

Article VII PLANNED RESIDENTIAL CONSERVATION DISTRICT (PRCD)

Section 7.01 PURPOSE

The Planned Residential Conservation District (PRCD) is created pursuant to Section 519.021 (C) of the Ohio Revised Code to promote the general public welfare, encourage the efficient use of land and resources, promote greater efficiency in public utility services, and encourage innovation in the planning and building of all types of development. The PRCD achieves this purpose by allowing the development of conservation subdivisions that:

- a.) permanently preserve and integrate open space within residential developments;
- b.) offer landowners alternatives to standard tract development of their land;
- c.) establish a less sprawling, more efficient use of land, streets and utilities;
- d.) preserve natural topography in wooded areas;
- e.) create usable and accessible open space, recreational areas, and green corridors for wildlife, walking trails and/or bike paths; and
- f.) encourage creativity in design through a controlled process of review and approval of the development plan and related documents.

Section 7.02 OVERLAY AREA

The PRCD is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes and overlays all land that is currently zoned Farm Residential (FR-1) on the effective date of this amendment to the Concord Township Zoning Resolution. The effective date of the amendment referenced in this Section is June 27, 2005.

Section 7.03 EFFECT OF PRCD OVERLAY DESIGNATION

All land currently zoned Farm Residential (FR-1) is eligible for PRCD overlay zoning as of the effective date of this amendment and as also shown on the Concord Township Zoning District Map dated June 27, 2005, which map is hereby adopted as the official Zoning District Map as part of this amendment.

The Farm Residential Zoning District and the zoning regulations thereunder shall continue to apply to all property within the PRCD unless the Township approves an application of an owner of property within the FR-1 District to subject the owner's property to the provisions of the PRCD.

Such an application shall be made in accordance with the provisions of Article VII of the Concord Township Zoning Resolution and shall include a development plan in compliance with the provisions of said Article.

Upon receiving such an application, the Township shall determine whether the application and development plan comply with the provisions of Article VII. This determination shall not be considered to be an amendment to the Township zoning resolution for purposes of 519.12 of the Ohio Revised Code, but may be appealed pursuant to Chapter 2506 of the Revised Code.

If the Township makes a final determination that the plan included in the application does not comply with the PRCD regulations of Article VII of this Resolution, the Commission shall deny the application. The applicant can file a 2506 appeal pursuant to ORC 519.021 (C).

If the Township determines that the application and development plan comply with the provisions of Article VII, it shall approve the application, and cause the zoning map to be changed so that the Farm Residential District no longer applies to such property, with the property being thenceforth located in the PRCD and subject to the regulations thereunder. The approval of the

application and development plan and the removal of the prior Farm Residential Zoning District from the zoning map is an administrative, ministerial act and shall not be considered to be an amendment to the Concord Township Zoning Resolution.

Section 7.04 PERMITTED USES

1. Single Family detached residential dwelling units.
2. Common wall single family attached dwellings.
3. Two family dwellings.
4. Multi family dwellings, provided they comprise no more than 20% of the total allowable density.
5. Open Space- Upon approval of the final development plan by the Township, the following types of activities are permitted within open space, including but not limited to:
 - a.) Bocce, baseball, basketball, softball, football, volleyball, badminton, golf, soccer, swimming, tennis, ice or roller skating, rollerblading, skateboarding, Frisbee, bird watching, horseshoes, canoeing, rowing, jogging, walking, gardening, and bicycling. If open space is intended to be used as a commercial venture, it shall be so stated in the development plan and approved by the Township. All open space lands shall be permanently owned as provided in Section 7.08.
 - b.) Accessory service buildings and structures incidental and pertinent to permitted uses in paragraph a.) above, where said accessory service buildings and structures are necessary to the pursuit of a permitted recreational use on the premise.
 - c.) Natural (Open Space) Area- restricted to passive uses such as fishing, swimming, hiking, canoeing, and such other recreation that does not alter any of the natural features of the area. Agriculture may be used as natural open space, provided it does not permit hog operations, poultry, fur bearing farms or feed lots.

