdivision or resubdivision under these regulations.

EASEMENT — A right of use over the property of another.

FLOOD-PRONE AREA — A special flood hazard area or Zone A shown on the most current Flood Insurance Rate Map (FIRM), as well as any other area subject to inundation on an average of at least once every 100 years.

FLOODWAY — The channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, as shown on the Floodway Map of Somers effective May 1, 1980, or as subsequently amended, prepared by the Federal Insurance Administration.

LOT — A plot or parcel of land having defined and recorded boundaries:

- A. Which was created before the adoption of zoning regulations in the Town of Somers or which, when created, was of at least sufficient size to meet the applicable, then-existing minimum zoning requirements, including but not limited to use, dimensions and area.
- B. All parts of which are in the same ownership.

- C. Occupied or capable of being occupied by one principal or primary building and the accessory structures or uses customarily incidental to it, including such yards, other open spaces and buffer areas as are required by Chapter 214, Zoning.

OPEN SPACE — Land that is subject to a conservation easement, or other form of development restriction, including that within an open space subdivision. [Added 4-9-2009; effective 4-14-2009]

PERSON — Any legal entity, including but not limited to a natural person, partnership, corporation, organization, association or syndicate.

PLAN OF DEVELOPMENT — A master plan prepared by the Commission in accordance with Section 8-23 of the Connecticut General Statutes for the future growth, protection and development of the Town of Somers. The goals of the plan include affording adequate facilities for housing, transportation, comfort, convenience, public health, safety and general welfare for residents of the town.

PRELIMINARY PLAN — An informal submission of general layout of a proposed subdivision or resubdivision for consideration by the Commission. [Added 4-9-2009; effective 4-14-2009]

RECONFIGURATION — Any adjustment, change or modification in the location of any portion of the boundary of a lot or other tract or parcel of land, regardless of whether such reconfiguration would create a subdivision or resubdivision under these regulations.

RECORDED — Filed in the land records of the Town of Somers.

RECREATION, ACTIVE — Recreational activities that require either: [Added 4-9-2009; effective 4-14-2009]

- A. The use of a park, playing field or playground;
- B. The installation of buildings or other structures; or
- C. The substantial modification or grading of a tract of land.

RECREATION, PASSIVE [Added 4-9-2009; effective 4-14-2009]

- A. Recreational activities that do not require either:
 - (1) The use of a playing field or playground;
 - (2) The installation of buildings or other structures; or
 - (3) The substantial modification or grading of a tract of land.
- B. The installation of a building or structure in connection with a particular recreational activity shall not, in and of itself, cause the activity to be classified as "active" if the building or structure was not necessary to allow the activity to occur. For example, the installation of posts, signs, or water fountains along a hiking trail will not cause hiking to be deemed an active recreational use.

REGULATIONS — The Subdivision Regulations as adopted and amended by the Planning Commission.

RESUBDIVISION — A change in a map of an approved or recorded subdivision or resubdivision, if such change affects any street layout shown on such map, affects any area reserved thereon for public use or diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map.

ROAD — Same as "street."

SOIL SCIENTIST, CERTIFIED — An individual who is duly qualified in accordance with standards set by the United States Office of Personnel Management (formerly the United States Civil Service Commission) and who maintains an office in the State of Connecticut or who demonstrates familiarity with Connecticut inland wetlands classifications to the satisfaction of the Commission.

STREET — Includes streets, avenues, boulevards, roads, lanes, highways, places and other thoroughfares, including all land dedicated as a public right-of-way, which afford a principal means of access to abutting property and which are dedicated and accepted by the town or the state for such purpose.

STREET, ACCESS — A street providing direct access to residents on abutting land and access to the higher order system of streets. "Access streets" offer the lowest level of service, low design speeds and short trip routes. Through traffic on these streets is deliberately discouraged. "Access streets" include stem-and-loop streets and culs-de-sac.

STREET, COLLECTOR — A street intended to move traffic from local streets to primary or secondary arterials. A "collector street" will generally serve a neighborhood or large subdivision and should be designed so that few residential properties have frontage on it.

STREET, DEAD-END (PERMANENT) — A street or portion of a street having only one intersection with another street and having a permanent terminus entirely surrounded on its frontage by one or more separate lots.

STREET, DEAD-END (TEMPORARY) — A street or portion of a street having only one intersection with another street but having a temporary turnaround designed to be extended into adjoining undeveloped land.

STREET, LIMITED LOCAL — A permanent dead-end street, not exceeding 1,200 feet in length, serving no more than 14 lots.

STREET, LOCAL — A street intended to provide access to other streets from individual residential properties.

STREET, PRIMARY ARTERIAL — A street intended to move traffic to and from such major attractors as central business districts, regional shopping centers, major industrial areas and similar major traffic generators and/or intended as a route for traffic between communities or large areas.

STREET RIGHT-OF-WAY WIDTH — The distance between property lines reserved for public traffic.

STREET, SECONDARY ARTERIAL — A street intended to collect and distribute

traffic in a manner similar to primary arterials, except that these streets service minor traffic-generating areas such as community commercial areas, primary and secondary educational facilities, major recreational areas, churches and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

STRUCTURE — Anything constructed, erected or assembled which requires a location on or within the ground or attachment to something having a location on the ground. The term "structure" includes, but is not limited to, buildings, manufactured homes, paved areas, storage tanks, signs, walls (retaining or otherwise), swimming pools, fences and other man-made utilities and infrastructures but excludes public utility poles and flagpoles.

SUBDIVISION — The division of a tract or parcel of land into three or more parts or lots made subsequent to December 12, 1953, for the purpose, whether immediate or future, of sale or building development, expressly excluding development for municipal, conservation or agricultural purposes. The term includes resubdivision.

SUBDIVISION, CONVENTIONAL — A subdivision design that is consistent with the provisions of the Somers Zoning and Subdivision Regulations that would be applicable in the absence of §§ 213-30 and 213-63 of these regulations and § 214-141 of the Somers Zoning Regulations. [Added 4-9-2009; effective 4-14-2009]

SUBDIVISION, OPEN SPACE — A subdivision approved in accordance with this section (these subdivision regulations) and with § 214-141 of the Zoning regulations as amended. [Added 4-9-2009; effective 4-14-2009]

SUBMISSION — Delivery to the office of the Town Planner or to the Commission at a meeting or hearing. All documents must be physically received by the office of the Town Planner or by the Commission at a meeting or hearing in order to be deemed submitted.

TOWN — The Town of Somers, Tolland County, State of Connecticut.

USED or OCCUPIED — As applied to any land or building, shall be construed to include the meaning "intended, arranged or designed to be used or occupied."

WATERCOURSES — Any rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and other bodies of water, natural or artificial, public or private, vernal or intermittent, which are contained within, flow through or border upon the town, or any portion thereof, not regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.

- A. **BOGS** — Usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage and highly acidic conditions.
- B. **MARSHES** — Areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- C. **SWAMPS** — Areas with soils that exhibit aquic moisture regimes and are

dominated by wetland trees and shrubs. Red maple is the most characteristic tree of the wooded swamps, with black gum and black ash as frequent associates. A conspicuous shrubby understory of highbush blueberry, spicebush, sweet pepperbush, clammy azalea and other wetland shrubs may be present, and a rich diversity of wildflowers, such as marsh-marigold, skunk-cabbage, jewelweed, violets and cardinal flower, may also be present. Shrub swamps represent another swamp type, where alders, willows, buttonbush and other shrubs can form relatively pure or mixed stands. Occasionally trees may be associated with a shrub swamp. However, a high water table often favors certain shrubs, such as buttonbush, over trees. In swamps, the underlying deposits are often relatively shallow and usually highly organic. Swamps may develop through the gradual invasion of marshes by woody species or directly, as in poorly drained depressions.

- D. For further information, see *Inland Wetland Plants of Connecticut*, Niering, W.A. and R. H. Goodwin, *The Connecticut Arboretum*, Connecticut College, New London, CT, May 1973.

WETLAND or INLAND WETLAND — Any land, including submerged land, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Soil Conservation Service of the United States Department of Agriculture (USDA). Such areas may include filled, graded or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

§ 213-5. Approval and filing of subdivision plan required.

No subdivision of land shall be made, and no lot in any proposed subdivision shall be sold or offered for sale, until a plan for such subdivision has been prepared, approved by the Commission and filed in the office of the Town Clerk in accordance with the requirements of these regulations and all relevant Connecticut statutes.

§ 213-6. Notice of division or reconfiguration.

Notice of any division or reconfiguration of one or more existing lots or other tracts or parcels of land must be submitted to the Commission prior to the effective date of such division or reconfiguration. If the division or reconfiguration would constitute a subdivision, the procedures set forth in these regulations for approval of such subdivision must be followed and shall comprise the required notice. For any division or reconfiguration that would not result in a subdivision, the notice shall be provided on a form supplied by the Commission.

ARTICLE III
Preapplication Procedures

§ 213-7. Purpose.

The preapplication procedure is designed to allow prospective subdivision applicants or

their representatives to discuss with the Commission the concept and preliminary design of a potential subdivision before undertaking the more detailed design work and preparation that would be required for a formal subdivision application. This procedure provides the Commission an opportunity to review the proposed plans for prospective compliance with the Subdivision Regulations. Submission of a preapplication review request shall not be deemed to be a formal application for subdivision approval, and the Commission's comments on any such preapplication shall be advisory only.

§ 213-8. Sketch plans.

In order to have a preapplication review placed on the Commission's agenda for any regular meeting, the following documents must be submitted at least 10 business days prior to the regular Commission meeting at which such review is desired. The Commission may also, but shall not be required to, place a preapplication review on the agenda of any regular meeting scheduled for less than 10 business days after submission of the request. The materials to be submitted are:

- A. A written request for preapplication review.
- B. Five paper prints of a sketch or plan at a scale no smaller than one inch equals 100 feet. The plan or sketch shall indicate approximate boundary data, topographic contours (enlarged United States Geological Survey topographic quadrangle maps are acceptable), existing drainage features, special site conditions, zone district boundaries and proposed street, lot and block layout showing surrounding properties and street patterns.

§ 213-9. Informal plans.

In lieu of or following submission and Commission review of a preapplication sketch or plan, as set forth in § 213-8 of these regulations, the applicant may, at his or her option, submit informal subdivision plans to the Commission for review.

- A. Submission of such plans shall not be deemed to be a formal application for subdivision approval, and the Commission's comments on any such plans shall be advisory only.
- B. Five paper prints of the informal plans shall be submitted, each containing the following information:
 - (1) Streets to be constructed, with stations, curves, widths of rights-of-way and paving and corner cutoffs.
 - (2) Proposed building lines.
 - (3) Proposed lots, with plus and minus dimensions, approximate areas in square feet and lot numbers.
 - (4) Proposed easements for drainage, utility lines, walks and other rights-of-way.
 - (5) Proposed public water, storm drainage and sanitary sewerage lines and their connections with present lines.

- (6) Proposed street names.
- (7) Any proposed retaining walls, culverts or property line fences or walls.
- (8) Proposed open space donation(s).
- (9) Any areas to be reserved for public use.
- (10) Existing public trail systems and proposed changes, if any.
- (11) Locations of public wells within 2,000 feet of the site, inland wetlands and watercourses, flood-prone areas, exposed bedrock (ledge), slopes over 25 percent and major aquifers.
- (12) Trees and vegetation, existing and proposed.
- (13) A subdivision plan map on sheets not more than twenty-four by thirty-six (24 x 36) inches. The scale shall be one inch equals 40 feet to one inch equals 100 feet. Where the development is too large for one sheet at the requested scale, an overall plan at suitable scale shall be included to depict the subdivision on one sheet.
- (14) Boundary survey to Class A-2 accuracy.
- (15) Topographic survey. This information may be an enlargement of United States Geological Survey topographic quadrangle sheets, supplemented by field surveys as necessary.
- (16) Indication of zone or zones (i.e., zoning districts) included.
- (17) Number of acres included in the total tract to the nearest tenth of an acre.
- (18) A title block, including the name of the proposed subdivision, location, scale, date, owner of record, numbered sheets and name(s) and address(es) of engineer and surveyor.
- (19) Name(s) and address(es) of the applicant, developer and owner.
- (20) A key map at scale one inch equals 500 feet, locating the proposed subdivision within the surrounding proposed and existing street system. The map shall depict the subdivision and show the location of any wetlands and watercourses on the property.
- (21) An area map at one inch equals 200 feet, showing the boundary lines of other lots or parcels of land within 200 feet of the subject tract, showing the full extent of each such lot or parcel with the names of the current owners of record.
- (22) The location of percolation tests and test pits, results and dates of testing and the additional information indicated on Plate Number 1. A minimum of one percolation test will be required for every five building lots, and one test pit for every five acres. The location of the percolation tests and test pits shall be as directed by the Town Sanitarian. The information furnished shall be

referenced to the locations shown on the plans. These tests shall be supervised and approved by the Town Sanitarian.

- (23) Plans and profiles for a proper and adequate storm drainage system in compliance with these regulations, including watercourse profiles where appropriate.
- (24) When an informal layout covers only a part of the owner's entire holding, a sketch of the prospective future street and lot layout in the entire holding shall be furnished at a suitable scale, including topographic data to substantiate the planning analysis.
- (25) The Commission may require a hydrologic review and summary of the watershed where it feels it is necessary to protect the public health, safety or welfare.
- (26) The Commission may require a traffic report sufficient to determine the existing conditions, future conditions and the impact of the proposed application.
- (27) Preliminary profiles of new streets shall be drawn on plan-profile paper at scales of one inch equals 40 feet horizontally, and one inch equals four feet vertically. Existing and proposed center line grades, stationing and proposed storm sewers shall be shown in sufficient detail to clearly indicate intent.
- (28) A statement of the amount of filing fees that would be required if the application were to be formally submitted, with sufficient detail to show how the amount was calculated.
- (29) The location of any portion of the Somers town boundary line that is within 500 feet of any portion of the property to be subdivided.

ARTICLE IV **Formal Application Procedures**

§ 213-10. Application materials.

A formal subdivision application shall consist of the following documents and materials:

- A. Five copies of the formal subdivision application form, completely filled out and signed by both the applicant and property owner.
- B. Five paper prints of the following documents and materials, which are described in more detail in the following sections of these regulations:
 - (1) The final subdivision plans.
 - (2) A soil erosion and sediment control plan, in accordance with Chapter 161, Soil Erosion and Sediment Control, and/or other pertinent ordinances or regulations.
- C. The estimated filing fee or fees, as determined by current town ordinance and/or

regulation.²

§ 213-11. Final plans.

