

3800. CONSERVATION SUBDIVISION DESIGN

3810. Purpose.

The purpose of this Section 3800, Conservation Subdivision Design, is to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use; to preserve historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Carver's traditional New England landscape; to allow landowners a reasonable return on their investment; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of housing affordable to low and moderate income families.

3820. Applicability.

Any creation of five (5) or more lots, whether a subdivision or not, from a parcel or set of contiguous parcels held in common ownership and located entirely within the Residence District, may proceed under this Section 3800, Conservation Subdivision Design, pursuant to the issuance of a special permit by the Planning Board, as indicated in Section 2230, the Use Regulation Schedule. Such special permits shall be acted upon in accordance with the following provisions.

3830. Procedures.

Applicants for Conservation Subdivision Design shall file with the Planning Board six (6) copies of the following:

3831. A Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plan shall indicate proposed topography, wetlands, and, unless the development is to be sewerred, the results of deep soil test pits and percolation tests at the rate of one per acre, but in no case fewer than four (4) per Conservation Subdivision. Where wetland delineation is in doubt or dispute, the Planning Board shall require the applicant to submit to the Conservation Commission a request for determination of applicability pursuant to G.L. c. 131, s.40 and 310 CMR 10.05(3). The Planning Board shall refer data on proposed wastewater disposal to the Board of Health for their review and recommendation. The Planning Board may also require as part of the Development Plan any additional information necessary to make the determinations and assessments cited herein.

3832. Four-Step Design Process. Each Development Plan shall follow a four-step design process, as described below. When the Development Plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that these four design steps were followed by their site designers in determining the layout of their proposed streets, houselots, and open space.

a. Designating the Open Space. First, the open space is identified. The open space shall include, to the extent feasible, the most sensitive and noteworthy natural, scenic, and cultural resources on the property.

b. Location of House Sites. Second, potential house sites are tentatively located. House

sites should be located not closer than 100 feet to wetlands areas, but may be situated within 50 feet of open space areas, in order to enjoy views of the latter without negatively impacting the former.

c. Street and Lot Layout. Third, align the proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on open space. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged.

d. Lot Lines. Fourth, draw in the lot lines. These are generally drawn midway between house locations.

3840. Modification of Lot Requirements.

The Planning Board may authorize modification of lot size, shape, and other bulk requirements for lots within a Conservation Subdivision, subject to the following limitations:

3841. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.

3842. Each lot shall contain not less than one-half of the area otherwise required in the district, and have frontage of not less than 50 feet.

3843. Each lot shall have at least 50% of the required yards in the district.

3850. Number of Dwelling Units.

The maximum number of dwelling units allowed shall be equal to the number of lots which could reasonably be expected to be developed upon that parcel under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan. The Planning Board may require a conventional preliminary level subdivision plan to be submitted in order to demonstrate potential.

3860. Open Space Requirements.

A minimum of 20% of the parcel shown on the Development Plan shall be contiguous open space, excluding required yards and buffer areas. Such open space may be separated by the road(s) constructed within the Conservation Subdivision. Not more than 25% of such open space shall be wetlands, as defined pursuant to G.L. c. 131, s. 40.

3861. The required open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

3862. The required open space shall remain unbuilt upon, provided that ten percent (10%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths, and agriculture.

3863. Underground utilities to serve the Conservation Subdivision site may be located within the required open space.

3864. The required open space shall, at the owner's election, be conveyed to:

a. the Town of Carver or its Conservation Commission;

b. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or

c. corporation or trust owned jointly or in common by the owners of lots within the Conservation Subdivision. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town of Carver to perform maintenance of the open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. The owner of each lot shall be deemed to have assented to the town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the town of same. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded in the Registry of Deeds.

3865. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

3870. Buffer Areas.

All dwellings and structures shall be located a minimum of 50 feet from adjacent properties, and 100 feet from adjacent surface waters or wetlands. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, in accordance with G.L. c. 131, s. 40, the Wetlands Protection Act, except where adjacent to agriculturally used property.

3880. Decision.

The Planning Board may approve, approve with conditions, or deny an application for a Conservation Subdivision, after assessing whether the Conservation Subdivision better promotes the objectives of Section 3610, herein, than would conventional development.

3890. Relation to Other Requirements.

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.