

HELLER, HELLER & McCOY
Attorneys at Law
736 Norwich-New London Turnpike
Uncasville, Connecticut 06382

Sidney F. Heller (1903-1986)
Harry B. Heller
William E. McCoy

Telephone: (860)-848-1248
Facsimile: (860)-848-4003

Mary Gagne O'Donal

September 14, 2011

Quakertown Meadows, LLC
Attention: Mr. Peter C. Gardner
1641 Route 12
P.O. Box 335
Gales Ferry, CT 06335

RE: Open Space Subdivisions

Dear Peter:

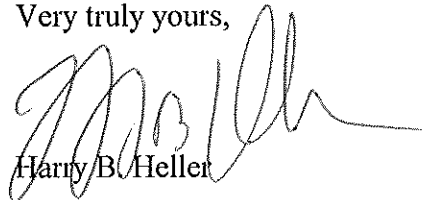
Enclosed please find an application for text amendment to the Town of Ledyard Zoning Commission to be submitted for consideration by the Town of Ledyard Planning Commission. I have prepared the application for signature by Michael Cherry, as Chairman of the Planning Commission.

It is my understanding that you will meet with Mike to obtain the execution of the application for text amendment and he will thereafter submit the same to the Ledyard Zoning Commission for consideration. As soon as you know the date of submission and the date of the meeting at which the application will be accepted, please so advise me so that I may place it on my calendar.

I also enclose herewith the text of the proposed amendment to the Town of Ledyard Subdivision Regulations in order to incorporate open space subdivisions into the Subdivision Regulation vernacular. The Planning Commission should, on its own accord, file an application for the adoption of the proposed Subdivision Regulations.

Should you have any questions, please feel free to call me.

Very truly yours,



Harry B. Heller

HBH/jf
Enclosures

TOWN OF LEDYARD
APPLICATION FOR ZONING PERMIT
(Other than accompanying a Building Permit)

Application No. _____

Receipt Date _____

CAM Exempt? Y N

Date Submitted 9/15/11

Location of Work (street address) Text Amendment

Zoning District All residential zoning districts

Is this property within 500 feet of another town? Text amendment for all residential districts requires notice to all adjoining municipalities and Southeastern Connecticut Council of Governments

CAM Zone? Y [N]

Existing Use Text Amendment

Tax Assessor's Map No. N/A

Please refer to the Zoning Regulations for assistance with application details.

TOWN OF LEDYARD PLANNING COMMISSION

Applicant/Agent Town of Ledyard Planning Commission * Signature By: _____

Michael Cherry, Its Chairman

Address 741 Colonel Ledyard Highway, Ledyard, CT 06339

Telephone (860) 464-3215

Owner (if different) N/A

Address of Owner N/A

Telephone N/A

Proposal:*

- Site Plan
- Sign Permit
- Regulation Change+
- Zone Change+
- Gravel Permit
- Fill Permit
- Flood Hazard Permit.
- CAM Permit
- Special Permit+
- Other: _____

Details Add a definition of "Open Space Subdivision" and proposed Section 3.13 of the Ledyard Zoning Regulations as attached in order to enable open space subdivisions in the Town of Ledyard consistent with proposed changes to incorporate open space subdivisions into the Subdivision Regulations of the Town of Ledyard.

Special Exceptions:**

- Apartment/Condominium
- Two-family Dwelling
- Bed & Breakfast Operation
- Mobile Home Village
- Contractor Home Occupation
- Country inn
- Child Day Care Center
- Commercial Vehicle/ Contractor Equipment Storage
- Temporary Saw Mill
- Home Husbandry**

+Public Hearing Required

*Does the deed for this property contain restrictions on the proposed activity? N/A

**Does the deed for this property contain restrictions on the keeping of animals? N/A

Start Date: N/A Completion Date: N/A or Reapplication Date: N/A Expiration Date: N/A

List previous zoning application numbers: N/A

Approved by _____ Date _____

Denied by _____ Date _____

FEE: _____

DATE PAID _____

RECEIPT # _____

ADD A NEW DEFINITION TO SECTION 18 OF THE LEDYARD ZONING REGULATIONS AS FOLLOWS:

“OPEN SPACE SUBDIVISION:

A subdivision or resubdivision of land in the Town of Ledyard into individual residential building lots and open space where the bulk requirements with respect to each such lot are determined pursuant to the provisions of Section 3.13 of these Regulations and in which the parameters of Section 4.9 of the Ledyard Subdivision Regulations must be satisfied.”

