

# **TOWN OF STOW**



## **Rules and Regulations Governing the Subdivision of Land**

**Adopted June 15, 1956**

**Including Amendments through April 18, 2017**

**And filed with the Town Clerk on May 8, 2017**

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# SECTION 1

## GENERAL PROVISIONS

### 1.1 Authority

Under the authority vested in the Planning Board of the Town of Stow, by Section 81Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Stow.

### 1.2 Purpose

These subdivision regulations are adopted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of Stow, by "regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and of the Board of Appeals under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways: for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning bylaws; for securing adequate provision for water, sewerage, drainage, and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the town and with the ways in neighboring subdivisions.

It is the intent of the subdivision control law (under which these regulations are adopted) that any subdivision plan filed with the Planning Board shall receive the approval of such board if said plan conforms to the recommendation of the Board of Health and to the reasonable rules and regulations of the Planning Board pertaining to subdivisions of land; provided, however, that such Board may, when appropriate, waive as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable. (Section 81K of Chapter 41 G.L.)

### 1.3 Definitions

In these Rules the following terms shall have the following meanings:

<b>Abutter</b>	Shall mean abutters and property owners of land directly opposite on any public or private street or way and abutters to the abutters within 300' of the property line, all as they appear on the most recent applicable tax record.
<b>Access Street</b>	Provides frontage for access to residential lots and carries traffic having destination or origin on the street itself.
<b>Applicant</b>	Any person or such person's authorized representative who files an application under these rules.
<b>Application</b>	The application form and all accompanying documents required by the Bylaw and these rules
<b>Arterial Street</b>	An interregional road that conveys traffic between centers and carries a traffic volume in excess of 3,000 ADT.

<b>Average Daily Traffic</b>	The average number of cars per day that pass over a given point.
<b>Board</b>	The Planning Board of the Town of Stow.
<b>Bylaw</b>	The Town of Stow Zoning Bylaw.
<b>Collector Street</b>	Conducts and distributes traffic between lower-order residential streets and higher volume streets and carries no more than 3,000 ADT.
<b>Dead End Street</b>	A Street, or a combination of streets open at one end only without special provision for reversal of traffic movement.
<b>Definitive Plan</b>	Shall mean a plan of a subdivision meeting the requirements of these subdivision rules and regulations for submission, with appropriate and complete application, submitted to the Board for approval, to be recorded in the Registry of Deeds or filed with the Land Court when approved by the Board, all as distinguished from a preliminary plan. A definitive plan shall include a division of land otherwise defined as a subdivision in accordance with the Subdivision Control Law notwithstanding the filing of said plan to the Board of Appeals under the provisions of G.L. c.40B, s.20-23. A filing with the Board of Appeals under the provisions of G.L. c.40B, s.20-23 shall not relieve the applicant from the provisions of the Subdivision Control Law nor these Rules and Regulations.
<b>Developable Site Area</b>	<p>DEVELOPABLE SITE AREA - The DEVELOPABLE SITE AREA shall be calculated by subtracting from the LOT area all land which is located in:</p> <ul style="list-style-type: none"> <li>• a wetlands resource area (excluding the buffer zone) as defined by Article 9, Wetlands Protection, of the Town of Stow General Bylaw;</li> <li>• a Flood Plain/Wetlands District as defined in the Stow Zoning Bylaw;</li> <li>• another zoning district in which the principal use of the LOT is not also permitted;</li> <li>• an access, roadway or right of way easement or any portion thereof;</li> <li>• any portion of the site with grades greater than 15%; and</li> <li>• any portion of the site within a Natural Heritage Endangered Species Program.</li> </ul>
<b>Driveway</b>	A paved or unpaved area used for ingress and egress of vehicles, and allowing access from a street to a building, structure or facility.
<b>Easement</b>	A right granted for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures.
<b>Emergency Access Way</b>	A public or private way for secondary emergency access that is not generally available for vehicular travel, with a minimum twenty (20) foot right-of-way, a minimum ten (10) foot wide paved surface, three (3) foot shoulders, and posts or gates installed at all entrances. Emergency Access Ways do not provide frontage.
<b>Frontage</b>	That contiguous portion of a lot or parcel extending along a street line(s) (see definition of Subdivision).
<b>Industrial Street</b>	A street designed to serve subdivisions to be developed as industrial, commercial, business, or office parks. Industrial streets carry large

	volumes of traffic at moderate speeds.
<b>Lot</b>	An area of land, undivided by any street, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is (1) a deed recorded in Middlesex County So. District Registry of Deeds, or (2) a Certificate of Title issued by the Land Court and registered in the Land Court of such registry, or (3) title of record disclosed by any and all pertinent public records.
<b>Marginal Access Street</b>	A service street that runs parallel to a collector street or arterial street which provides access to abutting properties and separation from through traffic.
<b>Municipal Services</b>	Sewers, storm water drains, water pipes, gas pipes, electric lines, telephone lines, television cables, fire alarm system, street lights, similar service installations and their respective appurtenances.
<b>Restrictive Covenant</b>	A contract between the applicant and the Board or other public authority concerning the use of the land, either inscribed on the definitive plan, or contained in a separate document referred to on the definitive plan.
<b>Roadway</b>	That portion of a way, which is designed and prepared for vehicular travel.
<b>Rules</b>	The Stow Subdivision Rules and Regulations set forth herein, as amended.
<b>Rural Lane</b>	A street in a very low density area serving no more than five (5) lots.
<b>Single Access Street</b>	A street with a cul-de-sac, circle, loop or turnaround; or other street having only one terminus at a through street. A single access street may provide access to other streets with cul-de-sacs, dead-end streets, or streets forming a closed loop or circle.
<b>Standard Specifications</b>	The Standard Specifications for Highways & Bridges published by the Massachusetts Department of Highways, as amended.
<b>Street or Road</b>	A street shall be (1) an approved public way laid out by the Town of Stow, or Middlesex County Commissioners, or the Commonwealth of Massachusetts; or (2) A way which the Stow Town Clerk certifies is maintained by public authority and used as a public way; or (3) a public or private way shown on a plan theretofore approved and endorsed in accordance with the Subdivision control Law; or (4) a way in existence as of June 15, 1956 having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to accommodate the vehicle traffic anticipated by reason of the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the building erected or to be erected thereon. A public or private way shall not be deemed to be a STREET as to any lot of land that does not have rights of access and passage over said way.
<b>Street Loop</b>	A street that has its only ingress and egress at two points on the same subcollector street or collector street.
<b>Subcollector Street</b>	Provides frontage for access to lots and carries traffic of adjoining streets. Not intended to interconnect adjoining neighborhoods or subdivisions and should will not carry regional through traffic or ADT greater than 500.

<b>Subdivision</b>	<p>"Subdivision" shall mean the division of a tract of land into two (2) or more lots including re-subdivision and, when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two (2) or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on:</p> <ul style="list-style-type: none"> <li>• A public street accepted by the Town of Stow, the Commonwealth of Massachusetts, or Middlesex County under MGL Chapter 82, or a street which the Town Clerk certifies is maintained and used as a public street, or</li> <li>• A street shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or</li> <li>• A street in existence when the Subdivision Control Law became effective in the Town of Stow, having, in the opinion of the Board, sufficient width, suitable grade, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected thereon. Such frontage shall be of at least such distance as is required by the Town of Stow Zoning Bylaw. In rendering an opinion as to the adequacy of the way noted in this paragraph, the Planning Board shall consider, but not be limited to, consideration of the following: (i) whether the existing horizontal and vertical alignment of the way provides safe visibility and (ii) whether the travel surface width is at least eighteen feet (18') and paved with adequate provisions for stormwater disposal.</li> </ul> <p>"Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two (2) or more buildings were standing when the Subdivision Control Law went into effect in the town into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision."</p>
<b>Subdivision Control Law</b>	Section 81-K to 81-GG, inclusive, of Chapter 41 of the General Laws and any acts and amendment thereof, or addition thereto or in substitution therefore.
<b>Through Street</b>	A street having, by itself or by means of other streets, a connection at both ends to the overall road system of the Town or of neighboring towns, so that each location on such street can be accessed through at least two (2) streets or combination of streets.
<b>Town</b>	Town of Stow, unless otherwise specified.

#### 1.4 Compliance of Rules with Subdivision Control Law

These rules contain for the readers convenience, either verbatim or in slightly modified form, relevant statutory of MGL Chapter 41, the Subdivision Control Law. These rules are intended to comply with the Subdivision Control Law and should be read to incorporate future changes in the Subdivision Control Law. However, many aspects of the subdivision of land are not completely covered by the Subdivision Control Law, and these rules contain

definitions, procedural requirements, and design standards that are intended to be specific to the Town.

### 1.5 Unapproved Subdivision Prohibited

No person shall make a division or subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement for sale of lots in a subdivision, or the construction of ways or preparation therefore or the installation of utilities and municipal services therein, unless and until a proper plan of such subdivision has been submitted and approved by the Board as hereinafter provided.

### 1.6 Fees

Filing fees are non-refundable fees to cover the cost of administration, legal fees, and plan review and are due at the time of submission of the plan. The fee shall be submitted in check form and made payable to the "Town of Stow".

All expenses for advertising, engineering, professional review, construction inspection, recording and filing of plans and documents and all other expenses in connection with or for a subdivision shall be borne by the applicant.

#### Fee Schedule:

Plan Believed Not to Require Approval (ANR)	\$250.00, plus \$50.00 each new lot or parcel created by the plan.
Preliminary Plan	\$500.00, plus \$.50 per linear foot of proposed roadway, or \$1,000.00, whichever is greater
Definitive Plan (If filed within seven (7) months after a Preliminary Plan	\$2,000.00, plus \$5.00 per linear foot of proposed roadway.
Definitive Plan (If no Preliminary Plan was filed within seven (7) months prior	\$3,000.00, plus \$10.00 per linear foot of proposed roadway
Definitive Plan Modification, requiring a public hearing	\$500.00
Definitive Plan Modification, not requiring a public hearing	\$50.00
Re-issue Lot Release	\$50.00

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1.6.6 Additional Review Fee Deposits - Pursuant to G.L. c.44, s. 53G and so that the Board may conduct a thorough and proper review of the Definitive Plan to insure that the plan complies with these Rules and the Subdivision Control Law, the Board may hire outside traffic, engineering, legal or planning consultants to review an Application. To cover the cost of these reviews a review fee deposit may also be required of an Applicant at the time of submission or at any appropriate time in the review process. As the scope of the study and review will vary according to the size of a particular project, the Applicant is hereby strongly advised to consult the Board concerning the scope and cost of any such studies during the preliminary review. Failure to do so could result in serious delays in the processing of an Application. The amount of the fee deposit will reflect the anticipated consultant fees(s)

plus 10%. Note that some projects may require additional fees to cover further study if significant impact or problems are found in the initial review. Any amount of the deposits remaining after the issuance of building permits for the proposed construction plus any remaining accrued interest will be repaid to the Applicant or the Applicants successor in interest. The selection of the consultant will comply with CH.30B of MGL as applicable.

## **1.7 References**

For matters not covered by these Rules, reference is made to the Subdivision Control Law, MGL Ch. 41, S.81-K through 81-GG; the Wetlands Protection Act, MGL Ch. 131, S.40; and the State Environmental Code, Title 5 (310 CMR 15.00).

Design and construction of streets, ways, sidewalks, drainage structures, sewage disposal structures and other appurtenant structures, shall comply with the appropriate standards set forth in these Rules:

- a) "Residential Street Design and Traffic Control", Institute of Transportation Engineers, 1989 or latest edition;
- b) "The Subdivision and Site Plan Handbook" Listokin & Walker, Rutgers University, 1989 or latest edition; "A Policy on Geometric Design of Rural Highways and Streets" published by the American Association of State Highway and Transportation Officials, 1984 or latest edition;
- c) The "Highway Design Manual", published by the Commonwealth of Massachusetts Department of Highways, latest edition;
- d) The "Standard Specification for Highways and Bridges", published by the Commonwealth of Massachusetts Department of Public Works, 1988 or latest edition;
- e) The "Massachusetts Department of Public Works Construction Standards", 1977 or latest edition;
- f) The "Manual on Uniform Traffic Control Devices" published by the Federal Highway Administration, latest edition;
- g) The "Seeley's Data Book for Civil Engineers", Volume I - Design, published by John Wiley & Sons, Inc., New York, latest edition;
- h) The "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts", published by the United States Department of Agriculture, Soil Conservation Service, 1977 or latest edition;
- i) "Residential Streets", published by the American Society of Civil Engineers, the National Association of Home Builders and the Urban Land Institute, 1990 or latest edition;
- j) 2008 Massachusetts Stormwater Handbook, subsequently known as the Handbook.

The above referenced manuals may be referred to in various sections of these Rules.

The Board reserves the right to determine applicable standards.

## SECTION 2

### PLAN BELIEVED NOT TO REQUIRE SUBDIVISION APPROVAL (ANR)

#### 2.1 Filing of an Approval Not Required (ANR) Plan

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land, and who believes that his plan does not require approval under the Subdivision Control Law must:

File with the Office of the Board five (5) copies of a properly executed Application for Endorsement of Plan Believed not to Require Approval and the proper application fee as required by these rules.

Submit a plan prepared by a registered land surveyor, clearly and legibly drawn in compatible drawing ink on polyester drafting film, or other similar medium, acceptable to the registry of deeds or land court, with four, (4) prints thereof accompanied by the necessary evidence to show that the plan does not require approval. The dimensions of said plan shall be as required by the Registry of Deeds or the Land Court, as appropriate. If the ANR plan is prepared using a computer-aided drafting program, an electronic copy of the plan (on medium and in a format directed by the Planning Board) shall be filed with the Stow Planning Department prior to endorsement. The plan shall contain the following information:

- 2.1.2.1 Identification of the plan by name of owner of record and location of the land in question.
- 2.1.2.2 Locus of plan at Assessor's Property Map Sheet scale
- 2.1.2.3 The statement "Approval under Subdivision Control Law not Required"
- 2.1.2.4 Sufficient space for the date and the signatures of the Board or its designee.
- 2.1.2.5 Zoning classifications; including overlay districts
- 2.1.2.6 Location of any Zoning District boundaries that lie within the plan area.
- 2.1.2.7 Property Map Sheet number(s) and parcel number(s)
- 2.1.2.8 The entirety of any lot having its boundaries changed shall be shown.
- 2.1.2.9 In the case of the creation of a new lot, the remaining frontage and area shall be shown
- 2.1.2.10 Location of all existing and proposed bounds or permanent monuments marking lot lines.
- 2.1.2.11 The location of any building, structure, stonewalls, existing driveway(s), cart paths, easements, rights of way, resource areas of the Wetlands Protection Act, areas protected by the Wetlands Protection Act, water courses and buffer zones shall be shown.
- 2.1.2.12 The location of wells and septic systems within one hundred fifty feet (150') of the new lot lines shall be shown.

- 2.1.2.13 Notice of any decisions by the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any buildings thereon or a statement that no such decisions exist.
- 2.1.2.14 Description of location of property related to a known road, intersection or highway boundary.
- 2.1.2.15 A statement that the plan is meant and intended to supersede all plans which predate the endorsement.
- 2.1.2.16 North point, date of survey and scale.
- 2.1.2.17 Name, signature and seal of the professional land surveyor who prepared the plan.
- 2.1.2.18 A statement of whether all streets and ways shown or referred to are public or private ways.
- 2.1.2.19 Sufficient information to show that each building lot complies with Section 4.3.2.1 of the Zoning Bylaw, by indicating at least 50% of the minimum required LOT area shall be land which is not in a wetlands or Flood Plain/Wetlands District.
- 2.1.2.20 Sufficient information to show that each building lot complies with Section 4.3.2.3 of the Zoning Bylaw, by depicting the area suitable for BUILDINGS. (A circle of 150 feet in diameter, or a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the LOT plan without overlapping any LOT line or any wetlands or Flood Plain/Wetlands District.) or
- 2.1.2.21 Sufficient information to show that each building lot complies with Section 4.3.2.4 of the Zoning Bylaw by depicting a 100-foot diameter circle can move on the LOT plan from the STREET LINE to the area suitable for BUILDINGS without overlapping any side or rear LOT line or any Flood Plain/Wetlands District line, or
- In the case of a hammerhead lot, the LOT has a minimum width of 50 feet between the STREET LINE and the buildable area. A LOT meets the minimum width requirement if a 50-foot diameter circle can move on the LOT plan from the STREET LINE to the buildable area without overlapping or crossing any LOT line or any Flood Plain/Wetlands district line;
- 2.1.2.22 Sufficient information to show that each building lot complies with Zoning Bylaw requirements for index of regularity.
- 2.1.2.23 A statement that any further development or division of land, which will result in the creation of a total of six (6) or more DWELLING UNITS on the property shown on this plan, shall require a Special Permit from the Planning Board in accordance with Section 8.9 (Inclusion of Affordable Housing) of the Zoning Bylaw.
- 2.1.2.24 A statement that the land outside of the proposed ANR shall not be considered as part of this endorsement.
- 2.1.2.25 A statement that Planning Board endorsement of this plan indicates only that the plan is not a subdivision pursuant to the definition contained in G.L. c.41, s.81-L and does not indicate that the lot is buildable, or that it complies with the Stow Zoning Bylaw, rules and regulations governing wastewater disposal, wetlands protection or any general bylaw in the Town of Stow.

- 2.1.3 File, by delivery or by registered or certified mail, a written notice with the Town Clerk which contains certification of the date of submission to the board, accompanied by a copy of the application for endorsement of plan believed not to require approval. If notice is given by delivery, the Town Clerk, if requested, shall give written receipt therefor.

## **2.2 Determination that Subdivision Approval is Not Required**

If the Board determines that the plan does not require approval, it shall without a public hearing and within twenty-one (21) days endorse on the plan the words "Approval under the Subdivision Control Law not Required". This endorsement does not imply that the plan which has been submitted complies with the Zoning Bylaw of the Town of Stow. The Board may add to such endorsement a statement of the reason approval is not required. The signed original of said plan will be returned to the applicant and the Board shall notify the Town Clerk, in writing, of its action.

## **2.3 Determination that Subdivision Approval is Required**

If the Board determines that the plan does require approval under the Subdivision Control Law, it shall inform the applicant and the Town Clerk in writing within twenty-one (21) days and return the plan.

## **2.4 Failure of Board to Act**

If the Board fails to act upon a plan submitted under this section or fails to notify the Town Clerk and the person submitting the plan of its action within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required. The Board shall forthwith make such endorsement to said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

## SECTION 3

### CONCEPTUAL AND PRELIMINARY PLANS

#### 3.1 Conceptual Plan

Many development impacts can be avoided or mitigated if recognized early in the development process. It is therefore recommended that the applicant prepare and submit a conceptual subdivision plan and a draft Development Impact Statement as early as possible.

- 3.1.1 Prior to the filing of a preliminary plan, the applicant should informally consult with the Board to review a conceptual plan of a subdivision proposal and to discuss any issues raised in the preparation of the Development Impact Statement. The Board will answer questions, and may offer suggestions related to the general concept presented, and discuss possibilities to minimize negative development impacts.
- 3.1.2 The purpose of this consultation is to provide the applicant an opportunity to present the proposed subdivision in the earliest stages of the development process, before a significant amount of money is spent on engineering details.

