



**MEETING MINUTES**  
**Special Meeting**  
**NORTH HAMPTON PLANNING BOARD**  
**Thursday, December 6, 2007**  
**Town Clerk's Office Heritage Room**

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These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

**Members present:** Phil Wilson, Chairman; Shep Kroner, Vice Chairman; Joseph Arena, Laurel Pohl, Barbara Kohl, and Tom McManus.

**Others present:** Jill Robinson, RPC Circuit Rider, and Wendy Chase, Recording Secretary.

**Members absent:** Craig Salomon, Selectman's Representative

**Alternates present:** None

Mr. Kroner convened the meeting at 6:32pm.

Mr. Wilson went over the major revisions he made to the proposed Conservation Subdivision Design Ordinance with the Board. (Incorporated by reference as attachment A).

Mr. Wilson explained that it is almost impossible to hold land in Conservation in perpetuity without a "belts and suspenders" approach.

- Deed restrictions on a property
- Record a conservation easement on the property
- Put the easement and the underlying fee rights under the responsibility of two separate parties

He further added that if the above three criteria are met then the only way the easement could be compromised would be by eminent domain.

Mr. Wilson said in order to protect conservation land there are certain steps to take and recommended that (1) the Town hold an Executory Interest in the easement, (2) the easement to be held by a third party, such as, the Southeast Land Trust of NH and (3) in addition, that the restrictions be added to every deed of every lot.

Ms. Kohl asked if this Ordinance passes would it cancel out the traditional Subdivision Ordinance?

Mr. Wilson explained that any proposed subdivision with four or more lots would follow the new proposed Ordinance.

Mr. Kroner commented that it would be more feasible for a developer to design a subdivision with less pavement for roads, making it more cost effective to develop a subdivision.

Dr. Arena asked if there would be town water and if not how would a septic and well fit on such a small lot.

Mr. Wilson said that the well could be placed in the setbacks.

The Board discussed the properties in North Hampton that contain a lot of acreage. Mr. Wilson pointed out that the mobile home sites and airfield in Town could change ownership in the future and become developed.

Mr. McManus pointed out that a developer could get around the Conservation Subdivision by “chipping away” at a large parcel of land three lots at a time.

Mr. Wilson commented that the North Hampton 2005 survey showed a high percentage of residents in favor of conserving land in town. Mr. Kroner said that it is also written in the Master Plan.

Dr. Arena opined that the houses would be too close together and that he would be against a Conservation Subdivision Ordinance.

The Board decided to hold the first public hearing on the Conservation Subdivision Design Ordinance (Incorporated by reference as attachment B) to start the process of preparing the proposed Ordinance to be placed on the Town ballot and let the Townspeople decide.

**M. Pohl moved and Ms. Kohl seconded the motion to take the proposed Conservation Subdivision Design Ordinance to public hearing.**

**Ms. Pohl amended her motion and Ms. Kohl accepted the amendment to include the date of December 27, 2007 at 6:30pm.**

**The vote was unanimous in favor of the motion (6-0).**

**Mr. Wilson moved and Ms. Kohl seconded the motion to hold a second public hearing on the proposed Conservation Subdivision Design Ordinance on January 10, 2008 at 6:30pm.**

**The vote was unanimous in favor of the motion (6-0).**

**Mr. McManus moved and Ms. Pohl seconded the motion to adjourn at 9:00pm.**  
**The vote was unanimous in favor of the motion (6-0).**

Respectfully submitted,  
Wendy V. Chase  
Recording Secretary

**Approved February 14, 2008**

## Attachment A:

	Dimensional Requirements	Procedural Requirements	Required Data/ cross reference	Other Provisions
<b>Applicability (pg 1)</b>				Applies to all zoning districts and applies to all subdivisions where parent lot is of sufficient size to allow subdivision into four or more lots of minimum lot size for the District in which parent lot is located.
<b>Approval Process (pg 2)</b>		Preliminary Conceptual consultation, followed by Design Review, followed by submitted application. Applicant can submit either yield plan or maximum density calculation.		
<b>Flexibility</b>	Minimum road frontage 100'. Minimum lot width 60'. No single-family dwellings closer than 30' apart. Minimum setbacks: Front, 30'; side, 15'; rear, 10'. Must meet all other dimensional criteria in zoning ordinance and subdivision regulations for natural features such as wetlands, and roads.	<b><u>Minimum Requirements:</u></b> Frontage =/>>: Width =/>>: Separation =/>>: <b><u>Setbacks:</u></b> Front =/>>: Side =/>>: Rear =/>>:	100' 60' 30' 30' 15' 10'	

