

**POCONO TOWNSHIP ZONING ORDINANCE, ZONING MAP, SALDO  
AMENDMENTS**

**MEETING #10 AGENDA**

**January 22, 2024 - 6:00pm**

**Pocono Township Municipal Building**

- ⇒ **Overview of Conservation Subdivision Design Concept**
  
- ⇒ **Review Draft #1 of Conservation Subdivision Design Standards for the R-1 and R-2 Zoning Districts**
  
- ⇒ **Confirm Next Meeting Date – February 26, 2024**

**Article V Supplementary Regulations**

**§ 470-87.6 Conservation Subdivision Design.**

- A. Purpose. In addition to the general purpose and community development objectives in Article I, and the purposes for the R-1 Low Density Residential and R-2 Medium Density Residential districts, it is the purpose of Conservation Subdivision Design to:
  - (1) Conserve undeveloped land for the purpose of protecting Primary and Secondary Conservation Areas in contiguous, un-fragmented, commonly managed landscapes to:
    - (a) Protect large, intact wildlife habitat areas and connect patches of wildlife habitat to support greater biodiversity, maintain ecosystem processes and allow larger, healthier populations to persist; and
    - (b) Minimize edge conditions and associated colonization by invasive plant species.
  - (2) Contribute to the creation of a community wide open space system for the benefit of present and future residents.
  - (3) Protect productive agricultural soils for continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations.
  - (4) Conserve existing landscape character by minimizing views of new development from existing roads, thereby reducing perceived density.
  - (5) Encourage innovation and promote flexibility, economy and ingenuity in development.
  - (6) Provide multiple development options for landowners to reflect their varying circumstances and the individual characteristics of their properties.
  - (7) Provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences.
  - (8) Provide homes with direct views of open space, organized around common greens.
  - (9) Provide for the conservation and maintenance of open space for active or passive recreational use by residents.
  - (10) Provide greater efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the impervious cover required for residential development.
  - (11) Provide a wider range of feasible locations for stormwater and wastewater facilities in order to comply with prevailing state-of-the-art designs and best management practices.
  - (12) Protect water quality and reduce erosion and sedimentation by retaining existing vegetation and minimizing development on steep slopes.

- (13) Implement natural resource conservation policies set forth in the Township's Park, Recreation, and Open Space Plan.
  - (14) Implement land use, open space, and community policies set forth in the Township's Comprehensive Plan.
- B. **Development Options.** In order to achieve the purposes in Subsection A above, the following development options are permitted:
- (1) **By right:**
    - (a) Option 1: Basic Conservation with Neutral Density, providing for residential uses at the density permitted by the underlying zoning district, with a minimum of 50 percent Greenway Land.
    - (b) Option 2: Age Restricted Communities, providing for residential uses in age-restricted or age-targeted communities at a density higher than Option 1, with at least 60 percent Greenway land.
    - (c) Option 3: Estate Lots, providing for residential uses in conventional layouts, at half the density of Option 1, with common Greenway land permitted but not required.
    - (d) Option 4: Country Properties, providing for residential uses at very low densities, with Greenway Land permitted but not required.
- C. **Applicability.**
- (1) The Conservation Subdivision Design standards contained in this §470-87.6 shall apply to all residential uses on tracts 10 net acres or larger in the R-1 and R-2 districts, **except for Minor Subdivisions as defined by the Pocono Township Subdivision and Land Development Ordinance**, which are exempt.
  - (2) **Two-family dwellings and multi-family dwellings shall be permitted in the R-2 district only, and shall be served by a central water system and a central sewage disposal system.**  
**Permit two family w/ community sewer/on-lot water?**
- D. **General Regulations.** The design of all Conservation Subdivision Design developments shall be governed by the following minimum standards:
- (1) **Ownership.** The development tract may be held in single ownership or in multiple ownerships. When a development tract is held in multiple ownerships, it shall be:
    - (a) Represented by a single application; and
    - (b) Presented and approved under a common plan. The entire tract shall be designed in accordance with this Article.
  - (2) **Combining the Development Options.** The development options permitted in §470-

87.6.B may be combined at the discretion of the Board of Supervisors, based upon demonstration by the applicant that such a combination would better fulfill the purposes set forth in §470-87.6.A, as compared with applying a single option to the property. When more than one option is applied to a development tract, the applicant shall clearly indicate the boundaries of each option.

