

## **ARTICLE IV            SPECIAL REQUIREMENTS**

### **Article 4.1. Conservation Developments**

(A) Purpose. Pursuant to and consistent with Section 6.20.1 of the Zoning Ordinance, the purposes of this section, entitled Conservation Developments, are:

1. To protect natural resources, including but not limited to those areas containing woodlands, unique vegetation, streams, floodplains, wetlands, aquifers to their recharge areas, agricultural lands, wellheads and vernal pools, by setting them aside from development;
2. To preserve cultural, historical and archaeological resources;
3. To protect recreational resources;
4. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including wastewater disposal systems and wells, and to reduce length of roads, utility runs, and the amount of paving required for residential development;
5. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the population diversity of the community may be maintained;
6. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally important resources as set forth in the Comprehensive Plan;
7. To provide reasonable incentives for the creation of a contiguous greenway system within the Town;
8. To implement adopted land use, transportation and community service policies, as set forth in the Comprehensive Plan,
9. To protect areas of the Town with productive agricultural soils to encourage continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations;
10. To create neighborhoods with direct visual and/or physical access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;
11. To provide for the maintenance of open land set aside for active or passive recreational use, stormwater drainage or conservation lands;
12. To conserve and create scenic views and preserve the rural character of the Town; and
13. To provide a buffer between new development and existing streets, neighborhoods, active farmland and adjacent park or conservation land.

(B) Applicability

1. In accordance with the procedure set forth herein, the Planning Board may allow a land development project or subdivision to be developed as a Conservation Development only in the following zoning districts: RU-20, RS-40, RA-65 and REA-120.
2. Conservation developments shall only be allowed when specifically requested in writing by the applicant. The Planning Board cannot require an applicant to develop a conservation development.
3. If an applicant requests approval of a major or minor conservation development, the Planning Board shall, at the pre-application stage of review (major) or informal concept review stage (minor) require the applicant to submit two alternative plans for the property proposed for development as follows:
  - A plan(s) of a conventional subdivision
  - A plan(s) for the conservation development requested.
4. At this initial stage of review, the Planning Board shall determine if a conservation development would be consistent with the purposes of these Regulations set forth in Article I, and with the purposes of conservation developments set forth in Section 4-1 (A), herein. Based on this determination, the Planning Board may permit the applicant to proceed with a conservation development.
5. At this initial stage of review, if the Planning Board finds that the conservation development alternative is not consistent with the purposes described in subsection 4, above, the Board may disallow the conservation development and require the applicant to proceed with the conventional subdivision.
6. The applicant shall then submit plan(s) for the development preferred by the Planning Board in either subsection 4 or 5 above. Plans shall be submitted at the master plan stage of review (major), or preliminary stage of review (minor) in accordance with the procedures and requirements of Article III herein. Nothing herein shall prevent an applicant from requesting an additional pre-application meeting or informal concept review.
7. Administrative subdivisions and subdivisions that create lots which are not for the purpose of present or future development are not eligible to be developed as a Conservation Development.
8. In RU-20 zoning districts, all conservation developments must be provided with public water and sewer service. Privately owned community wells and/or sewage treatment systems and/or Individual Sewage Disposal Systems (ISDS) for

individual lots in a conservation development shall not be allowed in RU-20 zoning districts.

(C) Procedure for Approval. Applications for Conservation Development approval shall be made in accordance with the procedures for approval of a major or minor subdivision or land development project based on the number of lots or dwellings in the development as provided in Article III of these Regulations.

(D) Design Process. The design of a Conservation Development shall follow the design process specified in the following steps. As a guide in designing Conservation Developments, applicants are encouraged to review the provisions of the Rhode Island Conservation Development Manual, RIDEM, June, 2003 in the preparation of plans. The maps illustrated in this manual will provide graphic examples of what is required of applicants. When the Master Plan is submitted for major land development projects or subdivisions, or preliminary plans for minor land development projects or subdivisions, applicants shall demonstrate to the Planning Board that this design process was considered in determining the layout of proposed streets, building locations, and open space. See the appropriate checklist for specific requirements.

- Step 1 - Analyze the Site

The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other and strategies for protection. For Informal Concept Review meetings (minor conservation developments) the applicant shall submit the information required by the Checklist for Informal Concept review. For pre-application and master plan meetings (major conservation developments), this information shall be submitted in the form of an Existing Resources and Site Analysis Map, as specified in Section 4-1 (O).

- Step 2 - Evaluate Site Context

The second step is to evaluate the site in its larger context of the neighborhood and Town by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., street and bicycle networks), and cultural (e.g., open spaces, recreational opportunities) connections to surrounding land uses and activities. This information shall be submitted in the form of a Site Context Map, as specified in Section 4-1 (F).

