

1 approved filing fees. Only complete applications shall be accepted and scheduled for a public hearing by
2 the Planning Commission.

3 **2. Notice**

4 Upon scheduling of the Planning Commission hearing and at least 14 days prior to said hearing, notice shall
5 be sent by certified mail to the owner(s) of record of all abutting property by staff. The notice shall state the
6 purpose of the review, indicate that the preliminary plat is on file for public review at Shelby County
7 Development Services offices during normal business hours, and that the public shall have a right to be
8 heard at the Planning Commission public hearing, and indicate the date, time and location of the hearing.
9 Failure of any owner to receive notice shall not invalidate the application.

10 **3. Administrative Review**

11 Staff will distribute the maps and other documents to the Town of Vincent, the Highway Department, Shelby
12 County Environmental Services, Water and Sewer Services, the appropriate Fire District, the Board of
13 Education and retain one copy. Staff shall review all complete applications for a preliminary plat according
14 to the following criteria:

- 15 a. The proposed land division is in accordance with the general development characteristics and
16 policies of the Comprehensive Plan, and any other plan or program of the municipality adopted
17 under the general guidance of the Comprehensive Plan; and
- 18 b. The proposed land division is consistent with the general development patterns of the area, so that
19 it will not unduly or adversely affect current and future planned development opportunities on
20 adjacent land; and
- 21 c. All parcels, including any proposed development, are in conformance with any zoning regulations
22 applicable to the subject property; and
- 23 d. The application is in conformance with the subdivision regulations; and
- 24 e. All proposed lots shall have adequate water and wastewater facilities. Neither the municipality nor
25 Shelby County makes any representation that a lot eligible for approval by the Alabama Shelby
26 County Public Health unit for a septic tank will be approved; and
- 27 f. The application is in conformance with any approved development plans.

28 **4. Official Report**

29 Prior to the hearing, staff shall compile the comments of all reviewing agencies as a formal report on the
30 application to the Planning Commission prior to the Planning Commission hearing, with one copy provided
31 to the applicant. The report shall analyze the application with respect to the planning and design standards,
32 specific subdivision standards, and the technical standards of these regulations, and policies and
33 procedures of the Planning Commission. The report may make a recommendation to the Planning
34 Commission regarding their decision.

35 **5. Additional Studies**

36 After review further studies or technical reports, such as traffic, drainage calculations, flood hazards, soil
37 suitability for on site septic, or wetland delineation, necessary for the Planning Commission to assess the
38 application may be required. Any request shall establish a reasonable deadline for submission of this
39 information.

40 **6. Planning Commission Review**

41 The Planning Commission shall hear a formal presentation by both staff and the applicant. The Planning
42 Commission shall accept public testimony from all persons who desire to be heard in favor of or in
43 opposition to specific compliance of the application with these regulations. The Planning Commission shall
44 deliberate the application according to the following criteria:

- 45 a. The proposed land division is in accordance with the general development characteristics and
46 policies of the Comprehensive Plan, and any other plan or program of the municipality adopted
47 under the general guidance of the Comprehensive Plan;
- 48 b. The proposed **Conservation Subdivision Framework (Table 4-1)** associated with the parcel is
49 accurate and acceptable based on the criteria in these regulations;
- 50 c. The proposed division is in accordance with the general development patterns and character of the
51 vicinity in which it is located;
- 52 d. Any phasing of the subdivision and the schedule for development of final plats is clearly indicated
53 and demonstrates a logical and well-planned development pattern.
- 54 e. The proposed land division is not contrary to the public health, safety, and welfare;

- 1 f. All parcels, including any proposed development, are in conformance with any zoning regulations
2 applicable to or proposed for the subject property;
- 3 g. Any impacts, modifications, conditions or mitigation identified or recommended in specific studies
4 or technical reports associated with the application;
- 5 h. The plat is designed in compliance with regard to all other governmental regulations, (e.g. zoning,
6 flood plains, etc.), which may impact development of the land and the applicant has secured all
7 necessary approvals from other public agencies.

