

ARTICLE XXI - CONSERVATION SUBDIVISION DESIGN ORDINANCE

~~Adopted March 11, 2008~~

~~SECTION 1. ENABLING AUTHORITY~~

~~Pursuant to RSA 674:21, the Planning Board is hereby authorized to grant a conditional Use Permit to allow for Conservation Subdivision Design (CSD), in accordance with the requirements and standards set forth in this Ordinance.~~

SECTION 21. APPLICABILITY

Conservation Subdivision Design is optional at the discretion of the applicant.

Conservation Subdivision Design is allowed ~~by Conditional Use Permit in the zoning districts specified in Table 1. Area Requirements~~

SECTION 32. PURPOSES

Purposes of the Conservation Subdivision Design Ordinance are to:

1. Encourage the permanent protection of open space including but not limited to unique natural features, wildlife habitat, prime agricultural land, ~~green~~ meadows, ponds, wetlands, scenic views, connected corridors of open space and other natural and cultural resource elements. Encourage the preservation of substantial greenbelts, wetland and farmlands around the perimeter of the subdivision.
2. Create attractive living environments through careful location of dwelling units, the preservation of open spaces and by providing opportunities for passive recreation. Promote residential development that is in balance with the natural and cultural landscape, avoids over manipulation of the landscape in relation to road and driveway design and house site development. Locate buildings/house sites on

those portions of the site that are most appropriate for development considering both development suitability and inherent conservation values.

3. Provide ~~where appropriate and by mutual agreement,~~ open spaces accessible to the general public.

4. Provide guidance to the Planning Board in the administration of the Ordinance.

SECTION 43. GENERAL REQUIREMENTS

Permitted Uses. Any residential use as permitted by right or by Special Exception in the applicable zoning district may be considered under the Conservation Subdivision Ordinance.

Accessory uses shall be compatible with the primary residential land use and minimum lot sizes.

Maximum Density/Yield Plan. The maximum number of lots or dwelling units allowed in a Conservation Subdivision (i.e. dwelling unit density) shall not exceed the number of lots or units that would likely yield from a conventional single-family subdivision, notwithstanding any density bonuses that may be granted under Section 7. The determination of the number of lots or units that would yield from a conventional subdivision shall be determined by the Planning Board based on its review of a Yield Plan prepared pursuant to Section 5. ~~Under no circumstances shall the number of lots or units, including incentive bonuses, resulting from a Conservation Subdivision exceed the maximum number of lots or units permitted by the district density restrictions.~~

Tract Size. Minimum tract size ~~requirements are set forth in Table 1. Area Requirements~~ is 10 acres.

~~**Lot Size.** Minimum lot size requirements are set forth in Table 1. Area Requirements.~~

TABLE 1

Zoning District

Area Requirements

Minimum Tract Size (ac.) Minimum Lot Size (ac.)

FC 20 .10

FR 12 .5

MN 12 .5

SH 10 .25

R 10 .25

R3S 10 .25

Lot Configuration. Lots shall be configured according to the setting and visibility of the subdivision. Compact groupings of lots/units may or may not be desirable. Private, shared driveways serving no more than (3) lots per driveway are permitted. ~~Driveways in excess of 500 feet shall not be permitted, except for good cause shown.~~ Lots shall be grouped and configured to maximize the preservation of large segments of open space and existing vegetation rather than isolated pockets of such.

Buffer Area. Except as hereinafter set forth, Conservation Subdivisions shall include a ~~50' 100'~~ buffer along the ~~perimeter-entire road frontage~~ of the ~~entire tract or~~ parcel. ~~Side and rear buffers shall be 50'.~~ When deemed appropriate by the Planning Board to accomplish the objectives of this section, a larger or smaller buffer width may be required. Encroachments into or thru the buffer shall be limited to points of access to the subdivision. The buffer area shall not include individual lots or limited common areas. The buffer area, exclusive of encroachments, shall be

considered part of the dedicated open space requirement as set forth in Section 6.

