

**NOTE: This Chapter is Still Under Revision (particularly the design specifications). You have Received a Preliminary Review Copy. Your Comments and Suggestions are Welcome and Encouraged.**

## **Conservation Subdivision Ordinance**

Related Tools: Liveable/Walkable development design, Transfer of density rights, Flexible lot size and Density Provisions, Permanent (Post-Construction) Stormwater Management, Habitat Protection.

### **Background and Purpose**

A Conservation Subdivision is a subdivision in which a substantial amount of the site remains as permanently protected open space and the homes are clustered together on a portion of the site. The open space that is conserved can provide a variety of benefits to the community and the town: it may support wildlife, be used for forestry or agriculture, or provide recreational opportunities.

Under this approach, the community works with the developer to fit the development into the landscape in a way that maximizes the protection of important natural and cultural amenities on the site and maintains the character of the community. The conservation subdivision approach supplements efforts to protect whole parcels through outright purchase or conservation easement. As housing demand increases in NH, conservation easements or the outright purchase of land are proving to be increasingly costly. Thus, communities need to pursue a variety of approaches for managing growth, protecting important resources, and maintaining community character.

The Conservation Subdivision provides numerous economic, environmental, and social benefits to a community. Some of these benefits include:

- Reducing the area of land over which homes will be built can reduce the cost of developing the lots, which in some cases can translate to lower housing prices.
- Future service costs for public infrastructure, such as roads, sewers and water lines, are reduced because roads and water/sewer lines can be shorter within a Conservation Subdivision approach.
- Travel distances are reduced for school buses, refuse trucks, snow plow and other service vehicles.
- Property values within Conservation Subdivisions can appreciate faster than properties in conventional subdivisions due to the added amenities provided by the adjacent open space.
- The availability of open space can improve the quality of life in a community.

- Conservation Subdivisions help communities preserve open space, including important and unique natural and cultural features, such as archeological or historical sites and resources.
- These subdivisions generally create less impervious surface, thus reducing to local water bodies, such as rivers and streams.
- The open space can provide a buffer to protect water bodies and other natural areas, lowering the impact that development has on fragile natural features.
- The open space can be linked to other open space developments or protected areas to create a larger network of protected areas.
- The clustering of houses can encourage more walking and more frequent interaction with ones' neighbors, fostering a stronger sense of community.
- The open space can be linked to other open spaces to create trail networks for walking, biking, and hiking.

### **Appropriate Circumstances and Context for Use**

The use of Conservation Subdivision is appropriate for any community that is concerned about the rapid development of previously undeveloped spaces in their community. Conservation subdivisions are a valuable tool for managing growth, but are only one tool amongst the large variety necessary for effective, long-term management of growth and development to preserve natural, social and recreational resources. Local governments should use this tool within a matrix of other instruments, most importantly long-term, comprehensive planning for future growth that addresses conservation and natural resource protection. Conservation subdivision requirements will be most effective when imbedded within a larger plan for resource conservation and community development. For example, new developments can be required to use conservation subdivision design and to conform their development design to a local or regional open space protection plan to ensure that an important natural resource area, such as a river corridor, is protected as one large, contiguous block even though many individual parcels are developed at different points in time.

Like other forms of development, conservation subdivisions still have environmental impacts. Therefore, it is important that conservation subdivision design requirements be implemented in tandem with other techniques to minimize the impact of development, such as strong stormwater management requirements. Although better than the conventional subdivision alternative, a community filled with conservation design subdivisions will likely still face many of the negative impacts of “sprawl-type” growth. Options such as transfer of development programs and the pursuit of development typical of traditional New England communities, concentrated in cities and towns, should also be considered.

In establishing a Conservation Subdivision ordinance, there are a number of issues for a community to consider. The following summarizes many of the issues a community should discuss when developing a Conservation Subdivision ordinance for their community. As with

any zoning ordinance or regulatory change, it is important to include all those who could be affected by the new ordinance in the development process.

- **Open Space Requirements**, including the amount of land that must be conserved and the types of activities that will be allowed in the open space.

Given that conservation of open space is typically a primary objective of pursuing this approach, communities are encouraged to require that a minimum of fifty (50) percent of the buildable land area be conserved as part of a Conservation Subdivision. Although it is up to the community to decide what amount of land must be conserved, lesser requirements may not provide enough area as open space to meet the objectives of the community. A community might decide to vary the required amount of open space that must be conserved for different areas or zones within their community. For example, the amount of required open space might increase to 80% in areas zoned as rural or agricultural/forestry, but might decrease to 20% in higher-density areas.

Typically, wetlands, hydric soils, open water, and steep slopes greater than 25% are not included as part of the “buildable land area” for a subdivision. Stating the conservation requirement in terms of the amount of “buildable” land helps to avoid situations where conservation design is used simply to develop a site that is otherwise ill-suited for development. Focusing on conserving buildable land also helps to ensure that uplands and forested areas are preserved as well as wetlands.

Communities should also be explicit about what types of land can be counted as part of the open space. For example, land that is part of an individual house lot or right-of-way should not be counted as part of the conserved open space.

A community should identify what activities or uses are allowed within the conserved open space. Some uses that might be allowed include: trails, recreational fields, playgrounds, agricultural uses, storm water retention facilities, underground utilities, community wells or leachfields, and other low impact uses. A community might also decide to restrict the amount of open space area that can be “used” for certain purposes. For example, a community might specify that at least 80% of the conserved open space must remain in a substantially natural condition and permit fewer uses, such as forestry or passive recreational activities.

The types of uses allowed and the amount of the conserved land that can be dedicated to those uses also might vary depending on where the parcel being developed is located. For example, you might allow for more intensive uses of more of the undeveloped land area in a village area, such as a playground, but restrict most uses in areas targeted for wildlife habitat preservation, active tree farms or working farmland.

The community should also be explicit regarding what uses are strictly not permissible. Uses prohibited in the open space might include: roads, permanent structures (although some could be allowed such as gazebos, other recreational related structures and playgrounds), and other construction with impervious surfaces, such as paved parking areas.

- **Resources to be Protected** through the conservation subdivision process should be specifically identified by the community.

Some resources that a community might identify to protect include:

- Floodplains
- Wetlands
- Riparian areas
- Habitat or populations of threatened or endangered species
- Wildlife corridors
- Cemeteries
- Historic sites
- Scenic viewsheds
- Contiguous woodlands/areas
- Productive agricultural or forest soils
- Existing or planned hiking, biking, walking, or snowmobile trails through the site

A community might also designate Primary and Secondary conservation priorities, under which lands containing primary conservation features must be protected as part of the open space, while lands containing secondary conservation features would be protected whenever possible.

- **Incentives** may be used to encourage the use of this approach if not required by the community, to motivate better design, or to promote the use of a conservation easement held by a third party to protect the open space.

If a community chooses not to make conservation subdivision the required format for all subdivisions, they might want to provide some incentives to encourage the use of the conservation subdivision approach. A community could entice a developer with additional lots or units under a conservation subdivision approach or provide for an expedited review process.