8 **7. Decision**

9 At the hearing, the Planning Commission shall take one of the following actions:

- 10 a. Approve the application for a preliminary plat.
- 11 b. Approve the application for a preliminary plat with conditions. The approval shall specifically state
12 the conditions of the Planning Commission approval, which shall then become a requirement of the
13 final plat. Any waivers or modifications requested by the applicant at the time of application shall
14 be specifically stated as conditions;
- 15 c. The application may be continued to another regularly scheduled Planning Commission meeting. A
16 continuance shall only be made on the grounds for the need of additional information or the need
17 for further technical studies which bring into question the ability of the application to meet all
18 requirements of these regulations. The continuance shall specifically state what additional
19 information is required of the applicant at the continued hearing. No preliminary plat shall be
20 continued more than twice;
- 21 d. A case may be tabled when an applicant fails to appear to present a case or when a complete
22 resubmission of an alternative design of the subdivision is necessary, suggested or required by the
23 Planning Commission.
- 24 e. Deny the application, specifically stating the grounds for denial.

25 **8. Appeal**

26 If the Planning Commission does not approve the application, the applicant may appeal the decision to the
27 Town Council or to the court of appropriate jurisdiction. The purpose of hearing the appeal is to determine if
28 there is sufficient reason to request that the Planning Commission reconsider its earlier decision.

29 **9. Effect of Approval**

30 Approval of a preliminary plat shall not be deemed final acceptance of any plan, improvements, or
31 development proposals. This approval is authorization to proceed with the staking of streets and lots in
32 preparation for improvements. Upon approval, the applicant shall provide the following before commencing
33 any construction:

- 34 a. No grading or clearing may commence prior to the approval of the preliminary plat. In the event
35 that an applicant violates this provision, no development approvals will be issued until all site
36 violations have been remedied. Development approvals include, but are not limited to, building
37 permits, building inspections, Certificates of Completion, site plan approvals, subdivision approvals,
38 and zoning approvals.
- 39 b. The applicant shall design all required improvements pursuant to the standards contained within
40 these regulations.
- 41 c. Detailed construction plans, engineering calculations, and estimates shall be prepared, by an
42 engineer licensed to practice engineering in the State of Alabama, in accordance with the approved
43 preliminary plat, the required improvements and specifications in the standards contained within
44 these regulations. These plans shall be presented to the County Engineer for review, supported by
45 analysis, and engineering calculations. Construction plans shall be approved by the County
46 Engineer in writing.
- 47 d. No construction of any kind, including clearing or grading may commence prior to the approval by
48 the County Engineer of all engineering and detailed construction plans. Applicant must notify the
49 County Engineer at least 48 hours in advance of commencement of construction or to request an
50 inspection of such work.
- 51 e. Construction shall not commence until engineering drawings have been approved by the County
52 Engineer. Construction must be performed in a workmanlike manner, in conformance with
53 approved engineering drawings, to the usual construction tolerances. Failure to comply may
54 prevent recording of the final plat and the transfer of lots.

1 **10. Deviations from the preliminary plat**

2 Any deviations proposed from the approved preliminary plat shall be submitted in writing and may only be
3 approved according to the following criteria:

- 4 a. They are minor deviations that do not impact the number or relationship of lots within the plat, the
5 streets and public facilities within the plat, or any property outside of the plat including its future
6 development potential.
- 7 b. Any deviation is the minimum deviation necessary to fulfill the development concept approved in
8 the approved preliminary plat,
- 9 c. The need for the deviations is due to physical circumstances that could not have been reasonably
10 discovered at the time of the preliminary plat;
- 11 d. The deviations result in no material change in the development concept approved in the preliminary
12 plat;
- 13 e. The final plat shall be in conformance with all other criteria for approval and all other provisions of
14 these regulations.

15 **11. Expiration of preliminary plat approval**

16 Approval of the preliminary plat shall be effective for a period of two years following the date of the
17 Resolution of the Planning Commission approval. Upon expiration of preliminary plat approval, final plat
18 approval may not be given until a new preliminary plat has been submitted and approved. However, the
19 Planning Commission may grant an extension up to one additional year if it determines that re-review of a
20 lapsed preliminary plat is not necessary.

21 **E. Final Plat**

22 **1. Official Application and Fee**

23 Application for approval of a final plat shall require the submission of seven (7) copies of the final plat and a
24 complete application pursuant to the requirements of **Appendix A** to Shelby County Development Services
25 with the official filing fee identified in the municipality's approved schedule of fees.

