

SECTION 22
PLANNED RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT

22.1 **Purpose:**

The purpose of the Planned Residential Development Overlay District (“PRD”) is (1) to provide for diversity of housing types and sizes, (2) to provide additional affordable or economical housing, (3) to protect environmentally significant areas and (4) to preserve significant amounts of open space by allowing flexibility in the design and placement of residential structures.

22.2 **Qualifying Standards:**

No parcel of land shall be considered for a Planned Residential Development Overlay District unless it complies with the following standards:

22.2.1 The parcel shall be located in (and thereafter if approved shall be designated in conjunction with) an R-40 Residential District in areas of the Town of Middlebury, specified below (“Eligible Area”). Such district shall be designated on the zoning map as R-40/PRD. In addition, an identifying number may be assigned to each district. The Eligible Areas are:

- A. That portion of the R-40 District bounded northerly by Judd Hill Road; easterly by Longmeadow Brook; southerly by Oxford town line; and westerly by a line commencing on the Oxford town line and running northerly along the westerly boundary of property now or formerly of the Estate of Mary Alishauskas (as it existed on November 1, 1989) to the street line of Christian Road and thence continuing northerly along said Christian Road to Judd Hill Road.
- B. That portion of the R-40 District on the easterly side of Town identified as those properties presently served by Hillcrest Water Company as evidenced by its water lines in place adjacent to said property on June 1, 1989.
- C. That portion of the R-40 District is described as follows:
Property situated at North Benson Road on the east and west sides thereof and also bounded on the north by Judd Hill Road, in part, and in part by land now or formerly of Francis M McDonald et al, which additional eligible area is shown as: (1) Parcels 1 and 78 on Middlebury Tax Assessor’s Map No. 7-6; (2) Parcel 16 on Middle Tax Assessor’s Map No. 8-4; (3) Parcel 3A on Middlebury Tax Assessor’s Map No. 7-4; and (4) a portion of Parcel 9 on Middlebury Tax

Assessor's Map No. 7-4, generally described as an area east of North Benson Road defined by a line that is approximately 980± feet east of such road at the southeasterly corner of such area, thence approximately 1,255± feet to the north-northwest to a point which is approximately 825± feet east of North Benson Road. The land included in such eligible area includes North Benson Road, beginning at a point on the west side thereof which approximately 1760± feet north of the intersection of North Benson Road and Southford Road, thence in a northerly direction to a point on the west side of North Benson Road which is approximately 285± feet south of the intersection with Judd Hill Road, and beginning at a point on the east side of North Benson Road which is approximately 1625± feet north of the intersection of North Benson Road and Southford Road, thence in a northerly direction on North Benson Road to a point on the east side of North Benson Road which is approximately 418± feet south of Judd Hill Road.

- 22.2.2 The minimum size for Planned Residential Development District is 50 contiguous acres; the maximum size is 200 acres. For the purposes of this section, property separated from other property by a Town road shall be considered to be contiguous, provided that there is a minimum of 30 acres on each side of such Town road.
- 22.2.3 The PRD must contain 200 ft. minimum road frontage. The Commission may, however, approve reduced frontage (but not less than 150 feet) if existing conditions would permit such access which would not adversely affect abutting property or be detrimental to the neighborhood. The minimum road frontage must be on a Street designated as an arterial roadway or a collector street in the Middlebury Plan of Development. For purposes of this section, frontage on North Benson Road shall nevertheless qualify as such frontage.
- 22.2.4 PRDs may be created within existing zoning districts located in Eligible Areas or may be rezoned together with a paired R-40 residential district classification from non-residential district in an Eligible Area.
- 22.2.5 The PRD is only allowed where: (a) immediate access to existing sanitary sewer lines is available, provided the Water Pollution Control Authority has determined that sufficient capacity exists, and (b) immediate access to an existing public water system is available, provided the Water Commission has determined an adequate supply exists.

22.3 Density:

22.3.1 Standard Density:

The maximum number of units allowed in the PRD shall be determined in the following manner: Calculate the net area of the parcel by subtracting from the total site acreage; (a) Ten percent (10%) of the entire site for roads, (b) Fifty percent (50%) of those areas classified as wetlands and watercourses as determined by a qualified professional and as agreed to by the Conservation Commission and the Planning and Zoning Commission, plus fifty percent (50%) of the land in steep slopes ie: slopes above twenty-five percent (25%). Divide the net area by one acre (43,560 square feet) and round down to the nearest whole unit to determine the maximum number of units allowed. This amendment shall not apply to a development for which a Preliminary Development Plan has already been approved by the Middlebury Planning and Zoning Commission prior to the effective date of this amendment, provided that a Final Development Plan for such development is approved within the time periods required in these regulations.

22.3.2 Density Increase:

To encourage the provision of affordable housing units, the applicant for approval of a PRD may apply for a density increase of up to 50% above the base density. Such increase will only be approved if said applicant agrees that one-half of the extra units are set aside for affordable housing as provided for in the Regulations.

22.4 Procedure for Establishing Planned Residential Development Districts

22.4.1 Establishment:

All Planned Residential Development Districts shall be considered re zonings subject to the requirements and procedures of Section 8-3 of the Connecticut General Statutes, except as noted herein. Except as set forth in Subsection C below, a Planned Residential Development District shall be established only in conjunction with approval of a Preliminary Development Plan for the entire District by the Planning and Zoning Commission. The purpose of the Preliminary Development Plan shall be to indicate the general intent and arrangement of the proposed development.

A. Zone Change Application:

A completed application for zone change approval, with the required fee, shall be submitted to the Commission accompanied by ten (10) copies of the Preliminary Development Plan meeting the requirements of Subsection 22.4.2 below. Such application shall include the full

text of the proposed zoning amendment necessary for complete approval of the Planned Residential Development District, together with a statement of maximum proposed density and the calculation thereof in compliance with Subsection 22.3 above.

