

# TOWN OF WILBRAHAM STRATEGIC PLANNING PROJECT

## Final Report

Boston Road Commercial Corridor  
Wilbraham Mountain  
Affordable Housing

June, 1989

### PREPARED FOR:

Wilbraham Planning Board & Strategic Planning Task Force  
Town Office Building  
Springfield Road  
Wilbraham, Massachusetts

### PREPARED BY:

**IEP** inc.

6 Maple Street  
P.O. Box 780  
Northborough, Massachusetts  
(508) 393-8558

This project was funded through a Strategic Planning Grant Awarded by  
The Massachusetts Executive Office of Communities and Development.

# TOWN OF WILBRAHAM STRATEGIC PLANNING PROJECT

## Wilbraham Planning Board

Mr. James McEathron, Chairman  
M. Trant Campbell  
Frederic Fuller III  
Robert Gaynor  
Edward Stevenson

John M. Pearsall, Town Planner  
Dorcas Roy, Planning Board Secretary  
Stanley Koziol, Building Inspector/Zoning Officer

## Strategic Planning Task Force

Richard Butler  
Cathy Cahill  
Peter Gamelli  
Harry Labadorf  
Larry Landry



6 Maple Street  
P.O. Box 780  
Northborough, Massachusetts  
(508) 393-8558

Project Staff:  
Robert A. Weitz  
Frederick S. Taintor  
MaryJo Moubry

**TABLE OF CONTENTS**

**BOSTON ROAD COMMERCIAL CORRIDOR**

INTRODUCTION ..... 1

ISSUE IDENTIFICATION.....2

    Boston Post Road Land Use and Buildout Analysis.....2

        Introduction.....2

        Methodology.....2

        Results.....3

        Summary.....4

        Recommendations .....5

    Traffic Generation

REVIEW OF EXISTING LAND-USE REGULATIONS.....8

    Use Regulations.....8

        All Special Permit Use Districts.....8

        Imprecise Use Regulations.....8

    Nonconforming uses.....9

    Intensity Regulations.....9

    Off-street parking.....9

    Site Design Standards.....10

        Setbacks (Yards).....10

        Frontage.....10

        Screening.....11

        Landscaping.....11

        Sign Regulations.....12

    Review Mechanisms.....12

        As-of-Right Uses in Nonresidential Districts.....12

        Special Permits for Density Increases.....12

        Site Plan Review.....12

    Miscellaneous.....13

        Noise.....13

    Policy Options .....15

        Development Intensity Controls.....15

            Floor Area Ratio (FAR).....15

            Off-street parking requirements .....16

            Restrictions on structured parking.....16

        Development Patterns.....16

            Rezoning.....16

            Transfer of Development Rights.....17

        Design Standards .....17

            Setback requirements.....17

            Maintenance of landscaped front yards.....18

            Parking location and screening.....18

            Driveways and curb cuts.....18

            Illustrative Approach

                Downzoning, Nodal Development, and Design Standards....18

                Reduction in Overall Development Intensity.....19

                Concentration of Development Through Transfer of Development Rights...19

                Mixed-Use Developments.....20

DRAFT REGULATORY OPTIONS.....21

FINAL RECOMMENDED REGULATORY CHANGES.....28

**WILBRAHAM MOUNTAIN ENVIRONMENTALLY SENSITIVE AREA**

ISSUE IDENTIFICATION ..... 35

REVIEW OF EXISTING LAND-USE REGULATIONS

WILBRAHAM MOUNTAIN ENVIRONMENTALLY SENSITIVE AREA ..... 37

    Residential Densities ..... 37

    Flexible Subdivision..... 38

    Non-Subdivision Plans -- Flexible Requirements ..... 38

    Environmental Impact Analysis ..... 38

    Ridgeline Protection Overlay District ..... 39

    Subdivision Rules and Regulations ..... 39

        Plan Submission Requirements ..... 39

        Submission requirements for Approval Not Required Plans ..... 39

        Preliminary Plan Topographic plan ..... 39

        Definitive Plan ..... 39

    Design and Construction requirements..... 39

    Storm Water Management..... 40

    Miscellaneous Comments ..... 40

RECOMMENDED POLICY OPTIONS ..... 41

DRAFT REGULATORY OPTIONS..... 43

RECOMMENDED REGULATORY CHANGES ..... 65

**AFFORDABLE HOUSING**

ISSUE IDENTIFICATION ..... 85

    LAND USE REGULATION..... 85

        Incentive Zoning (Density Bonus)..... 85

        Rezoning..... 86

        Accessory Dwellings ..... 86

        Comprehensive Permit..... 86

        Dwelling Type..... 86

        Planned Developments..... 87

        Linkage ..... 87

    OTHER REGULATORY CONTROLS..... 87

        Rent Controls ..... 87

        Use Covenants and Deed Restrictions ..... 87

    TAXATION POLICIES..... 87

        Classification..... 87

        Exemptions..... 87

        Assessment Practices..... 88

        Chapter 121A ..... 88

        Real Estate Transfer Tax..... 88

    LAND ACQUISITION STRATEGIES..... 88

        Tax Foreclosure..... 88

        Voluntary Sales/Donations..... 88

REVIEW OF EXISTING LAND-USE REGULATIONS AFFORDABLE HOUSING..... 89

    Use Regulations..... 89

        Two-Family Conversions..... 89

        Multiple Family Dwellings..... 89

    Intensity Regulations ..... 89

        Regulation of Interior Area of Single Residences..... 89

        Maximum Size of Multiple Dwelling Units..... 90

    Site Design Standards..... 90

        Flexible Subdivision Provisions ..... 90

LAND USE REGULATION.....	91
Incentive Zoning (Density Bonus).....	91
Characteristics of Method.....	91
Relationship to Chapter 40B.....	92
Linkage.....	93
Characteristics of Method.....	93
Relationship to Chapter 40B.....	93
Accessory Dwellings.....	94
Characteristics of Method.....	94
Relationship to Chapter 40B.....	94
Comprehensive Permit.....	94
Characteristics of Method.....	94
Relationship to Chapter 40B.....	95
Dwelling Type.....	96
Characteristics of Method.....	96
Relationship to Chapter 40B.....	96
OTHER REGULATORY CONTROLS.....	96
Use Covenants and Deed Restrictions.....	96
Characteristics of Method.....	96
Relationship to Chapter 40B.....	97
TAXATION POLICIES.....	97
Classification.....	97
Characteristics of Method.....	97
Relationship to Chapter 40B.....	97
Exemptions.....	97
Characteristics of Method.....	97
Relationship to Chapter 40B.....	97
Assessment Practices.....	97
Characteristics of Method.....	97
Relationship to Chapter 40B.....	98
Chapter 121A.....	98
Characteristics of Method.....	98
Relationship to Chapter 40B.....	98
Real Estate Transfer Tax.....	98
Characteristics of Method.....	98
Relationship to Chapter 40B.....	98
Tax Foreclosure.....	98
Characteristics of Method.....	98
Relationship to Chapter 40B.....	99
FINAL RECOMMENDED REGULATORY CHANGES.....	102

## INTRODUCTION

The Wilbraham Strategic Planning Project was funded to provide analysis and recommendation on the adequacy of zoning and other land-use controls relative to three focus issues:

- Commercial Development along Boston Road (Route 20)
- Environmentally Sensitive Area Protection on Wilbraham Mountain
- Affordable Housing

The work product of this project was a set of Environmental Constraints maps for the Wilbraham Mountain area and a series of working papers and reports as follows:

- Issue Identification
- Analysis of Wilbraham Land Use Regulations
- Recommended Policy Options
- Draft Regulatory Revisions
- Final Regulatory Revisions

This final report document is a compilation of those reports and working papers and is presented here in the chronological order in which they were presented to the Strategic Planning Steering Committee by each of the three focus areas.

**This project was funded through a Strategic Planning Grant awarded by the Massachusetts Executive Office of Communities and Development.**

**ISSUE IDENTIFICATION**  
**BOSTON ROAD COMMERCIAL CORRIDOR**

**Boston Post Road Land Use and Buildout Analysis**

**Introduction**

The location and amount of commercial, industrial and residential development which can occur along Route 20 is determined through the Town of Wilbraham's land use regulations. A buildout analysis is performed to identify the amount of commercial, industrial and residential growth that is "programmed" by current zoning bylaws and subdivision rules and regulations. The assumption for planning purposes is that a municipality will buildout in accordance with its existing growth regulations.

IEP, Inc. completed a land use analysis and developable lot study of Route 20 to determine the location and form of existing commercial, industrial and residential development, and the potential amount of additional commercial and industrial and residential development which could occur, along this corridor. This analysis reveals the current pattern of development along Route 20, projects where future development along this corridor will likely take place, and estimates the amount of additional non-residential square footage and additional residential lots which the Town may have to serve when it reaches maximum buildout.

**Methodology**

Information used to complete the Route 20 land use and build-out analysis included the following: assessor's maps, assessor's appraisal sheets, zoning ordinance, zoning map, phone interviews with members of the Town assessors and planning departments, and site visits. This information was used to identify current uses along Route 20; and to estimate the amount of additional commercial, industrial and residential development which can be built given current land use regulations in Wilbraham.

The following is a description of the methodology and assumptions used to perform the buildout on an address basis for lots fronting on Route 20 in Wilbraham:

1. Two sets of information were used in the analysis:
  - Zoning requirements for minimum lot area and minimum lot frontage for all applicable zoning districts; and the percent allowable lot coverage and the allowable number of building stories in each applicable non-residential zoning district.
  - Parcel area, frontage on public ways, zoning for each parcel, current land use, and the current enclosed gross area of existing, completed commercial and industrial buildings.
2. It was assumed that all lots will be serviced by public sewer or can meet Title V (310 C.M.R. 10.00) standards.
3. For lots which cross differing zoning districts, the amount of land area within each district was estimated to determine the type and level of development allowed throughout the parcel. The two sections of the lot were listed as "A" and "B". The entire piece of land was assumed to have access to the lot's street frontage for development purposes.
4. Lots which did not meet zoning requirements for minimum road frontage, or lot area were assumed to be undevelopable.

5. It was assumed that owners of lots which do meet dimensional requirements for further development, or owners of lots with existing commercial or industrial buildings which wish to maximize the size of their building will receive building permits.
6. For commercial and industrial uses:
  - The maximum building area per lot was calculated by multiplying the lot area by the number of allowed stories and allowable percent coverage.
  - Due to the relatively low allowable lot coverage, it was assumed that all lots would be able to accommodate the required amount of parking required.
  - The potential amount of additional commercial or industrial square footage which can be built on each lot was calculated through: computing the difference of the total amount of allowable building square footage allowed per lot, and the actual existing amount of building square footage on the lot. It was assumed that current residential uses would be completely converted to commercial, industrial or office use at buildout.
7. Developable residential lots included:
  - Developed lots which contain enough additional land area and square footage to meet zoning requirements for further division.
  - Vacant lots which meet dimensional zoning requirements, or lots which have at least 5,000 square feet of land area and 50 feet of frontage and were assumed to be grandfathered.
8. The number of residential lots which can be created at a given address was based on the area and frontage of the lot. The total area and frontage was divided by the minimum lot size and frontage for zoning. The smaller of the two numbers was the maximum number of lots that may be created in that lot. The number of additional developable lots was the difference between the current number of lots and the existing number of developed lots. Vacant lots were not counted as developed residential lots (i.e. 5 total - 1 current residence = 4 additional residential lots; 5 total - 0 current residences = 5 additional residential lots).

## Results

Route 20 contains a mixture of land uses and zoning districts. Residential uses are interspersed throughout the corridor, with the eastern section of the corridor (east of nine mile pond) being devoted primarily to residential uses. Fifty-four lots are currently developed for residential purposes among lands located within the residential zoning districts. In addition, there are 42 residential uses currently located in Route 20's commercial, industrial and office districts. It is expected that these residences will eventually be converted to non-residential uses. Commercial uses are located throughout the Route 20 corridor, although most are concentrated just east of Nine mile pond near the Springfield town border. There are seven industrial developments located along Route 20 and five offices. Many lots are currently undeveloped.

The types of uses which exist along Route 20 have been determined either through information obtained by the Town's assessors department or through conducting site visits. Table 1 presents a list of the land uses present along Route 20, and Tables 2 and 3 present a breakdown of land uses by address. Industrial land uses consist of general manufacturing and warehousing. There are a variety of commercial uses, with general retail trade being the most dominant use. Other commercial uses include motels, recreational facilities and storage and warehouse facilities. Residential development along Route 20 is nearly exclusively single family. One apartment complex exists on land zoned in the General Business (GB) district.

A buildout analysis was completed to predict how the location and intensity of Route 20's land uses will change over time. Given Wilbraham's present land use regulations, the amount of additional development allowed under current land use regulations was estimated and is presented below by zoning district:

Potential Buildout Area in Commercial, Industrial and Office Districts

<u>Zoning</u>	<u>Current Sq. Footage</u>	<u>Available Sq. Footage</u>	<u>Total Potential Sq. Footage</u>
GB	512,563	7,927,785	8,440,348
I-POPGB	289,428	3,276,394	3,565,822
LB	0	491,958	491,958
<b>TOTAL</b>	<b>801,991</b>	<b>11,696,137</b>	<b>12,498,128</b>

Potential Buildout Lots in Residential Districts

<u>Zoning District</u>	<u>Current number of developed lots</u>	<u>Number of further developable lots</u>	<u>Estimated Number of additional lots</u>	<u>Total potential lots</u>
R26	45	13	16	61
R34	1	2	4	5
R40	8	1	1	9
RMD	0	1	1	1
<b>TOTAL</b>	<b>54</b>	<b>17</b>	<b>23</b>	<b>76</b>

\* According to zoning requirements, 8 multi-family units may be developed per acre if municipal sewer is provided. This would allow a 226 units development on this lot.

A complete listing of developable space by address along Route 20 is presented in Table 2.

Calculations reveal that an estimated 12,498,128 square feet of building space will occur at buildout in Wilbraham's commercial, industrial and office districts. In the residentially zoned districts, 76 residential lots and a multi-family development capable of supporting 226 multi-family units<sup>1</sup> will occur along Route 20 at maximum buildout. This means that a considerable amount of development may be built in the future along Route 20. There is a possibility of a 14-fold increase in commercial, industrial and office space, and a 40.7% increase in residential lots.

The effect of this level of development on along Route 20 on traffic patterns can be predicted. Using trip generation statistics supplied by the Institute of Transportation Engineers (1983), it was determined that existing development along Route 20 currently produces an estimated 35,286 average weekday trips (Table 3). In general, business development generates the highest number of trips per day, and residential uses generates the lowest number of daily trips. Maximum development at buildout will result in approximately 844,525 additional trips or a total of 879,811 average weekday trips per day. These projections indicate that at buildout, there will be a 24-fold increase in traffic trips on Route 20. Route 20 currently experiences congestion during the early morning and early evening hours when people travel to and from work. If development follows the towns current "blueprint for development", Route 20 will be unable to support the level of traffic demand placed on it.

**Summary**

Boston Road has seen continued development spreading eastward from the Eastfield Mall area of Springfield. In the last ten years a substantial number of new highway oriented businesses have located new facilities in Wilbraham: Small Shopping Centers, Auto Dealerships, Restaurants, etc. Current Zoning allows for more than four times as many parcels to be used for

<sup>1</sup>This figure assumes the development will be service by public sewer.

commercial/industrial purposes as at present and 14 times as much leasable space. If development saturates at anywhere near the level of development that the current by-laws suggest is desired the result will be:

- The continued expansion of an unattractive commercial strip
- Severe traffic congestion
- Numerous heavily used curb-cuts creating serious traffic dangers

**Recommendations**

The town should consider:

- Reducing the amount of Commercial Space that ultimately can be created along Boston Road to a reasonable amount.
- Adopt provisions which prevent some of the problems associated with Commercial Strips, such as excessive signage, numerous curb cuts and unsightly structures

Explanation of the Wilbraham Buildout Tables

The buildout Table includes the quantitative analysis of the potential for land development along Route 20 in the Town of Wilbraham. Below is a column-by-column breakdown of the information presented in Tables 1 and 2. Please refer to the "Methodology" section of this report for further classification of terminology.

**Table 2: Route 20 Buildout**

Column

- 1: Address of lots fronting Boston Post Road
- 2: Zoning district:

GB=	General Business
LB=	Limited Business
I=I-POPGB=	Industrial-professional office park-general business
R26, R34, R40=	Residential districts
RMD =	Residential multifamily district

- 3: Total square foot area of the lot
- 4: Total street frontage measured in feet

*Commercial, office and Industrial Use Information (#5-10)*

- 5: Maximum enclosed building area allowed in the lot
- 6: Current land use (see Table 2 for breakdown of land use codes)  
\* = indicates that a use is shared between land in two zoning districts
- 7: Existing amount of building area in square feet on the lot  
N/A = not applicable (residential uses assumed to have no applicable existing building area)
- 8: States whether the lot meets zoning requirements for further development:  
1 = developable  
0 = not developable
- 9: The amount of additional square foot building area allowed per lot based on current zoning
- 10: The percent change in the amount of square footage which will occur at buildout

**Residential Use Information (#11-12)**

- 11: States whether the lot is currently developed for residential purposes:  
 1 = developed  
 2 = not developed (vacant land)
- 12: Estimated number of additional residential lots which can be created

**Table 3: Route 20 Traffic Generation**

- 1: Address
- 2: Zoning district
- 3: Existing trip generation
- 4: Buildout trip generation
- 5: Potential number of additional new trips beyond the existing level which will occur at buildout.

**Traffic Generation:**

The potential number of average weekday trips per lot at buildout was estimated using Institute of Transportation Engineers traffic generation rates.

<b>Traffic Generation Rates:</b>		
<u>Land Use</u>	<u>Traffic Generation Rate</u>	<u>Applicable Land Use Codes</u>
<b><u>Residential:</u></b>		
single family	10/unit	101,104,105,109
apartment	6.1/unit	111
<b><u>Retail</u></b>		
specialty retail center	40.7 /1000 sq. ft.	323
discount stores	70.1/1000 sq. ft.	325, 0310, 0322
new car sales	47.5/1000 sq. ft.	330
service station	748/unit	331, 332, 334
high turnover sit-down restaurant	164.4/1000 sq. ft.	326
motel	10.14/room	301
recreational	3.6/acre	370,375, 376,377
warehousing	4.88/1000 sq. ft.	311,313,316
<b><u>Office</u></b>		
general medium size office	14.3/1000	340
<b><u>Industry</u></b>		
average manufacturing	5.5/1000	400,407

- The present level of trips was calculated to be the multiple of the land use trip generation rate and the existing building square footage (or units for residential uses, service stations, etc. or acres for recreational uses). In the case of multiple uses, the average of the applicable rates was used in cases where all uses shared the same building.
- Since traffic generation rates were unavailable for each zoning district, the most applicable average traffic generation rates were used. Zoning districts were assumed to have the following traffic generation rates:

<u>Zoning District</u>	<u>Traffic Generation Rate</u>
GB	70.1/1000 sq ft (discount store classification)
I-POPGB	29.97/1000 sq ft **
LB	5.46/1000 sq ft (light industrial)
R26	10/unit (single family classification)
R34	10/unit (single family classification)
R40	10/unit (single family classification)
RMD	6.1/unit (apartment classification)

\*\* Average of rates for general office, manufacturing and discount business stores.

- The maximum number of trips at buildout was calculated as the multiple of the zoning district traffic generation rate and the maximum building square footage (or maximum number of units for residential uses).
- The additional number of trips at buildout was calculated as the difference between the maximum number of trips and the existing number of trips.

<b>REVIEW OF EXISTING LAND-USE REGULATIONS BOSTON ROAD COMMERCIAL CORRIDOR</b>
--

This section summarizes the results of our analysis of Wilbraham's Zoning By-Laws as they affect development in the Route 20 commercial corridor. In addition, several of the points discussed below relate to the Town's zoning regulations affecting other areas, specifically the Neighborhood Office and Neighborhood Shopping districts. While our analysis has focused on the Route 20 corridor, our recommendations for amendments should be applied throughout the By-Laws, in order to improve consistency and coherence and to minimize repetition.

## USE REGULATIONS

### All Special Permit Use Districts

The basic use regulation in the Town's commercial and industrial districts is contrary to Massachusetts land use law. Section 5.1 of the Zoning By-Laws states:

In N[ighborhood] O[ffice], N[ighborhood] S[hopping], L[imited] B[usiness] and G[eneral] B[usiness] Districts the existing uses of land and buildings shall not be changed, altered, or enlarged, and no new uses of land or construction of new buildings will be permitted until a special permit shall have been issued by the Board of Appeals acting as the Special Permit Granting Authority in conformance with this section.

A similar provision exists for the Industrial, Professional Office Park, and General Business (I-POP-GB) district in Section 6.1.8.

In the 1984 case of *SCIT, Inc. v. Planning Board of Braintree* (19 Mass. App. Ct. 101), a zoning district in which all uses were permitted only subject to a discretionary special permit was held to be invalid under the Massachusetts Zoning Act. Wilbraham's Zoning By-Laws clearly fall under this category with respect to the NO, NS, LB and GB districts, and changes to these regulations should be a high priority for the Town.

### Imprecise Use Regulations

Within the use regulations for each commercial district, the Zoning By-Laws contain vague and imprecise wording regarding uses that may be permitted because they are "similar" to uses expressly authorized in the By-Laws. An example of such a provision is at § 5.5.13.1, which reads as follows:

Any use substantially similar to or accessory to a permitted use which does not involve a more intense use than permitted herein in the terms of traffic volume, type of business use and visual, air and noise pollution, always taking into account and observing the intentional differentiation of uses permitted in a General Business (G.B.) and Industrial (I) Districts, may be permitted as a special use ....

Similar provisions appear at Sections 5.2.4.1 (NO district), 5.3.2.1 (NS district), and 6.2.20 (I-POP-GB district). These sections do not clearly indicate what types of uses may be authorized by the Board of Appeals (acting as Special Permit Granting Authority) nor do they give the Board of Appeals any criteria for making its decision.

The Town should consider establishing a table of use regulations in which specific uses are listed with their status in each zoning district (i.e., allowed as of right, allowed by special permit, or prohibited). In addition, the By-Laws should establish specific criteria for determining whether additional uses, not specified in the text, are permitted.

**NONCONFORMING USES**

The Zoning By-Laws contain definitions of the terms "non-conforming building" and "non-conforming use" at sections 3.14 and 3.14a, but do not establish procedures and standards for the continuation and expansion of such uses.

In the Neighborhood Office (NO) district, any use which was in existence on the effective date of the amendment establishing the district is defined as a permitted use, even if the use would not otherwise be permitted (§5.2.1). This provision has the effect of allowing the expansion of such uses, as well as their re-establishment after abandonment. The Zoning By-Laws thus treat essentially similar uses in an inconsistent manner, since any new such use would not be permitted. This situation not only undercuts the purpose of the Neighborhood Office district, but also runs contrary to the Zoning Act, which requires zoning by-laws "to apply uniformly to all property located in a particular district, except in the case of an existing nonconforming use" (M.G.L.A. c. 40A §4, note 1).

**INTENSITY REGULATIONS**

Currently the Town's Zoning By-Laws regulate intensity of development through the interaction of maximum coverage and height and minimum setback (yard). These requirements establish implied "floor area ratio" (FAR) requirements as the product of the coverage and height maximums, as follows:

Zoning District	Maximum Coverage Ratio	x	Maximum Height	=	Maximum Floor Area Ratio
LB	30%	x	2	=	0.60
GB	30%	x	3	=	0.90
I-POP-GB	25%	x	3	=	0.75

These FAR limitations are relatively high for a suburban commercial district: in comparison, the existing level of development in the Route 9 corridor in Framingham, and the so-called "Golden Triangle" area in Framingham and Natick, is only 0.24.

Furthermore, this theoretical FAR maximum is probably not attainable on most smaller parcels, given the Town's off-street parking requirements. As long as structured parking is not feasible economically, parking requirements tend to be more important than high FAR's in determining potential development on a site. Based on our experience in other communities, the effective floor area ratio under these conditions may be as low as 0.35–0.40. However, this lower FAR level is still substantially higher than existing FAR's in the Route 20 corridor, which average only 0.05. The Town should give careful consideration to establishing an explicit floor area ratio as an upper limit for development. In making this evaluation, the Town should take into account the possibility that changing market conditions may eventually make structured parking a realistic option for some developers (especially on large parcels), thereby eliminating the effective density limitations set by off-street parking requirements.

**OFF-STREET PARKING**

Off-street parking requirements are established at section 7.5 of the Zoning By-Laws. In some cases, the required parking ratios appear to be excessively stringent, potentially resulting in expanses of paved parking areas that are greater than necessary. In particular, the following ratios should be evaluated:

Use	Required Parking Spaces	Possible Alternative Ratio
All uses in NO and NS	1 per 100 s.f. of principal use	1 per 200 s.f. gross floor area
Business offices	1 per 160 s.f. above basement	1 per 250 s.f. gross floor area

Parking lot design – e.g., layout and location of spaces, and design and location of driveways – is not addressed in the Zoning By-Laws. This is of concern not only from an aesthetic point of view, but also in terms of safety: proper layout of parking lot aisles is essential for emergency access to buildings and for pedestrian safety; and proper spacing of driveways is necessary to maintain traffic safety on the public way.

**SITE DESIGN STANDARDS**

In general, site design standards in the Town's commercial and industrial districts are limited to simple dimensional regulations, which may tend to encourage the development of a "strip" image for Route 20. Landscaping requirements are minimal, and lack sufficient specificity to ensure attractive development.

Setbacks (Yards)

Front setback requirements are 40 feet in the Limited Business (LB) district, 50 feet in the General Business (GB) district, and 60 feet in the Industrial, Professional Office Park, and General Business (I-POP-GB) district (§§ 5.10 and 6.10). Such requirements are typical of suburban commercial and industrial districts, and in many cases are appropriate. However, the requirement for wide building setbacks in the front of the lot often results in this area being used for off-street parking, especially when the rear yard requirement is lower than the front yard requirement.

In the case of the Limited Business and General Business districts, the required front yards (40 feet and 50 feet, respectively) are significantly greater than the rear yard requirements (20 feet). Currently, the Town requires a ten-foot landscaped buffer strip in the front setback area for parcels in the GB and LB districts, but the rest of the setback area may be used for off-street parking (§5.1.1).<sup>1</sup> The interaction of these requirements tends to push buildings toward the rear of the lot and parking toward the front of the lot. This development pattern is typical of commercial "strip" development, where the edge of the roadway is poorly defined because of the narrow landscaped strips separating the public way from expanses of parking lots.

The second footnote to the table of dimensional regulations (§5.10), regarding building within the side yard area, is confusing. This provision should be clarified and rewritten.

Frontage

Existing frontage requirements are 200 feet in the Limited Business district and 150 feet in the General Business district. In the I-POP-GB district, 200 feet of frontage is required for a professional office park (§6.2.6.3), and 150 feet is required for all other uses (§6.10). These dimensions are appropriate for the existing scale of development and traffic volumes in the corridor; however, the lack of design controls over driveway location and spacing raises the potential for future traffic congestion and safety problems. The Town should consider revisions to the frontage and/or parking requirements which would result in an appropriate spacing of driveways along the Route 20 corridor.

<sup>1</sup>A footnote to the table of dimensional regulations at §5.10 requires a 20-foot landscaped buffer strip in front yards across the street from a residential district, and in side and rear yards abutting a residential district.

## Screening

Screening is defined in the Zoning By-Laws as "a solid wall, fence or evergreen planting ... not less than six (6) feet in height ..., erected and maintained to shield the business and light industrial uses of land from any adjoining residential property" (§7.7.6(j)). No screening is specifically required in the front yards of commercial properties, although, as noted above, a ten-foot landscaped "buffer strip" is required between the street and any structures and/or off-street parking (§5.1.1).

In order to improve the appearance of the Route 20 corridor, the Town should consider revising the screening requirement to include the provision of berms and to require such screening for parking areas in front yards. In combination with revised setback requirements, such screening provisions could prevent the "sea of asphalt" image which characterizes many commercial strip developments.

## Landscaping

The Town's requirements for landscaped open space are minimal. Only ten feet of the required front setbacks in the GB and LB districts is required to be landscaped, unless the setbacks face a residential district. For a five-acre parcel with 200 feet of frontage, for example, this provision requires only 2,000 square feet of landscaped area, or less than one per cent of the total parcel area.

Only two specific uses require any landscaped open space in addition to the front yard (and, if applicable, side and rear yard) landscaped buffer strip. In the General Business district, two per cent (2%) of the "gross parking area" of retail automobile and truck dealerships must be devoted to landscaped open space, with such landscaped area being provided in the internal area of the parking lot (§5.5.16.6). In the I-POP-GB district, five per cent (5%) of the total parking and circulation area (in addition to required yards) must be devoted to landscaped open space (§§6.2.6.5 and 6.2.6.6). In both cases, the required landscaped open space must be provided in the internal area of the parking lot, rather than at the edge of the parking lot, so as to break up the paved area. Assuming that 80 per cent of the lot is used for parking and circulation purposes, these provisions (in conjunction with the landscaped buffer strip provision) increase the *total* required landscaping to less than two per cent of the total lot area for automobile dealerships and five per cent of the total lot area for a professional office park.

The Town should consider increasing the landscaped open space requirements to a minimum of ten per cent of the parcel area. More importantly, the Zoning By-Laws should require landscaping of certain portions of the parcel, including a deeper front yard and along side yards from the front of the parcel to the rear building line.

The provisions regarding "landscaped buffer strips" are repetitive and unclear. A general requirement is stated for the NO, NS, LB and GB districts at Section 5.1.4. This provision simply refers to Section 7.6, which sets broad standards for buffer strips and procedures for planting plan approval and for waivers of requirements. Other sections of the By-Laws simply restate the requirement for buffer strips between residential and non-residential districts (§5.4.9.2 for the LB district; §5.5.19.2 for the GB district; and §6.9 for the I-POP-GB district). All of these requirements should be consolidated in a single section on landscaping in order to clarify the regulations and avoid repetitiveness.