	<b>Dimensional Requirements</b>	<b>Procedural Requirements</b>	<b>Required Data/ Cross reference</b>	<b>Other Provisions</b>
<b>Conservation Area</b>	50 percent of buildable area as defined by the ordinance shall be included.	Permanent provisions for use, ownership, and maintenance of Conservation Area shall be established in approval process and memorialized in perpetual conservation easements in which the town holds Executory Interest and in deed restrictions.	All Conservation Areas shall be permanently protected by easements and deed restrictions running with the land.	Conservation area land shall not be used other than for Low Impact Recreation, conservation, or agriculture.
<b>Maximum Density Calculation or Yield Plan</b>	Maximum density calculation is a mathematical method to determine max number of house lots that could realistically be created on a lot under conventional subdivision requirements of the underlying zoning district.			

**Attachment B:**

**TOWN OF NORTH HAMPTON  
CONSERVATION SUBDIVISION DESIGN ORDINANCE**

9 December 2007

**A. AUTHORITY**

This ordinance is adopted pursuant to RSA 674:21.II which states that an innovative land use control ordinance may provide for administration of the ordinance, including the granting of conditional or special use permits, by the planning board.

**All subdivisions governed by this ordinance shall require the issuance of a Conditional Use Permit by the Planning Board.** The conditions that must be satisfied in order for the permit to be issued are all of the individual provisions of this ordinance. Requests for waivers from individual provisions of this ordinance must be written and the Planning Board must vote on each waiver request at a properly noticed public hearing.

Any person aggrieved by a Planning Board decision on a Conditional Use Permit may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

### ***B. PURPOSE AND OBJECTIVES***

The purpose of this regulation is to permit the implementation of innovative land use controls that preserve North Hampton's rural character and environmentally sensitive elements and that allow conservation open space subdivision design. This Article has the following objectives to:

1. Sustain the scenic quality and visual character of the town;
2. Promote the conservation, protection and sound management of the natural resource base;
3. Provide flexibility, creativity and efficiency in the location and design of residential developments, roads, facilities and infrastructure;
4. Encourage the permanent preservation of open space; agricultural and forestry land; other natural resources including water bodies and wetlands; and historical and archeological resources;
5. Reduce sprawl by requiring a more efficient form of development that consumes less open land and conforms better than a conventional or grid subdivision to existing topography and natural features;
6. Enhance the quality of life by increasing open space and the public's access to land for walking and aesthetic enjoyment;
7. Promote a natural system of storm water management to minimize erosion and encourage aquifer recharge;
8. Implement the first General Principle of "A Vision for North Hampton" in the Mater Plan of the Town of North Hampton: "As the state and region develop in the future, North Hampton should maintain its rural New England seacoast character and heritage.

### ***C. APPLICABILITY***

1. This Article applies to all zoning districts in the Town of North Hampton.
2. All major subdivisions and any other division of land including subdivision and lot line adjustments that may create additional developable lots, where the Parent Lot is equal to or greater than four conventional lots of minimum lot size for that District in which the Parent Lot is located, shall be required to comply with the provisions of this Article, unless the applicant demonstrates and the Planning Board finds that a conventional subdivision better meets the Purpose and Objectives (Paragraph B above) and Criteria (Paragraph E below) of this ordinance.
3. Any other subdivision shall, at the option of the Planning Board, be developed in accord with the provisions of this Article, unless the applicant demonstrates and the Planning Board finds that a conventional subdivision plan better meets the Purpose and Objectives (Paragraph B above) and Criteria (Paragraph E below) of this ordinance.

