

DRAFT AMENDMENTS

EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

SECTION 1.0. - AUTHORITY AND INTENT

Sec. 1.1. - Title.

These regulations shall be known as the Exeter Land Development and Subdivision Regulations.

Sec. 1.2. - Authority.

The following regulations governing land development and subdivision have been adopted by the Exeter planning board in accordance with ~~G.L. 1956, §§ 45-23-25—45-23-74, Title 45, Chapter 23 of the General Laws, as amended, known as the "Rhode Island Land Development and Subdivision Review Enabling Act of 1992,"~~ (short title "Development Review Act").

Sec. 1.3. - Applicability.

These rules and regulations shall be applicable ~~in all of the following instances to:~~

- A. ~~In all cases of Applications for subdivision of land in the town, including resubdivision and administrative subdivision.~~
- B. ~~In all cases of Applications for approval of land development projects, as provided for in G.L. 1956, R.I. Gen. Laws § 45-24-47 45-23-27, the Zoning Enabling Act of 1991, ; and/or~~
- C. ~~In all cases of development plan review, as provided in town zoning ordinance.~~

Sec. 1.4. - ~~Continuation and superseded of~~ Prior regulations superseded.

- A. *Prior regulations superseded.* ~~These regulations shall supercede all other regulations in effect at the time of their adoption. Any land development project or subdivision submitted after the date of enactment adoption of these regulations shall conform to the provisions of these regulations. These regulations shall supersede all other subdivision regulations in effect at the time of such adoption.~~
- B. ~~*Repeal of prior regulations.* All prior Exeter subdivision rules and regulations in effect on the date of enactment of these regulations are hereby repealed.~~
- C. B. Recorded plans and plats unimpaired. Nothing contained herein and no local ordinance, rule or regulation adopted under these regulations shall impair the validity of any plat legally recorded prior to the effective date of these regulations.

D. ~~*Vested rights.*~~ Development applications shall have the right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project (see section 5.0 for specific vested rights for types of applications).

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EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

SECTION 2.0. - DEFINITIONS

Sec. 2.1. - Terms defined elsewhere.

~~Where words or phrases used in these regulations are defined in either the Rhode Island Comprehensive Planning and Land Use Regulation Act of 1988, or the Zoning Enabling Act of 1991, or the town zoning ordinance, they shall have the meanings stated therein. Words and phrases used in these regulations that are defined in § 45-22.2-4 of the Rhode Island Comprehensive Planning and Land Use Regulation Act or § 45-24-31 of the Rhode Island Zoning Enabling Act of 1991 have the meanings stated in those acts. When used in these regulations, the words and phrases in Sec. 2.2 have the meanings stated in that section.~~

Sec. 2.2. - Terms defined.

For the purposes of these regulations, the following terms shall have the meanings stated herein:

Administrative officer. ~~The municipal official designated by the local regulations to administer who administers the land development and subdivision regulations, reviews and approves qualified applications, and to coordinate~~ coordinates the planning activities among with local boards and commissions, municipal town staff and state agencies. In the town, the planning board has designated the chair of the planning board or the The town planner as is the administrative officer.

Administrative subdivision. ~~Resubdivision of existing lots; which yields no additional lots for development, and involves no creation or extension of streets. Such re-subdivision shall only involve divisions, mergers, mergers and division, or adjustments of boundaries of existing lots. Resubdivision of existing lots that does not yield additional lots for development and does not require creation or extension of a street. Administrative subdivision involves only merger of lots, merger and redivision of lots, or adjustments to boundaries of existing lots.~~

Agricultural land. means land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes. Any land of five contiguous acres or larger that by reason of soil suitability or other natural characteristics is suitable for agriculture, as defined in R.I. General ~~Gen.~~ Laws § 45-22.2-4.

Board of appeal. The review authority for appeals of action of the administrative officer and the planning board on matters of land development or subdivision, ~~which shall be the Exeter zoning board of review.~~ The zoning board of review serves as the board of appeal.

Bond. A type of improvement guarantee.

Buildable lot. ~~A lot where construction for the use(s) permitted on the site by the Exeter zoning ordinance is considered practicable by the planning board, considering the physical constraints to development of the site as well as the requirements of the pertinent federal, state, and other town regulations and ordinances.~~ A lot on which the planning board has determined that permitted construction is practicable, considering the physical constraints to development and the applicable local, state, and federal regulations.

Building envelope. The three-dimensional space within which a structure is permitted to be built on a lot under regulations governing building setbacks and maximum building height.

Building type. The appearance of a building as defined by its physical bulk and architectural elements such as dormers, cornices, fenestrations, roof configurations, and building materials.

Buffer. Land ~~which~~ that is maintained in a either its natural state or landscaped, and is used to screen ~~and/or~~ mitigate the impacts of development on surrounding areas, properties or rights-of-way.

Building setback line. ~~A line drawn parallel to the property line, establishing the minimum yard requirement on each side of the property marking the required depth of the front, side, or rear yard. Structures shall not be built within the required yard areas.~~

Certificate of completeness. A notice issued by the administrative officer informing an applicant that the application is complete and meets the requirements of these regulations, and that the applicant may proceed with the review process.

Concept plan. A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision ~~as~~ that is used for pre-application meetings and early discussions, and classification of the project within the approval process.

Conservation development. ~~A type of land development project, which allows smaller lots in order to preserve meaningful open space, to guide growth to the most appropriate areas within a parcel of land, to avoid impacts to the environment and the community character, and to protect the character-defining features of the property in perpetuity.~~ A type of land development that provides flexibility in the siting of structures and infrastructure in order to

protect sensitive and important site features, conserve open space, and reduce the environmental impact of the development. The site planning and design process used to implement cluster subdivisions and land developments, as defined in R.I. Gen. Laws § 45-24-31 (13) Conservation development guides growth to the most appropriate areas within a parcel of land to avoid and minimize impacts to natural, cultural or recreational resources and other special features of the property, and requires the set-aside of a permanent area of open space.

Conventional subdivision. A subdivision in which all land being subdivided is dedicated to either development lots for development or street ~~right~~ rights of way, with no common open space. Not a conservation development.

Consistency with the comprehensive plan. ~~A The requirement of these that land use regulations and ordinances, which means that these regulations and all subsequent actions shall and the decisions based on those regulations and ordinances, must be in accordance with the public policies arrived at through adopted after detailed study and analysis and adopted by the municipality as enacted by the town in the form of the comprehensive community plan.~~

Cornice. A continuous molded projection that crowns a wall or other construction or divides it horizontally for compositional purposes; usually consisting of bed molding, soffit, fascia, and crown molding.

Cul-de-sac street. A local street with only one outlet that usually terminates in a circular vehicle turnaround.

Cut. ~~An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade. An excavation; or the difference between a point on the natural gradient and a point lower in elevation.~~

Development. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any change in use, or alteration or extension of the use, of land.

Development regulation. ~~Zoning, subdivision, land development plan, development plan review, historic district, official map, floodplain regulation, soil erosion control or any other A governmental statute, ordinance or regulation controlling of the use and development of land.~~

Diversion. A channel constructed across the slope for the purpose of intercepting surface or subsurface runoff and carrying the water, on a reduced grade, to a suitable outlet. Diversions generally have a supporting ridge on the lower side.

~~Division of land. A subdivision.~~

Dormer. A window set upright in a sloping roof, or the roofed projection in which the window is set.

Dwelling unit. A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

~~Easement. A grant for an indefinite period of a right of use of land for drainage, utility, conservation or other purposes. The right to use all or part of the property of another for drainage, construction of utilities, conservation, or another specific purpose.~~

Environmental constraints. Natural features, resources, or land characteristics that are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development as defined herein. See also physical constraints to development.

Erosion. The removal of surface materials by action of natural elements.

Excavation. Any act by which earth, sand, gravel, rock or any other similar ~~materials~~ natural material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, ~~and shall include the conditions resulting therefore.~~

Fill. Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface, ~~and shall include the conditions resulting there from.~~ The fill is Fill also means the difference in elevation between a point on the original undisturbed ground and a designated point of higher elevation of the final grade.

Final plan. The final stage of land development and subdivision review.

Final plat. The final drawing(s) of all or a portion of a subdivision or land development project to be recorded after approval ~~by the planning board or its agents~~ and any accompanying material as required by these regulations ~~and/or by the planning board~~ or the administrative officer.

Floodplain or flood hazard area. ~~The area along a natural watercourse which is periodically overflowed by water there from and as further defined by G.L. 1956, §§ 45-22-2—45-22-4.~~
As defined in R.I. Gen. Laws § 45-22.2-4(9), as amended.

Floor area, gross. See R.I. State Building Code. The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include basements when at least one-half the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use's minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

Frontage. Property line where it abuts the street, distance between side lot lines at the street line. That portion of a lot abutting a public street or a private street on an approved plat. To meet the minimum frontage requirement Lot frontage must be contiguous and provide direct, adequate and permanent access and egress to and from a street for all vehicles normally associated with the permitted use of the lot. ~~to meet the minimum frontage requirement.~~

Grade stabilization structure. A structure to stabilize the grade or control cutting by water in natural or manmade channels. Examples are headwalls, drop boxes, chute spillways, toe walls, and rip rapped sections of watercourses, etc.

Governing body. The body of the local government, in the case of these regulations, the Exeter town council, having the power to adopt ordinances, accept public dedications, release public improvement guarantees, and collect fees.

Improvement. Any natural or built item, which structure, facility, or vegetative material required to be placed upon, planted, or is affixed to, or maintained on real estate property by these regulations or by a decision of the planning board or the administrative officer made pursuant to these regulations.

Improvement guarantee. A security instrument accepted by the planning board to ensure that all improvements, facilities, or work required by the land development and subdivision regulations, or required by the planning board or the administrative officer as a condition of approval, will be completed in compliance with the approved plans and specifications. ~~of a development.~~

Land development project. A project in which one or more lots, tracts, or parcels of land are ~~to be developed or redeveloped as a coordinated site for a complex of one or more uses, units, or structures, including but not limited to, planned development cluster and/or conservation development, for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in the zoning ordinance use.~~

~~Local regulations. The town land development and subdivision review regulations adopted under the provisions of the G.L. 1956, §§ 45-23-25—45-23-74, including all related local ordinances and rules properly adopted pursuant to this act.~~

~~Lot. Either:~~

~~(1)The basic development unit for determination of lot area, depth and other dimensional regulation; or(2)A parcel of land whose boundaries have been established by some legal instrument such as recorded deed or recorded map and, which is recognized as a separate legal entity for purposes of transfer of title.~~

Lot. Either (1) the basic development unit for determination of lot area, depth, and other dimensional regulations, or (2) a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and is recognized as a separate legal entity for purposes of transfer of title.