- A. Format requirements. The final plans shall be prepared and certified by the appropriate professionals (e.g., engineer or land surveyor), who must be properly licensed, registered and/or certified for such work in the State of Connecticut. The plans shall provide the information noted in this section.
- (1) The subdivision plan sheet size shall be twenty-four by thirty-six (24 x 36) inches, including borders.
 - (2) Subdivision plans shall be at a scale of one inch equals 40 feet unless the Commission specifically authorizes a different scale. If more than one sheet is required, clearly drawn match lines shall be shown on all sheets. Each lot must be shown in its entirety on at least one sheet. An overall master plan shall also be provided showing the entire proposed subdivision at a suitable scale on one sheet.
 - (3) A title block containing the information specified in § 213-9B(18) of these regulations shall be provided.
 - (4) An approval block shall be placed on each subdivision plan page near the title block, reading:

Town Planning Commission, Somers, Connecticut

Approved on _____, 19____

Date signed _____, 19____

This approval shall expire _____

- (5) An engineering review signature block shall be placed on each subdivision plan page, reading:

Plan reviewed and found in general compliance with the Somers Subdivision Regulations, as amended and approved by the Town of Somers.

2. Editor's Note: See Ch. 114, Fees, Art. I, Subdivision Applications.

- (6) An approval block for the Town Sanitarian shall be placed on each subdivision plan page, reading:

Approved:

Town Sanitarian Date

- (7) A key map of the entire subdivision containing the information specified in § 213-9B(20) of these regulations shall be the same as that prepared for a preliminary layout, including the depiction of roads, lot lines and wetlands and watercourses.

B. General information required:

- (1) Zoning districts.
- (2) The names and section numbers of all adjoining recorded subdivisions.
- (3) Proposed street names and the location of existing and proposed street rights-of-way, including stations, curves, widths, paving and corner cutoffs.
- (4) Other rights-of-way and easements, including identification, description, location, width and other dimensions necessary for description.
- (5) Lot number identification by consecutive numbers. Lot numbers shall be circled. If the subdivision is phased, lot numbers shall not be duplicated.
- (6) House numbers for each lot as assigned by the Assessor (identified in squares). House numbers should be designated before the subdivision plans are approved but after the location(s) of the proposed lots is certain. House numbers must be included in the final plans before they are signed by the Commission.
- (7) Lot lines with accurate lengths to the nearest hundredth of a foot and angles or bearings to the nearest 10 seconds of arc.
- (8) Boundary lines of adjoining lots or parcels of land within 200 feet of the boundaries of the proposed subdivision, showing the full extent of each such lot or parcel and the names and mailing addresses of current adjacent landowners, together with the volume and page number of their recorded deeds.
- (9) Building setback lines with dimensions.
- (10) Lot and total tract areas in acres and square feet, each to the nearest hundredth.

- (11) Lot and total tract areas, minus the areas of wetlands, watercourses, flood-prone areas and slopes greater than 25%, in acres and square feet, each to the nearest hundredth.
 - (12) A description of proposed uses for any portions of the subdivision not to be incorporated in a lot or lots, including a note where an offer of dedication is being made.
 - (13) Existing and proposed public trails across the land.
 - (14) Boundary lines with accurate dimensions to the nearest hundredth of a foot and angles or bearings to the nearest 10 seconds of arc, certified to Class A-2 accuracy.
 - (15) Special flood hazard areas and floodways.
 - (16) Inland wetlands and watercourses as flagged by a certified soils scientist. The soil scientist who flagged the wetlands and watercourses shall sign the plans on which they are delineated.
 - (17) A proposed construction schedule indicating the work to be done in each phase of the subdivision and the length of time expected to complete such work.
 - (18) The location of any portion of the Somers town boundary line that is within 500 feet of any portion of the property to be subdivided.
 - (19) Locations of public wells within 2,000 feet of the site, inland wetlands and watercourses, flood-prone areas, exposed bedrock (ledge), slopes over 25% and major aquifers.
 - (20) Name(s) and address(es) of the applicant, developer and owner.
- C. The applicant may be required by the Commission to submit additional information in order to demonstrate the feasibility and prudence of the proposed road and lot layout and storm sewer pattern.
- D. Survey data requirements:
- (1) Survey tie-ins with measured angles and distances to two established street monuments, town boundary monuments and state highway monuments which are within 1,000 feet of the tract boundary. Use of the State Plane Coordinate System is encouraged.
 - (2) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs. Special survey data may be required to ensure reproducibility.
 - (3) Accurate dimensions, with lengths to the nearest hundredth of a foot and angles or bearings to the nearest 10 seconds of arc.
 - (4) Existing and proposed monuments and iron pins with a legend on the subdivision plans.

- E. Topography plan. Even if a preliminary topography plan was submitted by the developer, a final plan shall be prepared, clearly showing all physical site features, including contours, roads, streams, buildings, ponds, vegetation, inland wetlands and existing utilities. Utility information shall include size, type, location and top-of-frame and invert elevations.
- (1) The plan shall be at a scale of one inch equals 40 feet. If a preliminary plan is not prepared, a plan at a scale of one inch equals 100 feet will also be required if more than one sheet is required to cover the property.
 - (2) The topographic information shall be prepared either by an on-the-ground survey or by photogrammetric methods, supplemented as necessary by ground measurements, certified Class A-2. Contours shall be at one-foot intervals for ground up to a five-percent slope, at two-foot intervals for ground up to twenty-five-percent slope and at five-foot intervals for ground over a twenty-five-percent slope. The surveyor shall demonstrate that photogrammetric methods give acceptable accuracy, especially where there is obscuring ground cover.
- F. Master grading and layout plan.
- (1) A master grading and layout plan shall be submitted, showing the physical changes to be made at the site. This plan shall include, but not necessarily be limited to, the following:
 - (a) Existing and proposed contours, both within a roadway and on the lots.
 - (b) Typical house shape and location on each lot.
 - (c) Driveway location and grade, including intercepting drains and swales conforming to Chapter 104, Driveways.
 - (d) Typical on-site sewage disposal system location, showing primary and reserve fields appropriately sized for each lot and a well site or public water source.
 - (e) Drainage swales and underdrain grades and location with any easements to be retained for maintenance and protection.
 - (f) House first floor and garage elevations.
 - (g) Property line fences or walls and retaining walls, including special structural design if needed.
 - (h) Replacement of trees and ground surface vegetation.
 - (i) Slope easements.
 - (2) It is the purpose of this master grading and layout plan to serve as a construction plan for the grading within the roadway and as a model for the eventual preparation of a building permit plot plan. It is the intent of these regulations to maximize preservation of site features, especially vegetation. In

order to minimize erosion and sedimentation and the alteration of surface drainage patterns, the Commission may modify the plan to limit the grading, movement or removal of earth, topsoil or trees.

- (3) The grading and layout plan shall clearly show free drainage along the ground surface. Where necessary, local lot drains shall be provided to prevent flooding or ponding and to protect house foundations. Where curtain or footing drains are likely to be necessary, the plan shall show the areas to be reserved for such drainage. Due care shall be taken to follow the approved erosion and sedimentation control plan.

G. Sanitary waste disposal system data.

- (1) The sanitary waste disposal system shall comply with all Connecticut Department of Health Services, Department of Environmental Protection and town regulations.
- (2) A minimum of one percolation test and two test pits shall be required on each proposed building lot at the approximate location and elevation of the proposed leaching system. If conditions indicate the need, additional tests may be required.
- (3) All test pits and percolation tests, including results and observation dates, shall be numbered and located on both the subdivision plan and the final topographic grading plans, as shown on Plate Number 1.
- (4) Systems which require engineered design shall be clearly marked on the final subdivision plans. A note shall be placed on each lot of the record plans for which an engineer's design is required stating "Based upon soil data available as of the testing date for this lot, this lot will require a septic system designed by a Connecticut registered engineer."
- (5) All soil tests for sanitary waste disposal systems, including percolation and test pits, shall be performed by the developer's engineer under the supervision of the Town Sanitarian. The developer's engineer shall contact the Town Sanitarian at least 10 business days prior to making such tests.
- (6) The Town Sanitarian, at his discretion, may limit the time of year when percolation tests and test pits may be taken. In general, it is preferable that these tests be taken at a time when the groundwater is likely to be at or near its highest level. The Town Sanitarian may limit such testing to the period from February 15 to May 15 if he or she determines that the groundwater is most likely to be at or near its highest level during that period.
- (7) A site condition plan shall be provided, showing inland wetlands, flood-prone areas, floodways, steep slopes (those slopes greater than or equal to 15% and, separately, those slopes greater than or equal to 25%), shallow bedrock (less than four-foot overburden), and streams, rivers, lakes, ponds and other watercourses.
- (8) A soils overlay map shall be provided for the subject property and

surrounding land within 200 feet.

H. Utility plan and profile. Plan and profile drawing requirements are as follows:

- (1) Drawings shall be on standard plan-profile paper cut to a maximum sheet size of 24 inches in height and 36 inches in length, with the following scale:
 - (a) Horizontal: one inch equals 40 feet.
 - (b) Vertical: one inch equals four feet.
- (2) All drawings shall show the existing ground, the center line stationing of the street, the proposed profile of the street, stations and elevations of all vertical control points and stations and elevations of vertical curve high points and low points, as well as elevations at fifty-foot stations. In addition, the profile drawings shall show the complete proposed street storm drainage pipes, sanitary sewers and structures, including invert and top-of-frame elevations. The center line profiles of any existing streets to which the subdivision streets would connect shall be shown on a profile drawing for a distance of 300 feet beyond the end of the proposed road. Plans shall show proposed water, gas, electric, telephone and cable television lines and streetlights.
- (3) The plan shall show the outline and dimensions of all street and public and private rights-of-way and easements. Lot numbers and, following subdivision approval, house numbers shall be marked.
- (4) A bench mark referred to a USC&GS or USGS datum shall be shown on each plan-profile sheet. It is preferable that the bench marks be set at not more than one-thousand-foot horizontal intervals and not more than a fifty-foot difference in elevation. All bench marks shall be set on items of a durable nature.

§ 213-12. Scheduling of application for review.

- A. The official date of receipt of a formal subdivision application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission of the application or 35 days after such submission, whichever is sooner. Regardless of the official date of receipt of the application, the Commission need not, and ordinarily shall not, place the application for discussion purposes on the Commission's agenda for any regular meeting unless the application is submitted to the office of the Town Planner 10 or more business days prior to such meeting. However, the Commission may, in its discretion, schedule an application for discussion and/or action at any regular or special meeting.
- B. The Commission shall not review or consider any matter for preapplication review (§§ 213-7 and 213-8), informal subdivision review (§ 213-9) or formal application decision (§§ 213-10 and 213-11) if there is a pending court appeal of a Commission ruling for the same property.

§ 213-13. Submission to Conservation Commission.

If a formal subdivision application involves any land regulated as an inland wetland or watercourse under the provisions of Chapter 440 of the Connecticut General Statutes, as amended,³ the applicant shall submit an application to the Somers Conservation Commission, or to such other agency as may be made responsible for administration of Chapter 211, Inland Wetlands and Watercourses, no later than the day the subdivision application is filed.

§ 213-14. Notice to water company.

When a formal subdivision application involves land located within the watershed of a water company, the applicant shall notify the water company no later than seven days after the date of submission of the application. Such notice shall be sent to the water company by certified mail, return receipt requested, and the applicant shall submit a copy of the returned receipt to the Commission.

§ 213-15. Submission to regional planning agency.

Whenever a formal application is submitted for a subdivision of land, the area of which will abut or include land in another municipality, the Commission shall, before approving the plan, submit it to the regional planning agency or agencies serving the Town of Somers and the neighboring municipality. If the regional planning agency or agencies do not submit a report regarding the proposed subdivision within 30 days after transmittal by the Commission, the Commission shall presume that the agency or agencies do not disapprove of the proposed subdivision.

§ 213-16. Notice to adjoining municipalities.

- A. The Commission shall notify the clerk of any adjoining municipality of the pendency of any formal application for a subdivision on any site in which:
- (1) Any portion of the property proposed for subdivision is located within 500 feet of the boundary of the adjoining municipality;
 - (2) A significant portion of the traffic to the subdivision, if approved, would use streets within the adjoining municipality to enter or exit the site;
 - (3) A significant portion of the sewer or water drainage from the subdivision, if approved, would flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
 - (4) Water runoff from the subdivision, if approved, would impact streets or other municipal or private property within the adjoining municipality.
- B. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application. No hearing may be conducted on any application unless the adjoining municipality has received the notice required under this section. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application. The

3. Editor's Note: See Connecticut General Statutes Section 22a-28 et seq.

requirements of this section are based upon Section 8-26f of the Connecticut General Statutes. If that statute is amended, the provisions of this section shall be deemed to have been amended accordingly. If that statute is repealed, the requirements of this section shall no longer apply.

§ 213-17. Time limit for Commission action; public hearings.

Within 65 days after the date of receipt of a formal subdivision application, the Commission shall either render a decision or commence a public hearing on such application.

- A. In the event that an application involves a resubdivision, a public hearing must be commenced. If an application does not involve a resubdivision, it shall be within the Commission's discretion whether or not to commence a public hearing.
- B. If a public hearing is to be held, the Commission shall publish a legal notice of the time and place of such hearing, the location of the property involved and the number of lots to be created in a newspaper having general circulation in the Town of Somers in accordance with Section 8-26 of the Connecticut General Statutes, as amended. The Commission shall also send notice of any hearing to the applicant by certified mail, return receipt requested, at least 14 days before the hearing.
- C. If the Commission chooses not to hold a public hearing on a subdivision application, it shall notify the applicant by certified mail, return receipt requested, at least 14 days before any regular or special meeting at which a decision is to be made on the application.
- D. Copies of all materials submitted in connection with the subdivision application shall be on file in the office of the Town Planner for review by the general public.

§ 213-18. Notice to neighboring properties.

The applicant shall send by certified mail, return receipt requested, a notice describing the location of the property to be subdivided, the number of lots proposed and the date and time of any public hearing to all current owners of record of property abutting or within 200 feet of the proposed subdivision no less than seven days prior to the commencement of any public hearing or, if a public hearing is not to be held, no later than seven days after the date of the issuance of the notice by the Commission to the applicant that a public hearing will not be held. The applicant shall submit copies of all returned receipts to the Commission.

§ 213-19. Approval or disapproval of application; additional requirements.

The Commission shall approve, modify and approve or disapprove each subdivision application and the maps and plans submitted therewith. All Commission approvals shall be conditional upon the applicant making any and all required additions and/or corrections to the plans and carrying out the following additional steps:

- A. Obtaining a performance bond or other security in an amount and with surety and conditions satisfactory to the Commission securing to the Town of Somers the

actual construction, maintenance and installation of such improvements and utilities as are approved within a period to be specified in the bond or other security. Any bond or other security shall be submitted to the Town Engineer and Town Attorney for review and comment.

- B. Obtaining the Town Sanitarian's signature signifying that the plans, as approved, are in compliance with State Public Health Code.
- C. Obtaining the Town Engineer's signature signifying that the plans, as approved, are in general compliance with these regulations.
- D. Preparing prints of the final subdivision plans as follows:
 - (1) Two silver emulsion polyester fixed-line film prints of the final subdivision lot plan and one silver emulsion polyester fixed-line film print of all other plans accompanied by a completely filled out checklist.⁴
 - (2) Any additional or residual filing fees, as determined by current town ordinances and/or regulations.⁵
 - (3) A disk, CD, or other comparable form containing the final subdivision lot plan in a format acceptable to the Town to be incorporated into the Town's Geographic Information System (GIS). [Added 12-2-2004; effective 12-5-2004]

§ 213-20. Conditions and modifications.