- (3) Protection of Conservation Areas. The proposed design shall conserve Primary Conservation Areas. Demonstration by the applicant that these features are protected by the proposed application shall be prerequisite to approval of conditional use applications and all preliminary and final plan approvals. The protection of Secondary Conservation Areas shall be addressed through the Four-Step Design Process described in the Subdivision and Land Development Ordinance.

E. Use Regulations. The following uses shall be permitted in Conservation Subdivision Design developments: **(List in the Matrix/Table of Uses)**

- (1) R-1 District: Single-family detached dwellings.
- (2) R-2 District: Single-family detached dwellings, two-family dwelling, and multi-family dwellings.
- (3) R-1 and R-2 Districts:
  - (a) Greenway land in compliance with §470-87.6.A.
  - (b) Home occupations in compliance with §\_\_\_\_\_
  - (c) Accessory uses on the same lot in compliance with applicable standards.

F. Maximum Number of Dwelling Units.

- (1) Calculation of the maximum number of dwelling units shall be determined by using one of two approaches: a calculation using the density factor set forth in Table 470-87.6.F(1) and the and the Adjusted Tract Area Approach in §470-87.6.F(2), **or by a yield plan as described in Subsection F(3).** The applicant shall determine which approach is most suitable.

**Table 470-87.6.F(1)**

Permitted Dwelling Types	Single-Family Detached			Single-Family Detached, Two-Family, Multi-Family (Two-Family & Multi-Family with public H2O/sewer only?)		
	R-1 on-lot sewer/water	R-1 community sewer, on-lot water	R-1 public water/sewer	R-2 on-lot water/sewer	R-2 community sewer, on-lot water	R-2 public water/sewer
Current Density	2 ac/du	2 ac/du	2 ac/du	2 ac/du	1 ac/du	1 ac/du
Option 1 (Basic Conservation) Density	2 ac/du	2 ac/du	2 ac/du	2 ac/du	1 ac/du	1 ac/du
Option 1 Open Space	50%	50%	50%	50%	50%	50%
Option 2 (Bonus for Age-Targeted Housing or Affordable/Workforce Housing) Density	N/A	N/A	1 du/65,000 Sq Ft (1.5 ac/du)	N/A	1 du/30,000 Sq Ft (0.7 ac/du)	1 du/30,000 Sq Ft (0.7 ac/du)
Option 2 Open Space	N/A	N/A	60	N/A	60	60
Option 3 (Estate lots) Density	N/A	4 ac/du	4 ac/du	N/A	2 ac/du	2 ac/du
Option 3 Open Space	Common open space/greenway land is not required for Estate Lots					
Option 4 (Country Lots) Density	10 ac/du	10 ac/du	10 ac/du	10 ac/du	10 ac/du	10 ac/du
Option 4 Open Space	Common open space/ greenway land is not required for Country Lots					

Open space is a percentage of the Adjusted Tract Area plus environmental constraints. See Subsection K for calculation of the minimum required Greenway Land.

- (2) Adjusted Tract Area Approach - Determination of the maximum number of dwelling units shall be based upon the following calculations:
  - (a) Determine Gross Tract Area - Gross tract area shall equal the acreage within the legally described parcel.
  - (b) Determine Constrained Land - Constrained land consists of the resources listed in Table 470-87.6.F(2)(b) multiplied by the corresponding protection factor listed in

the same Table and totaled. If two or more resources overlap, only the resource with the highest protection factor shall be used.

**Table 470-87.6.F(2)(b)**

<b>CONSTRAINED LAND</b>				
	<b>Resource</b>	<b>Area of Resource (acres)</b>	<b>Protection Factor</b>	<b>Constrained Land (acres)</b>
(i)	Existing public or private road rights-of-way and existing utility or other rights-of-way		X 1.00	=
(ii)	That portion of lands under conservation easement that are restricted from further development		X 1.00	=
(iii)	100-year floodplain		X 1.00	=
(iv)	Wetlands		X 0.95	=
(v)	Prohibitive steep slopes (25% or greater)		X 0.85	=
(vi)	Precautionary steep slopes (15% up to 25%)		X 0.25	=
(vii)	Rock Outcroppings over 1,000 SF in area		X 0.90	=
(viii)	<b>CONSTRAINED LAND = SUM OF (i) through (vii)</b>			=

(c) Determine Adjusted Tract Area (ATA). Adjusted Tract Area equals the gross tract area minus the constrained land, as per Table 470-87.6.F(2)(c).