~~Lot merger administrative subdivision. This is a subdivision that removes the common lot line between two or more lots that have been deemed merged by the zoning official pursuant to section 3.5.2 of the zoning ordinance. A zoning certificate must accompany any application for a lot merger administrative subdivision verifying applicability.~~

~~Maintenance guarantee. Any security instrument, which that may be required and accepted by the planning board or the administrative officer to ensure that necessary required improvements will function as required for a specific period of time. See improvement guarantee.~~

~~Major land development plan project. Any land development plan not classified as a minor land development plan. A project that results in a greater number of dwelling units, involves construction of more gross floor area, or requires more extensive exterior site development than would be permitted for a minor land development project.~~

~~Major subdivision. Any subdivision not classified as either an administrative subdivision or a minor subdivision. A subdivision that creates ten or more buildable lots.~~

~~Master plan. An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or major subdivision review. The first formal review stage for a major land development project or subdivision.~~

~~Minor land development plan project. A development plan for a residential project, provided that such development does not require waivers or modifications, as specified in these~~

~~regulations, and does not propose a new street. All nonresidential land development projects shall be considered as major land development plans. Any one of the following:~~

- (1) Construction of one or more buildings for commercial, manufacturing, or industrial use with a total for all structures of no more than 7,500 square feet of gross floor area.
- (2) Enlargement of a commercial, manufacturing or industrial building that increases the gross floor area by no more than 50% or by 10,000 square feet of gross floor area, whichever is less.
- (3) A mixed-use development consisting of no more than six dwelling units and 2,500 square feet of gross floor area for commercial use.
- (4) A residential development that creates nine or fewer new principal dwelling units.
- (5) Redevelopment or reconstruction to change the use of a multi-family residential, commercial, or industrial building that does not propose significant exterior alteration of the site.
- (6) Adaptive reuse of a building or buildings with a total of no more than 25,000 square feet of gross floor area in a commercial zoning district that does not require extensive exterior construction or extensive exterior site redevelopment.
- (7) Adaptive reuse of a building or buildings in a residential zoning district that creates eight or fewer new dwelling units.

~~Minor subdivision. A plan for a subdivision of land consisting of five or fewer units or lots, provided that such subdivision does not require waivers or modifications as specified in these regulations, and does not propose a new street. A subdivision that creates nine or fewer buildable lots.~~

~~Modification of requirements. See section 4.5.~~

Mullion. A slender vertical member that forms a division between units of a window, door, or screen.

Parcel. A lot, or group of contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.

~~Parking area or lot. All that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.~~

~~Permitting authority. The local agency of government specifically empowered by state enabling law and local ordinance to hear and decide on specific matters pertaining to local land use.~~

Phased development. Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by sections subsequent to approval of a master plan for the entire site.

Physical constraints to development. ~~Characteristics of a site or area, either natural or manmade, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. See also environmental constraints.~~ Natural or man-made characteristics of a site that present significant difficulties in constructing the uses permitted on the site, or would require the use of extraordinary construction methods.

~~Planning board. The official municipal planning agency of the town, hereinafter also referred to as "the board" or "board."~~

~~Plat. A drawing or drawings~~ site plan of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information ~~as specified in the local~~ required by these regulations.

~~Pre-application conference. An initial meeting between developers and the planning board which affords developers the opportunity to present their proposals informally and to receive comments and directions from the municipal officials and others. An applicant's initial presentation of a proposed subdivision or development at a Planning Board meeting to give the applicant the opportunity to explain the proposal and hear Planning Board members' informal comments and suggestions before a formal application is filed.~~

~~Preliminary plan. The required stage of land development and subdivision review, which that requires detailed engineered drawings, and all required state and federal permits~~

~~Public improvement. Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility for which that the town or other governmental entity is presently responsible, or will ultimately assume the responsibility for maintenance and operation. will be responsible for maintaining.~~

~~Public informational meeting. A meeting of the planning board preceded by a notice, open to the public, and at which the public shall be heard.~~

Public water supply. Any water system providing a potable supply to a segment of the population on a regular basis for domestic or industrial use, including supplies furnished by municipalities, special districts, authorities, associations, and privately owned water utilities.

~~Rear setback line.~~ A line generally parallel to a rear lot line and which establishes the distance buildings must be constructed from the rear lot line.

~~Rural residential compound.~~ A rural residential compound is a type of land development containing lots for single family household structures, which are grouped on a portion or portions of a parcel, on smaller lots and within building envelopes and with flexible dimensional requirements other than those permitted in the underlying zoning district. with a density of no more than one dwelling unit per ten acres of land for which the dimensional regulations are more flexible than those of the underlying zoning district.

~~Resubdivision.~~ Any change of an approved or recorded subdivision plat or in a lot recorded in the town land evidence records, or that affects the lot lines of any areas reserved for public use, or that affects any map or plan legally recorded prior to the adoption of these regulations. For the purposes of these regulations, any such action shall constitute a subdivision.

Runoff. The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow and including seepage flows that do not enter the soil but run off the surface of the land. That portion of water that is not absorbed by the soil, but runs off the surface.

~~Runoff from a fully developed area upstream.~~ The surface water runoff that can be reasonably anticipated upon maximum development of that area of the watershed located upstream from the subject tract, as permitted by the town's zoning ordinance and comprehensive plan.

Sedimentation. The process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Matter that is deposited (or if remaining suspended in water), it or suspended in water is usually referred to as "sediment."

~~Side setback line.~~ A line generally parallel to a side lot line and which establishes the distance buildings must be constructed from the side lot line.

Sketch plan overlay sheet. A scaled drawing that illustrates conceptual layouts of house lots, buildings, streets and conservation areas.

Slope. The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical

difference in feet per 100 feet of horizontal distance. Any natural landform that is not horizontal differs from the horizontal.

Soil stabilization. The chemical, mechanical, or structural treatment of a mass of soil to increase or maintain its stability or otherwise improve its engineering properties and reduce erosion.

Specimen vegetation. Rhode Island Natural Heritage Program plant species listed as either state endangered, state threatened, state interest species of concern, or state extirpated; plant species providing habitat for animal species listed by the ~~Heritage~~ Natural Heritage Program in the above mentioned categories; species such as American Holly (*Ilex opalca*) and Rhododendron (*Rhododendron maximum*) ~~which that~~ are at the limits of their natural range; or any species such as American Elm (*Ulmus Americana*) and American Chestnut (*Castenata dentate*) whose population has been drastically reduced by disease, insects or habitat destruction.

Storm water detention. A provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.

Storm water retention. A provision for storage of storm water runoff.

Street. ~~A public thoroughfare, accepted by the town, used or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform. See street classification.~~ A public or private thoroughfare used for passage or travel by motor vehicles.

Street, access to. An adequate and permanent way of entering a lot. All lots of record shall have access to a public street for all vehicles normally associated with the uses permitted for that lot.

Street, private. A thoroughfare established as a separate tract for the benefit of multiple, adjacent properties and meeting specific, municipal improvement standards. This definition does not apply to driveways.

Street, public. All public property reserved or dedicated for street traffic.

Street, cul-de-sac. A local street with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.

~~Street, limited access highway.~~ A freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons have no legal right to

~~access, except at such points and in such manner as may be determined by the public authority having jurisdiction over the highway.~~

Street line. A lot line that separates a lot from a street.

Street right-of-way. ~~The area between street lines. The entire area dedicated for street use, including the pavement or travel surface, and the areas on both sides of the pavement or travel surface that may be reserved for installation of sidewalks, utilities, drainage improvements or other purposes.~~

Street, stub. A portion of a street reserved to provide access to future development. ~~which may provide for utility connections.~~

Street classification. A method of roadway organization ~~which identifies a street hierarchy that categorizes streets according to function, within a road system, that is, types of vehicles served and anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. The following are major categories and are further described in section 7.2.B.~~

a. Arterial. A major street that serves as an avenue for the circulation of traffic into, out of, or around the town and carries high volumes of traffic.

b. Collector. A street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.

c. Local. Streets whose primary function is to provide access to abutting properties.

Subdivider. ~~Any person who:~~ A person or entity applying for approval to subdivide land and/
or:-

(1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision;
or(2) Directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or
advertises to sell, lease, or develop, any interest, lot, parcel, site, unit, or plat in a subdivision;
or(3) Engages directly or through an agent in the business of selling, leasing, developing, or
offering for sale, lease, or development in a subdivision or any interest, lot, parcel, site, unit,
or plat in a subdivision.

Subdivision. ~~The division or re-division of a lot, tract or parcel of land into two or more lots, tracts, or parcels. Any or any adjustment to existing lot lines, of a recorded lot by any means shall be considered a subdivision. All re-subdivision activity shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.~~

Swale. A low-lying stretch of land, ~~which~~ that gathers or carries surface water runoff.

~~Temporary improvement. Improvements built and maintained by a developer during construction of a development project and prior to release of the improvement guarantee, but not intended to be permanent.~~

~~Topsoil. Surface soils and subsurface soils, which presumably are fertile soils and soil material, ordinarily rich in organic matter or humus debris. Topsoil is usually found in the uppermost soil layer called the A horizon.~~

~~Vested rights. The right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.~~

~~View-shed. The primary area(s), which that can be viewed from a defined observation point(s). To determine the extent of the view-shed, important vantage points and significant features should be identified. The area that can be seen from those points should be designated as the view-shed.~~

~~Waiver of requirements. See section 4.5.~~

~~Watercourse. A permanent stream, intermittent stream, river, brook, creek, or a channel or ditch for water, whether natural or manmade.~~

~~Yield plan. A plan of a conventional (as opposed to a conservation) subdivision or land development project that depicts the maximum number of building lots or dwelling units that could reasonably be built on a parcel of land under current zoning, taking into account physical constraints to development. ,such as wetlands, etc. No lot shall be considered buildable unless it can be shown to have a minimum of one acre (43,560 sq. ft.) of contiguous, accessible land that is free of biological wetlands, water bodies, street rights-of way, or electrical power line easements.~~

DRAFT AMENDMENTS

EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

SECTION 3.0. - GENERAL REQUIREMENTS

The elements described within section 3.0 apply generally to all land development projects and subdivisions subject to these regulations.

Sec. 3.1. - Town regulatory officials.

- A. *Planning board.* The town planning board has been authorized as the local regulatory agency for all matters of land development and subdivision.
- B. *Administrative officer.* ~~The planning board may designate the chair of the planning board or the~~ The town planner is designated as the administrative officer to work as their agent to oversee and coordinate all aspects of the review, approval and recording of all land development plan, subdivision, and development plan review applications as well as the construction phases for all land development projects, and subdivisions, (see section 9.1, administrative officer), and development plans. The chairman of the planning board shall serve as the acting administrative officer if the administrative officer is absent or unavailable.
- C. ~~The qualifications for the town planner are set by the planning board and the appointment of the town planner shall be by the town council.~~

Sec. 3.2. - Required submission documents.

~~All applications subject to these regulations shall have specific submission requirements, depending upon the type of development proposed (see Section 12.0 for itemized lists of application requirements).~~ Each type of development application requires the submission of the documents and materials itemized in the checklist for that type of development.

Sec. 3.3. - Fee structures and regulations.

