

ORDINANCE NO. _____, SERIES 2016

AN ORDINANCE AMENDING CHAPTERS 1, PART 2 AND 7, PART 11 OF THE LAND DEVELOPMENT CODE PERTAINING TO CONSERVATION SUBDIVISIONS — APPLICABLE SECTIONS ARE MORE SPECIFICALLY SET FORTH BELOW IN EXHIBIT A (CASE NO. 16AMEND1008) (AS AMENDED)

SPONSORED BY: Councilman James Peden

WHEREAS, the Planning Commission held a public hearing on July 7 and July 21, 2016, to consider an amendment to LDC; and

WHEREAS, the Planning Commission, based on the record established before the Planning Commission during its July 7 and July 21, 2016, public hearings, including all testimony, discussions and submitted evidence regarding these proposed changes to Chapter 7, Part 11 of the LDC, recommended approval of the amendments provided in the staff report as stated in the Planning Commission's minutes of July 21, 2016; and

WHEREAS, the Metro Council concurs in and adopts the findings and recommendations of the Planning Commission in Case No. 16AMEND1003 as reflected in the Planning Commission's minutes and records, and as more specifically set forth in Exhibit A attached hereto;

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

Section I: The Metro Council hereby adopts the amendments to the Conservation Subdivision regulations contained in Chapter 7 of the LDC—as well as related definitions in Chapter 1—set forth in the minutes and records of the Planning Commission in Case No. 16AMEND1008, dated July 7 and July 21, 2016, and as more specifically set forth in Exhibit A attached hereto.

Section II: This Ordinance shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

David Yates
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

Exhibit A

Chapter 1 Part 2 Definitions

1.2.2 Definitions

~~**Active Recreation Area (Conservation Subdivisions) – Areas dedicated as prescribed places, sites, or fields where leisure time activities take place, often requiring equipment and characterized by repeated and concentrated use of land. Examples of active recreation area facilities include golf courses, tennis courts, swimming pools, softball, baseball, and soccer fields. For purpose of these regulations, areas for active recreation facilities do not include bike riding, hiking, walking and picnic areas. Active Recreation Areas shall only be located in Secondary Conservation Areas and contribute to only 50% of the required Conservation Area.**~~

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Conservation Area – Land to remain **undisturbed undeveloped** as part of the development of a Conservation Subdivision. ~~**Conservation Areas are made up of Primary and Secondary Conservation Areas. All lands identified as Primary Conservation Areas shall be Conservation Areas. If the Primary Conservation Area makes up less than the required percentage of the tract, the balance of the required Conservation Areas shall be made up of Secondary Conservation Areas.**~~

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Conservation Tree - A tree of a species shown on the State Champions Tree List maintained by the Kentucky Department of Natural Resources, Division of Forestry, which also has a circumference, height, average crown spread or total points at a minimum of 50 percent of the Species Champion.

....

Conventional Subdivision – A subdivision that complies with the applicable provisions of this LDC, but that is not a conservation subdivision.

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~~**Maximum Density (Conservation Subdivisions) - The net density of residential units per acre allowed in a Conservation Subdivision after subtracting the total constrained land from the gross acreage of the development parcel.**~~

....

Passive Recreation Area (Conservation Subdivisions) – Areas dedicated to passive and active recreation activities ~~that require limited physical exertion on behalf of the participant has minimal impact upon the natural environment and wildlife.~~ Examples of active recreation area facilities include golf courses, tennis courts, swimming pools, softball, baseball, and soccer fields. Examples of passive recreation activities include bird watching, walking, hiking, picnicking, horseback riding, or photography.

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~~**Primary Conservation Areas (PCA) – Areas of permanently protected open space within Conservation Subdivisions that comprise only the most severely constrained lands, where**~~

~~development is typically limited such as wetlands, floodplains, identified karst feature (i.e. sinkhole, etc.), steep slopes 30% or over, unstable soils, cemeteries, and habitats of endangered or threatened species.~~

....

~~Secondary Conservation Areas (SCA)— Areas of permanently protected open space within Conservation Subdivisions that are locally noteworthy or significant features of the natural or culture landscape such as mature woodlands, hedgerow and freestanding trees or tree groups, wildlife habitats and travel corridors, prime farmland, greenways and trails, historic sites and buildings, and scenic viewsheds.~~

....

Undeveloped (Conservation Subdivisions) – A characteristic of a site whereby the site does not contain or exhibit any of the following improvements, activities or characteristics, except as customarily associated with cemeteries, farmlands, recreational activities, floodplain compensation, creation of water features, provision of streets or underground utilities, provision of detention basins, or historic, cultural or archeological sites: buildings; mining, dredging, filling, excavating, drilling or grading activities; paving; or storage of materials and equipment.

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Chapter 7 Part 11 Conservation Subdivisions

7.11.1 Relationship to the Comprehensive Plan

~~The purpose of these regulations is to achieve a balance between well-designed residential development, meaningful open space conservation, and natural resource protection in Louisville Metro by permitting Conservation Subdivisions as an alternative to conventional subdivisions as a form of residential development that fulfills multiple goals and objectives outlined in Cornerstone 2020.~~

In conformance with the state enabling legislation, this Part’s relationship to the Comprehensive Plan is as follows:

Goals	Objectives	Plan Elements
<i>Community Form:</i> A3, C2, C3,	<i>Community Form:</i> A3.1, A3.5, C2.3, C2.4, C2.5,	<i>Guidelines:</i> 1, 3, 4, 5, 7, 8,
<i>Mobility:</i> C1, D1, H2	C2.6, C2.7, C3.6, C4.1 <i>Mobility:</i>	9, 10, 11, 12, 13
<i>Livability:</i> B1, B2, B4, E2, E3,E4, F1,	C1.4, C1.5, D1.1, H2.4 <i>Livability:</i>	
F2, F3, F4, G2, G3, G4, H2, H3, H4, I1, I2, J4	B1.4, B1.8, B2.5, B4.2, E2.1, E2.2, E2.4, E3.1, E4.1, E4.2, F1.2, F2.2, F3.1, F3.2, F4.1, G2.1, G3.2, G4.1, G4.2, H2.1, H2.2, H3.1, H3.2, H3.4, H4.1, H4.2, I1.1, I1.1, I2.1	

7.11.2 Definitions

Certain terms are defined for the purposes of this regulation. All other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise or is regulated in Chapter 1, Part 2 definitions.

