
ARTICLE V
OPEN SPACE SUBDIVISIONS

5.01 PURPOSE AND INTENT

The intent of the Open Space Subdivision is to permit residential development that results in an enhanced living environment through the preservation of agriculture, environment and rural landscape. The provisions set forth encourage innovative and liveable housing environments through both permanent dedication of open space and a planned reduction of individual lot area requirements. The overall density remains the same as would be found in a conventionally designed subdivision, or may increase up to the maximum potential allowed within the lot size requirements established herein.

Increasing residential development has produced a need for environmentally sensitive and cost efficient development. The “Open Space Subdivision” concept meets this need as dwelling units are grouped onto part or parts of the designated development parcel so the remaining acreage can be permanently preserved as open space.

The following provisions are intended to result in residential development which is consistent with zoning ordinance standards and these regulations, yet allows for modifications from the general standards to insure appropriate, fair and consistent decision making.

5.02 OBJECTIVES

The following objectives shall be considered in the review of any application for an Open Space Subdivision:

- A. To provide a more environmentally sensitive residential environment by preserving the natural character of open fields, stands of trees, ponds, streams, wetlands, hills and similar natural features.
- B. To preserve the rural landscape of the County and protect environmentally sensitive lands from the disruptive effects of conventionally designed subdivisions.
- C. To provide a more efficient and aesthetic use of open space by allowing developers to reduce lot sizes without sacrificing the public health, morals and general welfare while maintaining the residential density required within the zoning district.
- D. To allow a more flexible and economical residential layout and street design that encourages diversity and originality in lot layout and dwelling placement to achieve the best possible relationship between development and the land.
- E. To encourage design creativity in all aspects of the development, including lot layout, street design and sewage disposal methods.
- F. To assure the permanent preservation of open space, rural lands and natural resources.

5.03 SITE LOCATION PRINCIPLES

The following general principles shall be utilized to evaluate the proposed location of any Open Space Subdivision. These principles shall be applied by the Regional Planning Commission and the Committee as a general guideline to help assess the impact of the proposed development.

- A. ***Protecting Natural Features.*** The purpose of an Open Space Subdivision is to maintain the rural, natural and scenic qualities of the County. Toward this end, all Open Space Subdivisions shall be

designed to promote the preservation of natural features. Significant wildlife habitats, sensitive environmental lands and scenic vistas are to be protected.

- B. **Single Ownership Control.** The proposed development shall be under single ownership or control, such that a single person or entity has proprietary responsibility for the completion of the development.
- C. **Access to Public Roadway.** Open Space Subdivisions shall have not less than one property line abutting a public roadway. All entrances and exits shall be directly onto or from said roadway.

5.04 DEVELOPMENT REQUIREMENTS

- A. **Density Standards.** Applicants for an Open Space Subdivision shall be entitled to develop the land remaining after the required dedication of open space to its maximum potential subject to the lot size requirements established herein.
- B. **Lot Size Requirements.** Lot sizes may vary; however, all lots shall comply with the following standards:
 - 1. Lots not served by public or common sanitary sewer and public or community water shall be at least one acre (43,560 square feet) in area with a minimum lot width of not less than 130' measured at the approved building setback line. Additionally, lots shall be sized and designed to accommodate an area, or not more than two areas, of contiguous, suitable soil reserved for the installation of a primary subsurface absorption system and a secondary (replacement) subsurface absorption system. Said area(s) shall be clearly delineated and labeled on the Preliminary Plat. Suitable soils are those soils classified as Category 1, 1A or 2 pursuant to the Ogle County Health Code. Those soils with moderate, severe or very severe limitations for subsurface absorption systems (Category 3 and 4, pursuant to the Ogle County Health Code) shall not be included in the reserved areas for conventional subsurface absorption systems. Category 1 and 1A soil type require a total reserved area of at least 9,000 square feet. Category 2 soil types require a total reserved area of at least 18,000 square feet.
 - 2. Lots served by public sewer and sewerage treatment facilities and public water shall be at least ten thousand (10,000) square feet in area with a minimum lot width of not less than eighty (80) feet measured at the approved building setback line.
 - 3. Lots served only by a public or community water system shall be at least twenty-one thousand (21,000) square feet in area with a minimum lot width of not less than one hundred (100) feet measured at the approved building setback line. Additionally, lots shall be sized and designed to accommodate an area, or not more than two areas, of contiguous, suitable soil reserved for the installation of a primary subsurface absorption system and a secondary (replacement) subsurface absorption system pursuant to paragraph 1, above.
 - 4. Lots served only by public or community sewers (sewage treatment facilities) shall be at least fifteen thousand (15,000) square feet with a minimum lot width of not less than ninety (90) feet measured at the building line.
 - 5. Lots served by on-site wells shall be sized and designed to accommodate a private well located not less one hundred feet (100') from the subsurface absorption system.
 - 6. Lots served by off-site subsurface absorption systems or other approved off-site sewage treatment methods shall be treated, for the purposes of lot size requirements, as being

served by public or community sewers (sewage treatment facilities).