~~Where a proposed Conservation Subdivision is distinctly different than the surrounding land use pattern, the buffer is to provide a transition area where the subdivision does not detract from adjoining uses including public roads.~~ Where a proposed Conservation

Subdivision is similar in nature to the surrounding pattern and for good cause shown, the Planning Board may reduce the perimeter buffer requirement.

~~**Building Envelope.** It is a goal of this Ordinance to minimize the visual appearance of building envelopes within a Conservation Subdivision Plan. Lots depicted on the Conservation Subdivision Plan shall designate a building envelope that complies with lot line setbacks and wetland setbacks. The building envelope shall be sufficient in size to accommodate a house substantially similar in size to that presented in the approved Yield Plan including related features (septic, well, garage, drive, etc.). Proposed building envelopes shall not be dependent upon zoning relief for house site development.~~

~~Building envelope areas shall be reflected on both the Yield Plan and the Conservation Subdivision Plan.~~

Designated Buildable Areas. In order to minimize potential negative impacts associated with site development, building development shall not occur on slopes 25% or greater. ~~At least one buildable area meeting this requirement shall be designated within the building envelope of each lot. A lot may designate more than one buildable area however no more than one house per lot shall be permitted.~~

Lot Line Setbacks. Lot line setbacks within a Conservation Subdivision shall be as required in the district. The Planning Board may reduce the setback requirements based on its finding that such a reduction reasonably facilitates better design, achieves demonstrably greater open space and preservation of the tract and its existing conditions, and is consistent with the purposes of this ordinance. Additionally, minimum building separation and setbacks shall be accordance with State of New Hampshire fire codes.

For Conservation Subdivisions located within the Shoreline District, the following additional setbacks standards shall apply:

- o Minimum building setbacks from the water shall be 200'.
- o The minimum perimeter setback around the tract or parcel shall be 100'.
- o Minimum shoreline frontage of 300'

Condominium form of ownership. Proposed Conservation Subdivisions having a condominium form of ownership shall, except for the form of ownership, be physically identical to the Conservation Subdivision if it were under a conventional form of ownership. Limited common areas shall be treated as lots for purposes of minimum lot size and setback determinations. Roadway rights-of-ways shall be indicated whether in common ownership or not.

SECTION 54. YIELD PLAN REQUIREMENTS/DENSITY

The Yield Plan shall be prepared in accordance with this section. The Yield Plan shall demonstrate a level of potential conventional ~~single family~~single-family subdivision that is feasible and would have a reasonable likelihood of Planning Board approval. The Board shall review the Yield Plan under Preliminary Design Review. The conventional yield as determined by the Planning Board shall represent a baseline density for conservation subdivisions. The baseline density shall be used for purposes of calculating any density bonuses as provided for in Section 7.

The Board shall act to approve, reject or require modification of the Yield Plan. Should the Board reject the Yield Plan as not being feasible or having a reasonable likelihood of subdivision approval, the Planning Board shall provide a written explanation to the applicant identifying the objectionable features which contributed to this determination.

The Yield Plan shall include the following existing conditions information:

- a. Property survey prepared by a NH Licensed Land Surveyor
- b. Topographic survey prepared by a NH Licensed Land Surveyor
- c. Wetlands delineated by a NH Certified Wetland Scientist
- d. Stone walls, cellar holes, dug wells
- e. Cemeteries
- f. Existing Structures
- g. Existing tree lines, fields
- h. Easements of record
- i. NRCS soils information
- j. Rare or endangered species as recorded by the NH Natural Heritage Program, or New Hampshire Fish and Game

The Yield Plan shall be prepared by a licensed Land Surveyor or Landscape Architect.

Lots depicted on the Yield Plan shall demonstrate compliance with lot size, frontage, lot line setbacks and wetland setback requirements as set forth in the zoning ordinance.

