

**BELFAST CITY COUNCIL
MARCH 16, 2010
FIRST READING - PROPOSED AMENDMENTS
CITY CODE of ORDINANCES
CHAPTER 102, ZONING
ARTICLE VI, PUD & CLUSTER STANDARDS
AMENDMENT TO ALLOW RURAL AFFORDABLE
HOUSING DEVELOPMENT**

Notes to Public

Note # 1: The Belfast City Council requested that the Belfast Planning Board prepare draft amendments to implement a recommendation in the Future Land Use Plan (Chapter of City Comprehensive Plan) that was adopted by the Belfast City Council in October 2009 to allow the establishment of rural affordable housing developments. The Council's request to the Planning Board was spurred by a November 2009 proposal from Habitat for Humanity to construct several houses on a 3.8 acre property located on Oak Hill Road. The Board introduced its recommendation to the Council at the Council meeting of March 2, 2010, and the Council has chosen to pursue adoption of the proposed amendments. This March 16th meeting is the official First Reading of the proposed amendments.

The goal of the proposed approach is to better allow the construction of affordable housing in some rural areas of Belfast by relaxing zoning standards that typically apply to the minimum size of a lot, the amount of setback required for a dwelling, the size of road constructed and similar concerns. A rural affordable housing development would need to include at least 2 housing units, and it would not include more than 7 housing units. The project also would require that some lands be permanently held in open space.

These proposed amendments have two main purposes, including:

- a) Establishing the process by which the Belfast Planning Board would review a project proposal. It is noted that this process is very similar to that now identified in the City Code regarding Board review of a subdivision or site plan permit. One of the key reasons for identifying a discrete process for the review of a rural affordable housing development is so the Board has the authority to consider and act upon a 2 lot division of property. Under Maine Subdivision law, Planning Board review of a 2 lot division is not required or allowed. In this case, however, the process and accompanying standards which the Board would follow are intended to grant greater flexibility to an applicant regarding how to satisfy zoning district standards.
- b) Identifying standards which a project must satisfy regarding concerns such as but not limited to the construction of roads, stormwater and utility improvements, the minimum size of a lot, and structure setbacks. The proposed standards will allow an applicant greater flexibility in

addressing such concerns when compared to current standards identified in the Zoning, Subdivision, Site Plan and Technical Standards Ordinances.

The proposed amendments to Chapter 102, Zoning, Article VI, Planned Unit Development, should be considered in conjunction with the proposed amendments to Chapter 66, General Provisions and Chapter 102, Zoning, Article V, District Regulations. Persons interested in this approach to better allow the construction of affordable housing in the City's rural areas should review all proposed Ordinance amendments

Note # 2. Article VI, Planned Unit Development, Division 2, Rural Affordable Housing Development Project, is a new Division. Thus, nearly all language shown is new language. **Red font** is used to identify new language. Language to be deleted is shown in ~~blue and strike-through font~~. Existing language is shown in black font. Explanatory comments to the public are identified in *[brackets and green and italicized font]*. None of the explanatory comments will be included in the final text of the Ordinance.

TEXT OF PROPOSED AMENDMENTS

ARTICLE VI. PLANNED UNIT DEVELOPMENT AND CLUSTER HOUSING DEVELOPMENT

Division 1. Residential planned unit development and cluster housing development and non-residential planned unit development.

Sec. 102-801. Intent and purpose of article.

The intent of planned unit development and cluster housing development is to permit greater flexibility and, consequently, more creative and imaginative design for residential, commercial or industrial uses than are generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of amenities, and preservation of natural scenic qualities of open space.

(Ord. No. 28-1997, § 1001.0, 3-4-1997)

Sec. 102-802. Permitted uses; modification of standards.

In all zoning districts, the following special provisions may apply, subject to the conditions set forth in this chapter:

- (1) Any permitted use or permitted use requiring Planning Board review in an existing district where a planned unit development or cluster housing development is proposed shall be permitted as a planned unit development or cluster housing development, subject to the criteria established in this chapter, **and provided such are consistent with the definitions of cluster housing and planned development identified in Chapter 66, General Provisions.** Applications for permits for planned unit development and cluster housing

development shall be reviewed and acted upon by the Planning Board to ensure compliance with this chapter. Additional or accessory uses may be allowed upon conditions adopted by the Planning Board. However, no use shall be permitted except in conformity with specific and precise development plans pursuant to the procedural and regulatory provisions of this chapter.

