

## ARTICLE XIV

### Conservation Design Overlay District

#### Section 1400 Purposes

- A. In conformance with the state enabling legislation, the purposes of this Article, among others, are as follows:
1. To conserve open land, including those areas containing unique and sensitive natural features such as Class I, II and III agricultural soils, woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
  2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;
  3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes;
  4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained;
  5. To implement adopted Township policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Township's Open Space Plan, including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents;
  6. To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive plan;
  7. To protect areas of the Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations;
  8. To create neighborhoods with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
  9. To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents;
  10. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, floodplain, and steep slopes) and disturbance of natural or cultural features (such as Class I, II and III agricultural soils, mature woodlands, hedgerows and tree lines, critical wildlife habitats, and historic buildings,);
  11. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties; and

12. To conserve elements of the Township's rural character, conserve scenic views and minimize perceived density by minimizing views of new development from existing and proposed roads.
- B. In order to achieve these purposes, this Article provides for flexibility in designing new residential subdivisions by allowing three forms of "by-right" development in the "Conservation Design Overlay District", (often referred to as the "Conservation Design District") referred to as "options", as summarized below:
1. Option One: *Neutral Density and Basic Conservation*, providing for residential uses at the density permitted by the underlying zoning. Greenway lands comprise from 40% to 50% of the tract after floodplains, wetlands, slopes greater than 35%, land in existing and/or proposed public right of ways and lands under higher tension electrical transmission (69KV or greater) have been subtracted from the tract. The flexibly-designed layouts work well with either individual wells and septic systems located in the greenway, or with central wells and sewage treatment facilities. This option is permitted in the A and R-1 zoning districts.
  2. Option Two: *Enhanced Density with Greater Conservation*, providing for higher density residential uses and a larger percentage (50 % to 60%) of greenway land in more flexibly designed layouts with, other improvements serving the community such as central wells and sewage treatment facilities. This option is permitted in the A and R-1 zoning districts.
  3. Option Three: *Estate Lots*, providing for rural-suburban residential uses at lower densities in conventional layouts of standard houselots, where homes and streets are located carefully to minimize impacts on resource lands. This option is permitted in the A and R-1 zoning districts.
- C. Section 1403.C.4 sets forth the development densities and required greenway land percentages.

#### Section 1401 General Regulations

##### A. Applicability

1. The Conservation Design Overlay District encompasses all properties within the A and R-1 zoning districts in Hamiltonban Township. These properties shall be required to comply with the regulations in this Article and all other sections of the Ordinance when proposed for residential development. To the extent that other sections of the Ordinance are inconsistent with this Article, this Article shall control. Existing properties less than ten (10) acres in size as of the effective date of adoption of this amendment to the Zoning Ordinance and proposing less than a total of five (5) residential dwellings may be subdivided and developed as a permitted use in accordance with conventional design criteria for the underlying zoning district. The minimum area requirements and all other requirements of the conventional design criteria must be complied with.

A. Exceptions – There is one exception where a property of ten (10) acres or larger and/or proposing more than a total of five (5) residential dwelling units may be developed in accordance with conventional design criteria. The exception is as follows:

2. In any instance where a property is limited due to the siting of individual on-lot sewage disposal systems within an area prone to documented high levels of nitrate/nitrogen in the groundwater, such properties may be required by the Pennsylvania Department of Environmental Protection to maintain a minimum lot size higher than the prescribed standards for the Conservation Design Overlay District. In such instances where groundwater conditions are documented via a hydrogeological study to be non-conductive to the higher densities prescribed in this overlay district, the property may be developed in accordance with conventional design criteria as a permitted use.
3. Each property will be considered by the Board as it existed on the date of adoption of this amendment to the Township Zoning Ordinance and assessed cumulatively with regard to subsequent proposals.

