

## 3.9 Zoning Issues

### 3.9.1 Existing and Proposed Zoning

The project area is currently situated in a Residential Three-acre (R-3A), and the applicant has requested to change the zoning to Residential Two-acre (R-2A). The area adjacent to the proposed community already exists as R-3A, R-2A, R-1A, and C-R zones. The amendments to the Town of Woodbury Zoning Code (Conservation Cluster Development Overlay District, Section §310-31A), have provided a mechanism and incentive for the development of cluster subdivisions to preserve larger tracts of open space than conventional clusters. See section 9.0 for the map of the current Zoning Districts per the Town Zoning Ordinance.<sup>40</sup>

#### ***R-2A Residential Two-acre***

Purpose: To provide a safe and suitable living environment for single-family residences and similar compatible uses located outside of the publicly operated or approved water and sewer districts.

#### **Permitted Uses**

1. 1-family dwellings not to exceed 1 dwelling per lot  
*Note: Clustering may be permitted accordance with §310-31.*
2. Agricultural and horticultural operations

#### **Special Permitted Uses**

- Same uses as and as regulated in R-1A, with the addition of:
  - Commercial and noncommercial forest improvements operations upon permit in accordance with Chapter 286 of the Town Code.

#### ***R-3A Residential Three-acre***

The Zoning Law sets forth the purpose of this zone as follows:

Purpose: To protect the environmentally sensitive steep or wet areas and aquifer recharge areas of the Town and to preserve then open rural character while providing a suitable low-density environment for single-family residences and limited nonresidential uses as enumerated herein.<sup>41</sup>

#### **Permitted Uses**

1. 1-family dwellings not to exceed 1 dwelling per lot;  
*Note: Clustering may be permitted in accordance with §310-31*
2. Agricultural and horticultural operations

<sup>40</sup> Zoning Districts. [http://www.ordinance.com/working/flash\\_new.asp?ordID=36071200&ordUID=36071200](http://www.ordinance.com/working/flash_new.asp?ordID=36071200&ordUID=36071200).

<sup>41</sup> Town of Woodbury Schedule of Zoning District Regulations §310-7.

### **Special Permitted Uses**

1. Public utility structures and rights-of-way.
2. Commercial and noncommercial forest improvement operations upon permit in accordance with Chapter 286 of the Town Code.
3. Bed-and-Breakfast enterprises, limited to 4 guest rooms per premises.
4. Landscaping businesses or nurseries in accordance with §310-34.
5. Outdoor tennis facilities and riding academies.
6. Animal clinics and veterinary offices, but not boarding of animals is permitted.
7. Cemeteries.
8. Conversion of existing seasonal dwellings to year-round use in accordance with S310-26 of these regulations.
9. Child day-care and nursery school for preschool children, certified by the state.
10. Group care, provided that said use is authorized and approved by the State of New York.
11. Farm Winery

### ***Senior Housing***

Although no Senior Housing is proposed on the Legacy Ridge site, the Town Board has requested that the Project Sponsor examine the environmental impacts of adopting this Local law.

According to the Town of Woodbury Code a Senior Citizen Housing District may be established by amending the zoning in the R-1A and R-2A districts within one mile of Route 32, or with direct access to Route 32 or a county road and within the R-0.25A, CR, LC and HB zoning districts, provided the site meets the minimum size requirement of 10 acres.

In order to be included within the SH zone, the Town Board must determine at the Senior Housing use is compatible with the surroundings, and that a need for senior citizen housing exists. The Town has adopted modifications to the Senior Housing law to additionally allow for-sale units.

The Town conducted a survey in May and June of 2002 to determine senior housing needs.<sup>42</sup> Of the 363 respondents to the question of would consider moving to “specially designed housing for people over the age of 60”, 57% indicated yes. When given the choice about the type of senior housing preferred, of the 248 respondents to this question, 33% preferred an apartment, 9% preferred assisted living or a nursing home, and 58% indicated a preference to a small house or a condo, clearly indicating a need for “for sale” units for seniors in the Town.

---

<sup>42</sup> Town of Woodbury Senior Housing Survey, May/June 2002.

The Town modified the Senior Housing law to additionally allow for-sale units, and provide for a maximum size of 50 acres for such for-sale projects to address this need.

The amendments to the Senior Housing section allow development of the for-sale units at a density equal to 4 units to the acre. This is equivalent to the existing density allowed under the current Senior Housing law which allows 4 dwelling units per buildable acre.

### **3.9.2 Potential Impacts of Zoning**

#### ***Compliance with Relevant Zoning Requirements***

It is proposed that Legacy Ridge at Highland Mills subdivision would be comprised of 287 non-age-restricted single-family-detached housing in accordance with the Cluster Conservation Development Overlay (CCDOD) zoning amendment.

The development pattern is consistent with the permitted uses for the zone, and the lot layout is consistent with the dimensional requirements of the CCDOD. It is proposed that the site will be built-out without the need for variances from the code.

#### ***Rezoning Impacts***

The proposed rezoning of approximately 749(+/-) acres from the R-3A District to the R-2A District has been analyzed (See Figure 12), and alternatives considered. The Project Sponsor has provided a subdivision plan for development in the R-2A District, which complies with the current Town Zoning law(s). The R-3A conventional plan shows 155 housing units with lots in compliance with zoning and subdivision regulations. The R-3A cluster plan uses the 155 lots available under the conventional plan and clusters these lots on the project site, again in conformance with the Town's standard clustering law. Additionally, the Project Sponsor has provided a plan showing the site developed under the proposed R-2A rezoning, with and without a cluster. These plans show a total of 233 lots when developed according to the zoning and subdivision requirements.

