

6.3. CONSERVATION SUBDIVISION DEVELOPMENT

- A. **Purpose and Intent.** The purpose and intent of a conservation subdivision is to provide a development option for land in the rural and suburban portions of the town that provides development flexibility to build on smaller lots when open space exceeds the minimums required by Section 6.2.1: Open Space. Conservation subdivisions shall:
1. Provide a residential development pattern that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land;
 2. Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands, and wildlife habitat; preserve important historical and archaeological sites;
 3. Permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development; reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development;
 4. Promote interconnected greenways and corridors throughout the community; promote contiguous greenspace with adjacent jurisdictions;
 5. Encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging the use of parks and community facilities as focal points in the neighborhood;
 6. Encourage street designs that reduce traffic speeds and reliance on main arteries; promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles;
 7. Conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space; and
 8. Protect prime agricultural land and preserve farming as an economic activity.

- B. **Applicability.** Conservation subdivisions shall be limited to development of single family detached residential dwellings on individual lots. Conservation subdivisions shall not be available for any other form of development or dwelling type. Single family detached residential subdivisions of more than five (5) lots in the LD and MD zoning districts may be developed as a conservation subdivision, in accordance with the standards of this section. Conservation subdivisions shall not be permitted in any other zoning districts.
- C. **Ownership of Development Site.** The tract of land to be subdivided may be held in single and separate ownership or multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.
- D. **Housing Density Determination.** The maximum number of lots in the conservation subdivision shall be determined by either of the following two methods, at the discretion of the applicant:
1. **Calculation.** The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:
 - a. Slopes more than twenty-five (25) percent of at least five-thousand (5,000) square feet contiguous area;
 - b. The 100-year floodplain;
 - c. Bodies of open water more than five-thousand (5,000) square feet contiguous area; and
 - d. Wetlands that meet the definition of the Army Corps of Engineers pursuant to the Clean Water Act.
 2. **Yield Plan.** The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must

be capable of being constructed given site features and all applicable regulations.

- E. **Minimum Lot Sizes.** The minimum lot size may be reduced by no more than fifty (50) percent of the lot size currently required in the applicable underlying zoning district.
1. All lots must still meet all applicable Wake County Health Department requirements.
 2. Building setbacks shall be proportionally reduced from underlying zoning district standards in accordance with individual lot area.
 3. The building envelop with setbacks for each house is to be identified don the final plat of each phase prepared for development.
- F. **Site Analysis Required As Part of Sketch Plan.** As part of the sketch plan submitted, applicants shall prepare a site analysis. The purpose of this site analysis is to ensure that the important site features have been adequately identified prior to the creation of the site design and that the proposed protected open space will meet the requirements of this article. The preliminary site plan shall include the following features:
1. Existing property boundaries;
 2. Proposed lot layouts for the conservation subdivision;
 3. All streams, rivers, lakes, wetlands, and other hydrologic features, including all FEMA-designated floodplains and floodways;
 4. Areas subject to the Town of Rolesville riparian buffer requirements;
 5. Topographic contours of no less than five-foot intervals;
 6. All Primary and Secondary Conservation Areas labeled by type
 7. General vegetation characteristics, especially lowland and upland hardwood stands;
 8. General soil types;
 9. The planned location of protected open space;
 10. Existing roads and structures;

11. Potential connections with existing greenspace and trails; and
 12. All necessary land area calculations measured in acres and/or square feet to ensure the compliance with all sections of this LDO.
- G. **Protected Open Space Management Plan Required.** A protected open space management plan, as described below shall be prepared and submitted prior to the issuance of final subdivision plat approval.
- H. **Instrument of Permanent Protection Required.** An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in below shall be placed on the protected open space concurrent with the issuance of final subdivision plat approval.
- I. **Other Requirements.** The applicant shall adhere to all other applicable requirements in the unified development ordinance.
- J. **Protected Open Space - Standards to Determine Protected Open Space.**
1. The minimum protected open space shall comprise at least fifty (50) percent of the gross tract area.
 2. The following are considered primary conservation areas and are required to be included within the protected open space unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:
 - a. The 100-year floodplain.
 - b. Riparian zones.
 - c. Slopes of greater than twenty-five (25) percent with at least five-thousand (5,000) square feet contiguous area.
 - d. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act.
 - e. Sites identified in the Wake County Natural Heritage Inventory and any updates.