B. Public Hearing:

After receipt of a complete zone change application, complete preliminary plan of development and required application fees, the Commission shall hold a public hearing and take action to approve, approve with modification, or disapprove the zone change and Preliminary Development Plan within the time limits provided in Sections 8-3 and 8-7d of the Connecticut General Statutes. The Commission, acting in its legislative capacity when it approves, approves with modification, or denies the zone change application and preliminary Plan of Development required by this regulation, has extensive discretion to determine compliance with the required standards.

C. Modifications:

In the event a portion of the land to be encompassed by the change in zone to a Planned Residential Development District is comprised of "T" lots situated in the Long Meadow Pond area, some of which are not yet owned by the applicant but are or will be acquired by the applicant, or are or will be the subject of tax lien foreclosures to be prosecuted by the applicant, then the Commission may, at its discretion, accept an application seeking a zone change for the entire parcel (the "Entire Parcel"), and permit the applicant to submit two Preliminary Development Plans, one of which shall be for the Entire Parcel and shall show the maximum development proposed by the Applicant in the event that all of the "T: lots encompassing the proposed District are acquired (the "Maximum Plan"), and the other shall be for such lesser portion of the Entire Parcel as is then currently owned or under the control of the applicant (the "Owned Parcel") and shall show the development proposed by the applicant in the event no further "T: lots are acquired (the "Minimum Plan"). Both Preliminary Development Plans will be presented for consideration at the Public Hearing scheduled pursuant to Section B above. The Commission, acting in its legislative capacity, shall approve, approve with modifications9s), or deny the change in zone for the Entire Parcel but shall approve, approve with modification(s), or deny only the Minimum Plan for the Owned Parcel, being that portion of the Entire Parcel owned or controlled by the Applicant, provided, however, that in the event the Commission has approved, or approved with modification(s) such Minimum Plan, and the Applicant subsequently

acquires title to additional “T” lots encompassed by the Maximum Plan, the Commission may, at its discretion, upon application by the Applicant, approve, approve with modification(s), or deny modification(s) to the Minimum Plan without further Public Hearing provided that the proposed modification is within the scope of the Maximum Plan previously presented at the Public Hearing, and shows no greater development than as appeared in such Maximum Plan.

Any such modification(s) of a Preliminary Development Plan approved, or approved with modification(s), by the Commission shall be endorsed by the Commission and recorded with the Town Clerk of the Town of Middlebury in the same manner as is required hereunder for the original Preliminary Development Plan.

Any portion of the approved Design Development District for which a Final Development Plan is not approved in accordance with Subsection 22.4.7, including any portion of the Entire Parcel which is not ultimately acquired by the Applicant, shall be deemed subject to revocation in accordance with Subsection 22.4.7.

22.4.2

Preliminary Development Plan Submission:

Ten copies of the Preliminary Development Plan (PDP) shall be submitted to the Planning and Zoning Commission along with an application for a Certificate of Zoning Compliance. Such application shall include a clear statement explaining how the proposed zone change and PRD meet the purposes set forth in Subsection 22.1 above. The Commission shall charge a fee, as may be amended from time to time, to cover review costs of a PRD submission. The Commission shall refer the plans to the Conservation Commission for a review of the project impacts on wetlands and water courses, to the Water Commission to review the public water impacts and to the Water Pollution Control Authority for review of sewer impacts. In addition, plans shall be submitted to the Architectural Review Board for comment under procedures established in Subsection 51.3 of the Zoning Regulations. The PDP plans shall include topography at two foot contour intervals. The Preliminary and Final Development Plans must be developed by either a professional engineer, architect, registered landscape architect, registered land surveyor or a professional planner, or any combination of such professionals, each to limit himself to his particular area of expertise. The Preliminary Development Plan, nor the Final Development Plan, for a Single Family Residence PRD (as defined below) or an individual Lot PRD, shall be required to show the actual final location, size, shape or design (subject to compliance with Section 22.9.3E) of the final home to be built, but may only show in each location

designated for a home a square or rectangular building envelope area within which a home shall be located for purposes of approval. Final homes must be built completely within each such building envelope, the size of which must be approved by the Commission, except that patios and decks may extend outside the building envelope. Homes may be customized and varied in size so long as they meet the building standards set forth in Section 22.9.3 below, including the architectural design approved by the Commission. As used herein, a “Single Family Residence PRD” means a PRD consisting solely of single family detached homes with an attached or under-house garage, exclusive of recreation, maintenance and accessory structures maintained by the Home Owners Association. The PDP shall include the following:

- A. The existing and proposed vehicular circulation system including major and minor thoroughfares, collector streets, local streets, parking and loading area, and points of access to public easements and rights of-way.
- B. A written report by a qualified traffic engineer evaluating the impact of the PRD on the transportation system, including the amount of traffic projected within and for the proposed development and the adequacy of the surrounding streets and traffic controls to accommodate existing traffic, projected traffic from the proposed development, and projected traffic from other approved developments in the area.
- C. The existing and proposed pedestrian circulation system including its interrelationships with the vehicular circulation system, open space system, and other areas of common use.
- D. A general landscape plan including the proposed treatment of common areas, usable open space, water courses and the treatment of the perimeter of the PRD including materials and techniques to be used such as living screens, berms, fences and stone walls.
- E. Information on land areas adjacent to the proposed PRD to indicate the relationship between the existing and proposed utilization of surrounding properties, including land uses, zoning, densities, height of structures, circulation systems, public facilities, and unique natural features.
- F. Proposed types, quantities, and general location of residential units including square footage and number of bedrooms and densities for individual sections of phases of the development as well as for the PRD as a whole.