B. Minimum Standards - The design of all subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

1. Ownership: The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility.
2. Combining the Design Options: The various layout and density options described in this Article may be combined, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this Article, as compared with applying a single option to the property.
3. Intersections and Access: New intersections with existing public roads shall be minimized. Two access ways into and out of subdivisions containing more than fifty (50) dwellings are required for safety. However, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow.
4. Sensitive Area Disturbance: The proposed design shall strictly minimize disturbance of environmentally sensitive areas (Primary and Secondary Conservation Areas), as shown on the Existing Resources and Site Analysis Plan. Lands within the 100-year floodplain, wetlands and slopes in excess of 35% constitute examples of such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that Primary and Secondary Conservation Areas will be protected by the proposed application shall be a prerequisite to approval of both the Preliminary Plan and the detailed Final Plan.

## Section 1402 Use Regulations

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

### A. Single-Family Detached Dwellings

Single-family detached dwellings in Options 1, 2, and 3 subdivisions pursuant to the following:

1. Single-family detached dwellings are permitted under the standards found in Sections 1403 and 1404 herein.
2. On tracts of less than ten (10) acres, existing on the effective date of adoption of this amendment to the Township Zoning Ordinance, and for developments proposing less than a total of five (5) residential dwelling units, single-family detached dwellings are permitted as conventional lots of an area equal to the minimum required for the underlying zoning district with no required greenway land, in accordance with conventional design criteria.

### B. Single-Family, Semi-Detached Dwellings (Duplex Units)

1. Single-family, semi-detached dwellings are permitted in Option 1 and 2 subdivisions, according to the standards in Sections 1403 and 1404 and the other requirements of this Ordinance.
2. On tracts of less than ten (10) acres, existing on the effective date of adoption of this amendment to the Township Zoning Ordinance, and for developments proposing less than a total of five (5) residential dwelling units, and when single family semi-detached dwellings are permitted in the underlying zoning district, single-family semi-detached dwellings are permitted as conventional lots of an area equal to the minimum required for the underlying zoning district with no required greenway land, in accordance with conventional design criteria.

### C. Greenway Land

Greenway land (also referred to as “open space”) comprising a portion of residential development, and according to requirements of this Article, including but not limited to, Sections 1403, 1404 and 1405.

### D. Non-Residential Uses

The following non-residential uses may be incorporated into the proposed residential development in accordance with the standards of this Article, including but not limited to, Section 1404 and the Township Subdivision and Land Development Ordinance.

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

E. Accessory Dwelling Units

Accessory dwelling units shall be permitted on the same lot with and customarily incidental to any permitted use and not conducted as an independent principal use according to the following:

1. Accessory dwelling units (including elder cottages and tenant houses) proposed in Option 3 subdivisions (Estate Lots) are subject to the following provisions:
  - a. Accessory dwelling units in principal residences or in new outbuildings (such as barns, stables, carriage houses, and spring houses) shall be designed to harmonize with vernacular rural buildings in the Township's historic landscape.
  - b. There shall be a maximum of one accessory dwelling unit (ADU) on any legal building lot in an Option 3 subdivision, and a maximum of two accessory dwelling units (ADUs) on any legal building lot containing ten (10) or more acres in an Option 3 subdivision, provided all performance standards of this Article are met.
  - c. The gross floor area in the first ADU shall not exceed 900 sq. ft. In the second ADU, where permitted, the maximum area shall be 750 sq. ft. However, on lots exceeding fifteen (15) acres, the second ADU may take the form of a tenant house containing up to 2,000 sq. ft. of floor space. Under this section, existing historic accessory buildings more than 75 years old that exceed these floorspace limits are permitted as ADU's without having to meet the dimensional setback requirements of this ordinance.
  - d. Building permits for ADUs shall not be issued until the applicant places a restrictive easement on the subject property prohibiting future enlargement of the ADUs, or the creation of additional ADUs beyond the limits described above. Issuance of permits for ADU's shall be contingent upon Township Sewage Enforcement Officer and Pennsylvania DEP approval for any on-site septic sewage disposal systems needed.