#### 3.2 Preliminary Plan

A Preliminary Plan of a subdivision may be submitted by the applicant for discussion, modification, approval or disapproval by the Board. The submission of such preliminary plan will enable the applicant, the Board and other municipal agencies and owners of property abutting the subdivision, to discuss and clarify any of the problems of such a subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a preliminary plan be filed in every case. As of April 7, 1987, non-residential subdivisions are required to submit a preliminary plan. The filing of a plan that requires approval under the Subdivision Control Law shall be considered irrefutable proof that the plan consists of a "related application" pursuant to G.L. c.40B, s.20-23 and its implementing regulations found at 760 CMR 56.00, specifically 760 CMR 56.03.

- 3.2.1 Prior to the discussion of the Preliminary Plan with the Board, the applicant should discuss his plans with the Fire Chief, the Superintendent of Streets, the Board of Health, and the Conservation Commission. Note, that pursuant to the Subdivision Control Law the filing of a Preliminary Plan in the case of a non-residential subdivision is required.
- 3.2.2 Application - Any person who wishes to apply for approval of a preliminary subdivision plan shall file with the Board by delivery or registered mail the following:
  - 3.2.2.1 Twenty (20) copies of a properly executed "Application for Approval of Preliminary Plan".
  - 3.2.2.2 Twenty (20) copies of the Development Impact Statement.
  - 3.2.2.3 Eleven (11) copies of the preliminary plan in the form set forth below.
  - 3.2.2.4 Twenty (20) copies of the preliminary plan reduced to fit legibly on 11"x17" or 8.5"x11" sheets.

- 3.2.2.5 Submit a preliminary plan filing fee in accordance with these Rules to cover the expenses incurred by the Town in reviewing the application. The filing fee shall be submitted in check form and made payable to the "Town of Stow" The filing fee is not refundable.
- 3.2.2.6 All documents shall also be made available in PDF format.
- 3.2.3 File, by delivery or by registered mail to the BOARD in care of the Stow Planning Department. If so mailed, the date of receipt shall be the date of submission of the plan.
- 3.2.4 **Form and Contents of Preliminary Plan** - The Preliminary Plan shall be drawn by a registered professional engineer or land surveyor in dark lines on light background, at a suitable scale (preferably 1" = 40') to fit on a single "D" size (24"x36") sheet and it should be properly identified as a Preliminary Plan. It should show sufficient information about the subdivision to form a clear basis for discussion and for the preparation of the definitive plan and shall include any requested waivers. During the discussion of the preliminary plan, the complete information required for the definitive plan, the financial arrangements and proposed restrictive covenants will be developed. The preliminary plan shall contain the following information:
- 3.2.4.1 The subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan".
- 3.2.4.2 The names and addresses of the record owners of the land and the applicant, and the name of the designer, engineer or surveyor who made the plan and their appropriate seal.
- 3.2.4.3 The names of all abutters, as determined from the most recent tax list, unless the applicant shall have more recent knowledge of such abutters.
- 3.2.4.4 The existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision in a general manner.
- 3.2.4.5 The resource areas as defined by MGL Ch. 131 S. 40 Wetlands Protection Act and the Town of Stow Wetlands Protection Bylaw.
- 3.2.4.6 Major features of the land such as existing stone walls, fences, buildings, historic sites, large trees (12 inch diameter or greater), wooded areas, rock ridges and outcroppings, ditches, swamps and water bodies. Special attention should be given to noting physical features which define the boundaries of the subdivision.
- 3.2.4.7 The existing and proposed system of drainage, including adjacent existing natural waterways, in a general manner.
- 3.2.4.8 The approximate boundary lines of proposed lots, with approximate areas and dimensions.
- 3.2.4.9 The names, locations and widths of adjacent streets approaching or within 500' of the subdivision.
- 3.2.4.10 The existing topography of the land in a general manner.
- 3.2.4.11 The proposed names of the proposed streets, a number on each lot, and labels on each parcel.
- 3.2.4.12 The profiles of existing grades and approximate proposed finished grades of the roadway, and drain and sewer utilities.

3.2.4.13 A locus map at a scale suitable to the Board, showing the entire subdivision and any abutting property, adjacent streets, reference to Assessor's Map, the existing zoning and any zoning boundary lines that lie within the locus.

**3.2.5 Public Meeting**

A public meeting shall be held by the Board to ensure that all abutters have the opportunity to view the proposed development and discuss any potential problems that may arise through the development of such a subdivision, before approval, modification and approval, or disapproval of the preliminary plan is given,. A notice of the time and place of the public meeting and of the subject matter to be discussed, sufficient for identification, shall be given by the Board at the expense of the applicant by advertisement in a newspaper of general circulation in Stow not less than fourteen days before the day of such meeting, and by the applicant mailing a copy of such advertisement by first class mail to the property owner and to all abutters.

**3.2.6 Board Action** - The Board may give such preliminary plan its approval with or without modification, or may disapprove the plan, either of which will facilitate the preparation of a Definitive Plan. Approval of a preliminary plan does not constitute approval of a subdivision, but does facilitate the preparation of the Definitive Plan. The Board shall send a notice of its action to the Town Clerk and to the applicant within forty-five (45) days after the date of submission of the application.

## SECTION 4

### PROCEDURE FOR SUBMISSION AND APPROVAL OF DEFINITIVE SUBDIVISION PLAN

#### 4.1 Pre-Application Consultation

A pre-application consultation between an applicant and the Board is recommended. The Board will review applications in an attempt to avoid unnecessary technical deficiencies in the application and promote efficiency in the formal review and hearing process. The Board will not be responsible for assuring the accuracy and completeness or thoroughness of any application submitted for review. It is the responsibility of the applicant to assure that the application to be submitted to the Board for its review is thorough, complete and accurate.

Any action or communication initiated by the applicant prior to the filing of an application with the Town Clerk and the Board shall not constitute or be considered part of an application.

#### 4.2 Submission of Definitive Plan

Any person who submits a Definitive Plan of a subdivision to the Board for approval, modification, amendment or rescission of a subdivision shall file with the Board, by delivery or registered mail, the following:

- 4.2.1 Prints of the Definitive Plan, **11 copies** full scale, (24"x 36"), and **20 copies** reduced scale, (11"x17"), thereof, dark line on white background.

All documents shall also be made available in PDF format.

- 4.2.2 Twenty (20) copies of a properly executed "Application for Approval of Definitive Plan".

- 4.2.3 Draft of a legal advertisement (see Appendix A) describing the land.

- 4.2.4 Copy of the deed for all parcels contained within the subdivision and proof of ownership for each parcel.

- 4.2.5 Development Impact Statement with supporting documentation.

- 4.2.6 Written list of any requested waivers from the rules and regulations with reasons why those waivers would permit a superior design that would be in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law.

- 4.2.7 Covenant in recordable form authorizing the Town or authorized agent to enter on the subdivision to complete the ways and services if the developer does not complete them according to his obligations. (See Appendix A)

- 4.2.8 Letter documenting authorizing vote if the developer is acting in the name of a trust, corporation or company.

- 4.2.9 List of mortgage holders which shall be kept current during the period of the subdivision development.

- 4.2.10 Written statement from the developer that he will retain the fee in the streets shown on the plan and upon construction of the streets and installation of services will, at the request of the Town, grant to the Town the fee (or an easement for all purposes for which streets are used) in such streets; and will, at the request of the Town, grant to it any drainage or other easements shown on the plan. In order to retain the fee in the street, the developer must clearly define lot lines to make clear that the lot stops at the street layout.
- 4.2.11 Draft of the document establishing a homeowners association where there are common facilities including, but not limited to, street lighting; water systems; parks and open space and recreation areas.
- 4.2.12 Draft of the document which conveys the road and drainage easements to the Town.
- 4.2.13 A statement from the applicant in which the applicant agrees to complete the ways and install the public utilities in the subdivision within the time required by the Board.
- 4.2.14 The required filing fee.
- 4.2.15 A completed Designer's Certificate (see Appendix A).
- 4.2.16 A complete list of abutters certified by the Board of Assessors or its authorized representative (see Appendix)
- 4.2.17 Approval of all plans shall be upon the condition that all ways shown thereon and public utilities required by the Board shall be completed and installed within the time so specified as set forth in the Board's Certificate of Action.
  - 4.2.17.1 The Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two (2) years or other such time deemed appropriate by the Board, of the date of endorsement.
  - 4.2.17.2 If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed to by the applicant or so required by the Board, no such way shall thereafter be laid out, constructed, completed or opened for public use unless and until a new application is filed with and approved by the Board.
  - 4.2.17.3 Ways or portions thereof not completed within two (2) years, or other such time deemed appropriate by the Board, from the date of approval by the Board, shall thereafter be completed in accordance with the then in force construction standards of these Rules.

#### **4.3 Contents of Definitive Plan**

The Definitive Plan shall be prepared, stamped and signed by a professional engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn in dark lines on white background. The plan shall be at a scale of one inch equals forty feet (1"=40'), or such scale as approved by the Board to show details clearly and adequately, and shall include plans and profiles of each individual street at a scale of one inch equals forty feet (1"=40') horizontal and one inch equals four feet (1"=4') vertical. Sheet sizes shall be twenty-four by thirty-six (24" x 36") including a one (1) inch border. If multiple sheets are used, they shall be accompanied by an index sheet at a scale of one inch equals one hundred feet (1"=100'), or suitable scale, showing the entire subdivision and adjacent streets and dimensions of the lots and streets and lot numbers. The Definitive Plan shall contain the following information:

- 4.3.1 Subdivision name; the date; scale and legend; and the names and addresses of the designer, engineer and surveyor who made the plan.
- 4.3.2 North point, locus map, boundaries of the subdivision and elevations based on the National Geodetic Vertical Datum (NGVD).
- 4.3.3 The names and addresses of the owner of record and applicant and the book and page number of the recording of deed or the Land Court certificate of title.
- 4.3.4 Location and ownership of abutting property as it appears on the Certified List of Abutters, unless the applicant shall have more recent knowledge of such abutters.
- 4.3.5 All Board modifications and conditions from the Preliminary Plan, if submitted.
- 4.3.6 Major features of the land, including resource areas defined by the Wetlands Protection Act (MGL Ch. 131 S. 40) and the Town of Stow Wetlands Protection Bylaw as determined through issuance of an Order of Resource Area Determination" by the Stow Conservation Commission, natural drainage courses, walls, fences, buildings, historic sites, large trees, shade trees within the public way which will be removed, wooded areas, out-croppings, ditches which exist on or near the site at the time of survey, slopes greater than 15% and Natural Heritage Endangered Species Program areas.
- 4.3.7 Lines of existing and proposed streets, ways, lots, sidewalks, easements, street numbers of each lot, lot numbers or other designation of each lot, and public or common areas within the subdivision.
- 4.3.8 Sufficient data to determine the location, direction, width and length of every street, easement, walk and way line, lot line, boundary line, and to establish these lines on the ground. This shall include the lengths and bearings of plot and boundary lines of all subdivision lot lines including lot frontage on the streets, of boundary lines of all streets and easements, and the length, radii, tangents and central angles of all curves in lot lines and street lines. All angle points, or intersections of tangents along the street lines, shall be shown.
- 4.3.9 Areas of lots with lot numbers and frontage on public ways as set forth in Section 81-L of the Subdivision Control Law of adjoining lands of the applicant not included in the subdivision shall be shown.
- 4.3.10 The centerline of the proposed streets and easements shall be staked, at 50' intervals, on the ground and the location of said stakes shown on the topographic plan required herein.
- 4.3.11 A clear indication of all permanent boundary markers properly identified by symbols, markings, dates or other notes as were found in the traverses and/or perimeter surveys. Location of all permanent monuments properly identified as existing or proposed.
- 4.3.12 Location of all proposed permanent monuments including all access easements. All proposed access easements shall be constructed to ensure that adequate access is provided. Said access easements shall be marked with permanent monuments. For runs of less than 30' in length, iron pins shall be used. Runs in excess of 30' in length shall be marked with standard granite boundary markers six (6) inches square by four (4) feet long and shall be set flush with the finished grade.

- 4.3.13 Location, names and present width of streets or private ways and sidewalks bounding, approaching or within reasonable proximity of the subdivision, showing both roadway widths and rights-of-way widths.
- 4.3.14 Indication of all easements, covenants or restrictions applying to the land and their purposes, whether or not within the subdivision, including any decision on appeal or any variances granted by the Zoning Board of Appeals applicable to the subdivision of the land or any buildings thereon.
- 4.3.15 If the property that comprises the subdivision or any part or boundary thereof has been examined, approved, and confirmed by the Massachusetts Land Court, such information shall be noted on the plan with case numbers and other pertinent references to Land Court procedure, and the same requirement shall apply to any adjoining parcels of land of the applicant. A copy of the Land Court decision or Certificate shall be provided.
- 4.3.16 Suitable space to record the action of the Board and the signature of the five (5) members of the Board and date thereof and to record or make reference to the decision or Certificate of Action of the Board, any restrictive covenants given under MGL Ch. 41, S. 81-U, or any amendments thereto, and any conditions required by the Board of Health.
- 4.3.17 Existing profiles on the exterior lines drawn in fine black line, dotted for left and dashed for right side, and proposed profile on the center-line drawn in fine black solid line of proposed streets at a horizontal scale of one inch equals forty feet (1"=40') and vertical scale of one inch equals four feet (1"=4'), or such other scales acceptable to the Board. At least two (2) bench marks are to be shown on plans and profiles, and grade elevations at every fifty (50) foot station except in vertical curves which shall be at every twenty-five (25) foot station. All existing and proposed intersections shall be shown with all proposed grade elevations calculated. Grades shall be shown by figures expressed in percent.
- 4.3.18 Size and location of existing and proposed water systems; sewer systems; storm drainage systems and appurtenances and easements pertaining thereto.
- 4.3.19 Location of all proposed subsurface sewage disposal systems in accordance with procedures promulgated by the Stow Board of Health.
- 4.3.20 A log of the deep test holes performed in the subdivision as witnessed by a representative of the Stow Board of Health.
- 4.3.21 If the proposed use of a lot and/or the location of a proposed use is unknown at the time of submission of the definitive plan, the applicant shall show on the plan sufficient information with respect to, existing and proposed, underground structures and septic disposal areas, to enable the Board of Health to evaluate whether a sewage disposal system can be located on the lot to serve any permitted use on the lot. Where a lot(s) is to be served by a sewage treatment plant, the application shall contain a certificate from the Board of Health stating that such sewage treatment plant is adequate to serve any permitted use on the lot(s).
- 4.3.22 The existing and proposed location of all buildings, foundations, wells, septic systems, and underground storage tanks within the subdivision and the location of all existing structures including wells, septic systems and underground storage tanks within one hundred and fifty feet (150') of the perimeter of the subdivision in a general manner.
- 4.3.23 A Definitive Stormwater Management Design shall be submitted in accordance with Section 7.9 (Stormwater Management) of these rules.

- 4.3.24 Location and species of proposed street trees and location and species of existing trees with trunks over eighteen (18) inches in diameter, measured four feet (4') above the finished ground level, located within the street right-of way of existing or proposed streets.
- 4.3.25 Cross sections typical of each street, roadway and walkway to be constructed showing all details; details of all facilities, surface and subsurface drainage facilities and ways, and all other appurtenances, structures and utilities.
- 4.3.26 Detail of stone construction entrance(s) at each intersection of a subdivision road(s) with an existing street(s).
- 4.3.27 Location of proposed street lights and the design thereof, sidewalks and walkways.
- 4.3.28 In tabular form as follows, of the subdivision plan as submitted:
1. The total area which is being subdivided on each sheet.
  2. The total area of lots included on each sheet.
  3. The total of areas dedicated for street purposes, drainage, sewer or utility easements on each sheet.
  4. The total of areas reserved for parks, schools, and other public use on each sheet.
- 4.3.29 An erosion and sedimentation control plan.
- 4.3.30 Developable Site Area for each lot.
- 4.3.31 Sufficient space for the date and the signatures of the Board or its designee indicating Subdivision Approval including the date of approval and the date of endorsement. If the subdivision also requires a special permit, it shall also be noted.
- 4.3.32 Town Clerk 's certification statement " I \_\_\_\_\_, clerk of the Town of Stow, hereby certify that the Notice of Approval of this plan by the Planning Board has been received and recorded at this office and no Notice of Appeal was received during the next twenty days after such receipt and recording of said notice" with signature line.

#### **4.4 Notice to Town Clerk**

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed Application for Approval of Definitive Plan.

#### **4.5 Review by Board of Health**

At the time of filing of the Definitive Plan, the applicant shall also file with the Board of Health three (3) full scale prints of the Definitive Plan, together with all information with regards to results and locations of percolation tests and deep test holes as the Board of Health requires.

- 4.5.1 The Board of Health shall report, in writing, to the Board its approval or disapproval of the Definitive Plan within forty-five (45) days after the plan is filed with the Town Clerk.
- 4.5.2 If the Board of Health disapproves the plan, it shall make specific findings as to which, if any, areas shown on the plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefore in a report, and where possible, shall make recommendations for the adjustment thereof.

- 4.5.3 Every lot shall be provided with an on-site wastewater disposal system in compliance with Title 5 of the State Sanitary Code (310 CMR 15.00 et seq.) and the Stow Board of Health regulations.
- 4.5.4 Intentionally left blank
- 4.5.5 If the Board of Health determines that all or part of the lots in the subdivision cannot support individual water and sewage system without danger to public health, the Board shall disapprove the plan in whole or in part.
- 4.5.6 Failure of the Board of Health to report shall be deemed approval.

#### **4.6 Review by Other Town Officials**

The Board will transmit copies of the Application for Approval of Definitive Plan to other Town Officials and Boards for their review and comments.

#### **4.7 Public Hearing**

Before approval, modification, amendment and approval, rescission or disapproval of the Definitive Subdivision can occur, a public hearing shall be held by the Board.

Notice of the time and place of the hearing and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town of Stow once in each of two, (2), successive weeks, the first publication to be not less than fourteen, (14), days before the day of the hearing, or if there is no such newspaper in town then by posting such notice in a conspicuous place in the town hall for a period of not less than fourteen (14) days before the day of such hearing. The day of the Hearing shall not be counted as one of the required fourteen days. In addition, copies of the notice shall be sent by certified mail by the Applicant to all parties in interest at least fourteen, (14), days prior to the date of the Public Hearing. Certified mail receipts and proof of publication shall be submitted to the Planning Board no later than the commencement of the Public Hearing.

- 4.7.1 In the case of a public hearing continuance, new information shall be submitted no less than three (3) weeks prior to the scheduled continuance.

#### **4.8 Board Action on Application for Approval of Definitive Plan**

The action of the Board on a definitive plan shall be by vote of a simple majority of the Board within ninety (90) days of the date of submission, if the application for approval of the definitive plans was preceded by a preliminary plan in accordance with these rules. If no such preliminary plan was filed, the Board shall act within 135 days from the date of submission.

- 4.8.1 The procedure that the Board will follow with regards to approval, disapproval or modification or rescission of the final plan submitted by the applicant will be that as set forth in Section 81-U of the Subdivision Control Law, as amended.
- 4.8.2 Before final approval of the plan the applicant shall establish that lots in a definitive plan are in conformity with the controlling Bylaw, and failure of the lots to so comply will be adequate grounds for disapproval of the definitive plan. See Section 81-Q of the Subdivision Control Law and amendments thereto.
- 4.8.3 The Board shall include within the Decision, as a condition of its approval, that the Board's approval of the Definitive Plan shall expire within a specified time period from the date of

approval unless a final Definitive Plan, in accordance with the Decision, is submitted and endorsed by the Board.