ADD A PROPOSED SECTION 3.13 TO THE LEDYARD ZONING REGULATIONS IN ORDER TO CREATE MINIMUM REQUIREMENTS FOR OPEN SPACE SUBDIVISIONS

3.13 OPEN SPACE SUBDIVISIONS:

- 3.13.1** Open space subdivisions containing single family residential dwellings only, are a use allowed as of right in all Residential Zoning Districts, subject to approval of an open space subdivision by the Planning Commission pursuant to Section 4.9 of the Subdivision Regulations of the Town of Ledyard.
- 3.13.2** An open space subdivision utilizing a community water system shall not be approved unless one of the following approvals is obtained by the applicant:

 - (i) a certificate of public convenience and necessity has been issued pursuant to Sections 8-25a and 16-262m of the Connecticut General Statutes; or
 - (ii) a written water main extension agreement has been approved by the public water company possessing the exclusive service area to serve the area in which the open space subdivision is proposed.
- 3.13.3** The maximum number of lots in an open space subdivision shall be determined based upon the ability of the parcel being subdivided to achieve a minimum dedication of sixty (60%) percent of the parcel as permanently dedicated open space and thereafter complying with the minimum requirements of the Connecticut Public Health Code and the parameters hereinafter set forth. Minimum lot area in an open space subdivision shall be based on the ability of the proposed lot to support a single family residence; and, if applicable, on-site well and septic system in full compliance with the Connecticut Public Health Code rather than upon any minimum geometric requirement.

Each lot in a conservation subdivision shall comply with the following minimum bulk requirements:

Minimum side yard – 10 feet

Minimum both side yards – 25 feet

Minimum rear yard – 30 feet

Minimum front yard setback – 55 feet from centerline of road or 30 feet from the front lot line, whichever is greater.

Maximum building height – 35 feet

Add a definition of “Open Space Subdivision” as Section 2.19 of the Ledyard Subdivision Regulations as follows:

“2.19 Open Space Subdivision: A subdivision or resubdivision of land in the Town of Ledyard which contains not less than sixty (60%) percent of the total subdivision area as permanently dedicated active or passive open space and otherwise complies with the requirements of Section 4.9 of these Regulations.”

Sections 2.19 - 2.27 of the Ledyard Subdivision Regulations shall be sequentially renumbered as Sections 2.20 – 2.28 of the Ledyard Subdivision Regulations.

Add a proposed Section 4.9 to the Town of Ledyard Subdivision Regulations in order to enable open space subdivision as follows:

“4.9 OPEN SPACE SUBDIVISIONS:

4.9.1 PURPOSE:

The purpose of this section is to provide greater flexibility in clustering of residential units on areas of a project site with surficial characteristics which are suited for reduced lot area in a manner which can provide greater amounts of contiguous open space than is contemplated by conservation subdivisions authorized pursuant to Section 4.8 of these Regulations. This Regulation contemplates resource based residential development pursuant to which density will be determined by the ability of the land to support residential development in compliance with the Public Health Code of the State of Connecticut while maximizing the dedication of contiguous open space area for the long term benefit of the residents of the Town of Ledyard. The creation of an open space subdivision is intended to allow a reasonable yield of residential home sites on a parcel while promoting the open space goals contemplated for conservation subdivisions as set forth in Section 4.8.1 of these Regulations, but with a minimum open space requirement of sixty (60%) percent of the total parcel area being subdivided.

4.9.2 APPLICABILITY:

Open space subdivision design standards are an option that shall apply only to single family residential subdivisions and be subject to all of these and all other applicable regulations, including, but not limited to the Connecticut Public Health Code, as the Commission deems appropriate.

