

**Town of Ancram
Town Board
Special Zoning Revisions Public Hearing
September 12, 2011**

Present: Supervisor Arthur Bassin Councilman James Miller
 Councilman Chris Thomas Councilwoman Madeline Israel
 Town Clerk Monica Cleveland

Absent: Councilman John MacArthur

The public hearing on the Zoning Revisions packet two was called to order by Supervisor Bassin at 7:01pm. He noted that the meeting had been properly advertised.

Zoning Revisions chair Hugh Clark gave an overview of the sections.

Mr. Bassin stated that the board has received written comments from the Columbia County Planning Board, O&G, Mathew Bernstein and the Conservation Advisory Council.

The following are the CAC written comments:

OPEN SPACE CONSERVATION SUBDIVISIONS

1.5. Dimensional Standards: Is this a good place to list all the relevant setbacks regarding side yards, streams, etc..?

6.b.9.a. Be consistent in terms of your definition of steep slopes in both Comprehensive Plan and in definitions on page 20 and change what is written from 20% to 15% steep slope. 15% is a typical steep slope standard in our region.

7.c.1. Primary Conservation Areas – better to use the full definition that is in the index here otherwise definition in text not complete.

Be consistent in terms of your definition of steep slopes in both comprehensive plan and in definitions on page 20 and change what is written from 20% to 15% steep slope. 15% is a typical steep slope standard in our region.

8. a.5. (Page 8) add: “and their associated buffers.”

8.a.6. Be consistent in terms of your definition of steep slopes in both Comprehensive Plan and in definitions on page 20 and change what is written from 20% to 15% steep slope. 15% is a typical steep slope standard in our region.

8.a.7. (7) add: vernal pools

8.a. 13 Site Design Criteria re protect wildlife habitat areas. Refer both to the DEC Ancram Habitat Summary and the Ancram Biodiversity Map here. The Comprehensive Plan requires the applicant for major subdivisions to provide biodiversity mapping and this is a good place to describe the requirements- see attached recommendations provided by CAC. Will there be a separate section of the new zoning that describes how the biodiversity map is part of site analysis and the site design process?

8.b.5 The writing here is confusing. Does a “mowed lawn”, which has no or little wildlife value, meet conservation criteria or not?

14. Definitions: add biodiversity map to definitions

14. Definitions: Major Subdivision- Be more specific here in terms of describing when a subdivision has “probable major impact on surrounding areas”. Best defined by SEQR review?

14. Primary Conservation Area: Please add reference to DEC Ancram Habitat Summary and Biodiversity Habitat Map which locate critical habitats.

14. Sensitive Environmental Features: Please add reference to Ancram Biodiversity Habitat Map and the DEC Ancram Habitat Summary which include both mapping of sensitive environmental features and also provide habitat conservation guidelines.

14. Surface Waters : Please clarify which man-made ponds are excluded from this definition.

XIII. SITE PLAN REVIEW

B. 9. The Planning Board **shall** versus “may” request an advisory opinion from the Town of Ancram Conservation Advisory Council, as may exist, related to any application being considered for site plan approval. Although the Planning Board may decide not to follow CAC’s advice they should at least be required to consider it. Certainly one of the goals of the Comprehensive Plan is to protect natural resources of the Town and CAC is best qualified to provide advice in terms of protecting natural resources.

D. 1.f. Criteria for Commercial Site Plan Approval: it should say pollution shall be avoided. Delete “to the maximum extent possible”.

F.2.c. Pollution should be avoided. Delete to the “maximum extent possible”.

Page 18 F. 2. B. What is maximum extent? Will there be set backs?

Should refer to Biodiversity map, setbacks and CAC.

G.2.b.4. If DEC reduced requirements to do an Erosion and Sediment Control Plan to ½ acre disturbance—would that be the criteria to meet here too?