- 4.8.3.1 Any request for an extension of the specified time limitation set forth in the Decision shall be made in writing to the Board at least thirty days prior to the expiration date. The Board reserves its rights to grant or to deny such extension if good cause for such extension is not shown.
- 4.8.4 The Board may, as a condition of granting approval under Section 81-U of the Subdivision Control Law, impose reasonable requirements designed to promote the health, convenience, safety and general welfare of the community and to benefit the Town. In such event the Board shall endorse such conditions on the plan to which they relate, or set forth a separate instrument attached thereto, to which reference is made on such plan and which shall, for the purpose of the Subdivision Control Law, be deemed to be a part of the plan.
- 4.8.5 Final approval, if granted, shall be endorsed on the original drawing of the definitive plan as amended by the Board's action by the signatures of the majority of the board, but not until the statutory twenty (20) day appeal period has elapsed following the filing of the Certificate of Action with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. The plans shall be presented to the Board for endorsement within six (6) months of the date of approval (or resolution of an appeal in the court), or the subdivision approval shall be deemed null and void.
- 4.8.5.1 If the definitive plan is prepared using a computer aided drafting program, an electronic copy of the final definitive plan (on a medium and in a format as directed by the Board) shall be filed with the Office of the Planning Board at the time of endorsement.

#### **4.9 Certificate of Action**

The action shall be accompanied by a decision that shall serve as the "Certificate of Action", and copies of said decision shall be certified and filed with the Town Clerk and sent by delivery or by registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its decision the reasons for its action.

#### **4.10 Time Limitation on Approval**

If, within two (2) years from the date of the Board's endorsement of the Definitive Plan, or such other time as may be stated in the Certificate of Action, the terms and conditions have not been fulfilled, the Board may, upon its own motion or upon the petition of any person interested, rescind the Performance Guarantee agreement and its approval of the plan, provided no lots, site or divisions which have been sold or mortgaged in good faith and for a valuable consideration subsequent to the approval of the Definitive Plan, or any lots appurtenant thereto shall be affected unless the owner and the holder of the mortgage or mortgages of the same shall consent in writing.

- 4.10.1 If, at the expiration of two (2) years, or such other time as may be stated in the Certificate of Action, the work has not been performed acceptable to the Board, any such bond may be enforced and any such deposit may be applied by the Board for the benefit of the Town, as provided in Section 81U and 81Y of the Subdivision Control Law, upon failure of the performance for which any such bond or deposit was given, to the extent of the reasonable cost to the Town of completing such construction and installation.
- 4.10.2 Failure of an applicant to record the Definitive Plan within six months of its endorsement, or to comply with the construction schedule, if any, incorporated into the performance

agreement, or to initiate construction of improvements within two years of the subdivision approval, or sell lots in a subdivision or portion thereof within eight (8) years of the approval of the Definitive Plan, or to comply with all applicable sections of the Zoning Bylaw, these Rules and Regulations or the Wetlands Protection Act and the Stow Wetlands Bylaw, or unauthorized departure from any agreements made from these Regulations or plans submitted, whether or not at the direction of other public agencies, shall constitute sufficient reason for the Planning Board to consider rescission of such approval, in accordance with requirements and procedures of G.L. c.41, s.81-W.

## SECTION 5

### PERFORMANCE GUARANTEE

#### 5.1 Performance Guarantee Required

Before endorsement of the Board's approval of a Definitive Plan of a subdivision, the applicant shall agree to complete the required improvements specified in these Rules for any lots in a subdivision, such construction and installation to be secured by one, or in part by one and in part by the other, of the following methods, which may from time to time be varied by the applicant with the written approval of the Board.

5.1.1 As a result of prior experience with the inflation of construction costs over time, the Board shall require a performance guarantee in the amount of one hundred and fifty percent (150%) of the estimated cost.

5.1.1.1 Also, as a result of prior experience, the Board reserves the right to increase the required amount deposited as necessary over time to ensure sufficient performance guarantee.

#### 5.2 Types of Performance Guarantees

5.2.1 **Restrictive covenant** - The applicant shall file a restrictive covenant which has been approved by the Board, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed; provided, that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the restrictive covenant which provides that no lot shall be built upon until such ways and utilities have been provided to serve such lot, and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such restrictive covenant, or either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Board. A deed of any part of the subdivision in violation hereof shall be voidable by the grantee prior to the release of the restrictive covenant but not later than three years from the date of such deed.

The form of the performance guarantee shall comply with requirements of Section 5.3, Form of Performance Guarantees.

5.2.2 **Proper bond**. - The applicant shall file a proper bond, sufficient in the opinion of the Board to secure performance of the construction of ways and the installation of utilities required for lots in the subdivision shown on the plan, and the Board shall require that the applicant specify the time within which such construction shall be completed. Performance time shall be subject to the Board approval. Within six months from the date of completion of the subdivision roads and related drainage, the Board may require the applicant using a performance guarantee in the form of a bond to replace the form of guarantee in accordance with Sections 5.2.3 or 5.2.4 below.

The form of the performance guarantee shall comply with requirements of Section 5.3, Form of Performance Guarantees.

5.2.3 **Deposit of money or negotiable securities** - The applicant shall file money or negotiable securities, sufficient in the opinion of the Board to secure performance of the construction of ways and installation of utilities required for lots in the subdivision shown on the plan, and the Board shall require that the Applicant specify the time within with such

construction shall be completed. The applicant shall provide proof that the deposit of money or negotiable securities shall remain available to the Town of Stow until such time as the Board approves a release of said monies.

The form of the performance guarantee shall comply with requirements of Section 5.3, Form of Performance Guarantees.

- 5.2.4 **Funds retained by lender** - The applicant shall deliver to the Board an agreement executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the Board and otherwise due the applicant, to secure the construction of streets and the installation of municipal services.

The form of the performance guarantee shall comply with requirements of Section 5.3, Form of Performance Guarantees.

- 5.2.4.1 Unless the applicant and the lender shall demonstrate to the satisfaction of the Planning Board, who may consult with the Treasurer/Collector for this purpose, that a) lender is of sound financial condition or b) the funds to secure such an agreement are beyond the reach of the applicant's or lender's creditors and will be available regardless of the bank's financial condition at the time of entering into the agreement or thereafter for payment to the Town in the event of any default or failure of performance, then the Board in its sole discretion and determination may reject such agreement as insufficient to serve as a performance guarantee.
- 5.2.4.2 Said agreement shall also provide for a schedule of disbursements which may be made from time to time to the applicant upon completion of various stages of the work, and shall further provide that in the event the work is not completed within the time set forth by the applicant, any remaining funds not disbursed shall be available for completion.

### 5.3 Form of Performance Guarantees

Performance guarantees shall be filed with the Board and shall be subject to the following requirements:

- 5.3.1 If performance is guaranteed by means of a restrictive covenant pursuant to Section 5.2.1 such restrictive covenant shall be in the form and contain the language as shown in the form entitled "Approval with Restrictive Covenant", or as otherwise required or approved by the board.
- 5.3.2 If performance is guaranteed by means of a bond (Section 5.2.2), a deposit of money or negotiable securities (Section 5.2.3) or an agreement whereby the construction lender retains loan funds (Section 5.2.4), the performance guarantee shall comply with the following: If the performance guarantee is the form of a bond (Section 5.2.2), the bonding company shall be legally incorporated in the State of Massachusetts.
- 5.3.2.1 The performance guarantee shall define the applicant's obligation as "the construction of streets and ways, the installation of municipal services and the construction of certain other improvements for lots as shown in the Definitive Plan approved by the Board.
- 5.3.2.2 The performance guarantee shall specify a scheduled completion date on which the construction of the approved subdivision streets and improvements shall be completed by the applicant. The Board may extend such time as it deems appropriate after receipt of a

written request received by the Board forty-five (45) days prior to the scheduled date of completion.

5.3.2.3.1 The performance guarantee shall include a statement that the Board has the exclusive authority to release performance guarantee funds.

5.3.2.3 The performance guarantee shall acknowledge the Board's exclusive authority, and shall state that it shall not expire until the Board, upon written request, certifies that all road work and improvements have been completed according to the approved plan and that the performance guarantee is released, or until forty-five (45) days have lapsed from the date the board received, by certified mail, a request for such certification and release, whichever comes first.

5.3.2.4 The performance guarantee shall acknowledge the Board's exclusive authority and state that it applies in full to all successors and assigns of the applicant whose performance is guaranteed.

5.3.2.5 The performance guarantee shall state that the full amount of the guarantee for each task that was not completed as defined in Section 5.3.3 shall be due immediately to the Town of Stow in case of the default of the applicant or his/her successor in constructing the streets and ways, municipal services and other improvements in accordance with the approved Definitive Plan. Default of the applicant or successor shall be defined in the performance guarantee as meaning:

- a) failure to complete all roadways according to the approved Definitive Plan by the scheduled completion date, or
- b) bankruptcy of the applicant for the benefit of the creditors of the applicant, or the foreclosure of any mortgage on all or part of the land of the approved subdivision before the scheduled completion date, as evidenced by court filings or
- c) notice to the Board of the withdrawal or termination of any performance guarantee given hereunder, or of a request to substitute performance guarantee hereunder, prior to the scheduled completion date of the work, unless it is given forty-five (45) days prior to the anticipated date of such withdrawal, termination or substitution, or
- d) any other condition or circumstance that constitutes default, in the opinion of the Board.

5.3.3 The performance guarantee shall include a detailed scope of work to be completed under the performance guarantee and shall provide for a schedule of disbursements, in accordance with Section 5.4 below, which may be made to the applicant upon completion of various stages of work (Schedule A).

5.3.4 The performance guarantee shall not contain any language, which contradicts the above state requirements.

5.3.5 A bond estimate may be requested from the Board once prior to the establishment of the performance guarantee and once with each subsequent full or partial bond release; the estimate will remain effective for 90 days. The estimate will reflect the cost for the Town to complete the work as a public works project, which may necessitate legal fees, public bidding, additional staff time, etc.

## **5.4 Partial Release**

Prior to final release of a performance guarantee, the Board may grant up to two partial releases from the required performance guarantee for partial completion of improvements (or three partial releases in the event the original performance guarantee exceeds the sum of \$1,000,000.00 or 50 lots) provided that:

- 5.4.1 No lot(s) shall be released from the restrictive covenant unless construction of streets and ways, and installation of municipal services and other improvements in accordance with the approved Definitive Plan for said lots has been completed or another form of security has been substituted, sufficient to complete said streets and ways, municipal services and other improvements. The form entitled "Release of Lots - Certificate of Performance", or the form entitled "Release of Lots - Provision of Surety", whichever is appropriate, shall be submitted when applying for a partial release of lots from a restrictive covenant.
- 5.4.2 No reduction in the amount of the performance guarantee shall reduce the performance guarantee to a value below the estimated cost of completing the unfinished portions of the improvements. The penal sum of any such bond held under Section 5.2.2 or any deposit held under Section 5.2.3 or any amount of funds retained pursuant to an agreement under Section 5.2.4 shall bear a direct and reasonable relationship to the expected cost, including a contingency amount of no more than 50% of the expected cost to guard against the effects of inflation, necessary to complete the subject work.
- 5.4.3 No partial release of security shall be granted until the Board has received written verification from the town's consulting engineer that a minimum of fifty percent (50%) of the required improvements have been satisfactorily completed.
- 5.4.4 The amount of the surety shall be 75% of the total surety amount or \$20,000.00; whichever is greater, until such time the final as-built plans are accepted by the Board.

## **5.5 Final Release**

Upon the completion of the construction of streets and ways, and the installation of municipal services and other improvements in accordance with the approved Definitive Plan, the applicant may request release of the bond, deposit of money or securities, or funds retained by lender by sending a statement of completion and a request for release by registered mail to the Town Clerk and the Board.

- 5.5.1 Such statement shall be accompanied by the following:
  - 5.5.1.1 A written certificate from a registered professional engineer that the streets, drainage and utilities conform to the Board's requirements in accordance with the approved Definitive Plan.
  - 5.5.1.2 A written certificate from a registered land surveyor that the As-Built Plan submitted accurately reflects the conditions in the completed subdivision are in compliance with the approved Definitive Plan.
  - 5.5.1.3 A written certification by a registered professional engineer that the streets, drainage and utilities conform to the Board's requirements in accordance with the approved Definitive Plan.
  - 5.5.1.4 A written confirmation from the Planning Board's inspector or agent that the improvements have been exposed to one complete winter environment (November 15 -

April 15) without damage, or that damage, if incurred, has been repaired to the satisfaction of the Highway Department.

- 5.5.1.5 A written confirmation from the Tree Warden that installation of street trees and other plantings required by these Rules and the decision have been completed satisfactorily and that damaged plantings have been replaced.
- 5.5.1.6 The address of the applicant.
- 5.5.1.7 Five, (5), copies, plus one, (1), electronic copy of the final plan in PDF format of an as-built plan of the streets and ways within the subdivision. The as-built plan shall show all physical features within the right of way including all required improvements such as street trees, sidewalks and paths. The location and volumetric calculations for all storm-water detention facilities shall also be shown on the as-built plan. The as-built centerline and proposed profile shall be shown with gradients.
- 5.5.2 If the Board determines that said construction or installation has been completed, it shall release the interest of the Town in such performance guarantee. If performance was secured by means of a Restrictive Covenant the interest of the Town shall be released by execution of a "Lot Release - Certification of Performance".
- 5.5.3 If the Board determines that said construction or installation has not been completed in accordance with the approved Definitive Plan, it shall specify in a notice sent to the Town Clerk and, by registered mail, to the applicant, the details wherein said construction or installation fails to comply with the approved Definitive Plan. Upon failure to do so within forty-five (45) days after the receipt by said clerk of the statement requesting release of the Town's interests, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such restrictive covenant shall become void. In the event that said forty-five (45) day period expires without such specification by the Board, or without the release and return of the bond or return of the deposit or release of the restrictive covenant as aforesaid, the Town Clerk shall, upon request, issue a certificate to such effect, duly acknowledged, which may be recorded.
- 5.5.4 Even though all improvements covered by a bond, deposit or restrictive covenant have been completed, the Board may refuse to release the performance guarantee if completion of construction on any remaining undeveloped or partially developed lot poses a substantial risk or injury to the covered improvements.

## **SECTION 6**

### **ENDORSEMENT AND RECORDING OF APPROVED PLAN**

#### **6.1 Endorsement of Approved Plan**

The approved Definitive Plan is intended to be used as a contract document for the construction and inspection of streets and utilities in the subdivision in conformity with these Rules. The approved plan shall also contain the Record Plan for purposes of filing with the Registry of Deeds or the Land Court. The following information and form is required for submission of the Record Plan for endorsement by the Board:

- 6.1.1 The entire approved Definitive Plan of the subdivision as amended by the Board in its decision of approval.
- 6.1.2 One (1) copy of the plan drawn in compatible black drawing ink on polyester drafting film or other medium acceptable to the Registry of Deeds or Land Court for those sheets intended for recording, and two contact prints of the entire plan set. If the definitive plan is prepared using a computer-aided drafting program, an electronic copy of the final definitive plan (on medium and in a format as directed by the Planning Department) shall be filed with the Stow Planning Department at the time of endorsement. After endorsement, five (5) full size copies and one reduced scale copy (11"x17") shall be provided to the Planning Board with an electronic copy of the endorsed plans in a PDF format.
- 6.1.3 Reference to any required documents such as the vote and decision of the board, restrictive covenant, easements deeded to the Town, conditions of the Board of Health or reference of Board of Health failure to report, etc, shall be inscribed on the Record Plan with a note that such documents shall be recorded with the Record Plan.

#### **6.2 Recording Plans**

The approved "Record Plan", the decision of the Board, any restrictive covenant, a municipal lien certificate indicating that all taxes, assessments, and charges then assessed against the land shown on the Plan have been paid in full as required under Massachusetts General Laws, Ch. 60, s. 23, and any other supplementary documentation as required by the Board shall be recorded or filed, as the case may be, by the applicant or his qualified agent at the Registry of Deeds or Land Court.

## SECTION 7

### DESIGN STANDARDS

#### 7.1 Basic Requirements

The standards contained in these Rules and Regulations shall be applied by the Board in evaluating proposed subdivisions, and shall be considered minimum standards. The applicant shall comply with all design standards for division of land as provided herein and shall be guided by the goals and objectives of the Stow Master Plan.

- 7.1.1 Subdivisions shall be designed so that compatibility with existing neighborhoods is achieved, and the maximum amenities within the new subdivision are created.

#### 7.2 Variation from Design Standards

The Board may, where it deems necessary, require more stringent standards through conditions of approval. The Board may waive any design requirement if the Board finds that such waivers or additional requirements are necessary or desirable to provide for safe and convenient vehicular and pedestrian travel.

#### 7.3 Protection of Natural Resources

Natural features such as mature vegetation, watercourses, scenic points and vistas, aquifers, flood plains, habitats of rare and endangered species, and historic spots and other similar community assets shall be protected and preserved when, in the opinion of the Board, such protection and preservation would be in the interest of the community.

- 7.3.1 **Unsuitable Land** - Land which the Board finds to be unsuitable for development due to flooding, improper drainage or adverse drainage, adverse topography, poor soils, bedrock, location of utility easements, or other features which the Board has reason to believe would be harmful to the safety, health and general welfare of the present and future inhabitants of the subdivision and/or its surrounding area, shall not be subdivided or developed unless adequate measures are formulated by the applicant and approved by the Board to eliminate any short-term or long-term impacts created by the development of the unsuitable land.
- 7.3.2 **Cutting and Filling** - Wherever possible, streets shall be laid out to minimize cutting and filling. If the construction of the street would require filling or disruption of a wetland, such filling or disruption shall be made in compliance with the Wetlands Protection Act, M.G.L. Ch. 131, S. 40 and the Stow Wetlands Bylaw. Filling or disruption of a wetland shall be avoided wherever possible by utilizing alternative upland access over the parcel to be subdivided or over an adjacent parcel which is also owned by the owner of the land to be subdivided either in person or through a separate realty trust or similar form of ownership. Where no such alternative upland access is available, the filling and disruption shall be minimized.
- 7.3.2.1 The Board may grant appropriate waivers from these Rules in order to minimize the filling and disruption of wetlands provided that such waivers are in the public interest, address the requirements of the Stow Conservation Commission, and are not inconsistent with the purpose and intent of the Subdivision Control Law.