In Section 5.10, a footnote to the table of dimensional regulations for the NO, NS, LB, and GB districts establishes a requirement for a 20-foot landscaped buffer strip in front yards across the street from a residential district, and in side and rear yards abutting a residential district. This is an important provision, which should be stated in the main body of the By-Laws, rather than in a footnote.

## Sign Regulations

Sign regulations are dispersed throughout the individual sections on district regulations. The basic regulations for the NO, NS and LB districts are set forth in section 5.2.7, with appropriate references to this section at sections 5.3.3 and 5.4.4. Separate regulations are set forth at section 5.5.15 for the GB district, and at sections 6.2.6.8 , 6.2.7.1 , and 6.3 for the I-POP-GB district. A new section of the By-Laws should be created to consolidate and codify these regulations.

In the GB and I-POP-GB districts, the By-Laws permit one free-standing sign for each 150 feet of frontage. These provisions are too permissive for large-scale commercial developments: several existing parcels have sufficient frontage for 3 or more free-standing signs under this standard. The spacing requirement for individual parcels should therefore be increased.

## REVIEW MECHANISMS

### As-of-Right Uses in Nonresidential Districts

As noted above (§1.11), the requirement for a special permit for any use in a nonresidential district must be eliminated in order to bring the Zoning By-Laws into conformance with state law.

### Special Permits for Density Increases

Under section 10.5a, the Planning Board may grant a special permit authorizing an increase in density of up to 20 per cent if the proposed development contains "civic or public improvements, as deemed appropriate by the Planning Board". Such density increases are available in any zoning district, and for any use. This provision is an appropriate use of the special permit granting power, and is specifically authorized under M.G.L. c. 40A s. 9. However, the By-Laws contain no standards to guide the developer or the Planning Board; therefore, it would be difficult for the Board to achieve uniformity in application of this provision. This section should be amended to specify specific amenities which can justify the granting of a density bonus, along with a schedule of bonus ratios.

In nonresidential districts, the Zoning By-Laws do not regulate the density of development directly.<sup>1</sup> In addition, as explained above (§1.3), the theoretical densities permitted through the interaction of building height and lot coverage limitations are high relative to current development patterns. Therefore, this bonus density provision is unlikely to be used unless building height is considered to be a form of "density" – that is, unless this provision is interpreted to permit height increases by special permit. In order to make this provision useful for the Route 20 commercial corridor, the Town should consider establishing both base level FAR's (as recommended under §1.3 above) and maximum FAR's to be permitted with density increases by special permit.

### Site Plan Review

The site plan review procedure, established at section 7.7., applies only in a residence district or an RMD district (§7.7.7). Although the special permit procedures at section 10.5 require that preliminary plans be submitted as part of the application, review and approval process, neither the standards for such plans nor the criteria for approval are specified. It would be appropriate to require site plan review for all nonresidential developments above a specified minimum size, as well as for all uses requiring a special permit in the Route 20 corridor.

---

<sup>1</sup>In residential districts, the density of development is regulated through the establishment of minimum lot areas for single-family dwellings, and maximum dwelling units per acre for multiple-family dwellings.

MISCELLANEOUS

Noise

Under section 6.1.7.1, the Chief of Police is authorized to grant "permits for exceptions" to the performance standards for noise generation in I-POP-GB districts. Such permits are essentially special permits, which may be granted only by a Special Permit Granting Authority in accordance with the public notice and hearing procedures of M.G.L. c.40 s. 9. This provision should be revised accordingly. Alternatively, the provision could be replaced with a separate, non-zoning town by-law.

**RECOMMENDED POLICY OPTIONS  
BOSTON ROAD COMMERCIAL CORRIDOR**

The build-out analysis of the Route 20 corridor indicated that substantial unused commercial development capacity exists in the corridor. The analysis reveals that an estimated 12.5 million square feet of building space is theoretically possible under existing zoning regulations in Wilbraham's commercial, industrial and office districts. The current amount of nonresidential development in these districts – a total of approximately 802,000 square feet of floor area – represents only 6.4 per cent of their potential "build-out" development. The largest proportion of the potential additional development is located in the General Business zoning districts: these areas account for 68 per cent of the potential growth, or nearly 8.5 million square feet of additional commercial space.

The following table, from the first Working Paper for the Strategic Planning Project, summarizes the findings of the build-out analysis with respect to nonresidential development:

<u>Zoning</u>	<u>Current Sq. Ft.</u>	<u>Available Sq. Ft.</u>	<u>Total Potential Sq. Ft.</u>
GB	512,563	7,927,785	8,440,348
I-POP-GB	289,428	3,276,394	3,565,822
LB	0	491,958	491,958
<b>TOTAL</b>	<b>801,991</b>	<b>11,696,137</b>	<b>12,498,128</b>

As a measure of the extent and potential impact of development, it is often useful to examine development *intensity* in addition to gross developed area. A common measure of development intensity is "floor area ratio" (FAR), which is defined as the ratio of gross floor area in a structure or structures to the area of the corresponding parcel of land. Examples of current FAR's in the Route 20 corridor are as follows:

<u>Address</u>	<u>Zoning</u>	<u>Description/Use</u>	<u>FAR</u>
1840 Boston Road	I		0.56
2041 Boston Road	GB	Tennis club	0.28
2533 Boston Road	GB	State Line Snacks/industrial	0.94
2769 Boston Road	GB	Liquor store	0.25

The current overall level of commercial development in the corridor is quite low compared to typical suburban highway commercial districts. The existing commercial building area of about 802,000 square feet represents a floor area ratio of 0.05: that is, the total floor area of all commercial structures in the GB, LB and I-POP-GB districts is equal to about five per cent of the total land area in these districts.<sup>1</sup> In contrast, the build-out analysis predicts an ultimate overall floor area ratio of 0.75, with individual parcels experiencing FAR's as high as 0.94. Thus, the above examples of FAR's are more typical of ultimate permitted densities than of the corridor as a whole.

<sup>1</sup>The total existing commercial floor area and the floor area ratio computation exclude the floor areas of residential buildings located in commercial and industrial zoning districts. The build-out analysis assumes that these buildings will eventually be converted to nonresidential uses in accordance with zoning.

A comparison to the Route 9 and Route 30 area of Framingham and Natick provides a perspective on these figures. Currently, the so-called "Golden Triangle" area contains approximately 8.5 million square feet of commercial, office and industrial development at an overall FAR of 0.24. Under current zoning regulations, the Metropolitan Area Planning Council (MAPC) has projected that this total could increase to 15.4 million square feet, representing an overall FAR of 0.43. Under the "Golden Triangle Plan Project" (also funded under the Strategic Planning Grant program), a two-town Steering Committee is examining a range of options to address this potential buildout, including downzonings, transfer of development rights, and improved design standards.

These summary figures indicate that the Route 20 corridor contains less than one-tenth of the total commercial floor area in the "Golden Triangle" area, and only one-eighth the level of development intensity. However, the potential total development permitted under zoning is comparable to the total amount permitted in the Framingham-Natick area; and the permitted level of development intensity, as measured by FAR, is significantly greater (0.75 compared with 0.43). Looked at in another way, the Town of Wilbraham could downzone extensively in the Route 20 corridor without preventing development on the scale of major metropolitan shopping centers and office parks: a 68 per cent reduction in allowable development would permit development on the scale of the existing level of development in the Framingham-Natick "Golden Triangle" area.

**POLICY OPTIONS**

A wide range of policy options are available to the Town for addressing the intensity, distribution and character of development in the Route 20 corridor. A number of these options are listed below. For the sake of clarity, these options have been categorized as measures to control development *intensity*, to establish development *patterns*, and to establish *design standards*. However, these categories frequently overlap: for example, setback requirements may be used to control development intensity as well as to address aesthetic concerns, and transfer of development rights affects the overall intensity of development as well as the intensity of specific sites (i.e., the spatial distribution of development).

**Development Intensity Controls**

**Floor Area Ratio (FAR)**

Currently the Town's Zoning By-Laws regulate intensity of development through the interaction of maximum coverage and height and minimum setback (yard). These requirements establish *implied* floor area ratio requirements as the product of the coverage and height maximums, as follows:

Zoning District	Maximum Coverage Ratio	x	Maximum Height	=	Maximum Floor Area Ratio
LB	30%	x	2	=	0.60
GB	30%	x	3	=	0.90
I-POP-GB	25%	x	3	=	0.75

As discussed above, these effective FAR's are relatively high for suburban commercial areas, and are significantly higher than existing levels of development in the Route 20 corridor. The Town may consider establishing *explicit* FAR's that are lower than the existing implicit FAR's as one way of reducing the ultimate build-out potential in the corridor.

### Off-street parking requirements

Where the height of buildings is limited to three stories or less, as in Wilbraham, parking requirements are often more important than floor area ratio limitations in establishing the maximum amount of development on a parcel. This is especially true for smaller parcels, where there is less flexibility in site design and where the lower potential for development makes more costly approaches to off-street parking (such as parking structures) economically infeasible.

As noted in the Task 3 Working Paper, however, the Town's existing regulations may in some cases be more stringent than necessary to accommodate the parking generated by commercial uses. While these higher parking ratios have a role in limiting development, they will also contribute to the emergence of a "sea of asphalt" as the commercial strip evolves over time. Rather than managing growth with parking regulations, the Town should consider adjusting parking ratios to *minimize* the amount of paved area (while accommodating realistic demand for parking spaces), in conjunction with the adoption of other growth control mechanisms directly related to development intensity.

### Restrictions on structured parking

As noted in the Working Paper for Task 3, it is the lack of economic feasibility for structured parking which currently limits the potential development in the Route 20 corridor. However, it is quite possible that changing economic conditions will eventually make structured parking a realistic option for some developers. To anticipate these changes, the Town may consider adopting a zoning amendment restricting the use of parking garages, either by prohibiting them altogether or by requiring the issuance of a special permit.

### Development Patterns

#### Rezoning

The most direct ways for the Town to influence development patterns in the Route 20 corridor are through zoning map changes and amendments to the use and intensity regulations of the Zoning By-Laws. Three general approaches may be taken toward amending the zoning regulations affecting the corridor. First, the existing zoning regulations may be amended on a town-wide basis: i.e., amendments may be made which will affect all areas zoned GB, LB or I-POP-GB. Second, the Town may establish new zoning districts to replace the existing zoning within the corridor.

Third, the Town can establish an overlay district which retains the underlying regulations in each district, but adds new standards that are specific to the Route 20 corridor. This approach is comparable to overlay zoning for environmental purposes (e.g., floodplain or wetlands zoning) or for protection of other resources (e.g., historic protection overlay districts); and recognizes that the area under consideration has special problems and opportunities in addition to the characteristics that make the underlying zoning appropriate. The overlay district could establish additional regulations not included in the underlying zoning (for example, curb cut spacing, bonus densities, etc.); establish additional development opportunities not permitted in similarly-zoned areas elsewhere in the Town (e.g., housing, height increases, etc.); or serve as the mechanism for linking individual parcels in the district together (e.g., through a linkage or transferable development rights program).

An example of a "highway corridor overlay district", from Fairfax County, VA, is attached to this report. The ordinance requires coordination of pedestrian and vehicular circulation between adjacent properties and provision of service roads and common access drives; and restricts service station activities and outside display of merchandise.

### Transfer of Development Rights

Under a transferable development rights (TDR) program, some of the development potential of a property in one area (the "sending" area) may be permanently transferred to property in another area (the "receiving" area) by means of a marketplace transaction involving the purchase and sale of development rights. The market for development rights would establish itself as a special element of the commercial real estate market, operating within the zoning framework and adjusting itself to changing market conditions.

The following conditions have been identified as critical to the success of a TDR program:<sup>1</sup>

1. Sufficient restrictions of sending areas to give rise to TDR sales;
2. Designation of receiving sites with infrastructure capability and sufficient development demand to make additional density increases attractive to developers;
3. Recognition of the economic and financial conditions that underpin a TDR market and determine the value of TDRs to both sellers and buyers;
4. A TDR program that is simple and understandable and that does not require complex approvals; and
5. Commitment to an educational effort to inform landowners, developers, Realtors, and attorneys about the program.

Attached to this report is a draft Transfer of Development Rights by-law developed for several towns in the Route 9 corridor by the Central Massachusetts Regional Planning Commission.

### Design Standards

The site design standards affecting the Route 20 corridor are limited to simple dimensional regulations, which may tend to encourage the development of a "strip" image for the area. Landscaping requirements are minimal, and lack sufficient specificity to ensure attractive development.

The choice of appropriate design standards depends in large part on the desired image for the area. A "campus" character may be established by encouraging large-scale development and requiring large setbacks from front and side lot lines and extensive landscaped areas. In contrast, reduced front and side setbacks may be used to define the edge of the roadway and to give a more pedestrian scale to the area. By applying these standards carefully, the Town could encourage the development of a varied character for the Route 20 corridor: for example, by requiring large landscaped yards along the easterly portion of the corridor and small yards around the intersection of Stony Hill Road, the Town could emphasize the role of the westerly end of Boston Road as a community commercial center and de-emphasize the "strip" atmosphere of the entire corridor.

The following sections present an outline of some specific policy options relating to site design.

### Setback requirements

Setback requirements are critical in establishing the character of a commercial district. Large setbacks can create an image of openness if applied in concert with appropriate landscaping

---

<sup>1</sup>*Transferable Development Rights Programs*, Richard J. Roddewig and Cheryl A. Inghram, Planning Advisory Service Report No. 401, American Planning Association, May 1987.

requirements. However, if setback areas are used primarily for off-street parking, large setbacks can also contribute to the commercial "strip" image. In such cases it may be appropriate to establish a maximum setback requirement, to require that a certain percentage of the front yard be devoted to landscaped open space, or some combination of these approaches.

Currently, front setback requirements are 40 feet in the Limited Business (LB) district, 50 feet in the General Business (GB) district, and 60 feet in the Industrial, Professional Office Park, and General Business (I-POP-GB) district (§§ 5.10 and 6.10). The Town requires a ten-foot landscaped buffer strip in the front setback area for parcels in the GB and LB districts (increased to 20 feet when across the street from or abutting a residential district), but the rest of the setback area may be used for off-street parking (§5.1.1). Screening is not specifically required in front yards, but is required along side and rear lines abutting residential properties.

As suggested above, front setbacks should be increased along much of the Route 20 corridor where lot configurations make this possible. A minimum setback of 75 feet is suggested.

Where lot sizes are smaller (especially on the northerly side of Route 20 between Stony Hill Road and Old Boston Road) and a concentrated commercial image is desired, required frontages may be reduced.

#### Maintenance of landscaped front yards

It is recommended that the By-Laws be amended to require that 80 per cent of the front yard for properties in the GB, LB and I-POP-GB districts be maintained as landscaped open space. This requirement should not apply solely to the required minimum front yard, but to the entire area between the front line of the building and the street.

#### Parking location and screening

The Town should consider amending the Zoning By-Laws to require that parking be placed to the rear of buildings. In cases where this objective cannot be achieved because of shallow lot depths, the By-Laws may allow parking areas within the front yard by special permit, provided that such areas are screened by the provision of dense plantings, fences and/or berms.

#### Driveways and curb cuts

The Town should also permit the establishment of only one driveway within the front yard area, in order to minimize the number of curb cuts along Boston Road. However, the By-Laws should also specifically encourage the provision of secondary accesses across adjacent properties.

#### Illustrative Approach: Downzoning, Nodal Development, and Design Standards

The above discussion illustrates the range of options for dealing with the Route 20 commercial strip. Each option may be used in combination with several others as part of an integrated regulatory approach to growth management in the corridor; consequently, there are many varieties of approaches which may be selected to achieve varying goals and objectives. As an illustration of how such a package of regulatory tools may be assembled, we have prepared a set of regulations designed to address the following hypothetical objectives:

- Reduction in the *overall* intensity of development in the corridor to a floor area ratio of 0.3;
- Concentration of development at a development "node" at the westerly end of the corridor;
- Encouragement of mixed-use developments, i.e., multifamily housing in conjunction with commercial uses;
- Improvements in aesthetic appearance through added landscaping and relocation of parking areas behind structures where possible.

### Reduction in Overall Development Intensity

As noted earlier, the existing level of development intensity in the Route 20 corridor is represented by an overall FAR of 0.05, while the ultimate level permitted under zoning is estimated to be 0.75, or 15 times the existing level. The Town could cap the overall level of commercial development at 5 million square feet, permitting a fivefold increase in total development while reducing the theoretical maximum FAR to 0.30. This FAR would then become the benchmark for evaluating new development and implementing a development rights transfer program.

Existing parcels which exceed the 0.30 FAR would be "grandfathered"; however, expansions or substantial renovations would require participation in the TDR program.

### Concentration of Development Through Transfer of Development Rights

Within the overall FAR of 0.30, two development zones would be established: a *receiving* zone, at the westerly end of the corridor (from the Springfield city line to the easterly intersection of Old Boston Road), and a *sending* zone, encompassing the remainder of the commercially-zoned land in the corridor. Development would be allocated through a system of development rights transfers.

Development rights corresponding to estimated build-out potential under the areawide 0.30 FAR cap would be assigned for sites within the sending and receiving districts. Parcels in the receiving zone would be permitted an increase in the intensity of development, up to a maximum FAR of 0.50. In order to develop at the higher intensity, the parcel owner would have to acquire development rights from a property or properties in the sending zone. In addition, any increases in density above the base FAR of 0.30 would have to be achieved in accordance with specified design and performance controls, which could include a combination of the following:

- Consolidated service roads and driveways
- Increased spacing between curb cuts
- Reduced lot coverage

Parcels in the sending zone would be restricted to a maximum FAR of 0.25, but could transfer development rights based on the difference between this maximum FAR and the areawide FAR of 0.30 to parcels in the receiving zone. If deemed appropriate by the Planning Board, the by-law could also specify that additional development rights could be transferred from the sending parcel, thus permanently reducing its potential development capacity below the 0.25 FAR for sending district. However, it would be important to establish a maximum FAR for the receiving district, in order to avoid adverse impacts from too high a concentration of development at any one location.

IEP carried out a revised build-out analysis to estimate the effects of implementing the TDR strategy outlined above, in conjunction with an reduction in the corridor's overall FAR to 0.30. The analysis indicates that the potential development in the corridor would be about 4.95 million square feet, an increase of 546 per cent from current development levels but a decrease of 60 per cent from the level of development permitted by the Town's current zoning regulations. Receiving zones, which were defined to represent about 28 per cent of the land area in the corridor, would absorb about 46 per cent of the projected development, resulting in an average FAR for the zone of 0.49. In contrast, sending areas, defined to comprise about 72 per cent of the corridor land area, would absorb 54 per cent of the potential development, resulting in an average FAR of only 0.22. Thus, if property owners were to take full advantage of the development rights transfer opportunities offered by the TDR by-law, the ultimate pattern of development would shift from a continuous density of commercial development to a pattern characterized by two sharply differentiated zones: a compact zone at a relatively high suburban density, and a much larger zone with less than half of the density of the core.

**Mixed-Use Developments**

Density bonuses would be provided for the provision of housing as a component of development in the corridor. Such bonuses would be tied to the traffic generation potential of the residential uses as compared with commercial uses. An example of a zoning by-law facilitating the development of mixed-use projects is attached to this report.

The major obstacle to the creation of housing under this approach is the relative attractiveness to a developer of commercial development compared with residential development, which is closely linked to the relative market rents for each type of development. A market analysis to quantify the relationship between commercial and residential rents in the Springfield/Wilbraham area is beyond the scope of this study; however, an approximation is possible based on information from other market areas. IEP, Inc., recently completed an analysis which indicates that rents for multifamily residential units along Route 9 in Natick and Framingham are about half of nominal rents for first-class office space in the "Golden Triangle" area of the Route 9 corridor.<sup>1</sup> This suggests, therefore, that permissible housing densities should be about twice the density permitted for office uses in order for residential development to be an economically attractive option under current market conditions.

The residential densities implied by this approach are indicated in the following table:

Nonresidential FAR	Corresponding Residential FAR	Net Residential Density (du/acre)
0.25	0.50	18.5
0.50	1.00	37.0

These densities are significantly higher than the 8 unit/acre density currently permitted by the Town in sewered areas; however, the lower density of 18.5 units/acre is typical of many garden apartment developments and might be a reasonable alternative to continued strip development in the sending districts.

Such densities are viable, and may even be beneficial to the Route 20 corridor in terms of traffic generation. Assuming an average unit size of 1,000 square feet, apartments can be expected to generate about 6.1 trips per day per 1,000 net square feet, or about 5.2 trips per day per 1,000 gross square feet,<sup>2</sup> compared with average office trip generation of about 16 trips per day per 1,000 square feet.<sup>3</sup> Thus, permitting residential use at twice the density (i.e., FAR) of office uses would result in traffic generation at only 65 per cent of level generated by office use on the same site.

The beneficial impact on traffic generation would be balanced by an increase in water and sewer usage for parcels where residential uses were developed. Title V estimates for sewage flow are 75 gallons per day (gpd) of sewage per 1,000 square feet of general office space, and 110 gpd per bedroom in residential uses.<sup>4</sup> Assuming that dwelling units in the corridor will average 1.5 bedrooms and 1,000 square feet in area, their estimated sewage generation will be 165 gpd per 1,000 net square feet, or 140 gpd per 1,000 gross square feet. Thus, residential uses can be expected to generate 87 per cent more sewage flow (and water demand) than office uses on a per square foot basis. If residential uses are permitted at an FAR that is twice that permitted for office uses, then development of residential units instead of office space will increase water demand and sewage flows by about 273 per cent.

<sup>1</sup>Golden Triangle Plan Project, Working Paper: "Build-Out Analysis and Alternative Strategies", IEP, Inc., 23 February 1989, pp. 25-26.

<sup>2</sup>Institute of Transportation Engineers, *Trip Generation*, Third Edition (1982): Land Use Code 220. The gross trip generation estimate assumes that 15% of a multifamily structure is used for common areas and services.

<sup>3</sup>ITE, *Trip Generation*: average of trip generation rates for Land Use Codes 711 (General Office, under 100,000 G.S.F.) and 712 (General Office, 100,000 to 199,999 G.S.F.).

<sup>4</sup>310 CMR 15.02 (Department of Environmental Quality Engineering). Water demand will follow the same pattern as sewage flows.



***Boston Road Corridor***



**DRAFT REGULATORY OPTIONS  
BOSTON ROAD CORRIDOR**

**TASK 3 RECOMMENDATION: Amend nonresidential district regulations to allow some use as of right (i.e., without requiring a special permit)**

1. Delete §5.1 and insert in its place the following:

5.1 **General Requirements.** The following uses are allowed as of right in N.O. N.S., L.B. and G.B. Districts:

- a. Business and professional offices under 3,000 square feet in gross floor area, with accessory parking areas as required by these Zoning By-Laws.

All other uses of land and buildings, including changes, alterations or enlargements of existing uses and new uses of land or new construction of buildings, shall require a special permit issued by the Board of Appeals acting as the Special Permit Granting Authority in conformance with this Section.

2. Delete §6.1.8 and insert in its place the following:

6.1.8 **General Requirements.** The following uses are allowed as of right in I-POP-GB Districts:

- a. Business and professional offices under 3,000 square feet in gross floor area, with accessory parking areas as required by these Zoning By-Laws.

All other uses of land and buildings, including changes, alterations or enlargements of existing uses and new uses of land or new construction of buildings, shall require a special permit issued by the Board of Appeals acting as the Special Permit Granting Authority in conformance with the applicable provisions of Section 5, and in conformance with Section 6 of these Zoning By-Laws.

**COMMITTEE RECOMMENDATION: Require special permit for more than one building on a lot as a way to control mixed uses and ensure adequate access.**

Insert a new §7.8 as follows:

7.8 Multiple Buildings per Lot

7.8.1 Except as otherwise provided in this section 7.8, not more than one principal building shall be erected on any lot.

7.8.2 The Planning Board acting as Special Permit Granting Authority may grant a special permit for the erection of more than one building on a lot, provided that each building on the lot is served by access determined by the Planning Board to be functionally equivalent to that required under the Planning Board's Rules and Regulations Governing the Subdivision of Land, and provided that the following additional conditions are met:

- (a) If the lot is located in a residential district, the lot shall have sufficient area, frontage and other dimensional requirements, and all such structures shall be located, so as to allow the lot to be divided with each structure conforming to all current dimensional requirements.
- (b) If the lot is located in a nonresidential district,
  - (1) The proposed access to any building without exclusive frontage on a public way shall be restricted through a permanent easement; and
  - (2) If any building is located more than 400 feet from the public way from which its access is provided, its designated permanent access shall include a permanent access easement to adjacent lots for purposes of emergency access and reservation for future permanent public or private access.

**TASK 3 RECOMMENDATION: Increase perimeter landscaped open space requirements in front yards**

Amend §5.1.1 by deleting the word "ten" and inserting in its place the word "twenty".

Insert a new §6.9.3 as follows:

- 6.9.3 The required front yard shall contain a landscaped buffer strip which shall be no less than twenty feet in width. The remaining part of the front yard may be used for off-street parking.

**TASK 3 RECOMMENDATIONS:**

- (1) **Increase landscaped open space requirements in nonresidential districts**
- (2) **Refine coverage requirements to include outdoor storage and display**

1. Coverage Definitions

- (a) Delete §3.2.a in its entirety and insert in its place the following:
  - 3.2.a **Building Coverage.** The ratio that is derived by dividing the aggregate area covered by all buildings on the lot to the area of the lot.
- (b) Insert a new §3.9 as follows:
  - 3.9 **Impervious Surface Ratio.** The ratio that is derived by dividing the total area of all impervious surfaces on the site by the area of the site.
- (c) Insert a new §3.21 as follows:
  - 3.12.i **Use Coverage.** The ratio that is derived by dividing the aggregate area covered by all buildings and all outdoor display and storage areas on the lot, excluding areas used solely for display of automobiles for sale pursuant to Section 5.5.16, by the area of the lot.

2. Setbacks and coverage ratios

Amend §5.10 as follows:

- (a) Delete the fourth line of the table (beginning with the words "Min. Front Yard") and insert in its place the following:

Min. Front Yard – feet	40	25	50	50
------------------------	----	----	----	----

- (b) Delete the seventh line of the table (beginning with the words "Max. Lot Coverage") and insert in its place the following three lines:

Max. Building Coverage – %	20	25	30	30
Max Use Coverage – %	45	30	40	40
Min. Impervious Surface Ratio – %	20	20	30	30

- (c) Delete the second footnote to the table, and the double-starred footnote references (\*\*) in the table under "N.S." and "G.B."

**TASK 4 RECOMMENDATION: Require special permit for construction of structured parking**

Amend §7.5 by inserting the following new paragraph 7.5.2.8:

7.5.2.8 The provision of required off-street parking spaces in a garage, deck or other structure shall require the issuance of a special permit by the Board of Appeals acting as the Special Permit Granting Authority.

**TASK 3 RECOMMENDATION: Require effective screening of parking areas**

Amend §7.6 by inserting the following new §7.6.2:

7.6.2 The landscaped buffer strip shall comply with the following standards:

7.6.2.1 Front yards of nonresidential uses fronting on Boston Road shall include a semi-opaque screen. Said screen shall be opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to block visual contact between uses and to create a strong impression of the separation of spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. The zone of intermittent visual obstruction may contain deciduous plants. Examples of screens meeting this standard include combinations of the following:

- small trees planted 30 feet on center, or large trees planted 40 feet on center; and
- a 3-foot high stone wall or landscaped earth berm, or 3-foot high evergreen hedge shrubbery planted 3 feet on center.

7.6.2.2 A landscaped buffer strip separating a nonresidential district from a residential district shall include an opaque screen. Said screen shall be opaque from the ground to a height of at least six (6) feet, with intermittent visual obstruction to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. It may be composed of a wall, fence,

landscaped earth berm, planted vegetation, or existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. Examples of screens meeting this standard include combinations of the following:

- small trees planted 30 feet on center, or large trees planted 40 feet on center; *and*
  - a 6-foot high redwood fence, or 6-foot high evergreen shrubbery planted 4 feet on center;
- or*
- tall evergreen trees, stagger planted, with branches touching the ground.

**COMMITTEE RECOMMENDATION: Limit driveways to one per frontage lot**

Amend the new §7.6.2 (proposed above) by adding the following paragraph 7.6.2.3:

7.6.2.3 A landscaped buffer strip shall contain no more than one (1) driveway or curb-cut to any public way; provided that the Planning Board acting as Special Permit Granting Authority may grant a special permit for one (1) additional driveway or curb-cut if it finds that the additional driveway or curb-cut is necessary to facilitate traffic safety or to make possible the economic use of the property.

**TASK 3 RECOMMENDATION: Consolidate sign regulations in a new section of the By-Laws**  
**COMMITTEE RECOMMENDATION: Limit free-standing signs to one per frontage lot**

1. Delete §§5.2.7, 5.3.3, 5.4.4, 5.5.15, 6.2.6.8, 6.2.6.9, 6.2.6.10, and 6.3.
2. Amend §6.2.7 by deleting the third sentence thereof.
3. Insert the following new §7.7:

**7.7 Signs in Nonresidential Districts**

7.7.1 Applicability: The provisions of this Section shall apply to all signs in all zoning districts excepting the residential districts.

**7.7.2 General**

7.7.2.1 Permitted Signs: Only signs which refer to a permitted use or a use allowed by special permit or variance are permitted, provided such signs conform to the provisions of this Section. All signs not conforming to the provisions of this section are specifically prohibited.

**7.7.2.1 Prohibited Signs:**

(a) Billboards, streamers, pennants, ribbons, spinners or other similar devices shall not be constructed, posted or erected. Exceptions include flags and bunting exhibited to commemorate national patriotic holidays, and temporary banners announcing charitable or civic events.