C. ***Setback and Yard Area Requirements.***

1. ***Building Setback and Yard Area Requirements.*** The building setback and yard area requirements of the zoning district in which the Open Space Subdivision is located shall apply. However, when reduced building envelopes are utilized, the required building setback may be reduced up to, but not more than, 25%.
2. ***Reduced Building Envelopes (RBE).*** The use of RBE's is strongly encouraged in order to minimize site disturbance, reserve on-site areas for subsurface sewage disposal, and create a better overall subdivision design. The RBE shall be clearly delineated as such on the subdivision plat, shall be binding upon the owner/developer of each lot, and shall be enforceable by the County. The following design standards shall apply to RBE's:
 - a. RBE's shall be selected that do not include the tops of ridge lines.
 - b. RBE's shall not be located in areas reserved for the installation of a primary subsurface absorption system and a secondary (replacement) subsurface absorption system as required in paragraph B, above.
 - c. RBE's should avoid open fields where feasible.
 - d. RBE's should be located on the edges of fields and in wooded areas to minimize the visual impact of development.
 - e. Front, rear and side yard setbacks may be staggered to provide for maximum variety in the size of such yards; however, the yard area requirements of the zoning district in which the Open Space Subdivision is located shall apply and the required building setback may be reduced up to, but not more than, 25%.
 - f. Maximum possible rear yards onto open space shall be provided.
 - g. RBE placement should be as far as possible from open space.

D. ***Open Space Standards.***

1. ***Areas Not Considered Open Space.*** Areas devoted to public or private streets or rights-of-way or any land that has been or is to be conveyed to a public agency for purposes other than conservation of open space shall not be calculated as dedicated open space.
2. ***Areas That May Be Included as Open Space.*** Except as noted above, any undeveloped land area within the boundaries of the designated development parcel may be included as required open space, including land designated "Zone A" or "Zone AE" (special flood hazard areas inundated by the 100-year flood) as shown on the Ogle County, Illinois Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA).

E. ***Use of Open Space.*** All land within an Open Space Subdivision that is not devoted to a residential unit, an accessory use, vehicular access, vehicular parking, a roadway, an approved land

improvement, or is not considered open space as defined above shall be considered dedicated open space and shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Further subdivision of open space lands, or their use for other than recreation, conservation or agriculture shall be prohibited.

F. ***Location of Open Space.*** Open space shall be comprised of two types of land: “Primary Conservation Areas” and “Secondary Conservation Areas”. All lands within both Primary and Secondary Conservation Areas shall be protected by a permanent conservation easement prohibiting further development, and setting other standards safe-guarding the site’s special resources from negative changes. In an R-1 Rural Residence District, at least fifty percent (50%) of the total site area designated for development shall be designated as open space and permanently protected; in a R-2 Single-Family Residence District, at least thirty-three and one-third percent (33.33%) of the total site area designated for development shall be designated as open space and permanently protected.

1. *Primary Conservation Areas:*

This category consists of wetlands, lands that are generally inundated (under ponds, lakes, creeks, rivers, etc.), land within the 100-year floodplain, and slopes exceeding 25%.

2. *Secondary Conservation Areas:*

In addition to the Primary Conservation Areas, additional land shall be designated as open space and permanently protected to total the required percentage of the total site area designated for development.

Although the locations of Primary Conservation Areas are predetermined by the locations of floodplains, wetlands, and steep slopes, greater latitude exists in the designation of Secondary Conservation Areas (except that they shall include a 100-foot deep greenway buffer along all water bodies and watercourses, and a 50-foot greenway buffer alongside wetlands soils classified as “very poorly drained” in the detailed soil report.

The location of Secondary Conservation Areas shall be guided by the “Planning Goals and Objectives” contained in the Ogle County Comprehensive Plan, and shall typically contain all or part of the following kinds of resources: mature woodlands, aquifer recharge areas, areas with highly permeable (“excessively drained”) soils, significant wildlife habitat areas, sites listed on the Illinois Natural Areas Inventory, “prime” farmland, historic, archaeological or cultural features listed (or eligible to be listed) on national, state or county registers or inventories, and scenic views into the property from existing public roads. Secondary Conservation Areas therefore typically consist of upland forest, meadows, pastures, and farm fields, part of the ecologically connected matrix of natural areas significant for wildlife habitat, water quality protection, and other reasons.

3. *General Locational Standards:*

Open Space Subdivisions shall be designed around both the Primary and Secondary Conservation Areas, which together constitute the total required open space. The design

process should therefore commence with the delineation of all potential open space, after which potential house sites are located. Following that, access road alignments are identified, with lot lines being drawn in as the final step. This “four-step” design process is further described in Appendix IV of these regulations.

Both Primary and Secondary Conservation Areas shall be placed in undivided preserves, which may adjoin housing areas that have been designed more compactly to create larger areas that may be enjoyed equally by all residents of the development.

Undivided open space shall be directly accessible to the largest practicable number of lots within an Open Space Subdivision. To achieve this, the majority of house lots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource areas vulnerable to trampling damage of human disturbance). Where the undivided open space is designated as separate, non-contiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed as athletic fields, upland buffers to wetlands, water bodies or watercourses, or trail links.