Section 7.05 DESIGNING A CONSERVATION SUBDIVISION

A conservation subdivision is an open space development designed in accordance with the following suggested process:

A. Suggested Design Process:

1. Delineate primary conservation areas. Preserve as natural open space.
2. Delineate secondary conservation areas; preserve selected areas as common (improved) or natural open space.
3. Draw house footprints outside the conservation areas. Draw the number of houses based upon the permitted density calculations, with lot lines.

B. Suggested Design Guidelines:

1. In order to reduce visual impact, dwellings should typically be located along the edges rather than in the center of open fields if they will be seen from existing public roads. Avoid new construction on prominent hilltops or ridges.
2. Front dwellings on internal roads, not on external roads.
3. 85% or more of the total number of house lots should have a direct view of common open space.
4. Retain or replant native vegetation adjacent to wetlands and surface waters.
5. Preserve existing hedge and tree lines to the extent practicable.
6. Preserve scenic views and vistas.
7. Protect wildlife habitat areas of species listed as endangered, threatened, or of special concern by the Ohio Department of Natural Resources.
8. Preserve historic or archaeological sites (i.e. earthworks, burial grounds).
9. Landscape or retain vegetation in common areas with native trees and shrubs.
10. Place shade trees along internal roads at fifty-foot intervals on at least one side of the road.
11. Provide active recreational areas in suitable locations.
12. Include a viable pedestrian circulation system, meaning a minimum of a five foot wide asphalt bike and walking path throughout the development.
13. Protect natural drainage swales and creeks. No construction of buildings inside the 100 year floodplain.
14. Provide permanent open space, according Section 7.07 B.

Section 7.06 PROCEDURE TO CREATE A CONSERVATION SUBDIVISION

A. Prepare an Existing Features (Site Analysis) Map.

B. Submit Existing Features (Site Analysis) Map without fee- The applicant shall submit the existing features (site analysis) map for a tract(s) of land to be considered as a conservation subdivision with the Concord Township Zoning Commission, and schedule an agreeable time to jointly visit the site for an on-site walkabout.

C. On-Site Walkabout- The applicant, the Zoning Inspector, one member of the Zoning Commission and one member of the Board of Township Trustees may visit and view the site, at which time the primary and secondary conservation areas shall be identified. Members of the public in attendance wishing to walk the site shall execute a release of liability in favor of the Township, the applicant, and the property owner.

D. Conceptual Development Plan- At the completion of the on-site walkabout a conceptual development plan should be quickly sketched on the existing features (site analysis) map by the applicant or his consultant for impromptu comments from those in attendance. Based upon such comments, a formal development plan can be prepared for public hearing. No binding decisions or votes are made at the on-site walkabout.

E. Prepare Application and Final Development Plan- Applicant shall prepare and submit a formal application and final development plan, with fifteen (15) copies and fees, to the Concord Township Zoning Commission. The Zoning Commission shall schedule a public hearing. Notice of the hearing shall be given to directly abutting property owners by regular mail. The failure of delivery of such notice shall not invalidate any action taken on the application. The Zoning Commission may request the Delaware County Regional Planning Commission (DCRPC) to comment. The DCRPC's review is administrative. The Zoning Commission's review is also administrative.

The applicant may, if he chooses, submit a preliminary development plan to test the appropriateness of his design and his general attention to the development standards of Section 7.07 prior to submitting a final development plan. Such preliminary development plan may be reviewed by the Zoning Commission and/or the Trustees, who may comment on the record to the applicant. If the Township holds public hearings to review the preliminary development plan they shall comply with Ohio's open meeting law and abutting property owners shall be notified.