In approving or modifying and approving any application for subdivision or the maps or plans submitted therewith, the Commission may make such changes or place such conditions on the approval as it deems necessary or appropriate to further the purposes set forth in § 213-2 of these regulations and to cause the subdivision and the maps and plans submitted therewith to meet or better comply with the general criteria set forth in Article V and the specific criteria set forth in other relevant sections of these regulations. Such changes and conditions may include, but shall not be limited to, the following:

- A. Modifications in lot layouts, dimensions and boundaries.
- B. Reductions in the number of lots.
- C. Merging of two or more proposed lots.
- D. Modifications in proposed street layouts, dimensions, boundaries and materials.
- E. Construction or modification of, or other provision for, on-site utilities, services and improvements.
- F. Provision for additional or alternative public open spaces, parks or playgrounds.
- G. Additions and modifications of sediment and erosion control plans and measures, including schedules for such activities and limitations on the amount and area of clearing of vegetation and/or soil movement that may occur during prescribed

4. Editor's Note: The checklist is available at the office of the Town Planner.

5. Editor's Note: See Ch. 114, Fees, Art. I, Subdivision Applications.

periods of time.

- H. Preservation or replacement of natural and historic resources.

ARTICLE V
General Criteria for Review of Applications

§ 213-21. Statutory criteria.

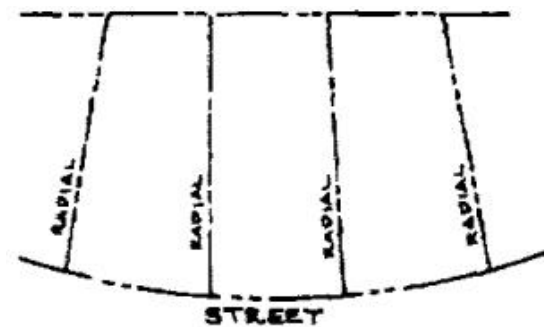
All subdivision applications shall be reviewed in accordance with the standards and criteria set forth in Section 8-25 of the Connecticut General Statutes, as amended. Those standards and criteria include the following:

- A. The land to be subdivided shall be of such character that it can be used for building purposes without danger to health or the public safety.
- B. Proper provisions shall be made for water, drainage and sewerage.
- C. In areas contiguous to brooks, rivers or other bodies of water subject to flooding, proper provisions shall be made for protective flood-control measures.
- D. The proposed streets shall be in harmony with existing or proposed principal thoroughfares shown in the Plan of Development, especially in regard to safe intersections with such thoroughfares, and shall be so arranged and of such width as to provide an adequate and convenient system for present and prospective traffic needs.
- E. The Commission may require the provision of open spaces, parks and playgrounds when and in places deemed proper by the Commission, which open spaces, parks and playgrounds shall be shown on the subdivision plans.
- F. Proper provisions shall be made for soil erosion and sediment control.
- G. The Commission encourages energy-efficient patterns of development and land use, the use of solar and other renewable forms of energy and energy conservation.
- H. The applicant must demonstrate to the Commission that he or she has considered, in developing the subdivision plans, the use of passive solar energy techniques which would not significantly increase the cost of housing to the buyer, after tax credits, subsidies and exemptions. Passive solar energy techniques are site design techniques which maximize solar heat gain, minimize heat loss and provide thermal storage within a building during the heating season and minimize heat gain and provide for natural ventilation during the cooling season. The site design techniques include, but are not limited to:
 - (1) House orientation.
 - (2) Street and lot layout.
 - (3) Vegetation.
 - (4) Natural and man-made topographic features.

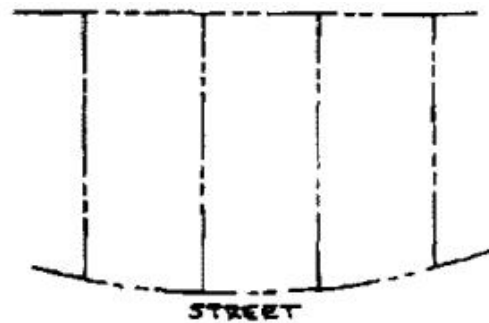
(5) Protection of solar access within the development.

§ 213-22. Lot area and shape.

- A. The applicant shall be required to demonstrate the availability in each lot of buildable land suitable for a house or other appropriate building, septic system, well, driveway and other necessary structures. The Commission shall not approve any subdivision layout which would result in lots on which the amount, shape or location of the buildable area would result in severe restrictions on the location of necessary structures. In evaluating the buildability of lots, the Commission may refer to the urban development characteristics of soils as described in the Soil Survey for Tolland County, Connecticut, prepared by the United States Department of Agriculture Soil Conservation Service (Series 1961 No. 35). No lot, regardless of size, which is unsuitable for building according to sound engineering practices and minimum Connecticut Public Health Code standards shall be accepted as a building lot on any subdivision plan. Such property shall be included in adjoining lots.
- B. Land shall not be subdivided in such a way as to produce a remnant parcel or parcels which have dimensions smaller than required for any use permitted under Chapter 214, Zoning, unless such remnant parcels are to be dedicated for public purposes and are accepted for such purposes.
- C. Side lines of lots shall, insofar as practicable, be either at right angles or radial to street lines.



PREFERRED LOT LAYOUT USING RADIAL SIDE LOT LINES.



UNDESIRABLE LOT LAYOUT USING NON RADIAL LOT LINES.

- D. Lots with legal frontage but having their primary proposed access through other areas or streets shall have, as an inseparable part of the lot, an access strip at least 50 feet wide at its narrowest point. The frontage requirements shall be consistent with Chapter 214, Zoning.

§ 213-23. Slopes.

- A. Slope is a principal factor in determining the suitability of land for building purposes. In general, the steeper the slope, the less suitable the land is for development purposes. For these reasons, the Commission will evaluate slope

conditions in proposed subdivisions in accordance with the following standards:

- (1) Slopes of 8% or less shall generally be considered to present slight limitations to building development.
- (2) Slopes greater than 8% but no greater than 15% shall generally be considered to present moderate limitations for building development. The Commission may require special planning, design or maintenance provisions to overcome these limitations.
- (3) Slopes greater than 15% but no greater than 25% shall generally be considered to pose severe limitations to building development. The applicant shall be required to demonstrate that the use of land having such slopes is necessary for the reasonable use of the property and that proper consideration has been given through special planning and design techniques or otherwise to minimize the effects of these limitations. The Commission may require written confirmation from a licensed professional engineer, geologist or other professionals that the construction of buildings or structures on such slopes can be accomplished without risk to the buildings or structures themselves, the stability of the slopes and the safety and welfare of the potential future owners of the lot or lots on which such slopes are located.
- (4) Slopes greater than 25% shall be considered generally unsuitable for building development.
 - (a) The Commission shall not allow the creation of lots in such a manner as to require buildings or structures to be located on such slopes unless the applicant is able to establish by clear and convincing evidence to the satisfaction of the Commission that:
 - [1] The development of such slopes is essential to allow the landowner a reasonable use of the property at issue.
 - [2] Such development can be accomplished without risk to the proposed buildings or structures or to the potential future occupants of such buildings or structures.
 - [3] Slope stability can be assured.
 - [4] Such development will not cause detrimental effects on surface water or groundwater flow patterns and drainage.
 - [5] Such development will not otherwise create any risk to the public health or safety.
 - (b) The fact that a particular parcel of land may consist entirely of land having slopes in excess of 25% shall not, in and of itself, be a sufficient reason for the Commission to make a determination that the landowner cannot make reasonable use of the property in the absence of subdivision approval.
 - (c) The Commission shall require written confirmation from appropriate,

and appropriately licensed, professionals, such as engineers, geologists, hydrologists or soil scientists, that the development of the property at issue can be accomplished without risk to public health or safety, building and structural stability, slope stability and surface water and groundwater drainage patterns and quality.

- B. In applying the foregoing standards, the Commission shall consider existing topographic contours, rather than proposed contours. Slope alterations or modifications made subsequent to the adoption of these regulations shall not be considered to reflect existing topography; rather, the Commission shall consider the topography as it existed prior to such alterations or modifications. The purpose of this restriction is to discourage attempts by landowners to avoid, or to minimize the effect of, the operation of this section of the regulations by undertaking extensive or drastic slope modifications or alterations in anticipation of submitting a subdivision application in the future.

§ 213-24. Earth movement.

In accordance with Chapter 446h of the Connecticut General Statutes,⁶ the Commission shall require the applicant to demonstrate that the proposed design and layout of any subdivision minimizes, to the extent practicable, regrading and movement of earth materials. The Commission shall not approve the creation of any lot which, for development purposes, would require the movement of more than 1,000 cubic yards of earth materials unless the applicant can demonstrate to the satisfaction of the Commission that such movement is essential to allow a reasonable use of the subdivision parcel as a whole. Similarly, the Commission shall not approve a subdivision roadway design requiring the movement of more than 600 cubic yards of earth materials over any 100 consecutive linear feet of new roadway unless the applicant can demonstrate to the satisfaction of the Commission that such roadway design is essential to provide reasonable access to the subdivision parcel as a whole.

§ 213-25. Soil erosion and sediment control.

The applicant shall provide a separate erosion and sedimentation control plan in accordance with Chapter 161, Soil Erosion and Sediment Control, and/or other pertinent ordinances or regulations. The applicant may incorporate the information required on the erosion and sedimentation control plans into the master grading and layout plans required by these regulations. The erosion and sedimentation control plans shall incorporate all those requirements of Chapter 161 and provide for positive control at the site throughout the entire period of the construction of the subdivision and through the maintenance period.

§ 213-26. Flood damage prevention.

- A. In order to minimize flood damage in new subdivisions and to prevent increased flood hazards to existing buildings caused by filling in portions of the existing floodway, the Commission shall require that portions of proposed subdivisions

⁶. Editor's Note: See Connecticut General Statutes Section 22a-314 et seq.

within the flood-prone areas conform to all applicable town regulations and ordinances involving flood control.

- B. In all flood-prone areas the following requirements shall apply:
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments containing more than five acres.
- C. The Commission shall not approve any application for subdivision that would result in the creation of lots whose development would require the placement of fill, structures or buildings in any portion of a floodway.

§ 213-27. Inland wetlands and watercourses.

The subdivision plans shall show the location of all inland wetlands and watercourses on the site. A duly qualified soil scientist retained by the applicant shall determine whether the land proposed for subdivision contains inland wetlands or watercourses and shall inform the Commission appropriately by placing a statement on the subdivision plans. If the land does contain inland wetlands or watercourses, the applicant must submit an application to the Conservation Commission at or prior to the submission of a formal subdivision application. The following statement shall be affixed to all pages of the subdivision plan where it applies:

This parcel contains inland wetlands and/or watercourses. Any activity in or around these areas must be consistent with Connecticut General Statutes Sections 22a-36 through 22a-45 and the Somers Inland Wetlands and Watercourses Regulations, which are presently enforced by the Somers Conservation Commission.

§ 213-28. Preservation of natural and historic features.

In accordance with the Connecticut Environmental Protection Act,⁷ it is the intention of the Commission through these regulations to prevent the unreasonable pollution, impairment or destruction of the natural and historic resources of the Town of Somers, in addition to protecting the public health and safety. Consequently, the Commission shall require each subdivision applicant to demonstrate that the design and layout of the proposed subdivision maximizes the preservation of natural and historic resources such as, but not limited to, large trees, wetlands and watercourses, significant botanical features and communities and wildlife habitat, stone walls and fences, scenic views and

⁷. Editor's Note: See Connecticut General Statutes Section 22a-1 et seq.

historic sites.

§ 213-29. Vegetation.

- A. Where plant material is to be removed, or where it does not exist, such as in flat open land or in gravel pits or other similar conditions, the applicant shall provide a replanting program to protect public health and to enhance and preserve the environment. At a minimum, each lot shall have one tree for every 50 feet of frontage or fraction thereof. Shade trees or flowering trees may be used. Shade trees shall have a minimum caliper of two to two and one-half (2 1/2) inches. In general, flowering trees shall have a caliper of one and one-half (1 1/2) to two inches, but in no case shall the size be less than the second size above the minimum available plant in common nursery stock. Lots which have existing vegetation may have this vegetation credited toward this requirement on a lot-by-lot basis.
- B. At the Commission's discretion, the replanting or supplemental planting plan shall include ground cover other than grass, such as shrubs, trees, bushes, etc.

§ 213-30. Open space. [Amended 6-25-1998; 7-16-1998, effective 7-18-1998; 4-9-2009; effective 4-14-2009]

For any subdivision of land under these regulations, the Commission shall require the conveyance and official dedication of appropriately located and sized open space or recreation areas. For the purpose of this section, "open space or recreation areas" shall be defined to include, but not be limited to, areas left in their natural, undisturbed state; agricultural land for which development rights have been assigned or otherwise alienated in perpetuity; areas and facilities for noncommercial, nonprofit recreation; and similar areas for wildlife habitat, passive and active recreation, groundwater recharge, scenic preservation, and the like. In determining the appropriateness of an open space and/or recreation area disposition, the Commission shall consider the Plan of Conservation and Development objectives and map designations and the subject site's characteristics with respect to the following objectives: the conservation and protection of wildlife, wildlife corridors, and natural or scenic resources including lakes, ponds, rivers, streams, streambelts, inland wetlands, aquifers, significant woodlands, ridges, ravines, boulder trains, ledge outcroppings and other unusual physical features; the protection of productive agricultural soil, the protection of historic or archeological sites; the expansion of existing or planned open space, recreational areas, and greenways and the meeting of neighborhood and/or community-wide recreational needs. The Commission reserves the right to select that portion of the proposed subdivision to be dedicated open space, and it may reject or modify any area proposed by the applicant.

Open space subdivisions. The minimum open space to be conveyed within an open space subdivision shall be 40% of the total undivided parcel area. Ponds, streams, wetlands and watercourses should be included in the open space design to the maximum extent possible but excluded from the calculation of the 40%. Settlement basins and transferred rights-of-way shall not be counted towards the minimum area of open space required.

Conventional subdivisions. Except as exempted by statute or otherwise provided in this

section, the Planning Commission shall require the reservation of open space in any subdivision as a condition of approval of the subdivision. The total area to be reserved for open space use shall be computed as 20% of the total area of the property being subdivided. In the event that the reservation of exactly 20% of the area of land to be subdivided would require the dedication of a piece of land that has impractical and irregular boundaries, or that is otherwise undesirable or impractical to be dedicated for public purposes, the Commission may require a minor reasonable adjustment in the twenty-percent requirement. The Commission may, in its discretion, permit the developer to pay a fee or to pay a fee and transfer land to the Town or dedicate an easement in lieu of land dedication for all or part of the open space, in accordance with the provisions of this section.

