

Summary of zoning alternatives used by municipalities as food-for-thought for farmland/open space/corridor protection efforts in other communities (compiled as part of Essex, Ipswich and Littleton project funded under the District Local Technical Assistance program)

Materials prepared by Metropolitan Area Planning Council for GreenActon Meeting: 3/22/11

The Metropolitan Area Planning Council (MAPC) is undertaking a project with the communities of Essex, Ipswich and Littleton to provide zoning and other recommendations to promote farmland/scenic view corridor protection efforts a District Local Technical Assistance project to be completed by December 2010. The following materials are some of those researched that appear to have the most relevance for other communities.

Corridor Protection or similar bylaws:

Topsfield Scenic Overlay District: Corridor preservation

Establishes district 1000 feet east and west of centerline of Route 1. Bylaw applies to all construction except additions to Single Family dwellings. Bylaw establishes a minimum 100' setback from Route 1, within which all large trees are to remain and additional landscaping/screening is to be established if new structures would be visible from Route 1 (note that this applies to all lots: existing, subdivision or ANR). Larger developments such as subdivisions would be subject to the bylaw provisions such as "All construction shall be located to the extent possible behind natural elevations and vegetated areas of the property so that it is not visible from Route 1".

Ipswich Open Space Preservation (Cluster)

Any development of greater than 6 or more dwellings or 4 or more acres must submit a cluster proposal, and if they choose, a conventional plan. Base cluster density is equal to conventional density, but bonuses for additional open space or increased affordable units can yield as much as 2 times base density. Conventional development requires 2-acre lots (note that zoning was changed from 1-acre density in order to promote cluster, which, using bonuses, could return to near 1-acre density). Because of the incentive to save acreage for inclusion in the cluster, where the potential density per acre is higher, most developers forgo undertaking the ANR lots.

Ipswich Green Space Preservation Development District

An overlay district that enables development of professional business offices and services in a residential district, subject to requirements for minimum 50% open space, minimum 100-foot naturally vegetated buffer to all streets and abutting lots, minimum 250-foot setback of structures from frontage street, maximum 30% impervious cover. Square footage of commercial space is set at 3000 square feet times the number of building lots that could be built on the site, plus a potential bonus for additional open space above the 50% required, but with a maximum FAR of .1. Septic system may be located in preserved open space area.

Littleton- proposed cluster development bonus density

Proposed additions to the cluster bylaw provisions in Littleton would provide additional incentives for protection of roadside corridors as well as protection of active agricultural lands. A density bonus would be established in the cluster bylaw for protection of agricultural roadside areas that could have been developed via ANR divisions prior to being included in the cluster subdivision open space. See page 4 for draft language.

Wilbraham Ridgeline and Hillside Overlay District: scenic view protection

Establishes all lands over 550 foot elevation as a special overlay district, where all developments (building permit, subdivisions, special permits) are subject to site plan review by the Ridgeline and Hillside District Review Board. Criteria and standards are established so that developments “blend harmoniously with the natural terrain and vegetation in order to preserve and protect the scenic character and the environmental quality of the site”. Does not appear to have an impact on ANRs.

-

Amherst Farmland Conservation District

The bylaw requires that residential developments under subdivision control law shall be submitted as cluster developments that protect the maximum feasible amount of permanently preserved farmland while also allowing for usable open space for active and passive recreation for the residents.

Although the district does not include road frontage (and therefore appears to “give up on” ANR divisions), the bylaw states that “every reasonable effort shall be made to maintain views of open agricultural fields from nearby public ways.

Town of Falmouth Habitat Protection Overlay Bylaw:

Establishes a Wildlife Habitat Overlay District, within which all divisions of land greater than 5 or 20 acres (depending upon zoning district) must preserve (by donation to non-profit or town or under a conservation restriction) a 300-foot-wide contiguous corridor that connects with such corridors or prospective corridors on adjacent land, for the purpose of allowing wildlife migration. Natural Resource Department makes recommendation to permit reviewing agency. Planning Board promotes cluster subdivisions where appropriate. Bylaw states that it covers “All subdivisions or divisions of land”, but it is not clear how it impacts ANR developments.

Town of Bolton Bylaws

The Town of Bolton zoning defines any development of a parcel over 15 acres that results in more than 6 lots over 5 years (even if these are not part of the same development plan) as Major Residential Developments. Piecemeal developments of a large tract of land would trigger this provision once the 6th lot is reached. Any Major Residential Development is only allowed through a Farmland and Open Space Planned Residential Development, which lowers the minimum lot size to 40,000 square feet but still maintains an 80,000 square foot density, and which requires a minimum of 33% open space as a component of the cluster plan.