(b) Flashing signs, roof signs, signs containing moving parts, and signs containing reflective elements which sparkle in the sunlight are not permitted. Signs indicating the current time and/or temperature are permitted provided they meet all other provisions of this section.

**7.7.3 Illumination Standards**

- (a) Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare.
- (b) Moving, flashing or animated signs are prohibited. No sign shall incorporate red, amber or green lights resembling traffic signals, nor shall any sign resemble a "stop" or "yield" sign in shape and color.
- (c) The light sources of any illuminated sign shall be so shaded that no direct light extends above ground level beyond the property lines on which the sign is located.

**7.7.4 Placement Standards**

- (a) Signs attached to a building must be securely affixed, parallel with and not projecting more than eighteen (18) inches from the face of the front wall of the building, and shall not project beyond or above the face of any other wall. A roof sign shall not exceed four (4) feet in height and shall not project above the ridge line of the highest elevation of the building.
- (b) No part of a free-standing sign shall be located closer than fifteen (15) feet from a property line.
- (c) No more than one (1) free-standing sign may be erected on any lot, regardless of the number of tenants or occupants of the property; provided that the Planning Board acting as Special Permit Granting Authority may grant a special permit for one (1) additional free-standing sign if such additional sign is determined necessary due to the specific combination of uses on the lot. If a special permit is granted, the total area of both free-standing signs shall not exceed the maximum total area for a free-standing sign as set forth in the applicable standards for the specific zoning district. Double-faced signs shall count as one sign.
- (d) No sign may be affixed to a fence, utility pole, or tree, shrub, rock or other natural object.

**7.7.5 Non-Conforming Signs**

- 7.7.5.1 **Continuance:** A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of this section may continue, although such sign does not conform to the provisions of this section.
- 7.7.5.2 **Maintenance:** Any lawfully existing sign cannot be enlarged, reworded (other than in the case of cinema or theater signs, or signs with automatically changing messages), redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this section. Any sign which has deteriorated to such an extent that the cost of restoration would exceed 35 per cent of the replacement cost shall not be repaired, rebuilt or altered except to conform to the requirements of this section.
- 7.7.5.3 **Replacement:** Any sign replacing a non-conforming sign shall conform with the provisions of this section, and the non-conforming sign shall no longer be displayed.

7.7.6 General Standards

(a) No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All attached signs must be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth (1/4) of an inch. The material of the sign and intermediary surface and the manner of affixation of the sign to the intermediary surface and of the intermediary surface to the wall of the building shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public.

(b) If more than one sign is affixed to the building, signs must be uniform in dimensions and attractive in appearance.

7.7.7 Standards for Signs in Specific Zoning Districts

7.7.7.1 Neighborhood Office, Neighborhood Shopping, and Limited Business Districts

(a) Signs must be securely affixed flat to only one wall of the building. Free-standing signs and roof signs are prohibited.

(b) The total area of a sign or signs affixed to a building shall be limited to one (1) sign per occupant, not to exceed twelve (12) square feet or the first forty (40) feet of building frontage plus two (2) square feet for each additional ten (10) linear feet of frontage on the street.

(c) In addition to the principal signs referred to in the previous paragraph, there may be one directory sign not to exceed an area of twelve (12) inches by eighteen (18) inches for each additional occupant of the premises. Directional signs without advertising not to exceed one-half (1/2) square foot in area are permitted in addition to the above signs.

(d) No colored lights shall be used on any sign for any purpose.

7.7.7.2 General Business District

(a) Signs may be either free-standing or affixed to the building.

(b) The total area of a sign or signs affixed to a building shall not exceed ten (10) per cent of the area of the building frontage wall(s), not to exceed a maximum of one hundred (100) square feet. The building frontage wall area is calculated as the length of the building side(s) on which the signs are mounted times the average height to the eave line of the same side(s).

(c) The total area of a free-standing sign shall not exceed one-third (1/3) square foot for each linear foot of frontage at the property setback line, not to exceed a maximum of one hundred (100) square feet. A free-standing sign shall be no taller than the average height of the eaves of the principal building on the lot or twenty-five feet, whichever is the lesser.

(d) A directional sign on the right-of-way is permitted if a business does not have frontage on a public way. Directional signs shall not exceed six (6) square feet in area nor six (6) feet in height.

**7.7.7.3 Industrial, Professional Office Park, and General Business District**

(a) Signs may be either free-standing or affixed to the building.

(b) A sign or signs may be attached to only one side of the building.

(c) A sign attached to a building shall not project above the roof of the building.

(d) The total area of a sign or signs affixed to a building shall not exceed twenty-five (25) per cent of the area of the building wall on which the signs are mounted. The building wall area is calculated as the length of the building side on which the sign is mounted times the average height to the eave line of the same side.

(e) The total area of a free-standing sign shall not exceed one hundred (100) square feet for the first one hundred fifty (150) feet of continuous frontage of the lot, plus twenty-five (25) square feet for each additional one hundred fifty (150) feet of continuous lot frontage. A free-standing sign shall be no taller than the average height of the eaves of the principal building on the lot or twenty-five feet, whichever is the lesser.

(f) A directional sign on the right-of-way is permitted if a business does not have frontage on a public way. Directional signs shall not exceed six (6) square feet in area nor six (6) feet in height.

**FINAL RECOMMENDED REGULATORY CHANGES  
BOSTON ROAD COMMERCIAL CORRIDOR**

**TASK 3 RECOMMENDATION: Amend nonresidential district regulations to allow some use as of right (i.e., without requiring a special permit)**

1. Delete §5.1 and insert in its place the following:

5.1 **General Requirements.** The following uses are allowed as of right in N.O. N.S., L.B. and G.B. Districts:

a. Business and professional offices under 3,000 square feet in gross floor area, subject to all other requirements of this Zoning By-Law.

All other uses of land and buildings, including changes, alterations or enlargements of existing uses and new uses of land or new construction of buildings, shall require a special permit issued by the Board of Appeals acting as the Special Permit Granting Authority in conformance with this Section.

2. Delete §6.1.8 and insert in its place the following:

6.1.8 **General Requirements.** The following uses are allowed as of right in I-POP-GB Districts:

a. Business and professional offices under 3,000 square feet in gross floor area, subject to all other requirements of this Zoning By-Law.

All other uses of land and buildings, including changes, alterations or enlargements of existing uses and new uses of land or new construction of buildings, shall require a special permit issued by the Board of Appeals acting as the Special Permit Granting Authority in conformance with the applicable provisions of Section 5, and in conformance with Section 6 of these Zoning By-Laws.

**COMMITTEE RECOMMENDATION: Require special permit for more than one building on a lot as a way to control mixed uses and ensure adequate access.**

Insert a new §7.8 as follows:

7.8 Multiple Buildings per Lot

7.8.1 Except as otherwise provided in this section 7.8, not more than one principal building shall be erected on any lot.

7.8.2 The Planning Board acting as Special Permit Granting Authority may grant a special permit for the erection of more than one non-residential building on a lot in a non-residential district, provided that each building on the lot is served by access determined by the Planning Board to be functionally equivalent to that required under the Planning Board's Rules and Regulations Governing the Subdivision of Land, and provided that the following additional conditions are met:

- (a) The proposed access to any building without exclusive frontage on a public way shall be restricted through a permanent easement; and
- (b) If any building is located more than 200 feet from the public way from which its access is provided, its designated permanent access shall include a permanent access easement to adjacent lots for purposes of emergency access and reservation for future permanent public or private access.
- (c) The Planning Board determines that the use of each building will be compatible with each other and uses occurring on abutting lots.

**TASK 3 RECOMMENDATION: Increase perimeter landscaped open space requirements in front yards**

Amend §5.1.1 by deleting the word "ten" and inserting in its place the word "twenty".

Insert a new §6.9.3 as follows:

6.9.3 The required front yard shall contain a landscaped buffer strip which shall be no less than twenty feet in width. The remaining part of the front yard may be used for off-street parking.

**TASK 3 RECOMMENDATIONS:**

- (1) Increase landscaped open space requirements in nonresidential districts
- (2) Refine coverage requirements to include outdoor storage and display

**1. Coverage Definitions**

(a) Delete §3.2.a in its entirety and insert in its place the following:

3.2.a Building Coverage. The ratio that is derived by dividing the aggregate area covered by all buildings on the lot to the area of the lot.

(b) Insert a new §3.9 as follows:

3.9 Impervious Surface Ratio. The ratio that is derived by dividing the total area of all impervious surfaces on the site by the area of the site.

(c) Insert a new §3.21 as follows:

3.21.i Use Coverage. The ratio that is derived by dividing the aggregate area covered by all buildings and all outdoor display and storage areas on the lot, excluding areas used solely for display of automobiles for sale pursuant to Section 5.5.16, by the area of the lot.

**2. Setbacks and coverage ratios**

Amend §5.10 as follows:

(a) Delete the fourth line of the table (beginning with the words "Min. Front Yard") and insert in its place the following:

<i>District</i>	<u>NO</u>	<u>NS</u>	<u>LB</u>	<u>GB</u>
Min. Front Yard – feet	40	25	50	50

- (b) Delete the seventh line of the table (beginning with the words "Max. Lot Coverage") and insert in its place the following three lines:

<i>District</i>	<u>NO</u>	<u>NS</u>	<u>LB</u>	<u>GB</u>
Max. Building Coverage – %	20	25	30	30
Max Use Coverage – %	25	30	40	40
Max. Impervious Surface Ratio – %	80	80	70	70

- (c) Delete the second footnote to the table, and the double-starred footnote references (\*\*) in the table under "N.S." and "G.B."

**TASK 4 RECOMMENDATION: Require special permit for construction of structured parking**

Amend §7.5 by inserting the following new paragraph 7.5.2.8:

- 7.5.2.8 The provision of off-street parking spaces in a garage, deck or other structure shall require the issuance of a special permit by the Board of Appeals acting as the Special Permit Granting Authority.

**TASK 3 RECOMMENDATION: Require effective screening of parking areas**

Amend §7.6 by inserting the following new §7.6.2:

- 7.6.2 The landscaped buffer strip shall comply with the following standards:

7.6.2.1 Front yards of nonresidential uses fronting on Boston Road shall include a semi-opaque screen. Said screen shall be opaque from the ground to a minimum height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. Said screen shall be set-back from Boston Road a minimum of 15 feet. The semi-opaque screen is intended to block visual contact between uses and to create a strong impression of the separation of spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. The zone of intermittent visual obstruction may contain deciduous plants. Examples of screens meeting this standard include combinations of the following:

- small trees planted 30 feet on center, or large trees planted 40 feet on center; *and*
- a 3-foot high stone wall or landscaped earth berm, or 3-foot high evergreen hedge shrubbery planted 3 feet on center.

7.6.2.2 A landscaped buffer strip separating a nonresidential district from a residential district shall include an opaque screen. Said screen shall be opaque from the ground to a height of at least six (6) feet, with intermittent visual obstruction to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten (10) feet wide. Examples of screens meeting this standard include combinations of the following:

- small trees planted 30 feet on center, or large trees planted 40 feet on center; *and*

- a 6-foot high redwood fence, or 6-foot high evergreen shrubbery planted 4 feet on center; *or*
- tall evergreen trees, stagger planted, with branches touching the ground.

Delete the words "for example, where a street is the dividing line between different land-uses" and the last sentence in section 7.6.1.

**COMMITTEE RECOMMENDATION: Limit driveways to one per frontage lot**

Amend the new §7.6.2 (proposed above) by adding the following paragraph 7.6.2.3:

- 7.6.2.3 A landscaped buffer strip shall contain no more than one (1) driveway or curb-cut to any public way; provided that the Planning Board acting as Special Permit Granting Authority may grant a special permit for one (1) additional driveway or curb-cut if it finds that the additional driveway or curb-cut is necessary to facilitate traffic safety or to make possible the economic use of the property.

**TASK 3 RECOMMENDATION: Consolidate sign regulations in a new section of the By-Laws**

**COMMITTEE RECOMMENDATION: Limit free-standing signs to one per frontage lot**

1. Delete §§6.2.6.9, 6.2.6.10, and 6.3.

Amend Section 5.2.7, 5.3.3, 5.4.4, 5.5.15, and 6.2.6.8, to read "Signs as provided for in Section 7.9".

2. Amend §6.2.7 by deleting the third sentence thereof.

3. Insert the following new §7.9:

**7.9 Signs in Nonresidential Districts**

7.9.1 Applicability: The provisions of this Section shall apply to all signs in all zoning districts excepting the residential districts.

**7.9.2 General**

7.9.2.1 Permitted Signs: Only signs which refer to a permitted use or a use allowed by special permit or variance are permitted, provided such signs conform to the provisions of this Section. All signs not conforming to the provisions of this section are specifically prohibited.

7.9.2.1 Prohibited Signs:

(a) Billboards, streamers, pennants, ribbons, spinners or other similar devices shall not be constructed, posted or erected. Exceptions include flags and buntings exhibited to commemorate national patriotic holidays, and temporary banners announcing charitable or civic events.

(b) Flashing signs, signs containing moving parts, and signs containing reflective elements which sparkle in the sunlight are not permitted. Signs indicating the current time and/or temperature are permitted provided they meet all other provisions of this section.

**7.9.3 Illumination Standards**

- (a) Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare.
- (b) Moving, flashing or animated signs are prohibited. No sign shall incorporate red, amber or green lights resembling traffic signals, nor shall any sign resemble a "stop" or "yield" sign in shape and color.
- (c) The light sources of any illuminated sign shall be so shaded that no direct light extends above ground level beyond the property lines on which the sign is located.

**7.9.4 Placement Standards**

- (a) Signs attached to a building must be securely affixed, parallel with and not projecting more than eighteen (18) inches from the face of the front wall of the building, and shall not project beyond or above the face of any other wall. A roof sign shall not exceed four (4) feet in height and shall not project above the ridge line of the highest elevation of the building.
- (b) No part of a free-standing sign shall be located closer than fifteen (15) feet from a property line.
- (c) No more than one (1) free-standing sign may be erected on any lot, regardless of the number of tenants or occupants of the property; provided that the Planning Board acting as Special Permit Granting Authority may grant a special permit for one (1) additional free-standing sign if such additional sign is determined necessary due to the specific combination of uses on the lot. If a special permit is granted, the total area of both free-standing signs shall not exceed the maximum total area for a free-standing sign as set forth in the applicable standards for the specific zoning district. Double-faced signs shall count as one sign.
- (d) No sign may be affixed to a fence, utility pole, or tree, shrub, rock or other natural object.

**7.9.5 Non-Conforming Signs**

- 7.9.5.1 Continuance:** A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of this section may continue, although such sign does not conform to the provisions of this section.
- 7.9.5.2 Maintenance:** Any lawfully existing sign cannot be enlarged, reworded (other than in the case of cinema or theater signs, or signs with automatically changing messages), redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this section. Any sign which has deteriorated to such an extent that the cost of restoration would exceed 35 per cent of the replacement cost shall not be repaired, rebuilt or altered except to conform to the requirements of this section.
- 7.9.5.3 Replacement:** Any sign replacing a non-conforming sign shall conform with the provisions of this section, and the non-conforming sign shall no longer be displayed.

**7.9.6 General Standards**

(a) No sign shall be painted or posted directly on the exterior surface of any wall, including windows and doors. All attached signs must be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection of one-fourth (1/4) of an inch. The material of the sign and intermediary surface and the manner of affixation of the sign to the intermediary surface and of the intermediary surface to the wall of the building shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public.

(b) If more than one sign is affixed to the building, signs must be uniform in dimensions and attractive in appearance.

**7.9.7 Standards for Signs in Specific Zoning Districts**

**7.9.7.1 Neighborhood Office, Neighborhood Shopping, and Limited Business Districts**

(a) Signs must be securely affixed flat to only one wall of the building. Free-standing signs and roof signs are prohibited.

(b) The total area of a sign or signs affixed to a building shall be limited to one (1) sign per occupant, not to exceed twelve (12) square feet for the first forty (40) feet of building frontage plus two (2) square feet for each additional ten (10) linear feet of frontage on the street.

(c) In addition to the principal signs referred to in the previous paragraph, there may be one directory sign not to exceed an area of twelve (12) inches by eighteen (18) inches for each additional occupant of the premises. Directional signs without advertising not to exceed one-half (1/2) square foot in area are permitted in addition to the above signs.

(d) No colored lights shall be used on any sign for any purpose.

**7.9.7.2 General Business District**

(a) Signs may be either free-standing or affixed to the building.

(b) The total area of a sign or signs affixed to a building shall not exceed ten (10) per cent of the area of the building frontage wall(s), not to exceed a maximum of one hundred (100) square feet. The building frontage wall area is calculated as the length of the building side(s) on which the signs are mounted times the average height to the eave line of the same side(s).

(c) The total area of a free-standing sign shall not exceed one-third (1/3) square foot for each linear foot of frontage at the property setback line, not to exceed a maximum of one hundred (100) square feet. A free-standing sign shall be no taller than the average height of the eaves of the principal building on the lot or twenty-five feet, whichever is the lesser.

(d) A directional sign on the right-of-way is permitted if a business does not have frontage on a public way. Directional signs shall not exceed six (6) square feet in area nor six (6) feet in height.

**7.9.7.3 Industrial, Professional Office Park, and General Business District**

(a) Signs may be either free-standing or affixed to the building.

(b) A sign or signs may be attached to only one side of the building.

(c) A sign attached to a building shall not project above the roof of the building.

(d) The total area of a sign or signs affixed to a building shall not exceed twenty-five (25) per cent of the area of the building wall on which the signs are mounted. The building wall area is calculated as the length of the building side on which the sign is mounted times the average height to the eave line of the same side.

(e) The total area of a free-standing sign shall not exceed one hundred (100) square feet for the first one hundred fifty (150) feet of continuous frontage of the lot, plus twenty-five (25) square feet for each additional one hundred fifty (150) feet of continuous lot frontage. A free-standing sign shall be no taller than the average height of the eaves of the principal building on the lot or twenty-five feet, whichever is the lesser.

(f) A directional sign on the right-of-way is permitted if a business does not have frontage on a public way. Directional signs shall not exceed six (6) square feet in area nor six (6) feet in height.

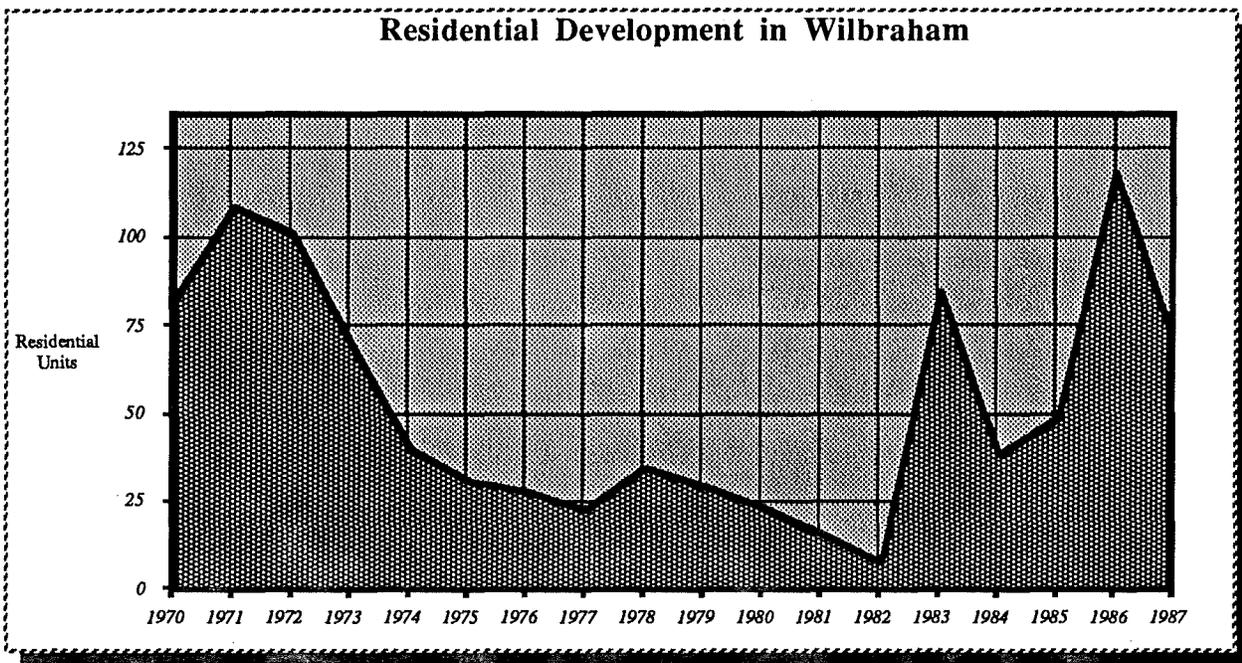
Amend Section 4.1.5 to read "Sign in Residential Districts".

**ISSUE IDENTIFICATION  
WILBRAHAM MOUNTAIN ENVIRONMENTALLY  
SENSITIVE AREA**

The so-called "Mountain Area" (an area defined roughly as everything east of Main Street), like much of Wilbraham, has seen substantial residential developmental pressures in the last five years. However, much of this area has serious environmental limitations on its ability to be developed in an environmentally safe manner. The entire mountain area has been mapped for each of the following individual constraints and by way of an overlay map, which has been prepared exhibiting the environmental constraints in a manner that emphasizes the most serious limitations in the following order:

1. Wetlands (taken from 1978 Map prepared by Baystate Environmental).
2. Slopes in excess of 15%.
3. 100 year Floodplains (taken from Maps prepared by Federal Emergency Management Agency).
4. Soils classified by the U.S. Soil Conservation Service as having severe limitations for Septic System absorption fields.
5. Areas of Aquifer Favorability (taken from Map prepared by Baystate Environmental).
6. Soils classified by the U.S. Soil Conservation Service as having moderate limitations for Septic System absorption fields.

What these maps demonstrate is that approximately 70% of the area has serious limitations for residential development (very steep slopes; soil types classified by the U.S. Soil Conservation Service as being severely limited for residential septic system absorption fields; wetlands; or floodplain). In addition, a large area of aquifer favorability runs through the Northern portion of the area. In all, less than 7% of the Mountain area can be said to be ideally suited for residential development. Despite the unfavorable conditions found in this area, development is occurring at a substantial pace. Over the past five years, 92 building permits have been issued for new construction in the Mountain area. In addition, an additional 140 units are presently in various stages of the approval process. This represents almost 25% of the number of building permits issued during the last five years, yet we estimate that this area has less than 10% of the vacant land suitable for residential development in Wilbraham.



Because of the extent of these environmentally unfavorable conditions, it is recommended that methods for the protection of these fragile site conditions be adopted such as:

- Stricter Board of Health supplemental Title V regulations
- A local wetlands protection by-law and regulations
- Erosion and Sedimentation control mechanism requirements
- Environmental Impact analysis requirements
- Reductions in maximum allowable road grades
- Reduced density of the area

Other potential strategies include

- Establishment of minimum percentages of buildable or unconstrained land area in meeting minimum lot area requirements
- Transfers of Development Rights

**REVIEW OF EXISTING LAND-USE  
REGULATIONS WILBRAHAM MOUNTAIN  
ENVIRONMENTALLY SENSITIVE AREA**

The so-called Mountain Area of Wilbraham, which for the purposes of this study has been defined as the upland terrain east of Main Street, is an area of severe environmental constraints. This area is zoned for Single Family residential use on minimum lot sizes of 60,000 square feet. However, much of this area presents significant obstacles to such development. As the overlay mapping has demonstrated, the area has very little "easy" development sites. Poor soils, steep slopes and wetlands make up a majority of the area. Consequently, development in this area calls for site analysis, design, and development to be done in a manner which prevents negative environmental consequences from improper development.

In addition to environmental concerns, the western slope and ridge of "the mountain" area is probably the most dominant physical feature in Wilbraham and is extremely noticeable from the lowland area of town (west of Main Street). The Western slope of the Mountain starts just east of Main Street, at an elevation of approximately 300 feet and rises continuously to the ridgeline of the Mountain at an elevation of approximately 900 feet. Recent residential construction on the western slope, near the mountain ridge, has raised legitimate questions of the visual aesthetics of transforming this slope from that of a prominent physical landmark to that of residential development with a visual impact for miles.

In this section we have reviewed Wilbraham's Zoning By-Laws and Subdivision Rules and Regulations as they affect development in the Mountain area and specifically, as those regulations address (or don't address) the issues stated above.

**§4.3 Residential Densities**

Currently most of the Mountain Area is located within the R-60 Zone which requires a minimum lot area of 60,000 square feet (or 1.38 acres) and 200 feet of frontage. The dividing line between the R-40 district (to the east) and the R-60 district does not necessarily define mountain area type conditions. At Monson Road the dividing line is at approximately 650 feet elevation. The type of environmental constraints found on the mountain, however, extend further down the slope and logically, therefore, the R-60 district should continue further down the slope.

Because of the severe conditions encountered on the Mountain, it is our recommendation that this area continue to have the lowest residential development potential of any area of the town. In fact, we believe a strong case can be made for reducing allowable densities further by increasing minimum lot size to as high as two acres and by excluding slopes in excess of 15% from the calculation of minimum lot area.

The impact of this increase in minimum lot size could be offset by providing density bonus provisions in a cluster (or flexible) development by-law for site designs which are exceptionally well thought out for the particular site and which have addressed and minimized any negative environmental impacts. In addition, the town could offer a bonus Transfer of Development rights provision whereby residential densities in other (receptor) areas of town could be increased by the preservation (and transfer of that parcel's development rights) of land area on the mountain. This provision might be tied to an affordable housing provision, thereby accomplishing two goals.

### §4.3.3 Flexible Subdivision

In 1987, Wilbraham adopted a flexible subdivision by-law. We wholeheartedly agree with the purpose and concept of this by-law. However, there are some mechanical concerns which we feel should be addressed for this by-law to be effective and able to achieve the desired goals. These include:

- Provision for excluding unusable land seems to be difficult to administer as currently written. The definition (§3.12.a.a.) states that "any lot on a proposed site plan which does not pass a percolation [*sic*] test ...shall not be deemed usable for residential construction.. However §4.3.3.1 uses the terms in the sense of excluding certain land types only. Since a perc test is only a spot test there is not a way to exclude more than the specific area of the test. It would seem that all a developer, who wished to avoid this provision, would need to do is to redraw the lots in such a manner as to have the area of the failed perc be included in the Open Space area, rather than as a buildable lot.
- It seems to us that the Minimum open space should be greater than the current 15%. The town may even wish to consider having a sliding scale of lot frontage and area reductions tied to the percentage of Open Space preserved.
- Minimum open space should have a minimum area of Land suitable for Residential Construction. Without such a provision the land set aside for Open Space may in fact be not, or marginally, buildable. The ultimate result of such a by-law is to result in higher residential density than might otherwise be able to occur.
- Minimum lot areas under 4.3.3.2 can be reduced to increase the effectiveness and attractiveness of this option. Further, by reducing required lot areas, more usable size parcels of land might be set aside for Open Space.
- Open Space Set-aside requirement is found in Section 10.5b and only refers to "cluster" and "Planned Unit Development". This needs to be included in § 4.3.3 and revised to refer to Flexible subdivision and Flexible non-subdivision.

### §4.5 Non-Subdivision Plans -- Flexible Requirements

This is an interesting approach to granting reduced frontage in exchange for larger lot area and Open Space. The concern we have with this provision is its economic feasibility. In essence, how is the Open Space land going to be conveyed. Is the town or an active Land Trust willing to accept a 2.5 acre parcel. If not, is it practical to set up a homeowner's association in order to be able to create 180,000 square foot lots on reduced frontage? It seems that there are only a very small number of parcels which might be able to utilize this provision. An alternative to this provision might simply be a flexible frontage and lot size provision whereby the Planning Board could grant special permits for reduced lot frontage requirements in exchange for a larger lot size requirement.

### Environmental Impact Analysis

The town should consider adoption of an Environmental and Community Impacts provisions in both the Zoning By-law and Subdivision Regulations. This review would require submission of data on the impacts on specified developments (large subdivisions, larger, non-residential uses, etc.) as to the impacts that such a development would have on the environment, traffic, and community services.

### Ridgeline Protection Overlay District

In order to protect the visual amenities of the Mountain ridgeline, an overlay district could be established which would include reduced height limitations and re-vegetation/screening requirements for newly constructed structures. In addition, this district could be an additional donor district for a Transfer of Development Rights provisions.

### Subdivision Rules and Regulations

The Rules and Regulations governing subdivision will have a very significant impact on the way development occurs in the Mountain Area. For the most part, Wilbraham's Subdivision Regulations are fairly current with the provisions now being used elsewhere to achieve municipal residential subdivision development goals. The following are some areas needing improvement:

#### Plan Submission Requirements

Submission requirements for Approval Not Required Plans are often included in Subdivision regulations so as to avoid confusion as to what the Planning Board expects to be shown on such plans.

#### Preliminary Plan Topographic plan

- The requirements for the submission of a topographic plan are unclear as to the need to show proposed topography. This should be a requirement.
- §4.1.3.9. requires information on street grades "where the terrain is sufficiently uneven". This needs to be clarified.
- §4.1.3.12 allows the use of ten foot contours for existing topography. Except for very large sites or very steep sites, ten foot contours are not going to reveal much information. At a minimum, five foot contours should be used, two would preferable.

#### Definitive Plan

- Since the preservation of major site features is a stated objective (§5.4), such site features should be shown on the definitive plan
- Finished land contours should be shown at two-foot contours (§4.2.4.10)
- Require submission of:
  - Environmental and Community Impact Analysis for large subdivisions
  - Erosion and Sediment Control Plan (this is required under §5.17, but should be specified in §4 as well)
  - Landscaping Plan

#### Design and Construction requirements

It is very useful to begin the design section of a subdivision regulation with a statement of design objectives. These may not always be objectives that can be mandated, but proclaim the goals the planning board would like to see achieved in a subdivision design. These could include preservation of all significant site features, maximum storm water recharge, minimization of cut and fill, lot layouts made in a manner to minimize visual prominence, etc.