Therefore, the number of lots allowed as a result of re-zoning is expected to increase by a maximum of 81 lots, as shown in the Build-Out Table (See Table 59).

The rezoning process is described in the Town Zoning Law at §153-11.1<sup>43</sup>

*The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Planning board, after public notice and hearing, amend, supplement, modify or repeal this chapter, pursuant to provisions of the Town Law. Every proposed amendment shall be referred to the Planning Board for report prior to public hearing thereon.*

The Project Sponsor petitioned the Town for a zoning change on the Legacy Ridge parcel and the Town has, on its own motion, modified the Code in reference to the CCDOD and SH provisions of the Law. A report has been issued by the Planning Board in reference to the proposed changes.<sup>44</sup>

---

<sup>43</sup> Woodbury Code, § 153-11.1.

<sup>44</sup> This report is on file with the Town Clerk.

Rezoning must be approved by the Town Board after referral to the Planning Board and County Planning Department for review and comment, and a public hearing on the proposed rezoning.<sup>45</sup> Prior to adopting any rezoning the Town Board must make a determination as to the potential environmental impacts of the rezoning in accordance with SEQR. This EIS has been assembled in order to provide the Town with the requested information to make its findings regarding the potential environmental impacts of rezoning the Legacy Ridge site from R-3A to R-2A.

Each potential rezoning must be evaluated on its own merits for potential impacts, and consistency with the Town's adopted plans. Additionally, each rezoning action is a matter within the legislative discretion of the Town Board. The adoption of one zoning amendment is not considered a binding precedent for another zoning amendment. The facts and considerations may be different, and each case is analyzed on its own merit. The legislative discretion of a local legislative body entitles it to weigh the similarities and differences of different situations, and take action accordingly. A factor to be evaluated is that the proposed rezoning is consistent with the Town's Master Plan (see section 3.8). While the Master Plan foresaw that certain areas may be properly changed from R-3A to R-2A, there is no "magic number" of appropriate sites. The Town Board would evaluate the circumstances at the time that any individual request is made.

The table below includes each parcels or group of parcels potentially eligible for CCDOD development. The first step in determining the number of lots which could be built under the CCDOD is to establish the acreage of wetlands and the area of steep slopes by the categories of 0% - 20%, 20% - 25%, 25% - 30%, 30% - 35%, 35% - 40%, 40% - 45% and over 45%. The wetlands were established using National Wetlands Inventory and NYS DEC mapping. The slopes were analyzed using available USGS mapping.<sup>46</sup>

Each parcel is identified with its parcel number and current zoning. Parcel (or amalgamated parcel) acreage is then shown. To the right, the slope categories and the acreage of the site within each slope category is then described.

The proposed CCDOD law then describes a process of determining developable area, based on the acreage which an applicant will donate as permanent open space. Each table describes the open space preservation (in percentages and actual acreage), then provides a calculation of the wetlands and steep slopes to be deducted from the project acreage for each open space dedication category. This leaves a "Developable Acreage" for each category, consistent with the CCDOD requirements.

A deduction from the Developable Area is then required to account for infrastructure (roads, utilities, etc.). For areas in the R-1A zone, this is a 10% deduction, for areas in the R-2A and R-3A zone this is a 7.5% deduction. The infrastructure percentage is deducted from the Developable Area to establish the Net Developable Area.

Then, the Net Developable Area is divided by the appropriate lot size established in the CCDOD to determine the number of Buildable Lots. For each parcel the number of Buildable lots is established for the differing percentages of Open Space to be preserved.

---

<sup>45</sup> Woodbury Code, § 153-11.1.

<sup>46</sup> Data for the WP3 and Legacy Ridge sites uses actual field-determined data for both the wetlands and slopes. The slopes are at a 2' contour level, instead of the USGS 10' contour data. It is expected that the Town would require this level of detail for actual CCDOD applications. The data in this analysis is shown as an example of the expected build-out from these lots, but the actual yield may vary slightly once more intensive site investigation is undertaken.

Finally, each table provides an analysis of the number of lots which could be developed without a cluster conservation subdivision. The Town zoning code provides similar deductions for wetlands and steep slopes which the table uses to establish a Developable Area calculation. In a non-cluster development, a deduction of 10% was then used to account for infrastructure. The 15% was used instead of the 7.5% or 10% under the cluster subdivision, recognizing that a conventional subdivision will require more roads across a parcel for the same number of lots. The Net Developable area is provided by subtracting this 10% calculation from the Developable Area. The Net Developable Area is then divided by the minimum lot size for the underlying zoning to establish the Buildable Lots for a Conventional subdivision plan.

It is important to recognize that under a Conventional Plan, there is no requirement for preservation of open space. It is also important to understand that the Conventional Plan establishes the number of lots which could then be developed under a conventional (non-cluster) subdivision and would therefore not require a different calculation of Net Developable Area to determine the number of Buildable Lots.

