

Sec. 24-152. - Conservation Subdivisions.

- (a) **Applicability** . Conservation subdivision design shall be required for all preliminary plans of subdivision for residentially zoned land located in the Rural Tier approved after June 30, 2006, with the exception of applications for:
- (1) Property zoned R-80;
 - (2) Four (4) or fewer lots in Sustainable Growth Tier III, provided no additional subdivision for additional lots is permitted for the entirety of the original application and the original property has not been the result of a previous subdivision pursuant to Section 24-107(c)(3); or
 - (3) Seven (7) or fewer lots in Sustainable Growth Tier IV, provided no additional subdivision for additional lots is permitted for the entirety of the original application and the original property has not been the result of a previous subdivision pursuant to Section 24-107(c)(3).
- (b) **Purpose** . The purpose of a conservation subdivision is to protect the character of land through the permanent preservation of farmland, woodland, sensitive natural features, scenic and historic landscapes, vistas, and unique features of the site in keeping with the General Plan and Countywide Green Infrastructure Plan. The standards in this Section provide for lots, open space and internal street designs that conserve woodlands, farmland, farm structures, historic structures, and the scenic and unique character of development sites. A conservation subdivision prioritizes site characteristics for conservation and is intended to create a site layout that conserves important site features such as open space networks, blocks of productive farmland, unique characteristics of a site and contiguous woodland habitats. The site design should encourage agricultural pursuits, create attractive development layouts respecting existing features of the site, and encourage connectivity between scenic, historic, agricultural, and environmental characteristics of abutting properties.
- (c) **Purpose of a Public Benefit Conservation Subdivision**. The purpose of a Public Benefit Conservation Subdivision is to prioritize site characteristics which conserve important site features such as open space networks and contiguous woodland habitats adjacent to other existing open space tracts. The site design should encourage connectivity between environmental characteristics of adjacent properties and should provide a continuous open space network between the proposed development layout and the adjacent properties. Intermodal trails which provide a link to adjacent properties as an enhancement of recreational opportunities are encouraged.
- (d) **Land distribution** .
- (1) In the O-S Zone, a minimum sixty percent (60%) of the gross tract area shall be designated as a conservation lot or parcel. Up to forty percent (40%) of the gross tract area may be utilized for residential development areas.
 - (2) In the R-A Zone a minimum fifty percent (50%) of the gross tract area shall be designated as a conservation lot or parcel. Up to fifty percent (50%) of the gross tract area may be utilized for residential development areas.
 - (3) In the R-E and R-R Zones a minimum forty percent (40%) of the gross tract area shall be designated as a conservation lot or parcel. Up to sixty percent (60%) of the gross tract area may be utilized for residential development areas.
- (e) **Regulations** . Additional regulations concerning the location, size and other provisions for buildings, structures, accessory structures and uses are as provided for in Subtitle 27 and the Landscape Manual.
- (f) **Submittal requirements** . The applicant shall file a sketch plan in accordance with Section 24-119(c) before submitting a preliminary plan of subdivision.
- (1) The Planning Director or designee shall certify the completion of the sketch plan process, as required in this Section prior to the acceptance of a preliminary plan of subdivision.
 - (A) The sketch plan shall remain valid for two (2) years from the date of certification.

- (B) Upon a written request received prior to the expiration, the sketch plan validity period may be extended by the Planning Director, if the applicant has not unduly delayed the filing of a preliminary plan of subdivision.
 - (C) The certification of the sketch plan is not to be construed as the approval of the lot yield, but the completion of the sketch plan process for planning purposes.
- (2) The intent of the sketch plan is to clearly document the design process, and to prioritize the characteristics of the site to be preserved in a conservation parcel or lot. Priorities can be a combination of site characteristics and may include areas of the site not otherwise regulated by this Subtitle.
- (A) The sketch plan shall document the existing features of the site. The characteristics of the site are generally categorized as follows:
 - (i) Scenic;
 - (ii) Agricultural;
 - (iii) Environmental; and
 - (iv) Historic.
 - (B) The sketch plan shall include:
 - (i) Existing grades at two-foot contours, and a non-disturbance line;
 - (ii) Information on surrounding properties to evaluate the opportunities for connectivity between characteristics of abutting properties; and
 - (iii) Location and/or documentation of woodlands, farmland, farm structures, historic structures, streams, wetlands, scenic vistas, rock formations, hedgerows, pastures, cultural resources, unique views from streets and adjoining properties, and any other information pertaining to the character of a site. The sketch plan shall incorporate information from a signed natural resources inventory (NRI).
 - (C) The sketch plan shall identify the areas proposed for conservation lots and parcels including conceptual house site and septic recovery area on conservation lots.
 - (D) The sketch plan shall establish a building and structures envelope on each conservation lot.
 - (E) The sketch plan shall propose locations for dwellings on that portion of the site determined to be least suitable for conservation.
 - (F) The sketch plan shall locate areas of the site that have appropriate soils for septic recovery fields (community, shared and/or individual systems) if proposed and shall show areas for stormwater management facilities, if any, and the type of facility proposed.
 - (G) The sketch plan shall show conceptual locations for proposed roads, lot lines and setbacks.
 - (H) The sketch plan should designate existing environmental and landscape features such as groups of trees, specimen trees, hedgerows, and woodland areas.
 - (I) The sketch plan application package shall include, on a separate sheet, a woodland and wildlife habitat conservation concept plan that illustrates areas proposed for conservation and includes a draft worksheet, showing how the requirements of Division 2 of Subtitle 25 will be met.
- (g) **Conservation area .**
- (1) The conservation area shall be located on a parcel or lot and characterized as primarily scenic, agricultural, historic or environmental, or any combination.