- A. *General.* The planning board shall impose reasonable fees for the review of applications ~~which~~ that come before it. The planning board may impose administrative fees and project review fees as may be applicable to the types of applications set forth below. Each fee shall be submitted separately, in accordance with the following provisions.
- B. *Administrative fees.*

1. *Applicability.* An administrative application fee shall be ~~assessed~~ assessed at the time of application, to offset the expense of review by the planning board and its office staff with regard to all applications set forth in subsection 2, below. Any application filed without this fee shall be deemed incomplete and no review work by the town shall commence until the fee has been paid in full.
2. *Application fees.* Application fees shall be as follows:
 - A. Pre-application review: \$100.00
 - B. Administrative subdivision: \$100.00
 - C. Minor land development projects, ~~and~~ minor subdivisions (including rural residential compounds) and development plan review:
 1. Pre-application meeting: \$100.00. (if more than two meetings, additional \$100.00 required per additional meeting)
 2. Preliminary plan submission: \$200.00 plus \$50.00 for each additional unit or lot.
 3. Final plan submission: \$100.00.
 - D. Major land development projects and major subdivisions:
 1. Pre-application meeting (if more than two meetings, additional fees required equivalent to original meeting fee for each additional meeting):

Residential: \$200.00 plus \$20.00 for each additional unit or lot. ~~b5~~

Nonresidential: \$100.00 plus five cents per square foot of gross floor area.
 2. Master plan submission:

Residential: \$300.00 plus \$50.00 for each additional unit or lot. ~~b5~~

Nonresidential: \$100.00 plus five cents per square foot of gross floor area.
 3. Preliminary plan submission:

Residential: \$500.00 plus \$100.00 for each additional lot or unit.

Nonresidential: \$100.00 plus five cents per square foot of gross floor area.

4. Final plan submission:

Residential: \$100.00 plus \$20.00 for each additional unit or lot.

Nonresidential: \$100.00 plus five cents per square foot of gross floor area.

~~E. Development plan review:~~

- ~~1. Pre-application meeting: \$100.00 plus five cents per square foot of gross floor area.~~
- ~~2. Preliminary: \$100.00 plus five cents per square foot of gross floor area.~~
- ~~3. Final: \$100.00 plus five cents per square foot of gross floor area.~~

~~F. E.~~ Extension requests: \$100.00

~~G. F.~~ Any appeal filed pursuant to section 10, documents and reproduction fees including, but not limited to stenographic, copying, and tape reproduction. Fee will commensurate with actual cost. Appeal to the board of appeal from a decision of the administrative officer; The appellant shall pay the actual cost of copies, stenographic services, and other expenses.

G. Solar Fee:

Solar fees are calculated by the square footage of the area where the panels are located including the rows and interspacing between panels (unless otherwise noted). The fee applies as follows:

1. Roof Mounted: the appropriate building permit fee

2. Solar Canopy: The square footage of the face of the panels calculated at \$.02/square foot

3. Ground Mounted with Minor Land Development:

- Pre-application Meeting: \$200
- Preliminary Plan Submission: \$300 plus \$.02/SF
- Final Plan Submission : \$300 plus \$.02/SF

4. Ground Mounted with Major Land Development:

- Pre-application Meeting: \$200
- Master Plan Submission : \$300 plus \$.02/SF
- Preliminary Plan Submission: \$300 plus \$.02/SF
- Final Plan Submission: \$300 plus \$.02/SF

No single stage of review can have a calculated fee that exceeds Five thousand dollars (\$5,000) minus the base fee. If the calculated fee minus the base fee exceeds \$5,000, the fee shall be capped at \$5,000 for each stage of review.

3. *Fees for revised applications.* Where an administrative fee has been calculated and the application is revised after payment of ~~said~~ the application fee, the following rules shall apply:
 - A. If the basis for calculating the fee increases after the initial submittal, the applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid had the original submission included these revisions. No review of these revisions shall take place until this additional fee is paid. The application is incomplete until such fee is paid. Failure to make this payment after requesting additional revisions shall be grounds for denial of the application.
 - B. If the basis for calculating the fee decreases, a refund of that portion of the application fee predicated on those lots or units shall be granted only if, in the judgment of the ~~planning board~~ administrative officer, no cost associated with the review of those lots or units has been yet incurred. The application is incomplete if the fee is not paid.
4. *Fee waivers.* The administrative officer or the planning board may waive or reduce any administrative fee, if, in the opinion of the administrative officer or the board, unusual circumstances exist regarding the subject property or the applicant.
5. *Refund.* Once the review process has been commenced, ~~the planning board shall not refund~~ administrative fees shall not be refunded, including the case of withdrawal of the application by the applicant, except as provided in subsection [[B.3.B,]] above.

* * *

Sec. 3.4. - Project description and impact study.

Any application for a residential subdivision creating more than ~~five~~ nine lots, and all nonresidential subdivisions shall include a narrative describing the proposed project's major elements, potential significant impacts on the surrounding neighborhood and/or community and the means by which these identified impacts shall be mitigated by the project design or otherwise.

* * *

Sec. 3.5. - Required findings for all approvals.

For all development and subdivision applications subject to these regulations the administrative officer or the planning board or its designated agents, shall address each of the general purposes stated in section 1.5, and shall make positive findings on the following standard provisions as part of the proposed project's record, prior to approval. If a negative finding for any of these standards is made, the administrative officer or the planning board shall have grounds for denial of the project design application:

DRAFT AMENDMENTS

EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

SECTION 4.0. - SPECIAL REQUIREMENTS

* * *

~~Sec. 4.4. - Waiver of development plan approval.~~

- ~~A. The planning board may waive requirements for development plan approval where there is a change in use or occupancy and not extensive construction of improvements is sought. The waiver may be granted only by a decision by the planning board finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of development plan approval, and that the existing facilities do not require upgraded or additional site improvements.~~
- ~~B. The application for a waiver of development plan approval review shall include documentation, as required by the planning board, on prior use of the site, the proposed use, and its impact.~~

Sec. 4.5. 4.4 - Waiver and modification of requirements.

- ~~A. The planning board shall have the authority to waive or modify one or more of the requirements for land development or subdivision approval contained in these regulations if the planning board finds, on the record that:~~
- A. The planning board shall have the authority to waive any requirement in these regulations for a major land development project or subdivision or a minor land development project or subdivision. The administrative officer shall have the authority to waive any design standard in these regulations for a minor land development project or subdivision that will be approved administratively. To approve a waiver, the planning board or the administrative officer must find that:
 - 1. The waiver or modification is reasonable and within the general purposes and intents of these regulations; and
 - 2. Literal enforcement of ~~one or more provisions of the regulations~~ regulation is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question, or ~~where such~~ the waiver and/or modification is in

the best interest of good planning practice and/or design as evidenced by consistency with the town's comprehensive plan and zoning ordinance.

- B. ~~The planning board shall approve, approve with conditions, or deny a request for a waiver or modification by the following procedure:~~
- ~~1. The planning board's decision shall be made within 45 days of the day the request for the waiver or modification was first considered by the planning board, unless the applicant waives that deadline.~~
 2. The planning board's decision shall be in writing and shall contain findings of fact addressing the conditions contained in section 4.5.A.

* * *

DRAFT AMENDMENTS

EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

* * *

SECTION 6.0. - DEVELOPMENT APPLICATION, REVIEW AND APPROVAL PROCESS

~~The town planning board, as a body, shall conduct all meetings and shall make decisions pertaining to the land development and subdivisions under the jurisdiction of these regulations. No approval authority shall be designated to any other official or committee. The administrative officer, and technical consultants to the planning board may act as the board's agents in administrative matters, plan review and construction inspection.~~

Sec. 6.1. - Application for development and certification of completeness.

- A. *Classification.* The administrative officer shall advise the applicant as to which approvals are required and ~~the appropriate board for hearing an~~ whether the administrative officer or the planning board will review the application for a land development project or subdivision. The following types of applications, as defined in section 2.1, may be filed:
1. Administrative subdivision;
 2. Minor subdivision or minor land development project;
 3. Major subdivision or major land development project.
- B. *Certification of a complete application.* ~~An application shall be complete for purposes of commencing the applicable time period for action when so certified by the administrative officer. In the event such certification of the application is not made within the time specified in these regulations for the type of plan, the application shall be deemed complete for purposes of commencing the review period unless the application lacks information required for such applications as specified in these regulations in section 12.0, checklists, and the administrative officer has notified the applicant, in writing, of the deficiencies in the application.~~
- C. ~~Notwithstanding subsections A and B above, the planning board may subsequently require correction of any information found to be in error and submission of additional information specified in the regulations but not required by the administrative officer prior to certification, as is necessary to make an informed decision.~~
- D. ~~Where the review is postponed with the consent of the applicant, pending further information or revision of information, the time period for review shall be stayed and shall resume when the administrative officer or the planning board determines that the required application information is complete.~~

1. The administrative officer must certify as complete, in writing, an application for each stage of approval of a subdivision or land development project before the application will be reviewed. Certification of a complete application begins the time period within which the administrative officer or the planning board must review and act on an application.
2. If an application is incomplete, the administrative officer shall provide to the applicant a written explanation of the items that are missing from the application. The running of the period for certification stops if the administrative officer finds that the application is incomplete, and resumes when the missing material is submitted, but the administrative office shall have at least ten days from the day the missing material is submitted to certify the application as complete.
3. If a written certificate of completeness is not issued within the time required by these regulations, the application is considered complete for the purpose of beginning the review period; provided, however, that during review of the application, the administrative officer or the planning board may require an applicant to correct any information found to be in error or to submit any material required by these regulations but not included in the application.

Sec. 6.2 – Unified development review

Unified development review authorizes the planning board, rather than the zoning board of review, to approve a variance or a special use permit that is requested concurrently with an application for approval of a land development project. The purpose of the procedure is to provide a more efficient and less costly method of obtaining approval of development that requires zoning relief.

- A. An applicant for land development project approval may initiate unified development review by submitting an application form for a variance or special use permit with the application for the first stage of development approval.
- B. When considering an application for a variance or a special use permit, the planning board is bound by the same legal requirements and the same criteria for relief that would apply to zoning board of review consideration of the application. The planning board shall conduct a public hearing, shall take testimony under oath, and shall make findings of fact and conclusions of law.
- C. An application for a variance or a special use permit requires a public hearing. If these regulations require a public hearing for the land development project application, the application for zoning relief shall be heard at the same public hearing. The planning board shall consider the request for zoning relief before the land development project

review takes place. The planning board's approval of an application for zoning relief shall be conditional on its approval of the land development project.

- D. An applicant for approval of a major land development project that has received zoning relief as part of master plan approval may request a change to the relief granted, and may request additional variances or special use permits, as a result of the more detailed planning and engineering required for the preliminary plan submission. If such a request is made, a public hearing to consider the additional zoning relief must be conducted during preliminary plan review. If the additional zoning relief is denied, the planning board may remand the application to master plan review or, with the applicant's consent, the preliminary plan approval period may be extended to allow the applicant to provide additional evidence to support the request for zoning relief.
- E. An appeal from a decision by the planning board on a variance or special use permit may be taken pursuant to R.I. Gen. Laws § 45-23-71.

Re-numbering of sections:

~~Sec. 6.2.~~ **Sec. 6.3** - Pre-application meetings and concept plan review.

~~Sec. 6.3.~~ **Sec. 6.4** - Administrative subdivision.

