Model Zoning Ordinance Language

ARTICLE 1 - Conservation Design Overlay District

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SECTION 101 - Purposes

A. In conformance with the state enabling legislation, the purposes of this Article, among others, are as follows:

1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;
3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes;
4. 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 community's population diversity may be maintained;
5. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the municipality's Open Space Plan, including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents;
6. To implement adopted land use, transportation, and community policies, as identified in the municipality's Comprehensive plan;
7. To protect areas of the municipality with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations;
8. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
9. To provide for the conservation and maintenance of open land within the municipality to achieve the above-mentioned goals and for active or passive recreational use by residents;
10. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, floodplain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls);

11. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties; and

12. To conserve scenic views and elements of the municipality's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

B. In order to achieve these purposes, this Article provides for flexibility in designing new residential subdivisions by allowing four forms of "by-right" development referred to as "options", as summarized below:

1. Option One: *Neutral Density and Basic Conservation*, providing for residential uses at the density permitted by the underlying zoning. Greenway lands comprise approximately half the tract. The flexibly-designed layouts work well with either individual wells and septic systems located in the open space, or with central wells and sewage treatment facilities.

2. Option Two: *Enhanced Density with Greater Conservation,* providing for higher density residential uses and a larger percentage (60% or more) of greenway land in more flexibly designed layouts with, other improvements serving the community such as central wells and sewage treatment facilities.

3. Option Three: *Estate Lots*, providing for rural-suburban residential uses at lower densities in conventional layouts of standard houselots, where homes and streets are located carefully to minimize impacts on resource lands.

4. Option Four: *Country Properties,* providing for very low densities appropriate to rural situations, with flexible and reduced design standards in instances where a permanent conservation easement is offered to maintain such uses.

C. In addition, this Article provides for a fifth option, available through the Conditional Use permitting process, as described below:

1. Option Five: Hamlets and Villages, allowing for higher density development designed according to special guidelines to ensure that the resulting form incorporates the design principles of traditional villages and hamlets.

D. Section 104 sets forth the development densities and required greenway land percentages.

SECTION 102 - General Regulations

The design of all new subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

A. Ownership: The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility.

B. Site Suitability: As evidenced by the Existing Resources/Site Analysis Plan, the conceptual Preliminary Plan, and the detailed Final Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.

C. Combining the Design Options: The various layout and density options described in this Article may be combined at the discretion of the Board, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this Article, as compared with applying a single option to the property.

D. Intersections and Access: New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing more than

15 (fifteen) dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow.

E. Sensitive Area Disturbance: The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the Existing Resources and Site Analysis Plan. Lands within the 100-year floodplain, wetlands, slopes in excess of 25%, and rock outcroppings constitute such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be prerequisite to approval of both the conceptual Preliminary Plan and the detailed Final Plan.

F. Community Wastewater Systems: In developments that are proposed to be served by community wastewater disposal systems, the selection of wastewater treatment technique shall be based upon the municipality's "Ordered List of Preferred Alternative Types of Community Wastewater Systems" (from its Sewage Facilities Plan) contained in the Appendix to this ordinance.

SECTION 103 - Use Regulations

Land in the Conservation Design Overlay District may be used for the following purposes:

A. Single-Family Detached Dwellings

Single-family detached dwellings in Options 1, 2, 3, and 4 subdivisions:

1. On tracts of 6 acres or more, single-family detached dwellings are permitted under the standards found in Sections 104 and 105 herein.
2. On tracts of less than 6 acres, existing on the effective date of this ordinance, single-family detached dwellings are permitted under the standards for Options 1 and 2 found in Sections 104 and 105, and conventional 60,000 square foot lots with no required greenway land, as formerly permitted throughout the district under the prior zoning ordinance.

B. Multiple Household Residential Buildings

Residential buildings for two, three and four households in Option 5 subdivisions, according to the standards in Sections 104 and 105.

C. Greenway Land

Greenway land comprising a portion of residential development, as specified above and according to requirements of Section 106.

D. Non-Residential Uses

The following non-residential uses in accordance with the standards of Section 108.

1. Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
2. Woodlots, arboreta, and other similar silvicultural uses.
3. Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
4. Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit agency; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, private or municipal sanitary landfills.

E. Accessory Uses

Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use and not conducted as an independent principal use.

1. Accessory dwelling units (including elder cottages and tenant houses)proposed in Option 4 subdivisions (Country Properties) are subject to the following provisions:

    a. Accessory dwelling units in principal residences or in new traditional outbuildings (such as barns, stables, carriage houses, and spring houses) shall be designed to harmonize with vernacular rural buildings in the municipality's historic landscape.

    b. There shall be a maximum of one accessory dwelling unit (ADU) on any legal building lot in an Option 4 subdivision, and a maximum of two accessory dwelling units (ADUs) on any legal building lot containing ten (10) or more acres in an Option 4 subdivision, provided all performance standards of this ordinance are met.

    c. The gross floor area in the first ADU shall not exceed 900 sq. ft. In the second ADU, where permitted, the maximum area shall be 750 sq. ft. However, on lots exceeding fifteen (15) acres, the second ADU may take the form of a tenant house containing up to 2,000 sq. ft. of floor space. Under this section, existing historic accessory buildings more than 75 years old that exceed these floorspace limits may be permitted by the Board to be used as ADU's without having to meet the dimensional setback requirements of this ordinance.

    d. Building permits for ADUs shall not be issued until the applicant demonstrates to the Board that a restrictive easement has been placed on the subject property prohibiting future enlargement of the ADUs, or the creation of additional ADUs beyond the limits described above. Issuance of permits for ADU's shall be contingent upon County Health Department approval for any on-site septic sewage disposal systems needed.

