

Are you in favor of the adoption of the zoning ordinance amendment as proposed by the Planning Board?

The East Kingston Planning Board proposes to amend the East Kingston Zoning Ordinance by repealing the existing Article XI Single Family Cluster Residential Development and replacing it with Article XI Conservation Subdivision Development as follows:

ARTICLE XI - CONSERVATION SUBDIVISION DEVELOPMENT (Adopted _____)

This ordinance has been adopted pursuant to RSA 674:21 Innovative Land Use Controls as a voluntary alternative to a conventional subdivision.

- A. Single family structures in a Conservation Subdivision Development are permitted in any district within the Town of East Kingston.
- B. Purpose. The purposes of a conservation development, and to which any such development must adhere, are the following:
 - 1. To preserve the natural beauty of existing rural roads within the Town.
 - 2. To provide adequate setback and buffering requirements to protect existing, proposed, and future residential property values.
 - 3. To preserve the natural and scenic qualities of open space including setback areas, buffer zones, and environmentally sensitive lands.
 - 4. To establish living areas within the Town of East Kingston that provide for a balance of community needs, such as a diversity of housing opportunities, adequate recreation and open space areas, easy accessibility to those and other community facilities, and pedestrian and vehicular safety.
 - 5. To provide for an efficient use of land, streets, and utility systems.
 - 6. To stimulate new approaches to land and community development.
- C. Manufactured Housing (Deleted 3/05)
- D. Minimum Tract Size. The tract, lot, or parcel of single or consolidated ownership at the time of application shall be at least ten (10) contiguous acres.
 - 1. In accordance with Article VI, Part D of the East Kingston Zoning Ordinance, poorly drained soils may be used to fulfill all but 3/4 of an acre (32,670 sq. ft.) of any building lot, provided that the contiguous nonwetland area is sufficient in size and configuration to adequately accommodate all required utilities. No portion of any ponds, lakes, fresh water marshes, alluvial soils, perennial streams, or very poorly drained soils may be used to calculate the density for any proposed conservation development.
 - 2. Frontage is required on an existing Town approved road or a State highway. For the purpose of this ordinance, a Town road shall be defined as a road that has been accepted by the local legislative body at the annual Town Meeting. No

housing units or other structures are to be built on land encompassed by the development within 200 feet of any development entrance as measured from the originally existing public or private road. The land precluded from any construction by virtue of this provision may be included, assuming it is otherwise eligible, in the development calculations for the required common land/open space. Two planning goals are thereby satisfied, i.e. 1) higher residential density offset by using common land/open space, and 2) privacy enhanced and traffic noise pollution abated in the neighborhood from adjacent highways.

- E. Maximum Allowable Density. The maximum base density (e.g. number of dwelling units permitted) in any Conservation Subdivision shall not exceed the number of dwelling units that would be allowed in a standard subdivision on the same parcel of land as determined by a Yield Plan. To determine the number of units allowed, the applicant shall submit two conceptual plans for the development. The Yield Plan shall show a standard subdivision of the parcel that complies with all requirements of the East Kingston Subdivision Regulations and Zoning Ordinance; the other shall show the proposed conservation layout using no more than the number of dwelling units allowed by the Yield Plan. The Planning Board shall approve the Yield Plan before awarding any density bonuses.
- F. Conserved Open Space. In every Conservation Subdivision, conserved open space shall be set aside and protected in perpetuity from development by a conservation easement, approved by the Planning Board and recorded. The Conserved Open space shall not include any portion of a proposed building lot. The required amount of open space for all conservation development shall be calculated as follows:
1. Comprise no less than 50% of the gross land area of the development.
 2. No more than 50% of the conserved open space land shall contain poorly or very poorly drained soils, alluvial soils (subject to flooding), waterbodies, and slopes greater than 25%.
 3. Conserved Open Space may be used for non-motorized recreational uses, trails providing a trail plan is approved by the Planning Board, and forest management.
 4. In calculating Conserved Open Space area, the following shall not be included: road rightofway, stormwater management infrastructure and easements, utilities, common use areas, and parking areas.
 5. Selecting Conserved Open Space. Land containing the following features shall be preferentially included in the Conserved Open Space:
 - a. Wetlands and surface waters including a 100-foot upland buffer.
 - b. Mature woodlands, meadows, specimen trees.
 - c. Wildlife corridors and wildlife habitat.
 - d. Historical and cultural resources including stone walls, cemeteries, and historical structures and sites.
 - e. Scenic vistas and landscapes.
- G. Density Bonus. If the following criteria are met, the Planning Board may award the density bonuses to the initial total allowable units allowed by the approved Yield Plan, above. The total density bonus awarded to a particular development under this section

(XI.F.1) shall not exceed 20% of the dwelling units shown on the yield plan. If 20% of the dwelling units per the yield plan is less than one unit, round up to one unit. Percentages greater than .5 homes may be rounded up to the next whole number (example: Total bonuses of 15.5% bonus x 5 homes = .7 homes rounded to 1 home).

