



TOWN OF THOMPSON

Planning & Zoning Commission

815 Riverside Drive
P.O. Box 899
North Grosvenordale, CT 06255
PHONE: 860-923-9475
E-MAIL: zeo@thompsonct.org
planner@thompsonct.org
WEBSITE: www.thompsonct.org

Minutes – PZC Special Meeting-Subdivision Regulations
Wednesday, September 8, 2021 at 7:00 PM
ZOOM Meeting

p. 1 of 6

Tyra Penn-Gesek is inviting you to a scheduled Zoom meeting.

Topic: PZC Subcommittee - Subdivision Regs
Time: Sep 8, 2021 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83194544851?pwd=V1hGVlBDc2JYMU9wbjdnUnNwa2J1Zz09>

Your cloud recording is now available.

Topic: PZC Subcommittee - Subdivision Regs
Date: Sep 8, 2021 06:46 PM Eastern Time (US and Canada)

Click here to view your recording (this link can be used only by the host):
https://us02web.zoom.us/recording/detail?meeting_id=y0ZwqQpqRfOubMJ9QGERNw%3D%3D

Copy the link below to share this recording with viewers:
https://us02web.zoom.us/rec/share/qCvHzZZJ8RhWzZyQZN7_T09evwqyBbnGQ7tHhpcse-Zsn_fSkHoD7fQp-TZYAOxl.KFXVl6IX_AkEXZ1w Passcode: ?D&4Ei@4

1. Call to Order, Roll Call

Joseph Parodi-Brown

John Lenky

Alvan Hill

Absent: Missy Desrochers, Robert Werge Sr., Christopher Nelson, Charlene Langlois, Christine Chatelle, Randy Blackmer, John Rice, Michael Krogul, Dave Poplawski, Brian Santos

Staff Present: Tyra Penn-Gesek, Planner, Gloria Harvey, Recording Secretary

2. Review and Discussion of Subdivision Regulations

E. Dedication of Open Space and Chapter 1-6 Section 8-25 of the Connecticut General Statutes

The Open Space shall be dedicated by any of the following methods listed in this Section, as determined by the Commission; and the Town shall consider any such dedication as satisfying the Open Space requirements of this regulation and of Section 8-25 of the Connecticut General Statutes.

1. **Method of Dedication:** Permanent dedication of each such area of Open Space shall be accomplished by:

- Conveyance of fee simple ownership to the Town of Thompson;
- Creation of a Conservation Easement in favor of the Town of Thompson;
- Creation of a Conservation Easement in favor of the Town of Thompson reserving specific agricultural rights as approved by the Commission;
- Conveyance of fee simple ownership to a Tax-Exempt Organization approved by the Commission;

- e. Creation of a Conservation Easement in favor of a Tax-Exempt Organization approved by the Commission;
 - f. Conveyance of fee simple ownership to a Connecticut non-stock corporation of which all owners of land within the subdivision are members, along with a Conservation Easement, in favor of the Town, over the entire Open Space area; or
 - g. Any other method which accomplishes permanent dedication in accordance with the requirements set forth in this Section. The Commission may require dedication of Open Space by methods listed in a,b,c, or f of this paragraph; and the Commission may require dedication by methods listed in d,e, or g with the consent of the applicant. Any such dedication, regardless of the method used, shall be completed prior to the endorsement and filing of the final subdivision plans in the office of the Town Clerk. Any conveyance of an interest in the dedicated Open Space shall convey to the grantee good and marketable title to the premises, and unless otherwise specified by the Commission, shall be free of all encumbrances or defects.
 - h. Ownership and maintenance of the open space and/or recreation area to be transferred to an association of property owners. The document providing such transfer must:
 - a) Establish a mandatory participation in an association of property owners to maintain the land reserved for open space, park, and/or playground purposes, with power to assess fees to all members for all necessary costs.
 - b) Be binding on all future property owners
 - c) Be perpetual
 - d) Not be affected by any change in zoning or land use
 - e) Assure adequate maintenance
 - f) Provide for enforcement by the Town by appropriate legal action
 - g) Provide that if maintenance or preservation of the dedication no longer comply with the provisions of the document, the Town may take all necessary action to assure compliance and assess against the association all costs incurred by the Town for such purposes.
 - h) Comply with the Connecticut Common Interest Ownership Act (CIOA) and other relevant state laws and regulations
 - i) After approval by the Town Attorney and the Commission, be filed by the subdivider with the Town Clerk.
 - j.) Reserved as an agricultural easement for the exclusive use of crop production
2. **General:** When any dedication of Open Space is made as per Section E.1.f. (convey once to a Connecticut non-stock corporation), the deed, declaration, or other instrument transferring interest in the property shall be in a form acceptable to the Town and shall provide, at a minimum:
- a. That all such covenants or restrictions shall be binding upon and inure to the benefit of all present and future owners of the land within the subdivision;
 - b. That such covenants or restrictions may be enforced by each present and future owner of land within the subdivision and also by the Town by appropriate action in court for damages or for affirmative or negative equitable relief;
 - c. That the rights and duties created by such covenants or restrictions shall not in any way be modified or amended without the prior written approval of the Commission; and

Commented [PS1]: From 2nd sentence, this is s new concept.

