

ARTICLE 13

OPEN SPACE DEVELOPMENT DESIGN OPTION

Section 1301. PURPOSE

The Lykens Township Comprehensive Plan recognizes that maintaining open space and environmentally sensitive areas is desirable and important to preserving the Township's rural character and quality of life. This Section is intended to provide reasonable standards and procedures for open space development design which will (1) improve living and natural environments; (2) promote and encourage flexible and economical subdivision and land development design; (3) encourage a variety of residential dwelling types in the Township; (4) encourage ingenuity and originality in subdivision and site design; (5) protect the agricultural and rural character of Lykens Township; (6) maintain property values; (7) protect environmentally sensitive areas of a development site; and (8) encourage the preservation of environmentally sensitive areas as public or private open space.

Section 1302. APPLICABILITY

Subject to the requirements of this Section and the Lykens Township Zoning Ordinance, open space development design is available as an option in the Agriculture Residential (A-R) and Residential (R) districts. The open space development design option allows for concentrated development and residential construction on building lots smaller in size than the minimum required by conventional development in the zoning district in which the property is located. The open space development design option is available as an option for residential land subdivisions on properties in single and separate ownership of fifteen (15) acres or more.

Section 1303. DEFINING OPEN SPACE AREAS

Open space areas provided within all open space subdivisions and land developments shall consist of the following elements:

- A. Flood plain Overlay District
Flood plain areas as determined in accordance with Article 11.
- B. Environmental Protection Overlay Districts
Environmentally sensitive areas as determined in accordance with the standards set fourth in Article 12.
- C. Conservation Features Areas

Conservation features areas shall consist of mature woodlands, upland buffer areas around designated wetlands and water bodies, prime farmland (Class I, II, and III soils), natural meadows, scenic areas, critical wildlife habitats, sites listed on the PA Natural Diversity Inventory, designated historic sites, rock outcroppings, designated culturally or archaeologically significant sites.

Section 1304. REQUIRED CONSERVATION FEATURES AREA PERCENTAGE

Applicants using the open space development design option shall preserve a percentage of the total tract as conservation features areas as defined in Section 1303.C. The required percentage of the total tract area which shall consist of conservation features areas shall be determined using Table 13-1 for the district in which the development is located.

TABLE 13-1

Zoning District	Minimum Percentage (%) of Open Space Conservation Area
(A-R) Agriculture Residential	50%
(R) Residential	40%

Section 1305. DETERMINING OPEN SPACE CONSERVATION AREAS, DEVELOPMENT DENSITY AND LOT SIZE CALCULATIONS

Development using the open space development design option shall determine open space conservation areas and calculate development density and adjusted minimum lot size requirements in accordance with the following:

A. Development Density

The following "Steps" outline the procedure for determining residential densities (# of units per (Net Buildable Acre)) for open space development designed subdivision and land developments.

1. Step 1 - Determine the (Total Tract Area) of the subdivision or land development.
2. Step 2 - Determine the (Total Environmental Limitations Area) from all flood plains determined in accordance with Article 11 and environmental protection overlay districts identified in accordance with Article 12.

3. Step 3 - Subtract the (Total Environmental Limitations Area) from the (Total Tract Area) to determine the (Total Buildable Area).
4. Step 4 - Subtract ten (10%) percent of the (Total Buildable Area) when new streets will be constructed with the development to determine the (Net Buildable Area).
5. Step 5 -
 - A. For single-family detached developments, divide the (Net Buildable Area) by the required minimum lot area for the district the development is located to determine the (Total lots Permitted).
 - B. For multi-family developments, attached unit developments (townhouses) and developments with mixed dwelling unit types, divide the (Net Buildable Area) by the required density for the zoning district in which the development is located to determine the (Total Dwelling Units Permitted).

B. Minimum Lot Size Calculation

The following "Steps" outline the procedure for determining minimum lot size for open space development designs for single-family detached residential subdivisions and land developments.

1. Step 1 - Determine the (Total Tract Area) of the subdivision or land development.
2. Step 2 - Determine the (Total Environmental Limitations Area) from any flood plains in accordance with Article 11 and environmental protection overlay districts identified in accordance with Article 12.
3. Step 3 - Determine the required (Conservation Features Area) by multiplying the (Total Tract Area) by the required conservation features area percentage for the district in which the development is located (See Table 16-1). (Example: 100 acres x .40 (40% in R district) = 40 acres of required conservation features area).
4. Step 4 - Subtract the (Total Environmental Limitations Area) and the required (Conservation Features Area) from the (Total Tract Area) to determine the (Remaining Buildable Area).

- 5. Step 5 -
 - A. Divide the (Remaining Buildable Area) by the (Total Lots Permitted) as determined in Section 1305.A. STEP-5.A to determine the square footage of the (Adjusted Minimum Lot Size) for the open space development.
 - B. For multi-family developments, attached unit developments (townhouses) and developments with mixed dwelling unit types, the development shall be located within the (Remaining Buildable Area) determined in Step 4 above. The minimum lot size for single family detached and attached lots shall meet the minimum open space development lot size as specified in the zoning district in which the development is located.

