

**CHAPTER 46  
CONSERVATION SUBDIVISION**

**46.01 PURPOSE**

Conservation subdivisions are intended to accomplish all of the following:

- A. Encourage the efficient and creative use of land in harmony with its natural features.
- B. Minimize the consumption of open space by limiting the network of streets and utilities.
- C. Preserve unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands, wildlife habitats, and unique topography, as well as historic or archaeological resources.
- D. Provide useable open space and, where appropriate, recreational facilities.
- E. Preserve the visual character of the neighborhood.
- F. Ensure high-quality design and site planning of developments to enhance the neighborhoods in which they occur.
- G. Promote interconnected greenways and corridors throughout the community.
- H. Meet the goals and objectives of the Comprehensive Plan.

Specific requirements of the conservation subdivision designation are found in the *Hendricks County Conservation Subdivision Development Standards Guidebook*.

**46.02 APPLICABILITY**

The Commission may grant conservation subdivision designation for any parcel or contiguous parcels of at least five acres in any district permitting single family and multiple family residences, subject to the regulations and conditions herein.

**46.03 CRITERIA FOR CONSERVATION SUBDIVISION DESIGNATION**

The Commission may grant conservation subdivision status upon finding that it complies with the purposes and standards of this chapter, and is superior in design to a conventional subdivision with regard to those elements addressed in the purpose statement.

#### 46.04 PROCEDURAL REQUIREMENTS

- A. Pre-application meeting: A pre-application meeting between the Commission staff and applicant is required.
- B. Neighborhood meeting: In addition to any required meetings, the applicant is strongly encouraged to meet with residents in the area of the proposed development and with other interested parties well in advance of the public hearing. The Plan Commission may consider the degree to which an applicant informs neighbors about the project in its determination to grant conservation subdivision status.
- C. On-site review with staff: A detailed review of the project shall be conducted on site with Plan Commission staff.
- D. Plat and development plan review: Consideration of conservation subdivision designation shall follow the regular plat and development plan review process as specified in the Subdivision Control Ordinance and Zoning Ordinance. Additional application requirements for the conservation subdivision designation are found in the *Hendricks County Conservation Subdivision Development Standards Guidebook*.
- E. Granting or denying conservation subdivision designation: The Commission shall approve, conditionally approve, or deny a conservation subdivision designation as part of its findings of fact at the primary plat and development plan stage.

#### 46.05 OPEN SPACE

- A. General requirements:
  - 1. A conservation subdivision shall contain at least 50 percent open space (gross area).
  - 2. Open space shall be an integrated part of the project rather than an isolated element.
  - 3. Open space shall be planned as large, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than 100 feet wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open space areas.
  - 4. The location, size, character, and shape of open space shall be appropriate to its intended use.

5. A minimum of 70 percent of all dwelling units within the development shall abut or overlook designated open space. The Commission may reduce this standard where, in the opinion of the Commission, such a reduction will result in enhanced overall site design and superior compliance with the purposes of this Chapter.
6. Access points or paths shall be provided to afford access to open space and common areas. These access points shall link the open space to the roadway, sidewalks, or the remainder of the development.
7. Designated open space shall be shown on all subdivision plans and on the recorded plat.

B. Areas not considered open space: The following land areas are not considered open space for the purposes of this Chapter

1. Public or private road rights-of-way.
2. Platted lots.

C. Areas which may be included in open space: The following areas may be included as open space.

1. Land within the designated floodway.
2. Designated wetlands.
3. Easements
4. Drainage ways
5. Lands whose slope and/or soils make them particularly susceptible to erosion when disturbed by development activities.
6. Lakes and ponds.