Sec. 6.5 – Site visits.

- A. Before the first formal approval stage for every subdivision and land development project, the planning board shall visit the applicant's property. The visit enables planning board members to see existing conditions and special features of the property and identify potential site design issues, and provides an opportunity to informally discuss site design concepts.
- B. The visit should be scheduled after the applicant has submitted an existing resources and site analysis map. Copies of the map may be distributed during the site visit. The board may require the applicant to provide field locations of proposed streets, improvements, or site features. The applicant and one or more of his development professionals should be present. Town officials are encouraged to attend.
- C. The site visit shall be considered a meeting of a public body pursuant to the R.I. Open Meetings Act. The time and location shall be posted; the applicant shall send notice of the site visit to the owners of property within one thousand feet; members of the public are permitted to attend; and minutes shall be recorded. However, the planning board will take no formal action during the site visit, and any comments made by planning board members shall not be construed as a decision or determination.

- D. Lack of a quorum of planning board members at the site visit, or failure to conduct a site visit for a reason other than the unavailability of the applicant, shall not affect the status of the application.

Sec. 6.6 – Public hearings.

- A. When required. The planning board shall conduct a public hearing before master plan approval of all major subdivisions and land development projects, before preliminary plan approval of all minor subdivisions and land development projects that propose the creation or extension of a street, and for all applications that include a request for zoning relief.
- B. Notice requirements. The following notice requirements apply to public hearings.
1. The planning department shall advertise the public hearing at least fourteen days in advance in a newspaper that circulates in Exeter. The applicant shall pay for the advertisement.
 2. Notice of the public hearing shall be posted in the town clerk's office, at Exeter Library, and on the home page of the Town website at least fourteen days before the date of the public hearing.
 3. Both the advertisement and the notice shall state the date, time and location of public hearing; the assessor's plat and lot number of the property; and the street address of the property, including the street number or the distance and direction from the nearest intersection in tenths of a mile. If the applicant has requested a variance or a special use permit, the type of relief sought shall be described and the applicable sections of the zoning ordinance shall be listed. The notice shall state that the application may be examined at the planning department, Exeter town hall, on weekdays except holidays between 9:00 a.m. and 4:00 p.m.
 4. The planning department shall send a copy of the notice by first class mail to the applicant and to the owners of property within one thousand feet of the perimeter of the property proposed for development, and to any individual or entity holding a recorded conservation or preservation restriction on the property proposed for development. The notice shall be sent at least ten days before the date of the public hearing. The applicant shall pay for the notices and the postage.
 5. The planning department shall send a copy of the notice by first class mail to:
 - a) The planning board of an adjacent town if there is a public or quasi-public water source, or a private water source suitable for use as a public source, within two thousand feet of the municipal boundary;

- b) The governing body of any state or municipal water department or agency, water district, or private water company that has riparian rights to a surface water resource or watershed used for, or suitable for, a public water source located within Exeter or within two thousand feet of the municipal boundary, provided that a map survey has been filed with the building official as specified in R.I. Gen. Laws § 45-24-53(f);
 - c) The administrative officer of an adjacent town if the proposed development is within five hundred feet of its boundary or if the administrative officer determines that the development poses a potential for significant negative impact on the adjacent town.
- C. On-site sign. The applicant shall provide supplemental notice in the form of an on-site sign. At least fourteen days before the date of the public hearing, the applicant shall post a sign at the property notifying the public of the public hearing. The sign shall be at least twenty by thirty inches, made of weather-resistant material, and erected so it is clearly visible from the nearest street. The administrative officer will provide the required sign text to the applicant. The applicant shall maintain the sign at the site until the public hearing is closed. The administrative officer shall determine whether an additional sign must be posted to provide sufficient public notice.
- D. Stenographic record. A competent stenographer shall record the minutes of every public hearing. The applicant shall be responsible for the cost of the stenographer. An appellant must order and pay for a transcript of the public hearing.

Sec. 6.4. 6.7 - Minor land development projects and minor subdivisions.

- A. Review stages. Minor plan review shall consist of at least two stages; preliminary including a site visit; and final, provided that if a street creation or extension is involved, a public hearing is required. The planning board may combine the approval stages, providing requirements for both stages have been met by the applicant to the satisfaction of the planning board. A pre-application is recommended. A minor land development project is one of the developments defined as such in Sec. 2.0 of these regulations. A minor subdivision is a subdivision that creates nine or fewer lots for development. Minor subdivision or land development project review takes place in two stages, preliminary and final. A pre-application conference is recommended. The procedure for initiating a pre-application conference is in section 6.3 of these regulations.
- B. Any applicant requesting approval of a proposed minor subdivision or minor land development project, as defined these regulations, shall first follow the procedure specified for pre-application review as provided in section 6.2, above. If the creation or

extension of a public or private street is involved, following the pre-application meeting(s), the applicant shall submit the information required in checklist J, preliminary plat checklist for minor land development projects and minor subdivisions as provided in section 12.0.

If a minor land development project or minor subdivision does not involve the creation or extension of a public or private street, the applicant shall submit the information required in checklist D, preliminary plat checklist for minor land development projects and minor subdivisions (no street creation or extension) as provided in section 12.0.

~~C. Certification. The preliminary application shall be certified complete or incomplete by the administrative officer within 25 days, or within 15 days if no street creation or extension is required, according to the provisions of section 6.1.B. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the administrative officer be required to certify a corrected submission as complete or incomplete less than 14 days after its submission.~~

B. Applications proposing street creation or requesting zoning relief.

1. An application that proposes creation or extension of a street or is accompanied by an application for a variance or a special use permit shall be reviewed by the planning board.
2. To initiate an application for preliminary plan review, the applicant shall submit the information required in checklist J in section 12.0 of these regulations. The administrative officer shall certify the application as complete within twenty-five days.
3. During preliminary plan review, the planning board shall conduct a public hearing in compliance with section 6.6 of these regulations. If the applicant has requested a variance or a special use permit, the planning board shall approve or deny the variance or special use permit before considering the preliminary plan application. Approval of zoning relief shall be conditional on approval of the final plan.
4. The planning board shall approve, approve with conditions, or deny the application within ninety-five days of the day it was certified as complete, unless the applicant consents in writing to an extension of that time.
5. If the planning board is unable to make the findings required by section 3.5 of these regulations, the board may reassign the application to major subdivision or land development project review. If the planning board fails to act on the application within the required period, the application shall be considered approved, and the administrative officer will issue a written approval at the applicant's request.

6. Approval of a preliminary plan expires one year from the date of approval. The planning board may extend the approval period for cause upon a written request from the applicant. The zoning ordinance and subdivision regulations provisions under which the preliminary plan approval was granted are vested while the preliminary plan approval remains valid.

C. Applications that do not propose street creation or request zoning relief.

1. An application that does not propose creation or extension of a street and is not accompanied by an application for a variance or a special use permit shall be reviewed by the administrative officer.
2. To initiate an application for preliminary plan review, the applicant shall submit the information required in checklist D in section 12.0 of these regulations. The administrative officer shall certify the application as complete within fifteen days.
3. The administrative officer shall approve, approve with conditions, or deny the application within sixty-five days of the day it was certified as complete, unless the applicant consents in writing to an extension of that time.
4. Approval of a preliminary plan expires one year from the date of approval. The administrative officer may extend the approval period for cause upon a written request from the applicant. The zoning ordinance and subdivision regulations provisions under which the preliminary plan approval was granted are vested while the preliminary plan approval remains valid.

D. Final plan approval. Final plan approval of a minor subdivision or land development project is administrative.

1. To initiate final approval, the applicant shall submit the information required in checklist E in section 12.0 of these regulations.
2. The administrative officer shall certify an application for final plan approval as complete within twenty-five days if the application proposes creation or extension of a street or requests zoning relief, and within fifteen days if the application does not propose creation or extension of a street or request zoning relief.
3. Approval of a final plan expires one year from the date of approval unless during that time the applicant submits a plat for recording that conforms to the final approval. The administrative officer may extend the approval period for cause upon a written request from the applicant. The zoning ordinance and subdivision regulations

provisions under which the preliminary plan approval was granted are vested while the final plan approval remains valid.

- ~~D. Site visit. After preparing the existing resources and site analysis map, and before the preliminary plan is approved, the planning board shall schedule a site visit to the property. In order to facilitate the inspection of the site, the planning board may require field location of all proposed roads, improvements and site features consistent with the level of information required at this stage of review. The existing resources and site analysis map shall be distributed at the site visit to those town officials in attendance, if it has not been distributed earlier. It is strongly encouraged that the site visit be attended by members of the planning board, town officials, the applicant and/or the applicant's representatives. Owners of property within the notice radius specified in section 6.5.1.C shall also be notified by the applicant and invited to attend. The site visit shall be considered a public meeting and shall be conducted in accordance with the town's normal procedures for compliance with the state open meetings law. Members of the public shall be permitted to attend the site visit.~~
- ~~Lack of a quorum of the planning board in attendance at this visit shall not constitute a failure on the part of the applicant to satisfy the requirements of a site visit. In the event that the planning board does not schedule a site visit, or that a scheduled site visit is not conducted within the prescribed time period through no fault of the applicant, the applicant shall not be found to be deficient in the application process, and shall be allowed to proceed with the application.~~
- ~~The purpose of the visit is to familiarize local officials with the property's existing conditions and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts, including the general layout of designed open space lands, buildings and street alignments. Comments made by town officials or their staff and consultants shall be interpreted as being only suggestive. It shall be understood by all parties that no formal recommendation can be offered, and no official decisions can be made at the site visit. Minutes of the site visit shall be kept in accordance with title 42, chapter 46 of the RI General Laws entitled "Open Meetings."~~
- ~~E. Reassignment to major review. The planning board may reassign a proposed minor project to major review only when the planning board is unable to make the positive findings required in section 3.5.~~
- ~~F. Decision. If no street creation or extension is required, the planning board shall approve, deny, or approve with conditions, the preliminary plan within 65 days of certification of completeness, or within such further time as is agreed to by the applicant and the board, according to the requirements of section 8.6. If a street extension or creation is required, the planning board shall hold a public hearing prior to approval according to the requirements in section 6.5 and shall approve, deny, or approve with conditions, the preliminary plan within 95 days of certification of completeness, or within such further time as is agreed to by the applicant and the board, according to the requirements of section 9.6.~~

- ~~G. Failure to act. Failure of the planning board to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the administrative officer as to the failure of the planning board to act within the required time and the resulting approval shall be issued on request of the applicant.~~
- ~~H. Final plan. The applicant shall submit to the administrative officer the items required by these regulations on checklist E, final plat checklist, as provided in section 12.0, as well as all material required by the planning board when the application was given preliminary approval. The planning board may delegate final plan review and approval to the administrative officer. The officer shall report his actions to the planning board at its next regular meeting, to be made part of the record.~~
- ~~I. Expiration of approval. Approval of a minor land development or subdivision plan shall expire 90 days from the date of final approval unless within such period a plat or plan, in conformity with such approval, and as defined in these regulations, is submitted for signature and recording as specified in section 9.7. Validity may be extended for a longer period, for cause shown, if requested by the applicant in writing, and approved by the planning board.~~
- E. Appeal. A decision to deny an application, or to approve an application with conditions that are unacceptable to the applicant, is appealable pursuant to R.I. Gen. Laws § 45-23-71. If the appeal is from a final plan decision, the appeal shall be limited to elements that were not included in the preliminary plan decision.