Commented [PS2]: Where ownership and maintenance is to be transferred..document providing such

Commented [PS3]: Change must to shall

d. That if at any time maintenance, preservation, or use of such Open Space area shall not comply with or fulfill the provisions of such covenants, or restrictions, the Town may, at its discretion election take any and all such action as may be necessary or appropriate to assure or enforce compliance and to assess against the owners of land within the subdivision, either jointly, or severally, all costs incurred by the Town for such purposes.

3. **Evidence of Acceptance:** If Open Space is to be dedicated to an entity other than the Town, the applicant shall provide written evidence, satisfactory to the Commission, from the entity proposed to own the Open Space, stating that it is willing to accept ownership of and responsibility for the preservation and maintenance of the Open Space in perpetuity.

4. **Transfer of Interest:** The Commission shall approve any transfer of title of interest to any successor entity.

F. Delineation/Marking of Open Space

1. All corners of the Open Space or Conservation Easement shall be permanently marked by iron pins or monuments as required for all other parcels as noted in **Article IV**, Section 2.P. of these regulations.

2. The Commission may require the applicant to post identification plaques each 50 feet along the edge of the Open Space as visual identification of these areas to future residents.

G. Legal Transfer

Properly executed legal documents, including warranty deeds for any title transfers, shall be prepared in accordance with the provisions of this Section and shall be submitted with the final subdivision map to be endorsed and filed. All warranty deeds shall be accompanied by a certificate of title, prepared by an attorney admitted to the bar of the State of Connecticut, certifying that such conveyance passes good title to the described property or property interest, and that it is free and clear of any defect or encumbrances, or that any such encumbrance has been subordinated to the conveyance. All documents must be acceptable to the Commission and its attorney, and shall refer to the subdivision maps by title. All warranty deeds for dedication of land to the Town shall be held in escrow by the Commission to be recorded on the Town Land Records upon acceptance by the Board of Selectmen. In the event that acceptance is rejected by the Board of Selectmen, the deed shall be returned and the subdivider shall return to the Commission for determination of an alternative means of preserving the Open Space. In no case, shall the acceptance of any deed by the Commission or an employee of the Town be deemed as acceptance of the Open Space by the Town.

H. Banking Open Space

1. At the Commission's discretion, excess Open Space land within a subdivision under consideration, which is deemed suitable for Open Space purposes, may be banked to satisfy all or part of the Open Space consideration in any other subdivision. The land can only be used as Open Space or to supplement Open Space for another subdivision if, in the Commission's opinion, there is not sufficient suitable land within the proposed subdivision for that purpose. The Commission may elect to receive a fee in lieu of Open Space, open space land

Commented [PS4]: Check citation. Cross check with Zoning Regs.

Commented [PS5]: Break paragraph into line items.

Commented [PS6]: What is the purpose of allowing "banking?" Is it possible to articulate banking as appropriate low-density to high-density districts?

Commented [p17]: This is unworkable. If you bank open space in a subdivision today, you should be able to use it for a subdivision in the future. It's not fair to be told in the future that we want open space in the future subdivision and you can't use your banked open space from the previous project. (D. Held)

within the proposed subdivision, banked Open Space from another subdivision, or any combination thereof, to satisfy the Open Space obligation for that subdivision.

2. If the subdivision site does not provide desirable open space opportunities as determined by the Conservation Commission and Planning and Zoning Commission, the applicant may offer alternate open space on other land under his/her ownership in the Town. The Commission will determine the terms and conditions of such an arrangement and all appropriate land records will be modified and documents will be executed to ensure compliance with the provision.

3. Banked Open Space shall be indicated on the original subdivision plan as to its area and dimensions and will be labeled as such. The amount of banked Open Space shall be included in the approval motion, shall be included in the minutes and shall be noted in the final mylars

Commented [p18]: They have no regulatory authority in this process (D. Held)

Commented [PS9]: They have no regulatory authority in this matter

Commented [PS10]: Item 2 implies land that is already owned

I. Fee-in-lieu of Open Space

As set forth in Section 8-25 of the Connecticut General Statutes, the Commission may authorize the applicant to pay a fee to the Town, or pay a fee to the Town and transfer land to the Town in lieu of the full requirement to provide Open Space as set forth above. Such authorization may be granted by the Commission if and when it determines, at its sole discretion, that conditions such as subdivision size, population densities, existing Open Space in the neighborhood, topography, soils or other characteristics are such that on-site Open Space is not as desirable as a fee-in-lieu of Open Space. Fees submitted under this section shall be deposited by the Town in a fund which shall be used for the purpose of preserving open space or acquiring additional land for open space or for recreational or agricultural purposes.