SUMMARY QUESTIONS AND CONCERNS

1. As per your request, we submitted to the zoning revisions committee summary recommendation papers on stream buffers, biodiversity mapping, alternative energy zoning and vernal pool protection. Will these subjects be described in future sections of the zoning revisions?
2. Will there be future zoning regulations that will establish setbacks for environmentally sensitive areas such as stream and vernal pool buffers, steep slopes, and natural habitats as per the Comp Plan?

Thank you for all of your impressive work and thank you for considering our comments.

On behalf of the CAC, Jamie Purinton, the chair, spoke. She stated that she will submit the council’s comments in writing. She was concerned that the bio-diversity map had not been cited as a reference as well as the Council’s work on stream buffers. She noted that the slope definition should read 15% as a minimum throughout the document.

She stressed that the language in the document should read as the Planning Board “shall” ask for CAC review of PB matters. She stated that the CAC advice does not have to be followed but should be heard. The CAC would like to see references to vernal pools and stream buffers in the document. Hugh Clark said that a quick look had verified that the Bio-diversity map had been omitted, but not on purpose. He stated that the ZRC will “tweak” the document to reflect the concerns of the CAC. He stated that they will be also added to the subdivision section. Nan Stolzenburg stated that the CAC and the town board should formalize the formation of the CAC in reference to the Planning Board.

Dennis Sigler, a member of the Planning Board and the ZRC stated that there are complaints already regarding the time it takes to approve a subdivision and requiring a CAC review would lengthen the time for a PB approval of smaller parcels. He feels that the Planning Board should

be able to decide if the CAC should be involved in an approval, and the language should not be “shall request” CAC review but “may” request a CAC review.

Mr. Bassin stated that there are several comments from the Columbia County Planning Board which the ZRC has taken into consideration. The following are the County Planning Board’s comments and the ZRC’s suggested changes based on the County’s comments:

1. Comments Pertaining to Section V.Sub-section I, Open Space Conservation Subdivisions:

1. 2. APPLICABILITY b: Reads, "In their interpretation and application, the provisions of this section of the Zoning Ordinance shall be held to be minimum requirements. More stringent provisions may be required if it is demonstrated that different or higher standards are necessary to promote the Town's public health, safety, and welfare."

The CCPB suggests this statement be clarified in order to identify the types of "more stringent" standards that applicants may be required to comply with.

Nan's Cmt: Consider changing that last sentence to mirror other language that we are proposing to use in the Special Use Section (J). This gives the PB the authority to impose other conditions as it deems necessary. This does not offer more definition as suggested by the County but at least mirrors other language used. The Planning Board needs to have flexibility to review and use its own judgment and thus the 'nth' degree should not be so defined as to make it impossible to accommodate these developments. Replace the last sentence with:

In approving an open space conservation subdivision, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to the proposed subdivision and protection of resources.

Hugh's Cmt: Nan, I think the original wording was fine. Because we don't yet know what additional provisions might be necessary to promote public health, safety, welfare, (and consistency with the Comp Plan), we cannot further identify the types of more stringent standards that the CCPB would see as "clarifying." Hence, the original wording gives the PB reasonable flexibility. However, I don't object to changing to the sentence you suggest.

ZRC Recommendation: Accept Nan's change to last sentence.

2. . 7. SITE DESIGN OF MAJOR SUBDIVISIONS c. (2): The CCPB suggests that consideration be given to including definitions for "Scenic Viewsheds" and "Historic Rural Corridors".

Nan's Cmt: Adding scenic viewshed as a definition is a good idea. Our more inclusive set of draft definitions included scenic corridor overlay, but not scenic viewshed. Pull directly from LL #1 of 2003 for such a definition (although it does not contain a definitions section - use the language in that law): Scenic Viewshed – that portion of land included in the Town of Ancram Scenic Corridor Overlay, and those lands identified in the Town of Ancram Comprehensive Plan as being scenic including, but not limited to areas where scenic resources contribute significantly to the overall rural character of the town and possess attributes which the community seeks to preserve and enhance.” Further, remove the term ‘historic rural corridor’ and instead replace it with ‘locations having traditional character...’. The Plan and definitions included in this section already define traditional character. And the Plan, in Appendix A, includes a list of scenic resources beyond the scenic overlay corridor.