F. Additional Uses

Additional Uses in Option 5 Subdivisions: Hamlets and Villages

1. General

    a. Residential Diversity: A primary objective of the hamlet and village options is to provide for a diversity of household types, age groups, and income levels, in a manner consistent with the variety of existing homes in the municipality and with traditional village building and site development patterns. Within the overall residential density figures for villages and hamlet, new construction is to be predominantly single-family detached residential on a variety of compact village-scale lot sizes, which should range in area from 6,000 sq. ft. to 12,000 sq. ft. with an average lot size of 10,000 sq. ft. This component should comprise between 60% and 75% of the residential development allowed in villages, and may constitute 100% of the development in hamlets. However, in both villages and hamlets, the concept of large "Country Properties" of ten acres or more shall be encouraged, in which part of the required open space may be incorporated within lot boundaries, as "mini-farms", consistent with regulations pertaining to active and passive agriculture in other parts of this Ordinance.

    b. Housing Types: Within villages up to 12% of all new units may be designed as semi-detached dwellings, and a further 8% may be designed as three-or four-family dwellings. These percentages should be interpreted as guidelines. If an applicant elects to pursue the option for semi-detached and/or multi-family dwellings, such dwellings shall be designed to reflect the County's vernacular building tradition for such building types. When different housing types are

proposed in either villages or hamlets, they shall be integrated architecturally and in scale so that they can be physically incorporated within the same streetscape as single-family dwellings and nonresidential buildings, and not isolated from each other in separate areas.

(Note: Provisions for modifying the above percentages are contained in Section 703 of the Model Subdivision and Land Development Ordinance, in Article 7 pertaining to Option 5 Hamlets and Villages, which authorizes the Board, upon a positive recommendation of the Planning Commission, to modify these percentages within the spirit of that Article, when the applicant demonstrates that such waivers would not substantially diminish the traditional character of the proposed development.)

c. Locational Considerations for Hamlet and Village Uses: Residential lots in villages and hamlets shall generally not be located within five hundred (500) feet of any arterial highway having four or more lanes, nor within two hundred fifty (250) feet of any existing two-lane state-numbered highway, unless effectively screened from the public viewshed by virtue of topography, dense vegetation, or other physical or visual barriers.

   Commercial/Mixed-Use Areas in villages shall be located so they are easily accessible by pedestrians from as much of the residential areas as possible (preferably within 1500 feet -- a five-minute walk). Nonresidential uses that are intended to serve an area beyond the village itself shall be located to permit vehicular access from outside the village without passing through residential streets. This part of the village may be located close to state-numbered highways.

d. Hamlet Uses: Hamlets shall consist of residential uses only, but greater housing variety is permitted, as described above.

e. Village Uses: Villages are intended to provided for a range of complementary uses and may consist of two areas: Residential and Mixed Use/Commercial. These areas are intended to provide for the diversity necessary for traditional village life while maximizing the interactions among related uses while minimizing the adverse impacts of different uses upon each other. The Village Residential Area is intended to contain a variety of housing options and related uses. The Village Mixed Use/Commercial Area is intended primarily to provide uses that meet the retail and service needs of a traditional village center and its vicinity within one- and two-story buildings, and may contain other compatible uses such as civic and institutional uses of community-wide importance, specifically including second-floor residential uses. The Village Mixed Use/Commercial Area may be located either at the approximate center of the village, or at the edge, near an existing Major or Minor Collector (including all state-numbered highways). If the Village Mixed Use/Commercial Area is located along such a thoroughfare, parking areas shall be screened from view, preferably in locating them behind those commercial buildings, as seen from the Collector.

2. Conditional Uses in Both Hamlets and Villages

   The following uses are classified as Conditional Uses in the Hamlet Option and in the Village Residential Area of the Village Option.

   a. Hamlets and the Village Residential Area:

      * single-family detached dwellings (including both site-built and factory-built housing units meeting the minimum width design standards of this ordinance);

* two-family and three-family dwellings designed to resemble traditional multi-family homes built in the boroughs and villages of the county prior to 1930, and sited so they front directly onto streets (rather than parking areas);
* accessory dwelling units that are architecturally integrated (as allowed in Option 4 subdivisions);
* uses accessory to residential uses (including home occupations); and
* small neighborhood retail (not exceeding 1,000 sq. ft. floorspace if in a single-story building, and 1,500 sq. ft. if located in a two-story building, in which the second story may be in residential use).

b. Standards setting upper limits on the percentage of dwellings that may be other than single-family detached, and other standards limiting the percentage of the net developable land within the village or hamlet are provided in Section 701 of the Subdivision Ordinance.