Sec. 6.5. 6.8 - Major land development projects and major subdivisions.

A. Major plan review shall be required of all applications for land development and subdivision approval subject to these regulations, unless classified as an administrative subdivision or as a minor land development project or a minor subdivision.

- A. A major land development project is a development that results in a greater number of dwelling units, involves construction of more gross floor area, or requires more extensive exterior site development than would be permitted for a minor land development project. A major subdivision is a subdivision that creates ten or more lots for development.
- B. Major plan review shall consist of four stages of review listed below. Also required are a public informational meeting and a public hearing. After a pre-application conference has taken place, review of a major land development project or major subdivision takes place in three stages:
 - ~~1. Pre-application meeting(s).~~
 - ~~2. 1. Master plan , including a site visit.~~
 - ~~3. 2. Preliminary plan, and~~
 - ~~4. 3. Final plan.~~

- ~~C. The planning board may vote to combine review stages and to modify and/or waive requirements as specified in section 4.5. Review stages may be combined only after the planning if the board determines that all necessary requirements for each stage have been met, by the applicant.~~
- ~~D. C. Submission requirements— Pre-application conference. Any applicant requesting approval of a proposed major subdivision or major land development project, as defined in these regulations, shall first To request a pre-application conference with the planning board, the applicant shall submit to the administrative officer the plans and supporting materials provided in the required by checklist C , pre-application meetings and concept review as provided in section 12.0 (for a conventional subdivision) or checklist I (for a conservation development) in section 12.0 of these regulations. For a conservation development project, or conservation development subdivision, see checklist I. The procedure and criteria for pre-application meetings and concept review as provided is in section 6.2 shall apply 6.3 of these regulations. At the conclusion of the pre-application meeting(s) the applicant may proceed to the master plan stage of review.~~

6.5.1 Sec. 6.8.1 Master plan review procedure.

A. *Submission requirements.* ~~—Master plan.~~

1. To initiate master plan review, an The applicant shall first submit to the administrative officer the items required by these regulations for master plans on checklist F (for a conventional land development project or subdivision) master plan checklist or checklist L (for a conservation development) in section 12.0 of these regulations. For a conservation development project, or conservation development subdivision, see checklist L. 2. Master plan information Information and supporting material for this phase of review shall include, but is not be limited to, information on the natural and built features of the surrounding neighborhood; existing natural and manmade conditions of the development site, including topographic features; the freshwater wetland and coastal zone boundaries; and the floodplains, as well as the proposed design concept, proposed public improvements and dedications, tentative construction phasing, and potential neighborhood impacts.
3. 2. The administrative officer may solicit initial ~~Initial~~ comments shall be solicited from:
 - (a) Town ~~/ or other~~ local agencies and or commissions. ~~, as appropriate;~~
 - (b) Adjacent communities.
 - (c) State agencies. ~~as appropriate; and~~
 - (d) Federal agencies. ~~, as appropriate.~~

~~The administrative officer shall coordinate and review comments by local officials, adjacent communities, and state and federal agencies. If an agency fails to provide~~

written comments prior to the date of a scheduled meeting at which an application is being discussed or heard, the applicant may not be found to be deficient in the application process, and the application shall not be found to be incomplete due to the failure of an agency to provide comment. The failure of any agency to respond to a request for comments shall not affect the status of an application.

- B. *Certification.* The application shall be certified complete within twenty-five days. ~~or incomplete by the administrative officer within 60 days, according to the provisions of section 6.1.B. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the administrative officer be required to certify a corrected submission as complete or incomplete less than 14 days after its submission.~~
- C. *Site visit.* The planning board shall schedule a site visit in accordance with ~~the procedure and requirements of section 6.4.D~~ section 6.5 of these regulations. ~~entitled "Site visit,"~~ provided, however that the site visit shall be scheduled before the master plan is approved. In order to facilitate the inspection of the site, the planning board may require field location of all proposed roads, improvements and site features consistent with the level of information required at this stage of review.
- D. ~~Informational meeting.~~ A public informational meeting shall be held prior to the planning board decision on the master plan, unless the master plan and preliminary plan approvals are being combined, in which case the public informational meeting shall be optional, based upon planning board determination that all necessary requirements for all stages so combined have been met by the applicant.

1. Public notice for the informational meeting is required and shall be given at least seven days prior to the date of the meeting in a newspaper of general circulation within the town. Written notice shall be mailed by the applicant and to all property owners within 1,000 feet of the property proposed for development. Certificates of mailing must be presented by the applicant to the administrative officer prior to the commencement of the public informational meeting.
2. The applicant shall also provide an on-site sign or signs notifying the public of the application pending before the planning board as specified in section 6.5.3.C, below.
3. At the public informational meeting the applicant shall present the proposed development project. The planning board shall allow oral and written comments from the general public. All public comments shall be made part of the public record of the project application.
4. The costs of all informational meetings required by these regulations, including, but not limited to legal advertising, mailing, signage and stenographers shall be borne by the applicant.

- D. *Public hearing.* The planning board shall conduct a public hearing on the application. Notice shall be given as required by section 6.6 of these regulations. If the applicant has

requested a variance or special use permit for the development, the planning board shall approve or deny the variance or special use permit before considering the master plan application. Approval of zoning relief shall be conditional on approval of the final plan.

- E. *Decision.* ~~The planning board shall, within 120 days of certification of completeness, or within such further time as may be consented to by the applicant, approve of the master plan as submitted, approve with changes and/or conditions, or deny the application, according to the requirements of section 9.6. The Planning Board shall approve, approve with conditions, or deny the master plan and any requested zoning relief within ninety days of the day the application was certified as complete unless the applicant agrees in writing to extend the time period for approval.~~
- F. *Failure to act.* ~~Failure of the planning board to act within the period prescribed shall constitute approval of the master plan and a certificate of the administrative officer as to the failure of the planning board to act within the required time, and the resulting approval shall be issued on request of the applicant. If the planning board does not act on the application within the required time, the application shall be considered approved, and the applicant may request and receive from the administrative officer a written certification that the planning board failed to act with the required time, and a written approval of the master plan.~~
- G. *Expiration.* ~~of master plan approval. 1.The approved master plan shall be vested for a period of one year, with a one-year extension upon written request by the applicant, who must appear before the planning board for the annual review. Vesting may be extended for a longer period, for good cause shown, if requested by the applicant in writing, and approved by the planning board. Master plan vesting shall include the zoning requirements, conceptual layout and all conditions shown on the approved master plan drawings and supporting materials. 2.The initial two-year vesting for the approved master plan shall constitute the vested rights for the development. Master plan approval expires two years from the date the written decision was recorded. An applicant has the right to receive two one-year extensions of master plan approval, and may ask the planning board for additional extensions for good cause. An extension must be requested in writing at least thirty days before the expiration date. The applicant must appear before the planning board to request the extension and explain the status of the project. A decision to extend the approval period shall be in writing. The zoning ordinance and subdivision regulations provisions under which the master plan approval was granted are vested while the master plan approval remains valid.~~
- H. *Evidence of notice.* ~~The applicant shall be responsible for all required notice for the public informational meeting and shall submit evidence of proper notice as required.~~

~~6.5.2~~ 6.8.2. Preliminary plan review. procedures.

A. *Submission requirements.*

1. ~~The To initiate preliminary plan review, the applicant shall first submit to the administrative officer the items required by these regulations for preliminary plans on checklist G (for a conventional land development project or subdivision) or checklist M (for a conservation development) preliminary plat checklist in section 12.0 of these regulations. For a conservation development project, or conservation development subdivision, see checklist M.~~ 2. Requirements for the preliminary plan information and supporting materials for this phase of the review shall include, but not be limited to, engineering plans depicting the existing site conditions, engineering plans depicting the proposed development project, a perimeter survey, all permits required by state or federal agencies prior to commencement of construction, including permits related to freshwater wetlands, floodplains, preliminary suitability for individual septic disposal systems, public water systems, and connections to state roads
3. ~~2. At the preliminary plan review phase, the The administrative officer shall solicit final written comments and/or approvals of all from town or other local departments and commissions, as appropriate agencies or commissions.~~
4. ~~3. Prior to approval of the preliminary plan, The applicant shall submit copies of all required legal documents, describing the property, including proposed easements. and rights-of-way necessary for the proposed development.~~
4. Before the preliminary plan is approved, the applicant must submit copies of every federal, state, and municipal permit required for the development, provided, however, that for any permit required from the R. I. Department of Transportation, the applicant may submit correspondence confirming that a permit will be issued when a bond is posted and evidence of sufficient insurance is provided.

- B. *Certification.* ~~The application shall be certified as complete or incomplete by the administrative officer within 60 days, according to the provisions of section 6.1.B. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the administrative officer be required to certify a corrected submission as complete or incomplete less than 14 days after its submission. within twenty-five days.~~

C. *Public hearing.* ~~Prior to [the] planning board decision on the preliminary plan, a public hearing, which adheres to the requirements for notice described in section 6.5.3 below, must be held.~~

- C. Notice. The planning department shall send notice of the first planning board meeting on the preliminary plan by first class mail to the owners of property within one thousand feet of the property to be developed at least 14 days before the meeting.
- D. Public improvement *Improvement* guarantees. ~~Proposed arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees, shall be reviewed and approved by the planning board at preliminary plan approval. At preliminary plan review, the planning board shall approve a procedure for the completion of streets, stormwater management facilities, and all other required improvements. The applicant may complete the improvements by constructing them, by posting a financial guarantee to insure their completion, or a combination of construction and financial guarantees.~~
- E. Decision. ~~A complete application for a major subdivision or development plan shall be approved, approved with conditions or denied within 120 days of the date when it is certified complete, or within such further time as may be consented to by the developer. The planning board shall approve, approve with conditions, or deny the preliminary plan within ninety days of the day the application was certified as complete unless the applicant agrees in writing to extend the time period for approval. The planning board's written decision shall be recorded in the land evidence records.~~
- F. Failure to act. ~~Failure of the planning board to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the administrative officer as to the failure of the planning board to act within the required time and the resulting approval shall be issued on request of the applicant. If the Planning Board does not act on the application within the required time period, the application shall be considered approved, and the applicant may request and receive from the administrative officer a written certification that the planning board failed to act with the required time, and a written approval of the preliminary plan.~~
- G. Expiration. ~~of preliminary approval. The approved preliminary plan shall be vested for a period of one year, and vesting may be extended for a longer period, for good cause shown, if requested in writing by the applicant, and approved by the planning board. The vesting for the preliminary plan approval shall include all general and specific conditions as shown on the approved preliminary plan drawings and supporting material. Preliminary plan approval expires two years from the date the written decision was recorded in the land evidence records. The applicant has the right to receive two one-year extensions of preliminary plan approval, and may ask the planning board for additional extensions for good cause. An extension must be requested in writing at least thirty days before the expiration date. The applicant must appear before the planning board to request the extension and explain the status of the project. A decision to extend the approval period shall be in writing and shall be recorded in the land evidence records. The zoning ordinance and subdivision regulations provisions under which the~~

preliminary plan approval was granted are vested while the preliminary plan approval remains valid.

