

1. Unless waived within a Cluster Residential Special Permit, the CAD shall at not time be used to satisfy frontage requirements under the zoning ordinance;
  2. The CAD shall at not time become the responsibility or liability of the Town of Amesbury;
  3. Each landowner served by the CAD shall be liable and responsible in whole for the repair and maintenance of any portion of the CAD to which they have the exclusive Right-of-way, such as a spur serving solely one parcel;
  4. Each landowner served by the CAD shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the CAD to which more than one landowner holds a right-of-way.
- h. A covenant shall be entered into between the owner or developer and the Town in a form acceptable to the Planning Board prohibiting the issuance of an occupancy permit until such time as the CAD has been constructed in accordance with the approved plan.

3. Design Standards

Proposed CAD shall comply with the Design Standards listed in Section 7.09.K of the Amesbury Subdivision Rules and Regulations.

**P. Establishment of Neighborhood Conservation Districts:**

**1. Purpose:**

The Amesbury Municipal Council finds it necessary to enact this article under MGL 40A Section 5 for the following purposes:

1. to preserve, conserve and protect the beauty and heritage of the Twn to improve the quality of its neighborhoods through identification, conservation and maintenance of areas, sites and structures which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the Town;
2. to prevent adverse influences to this purpose;
3. to foster appropriate use and wider public knowledge and appreciation of such neighborhoods, areas or structures; and by furthering these purposes to promote the public welfare by making the Town a more attractive and desirable place in which to live and work;
4. to encourage consideration of the recommendations of the Amesbury Preservation Plan;
5. to encourage attractive and viable development projects within Amesbury’s neighborhoods.

To achieve these purposes, the Town may designate neighborhood conservation districts to be administered as set forth in Section XI.P.

**2. Definition:**

Neighborhood Conservation Districts (NCD): A NCD is established to preserve, conserve and protect the health, safety, economic, cultural and general welfare of the public by encouraging the conservation and enhancement of Amesbury's neighborhood resources. It is an overlay district shown on the Neighborhood Conservation District Map, as described in Section XI.P.8. A NCD is focussed on protecting the quality of life within the neighborhood by encouraging design that is complementary to the cultural, historic and environmental resources of the area. A NCD is intended to create a neighborhood of stability, comfort, local identity, and livability.

### **3. Designation of a Neighborhood Conservation District (NCD):**

The designation of a NCD is intended to accommodate unique land use, urban design, and other distinctive characteristics of a neighborhood and encourage flexible but consistent design review for new construction, including all additions, alterations or extensions.

Pursuant to Section III.E. of the Amesbury Zoning Bylaws, a NCD may be nominated to the Municipal Council by the Mayor, a member of the Municipal Council, a majority of the Planning Board, or 150 registered voters. A nomination of a NCD to the Municipal Council is forwarded to the Planning Board for a public hearing within forty-five (45) days of filing the request or petition. Included in the application for designation, the Applicant shall submit a list of all property owners, map of the proposed NCD, a detailed narrative report on the specific cultural, historic and environmental significance of the proposed NCD, as well as support signatures of at least 51% of the property owners within the proposed NCD.

Prior to the public hearing, the Planning Board shall transmit copies of the application and report to the Design Review Committee, Historic Commission, and the Office of Community and Economic Development for its considerations and comments. At the hearing the Planning Board, by a majority vote, may approve any NCD it determines to be eligible based on the criteria listed in XI.P.4. Upon approval of the application, the Planning Board shall submit a final report to the Municipal Council. Upon eligibility determined by the Planning Board, final designation of a NCD shall be by order of a two-thirds vote of the Municipal Council.

### **4. Eligibility Procedures:**

An area may be designated eligible for a conservation district if the Planning Board determines that it possesses form, character and visual qualities derived from a combination of topography, vegetation, land use, scenic quality, architecture, historic features, or places of natural and cultural significance that create a unique neighborhood identity. Importantly, in the instance where many

small neighborhoods may be collectively defined by the criteria listed below, a NCD may represent a group of neighborhoods in order to better organize neighborhood planning efforts. Moreover, these larger areas may enhance the Town's capital improvement planning, coordinate housing rehabilitation programs as well as to focus land use & zoning efforts at the neighborhood scale.