***D. SUBDIVISION APPROVAL REQUIRED***

A Conservation Subdivision shall require Planning Board approval. The application for approval shall comply with the Planning Board's subdivision regulations and procedures and the following requirements:

1. Preliminary Consultation. The Planning Board shall require a preliminary Conceptual Consultation. At or prior to this meeting, the applicant shall submit a Sketch Plan. This shall be done before any engineering needed for preliminary or final plans is begun. During the preliminary consultation, the Board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the Master Plan and basic requirements for the submission of a subdivision application.
2. Design Review. The Planning Board shall require a Design Review. At or prior to this meeting, the applicant shall submit a site analysis showing the surrounding area and the physical features and character of the site as specified by step one of the four-step design process in Paragraph J below. The design review may include more specific design and engineering details than the Preliminary Consultation and should include the four-step design process described in Paragraph J below. Design review requires notice to abutters and other parties as identified in RSA 676:4 I(d). The Preliminary Consultation and the Design Review shall be separate and apart from formal consideration of the plan, and the time limits for the Board to act on a plan shall not apply until the formal application is submitted.
3. Density. The applicant shall submit a Yield Plan or Density Calculation, which shall be evaluated by and acceptable to the Planning Board.
4. Maximum Density. "Maximum Density" means the total number of dwelling units permitted on the Parent Lot after subdivision. Maximum Density in a subdivision under this ordinance shall not exceed the density for a conventional subdivision permitted in the underlying zoning district. The Planning Board may approve a Conservation Subdivision Design with the number of house lots allowed pursuant to the determination of Maximum Density, provided that the number of resulting house lots can be established on the Parent Lot. Allowable density shall never exceed permitted density in the underlying zoning district.

***E. CRITERIA***

In evaluating the acceptability of proposed Conservation Open Space area(s), the Planning Board shall consider the extent to which the location and design of the area achieves these objectives:

1. Master Plan. The proposed development will be consistent with, and comply with, the general purpose, principles, goals, objectives, standards and provisions of the North Hampton Master Plan.
2. Accessibility of Open Space. The suitability of all Conservation Open Space shall be determined by the size, shape, topography and location for the proposed purpose, and shall be accessible to all intended users. Undivided Conservation Open Space shall be directly accessible to the largest practicable number of lots within the conservation subdivision.
3. Ecosystem Function and Habitat Integrity. Subdivisions shall be designed around both the Primary and Secondary Conservation Areas to conserve large enough contiguous blocks of land to retain ecosystem function and habitat integrity.
4. Minimize Alteration of Natural Features. The individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural, cultural and/or historic site features, and shall take those features into account in the placement of all structures.

5. Narrow open-space strips shall not be permitted unless the incorporation of the open-space strips provides a logical and practical link to, or expansion of, either existing or planned adjacent preserved open space, water bodies, watercourses, or trails, or serves to provide protection for natural resources.
6. Avoid Fragmentation. Efforts shall be made to minimize fragmentation of habitats and to provide corridors for wildlife movement among habitats.
7. h. Interconnected Open Space. Preserved Open Spaces shall be interconnected wherever possible to provide a continuous network of open-space lands within and adjoining the development. This includes connecting with preserved open space adjacent to the property.
8. Common Open Space shall be free of all structures except those permitted by the Planning Board as appropriate to the objectives of this ordinance and the welfare of the inhabitants of the subdivision.

#### ***F. FLEXIBILITY***

1. Although this ordinance is designed to encourage flexibility and creativity consistent with the Conservation Subdivision Design concept, the following minimum standards shall apply. The minimum frontage required shall be 100 feet. The minimum lot width shall be 60 feet. No two single-family dwellings may be closer than 30 feet apart. Side setbacks shall be a minimum of 15 feet, and rear setbacks shall be a minimum of 10 feet. Front setback shall be a minimum of 30 feet. The subdivision shall meet all other dimensional criteria of the zoning ordinance and subdivision regulations except as specified in this ordinance.
2. No lot shall be permitted that will not provide adequate water supply or support a septic system, including a recharge area, except in a Conservation Subdivision for which a community water and/or septic system has been approved and approved by all agencies and boards with jurisdiction.