- (2) Notwithstanding other provisions of this chapter relating to space, the Planning Board, in reviewing and approving proposed planned unit development or cluster housing development located in the city, may modify the provisions related to space to permit innovative approaches to building layout and environmental design in accordance with this article. This shall not be construed as granting variances to relieve hardship.

(Ord. No. 28-1997, § 1002.2, 3-4-1997)

Sec. 102-803. Fees.

Fees for permits under this article shall be established by the City Council to cover administrative costs and shall be paid upon application for the permit.

(Ord. No. 28-1997, § 1002.3, 3-4-1997)

Sec. 102-804. Criteria for approval.

Innovative approaches to planned unit development and cluster housing development design, including building layout, landscaping, and environmental concerns, shall be subject to the following criteria:

- (1) *Compliance with zoning regulations.* The purpose and intent of this chapter shall be upheld.
- (2) *Compliance with other standards.* There shall be compliance with all federal, state and local codes, rules, ordinances and regulations.
- (3) *General plan; minimum site area.* Each building shall be an element of an overall plan for site development. The area of land to be developed as a planned unit development and cluster housing development shall not be less than five acres.
- (4) *Density.* The Planning Board shall make a finding determining that the average density of the proposed planned unit development or cluster housing development located in a district with specific density limitations is not in excess of ten units per acre.
- (5) *Setbacks.* Setback standards may be waived, except along the perimeter of the development, as long as the project is in compliance with the average density and open space provisions of this chapter. Setbacks from the perimeters of planned unit development or cluster housing development must comply with setback requirements of the surrounding zoning districts.
- (6) *Open space and recreation area required.* A minimum of 20 percent of the total project area shall be reserved for recreation. A minimum of 30 percent of the total project area

shall be reserved as open space. Recreation areas may be used in meeting open space requirements. In addition to recreational uses, open space shall be used for other outdoor purposes such as preservation of large trees, tree groves, woods, ponds, streams, wetlands, glens, rock outcrops, native plant life and wildlife cover. The use of any open space may be further limited or controlled at the time of final approval where necessary to protect adjacent properties or uses. Residual open space shall be dedicated to the recreational amenity and environmental enhancement of the development and shall be recorded as such. Such dedications may include private covenants or arrangements to preserve the integrity of open spaces and their use for recreational, environmental, or conservation purposes.

- (7) *Specific design standards.* The developer shall take into consideration the following points, and shall illustrate on the plan the treatment of open spaces, paths, roads, service and parking areas and other features required in his proposal:
- a. *Aesthetics and orientation.* Buildings and other improvements shall respect scenic vistas and natural features as defined in the comprehensive plan.
 - b. *Streets.* Access from public ways, internal circulation and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, and delivery and collection services. Streets shall be laid out and constructed consistent with the provisions of chapter 98.
 - c. *Drainage.* Adequate provision shall be made for stormwater, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means (see sections 102-1123 and 102-1124 and chapter 98).
 - d. *Sewage disposal.* Adequate provision shall be made for sewage disposal. If public sewer is unavailable or inadequate, the planned unit development must utilize a private community package system designed in compliance with the state subsurface water disposal rules.
 - e. *Water supply.* Adequate provision shall be made for water for ordinary use as well as firefighting needs.
 - f. *Utilities.* All utilities shall be installed underground wherever possible. Transformer boxes, pumping stations, and meters shall be located so as not to be unsightly or hazardous to the public.
 - g. *Recreation.* Facilities shall be provided consistent with the development proposal.
 - h. *Buffering.* Planting, landscaping, disposition and form of buildings and other improvements, or fencing and screening, shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development.
 - i. *Disposition of buildings.* Disposition of buildings shall recognize the need for natural light and ventilation.
 - j. *Snow removal.* The plan shall provide for storage of snow accumulation or removal from the site.
- (8) *Recording of covenants and conditions.* For the purpose of this article, the owners of the tract or parcel of land involved shall agree in advance to be bound by the conditions and regulations which are applicable to the district and to record such covenants, easements and other provisions with the county registrar of deeds.