In assessing the eligibility of a NCD, the Planning Board should consider whether the proposed NCD's is strongly associated with at least two (2) of the following:

- 1) importantly associated with one or more historic persons or events, or with the architectural, aesthetic, cultural, political, economic, or social history of Amesbury or the Commonwealth or;
- 2) historically or architecturally significant (in terms of period, style, method of construction) either by itself or within the context of a group of structures;
- 3) distinctive natural resources such as lakes, ponds & wetland areas that represent significant land use, recreational or environmental elements for the area.

## **5. Special Permit Review Procedures:**

Following the acceptance of a designated NCD, an Applicant or property owner may request a Special Permit issued from the Planning Board (hereafter "Board") seeking any of the following:

- a. A reduction up to 50% in front, side or rear yard setbacks (as listed in Section VI.B) to complement the existing neighborhood setbacks to protect sensitive cultural, historic or natural resources;
- b. Any waiver of the Design Standards required in the Amesbury Subdivision Rules and Regulations;
- c. A reduction of the Minimum Open Space required to 30% within an Industrial District if adjoining land within the tract is dedicated for a stated public purpose such as a park, greenway or conservation area within the Neighborhood Conservation District;
- d. A waiver from dimensional requirements within the Water Resources Protection District (as listed in Section XV) provided all of the following:

- Minimum Lot Area: The total area of the property shall be at least 5 acres;
- Conservation Restriction: A permanent, deeded Conservation Restriction is placed on an area of at least 75% of the property and: it includes at least the first 400 feet from the mean high annual high water mark or upper boundary of the bank, whichever is the lower elevation, of the Powow River and Tuxbury Pond, and at least the first 200 feet from the mean high annual high water mark or upper boundary of the bank, whichever is the lower elevation, of Meadowbrook Pond and Lake Attitash; it includes any and all wetlands or tributaries associated with the WRPD; no disturbance as defined under Section XV.C is permitted within this area; and a management, ownership and

use plan is submitted that is consistent with the purposes of the WRPD. The remaining 25% of the property shall represent the developable area.

- Disturbance: The area of disturbance, as defined under the Section XV.C. of the WRPD, including stormwater management systems, is not permitted outside the developable area of the property.
- Impervious Area: Including roadways, utilities and other infrastructures, no more than 15% of the total developable area shall be impervious with not more than 1500 SF of impervious area permitted per lot for single family structures, of 15% of the total developable area for attached family structures;
- Wetlands & Floodplains: No wetlands (as defined by MGL Chapter 131, Section 40) or floodplain alterations are permitted;
- Other: All other provisions of the WRPD shall apply;

1) A Common Access Driveway, CAD, (Section XI.O) to be used to satisfy zoning frontage requirements provided the following:

- Density Requirements: The overall density of the development within the NCD shall not exceed 1 unit per 40,000 SF in the R-8 & R-20 Zoning Districts and the minimum lot area listed in Section VI.B for all other Zoning Districts. Note, the Board may also grant a bonus lot, not included in the density requirement, for the purpose of establishing a building lot to be used as affordable housing unit as defined under Section V.E or for use as a historic preservation lot as described under Section V.E:
- Dimensional Requirements: The dimensional requirements of the proposed lots shall be in conformance with Section XI.D.6;
- Open Space: A permanent Conservation Restriction shall be placed on an area located within the NCD of not less than 75% of the area used for development. Note, coterminous Conservation areas are desired but not required for the development. In instances where public access and/or ownership may be desirable to the neighborhood, the Board may require conveyance of the open space as a condition of the Special Permit. Unless determined otherwise by the Board, the area designated for conservation purposes shall; not contain more than 50% wetlands, floodplains or slopes greater than 20%; shall be restricted to passive recreational uses; and shall be maintained in its natural state with open access to the neighborhood or general public;
- Alterations or Extension of CAD: No extensions or further residential development is permitted along the CAD unless permitted by the Board under the full provisions of the Amesbury Subdivision Rules and Regulations;
- Design Standards: All other provisions of XI.O shall be in required with the issuance of the Special Permit.

