

REVISIONS TO SUBDIVISION REGULATIONS AND APPLICATION PROCEDURES

The following draft is intended to be added to Pembroke's existing subdivision review regulations and to apply to all subdivision applications, both conventional and conservation design.

I. PRELIMINARY REVIEW

Note - Pembroke will need to determine if all subdivisions are required to participate in a preliminary review prior to submitting a formal application and, if not, what types of projects are exempt, e.g., minor subdivisions.

All applicants for subdivision review are required to participate in a preliminary review process with the planning board. The purpose of this process is to discuss the characteristics of the site and proposed plan for development in conceptual terms. The preliminary review process is further designed to acquaint the potential applicants with the formal application process and an array of particular information that the planning board may request, and to suggest methods for resolving possible problems in the development design and layout, and to make the potential applicant aware of any pertinent recommendations in the master plan, zoning, or regulations relative to the property in question.

A. Limits of the Review

1. The preliminary review shall be conducted at a posted meeting of the planning board after identification of and notice to the abutters, to holders of conservation, preservation or other restrictions on the site or abutting parcels, and to the general public as specified in RSA 676:4 I(d).
2. The preliminary review shall not cause the proposed plan to be a pending application or proceeding, and as such, no processing time limits, as defined in RSA 676:4 shall apply.
3. The preliminary review shall be informational and shall not bind the applicant or the planning board. However, the planning board shall be entitled to make recommendations with respect to the material presented during the preliminary review to assist the potential applicant in preparing a formal application. No decisions relative to the plan shall be made at the preliminary review.
4. Public input will be accepted.
5. Any documents provided to the planning board will be made part of the record for future reference purposes.
6. The planning board shall enter into the minutes any suggestions, recommendations, or other factors discussed.

B. Preliminary Review Documents

Applicants shall submit the following materials at least 30 days in advance of the preliminary review meeting with the planning board. Materials shall be submitted to the

town office, c/o the chairperson of the planning board, according to the filing schedule established by the planning administrator. All materials must be submitted before a preliminary review can be scheduled.

1. **Request for Preliminary Review.** Applicants shall submit the appropriate form (available from the town office), a list of the names and addresses of abutters obtained from town records not more than five days before the date of filing of the application, and application fee.

2. **Site Context Map.** The site context map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to locate the subdivision within the municipality, e.g., 1 inch = 400 feet. The site context map shall include the following:

- a. Existing subdivisions in the proximity of the proposed subdivision, including building locations.
- b. Locations and names of existing streets.
- c. Boundaries and designations of zoning districts.
- d. Watershed and sub watershed boundaries.
- e. An outline of the subject parcel and the proposed subdivision.

3. **Site Inventory and Map(s).** The site inventory map(s) shall be at a scale of one inch equals 100 feet (unless another scale is mutually agreed upon for larger projects), the preparation of which shall involve an individual or team with the necessary training in natural resources, who shall certify the information submitted. The inventory and map(s) shall include, at a minimum, the following:

- a. The proposed name of the subdivision, north arrow (true meridian), date, and scale.
- b. The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
- c. Existing structures or easements on the site; if none, so state.
- d. The topography of the site at an appropriate contour interval depending on the nature of the use and the character of the site.
- e. The major natural features of the site and on lands within 500 feet of the site, including wetlands, vernal pools, streams, ponds, rivers, riparian areas, floodplains, stratified drift aquifers, areas of significant wildlife habitat (i.e., areas identified by the NH Wildlife Action Plan as the highest condition habitat in the state or region; habitats of endangered or threatened wildlife, other habitats of local significance as identified by the conservation commission or other conservation organization), boundary trees, noteworthy tree specimens, scenic views or areas, significant geologic features, ridgelines, slopes in excess of 25

percent, agricultural soils of local and statewide significance, high quality forest soils, meadows, and any other important natural features. Wetlands on the site shall be identified and delineated by a New Hampshire Certified Wetlands Scientist and certified by the person performing the delineation. Information on adjacent properties may be from published sources and available state, regional, and local data.