Definitions for the following list of terms used in this Part can be found in Chapter 1 Part 2	
Active Recreation Area	Average Lot Size
Conservation Area	Existing Resources and Site Analysis Plan

Lane Conservation Subdivision Maximum Density Passive Recreation Area Secondary Conservation Areas (SCA) Terminal Vista	Minimum Required Conservation Area Neighborhood Green Preliminary Conservation Area Ownership and Management Plan Primary Conservation Areas (PCA) Vegetative Cover Conservation tree
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7.11.3 Purpose

The purpose of this Part is to:

- A. Achieve a balance between well-designed residential development, meaningful open space conservation, and natural resource protection in Louisville Metro by permitting conservation subdivisions, a form of residential development that allows for reduced lot sizes in exchange for the preservation of natural, historic and cultural features on-site, as a form of residential development that is an alternative to conventional subdivisions and that fulfills multiple goals and objectives outlined in Cornerstone 2020;
- C. Provide for the preservation of open space;
- D. Permit flexibility of design in order to promote environmentally sensitive and efficient use of land;
- E. Permit grouping of houses and structures on less environmentally sensitive areas that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development;
- F. Promote interconnected greenways and wildlife and other natural corridors through the community; and
- G. Preserve in perpetuity:
 - 1. Unique or sensitive natural resources such as groundwater, floodplains and floodways, wetlands, streams, steep slopes, woodlands and wildlife corridors and habitat.
 - 2. Scenic views; and
 - 3. Historic and archaeological sites.

~~7.11.34~~ Applicability

- A. Permitted Districts. ~~Zoning Code Requirements:~~ Conservation Subdivisions are permitted in the RE, RR, R-1, R-2, R-3, R-4, and R-5 zoning districts.
- B. A. Minimum Area. The minimum area of the subdivision shall be no less than five acres and shall contain a minimum of five units.
- C. B. Exceptions to the Minimum Area. The Planning Director or designee may consider a smaller area than required in subsection ~~A~~ B. above if the applicant can demonstrate one of the following:
 - 1. The proposed Conservation Areas provide a connection between unconnected, existing areas of Conservation Area or other protected areas and shall not result in providing only narrow or isolated fragments of Conservation Area.
 - 2. The Conservation Subdivision will ensure the protection of a unique natural, cultural or historical area.
- D. Tree Removal Prior to Application. A site shall be ineligible for development as a conservation subdivision if any tree removal has taken place on the site at any time within ~~twelve~~ **twenty-four** months prior to pre-application submittal without consultation and approval of the Urban Forester. In addition, no such tree removal shall take place in the time between pre-application submittal and final approval of the conservation subdivision.

This requirement shall not prohibit tree removal for safety reasons, routine maintenance, or required geotechnical work.

E. Single-Family Semi-Detached and Attached Permitted. Single-family semi-detached and attached dwelling units are permitted in the R-2, R-3, R-4, and R-5 zoning districts as part of a conservation subdivision. Such housing types are not permitted in the RE, RR, and R-1 zoning districts.

7.11.45 Procedures

All preliminary and final subdivisions subject to this Part shall be subject to the following procedures:

- A. Pre-application.** Prior to formal application, an applicant shall file a pre-application and accompanying materials required by Planning and Design Services. The filing shall include an Existing Resources and Site Analysis Plan. The plan shall be drawn on paper or other media approved by division staff at a legible scale, depending on the size of the subdivision, and shall follow the ~~guidelines as outlined~~ **requirements** in Section 7.5. The Existing Resources and Site Analysis Plan shall be prepared in accordance with the requirements contained below:
- 1. Existing Resources and Site Analysis Plan.** The Existing Resources and Site Analysis Plan shall show the following:
 - a. Topography, the contour lines of which shall be at two-foot intervals. The determination of appropriate alternative contour intervals shall be made by the Planning Director or designee, which may result in a requirement of greater or lesser intervals on exceptionally steep or flat sites. Slopes between 15-20 percent, 20-30 percent, and greater than 30 percent shall be clearly labeled.
 - b. Ponds, streams, ditches, drains, and natural drainage swales, as well as the 100-year floodplains and wetlands, as defined in Section 4.8 of the LDC.
 - c. Vegetative Cover conditions on the property according to general cover type including, but not limited to, cultivated land, permanent grass land, meadow, pasture, old field, hedgerow, woodland, individual and isolated, mature trees which have a caliper (measured at chest height) of at least 12-15 inches for Type A species, 8-12 inches for Type B species, and 6-8 inches for Type C species, and the actual canopy line of existing trees and woodlands. Vegetative Cover types shall be described by plant community, relative age, and condition.
 - d. Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the published soil survey for Jefferson County, and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability).
 - e. Ridge lines and watershed boundaries.
 - f. A view shed analysis showing the location and extent of views into the property from public roads, public parks, public forests, and other public lands.
 - g. Geologic formations, including, but not limited to, rock outcroppings, cliffs, sinkholes, and fault lines, based on available published information or more detailed data obtained by the applicant.
 - h. All existing man-made features including, but not limited to, streets, driveways, farm lanes, woodland roads, buildings, foundations, walls, wells, drainage fields, dumps, utilities, fire hydrants, and storm and sanitary sewers.
 - i. Locations of all historically significant sites or structures on the tract, including but not limited to cellar holes, stone walls, earthen works, and graves.
 - j. Locations of trails that have been in public use (pedestrian, equestrian, bicycle, all-terrain

vehicle and other similar trails), or private trails that will be integrated into the final plan.

