

Article XXI: Land Subdivision Regulations

§ 212-140 Authority; Policy; Applicability; Legal Effects; Review procedures ~~and design standards.~~

A. Authority and Declaration of Policy.

- 1) By the authority of Town Law § 276, 277, 278, and 279 and Chapter 10 of the Municipal Home Rule Law of the State of New York, the Planning Board of the Town of Ulysses is authorized and empowered to:
 - a) Approve plats showing lots, blocks, or sites, with or without roads or highways.
 - b) Approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County.
 - c) Conditionally approve Preliminary Plats.
 - d) Require an applicant to provide a clustered subdivision layout.
- 2) It is declared to be the policy of the Planning Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the town and in a manner that is reasonable and in the best interests of the community. This policy is articulated to ensure that the highest standards of site, building and landscape design are met conscientiously, through the use of qualified technical and aesthetic judgment and principles of sustainability consistent with the Comprehensive Plan. The Planning Board will be guided in its consideration of an application for the subdivision of land by the following general requirements:
 - a) **PHYSICAL CHARACTERISTICS.** Land must be buildable and free of hazard. The physical characteristics of the land to be subdivided shall be such that it can be used for natural resource conservation or building purposes without danger to health and safety or peril from fire, flood, or other menace. Proper provision must be made for stormwater management, water supply, sewage and other needed improvements and, consideration be given to the future development of adjoining lands. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, lot sizes and arrangement and the future development, and, natural and cultural resources of adjoining lands. All parcel developments shall meet Town, County, State, and Federal regulations and requirements.
 - b) **NATURAL AND HISTORIC FEATURES.** Land is to be subdivided in a way that protects the natural, cultural and scenic resources of the Town for the benefit of all residents. To the extent practicable, all existing features of the landscape, such as trees of significant DBH caliper, vegetative communities, rock outcrops, important ecological communities, surface and groundwater resources, unusual glacial formations, flood courses, cultural and historic sites, viewsheds, and other such irreplaceable assets shall be preserved thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only. Provision shall be made for maintaining undeveloped natural areas and

corridors to mitigate any adverse environmental impacts of a proposed subdivision, and to sustain biodiversity in order to implement the Town's policies of protecting environmental and cultural resources pursuant to the Town Comprehensive Plan and other applicable local laws.

~~b)c)~~ CONFORMITY. Subdivision plans shall be properly related to and conform to the Town Comprehensive Plan. Proposed development shall be planned such that it is compatible with sound development patterns of adjacent and neighboring properties within the Town of Ulysses. Subdivided lots shall be of such character that they can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

~~e)d)~~ PARKS AND OPEN SPACE. Park areas of suitable location, size and character for playground and other recreational or open space purposes shall be shown on the subdivision plat in proper cases and when required by the Planning Board. Provision shall be made for adequate permanent reservations of open space, pedestrian trails, viewing areas, and parks, and such areas shall be shown on the plat.

~~e)e)~~ PROTECTION OF AGRICULTURAL INFRASTRUCTURE AND SIGNIFICANT AGRICULTURAL LANDS. Consideration will be given to maintaining agricultural viability and protecting significant agricultural lands by minimizing adverse impacts on agricultural land remaining from the subdivision, prime and unique agricultural soils, adjoining or nearby agricultural land and operations, existing natural buffers, and agricultural infrastructure including but not limited to surface and subsurface agricultural drainage systems, farm equipment access points, and equipment lanes.

- 3) Failure to notify the Zoning Officer of any conveyance by subdivision shall be a violation of this law and will be enforced by both civil action and financial penalties inclusive of injunctive relief to the effect of terminating prior conveyances.
- 4) The Planning Board requires applicants for major subdivisions to submit a plan for a cluster subdivision as provided for in Section 278 of New York State Town Law and 212-140 of this Article.
- 5) **Standards.** Subdivisions are subject to the following standards. Subdivision standards are mandatory rules subject to modification by the Planning Board.
 - a) In determining whether to modify a standard for a proposed project, the Planning Board may take into consideration the following:
 - i. The practicable difficulties of applying the standard to the particular project;
 - ii. The potential adverse impact on surrounding properties and the neighborhood of applying or not applying the standard to the proposed project; and