Hugh's Cmt: I agree with inserting a definition of “scenic viewshed” and changing“historic rural corridor”+corridor to “locations having traditional character”.

ZRC Recommendation: Accept Nan's suggestion to insert one definition and change one term.

3. 14. DEFINITIONS: The CCPB suggests that the definition for "Building Envelop" be coordinated with the definition for the same term that is found in Section XIII Site Plan Review.

Nan's Cmt: Update the definition in both the open space conservation law and site plan review law to:

Building Envelope: The space within which a structure and its supporting infrastructure is permitted to be built on a lot and that includes lands where the building, and driveway, and any lands disturbed for parking lots, water wells, and septic system areas.

Hugh's Cmt: I agree, but I would add water to the definition ".....parking lot, water and septic systems shall be located."

ZRC Recommendation: Accept Nan's recommendation to use same definition of "building envelope" in both sections.

4. 14. DEFINITIONS: The CCPB suggests that the definitions for "Primary Conservation Area" and "Secondary Conservation Area" be coordinated with the text found in 7. SITE DESIGN OF MAJOR SUBDIVISIONS, c. Step 1. Delineate Open Space Areas.

Nan's Cmt: Remove the definition portions of the text from Section 7, and rely on the definition section only. This way it avoids all conflict. Ensure that the definition itself uses all the terms incorporated in the language of Section 7.

Hugh's Cmt: I agree and I agree also that it's crucial that all the definitional language from Section 7 be incorporated into the actual definition.

ZRC Recommendation: Accept Nan's suggestion.

5. B.l.b. Major Subdivision Site Plan Review, reads in part,

"The Open Space Conservation Subdivision process shall be considered to be the site plan review process for major subdivisions".

The CCPB suggests that clarifications may be necessary as the subdivision review process and the site plan review process, are two separate procedures, pursuant to NYS Town Law. "Subdivision review" is not considered to be "site plan review". If Major Subdivisions are not subject to the provisions of, Section XIII Site Plan Review, consider revising this provision.

Nan's Cmt: The intent of the ZRC was to require a site plan review for major subdivisions, and the process for that site plan review is the open space conservation section. Section F clearly says that the open space conservation process shall be used for the site plan and it clearly coordinates this with the process from the subdivision law. No change is necessary.

Hugh's Cmt: I totally agree. Absolutely no change is necessary.

ZRC Recommendation: Retain current text. No change to the current text is necessary.

6. Section III, Use Regulations A. Permitted Uses: Conditional Uses. *The proposed amendments to the requirements for site plan review are not reflected in the existing zoning, specifically, Section III, Use Regulations A. Permitted Uses: Conditional Uses. For instance site plan review is not currently required for single family residential uses in most zoning districts. The CCPB suggests that consideration be given to amending the use regulations table to reflect these proposed additional review requirements. This amended use table and the proposed changes to site plan review requirements could be adopted together.*

Nan's Cmt: The ZRC is working on the amended use table and that will be reflected in future changes adopted by the Town Board. Since the Planning Board needs the site plan review section now, it is not recommended to wait for the use table to come along as that has more work to be done on it. The Town can get by with use of the existing use table until the new one is adopted separately.

Hugh's Cmt: I totally agree. We knew months ago that this would be the case and saw more gains than pains in proceeding as we are. Although amending the Use Table has been an arduous, tedious process, it is heading toward completion and will be available within the next couple of months.

ZRC Recommendation: Retain current text. The CCPB suggestion will become reality before the end of 2011.

7. B. 8. Reservation of Park Land in a Site Plan. *The CCPB suggests that this section be modified to be in accordance with the cited provision. NYS Town Law, §274-A, applies to those site plans which contain residential uses only. (NYS Town Law Section 274-A. Sub-Section 6. Reservation of parkland on site plans*

containing residential units. (a) Before such authorized board may approve a site plan containing residential units, such site plan shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes.)