26 **2. Administrative Review**

27 Staff, in coordination with the County Engineer, Water and Sewer Services, Shelby County Environmental
28 Services and the town's engineer shall review all complete applications for a final plat according to the
29 following criteria:

- 30 a. The proposed land division is consistent with an approved preliminary plat, including the
31 satisfaction of any specific conditions for approval of a preliminary plat.
- 32 b. The proposed land division is in accordance with the general development characteristics and
33 policies of the Comprehensive Plan, and any other plan or program of the municipality adopted
34 under the general guidance of the Comprehensive Plan;
- 35 c. The proposed land division is consistent with the general development patterns of the area, so that
36 it will not unduly and adversely affect current and future planned development opportunities on
37 adjacent land;
- 38 d. All parcels are in conformance with any zoning regulations applicable to the subject property;
- 39 e. The application is in conformance with the subdivision regulations.
- 40 f. Executed sufficient financial guarantee (bond) of public improvements and construction and
41 acceptance of drainage improvements.

42 **3. Decision**

43 Within 30 days of the date of application the staff shall notify the applicant in writing of one of the following
44 actions:

- 45 a. The application is approved in compliance with these regulations. The County Engineer and the
46 Planning Commission shall affix their signatures and the date.
- 47 b. The application is not approved. Staff shall state specifically what deficiencies exist.

48 **4. Required Signatures**

49 Prior to submitting the record map, the applicant shall have secured the signatures of the surveyor, the
50 owners, the mortgagor, and the local fire district chief. Following approval of the final plat, and subject to
51 compliance with the final engineering requirements, performance bonds, or maintenance agreements, the
52 final plat shall be circulated for the signatures of the County Engineer and the Planning Commission.

1 **5. Recording**

2 Any approved final plat shall have all required signatures and be recorded in the Office of the Probate Judge
 3 of Shelby County, Alabama, by staff prior to being effective.

4 **F. Density Calculations**

5 The density of any proposed conservation subdivision shall be based upon **Tables 4-1 and 4-2**. Lot calculations
 6 must be reviewed and approved prior to making application for the review of a preliminary plat.

7

TABLE 4-1: CONSERVATION SUBDIVISION FRAMEWORK	
LEVEL I	<ul style="list-style-type: none"> • Clustered residential subdivisions calculated at 7 lots per acre, (gross calculation). • Supporting non-residential development. • Sewers may be permitted in a public right-of-way.
LEVEL II	<ul style="list-style-type: none"> • Clustered residential subdivisions calculated at 1 ½ lot per acre, (gross calculation). • Supporting non-residential development at a rural scale. • Sewers may be permitted in a public right-of-way.
LEVEL III	<ul style="list-style-type: none"> • Clustered residential subdivisions calculated at a density of 1 lot per 2 ½ acres, (gross calculation). • Sewers may be permitted in a public right-of-way.

8

TABLE 4-2: CONSERVATION DENSITY LEVEL	
LEVEL I	• "R-2" Multiple Dwelling District
	• "R-1 " Residential District
LEVEL II	• "ES " Estate Residential
LEVEL III	• "RR" Rural Residential District
	• "AG" Agricultural District

9 **4.03 STREET DESIGNS**

10 **A. Example Street Cross-sections**

11 The following are example street cross-sections. The cross-sections and standards illustrate planning and urban
 12 design concepts, and upon approval by the County Engineer may be the basis for engineering and construction
 13 documents. The County Engineer reserves the right to alter the design elements or require additional design
 14 elements based on traffic and transportation analysis, and subject to the appropriate context and applicability of
 15 each street type.

NEIGHBORHOOD STREET	
EXAMPLE PLAN AND CROSS-SECTION	
MINIMUM ROW WIDTH	<ul style="list-style-type: none"> • 60' (LOCAL) (Shown above) • 62' (COLLECTOR)
TRAVEL LANES	<ul style="list-style-type: none"> • 2
TRAVEL LANE WIDTH	<ul style="list-style-type: none"> • 11' (LOCAL) • 12' (COLLECTOR)
SHOULDER	<ul style="list-style-type: none"> • 2' landscape strip, 5' sidewalk, and 1' additional graded shoulder
BUFFER AREA	<ul style="list-style-type: none"> • 2' Landscape Strip
PEDESTRIAN AREA*	<ul style="list-style-type: none"> • 5' sidewalk
BICYCLE AREA	<ul style="list-style-type: none"> • None (combined with vehicle flow)
UTILITY LOCATION	<ul style="list-style-type: none"> • 10' U/A outside of sidewalk
ACCESS LIMITATION	<ul style="list-style-type: none"> • See Lot Access standards in Article 3, 4 or 5.
TYPICAL FRONT YARD**	<ul style="list-style-type: none"> • 10' - 40' lawn/setback (LOCAL) • 25' Natural Vegetation Buffer; or 40' - 100' lawn/setback (COLLECTOR)
APPLICABILITY	<ul style="list-style-type: none"> • This street design is applicable for any conventional, conservation or form based application of local or collector streets. Application as a collector will require larger lot sizes.