- (A) A conservation easement for the purpose established on the preliminary plan shall be placed on the conservation area at the time of final plat. The conservation area shall be designated as either a parcel or a lot on the sketch plan, preliminary plan and final plat.
 - (i) A conservation parcel that includes stormwater management facilities and septic recovery areas associated with the residential development area shall be conveyed to the homeowners' association.
 - (ii) A conservation lot may support one dwelling unit. Stormwater management or septic recovery areas not associated with the single-family dwelling unit on the conservation lot shall not be permitted.
- (2) Design criteria for conservation areas.
 - (A) The area of the site required for a conservation parcel or lot shall be determined based on the priorities established in the review of the sketch plan, may include areas of the site not otherwise more specifically regulated by this Subtitle, and should be one parcel or lot to the extent possible.
 - (B) Conservation areas shall connect with existing and potential conservation areas on abutting sites to encourage corridors of compatible site characteristics, unless it is found to be impractical due to topography, spacing or existing natural barriers.
 - (C) Naturally contiguous conservation areas shall not be divided for the sole purposes of obtaining allowable density.
 - (D) Fragmentation of the conservation area into small, irregularly shaped conservation parcels and lots shall be avoided.
 - (E) Farm structures shall be retained whenever possible.
 - (F) The subdivision layout shall be designed to minimize potential adverse impacts on existing farm operations.
 - (G) Woodland and wildlife habitat conservation required for the area of conservation parcels or lots may be provided at an off-site location, only if it is necessary to preserve the rural and agricultural landscape.
 - (H) Septic recovery areas and stormwater management facilities may be located on a conservation parcel to be maintained by the homeowners' association if there is no adverse impact to the character of that area of land, and it is demonstrated that the residential development area cannot support these facilities. Stormwater management facilities in conservation parcels should not include typical dry ponds with associated steep slopes, dams, mowed areas, fencing or unsightly overflow structures. Farm ponds, bioretention ponds, naturally contoured ponds and wet ponds with wetland edges and no visible structures are permitted on the conservation parcel which is to be maintained by the homeowners' association. Septic recovery areas within conservation parcels to be maintained by the homeowners' association should be designed to appear to be part of the existing landscape.
- (h) **Residential development area .**
 - (1) The residential development area shall include individual lots, recreational facilities, community or individual septic recovery areas, stormwater management facilities, and all easements and streets serving these lots.
 - (2) Layout Design Criteria
 - (A) Internal streets shall be sited to maintain the existing grade as much as possible.
 - (B) Lots and the siting of dwellings shall be arranged and sufficiently set back to preserve views of the site characteristics from streets and abutting properties.
 - (C) Dwellings should not be located in the center of open fields or on a ridgeline.