Incentives can also be used to encourage developers to provide certain amenities within the development, such as full public access to the open space or a percentage of affordable units, or to encourage designs that provide for greater protection of certain

types of natural or cultural features. Incentives that a community could write into its ordinance include:

- A public access bonus;
- Agricultural land and use bonus;
- Bonuses for conserving a greater percentage of land than required;
- Bonuses for placing a conservation easement held by a third party on the open space;
- Protecting viewsheds;
- Protecting historically significant buildings, resources or landscapes; or,
- Protecting valuable wildlife and environmental areas.

Communities are cautioned, however, to use bonuses or incentives sparingly to avoid a situation where many more units can be built under a conservation subdivision approach than under a conventional approach.

- Determine how the **Number of Units** to be Built will be Calculated.

Communities are encouraged to use a formula-based approach as the primary method for determining the number of units that can be built within a conservation subdivision. Under a formula-based approach, the number of units is determined based on the natural resource and spatial characteristics of the site and the underlying zoning or density requirements. Several communities in New Hampshire have used formula-based approaches. The simplest type of formula is just to divide the amount of buildable land area by the lot size requirements for a conventional subdivision for the area. However, this simple approach does not account for variations in characteristics of the parcel, such as soil types or locations of wetlands, that might increase or limit the potential number of buildable lots that can be created. A more complex formula that accounts for factors such as variations in soil types or distribution of wetlands might be more appropriate.

The intent of a conservation subdivision approach is to allow at least as many units as could be built under a conventional approach. To avoid disagreements with developers that a formula-based approach unfairly reduces the number of units, communities should allow the use of the yield-plan approach, in which a developer creates a conventional subdivision plan to determine the number of allowable units, as a secondary method for determining the number of units at the option of the developer. Although many communities currently use a yield-plan approach, this approach is expensive and time-consuming, and thus, serves as a strong deterrent to the use of the conservation subdivision approach. In addition, the effort investing by both the developer and the planning board in developing and evaluating the conventional subdivision design is better spent in developing a better conservation subdivision plan.

- **Design Standards** that will apply to a conservation subdivision.

Under a conservation subdivision approach, most, if not all, dimensional requirements are eliminated or substantially reduced, making it important for communities to think about other design standards or requirements that might be needed to address community concerns regarding the visual impact of a new development. In many cases, however, such design standards and requirements are appropriate to apply to all types of subdivisions, not just those using a conservation design approach. Thus, a community might wish to incorporate a section on subdivision design standards separately in their zoning and subdivision regulation so that it will apply to all subdivisions. Below are some of the topics a community might consider when developing design standards.

- **Connecting Open Space:** The protected open space within a conservation subdivision should, whenever possible, be connected to open land or protected areas on adjacent parcels. Communities may also include a requirement that the subdivision proposal demonstrate consistency with local and regional long-term open space or land protection plans, where applicable.
- **Features to Protect:** As discussed above, the ordinance should specify the types of natural, cultural, and historic features that should be protected through the subdivision design (e.g., wetlands, critical habitat areas, rare natural features or characteristics, scenic views, historic buildings and landscapes, stone walls, graveyards, existing trails, etc.).
- **Rural Character within Built Area with Lower Density:** In areas with lower-density or that are rural or agricultural in nature, communities will want the developed areas to be designed and arranged in a way that maintains the rural character of the community and provides a sense of privacy and openness for individual houses. Below are examples of some design standards that can be used in support of this goal:
  - The size and layout of individual lots may be increased from the minimum standards at the discretion of the planning board upon review of the proposed development plan when deemed necessary to maintain rural character and a sense of privacy and openness for individual homes
  - A no cut buffer area shall be maintained to screen developed areas from existing roads to maintain the rural character of existing roadways
  - House lots shall be arranged in pods of 4-6 homes with mature vegetation maintained to screen views between developed areas
  - Garages and secondary structures shall be placed at least 5 feet behind the front of the main structure
  - Streets within a Conservation Subdivision shall be the minimum width and length necessary to meet traffic demands and allow emergency vehicles passage.

- Sidewalks or paths shall be provided to provide pedestrian connections to all recreation areas and useable open space within the subdivision.
- **Neighborhood or Village Character within Built Area with Higher Density:** Development within higher-density areas, such as those adjacent to an existing village or town center, or larger developments with a significant clustering of homes, may want to require village-type design parameters to structure the built area. A village-type layout of homes, consistent with the traditional New England style of development, will allow homes to be located closer together in much less space, while still creating a comfortable environment for residents and pedestrians (See chapter on Village Plan Development for guidelines on developing village style design standards).
- **Minimize the Impact on the Environment.** Natural resource protection requirements for all subdivisions (e.g., wetland buffers, stormwater, landscaping) should continue to apply to conservation subdivisions. In many cases, using a conservation subdivision design approach makes it easier for a development to comply with existing and recommended practices for minimizing impacts. For more information on this topic, please refer to the standards presented in the chapters on *Permancent (Post-Construction) Stormwater Management, Landscaping, and Habitat Protection*, of this guidance
- **Acceptable Methods for Long-Term Protection of Conserved Open Space** should be identified.

The open space land may remain in private ownership by one or more landowners, be owned in common and managed by a homeowner's association, or be conveyed to the municipality or to a third-party organization. Regardless of who owns the conserved open space, a community needs to ensure that there is an acceptable legal restriction and stewardship plan in place to ensure the long-term protection of the open space conserved as part of the Conservation Subdivision.

**Conservation easements** are legally binding agreements held by a third-party (either a town or a qualified organization in the town's area), that govern the future use and management of the parcel of land on which the conservation easement is placed. The easement provides the legal basis for the organization that holds the easement to ensure the long-term protection of the open space.

**Deed restrictions** (can also called a restricted covenant) can also be used in protecting the open space within these subdivisions. A deed restriction is a restriction on the use of land usually set forth in the deed of a property. The restrictions would limit how the open space is used, the structures that would be allowed on it and how the land should be maintained in perpetuity. A home owner's association is almost always required,

especially when there is joint open land and/or open space protected through deed restrictions alone. If deed restrictions are implemented, towns should provide sample language to the applicant to ensure effectiveness and should require that the town and any resident of the town have the authority to enforce the deed restriction.

Conservation easements are a more secure alternative to *deed restrictions*, which are not as strong, having provisions for enforcement not by law, but rather by other subdivision owners and/or the town. However, deed restrictions can be an appropriate protection method for smaller parcels of land or for open spaces that are subject to more intensive uses.

Conservation easements held by a third-party are the preferred approach for larger areas of protected open space, especially for parcels falling within areas previously identified as priorities for protection by the town or regional natural resource protection plan. Local and state-wide land trusts and conservation groups are much more likely to accept an easement under the above circumstances. As noted earlier, a density bonus could be awarded for permanent protection of large parcels achieved through conservation easements held by a third-party. Additional information on identifying possible easement holders can be obtained from Center for Land Conservation Assistance with the Society for the Protection of New Hampshire's Forests.

Protected areas should be clearly identified on a final plat of the subdivision. In addition, on-the-ground markers should be placed on site to identify the boundaries of conservation land.