1 * See Table 6-2 for Pedestrian Facility Requirements. Where Table 6-2 requires no sidewalks, or a sidewalk on only one side, the
 2 minimum width for the pedestrian facility shall be added to the Buffer Area.

3 ** Typical Front Yard refers only to the typical and appropriate design of the transition between the right-of-way and the private lots. Further
 4 restrictions on building location and site design may be included in other applicable zoning or subdivision regulations.

5

1

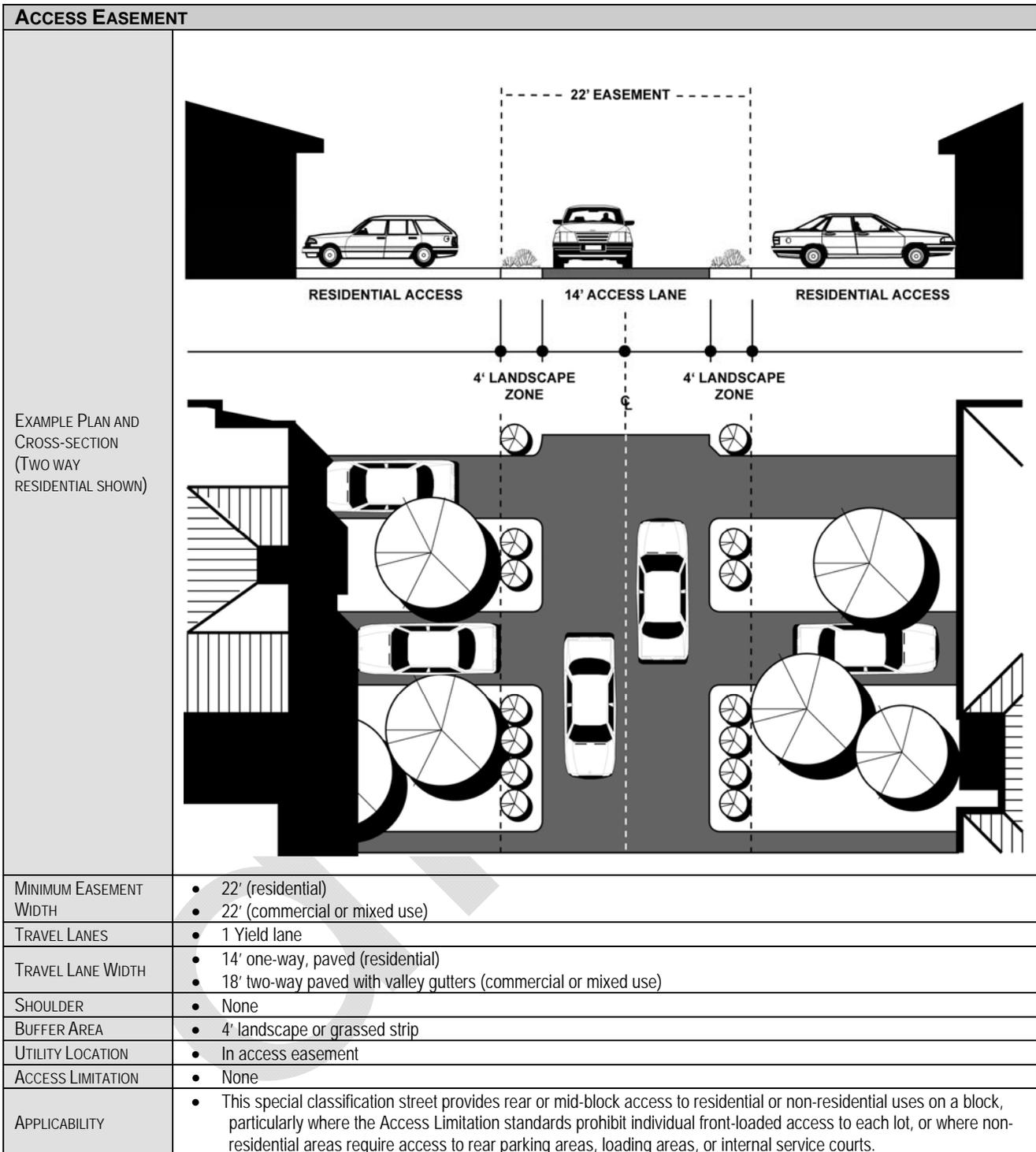
RURAL DRIVE	
EXAMPLE PLAN AND CROSS-SECTION	
MINIMUM ROW WIDTH	<ul style="list-style-type: none"> • 60'
TRAVEL LANES	<ul style="list-style-type: none"> • 2
TRAVEL LANE WIDTH	<ul style="list-style-type: none"> • 9', for very low flow conditions; otherwise, greater widths may be required.
SHOULDER	<ul style="list-style-type: none"> • 4' shoulder minimum
BUFFER AREA	<ul style="list-style-type: none"> • 14' landscape/utility area
PEDESTRIAN AREA	<ul style="list-style-type: none"> • None – if alternative integrated trail system available to neighborhood; or • 4' path on one side
UTILITY LOCATION	<ul style="list-style-type: none"> • 10' u/a inside ROW
ACCESS LIMITATION	<ul style="list-style-type: none"> • See Lot Access standards in Article 3 or 4.
TYPICAL FRONT YARD*	<ul style="list-style-type: none"> • 25' Natural Vegetation Buffer
APPLICABILITY	<ul style="list-style-type: none"> • This special street section is applicable in any development pattern or in rural areas, as determined by the County Engineer. It provides primary access to residential uses, and may function as a collector or local street.

