SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 FLEXIBLE RESIDENTIAL DEVELOPMENT

7.1.1 Purpose. The purposes of this section, Flexible Residential Development, are:

1. to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry and recreational use;

2. to respect and preserve historical and archaeological resources; to protect the features of the natural environment, including the Town's varied landscapes, water resources, stone walls and sites of significant species of plants and wildlife;

3. to protect the value of real property;

4. to promote more sensitive siting of buildings and better overall site planning;

5. to perpetuate the appearance of the Town's traditional New England landscape which is exemplified by large contiguous areas of forested wildlife habitat;

6. to facilitate the construction and maintenance of roads, utilities, and public services in a more economical and efficient manner;

7. to offer an alternative to standard subdivision development;

8. to promote the development of affordable housing; and

9. to promote the development of housing for persons over the age of fifty five.

7.1.2 Definitions. The following terms shall have the following definitions for the purposes of this section:

1. "Affordable to persons or families qualifying as low income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income.

2. "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

3. "Affordable Dwelling Unit" shall mean a dwelling unit affordable to persons or families qualifying as low or moderate income.

4. "Dedicated open space" shall mean open space suitable, in the opinion of the Planning Board, for the purposes set forth in sections 7.1.1 Purpose, 7.1.14 Dedicated Open Space and 7.1.15 Ownership of the Dedicated Open Space herein. Such open space may be separated by the road(s) constructed within the Residential Development. Dedicated open space shall not include required yards.

7.1.3 Applicability. In accordance with the following provisions, a Flexible Residential Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town.

7.1.4 Procedures. Flexible Residential Development may be authorized upon the issuance of a special permit by the Planning Board. Applicants for Flexible Residential Development shall file with the Planning Board seven (7) copies of the following:

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.

2. Where wetland delineation is in doubt or dispute, the Planning Board shall require appropriate documentation according to requirements of the Conservation Commission.

3. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.

4. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.

5. The Planning Board has adopted regulations pursuant to G.L. c. 44 § 53G and may engage consultants, including but not limited to lawyers, engineers, planners, landscape architects at the expense of the applicant in the review of Flexible Residential Development Plans.

7.1.5 Design Process. Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed roads, houselots and dedicated open space.

1. Understanding the Site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features.

2. Evaluating Site Context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands, woodlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

3. Designating the Dedicated Open Space. The third step is to identify the dedicated open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend other open space networks.

4. Location of Development Areas. The fourth step is to locate building sites, roads, parking areas, paths and other built features of the development. The design should include a delineation of private yards, roads and other areas, and shared amenities, to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.

5. Lot Lines. The final step is simply to draw in the lot lines (if applicable).

7.1.6 Design Guidelines. The layout shall, to the greatest extent feasible, achieve the following objectives:

1. Preserve and maintain existing fields, pastures, and woodlands.

2. Maintain or create a buffer of natural vegetation of at least one hundred (100) feet in width adjacent to banks associated with surface waters or waterbodies and bordering vegetated wetlands as defined in 310 CMR 10.00.

3. Leave unblocked or uninterrupted scenic views and vistas particularly as seen from public roads, special places or scenic ways.

4. Protect the habitat areas of species listed as endangered, threatened or of special concern.

5. Preserve stone walls, historic and prehistoric sites and their environs in so far as needed to protect the character of the site.

6 Maintain the visual integrity of hilltops and ridge lines by sighting development so that building silhouettes will be below the ridge line or hilltop or if the area is heavily wooded, the building silhouette will be at least sixty (60) feet lower than the average canopy height of trees on the ridge or hilltop.

7. Minimize road construction by utilizing common driveways wherever feasible.

7.1.7 Modification of Lot Dimensional Requirements. The Planning Board encourages applicants for Flexible Residential Development to modify lot size, shape, and other dimensional requirements for lots within a Flexible Residential Development, subject to the following limitations:

1. Lots having reduced area, width or frontage shall not have frontage on a road other than a road created by the Flexible Residential Development.

2. At least 50% of the required side and rear yards shall be maintained in the Flexible Residential Development. Buffer Areas required in section 7.1.16 shall not be allowed to be used for required front, side or rear setbacks.