The final Development Plan shall be drawn to a scale of at least 1" = 100', and shall include in text and map form the following:

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
2. A preliminary drainage plan with a letter of feasibility from a licensed professional engineer.
3. An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually preserve the required open space.
4. The proposed uses of the site, including the limitations or controls to be placed on each.
5. All design guidelines from Section 7.05.
6. Location of buildings and structures.
7. Streets, roadways, pathways, sidewalks and parking areas.
8. Existing utility easements and proposed new easements to the extent known.
9. Proposed lot sizes.
10. Minimum setback and spacing requirements.

11. Recreational facilities.
12. Preserved open space areas and a description of proposed open space improvements.
13. All commonly owned structures.
14. A landscape plan that depicts and identifies all proposed landscaping and entrance features, including those specified herein. The landscape plan shall identify typical elevations and cross sections of landscape features, with the names of plants, shrubs or trees intended to be used.
15. Dwelling unit types, the total number of dwelling units proposed for the site density, and the method and manner used to calculate density.
16. Primary conservation areas as defined in Article IV.
17. Locations of stream channels, watercourses, wooded areas and buffer areas shall be designated. Existing topography and drainage patterns shall also be shown. No structure (other than approved drainage structures as shown on The Development Plan or other approved structures, such as a park shelter house) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.
18. The extent of environmental conservation by indicating the location of all woodland preservation areas and natural topography preservation areas.
19. Architectural design guidelines including materials, colors and typical renderings for structures and proposed procedures for controlling architectural design elements.
20. Signs, with specific renderings of the elevations.
21. The proposed provisions for water supply, fire hydrants, sewage disposal and surface drainage with engineering feasibility studies or other evidence of reasonableness.
22. A preliminary traffic impact analysis based upon new trip generation.
23. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
24. Identification and location of all land dedicated to schools, parks and other public facility sites within or adjacent to the site.
25. The proposed time schedule for development of the site including streets, buildings, utilities, and other facilities. If the proposed timetable for development includes developing the land (including open space) in phases, all phases shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

26. The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
27. Unless specifically superceded by the standards contained in Article VII or those standards approved in the Development Plan, the development shall comply with the requirements contained in the General Development Standards contained in Article XXI of this Resolution applicable to all zoning districts of the Concord Township Zoning Resolution. Except for density, and the percentage of required open space, the applicant may request a divergence by the Township from the development standards set forth in Article VII or Article XXI. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Development Plan submittals, with a request that the proposed divergence be approved "per plan."
28. Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land, the improvements thereon, including those areas which are to be commonly owned and maintained as well as the open space.
29. The various plans that make up the Development Plan shall bear the seal of a professional engineer, surveyor and an architect or landscape architect, each of whom shall be licensed to practice in the State of Ohio, and shall stamp their individual plans.

F. Public Hearing- The Concord Township Zoning Commission, after giving proper notice, shall hold a public hearing on the request within a reasonable period of time after receipt of the application, final development plan and submission of fees.

G. Action by The Concord Township Zoning Commission- The Concord Township Zoning Commission may approve divergences they find are warranted by the design and amenities incorporated in the development plan. The Zoning Commission shall recommend approval of the application for the PRCD and final development plan provided it determines that the application and plan comply with the standards of Section 7.07 and the process of Article VII. If the Zoning Commission finds that the development plan does not meet the standards of Section 7.07 and the provisions of Article VII, or that divergences requested are not warranted, they shall deny the plan or the divergences. This completes the Zoning Commission's actions, and they shall forward the development plan to the Township Trustees for their review.

H. Action by the Concord Township Trustees- Upon receipt of the development plan and the Zoning Commission's recommendations, the Trustees shall hold a properly advertised public hearing. Notice of the hearing shall be given to directly abutting property owners by regular mail. The Trustees can either uphold, modify, or overturn the recommendation of the Zoning Commission. A simple majority is required by the Trustees to uphold or modify the Zoning Commission's recommendation. A unanimous decision of the Board of Trustees is required to overturn the Zoning Commission's recommendation.