- G. Examples of proposed product types for the residential units, typical lot and/or building layouts and elevations of all buildings (front, back and both sides) showing proposed textures, materials and colors. Identical buildings will not require multiple elevations.
- H. Proposed area regulations in conformity with this Section 22, and with Section 11 to the extent applicable and their justification.
- I. Proposed development schedule with projected completion date(s) for the PRD and its individual phases.
- J. Proposed number of units by bedroom count.
- K. Identification of any historic structures or features on the site.
- L. Preliminary grading and drainage information of the same nature and to the same extent required for a subdivision under the Commission's regulations and Board of Selectmen's regulations and ordinances.
- M. A map showing all wetlands areas, water courses and slopes above 25% together with a calculation of the maximum allowable density on the site.
- N. A listing of all property owners by tax parcel number, within 250 feet of the project boundaries.
- O. A summary table indicating compliance with the development standards. The table shall show proposed phasing, the number and type of buildings and units, number of parking spaces required and provided, square feet and percent of lot area covered by pavements and buildings, lot area, frontage and landscape requirements and amount of open space required and provided.
- P. A report discussing projected demands for public water and sewer and evidence that an undue burden will not be place, on these services by the proposed development.
- Q. The impact of the PRD on schools, police, fire and other municipal services.
- R. Provisions for Affordable Housing Unites (as defined in Subsection 22.7.2 below), if any.
- S. Any other information the Commission deems appropriate for a proper and complete review of the Preliminary Development Plan.

22.4.3

Findings

In order to approve a zone change and Preliminary or Final Development Plan submitted under this Section, the Commission shall first make the following findings:

- A. The purposes specified in Subsection 22.1 have been substantially met.
- B. The qualifying standards of Subsection 22.2 and the design standards of Subsection 22.9 have been met.
- C. Provisions for traffic, water, sewerage, storm water and open space are adequate, do not overburden existing streets, water, sewer and storm water drainage facilities on- or off-site and do not create water problems off-site.
- D. No congestion in the streets surrounding the site will result from the PRD and the proposed development design will not require upgrading of the street system of the Town of Middlebury. This requirement can only be waived if the Commission and the Board of Selectmen in their sole discretion elect to permit the necessary upgrading at the applicant's expense. To make the necessary analysis, the applicant may be required to provide additional information, plans and data at his expense.
- E. The proposed development design will not require upgrading of the existing on or off site sewer, water and similar municipal systems and drainage systems. This requirement can only be waived if the Commission in its sole discretion recommends, and the Water Pollution Control Authority or the Water Commission, as to their respective utilities, elect to permit the upgrading either on or off-site at the applicant's expense. To make the necessary analysis, the applicant may be required to provide additional information, plans and data at his expense.
- F. The need exists in the community for a different type of housing unit than is allowed under the base zone and the need exists for the number of affordable housing units suggested, if any.
- G. The development and design of the PRD will not have an adverse effect on surrounding properties, will be in harmony with the neighborhood, and will not have an adverse effect on property values in the area.

- H. The proposed development will not have a significant adverse effect on the environment and in particular wetland and watercourse areas. In making this finding the recommendations of the Conservation Commission regarding the development will be taken into account.
- I. Where appropriate, the applicant has provided for continuing maintenance of private roads, parking areas, storm water drainage facilities, open space and other amenities not accepted by the Town of Middlebury.

22.4.4 Recording and Effective Date

The approved Preliminary Development Plan shall be endorsed by the Commission and recorded in the office of the Town Clerk of the Town of Middlebury within ninety (90) days of the date of approval, unless extended by the Commission for good cause shown. The Planned Residential Development District zone change contemplated by Subsection 22.4.1 shall be effective upon recording of such approved endorsed PDP.

22.4.5 Final Development Plan Submission

Before development can begin, a Final Development Plan must be approved by the Planning & Zoning Commission with respect to all or, if the site is to be developed in phases, that portion of the PRD District where phase 1 is located. If the PRD is to be developed in phases each phase shall require a Final Development Plan. The Final Development Plan shall conform substantially to the approved PDP including, without limitation, the vehicular and pedestrian circulation system approved in the preliminary Development Plan and shall adhere to all area regulations adopted by the Preliminary Development Plan. The Final Development Plan shall include the following, subject to Subsection 22.10 below:

- A. Final subdivision plan submission in accordance with Subdivision Regulations, if applicable.
- B. Site plans meeting the standards of Section 8 and Section 51 of these Regulations, and the standards for a site development plan required by the Subdivision Regulations.
- C. Detailed landscape plans for common areas, usable open space and perimeter areas including proposed grading, plant materials, and method (s) of maintenance.
- D. The provisions for Affordable Housing Units (as defined in Subsection 22.7.2 below), if any.

- E. The contract with the Town provided for in Subsection 22.8 below, if applicable.

22.4.6

Procedure

- A. The following procedure shall be followed with respect to the Final Development Plan (subject however to subsection 22.10 below in the case of Individual Lot Subdivisions): The Final Development Plan must be submitted within one year from the date of the Preliminary Development Plan approval. Otherwise the Preliminary Development Plan is null and void and the parcel will revert to the original underlying zone designation unless the Commission approves an extension of up to six months. Upon such reversion, the Commission shall take action to remove the PRD District designation of the parcel from the zoning map. Application for a Final Development Plan may be for only part of the approved Preliminary Development Plan if that PDP as approved contemplates phases or if it is determined by the Commission that, as a result of the size of the project, it would be detrimental to the Town or neighborhood to allow development in a single phase, or it would be unreasonable to require a final application for the entire project. In no event, however, shall the first phase encompass less than twenty-five acres.
- B. The following procedure shall be followed with respect to the final development plan (subject however to subsection 22.10 below in the case of individual lot subdivisions) final application for subsequent phases of the project shall be submitted at maximum intervals of three hundred sixty-five (365) days. Upon failure to submit any such application within said time limit, the provisions of subsection 22.4.6A on both will apply as to such phase.
- C. The following procedure shall be followed with respect to the Final Development Plan (subject however to subsection 22.10 below in the case of individual lot subdivisions): The commission may hold a public hearing on the Final Development Plan is in its estimation the plan differs significantly from the preliminary development plan or for any reason satisfactory to it. Otherwise, the Final Development Plan shall be processed in the same manner as a site development plan approval under Section 51 of these regulations, but subject, however, to this Section 22, and shall be filed after approvals in accordance with those procedures.