- (9) *Performance guarantee.* The developer shall file a performance guarantee with the city at the time of submission of final plans. This may be tendered in the form of a certified check payable to the city, a savings account passbook issued in the name of the city, or a faithful performance bond running to the city and issued by a surety company acceptable to the city. The conditions pertaining to such check, passbook or performance bond shall be determined by the city manager. The amount shall be equal to 110 percent of the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage and utilities or other improvements specified in the final plan, and shall guarantee the satisfactory completion of all specified improvements.
- (10) *Dedication of common open space.*
- a. Common open space shall be dedicated after approval of the project. There shall be no further subdivision of the land, or buildings constructed, which would cause an increase in the density of the planned unit development or cluster housing development.
 - b. The common open space shall be shown on the development plan with an appropriate notation on the face thereof to indicate that:
 1. It shall not be used for future building lots; and
 2. A part or all of the common space may, at the option of the City Council, be dedicated for operation as a municipal recreation facility.
- (11) *Neighborhood association.*
- a. If any or all of the common open space is to be reserved for use by the residents or owners, the formation and incorporation by the developer of a neighborhood association shall be required prior to final plat approval.
 - b. Covenants for mandatory membership in the association, setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot or dwelling unit.
 - c. The neighborhood association shall have the responsibility of maintaining the common open space, as well as road maintenance, parking lot maintenance, snow removal and maintenance of recreational facilities/areas.
 - d. The association shall levy charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities, road maintenance, maintenance of landscaping of buffers and landscaping noted on the final plan, and city assessments.
 - e. The developer or subdivider shall maintain control of such open space and be responsible for its maintenance until the development is sufficient to support the association, or, alternatively, the objectives of the planned unit development have been met. Such determination shall be made by the Planning Board upon request of the neighborhood association or the developer or subdivider.

Division 2. Rural affordable housing development project

Sec 102 – 815. Purpose

The goal is to support the development of small well designed and functionally efficient housing projects that will benefit persons of low and low-moderate income, and serve to increase the amount of affordable housing in Belfast. The City will encourage the development of such housing by allowing flexibility in the application of both dimensional requirements and infrastructure construction standards for such projects. Project development shall be in harmony with the natural features of the land, and serve to protect high value natural areas, preserve open space, and reduce impacts associated with managing stormwater. The intent is to allow such projects in rural oriented zoning districts, partly because the small number of housing units involved will not be incompatible with the use of such areas, and because land and development costs in such areas are often more conducive to the construction of affordable housing.

Section 102 – 816. Applicability of ordinance

A rural affordable housing development project shall be permitted in the zoning districts enumerated in Chapter 102, Zoning, Article V, District Regulations. A project may consist of a division of a property into 2 lots or dwelling units, or a subdivision of a property into 3 to 7 lots or dwelling units. An application to establish a rural affordable housing project shall comply with requirements of this Division. *[Note to public. The Maine Subdivision law defines a subdivision as the creation of 3 or more lots or dwelling units in a 5 year period. A project which splits a lot into 2 lots is generally known as a division, and such a division routinely does not require Planning Board review. In this case, however, the Board's (City's) authority to review a 2 lot division appears to be appropriate so the applicant and City has greater flexibility in applying and satisfying zoning district and similar Ordinance standards to a proposed project.]*

Section 102-817. Planning Board process to review project.

An application to establish a rural affordable housing development shall be subject to review by the Belfast Planning Board. An application will consist of a two-stage submission process; a Preliminary Plan process and a Final Plan process. Notwithstanding this requirement, the Board shall have the authority to conduct and approve the project in a single stage (combine preliminary plan and final plan) process, if the Board, in its discretion, finds that all public and project concerns can successfully be addressed in a single stage.

(a) Preliminary Plan Submission.

- (1) Sketch to Planning and Code Department.** The applicant shall informally meet with Code and Planning Department staff to present a sketch of the proposed project and to discuss City requirements.
- (2) Preliminary Plan to Planning Board.** The applicant shall submit a preliminary plan for the project to the Planning Board. The submission shall be made to the Code and

Planning Department. The application shall consist of 10 copies of all application materials. The purpose of the preliminary plan review is to provide the Board an opportunity to review the proposed layout and provide guidance to the applicant, and to determine if the proposed project has a reasonable likelihood of satisfying City requirements. The applicant submissions, at a minimum, shall include the following information:

- a. An inventory map, prepared at a scale of no greater than 1 inch equals 100 feet and preferably at a scale of 1 inch equals 40 feet, that, at a minimum, identifies the following existing features for the parcel:
 1. Boundaries of the parcel proposed to be developed, preferably a boundary survey prepared by a registered land surveyor.
 2. A contour map based at least upon U.S. Geological Survey contours and preferably at intervals of 5 feet.
 3. A soils map for the site based at least upon information from the Soils Conservation Service, and which may include more intensive soils survey information.
 4. The location and delineation of existing structures, infrastructure improvements (roads, stormwater facilities, utilities and such) and property encumbrances (easements, rights-of-way and such).
 5. The location of any physical constraints, such as but not limited to wetlands, vernal pools, floodplains, and steep slopes (greater than 15 percent).
 6. The identification and location of vegetative cover on the property and a narrative description of such cover.
 7. The location and identification of any significant areas on the site, such as but not limited to significant wildlife habitat areas, historic areas, and scenic resources.