- f. Visible or known human-made features of the site and within 500 feet of the site, including historic or cultural features, stone walls, roads, driveways, fences, trails, historic structures or remnants, archeological resources, graveyards, cemeteries, historic or current waste disposal sites, and any other important features; if none, so state.
- g. Soils on the site based on a soil survey. The planning board may require the submission of a high intensity soil survey if it determines that a HISS is necessary to determine if the proposed density of development conforms to the zoning requirements or to evaluate the appropriate use(s) of the property.
- h. Vegetative cover conditions on the property.
- i. Views onto and off of the property, with accompanying photographs.
- j. Watershed and sub watershed boundaries.
- k. Location of drinking water supplies (public and private) and protective radii.
- l. All areas subject to covenant, easement or other restriction limiting the potential development and/or use of such areas, including resource boundaries and buffer areas subject to local, state, and/or Federal regulation. The nature of the restriction shall also be noted.
- m. Location and size of existing utilities or improvements to the site; if none, so state.
- n. If not served by public water, any potential sources of fire protection water supply within one half mile of the site, including public water mains, existing fire ponds, or other possible sources.
- o. Preliminary identification of those areas of the site with the most significant conservation value based on the assessment of the site.

4. **Conceptual Plan of Proposed Development.** Applicants shall submit a conceptual plan for the development of the subject parcel that reflects the characteristics of the site as detailed in the site inventory and map(s) and its location within the community as indicated in the site context map. The conceptual plan shall be prepared at the same scale as the site inventory map and be provided as both a translucent sheet, which can be overlaid onto the site inventory map(s), and solid plan.

A conceptual plan shall be a draft plan, which does not include engineering details, but is drawn to scale and indicates the following:

- a. Proposed location of any new roadway.

- b. Proposed residential lots, building envelopes, including the possible location of a well and septic system, when applicable, and potential house sites for each lot.
- c. Existing and proposed features and amenities, including common areas, trails, or community buildings, etc.
- d. Proposed boundaries of any designated open space.
- e. A narrative description of the proposed approach for providing for drinking water supply, waste water treatment, stormwater management, and landscaping.

Applicants shall demonstrate that their conceptual plan is consistent with the following approach for designing a subdivision:

- a. **Step One: Identify Conservation Areas.** Identify those areas of the parcel containing or supporting important natural resource features and functions, as listed in the subdivision regulations or otherwise identified by the planning board for priority consideration for inclusion within the designated open space. If not included in the designated open space, other protective mechanisms, such as a substantial setback of development or maintenance of an undisturbed buffer around the feature, shall be identified.
- b. **Step Two: Locate House Sites and Building Envelopes.** To the maximum extent feasible, house sites and building envelopes shall be located outside of those areas delineated in Step One. The location of the house sites and building envelopes shall also reflect the design objectives identified elsewhere.
- c. **Step Three: Align Streets and Trails.** The minimum length and network of streets necessary to access each house lot shall be identified, subject to the road standards of the Town and with consideration given to conforming the street to the natural landscape. Proposed trails shall be identified where access to the designated open space is appropriate and/or to provide for pedestrian circulation within the development as well as pedestrian access to areas outside the development.
- d. **Step Four: Identify Lot Lines.** Lot lines for each house site, or group of homes on a common lot, shall be identified. The placement of the lot lines shall give consideration to those areas identified in Step One as well as conform to the natural features of the landscape to the greatest extent possible, e.g., follow stone walls, lines of boundary trees, streams. The delineation of lots shall also consider the privacy provided for individual homeowners and opportunity for future owners to reasonably expand the structures on the lot.
- e. **Conceptual Long Range Development Plan.** When a subdivision will not utilize the entire parcel and there is potential for future subdivision or development of the parcel or any of the lots being created, the application for preliminary review shall include a conceptual long range development plan showing the potential utilization of the lots and the balance of the parcel not being subdivided. The conceptual long range development plan is a sketch plan with no engineering details, and shall rely on published data about natural resources relevant to the parcel, and demonstrate that the current subdivision

proposal will not compromise important conservation values or the long term development of the parcel as a conservation design subdivision. This plan shall show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land. This plan shall analyze the conservation and development potential of the remaining area of the parcel and shall show, in general terms, the potential street network, open space areas, and development areas in a manner that demonstrates that both the proposed development and any future development can occur so as to conform to the requirements for conservation design subdivisions and shall preserve the significant natural resource and conservation values of the entire parcel.