- Step 3 - Designate Potential Conservation Areas

The third step is to identify the areas on the site to be preserved on the site as open space. The open space shall at a minimum include portions of the site that are unsuitable for development and which constitute the most sensitive and noteworthy natural, cultural and recreational resources of the site. Where appropriate, areas that serve to extend neighborhood open space networks to/from surrounding property shall be identified. The designation of open space shall reflect consistency with the North Smithfield Comprehensive Plan.

- **Step 4 - Determine Maximum Number of Units**

At the master plan stage for major subdivisions and major land development projects, and at the preliminary stage for minor subdivisions and minor land development projects, the applicant and Planning Board shall agree upon an initial number of dwelling units that will be permitted in the conservation development or subdivision, using the Yield Plan approach as described in Section 4-1 (H). The number of units may be changed by the Planning Board during subsequent stages of review, as more information is provided, until the final Basic Maximum Number of Dwelling Units is determined.
- **Step 5 - Locate Development Areas and Explore Conceptual Alternatives**

As part of the Pre-Application submission, the applicant shall show a minimum of two alternative proposed development layouts in the form of a Sketch Plan(s), or Sketch Plan Overlay Sheet(s), as described in Section 4-1 (E). These alternative plans shall be substantially different. The Planning Board shall review how each alternative impacts the viability of the development plan, versus the benefits to the Town of one or another approach. This sketch plan shall be further refined for re-submission and discussion between the Board and applicant during subsequent stages of review, as an overlay to the Existing Resources and Site Analysis Map (Section 4-1 (O)).
- **Step 6 - Locate the House Sites**

The sixth step is to locate building sites, using the proposed open space as a base map as well as other relevant data on the Existing Resources and Site Analysis Map. The design shall take into account the potential negative impacts of residential development on nearby conservation areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences, with emphasis on consistency with North Smithfield's rural character.
- **Step 7 - Lay Out Streets, Trails and Other Infrastructure**

Upon designation of the building sites, a street plan shall be designed to provide vehicular access to each building, complying with the standards herein and bearing a logical relationship to topographic conditions. Detailed information regarding stormwater drainage, water supply and sewage disposal, trails, sidewalks and other infrastructure are also provided during this step.
- **Step 8 - Design and Program Open Space**

Details regarding the use, design, ownership and management of proposed open spaces shall be developed during the review process. Starting with conceptual proposals at the early stages of review, the function of open space areas shall be developed and refined. Based on review by the Planning Board and other reviewers, these concepts shall be clarified during the review process to establish as clear an approach to the use and maintenance of open space as it does for development areas.
- **Step 9 - Draw in the Lot Lines**

Upon completion of the preceding 8 steps, the next step is simply to draw in the lot lines to delineate the boundaries of individual residential lots.

- Step 10 - Establish Ownership and Management of Open Space and Other Community Elements

At the time of preliminary review for major land development projects or major subdivisions, or at the time of final review for minor land development projects or minor subdivisions, a more detailed open space use and management plan as described in Section 4-1 (K) 5 shall be submitted.

- (E) Sketch Plan Overlay Sheet. The design process described above shall be documented by the applicant and presented to the Planning Board. To expedite this process, a conceptual sketch plan(s) for development shall be presented as overlay sheets to be superimposed on top of more detailed site surveys and environmental data (at the same scale).

At the pre-application stage of review, the initial sketch plan may be presented as an overlay to survey plans, topographic maps or aerial photographs of the parcel(s) proposed for development. As an alternative, a separate diagrammatic sketch plan(s) may be presented.

At the preliminary stage of review for minor conservation developments and at the master plan stage of review for major conservation developments, the sketch plan of development shall be presented as an overlay to the Existing Resources and Site Analysis Map.

- (F) Site Context Map. A map showing the location of the proposed development within its neighborhood context shall be submitted. The Site Context Map, which may be superimposed on an aerial photograph, shall be drawn to a scale of 1"= 400' or as necessary to show the area within two miles of the subdivision parcel or to the nearest numbered state road, whichever is greater. It shall show the locations of all streets, existing lot lines, and zoning district boundaries. Existing developed areas, open spaces, conservation areas, parks, wetlands, rivers and streams, agricultural areas, Rhode Island Natural Heritage Areas, flood plains or flood hazard areas, aquifers, and significant public facilities shall be indicated on this Map. Topography at 10-foot contour intervals (from USGS maps) shall be shown.

A separate soils map of the surrounding area shall be prepared. If present, agricultural land as defined in Article II, and any very poorly drained soils shall also be shown on the Site Context Map.