G. ***Preservation of Open Space.*** Open space shall be set aside by the developer through an irrevocable conveyance that is acceptable to the County. Forms of dedicating open space may include:

1. A recorded deed restriction;
2. Covenants that run perpetually with the land; or,
3. A conservation easement.

Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use except for public highway purposes. Such conveyance shall:

- a. Indicate the proposed allowable use(s) of the dedicated open space.
- b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
- c. Provide standards for scheduled maintenance of the open space.

H. ***Structures Built in Open Space Areas.*** Any structure(s) or building(s) accessory to recreation, conservation or agriculture may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the required open space area.

I. ***Access to Open Space.*** Open space intended for recreation or use by the residents shall be easily accessible to pedestrians. Accessibility should meet the needs of the physically challenged and senior citizens.

J. ***Ownership and Maintenance of Open Space.*** Different ownership and management options apply to the permanently protected open space created through the Open Space Subdivision development process. The open space shall remain undivided and may be owned and managed by a homeowners’ association, a recognized land trust or conservancy, or a public agency such as a

park district or forest preserve district. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities, and open spaces.

1. *Ownership Standards.* Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination.

a. Homeowners' Association.

The undivided 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:

- (1) The developer shall provide a description of the association, including its bylaws and methods for maintaining the open space.
- (2) The association shall be organized by the developer and shall be operated with a financial subsidy from the developer, before the sale of any lots within the development.
- (3) Membership in the association is automatic (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.
- (4) The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the County on the association. The association may place liens on the homes or house lots of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.
- (5) The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.
- (6) The association shall have or hire adequate staff to administer common facilities and properly and continually maintain the undivided open space.

b. Condominiums.

The undivided open space and associated facilities may be controlled through the use of condominium agreements, approved by the County. Such agreements shall be in conformance with the state's uniform condominium act. All undivided open space land shall be held as a "common element".

c. Transfer of Conservation Easements to a Private Conservation Organization or Public Agency.

With the permission of the County, an owner may transfer easements to a private, nonprofit organization or ownership to a public agency, among whose

purposes it is to conserve open space and/or natural resources, provided that:

- (1) the organization is a bona fide conservation organization with perpetual existence;
- (2) the conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and,
- (3) a maintenance agreement acceptable to the County is entered into by the developer and the organization.

2. *Maintenance Standards.*

- a. The ultimate owner of the open space (typically a homeowners' association) 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 homeowners association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.
- b. In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the County may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.
- c. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of these regulations. The County is hereby authorized to give written notice to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within fifteen (15) days.

5.05 EVALUATION CRITERIA/DESIGN STANDARDS

In evaluating the layout of lots and open space, the following criteria will be considered by the County as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purpose and objectives of Open Space Subdivisions. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Accordingly, the County shall evaluate proposals to determine whether the proposed sketch or preliminary plat:

- A. Protects and serves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the County for essential infrastructure or active or passive recreation amenities).
- B. Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. For example, locating house lots and driveways within wooded areas is generally recommended, with two exceptions. The first involves significant preservation concern, as described in items E. and H. below. The second involves predominantly agricultural areas, where remnant tree groups provide the only natural areas for wildlife habitat.
- C. If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations

at the far edge of a field, as seen from existing public roads. Other considerations include whether the development will be visually buffered from existing public roads, such as by a planting screen consisting of a variety of indigenous native trees, shrubs and wildflowers.

- D. Maintains or creates an upland buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, rivers, springs, lakes and ponds.
- E. Designs around existing hedgerows and tree lines between fields or meadows, and minimizes impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat. Also, woodlands of any size on highly erodible soils with slopes greater than 10% should be avoided. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, subsurface septic absorption systems, etc.) in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
- F. Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public roads. For example, in open agrarian landscapes, a deep “no-build, no-plant” buffer is recommended along the public road where those views or vistas are prominent or locally significant. The concept of “foreground meadows” with homes facing the public road across a broad grassy expanse (as illustrated in Fig. 5-5 of Open space for Subdivisions: A Practical Guide to Creating Open Space Networks [Arendt, Randall G., 1996]) is strongly preferred to mere buffer strips, with or without berms or vegetative screening. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep “no-build, no-cut” buffer should be respected, to preserve existing vegetation.
- G. Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
- H. Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency and/or by the Illinois Natural Areas Inventory.
- I. Designs around and preserves sites of historic, archaeological, or cultural value, and their environs, insofar as needed to safeguard the character of the feature, including barns, barn foundations, and burial grounds.
- J. Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, hedgerows, and so on.
- K. Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby house lots.
- L. Includes a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system. All roadside footpaths should connect with off-road trails, which in turn should link with potential open space on adjoining undeveloped parcels (or with existing open space on adjoining developed parcels, where applicable).
- M. Provides open space that is reasonably contiguous. For example, fragmentation of open space should be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, this land shall be

designed as a single block with logical, straightforward boundaries. Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels (such as in other subdivisions, public parks/preserves, or properties owned by or eased to private land conservation organizations). Such subdivision open space shall be designed as part of larger contiguous and integrated greenway systems.