C. Technical Review

At the discretion of the planning board, the board may request that the applicant pay a reasonable fee to provide for a third-party technical review of the information provided on the site or the conceptual plan of the proposed development submitted for the preliminary review. The fee shall be due at the time of submission of a formal application. A formal application for subdivision review shall not be deemed complete until the technical review of the preliminary review materials is conducted, or 30 days after the preliminary review materials and the fee for the technical review are received (provided all other requirements for a formal application are met), whichever is earlier. The applicant may elect to submit the fee for this technical review in advance of the formal application to expedite the review process.

D. Site Inspection

The planning board may conduct a site inspection of the subject property to review existing conditions, field verify the information submitted, and investigate the preliminary development proposal. The board may schedule this inspection before or after the preliminary review meeting or decide not to hold a site inspection at this time.

II. DESIGN STANDARDS: OPEN SPACE DEVELOPMENTS

The following design standards are intended to improve the character and aesthetic qualities of the development and to minimize its impact on the natural and cultural features on the site. Variations from these standards may be granted by the planning board provided that the overall intent of this section is achieved by the alternative design.

A. Lot Configuration and Design

The following design standards are intended to improve the character and aesthetic qualities of development and to minimize impacts on natural and cultural features on the site. The planning board may require development plans to be certified by an individual with professional training in neighborhood design.

1. **Minimum Impact to Natural and Cultural Features.** Individual lot lines and building envelopes shall, to the extent possible, conform to the natural contours of the site and be delineated to minimize negative impacts on the natural and cultural resources of the site as identified by the planning board and/or site inventory.
 - a. The location and orientation of individual building envelopes and building sites shall be designed to maintain the natural topography and drainage patterns, to preserve important natural features in their natural condition, to maximize the potential for use of passive solar energy for light and heat, to minimize disturbance of natural vegetated cover, and to minimize grading, cut-and-fill, and soil removal.
 - b. Topography and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than malleable elements that can be changed to allow for a preferred development scheme. Land disturbance and cut-and-fill shall be minimized.
 - c. The removal or disruption of historic, traditional, or significant uses, structures, or architectural elements shall be minimized.
 - d. Significant trees, boundary trees, stone walls, wetlands and streams and other important natural features not included within the designated open space should be incorporated along the edges of individual lots or along a path or roadway, rather than transected by lot lines or a roadway.
 - e. The planning board may require the designation of protected, naturally-vegetated buffer strip of 50 feet or more around water resource features, e.g., lakes, ponds, streams, wetlands, or other natural features that may be adversely affected by erosion or stormwater runoff. Such areas may be required to be revegetated if they were recently cleared prior to subdivision approval or cleared during construction.
 - f. Stream and wetland crossings shall be eliminated whenever possible. When necessary, stream and wetland crossings shall comply with state recommended design standards to minimize impacts to flow and animal passage (see NH Fish and Game Department, 2008).

2. Infrastructure and Utility Design Guidelines

- a. A septic leach field may be located outside of the lot line boundaries provided the requirements of the New Hampshire Department of Environmental Services are met, including appropriate legal provisions to allow for maintenance and replacement.
- b. Shared driveways are permitted and encouraged where appropriate to access individual lots.
- c. Other design requirements that apply to all residential subdivisions shall continue to apply, when appropriate. These may include, but are not limited to, landscaping standards, street and neighborhood lighting provisions, utility placement, erosion and sediment control, and post-construction stormwater management.