Nan's Cmt: Change only the title of this section "Reservation of Parkland on site plans containing residential (including multi-family) units."

Hugh's Cmt: I agree with changing the title .

ZRC Recommendation: Accept Nan's suggestion to change title, thereby clarifying as CCPB suggests.

8. B. 9. Referral to Other Agencies and Boards. reads in part,

"...shall refer the plan to the Columbia County Planning Board for their review and approval..."

Please revise as the CCPB authority is advisory in capacity and the CCPB does not have authority to approve site plans. A referral will result in a recommendation from the CCPB.

Nan's Cmt: This should be re-written as " ...shall refer the plan to the Columbia County Planning Board for their review and recommendation..."

Hugh's Cmt: I agree.

ZRC Recommendation: Change "approval" to "recommendation" as CCPB and Nan suggest.

9. F. Site Plan Review for Subdivisions.2. Minor Subdivision. k. The CCPB notes that the sellers of real property are the responsible parties for ensuring that buyers are in receipt of a disclosure statement, pursuant to NYS Real Property Law (NYSRPL) Article 14. In addition NYSRPL Article 14 provides for certain exemptions of this requirement.

Nan's Cmt: Disagree. The Town intends to go further than the state requirement and wants to ensure that the disclosure statement is provided and feels that the best way is not to rely on the sellers, but to include this as part of the approval process so that all are informed. This had unanimous support among the ZRC members.

Hugh's Cmt: Actually, I think we and the CCPB basically agree. It is the seller's responsibility to provide the disclosure notice. However, as you note, the ZRC wanted to ensure that the buyer is fully aware by checking during the SPR process to ensure the buyer/applicant has actually received the disclosure. No change is necessary.

ZRC Recommendation: Retain current text. No change necessary.

10. Buffers: The CCPB notes that:

- the term "buffer" is included in Subsection J. Definitions
- visual and/or noise buffers may be required between commercial uses and adjoining lands
(Subsection D. 2.i.)
- buffers are required between farmland and residential property (Subsection F.2.1)
- a "one hundred (100) foot buffer shall be placed between agricultural structures and any stream, lake, wetland, or other water body." (Subsection G.6.b.)

Consider what criteria will be used to establish the minimum standard required for each type of buffers.

Nan's Cmt: Not necessary. The section provides a general definition of a buffer and its purposes, and the Planning Board needs flexibility to plan for that specific site and use their judgment on what type and size of buffer is necessary. No change recommended.

Hugh's Cmt: I agree. Although I understand the CCPB point, the ZRC believes that the PB has the judgment, and should have the flexibility, to determine what type of topography or foliage or other buffering agent should be used in that buffer space.

ZRC Recommendation: Retain current text. No change necessary.

11. Subsection G. 2. b. 4: The CCPB suggests that this provision be revised. Under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity, "...before commencing construction activity, the owner or operator of a construction project that will involve soil disturbance of one or more acres must obtain coverage".

Nan's Cmt: Correct. The section needs to be changed to one acre.

Hugh's Cmt: OK. Let's change it to one acre.

ZRC Recommendation: Change "two or more acres" to "one or more acres" as CCPB and Nan suggest.

12. Abbreviated Site Plan Review: The CCPB notes that the process for application for Abbreviated Site Plan Review for residential uses (Subsection G. 2.) differs from that set forth for agricultural uses (Subsection G. 6.). Application for residential uses must first be made for a Building Permit to the Building inspector for review and subsequent referral to the Planning Board. The reviews for Agricultural use applications are made directly to the Planning Board with copies to the Building inspector and then if a permit is issued the Code Enforcement Officer will determine compliance with the local building code or New York State Uniform Fire Prevention and Building Code and then the Zoning Enforcement Officer would ensure compliance with zoning (Subsection G. 9.). Consider if these two separate but abbreviated processes could be more closely aligned and streamlined.

Nan's Cmt: The main reason why ag structures went to the planning board instead of the building inspector is that ag buildings usually do not need building permits. Therefore there is no reason for them to go to the building inspector. The application process is articulated clearly. There is no need to change this.