7.1.8 Basic Maximum Number of Dwelling Units. The Basic Maximum Number of Dwelling Units allowed in a Flexible Residential Development shall not exceed the number of lots that could reasonably be expected to be developed upon the site under a conventional subdivision plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

7.1.9 Density Bonus. The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number of Dwelling Units determined under the requirements of subsection 7.1.8. This density bonus may only be awarded in the following circumstances and may be awarded for additional open space only, over 55 age-restricted housing only, or a combination of additional open space and age-restricted housing:

1. Any dwelling units awarded as a density bonus shall be deed-restricted to no more than three bedroom units.

2. Computations shall be rounded to the lowest number.

3. Open Space Density Bonus: Subject to the density bonus cap, (7.1.9.5) for each ten percent (10%) of the entire site, over and above the required forty percent (40%) set aside as dedicated open space, the density bonus may be up to five (5%) percent of the Basic Maximum Number of Dwelling Units.

4. Age-Restricted Housing Density Bonus: Subject to the density bonus cap, (7.1.9.5) for every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus.

5. Density Bonus Cap: The density bonus for the Flexible Residential Development shall not, in the aggregate, exceed twenty (20%) percent of the Basic Maximum Number of Dwelling Units determined under the requirements of subsection 7.1.8.

7.1.10 Affordable Component. As a condition of the grant of a special permit for a Flexible Residential Development project of 10 dwelling units or greater, dwelling units shall be deed-restricted for a period not less than thirty (30) years in the following manner:

1. 10% of the units shall be Affordable Dwelling Units.

The Affordable Dwelling Units shall be in addition to those otherwise available as part of the Basic Maximum Number and shall not be computed as part of any density bonus. The thirty year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to a local qualified entity for a period not less than 120 days after notice thereof.

7.1.11 Types of Buildings. The Flexible Residential Development may consist of a combination of single-family, two-family and multifamily residential structures.

1. Multifamily structures:

   a. Multifamily structures shall not contain more than four (4) dwelling units.

   b. The Planning Board may limit the number of multi-family structures.

   c. The architecture of all multifamily buildings shall be residential in character, such as gabled roofs, predominantly wood siding, an articulated footprint and varied facades.

2. Accessory structures that serve community needs such as maintenance facility , recreation and health facility, meeting place and pool building.

7.1.12 Roads. The principal roadway(s) serving the site shall be designed to conform to the subdivision standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town.

1. Private Ways: The principal roadway serving the site may be a private way. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant. At a minimum, the following conditions shall apply to private ways:

a. The private way shall remain permanently a private way, shall not be proposed for acceptance by the town and shall not be extended;

b. The private way shall not be connected to any other way except where it originates on a public way;

c. All lots created by the Flexible Residential Development shall obtain access exclusively from the private way and not the public way serving the locus;

d. A staging area shall be provided to promote ease of access from the private way to the abutting public way, and to minimize the discharge of water and sediment from the private way onto the abutting public way. The staging area shall be at least 40 feet in length from the edge of the public way, with a minimum width of 20 feet in accordance with the Subdivision Regulations, and sloped not more than 6% grade for the 40 feet it extends from the public way. Where the public way is paved the staging area shall be paved. Where the public way is unpaved, the staging area may be allowed to be unpaved;

e. The private way shall have a centerline intersection with the road centerline of not less than 60 degrees;

f. The private way shall have a roadway surface, on that portion of the private way extending beyond the staging area, of a minimum of 6 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown, where appropriate; provided, however, that the applicant may seek a waiver of this provision upon a demonstration that alternative construction standards meet the access and safety standards of this provision;

g. The private way shall have proper drainage appurtenances, where required, to prevent washout and excessive erosion, with particular attention to the staging area, so that water draining onto the road surface from the staging area is eliminated to the maximum extent feasible;

h. The private way shall have a traveled way surface, on that portion of the private way extending beyond the staging area, with a minimum width of 16 feet for its entire length, and a minimum maintained right-of-way width of 30 feet for its entire length;

i. The turnaround for a private way shall not exceed 30 feet in depth and 40 feet in width provided at the end of the private way;

j. The private way shall have a buffer zone of not less than 30 feet in width of indigenous vegetation separating the private way right-of-way from any pre-existing lot line;

k. In accordance with the provisions of G. L. c. 40 § 6N the town may make temporary repairs on private ways even though said private way shall not be accepted by the Town;

l. For private ways conveyed to a homeowners association, the following shall apply:

Ownership of any lot shown on the Flexible Residential Development shall constitute membership in a homeowners association responsible for all liability, maintenance and snow removal from the private way. This condition shall be placed in the deed to each lot. The documents establishing the homeowners association and all deeds shall be approved as to form by the Planning Board's legal counsel prior to execution.