C. Minimum Lot Width, Setbacks and Impervious Coverage Requirements

The minimum lot width, setbacks and impervious coverage for all development using the open space development design option shall conform with the applicable standards in the zoning district in which the development is located.

Section 1306. PERMITTED USES

When a development uses the open space development design option, the following uses shall be permitted in designated open space conservation areas:

- A. Agriculture Uses
- B. Active Recreation
- C. Bikeway paths
- D. Exercise trails
- E. Hiking trails
- F. Horticulture
- G. Nature trails
- H. Passive Recreation
- I. Picnic Areas
- J. Playgrounds
- K. Public Recreation Areas
- L. Silviculture

Section 1307. OPEN SPACE CONSERVATION AREA DESIGN REQUIREMENTS AND STANDARDS

Applicants electing to use the open space development design option shall meet the following general requirements:

- A. The required open space conservation area to be established shall preserve all flood plains determined in accordance with Article 11, Environmental Protection Overlays determined in accordance with Article 12 and all Conservation Features Areas which may be present as defined in Section 1303.C.
- B. The total area occupied by buildings, structures, support facilities, parking areas, driveways related to the permitted uses specified in Section 1606, shall not exceed five (5%) percent of the open space conservation area.
- C. Open space conservation areas shall be in the form of contiguous tracts, with linear trails connecting tracts or parks adjacent to the development.
- D. Open space conservation areas shall not include streets, private yards, and the required spacing between buildings.
- E. Residential accessory uses, such as but not limited to sheds, garages and pools shall not be permitted in the open space conservation area.
- F. All open space conservation areas shall be accessible from a public street via a pedestrian walkway or path. Paths should be constructed to have an all-weather durable surface that is at least six (6') feet wide, with a maximum slop of fifteen (15%) percent.
- G. Subdivision of designated open space conservation areas shall be prohibited.
- H. Open space conservation areas intended for recreational or public use shall be easily accessible to pedestrians, and conform to all State and Federal regulations for handicapped accessibility.
- I. Where strips of open space conservation areas are designed as separate noncontiguous parcels which constitute part of the required minimum open space conservation area, these areas shall have a length to width ratio of no less than 4:1, except such areas that are specifically designed as pedestrian ways.
- J. Individual lots, buildings, streets, and parking facilities should be designed and situated to minimize alterations to the environmentally sensitive features identified in Article 12 and other Conservation Features to be preserved in the open space conservation area.

- K. Individual lots, buildings and dwelling units should be arranged and situated to relate to surrounding properties, to improve the building views and lessen the land area devoted to motor vehicle access.
- L. Open space conservation areas should be directly accessible to the largest practical number of lots within the development to provide direct views and safe and convenient pedestrian access to adjoining lots.
- M. In developments with cul-de-sacs, pedestrian and/or bike trail linkages should be provided within the cul-de-sac street.
- N. Open space developments may contain "flag lots". Flag lots shall only be permitted to increase the number of lots that will abut open space conservation areas. Five (5%) percent of the total number of lots in an open space development subdivision may be flag lots. Permitted flag lots shall have a minimum lot width at the right-of-way line shall be twenty-five (25') feet.

Section 1308. OPEN SPACE DEVELOPMENT ROAD STANDARDS

Road construction for open space developments shall conform to the standards provided in the Lykens Township Subdivision and Land Development Ordinance.

Section 1309. OPEN SPACE OWNERSHIP AND MAINTENANCE

Open space conservation areas created in developments using the open space development design option shall be owned, administered and maintained under any of the following arrangements, either individually or in combination.

- A. Home Owners Association

Open space conservation areas may be conveyed to a home association or community association to be owned by the owners of the lots within the development. Ownership thereof shall pass with conveyance of the lots in perpetuity. A home owners association shall be established for the purpose of permanently maintaining all residual, commonly owned open space conservation areas and recreation facilities. The Association shall be formed and operated to include at a minimum the following provisions:

- 1. The Association shall be formed by the developer and operated with financial subsidization by the developer, before the sale of any lots within the development.

2. The developer shall provide a written description of the Association including its bylaws and methods for maintaining the open space conservation areas.
3. To insure that the cost of maintaining open space conservation areas is shared equally by all property owners, membership in the Association shall be mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the Association from the developer to the homeowners shall be described in the by-laws.
4. The Association shall be responsible for maintaining open space conservation areas and providing insurance coverage, enforceable by liens placed by the Association. Maintenance obligations may also be enforced by the Township which may place liens to recover its costs.
5. Members of the Association shall equitably share the costs of maintaining and improving the open space conservation area. Shares shall be defined within the Association by-laws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of capital facilities within the open space conservation area.
6. In the event of a proposed transfer of open space conservation area by an Association, or the assumption of maintenance of such land by the Township, notice of such action must be given to all property owners within the development.
7. Associations shall retain or contract adequate personnel to administer common facilities and properly and continually maintain the open space conservation area.
8. The Homeowners Association may lease open space conservation areas to qualified persons, or corporations, for the operation and maintenance of such area, but such lease agreement shall, at a minimum, provide the following assurances:
 - a. The residents of the development shall at all times have access to the open space conservation area contained therein (except the access to land that is actively farmed shall be limited to times of the year when the fields are fallow).
 - b. The open space conservation areas to be leased shall be maintained for the purposes and uses set forth in the Article; and,

upon request, copies of such leases shall be forwarded to the Township.