22.4.7

Project Completion

If no Final Development Plan has been approved for all or a portion of the PRD within twenty-four (24) months after approval of the Preliminary Development Plan, or a modification of thereof, the Planned Residential Development District designation may be revoked by the commission.

- A. Each portion or phase of a PRD for which no Final Development Plan has been approved within 24 months of the approval of the Preliminary Development Plan, or a modification thereof, shall be deemed to be subject to revocation unless an extension of the 24 months time period has been granted as provided below.
- B. The applicant shall post a performance bond in accordance with Section 51 of these regulations for completion of all improvements in the development, except residential units, at the time of approval of the Final Development Plan in accordance with procedures set forth in Section 51 of these Zoning Regulations. The performance bond requirement of Section 51 may be satisfied by an irrevocable letter of credit in the amount set by the Commission in any form approved by the Town Counsel.
- C. If less than 5% of the dwelling units in any approved phase of the PRD have received certificates of occupancy within 24 months of the approval of such a Final Development Plan, the PRD shall be reviewed by the commission to determine the developer's intent to proceed. The Commission may, for good cause, all for extensions of up to one year for completion of buildings, structures, or other improvements. If the Commission determines that the developer does not intend to proceed with the PRD, the Commission may revoke such Final Development Plan approval. Notice of intent to revoke shall be given to the developer, or his successors in interest, by certified mail sent at least (10) days prior to the date of the meeting at which such action is proposed. Revocation of the FDP approval or any phase thereof, shall terminate PRD approval as to such FDP as well as automatically revoke the zone change of the PRD, subject to the right to complete all structures commenced in accordance with the FDP. Thereafter, all completed structures shall constitute preexisting, nonconforming uses in accordance with these regulations.
- D. In accordance with C.G.S. Sec. 8-3(i), the Commission shall state on its certificate of approval for the Final Development Plan, the five

year expiration for completion of all work in connection with the Final Development Plan.

- E. If affordable housing units are contemplated in the PRD, no certificate of zoning compliance for any units in the original project for which application is made which are not subject to the contract and covenant restricting them as affordable housing shall be issued until completion in issuance of a certificate of zoning compliance for a pro rata number of units of restricted affordable housing. The pro rata allocation shall be based on the proportion of the number of affordable housing units to the total units approved in the whole application.

22.5 Allowed Uses

22.5.1 Allowed by Right

Base uses allowed within the Planned Residential Development include single family detached and single family detached dwellings. Single family attached includes some semi-detached dwellings. In addition, all other uses allowed within all residential zoning districts in Middlebury as defined in section 21, except Subsections 21.1.2, 21.1.3, 21.1.4, 21.1.6 and 21.1.7 are allowed in the PRD, subject to a Preliminary Development Plan approval.

22.5.2 Allowed By Special Exception

Special exception uses must be approved in the Preliminary Development Plan and are allowed to include those only noted in Subsections 21.2.3, 21.2.6, 21.2.8, 21.2.9 and 21.2.10 listed in section 21 of these Zoning Regulations. Day nurseries may only be approved if located in a separate detached building situated so as to create a minimum disturbance to residents of the PRD. Any special exception use not included as part of the Preliminary Development Plan approval, but suggested in the Final Development Plan may only be approved after a public hearing has been held on the proposed use. In all cases the provisions of Section 52 of the Regulations shall be followed. Notwithstanding the foregoing, and an individual lot PRD subsections 21.2.6, 21.2.8 and 21.2.9 listed in Section 21 of these Zoning Regulations shall not to be allowed so that only Subsections 21.2.3, 21.2.10 and 21.2.14 will be allowed, by Special Exception in an individual lot PRD.

22.6 Maintenance Requirements

In order to ensure the long-term maintenance of common land and in facilities and to prevent maintenance expenditures by the town, the following shall be required:

- 22.6.1 PRD projects shall be approved subject to the submission of a legal instrument setting forth a plan or manner of permanent care and maintenance of open spaces, recreational areas, common parking areas, and other communally owned facilities. No such instrument shall be acceptable until approved by the Town Attorney as to legal form and effect.
- 22.6.2 Any Homeowners Association (HOA) created shall be organized as a not for profit corporation with automatic membership in the HOA when property is purchased in the PRD. This shall be specified in the covenants which run with the land in which bind all subsequent owners. Covenants for maintenance assessments shall also run with the land. Included in the maintenance covenants shall be procedures for changing them at stated intervals. Deeds shall specify the rights and responsibilities of property owners to the HOA. The HOA shall also be responsible for liability insurance, local taxes, in the maintenance of all commonly held facilities through the use of a pro rata share formula for all property owners.

22.7 Provisions of Affordable Units

All provisions of this Section are subject to Subsection 22.10 below for Individual Lot PRD(s). One half of all units allowed above the base density must be affordable units which are made available for sale or rent to moderate income households. Where possible affordable units shall not be segregated on the project site nor shall they be substantially different in finish or level of amenities offered. The different types of other housing units, in terms of numbers of bedrooms, shall generally be proportionately reflected in the types of Affordable Housing Units.

- 22.7.1 Definitions of Moderate Income Household
Moderate income households are those which, at the time of execution of a contract of sale or lease agreement, do not exceed the median family income, as adjusted for family size, for the mean of all of the New Haven County and the Litchfield County, CT Housing and Urban Development Metropolitan Fair Market Rent Areas (“HMFA”) as established on an annual basis by the U.S. Department of Housing and Urban Development (“HUD”) as defined in C.G.S. §8-30g (7), as amended.
- 22.7.2 Definition of Affordable Housing Unit
An “Affordable Housing Unit” shall be defined in accordance with C.G.S. §8-30g (6), as amended.