A. Choice of land or fee.

- (1) Procedure. The procedure for determining whether the subdivider is to dedicate land, pay a fee, transfer land, or provide a combination of the foregoing, shall be as follows:
 - (a) Action of subdivider. At the time of presentation of a preliminary or proposed final map to the Planning Commission, the applicant shall, as part of such presentation, indicate whether (s)he desires to dedicate property for open space purposes or whether (s)he desires to pay a fee and/or transfer land in lieu thereof. If (s)he desires to dedicate land for this purpose, (s)he shall recommend the area thereof on the map as submitted. If the applicant wishes to propose a payment of fee, the applicant and Commission shall first jointly select an appraiser to determine the fair market value of both the total area of land to be subdivided and the land proposed to be transferred. The applicant shall be responsible for all of the appraisal fees and expenses. The fair market value of the land to be transferred, together with any fee to be paid, shall not cumulatively exceed 10% of the fair market value of the land to be subdivided.
 - (b) Action of Commission. At the time of presentation of the preliminary or proposed final map, the Commission shall determine, as part of such presentation, whether to accept the applicant's proposal; to recommend a different combination of dedication, fee and transfer; or to require dedication only. If the dedication of land is required, the Commission shall review the applicant's recommendation and approve, disapprove or modify the proposal.
 - (c) Prerequisites for approval of final subdivision plan. Where open space transfer of land is required, the proposed area to be transferred shall be approved by the Town Planning Commission, which shall refer the transfer of the land to the Town Board of Selectmen for appropriate action and its subsequent referral, if desired, to Town Meeting for acceptance. If the Board of Selectmen or Town Meeting refuses acceptance of the land, the Planning Commission shall reconsider the application to determine whether another form of compliance with the

open space requirements is appropriate. All conditions of approval, including but not limited to covenants for private park and recreational facilities, shall be filed upon the land records of the Town in the office of the Town Clerk by notation on the final approved subdivision plans and filing a notice on the land records of conditions applicable to the subdivision. Where fees in lieu of, or in addition to, open space dedication or land transfer are required, the payment of the same shall be bonded and filed with the Town at the time of the filing of the subdivision performance bond. Where no performance bond is required as a condition of subdivision approval, such fees must be paid upon the sale of each lot and such open space dedicated or land transferred as provided in the Connecticut General Statutes.

- (2) Determination. Whether the Commission accepts the land dedication for open space, modifies and accepts a proposed dedication (e.g., chooses a different location for the open space) or elects to allow payment of a fee, the transfer of land, or a combination of the foregoing, shall be determined by consideration of all of the following:
 - (a) Existing or planned recreational and other open space facilities of the Town in the geographical area in which the land to be subdivided is located.
 - (b) Recommendations of the Conservation Commission, the Planning and Open Space Trails Subcommittee, the Recreation Commission, or any other commission the Planning Commission deems appropriate.
 - (c) Topography, geology, access, location and other natural features of, and existing improvements on, the land in the proposed subdivision available for transfer or dedication for open space.
 - (d) Size and shape of the subdivision and land available for transfer or dedication for open space.
 - (e) The protection or enhancement of the Shenipsit Trail ("Blue Trail") or other trails.
 - (f) The conservation and protection of wildlife and natural or scenic resources.
 - (g) The Plan of Conservation and Development.
 - (h) The Planning and Open Space Trails Subcommittee's Open Space Priority List.
- (3) The determination of the Commission as to whether land shall be dedicated, a fee shall be charged, land shall be transferred, or a combination thereof, shall be final and conclusive.

B. Open space requirements.

- (1) No more than 50% of any land reserved for surface water runoff detention or

retention may be considered for dedication as open space. In most instances, the Commission shall require open space to be dedicated in contiguous tracts containing one acre or more land. However, for small subdivisions (less than ten 10 acres), or in instances in which a desirable public benefit may be gained by the preservation of a portion of the subdivision containing less than one acre, the Commission may require and accept smaller open space areas.

- (2) Any land dedicated to the Town for public playgrounds or other open spaces shall be graded as necessary to properly dispose of surface water, and areas lacking a vegetative cover shall be seeded with perennial field grass. All brush and debris shall be removed and the land left in condition for the purpose intended.
 - (3) If, in the opinion of the Commission, the needs of the Town will best be served thereby, the Commission may allow an applicant to designate land for open space dedication in a future phase or section of the subdivision or on a nearby tract of land owned or under the control of the applicant. The Commission may grant a developer an open space credit of up to 5% in the event that the property owner has previously donated, to the Town, the full portion of the Shenipsit or "Blue Trail" running through his/her property. At the time of said donation of trail property, the property owner and the Commission may enter into a written agreement regarding the future open space dedication which will be required at the time that the remaining property is subdivided. In such cases, the applicant or owner shall provide appropriate written deeds, easements or covenants for the land to be dedicated upon approval of the subdivision or when dedicated.
- C. Limitation on use of land and fees. The land and fees received under this section shall be used for the purpose of providing conservation, park, recreational or other appropriate municipal facilities. The disbursement of such fees must be approved by the Commission and must be consistent with the Plan of Conservation and Development. Any required fees shall be paid to the Town prior to the release of any subdivision performance bond.
- D. Exemption.
- (1) The open space requirement shall not apply if:
 - (a) The subdivision is exempt from open space dedication as provided in Connecticut General Statutes Section 8-25 or 8-39a.
 - (2) When a subdivision is to be exempted from any open space requirements because the land is to be transferred to a family member as per Section 8-25 of the Connecticut General Statutes, then the following notice is to be added to the final subdivision map as part of the approval:

Notice: This subdivision has been exempted from the open space requirements and the requirements for fees in lieu of open space upon the express condition that all lots in the subdivision will be transferred by the subdivider to persons who are the subdivider's parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first

cousin for no consideration. No portion of this subdivision shall be deemed a lot until all of such transfers have been perfected. The Planning Commission and the Zoning Enforcement Officer may require reasonable evidence of the relationship of the transferee to the transferor and the fact that the transfer was made for no consideration before any portion of this subdivision will be treated as a lot.

§ 213-31. Sewage disposal.

- A. Where a sanitary sewer is not available to serve the proposed development, the applicant shall provide test and design data acceptable to the Town Sanitarian, indicating the method of on-site sewage disposal for each lot.
- B. These test and design data shall confirm that each lot would support an on-site sewage disposal system in conformance with the requirements of the current Public Health Code of the State of Connecticut.
- C. Each subdivision lot plan shall bear the signature of the Town Sanitarian, indicating his or her approval of all lots on the plan for on-site sewage disposal.
- D. Sewage and septage shall not be allowed to enter the storm sewer system or runoff into wetlands or watercourses.

§ 213-32. Water.

All developments shall have an adequate and dependable potable water supply for every lot or dwelling unit. Where public water is not available, an on-site supply meeting the Connecticut Public Health Code shall be available.

- A. The following statement shall be affixed to each subdivision plan:

Neither the approval of this plan nor the review or signing thereof by any town consulting engineer, commission, board, officer, official, employee, agent or representative shall constitute or be construed as a representation, guaranty or warranty by such consulting engineer, commission, board, officer, official, employee, agent, representative or the Town of Somers as to the chemical content, quantity, quality or potability of any water supply. Any determination concerning the chemical content, quantity, quality or potability of any water supply shall be the sole responsibility of the purchaser or other transferee of the property on which the water supply is located or proposed to be located.

- B. Contamination. Prior to subdivision approval, in areas of known or suspected groundwater contamination, the applicant shall either provide an approved public water supply system or provide evidence to the satisfaction of the Town Sanitarian that any and all proposed private wells will be free from contamination.
- C. System extension. When a public water system or an extension of the same is proposed, the applicant must obtain all necessary approvals from the Connecticut Department of Health Services (DOHS), the Department of Public Utility Control (DPUC) and any other relevant agencies.

§ 213-33. Public wells.

Notice of subdivision proposals involving land adjacent to or within 500 feet of existing public well fields may be required to be submitted to the Connecticut Department of Health Services (DOHS), the Department of Public Utility Control (DPUC) or other appropriate agencies for review and comment.

§ 213-34. Passive solar design.

All persons submitting a subdivision shall demonstrate to the Commission that they have designed the street, lot layouts and house orientations and used vegetation and natural and man-made topographical features so as to maximize and protect solar access within the development while still observing other provisions of these regulations and respecting the natural limitations of the site.

§ 213-35. Driveways.

All driveways shall be designed to comply with Chapter 104, Driveways, and any zoning regulations that are applicable.

§ 213-36. Reserve strips.

No privately owned reserve strips which control access to land dedicated or to be dedicated to public use will be permitted.

§ 213-37. Zoning.

Each proposed subdivision shall conform to all applicable requirements, including but not limited to lot frontages, dimensions and areas, in Chapter 214, Zoning.

ARTICLE VI
Streets and Sidewalks; Utilities

§ 213-38. Street layout.

A. Street pattern.

- (1) The street pattern within the subdivision shall be orderly. All street patterns shall be designed to accommodate prospective traffic and to afford satisfactory access for police, fire fighting, snow removal, sanitation and road maintenance equipment, as well as school buses. Roads shall be coordinated to compose a convenient system and to minimize adverse impacts on adjoining properties. Where appropriate, a collector street shall be used for more direct access to local streets.
- (2) It is preferred that road patterns be curvilinear rather than linear. In general, straight sections of roads should not exceed 1,500 feet in length. Vertical and horizontal curves should be appropriately used to reduce the straight road patterns. In those areas where the roads are straight and fairly level, suitable techniques shall be employed to discourage and minimize speeding,

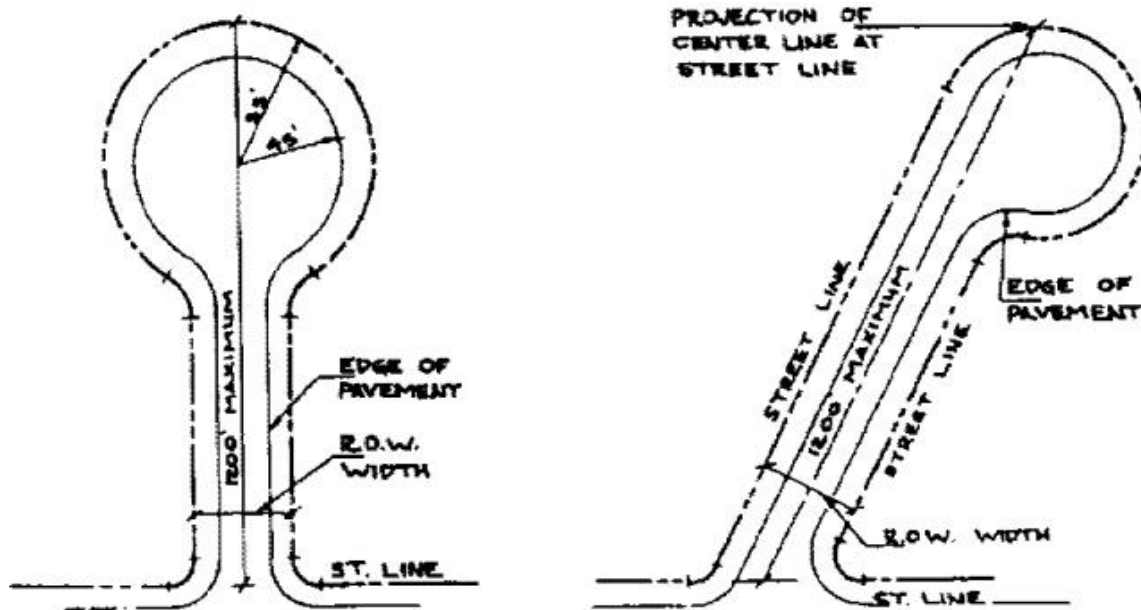
particularly in residential neighborhoods. The use of stop signs on straight roads will not be considered sufficient to assure safe vehicular speeds and turning movements. Street lot patterns shall also be used to accomplish this requirement.

- (3) Road crossings over wetlands, swamps, brooks and watercourses shall be designed to have the least impact and cross at the narrowest width possible consistent with good design. The street pattern shall be appropriately related to the topography and terrain, both within the subdivision and the surrounding lands. Local roads shall be curved wherever possible to avoid uniformity of lot appearance. Rectilinear or grid-pattern-type street arrangements shall generally be unacceptable. The final road pattern and lot pattern, in addition to complying with Chapter 214, Zoning, shall be designed in such a way as to minimize the need to develop land areas having severe development limitations (as defined by the United States Department of Agriculture Soil Conservation Service) or significant natural or historic resources. All streets shall be arranged so as to obtain as many as possible of the building lots at or above the grades of the streets.
- B. Grades. Grades of streets shall conform as closely as possible to the original topography. Streets having steep grades, high fills or deep cuts shall be avoided where possible. Street and lot patterns shall be carefully designed to minimize the need for regrading and defoliation of sites.
- C. Stub roads.
- (1) Where a new subdivision abuts other land that is susceptible to subdividing, a right-of-way for future road purposes shall be carried to the boundaries of the land susceptible to subdividing. Upon approval of the subdivision, proper easements for all such rights-of-way shall be deeded to the town.
 - (2) The applicant shall provide sufficient technical information to permit the Commission to evaluate the need for such rights-of-way and the adequacy of all proposed locations for such rights-of-way.
- D. Blocks. Street block length shall not exceed 1,200 feet nor be less than 600 feet, unless the applicant demonstrates to the satisfaction of the Commission that a different block length will still provide an orderly, safe and convenient street pattern. Minimum block width shall be related to the zone district requirements for lot depth and shall provide for at least a double tier of lots.

§ 213-39. Culs-de-sac.