- iii. Whether alternate means or measures attain the same goal as the standard.
 - b) Where an applicant objects to the application of a standard to his or her project and the Planning Board requires compliance, in its resolution of approval or disapproval the Planning Board must state its findings and the reasons for its decision with reference to the considerations set forth in the preceding paragraph.
- 6) **Supersedence.** It is the express intent of the Town Board that this Article shall supersede §§ 261-b, 274-a, 274-b, 276, 277, 278, 279 and any other provision of Article 16 of the Town Law inconsistent with the provisions herein, pursuant to § 10 of the Municipal Home Rule Law.
- 7) **Fees.** The amount of fees required under this chapter shall be established from time to time by resolution of the Town Board, except that the amount of professional review fees held in escrow for each particular application may be established by the reviewing agency. The administrative fees established by the Town Board shall approximate the actual cost to the Town of providing the related administrative services.
- 8) **Subdivisions Straddling Municipal Boundaries.** Whenever access to a subdivision can be had only across land in another municipality, the Planning Board may request assurance from the Ulysses Town Attorney and the Highway Superintendent of the adjoining municipality, that the access road is adequately improved or that a performance security has been duly executed and is sufficient security to ensure access has been constructed. In general, lot lines shall be laid out so as not to cross municipal boundary lines.
- 9) **Resubdivision.** Whenever any resubdivision of land in the Town of Ulysses is proposed, the subdividing owner or their authorized agent shall apply for and secure approval of such proposed subdivision before any contract for the sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this Article.
- 10) **State Environmental Quality Review Act.** The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations.
- 11) **Route 96 Corridor Management Study.** In its discretionary actions under this chapter with regard to land use adjacent to or affecting Route 96, the reviewing agency shall be guided by the goals, objectives, and recommendations set forth in the Route 96 Corridor Management Study, Volumes 1 through 4, a copy of which is available for review in the office of the Town Clerk.
- 12) **Effective Date.** For the purpose of this section, each lot shall be identified by the Tax Map of the Town of Ulysses dated June 1, 2018, and single ownership shall be determined by deed filed as of June 1, 2018. It is the express intent of this chapter that

no parcel as defined herein may be changed or reconfigured after June 1, 2018, for the purposes of applying or avoiding the restrictions of this article. All lot area requirement calculations established in the Zoning Law of the Town of Ulysses shall be based on the lot as identified by the Tax Map of the Town of Ulysses dated June 1, 2018. This parcel shall be identified as the parent parcel.

B. Applicability and legal effects.

1) Applicability of These Regulations.

- a. Any division of a lot into two (2) or more lots, whether new roads, public facilities, or municipal utility extensions are involved or not.
- b. Any other land transaction which requires filing of a plat with the County Clerk. Note: Consolidation of lots for tax purposes as initiated by land owners and approved by the County Assessor shall be registered with the Zoning Officer.

Legal Effect: Land-Use Regulations

Whenever any subdivision of land is proposed to be made and before any site modifications are made and before any permit for the erection of a structure in such proposed subdivision is granted, the subdivider or a duly authorized agent must apply for in writing and receive approval of the proposed subdivision in accordance with these regulations.

Legal Effect: Filing of Plats with County Clerk

Before any plat or licensed survey map of land in the Town of Ulysses is filed with the County Clerk, the plat or licensed survey map must be approved by the Zoning Officer or the Planning Board, as applicable, in accordance with the procedures of this law and Town Law, Section 276.

Plat Void If Revised After Approval

No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat or licensed survey map after approval has been given by the Zoning Officer or Planning Board and endorsed in writing on the plat or licensed survey map, unless the plat or licensed survey map is first resubmitted to the Planning Board and the Board approves any modifications. In the event that any such Subdivision Plat or licensed survey map is recorded without complying with this requirement, it shall be considered null and void, and the Zoning Officer may institute proceedings to have the plat or licensed survey map stricken from the records of the County Clerk.

C. Types of Subdivisions and Procedures

These regulations recognize four types of subdivisions, which are subject to four different review and approval procedures:

- 1. Simple Subdivision: requires the review of the Zoning Officer.
- 2. Minor Subdivision: Review includes two required submissions by subdivider and may include a public hearing if considered desirable by the Planning Board.
- 3. Major Subdivision: Review includes three required submissions by subdivider and at least one (1) public hearing by the Planning Board.

4. Cluster Subdivision: Review includes three required submissions by subdivider and at least one (1) public hearing by the Planning Board.