D. Permitted uses of open space:

1. Conservation and protection of any identified significant natural areas, or other environmentally sensitive areas where development might threaten water quality or ecosystems.
2. Conservation and protection of any identified important historic resources.
3. Provision of active and/or passive outdoor recreation

4. Retention of productive farmland or forestland for continued agricultural and/or forestry use.
  5. Landscaped stormwater detention and retention areas, and land designed as a biologically functional part of an approved decentralized sewage disposal system.
  6. Creation of native and/or other natural features where none exist.
  7. Other uses found by the Commission to be compatible with the proposed design and consistent with the purposes of this chapter.
- E. Allowable structures: Any structure accessory to a recreation, conservation, or agriculture use consistent with the intent of the open space area may be erected within the open space, subject to Commission approval.
- F. Ownership of open space:
1. Designated open space shall be set aside in an irrevocable conveyance in a form that is acceptable to the Commission
  2. Conveyance of designated open space shall be made to one or more of the following entities:
    - a. A municipality or other public agency.
    - b. A non-profit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in 46.05(F)(3). Such organization shall be acceptable to the Commission as a bona fide conservation organization.
    - c. A corporation or trust owned, or to be owned, by the owners of lots or residential units within the development (i.e., a homeowners' association) and placed under conservation restriction as specified in 46.05(F)(3).
    - d. Other responsible management entity acceptable to the Commission, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in 46.05(F)(3).
  3. Conservation restriction: A permanent conservation or agricultural preservation restriction, approved by the Commission and enforceable by Hendricks County, shall be recorded to ensure that such land shall be kept in an open or natural state in perpetuity.

- G. Management of open space: An open space management plan shall be submitted with the application. At the primary plat and development plan stage, the plan may be conceptual in nature but with enough detail to satisfy the Commission that it meets the requirements of Section 46.06(G)(1) through (3). At the secondary plat and development plan stage, the plan shall be in fully executable form. The management plan shall include:
1. Provisions for the use, restrictions of use, ownership, maintenance and perpetual preservation of the open space areas.
  2. Allocation of responsibility and establishing guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements, and including provisions that the restrictions, uses, and maintenance requirements may be enforced by adjoining land owners, Hendricks County, and/or the applicable responsible management entity.
  3. Estimates of the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space, and an outline of the means by which such funding will be obtained or provided.

#### **46.06 NUMBER OF DWELLING UNITS**

- A. The number of dwelling units permitted in a conservation subdivision shall be determined by the following formula:
1.  $[\text{Total area of land subject to the application}] - [\text{Total area of jurisdictional wetlands and other water bodies}] - [\text{Total area of floodway}] - [\text{Land other than "wet/dry detention" excluded from development in Section 4.09(1)(d) of the Subdivision Control Ordinance}] = \text{Applicable Land Area}$ .
  2.  $[(\text{Applicable Land Area}) \times (0.9)] / [\text{Minimum lot area established by zoning}] = \text{Number of Dwelling Units}$ .
  3. Density bonus.
    - a. For subdivisions served by septic systems:  $[\text{Number of Dwelling Units}] \times 1.10 = \text{Total Number of Dwelling Units}$ .
    - b. For subdivisions served by sewer systems:  $[\text{Number of Dwelling Units}] \times 1.05 = \text{Total Number of Dwelling Units}$ .
- B. Optional Density Incentives

1. Additional open space incentive: An optional density incentive may be permitted when the proposed subdivision contains more than 50 percent open space (gross area). One additional dwelling unit may be permitted for each five acres of open space over 50 percent.
2. Public access to open space incentive: An optional density incentive may be permitted when the development provides for public access to open space areas within the development. One additional dwelling unit may be permitted for each five acres of land open to public use. Open space that is open to public use shall be accessible from a public roadway and adequate parking shall be provided to meet anticipated demand. Open space with public access shall meet the requirements of 46.05.
3. Natural drainage system incentive. An optional density incentive may be permitted when the proposed subdivision applies natural methods and best management practices (BMPs) for stormwater management. Up to three additional dwelling units may be permitted for drainage systems using a combination of structural and manufactured BMPs which incorporate natural or biological elements (example: a dry detention pond with extensive natural plantings or a manufactured separator in combination with a treatment wetland). Up to five additional dwelling units may be permitted with a drainage system exclusively composed of natural elements. .