6.5.3 Public hearing and notice:

A. Public hearing. A public hearing shall be required for a major land development project or a major subdivision or where a street extension or creation requires a public hearing for a minor land development project or minor subdivision.

B. Notice requirements. Public notice of the hearing shall be given by the town at least 14 days prior to the date of the hearing in a newspaper of general circulation within the town. Written notice shall be sent by the applicant, provided by the town, to each property owner within 1,000 feet of the proposed development, by certified mail, return receipt requested, not less than ten days prior to the date of the hearing.

All mail and newspaper notices required by this subsection shall specify

- (1) the date, time and place of public hearing;
- (2) the assessor's plat and lot number of the subject property;
- (3) the street address of the subject property, or if not street address is available, the name of the street(s) on which or near which the subject property is located and the distance and direction from the nearest existing street intersection in tenths of a mile;
- (4) advise interested parties where and when a copy of the plans of the proposed major subdivision or major land development project may be examined; and
- (5) contain a statement that the proposal major subdivision or major land development project may be revised by the planning board as a result of further study or because of the views expressed at the public hearing. Certificates of mailing must be presented by the applicant to the administrative officer prior to the commencement of the public hearing.

C. On-site sign. The applicant shall also provide an on-site sign or signs notifying the public of the scheduled public hearing or informational meeting pending before the planning board. This sign(s) shall be considered to be supplemental notice and shall be of a weather-resistant design, measuring a minimum 20" x 30" in size, erected in a location upon the site proposed for development which is visible from the nearest public or private street and fixed upon a support that is of sufficient height to make the sign visible from the nearest public or private street. The sign shall be placed on the site at least 14 days prior to the date of the hearing. Such sign shall contain a basic project description and notice of the public hearing or informational meeting, and shall be maintained on the site by the applicant until the public hearing or informational meeting is closed. The administrative officer shall determine if additional notification signs are required in order to provide sufficient public notice, up to a maximum of two signs. The administrative officer shall provide signage specifications and content to the applicant.

D. Notice area.

1. The distance(s) for notice of the public hearing shall be 1,000 feet from the perimeter of the property proposed for development.

~~2. Watersheds. Additional notice within watersheds shall also be sent as required in G.L. 1956, § 45-23-53(B) and (C) where a proposed project is located within 2,000 feet of an active or identified potential public water source.~~

~~3. Adjacent municipalities. Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if (1) the notice area extends into the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.~~

~~E. Evidence of notice. The applicant shall be responsible for all required notice for the public hearing and shall submit the returned receipts from the certified mail as evidence of the notice.~~

~~F. The costs of all public hearings required by these regulations, including, but not limited to legal advertising, mailing, signage and stenographers shall be borne by the applicant.~~

6.8.3 Final plan approval.

A. *Submission requirements.* The applicant shall submit the following documents or information for final plan approval:

1. ~~The applicant shall submit to the administrative officer the~~ The items required by ~~these regulations on checklist H , final plat checklist, as provided in section 12.0 of these regulations,~~ as well as all material the items required by the planning board ~~when the application was given at preliminary plan approval as a condition of final approval.~~

2. Arrangements for completion of the required public improvements, including a construction schedule ~~and/or~~ and any financial guarantees.

3. Certification by the tax collector that all property taxes are current.

4. For phased projects, ~~the final plan for phases following the first phase shall be accompanied by copies of as-built drawings not previously submitted of~~ for all existing public improvements ~~for~~ in prior phases.

B. *Certification.* ~~The application for final plan approval shall be certified complete or incomplete by the administrative officer within 25~~ fifteen days. ~~, according to the provisions of section 6.1.B. This time period may be extended to 45 days by written notice from the administrative officer to the applicant when the final plans contain changes to or elements not included in the preliminary plan approval. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the administrative officer be required to certify a corrected submission as complete~~

~~or incomplete less than 14 days after its submission. If the administrative officer certifies the application as complete and does not require submission to the planning board as per subsection C. below, the final plan shall be considered approved. When the final plan includes changes to the approved preliminary plan or new elements, the administrative officer may have an additional ten days to certify the application as complete, provided that the administrative officer notifies the applicant in writing that the additional time will be required. If the administrative officer determines that the final plan submission proposes a major change to the approved preliminary plan, the administrative officer shall notify the applicant in writing within fourteen days of the day the application was submitted.~~

- C. *Referral to the planning board.* If the administrative officer certifies the application as complete, the certification shall constitute final plan approval. A written final plan approval shall be issued within forty-five days. If the administrative officer determines that ~~an~~ the application for final approval does not meet the requirements ~~set by local of these regulations or the conditions imposed~~ by the planning board at preliminary approval, or if the applicant has proposed a major change to the approved preliminary plan, the administrative officer shall refer the final ~~plans~~ plan to the planning board for review. The planning board ~~shall, must approve or disapprove the final plan~~ within 45 days after the certification of completeness, ~~or within such further time as may be consented to by the applicant, approve or deny the final plan as submitted.~~ forty-five days of the day the application was certified as complete, unless the applicant agrees in writing to extend the time period for approval.
- D. *Failure to act.* ~~Failure of the planning board to act within the period prescribed shall constitute approval of the final plan and a certificate of the administrative officer as to the failure of the planning board to act within the required time, and the resulting approval shall be issued on request of the applicant. If the planning board does not act on the application within the required time period, the application shall be considered approved, and the applicant may request and receive from the administrative officer a written certification that the planning board failed to act with the required time, and a written approval of the final plan.~~
- E. *Expiration.* Final plan approval expires within one year unless the applicant constructs the streets and other improvements or submits an improvement guarantee. The applicant has the right to receive a one-year extension of the final plan approval, and may ask the planning board for additional extensions for good cause. An extension must be requested in writing at least thirty days before the expiration date. The applicant must appear before the Planning Board to request the extension and to explain the status of the project. A decision to extend the approval period shall be in writing and shall be recorded in the land evidence records.

~~E. F. Recording. The final approval of a major subdivision or land development project shall expire one year from the date of approval unless, within that period, the plat or plan shall have been submitted for signature and recording as specified in section 9.7. The planning board may, for good cause shown, extend the period for recording for an additional period. The Final Plan approval and the Final Plat are recorded in the land evidence records when all required improvements have been completed and an inspection has confirmed that the improvements were constructed in conformity with these regulations and with the approved plans, or when the applicant has submitted an improvement guarantee.~~

~~F. Acceptance of public improvements. Signature and recording as specified in section 9.7 shall constitute the acceptance by the town of any street or other public improvement or other land intended for dedication. Final plan approval shall not impose any duty upon the municipality to maintain or improve those dedicated areas until the governing body of the town accepts the completed public improvements as constructed in compliance with the final plans.~~

~~G. Validity of recorded plans. The approved final plan, once recorded, shall remain valid as the approved plan for the site unless and until an amendment to the plan is approved under the procedure set forth in section 9.8 or a new plan is approved by the planning board.~~

6.8.4 Appeal. A decision to deny the application, or to approve the application with conditions that are unacceptable to the applicant, is appealable pursuant to R.I. Gen. Laws § 45-23-71. If the appeal is from a final plan decision, the appeal shall be limited to elements that were not included in the preliminary plan decision.

Sec. 6.9 - Changes to an application

A. An applicant may make changes to an application at any stage of submission. The administrative officer has the authority to approve minor changes and major changes to applications if the applications do not require planning board approval. Major changes to an application that requires planning board review must be approved by the planning board.

B. If the administrative officer determines that a requested change in a Final plan application is a major change, the administrative officer shall notify the applicant in writing within fourteen days.

C. If the administrative officer denies a request for a minor change, the request shall be submitted to the planning board as a major change.

D. Minor change. A minor change is a change that, in the opinion of the administrative officer, is consistent with the intent of the original approval. Minor changes include but are not limited to the following:

1. Changes to utility plans that are acceptable to the Director of Public Works or to the appropriate utility.
2. Lot line changes that could be approved as an administrative subdivision.
3. Changes to grading plans or drainage plans that are acceptable to the director of public works and do not require approval of any State or federal agency.
4. Changes to construction plans required because of unforeseen physical conditions on the property.
5. Modifications to construction plans for off-site improvements that are acceptable to the director of public works.
6. Modifications required by outside permitting agencies including the R.I. department of environmental management and the R.I. department of transportation.

E. Major change. A major change is a change that in the opinion of the Administrative Officer clearly differs from the intent of the original approval. Major changes include but are not limited to the following:

1. Changes that would create additional lots or dwelling units for development.
2. Changes that require a variance or special use permit.
3. Changes that may have significant negative impacts on abutting property or property in the vicinity of the development.

Re-numbering of sections:

Sec. 6.6. ~~6.10~~ – Planned Village Development.

Sec. 6.7. ~~6.10.1~~ - Performance and design standards.

Sec. 6.8. ~~6.10.2~~ - Ownership, operations and maintenance.

Sec. 6.9. ~~6.10.3~~ – Transfer of development rights (TDR)—Sending areas.

Sec. 6.10. ~~6.10.4~~ – Fee-in-lieu option for density transfer.

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DRAFT AMENDMENTS

EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

* * *

SECTION 8.0. - ADOPTION AND AMENDMENT OF REGULATIONS

Sec. 8.1. - Authority to create and administer regulations.

~~The town council shall empower, by ordinance, the town~~ Pursuant to section 701 of the Exeter Home Rule Charter, ~~the planning board has the authority to adopt, modify and amend regulations and rules governing land development and subdivision projects within the town and to control land development and subdivision projects pursuant to these the regulations. and rules. The regulations shall be consistent with Title 45, Chapters 22 and 23 of the R.I. General Laws, with the Exeter comprehensive community plan, and with the Exeter zoning ordinance.~~

Sec. 8.2. - Procedure for adoption and amendment.