### Storm Water Management

- Current street width requirements can be significantly reduced for most subdivision roads. While it is important to make certain that a roadway is constructed to accommodate all foreseeable traffic, it is also important not to require more than is needed. One of the major impacts of a new subdivision is storm water runoff from paved roadway surfaces and it should be the goal of subdivision regulations to minimize such runoff. This can be accomplished in a number of ways, but one of the easiest is to require only the minimum paved width necessary. In addition to reducing runoff, small road widths encourage slower traffic and will reduce the town's future road maintenance costs. A street hierarchy, based upon the number of potential dwelling units or traffic generation (in non-residential subdivisions) can be used. Street widths, maximum grades, sidewalk requirements and right of way width can all be tied to this hierarchy. A street width of twenty feet for a road with only five or six single family homes is not too narrow.
- The use of grass swales and berms might be considered in place of bituminous concrete berms. When part of an overall scheme to reduce runoff, grass swales and berms can be effective at recharging to groundwater significant quantities of road runoff. If structured curbing is needed for storm water management, we recommend that straight or sloped granite curbing be required to maintain the integrity of the storm water management system. As an aside, why are asbestos fibers required to be in the curbing bituminous mix?
- Placement of scour protection, such as rip-rap, at the discharge end of culverts should be included in the "Design and Construction Standards for Storm Water Drainage"

The maximum straightaway length of 1000 feet is too great. In the Mountain area, curved roadways making use of natural contours should be encouraged.

### Miscellaneous Comments

- Permit Granting authority should be changed to Special Permit Granting Authority so as to be consistent with Chapter 40A.
- There does not appear to be any specific provision which prohibits more than one residential structure on a lot. Single-Family condominium or cooperative developments have been able to built in other communities that avoid subdivision requirements and have less lot size and frontage than would normally be required for individual structures on individual lots. This should be clarified.
- The definition of "other bona fide construction" in section 7.4.1.2 (Earth Removal) begs definition.
- As-Built subdivision plans are useful in formalizing changes made during construction

**RECOMMENDED POLICY OPTIONS  
WILBRAHAM MOUNTAIN ENVIRONMENTALLY  
SENSITIVE AREA**

The area of Wilbraham Mountain, which we have defined as being the area East of Main Street, has three major limiting factors, or issues of major community concern, which deserve special consideration in Wilbraham's Land Planning. These three issues are:

- 1) Poor Soils
- 2) Steep Slopes
- 3) Scenic Ridgelines

In task three, in addition to identifying problems with Wilbraham's current zoning by-law, we identified a number of regulatory mechanisms which can be used to protect the fragile environmental conditions found on the Mountain. In this task we will provide further details as to the forms and options which the mechanisms, identified in general terms in the previous task, may take.

Because of the severe soil and slope limitations found on the Mountain, it is our recommendation that the overall residential development potential should be reduced and directed to the more suitable sites, both on the mountain and off. This goal can be accomplished by a number of interactive mechanisms which include:

- a. Increase Lot Frontage and Lot Size to as much as 90,000 square feet of land area and 250 feet of frontage.
- b. Exclude Steep slopes from the calculation of Minimum Lot Size. Alternative exclusions
  - >12%
  - >15%
  - >20%
- c. Base Lot Size requirements on SCS soils characteristics of the structure and septic system location. Different lot area requirements could be established for each type of Soil found in the Mountain area. A mechanism could be included whereby individual sites could have reduced lot area requirements based upon a site specific soils analysis. The mechanics of this process might consist of a standard 3 acre minimum lot size with reductions for soil types with less critical siting limitations. In the alternative, a comprehensive lot area table could be established for each soil type.
- d. Transfer of Development Rights (TDR): A TDR could be used as an incentive to shift development from the Wilbraham Mountains into the lower lands. The idea of "transfer of development rights" (TDR) is based on the concept that a parcel of land has a bundle of different "rights" associated with it. The value of these rights, such as the right of possession, access, air rights, subsurface rights, and development type and density, are defined, in part, by governmental actions, such as zoning. A TDR program allows a landowner to separate his or her right to develop the land, as permitted by zoning, and sell those developable rights.

**IMPLEMENTATION:**

- To implement a TDR program, Wilbraham would prepare a plan designating the parcels or districts from which development rights could be transferred ( a "sending" or "donor" parcel), and the parcels or districts which would receive those development

rights and develop at a higher density than allowed by the underlying zoning district (a "receiving parcel").

- A receiving parcel is able, both from a physical standpoint and in terms of the community's growth program, to accommodate additional development beyond that allowed as-of-right by zoning. In selling his or her development rights, a landowner would gain the cash value of whatever development rights the market associates with the land, and yet keep the land in a less intensive use and, presumably, continue to enjoy lower property taxes.
- A perpetual easement or some other development restriction would be recorded with the deed of the sending or donor parcel. The purchaser of the development rights gains the ability to develop the receiving parcel at a higher density than allowed "as-of-right" and can recapture the cost of the development rights purchased through the more intensive use of the receiving parcel.

This provision could encompass the entire mountain area or could be limited to just those areas with severe, but theoretically buildable (not wetlands), environmental constraints. Several examples of Transfer of Development Rights Provisions are attached.

- e. Revise Flexible Subdivision Provisions, as outlined in §2.2 of the Task 3 Working Paper or adopt a different cluster/flexible provision which would:
- Increase minimum open space provision or base density reductions upon percentage of open space set-aside (ie. For every 1% of land set aside, a 1.5% reduction in lot area and frontage).
  - Open space would have a minimum percentage of buildable land.
  - Reduce minimum lot size, frontage and yard requirements further. This will allow more units to be placed upon the more suitable locations.
  - Review of a Flexible subdivision should include review as to suitability of building sites for increased densities. It would be a mistake to allow a flexible subdivision on a site that is uniformly inappropriate for development.
  - Include density bonus provisions for preservation of resource values
    - Wetlands
    - Steep slopes
    - Scenic vistas
    - Trees and Stone walls
  - Allow Flexible Subdivisions located out of the Mountain Area to utilize Mountain Area land as the development's Open Space set-aside. (an example of a cluster by-law that allows off-site open space set-aside is attached)
- f. Protection of Critical portions of the Mountain area by purchase or gift. An alternative to protection of the Mountain Area by regulation is a comprehensive program of land acquisition of major parcels of land on the Mountain. This could be accomplished by outright purchase by the town or in conjunction with state funds when available.
- g. Land Trust. As part of a comprehensive long-term goal of acquisition, a town encouraged non-profit, self-sustaining, Land Trust might be formed to perform limited, environmentally sensitive development. A Land Trust whose primary purpose is the protection of the Mountain Area and the mere recouping of land purchase costs can perform a valuable role in a comprehensive plan for the protection of the Mountain Area.
- h. Ridgeline Protection. The scenic values of the Ridge of Wilbraham Mountain has been made extremely apparent with the construction of several structures which are visible from much of the area west of the Mountain. Provisions to limit construction height and to impose re-vegetation requirements can be established.



***Wilbraham Mountain***



**DRAFT REGULATORY OPTIONS  
WILBRAHAM MOUNTAIN ENVIRONMENTALLY  
SENSITIVE AREA**

**TASK 4 RECOMMENDATION:**      **Increase Lot Frontage and Lot Size to as much as 90,000 square feet of land area and 250 feet of frontage.**

Amend Section 2.1 (f) of the Wilbraham Zoning By-Laws so as to read: Residence R-90 district, single family.

Amend the Wilbraham Zoning By-Laws by substituting "R-90" for "R-60" wherever such abbreviation appears in the By-Law.

Amend Section 4.3.1 of the Wilbraham Zoning By-Laws as follows:

Delete the words "5.\* In Residence R-60 districts frontage 200 ft. - and area of 60,000 sq. ft."

Insert in place thereof the words `5. In Residence R-90 districts frontage 250 ft. - and area of 90,000 sq. ft.'

**TASK 4 RECOMMENDATION:**      **Exclude Steep slopes from the calculation of Minimum Lot Size.**

Amend Section 4.3.1 by replacing the words "A specified percentage of the area required for zoning compliance, whether by special permit or otherwise, for any lot in a residence district shall consist of usable land which does not constitute a wetland, body of water, bog, swamp, wet meadow or marsh as defined in Chapter 131, Section 40 of the Massachusetts General Laws. Said percentage shall equal seventy-five percent of said minimum requirement if it equals or exceeds 34,000 square feet and ninety percent of said minimum requirement if it is less than 34,000 square feet." with the following: "Not more than 10% of the area of a lot in an R-15, R-26, or R-34 district, nor more than 25% of the area of a lot in an R-40 or R-90 district, required to meet the minimum lot area requirements set forth in Section 4.3.1, shall be land under any waterbody, swamp, wet meadow or marsh, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00) or slopes having a grade of 15% or greater".

**TASK 4 RECOMMENDATION:**      **Revise Flexible Subdivision Provisions**

**4.3.3.                    FLEXIBLE RESIDENTIAL DEVELOPMENT**

**4.3.3.1.                PURPOSE**

In order to provide for the public interest by the preservation of open space in perpetuity, variations in residential housing development patterns which allow for development more harmonious with natural features and town growth policies than traditional residential development, to promote the maximum possible protection of natural resources, visual quality, and to encourage efficient provision of necessary roadways utilities and community services, the following regulations are established for Flexible Residential Development (FRD) within the Town of Wilbraham. In making any and all determinations under this bylaw the Planning Board shall always compare the impact of an open space development with potential conventional development, and may approve open space development only if the proposal is of greater overall benefit to the town and better achieves the purposes of this zoning by-law than a conventional development.

**4.3.3.2. APPLICABILITY**

Flexible Residential Development shall be allowed within Residential Districts only, subject to the requirements of this bylaw for such district, and in accordance with the additional requirements specified herein.

**4.3.3.3. GENERAL REQUIREMENTS**

- a. Any parcel of land located within a Residential District containing ten (10) acres or more may be considered for an FRD subject to a special permit issued by the Planning Board.
- b. After an FRD application has been submitted, no utility installations, no ditching, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and approved as provided by these regulations.
- c. No FRD shall be approved within an established single-family residential neighborhood if the Planning Board determines that such land use would have a detrimental effect upon the surrounding property.
- d. It shall be the responsibility of an applicant for an FRD special permit to demonstrate to the Planning Board that this form of land development will be as or more appropriate than conventional patterns of residential subdivision development for the particular site being considered.
- e. All dwellings to be built on the site shall be located at least three hundred and fifty (350) feet from any public ways in existence at the time of submission of the FRD proposal to the Planning Board.

**4.3.3.4. DESIGN OBJECTIVES**

The FRD shall be designed to achieve, to the maximum extent feasible, the following design objectives:

- a. Preserve and maintain existing field, pastures, or other land in agricultural use.
- b. Scenic views and vistas, particularly from areas of public access, are to be left undisturbed.
- c. All development and construction shall occur in areas at least 300 feet from surface water bodies and other Wetland Resource Areas, as defined in the regulations (310 CMR 10.00) promulgated pursuant to Mass. General Laws Chapter 131, Section 40 (Wetlands Protection Act).
- d. Special measures shall be taken to protect the habitat areas of any plant or wildlife species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program.
- e. The visual integrity of hilltops, ridgelines and the Western slopes of Wilbraham Mountain shall be preserved and maintained. Development shall be sited so that building peak will be below the ridgeline or hilltop and if the site is heavily wooded such peak will be at least ten (10) feet lower than the average canopy height of such trees. Where necessary canopy type trees shall be planted to supplement existing screening.

- f. Slopes of more than 12% grade shall be undisturbed to the maximum extent feasible.
- g. Stone walls and trees, with a caliper (measured four (4) feet above ground level) of eight (8) inches or more, shall be maintained and preserved.
- h. Average set-backs for structures shall be one hundred (100) feet.

**4.3.3.5 PERMITTED USES**

- a. Detached residential dwellings, including any accessory uses, as permitted in the zoning bylaw for the district in which the land lies.
- b. Uses permitted within the Common Open Space as described in these regulations.

**4.3.3.6. MINIMUM REQUIREMENTS**

- a. Density: The total number of lots allowable on a site proposed for FRD shall not exceed the number of lots for the number of dwelling units that would normally be allowed under a conventional subdivision for the zoning district in which the site is located, plus any density bonuses received as per paragraph b. below. The maximum number of lots possible shall be determined by the layout of a preliminary plan showing the total number of lots which could be obtained by utilizing a conventional grid subdivision. The burden of proof shall be upon the applicant. The required minimum tract area, as well as the calculation of the number of lots allowed by a conventional grid subdivision, as specified above shall be exclusive of:
  - 1. swamp, wet meadow marsh, or land under any waterbody, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00);
  - 2. land otherwise prohibited from residential development by local or state law, regulation, statute, or by a prior conservation easement or restriction recorded in the Hampden County Registry of Deeds.
- b. Density Bonus Provisions:
  - 1. For every two dwelling units which meets the definition of "Low or moderate income housing" as provided in Massachusetts General Laws Chapter 40B, Section 20, and which is assured to meet such definition for at least twenty-five years, the Planning Board may authorize an increase in the number of lots or dwelling units allowed within an FRD of one addition unit. The maximum number of additional units that will be allowed under this provision shall be 25% above that allowed under Subsection 5a above. Units which meet this definition shall be interspersed throughout the development and shall be indistinguishable, in terms of design and exterior appearance, from other units within the development.
  - 2. For land within the Town of Wilbraham but which is not contiguous to the parcel to be developed to be preserved under a permanent conservation restriction or if deeded to the town, the Planning Board may allow one additional dwelling unit for each dwelling unit which could reasonably be developed on the non-contiguous parcel under a conventional subdivision plan in full conformance with zoning, subdivision regulations, Board of Health regulations and Title 5 (The State Environmental Code). The Planning Board must determine, after consultation with, and the approval of, the Conservation Commission, that such other parcel(s) of

land is(are) exceptionally valuable to the town and its residents for open space, recreation or natural resource protection and that such value more than offsets the impact of additional density on the FRD site. For any non-contiguous land to be protected which is located on the western slope of "Wilbraham Mountain" and is at an elevation of 650 feet elevation (NGVD) or above, additional dwelling units allowed by the Planning Board on the FRD site may be up to 1.5 times the number which could reasonably be developed on the non-contiguous parcel by a conventional subdivision plan.

- 3. The Planning Board may grant an additional bonus of up to 10% of the total number of dwelling units for FRD plans which have been designed in a manner which is exceptionally sensitive to the design objectives enumerated in Section 4.3.3.4 above.
- c. Reduction of Dimensional Requirements: The Planning Board may grant a reduction in the dimensional requirements of the zoning regulations listed in Section 4.3 of these by-laws for all portions of an FRD, if the Planning Board finds that such reduction will result in better design, improved protection of natural and scenic resources, reduced town road maintenance costs, and will otherwise comply with these regulations. The percentage of the reduction in minimum lot size and street frontage requirements allowed under this By-Law shall not be greater than an amount equal to 1.5 times the percentage of the total FRD which is to be set aside for common open space [Explanation: If 30% of the land area is to be set aside for common open space, the Planning Board may grant up to a 45% reduction in the minimum lot size and street frontage requirements]. In no instance shall any lot deviate from the following Table of Minimum Requirements:

<b>TABLE OF MINIMUM REQUIREMENTS</b>	
Minimum Area	15,000 sq. ft*
Minimum Frontage	50 ft.
Minimum Front Yard Setback	25 ft.
Minimum Side Yard Setback	15 ft.
Minimum Rear Yard Setback	8 ft.
<i>* Exclusive of land within Wetlands</i>	

- d. Development Standards: Prior to the issuance of a special permit for an FRD the Planning Board shall find, and the applicant shall submit the information necessary to demonstrate, that the following standards have been met:
  - (1) The development will not cause unreasonable traffic congestion or unsafe conditions both within and outside of the development and will comply with town standards for parking, access, road design and construction.
  - (2) The development will provide for and maintain convenient and safe emergency vehicle access to all buildings and structures at all times.
  - (3) The nature of the soils and subsoils shall be suited for the intended purposes. This determination shall focus upon, but shall not be limited to the locations, design and construction of roadways, buildings, septic systems, and surface water drainage systems. Soil borings or test pits may be made to provide information on soil texture, color, percolation rates and depth to the ground water table at its maximum elevation.

- (4) Anticipated storm water runoff from the site shall not exceed peak runoff from the site prior to development. The applicant shall submit formal drainage calculations by a registered professional engineer for this purpose.
- (5) Proper soil erosion and sedimentation control measures shall be employed to minimize sedimentation and siltation of existing surface water bodies and wetlands. In areas with slopes of greater than 5% grade or within one hundred (100) feet of a wetland, an erosion and sedimentation control plan shall be submitted. In such areas all proposed filling, cutting, clearing or grading shall be minimized and all such development activities shall be carried out in such a manner so as to retain the natural vegetation and topography wherever possible.
- (6) The site design shall preserve and, where possible, enhance the natural features of the property, including scenic views, by adapting the location and placement of structures and ways to the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance to the landscape and surrounding properties. Specifically, Flexible Residential Developments on Wilbraham Mountain shall be designed in such a manner that, to the maximum extent feasible, roadways are laid out in a direction generally parallel to contour lines (primarily in a north-south direction) and, further, that construction at or above an elevation of 650 feet (NGVD) is minimized.
- (7) All streets, sewers, water lines, drainage facilities and utilities shall be designed and constructed in compliance with the Rules and Regulations Governing the Subdivision of land in Wilbraham, Massachusetts and any other land-use regulations of Wilbraham in effect at the time of application, insofar as they are applicable. Special exceptions to the subdivision regulations may be authorized by the Planning Board in granting a special permit hereunder provided the Board determines such exceptions are in the public interest and are not inconsistent with the purposes enumerate in Section 1.
- (8) The development shall comply with the provisions of 310 CMR 15.00 of the State Environmental Code (Title 5) and the Town of Wilbraham Health Regulations, with regard to on-site waste water disposal. On-site sewage disposal systems shall be located so as to minimize the impact on surface and subsurface water resources. In evaluating this issue, the Planning Board shall take into consideration both the direction of ground water flow and the distance between any such system and a water supply or other water resource. On-site sewage disposal systems shall not be located within one hundred fifty (150') feet from any wetland or surface water body. In no instance shall a variance be granted from Title,5 of the State Environmental Code or Wilbraham Board of Health Regulations in regard to depth to ground water or distance to wetlands, buildings and water supply wells.

#### 4.3.3.7

#### OPEN SPACE USE AND DESIGN STANDARDS

- a. Within an FRD, no less than five (5) acres, nor less than thirty (30%) percent of the total land area shall be devoted to common open space. The common open space shall not include land set aside for roads and/or parking uses. No more than fifty (50%) percent of the common open space may contain land considered as wetland resource areas, other than Isolated Lands Subject to Flooding, as defined in the regulations (310 CMR 10.00) promulgated pursuant to Mass. General Laws Chapter 131, Section 40 (Wetlands Protection Act).

- b. The common open space shall be designed and maintained in accordance with the following standards:
  - (1) Naturally-existing woods, fields, meadows and wetlands shall be maintained and improved in accordance with good conservation practices.
  - (2) Common open space shall be planned as large, contiguous parcels whenever possible. Strips or narrow parcels of common open space shall be permitted only when necessary for access or as vegetated buffers along the site's perimeter.
  - (3) Common open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses.
  - (4) Not more than ten (10%) percent of the common open space shall be covered by man-made impervious surfaces.
  - (5) Common open space may be used for passive recreation, conservation, forestry, agriculture, natural buffers, structures necessary to approved uses, utilities and other facilities necessary for the convenience and enjoyment of the residents, subject to approval by the Planning Board. Up to 25% of the common open space may be developed for active recreation, provided that such facilities shall be open to the general public, without charge.
  - (6) Use of Common Open Space shall in all instances require approval by the Planning Board, and all structural improvements and impervious surfaces must be shown on the definitive FRD plan.
  - (7) In cases where the Open Space has been environmentally damaged prior to the completion of the development as a result of soil removal, harvesting of trees, or other natural features, refuse disposal or any other activity deemed inappropriate with proposed uses of the Common Open Space, the Planning Board may require the developer to restore or improve the condition and appearance of the Common Open Space, and may require the posting of a bond or other appropriate form of performance guarantee to ensure such restoration or improvement.

**4.3.3.8 COMMON OPEN SPACE OWNERSHIP AND MANAGEMENT**

- a. Common open space in an FRD shall be conveyed to: 1) the Town of Wilbraham for park or open space use; 2) a non-profit corporation, the principle purpose of which is the conservation of open space; or 3) to a corporation or trust owned or to be owned by the owners of lots within the development. If a corporation or trust owned by the owners of lots is utilized, ownership thereof shall pass with the conveyances of the lots. In any case, where such land is not conveyed to the town, a perpetual restriction, running to and enforceable by the town, shall be recorded providing that such land shall be retained in perpetuity in an open and natural state and shall not be built upon for residential use or developed for accessory uses such as parking or roadways.
- b. If the common open space is not to be conveyed to the town, then the applicant shall include as part of the road covenant a provision that the common open space will be deeded as approved by the Planning Board. In addition, the road covenant shall not be released until proof of transfer of ownership has been provided to the Planning Board.
- c. If the common open space is not to be conveyed to the town, the application for an FRD special permit must include a description of how and when the common open space will be

preserved in perpetuity to standards satisfactory to the Planning Board and Town Counsel. The applicant shall also provide as part of the common open space proposal an agreement empowering the town to perform maintenance of the common open space in the event of failure to comply with the program included in the application pursuant to the preceding sentence providing that, if the town is required to perform any maintenance work, the owners of lots within the FRD shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid.

#### **4.3.3.9 REVIEW PROCEDURES.**

All applications for FRD's shall be submitted in conformity with the requirements and procedures for submission and review under the Subdivision Rules and Regulations of the Planning Board and the following additional requirements:

a. The Planning Board shall be the special permit granting authority for all FRD applications. Applicants shall submit preliminary materials to the Planning Board and Board of Health prior to filing a formal special permit application in order to obtain a consensus regarding the suitability of the site for FRD general design concepts, and to determine allowable density prior to preparation of further material. In addition to the materials normally required for submission of a preliminary plan as outlined in the Subdivision Rules and Regulations, these preliminary overall development concept materials shall include:

- (1) Four (4) copies of a site plan showing the allowable number of units in accordance with the underlying zoning, the rules and regulations governing the subdivision of land in Wilbraham, Title 5 (the State Environmental Code) and the Wetlands Protection Act. The site plan shall include two (2) foot contours of existing and proposed topography, area and dimensions of all lots in conformance with the zoning for the district in which the site is located, proposed ways, all swamp, wet meadow marsh, or land under any waterbody, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00), any site features of the types enumerated in Section 4.3.3.4. The Board may require soil surveys and/or test pits or borings to be prepared at the applicant's expense to determine the suitability of the land for the proposed ways, drainage and septic systems.
- (2) Four (4) copies of a soils map or other suitable information regarding the nature of the soils within all areas of the proposed development.
- (3) Six (6) copies of an overall development concept plan showing the location and dimensions of all building lots, the nature and extent of the Common Open Space, the location and use of any common facilities or structures, the location of all ways and easements, existing and proposed drainage areas, private water supply wells within the site boundaries and on adjacent properties, and such other improvements as may be proposed.
- (4) Supporting documents describing the proposed uses of the Common Open Space and the preferred form of ownership and maintenance thereof, and of any facilities to be owned in common.
- (5) Any documentation tending to establish that the proposed plan is better suited to the site than a conventional subdivision plan, including matters relating to the layout of ways and open space in relationship to the surrounding property and the site, the degree to which the plan provides for protection of important natural features

including wetlands, steep slopes and agricultural land, the extent to which the plan provides for development of those areas best suited for building purposes

- b. Within sixty (60) days after the receipt of preliminary materials as specified herein, the Planning Board shall give its approval, with or without modifications, or shall disapprove the proposal stating its reasons. The Town Clerk shall be notified in writing of such approval or disapproval. Preliminary approval for an FRD shall be valid for a period of six (6) months.
- c. The Planning Board shall base its review of the requirements for granting a special permit on the provisions of subsection 4.3.3.6(d). A special permit shall not be granted unless the applicant demonstrates compliance therewith. All other improvements shall comply with the Subdivision Rules and Regulations insofar as they are appropriate.
- d. Applicants for special permits for FRD shall, at the time of filing the application, submit a definitive development plan in conformity with the Subdivision Rules and Regulations of the Planning Board, which plan shall be derived from the approved overall development concept plan required under subsection (a) above. In addition to the materials required for submission of a definitive subdivision plan, the following documents and information shall be provided:
  - (1) Six (6) copies of the definitive development site plan, accurately showing the proposed layout of all lots, ways and common areas and structures in relationship to the Common Open Space. The Common Open Space shall be accurately depicted on the plan and note shall appear on the plan to the effect that "No lot as shown on this plan and approved in accordance with the Open Space Residential Development provisions of the Zoning Bylaw of the Town of Wilbraham shall be further subdivided".
  - (2) Grading and erosion control plans, where required.
  - (3) Information as to the degree to which the proposed plan departs from the requirements of the underlying zoning, and the reasons why such departures are deemed to be in the public interest.
  - (4) Drafts of proposed deeds, management plans for all common areas and structures, and the proposed open space restriction, if any.
- e. Upon receipt of an FRD application, the Planning Board shall proceed as with applications for special permits under Section 10 of these bylaws and chapter 40A of the General Laws. Hearings on applications under this section may be held simultaneously with subdivision review hearings.

**4.3.3.10 APPROVALS**

- a. As a condition of approval hereunder, the Planning Board may require changes in the proposed development plans and may impose additional conditions, limitations and safeguards as it may deem appropriate to ensure compliance with the purposes of this by-law.
- b. Notwithstanding any provision to the contrary, any special permit granted by the Planning Board for an FRD shall become void within two (2) years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in Massachusetts General Laws, Chapter 40A, Section 6, unless any

construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for a good cause. All open space shall be dedicated at the time the permit holder proceeds with construction under a building permit.

- c. If at any time before, during or after construction of the proposed development, unforeseen conditions make it necessary or preferable to modify the project as described in the approved definitive FRD application, the Planning Board may authorize such modifications provided that they are within the spirit of the original proposal and comply with these regulations.

Amend the Wilbraham Zoning By-Law by inserting the following new section:

**4.6 MAJOR RESIDENTIAL DEVELOPMENT**

4.6.1 Definition: Major Residential Development: The creation of more than twenty (20) dwelling units within a two-year period from or on property or set of contiguous properties in common ownership as of the date of adoption of this by-law (\_\_\_\_\_, 1989).

4.6.2 Applicability. Major residential development shall be by special permit of the Planning Board. Such special permits shall be acted upon in accordance with the following:

- a. Application for a special permit for major residential development shall include a conventional development plan and a substantially different alternative development plan, each either conforming to the requirements for a preliminary subdivision plan or not requiring approval under the Subdivision Control Law. Substantial difference would be a conventional plan versus a flexible residential development as per Section 4.3.3 above or two (2) plans of the same type having major differences in the number of lots created, road pattern or open space configuration.
- b. Applicants for major residential development shall file with the Planning Board four (4) copies of the following to have been prepared by an interdisciplinary team including a registered land surveyor, a registered professional engineer and a registered architect or landscape architect and a land-use planner.
  - 1) The basic alternative development plans described above, conforming to the information requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plans shall also indicate proposed topography and the results of deep soil test pits and percolation tests at the rate of one (1) per every five (5) acres, but in no case fewer than five (5) per major residential development. Test pits shall be located to the satisfaction of the Planning Board so as to indicate the buildability of areas proposed either for development or for bonused reservation.
  - 2) An Environmental and Community Impact analysis, as required by Section 7.8. of this zoning by-law
  - 3) Any additional information necessary to make the determinations and assessments cited in Section 4.6.3 below.

4.6.3. Decision. The Planning Board shall approve or approve with conditions a special permit for major residential development for the development plan which most closely meets the purposes of this Zoning By-Law as enumerated in Section 1. The Board shall disapprove both plans only

if it determines that the alternative plan is not a good faith design, or that neither plan conform to the requirements of the Zoning by-law or, if applicable, the Rules and Regulations governing the Subdivision of Land in the Town of Wilbraham.