## **7.4 Lots**

- 7.4.1 **Conformance with Zoning Bylaws** - All lots within a proposed subdivision shall comply with the requirements of the Stow Zoning Bylaw.
- 7.4.2 **Lot Arrangement** - All lots within a proposed subdivision shall be arranged so that there will be no foreseeable difficulties for reasons of topography, soils, bedrock, improper drainage or other conditions in securing building permits to build on all lots in compliance with the Town of Stow Zoning Bylaw, or in providing practical, feasible driveway access to the building on such lots.
- 7.4.3 **Soil Preservation and Final Grading** - The Board may condition approval of a Definitive Plan by requiring that no Certificate of Occupancy be issued for a building in the subdivision until final grading of the lot has been completed in accordance with the Definitive Plan.
- 7.4.4 **Lot Drainage** - Lots shall be laid out so as to provide positive drainage away from all proposed buildings. Individual lot drainage shall be designed so as to avoid concentration of stormwater drainage from each lot to adjacent lots or to the street. If provision is necessary to carry drainage to or across a lot, an easement or drainage right-of-way of adequate width and proper side slope shall be provided.
- 7.4.5 **Debris and Waste** - No debris, junk, rubbish or other non-biodegradable waste materials shall be buried on any land in the subdivision or left on any lot or on the street right-of-way, and removal of same shall be required prior to final release of any covenants of security. Burial of biodegradable materials on the site shall be subject to approval of the Board of Health. The burial locations and description of buried materials shall be noted on the as-built plan.
- 7.4.5.1 The Board may require that the plan showing the description and location of buried materials be recorded in the Registry of Deeds, or filed with the Land Court as applicable in accordance with DEP Stump Permit guidelines, prior to release of affected lots for sale and building.

## **7.5 Streets - Location and Alignment**

- 7.5.1 **Design and Layout** - All streets, roads and ways in the subdivision shall be designed so that, in the opinion of the Board, they will provide for safe and adequate vehicular and pedestrian travel within the proposed subdivision and in coordination with adjacent streets and ways. To that end, the Board may require certain traffic studies to be performed to support the developer's proposed layout.
- 7.5.1.1 The Board may waive any design requirement or impose additional design requirements if the Board finds, based upon the conditions of the site, that such waivers or additional requirements are necessary or desirable to provide for safe and convenient vehicular and pedestrian travel.
- 7.5.1.2 The design and layout shall comply with these Rules and conform to any circulation plan contained in the Stow Master Plan.
- 7.5.1.3 The Board shall consider the configuration of the street layout and the arrangement of lots abutting thereon in order to achieve the appropriate usage of the land with regard to situation of dwellings, privacy, light and space, and access to the street.

- 7.5.2 **Frontage** - Roads or roadways in a subdivision shall be connected to existing streets in Stow as required by M.G.L. Chapter 41, Section 81L.
- 7.5.3 **Improving Existing Streets**
- 7.5.3.1 In order to ensure vehicular and pedestrian safety, the Board will consider the adequacy of public ways adjacent to or providing access to a proposed subdivision. It is the Board's intent that a proposed subdivision not overly strain the capacity of existing or planned public ways so as to result in traffic congestion and safety problems
- 7.5.3.2 Where deemed necessary by the Board, a traffic study shall be performed, at the applicant's expense by a registered professional civil engineer experienced and competent in the field of traffic engineering.
- 7.5.3.3 When, in the opinion of the Board, a subdivision is deemed to have a detrimental effect on existing or proposed streets and intersections or where a subdivision borders on an existing but inadequately constructed public street or way, the Board may require appropriate and reasonable improvements in streets and ways bordering or providing access to the subdivision to minimize congestion and to ensure safe and adequate vehicular and pedestrian travel in a coordinated system of streets and ways in Stow.
- 7.5.4 **Projection of Streets** - Provisions shall be made for proper projection of streets and ways to ensure adequate future access to adjoining property. If suitable easements or other connections to a street exist on adjacent streets, streets and ways shall be constructed to connect the subdivision street with the existing street.
- 7.5.5 Intentionally left blank
- 7.5.6 **Pedestrian Travel** - The Board may require the installation of pedestrian ways, bridle paths or bicycle paths having a right-of-way of not less than fifteen feet (15') in width where deemed necessary to provide adequate circulation or access to schools, playgrounds, parks, conservation land, shops, transportation, open spaces, other community facilities, and to and between existing, proposed and future subdivisions and neighborhoods.
- 7.5.7 **Reserve Strips** - Reserve strips prohibiting access to existing or proposed streets or adjoining property shall not be permitted.
- 7.5.8 **Curvilinear Streets** - All proposed streets shall be curvilinear and generally reflect the contour of the land. Streets shall follow contour lines wherever possible, cuts and fills shall be minimized, the unstable areas shall be avoided, and street alignments shall maximize views. The road rights-of-way shall be located on land with natural slopes of less than 20% grade or less.
- 7.5.9 **Street Names** - Street names shall be sufficiently different in sound and in spelling from other street names in the Town so as not to cause confusion in the event of an emergency. A street which is planned as a continuation of an existing street shall bear the same name. Street names should be of historical significance to the Town and/or the site. The Board shall have final authority over the names of streets in a subdivision.
- 7.5.10 **Sight Distances** - Proposed streets and driveways shall be located so as to provide adequate sight with respect to both horizontal and vertical alignment, as well as at intersections. Site distances shall meet requirements of AASHTO Geometric Design of Highways and Streets to determine adequate site distance including stopping sight distance, and intersection sight distance, at a minimum.

- 7.5.11 **Clear Sight Triangles** - There shall be provided and maintained at all intersections clear sight triangles of seventy-five feet (75'), measured along the centerline from the point of intersection. No obstructions or plantings higher than thirty (30) inches or tree limbs lower than eight feet (8') shall be permitted within this area.
- 7.5.12 **Termination Setback from Town Boundaries** - Streets shall not be located in such a manner as to terminate within one hundred feet (100') of any boundary of the Town of Stow or to project or extend across such boundary unless specifically approved by the Board as being in the public interest, having regard to safety of travel, congestion of adjacent public ways, and coordination with other ways. Roads or roadways in a subdivision shall not provide the only access to lots in an adjoining town unless there is also adequate access over streets in the adjoining town.
- 7.5.13 **Safety Enhancement** - In order to enhance safety and to improve the street environment, the Board may require devices and design features such as landscaped chokers, (encroachments on the standard pavement width) at intersections and at mid-block location or additional curves or other features that have a proven effectiveness in reducing vehicular speed.
- 7.5.14 All construction within a road right-of-way shall be located so as to limit the cutting and filling of soil or subsoil to depths of less than 8 feet. The cut or fill depths shall be measured from the pre-construction natural grade to the proposed grades within the right-of-way.

## 7.6 Streets - Classifications

The Board will determine the classification to be applied to all streets shown on a subdivision plan. Classifications will be assigned on the following basis, except for those streets classified as Special Purpose Streets and described in Section 7.7 of these Rules.

Access Street  
Sub-collector Street  
Collector Street  
Industrial Street  
Arterial Street

- 7.6.1 **Access Street** - Lowest order of residential streets. Provides frontage for access to lots, and carries traffic having destination or origin on the street itself, and are designed to carry the least amount of traffic at the lowest speed. Residential subdivisions should be designed so that all, or the maximum number possible, of the homes will front on this class of street.
- 7.6.1.1 Access streets should be designed so that no section conveys an Average Daily Traffic (ADT) greater than 250 vehicles. Each half of a loop street may be classified as a single residential access street, but the total traffic volume generated on the loop street should not exceed 500 ADT, nor should it exceed 250 ADT at any point of traffic concentration.
- 7.6.2 **Sub-collector Street** - Middle order of residential streets. Provides frontage for access to lots and carries traffic of adjoining access streets. They are designed to carry somewhat higher traffic volumes with traffic limited to motorists having origin or destination within the immediate neighborhoods. It is not intended to interconnect adjoining neighborhoods or subdivisions and should not carry regional through traffic.
- 7.6.2.1 Sub-collector Streets should be designed so that no section conveys an ADT greater than 500. Each half of a loop sub-collector may be classified as a single sub-collector

street, but the total traffic volume conveyed on the loop street should not exceed 1,000 ADT, nor should it exceed 500 ADT at any point of traffic concentration.

7.6.3 **Collector Street** - Highest order of residential streets. Conducts and distributes traffic between lower-order residential streets and high volume streets. This carries the largest volume of residential traffic at higher speeds. Function is to promote free traffic flow with minimum interruption or curb cuts; therefore, parking and direct access to homes from this level of street should be prohibited. Collectors should be designed so that they cannot be used as shortcuts by non-neighborhood traffic. No section of a collector street should convey an ADT greater than 3,000 ADT.

7.6.4 **Industrial Street** - Designed to serve subdivisions to be developed as industrial, commercial, business, or office parks. Industrial streets carry large volumes of traffic at moderate speeds. Function is to promote free traffic flow from residential streets and arterial streets to lots within subdivision. Industrial streets should be designed so that they cannot be used as shortcuts by residential traffic. No section of an industrial street should convey an ADT greater than 3,000.

7.6.5 **Arterial Street** - A higher order, interregional road in the street hierarchy. Conveys traffic between centers and should be excluded from residential areas. Arterial streets should be designed so that they can safely carry a traffic volume in excess of 3,000 ADT.

## 7.7 Special Purpose Streets

7.7.1 **Rural Lane** - A street serving a very low-density area. Rural lanes shall serve no more than five (5) lots.

Rural lanes as described herein may not be used to provide frontage or access, either for a further subdivision of land or use on approval not required plans, if such use would result in the road serving more than five (5) lots.

7.7.2 **Marginal Access Street** - A service street that runs parallel to a higher-order street and provides access to abutting properties and separation from through traffic may be designed as an access street or sub-collector according to anticipated daily traffic.

7.7.3 **Single Access Street**- A street with a single means of ingress and egress and having a turnaround. Single access streets shall be designed according to anticipated ADT level.

7.7.3.1 For the purpose of this section, any proposed street which intersects solely with a dead-end street shall be deemed to be an extension of the dead-end street.

## 7.8 Street Design Standards

The following standards shall be used in the design of proposed streets:

### STREET CLASSIFICATION

	Access	Subcollector	Industrial & Collector	Arterial	Rural Lane	Marginal Access	Single Access
Minimum R.O.W.	50'	50'	60'	70'	40'	50'	40'
Minimum Pavement Width	22'	24'	28'	30'	Two (2) nine foot (9') lanes	Two (2) eleven foot (11') lanes	Two (2) ten foot (10') lanes
Maximum Grade	10%	8%	8%	6%	10%	8%	10% (5)
Minimum Grade	1%	1%	1%	1%	1%	1%	1%
Minimum Centerline Radius	200'	250'	350'	450'	175'	250'	150'
Minimum Tangent Length Between Reverse Curves	50'	100'	150'	200'	---	100'	50'
Curb Radii	25'	30'	35'	35'	25'	30'	25'
Transition Areas - Maximum Grade within 100' of Intersection	5%	3%	3%	3%	5%	3%	5%
Minimum Road Crown	3/8" /ft	3/8" /ft	3/8" /ft	3/8" /ft	3/8" /ft	3/8" /ft	3/8" /ft
Maximum Average Daily Traffic (ADT)	250 (2)	500 (3)	3,000	3,000+	50	250	70 (4)
(1) All streets with sidewalks shall be designed with a grass strip of at least four (4) feet between the sidewalk and the street							
(2) Minimum per loop, 500 ADT overall maximum							
(3) Minimum per loop, 1000 ADT overall maximum							
(4) If Board allows extended length, maximum is 250 ADT							
(5) Maximum grade through cul-de-sac turnaround shall be 5%							

### **7.8.1 Additional Design Standards for Rural Lanes**

- 7.8.1.1 The approval of a rural lane shall be contingent upon the voluntary execution by the applicant and binding upon his heirs, successors and assigns, of a covenant running to the Town that such rural lane shall not be presented to Town Meeting for acceptance nor be petitioned for the Town to provide for maintenance, including snowplowing. Said covenant shall be recorded by the Applicant in the Middlesex County Registry of Deeds, or filed with Land Court, as appropriate, and shall be cross referenced to each plan to which it pertains.
- 7.8.1.2 The Board may approve the use of alternative turnarounds such as the "Y-shaped" or "T-turn" turnaround designs, within rural lane subdivisions.
- 7.8.1.3 Rural lanes shall have a paved width of eighteen feet (18'). Each side of the paved roadway shall have a three (3) foot wide packed gravel shoulder. The pavement and foundation of the roadway shall conform to the standards set forth in these Rules for residential streets.
- 7.8.1.4 The creation of permanent dead-end streets as rural lanes without turnarounds shall not be allowed.

### **7.8.2 Additional Standards for Single Access Streets**

- 7.8.2.1 The creation of permanent dead-end streets as single access streets without turnarounds shall not be allowed.
- 7.8.2.2 Single access streets shall not exceed five hundred feet (500') in length (as measured from the point of intersection with the existing street to the furthest point away from the intersection measured along the centerline of the roadway. The Board may allow a street terminated with a cul-de-sac or loop to be extended to one thousand, five hundred feet (1,500') in length when the following additional terms and conditions are met. No waiver will be granted unless the following conditions are met, in which case the single access street may be extended to one thousand, five hundred feet (1,500') in length.
  - a) Cul-de-sac turnarounds shall be designed with a minimum property line diameter of one hundred fifty feet (150') and a minimum inside pavement radius of forty feet (40').
  - b) A turnout is provided along the roadway at a location between the 500 foot and 1,200 foot length marker. The turnout shall be a minimum of 9' wide x 20' long with transition to existing pavement to allow passing vehicles.
  - c) The applicant shall provide a method of fire protection satisfactory to the Board for all dwelling units proposed within the subdivision.
  - d) The applicant provides a minimum of ten percent of the land suitable for development (excluding wetlands) contained within the Subdivision to be dedicated for publicly accessible open space, parks or future public facilities and infrastructure. A covenant limiting said land shall be provided in a form suitable for recording at the Registry of Deeds or Land Court as appropriate.
  - e) If the subdivision is a Planned Conservation Development as defined in the Stow Zoning Bylaw then 1,500' is the maximum length of a single access street for the

conceptual plan drawn for the purpose of determining the maximum number of building lots as required in the Stow Zoning Bylaw.

- f) An open space buffer is provided along that portion of any existing street upon which the proposed subdivision had frontage as of June 1, 1995. The open space buffer shall have a minimum depth of 300 feet. There shall be no buildings or structures located within the open space buffer.

7.8.2.3 The Board may require alternate means of access to a through street or improvements on the existing single access street or within the adjacent street network in order to ensure adequate safety and access to all dwellings in the proposed subdivision.

**7.8.3 Additional Design Standards for Cul-de-sacs, Loops and Turnarounds**

- a) The sideline diameter of a cul-de-sac circle or loop shall be selected to provide a constant shoulder width throughout the entire road except that at the intersection the shoulder width may vary to meet other requirements of these Rules.
- b) There shall be a minimum radius of thirty feet (30') at the intersection of a street with a cul-de-sac circle or loop.
- c) A landscape plan shall meet the approval of the Board.
- d) A cul-de-sac, turnaround shall feature a landscaped center island encircled by sloped granite curb, type SA.

(Refer to Appendix B for required spacing and minimum caliper size of trees and for suggested plant species.)

7.8.3.2 Single access streets of five hundred feet (500') or less in length, or serving fewer than six (6) lots, may be designed with alternative turnaround designs such as "Y-shaped" and "T-turn" turnarounds designed to accommodate SU30 vehicles.

(a) Intentionally left blank

(b) Intentionally left blank

(c) Intentionally left blank

(d) The street approaching the turnaround shall also be straight for a minimum distance of 60 feet.

(e) There shall be no driveways or common driveways off the ends of the turn-around legs, within 10 feet from the end of pavement, or in the intersection roundings.

(f) A "No Parking" restriction shall be posted in the turnaround.

7.8.3.3 Intentionally left blank

7.8.3.4 In non-residential subdivisions, there shall be no more than 250,000 square feet of floor area on a single access street or a series of streets having only one terminus onto a through street. To construct more than 250,000 square feet of floor space, a secondary means of access, adequate in the opinion of the Board, shall be provided.

7.8.3.5 Subdivision design shall provide for continuation of streets between adjacent properties. If the adjacent property is undeveloped and a street must be dead-ended temporarily, the right-of-way shall extend to the property line. A cul-de-sac, circle, loop or turnaround

shall be provided in accordance with these Rules, and a stub street shall be constructed from the end of the cul-de-sac, circle, loop or turnaround for a distance of fifty feet (50') or to the end of the right-of-way, whichever is shorter. Roadway easements in the segments of a turnaround lying outside of the right-of-way shall be temporary and shall terminate pursuant to G.L. Chapter 41, Section 81M when the street is extended beyond the stub street.

- a) The applicant who extends a temporary cul-de-sac, circle, loop or turnaround at a later date shall remove the pavement, relocate any sidewalks, extend any driveway entrance and properly grade, loam and seed the areas included within the temporary easements. All such work shall be deemed to be part of the required improvements of the connecting subdivision.

#### **7.8.4 Street Intersections**

7.8.4.1 Streets shall be laid out so as to intersect as nearly as possible at right angles.

7.8.4.2 No street shall intersect any other street at less than 60 degrees.

7.8.4.3 Curves of street sidelines at street intersections must have a radius of not less than 25 feet, except where the angle of intersection varies more than 10 degrees from a right angle, in which case the radius of the curve connecting the acute angle may be less and the opposite radius must be correspondingly greater.

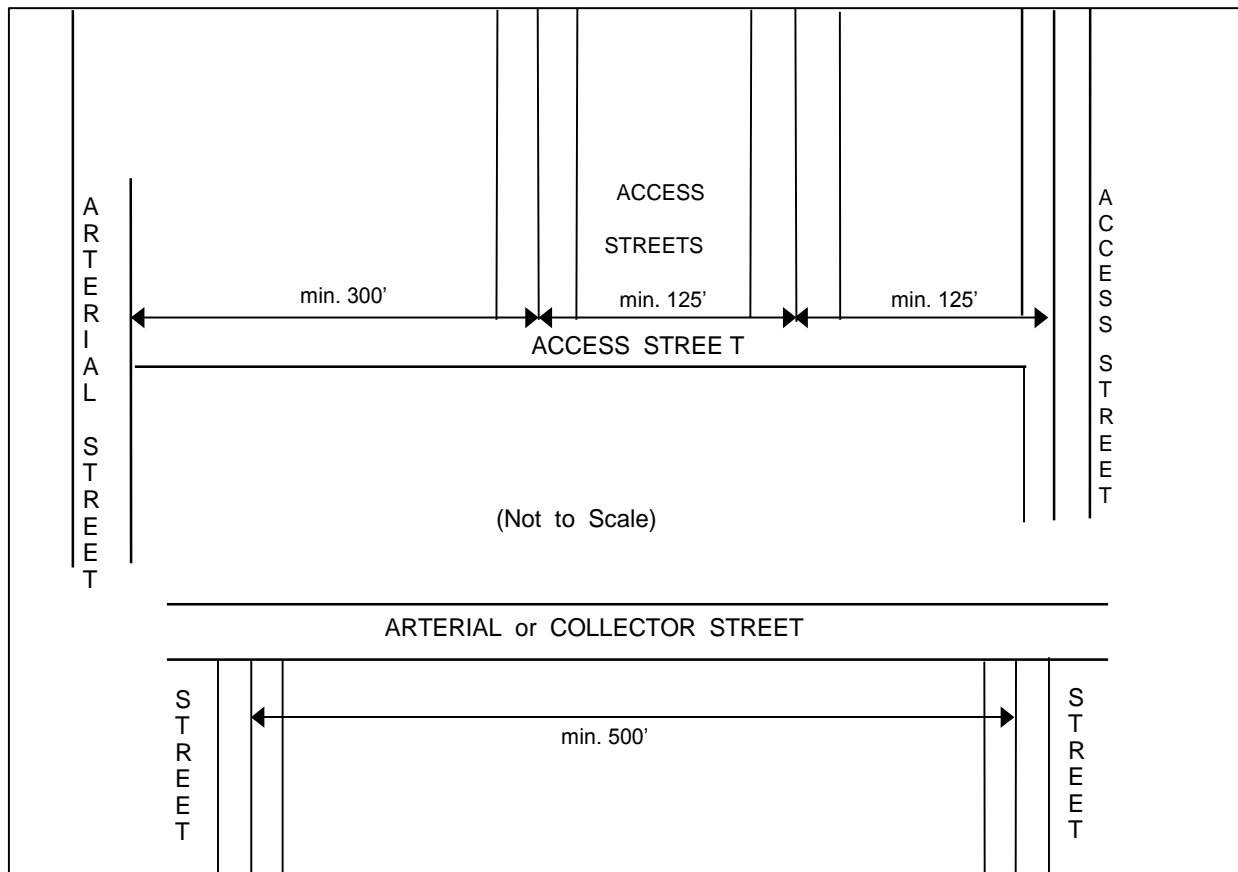
7.8.4.4 New street intersections with collector or arterial streets shall be kept at a minimum.