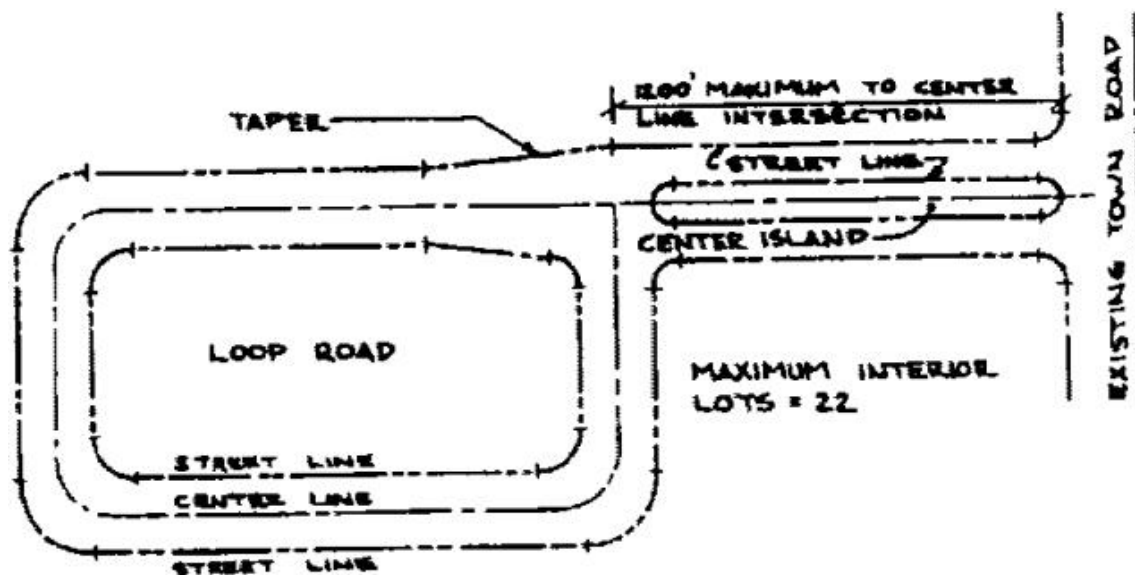
- A. Length. All new dead-end streets shall be culs-de-sac. Culs-de-sac shall not exceed one thousand two hundred (1,200) feet in length, nor serve more than 14 lots. The length of 1,200 feet shall be measured on the center line from the street line of the starting roadway to the extreme tip of the right-of-way (beyond the turnaround). The turnaround shall have a minimum radius of 55 feet from the center to the outside edge of the right-of-way, with a forty-five-foot pavement. Where there is a

possibility of an extension of a cul-de-sac, there shall be a notation on the record plan stating that the town's easement for all segments of the turnaround outside the normal right-of-way (50 feet) shall be relinquished at such time as the turnaround is eliminated. The developer creating the extension shall be responsible for the removal of the surplus pavement, the repair of driveways leading to the former turnaround and the regrading and reseeding of the area.



- B. Use. There shall be no more than two culs-de-sac to a subdivision unless the applicant can demonstrate that this limitation precludes any reasonable subdivision of the parcel at issue. Where culs-de-sac are permitted, they shall serve no fewer than three interior lots (i.e., lots that have frontage only on the cul-de-sac; the corner lots fronting on the main roadway shall not be considered to be interior lots under this section).
- C. Stem and loop roads. In lieu of a cul-de-sac, an applicant may propose a divided-entrance roadway and circular terminus for a so-called stem-and-loop-style road pattern.
 - (1) In such instances, the divided entry road shall have two segments of pavement 18 feet wide each on either side of a dividing island 12 feet wide within a seventy-foot right-of-way. This entry road shall not exceed 1,200 feet in length measured on the center line from the street line of the starting roadway to the center line of the street of the first intersection.
 - (2) The maximum number of interior lots (see Subsection B) permitted with this arrangement shall be 22.
 - (3) A planting plan for the center island shall be presented to the Commission. The developer shall be required to set up a properly funded homeowner's

association or other legally effective mechanism to maintain the center island at no expense to the town. The maintenance mechanism, including the designation of the persons or entities who will be responsible for such maintenance, shall be described on the subdivision plan. An appropriate document, legally sufficient to establish and continue the maintenance mechanism, shall be presented in draft form to the Commission at the time the subdivision application is filed. The document shall provide for a sound and adequate funding program, and shall also give the Town of Somers the right to perform this maintenance and secure the appropriate funds in the event that the responsible persons or entities do not fulfill their obligations. The Commission may require such modifications in the document as are necessary or desirable to accomplish the purposes of this section. The final document shall be properly executed and filed in the Somers Land Records as a condition of final subdivision approval.



D. Restrictions.

- (1) Where cul-de-sac or stem-and-loop-style road patterns are created off of existing town roads, due consideration for the total number of lots served by the existing town road shall be made. If the existing town road is itself a dead-end road, or if the access on one end of the road is in poor condition or unimproved, the Commission may reduce the number of lots otherwise allowable under Subsections A and C.
- (2) The Commission may allow the use of an existing town road as a portion of the stem-and-loop-style road system. In such cases the Commission shall determine whether a divided entrance roadway shall be installed to replace the existing road.
 - (a) This requirement shall be decided only after consideration of the

following:

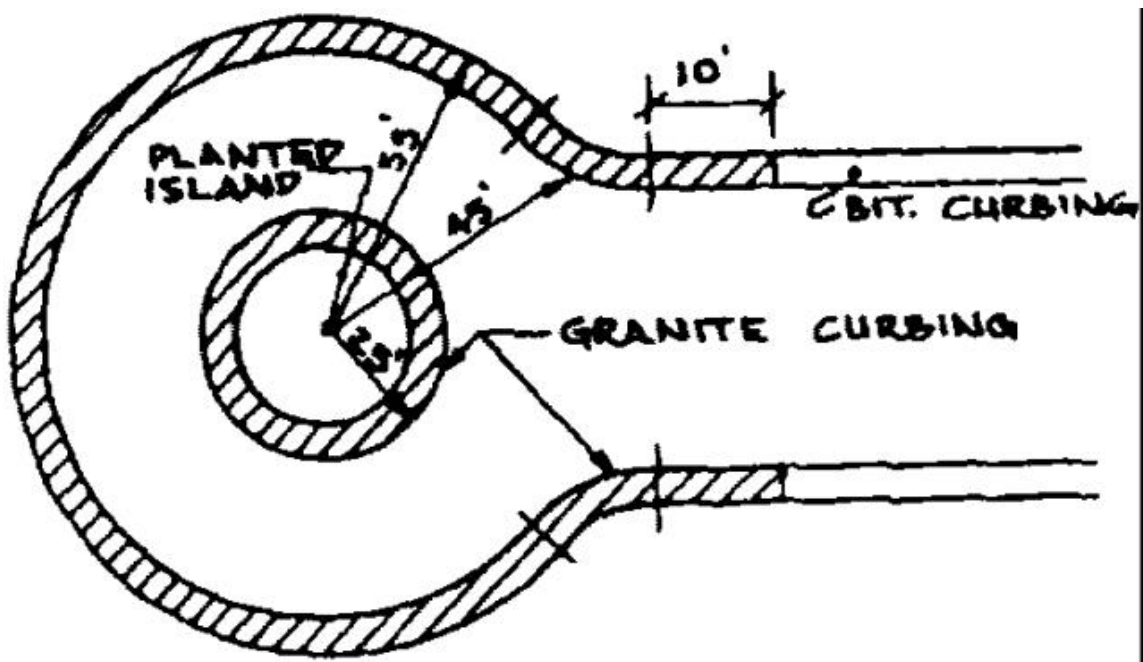
- [1] The stem of the stem-and-loop road pattern shall not be more than 900 feet and the loop of the stem-and-loop road pattern shall not be more than 4,700 feet. The Commission shall encourage the shortest road pattern possible consistent with good planning and engineering practices.
- [2] Proposed road pavement width shall be no less than 22 feet.
- [3] Existing road pavement width shall be no less than or upgraded to 18 feet.
- [4] The amount of disruption to the area where a divided entrance roadway would be required.
- [5] Approval from the Fire Department and the Department of Public Works.

(b) In making this determination the Commission shall consider the protection and maintenance of the existing terrain, historical values of the area, topography, disruption to the drainage patterns and vegetation. Where a proposal does not use or reuse an existing road, the Commission shall require the divided entry road.

E. Island culs-de-sac. Island culs-de-sac (culs-de-sac having an island in the center of the vehicular turnaround) may be permitted on a case-by-case basis, depending on the needs of the individual design proposal.

- (1) At a minimum, any such turnaround shall have a street line radius of 55 feet, a pavement outside radius of 45 feet and an island radius of 25 feet.
- (2) The island and the outside pavement curbing shall all be granite back to the starting points of the turnaround, unless curbing is not required by the Commission.
- (3) A planting plan for the center island shall be presented to the Commission. The developer shall be required to set up a properly funded homeowner's association or other legally effective mechanism to maintain the center island at no expense to the town. The maintenance mechanism, including the designation of the persons or entities who will be responsible for such maintenance, shall be described on the subdivision plan. An appropriate document, legally sufficient to establish and continue the maintenance mechanism, shall be presented in draft form to the Commission at the time the subdivision application is filed. The document shall provide for a sound and adequate funding program, and shall also give the Town of Somers the right to perform this maintenance and secure the appropriate funds in the event that the responsible persons or entities do not fulfill their obligations. The Commission may require such modifications in the document as are necessary or desirable to accomplish the purposes of this section. The final document shall be properly executed and filed in the Somers land records as a condition

of final subdivision approval.



§ 213-40. Street construction standards.

A. Widths.

- (1) Except as hereafter provided, proposed streets shall have a right-of-way width of not less than 50 feet and a paved roadway width of not less than 28 feet. Street rights-of-way and roadway widths shall be no less than are shown in the following schedule:

Classification	Width	
	Right-of-Way (feet)	Paved Roadway (feet)
Arterial	60	36
Collector	60	32
Local and dead end	50	28

- (2) The Commission shall make the final determination as to the appropriate classification of any street. Right-of-way and/or roadway widths wider than those shown above may be required if deemed necessary for public safety by the Commission.
- (3) The Commission may permit reduced pavement width for local and dead-end

streets where the site topography, ground cover, soils, wetlands and watercourses or other natural or historic resources would be best preserved by considering a pavement reduction and where the reduction would not have deleterious effects on public health or safety. The reduced pavement width may be no less than 22 feet plus twelve-inch slope-style curbs for cul-de-sac or very low traffic volume roads. For higher volume and lengthy roads the width may be no less than 24 feet plus twelve-inch slope-style curbs. The Commission may permit reduced pavement width for an existing road when such road is proposed to be used in a subdivision where the road is not a through street.

(a) The reduced pavement width shall be no less than 18 feet if the following is provided for:

- [1] Appropriate turnouts, the location and number of which shall be approved by the Department of Public Works and the Fire Department.
- [2] Pedestrian safety, including provisions for pedestrian traffic using sidewalks or trails within the subdivision.
- [3] On-street parking shall be prohibited.
- [4] Driveways shall provide for adequate off-street parking to accommodate the on-street parking prohibition.
- [5] Pavement standards for new roads shall be met.
- [6] The Commission may waive the requirements for curbing for up to a twenty-two-foot paved road when the requirement for curbing is inappropriate or when the Commission requires sheet flow drainage. Side road drainage may be conveyed into shallow swales with the approval of the Town Engineer.

(b) In making reductions in the pavement width, the Commission may consider the following:

- [1] Site topography.
- [2] Ground cover, including trees and plants.
- [3] Impact on cutting and filling for roadways.
- [4] Vertical and horizontal road alignment.
- [5] Site soils, including exposed or shallow cover over bedrock and groundwater effects.
- [6] Stormwater runoff.
- [7] Vehicular and pedestrian safety.
- [8] Impact on inland wetlands and watercourses.

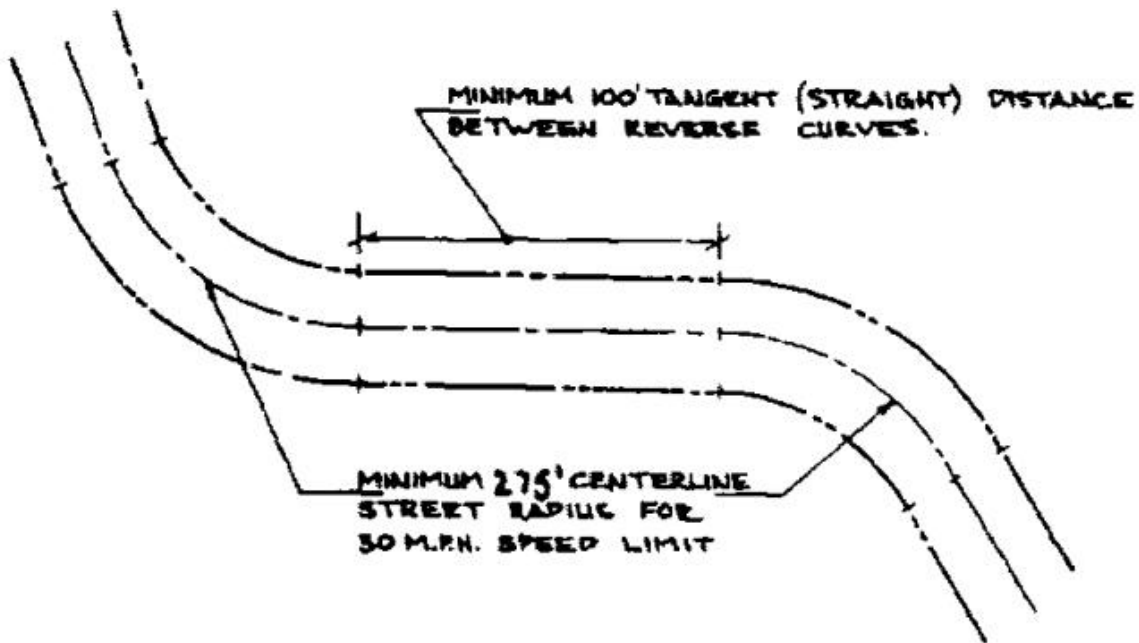
- [9] School bus access.
- [10] Long-term town maintenance.
- [11] On-street parking.
- [12] Historical values.

- B. Other standards. All streets shall be constructed according to the current Town of Somers road specifications.
- C. Existing streets. Proposed subdivisions abutting any existing town street or abutting any abandoned or discontinued street shall provide for the widening and improvement of such street in accordance with the standards set forth in these regulations. Sufficient land shall be dedicated along any such street to provide the right-of-way and paved roadway widths specified in Subsection A of this section. Existing road conditions shall be examined and the applicant's registered design professional shall make a recommendation. Town staff shall review the recommendations and agree or modify as is deemed necessary based upon the conditions, circumstances and facts. The Commission may, in its sole discretion, modify the requirements for rights-of-way and paved roadway widths in said section, based upon a finding of reasonable need and satisfaction of any conditions which may be imposed by the Commission as certified by a professional engineer in accordance with § 213-50 of these regulations.

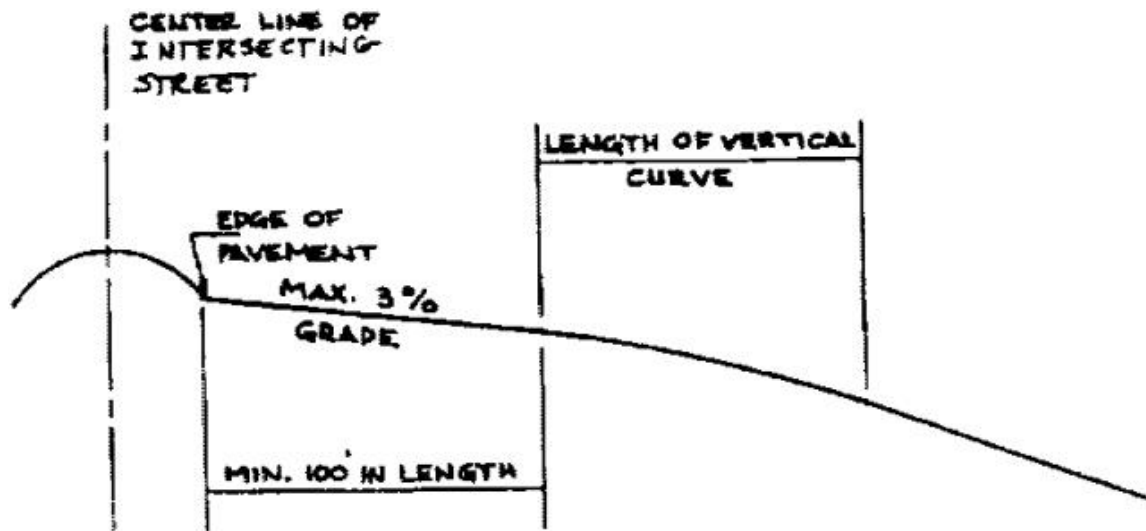
§ 213-41. Street design.