#### ***G. CONSERVATION OPEN SPACE REQUIREMENTS***

1. A minimum of 50% of the Buildable Area of the Parent Lot shall be included as Conservation Open Space.
2. Conservation Open Space land shall not be further subdivided or developed.
3. Except for easements for utilities, Conservation Open Space land shall not be used other than for Low Impact Recreation, conservation or agricultural purposes.
4. In Conservation Open Space any other uses or structures not enumerated in this Article must be approved by the Planning Board and must be found to be in accord with this Article, its Purpose and Objectives.

#### ***H. OWNERSHIP OF CONSERVATION OPEN SPACE AREAS***

Permanent provisions for the use, ownership, and maintenance of the Conservation Open Space including shall be established by the Planning Board as part of the approval of the subdivision in accordance with the Subdivision Regulations. Subdivision and development rights on Conservation Open Space areas shall be protected in perpetuity by deed restrictions and conservation easements held by a qualified entity, and the Town shall hold an Executory Interest in all such easements.

#### ***I. PROTECTION OF CONSERVATION OPEN SPACE AREAS***

1. All Conservation Open Space and included facilities shall be permanently protected by covenants, conservation easements, and deed restrictions running with the land. All such instruments shall be reviewed by Town Counsel and reviewed and approved by the Planning Board before any conveyance of individual lots to land owner(s).

2. In compliance with RSA 79-A:7,V,b: all land, though not physically changed, used in the satisfaction of density or setback as part of a contiguous development site shall be considered changed in use and shall not be eligible for current use status.
3. Pursuant to RSA 674:21-a, the open space conservation area designation required by this ordinance shall be deemed to create a conservation restriction as defined in RSA 477:45.I which shall run with the land, and shall be enforceable by the municipality, or by the owner of any property which would be specially damaged by the violation of such restriction, regardless of whether any deed or other instrument conveying such restriction has been executed or recorded. An applicant's statement of intent to restrict development, submitted with or contained in an application that is subsequently approved shall be deemed a condition of the approval. The requirement for this statement is in addition to the requirements stated above in this ordinance for a recorded easement and deed.

#### ***J. FOUR-STEP DESIGN PROCESS***

The applicant shall follow the four step design process, described below, when submitting the design for the subdivision. This four-step process shall be initiated at the design review stage and continued through the formal submission and review of an application with a full plan set.

The four-step design process includes the following elements:

1. **Step One: Identify Natural Resource Areas and methods to protect these areas.**
  - a. Identify natural resource areas including wetlands, floodplains, steep slopes greater than 15 percent, surface water areas and groundwater resources including aquifers and wells, and existing conservation lands owned by the town or by a state or local conservation organization or a private entity.
  - b. Reference the Conservation and Stewardship Plan 2007 and subsequent amendments as it pertains to the parcel being developed and abutting parcels.
  - c. Identify methods such as erosion and sediment control measures, riparian buffers, and protection of trees during the construction process to protect these resources from the impacts of development.
  - d. Where possible, utilize on-site infiltration of storm water to minimize runoff to abutting properties.
2. **Step Two: Locate the House Sites.** Locate potential building areas that take into account areas identified in step one and information on topography and soils.
3. **Step Three: Design Street Layout and Trails or Sidewalks.**
  - a. Locate proposed streets and proposed trails or sidewalks in the development.
  - b. Incorporate wildlife -suitable culverts such as square or box culverts with a natural surface bottom to minimally disrupt wildlife habitat and passage.
  - c. Locate trails to connect with existing trail systems and provide sidewalks when necessary to connect with existing sidewalks and ensure pedestrian safety.
4. **Step Four: Draw Lot Lines.** Lot lines shall delineate boundaries of individual lots and shall be reasonably configured to provide clarity of ownership and ample space for the location of wells, septic systems, and other utilities as well as a building envelope for a single family home and a driveway. Driveway locations shall be shown on all plans.