- b. A proposed site plan for development of the parcel and the accompanying narrative descriptions referenced in this subsection. Said plan should be prepared at a scale of no greater than 1 inch equals 40 feet. The plan and accompanying narrative descriptions shall identify the following information:
 1. The location and number of proposed lots.
 2. The location of all proposed structures, including any accessory structures, and potential locations for future structures.
 3. The location of proposed building envelopes in which all structures shall be located, and a narrative that describes why such envelopes are proposed.
 4. The location of proposed roads and driveways, and a narrative that describes why this road and infrastructure lay-out is proposed and how such are consistent with standards identified in Section 102-818,(e) and (f).
 5. The location of proposed stormwater management improvements and a narrative that describes the type of improvements proposed and how such are consistent with standards identified in Section 102-818(g).
 6. The proposed location of any subsurface wastewater disposal systems, including applicable test pits, and a narrative that describes how wastewater treatment will be provided.

7. The proposed location of all drinking water services that will be provided, and a narrative that describes how a potable source of water will be provided.
 8. The proposed location of utilities, such as electric, telephone and cable, and a narrative description of the type of service proposed and how such is consistent with standards identified in Section 102-818,(j).
 9. The proposed location of all areas to retained as open space, and a narrative description of why such areas are appropriate for this site and how such are consistent with standards identified in section 102-818,(k). Further, the submitted narrative should describe how the applicant intends to permanently protect and manage such open space; reference section 102-818(l).
 10. The proposed location of any project amenities that may be proposed, such as trails or walkways, and a narrative that describes how such are appropriate for this site.
 11. The proposed location of any landscaping for the project that may be proposed, and a narrative description of how such is appropriate for this site, or why landscaping may not be needed.
 12. A narrative description of the affordable housing market which the project intends to address, how the project will be managed to ensure affordability, why this parcel was selected, and how this project is consistent with the purposes of this Ordinance and the housing policies enumerated in the Belfast Comprehensive Plan.
 13. Other information that may be required by the Board to ensure that the applicant project can satisfy requirements indentified in the Section 102-818 standards, as well as additional information which the applicant may choose to submit.
- (3) **Planning board review process.** The Code and Planning Department, within 30 days of receipt of a preliminary plan application that appears to be complete, shall schedule such application for review by the Planning Board. The preliminary plan review process shall include the following steps, however, the Board shall have the authority to determine that a formal site visit is unnecessary.
- a. The Planning Board shall conduct a public hearing regarding the Preliminary Plan application and shall review such Plan at a public meeting to determine project compliance with City requirements. The Department shall provide written notification of the meeting and hearing by first class mail to property owners located within 250 feet of the project. Such notification shall be mailed a minimum of 13 calendar days prior to the Board meeting and hearing. Written notice is required only for the first Board meeting at which a preliminary plan is reviewed.
 - b. The Department, on behalf of the Board, shall publish at least 2 times in a newspaper of local circulation, notice of the public meeting and hearing referenced in a) above. The date of publication of the first notice shall be a minimum of 7 days in advance of the meeting and hearing.
 - c. The Planning Board may schedule and conduct a site visit regarding the project, however, the Board is not required to conduct a site visit. If the Board chooses to conduct a site visit, the Department shall provide written notice to property owners

located within 250 feet of the project a minimum of 7 days in advance of the site visit. A site visit shall be considered a public meeting, however, no public testimony can be presented at a site visit.

- d. The Board shall make a finding regarding the completeness of the application and if it qualifies for approval as a preliminary plan submission. The Board shall review the criteria in 102-817(a)(2)a. and b. in making its determination, and shall consider factors identified in 102-818, Development Standards for a Rural Affordable Housing Development. Board approval of a preliminary plan authorizes the applicant to submit a final plan application. It does not allow the applicant to commence any construction activities.