- k. All easements of property which are or have been filed of record with the Jefferson County Clerk's Office.
- l. At least 100 feet into adjacent properties shall be depicted on the plan with the use of the property identified as well as any significant natural features shown as listed within items a-k above.

2. Tree Removal Affidavit. The applicant shall submit an affidavit affirming compliance with Section 7.11.34.D.

3. 2.Site Visit. Prior to the formal application of the Preliminary Plan, and in advance of the neighborhood meeting required in Section 7.11.4.A.345 below, PDS staff, the applicant, along with interested public agencies and utility companies shall visit the site to gain a thorough understanding of the characteristics of the site. **In addition, the Metro Council member, or his or her designee, shall be invited to the site visit.** It shall be understood by all parties that no formal recommendations can be offered, and no official decisions can be made, at the site inspection.

4. 3.Neighborhood Meeting. The applicant shall provide notice to all first tier property owners, neighborhood groups that have registered with Planning and Design Services, the Metro Council office representing the district in which the parcel lies, and to PDS staff stating that a subdivision is being proposed and announcing a neighborhood meeting held by the developer/owner to discuss the proposed project. The meeting shall be held no more than 90 days prior to filing the application. At the time of filing a Conservation Subdivision Preliminary Plan, the applicant shall provide a summary of the public meeting between the applicant and the adjacent property owners. The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.

B. Preliminary Plan Application. The applicant shall file an application for preliminary plan approval on a form supplied by Planning and Design Services and shall submit therewith a preliminary plan prepared in conformance with the requirements of Part 5 hereof. No application shall be complete unless it is accompanied by the appropriate review fee. Applications shall be accompanied by the following supporting documentation and any additional documentation as deemed necessary by the Planning Director or designee. Additional materials shall be required based on site conditions or potential impact of the development, or as needed to determine compliance with these regulations. In addition, technical studies required by other applicable sections of this Land Development Code, including traffic, air quality, wetland analysis, geo-technical studies, and hydro-geologic analyses may be required. Failure to submit all required material may result in delay of the application review. Staff of the Division may require submission of information, material and documents beyond that required in this section as necessary to determine compliance with these regulations. In addition to the requirements outlined in Section 7.2.20, the preliminary plan shall include the following:

1. All information required on the Existing Resources and Site Analysis Plan, as set forth in Section 7.11.45.A.1.
2. Existing and approximate proposed lot lines, lot areas, existing easements and rights-of-way, and approximate boundaries of Conservation Area lands.
3. Approximate location, alignment, width and temporary names, location, alignment, and width of all proposed streets and street rights-of-way, including all street extensions or spurs that are reasonably necessary to provide adequate street connections and facilities to adjoining development or undeveloped areas; preliminarily-engineered profiles for proposed streets.
4. Location of all percolation tests, including all failed and approved test sites or pits and including an approved alternate site for each lot requiring an alternative sewage disposal system. All approved alternative sewage disposal systems shall be clearly distinguished from unapproved sites.

5. Limits-of-disturbance lines shown in relation to natural and cultural features to be saved.
6. Approximate location and dimensions of proposed playgrounds, public buildings, public areas and parcels of land to be dedicated or reserved for public use.
7. If the land to be subdivided lies partly in or abuts another jurisdiction, the applicant shall submit information concerning the location and conceptual design of streets, layout and size of lots and provisions of public improvements on such land in the proposed site as lies within the adjacent municipality. The design of public improvements shall provide for a smooth, practical transition where specifications vary between municipalities. Evidence of submittal of this information to appropriate officials of the adjoining municipalities also shall be submitted.
8. Utilities and Easements.
 - a. Approximate locations of existing utility easements and approximate locations of proposed utility easements.
 - b. Approximate layout of all proposed sanitary and storm sewers and location of all inlets and culverts, and any proposed connections with existing facilities. (These data may be on a separate plan.)
 - c. The tentative location of proposed on-site sewage and water facilities.
 - d. The tentative location of all Green Management Practices.**
9. Letter of Explanation. The applicant must submit a detailed letter explaining the various key elements of the proposed conservation subdivision. The letter may include, but is not limited to, the following items:
 - a. Describe how the existing natural features of the site are being preserved and incorporated into the layout.
 - b. Explain how clustering of dwelling units will:
 - i. Minimize disturbance to woodlands, wetlands, grasslands, mature trees and steep slopes;
 - ii. Prevent downstream impacts due to runoff through storm water techniques including minimizing impermeable areas, using bio swales, rain gardens, permeable pavements, small-scale, infiltration and green roofs;
 - iii. Protect views of open land from existing adjacent roadways through practices such as orienting structures to align with topographic character of land, tucking structures behind tree lines or knolls, using vegetation as a backdrop to reduce prominence of the structures, varying setbacks, setting aside required conservation land as a visual amenity into and within the development site, or any combination of these practices;
 - iv. Protect archaeological site and existing historic buildings or incorporate them through adaptive reuse;
 - v. Avoid encroaching on sensitive areas such as rare plant communities, high quality habitats, or endangered species habitats identified by the Kentucky Department for Natural Resources.
 - c. Explain how the design and location of buildable lots will ensure compatibility with existing adjacent development.
 - d. Justification must be provided for any cases where proposed open space areas within the development will not abut existing open space areas on adjoining parcels.
10. **The Planning Director may also require** The applicant **shall to** submit a **traditional conventional** subdivision layout (**adhering to** non-conservation subdivision regulations) for the site for staff to compare to the conservation subdivision layout submitted. **The conventional layout shall not reflect any variances or waivers that may otherwise have**

been requested as part of the submittal.

