



Strafford Regional Planning Commission

Issue Date: September 24, 2004

“Planning and action for sustainable development and an improved quality of life”.

Fact Sheet:

Open Space Conservation / Cluster Development Subdivision: Model Land Use/Zoning Ordinance and Subdivision Regulations Standards

**Approved by the Strafford Regional Planning Commission on September 28, 2004.
Recommended for adoption by local municipalities within the Region.**

See www.straftford.org for Model Ordinance.

New Hampshire law (RSA 674:36, II (1)) directs municipalities to “Provide for efficient and compact subdivision development which promotes retention and public usage of open space and wildlife habitat, by allowing for village plan alternative subdivision as defined in RSA 674:21, VI. The following are Strafford Regional Planning Commission recommended Policy Standards for an Open Space Conservation / Cluster Development Subdivision Land Use/Zoning Ordinance and Subdivision Regulations:

Land Use / Zoning Ordinance Standards

1. Open Space Conservation / Cluster Development Subdivision development should be mandatory for any major subdivision or any subdivision proposing a new road unless a Planning Board finds it is not feasible. Conventional subdivision design is wasteful, more expensive for the developer, homebuyer, and taxpayer, and more damaging to the environment.
2. Development density (i.e., number of dwelling units per acre) as adopted in a municipality’s Master Plan land use policies and in the Land Use / Zoning Ordinance should determine the maximum number of dwelling units permitted in an Open Space / Cluster Development Subdivision. The density should not be based on a minimum lot size or the maximum number of dwelling units permitted based on the State’s soil carrying capacity to accommodate a septic system.
3. There should be no minimum overall lot size for the subdivision other than that consistent with the Master Plan or required to accommodate at least two septic systems for two dwelling units based on the State soil carrying capacity standards.
4. There should be no minimum or maximum individual dwelling unit lot size other than that required to accommodate a septic system for a single dwelling unit based on the State soil carrying capacity standards, unless the subdivision is served by a public water and sewer system.

5. Fifty percent (50%) of the subdivisions buildable area shall remain in Open Space and be protected in perpetuity.
6. Open Space areas should be held by the developer or in common ownership by a homeowner's association and be taxed as part of the individual homeowner's property tax assessment that includes their proportional share of the common Open Space. Open Space should be protected by a conservation easement held by the municipality's Conservation Commission or by a land trust. Homeowner property assessments will continue to reflect the market rate value for the home and the related protected conservation lands. There should be no reduction in property value, and indeed there should be added value due to the land conservation protections. There is no reason, at this time, to remove the open space/conservation areas from the tax rolls unless the land is dedicated to the municipality to meet a public purpose e.g., active park space accessible to the public. The land need not be kept in current use, but considered as part of the overall subdivision land.
7. Open Space conservation deed covenants, restrictions and/or easements shall be monitored and enforced, as a minimum, by the municipality's Code Enforcement Officer per RSA 674:21-a. Another option is to require the fee simple property owner (e.g., developer or Homeowner's Association) to annually submit a "Certification of Compliance with Conservation Easement Restrictions" stamped by a certified soil scientist. Any costs related thereto may be funded via the municipality's general fund, a special operating account / fund with revenues from annual inspection fees, proceeds from a change of current use penalty fee, a Homeowner's Association Certification Fee, developer contribution to offset costs or by some other administrative process.

Subdivision Regulations – Review Process Principle

1. The Subdivision Review Process for an Open Space Conservation / Cluster Development subdivision should be the same as for a conventional subdivision review process (The submission and approval procedure for a village plan alternative subdivision shall be the same as that for a conventional subdivision, RSA 674: 21, VIc).

Land Use/Zoning Ordinance and Subdivision Regulations – Development Standards Principles

The Land Use/Zoning and Subdivision Development Standards will vary for an Open Space Conservation / Cluster Development subdivision versus a conventional subdivision. This is due to the additional design flexibility given to the land planner, landscape architect, or site designer to arrange the housing units to preserve the land and maximize views and protect natural features.

For further information, contact Senior Planner Gerald Mylroie, AICP, Strafford Regional Planning Commission, at (603)742-2523 or grm@strafford.org.