22.7.3

Determination of Eligibility

In determining whether an applicant for an Affordable Housing Unit meets the definition of Moderate Income Household, the same factors and methods of calculations used by HUD in determining median family income for eligibility for HUD administered program shall be followed. Moderate income households applying for dwelling units shall be selected on the basis for the following categories of priority:

- A. Residents of the Town of Middlebury for two (2) continuous years, whether presently or in the past ten (10) years.

- B. Residents of the New Haven County and the Litchfield County HMFAs.

- C. All others

In order to prevent overcrowding of Affordable Housing Units, the guidelines shall be that, at the time of sale or lease of an affordable housing unit, it be occupied by no more than two persons per bedroom.

22.7.4

Resale Restrictions

In the case of Affordable Housing Units, the title to said properties shall be restricted so that in the event of any resale by the owner or any successor, the resale price shall not exceed the then maximum sales price as defined in Subsection 22.7.2 above. In no event shall an owner be compelled to sell at a price below his cost. Rent increases in units which are rented shall be allowed only to the extent that the new rent does not exceed the then current maximum rental for the unit determined in accordance with subsection 22.7.2 above. Such restrictions shall be conveyed by deeds incorporating the terms and conditions of the sales agreement and resale restrictions or embodied in the lease and notice of lease, a copy of which shall be filed with the Town of Middlebury Tax Assessor. These covenants shall run with the land and be enforceable by the town of Middlebury until released by the Town. The sale and resale or lease, sublease and re-letting of units may not occur until the Assessor of the Town of Middlebury verifies that the conditions have been met with respect to the initial sale or resale price or rent under a lease, sublease or re-letting. The new purchaser or renter of the property shall also provide the assessor with information verifying their income for the prior three years.

22.8 Contract Requirements

All provisions of this section are subject to subsection 22.10 below for individual lot PRDs. At the time of, in prior to, approval of the Final Development Plan the applicant must present the final contract document to the Town which has been approved by the Town Counsel. Said contract shall be executed within 90 days and will describe the following:

- 22.8.1 Terms of the final development plan.
- 22.8.2 Procedures for establishment of maximum income for the occupants of the affordable housing and price limits on sale, resale, rental, sublease, or conversion to common interest ownership and subsequent sale of the affordable housing units. This shall include current calculations applying these Regulations as of the month prior to application.
- 22.8.3 Provisions for increases of the specified income, sale price or rent.
- 22.8.4 Covenants in favor of the Town of Middlebury incorporating the terms and conditions of the contract, which covenants shall run with the land and be enforceable by the Town.
- 22.8.5 Subordination to the interest of institutional first mortgages on individual dwelling units of the project, if the project is subject to chapter 828 of the Connecticut General Statutes (the Common Interest Ownership Act).

22.9 Design Standards

- 22.9.1 Open Space
Provision of open space is one of the major purposes for using Planned Residential Developments. A minimum of fifty percent (50%) of the total site acreage must be preserved as private, common and a recreational open space. For this purpose roads, parking areas, drives, land within twenty-five (25) feet of a building, and strips of land less than twenty-five (25) feet wide shall not be counted as part of the land constituting open space. All remaining land not utilized for dwellings or private lots shall be considered land which is either dedicated as open space or owned in common by unit owners, unless otherwise designated and approved by the commission. Provision for open space in individual lot PRDs, however, shall be governed exclusively by section 22.10 below.

A. Private Open Space

No less than one hundred fifty (150) square feet of permanent open space per dwelling unit shall be provided and constructed immediately adjacent and accessible to each unit for private use consisting of decks, patios or porches.

B. Recreational Open Space

Recreational space is permanent open space providing immediate access for or to residents of the development for pedestrian circulation (other than connecting sidewalks) and recreation. Such recreational open space shall be dedicated to the homeowner's association for recreational development. At least seven hundred (700) square feet of the open space per dwelling unit (or other reasonable amount as determined by the Commission) shall be set aside in each PRD as recreational open space.

C. Common Open Space

In addition, a minimum of not less than 30% of the gross acreage of the parcel shall be designated as common open space. At least 25% of the common open space acreage must be any single contiguous parcel, except such parcel may be divided by rights of way for public utilities. No more than 50% of the common open space can consist of wetlands, watercourses, exposed rocks or slopes in excess of twenty-five (25%).

D. Ownership

Common open space shall be dedicated to the Town, a qualified land trust, and/or the homeowners association by deed or by conservation easement, in each case subject to approval by the Commission. All documents dedicating the land must be approved by the Town Attorney and any conditions imposed must conform to the Zoning Regulations.

E. Public Path Access

The commission shall determine if established hiking or bridle trails traverse the parcel proposed for a PRD, and if such trails are determined to exist the applicant shall incorporate the appropriate trail within the common or recreational open space.

22.9.2

Building Setbacks

The design standards of this section are subject to the provisions of Subsection 22.10 below for individual lot PRDs. No building may be

placed within 50 feet of an existing property line, or within 100 feet of an existing dwelling on an adjacent parcel as determined at the time of application. Any two story building shall be 100 feet from existing property lines. Buildings shall be set back 100 feet from abutting external roadways and 150 feet from any state highway. Minimum setbacks from internal roadways shall be 25 feet, unless the Commission determines that as to particular structures a setback of as little as 15 feet would enhance the design and would not adversely affect residents of the structures.

22.9.3

Building Standards and Separation

The design standards of this section are subject to the provisions of subsection 22.10 below for individual lot PRDs. The maximum number of units in any building shall be four. Units may be attached side-by-side or back-to-back but may not be stacked one on top of the other; except that up to ten percent (10%) of the units may be above ground floor units to the extent of fifty percent (50%) of the floor area of the ground floor unit(s) involved, where, in the judgment of the Commission, superior design will result and sound barriers will protect first floor residents from noise above. Each unit must be served by two separate outside entrances.