## Section 1403 Dimensional Standards and Density Determination

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

1. Density Factor: Single-family residential development at a density as determined through the Yield Plan described in Section 1403.C, herein.
2. Minimum Required Greenway Land:
  - a. The subdivision must include a minimum percentage of the property as greenway land as defined below for each underlying zoning district. Greenway land shall not be used for residential lots, except as provided below. Floodplain, wetlands, slopes greater than 35%, land within existing and proposed rights of way and land under high-tension electrical transmission lines (69KV or greater) shall not be used to calculate the minimum percentage of Greenway Land as required by Chart set forth below in Section 1403.C.4.e.
  - b. Large "conservancy lots" of at least 10 acres, conforming to the standards for Option 3 subdivisions found in Section 1403.D, and owned by individuals may occupy up to 100 percent of the greenway land, with any remainder subject to a conservation easement or deeded to a homeowners' association, land trust, or the Township. However, the greenway land within each conservancy lot remains subject to the standards for greenway land in Section 1404, herein and must also be subject to a conservation easement.
3. Average Minimum Lot Area: As indicated on the table found in Section 1403.C.4.e below.
4. Minimum Lot Width at Building Line: As indicated on the table found in Section 1403.C.4.e below.
5. Minimum Street Frontage: 20 feet
6. Yard Regulations: The builder or applicant (also referred to as a developer) is urged to consider variations in the principal building position and orientation, but shall observe the minimum standards as indicated on the table found in Section 1403.C below.
7. Maximum Impervious Coverage: As indicated on the table found in Section 1403.C.4.e below.
8. Maximum Height Regulations: 35 feet

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

1. Density Factor: Single-family residential development at a density as determined through the Yield Plan described in Section 1403.C, herein.

2. Minimum Required Greenway Land:
    - a. The subdivision must include an additional 10% greenway land in addition to that required for Option 1 developments within the specific zoning district as set forth in Section 1403.C.4.e herein. Greenway land shall not be used for residential lots, except as provided below.
    - b. Large "conservancy lots" of at least 10 acres, conforming to the standards for Option 3 subdivisions found in Section 1403.D, and owned by individuals may occupy up to 100 percent of the greenway land, with any remainder subject to a conservation easement or deeded to a homeowners' association, land trust, or the municipality. However, the greenway land within each conservancy lot remains subject to the standards for greenway land in Section 1405, herein.
  3. Average Minimum Lot Area: As indicated on the table found in Section 1403.C.4.e below. Up to twenty (20) percent of the lots may be reduced by an additional 20%.
  4. Minimum Lot Width at Building Line: As indicated on the table found in Section 1403.C.4.e below.
  5. Minimum Street Frontage: 20 feet
  6. Yard Regulations: The builder or applicant (also referred to as a developer) is urged to consider variations in the principal building position and orientation, but shall observe the minimum standards as indicated on the table found in Section 1403.C.4.e below.
  7. Maximum Impervious Coverage: As indicated on the table found in Section 1403.C.4.e below.
  8. Maximum Height Regulations: 35 feet
- C. Density Determination For Option 1 & 2 Subdivisions

Applicants shall utilize a yield plan to determine the maximum permitted residential building density on their properties.

Yield Plan Approach: Determination of the maximum number of permitted dwelling units, shall be based upon a density factor of Option 1 or 2 applied to the gross tract acreage (excluding any area within the public right-of-way), as demonstrated by an actual Yield Plan. Yield Plans shall meet the following requirements:

1. Yield Plans must be prepared as conceptual layout plans in accordance with the standards of the Subdivision Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, slopes greater than 35%, lands within existing and proposed right of way, lands under high-tension electrical transmission lines (69KV

or greater), existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.