**NOTICE: THE ABOVE BY-LAW PROVISION REQUIRING THE SUBMISSION OF ALTERNATIVE SUBDIVISION PLANS FOR LARGER DEVELOPMENTS HAS BEEN PREPARED AT THE COMMITTEE'S REQUEST. WHILE THERE ARE SEVERAL COMMUNITIES WHICH HAVE ADOPTED SIMILAR PROVISIONS, SUCH PROVISIONS HAVE NOT, AS YET RECEIVED JUDICIAL REVIEW. THERE IS A SIGNIFICANT CHANCE THAT SUCH PROVISIONS WILL BE FOUND TO EXCEED THE AUTHORITY GRANTED TO COMMUNITIES UNDER THE ZONING ENABLING ACT, CHAPTER 40A.**

**NEW RECOMMENDATION: A new purposes clause to the Zoning By-law**

Amend the Wilbraham Zoning By-Law by replacing Section 1.0 with the following:

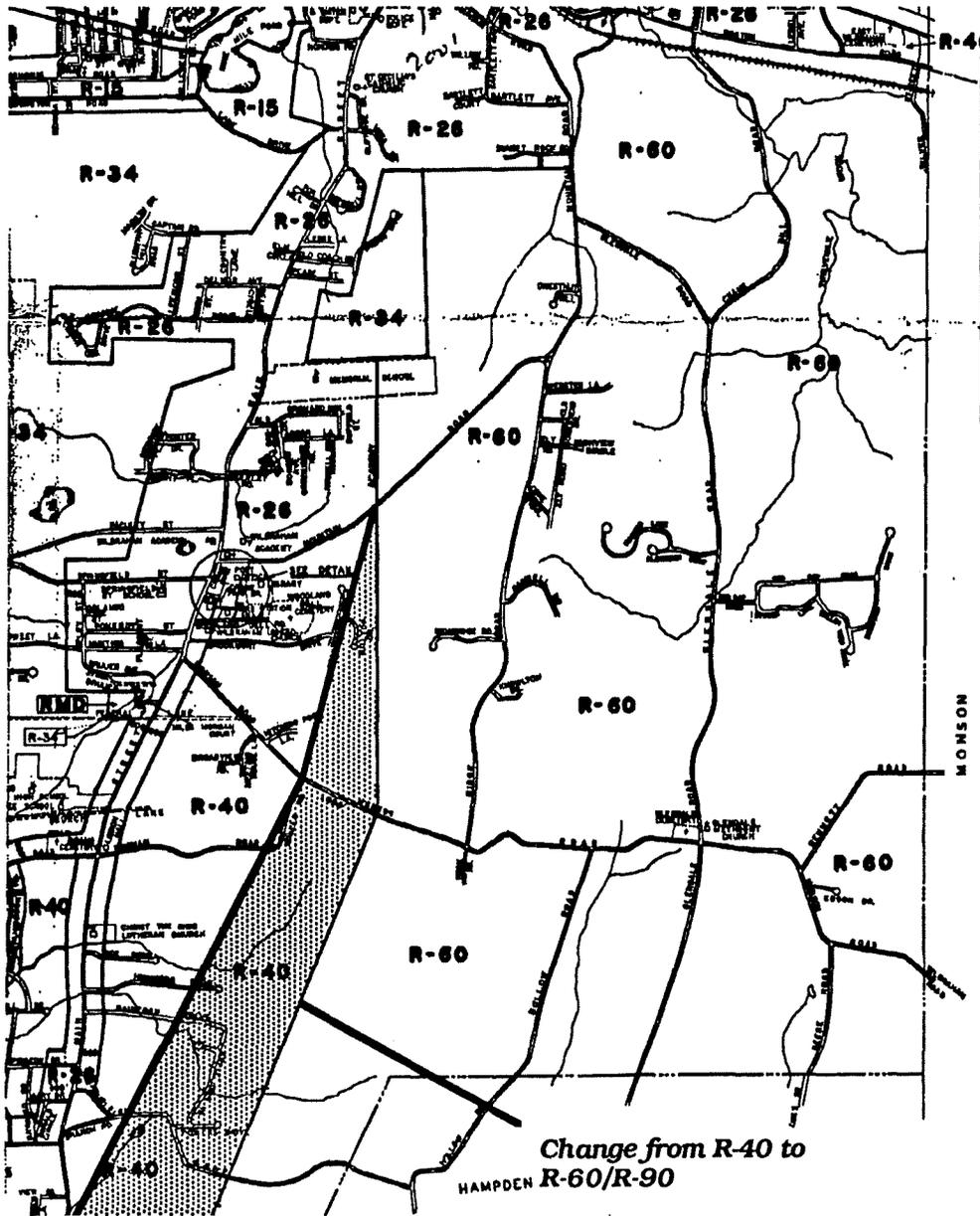
- 1.0 a. To ensure realization of the general statement of purpose declared in Chapter 40A of the General Laws;
- b. To protect the right of every resident of the Town of Wilbraham to clean air and water; freedom from excessive and unnecessary noise or odor; and to the natural, scenic, historic, and aesthetic qualities of the environment as declared in Article XLIX of the Constitution of the Commonwealth of Massachusetts;
- c. To permit and ensure planned, orderly growth in the Town of Wilbraham;
- d. To provide for compatible development and best use of the town's land and resources;
- e. To provide adequate housing and services to residents, visitors, and employees in the Town of Wilbraham.

**TASK 4 RECOMMENDATION: Ridgeline Protection.**

Amend the Wilbraham Zoning By-Law by adding the following new Section:

- 4.3.12.3 No residential structure located within one thousand (1000) horizontal feet of Ridge Road shall have a height in excess of twenty (20) feet. The Planning Board may grant a special permit for a greater height, up to 35 feet in height, upon a determination that such increased structural height will not be visually prominent because of terrain conditions, or because there exists adequate screening of such a structure by existing canopy trees and assurance is received that such trees will not be removed.

**TASK 3 RECOMMENDATION:** Revise the Building Zone Map by including areas on the Western slope of Wilbraham Mountain in the current R-60 District.



**TASK 3 RECOMMENDATION:      Adopt an Environmental Impact Analysis Provision in the Zoning By-Law and Subdivision Rules and Regulations**

Amend to Wilbraham Zoning By-Laws by inserting the following new section:

**7.8 ENVIRONMENTAL AND COMMUNITY IMPACT ANALYSIS**

**7.8.1 Applicability**

Any application for a special permit to be allowed to conduct any use or uses on one lot required to have two-hundred (200) or more parking spaces under the provisions of Section 7.5, or for a multiple dwelling permit for more than twelve (12) units under the provisions of Section 4.4, shall be required to submit, as part of the special permit application submission, an Environmental and Community Impact Analysis. The Environmental and Community Impact Analysis shall clearly and methodically assess the relationship of the proposed use and/or development to the natural and man-made environment of Wilbraham. This report shall be prepared by an interdisciplinary team of professionals qualified, experienced, and, where applicable, licensed, in their fields. Such team shall typically consist of a Registered Professional Engineers, Traffic engineers, Architects, Landscape Architects, Land-Use Planners, Hydrogeologists, Hydrologists, Biologists and other environmental professionals.

**7.8.2 Purpose**

It is intended that the report be a guide to the Planning Board in its deliberations and will build into the board's decision-making process an appropriate and careful consideration of the environmental and community impacts of the proposed use and/or development.

**7.8.3 Analysis**

For each of the components of the Environmental and Community Impact Analysis listed under paragraph 4 below, each of the following concerns must be separately addressed:

- a. The Environmental and Community Impacts of the Proposed use and/or Development - All primary and secondary environmental and community impacts, both beneficial and adverse, anticipated as a result of the proposed use and/or development. This section shall include all impacts resulting from the construction phase as well as those resulting from the project's completion.
- b. Adverse Impacts which cannot be avoided should the proposed use and/or development be implemented - The report shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced in severity, but not eliminated.
- c. Alternatives to the proposed use and/or development - The report shall develop, describe, and objectively weigh alternatives to the proposed use and/or development which are allowed by the Zoning By-law.
- d. Measures to be used to minimize adverse environmental and community impacts - Corrective and protective measures which will be taken, as part of the project, to minimize adverse impacts shall be described in detail.

**7.8.4 Scope**

The Environmental and Community Impact Analysis shall evaluate all of the following topics:

a. Natural Environment

- i. Air and Noise Pollution - The impact of local air quality and noise from the proposed development (including traffic generated from the development), both during and after construction, shall be evaluated. The Planning Board may require detailed technical reports of such impacts.
- ii. Water Pollution - The impact of storm water run-off on adjacent and downstream surface water bodies and sub-surface ground water shall be evaluated. Dangers of flooding as a result of increased downstream runoff, especially peak runoff. The impact of the proposed project on water table levels shall also be analyzed.
- iii. Land - Compatibility of the proposed development with existing soils; the impact of any soils or other materials to be removed from the site; and the potential dangers and impacts of erosion and sedimentation caused by the proposed development.
- iv. Plants & Wildlife - The impact that the proposed project may have on wildlife habitat and on any rare or endangered plant or animal species known to exist in the area.
- v. Water Supply - The average and peak daily demand and the impact of such demands on groundwater aquifers.
- vi. Sewage Disposal - The average and peak daily disposal and the impact of such disposal on groundwater aquifers.

b. Man-Made Environment

- i. Existing Neighborhood Land Use - Compatibility with adjacent or nearby existing land uses, or approved private development plans, if known, for adjacent or nearby land use changes to occur during the life of the proposed development. If not compatible, reasons therefor shall be detailed. Consultation with the Planning Board is strongly recommended.
- ii. Zoning - Compatibility of proposed development with the purposes of the Zoning By-Law and the Zoning district.
- iii. Architecture - The style of architecture of the buildings shall be described; its relation to prevailing types of architecture for similar buildings; and its compatibility with the function of the building and to the architecture of adjacent buildings. Sketches, photos, elevations and renderings are encouraged to illustrate architectural appropriateness as well as innovation.

c. Public Service

- i. Schools - The expected impact on the school system both elementary and secondary levels, the number of students; projected school bus routing changes and projections of future school building needs resulting from the proposed project.
- ii. Police - The expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.
- iii. Fire - Expected fire protection needs; on-site fire fighting capabilities; on-site alarm or other warning devices; fire-flow water needs, source and delivery system and other needs

shall be presented. Fire department service improvements necessitated as a result of the proposed project shall also be discussed.

- iv. Recreation - On-site recreation provisions shall be detailed and off-site recreation demands shall be estimated. Provision for public open space, either dedicated to the Town or available to its residents shall be described. Open space available primarily or exclusively for residents or employees shall also be described.
- v. Solid Waste Disposal - Analysis of the projected volume and type of solid waste to be generated by the proposed development and methods of removal.
- vi. Traffic - The expected impact of traffic generated by the proposed development on area roadways. Discussion shall include existing average and peak traffic volumes and composition, projected average and peak traffic generation and composition, intersection impacts and analysis of area roadway and intersection capacities. Methodologies used to make projection shall be described in detail.
- vii. Highway - Projected need, responsibility and costs to the Town of roadway maintenance shall be analyzed. Impacts of construction equipment on area roadways shall also be discussed.
- viii. Sewage Disposal - Analysis of the project average and peak sewage discharge and the impact of such discharges on the Wilbraham's sewerage system.

d. Aesthetics

- i. Lighting - The type, design, location, function and intensity of all exterior lighting facilities shall be described. Attention given to safety, privacy, security, and daytime and nighttime appearance shall be detailed.
- ii. Landscaping - Provisions for landscaping shall be described including type, location and function of all plantings and materials.
- iii. Visual - Attention given to views into the site and from the site shall be described. Included shall be long-distance views as well as views to and from adjacent properties.

e. Cost/Benefit Analysis

This municipal benefit/cost analysis should follow standard and usual procedures for measuring both the benefits to be derived and costs to be incurred by the Town of Wilbraham as a result of the proposed development. This element should also estimate net benefits or costs of non-quantifiable environmental impacts.

**TASK 3 RECOMMENDATION:      Permit Granting Authority should be called "Special Permit Granting Authority"**

Amend the Wilbraham Zoning By-Law by inserting the words "Special Permit Granting Authority" in place of the words "Permit Granting Authority" wherever they appear.

**TASK 3 RECOMMENDATION: Revisions to Subdivision Rules and Regulations**

Include Approval Not Required Requirements:

2.2.5 A plan not requiring approval shall be prepared by a registered land surveyor and shall be clearly and legibly drawn to the requirements of the Recording Rules adopted by the Hampden Registry of Deeds in Massachusetts. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire plan. A plan not requiring approval shall contain the following information:

1. Property boundaries, north point, date and scale.
2. Name of the record owner, name of the registered land surveyor, and the Hampden Registry of Deeds book and page reference of conveyance to record owner.
3. Area of each lot.
4. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, monuments or references necessary to establish these lines on the ground.
5. Where practical, boundary lines of contiguous and adjacent land and the names of the owners thereof, as determined from the most recent tax list.
6. Location of all permanent monuments properly identified.
7. Location, names and present widths of non-public (private) ways abutting the property.
8. Suitable space to record the endorsement of the Board that Approval is not required and the signatures of the members of the Board.
9. Zoning classification and location of any Zoning District Boundaries that may lie within the locus of the plan.
10. In the case of the creation of a new lot, the remaining land area and frontage of the land in the ownership of the applicant shall be shown.
11. Location of all existing buildings, including setback and side and rear yard designations.
12. Location and area of any wetlands on the lots being created by the plan (including the lot being created by the remaining land). In lieu of delineating the wetlands on the remaining land, the applicant may provide written certification from the Surveyor or Professional Engineer who prepared the plan that the remaining parcel of land contains the minimum required upland area required under the Zoning By-Laws.

Revise Section 4.1.3.12 of the Wilbraham Subdivision Regulations to read as follows:

- 4.1.3.12 Existing and proposed topography at a two (2) foot contour interval (may be shown on a separate sheet) based on field survey and referenced to United States Geodetic Survey (U.S.G.S.) datum. The proposed topography will be indicated by solid lines with proposed elevations shown enclosed in blocks. The existing topography to be indicated by dashed lines with elevations shown.

Add the following new Section to the Wilbraham Subdivision Regulations:

- 4.2.4.12 Major site features, such as existing waterways, swamps and water bodies, natural drainage courses, stone walls, fences, buildings, rock ridges, rock outcroppings, trees over twelve (12) inches in diameter, and the perimeter of heavily wooded areas. Location and area of all wetlands located in or within 100 feet of the subdivision.

Add the following new Section to the Wilbraham Subdivision Regulations:

**4.2.7 ENVIRONMENTAL AND COMMUNITY IMPACT ANALYSIS**

1. Any submission of a residential subdivision creating 1,000 feet or more of subdivision street/roadway, and all non-residential subdivisions, shall be accompanied by four (4) copies of an Environmental and Community Impact Analysis. The Environmental and Community Impact Analysis shall clearly and methodically assess the relationship of the proposed development to the natural and man-made environment of Wilbraham. This report shall be prepared by an interdisciplinary team of professionals qualified, experienced, and, where applicable, licensed, in their fields. Such team shall typically consist of a Registered Professional Engineers, Traffic engineers, Architects, Landscape Architects, Land-Use Planners, Hydrogeologists, Hydrologists, Biologists and other environmental professionals.
2. It is intended that the report be a guide to the Planning Board in its deliberations and will build into the board's decision-making process an appropriate and careful consideration of the environmental and community impacts of the proposed development.
3. For each of the components of the Environmental and Community Impact Analysis listed under paragraph 4 below, each of the following concerns must be separately addressed:
  - a. The Environmental and Community Impacts of the Proposed Development - All primary and secondary environmental and community impacts, both beneficial and adverse, anticipated as a result of the proposed development. This section shall include all impacts resulting from the construction phase as well as those resulting from the projects completion.
  - b. Adverse Impacts which cannot be avoided should the proposed development be implemented - The report shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced in severity, but not eliminated.
  - c. Alternatives to the proposed development - The report shall develop, describe, and objectively weigh alternatives to the proposed development which are allowed by the Zoning By-law.
  - d. Measures to be used to minimize adverse environmental and community impacts - Corrective and protective measures which will be taken, as part of the project, to minimize adverse impacts shall be described in detail.
4. The Planning Board, as part of a review for a Preliminary Subdivision Plan, submitted in accordance with the requirements of Section 5, shall specify which of the following topics shall be evaluated, and the level of detail required for each topic, in the Environmental and Community Impact Analysis and submitted with the Definitive Plan. If no preliminary subdivision plan is submitted, The Environmental and Community Impact Analysis shall evaluate all of the following topics:

**A. NATURAL ENVIRONMENT**

- i. **Air and Noise Pollution** - The impact of local air quality and noise from the proposed development (including traffic generated from the development), both during and after construction, shall be evaluated. For larger developments (over 100 dwelling units) the Planning Board may require detailed technical reports of such impacts.
- ii. **Water Pollution** - The impact of storm water run-off on adjacent and downstream surface water bodies and sub-surface ground water shall be evaluated. Dangers of flooding as a result of increased downstream runoff, especially peak runoff. The impact of the proposed project on water table levels shall also be analyzed.
- iii. **Land** - Compatibility of the proposed development with existing soils; the impact of any soils or other materials to be removed from the site; and the potential dangers and impacts of erosion and sedimentation caused by the proposed development.
- iv. **Plants & Wildlife** - The impact that the proposed project may have on wildlife habitat and on any rare or endangered plant or animal species known to exist in the area.
- v. **Water Supply** - The average and peak daily demand and the impact of such demands on groundwater aquifers.
- vi. **Sewage Disposal** - The average and peak daily disposal and the impact of such disposal on groundwater aquifers.

**B. MAN-MADE ENVIRONMENT**

- i. **Existing Neighborhood Land Use** - Compatibility with adjacent or nearby existing land uses, or approved private development plans, if known, for adjacent or nearby land use changes to occur during the life of the proposed development. If not compatible, reasons therefor shall be detailed. Consultation with the Planning Board is strongly recommended.
- ii. **Zoning** - Compatibility of proposed development with the purposes of the Zoning By-Law and the Zoning district.
- iii. **Architecture** - The style of architecture of the buildings shall be described; its relation to prevailing types of architecture for similar buildings; and its compatibility with the function of the building and to the architecture of adjacent buildings. Sketches, photos, elevations and renderings are encouraged to illustrate architectural appropriateness as well as innovation.

**C. PUBLIC SERVICES**

- i. **Schools** - The expected impact on the school system both elementary and secondary levels, the number of students; projected school bus routing changes and projections of future school building needs resulting from the proposed project.
- ii. **Police** - The expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.

- iii. Fire - Expected fire protection needs; on-site fire fighting capabilities; on-site alarm or other warning devices; fire-flow water needs, source and delivery system and other needs shall be presented. Fire department service improvements necessitated as a result of the proposed project shall also be discussed.
- iv. Recreation - On-site recreation provisions shall be detailed and off-site recreation demands shall be estimated. Provision for public open space, either dedicated to the Town or available to its residents shall be described. Open space available primarily or exclusively for residents or employees shall also be described.
- v. Solid Waste Disposal - Analysis of the projected volume and type of solid waste to be generated by the proposed development and methods of removal.
- vi. Traffic - The expected impact of traffic generated by the proposed development on area roadways. Discussion shall include existing average and peak traffic volumes and composition, projected average and peak traffic generation and composition, intersection impacts and analysis of area roadway and intersection capacities. Methodologies used to make projection shall be included.
- vii. Highway - Projected need, responsibility and costs to the Town of roadway maintenance shall be analyzed. Impacts of construction equipment on area roadways shall also be discussed.
- viii. Sewage Disposal - Analysis of the project average and peak sewage discharge and the impact of such discharges on the Wilbraham's sewerage system.

**D. AESTHETICS**

- i. Lighting - The type, design, location, function and intensity of all exterior lighting facilities shall be described. Attention given to safety, privacy, security, and daytime and nighttime appearance shall be detailed.
- ii. Landscaping - Provisions for landscaping shall be described including type, location and function of all plantings and materials.
- iii. Visual - Attention given to views into the site and from the site shall be described. Included shall be long-distance views as well as views to and from adjacent properties.

**E. COST/BENEFIT ANALYSIS**

This municipal benefit/cost analysis should follow standard and usual procedures for measuring both the benefits to be derived and costs to be incurred by the Town of Wilbraham as a result of the proposed development. This element should also estimate net benefits or costs of non-quantifiable environmental impacts.

Add the following new Section to the Wilbraham Subdivision Regulations:

4.2.0.7 Soil Erosion and Sedimentation Control Plan as required by Section 5.17

Add the following new Section to the Wilbraham Subdivision Regulations:

**AS BUILT PLANS**

Upon completion of construction, and before release of the performance guarantee, the subdivider shall have prepared and submitted As-Built Plans at the same scale as the definitive plans, which shall indicate the actual locations of street line; traveled way edges; path locations; permanent monuments; inverts and location of required utilities and drainage; locations of all underground utilities. The accuracy of such As-Built Plans shall be certified by a Registered Land Surveyor and Registered Professional Engineer retained by the subdivider. The Planning Board shall be provided with one mylar copy of said As-Built Plan.

Add the following new Section to the Wilbraham Subdivision Regulations:

**4.3 LANDSCAPING PLAN**

A plan for landscaping and plantings to be made shall be required. Said plan shall be prepared and certified by a Registered Landscape Architect. Such Landscaping Plan shall consist of:

4.3.1. All Plot Plan contents plus:

- a. Locations, type, variety and size of all trees and shrubs to be planted.
- b. Methods to be used to plant such trees and shrubs and for supporting such materials.
- c. Specifications and composition of grass seed to be used in unpaved right-of-way areas.
- d. Identification of trees to be saved within street right-of-way and methods to be used to protect such trees during construction.

Add the following new Section to the Wilbraham Subdivision Regulations:

**5.0 DESIGN OBJECTIVES**

The following objectives shall be utilized in the design of subdivision plans, to the maximum extent feasible. Planning Board consideration for waivers from provisions of these Rules and Regulations shall also include a review of the applicant's success at meeting these goals:

- 5.0.1 Design and construction shall reduce, to a maximum extent possible, the following:
  - 5.0.1.1 Volume of cut and fill;
  - 5.0.1.2 Area over which existing vegetation will be disturbed, especially if within 300 feet of a river, wetland or waterbody or in areas having a slope of more than 12%;
  - 5.0.1.3 Extent of waterways altered or relocated;
  - 5.0.1.4 Dimensions of paved areas (including streets) except as necessary for safety and convenience, especially in aquifer recharge areas;
  - 5.0.1.5 Buildings located within 500 feet of existing Town Roads.
  - 5.0.1.6 Utilization of existing field, pastures, or other land in agricultural use.
  - 5.0.1.7 Loss of scenic views and vistas, particularly from areas of public access.
  - 5.0.1.8 Development and construction within 300 feet from surface water bodies and other Wetland Resource Areas, as defined in the regulations (310 CMR 10.00) promulgated pursuant to Mass. General Laws Chapter 131, Section 40 (Wetlands Protection Act).
  - 5.0.1.9 Disturbance to habitat areas of any plant or wildlife species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program.
  - 5.0.1.10 Removal of Stone walls and trees with a caliper (measured four (4) feet above ground level) of eight (8) inches or more.

Add the following new Section to the Wilbraham Subdivision Regulations:

**5.1.1.9 Residential Street Classification.**

The following classification of residential streets is intended to assist in the evaluation of the design of each street in a subdivision's system, and not intended to be used to set arbitrary standards without assessing the complete plan for a subdivision and the intended use of each street.

Residential streets shall be classified, according to their design, use (actual or intended), their relationship to other streets in the hierarchy and their residential character, in the following categories, defined in Section 2: lane, minor street, collector, arterial.

Residential streets in each category shall meet construction specifications as required in this regulation after inspection and analysis of the soil types, site contours and site considerations deemed necessary by the Planning Board to obtain the objectives of these regulations.

Definitions:

- A. **ARTERIAL STREET:** A proposed or existing street servicing more than 120 dwelling units, or for non-residential subdivisions is to be used for major through traffic with a volume in excess of 1200 vehicles in a representative 24 hour period, as determined by the most recent edition of Institute of Transportation Engineers (ITE). Trip Generation.
- B. **COLLECTOR STREET:** A proposed or existing street which is to be used primarily for residential purposes and servicing no more than 120 dwelling units. or in the case of a non-residential subdivision is to be used for through traffic with a volume of not more than 1200 vehicles in a representative 24 hour period, as determined by the most recent edition of Institute of Transportation Engineers (ITE). Trip Generation.
- C. **MINOR STREET:** A proposed or existing street which, in the opinion of the Board, is to be used primarily for residential purposes and servicing no more than 40 dwelling units.
- D. **LANE:** A proposed street which, in the opinion of the Board, is to be used primarily for residential purposes and servicing no more than 10 dwelling units.

Replace the current Section 5.1.2 of the Wilbraham Subdivision Regulations with the following:

**5.1.2 Right-of-way Width**

The minimum width of street rights of way shall not be less than the following:

Lane	40 feet
Minor Street	50 feet
Collector	60 feet
Arterial	75 feet

Rights of Way for pedestrian access adjacent to paved streets shall be obtained where sidewalks, bikeways, or other structures are necessary. Slopes adjacent to roadways, natural or man-made, may be placed within easements on individuals properties rather than acquired as rights-of-way.

Replace the current Section 5.1.3 of the Wilbraham Subdivision Regulations with the following:

**5.1.3 Grade**

Streets shall be related appropriately to the topography. Street grades shall conform as closely as practicable to the original topography and must be within the parameters listed below. Under no circumstances shall any street have a grade of more than 4% within 50 feet of an intersection.

	<u>Maximum</u>	<u>Minimum</u>
Lane	9%	0.5%
Minor Street	7%	0.5%
Collector	6%	0.5%
Arterial	5%	0.5%

Replace the current Section 5.6.1 of the Wilbraham Subdivision Regulations with the following:

**5.6.1 Traveled Way Width**

The required width for two-way, paved residential streets shall be as follows:

Lane	18 feet
Minor Street	22 feet
Collector	30 feet
Arterial	34 feet

Reductions of width which are a part of an overall drainage plan to reduce the impervious surface in the subdivision and reduce runoff from the parcel shall be permitted if plans for safety, parking, pedestrian circulation and other factors are deemed superior by the Planning Board to accommodate the requested reductions.

Replace the current Section 5.8 of the Wilbraham Subdivision Regulations with the following:

**5.8. Curbing**

Curbing shall be required to be installed on all arterial streets and collector streets. In addition, curbing shall be required in the following locations:

1. Along the entire perimeter of all cul-de-sacs turnarounds.
2. Along all curves of street intersections.
3. All curves having a radius of sixty (60) feet or less at the street line or a central angle of thirty (30) degrees or more shall have the gutter line curbed with curbing both circular and straight to fit the curve, and the ends of the curve shall be extended by a straight section of curbing not less than five (5) feet long.
4. All sections of a street having a grade of five (5) percent or more shall have curbing. This curbing shall be continued from the ending of the five (5) percent grade to the location of the next set of catch basins on the downhill side of such grade.
5. Along any other street where, in the opinion of the Planning Board, curbs are necessary to handle run-off for that section of roadway or curbs are necessary for the maintenance of the pavement and the prevention of pavement edge raveling.

Curbing shall be constructed of granite, sloped or block, unless, in the opinion of the Planning Board, other material will be satisfactory. Slanted (Handicapped Accessible) curbing shall be provided on sidewalks at pedestrian crosswalks. Curbing shall be sealed to the road pavement.

The need for curbing may be eliminated along certain roadways, when drainage is provided in swales, which are designed to reduce the rate of runoff, and restore or supply needed water to vegetation in the street right of way.

Amend Section 5.1.1 of the Wilbraham Subdivision Regulations by deleting the words "one thousand (1000)" and inserting in place thereof the words "five hundred (500)".

**RECOMMENDED REGULATORY CHANGES  
WILBRAHAM MOUNTAIN ENVIRONMENTALLY  
SENSITIVE AREA**

**TASK 4 RECOMMENDATION:**      **Increase Lot Frontage and Lot Size to as much as 90,000 square feet of land area and 250 feet of frontage.**

Amend Section 2.1 (f) of the Wilbraham Zoning By-Laws so as to read: Residence R-90 district, single family.

Amend the Wilbraham Zoning By-Laws by substituting "R-90" for "R-60" wherever such abbreviation appears in the By-Law.

Amend Section 4.3.1 of the Wilbraham Zoning By-Laws as follows:

Delete the words "5.\* In Residence R-60 districts frontage 200 ft. - and area of 60,000 sq. ft."

Insert in place thereof the words `5. In Residence R-90 districts frontage 250 ft. - and area of 90,000 sq. ft.'

**TASK 4 RECOMMENDATION:**      **Exclude Steep slopes from the calculation of Minimum Lot Size.**

Delete from Section 4.3.1 the words "A specified percentage of the area required for zoning compliance, whether by special permit or otherwise, for any lot in a residence district shall consist of usable land which does not constitute a wetland, body of water, bog, swamp, wet meadow or marsh as defined in Chapter 131, Section 40 of the Massachusetts General Laws. Said percentage shall equal seventy-five percent of said minimum requirement if it equals or exceeds 34,000 square feet and ninety percent of said minimum requirement if it is less than 34,000 square feet."

Insert the following new definition in Section 3.21:

*Useable Land Area:* The area of land not including land under any waterbody, swamp, wet meadow or marsh, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00) and slopes having a grade of 15% or greater.

Insert the following additional dimensional requirements table in Section 4.3.1:

The following minimum useable land area shall be required in Residential Districts:

District	Minimum Useable Land Area
R-15	13,500 square feet
R-26	24,000 square feet
R-34	28,000 square feet
R-40	32,000 square feet
R-90	60,000 square feet

**TASK 4 RECOMMENDATION:      Revise Flexible Subdivision Provisions**

**4.3.3.            FLEXIBLE RESIDENTIAL DEVELOPMENT**

**4.3.3.1.        PURPOSE**

In order to provide for the public interest by the preservation of open space in perpetuity, variations in residential housing development patterns which allow for development more harmonious with natural features and town growth policies than traditional residential development, to promote the maximum possible protection of natural resources, visual quality, and to encourage efficient provision of necessary roadways utilities and community services, the following regulations are established for Flexible Residential Development (FRD) within the Town of Wilbraham. In making any and all determinations under this bylaw the Planning Board shall always compare the impact of an open space development with potential conventional development, and may approve open space development only if the proposal is of greater overall benefit to the town and better achieves the purposes of this zoning by-law than a conventional development.

**4.3.3.2.        APPLICABILITY**

Flexible Residential Development shall be allowed within Residential Districts only, subject to the requirements of this bylaw for such district, and in accordance with the additional requirements specified herein.

**4.3.3.3.        GENERAL REQUIREMENTS**

- a. Any parcel of land located within a Residential District containing ten (10) acres or more may be considered for an FRD subject to a special permit issued by the Planning Board.
- b. After an FRD application has been submitted, no utility installations, no ditching, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and approved as provided by these regulations.
- c. No FRD shall be approved within an established single-family residential neighborhood if the Planning Board determines that such land use would have a detrimental effect upon the surrounding property.
- d. It shall be the responsibility of an applicant for an FRD special permit to demonstrate to the Planning Board that this form of land development will be as or more appropriate than conventional patterns of residential subdivision development for the particular site being considered.
- e. All dwellings to be built on the site shall be located at least three hundred and fifty (350) feet from any public ways in existence at the time of submission of the FRD proposal to the Planning Board.