2 * Typical Front Yard refers only to the typical and appropriate design of the transition between the right-of-way and the private lots. Further
 3 restrictions on building location and site design may be included in other applicable zoning or subdivision regulations.

4

RURAL PARKWAY	
<p>EXAMPLE PLAN AND CROSS-SECTION (TWO LANE WITH MEDIAN SHOWN)</p>	
MINIMUM ROW WIDTH	<ul style="list-style-type: none"> • 90' – two-lane; • Multi-lane – consult with County Engineer
TRAVEL LANES	<ul style="list-style-type: none"> • 2 – 4
TRAVEL LANE WIDTH	<ul style="list-style-type: none"> • 12'
SHOULDER	<ul style="list-style-type: none"> • 4' shoulder minimum
BUFFER AREA	<ul style="list-style-type: none"> • 14' landscape strip and utility area
PEDESTRIAN AREA	<ul style="list-style-type: none"> • None – if alternative integrated trail system available to neighborhood; otherwise, additional ROW may be required to provide multi-use trail or path.
BICYCLE FACILITY	<ul style="list-style-type: none"> • None (combined with vehicle flow)
MEDIAN	<ul style="list-style-type: none"> • 30' center median
UTILITY LOCATION	<ul style="list-style-type: none"> • In buffer area
ACCESS LIMITATION	<ul style="list-style-type: none"> • See Lot Access standards in Article 3 or 4.
TYPICAL FRONT YARD*	<ul style="list-style-type: none"> • 25' Natural Vegetation Buffer
APPLICABILITY	<ul style="list-style-type: none"> • This special street section is applicable in any development pattern or in rural areas, as determined by the County Engineer. It provides primary access within the neighborhood as well as connections to adjacent areas. This street type is not intended for direct access. It may function as an arterial or collector street.

1 * Typical Front Yard refers only to the typical and appropriate design of the transition between the right-of-way and the private lots. Further
 2 restrictions on building location and site design may be included in other applicable zoning or subdivision regulations.
 3



1 * Typical Front Yard refers only to the typical and appropriate design of the transition between the right-of-way and the private lots. Further
 2 restrictions on building location and site design may be included in other applicable zoning or subdivision regulations.
 3

4.04 STREET NETWORK, BLOCKS, LOTS

A. Street Networks

1. General Street Layout

The streets and lot layouts shall be designed and located in a manner that maintains and preserves the natural topography, involves the least practical amount of grading, shortens road lengths and lot frontages, and minimizes any other disturbances of land and natural features.

2. Access Connectivity – Residential

The Town of Vincent Comprehensive Plan clearly embraces the concept of connectivity of developments. The Planning Commission, based upon the recommendations of staff and the County Engineer, may require that street connectivity be provided pursuant to the theme of the following commentary table (Table 4-3). All developments will be reviewed relative to potential street connectivity, the nature of the surrounding properties and the merits of the individual development.

COMMENTARY TABLE 4-3: ACCESS CONNECTIVITY (RESIDENTIAL)	
NUMBER OF DWELLING UNITS	CONNECTIONS TO TRANSPORTATION SYSTEM
LESS THAN 200	One connection to a major roadway
MORE THAN 200	Multiple connections to transportation system may be required

3. Access Connectivity – Non Residential

Access management is reviewed on a case-by-case basis. Generally, nonresidential developments will require two (2) access points. However, staff and the County Engineer may restrict access for developments less than 5,000 square feet and may require additional access for developments more than 100,000 square feet. Such developments will be reviewed relative to access, existing and potential transportation characteristics, configuration of the surrounding properties and the merits of the individual development.