~~A. The planning board, once authorized by the ordinance required under G.L. 1956, § 45-23-51, shall adopt or repeal, and provide for the administration, interpretation, and enforcement of land development and subdivision review regulations.~~

~~B. The land development and zoning regulations and all the amendments thereto, shall be consistent with all provisions of the Land Development and Subdivision Review Enabling Act of 1992 as well as the town comprehensive plan and zoning ordinance.~~

~~Sec. 8.3. - Public hearing and notice.~~

~~A. No town land development and subdivision regulations shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the planning board.~~

~~The planning board shall first give notice of the public hearing by publication of notice in a newspaper of general circulation within the town at least once each week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held. At this hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed regulations. Written notice, which may be a copy of the newspaper notice, shall be mailed to the statewide planning program of the Rhode Island Department of Administration at least two weeks prior to the hearing. The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:~~

- ~~1. Specify the place of said hearing and the date and time of its commencement;~~
- ~~2. Indicate that adoption, amendment or repeal of local regulations is under consideration;~~
- ~~3. Contain a statement of the proposed amendments to the regulations that may be printed once in its entirety, or may summarize or describe the matter under consideration;~~

~~4. Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and~~

~~5. State that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any such alteration or amendment must be presented for comment in the course of said hearing.~~

A. The planning board shall conduct a public hearing before adopting or amending these regulations. At the public hearing, all persons who wish to speak on the proposed adoption or amendment shall be given an opportunity to be heard. Notice of a public hearing on proposed adoption or amendment of these regulations shall be given as follows:

1. Notice of a public hearing shall be published in a newspaper that circulates in Exeter at least once each week for three successive weeks before the date of the hearing. The third notice may be published during the week in which the hearing will take place. The notice shall:

a) State the date, time and place of the public hearing;

b) State that adoption, amendment or repeal of the regulations will be considered;

c) Contain the proposed amendments, or a summary of the proposed amendments that explains the intent and effect of the amendments;

d) State where and when a complete copy of the proposed amendments may be obtained or examined and copied; and

e) State that the proposed amendments may be altered during the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing, as long as any such alteration is presented for comment during the public hearing.

2. At least fourteen days before the date of the public hearing, the notice shall be posted in the town clerk's office, in the Exeter Library, and on the home page of the Town's website.

~~B. Notice of the public hearing shall be sent by first class mail to the town planning board of any municipality where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, located within 2,000 feet of the town boundaries.~~

~~C. Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source located within either the municipality or 2,000 feet of the town boundaries; provided, however, that a map survey has been filed with the building inspector as specified in G.L. 1956, § 45-24-53(E).~~

~~D. No defect in the form of any notice under this section shall render any regulations invalid, unless such defect is found to be intentional or misleading.~~

3. At least fourteen days before the public hearing, the planning department shall send notice of the public hearing by first class mail to the following:
 - a) The planning board of any municipality in which there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, located within two thousand feet of Exeter's boundaries.
 - b) The governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource or a surface watershed that is used or is suitable for use as a public water source located in Exeter or within two thousand feet of Exeter's boundaries, provided that the governing body of the state or municipal water department or agency, special water district, or private water company has filed with the Exeter Building Inspector a map survey showing the areas of surface water resources and watersheds, and parcels of land within two thousand feet of the areas of surface water resources and watersheds, pursuant to R.I. Gen. Laws § 45-24-53(f).

Sec. 8.3 Public notice registry.

- A. The town shall establish and maintain a public notice registry that enables members of the public to register to receive electronic notice of any proposed changes or adopted amendments to the land development and subdivision regulations.
- B. At least once a year, the town shall publish a notice of the availability of the public notice registry in a newspaper that circulates in Exeter.
- C. The town shall post notice of the availability of the public notice registry on the town website and provide a link that members of the public can use to register to receive notice.

D. Notice provided through this registry does not qualify the recipient as an aggrieved party as that term is defined in article 2, section 1.2 of the zoning ordinance.

Sec. 8.4. - Publication and availability of regulations.

A. Printed copies of the ~~town~~ land development and subdivision regulations shall be available for purchase by the ~~general~~ public in the town hall. The regulations shall be revised to include all current amendments and all appendices. There shall be a charge for a copy to cover the cost of printing.

~~B. — Upon publication of the local regulations and any amendments thereto, the town shall send a copy to the Rhode Island Department of Administration's Division of Planning and to the state law library.~~

DRAFT AMENDMENTS

EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

SECTION 9.0. - ADMINISTRATION OF THE REGULATIONS

Sec. 9.1. - Administrative officer.

- ~~A. Local administration of the town land development and subdivision regulations shall be under the direction of the administrative officer.~~
- ~~B. The administrative officer shall oversee and coordinate the review, approval, recording and enforcement provisions of the local regulations.~~
- ~~C. The administrative officer shall be responsible for coordinating reviews of proposed land development projects and subdivisions with adjacent municipalities as is necessary to be consistent with applicable federal, state and local laws and as directed by the planning board.~~
- ~~D. The administrative officer may direct the planning clerk, other members of the planning board and/or professional consultants to the planning board to perform some of the clerical and technical tasks for which he/she is responsible.~~
- ~~E. Enforcement of the local regulations shall be under the direction of the administrative officer.~~

The town planner shall serve as the administrative officer, and in that capacity shall supervise and coordinate the town's land use planning functions. If the administrative officer is absent or unavailable, the chairman of the planning board will act as the temporary administrative officer. Alternatively, the chairman can seek approval from the planning board to engage technical services from a qualified third party to serve as a temporary administrative officer. This provision is provided for in R.I. Gen. Laws § 45-22-59 (c). ~~The chairman of the planning board shall serve as the acting administrative officer if the administrative officer is absent or unavailable.~~ The administrative officer shall be responsible for:

- A. Administration of the land development and subdivision regulations.
- B. Coordinating the review, approval, and recording of land development projects and subdivisions the planning board.
- C. Review and approval of applications for which administrative approval is authorized.
- D. Coordinating planning functions with other municipal officials, with adjacent towns, and with the State.
- E. Enforcement of these regulations and enforcement of conditions placed on approval of land development projects.

~~Sec. 9.2. – Board of appeal.~~

~~The town council shall establish the town zoning board of review as the board of appeal to hear appeals of decisions of the planning board or the administrative officer on matters of review and approval of land development and subdivision projects.~~

Sec. ~~9.3.~~ 9.2 - Violations and penalties.

- ~~A. These regulations provide for a penalty for any violation of the regulations, or for a violation of any terms or conditions of any action imposed by the planning board or of any other agency or officer charged in the regulations with enforcement of any of the provisions, as follows.~~
- ~~B. Violation of the regulations shall include any action related to the transfer or sale of land in unapproved subdivisions. Any owner, or agent of the owner, who transfers, sells or negotiates to sell any land by reference to or exhibition of, or by other use, a plat of the subdivision before the plat has been approved by the planning board and recorded in the town's land evidence records, shall be in violation of the local regulations and subject to the penalties described in this chapter.~~
- ~~C. The penalty for violation shall reasonably relate to the seriousness of the offense, and shall not exceed \$1000.00 for each violation, and each day of existence of any violation shall be deemed to be a separate offense. Any such fine shall accrue to the town.~~
- ~~D. The town may also cause suit to be brought in the supreme or superior court, to restrain the violation of, or to compel compliance with, the provisions of these regulations. The town may consolidate an action for injunctive relief and/or fines under these regulations in the Washington County Superior Court.~~
- A. The administrative officer shall refer violations of these regulations to the town solicitor for prosecution. Violations include, but are not limited to, the following:
 - 1. Failing or refusing to adhere to any requirement imposed by these regulations.
 - 2. Failure to adhere to any of the conditions placed on any approval by the planning board or the administrative officer.
 - 3. The transfer or conveyance of any land, or negotiation for the transfer or conveyance of any land, by referring to, showing, or otherwise using a plat or plan that has not been recorded in the land evidence records.

- B. The penalty for violation shall reasonably relate to the seriousness of the offense, and shall not exceed five hundred dollars for each violation. Each day of existence of any violation is a separate offense. Any fine imposed shall inure to the Town.
- C. The Town shall have the authority to bring suit in the Superior Court to restrain the violation of these regulations or to compel compliance with these regulations.
- D. The Town shall have the authority to consolidate an action seeking the imposition of fines with an action for injunctive relief.

[Sec. 9.4. — Reserved.]

Sec. 9.5. 9.3 - Precedence of approvals between planning board and other local permitting authorities town council.

~~A. Zoning board.~~

- ~~1. Where an applicant requires both a variance from the town's zoning ordinance and planning board approval, the applicant shall first obtain an advisory recommendation from the planning board, as well as conditional planning board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain conditional zoning board relief, and then return to the planning board for subsequent required approval(s).~~
- ~~2. Where an applicant requires both a special use permit under the town's zoning ordinance and planning board approval, the applicant shall first obtain an advisory recommendation from the planning board, as well as conditional planning board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional special use permit from the zoning board, and then return to the planning board for subsequent required approval(s).~~

~~B. Town council.~~ Where an applicant requires both planning board approval and town council approval for a zoning ordinance or zoning map ~~change~~ amendment, the applicant shall first obtain an advisory recommendation on the zoning ~~change~~ ordinance amendment from the planning board, as well as conditional planning board approval for the first approval stage for the proposed project, ~~which may be simultaneous~~, then obtain a conditional zoning ~~change~~ ordinance amendment from the town council, and then return to the planning board for subsequent required approval(s).

Sec. 9.6. 9.4 - Meetings, votes, decisions and records.

- A. All records of the planning board proceedings and decisions shall be written and kept permanently available for public review in the town hall. Completed applications for

proposed land development and subdivision projects under review by the planning board shall be available for public review at the town hall.

- B. Participation in a planning board meeting or other proceedings by any party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.
- C. All final written comments to the planning board from the administrative officer, town departments, state and federal agencies, and local commissions shall be part of the permanent record of the development application.
- D. All votes of the planning board shall be made part of the permanent record and shall show the members present and their votes. A decision by the planning board to approve any land development or subdivision application shall require a vote for approval by a majority of the ~~current planning board membership~~ planning board members present and voting.

Sec. 9.7. ~~9.5~~ - Signing and recording of plats and plans.

- A. All approved final plans and plats for land development projects and ~~subdivision projects~~ subdivisions shall be signed and dated by the administrative officer or the planning board chairperson ~~with the date of approval~~. Plans and plats for major land ~~developments and~~ development projects and subdivisions shall be signed by the planning board chairperson, the secretary, or by the administrative officer with the authorization of the planning board. ~~All minor land development or subdivision plans and plats and administrative plats shall be signed by the planning board chairperson or secretary, or by the administrative officer with authorization of the planning board.~~
- B. ~~Upon signature, all~~ Signed plans and plats shall be submitted to the administrative officer ~~prior to before~~ recording and filing in the appropriate town departments. The material to be recorded for all ~~plans and plats~~ approved projects shall include all pertinent plans with notes thereon concerning all the essential aspects of the approved project design, the implementation schedule, special conditions placed on the development ~~by the town~~, permits and agreements with state and federal reviewing agencies, and other information as required by the ~~planning board~~ administrative officer.
- C. ~~Other parts of the applications record for subdivisions and land development projects,~~ The documents and plans relating to every application, including ~~all meeting records minutes, approved master plan and preliminary plans submitted for each stage of approval,~~ site analyses, impact analyses, ~~all legal agreements documents,~~ records of the public hearing and ~~the entire final approval set of drawings~~ all plans that received final

approval shall be kept permanently by the town departments responsible for implementation and enforcement by the planning department.

- D. The administrative officer shall notify the statewide 911 emergency authority and the local police and fire authorities servicing the new plat with the information required by each of the authorities.
- E. All plans, plats, surveys, easements, or other graphic representations of land subdivisions that do not constitute a subdivision or land development project under these regulations shall be reviewed and authorized for recording in the office of the town clerk, only upon a finding by the administrative officer that planning board approval is not required under these regulations.

Sec. 9.8. 9.6 - Changes to recorded plats and plans.