7.8.4.5 Street lines at intersections shall be cut back to provide for sideline radii of not less than 25 feet.

7.8.4.6 Wherever possible, adjacent street intersections along an existing and/or proposed arterial or collector street shall have a minimum centerline offset of 500'.

7.8.4.7 Adjacent access street intersections within a network of existing and/or proposed access streets shall have a minimum centerline offset of 125' (see sketch).

7.8.4.8 An intersection of access streets adjacent to an intersection with an arterial or collector street shall have a minimum centerline offset of 300' from the arterial or collector-street. (see sketch).



7.8.4.9 Where a subdivision abuts or contains an existing or proposed arterial street and/or collector street, the board may limit or restrict driveway cuts or curb cuts onto the arterial and collector streets and may require service streets or driveway easements within the proposed subdivision to ensure adequate access and the separation of local traffic for lot access from through traffic. The board may also require a non-access reservation along the arterial and collector streets.

7.8.4.10 Is Intentionally left blank

7.8.4.11 Cross intersections, x-intersections or four leg intersections are not permitted except when, in the opinion of the Board, such intersection is necessary to provide adequate circulation of traffic.

## 7.9 Stormwater Management

The Planning Board will presume that projects meeting the 2008 Massachusetts Stormwater Handbook, or as subsequently amended, satisfy the requirements of Section 3.1.8.9 of the Stow Zoning Bylaw and related Subdivision Rules and Regulations, Site Plan Approval Rules and Regulations and Special Permit Rules and Regulations, and therefore are presumed to also satisfy other regulatory requirements, as stated in said handbook.

### 7.9.1 Stormwater Management

The objective of stormwater management for Stow is to design a system in such a way so that the volume and peak runoff from the development of a parcel will be no greater after the development is completed than it was before the development was started, and that the water quality will meet required Department of Environmental Protection (DEP) standards.

### 7.9.2 Stormwater Management Requirements

The design of a Stormwater Management System shall comply with the requirements of the 2008 Massachusetts Stormwater Handbook, subsequently known as the Handbook.

Throughout the Handbook, where the "Conservation Commission" is identified, substitute "Planning Board and Conservation Commission." This does not relieve the applicant from complying independently with the Conservation Commission's requirements.

The Planning Board, through its review process, may set more stringent requirements than are specified in the Handbook. The Planning Board may require subdivisions of any size, as well as Special Permit applications and site plans, to be compliant with the Handbook.

The Planning Board adopts the requirements of the stormwater management standards listed in the Handbook.

### 7.9.3 Best Management Practice (BMP) Prioritization

Although the Planning Board is aware that the Best Management Practice (BMP) techniques employed depends largely on the site's hydrological features, it has placed a high priority on environmentally sensitive site design techniques for stormwater management, including:

- Minimizing impervious surfaces
- Fitting the development to the terrain
- Preserving and using natural drainage systems
- Reproducing pre-development hydrologic conditions

### 7.9.4 Stormwater Management Design Process

#### 7.9.4.1 Preliminary Stormwater Design Plan

The applicant shall present a Preliminary Design Plan for the stormwater management system prior to submission of a Definitive Plan.

In the Preliminary Design Plan, the applicant shall be prepared to discuss and justify the design approach for stormwater management. The Planning Board will consider the three stormwater management components in order of priority as described in the Handbook:

- a) Site Planning: Design the development using environmentally sensitive site design and low impact development techniques to preserve natural vegetation, minimize impervious surfaces, slow down times of concentration, and reduce runoff;
- b) Source Controls, Pollution Prevention, and Construction Period Erosion and Sediment Control: Implement nonstructural measures to prevent pollution or control it at its source; and
- c) Structural BMPs (physical devices typically designed and constructed to trap or filter pollutants from runoff or to reduce runoff velocities): Design, construct and maintain structural BMPs to attenuate peak flows, capture and treat runoff, and provide recharge to groundwater.

The Planning Board will emphasize using environmentally sensitive site design and low impact development techniques to minimize the amount of onsite disturbance and to lessen the need for BMPs for stormwater quality treatment and volume/velocity management.

The applicant shall provide a detailed description of the approach being applied to satisfy the standards in the Handbook. At a minimum, the applicant shall consider and present the design based on the Checklist for Stormwater Report, located in the Handbook, to the Planning Board.

For the parcel being developed, the applicant shall provide a drawing of the site that identifies each watershed in the parcel and every watershed of which the parcel is a part, the Hydrological Soil Group (A, B, C& D) for each of the sub-areas, and the impervious areas to be developed on the parcel. All wells, septic systems and critical areas are to be identified on the drawing for the parcel and abutting parcels within 150 ft of the parcel being developed

The Planning Board will review the proposed design, evaluate the design, and provide comments on the design.

#### 7.9.4.2 Definitive Stormwater Design Plan

The applicant shall:

- a) Implement the design proposed in the preliminary design plan as modified by the comments received from the Planning Board. The final detailed design shall be presented to the Planning Board for final review and comment. The Planning Board may reject a detailed design, which does not address the issues identified by the Planning Board from the preliminary design.
- b) Provide data for all Water Quality and Recharge calculations based on the Stormwater Management System design.
- c) Provide the source data for all Water Quantity Volume calculations.
- a) Provide the source data for all Stormwater Recharge calculations.
- b) Provide the source data for all Peak Discharge Rate Calculations
- c) Provide data for the TSS removal calculations.

In addition, the Planning Board may require that the data necessary to use Rational Equation Method be provided.

#### 7.9.5 Stormwater Management System Appropriate for a Parcel

The submission to the Board of any development of land has to recognize that stormwater management requirements may be the constraining factor in the amount of the proposed impervious surface and thus the number of units that can be built on a parcel in Stow.

#### 7.9.6 Other Stormwater Design Criteria to be Considered:

- a) Test holes are required in each stormwater detention or retention area and must be to a depth at least two feet below the bottom of the drainage facility and shall be performed by a Soil Evaluator. Test data shall be included in the drainage report.
- b) The drainage report shall be stamped by a Professional Engineer and shall include a plan showing drainage subcatchments and travel time paths.
- c) In areas of overland flow, the drainage analysis shall consider the property line the point of analysis to mitigate impacts on abutting properties.
- d) Soil beneath drainage facilities shall be naturally occurring unless in fill and shall not be "mined" for use elsewhere on the site.
- e) If a site requires extensive fill, including individual lots, the drainage calculations shall consider the soils for these areas to be a hydrologic soil group C.
- f) The definitive subdivision plans shall identify the approximate area of impervious surface per lot. Additional recharge shall be required to mitigate the additional runoff from the impervious surfaces.

#### **7.10 Open Space**

Before approval of a Definitive Plan, the Board, may in proper cases, require the plan to show a park or parks suitably located for playground or recreation purposes and for providing light and air.

The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. In general such areas should include at least two thousand (2000) square feet per lot of dry, level accessible land for active recreation. Pedestrian ways, bicycle paths or bridle paths of not less than fifteen feet (15') in width may be required where deemed desirable to provide access to required open space.

The Board shall, by appropriate endorsement on the plan, require that no building be erected upon such park or parks without its approval for a period of three (3) years.

The perimeter of the designated Open Space Parcels shall have iron pins/pipes set at all lot corners or change in direction where the Open Space abuts lots in the subdivision.

#### **7.11 Utility Easements**

Where necessary, the Board shall require perpetual, unobstructed easements for power lines, natural gas lines, cable TV, communication lines, water mains, sewers and other such utilities. Such easement shall be a minimum width of twenty feet (20') and shall be indicated on the Definitive Plan.

- 7.11.1 **Future Road Construction** - If on the subdivision plan, an area is left for the future possible construction of a road to back or adjacent land, a ten foot (10') wide slope easement shall be shown on all lots abutting such road area to enable proper slope construction if and when the road is constructed. The slope easements shall go with the easement for future roadway and utility construction of the road area.

#### **7.12 Erosion and Sediment Control**

- 7.12.1 During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.
- 7.12.2 Land shall be developed in increments of workable size which can be completed during a single construction season. Erosion and sediment control measures shall be coordinated with the sequence of grading, development, and construction operations. Control measures such as hydro seeding, berms, interceptor ditches, terraces, and sediment traps

shall be put into effect prior to the commencement of each increment of the development/construction process.

7.12.3 Sediment basins (debris basins, de-silting basins, or silt traps) shall be installed in conjunction with the initial grading operations and maintained through the development process to remove sediment from runoff waters draining from land undergoing development.

7.12.4 Erosion clean up - A note on the Erosion and Sedimentation Plan shall state that the developer is required to clean up any sand, dirt, or debris which erodes from the subdivision onto any public street or private property, and to remove silt or debris that enters any existing drainage system including catch basin sumps, pipe lines, manholes and ditches.

7.12.5 Velocity Check Dams - Hay bales will be used around the catch basins on the proposed streets to protect them from the eroding soils and provide a check dam\* to slow the runoff during the construction. The developer shall provide velocity check dams\* in all unpaved street areas at the intervals indicated below:

<u>Grade of the Street</u>	<u>Intervals between Check Dams</u>
Less than 4%	100 feet
4% to 10%	50 feet
over 10%	25 feet

The developer shall provide velocity check dams\* in all un-vegetated or unpaved channels at the intervals indicated below:

<u>Grade of the Channel</u>	<u>Intervals between Check Dams</u>
Less than 3%	100 feet
3% to 6%	50 feet
over 6%	25 feet

\* Check dams in unpaved streets and un-vegetated or unpaved graded channels may be constructed of staked hay bales or other erosion resistant materials approved by the Board. The check dams shall be installed at the end of each working day, and in the event of rainfall being predicted. The hay bales should be securely staked to prevent overturning, floatation, or displacement. They shall extend completely across the street or channel at right angles to the centerline. Also, a velocity check dam shall be provided along the entrance of the lot to protect the public streets and adjacent properties from the hazards of erosion. All check dams shall be cleaned out of all debris and silt periodically.

## SECTION 8

### REQUIRED IMPROVEMENTS

#### 8.1 General

This section contains certain specific construction standards, specifications, and procedures for the installation of required subdivision improvements.

#### 8.2 Street and Right-of-Way

All street materials and construction methods shall comply with the current edition of "Commonwealth of Massachusetts, Highway Department, Standard Specifications for Highways and Bridges" (MHD) and the applicable standard cross section contained in Section 7.8 of these Rules.

**8.2.1 Clearing and Grubbing of Right-of-Way** - All trees not intended for preservation, brush, stumps, roots, boulders, and like materials shall be removed from the full length and width of the street right-of-way.

**8.2.2 Loam and other Yielding Material** - All loam or other yielding material shall be removed from the entire length and width of the street right-of-way and replaced with suitable material. Provisions shall be made for dust control.

8.2.3 Intentionally left blank

#### 8.2.4 Pavement

**8.2.4.1 Finish Grade** - All streets shall be brought to Finish Grade as shown on the profiles of the Definitive Plan, meeting the minimum requirements specified in the Table below and shall be located as shown on the detail in Section 7.8 of these Rules.

	ADT > 250 Daily Trips
Subgrade	Two (2) four inch (4") layers of well drained gravel meeting MHD 1.03.0 beneath four inches (4") of Dense Graded Base meeting MHD M.2.01.7 compacted thickness.
Binder	Two inch (2") compacted thickness Class I, Type 1 Bituminous Concrete Pavement
Finish	1 ½ inch (1 ½") compacted thickness Class I, Type 1 Bituminous Concrete Pavement

**8.2.4.2** The subgrade shall be one foot (1') wider on each side than the required pavement and green strip.

**8.2.4.3** The binder course shall be exposed to one winter season (November 15 to March 15) prior to the application of the Finish course.

- 8.2.4.4 Prior to installaton of the Finish course, the binder shall be swept clean, dried if necessary, and treated with an asphalt emulsion or tack coat to ensure a satisfactory bond between pavement courses.
- 8.2.4.5 In order to minimize damage to the Finish course, the Finish course shall not be applied until all construction on LOTs served by the SUBDIVISION STREETs are, in the opinion of the BOARD, completed or substantially completed. Failure to comply with this requiremente may result in further conditions being placed on roadway bonding and street acceptance.
- 8.2.4.6 Following the installation of the Finish course, no excavation shall be permitted in the road surface fro a period of five, (5), years except in emergency cases. Any such excavating shall be repaired with infrared patching equipment or other method approved by the BOARD.
- 8.2.4.7 No paving shall take place from November 15 to March 15 of any year without prior Planning Board approval.
- 8.2.4.8 All catchbasin grates shall be functional with the binder pavement. Manhole covers shall be set flush with the binder pavement.
- 8.2.5 Any fill material used shall be free of hazardous materials and free of construction debris.

The BOARD may approve the use of recycled crushed pavement, concrete or recycled granite for use in the subsurface during STREET construction. Any rock imported for use as fill shall not be from any blasting operations using perchlorate and documentation regarding such shall be submitted to the Planning Board.

### **8.3 Utilities**

All utilities including services to the street line or property line shall be installed, upon completion of the subgrade and prior to the placement of gravel. All utility lines shall be installed underground. Design and location of utilities must be approved by each pertinent utility company.

Magnetic marking tape, labeled for the particular utility, shall be required during backfill for all utilities.

8.3.1 Intentionally left blank

8.3.2 Intentionally left blank

8.3.3 **DIGSAFE** - M.G.L. Chapter 82, Section 40, as amended, requires that contractors notify public utility companies, in writing, at least 72 hours before digging or excavating on public or private property. One phone call to the Massachusetts Public Utilities Underground Plan Damage Prevention System, called "DIGSAFE", will satisfy the law, the telephone number is 1-800-322-4844. This is to permit the companies to cooperate in protecting underground cables and mains from accidental damage.

### **8.4 Monuments**

Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets. Such monuments shall be of granite six, (6), inches square by four feet, (4'), long with a metal rod set beside the bound and shall be set flush with the finished grade. No permanent monuments shall be installed until all construction, which would

disturb or destroy the monuments is completed. If the location for a bound falls within a paved driveway, a railroad spike shall be set flush to the pavement.

- 8.4.1 Placement and location of all monuments shall be certified by a registered land surveyor after installation of the street, and shall be shown on the as-built plan.
- 8.4.2 The perimeter of the designated Open Space Parcels shall have iron pins/pipes set at all lot corners or change in direction where the Open Space abuts lots in the subdivision.
- 8.4.3 Iron pins/pipes shall be set at front corners of lots in the subdivision.

## 8.5 Driveways

When a driveway meets the street, there shall be a paved area of at least twelve feet (12') extending from the edge of the public way of not less than two inches (2") of bituminous concrete to prevent unstable driveway material from washing out onto the street. A lip of not less than two inches (2") shall be constructed at the edge of the driveway to facilitate drainage along the driveway.

## 8.6 Curbs

If curbs are proposed for new streets, low-profile modified Cape Cod berm shall be provided. The Board may require alternate curb materials depending on local conditions and the purpose of the curb.

- 8.6.1 Sloped granite curbs, type SA as defined in section M9.04.2 of the Mass. D.P.W. Standard Specifications for Highways and Bridges shall be required as follows: At the point of intersection with the existing road and at intersections along the roadway for the distance of the arcs of the curve plus a straight section at each end of at least eight feet (8') in length, and surrounding street islands or chokers within streets including landscaped islands in cul-de-sacs.
- 8.6.2 At the intersection with an existing roadway, the curbing shall be set back 2' from the existing edge of pavement to prevent plow damage.

## 8.7 Sidewalks, Pedestrian Ways and Bicycle Paths

To provide for safe pedestrian travel, sidewalks shall be required in all subdivisions in accordance with the following schedule:

Access Street & Sub-Collector Street:	Sidewalk required on one side of traveled street.
Single Access Streets:	Sidewalk required on one side of the street and around the entire length of the turnaround.
Collector Street, Industrial Street, Arterial Street:	Sidewalks required on both sides of traveled street.

- 8.7.1 **Sidewalk Along Frontage** - A sidewalk shall be required along that portion of any existing public street upon which the subdivision has frontage.

- 8.7.2 **Sidewalk Construction Specifications** - The sidewalks shall be five feet (5') in width and constructed so as to comply with the relevant requirements of the Massachusetts Architectural Access Board and in accordance with Sections 701.20, 701.40, 701.60, and 701.62 of the Mass DPW "Standard Specifications for Highways and Bridges" unless the Board authorizes a meandering design which follows the existing terrain and major features such as stone walls, large trees, rock outcroppings, etc. in response to local topography.
- 8.7.2.1 Sidewalks, walkways and bicycle paths shall consist of six inches (6") of bank run gravel (or equivalent) covered with three inches, (3"), of processed grading gravel. The gravel base shall be covered with a wearing surface of two and one half inches (2 1/2") of Class I, Type I, bituminous concrete applied in two courses. Sidewalks shall have a maximum cross slope of 2% and shall comply with the applicable standards of the Massachusetts Architectural Access Board.
- 8.7.3 **Green Strip** - A green strip shall be provided between the edge of the pavement and the sidewalk. The Green Strip shall be a minimum of four feet, (4'), in width and shall consist of six inches (6") of bank run gravel (or equivalent) covered with three inches, (3"), of processed grading gravel. The gravel base shall be covered with six inches, (6"), compacted depth of good quality loam and shall be seeded with turf grass seed or sodded and planted with street trees where appropriate in the opinion of the Board.
- 8.7.4 **Walkways and Bicycle Paths** - Walkways and bicycle paths shall be required where appropriate to improve circulation.
- 8.7.4.1 Bicycle Paths shall be constructed to standards of The Massachusetts Highway Department.
- 8.7.4.2 In the location of crosswalks or bicycle path crossings the Board may require a reduction in the standard pavement width in order to shorten the crossing distance, and a raised pavement to reduce vehicular speed.
- 8.7.5. **Handicapped Access** - Handicapped ramps shall be installed at all cross walks in accordance with the Mass. Architectural Access Board.
- 8.7.6. **Exceptions** - Where new sidewalks are to be constructed in short sections to connect existing sidewalks, the new sections shall be constructed to the same specifications as the existing sidewalks but shall be in accordance with the Massachusetts Architectural Access Board.