2. Yield Plans should also reflect the dimensional standards for the underlying zoning district, when Option 1 and 2 is chosen, found in Section 1403.C.4 below. The Yield Plan must identify the site's primary and secondary conservation areas, as identified in the Existing Resources/Site Analysis Plan.
3. On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual septic systems on the proposed lots. Based on the primary and secondary conservation areas, identified as part of the inventory and analysis, and observations made during an on-site visit of the property, the Planning Commission or Township staff shall select a ten (10) percent sample of the lots considered to be marginal for on-lot sewage disposal. The applicant is required to provide evidence from the Township Sewage Enforcement Officer that these lots meet the standards for an individual septic system. Only after satisfying this requirement shall the applicant be granted the full density determined by the Yield Plan. Should any of the lots in a sample fail to meet the standard for individual septic system, those lots shall be deducted from the yield plan and a second ten (10) percent sample shall be selected by the Township Planning Commission or Township staff and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual septic system.
4. Yield Plan Dimensional Standards: The following dimensional standards shall be used in the development of Yield Plans for Option 1 and 2 subdivisions. These minimum area dimensions are exclusive of all wetlands, floodplain lands, slopes greater than 35 percent, lands within existing or proposed public rights of way and land under high-tension electrical transmission lines (69KV or greater).
  - a. Dimensional Standards for Option 1 Subdivisions in the A District. The dimensional standards of Section 803.2 of This Ordinance shall be used in the development of a Yield Plan for Option 1 subdivisions. Lots shall comply with all requirements of the Township Subdivision and Land Development Ordinance. Lot areas shall meet the definition of lot area in Article II.
  - b. Dimensional Standards for Option 1 Subdivisions in the R-1 District: The dimensional standards of Section 903.2 of This Ordinance shall be used in the development of a Yield Plan for Option 1 subdivisions. Lots shall comply with all requirements of the Township Subdivision and Land Development Ordinance. Lot areas shall meet the definition of lot area in Article II.

- c. Dimensional Standards for Option 2 Subdivisions in the A District.  
 The following dimensional standards shall be used in the development of a Yield Plan for Option 2 subdivisions. Lots shall comply with all requirements of the Township Subdivision and land Development Ordinance. Lot areas shall meet the definition of lot area in Article II.

Minimum required for all uses not otherwise listed:

Lot Area	60,000 square feet
Lot Width	150 feet
Lot Depth	120 feet
Front Yard	50 feet
Each Side yard	20 feet
Rear yard	25 feet
Height (maximum)	45 feet
Parking	2 off-street spaces

- d. Dimensional Standards for Option 2 Subdivisions in the R-1 District.  
 The following dimensional standards shall be used in the development of a Yield Plan for Option 2 subdivisions. Lots shall comply with all requirements of the Township Subdivision and land Development Ordinance. Lot areas shall meet the definition of lot area in Article II.

Minimum required for all uses not otherwise listed:

	On-lot Water & Sewer	On-lot Sewer	On- lot Water	Central Water & Sewer
Lot Area	Not Permitted	30,000 s.f.	22,500 s.f.	15,000 s.f.
Lot Width	“	100 ft	90 ft	85 ft
Lot Depth	“	120 ft	100 ft	75 ft
Front Yard	“	35 ft	30 ft	25 ft
Each Side Yard	“	10 ft	8 ft	8 ft
Rear Yard	“	25 ft	25 ft.	25 ft.
Height (max)	“	40 ft	40 ft	40 ft
Off-Street Parking Per dwelling unit	“	2	2	2
Building Width	“	16 ft	16 ft	16 ft

- e. Conservation Design Dimensional Standards – Following the determination of maximum density through the Yield Plan, the following dimensional standards shall be used in the design of a conservation design development.