D. Coordination with County Health Department

The provisions of the Tompkins County Sanitary Code are in addition to the provisions of these Land Subdivision Regulations.

E. Planning Board Use of Consultants and Services of County and Regional Planning Staff

The Planning Board may choose at any point in a subdivision review process to request consultants or refer to the county or regional planning staffs for review, comment, and advice on any aspect of the approval process, subdivision design, engineering specifications, or other pertinent matters. The cost shall be borne by the applicant.

F. Plat Review of Uncompleted Subdivisions

The Planning Board may, on direction of the Town Board, review, for purposes of revision, any plat already on file with the County Clerk if 20 percent or more of the plat is uncompleted after ten (10) years for reasons other than terrain, drainage, soil conditions, or the like. Legislative authority for such review is found in Town Law § 276.

§ 212-141 Definitions.

- A. Subdivision definitions. As used in this article, the following terms shall have the meanings indicated:

Conservation Easement

A perpetual restriction on the use of land, created in accordance with the provisions of § 49, Title 3, of the Environmental Conservation Law, or § 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land or natural, cultural, historic or scenic resources.

Cluster Subdivision

A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, and the remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas or agriculture.

Date of Submission

The Date of Submission of required materials shall be considered to be the date on which the materials for approval, complete as determined by the Planning Board Chair or the Planning Board Chair's designee, and accompanied by the required fee, are accepted by the Planning Board Chair, or the designee.

Final Plat or Final Subdivision Plat

A licensed survey map in final form showing a proposed subdivision, containing all information and details required by state and local law, for submission to the Planning Board for purposes of review, public hearing and approval.

Lot

A continuous, unbroken area of land in single ownership of record described by the boundary lines on the Assessor’s tax maps.

Parent Lot

Any parcel of land owned individually and separately and separated in ownership from any adjoining tracts of land on the effective date of this chapter which has a total area which exceeds the minimum requirements for lot size, and for which there exists the legal possibility of subdivision, resubdivision, and/or a Development District. Also, a parcel of land which may be subdivided into unit lots through the unit lot subdivision process in common contiguous ownership at the date of adoption of § 212-140, subsection A.

Major Subdivision

A subdivision of land resulting in four or more lots or the creation of a fourth lot from the same original **Parent Lot within three years. This also includes:**

1. Any division of land defined as a realty subdivision under Section 115 of New York Code Title II and subject to Tompkins County Department of Health review under Section 116 of such Code.
2. Any subdivision that involves a new private road or public right-of-way, municipal utility extension or other new public facility.
3. Any **cluster** subdivision or other subdivision which deviates from the zoning regulations, official map or other Town development policy. ~~will generally be considered a Major Subdivision.~~

Minor Subdivision

Subdivision of land resulting in three lots **or the creation of a third lot from the same original Parent Lot within three years** and which

1. does not include new roads, municipal utility extensions, clustering or public open space or facilities;
2. does not conflict with the zoning regulations, Official Map or any other Town development policy; and
3. does not adversely affect use or development of adjoining land.

Preliminary Plat

A drawing, clearly marked “Preliminary Plat,” showing the salient features of a proposed subdivision, including the information specified in this document, for purposes of consideration by the Planning Board and public hearing.

Resource Analysis

The inventory and evaluation of natural, historic, and cultural resources on a property to identify those resources to be protected, provide the basis for the maximum density calculation and determine locations for building envelopes.

Resubdivision

A change of an approved or recorded subdivision plat if such change affects any lot line, or any road layout shown on such plat or any area reserved thereon for public use, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Simple Subdivision

Division of a lot into two (2) lots; realignment of boundary lines between lots so as to transfer land from one lot to an adjacent lot; or separation of noncontiguous lots (e.g., lots bisected by public or quasi-public rights-of-way) into separate lots of record without new boundary alignment. No distinction is made between subdivision and resubdivision.

Sketch Plat

A sketch of a proposed subdivision showing the form, layout, roads, public facilities and other information specified in this document.

Subdivision

The division of any parcel of land into two or more lots, including the original lot, plots, sites, or other division of land, with or without roads, for the purpose of immediate or future sale, transfer of ownership, or development after the date of adoption of § 212-140, subsection A. The term “subdivision” includes any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the Clerk of the County. Subdivisions may be defined as “major,” “minor,” “simple” or “cluster,” according to the review procedures and criteria set forth in these subdivision regulations.