- A. No building shall extend within less than thirty (30) feet of any other dwelling, except that where any facing walls contain a window or door, such distance shall be increased by one (1) foot for each two (2) feet of height of the higher facing wall above the lowest adjacent ground elevation thereto. Any walls which are facing an angle of thirty (30) degrees or less shall be considered facing walls. Enclosed stairwells in similar architectural appurtenances shall be considered as part of the wall and shall maintain the required setback. The distance between a single family detached dwelling and the garage of an adjacent single family attached dwelling shall be a minimum of twenty (20) feet. The distance between adjacent garages and single family dwelling shall be a minimum of fifteen (15) feet.
- B. The minimum floor area for units shall be 650 square feet for a single bedroom unit, 800 square feet for a two bedroom unit in 1000 square feet for a three bedroom unit.
- C. Maximum building length shall be 100 feet and no more than 25 feet of any exterior wall may be constructed without an offset of at least 4 feet.

- D. The maximum height shall be limited to 2 ½ stories or 35 feet to the peak of the roof. Accessory buildings shall be limited to 1 ½ stories or 25 feet to the peak of the roof.
- E. All buildings in the PRD shall be of good quality design and appearance so as to blend harmoniously with the site in the neighborhood. Such design shall convey an impression and feeling to persons familiar with architecture that these dwelling units are of quality in substance and the PRD is a desirable place to live. All dwellings within a neighborhood or phase shall be of a single consistent architectural style to create a harmonious appearance. However, a subsequent phase may be of an alternative style of design provided it complements the architectural quality of the development and is reasonably compatible to that which exists in order to establish a conforming and consistent design.
- F. All utility lines and connections shall be underground, except terminal boxes and connections which are prohibited from being placed underground, as approved by the Commission.
- G. All above grade electric or telephone utility boxes and other apparatus shall be suitably screened with plant material or by an architectural screen compatible with the exterior materials of the dwelling units.

22.9.4

Parking

The design standards of this section are subject to the provisions of Subsection 22.10 below for Individual Lot PRDs.

- A. One resident parking space per bedroom, but with a minimum of two shall be included for each dwelling unit and ½ space per unit for visitor parking.
- B. At least one of the required resident spaces must be located in an enclosed garage or covered carport within 50 feet of the dwelling unit.
- C. Either the garage or the pad in front of it may count toward the parking requirement but not both.
- D. Visitor parking spaces shall be located within two hundred (200) feet from the farthest dwelling unit to be served if the average

typographical grade between the parking spaces in the dwelling units is less than five percent (5%). If the average topographical grade between the parking spaces and the dwelling units is greater than five percent (5%), such parking shall be located within seventy-five (75) feet of the farthest dwelling unit to be served.

- E. One parking space must be provided for each 100 square feet of recreational buildings, within 200 feet of the building.
- F. Any open parking areas, excluding garage driveway pads, must be set back a minimum of 25 feet from all sides of dwellings. The Commission may, however, permit lesser setbacks down to 15 feet were the Commission finds that the number of spaces, superior design considerations and density factors would permit lesser setbacks without adversely affecting residents of the dwelling units involved.
- G. No parking may have as its only egress backing out onto a through street within the Planned Residential Development. Such parking off of cul-de-sacs may be permitted at the discretion of the Commission in instances where it would not present a safety hazard.
- H. In connection with parking, adequate, unobstructed space shall be provided for snow storage and clearance.
- I. All parking shall comply with provisions of Section 62, Subsection 62.6.3 of these Regulations entitled "Landscaping", to the extent said Subsection 62.6.3 is applicable.

22.9.5

Road Standards

The design standards of this section are subject to the provisions of Subsection 22.10 below for Individual Lot PRDs.

- A. All roads within a PRD must be constructed to the Town road standards as set forth in the Town Subdivision Regulations and Town ordinances and other road regulations (except as permitted under subsection 22.9.5 B below), and in general shall be designed to discourage through traffic. The Planning and Zoning Commission may recommend to the Board of Selectmen that a street standard be modified along short cul-de-sacs. The Board of Selectmen must grant their approval before the preliminary Development Plan is approved.

- B. Streets developed under the Planned Residential Development ordinance will be public unless the Planning and Zoning Commission approves or requires the use of private roads and the necessary mechanism to maintain the roads. The Board of Selectmen must concur in this decision before the Preliminary Development plan is approved.
- C. In the case of private roads the Commission may permit pavement widths down to twenty (20) feet, provided the right of way width remains at least fifty (50) feet, where the Commission finds that density, length of road, projected traffic volumes, available parking and other relevant factors justify such reduction.
- D. Private driveways shall serve 1 to 3 units and shall have a pavement width of between 16 and 18 feet. Sidewalks are not required along private driveways, however, units located off private driveways shall be connected to the walkway system by appropriate pathways.
- E. Private streets serving four or more units may intersect roadways (whether public or private) connecting Town streets, but private driveways may and not intersect such roadways connecting Town streets.
- F. The Planning and Zoning Commission may at its discretion require 4 feet wide sidewalks to serve portions or all of the proposed Planned Residential Development.
- G. No entry signs may be placed within the median of project roadways. One small sign per entrance (maximum 20 sq. ft.) announcing the project may be placed outside the public right of way at no more than 2 entrances to the development.

22.9.6

Coverage Requirements

The design standards of this section are subject to the provisions of Subsection 22.10 below for Individual Lot PRDs. The maximum percentage of the parcel which may be covered by buildings is 10%.

22.9.7

Landscaping

The design standards of this section are subject to the provisions of Subsection 22.10 below for Individual Lot PRDs.