- (G) Lot Dimensional Requirements. Applicants are encouraged to modify lot size, shape, and other dimensional characteristics within a Conservation Development. A Conservation Development may be developed with dwelling units on separate lots, a single lot (e.g., condominium form of ownership), or a combination thereof. Where dwellings are proposed to be located on individual lots, the minimum dimensional regulations provided in Section 6.20.6 of the Zoning Ordinance shall be applicable to dwellings within a Conservation Development.

- (H) Basic Maximum Number of Dwelling Units. The Basic Maximum Number of dwelling units allowed on a parcel of land proposed for development as a Conservation Development is defined as the maximum number of single family detached dwellings that could reasonably be expected to be developed as a conventional subdivision upon that parcel under a Conventional Yield Plan as defined herein. During the entire review process for a conservation development, including Master Plan, Preliminary and Final, the applicant must demonstrate that the number of units/lots proposed could be achieved utilizing a conventional subdivision design. The Planning Board can require more detailed information that it feels is necessary to support the basic maximum number, and it can decrease or increase this number at any time in the review process, including the final stage of review. The applicant shall have the burden of proof with regard to the reasonableness and feasibility of this design and of the engineering specifications for such Conventional Yield Plan; provided, however, that the Planning Board's determination of the Basic Maximum Number shall be conclusive.

Conventional Yield Plans shall be prepared as conceptual layout plans in accordance with the Pre-application Checklist (Checklist C). Conventional Yield Plans shall show proposed streets, lots, rights-of-way, land unsuitable for development and other pertinent features. The Conventional Yield Plan must be drawn to scale, and it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of land unsuitable for development (as defined in Section 5.5.3.3 of the Zoning Ordinance), existing easements or encumbrances and the suitability of soils for subsurface sewage disposal.

The Conventional Yield Plan shall also reflect the dimensional standards for uses being proposed, as contained in the District Dimensional Regulations (Section 5.5 of the Zoning Ordinance), or other applicable dimensional requirements of the Zoning Ordinance. The Conventional Yield Plan must identify how conventional lots or uses could be developed having the required area, frontage and other dimensional requirements of the Zoning Ordinance, without waivers or dimensional variances. Although lots shown in the Conventional Yield Plan may contain land unsuitable for development, this area shall not be counted towards the minimum lot area as provided in Section 5.5.3.2 of the Zoning Ordinance.

On sites served by Individual Sewage Disposal Systems (ISDS), density shall be further determined by evaluating the number of dwellings or other uses that could be supported by ISDS on lots in a conventional subdivision. Lots or dwelling units shown on a Conventional Yield Plan shall not include dwellings proposed to be serviced by an ISDS that requires the granting of a variance by the RI Department of Environmental Management. The Planning Board shall determine the suitability of the parcel to be developed as a conventional subdivision, based on the soils information provided by the applicant, upon observations made during the site visit to the property, and/or upon other evidence available to the Board at any time during the development review process.

Upon completion of their review, the Planning Board shall determine the initial Basic Maximum Number of lots/dwelling units permitted in a development. This initial determination shall be made at the master plan stage of review for major subdivisions and major land development projects, and at the preliminary stage of review for minor

subdivisions and minor land development projects. The applicant shall use this initial determination as the basis for submission of more detailed information during subsequent stages of review. Upon further investigation and upon receipt of more detailed soils and environmental information as may be provided in subsequent stages of review, the Planning Board may increase or reduce the number of lots/dwelling units contained in the initial Basic Maximum Number. For all developments, the final Basic Maximum Number shall be established by the Planning Board at the final stage of review.

In developments that require alterations to be made to freshwater wetlands, the Board may establish an initial Basic Maximum Number contingent upon confirmation by the RI Department of Environmental Management that such alterations are permitted under the provisions of the Freshwater Wetlands Act.

For the purposes of determining the Basic Maximum Number, a single-family dwelling shall be counted as one dwelling, and a two-family dwelling shall be counted as two dwellings. Accessory family dwelling units shall not count as dwelling units in a conservation development.

- (I) Uses Permitted. A Conservation Development may consist of any use or combination of uses as permitted in Section 6.20 of the Zoning Ordinance.
- (J) Stormwater Management. The stormwater management system for a Conservation Development shall conform to the Town's Land Development and Subdivision Regulations, with particular regard for the need to encourage infiltration and groundwater recharge as opposed to detention or retention basins. See Section 11-5 (B).

The Planning Board may allow stormwater drainage facilities to count toward the minimum required open space area if it finds that the drainage areas are designed as a fully integrated part of an overall open space landscape plan which incorporates trails, active or passive parks, landscaped site features, streambelts or greenways, and are designed to facilitate infiltration and recharge of water, and that such facilities are not in conflict with the intent and purpose of a Conservation Development as stated in Section 4-1 (A), or with the general purposes of these Regulations.