§ 212-142 Subdivision Procedures.

A. Pre-application meeting

The Pre-application Meeting is an opportunity for the applicant to present and discuss a conceptual plan for the proposed subdivision prior to committing resources to the preparation of a Sketch Plan. The conceptual discussion shall guide the layout of the subdivision that will be shown in subsequent plan submission(s). All applicants are encouraged to attend a Pre-application Meeting prior to submitting the Sketch Plan and applicants for a Major Subdivision are required to do so. An applicant for a Major Subdivision is also required to submit a Resource Analysis.

In preparation for this meeting, the applicant should become familiar with this Article and all other relevant provisions of this Law, the Comprehensive Plan and SEQRA requirements in order to have a general understanding of the subdivision review process.

No statement, comment or other communication made during this informal review shall be binding upon any party. The pre-application process is required solely to assure that Town development goals are recognized as they may apply to the site in question. This should help expedite the process by getting the review off to a cooperative start, before the applicant has made a substantial investment in the application process.

B. Classification of Subdivision

1. The first stage of subdivision is classification. Classification requires that a subdivider submit a Sketch Plat of the proposed subdivision to the Zoning Officer that provides sufficient detail for the Zoning Officer to classify the action as to the type of review required. The Zoning Officer shall confer with the Chair of the Planning Board for comments and general recommendations as to any adjustment needed to satisfy the objectives of these regulations.
2. The Sketch Plat initially submitted to the Zoning Officer shall be based on tax map information or on some other similarly accurate base map at a scale (preferably not less than 1:2,400) that enables the entire tract to be shown on one sheet.
3. A submitted Sketch Plat shall show the following information:
 - a. A. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing road intersection.
 - b. All existing structures, wooded areas, streams, wetlands, flood hazard areas and other significant physical features within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than **two (2)** feet.
 - c. The names of the owner and of all adjoining property owners as disclosed by the current tax roll.
 - d. The tax map, block and lot numbers of all lots shown on the plat.
 - e. All the utilities available and all roads as they appear on the Official Map.
 - f. The proposed pattern of lots (with dimensions), road layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.
 - g. All existing restrictions on the use of land, including easements, covenants and zoning district boundary lines.
 - h. Minor and Major Subdivisions may require additional information as specified in this document.

C. Simple Subdivision Review Procedure. Upon determination by the Zoning Officer that a proposed subdivision is to be treated as a Simple Subdivision, the Zoning Officer acts to approve; conditionally approve with modifications; disapprove; or grant final approval. In any event, final approval cannot be granted until an official survey map prepared by a surveyor licensed by New York State has been presented to the Zoning Officer and such map indicates that all of the requirements of the Zoning Law have been satisfied. Final approval of the simple subdivision by the Zoning Officer shall be indicated by this officer's signature and date on the final survey map.

In determining the design of the Simple Subdivision the following criteria should be applied:

1. **Avoid prime agricultural soils, defined as Class I and Class II by the USDA Natural Resources Conservation Service or similar or successor agency;**
2. **Must not interfere with natural and pre-existing drainage patterns;**

3. To the extent reasonably possible, subdivisions shall be approved in a manner that maintains the largest amount of contiguous acreage for open space or agricultural use.
4. Lots are allowed to be subdivided one at a time so long as they are located along an existing road.
5. Lot placement should prioritize utilization of land in the following order (from least productive for farming to most productive);
 - a. Category V through VIII Soils.
 - b. Areas which cannot feasibly be farmed due to existing features of the site such as rock outcroppings, rock too close to the surface to permit plowing, swamps, being heavily wooded, or slopes in the area exceeding 15% or the size or shape of the area being ill-suited for farming and/or insufficient to permit efficient use of farm machinery and equipment.
 - c. Class IV soils.
 - d. Class III soils.

G. Major Subdivision Preliminary Plat Review Procedure

1 Application and Fee

- a. Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked with the words "preliminary plat" and shall be in the form described in § 212-142G(2) hereof. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of §§ 276 and 277 of the Town Law and § 212-142G(2) of these regulations, except where a waiver may be specifically authorized by the Planning Board.
- b. At least nine copies of the preliminary plat shall be presented to the Zoning Officer along with the fee established by the Town Board.
- c. The date of submission of the preliminary plat shall be considered to be the date on which the Planning Board accepts as complete the preliminary plat and all data required by § 212-142E(2). The Planning Board Chair shall note the date on the preliminary plat.
- d. At least nine copies of the Resource Analysis shall be presented to the Zoning Officer in accordance with Section Q.