3. Conditional Uses in Village Option Subdivisions

The following additional uses are classified as Conditional Uses in the Village Option, according to area:

a. Village Residential Area:

* elderly congregate housing; and
* neighborhood retail uses occupying not more than 1,000 sq. ft. of floor space.

b. Village Mixed-Use/Commercial Area:

* retail uses, professional offices, and personal or professional services in buildings of 2,000 sq. ft. or less (but up to 3,500 sq. ft. if in buildings of two or more stories facing the street);
* bed-and-breakfast establishments;
* schools, day care centers, libraries, churches and other houses of worship;
* single-family detached dwellings, two-, three-, and four-family dwellings designed to resemble traditional multi-family homes built in the boroughs and villages of the county prior to 1930, and sited so they front directly onto streets (rather than parking areas);
* second-story residential uses are encouraged, and shared parking arrangements (according to standards such as those advocated by the Urban Land Institute) shall be allowed;
* artisan living/working uses, public utilities facilities, including substations, pumping stations, and waste treatment facilities, and gasoline stations (outside the core area), and uses accessory to the above; and
* sites for active recreation, such as organized games.

Specifically excluded from the category of "retail uses" and service businesses allowed in this subdistrict are flea markets, indoor/outdoor amusement businesses, automotive sales, car washes, gasoline stations, betting parlors, building supply stores, adult bookstores, massage parlors, and mini-storage facilities.

SECTION 104 - Dimensional Standards and Density Determination

(Note: The model zoning provisions described in Section 104 for the "Conservation Design Overlay District" offer five options for varying intensities of development linked to different

percentages of open space. In this hypothetical rural district with no public water or sewer, the overall "base density" is 80,000 sq. ft. of net usable land per dwelling. When more than the minimum 50 percent (buildable) open space is provided, a larger number of homes would be permitted, and fewer homes would be allowed when that 50% open space minimum is not met. The five options with varying permitted densities and open space requirements have been provided to accommodate different market preferences and to promote diversity in the resulting housing and conservation outcome.

One of the principal advantages of the Growing Greener approach is that it enables communities to actively discourage conventional development through stiff "density disincentives" which are perfectly legal because alternative full-density options are also available to applicants. Communities which encourage conservation design without simultaneously discouraging conventional layouts typically experience failure and frustration, as most developers will continue to select full-density options for their standard "cookie-cutter" designs.

In other types of zoning districts, where public water is available, or where both public water and sewer are available, or where there is also an established pattern of higher-density housing, the some of the "model" provisions for the "Conservation Design Overlay District" reproduced above (which were based on a rural district with no utilities and a minimum density of two acres per dwelling) would be inappropriate. Readers interested in seeing how the five options described for use in the "Conservation Design Overlay District" could be adapted to reflect conditions in less rural districts are referred to Table 4-2 in Chapter 4 in the Growing Greener book, which provides suggested alternative dimensional standards for other districts with higher densities.)

A. Dimensional Standards For Option 1: Neutral Density And Basic Conservation

1. Density Factor: One dwelling unit per 80,000 square feet as determined through the Adjusted Tract Area approach or yield plan described in Section 104C, herein. This is "density-neutral" with the pre-existing zoning provisions for this district.

2. Minimum Required Greenway Land:

   a. The subdivision must include at least 50 percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 104.C.1, below, as greenway land. Greenway land shall not be used for residential lots, except as provided below.

   b. Large "conservancy lots" of at least 10 acres, conforming to the standards for Option 4 subdivisions found in Section 104E, and owned by individuals may occupy up to 80 percent of the greenway land, with the remainder (not less than 20%) deeded to a homeowners' association, land trust, or the municipality. However, the greenway land within each conservancy lot remains subject to the standards for greenway land in Section 106, herein.

3. Average Minimum Lot Area: 15,000 square feet, on average. Up to twenty (20) percent of the lots may be reduced to a minimum of 10,000 square feet.

   (Note: The typical lot area is likely to be much closer to 40,000 sq. ft. because that lot size can be delivered by developers at the 80,000 sq. ft. density while still meeting the 50% minimum conservation land requirement.)

4. Minimum Lot Width at Building Line: 80 feet

5. Minimum Street Frontage: 20 feet

6. Yard Regulations: The builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:

   Front: 20 feet

Rear: 40 feet

Side: 30 feet separation for principal buildings, with no side yard less than 5 feet

7. Maximum Impervious Coverage: 25 percent limit on each lot.
8. Maximum Height Regulations: 35 feet

B. Dimensional Standards for Option 2: Enhanced Density with Greater Conservation

1. Density Factor: One dwelling unit per 60,000 square feet as determined through the Adjusted Tract Area approach or yield plan described in Section 104.C herein.
2. Minimum Required Greenway Land:
   a. The subdivision must include at least 60 percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 104.C.1 below, as greenway land. Greenway land shall not be used for residential lots, except as provided below.
   b. Large "conservancy lots" of at least 10 acres, conforming to the standards for Option 4 subdivisions found in Section 104.E, and owned by individuals may occupy up to 80 percent of the greenway land, with the remainder (not less than 20%) deeded to a homeowners' association, land trust, or the municipality. However, the greenway land within each conservancy lot remains subject to the standards for greenway land in Section 106, herein.
3. Average Minimum Lot Area: 10,000 square feet, on average. Up to twenty (20) percent of the lots may be reduced to a minimum of 7,500 square feet.