- A. All areas adjoining other residential property shall contain a buffer strip at least thirty (30) feet wide planted to substantially screen the buildings in the PRD from neighboring residential areas.
- B. A preliminary landscape planned must be submitted with the Preliminary Development Plan and a final landscape and planting plan submitted with the Final Development Plan.
- C. To the greatest extent possible all mature trees should be retained on the site. Street trees (minimum three (3) inch caliper) shall be planted on 30 foot centers. In instances where sidewalks are placed within the right-of-way the street trees shall be planted outside the right-of-way.
- D. All utility lines and connections must be placed underground, except terminal boxes and connections which are prohibited from being placed underground, as approved by the Commission. Terminal boxes and connections placed above ground shall be adequately landscaped to screen them from view and shall be shown on the PDP.
- E. Existing mature vegetation of the site shall be retained in areas not disturbed by construction. In areas disturbed by construction, or in areas where existing vegetation is sparse, new plant material (trees, shrubs) shall be provided as follows:
 - 1. Shade trees, evergreen trees and flowering trees shall be planted in, or adjacent to parking areas. At least one (1) tree shall be planted for each three (3) spaces, or fraction thereof, in locations approved by the Commission.
 - 2. Trees and shrubs shall be planted around foundations and between structures in a manner approved by the Commission.

22.9.8

Ownership, Lot and House Size

The design standards of this section are subject to the provisions of Subsection 22.10 below for Individual Lot PRDs. If any individually owned lots are included in the PRD, the minimum lot size shall be 40,000 square feet and the provisions of Section 11 of the Zoning Regulations shall apply unless the Commission, for good cause shown, allows a smaller lot area or waives certain provisions of Section 11 as part of the Preliminary Development Plan approval process.

22.9.9 Solar Access

The Planned Residential Development shall be designed in accordance with the design and construction standards pertaining to solar energy set forth in the Middlebury Subdivision Regulations, to the extent possible, to enable maximum effective use of solar Energy Systems in the future.

22.10 Individual Lot PRDs

Notwithstanding any of the foregoing provisions of this Section 22, the following provisions shall govern Individual Lot PRDs and supersede all of the foregoing provisions of this Section whenever they are inconsistent therewith. As used here in the term Individual Lot PRD means a PRD which is divided into lots allowing only one single family dwelling thereon, fronting on a private road or public street and individually owned in fee, and there are no other buildings in the PRD except community buildings, recreational facilities, maintenance buildings and public utility structures. The PRD development and all buildings in structures therein shall have a unified consistent architectural design, and shall be constructed by a single developer which shall be set forth in covenants running with the land approved by the Commission and recorded on the Town land records. Community areas and open space shall be owned by a homeowners association controlled by all the individual lot owners after sale of the last lot by the developer.

22.10.1 Procedure

- A. An applicant for the establishment of an individual lot PRD shall comply with the provisions of Subsections 22.4.1, 22.4.2 and 22.4.3 above, but will not be required to include affordable housing in the PRD or to submit bedroom counts. The Commission may for good cause waive any aspect of the Preliminary Development Plan (“PDP”). Such causes shall include, without limitation, waiver of a requirement until the Conservation Commission, the Water Commission or the Water Pollution Control Authority have reviewed or acted upon the PDP. And applicant for a PRD made at its option elect to combine the Preliminary Development Plan and the Final Development Plan as a single application by combining all of the required elements of a Preliminary Development and a Final Development Plan, in which event the Commission shall precede to approve, disapprove or approve with modification the application as a combined Preliminary/Final Development Plan. Such election can be made at any time during the proceedings by giving written notice to the Commission and filing all of the remaining plans and documents which would be required to obtain approval of a Preliminary Development Plan and a Final

Development Plan. Upon such filing, the sixty-five (65) day period required by section 8-7d of the Connecticut General Statutes shall begin to run again at the next regular meeting of the Commission. Such election may not to be made, however, if the applicant intends to develop the PRD in phases.

- B. When the Commission approves an Individual Lot PRD, which is not to be developed in phases the five year period as provided in Subsection 22.4.7(D) for completion of all work in connection with the PRD as shown on said Final Development Plan, shall apply.
- C. The Final Development Plan for an Individual Lot PRD shall not be required to show the actual final location, size, shape or design of the final house to be built on each individual lot, but may only show conceptual houses for purposes of final approval. Final houses may be customized and varied in size so long as they meet the building standards set forth in Subsection 22.10.3 below, including the architectural design approved by the Commission.

22.10.2

Optional Exclusion

If no affordable units are proposed and no units are allowed above the base density, then the provisions of Subsection 22.7 and Subsection 22.8 shall not apply to the Individual Lot PRD.

22.10.3

Design Standards for Individual Lot PRD

A. Open Space

A minimum of fifty percent (50%) of the total site acreage must be preserved as open space. For this purpose, there shall be included in such open space (1) all wetlands and watercourses on the entire site, (2) all of the 50 foot buffer area surrounding the wetlands except any portion which is allowed by the Conservation Commission to be utilized for improvements other than landscaping, (3) all areas outside of individual lots which have not been utilized for roads, drainage basins, recreational buildings, maintenance buildings and structures, (4) the center landscaped area of each cul-de-sac turnaround, and (5) one-half of the gross area of each individual lot. All open space, except areas included in individual lots, shall be dedicated to a homeowners association by deed and in appropriate areas may also be

subject to a conservation easement in favor of a qualified land trust or the Town, in each case subject to approval by the Commission. All documents dedicating the land must be approved by the Town Attorney and any conditions imposed must conform to the Zoning Regulations.

B. Building Setbacks

No building near the perimeter of the site may be placed within fifty feet of an existing property line or within one hundred feet of an existing dwelling on an adjacent parcel as determined at the time of application. Buildings shall be set back thirty-five (35) feet from an abutting external Town roadway and fifty (50) feet from any state highway. The minimum set back from internal private driveways shall be twenty-five (25) feet from the pavement, unless the Commission determines that as to particular structures on a cul-de-sac a setback as little as fifteen (15) feet from said pavement would enhance the design and would not adversely affect residents of the houses.

C. Building Standards and Separation

All units in the PRD shall be single family detached buildings.