- 1) Legacy Ridge site: The 749+/- acre Legacy Ridge parcel could be developed conventionally with 155 lots under the existing R-3A zoning, 233 lots under a rezoning to R-2A. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 184 and 256 lots (under R-2A zoning) with a preservation of between 149 and 300 acres of open space.
- 2) Parcel 18-1-47: This 142+/- acre R-1A zoned parcel could be developed conventionally with 112 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 127 and 149 lots with a preservation of between 28 and 56 acres of open space.
- 3) Parcel 26-1-56: This 145+/- acre R-2A zoned parcel could be developed conventionally with 42 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 37 and 64 lots with a preservation of between 29 and 58 acres of open space.
- 4) Parcel 33-1-7.31: This 351+/- acre R-3A zoned parcel could be developed conventionally with 65 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 72 and 99 lots with a preservation of between 70 and 140 acres of open space.
- 5) Parcel 33-1-8.351: This 126+/- acre R-3A zoned parcel could be developed conventionally with 33 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 36 and 38 lots with a preservation of between 25 and 50 acres of open space.

- 6) Parcel 33-1-41.22: This 504+/- acre R-3A zoned parcel could be developed conventionally with 95 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 107 and 149 lots with a preservation of between 101 and 202 acres of open space.
  
- 7) Parcel 33-1-42: This 281+/- acre R-3A zoned parcel could be developed conventionally with 64 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 71 and 85 lots with a preservation of between 56 and 112 acres of open space.
  
- 8) Parcels 1-1-47.3 & 1-1-35: This 134+/- acre R-3A zoned parcel grouping could be developed conventionally with 18 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 25 and 37 lots with a preservation of between 27 and 54 acres of open space.
  
- 9) Parcels 4-1-1, 4-1-2, 4-1-3, 13-1-1.2, 13-1-1.3, 13-1-1.4, 13-1-2, 13-1-73: This 195+/- acre R-3A zoned parcel grouping could be developed conventionally with 38 lots under the existing zoning. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 38 and 50 lots with a preservation of between 39 and 78 acres of open space.
  
- 10) WP3 site: The 398+/- acre WP3 parcel grouping could be developed conventionally with 148 lots under the existing R-2A zoning, 432 lots under a rezoning to R-1A. With application of the proposed CCDOD legislation, depending on the percentage of open space donated, development of the site could yield between 459 and 515 lots (under R-1A zoning) with a preservation of between 80 and 160 acres of open space.

**Table 16 - Build-Out Table Under CCDOD Zoning Amendments**

Legacy Ridge ( 3-1-11, 3-1-12.5, 7-3-55)									
									Total Acreage: <b>748.78</b>
									Acreage of Wetlands (Per NWI and NYSDEC mapping): <b>61</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-3A	Buildable Lots under R-2A
0%	0.00	100%	61.00	254.10	433.68	32.53	401.15	160	220
20%	149.76	80%	48.80	189.83	510.15	38.26	471.89	184	256
25%	187.20	70%	42.70	146.35	559.73	41.98	517.75	199	279
30%	224.63	50%	30.50	117.44	600.84	45.06	555.78	212	298
35%	262.07	30%	18.30	93.32	637.16	47.79	589.37	223	315
40%	299.51	10%	6.10	75.67	667.01	50.03	616.98	232	328
Conventional*	0.00	100%	61.00	174.88	472.07	47.21	424.86	141	212

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	494.24
20% - 25%	64.27
25% - 30%	43.48
30% - 35%	28.91
35% - 40%	24.12
40% - 45%	17.65
Over 45%	75.67

Parcel 18-1-47: Residential One-Acre (R-1A)									
									Total Acreage: <b>142</b>
									Acreage of Wetlands (Per NWI and NYSDEC mapping): <b>49.6</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	10% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-1A	
0%	0.00	100%	49.60	8.17	84.23	8.42	75.81	110	
20%	28.40	80%	39.68	4.43	97.89	9.79	88.10	127	
25%	35.50	70%	34.72	2.36	104.92	10.49	94.43	137	
30%	42.60	50%	24.80	1.03	116.17	11.62	104.55	151	
35%	49.70	30%	14.88	0.28	126.84	12.68	114.16	165	
40%	56.80	10%	4.96	0.04	137.00	13.70	123.30	179	
Conventional*	0.00	100%	49.60	6.54	85.86	8.59	77.28	112	

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	131.75
20% - 25%	3.74
25% - 30%	2.07
30% - 35%	1.33
35% - 40%	0.75
40% - 45%	0.24
Over 45%	0.04

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

**Table 17 - Build-Out Table Under CCDOD Zoning Amendments**

Parcel 18-1-47: Residential One-Acre (R-1A)									
									Total Acreage: <b>142</b>
									Acreage of Wetlands (Per NWI and NYSDEC mapping): <b>49.6</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	10% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-1A	
0%	0.00	100%	49.60	8.17	84.23	8.42	75.81	110	
20%	28.40	80%	39.68	4.43	97.89	9.79	88.10	127	
25%	35.50	70%	34.72	2.36	104.92	10.49	94.43	137	
30%	42.60	50%	24.80	1.03	116.17	11.62	104.55	151	
35%	49.70	30%	14.88	0.28	126.84	12.68	114.16	165	
40%	56.80	10%	4.96	0.04	137.00	13.70	123.30	179	
Conventional*	0.00	100%	49.60	6.54	85.86	8.59	77.28	112	

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	131.75
20% - 25%	3.74
25% - 30%	2.07
30% - 35%	1.33
35% - 40%	0.75
40% - 45%	0.24
Over 45%	0.04