- f. Other populations of endangered or threatened species, or habitat for such species.
 - g. Archaeological sites, cemeteries, and burial grounds.
3. The following are considered secondary conservation areas and should be included within the protected open space to the maximum extent feasible.
 - a. Important historical sites, where previously designated or eligible for the National Register of Historic Places.
 - b. Historic sites and structures identified in the most current inventory conducted by the Wake County Historic Preservation Commission.
 - c. Existing healthy, native forests of at least one-acre contiguous area.
 - d. Individual existing healthy trees greater than twelve (12) inches caliper, as measured four (4) feet above the average adjacent grade.
 - e. Other significant natural features and scenic viewsheds such as ridgelines, peaks, and rock outcroppings, particularly those that can be seen from public roads.
 - f. Prime agricultural lands of at least five (5) acres contiguous area.
 - g. Existing trails that connect the tract to neighboring areas.
4. Above-ground utility rights-of-way and areas of impervious surface less than five-hundred-and-thirteen (513) square feet (three (3) parking spaces) may be included within the protected open space but cannot be counted towards the forty (40) percent minimum area requirement (exception: historic structures and existing trails may be counted).
5. At least twenty-five (25) percent of the protected open space shall consist of land that is suitable for building.
6. At least seventy-five (75) percent of the protected open space shall be in a contiguous tract. The protected open space shall adjoin any neighboring areas of protected open space, other protected areas, and non-protected natural

areas that would be candidates for inclusion as part of a future area of protected open space.

7. For projects, less than fifty (50) acres, only two (2) separate areas will be used to calculate the required protected open space. For projects greater than fifty (50) acres, only three areas will be used to calculate the required protected open space.
8. The protected open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the protected open space.

K. **Permitted Uses of Protected Open Space.** Uses of protected open space may include the following:

1. Conservation of natural, archeological, or historic resources;
2. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
3. Walking or bicycle trails, provided they are constructed of porous paving materials;
4. Passive recreation areas, such as open fields;
5. Active recreation areas provided that they are limited to no more than ten (10) percent of the total protected open space and are not located within primary conservation areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space.
6. Agriculture, horticulture, silviculture, or pasture use, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas;
7. Landscaped stormwater management facilities, community wastewater disposal systems, and individual wastewater disposal systems located on soils

particularly suited to such uses. Such facilities shall be located outside of primary conservation areas;

8. Easements for drainage, access, and underground utility lines;
9. Above-ground utility structures and areas of impervious surface less than five-hundred-and-thirteen (513) square feet (three (3) parking spaces), provided they are not located in primary conservation areas;
10. Other conservation-oriented uses are compatible with the purposes of this ordinance.

L. **Prohibited Uses of Protected Open Space.** The following are prohibited uses of protected open space:

1. Golf courses;
2. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
3. Agricultural and forestry activities not conducted according to accepted Best Management Practices;
4. Impoundments;
5. Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

M. **Ownership and Management of Protected Open Space.**

1. **Ownership of Protected Open Space.** A homeowner's association (HOA) or property owner's association (POA), or similar entity representing residents of the conservation subdivision shall own the protected open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The responsible entity shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the protected open space and any facilities located thereon shall be borne by the HOA or POA.

2. Prior to final plat approval, the Board of Commissioners shall have the final right to decide if the active recreation area will become part of the Town of Rolesville's Parks and Recreation system.
 3. **Management Plan.** The applicant shall submit a Plan for Management of Protected Open Space and Common Facilities ("Plan") that:
 - a. Allocates responsibility and guidelines for the maintenance and operation of the protected open space and any facilities located thereon, including provisions for ongoing maintenance and long-term capital improvements;
 - b. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the protected open space and outlines the means by which such funding will be obtained or provided;
 - c. Provides that any changes to the Plan be approved by the Board of Commissioners; and
 - d. Provides for enforcement of the Plan.
 4. In the event the party responsible for maintenance of the protected open space fails to maintain all or any portion in reasonable order and condition, the Town of Rolesville may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance.
 5. The costs of such maintenance may be charged to the Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.
- N. **Legal Instrument for Permanent Protection.** The protected open space shall be protected in perpetuity by a binding legal instrument that is recorded simultaneously with the final subdivision plat. The instrument shall be one of the following:
1. A permanent conservation easement in favor of either:

- a. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence, and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
 - b. A governmental entity with interest in pursuing goals compatible with the purposes of this ordinance. If the entity accepting the easement is not the Town of Rolesville, then a third right of enforcement favoring the Town of Rolesville shall be included in the easement.
2. A permanent restrictive covenant for conservation purposes in favor of another governmental entity, if approved by the Town of Rolesville.
3. An equivalent legal tool that provides permanent protection, if approved by the Town of Rolesville.
4. The instrument for permanent protection shall include clear restrictions on the use of the protected open space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the applicant chooses to place on the use of the protected open space.