Commented [PS11]: Chapter 126

1. **Amount:** Such fee or combination of fee and land transferred shall be ten percent (10%) of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value shall be determined by an appraiser jointly selected by the Commission and the applicant, with the cost of all appraisal fees and expenses borne by the applicant.

2. **Procedure:** To employ the fee-in-lieu of Open Space option, the following procedure shall be used:

a. The applicant shall submit a narrative to the Commission setting forth his desire to utilize the provisions of Section H.

Commented [PS12]: Of this Section. Eliminate H

b. The Commission shall determine whether to accept the applicant's proposal, or to accept a different combination of land transfer and fee, or to require an Open Space dedication only;

c. The Commission and applicant shall jointly select an appraiser to submit a report. Steps (a) through (c) may be accomplished at the application acceptance portion of the process.

d. The applicant shall submit the appraisal during the formal application review process.

The Commission, as part of the action of the applicant, shall either accept the fee-in-lieu proposal, a combination of fee and land transfer proposal, or require an Open Space dedication.

Commented [PS13]: Redundant tp b

e. The Commission may deem a transfer of land to a Land Trust, or other similar non-profit entity organized to reserve land in its natural state, as a

satisfaction of the applicant's obligation to transfer land to the municipality.

Commented [PS14]: This is a form of dedication of open space

3. **Payment:** The method of payment of any fees under this Section shall be one of the following two options.

a. The applicant, at his option, may submit the entire fee in one lump sum prior to the filing of subdivision mylars with the Town Clerk; or

b. The applicant may elect to submit a fraction of such payment, the numerator of which is one and the denominator of which is the number of approved building lots in the subdivision to be remitted to the Town no later than the time of the sale of each approved building lot; and a notation describing this requirement shall be placed on the final subdivision map filed in the Town Clerk's office. If this option is chosen, the applicant shall submit a bond or other security acceptable to the Town, equal to the full amount of fee required, prior to the filing of the subdivision maps in the Town Clerk's office. Any required fees shall be paid to the Town prior to the release of this bond. The Commission may also choose other acceptable security such as a mortgage or lien on the land to be subdivided. This mortgage or lien shall secure the amount of the fee until paid. No building permits shall be issued until such fractional part is paid as to any lot in the subdivision.

Commented [PS15]: The fractional value of which is equivalent to the number of lots in the subdivision

J. Open Space Waiver

The Commission shall require Open Space in all subdivisions of four (4) lots or more, or shall require a fee-in-lieu of Open Space for all subdivisions. No waivers of this requirement shall be granted except in the following instances as specifically required by Chapter 126, Section 8-25 of the Connecticut General Statutes.

Commented [P16]: 3?

1. Where the transfer of all land in a subdivision of less than five (5) lots is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle, or first cousin of the property owner for no consideration. Such intended transfer shall be evidenced by covenants, restrictions, contracts, or other legally binding documents as the Commission may approve, which documents shall be filed in the Land Records along with the subdivision plan. If the Commission determines, subsequent to the approval of such subdivision, that such transfers were intended to be temporary, and for the sole purpose of evading the requirements of this Section, the Commission may, following a public hearing with notice by certified mail to the violator, void, in whole or in part, any such subdivision approval, and may cause notice thereof to be filed in the Land Records; and

Commented [P17]: Is this the word used in the statute, seems like it should be "compensation"

2. Where the subdivision is to contain affordable housing, as defined in Chapter 126Section 8-39a of the Connecticut General Statutes, equal to twenty percent (20%) or more of the total housing to be constructed in such subdivision. Such restrictions for affordable housing shall be evidenced by such documents as the Commission may require, and such restrictions shall run with the lots affected thereby in perpetuity. If, subsequent to approval of the subdivision, the lots designated for affordable housing shall not be sold for that purpose, the Commission may, following a public hearing with notice by certified mail to the violator, void, in whole or in part, any such subdivision approval, and may cause notice thereof to be filed in the Land Records.

Planning and Zoning Special Meeting Subdivision Regulations September 8, 2021

p. 6 of 6

3. Adjournment
John Lenky moved and Alvan Hill seconded the motion to adjourn. The motion carried unanimously and the meeting adjourned at 8:33 PM,

Respectfully Submitted,
Gloria Harvey,
Recording Secretary