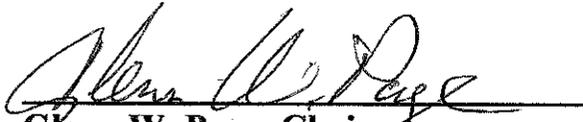
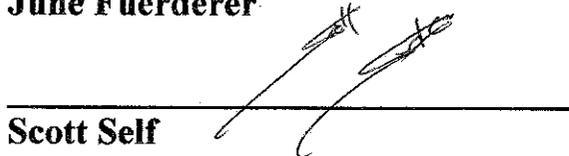


**TOWN OF SWANZEY
CONSERVATION RESIDENTIAL
SUBDIVISION REGULATIONS**

**ADOPTED AS PART OF THE SWANZEY
PLANNING BOARD REGULATIONS ON
APRIL 17, 2008**


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CONSERVATION RESIDENTIAL SUBDIVISION (CRS)

Background and Context

In February 2003 the Swanzev Planning Board adopted *Swanzev at 250 (1753-2003) Master Plan Update*. Land Use Strategy 1 of the *Master Plan* calls upon the Planning Board to “update zoning amendments, subdivision and site plan regulations for conservation residential development. Such development would permit reduced lot sizes and reduced dimensional setbacks in exchange for permanently protected open land with special value for the Town” (Executive Summary & Summary of Goals and Objectives, page 8).

Eighteen months later (August 2004), the Planning Board adopted *A Plan for the Protection of Open Space*. The *Plan* was developed in response to a desire, expressed by citizens during the process of preparing the *Master Plan Update*, to maintain Swanzev’s rural character.

The Plan for the Protection of Open Space lays the groundwork required to fulfill the *Master Plan Update* Land Use Strategy 1. The open space *Plan* reflects consensus on a set of Resource Values that can be protected by conserving open space; Land Conservation Priority Areas where those resources are most prevalent; and Specific Places as examples of properties worthy of consideration for protection. In all cases, notes the *Plan*, “the values and places were determined to be essential to community well-being in some basic way, or are part of how residents define Swanzev’s community character. Ultimately, all are basic to environmental quality and quality of life” (page 2).

The Conservation Residential Subdivision Regulation arises from the recommendation of the *Master Plan*, and supporting data documented within the *Plan for the Protection of Open Space*.

The Conservation Residential Subdivision Regulation is designed to replace the provisions for cluster housing and cluster development contained within the *Town of Swanzev Zoning Ordinance* (page 9, Section III.P.2., as amended through March 14, 2006) with clear guidelines that reflect Town values as identified by the *Master Plan*. It also is designed to remove administrative hurdles for developers posed by requiring a special exception from the Zoning Board of Adjustment for applications to develop a conservation subdivision. The Innovative Land Use Controls statute (RSA 674:21) grants municipalities broad authority to adopt innovative and flexible approaches to better manage growth.

Purpose

The purpose of the Conservation Residential Subdivision Regulation is to encourage the use of conservation subdivision design by developers of single-family and duplex housing in the Town of Swanzey. Conservation subdivision design groups homes together on a portion of a parcel, based on the natural and historical features on the property. The undeveloped portion is permanently protected from future development.

Goals & Public Benefits

The goals and public benefits of a CRS include the following:

1. Preserve and permanently protect important site characteristics, historic features and open space.
2. Promote sensitivity to existing natural features in the siting of buildings and roads.
3. Preserve and protect environmentally sensitive site characteristics, natural and historic features, and open space areas, such as mature tree stands, pastures and fields, stonewalls, wildlife habitats, natural drainage ways, wetlands, aquifer recharge areas, existing and potential water supplies.
4. Encourage a creative approach to the development of land for residential use, by locating structures based on the consideration of both the development suitability of the site and its conservation values.
5. Enhance the appearance of a neighborhood through the preservation of natural features.
6. Permit reduced lot sizes and reduced setbacks, enabling economies of road and utility construction, as well as efficiencies in municipal services.
7. Creation of a contiguous network of greenways, by linking Conservation Land within the subdivision to open space on adjoining lands whenever possible.

Completed CRS Application

In addition to those items to be submitted for a conventional subdivision, a completed application package for a CRS shall include:

1. *Determination of the maximum number of housing units for the parcel.*

a. To determine the maximum number of housing units that can be constructed on the parcel, the developable acreage shall be divided by the minimum acreage requirement in the underlying zoning district. The resulting number will equal the maximum number of housing units that can be constructed on the developable acreage. Wetlands, along with lands having slopes of 25% and greater, shall not be considered developable acreage.

b. These housing units, along with the road network, common land, and all amenities, shall be located on a maximum of 40% of the developable acreage. The remainder of the parcel shall be designated as Conservation Land and permanently protected from development.

2. *Documentation of the CRS Design Process.*

The layout of structures, roads, lot lines, common land and conservation land shall include a four step process as follows:

- a. Step 1 – Identification of Primary and Secondary Conservation Values and designation of Conservation Land areas.
- b. Step 2 – Location of structures.
- c. Step 3 – Alignment of roads and trails.
- d. Step 4 – Drawing in the lot lines.