Hugh's Cmt: The CCPB summary does NOT accurately state what happens. Application for residential uses does not necessarily go to the PB after the BI. It goes to the PB only if one or more of the eight criteria in G 1a exist. Since Ag uses/FWH are one of the eight or are cited in G1b, they go directly to the PB. Simple, expedited review was the concept. Also, in its quest to be as clear and simple as possible, the ZRC examined several different drafts of these provisions. Although adjustments may be called for in the future, the current text describes the process accurately and completely. There's no need to change this now.

ZRC Recommendation: Retain current text.

13. Abbreviated Site Plan Review: The CCPB suggests that a time frame be established for the "Abbreviated Site Plan Review" process.

Nan's Cmt: The abbreviated site plan review process does establish, albeit not as directly as could be, the time frame. The intent of the ZRC was to have the Planning Board conduct the abbreviated review in one meeting. Although it does say that if you read carefully, it is important to remove any guessing so state right at the beginning that it is the intent for the process to be conducted and completed in one meeting, with extensions only if mutually agreed upon. Add in the beginning of 3 (b): "Once a complete application has been received, the Planning Board shall conduct its abbreviated review and render a decision in one meeting unless a longer time frame is mutually agreed upon."

Hugh's Cmt: As you note, subsection G 3b does establish the time frame, but not overtly in days or months. Although I do not believe that a change is necessary, I see no harm in adding the extra amplifying sentence as you suggest.

ZRC Recommendation: Insert extra sentence as Nan suggests.

14. Review process: The CCPB suggests that the "site plan review" and "abbreviated site plan review" processes be reviewed and revised with a goal of simplification.

Nan's Cmt: This does not refer to anything specific to be simplified. The process is relatively standard for site plan reviews and the Planning Board has been given the authority to waive certain requirements if needed. No change necessary.

Hugh's Cmt: This is as simple as we can currently make it. No change is necessary. A helpful gesture might be to include flow charts within implementing brochures produced by the PB or Building Department.

ZRC Recommendation: Retain current text. No change is necessary.

15. Farm Worker Housing: Consider incorporating all the necessary requirements for review of applications related to "farm worker housing" into one section. (Subsections G.1.a. (8), G.6.a. (1), G.6.a. (10), Article V Section 1).

Nan's Cmt: The ZRC feels the flow of the sections is adequate. However, it is important to clearly state that use of single wide manufactured homes can be used as an accessory on a farm property for farm worker housing and that density requirements do not need to be met. Add new sentence In G 6 (10) (d) after the second sentence as follows: "In that circumstance, such structures do not need to meet density requirements."

Hugh's Cmt: Basically, I see no need to change what we have. For example, moving G1a(8) to G6 screws up the accuracy and completeness of that initial list. Nor do I see value in eliminating G1a(8) and G6a(1) because I think doing so will leave gaps that compromise clarity and completeness rather than help them. Re: putting a new sentence into G6a (10)—I agree that someone may perceive a gap about single wides and density there, although (10)d takes care of that. However, I see no harm in adding an extra, clarifying sentence as you suggest.

ZRC Recommendation: Insert new sentence in G6(10)(d) as Nan suggests.

16. Subsection J. Definitions: The definition for "Change of Use", reads in part, "The change of use or occupancy of land, or buildings, structures, or other improvements on land, from either residential, commercial or industrial to one of the other uses.." Consider if the intent this definition is to only apply to a change in use from residential, commercial or industrial.

Nan's Cmt: Consider adding to this definition: A change of use shall also occur when there is a change from one type of use to another within the same use category. This will address the concern raised.

Hugh's Cmt: My initial reaction was to read further in that passage to where it says, "or change in nature, substance or intensity of the same use." Nature or substance being the key words. I could argue that changing from retail to wholesale is a change in nature. However, since clarity is one of the aspects of user friendliness that we're shooting for, I agree with inserting your line about change from one type to another within the same category.