2 Requirements for Major Subdivision Preliminary Plat Review

- A. Subdivider to Attend Planning Board Meeting. The subdivider, or a duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.
- B. The preliminary plat submitted to the Planning Board shall be at an adequate scale to provide detail such as 1" = 50' up to 1" = 200' for parcels under 100 acres and 1" = 200' for parcels of

100 acres or more and shall extend 200 feet past the parcel boundary and shall show or be accompanied by the following information, except where requirements have been waived: A Preliminary Plat application shall include the following information:

- a. The proposed subdivision name, the names of the Town and County in which it is located, the date, a true-north arrow, the map scale, and the names, addresses and phone numbers of all owners of record, the subdivider, and the engineer or surveyor, including license number and seal.
- b. The names of the owners of record of all adjacent property and tax numbers of all parcels to be subdivided.
- c. The zoning district, including exact boundary of districts, where applicable, and any proposed changes in the zoning district lines or the zoning regulations text applicable to the area to be subdivided.
- d. All parcels of land proposed to be dedicated to public use and the condition of such dedication.
- e. The locations of existing property lines, easements, buildings, watercourses, marshes, rock outcrops and wooded areas.
- f. The locations of existing sewers, water mains, on-site wastewater treatment, culverts, and drains on the property, with pipe sizes, grades and direction of flow.
- g. Contours with intervals of ten feet or less as required by the Planning Board, including elevations on existing roads, and an approximate grading plan if natural contours are to be changed more than two feet.
- h. The width and location of any roads or public ways or places shown on the Official Map of the Ulysses Comprehensive Plan within the area to be subdivided, and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
- i. The approximate location and size of all proposed water lines, valves, hydrants, sewer lines, and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in standards published by the Tompkins County Health Department. Show profiles of all proposed water and sewer lines. Proposed provision of water supply and related data includes the following:
 - i. Location of any existing wells on site and other proposed lot wells.
 - ii. Copies of New York State Department of Environmental Conservation Well Completion Reports for completed well(s) (including the well log and pump test data).
 - iii. Any and all water quality testing results.
 - iv. Proposed individual water supply system details such as pumps, storage, treatment, controls, etc.
 - v. A completed hydrogeological study, as may be required by the Planning Board at its discretion.
- j. All requirements as specified in local laws of the Town of Ulysses governing storm-water runoff; a storm-water management plan indicating the approximate location,

- construction and size of swales; and proposed lines and their profiles. Ramification of connections to existing or alternate means of disposal.
- k. Plans and cross-sections showing the proposed new location and types of sidewalks, lighting standards, trees and landscaping, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and sub-base; the location of manholes, basins, and underground conduits. New features must comply with the Ulysses Subdivision Design Standards, Article XXI, Section 21.3.16.
 - l. Preliminary designs of any bridges or culverts which may be required.
 - m. The proposed lot lines with the approximate dimensions and area of each lot.
 - n. Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width, and which shall provide satisfactory access to an existing public highway or other public open space shown on the subdivision or the Official Map.
 - o. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked with an approved pin, pipe or monument as approved by the Town Board, and shall be referred to and shown on the plat.
 - p. If the application covers only a part of the subdivider's holding, a map of the entire tract shall be submitted so that the part of the subdivider's holding covered in the application can be considered in the light of the entire holding. This map shall be drawn at a scale of not less than 1:4,800 and shall show an outline of the platted area with its proposed roads, and an indication of any probable future roads system with its grades and drainage in the remaining portion of the tract, and any probable future drainage layout of the entire tract.
 - q. A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.
 - r. Location, width and approximate grade of all proposed streets with approximate elevations shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in the slope or direction.

3. Clustering of Lots is required as a condition to granting any Major Subdivision approval in the A/R – Agricultural/Rural District.

- A. In order to protect agricultural uses, to preserve the agricultural value of land, to provide for the retention of tracts of sufficient size to be used reasonably for agricultural purposes, and to preserve the open space qualities of the Town, the Planning Board, as a condition of granting subdivision approval, shall require, unless good cause is shown for omission of same, the developer to encumber the larger tracts by deed restrictions, conservation or agricultural

easements, or other mechanism satisfactory to the Planning Board, to ensure that such parcels shall remain permanently as open space or agricultural land.