C. **Staff Review.** PDS Staff's review of the plan shall proceed in accordance with the procedures set forth in Section 7.2.20.B. In addition, specific **guidelines standards** of this Part shall apply.

D. **Final Action. Final action on the conservation subdivision shall be in accordance with the Louisville Metro Planning Commission Policies.**

7.11.56 Development Design Standards

In addition to the Technical Standards for Conservation Subdivisions as set forth in Section 7.11.910, the following criteria shall be followed **by applicants and considered by review bodies** to ensure that the project is appropriate for the site's natural, historic and cultural features and meets the objectives of this **regulation Part:**

- A. Lots and buildings must be clustered to minimize negative impacts on the natural, scenic, and cultural resources of the site and conflicts between incompatible uses.
- B. Open space shall abut with existing or potential open space lands on adjoining parcels and local or regional recreational trails. Written justification is required for open space that does not abut adjacent open space.

7.11.67 Conservation Areas

Conservation Areas are land to remain **undisturbed undeveloped** as part of the development of a Conservation Subdivision. Conservation Areas shall consist of at least thirty percent (30%) of the total proposed subdivision acreage for property located in the R-5 and R-4 zoning districts and at least sixty percent (60%) of the total proposed subdivision acreage for property located in the R-R through R-3 zoning districts. ~~Conservation Areas are made up of Primary and Secondary Conservation Areas. If the Primary Conservation Area makes up less than the required percentage of the tract, the balance of the required Conservation Areas shall be made up of Secondary Conservation Areas.~~

A. ~~Primary Conservation Areas (PCA).~~ **Half Credit Conservation Areas**

~~PCA's form the core of the Conservation Area to be protected. Active recreation areas are prohibited in PCA's unless approved by the Director. PCA's, as defined by this regulation, include the following:~~

1. The following features are established as Conservation Areas but are already protected by other provisions in this LDC or other local, state or federal regulations. As such, they shall receive 50 percent credit when calculating the minimum required Conservation Area for a conservation subdivision.

~~a. 1.~~ **4.** Cemeteries;

~~2. Habitats for endangered or threatened species as defined by the Kentucky Department for Natural Resources;~~

~~b. 3.~~ **3.** Alluvial soils identified by the Federal Emergency Management Agency (FEMA) and 100-Year floodplain;

~~c. 4.~~ **4.** Unstable soils as determined by the Natural Resources Conservation Services and depicted in Core Graphic 5;

~~d. 5.~~ **5.** Protected Waterways and their Buffer Areas (100 feet) including:

~~i. a.~~ **i. a.** Any perennial stream or river (or portion thereof) that is portrayed as solid on the United States Geological Survey 7.5 minute quadrangle maps, of the most recent edition;

~~ii. b.~~ **ii. b.** Wetlands subject to the jurisdiction of the U.S. Environmental Protection Agency or the Army Corps of Engineers and additional standards established in Section 4.8.5;

~~iii. e.~~—Lakes of greater than three acres in size, and with a permanent pool elevation that constitute “waters of the Commonwealth” as defined in KRS Chapter 224.

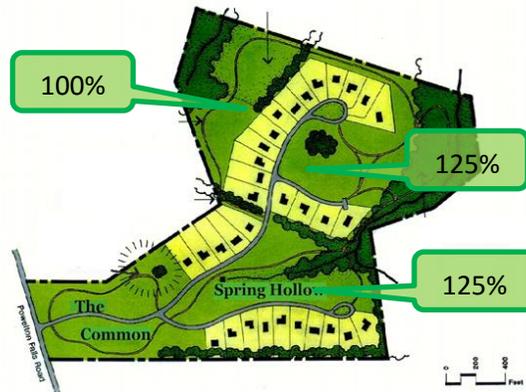
~~iv. d.~~—Other bodies of water designated as Protected Water Bodies through official nomination and appropriate legislative approval.

~~e. 6.~~ Karst features subject to development restrictions as defined in Chapter 4.9; ~~and~~

~~f. 7.~~ Existing slopes greater than 30% on average with a site area greater than 5,000 square feet identified as part of a site analysis conducted by a registered engineer, land surveyor or landscape architect and calculated using topographic maps from Louisville-Jefferson Geographic Information Consortium (LOJIC) or from a topographic survey prepared by a licensed land surveyor.