- A. ~~For all changes to the approved plans of land development projects or subdivisions subject to this act, an amendment of the final development plans is required prior to the issuance of any building permits. Changes to a recorded final plan must be approved before building permits are issued for construction on the property platted. Any such changes approved in the final plan shall be recorded as an amended final plan, in accordance with the procedure established for recording of plats in section 9.7.~~
- B. ~~Minor changes, those included in the definition of administrative subdivision (see section 2) to a land development or subdivision plan may be approved upon written request and submittal of amended plans to the planning board, whereupon a permit may be issued. Such changes may be authorized without additional public hearings, at the discretion of the board. All such changes shall be made part of the permanent record of the project application. This provision shall not prohibit the board determining that the proposed changes require planning board review as a major change. The administrative officer shall have the authority to approve minor changes to a recorded plat. Minor changes shall include, but are not limited to, changes that are the equivalent of an administrative subdivision. The applicant shall submit a written request and an amended plat for approval.~~
- C. ~~Major changes to a land development or subdivision plan, defined as all those changes, which are not included in the definition of administrative subdivision (see section 2) may only be approved by the planning board and must follow the same review and public hearing process required for approval of preliminary plans as described in section 6.4 or 6.5. Major changes to a recorded plan must be approved by the planning board. Major changes include, but are not limited to, changes that would create additional lots or dwelling units for development or changes that may have significant negative impacts on property in the vicinity of the development. Major changes require a public hearing.~~

The administrative officer shall have the authority to determine the stage of approval required and the application material that must be submitted.

~~D. Rescission procedure. The planning board, only upon application by all landowners of the plat to be affected, may determine that the application for plat rescission is not consistent with the comprehensive plan and is not in compliance with the standards and provisions of the town's zoning ordinance and/or land development and subdivision review regulations and shall hold a public hearing, which adheres to the requirements for notice described in section 6.4 or 6.5. The planning board shall approve, approve with conditions or modifications, or deny the application for rescission of the plat according to the requirements of section 9.6. If it is necessary to abandon any street, the planning board shall submit to the town council the documents necessary for the abandonment process. Once the required process for rescission or for rescission and abandonment has been completed, the revised plat shall be signed and recorded as specified in section 9.7.~~

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DRAFT AMENDMENTS

EXETER LAND DEVELOPMENT AND SUBDIVISION REGULATIONS

SECTION 10.0. - APPEALS

Sec. 10.1. - ~~Right of appeal.~~ Appeal from a decision of the administrative officer.

- A. An appeal from any a decision of the ~~planning board~~, or administrative officer charged in the regulations with concerning administration or enforcement of any provisions, except as provided herein, these regulations may be taken to the zoning board of review, sitting as the board of appeal, by an aggrieved party. Appeals from a decision granting or changing approval of a final plan shall be limited to elements of such approval or disapproval not contained in the decision reached by the planning board at the preliminary stage providing that a public hearing has been held on the plan pursuant to section 6.4 or 6.5.B. An appeal from a decision of the board of appeal may be taken by an aggrieved party to the county superior court.

~~Sec. 10.2. - Process of appeal.~~

~~A. An appeal to the board of appeal from a decision or action of the planning board or administrative officer may be taken by an aggrieved party to the extent provided in section 10.1. Such appeal must be taken within 20 days after the decision has been filed and posted in the office of the town clerk.~~

- ~~1. The appeal shall be taken within twenty days of the day the appellant received the written decision or the decision was posted in the town clerk's office.~~
- ~~B. 2. The appeal shall be in writing and shall state clearly and unambiguously the issue or decision, which is being appealed, the reason for the appeal, and the relief sought. The appeal shall either be sent by certified mail, with a return receipt requested, or shall be hand-delivered to the board of appeal, clerk of the zoning board of review or to the town clerk, who shall accept delivery on behalf of the board of appeal. The town clerk shall accept delivery of an appeal on behalf of the board of appeal.~~
- ~~C. 3. Upon receipt of an appeal, the board of appeal shall require the planning board or the administrative officer to shall transmit forthwith to the board of appeal, copies of all papers, documents and plans, or a certified copy thereof, constituting the record of the action, which that is being appealed.~~

~~Sec. 10.3. - Stay of proceedings.~~

- ~~4. An appeal shall stay all proceedings in furtherance of the action being appealed.~~

~~Sec. 10.4. - Public hearing.~~

~~A. B.~~ The board of appeal shall hold a public hearing on the appeal within 45 ~~forth-five~~ days of the receipt of the appeal, ~~give public notice thereof, as well as due notice to the parties of interest.~~

1. Notice of the public hearing shall be advertised in a newspaper that circulates in Exeter at least fourteen days before the date of the public hearing. The clerk of the board of appeal shall send notice by first-class mail to the appellant, to the property owner, if the owner is not the appellant, and to any person who received notice during review of the matter under appeal. The appellant shall pay for the advertising and postage.
2. The board of appeal shall conduct the public hearing at a meeting called specifically for that purpose rather than during a meeting of the zoning board of review. Separate notice shall be posted and separate minutes shall be recorded. At the hearing, any party may appear in person, or may be represented by an agent or attorney.
3. The board shall render a decision within ten days of the close of the public hearing. The cost of any notice required for the hearing shall be borne by the appellant. The board of appeal shall not substitute its own judgment for that of the administrative officer, but shall consider the issue upon the findings and record of the administrative officer. To reverse a decision of the administrative officer, the board must make a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.

~~B. The board of appeal shall only hear appeals of the actions of a planning board or administrative officer at a meeting called especially for the purpose of hearing such appeals and which has been so advertised.~~

~~C. The hearing, which may be held on the same date and at the same place as a meeting of the zoning board of review, must be held as a separate meeting from any zoning board of review meeting. Separate minutes and records of votes as required by section 10.5.C shall be maintained by the board of appeal.~~

~~Sec. 10.5. – Standards of review.~~

~~A. As established by this chapter [Appendix B], in instances of a board of appeal's review of a planning board or administrative officer's decision on matters subject to this chapter [Appendix B], the board of appeal shall not substitute its own judgment for that of the planning board or the administrative officer, but must consider the issue upon the findings and record of the planning board or administrative officer. The board of appeal shall not reverse a decision of the planning board or administrative officer except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.~~

- ~~B. 4.~~ The concurring vote of three of the five members of the board of appeal ~~sitting at a hearing, shall be is~~ necessary to reverse any decision of the ~~planning board or~~ administrative officer. The board's decision shall be in writing and shall include the

name of each voting board member and how that member voted, and the reasons for the decision.

C. ~~In the instance where~~ If the board of appeal overturns a decision of the ~~planning board or~~ administrative officer, the ~~proposed project~~ application shall be remanded to the ~~planning board or~~ administrative officer ~~—~~ at the stage of processing from which the appeal was taken, for further ~~proceedings before the planning board or~~ review by the administrative officer ~~and/or or~~ for the final disposition ~~, which shall be consistent with the board of appeal's decision.~~

D. ~~The board of appeal shall keep complete records of all proceedings including a record of all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall include in the written record the reasons for each decision.~~

~~Sec. 10.6. — Appeals to the superior court.~~

A. ~~An aggrieved party may appeal a decision of the board of appeal, to the county superior court by filing a complaint setting forth the reasons of appeal within 20 days after the decision has been recorded and posted in the office of the town clerk. The board of appeal shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court within 30 days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, such original applicant or appellant and the members of the planning board shall be made parties to the proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other orders, as it deems necessary for an equitable disposition of the appeal.~~

B. ~~The review shall be conducted by the superior court without a jury. The court shall consider the record of the hearing before the planning board and, if it shall appear to the court that additional evidence is necessary for the proper disposition of the matter, it may allow any party to such appeal to present such evidence in open court, which evidence, along with the report, shall constitute the record upon which the determination of the court shall be made.~~

C. ~~The court shall not substitute its judgment for that of the planning board as to the weight of the evidence on questions of fact. The court may affirm the decision of the board of appeal or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are:~~

- ~~1. In violation of constitutional, statutory, ordinance or planning board regulations provisions;~~
- ~~2. In excess of the authority granted to the planning board by statute or ordinance;~~
- ~~3. Made upon unlawful procedure;~~
- ~~4. Affected by other error of law;~~
- ~~5. Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or~~

~~6. Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.~~

D. An aggrieved party may appeal a decision of the board of appeal to the Superior Court according to the provisions of R.I. Gen. Laws § 45-23-71, as amended.

~~Sec. 10.7 - Appeals to the superior court—Enactment of or amendment of local regulations~~

~~A. An appeal of an enactment of or an amendment of local regulations may be taken to the county superior court filing a complaint, as set forth herein, within 30 days after such enactment, or amendment has become effective. The appeal may be taken by any legal resident or landowner of the town or by any association of residents or landowners of the town. The appeal shall not stay the enforcement of the local regulations, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.~~

~~B. The complaint shall set forth with specificity the area or areas in which the enactment or amendment is not consistent with the comprehensive planning Act, G.L. 1956, § 45-22.2-1 et seq.; the Zoning Enabling Act of 1991, G.L. 1956, § 45-24-27 et seq.; the town comprehensive plan; or the town zoning ordinance.~~

~~C. The review shall be conducted by the court without a jury. The court shall consider whether the enactment or amendment of the local regulations is consistent with the comprehensive planning Act, G.L. 1956, § 45-22.2-1, et seq.; the Zoning Enabling Act of 1991, G.L. 1956, § 45-24-27, et seq.; the town comprehensive plan; or the town zoning ordinance. If the enactment or amendment is not consistent, then the court shall invalidate the enactment or the amendment, or those parts of such enactment or amendment, which are not consistent. The court shall not revise the local regulations to be consistent, but may suggest appropriate language as part of the court decision.~~

~~D. The court may in its discretion, upon motion of the parties or on its own motion, award reasonable attorney's fees to any party to an appeal, as set forth herein, including a municipality.~~

~~Sec. 10.8. - Appeals to the superior court—priority in judicial proceedings.~~

~~Upon the entry of any case or proceeding brought under the provisions of this chapter [Appendix B], including pending appeals and appeals hereinafter taken to the court, the court shall, at the request of either party, advance the case, so that the matter shall be afforded precedence on the calendar and shall thereupon be heard and determined with as little delay as possible.~~

Sec. 10.2. - Appeal of adoption of or amendment to the land development and subdivision regulations.

A. Any legal resident of Exeter, any owner of property in Exeter, or any association of residents or property owners in Exeter may appeal the adoption of or amendment to the land development and subdivision regulations by filing a complaint in Washington

County Superior Court within thirty days of the day the adoption or amendment took effect.

- B. The complaint shall state with specificity the area or areas in which the adoption or amendment is not consistent with Title 45, Chapter 22.2 of the General Laws, the comprehensive planning and land use act; Title 45, Chapter 24 of the General Laws, the zoning enabling act; the Exeter comprehensive plan; or the Exeter zoning ordinance.
- C. The appeal does not stay the enforcement of the land development and subdivision regulations as adopted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make any other orders that it deems necessary for an equitable disposition of the appeal.
- D. The appeal shall be heard pursuant to R.I. Gen. Laws § 45-23-72.

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