

§ 180-30. Open space incentive option.

The Town of Milton finds that conventional subdivision of land in the Town encourages development patterns that are detrimental to Milton's rural character. The purpose of the open space incentive option is to allow future subdivision in the Town of Milton to be creatively designed so that new homes are located in the landscape in a way that protects the rural character of Milton. The Town of Milton's Rural Development Design Guidelines (Appendix B) Editor's Note: Appendix B is included at the end of this chapter. shall be used to assist the Planning Board and the applicant in understanding appropriate open space incentive subdivision design. The open space incentive option provides the Planning Board with the ability to increase the maximum density of the R2 Zoning District in return for permanent open space protection, allowing the protection of the rural landscape and natural resources. A. Site capacity. (1) Under the open space incentive option, the maximum density for the R2 Zoning District remains 0.2 dwelling units (du's) per acre -- the equivalent of one house per five acres of land. The Planning Board may grant a density bonus of up to 50% above the maximum density (in terms of the number of dwelling units) as long as a minimum of 50% of the original land becomes permanently protected open space.

(2) To calculate the potential number of residential lots which may be allowed under the incentive option, first multiply the total number of acres in the original parcel by the maximum number of dwelling units per acre allowed in the R2 district. For example, if you have 50 acres, multiply 50 by 0.2. The result is 10 dwelling units. The Planning Board may then grant up to a 50% bonus (in terms of the number of dwelling units) in addition to the original 10 units. In this case, 50% of 10 units equals five additional units Editor's Note: When this calculation results in a fraction, the number shall be rounded down to the nearest whole number, for example, 50% of 9 = 4.5, however for this purpose the result shall be four additional units. . The potential number of dwelling units that may be permitted by the Planning Board is now 15 as long as a minimum of 25 acres (50% of the original parcel) remains permanently protected open space.

(3) For the purposes of determining potential density, the parcel shall not be restricted by the site's topographic, geologic and hydrological characteristics, and it may include areas subject to flooding or comprised of designated wetlands, ponds, streams or steep slopes.

(4) This maximum number of permissible dwelling units shall be the number of potential dwelling units that meet the requirements specified within the District Schedule of Area and Bulk Regulations Editor's Note: Said schedule is included at the end of this chapter. for the R2os district and the requirements of Chapter 154, Subdivision of Land, for the provision of streets and other required facilities and improvements. The number of permissible dwelling units may be fewer than the number of potential dwelling units.

(5) The final plat, submitted for approval to the Planning Board, shall bear the following notation: "This plat was created under the open space incentive option of the Town of Milton Zoning Code, and any further subdivision of these lots is hereby prohibited."

B. Parcels in the R2 District consisting of 10 acres or more may be eligible for the open space incentive density bonus assuming the applicant meets the following conditions and limitations to the Planning Board's satisfaction: (1) Selection of permanent conservation area. (a) Conservation of important natural, cultural and scenic resources shall be the starting point for the design of subdivisions using the open space incentive option. Protection of wetlands, floodplains, steep slopes and streams as described in § 180-22 shall be the guiding principle in designating a subdivision's conservation area. Additional lands that contribute to the unique character of the parcel to be subdivided may also be included in the subdivision's conservation area. A minimum of 50% of the original parcel shall be designated for permanent conservation.

(b) The selection of land to be designated as the conservation area shall be made by the applicant and the Planning Board during sketch plat review.

(c) The land ultimately designated for conservation shall be subject to the approval of the Planning Board.

(d) The Planning Board and the applicant shall use the Rural Development Design Guidelines (Appendix B) Editor's Note: Appendix B is included at the end of this chapter. to identify appropriate conservation lands. The Planning Board shall make its decision based upon consideration of the Rural Development Design Guidelines (Appendix B) and on the Town's desire to conserve its important open space resources, including, but not limited to:

[1] Existing farms.

[2] Land suitable for agricultural use.

[3] Land for recreational uses including potential trail linkages to adjoining lands.

[4] Environmentally sensitive lands.

[5] Lands that are inappropriate for development.

[6] Lands that adjoin other conservation lands and larger tracts of land which have the potential to create continuous networks of open space.

[7] Rural character of the surrounding area.

[8] Scenic rural roads and viewsheds.

(e) Land designated as conservation shall be limited to the following uses: [1] Farm operation land. Farm operation land, for the purposes of this section, shall not include agricultural buildings except fences.

[2] Public open space.

[3] Private open space.

[4] Forestry or forest farming operations with an approved management plan that is on file with the Town Clerk.

(2) Selection of development area. (a) Once land designated for conservation has been selected, the land within a parcel to be designated for development shall be selected by the applicant and the Planning Board during sketch plat review.

(b) The Rural Development Design Guidelines (Appendix B) Editor's Note: Appendix B is included at the end of this chapter. shall be used to assist the Planning Board and the applicant in identifying appropriate lands for development on the site.

(c) The land designated for development shall be subject to the approval of the Planning Board. The Planning Board shall make its decision based upon consideration of the Rural

Development Design Guidelines (Appendix B) and based on the Town's desire to: [1] Avoid locating buildings in open fields. Preference will be to locate structures at the edges of fields along more heavily vegetated areas.

[2] Site buildings so that they do not protrude above treetops and the crestlines of hills. Buildings shall be sited so as to use existing vegetation to buffer the view of new structures from pre-existing public places and roads.

[3] Retain and reuse existing farm roads and country lanes instead of constructing new roads or driveways.

[4] Minimize clearing of vegetation at the edge of existing roads, clearing only as much as necessary to create a driveway entrance with adequate sight distance.

[5] Minimize the disturbance of natural features of the landscape.

[6] Minimize the number of curb cuts on existing Town, county and state roads.

[7] Use curves in the driveway and new roads to increase the screening of buildings.

[8] Consider the potential impact of new homes on existing neighbors when new structures are located.

[9] Avoid locating new homes near existing farms and farmlands.

[10] Build new homes only on lands that are most suitable for development and associated wells and septic systems.

C. Conservation lands. (1) Conservation lands may be held in private ownership, by a land trust or, if proposed for public ownership, shall be dedicated to the Town of Milton, Saratoga County, or the State of New York.

(2) Conservation areas in private ownership. (a) Where conservation lands result from the application of open space incentive zoning requirements, or are otherwise existing, and which are not dedicated to the Town, they shall be described in an appropriate recordable instrument (a conservation easement) executed by the owner and delivered to the Town of Milton. The Town of Milton shall not grant final approval for any development under this section until the recordable instrument is received by the Town.

(b) If the Town so requests, it shall be named, on all such conservation easements, as either a coholder of the easement or a third party enforcer.

(c) The aforesaid conservation easement shall be created in accordance with Title 3 Article 49 of the New York Environmental Conservation Law § 49-0301 et seq.

(d) Conservation lands shall also be so designated on the Official Map of the Town of Milton.

(e) Where the conservation land is contained in a separate individual parcel or parcels, which is owned jointly by two or more private owners, a provision shall be made for a homeowners' association or a similar mechanism for the long-term stewardship of the conservation land.