Where stormwater drainage facilities are approved by the Board to be located within common open space areas, the Board shall require legal documents to be recorded along with the approved plat that clearly specify maintenance responsibilities. In addition, a maintenance plan for the facilities shall be prepared and approved by the Board as part of the open space use and management plan as provided in Section 4-1 (K) 5 of these Regulations.

- (K) Open Space. Every Conservation Development shall provide protected open space lot or lots in accordance with the standards set forth below, and in Section 6.20 of the Zoning Ordinance.
  - 1. Open space provided by a Conservation Development for public or common use, shall either (1) be conveyed to the Town and accepted by the Town for park, open space, agricultural, or other permitted use or uses; or (2) be conveyed to a

nonprofit organization, the principal purpose of which is the conservation of open space or resource protection; or (3) be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the Conservation Development or owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with conveyances of the lots or units; or (4) remain in private (non-common) ownership if the use is limited to agriculture, habitat or forestry, and, in accordance with the Comprehensive Plan and Zoning Ordinance, that private ownership is necessary for the preservation and management of the agriculture, habitat or forest resources. The Planning Board may limit or restrict the amount of open space that may remain in private ownership where necessary to contribute to a connecting greenway system or to provide public access to open space, as provided in the Comprehensive Plan.

2. In any case where the land is not conveyed to the Town, a restriction, in perpetuity, enforceable by the Town and by any owner of property in the land development project in which the land is located shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed.
3. Buildings, structures, parking areas or other impervious improvements which are accessory to and subordinate to a permitted open space use, may be located on any open space lot provided that, in all cases, they occupy no more than two (2) percent of the total open space area of the Conservation Development.
4. All open space, regardless of whether it is conveyed to the Town, shall be protected against further development and unauthorized alteration in perpetuity by appropriate deed restrictions, and by the grant of a conservation or preservation restriction, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, to at least one entity other than the Town, which entity shall be a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection.
5. In addition, the perpetual maintenance of all open space shall be guaranteed by appropriate deed restrictions and by the grant of a conservation or preservation restriction to the Town, pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended. The Planning Board or Administrative Officer shall approve the form and content of all deed restrictions at the time of final approval of the subdivision. Every deed restriction providing a maintenance guarantee shall contain the following provision:

"If the owners, or their successors or assigns fail to maintain the open space, the Town may perform any necessary maintenance and enforce the payment for such costs, including reasonable attorneys' fees, by an action at law or in equity against the owners or their successors or assigns."
6. The Planning Board shall specifically authorize plans for the use, ownership, management and maintenance of all open space areas within any Conservation Development. Areas proposed to fulfill the minimum open space requirement within a Conservation Development shall not be excavated or re-graded, except as permitted by the Planning Board. Disturbance to the natural contours of the land

shall be minimized to the greatest extent possible. Existing natural vegetation and any significant natural or man-made features shall be preserved except as permitted by the Planning Board to create or enhance areas of landscaping, parks, recreation, conservation, forestry or wildlife habitat. These disturbances shall be specifically shown on the open space use plan.

At the time of Master Plan review by the Planning Board for major subdivisions or land development projects, or preliminary review for minor subdivisions or land development projects, the applicant shall submit a separate open space use plan containing:

- a. the general location and area of all proposed open space;
- b. the general proposed use(s) of the open space;
- c. existing topography and existing ground cover of open space areas;
- d. the location and nature of any existing buildings, structures, stone walls or other unique natural and/or historic features;
- e. areas of open space from which existing vegetation will be removed or altered and areas which are proposed to be disturbed or otherwise graded, excavated or altered from their existing natural state;
- f. generalized proposals for the re-grading, re-vegetating and/or landscaping of proposed disturbed areas;
- g. the location and nature of any proposed buildings, structures, parking areas or roadways, impervious areas recreation areas and,
- h. areas proposed to be left in their existing natural states without any disturbance.

At the time of preliminary review by the Planning Board, a more detailed management plan that specifies the use of the open space shall be submitted for review and approval, which may be combined with any required grading plans, landscaping plans, soil erosion plans or drainage plans required for preliminary approval. The Planning Board shall require final construction plans to show proposed open space use(s) and alterations required as a condition of final approval.

7. Clearing and excavation of open space areas may be permitted only for the installation of stormwater retention or detention facilities, other drainage facilities, or for permitted utilities, park, open space, recreational, agricultural or forest management uses in accordance with a plan approved by the Planning Board.

In addition, no commercial earth removal, even if permitted by the Zoning Ordinance, in the zoning district in which the development is proposed, shall be permitted within any open space areas. In approving an open space use plan, the Board may permit grading that includes removal of earth materials. The Board shall, however, clearly indicate, as a condition of preliminary approval, the approximate quantities of material and the general

areas from which earth removal is authorized, and shall only authorize the minimal amount of earth removal required to grade the land for the intended purpose.