1. Open Space Bonus: Where the proposed plan shows 51% or more of the total parcel as open space protected as such in perpetuity (e.g., with a conservation easement), the development may be awarded a density bonus as shown in Table A.

TABLE A. Open Space Density Bonus

TYPE of BONUS	Percent of Parcel Designated as Open Space	Density Bonus (%)
Protected Open Space	51% - 60%	10%
Protected Open Space	61% - 70%	15%
Protected Open Space	71% - 80+%	20%

2. Public Access Bonus: Where the public is granted access to the open space, the development may be awarded a density bonus of 2.5%. The nature of public access required to trigger this bonus is pedestrian and bicycle use. Examples include but are not limited to walking paths, bike trails, cross country ski trails, and snowshoe trails, etc. The agreement may reasonably restrict the use of motorized vehicles.
3. Agricultural Lands and Use Bonus: Where the development protects agriculturally valuable lands and provides for permission to be used as such in perpetuity, the development may be awarded a density bonus as shown in Table B. In addition to being reasonably accessible, the agricultural land must meet at least two of the following criteria:
 - a) The portion of open space preserved for agricultural use must amount to a minimum of 33% of the minimum required open space;
 - b) The agricultural area must either have been historically farmed, or contain suitable soils for agriculture;
 - c) The agricultural area must be a valuable agricultural and/or visual resource as determined by the Planning Board.

TABLE B - Protection of Agricultural Land

Type of Density Bonus	Percent Required Open Space That is Agricultural Land	Density Bonus (%)
Protected Agricultural Land	0-33%	2.5%
Protected Agricultural Land	33% - 44%	5.0%
Protected Agricultural Land	45% - 54%	6.0%
Protected Agricultural Land	55% - 64%	7.0%
Protected Agricultural Land	65% - 74%	8.0%
Protected Agricultural Land	75% - 80+%	9.0%

- d) Conservation Protection Bonus: Where the development can demonstrate, to the satisfaction of the Planning Board, that it protects any combination of additional unique and valuable characteristics beyond the 50% Conserved Open Space requirement, it may be awarded a total density bonus of 5.0%. Such characteristics include, but are not limited to the following:
 - e.i. Viewsheds, which include lands or corridors of land that contribute to the visual landscape of the town, including areas such as open fields, hillsides, stone walls, mature stands of trees, visible water bodies and their natural buffers.
 - e.ii. Historically significant buildings, resources and landscapes, that include buildings and associated uses that are maintained and visually separated from the housing portion of the development. The applicant shall provide evidence of historic value that may include Heritage Commission comment, listing or eligibility for the National Register of Historic Landmarks, or other qualified statements of historic value.
 - e.iii. Valuable wildlife and environmental areas that are otherwise buildable land, proven as such through an environmental resource inventory by a qualified wildlife biologist specializing in either flora or fauna.
 - e.iv. Parcels or trail corridors linking open space through the site with existing trails or open space networks. The beginning of such a network or trailway may qualify where reasonable opportunity is present for establishing through corridors onto neighboring parcels and provided that Conservation Commission comment is in favor of this location.
- e) The Planning Board shall have the authority to evaluate the evidence presented by the applicant and to determine whether any of the abovementioned density bonuses will be awarded.

EXAMPLE: DENSITY BONUS CALCULATION

A 24 acre site example:

- Yield Plan shows the property would yield 10 building lots
- 12 acres required minimum open space
- Thoughtful development designates 13.5 acres as open space allowing for a 10% open space bonus
- In addition, 6 acres of the required open space is agricultural land allowing for an additional bonus of 6% Agricultural Bonus
- Two “View sheds” are maintained for another 5%
- $10\% + 6\% + 5\% = 21\%$ total bonus
 - 10 lots x .21% = 2.1 building lots. Two bonus building lots would be approved.
 - (**Rounding up only allowed for the first bonus lot)
 - ** Two bonus lots is within the 20% yield plan maximum bonus building lot limit.