A town, homeowner's association, or the holder of the conservation easement, must address the logistics of implementing a **long-term monitoring and stewardship plan**, which ensures that the conditions of the open space protection agreement are honored. One approach is to assess a fee at the time of subdivision approval to establish a fund to provide for long-term monitoring and future legal action, if needed, to ensure long-term protection. Most local and state organizations require such payments to cover their monitoring and stewardship responsibilities when accepting an easement.

Municipalities might also require that **homeowner education materials** on the existence of and use restrictions for the protected open space are developed and provided to both new homeowners and the town. The planning board should discuss with the developer and the conservation commission how these materials will be maintained and distributed to future homeowners (e.g., copies provided to conservation commission for future distribution).



## **Legal Basis and Considerations for New Hampshire**

RSA 674:21 authorizes a community to enact a Conservation Subdivision ordinance. A community follows the same procedures to enact a Conservation Subdivision ordinance as other ordinances, as outlined in RSA 675:2-5. Although some communities require a special exception or conditional use permit for a conservation subdivision, this is not recommended. To encourage the use of this approach, a conservation subdivision application should be treated in the same manner as a conventional subdivision application.

When authorized by local zoning, the conservation subdivision approach can be the required format for new subdivisions. A community might elect to require this approach for all subdivisions or only for subdivisions of a certain size (e.g., greater than 10 acres) or in certain areas of their community, such as those areas targeted for conservation or for parcels containing certain types of important natural or cultural features.

To make the best use of the conservation subdivision approach, communities also should revise the application requirements and review process for all subdivisions to require more detailed information on the site to be developed earlier in the review process and to require developers to participate in conceptual and preliminary plan review meetings prior to submitting a formal application. A community must authorize mandatory pre-application meetings through zoning. The process for subdivision application and review and the submission requirements for each step are addressed in a municipality's subdivision regulations.

### **Examples & Outcomes Where Conservation Subdivisions Have Been Used**

Many New Hampshire communities have adopted some type of open space or conservation subdivision design approach. Communities vary substantially however in how these concepts are applied, including the amount of open space that must be conserved and whether the use of conservation or open space design is required or just encouraged. Durham and Hanover have also formally required that development design follow the four step process recommended by Randall Arendt, and suggested in this chapter.

**[Insert examples with pictures/diagrams here]**

## Model Zoning Ordinances and Regulations

This section provides two model zoning ordinances and additional model subdivision regulations. The first zoning ordinance is a model Conservation Subdivision ordinance. The second zoning ordinance revises the general subdivision application process by requiring applicants to participate in site inventory review and conceptual plan review meetings with the planning board prior to submitting a formal subdivision application. The model subdivision regulations revise the application requirements and review process for all subdivisions. A Conservation Subdivision ordinance will be more effective if a community also revises the general requirements and application process for all subdivisions.

### Conservation Subdivision Ordinance

#### I. Purpose

This Conservation Subdivision ordinance is intended to (1) encourage environmentally sound planning to protect open space and natural resources, and create attractive living environments, and (2) through creative placement of dwelling units, discourage consumption of scenic, forested, agricultural, and recreational land for development, thus maintaining the rural character and advancing the goals stated in the Master Plan.

#### II. Objectives

**[Margin note: Each community should examine their own objectives, as expressed by the public and articulated in their Master Plan, in implementing this approach.]**

- To maintain rural character, preserving farmland, forests and maintaining rural viewscales.
- To preserve those areas of the site that have the highest value for conservation purposes.
- To locate buildings and structures on those portions of the site that are the most appropriate for development considering both the development suitability of the site and its conservation value.
- To preserve identified historic, known archeological and identified cultural features located on the site;
- To create contiguous network of open spaces or “greenways” by linking the common open spaces within the subdivision and to open space on adjoining lands wherever possible.

- To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and runoff.
- To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- To minimize the impact of residential development on the Town, neighboring properties, and the natural environment

### III. Definitions [**Still need to add definitions for additional terms used in model**]

For the purpose of this chapter, the terms used herein are defined as follows:

**[MARGIN NOTE: Municipalities should review the list below and include only those terms not already defined within their zoning ordinance. Terms that are expected to already be defined in a town’s existing zoning ordinance are not included here.]**

**BUFFER** - Land area maintained in either a natural or landscaped state and used to visibly separate or screen one use from another or to minimize potentially negative impacts on surrounding areas (e.g., shield or block noise, light or other nuisances, reduce water pollution). Buffer areas may include such things as fences or berms as well as shrubs and trees.

**BUILDABLE AREA** – Land area that does not have any of the following characteristics: wetlands or wetland soils, as defined by **RSA 223:103**; slopes greater than 25 percent [**check against definition from steep slope chapter**]; submerged areas; utility rights-of way, 100 year floodplain, required buffers (e.g., to existing public roadways, wetland buffers).

**BUILDABLE LOT** - The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.

**BUILDING ENVELOP** – Area within which clearing, grading, lawns, pavement and buildings will be located.

**COMMON LEACHING SYSTEM** - A system for the collection and processing via leach fields, the effluent from more than two septic tanks, including all of the pipes, valves and other equipment, land and easements necessary for operating such a system. All of the leaching equipment will be in a single common ownership, though the septic tanks may not.

**CONSERVATION EASEMENT** – A permanent legal restriction against future development and other activities as specified in the conservation easement deed. An easement may be worded to permit or restrict public access, allow or disallow recreational uses, allow or disallow other uses,

such as limited development, agriculture, or forestry. Easements are tied to the title of the land, regardless of subsequent ownership.

**CONSERVATION SUBDIVISION** - An alternative form of residential development where, instead of subdividing an entire tract into lots of conventional size, a similar number of housing units may be arranged on lots of reduced dimensions. Also referred to as **OPEN SPACE SUBDIVISION**.

**CONSTRUCTION PLAN** - The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirement of the Planning Board as a condition of the approval of the subdivision plat.

**DEED RESTRICTION** - See Restricted Covenant.

**DEVELOPER** - The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owners of the property.

**DESIGNATED OPEN SPACE** –

**EASEMENT** - The right or privilege that a person may have in another person's property usually for the purposes of installing and maintaining utilities and drainage ways.

**FARM/AGRICULTURE** – Any land, buildings or structures on or in which agriculture and farming operations are carried out as the principal use, including all operations outlined in RSA 21:34:a II.

**HOMEOWNERS ASSOCIATION** – A private corporation, association, or other legal entity organized in accordance with state law and established by the developer or the member individuals for the benefit and enjoyment of its members, including oversight and management of common open space or facilities.

**IMPROVEMENT** - Refers to site grading, streetwork and utilities, including water, sewer, electric, gas and stormwater to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, and easements or other purposes as are necessary for the general use of a lot.

**LOT LINE** - A line or record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

**OPEN SPACE, COMMON** - Land within or related to a development, not

individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and/or the town and may include such complementary structures and improvements as are necessary, appropriate and approved by the Planning Board.

RESTRICTED COVENANT - A restriction on the use of land usually set forth in the deed for the property.