Upon request of the Special Permit, no application for a building permit for new construction, including additions, alterations or extensions, shall be granted until reviewed by the Planning Board, including advisory review by the Design Review Committee, under Section X.J. & M., XI.C.6.d. and the Amesbury Design Guidelines. All uses allowed in the underlying zoning district are permitted

within the NCD. Upon completing the design review, the DRC will forward its recommendations to the Planning Board for final approval within sixty (60) days of the public hearing.

**6. Factors Considered by the DRC:**

The DRC shall review all new construction as it affects the overall character of the neighborhood. For example, exterior architectural features such as roof lines, building placement and massing, setbacks and other site features. Refer to Section II & III of the Amesbury's Design Guidelines and XI.C.6.d. of the Amesbury Zoning Bylaws for specific review guidelines. Accordingly, the Applicant shall submit the following application requirements:

- 6.1. If existing structures are located on the property, a plot plan, scale 1" = 20 feet, of the existing site, including a dimensional footprint of all existing buildings, parking areas and driveways shall be shown.
- 6.2. A plot plan, scale 1" = 20 feet, of all proposed construction, parking and driveways, fence lines & landscaping. Indicate the removal of mature trees.
- 6.3. Exterior building elevations for the front and sideyards, including building and roof materials, height, colors, and window treatments.

After advisory review, the DRC shall forward its recommendations to the Planning Board as a technical report on the suitability of the proposed project.

**7. Special Permit Appeal Procedure:**

Any appeal to a final decision of the Planning Board may be appealed to the Zoning Board of Appeals as outlined under Section X.H., I. & J. of the Amesbury Zoning Bylaws.

**8. Brown Hill Neighborhood Conservation District & Map:**

**Identification of Neighborhood Resources:**

On Thursday January 10, 2002 nearly thirty (30) residents from the Brown Hill area participated in a workshop and discussion of neighborhood planning issues. Initially, groups of five to six residents were divided into groups and provided assessors maps of the neighborhood as well as colored markers. Using the markers, the groups were asked to identify positive, negative and threatening attributes of their neighborhood. After completing the exercise, the groups then selected a representative to present their findings and a recorded a composite list as follows:

**Positive Attributes:**

- Scenic views from Atlantic, Bay and Dewey St.
- Safe place for kids
- Wooded area behind Bay and Dewey St.
- Street trees along public way
- Stone wall along Norwood St.
- Rural feeling due to open space
- Historic house at Elm and Monroe St. (Kray House)
- Dead-end streets
- Proximity new Riverwalk project & Powderhouse park
- Views of Merrimack River and Whittier Bridge
- Sunsets and sunrise
- Low traffic flow
- No sidewalks

**Negative Attributes:**

- Bay St. access, radius, and steep grade as well as maintenance
- Dead-end streets -one access point to Bay and Dewey St.
- Lack of turnaround on Bay and Dewey St.
- Dead and dying street trees
- Bus stop
- Traffic hazards
- Madison & Monroe intersection
- Grades on Bay and Atlantic St.

**Needs / Desires:**

- Sidewalks
- Intersection improvements at Bay St.
- Better maintenance of Bay St. in inclement weather
- Greenway connections to Collins St. Park
- Secondary access to hilltop
- Street Tree maintenance and new trees
- Do not connect Bay St. to Wood Ave.
- Preserve the “Kray House”
- Preserve the wooded area behind Dewey and Bay St.

In summary, residents that participated in the mapping exercise seemed clear in their desire to preserve as much of the remaining open space within the neighborhood as possible. Additionally, they also expressed a clear desire to improve the hazardous Bay /Elm St. Intersection. In contrast, while most residents residing on Bay and Dewey St. disliked the existing access at Bay St., there is no consensus as to whether a secondary access road would improve the quality of life of the hilltop neighborhood. This is probably due to the understanding of most residents that the rural and isolated feeling of living on the hilltop is largely due to the dead-end streets. Other than the preservation of open space and improving the access, the residents generally agreed on the issues of tree planting and road maintenance.

