

7(d) Conservation Subdivision Amendments

The City Council received the Planning Commission's recommendation on the conservation design ordinance at their May meeting. An ordinance amendment requires the approval of four Council members, but only three voted for approval. The Council sent the matter back to the Planning Commission for further review and discussion.

The City Council's expressed concerns on three issues:

1. The fact that the new ordinance would require a Conditional Use Permit for a conventional subdivision. The concern was that the application fee was an added burden we were putting on property owners.
2. The fact that the new ordinance made conservation design the default alternative and made it difficult to do a conventional subdivision. There was questioning as to what was wrong with the current conventional approach, particularly when it was only recently adopted.
3. There was concern that the approach would limit long-time residents from having the ability to divide their estate amongst their descendents, particularly if their descendents desired equal land parcels and not a conservation design.

There was also some questioning as to whether or not this approach was consistent with the Comprehensive Plan.

The matter was discussed by the Planning Commission in May and tabled for further discussion in June. It was the request of the Planning Commission that we clarify two items.

- **That the Conservation Subdivision amendments would not force property owners to have small lots.**

Section 8.1, Subdivision 2(A) of the amended standards indicates that:

- A. Minimum Lot Size and Width. None, subject to compliance with applicable standards for sewage disposal and the provision of water.

While there is no minimum lot size, there is also no maximum lot size. There is nothing that would keep a property owner from using the property for one acre lots, two acres lots, five acres lots or any combination. The ordinance provides flexibility so that the size of the lots can be adjusted based on the topography and the preferences of the developer, subject to the requirement for open space preservation.

As an example, on a 40-acre piece of property zoned Rural Residential, we currently require a minimum buildable lot size of five acres. On an unencumbered piece of property, this would yield five to eight lots (depending on access requirements), each being at least five acres. Under the amended standards, the number of lots would be the same and, if the land was allocated evenly, they would range between 2.75 acres and 3.7 acres. Since there is no minimum lot size, however, the actual size could be varied to best fit the site.

The following are some theoretical examples for how the lots would be sized under the current provisions and with the recommended amendments:

<u>Allocation of Land</u>	<u>Current Ordinance</u>	<u>Example 1</u>	<u>Example 2</u>	<u>Example 3</u>
Lot 1	5 acres	2.75 acres	5 acres	10 acres
Lot 2	5 acres	2.75 acres	5 acres	10 acres
Lot 3	5 acres	2.75 acres	5 acres	1/3 acre
Lot 4	5 acres	2.75 acres	2 acres	1/3 acre
Lot 5	5 acres	2.75 acres	2 acres	1/3 acre
Lot 6	5 acres	2.75 acres	1 acre	1/3 acre
Lot 7	5 acres	2.75 acres	1 acre	1/3 acre
Lot 8	5 acres	2.75 acres	1 acre	1/3 acre
Open Space	None	18 acres	18 acres	18 acres
TOTAL	40 acres	40 acres	40 acres	40 acres

As depicted, the current ordinance drives one standard for all properties and provides no open space. The proposed amendments provide flexibility for lot size based on the topography of the property, the preferences of the developer and the market and also preserves open space.

- **That the conditional use permit fee for a conventional subdivision is overly burdensome to property owners.**

The cost for a Conditional Use Permit is \$450. This is a hearing fee that covers the cost of notifications, materials, research and time for preparing for and conducting the public hearing. The City does not currently cover its costs in this type of a transaction.

The platting process involves spending thousands or tens of thousands of dollars for survey and engineering work. While the \$450 hearing fee may be an annoyance to an applicant, it is not going to be a “make or break” fee associated with a development.

Additionally, it is important to point out that this fee will only apply where the applicant believes their property cannot be developed by conservation design. We believe this will be relatively few, if any, properties within the City of Pequot Lakes. While this is an option for property owners, we do not anticipate this being frequently utilized.

The City can choose to up-front, waive the fee for this type of an application. The City could also amend the fee schedule to refund the fee if the application is successful, thus discouraging frivolous applications. Finally, the City could choose to maintain the fee. This is a matter of policy which Staff does not have a recommendation.