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

Parcel 26-1-56: Residential Two-Acre (R-2A)								
<b>Total Acreage:</b>								<b>145.1</b>
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>3.1</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-2A
0%	0.00	100%	3.10	60.80	81.20	6.09	75.11	37
20%	29.02	80%	2.48	50.20	92.42	6.93	85.48	42
25%	36.28	70%	2.17	33.66	109.27	8.20	101.07	50
30%	43.53	50%	1.55	17.12	126.43	9.48	116.95	58
35%	50.79	30%	0.93	7.26	136.92	10.27	126.65	63
40%	58.04	10%	0.31	5.22	139.57	10.47	129.10	64
Conventional*	0.00	100%	3.10	48.64	93.36	9.34	84.03	42

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	84.30
20% - 25%	10.59
25% - 30%	16.54
30% - 35%	16.54
35% - 40%	9.87
40% - 45%	2.03
Over 45%	5.22

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

Parcel 33-1-7.31: Residential Three-Acre (R-3A)								
<b>Total Acreage:</b>								<b>351</b>
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>31.55</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-3A
0%	0.00	100%	31.55	127.10	192.35	14.43	177.92	59
20%	70.20	80%	25.24	89.88	235.88	17.69	218.19	72
25%	87.75	70%	22.09	66.36	262.56	19.69	242.86	80
30%	105.30	50%	15.78	47.40	287.83	21.59	266.24	88
35%	122.85	30%	9.47	34.06	307.48	23.06	284.41	94
40%	140.40	10%	3.16	25.28	322.57	24.19	298.37	99
Conventional*	0.00	100%	31.55	101.68	217.77	21.78	195.99	65

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	224.35
20% - 25%	37.22
25% - 30%	23.52
30% - 35%	18.96
35% - 40%	13.34
40% - 45%	8.78
Over 45%	25.28

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

Parcel 33-1-8.351: Residential Three-Acre (R-3A)								
<b>Total Acreage:</b>								<b>126</b>
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>2.8</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-3A
0%	0.00	100%	2.80	13.10	110.10	8.26	101.84	33
20%	25.20	80%	2.24	6.68	117.08	8.78	108.30	36
25%	31.50	70%	1.96	2.27	121.77	9.13	112.64	37
30%	37.80	50%	1.40	1.13	123.47	9.26	114.21	38
35%	44.10	30%	0.84	0.88	124.28	9.32	114.96	38
40%	50.40	10%	0.28	0.76	124.96	9.37	115.59	38
Conventional*	0.00	100%	2.80	10.48	12.72	11.27	101.45	33

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	112.90
20% - 25%	6.43
25% - 30%	4.41
30% - 35%	1.13
35% - 40%	0.25
40% - 45%	0.13
Over 45%	0.76

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.



Parcel 33-1-41.22: Residential Three-Acre (R-3A)								
<b>Total Acreage:</b>								<b>503.6</b>
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>76.1</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-3A
0%	0.00	100%	76.10	135.97	291.53	21.86	269.66	89
20%	100.72	80%	60.88	95.18	347.54	26.07	321.47	107
25%	125.90	70%	53.27	64.46	385.87	28.94	356.93	118
30%	151.08	50%	38.05	34.24	431.31	32.35	398.96	132
35%	176.26	30%	22.83	20.14	460.63	34.55	426.08	142
40%	201.44	10%	7.61	11.08	484.91	36.37	448.54	149
Conventional*	0.00	100%	76.10	108.78	318.72	31.87	286.85	95

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	367.63
20% - 25%	40.79
25% - 30%	30.72
30% - 35%	30.22
35% - 40%	14.10
40% - 45%	9.06
Over 45%	11.08

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

Parcel 33-1-42: Residential Three-Acre (R-3A)								
<b>Total Acreage:</b>								<b>281.1</b>
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>22.8</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-3A
0%	0.00	100%	22.80	54.53	203.77	15.28	188.48	62
20%	56.22	80%	18.24	31.76	231.10	17.33	213.76	71
25%	70.28	70%	15.96	11.53	253.61	19.02	234.59	78
30%	84.33	50%	11.40	6.47	263.23	19.74	243.49	81
35%	98.39	30%	6.84	1.97	272.29	20.42	251.87	83
40%	112.44	10%	2.28	0.56	278.26	20.87	257.39	85
Conventional*	0.00	100%	22.80	43.63	214.67	21.47	193.21	64

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	226.57
20% - 25%	22.77
25% - 30%	20.24
30% - 35%	5.06
35% - 40%	4.50
40% - 45%	1.41
Over 45%	0.56

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

Parcel 1-1-47.3 & 1-1-35: Residential Three-Acre (R-3A)								
<b>Total Acreage:</b>								<b>133.7</b>
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>0.0</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-3A
0%	0.00	100%	0.00	89.29	44.41	3.33	41.08	13
20%	26.74	80%	0.00	49.88	83.82	6.29	77.53	25
25%	33.43	70%	0.00	30.37	103.33	7.75	95.58	31
30%	40.11	50%	0.00	21.34	112.36	8.43	103.94	34
35%	46.80	30%	0.00	14.41	119.29	8.95	110.34	36
40%	53.48	10%	0.00	11.47	122.23	9.17	113.06	37
Conventional*	0.00	100%	0.00	71.43	62.27	6.23	56.04	18

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	44.50
20% - 25%	39.41
25% - 30%	19.51
30% - 35%	9.03
35% - 40%	6.92
40% - 45%	2.94
Over 45%	11.47