   (Note: The typical lot area is likely to be closer to 24,000 sq. ft. because developers can deliver lots at that size and still meet the minimum 60% greenway land requirement.)
4. Minimum Lot Width at Building Line: 80 feet
5. Minimum Street Frontage: 20 feet
6. Yard Regulations: The builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:

   Front: 20 feet minimum

   Rear: 40 feet minimum

   Side: 25 foot separation for principal buildings, with no side yard less than 5 feet
7. Maximum Impervious Coverage: 30 percent limit on each lot.
8. Maximum Height Regulations: 35 feet

C. Density Determination For Option 1 And 2 Subdivisions

Applicants shall have the choice of two methods of determining the maximum permitted residential building density on their properties. They are as follows:

1. <u>Adjusted Tract Area Approach</u>: Determination of the maximum number of permitted dwelling units on any given property shall be based upon the Adjusted Tract Area of the site. The Adjusted Tract Area equals the gross tract area minus the constrained land (described below).
   a. Constrained land equals the sum of the following:

1. All land within the rights-of-way of existing public streets or highways, or within the rights-of-way for existing or proposed overhead rights-of-way of utility lines;
2. All land under existing private streets;
3. Wetlands: multiply the acreage of designated wetlands by 0.95;
4. Floodway: multiply the acreage within the floodway by 1.0;
5. Floodplains: multiply the non-wetland portion of the 100-year floodplain by 0.50;
6. Steep Slopes: multiply the acreage of land with natural ground slopes exceeding 25 percent by 0.80;
7. Extensive Rock Outcroppings: multiply the total area of rock outcrops and boulder-fields more than 1,000 square feet by 0.90; and
8. Moderately Steep Slopes: multiply the acreage of land with natural ground slopes of between 15 and 25 percent by 0.60.

b. If a portion of the tract is underlain by more than one natural feature subject to a density factor, that acreage shall be subject to the most restrictive density factor.

c. Since acreage that is contained within the public or private rights-of-way, access easements or access strips is excluded from developable lot area, any portion of these items that also contains a natural feature subject to a deduction from the total tract acreage should not be included when calculating the adjusted tract area.

d. Permitted Dwelling Units: The maximum number of permitted dwelling units equals the Adjusted Tract Area divided by the density factor. (See Section 602.B.1. of the Subdivision ordinance for a hypothetical example.)

2. Yield Plan Approach: Determination of density, or maximum number of permitted dwelling units, shall be based upon density factor of the chosen option (i.e. Option 1 or 2) applied to the gross tract acreage, as demonstrated by an actual Yield Plan. Yield Plans shall meet the following requirements: (see also Section 104.A.1)

a. Yield Plans must be prepared as conceptual layout plans in accordance with the standards of the Subdivision Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.

b. Yield Plans should also reflect the dimensional standards for 80,000 square foot lots, when Option 1 is chosen, and 60,000 square foot lots when Option 2 is chosen, found in Section 104C2d below. The Yield Plan must identify the site's primary and secondary resources, as identified in the Existing Resources/Site Analysis Plan, and demonstrate that the primary resources could be successfully absorbed in the development process without disturbance, by allocating this area to proposed single-family dwelling lots which conform to the density factory of the chosen option.

c. On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual septic systems on conventional lots. Based on the primary and secondary resources, identified as part of the inventory and analysis, and observations made during an on-site visit of the property, the Planning

Commission shall select a ten (10) percent sample of the lots considered to be marginal for on-lot sewage disposal. The applicant is required to provide evidence that these lots meet the standards for an individual septic system the applicant shall be granted the full density determined by the Yield Plan. Should any of the lots in a sample fail to meet the standard for individual septic system, those lots shall be deducted from the yield plan and a second ten (10) percent sample shall be selected by the municipal planning commission and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual septic system.

d. Yield Plan Dimensional Standards: The following dimensional standards shall be used in the development of Yield Plans for Option 1 and 2 subdivisions. These minimum areal dimensions are exclusive of all wetlands, slopes greater than 25 percent, and land under high-tension electrical transmission lines (69kV or greater). No more than 25 percent of the minimum required lot area may consist of land within the 100-year floodplain, and only then if it is free of wetlands.

Standard	Option 1	Option 2
Minimum lot area	80,000 sq. ft.	60,000 sq. ft.
Minimum street frontage	250 feet	60 feet
Front yard setback	200 feet	60 feet
Rear yard setback	60 feet	40 feet with both side yards totalling 100'
Side yard setback	60 feet	40 feet with both side yards totalling 100'

D. Dimensional Standards for Option 3 Subdivisions: Estate Lots

1. Maximum Density: 1 dwelling unit per four acres, Adjusted Tract Area.
2. Minimum Lot Area: 1 acre. All lots created under Option 3 that are less than four acres shall be permanently restricted through a conservation easement from the development of more than one dwelling.
3. Minimum Street Frontage: 150 feet.
4. Yard Regulations: The builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:

   Front: 150 feet from the right-of-way of existing municipal roads, but 40 feet from the right-of-way of new subdivision streets, country lanes, or common driveways (where applicable).

   Rear: 50 feet minimum for principal buildings and 10 feet for accessory buildings (except that accessory buildings with a ground floor area exceeding 500 square feet shall conform to the setback requirements for principal structures).