Each plan shall include a notation that identifies the type of plan as a Conservation Residential Subdivision.

An *Existing Conditions Plan* showing the entire tract and the existence of public roads, public or private protected lands, woodland areas, surface waters and/or National Wetlands Inventory wetlands located within 200 feet of the tract. Areas of Primary and Secondary Conservation values shall be shown on the *Existing Conditions Plan*.

A *Proposed Conditions Plan* to include the location of proposed roads, sidewalks, trails, individual house lots, Conservation Land, the location of Primary and Secondary conservation values to be preserved, common land and buildings and accessory uses on common land and Conservation Land.

3. *Technical Studies and Reports.* CRS proposals may, as required by the Planning Board, include technical studies and reports to assist in determination of the impact of the application upon municipal services and facilities.

4. *Additional Approvals, Certificates and Documents.* Additional approvals may include such items as Homeowners' Association Documents, which are subject to approval by the Town's attorney.

5. *Construction Plans.* Construction plans shall conform with the standards and specifications of subdivision and/or site plan approval, including any conditions specified by the Planning Board and all applicable standards and regulations of the Swanzey Zoning Ordinance.

CRS Design Process

Step 1: Identification of Primary and Secondary Conservation Values and designation of Conservation Land areas.

The purpose of this step is to guide developers and the Planning Board in determining the most appropriate areas of a subdivision to be permanently protected as Conservation Land. The result of the discussion shall be the delineation of conservation land on the Existing Conditions Plan.

The selection of conservation values to be included in the Conservation Land shall be considered in consultation with the Planning Board. The applicant and the Planning Board shall use the primary and secondary conservation values lists as a guideline for determining which lands are to be designated as Conservation Land, recognizing that trade offs may be necessary and that the inclusion of all of the primary conservation values in the Conservation Land may not be feasible or practical.

Neither list is in order of priority.

A. Primary conservation values

Primary conservation values are features or attributes that make a major and irretrievable contribution to the identity and character of Swanzey. Features that are protected by the State of New Hampshire are also included as primary conservation values.

Historic sites – cellar holes, mill sites and buildings, stone walls, dams, structures, cemeteries, bridges, stone culverts

Archeological sites – native American artifacts, dig sites

Water – land that contains groundwater and aquifer recharge areas; land areas adjacent to water bodies. Wetlands and surface waters, including vernal pools and seasonal streams. Slopes in excess of 15% when adjacent to water courses, wetlands and ponds where disturbance and

resulting erosion and sedimentation could be detrimental to water quality.

Wildlife corridors – encouraging consultation with NH Fish and Game, *NH Wildlife Action Plan*; habitat for threatened or endangered species – observed and/or reported; Natural Heritage Inventory; large unfragmented blocks of open space – contiguous undeveloped parcels, connecting new Conservation Land with established protected parcels, striving to create a contiguous network of greenways by linking conservation land within the subdivision to open space on adjoining lands whenever possible.

Forest diversity – including old forest, sustainably managed forest

Views – scenic landscape, land areas adjacent to water bodies, hillsides and summits

Farms – either currently operational or abandoned, including land that has been cleared for tillage, hayfield, and/or pasture, and the sound buildings and structures (fencing, water systems, etc.) that are integral to farming operations

Prime Farmland Soils – as designated in the Soil Survey of Cheshire County as may be amended or superseded.

B. Secondary conservation values

Secondary conservation values are often hidden treasures, features or attributes that may not be widely known but are highly worthy of protection.

Unusual natural features – cliffs, boulders

Unusual trees - hedgerows, groups of trees, and large individual trees of botanic significance.

Habitat for known endemic plant and animal species – e.g, a large patch of lady'slipper orchids

Natural or historical trails that have been used by hikers, equestrians, and hunters over the years

Public access – landowner allows or will allow continued use of established trails, or allow new trails to be constructed.

Existing tree farms

Step 2: Location of Structures. Upon the completion of Step 1 above, the primary and alternate locations of the structures within the proposed CRS shall be drawn on the design plan, and buffers delineated. The intent of this step is to site structures in the development so that the conservation values within the natural landscape are preserved to the greatest extent possible.

Step 3: Alignment of Roads and Trails. Upon completion of Step 2, the location and alignment of roads, sidewalks and trails necessary for vehicular and pedestrian access within the proposed development shall then be drawn on the design plan. Consideration of shared driveways is encouraged. Any outdoor recreational areas or accessory use areas to be located in the common land shall also be drawn on the plan in completing this step.

Step 4: Drawing in the Lot Lines. Upon completion of Step 3, lot lines shall then be drawn on the design plan delineating the boundaries of all individual lots, all areas that will remain undeveloped and/or protected due to the presence of primary and secondary conservation values, including the 50 foot buffer setbacks from conservation areas, and any common land areas within the proposed development. The final plat to be recorded at the Registry of Deeds may omit primary and alternate locations of structures.