ZRC Recommendation: Insert Nan's recommended sentence as the second sentence in the Change of Use definition, thereby clarifying as the CCPB suggests.

17. Subsection J. Definitions: The definition for "Dwelling, Multiple Family", reads, "A building, portion of a building, or group of buildings on one lot each containing three (3) or more dwelling units and designed or used for occupancy by three (3) or more families living independently of each other. A multiple family dwelling includes townhouses. Multiple-family dwellings shall be considered a commercial use and subject to site plan review."

Please note that "Multiple Family Dwellings" as defined "shall be considered a commercial use", however are not listed in the definition of "Commercial Use".

Also, consider that "farm worker housing" could be included in this definition and categorized as a commercial use. Under the New York State Uniform Fire Prevention and Building Code, "farm worker housing" would not be classified as a commercial use.

Nan's Cmt: If the Town wants to move the location of multi-family housing to the commercial category in the Use Table, that is fine. As long as it is clear what the standards and procedures are for a multi-family use, I am not sure what difference this makes. It is not recommended to classify farm worker as a commercial use. Treating farm worker housing as a commercial use goes against the section on farm worker housing. No changes are necessary related to this comment. However, for the future, ensure that the Use Table adds a note that multi-family dwellings shall be considered a commercial use, or included that in the definition.

Hugh's Cmt: Before seeing your note, my penciled reaction had been that multi-family falls within that wording of Commercial Use that says "or provision of services." Such housing is a service provided for profit. This is another one of those instances in which the definition doesn't need to include every example. Note also that SubSection B, Table 3, on page 1 already says "Commercial Uses (including multi-family)" and B1a(8) on page 2 includes multi-family dwelling as a commercial use requiring site plan review and approval. Furthermore, our Draft Definitions, (v2) 6/1/2010 says "Multiple-family dwellings shall be considered a commercial use and subject to site plan review." Bottom line: I agree there's no need to change wording about this or about FWH. However, for clarity, it's fine to point in all relevant places and we can cite it as a commercial use in the Use Table, which will be in its final form within the next few weeks.

ZRC Recommendation: Cite multifamily dwelling as a commercial use in the Use Table that is being prepared now. No changes to current text are necessary.

18. Subsection J. Definitions: The "Agritourism" and "Farm Stand" definitions both refer to the farm use being located on-site. The CCPB suggests consideration be given to including agricultural operations/uses, or farm stands located off-site.

Nan's Cmt: Many places consider a farm stand off-site as a retail farm market and not a farm stand. The definition currently uses "on-farm" however, and that should be changed to on-site to ensure that small farm stands can be allowed without site plan controls. As such, change the definition use of "on-farm" to "on-site".

Hugh's Cmt: I'm ambivalent about the off-site idea pertaining to farm stands. I think they're confusing stands with markets, but I suppose one could validly argue that a farmer could have a temporary structure less than 400 square feet off the farm. Of course, if one merely deletes "on farm" from the definition, then it doesn't necessarily mean or imply that it's a farmer operating it. That's where our backyard gardener gets folded in. Although no change is truly necessary, I don't object to changing "on farm" to "on site." I totally agree about agritourism. No change there.

ZRC Recommendation: For farm stands, change "on farm" to "on site" as Nan suggests. For agritourism, retain current text. No change necessary.

19. Subsection J. Definitions: The CCPB suggests that the definition for "Building Envelop" be coordinated with the definition for the same term that is found in Section V, Sub-section I Open Space Conservation Subdivisions.

Nan's Cmt: This is addressed above.

Hugh's Cmt: Yes, done.

ZRC Recommendation: Make change as noted in #3 above.

Mr. Clark stated that the comments from Mr. Faroni about C5i prompted review, that the adjective "public" was inappropriately applied to all elements of the paragraph, and that the paragraph has been amended to reflect original intent.

Mr. Clark stated that the Planning Board should be able to ask for documents regarding right of ways.