- H. Method for Conservation Subdivision Design. The subdivision shall utilize the following four-step design process.
1. Step One – Prepare an Existing Conditions Plan that delineates the features described in Section H.1-5 above and the Conserved Open Space lands.
 2. Step Two – Located suitable house sites based on soil and other environmental conditions and location of stormwater management infrastructure based on Yield Plan and any density bonuses awarded.
 3. Step Three – Align streets with identified house sites, road right-of-way and stormwater infrastructure.
 4. Step Four – Delineate house lot lines. Prepare Conservation Subdivision Plan showing all features in Steps One - Four.
- I. The residential density within the area being developed shall not exceed six (6) dwellings units per acre. The minimum lot size shall be determined based on the soil-based lot sizing methodology in Standards for a High Intensity Soil Map of New Hampshire, Society of Soil Scientists of Northern New England, 2017 (as Amended).
- J. Dwelling units, accessory structures and septic systems shall comply with the setback requirements of Article VI Section E.3 Wetlands Conservation District.
- K. Conservation Subdivisions shall not be required to conform to the minimum frontage standards required elsewhere in this ordinance however all lots shall have a minimum frontage of 50 feet and shall be designed and constructed to achieve the purposes set forth in these regulations.
1. Front, side and rear setbacks shall be a minimum of 100 feet from all abutting property lines.
 2. Interior lot lines are required; setbacks from lot lines shall conform to the requirements of all zoning districts and Article VII General Provisions and Article VIII Uses Permitted.
 3. Restrictions: In no instance, shall any of the following be allowed within the front, side, and rear setbacks: structures of any type, additions to existing structures within the development including garages, decks, or porches; parking areas, walkways, driveways, or any privately owned road or street. (Town roads, or collector road may not pass through any side or rear setback, unless approved

by the Planning Board, and may only pass through a front setback for purpose of access to an existing town or state road in existence at the time of submission of application); septic systems, leaching fields, and backup areas for the same; wells, or backup wells (protective radius for a well may extend into the setback, however, no vegetation within the setback shall be disturbed during the drilling of any well); any other improvements not specifically listed above that would disturb the natural condition of the setback. In the conservation development, the setbacks shall be left in their natural state with the following exceptions: Upon approval of the Planning Board, cutting of vegetation and excavation may be allowed to improve sight distance along an access from a town or state road in existence prior to submission of application; drainage and utility easements; required landscaping; entrance sign; and any other improvements deemed necessary by the Planning Board to ensure public health, safety and welfare. The Planning Board may require additional plantings in the buffer area to provide better screening, where necessary.

- L Water and Septic Systems. The development may be served by common water and septic systems, the design and construction of which must be approved by the state and local authorities prior to final approval of any subdivision plan or subphase thereof by the East Kingston Planning Board. All common water systems shall require state approval under RSA 149:82, if applicable, and approval by the State of New Hampshire Department of Environmental Services Water Division. Additionally, NHDES Water Division subdivision approval for the development, if applicable, and individual sewage system approvals must be obtained prior to final approval of any conservation subdivision plan or subphase thereof by the Board. All common wells within the development, shall in no instance have a protective radius of less than 125 feet, and when applicable, state requirements for a greater radius shall apply. In no instance, shall any sewage system, road, parking area, or dwelling unit be allowed within the protective well radius of any common well. Private wells shall not have any roads, parking, or septic systems within a 75-foot radius. Whenever possible, the well(s) shall be located on an upgradient from any sewage system, structure, roadway, driveway, parking area, or walkway, and any potentially harmful runoff shall be directed away from the protective radius.
- M Landscape Buffer. A conservation development shall have a 100-foot landscaped buffer around its entire perimeter to provide an adequate division of transition from abutting land uses and existing town roads. The landscaped buffer, which shall include the frontage setback from a development entrance, may consist in whole or in part of existing natural vegetation and forests. If preserved and maintained in a natural condition, the landscaped buffer may be included in the Conserved Open Space. The Planning Board shall determine whether the type of landscaping proposed is acceptable in light of local geographic and topographic features.
- N Parking. Provisions for parking shall allow for not less than two (2) spaces per single dwelling unit, each at least 9 feet wide and 20 feet long exclusive of traffic and maneuvering space. Access driveway design and proposed parking locations shall be subject to Board approval.
- O Emergency Vehicle Access. Emergency vehicle access shall be provided to all structures within the conservation development and shall be subject to Planning Board approval.