<u>Standard</u>	<u>A District</u>	<u>R-1 District</u>
Minimum Lot Size	18,000 s.f. (Option 1) 12,000 s.f. (Option 2)	12,000 s.f. (Option 1) 10,000 s.f. (Option 2)
Minimum Lot Width (20 feet at Street Line)	90 feet (Option 1) 80 feet (Option 2)	80 feet (Option 1) 75 feet (Option 2)
Front Yard Setback	25 feet (Option 1) 20 Feet (Option2)	20 feet
Rear Yard Setback	30 feet	25 feet
Side Yard Setback * * (Total, neither less than 5 feet)	20 feet	15 feet
Maximum % Impervious Coverage	30% (Option 1) 35% (Option 2)	35% (Option 1) 40% (Option 2)
Minimum % Open Space** (Greenway Land)	50% (Option 1) 60% (Option 2)	40% (Option 1) 50% (Option 2)

\*\* Minimum % Open Space – This percentage is that of the remaining tract area once the primary site constraints have been subtracted. The total open space is equal to the primary site constraints plus this percentage.

D. Dimensional and Density Standards for Option 3 Subdivisions: Estate Lots

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

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

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

Sides: 25 feet each.

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

#### Section 1404 Design Standards For Option 1 and 2 Subdivisions

- A. Houselots (lots that dwellings are located on) shall not encroach upon Primary Conservation Areas and their layout shall respect Secondary Conservation Areas as described in both the Zoning Ordinance and in the Subdivision and Land Development Ordinance.
- B. All new dwellings shall meet the following setback requirements:
  1. From all external road ultimate rights-of-way - 100 feet.
  2. From buildings or barnyards housing livestock - 100 feet.
  3. From all original tract boundaries – 50 feet.
  4. From all cropland or pasture land – 100 feet.
  5. From all playing fields and courts – 150 feet.
- C. Views ofouselots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Subdivision and Land Development Ordinance.
- D. Houselots shall generally be accessed from interior streets, rather than from roads bordering the tract.
- E. At least three-quarters of the lots shall directly abut greenway land or face greenway land across a street.
- F. Standards pertaining to the quantity, quality, configuration, ownership, and maintenance of the greenway land created under this Article are contained in Sections 1405 through 1408 of this Article.

#### Section 1405 Greenway Land Use And Design Standards

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

##### A. Uses Permitted On Greenway Lands

The following uses are permitted in greenway land areas:

1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);
2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations

involving swine, poultry, mink, and other animals likely to produce highly offensive odors.

3. Pastureland for horses used solely for recreational purposes or associated accessory facilities. Equestrian facilities shall be permitted but may not consume more than half of the minimum required greenway land.
  4. Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry.
  5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact.
  6. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenway land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within 150 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
  7. Golf courses, including their parking areas and support facilities, may comprise 75% of the minimum required greenway land provided the land has restrictions and/or other legally binding constraints insuring that the land shall be perpetually used exclusively as a golf course. Driving ranges and/or miniature golf are not considered a golf course.
  8. Water supply and sewage disposal systems, and stormwater detention areas.
  9. Easements for drainage, access, sewer or water lines, or other public purposes;
  10. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required greenway land.
- B. Greenway Design Standards
1. Greenway lands shall be laid out in general accordance with the Township's Map of Potential Conservation Lands and/or layout of adjacent properties to ensure that an interconnected network of open space will be provided. (See Plates 1 through 4 attached to the Open Space Plan of the Township of Hamiltonban Comprehensive Plan.) The required greenway land consists of a mixture of Primary Conservation Areas (PCAs), all of which must be included, and Secondary Conservation Areas (SCAs). PCAs comprise floodplains, wetlands, and slopes over 35%. SCAs should include special features of the property that would ordinarily be overlooked or ignored during the design process. Examples of such features are listed, prioritized and described in Section 812 in the Subdivision and Land Development Ordinance.

2. In Option 1 & 2 subdivisions, the greenway land comprises a minimum percentage of the property respectively, based on the underlying zoning district. This land shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the Township, or by a private individual. In all cases the land shall be subject to a conservation easement. These ownership options may be combined so that different parts of the greenway land may be owned by different entities.
3. In Option 3 subdivisions, the required greenway land may lie within the Estate Lots. The greenway land must be subject to Conservation Easements.
4. Buffers for Adjacent Public Parkland: Where the proposed development adjoins public parkland, a natural greenway buffer at least fifty (50) feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is unwooded, vegetative screening shall be planted, or the buffer shall be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.