Mr. Clark commented on the Bernstein questions and noted that the ZRC did intentionally distinguish between Primary and Secondary Conservation Areas to afford the Planning Board some flexibility for judgment based on parcel features.

The Columbia County Land Conservancy issued the following letter:

Members of the Board:

The Columbia Land Conservancy welcomes the opportunity to provide these comments regarding the proposed amendment to the Zoning Ordinance of the Town of Ancram, Open Space Subdivisions.

CLC is keenly interested in local laws that govern conservation subdivisions. The goals they are meant to serve are central to our mission, including conservation goals, but also those goals connected with quality of life and sound community planning. At the same time, it is widely recognized in the land trust community that perpetual conservation easements mandated by conservation subdivision laws pose a

number of significant challenges. Many land trusts are extremely reluctant to hold easements on such projects.

CLC applauds the commitment to conservation and open space protection reflected in these ordinances, and we are committed to serving as a resource to Columbia County municipalities to assist in their conservation objectives. Accordingly, we have spent a great deal of time over the past year and a half studying the issues posed by conservation subdivisions in order to draw up a set of guidelines to govern our decisions about whether to accept conservation subdivision easements; and, how and under what conditions we can appropriately steward them. Having consulted with a number of major land trusts, and with the benefit of their experience, we are only more cautious about how we approach these easements..

At the same time, we are confident that we can work with towns like Ancram to help you understand the issues that a conservation subdivision proposal presents for a land trust and to ensure that those issues are successfully addressed.

Very briefly, the key challenges associated with conservation subdivisions are:

- Whether the proposed conserved open space property possesses the characteristics legally required to warrant protection by a perpetual conservation easement.
- How to manage the stewardship relationships, especially where the proposed conserved open space property will be owned by multiple individuals or institutional entities, as enforcement issues multiply in direct proportion to the number of adjacent residential properties. Land trusts have a responsibility under Treasury regulations to enforce easement terms and to show that they have the means to do so. As an accredited land trust, we must be able to demonstrate our ability to do so, in perpetuity, for perpetual easements;
- Where the proposed conserved open space will be owned by a Homeowners Association (which is typically the case), how to encourage commitment to the conservation objectives by the residents, and how to maintain an efficient line of communication and obtain timely responses in the course of the easement stewardship relationship. CLC has two staff dedicated to building relationships with our easement landowners; and,
- In every case, how to develop a close working relationship with the local government, from the point of drafting or amending applicable town laws, to working with the planning board on projects in their early stage and when crafting the easement and the conservation plan for the site. A land trust can assist the board to (1) shape the project and protect conservation goals while balancing those with development rights, and (2) be sure that the final development plan consists of conserved lands that will meet applicable legal standards and those established by our Board of Trustees. It has happened that projects have been brought to CLC whole, after much time and resources have been expended in the site plan process, with the expectation that an easement can be quickly drafted, only to find that the project as designed does not in fact protect a property's conservation values, and/or that the proposed land planning is not viable from the perspective of easement administration.

With these issues in mind, we offer the following specific comments on sections in the proposed zoning amendment:

- Section 6. SKETCH PLAN AND SITE ANALYSIS. b. Sketch Plan. (9) Site Analysis.
Comment: CLC conducts a site analysis as the basis for land planning and easement development for each project and recommends involving the land trust at this stage of project development in order to incorporate its standards and requirements. This could be included by suggestion or requirement in the ordinance.