(b) Final Plan Review Process

- (1) **Final Plan to Planning Board.** The applicant shall submit a final plan for the project to the Planning Board. The submission shall be made to the Code and Planning Department. The application shall consist of 10 copies of all application materials. The purpose of the final plan review is to allow the Board to review how the applicant has addressed concerns identified at the preliminary plan review and to ensure all City standards are satisfied. Applicant submissions, at a minimum, shall include the following information:

- a. A final plan map with a scale of no greater than 1 inch equals 40 feet that includes the following:
 - 1. Name of the project, project owner, and the engineer and surveyor that prepared the plan.
 - 2. The map/lot number of the property, the book and page number of property from the Waldo County Registry of Deeds and the name of the City of Belfast.
 - 3. Name of abutting property owners
 - 4. Scale, date of project, and designation of true north or magnetic north.
 - 5. Boundaries of the entire parcel and all individual lots prepared by a registered land surveyor.
 - 6. Lines, dimensions, area and designation of each proposed lot and any public or common areas within the project.
 - 7. Sufficient information to determine readily the location, bearing, and length of every lot line, street and right of way line, and boundary line.
 - 8. Name, location, width, radius of curves of all proposed and existing streets.
 - 9. Location of features, natural and man-made, affecting the project, such as water bodies, streams, wetlands, wooded areas, buildings and such.
 - 10. Location and identification of utilities such as subsurface disposal systems, wells, electric, cable, telephone.
 - 11. Identification of covenants and deed restrictions that apply to the project.
 - 12. Identification of conditions of approval that may be established by the Planning Board.
- b. Submittal of information that will enable the Board to determine applicant compliance

with standards identified in Section 102-818, including the following:

1. Submission of a stormwater management plan, prepared by a licensed civil engineer, that addresses how stormwater shall be managed. This submission is subject to review by City Engineer.
 2. Test pit logs and final designs for all proposed subsurface wastewater disposal systems.
 3. Submission of plans prepared by a licensed civil engineer that identifies construction details for any roads that may be proposed. The Board may allow the submission of plans that provide construction details for any driveway that is prepared by a party other than a licensed civil engineer.
 4. A description of how open space areas identified on the plan will be managed, including the submission of any legal documents associated with such management plan.
 5. A description of any management structure, such as a homeowners association, that may be established to manage project improvements.
 6. Evidence of the ability to provide a performance guarantee, if required, for the construction of project infrastructure.
 7. Submission of information regarding how the dwelling units that will be constructed will satisfy 'green' and energy efficiency standards.
 8. Submission of information to demonstrate that the applicant has the financial and technical ability to construct and operate the project. More specifically, the City seeks information regarding past projects which the applicant has developed and managed, and how the applicant may be involved in the management of the proposed project.
 9. Submission of information that identifies how the project will satisfy requirements of this division that the project will be managed to ensure long-term affordability.
 10. Submission of information that describes how project construction will occur, including any phasing of construction which the applicant may propose.
- (2) Planning board review process. The Code and Planning Department, within 30 days of receipt of a final plan application that appears to be complete, shall schedule such application for review by the Planning Board. The final plan shall be submitted within 6 months of Board approval of the Preliminary Plan unless the Board grants an extension. The review process shall include the following steps:
- (a) The Planning Board shall conduct a public hearing regarding the Final Plan application and shall review such Plan at a public meeting to determine project compliance with City requirements. The Department shall provide written notification of the meeting and hearing by first class mail to property owners located within 250 feet of the project. Such notification shall be mailed a minimum of 13 calendar days prior to the Board meeting and hearing. Written notice is required only for the first Board meeting at which a preliminary plan is reviewed.
 - (b) The Department, on behalf of the Board, shall publish at least 2 times in a newspaper of local circulation, notice of the public meeting and hearing referenced in (a) above.

The date of publication of the first notice shall be a minimum of 7 days in advance of the meeting and hearing.

- (c) The Board shall make a finding regarding the completeness of the application and if it qualifies for approval as a final plan. The Board shall review the criteria in 102-817(1)(a) and (b) in making its determination, and shall consider factors identified in the Section 102-818, Development Standards for a Rural Affordable Housing Development. The Board shall adopt specific Findings of Fact identifying how the project satisfies the above development standards, and in the case of a project that involves a subdivision of a property, shall find that the project satisfies requirements of Section VII of the City Subdivision Ordinance.
- (d) An applicant shall record in the Waldo County Registry of Deeds a final plan approved by the Planning Board within 90 days of its approval, or said approval shall be considered null and void.