**4.3.3.4.        DESIGN OBJECTIVES**

The FRD shall be designed to achieve, to the maximum extent feasible, the following design objectives:

- a. Preserve and maintain existing field,pastures, or other land in agricultural use.
- b. Scenic views and vistas, particularly from areas of public access, are to be left undisturbed.

- c. All development and construction shall occur in areas at least 300 feet from surface water bodies and other Wetland Resource Areas, as defined in the regulations (310 CMR 10.00) promulgated pursuant to Mass. General Laws Chapter 131, Section 40 (Wetlands Protection Act).
- d. Special measures shall be taken to protect the habitat areas of any plant or wildlife species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program.
- e. The visual integrity of hilltops, ridgelines and the Western slopes of Wilbraham Mountain shall be preserved and maintained. Development shall be sited so that building peak will be below the ridgeline or hilltop and if the site is heavily wooded such peak will be at least ten (10) feet lower than the average canopy height of such trees. Where necessary canopy type trees shall be planted to supplement existing screening.
- f. Slopes of more than 12% grade shall be undisturbed.
- g. Stone walls and trees, with a caliper (measured four (4) feet above ground level) of eight (8) inches or more, shall be maintained and preserved.
- h. Average set-backs for structures shall be one hundred (100) feet.

**4.3.3.5 PERMITTED USES**

- a. Detached residential dwellings, including any accessory uses, as permitted in the zoning bylaw for the district in which the land lies.
- b. Uses permitted within the Common Open Space as described in these regulations.

**4.3.3.6. MINIMUM REQUIREMENTS**

- a. Density: The total number of lots allowable on a site proposed for FRD shall not exceed the number of lots for the number of dwelling units that would normally be allowed under a conventional subdivision for the zoning district in which the site is located, plus any density bonuses received as per paragraph b. below. The maximum number of lots possible shall be determined by the layout of a preliminary plan showing the total number of lots which could be obtained by utilizing a conventional grid subdivision. The burden of proof shall be upon the applicant. The required minimum tract area, as well as the calculation of the number of lots allowed by a conventional grid subdivision, as specified above shall be exclusive of:
  - 1. swamp, wet meadow marsh, or land under any waterbody, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00);
  - 2. land otherwise prohibited from residential development by local or state law, regulation, statute, or by a prior conservation easement or restriction recorded in the Hampden County Registry of Deeds.
  - 3. slopes over 15% grade
- b. Density Bonus Provisions:
  - 1. For every two dwelling units which meets the definition of "Low or moderate income housing" as provided in Massachusetts General Laws Chapter 40B, Section 20, and which is assured to meet such definition for at least twenty-five years, the Planning Board may authorize an increase in the number of lots or dwelling units allowed within an FRD of one addition unit. The maximum number of additional units that will be allowed under this provision shall be 25% above that allowed under Subsection 5a above. Units which meet this definition shall be interspersed throughout the development and shall be indistinguishable, in terms of design and exterior appearance, from other units within the development.

2. For land within the Town of Wilbraham but which is not contiguous to the parcel to be developed to be preserved under a permanent conservation restriction or if deeded to the town, the Planning Board may allow one additional dwelling unit for each dwelling unit which could reasonably be developed on the non-contiguous parcel under a conventional subdivision plan in full conformance with zoning, subdivision regulations, Board of Health regulations and Title 5 (The State Environmental Code). The Planning Board must determine, after consultation with, and the approval of, the Conservation Commission, that such other parcel(s) of land is(are) exceptionally valuable to the town and its residents for open space, recreation or natural resource protection and that such value more than offsets the impact of additional density on the FRD site. For any non-contiguous land to be protected which is located on "Wilbraham Mountain" and is at an elevation of 650 feet elevation (NGVD) or above, additional dwelling units allowed by the Planning Board on the FRD site may be up to 1.5 times the number which could reasonably be developed on the non-contiguous parcel by a conventional subdivision plan.
  3. The Planning Board may grant an additional bonus of up to 10% of the total number of dwelling units for FRD plans which have been designed in a manner which is exceptionally sensitive to the design objectives enumerated in Section 4.3.3.4 above.
- c. Reduction of Dimensional Requirements: The Planning Board may grant a reduction in the dimensional requirements of the zoning regulations listed in Section 4.3 of these by-laws for all portions of an FRD, if the Planning Board finds that such reduction will result in better design, improved protection of natural and scenic resources, reduced town road maintenance costs, and will otherwise comply with these regulations. The percentage of the reduction in minimum lot size and street frontage requirements allowed under this By-Law shall not be greater than an amount equal to 1.5 times the percentage of the total FRD which is to be set aside for common open space [Explanation: If 30% of the land area is to be set aside for common open space, the Planning Board may grant up to a 45% reduction in the minimum lot size and street frontage requirements]. In no instance shall any lot deviate from the following Table of Minimum Requirements:

<b>TABLE OF MINIMUM REQUIREMENTS</b>	
Minimum Area	15,000 sq. ft*
Minimum Frontage	50 ft.
Minimum Front Yard Setback	25 ft.
Minimum Side Yard Setback	15 ft.
Minimum Rear Yard Setback	8 ft.

\* *Exclusive of land within Wetlands*

- d. Development Standards: Prior to the issuance of a special permit for an FRD the Planning Board shall find, and the applicant shall submit the information necessary to demonstrate, that the following standards have been met:
- (1) The development will not cause unreasonable traffic congestion or unsafe conditions both within and outside of the development and will comply with town standards for parking, access, road design and construction.
  - (2) The development will provide for and maintain convenient and safe emergency vehicle access to all buildings and structures at all times.
  - (3) The nature of the soils and subsoils shall be suited for the intended purposes. This determination shall focus upon, but shall not be limited to the locations, design and construction of roadways, buildings, septic systems, and surface water drainage systems. Soil borings or test pits may be made to provide information on soil texture,

color, percolation rates and depth to the ground water table at its maximum elevation.

- (4) Anticipated storm water runoff from the site shall not exceed peak runoff from the site prior to development. The applicant shall submit formal drainage calculations by a registered professional engineer for this purpose.
- (5) Proper soil erosion and sedimentation control measures shall be employed to minimize sedimentation and siltation of existing surface water bodies and wetlands. In areas with slopes of greater than 5% grade or within one hundred (100) feet of a wetland, an erosion and sedimentation control plan shall be submitted. In such areas all proposed filling, cutting, clearing or grading shall be minimized and all such development activities shall be carried out in such a manner so as to retain the natural vegetation and topography wherever possible.
- (6) The site design shall preserve and, where possible, enhance the natural features of the property, including scenic views which are accessible to the general public, by adapting the location and placement of structures and ways to the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance to the landscape and surrounding properties. Specifically, Flexible Residential Developments on Wilbraham Mountain shall be designed in such a manner that, to the maximum extent feasible, roadways are laid out in a direction generally parallel to contour lines (primarily in a north-south direction) and, further, that construction at or above an elevation of 650 feet (NGVD) is minimized.
- (7) All streets, sewers, water lines, drainage facilities and utilities shall be designed and constructed in compliance with the Rules and Regulations Governing the Subdivision of land in Wilbraham, Massachusetts and any other land-use regulations of Wilbraham in effect at the time of application, insofar as they are applicable. Special exceptions to the subdivision regulations may be authorized by the Planning Board in granting a special permit hereunder provided the Board determines such exceptions are in the public interest and are not inconsistent with the purposes enumerate in Section 1.
- (8) The development shall comply with the provisions of 310 CMR 15.00 of the State Environmental Code (Title 5) and the Town of Wilbraham Health Regulations, with regard to on-site waste water disposal. On-site sewage disposal systems shall be located so as to minimize the impact on surface and subsurface water resources. In evaluating this issue, the Planning Board shall take into consideration both the direction of ground water flow and the distance between any such system and a water supply or other water resource. On-site sewage disposal systems shall not be located within one hundred fifty (150') feet from any wetland or surface water body. In no instance shall a variance be granted from Title 5 of the State Environmental Code or Wilbraham Board of Health Regulations in regard to depth to ground water or distance to wetlands, buildings and water supply wells.

#### 4.3.3.7

#### OPEN SPACE USE AND DESIGN STANDARDS

- a. Within an FRD, no less than five (5) acres, nor less than thirty (30%) percent of the total land area shall be devoted to common open space. The common open space shall not include land set aside for roads and/or parking uses. No more than fifty (50%) percent of the common open space may contain land considered as wetland resource areas, other than Isolated Lands Subject to Flooding, as defined in the regulations (310 CMR 10.00) promulgated pursuant to Mass. General Laws Chapter 131, Section 40 (Wetlands Protection Act).
- b. The common open space shall be designed and maintained in accordance with the following standards:

- (1) Naturally-existing woods; fields; meadows; ridgeline, mountain tops and steep slopes; and wetlands shall be maintained and improved in accordance with good conservation practices.
- (2) Common open space shall be planned as large, contiguous parcels whenever possible. Strips or narrow parcels of common open space shall be permitted only when necessary for access or as vegetated buffers along the site's perimeter.
- (3) Common open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses.
- (4) No portion of the common open space shall be covered by structures, pavement or other man-made impervious surfaces.
- (5) Common open space may be used for passive recreation, conservation, forestry, agriculture, natural buffers, structures necessary to approved uses, utilities and other facilities necessary for the convenience and enjoyment of the residents, subject to approval by the Planning Board.
- (6) Use of Common Open Space shall in all instances require approval by the Planning Board, and all structural improvements and impervious surfaces must be shown on the definitive FRD plan.
- (7) In cases where the Open Space has been environmentally damaged prior to the completion of the development as a result of soil removal, harvesting of trees, or other natural features, refuse disposal or any other activity deemed inappropriate with proposed uses of the Common Open Space, the Planning Board may require the developer to restore or improve the condition and appearance of the Common Open Space, and may require the posting of a bond or other appropriate form of performance guarantee to ensure such restoration or improvement.

**4.3.3.8 COMMON OPEN SPACE OWNERSHIP AND MANAGEMENT**

- a. Common open space in an FRD shall be conveyed to: 1) the Town of Wilbraham for park or open space use; 2) a non-profit corporation, the principle purpose of which is the conservation of open space; or 3) to a corporation or trust owned or to be owned by the owners of lots within the development. If a corporation or trust owned by the owners of lots is utilized, ownership thereof shall pass with the conveyances of the lots. In any case, where such land is not conveyed to the town, a perpetual restriction, running to and enforceable by the town, shall be recorded providing that such land shall be retained in perpetuity in an open and natural state and shall not be built upon for residential use or developed for accessory uses such as parking or roadways.
- b. If the common open space is not to be conveyed to the town, then the applicant shall include as part of the road covenant a provision that the common open space will be deeded as approved by the Planning Board. In addition, the road covenant shall not be released until proof of transfer of ownership has been provided to the Planning Board.
- c. If the common open space is not to be conveyed to the town, the application for an FRD special permit must include a description of how and when the common open space will be preserved in perpetuity to standards satisfactory to the Planning Board and Town Counsel. The applicant shall also provide as part of the common open space proposal an agreement empowering the town to perform maintenance of the common open space in the event of failure to comply with the program included in the application pursuant to the preceding sentence providing that, if the town is required to perform any maintenance work, the owners of lots within the FRD shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid.

**4.3.3.9 REVIEW PROCEDURES.**

All applications for FRD's shall be submitted in conformity with the requirements and procedures for submission and review under the Subdivision Rules and Regulations of the Planning Board and the following additional requirements:

- a. The Planning Board shall be the special permit granting authority for all FRD applications. Applicants shall submit preliminary materials to the Planning Board and Board of Health prior to filing a formal special permit application in order to obtain a consensus regarding the suitability of the site for FRD general design concepts, and to determine allowable density prior to preparation of further material. In addition to the materials normally required for submission of a preliminary plan as outlined in the Subdivision Rules and Regulations, these preliminary overall development concept materials shall include:
  - (1) Four (4) copies of a site plan showing the allowable number of units in accordance with the underlying zoning, the rules and regulations governing the subdivision of land in Wilbraham, Title 5 (the State Environmental Code) and the Wetlands Protection Act. The site plan shall include two (2) foot contours of existing and proposed topography, area and dimensions of all lots in conformance with the zoning for the district in which the site is located, proposed ways, all swamp, wet meadow marsh, or land under any waterbody, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00), any site features of the types enumerated in Section 4.3.3.4. The Board may require soil surveys and/or test pits or borings to be prepared at the applicant's expense to determine the suitability of the land for the proposed ways, drainage and septic systems.
  - (2) Four (4) copies of a soils map or other suitable information regarding the nature of the soils within all areas of the proposed development.
  - (3) Six (6) copies of an overall development concept plan showing the location and dimensions of all building lots, the nature and extent of the Common Open Space, the location and use of any common facilities or structures, the location of all ways and easements, existing and proposed drainage areas, private water supply wells within the site boundaries and on adjacent properties, and such other improvements as may be proposed.
  - (4) Supporting documents describing the proposed uses of the Common Open Space and the preferred form of ownership and maintenance thereof, and of any facilities to be owned in common.
  - (5) Any documentation tending to establish that the proposed plan is better suited to the site than a conventional subdivision plan, including matters relating to the layout of ways and open space in relationship to the surrounding property and the site, the degree to which the plan provides for protection of important natural features including wetlands, steep slopes and agricultural land, the extent to which the plan provides for development of those areas best suited for building purposes
- b. Within sixty (60) days after the receipt of preliminary materials as specified herein, the Planning Board shall give its approval, with or without modifications, or shall disapprove the proposal stating its reasons. The Town Clerk shall be notified in writing of such approval or disapproval. Preliminary approval for an FRD shall be valid for a period of six (6) months.
- c. The Planning Board shall base its review of the requirements for granting a special permit on the provisions of subsection 4.3.3.6(d). A special permit shall not be granted unless the applicant demonstrates compliance therewith. All other improvements shall comply with the Subdivision Rules and Regulations insofar as they are appropriate.
- d. Applicants for special permits for FRD shall, at the time of filing the application, submit a definitive development plan in conformity with the Subdivision Rules and Regulations

of the Planning Board, which plan shall be derived from the approved overall development concept plan required under subsection (a) above. In addition to the materials required for submission of a definitive subdivision plan, the following documents and information shall be provided:

- (1) Six (6) copies of the definitive development site plan, accurately showing the proposed layout of all lots, ways and common areas and structures in relationship to the Common Open Space. The Common Open Space shall be accurately depicted on the plan and note shall appear on the plan to the effect that "No lot as shown on this plan and approved in accordance with the Open Space Residential Development provisions of the Zoning Bylaw of the Town of Wilbraham shall be further subdivided".
  - (2) Regrading and erosion control plans, where required.
  - (3) Information as to the degree to which the proposed plan departs from the requirements of the underlying zoning, and the reasons why such departures are deemed to be in the public interest.
  - (4) Drafts of proposed deeds, management plans for all common areas and structures, and the proposed open space restriction, if any.
- e. Upon receipt of an FRD application, the Planning Board shall proceed as with applications for special permits under Section 10 of these bylaws and chapter 40A of the General Laws. Hearings on applications under this section may be held simultaneously with subdivision review hearings.

#### 4.3.3.10 APPROVALS

- a. As a condition of approval hereunder, the Planning Board may require changes in the proposed development plans and may impose additional conditions, limitations and safeguards as it may deem appropriate to ensure compliance with the purposes of this by-law.
- b. Notwithstanding any provision to the contrary, any special permit granted by the Planning Board for an FRD shall become void within two (2) years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in Massachusetts General Laws, Chapter 40A, Section 6, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for a good cause. All open space shall be dedicated at the time the permit holder proceeds with construction under a building permit.
- c. If at any time before, during or after construction of the proposed development, unforeseen conditions make it necessary or preferable to modify the project as described in the approved definitive FRD application, the Planning Board may authorize such modifications provided that they are within the spirit of the original proposal and comply with these regulations.

**COMMITTEE RECOMMENDATION:** In the alternative to replacing the current flexible subdivision by-law, make the following revisions to Section 4.3.3:

- Amend Section 4.3.3.1(f) by replacing the word "15%" with "30%"
- Add the following new subparagraph to Section 4.3.3.1:  
(g) At least 50% of Open Space shall be "Land Usable for Residential Construction".
- Amend Section 4.3.3.2 to read "no lot shall be less than 15,000 square feet in area."

**COMMITTEE RECOMMENDATION:** Amend the Wilbraham Zoning By-Law by inserting the following new section:

**4.6 MAJOR RESIDENTIAL DEVELOPMENT**

4.6.1 Definition: Major Residential Development: The creation of more than six (6) lots within in the R-90 district, or twelve (12) in all other districts, to be used for residential purposes, within a three-year period from or on property or set of contiguous properties in common ownership or control as of the date of adoption of this by-law.

4.6.2 Applicability. Major residential development shall be by special permit of the Planning Board. Such special permits shall be acted upon in accordance with the following:

a. Application for a special permit for major residential development shall include a conventional development plan and a substantially different alternative development plan, each either conforming to the requirements for a preliminary subdivision plan or not requiring approval under the Subdivision Control Law. Substantial difference would be either a conventional plan versus a flexible residential development as per Section 4.3.3 above, or two (2) plans of the same type having major differences in the number of lots created, road pattern or open space configuration.

b. Applicants for major residential development shall file with the Planning Board four (4) copies of the following to have been prepared by an interdisciplinary team including a registered land surveyor, a registered professional engineer and a registered architect or landscape architect and a land-use planner.

- 1) The basic alternative development plans described above, conforming to the information requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plans shall also indicate proposed topography and the results of deep soil test pits and percolation tests at the rate of one (1) per every five (5) acres, but in no case fewer than five (5) per major residential development. Test pits shall be located to the satisfaction of the Planning Board so as to indicate the buildability of areas proposed either for development or for bonused reservation.
- 2) An Environmental and Community Impact analysis, as required by Section 7.8. of this zoning by-law
- 3) Any additional information necessary to make the determinations and assessments cited in Section 4.6.3 below.

4.6.3. Decision. The Planning Board shall approve or approve with conditions a special permit for major residential development for the development plan which most closely meets the purposes of this Zoning By-Law as enumerated in Section 1. The Board shall disapprove both plans only if it determines that the alternative plan is not a good faith design, or that neither plan conform to the requirements of the Zoning by-law or, if applicable, the Rules and Regulations governing the Subdivision of Land in the Town of Wilbraham.

**NOTICE: THE ABOVE BY-LAW PROVISION REQUIRING THE SUBMISSION OF ALTERNATIVE SUBDIVISION PLANS FOR LARGER DEVELOPMENTS HAS BEEN PREPARED AT THE COMMITTEE'S REQUEST. WHILE THERE ARE SEVERAL COMMUNITIES WHICH HAVE ADOPTED SIMILAR PROVISIONS, SUCH PROVISIONS HAVE NOT, AS YET RECEIVED JUDICIAL REVIEW. THERE IS A POSSIBILITY THAT SUCH PROVISIONS WILL BE FOUND TO EXCEED THE AUTHORITY GRANTED TO COMMUNITIES UNDER THE ZONING ENABLING ACT, CHAPTER 40A.**

**NEW RECOMMENDATION:            A new purposes clause to the Zoning By-law**

Amend the Wilbraham Zoning By-Law by amending Section 1.0 to read as follows:

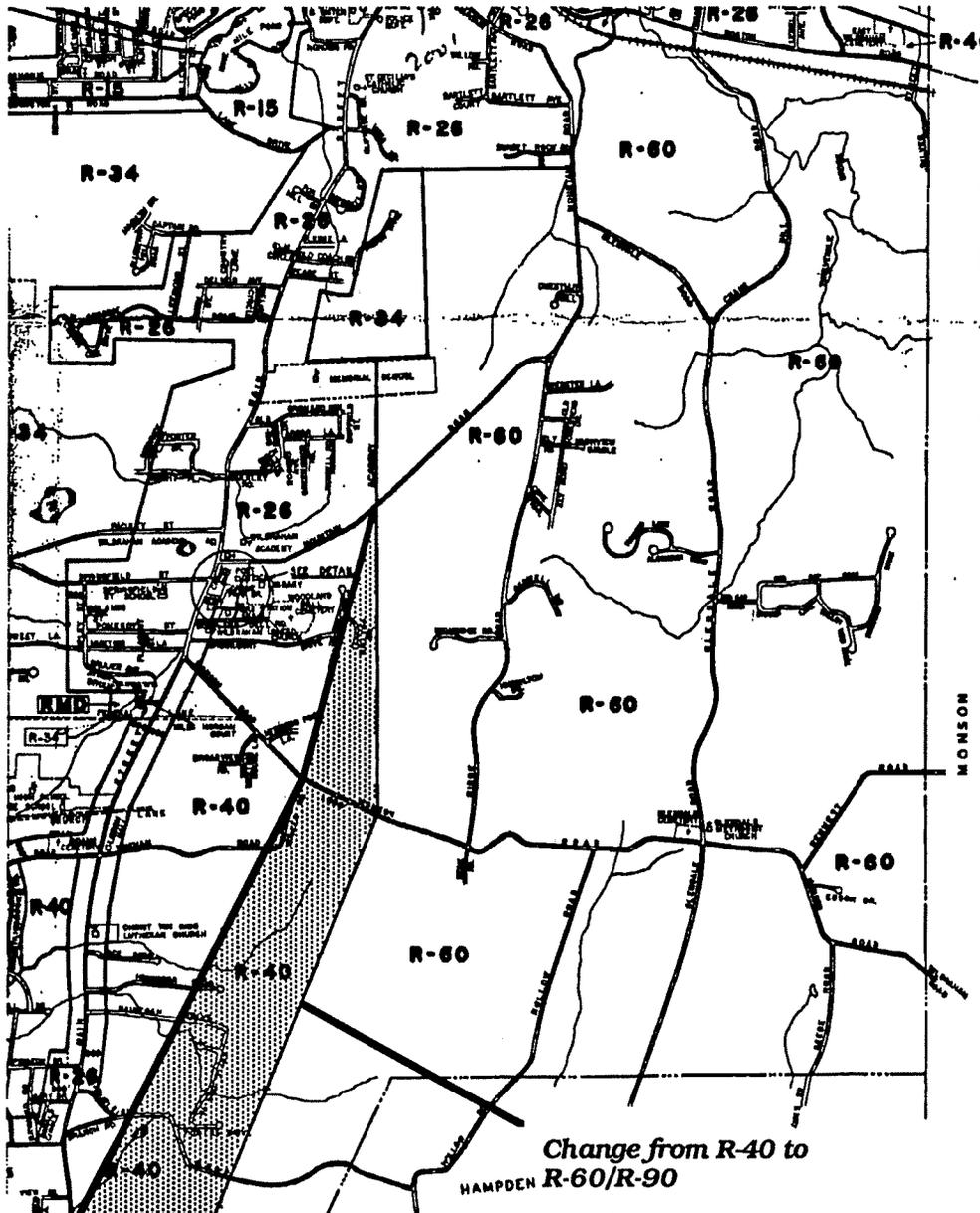
- 1.0 a. To promote the health, safety, convenience and welfare of the inhabitants of Wilbraham.
- b. To ensure realization of the general statement of purpose declared in Chapter 40A of the General Laws.
- c. To protect the right of every resident of the Town of Wilbraham to clean air and water; freedom from excessive and unnecessary noise or odor; and to the natural, scenic, historic, and aesthetic qualities of the environment as declared in Article XLIX of the Constitution of the Commonwealth of Massachusetts;
- d. To permit and ensure planned, orderly growth in the Town of Wilbraham;
- e. To provide for compatible development and best use of the town's land and resources;
- f. To provide adequate housing and services to residents, visitors, and employees in the Town of Wilbraham.

**TASK 4 RECOMMENDATION:        Ridgeline Protection.**

Amend the Wilbraham Zoning By-Law by adding the following new Section:

- 4.3.12.3    No residential structure located within one thousand (1000) horizontal feet of Ridge Road shall have a height in excess of twenty-five (25) feet above original grade. The Planning Board may grant a special permit for a greater height, up to 35 feet in height, upon a determination that such increased structural height will not be visually prominent because of terrain conditions, or because there exists adequate screening of such a structure by existing canopy trees and assurance is received that such trees will not be removed.

**TASK 3 RECOMMENDATION:** Revise the Building Zone Map by including areas on the Western slope of Wilbraham Mountain in the current R-60 District.



**TASK 3 RECOMMENDATION:** Adopt an Environmental Impact Analysis Provision in the Zoning By-Law and Subdivision Rules and Regulations

Amend the Wilbraham Zoning By-Laws by inserting the following new section:

### 7.8 ENVIRONMENTAL AND COMMUNITY IMPACT ANALYSIS

#### 7.8.1 Applicability

Any application for a special permit to be allowed to conduct any use or uses on one lot required to have one-hundred (100) or more parking spaces under the provisions of Section 7.5, or for a multiple

dwelling permit for thirty (30) or more units under the provisions of Section 4.4, shall be required to submit, as part of the special permit application submission, an Environmental and Community Impact Analysis. The Environmental and Community Impact Analysis shall clearly and methodically assess the relationship of the proposed use and/or development to the natural and man-made environment of Wilbraham. This report shall be prepared by an interdisciplinary team of professionals qualified, experienced, and, where applicable, licensed, in their fields. Such team shall typically consist of a Registered Professional Engineers, Traffic engineers, Architects, Landscape Architects, Land-Use Planners, Hydrogeologists, Hydrologists, Biologists and other environmental professionals.

#### 7.8.2 Purpose

It is intended that the report be a guide to the Planning Board in its deliberations and will build into the board's decision-making process an appropriate and careful consideration of the environmental and community impacts of the proposed use and/or development.

#### 7.8.3 Analysis

For each of the components of the Environmental and Community Impact Analysis listed under paragraph 4 below, each of the following concerns must be separately addressed:

- a. The Environmental and Community Impacts of the Proposed use and/or Development - All primary and secondary environmental and community impacts, both beneficial and adverse, anticipated as a result of the proposed use and/or development. This section shall include all impacts resulting from the construction phase as well as those resulting from the project's completion.
- b. Adverse Impacts which cannot be avoided should the proposed use and/or development be implemented - The report shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced in severity, but not eliminated.
- c. Alternatives to the proposed use and/or development - The report shall develop, describe, and objectively weigh alternatives to the proposed use and/or development which are allowed by the Zoning By-law.
- d. Measures to be used to minimize adverse environmental and community impacts - Corrective and protective measures which will be taken, as part of the project, to minimize adverse impacts shall be described in detail.

#### 7.8.4 Scope

The Environmental and Community Impact Analysis shall evaluate all of the following topics and the sources of information used in the analysis for each topic shall be identified:

- a. Natural Environment
  - i. Air and Noise Pollution - The impact of local air quality and noise from the proposed development (including traffic generated from the development), both during and after construction, shall be evaluated. The Planning Board may require detailed technical reports of such impacts.
  - ii. Water Pollution - The impact of storm water run-off on adjacent and downstream surface water bodies and sub-surface ground water shall be evaluated. Dangers of flooding as a result of increased downstream runoff, especially peak runoff. The impact of the proposed project on water table levels shall also be analyzed.
  - iii. Land - Compatibility of the proposed development with existing soils; the impact of any soils or other materials to be removed from the site; and the potential dangers and impacts of erosion and sedimentation caused by the proposed development.
  - iv. Plants & Wildlife - The impact that the proposed project may have on wildlife habitat and on any rare or endangered plant or animal species known to exist in the area.

- v. Water Supply - The average and peak daily demand and the impact of such demands on groundwater aquifers.
- vi. Sewage Disposal - The average and peak daily disposal and the impact of such disposal on groundwater aquifers.
- b. Man-Made Environment
  - i. Existing Neighborhood Land Use - Compatibility with adjacent or nearby existing land uses, or approved private development plans, if known, for adjacent or nearby land use changes to occur during the life of the proposed development. If not compatible, reasons therefor shall be detailed. Consultation with the Planning Board is strongly recommended.
  - ii. Zoning - Compatibility of proposed development with the purposes of the Zoning By-Law and the Zoning district.
  - iii. Architecture - The style of architecture of the buildings shall be described; its relation to prevailing types of architecture for similar buildings; and its compatibility with the function of the building and to the architecture of adjacent buildings. Sketches, photos, elevations and renderings are encouraged to illustrate architectural appropriateness as well as innovation.
- c. Public Service
  - i. Schools - The expected impact on the school system both elementary and secondary levels, the number of students; projected school bus routing changes and projections of future school building needs resulting from the proposed project.
  - ii. Police - The expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.
  - iii. Fire - Expected fire protection needs; on-site fire fighting capabilities; on-site alarm or other warning devices; fire-flow water needs, source and delivery system and other needs shall be presented. Fire department service improvements necessitated as a result of the proposed project shall also be discussed.
  - iv. Recreation - On-site recreation provisions shall be detailed and off-site recreation demands shall be estimated. Provision for public open space, either dedicated to the Town or available to its residents shall be described. Open space available primarily or exclusively for residents or employees shall also be described.
  - v. Solid Waste Disposal - Analysis of the projected volume and type of solid waste to be generated by the proposed development and methods of removal.
  - vi. Traffic - The expected impact of traffic generated by the proposed development on area roadways. Discussion shall include existing average and peak traffic volumes and composition, projected average and peak traffic generation and composition, intersection impacts and analysis of area roadway and intersection capacities. Methodologies used to make projection shall be described in detail.
  - vii. Highway - Projected need, responsibility and costs to the Town of roadway maintenance shall be analyzed. Impacts of construction equipment on area roadways shall also be discussed.
  - viii. Sewage Disposal - Analysis of the project average and peak sewage discharge and the impact of such discharges on the Wilbraham's sewerage system.
  - ix. Water Distribution - Projected demand, both average daily and peak, for water supplied by the Town of Wilbraham, and the impact of such demand on the Wilbraham Water Supply and Distribution System.

d. Aesthetics

- i. Lighting - The type, design, location, function and intensity of all exterior lighting facilities shall be described. Attention given to safety, privacy, security, and daytime and nighttime appearance shall be detailed.
- ii. Landscaping - Provisions for landscaping shall be described including type, location and function of all plantings and materials.
- iii. Visual - Attention given to views into the site and from the site shall be described. Included shall be long-distance views as well as views to and from adjacent properties.

e. Cost/Benefit Analysis

This municipal benefit/cost analysis should follow standard and usual procedures for measuring both the benefits to be derived and costs to be incurred by the Town of Wilbraham as a result of the proposed development. This element should also estimate net benefits or costs of non-quantifiable environmental impacts.