- c. The operation of open space conservation area facilities may be for the benefit of residents only, or may be open to the residents of the Township, at the election of the developer and/or the Association.

B. Condominiums

In order to facilitate public matters such as the collection of taxes on open space conservation areas and associated facilities and improvements, such land and facilities may be controlled through the use of condominium agreements, approved by the Board of Supervisors. Such agreements shall be in conformance with the Pennsylvania Uniform Condominium Act of 1980. All open space conservation areas shall be held as "common element." Condominium Associations shall be subject to the requirements set forth in Section 1309.A of this Ordinance.

C. Conveyance to Private, Public or Non-Profit Conservation Organization or Preservation Trust

Land to remain as designated open space conservation areas may be conveyed to private, public or nonprofit conservation organizations or preservation trusts in accordance with the following provisions:

1. The organization receiving such land shall be a bona fide conservation organization with perpetual existence and acceptable to the Board of Supervisors;
2. Ownership of the open space conservation areas shall pass with conveyance of the lots in perpetuity;
3. The Township shall have first and last offer of conveyance of open space conservation areas;

D. Transfer of Easements to a Private, Public or Non-Profit Conservation Organization

An owner may transfer open space conservation easements to a private, public or nonprofit organization recognized by the Township, among whose purpose it is to conserve open space and/or natural resources, provided that:

1. The organization is acceptable to the Board of Supervisors and is a bona fide conservation organization with perpetual existence;

2. The conveyance contains appropriate provision for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions and responsibilities;
3. A maintenance agreement acceptable to the Board of Supervisors is entered into by the developer and the organization.

E. Lease for Farming In the (A-R) Agriculture Residential District

In the Agriculture Residential (A-R) district, open space conservation areas may be leased for farming seed crops, orchards, and grazing in accordance with the following provisions:

1. A lease agreement shall be provided to the Township;
2. Provisions for maintenance of the property shall be included in the lease agreement;

F. Dedication of Easement

The Township may, but shall not be required to, accept open space conservation easements for public use of any portion or portions of open space conservation areas the title of which is to remain in ownership by condominium of homeowners association, provided that:

1. Such land is accessible to Township residents;
2. There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance;
3. A satisfactory maintenance agreement is reached between the developer, condominium or homeowners association and the Township.

G. Offer of Dedication

The Township may, but shall not be required to, accept open space conservation areas for public dedication and public use in accordance with the following provisions.

1. The dedication of open space conservation areas shall take the form of a fee simple ownership;
2. Such land for dedication shall be accessible to Township residents;

3. There is no cost of acquisition other than any costs incidental to the transfer of ownership (i.e. title insurance).
4. The Township agrees to and has access to maintain the open space conservation areas;
5. Where the Township accepts dedication of open space conservation areas that contain improvements, the Board of Supervisors may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall be determined in accordance with the requirements set forth in the Lykens Township Subdivision and Land Development Ordinance.

Section 1310. OPEN SPACE MAINTENANCE REQUIREMENTS

Open space conservation areas created in developments using the open space development design option shall be maintained in accordance with the following requirements.

A. Maintenance and Operations Summary

The developer shall submit a Maintenance and Operations Summary report containing a narrative describing ownership, use and maintenance responsibilities for all common elements or public improvements, utilities and open space conservation area. The report which is submitted shall indicate the kinds of tasks necessary to manage the open space conservation area, control invasive species and to promote a varied habitat for plant and animal life.

B. Maintenance Security

The developer shall provide a financial security in the amount established by the developer to maintain open space conservation areas.

C. Maintenance Failure

Failure to adequately maintain the open space conservation area in reasonable order and condition constitutes a violation of this Ordinance.

D. Maintenance Failure Violations

When an open space conservation area maintenance violation exists, the Township shall notify the owner of such violation and shall require the open

space conservation area to be maintained within ten (10) days from the date of notification. Failure to comply with the terms of such notification shall constitute a nuisance, and after the expiration of ten (10) days from the date of notice, the Township may cause the open space conservation area to be maintained and may collect the costs thereof, together with a penalty of ten (10%) percent of such costs in the manner provided by the Pennsylvania Second Class Township Code for the collection of municipal liens.

E. Density Bonus To Endow Maintenance Funds

The Township Board of Supervisors may allow a density bonus of five (5%) percent of the (Total Lots Permitted) as determined in Section 1305.A, not to exceed five (5) lots. A density bonus shall be permitted to generate additional income to the applicant for the express and sole purpose of endowing a permanent fund to offset continuing open space conservation area maintenance costs.

If a developer agrees to the density bonus, seventy five (75%) percent of the selling price of each of the density bonus lots shall be deposited to a permanent maintenance fund. Spending from this fund shall be restricted to expenditure of interest only, in order that the principle is preserved for the future.