- (D) Existing farm roads and driveways should be incorporated into the internal street or trail design where possible.
 - (E) Access to all lots should be from interior streets and easements.
 - (F) Dwellings and streets should be located at the edges of woodlands or situated in a manner that will maximize the amount of contiguous wooded area left intact.
 - (G) Proposed street and driveway crossings through wetlands, floodplains, steep slopes, and streams are prohibited, unless the crossing will provide more efficient lot and street layout that provides less net disturbance of these features than an alternative layout.
 - (H) Trees on ridgelines should be preserved.
 - (I) Dwellings should be located a minimum of forty (40) feet from any environmentally regulated area, including woodland conservation areas.
- (3) Lot specific design criteria.
- (A) Buildings and driveways shall be sited to maintain the existing grade as much as possible.
 - (B) A variety of lot sizes and lot widths should be provided within clusters of dwellings in order to prevent visual monotony. Since the variety of lot sizes and lot widths in a Public Benefit Conservation Subdivision may be limited, to the extent that such variation is impracticable, the applicant may provide a variety of house facades and enhanced streetscape elements for lighting, landscaping and sidewalks.
 - (C) Dwellings should be sited to avoid the rears being oriented toward the fronts of other dwellings and external streets. A landscape plan may be required to provide for the buffer of views of the rear and sides of dwellings from all streets and easements and the fronts of other dwellings.
 - (D) Direct driveway access for individual lots onto perimeter streets shall be avoided unless necessary for safety reasons or for some other benefit such as environmental preservation.
 - (E) Large expanses of driveways and parking areas shall not be visible from the external streets and abutting properties.
- (4) Stormwater management. The applicant shall utilize low impact development (LID) techniques, unless otherwise authorized by the Department of Permitting, Inspections, and Enforcement. For purposes of this Section, "low impact development (LID) techniques" refer to stormwater management designs that accommodate stormwater through the use of existing hydrological site features and by reducing impervious surfaces (roadways), curbs, and gutters; decreasing the use of storm drain piping, inlet structures; and eliminating or decreasing the size of stormwater ponds. Due to the constraints associated with the lot sizes in a Public Benefit Conservation Subdivision, traditional stormwater management designs and practices may need to be utilized, particularly adjacent to lots of less than twenty thousand (20,000) square feet where urban street construction utilizing sidewalks should be provided. However, the use of LID and integrated management practices shall be encouraged to enhance stormwater management. Such integrated management practices may include bioretention, dry wells, filter buffer, infiltration trenches and similar techniques.
- (5) Gateway signs permitted pursuant to Section 27-624 shall be reviewed by the Urban Design Section prior to the approval of the sign permit for compatibility with the character of the surrounding and proposed community.
- (6) Lighting techniques should be utilized that decrease adverse impacts on the adjoining and abutting properties.
- (i) **Scenic and historic roads** . Development along a designated scenic or historic road shall conform to the following standards:
- (1) There should be no views of the rears of dwellings from the road.

- (2) Engineered berms for screening purposes are not permitted unless they are constructed to mimic natural contours.
- (3) Fencing along the road shall be rural in character.
- (4) Views from scenic and historic roads shall be preserved or may be created through the installation of landscaping that mimics natural conditions.
- (5) Trees and vegetation shall not be removed within the required setback unless in accordance with an approved tree conservation plan.
- (6) Existing slopes and tree tunnels along the street frontage should be retained, unless required to be removed by the Department of Public Works and Transportation (DPW&T) or the State Highway Administration (SHA) for frontage improvements.
- (7) Buildings that are located within two hundred (200) feet from the street should be sited such that the principal entrance is oriented toward the street.
- (8) A scenic easement shall be provided along the frontage of a designated scenic or historic road abutting the 10-foot public utility easement. The scenic easement shall be a minimum of forty (40) feet and increased where appropriate to retain unique characteristics of the scenic and historic character of the road.
- (9) In general, access (public and private) to a scenic or historic road should be limited to the extent possible unless for safety reasons or for some other benefit such as environmental preservation, or to implement the stated purposes of this Division.
- (10) Septic recovery areas shall not be permitted within the scenic easement, unless determined appropriate.

(j) **Streets .**

- (1) A conservation subdivision may be served by public and private streets, and access easements.
- (2) Access authorized pursuant to Section 24-128(b)(1), (3) and (11) of the Subdivision Regulations may be deemed adequate to serve lots of any net lot area. Access easements designed in accordance with Section 24-128(b)(1) may be deemed adequate to serve a maximum of eight (8) lots. The access easement shall provide a passing area when determined appropriate.

(k) **Criteria for approval .** The Planning Board shall find that the conservation subdivision:

- (1) Fulfills the purpose and conforms to the regulations and standards for a conservation subdivision.
- (2) Achieves the best possible relationship between the development and the conservation of site characteristics as prioritized in the sketch plan and preliminary plan.
- (3) Because the use of the Conservation Subdivision technique in the Developed or Developing Tier is optional, the Planning Board shall also find that the proposed plan is clearly superior to that which could be achieved through the use of conventional development standards and clearly meets the purposes of the Conservation Subdivision technique. Lot yield shall be a secondary consideration to achieving the purposes of the Public Benefit Conservation Subdivision in assessing whether a proposed plan is clearly superior.