SKETCH PLAN - A preparatory sketch to the preliminary subdivision plat layout to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the plat and the objectives of these regulations.

#### IV Authority and applicability

A Mandatory Use of Conservation Subdivision Design – All subdivisions for residential use shall use a Conservation Subdivision Design approach. Applicants may submit for a special permit, to be issued by the Planning Board, to use a conventional design approach when the applicant can demonstrate and the planning board finds that there is minimal benefit to the community to require a conservation design approach or that a conventional design approach provides greater benefits.

**[Margin Note: The model ordinance is written to encourage the use of conservation design subdivisions, but to allow the planning board to entertain a conventional development plan under a special permit or conditional use process (rather than seeking a variance from the Zoning Board of Adjustment). Under this approach, the use of the conventional subdivision design is subject to an additional review and approval step by the planning board, making it somewhat more difficult for the applicant to pursue this approach.]**

**Each community must decide whether they wish to require conservation subdivision design as the primary or only form of residential subdivision development or to allow the conservation design approach as a preferred or equal option to a conventional approach (i.e., is this a voluntary or mandated approach). At a minimum, a community should strongly consider making the use of conservation subdivision design mandatory in areas with high natural resource values (e.g., on parcels containing rare or outstanding habitat features, buffer areas to wetlands, streams, rivers, ponds, and lakes, etc.). Communities might also choose to require the conservation subdivision approach in certain zones or special districts within their community (such as rural zones), or when certain cultural features are present (such as existing trail networks). Communities might also wish to identify the specific conditions under which conservation subdivision is not required, such as when 3 or fewer lots are created with no future opportunity for further subdivision or when very large lots are created (e.g., 25 acres or greater per lot). ]**

**[Margin Note: This model ordinance does not restrict the use of the conservation subdivision approach to larger parcels of land. Instead, the level of protection afforded to the open space is varied. Although smaller parcels of conserved land are generally not viable candidates for a conservation easement held and enforced by a third party, such areas can be protected through deed restrictions. The open space is protected over time by ensuring that neighboring land owners in the subdivision, a community association, and the town all have the legal authority to enforce the deed restrictions.]**

## B Phased Subdivision Applications

The provisions of this section shall apply to the phased subdivision and development of a parcel over a period of time through separate successive applications. The requirements of this section shall apply to the phased applications for each phase as though the subdivision and development of the entire parcel were proposed in one application at one time. The total permitted density shall be based upon the acreage and the characteristics of the original parcel that existed as of the date of the initial application.

## C Authorization to Issue Special Permit

Notwithstanding other provisions of \_\_\_\_\_ (municipality's) \_\_\_\_\_ zoning ordinance, authority is hereby granted to the planning board, as allowed under RSA 674:21II, to issue a special use permit to modify the dimensional requirements or open space requirements of this section as specified herein to improve the placement of residential dwelling units relative to one another and to the natural and cultural features on the property and/or improve the protection, use and/or management of the open space. Such modifications shall be consistent with the purposes and standards of this Section, fall within the guidelines contained herein, and shall not be detrimental to public health, safety or welfare or the character or enjoyment of the neighborhood or surrounding neighborhoods. When considering an application for an expansion of the uses of the designated open space under section V. E., particularly attention shall be paid to ensure that the resource protection objectives of section V.C. are maintained.

**[Margin Note: Municipalities have the option of granting the planning board the authority to issue a special permit (also known as a conditional use permit) as a means of giving the planning board and developers greater flexibility to “fit” the development into the landscape by being able to waive or modify some or all of the requirements specified in the conservation subdivision ordinance or to allow certain additional uses in the designated open space when deemed appropriate. The advantage of allowing special permits is that the planning board can work with a developer to modify a plan when it is in the best interest of the community without forcing the applicant to pursue a zoning variance. The risk, however, is that the developer and/or planning board may also go too far in relaxing the standards. For this reason, this model ordinance specifies the degree to which the specific standards can be varied under a conditional use or special permit.]**

## V. Maximum Development Density and Dimensional Requirements

A. Base Number of Development Units: The applicant shall choose one of the following methods for calculating the maximum number of dwelling units that may be constructed on the property:

1) The base number of dwelling units may be determined by taking ninety percent (90%) of the sum of the calculated Buildable Area and one-third (1/3) of the non-buildable area of the parcel, and dividing by the required minimum lot size per dwelling unit under the conventional zoning standard for the parcel, and rounding to the closest whole number. If more than fifty percent (50%) of the parcel is made up of non-buildable area, then none of the nonbuildable land shall be counted in calculating the base number of dwelling units. If the subdivision involves only part of a parcel, the Buildable Area shall be calculated for that portion of the parcel proposed to be included in the subdivision. If a parcel is located in more than one district, the base number of allowable dwelling units will be determined for each portion of the parcel separately and added together and then rounded to the next whole number.

**[MARGIN NOTE: For example, for a 120 acre parcel in a 3 acre zone with 30 acres of wetlands, the formula approach above permits 30 units.  $[(120-30)+(30*1/3)]*0.9/3 = 30$ . Communities should check any proposed formula against several recent subdivisions and consider the nature of remaining land in their community. The objective is to define a formula that provides a number of units that is the same or very close to the number that would be allowed under a conventional subdivision approach.]**

**[Margin Note: Reducing the total acreage by ten percent (10%) accounts for the approximate area that would be allocated to a roadway under a conventional development scheme, and therefore, not applicable in delineating individual lots. Including some portion of the nonbuildable area in the calculation of the base number of allowable units when less than 50% of the parcel is considered “non-buildable,” recognizes that under a conventional subdivision plan, some amount of non-buildable land may be included when delineating a conventional lot. Not including non-buildable land when it represents more than 50% of the parcel area serves to discourage the development of these parcels using conservation design when they would be unlikely to be developed under a conventional subdivision approach.]**

2) The base number of dwelling units may be determined based on a Yield Plan for the parcel, whereby the applicant presents a rough or sketch conventional subdivision development plan that fully complies with the dimensional requirements of the underlying zoning for the parcel, for the purposes of determining the number of allowable lots or units permitted within the Conservation Design Subdivision.

B. Incentives

**[Margin Note: Communities are discouraged from using too many different incentives as a means of encouraging the use of the conservation subdivision approach or to encourage certain design characteristics. Incentives are best used sparingly to encourage only the most desirable outcome – such as full public access or more permanently protected, publicly-accessible open space. A potential downside of including too many opportunities for applicants to increase the number of allowable units is that the final number of units under a conservation subdivision may be significantly greater than the allowable number under a conventional subdivision approach; such an outcome can seriously reduce community support for using the conservation subdivision approach.]**

Additional dwelling units and/or lots, not to exceed fifteen percent (15%) over and above the base number of dwelling units or permitted lots, may be awarded at the discretion of the Planning Board for any of the following:

- 1) Conservation of greater than fifty percent (50%) of the parcel as designated open space shall receive a five (5%) percent increase in the allowable number of dwelling units for every additional ten percent (10%) of open space protected, up to fifteen (15%) percent total increase.;

**[Margin Note: For example, a 20-unit development with 72% of the parcel area retained as designated open space would receive 2 additional bonus units, for a total of 22 units.]**

- 2) Developments that grant increased access to the designated open space, including access to active recreation areas and/or facilities, to the general public or to all residents of the municipality, not just the residents of the conservation subdivision itself, shall be eligible for a ten (10%) percent increase in the number of allowable dwelling units.
- 3) Developments that provide for a conservation easement, acceptable to the Planning Board and held by the municipality or recognized conservation organization or land trust, shall be eligible for a ten (10%) percent increase in the number of allowable dwelling units.