#### ***K. DEFINITIONS***

1. **Adjusted Tract Acreage:** The area of a parcel of land that remains after the Primary Conservation Areas have been subtracted. Note that it may contain Unbuildable Land – that is, land, for example, that was not buildable in the Parent Lot and that was not included in Conservation Open Space Areas.



2. **Buildable Area or Buildable Land:** The land area remaining from the Adjusted Tract Acreage when all Unbuildable Land is subtracted. It is the acreage on which density shall be based for both conventional and open space subdivisions.
3. **Common Open Space:** Land within or related to an Open Space Subdivision development that is not individually owned, but may be fractionally owned by individual members of the development, and that is designed and intended for the common use or enjoyment of residents of the development or the public. Common Open Space is distinct from and does not include Conservation Open Space.
4. **Conceptual Consultation:** Non-binding discussions between a project developer and the Planning Board as provided in RSA 676:4 II. Conceptual consultation allows Board members to voice their concerns and suggestions about a proposed project without the necessity of providing formal public notice and is not subject to the normal time limitations on Planning Board review and approval of subdivision applications.
5. **Conservation Open Space:** Land in an Open Space Subdivision development site that is permanently set aside for public or private uses and shall never be developed. All lands within Conservation Open Space are required to be protected by both a permanent conservation easement and deed restrictions that prohibit further subdivision and development and that set other standards safeguarding the site's special resources from changes that are not consistent with the permanent conservation purposes of this Conservation Subdivision ordinance. Primary Conservation Areas are not included in the term "Conservation Open Space."  
**Conservation Open Space in a Conservation Subdivision shall equal at least 50% of the Buildable Area or Land of the Parent Lot being subdivided under this Article.**
6. **Conventional Subdivision Plan:** Residential subdivision in which the Parent Lot is divided into house lots and streets, with the only open space typically being undevelopable wetlands, steep slopes, floodplains, and stormwater management areas.
7. **Density or Maximum Density:** The maximum number of house lots into which a parcel realistically may be subdivided under restrictions in the underlying zoning district. For purposes of calculating Maximum Density under a Conventional Subdivision Plan, applicant shall prepare, and the Planning Board shall divide whether to accept results of, either (a) a Yield Plan or (b) a Maximum Density Calculation.
8. **Design Review:** As provided in RSA 676:4 II, non-binding discussions beyond conceptual and general discussions that involve more specific design and engineering details than Conceptual Consultation. Design Review may take the form of a visit to the site. The applicant, holders of conservation, preservation, or agricultural preservation restrictions, abutters, the public, every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat submitted to the planning board shall be notified by certified mail, mailed at least 10 days prior to Design Review.
9. **Homeowners Association:** A private nonprofit association that is established by the developer to manage and support activities of the Conservation Subdivision. Membership in the association shall be mandatory for property owners in the Conservation Subdivision. Individual owners share common interests in open space and/or facilities and are responsible for preserving, managing and maintaining the common property, Common Open Space, and for enforcing certain covenants and restrictions. Articles of Association or Incorporation or any amendments thereto shall be subject to review by Town Counsel and review and approval by the Planning Board. As a condition of approval, the Town of North Hampton shall be granted an Executory Interest in all conservation easements burdening Conservation Open Space in Conservation Subdivisions approved under this ordinance.