(l) **Preliminary plan .** In addition to the information required for a major subdivision provided in Section 24-119, the preliminary plan for a conservation subdivision shall:

- (1) Include all information required in the sketch plan process, including the proposed purpose (scenic, historic, agricultural, or environmental) of the conservation area(s);

- (2) Include as a separate exhibit for any application in the Developed or Developing Tier, a reasonable and achievable lotting pattern reflecting the minimum conventional standards of the existing zoning of the property; and
 - (3) Include a draft conservation easement document.
- (m) **Final plat notation** . The following shall be included on the final plat:
- (1) A statement that the property is approved for a conservation subdivision and that further subdivision may not be permitted; and
 - (2) The limit of the conservation easement and the legal description (liber and folio) of the conservation easement deed.
- (n) **Ownership/maintenance** . The conservation area shall be owned and controlled by an individual, homeowners' association, public or private organization, land trust, or corporation. The owner shall assume all responsibility for maintenance and continued protection of the conservation area. An ownership and maintenance agreement as part of the conservation easement deed shall be approved by the Planning Board, recorded among the Land Records of Prince George's County, and referenced on the record plat of subdivision.
- (o) **Easements** . An easement agreement shall be recorded in the Land Records of Prince George's County for the conservation area, prior to the approval of the final plat. The easement agreement shall be approved by the Prince George's County Planning Board (or its designee) prior to recordation. The easement shall run with the land, shall be in full force and effect in perpetuity, and shall describe and identify the following:
- (1) The location and size of the conservation areas;
 - (2) Existing improvements on the conservation areas;
 - (3) Provisions that prohibit future development of the conservation areas;
 - (4) The purpose of the conservation area;
 - (5) Provisions for a prohibition on future subdivision of the conservation area;
 - (6) Provisions for maintenance and ownership of the conservation area;
 - (7) Responsibility for enforcement of the easement;
 - (8) Provisions for succession in the event that one of the parties to an easement agreement should be dissolved; and
 - (9) Regardless of who the owner of a conservation area is or will be, there shall be an additional party to the easement in addition to the property owner:
 - (A) A land conservation organization that is:
 - (i) A not-for-profit, tax-exempt organization within the meaning of Section (501)(c)(3) of the Internal Revenue Service Code;
 - (ii) Established to promote the preservation and protection of natural, historic and agricultural resources; and
 - (iii) Party to a cooperative agreement with the Maryland Environmental Trust committing to follow the Land Trust Alliance's Standards and Practices in any easement it holds; or
 - (B) A local governmental agency, upon the demonstration by the applicant that they have exhausted all reasonable efforts to obtain an agreement with a private non-profit organization. If the conservation area is dedicated to the local government agency in fee simple, there does not have to be an additional party to the easement; however, the conservation easement shall be in perpetuity and in a form acceptable to the Maryland Environmental Trust.

(p) **Definitions** . The terms used in this Section have the same meaning as that assigned in Sections 24-101 and 27-107.01 of the County Code, unless a different meaning is assigned below. The following terms used in this Subsection are defined as follows:

- (1) Internal Yard: A yard that does not abut the external tract area property lines and streets.
- (2) Perimeter Street: A street that is not internal to the proposed subdivision.
- (3) Net Lot Area: The contiguous lot area located outside of the 100-year floodplain, and regulated environmental features as defined by Section 24-101.
- (4) Conservation Area: The areas of a site identified for preservation and characterized primarily as scenic, agricultural, historic or environmental. The term does not necessarily include areas of the site to be preserved as required by Section 24-130 of this Subtitle. The conservation area to be placed in a conservation easement, required by this Division, is determined with the sketch plan and preliminary plan process and is contained in a conservation lot or parcel. Areas regulated by Section 24-130 that are outside the conservation area shall also be placed in a conservation easement.
- (5) Conservation Lot: A lot that contains areas of required conservation to be preserved in a conservation easement required by this Division. One (1) dwelling unit is permitted on each conservation lot and shall be included in the calculation of allowable density of the net tract area, and shall be located outside the conservation easement.
- (6) Conservation Parcel: A parcel that contains areas of required conservation to be preserved in a conservation easement required by this Division, that does not support density. A conservation parcel may be owned and controlled by an individual, homeowners' association, public or private organization, land trust or corporation. A conservation parcel may contain stormwater management and septic recovery areas associated with the residential development area, if the land is to be conveyed to the homeowners' association, if there is no adverse impact to the character of that area of land, and it is demonstrated that the residential development area cannot support these facilities.
- (7) Residential Development Area: The area of a site permitted for the development of single-family dwelling units, not including the area of a conservation lot associated with the dwelling unit.
- (8) Unique Characteristic: Includes, but is not limited to, specimen trees, barns, hedgerows, hills, cemeteries; and areas, features, structures or development of cultural significance.

(CB-4-2006; CB-33-2008; CB-26-2010; CB-104-2012; CB-28-2014)

Editor's note— Section 3 of CB-26-2010 provides that a development project for which all required development applications have been approved by the Planning Board, Zoning Hearing Examiner, or District Council, and appeal periods have not expired as of September 1, 2010, is grandfathered; or a development project that has an approved preliminary plan of subdivision, but has not completed subsequent processes such as final plat or site plan as of September 1, 2010, is grandfathered for that portion of the project covered by the preliminary plan.