**Table 470-87.6.F(2)(c)**

<b>ADJUSTED TRACT AREA</b>		
(i)	Gross tract area	_____ acres
(ii)	minus Constrained Land from Table in 470-87.6.F(2)	- _____ acres
(iii)	equals Adjusted Tract Area (ATA)	= _____ acres ATA

(d) Maximum Number of Dwelling Units. In Options 1, 2, and 3, the maximum number of dwelling units equals the Adjusted Tract Area (ATA) from Table 470-87.6.F(2)(c)(iii) divided by the applicable density factor set forth in Table 470-87.6F(1).

**Table 470-87.6F(2)(d)**

MAXIMUM NUMBER OF DWELLING UNITS		
(i)	Adjusted Tract Area (from the Adjusted Tract Area Table above, converted to square feet)	_____ sq ft
(ii)	divided by applicable density factor (from the Density and Conservation Open Space Table, above)	÷ _____
(iii)	equals maximum number of dwelling units	= dwelling units

(i) In Option 4, the maximum number of dwelling units equals the gross tract area divided by 10 acres.

(ii) Where calculations result in fractional numbers, the fraction shall be rounded down to the next whole number.

(3) Yield Plan Approach. The yield plan approach shall be applicable to Options 1 and 2 only.

(a) Need to include this yield plan approach? (Developer can determine the number of units by doing a typical yield plan rather than the above calculations)

(4) Total Number of Dwelling Units. The total number of dwelling units permitted on a development site equals the sum of the following, each of which shall be itemized separately in a table on the plans:

(a) Maximum number of dwelling units permitted in §470-87.6F(2)(d) or §470-87.6F(3), as selected by the applicant.

(b) Any additional units permitted as the result of the discretionary density bonus permitted in Subsection J, below.

(5) Preservation of Historic Dwellings. To encourage the preservation of historic dwellings, such preserved dwellings shall not count toward the maximum number of dwelling units referenced in Subsection F(2)(d) above, provided:

(a) Such dwellings are at least 75 years old;

(b) The dwelling is preserved in accordance with the Secretary of the Interior standards; and

(c) The dwelling is placed in a landscape context that respects its historical status and appearance, as determined by the Board of Supervisors.

G. Dimensional Standards for Options 1 through 4.

(1) Single-Family Detached Dwellings. The dimensional standards in Table 470-87.6G(1), below, shall apply to single-family detached dwellings in Options 1 through 4.

**Table 470-87.6G(1)**

	<b>Option 1 Basic Conservation with Neutral Density</b>	<b>Option 2 Age-Targeted/ Age-Restricted Communities</b>	<b>Option 3 Estate Lots</b>	<b>Option 4 Country Properties</b>
Density (Refer also to Table 470-87.6.F(1))	1 du/2 acres of ATA	1 du/60,000 SF ATA	1 du/160,000 SF ATA	1 du/10 AC gross
Minimum lot area	20,000 SF  Up to 20% of the lots may be reduced to 10,000 SF	12,000 SF  Up to 20% of the lots may be reduced to 7,500 SF	40,000 SF	60,000 SF
Minimum lot width at building line <sup>1</sup>	80 feet	65 feet	115 feet	140 feet
Minimum street frontage	20 feet	20 feet	25 feet	50 feet
Minimum front yard Garage setback <sup>2</sup>	20 feet 10 feet	20 feet 10 feet	40 feet 10 feet	100 feet 10 feet
Minimum rear yard Accessory Bldgs.	40 feet 10 feet	30 feet 10 feet	50 feet 10 feet	50 feet 10 feet
Minimum side yard	5 feet 30' aggregate	5 feet 25' aggregate	20 feet 50' aggregate	20 feet
Maximum height	35 feet	35 feet	35 feet	35 feet

<sup>1</sup> In the case of flag lots, the building line shall be located where the lot equals the minimum width.