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

Parcels 4-1-1, 4-1-2, 4-1-3, 13-1-1.2, 13-1-1.3, 13-1-1.4, 13-1-2, 13-1-73: Residential Three-Acre (R-3A)								
<b>Total Acreage:</b>								<b>195.09</b>
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>6.79</b>
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	7.5% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-3A
0%	0.00	100%	6.79	74.27	114.03	8.55	105.48	35
20%	39.02	80%	5.43	64.74	124.91	9.37	115.55	38
25%	48.77	70%	4.75	57.80	132.53	9.94	122.59	40
30%	58.53	50%	3.40	48.48	143.21	10.74	132.47	44
35%	68.28	30%	2.04	38.00	155.06	11.63	143.43	47
40%	78.04	10%	0.68	29.35	165.06	12.38	152.68	50
Conventional*	0.00	100%	6.79	59.41	128.89	12.89	116.00	38

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	120.83
20% - 25%	9.52
25% - 30%	6.94
30% - 35%	9.32
35% - 40%	10.48
40% - 45%	8.65
Over 45%	29.35

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

WP3 Residential Two-Acre (R-2A)									
<b>Total Acreage:</b>								<b>398</b>	
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>5.66</b>	
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	10.0% Deduction for Infrastructure	Net Developable Area	Buildable Lots under R-2A	Buildable Lots under R-1A
0%	0.00	100%	5.66	76.92	315.42	31.54	283.88	141	412
20%	79.60	80%	4.53	41.75	351.72	35.17	316.55	158	459
25%	99.50	70%	3.96	22.69	371.34	37.13	334.21	167	485
30%	119.40	50%	2.83	11.65	383.52	38.35	345.17	172	501
35%	139.30	30%	1.70	5.61	390.70	39.07	351.63	175	510
40%	159.20	10%	0.57	2.86	394.58	39.46	355.12	177	515
Conventional*	0.00	100%	5.66	61.54	330.80	33.08	297.72	148	432

\* Based on analysis of USGS topographic information

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	321.10
20% - 25%	35.17
25% - 30%	19.06
30% - 35%	11.04
35% - 40%	6.05
40% - 45%	2.75
Over 45%	2.86

In a conventional plat, a 15% deduction for infrastructure is used to reflect a non-cluster development pattern.

Cumulative Impact									
<b>Total Acreage:</b>								<b>3024.37</b>	
<b>Acreage of Wetlands (Per NWI and NYSDEC mapping):</b>								<b>259.4</b>	
Minimum % of Project Area to be Open Space	Open Space Area in Acres	% of Wetlands to be deducted	Acreage of Wetlands to be deducted	Steep slope acreage to be deducted	Developable Area	Deduction for Infrastructure	Net Developable Area	Buildable Lots	Buildable Lots With rezone of Legacy Ridge and WP3
0%	0.00	100%	259.40	886.09	1878.88	150.91	1727.97	742	1074
20%	604.87	80%	207.52	613.88	2202.97	176.46	2026.51	863	1238
25%	756.09	70%	181.58	425.28	2417.51	193.22	2224.29	941	1341
30%	907.31	50%	129.70	291.94	2602.73	207.70	2395.04	1014	1431
35%	1058.53	30%	77.82	204.69	2741.86	218.58	2523.28	1070	1498
40%	1209.75	10%	25.94	152.44	2845.99	226.74	2619.25	1113	1549
Conventional*	0.00	100%	259.40	708.87	2056.10	205.61	1850.49	762	1119

Slope Categories	Acreage of Site within Slope Category*
0% - 20%	2136.37
20% - 25%	272.21
25% - 30%	188.60
30% - 35%	133.34
35% - 40%	87.24
40% - 45%	52.25
Over 45%	152.44

At the end of the previous table, (see above) the Cumulative Impact of the CCDOD is calculated by summing the number of Buildable Lots for the 10 parcels under the CCDOD, and subtracting the number of Buildable Lots calculated under the Conventional build-out. For the Legacy Ridge and WP3 projects (both of which have submitted petitions to rezone) an analysis is also provided for the number of buildable lots if they are rezoned, and compared to the number of Buildable Lots under the CCDOD.

### ***Conservation Cluster***

“Cluster development” is a general land use planning term that concentrates development onto the most appropriate portion of the property, and preserves the remainder as open space. Cluster developments also allows a municipality to achieve planning goals that may call for protection of open space, protection of scenic views, protection of agricultural lands, protection of woodlands and other open landscapes, and limiting encroachment of development in and adjacent to environmentally sensitive areas.<sup>47</sup> The existing Town Code provision on cluster subdivisions restricts the amount of potential preserved land by requiring relatively large lot sizes, even for clustered lots. Zoning laws in other communities often allow smaller clustered lot sizes. Smaller permitted lot sizes result in more open space preserved.

The recently adopted Conservation Cluster law facilitates provision of open space by allowing smaller lots within a CCDOD. The proposed development plan for Legacy Ridge proposes that of the 287 lots, 218 range between 1 and 1.5 acres. Of the remaining lots, three lots are between 1.5 and 2 acres, two lots are over 2 acres and 65 lots are less than 1 acre.

For the last 2 years, the Town of Woodbury has discussed and drafted language revising the current zoning law to include a Conservation Cluster Development District (CCDOD). This amendment was adopted in November, 2005. Section §310-31A (Appendix 9.2, Conservation Cluster Development Overlay), has provided a mechanism and incentive for the development of cluster subdivisions that preserve larger tracts of open space than are protected under the existing standard cluster subdivision provisions of §310-31.