## 8.8 Street Signs

Street signs shall be erected at all intersections. These signs shall meet the specifications of the Stow Highway Department and conform to the Manual of Uniform Traffic Devices. They shall be erected from the time of rough grading and conform to the Manual of Uniform Traffic Devices.

- 8.8.1 Until such time as the street is accepted as a public way, the sign posts at the intersection of such street shall have affixed thereto a sign designating such street as a private way.

## 8.9 Street Trees and other Vegetation

Deciduous shade street trees shall be planted approximately 10 feet from the street sideline where trees are lacking. Where there is a sidewalk provided in the street layout, the street trees shall be planted in the green strip that is provided between the edge of pavement and the sidewalk. Trees shall be planted on both sides of the street at not more than 40 foot intervals along the entire length of the subdivision roads.

- 8.9.1 **Species** - The species of street trees shall be selected from deciduous shade trees of Zone 4 hardiness and shall be of licensed nursery stock with good root development and branching characteristics. Existing trees may be preserved as street trees if inspected and approved by the Stow Tree Warden.
- 8.9.2 **Size** - Street trees shall be a minimum of two and one-half inches (2 1/2") in caliper measured four feet (4') above the ground, and shall be ten (10') to twelve feet (12') of height in place.
- 8.9.3 **Planting** - Street trees shall be planted at their previous depth in good quality topsoil and shall be securely staked.
- 8.9.4 **Slopes** - All cut and fill slopes within or contiguous to the street right-of-way shall be planted with suitable, well-rooted, low growing plant materials as determined by the Board. Wood chips, mulch, seeding or sodding shall be used to eliminate erosion. The Board may require alternative measures, appropriate in the opinion of the Board, for slopes equal to or greater than 3:1.
- 8.9.5 **Cleared Areas** - All cleared areas of the street right-of-way, not to be planted with groundcover, and all disturbed area within public easements, shall be loamed with not less than six inches (6") compacted depth of good quality loam and seeded with turf grass seed in accordance with good planting practice.

## **8.10 Street Lighting**

Street lights shall be installed as required below and shall conform to the Town of Stow Zoning bylaw.

- 8.10.1. **Location** - Street lights shall be located in the green strip at the intersection of the subdivision road and the existing public street, at each intersection within the subdivision, and at such intervals and other locations as deemed necessary by the Board.
- 8.10.2 **Installation and Operation** - The applicant, his heirs, successors or assigns shall be responsible for the installation, operation and maintenance of such street lighting until the street is accepted by the Town as a public way.
- 8.10.2.1 The applicant shall provide a covenant, running with each lot, in suitable form for recording with the Registry of Deeds or Land Court, as appropriate, which requires that the operating costs and maintenance of street lighting within the subdivision shall become the responsibility of a homeowners association, or other similar entity, upon the Town's acceptance of the subdivision road(s) as a public way.

## **8.11 Sanitary Sewer**

Whenever septic tanks, or other similar systems, are allowed by the Stow Board of Health, they shall be designed and constructed in conformance with its requirements and standards.

## **8.12 Water Systems**

Whenever a well or other private water system is allowed by the Board of Health of Stow, it shall meet the required standards of the Board of Health and any other pertinent standards.

## **8.13 Fire Protection**

Fire protection methods shall meet the required standards of the Stow Fire Department, as may be modified by the Planning Board, and shall meet all State fire regulations.

## SECTION 9

### OPTIONAL RESIDENTIAL CLOSE PLAN

#### 9.1 Purpose

The purpose of this rule is to permit small-scale residential subdivisions (hereinafter called a Residential Close) in a manner, which minimizes Town maintenance responsibility and cost, while simultaneously preserving the rural character of the Town.

- 9.1.1 The Board may waive compliance with some of the design and improvement requirements of Sections 7 and 8, where such action is in the public interest and not inconsistent with the intent and purposes of the Subdivision Control Law and where the following conditions are met:
  - 9.1.1.1 A residential close shall contain not more than five (5) lots which may only be used for single family dwellings and associated accessory uses and structures as permitted under the Stow Zoning Bylaw.
  - 9.1.1.2 All dimensional requirements applicable to the zoning district in which the land is located shall be complied with.
  - 9.1.1.3 Each building lot shall have the frontage required by the zoning bylaw on a public street, or on a private street within the Residential Close which provides all present and future owners of lots within the Residential Close adequate and legally enforceable rights of access to a public street.
  - 9.1.1.4 Any land within the Residential Close not designated as a building lot or private-street shall be dedicated as permanent open space. Such land may only be used for conservation, outdoor recreational facilities of a noncommercial nature, agriculture, preservation of scenic or historic sites or structures, and structures accessory to any of the above uses.
  - 9.1.1.5 Assurances through deed restrictions or otherwise shall be given that the Town will not be requested to accept or maintain the private streets, drainage systems, open space, or any other improvements within the Residential Close for which design or improvement requirements contained in Section 7 and 8 of these Rules have been waived, and that the land within the Residential Close shall only be used for the purposes set forth in the developer's proposed Definitive Plan.
  - 9.1.1.6 The approved Definitive Subdivision Plan of a Residential Close shall contain conditions that:
    - a) there shall be no further division of the tract or lots contained therein;
    - b) development of the land is permitted only in accordance with the land uses indicated thereon;
    - c) the covenants of the developer regarding ownership, maintenance and utilization of common property, including, but not limited to, streets, drainage systems and open space, continue to be complied with.
  - 9.1.1.7 The covenants or other written assurances regarding ownership, maintenance and utilization of common property, as required by the Board, shall be recorded prior to or simultaneously with the recording of the approved Definitive Plan.
- 9.1.2 As a general rule, the design and construction standards set forth in the Stow Zoning Bylaw for Common Drives, as amended, shall be applied to a Residential Close.

## SECTION 10

### ADMINISTRATION

#### 10.1 Waivers of Rules and Regulations

The provisions of these Rules are considered minimum standards for the protection of the public welfare and safety. Strict compliance with the requirements of these Rules and Regulations may be waived when and only when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

Determination of what is in the public interest for the purposes of a requested waiver from these Rules and Regulations shall include a finding by the Planning Board that the Town's or region's natural or built environment or public health or safety would be better protected by the grant of the waiver sought. These findings may include, but are not limited to: a finding that water quality will be improved; that the development density will be more harmonious with surrounding neighborhoods; that the development will generate less storm-water runoff, that the development will improve and not detract from, views, vistas and open space protection and that pedestrian and/or vehicular safety would be improved. Determination of what is not inconsistent with the Subdivision Control Law shall include a finding by the Planning Board that the waiver sought is not inconsistent with the Town's planning policies and documents, including the Open Space Plan, Zoning Bylaw and other related documents. Any and all waivers sought by the applicant shall be requested in writing and shall contain a statement and supportive analysis as to how the waiver is in the public interest and not inconsistent with the Subdivision Control Law.

#### 10.2 Earth Removal

Where earth removal is associated with the construction of subdivision streets and drainage, the developer shall provide the following information.

10.2.1 Amount of earth to be removed.

10.2.2 Proposed disposition of such earth.

10.2.3 Method of removal, including the means proposed to prevent erosion and sedimentation, control dust, and to protect adjacent areas.

#### 10.3 Building Permit

The Building Inspector shall not issue any permit for the construction of a building or structure until he has determined whether the lot on which construction is proposed is located within a subdivision. If said lot is located within a subdivision, the Building Inspector shall not issue a permit for construction on said lot unless and until the following have occurred:

10.3.1 The way providing access to the lot is shown on a plan recorded with the South Middlesex County Registry of Deeds or land Court, as required by the Subdivision Control Law;

10.3.2 All terms and conditions limiting the right to commence construction activity within a subdivision have been complied with to the satisfaction of the Board in accordance with the Certificate of Approval for the subdivision; and

- 10.3.3 The applicant has provided evidence to the Building Inspector of the recording with the Registry of Deeds (or filing with the Land Court, as the case may be) of the Board's decision granting approval of the definitive plan and of all deeds, easements, covenants and lot releases pertinent thereto, and of the definitive plan.

No building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provision of these rules.

#### **10.4 Mandatory Notice Prior to Commencement of Construction Work**

Written notice shall be sent by certified mail to the Board advising the Board that construction within an approved subdivision shall commence not sooner than seven (7) days from the date that such notice is mailed to the Board. Such notice shall be signed by the applicant, subdivider, developer, or other authorized representative of the record owner of the Subdivision.

#### **10.5 Inspections**

Each phase or step in the construction of required improvements shall be inspected and approved in writing by the Board's authorized inspector at least forty-eight (48) hours prior to commencement of any construction and before resuming work after the stoppage in construction, that such construction has progressed to a stage that inspection is required. The Planning Board office shall be notified each time an inspection is requested.

- 10.5.1 The Board may require tests to be done by the applicant as a condition of approval when, in the opinion of the Board, it is advisable to do so.
- 10.5.2 The inspector shall not authorize any changes from these Rules or from the approved Definitive Plan for the Subdivision without specific approval of the Board except as follows:
- 10.5.2.1 The Board's inspector may authorize field changes subject to review by the Board at their next regular meeting. If the Board does not approve within fifteen (15) days of the meeting at which the requested change(s) was submitted, the original plan will remain in effect and the applicant will be required to reconstruct in accordance with the original plan.
- 10.5.2.2 At the time the change is requested two (2) copies of a "red-lined" plan shall be submitted to the Board's inspector who will review the plan, stamp "subject to approval of the Board" and sign it if he approves the plan (or return it if he disapproves or believes the proposed change should be approved by the Board before construction), and submit it to the Board for review and their signature if they approve.
- 10.5.2.3 When it is deemed necessary by the Board, a properly revised plan showing the change may be required in addition to the "red-lined" plan.
- 10.5.2.4 At the time the change is reviewed by the Board it shall be accompanied by an explanation of the reason for the requested change.
- 10.5.3 As a minimum, the applicant shall request an inspection at the following stages of development at a reasonable hour:
- 10.5.3.1 following installation of all underground drainage and utilities, prior to backfilling;
- 10.5.3.2 following preparations of the street subgrade and shoulders;
- 10.5.3.3 following spreading and compaction of the gravel base, prior to application of the binder course on the street;

- 10.5.3.4 During the application of the binder course on the street to assure proper depth of pavement.
- 10.5.3.5 immediately prior to and during the application and compaction of the surface course on the street and, if required, on the sidewalk;
- 10.5.3.6 following completion of all improvements and installation of bounds;
- 10.5.3.7 before acceptance by the Town at Annual Town Meeting.
- 10.5.3.8 at such other intervals as may be deemed necessary to assure proper construction of improvements.
- 10.5.3.9 Work not inspected as required herein shall be exposed for proper inspection.

## **10.6 Legal Costs**

Legal costs incurred by the Board during the consideration of the preliminary plan, the definitive plan and/or the record plan and during the preparation and recording of the Decision and the approved record plan shall be billed to the applicant, at cost, by the Town.

## **10.7 Town Bylaws**

The applicant should acquaint him/herself with the Bylaws and regulations of the Town of Stow which affect the Subdivision. The particular bylaws which should be considered when designing a subdivision should include but not be limited to, the following:

- 10.7.1 Zoning Bylaw of the Town of Stow, as amended.
- 10.7.2 Earth Removal Bylaw, as amended.
- 10.7.3 Regulations of the Stow Board of Health.
- 10.7.4 Wetlands Protection Bylaw.
- 10.7.5 Regulations of the Stow Conservation Commission.
- 10.7.6 Plumbing and Wiring Regulations.

## **10.8 Completion within Eight Years**

If the construction and installation of all streets and municipal services required in the Board's approval of a subdivision are not completed within eight years of the date of approval, the approval shall automatically lapse and no street shall be laid out, constructed or opened for public use unless and until a new Definitive Plan application has been filed in accordance with the Rules then in effect and the new plan has been approved by the Board.

## **10.9 Acceptance of Roads**

When a road or street in a subdivision has been completed in a manner fulfilling the requirements of the Board and there are no outstanding performance guarantees remaining in effect that were required as security to ensure completion of required improvements within the subdivision, the applicant may request the Board to inspect the road or street in order to give a recommendation to the Board of Selectmen who will consider the question of laying out said road or street under M.G.L. Ch. 82. Street acceptances within a subdivision are the financial and legal responsibility of the applicant. The Board shall require submission of the following information at least one hundred and

twenty (120) days prior to Annual Town meeting before making a recommendation to the Board of Selectmen.

- 10.9.1 Two copies plus the original mylar of the plan of the road or street "as built", at a scale of forty feet to the inch (40'=1") at size 24" X 36". All utilities, public and private, above and below grade, shall be shown on the plan as they exist. The plan shall show the monuments (road bounds) with the dates they were set and the traverse and fixed points on the subdivision perimeter used to establish the bound locations, all with bearings, distances or coordinate values sufficient to re-establish these points. All elevations shall refer to the National Geodetic Vertical Datum (NGVD) of 1929.
- 10.9.2 A letter from the registered engineer certifying that all work, as required by the Rules and approved Definitive Plan, has been completed.
- 10.9.3 A certificate by a registered land surveyor indicating that all permanent monuments are in place and are accurately located, including evidence that the bound traverse had a ration error of closure of 1:15,000 or better. (Use form - Certificate of Bounds in Appendix A)
- 10.9.4 Two typewritten copies of a legal description by metes and bounds of each road and easement considered for acceptance by the Town, and a copy of said document on a 3.5" 2HD diskette in a format compatible with the current version of Microsoft Word, or other medium or format as may be directed by the Board..
- 10.9.5 Two copies of the proposed deed conveying the fee in the street plus the associated easements to the Town, and legal evidence that the fee in the street has not been inadvertently conveyed to abutting lot owners, and a copy of said deeds on a 3.5" 2HD diskette in a format compatible with the current version of Microsoft Word, or other medium or format as may be directed by the Board
- 10.9.6 Two typewritten copies of the proposed article for the Town Meeting generally describing the location and length of the road or street to be considered for acceptance by the Town and a copy of said article on a 3.5" 2HD diskette in a format compatible with the current version of Microsoft Word, or other medium or format as may be directed by the Board.
- 10.9.7 Written approval by the Stow Tree Warden of the required tree plantings.
- 10.9.8 Written certification by the Board's inspector that the binder course was exposed through one winter season prior to the application of the wearing course and that all subdivision improvements have been exposed through one winter season (Nov. 15 - April 15) without damage, or that damage, if incurred, has been repaired to the satisfaction of the Board.
- 10.9.9 Certificate of Compliance with conditions imposed on the subdivision by the Conservation Commission under M.G.L. Ch. 131. S.40 and the Stow Wetlands Protection Bylaw.
- 10.9.10 If the "as built " definitive plan is prepared using a computer aided drafting program, an electronic copy of the "as built" definitive plan (on a 3.5" 2HD diskette in a format compatible with the current version of AutoCAD, or other medium or format as may be directed by the Board ) shall be filed with the Stow Planning Board Office.
- 10.9.11 Draft copy of proposed deed(s) and other instruments which shall be recorded at the Middlesex South District Registry of Deeds or the Land Court for any Common Land or Open Space parcels contained within the subdivision.
- 10.9.12 Written evidence from the Town Treasurer that all property taxes owed to the Town for land contained within the subdivision have been paid to the Town.

10.9.13 Check made payable to the Town for the recording of instruments and deeds in an amount to be determined by Town Counsel.

**10.10 Forms**

All mentioned forms may be obtained from the Office of the Board.

**10.11 Amendments**

The Board may, from time to time, amend these Rules by appropriate action taken at a public hearing, as provided by the M.G.L., Ch. 41, Section 81Q, as amended.

**10.12 Validity**

If any provision or provisions of these Rules are finally adjudged invalid by a court of competent jurisdiction, such action shall not affect the validity of any other provision nor of the Rules as a whole.

## SECTION 11

### APPENDIX

#### 11.1 Appendix A

This contains forms, application forms, and other such materials. These forms and other materials are used by the Board in the orderly and reasonable administration of its duties under the Subdivision Control Law and are included herein as a convenience to the applicant.

Form ANR      Application for Endorsement of Plan Believed Not To Require Approval

Form PP        Application for Approval of Preliminary Plan

Form DP        Application for Approval of Definitive Plan

Form DC        Designer's Certificate

Form RC        Restrictive Covenant

Form LR-CP    Release of Lots - Certificate of Performance

Form LR-PS    Release of Lots - Provision of Surety

Form CB        Certification of Bounds

Form DP-LN    Legal Notice of Public Hearing

Form DIS       Development Impact Statement

Form CAP       Covenant Authorizing Town Representatives to Enter onto the Property

Form DPC       Declaration of Protective Covenants and Restrictive Agreement

Form PG        Performance Guarantees – Tri-Partite Agreement

Appendix A - may, from time to time, be added to or diminished in number by the Board without a public hearing, and any time now or hereafter a part of Appendix A may be modified, amended or changed, also without a public hearing.

## APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

The undersigned, believing that the accompanying plan of his property in the Town of Stow does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

Please type or print information in blanks below.

1. Name of Applicant(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
2. Name of Property Owner(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
3. Name of Registered Land Surveyor \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
4. Deed of property recorded in Middlesex South Registry of Deeds,  
Book Number \_\_\_\_\_, Page Number \_\_\_\_\_; and/or registered in Middlesex  
Registry of land Court, Certificate of Title Number \_\_\_\_\_.
5. Zoning District \_\_\_\_\_, Town Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_  
Location and Description of Property \_\_\_\_\_
6. Board of Appeals decisions pertaining to land or building (attach decision).  
\_\_\_\_\_
7. Reason plan does not constitute a subdivision \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Applicant(s) Signature,                      Date

\_\_\_\_\_  
Applicant(s) Signature,                      Date

\_\_\_\_\_  
Owner(s) Signature,                      Date

\_\_\_\_\_  
Owner(s) Signature,                      Date

All owners (in the case of a corporation, an authorized officer; in the case of a trust, all trustees) must sign.

\*\*\*\*\*

### Planning Board approval under the Subdivision Control Law not Required

Signed \_\_\_\_\_ for the Stow Planning Board

Date \_\_\_\_\_

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## APPLICATION FOR APPROVAL OF PRELIMINARY PLAN

The undersigned herewith submits the accompanying Preliminary Plan of property located in the Town of Stow for approval under the suggested procedure in the Rules and Regulations governing the Subdivision of Land in the Town of Stow, Massachusetts.

Please type or print information in blanks below.

1. Name of Proposed Subdivision \_\_\_\_\_
2. Name of Applicant(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
3. Name of Property Owner(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
4. Name of Engineer \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
5. Name of Land Surveyor \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
6. Deed of property recorded in Middlesex South Registry of Deeds, Book Number \_\_\_\_\_, Page Number \_\_\_\_\_; and/or registered in Middlesex Registry of land Court, Certificate of Title Number \_\_\_\_\_.
7. Zoning District(s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
Town Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_
8. Approximate acreage in subdivision \_\_\_\_\_, Number of Lots \_\_\_\_\_
9. Total Length of road(s) in linear feet \_\_\_\_\_
10. Location and Description of Property \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Applicant(s) Signature,          Date

\_\_\_\_\_  
Applicant(s) Signature,          Date

\_\_\_\_\_  
Owner(s) Signature,          Date

\_\_\_\_\_  
Owner(s) Signature,          Date

All owners (in the case of a corporation, an authorized officer; in the case of a trust, all trustees) must sign.