- B. Notwithstanding the density limitations set forth above, any parcel of 50 acres or larger remaining after subdividing off the clustered lots and which has been encumbered in the manner set forth in the immediately preceding subsection, may be further subdivided in accordance with the Cluster Subdivision process in § 212-142 (D).

4 Study of Major Subdivision Preliminary Plat

The Planning Board shall study the practicability of a Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. To verify that all necessary information is discussed and reviewed in this process, the applicant shall complete a Resource Analysis in accordance with Section Q and provide a copy to the Planning Board upon completion. In its review, the Planning Board members may schedule a field visit to the site, and this site walk may be necessary before the assessment can be accepted as complete. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the requirements of the Ulysses Comprehensive Plan, the Official Map, and Zoning Regulations.

Q. Cluster Subdivisions

1. Purpose

- A. To permanently protect open space and recreational opportunities, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, in a manner that is consistent with the Town of Ulysses Comprehensive Plan;
- B. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;
- C. To minimize the total amount of disturbance on the site;
- D. To further the goals and policies of the Town of Ulysses Comprehensive Plan;
- E. To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.
- F. To achieve a balance between well-designed residential development, meaningful open space conservation, and natural resource protection in the countryside by requiring cluster subdivisions instead of traditional major subdivisions.

2. Authority

The Planning Board is authorized to approve average density subdivision for parcels in all districts. In addition, the Planning Board, at its discretion, may recommend said average density subdivisions to be clustered on a particular parcel, lot, or subdivision as described herein. This section supersedes § 278 of the Town Law pursuant to the Town's authority in § 10 of the Municipal Home Rule Law.

3. **Applicability**

- a. These regulations apply to all properties within the Town. The use of cluster subdivisions is intended to protect tracts of environmentally and scenically significant undeveloped land in the Town, including road corridors and buffer areas, and implement the Town of Ulysses Comprehensive Plan.
- b. Cluster subdivisions result in the preservation of contiguous open space and important scenic and environmental resources, while allowing compact development and more design flexibility than traditional subdivisions. Cluster subdivisions must satisfy the standards in this chapter. The procedure for approving cluster subdivisions is described in this Section. Subject to the criteria of these regulations, the implementation of conservation subdivision is the primary method of subdivision unless the findings set forth in this chapter allow for subdivision.
- c. Cluster Subdivision requirements may be applied to minor subdivisions if desired by the applicant and if on-site wastewater systems are approved by the Tompkins County Department of Health.

4. Request by Subdivider

A subdivider may request the use of Cluster Subdivision under Town Law, Section 278, with respect to presentation of a **Minor Subdivision** Sketch Plat as described in Article XXI, § 212-142A hereof.

5. Sketch Plat

A subdivider **must** present, along with a proposal in accordance with the provisions of Town Law, Section 278, a Cluster Sketch Plat which is consistent with all the criteria established by these Land Subdivision Regulations, including roads being consistent with the road specifications and lots being consistent with Zoning Regulations.

6. **Design Process and Standards**

- A. At the time of the application for a subdivision approval subject to Cluster Subdivision, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, and open space.
- B. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage

changes from existing code in red text

ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

- C. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- D. Mixed-use development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings.
- E. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- F. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

7. Resource Analysis

- A. The Resource Analysis required in this Article shall be used to determine the amount of constrained land and other unique features with conservation value. The outcome of the Resource Analysis and the Planning Board's Conservation Findings shall be used as the basis for Sketch Plan Review.
 - a. The Planning Board shall make a final determination as to which land has the most conservation value and should be protected from development. This determination shall be based upon an analysis that weighs the relative importance of the environmental resources on the site and shall be expressed in a written report supporting its decision (the Conservation Findings).
 - b. The Planning Board may incorporate information provided by, but not limited to, its own research, site visits, consultants, other qualified experts or agencies or from public comments. If, as a result of the SEQRA review, information arises to cause the Resource Analysis to change, such change will be made at that time, by the Planning Board, in its sole discretion.
- B. Step One: Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas such as wetlands, riverfront areas, and floodplains regulated by local, state, or federal law and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) must be identified and delineated. Second, the Potentially Developable Area will be identified and delineated. To the maximum extent feasible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas. Applicants shall consult the Town of Ulysses Natural Resources Inventory in preparing the conservation analysis.