The following are the purposes of the CCDOD:

1. To implement one or more of the Town Open Space and Natural Resource Policies.
2. To secure permanent preservation of critical mass(as) of open space, which the Town Board determines to be in the Town's interests to preserve.
3. To preserve important stream corridors, wetlands, water-bodies, recharge areas, wellhead protection areas, ridgelines, slopes or scenic vistas that contribute to the Town's open space and natural resource system.
4. To provide internal open space and buffers within and around residential neighborhoods, as well as greenbelts and essential links between open space areas.
5. To enhance the mix of housing opportunities, particularly for ‘empty-nesters,” first time home buyers and young professionals and pursuant to recommendations of the County Planning Department to encourage inclusion of Senior Citizen Housing.

---

<sup>47</sup> New York State Department of State. *Local Government Handbook: 5<sup>th</sup> Edition 2000.*

6. To reduce sprawl and implement the quality community and smart growth objectives.
7. To minimize impacts on the land by reducing the amount of clearing and regrading required for a conventional plat.
8. To protect important environmental, historic, or prehistoric resources,
9. To increase opportunities for passive recreation and enjoyment of natural settings.
10. To otherwise fulfill the purposes of Cluster Development as otherwise set forth in Section 310-31, while also permanently preserving larger tracts of open space than conventional cluster subdivisions or developments.

In order to be eligible for the Conservation Cluster Development, a site must be:

1. A minimum of 125 contiguous acres.
2. Be served by central water and sewer system, approved by the Town Board.
3. Preserve at least 20% of the area of the Conservation Cluster Development site as protected open space.

Under section G of the new law, the ownership of the protected open space areas shall be dedicated to the Town, or to some other public entity or recognized conservation or land trust acceptable to the Town Board and qualified under IRS guidelines. Additionally, conservation easements, meeting the standards of the New York State Environmental Conservation Law, must be placed on said land assuring that it shall remain forever green and undeveloped in perpetuity. The Town Board in its sole discretion would also have authority to allow limited use of such open space land for public use such as walking trails, bird-watching, fishing and other pedestrian activities, but in no case involving use of motorcycles, ATV's or other motorized vehicles; or for use for limited public or project infrastructure improvements (utilities, water tanks and the like provided that appropriate landscape screening is provided). The extent of any such use would have to have been found by the Town Board to be consistent with the land's environmental characteristics. Because title to the land would be turned over to the Town or to its designee, the Town would not also require compliance with the Town's Open Space Administration Local Law (Chapter 215 of the Town Code) for such lands.

In addition to the above, a Conservation cluster may, but need not, also include other open space that would be owned by a Homeowner's Association or other entity approved by the Town. Chapter 215 of the Town Code regarding Open Space Administration would apply to these lands.

The proposed Legacy Ridge site meets the criteria listed above. The Conservation Cluster Development regulations provide a formula of calculation for the determination of maximum lot yield, based on site specific area deductions. Controls will be placed on the open space lands to ensure the lands will stay as public open space.

In order to examine generically the potential impacts of the adoption of the CCDOD law, and consider the cumulative and long range impacts of its adoption, this EIS includes an analysis of the potential number of sites in the Town that, theoretically, could qualify for a CCDOD development. It then considers the potential impacts on the Town are all of these were approved for CCDOD. This is not, it is noted, a likely scenario, since the law clearly

provides that compliance with the eligibility requirements in no way compels the Town Board to authorize any site for CCDOD development.

Tables 16 and 17 above, follows the language of the proposed CCDOD to determine the potential impacts if all of the sites were developed as CCDOD. First, the Project Sponsor identified the parcels within the Town which encompass at least 125 acres. From this list, parcels which are in the public domain (i.e. parks, Palisades Interstate Parks Commission) or held by not-for-profit institutions (i.e. West Point) where excluded. Then, the tax records were examined to determine if there were parcels which are held in common ownership and contiguous, which could then meet the criteria necessary for CCDOD application.

The result is a total of 10 groupings (including Legacy Ridge). Each of these parcels or groupings is included in the table above. The first step in determining the number of lots which could be built under the CCDOD is to establish the acreage of wetlands and the area of steep slopes by the categories of 0% - 20%, 20% - 25%, 25% - 30%, 30% - 35%, 35% - 40%, 40% - 45% and over 45%. The wetlands were established using National Wetlands Inventory and NYS DEC mapping. The slopes were analyzed using available USGS mapping.<sup>48</sup>

Each parcel is identified with its parcel number and current zoning. Parcel (or amalgamated parcel) acreage is then shown. To the right, the slope categories and the acreage of the site within each slope category are then described.

The adopted CCDOD law then describes a process of determining developable area, based on the acreage which an applicant will donate as permanent open space. Each table describes the open space preservation (in percentages and actual acreage), then provides a calculation of the wetlands and steep slopes to be deducted from the project acreage for each open space dedication category. This leaves a "Developable Acreage" for each category, consistent with the CCDOD requirements.

A deduction from the Developable Area is then required to account for infrastructure (roads, utilities, etc.). For areas in the R-1A zone, this is a 10% deduction, for areas in the R-2A and R-3A zone this is a 7.5% deduction. The infrastructure percentage is deducted from the Developable Area to establish the Net Developable Area.

Then, the Net Developable Area is divided by the appropriate lot size established in the CCDOD to determine the number of Buildable Lots. For each parcel the number of Buildable lots is established for the differing percentages of Open Space to be preserved.