Section 102-818. Development Standards for a Rural Affordable Housing Development

An application to establish a rural affordable housing development project shall comply with the development standards identified in this section. The planning board shall determine applicant compliance with said standards, and shall make findings in completing its review of a final plan describing why it determined the project complies with the standards. Consistent with the purposes of this division, the City has presented an applicant flexibility in the lay-out and design of a project in the interests of achieving the development of additional affordable housing. Similarly, it is recognized that the planning board may exercise latitude in the application of these standards to assist in achieving the desired goal, and that what is appropriate for one affordable housing project or site, may not be appropriate for a different affordable housing project. As such, the Board will consider the respective merits of each application, apply the standards to the specific characteristics of each site and proposed project, and determine if a proposed project can satisfy City goals and standards.

Development standards that an applicant must satisfy include the following:

- (a) *Minimum Lot Size and minimum road frontage.* Any lot which is created shall, at a minimum, satisfy the minimum lot size requirement for installation of a subsurface wastewater disposal system. It is expressly understood and expected that the Board shall allow the establishment of lots that are less in size, and potentially much less in size, and which have lesser road frontage, than normally required for a lot established in the respective zoning district. The size of each proposed lot and the amount of frontage for each lot shall be appropriate for the intended purpose. Further, the lay-out and shape of the lot shall recognize natural and topographic characteristics of the property.
- (b) *Number of dwelling units or lots.* A project shall have a minimum of 2 lots or dwelling units and no more than 7 lots or dwelling units. The City envisions these provisions applying to the development of single family dwelling units, however, an applicant may propose the development of one or more two-family dwelling units. An applicant that proposes the

development of two-family dwelling units shall demonstrate why such are appropriate for this site and project, and why the method of ownership proposed is appropriate and workable. Multi-family dwelling units are prohibited.

- (c) *Lay-out of lots and dwelling units.* The lay-out and design of the lots and dwelling units shall recognize the intended purpose of the project, the number of lots and dwelling units proposed, the natural characteristics and topography of the property, the project's location in Belfast and the characteristics of surrounding development, and to the extent practical, how to maximize the privacy afforded to each dwelling unit. The goal is to establish a development that is well suited for the property and its location.
- (d) *Structure Setbacks and Building Envelopes.* Consistent with the purposes of this division, the Planning Board shall have the authority to allow lesser structure setbacks than apply to the respective zoning district in which the project is located. The applicant shall be responsible for identifying the setbacks of all structures proposed and shall identify building envelopes in which all proposed and future development can occur. The Board shall determine if the structure setbacks proposed are appropriate for this project, and shall consider factors such the natural characteristics of the property, the project's orientation to the main road, the size and shape of the proposed lots, the desire for privacy between the dwelling units in the project and dwelling units and development on surrounding properties, and the amount of future development that could occur on the proposed lots.
- (e) *Site circulation, road construction and traffic impact assessment.* The applicant must examine how traffic will safely enter and exit the site, and how internal site circulation will be provided for the project. The goal is to serve all project development by a single point of access onto the adjacent existing street, however, this does not preclude the Board from approving more than one point of access. In the case of two lot divisions, a common driveway is desired.

It is expressly understood that the Board may allow the construction of driveways and roads that are of lesser standard than those specified in Chapter 98, Technical Standards. This approach is permitted because of the few number of dwelling units and minor amount of traffic which such a project may generate, and because narrower roads allow a better project lay-out and design and often encourage lower traffic speeds. The Board shall use the following standards as guidelines in determining the appropriate construction standard for the access driveway:

1. An access road that serves 3 or more lots shall have a minimum travel width of 16 feet width a minimum width shoulder of 2 feet.
2. The access road may be paved or may remain a gravel surface. In general, roads greater than 500 feet in length should be paved. The Board will consider the number of lots and characteristics of the road in determining if the road should be paved or remain gravel. If the Board allows a road to remain a gravel surface, a minimum of the initial 25 feet of the road that connects to the adjacent street, including the full extent of the road radius, shall be paved.
3. If a turn-around is required at the end of the road, the turn-around may be a hammerhead rather than a cul-de-sac.

