

SECTION 441 OPEN SPACE AND SUSTAINABLE DEVELOPMENT OPTION

OPEN SPACE AND SUSTAINABLE DEVELOPMENT OPTION

- A. Purpose: The purpose of the Open Space and Sustainable Development Option is to provide an alternative, voluntary method of land division that encourages sustainable development and the preservation of open space through flexible lot sizes and locations of single-family residential dwellings.
- B. Intent
1. Encourage a flexible and creative variety of planning designs through process efficiencies.
 2. Encourage efficient infrastructure systems and environmentally responsible delivery of essential services.
 3. Provide an alternative to the creation of parcel splits (“Lot” Splits) that are exempt from County Subdivision Regulations and an alternative to conventional subdivisions in an effort to retain the County’s rural character.
 4. Employ development standards and guidelines that equitably balance conservation and development objectives.
 5. Minimize the overall development footprint and preserve environmentally beneficial areas of the development site through the allowance of smaller lot sizes and cluster oriented design.
 6. Encourage sustainable building and development practices through the use of density incentives.
- C. General Requirements
1. The property shall be developed in accordance with the requirements herein and the Yavapai County Subdivision Regulations. The platted area shall include the developed residential lots and the associated open space areas to be preserved.
 2. The Open Space and Sustainable Development Option shall only be allowed in the R1L, RMM, R1 and RCU zoning districts, where no rezoning is requested.
 3. Density: The maximum density shall not exceed and shall be determined by the following:
 - a. For any portion of land containing slopes below thirty-five percent (35%), the maximum density is determined by dividing the gross area of the tract of land below the thirty-five percent (35%) slope line by the minimum lot size specified in the underlying zoning district(s).
 - b. For any portion of land containing slopes between thirty-five percent (35%) and fifty percent (50%), the maximum density is .75 of the density determined by dividing the gross area of the tract of land between the thirty-five percent (35%) and fifty percent (50%) slope lines by the minimum lot size specified in the underlying zoning district(s).
 - c. For any portion of land containing slopes between fifty percent (50%) and seventy-five percent (75%), the maximum density is .50 of the density determined by dividing the gross area of the tract of land between the fifty

percent (50%) and seventy-five percent (75%) slope lines by the minimum lot size specified in the underlying zoning district(s).

- d. For any portion of land containing slopes above seventy-five percent (75%), the maximum density is determined as .25 of the density determined by dividing the gross area of the tract of land above the seventy-five percent (75%) slope line by the minimum lot size specified in the underlying zoning district(s).
 - e. For any portion of land containing a floodway established by the Yavapai County Drainage Criteria Method, the maximum density is determined as .50 of the density determined by dividing the gross area of the tract of land within the floodway by the minimum lot size specified in the underlying zoning district(s).
 - f. The maximum density established by subsections a. through e. above may be increased as provided in Section 441.D. through the inclusion of conservation features or design elements identified in Section 441.D.
 - g. Slope Category Determination shall conform with the methodology of Section 560.B. and C. of the Yavapai County Subdivision Regulations.
 4. Minimum Lot Size: The minimum lot area, minimum lot width and minimum lot depth established by the underlying zoning district(s) shall not be applicable. Buildable areas are encouraged to be varied and shall be approved by the County based on the suitability of the proposed lot sizes with surrounding land uses to ensure compatibility.
 5. Development Standards: The minimum building setbacks and maximum percentage of lot coverage established by the underlying zoning district(s) shall not be applicable. All buildings shall not exceed the maximum building height established by the underlying zoning district. The minimum building setbacks and maximum percentage of lot coverage shall be submitted and approved by the County as part of the Open Space and Sustainable Development Option review process.
 6. Natural Watercourses and Cultural Resources:
 - a. Construction within floodplains shall meet County subdivision requirements and be minimized to the greatest extent. To incentivize the protection of natural watercourses, density transferred outside the floodplain area shall be allowed at a value equal to 1.25 times the underlying density of the area maintained in natural state.
 - b. Historic buildings and archeological sites listed on the National Register, at the State Historic Preservation Office or in local studies shall be preserved and protected. A Level 1 survey shall be completed to identify previously unmapped historic buildings and archeological sites. Historic buildings and archeological sites identified by the Level 1 survey shall be preserved and protected.
 7. Limitations on Cuts and Fills
 - a. Any driveway cut greater than eight feet (8') in depth shall not have a length greater than one hundred feet (100'); and the maximum height of any cut or fill used to establish a driveway shall not exceed fifteen feet (15'). Height and measurements of Cut and Fill is determined pursuant to Yavapai County Ordinance #2004-10 (Yavapai County Grading Ordinance, 2003 Edition, Appendix 33 of the 1997 Editions Uniform Building Code.)