Finally, each table provides an analysis of the number of lots which could be developed without a cluster conservation subdivision. The Town zoning code provides similar deductions for wetlands and steep slopes which the table uses to establish a Developable Area calculation. In a non-cluster development, a deduction of 10% was then used to account for infrastructure. The 15% was used instead of the 7.5% or 10% under the cluster subdivision, recognizing that a conventional subdivision will require more roads across a parcel for the same number of lots. The Net Developable area is provided by subtracting this 10% calculation from the Developable Area. The Net Developable Area is then divided

---

<sup>48</sup> Data for the WP3 and Legacy Ridge sites uses actual field-determined data for both the wetlands and slopes. The slopes are at a 2' contour level, instead of the USGS 10' contour data. It is expected that the Town would require this level of detail for actual CCDOD applications. The data in this analysis is shown as an example of the expected build-out from these lots, but the actual yield may vary slightly once more intensive site investigation is undertaken.

by the minimum lot size for the underlying zoning to establish the Buildable Lots for a Conventional subdivision plan.

It is important to recognize that under a Conventional Plan, there is no requirement for preservation of open space. It is also important to understand that the Conventional Plan establishes the number of lots which could then be developed under a conventional (non-cluster) subdivision and would therefore not require a different calculation of Net Developable Area to determine the number of Buildable Lots.

Build-out Table 17 and Figures 1 and 104 show the acreage of the qualifying properties, together with wetlands and slopes by the relevant categories. The table describes the number of clustered lots which could be developed under the CCDOD provisions, establishing the theoretical maximum potential number of lots which could be developed, if the Town authorized Conservation Cluster Development on every single eligible property.

As discussed in the CCDOD provision, adoption by the Town of the CCDOD does certainly not compel the Town Board to approve Conservation Clusters on every eligible site. Nor would it necessarily result in any of these parcels actually being developed under the provisions of the CCDOD. Each proposal must be individually evaluated by the Town Board, and only where the Town Board makes a determination, in its discretion, that the Town would be benefited by approval of the conservation cluster, would the Board authorize development under the provisions of the CCDOD.

In order to examine the potential cumulative impacts of adoption of the CCDOD, the total number of additional potential lots and potential open space to be permanently protected by the Town was calculated, and shown in Table 18.

Based on these calculations, a range of additional lots and the acres of additional open space are shown below. The actual number could clearly differ, as some lots could be developed with the minimum 20% open space, or all could be developed with the maximum of more than 40% open space. This range is intended to show potential impacts. Each application would need to stand on its own merit, and the environmental impacts of each application would be required to undergo site specific environmental review under SEQRA, prior to authorization of any Conservation Cluster Development.

**Table 18 - Alternative Sites over 125 Acres - Range of Additional Lots and Open Space with Adoption of the CCDOD**

<i>Minimum % of Project Area to be Open Space</i>	<i>Additional number of lots Town-Wide</i>	<i>Additional Acreage of Protected Open Space Town-Wide</i>
0%	0	0.00
20%	75	604.87
25%	152	756.09
30%	224	907.31
35%	278	1058.53
40%	308	1209.75



Therefore, with the adoption of the CCDOD, assuming that (1) every eligible site was approved for CCD, and (2) every eligible site preserved 40% of its acreage as open space, the total impact on the Town would be a maximum of 308 additional lots are estimated Town-wide. This maximum number could only be achieved, however, with a concomitant protection of nearly 1,200 acres of open space, turning ownership over to the Town, or properly designated entity. Under the 20% open space scenario, as few as 75 additional homes would be developed, with nearly 600 acres of open space donated to the Town or other qualified entity.

The impact of an additional 308 lots spread throughout the Town is considered minimal. At most, this represents a less than 1% increase in the number of total lots in the Town, while the 1,200 acres of open space represents a 5.2% increase in open space lands within the Town.

As discussed elsewhere within this document, (Sections 3.7) the background growth rates estimated for traffic growth in the Town is 2% per year. Therefore the additional lots are not expected to significantly impact either the school district or the transportation infrastructure within the town.

The Conservation Cluster law has no adverse impacts on affordable housing. The provisions for the modest increase in the number of permitted units may encourage the provision of housing that is more affordable than otherwise. It certainly does not negatively impact the possibilities of affordable housing. The benefits to the Town under the Conservation Cluster law primarily consist of open space, but also include enhancement to the mix of housing opportunities, particularly for active adults, first time homebuyers and young professionals. Therefore, the benefits also would support housing diversity and opportunity, and would not have a negative impact on affordability.

### ***Senior Housing***

The Town considered adoption of modifications to the Senior Housing law for more than a two years, before adopting the modifications in December, 2005. These modifications include minor modifications to the Senior Housing portion of the code in order to permit for sale units in addition to rental projects. The existing law allows only rental units. The local law allows the Town Board to also allow a project to be a combination of rental and for-sale units.

The law allows some increase in size of individual senior housing projects for “for sale” units. The maximum size of a rental project is 20 acres, with a minimum of 10 acres. The maximum area for a for-sale project is 50 acres, with a minimum size of 20 acres. However, the proposed density is the same as the existing density, i.e. 4 units per acre.<sup>49</sup> Accordingly, there are no impacts on density associated with this proposed amendment. The type of ownership is not expected to have any adverse environmental effects. Active adult units additionally have no material impact on schools. However, it is expected to have very positive social effects.

The Town of Woodbury identified the need for senior housing projects through establishment of a Senior Housing provision within the code.<sup>50</sup> However, the Town’s Senior

<sup>49</sup> Nonetheless, density for senior units in a Conservation Cluster would be subject to the overall density restrictions of the CCDOD law, under which no added density is provided for senior units.