The Yield Plan shall demonstrate that the resulting building envelopes can adequately accommodate a house and related features (septic, well, garage, drive etc.) and shall not be dependent upon zoning relief for house site development.

Direct wetland impacts and associated buffer impacts associated with tract or lot access (roadways and driveways) shall be indicated on the Yield Plan and calculated in square feet. Cumulative direct wetland impacts shall not exceed 20,000 SF. Impacts to intermittent or perennial streams shall not disturb more than 200 feet of stream bank. Evidence of permits issued by state and local jurisdictions is not required.

Soils Based Lot Sizing analysis shall be provided demonstrating that each individual lot

meets or exceeds soils based lot sizing requirements.

Potential roadways shall be indicated. The Applicant shall demonstrate that the potential roadway is feasible and has a reasonable likelihood of meeting minimum road standards and driveway permitting without relying upon waivers. ~~Single access roads shall not exceed 1000' in length.~~ Potential road centerline shall be located within a 50' right of way. Full road engineering including plans, profiles, cross sections storm water analysis is not required.

In circumstances deemed to further the objectives of the ordinance, the Planning Board may recommend waiving road width requirements to achieve compatibility with the existing rural roads and layouts.

SECTION ~~6~~5. DESIGNATED OPEN SPACE REQUIREMENTS

A minimum of 50 % of the total area of the parcel shall be permanently protected as Designated Open Space.

No more than 50% of the minimum Designated Open Space requirement shall consist of wetlands, or slopes 25% or greater.

Excluded Areas. Portions of the parcel that comprise individual house lots, limited common areas, roadways, roadway right-of-way, driveways, utilities, slope and drainage easements, septic systems, drainage improvements, lot line setbacks, common recreational amenities such as pools, tennis courts, golf courses, clubhouses, developed shoreline, areas reserved for future development, or areas subject to exclusive use easements, shall not count toward the calculation of, or be included in Designated Open Space. Excluded areas may be held in common and designated as common area, but shall be distinct from the Designated Open Space in terms of calculation and plan description.

Permitted Uses within the Designated Open Space may include:

- o Passive recreation or leisure activities such as hiking, cross country skiing, picnicking
- o Snowmobiling
- o Wellhead protection
- o Wildlife habitat protection, wildlife management
- o Agriculture that is compatible with the residential use of the subdivision
- o Logging
- o Forest management in accordance with a plan prepared by a New Hampshire Licensed Forester consistent with the specific open space purposes benefits or functions.
- o Hunting

Prohibited Uses within the Designated Open Space shall include:

- o The erection of structures
- o Further subdivision
- o Motorized vehicles, except snowmobiles, and equipment used in conjunction with on-site forestry or agriculture
- o Mining, excavation, filling
- o Other activities that would diminish the open space benefits or function

Designated Open Space Layout. The Designated Open Space shall be arranged, to the extent feasible, to achieve larger contiguous blocks of open space.

Access to Designated Open Spaces. ~~Practical and legal access to the Designated Open Space shall be provided to the owners within the subdivision, to designated steward(s) of the Open Space, and for other uses that may be anticipated, i.e., forestry,~~

~~agriculture, public access, etc.~~ Safe and convenient pedestrian access and access for maintenance shall be provided to common open space areas. Potential public access to open space and trails is an important aspect of existing and future trail connections.

Protection, Management, Identification and Ownership of Dedicated Open Space.

Identification.

Areas of the Designated Open Space shall be clearly identified on the subdivision plan including metes and bounds sufficient to create a legal description.

Boundaries shall be clearly marked prior to commencing construction. Boundary markers shall be maintained throughout the construction phase.

Boundaries shall be permanently marked in the field prior to recording the subdivision plan.

Ownership. Prior to the sale of any lots, the Designated Open Space shall be owned and managed by one or more of the following methods subject to Planning Board approval:

1. Common ownership by the owners of the lots or units within the subdivision with an association and with permanent deed restrictions or conservation easement;
2. Transfer with permanent deed restrictions or conservation easement, to a land trust or other recognized conservation organization;
3. Transfer with permanent deed restrictions or conservation easement, to the Town of Meredith.