**- INTENTIONALLY LEFT BLANK -**

**APPLICATION FOR APPROVAL OF DEFINITIVE PLAN**

The undersigned herewith submits the accompanying Definitive Plan of property located in the Town of Stow for Approval as a subdivision under the requirements of the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the Town of Stow.

Please type or print information in blanks below.

1. Name of Proposed Subdivision \_\_\_\_\_
2. Name of Applicant(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
3. Name of Property Owner(s) \_\_\_\_\_  
Contact Address \_\_\_\_\_ Phone \_\_\_\_\_
4. Name of Engineer \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
5. Name of Land Surveyor \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
6. Deed of property recorded in Middlesex South Registry of Deeds,  
Book Number \_\_\_\_\_, Page Number \_\_\_\_\_; and/or registered in Middlesex  
Registry of land Court, Certificate of Title Number \_\_\_\_\_.
7. Zoning District (s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
Town Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_
8. Approximate acreage in subdivision \_\_\_\_\_, Number of Lots \_\_\_\_\_
9. Total Length of road(s) in linear feet \_\_\_\_\_
10. Location and Description of Property \_\_\_\_\_  
\_\_\_\_\_
11. Said plan has ( ) has not ( ) evolved from a preliminary plan submitted to the Board on  
\_\_\_\_\_; and approved (with modifications ( ) or disapproved ( ) on \_\_\_\_\_.

\_\_\_\_\_  
Applicant(s) Signature,      Date

\_\_\_\_\_  
Applicant(s) Signature,      Date

\_\_\_\_\_  
Owner(s) Signature,      Date

\_\_\_\_\_  
Owner(s) Signature,      Date

All owners (in the case of a corporation, an authorized officer; in the case of a trust, all trustees) must sign.

**- INTENTIONALLY LEFT BLANK -**

**DESIGNER'S CERTIFICATE**

Please type or print information in blanks below.

I hereby certify that the accompanying plan entitled \_\_\_\_\_ dated \_\_\_\_\_ is correct, stating that the perimeter traverse of the subdivision before adjustment was closed to any accuracy of a ratio "error of closure" not to exceed 1:15.000\*: that it is a subdivision of \_\_\_\_\_ acres conveyed by \_\_\_\_\_ to \_\_\_\_\_ by a deed dated \_\_\_\_\_ and recorded in Middlesex County Registry of Deeds, Southern District. Book Number \_\_\_\_\_ Page Number \_\_\_\_\_.

Other sources of information used in the preparation of the plan are:

1. Other deeds and Plans as follows \_\_\_\_\_  
\_\_\_\_\_
2. Oral information furnished by \_\_\_\_\_  
\_\_\_\_\_
3. Other \_\_\_\_\_  
\_\_\_\_\_

Furthermore, I certify that this survey was made on the ground in accordance with the "Procedural and Technical Standards for the Practice of Land Surveying", Section 250 CMR\*\* 5.0 between \_\_\_\_\_ and \_\_\_\_\_  
(Date) (Date)

(Seal of Surveyor)

Signed \_\_\_\_\_  
Registered Land Surveyor Date  
Address \_\_\_\_\_  
Registration No. \_\_\_\_\_

\* As described in the "1989 Manual of Instructions for the Survey of Lands and Preparation of Plans" published by Land Court of the Commonwealth of Massachusetts, as most recently amended.

\*\* Code of Massachusetts Regulations

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# RESTRICTIVE COVENANT

Please type or print information in blanks below.

In consideration of the approval by the Planning Board, of the Town of Stow Massachusetts, (hereinafter referred to as the Board), of a plan of land, located in Stow, Middlesex County, Massachusetts entitled \_\_\_\_\_ Dated \_\_\_\_\_ revised \_\_\_\_\_, by \_\_\_\_\_, approved by the Board on \_\_\_\_\_ and the waiver by the Board of a bond or other security for the construction of the ways and the installation of certain services shown on said plan, in compliance with the Town of Stow, Massachusetts, (the "Town"), Subdivision Rules and Regulations, last amended \_\_\_\_\_; the undersigned, its successors and assigns, hereby covenant and agree with the Board and the Town as follows:

1. The undersigned is the owner in fee simple absolute of all the land included in the subdivision and that there are no mortgages of record or otherwise on any of said land, except for those described below, and that the present holders of said mortgages have assented to this covenant prior to its execution by the Developer.
2. The undersigned shall not sell or convey any lot or interest therein in the subdivision or erect or place any permanent building on any lot until the construction of ways and installation of municipal services necessary to adequately serve such lot has been completed in accordance with the following:
  - a. The Subdivision Control Law and the Stow Planning Board's Rules and Regulations governing this subdivision.
  - b. The certificate of approval and the conditions of approval specified therein, issued by the Planning Board, and dated \_\_\_\_\_.
  - c. The definitive plan as approved and as qualified by the certificate of approval.
  - d. Other document(s), namely: \_\_\_\_\_
3. The undersigned will expeditiously and diligently proceed to construct the ways shown on the aforesaid plan and in the event that the Board concludes, in its sole discretion, that the undersigned is not so constructing such ways, the undersigned shall provide additional security other than this covenant sufficient in the Board's opinion for the construction and completion of such ways and services as shown on the aforesaid plan or for a portion thereof. Such additional securities shall comply with the requirements of the Town's Subdivision Rules and Regulations, provided, however, that the Board shall determine the date by which the work, for which additional security must be posted, shall be completed.
4. This covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned and shall constitute a covenant running with the land included in the subdivision and shall operate as restrictions upon the land.
5. Nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board.
6. If, in the Planning Board's sole judgment, the Board wishes to grant a partial release from the terms and conditions of this agreement, particular lots within the subdivision may be released from this

covenant upon the recording of a certificate of performance executed by the Planning Board as enumerating the specific lots to be released.

7. The undersigned agrees to record this covenant with the Middlesex County Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the definitive subdivision plan as approved.
8. A deed of any part of the subdivision in violation of this agreement shall be voidable by the grantee prior to the release of the covenant; but no later than three, (3), years from the date of such deed.
9. This covenant shall be executed before endorsement of the approval of the definitive plan by the Planning Board and shall take effect upon such endorsement, whether or not the agreement is recorded with the Registry of Deeds.
10. Upon final completion of the construction of ways and installation of municipal services as specified herein, on or before \_\_\_\_\_, the Planning Board, if in its sole judgment it is satisfied that the terms and conditions of the definitive plan approval have been met, shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be approved by the Planning Board shall constitute reasons for rescission by the Board of the approval of the plan pursuant to G.L. c.41, s. 81-W.
11. Nothing herein shall prohibit the applicant from varying the method of securing the construction of ways and installation of municipal services from time to time or from securing by one, or in part by one and in part by another of the methods described in M.G.L. Chapter 41 81U, as long as such security is sufficient in the sole opinion of the Planning Board to secure performance of the construction and installation.
12. The land included in the subdivision is encumbered by the subject to the following mortgages which, however, are subordinated to this covenant:
  - a) Mortgage granted by the undersigned to \_\_\_\_\_, dated \_\_\_\_\_, and recorded with the Middlesex South Registry of Deeds at Book Number \_\_\_\_\_, Page Number \_\_\_\_\_, and the Middlesex Registry of the Land Court as Document Number \_\_\_\_\_, and
  - b) Other mortgagees:

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IN WITNESS WHEREOF, the mortgage holder(s) assents to this covenant and agrees to subordinate said mortgage(s) to this covenant, signed under seal as of the \_\_\_\_\_ day of 20\_\_\_\_.

First Mortgage Holder \_\_\_\_\_

By \_\_\_\_\_

Second Mortgage Holder \_\_\_\_\_

By \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

IN WITNESS WHEREOF, the undersigned has executed this Restrictive Covenant under seal as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

OWNER(S)

\_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

Approved and accepted by the Stow Planning Board:

\_\_\_\_\_ Date \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

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**RELEASE OF LOTS - CERTIFICATE OF PERFORMANCE**

Please type or print information in blanks below.

\_\_\_\_\_, 20\_\_\_\_

The Planning Board of the Town of Stow, Massachusetts hereby certifies that the requirement for work on the ground called for by the Restrictive Agreement dated \_\_\_\_\_, and recorded in the Middlesex South District Registry of Deeds, Book Number \_\_\_\_\_, Page Number \_\_\_\_\_ have been completed to the satisfaction of the Planning Board as to the following designated lots shown on a Plan entitled \_\_\_\_\_ dated \_\_\_\_\_, recorded with said Registry of Deeds, Plan Book Number \_\_\_\_\_ Page Number \_\_\_\_\_, and said lots are hereby released from the restrictions as to sale and building specified thereon.

Lots designated on said Plan released hereunder \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Approved by the Stow Planning Board

by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

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**RELEASE OF LOTS - PROVISION OF SURETY**

Please type or print information in blanks below.

\_\_\_\_\_, 19 \_\_\_\_

The Planning Board of the Town of Stow, Massachusetts, hereby certifies that sufficient surety, in the opinion of said Board, has been provided for the cost of the completion of the ways and certain services necessary to provide access and services to certain lots, hereinafter designated, in accordance with the provisions of the Restrictive Agreement dated \_\_\_\_\_, 19 \_\_\_\_ and recorded in the Middlesex South District Registry of Deeds, Book Number \_\_\_\_\_, Page Number \_\_\_\_\_, or registered in said Land Registry District in Plan Book Number \_\_\_\_\_, Plan Number \_\_\_\_\_ and said lots are hereby released from the restrictions as to sale and building specified in the Restrictive Agreement.

Lots designated on said Plan released hereunder \_\_\_\_\_

Approved by the Stow Planning Board

by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

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**CERTIFICATION OF BOUNDS**

Please type or print information in blanks below.

I hereby certify that permanent monuments have been accurately installed on \_\_\_\_\_ (Street) and are located as described and shown on the "As Built" plan dated \_\_\_\_\_ of said roadway submitted to the Planning Board, Town of Stow, Massachusetts, as required by the Stow Subdivision Rules and Regulations. Furthermore, I certify that the bound traverses had an error of closure of 1:15,000 \* or better and that these bounds have been set in accordance with the "Procedural and Technical Standards for the Practice of Land Surveying", Section 250 CMR \*\* 5.0 between \_\_\_\_\_ and \_\_\_\_\_.  
Date \_\_\_\_\_ Date \_\_\_\_\_

Signed \_\_\_\_\_  
Registered Land Surveyor

\_\_\_\_\_  
Registration Number

Seal of Surveyor

Date \_\_\_\_\_

Address \_\_\_\_\_

\* As described in the "1989 Manual of Instructions for the Survey of Lands and Preparation of Plans" published by Land Court of the Commonwealth of Massachusetts, as most recently amended.

\*\* Code of Massachusetts Regulations

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**LEGAL NOTICE OF PUBLIC HEARING**

**STOW PLANNING BOARD**

Please type or print information in blanks below.

The Stow Planning Board will hold a public hearing on \_\_\_\_\_. 20\_\_\_\_, at \_\_\_\_\_p.m., in the Stow Town Building, 380 Great Road, Stow, MA to discuss a proposed subdivision of land entitled\_\_\_\_\_ as petitioned by \_\_\_\_\_.

This subdivision consists of \_\_\_\_\_ acres to be divided into \_\_\_\_\_ lots. The land is located in Stow, MA, off of\_\_\_\_\_ and shown on Stow Property Map Sheet(s) \_\_\_\_\_ as Parcel(s) \_\_\_\_\_. Plans may be viewed at the Office of the Planning Board or the Office of the Town Clerk during normal business hours.

**- INTENTIONALLY LEFT BLANK -**

**DEVELOPMENT IMPACT STATEMENT**

Please type or print information in blanks below.

1. Name of Proposed Subdivision\_\_\_\_\_
2. Location \_\_\_\_\_
3. Name of Applicant(s) \_\_\_\_\_
4. Brief Description of the Proposed Project\_\_\_\_\_
5. Name of Individual Preparing this DIS\_\_\_\_\_
- Address\_\_\_\_\_ Business Phone \_\_\_\_\_
6. Professional Credentials\_\_\_\_\_

**A. Site Description**

7. Present permitted and actual land uses by percentage of the site.  
\_\_\_\_% Industrial \_\_\_\_% Commercial \_\_\_\_% Residential \_\_\_\_% Forest \_\_\_\_% Agricultural  
\_\_\_\_% Other (specify)\_\_\_\_\_
8. Total acreage on the site: \_\_\_\_\_acres.

Approximate Acreage	Present	After Completion
Meadow or Brushland (non agriculture)		
Forested		
Agricultural (includes orchards, cropland, pasture)		
Wetland		
Water Surface Area		
Flood Plain		
Unvegetated (rock, earth, or fill)		
Roads, buildings and other impervious surfaces		
Other (indicate type)		
Developable Site Area		

9. List the zoning districts in which the site is located and indicate the percentage of the site in each district.  
Note: be sure to include overlay zoning districts.

<u>District</u>	<u>%</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

10. Predominant soil type(s) on the site: \_\_\_\_\_  
\_\_\_\_\_

Soil drainage (Use the U.S. Soil Conservation Service's definition)

Well drained:	Soil type _____	___% of site
Moderately well drained	Soil type _____	___% of site
Poorly drained	Soil type _____	___% of site

11. Are there bedrock outcroppings on the site? ☐ yes ☐ no

12. Approximate percentage of proposed site with slopes between:  
0-10% \_\_\_\_\_  
10-15% \_\_\_\_\_  
Greater than 15% \_\_\_\_\_

13. Does the project site contain any species of plant or animal life that is identified as rare or endangered? ☐ yes ☐ no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

14. Are there any unusual or unique features on the site such as trees larger than 30 inches D.B.H., bogs, kettle ponds, eskers, drumlins, quarries, distinctive rock formation or granite bridges?  
☐ yes ☐ no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

15. Are there any established foot paths running through the site or railroad right of ways?  
☐ yes ☐ no  
If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

16. Is the site adjacent to conservation land or a recreation area? ☐ yes ☐ no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

17. Does the site include scenic views or will the proposed development cause any scenic vistas to be obstructed from view? ☐ yes ☐ no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

18. Are there wetlands, lakes, ponds, streams, or rivers within or contiguous to the site?  
☐ yes ☐ no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

19. Is there any farmland, forest or recreation land on the site protected under Chapter 61, 61A or 61B of the Massachusetts General Laws? ☐ yes ☐ no

If yes, specify: \_\_\_\_\_  
\_\_\_\_\_

20. Has the site ever been used for the disposal of hazardous waste? Has a 21E Study been conducted for the site? ☐ yes ☐ no

If yes, specify results: \_\_\_\_\_  
\_\_\_\_\_

21. Will the proposed activity require use and/or storage of hazardous materials, or generation of hazardous waste? ☐ yes ☐ no

If yes, specify results: \_\_\_\_\_  
\_\_\_\_\_

22. Does the project contain any buildings or sites of historic or archaeological significance? ☐ Yes  
☐ no

If yes, please describe \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. Circulation System**

23. What is the average weekday traffic and peak hour traffic volumes generated by the proposed subdivision?
- a. Average weekday: \_\_\_\_\_
- b. Average peak hour: \_\_\_\_\_ morning  
\_\_\_\_\_ evening
24. Existing street (s) providing access to proposed subdivision:  
Name \_\_\_\_\_ Classification \_\_\_\_\_
25. Existing intersection(s): list intersections located within 1000 feet of any access to the proposed development:  
  
Name of ways \_\_\_\_\_
26. Location of existing sidewalks within 1000 feet of the proposed site? \_\_\_\_\_  
\_\_\_\_\_
27. Location of proposed new sidewalks and their connection to existing sidewalks: \_\_\_\_\_  
\_\_\_\_\_

**C. Utilities and Municipal Services**

28. If dwelling units are to be constructed, what is the total number of bedrooms proposed?  
\_\_\_\_\_
29. If the proposed use of the site is nonresidential, what will the site be specifically used for and how many feet of Gross floor area will be constructed? \_\_\_\_\_
30. Storm Drainage
- a. Describe nature, location and surface water body receiving current surface water of the site:  
\_\_\_\_\_  
\_\_\_\_\_
- b. Describe the proposed storm drainage system and how it will be altered by the proposed development \_\_\_\_\_  
\_\_\_\_\_
31. In the event of fire, estimate the response time of the fire department (consult with Fire Dept.)
32. Schools (if residential)
- a. Projected number of new school age children.

**E. Measures to Mitigate Impacts**

Attach brief descriptions of the measures that will be taken to:

33. Prevent surface water contamination.
34. Prevent groundwater contamination.
35. Maximize groundwater recharge.
36. Prevent erosion and sedimentation.
37. Maintain slope stability.
38. Design the project to conserve energy.
39. Preserve wildlife habitat.
40. Preserve wetlands.
41. Ensure compatibility with the surrounding land uses.
42. Control peak runoff from the site so that the post-development rate of runoff will be no greater than the predevelopment in compliance with.
43. Preserve historically significant structures and features on the site.
44. Mitigate the impact of the traffic generated by the development.
45. Meet the 2008 Massachusetts Stormwater Handbook, or as subsequently amended.

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**COVENANT  
AUTHORIZING TOWN REPRESENTATIVES TO ENTER ONTO THE PROPERTY**

In consideration of the approval by the Planning Board, of the Town of Stow, Massachusetts, (hereinafter referred to as the Board), of a plan of land located in Stow, Middlesex County, Massachusetts entitled \_\_\_\_\_, dated \_\_\_\_\_, revised - \_\_\_\_\_, by \_\_\_\_\_, approved by the Board on \_\_\_\_\_.

The undersigned hereby covenant and authorize representatives of the Town of Stow to enter onto the property, identified on the above referenced plan, to the streets and ways, services and other aspects of the Plan in the event \_\_\_\_\_ does not complete the aforementioned according to its obligations and to indemnify said Representatives and the Town of Stow from any liability due to their actions, inactions or decisions with respect to their activities on said property.

(Owner/Developer)

Executed as a Sealed Instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Company)

By \_\_\_\_\_  
(Name – Authorized Agent)

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

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**DECLARATION OF PROTECTIVE COVENANTS  
and  
RESTRICTIVE AGREEMENT**

To facilitate the Plan of Ownership, herein established, to set forth standards for the ownership and sale of building lots ("LOTS") in Stow, Massachusetts, as hereinafter set forth, and to preserve and enhance the character of the community and the enjoyment of life therein,

\_\_\_\_\_, a Massachusetts Limited Liability Company  
of \_\_\_\_\_, \_\_\_\_\_ County, Massachusetts, its successors and  
assigns, hereinafter ("THE OWNER"), and all future owners of LOTS in the below described property, as  
hereinafter set forth, by their acquisition of title thereto, covenant and agrees, as follows:

**THE PROPERTY**

A certain parcel of land in Stow, Massachusetts, Middlesex County, located on \_\_\_\_\_  
in Stow, Massachusetts, consisting of Lots \_\_\_\_\_ inclusive, all as shown on a Plan entitled  
"Plan of Land in Stow, Massachusetts, Scale 1" = 50', dated \_\_\_\_\_, Revised  
\_\_\_\_\_, Engineer) \_\_\_\_\_ (Engineer's  
Address) \_\_\_\_\_", which Plan is recorded in the Middlesex South District Registry of  
Deeds as Plan \_\_\_\_\_ of \_\_\_\_\_ and to which plan is made for a more particular description.