4. Lay-out of the road shall satisfy project needs and shall conform with existing topography and natural features of the site to the greatest extent practical. The City strongly discourages any road grade to be greater than 8 percent. The City also requires that the grade of the point of access (as measured from the edge of the existing road) onto the existing street be no greater than 3 percent for the initial 75 feet of the access road.
- (f) *Driveway Construction and Location.* Driveways that serve the individual house lots shall be a minimum of 12 feet in width and no greater than 14 feet in width, may be of a gravel surface, and shall provide an opportunity for all parked vehicles to turn-around on the lot. Further, all private driveways shall be accessed via the road constructed for the project, and shall not enter directly onto the existing adjacent street, unless the Board finds that there is no practical alternative to allowing a private driveway access onto the adjacent street.
- (g) *Stormwater Management.* An applicant shall demonstrate how stormwater generated from project development will be effectively managed. The City encourages proposed development to use management approaches that are consistent with the low impact development practices identified in the Maine State Planning Office manual ‘LID Guidance Manual for Maine Communities’. The goal is to use a site’s natural topography, particularly vegetated buffer areas, to assist in managing stormwater, rather than encouraging the construction of major on-site stormwater detention or retention facilities. The Planning Board, in its review of a project, shall recognize that the goal is to ensure that post development stormwater flows shall be no greater than predevelopment flows, which is consistent with the stormwater requirement in the Chapter 98, Technical Standards, however, the methods of managing stormwater may vary from those identified in these referenced standards. Further, the Board shall consider methods the applicant will use to address stormwater quality in addition to the volume and peak flow of stormwater. The Board also will consider how stormwater generated on this site may impact existing public and private stormwater facilities in the area; particularly facilities on the adjacent street.
- (h) *Wastewater Disposal.* The City anticipates that a proposed project will rely upon individual or common subsurface wastewater disposal systems to manage wastewater. The applicant must demonstrate that the subsurface wastewater disposal systems will comply with all state requirements, and that the location of any subsurface system will accommodate the proposed development, including not adversely affecting the development of other lots in this subdivision or development of adjacent properties. If one or more common wastewater disposal systems are proposed, the applicant shall demonstrate why such is appropriate for this project and how such systems will be maintained.
- (i) *Potable Water.* The applicant shall demonstrate how a potable source of water shall be provided for each of the proposed dwelling units.
- (j) *Utilities.* The City prefers that all utilities be installed underground, however, the Planning Board can allow above ground utilities if it deems that such are appropriate for the project because of the characteristics of the proposed site and surrounding development. If above ground utilities are allowed, the City prefers that the connections to the individual housing units be installed underground.

(k) *Provision of Open Space.* A rural affordable housing development shall provide a minimum of 30 percent, and if possible 50 percent, of the proposed development as permanently protected open space. The open space areas that are proposed shall consider and include lands that serve purposes such but not limited to the following: the preservation or protection of natural features such as but not limited to streams, wetlands, wildlife habitat, and steep slopes; vegetated buffer areas between the proposed development and neighboring development and roads; preservation of existing agricultural uses; preservation of scenic views; preservation of cultural features that are part of a rural landscape such as stonewalls and significant trees; and establishing areas that provide opportunities for active and passive recreation, such as trails and linkages to trail systems located off the property. The Board, in considering the open space area that is proposed, shall consider factors such as but not limited to: the contiguity of the open space areas, both on this property and off-site; the quality of the proposed open space and its intended purpose; the size and location of the project; any facility improvements that are proposed, such as the construction of a trail; and how the open space area will benefit the project and the community.

(l) *Open Space Ownership, Use and Maintenance.* The applicant must identify how the proposed open space areas will be owned and maintained, and how such open space areas can be used. The Planning Board will review the applicant proposal and determine if it is consistent with the following guidelines:

1. Open space areas must be clearly designated on the approved plan with the following notation: “designated open space shall not be further subdivided or used for future building lots”.
2. Parties who can use the open space areas must be identified. For example, is use restricted to persons within the project, or can other parties also use the open space areas.
3. The type of uses which are appropriate for the open space areas must be identified. For example, passive recreation, agriculture, preservation of a vegetated buffer which entails a limitation on the removal of vegetation, or maintaining a scenic view in which it may be appropriate to encourage the regular maintenance of vegetation or to prevent planting certain vegetation.
4. How the open space areas will be owned must be identified and approved by the Board. Options for the ownership of the open space lands typically will include one or more of the following approaches:
 - a. Dedication of the open space to the City of Belfast or a suitable land trust if either is willing to accept the open space area.
 - b. Dedication of development rights of open space to a suitable land trust or a state agency with ownership by a private individual or homeowners association.
 - c. Ownership of the open space by a homeowners association which assumes full responsibility for its preservation and maintenance. This approach typically shall involve protective deed restrictions.
 - d. Ownership of the open space by a private individual, such as the owner of a respective lot, with open space protection deed restrictions enforceable by any land owner within the project and enforceable by the City, likely through the Code Enforcement Officer.
5. How the open space areas will be managed and maintained must be identified and

approved by the Board. This includes identifying how any funds that are needed to carry-out the management and maintenance responsibilities will be raised and administered, and the key elements of the management plan must be enumerated.