- A. Design speed.
 - (1) The minimum design speed for local streets, including culs-de-sac, shall be 30 miles per hour. Collector and arterial streets shall have minimum design speeds of 35 miles per hour or higher, as determined by the Commission based on site conditions. The minimum design speed for access streets, including culs-de-sac, shall be 20 miles per hour. Street patterns which encourage speeding will not be permitted.
 - (2) Design speed values on existing town streets shall be determined by measuring the 85th percentile speed. In no event shall the design speed be less than the posted speed limit.
- B. Horizontal design criteria (local roads).
 - (1) Roadways shall have a minimum stopping sight distance (SSD) of 200 feet for design speeds of 30 miles per hour, 225 feet for design speeds of 35 miles per hour and 125 feet for design speeds of 20 miles per hour. Streets with higher speeds shall be designed using the latest AASHTO criteria. Streets shall be corrected for grade in accordance with the latest AASHTO standards. See A Policy on Geometric Design of Highways and Streets 1990, or as amended.
 - (2) A minimum tangent distance of 100 feet between reverse horizontal curves shall be provided on all streets. The Commission may reduce the distance of

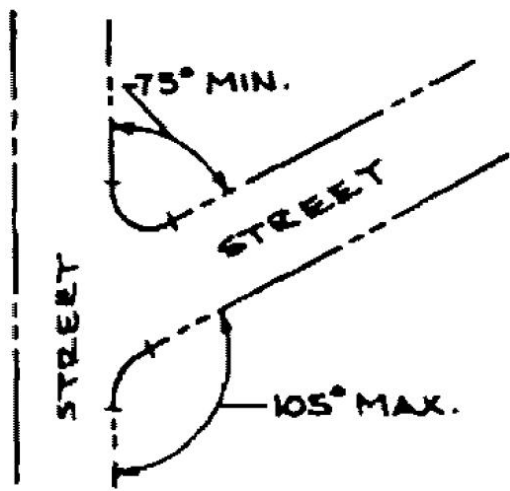
100 feet between reverse horizontal curves to 50 feet on roads with design speeds of 20 miles per hour.



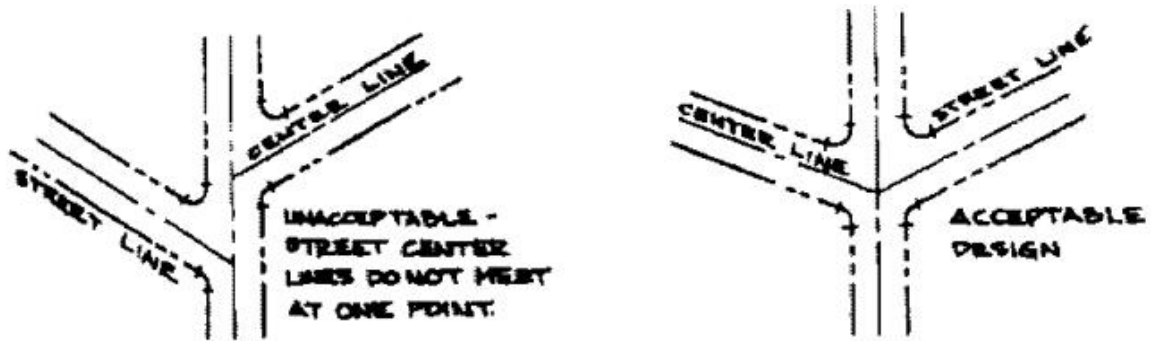
- C. Minimum curve radius. Where design speeds of 30 miles per hour are used, the minimum center-line radius shall be 275 feet. Higher design speeds shall require higher values, based on AASHTO criteria. Lower speeds shall use lower values based on the latest AASHTO criteria.
- D. Intersection design.
 - (1) New streets shall be designed to be at right angles or radial to the streets they join for a distance of at least 100 feet from the intersecting street line. The vertical tangent approach length, as shown in the figure, shall not exceed 3% for the first 100 feet. Where unusual geometry, terrain or existing road constraints are found, the Commission may, with the recommendation of the Town Engineer, reduce the vertical tangent approach length to a maximum of 3% for the first 50 feet. Reduction, if any, shall also take into consideration the traffic volume and pattern on each of the roads at the intersection.



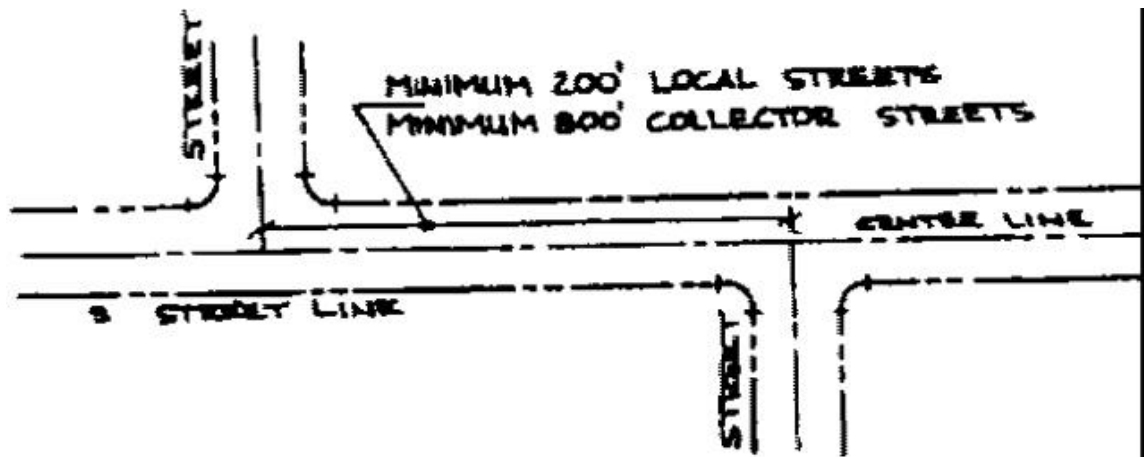
- (2) No street intersection shall result in more than four corners.
- (3) No streets shall intersect or meet at an angle of less than 75° or more than 105° . Skewed intersections followed by sharp curves shall be discouraged, especially if the street gradient changes rapidly.



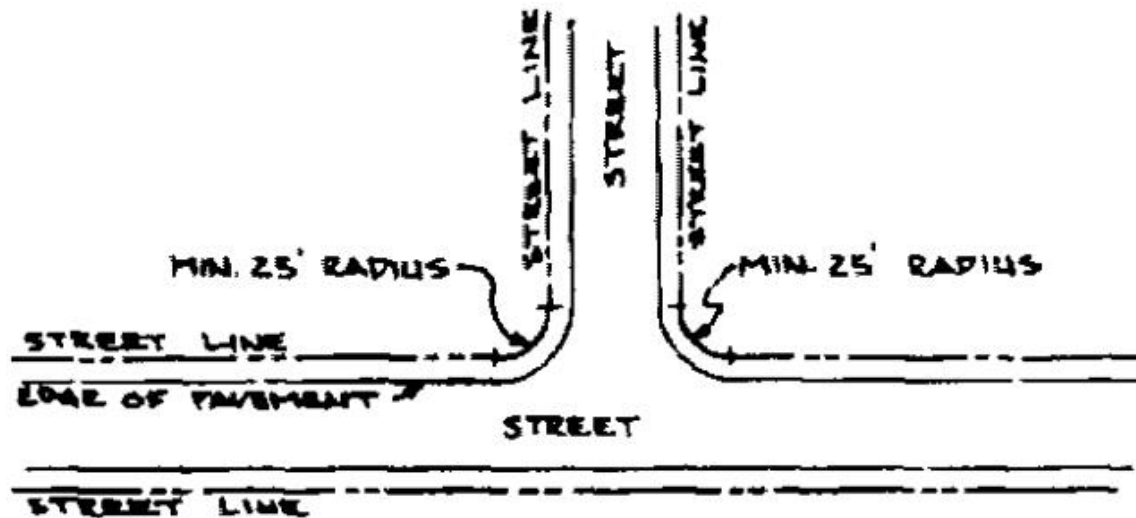
- (4) The center line of all streets entering an intersection shall pass through a single point.



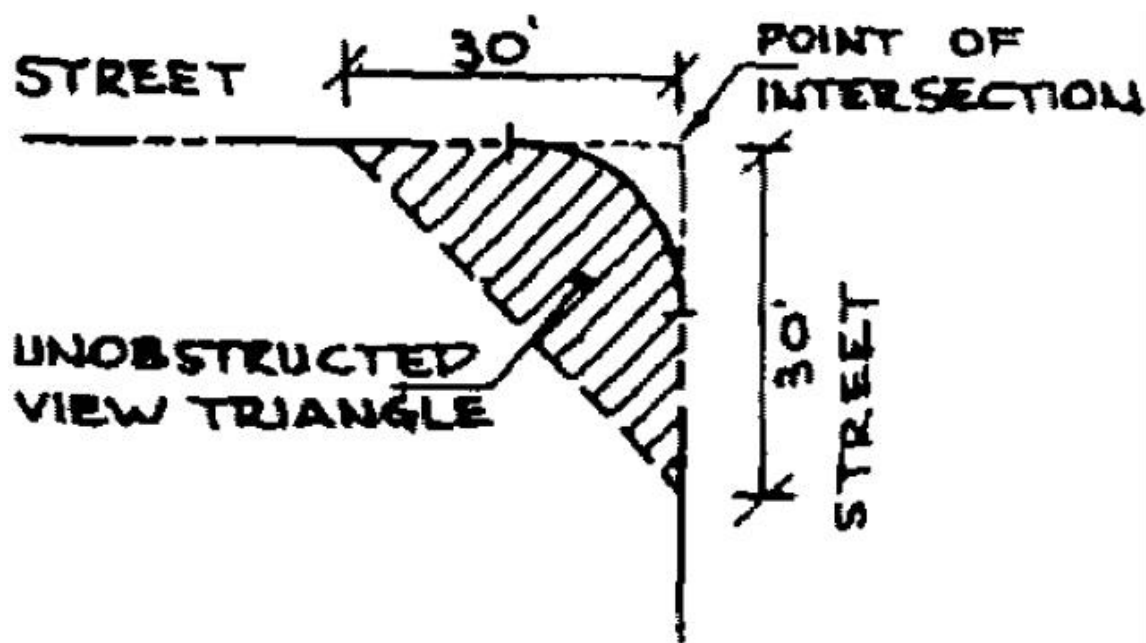
- (5) Side street intersections on opposing sides of local streets shall be directly opposite each other or, if offset, shall be spaced a minimum of 200 feet apart, as from the points of intersection of the center lines.



- (6) Side street intersections on opposing sides of collector streets shall be directly opposite each other or, if offset, shall be spaced a minimum of 800 feet apart, as measured from the points of intersection of the center lines.
- (7) Intersection street lines at corner lots shall have a minimum radius of 25 feet. This shall include situations where new roads are adjacent to properties not under the applicant's ownership.



- (8) At a street intersection, no obstruction to sight over three feet in height will be allowed within the corner area. For these purposes, the corner area shall be in the shape of a triangle with each leg being 30 feet long as measured along the street lines from their point of intersection. A sight line easement for each such corner area shall be provided to the town. Where any street intersection would involve a corner lot having earth banks or existing vegetation that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent required by the Commission to provide an adequate sight distance.



- (9) The line of sight at intersections shall comply with the State of Connecticut Department of Transportation Geometric Highway Design Standards Manual, Interim Guidelines (2-25-1986, or as amended). For informational purposes, the guidelines are printed in the Appendix.⁸

E. Vertical design criteria.

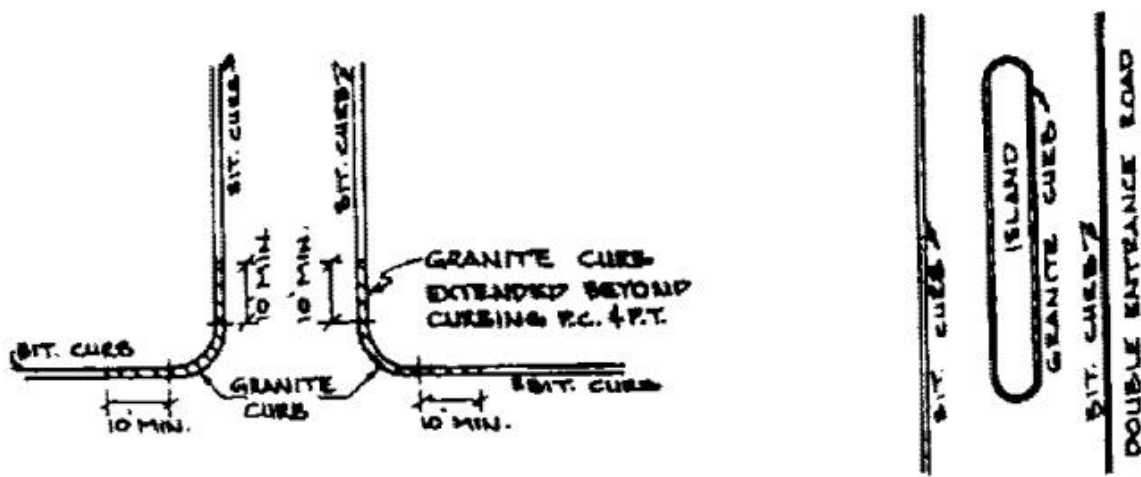
- (1) At all changes in grades, a vertical curve shall be provided. The minimum length of vertical curve required shall be sufficient to provide a minimum stopping sight distance of 200 feet at 30 miles per hour. Greater distances will be required for higher speeds, as determined by the Commission using the latest criteria of AASHTO.
- (2) All streets and highways shall have a gradient of no less than 1% (except in a vertical curve at a change in the direction of slope) and no more than 8%, except by permission of the Commission on an individual site basis, in which case the maximum gradient shall be no more than 10%. The gradient leading into or out of the vehicular turnaround of a cul-de-sac street shall be no more than 5%, and the gradient along the gutter in the cul-de-sac shall be no less than 1.0%.
- (3) Careful determination of gradients at sags in the street profile shall be made to be certain that these criteria are met. The ten-percent gradient, if and when granted, shall only be allowed for short distances.