<sup>2</sup> For front-facing garages, distance behind the front façade of the primary dwelling.

- (2) Two-Family and Multi-Family Dwellings. The dimensional standards in Table 470-87.6G(2), below, shall apply to two-family and multi-family dwellings in Options 1 through 4, where permitted.

**Table 470-87.6G(2)**

<b>Dimensional Standards For Two-Family and Multi-Family Dwellings</b>	
Minimum individual lot area	None
Separation of principal buildings	35 feet
Minimum lot width if individual lots are provided	18 feet (24 feet if a 2-car garage or parking of two cars side-by-side is



	provided in the front)
Setback from any adjoining internal street, street right-of-way, common parking area or sidewalk	20 feet
Maximum height	In accordance with the R-2 district

H. Impervious Cover. Impervious cover for Options 1 through 4 shall be limited in accordance with the following table:

Lot Area	Maximum Impervious Cover
Less than 10,000 SF	50%
10,000-19,999 SF	35%
20,000-43,560 SF	20%
Larger than 43,560 SF	Reduce limit by 1.5% for each additional acre up to a maximum impervious cover of 20,000 SF.
Greenway Land	4%

I. Design Standards for Options 1 through 4.

- (1) No part of any residential lot shall encroach upon Greenway Land with the exception of conservancy lots, as permitted in Subsection Q(1)(d).
- (2) All new dwelling units shall meet the following setback requirements:

DWELLING SETBACKS			
	Single-Family Detached Dwelling	Two-Family Dwelling	Multi-Family Dwelling
From external road ultimate rights-of-way	100 feet	150 feet	200 feet
From other perimeter tract boundaries	50 feet	100 feet	150 feet
From crop land or pasture land not on the development parcel	100 feet	100 feet	100 feet
From buildings or barnyards housing livestock not on the development parcel	300 feet	300 feet	300 feet
From active recreation areas such as courts and playing fields (not including tot lots)	150 feet	150 feet	150 feet

- (3) Additional design standards in the Subdivision and Land Development Ordinance shall apply.
- J. Discretionary Density Bonus. Additional density may be permitted by the Board of Supervisors as follows:
- (1) When attainable/affordable/workforce housing is provided on site in accordance with the following:
- (a) For each attainable/affordable/workforce housing unit provided, one additional dwelling unit shall be permitted, up to a maximum increase of 15% over the maximum number of units permitted in Subsection F(2)(d).
  - (b) The applicant shall provide evidence that the attainable/workforce housing units will be constructed by the time 90 percent of the market rate dwellings are completed.
- (2) When Greenway Land or trails are dedicated for public use in accordance with the following:
- (a) This density bonus shall apply only to Greenway Land and trails that are dedicated in addition to the mandatory dedication of parkland or fee-in-lieu (SALDO section \_\_\_).
  - (b) For each 5 acres of open space dedicated for public active or passive recreational use, one additional dwelling unit shall be permitted, up to a maximum increase of 15% over the maximum number of units permitted in Subsection F(2)(d).
  - (c) For each 2,500 feet of unpaved trail or 1,250 feet of paved trail dedicated for public use, one additional dwelling unit shall be permitted, up to a maximum increase of 15% over the maximum number of units permitted in Subsection F(2)(d). Such density bonus shall not apply to sidewalks or other paths to which public access is customarily permitted.
  - (d) Where both open space and trails are dedicated for public use, the combined maximum increase in the number of units shall not exceed 15% over the maximum number of units permitted in Subsection F(2)(d).
  - (e) The decision whether to accept an applicant's offer to dedicate land for public use under this Subsection J(2) shall be at the discretion of the Board of Supervisors.
- K. Minimum Greenway Land.
- (1) The minimum Greenway Land shall be as set forth in Table 470-87.6.F(1), above, and shall be calculated as follows:

<b>MINIMUM GREENWAY LAND</b>		
(a)	Adjusted Tract Area (from Table §470-87.6.F(2)(c))	_____ acres
(b)	Applicable minimum Greenway Land percentage in the Density and Greenway Land Table in 470-87.6.F(1)	_____ %
(c)	Adjusted Tract Area (a) multiplied by Greenway Land % (b)	= _____ acres
(d)	plus Constrained Land from Table 470-87.6.F(2)(b)	_____ acres
(e)	equals minimum Greenway Land	= _____ acres