   Side: 50 feet
5. Maximum Impervious Coverage: 4 percent limit on entire subdivision tract.
6. Maximum Height Regulations: 35 feet

E. Dimensional Standards for Option 4 Subdivisions: Country Properties

1. Maximum Density: one dwelling unit per ten acres (gross).
2. Minimum Lot Area: 10 acres. The lot shapes shall not be irregular, except as allowed for "flag lots", and shall not have a lot depth-width ratio exceeding 5:1 unless such lots are deed restricted from the development of more than one dwelling. The

minimum lot size may be reduced to one contiguous acre in subdivisions of two or more principal dwelling units provided that all remaining land (a minimum of nine acres per principal dwelling) is permanently protected from future development through a conservation easement.

3. Minimum Lot Width at Building Line: 200 feet

4. Yard Regulations:

   Front: 150 feet from the right-of-way of existing municipal roads, but 40 feet from the right-of-way of new subdivision streets, country lanes, or common driveways (where applicable).

   Rear: 50 feet minimum for principal buildings and 10 feet for accessory buildings (except that accessory buildings with a ground floor area exceeding 500 square feet shall conform to the setback requirements for principal structures).

   Side: 25 feet.

5. Maximum Impervious Coverage: 4 percent limit on entire subdivision tract.

6. Maximum Height Regulations: 35 feet

F. Scale Criteria for Option Five: Hamlets and Villages

1. Hamlets shall include at least four (4) dwelling units but may not contain more than twenty-five (25), within the Conservation Design Overlay District. The minimum land area required for a hamlet shall be four acres, Adjusted Tract Area.

2. Villages shall contain 26 or more dwelling units, within the Conservation Design Overlay zoning district. The minimum land area required shall be 26 acres, Adjusted Tract Area.

G. Dimensional Standards for Residential Uses in Option Five: Hamlets and Villages

1. Density Factor: One dwelling unit per 40,000 square feet as determined through the adjusted tract area approach or yield plan described in Section 104.C, herein.

2. Minimum Required Greenway Land:

   a. The subdivision must include at least 70 percent of the Adjusted Tract Area plus all of the constrained land calculated in Section 104.C.1 as greenway land. Not less than one-sixth of this greenway land shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playingfields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above. In addition, no more than fifty percent of the minimum required greenway land may be comprised of active recreation facilities such as playingfields, golf courses, tennis courts, etc. Greenway land shall not be used for residential lots, except as provided below.

   b. Large "conservancy lots" of at least 10 acres, conforming to the standards for Option 4 subdivisions found in Section 104.E, and owned by individuals may occupy up to 50 percent of the greenway land, with the remainder deeded to a homeowners' association, land trust, or the municipality. However, the greenway land within each conservancy lot remains subject the standards for greenway land in Section 106, herein.

   c. The required greenway land shall be located and designed to add to the visual amenities of villages and hamlets and to the surrounding area, by maximizing the visibility of internal open space as terminal vistas at the ends of streets (or along the outside edges of street curves), and by maximizing the visibility of external

open space as perimeter greenbelt land. Greenbelt land shall be designated to provide buffers and to protect scenic views as seen from existing roadways and from public parks.

d. Traditional villages and hamlets shall include multiple greens or commons measuring a total of at least 1,000 square feet for each dwelling unit.

3. Average Minimum Lot Area: 6,000 square feet, on average. Up to twenty (20) percent of the lots may be reduced to a minimum of 5,000 square feet.

   (Note: The typical lot area is likely to be closer to 10,000 sq. ft. because developers can deliver lots at that size and still meet the minimum 70% greenway land requirement.

4. Minimum Lot Width at Building Line: 40 feet.

5. Yard Regulations: The builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:

   a. <u>Front yard:</u>

      Principal buildings: 12 feet minimum (6 feet to front porches /steps)
      Attached Garages (front-loaded): min. 10 feet behind plane of house
      Attached Garage (side-loaded): min. 10 feet from street R.O.W.
      Detached Garages (front-loaded): min. 40 feet from street

   b. <u>Rear yard:</u>

      30 feet minimum for principal buildings and 5 feet for accessory buildings (excluding garages);
      Detached Garages (rear-loaded): min. 10 feet from alley or lane.

   c. <u>Side yard</u>: 20-foot separation for principal buildings, no side yard < 5 feet.

6. Maximum Impervious Coverage: 50 percent limit on each lot.

7. Minimum Street Frontage: Lots must have frontage either on a street or on a back lane or shared driveway. Houses served by rear lanes may front directly onto parks or greens, which shall be designed with perimeter sidewalks.

8. Maximum Height Regulations: 35 feet

H. Dimensional, Intensity, and Design Standards for Option Five: Village Mixed Use/Commercial Areas

1. Use Intensity Standards

   a. New commercial buildings in the Mixed Use/Commercial Area and their associated parking spaces shall not occupy more than 5% of the net developable land area of the entire Village. However, they may occupy up to 10% if they include second-story office uses, and up to 15% if they include second-story residential units. In order to qualify for the 15% figure, at least half of the new commercial building coverage (foundation footprint) shall be of two-story construction, and at least 25% of the second-story space shall be designed for residential uses.

   b. Floor area ratios shall be reduced by the Board on a case-by-case basis because village shop buildings and their parking areas should typically be allowed to occupy up to 80 percent of their building sites, with relatively little land between structures or between structures and the sidewalk. Parking areas shall generally be located behind shops (and occasionally to one side, if adequately screened

from the street), and should be the primary focus of landscaping and buffering efforts (particularly where they abut adjoining residential lots).