I. Subdivision Plat-No zoning certificate shall be issued for any structure in any portion of a PRCD for which a plat is required by the Delaware County Subdivision Regulations unless and until:

1. The final subdivision plat for that portion has been approved by the Delaware County Regional Planning Commission, the Delaware County Commissioners and then recorded.
2. A full size and an 11"x 17" copy of the recorded plat have been filed with the zoning inspector.

No modification of the provisions of the Final Development Plan, or part thereof, as finally approved shall be made unless the provisions of subsection 7.09 are followed. The applicant shall submit the subdivision plat to the Zoning Inspector for review in order to assure the notes and agreed conditions on the Development Plan are not compromised by final engineering.

- J. Zoning Certificate-**After the Final Development Plan is approved and any required final Subdivision Plat is recorded, the Zoning Inspector may issue a zoning permit upon payment of the required fees and submission of the detailed landscaping plan for each lot. The zoning permit for a PRCD development shall be for a period not to exceed three (3) years or that period approved in the final development plan. If significant construction, meaning the physical placement of roads or foundations, has not begun within three (3) years after final development plan approval is granted or within the time period approved in the final development plan, then the Final Development Plan approval shall be void. In such case, the PRCD zoning and map amendment remain in place, but a development plan must be resubmitted for approval.

Section 7.07 PRCD DEVELOPMENT PLAN STANDARDS

- A. Minimum tract size for a PRCD Subdivision** - 10 acres.

- B. Open Space-** At least fifty percent (50%) of the gross tract acreage shall be designated as permanent open space, not to be further developed, unless an exception as provided in 7.07 (C) (2) and (3) is granted by the Township. Open space locations and uses shall be identified on the development plan and shall be subject to the approval of the Township. Open space shall be owned, administered and maintained as identified on the development plan pursuant to Section 7.08. With prior consent through resolution of the Board of Trustees of Concord Township, land may be transferred to the Township for public purposes if approved as a part of the final development plan. Uses of land transferred to the Township for public purposes must be approved as a part of the final development plan and may include, but are not limited to, trails, active recreation and spray irrigation fields. The decision whether to accept an applicant's offer to dedicate open space for public use shall be at the discretion of the Township Trustees. Land dedicated to public purposes may count toward the open space requirement if approved on the development plan.

1. At least fifteen percent (15%) of the minimum required open space shall be suitable for active recreation purposes in order to preserve a reasonable proportion of natural open space on the site, but no more than fifty percent (50%) shall be utilized for that purpose. The development plan shall specify the purposes for which open space areas are proposed. Any recreational facilities proposed to be constructed within open space areas shall be clearly shown on the development plan.

2. In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included.
3. The required open space may be used for underground drainage fields for individual or community septic systems, and for "spray fields" for spray irrigation purposes in a "land application" sewage disposal system as approved per the development plan.
4. Primary conservation areas, plus storm water management detention/ retention ponds, plus constructed wetlands acting as detention basins, plus sewage treatment areas may count in their combined aggregate for up to 50% of the required open space.
5. Any area of natural open space that is proposed to be disturbed during construction or otherwise not preserved in its natural state shall be shown on the development plan and, if required, shall be restored with vegetation that is compatible with the natural characteristics of the site. The method and timing of any restoration shall be set forth in the development plan.