Minimum Design Standards

1. Inclusion of primary conservation values within a lot shall be strongly discouraged, and shall only be permitted after consultation with the Planning Board. Only lots larger than 1 acre may include a primary conservation value.
2. Location, Acreage and Frontage Requirements A CRS shall be permitted on properties which are located within the Residence or Rural/Agricultural Zoning District and which contain at least ten acres, exclusive of wetlands and steep slopes. A CRS must have a minimum of 50 feet of frontage on a State of Town maintained road.
3. All residential dwelling structures and accessory structures shall be located no closer than 50 feet from areas identified as having Primary Conservation Values and shall be sited to minimize disturbance of Secondary Conservation Values.
4. Roads, parking lots, and structures shall be sited so as to blend in with the natural landscape and vegetation and their construction shall

avoid disturbing or cutting existing vegetation. Natural vegetative buffers shall be incorporated into the design whenever feasible.

5. All structures within a CRS shall be accessed from interior streets, rather than from roads bordering the tract.

6. A minimum 100 foot buffer shall be maintained between individual lot property lines and adjacent property not part of the CRS. The buffer land (exclusive of wetlands and steep slopes) may be considered developable land for density calculations. Buffers shall be included as part of the parcel designated as Conservation Land and will be subject to all restrictions and conditions applicable to said Conservation Land.

7. A minimum 100 foot buffer shall be maintained between individual lot property lines and all external road rights of way not part of the CRS. The buffer land (exclusive of wetlands and steep slopes) may be considered developable land for density calculations. Buffers shall be included as part of the parcel designated as Conservation Land and will be subject to all restrictions and conditions applicable to said Conservation Land.

8. To the extent that it is feasible, interior roads shall *be* sited to preserve as many existing mature trees as possible.

9. The required minimum building setbacks for each structure located on an individual lot within a CRS and the dimensional standards for individual lots shall be as follows:

Minimum Front Setback: 20 feet from property line

Minimum Side and Rear Setback: 15 feet from property line

Minimum Road Frontage: 100 feet

Maximum Road Frontage: 150 feet

Minimum Acreage: ½ acre (21,780 s.f.)

Maximum Acreage: 2 acres (87,120 s.f.)

10. Developable acreage: A maximum of 40% of the developable acreage (land excluding wetlands or steep slopes of 25% or greater) may be developed for house lots.

(Example: Parcel is 200 acres, 100 acres of which are wetlands and steep slopes. Leaves 100 acres of developable soils)

Density in the Rural/Ag District is 3 acres. Maximum yield is 33 lots. If 40% of the acreage can be developed, that means a maximum of 33 housing units can be spread out over 40 acres.

Density in the Residence District is 1 acre. Maximum yield is 100 lots. If 40% of the acreage can be developed, that means a maximum of 100 lots can be spread out over 40 acres.

(In both examples, the maximum permissible density in the CRS is the same as that permitted in a conventional subdivision. The CRS merely allows construction of the housing units in a more compact area.)

11. For calculating loading requirements for septic systems, Conservation Land may be included. In addition, protective well radii may be located on Conservation Land. Under no condition shall any portion of a septic system or well be located within the area designated as Conservation Land.

Conservation Land

All lands designated as Conservation Land shall be held in common ownership under the following requirements:

1. The areas of any CRS designated as Conservation Land shall not be used for siting of individual lots, construction of dwelling units or roads.
2. No structure or improvement shall be constructed in the Conservation Land area of the CRS except for new trails and maintenance of existing trails, including (but not limited to) such work as bridges, benches, steps, railings, picnic tables, wildlife protection devices, and the like.
3. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed in the Conservation Land except for those which are (i) commonly necessary in the accomplishment of forestry, conservation, habitat management, or non-commercial recreational uses, and (ii) do not harm state or federally recognized rare, threatened, or endangered species.
4. Conservation Land shall be permanently maintained for the purpose of passive recreation, conservation, agriculture or forestry. Timber cutting conducted in accordance with a forest management plan prepared by a professional forester is consistent with this objective.
5. The minimum size of non-contiguous Conservation Land parcels shall correspond to the underlying zoning of the district: 3 acres in the Rural/Agricultural District, and 1 acre in the Residence District.
6. For calculating loading requirements for septic systems, Conservation Land may be included. In addition, protective well radii may be located

on Conservation Land. Under no condition shall any portion of a septic system or well be located within the area designated as Conservation Land.

7. Conservation Land or any portion of it shall be held, managed, and maintained by the developer until at least 51% of the lots or dwellings have been sold. At that time, the Conservation Land shall be owned in one or more of the following ways:

a. In common, by a Homeowners' Association for the control and maintenance as Conservation Land;

b. By a Land Trust or other suitable private non-profit organization registered in the State of New Hampshire which shall ensure that the Conservation Land shall be held in perpetuity as Conservation Land;

c. By the Town of Swanzey which may accept the conveyance of any Conservation Land for perpetual public use and maintenance, if accepted pursuant to RSA 674:41 and only if public access is guaranteed. The conveyance of any Conservation Land to the Town shall also include the donation of a trust fund for the specific purpose of the maintenance of such Conservation Land.