2. Minimum Lot Size

   a. The minimum lot size for non-residential uses in Village Mixed Use/Commercial Subdistrict shall be determined by adding 20 percent to the land area needed for the structure, on-lot parking, ingress/egress, and any on-site infrastructure that is required (e.g., septic disposal areas, stormwater management areas). The additional 20 percent shall be constitute setbacks and landscaped buffers.

3. Minimum Street Frontage: 50 feet

4. Setback Regulations:

   Front: no minimum required; maximum setback 15 feet
   Rear: 20 feet minimum
   Side: 5 feet

5. Maximum Height Regulations: 35 feet (but 75 feet for church steeples)

6. Additional Design Standards

   a. New buildings in this subdistrict shall be subject to a maximum front setback (the "build-to" line) in order to maintain a strong sense of streetscape. Such buildings shall generally be of two-story construction (to the so-called "build-up line", as shown in the illustrated design guidelines in the subdivision ordinance), and shall be designed in accordance with the design standards set forth below. Maximum building height and coverage are controlled by other provisions in this ordinance governing maximum height and minimum parking standards.

   b. Ground floor space shall generally be reserved for pedestrian-oriented retailing and services, with offices and housing above.

   c. Each Village Mixed Use/Commercial Area shall have a primary common or green of at least 10,000 square feet, which should ideally be surrounded by two-story development that may include commercial, residential, civic and institutional uses.

      This primary common shall border on the principal street running through the Mixed Use/Commercial Area, or be located so as to constitute the "terminal vista" of that street. This central green shall be located within 1500 feet of 80% of all dwelling units in the village. (Alternatively, two greens of at least 6,000 sq. ft. may be substituted for the central green, in order to meet the distance/proximity standard.) The type of trees and shrubs used shall be such that vistas through the open space are largely unobstructed. Greens shall be landscaped using elements of formal gardens, walkways, monuments, statues, gazebos, fountains, park benches and pedestrian-scale lamp posts. They shall be designed as attractive gathering places for all village residents in both day and evening. No Green shall contain more than 10% coverage by impervious surfaces.

   d. Readers are referred to the Subdivision Ordinance, Section 704, Illustrated Design Principles.

7. Parking

   a Non-residential off-street parking shall be to the side or rear, or located within internal parking areas not visible from the street.

   b. On-street parking spaces along the street frontage of a lot (except where there are driveway curb-cuts) shall be counted toward the minimum number of parking spaces required for the use on that lot.

   c. On-street parking spaces shall be designed to be parallel to the curb.

d. Off-street parking may be located within 600 feet (measured along a publicly accessible route) from the lot containing the use to which the parking is accessory. Said lot containing the parking shall be owned or leased to the owner of the principal use, or the lot containing the parking shall be dedicated to parking for as long as the use to which it is accessory shall continue and it is owned by an entity capable of assuring its maintenance as accessory parking

SECTION 105 - Design Standards For Option 1, 2, And 5 Subdivisions

A. Houselots shall not encroach upon Primary Conservation Areas as identified in Section 402 of the Subdivision Ordinance, and their layout shall respect Secondary Conservation Areas as described in both the Zoning Ordinance and in the Subdivision Ordinance.

B. All new dwellings shall meet the following setback requirements:

1. From all external road ultimate right-of-way - 100 feet
2. From all other tract boundaries - 50 feet
3. From cropland or pasture land - 100 feet
4. From buildings or barnyards housing livestock - 300 feet
5. From active recreation areas such as courts or playingfields (not including tot-lots) - 150 feet

C. Views of houselots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Subdivision and Land Development Ordinance.

D. Houselots shall generally be accessed from interior streets, rather than from roads bordering the tract.

E. At least three-quarters of the lots shall directly abut or face greenway land across a street (except that in Option 5 Hamlets and Villages this fraction shall be one-half).

F. Standards pertaining to the quantity, quality, configuration, ownership, and maintenance of the greenway land created under this Article are contained in Sections 106 through 109 of this Ordinance.

SECTION 106 - Greenway Land Use And Design Standards

Protected greenway land in all subdivisions shall meet the following standards:

A. Uses Permitted On Greenway Lands

The following uses are permitted in greenway land areas:

1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);
2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors. (see also Section 103.D.1)
3. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required greenway land.

4. Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry.
5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Board.
6. Active non-commercial recreation areas, such as playingfields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenway land or five acres, whichever is less. Playingfields, playgrounds, and courts shall not be located within 100 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
7. Golf courses, including their parking areas and associated structures, may comprise up to half of the minimum required greenway land, but shall not include driving ranges or miniature golf.
8. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Greenway.
9. Easements for drainage, access, sewer or water lines, or other public purposes;
10. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required greenway land.