C. Determining The Number of Dwelling Units Permitted, and the Percent of Open Space

The number of dwelling units is dependent on the provision of centralized sanitary sewer as defined in Article IV as follows:

1. For land not serviced by centralized sewer, multiply the number of gross acres times sixty-six hundredths (0.66) dwelling unit per gross acre to obtain the maximum number of permitted dwelling units. Provide 50% of the gross acreage in permanent open space.
2. For land served by centralized sanitary sewer, multiply the gross acreage to be developed by seventy-five hundredths (0.75) dwelling unit per gross acre to obtain the maximum number of dwelling units permitted. Provide 50% of the gross acreage in open space.
3. Density Exception: For land served by centralized sanitary sewer and where the existing features (site analysis) map shows that the sum of all steep slopes, floodplains, wetlands, and/or overhead electric transmission line easements comprises less than 10% of the gross land acreage, the Township shall allow a density exception to a maximum of (0.85) dwelling units per gross acre with 40% of the gross acreage in open space, in return for which the applicant shall commit to the reforestation, seeding of native plants and creation of ponds in these open spaces. This additional density is granted in order to offset the costs of reforestation, plantings, water features, regrading and exceptional horticultural techniques needed to recreate adequate natural landscape buffers, and secondary conservation areas that do not exist naturally in order to meet the intent of a conservation subdivision under Article VII.

D. Sewage Disposal- For centralized sanitary sewer usage, a feasibility letter shall be provided by the Delaware County Sanitary Engineer indicating that sewer service is available with the capacity needed. For sites not served by public centralized sewer,

sewage disposal feasibility shall be demonstrated by letter from either the Delaware General Health District or the Ohio EPA.

- E. Perimeter Setback**- No building shall be constructed within 50 feet of the external boundary of the conservation subdivision.
- F. Storm Water**- No features shall be designed which are likely to cause erosion or flooding.
- G. Subdivision standards**- Public streets and all drainage improvements shall conform to the subdivision standards for Delaware County Ohio or as otherwise approved per the final development plan.
- H. Pavement standards for condominium drives**-All condominium drives that are not dedicated for public maintenance shall be constructed to a pavement width and cross section that meets the average daily traffic and weights anticipated in the Delaware County Engineer's Location and Design Manual, or shall have a design life of 20 years.
- I. Pavement standards for parking lots**- Parking lots and private driveways do not have to meet street cross sectional standards, but parking lot drive aisles that connect to the public streets shall be constructed to public street cross sectional and design life standards within 50 feet of the edge of the public paved road.
- J. Paths**- A five foot wide asphalt walking or bike path is required for conservation subdivisions of more than 15 lots. Paths shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed strip. The Township may require paved or unpaved walkways to connect residential areas and open spaces.
- K. Street Trees**- Deciduous, broad leaf street trees with a minimum caliper of three inches (3") at planting shall be planted (or retained) at least every fifty (50) lineal feet along at least one side of the street(s).
- L. Minimum Front Setbacks**- Dwelling Units and garages shall be set back a minimum of forty (40) feet from the street right-of-way.
- M. Minimum lot size**- Twelve thousand (12,000) square feet for single family detached dwellings on fee simple ownership lots, or as otherwise approved on the final development plan. Attached dwelling units or detached condominiums as approved per the final development plan.
- N. Minimum Lot Width** at the building line-
 - 1.) 80' lot widths may be used for a maximum of 30% of the total single family lots.
 - 2.) 90' lot widths may be used for a maximum of 30% of the total single family lots.
 - 3.) 100' or wider lots shall be used for at least 40% of the total single family lots.or as otherwise approved per final development plan.
- O. Minimum Side yards**- Twelve and one-half (12 ½) feet each side for single family and common wall single family units and their garages, with no encroachments. For multi family or non residential structures the minimum separation between buildings units shall be thirty (30) feet.