- P. Access to Conserved Open Space. Conserved Open Space land shall have suitable access to a road only within the development.
- Q. Protection of Conserved Open Space. Open space, common areas, common facilities, private roadways, and other features within the conservation development shall be protected by covenants running with the land and shall be conveyed by the property owners to a homeowners association so as to guarantee the following:
1. The continued use of land for the intended purposes.
 2. Continuity of proper maintenance for those portions of the development requiring maintenance.
 3. The availability of funds required for such maintenance.
 4. Recovery for loss sustained as a result of casualty, condemnation or otherwise.
 5. Creation of a homeowners association or tenancyincommon or similar form of ownership, with automatic membership and obligation of the residents of the conservation development upon conveyance of title or lease to single dwelling units. Homeowners association, tenancyincommon, or similar form of ownership shall include lien provisions and shall be subject to review and approval by the Planning Board.
 6. Layout. The conservation development plan shall show the layout of all roads and structures.
 - a. Unless approved by the Planning Board, no driveway shall access more than three dwelling units in a conservation development.
 - b. Unless approved by the Planning Board, all roads shall be built to town requirements (Reference "Requirements for Construction of Roads and Streets in the Town of East Kingston" and Appendix C, East Kingston Subdivision Regulations).
 - c. The Planning Board retains the right to approve the specific road and structure layouts for the purpose of the health, safety, and welfare of the town as well as for efficiency and aesthetic variety and quality of design.
- R. Site Plan. A site plan for the entire tract at a scale of 1" = 100' and the developed portion at 1" = 50' shall be prepared by either a registered professional engineer or registered land surveyor. The site plan shall be submitted in accordance with the site plan and subdivision regulations for the Town of East Kingston, and the location of parks and open space shall be shown on the plan.
- S. Planning Board Review.
1. Before submission of a formal complete application, the applicant shall meet with the Planning Board for a Design Review discussion of the subdivision proposal as per

RSA 676:4.II(b).

2. The following information shall be provided for a formal complete application and including all other requirements of the East Kingston Subdivision Regulations:
 - a. Traffic circulation and access including adequacy of adjacent street, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended traffic signalization.
 - b. Pedestrian safety and access.
 - c. Offstreet parking and loading.
 - d. Emergency vehicle access.
 - e. Fire protection as it applies to the proximity of buildings to one another and to the existence of firefighting water sources.
 - f. An erosion and sediment control plan using the methodology in NHDES New Hampshire Stormwater Manual Volume 3: Erosion and Sediment Controls During Construction (December 2008, as amended) and a stormwater management plan using the methodology in NHDES New Hampshire Stormwater Manual Volume 2: Post-Construction Best Management Practices Selection & Design (December 2008, as amended).
 - g. Recreational facilities.
 - h. Water supply and wastewater disposal approved by a civil or sanitary engineer registered in New Hampshire.
 - i. Environmental factors such as protection against pollution, noise, odor, and the protection of natural features.
 - j. Landscaping in keeping with the general character of the surrounding areas.
 - k. Signage and exterior lighting.
 - l. Submission of proposal along with abutting property owners' names and addresses shall be in accordance with the Town of East Kingston Subdivision Regulations in order to provide for timely notification to abutters of public hearing to review said parcel.
 - m. In addition, the Planning Board shall review the plan to insure compliance with the provisions of the standards set forth in these regulations and other town regulations and ordinances. The Planning Board shall also ascertain that the plan minimizes the encroachment of the conservation development upon neighboring land uses.
 - n. The Planning Board may retain the services of a consultant and/or

engineer qualified to review any specific aspects of the plan or to review any engineering or professional studies submitted by the developer as requested by the Board. The cost of said services shall be borne by the owner and/or developer as per RSA 676:4,1(g).

- T. Performance Bond. A performance bond or other acceptable security and other legal data shall be submitted as required by the Planning Board to ensure the completion of streets, buffers, and amenities in accordance with the accepted plans and subdivision regulations of the Town of East Kingston as adopted or hereafter amended.
- U. Amendments to an Approved Plan. The owner, his agent or his successors or assigns will make no alterations or additions or deletions from the approved Conservation Development Plan except as approved in advance by the Planning Board. All requests for changes to the approved plan shall be made in writing to the Board and shall be accompanied by such documents as the Planning Board shall deem necessary to explain the requested change.
- V. Manufactured housing as defined by RSA 674:31 shall not be allowed in conservation developments proposed under Article XI. (Adopted 3/91)
- W. The Planning Board shall adopt such procedures as part of the Site Plan and Subdivision Regulations as it may deem necessary in order to insure sufficient public review of any conservation development proposal and to insure compliance with these and other Town ordinances and regulations.
- X. Administration. The Planning Board shall be responsible for the review and approval of all applications for conservation development. To minimize the period of time required for the review, the Board may conduct its Site Plan Review in concert with the provisions contained in the East Kingston Zoning Ordinance.
- Y. All other land use requirements in the Town of East Kingston Zoning Ordinance must be met including all general requirements of the issuance of a special exception.

The East Kingston Planning Board supports this zoning amendment.