B. Greenway Design Standards

1. Greenway lands shall be laid our in general accordance with the municipality's Map of Potential Conservation Lands (in the Comprehensive Plan) to ensure that an interconnected network of open space will be provided. The required greenway land consists of a mixture of Primary Conservation Areas (PCAs), all of which must be included, and Secondary Conservation Areas (SCAs). PCAs comprise floodplains, wetlands, and slopes over 25%. SCAs should include special features of the property that would ordinarily be overlooked or ignored during the design process. Examples of such features are listed and described in Section 603 (Greenway Design Review Standards) in the Subdivision Ordinance.
2. In Option 1 and 2 subdivisions, the greenway land comprises a minimum of 50% and 60% of the Adjusted Tract Area respectively. This land shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the municipality, or by a private individual (typically as part of the original farmhouse). However, in no case shall less than 30% of the land comprising the"Adjusted Tract Area" be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the greenway land may be owned by different entities.
3. In Option 3 subdivisions, the required greenway land comprises all of the PCAs within the total tract, and may lie within the Estate Lots. However, because the minimum lot size is one acre, up to 80 percent of the Secondary Conservation land may be included within undivided open space, if the developer so chooses.
4. Greenway lands in Option 4 developments may be contained within the Country Property lots, or up to 80 percent may be set aside as undivided land with common rights of usage among the subdivision residents.

5. Up to five percent of the total tract acreage in any of the options may be subject to the municipality's public land dedication requirement (typically to provide potential connections with the municipal long-range trail network).

6. Buffers for Adjacent Public Parkland: Where the proposed development adjoins public parkland, a natural greenway buffer at least one-hundred-fifty (150) feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is unwooded, the Board may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.

C. Other Requirements

1. No portion of any building lot may be used for meeting the minimum required greenway land, except as permitted within Country Properties (or within "conservancy lots" of at least 10 acres, designed as an integral part of Option 5 Hamlets and Villages). However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required greenway land.

2. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes in accordance with Section 103 herein, shall be provided to greenway land in accordance with the following requirements:

   a. Each neighborhood shall provide one centrally located access point per 15 lots, a minimum of thirty-five (35) feet in width.

   b. Access to greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.

3. All greenway land areas that are not wooded or farmed shall be landscaped in accordance with the landscaping requirements of the Subdivision and Land Development Ordinance.

SECTION 107 - Permanent Greenway Protection Through Conservation Easements

A. In Option 1, 2, 3, and 5 Subdivisions

1. In Option 1, 2, 3, and 5 subdivisions, the required greenway land shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities.) The determination of necessity shall lie with the Board. A list of permitted and conditional uses of greenway lands is contained in this Article in Sections 103 and 106.

B In Option 4 Subdivisions (Country Properties)

1. In Option 4 subdivisions (Country Properties) where applicants voluntarily opt to develop their properties at densities conforming with Option 4 standards (minimum ten acres per principal dwelling), and offer to place a restrictive conservation easement preventing future subdivision of the newly created parcels, the Board shall review the proposed easements and shall accept them, provided their wording accomplishes the purposes of this Ordinance and is consistent with the Comprehensive Plan and the Open Space Plan.

SECTION 108 - Discretionary Density Bonuses

Additional density may be allowed by the Board when one of the following public benefits is proposed:

A. Public Usage of Greenway Land

1. The Board may encourage the dedication of land for public use (including active and passive recreation areas, municipal buildings, etc.) according to the following standards: *A density bonus for greater public usage of greenway land in new subdivisions shall be computed on the basis of a maximum of one dwelling unit per five acres of greenway land or per 2500 feet of trail that becomes publicly accessible.* The decision whether to accept an applicant's offer to dedicate greenway land to public usage within a proposed subdivision shall be at the discretion of the Board, which shall be guided by the recommendations contained in the Open Space Plan, particularly those sections dealing with active recreational facilities and passive trail networks.

B. Endowment For Greenway Maintenance

1. When greenway land is to be donated to a land trust or to the municipality, the Board may allow up to a ten percent density bonus to generate additional income to the applicant for the sole purpose of endowing a permanent fund to offset continuing costs of maintaining the greenway land (involving activities such as mowing meadows, removing invasive vines, paying insurance premiums and local taxes, etc.), including costs associated with active or passive recreation facilities. Spending from this fund should be restricted to expenditure of interest so that the principal may be preserved. Assuming an annual average interest rate of five percent, the amount designated for the Endowment Fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm, or organization acceptable to the Board, and with experience in managing conservation land and recreational facilities.
2. Because additional dwellings, beyond the maximum that would ordinarily be permitted, may reasonably be considered to be net of development costs and represent true profit, 75% of the net selling price of the endowment lots shall be donated by the applicant to the Greenway Maintenance Endowment Fund for the greenway lands within the subdivision. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities, at the time this entity is created.
3. When estimating the projected maintenance costs of the greenway land, greenway land that is not accessible by the subdivision residents for their common enjoyment need not be included in the calculations. Such lands would typically include areas designated on the Final Plan for Conservancy Lots or as land reserved for future agricultural, horticultural, silvicultural, or equestrian uses, which may be leased or sold to another party for those express purposes, and which are protected from future development by a permanent conservation easement. In such cases, the density bonus shall be adjusted proportionately to reflect only the acreage that is accessible to residents for their passive or active recreation.