- b. The maximum height of any cut or fill used to establish a building site shall not exceed fifteen feet (15'). The maximum height of any cut or fill used to establish a road shall not exceed thirty feet (30'). All building sites, driveways and roadway cut and fill slopes shall be re-vegetated with native plant material. The fill areas resulting from driveways, roadways and building sites shall be minimized through the use of retaining walls.
 - c. Alternative cut and fill limitations and methods to mitigate the visual impact of cut and fill slopes such as terracing, use of retaining walls and re-vegetation of disturbed areas may be submitted and approved by the Development Services Director or designee based on a finding that the proposed alternative limitations and methods meet the intent of this Section to reduce the visual impact of cut and fill slopes.
 - 8. Maximum Project Size: The Open Space and Sustainable Development Option shall not be utilized for parcels in excess of six hundred forty (640) acres in size. The parcel size shall include the developed residential area and the associated open space area.
- D. Density Incentives, Conservation Features and Design Elements: The intent of this subsection is to permit density incentives at the sole discretion of the County based on inclusion of the below listed conservation features and design elements. The density incentives listed below shall not be an assumed right and shall only be permitted at the sole discretion of the County based on a finding that the proposed conservation features and design elements are provided at a level and in a manner consistent with the intent and purpose of this Section and advance the County's interests in promoting sustainable and environmentally compatible development.
 - 1. The maximum density established by Section 441.C.3 may be increased to a value equal to the maximum density multiplied by a factor of 1.5 when nine (9) out of the following twelve (12) County conservation and sustainable design elements are incorporated within the development.
 - 2. Land Development Items
 - a. Shared wells, unless different method of water delivery is required or allowed by applicable County or State law.
 - b. Community sewage treatment facility unless a different method of wastewater disposal is required by applicable County or State law.
 - c. Use of only drought tolerant (Xeriscape) landscaping and prohibition of turf or grass in all common area landscaping.
 - d. Street designs and traffic calming measures throughout the entire development which promote pedestrian safety.
 - e. Enhanced design standards for streetscape throughout the entire development including but not limited to separated sidewalks, separated trails and landscaping.
 - f. Multimodal trails and paths throughout the entire development connecting to adjacent development.
 - g. Open space accessibility to the public and interconnected open space corridors.
 - h. Active recreational facilities such as trails, ball fields, tennis courts, picnic ramadas and outdoor riding arenas.

- i. Other innovative sustainable development practice within the intent and purpose of this Section, as determined by the Development Services Director.

Individual Lot Items

- j. Rainwater harvesting facilities that capture a majority of rainwater for all homes including but not limited to roof drain plumbing, rain barrels and site grading.
 - k. Use of gray water systems in all single-family residences according to ADEQ Type 1 Reclaimed Water General Permit (AAC R18-9-711) 13 Best Management Practices.
 - l. Employment of measures to ensure hydrologic protection including but not limited to sedimentation basins and pervious driveway surfaces for all homes.
3. The maximum density established by Section 441.C.3 may be increased to a value equal to the maximum density multiplied by a factor of 2.0 when nine (9) out of the twelve (12) conservation and sustainable design elements required by Section 441.D.1 and nine (9) out of the following twelve (12) conservation and sustainable design elements are incorporated within the development.

Land Development Items:

- a. Centralized Water System.
- b. Sewer Treatment Plant.
- c. Provision of a minimum of ten percent (10%) additional open space.
- d. Use of pervious concrete on a majority of paved surfaces with the development, excluding roadway surfaces.
- e. Orientation of eighty percent (80%) of lots to optimize solar and reduce heat gain (general north/south orientation).
- f. Impermeable surfaces designed to direct all on-site storm water run-off toward an appropriate permanent infiltration feature such as a vegetated swale, on-site rain garden or rainwater cistern.
- g. Irrigation of common area landscaping primarily with reclaimed water.
- h. Retention of all on-site water from interior roads from storm events up to and including the One Hundred (100) Year Two (2) Hour Storm Event and creative uses of retention such as water harvesting and cisterns for landscape watering.
- i. Native plant re-vegetation utilizing displaced native plants or approved plants native to the area.
- j. All painted surfaces shall not exceed a Light Reflective Value (LRV) of forty (40).
- k. Other innovative sustainable development practice within the intent and purpose of this Section, as determined by the Development Services Director.