- (2) Greenway Land shall be delineated to include all Primary Conservation Areas and, in addition, sufficient Secondary Conservation Areas that, when added to the Primary Conservation Areas, shall equal the minimum required open space.
  - (3) Common Greens.
    - (a) At least two to three percent (2-3%) of the required Greenway Land shall be in the form of common greens. The minimum percentage of Greenway Land in common greens shall be as follows:
      - (i) Two percent (2%) of the required Greenway Land when the average lot size is 15,000 square feet or more;
      - (ii) Three percent (3%) of the required Greenway Land when the average lot size is less than 15,000 square feet.
  - (4) In Options 1 through 4, up to 80% of the required Greenway Land may be in the form of “conservancy lots” as permitted in Subsection Q(1)(d). The remaining Greenway Land shall be owned and managed by a community association, conservation organization or the Township, in conformance with Subsection Q.
- L. The required Greenway Land may count toward the Recreation Land or Fee-in-Lieu of Land requirements of the Township Subdivision and Land Development Ordinance (SALDO).
- M. Greenway Land: Permitted Uses. The following uses shall be permitted on Greenway Land:
- (1) Conservation of open land in its natural state.
  - (2) **Agricultural and horticultural uses, including raising crops or livestock, and related accessory buildings. Specifically excluded are commercial and intensive feedlot and livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.**

- (3) Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted, but shall not consume more than 50% of the minimum required Greenway Land.
- (4) Forestry in keeping with established best management practices for selective harvesting and sustained yield forestry as published by the Pennsylvania Bureau of Forestry.
- (5) Neighborhood greens, central commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses.
- (6) Active non-commercial recreation areas, such as playing fields, playgrounds and bikeways, not requiring supporting structures. Such recreational uses shall meet the following standards:
  - (a) Such areas shall not consume more than 50% of the minimum required Greenway Land or five acres, whichever is less. The 5-acre limit may be increased to 10 acres on development parcels 200 acres or larger.
  - (b) Playing fields and playgrounds shall not be located within 150 feet of the tract boundary or a dwelling unit within the development parcel.
  - (c) Minimum parking facilities for the same, as determined by the Board of Supervisors, may also be permitted. Such lots may be paved with gravel and shall be unlighted, properly drained and provide safe ingress and egress.
- (7) Non-commercial recreation areas such as playing fields, courts, swimming pools or picnic areas requiring supporting structures, and their parking areas, are permitted, but shall not count toward the minimum required Greenway Land, unless dedicated to the Township. Structures shall be de minimis to the activity. Parking areas may be paved with gravel and shall be unlighted, properly drained and provide safe ingress and egress.
- (8) Audubon International Signature golf courses and their accessory facilities and parking areas, when permitted by the underlying zoning district, may comprise up to 50 percent of the Greenway Land land net of the included Primary and Secondary Conservation Areas. This use shall not include driving ranges or miniature golf. The gross floor area devoted to sales of golf equipment, clothing, food and other similar items shall not exceed 1,200 square feet gross. Accessory facilities and parking areas shall not count toward the minimum Greenway Land requirement. **Check golf course stds in other sections of ord. Should we allow golf courses in these developments?**
- (9) The total area of water supply systems, sewage disposal systems, stormwater management systems and associated easements may occupy up to 20 percent of the Greenway Land land net of the included Primary and Secondary Conservation Areas. The following standards shall apply:
  - (a) Water Supply Systems.
    - (i) Drainage easements for water lines may be counted toward the minimum

Greenway Land requirement.

- (ii) Land used for ground-level well structures and associated parking exceeding 5,000 square feet shall not count toward the minimum Greenway Land requirement.

(b) Sewage Disposal Systems.

- (i) Sewage treatment lagoons, structures, structure access areas and parking lots shall not count toward the minimum Greenway Land requirement.
- (ii) Soil absorption areas shall be appropriate for active or passive recreation.
- (iii) Absorption fields serving individual dwelling units may be located in the minimum Greenway Land, but individual treatment tanks shall be located within the lots they serve.
- (iv) Drainage easements for sewer lines may be counted toward the minimum Greenway Land requirement.