C. Provision of Affordable Housing

1. A density increase is permitted where the subdivision proposal provides on-site or off-site housing opportunities for low- or moderate-income families. When off-site housing provision is proposed, the Board shall require evidence that these units will in fact be constructed by a certain date. The amount of density increase shall be

based on the following standard: *For each affordable housing unit provided under this section, one additional building lot or dwelling unit shall be permitted, up to a maximum 15 percent increase in dwelling units. Affordable housing is herein defined as units sold or rented to families earning up to 120 percent of the area median income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development.*

D. Implementation

1. For each of the above categories of public purposes, density bonuses may be implemented by reducing the amount of required greenway land by up to 10%, reducing the minimum lot area requirements by up to 10%, or by a combination of these approaches, at the discretion of the Board. The cullative reductions may total up to 30 percent, if the board is satisfied that the public purposes are being served.

SECTION 109 - Ownership And Maintenance Of Greenway Land And Common Facilities

A. Development Restrictions

All greenway land shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in Section 106.

B. Ownership Options

The following methods may be used, either individually or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities or in the open space ratio of the overall development. Ownership methods shall conform to the following:

1. Fee Simple Dedication to the Municipality. The municipality may, but shall not be required to, accept any portion of the common facilities, provided that:
   a. There is no cost of acquisition to the municipality; and,
   b. The municipality agrees to and has access to maintain such facilities.
2. Condominium Association. Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All open land and common facilities shall be held as "common element."
3. Homeowners' Association. Common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes. In addition, the following regulations shall be met:
   a. The applicant shall provide the municipality a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities;
   b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development;
   c. Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units therein and their successors in title;
   d. The association shall be responsible for maintenance and insurance of common facilities;

e. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent is his dues. Such dues shall be paid with the accrued interest before the lien may be lifted;

f. Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the municipality no less than thirty days prior to such event; and

g. The association shall have adequate staff to administer, maintain, and operate such common facilities.

4. Private Conservation Organization or the County. With permission of the municipality, an owner may transfer either fee simple title of the open space or easements on the open space to a private non-profit conservation organization or to the County provided that:

   a. The conservation organization is acceptable to the municipality and is a bona fide conservation organization intended to exist indefinitely;

   b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization or _____ County becomes unwilling or unable to continue carrying out its functions;

   c. The greenway land is permanently restricted from future development through a conservation easement and the municipality is given the ability to enforce these restrictions; and

   d. A maintenance agreement acceptable to the municipality is established between the owner and the organization or _____ County.

5. Dedication of Easements to the Municipality. The municipality may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the easements are held by the municipality. In addition, the following regulations shall apply:

   a. There shall be no cost of acquisition to the municipality;

   b. Any such easements for public use shall be accessible to the residents of the municipality; and

   c. A satisfactory maintenance agreement shall be reached between the owner and the municipality.

6. Non-Common Private Ownership. Up to 80 percent of the required greenway land may be included within one or more large "conservancy lots" of at least 10 acres provided the open space is permanently restricted from future development through a conservation easement, except for those uses listed in Section 106, and that the municipality is given the ability to enforce these restrictions.

C. Maintenance

1. Unless otherwise agreed to by the Board, the cost and responsibility of maintaining common facilities and greenway land shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.

2. The applicant shall, at the time of preliminary plan submission, provide a Plan for Maintenance of Greenway Lands and Operation of Common Facilities in accordance with the following requirements. (This Plan may be based on the model prepared for Lower Merion Township, Montgomery County, PA by the Natural Lands Trust, which

has been routinely adopted by developers of conservation subdivisions in that municipality).

a. The Plan shall define ownership;

b. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e. lawns, playing fields, meadow, pasture, cropland, woodlands, etc.);

c. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the greenway land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;

d. At the municipality's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year; and,

e. Any changes to the maintenance plan shall be approved by the Board

3. In the event that the organization established to maintain the greenway lands and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the municipality may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.

4. The municipality may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners association, conservation organization, or individual property owners who make up a condominium or homeowners' association and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the municipality in the office of the Prothonotary of the County.

Additional Definitions

Conservancy Lot.

A large, privately-owned lot comprising part of an area of open land. The purpose of the conservancy lot is to provide surrounding residents with visual access to greenway land, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be protected through conservation easements and used in conformance with standard for greenway land. Public access to conservancy lots is not required.

Greenway Land.

That portion of a tract that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Greenway land may be accessible to the residents of the development and/or the municipality, or it may contain areas of conservancy lots which are not accessible to the public.

Appendix - Community Wastewater Systems:

Ordered List of Preferred Alternative Types

The following six types of wastewater treatment systems are ranked in descending order reflecting the municipality's official preferences, as stated in its Sewage Facilities Plan. Applicants for new development proposals involving community sewage treatment systems shall be required

to demonstrate to the Board of Supervisors that they cannot utilize preferred types of wastewater treatment before they may be permitted to utilize a less-preferred alternative that ranks lower on the ordered list below:

1. Lagoon Treatment/land application
2. Package Treatment/land application
3. Community Septic Tank/Sand Filter/Subsurface
4. Package Plant/Sand Filter/land application
5. Package Plant/Direct Discharge to Groundwater
6. Package Plant/ Seasonal Spray - Discharge