F. Miscellaneous design criteria.

- (1) All lot driveways shall comply with all applicable town regulations and ordinances.
- (2) All regraded areas shall be covered with topsoil to a depth of six inches and fertilized and seeded.
- (3) It is the policy of the Commission to severely restrict regrading of sites to maintain natural features of the landscape and topography. Restricted activities shall include cuts and fills for streets, houses and driveways and removal of natural ground cover or destruction of worthwhile topographic features. If a special use permit is required for any proposed movements of earth products under Chapter 214, Zoning, such permit must be obtained prior to application for final subdivision approval.
- (4) Curbs shall be required on all new streets and shall conform to construction and design standards as required in the Appendix to these regulations.⁹ Normally, curbs shall be bituminous; however, granite shall be required for corners, islands and vehicular turnarounds. The Commission may determine that curbs are not required on existing town roads where there are no existing curbs or when drainage is better accommodated without curbing.

8. Editor's Note: The guidelines are available at the office of the Town Planner.

9. Editor's Note: Appendix materials are available at the office of the Town Planner.

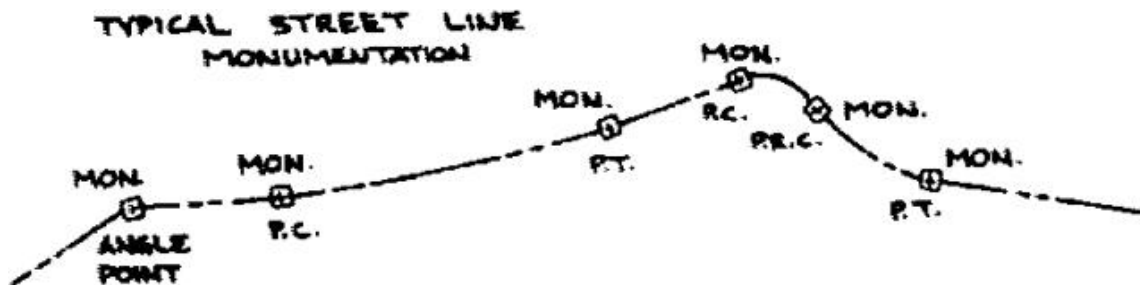


- (5) Guide rails shall be provided along any portion of a street having a side slope (below street level) steeper than one vertical to four horizontal. Such rails shall conform to AASHTO Roadside Design Guide standards for roadside barriers. The design shall be related to the required design speed.
- (6) All road pavement, shoulders, drainage, improvements, structures, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications adopted by the Town of Somers.
- (7) Pedestrian walkways having a right-of-way not less than 15 feet wide shall be required where deemed essential to provide access to nearby or adjacent schools, playgrounds or other community facilities. The walkways shall be graded and surfaced as directed by the Commission.
- (8) The developer shall provide for the proper elimination of all shallow ponding or stagnant water (not including wetlands or watercourses) within the limits of the proposed subdivision.
- (9) The burial of tree stumps, shrubs and large boulders is prohibited within the limits of the proposed subdivision.
- (10) The Commission may require street rights-of-way to be free and clear of obstructions, including but not limited to walls, fences, trees and open drainage ditches.
- (11) Where new roadways are to be constructed now or in the future, the developer shall reserve for his/her successors, heirs and assigns the rights to slope the ground adjacent to the new road construction. Such slope rights shall extend a sufficient distance onto the individual adjacent lots to provide the standard road cross section without special earth-bank stabilization. These slope rights may be required onto lands of adjacent owners if this is needed to construct the proposed design. These rights in draft or final form must be reviewed and approved by the Commission prior to final subdivision approval. Slope rights

must be obtained by the applicant prior to the commencement of construction.

G. Street monuments and iron pins.

- (1) Street monuments shall be placed at all street block corners, angle points, points of curvature in streets and such other intermediate points as are directed by the Commission. All monuments shall be furnished by the developer and installed where indicated on the final subdivision plan. Monuments shall be reinforced concrete and shall be designed as required in the Appendix.¹⁰ All monuments are to be set flush with proposed grades.



- (2) Iron pins shall be placed at all lot corners, as well as angle points and points of curvature in lot lines. Pins shall be one-half-inch outside diameter or larger, and three feet long. Where an iron pin cannot be set, another permanent marker shall be set, such as a plug, disk or drill hole. Where it is not practical to set points at the exact designated locations, markers shall be set on an offset from the true point. This alternate point shall be clearly shown and dimensioned on the recorded plan. All work shall be in place prior to street acceptance.
- (3) The developer shall be responsible for the maintenance and repair of all monuments installed until such time as all required subdivision improvements have been completed and accepted by the town.

§ 213-42. Drainage.

- A. Standard details. All storm drainage facilities constructed under these regulations shall conform to the Connecticut State Highway Department Standards, Form 814, as amended.
- B. Drainage design methods.
 - (1) The stormwater flows and management shall be based on the Model Runoff Management System Regulations prepared by the Tolland County Soil and Water Conservation District, May 1988, as amended. Modeling shall be performed, using SCS TR55 or SCS TR20 methods, as appropriate. Detention basins and other designs shall also be consistent with the SCS Guidelines for

¹⁰. Editor's Note: Appendix materials are available at the office of the Town Planner.

Soil Erosion and Sediment Control 1988, or as amended. Where deemed necessary by the Commission, the flows in streets shall be verified by gutter-flow analysis.

- (2) Where the watershed area or flows are smaller than those governing in the model regulations above, the applicant may use the Rational Method for determining the stormwater runoff, provided that the applicant demonstrates that such method may be appropriately used under the circumstances.
- (3) The Commission may require the applicant to provide an analysis by a competent professional of the drainage impacts of the proposed development on any watercourses which may receive drainage from the development.

C. Flood damage prevention.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage, as required in § 213-26 of these regulations.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Where possible, existing flood-prone areas shall be determined from Flood Insurance Rate Maps. Where such maps do not cover the area to be subdivided or where such maps do not include base flood elevations, existing flood-prone areas shall be determined by standard hydrological methods. The applicant shall show any projected changes that would occur in the flood-prone areas as a result of development.
- (5) All flood-prone areas located on the land to be developed shall be shown on the subdivision plan.
- (6) The Commission shall disapprove any application for a subdivision that would result in an increase in flood-prone areas or in flood levels or flows on other property, unless the applicant demonstrates that such increase or increases can be safely accommodated by existing natural or artificial drainage facilities without risk of harm to such other property.

D. Aquifer or public water supply protection. Site development shall be consistent with and conform to all relevant statutes, regulations and ordinances for the protection of aquifers and public water supplies.

E. Design storm criteria.

- (1) All designs shall be based on the maximum possible development of the entire watershed as permitted by Chapter 214, Zoning. All bridges and culverts shall be designed so that the required head and backwater produced by the structure would not cause flooding of upstream property.

- (2) On watersheds one square mile or more in area, the design of culverts, bridges and through watercourses shall be based upon not less than a one-hundred-year storm. On watersheds of less than one square mile, the design shall be based upon not less than a fifty-year storm.
- (3) The drainage system for roads, including catch basins, inlets, pipes, underdrains and gutters within or abutting the subdivision shall be designed for not less than a ten-year storm.
- (4) An adequate flood storage area for larger storm frequencies (up to and including a one-hundred-year storm) shall be provided within the road and lot pattern.

F. General hydraulic design requirements.

- (1) Storm drains shall be designed to flow full.
- (2) All storm sewers shall be designed to provide a self-cleansing velocity of at least 2.5 feet per second when flowing full.
- (3) A minimum cover of two feet shall be provided for all storm drains. This cover shall be maintained over cross-drain pipes connecting both sides of a street as well as along main runs. The Commission may reduce the cover to no less than 12 inches as recommended by the Town Engineer. This shall be discouraged except in unusual circumstances.
- (4) No storm drainage system shall outlet into a natural watercourse, whether continually flowing or intermittent, so as to cause the watercourse to overflow its banks more frequently than it would otherwise. The developer shall obtain all necessary drainage rights for flows across adjacent properties in writing. The rights shall include the right for the town to enter such properties and to construct or maintain existing or proposed facilities if the system is to be accepted by the town. These rights in draft or final form must be reviewed and approved by the Commission prior to final subdivision approval. The rights must be obtained prior to the commencement of construction.
- (5) Where a new street intersects an existing street which has no underground drainage system or has a drainage system of insufficient capacity to carry the additional flow, appropriate facilities shall be installed by the developer to intercept and dispose of any drainage from the new street which would otherwise be discharged onto the surface of the existing street or into its drainage system.
- (6) All storm system outlets shall have an appropriate outlet structure and the streambed shall be properly stabilized. Before submitting a storm drainage plan to the Commission, the designer shall examine the outlet and downstream channels on site so as to verify their adequacy and future stability.
- (7) The first set of catch basins in a storm drainage system shall be located a maximum of 350 feet from the roadway high point. Spacing between sets of catch basins shall be a maximum of 300 feet. A drainage structure shall also

be placed at each vertical grade change along a storm drain, at each change in horizontal direction and at each junction point of two or more storm drains. Where required by watershed size or steep road grades, double or multiple catch basins shall be provided.

- (8) The minimum pipe size for all storm drainage systems constructed under these regulations shall be fifteen-inch inside diameter. The material shall be reinforced concrete, except as otherwise provided herein.
 - (9) All underground public utilities shall be confined to street rights-of-way wherever possible. In all other cases an appropriate construction and maintenance easement shall be deeded to the Town of Somers. No underground utility shall be installed within five feet of any street or property line.
 - (10) The center 10 feet of all street rights-of-way shall remain clear as much as possible to provide space for possible future sanitary sewers.
 - (11) The designer should carefully consider the size of standard catch basins and manholes where large-sized, skewed or multiple pipes enter into a structure. The proposed plan shall clearly spell out and detail for the contractor how these special structures are to be built.
 - (12) The Commission may require the developer to provide stormwater retention basins. The design of these basins shall be in accordance with the Connecticut Guidelines for Soil Erosion and Sedimentation Control (1988), as may be amended. Construction and maintenance easements, including access roads as well as fencing and planting, shall be provided as required by the Commission.
 - (13) Where large storm sewer pipes or special situations such as bridges or culverts are considered, the Commission may require the use of construction materials other than reinforced concrete. This choice will be based on maintenance and long-term replacement costs, as well as on suitability of the material for the intended use.
- G. Drainage easements. Drainage easements, outside of street lines, shall be a minimum of 30 feet wide and shall include an easement strip at least 15 feet wide along each bank of any channel or watercourse passing through the easement area. The width of the easement strip along the bank of a channel or watercourse shall be measured from the top of the bank. Easements for outlet pipes shall extend to a suitable existing storm drain or an adequate natural watercourse. Normally the storm pipe shall be 10 feet off one side of the easement so as to provide a larger (20 feet) working area on the other side.
- H. Intersection drainage. Where the development streets join existing town streets, the developer shall provide suitable and adequate drainage at the intersections.
- I. Private drains.
- (1) The size and location of all private storm drains that would connect to the

town storm drainage system must be approved by the Commission prior to installation. A waiver for maintenance and liability must be filed by the developer with the Town of Somers. This waiver shall relieve the town of any responsibility in the event of any failure of either the private or town storm drainage system. The waiver shall be recorded in the land records of the Town of Somers. A method of assuring private maintenance and funding for such storm drains must be proposed by the applicant and approved by the Commission prior to installation.

- (2) Rear yard drains and cellar or foundation drains that are connected to the storm drainage system must be shown on the final as-built plan of the drainage system.
- J. Underdrains. Adequate street underdrains shall be constructed whenever, in the opinion of the Commission, drainage conditions require it. All underdrains shall be designed based on the existing soil and terrain requirements. They shall be not less than six inches in diameter, but the actual size shall be based on groundwater conditions. Access cleanouts or openings shall be provided. Proposed underdrains shall be shown on the final subdivision plans. Where no underdrains have been shown, but the Commission determines during the course of street construction that underdrains are needed, the applicant or his successor shall install such underdrains and make appropriate modifications to the subdivision plans. The Commission or town may refuse to accept any street in which such underdrains have not been installed.

§ 213-43. Street signs.

The developer shall provide and install painted wood street signs at any new street intersections. See the attached Appendix of street details for size, materials and installation.¹¹

§ 213-44. Stop signs and striping.

Stop signs, stop bars and center line striping shall be installed by the applicant as directed by the Selectmen.

§ 213-45. Street names.

There shall be no duplication of existing street names or names with similar words, nor shall there be a phonetic resemblance to the names of existing streets within the town. The names must be approved by the Town Assessor and the Fire Chief.

§ 213-46. Streetlighting; location of utilities.

- A. All streets shall have lighting as required and approved by the Selectmen.
- B. All of the utilities itemized below shall be buried underground. The Commission may require, upon recommendation of the Town Engineer, that utilities be placed in

¹¹. Editor's Note: Appendix materials are available at the office of the Town Planner.

sleeves or ducts depending upon the type and location of the utilities in the street or underneath the pavement. Underground locations shall generally comply with the following:

- (1) Sanitary sewers: center line of street.
 - (2) Storm sewers: edge of street opposite water line.
 - (3) Water line: within right-of-way above and at least 10 feet from sanitary sewer line.
 - (4) Gas line: within right-of-way opposite electric, telephone and cable lines.
 - (5) Electric, telephone and cable television: within right-of-way opposite waterline. Cross cables or cables under or close to the pavement shall be placed in ducts or sleeves to facilitate the maintenance of the cables.
- C. In all locations where sanitary sewers or lines for water, gas, telephone, cable television or electric service are to be furnished from a public source, all necessary mains, branch lines to each lot, fire hydrants and necessary equipment must be approved by the public or private entity having jurisdiction. All subsurface utilities shall be shown on the as-built plan. The applicant shall be responsible for all costs of utility installation, including any costs for bringing such utilities to the proposed subdivision from off-site.

§ 213-47. Numbering of buildings.

Final subdivision plans shall show street numbers for each lot based upon the current town house numbering system. Where the subject lot is a corner lot, a number shall be assigned for each street frontage. These numbers shall be assigned by the Town Assessor and placed on the final subdivision plan after the location of the lots is certain but before it is signed by the Commission.

§ 213-48. Sidewalks. [Amended 7-16-1998, effective 7-18-1998]

The applicant shall install sidewalks along any portion of the frontage of subdivisions on existing or proposed town streets within one mile of any town school property as measured along the street pattern. The new walks shall be at least four feet wide and include concrete handicapped ramps at street corners. The sidewalks shall be on both sides of the new streets unless the Commission determines that the public safety will be adequately protected by providing a sidewalk on one side only. Sidewalks on permanent cul-de-sac roads shall be required on one side only. When a subdivision includes an existing town road or roads under 22 feet wide, the Commission may require sidewalks or trails to provide for safe pedestrian traffic within the subdivision. With a three-fourths vote of all the members of the Commission, the requirement for installing sidewalks on existing town roads may be waived when:

- A. There is no other continuous sidewalk from any town school property to the property proposed for development; and
- B. Where the Commission finds that requiring sidewalks as part of the proposed

development will serve no useful purpose.