- P. Driveway Setbacks**- Two feet from side lot line. Side-load garages shall provide at least 24 feet of paved apron, exclusive of the 2 foot side lot line for single family detached dwellings on fee simple ownership lots. Attached units or detached condominiums as approved per the final development plan.
- Q. Minimum Rear yard**- 30 feet for single family detached dwellings on fee simple ownership lots and attached garages. Fifteen (15) feet for accessory buildings. Attached units or detached condominiums as approved per the final development plan.
- R. Building Height Requirement**- No principal building in this district shall exceed forty-five (45) feet in height, as defined under “building, height” in Article IV of the Concord Township Zoning Resolution.
- S. Minimum Dwelling Unit Floor Area**- Eleven hundred (1100) square feet per dwelling unit.
- T. Street lighting**- if provided must be of white light, maximum height 16 feet, with a cutoff downward cast fixture.
- U. Landscaping** - All yards, front, side and rear, shall be landscaped. All improved common open space shall be landscaped per the approved development plan. A landscape plan for the common open space and streetscape within road right-of-way shall be prepared by a licensed landscape architect showing the caliper, height, numbers, name and placement of all material, and shall be submitted with and approved as a part of the final development plan.
- V. Parking** – Off-street parking shall be provided. Construction traffic may park in the street, but only on one side so as to allow for safe access by emergency equipment. Off-street parking shall comply with the provisions of Article XXI of the Concord Township Zoning Resolution, or as approved per the development plan.
- W. Signs**-All signs shall be in accordance with Article XXII of the Concord Township Zoning Resolution, or as approved per plan.
- X. Other Requirements**- Unless specifically supplemented by the standards contained in Article VII, or those standards approved by divergence in the development plan, the development shall comply with all the General Development Standards applicable to all zoning districts as set forth in Articles XXI, XXII and XXIII of the Concord Township Zoning Resolution.
- Y. Supplemental Conditions and Safeguards**- If the Township determines that additional landscaping is needed to buffer existing land uses they may require such as part of the development plan approval.
- Z. Divergences**- The Township, as a part of development plan approval, may grant divergences from any standard or requirement in this Section with the exception of density, and the percentage of required open space. An applicant requesting a divergence shall specifically and separately list each requested divergence and the justification therefore on the development plan submittals with a request that the proposed divergence be approved “per plan”.

Section 7.08 OWNERSHIP AND MAINTENANCE OF OPEN SPACE

A. Ownership of Open Space

Different ownership and management options apply to the permanently protected common open space created through the development process. The common open space shall remain in perpetuity and may be owned as identified in Section 7.08. A public land dedication, not exceeding ten percent (10%) of the total parcel size, may be required by the Township to facilitate trail or pathway connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities, and open spaces.

Ownership Standards. Common open space within the development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the Township.

1. Offer of Dedication. The Township shall have the first offer of undivided common open space in the event said land is to be conveyed to a public agency. Dedication shall take the form of a fee simple ownership. The Township may, but is not required to accept undivided common open space provided: 1) such land is accessible to all the residents of the Township; 2) there is no cost of acquisition other than incidental costs related to the transfer of ownership; 3) the Township agrees to maintain such lands. Where the Township accepts dedication of common open space that contains improvements, the Township may require the posting of financial security to ensure structural integrity of improvements for a term not to exceed eighteen (18) months.
2. Homeowners Association. The undivided common open space and associated facilities may be held in common ownership by a homeowners association. The association shall be formed and operated under the following provisions:
 - a) The developer shall provide a description of the association, including its bylaws and methods for maintaining the common open space.
 - b) The association shall be organized by the developer and shall be operated by the developer, before the sale of any Lots within the development.
 - c) Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
 - d) The association shall be responsible for maintenance of insurance and Taxes on the undivided common open space. The association may establish rules to ensure proper maintenance of property, including monetary liens on the homes and home sites of its members who fail to pay their association dues in a timely manner. Such liens May impose a penalty of interest charges.

e) The members of the association shall share equitably the costs of maintaining and developing, where appropriate, such undivided common open space. Shares shall be defined within the association bylaws.

f) In the event of transfer, within the methods herein permitted, of undivided common open space land by the homeowners association, or the assumption of maintenance of undivided common open space land by the Township, notice of such pending action shall be given to all property owners within the development.

g) The association shall provide for adequate staff to administer common facilities and property and continually maintain the undivided common open space.

h) The homeowners association may lease common open lands to any other qualified person, or corporation, for operation and maintenance of common open space lands, but such lease agreement shall provide:

1) That the residents of the development shall at all times have access to the common open space lands contained therein (except croplands during the growing season).