Transfer of Development Rights bylaws used to protect open space:

Westfield Transfer of Development Rights bylaw: Residential to Commercial transfers

Allows for transfer of residential development rights to business district (at a conversion rate of 1 dwelling unit yielding 2000 square feet of commercial space); also allows for increase in height limits and increase in percent lot coverage beyond base commercial regulations in order to allow for additional space resulting from TDR. Receiving area must have municipal water and sewer service.

Hadley Transfer of Development Rights bylaw: includes Alternative Method of Transactions

Emphasis here is on farmland preservation. Each acre of developable farmland that is preserved can be converted to 2000 square feet of commercial or industrial floor area, and a reduction in parking requirements, and an increase in allowable lot coverage for structures (there is no change to height limits). The bylaw also includes an Alternative Method for Transactions which consists of a payment to the town (to be used for later purchase of development rights on farmland) that is based upon the average value of purchased rights in the town in the past 3 years.

Hatfield Transfer of Development Rights: Using cash as TDR currency

Promotes transfer from agricultural areas to commercial and industrial areas where 1 development right converts to 2000 square feet of commercial/industrial development plus an increase in allowable percent building coverage. However, all transfers are by way of cash payment to the town, with the development right value based on per-acre assessed values of improved versus unimproved residential lands (with funds to be used by the town to purchase development rights).

Sunderland Special Resource Districts and TDR:

Agricultural, Critical Resource and Watershed Districts are included in the special resource districts. All new structures and all major residential developments are allowed only by special permit from the Planning Board. Submittals for major residential developments (defined as creation of 6 or more lots by subdivision or not) must include basic and alternative plans, one of which must be a flexible development proposal (cluster). Special Permits are granted if developments protect agricultural activity, scenic views, habitats, and fragile environmental resources. If this cannot be done the Board “may grant a special permit only upon the determination that nondevelopment alternatives for utilization of the site have been reasonably pursued and found to be infeasible, including transfer of development rights or sale of land or rights to other organizations having land preservation purposes”. Development rights may be transferred out of these resource districts to developments elsewhere in town, where the developments may be increased in scale by a factor of 2.

Town of Framingham: Increased density through mitigation payments (cash for TDR)

Within specific Highway Corridor Overlay Districts where the town wishes to promote increased development, the town has set a base floor area ratio (FAR) of .32, but allows special permits for approval of structures with a greater floor area ratio (up to .5 FAR). There are several options for the developers to provide a “public benefit amenity” including the contribution of cash payments that can enable the community to purchase open space outside of the development area (these funds can also be used for pedestrian pathways or traffic mitigation measures). The required contribution for increased density is \$22 per each square foot of extra space proposed above the .32 FAR up to .40 FAR, and up to \$32 per square foot of additional space up to .50FAR.

Bylaw concepts to maintain viability of agricultural activities

Town of Littleton – proposed bylaw amendment to allow for expansion of uses permitted by special permit in agricultural areas within residential zones. See Page 5 for draft language. Note that a similar bylaw is already in effect in Bolton.

Littleton: Proposed Change zoning bylaw so that the following would apply throughout town (current as of 3/21/11):

To see if the Town will vote to amend the Zoning By-Law of the Town of Littleton as follows:

1. Amend §173-104.A by inserting a reference to Subsection E, so that the first sentence begins “Except as modified by Subsections B, C and E below,”
2. Insert a new §173-104.E, as follows:
 - E. The number of dwelling units that may be constructed in an Open Space Development may be increased by the Planning Board if it finds that the developer has incorporated into the Open Space Development significant areas of scenic woodland or agricultural lands along public road frontage that may otherwise have been developed into “Approval Not Required” (ANR) lots prior to the submittal of the Open Space Development, and if the Planning Board finds that the proposed Open Space Development protects this significant roadway frontage in the open space to be protected in perpetuity under the provisions of the Open Space Development bylaw. The number of dwelling units to be added to the calculation in Subsection A shall not exceed two times the number of ANR lots that could have been developed prior to the submittal of the Open Space Development, but that are instead included in the protected open space area.

; or to take any other action in relation thereto.

[Note that the purpose of this language is to provide an incentive for developers to not establish ANR lots prior to filing their full subdivision, by giving a density bonus for preservation of road frontage areas.]