C. Maximum number of dwelling units permitted

The density bonus and optional density incentives may be used in combination. In no case shall the maximum permitted number of dwelling units be greater than a 15 percent increase in the number of dwelling units permitted under 46.06(A)(2).

#### **46.07 DEVELOPMENT STANDARDS**

A. Dimensional standards

Dimensional standards in the proposed subdivision shall be based on the provisions of the latest edition of the *Hendricks County Conservation Subdivision Development Standards Guidebook*.

1. Minimum lot size: No minimum lot size.
2. Minimum lot frontage: No minimum lot frontage.
3. Setbacks: Setbacks shall be approved by the Commission.

B. Street and sidewalk standards

1. Street and sidewalk standards in the proposed subdivision shall be based on the provisions of the latest edition of the *Hendricks County Conservation Subdivision Development Standards Guidebook*.
2. Reduction of street and sidewalk standards: The Commission may reduce applicable street and sidewalk standards of the Subdivision Control Ordinance where, in the opinion of the Commission, such reductions will result in enhanced overall site design and provide adequate and safe access for the development.

#### **46.08 ARCHITECTURAL STANDARDS**

- A. Architectural standards in a conservation subdivision shall be based on the provisions of the latest edition of the *Hendricks County Conservation Subdivision Development Standards Guidebook*.
- B. Modification of architectural standards: The Commission may modify architectural standards where, in the opinion of the Commission, such modifications will result in enhanced overall design and superior compliance with the purposes of this Chapter.

#### **46.09 STORMWATER STANDARDS**

- A. Management of stormwater quantity and quality for conservation subdivisions shall meet the requirements of the current Hendricks County Stormwater Management Ordinance. In addition, applicants shall incorporate into the subdivision design a combination of the following pre-approved best management practices (BMPs) for post-construction stormwater quality management as detailed in Chapter 8, Table 8-1 and Appendix D of the current version of the *Hendricks County Stormwater Technical Standards Manual*:
  1. Bioretention
  2. Constructed Wetland
  3. Filter Strip
  4. Vegetated Swale
  5. Wet Pond
- B. Alternatively, the applicant may propose innovative post-construction BMPs as prescribed by Chapter 8 of the *Hendricks County Stormwater Technical Standards Manual*. Such alternative BMPs shall meet the requirements of the Stormwater Management Ordinance and must include natural or biological elements in the treatment process.

- C. Purely structural or manufactured water quality treatment practices alone will not be acceptable stormwater quality management systems for conservation subdivisions under this Chapter.

#### **46.10 WASTEWATER TREATMENT AND DISPOSAL STANDARDS**

Conservation design subdivisions must be served by either:

- A. Public Wastewater facilities as defined by 40CFR122.2, or
- B. By decentralized or cluster onsite sewage disposal (including lagoons, constructed wetlands, drip fields, mounds, etc.). Decentralized systems may be considered only with appropriate Responsible Management Entity (RME) oversight and maintenance, in perpetuity. The Developer must commit to in perpetuity Responsible Management Entity oversight of the financing and operation and maintenance of the wastewater facilities. The treatment system must receive all federal, state and local permits prior to approval; and must receive approval of the system for RME oversight from the Commission, the Hendricks County Health Department, and the Hendricks County Regional Sewer District, in concept, prior to preliminary approval. Final permits and approvals must be received prior to final application.

Any development that does not propose to connect to a POTW, must be either under a County Onsite Waste Management District, the Hendricks County Regional Sewer District, or another acceptable Responsible Management Entity acceptable to the County Commissioners, the Commission, and the Hendricks County Board of Health. If the Regional Sewer District does not elect to take the proposed system into their jurisdiction, or if the Hendricks County Commissioners do not wish to include the area in an Onsite Waste Management District under their jurisdiction, then the proposed wastewater treatment system would not be allowed by the APC.