**TASK 3 RECOMMENDATION: Permit Granting Authority should be called "Special Permit Granting Authority"**

Amend the Wilbraham Zoning By-Law by inserting the words "Special Permit Granting Authority" in place of the words "Permit Granting Authority" wherever they appear.

**TASK 3 RECOMMENDATION: Revisions to Subdivision Rules and Regulations**

Include Approval Not Required Requirements:

2.2.5 A "Plan Not Requiring Approval" shall be prepared by a registered land surveyor and shall be clearly and legibly drawn to the requirements of the Recording Rules adopted by the Hampden Registry of Deeds in Massachusetts. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire plan. A plan not requiring approval shall contain the following information:

1. Property boundaries, north point, date and scale.
2. Name of the record owner, name of the registered land surveyor, and the Hampden Registry of Deeds book and page reference of conveyance to record owner.
3. Area of each lot.
4. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, monuments or references necessary to establish these lines on the ground.
5. Where practical, boundary lines of contiguous and adjacent land and the names of the owners thereof, as determined from the most recent tax list.
6. Location of all permanent monuments properly identified.
7. Location, names and present widths of non-public (private) ways abutting the property.
8. Suitable space to record the endorsement of the Board that Approval is not required and the signatures of the members of the Board.
9. Zoning classification and location of any Zoning District Boundaries that may lie within the locus of the plan.
10. In the case of the creation of a new lot, the remaining land area and frontage of the land in the ownership of the applicant shall be shown.
11. Location of all existing buildings.

12. Dimensioned setbacks from the front, side, and rear yard lines of existing and proposed lots.
13. Location and area, in square feet, of any wetlands and slopes in excess of 15% grade, on the lots being created by the plan (including the lot being created by the remaining land). In lieu of delineating the wetlands and slopes in excess of 15% grade on the remaining land, the applicant may provide written certification from the Surveyor or Professional Engineer who prepared the plan that the remaining parcel of land contains the minimum required upland area required under the Zoning By-Laws.

Revise Section 4.1.3.12 of the Wilbraham Subdivision Regulations to read as follows:

- 4.1.3.12 Existing and proposed topography at a two (2) foot contour interval (may be shown on a separate sheet) based on field survey and referenced to United States Geodetic Survey (U.S.G.S.) datum. The proposed topography will be indicated by solid lines with proposed elevations shown enclosed in blocks. The existing topography to be indicated by dashed lines with elevations shown.

Add the following new Section to the Wilbraham Subdivision Regulations:

- 4.2.4.12 Major site features, such as: existing swamp, wet meadow marsh, or land under any waterbody, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00); natural drainage courses; stone walls; fences; buildings; rock ridges; rock outcroppings; trees over twelve (12) inches in diameter; and the perimeter of heavily wooded areas.

Add the following new Section to the Wilbraham Subdivision Regulations:

#### **4.2.7 ENVIRONMENTAL AND COMMUNITY IMPACT ANALYSIS**

1. Any submission of a residential subdivision creating six (6) or more lots in the R-90 district or twelve (12) or more lots in any other districts, and all non-residential subdivisions involving three (3) or more acres, shall be accompanied by four (4) copies of an Environmental and Community Impact Analysis. The Environmental and Community Impact Analysis shall clearly and methodically assess the relationship of the proposed development to the natural and man-made environment of Wilbraham. This report shall be prepared by an interdisciplinary team of professionals qualified, experienced, and, where applicable, licensed, in their fields. Such team shall typically consist of a Registered Professional Engineers, Traffic engineers, Architects, Landscape Architects, Land-Use Planners, Hydrogeologists, Hydrologists, Biologists and other environmental professionals.
2. It is intended that the report be a guide to the Planning Board in its deliberations and will build into the board's decision-making process an appropriate and careful consideration of the environmental and community impacts of the proposed development.
3. For each of the components of the Environmental and Community Impact Analysis listed under paragraph 4 below, each of the following concerns must be separately addressed:
  - a. The Environmental and Community Impacts of the Proposed Development - All primary and secondary environmental and community impacts, both beneficial and adverse, anticipated as a result of the proposed development. This section shall include all impacts resulting from the construction phase as well as those resulting from the projects completion.
  - b. Adverse Impacts which cannot be avoided should the proposed development be implemented - The report shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced in severity, but not eliminated.

- c. Alternatives to the proposed development - The report shall develop, describe, and objectively weigh alternatives to the proposed development which are allowed by the Zoning By-law.
  - d. Measures to be used to minimize adverse environmental and community impacts - Corrective and protective measures which will be taken, as part of the project, to minimize adverse impacts shall be described in detail.
4. The Planning Board, as part of a review for a Preliminary Subdivision Plan, submitted in accordance with the requirements of Section 5, shall specify which of the following topics shall be evaluated, and the level of detail required for each topic, in the Environmental and Community Impact Analysis and submitted with the Definitive Plan. If no preliminary subdivision plan is submitted, The Environmental and Community Impact Analysis shall evaluate all of the following topics:

A. NATURAL ENVIRONMENT

- i. Air and Noise Pollution - The impact of local air quality and noise from the proposed development (including traffic generated from the development), both during and after construction, shall be evaluated. For larger developments (over 100 dwelling units) the Planning Board may require detailed technical reports of such impacts.
- ii. Water Pollution - The impact of storm water run-off on adjacent and downstream surface water bodies and sub-surface ground water shall be evaluated. Dangers of flooding as a result of increased downstream runoff, especially peak runoff. The impact of the proposed project on water table levels shall also be analyzed.
- iii. Land - Compatibility of the proposed development with existing soils; the impact of any soils or other materials to be removed from the site; and the potential dangers and impacts of erosion and sedimentation caused by the proposed development.
- iv. Plants & Wildlife - The impact that the proposed project may have on wildlife habitat and on any rare or endangered plant or animal species known to exist in the area.
- v. Water Supply - The average and peak daily demand and the impact of such demands on groundwater aquifers.
- vi. Sewage Disposal - The average and peak daily disposal and the impact of such disposal on groundwater aquifers.

B. MAN-MADE ENVIRONMENT

- i. Existing Neighborhood Land Use - Compatibility with adjacent or nearby existing land uses, or approved private development plans, if known, for adjacent or nearby land use changes to occur during the life of the proposed development. If not compatible, reasons therefor shall be detailed. Consultation with the Planning Board is strongly recommended.
- ii. Zoning - Compatibility of proposed development with the purposes of the Zoning By-Law and the Zoning district.
- iii. Architecture - The style of architecture of the buildings shall be described; its relation to prevailing types of architecture for similar buildings; and its compatibility with the function of the building and to the architecture of adjacent buildings. Sketches, photos, elevations and renderings are encouraged to illustrate architectural appropriateness as well as innovation.

C. PUBLIC SERVICES

- i. Schools - The expected impact on the school system both elementary and secondary levels, the number of students; projected school bus routing changes and projections of future school building needs resulting from the proposed project.

- ii. Police - The expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.
- iii. Fire - Expected fire protection needs; on-site fire fighting capabilities; on-site alarm or other warning devices; fire-flow water needs, source and delivery system and other needs shall be presented. Fire department service improvements necessitated as a result of the proposed project shall also be discussed.
- iv. Recreation - On-site recreation provisions shall be detailed and off-site recreation demands shall be estimated. Provision for public open space, either dedicated to the Town or available to its residents shall be described. Open space available primarily or exclusively for residents or employees shall also be described.
- v. Solid Waste Disposal - Analysis of the projected volume and type of solid waste to be generated by the proposed development and methods of removal.
- vi. Traffic - The expected impact of traffic generated by the proposed development on area roadways. Discussion shall include existing average and peak traffic volumes and composition, projected average and peak traffic generation and composition, intersection impacts and analysis of area roadway and intersection capacities. Methodologies used to make projection shall be included.
- vii. Highway - Projected need, responsibility and costs to the Town of roadway maintenance shall be analyzed. Impacts of construction equipment on area roadways shall also be discussed.
- viii. Sewage Disposal - Analysis of the project average and peak sewage discharge and the impact of such discharges on the Wilbraham's sewerage system.
- ix. Water Distribution - Projected demand, both average daily and peak, for water supplied by the Town of Wilbraham, and the impact of such demand on the Wilbraham Water Supply and Distribution System.

#### D. AESTHETICS

- i. Lighting - The type, design, location, function and intensity of all exterior lighting facilities shall be described. Attention given to safety, privacy, security, and daytime and nighttime appearance shall be detailed.
- ii. Landscaping - Provisions for landscaping shall be described including type, location and function of all plantings and materials.
- iii. Visual - Attention given to views into the site and from the site shall be described. Included shall be long-distance views as well as views to and from adjacent properties.

#### E. COST/BENEFIT ANALYSIS

This municipal benefit/cost analysis should follow standard and usual procedures for measuring both the benefits to be derived and costs to be incurred by the Town of Wilbraham as a result of the proposed development. This element should also estimate net benefits or costs of non-quantifiable environmental impacts.

Add the following new Section to the Wilbraham Subdivision Regulations:

4.2.0.7 Soil Erosion and Sedimentation Control Plan as required by Section 5.17

Add the following new Section to the Wilbraham Subdivision Regulations:

**AS BUILT PLANS**

Upon completion of construction, and before release of the performance guarantee, the subdivider shall have prepared and submitted As-Built Plans at the same scale as the definitive plans, which shall indicate the actual locations of street line; traveled way edges; path locations; permanent monuments; inverts and location of required utilities and drainage; locations of all underground utilities. The accuracy of such As-Built Plans shall be certified by a Registered Land Surveyor and Registered Professional Engineer retained by the subdivider. The Planning Board shall be provided with one mylar copy of said As-Built Plan.

Add the following new Section to the Wilbraham Subdivision Regulations:

**4.3 LANDSCAPING PLAN**

A plan for landscaping and plantings to be made shall be required. Said plan shall be prepared and certified by a Registered Landscape Architect. Such Landscaping Plan shall consist of:

**4.3.1. All Plot Plan contents plus:**

- a. Locations, type, variety and size of all trees and shrubs to be planted.
- b. Methods to be used to plant such trees and shrubs and for supporting such materials.
- c. Specifications and composition of ground cover to be used in unpaved right-of-way areas.
- d. Identification of trees to be saved within street right-of-way and methods to be used to protect such trees during construction.

Add the following new Section to the Wilbraham Subdivision Regulations:

**5.0 DESIGN OBJECTIVES**

The following objectives shall be utilized in the design of subdivision plans, to the maximum extent feasible. Planning Board consideration for waivers from provisions of these Rules and Regulations shall also include a review of the applicant's success at meeting these goals:

**5.0.1 Design and construction shall reduce, to a maximum extent possible, the following:**

- 5.0.1.1 Volume of cut and fill;**
- 5.0.1.2 Area over which existing vegetation will be disturbed in areas having a slope of more than 12% grade;**
- 5.0.1.3 Extent of waterways altered or relocated;**
- 5.0.1.4 Dimensions of paved areas (including streets) except as necessary for safety and convenience, especially in aquifer recharge areas;**
- 5.0.1.5 Buildings located within 500 feet of existing Town Roads.**
- 5.0.1.6 Utilization of existing field, pastures, or other land in agricultural use.**
- 5.0.1.7 Loss of scenic views and vistas, particularly from areas of public access.**
- 5.0.1.8 Development and construction within 300 feet from surface water bodies and other Wetland Resource Areas, as defined in the regulations (310 CMR 10.00) promulgated pursuant to Mass. General Laws Chapter 131, Section 40 (Wetlands Protection Act).**
- 5.0.1.9 Disturbance to habitat areas of any plant or wildlife species listed as endangered, threatened or of special concern by the Massachusetts Natural Heritage Program.**
- 5.0.1.10 Removal or disturbance of Stone walls or other significant historical features**
- 5.0.1.11 Removal or disturbance of trees with a caliper (measured four (4) feet above ground level) of twelve (12) inches or more.**

Add the following new Section to the Wilbraham Subdivision Regulations:

**5.1.1.9 Residential Street Classification.**

The following classification of residential streets is intended to assist in the evaluation of the design of each street in a subdivision's system, and not intended to be used to set arbitrary standards without assessing the complete plan for a subdivision and the intended use of each street.

Residential streets shall be classified, according to their design, use (actual or intended), their relationship to other streets in the hierarchy and their residential character, in the following categories, defined in Section 2: lane, minor street, collector, arterial.

Residential streets in each category shall meet construction specifications as required in this regulation after inspection and analysis of the soil types, site contours and site considerations deemed necessary by the Planning Board to obtain the objectives of these regulations.

Definitions:

- A. ARTERIAL STREET: A proposed or existing street servicing, or potentially servicing, more than 120 dwelling units, or will, or could, be used for major through traffic with a volume in excess of 1200 vehicles in a representative 24 hour period, as determined by the most recent edition of Institute of Transportation Engineers (ITE), Trip Generation.
- B. COLLECTOR STREET: A proposed or existing street which is to be used primarily for residential purposes and servicing, or potentially servicing, no more than 120 dwelling units, or will, or could, be used for through traffic with a volume of not more than 1200 vehicles in a representative 24 hour period, as determined by the most recent edition of Institute of Transportation Engineers (ITE), Trip Generation.
- C. MINOR STREET: A proposed or existing street which, in the opinion of the Board, is to be used primarily for residential purposes and servicing, or potentially servicing, no more than 40 dwelling units.
- D. LANE: A proposed street which, in the opinion of the Board, is to be used primarily for residential purposes and servicing, or potentially servicing, no more than 10 dwelling units.

Replace the current Section 5.1.2 of the Wilbraham Subdivision Regulations with the following:

**5.1.2 Right-of-way Width**

The minimum width of street rights of way shall not be less than the following:

Lane	50 feet
Minor Street	50 feet
Collector	60 feet
Arterial	75 feet

Rights of Way for pedestrian access adjacent to paved streets shall be obtained where sidewalks, bikeways, or other structures are necessary. Slopes adjacent to roadways, natural or man-made, may be placed within easements on individuals properties rather than acquired as rights-of-way.

Replace the current Section 5.1.3 of the Wilbraham Subdivision Regulations with the following:

**5.1.3 Grade**

Streets shall be related appropriately to the topography. Street grades shall conform as closely as practicable to the original topography and must be within the parameters listed below. No street shall have a grade of more than 4% within 50 feet of an intersection.

	<u>Maximum</u>	<u>Minimum</u>
Lane	9%	0.5%
Minor Street	7%	0.5%
Collector	6%	0.5%
Arterial	5%	0.5%

Replace the current Section 5.6.1 of the Wilbraham Subdivision Regulations with the following:

**5.6.1 Traveled Way Width**

The minimum required width for two-way, paved residential streets shall be as follows:

Lane	20 feet
Minor Street	24 feet
Collector	30 feet
Arterial	34 feet

Reductions of width which are a part of an overall drainage plan to reduce the impervious surface in the subdivision and reduce runoff from the parcel shall be permitted if plans for safety, parking, pedestrian circulation and other factors are deemed superior by the Planning Board to accommodate the requested reductions.

Replace the current Section 5.8 of the Wilbraham Subdivision Regulations with the following:

**5.8. Curbing**

Curbing shall be required to be installed on all arterial streets and collector streets. In addition, curbing shall be required in the following locations:

1. Along the entire perimeter of all cul-de-sacs turnarounds.
2. Along all curves of street intersections.
3. All curves having a radius of sixty (60) feet or less at the street line or a central angle of thirty (30) degrees or more shall have the gutter line curbed with curbing both circular and straight to fit the curve, and the ends of the curve shall be extended by a straight section of curbing not less than ten (10) feet long.
4. All sections of a street having a grade of five (5) percent or more shall have curbing. This curbing shall be continued from the ending of the five (5) percent grade to the location of the next set of catch basins on the downhill side of such grade.
5. Along any other street where, in the opinion of the Planning Board, curbs are necessary to handle run-off for that section of roadway or curbs are necessary for the maintenance of the pavement and the prevention of pavement edge raveling.

Curbing shall be constructed of granite, sloped or block, unless, in the opinion of the Planning Board, other material will be satisfactory. Slanted (Handicapped Accessible) curbing shall be provided on sidewalks at pedestrian crosswalks. Curbing shall be sealed to the road pavement.

The need for curbing may be eliminated along certain roadways, when drainage is provided in swales, which are designed to reduce the rate of runoff, and restore or supply needed water to vegetation in the street right of way.

Amend Section 5.1.1.1 of the Wilbraham Subdivision Regulations by deleting the words "one thousand (1000)" and inserting in place thereof the words "five hundred (500)".

Add the following new subsection to Section 5.1.1

- 5.1.1.9 Any street, or combination of streets, having a total distance of more than 1000 feet, shall have a second street access/egress route from the subdivision so as to provide sufficient means of emergency vehicle access should either access/egress route be impassable.



***Affordable Housing***



**ISSUE IDENTIFICATION  
AFFORDABLE HOUSING**

The increasing demand for new housing in the Springfield area has begun to exert development pressures on the easterly portion of Wilbraham, an area of steep slopes which until now has managed to retain its rural character. Recognizing the potential for environmental degradation, the Town has put into place new, flexible standards for residential development, but understands the need to do more to protect the fragile slopes and ridgelines as the Town continues to grow.

At the same time, there is growing concern in Wilbraham that new development and rising housing costs are combining to change the character of the Town by pricing moderate-income families out of the housing market. New residential development pressures, and new development types (such as condominium housing), are changing the composition of the community. Concern about the lack of affordable housing has spurred the Town to establish a Housing Partnership Committee and to look for ways to encourage the provision of affordable housing as an ongoing part of the residential development process.

A major objective of Wilbraham's Strategic Planning project is to define new residential development alternatives which will provide housing options for a broad range of Wilbraham's current and potential residents, while ensuring that environmentally sensitive areas of the Town are protected from degradation.

There are many different approaches which can be taken to achieving this objective. At this early stage in the planning process, it is perhaps most important to set out the range of strategies for discussion and evaluation by the Task Force.

The following section is an introduction to various methods and techniques for creating affordable housing through municipal regulation or policy. These include land use regulations, other regulatory controls, taxation policies, and land acquisition. These strategies are presented to the Committee so that the appropriate options for Wilbraham can be selected and developed further in the next phases of this study.

**LAND USE REGULATION**

**Incentive Zoning (Density Bonus)**

This method creates increased value of a property by granting a special permit for additional density rights in exchange for the provision of affordable housing units. The theory is that by granting additional density, the property is now worth more than when it was purchased and it is fair to ask the developer to provide a public benefit. This method of creating affordable housing is specifically authorized in Massachusetts via the special permit process by MGL, Chapter 40A, Section 9. The same principal could be exercised through an "in lieu fee" in exchange for the added density rather than requiring the developer to construct the units. Incentive zoning is sometimes called "inclusionary zoning", however, true inclusionary zoning, or requiring affordable units within "as of right" developments without giving anything in return, is of questionable legality and is not specifically authorized in the General Laws. Incentive zoning, then, is an optional arrangement in which the developer and approving authority negotiate an exchange of benefits. The town can pursue this option by adopting a zoning bylaw which allows for density bonuses.

### **Rezoning**

The same "added value" created through an incentive zoning bylaw can be added to property through an outright rezoning of the property. The "added value" provided through the rezoning, however, must be captured or returned to the public. This can be accomplished through deed restrictions placed on the property. The rezoning could be, therefore, a form of "contract zoning" in which the developer/owner agrees voluntarily to specific limitations on his property (i.e. that it will never be developed beyond a certain point without x number of affordable units being provided) in exchange for new zoning allowing increased development. Zoning map changes must be adopted by a 2/3 vote of town meeting.

### **Accessory Dwellings**

A variation of the incentive-type zoning, the accessory apartment technique is meant to provide affordable units on a much smaller scale. This concept allows homeowners to construct a second dwelling unit on their houselot, subject to restrictions created by the locality. This process usually requires a special permit but can be allowed by right. The allowance of such a second dwelling unit can be limited by local restriction relating to size, design, and who occupies the unit. This method would require the adoption of a zoning bylaw allowing accessory dwellings.

### **Comprehensive Permit**

MGL, Chapter 40B allows the local Zoning Board of Appeals to issue a permit for development of affordable housing by a public agency, a non-profit organization, or a limited dividend developer, if the town does not meet the state standards for affordable housing units. The state standard suggests that 10% of a town's total housing stock should be subsidized. The Board of Appeals, in their approval of a comprehensive permit, may override local bylaws. (such as density restrictions) that block the development of low and moderate income housing. The local board can issue the permit subject to restrictive conditions as long as the conditions do not prevent the developer from realizing a "reasonable" return on his investment. The local board can deny the permit if they determine that the project will jeopardize the health and safety of the townspeople, or if they feel that they must deny the project to promote better site and building design or to preserve open space. Appeals of denials made by the local Board of Appeals can be made to the State Housing Appeals Committee (HAC) which will be decided on the basis of whether the issues raised as reasons for denial outweigh the regional need for affordable housing.

This method of creating affordable housing is usually initiated by the development community, although localities are encouraged to take an active role in site selection and project planning to assure a "friendly" comprehensive permit process that will not result in an appeal to the HAC.

### **Dwelling Type**

Many types of dwelling units are less expensive to construct than others. These less expensive units are often not allowed because of their perceived impact on the character of a neighborhood or a town. Types of dwelling units often restricted are multi-family structures, group residences, lodging houses, single room occupancy units, congregate care facilities, and mobile homes. Some of these dwelling types typically serve a subsection of the housing market and do not need to be cost or price controlled. Others, such as multi-family dwellings, have become accepted into luxury markets and will not guarantee the provision of affordable units. Some price control will often be required. These kinds of dwelling types can be allowed through the Zoning Bylaw.

### **Planned Developments**

Flexible site planning such as cluster zoning or mixed-use developments can maximize efficiency in both construction costs and land with development limitations. The savings created by allowing such development must be channelized into the creation of affordable housing units similar to those savings or "added value" generated through density bonuses. The kind of developments must be authorized in the local Zoning Bylaw.

### **Linkage**

This method of creating affordable housing is similar to that of incentive zoning, but it is based on the relationship between commercial development and the need for affordable housing. This process is generally authorized in Massachusetts via the special permit process, but the constitutional test for exactions requires evidence of a "rational nexus" between the commercial development impact and the need for affordable housing. To pursue a linkage program, a locality must establish the planning framework to prove the "rational nexus" and the linkage program should be included as part of the Zoning Bylaw. This method is most appropriate in urban areas experiencing extensive commercial office development.

## **OTHER REGULATORY CONTROLS**

### **Rent Controls**

In areas where there is a serious continuing shortage of rental housing, local home rule authority can be used to establish a limitation on rent increases. These kinds of controls can have a negative effect on maintenance practices for existing rental stock and the production of new units for the rental market. Home rule authority requires special legislative action.

### **Use Covenants and Deed Restrictions**

These devices can be used to maintain the long-term affordability of a unit by restricting who can occupy a unit and/or what price can be charged to purchase or rent that unit. These are methods by which to administer affordable units rather than methods to create affordable units. A locality can require these restrictions as conditions of approval for affordable dwelling units created through contract zoning, or projects requiring special permit approval.

## **TAXATION POLICIES**

### **Classification**

Towns and cities may choose to tax commercial and industrial classified land at a higher rate than residential land. This would allow the community to raise money, but require each homeowner to pay less of the burden. This is especially effective in maintaining affordable housing in communities where increased taxes are overburdening fixed-income housing consumers. Reclassification to reduce housing costs is only possible in communities where the industrial/commercial base is large enough and healthy enough to carry the extra burden. This method reduces housing costs to all housing consumers and, therefore, increases the affordability of housing in a community.

### **Exemptions**

Property tax exemptions can be increased through local options for elderly homeowners. Hardship exemptions can be authorized through home rule legislation for other low/moderate income homeowners and for those homeowners who rent to low/moderate income tenants.

### **Assessment Practices**

Affordable dwelling unit developments such as limited equity cooperatives, subsidized rental housing, rent controlled units, and lodging houses must be assessed at their "full and fair cash value". Whether that value pertains to the legally restricted use or the potential market value is subject to local interpretation. This local interpretation is the decision of the local Board of Assessors.

### **Chapter 121A**

MGL, Chapter 121A provides a process through which limited dividend developers may negotiate tax agreements with localities. This part of the law was established to encourage commercial development in blighted areas, but can be used to provide for other public benefit such as affordable housing. This agreement is negotiated between the developer and the local Board of Assessors.

### **Real Estate Transfer Tax**

This is a methodology for generating revenue for specific public purposes including the creation of affordable housing, through a taxation on real estate transactions. The proposed tax is based on the principal the the real estate market is experiencing tremendous growth creating windfalls of value and potential wealth for developers as well as individual property owners, and that this windfall should be redistributed among the population.

This local tax currently requires legislative approval. However, the legislature is currently considering a bill to generally authorize this kind of tax as a local option. The primary support to date for this bill has been in favor of the potential revenue for conservation land acquisition, as opposed to affordable housing.

## **LAND ACQUISITION STRATEGIES**

### **Tax Foreclosure**

Communities with tax delinquent properties may expedite the tax foreclosure of land to facilitate public acquisition of land for affordable housing development or use. This process requires participation and cooperation from the local assessor's office.

### **Voluntary Sales/Donations**

A town can use local zoning and regulatory controls to encourage voluntary donations or bargain sales of affordable housing sites in exchange for special consideration in permit and development applications. This method is sometimes called taking "exactions" and should only be used as a method of obtaining affordable housing when considering a special permit application or when considering a waiver of local subdivision regulations where the applicant has much to gain, the development has questionable public benefit, and the result is the fulfillment of well-defined town policy. This activity can be undertaken by the Planning Board and the Zoning Board of Appeals. These boards have traditionally used their discretionary power to obtain other public benefits, most often, reduced density and/or increased open space.

**REVIEW OF EXISTING LAND-USE  
REGULATIONS AFFORDABLE HOUSING**

The Town of Wilbraham is characterized by single-family residential development on medium to large lots.<sup>1</sup> Multiple-family dwellings are permitted (by special permit) only within one zoning district, which is designated for each proposed development on a case-by-case basis by Town Meeting. In this context, zoning has had a significant impact on housing affordability. The following section provides an analysis of existing zoning regulations and suggestions for amendments to promote housing affordability, without addressing the overall policy framework represented by the Zoning By-Laws.

**USE REGULATIONS**

Two-Family Conversions

Single-family homes which are at least 25 years old may be converted to two-family use upon the granting of a "special exception or variance" from the Permit Granting Authority (i.e., the Board of Appeals) (§4.1.1). These two procedures – special exceptions (i.e., special permits) and variances – have distinct meanings and requirements under the Massachusetts Zoning Act, and are not interchangeable. This provision should be amended to specify approval through the *special permit* process.

The Town may wish to consider adding an *accessory dwelling* by-law to supplement the two-family conversion provision. Under such a by-law, an accessory dwelling could be established on any residential lot, regardless of the age of the principal residence, subject to a special permit and site plan review. Unlike the second unit in a two-family dwelling, an accessory unit would be restricted in both absolute size (e.g., not more than 750 square feet of floor area) and relative size (e.g., not more than 50 per cent of the area of the primary dwelling). These requirements would ensure that the permitted unit would be clearly secondary to the principal dwelling and would help to keep the cost of the unit affordable. An accessory unit could also be provided through conversion of an existing nonresidential structure on the lot (for example, a barn or garage): in this case, the accessory dwelling by-law would be similar to the existing provision permitting, in most residential districts, dwellings for employees in an accessory building (§4.2.2).

Multiple Family Dwellings

The only uses permitted in the Multiple Dwelling District (RMD) are multiple-family dwellings, and these are permitted only through a special permit. As for the commercial districts (see §1.11 above), this provision is not permitted under Massachusetts zoning law. The use regulations in the RMD district should be amended to permit as of right an underlying use, (for example, single residences).

**INTENSITY REGULATIONS**

Regulation of Interior Area of Single Residences

Section 4.3.10.1 of the Zoning By-Laws establishes a minimum building volume ("cubic footage") requirement for the principal dwelling in a residential district. This provision is clearly contrary to the Zoning Act, which states that "No zoning ordinance or by-law shall regulate or restrict the

---

<sup>1</sup>Residential development on lots smaller than one-half acre are permitted in only one zoning district, which is mapped in three small areas at the northerly end of the Town. These areas are older, established neighborhoods, with relatively little potential for additional development.

interior area of a single family residential building ..." (M.G.L. c.40A s. 3). The minimum area required by this provision is not unreasonable for an affordable unit;<sup>1</sup> nevertheless, the provision should be deleted in order to remedy the conflict with state law.

#### Maximum Size of Multiple Dwelling Units

Section 4.4.4.2.b of the By-Laws prohibits dwelling units with more than two bedrooms in multiple dwellings. This restricts the range of housing types that may be provided in the Town, with potentially significant impacts on the supply of affordable *family* housing. If this restriction is intended to prevent the concentration of population (along with attendant impacts on septic flow, traffic and municipal services), the By-Laws may be amended to regulate the total number of bedrooms per acre, rather than the total number of dwelling units per acre.

### SITE DESIGN STANDARDS

#### Flexible Subdivision Provisions

The "flexible subdivision" section, like the cluster development section which it replaced, permits development on parcels with less than the required lot area in return for the provision of open space and the preservation of natural features. This provision could be used to encourage housing affordability in several ways. First, the Town could require, as a condition of granting a special permit for such a use, that a certain level of affordability be maintained for one or more parcels in the development.