- *Section 8. SITE DESIGN CRITERIA. b. Open space standards: (5) “A portion of any house lot five (5) acres or more in size may be used for meeting minimum required open space...”*
Comment: From a land trust’s point of view, having the majority of open space land congregated on one open space or residential lot is preferable. Locating small portions of open space on numerous parcels in different ownership can result in an enforcement and administrative challenge.
- *Section 8, bullet (7), regarding locating community septic systems, and (8) stormwater management ponds or basins, and underground utilities on in required open space; as well as Section 12. SEWAGE TREATMENT SYSTEMS. Comment: These are structures requiring land disturbance, regular maintenance and landscape management that are not consistent with the protection of conservation values, with the possible exception of scenic value. We note also that required maintenance would generally involve lawn mowing, which contradicts language in section (5) regarding preventing development of or use as a mowed lawn.*
- *10. PERMANENT PROTECTION OF OPEN SPACE. c.*
 - o *(3) Comment: It is not clear what the criteria will be for an acceptable maintenance agreement and how this might affect the land trust’s customary enforcement. This must be coordinated with the land trust.*
 - o *(4) Regarding town enforcement, CLC applauds the town for recognizing the importance of partnership in enforcement. At the same time, the land trust is operating under its own requirements and actions should be closely coordinated between the two parties.*

Finally, we offer the following overarching observations based upon the experience of the land trust community as well as CLC’s own extensive easement work and experience with community planning.

- *Conservation subdivisions and easements are not a “magic bullet” for what a town aspires to be, or remain. It is no substitute for whole community planning and does not protect a town from poor planning decisions. A collection of conservation subdivisions could result in a patchwork of development if imperfectly designed. Sections addressing large contiguous areas and interconnected networks are helpful, if and when such a town-wide template exists.*
- *Every conservation subdivision is unique. It is our perspective that the requirements of a conservation subdivision may not make sense everywhere there may be a major subdivision. A well-informed, planning board can be given the tools to achieve good land planning in town without the added complexities of a conservation subdivision.*
- *Perpetuity is a long time. We also believe that it may not serve the town’s long-term interests to mandate the protection of certain open space areas for all time. Perpetual easements are very difficult to amend, and are and should be extremely difficult to extinguish. Not every large area of open land necessarily possesses the conservation values that warrant imposition of a perpetual easement. In some cases, it could be that the public interest would be best served if the Town retains the option to revisit an open space decision after a period of many years – say, 25 years, in which case a “term easement” might be appropriate. In some cases, perhaps the open space protection should arguably be a matter of site plan approval.*

In closing, conservation easements have been the core of CLC’s mission and work for 25 years. We have learned a great deal in that time about drafting stewarding and enforcing such agreements. We currently hold 152 easements on more than 21,000 acres of land in Columbia County. At close to 4,500

acres, we hold more easements in Ancram than any other town in the County. We look forward to continuing to work with you to achieve your vision for the Town.

Sincerely yours,

*Ellen Jouret-Epstein, ASLA
Community Projects Manager*

Mr. Bassin asked for comments from the Town Board members in regards to the Zoning Revisions packet. There were none.

Mr. Bassin questioned the site plan review for a standard single family home. Mr. Clark stated that if none of the environmental issues is a concern, then the permit will come right from the Building Inspector.

Mr. Bassin asked what an inspection fee escrow is. Nan stated that the fee is for site plan review of commercial projects. Mr. Terry Boyles stated that some homes are very large and questioned if this would include them. Mrs. Stolzenburg stated that this is not the inspection of the building but of the site plan.

Mr. Bassin questioned the requirement that a conservation easement be required to protect the 60% open space in a development. He commented that during the Comp Plan process, this issue was discussed and the Comp Plan Committee had concluded that requiring a conservation easement was not necessary, but that the subdivision law itself could protect the 60% open space. Mr. Bassin commented that he thought that a conservation easement was one of the options to protect open space, but should not be the required option. Ellen Jouret-Epstein of the CLC noted that conservation easements were a more permanent protection for open space

Mr. Bassin asked about why publicly accessible golf courses and playing fields counted toward the 60% open space requirement but privately owned open space and playing fields did not...he noted that the conservation & environmental value of open space did not change based on public accessibility.

Donna Hoyt stated that in the farming industry there are pesticides used. How is this keeping them in their natural state? Nan stated that this all depends on how the town defines open spaces. A discussion ensued regarding classifying open and recreational spaces and if a private golf course was a open land use.

There being no other comments, the town board adjourned the meeting at 8:30pm.

Respectfully submitted by,

Monica Cleveland
Ancram Town Clerk