B. Full Credit Conservation Areas

1. ~~Secondary Conservation Areas (SCA). SCAs consist of undeveloped, unconstrained, buildable land, and protected, constrained but buildable lands. Because active recreation areas are cleared and graded and therefore reduce natural resources and wildlife habitats, only 50% of active recreation areas and facilities may be counted as Conservation Area. SCAs, as defined by this ordinance, include the following: The following features are established as Conservation Areas and shall receive 100 percent credit when calculating the minimum required Conservation Area for a conservation subdivision.~~
 - a. Farmlands (fields, pastures, meadows, prime agriculture soils);
 - b. Habitats for endangered or threatened species as defined by the Kentucky Department for Natural Resources;**
 - c. Woodlands, excluding riparian buffers;
 - d. Historic and/or archaeological sites as identified by the Kentucky Heritage Council or Louisville Landmarks Commission, excluding cemeteries;
 - e. **Passive** Recreation areas, public and private, **passive and active,** to include pedestrian, bicycle and equestrian trails, picnic areas, community commons or greens, **orchards, vineyards or community gardens, parks as identified by the Metro Parks and Recreation Master Plan, playing fields, and playgrounds** and similar areas; ~~and~~
 - ~~e.~~ ~~Active recreation areas and facilities, public and private, including parks as identified by the Metro Parks and Recreation Master Plan, playing fields, and playgrounds.~~
 - f. Any intermittent stream or river (or portion thereof), with a minimum 50-foot Buffer Area, that is portrayed as a broken line on the United States Geological Survey 7.5 minute quadrangle maps, of the most recent edition.**
2. **The features listed above shall receive a 125 percent credit when calculating the minimum required Conservation Area for a conservation subdivision if they are situated so that they do not abut a rear property line of a residential lot.**



C. Conservation Area Design Review Standards. The configuration of Conservation Area land shall comply with the following standards:

1. Where the proposed development adjoins public park land or conservation easement, a conservation area of at least thirty (30) feet shall be provided within the development along its common boundary with the park land or conservation easement, within which no new structures shall be constructed and no clearing of trees or understory growth shall be permitted (except as necessary for street or trail construction). Where this buffer is unwooded, the Planning Director or designee may require that vegetative screening be planted or that the buffer be managed to encourage natural forest succession through “no-mow” policies and the periodic removal of invasive species. **EXCEPTION:** Housing facing park land or park boundary road is not required to have above listed conservation area.
2. Conservation Area land shall be interconnected to existing and potential Conservation Areas on adjacent properties as well as to other internal Conservation Areas on the development site to provide a continuous network of such lands within and adjoining the development site.
3. Except for civic and recreational spaces, such as squares and playing fields, Conservation Areas shall be free of all structures, excluding, however, historic buildings, stone walls, and structures related to Conservation Area land uses. Structures and improvements made for storm drainage, sewage treatment, and water supply may be located in the Conservation Area land. Acreage set aside for ~~such uses~~ sewage treatment and water supply shall not be credited towards the minimum required Conservation Area. Thirty percent of the acreage set aside for storm drainage that does not qualify as a Green Management Practice shall be eligible for credit as Conservation Area. One hundred percent of the acreage set aside for (a) storm drainage that does qualify as a Green Management Practice or (b) underground utilities shall be eligible for credit as Conservation Area if unless the land remains appropriate for ~~passive~~ recreational use.
- ~~4. Except in those cases where a portion of the Conservation Area is located on private house lots, this Conservation Area land shall provide for pedestrian pathways for use by the residents of the subdivision. Consideration shall be given to providing for public access on such trails if they are linked to other publicly accessible pathway systems within Louisville Metro or an adjoining jurisdiction. Provisions shall be made for access to the Conservation Area land, as required for land management and emergency purposes.~~
- ~~4.~~ 5. Conservation Area land shall be suitably landscaped either by retaining existing natural cover and wooded areas or according to a landscaping plan to protect and enhance greenway resources. In any case, preservation and retention of natural cover is preferable and may be supplemented by additional landscaping where necessary.
- ~~5.~~ 6. The Conservation Area shall be contiguous. Contiguous shall be defined as being connected based on the following:
 - a. The minimum width of any Conservation Area that is not a property perimeter buffer is ~~30~~ 60 feet, the maximum length is 1,200 feet, and minimum contiguous area is shall

~~contain at least 6,000~~ 9,000 square feet ~~of contiguous area~~ unless the Conservation Area is at the terminus of a cul-de-sac, where the minimum width of ~~15~~ 30 feet shall be permitted.

- b. Property perimeter buffers may only be considered as **Full Credit** Conservation Areas if they include existing trees and vegetation that are designated as **Tree Canopy Protection Areas (TCPA)** **Woodland Protection Areas (WPA)** and are a minimum of 100 feet in width in their entirety.
- c. All Conservation Area networks shall provide connectivity to any common areas within the development and to any adjacent public places or rights-of-way. ~~These connections could be provided through a pathway that may be paved, mulched, natural or grassy or other similar way to connect the areas.~~
- d. Where path networks cross internal subdivision streets or public streets, access points shall be directly across from each other or as approved by Public Works.
- e. Crossings and access points shall be clearly identified to pedestrians and motorists and may include traffic control devices, bridges and tunnels as approved by Public Works.
- f. Provisions shall be made for access to the Conservation Area, as required for land management and emergency purposes.

~~6. 7.~~ Conservation Areas will still be considered connected if separated by a roadway. The Planning Commission or their designated committee ~~Planning & Design Services staff~~ may waive the requirement of connectivity for all or part of the required Conservation Area where it is determined that allowing non-contiguous Conservation Area will promote the ~~goals of this section~~ Purpose of this Part or protect identified ~~PCAs and SCAs~~ Conservation Areas.

~~7. 8.~~ Common and non-common areas in Conservation Area land shall be preserved for its designated uses and shall be made subject to such agreement with Louisville Metro Government and such conservation easements, duly recorded with the office of Jefferson County Clerk as may be required by Louisville Metro Government.

~~8. a.~~ The percentage of the Conservation Area that is wetlands shall not typically exceed the percentage of the tract which is wetlands; provided, however, the applicant may include a greater percentage of wetlands in such Conservation Area upon a demonstration that such inclusion promotes the purposes of this regulation.

9. Paths or walkways may be permitted within Wetland and Protected Waterway Buffer Areas if constructed of pervious materials and demonstrate compliance with standards established in Chapter 4.8 of the LDC.