(c) Stormwater Management Systems. The following stormwater management practices are acceptable within the Greenway Land, provided they meet the guidelines in the Pennsylvania Stormwater Best Management Practices Manual:

- (i) Infiltration basin, provided the berms do not exceed 36 inches in height;
- (ii) Subsurface infiltration bed;
- (iii) Infiltration trench;
- (iv) Rain garden;
- (v) Vegetated swale;
- (vi) Infiltration berm, provided the berms do not exceed 24 inches in height.

(10) Easements or rights-of-way for overhead power lines. Such easements or rights-of-way shall not count toward the minimum Greenway Land requirement.

N. Greenway Land: Prohibited Uses. Motorized off-road vehicles, shooting ranges and other uses similar in character and impact as determined by the Board of Supervisors, shall be specifically prohibited. This provision shall not prohibit vehicles used for maintenance purposes.

O. Greenway Land: Design Standards. (Note: Make sure consistent with SALDO)

(1) Greenway Land in all options shall be identified and laid out according to the Four-Step Design Process described in the Subdivision and Land Development Ordinance, which begins with the identification of primary and secondary conservation areas.

- (2) Greenway Land shall be laid out in such a manner as to ensure that, over time, an interconnected network of Greenway Land will be created.
- (3) In Options 1 and 2, wherein 50% of the Adjusted Tract Area is set aside as Greenway Land, at least 20% of the Adjusted Tract Area shall be available for the common use of the subdivision residents.
- (4) In Options 3 and 4, open space is permitted, but not required, except as follows. When the Board of Supervisors determines a benefit to residents of the development in the form of trails or open space links, the applicant shall provide such linkages. In establishing the need for such linkages, the Board of Supervisors may consider:
  - (a) Implementation of the municipal Comprehensive Plan, Park and Recreation Plan, trail map or official map;
  - (b) Trails integral to children's access to schools and parks;
  - (c) Impacts on woodland and stream corridors.
- (5) In Options 1 through 4, the Township may require the provision of a trail easement and/or the construction of a recreation trail through the Greenway Land. If a developer installs a trail, it shall be completed prior to the final sale of any adjacent residential lots.
- (6) Buffers for Adjacent Public Parkland: Where the proposed development adjoins public parkland, a natural Greenway Land buffer at least 150 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 or for the removal of invasive plant species.
  - (a) Where existing vegetation provides an adequate buffer, as determined by the Board of Supervisors, the depth may be reduced to 75 feet.
  - (b) Where the buffer is unwooded, the Board of Supervisors may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through restricted mowing policies and the periodic removal of invasive plant species.
- (7) No portion of any building lot may be used for meeting the minimum Greenway Land requirement, except as permitted within conservancy lots, described in Subsection Q(1)(b).
- (8) Pedestrian and maintenance access shall be provided to the Greenway Land in accordance with the following requirements:
  - (a) No more than 15 lots shall be contiguous to each other without a centrally located access point meeting the following standards:

- (i) The width of the access strip shall equal the minimum width of a lot, and in no case shall be less than 50 feet.
      - (ii) The access strip shall extend the full depth of the adjacent lots.
      - (iii) The Board of Supervisors may require that maintenance and/or pedestrian access strip contain a paved path up to 8 feet in width, meeting Township standards for a bike path.
    - (b) Access to open space used for agriculture or horticulture may be restricted or prohibited for public safety and to prevent interference with agricultural operations.
  - (9) Greenway Land that is not wooded or farmed shall be landscaped in accordance with the landscaping requirements and open space management plan standards in Subsection Q(2).
- P. Greenway Land: Permanent Protection. A conservation easement restricting in perpetuity the Greenway Land against further subdivision or development shall be executed between the landowner and the Township or a qualified land conservancy acceptable to the Township. Deed restrictions may also be used in certain applications, in accordance with Subsection 2 below. **Note: make sure consistent with SALDO**
- (1) Conservation Easements. Conservation easements are required to protect Greenway Land from further subdivision and development, to conserve the natural characteristics of such lands, and to enable professional stewardship and monitoring of the land. Conservation easements shall conform to the following minimum requirements:
    - (a) Easements shall be granted to a land conservancy meeting the requirements in Subsection Q(1)c or to the Township. The Grantee shall have the rights of reasonable entry and enforcement.
    - (b) The property made subject to the conservation easement shall be described by metes and bounds, by an exhibit containing the subdivision plan and designating the property, and photographs which illustrate the nature and character of the property and any special environmental features identified by the Planning Commission during the subdivision process.
    - (c) Grantors shall declare that the terms of the easement shall run with the land and bind the property in perpetuity for the benefit of the Grantee.
    - (d) The uses of property subject to the conservation easement shall be limited by the permitted uses defined by Subsection M and prohibited uses defined by Subsection N. The following restrictions shall also apply:
      - (i) The property shall not be further subdivided into additional building lots.
      - (ii) Construction shall be permitted only in areas specifically designated in the property description and approved by the Board of Supervisors. The