A prominent note shall be indicated on the subdivision plan identifying land ownership and land stewardship responsibilities.

~~The Designated Open Space may not be conveyed in whole or in part, or encumbered by exclusive use easements, except as provided above. Designated Open Space shall not be used to meet any regulatory requirements other than for purposes of the conservation subdivision itself.~~

~~**Stewardship.** The purposes of the Designated Open Space specific to a proposed Conservation Subdivision shall be identified in a Declaration of Covenants and Restrictions approved by the Planning Board. Management provisions, reservations, restrictions, etc., shall be consistent with the stated open space purposes. The entity assuming responsibility for stewardship and management of the Designated Open Space shall be identified. The steward shall have the responsibility to perform regular inspections of the dedicated open space to confirm the status of compliance with the terms of the subdivision approval, covenants, restrictions and/or conservation easement. Frequency of inspections shall be not less than once per (3) years. The land steward shall report any non-compliance or violations to the owner(s) and the Town of Meredith.~~

~~**Enforcement.** The land steward and individual lot or unit owners shall have the legal authority and responsibility to enforce the open space related terms and provisions. As provided for in RSA 674:21-a, the Designated Open Space which is part of the cluster development shall be deemed a conservation restriction as defined in RSA 477:45, I, which shall run with the land and shall be enforceable by the municipality or by the owner of any property which would be specially damaged by the violation of such restriction.~~

~~Designated open spaces and associated covenants and restrictions approved by the Planning Board as part of the subdivision approval shall be deemed conditions of subdivision approval and shall be enforceable by the municipality under RSA 676:17 and RSA 676: 4 a.~~

SECTION ~~76~~. INCENTIVE BONUSES

The Planning Board, at its discretion, may award an additional number of lots or units based on the following:

1. To encourage the provision of public access, the Planning Board may award additional density bonus of 10% ~~%(fraction rounded up)~~.
2. To encourage the dedication of open space in amounts substantially greater than the minimum requirements set forth in Section 6, the Planning Board may award additional density bonus of 10%. (rounded up)
3. To encourage the protection of ridgelines or hilltops within Critical Viewed Areas or from Highly Significant Viewpoints as described in the town's Visual Resource Inventory and Assessment, latest edition or update, the Planning Board may award additional density bonus of 10%. (rounded up)
4. In order to encourage the protection of High Value, Co-occurrence Areas as described in the town's Natural Resources Inventory latest edition or update, the Planning Board may award additional density bonus of 10%. (rounded up)
5. In order to encourage the creation of Workforce Housing a 15% bonus (rounded up) will be provided for such units. The units may be added to the site without an increase in site area and may be as small as necessary to adhere to NHDES lot loading requirements related to onsite well and septic provisions. Frontage requirements to serve workforce housing lots may be reduced to 20 feet.

Individual density bonuses shall be based on the baseline density resulting from the Yield Plan as determined by the Planning Board.

The minimum density bonus shall be one lot or unit.

Where the final number of additional units or lots awarded under this section is .5 or greater, the density number shall be rounded up to the next whole number.

In no event shall the total density bonuses awarded exceed 20%, except for Workforce Housing lots.

The award of any density bonus may only be given when the applicant has demonstrated exemplary design, ~~and~~ consistency with the objectives of this ordinance

for the preservation of valuable blocks of contiguous open space, [or the creation of workforce housing units](#).

SECTION 87. LEGAL REQUIREMENTS

Applicants shall provide copies of legal documents for Board review including proposed Declaration of Covenants and Restrictions, easements and specimen deeds/deed restrictions.

Said documents, where appropriate, shall note that no provision relating to the Designated Open Space shall be amended without prior Planning Board approval.

Said documents shall be recorded at the Registry of Deeds with the subdivision plan.