(L) Open Space Design Review Standards

1. List of Resources to Be Conserved - The design of open space lands in any Conservation Development shall reflect the standards set forth in this Section 4-1 and, to the fullest extent possible, incorporate any of the resources listed below if they occur on the parcel (not listed in order of significance). The applicant should also consult the Greenspace Maps for natural, cultural and recreational resources as identified in the Comprehensive Plan.
  - a. Stream channels, floodplains, hydric soils, swales, springs, and other freshwater wetland areas, including adjacent buffer areas that may be required to ensure their protection;
  - b. Wellhead protection areas;
  - c. Special aquatic sites, vernal pools and significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Statewide Natural Heritage Inventory;
  - d. Moderate to steep slopes, particularly those adjoining watercourses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality;
  - e. Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands, and wildlife habitats;
  - f. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation;
  - g. Hedgerows, groups of trees, location and species of large individual trees of botanic significance, specimen vegetation and other vegetation features representing the site's rural past;
  - h. Active agricultural uses, pastures, croplands;
  - i. Prime farmland soils and farmland soils of statewide importance;
  - j. Historic structures and archaeological sites;
  - k. Visually prominent topographic features such as knolls, hilltops and ridges;
  - l. Geologic features such as eskers or kettle holes;

- m. Scenic viewsheds as seen from public roads (particularly those with historic features);
  - n. Existing or potential trails connecting the parcel to other locations in the Town;
  - o. Any other natural, cultural or recreational resources determined by the Planning Board.
2. Other Design Considerations - The configuration of proposed open space lands set aside for common use in a Conservation Development shall comply with the following standards:
- a. They shall be free of all structures except historic buildings or structures, stone walls, and structures related to open space uses. The Planning Board may grant approval of structures and improvements required for stormwater drainage within the open space provided that such facilities would not be detrimental to the purpose for which the open space is proposed.
  - b. They shall be directly accessible to the largest practicable number of lots or dwellings within the development. Non-adjoining lots shall be provided with safe and convenient pedestrian access to open space land;
  - c. They shall be suitable for active or passive recreational uses to the extent deemed necessary by the Planning Board, without interfering with adjacent dwelling units, parking, driveways, and roads;
  - d. They shall be interconnected wherever possible to provide a continuous network of greenway lands within and adjoining the subdivision;
  - e. They shall provide buffers to adjoining parks, preserves or other protected lands;
  - f. They shall provide for pedestrian pathways for use by the residents of the development. Consideration shall be given to providing for public access on such trails if they are linked to other publicly accessible pathway systems within the Town or region. Provisions should be made for access to the open space lands, as required for land management and emergency purposes;
  - g. Whenever possible, they shall be undivided by public or private streets, except where necessary for proper traffic circulation;
  - h. They shall be suitably landscaped either by retaining existing natural cover and wooded areas and/or according to a landscaping plan to protect open space resources;
  - i. They shall be consistent with the Comprehensive Community Plan.
3. Uses Permitted Within Open Space Areas - The open space in a Conservation Development shall be devoted only to conservation purposes or for park, recreation and

agricultural purposes as provided in Section 6.20.3.C. of the Zoning Ordinance.

- (M) Buffer Areas. The Planning Board may require a vegetated buffer between new development and existing streets, neighborhoods, active farmland, adjacent park or conservation land, or other surrounding uses or areas in accordance with the following standards:

If property abutting the proposed Conservation Development contains developed residential building lots, or if there are existing residential structures within one hundred (100) feet of the perimeter of the Conservation Development, the following conditions shall apply:

1. Structures in the Conservation Development must be located to meet at least the minimum rear yard setback as provided in Article 5, of the Zoning Ordinance and,
2. A permanent buffer along the perimeter of the Conservation Development shall be established, providing for the preservation of existing trees or other vegetation or for the planting of new vegetation having adequate density, height and type of vegetation, in order to provide an all-season visual and audio screen between the Conservation Development and adjacent land uses. This buffer may be provided in either of two alternative forms, to be determined by the Planning Board:
  - a) A separate open space lot or lots as provided in Section 4-1 (K) above, entitled Open Space; or,
  - b) A permanent easement along the perimeter of the Conservation Development to be located along the rear or side property line of the proposed lot or lots that abut the perimeter of the Conservation Development. Said easement shall run in favor of the Town and shall be for conservation or open space purposes only. Where such easements are located on privately owned lots, they shall not be counted toward the minimum required open space area.
3. The width of the required perimeter buffer shall be at least fifty (50) feet.

If lots on the outer perimeter of the proposed Conservation Development are not contiguous to developed residential building lots outside the Conservation Development, the Planning Board shall determine if a buffer is required.