- (m) *Management of Construction activities.* The Board shall review and determine the appropriateness of the applicant's proposed construction schedule and how the applicant proposes to effectively manage potential adverse noise, dust, fume, vapor, gas, odor and similar noxious impacts on surrounding uses and properties during project construction. The City recognizes that some degree of noxious impact likely is unavoidable. Further, the Board shall consider the appropriateness of any project phased construction schedule that is presented.
- (n) *Technical and financial ability of applicant.* The applicant shall demonstrate that they have the financial and technical ability to develop the site in a good quality manner. The Board shall determine if the applicant has adequate resources to construct and manage the project. The Board specifically will consider the applicant's experience in constructing and operating projects that are intended to provide affordable housing.
- (o) *Maintaining Long Term Affordability Concerns.* Persons who purchase or occupy dwelling units located in a rural affordable housing development must satisfy applicable income guidelines; reference Chapter 66, General Provisions, which includes a definition of a rural affordable housing development. The City requires that any dwelling unit approved through this type of development be restricted to use as affordable housing for a minimum period of 10 years and preferably longer. The applicant must identify the method proposed to ensure the affordability of the units (reference final plan submissions), and the Board shall determine if the method proposed satisfies the City's intent to encourage the provision of housing units to persons who satisfy the City's established income guidelines. For example, the method may involve deed restrictions on the sale of the unit, and such restrictions would limit when a unit could be sold, who receives proceeds from the sale, and to whom the dwelling unit/property could be sold. This is a critical issue.
- (p) *Management Structure.* The proposed project likely will involve the construction and maintenance of common infrastructure, such as roads and stormwater facilities, and potentially commonly owned open space areas. The applicant shall identify an acceptable approach to manage such infrastructure and the Board shall determine if this methodology is appropriate. The management structure may involve approaches such as but not limited to the establishment of a homeowner's association, use of deed covenants, or authorizing the City to enforce mutual agreements. In reviewing the appropriateness of the proposed management structure, the Board shall consider the scope of management responsibilities, the extent of facilities that will be managed, and the ability of the property owners or organization to perform identified responsibilities. It is noted that the City is unlikely to accept the project infrastructure that is constructed as City facilities, particularly because such improvements likely will be constructed to standards that are less than those typically required by the City for City acceptance. As such, the property owners likely will be responsible for the long-term maintenance of such facilities.
- (q) *Performance Guarantee.* The applicant must provide a performance guarantee equal to 120

percent of the cost to construct project infrastructure, and the Board shall determine the appropriateness of the method of performance guarantee proposed. Options that the applicant may propose and that the Board may require generally shall consist of one or more of the following:

1. An irrevocable letter of credit payable to the City of Belfast.
2. A performance bond.
3. An escrow account in which funds are on deposit with the City of Belfast or are on deposit with a financial institution and the City controls the distribution and payment on funds in this account.
4. Limitations on the issuance of occupancy permits until project infrastructure is completed.

(r) **Building Construction Standards and Energy Efficiency.** The City recognizes that amount of energy use and the cost of energy is a significant factor in supporting the long-term affordability of dwelling units that are constructed. Applicants shall address how the units constructed comply with the Maine State Housing Authority Green Building Standards dated August 2005 or similar standards which the applicant may propose that the Board deems acceptable. The goal is to ensure the construction of units that incorporate construction standards and materials that recognize energy efficiency.

(s) *Other concerns.* The applicant shall demonstrate how snow will be plowed and stored, how fire protection concerns are addressed, and similar operational concerns. The Board will determine if the applicant has successfully addressed such issues.

Section 102-819. Appeal of Decision.

An administrative appeal of a decision issued by the planning board shall be filed and acted upon in accordance with provisions of Chapter 102, Zoning, Article II, Administration, Division 4, Appeals and Variances. An applicant, however, cannot seek a dimensional variance from any provision in this division.