## **Land Use Regulations and Smart Growth:**

After identifying these attributes, the neighbor residents met on Thursday March 7th, 2002 to participate in a discussion of the existing zoning regulations. Included in the discussion, the Town Planner, Nicholas Cracknell, presented an overview of the land development patterns of the Brown Hill neighborhood since 1900, and the incremental change that has occurred over this period. For example, in 1953 nearly 50 percent (25 acres) of the 52 acre neighborhood was undeveloped open space. In contrast, by 1988 this area was reduced to less than 19 acres and now stands at less than 15 acres in 2002.

Since 1953 the housing density in this neighborhood has increased nearly two fold with most development being single family residential use. Understanding the zoning of this district is currently R-8, residential requiring 8000 SF lots, the remaining open space would conservatively support over twenty new single family homes, along with the required road and drainage systems. Interestingly, the neighborhood currently houses the nonconforming “Madison Arms” multifamily structure that contains 18 units on less than 18000 SF. Thus, it remains a possibility that a developer may submit a comprehensive permit within the open space to construct many more units than the zoning currently permits.

Generally speaking, neighborhood residents felt that while some small-scale limited development was probably in the future, any large scale developments would require extensive land acquisition as well as infrastructure repairs. In any case, preservation of the open space and rural character of the neighborhood was imperative to keeping Brown Hill as a “great place to live”.

## **Neighborhood Conservation District:**

As articulated by the majority of residents who participated in the two meetings, preserving the unique cultural, historic and environmental characteristics of the Brown Hill neighborhood was essential to preserving their unique quality of life. Accordingly, the concept of establishing a Neighborhood Conservation District, NCD, was discussed at the February 7th meeting.

The purpose for Brown Hill NCD was the following:

- Assist in establishing permanent and contiguous public open space within sensitive areas of the neighborhood;
- Improve access and utilities to existing development;
- Discourage development along steep vegetated slopes;
- Utilize existing infrastructure and public services;
- Provide additional housing growth opportunities;
- Encourage historic preservation and design review;
- Communicate neighborhood concerns with the Town;
- Encourage attractive and viable development projects;

## **Eligibility Procedures:**

In reviewing the work from the neighborhood residents over the past four (4) months, the eligibility procedures listed under Section XI. P.4. have been met. Specifically, the inherent Victorian architectural style of most residential structures along Elm, Bay and Atlantic St. illustrate the ornate and detail-oriented period of construction of the late 19th century when Amesbury's many carriage industries fueled industrial, commercial and cultural development of the village center. Additionally, significant portions of undeveloped forested land remain behind these older homes along the crest of Brown Hill. Although this undeveloped land has continued to decline in area since its use as farmland at the turn of the century, it still remains an important natural resource from which the neighborhood experiences a profound sense of rural character and tranquility within the village center. Thus, significant architectural heritage coupled with a central and unifying band of contiguous undeveloped forest land, make Brown Hill an appropriate area for a neighborhood conservation district.

**District Boundary:**

As shown on the Amesbury Zoning Map, the Brown Hill Overlay District (BHOD) is bounded by Elm St., Collins Ave., Madison St., and Monroe St.

**BROWN HILL MAP**

**Permitted Uses:**

The Brown Hill Overlay District (BHOD) as shown, is superimposed on an underlying R-8, Zoning District. Additionally, within the BHOD a Special Permit may be issued by the Planning Board all uses listed in Section XI.P. of the Zoning Bylaws.

**Property Ownership Support:**

Prior to submission to the Municipal Council, 51% of all property owners must provide support signatures. (an abutters list will be supplied for this purpose)

**Implementation Schedule:**

This draft report may be submitted to the Municipal Council after the required 51% support signatures are provided to the Sponsor of the amendment. If the support signatures are collected prior to March 28th, we could submit this amendment to the Council for their April 9th meeting and plan for a public hearing on May 14th.

**9. Severability:**

The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.