7.11.78 Legal Restrictions

- A. **Permanent Conservation.** ~~Dedicated~~ Preserved Conservation Areas for which credit (partial or full) is received for purposes of calculating the allowed lot yield bonus shall be permanently prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Planning Commission's Legal Counsel and duly recorded in the office of Jefferson County Clerk.
- B. **Conservation Area Management Plan.** Using the Preliminary Plan as a base map, the boundaries, acreage and proposed ownership of all Conservation Area land shall be shown. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property. A detailed ownership and management plan for the Conservation Areas shall be filed with the plat for any proposed Conservation Subdivision. The plan shall:
 - 1. Identify the owner, entity responsible for maintenance, and long-term funding strategies such as homeowners' fees or assessments.

2. Specify guidelines for how the maintenance of the Conservation Areas and any facilities eligible for location in the Conservation Areas will occur.
3. Identify a board and procedures for oversight of an enforcement of the Management Plan.

C. **Ownership and Management.** Any management organization shall be in good standing with the State of Kentucky bona fide and in perpetual existence and the conveyance instrument shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its function (Management Entity). Options for ownership and management of preserved area include:

1. Fee Simple dedication to Louisville Metro Government or other public entity subject to acceptance by and at the sole discretion of Louisville Metro Government or other public entity.
2. Creation of or dedication to a Homeowners Association capable of carrying out the ownership and management plan. The Planning Commission Legal Counsel shall determine that, based on documents submitted with the development plan, the Association's bylaws or code of regulations specify the following requirements:
 - a. Membership in the Association shall be mandatory for all purchasers of lots in the development or units in the condominium.
 - b. The Association shall be responsible for maintenance, control, and insurance of common areas, including the dedicated conservation areas.
3. Establishment of an endowment where the principal generates sufficient annual interest to cover the yearly costs of ownership and maintenance of the preserved area.
4. Dedication to a private or not-for-profit entity such as a land trust or similar conservation-oriented organization with the legal authority and financial capacity to accept such dedications.
5. Dedication of a conservation easement on the Conservation Areas to any of the above entities with a right of enforcement in favor of Louisville Metro Government stated in the easement.

D. **Right of Enforcement.** In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.

E. **Review.** The legal restrictions and ownership and Management Plan shall be subject to review and approval by the Planning Director or the Planning Commission Legal Counsel.

7.11.~~89~~ Dedication of Conservation Areas for Public Use.
Applicants shall comply with relevant standards in Chapter 10.5.4 of the LDC pertaining to dedicating a portion of the development site for public recreational use.

7.11.~~910~~ Technical Standards for Conservation Subdivisions

A. **Lot Yield Density Calculation. The total number of lots permitted for a conservation subdivision shall be the number of lots shown on the conventional layout required to be submitted in Sec. 7.11.45.B. The Lot Yield Bonus provisions in subsection B below may be utilized to increase the total number of lots permitted for the conservation subdivision.**

~~The maximum total number of lots permitted for Conservation Subdivisions shall be based on the amount of dwelling units per acre permitted in the underlying zoning district, classes RR through R-5, minus the Primary Conservation Areas (PCA) and land typically allocated for infrastructure. For purpose of this calculation, a 10% bonus of maximum lots permitted~~

(MLP) may be added to those sites pursuing conservation areas 50% or greater of the development site in R4 and R5 zoned districts. The resulting density shall serve as a guide and shall not exceed the underlying zoning district, unless the applicant chooses to pursue a zoning change. The base density allowed on the site shall be calculated by:

$$MLP = \frac{TA - PCA - IA}{\text{Zoning District Min. Lot Area}}$$

MLP = Maximum Lots Permitted
 TA = Total Land Area
 PCA = Primary Conservation Area
 IA = Infrastructure Area (10% of TA)

EXAMPLE: Total Land Area (TA): 50 acres Primary Conservation Areas (PCA): 12 acres
 Maximum Lot Calculation

R4	R5
$MLP = (50 - 12.5 \text{ (acres)}) / 9000 \text{ sf}$	$MLP = (50 - 12.5 \text{ (acres)}) / 6000 \text{ sf}$
$MLP = 33 \text{ acres} / 9,000 \text{ sf.}$	$MLP = 33 \text{ acres} / 6,000 \text{ sf.}$
$MLP = 1,437,480 \text{ sf.} / 9,000 \text{ sf.}$	$MLP = 1,437,480 \text{ sf.} / 6,000 \text{ sf}$
MLP=160 lots	MLP = 239 lots
<i>With bonus 10%:</i>	<i>With bonus 10%:</i>
MLP = 176 lots or 3.52 du/acre	MLP = 263 or 5.26 du/acre

B. Lot Yield Bonus Features. The following lot yield bonus features are permitted for a conservation subdivision and shall apply to the number of lots permitted for the subdivision based on the submitted conventional subdivision layout. Under no circumstances shall the accumulated lot yield bonuses result in a lot count that exceeds the lesser of 135 percent of the number of lots shown on the conventional layout or the maximum number of lots permitted by the zoning density. **Additional lot yield bonuses under Subsections 2 through 4 of this section are only available if a lot yield bonus is permitted under Subsection 1 of this section.**

1. Conservation Area

An applicant may receive the following lot yield bonuses based on the amount of conservation area preserved in the conservation subdivision.

<u>Amount of Preserved Conservation Area</u>	<u>Lot Yield Bonus</u>
30 - 34.99%	10% ^{5%}
35 - 39.99%	15%
40 - 44.99%	20%
45 - 49.99%	25%
50% or more	30%

2. Tree Canopy or Woodland Protection Area

An applicant may receive the following lot yield bonuses based on the amount of percentage of tree canopy or woodland protection area in the conservation subdivision. Tree canopy or woodland protection areas must be established in accordance with the standards in Chapter 10 in order to result in a lot yield bonus.