Title reference of the Parcel is a Deed to \_\_\_\_\_ and recorded in the  
Middlesex South District Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_, Instrument  
\_\_\_\_\_ of \_\_\_\_\_, 2003.

The property shall henceforth be subject to the agreements, covenants, reservations, easements,  
charges and restrictions, hereinafter set forth, all for the benefit and protection of every owner of any  
LOT shown on the above referenced plan. These agreements, covenants, reservations, easements,  
charges and restrictions shall run with the land.

**RESIDENTIAL USE**

Each and every LOT shall be limited to uses allowed in the Residential District. No building or structure  
intended for or adopted for business purposes shall be erected, permitted or maintained on such  
premises or any part thereof and no dwelling shall be erected, placed or maintained on said premises or  
any part thereof, which is used for any purpose other than for residential use or otherwise not in  
conformance with relevant provisions of the Stow Zoning Bylaw.

**OPEN SPACE**

There is designed on the above referenced plan "Open Space Easement '\_\_\_\_\_', containing  
\_\_\_\_\_ sq. ft. on LOT \_\_\_\_\_ and "Open Space Easement '\_\_\_\_\_', containing \_\_\_\_\_ sq.  
ft. on LOT \_\_\_\_\_, designated as Open Space. The owners of the LOTS "\_\_\_\_\_" and "\_\_\_\_\_" agree that  
the portion of the LOT designated as Open Space shall not be built upon and no structure, fence or  
building shall be built upon that portion of the land. The land shall be maintained in its natural state. No  
trees may be cut in the open space other than dead or diseased trees. Underbrush may be cleared from  
time to time by the owners of the LOTS.

### **SPRINKLERS**

All houses or buildings designed on the LOTS shall be equipped with a residential sprinkler system. Said residential sprinkler system shall be of a type and size to be approved by the Fire Chief of the Town of Stow or his designee. No Occupancy Permit is to be issued by the Building Commissioner until after the sprinkler system is installed and approved.

### **COMMON DRIVEWAYS**

1. The above referenced plan shows \_\_\_\_\_ common driveways. One on the \_\_\_\_\_, which gives access to LOTS \_\_\_\_\_ and one on the \_\_\_\_\_, which gives access to LOTS \_\_\_\_\_. The Common Driveway on the \_\_\_\_\_ is located within a 50' portion of LOT \_\_\_\_\_ and that portion running \_\_\_\_\_ from \_\_\_\_\_ is the Common Driveway. The Common Driveway is located as shown on said Plan \_\_\_\_\_' from \_\_\_\_\_. The Common Driveway on the \_\_\_\_\_ across LOTS \_\_\_\_\_, as shown on the plan and extends to the \_\_\_\_\_, as shown on said Plan to the lot line of LOTS \_\_\_\_\_.
2. The Common Driveways are also to be used for the installation, repair and replacement of utilities to serve the respective lots and for a common drainage system, as described below.
3. Use of the Common Driveway by vehicle traffic shall be limited to ingress and egress and does not include the parking of vehicles on the common driveway, except that occasional overflow parking of guests' vehicles shall be permitted, provided that such vehicles are parked in a manner that does not impede traffic flow and that such parking does not extend overnight.
4. The owners of LOTS \_\_\_\_\_, as to the \_\_\_\_\_ Common Driveway and LOTS \_\_\_\_\_, as to the \_\_\_\_\_ Common Driveway, shall bear and have joint and several responsibilities and obligations for repair, maintenance, reconstruction and snowplowing of the Common Driveway, so as to provide continuous year-round access for vehicle traffic for the convenience of the owners of the LOTS and to provide continuous year-round access for all emergency, fire, rescue, police, moving, construction and maintenance vehicles.
5. The Town of Stow shall have no responsibility for the maintenance, repair or snowplowing of the Common Driveways or drainage system. See Section \_\_\_\_\_ of the Town of Stow's Planning Board Special Permit, recorded in the Middlesex South District Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_, Instrument No. \_\_\_\_\_ of \_\_\_\_\_.

### **COMMON DRAINAGE**

There is a drainage system for all of the LOTS shown on a Plan entitled "Plan of Land in Stow, Massachusetts, by \_\_\_\_\_, dated \_\_\_\_\_", on file with the Town of Stow Planning Board.

1. There are a series of detention basins on LOTS \_\_\_\_\_ and grassed swales and culverts shown on the Plan as "Detention Basins" \_\_\_\_\_ and \_\_\_\_\_. It shall be the obligation of the OWNERS of LOTS \_\_\_\_\_ to maintain, repair and replace components of the drainage system. Each of the OWNERS shall have the right of access over the other LOT for the purpose of maintaining the drainage system. The OWNERS of LOTS \_\_\_\_\_ shall equally divide the cost of maintenance and repairs.

2. There are a series of detention basins over LOTS \_\_\_\_\_ and grassed swales and culverts shown on the Plan as "Detention Basins" \_\_\_\_\_. It shall be the obligation of the OWNERS of LOTS \_\_\_\_\_ to maintain, repair and replace any components of the drainage system. Each of the OWNERS shall have the right of access over the other LOT for the purpose of maintaining the drainage system. The OWNERS of LOTS \_\_\_\_\_ shall equally divide the cost of maintenance and repairs.
3. The Town of Stow shall have no responsibility for the maintenance or repair of the drainage system.

### **TERMS**

Unless otherwise established for a longer period of time, the provisions created by this INSTRUMENT shall run with the land and insure to the benefit of and be enforceable by the OWNER and the OWNER of any LOT subject hereto, their legal representatives, heirs, successors and assigns, as respectively appropriate, for a period of thirty, (30), years from the date of this DECLARATION is recorded, after which time, such provisions shall be extended by agreements executed and recorded prior to the expiration of the initial period or of the extended period, executed by not less than two-thirds, (2/3), of the LOTS, subject to such provisions or by the Town of Stow, at its election with the absence of such agreement by the property owners of the LOTS affected thereby. Notwithstanding this Paragraph, all easements shall continue in perpetuity.

### **ENFORCEMENTS**

The OWNER and the Town of Stow shall have the right to enforce this DECLARATION. The OWNER and any other person lawfully entitled thereto may enforce this DECLARATION by proceedings at law or in equity against any person or persons violating or attempting to violate any restrictions or covenants herein. Such enforcement proceedings may seek any form of relief available, including a prayer to restrain the violation(s) or to recover damages, including the reasonable and necessary costs incurred by the OWNER or such other person in enforcing this DECLARATION and against the land to enforce any lien created by these COVENANTS. Failure of the OWNER or any other person lawfully entitled thereto to enforce any COVENANTS or RESTRICTIONS herein contained shall in no event be deemed a waiver of the right to do so thereafter.

### **ASSIGNMENT OF RIGHTS**

Any and all of the rights, powers, easements, duties and reservations of the OWNER under this Declaration may be assigned or transferred by the OWNER to an Association formed by the LOT OWNERS or any other person by instrument duly recorded in the Middlesex South District Registry of Deeds, which instrument shall be evidence of the Assignee's or such other person's consent in writing to accept such assignment and assume such duties.

### **SEVERABILITY**

Invalidation of any one of these Covenants or Restrictions by judgment or court order shall in no way or otherwise affect any of the other provisions, which shall remain in full force and effect.

**GOVERNING LAW**

This Declaration shall be construed, interpreted and applied in accordance with the Laws of the Commonwealth of Massachusetts.

Executed as a Sealed Instrument, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Company)

By \_\_\_\_\_  
(Name – Authorized Agent)

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**TRIPARTITE AGREEMENT**

In consideration of the mutual promises contained herein by and between \_\_\_\_\_, having a usual place of business at \_\_\_\_\_ (hereinafter referred to as "the DEVELOPER") and \_\_\_\_\_, a banking corporation having a usual place of business at \_\_\_\_\_, Massachusetts (hereinafter referred to as "the BANK") and the STOW PLANNING BOARD (hereinafter referred to as "the BOARD")

WITNESSETH:

WHEREAS, the DEVELOPER is installing ways and completing municipal services as shown on a certain Definitive Subdivision Plan entitled, " \_\_\_\_\_", Dated \_\_\_\_\_, Revised: \_\_\_\_\_. By \_\_\_\_\_, recorded with the Middlesex South District Registry of Deeds as Plan No. \_\_\_\_ of \_\_\_\_\_, showing \_\_\_\_\_ proposed lots.

WHEREAS, the DEVELOPER has executed a mortgage or related instrument to the BANK dated \_\_\_\_\_, in the original principal amount of \$\_\_\_\_\_ and recorded with the Middlesex South District Registry of Deeds ("Registry") in Book \_\_\_\_\_, Page \_\_\_\_\_;

WHEREAS, the BOARD requires certain performance guarantees that the installation of ways and completion services will be completed in accordance with its Rules and Regulations and said Definitive Subdivision Plans.

NOW THEREFORE, it is agreed as follows:

**Performance Guarantee/Tripartite Agreement**

1. The DEVELOPER will complete the construction of and installation of all municipal services and ways as shown on the aforesaid Plans in accordance with the applicable Rules and regulations of the BOARD;
2. In order to secure performance of the DEVELOPER'S obligations pursuant to the approved Definitive Subdivision Plans consisting of \_\_\_\_ sheets, Schedule A attached hereto, and a certain Covenant executed by DEVELOPER on \_\_\_\_\_, and duly recorded with the Registry in Book \_\_\_\_\_, Page \_\_\_\_\_, the BANK hereby agrees to withhold from the principal amount of the mortgage or loan the sum of \$\_\_\_\_\_ until municipal services shall have been installed and ways constructed pursuant to said plans, and none of such retained proceeds will be disbursed to the DEVELOPER except as authorized hereunder.
3. In the event that, in the sole opinion of the BOARD, performance of the aforementioned obligations are not completed satisfactorily in accordance with all the Plan, Profile and other sheets referred to above and Schedule "A" by \_\_\_\_\_ any funds remaining undisbursed by the BANK shall be immediately available to the BOARD for completion of said subdivisions and for payment of any legal expenses and/or fees incurred by the Town of Stow in order to accomplish completion of said subdivision.
4. The BANK will disburse funds to the DEVELOPER as the work progresses upon receipt by the BANK of release certificates endorsed by at least three members of the BOARD and said releases containing original signatures. The BANK shall have the right to rely on said written certificates from the BOARD without further inquiry and shall be relieved of liability to the DEVELOPER and the BOARD for its actions in reliance thereon. It is further agreed that failure on the part of the BOARD to execute the said written releases will not relieve the BANK from its agreement hereunder.
5. The BOARD shall have recourse to the BANK for all of the undisbursed funds, notwithstanding any transfer of title, assignment, judgment, bankruptcy, or imposition of lien by or against the DEVELOPER; all as set forth in Massachusetts General Laws, Chapter 41, Section 81U.

6. Upon completion of the DEVELOPER'S aforementioned obligations, all as satisfactory to the BOARD, the said DEVELOPER and BANK shall receive a written release of their agreement hereunder from the BOARD, and no funds whatsoever shall be released without the BOARD's written authorization as aforesaid.
7. This Tripartite Agreement shall not be extended beyond \_\_\_\_\_ provided however, that in the event that said funds remaining undisbursed by this agreement are, in the opinion of the BOARD, inadequate then this agreement will be extended by the BOARD to \_\_\_\_\_ only upon renegotiation of a bond figure satisfactory to the BOARD. In addition, said renegotiation shall take place prior to release of any funds contained in the last phase set forth on attached Schedule "A".
8. It is understood and agreed by the DEVELOPER and the BOARD that should work, at any time, be found deficient or in any manner not in substantial compliance with the Definitive Subdivision Plans or the applicable Rules and Regulations of the BOARD, the work shall be corrected at the expense of the DEVELOPER whether or not said deficiency was part of the work included in a work phase described in Schedule "A" attached hereto for which the BOARD previously issued a release certificate.

All three parties hereto agree that remaining monies retained by the BANK may be held and utilized by the BOARD for the purposes of correcting any project deficiencies or uncompleted work, including the costs for engineering and/or legal services.

IN WITNESS WHEREOF, the said parties have executed this Agreement and have hereunto affixed their seals.

DEVELOPER:

Dated: \_\_\_\_\_

\_\_\_\_\_

BY: \_\_\_\_\_

Dated: \_\_\_\_\_

BANK:

\_\_\_\_\_

BY: \_\_\_\_\_

TOWN OF STOW PLANNING BOARD

Dated: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

=====

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was: (\_\_\_) personally known to me to have the identity claimed; or (\_\_\_) examination of Massachusetts Driver's License, to be the person whose name is signed on the preceding or attached document in my presence, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

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## **APPENDIX B**

### **11.2 Appendix B**

Contains illustrations, details and charts pertaining plant species for cul-de-sac islands and typical tree planting details.

PLANT SPECIES FOR CUL-DE-SAC ISLANDS

TYPICAL TREE PLANTING DETAIL

## PLANT SPECIES FOR CUL-DE-SAC ISLANDS

**I. Tall Growing Deciduous Shade Trees** – Minimum of 6 feet above ground in height and caliper size 1 ¼ - 2 ½ ” at planting time. One tree per 400 sq. ft.

Acer Platanoides (Norway Maple)	Acer Rubrum (Red Maple)
Philodendron Amurense (Amur Cork)	Quercus Velutina (Black Oak) Larch
Quercus Palustris (Pin Oak) Zelkova	Quercus Borealis (Northern Red Oak)
Zelkova Serrata (Zelkova)	Larix sp. (Larch)
Gliditsia Triacanthos Inermis (Thornless Honeylocust “Skyline”)	Platanus Acerifolia (London Plane Tree)
Tilia Cordata (European Littleleaf Linden “Greenspire”)	Franxinu Pennsylvanica (Green Ash “Marshall’s Seedless”)

**II. Small Deciduous Ornamental Trees** – Minimum of 8 feet in height and caliper size 1” – 1.5” at planting time. One tree per 25 sq. ft.

Cornus Kousa (Japanese Dogwood)	Crataegus species (Hawthorn species)
Malus Species (Crabapple species)	Prunus Serrulata (Kwanzan Cherry)
Syringa Reticulata (Japanese Tree Lilac)	Prunus Subhirtella (Iligan Cherry)
Pyrus Calleryana (Bradford Pear, Redspire Pear)	

**III. Deciduous Shrubs for Screening Refer to Tree Warden’s List**

Syringa Vulgaris (Common Lilac)	Rosa Rugosa (Rugosa Rose)
Potentilla sp. (Potentilla)	Spirea sp. (Spirea)
Forsythia sp. (Forsythia)	Berberis Koreanna (Korean Bayberry)
Kerria Japonica (Kerria)	Philadelphus Virginalis (Mock Orange)
Viburnum Trilobum (American Cranberry Bush)	
Rhododendron P.J. M. (P.J.M Rhododendron)	

**IV Evergreen Shrubs for Screening**

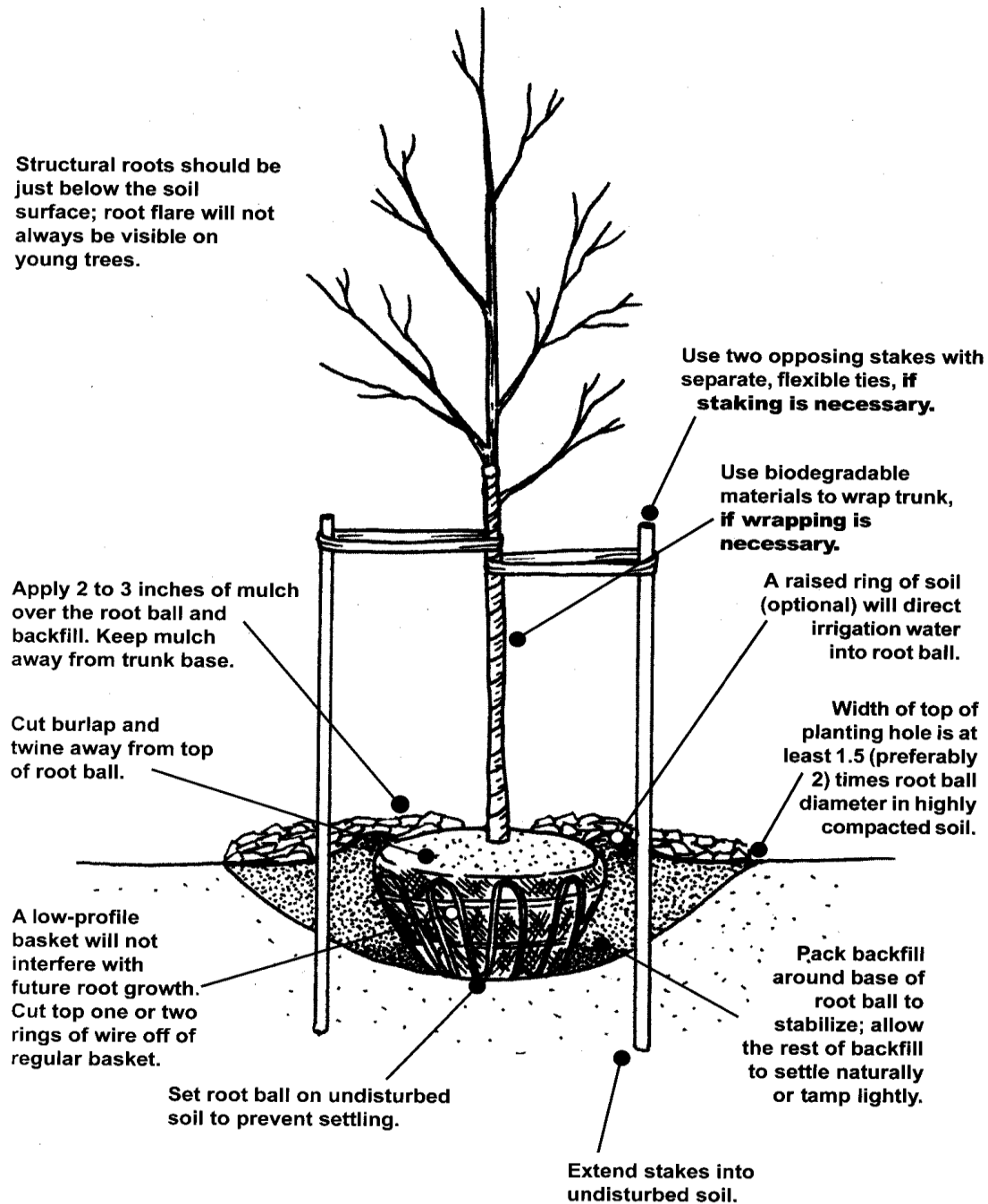
Taxus sp. (Yew)	Juniperus sp. (Juniper)
Pinus Mugo (Mugo Pine)	Thuja Occidentalis (American Arborvitae)

**V. Groundcovers**

Vinca Minor (Periwinkle)	Juniperus sp. (Low Junipers)
Pachysandra Termialis (Japanese Spruce)	Cotoneaster sp. (Ground Cotoneaster)
Hemerocallis (Daylilies)	

# Tree Planting Diagram

Structural roots should be just below the soil surface; root flare will not always be visible on young trees.



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