2) That the undivided common open space shall be maintained for purposes set forth in the approved final development plan.

3) That the operation of common open space may be for the benefit of the residents only, or may be open to all residents of the Township, at the election of the developer and/or homeowners association. In cases where public trails or paths are provided as linkage between developments or as a continuous link of common open space within the Township, all residents of the Township shall have access to such identified paths/walkways.

i) The lease shall be subject to the approval of the homeowner's association board and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements shall be recorded with the Delaware County Records office and notification shall be provided to the Township Trustees within 30 days of action by the Board.

3. Condominiums. The undivided common open space and associated facilities may be controlled through the use of condominium agreements, approved by the Township. Such agreements shall be in conformance with all applicable laws and regulations. All undivided common open space land shall be held as a common element.

4. Dedication of Easements. The Township may, but shall not be required to accept easements for public use of any portion or portions of undivided common open space land, title of which is to remain in ownership by condominium or homeowners associations, provided:

a) Such land is accessible to Township residents;

- b) There is no cost of acquisition other than incidental transfer of ownership costs;
- c) A satisfactory maintenance agreement is reached between the developer, association and the Township.

5. Transfer of Easements to a Private Conservation Organization. With the permission of the Township, an owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources; provided that:

- a) The organization is acceptable to the Township, and is a bona fide conservation organization with perpetual existence;
- b) The conveyance contains whatever provisions are agreed to between the Township Trustees, the owner and the organization.

6. Third Party Ownership. With the approval of the Township, open space may be owned by a third party if protected by either: (i) an open space easement which permanently and irrevocably transfers the development rights from the open space land to a homeowners or condominium association, the Township or a conservation organization; or (ii) unmodifiable deed restrictions that permanently restrict the use of the open space to those uses identified in the approved development plan. Open space land to be transferred to a third party other than a Homeowners Association, condominium association or the Township shall also be located in a reserve with an open space notation on a recorded final plat.

B. Maintenance of Open Space

1. The ultimate owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc. The owner shall be authorized under the homeowner association bylaws to place liens on the property of residents who fall delinquent in payment of dues or assessments.
2. In the event that the organization established to own and maintain common open space shall at any time after establishment of the planned development fail to maintain the common open space in reasonable order and condition in accordance with the Final Development Plan, the Township Trustees may serve written notice upon such organization or upon the residents of the planned development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the Township Trustees may modify the terms of the original notice, add to the deficiencies and may give an extension of time within which they shall be cured.

If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said (30) days or any extension thereof, the Township Trustees may pursue the enforcement as a zoning violation.

Section 7.09 Extension or Modification of Final Development Plan

- A. An extension of the time limit for the approved Final Development Plan may be granted by the Concord Township Zoning Commission without public hearing provided they find that such extension is not in conflict with the public interest.

- B. A request for minor changes to the Final Development Plan may be approved by the Township. Requests for minor changes shall initially be made to the Township Zoning Commission, who shall make a recommendation and pass it on to the Trustees. In approving such requests, the Township may impose such conditions, safeguards and restrictions in order to carry out the purpose and intent of this district.

- C. In the case of a request for a modification or amendment to the Final Development Plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of approval as the original application. The following shall be considered substantial departures from the original application:
 - 1. A change in the use or character of the development;
 - 2. An increase in overall coverage of structures;
 - 3. An increase in the density or overall number of dwelling units;
 - 4. An increase in the problems of traffic circulation or public utilities;
 - 5. A reduction in approved open space;
 - 6. A reduction of off-street parking and loading space;
 - 7. A reduction in required pavement widths;
 - 8. A reduction of the acreage in the PRCD.

In approving such requests, the Township may impose such conditions, safeguards and restrictions in order to carry out the purpose and intent of this district.