1. The conservation analysis shall show lands with conservation value on the parcel and within 200 feet of the boundaries of the parcel, including but not limited to the following:
 - a. Wetlands, watercourses, slopes 15% to 30% and slopes over 30%.
 - b. Prime and statewide important farmland soils, land in active agricultural use, trail corridors, scenic viewsheds, public water supply wellheads, park and recreation land, unfragmented forestland, wildlife corridors and habitats, vernal pools, and historic and archaeological sites, if such areas are specifically identified in the Comprehensive Plan, in the Town of Ulysses Natural Resources Inventory, the New York Natural Heritage Program, in biodiversity maps prepared for the Town by an environmental consulting organization, or in any the Town of Ulysses Agriculture and Farmland protection plan.
 - c. Designated overlay zones for stream corridors, aquifers, scenic protection, and floodplains.
 - d. Buffer areas necessary for screening new development from adjoining parcels.
 - e. Stone walls and individual trees or forested areas containing trees that are 18 inches in diameter at breast height (dbh) or larger.
 - f. Land that has been disturbed or altered in the past and therefore may be more suitable for development. (This does not include land disturbed by an Applicant prior to applying for a development approval.)
 - g. If identified by the Planning Board or the Town's planning consultant in the course of Sketch Plan discussions, other land exhibiting present or potential future recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.
 2. The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the sketch plan showing land recommended to be permanently preserved by a conservation easement, as well as recommended conservation uses, ownership, and management guidelines for such land. The sketch plan shall also show preferred locations for intensive development as well as acceptable locations for less-dense development.
 3. The determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board, which shall make written findings supporting its decision (the "conservation findings"). The Planning Board shall not endorse any application that does not include a complete conservation analysis sufficient for the Board to make its conservation findings. The Planning Board's conservation findings shall be subject to revision based upon field analysis of the site and information developed in the course of the SEQRA process.
- C. Step Two: Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities,

so as to reflect an integrated community, with emphasis on consistency in development patterns. The number of homes enjoying the amenities of the development should be maximized.

- D. Step Three: Aligning the Road and Trails. Align roads in order to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- E. Step Four: Lot Lines. Draw in the lot lines. Cluster subdivisions are intended to allow flexibility while preserving important natural attributes of the land. Density is calculated following a formula based upon the net acreage of the property. In order to determine the net acreage of a given area of land, it is necessary to subtract land that is unbuildable or that presents other development constraints.
 - 1. Lots shall be arranged in a manner that protects land of conservation value and protects the scenic resources of the Town. Compact development is encouraged if it advances the protection of significant resources.
 - 2. The minimum lot width and other dimensional standards (except lot size) of § 212-29 Lot Area and Yard Requirements may be waived at the discretion of the Planning Board for any subdivision that meets the policy standards of subsections 4 and 5 below and provided that there is adequate lot area for the siting of on-site wells and on-site wastewater treatment systems where planned. **The limiting factor on lot size in cluster subdivisions is the availability of water and sewer infrastructure.**
 - 3. The Planning Board shall determine appropriate lot sizes in the course of its review of a Cluster Subdivision based upon the criteria established in this section and the requirements of the Tompkins County Department of Health. Town services, if available, and/or private water/sewage systems may be used to meet these requirements. In order to permit a clustered lot configuration, wells and on-site wastewater treatment systems may also be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities.
 - 4. The applicant shall specify dimensional requirements for a proposed Cluster Subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat. The Planning Board may vary bulk requirements to accommodate a Cluster Subdivision. The Planning Board may consider an application to develop a portion of a parcel if a Resource Analysis is provided for the entire parcel.
 - 5. There shall be no required area, bulk, or dimensional standards in a Cluster Subdivision with the exception of building height and building length as stated in Table A: Dimensional Standards and where such subdivision abuts an existing residence, all side and rear yard setbacks are required as stated in Table A: Dimensional Standards for the zone where the Cluster Subdivision is located.
 - 6. Where lot width requirements have been waived, the minimum road frontage for each lot shall not be less than 50 feet.
 - 7. Side lot lines shall be substantially at right angles or radial to street lines.

changes from existing code in red text

8. Through lots or reverse-frontage lots shall be avoided except where essential to overcome specific disadvantages of topography and orientation. An easement of suitable width, across which there shall be no right of access, may be required along the line of lots abutting such road or other disadvantageous use. As an alternate, where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access driveway in order to limit possible traffic hazard on such street.
9. The plat shall provide each lot with satisfactory access to an existing public street or to a subdivision street that will be ceded to public use at the time of final plat approval. Private roads may be permitted only by resolution of the Town Board in accordance with Section xxx.
10. Radius corners shall be provided on the property line substantially concentric with the curb radius corners.