<sup>50</sup> Woodbury Code § 153-5.29(A)(1).



Housing program has not encouraged actual senior projects. It is anticipated that the inclusion of for sale housing will enhance the likelihood of further Senior Housing opportunities, meeting the acknowledged community need.

Taken together, the local laws provide the Town of Woodbury with additional tools to meet the changing demographics of the community. Across New York State, the over-60 population is projected to number 4.4 million, 22.2 percent of all New Yorkers, by 2025. This is a projected 40% increase in the over-60 population, while the under-60 population is expected to increase only 3% during the same time period. The Senior Housing amendments would enhance opportunities to provide for-sale, individually owned senior housing, whereas the former law limited Senior Housing to rental projects. The CCDOD promotes clustering, which serves to preserve significant open spaces to meet community needs for passive recreation, and a preservation of vistas. Clustering also provides an opportunity to provide varied housing types and sizes. As noted below (Section 3.15), larger lots typically result in larger housing in the Orange County area. Smaller lots give developers the ability to reduce infrastructure costs, and therefore reduce pressure to maximize house size in order to justify development costs.

### **3.9.3 Zoning Mitigation Measures**

#### ***Compliance with Relevant Zoning Requirements***

The proposed action is consistent with the requirements of the amended zoning code. Pursuant to the provisions of the CCDOD, after a site is designated by the Town Board for CCDOD, the proposed plan is still required to obtain subdivision and site plan approval by the Planning Board.

#### ***Rezoning Impacts***

The impacts of the rezoning to the R-2A district are offset and outweighed by the mitigation the Project Sponsor has proposed as part of its project design. Most significantly as part of the preferred plan, the Applicant will:

- Provide a significant new source of drinking water to the Town;
- Significantly upgrade the water distribution system to provide improved pressure and fire-fighting capabilities throughout the Town;
- Offer to completely rebuild the Valley Forge wastewater treatment plant to a state-of-the-art facility at no cost to the Town or current users of that system;
- Provide a road design that minimizes cuts and fills;
- Develop the site in a manner which maximizes open space protection, habitat preservation, and wetlands protection, and minimize land clearing and disturbance;
- Provide access with direct access to major highways.

#### ***Conservation Cluster***

The potential impacts of the Conservation Cluster Development Overlay District adoption involve evaluation of a correlation between additional housing units, and the preservation of key open space.

The cumulative impacts have been described above in Section 3.9.2. As the most-intensive development would result in an additional number of units below the annual expected 2% growth in traffic and school children, it is not expected to have a significant impact on the Town of Woodbury. Most importantly, any such growth would be accompanied by a significant preservation of open space. Accordingly, there will not be any environmentally damaging consequences of the adoption of the CCDOD zoning law, and the incentives provided, in terms of additional dwelling units, are compatible with the development otherwise permitted in the R-1A, R-2A, and R-3A zoning districts. These areas contain adequate resources, environmental quality and public facilities, including transportation, water supply, waste disposal and fire protection, to support the modest increase in number of units. Additionally, the CCDOD law clearly requires that applicants for any CCDOD designation would be required to complete a site-specific SEQR evaluation prior to any actual designation for a Conservation Cluster Development for specified property. This would assure that any issues relating to a particular site are adequately addressed prior to an actual designation for Conservation Cluster Development. The CCDOD law, including its incentives and benefits, are in accordance with the provisions of the Town's Master Plan and Open Space policies, and in accordance with a comprehensive plan as provided in Town Law section 263.

For the Legacy Ridge site, inclusion within the CCDOD will result in approximately 2971 +/- acres of open space permanently preserved on the northern parcel, together with 138 acres of open space that will be offered on the developed site.

The proposed plan is proposed to be consistent with the proposed CCDOD.

- The plan secures critical masses of open space.
- The plan preserves a scenic vista, i.e. 138 acres of scattered open space segments on the developed parcel.
- The plan provides internal open space and buffers within and around residential neighborhoods, as well as greenbelts and essential links between open space areas.
- The homes will vary in architectural styles and sizes in order to meet different income levels.
- The plan reduces sprawl, and implements quality community and smart growth objectives.
- The plan reduces the amount of clearing and regrading, as compared with a conventional plat.
- The plan preserves important historic resources.

The cumulative analysis assumed that all eligible CCDOD sites would actually be designated. Such an *a priori* assumption is not accurate. Should the Town adopt the

CCOD, and should any applicant request approval to develop under those guidelines, each applicant would have to address impacts on a site-by-site basis, to further assure that impacts were properly assessed before any approval was given. The proposed CCDOD law specifically provides that the Town has no obligation to designate every eligible site for Conservation Cluster Development.

### ***Senior Housing***

There are no significant environmental impacts identified with the modifications to the Senior Housing law as adopted by the Town of Woodbury. Therefore, no mitigation is required.

For any Senior Housing project, the Town would have assurance that age-restricted units would remain occupied by qualifying persons, even upon resale, as the Local law restricts both the initial sale and resale of homes to individuals over the age of 55. The law requires that the age-restrictions be enforced on future sales. First, the Planning Board Chair is not authorized to sign the plat until given assurance that the proper restrictive covenants assuring age restriction are to be recorded simultaneously with the plat. Second, all Building permits, and certificates of occupancy shall provide that occupancy is limited to persons over 55 under this section. Thirdly, the HOA is obligated to report to the Building Department within 30 days of the sale of a dwelling that the new owner(s) meet the age restriction requirements.