Second, the By-Laws could be amended to permit a modest density bonus in connection with the provision of affordable housing. Section 10.5a already authorizes the Planning Board to grant a special permit for an increase of up to 20 per cent in "the permissible density or intensity of use", provided that the development contains "civic or public improvements".<sup>2</sup> The Massachusetts Zoning Act specifically permits such density bonuses to be provided by special permit in connection with the provision of affordable housing (M.G.L. c. 40A s. 9). Amendments to both the flexible subdivision and special permit sections of Wilbraham's Zoning By-Laws could specify affordable housing as an amenity justifying a density bonus.

---

<sup>1</sup>The minimum volume of 8,000 cubic feet translates to a ranch-style house of about 500 to 600 square feet, i.e., with dimensions of roughly 20 by 25 feet to 20 by 30 feet. A cape-style house, with a more steeply pitched roof, might have to be only 400 square feet in area, or about 20 by 20 feet.

<sup>2</sup>It is not clear, because of conflicting language, whether an applicant could obtain special permits for both a flexible subdivision under §4.3.3 and a density bonus under §10.5a, since the flexible subdivision requirements seem to limit the number of lots to the number attainable under a standard subdivision plan (§4.3.3.1(b)).

**RECOMMENDED POLICY OPTIONS  
AFFORDABLE HOUSING**

In the first Working Paper for the Strategic Planning Project, a description of various affordable housing methods and techniques was presented. In discussion with the Planning Board and Steering Committee it became clear that a more focused outline was necessary. A top priority for the Town is to address the "statistical" shortage of low and moderate income housing with respect to the 10 per cent benchmark established under MGL Ch. 40B (i.e., Chapter 774 or the "anti-snob zoning law"). Wilbraham currently contains 220 subsidized housing units, representing 5.4 per cent of the Town's 1987 total of 4,090 housing units.<sup>1</sup> In order to meet the statutory minimum under Chapter 40B, the Town must provide an additional 189 subsidized units. Moreover, since the base housing stock number is taken from the decennial U.S. census, the Town's required low and moderate income housing contribution can be expected to increase when the 1990 census counts become available.

The following section outlines various methods and techniques for creating affordable housing through municipal regulation or policy. These include land use regulations, other regulatory controls, and taxation policies (including acquisition through tax foreclosure). The discussion of each strategy includes a description of the method of creating affordable housing and a discussion of its relation to the Town's objective of achieving the statutory minimum percentage of affordable housing under Chapter 40B. These strategies are presented to the Committee so that the appropriate options for Wilbraham can be selected and developed further in the next phases of this study.

**LAND USE REGULATION**

**Incentive Zoning (Density Bonus)**

**Characteristics of Method**

The term "inclusionary zoning" is often used loosely to describe any program which encourages or promotes the development of low- or moderate income housing. In this sense, the term is in opposition to the concept of "exclusionary" zoning, that is, zoning which has the intent – or the *effect* – of excluding certain groups from the community. However, a more precise application of the term "inclusionary" refers to regulatory programs which *mandate* the provision of low- and moderate-income housing as a component of market-rate residential developments. Such programs are not specifically authorized under the Massachusetts Zoning Act and therefore are of questionable legality in the Commonwealth.

In contrast, "incentive" zoning is specifically authorized in Massachusetts via the special permit process by MGL Chapter 40A, Section 9. Under "incentive" programs communities *encourage* affordable housing production by offering incentives (primarily increases in permitted densities) to developments which meet specified criteria for affordability. The theory is that by granting additional density, the Town creates additional value in the property, in return for which the developer may be required to provide a public benefit. Under incentive programs, developers of housing have the ability to develop with or without an "inclusionary" (i.e., low- and moderate-income) component, whereas under inclusionary programs such a component must be included in specified types of development.

Incentive zoning, then, is an *optional* arrangement in which the developer and approving authority negotiate an exchange of benefits based on pre-established standards and guidelines. The Town can pursue this option by adopting a zoning ordinance which allows for density bonuses.

<sup>1</sup>"Affordable Housing Position Paper, January, 1988", Laura Perry Tan, Town Planner, p. 10.

An incentive housing program for the Town could require that *any* multi-family housing development include a proportion of housing units that are affordable to low- or moderate-income households, by requiring the issuance of a special permit for such uses. Alternatively, the "inclusionary" requirements could be applied only to those developments which receive a density increase through a special permit process.

Affordability can be ensured either (a) through donation or sale of affordable units to the Wilbraham Housing Authority (in which case occupancy would be restricted to low-income households which meet the Authority's normal criteria for participation in its programs), or (b) through sale or rental to low- or moderate-income households. In the latter case, the zoning by-law would establish maximum income limits for potential purchasers and renters, as well as maximum sales prices and gross rents. Sales and rentals would be based on a percentage of median family income for the metropolitan area, adjusted for the size of the unit. These requirements should be specified in the Zoning By-Laws in order to ensure consistent application of the affordable housing requirements; however, the regulations may provide for negotiation of affordable housing benefits within certain limits.

Two examples of incentive zoning are attached to this report. The first is an incentive zoning ordinance, developed by IEP, Inc., for the City of Peabody, which requires an affordable housing component to be incorporated in all multifamily housing developments and which also permits density bonuses for conventional single-family developments which include such a component. The second example is a cluster housing by-law, developed by IEP, Inc., for the Town of Northborough and adopted at the Town's 1988 Annual Town Meeting, which permits a density bonus of up to 35 per cent in cluster developments where at least 30 per cent of the housing units are "affordable" as defined in the by-law.

The same principle could be exercised through an "in lieu fee" in exchange for the added density rather than requiring the developer to construct the units. If this option were selected, the Town would have to designate an appropriate agency to receive and administer the affordable housing fund created with the funds generated. This approach would be more complex to administer than simply requiring provision of affordable units as part of a proposed development; however, it would have the benefit of being more flexible in terms of the application of the incentive program to smaller developments, and would give the Town a more direct role in the production of affordable housing.

Similar requirements could be applied to conventional residential subdivisions which seek density increases through a special permit process, or to cluster developments. Attached to this report is an incentive cluster housing development by-law adopted by the Town of Northborough in 1988.

Finally, other flexible site planning provisions, such as planned unit or mixed-use developments, can maximize development efficiency as well as providing important community amenities and benefits. An example of a zoning by-law permitting mixed-use developments as part of a TDR program is presented in an attachment to this report. If the Town decides to implement measures such as this, or to approve the establishment of such developments through petition, an inclusionary housing component should be attached, in order to enable the Town to capture a part of the "added value" generated by allowing additional development flexibility.

#### Relationship to Chapter 40B

The incentive zoning approach does not directly address the problem of achieving the benchmarks established under Chapter 774 of the Acts of 1969 (MGL Ch. 40B §§ 20-23). Although the typical incentive zoning by-law restricts the cost of certain housing units and requires that such units be reserved for occupancy by households which have specified income characteristics, these units do not necessarily fall within the definition of "low or moderate income housing" under Chapter 40B, which is as follows:

... any housing subsidized by the federal or state government under any program to assist the construction of low or moderate income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization.

In other words, under Chapter 40B it is the existence of a *state or federal subsidy* which defines affordable housing: neither direct municipal subsidy nor permanent restrictions on income and housing cost are relevant. Furthermore, this definition excludes subsidy programs which do not involve long-term development financing, including the federal Section 8 leased housing program, the state's Chapter 707 rental assistance program, and any housing allowance program.<sup>1</sup>

Consequently, in order to use an incentive zoning by-law to achieve the 10 per cent threshold established under Chapter 40B, the by-law would have to require that any affordable units created under the by-law be subsidized under a federal or state program for the construction or substantial rehabilitation of low or moderate income housing. This would ensure that all such units counted toward the Town's "quota" under Chapter 40B; however, given the scarcity of state and federal housing resources at present, this provision might actually tend to limit the development of affordable housing.

The provisions of Chapter 40B are currently under review at the state level, and amendments may be forthcoming. In light of the declining levels of state and federal funding for low and moderate income housing, and because of concerns by communities that wish to have more control over the rate and location of affordable housing development than is possible under the current statute, one possible amendment could include in the definition of low and moderate income housing any locally-administered programs which provide affordability benefits that are equivalent to federal and state subsidy programs. If such an amendment is enacted, incentive zoning will become a powerful tool for towns to use in attempting to meet the statutory minima set forth in Chapter 40B.

## **Linkage**

### **Characteristics of Method**

This method of creating affordable housing is similar to that of incentive zoning, but it is based on the relationship between commercial development and the need for affordable housing. This process is generally authorized in Massachusetts via the special permit process, but the constitutional test for exactions requires evidence of a "rational nexus" between the commercial development impact and the need for affordable housing. To pursue a linkage program, a locality must establish the planning framework to prove the "rational nexus" and the linkage program should be included as part of the Zoning By-Laws.

This method is most appropriate where a strong demand exists for commercial and office development. In deciding whether it is appropriate to institute a linkage program, it is important to balance the importance of providing affordable housing with the Town's desire to promote economic development. If the economic development process in the area is fragile, the imposition of additional costs through a linkage program can be self-defeating. A careful assessment of the strength of the commercial development market should therefore precede the institution of such a program.

### **Relationship to Chapter 40B**

Like incentive zoning, linkage has no necessary relationship to the Town's performance under Chapter 40B. Therefore, if linkage is to be useful in achieving the 10 per cent threshold, the by-law

<sup>1</sup>*Procedural Regulations of the Housing Appeals Committee, 760 CMR 30.02(i).*

would have to require that any affordable units created under the by-law be subsidized under a federal or state program for the construction or substantial rehabilitation of low or moderate income housing. As noted above in relation to incentive zoning, however, such a restriction might limit the development of affordable housing because of the minimal level of state and federal housing resources currently available.

### **Accessory Dwellings**

#### **Characteristics of Method**

A variation of the incentive-type zoning, the accessory apartment technique is meant to provide affordable units on a much smaller scale. This concept allows homeowners to construct a second dwelling unit on their house lot, subject to restrictions created by the locality. This process usually requires a special permit but can be allowed by right. An example of an accessory dwelling by-law, developed by IEP, Inc., for the Town of Northborough, MA, is attached to this report.

The Zoning By-Laws currently permit conversion of older homes to two-family use by "special exception or variance" from the Board of Appeals §4.1.1), as well as accessory dwellings for employees in most residential districts (§4.2.2). An accessory dwelling by-law would differ from these provisions by restricting the area of accessory units and ensuring that exterior changes to existing structures would be minimized.

The by-law allowing the creation of accessory dwellings can include limitations on the size and design of such units. In addition, if a special permit procedure is attached, the Town can impose and administer additional restrictions relating to occupancy and cost of the units.

#### **Relationship to Chapter 40B**

As in the cases of incentive zoning and linkage, the accessory dwelling approach would not necessarily help the Town to meet the state's 10 per cent statutory minimum for subsidized housing. In order to meet this objective, therefore, the by-law could require that any accessory units created be subsidized under a federal or state program for the construction or substantial rehabilitation of low or moderate income housing.

### **Comprehensive Permit**

#### **Characteristics of Method**

MGL Chapter 40B allows the local Board of Appeals to issue a permit for development of affordable housing by a public agency, a non-profit organization, or a limited dividend developer. In its approval of a "comprehensive permit", the Board of Appeals may override other local land use regulations (such as density restrictions) in order to facilitate the development of low- and moderate-income housing. The Board may issue the permit subject to restrictive conditions as long as the conditions do not prevent the developer from realizing a "reasonable" return on his investment. The Board may deny the permit if it determines that the project will jeopardize the health and safety of the City's residents, or if it feels that it must deny the project to promote better site and building design or to preserve open space.

Appeals of denials made by the local Board of Appeals can be made to the State Housing Appeals Committee (HAC), if the city or town does not meet specified standards regarding the provision of low- and moderate-income housing. The most important of these standards is the requirement that at least ten per cent (10%) of the community's housing stock be assisted under a federal or state program providing long-term mortgage financing or rental subsidized. The HAC makes its decision on the

basis of whether the issues raised as reasons for denial outweigh the regional need for affordable housing.

This method of creating affordable housing is usually initiated by the development community, and communities are often placed in the position of reacting to a fully-developed proposal with little ability to influence location or design of the ultimate project. However, cities and towns can also look for ways to take an active role in site selection and project planning to assure a "friendly" comprehensive permit process that will not result in an appeal to the HAC.

In addition, even when the HAC does not have jurisdiction (i.e., in communities that currently meet the threshold standards of Chapter 40B), the comprehensive permit process can be an effective way to expedite the review and approval process for subsidized housing projects. This will tend to reduce the costs and uncertainties involved in the development process, and thereby facilitate the production of affordable housing. For example, if the Town can identify specific municipal parcels that it deems appropriate for affordable housing, it can solicit development proposals from private developers and support the development through a friendly comprehensive permit process.

#### Relationship to Chapter 40B

The comprehensive permit process is the principal method through which the Commonwealth implements the requirements of Chapter 40B. Any subsidized units created under Chapter 40B will add to the Town's stock of "low or moderate income housing" as defined in the statute and bring the Town closer to compliance with the statutory minimum of 10 per cent subsidized housing.

However, it is important to note that not all units created under Chapter 40B are "subsidized" units within the meaning of the statute, and therefore not all such units will help the Town toward achieving the 10 per cent threshold. Many state-funded housing developments are mixed-income projects: that is, some units are restricted for low or moderate income occupancy, while others are rented or sold at market prices. Whether or not the market-rate units count toward the 10 per cent minimum will depend on the type of ownership and state financing involved.

Typically, rental projects are financed through a single mortgage instrument, the interest cost of which is written down through a state subsidy; therefore, all units in such a development are held to be subsidized, and all such units count toward the 10 per cent benchmark. However, in the case of a single-family or condominium project, such as those developed under the HOP program, each unit is typically financed through a separate mortgage, and only the "affordable" units receive a direct state subsidy; consequently, only the "affordable" units will help the Town to achieve its objective of reaching the 10 per cent threshold. Furthermore, the market-rate units in such a development will add to the Town's total housing stock and thereby increase the number of subsidized units which must be provided by the Town. If only 30 per cent of the units in a HOP development are "affordable" (i.e., low or moderate income) units, then only about three-fourths of the affordable units will contribute toward the Town's goal of reaching the 10 per cent threshold, with the remainder of the affordable units simply compensating for the increase in the number of market-rate units.

The implications of this situation are significant. If the Town were to rely on HOP developments to eliminate its current shortfall with respect to the statutory minimum under Chapter 40B, and if all such developments included only the minimum proportion of affordable units (i.e., 30%), then a total of 822 units in such developments would be required, as follows:

- For every 100 units developed, 70 will be unsubsidized and 30 will be subsidized.
- The 70 unsubsidized units require 7 subsidized units to achieve a 10% low/moderate income ratio, leaving 23 subsidized units to apply to the existing base. Thus, only 23% of the units in the HOP development actually help the Town to reduce the existing shortfall.

- 189 subsidized units are needed to achieve a ratio of 10% on the existing housing stock.
- Therefore, the required total number of units in HOP developments would be 189 divided by 23%, or 822 units.

A decision on whether to promote HOP developments or rental housing proposals in the Town of Wilbraham will involve other factors than their respective impacts on the Town's performance under Chapter 40B: these will include relative housing need in the Town (e.g., low-income vs. moderate-income, homeownership vs. rental), availability of state funding, and the need to respond to specific private development proposals. Nevertheless, to the extent that reducing the Town's low and moderate income housing shortfall is of prime importance, priority should be given to the development of projects that are completely subsidized, which in the current regulatory situation means priority for rental housing projects.

### **Dwelling Type**

#### **Characteristics of Method**

Many types of dwelling units are less expensive to construct than others. These less expensive units are often not allowed because of their perceived impact on the character of a neighborhood or a town. Types of dwelling units often restricted are multi-family structures, group residences, lodging houses, single room occupancy units, congregate care facilities, and mobile homes. Some of these dwelling types typically serve a subsection of the housing market and do not need to be cost or price controlled. Others, such as multi-family dwellings, have become accepted into luxury markets and will not guarantee the provision of affordable units. Some price control will often be required. These kinds of dwelling types can be allowed through the Zoning Bylaw.

#### **Relationship to Chapter 40B**

In order for a zoning amendment permitting a specific dwelling type to address the Town's shortfall with respect to the 10% minimum, the by-law must specifically incorporate the requirement for a state or federal subsidy. This is easier for some dwelling types than for others: for example, multi-family structures and congregate care facilities are often assisted under governmental housing subsidy programs, while group residences, SRO's and lodging houses are less frequently financed with long-term subsidies.

## **OTHER REGULATORY CONTROLS**

### **Use Covenants and Deed Restrictions**

#### **Characteristics of Method**

Use covenants and deed restrictions can be used to preserve the affordability of units created through incentive zoning and other zoning mechanisms. These devices maintain the long-term affordability of a unit by restricting who can occupy a unit and/or what price can be charged to purchase or rent that unit. A locality can require these restrictions as conditions of approval for affordable dwelling units created through incentive zoning requirements or special permit conditions.

Relationship to Chapter 40B

These restrictions are typically utilized in the administration of the HOP program, to ensure long-term affordability of the "affordable" units. Similar restrictions are also placed on mortgages under subsidy programs for rental housing development. However, as noted earlier, it is the subsidy rather than the deed restriction which defines a housing unit as "low or moderate income housing" under Chapter 40B; thus, the restriction by itself does not assist the Town in meeting the statutory minimum for subsidized housing.

**TAXATION POLICIES**

**Classification**

Characteristics of Method

Towns and cities may choose to tax commercial and industrial classified land at a higher rate than residential land. This allows the community to raise money while imposing a lower tax burden on homeowners. By reducing housing costs to all housing consumers, this method increases the affordability of housing in a community.

Tax classification is especially effective in maintaining affordable housing in communities where increased taxes are overburdening fixed-income housing consumers. Reclassification to reduce housing costs is effective only in communities where the industrial/commercial base is large enough and healthy enough to carry the extra burden.

Relationship to Chapter 40B

Classification is not relevant to a Town's performance under Chapter 40B.

**Exemptions**

Characteristics of Method

Property tax exemptions can be increased through local options for elderly homeowners. Hardship exemptions can be authorized through home rule legislation for other low/moderate income homeowners and for those homeowners who rent to low/moderate income tenants.

Relationship to Chapter 40B

Property tax exemptions are not relevant to a Town's performance under Chapter 40B.

**Assessment Practices**

Characteristics of Method

Affordable dwelling unit developments such as limited-equity cooperatives, subsidized rental housing, rent controlled units, and lodging houses must be assessed at their "full and fair cash value". Whether that value pertains to the legally restricted use or the potential market value is subject to local interpretation. This local interpretation is the decision of the local Board of Assessors.

Relationship to Chapter 40B

Assessment of subsidized housing on the basis of its restricted use and cash flow can be an effective way to support the development of such housing, as well as to reduce the rental or sales price of non-subsidized restricted units.

**Chapter 121A**

Characteristics of Method

MGL, Chapter 121A provides a process through which limited dividend developers may negotiate tax agreements with localities. This part of the law was established to encourage commercial development in blighted areas, but can be used to provide for other public benefit such as affordable housing. This agreement is negotiated between the developer and the local Board of Assessors.

Relationship to Chapter 40B

As in the case of use-based assessment, Chapter 121A tax agreements may be useful in making subsidized housing projects financially feasible; however, they do not directly address the Town's shortfall with respect to the Chapter 40B benchmark.

**Real Estate Transfer Tax**

Characteristics of Method

This is a methodology for generating revenue for specific public purposes including the creation of affordable housing, through a taxation on real estate transactions. On the principle that a substantial portion of the growth in property values is based on location in a community and public actions rather than on private investment in the specific property, the transfer tax would capture a portion of this growth in value for related public purposes. Since land development both reduces the amount of community open space and raises the cost of the remaining land, thereby reducing housing affordability, it is appropriate to apply the proceeds of the transfer tax to open space acquisition and affordable housing development.

This local tax currently requires legislative approval; however, the legislature is currently considering a bill to generally authorize this kind of tax as a local option.

Relationship to Chapter 40B

The transfer tax is not currently available to most communities. However, the potential enactment of enabling legislation by the General Court, together with proposed amendments to Chapter 40B to include a broader range of restricted housing in the definition of "low and moderate income housing", could in the future make this mechanism a very effective tool for communities to use to become directly involved in the production of affordable housing in harmony with local needs and concerns.

**Tax Foreclosure**

Characteristics of Method

Communities with tax delinquent properties may expedite the tax foreclosure of land to facilitate public acquisition of land for affordable housing development or use. This process requires participation and cooperation from the local assessor's office.

**Relationship to Chapter 40B**

Although the acquisition of tax delinquent land or housing does not directly relate to the Town's objective of reducing its Chapter 40B shortfall, it opens up possibilities for the subsequent disposition of such property by the Town for affordable housing development. As noted above in the discussion of comprehensive permits, a Town can solicit proposals from private developers for land which it owns. In such a situation, the Town can specify levels of housing affordability and governmental subsidies which must be included in the housing development proposal, ensuring that a specific number of subsidized units will be added to the Town's stock of "low and moderate income housing" as defined under Chapter 40B.

**DRAFT REGULATORY OPTIONS  
AFFORDABLE HOUSING**

**TASK 4 RECOMMENDATION: Increase Multifamily Housing Densities in RMD District**

Amend §4.4 "Multiple Dwelling Districts (RMD)", as follows:

(a) Delete §4.4.1.1 in its entirety and replace with the following:

4.4.1.1 The following uses are permitted in a Multiple Residence District:

- a. One family houses as permitted in the R-15 district;
- b. Multiple dwellings, provided that such dwellings are served by both municipal water and municipal sewerage systems, and subject to a special permit issued by the Planning Board acting as the Special Permit Granting Authority in conformance with the requirements of this Section 4.4.

(b) In §4.4.3.1 a. (Minimum area of parcel), change "10 acres" to "5 acres".

(c) Delete §4.4.3.1 c. in its entirety and replace with the following:

- c. Maximum density of dwelling units:
  - (1) on parcels located more than 1,000 feet from Boston Road – 8 dwelling units per acre;
  - (2) on parcels located within 1,000 feet of Boston Road – 12 dwelling units per acre;
  - (3) on parcels located within 1,000 feet of Boston Road *and* containing an affordable housing component as provided in Section 4.4.5 – 20 dwelling units per acre.

**TASK 4 RECOMMENDATION: Provide Density Incentives with Affordable Housing Component**

Add a new §4.4.5 as follows:

4.4.5 Density Increase for Affordable Housing

4.4.5.1 Basic provision. The maximum density of development of a parcel in a Multiple Dwelling District may be increased by up to 20 dwelling units per acre, subject to the special permit required by Section 4.4.1.1, provided that the development is located within 1,000 feet of Boston Road and complies with the standards for provision of affordable housing set forth below.

4.4.5.2 Computation of maximum density. The maximum density of a development shall be based on the percentage of dwelling units in the development that qualify as "affordable housing" under this section, as follows:

- a. A minimum of twenty per cent (20%) of the total units must be "affordable housing" in order for the density of the development to exceed 12 dwelling units per acre.

- (Option 1) b. The maximum density of development may increase by three-tenths (0.3) of one dwelling unit per acre for every increase of one (1) percentage point in the proportion of affordable units above twenty per cent (20%) of the total units. For example, where 25% of the total units qualify as affordable housing, the maximum density shall be 13.5 dwelling units per acre. or

- (Option 2)
- b. The density of development may increase by four-tenths (0.4) of one dwelling unit per acre for every increase of one (1) percentage point in the proportion of affordable units above twenty per cent (20%) of the total units, up to a density of sixteen (16) dwelling units per acre with thirty per cent (30%) affordable units. The density may further increase by two-tenths (0.2) of one dwelling unit per acre for each increase of one (1) percentage point in the proportion of affordable units above sixteen (16) dwelling units per acre, up to a maximum density of twenty (20) dwelling units per acre with fifty per cent (50%) affordable units.
  - c. The maximum density of development shall not exceed 20 dwelling units per acre, regardless of the proportion of affordable units in the development.

4.4.5.3 Standards for Affordable Housing Units. In order to qualify as affordable housing units, dwelling units must be accepted as "low or moderate income housing" as defined under M.G.L. Chapter 40B. Any units which meet the statutory definition of "low or moderate income housing" in effect at the time of initial occupancy (or any subsequent definition established under said Chapter 40B or successor statute) shall make the development eligible for a density increase as provided herein. The intent of this provision is to provide maximum flexibility in meeting the requirements of this section.

4.4.5.4 Restrictive documents. Affordable units shall be rented or sold subject to applicable deed covenants, contractual agreements and/or other mechanisms restricting such features as the use and occupancy, rent levels, and sales prices of such units to assure their affordability for a minimum of forty (40) years from the date of initial occupancy.

**FINAL RECOMMENDED REGULATORY CHANGES  
AFFORDABLE HOUSING**

**TASK 4 RECOMMENDATION: Increase Multifamily Housing Densities in RMD District**

Amend §4.4 "Multiple Dwelling Districts (RMD)", as follows:

(a) Delete §4.4.1.1 in its entirety and replace with the following:

4.4.1.1 The following uses are permitted in a Multiple Residence District:

- a. One family houses as permitted in the R-15 district;
- b. Multiple dwellings, provided that such dwellings are served by both municipal water and municipal sewerage systems, and subject to a special permit issued by the Planning Board acting as the Special Permit Granting Authority in conformance with the requirements of this Section 4.4.

(b) In §4.4.3.1 a. (Minimum area of parcel), change "10 acres" to "5 acres".

(c) Delete §4.4.3.1 c. in its entirety and replace with the following:

c. Maximum density of dwelling units:

- (1) on parcels located more than 1,000 feet from Boston Road – 8 dwelling units per acre;
- (2) on parcels located within 1,000 feet of Boston Road – 12 dwelling units per acre;
- (3) on parcels located within 1,000 feet of Boston Road *and* containing an affordable housing component as provided in Section 4.4.5 – 20 dwelling units per acre.

**COMMITTEE RECOMMENDATION: Allow Multi-Family Development within LB District**

Amend Section 5.4 by adding the following new Subsection:

5.4.5 Multiple dwellings, provided that such dwellings are served by both municipal water and municipal sewerage systems, and subject to a special permit issued by the Planning Board acting as the Special Permit Granting Authority in conformance with the requirements of Sections 4.4.1.3 and 4.4.3.

Amend Section 4.4.1 by adding the following words at the end of said section: ", or a Limited Business District."

**TASK 4 RECOMMENDATION: Provide Density Incentives with Affordable Housing Component**

Add a new §4.4.5 as follows:

4.4.5 Density Increase for Affordable Housing

4.4.5.1 Basic provision. The maximum density of development of a parcel in a Multiple Dwelling District may be increased by up to 20 dwelling units per acre, subject to the special permit required by Section 4.4.1.1, provided that the development is located within 1,000 feet of Boston Road and complies with the standards for provision of affordable housing set forth below.

4.4.5.2 Computation of maximum density. The maximum density of a development shall be based on the percentage of dwelling units in the development that qualify as "affordable housing" under this section, as follows:

- a. A minimum of twenty per cent (20%) of the total units must be "affordable housing" in order for the density of the development to exceed 12 dwelling units per acre.
- (Option 1) b. The maximum density of development may increase by three-tenths (0.3) of one dwelling unit per acre for every increase of one (1) percentage point in the proportion of affordable units above twenty per cent (20%) of the total units. For example, where 25% of the total units qualify as affordable housing, the maximum density shall be 13.5 dwelling units per acre. *or*
- (Option 2) b. The density of development may increase by four-tenths (0.4) of one dwelling unit per acre for every increase of one (1) percentage point in the proportion of affordable units above twenty per cent (20%) of the total units, up to a density of sixteen (16) dwelling units per acre with thirty per cent (30%) affordable units. The density may further increase by two-tenths (0.2) of one dwelling unit per acre for each increase of one (1) percentage point in the proportion of affordable units above sixteen (16) dwelling units per acre, up to a maximum density of twenty (20) dwelling units per acre with fifty per cent (50%) affordable units.
- c. The maximum density of development shall not exceed 20 dwelling units per acre, regardless of the proportion of affordable units in the development.

4.4.5.3 Standards for Affordable Housing Units. In order to qualify as affordable housing units, dwelling units must be accepted as "low or moderate income housing" as defined under M.G.L. Chapter 40B. Any units which meet the statutory definition of "low or moderate income housing" in effect at the time of initial occupancy (or any subsequent definition established under said Chapter 40B or successor statute) shall make the development eligible for a density increase as provided herein. The intent of this provision is to provide maximum flexibility in meeting the requirements of this section.

4.4.5.4 Restrictive documents. Affordable units shall be rented or sold subject to applicable deed covenants, contractual agreements and/or other mechanisms restricting such features as the use and occupancy, rent levels, and sales prices of such units to assure their affordability for a minimum of forty (40) years from the date of initial occupancy.

4.4.5.5 Cash Payment in Lieu of Providing Affordable Units. Where less than 10 units are authorized in a development through a density increase permitted under this section, one (1) affordable housing unit shall be provided; but such provision may be satisfied, at the Planning Board's option, by a cash payment from the applicant to be used for low and moderate income housing within the Town. The amount of said cash payment shall be determined by the following formula:

$$\text{Payment} = (\text{Unit Value}) \times [(\text{Bonus Units}) / (10 - \text{As Of Right Units})] \times 0.15$$

Where: Unit Value = The average sales price of all of the dwelling units, as established by arms-length purchase and sale agreements and/or recorded deeds (or, if rental dwelling units, and average fair market value established by the Board of Assessors);

Bonus Units = The number of dwelling units in excess of the number which could be constructed without a density increase for affordable housing;

As Of Right Units = The number of units which could be constructed without a density increase for affordable housing.