8. Density Bonuses

A density bonus shall be granted for Cluster Subdivisions advancing specific policy goals enumerated below. The density bonus allows additional lots. The number of additional lots is calculated by multiplying the total number of allowed lots by 0.25 (25%) and rounding to the nearest whole number. Accordingly, and notwithstanding the minimum lot sizes set forth above, the following additional requirements shall apply to Major Subdivisions within the Rural/Agricultural Zone:

1. The maximum density permitted in § 212-29 Lot Area and Yard Requirements, may be increased through density bonuses designed to advance important goals of the Comprehensive Plan and Agricultural and Farmland Protection Plan. In accordance with § 261-b of the Town Law of the State of New York, the Town Board of the Town of Ulysses is empowered to provide for a system of zoning incentives or bonuses in exchange for specific environmental, social, economic, or cultural benefits or amenities as the Town Board deems necessary and appropriate and which are consistent with the intent and purpose set forth in the Comprehensive Plan.
2. These density bonuses may be combined to result in a total density bonus not exceeding 25%. The density permitted by this section shall not be reduced as a result of the Resource Analysis required in Q.7. or as a result of the reservation of parkland during the subdivision process. Density bonuses are given at the discretion of the Planning Board based upon written findings by the Planning Board documenting the expected public benefit. Density bonuses are calculated by first determining the allowable base density under § 212-29 Lot Area and Yard Requirements and then multiplying that number by 100% plus the percentages that follow:
 - i. If the applicant allows public access to protected open space on the property and the Planning Board finds that such public access provides a significant recreational benefit to the Town (such as a trail connector or access to an important natural area): a maximum of 10% density bonus.

changes from existing code in red text

- ii. If the applicant preserves at least 80% of the parcel as working farmland (including the creation and preservation of new working farmland): a maximum of 20% density bonus.
- iii. If the applicant preserves at least 80% of the parcel as permanent open space: a maximum 20% density bonus. The requirements for permanent open space are provided in Section V, Parks, open space, and natural features.

9. Preservation of Open Space

- A. If the arrangement of lots results in large expanses of preserved open space, the preserved open space may be included as a portion of one or more large lots, or may be contained in a separate open space lot. Such open space may be owned by a homeowner's association, private landowner(s), utility company, a non-profit organization, or the Town or other governmental entity, as long as it is permanently protected from development by a conservation easement held by a unit of government or qualified conservation organization.
- B. Permanent Preservation by Conservation Easement
 - a. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry and silviculture, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the New York State General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, may be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of Final Plat approval. The conservation easement shall be recorded in the Tompkins County Clerk's Office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's Office. The Town shall maintain a current map which displays all lands under easement or deed restricted.
 - b. The conservation easement shall limit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation). Access roads, driveways, wells, local utility distribution lines, underground sewage disposal facilities, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures may be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry and silviculture shall be conducted in conformity with applicable New York State Department of Environmental Conservation best management practices.
- C. Ownership of Open Space Land
 - a. Open space land shall under all circumstances be protected by a perpetual conservation easement, but may be held in private ownership, offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, owned in common by a homeowner's association (HOA), or held in

such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.

- b. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
 - i. The HOA must be established before the approved subdivision Final Plat is signed, and must comply with all applicable provisions of the General Business Law.
 - ii. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
 - iii. The open space restrictions must be in perpetuity.
 - iv. The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
 - v. Property owners must pay their pro rate share of the costs and the assessment levied by the HOA must be able to become a lien on the property.
 - vi. The HOA must be able to adjust the assessment to meet changed needs.
 - vii. The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the Town. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder, or to pay its real property taxes.
 - viii. Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
 - ix. The attorney for the reviewing board shall find that the HOA documents presented satisfy the conditions in Subsections (a) through (h) above and such other conditions as the Planning Board shall deem necessary.