4.9.3 CULTURAL RESOURCE PRESERVATION:

Cultural resources shall be evaluated and preserved in accordance with Section 4.7 of these Regulations.

4.9.4 ENVIRONMENTAL CONSIDERATIONS:

Open space subdivision designs are encouraged to be utilized in those situations in which (a) the open space subdivision design can be supported by the surficial geology of the tract considering the presence or absence of wetlands and watercourses, the surficial geology of the tract and the absence of slopes in excess of 25% in areas proposed for development on the tract and either (b) where the open space design can be utilized to protect significant natural resources located on the development parcel or (c) to provide land which can be utilized to enhance and promote recreational opportunities for Ledyard residents.

4.9.5 REFERRAL:

The Commission may refer for review and comment any open space subdivision plan and proposal to the Ledyard Inland Wetlands and Watercourses Commission, the Conservation Commission, the Historic District Commission, the Parks and Recreation Commission, the Ledge Light Health District, the Town engineer or any other appropriate agency.

4.9.6 REQUIREMENTS FOR SUBMITTING AN OPEN SPACE SUBDIVISION DESIGN:

- 4.9.6.1** Any proposed single family residential development containing total area in excess of forty (40) acres has the option of being developed as a conservation subdivision. The Commission may waive the minimum area requirement for an open space subdivision in the event that it makes a finding, on the record, that the open space which will be created in the open space subdivision is (i) adjacent to existing dedicated permanent open space and (ii) provides a material benefit to the adjacent open space or planned open space corridors.
- 4.9.6.2** Open space subdivisions may be utilized in all Residential Zoning Districts.
- 4.9.6.3** Open space area(s) created in an open space subdivision may be either active or passive open space. In the event that active open space area(s) is proposed in an open space subdivision, accessory parking may be provided in order to facilitate parking associated with the use of the active open space areas and such accessory parking area(s) shall be considered open space for purposes of complying with the minimum open space requirements contained in Section 4.9.8 of these Regulations.
- 4.9.6.4** Any application for the approval of an open space subdivision shall be made in accordance with the requirements of Section 3 of these

Regulations. The preferred recipient of all open space dedications shall be the Town of Ledyard. In the event that the Town of Ledyard declines to accept the proposed open space dedication, the open space dedicated in an open space subdivision may be a homeowners association, subject to the approval of the Commission. Any application which proposes a homeowners association as the recipient of an open space dedication must be accompanied by a draft of the proposed certificate of incorporation, if any, by-laws, rules and regulations of the homeowners association, the proposed covenants and restrictions to be placed in the deeds of conveyance to the lot owners and copies of the draft common interest community declaration. Such documentation shall contain restrictions and covenants satisfactory to the Commission to ensure that the open space purposes and goals of this Regulation shall be satisfied. In the event that the proposed recipient of the open space in an open space subdivision is a locally recognized 501(c)(3) qualified charitable corporation whose primary purpose and function is the ownership and maintenance of open space, the application for an open space subdivision shall be accompanied by a commitment of such qualified 501(c)(3) charitable corporation to accept a dedication of the open space in the event that the open space subdivision is approved by the Commission.

4.9.7 YIELD FORMULA:

The maximum number of lots in an open space subdivision shall be determined pursuant to the provisions of Section 3.13 of the Zoning Regulations.

In the event that a potable water supply for residential building lots located in an open space subdivision is provided by onsite wells, the applicant shall, as a component of the open space subdivision application, provide to the Commission for consideration a water budget analysis prepared by a registered professional engineer in the State of Connecticut which shall evidence the fact that there is sufficient groundwater recharge located within or contributing to the area of the open space subdivision to support the number of water supply wells which will be drilled in conjunction with the development of the open space subdivision. In the event that the water budget analysis indicates that there is insufficient groundwater recharge to support the density of development proposed by the applicant, the number of residential building lots in the open space subdivision shall be reduced to that number of water supply wells which can be adequately supported by the groundwater recharge available within or contributing to the open space subdivision as demonstrated by the water budget analysis submitted therewith.