determination of the need for any additional disturbance shall lie with the Board of Supervisors.

- (iii) Permitted construction activities, including cutting and removing of trees and other vegetation shall be permitted only in compliance with the open space management plan.
  - (iv) Signs, fencing and dumping shall be permitted only to the extent they are associated with the permitted uses Subsection M and consistent with the open space management plan.
  - (e) The terms and restrictions of the conservation easement shall be approved by the Board of Supervisors which shall be guided by the objectives set forth in the Township Comprehensive Plan and the **Township Parks, Recreation and Open Space Plan**, as well as the open space management plan for the property.
  - (f) Provisions pertaining to remedies, liability, indemnification and other relevant subjects, shall be approved by the Grantor, the Governing Body and the authorized representative of the Grantee before final approval of the development plan by the Governing Body.
- (2) Deed Restrictions. Deed restrictions, which do not provide for professional stewardship and monitoring of the Greenway Land, may be used in the place of conservation easements only under the following circumstances and in accordance with the following standards:
- (a) When Greenway Land totals less than 5 acres, a deed restriction may be used.
  - (b) If no entity is available or willing to hold a conservation easement on required Greenway Land, a deed restriction may be used.
  - (c) The Township shall be party to the deed restriction. The deed restriction shall be used only if approved by the Township. If the Township does not agree to be party to the restriction, no deed restriction shall be used.
  - (d) Restrictions, meeting Township specifications, shall be placed in the deed for each lot with Greenway Land. The deed restriction shall ensure the permanent protection and continuance of the Greenway Land and shall define permitted uses in compliance with Subsection M and prohibited uses as per Subsection N.
  - (e) It shall be clearly stated in the individual deeds that maintenance responsibility for the Greenway Land lies with the property owner.

Q. Greenway Land: Ownership and Maintenance. **Note: make sure consistent with SALDO**

- (1) Ownership Options for Greenway Land. The following methods may be used, either individually or in combination, to own common facilities and Greenway Land. Greenway Land shall not be transferred to another entity except for transfer to another



method of ownership permitted under this Subsection Q, and then only when there is no decrease in the total Greenway Land. Ownership methods shall conform to the following:

- (a) Pocono Township.
  - (i) Fee Simple Dedication to the Township. The Township may, but shall not be required to, accept dedication of any portion of the Greenway Land, provided there is no cost of acquisition to the Township, and the Township agrees to and has access to maintain such Greenway Land.
  - (ii) Dedication of Easements to the Township. The Township may, but shall not be required to, accept dedication of easements for public use of any portion of the Greenway Land. In such cases, the facility remains in the ownership of the community association, or private conservation organization, while the Township holds the easements. In addition, the following regulations shall apply:
    - (i) There shall be no cost of acquisition to the Township;
    - (ii) Any such easements for public use shall be accessible to the residents of the Township; and
    - (iii) A satisfactory maintenance agreement shall be reached between the owner and the Township.
- (b) Community Association. Greenway Land and common facilities may be held in common ownership for the use of all residents of the subdivision or land development and shall thereby be controlled and maintained by a Community Association. Community Association Documents shall be in compliance with the Pennsylvania Uniform Planned Community Act (as to a Homeowners’ Association Document) or the Pennsylvania Uniform Condominium Act (as to a Condominium Association Document), as the case may be. The Community Association Document shall include, but not be limited to, the following:
  - (i) A description of the Greenway Land to be owned by the Community Association. This description shall include a plan of the proposal highlighting the precise location of all aspects of the Greenway Land;
  - (ii) Statements setting forth the powers, duties, and responsibilities of the Community Association, including the services to be provided;
  - (iii) A Declaration of Covenants, Conditions, and Restrictions (Declaration), giving perpetual easement to the lands and facilities owned by the Community Association. The Declaration shall be a legal document providing for automatic membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the Community Association, including voting, elections, and meetings. The