Individual Lot Items:

- l. Solar energy facilities serving each residential unit.
4. For projects choosing to incorporate any of the individual lot items listed in Section 441.D.1 and Section 441.D.2, a covenant shall be recorded applicable to each lot within the project with the intent of informing future lot owners of the additional construction

requirements of this Section. The developer shall also be required to provide notice regarding the specific additional construction requirements in a manner that will sufficiently notice the potential buyer such as inclusion in the public report, written information made available at the site and post and maintain a minimum four foot by eight foot (4'x 8') sign at a height of eight feet (8') at all primary entrances to the development, providing notice regarding the specific additional construction requirements. Such sign(s) shall be maintained while lots are for sale by the developer. Additional methods of noticing future property owners within the intent of this Section may be required by the Development Services Department.

5. In instances where the requirements of this Section conflict with State law establishing the minimum lot size based on the proposed water and wastewater systems for individual lots, the provisions of State law shall prevail.

E. Permitted Uses:

1. Primary and Accessory Uses of the underlying zoning district(s) as described in the County Planning and Zoning Ordinance.
2. Open Space.

F. Open Space:

1. The minimum amount of open space shall comprise at least forty percent (40%) of the gross tract area. The minimum forty percent (40%) open space requirement shall include all portions of the subject property above the elevation of the thirty-five percent (35%) slope line, up to an amount equal to two-thirds (2/3) of the forty percent (40%) minimum open space requirement.
2. Open Space shall be defined as provided in Section 440 of the Zoning Ordinance.
3. To the greatest degree practicable, open space shall be designated as a contiguous tract and not divided into unconnected, small parcels located in various parts of the development.
4. Open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjacent lots shall be provided with safe, convenient access to the open space.
5. Whether private or public, it shall be the responsibility of the developer to ensure that the open space is protected in perpetuity by legal arrangements sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership and assessment provisions, and any other specifications deemed necessary by the County.

G. Performance Standards: The Open Space and Sustainable Development Option is available provided the following standards are met. Applicant shall comply with all other applicable provisions of the Zoning Ordinance and all other applicable laws, except those that are incompatible with the provisions contained herein.

1. Lot Groupings: Lot or cluster groupings shall be separated by open space to provide spatial definition between groupings.

2. Buffers:
 - a. Perimeter buffers shall be provided to protect existing neighborhoods by mitigating the adverse impacts of smaller lot sizes (e.g. sound, visibility and traffic).
 - b. Buffers may include landscaping, walls, fences, pathways, drainage ways, natural features, existing vegetation and natural open space.
 - c. Perimeter buffer shall be equal in depth to a minimum of fifty feet (50’).

H. Processing:

1. Five (5) or fewer parcels: Minor Land Division as defined in Section 546.C. of this Ordinance, except that the below requirements of Section 441.H.3 through Section 441.H.10 shall govern the submittal, review, notice and hearing requirements for the Open Space and Sustainable Development Option for the Minor Land Division.
2. Six (6) or more parcels: Subdivision as regulated by the County Subdivision Regulations except that the below requirements of Section 441.H.3 through Section 441.H.12 shall govern the submittal, review, notice and hearing requirements for the subdivision.
3. Application: In addition to the submittal requirements for a Minor Land Division or Subdivision Plat as applicable, the application shall contain studies, plans and such other additional information required by the Development Services Department to ensure conformance with these regulations. Such submittal requirements shall be promulgated by the Department Director and may be administratively amended from time to time.
4. Notice of Application: The Development Services Department shall mail a Notice of Application within three (3) working days of the submittal date of the Open Space and Sustainable Development Option application to each owner of property, as last disclosed by County real estate tax records, situated wholly or partially within one thousand feet (1000’) of the subject property.
5. Citizen Participation Plan: All applications for the Open Space and Sustainable Development Option shall comply with the provisions of Section 209 Citizen Participation.
6. Review: The Development Services Department shall review the proposed Open Space and Sustainable Development Option application in accordance with this Section and other applicable requirements.
7. Findings: The review of the Development Services Department shall be based on the following findings:
 - a. Individual lots, streets and parking areas are designed and situated to minimize alteration of the natural features of the site.
 - b. Allocation and preservation of natural open space areas that protect natural characteristics of the property including topographical features, environmentally sensitive lands, wildlife corridors, vegetation, cultural resources and wash corridors.
 - c. Open space intended for recreation or common use is easily accessible to pedestrians.