The conditions of subdivision approval, subdivision plan notes and legal documents for recording purposes shall be consistent with one another.

SECTION 98. PRELIMINARY DESIGN REVIEW

The Planning Board is authorized to require Preliminary Design Review of all Conservation Subdivisions as provided for in 674:35, I and RSA 676:4 II (b). The purposes of Preliminary Design Review shall be to:

1. Review and finalize the Yield Plan, prepared in accordance with Section 5.
2. Review the applicant's inventory of existing on-site, and nearby natural and cultural resources (See Appendix A for reference).
3. Review of Preliminary Conservation Subdivision Plan including the layout and uses of open spaces, lot layout, lot setbacks, house sites, buffers and roads.
4. Determine whether any further ecological assessment and associated third party review is necessary.
5. Review of requested density bonuses, if any.
6. To provide direction to the applicant so that the applicant can make an informed decision whether to proceed with a Conservation Subdivision.

Applications for Preliminary Design Review of Conservation Subdivisions shall include an inventory of natural and cultural resources. The inventory shall include resources on-site and in the surrounding area. The inventory shall take the form of a completed, annotated Checklist of Natural, Cultural and Historical Features (See Appendix A for reference) and other appropriate supporting information including photographs, maps etc.

Applications for Preliminary Design Review shall include an Existing and Proposed Conditions plan to enable the Planning Board to determine the extent to which the proposed Conservation Subdivision results in preservation of open space and other unique features.

~~SECTION 10. STANDARDS FOR APPROVAL~~

~~In order to grant a Conditional Use Permit, the Planning Board shall make findings that each of the following criteria has been met to the satisfaction of the Planning Board.~~

- ~~1. The permit is consistent with the purposes of the ordinance; and~~
- ~~2. The Designated Open Space meets the quantitative and qualitative requirements of the ordinance; and~~
- ~~3. The proposed design does not unduly detract from the natural, cultural and historical features of the surrounding area. In making this finding the Planning Board shall consider the following:~~

~~A. Relevant information applicable to the surrounding area contained in the town's Master Plan, latest edition or update;~~

~~B. Relevant information contained in Purposes Statements of the applicable Zoning District;~~

~~C. Relevant information contained in the town's Natural Resources Inventory, latest edition or update;~~

- ~~D. The Inventory of Natural, Cultural and Historic Features and appropriate supporting information submitted by the applicant;~~
- ~~E. An inspection of the site and surrounding area.~~

~~APPENDIX A:~~

~~CHECKLIST OF NATURAL, CULTURAL AND HISTORICAL FEATURES (for inclusion in the Conservation Subdivision Design analysis)~~

~~Tax Map/Lot:~~

~~Street:~~

~~Zoning District:~~

~~Applicants shall indicate whether these resources are present, not present or unknown.~~

~~Applicant shall note whether resources present are on site, within the surrounding area or both.~~

~~o Surface water bodies~~

~~o Streams/upland buffers~~

~~o Wetlands/upland buffers~~

~~o Site location in a public water supply watershed, wellhead protection area~~

~~o Flood plains~~

~~o Slopes greater than 25% (high potential for erosion and sedimentation)~~

~~o Ridgelines and Hilltops located within designated Critical View Areas~~

~~o Designated Highly Significant View Points of Critical View Areas~~

~~o Proximity to High Value Co-occurrence Areas as described in the Natural Resource Inventory~~

~~o Woodlands (large and/or mature stands, unusual species, managed)~~

~~o Active agricultural land~~

~~o Designated Scenic Roads~~

~~o Existing recreation trails~~

~~o Stone walls~~

~~o Cellar holes~~

~~o Historic structures~~

~~o Cemeteries~~

~~o Adjacent or nearby conservation areas~~

~~o Street lighting~~

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~~o Rare or endangered species as recorded by the NH Natural Heritage Program,
or New Hampshire Fish and Game~~