#### C. Other Requirements

1. No portion of any building lot may be used for meeting the minimum required greenway land, except as permitted in Option 3 Estate Lots of at least 10 acres. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required greenway land.
2. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes, shall be provided to any public access greenway land in accordance with the following requirements:
  - a. Each neighborhood shall provide one centrally located access point per 25 lots, a minimum of thirty-five (35) feet in width.
  - b. Access to greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
3. All greenway land areas that are not wooded or farmed shall be landscaped in accordance with the landscaping requirements of the Subdivision and Land Development Ordinance.

## Section 1406 Permanent Greenway Protection Through Conservation Easements

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

1. In Option 1, 2, and 3 subdivisions, the required greenway land shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities. (For example, the clearing of woodland habitat shall be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities.) A list of permitted and conditional uses of greenway lands is contained in this Article in Section 1405.

### B. In Option 3 Subdivisions (Estate Lots)

1. In Option 3 subdivisions where applicants voluntarily opt to develop their properties at densities conforming with a minimum four acres per principal dwelling, and offer to place a restrictive conservation easement preventing future subdivision of the newly created parcels, the Board shall review the proposed easements and shall accept them, provided their wording accomplishes the purposes of this Ordinance and is consistent with the Comprehensive Plan and the Open Space Plan.

## Section 1407 Density Bonuses

Additional density is permitted when one of the following public benefits is proposed:

### A. Provision of Affordable Housing

1. A density increase is permitted where the subdivision proposal provides on-site or off-site housing opportunities for low- or moderate-income families. When off-site housing provision is proposed, the Board shall require evidence that these units will in fact be constructed by a certain date. The amount of density increase shall be based on the following standard: for each affordable housing unit provided under this section, one additional building lot or dwelling unit shall be permitted, up to a maximum 10 percent increase in dwelling units. Affordable housing is herein defined as units sold or rented to families earning up to 120 percent of the area median income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development.

### B. Provision of Age-Restricted Housing

1. A density increase is permitted where the subdivision proposal provides age-restricted, on-site housing opportunities for individuals age 55 years or older. The amount of density increase shall be based on the following standard: for each housing unit provided under this section, one additional building lot or dwelling unit shall be permitted, up to a maximum 10 percent increase in dwelling units. Age-restricted housing is herein defined as housing intended and operated for occupancy by persons 55 years of age or older, and at least 80 percent of the occupied units are occupied by at least one person who is 55

years of age or older. This definition includes all other supplementary language in Section 807(b) of the United States Fair Housing Act as amended.

C. Implementation

1. For each of the above categories of public purposes, density bonuses may be implemented by reducing the amount of required greenway land by up to 10%, reducing the minimum lot area requirements by up to 10%, or by a combination of these approaches. The cumulative reductions may total up to 15 percent, if the Board is satisfied that the public purposes are being served.

Section 1408 Ownership And Maintenance Of Greenway Land And Common Facilities

A. Development Restrictions

All greenway land shall be permanently restricted from future subdivision and development by conservation easements. Under no circumstances shall any development be permitted in the greenway at any time, except for those uses listed in Section 1405.

B. Ownership Options

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

1. Fee Simple Dedication to the Township. The Township may, but shall not be required to, accept any portion of the greenway and/or common facilities, provided that:
  - a. There is no cost of acquisition to the Township; and,
  - b. The Township agrees to accept the facilities and has access to maintain such facilities.
2. Condominium Association. Common facilities and/or greenway land may be controlled through the use of condominium agreements. Such agreements shall be in accordance with relevant state law. All greenway land and common facilities shall be held as "common element."
3. Homeowners' Association. Common facilities and/or greenway land may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes. In addition, the following regulations shall be met:
  - a. The applicant shall provide the Township a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities and greenway;