- d. Sites, structures and landmarks having a potential for historic preservation have been identified and integrated into the development plan for preservation.
 - e. Individual lots, buildings and other structures are compatible with surrounding properties.
 - f. Individual buildings have been designed to complement the natural features of the site.
 - g. Conservation and sustainable design elements required by Section 441.D. are provided at a level and in a manner consistent with the intent and purpose of this Section and advance the County's interests in promoting sustainable and environmentally compatible development.
 - h. The Open Space and Sustainable Development Option advances the purpose of this Ordinance as stated in Section 441.A. above.
8. The Development Services Department may approve, approve with conditions or deny the application for the Open Space and Sustainable Development Option. If the Development Services Department denies the application, the denial shall be in writing and shall identify the deficiencies of the proposed plan in relation to the required findings identified in Section 441.H.7.
9. Notice of Decision: The Development Services Department shall mail a Notice of Decision within ten (10) working days of the decision date to each owner of property, as last disclosed by County real estate tax records, situated wholly or partially within one thousand feet (1,000') of the subject property.
10. Appeals. The Planning and Zoning Commission shall hear and make recommendation on appeals of a decision to approve or deny the Open Space and Sustainable Development Option. Such appeal may be filed by the applicant or any notified property owner pursuant to Section 441.H.9 within thirty (30) calendar days of the Notice of Decision. In order to constitute a formal appeal and have the case heard by the Planning and Zoning Commission and decided by the Board of Supervisors, the applicant or twenty percent (20%) by number of the notified property owners pursuant to Section 441.H.9 must file an appeal within thirty (30) calendar days of the Notice of Decision. The request shall include the reasons for the appeal and be filed in writing. If a formal appeal is not filed within thirty (30) calendar days of the Notice of Decision, the decision of the Development Services Department shall be final. The Planning and Zoning Commission shall hear all evidence and testimony from staff, the applicant and the public in regard to the appeal.
11. Board of Supervisors: The Board of Supervisors shall provide final decision on all appeals. The Board shall hear all evidence and testimony from staff, the applicant and the public in regard to the appeal. The Board may uphold, modify or overturn the Commission recommendation.
12. Waivers: In order to ensure that the strict application of conservation and sustainable design requirements provided for under Section 440 and 441 do not unduly inhibit reasonable development, this Section provides waiver procedures in which staff, the Commission or the Board may grant relief.
- a. When an Open Space and Sustainable Development Option application proposes to deviate from the requirements in Section 441 of this Ordinance, the applicant

shall provide the County staff with a written request with justification for such modification.

- b. Upon receipt of a request for a waiver made concurrent with the filing of the application, County staff shall investigate and analyze the request.
- c. The notice requirements of Section 441.H.9 shall apply to all waiver requests.
- d. As part of the administrative process, County staff shall approve, approve in modified form, or deny the request for waiver.
- e. Any approval action of a waiver shall be based upon the findings noted in Section 441.H.6 as noted above and the following:
 - (1) That the strict application of these regulations would preclude reasonable subdivision development of the subject property; and
 - (2) That there are special circumstances applicable to the property related to it's topography, shape, and/or location that dictate the need for this waiver to ensure good design and development; and
 - (3) That the granting of this waiver will not be detrimental to the public health, safety and general welfare or be injurious to other property in the area in which said property is situated. This procedure does not apply to waivers of the Subdivision Regulations. Any waiver of the Subdivision Regulations must follow the procedure for waivers pursuant to Section 2 (Administration) (Waivers) of the Subdivision Regulations.
- f. The applicant or twenty percent (20%) by number of notified property owners pursuant to Section 441.H.9 may appeal approval or denial of a waiver. In order to constitute a formal appeal and have the case heard by the Planning and Zoning Commission and Board of Supervisors, the appeal must be filed within thirty (30) calendar days of the Notice of Decision. Such appeal shall be subject to the provisions of Section 441.H.10 and Section 441.H.11 above.