4.9.8 DESIGN GUIDELINES FOR OPEN SPACE SUBDIVISIONS:

In order to (i) promote permanent open space in the Town of Ledyard (ii) further the goals and objectives contemplated by Section 6 of these Regulations and (iii) encourage the

clustering of single family residential home sites on areas of a parcel which, based on topography and surficial geology, are most suited to support single family residential development, an open space subdivision shall contain a minimum of sixty (60%) percent of the total land area of the presubdivided parcel as permanently protected open space.

4.9.8.1 The dimensional requirement for each lot in an open space subdivision shall comply with the requirements of Section 3.13 of the Zoning Regulations. In formulating a design for an open space subdivision, the applicant shall consider the open space objectives contained in this Section 4.9 and in Section 6 of these Regulations and the dimensional parameters for lots in an open space subdivision set forth in Section 3.13 of the Zoning Regulations.

4.9.8.2 Building lots and dwellings in an open space subdivision shall be oriented in a manner which takes advantage of the most suitable portion of the parcel being subdivided for the siting of single family dwelling houses and appurtenant facilities in a manner which complies with the Connecticut Public Health Code while maximizing the area of the parcel which can be dedicated as open space.

4.9.8.3 The open space in an open space subdivision shall be located entirely within the parcel being subdivided and shall be contained in one contiguous parcel unless the Commission determines that the purposes and goals of Section 6 of these Regulations will be more effectively served by bifurcating the open space into separate parcels. The open space dedication shall be of such shape, dimension, character and location as is required to fulfill the following goals:

- (i) protect natural streams, water supplies and watershed areas;
- (ii) maintain and enhance the conservation of wildlife, natural or scenic resources;
- (iii) promote conservation of soils, wetlands and other significant natural features and landmarks, including cultural resources;
- (iv) enhance the value to the public of abutting or neighboring parks and unfragmented forest, wildlife preserves, nature preserves or sanctuaries or other open space (whether permanently protected or not);
- (v) enhance public recreation opportunities including passive recreation opportunities;

- (vi) promote orderly urban or suburban development by utilizing the most developable areas of a tract to their fullest potential and avoiding development in areas which contain limitations to development; and
- (vii) limit the extent of impervious surfaces, control runoff and improve water quality.

4.9.8.4 Lots in an open space subdivision shall be laid out to achieve the objectives listed below in order of priority, with the understanding that not all objectives may be achieved; and, on some sites, the objectives may conflict:

- 4.9.8.4.1** to place single family residential dwellings and septic systems on more compact lots to increase the amount of the parcel being subdivided which is available for open space dedication;
- 4.9.8.4.2** within any woodland contained in the parcel being subdivided, and along the exterior edges of open fields adjacent to any woodland, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features;
- 4.9.8.4.3** in clusters in order to achieve a community setting which will encourage socialization within the development and enhance the potential for community activities and pride which are less likely to occur in more disparate development patterns;
- 4.9.8.4.4** in location reasonably separated from and least likely to block or interrupt scenic vistas as seen from existing public roadways, and clustered in a manner which will enhance the aesthetic effect of the increased open space dedication which will result;
- 4.9.8.4.5** in locations where the greatest number of units can be designed to take maximum advantage of solar heating opportunities.

4.9.8.5 Wherever possible, ponds, streams and wetlands should be included within the open space in an open space subdivision. Wherever possible, shade should be preserved within wetland

areas and a minimum of 25 feet from the edges of ponds and streams.

- 4.9.8.6** Unless prevented by ledge or other natural constraints, underground utilities shall be required in open space subdivisions.
- 4.9.8.7** Each open space area in an open space subdivision shall be accessible to the general public either by virtue of (i) frontage on a town or state dedicated street or highway or (ii) a permanent easement memorialized by a grant of easement filed for record in the Ledyard Land Records.
- 4.9.8.8** Each subdivision plan submitted to the Commission for consideration as an open space subdivision must delineate the building envelope within which development on the lot can occur. All development on each lot in an open space subdivision (other than that portion of the driveway which is located in the front yard setback) must occur within the building envelope as evidenced by the open space subdivision plan approved by the Commission and filed for record in the Ledyard Land Records.