<u>Amount of Tree Canopy or Woodland Protection Area</u>	<u>Lot Yield Bonus</u>
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<u>Amount of Tree Canopy or Woodland Protection Area</u>	<u>Lot Yield Bonus</u>
<u>Minimum required in Chapter 10 - 24.99%</u>	<u>0%</u>
<u>25 - 34.99%</u>	<u>10%</u>
<u>35 - 44.99%</u>	<u>15%</u>
<u>45 - 49.99%</u>	<u>25%</u>
<u>50% or more</u>	<u>35%</u>

3. Green Infrastructure Design Techniques

An applicant may receive the following lot yield bonuses for including in the conservation subdivision the Green Management Practices (GMP) set forth below:

<u>GMP Type</u>	<u>Performance Required</u>	<u>Lot Yield Bonus</u>
<u>Rain Gardens, Bioswales or Vegetated Buffers</u>	<u>Treat a minimum of 1 inch of runoff</u>	<u>2%</u>
<u>Green Wet and Dry Basins</u>	<u>Post development two-year flow is equal to or less than half of the pre-development two-year flow</u>	<u>4%</u>
<u>Combination of the Two Types Above</u>	<u>Treat a minimum of 1 inch of runoff and post development two-year flow is equal to or less than half of the pre-development two-year flow</u>	<u>8%</u>

4. Conservation Tree Preservation

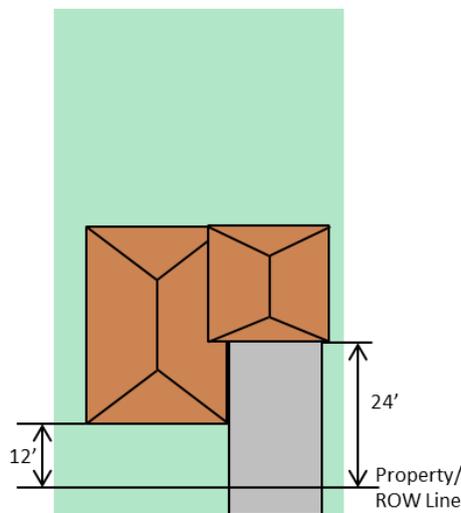
An applicant may receive the following lot yield bonuses based on preservation of conservation trees in the conservation subdivision. The lot yield bonus per tree is based on the State Champions Tree List and associated measurement methodology of the Kentucky Department of Natural Resources, Division of Forestry. A conservation tree shall not be located within a Tree Canopy or Woodland Protection Area.

<u>Percent of Kentucky Species Champion Circumference, Height, Spread, or Total Points</u>	<u>Lot Yield Bonus per Tree</u>
<u>0-49</u>	<u>None</u>
<u>50-74</u>	<u>5%</u>
<u>75-100</u>	<u>10%</u>

C. B. Dimensional Standards. Conservation Subdivision design encourages creative, flexible design; therefore no minimum or maximum lot size shall be imposed. Instead, an average lot size for the entire net development area is permissible. Each lot shall be designed according to the following table. Table 1:

Table 1 Conservation Subdivision Dimensional and Diversity Standards

Zoning District	Min. Conservation Area (%) Requirement	Max. Attached/Semi-Detached Units (%)	Max. Contiguous Attached/Semi-Detached Units	Min. Average Lot Size for Single-Family Detached (SF)	Min. Lot Size for Single-Family Attached/Semi-Detached (SF)	Min. Side Yard (Ft)	Min. Front & Street-Side Yard (Ft)	Max. Front Yard (Ft)	Min. Lot Width (Ft)	Min. Rear Yard (Ft)	Max. Building Height (Ft)	FAR
R-5	Min. 30%	30%	Attached = 8 Semi-Detached = 2	≥4,500 1,500	1,200	3 5 if adjacent to alley 0 if attached or semi-detached	Building (except garage): 12 Garage: 12 side or rear entry; 24 front entry 15 See illustration below	25	25	20-15 3-5 if adjacent to alley (R-4 is currently 25')	35 (NFD) 45 (TNFD)	4,999 or less SF = 1.5-3
	40	40		≥3,000 1,500								
	Min. 50%	50%		≥5,500 2,500								
R-4	Min. 30%	20%	Attached = 8 Semi-Detached = 2	≥5,500 2,500	2,000	5 0 if attached or semi-detached	20	NA	35 20 if attached or semi-detached 50 30 if attached or semi-detached	25 5 if adjacent to alley	35	5,000 - 5,999 SF = 2 >6,000 SF or more = .5-1
	40	30		≥6,000								
	Min. 50%	40%		≥10,000								
R-3	Min. 60%	20%	Attached = 4 Semi-Detached = 2	≥20,000	NA	10	30	60	60	35	35	>40,000 SF = .3
R-2				≥40,000	NA	15	40	75	75	<40,000 SF = .5		
R-1 RE				NA	NA	NA	NA	NA	NA	NA	NA	NA
RR	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA



D. C. Building and Lot Design Standards

1. Conservation subdivisions **where required off-street parking cannot be accommodated on the residential lot** may include off-street guest parking areas within **Secondary** Conservation Areas **only, particularly in blocks that contain lot widths less than 30 feet.** Existing woodland areas may not be removed for the purposes of constructing off-street guest parking areas. The parking area shall be constructed using approved pervious paving methods and shall not occupy more than 15% of the total Conservation Area lot. The addition of parking spaces shall not be deemed a reduction in the size of the Conservation Area with regard to the minimum Conservation Area requirement.
2. Rear facades shall **not only** be **permitted to be** oriented to existing or proposed streets **if the developer submits a concept landscape or architectural plan for lots with rear facades oriented to existing or proposed streets.** Rear facades may face interstate highways, alleys or rear lanes.
3. Lot Frontage on a Conservation Area. Conservation subdivisions may be designed with lots fronting onto Conservation Areas with all vehicular access from alleys or lanes approved by Public Works and all other approving agencies. All alleys and rear lanes in Conservation Subdivisions are additionally subject to the requirements of Section 7.11.910.~~DE~~.2.