The homeowners association shall indemnify, hold harmless and release the Town from liability for any damages resulting from an action brought by a third party or the association in any court due to the repair, use, or maintenance of the private way.

7.1.13 Parking. Each dwelling unit shall be served by a minimum of two (2) parking spaces which shall not be on any traveled way or common driveway. Parking spaces in front of garage entryways may count in this computation.

7.1.14 Dedicated Open Space. A minimum of forty percent (40%) of the parcel shown on the development plan shall be dedicated open space. Any proposed dedicated open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or passive recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

1. The percentage of the dedicated open space which is wetlands shall not exceed the percentage of the tract which is wetlands. In no case, however, shall the percentage of dedicated open space which is wetlands exceed fifty (50%) of the tract.

2. The dedicated open space shall be used for conservation, historic preservation and education, outdoor education, passive recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for

such purposes. The dedicated open space shall remain unbuilt upon. However, the Planning Board may permit up to ten (10%) percent of such dedicated open space to be developed for facilities accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.

3. Underground utilities to serve the Flexible Residential Development site may be located within the dedicated open space.

4. The dedicated open space may include the Buffer Area required in section 7.1.16.

7.1.15 Ownership of the Dedicated Open Space. The dedicated open space shall, at the discretion of the Planning Board be conveyed to:

1. the Town or its Conservation Commission; or

2. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or

3. a corporation or trust owned jointly or in common by the owners of lots within the Flexible Residential Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

7.1.16 Buffer Areas. A buffer area of fifty (50) feet shall be provided at the perimeter of the property, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance.

1. Buffer Area Waiver. The Planning Board may waive the buffer requirement under the following conditions:

a. where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least twenty five (25) feet in depth; or

b. where the land abutting the site is held by the Town for conservation or

recreation purposes.

7.1.17 Drainage. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board and the Massachusetts Department of Environmental Protection's Stormwater Management Standards.

7.1.18 Decision. The Planning Board may approve, approve with conditions, or deny an application for a Flexible Residential Development after determining whether the Flexible Residential Development better promotes the purposes of Section 7.1.1 of this Flexible Residential Development By-Law than would a conventional subdivision development of the same locus.

Any changes to the terms of the Special Permit shall require a new Special Permit application.

7.1.19 Relation to Other Requirements. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

7.2 COMMON DRIVEWAYS

7.2.1 Common Driveways. Common driveways serving not more than two (2) residential lots may be allowed by Special Permit issued by the Planning Board provided all of the following conditions are met, except that the Planning Board may require greater site distances, greater road line angles and lesser grade at the road where safety so requires:

1. Frontage requirements: Common driveways can never be used to satisfy frontage requirements. Each lot served by a common driveway shall have frontage on a road which serves to satisfy frontage requirements under these By-Laws.

2. Access:
   a. Common driveways shall provide access to the lots from the road on which the lots served have their frontage.
   b. All Common driveways and accompanying driveway to each residence served by the common driveway shall be constructed in a manner ensuring reasonable and safe access from the road serving the premises to within a distance of 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles.

3. State highways: Entrances on state highways shall conform to Massachusetts Highway Department Standards and Regulations.

4. Location:
   a. Common driveways should be located to the best advantage to alignment with the road, profile and site conditions.
   b. No common driveway shall be located within 100 feet of an intersection.
   c. The common driveway shall be located entirely within the boundaries of the lots being served by the driveway.
   d. The common driveway shall not be located within ten (10) feet of any side or rear lot line of any lot not served by the common driveway.

5. Sight distance: A clear sight distance of at least 65 feet should be maintained on either side of the common driveway at its point of intersection with the road.

6. Road line angle: The intersection with the road line shall not be less than 45 degrees.

7. Grade at road: The grade of each common driveway where it intersects with the road shall not exceed six percent (6%) for a distance of 20 feet from the travel surface of the road. The Planning Board may grant a Special Permit for a driveway in excess of this requirement after determination that said driveway will provide safe and reasonable access, including access for fire, police and emergency vehicles.