Lots on the outer perimeter of the proposed Conservation Development, which are directly adjacent to a public street, must be separated from said public street by a thickly wooded buffer or screen of at least one hundred (100) feet in depth along the entire street frontage, except for any necessary access streets. On sites where there is little or no existing vegetation along an existing public street, consideration shall be given to creation of a new parallel street separated from the existing public street by a foreground meadow as described in the Land Development and Subdivision Regulations.

If development within the Conservation Development is such that individual building lots are not being created (i.e., subdivision) but that buildings are proposed to be located on a single lot (i.e., condominium) or combination thereof, the provisions stated above with regard to buffer areas shall be interpreted to apply to the setback, screening and location of individual buildings.

(N) Streets

Streets within a Conservation Development shall be publicly owned and maintained and shall conform to the standards of Article V of these Regulations.

(O) Existing Resources and Site Analysis Map

All subdivisions and land development projects, whether or not proposed to be developed as a conservation development, shall be required to prepare an Existing Resources and Site Analysis Map. However, administrative subdivisions and subdivisions that create lots which are not for the purpose of present or future development shall not be required to provide such a Map. The purpose of this Map is to provide the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within five hundred (500) feet of the site. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs.

An Existing Resources and Site Analysis Map is required to be prepared at the following review stages of subdivisions and land development projects:

- Checklist C - Checklist for Pre-application Meetings –Major Land Development Projects and Major Subdivisions – Conservation Developments
- Checklist D - Preliminary Plat Checklist for Minor Land Development Projects and Minor Subdivisions (With Public Improvements)
- Checklist H - Master Plan Checklist for Major Land Development Projects, Major Subdivisions and Conservation Developments

The checklists referenced above provide guidance to the applicant regarding preparation and use of the Map and its components.

The Administrative Officer shall review the Map to assess its accuracy, conformance with municipal ordinances, and likely impact upon the natural and cultural resources on the property. Unless otherwise specified by the Planning Board, such plans shall generally be prepared at the scale of 1" = 100' or 1" = 200', whichever would fit best on a single standard size sheet (24" x 36"). Where necessary for clarity, the Map may be submitted as a series of more than one map. The following information shall be included in this Map(s).

A. Topography and Slopes

1. Topography, the contour lines of which shall generally be at 10-foot intervals, which may be interpolated from U.S.G.S. published maps. More detailed topographic mapping determined by photogrammetry or on-site survey shall be required in areas proposed for development. The determination of appropriate contour intervals shall be made by the Administrative Officer, who may require greater or lesser intervals on exceptionally steep or flat sites. Slopes between 15 and 25 percent and exceeding 25 percent shall be clearly indicated by shading on the map, and the area thereof in acres shall be indicated. Topography for major subdivisions shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the

site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

#### B. Natural Resources Inventory

1. The location and delineation of land unsuitable for development, as defined in the Zoning Ordinance. This shall include ponds, streams, ditches, drains, special aquatic sites, vernal pools, natural drainage swales, 100-year floodplains and freshwater wetlands, as defined in the Zoning Ordinance. Additional areas of wetlands on the proposed development parcel shall also be indicated, as evident from testing, visual inspection, or from the presence of wetland vegetation.
2. Vegetative cover conditions on the property according to general cover type including cultivated land, agricultural land, permanent grass land, meadow, pasture, old field, hedgerow, woodland and wetland. Trees with a caliper in excess of eighteen inches DBH, if located within an area proposed for disturbance or alteration shall also be indicated. Vegetative types shall be described by plant community, relative age and condition. Specimen vegetation as defined in Article II shall be identified.
3. Soil series, types and map units, as mapped by the U.S. Department of Agriculture, Soil Conservation Service in the latest published soil survey for the State, and accompanying data published for each soil relating to its suitability for construction and for septic suitability
4. Geologic formations on the proposed development parcel, including rock outcroppings, cliffs, kettle holes, eskers, etc. based on available published information or more detailed data obtained by the applicant.
5. Ridge lines of existing hills and watershed boundaries shall be identified.
6. Wellhead protection areas for public or community drinking water wells.
7. Groundwater aquifer overlay districts (Town)
8. 100-year floodplains as shown on federal flood protection maps
9. Greenways identified in the Comprehensive Plan
10. Natural Heritage Areas identified by the State Department of Environmental Management

#### C. Cultural Resources Inventory

1. All existing man-made features including but not limited to streets, driveways, farm roads, woods roads, buildings, foundations, walls, wells, drainage fields, dumps, excavated areas, utilities, and storm and sanitary sewers.
2. Location of all historically significant sites or structures on the tract, including but not limited to cemeteries, stone walls, cellar holes and foundations, and known archaeological resources.
3. A viewshed analysis showing the location and extent of views both from and within the proposed development parcel as well as views into the property from adjacent public or private streets and properties. See definition in Article II.