B. Designated Open Space: Protection and Management

1. Area Boundaries of the designated open space shall be clearly identified:
 - a. Boundaries shall be clearly delineated on plans including plats.
 - b. Boundaries shall be clearly marked and identified as “No Disturbance” areas, except in areas identified for permitted uses, prior to commencing construction activities, including tree cutting, site clearing and grading; temporary markings are acceptable.
 - c. Boundaries shall be clearly and permanently marked in the field with signage approved by the planning board to identify the area as protected open space.
2. Future development in and/or subdivision of designated open space areas shall be prohibited and shall be so noted on the approved subdivision plan/plat.
3. Prior to the approval of the final plat, the designated open space shall be protected and controlled by one or more of the following methods subject to planning board approval:
 - a. Transfer to the municipality as open space, with public access and permanent deed restriction or conservation easement in place (subject to acceptance by the municipality).
 - b. Transfer, with permanent deed restrictions or conservation easement, to a land trust or other recognized conservation organization (subject to acceptance by the organization).
 - c. Ownership by one or more private individuals (separately or in common) or a cooperative legal entity, e.g., a homeowner’s association, with a conservation easement granted to the municipality and/or recognized conservation or land trust organization.
 - d. For designated open space areas of less than 50 acres, ownership by one or more private individuals (separately or in common) or a cooperative legal entity, e.g., homeowner’s association, with open space protection deed restrictions enforceable by any land owner within the subdivision, any owner of separate

land parcels abutting the open space, or the municipality.

Because deed restrictions are considered a somewhat weaker form of long-term protection against future development, this approach is not recommended to protect large and/or significant parcels of open space. In these cases, every effort should be made to secure a conservation easement for the property to be held by the municipality and/or a recognized conservation organization. However, if the municipality is not willing or able to accept the conservation easement and fulfill the stewardship responsibilities, it may be necessary to accept deed restrictions for larger parcels.

4. In the event that the designated open space is owned by a cooperative legal entity for the benefit of the residents of the subdivision, all common open space shall be governed in accordance with the requirements of New Hampshire RSA 479-A:1-23 inclusive as amended.
5. Deed restrictions and/or conservation easement documents shall be placed on file with the town clerk upon receipt of planning board subdivision approval and duly recorded at the County Registry of Deeds, where appropriate. Such documents shall clearly indicate whether the property is open to the general public, open only to residents of the municipality, or open only to residents of the subdivision.
6. A management plan for the designated open space and facilities shall be prepared and approved by the planning board, which includes the following:
 - a. Identifies the entity assuming responsibility for stewardship and management of the designated open space, including regular inspections to confirm continued compliance with the terms of the subdivision approval and conservation easement or deed restrictions.
 - b. Includes detailed standards and schedules for maintenance of the designated open space, including maintenance of vegetation.
 - c. Allows for municipal maintenance in the event that the maintenance specified under the agreement is not completed and recovery of costs incurred from the designated management entity or the owners of the designated open space within the subdivision.
 - d. Provides that any amendments to the plan shall be reviewed and approved by the planning board.
7. For properties containing open space protected under a conservation easement to be held and enforced by the town or a third-party, a one-time stewardship fee shall be collected and provided to that entity to be held in a separate trust account and used to support the monitoring and enforcement of the conservation restrictions. The amount of the stewardship fee shall be determined by the town or third-party easement holder based on the size and restrictions in place on the open space and the requirements of the easement holder.
8. At the discretion of the planning board, an applicant may be required to prepare a brochure identifying the development as a conservation subdivision and detailing the

location and use restrictions of the designated open space, and provided to all purchasers of property within the subdivision. Additional copies (hard copies and an electronic format) of the brochure shall be provided to the municipality to be distributed to future property owners.

9. All documents, including deed restriction language, conservation easements, and the management plan shall be reviewed and approved by town counsel prior to receiving subdivision approval from the planning board.