8. Distance: Common driveways exceeding a distance of five hundred feet shall include provisions for safe and reasonable access for fire, police and emergency vehicles. Pull-offs of adequate width to allow vehicles, including emergency response vehicles, to pass freely shall be provided a maximum of every 500 feet. Pull-offs may be required at shorter distances than 500 feet to provide for safe and reasonable access depending on conditions.

9. Minimum width: A minimum cleared width of 12 feet shall be maintained over the entire length.

10. Driveway surface: A surface application of a minimum of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed.

11. Drainage:
   a. Common driveways shall be so constructed that water from the driveway shall not drain onto the road or abutting properties not served by the common driveway.
   b. In no instance shall the edges of the common driveway entering into the road hinder the flow of the road surface water runoff
   c. Culverts, taking the place of roadside ditches, shall have a diameter per Highway Department requirements.

12. Environmental stabilization: Any adjacent disturbed areas during construction of a common driveway shall be stabilized. It shall then be planted with ground cover.

13. Long-term responsibility: Proposed documents shall be submitted to the Planning Board demonstrating that, through deeded easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

14. Address number: The address number of the residences served by the common driveway shall be clearly displayed at the intersection of the common driveway with the road.

15. Applicable permits: Common driveways must comply with all applicable driveway permits.

7.2.2 Special Permit Application. A Special Permit application for a common driveway shall include the following information:

1. A plan showing the location of the residences, the location of the common driveway and location of driveways serving the premises. Said plan shall be at a scale of 1" = 100 feet and include proposed topography at 10 foot or 3 meter contour intervals.

2. A description of the proposed construction as far as it encroaches upon or affects the road and its shoulders, banks, ditches, drainage and other features.

3. Proposed measures to reduce, disperse and delay the runoff or otherwise protect the road.

4. Proposed measures to reduce, disperse, delay and infiltrate the runoff from the common driveway.

7.3 REAR LOTS

7.3.1 Rear Lots. Rear lots for single family residential dwellings may be authorized upon the issuance of a special permit by the Planning Board. Individual rear lots need not have the required minimum lot frontage specified in section 4.2.2, provided that all of the following conditions are met for each individual lot lacking such frontage:

1. The minimum lot area of said lot is at least 1.5 times the minimum lot area as specified in section 4.2.1;

2. The minimum lot frontage is not less than 50 feet;

3. The minimum lot width is at no point less than 50 feet;

4. The front line of the principal building on the lot is designated on the plan, and the minimum lot width at that line equals or exceeds the number of feet required in section 4.2.3.

5. The driveway serving the rear lot is at no point less than 20 feet from an abutting property line. This does not include the front lot side property line;

6. Access shall be by Common Driveway, as specified is Section 7.2;

7. At the time of the creation of the rear lot, it shall be held in common and contiguous ownership with the front lot;

8. Not more than one (1) rear lot shall be created from a property, or a set of contiguous

properties held in common ownership as of October 18, 2008;

9. No further division of said property or properties shall be permitted after the creation of a rear lot. Documentation to this effect shall be submitted to the Building Inspector. The Building Inspector shall not issue a building permit for any rear lot without first establishing that compliance with this provision has been determined by the Planning Board and a written statement provided to the Building Inspector from the Planning Board.

10. The front lot shall comply with all dimensional requirements specified in section 4.2. unless modified herein;

11. The front, rear and side setbacks of the rear lot shall equal or exceed those required in section 4.2.

7.3.2 Special Permit Application. A Special Permit application for a rear lot shall include the following information:

1. A plan stamped by a Registered Surveyor showing the location of the residences, utilities and driveways serving the front lot and rear lot. The plan shall show the location of the Common Driveway. Said plan shall be at a scale of 1" = 100 feet and include proposed topography at 10 foot or 3 meter contour intervals.

2. The application shall contain the information required in section 7.2.2.

3. Applications for a Rear Lot served by a Common Driveway shall comply with the requirements of 7.2.1. Provided the application meets the requirements specified in sections 7.2.1 and 7.3.1, the Planning Board may issue a combined special permit for a Rear Lot and Common Driveway.