1. No dwelling shall extend within less than thirty (30) feet of any other dwelling. The distance between a dwelling and the garage of an adjacent dwelling shall be a minimum of twenty (20) feet. The distance between adjacent garages on two lots shall be a minimum of fifteen (15) feet. Where there is no building intended in a particular area on an adjacent lot to which the above separations would apply, then the setback from the rear and sidelines of each lot shall be fifteen (15) feet.
2. The total minimum floor area for all stories of each dwelling shall be 1,300 square feet. The minimum first floor area for all dwellings as set forth in subsection H below.
3. The maximum building height shall be limited to the lesser of (1) two and one-half stories, or (2) thirty-five feet, as measured from the average finished grade to a point halfway between the upper and lower edges of the structure's principal roof. There shall be no maximum building length.

4. All dwelling houses and other buildings in the PRD shall be of a single consistent architectural style to create a harmonious and unified appearance. All Individual Lot PRDs shall be approved and completed by a single developer in accordance with the Final Development plans for the buildings to be constructed thereon. A successor developer for the entire PRD or the remaining undeveloped portion thereof must be approved by the Commission, as provided in the covenants required above by this Subsection 22.10. Such approval will be granted if (1) the successor/developer agrees in writing to complete all of the Individual Lot PRD exactly as approved by the commission and (2) post the required bonds in lieu of bonds posted by the prior developer. All buildings in the Individual Lot PRD shall be of good quality, design and appearance so as to blend harmoniously with the site and the neighborhood. Such design shall convey an impression and feeling to persons familiar with architecture that these dwelling units are of quality and substance and the Individual Lot PRD is a desirable place to live. Such determination will be made by the Commission after receipt by the Commission of a report of an Architectural Review Board as provided in these regulations. In evaluating this requirement, the Architectural Review Board and if the Commission shall be guided by the pictures attached to these regulations as Appendix A as representing examples of good quality design and those buildings pictured in Appendix a B being examples of poor quality design. In no event will any PRD be approved if it contains any buildings substantially similar to the design depicted in Appendix B.
5. Subsections (F) and (G) of Subsection 22.9.3 shall apply to individual lot PRDs.

D. Parking

Each lot shall contain at least a two-car garage and parking for two other cars.

1. No other parking shall be required unless there is a maintenance or recreational building or area, in which event parking for a reasonable number of cars as determined by the Commission shall be provided. Parking must be set back at least ten feet from any such building.

2. No parking may have as its only egress backing out onto a through street within the PRD. Such parking may be permitted, however, off of cul-de-sacs at the discretion of the Commission in instances where it would not present a safety hazard.
3. In connection with parking, adequate, unobstructed shall be provided for snow storage and clearance. No other provisions of the parking regulations (Section 62 of these regulations) shall apply to individual lot PRDs, except those pertaining to residential properties with respect to dimensions, construction and joint use.

E. Road Standards

Roads within an Individual Lot PRD may be constructed as Town roads, and upon acceptance deeded to the Town, or maybe constructed as private roads owned by the homeowners association. In the event that such road to become Town roads, then the Town road standards shall apply unless waived by the Board of Selectmen.

1. If the roads in the PRD are to be private roads, and Shelby constructed pursuant to a permit issued by the Board of Selectmen in accordance with the road regulations of the Town. The Board of Selectmen must concur in the decision to utilize private roads before the Preliminary Development Plan (or the combined Preliminary/Final development plan) is approved, and the Board of Selectmen may waive any provisions of the Town road regulations which it deems appropriate for a particular private road.
2. In the case of private roads, the Commission may permit a right-of-way not less than thirty (30) feet, where the Commission finds that density, length of road, projected traffic volumes, available parking and other relevant factors justify such reduction. The Commission may also waive other provisions of the Subdivision Regulations pertaining to streets, subject to approval by the Board of Selectmen, with respect to any private roads.
3. Private driveways shall have a pavement width of not less than (10) feet. Sidewalks are not required along private driveways or private roads.

4. One entry signs announcing the project, of up to twenty (20) square feet may be placed in the median at the main entrance, provided the median is at least (8) feet wide.

F. Coverage Requirements

The maximum percentage of the entire individual lot PRD which may be covered by buildings is fifteen percent (15%).

G. Landscaping

A preliminary landscape plan it must be submitted with the Preliminary Development Plan and a final landscape planting plan submitted with the Final Development Plan. Notwithstanding the foregoing, it is recognized that owners of the individual lots will wish to customize their plantings. Therefore, the final landscape and planting plan may omit actual landscaping of lots.

1. To the greatest extent possible, all mature trees should be retained on the site. Street trees (minimum three (3) inch caliper) shall be planted on thirty (30) foot centers. In instances where sidewalks are placed within the right-of-way, the street trees may be planted outside the right-of-way.
2. All utility lines and connections must be placed underground, except terminal boxes and connections which are prohibited from being placed underground, as approved by the Commission. Terminal boxes and connections placed above ground shall be adequately landscaped to screen them from view and shall be shown on the Preliminary Development Plan.
3. Existing mature vegetation on the site shall be retained in areas not disturbed by construction. In areas outside lots and not disturbed by construction. In areas outside lots and not disturbed by construction, new plant material (trees, shrubs, grasses) shall be provided to enhance the open space and the country appearance of the PRD, as may be determined by the Commission.

H. Ownership, Lots and House Size

In an Individual Lot PRD, the minimum lot size shall be 30,000 square feet and the following height, area and yard requirements shall apply in lieu of Section 11:

Minimum lot area	30,000 square feet
Minimum square	100 feet
Minimum frontage	50 feet

Minimum setbacks:

From private road	25 feet from the edge of pavement
From other property line	15 feet
From town street	35 feet
From state highway	50 feet

Maximum stories	2 ½
Maximum height	35
Maximum lot coverage	20%
Maximum floor area	20%

Minimum area all floors	1,300 square feet
One story	1,300 square feet
One and one half stories	1,000 square feet
Two stories	900 square feet

22.11 Excavation and Grading Standards

The provisions of Section 64 of these Regulations shall be deemed complied with if approval is granted for Final Development Plan, unless the applicant proposes to remove from the site a substantial portion of earth for sale or use elsewhere, in which event a separate excavation and grading permit provided in Section 64 shall be required.