Littleton: Change zoning bylaw so that the following would apply throughout town (current as of 3/21/11)

To see if the Town will vote to amend the Zoning By-Law of the Town of Littleton as follows:

1. Amend the Use Regulations Schedule set forth in §176-26.B by inserting, immediately below the row labeled “Roadside stands (agricultural)” a new row as follows:

	R	VC	B	IA	IB
Accessory Business Uses at Active Farms (See § 173-57)	P	P	P	P	P

2. Insert a new §173-57, as follows:

§173-57. Accessory Business Uses at Active Farms

A. The Town of Littleton finds that in order to protect and preserve the agricultural, horticultural, viticultural or floricultural lands (hereafter “agricultural uses”), to protect and preserve natural resources, and to maintain land in active agricultural uses, it is necessary to enable the owners of said lands that are in active agricultural use to conduct, in addition to any primary or accessory use subject to the protection of *M.G.L. c.40A, §3, par. 1*, certain other appropriate accessory business uses to supplement the income from said agricultural uses.

The Planning Board, by special permit, may grant approval for the following accessory business uses at active farms on contiguous farmland parcels in excess of 5 acres:

- Veterinarians’ office.
- Agricultural equipment and supply dealers.
- Custom farm providers.
- Feed milling and delivery.
- Facilities for hosting or staging of revenue-generating events, tours, weddings, and functions which are appropriate in scale to the premises and any surrounding residential area, including the preparation and serving of food and beverages for such events, provided that the facilities are primarily outside or under an open shelter and shall be operated seasonally.
- Small-scale abattoir/meat processing facilities.
- Facilities for the production and sale of farm-related products, such as but not limited to cider, baked goods, butter, wine, cheeses, or ice cream, whether or not the farm is the main source of the raw materials used in the farm products, provided that the facilities and associated parking shall not occupy more than 10% of the total farm area.
- Farm stand restaurants designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area; provided that the facilities and parking for the farm stand restaurant, and the associated farm stand, shall not occupy more than 10% of the total farm area.
- Animal boarding facilities for the boarding of up to 50 animals other than those stabled, raised, or kept onsite in connection with the primary agricultural use.
- Farm implement and similar heavy machinery repair services, such as a welding operation, blacksmith shop, etc. that the farm operator would normally undertake in maintenance of machinery for his/her own farm.
- Subsurface disposal of septic effluent from nearby or adjacent residential or commercial facilities, or municipal waste water treatment facility, provided that the surface of any such area shall be placed under a conservation or agricultural preservation restriction.

B. The Planning Board may set conditions such as hours of operation, number of employees, or other conditions that they deem appropriate when granting a special permit pursuant to this section. In order to maintain agriculture as the primary use for the property, the uses provided for herein (excluding those uses for which a specific maximum is provided above), and any associated parking, shall occupy no more than 5% of the land area of the farm parcel(s). The Planning Board may require that the special permit, including all conditions, be recorded at the Registry of Deeds. The special permit shall recite the circumstances under which the special permit is being granted (e.g. the amount of land area in active agricultural use, the nature of the primary agricultural use, etc.) and shall include a condition requiring that the given circumstances continue to exist.

C. Decision Criteria: Special Permits for accessory business uses at active farms shall be granted only if the Planning Board determines that the criteria of Section 173-7C are met, after consideration of the following:

1. Roads, water and drainage facilities are existing, or as committed by the applicant to be improved, and their ability to serve this proposal adequately and safely without material deterioration in service to other locations.
2. Degree of assurance that no planned process or unplanned contingency will result in undue hazard or contamination of air, land, or water resources.
3. Visual compatibility with the vicinity, including consideration of site arrangement, consistency in architectural scale (or reasonability of departure), retention of existing site features, especially trees, and architectural character.
4. Degree of threat to environmental resources, including loss of valuable trees and other vegetation, disturbance to habitats, and soil loss through erosion.
5. Buffering and screening from any nearby uses of different character.
6. Retaining prime or important agricultural soils in active production.

Specific uses that are prohibited on residentially zoned agricultural lands include:

- Gas stations or retail or wholesale fuel storage or delivery.
- Retail Stores such as drug, department, hardware, and clothing stores.
- Manufacture of non-agricultural products.

D. This section does not preclude a landowner from applying for other permits for Extensive Recreational uses of the agricultural lands that are not incompatible with the seasonal agricultural uses of the agricultural lands.

E. This section is not intended to, and does not, impact the ability of the landowner to undertake any use or construct any structure allowed by right under local zoning, *M.G.L. c.40A, §3*, first par. and/or state definitions related to agriculture.

Or take any other action in relation thereto.