#### D. Recreational Resources Inventory

1. Location of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
2. Boat launches, stream access locations and water trails
3. Existing play fields and recreation areas

E. Utilities and Infrastructure

1. Location of all easements and other encumbrances of property which are or have been filed of record with the Land Evidence Records of the Town.
2. Location of all streets and utilities

(P) Decision

The Planning Board may approve, approve with conditions, or deny an application for a Conservation Development upon finding that the Conservation Development better promotes the objectives of the Planning Board's Land Development and Subdivision Regulations than would a conventional development, and after consideration of the general purposes set forth in Section 1-1, the required findings for approval set forth in Section 1-5 and after consideration of the purposes of Conservation Developments set forth in Section 4-1 (A), herein.

**Article 4.2. Development Plan Review**

Projects requiring Development Plan Review shall be considered under the authority of Section 17 Site Plan Review (to be renamed Development Plan Review) of the North Smithfield Zoning Ordinance [January 1, 1995, As Amended]

**Article 4.3. Dedication and Reservation of Land for Public Purposes**

- (A) Easements for utilities across lots or centered on rear lot lines shall be provided where necessary and shall be at least twenty (20) feet wide. All easements on plan will be labeled "Utility Easements".
- (B) Where it is deemed appropriate to the design, the Board may require provision of pedestrian rights of way. All such rights of way shall be ten (10) feet in width.
- (C) Land which is required for streets and other public areas shall be conveyed to the Town of North Smithfield by quitclaim deed.
- (D) Approval and recording of a final subdivision plat by the Board shall be deemed the acceptance by the public of any street or other public areas offered therein for dedication, but shall not impose any duty upon the Town of North Smithfield to maintain or improve such dedicated area until the Town Council shall have authorized maintenance or improvement of the same in accordance with the laws of the State of Rhode Island and the Town of North Smithfield governing public expenditures for such purposes.

**Article 4.4 Dedication and Reservation of Land for Recreational Purposes/Open Space**

- (A) The Planning Board shall require all land development projects and subdivisions subject to the provisions of these Regulations, other than conservation developments to dedicate a portion of the land being subdivided or developed for the purpose of providing open space, conservation, park and recreational land and/or facilities to serve present and future residents of the proposed land development project or subdivision. Except for conservation developments, the Planning Board may, in its discretion, require the payment of a fee in-lieu-of land dedication, or a combination of land dedication and payment of a fee, as an alternative to the dedication of land. If payments in lieu of land dedication are required, they must be kept in a restricted account and shall only be spent for the intended purpose of providing open space, conservation, park and/or recreational facilities.
- (B) A minimum of 50% of the open space to be dedicated shall be free of wetlands, slopes in excess of 20%, floodplains and easements. The Board reserves the right to decrease the minimum percentage dedicated to open space if the applicant proposes contiguous open space.
- (C) Relationship to Comprehensive Plan.

No dedication of land to the public or payments-in-lieu of such dedications shall be required unless the need for such is documented in the adopted plans of the Town, i.e., the Comprehensive Plan, the Conservation, Recreation and Open Space Plan or the Capital Improvement Program (CIP). The requirement for dedication of land for open space, conservation, park and recreation facilities shall be based upon the policies and standards set forth in the above plans and shall reflect the character defined by the Comprehensive Plan for the neighborhood or district in which the subdivision is located. The nature of the land dedication must reflect the character of the land being subdivided and must be suitable for the intended use.

- (D) Amount of Land to be Dedicated.

For conservation developments, the minimum amount of land to be dedicated shall be determined in accordance with section 6.20 of the Zoning Ordinance.

The land conveyed shall be so located and of such a nature as to be readily adaptable and usable for recreation purposes. For conventional subdivisions, the minimum amount of land to be dedicated shall be based upon the following formula:

$$\text{Amount of Dedicated Land (acres)} = \frac{\text{Maximum No. of DU's in the Subdivision}_1 \times \text{Persons per DU}_2}{\text{Land Need}_3}$$

1. The maximum number of dwelling units in all phases of the land development project or subdivision.
2. The average number of persons expected to be living in the dwelling units to be constructed.
3. Land need shall mean the adopted Town standards for open space and outdoor recreation areas provided in the North Smithfield Comprehensive Plan.

The Board may, in its discretion, require that the applicant clear, grade and landscape the land to be dedicated in order to make it suitable for recreation purposes. If the Board requires such improvements then the amount of land may be reduced as to offset the cost of such improvements by the applicant. If a single applicant intends to subdivide an area consisting of more than one (1) contiguous subdivision or section, the land to be conveyed shall be computed and selected on the basis of the entire area to be subdivided and shall be delineated and approved by the Planning Board prior to preliminary approval of any component subdivision or section. In addition, the Board, in its discretion, may direct that final approval of such component subdivision or section be conditional upon conveyance of making the required improvement or furnishing the adequate access to the recreation land in question.