- b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development;
- c. Membership in the association shall be automatic (mandatory) for all owners of dwelling units and/or lots therein and their successors in title;
- d. A description of all lands and facilities to be owned by the Association. This description shall include a map of the proposal highlighting the precise location of those lands and facilities;
- e. Statements setting forth the powers, duties, and responsibilities of the Association, including the services to be provided;
- f. The association shall be responsible for maintenance and insurance of common facilities;
- g. A Declaration of Covenants, Conditions, and Restrictions, giving a perpetual conservation easement to the greenway lands and facilities owned by the Association. The Declaration shall be a legal document and shall describe the mechanism by which owners participate in the Association, including voting, elections, and meetings. Furthermore, it shall give power to the Association to own and maintain the common property and to make and enforce rules;
- h. Requirements for all owners to provide a pro rata share of the cost of the operations of the Community Association;
- i. A process of collection and enforcement to obtain funds from owners who fail to comply;
- j. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted;
- k. Statements prescribing the process by which Association decisions are reached and setting forth the authority to act;
- l. Written notice of any proposed transfer of greenway land and/or common facilities by the association or the assumption of maintenance for greenway land and/or common facilities must be given to all members of the association and to the Township no less than thirty days prior to such event;
- m. The association shall have adequate staff to administer, maintain, and operate such common facilities;
- n. Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement.
- o. A process for transition of control of the Association from the developer to the unit owners;

- p. Statements describing how the greenway lands and facilities of the Community Association will be insured, including limit of liability; and
  - q. Provisions for the dissolution of the Association, in the event the Association should become inviable.
4. Private Conservation Organization or the County. With permission of the Township, an owner may transfer either fee simple title of the greenway to a private non-profit conservation organization or to the County provided that:
- a. The conservation organization is acceptable to the Township and is a bona fide conservation organization intended to exist indefinitely;
  - b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization or the County becomes unwilling or unable to continue carrying out its functions;
  - c. The greenway land is permanently restricted from future development through a conservation easement and the Township is given the ability to enforce these restrictions; and
  - d. A maintenance agreement acceptable to the Township is established between the owner and the organization or the County.
5. Dedication of Easements to the Township. The Township may, but shall not be required to, accept easements for public use of any portion of the greenway land or facilities. In such cases, the greenway land and/or facilities remain in the ownership of the condominium association, homeowners' association, individuals, or private conservation organization while the easements are held by the Township. In addition, the following regulations shall apply:
- a. There shall be no cost of acquisition to the Township;
  - b. Any such easements for public use shall be accessible to the residents of the Township; and
  - c. A satisfactory maintenance agreement shall be reached between the owner and the Township.
6. Non-Common Private Ownership.
- Up to 100 percent of the required greenway land may be included within one or more large "conservancy lots" of at least 10 acres provided the greenway land is permanently restricted from future development through a conservation easement, except for those uses listed in Section 1405, and that the Township is given the ability to enforce these restrictions.

C. Maintenance

- 1. The cost and responsibility of maintaining common facilities and greenway land shall be borne by the property owner, condominium association, homeowners' association, conservation organization, County or Township.

2. The applicant shall, at the time of preliminary plan submission, provide a Plan for Maintenance of Greenway Lands and Operation of Common Facilities in accordance with the following requirements.
  - a. The Plan shall define ownership;
  - b. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e. lawns, playing fields, meadow, pasture, cropland, woodlands, etc.);
  - c. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the greenway land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;
  - d. The applicant shall be required to escrow sufficient funds for the maintenance and operation costs of greenway lands and common facilities for up to one year; and,
  - e. Any changes to the maintenance plan shall be approved by the Board
3. In the event that the organization or individual required to maintain the greenway lands and the common facilities, or any successor thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Township may assume responsibility for maintenance, in which case any escrow funds shall be forfeited and any permits may be revoked or suspended.
4. The Township may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners association, conservation organization, county or individual property owners who make up a condominium or homeowners' association and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Township in the office of the Prothonotary of the County.