4. Stubbed Streets

A network of residential streets is at the core of the framework of a transportation system. In this regard, the Planning Commission wishes to ensure the appropriate provision of street stub connections to developable adjoining properties and may require such features. Stubbed streets will be available for connectivity when adjoining properties are developed. Development plans will be reviewed relative to this future connectivity, based upon the recommendations of staff and the County Engineer.

In general, stubs shall be required according to the following:

- a. Any collector or arterial streets platted as part of a conservation subdivision shall be continued to the boundaries of the tract to be subdivided.
- b. Local streets should be stubbed to avoid long dead-end streets and complete the overall general network in subsection 1, above.
- c. All streets shall connect with any streets already platted to its boundary on adjacent property.
- d. Stub streets shall not exceed 200 feet without providing a turnaround which conforms to the cul-de-sac standards below.
- e. All street stubs shall provide a sign at the end indicating that the street will be a future through street at the time the adjacent property is subdivided.

5. Cul-de-sacs

Cul-de-sacs shall be limited as follows:

- a. Cul-de-sacs shall not exceed 1,000 feet measured from the nearest intersecting street with direct access to the regional transportation network.
- b. Circles shall terminate with a property line radius of at least fifty-five (55) feet and an outside gutter radius of at least forty (40) feet. Circles to accommodate school buses or other large vehicles may

- 1 be required and shall terminate with a property line radius of at least sixty-six (66) feet and outside
- 2 gutter radius of at least fifty (50) feet.
- 3 c. Where a center island is desired, design should be submitted and approved by the County
- 4 Engineer.

5 **6. Exceptions**

6 Exceptions to the street stub and cul-de-sac requirements may be approved to preserve prominent
7 topographical or natural features, based on the following criteria:

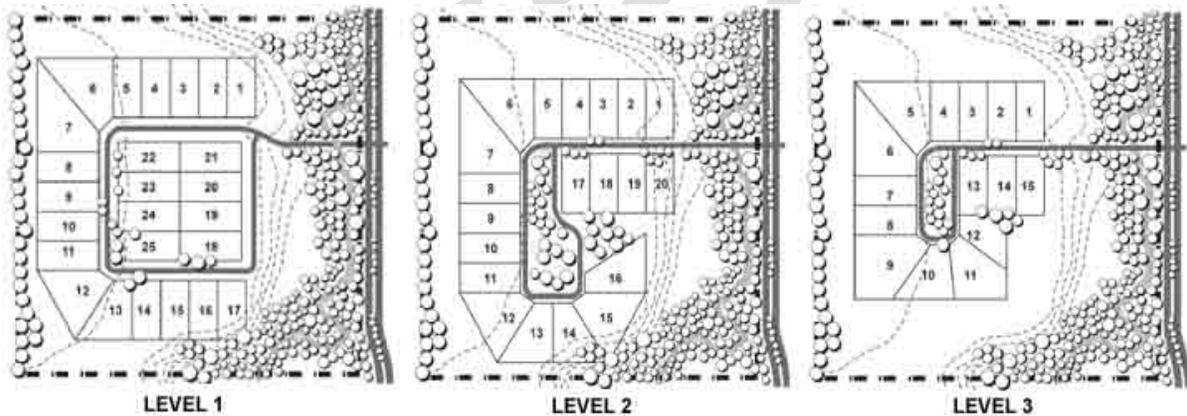
- 8 a. Construction of the connection or alternative layouts that do not require long cul-de-sacs are
- 9 unfeasible and would result in substantial additional construction costs to cross the natural feature.
- 10 b. The topographical or natural feature qualifies as a Conservation Area according to this Article and
- 11 is being preserved on the plat.

12 **B. Block Standards**

13 All residential lots and dwellings shall be grouped into clusters. Each cluster shall contain no more than the
14 number of dwelling units specified in Table 4-4.