#### C Lots in a Conservation Subdivision

- 1) Residences in a Conservation Subdivision may be located on individual residential lots, or on common lots with more than one dwelling unit on a lot, or a combination thereof. If more than one dwelling unit will be located on a lot, the ownership and management arrangements for that lot, and the units thereon, shall be detailed as part of the subdivision application and those arrangements shall be subject to approval by the Planning Board in accordance with the Subdivision Regulations.
- 2) Individual Lot Sizes
  - a) If public wastewater treatment is not available, individual lots, if created, shall be based on soil-based lot sizing requirements for wastewater management under a cluster subdivision using an individual, joint, or community septic and an individual, joint or community well. All lots shall comply with the New Hampshire Department



of Environmental Services' design requirements for subsurface wastewater treatment systems.

- b) Lot sizes may be larger than the minimum required under soil-based lot sizing to comply with other requirements of this section, particularly the dimensional and design standards of this section, or applicable aspects of the underlying zoning for the parcel to protect human health, welfare and public safety.
- c) If public wastewater treatment is available, individual lots, if created, shall be the minimum size necessary to comply with the dimensional and design requirements of this section, and the underlying zoning for the parcel. In no case, shall an individual lot be less than 5,000 square feet.
- d) The size of the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot sizes will allow for the creation of a high-quality living environment for the residents of the subdivision and the abutting property owners.

### 3) Dimensional and Technical Specifications for Individual Lots

If individual lots are created as part of a Conservation Subdivision, the lots shall conform to the following requirements:

- a) Lots that have frontage on an existing public road shall be laid out to minimize the number of curb cuts onto the existing road through the use of shared or common driveways or other methods. The number of curb cuts and distance between them shall be subject to Planning Board approval.
- b) Lots in the rural, agricultural or low-density residential zones having frontage on an existing public road shall maintain a 150 ft vegetated buffer from the existing public road to minimize the effect of the development on the streetscape. The buffer area shall remain free of buildings, parking, or other structures. This buffer area shall be protected by a deed restriction on the subject properties.

**[Margin Note: Each community should evaluate if and where they want the requirement of a vegetated setback from existing public roads to apply. This standard is used to maintain the “rural character” of the existing road by minimizing the change in the viewscape along the road.]**

- c) Building envelopes shall be specified for each lot indicating the location of any future land disturbance and structures that may be placed on the lot.
- d) Lots and building envelopes for each new lot shall ensure an adequate separation between new primary structures and between new primary structures and existing structures on adjacent lots according to the scale below. The distance of separation between new and existing structures generally shall be greater than or equal to the

average distance of separation between existing structures on adjacent parcels (if those parcels are developed as residential subdivisions). Variations from this standard may be granted by the planning board under special permit provided that the intent of this section is met and an adequate vegetated screen is maintained or provided between new structures.

Underlying Zoning	Conservation Design Specifications for Separation Distance Between Structures
4 or more acres per lot or 300' ft frontage	250'
2-3 acres per lot or 250' ft frontage	150'
1 acre per lot or 200' frontage	100'
Less than one acre per lot	Separation based on characteristics of adjacent development

**[Margin Note: Minimal dimensional standards are set under this approach to allow for maximum flexibility in the design and layout of the subdivision to maximize the potential protection of open space and provide for a high-quality living environment for residents. For this reason, frontage requirements are eliminated and set back requirements are minimized. Instead, the attribute of distance between primary structures is addressed and variation in the placement of homes is encouraged. Each community should review these specifications for consistency with their objectives for the design of subdivisions within their different zones.]**

- e) In all cases, the separation distance between principal buildings within the subdivision, whether on the same lot or on different lots, shall conform to the requirements of the Town's building code and the NFPA fire protection codes based upon the type of construction and the use of the buildings.
- f) Height limits for structures shall be determined by the underlying zoning for the parcel.
- g) Building envelopes shall provide for a minimum setback of at least 15 ft from the lot boundaries. Variations from this standard may be granted by special permit by the planning board.
- h) Building envelopes shall be delineated to ensure that no structures shall be less than 20 feet from the edge of pavement of the roadway. Variations from this standard may be granted by the planning board under special permit provided that public safety is maintained.

- i) The setback of building envelopes and structures from the roadway shall vary from lot to lot within the subdivision to retain significant, natural vegetation along the roadway; provide increased privacy for residents on adjacent lots; and increase the visual variety provided by the arrangement of homes within the subdivision.
- j) Shared driveways are permitted and encouraged where appropriate to access individual lots. In no case shall more than three (3) dwelling units share a single driveway. Shared driveways shall be no longer than 500 feet in length.
- k) Individual lots may be irregular.
- l) A septic leach field may be located outside of the lot line boundaries provided the requirements of the State Department of Environmental Services are met, including appropriate legal provisions to allow for maintenance and replacement. Individual leach fields may be located in a designated open space area provided the conservation area is owned by that individual, or owned by the town or a third-party conservation organization that accepts a legal utility easement to permit the leachfield.
- m) Specifications of individual lot lines, access, setbacks and the location of building envelopes on individual lots shall be subject to Planning Board approval based upon its finding that the subdivision layout will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate privacy and public safety.
- n) Garages and secondary structures shall be placed at least 5 feet behind the front of the main structure from the roadway, and preferably shall be located behind the main structure. Garages not located behind the main structure shall be side-entry such that the bay doors shall not face the roadway.
- o) Lots shall be developed in small groups or pods, including no more than six (6) lots developed contiguously, with pods separated by a minimum of 100 feet of retained, pre-existing, mature vegetation. If existing, mature vegetation is lacking on the site, the 100 foot separation area shall be replanted with a substantial number of trees and shrubs to provide a visual break between the pods. The number of homes per grouping or pod may be increased or this provision waived under special permit approved by the planning board provided that the intent and design standards of this section are met.

**[Margin Note: The restriction on the number of house lots that may be clustered together in a contiguous grouping or “pod” is intended to provide for natural visual breaks in the developed area of the parcel to address concerns about the potential negative visual impact of tightly clustering a large number of homes in an area characterized by relatively low-density and dispersed development.]**

**This standard may not be appropriate or necessary in all areas of a community; thus the model allows for variations from this standard by special permit. Alternatively, a community might impose this requirement only in its rural or agricultural zone.]**

## VI. Open Space Requirements

A. At least fifty percent (50%) of the parcel's buildable area, plus at least eighty percent (80%) of the unbuildable area, shall be permanently protected as open space (designated open space) subject to the additional restrictions below and as approved by the planning board, except as provided for in V.C..