10. **Low-Impact Recreation:** For the purposes of this regulation, this shall include but is not limited to activities such as hiking or birding. It shall not include the creation of formal recreation fields or structures intended for year-round use. For example, ice-skating on a natural pond is permitted, but a year-round ice-skating rink is not.
11. **Major Subdivision:** A parcel that is subdivided into four or more lots.
12. **Maximum Density Calculation:** The following mathematical method of determining the maximum number of house lots that could realistically be created on a Parent Lot:
  - a. Deduct from the Adjusted Tract Acreage all Unbuildable Land.
  - b. Reduce the resulting acreage by 10% to allow for land required for new streets.
  - c. Round to the nearest whole number (0.5 rounds to 1).
  - d. Divide this figure by the minimum lot size allowed in the underlying zoning district.
  - e. Dividend of "d" above equals the Maximum Density of the Parent Lot for the purposes of Open Space Development.
13. **Open Space Subdivision:** A residential development in which the buildings are located to comport with the existing topographical and natural features and in which lot size and frontage requirements are reduced in order to leave no less than 50% of the buildable land in Conservation Open Space.
14. **Parent Lot:** Any lot of record that existed prior to March 11, 2008, the date on which this ordinance went into effect.
15. **Preserved Open Space:** Open space protected by conservation easement.
16. **Primary Conservation Areas:** Land that may not be built on or developed pursuant to Federal, State or local law, which generally includes sensitive areas whose locations are predetermined by the boundaries of wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.); land within the 100-year floodplain; land that is excessively steep; or soils subject to slumping.
17. **Protected Natural Resource Areas:** Shall be consistent with the policies contained in the Open Space, Recreation, and Environmental Resources elements of North Hampton's Master Plan, and shall include areas identified by North Hampton's Conservation Audit and Stewardship Plan, such as, but not limited to: prominent ridgelines, important streams, mature woodlands, aquifer recharge areas, areas with highly permeable ('excessively drained') soil, significant wildlife habitat areas, important upland forest, meadows, pastures, farm fields, archaeological or cultural assets, water quality protection areas, and sections of an ecologically connected matrix of natural areas significant for wildlife habitat.
18. **Sketch Plan:** A lightly drawn conceptual sketch provided by the applicant at the earliest possible time, well before formally engineered plans are drawn up.
19. **Secondary Conservation Areas:** A broad category of open space determined by the Planning Board that may include mature woodlands, prime farmlands, sites of historic, archaeological or cultural interest, or connections to greenways or trails. In delineating Secondary Conservation Areas, priorities shall involve determining more special, unique, irreplaceable, environmentally valuable, historic, or scenic characteristics of the site.
20. **Stream Corridors:** Areas of land alongside streams designated for public or private access.
21. **Tract:** An area, parcel, site, piece of land, or property, which is the subject of a subdivision or development proposal and application.
22. **Unbuildable Land:** Any land area, in addition to a Primary Conservation Area, that is unsuitable for building such as, but not limited to, wetlands, excessively steep slopes, rock outcroppings,

pre-existing septic fields, pre-existing rights-of-way and utility easements, land under pre-existing permanent easement that prohibits future development, and footprints of common recreational facilities.

23. **Yield Plan:** A plan submitted by the applicant showing a feasible Conventional Subdivision Plan conforming to all requirements of the specific underlying zoning district in which the property is located. Such plans shall be conceptual in nature and are not intended to require significant engineering costs— that is, engineering costs that are customary for preparing a formal application for subdivision review by the Planning Board. They shall consist of conventional lot and street layouts, shall conform to the Town's regulations governing lot dimensions, buildable land, street design and, if appropriate, parking. **The yield plan shall contain information about soil types as well as steep slopes that would limit development.** The purpose of the Yield Plan is to determine the maximum number of house lots that could realistically be created on a tract.

#### **ARTICLE XXI**

##### **EXISTING ORDINANCES**

Nothing contained in this ordinance shall be construed as repealing or modifying any other ordinance or regulation of this Town, except such as may be specifically repealed or modified by this ordinance, but shall be in addition thereto. Nor shall anything in this ordinance be construed as repealing or modifying any private restrictions placed upon property by covenant, deed, or other private agreement, or any restrictive covenants running with the land to which the Town is a party, but shall be in addition thereto. Whenever provisions of this ordinance differ from those prescribed by any statute, other ordinance or other regulation or restriction, that provision which imposes the greater restriction or the higher standard shall govern.

#### **ARTICLE XXII**

##### **PENALTY**

Every person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction, be fined not more than fifty (50) dollars for each day such violation may exist.

#### **ARTICLE XXIII**

##### **SAVING CLAUSE**

If any Article, section, sub-section, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of these regulations.

#### **ARTICLE XXIV**

##### **AMENDMENTS**

This ordinance may be amended by vote as provided in Chapter 31, of the N.H. Revised Statutes Annotated, 1955, as amended.

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