TABLE 4-4: MAXIMUM CLUSTER SIZE	
CONSERVATION DENSITY LEVEL	MAXIMUM CLUSTER SIZE
Level 1	25 dwelling units
Level 2	20 dwelling units
Level 3	15 dwelling units

15 Conservation subdivisions may include more than one residential cluster, provided that each cluster shall be
16 separated by a buffer or conservation area. The buffer between clusters shall be at least 200 feet wide and
17 include no disturbed areas of land other than streets or pedestrian trails.
18



19 *Figure 4-2. Maximum cluster sizes impact the perceived intensity of the development and should vary depending on the Conservation Density Level.*

20 **C. Lot Standards**

21 There shall be no minimum lot size for Conservation Subdivisions. Conservation Subdivisions shall be allowed
22 to vary the lot sizes on the developed parcel in order to fit the same number of units on the developed parcel as
the Conservation Density Level would allow, while still preserving significant land areas.

23 Lots shall be configured so that buildable portions of each lot are located in the area that causes the least
24 disturbance during construction activity. In addition to the required preserved areas, the largest amount of area
25 possible on each lot shall be kept in or restored to its natural vegetative state.

D. Housing Density Determination

The maximum number of lots in the conservation subdivision shall be determined by dividing the gross area of the tract of land by the minimum lot size as specified by the zone district, then multiply that result by the

$$\frac{\text{(Area of tract/min zoning lot size)} \times \text{Conservation Bonus Multiplier}}{\text{Total Permitted Lots}}$$

Example: 88 acre tract, AG zoning (min 10 acre lot), 40% of tract to be conserved in easement.

$$88 \text{ acres} / 10 = 8.8 \text{ lots}$$

$$8.8 \text{ lots} \times 1.5 = 13.2 \text{ lots permitted (round down to 13)}$$

appropriate bonus multiplier from Conservation Subdivision Framework (Table 4.1).

Density Bonus

If the applicant proposes to conserve more than 50 percent of the total property, additional density bonuses may be granted based upon the recommendation of the staff and approval by the Planning Commission.

4.05 OPEN SPACE

A. Minimum Open Space

The Conservation Subdivision Standards requires that a minimum of 20 percent of the original parcel be preserved from development.

B. Conservation Area Criteria

All Conservation Areas shall meet the following criteria:

1. All portions of the conservation area shall have significant natural features or habitats worthy of preservation for environmental, aesthetic and recreation benefits. Areas of the development site that best meet these criteria shall be preserved from development and take priority in determining the best layout for the site.
2. Up to 50% of the conservation area may be land that is undevelopable due to other laws or ordinances.
3. The conservation area shall be contiguous, based upon consistent and substantial linkages of natural systems. While a Conservation Subdivision may involve more than one preserved area, no single contiguous conservation area shall be less than five acres or 15 percent of the site, whichever is greater.
4. Thin bands of preserved areas shall be avoided to prevent erosion through "edge conditions." Areas less than 100-feet wide shall be excluded from the conservation area calculations.
5. All lots shall be within 300 feet of the conservation area as measured by the most direct pedestrian connection or shall directly abut the conservation area.
6. The conservation area shall be usable and accessible by residents; however, trails or other accessories should be designed to avoid fragmenting conservation areas and to minimize impact on conservation areas.
7. The conservation area may be designated for assignment and management by a common ownership association of current and future lot owners or dedicated to the municipality subject to the municipality's acceptance in its sole discretion. The municipality may approve the assignment of the preserved area to another public or non-profit entity in its sole discretion.

C. Primary Conservation Area Elements

The following are considered primary conservation area elements and are required to be included within the open space, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:

1. The 100-year floodplain;
2. Stream buffers as required in Article 6, Section 6.05 ;

- 1 3. Slopes of 25 percent or greater and of at least 5,000 square feet contiguous area;
- 2 4. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water
- 3 Act;
- 4 5. Populations of endangered or threatened species, or habitat for such species;
- 5 6. Archaeological sites, important historic sites, cemeteries and burial grounds;
- 6 7. Other significant natural features and scenic viewsheds, such as ridge lines, peaks and rock
- 7 outcroppings, particularly, those that can be seen from public roads.

8 **D. Secondary Conservation Area Elements**

9 The following are considered Secondary Conservation Area Elements and should be included within the Open
10 Space to the maximum extent feasible.

- 11 1. Existing healthy, native forests of at least one acre contiguous area;
- 12 2. Individual existing healthy trees greater than having eight (8) inches caliper, as measured at breast
- 13 height (4'6" from ground);
- 14 3. Prime agricultural lands of at least ten acres contiguous area;
- 15 4. Existing trails that connect the tract to neighboring areas.