**[MARGIN NOTE: A community might decide to require a greater or lesser percentage of the parcel to be conserved. For example, a community might vary the required amount of open space depending on the underlying zoning or characteristics of the parcel. For example, some communities require 80% of the total area of a parcel to be conserved in areas with high-value natural resources, to provide for adequate protection of these resource features.]**

B. Protection of greater than fifty percent (50%) of the parcel's buildable area and/or greater than eighty percent (80%) of the unbuildable area shall be encouraged when a parcel is larger than 100 acres in size or contains a predominance of desirable conservation features, as identified under V.E.

C. At the discretion of the planning board, a special permit may be granted to allow as little as forty percent (40%) of the parcel's buildable area and as little as fifty (50) percent of the unbuildable area to be set aside as permanently protected open space when required to enable the use of the conservation subdivision approach based on the unique characteristics of the parcel and provided that the proposed subdivision adequately meets all other requirements of this ordinance.

D. Portions of the parcel that comprise part of an individual house lot, roadway, driveways, access roads, roadway right-of-way, utility easements, or other new or existing rights-of-way, shall not count toward the calculation of the designated open space.

E. Areas containing the following shall be considered high priority for inclusion in the designated open space:

- 1) Riparian areas and other water resource buffers;
- 2) High quality forest resources;
- 3) Critical or high-quality habitat areas and buffers to these areas;
- 4) High-quality soil resources (forest or ag soils);
- 5) Cultural and historic resources (e.g., stone walls);

- 6) Existing trails;
- 7) Areas that connect to protected open space on adjacent properties;
- 8) Ridgelines that continue through the parcel;
- 9) Viewshed areas.

**[Margin Note: A community should review and revise the above list of high priority resources based on the resources present in their community and the preservation goals of the community.]**

F. The location and layout of the open space shall conform to the standards and process set forth in the Subdivision Regulations.

**[Margin Note: A community should decide what uses are appropriate in the open space to be conserved as part of a conservation design subdivision. A community might decide to vary the uses allowed depending on the location of the development or the types of natural and/or cultural resources present. For example, all uses of the open space might be prohibited if an area to be conserved contains critical wildlife habitat, only passive recreation, agriculture and forestry might be permitted in a development in a rural zone, while more intensive recreation, including facilities such as ball fields or tennis courts, might be permitted on some portion or all of the designated open space in an area targeted for higher density growth. Because the conservation subdivision approach is predominantly used in more rural areas or in areas containing valuable natural and cultural resources, the model allows only a small portion of the designated open space to be used for lower impact activities as a matter of course; more intensive use is possible only under a special permit process. Communities might consider determining the allowable uses based on the recommendations of a natural resource specialist and contained in a written management plan for the conservation land.]**

G. The following uses are permitted in the designated open space, unless specifically prohibited or restricted as a condition of subdivision approval for the purposes of protecting critical wildlife habitat or a public drinking water supply:

- 1) forest management;
- 2) agricultural cultivation;
- 3) passive (non-motorized) trails and recreational uses;
- 4) snowmobile trails;

H. Up to fifteen percent (15%) of the designated open space may be used for the following, unless such uses are specifically prohibited as a condition of the subdivision approval:

- 1) agriculture involving animal husbandry;
- 2) active outdoor recreation uses, including formal playgrounds and fields;
- 3) parking areas for access to the designated open space;

- 4) Support facilities necessary for the subdivision including community wells, community leach fields, stormwater management facilities, underground utility lines and related facilities such as sewer pump stations;
- 5) Individual or group wells and/or underground wastewater disposal systems or parts thereof, provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities;

I. The following uses are permitted on up to fifty percent (50%) of the designated open space under special permit issued by the planning board:

- 1) agriculture involving animal husbandry;
- 2) active outdoor recreation uses;
- 3) facilities, including parking, provided that any building shall have a gross floor area of less than 200 square feet and the total gross floor areas of all such buildings shall be less than 1000 square feet;
- 4) Indoor community or recreational facilities that primarily serve residents of the subdivision, have a total gross floor area for all such facilities of less than 2000 square feet, and are compatible with the overall scale and character of the subdivision;
- 5) small community storage buildings, and similar buildings and structures that are needed for the operation of the subdivision but not including personal storage buildings or sheds;
- 6) Support facilities necessary for the subdivision including community wells, community leach fields, stormwater management facilities, underground utility lines and related facilities such as sewer pump stations;
- 7) Individual or group wells and/or underground wastewater disposal systems or parts thereof, provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities;

J. No more than five percent (5%) of the designated open space shall be covered by impervious cover.

K. The designated open space shall not be used as the location for dwelling units, roadways, other access, private recreation structures or play equipment, private accessory structures, or other nonresidential buildings or parking except as provided above.

L. The designated open space shall not be disturbed during construction, except in areas identified for permitted uses as provided above. Boundaries shall be marked and temporary fencing installed to prevent disturbance.

M. The removal of soil, trees, and other natural features from the designated open space is prohibited, except as consistent with conservation objectives or permitted uses as provided above.

N. The designated open space shall be retained in a natural, undisturbed state, except for those activities permitted as provided above, or managed according to a plan written by a qualified natural resource professional.

## VII Protection and Management of Open Space

A. Area Boundaries of the Designated Open Space shall be clearly identified:

- 1) Boundaries shall be clearly delineated on plans including plats;
- 2) Boundaries shall be clearly marked prior to commencing construction activities (temporary markings are acceptable);
- 3) Boundaries shall be clearly, and permanently marked in the field with signage approved by the Planning Board to identify the area as protected open space.

B. Development in and/or subdivision of Designated Open Space areas in the future shall be prohibited and shall be so noted on the approved subdivision plan/plat.

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

- 1) Dedicated to the municipality as open space, with public access and permanent deed restriction or conservation easement in place;
- 2) Transfer, with permanent deed restrictions or conservation easement, to a land trust or other recognized conservation organization (subject to acceptance by the organization);
- 3) For Designated Open Space areas of less than 50 acres, ownership by one or more private individuals (separately or in common) or by an association of the owners of the dwelling units within the subdivision (i.e., homeowner's association) with open space protection deed restrictions enforceable by any land owner within the association, any owner of separate land parcels adjacent to the open space, or the municipality; or
- 4) Ownership by one or more private individuals (separately or in common) or by an association of the owners of the dwelling units within the subdivision (i.e., homeowner's association) with a conservation easement granted to the municipality and/or recognized conservation or land trust organization.

**[Margin Note: Because deed restrictions are considered a somewhat weaker form of long-term protection against future development, this approach should not be used to protect large and/or significant parcels of open space. In these cases, every effort should be made to secure a conservation easement for the property to be held by the municipality and/or recognized conservation organization.]**

D. In the event that the designated open space is owned by a cooperative legal entity for the benefit of the residents of the subdivision, all common open space shall be governed in accordance with the requirements of New Hampshire RSA 479A: 1-23 inclusive as amended.