§ 213-49. Reservation of land for future public use.

The applicant shall reserve suitable corridors of land for future street connections to adjoining property which the Commission determines to be susceptible to subdivision. The Commission may require the conveyance of easements for these corridors to the town when the improved roads within the subdivision are accepted by the town.

**ARTICLE VII
Subdivision Construction**

§ 213-50. Supervision by design professionals.

- A. It shall be the responsibility of the design professionals selected by the applicant to prepare the final subdivision plans to assure that the plans are complete. Each of the design professionals shall be available to answer questions and resolve construction problems as the project's construction progresses.
- B. All road pavement shall be tested and monitored by the design professional selected by the applicant. The testing shall take place in accordance with the current certification and construction oversight requirements of the Town of Somers. The applicant shall be responsible for the costs for these services.
- C. When the project is complete, each design professional shall certify that the project was constructed in accordance with the approved plans and the town road specifications. This shall mean, without limitation, that horizontal and vertical alignment of all improvements is certified as built, and that specifications as to material type, gravel and bituminous compaction, concrete strength and material thickness have all been met according to the town road specifications, as certified by a professional engineer. The Commission shall not recommend the approval and acceptance by the town of any project lacking these certifications.

§ 213-51. Construction schedule; responsibilities of developer; liability.

Prior to the commencement of construction of any subdivision improvements, the developer shall provide the Commission with a schedule showing the specific work to be accomplished in each phase of construction and the date upon which such work is expected to begin for each phase. Modified schedules shall be provided as necessary.

- A. The developer shall designate a natural person to be responsible for all work to be accomplished in each phase. The natural person so designated shall provide the Commission with one or more telephone numbers at which (s)he or his or her authorized representative can be reached at all times during construction, including times of inactivity, such as evening hours and holidays.
- B. Construction of all site improvements may be observed by the Commission or its authorized representatives to ensure satisfactory completion.
- C. In addition to providing the written schedule, the developer shall notify the town at

least two business days prior to commencing each phase.

- D. The developer, his/her contractor and all subcontractors shall meet with the Commission's authorized representatives to go over job conditions, town road specifications and the certification and construction oversight prior to starting a project. The contractor and all subcontractors shall understand and have in their possession those specifications. It is the developer's responsibility to see that all work is performed properly. The Commission may require removal of improper installations or other corrective measures if the specifications or other conditions are not met. The developer shall be responsible and liable for all job conditions. The Commission and its authorized representatives may visit the site to observe construction activities and conditions but shall incur no liability for themselves individually, for the Planning Commission or for the Town of Somers. While any Commission member or authorized representative of the Commission is on the site, the applicant, his representative(s), agent(s) and/or contractor(s) shall be solely liable for the safety and well-being of that person or those persons.
- E. The developer shall not install the final course of pavement until the binder course of pavement has been exposed for one winter season. [Added 9-30-1999]

§ 213-52. Final site observation.

A final site observation of all improvements and utilities will be made by the Commission or its authorized representative to determine whether the work is satisfactory and in substantial agreement with the approved final drawings and the town specifications. The general conditions of the site shall also be considered. Upon a satisfactory final report, action will be taken to release the performance bond covering such improvements and utilities.

§ 213-53. Completion of improvements.

Except as otherwise allowed by statute, all work in connection with any approved subdivision shall be completed within five years after such approval. The Commission's endorsement of approval on the plan shall state the date on which such five-year (or other statutory) period expires. For purposes of this section, "work" shall mean all physical improvements required by the approved plan, other than the staking out of lots, and includes, but is not limited to, the construction of roads, storm drainage facilities and water and sewer lines, the setting aside of open space and recreation areas, installation of telephone and electric services, planting of trees or other landscaping and installation of retaining walls or other structures.

ARTICLE VIII

Performance and Maintenance Bonds

§ 213-54. Performance bond.

Prior to the commencement of construction, the developer shall file with the Commission a detailed estimate of the cost of streets, public improvements, drainage structures, water and sewer mains, other utilities, soil and erosion control, lot grading and any other special

site or off-site construction or improvements required as a part of the development's approval by the Commission, together with maps, plans and supporting data. In addition to the cost estimated by the developer and approved by the Commission, a twenty-percent contingency shall be added to the cost estimates to arrive at the bond amount.

A. The developer shall then provide the following:

- (1) A surety company bond, irrevocable letter of credit or passbook, in a sum and form satisfactory to the Commission, conditioned upon the completion of all work within five years of the date of the approval of the recorded subdivision plan or as otherwise provided by statute.
- (2) Power of Attorney of the person signing on behalf of the surety must be attached to the bond if not already on file with the Commission. If the person acting as attorney for the surety company is not a licensed resident agent of the State of Connecticut, then the bond shall be countersigned by a licensed Connecticut resident agent of the company. The signatures of two witnesses are required on the bond. If the subdivision sponsor is a corporation, then the corporate seal must be shown in addition to the seal of the bonding company. The bond must show the bond number and the name of the bonding company's local agent.

B. Extensions. The Commission will consider an application for extension of time to complete improvements and the term of the performance bond when good cause for the extension is shown.

C. Reductions. The initial amount of the bond shall be no less than \$10,000. Reductions in the amount of the original bond may be considered by the Commission for work completed; however, the reduction shall not exceed 70% of the original amount, nor reduce the amount of the bond below \$10,000.

D. Release. An application for release of the performance bond, upon completion of the required work, must include a warranty deed(s) conveying any interests in the land that are to be acquired by the town. Such deed(s) must be approved by Town Counsel and must be accompanied by appropriate certificates of title. The application must also include as-built drawings of a plan and profile, showing location, dimensions, elevations, profiles, etc., of all improvements, including monuments as they exist, utilities, community wells, etc. The as-built drawings must be certified by a surveyor licensed in the State of Connecticut. A silver emulsion polyester fixed-line film and three paper prints of the as-built plans shall be filed with the Commission, along with a written certification by the surveyor that the iron pins and monuments have been accurately set to Class A-2 standards. A registered engineer shall certify that the project was constructed according to the Town of Somers specifications, including any special conditions of construction on site or off site required by the Commission as part of the subdivision approval.

§ 213-55. Maintenance bond. [Amended 9-30-1999]

The applicant shall be required to file a maintenance bond with the town prior to

dedication in order to assure the satisfactory condition of the required improvements for a period of 18 months after the date of acceptance by the town. The maintenance bond shall be in an amount equal to 25% of the actual cost of improvements and shall be of such form as described in § 213-54 for performance bonds. The cost of improvements shall be the actual cost as approved by the Town Engineer as of the date of the request for road acceptance.

ARTICLE IX General Provisions

§ 213-56. Appeals.

Any person aggrieved by an official action of the Planning Commission may appeal therefrom as provided by statute.

§ 213-57. Amendments.

These regulations may be amended as provided by statute.

§ 213-58. Severability.

If any section, subsection, paragraph, sentence, clause or phrase in these regulations shall for any reason be held invalid or unconstitutional by a decree or decision of any court of competent jurisdiction, such decree or decision shall not affect or impair the validity of any other section or remaining portion of these regulations.

§ 213-59. Repealer.

All subdivision regulations previously adopted for the Town of Somers are hereby repealed, except as herein provided.

§ 213-60. Effective date.

The foregoing regulations prepared by the Somers Planning Commission shall become effective on April 4, 1996.

§ 213-61. Drawings and sketches.

The various drawings and sketches contained within these regulations are for informational purposes only. In the event of any discrepancy between a drawing or sketch and the text of these regulations, the text shall control.

ARTICLE X Open Space Subdivisions [Added 4-9-2009; effective 4-14-2009]

§ 213-62. Purpose.

- A. The purpose of this section is to provide for a flexible approach for the design and subdivision of land for residential development on areas of a project site best suited

for development and to protect the remaining land as open space in accordance with the objectives set forth in the Somers Plan of Conservation and Development. While the intention is not to increase the overall site density, the creation of open space is accomplished by permitting a transfer of density by way of reduction in the minimum lot size and frontage normally required in specific zones for residential development.

B. The creation of an open space subdivision is intended to:

- (1) Protect natural streams, water supplies and watershed areas, soils, wetlands, and other significant natural features and landmarks;
- (2) Maintain and enhance the conservation of wildlife, natural, agricultural, or scenic resources;
- (3) Enhance the value to the public of abutting or neighboring parks and unfragmented forests, wildlife preserves, nature reservations or sanctuaries, or other open spaces;
- (4) Enhance public recreation opportunities;
- (5) Preserve historic sites;
- (6) Promote orderly residential development while providing flexibility that is sensitive to site characteristics;
- (7) Limit the extent of impervious surfaces and control runoff;
- (8) Lower the impact on the natural environment; and
- (9) Encourage more creative and efficient site planning that will result in reduced expenditures for utilities, infrastructure and maintenance costs.

§ 213-63. Applicability.

Open space subdivision design standards shall be required in any single-family residential subdivision and be subject to all of these regulations as set forth herein. In cases where, in the opinion of the Commission, the goals of the open space subdivision regulations as set forth above cannot be attained, the Commission may waive these requirements and permit the applicant to proceed with a conventional subdivision plan as otherwise provided in these regulations. Any applicant wishing to utilize the conventional subdivision design standards shall submit such a request to the Commission for its review prior to submitting a formal application. The Commission may request any information it deems necessary to evaluate any such request.

§ 213-64. Referrals.

The Commission may refer for review and comment any subdivision plan and proposal for the provision of open spaces and/or recreation land to the Somers Conservation Commission, the Somers Recreation Commission, the Somers Historical Society, or any other agency it deems appropriate.

§ 213-65. Requirements for submission of design.

- A. The Commission shall, if it is determined to be consistent with the objectives of the Plan of Conservation and Development (e.g., connection of wildlife corridors) and § 213-62, Purpose, of these regulations, require an applicant proposing to subdivide a parcel of land that has been divided, subdivided, or resubdivided for residential use, containing 10 acres or more that results in the creation of four or more lots, in any residential zoning district to submit an open space subdivision plan that meets the requirements of this section and the other relevant provisions of these regulations and the Somers Zoning Regulations. For purposes of determining the size of the parcel proposed for subdivision, all land within the parcel, including any land not immediately proposed for use as building lots, shall be included.
- B. An application for the approval of an open space subdivision shall be in accordance with § 213-10 of these regulations. In addition, the application must be accompanied by copies of the proposed certificate of incorporation, if any, declaration, by-laws, rules and regulations of any association or corporation of the lot owners within the proposed open space subdivision, copies of the proposed covenants and restrictions to be placed in the deeds of conveyance to the lot owners, and copies of any proposed deeds, agreements, conveyances and restrictions necessary for the creation and maintenance of open space.
- C. The Planning Commission shall direct and approve how open space shall be owned in the subdivision. In all cases where the open space is approved to be owned in common by the homeowners within the subdivision or by any other third party, excluding the Town, the open space shall be subject to a perpetual restriction running to and enforceable by the Town as a third-party beneficiary, which shall be recorded in the Somers Land Records. Such restriction shall be in such form and substance as the Planning Commission shall prescribe and may contain such additional restrictions on development and the use of common open space as the Commission may deem appropriate. Any proposed documents drafted in accordance with the section shall be submitted to the Commission as part of the application and shall be reviewed by the Town Counsel.
- D. Except for easements for underground utilities, subdivision of common open land or the use of common open land for other than recreation, conservation, or agriculture shall be prohibited.
- E. If an owners' association needs to be established, it shall require membership of each lot or unit owner in the open space subdivision. The association shall be responsible for the permanent maintenance of water, sewage, recreational and infrastructure facilities. An association agreement or covenant shall be submitted with the application guaranteeing the continuing maintenance of such common utilities, land and facilities by assessing each unit a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Commission as part of the application and shall comply with the applicable provisions of the Connecticut General Statutes.

§ 213-66. Yield formula.

The maximum number of lots in an open space subdivision shall be determined in accordance with § 214-141 of the Zoning Regulations as amended.

§ 213-67. Design guidelines.

The Commission may modify any application so as to designate open space in locations other than those proposed, if it determines that such modified location(s) will better serve the purposes, satisfy the applicable criteria and standards of these regulations and the Zoning regulations and the Plan of Conservation and Development.

- A. The dimensional requirements for lots in an open space subdivision shall be as set forth in § 214-141 of the Somers Zoning Regulations as amended. In designing an open space subdivision, the applicant shall consider the purposes set forth in § 213-62 and § 213-30 of these regulations; the provisions and standards set forth in § 214-141 of the Zoning regulations, and the following:
 - (1) Proposed lots and improvements should be designed and situated so as to minimize alteration of natural site features to be preserved.
 - (2) Proposed open space areas should include natural features located in the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and significant geological features).
 - (3) Proposed open space must have reasonable access points for maintenance and to facilitate connection with other dedicated open space, existing or future, to complete trails and wildlife corridors in accordance with the Plan of Conservation and Development and the Planning and Open Space Trails Subcommittee's Open Space Plan Priority List. Access may be provided through abutting existing open space parcels with written permission of the owners of the abutting parcel.
 - (4) Individual lots should be arranged and situated to relate to surrounding properties, to improve the view from, and the view of, prospective home sites, and to minimize the area devoted to motor access and travel.
- B. Dwelling units shall be clustered so as to allow a significant portion of the parcel to remain as open space as set forth in § 213-62 herein.
- C. The open space in any open space subdivision shall be located entirely within the undivided parcel and shall be in one contiguous piece except where the Commission finds that the purposes of § 213-62 would be more effectively served by separated parcels. The open space shall have a suitable shape, dimension, character and location to promote the purposes specified in § 213-62.
- D. The Planning Commission reserves the right to require the involvement of a licensed landscape architect in the design of an open space subdivision.
- E. Lots shall be laid out to the greatest extent possible to achieve the objectives listed below in order of priority:
 - (1) To place septic systems on the most suitable soils for subsurface waste water

disposal (in unsewered areas only);

- (2) Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);
 - (3) In locations least likely to block or interrupt scenic vistas, as seen from the public roadway(s);
 - (4) On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural use;
 - (5) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities.
- F. Wherever possible, ponds, streams, wetlands should be adjacent to, contiguous to or included in the open space. Shade should be preserved within wetland areas and at least 25 feet from ponds and streams.
- G. All utilities in an open space subdivision shall conform with § 213-46 of these regulations.
- H. The visual integrity of hilltops and ridgelines shall be maintained by siting development so that building silhouettes will be below the ridgeline or, if the area is heavily wooded, the building silhouettes will be at least 10 feet lower than the average canopy height of the trees on the ridgeline or hilltop.

§ 213-68. Conservation subdivision streets.

All new public streets shall be designed to the standards of the Somers subdivision regulations. Final design is site specific and subject to the review and approval of the Town Engineer.

§ 213-69. Dedication of open space.

The dedication of open space shall be in accordance with the provisions set forth in § 213-30 of these regulations.