16 **E. Uses of Conservation Area**

17 **1. Permitted Uses**

18 Uses of conservation areas may include the following:

- 19 a. Conservation of natural, archeological or historical resources;
- 20 b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-
- 21 oriented areas;
- 22 c. Walking or bicycle trails, provided they are constructed of porous paving materials;
- 23 d. Passive recreation areas, such as open fields;
- 24 e. Active recreation areas, including golf courses, provided that they are limited to no more than 50%
- 25 of the total conservation areas and are not located within primary conservation areas. Active
- 26 recreation areas may include impervious surfaces. Active recreation areas in excess of this limit
- 27 must be located outside of the protected Conservation Area.
- 28 f. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management
- 29 practices are used to minimize environmental impacts, and such activities are not conducted within
- 30 primary conservation areas;
- 31 g. Landscaped stormwater management facilities, community wastewater disposal systems and
- 32 individual wastewater disposal systems located on soils particularly suited to such uses. Such
- 33 facilities shall be located outside of primary conservation areas;
- 34 h. Easements for drainage, access, and underground utility lines;
- 35 i. Other conservation-oriented uses compatible with the purposes of this ordinance.

36 **2. Prohibited Uses**

37 Uses of conservation areas shall not include the following:

- 38 a. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous
- 39 sections;
- 40 b. Agricultural and forestry activities not conducted according to accepted Best Management
- 41 Practices;
- 42 c. Other activities as determined by the Applicant and recorded on the legal instrument providing for
- 43 permanent protection.

44 **F. Legal Restrictions**

45 **1. Permanent Conservation**

46 Designation, dedication of other legal restrictions on future development of the preserved property in
47 perpetuity shall be filed with the plat for any proposed conservation subdivision.

1 **2. Management Plan**

2 A detailed ownership and management plan for the preserved area shall be filed with the plat for any
3 proposed conservation subdivision. The plan shall:

- 4 a. Identify the owner, entity responsible for maintenance, and long-term funding strategies such as
- 5 homeowner's fees or assessments.
- 6 b. Demonstrate the financial feasibility of the ownership and maintenance program.
- 7 c. Specify guidelines for how the maintenance of the conservation area, and any facilities eligible for
- 8 location in the conservation area will occur.
- 9 d. Include cost estimates for maintenance, including staffing, operation, or insurance costs, if any.
- 10 e. Identify a board and procedures for oversight of and enforcement of the Management Plan.

11 **3. Ownership and Management**

12 Options for ownership and management of preserved area include:

- 13 a. Dedication to the municipality or other public entity subject to acceptance by and at the sole
- 14 discretion of the municipality or other public entity.
- 15 b. Creation of or dedication to a non-profit entity capable of carrying out the ownership and
- 16 management plan.
- 17 c. Creation of a Homeowners and/or Leaseholders Association capable of carrying out the ownership
- 18 and management plan.
- 19 d. Establishment of an endowment where the principal generates sufficient annual interest to cover
- 20 the yearly costs of ownership and maintenance of the preserved area.
- 21 e. Dedication to a private or not-for-profit entity such as a land trust or similar conservation-oriented
- 22 organization with the legal authority and financial capacity to accept such dedications.
- 23 f. Dedication of a conservation easement on the conservation area to any of the above entities with a
- 24 right of enforcement in favor of the municipality stated in the easement.
- 25 g. Any management organization shall be bona fide and in perpetual existence and the conveyance
- 26 instrument shall contain an appropriate provision for retransfer in the event the organization
- 27 becomes unable to carry out its function.

28 **4. Right of Enforcement**

29 In the event the party responsible for maintenance of the open space fails to maintain all or any portion in
30 reasonable order and condition according to the management plan, the municipality may assume
31 responsibility for its maintenance and may enter the premises and take corrective action, including provision
32 of extended maintenance. The cost of such maintenance may be charged to the Management Entity, or the
33 individual property owners according to their pro-rata share based on the Management Plan. Costs may
34 include administrative costs in taking such actions as well as penalties as provided under these regulations.
35 Such costs shall become a lien on all subdivision properties.

36 **5. Municipal Review**

37 The legal restrictions and ownership and management plan shall be subject to review and approval by the
38 Town Attorney.

39

Commentary. Conservation subdivisions provide at least two development incentives in exchange for the permanent preservation of open space. First, the conventional lot sizes required of subdivisions is not required, and blocks and lots can be laid out in the most efficient manner, saving on roads, utilities, and other development costs by "clustering" the developed portion of the site. Second, these regulations provide a "density bonus" for development – above what would be permitted under conventional regulations.