- E. Said deed restrictions and/or conservation easement documents shall be placed on file with the Town Clerk upon receipt of Planning Board subdivision approval and duly recorded at the County Registry of Deeds, where appropriate. Such documents shall clearly indicate whether the property is open to the general public, open only to residents of the municipality, or open only to residents of the subdivision.
- F. A management plan for the Designated Open Space and facilities shall be prepared and approved by the Planning Board, subject to the following:
  - 1) Identifies the entity assuming responsibility for stewardship and management of the designated open space, including regular inspections to confirm continued compliance with the terms of the subdivision approval and conservation easement or deed restrictions;
  - 2) Includes detailed standards and schedules for maintenance of the Designated Open Space, including maintenance of vegetation;
  - 3) Allows for municipal maintenance, subject to tax lien against the owners of the open space, in the event that the maintenance specified under the agreement is not completed; and
  - 4) Provides that any amendments to the plan shall be reviewed and approved by the Conservation Commission and the Planning Board.
- G. For properties containing open space protected under a conservation easement to be held and enforced by the town or a third-party, a stewardship fee shall be collected and provided to the third-party to be held in a separate trust account and used to support the monitoring and enforcement of the conservation restrictions. The amount of the stewardship fee shall be determined based on the size and restrictions in place on the open space and the requirements of the third-party easement holder.
- H. A brochure identifying the development as a conservation subdivision and detailing the location and use restrictions of the designated open space shall be prepared by the applicant, subject to approval of the planning board, and provided to all purchasers of property within the subdivision. Additional copies of the brochure shall be provided to the municipality to be distributed to future property owners after any change of ownership.
- I. All documents, including deed restriction language, conservation easements, and the management plan shall be reviewed and approved by Town Counsel prior to receiving subdivision approval from the Planning Board.

### **VIII. Design Standards**

The following design standards are intended to improve the character and aesthetic qualities of the development and to minimize its impact on the environment. Variations from these



standards may be granted by the planning board under special permit provided that the overall intent of this section is achieved by the alternative design.

A. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal. Not including the right-of-way for any access roadway, no more than 20,000 square feet of contiguous area shall be cleared for individual lot development.

B. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Cut and fill shall be limited to 10 feet, and preferably less than 6 feet.

C. The orientation of individual building envelopes shall be such as to maintain maximum natural topography and cover, make use of passive solar energy for lighting and heat, and minimize disturbance to the landscape.

D. Building envelopes shall not be located on ridges, hilltops, along peripheral public roads, or in other visually prominent areas.

E. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to allow for a preferred development scheme.

F. The Planning Board shall encourage design that reduces the amount of impervious cover created and reduces the amount of stormwater runoff generated, and supports the use of stormwater management approaches that retain and infiltrate rainwater onsite in small treatment areas dispersed throughout the development.

**[MARGIN NOTE: See chapter on post-construction stormwater management for more information on recommended stormwater management practices, including specific recommendations for restricting land disturbance (clearing, grading, cut and fill), impervious cover and off-site drainage.]**

G. Streets and driveways shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; to minimize impacts to wildlife passage; and to preserve and enhance views and vistas on or off the subject parcel.

H. Streets shall be curved to follow the natural topography with no straight segment extending more than 300 feet. **[Margin Note: The preceding requirement prohibiting long stretches of straight roadway is intended to be applied in rural residential zones only to address concerns about the potential negative visual impact of tightly clustering a large number of homes in an area characterized by relatively low-density and dispersed development.]**

I. Streets shall be the minimum width and length necessary to meet traffic demands and allow emergency vehicles passage, following the recommendations provided by “Guidelines for Geometric Design of Very Low-Volume Local Roads” by the American Association of State Highway and Transportation Officials (AASHTO).

J. Stream and wetland crossings shall be eliminated whenever possible. When necessary, stream and wetland crossings shall be design to facilitate animal passage and accommodate high-volume flows of water. Bridges and culverts shall be at least 1.2 times as wide as bank-full width (i.e., stream width during the 2-year storm).

**[Margin Note: See chapter on Wildlife Habitat Protection for a more extensive set of criteria to minimize impacts of stream crossings and protect wildlife through site design.]**

K. Any portion of the designated open space not retained in its natural condition (e.g., landscaped parks, areas put toward active recreation) shall be designed to add to the visual amenities of the area by maximizing the viewscape for persons passing the site or overlooking it from nearby properties. If open space is used as parks or recreation facilities, it should provide easy access to all allowable users.

L. On-Site Pedestrian and Bicycle Circulation: Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate.

M. Other design requirements that apply to all residential subdivisions shall continue to apply. These may include, but are not limited to, landscaping standards, street and neighborhood lighting provisions, utility placement, erosion and sediment control, and post-construction stormwater management.

## **Amended Process and Requirements for Subdivision Application and Approval**

### **Authorization of Pre-Application Requirements**

[Needs additional components of a zoning ordinance]

**[Margin Note: This zoning change, and the suggested subdivision regulations that follow, would apply to all subdivision applications, not just those proposing to use the conservation subdivision design approach. Communities could, however, decide to restrict the applicability of these requirements to certain types of subdivisions, such as larger or “major” subdivisions or subdivisions in certain areas of the community.]**

I. As provided for under RSA 674:4 II, a pre-application site inventory review meeting and preliminary conceptual plan review meeting are required by all applicants for **(major)** subdivision of land prior to submitting a formal application. Applicants shall provide for public notice to abutters and submit information and plans, as required by the planning board, to facilitate and support the conceptual design discussion and conceptual plan review meetings.

II. Upon submission of a formal application, the planning board may assess fees to be paid by the applicant to provide for outside third-party review of all materials submitted as part of the subdivision application, including the site context map, site inventory map and conceptual plan submitted prior to formal application. The town may solicit reviews by a certified Landscape Architect, natural resource professional, and/or other professionals as deemed necessary by the planning board. As the applicant's request, the planning board may assess and collect these fees prior to submission of a formal application to conduct the outside, third-party review of the conceptual design discussion and conceptual plan review materials at the time of the submission of the materials (i.e., during the pre-application process).

### **Subdivision Application Requirements and Review Process**

#### **Section XXX. Site Review and Conceptual Design Discussion**

**I. Site Inventory Review and Conceptual Plan Discussion.** To facilitate discussion of the conceptual design of the Conservation Subdivision plan at the pre-application, conceptual design review stage, applicants shall submit the following information:

A. **Site Context Map or Locus Map** – This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties and surrounding area. It should be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to locate the subdivision within the municipality. The site context map shall be based upon existing data sources and field inspections and shall include the following:

- 1) Existing subdivisions in the proximity of the proposed subdivision, including building locations;
- 2) Locations and names of existing streets;
- 3) Boundaries and designations of zoning districts;
- 4) An outline of the subject parcel and the proposed subdivision and any remaining portion of the owner's property if the subdivision will only cover a portion of the owner's entire contiguous holding.