- Declaration shall give power to the Community Association to own and maintain the Greenway Land and to make and enforce rules;
- (iv) Statements prescribing the process by which Community Association decisions are reached and setting forth the authority to act;
  - (v) Statements requiring each owner within the subdivision or land development to become a member of the Community Association;
  - (vi) Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement;
  - (vii) Requirements for all owners to provide a pro rata share of the cost of the operations of the Community Association;
  - (viii) A process of collection and enforcement to obtain funds from owners who fail to comply;
  - (ix) A process for transition of control of the Community Association from the developer to the unit owners;
  - (x) Statements describing how the Greenway Land of the Community Association will be insured, including limit of liability;
  - (xi) Provisions for the dissolution of the Community Association;
  - (xii) Agreements for the maintenance of stormwater management facilities; and
  - (xiii) Agreements for the maintenance and operation of water supply and wastewater treatment facilities.
- (c) Private Conservation Organization or the County. With permission of the municipality, an owner may transfer either fee simple title of the Greenway Land or easements on the Greenway Land to a private non-profit conservation organization or to the County provided that:
- (i) The conservation organization is acceptable to the municipality and is a bona fide conservation organization intended to exist indefinitely;
  - (ii) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the conservation organization or the County becomes unwilling or unable to continue carrying out its functions;
  - (iii) The Greenway Land is permanently restricted from future development through a conservation easement and the municipality is given the ability to enforce these restrictions; and

(iv) A maintenance agreement acceptable to the municipality is established between the owner and the conservation organization or the County.

(d) Conservancy Lots. Up to 80 percent of the required Greenway Land may be located within one or more privately owned conservancy lots of at least 10 acres provided:

(i) The Greenway Land is permanently restricted from future subdivision and development through a conservation easement, except for those uses listed in Subsection M.

(ii) The easement provides the municipality the right, but not the obligation, to enforce these restrictions.

(2) Greenway Land Management Plan.

(a) Unless otherwise agreed to by the Governing Body, the cost and responsibility of maintaining Greenway Land shall be borne by the property owner, community association, or conservation organization.

(b) The applicant shall, at the time of preliminary plan submission, provide a plan for management of Greenway Land in accordance with Section of the Subdivision and Land Development Ordinance. Need to add this section to the SLDO?

(3) Remedy. Failure to adequately maintain the Greenway Land in reasonable order and condition in accordance with the development plan constitutes a violation of this ordinance. Note: make sure consistent with SALDO

(a) In the event that the organization established to maintain the Greenway Land, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the municipality may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the Greenway Land in reasonable order and condition, and may direct the owner to remedy the same within twenty (20) days.

(b) Upon default by any owner or other entity responsible for maintenance of Greenway Land, where such maintenance is necessary to abate a nuisance, emergency, hazard or other condition threatening persons or property or the public health, safety or welfare, the municipality may, but shall not be obligated to, take the following actions:

(i) Upon 30 days advance written notice to the owner or entity responsible for such maintenance (or any lesser number of days as may be specified in the notice in instances of emergency) and the failure of such owner or entity to perform the necessary maintenance and remedy the condition set forth in the notice, the municipality may enter upon the Greenway Land to correct the condition. If the municipality is forced to assume responsibility for maintenance, any escrow funds may be forfeited and any permits may be revoked or suspended.

- (ii) Any and all costs incurred by the municipality in connection with such notice and maintenance shall be paid by the owner or responsible entity within 10 days after written demand by the municipality. Upon failure of the owner or responsible entity to pay such costs in the time required, there shall be added thereto, interest at the rate of 15 percent per annum as well as all costs incurred by the municipality in collection thereof.
  
- (iii) All such costs of maintenance, remediation, notices, and collection, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the owner or responsible entity. Notice of such lien shall be filed by the municipality in the office of the Prothonotary of the County.