E. D. Streetscape Standards

For additional information regarding conservation subdivision streets refer to Appendix 7A.

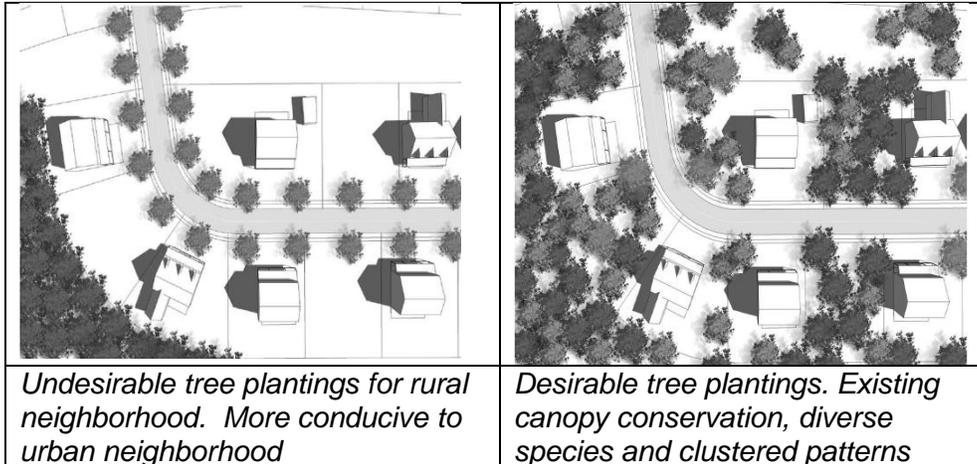
1. Streets. The street network shall form a generally connected pattern, with a minimum of cul-de-sacs, and shall be varied with boulevards, diagonal streets, curving crescents, eyebrows, ovals and courts to provide visual interest. Local street design shall adhere to the following standards:
 - a. Street patterns shall be designed to respect and follow the existing natural topography and to limit the amount of grading and tree removal. Street grades shall conform to standards established in Section 6.2.3 of the LDC.
 - b. All streets, with the exception of loop streets, cul-de-sacs, and loop lanes, shall terminate at other streets within the subdivision, and at least two streets shall provide connections to existing or proposed through-streets or collectors outside the subdivision.
 - c. To the greatest extent practicable, streets shall be designed to have maximum lengths of 600 feet between intersections and maximum lengths of 1,200 feet before terminating at three-way "T" intersections or angling off in a diagonal direction. **Blocks greater than 600 feet long shall provide a Conservation Area.**
 - d. Loop lanes or cul-de-sacs shall be designed to not exceed 1000 feet in length. Loop lanes shall be designed as a single one-way lane, not less than 18 feet in pavement width, with a central median running the entire length. The median shall be at least 30 feet wide, and shall be planted with shade trees along both sides at intervals not less than 1 Large (Type A) tree per 50 lineal feet of right-of-way, or 1 medium (Type B) tree per 40 lineal feet, or 1 Small (Type C) tree per 30 lineal feet. Small trees are permitted only where utility lines or other site constraints will not allow planting of Large or Medium trees.
2. **Street trees.**

Street trees shall:

 - a. Be planted along each side of all streets in or adjacent to the development site, public or private, existing or proposed, including arterials (only the side adjacent to the development site), but excluding alleys and rear access lanes. Existing healthy and mature street trees may be counted toward the street tree planting requirement;
 - b. ~~New street trees shall~~ Be in accordance with recommended street tree types as listed in Appendix 10A of the LDC and, **except as provided in paragraph d. below,** be installed

in groupings that appear natural rather than equally spaced rows;

- c. **Except as provided in paragraph d. below**, be installed at intervals no greater than 40 ft, planted in a clustered pattern with spacing approved by PDS staff; **and**
- d. **If planted at regular intervals, rather than a clustered pattern as set forth in paragraphs b. and c. above, include Type A, Type B, and Type C trees planted at regular intervals of not less than 50, 40, and 30 lineal feet, respectively.**



3. Sidewalks

For additional information regarding conservation subdivision sidewalks refer to Appendix 7A. Public sidewalks (including informal walkways and footpaths) shall:

- a. Create a linked network of walkways connecting all uses with parks and other greenway land areas.
- b. Link loop streets and the ends of cul-de-sacs with the street network, trails, or greenway land behind the lots served by those loop streets or cul-de-sacs.
- c. Be separated from street curbs by a verge not less than five feet in width, planted with shade trees in accordance with Section 7.11.910.DE.2.
- d. Be provided along the front lot lines of all residential lots to ensure pedestrian access to each lot. Sidewalks shall be provided along the front lot lines of residential lots fronting directly onto common greens or parks.
- e. Be permitted along one side of the street rights-of-way only when a proposed walkway system provides pedestrian access equal to or better than the provision of sidewalks along both sides of the street. Walkways located in **Primary-Conservation Areas (PCAs)** shall be constructed of pervious material such as pervious concrete, gravel, wood chips or other similar materials.