(E) Ownership of Land.

Land dedications required by this section may be made by transfer of fee simple ownership to any of the following:

- a. The Town of North Smithfield
- b. The State of Rhode Island
- c. The United States Government
- d. A private Homeowner's Association
- e. A private non-profit conservation or recreation group

The Planning Board will determine to which organization the land will be dedicated.

(F) Fees-in-Lieu of Land Dedication.

If the Board determines that a suitable park, playground or recreation area of an adequate size cannot be properly located in such subdivision plat, or is otherwise not practical, then the Board may require, as a condition to approval of any final submission, a payment of a monetary fee by the applicant to the Town.

Where a fee is required by the Planning Board to be paid in lieu of land dedication, the amount of such fee shall be based on the fair market value of the amount of land, which would otherwise be required to be dedicated. The amount of such fee shall be determined by the following formula:

$$\text{Fee in lieu of dedication} = \frac{\text{Fair Market Value of Land} \times \text{Max. No. of DU's}}{\text{Persons per DU}} \times \text{Land Need}$$

1. Fair market value of land in the parcel being subdivided after subdivision approval has been granted, and which is suitable for use as open space, conservation, park and recreation facilities.
2. The maximum number of dwelling units to be constructed in the subdivision.
3. The average number of persons expected to be living in the dwelling units to be constructed.
4. Land need shall mean the adopted Town standards for open space and outdoor recreation area as provided in the North Smithfield's Comprehensive Plan.

Such fee shall be deposited in an interest-bearing fund titled, "Recreation Capital Account". The Parks & Recreation Department, upon majority vote of the Town Council, may expend up to 20 percent of the principal for capital acquisition of recreational facilities.

If the applicant questions the amount of said fee in lieu of land, he/she may request a hearing by the Board of Appeal. At this hearing, the Board of Appeal will take evidence and testimony, as it deems appropriate. Said hearing may be part of the final approval hearing if the Planning Board so stipulates.

(G) Fair Market Value

Fair market value of the land, assuming subdivision approval has been granted, shall be determined prior to the time of filing of the final plan in accordance with one of the following:

1. As determined by the North Smithfield Tax Assessor from recorded sales within the last 24 months;
2. If the applicant objects to such amount of evaluation as determined in "a" above, he/she may, at his/her own expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal may be accepted by the Planning Board if found to be reasonable; or
3. The Planning Board and applicant may agree as to the fair market value.

(H) Land Need

The actual need for open space land and conservation land is expressed in acres per 1,000 of population based on the Comprehensive Plan. The 2006 Town-wide need is 10.0 acres per 1,000 residents.

(I) Persons per Dwelling Unit

The applicant may provide an estimate of the projected number of persons per dwelling unit (D.U.) in the proposed land development project or subdivision and shall state the basis for such estimate. The Planning Board shall review and approve of such estimate.

Otherwise, the figure of 2.61 persons per household from the 2000 Census shall be used.

(J) Time of Conveyance of Land or Payment of Fee in Lieu of Conveyance of Land

Unless otherwise directed by the Board, the deed for land to be conveyed (and/or the fee to be paid in lieu thereof) in accordance with the foregoing provisions of this article shall be delivered to the Town prior to final approval of the applicable subdivision or section thereof.

The Planning Board fully realizes the financial hardship that may be placed on a developer of tracts of over 10 lots, and will allow prorated payments of 25 percent of the amount at the final approval and the remaining fee in two equal installments on the next two anniversary dates of the final approve with an interest payment of 8% (eight percent) annually. Said payments shall be secured by a promissory note and recorded as a mortgage on said lots.

**Article 4.5. Phasing of Projects**

- (A) The Planning Board may provide for the preliminary and final review stages, and for the construction of major land developments and subdivisions, to be divided into reasonable phases.
- (B) When considering a phased development the Planning Board will require the following:
  - 1. Approval of the entire site design first as a master plan. Thereafter the development plans may be submitted for preliminary and/or final review and/or approval by phases.
  - 2. General standards and regulations for determining physical limits of phases, completion schedules, and guarantees, for allowing progression to additional phases, for allowing two (2) or more phases to proceed in review or construction simultaneously, for interim public improvements or construction conditions, for changes to master or preliminary plans and may include other provisions as necessitated by local conditions.
  - 3. The master plan documents may contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, improvement guarantees, and the work and completion schedules for approvals and construction of the phases.
  - 4. *Vesting*. The master plan shall remain vested as long as it can be proved to the satisfaction of the Planning Board that work is proceeding on either the approval stages or on the construction of the development as shown in the approved master plan documents. Vesting shall extend to all information shown on the approved master plan documents.