B. Site Inventory Map and Analysis – The Site Inventory Map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map locates and describes noteworthy resources that should be considered through sensitive subdivision layout. This map shall be at a scale of not more than fifty (50) feet to the inch and include, at a minimum, the following:

- 1) The proposed name of the subdivision, north arrow (True Meridian), date, and scale;
- 2) The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines;
- 3) Existing structures or easements on the site (if none, so state);
- 4) The topography of the site at an appropriate contour interval depending on the nature of the use and the character of the site;
- 5) The major natural features of the site and within five hundred (500) feet of the site, including wetlands, vernal pools, streams, ponds, rivers, natural swales and drainage ways, riparian areas, floodplains, stratified drift aquifers, significant wildlife habitats, mast stands, boundary trees, scenic views or areas, significant geologic features, ridgelines, slopes in excess of twenty-five (25) percent, agricultural soils of local and statewide significance, high quality forest soils, and any other important natural features. Wetlands on the site shall be identified and delineated by a New Hampshire Certified Wetlands Scientist and shall be certified by the person performing the delineation. Information on adjacent properties may be from published sources.
- 6) The major anthropogenic features of the site and within five hundred (500) feet of the site, including historic or cultural features, stone walls, roads, driveways, fences, trails, historic structures or remnants, archeological resources, graveyards, cemeteries, views onto and off of the site, and any other important features (if none, so state).
- 7) Soils on the site based on a high intensity soil survey (HISS). The planning board may allow the submission of a medium intensity soil survey if it determines that a HISS is not necessary to determine if the proposed density of development conforms to the zoning requirements or to evaluate the appropriate use of the property. High quality forest and agricultural soils should be identified. Depth to bedrock shall also be indicated.
- 8) Vegetative cover and its condition;
- 9) Watershed and subwatershed boundaries;
- 10) Location and size of existing utilities or improvements to the site (if none, so state);

- 11) If not served by public water, any potential sources of fire protection water supply within one half mile of the site, including public water mains, existing fire ponds, or other possible sources.
- 12) Preliminary identification of those areas of the site deemed suitable for development or use and those areas with the most significant conservation value based on the assessment of the site.

C. Site Visit – Applicants are encouraged to request a site visit by the Planning Board to facilitate pre-application review of the Site Inventory Map and Conceptual Conservation Subdivision Plan.

**II. Preliminary Conceptual Plan Review.** The Concept Plan is intended to be a draft of the proposed design for the subject subdivision. To ensure maximum opportunity to revise the proposed design based on planning board and public input, the concept plan should not be a fully-engineered plan.

A. To facilitate review and discussion, the Concept Plan shall include the following:

- 1) The subdivision name, boundaries, north point, date, legend, title “Concept Plan” and scale.
- 2) The names of the record owner and the applicant, and the name of the Landscape Architect that prepared the plan.
- 3) The names, approximate location, and widths of adjacent streets.
- 4) The proposed topography of the land shown at a contour interval no greater than 4 feet. Elevations shall be referred to mean sea level.
- 5) The location of existing landscape features including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archeological and historic structures or points of interest, noteworthy tree specimens, and habitats of endangered or threatened wildlife as identified as primary and secondary resources. Proposals for all site features to be preserved, demolished, or moved shall be noted in this plan.
- 6) All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified.
- 7) Lines showing proposed private residential lots with approximate areas and dimensions and a proposed building envelope indicating the expected location of any land disturbance activity and structures.

- 8) All existing and proposed features and amenities including trails, recreation areas, pedestrian and bicycle paths, community buildings, off-street parking areas (and any others) shall be shown on the plan and described in a brief narrative explanation where appropriate.
- 9) The existing and proposed lines of streets, ways, common driveways, easements, and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.
- 10) Proposed roadway grades.
- 11) A narrative explanation detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land.
- 12) A narrative explanation of the proposed stormwater management approach and its likely impacts on-site and to any abutting parcels of land. The approximate location of any stormwater management facilities shall be shown on the plan and accompanied by a conceptual landscaping plan.
- 13) A narrative explanation detailing the proposed drinking water supply system.
- 14) A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Proposed conservation areas shall be clearly shown on the plan.
- 15) A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds, with an accompanying narrative explaining their general purpose.

## B. Conceptual Long Range Development Plan

When a subdivision will not utilize the entire parcel and there is potential for future subdivision or development of the parcel or any of the lots being created, the application for subdivision approval shall include a Conceptual Long Range Development Plan showing the potential utilization of the lots and the balance of the parcel not being subdivided. The Long Range Plan is intended to be conceptual in nature, to rely on published data about natural resources relevant to the parcel and the built environment, and to demonstrate that the current subdivision proposal will not compromise important conservation values or the long term development of the parcel as a Conservation Subdivision. This plan shall show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land. This plan shall analyze the conservation and development potential of the remaining area of the parcel and shall show, in general terms, the potential street network, open space areas, and development areas in a manner that

demonstrates that both the proposed development and the future development can occur so that it conforms to the requirements for Conservation Subdivisions and preserves the significant natural resource and conservation values of the entire parcel.

### **Section XXX. Subdivision Application**

A formal application for a residential subdivision shall include copies of the site context map, site inventory, and conceptual plan as previously submitted to the planning board.

If the proposed subdivision creates permanently protected open space, the application shall include the following:

- A. Preliminary Open Space Ownership and Stewardship Plan, including, but not limited to:
- 1) A description of all common open space and any other lands and facilities proposed to be owned by the Town, conservation organization, homeowner's association, or individual land owners, that will be protected under conservation easement, held by a third-party, or deed restrictions.
  - 2) A map of the land to be conserved showing the location of any facilities or structures.
  - 3) A description of the proposed ownership arrangements for the land to be conserved.
  - 4) A description of the proposed conservation easement or deed restrictions that will permanently protect the portions of the parcel to remain undeveloped.
  - 5) A description of the proposed arrangements for long-term stewardship of the common open space including management objectives and techniques for the property, identification of the organization having primary and secondary responsibility for conducting regular monitoring of the property and if necessary, enforcing the terms of the easement, a list of the allowable uses for the protected open space indicating any restrictions, and the proposed fee to cover the long-term stewardship of the property.
  - 6) Copies of proposed deed restrictions, conservation easements, stewardship/management plan for the open space conservation area, and other legal documents relating to the ownership, protection, and stewardship of the conserved land.
  - 7) Evidence that a municipal organization, homeowner's association, or independent third-party will be designated to assure compliance with all conservation restrictions and is willing to assume this responsibility, including establishing a Stewardship account to support future oversight.
- B. Clearly delineate the area to be conserved as part of the conservation design subdivision and demonstrate that the subdivision layout meets the following:
- 1) At least 75% of the open space conservation area is contiguous with other open space;
  - 2) No portion of the open space conservation area is less than 100 feet wide;
  - 3) The area designated as open space conservation area is contiguous with existing undeveloped, open space on adjacent parcels;

- 4) The open space conservation area includes and protects, to the maximum extent possible, the desired natural and cultural features of the parcel identified in the site inventory map.

**[Margin Note: At this point, the process for subdivision application and review should be identical for either a conventional design or a conservation design subdivision. A community should review their subdivision application procedures for consistency with the above modifications.]**

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